

MINUTES OF THE SIXTY-FIFTH MEETING OF THE
WASTE AND FACILITIES MANAGEMENT COMMITTEE
HELD ON JUNE 22, 2020

Pursuant to a notice and agenda dated June 10, 2020, the sixty-fifth (65th) meeting of the Waste and Facilities Management Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (“Authority”) was convened at 11:30 a.m. on Monday, June 22, 2020, by videoconference.

The following members of the Committee were present:

Charles Bell, *Committee Chair*

Richard Kauffman, *Chair of the Authority*

Sherburne B. Abbott, *Committee Member*

Kate Fish, *Committee Member*

Also present were Alicia Barton, President and Chief Executive Officer; Janet Joseph, Senior Vice President; Jeff Pitkin, Treasurer; Peter Costello, General Counsel; John Williams, Vice President; Paul Bembia, West Valley Program Director; Alyse Peterson, Nuclear Regulatory Commission State Liaison Designee, and Janice Dean, Secretary to the Committee.

Mr. Bell called the meeting to order, noted the presence of a quorum, and stated that a notice of the meeting was mailed to Committee members and the press June 10, 2020.

The first item on the agenda concerned approval of the Minutes of the sixty-fourth (64th) meeting, held on January 28, 2020. A copy of the Minutes was included with the June 10th mailing. Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the minutes of the 64th meeting were approved.

Mr. Bell indicated that the next item on the agenda was the review and approval of the Waste and Facilities Management Committee Charter. This item was presented by Peter Costello, General Counsel of the Authority.

Mr. Costello stated that, pursuant to the Public Authorities Accountability Act of 2005, each of the Authority's committees adopted charters, setting forth each committee's responsibilities. He stated that one of these responsibilities is to periodically review its charter and determine what, if any, amendments need to be made; these recommendations would then be presented to the full board for approval. He noted that a copy of the current Waste and Facilities Management Committee Charter was included in the meeting package for member review, and that management did not recommend any changes to the Waste and Facilities Management Committee Charter at this time.

Mr. Bell made an inquiry based on the meeting a year ago, June 19th, 2019. He stated that the Committee had discussed the [Saratoga Energy + Technology Park] STEP lease in the Waste and Facilities Management meeting, and he asked Mr. Costello whether there was language that was currently in the charter that provided for the committee to have a broader role in reviewing issues related to other NYSERDA facilities. He suggested that there should be more language added to the Charter that would explicitly add STEP.

In response to Mr. Bell's inquiry, Mr. Costello stated that he would review and write up language to be added to the Waste and Facilities Management Charter, to then be reviewed and approved by the full Board.

Mr. Bell then asked for a motion recommending the approval of the Waste and Facilities Management Committee Charter and the amendments to be added.

Whereafter, upon motion duly made and seconded, and by voice vote of the members present, the following resolution was approved.

Resolution

RESOLVED, that the Authority's Waste and Facilities Management Committee Charter as presented to the Members for consideration at this meeting, with such non-substantive, editorial changes and grammatical changes as the President and

Chief Executive Officer, in her discretion, may deem necessary or appropriate, is recommended for adoption and approval by the Board.

Mr. Bell indicated that the next item on the agenda concerned a status report on the West Valley Site Management Program Activities. This item was presented by Paul Bembia, Program Director at West Valley.

Mr. Bembia stated that his update would be framed around two topics, the site activities relative to the COVID-19 Pause and the current shift to work resumption, and an update on other principal site activities. In regard to the COVID-19 Pause for the West Valley Demonstration Project (WVDP), he stated that the WVDP is safe and secure and has remained safe and secure through all phases of the New York Pause. He noted that WVDP work had been reduced to mission critical activities during the initial parts of New York Pause, including things like site security and maintenance of critical systems and infrastructure work activities, which are being ramped back up slowly in accordance with state and federal directives and guidance. He stated that the current focus of work is on low risk work needed to prepare the site for a broader work resumption, which means setting up daily employee screening areas for COVID symptoms, cleaning that is required by the New York State Department of Health, and putting up signs that would limit capacity in various work rooms.

Mr. Bembia continued, explaining that the current work also involves the testing of the new work protocols that were put in place to incorporate the COVID-19 safety considerations in the ongoing work. He noted that most of the WVDP office staff (the Department of Energy, the contractor CHBWV and other support contractors) are continuing to telework, and that certain staff are continuing and have continued throughout the entire Pause with onsite observations and walkover inspections that are completed at least once per week or more frequently.

Mr. Bembia stated that the state-licensed disposal area (SDA) also remains safe and secure, and that all of the ongoing, routine work activities like environmental monitoring inspections and maintenance activities continued throughout New York Pause and continue today. He stated that the West Valley staff continues to telework, noting that there is staff present at the SDA regularly both to conduct inspections and to provide oversight of field activities that are conducted by

support contractors. As to the West Valley solar facility, he stated that the onsite work began in early March and was halted in April, but that in accordance with the requirements under New York Pause, work resumed on June 9th when Western New York entered phase one of New York Forward, which allowed the resumption of construction.

Mr. Kauffman then inquired about the lease with the Town of Ashford that was approved by the Board at a meeting the year prior. To which, Mr. Bembia explained that the lease was an agreement with the Town of Ashford, who then entered into an agreement with a solar developer.

In response to a second inquiry by Mr. Kauffman about the obligations that the Committee and Authority have in regards to the Ashford lease and security of the site, Mr. Bembia stated that the Authority staff continue to have obligations in terms of radiation protection of the individuals that are doing construction activities under the Authority's Nuclear Regulatory Commission license, and he noted the establishment of a work control whereby the contractors phone in and inform the Authority whenever anyone is on site, as well as when people are leaving at the end of the day. Mr. Bembia noted that the lease requires them to install fencing to differentiate or to secure their area of the facility on the state premises, and separate that from the rest of the state property.

Mr. Kauffman followed up with a question regarding safety requirements for workers to ensure compliance under the lease. Ms. Dean, Secretary to the Committee, responded to this question.

Mr. Bembia indicated that the only safety requirement is for notification of contractor presence onsite, allowing Authority staff to notify them of any potential need to evacuate, noting that fencing and other security is spelled out in the lease. Mr. Kauffman inquired what requirements we have that ensure their compliance with the lease. Ms. Dean stated that there were a number of changes to the lease in response to the Committee's feedback received during the pre-lease negotiations, and that management addressed the concerns raised in a meeting about a year-plus ago. But as to the way that the parties operate on the site, she noted that the Town is responsible for ensuring the compliance of the contractor staff as those parties are in privity as to the development, but NYSERDA does retain some authority to oversee the fundamentals of site

security where needed, and that this is an unattended part of the site that is not within the WVDP perimeter. It is an unimpacted area as part of the Retained Premises, it is subject to the general site walkthrough practices of Paul's team. Mr. Kauffman indicated that his question had been answered, and Ms. Dean indicated her willingness to answer any further questions at any time.

Mr. Bembia continued with his report, stating that for the West Valley Demonstration Project in April, the Department of Energy issued a 39-month extension to the demolition contract with the prime contractor, CHBWV, noting that the DOE site director had discussed this with Committee members during their visit to the site last year. He noted that the contract extension was executed in April and is valued at \$243 million through June 2023, and the work under that contract extension includes decontamination and deactivation activities to prepare the Main Plant Process Building for demolition and decontamination and deactivation of below ground cells, which will be removed during the next phase of decommissioning, Phase 1B. He noted that thirty-nine months of safe site operations would be things like physical security, cybersecurity, and environmental monitoring, and that some adjustments in schedule may be forthcoming given that the extension was pre-COVID.

Mr. Bembia then continued on to the State Licensed Disposal Area (SDA), noting that the SDA remains safe and in compliance with all regulatory requirements, noting that the Trench 14 water infiltration investigation was completed in February, and the investigation report and a recommendation for the remedy action will be submitted to the Environmental Protection Agency and Department of Environmental Conservation for their review and approval in June. He stated that the design of the remedy action and preparation of construction schedule is underway, but that he does anticipate work being completed this year, assuming that he receives regulatory approvals in a timely manner, and that there will be no delays due to COVID or any other circumstances.

In regard to the solar facility, Mr. Bembia reported that the ground clearing and preparation began in March, and he reiterated that the work was paused for New York on Pause. The next phase of the work is awaiting a permit from the US Army Corps of Engineers to conduct work activities near wetland areas, and the target date for construction completion is currently mid-November. This completed Mr. Bembia's report.

Mr. Bembia then clarified in response to a question from Mr. Bell that the lease with the Town of Ashford is for a period of 49 years.

Mr. Bell then indicated that the next item on the agenda was a status report on the Nuclear Coordination Program. This item was presented by Alyse Peterson.

Ms. Peterson stated that Indian Point Unit Two permanently shut down on April 30th as planned, and that all of the fuel in the reactor was then removed and placed in the spent fuel pool for cooling prior to transfer to dry cask storage. She stated that the water was drained out of the reactor vessel and the reactor containment building has now been closed up, noting that no further physical decommissioning actions are planned until after the planned shutdown of Unit Three next year. The Department of Energy has submitted its formal notification of Unit Two's permanent cessation of operations and permanent defueling to the NRC on May 12th. With that certification submitted, Ms. Peterson noted that the licensee can never put fuel into their unit to react again. She stated that NYSERDA has continued its role as the state's nuclear coordinator with respect to the license transfer with Entergy and Holtec, most notably with the submission of papers in both federal and state license transfer proceedings to advance the state's need for the provision of financial assurance measures to ensure Holtec's ability to complete the decommissioning should the company experience financial hardship, or should the existing decommissioning trust funds prove to be insufficient. She noted that briefings for both of those proceedings have been fully completed and decisionmaking will be completed by the Nuclear Regulatory Commission and New York State Public Service Commission. If the proposed ownership transfer is approved, it would take effect after the shutdown of Unit Three, at the end of April next year. This concluded Ms. Peterson's report.

Mr. Kauffman then asked if more information would be given in relation to the trust fund issues and the representations being made by Entergy or the potential acquirer as to what happens if the trust fund is inadequate.

Ms. Dean explained that so far the representations that Entergy and Holtec have made are simply that they will meet the regulatory obligations, so the Authority has pressed in legal papers for a better understanding of what that really means, because they are not committing any dollars beyond the corpus of the trust fund itself to the cleanup, making it unclear where those additional dollars would come.

In response to Mr. Kauffman's inquiry regarding the role of the NRC with regard to trust fund adequacy, Ms. Dean explained that the NRC does have the authority to impose additional financial assurance, and that the Authority has asked them to look at in this particular emerging model; similarly, in the state proceeding, because there are site restoration dollars that issue, that fall under state jurisdiction the PSC may be able to look at what additional assurance is needed to protect the fund such that there would still be dollars remaining after radiological decommissioning for the eventual site restoration as well. She noted that both of those proceedings do remain pending.

Mr. Kauffman then inquired about the timing and whether the Committee will be able to get an update before decisions are made, to which Ms. Dean responded by stating that the timing of a decision in the NRC proceeding is unknown but that it is expected that there will be a decision prior to Indian Point's shutdown in April. But beyond that, she noted that it is unclear how much time the Commission may take to decide, noting that the Commission was poised to issue a decision in the Pilgrim license transfer, which began many months before the Indian Point filings came in and that on the day of their publicized decision, both Holtec and Massachusetts filed joint papers seeking a stay of that decision after which they announced a joint settlement, noting that as such there will be no decision coming from the Commission in the Pilgrim matter that otherwise might have provided a roadmap for the Commission's views on this decommissioning model. Without that, she noted that the decision at Indian Point will be the first contested decision that the Commission will be rendering and that the timeframe is unclear. Mr. Kauffman sought clarification on whether the Pilgrim sale went through; Ms. Dean indicated that it did go through and that she is reviewing the legal settlement, which did provide for the allocation of a specific amount of funding in the fund at all times, noting that it was heartening to see an agreement between Massachusetts and the applicant there, as the State's concerns here are quite similar.

Ms. Peterson then responded to an inquiry by Mr. Kauffman about facility shutdown, stating that the spent fuel will all be transferred to the independent spent fuel storage installation for storage after the unit is shut down in April of 2021, after which demolition of the units will begin, accompanied by soil remediation for site restoration.

Mr. Bell then asked what other New York agencies were involved in reviewing the Holtec financial plans for Indian Point. Ms. Dean stated that the Attorney General's office is representing the views of the State at the Nuclear Regulatory Commission level, and agencies opining on this at the Public Service Commission level include NYSERDA and the Department of Environmental Conservation, noting that the Department of Public Service is very engaged in the process, and all comments have been submitted into that proceeding, and the proceeding rests with DPS staff at this stage.

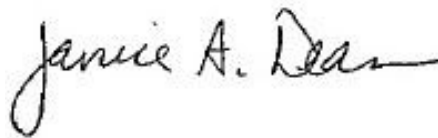
In response to a follow-up question from Mr. Bell regarding opportunities for public involvement in both proceedings, Ms. Dean explained that citizen groups and other stakeholders participated in the review of the plan, noting that both the NRC and the PSC have public input opportunities in these proceedings, noting that the NRC had a public comment opportunity that was extended by an additional 20 or 30 days at the request of legislators, offering a robust public opportunity for response there. She also noted that there were a number of parties, including local governments, who submitted Petitions to Intervene separately from the public comments, as the State Attorney General did, explaining that this is a legal hearing request track, in addition to the public comment track at the NRC proceeding. And on the PSC side, she reported that there was a large number of local government stakeholders, industry trade groups and others who did submit public comments, and that all of those are easily available on the docket for public review.

Ms. Barton then responded to a follow up question posed by Ms. Fish regarding the transition plan and timing for Indian Point's replacement power, inquiring whether that may be transferred to power coming down from Quebec, or offshore wind. Ms. Barton stated that first and foremost, the New York Independent System Operator (ISO) has examined reliability related to the retirement of Indian Point and found that there is no threat to reliability from the retirement.

She noted that large injections of offshore wind that NYSERDA has put under contract following the retirement of Indian Point, are scheduled to be online in 2024, particularly the 817 megawatt Empire Wind project in Zone J that is scheduled to be online in 2024. With respect to other proposals, including transmission lines that have been proposed, she noted that those are in varying stages of commercial arrangements, some well along in permitting, and she noted that there are a number of new clean resources including utility-scale solar standing by either presently, or at larger scale, with offshore wind, just following the retirement of the facility. She reiterated that even absent that, the grid operator has stressed that they believe reliability is well in hand.

Mr. Bell then indicated that the next item on the agenda was other business. There being no other business, he called for a motion to adjourn. Whereafter, upon motion duly made and seconded, and by voice vote of the members present, the meeting was adjourned.

Respectfully Submitted,

A handwritten signature in black ink that reads "Janice A. Dean". The signature is written in a cursive, flowing style.

Janice A. Dean
Secretary to the Committee