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LLWnotes

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Low-Level Radioactive Waste Disposal in the U.S.

by Dr. Shirley Ann Jackson

Chairman, U.S. Nuclear Regulatory Commission
to the

Low-Level Radioactive Waste Forum
Annapolis, Maryland
May 29, 1996

Good morning ladies and gentlemen. It is a pleasure to be here in Annapolis this morning to meet with the Low-Level Radioactive Waste Forum. I welcome the opportunity to discuss with you some of the issues that are of concern to the Nuclear Regulatory Commission and to the state and compact officials who are responsible for the development of low-level radioactive waste disposal facilities. I was told prior to my visit today that your meetings are somewhat energetic—but friendly. With that in mind, I am looking forward to a stimulating dialogue this morning on the low-level radioactive waste program in this country.

As you are all aware, the Low-Level Radioactive Waste Policy Amendments Act of 1985 clearly laid out the roles and responsibilities of the various parties involved in the management and disposal of low-level waste in this country. The NRC was charged with responsibilities under the Amendments Act and has, over the years, made every effort to comply with those requirements. The NRC has taken very seriously each of the provisions of the Amendments Act which involved the NRC, and has established a regulatory framework to contribute to the successful implementation of the Act.

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Low-Level Radioactive Waste Forum

LLW Notes

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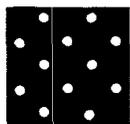
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The Low-Level Radioactive Waste Forum (LLW Forum) is an association of state and compact representatives, appointed by governors and compact commissions, established to facilitate state and compact implementation of the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Amendments Act of 1985 and to promote the objectives of low-level radioactive waste regional compacts. The LLW Forum provides an opportunity for state and compact officials to share information with one another and to exchange views with officials of federal agencies and other interested parties.

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Key to Abbreviations

Code of Federal Regulations	CFR
U.S. Department of Energy	DOE
U.S. Department of Transportation	DOT
U.S. Environmental Protection Agency	EPA
U.S. General Accounting Office	GAO
U.S. Nuclear Regulatory Commission	NRC
naturally-occurring and accelerator-produced radioactive materials	NARM
naturally-occurring radioactive materials	NORM

LLW Forum Holds Spring Meeting

The Low-Level Radioactive Waste Forum met for three days in Annapolis, Maryland, on May 29-31, 1996. Twenty-seven Forum Participants, Alternate Forum Participants, and meeting designees representing 23 compacts and states participated. Additional information was provided by 19 resource people from, variously, the State of New York, DOE, NRC, NRC's Advisory Committee on Nuclear Waste, EPA, the Subcommittee on Nuclear Power of the Committee on Commerce of the U.S. House of Representatives, the Health Physics Society, the Canadian Siting Task Force, and three users' groups: Organizations United for Responsible Low-Level Radioactive Waste Solutions, the Appalachian Compact Users of Radioactive Isotopes, and the Ohio Council for Responsible Waste Solutions.

Also in attendance, as observers, were 10 additional state and compact officials; one staff person from the National Conference of State Legislatures; one staff person from the NRC's Advisory Committee on Nuclear Waste; one staff person from the Department of the Army; two DOE headquarters officials; three DOE contractor staff; one staff person from GAO; 10 NRC staff; 23 representatives of other interested parties including a national generators' association, a national anti-nuclear organization, the Pennsylvania State Association of Township Supervisors, three generators, three facility operators, three brokers/processors, one local anti-nuclear group, and three consulting firms; and two private citizens.

Highlights of the meeting follow.

For further information, see LLW Forum Meeting Report, May 29-31, 1996, prepared by Afton Associates, Inc.

Discussion with the Chairman of the U.S Nuclear Regulatory Commission

NRC Chairman Shirley Ann Jackson and Forum Participants discussed issues of mutual interest to NRC and the LLW Forum. For the text of her prepared remarks, please see page cover page.

Health Effects of Low-Doses of Radiation: Challenges to the Linear, No-Threshold Model

Basis for the Linear Dose Model and Epidemiological Data re Health Effects A Visiting Medical Fellow at the NRC explained the origins of the linear, no-threshold model for predicting health effects of radiation doses. He then discussed the effects on DNA structure of low doses of radiation in comparison with changes induced by normal cell metabolism. He concluded by sharing his perspective on the interpretation of the results from numerous studies including many epidemiological studies of human populations exposed to low doses of radiation.

Health Physics Society's Position: "Radiation Risk in Perspective." The immediate Past President of the Health Physics Society provided information on human and animal studies concerning consequences of continued low levels of radiation exposure. He commented on the problems with trying to compute health effects of low doses of radiation, and he explained the basis for the Health Physics Society's position on this issue. (See *LLW Notes*, March 1996, p. 22.)

Implementation of NRC's Agreement State Policies

The Director of NRC's Office of State Programs discussed differences between NRC's new adequacy and compatibility policy and current policy. He also explained the new process for review of Agreement State programs, and the applicability of the changes to Agreement State regulation of low-level radioactive waste disposal.

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LLW Forum Meeting (continued)

Discussion with the Director of EPA's Office of Radiation and Indoor Air

The Director of EPA's Office of Radiation and Indoor Air and Forum Participants discussed issues of mutual interest to EPA and the LLW Forum, including

- federal efforts to harmonize risk,
- EPA's Waste Management Plan, and
- the rescission of Subpart I of the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) for NRC and Agreement State licensees other than power reactors.

EPA/NRC Rules on Decommissioning

Key Issues in Decommissioning The Director of the Center for Cleanup and Reuse of EPA's Office of Radiation and Indoor Air and the Branch Chief of the Low-Level Waste and Decommissioning Projects Branch of the Division of Waste Management of NRC's Office of Nuclear Materials Safety and Safeguards discussed the rulemakings being undertaken by each agency and highlighted the following key issues in decommissioning:

- dose limits and standards,
- future land use requirements,
- separate standard for protection of ground water, and
- waste volumes.

Current Federal Legislation

U.S. Enrichment Corporation The Forum Convenor reported that the recently passed federal appropriations bill contains language providing that states and compacts are not "liable" for the disposal of low-level radioactive waste generated by the U.S. Enrichment Corporation.

Low-Level Radioactive Waste Legislation A Professional Staff Member of the U.S. House of Representatives Committee on Commerce's Subcommittee on Energy and Power brought Forum Participants up to date on legislation related to low-level radioactive waste management including the Ward Valley land transfer bill and the Texas Compact consent legislation.

Executive Session

First Quarter 1996 Financial Report The Forum Management Advisor summarized the first-quarter financial report, noting that spending was under budget.

LLW Forum Structure and Funding Beyond 1996

The Forum Convenor reported that the LLW Forum is currently operating under a three-year grant from DOE to the State of Washington that will end in December 1996. DOE has approved another three-year grant to the state for calendar years 1997 through 1999. The state will now proceed with issuing a Request for Proposals (RFP) for a contractor to serve as the LLW Forum's a management firm for the next three-year cycle. Staff of Afton Associates were asked to leave the room while the RFP process was discussed.

The Convenor noted that, at the request of the Executive Committee, Afton Associates will use the information gathered from Forum Participants to draft a more detailed proposal regarding future structure and finances of the LLW Forum in time for consideration at the September LLW Forum meeting.

LLW Forum Business Session

Executive Committee Report At the recommendation of the Executive Committee, and following extensive discussion, the following motion was approved unanimously:

that the LLW Forum establish a web site with links to state and compact web sites designated by Forum Participants and with links to the appropriate web sites of DOE, DOT, EPA, GAO and NRC and that no more than \$3,000 be spent without further authorization.

LLW Forum Funding Following an announcement of the DOE grant to the State of Washington to fund the LLW Forum for 1997 through 1999, the following motion was approved:

that Gregg Larson and Kathryn Haynes be designated to participate in the RFP review process with the State of Washington for a contractor to provide management services to the LLW Forum from 1997-1999.

Amendment to the LLW Forum Statement of Principles Forum Participants discussed a proposed amendment to the Statement of Principles to add a sixth person to the Executive Committee. This person would help with the expanding workload of the committee and, when combined with the Convenor, would provide for an odd number of voting persons on the committee. The following motion was approved:

that the number of voting members of the Executive Committee be increased from five to six.

Waste Manifesting and Tracking

Status Report: Bilateral Agreements with the Central Midwest Compact The Chair of the Central Midwest Compact gave a status update on bilateral facility access agreements entered into by the Central Midwest Interstate Low-Level Radioactive Waste Compact. He also noted that the new regulations being implemented by the State of Illinois concerning the tracking system for use in the compact region will not require amendments to the compact's bilateral agreements.

Waste Information Working Group Report A Northeast Compact official reported on the activities of the Waste Information Working Group. (See related story, this issue.)

At the recommendation of the working group, the LLW Forum unanimously passed the following motion:

Be it resolved that the LLW Forum Convenor send a letter to Jeff Snook, DOE's National Low-Level Waste Program Manager at INEL, expressing the LLW Forum's appreciation for its quick response to the issue of making DOE's low-track system available to all requesters for free.

Discussion with the DOE Principal Deputy Assistant Secretary for Environmental Management

The DOE Principal Deputy Assistant Secretary for Environmental Management and Forum Participants discussed issues of mutual interest to DOE and the LLW Forum, including

- personnel changes at DOE,
- the overall priorities of DOE's Office of Environmental Management,
- DOE's privatization initiatives,
- how DOE is responding to the Defense Nuclear Facilities Safety Board's recommendations regarding management of DOE's low-level radioactive waste; and
- external regulation of DOE.

Commercial Mixed Waste Management

Report of the LLW Forum Mixed Waste Working Group (Regulatory Issues Working Group) A Midwest Compact official reported for the working group on the following items pertaining to commercial mixed waste management:

- the Federal Facility Compliance Act (FFCA) Task Force's mixed waste pilot project;
- recent activities of EPA;
- recent activities of NRC;
- recent activities of DOE; and
- the utilities' mixed waste initiatives.

(See related story, this issue.)

On the recommendation of the working group, the following motion passed unanimously:

that the LLW Forum Mixed Waste Working Group broaden its focus to include other regulatory issues.

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LLW Forum Meeting (continued)

How Users' Groups Can Assist States and Compacts

Panel Discussion Panelists representing Organizations United for Responsible Low-Level Radioactive Waste Solutions, the Appalachian Compact Users of Radioactive Isotopes (ACURI), and the Ohio Council for Responsible Waste Solutions covered the following aspects of their organizations:

- membership;
- meetings;
- available resources, such as newsletters, Internet pages, speakers, and brochures;
- level of involvement in state, regional, and national issues; and
- assistance provided to states and compacts on low-level radioactive waste management issues.

International Import/Export of Radioactive Waste for Disposal

The Division Director of NRC's Office of International Programs reviewed new regulations regarding the import and export of low-level radioactive waste; discussed one application for an export license and two applications for import licenses; and answered inquiries concerning Russian laws, availability of waste for export, and application fee guidelines.

International Atomic Energy Agency Waste Convention

The Director of the Division of Waste Management of NRC's Office of Materials Safety and Safeguards and the Senior Supervisory Attorney of the Nuclear Waste Management Staff of the Division of Rulemaking and Fuel Cycle of NRC's Office of General Counsel discussed the International Atomic Energy Agency Waste Convention.

The presentation included information on

- existing conventions,
- schedule for completion of the waste convention,
- general principles and objectives of the convention, and
- issues which are and are not to be included in the convention.

Discussion followed, during which the presenters answered questions about provisions to ensure that member states carry out convention obligations, other enforcement mechanisms, the purpose of the convention, consultation requirements if a facility is to be located near a border, and impact of the convention on the ability of states and compacts to exclude waste.

Volunteer Siting: The Canadian Experience

The Secretary General of the Canadian Siting Task Force for Low-Level Radioactive Waste Management gave a presentation on the volunteer siting experience at Deep River in Ontario, Canada. The presentation covered various topics, including

- the need for consultation and community acceptance, public safety, environmental protection, and regulatory compliance;
- the basic principles to be applied in a voluntary siting model;
- the organizational structure for a cooperative siting process;
- the phases of a cooperative siting process;
- the fundamentals of a streamlined process; and
- the lessons learned by the Canadians in applying a voluntary siting process.

Discussion followed, during which time the Secretary General addressed issues related to

- how to deal with skepticism that an agreement will be altered once a facility becomes operational,
- where the Canadians are currently in their process,
- the methodology used to identify and maintain the support of local proponents, and
- what are the anticipated disposal costs for the proposed Deep River facility.

Time Frame for Regulatory Compliance

A Senior Staff Scientist for NRC's Advisory Committee on Nuclear Waste (ACNW), noting that he was speaking as an individual and not representing the views of the ACNW or the NRC, discussed key issues associated with the time frame for regulatory compliance, including the following:

- the relationship to performance assessment,
- 10 CFR Part 61 requirements, and
- plans for addressing time-frame issues.

LLW Forum May 1996 Meeting—Other Topics

Other agenda items discussed at the meeting included

- new developments in states and compacts;
- federal risk harmonization efforts, including the structure and recent activities of the federal Interagency Steering Committee on Radiation Standards (ISCORS);
- the Conference on Radiation Control Program Directors' Environmental Monitoring Report for Commercial Low-Level Radioactive Waste Disposal Sites: 1960s Through Early 1990s, which covers the six low-level radioactive waste disposal sites that have accepted commercial waste; and
- agenda planning for the September 1996 LLW Forum meeting including an endorsement of the changes in the format of LLW Forum meetings implemented in May.—*MAS, ed.*

Forum Participant Accepts Position with Kentucky Governor's Office

Edward (Ed) Ford, the Forum Participant for the Central Midwest Interstate Low-Level Radioactive Waste Compact, has accepted a position as Special Assistant and Advisor to Kentucky Governor Paul Patton. He retains his responsibilities as the Chair and Kentucky Representative for the Central Midwest Compact Commission.

Ford has served in the Kentucky senate for seventeen years. He served as Chair of the Senate Education Committee until he retired in 1994, and as Chair of the House/Senate Joint Environmental Committee during the 1980s and early 1990s.

In his role in the Governor's office, he will focus on environmental concerns, including hazardous and radioactive wastes, and on education. Ford's academic and professional background includes experience as a veterinary practitioner and medical researcher. He will also be advising Governor Patton on issues relating to the state's horse breeding and racing industry.—*JMC*

LLW Forum Waste Information Working Group Meets

Presentations and Discussion

The Waste Information Working Group met on May 29 in conjunction with the LLW Forum meeting. During the course of the meeting, members

- heard presentations regarding plans by US Ecology, the State of Washington, and Envirocare of Utah to implement the uniform manifest in 1996—earlier than required by NRC's final rule;
- listened to a report on the status of NRC certification of the Low-Track System developed by DOE's National Low-Level Waste Management Program, the status of the decision by DOE/Idaho National Engineering Laboratory on whether to license the system, and the inclusion of data from Envirocare on DOE's Manifest Information Management System (MIMS); and
- discussed with NRC staff the commission's requirements and perspective on electronic data transfer under the rule, as well as the how to promote consistent application of the rule by states and compacts.

Future Activities

Working group members agreed to continue to focus on developing agreements to ensure consistent application of the uniform manifest rule by states and compacts. Other issues regarding the interregional movement of waste as related to tracking and manifesting will be addressed on a case-by-case basis.

Attendance

The following Waste Information Working Group members were present at the meeting:

- Carol Amick of the Massachusetts Low-Level Radioactive Waste Management Board;
- Janice Deshais of the Northeast Compact;
- William Dornsife of the Pennsylvania Department of Environmental Protection; and
- Marc Tenan of the Appalachian Compact.

Others participating in the meeting were

- Tom Carlisle of the Illinois Department of Nuclear Safety;
- Jack Spath of the New York State Energy Research and Development Authority;
- Terry Strong of the State of Washington's Department of Health;
- Philip Wheatley of DOE's National Low-Level Waste Management Program;
- Mark Haisfield of NRC;
- William Lahs of NRC;
- Kenneth Alkema of Envirocare of Utah, Inc.;
- Rich Paton of US Ecology; and
- Holmes Brown, Todd Lovinger, and M. A. Shaker of the LLW Forum/Afton Associates, Inc.

Observing were

- George Antonucci of Chem-Nuclear Systems, Inc.;
- Judith Johnsrud of the Pennsylvania Advisory Committee on Low-Level Waste and the Environmental Coalition on Nuclear Power;
- Charles Judd of Envirocare of Utah, Inc.;
- Karl Novak, a private citizen;
- Patricia Novak, a private citizen; and
- Mary Olson of the Nuclear Information and Resource Service.—*TDL*

For further information, contact Todd Lovinger, Waste Information Working Group Coordinator, at (202)547-2620.

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LLW Forum Mixed Waste Working Group Expands Focus

Presentations and Discussions

The Mixed Waste Working Group met on May 30 in conjunction with the LLW Forum meeting. During the course of the working group meeting, members

- agreed to recommend to the LLW Forum that the Mixed Waste Working Group broaden its focus to include other regulatory issues;
- heard a report from working group members on the interaction with the Federal Facility Compliance Act (FFCA) Task Force;
- discussed the next steps for the mixed waste pilot project, including an effort to gather better data on state-specific mixed waste streams;
- heard a report from an EPA representative on the extension of EPA's enforcement policy for certain types of mixed waste, the status of EPA's Hazardous Waste Identification Rule, and the status of EPA's Radiation Site Cleanup Rule;
- heard a report from an NRC representative on NRC/EPA interaction on mixed waste, the status of the branch technical position on the disposal of cesium-contaminated baghouse dust, and the status of the mixed waste storage and testing guidance;
- heard a report from a DOE representative on radiation control criteria for mixed waste;
- heard a report from a Nuclear Energy Institute representative on the current mixed waste initiatives of the utilities; and
- discussed topics for the next working group meeting.

Attendance

Attending the Mixed Waste Working Group meeting were the following working group members:

- Carol Amick of the Massachusetts Low-Level Radioactive Waste Management Board;
- William Dornsife of the Pennsylvania Department of Environmental Protection;

- Ronald Gingerich of the Connecticut Hazardous Waste Management Service;
- Teresa Hay of the Midwest Compact and the Iowa Department of Natural Resources;
- Carl Lischeske of the California Department of Health Services;
- Lee Mathews of the Texas Low-Level Radioactive Waste Authority;
- Joe Stohr of the Northwest Compact and the Washington Department of Ecology; and
- Don Womeldorf of the Southwestern Compact.

Others participating in the meeting were

- Janice Deshais of the Northeast Compact;
- Nancy Hunt of EPA;
- Nick Orlando of NRC;
- Terry Plummer of DOE;
- Jay Rhoderick of DOE;
- Gus Vazquez of DOE;
- Paul Genoa of the Nuclear Energy Institute; and
- Holmes Brown, Laura Scheele, and M. A. Shaker of the LLW Forum/Afton Associates, Inc.

Observing were

- Dale Randall of the Maine Advisory Commission on Radioactive Waste and the Maine Department of Health Services;
- Tim Harris of NRC;
- Howard Larson of the NRC's Advisory Committee on Nuclear Waste;
- Diane D'Arrigo of the Nuclear Information and Resource Service;
- Lynnette Hendricks of the Nuclear Energy Institute;
- Judith Johnsrud of the Pennsylvania Advisory Committee on Low-Level Waste and the Environmental Coalition on Nuclear Power;
- Larry McNamara of Scientific Ecology Group, Inc.; and
- David Wellner of RSO, Inc.—LAS

For further information, contact Laura Scheele, Mixed Waste Working Group Coordinator, at (202)547-2620.

Remarks of NRC Chairman Shirley Ann Jackson to the LLW Forum (continued)

We have had our successes. For example, we promulgated criteria for making emergency access determinations as specified in Section 6 of the Act. We also published technical guidance on alternative disposal techniques as required by Section 8 of the Act. Section 9 of the Act required that we develop a licensing review capability. The NRC has developed a number of guidance documents and conducted topical report reviews including the issuance of a standard review plan for low-level waste facilities, a branch technical position on concentration averaging, and the review of a topical report on high-integrity containers. Of course, no discussion would be complete without mentioning our failed attempt at a policy to define quantities of radioactive material that are "Below Regulatory Concern"—the NRC's attempt at complying with Section 10 of the Act. The Commission continues to pursue the decommissioning rulemaking in an effort to define quantities of material that pose minimal risk.

"During my tenure as Chairman of the NRC, I plan to assure that NRC continues to support strong, consistent, and effective regulation of low-level radioactive waste disposal facilities in the U.S."

During my tenure as Chairman of the NRC, I plan to assure that NRC continues to support strong, consistent, and effective regulation of low-level radioactive waste disposal facilities in the U.S. At the same time, however, we must all recognize one certainty; and that is change. Change, particularly in the form of reduced resources, will most likely cause us to do business differently than we had in the past, and will clearly require us to be more efficient. This leads me to one topic that I would like to discuss with you today, and that is NRC's Strategic Assessment and Rebaselining.

Strategic Assessment and Rebaselining

The environment in which the NRC conducts its activities is changing rapidly as a result of many influences, including budget constraints, a maturing nuclear power industry subject to the pressures of deregulation, and the potential for new and revised missions for the agency, to name a few.

Regulatory effectiveness requires that the agency continually reassess these changing conditions for both the reactor and materials programs. Only by being prepared for the challenges of a changing environment will the NRC be able to continue to keep its health and safety mission in sharp focus. It was with these challenges in mind that I initiated the Strategic Assessment and Rebaselining.

The Strategic Assessment and Rebaselining initiative has been divided into four broad phases that will be carried out sequentially with each phase building on the previous one. The first phase, which was completed in February, focussed on affirming our health and safety mission. It identified the sources of the mandates that make up our regulatory mission including relevant statutes, Executive Branch directives, and Commission decisions. It also examined over 4000 NRC activities to determine if each of those activities were being carried out in response to a specific mandate, or if an activity had some other rationale for its existence. In doing this, key strategic issues, questions, and decision-making points surfaced that will need to be addressed by the Commission. In the second phase, key direction-setting issues were identified and options for issue resolution were outlined in issue (or option) papers. Most of these option papers have now been submitted to the Commission for its review. Once the Commission has made an initial assessment and prioritization of the issues, and has made preliminary decisions on many of the issues, public meetings will be held with various stakeholders on a number of the issue papers, including the types of organizations most of you represent, before final decisions are made.

Phases three and four—strategic plan and performance plan formulation and implementation—will address what our programmatic needs are and what resource levels should be assigned. I am firmly convinced that this comprehensive initiative will put the NRC in a better position to manage change effectively in the future.

Low-Level Waste Disposal Facility Development

Most of you probably are aware of a Commission paper (SECY-95201) that was submitted to the Commission in August of last year. The paper addressed alternatives to terminating NRC's Low-Level Radioactive Waste Program. The options that were being considered were primarily a result of two factors: (1) the need for NRC to meet reduced staff and budget levels in the years ahead and (2) the unlikelihood that NRC would receive, in the near future, a license application from a non-Agreement State for a low-level radioactive waste disposal facility.

I felt that this was precisely the type of issue that needed to be considered in the broader context of NRC activities and therefore directed that the matter be considered as part of the Strategic Assessment and Rebaselining Initiative. Prior to sending the Commission paper to the Strategic Assessment and Rebaselining Steering Committee (Steering Committee), public comments were sought on the staff's proposals contained in this paper, and those comments were passed on to the Steering Committee.

The Strategic Assessment Team has identified NRC regulation of low-level waste as one of the key direction-setting issues. Now the Commission is considering what the role and scope of NRC's Low-Level Radioactive Waste Program should be in the overall scheme of other NRC activities. I would encourage you to be alert to the scheduling of the stakeholder meetings so that your views on this issue can be voiced and seriously considered.

Before moving on to another topic, I might make a side note. During the past year, I have visited many different types of nuclear facilities, including the Barnwell disposal facility. One common thread that I observed was the keen interest of nuclear facility operators and nuclear product manufacturers in reducing low-level waste volumes. I saw first-hand new cleaning techniques for reactor piping that used material that was amenable to compaction, and reactor filters that were made of materials that could be incinerated. These techniques aimed at addressing waste compaction can affect the lifetime of a disposal facility.

External Regulation of DOE

Another topic that might interest you is the possible external regulation of DOE by the NRC. In 1995, the DOE created an Advisory Committee on External Regulation. In its report, which was published last December, the Committee recommended that DOE be regulated externally and named NRC as one of two potential safety regulators, the other being the Defense Nuclear Facilities Safety Board.

NRC already has some oversight responsibilities for certain DOE activities, most notably the licensing of a high-level radioactive waste repository and, as most of you in this meeting are aware, the greater than Class C disposal facility. The Energy Policy Act of 1992 created additional oversight responsibilities for NRC in the form of a certification process for the U.S. Enrichment Corporation (USEC) gaseous diffusion plants at Paducah and Portsmouth. We are currently evaluating the possibility of licensing future high-level waste vitrification facilities. Thus, we have some familiarity with oversight of DOE facilities and activities.

Many questions remain to be answered, and of course, Congress must address budget and, in some cases, implementing legislation before any type of additional NRC oversight of DOE facilities might occur. Legislative action does not appear likely at this time or in the near future. I do see a broad range of options that could be considered for the external regulation of DOE. First, DOE facilities should be categorized to separate out what are clearly defense-related or weapons complex facilities, which may require different oversight. Regulatory options for facilities subject to NRC oversight range from full licensing, inspection, and enforcement reviews of DOE facilities to technical assistance in the form of integrated safety assessments or probabilistic risk assessments, with enforcement actions carried out by another agency. Other options with respect to regulatory approaches range from licensing under existing NRC requirements to conducting more limited reviews of specific DOE facilities (similar to the certification process of the USEC diffusion plants). This kind of facility categorization with a regulatory approach overlay is critical to determining what approaches to regulatory oversight of DOE facilities make sense.

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Remarks of NRC Chairman Shirley Ann Jackson to the LLW Forum (continued)

In any event, the NRC has not actively pursued the added responsibilities that would result from regulating DOE activities. But I am confident that, given adequate resources and a reasonable time schedule to develop and initiate a regulatory program, the NRC would be up to the task, if asked.

Development of LLW Disposal Sites in the U.S.

Let me now turn to the siting process for low-level waste disposal facilities in the U.S. As I had mentioned earlier, I recently had the opportunity to visit the Barnwell facility in South Carolina. And before the end of the year, I intend to visit both the Hanford disposal site and the Envirocare facility. In my confirmation hearings before the U.S. Senate, I expressed my interest in and concern over nuclear waste disposal issues. After my first year as Chairman, my interest in these issues has not lessened.

Jackson on "Assured Storage"

Question Raised at LLW Forum Meeting

The "assured storage" concept presents some unusual and unique licensing issues. Is NRC going to issue a definitive statement on "assured storage?"

Jackson Response

In terms of NRC's regulatory process, I would suggest that advocates of the "assured storage" concept petition for a rulemaking. What "assured storage" proposes is a facility that would be designed as a disposal facility but operated like a storage facility for an indefinite length of time. NRC would have to determine whether our current regulations are adequate to address this concept. We would have to look very carefully at when you cross the line between long-term storage and disposal. A petition for rulemaking will invoke a very thorough examination of the range of these issues. In the interim, NRC will continue to look at these issues on an as-needed basis.

I am comforted by the fact that we have a system in this country to dispose adequately, for the most part, of the low-level wastes being generated, at least in the near term. I am encouraged by the progress that is being made by the various states and compacts in siting a low-level radioactive waste disposal facility.

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The recent release by Texas of an environmental and safety analysis and draft license for the proposed low-level radioactive waste disposal facility in Hudspeth County, Texas, is one example of the progress that is being made in the low-level waste siting program. The recent release by Pennsylvania of its Community Partnering Plan is another. These are just two of a number of examples of progress that I have seen in siting a low-level waste disposal facility in this country.

I would be remiss if I did not mention that last September I toured the Centre de l'Aube low-level waste disposal facility in France which has moved beyond the siting stage to a fully operational facility. Last month I returned from Japan where I again toured a modern, operating, low-level waste disposal facility at Rokkasho. So while in the U.S. we have made, and are making, progress toward the siting of low-level radioactive waste disposal facilities, we are lagging behind our international counterparts. We should not become complacent or satisfied with the accomplishments to date but should continue to push firmly ahead.

Ward Valley

One final topic that I would like to touch upon is Ward Valley. I have followed the progress of the Ward Valley project since coming to the Commission (and even before that in my previous life). As all of you are aware, California is an Agreement State and as such has the authority, and indeed the responsibility, for conducting the licensing review and determining if a license should be issued for a low-level waste disposal facility.

In past reviews of the California Agreement State program the NRC staff concluded that California's low-level waste regulations are compatible with those of the NRC; that California has followed NRC licensing guidelines and the standard review plan for acceptance and review of the Ward Valley application; and that the California staff, advisory committees and supporting contractual staff are well qualified and capable of conducting a highly effective and thorough review of the application. The next review of the California Agreement State program is scheduled for October, 1996.

When called upon, the NRC staff has provided technical assistance to California. These technical assistance requests have ranged from looking at the potential for flooding and erosion, to groundwater flow and transport, to clarifying NRC's position on emergency access to low-level waste disposal facilities and estimating the amount of plutonium that is likely to be disposed of in the Ward Valley facility.

The Commission will continue to provide technical assistance to California when warranted and requested. I recognize that some of you have a sense of frustration with the length of the licensing process. That is understandable. But I would encourage you not to give up.

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Conclusion

In conclusion, I would again like to emphasize the importance that I place on the program for which you are responsible. Operational low-level radioactive waste disposal facilities are needed to close a significant part of the back end of the fuel cycle. Progress in this area must continue in order for nuclear power to remain a part of this country's energy mix. From what I have seen, progress is being made in the low-level waste program thanks to the efforts of people like you. I would like to pass on to you a message I continually make to those throughout the nuclear industry. First, do not become complacent with your past achievements and secondly, never rest. I would like to thank you again for inviting me to your meeting today and would be pleased to respond to any questions that you might have.

Southeast Compact/North Carolina

North Carolina Authority's Contractor Begins Shut-down Activities *Funding at Issue*

According to a July 10 letter from the North Carolina Low-Level Radioactive Waste Management Authority, its contractor Chem-Nuclear Systems, Inc. (CNSI)—the license applicant for a regional low-level radioactive waste disposal facility in the state—is ceasing development work on the project due to a funding shortfall. The letter, which was addressed to Richard Hodes, Chair of the Southeast Low-Level Radioactive Waste Compact Commission, from the Authority's Executive Director, John Mac Millan, states:

Effective today, CNSI will proceed to shut down both the field and the office operations. Irreversible reclamation and site restoration will not be initiated immediately, but all data acquisition will be terminated. All records will be secured and the process of disposing of certain fixed assets will be initiated. In due time, leases and permits will be reassigned or terminated.

Mac Millan points out that the Authority had earlier notified all of its contractors that there was not sufficient funding "to cover all potential costs beyond the end of June 1996." Mac Millan warns that, without additional funding from the compact commission, "all CNSI Raleigh staff will be released on July 18, 1996." He also points out that "none of the contractors that were to participate in the revised project organization" announced in early June are being employed.

The letter notes that the Authority's expenses and those of its staff and the state regulators from the licensing agency are "covered by state appropriations," so these personnel will be available to carry out shutdown activities not performed by the contractor.

Southeast Compact's Resolution

Mac Millan had apprised the Southeast Compact Commission of the project's financial status and requested an additional \$15 million at a compact meeting on June 18, in Biloxi, Mississippi. He and Dayne Brown, Director of the North Carolina Division of Radiation Protection (DRP), also presented a Licensing Work Plan endorsed jointly by the Authority and the DRP, which is reviewing Chem-Nuclear's license application.

Request for a Negotiator After hearing these reports, the commission resolved to ask the Governor of North Carolina to appoint a person or agency to negotiate terms for further compact funding of the project. The resolution also authorized commission staff to release up to \$1 million in interim funding to the Authority "upon receipt of formal notice from the Governor of North Carolina that a party or parties have been named to negotiate on behalf of the State of North Carolina."

The resolution stated in its introductory clauses that "the Commission is not responsible for any of the costs associated with the creation or operation of the facility, but has voluntarily provided \$70.1 million of the approximate \$100 million spent by North Carolina on the project to date."

Generator Input Solicited In the resolution, the commission acknowledged "the efforts of the Authority and its contractors, the Division of Radiation Protection and its contractors, and other North Carolina agencies in the consensual development of the Licensing Work Plan for the North Carolina Low-Level Radioactive Waste Disposal Facility Project dated May 31, 1996."

The resolution noted that the commission "wishes to benefit from the technical expertise of waste generators who have offered to review and provide comment regarding the Licensing Work Plan."

In conclusion, the resolution stated that the commission, "after receiving a review of the Licensing Work Plan and a report from the negotiators' review, will act expeditiously to finalize and execute the terms agreed to by the negotiators to provide funding to North Carolina."

The resolution was transmitted to Governor James Hunt of North Carolina in a letter dated June 20.

Governor's Response

Governor Hunt replied to the commission's correspondence by letter dated July 3. He wrote:

As reported at your meeting, North Carolina has developed a Licensing Work Plan by consensus of the Low-Level Radioactive Waste Management Authority and the state regulatory agencies. The plan reflects the work necessary to provide the information on which a decision could be made whether or not to license the proposed regional disposal facility. As suggested by your resolution, there may be issues concerning the implementation and funding of the work plan that the Commission and the State of North Carolina need to discuss, but we are ready to go forward under that plan.

As you know, State Representative George Miller and Captain William Briner represent the State of North Carolina on the Commission. I believe that they should represent the State of North Carolina in any discussions with the Commission on the subject of the resolution or the Licensing Work Plan.

Alternative Appointment Sought

In a letter hand-delivered to the Governor's office on July 9, the Southeast Compact Commission expressed concern "that the value of participation by Commissioners Miller and Briner as Commissioners will be lost if they are placed in the position of negotiating with a Commission on which they serve." The compact commission therefore requested the Governor to make another appointment.

As of press time, the Governor had not responded to the compact commission's request.

Background: Joint Licensing Work Plan

The Licensing Work Plan agreed upon by the North Carolina Low-Level Radioactive Waste Management Authority and DRP calls for a three-and-a-half year process that includes seven decision points to allow for a change of plans, if needed, or a cessation of work if it becomes evident that the proposed site will not be licensable. At the time when the plan was adopted, its cost was projected to be \$27 million. The plan resulted from months of meetings by a technical task force. (See *LLW Notes*, May 1996, p. 3.)

At a quarterly business meeting of the Authority, held on June 6, the Authority adopted the plan and voted to ask the Southeast Compact Commission for \$15 million—enough to reach the third decision point in the plan.

The Authority also agreed to hire Eric Lappala of Harding Lawson Associates as Project Director to oversee a new team to implement the plan.

Background: Previous Funding Conditions

In November and August of 1995, the Southeast Compact Commission passed earlier resolutions concerning conditions for funding the North Carolina project. (See *LLW Notes*, January/February 1996, p. 3 and *LLW Notes*, August/September 1995, p. 5.) —CN

For further information, contact Andrew James of the North Carolina Authority at (919)733-0682 or Ted Buckner of the Southeast Compact Commission at (919)821-0500.

Appalachian Compact/Pennsylvania

Appalachian Compact Funds Volunteer Siting, Public Information Activities

At the annual meeting of the Appalachian States Low-Level Radioactive Waste Commission, held on June 19, the Commissioners approved the following budget items:

- \$2 million for implementation of Pennsylvania's Community Partnering Plan for siting a low-level radioactive waste disposal facility (see LLW Notes, April 1996, p. 3);
- \$100,000 for grants to municipalities in qualified areas exploring the option of hosting a facility; and
- \$76,500 to the Pennsylvania State Association of Township Supervisors to provide public information about the siting process.

Surcharge payments to the commission from the Department of Energy will be used to provide the funding.

Legal Intervention In other action at the meeting, the Commissioners decided to intervene on behalf of Pennsylvania in *Stilp v. Knoll*, a case challenging passage of the state's siting legislation. (See *LLW Notes*, May 1996, p. 18.)

Possible Support for California and Texas Commissioners also agreed to consult with the Governors of their respective states regarding potential state support for bills pending in the U.S. Congress to transfer land in Ward Valley to the State of California and to consent to the Texas Low-Level Radioactive Waste Disposal Compact.

The annual meeting was held in Harrisburg, Pennsylvania. —CN

For further information, contact Marc Tenan of the Appalachian Commission at (717)787-2480.

Midwest Compact/Ohio

Ohio Issues Preliminary RFP

Midwest Compact Approves Budget for State's Activities

On June 21, the Ohio Low-Level Radioactive Waste Facility Development Authority issued a preliminary request for proposal (RFP) for statewide screening. During the screening process, preference and exclusionary criteria outlined in legislation will be applied. Existing databases will be used to determine potentially suitable candidate areas.

The final RFP for statewide screening will be issued August 1, following approval by the Authority's board of directors on July 19. The deadline for submittal of proposals is August 30. A public hearing on the proposals is planned for November 21, with selection of a contractor scheduled for December 6. Following a background check and contract negotiations, tentative approval and signature of a contract are expected in early 1997.

In a related matter, the Midwest Interstate Low-Level Radioactive Waste Compact Commission met on June 24 and approved the proposed FY '97 budgets for the Ohio Authority and the Ohio Agreement State program. The compact also voted to appeal a recent district court decision in a lawsuit concerning surcharge rebates. (See Court Calendar, this issue.)

For further information, contact Melissa Herby of the Ohio Authority at (614)644-2256 or Gregg Larson of the Midwest Compact at (612)293-0126.

Southwestern Compact/California

BLM Holds Workshops re California Land Transfer

In June, the Bureau of Land Management (BLM) held three scoping workshops concerning a second Supplemental Environmental Impact Statement (SEIS) for the proposed transfer of federal land in Ward Valley, California, to the state. BLM's intention to issue a second SEIS and to hold the workshops was announced in the *Federal Register* on May 17. Deputy Secretary of the Interior John Garamendi had earlier indicated—in

a press release dated February 15—that the department was ordering the additional SEIS and tritium testing at Ward Valley. (See *LLW Notes*, March 1996, p. 14.)

BLM's notice invited the public "to submit formal written comments on the scope of the SEIS, or provide new information about the site and proposed actions." It specified that "[i]ssues that were fully analyzed in the 1991 EIS/EIR and the 1993 SEIS ... and are not the subject of new information or circumstances, will not be addressed in this SEIS." Comments were initially due by July 1, but the deadline was subsequently extended to July 15, 1996.

Location, Purpose and Structure of Workshops The workshops were held in Sacramento, San Bernardino, and Needles, California. Needles is approximately 22 miles from the Ward Valley site, which is the planned location for a low-level radioactive waste disposal facility.

The *Federal Register* notice explained that the workshops' purpose was to "provide the public additional opportunities to supply additional information and to identify issues to be addressed in the SEIS." The notice stated that the workshops would be "conducted in an open house format." A BLM press release clarified that the sessions would "not be public hearings, as no oral public testimony [would] be received at this time." However, in response to protests, the format of the workshops was changed to allow commenters to address the assembly.

Next Steps The bureau will issue a separate public notice regarding "procedures for the tritium and related testing to be done at the site." The Department of Interior has approached Scott Tyler and Martin Mifflin to participate in drafting the procedures. However, no final decisions have been made. Both Tyler and Mifflin served on the National Academy of Sciences committee that examined seven technical issues concerning the Ward Valley site. Mifflin dissented from the majority of the committee on two of the issues. (See *LLW Notes Supplement*, June 1995, pp. 8-12.)

After the testing has been completed and the data analyzed, BLM will issue a draft SEIS.

The appropriateness of and protocol for the testing have already been the subject of much correspondence with federal agencies and the Clinton administration. (See "New Materials and Publications," this issue. See also *LLW Notes*, May 1996, pp. 20-25.) —CN

South Carolina

South Carolina Requires Uniform Manifest

The South Carolina Department of Health and Environmental Control has amended its regulations to make them compatible with NRC's updated requirements regarding use of the uniform manifest, record keeping, and decommissioning activities of radioactive material licensees. The amendments were published in the *State Register* on June 28, and became effective as of publication. It is anticipated that the procedural changes will be fully implemented by 1997.

—CN

For further information, contact Virgil Autry of the Department of Health and Environmental Control at (803)896-4244.

Chem-Nuclear Changing Barnwell Price Structure

In a July 1 letter, Chem-Nuclear Systems, Inc. notified customers that a new pricing structure will be instituted as of November 1, 1996, at the low-level radioactive waste disposal facility in Barnwell, South Carolina. The restructured pricing is based on weight, dose rate, and curies. Chem-Nuclear explained the reasons for the change as follows:

With the Barnwell site's potential renewed through 1995 legislative action, we want to determine how to stabilize or reduce long term low-level radioactive waste disposal costs and still maintain the highest standards in environmental compliance and safety. We also want to optimize the use of the remaining 18 to 20 year capacity of the Barnwell disposal facility.

These goals can be achieved by changing the disposal pricing to the methods most commonly used in the hazardous waste industry, a weight and hazard based pricing structure.

—CN

Chair of NEI LLW Group Presents Policy Principles

Louis DelGeorge, Vice President of Commonwealth Edison Company and Chair of the Low-Level Waste Group at the Nuclear Energy Institute (NEI), spoke on June 12 at the Radioactive Waste Exchange Low-Level Radioactive Waste Decisionmakers' Forum meeting in Park City, Utah. DelGeorge's presentation was entitled "From the Utilities' Point of View—Is the Regional Compact Approach Still Worth the Struggle?" In his speech, he highlighted the importance of environmentally safe, technically feasible, and economically practical low-level radioactive waste disposal, which he observed is in line with the stated goal of the Low-Level Radioactive Waste Policy Act.

To achieve this goal, he identified the following eight principles which the industry believes are crucial to any successful regional implementation strategy:

- 1. Ensure safety.** Protection of public health and safety and the environment is the top priority in managing low-level radioactive waste. Nuclear Regulatory Commission safety standards for low-level waste disposal should be closely adhered to by state regulatory agencies and licensees.
- 2. Control costs.** Expenditures toward the development of new disposal capacity should be carefully evaluated for cost-effectiveness and should meet accepted prudence tests.
- 3. Preserve existing disposal options.** Access to existing disposal facilities operating in willing states should be maintained. This is particularly important given the uncertain schedules associated with new facilities presently under development.
- 4. Promote new site development.** Viable site development efforts under way in the states and compacts should be strongly supported and promoted by waste generators and other interested parties.
- 5. Support competition.** In addition, states and compacts should work cooperatively under the [Low-Level Radioactive Waste Policy Amendments] Act to focus on competition and access to disposal facilities through import and export approvals, contractual arrangements, or consolidation of compacts, where it is appropriate to do so. Private sector site development and operation should also be supported and encouraged. Experience has shown that successful site development and operation is possible where there is strong community support, strong state political support, and/or proactive private-sector involvement. (Examples are Barnwell, Envirocare, and processing facilities in Tennessee.) Situations where these conditions exist should be created and supported.
- 6. Existing federal law does not require amendment at this time.** The Low-Level radioactive Waste Policy Amendments Act—which makes low-level waste disposal a state responsibility—contains sufficient flexibility under which low-level waste disposal capacity can be established through state and compact-driven site development efforts, or through alternative approaches as discussed above—where supported by the applicable states or compacts.
- 7. Maintain host state protections.** It must be recognized that no host state can or will be forced to accept out-of-compact waste.
- 8. Support from the federal government.** The federal government should support, not inhibit, the efforts of the states to meet the objectives and requirements of the Low-Level Radioactive Waste Policy Amendments Act.—JMC

Western Governors Support Ward Valley Transfer

The Western Governors' Association (WGA) adopted the following resolution on June 24 at the WGA annual meeting in Omaha, Nebraska. The resolution, sponsored by California Governor Pete Wilson, passed without opposition. Governor E. Benjamin Nelson of Nebraska abstained from the vote.

Established in 1984 through the merger of two governors' organizations, WGA is an independent, non-partisan organization of Governors from 18 western states, two Pacific-flag territories, and one commonwealth. Through WGA, the western Governors identify and address key policy and governance issues. Governors use WGA to develop and advocate policies that reflect regional interests and relationships in debates at the national and state levels.—LAS

Resolution 96-018: Transfer of Ward Valley Site to the State of California

A. BACKGROUND

1. The Low-Level Radioactive Waste Policy Act (Policy Act) was enacted in 1980 (and amended in 1985) to make states responsible for the disposal of commercial low-level radioactive waste (LLRW), and to allow states to form compacts for LLRW disposal at regional disposal facilities to be located within each compact.
2. The states of the Southwestern LLRW Disposal Compact (California, Arizona, North Dakota and South Dakota) have identified a preferred site for a regional disposal facility. This site is on Bureau of Land Management controlled land in Ward Valley, California.
3. The regional disposal facility proposed for the Ward Valley site has satisfied all state and federal requirements for the protection of public health and safety and could become the first regional disposal facility under the Policy Act to be licensed. The National Academy of Sciences (NAS), at the request of the U.S. Department of Interior, has examined specific technical concerns related to the site and has not identified any obstacles to proceeding with site development. In particular, the NAS found the potential for ground-water contamination to be "highly unlikely."
4. The principal remaining obstacle to development of the Ward Valley regional LLRW disposal facility is the transfer of the Ward Valley site from federal ownership to the State of California. The most recent action by the U.S. Department of the Interior would delay the transfer of this land for at least eighteen months, and would create opportunities for further delay, which could make the Ward Valley facility infeasible.
5. Failure of the Southwestern LLRW Disposal Compact to develop a regional disposal facility would impair the willingness and ability of other states and compacts to comply with the Low-Level Radioactive Waste Policy Act.
6. Legislation has been introduced by Senators Murkowski and Johnston (S 1596), and by Representative Bilbray (HR 3083) to transfer the Ward Valley land directly to the State of California, subject to assurances to be given by the State of California to the Nuclear Regulatory Commission that the State will carry out environmental monitoring and protection measures based on recommendations of the National Academy of Sciences and subject to federal oversight by the Nuclear Regulatory Commission.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors' Association supports the immediate transfer of the Ward Valley site to the State of California as intended by S 1596 and HR 3083.
2. The Western Governors' Association would oppose transfers of sites that do not have the approval of the host state governor.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Southwestern Compact states to develop a position statement and letters of support for passage of the relevant sections of the two bills before Congress.

State and Compact Letters re H.R. 558 and S. 419 Texas Low-Level Radioactive Waste Disposal Compact Consent Act

Central Compact

Louisiana Letters from William Kucharski, Secretary of the Louisiana Department of Environmental Quality and Louisiana Commissioner for the Central Compact, to the entire state House delegation. December 13, 1995.

Oklahoma Letters from H. A. Caves, Oklahoma Commissioner, Central Compact, to the entire state House delegation. December 12, 1995.

Central Midwest Compact

Letters from Edward Ford, Chair, Central Midwest Compact, to the entire State of Illinois House delegation. June 18, 1996.

Letters from Edward Ford, Chair, Central Midwest Compact, to the entire Commonwealth of Kentucky House delegation. June 11, 1996.

Letters from Edward Ford, Chair, Central Midwest Compact, to entire compact House delegation. December 21, 1995.

Letters from Edward Ford, Chair, Central Midwest Compact, to the entire compact House and Senate delegation. October 19, 1995.

Midwest Compact

Letters from Teresa Hay, Chair, Midwest Compact, to the entire compact House delegation. May 21, 1996.

Letters from Teresa Hay, Chair, Midwest Compact, to the entire compact House and Senate delegation. October 11, 1995.

Northeast Compact

Letters from Janice Deshais, Executive Director, Northeast Compact, to the entire compact House and Senate delegation. October 16, 1995.

New Jersey Letters from John Weingart, Executive Director, New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board, to the entire state House delegation. October 10, 1995.

Northwest Compact

Letters from T. R. Strong, Chair, Northwest Compact, to entire Alaska and Washington House delegations. January 30, 1996.

Alaska Letter from Michele Brown, Commissioner, Alaska Department of Environmental Conservation, to U.S. Representative Don Young. February 21, 1996.

Hawaii Letters from Benjamin Cayetano, Governor of Hawaii, to U.S. Representatives Patsy Mink and Neil Abercrombie. February 12, 1996.

Washington Letters from Mike Lowry, Governor of the State of Washington, to the entire state House and Senate delegation. November 3, 1995.

Wyoming Letters from Dennis Hemmer, Director of the Wyoming Department of Environmental Quality, to the entire state House delegation. April 19, 1996.

States and Compacts *continued*

Rocky Mountain Compact

Letters from Leonard Slosky, Executive Director, Rocky Mountain Compact, to the entire compact House delegation. October 13, 1995.

Southeast Compact

Letters from Richard Hodes, Chair, Southeast Compact Commission, to the entire compact House delegation. May 24, 1996.

Letters from Richard Hodes, Chair, Southeast Compact Commission, to the entire compact House delegation. October 9, 1995.

Southwestern Compact

Letters from Don Womeldorf, Executive Director, Southwestern Compact Commission, to the entire compact House delegation. May 23, 1996.

Letters from Dana Mount, Chair, Southwestern Compact Commission, to the the entire compact House delegation. October 13, 1995.

Michigan

Letters from Dennis Schornack, Commissioner, Michigan Low-Level Radioactive Waste Authority, to the entire state House and Senate delegation. May 13, 1996.

Letters from Dennis Schornack, Commissioner, Michigan Low-Level Radioactive Waste Authority, to the entire state House delegation. October 20, 1995.

Texas Compact

Letters from the Governors of Texas, Vermont and Maine to every member of Congress. September 26, 1995.

Texas Letter from Milton Gulberteau, Chair, Texas Low-Level Radioactive Waste Disposal Authority, to U.S. Representative Charles Wilson. May 9, 1996.

Texas Letter from Milton Gulberteau, Chair, Texas Low-Level Radioactive Waste Disposal Authority, to U.S. Senate Phil Gramm. May 9, 1996.

Texas Letter from Texas Governor George Bush to U.S. Representative Richard Arme. December 13, 1995.

Texas Letter from Texas Governor George Bush to Senator Robert Dole. September 25, 1995.

—TDL

Mobley Receives Highest National Recognition Award from CRCPD

Michael Mobley, Director of the Division of Radiological Health in the Tennessee Department of Environment and Conservation, has been awarded the highest national award of recognition by the Conference of Radiation Control Program Directors, Inc. (CRCPD). Mobley was presented the award on May 5 at the organization's National Conference on Radiation Control held in Albuquerque, New Mexico. He was recognized for his competence, dedication, and professionalism in the field of radiation protection, particularly involving sources of radiation controlled by the U.S. Department of Energy.

In addition to his responsibilities at the Department of Environment and Conservation, Mobley represents Tennessee on the Southeast Low-Level Radioactive Waste Compact Commission.—JMC

State and Compact Letters re Ward Valley Land Transfer Language in Congressional Legislation

Central Compact

Louisiana Letters from J. Dale Givens, Secretary of the Louisiana Department of Environmental Quality and Louisiana Commissioner for the Central Compact, to U.S. Representative Robert Livingston and Senator J. Bennett Johnston. July 16, 1996.

Central Midwest Compact

Letters from Edward Ford, Chair, Central Midwest Compact, to the entire Kentucky delegation. October 10, 1995.

Midwest Compact

Letters from Teresa Hay, Chair, Midwest Compact, to the entire compact Senate delegation. October 24, 1995.

Northeast Compact

Letters from Janice Deshais, Executive Director, Northeast Compact, to the entire compact House and Senate delegation. May 17, 1996.

Letters from Richard Sullivan, Chair, Northeast Compact, to the entire compact House delegation. July 10, 1996.

New Jersey Letters from John Weingart, Executive Director, New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board, to the entire state House and Senate delegation. June 17, 1996.

Northwest Compact

Letters from T. R. Strong, Chair, Northwest Compact, to the entire compact House and Senate delegation. May 20, 1996.

Idaho Letters from Robert Ferguson, Coordinator/Administrator, State of Idaho Oversight Program, Idaho National Engineering Laboratory, to the entire state House and Senate delegation. May 23, 1996.

Rocky Mountain Compact

Resolution. Adopted January 20, 1995.

Southeast Compact

Letters from Richard Hodes, Chair, Southeast Compact, to the entire compact House and Senate delegation. April 24, 1996.

Southwestern Compact

Letters from Dana Mount, Chair, Southwestern Compact, to entire compact Senate delegation and to all four member states' Governors. March 18, 1996.

Letters from Dana Mount, Chair, Southwestern Compact, to U.S. Senator Thomas Daschle. September 27, 1995.

Letters from Dana Mount, Chair, Southwestern Compact, to U.S. Senator Frank Murkowski. September 21, 1995.

Arizona Letters from Arizona Governor Fife Symington to the entire state Senate delegation. June 26, 1996.

California Letters from California Governor Pete Wilson to U.S. Representatives Don Young and U.S. Senator Frank Murkowski. September 12, 1995.

Texas Compact

Texas Letters from Milton Gulberteau, Chair, Texas Low-Level Radioactive Waste Disposal Authority, to the entire compact House and Senate delegation. May 9, 1996.

Michigan

Letters from Dennis Schornack, Commissioner, Michigan Low-Level Radioactive Waste Authority, to the entire state House and Senate delegation. May 13, 1996.

Letters from Dennis Schornack, Commissioner, Michigan Low-Level Radioactive Waste Authority, to the entire state House delegation. October 20, 1995.

—TDL

State and Compact Letters to Administration Officials re Ward Valley Issues

Group Letters/Resolutions by States and Compacts

Resolution by the Low-Level
Radioactive Waste Forum.
Adopted February 16, 1996.

Letter from 19 state and compact
officials to U.S. Interior Secretary
Bruce Babbitt. February 22, 1995.

Letter from 19 state and compact
officials to Thomas McLarty, Chief
of Staff to the President. January
11, 1994.

Midwest Compact

Letters from Teresa Hay, Chair,
Midwest Compact, to President
Bill Clinton. March 27, 1996.

"Resolution on Federal Transfer of
Land to the State of California."
Adopted January 27, 1995.

Northwest Compact

Letter from T. R. Strong, Chair,
Northwest Compact, to
U.S. Energy Secretary Hazel
O'Leary. May 3, 1996.

Letter from T. R. Strong, Chair,
Northwest Compact, to
U.S. Interior Secretary Bruce
Babbitt. June 2, 1995.

Southeast Compact

Letter from Kathryn Haynes,
Executive Director, Southeast
Compact, to U.S. Energy Secretary
Hazel O'Leary. March 26, 1996.

Letter from Richard Hodes, Chair,
Southeast Compact, to President
Bill Clinton. March 1, 1996.

Letter from Kathryn Haynes,
Executive Director, Southeast
Compact, to President Bill
Clinton. July 26, 1995.

South Carolina

Letter from then-South Carolina
Governor Carroll Campbell to
President Bill Clinton.
March 22, 1994.

Southwestern Compact

Letter from Dana Mount, Chair,
Southwestern Compact, to
President Bill Clinton.
February 22, 1996.

Letter from Dana Mount, Chair,
Southwestern Compact, to
U.S. Interior Secretary Bruce
Babbitt. March 1, 1994.

Letter from Dana Mount, Chair,
Southwestern Compact to
President Bill Clinton.
March 1, 1994.

Arizona Letter from Arizona State
Representative Ned King to
U.S. Interior Secretary Bruce
Babbitt. February 28, 1996.

California Letter from California
Governor Pete Wilson to
U.S. Interior Secretary Bruce
Babbitt. May 26, 1995. (Includes
"California Response to
Recommendations of the National
Academy of Sciences Concerning
Ward Valley" as an enclosure.)

California Letter from Carl
Lischeske, Manager, California
Low-Level Radioactive Waste
Program, to NRC Chairman
Shirley Ann Jackson. July 2, 1996.

California Letter from Carl
Lischeske, Manager, California
Low-Level Radioactive Waste
Program, to Ed Hastey, State
Director, U.S. Bureau of Land
Management. July 10, 1996.

—TDL

States and Compacts

Northeast Compact/Connecticut/New Jersey

☀ The New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board is issuing a Request for Information in preparation for issuance of a Request for Proposal for the design, licensing, construction, operation, and closure of a disposal facility in New Jersey. For further information, contact the Siting Board at (609)777-4247.—CN

Southwestern Compact/California

☀ At a meeting of the Southwestern Low-Level Radioactive Waste Commission on June 28, the Commissioners voted to extend their policy regarding exportation of various low-level radioactive waste streams. Under the policy, approval is granted for export petitions that meet specific requirements. Waste may be exported to either the low-level radioactive waste disposal facility at Barnwell, South Carolina, or to the disposal facility at Envirocare of Utah. Export authorization expires June 30, 1997, or the date the Southwestern Compact's regional disposal facility begins operations, whichever is earlier. For further information, contact Don Womeldorf of the Southwestern Commission at (916)323-3019.—CN

Texas Compact/Texas

☀ On May 10, the Jeff Davis County Commissioners Court passed a resolution supporting prompt congressional ratification of the Texas Low-Level Radioactive Waste Disposal Compact. Jeff Davis County adjoins Hudspeth County, where the Texas Low-Level Radioactive Waste Disposal Authority's proposed site is located.—CN

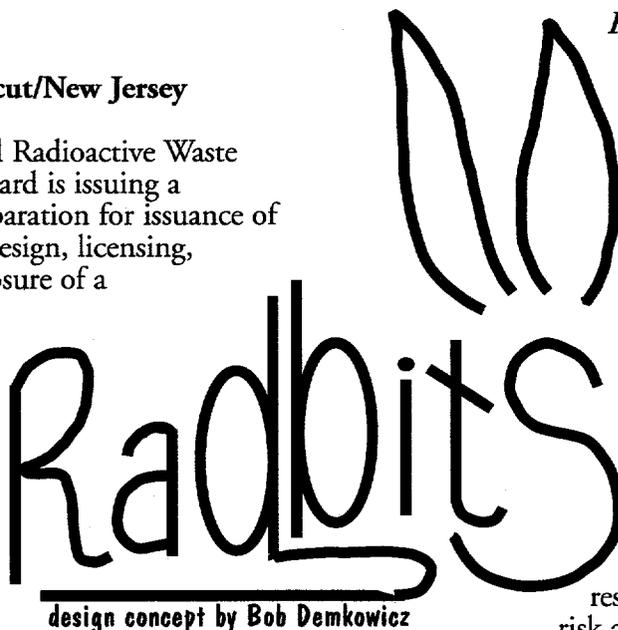
Federal Agencies and Committees

U.S. Environmental Protection Agency

☀ In a May 1996 report—*Strategic Plan for the Office of Research and Development*—EPA discusses research objectives and identifies research priorities. The plan lists the following six research topics as high priorities over the next few years: drinking water disinfection, particulate matter, endocrine disruptors, research to improve ecosystem risk assessment, research to

improve health risk assessment, and pollution prevention and new technologies. In addition, the report states that the following topics will "continue to be a major part of the Office of Research and Development's research program": air pollutants, indoor air, global change, drinking water (in addition to disinfection issues), waste site risk characterization, and waste management and site remediation.—LAS

☀ In a July 1 *Federal Register* notice, EPA extended the comment period for the proposed rule for Requirements for Management of Hazardous Contaminated Media (HWIR-media), which was published in an April 29 *Federal Register* notice. The new comment period ends on August 28, 1996. The extension of the comment period was requested by commenters, who noted the "significant impact on state Superfund and hazardous waste programs" as one justification for the extension.—LAS



design concept by Bob Demkowicz

U.S. Nuclear Regulatory Commission

☀ On July 8, Hubert Bell Jr. began his duties as the new Inspector General of NRC. Bell was nominated for the post of Inspector General by President Clinton and confirmed by the U.S. Senate. At the time of his nomination to the NRC position, Bell was Executive Director of Work Force Planning and Diversity Management for the Secret Service, and previously had been Assistant Director of the agency's Office of Inspection.—LAS

☀ In a June 21 letter, NRC staff reminded nuclear power plant licensees of their ongoing obligation to obtain prior written consent from the NRC for any changes that would constitute transfer of their NRC licenses. The letter further informed power plant licensees that they should promptly report any new information concerning their financial qualifications and decommissioning funding that could have a significant implication for public health and safety. The letter is a result of an NRC staff action plan launched earlier this year in response to deregulation of the electric power industry.—LAS

☀ NRC has terminated the Tennessee Valley Authority's license for a closed, cleaned-up uranium mill tailings site in South Dakota and has placed the site under the custody and long-term care of DOE. The South Dakota site is the first commercially operated uranium mill site to be cleaned up satisfactorily by a licensee—in accordance with NRC requirements—so that the license could be terminated and the site turned over to DOE under the Uranium Mill Tailings Radiation Control Act of 1978.—LAS

National Research Council

☀ In a report released on June 4, the National Academy of Sciences' National Research Council expand upon the traditional view of risk characterization as the translation of the results of a technical risk analysis into lay terms. *Understanding Risk: Informing Decisions in a Democratic Society* defines risk characterization as "a complex and often controversial activity that is both a product of analysis and dependent on the processes of defining and conducting analysis." The study identifies and explains five objectives that also serve as criteria for judging the success of risk characterization:

- getting the science right;
- getting the right science;
- getting the right participation;
- getting the participation right; and
- developing an accurate, balanced and informative synthesis.

The report was funded by the U.S. Department of Agriculture, the U.S. Department of Defense, DOE, the U.S. Department of Health and Human Services, EPA, NRC, the American Industrial Health Council, the Chemical Manufacturers Association and the Electric Power Research Institute. *For further information, see "New Materials and Publications."* —LAS

US Ecology v. Miyahara

US Ecology and Washington State Officials Settle Suit Over NARM Disposal

On September 6, 1995, US Ecology filed suit in the Superior Court of the State of Washington for the County of Thurston against Bruce Miyahara, Secretary of the Washington State Department of Health (DOH); Terry Strong, Director of the DOH's Radiation Protection Division; and the Washington State DOH. The action challenged the validity of a regulation which severely restricts the amount of NARM waste that US Ecology can accept for disposal at its commercial facility at Hanford and sought declaratory relief as well as compensatory damages from Miyahara and Strong in their individual capacities.

Recently, parties to the suit entered into a settlement agreement whereby DOH agreed to initiate and conduct a rulemaking to consider amending the NARM regulation, increasing the disposal limits. In addition, under the terms of the agreement, DOH agreed to support an amendment to the low-level radioactive waste disposal agreement between the Rocky Mountain Compact and the Northwest Interstate Compact and agreed to explore the possibility for the disposal of DOE low-level radioactive waste at the commercial facility.

According to State of Washington officials, if DOH had actually gone to court over this issue, and then lost, there would have been no volume limit at all on the disposal of NARM. Settling this suit through negotiations preserved DOH's ability to establish an annual volume limit.

The settlement agreement did not change the State of Washington policy on the import of radioactive waste.

The Complaint

Facts/Issues US Ecology operates a facility for the disposal of commercial low-level radioactive waste and NARM in Hanford, Washington. The facility is located on land leased to the State of Washington by the federal government. The state subleases the land to US Ecology pursuant to a contract first entered into on July 29, 1965. The lease has been renegotiated and amended several times.

In 1986, the Washington State DOH adopted a regulation requiring NORM waste generators to obtain specific approval for shipments over 1,000 cubic feet per year, without limiting the amount of NARM that US Ecology could accept for disposal. The department adopted amendments to the regulation on June 21, 1995. The amendment established an annual NARM disposal volume limit of 8,600 cubic feet, and for individual generators an annual disposal volume limit of 1,000 cubic feet. Discrete sealed sources and all accelerator-produced radioactive materials except decommissioning waste were excluded from the annual volume limits. The regulation became effective July 22, 1995. (See *LLW Notes*, July 1995, p. 5.)

Requested Relief US Ecology sought to have the regulation declared invalid. It also sought compensatory damages against Miyahara and Strong individually and jointly and severally in excess of \$2 million.

Settlement Agreement

Proposed Amendments to Washington's NARM Regulation Under the terms of a settlement agreement entered into on May 15, 1996, DOH would propose for consideration permanent amendments to the NARM regulation as follows:

(4) Naturally occurring and accelerator produced radioactive material, excluding source material, shall be limited to a total site volume of no more than one hundred thousand cubic feet (100,000) per calendar year; provided that the annual limit shall be cumulative in nature, such that disposal amounts that could have been but were not disposed of in one calendar year may be disposed of in subsequent years; and further, provided that the annual disposal limit shall not apply to, and there shall be no annual site limit for:

(i) Accelerator produced radioactive material excluding decommissioning waste; and

(ii) Discrete sealed sources. For purposes of this section, sealed sources means any device containing naturally occurring radioactive material or accelerator produced radioactive material to be used as a source of radiation which has been constructed in such a manner as to prevent the escape of any radioactive material.

(5) Emergency provision. If the annual total site volume limit has been met, and an emergency situation occurs, single generators of NARM may seek emergency approval from the secretary to dispose of NARM excluding source materials in excess of volume limitations. The secretary may approve emergency disposal if he or she finds that an emergency exists based upon the circumstances described by the applicant, the real or potential impact on the public health and safety as determined by the Department, and that approval of such additional disposal is consistent with protecting the public health and safety of the citizens of the State of Washington.

According to State of Washington officials, the proposed limit allows for the safe disposal of NARM and preserves the disposal facility for the disposal of low-level radioactive waste.

State officials report that there will be a very public process in connection with the proposed 100,000 cubic foot NARM limit. The rulemaking process and

procedure required under the Washington Administrative Procedures Act is being fully applied. State Environmental Policy Act requirements are also being applied. There will be a public comment period and public hearings to consider the proposed rule. If there is a public health justification for adjusting the proposed NARM limit as a result of the public process, the department may adjust the proposed limit.

Changing Rocky Mountain Compact LLRW Disposal Practices The settlement agreement further commits DOH to support appropriate action to effect an amendment to the current low-level radioactive waste disposal agreement between the Rocky Mountain Compact and the Northwest Interstate Compact to replace the annual carry-over cap and to change the current practice requiring Rocky Mountain Compact generators to obtain advance allocation approvals. Any change to the contract between the compacts is subject to consideration and approval by the compacts. (Persons interested in a more detailed explanation of the proposed changes are directed to the settlement agreement itself.)

Disposal of U.S. DOE LLRW at the Commercial Facility The settlement agreement further commits DOH, within 7 days of execution of the agreement, to send a letter—which was attached to the agreement as an exhibit—to DOE. The letter states that DOH would support an agreement authorizing the utilization of US Ecology's commercial radioactive waste disposal facility on the Hanford reservation for the disposal of DOE low-level radioactive waste provided that the following conditions would be met:

- use of the facility would be limited to the disposal of DOE low-level radioactive waste generated within the Northwest Compact region;
- use of the facility for DOE low-level radioactive waste would not be inconsistent with use of the facility for "non-federal" waste under existing agreements;
- DOE low-level radioactive waste would comply with applicable state regulatory standards and/or licensing conditions; and
- all fees, taxes, surcharges, and other assessments paid with respect to "non-federal" waste would also be paid with respect to the DOE low-level radioactive waste.

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US Ecology v. Miyahara (continued)

The DOH letter specifically recognizes that effecting such an agreement involves various considerations including "statutory apportionment of regulatory authority over federal low-level radioactive waste among the federal government, the state, and the Northwest Interstate Compact."

DOE replied by letter dated June 4, stating that it would notify the Northwest Compact if usage of the US Ecology facility is being contemplated. However, the letter notes that the facility is not able to support disposal of all waste currently managed by DOE's Richland Operations Office and that US Ecology's facility fees exceed those charged to DOE generators that use the DOE Hanford site.

The settlement agreement specifically states that its effectiveness is conditioned on the parties' good faith effort to expedite the process of completing and finalizing a site closure plan for the commercial facility, including the participation of supervisory-level personnel in regulatory review and establishment of the technical elements.

Under the terms of the settlement agreement, US Ecology agreed to dismiss its action.

Motion, Stipulation, and Agreed Order for Stay and Interim Relief

Agreed Order for Stay and Interim Relief On May 15, 1996, the parties filed a motion, stipulation, and agreed order for stay and interim relief with the settlement agreement. They asked the court for, and the court entered, a stay of the applicable sections of the 1995 amendments to the NARM regulation and imposition of the above-stated proposed amendments pending the rulemaking proceeding and the effective date of the amended rule, or the decision not to amend the rule.

Agreed Order of Dismissal Without Prejudice The superior court dismissed the claims of US Ecology against Miyahara, Strong, and DOH without prejudice. The agreed order requires DOH, within 14 days of May 15, 1996, to initiate and thereafter conduct a rulemaking to consider amending the NARM regulation consistent with the above-stated proposed amendments.—*TDL*

Midwest Interstate Low-Level Radioactive Waste Commission v. O'Leary

Minnesota District Court Rules in Favor of DOE in Surcharge Rebates Suit

On May 28, 1996, the U.S. District Court for the District of Minnesota, Fourth Division, granted summary judgment in favor of DOE Secretary Hazel O'Leary in a suit concerning the distribution of surcharge rebates. The action, which was filed by the Midwest Interstate Low-Level Radioactive Waste Commission, sought to compel O'Leary to distribute to the commission in a lump sum funds payable with respect to the six-month period from July 1, 1995, through December 31, 1995. The commission had argued that the situation that existed during this six-month period was the legal and functional equivalent of the situation that existed during the eighteen-month period for which DOE had determined states and compacts to be eligible to receive rebates if they had a valid contract for access to the Barnwell facility.

"The 1980 Act provided that each regional compact commission would have the authority, beginning in 1986, to restrict the use of disposal facilities located within the region to the disposal of waste generated within the region. This is a critical aspect of the 1980 Act because, without it, the dormant Commerce Clause prevents a state from keeping out waste generated elsewhere....

The dormant Commerce Clause applied to South Carolina again because that state withdrew from the Southeast Commission and thereby waived its right under the LLRWPA to exclude waste from outside the region."

—The Court on the Applicability of Exclusionary Authority Power

The court, however, largely ignored this argument and instead focused its decision on two premises: (1) the Low-Level Radioactive Waste Policy Act and its 1985 amendments is fundamentally intended to develop new disposal capacity, which capacity has not yet been realized, and (2) the court owes deference to an agency interpretation.

On June 24, 1996, the Midwest Commission voted to appeal the district court's decision to the Eighth Circuit Court of Appeals. A notice of appeal was filed on June 25, 1996.

Court's Interpretation of the Policy Act

Plain Meaning of the Statutory Language In interpreting the Low-Level Radioactive Waste Policy Act and its 1985 amendments, the district court began by looking to the plain meaning of the statutory language. The rule of law is that words that are not defined in a statute are accorded their ordinary or natural meaning. The district court found that the key question in this case is the meaning of the phrase "to provide for disposal." The Midwest Commission argued that it provided for disposal by furnishing, supplying, or making available the Barnwell facility to its regional generators. The court rejected this argument.

This argument strains the ordinary and natural meaning of these terms, since the Midwest Commission has merely permitted disposal in South Carolina. The Secretary's argument that "provide" does not mean "permit" is much more firmly rooted in an ordinary and natural meaning of the key terms.

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Midwest Interstate Low-Level Radioactive Waste Commission v. O'Leary (continued)

Broader Interpretation of the Statute DOE's March 31, 1994 policy statement on distribution of surcharge rebates provided that a state or compact could receive a prorated portion of the rebates if it could document the availability of one or a combination of the following:

- a. A subsequent operating disposal facility for low-level waste for which the State has responsibility under the Act.
- b. A contract with another State or compact region providing access to a low-level waste disposal facility for the low-level waste as to which the State has responsibility under the Act for a period between January 1, 1993 and January 1, 1996, the end of the surcharge rebate period.

The Midwest Commission argued that it complied with the first alternative by authorizing regional generators, via a commission resolution, to export low-level radioactive waste for disposal at the Barnwell facility. The commission pointed out that under the Midwest Compact, generators are prohibited from exporting low-level radioactive waste from the region unless authorization is granted by the Midwest Compact.

Secretary O'Leary, however, argued that this condition could only be met by operation of a facility in the Midwest Compact region. She asserted that the term "responsibility" refers to a facility for which the state is responsible, whereas the commission claimed that "responsibility" refers only to waste for which the commission is responsible.

The Secretary's interpretation is the more logical. It sets forth two clear options for states: operate a facility or contract with a state that does so. The Midwest Commission's construction of the first option is so broad as to make the rest of the Policy Statement unnecessary. This would violate the cannon of construction that effect should be given to every phrase or sentence.

No Need for a Contract The court recognized the Midwest Commission's argument that a contract for access to Barnwell with South Carolina is no longer necessary because the dormant Commerce Clause guarantees facility access to out-of-state generators since South Carolina is an unaffiliated state. However, the court rejected the argument because it would leave the Midwest Compact generators in the same position as they were prior to enactment of the Low-Level Radioactive Waste Policy Act and its 1985 amendments—they would be subject to the changing policies of states with disposal facilities. For example, these states could elect to close their facilities or to limit the total amount of waste accepted for disposal at their facilities, as long as they did not discriminate against out-of-state waste.

The whole purpose of the [Low-Level Radioactive Waste Policy Act and its 1985 amendments] is to create a system more rational and dependable than what developed under the dormant Commerce Clause. The Midwest Commission asks the Court to interpret the LLRWPA so as to reward states that do no more than return to the dormant Commerce Clause regime. This would be contrary to the purpose of the statute.

Deference to Agency Interpretation The court also noted that it must give considerable weight to Secretary O'Leary's interpretation regarding any ambiguity in the statute that she administers as well as in the regulations she issues. To the extent that any ambiguity exists in the act or the policy statement, the court found that O'Leary's interpretation is "based on a permissible construction."—*TDL*

Background: Midwest Interstate Low-Level Radioactive Waste Commission v. O'Leary

Federal Statute The 1993 milestone in the Low-Level Radioactive Waste Policy Amendments Act of 1985 specifies that 25 percent of surcharges on low-level radioactive waste disposed of between January 1, 1990, and December 31, 1992, shall be paid, with interest, to the state or compact region in which the waste originated if the state or compact region is able to provide for the disposal of all low-level radioactive waste generated within the region by January 1, 1993, or if certain other conditions are met. Otherwise, generators may become eligible to receive the surcharge rebates on a prorated basis. Federal statute provides that the surcharge fees are to be held in an escrow account by the Secretary of Energy. (See *LLW Notes*, June 1993, pp. 14-15.)

DOE's 1992 Federal Register Notice and Subsequent

Litigation The Department of Energy published a notice in the *Federal Register* on September 30, 1992, announcing that states or compacts may be eligible to receive the surcharge funds if they meet one of several criteria, including having a valid contract with another state or compact for low-level radioactive waste disposal or storage. (See 57 *Federal Register* 45,248.)

In late 1992, the Midwest Commission entered into an agreement with the Southeast Commission that provided Midwest region generators with access to the low-level radioactive waste disposal facility at Barnwell, South Carolina, until June 30, 1994. Similar contracts were entered into by some other regional compact commissions and

unaffiliated states, including the Central Midwest Commission, the Appalachian Commission, and the Commonwealth of Massachusetts.

As of June 4, 1993, DOE had not made a determination regarding eligibility for surcharge funds based on the 1993 milestone, and the Central Midwest Commission initiated legal proceedings. (See *LLW Notes*, June 1993, pp. 14-15.)

DOE's 1994 Federal Register Notice and Subsequent

Litigation On March 31, 1994, however, DOE published a notice of final policies and procedures in the *Federal Register*. (See 59 *Federal Register* 15,188.) This notice, which addresses comments received in response to the first notice, indicates that states and compacts that have entered into the "standard contract of 18 month duration with the Southeast Compact Commission" are eligible to receive the surcharge funds on a prorated basis. (See *LLW Notes*, April 1994, pp. 1, 11.) On June 30, 1994, shortly after publication of the second notice, the Appalachian Commission initiated legal proceedings seeking payment of all surcharge fees that were collected from generators of low-level radioactive waste in the Appalachian region from 1990 to 1992 and that were being held in the escrow account. (See *LLW Notes*, August/September 1994, p. 15.)

Court Rulings and Distribution of the Funds in Escrow

On July 22, 1994, the U.S. District Court for the Central District of Illinois affirmed DOE's final policy on state/compact eligibility for

surcharge payments, as detailed in its *Federal Register* notice of March 31, 1994. Subsequently, on September 1, 1994, DOE distributed surcharge funds to eligible states, compacts, and generators on a prorated basis—with July 1, 1994, considered the end of the eligibility period, since contracts for access to Barnwell ended on that date. (See *LLW Notes*, August/September 1994, p. 1.) Since that time, DOE has been distributing surcharge funds to eligible generators. Payments are made in either monthly or semiannual installments or in a single lump-sum payment at the end of the rebate period.

Then, on May 22, 1995, the U.S. District Court for the Middle District of Pennsylvania ruled that the Appalachian Commission's contract for 18 months' access to Barnwell satisfies the 1993 milestone and entitles the commission to full reimbursement of the escrow funds for the entire 36-month period. DOE is appealing the district court's decision.

Suits by the Midwest Commission and Massachusetts

In July 1995, the Commonwealth of Massachusetts and the Midwest Commission filed separate suits in federal district court seeking payment of additional surcharge fees. (See *LLW Notes*, July 1995, pp. 12-14.) The U.S. District Court for the District of Massachusetts ruled against the Commonwealth on March 29, 1996. (See *LLW Notes*, April 1996, pp. 10-11.)

Nebraska ex. rel. Nelson v. Central Interstate Low-Level Radioactive Waste Commission

Settlement Agreement Reached in Nebraska Surcharge Rebates Litigation

On June 20, 1996, the Central Interstate Commission and the State of Nebraska entered into a settlement agreement in a lawsuit concerning the disbursement of surcharge rebate funds to the state. The lawsuit and the Central Interstate Commission's counterclaim will be dismissed with prejudice upon the completion of certain actions specified in the agreement and upon the making of satisfactory assurances by the parties of their timely performance of covenants contained in the agreement. Each party will pay its own costs for the suit filed in the U.S. District Court for the District of Nebraska.

Possession of the Rebate Funds

According to the settlement agreement, the State of Nebraska currently has \$632,906.80 in rebate funds, including interest. The Central Interstate Commission currently has 1,016,883.00 in rebate funds, including interest. The agreement states that Nebraska, through its Department of Environmental Quality, will hold fifty percent of all rebate funds, and the Central Interstate Commission will retain the other fifty percent in a segregated account. Accordingly, the commission has up to thirty days from the date of the execution of the settlement agreement to transfer \$191,988.10, plus interest (\$96,904.15 rebate funds, \$96,197.48 interest) to equalize the state's rebate account at fifty percent of the total rebate funds.

Reporting/Accounting of the Rebate Funds

The agreement provides that use, reporting, and accounting of the rebate funds by the State of Nebraska is to be governed by Rule 4 of the Central Interstate Commission—which was in effect in September 1994, when the funds currently held by the commission were received from the U.S. Department of Energy. The commission explicitly acknowledges in the agreement that the dispute with respect to accounting for past uses of the rebate funds by the state has been resolved. The Nebraska Department of Environmental Quality acknowledges that it will timely respond to questions raised by the commission with regard to past accounting, use, and reporting of the funds. Both parties agree to a specific reporting format to be used in the future.

Use of the Funds by the Commission

The commission agrees that it will not use any of the rebate moneys that it holds to fund a competing need of the commission, unless the need conforms to one of two purposes:

- to establish a low-level radioactive waste disposal facility; or
- to mitigate the impact of a low-level radioactive waste disposal facility on the host state.

The parties acknowledge, however, that the alleviation of possible funding shortfalls now available to the commission from the major generators for preclicensing costs is a permissible use of the funds by the commission, as long as the funds are used for payment of expenses incurred directly in completion of the license application and review process. Funding of the contingency "guaranty" account provided for in the settlement agreement is also a permissible commission use of the funds.

Routine administrative or operating expenses of the commission are not considered a permissible use of the funds; however, the costs of litigation "not known" to the commission do not fall into this category.

Acceleration of the Technical Licensing Review Process

As part of the agreement, the State of Nebraska agrees to accelerate the technical licensing review process to the extent the licensing agency has sufficient cash flow to support the increased activity and to the extent that it is reasonably able to do so in a manner consistent with the Department of Environmental Quality's responsibility under state law. The Central Interstate Commission agrees that it will assist the Department of Environmental Quality in accelerating its licensing process by alleviating its cash-flow needs.

Security for the State

At times, the state may incur an obligation to its contractors for which it does not have cash in hand because it authorizes work in advance for its licensing activities. In order to provide additional security to the state in such instances, according to the agreement, the Central Interstate Commission will provide a guaranty of payment of certain invoices and billing documents and maintain a fund of \$1,000,000 to be available if needed by the state to look to protect against any such contingency. The guaranty provision will expire at the end of the prelicensing period—when the licensing decision is final. The major generators in the compact have provided \$400,000 to the \$1,000,000 guaranty fund.

Oklahoma Challenge

On May 25, 1995, the State of Oklahoma filed a challenge before the Central Interstate Commission concerning the propriety of the use of the rebate funds by the State of Nebraska. Due to the resolution of the accounting of past uses of the rebate funds by Nebraska, the State of Oklahoma will dismiss its challenge with prejudice as part of the consideration for the settlement agreement.—*TDL*

Background: Nebraska v. Central Interstate Low-Level Radioactive Waste Commission

Plaintiff State of Nebraska
Defendant Central Interstate Low-Level Radioactive Waste Commission

Facts In December of 1994, the U.S. Department of Energy distributed surcharge rebate funds to various parties, including the Central Interstate Commission. Shortly thereafter, the Director of the Nebraska Department of Environmental Quality transmitted both written and oral requests that the rebate funds be made available to the state. The commission, however, determined to “maintain possession” of the funds and requested that Nebraska provide it with a full and complete accounting of the usage of prior rebate funds. On February 3, 1995, the state sued the commission for transfer of the funds. (See *LLW Notes*, January/February 1995, pp. 16-17.)

Issues Nebraska claims that it is entitled to the rebate funds by virtue of Rule 4 of the Central Commission—which provides for payment of the rebate funds to the compact’s host state for purposes of defraying costs that such host state would incur by virtue of its status. Until the most recent rebate payment, such funds were transmitted directly by the commission to Nebraska. According to Nebraska, Rule 4 does not provide for the withholding of funds and does not contain any precondition for payment of the funds other than that the recipient be designated as the host state. The commission, on the other hand, denies that federal law contemplates payment of the rebate funds to compact member states. It argues that both Rule 4 and federal law limit the purposes for which rebate funds may be used and that these

limitations constitute a condition “which attends, limits, and qualifies the Commission’s obligation to make available rebate funds to a host state.” The commission also claims that Nebraska has violated its duty to other party states pursuant to Article III(f) of the compact law, which states that “[e]ach party state has the right to rely on the good faith performance of each other party state.” (See *LLW Notes*, January/February 1995, pp. 16-17.)

Motions The State of Nebraska filed a motion for summary judgment on June 30, 1995. The Central Interstate Commission filed a motion for summary judgment on October 24, 1995. The district court denied both motions on January 30, 1996. The commission also filed a counterclaim.

Court Calendar

Case Name	Description	Court	Date	Action
<i>Midwest Interstate Low-Level Radioactive Waste Commission v. O'Leary</i> (See related story, this issue.)	Seeks payment of surcharge rebates held in escrow with respect to the period from July 1, 1995 through December 31, 1995.	United States District Court for the District of Minnesota	May 28, 1996 June 25, 1996	District court granted summary judgment in favor of O'Leary and denied summary judgment for the commission. Midwest Commission filed a notice of appeal in the Eighth Circuit Court of Appeals.
<i>Nebraska v. Central Interstate Low-Level Radioactive Waste Commission</i> (See related story, this issue.)	Seeks to compel the Central Commission to pay rebate funds recently received from DOE to the State of Nebraska.	United States District Court for the District of Nebraska	June 28, 1996	Parties to the litigation entered into a settlement agreement.
<i>In re Three Mile Island</i> (See <i>LLW Notes</i> , May 1996, pp. 16-17.)	Involves the ability of persons who claim to have been injured by radiation from a nuclear reactor to recover punitive damages under state law.	United States District Court for the Middle District of Pennsylvania	June 7, 1996	The court dismissed more than 2000 lawsuits for lack of evidence.
<i>US Ecology v. Miyahara</i> (See related story, this issue.)	Challenges the validity of a regulation which limits the amount of NARM waste US Ecology can accept for disposal at Richland.	Superior Court of the State of Washington	May 15, 1996 September 6, 1995	Agreed order of dismissal without prejudice executed. US Ecology filed suit.

Environmental Protection Agency (EPA)

EPA Develops World Wide Web Page on Mixed Waste

EPA has developed a World Wide Web page containing information on mixed waste and links to other Internet sources of mixed waste information. The Mixed Waste Home Page is at the following World Wide Web address:

<http://www.epa.gov/radiation/mixed-waste>.

The page provides

- general information on mixed waste, including a glossary, reference materials, and answers to frequently asked questions regarding mixed waste;
- EPA Mixed Waste Team information;
- a flow chart for mixed waste identification;
- mixed waste guidance from DOE, EPA, NRC and other federal agencies;
- a guide to NRC Agreement States and EPA Authorized States;
- mixed waste shipping information;
- recent developments in mixed waste management; and
- an exchange for users to discover who can recycle or re-use radioactive and hazardous materials.

—LAS

Nuclear Regulatory Commission (NRC)

President Clinton Announces NRC Appointments

On July 12, President Bill Clinton announced his intention to nominate Nils Diaz and Edward McGaffigan, Jr. to be NRC Commissioners. Nominees to the NRC require confirmation by the U.S. Senate. The nominees, if confirmed, will fill the two remaining open seats on the commission.

Nils Diaz is presently a Professor of Nuclear Engineering Sciences at the University of Florida and Director of the Innovative Nuclear Space Power and Propulsion Institute for the Ballistic Missile Defense Initiative. He has served also as President and Principal Engineer of Florida Nuclear Associates since 1976. Diaz has over 25 years of combined experience in nuclear areas pertaining to education, the nuclear power industry, and medical applications of radiation. He holds an M.S. and Ph.D. in nuclear sciences from the University of Florida.

Edward McGaffigan is currently a Senior Policy Advisor to Senator Jeff Bingaman (D-NM) and has worked in the Senator's office since 1983. His responsibilities have included national security, science and technology, and government-wide research and development issues. Prior to joining Senator Bingaman's staff, McGaffigan served in the Foreign Service for almost seven years. In an overseas assignment, McGaffigan served as a Science Attaché in the U.S. Embassy in Moscow, where he worked to foster cooperation on nuclear energy matters. He holds an M.S. degree in physics from the California Institute of Technology and a Master of Public Policy from Harvard University's Kennedy School of Government.

—LAS

U.S. Nuclear Regulatory Commission (continued)

NRC Publishes Nuclear Power Plant License Renewal Rule

Requests Specific Comments on LLRW Management

On June 5, the NRC published in the *Federal Register* a regulatory amendment to establish new requirements for the environmental review of applications to renew operating licenses of nuclear power plants for up to an additional 20 years. The amendment to 10 CFR Part 51 defines two categories of environmental impacts:

- Category 1: environmental impacts for which a generic analysis has been performed that will be adopted in plant-specific reviews of renewal applications (i.e., plant-specific analysis is not required); and
- Category 2: environmental impacts for which plant-specific analyses will be performed.

The comment period closes on August 5. NRC extended the comment period by 30 days at the request of the Nuclear Information and Resource Service (NIRS). Unless NRC determines, based on public comments, that the amendment should be modified, the final rule will take effect on September 5, 1996.

Request for Comments re Low-Level Radioactive Waste Management

The *Federal Register* notice states:

In developing any comment, specific attention should be given to the treatment of low-level radioactive waste storage and disposal impacts, the cumulative radiological effects from the uranium fuel cycle, and the effects from the disposal of high-level waste and spent fuel.

NRC considered a number of low-level radioactive waste management issues associated with the license renewal amendment in both the *Federal Register* notice and the background documents prepared for the rulemaking.

Management of Waste Generated as a Result of License Renewal

According to the *Federal Register* notice, wide-ranging concerns were reflected in public comments on the proposed license renewal rule regarding the treatment, storage, transportation and disposal of radioactive wastes—low-level, mixed and spent fuel—generated as a result of license renewal.

In particular, concerns were expressed about

- the uncertain availability of disposal facilities for low-level radioactive waste, mixed waste, and spent fuel;
- the prospect of generation and on-site storage of an additional 20 years' output of waste; and
- the resulting pressure that would be put on states to provide low-level radioactive waste disposal facilities.

The *Federal Register* notice states:

The Commission acknowledges that there is uncertainty in the schedule of availability of disposal facilities for LLW, mixed waste, and spent fuel. However, the Commission believes that there is sufficient understanding of and experience with the storage of LLW, mixed waste, and spent fuel to conclude that the waste generated at any plant as a result of license renewal can be stored safely and without significant environmental impacts before permanent disposal. In addition, the Commission concluded that the classification of storage and ultimate disposal as a Category 1 issue is appropriate because States are proceeding, albeit slowly, with the development of new disposal facilities; LLW and mixed waste have been and can be safely stored at reactor sites until new disposal capacity becomes available.

Impacts of Disposal of Low-Level Radioactive Waste Off Site Will be Small

Chapter 6 of the GEIS [Generic Environmental Impact Statement] discusses the impacts of offsite disposal of LLW and mixed waste and concludes that impacts will be small. The conclusion that the impacts will be small is based on the regulations and regulatory programs in place, experience with existing sites, and the expectation that disposal will occur in compliance with the applicable regulations...

There are uncertainties in the [low-level radioactive waste disposal facility] licensing process and in the length of time needed to resolve technical issues, but in NRC's view there are no unsolvable technical issues that will inevitably preclude successful development of new sites or other offsite disposal capacity for LLW by the time they will be needed. For instance, in California, the proposed Ward Valley LLW disposal facility was unexpectedly delayed by the need to resolve technical issues raised by several scientists independent of the project after the license was issued. These issues were recently reviewed and largely resolved by an independent peer review group. In North Carolina, Texas, and Nebraska, the license application review period has been longer than is required by the LLRWPA [Low-Level Radioactive Waste Policy Act], but progress continues to be made...

While the NRC understands that there have been delays and that uncertainties exist such as those just discussed, the Commission concludes that there is reasonable assurance that sufficient LLW and mixed LLW disposal capacity will be made available when needed so that facilities can be decommissioned consistent with NRC decommissioning requirements. This conclusion, coupled with the expected small impacts from both storage and disposal, justify classification of LLW and mixed waste disposal as Category 1 issues. (citations omitted)

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via facsimile transmission in a News Flash on June 21, 1996.

Impacts of Continued Storage On Site Will Be Small

The GEIS addresses the matter of extended onsite storage of both LLW and mixed waste from refurbishment and operations for a renewal period of up to 20 years ... Subject to the two possible review items just noted [contained in 10 CFR 50.59], the Commission finds that continued onsite storage of both LLW and mixed waste resulting from license renewal will have small environmental impacts and will require no further review within the license renewal processing.

Disposal Capacity for Mixed Low-Level Radioactive Waste Should Be Available When Needed

The States' LLW responsibilities include providing disposal capacity for mixed LLW. Mixed waste disposal facility developers face the same types of challenges as LLW site developers plus difficulties with dual regulation and small volumes. However, in NRC's view there are no technical reasons why offsite disposal capacity for all types of mixed waste should not become available when needed. NRC and EPA have developed guidance on the siting of mixed waste disposal facilities as well as a conceptual design for a mixed waste disposal facility. A disposal facility for certain types of mixed waste is operated by Envirocare in Utah. States have begun discussions with DOE about accepting commercial mixed waste for treatment and disposal at DOE facilities. Although these discussions have yet to result in DOE accepting commercial mixed waste at DOE facilities, it appears that progress is being made toward DOE's eventual acceptance of some portion of commercial mixed waste at its facilities.

Copies of the Federal Register Notice

To obtain a copy of the *Federal Register* notice and supporting rulemaking documents, call the NRC Public Document room and request the June 5 notice entitled *Environmental Review for Renewal of Nuclear Power Plant Operating Licenses* (Vol. 61, No. 109, pp. 28467-28497).

The notice can also be obtained via the World Wide Web by accessing the NRC's home page at <http://www.nrc.gov>.—LAS

U.S. Nuclear Regulatory Commission (continued)

NRC Withdraws Rule re LLRW Disposal at Reactor Sites

In a May 30 *Federal Register* notice, NRC withdrew a rule that would have reasserted NRC's jurisdiction over low-level radioactive waste generated and disposed of at nuclear power reactor sites that are located in Agreement States. NRC and Agreement State regulations currently require that such disposal of waste on site be analyzed and authorized by the Agreement State on a case-by-case basis.

The proposed rule also would have clarified the jurisdiction over the disposal of non-critical waste quantities—waste in quantities that cannot undergo a chain reaction—of special nuclear material at fuel cycle facilities. The NRC will retain jurisdiction over these materials.

Reasons for Withdrawing the Rule

The background paper prepared in support of withdrawing the proposed rule states:

As a result of the comments received, the relatively low hazards associated with onsite disposal of this type of radioactive material, and current experience, the NRC staff has reevaluated the issues and concludes that it is no longer necessary to reassert NRC jurisdiction over onsite disposal of licensed material in the Agreement States. In the [seven] years since this rulemaking was originally proposed, there have been a number of approvals granted by Agreement States for onsite disposal of low-level waste material. The NRC staff is not aware of any problems with the Agreement States' approvals of any onsite burials of low-level waste material. Based on the recent past, the NRC staff has confidence in the Agreement States' programs and believes the Agreement States are capable of effectively performing their own onsite disposal reviews.

State Perspective

Virgil Autry, Director of South Carolina's Division of Radioactive Waste Management, commented:

NRC and Agreement States both recognize the joint responsibility for regulating low-level radioactive waste management. Agreement States should have the ability to authorize the disposal of low-level radioactive waste at reactor sites. South Carolina has not experienced any problems in asserting Agreement State authority in this area.

For further information, see "New Materials and Publications."—LAS

Weber Receives Award for Exemplary Achievement

Michael Weber, a branch chief for NRC's Division of Waste Management, has received the 1996 William A. Jump Award for Exemplary Achievement in Public Administration, an award given annually for outstanding performance in the federal service. He was selected for this year's award by the William A. Jump Memorial Foundation "in recognition of his sustained, high caliber managerial performance in the regulation of low-level radioactive waste and decommissioning of nuclear facilities." The Jump Award was established in 1950 to recognize exemplary service by younger staff members of federal agencies.—LAS

NRC Issues Import License

The NRC has issued the first import license under its new import/export regulations as published in the Federal Register in July 1995. (See *LLW Notes*, July 1995, pp. 17-18.) The license authorizes Siemens Power Corporation to import 1200 kilograms of combustible fuel fabrication waste material from Germany during the next 10 years. The waste, which consists of low enriched uranium oxide powder, will be incinerated at Siemens' facility in Richland, Washington. Resulting ash residue will be sold to COGEMA, Inc. in France for uranium recovery, then recycled for fuel fabrication.

Siemens' license application was announced in a May 5 *Federal Register* notice. No comments were received on the notice. NRC consulted on the license application with the State of Washington, which did not object to granting the license.

Other import and export license applications remain pending with the NRC, though none have been granted to date.—*TDL*

Investigation Continues into Waste Disposal in the Marshall Islands

In a letter dated April 30, 1996, House Resources Committee Chair Don Young (R-AK) and Native American and Insular Affairs Subcommittee Chair Elton Gallegly (R-CA) urged DOE Secretary Hazel O'Leary to support a feasibility study for the disposal of low-level radioactive waste on one of the Marshall Islands. The Marshall Islands—a tiny republic consisting of a series of coral reefs in the Pacific Ocean—are geographically remote. They were contaminated by U.S. atomic bomb testing during the 1940s and 1950s. Two years ago Marshallese President Amata Kabua announced his government's consideration of the preparation of a feasibility study for the establishment of an international high-level radioactive waste repository. That proposal was recently rejected, but the Marshallese are still considering providing a low-level radioactive waste repository.

In their letter, Young and Elton wrote:

In requesting that the Administration support the proposed feasibility study, we wish to be very clear. We are not proposing that the Administration commit funds to the study, nor even provide technical assistance for its conduct. Rather, we are simply requesting a policy of support in principle. We emphasize that the issue is not one of whether to support the establishment of a nuclear waste disposal facility; the feasibility of such a project is precisely what the study proposes to determine in a preliminary way.

Young and Elton noted in their letter that their committee recently approved H.R. 1332, The Rongelap Rehabilitation and Community Resettlement Act, to provide for the rehabilitation and resettlement of Rongelap Atoll in the Republic of the Marshall Islands due to the past U.S. nuclear testing. According to Young and Elton, a positive response to the feasibility study from the United States (as opposed to "neutral non-support") is consistent with the policy and principles established in H.R. 1332 and the federally funded resettlement plan submitted to Congress on March 15, 1995.—*TDL*

New Materials and Publications

Document Distribution Key

<p>^P Forum Participants</p> <p>^A Alternate Forum Participants</p> <p>^E Forum Federal Liaisons</p> <p>^L Forum Federal Alternates</p> <p>^T Forum Media Contacts</p> <p>^V Forum Press Monitors</p> <p>^D LLW Forum Document Recipients</p>	<p>^N LLW Notes Recipients</p> <p>^M LLW Forum Meeting Report Recipients</p>
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LLW Forum

^{DM} *LLW Forum Meeting Report.* Afton Associates, Inc. June 1996. Proceedings from the LLW Forum spring meeting, May 29-31, 1996. (Distributed on June 28, 1996.)

^D *LLW Forum Contact Information List.* Afton Associates, Inc. June 1996. Contains contact information for LLW Forum Participants and Alternates, Federal Liaisons and Alternates; compacts and their member states, host states and sited states; unaffiliated states; state organizations; and federal agencies.

^{DM} *Issues and Perspectives on the Time Frame of Regulatory Compliance for Low-Level Radioactive Waste Disposal.* Hard copies of slides presented by Andrew Campbell, Senior Staff Scientist, Advisory Committee on Nuclear Waste, at the LLW Forum meeting in Annapolis, Maryland, on May 31, 1996. (Distributed on June 28, 1996.)

States and Compacts

Southeast Compact/ North Carolina

^{PAFL} "Southeast Compact Commission Passes Resolution on Additional Funding for North Carolina Waste Disposal Facility." Press statement. Southeast Compact Commission. June 21, 1996. (Transmitted via facsimile on June 21, 1996.)

Northeast Compact/ Connecticut/New Jersey

Disposal Capacity for Low-Level Radioactive Waste From Decommissioning Activities: The Status of Compacts and Host States. Presented by Ronald Gingerich, Director, Low-Level Radioactive Waste Program, Connecticut Hazardous Waste Management Service, at the American Nuclear Society Decontamination and Decommissioning Topical Meeting on April 17, 1996.

A Methodology for Evaluating the Toxicity of Radioactive Waste and Its Application to the Radioactive Waste Generated in Pennsylvania. William Dornsife, Director, Bureau of Radiation Protection, Pennsylvania Department of Environmental Protection. An Excel software program for analyzing the intrinsic toxicity of radionuclides in waste and comparing it to soil or other wastes that contain naturally-occurring radionuclides. August 1995.

Proposed Methods for Evaluating and Communicating Risks of Low-Level Radioactive Waste Disposal: A User's Guide for Microsoft Excel Software Applications. User's manual prepared by DOE's National Low-Level Waste Management Program, Lockheed Martin Idaho Technologies, Idaho National Engineering Laboratory. June 1996.

"Hosting NJ's LLRW Disposal Facility: Could It Be Right For Your Community?" Video tape. New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board. January 1996. Total running time is 18 minutes and 57 seconds. To obtain a copy, contact the Siting Board at (609)777-4247.

Innovators with EPRI Technology. Electric Power Research Institute brochure about SourceDK, a software tool for predicting the residual radioactivity and radionuclide composition of low-level radioactive waste inventories through time. December 1995. To obtain a copy of the brochure, contact the EPRI Distribution Center at (510)934-4212.

State Organizations

Resolution 96-018. Western Governors' Association. Subject: Transfer of Ward Valley site to the State of California. Sponsor: California Governor Pete Wilson. Adopted by the Western Governors' Association on June 24, 1996 during the annual meeting in Omaha, Nebraska. (Transmitted via facsimile on June 25, 1996.)

Federal Agencies

Department of Energy (DOE)

Comparison of Low-Level Waste Disposal Programs of DOE and Selected International Countries (DOE/LLW-236). DOE's National Low-Level Waste Management Program, Idaho National Engineering Laboratory (INEL). June 1996. The report was prepared for DOE in response to a recommendation from the Defense Nuclear Facilities Safety Board. It contains technical information that may be relevant to

state efforts to establish and regulate disposal facilities. To obtain a copy of the report, contact the National Low-Level Waste Management Program at (208)526-6927.

What Makes an Effective Citizens Advisory Group?: An Analysis of the Effectiveness of Local Citizens Advisory Groups in Siting Low-Level Radioactive Waste Disposal Facilities in the United States. Tom Kerr, Idaho National Engineers Laboratory (INEL), and James Neal, US Ecology, Inc. Presented at the American Society of Mechanical Engineers Fifth International Conference on Environmental Restoration and Waste Management in Berlin, Germany, on September 5, 1995. To obtain a copy of the presentation, contact Tom Kerr of INEL at (208)526-8465.

Nuclear Regulatory Commission (NRC)

"Environmental Review for Renewal of Nuclear Power Plant Operating Licenses," 61 *Federal Register* 28467. NRC. June 5, 1996. Action: Final rule. NRC is amending its regulations regarding environmental protection for domestic licensing and related regulatory functions. The following documents were developed in support of the rulemaking:

- *Regulatory Analysis for Amendments to Regulations for the Environmental Review for Renewal of Nuclear Power Plant Operating Licenses.* (NUREG-1440). Final Report. Office of Nuclear Regulatory Research, NRC. April 1996.

- *Public Comments on the Proposed 10 CFR Part 51 Rule for Renewal of Nuclear Power Plant Operating Licenses and Supporting Documents: Review of Concerns and NRC Staff Response.* (NUREG-1529, Vol. 1). Executive Summary. Office of Nuclear Regulatory Research, NRC. April 1996.

- *Public Comments on the Proposed 10 CFR Part 51 Rule for Renewal of Nuclear Power Plant Operating Licenses and Supporting Documents: Review of Concerns and NRC Staff Response.* (NUREG-1529, Vol. 2). Appendices. Office of Nuclear Regulatory Research, NRC. April 1996.

- *Generic Environmental Impact Statement for License Renewal of Nuclear Plants.* (NUREG-1437, Vol. 1). Main Report and Final Report. Office of Nuclear Regulatory Research, NRC. April 1996.

- *Generic Environmental Impact Statement for License Renewal of Nuclear Plants.* (NUREG-1437, Vol. 2). Appendices and Final Report. Office of Nuclear Regulatory Research, NRC. April 1996.

The Effects of Aging on Compressive Strength of Low-Level Radioactive Waste Form Samples (NUREG/CR-6392, INEL-95/0506). Idaho National Engineering Laboratory, Lockheed Idaho Technologies Company. Prepared for the Division of Regulatory Applications, Office of Nuclear Regulatory Research, NRC. May 1996.

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NRC (continued)

Field Lysimeter Investigations: Low-Level Waste Data Base Development Program for Fiscal Year 1995 (NUREG/CR-5229, INEL-94/0278, Vol. 8). Annual Report. Idaho National Engineering Laboratory, Lockheed Idaho Technologies Company. Prepared for the Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission. Comprehensive test results of 12-year-old cement and vinyl ester-styrene solidified waste forms samples are presented, which show effects of aging and self-irradiation. The study was designed to provide continuous data on nuclide release and movement, and environmental conditions, over a 20-year period.

U.S. Nuclear Waste Technical Review Board

Report to the U.S. Congress and the Secretary of Energy—1995 Findings and Recommendations. U.S. Nuclear Waste Technical Review Board. April 1995. Evaluates the technical and scientific validity of DOE's program to manage the permanent disposal of the nation's civilian spent fuel and high-level radioactive waste. Summarizes the major findings, conclusions, and recommendations that have resulted from the board's activities during the calendar year 1995. To obtain a copy of the report, contact the board at (703)235-4473.

Other

Survey of Expenditures For Implementation of the Low-Level Radioactive Waste Policy Act as Amended. Nuclear Energy Institute (NEI). May 1996. Survey results were distributed to LLW Forum

Participants at the LLW Forum meeting in Annapolis, Maryland, in May 1996. To obtain a copy, contact Staci Bonds of NEI at (202)739-8148.

Understanding Risk: Informing Decisions in a Democratic Society. Committee on Risk Characterization, Commission on Behavioral and Social Sciences and Education, National Research Council. 1996. Report emphasizes the need to involve interested and affected parties early in the process for coping with complex risk situations.

Six cases in risk analysis and characterization are identified:

- ecosystem management in South Florida;
- incineration siting in Ohio;
- regulatory negotiation for a disinfectant by-products rule;
- siting a power plant in Florida;
- the California Comparative Risk Project; and
- future land use for Hanford, Washington nuclear waste site.

Copies of the book are available from the National Academy Press for \$39.95 plus a shipping and handling charge of \$4.00. To order a copy, call (800)624-6242.

Recent Ward Valley Correspondence

^D Letter from Carl Lischeske, Manager, Low-Level Radioactive Waste Program, Department of Health Services, State of California, to Ed Hastey, State Director, U.S. Bureau of Land Management, concerning the U.S. Department of Interior's selection of experts to develop testing protocols for the Ward Valley site. July 10, 1996.

^{PAFL} Letter from Carl Lischeske, Manager, Low-Level Waste Program, Department of Health Services, State of California, to Shirley Ann Jackson, Chairman, NRC, regarding the Ward Valley low-level radioactive waste site. July 2, 1996. (Distributed via facsimile on July 3, 1996.)

^D Letter from Shirley Ann Jackson, Chairman, NRC, to Jack Lemley, Chair and Chief Executive Officer, American Ecology Corporation, responding to a May 17 letter regarding the implications of the Department of the Interior's decisions concerning the transfer of federal land to the State of California for the Ward Valley low-level radioactive waste disposal facility. June 26, 1996.

^D Letter from Thomas Everhart, President, California Institute of Technology; Gerhard Casper, President, Stanford University; Richard Atkinson, President, University of California; and Steven Sample, President, University of Southern California; to Representative Bill Baker, U.S. House of Representatives, requesting support for S. 1596 and H.R. 3083, companion measures known as the Ward Valley Land Transfer Act. May 16, 1996.

Obtaining Publications

to obtain federal government information

By Telephone

- DOE Press Office(202)586-5806
- DOE Public Information Office, Secondary Distribution Center(202)586-9642
- EPA Public Information Center(202)260-7751
- GAO Document Room(202)512-6000
- Government Printing Office (to order entire *Federal Register* notices)(202)512-1800
- NRC Public Document Room(202)634-3273
- U.S. House of Representatives Document Room(202)225-3456

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- U.S. Senate Document Room(202)228-2815
When making document requests, include a mailing address where the document(s) should be sent.

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- GPO Access (for the *Congressional Record*, *Federal Register*, congressional bills and other government documents and access to more than two dozen government databases)
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.....dial-in by modem—(202)512-1661, type "swais" and log in as "guest"
.....general information— VOICE (202)512-1530 of INTERNET help@eids05.eids.gpo.gov

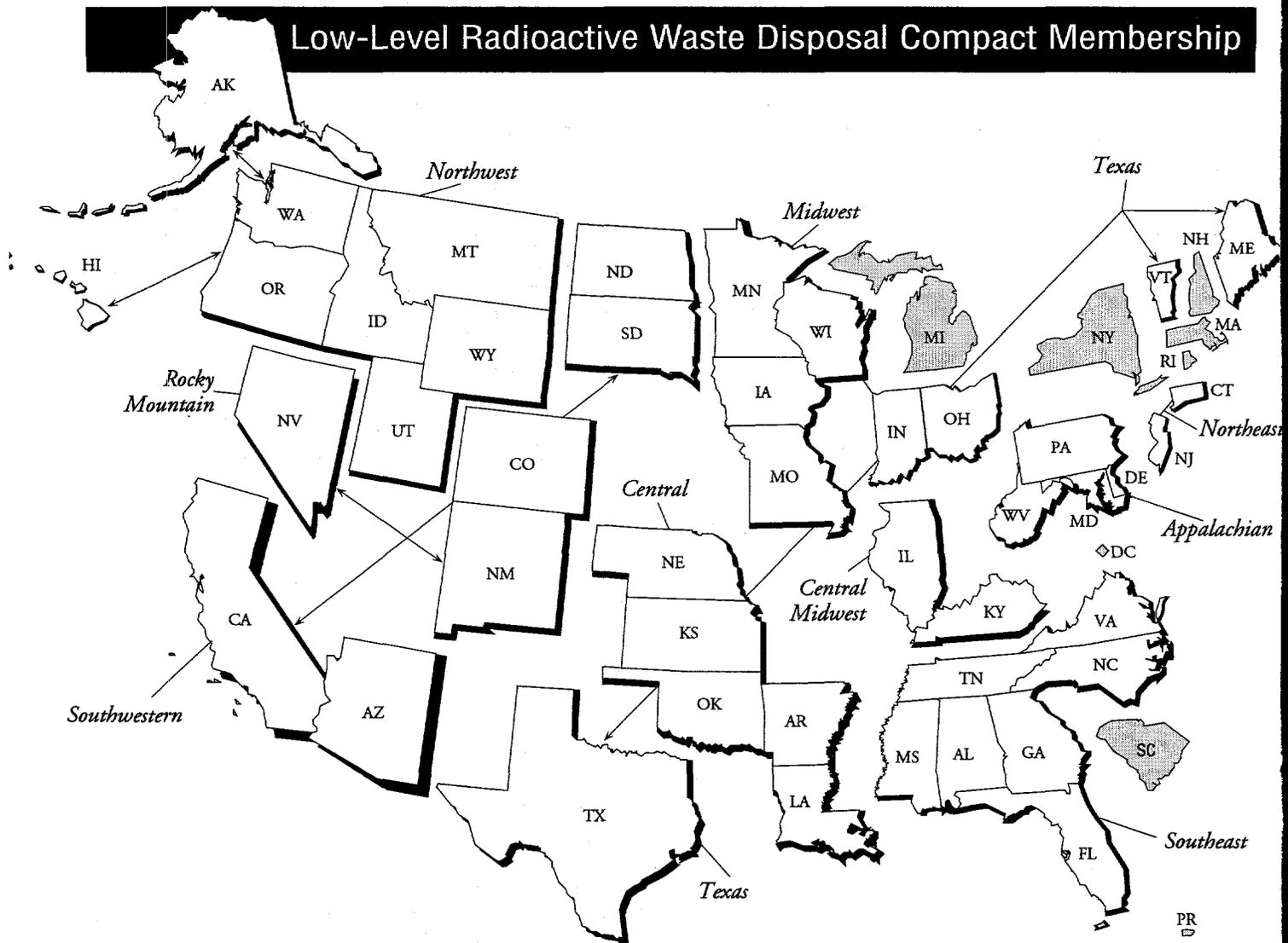
Receiving *LLW Notes* by Mail

LLW Notes and the *Summary Report: Low-Level Radioactive Waste Management Activities in the States and Compacts* are distributed to state, compact and federal officials designated by LLW Forum Participants or Federal Liaisons. In April 1994, Forum Participants unanimously approved a change in LLW Forum procedures in order to allow representatives of industry, environmental and citizen groups—as well as other interest groups and members of the public—to receive these two publications directly by mail.

Members of the public may apply to DOE's National Low-Level Waste Management Program at the Idaho National Engineering Laboratory (INEL) to be placed on a public information mailing list for copies of *LLW Notes* and the supplemental *Summary Report*. Afton Associates, the LLW Forum's management firm, will provide copies of these publications to INEL. The LLW Forum will monitor distribution of these documents to the general public to ensure that information is equitably distributed throughout the states and compacts.

To be placed on a list to receive LLW Notes and the Summary Report, by mail, please contact Donna Lake, Senior Administrative Specialist, INEL at (208)526-0234. As of March 1996, back issues of both publications, are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, (703)487-8547.

Low-Level Radioactive Waste Disposal Compact Membership



Appalachian Compact

Delaware
Maryland
Pennsylvania *
West Virginia

Central Compact

Arkansas
Kansas
Louisiana
Nebraska *
Oklahoma

Central Midwest Compact

Illinois *
Kentucky

Midwest Compact

Indiana
Iowa
Minnesota
Missouri
Ohio *
Wisconsin

Northwest Compact

Alaska
Hawaii
Idaho
Montana
Oregon
Utah
Washington * •
Wyoming

Rocky Mountain Compact

Colorado
Nevada
New Mexico

Northwest accepts Rocky Mountain waste as agreed between compacts.

Northeast Compact

Connecticut *
New Jersey *

Southeast Compact

Alabama
Florida
Georgia
Mississippi
North Carolina *
Tennessee
Virginia

Southwestern Compact

Arizona
California *
North Dakota
South Dakota

Texas Compact

Maine
Texas *
Vermont

The compact has been passed by all three states and awaits consent by the U.S. Congress.

Unaffiliated States

District of Columbia
Massachusetts
Michigan
New Hampshire
New York
Puerto Rico
Rhode Island
South Carolina •

The Low-Level Radioactive Waste Forum includes a representative from each regional compact, each designated future host state of a compact *, each state with a currently operating facility •, and each unaffiliated state.