LLWnotes

Volume 14, Number 6 August/September 1999

South Carolina

Task Force Explores Alternative Scenarios for Barnwell

On September 28, the 13-member South Carolina Nuclear Waste Task Force is scheduled to discuss options for limiting the state's role in accepting low-level radioactive waste from across the nation while meeting the future disposal needs of in-state waste generators. At that time, the task force will hear a presentation from three of its members who constitute the South Carolina Compact Delegation. (See box, "Compact Delegation Selects Proposals from NE and SE Compacts.") In addition, the staff of the task force has been asked to prepare information on two other options for consideration at that meeting:

- state operation of the low-level radioactive waste disposal facility at Barnwell, and exclusion of out-of-state generators under the "market participant" legal theory, and

- operation of the facility by a consortium of local utilities that would "mothball" the facility for approximately 30 years and then reopen it to accept decommissioning waste from consortium members.

Task Force staff have recommended against depending solely on entombment of waste at nuclear power plants as a disposal option.

Entombment, mothballing the facility, and the financial feasibility of operating the facility on a limited basis have all been previously examined by the task force, which convened three times during August.

Investigations into Barnwell's Profitability

On August 2, the task force discussed the costs and revenues associated with operation of low-level radioactive waste disposal facilities. Based on calculations derived from disposal costs at Barnwell incurred by Houston Lighting & Power, the task force estimated that, even after payments to the state's education fund, gross annual revenues from the facility could be higher than $50 million per year. Chem-Nuclear has disputed this estimate but has refused to divulge profitability and pricing information on the grounds that such figures are proprietary.

A staff paper presented at the meeting concluded that "it appears likely that South Carolina's disposal facility could be operated for smaller amounts of waste at disposal rates that are less than or comparable to those charged today."

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Low-Level Radioactive Waste Forum

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The Low-Level Radioactive Waste 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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LLW FORUM

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Key to Abbreviations

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
Code of Federal Regulations	CFR

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Southeast Compact

SE Compact to Pursue Complaint against NC

On August 19, the Southeast Compact Commission for Low-Level Radioactive Waste Management voted to initiate a formal inquiry into an administrative complaint filed against North Carolina in June by the Commissioners representing Florida and Tennessee. The commission's decision was in accordance with a recommendation made on July 27 by the commission's sanctions committee. (See *News Flash,* "Southeast Compact Committee Recommends Sanctions against NC," July 29, 1999.)

Florida and Tennessee are seeking sanctions against North Carolina on the grounds that the state "has failed to fulfill its obligations as a party state of the Compact and as the second host state under the Southeast Interstate Low-Level Radioactive Waste Compact law (Compact Law) to provide a disposal facility for the Southeast Region." The complaint also asserts that North Carolina received $79,930,337 in commission funds with "full knowledge that it was expected to develop a facility for the Compact."

Under the Administrative Sanctions Procedure that the commission adopted in 1990, the inquiry will entail a public, quasi-judicial hearing in which the complaining states must prove their case by a preponderance of the evidence. A date for the hearing has not yet been set.

In a written statement announcing the compact's decision to pursue the complaint, Commission Vice Chair James Setser of Georgia said that "the Commission will give North Carolina the opportunity to respond to the complaint. We will do everything we can to ensure that the hearing will be fair and equitable for all parties."

North Carolina enacted legislation withdrawing from the compact on July 26, and no representatives from North Carolina attended the compact commission meeting on August 19.

North Carolina General Assembly Member George Miller, who formerly served as one of the state's two Commissioners for the Southeast Compact, told LLW Forum staff that neither he nor the other former North Carolina Commissioner would participate in the hearing since the state has left the compact. When questioned about whether anyone would testify on the state's behalf, Miller alluded to uncertainties about the hearing process and said, "That decision will have to come at a later time."

Miller also added that, as a former long-time member of the compact commission, he "would hope that, if the remaining states stand firm on the compact arrangement, the next step would be selection of a host state to go forward with the plan [for developing a disposal facility]."

At the August 19 meeting, the compact commission adopted a resolution that acknowledges North Carolina's withdrawal legislation but states:

> … Article 7F of the Southeast Compact, agreed to by each member state, including North Carolina, and approved by Congress, states that: 'Rights and obligations incurred by being declared a party state to this compact shall continue until the effective date of the sanctions imposed or as provided in the resolution of the Commission imposing the sanction.'
>
> THEREFORE, in light of the sanctions proceeding pending before the Commission when the North Carolina General Assembly acted, the Commission finds that all rights inuring to the benefit of, and all obligations incurred by, North Carolina as a party state of the Southeast Compact shall remain in full force and effect until such time as the sanctions complaint has been resolved and the Commission either concludes that North Carolina has fulfilled its obligations under the Compact, imposes a sanction on North Carolina, or notifies North Carolina otherwise in the resolution concluding the sanctions process.

—CN

For further information, contact the Southeast Compact Commission at (919)821-0500.

Much of the preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via e-mail on August 25.

South Carolina (continued from page 1)

Utilities' Proposal to "Mothball" the Facility

At a meeting of the task force on August 16, a task force member designated to represent the interests of in-state generators proposed the temporary closure of the Barnwell facility. Belton Zeigler of SCANA Corporation presented the proposal, which would involve "mothballing" the facility until about 2030, when it would be reopened for use by utilities serving South Carolina ratepayers. SCANA owns South Carolina Electric & Gas Company, which operates the V. C. Summer Nuclear Station in central South Carolina.

In his remarks to the task force, Zeigler explained that SCANA representatives had met with officials of Duke Energy and Carolina Power & Light. According to Zeigler, the utilities involved are willing to form a non-profit corporation to provide disposal services for utilities serving South Carolinians.

In order for the proposal to be put into effect, Chem-Nuclear Systems, which currently operates the Barnwell facility, would have to relinquish the remaining years in its 99-year lease with the state. The disposal areas currently in use would then be closed and put into long-term monitoring under state supervision. The consortium would lease Barnwell's unopened capacity and keep it in reserve until it was needed for decommissioning waste. Utilities' operations waste would either be stored until decommissioning begins in about 2030 or be disposed of elsewhere.

Current projections prepared for the task force show that the relevant utilities will likely require approximately 2.6 million cubic feet of Barnwell's estimated 3.2 million cubic feet of remaining capacity, so some excess capacity might eventually be available to dispose of academic and medical waste as well.

Proposal to Entomb "Long-Lived" Wastes

On August 23, during a public hearing in Columbia, the task force heard a proposal presented by Robert Guild, a local attorney, in coordination with the Nuclear Information Resource Service (NIRS). Guild proposed that the Barnwell facility accept only wastes with a "hazardous life" of less than 50 years, and that these wastes be placed in an "above-ground special building constructed so that the waste barrels can be routinely monitored for leaks and repackaged before any leakage can reach the outside environment."

[Editor's Note: Guild stated that hazardous life is "generally defined as 10-20 half-lives." However, the U.S. Nuclear Regulatory Commission has criticized proposed systems for waste classification based on half-lives on the grounds that risk to human health is determined by a number of factors, including the type and concentration of radionuclides. (See *LLW Notes*, June/July 1999, p. 29.) For an additional discussion of the complex relationship between potential health risk and the longevity of radionuclides in waste, see *LLW Notes*, May/June 1994, pp. 8–9.]

Compact Delegation Selects NE and SE Compacts' Proposals

In a meeting on September 9, the South Carolina Compact Delegation agreed to recommend further consideration of proposals for affiliation that were submitted by the Northeast Interstate Low-Level Radioactive Waste Commission and the Southeast Compact Commission for Low-Level Radioactive Waste Management. Among the proposals received, the delegation deemed the Northeast Compact's to be "superior."

The decision followed meetings with representatives of six interstate low-level radioactive waste compact commissions, four of which made proposals to extend membership to South Carolina. (See *LLW Notes*, June/July 1999, pp. 1, 4.)

—CN

Much of the preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via e-mail on September 10.

Guild asserted that his proposed limitation would allow "virtually all medical, academic and biotech wastes" to be accepted at the Barnwell facility. "It is primarily nuclear power wastes that are long-lived," Guild told the task force. "The long-lived reactor wastes which are not appropriate for disposal in the new above-ground facility at Barnwell …would be kept at the sites where they are generated … Final disposal of the wastes at the reactors, we believe, should occur by placing the wastes inside the reactor containment building at the end of the reactor's life and entombing it."

Guild also suggested that "the small fraction of medical, research, or academic waste that is long- rather than short-lived and which can't be disposed of elsewhere (e.g., Envirocare) could be added to the reactor's long-lived wastes in storage and eventually disposed of inside the containments when the reactors are decommissioned."

In a September 7 memo to the task force from John Clark, Energy Advisor in the Office of South Carolina Governor Jim Hodges (D), task force staff recommended against placing "total reliance on entombment [of reactor waste] as the single path forward at this time." Clark's memo notes that, although the U.S. Nuclear Regulatory Commission is evaluating entombment, NRC is unlikely to resolve all the associated issues within the time frame available to the task force. Clark indicated that the task force may wish to consider providing comments to NRC regarding entombment.

The task force is to report its findings and recommendations to Governor Hodges and to the South Carolina General Assembly by November 1, 1999.

—CN

For further information, contact John Clark of the South Carolina Governor's Office at (803)737-8030.

Much of the preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via e-mail on August 18, August 26, and September 10.

American Ecology Willing to Take Over at Barnwell

In a letter dated August 11, Benjamin Johnson, an attorney who serves on the South Carolina Nuclear Waste Task Force, wrote to American Ecology President Joe Nagel to inquire about whether that company would be willing to operate the Barnwell facility "under circumstances similar to Washington State, or under another arrangement that guarantees the company a reasonable profit but without acceptance of waste from across the nation." As the basis for his letter, Johnson cited press accounts which he said indicated that Chem-Nuclear Systems "either would not be interested or might not be interested in operating South Carolina's disposal facility for the reduced amounts of waste that might result from the implementation of different options now under consideration."

Nagel responded on August 13 that "[i]n the event that Chem-Nuclear Systems decided for whatever reason that it no longer wanted to operate the South Carolina facility, American Ecology would be interested in the prospect of operating it '… without acceptance of waste from across the nation …' and would be prepared to promptly enter into discussions with the State of South Carolina to that end."

Chem-Nuclear spokesperson Deborah Ogilvie told LLW Forum staff that press accounts had not accurately reflected the company's views about operating the Barnwell facility. "It's difficult for us to say now what the company's position would be about operating the site [for a reduced amount of waste], since we don't know what the conditions would be," Ogilvie explained, alluding to taxes, regulations, and other factors that affect the facility. "What I have said is that, given the conditions that we have today, it would be difficult for us or anybody to operate the site for South Carolina only. But that should not be construed to mean we would give it up."

—CN

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via e-mail on August 18.

South Carolina (continued)

Tritium Discharge at Barnwell under Remediation

Remediation of a tritium discharge from the Barnwell low-level radioactive waste disposal site is near completion, according to a South Carolina regulator. Although the discharge did not exceed either state or NRC regulatory limits, approximately 1.2 million cubic feet of soil are expected to be excavated during the cleanup.

As explained in a briefing document prepared by the South Carolina Department of Health and Environmental Control (DHEC), the discharge was detected in March 1999 during routine sampling by site operator Chem-Nuclear Systems, L.L.C. Testing of a boundary well on the east side of the disposal site showed tritium concentrations above background levels.

Further testing showed elevated tritium levels on approximately 3.6 acres of land, including 0.23 acres on a neighboring property.

Tritium Pathway

DHEC's briefing document states that Chem-Nuclear traced the increased tritium levels to rainwater collected from Trench 86, which is located on the southeast side of the site. Trench 86 contains class A waste, including large components such as steam generators. The tritium was initially thought to have come from external contamination on waste packages within the trench. However, according to Virgil Autry, Director of the Division of Radioactive Waste Management at DHEC, the department's investigation to determine whether there are other sources is ongoing.

Under Chem-Nuclear's approved operational procedures, rainwater was pumped from Trench 86 to a lined holding pond in order to prevent standing water from contacting the waste packages and vaults. As the holding pond filled, Chem-Nuclear tested the water for gamma-emitting radionuclides, which were deemed the most likely contaminants. Tritium, as a beta-emitter, was not detected during this sampling. Since there was no indication of contamination, the water was discharged into a drainage ditch and subsequently reached a stormwater sediment basin on Chem-Nuclear's land. Water from this basin traveled surficially under State Road 585 to property owned by Chem-Nuclear as well as to the adjoining grounds of St. Paul Church.

Contaminant Levels

According to DHEC, the tritium discharge did not result in the exposure of any member of the public. Analysis of soil samples collected from shallow borings in the area of the discharge showed a maximum tritium concentration of 194,000 picocuries per liter (pCi/l) of soil moisture on the property belonging to St. Paul Church and of 218,000 pCi/l on Chem-Nuclear's property. State and NRC regulatory limits for discharges of tritium in water are 1,000,000 pCi/l.

Remediation Efforts

Autry told *LLW Notes* that the sand and clay in the affected area of the church property have been removed down to a layer of ten feet and replaced with fresh material. Cleanup of the discharge on Chem-Nuclear's land is under way. The soil affected by the discharge will either be used as backfill in the disposal facility trenches or will be treated with heat to remove the tritium, Autry explained.

DHEC's briefing document notes that tritium analysis is now being routinely performed for all waste packages and for water collected from the disposal trenches. Additionally, the document states that "the practice of discharging water collected in the trenches to the land surface has been discontinued."

Past Tritium Migration

According to DHEC, a tritium plume associated with an earlier migration is contained within the site property, except for two roads owned by the state. With the installation of enhanced trench caps over the old trench area, the plume has ceased to spread and is diminishing in size.

—CN

Chem-Nuclear for Sale

Chem-Nuclear Systems, L.L.C. has informed its customers that the company is being offered for sale along with other businesses in Waste Management Nuclear Services, a subsidiary of Waste Management, Inc. (WMI)

In a letter dated August 23, Joseph Amico, Vice President of Sales and Marketing for Chem-Nuclear, explained that the decision to sell the company is part of a new strategic plan by WMI's Board of Directors that involves divesting WMI of assets that are not part of its North American solid-waste business.

"The decision will in no way affect Chem-Nuclear's ability to continue providing responsive, in-plant services, transportation, and disposal to you," Amico wrote. He assured customers that Chem-Nuclear would continue its "efforts to maintain access to the Barnwell Disposal Facility as a viable option" and stated that "the response of our customers to Chem-Nuclear's services and the commitment of our customers to the need for Barnwell, have contributed to the strong performance of Waste Management Nuclear Services, which continues to be excellent."

Tom Dabrowski, President of Waste Management Nuclear Services, told *LLW Notes* that Waste Management Nuclear Services has exceeded its growth goals for the past several years. The decision to sell Waste Management Nuclear Services, he said, stems from problems in other areas of the parent company.

WMI acquired Chem-Nuclear in 1982. Waste Management Nuclear Services—which includes federal, commercial, and international components—was formed in February 1998, when WMI combined Chem-Nuclear Systems and Waste Management Federal Services. WMI subsequently merged with USA Waste Services in July 1998, with the new conglomerate retaining the WMI name.

—CN

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via e-mail on August 26.

Rocky Mountain Compact

WCS Explores Siting LLRW Facility in New Mexico

On July 20, Waste Control Specialists, Inc. (WCS)—a Texas-based company specializing in waste management services—made a presentation to the Lea County Commission in New Mexico concerning a proposal to site a low-level radioactive waste disposal facility in that state. As proposed, the facility would accept class A, B and C low-level radioactive waste and mixed waste from commercial generators and from the U.S. Department of Energy. WCS owns a large block of land that extends from Texas into New Mexico.

According to the *Albuquerque Journal*, WCS has the support of New Mexico Governor Gary Johnson (R) and Senator Pete Domenici (R) "for development of a low-level nuclear waste repository there in connection with a larger project: a potential uranium enrichment plant using experimental laser technology." In recent months, Domenici has announced plans to introduce legislation proposing a "revolutionary new approach" to waste management with a focus on waste transmutation. (See *LLW Notes*, May 1999, p. 40.)

An official with the New Mexico Environment Department confirms that WCS approached the department to explore potential licensing issues although, to date, the company has not submitted anything in writing. In addition, Governor Johnson made inquiries to the department about permitting issues for such a facility.

WCS, which operates various waste management facilities in Andrews County, Texas, recently lost a bid to amend Texas state law to allow a private company to be licensed for low-level radioactive waste disposal. (See *LLW Notes*, June/July 1999, p. 3.) The Texas legislature, which would need to approve any such amendment, is not scheduled to meet again until 2001.

—TDL

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via e-mail on August 18.

Texas Compact/Texas

Texas Legislative Committee to Study LLRW Management Options

The Texas Senate's Committee on Natural Resources is scheduled to hold an organizational meeting on September 29 to the discuss plans for a study of low-level radioactive waste management. Along with other interim charges, the committee received its directive to perform the study from the Lt. Governor in early September.

Specifically, the committee was instructed to "[s]tudy the necessity for storage and disposal options for low-level radioactive waste. The Committee shall examine Texas' obligations under the Texas-Maine-Vermont Low-Level Radioactive Waste Compact, the status of other federally formed compacts, the practicality of assured isolation facilities, the feasibility of underground disposal operations, and the viability of public-private ventures and other licensing issues."

The committee's report is due by September 1, 2000. The full legislature is not scheduled to convene until January 2001.

The House Committee on Environmental Regulation, which corresponds to the Senate Committee on Natural Resources, has not yet received its charges for the interim period.

—CN

TNRCC Awaits Direction on LLRW Responsibilities

On September 1, the Texas Natural Resource Conservation Commission (TNRCC) absorbed the funding and functions of the Texas Low-Level Radioactive Waste Disposal Authority, which ceased to exist on that date. The merger was mandated by a conference report adopted by the Texas legislature on May 29. (See *LLW Notes*, June/July 1999, p. 3.)

Along with the Authority's $1.179-million budget, the TNRCC inherited restrictions on the funds' use; a rider on the appropriation provides that the money may be spent only "to investigate techniques for managing low-level radioactive waste including, but not limited to, aboveground isolation facilities."

According to Patrick Shaughnessy, a spokesperson for TNRCC, the agency is waiting for further direction from the legislature on the issue.

—CN

Forum Participant Lee Mathews Departs Texas Government

At the end of August, Forum Participant Lee Mathews retired from employment with the State of Texas. Mathews' move followed the abolishment, effective September 1, of the Texas Low-Level Radioactive Waste Disposal Authority and the transfer of its functions and appropriations to the Texas Natural Resource Conservation Commission. (See *LLW Notes*, June/July 1999, p. 3.)

Mathews, an attorney, served as the Deputy General Manager and General Counsel of the Authority, which he joined in 1983. He was one of the original Forum Participants, appointed in 1986, and served on the Forum Executive Committee and a number of working groups and task forces. He is expected to obtain employment in the private sector.

—MAS

Governor's Office Responds to Texas Radiation Advisory Board

By letter dated August 30, John Howard, Environmental and Natural Resources Policy Director in the Office of Texas Governor George W. Bush (R), responded to recommendations from the Texas Radiation Advisory Board regarding low-level radioactive waste policy. The board had written to Governor Bush on August 16 and recommended that five actions "be taken now so that progress can occur prior to the next legislative session."

Board's Recommendations

- Action 1: "The Governor should appoint the six commissioners to the Texas-Maine-Vermont Low-Level Radioactive Waste Compact."

- Action 2: "The Texas Department of Health, Bureau of Radiation Control, in consultation with the Texas Natural Resource Conservation Commission should develop a definition of and licensing criteria for Assured Isolation so that it meets the intent and legal requirements of the Texas-Maine-Vermont Compact to allow our Compact partners to understand the attractiveness of the approach."

- Action 3: "The Texas Natural Resource Conservation Commission should develop a generic design for Assured Isolation or issue a Request for Proposal for Assured Isolation designs."

- Action 4: "The Texas Natural Resource Conservation Commission should actively solicit a volunteer site for assured isolation."

- Action 5: "The Texas Natural Resource Conservation Commission should develop a financial plan and 'take title' arrangement so that the generators of low-level radioactive waste will not be subject to additional future fees."

In each case, the board provided a rationale for its recommendation.

Governor's Position

Howard's reply affirms that the Governor "believes that low-level radioactive waste must be handled safely in order to protect Texans and the environment, and that we should find and license a facility to safely dispose of Texas' waste."

Howard's letter notes the potential for House and Senate interim legislative study of low-level radioactive waste management and encourages the board to communicate their views on the issue to the state legislature. It also points out that the Texas Natural Resource Conservation Commission (TNRCC) "may study assured isolation."

Regarding the appointment of compact commissioners, Howard's letter states that the Governor's Office does not plan to do so at this time "because the commission's principal duty would be to determine the appropriate amount of low-level radioactive waste to be disposed at the Texas facility, but no such facility has been licensed or constructed."

Background: Radiation Advisory Board

The Texas Radiation Advisory Board is composed of gubernatorial appointees who are confirmed by the Texas Senate. Although the board is administratively attached to the Texas Department of Health, the board is a separate entity with duties to advise several state agencies. The board is responsible for reviewing and evaluating state radiation policies and programs, making recommendations and providing technical advice to state agencies, and reviewing proposed state rules and regulations relating to sources of radiation.

—CN

Northwest Compact/Utah

Utah Tables White Mesa Regulations

In August, the Utah Board of Radiation Control tabled a proposal to establish new regulations limiting the types of "alternate feeds" that can be processed by uranium mills after legal concerns were raised by International Uranium Corporation (IUC) and NRC. Members of the board determined to postpone further action on the proposal pending a decision by NRC on its review of a license amendment granted to IUC. The board, however, is continuing its attempt to force IUC to obtain a state groundwater protection permit for its tailings ponds.

The amendment currently under review by the NRC Commissioners authorizes the company to accept waste from the Formerly Utilized Sites Remedial Action Program (FUSRAP) at its White Mesa Uranium Mill in Utah. (See *LLW Notes*, March 1999, p. 24.) NRC issued the amendment in August 1998 after concluding that the waste qualified as feed material and is being processed primarily for its source material content.

Utah, however, disagrees. The state argues that the acceptance of FUSRAP waste at White Mesa constitutes "sham disposal" and that uranium extraction is only a pretext to allow the facility to offer cheap disposal rates, in violation of federal rules that allow alternate feed to be accepted only if processed "primarily for its source-material content." In addition, Utah asserts that the amendment essentially allows IUC to circumvent the State of Utah's regulatory process. The amendment applies only to waste from the Ashland 2 site in Tonawanda, New York.

—TDL

Potential Groundwater Contamination Discovered at IUC

On August 24, the Utah Department of Environmental Quality (UDEQ) announced in an issue paper that samples taken from a groundwater monitoring well at IUC's White Mesa facility were found to contain chloroform levels above recommended health-based standards for drinking water.

Other contaminants such as carbon tetrachloride and dichloromethane were also identified in samples, although the levels of these contaminants did not exceed the health-based standards for groundwater.

In addition, the issue paper indicated that "[l]evels of certain inorganic constituents such as selenium, nitrate, nitrite, iron, manganese, and ammonia are currently under review by UDEQ, some or all of which may be due to background groundwater conditions at the site."

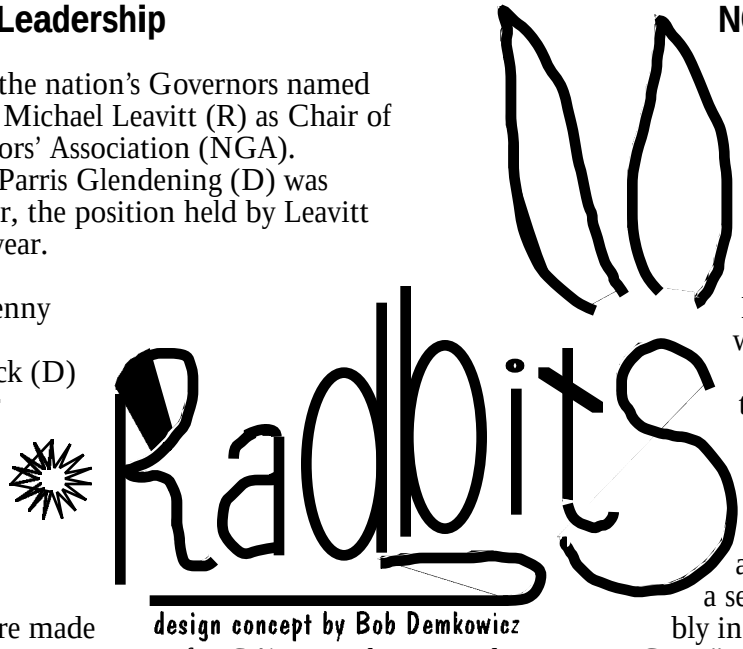
In response to the findings, the Division of Water Quality issued a groundwater Corrective Action Order to IUC requiring the submission of a contaminant investigation report. The report will include an investigation of potential sources of contamination and a corrective action plan. The report is due by September 22.

—TDL

NGA Elects New Leadership

On August 10, the nation's Governors named Utah Governor Michael Leavitt (R) as Chair of the National Governors' Association (NGA). Maryland Governor Parris Glendening (D) was selected as Vice Chair, the position held by Leavitt during the previous year.

Nevada Governor Kenny Guinn (R) and Iowa Governor Tom Vilsack (D) were chosen as Chair and Vice Chair, respectively, of NGA's Committee on Natural Resources.



All appointments were made during the closing plenary session of NGA's annual meeting, held in St. Louis, Missouri.

In other developments, Tom Curtis resigned as Director of NGA's Natural Resources Group. He has accepted a new position, effective October 1, as Deputy Director for Intergovernmental Relations at the Environmental Council of the States. As of press time, a new Natural Resources Group Director had not yet been hired.

—CN

DOE/Governors Sign Cleanup Agreement

The U.S. Department of Energy has entered into an agreement with the Governors of Colorado, South Carolina, Tennessee, and Washington concerning the cleanup of radioactive waste at federal facilities in these states. The agreement includes goals and deadlines, as well as a pledge to comply with state and federal regulations and to protect the environment. The agreement is dependent upon the commitment of nearly $7 billion in funds through 2001 by Congress. Richardson and the Governors have pledged to work together to get that funding.

—TDL

NCSL LLRW Working Group Meets

On July 25, the Low-Level Radioactive Waste (LLRW) Working Group of the National Conference of State Legislature (NCSL) met in Indianapolis, in conjunction with NCSL's annual meeting. According to NCSL staff, the working group's discussion "focused on the April low-level radioactive waste summit; recent legislative, executive and judicial actions; and the need to host a second summit, most probably in early December in Washington, D.C. …" The group also discussed congressional funding for DOE's National Low-Level Waste Program. An attendance list for the meeting is not available, but Arkansas, Idaho, Nebraska, North Carolina, Texas, and Wyoming were among the states represented.

In other action, NCSL's Science, Energy and Environmental Resources Committee discussed the LLRW Working Group. NCSL staff have indicated that committee members directed staff to draft a letter to relevant committees in NCSL's Assembly on Federal Issues urging those committees "either to revise or write a separate policy regarding the recent changes in the compact process and the need for Congress to make additional options in siting low-level radioactive waste disposal facilities available to the states."

For further information, contact Cheryl Runyon of NCSL at (303)830-2200.

Nebraska v. Central Interstate Low-Level Radioactive Waste Commission

Appellate Court Affirms Central Compact Authority to Adopt Schedule

On August 16, the U.S. Court of Appeals for the Eighth Circuit affirmed the decision of a lower court in a lawsuit challenging the Central Interstate Low-Level Radioactive Waste Commission's authority to impose a deadline on the State of Nebraska for processing an application for a low-level radioactive waste disposal facility. The court declined, however, to rule on whether or not the deadline set by the commission was reasonable. That issue, according to the court, is moot since the state has already denied the license application. (See *LLW Notes*, January/February 1999, pp. 1, 8–9.)

Authority to Set Deadline

The state, which argued that the commission misinterpreted the law and does not have authority to impose a deadline, contended "that the Compact as a whole is ambiguous or that the Commission relies only on implied power." The court disagreed.

> The Commission's authority is a logical extension of the need for oversight to ensure that a state does not drag its feet indefinitely and thus frustrate the purpose of the Compact. We do not agree that the Compact is ambiguous as to the Commission's authority to set a reasonable deadline for the processing of a license.

The court also held that the compact "obligates the Commission to require a regulating state to process permit and license applications within a reasonable period." Likewise, the court found that the provisions relied on by the commission constitute "limited but clear expressions of delegated authority."

The state argued that the method chosen by the commission to ensure that the license application was processed within a reasonable period was inappropriate. Other more appropriate remedies, according to the state, were available to the commission including (1) the bringing of an action to require performance of the state's duties and obligations, or (2) the revocation of the state's membership in the compact. The court found otherwise.

> We agree with the district court's analysis pertaining to these suggested remedies. The district court found that Article IV(m)(8) requires the Commission to bring an appropriate action to enforce duties and obligations on the member states. The reasonable period provision is an obligation on the Commission, not the State. Thus, only when the Commission has fulfilled its obligation—to require the State to process the license application within a reasonable period—does the State's duty or obligation arise and become subject to an appropriate action under Article IV(m)(8). The remedy of revoking the State's membership under Article V(g) is useless in this setting, since revoking the State's membership would do nothing to require the State to process the license within a reasonable time. In any event, the Compact's language clearly makes revocation optional.

Reasonableness of Deadline

The state argued in the alternative that the specific deadline set by the commission was unreasonable and therefore should not be binding on the state. The district court found the deadline to be reasonable, and the state subsequently issued a decision denying the license application. The appellate court ruled the issue to be moot.

> The only remedy the State sought with respect to whether the deadline was justifiable, was a declaration that the deadline was unreasonable and therefore invalid. Because the deadline and licensing decision have passed, no resolution of this issue would give specific or conclusive relief. Both parties argued on appeal that the decision is not moot because of collateral consequences in a separate lawsuit. However, this does not fall within any exception to the mootness doctrine that we can presently perceive. Thus, a decision on the reasonableness of this specific deadline is moot. (citations omitted)

—TDL

Nebraska Attorney General Reviews Legal Analysis

On July 20, the Nebraska Legislature's Executive Board voted unanimously to provide the state's Attorney General, Don Stenberg, with a report analyzing the potential consequences of the state's withdrawal from the Central Interstate Low-Level Radioactive Waste Compact. The report, which has not been released to the public, was prepared at the legislature's request by the Washington, D.C.–based law firm of Arent, Fox, Kitner, Plotkin & Kahn. An executive summary of the report was made available to the public in January. (See *LLW Notes*, May 1999, pp. 8–9.)

Nebraska Governor Mike Johanns (R) signed legislation to remove the state from the Central Compact on May 12. (See *LLW Notes*, May 1999, p. 7.) Shortly thereafter, Stenberg requested a copy of the report to assist him in defending the state against any lawsuits that might arise in connection with the compact withdrawal. The state is currently defending lawsuits filed against it by five utilities challenging a decision by Nebraska regulators to deny US Ecology's low-level radioactive waste disposal facility license application. (See *LLW Notes*, January/February 1999, pp. 16–19.)

In responding to Stenberg's request, lawmakers struggled over whether providing a copy of the report to the Attorney General would constitute a waiver of the attorney-client privilege, thereby making the report a public document obtainable by the utilities and the compact. Ultimately, they decided it would not.

In short, the report concludes that the State of Nebraska may withdraw from the compact without penalty, but that such withdrawal would not be effective for five years. Moreover, the report finds that Nebraska's ability to permit, regulate, or otherwise control the construction of a low-level radioactive waste disposal facility in the state would not be diminished by withdrawal.

—TDL

Nebraska Moves towards Compact Withdrawal

A Nebraska law to remove the state from the Central Interstate Low-Level Radioactive Waste Compact took effect in late August. The law was enacted in May but, since it was not emergency legislation, it did not become effective until 90 days after the end of the legislative session. (See *LLW Notes*, May 1999, p. 7.)

Nebraska Governor Mike Johanns (R) notified the Governors and compact Commissioners for the other member states of the withdrawal action by letters dated August 30. Under the terms of the compact agreement, such withdrawals generally do not take effect until five years after the Governor of the withdrawing state has given written notice to the other states' Governors.

Governor Johanns' letters concluded by stating that he "look[s] forward to working, throughout the next five years, with the Governors of the Compact states and with the Compact Commission as we jointly explore each of our states' options with regard to ensuring the long-term, safe disposal of low-level radioactive waste."

As required under the compact commission's rule 23, which specifies "the process of withdrawal and the penalties the Commission shall enforce against a withdrawing state," the commission will convene a special meeting to discuss the withdrawal, as well as other matters. The meeting is scheduled for September 22 in Lincoln, Nebraska.

—CN

Entergy Arkansas, Inc. v. State of Nebraska

Federal Nebraska Case Proceeds; State Suit on Hold

In July and August, all parties filed appellate briefs in a federal lawsuit by five nuclear utilities that challenges the State of Nebraska's review of US Ecology's license application for a low-level radioactive waste disposal facility. (See *LLW Notes*, January/February 1999, pp. 16–17.) The appeal is limited to the issuance of a preliminary injunction in the case, which is currently pending before the U.S. District Court for the District of Nebraska.

The preliminary injunction restrains the State of Nebraska and its officials, employees, agents, and representatives from

- holding a contested case hearing on the state's decision to deny US Ecology's license application; and
- expending or attempting to collect any monies—including federal rebate monies—from regional utilities, the Central Interstate Low-Level Radioactive Waste Commission, or US Ecology.

The preliminary injunction, which basically extends a temporary restraining order granted by the same court on March 8, was issued on April 15. (See *LLW Notes*, April 1999, pp. 7–13.)

The State of Nebraska is raising before the appellate court, whether the district court erred:

- in concluding that the Eleventh Amendment does not bar it from preliminarily enjoining the State of Nebraska from conducting a contested case hearing of the state's licensing decision;
- in finding that the Central Commission is likely to succeed on the merits of its underlying claims against the state and that the commission would suffer irreparable harm if the state review process were allowed to proceed; and
- in concluding that issuing a preliminary injunction does not violate the Anti-Injunction Act.

On July 12, the same five utilities filed a motion to indefinitely stay a similar action pending before the District Court of Lancaster County, Nebraska, pending resolution of the federal litigation. (See *LLW Notes*, January/February 1999, pp. 18–19.) The court granted the motion to stay on July 23.

—TDL

Southwest Research and Information Center v. U.S. Environmental Protection Agency

Appeals Court Declines to Review WIPP Certification

On June 28, the U.S. Court of Appeals for the District of Columbia Circuit denied a petition by the Southwest Research and Information Center to review EPA's certification that the Waste Isolation Pilot Plant (WIPP) complies with all federal statutory and regulatory requirements. In so doing, the court determined that "the issues presented [by the appellants] occasion no need for oral argument or published opinion" and found in favor of the appellees "for substantially the reasons stated in the agency's decision and in its brief on appeal."

EPA's certification was previously challenged in a lawsuit filed by the State of New Mexico. However, in May, New Mexico's Attorney General withdrew the action largely due to concerns that the suit would fail on the merits. "It is extremely difficult to convince a court to overturn an administrative agency's discretionary decision-making," the Attorney General's office stated. (See *LLW Notes*, May 1999, p. 23.)

The first shipment of radioactive waste arrived at the WIPP facility on March 25 after the U.S. District Court for the District of Columbia refused to enjoin DOE from shipping waste to the facility from the Los Alamos National Laboratory. (See *LLW Notes*, March 1999, p. 9.) The waste was placed underground on March 29. The shipment contained almost 600 pounds of transuranic wastes—mostly protective clothing, gloves, tools, and other materials. The facility expects to accommodate at least 37,000 shipments from 23 DOE sites spread across 16 states over the course of its 30-year operational lifespan.

—TDL

Envirocare of Utah, Inc. v. United States

Envirocare Appeals Dismissal of Its Challenge to Corps' FUSRAP Activities

On July 19, Envirocare of Utah filed a notice that it is appealing the dismissal of its lawsuit challenging the bidding and procurement process for the disposal of low-activity radioactive waste from various federal agency sites, including sites in the Formerly Utilized Sites Remedial Action Program (FUSRAP). The appeal will be heard by the U.S. Court of Appeals for the Federal Circuit.

The case was dismissed, in part, and judgment was found in favor of the defendant on the administrative record by the U.S. Court of Federal Claims on May 28. (See *LLW Notes*, June 1999, pp. 16–17.) Shortly thereafter, in early June, the Corps' Kansas City district office awarded three five-year indefinite delivery/indefinite quantity contracts for the disposal of low-activity radioactive waste to Waste Control Specialists, Envirocare of Utah, and Envirosafe Services of Idaho.

Envirosafe Services of Idaho, Inc.

Envirosafe Services of Idaho, Inc. operates a landfill in Grand View, Idaho, approximately 35 miles southeast of Boise. The facility—which is not NRC licensed—accepts the universe of hazardous and industrial wastes, with a few minor exceptions. It has been issued a Resource Conservation and Recovery Act (RCRA) Part B permit by the state and a Toxic Substances Control Act (TSCA) permit by EPA Region 10.

The current constructed capacity of the facility is 900,000 cubic yards. This does not, however, represent the life of the facility.

EESI is owned by Envirosource, an international mill service located in Philadelphia.

Among the issues in dispute is whether the Corps is required to use only NRC-licensed activities for the disposal of FUSRAP waste. In April 1999, NRC noted that the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) does not require the Corps to obtain a license to conduct FUSRAP activities on site. (See *LLW Notes*, May 1999, p. 36.) NRC has also stated that certain FUSRAP materials which are unlicensed ore processing residuals are not regulated by NRC under the Atomic Energy Act. The federal claims court held that it does not have jurisdiction over NRC's regulatory determinations in this case because, under federal statute, all final NRC licensing decisions are subject to judicial review exclusively in the federal courts of appeals other than the federal circuit.

Another point of contention is whether the Corps may award a contract for the disposal of FUSRAP waste to contractors that do not currently hold licenses from NRC or an Agreement State. The solicitation allowed proposers up to one year after award to obtain any necessary licenses or permits. Envirocare objected to this provision. The federal claims court refused to rule on the issue because no award to an unlicensed vendor had been made and because the solicitation warns contractors to dispose of waste in accordance with "all applicable or relevant and appropriate Federal, State, and local regulations and permits."

—TDL

United States of America ex. rel. Blackbear v. Babbitt
State of Utah v. U.S. Department of the Interior

Bribery Alleged in Goshute Spent-Fuel Controversy

In late August, allegations of bribery were made in a lawsuit concerning the proposed construction of a temporary storage facility for spent nuclear fuel on the reservation of the Skull Valley Band of Goshutes. The allegations were contained in a declaration by Sammy Blackbear, one of the plaintiffs in the action, filed before the U.S. District Court for the District of Utah. The statement claims that the Goshutes' Chair, Leon Bear, used money he got from Private Fuel Storage (PFS) L.L.C., a consortium of nuclear power utilities, to try to bribe fellow tribal members to support the proposed facility. Blackbear further asserts in his testimony that Bear threatened to withhold annual dividend payments from members who did not vote to retain him as tribal Chair.

The controversy arose out of an agreement that PFS signed with the Goshutes to lease part of the tribe's 17,700–acre reservation, which is located within Tooele County, Utah. The purpose of the lease was to allow construction of a spent fuel storage facility that would hold up to 40,000 metric tons of waste in 4,000 metal containers. PFS is seeking to build the facility due to the federal government's refusal to take spent fuel by early 1998, as originally contemplated in the Nuclear Waste Policy Act of 1982. (See *LLW Notes*, April 1997, pp. 26–27.).

The agreement provides for a 25-year lease with a 25-year renewal option. The tribe is to receive an undisclosed amount of financial compensation for hosting the facility, and the facility is expected to create 40 to 60 new jobs for tribal members. In June 1997, PFS filed a license application with the NRC. (See *LLW Notes*, July 1997, pp. 34–35.)

More than one dozen Goshutes who oppose the proposal filed suit in the Utah district court challenging the U.S. Bureau of Indian Affairs' approval of the lease and seeking to have the lease declared null and void. The tribal members are being aided by a $50,000 grant from the State of Utah, which also opposes the facility. The state has filed its own suit seeking to intervene in the consideration of the proposed lease by the Bureau of Indian Affairs and a separate suit to obtain and review a complete copy of the lease. On April 9, the district court ruled that Utah is not legally entitled to participate in the lease approval proceedings being conducted by the BIA. In the same order, the court granted a motion to consolidate the state's suit with that of the tribal members. (See *LLW Notes*, May 1999, p. 22.) The state is appealing the court's refusal to let it intervene in the lease approval proceedings to the U.S. Court of Appeals for the Tenth Circuit.

—TDL

Radioactive Ooze Found at USEC Property

On July 15, workers discovered radioactive black ooze in the vicinity of the U.S. Enrichment Corporation's (USEC) facility in Paducah, Kentucky. Lab tests reportedly confirm the presence of uranium and technetium. The site has been fenced off, and the findings have been reported to Kentucky's environmental regulators.

Although USEC was established as a wholly government-owned entity, the Energy Policy Act of 1992 directed that the company eventually be privatized. Nonetheless, state and compact liability for the disposal of USEC-generated waste was limited by language contained in the FY 1996 omnibus appropriations bill. That bill provides that, "[n]otwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility."

—TDL

Spokane Tribe of Indians v. State of Washington

Parties Agree to Stay Dawn Mining Case re Environmental Justice

On July 20, the parties to a lawsuit seeking to prevent Dawn Mining Company from importing slightly radioactive fill material to a former uranium mill filed a stipulation requesting that the case be temporarily stayed. On July 23, the U.S. District Court for the Eastern District of Washington accepted the stipulation and ordered that

- the briefing schedule be suspended,
- a hearing on the defendants' anticipated motion to dismiss be stricken, and
- a status teleconference be scheduled for early November.

Background

The Spokane Tribe of Indians and other individuals filed the case in August 1998 after US Ecology responded to the Army Corps of Engineers' request for proposals (RFP) for the disposal of 11e.(2) material from facilities being remediated under the Formerly Utilized Sites Remedial Action Program (FUSRAP). US Ecology's response identified Dawn Mining's former uranium mill as the designated disposal site. The mill is situated near Ford, Washington—adjacent to the Spokane reservation.

US Ecology intended to use the 11e.(2) material as fill for closing a mill tailings impoundment on the Dawn Mining site. (See *LLW Notes*, March 1999, p. 3.) The Spokane Tribe of Indians opposed the proposal, arguing that state licensing of the plan would violate Title VI of the Civil Rights Act of 1964 and raise various environmental justice concerns.

In June, Envirocare of Utah, Envirosafe Services of Idaho, and Waste Control Specialists were awarded contracts under the Corps' RFP. US Ecology did not receive an award. (See *LLW Notes*, June/July, p. 26.)

The Stipulation

As a result of this action, the parties filed a stipulation stating, in part, as follows:

> As a result of the Corps' award of 11e.(2) material disposal contracts to other bidders, Dawn has begun the process of considering its options regarding the closure of its uranium millsite. This process will include Dawn's evaluation of the potential availability of alternative sources of fill material, and Dawn's potential submission and the Department of Health's review of alternative proposals. By September 1, 1999, Dawn will submit a proposal or proposals for the Department of Health's review.
>
> Among the alternatives being evaluated by Dawn are those that may significantly affect the present litigation by rendering portions moot or by altering the substance of the lawsuit. As a result, proceeding at this time with the motions to dismiss will not serve judicial economy and may lead to wasteful pretrial activities and the unnecessary expenditure of the Court's and the parties' resources.

The parties expect to know more about Dawn's alternatives for filling the site, and the Department of Health's review of those alternatives, by November. At such time, the parties hope to address the status of the litigation and how to proceed.

—TDL

Waste Management Holdings, Inc. v. Gilmore

District Court Refuses to Dismiss Municipal Solid Waste Case

On August 3, the U.S. District Court for the Eastern District of Virginia rejected a motion by the Commonwealth of Virginia to join the City of New York as a plaintiff in a lawsuit challenging the validity of newly enacted statutes concerning the transportation and disposal of municipal solid waste within Virginia's borders. Subsequently, on August 30, the court denied Virginia's motion to dismiss the action, except with regard to specific claims concerning the impairment of various contracts held by the plaintiffs.

Refusal to Join City of New York

The court cited the following reasons as support for its refusal to join the City of New York as an involuntary party to the action:

- the city is not subject to the court's jurisdiction,
- the city's participation is not necessary to resolution of the central issue in the case, and
- the defendant failed to demonstrate the existence of a substantial risk that current parties will be subject to inconsistent obligations if the city is not forced to join the action.

Parties

The plaintiffs are four companies—including two "regional" landfill operators, a transfer facility, and a barging company—and one county which leases property for use as a landfill.

The following commonwealth officials are named in their official capacity as defendants to the action: Virginia Governor James Gilmore; John Woodley, Secretary of Natural Resources; and Dennis Treacy, Director of the Department of Environmental Quality.

Rejection of Motion to Dismiss

As for the motion to dismiss, the court rejected Virginia's arguments that the plaintiffs lack standing to challenge the disputed laws.

Virginia challenged the plaintiffs' standing on that grounds that

- Virginia's counties lack authority to enter into agreements to host municipal solid waste disposal facilities, and
- the suit is barred by the Eleventh Amendment and the doctrine of sovereign immunity, both of which protect an unconsenting state from suit in federal court.

In regard to the former argument, the court found that "the Supreme Court of Virginia has strongly indicated, albeit in dicta, that counties do possess the authority that the Commonwealth says they lack." The court rejected Virginia's sovereign immunity defense, finding that accepted legal doctrine indicates that a federal court may exercise jurisdiction over cases challenging the enforcement of allegedly invalid state laws.

The court also refused to dismiss the case based on Virginia's attacks on several of the plaintiffs' constitutional claims, including alleged violations of the Commerce Clause, Supremacy Clause, and Equal Protection Clause.

For instance, Virginia argues that the plaintiffs' Commerce Clause claims must fail because Congress has expressly authorized states to interfere with interstate commerce in municipal solid waste through the Resource Conservation and Recovery Act (RCRA) and because the statutes at issue fall within the market participant exception to the Commerce Clause. The court, however, found that both arguments lack merit.

As to Virginia's assertion that the Supremacy Clause does not provide a remedy for the alleged violation, the court disagreed and held that even if no remedy existed under the clause, dismissal would be inappropriate.

Finally, the court indicated its skepticism that the plaintiffs could succeed on their Equal Protection Clause claims, but ruled that they are nonetheless entitled to proceed forward with them.

The court did, however, grant Virginia's request that it dismiss the plaintiffs' claims that that challenged statutes violate the U.S. Constitution's Contract Clause. While the plaintiffs alleged that the statutes are violative in that they impair various contracts, the court held that the statutes merely make those contracts less profitable than anticipated or make performance less desirable. "[S]uch 'interference' with contractual expectations does not amount to an 'impairment of obligations' within the meaning of the Contract Clause, for it does not alter the parties' rights and duties vis a vis each other," the court found.

Background

On June 30, the U.S. District Court for the Eastern District of Virginia preliminarily enjoined the Commonwealth of Virginia from enforcing newly enacted statutes concerning the transportation and disposal of municipal solid waste within Virginia's borders. Although the challenged statutory provisions were written to be facially neutral, the court determined that they will likely have the effect of discriminating against out-of-state waste. The decision may be of interest to Forum Participants due to the Court's analysis of the application of provisions of the Interstate Commerce Clause of the U.S. Constitution.

—TDL

For detailed background information about the case and the court's earlier ruling, see LLW Notes, June/July 1999, pp. 12–15.

Nuclear Fuel Services v. Semnani

Operators Settle Conspiracy/Unfair Practices Suit

In August, Nuclear Fuel Services (NFS) and Envirocare of Utah agreed to settle a two-year-old lawsuit pending before the Third District Court of the State of Utah. Under the terms of the settlement, which are confidential, Envirocare will pay NFS an undisclosed amount of money and the suit will be withdrawn.

The suit was initiated by NFS, a Maryland corporation that serves as a prime contractor for DOE. In its complaint, NFS alleges that Envirocare engaged in conspiracy and unfair business practices in restraint of trade to the detriment of NFS and others. (See *LLW Notes*, April 1997, pp. 22–24.)

Specifically, NFS contends that its business plans were undermined by a secret alliance between Envirocare owner Khosrow Semnani and Larry Anderson, a former state regulator with the Utah Division of Radiation Control. That alliance was the subject of an FBI investigation which resulted in a plea by Semnani to a misdemeanor charge of federal tax evasion in exchange for his assistance in an ongoing criminal investigation of Anderson. (See *LLW Notes*, Aug./Sept.1998, p. 32.) The U.S. District Court for the District of Utah handed down a six-count indictment against Anderson in March. (See *LLW Notes*, March 1999, p. 8.)

The following companies and individuals were named as defendants to the action: Envirocare of Utah, Inc.; Khosrow Semnani; Larry Anderson; and Lavicka, Inc., a Utah corporation formed by Anderson. The settlement applies only to Envirocare and Semnani. NFS will continue to pursue its action against Anderson and Lavicka.

Envirocare settled a similar lawsuit in September 1998. That action, which was initiated by Umetco Minerals Corporation, also involved allegations of unfair business practice, including antitrust violations and business disparagement. As in the present case, the terms of the settlement agreement were confidential. (See *LLW Notes*, November 1998, p. 17.)

—TDL

Court Calendar

Case Name	Description	Court	Date	Action
Anderson v. Semnani (See *LLW Notes*, January 1997, pp. 1, 5-12.)	Alleges that Envirocare owner Khosrow Semnani owes Larry Anderson, former Director of the Utah Division of Radiation Control, in excess of $5 million for site application and consulting services related to the licensing and operation of the Envirocare radioactive waste disposal facility in Tooele County, Utah.	Third Judicial District Court of Salt Lake County, Utah	March 12, 1999 August 27, 1999 August 27, 1999	The plaintiffs filed a response to the defendants' motion for judgment on the pleadings. The court denied the defendants' motion for judgment on the pleadings. The court denied the plaintiffs' motion to stay the proceedings.
Midwest Interstate Low-Level Radioactive Waste Compact Commission v. Toledo Edison Co. (See *LLW Notes*, June/July 1998, pp. 24-25.)	Seeks to join all regional utilities into one action to resolve a dispute over whether the Michigan utilities have a right to share in proceeds created by the dissolution of the Export Fee Fund.	United States District Court for the District of Minnesota	June 4, 1999 September 22, 1999	The Michigan utilities represented to the court that they do not plan to pursue their counterclaim against the commission. Oral argument is scheduled.
Entergy Arkansas v. Nebraska (See *LLW Notes*, April 1999, pp. 7-13.)	Challenges actions taken by the State of Nebraska and its officials in reviewing US Ecology's license application to build and operate a LLRW facility in Boyd County.	United States District Court for the District of Nebraska	September 15, 1999	The court issued an order denying Nebraska's motion to dismiss the case.
Yankee Atomic Electric Company v. United States (See *LLW Notes*, December 1998, p. 28.)	Involves a breach of contract claim seeking monetary damages from DOE for its failure to accept spent nuclear fuel by the January 31, 1998 deadline set forth in Article II of the Standard Contract.	United States Court of Federal Claims	October 18, 1999	DOE's brief on appeal is due.

Court Calendar *continued*

Case Name	Description	Court	Date	Action
Northern States Power Co. v. United States (See *LLW Notes*, June/July 1998, pp. 30-31.)	The lead case in a series of separate lawsuits filed by major utilities seeking a total of more than $4.5 billion from DOE for failing to meet a contractual deadline to begin disposing of commercial spent fuel.	United States Court of Federal Claims	July 1999 July 27, 1999	The court issued separate orders staying further proceedings in all other "operating reactor cases"pending a final decision by the U.S. Court of Appeals for the Federal Circuit in *Northern States Power.* Thirty-two states and state agencies filed an amici curiae brief on behalf of Northern States Power.
S.*W. Shattuck Chemical Company v. Rocky Mountain Low-Level Radioactive Waste Board*	Seeks an injunction to prevent the Rocky Mountain Board from initiating or proceeding with any enforcement action against the Shattuck Chemical Company for solidifying and disposing of LLRW on its own property at the direction of EPA.	United States District Court for the District of Colorado	August 20, 1999	The court postponed a hearing on Shuttuck's motion for partial summary judgment and the board's motion to dismiss until EPA has reviewed the levels of contamination at the site and the decision to allow on-site disposal.
Waste Control Specialists, L.L.C. v. Envirocare of Texas (See *LLW Notes*, August/September 1998, pp. 22-24.)	Alleges antitrust violations, libel, slander, and business disparagement on the part of Envirocare of Texas.	United States Court of Appeals for the Fifth Circuit	October 10, 1999	Oral argument is scheduled.
Wisconsin Electric Power Company v. U.S. Department of Energy	Seeks a declaration ordering DOE to provide financial and other relief for its failure to take title to the utility's spent nuclear fuel.	United States Court of Appeals for the District of Columbia Circuit	August 24, 1999	Wisconsin Electric filed a complaint claiming a lack of cooperation on the part of DOE during its negotiations with the agency.

U.S. Environmental Protection Agency (EPA)

EPA Proposes Tough Standards for Yucca Mountain

On August 19, EPA issued its proposed environmental protection standards for the planned high-level radioactive waste repository at Yucca Mountain, Nevada. The proposal would limit leakage-related radiation doses to the "reasonably maximally exposed individual" to 15 millirems per year and would establish a controversial four-millirem groundwater standard. A 90-day public comment period has been established for the proposal. EPA will also hold public hearings.

Under the Energy Policy Act of 1992, NRC is responsible for enforcing EPA's standards for Yucca Mountain. NRC has been highly critical of the proposed standard, however, as have been several members of Congress who wish to transfer EPA's standard-setting authority to NRC. The criticism focuses on whether the standards are unrealistic and unnecessarily stringent, with some arguing that DOE is unlikely to be able to satisfy EPA's proposed standards. Federal law requires DOE to demonstrate that the repository can meet EPA's standards for 10,000 years. EPA staff point out, however, that essentially the same groundwater standard applies to the Waste Isolation Pilot Plant's (WIPP) deep geologic transuranic waste disposal facility in New Mexico. Further, EPA has certified that the WIPP facility meets the applicable disposal standard.

NRC has issued its own draft radiation standard for Yucca Mountain, setting the annual dose limit at 25 millirems with no separate groundwater standard. However, NRC recognizes that it is bound under the law to implement EPA's standard. Although NRC plans to proceed with the rulemaking on its own standard, the agency has stated its willingness to amend its regulation if that regulation turns out to be inconsistent with the final EPA rule.

Other action involving the proposed high-level waste repository includes DOE's release in mid-August of its draft environmental impact statement (EIS) on the proposed site. The draft EIS was generally favorable.

—TDL

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

U.S. Nuclear Regulatory Commission (NRC)

NRC Proposes Rule re Increased Regulation over Industrial Devices

On July 26, NRC issued a proposal to amend its regulations governing the use of byproduct material in certain measuring, gauging, or controlling devices. As explained in the *Federal Register*,

> [t]he proposed amendments would include adding explicit requirements for a registration process that the NRC plans to initiate through a related rulemaking, would add a registration fee, and would clarify which provisions of the regulations apply to all general licenses for byproduct material. The proposed rule would also modify the reporting, recordkeeping, and labeling requirements for specific licensees who distribute these generally licensed devices.

According to the *Federal Register* notice, the proposed rule is intended to allow NRC to better track certain general licensees and the devices they possess. It is also intended to provide added assurances that general licensees are aware of and understand the requirements for possessing devices containing byproduct material.

Comments on the proposed rule are due by October 12.

—TDL

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

NRC Issues Positive Report re External Regulation of DOE Facilities

In July, the NRC sent a task force report to Congress summarizing the agency's experience in conducting a 15-month pilot program of "simulated regulation" of three DOE nuclear facilities. The majority of findings and recommendations contained in the report are generally supportive of NRC regulation of DOE facilities. For the facilities studied, the report concludes that NRC's existing regulatory structure was able to adequately handle most of the technical, policy, and regulatory issues involved in overseeing the three facilities in the pilot program. It also finds that NRC has the capacity to successfully serve as the sole external radiological safety regulator at the facilities, contingent upon adequate funding and staffing.

In letters accompanying the report, NRC Chair Greta Dicus wrote that the pilot program found no significant issues "that would impede NRC regulation of similar DOE non-defense nuclear facilities." She said that if asked to regulate DOE facilities, NRC would take a "risk-informed" approach, imposing new requirements only when necessary for safety reasons.

The three DOE facilities that participated in the pilot program were the Lawrence Berkeley National Laboratory in California, the Radiochemical Engineering Development Center at Oak Ridge National Laboratory in Tennessee, and the Receiving Basin for Off-Site Fuel at the Savannah River Site in South Carolina. DOE defense programs were not included.

Earlier this year, DOE submitted its own report to Congress on the pilot project. DOE's report was generally not favorable and concluded that external regulation would be costly and would require significant adjustments to the department's facilities. (See *LLW Notes*, March 1999, p. 22.)

NRC disagrees with these findings, concluding in its report that for the pilot facilities studied, NRC oversight would require few, if any, changes to the facilities, calculations, safety programs or procedures. NRC's report also asserts that DOE's cost estimates for the transition to NRC oversight are too high. Finally, the task force found that NRC regulation of DOE facilities could provide added credibility because NRC processes are conducive to public scrutiny and stakeholder participation.

The Occupational Safety and Health Administration (OSHA) and GAO have made statements in favor of external regulation. At a July hearing of the Energy and Environment Subcommittee of the U.S. House of Representatives' Science Committee, staff of both offices testified that external regulation of DOE facilities by NRC is viable, would likely improve safety, and would not be prohibitively expensive.

—TDL

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

NRC (continued)

NRC Studies Entombment

On July 19, NRC staff completed an information paper on the viability of entombment as a means of decommissioning nuclear power reactors. The paper was prepared in response to an April 1997 Staff Requirements Memorandum (SRM) after various utilities requested that NRC reconsider entombment as a decommissioning option. To date, NRC has generally opposed this option and has never authorized a utility to use it. The April 1997 SRM, however, requested a new analysis including an evaluation of the resources involved, potential savings on decommissioning costs, and vulnerabilities.

Entombment Defined

NRC regulations define entombment as follows:

> A method of decommissioning in which radioactive contaminants are encased in a structurally long-lived material, such as concrete. The entombment structure is appropriately maintained, and continued surveillance is carried out until the radioactivity decays to a level permitting decommissioning and ultimate unrestricted release of the property.

As part of the analysis, staff considered a May 1999 preliminary assessment of entombment that was prepared by Pacific Northwest National Laboratory (PNNL) in Richland, Washington. Based on that assessment, the staff concluded that for many situations entombment may offer a safe and viable alternative for decommissioning, depending on the site-specific circumstances.

> Entombment could provide greater flexibility to licensees for best accommodating their situations. If the entombment were properly performed, the impacts on health, safety, and the environment should be small … Moreover, other industrial, non-radioactive risks involved in the removal and disposal of these wastes would be eliminated, such as those activities used in the removal, packaging, and transport of waste. However … to implement this option as an alternative to other decommissioning options would require changes to regulatory requirements and guidance. In addition, there are many issues involving statutory, regulatory, technical, and implementation matters whose implications require further development. For example, the staff believes that, for entombment scenarios where the radioactive dose concerns remain over very long time periods, the feasibility of acceptance will depend on the industry and the [Nuclear Regulatory] Commission resolving policy and technical issues where long term reliance is required on intruder barriers over the 1000 year period specified in 10 CFR Part 20, Subpart E. Accordingly, the staff recommends that a broader perspective and more detailed assessment of these issues be pursued as a precursor to any recommendation on whether or not to pursue legislative, regulatory, and technical implementation of the entombment option.

As a next step, the staff have scheduled a workshop in December "to solicit stakeholder views on the technical basis, issues, and options for treating entombment on an equal basis with other decommissioning alternatives." Following the workshop, staff plans to make a recommendation to the NRC Commissioners on whether or not to pursue entombment further and on what policy issues will need to be addressed.

—TDL

Summary of PNNL's Preliminary Assessment re Entombment

Pacific Northwest National Laboratory's preliminary assessment of entombment offered the following conclusions:

- Entombment may offer a viable decommissioning alternative in that it protects public health and safety.
- Excluding highly-activated reactor vessel internals, entombment appears to be capable of satisfying the performance objectives of the license termination rule and of low-level radioactive waste burial ground closure requirements.
- Since little or no low-level radioactive waste is disposed of off-site under the entombment scenario, it presents an alternative that is essentially independent of low-level radioactive waste disposal charge rates.
- Institutional control over the site would need to be maintained for 130 years following reactor shutdown (assuming the removal of greater-than-class C waste) in order to reasonably control the inadvertent intruder scenario, although credit for certain actions (such as the use of engineered barriers) could shorten this time. However, continued site surveillance and protection would be needed to rule out intrusion by determined and well-equipped persons.
- NRC could consider permitting entombment of the greater-than-class C materials if the results of the site and enclosure isolation assessment are satisfactory.

NRC Responds to Comments re Private Meetings

Ten comments were received in response to a *Federal Register* notice by NRC announcing its intention to implement a regulation allowing three or more of the agency's Commissioners to meet in private. (See *LLW Notes*, May 1999, p. 21.) All but one of the comments were critical of NRC's action. NRC responded to the comments in a supplemental *Federal Register* notice issued on July 16.

In the notice, the commission emphasized that the change was intended to permit informal, preliminary, and "big-picture" discussions, as well as routine status updates from staff, casual discussions of mutual interest, and discussions of business-related matters not linked to any particular proposal for action.

According to NRC, the change is not intended to allow private discussions with representatives of NRC licensees, nuclear industry groups, or organizations that could be considered interested parties in NRC adjudications, rulemakings, or development of guidance. Participation in private discussions is intended to be limited to NRC, other federal agency personnel, and some others, such as representatives of the regulatory organization of a state or foreign country.

—TDL

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

NRC (continued)

NRC Receives Petition for Removal of General Licensee Exemptions

On May 10, the Organization of Agreement States (OAS) and the State of Colorado filed a petition for rulemaking with NRC. The petition requests "that the NRC regulations governing small quantities of source material be amended to eliminate the exemption for source material general licensees from the requirements that specify standards of protection against radiation and notification and instruction of individuals who participate in licensed activities." NRC issued a notice of receipt of the petition in the *Federal Register* on July 7 and requested public comment. Comments on the petition are due by September 20.

In the petition, OAS and Colorado argue that general licensees should not be exempted from complying with radiation safety standards if a licensee can exceed currently specified dose limits or create areas where individuals may be exposed to significant levels of radiation. They assert that if a radiation hazard exists that would require most licensees to implement corrective measures, general licensees should be required to eliminate the hazard as well.

The petition describes two cases that illustrate the alleged problems. In the first, a dumpster used for construction debris from remodeling at a property recently vacated by a source material general licensee activated a radiation alarm at a landfill. The other case involved an enforcement action by EPA in which significant levels of radionuclides were identified in the sludge from a plant where thorium fluoride was used. The petition contends that neither case is unique.

OAS and Colorado cite several potential problems with the current exemptions. For instance, they contend that waste disposal by general licensees creates exposure hazards because "general licensees who possess source material do not view waste disposal as an issue because this waste is only 'generally licensed' and can be disposed of as common trash." They are also concerned that individuals receiving radioactive waste from source material licensees may be unaware of any hazard and subject to potential exposure.

—TDL

For further information, see "New Materials and Publications.

Clinton Plans to Designate New NRC Chair

On August 7, President Bill Clinton announced that he is nominating Richard Meserve as a member of the U.S. Nuclear Regulatory Commission. Clinton plans to designate Meserve as Chair upon his appointment. Greta Dicus, who has been serving as Chair since Shirley Jackson's departure in June, will continue as a member of the commission through her current appointment, which runs until June 30, 2003.

Meserve is presently a partner in the Washington, D.C. law firm of Covington and Burling. His practice focuses on environmental and toxic-tort litigation, nuclear licensing, and the counseling of scientific societies. Since 1981, he has served on various committees of the National Academy of Sciences (NAS) and the National Academy of Engineering. Previously, Meserve served as a law clerk to U.S. Supreme Court Justice Harry Blackmun and to Judge Benjamin Kaplan of the Massachusetts Supreme Judicial Court. He holds a juris doctorate from Harvard Law School and a Ph.D. in applied physics from Stanford University.

Meserve's appointment to the commission requires Senate confirmation. To date, a schedule has not been set for confirmation hearings.

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via e-mail on August 11.

House Conferees Named to Conference on Energy and Water Appropriations

Continuing Resolution Likely

In early September, the House of Representatives named the members of the Appropriations Subcommittee on Energy and Waste Development to serve on the House-Senate conference committee on energy and water appropriations. On July 28, the Senate had named the members of the Appropriations Subcommittee on Energy and Water to serve on the committee. (See box, page 28.)

A conference committee is necessary because the House bill and accompanying report differ substantially from those of the Senate, particularly on total appropriations, the distribution of funds among programs, and a wetlands provision that may trigger a Presidential veto. In order to resolve the differences between the House and Senate bills, both houses will appoint representatives to a committee that will then meet to negotiate compromise language. Once alternative language is agreed to, the legislation must be taken up again in both houses.

Even if the legislation itself is significantly altered by the the conference committee, the report language from either chamber will stand unless specifically overridden before final passage of the legislation. Although report language carries less weight than actual legislation, specific report language accompanying an appropriations bill is customarily implemented by the relevant agency.

House or Senate members of the conference committee can attempt to include in the committee's Joint Statement of Managers a statement overriding language from either the House or Senate reports.

Continuing Resolution Likely

According to House staff, the conference committee may not convene—or if it does convene, may not complete its work—before the end of the federal fiscal year on September 30. Therefore, Congress is likely to pass a continuing resolution to address funding covered by the energy and water legislation. It is also possible that the continuing appropriation for energy and water will be included in a larger continuing resolution addressing most or all of the appropriations measures not yet approved by Congress. Any such resolution would probably authorize departments to continue spending at current levels.

House staff have indicated that a continuing resolution is unlikely to cover the entire upcoming federal fiscal year. Rather, staff predict that it would continue funding for a shorter time, perhaps a month or two, until the conference committee could meet and approve appropriations for the remainder of the year.

Background: House

On July 27, the U.S. House of Representatives passed H.R. 2605, the "Energy and Water Development Appropriations Bill, 2000," by a vote of 420-8. The bill appropriates $20.2 billion and includes $15.5 billion for DOE, $4.9 billion for the Army Corps of Engineers, and $455.4 million for NRC. All of these amounts differ from the Senate version, with DOE receiving nearly $2 billion less from the House.

DOE's National Low-Level Waste Management Program is funded as part of DOE's Non-Defense Environmental Management Program. That program was provided with $327.2 million in the House bill, which is $0.8 million less than the Senate's figure.

The bill passed by the House was the same as the one adopted on July 14 by the Appropriations Subcommittee on Energy and Water and passed by the full Appropriations Committee on July 20.

continued on page 28

Background: Senate

On June 16, the Senate passed S. 1186, the "Energy and Water Development Appropriations Act, 2000" (See *LLW Notes*, June/July 1999, p. 32.) The bill was passed by a 97-2 vote, with Senators Jim Jeffords (R-VT) and Paul Wellstone (D-MN) dissenting.

The $21.2-billion measure contains discretionary spending authority in the amount of $17.02 billion for DOE, $3.72 billion for the Army Corps of Engineers, and $465 million for NRC. The bill includes $328 million for non-defense environmental management funding—a 23-percent cut from FY 1999 appropriations.

—MAS

Much of the preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via e-mail on August 3.

Senate Appropriations Conferees

Appalachian Compact
Robert Byrd (D-WV)

Central Midwest Compact
Mitch McConnell (R-KY)

Midwest Compact
Herb Kohl (D-WI)

Northwest Compact
Ted Stevens (R-AK) *ex officio*
Larry Craig (R-ID)
Conrad Burns (R-MT)
Robert Bennett (R-UT)
Slade Gorton (R-WA)
Patty Murray (D-WA)

Rocky Mountain Compact
Harry Reid (D-NV) *ranking minority*
Pete Domenici (R-NM) *chair*

Southeast Compact
Thad Cochran (R-MS)

Southwestern Compact
Byron Dorgan (D-ND)

South Carolina
Ernest Hollings (D)

House Appropriations Conferees

Central Midwest Compact
Harold Rogers (R-KY-5th)

Midwest Compact
Peter Visclosky (D-IN-1st) *ranking minority*
Thomas Latham (R-IA-5th)
David Obey (D-WI-7th) *ex officio*

Northeast Compact
Rodney Frelinghuysen (R-NJ-11th)

Southeast Compact
H. L. (Sonny) Callahan (R-AL-1st)
C. W. Bill Young (R-FL-10th) *ex officio*

Southwestern Compact
Ed Pastor (D-AZ-2nd)
Ron Packard (R-CA-48th) *chair*

Texas Compact
Chet Edwards (D-TX-11th)

Michigan
Joe Knollenberg (R-11th)

New York
Michael Forbes (R-1st)

South Carolina
James Clyburn (D-6th)

New Materials and Publications

Document Distribution Key	
[P] Forum Participants	[D] LLW Forum Document Recipients
[A] Alternate Forum Participants	[N] *LLW Notes* and *Meeting Report* Recipients
[E] Forum Federal Liaisons	[M] Meeting Packet Recipients
[L] Forum Federal Alternates	

States and Compacts

Central Compact/Nebraska

Central Interstate Low-Level Radioactive Waste Commission: Annual Report 1998-1999. To obtain a copy, contact the commission at (402)476-8247.

Federal Agencies

DOE

1998 Annual Report on Low-Level Radioactive Waste Management Progress. June 1999. DOE's annual report to the U.S. Congress submitted pursuant to section 7(b) of the Low-Level Radioactive Waste Policy Act of 1980.

"Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material"; Notice of Proposed Rulemaking. 67 *Federal Register* 44433. August 16, 1999. Proposes to amend DOE regulations concerning the procedures used to render final determinations of eligibility for access to classified matter and/or special nuclear material. Comments to be submitted by October 15, 1999.

"Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High Level Radioactive Waste at Yucca Mountain, Nevada, Nye County, NV." 64 *Federal Register* 44200. August 13, 1999.

EPA

"Environmental Radiation Protection Standards for Yucca Mountain, Nevada"; Proposed Rule. 64 *Federal Register* 46976. August 27, 1999. Proposes public health and safety standards for radioactive material stored or disposed of in the planned repository at Yucca Mountain, Nevada. Comments to be submitted by November 26, 1999.

NRC

External Regulation of Department of Energy Nuclear Facilities: A Pilot Program. NUREG-1708. August 1999. Presents conclusions of the NRC Task Force on External Regulation of DOE nuclear facilities, including a general finding that most of the technical, policy, and regulatory issues involved in NRC oversight could be handled adequately within the existing NRC regulatory structure.

"Domestic Licensing of Special Nuclear Material; Possession of a Critical Mass of Special Nuclear Material"; Proposed Rule. 64 *Federal Register* 41338. July 30, 1999. Proposes to amend NRC regulations governing the domestic licensing of special nuclear material (SNM) for licensees authorized to possess a critical mass of SNM. Comments to be submitted by October 13, 1999.

Information Paper on the Viability of Entombment as a Decommissioning Option for Power Reactors SECY-99-187. July 19, 1999. Memorandum informing the NRC Commissioners of the staff's assessment of the viability of the entombment option for decommissioning power reactors. To obtain a copy, contact Carl Feldman at (202)415-6194.

"Government in the Sunshine Act Regulations"; Final Rule. 64 *Federal Register* 39393. July 22, 1999. Provides responses to comments received on an earlier *Federal Register* notice announcing NRC's intent to begin implementing new regulations exempting from the Sunshine Act's procedural requirements discussions by three or more Commissioners that are preliminary, informal, and informational.

"Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material"; Proposed Rule. 64 *Federal Register* 40295. July 26, 1999. Proposes to amend NRC regulation governing the use of byproduct material in certain measuring, gauging, or controlling devices. Comments to be submitted by October 12, 1999.

NRC (continued)

"State of Colorado and Organization of Agreement States; Receipt of Petition for Rulemaking." 64 *Federal Register* 36615. July 7, 1999. Notice of receipt of and request for comment on a petition for rulemaking requesting that NRC regulations governing small quantities of source material be amended to eliminate the exemption for source material requirements that specify standards of protection against radiation and notification and instruction of individuals who participate in licensed activities. Comments to be submitted by September 20, 1999.

Other

Health Effects of Low-Level Radiation. ANS Document PPS-41. April 1999. Position statement by the American Nuclear Society that there is insufficient scientific evidence to support the use of the Linear No Threshold Hypothesis in the projection of the health effects of low-levels of radiation. To obtain a copy, call the American Nuclear Society at (708)352-6611.

Additional Views of the Biology and Medicine Division's Low-Level Radiation Health Effects Committee. The American Nuclear Society committee concludes that the available data directly contradict the Linear No Threshold Model and that no harm—and possibly benefits—result from low-level radiation exposures. Copies may be downloaded at www.wsu.edu:8000/~glover/BMD/LNTtopics/ADDVIEW2b.htm

Alternate Forum Participant Carol Amick Departs Massachusetts Low-Level Radioactive Waste Management Board

On July 16, the Massachusetts Low-Level Radioactive Waste Management Board voted 5-3 to remove Alternate Forum Participant Carol Amick as the board's Executive Director. Amick had held the position since 1989 and had served first as the LLW Forum Participant and then as the Alternate Forum Participant for Massachusetts during her tenure.

Amick's last day with the board was July 28. She plans to look for new employment, possibly in the field of low-level radioactive waste management as a consultant.

—MAS

To Obtain Federal Government Information

by telephone

- DOE Public Affairs/Press Office . . . . . .(202)586-5806
- DOE Distribution Center . . . . . .(202)586-9642
- DOE's National Low-Level Waste Management Program Document Center . . . . . .(208)526-6927
- EPA Information Resources Center . . . . . .(202)260-5922
- 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
- Legislative Resource Center (to order U.S. House of Representatives documents) . . . . . .(202)226-5200
- U.S. Senate Document Room . . . . . .(202)224-7860

by internet

- NRC Reference Library • (NRC regulations, technical reports, information digests, and regulatory guides) . . . . . .www.nrc.gov/NRC/reference

- EPA Listserve Network • Contact Lockheed Martin EPA Technical Support at (800)334-2405 or e-mail (leave subject blank and type help in body of message) . . . . . .listserver@unixmail.rtpnc.epa.gov

  EPA • (for program information, publications, laws and regulations) . . . . . .www.epa.gov

- U.S. Government Printing Office (GPO) (for the *Congressional Record*, *Federal Register*, congressional bills and other documents, and access to more than 70 government databases) . . . . . www.access.gpo.gov

- DOE's National Low-Level Waste Management Program, Document Information 199.44.46.229/radwaste

- GAO homepage (access to reports and testimony) . . . . . **www.gao.gov**

To access a variety of documents through numerous links, visit the LLW Forum web site at www.afton.com/llwforum

Accessing LLW Forum Documents on the Web

LLW Notes, *LLW Forum Meeting Reports* 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. As of March 1998, *LLW Notes* and *LLW Forum Meeting Reports* are also available on the LLW Forum web site at www.afton.com/llwforum. The *Summary Report* and accompanying *Development Chart*, as well as LLW Forum *News Flashes*, have been available on the LLW Forum web site since January 1997.

As of March 1996, back issues of these publications are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, (703)605-6000.

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
Tennessee
Virginia

Southwestern Compact
Arizona
California *
North Dakota
South Dakota

Texas Compact
Maine
Texas *
Vermont

Unaffiliated States
District of Columbia
Massachusetts
Michigan
New Hampshire
New York
North Carolina
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.

Graphic by Afton Associates, Inc. for the LLW Forum. September 1999