

LLW *notes*

Volume 25, Number 1 January/February 2010

Low-Level Radioactive Waste Forum, Inc.

LLW Forum Organizes Panel for Waste Management Symposia

The Low-Level Radioactive Waste Forum is again organizing a panel presentation for the upcoming Waste Management '10 symposium to be held in Phoenix, Arizona from March 7 through 11. The symposium, which is on its 36 year, is an international conference with a program that focuses on the management of radioactive materials and related topics. Over 2,000 individuals are expected to attend this year's conference, which will feature eighty-nine technical sessions and two continuing education courses—including nearly 500 papers and panels covering the breadth of radioactive waste management issues.

LLW Forum Panel

The panel being organized by the LLW Forum is titled, "Hot Topics and Emerging Issues in U.S. Commercial Low-Level Radioactive Waste Management." It is scheduled for Monday afternoon, March 8, beginning at 1:30 pm. We invite and encourage all interested stakeholders to attend.

The panel will focus on the current issues in commercial low-level radioactive waste management in the US from the perspective of five active members of the LLW Forum. State,

compact, federal and industry views will be shared on topics such as

- ◆ current and future activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission, including import/export policies and associated fees;
- ◆ licensing, construction, and development of the planned Waste Control Specialist' federal and commercial low-level radioactive waste disposal facilities;
- ◆ federal regulatory developments and perspectives from a license applicant on issues related to the classification and disposal of depleted uranium;
- ◆ current and future waste management and related activities of the U.S. Department of the Army; and,

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The Low-Level Radioactive Waste Forum, Inc. is dedicated to the goals of educating policy makers and the public about the management and disposal of low-level radioactive wastes, and fostering information sharing and the exchange of views between state and compact policy makers and other interested parties.

As part of that mission, the LLW Forum publishes a newsletter, news flashes, and other publications on topics of interest and pertinent developments and activities in the states and compacts, federal agencies, the courts and waste management companies. These publications are available to members and to those who pay a subscription fee.

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Low-Level Radioactive Waste Forum, Inc.

LLW Notes

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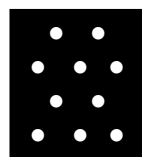
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Key to Abbreviations	
U.S. Department of Energy.....	DOE
U.S. Department of Transportation.....	DOT
U.S. Environmental Protection Agency	EPA
U.S. Government Accountability Office.....	GAO
U.S. Nuclear Regulatory Commission	NRC
Naturally-occurring and accelerator-produced radioactive material.....	NARM
Naturally-occurring radioactive material	NORM
Code of Federal Regulations.....	CFR

Low-Level Radioactive Waste Forum, Inc.

(Continued from page 1)

- ◆ updates regarding the EnergySolutions' Clive disposal facility from the operator's perspective.

Panelists will be members of the Low-Level Radioactive Waste Forum including

- ◆ Michael S. Ford, C.H.P., Chair, Texas Low-Level Radioactive Waste Disposal Compact Commission;
- ◆ Rodney Baltzer, President of Waste Control Specialists;
- ◆ Ward Brunkow, Decontamination Supervisor at Louisiana Energy Services/National Enrichment Facility;
- ◆ Kelly Crooks, Chief of the Rad Waste Operations Division of the U.S. Department of the Army's Joint Munitions Command; and,
- ◆ Thomas Magette, Senior Vice President of Nuclear Regulatory Strategy at EnergySolutions, Inc.

The panel co-chairs include Kathryn Haynes, Executive Director of the Southeast Compact Commission for Low-Level Radioactive Waste Management, and Marcia Marr, Executive Director of the Central Midwest Interstate Low-Level Radioactive Waste Commission. Linda Beach of Waste Control Specialists LLC is serving as the panel's sponsor and reporter. Todd Lovinger of the LLW Forum will serve as moderator.

Key LLW Topics Panel

Immediately following the LLW Forum's panel presentation will be a panel titled, "Selected Key Topics in U.S. Commercial Low-Level Radioactive Waste Management."

The panel will include the following topics:

- ◆ presentation of the Richard S. Hodes M.D. Honor Lecture Award to Larry Camper, Director of the Division of Waste

- Management & Environmental Protection at the U.S. Nuclear Regulatory Commission;
- ◆ the Waste Management 2010 Richard S. Hodes, M.D. Honor Lecture titled, "Low-Level Radioactive Waste Management in the United States—Where Have We Been: Where Are We Going?"
- ◆ the continuing expansion of WCS licenses and capabilities; and,
- ◆ assuring access to disposal for Class B and C low-level radioactive waste—point of view of users of radioactive materials.

Panelists will include

- ◆ Michael Mobley of the Southeast Compact Commission;
- ◆ Larry Camper of the U.S. Nuclear Regulatory Commission;
- ◆ Michael Lauer and David Cronshaw of Waste Control Specialists; and,
- ◆ Alan Pasternak of the CalRad Forum.

The panel co-chairs include Kathryn Haynes of the Southeast Compact Commission and John Coffman of DeNUKE Services. Linda Beach of Waste Control Specialists LLC is serving as the panel's sponsor and reporter.

Plenary Session

At this year's symposium, the plenary session will feature Dr. Ines Triay, Assistant Secretary for Environmental Management at the U.S. Department of Energy, and Dr. Wang Ju, Vice President of Beijing Research Institute of Uranium Geology and Head of the High Level Waste Disposal Program at China National Nuclear Corporation.

For additional information about the Waste Management symposium, please go to www.wmsym.org.

LLW Forum to Hold Spring 2010 Meeting Austin, Texas

Registration continues for the spring 2010 meeting of the Low-Level Radioactive Waste Forum. The meeting—which is being co-hosted by the State of Texas and Waste Control Specialists LLC—will be held at the Omni Hotel in downtown Austin, Texas on March 22-23, 2010. (The Executive Committee will meet on Monday morning.)

There will be an optional site tour of the Waste Control Specialists' facility and Louisiana Energy Services' National Enrichment Facility for interested parties after the conclusion of the LLW Forum meeting. (See box below for logistical details.) If interested, please take note and plan accordingly when making travel arrangements, as the travel to the WCS facility will require an additional flight segment or an approximately six hour drive in each direction.

Officials from states, compacts, federal agencies, nuclear utilities, disposal operators, brokers/processors, industry, and other interested parties are invited and encouraged to attend. The meeting is an excellent opportunity to stay up-to-date on the most recent and significant developments in the area of low-level radioactive

waste management and disposal. It also offers an important opportunity to network with other government and industry officials and to participate in decision-making on future actions and endeavors affecting low-level radioactive waste management and disposal.

Persons who plan to attend the meeting are encouraged to make their hotel reservations and send in their registration forms as soon as possible as we have exceeded our block for the last few meetings. Once the block is full, the hotel may charge a higher rate. (The phone number for the Omni Austin Hotel is 512/476-3700. The web address is www.omnihotels.com. Please ask for a room in the Low-Level Waste Forum block.)

To access the meeting bulletin and registration form, please go to www.llwforum.org and scroll down to the first bold paragraph on the Home Page. The documents may also be found on the About Page under the header "Meetings."

For additional information, please contact Todd D. Lovinger, the LLW Forum's Executive Director, at (202) 265-7990 or at LLWForumInc@aol.com.

Optional WCS and LES/NEF Site Tour

Persons interested in participating in the optional tour of the Waste Control Specialists' (WCS) facility and the Louisiana Energy Services' National Enrichment Facility (LES/NEF) should contact Candance Greenwood of WCS at (575) 394-4300. Pre-registration for the site tour is required.

Transportation To attend the site tour, you will need to travel to Midland, Texas immediately following the conclusion of the LLW Forum meeting on Tuesday afternoon, March 23. The LLW Forum meeting will conclude no later than 1:00 PM. Airlines that service Midland International Airport are American Eagle, Continental Express, and Southwest Airlines.

Low-Level Radioactive Waste Forum, Inc. *continued*

Hotel Accommodations WCS has arranged for a group rate of \$99.00/night at the Holiday Inn Express, which is located approximately 40 miles from the airport at:

Holiday Inn Express
1100 SOUTH MAIN
ANDREWS, TX 79714
(432) 524-4800

To obtain the group rate, please contact the hotel directly and ask for a room in the WCS/LLW Forum block.

Tentative Schedule The following is a tentative schedule for the site tour:

Tuesday (March 23rd)

- Flights from Austin to Midland arrive at ~6:30 PM and 8:05 PM (Southwest) or 9:30 PM (American).
- On your own transportation to Andrews Holiday Inn Express

Wednesday (March 24th)

- Bus/vans pick up in Andrews at 8:00 AM
- Drive to WCS site and process visitors to start tour at 9:00 AM
- WCS site overview presentation/videos - 45 minutes
- WCS site tour - 60 minutes
- WCS closing Q&A - 15 minutes
- Drive to LES/NEF site and process visitors to start tour at 11:30 AM
- LES/NEF site overview presentation/videos - 45 minutes
- LES/NEF additional presentations - 30 minutes
- LES/NEF closing Q&A - 15 minutes
- Provide sack lunch for drive back to Andrews
- Arrive Holiday Inn Express at 1:30 p.m
- Short 30 minute break to locate vehicles, use restrooms - leave hotel by 2:00 pm
- On your own transportation to Midland airport - arrive at 3:00 PM

Additional Information Please note that WCS and LES/NEF ask that tour participants wear closed-toed shoes (no sandals) and jeans or slacks. There are no restrictions on cameras for this tour. You will need to bring a valid ID, such as a drivers license. WCS will e-mail their visitor information guide to all registered site tour attendees and ask you to complete the forms prior to coming on the tour to speed up the processing of visitors upon arrival.

Low-Level Radioactive Waste Forum Meetings *2010 and Beyond*

The following information on future meetings of the Low-Level Radioactive Waste Forum is provided for planning purposes only. Please note that the information is subject to change.

For the most up-to-date information, please see the LLW Forum's web site at www.llwforum.org.

2010 Meetings

The State of Texas and Waste Control Specialists will co-host the spring 2010 meeting in Austin, Texas. The meeting will be held at the Omni Austin Hotel—which is located in the heart of downtown—on March 22-23, 2010. The meeting will include an optional visit for interested parties to the WCS facility in Andrews County, Texas (which is located near Midland, Texas), as well as to Louisiana Energy Services' National Enrichment Facility (which is located in Eunice, New Mexico). Registration for the meeting is now open. (See related story, this issue.)

The State of New York has agreed to host the fall 2010 meeting in Saratoga Springs, New York from September 27-28, 2010. The meeting will be held at the Gideon Putnam Resort & Spa. (For additional information about the hotel, please go to http://www.historichotels.org/hotel/Gideon_Putnam_Resort_Spa.) The hotel is currently undergoing a major renovation to be completed in spring 2010. The Gideon Putnam is located in the center of Saratoga Spa State Park about 1 mile outside downtown Saratoga Springs. Within walking distance on park grounds are two golf courses, the National Museum of Dance, the Saratoga Automobile Museum, the historic Roosevelt Mineral Baths and 10 natural mineral springs.

2011 Meetings

The Southeast Compact Commission for Low-Level Radioactive Waste Management has agreed to host the spring 2011 meeting of the LLW Forum at a location to be determined. The Southeast Compact is working on securing a co-host for the meeting.

The Rocky Mountain Low-Level Radioactive Waste Board and the Midwest Interstate Low-Level Radioactive Waste Compact Commission will co-host the LLW Forum's fall 2011 meeting. The meeting is tentatively scheduled to be held in October in Santa Fe, New Mexico.

2012 Meetings and Beyond

The Southwestern Low-Level Radioactive Waste Compact Commission and State of California will co-host the spring 2012 meeting of the LLW Forum. The meeting will be held at the Hyatt Regency San Francisco Airport Facility in Burlingame, California on April 24-25, 2012. The hotel—which is rated AAA Four Diamond Award Winning Service & Accommodations—has 24 hr complimentary shuttle service to and from the airport, as well as shuttle service from the hotel to the Bay Area Rapid Transit (BART) station.

The LLW Forum is currently seeking volunteers to host the other 2012 meeting and those thereafter. Although it may seem far off, substantial lead-time is needed to locate appropriate facilities.

Anyone interested in potentially hosting or sponsoring a meeting should contact one of the officers or Todd D. Lovinger, the organization's Executive Director, at (202) 265-7990 or at LLWForumInc@aol.com.

Central Midwest Compact/State of Illinois

Cobalt-60 Production Pilot Program Approved

The U.S. Nuclear Regulatory Commission has approved Exelon's license amendment request for a pilot program to explore the production of Cobalt-60 at the Clinton Nuclear Power Station, located about six miles east of Clinton, Illinois. Cobalt-60 is a radioactive material licensed by NRC for applications such as commercial irradiators and cancer treatment. Under the amended Clinton license, Exelon may generate and transfer Cobalt-60 under the NRC's regulations for byproduct material.

The amended license allows Exelon to alter the reactor's core by inserting up to eight modified fuel assemblies containing rods filled with Cobalt-59, which would absorb neutrons during reactor operation and become Cobalt-60. The pilot program will provide data on how the modified assemblies perform during reactor operation. Exelon has notified NRC that it plans to insert the modified assemblies during Clinton's current refueling outage.

The potential effects of the modified fuel assemblies on plant operation and accident scenarios were evaluated prior to approval by NRC staff, who concluded that the modified core will continue to meet the agency's safety requirements. A notice of opportunity to request a hearing on the license amendment request was published in the *Federal Register* on December 14, 2009. (See <http://edocket.access.gpo.gov/2009/pdf/E9-29672.pdf>.)

The deadline for filing a petition to participate in the proceeding as an affected party was February 12, 2010.

Northwest Compact/State of Idaho

American Ecology Changes Name to US Ecology, Inc.

On February 22, 2010, American Ecology Corporation announced that it has changed its corporate name to US Ecology, Inc. The name change is intended to align the company with its recognized brand name in the hazardous and radioactive waste disposal industry.

"Changing our corporate name to US Ecology better reflects the strong brand we have created with our unique network of facilities," said James Baumgardner, President and Chief Executive Officer. "It will also simplify contracting, government reporting and show our customers and investment community that we are truly one team dedicated to the long term growth of this business."

In 1984, American Ecology Corporation was formed as a holding company when Teledyne divested its waste disposal assets. Since that time, the company has operated its facilities under the US Ecology name and built significant brand recognition as a provider of hazardous and radioactive waste transportation, treatment, recycling and disposal services.

The company will continue to trade on the NASDAQ Global Select market under the ticker "ECOL." The corporate name change will not affect the validity or transferability of any existing stock certificates that bear the American Ecology Corporation name.

US Ecology, Inc. (formerly known as American Ecology Corporation), through its subsidiaries, provides radioactive, PCB, hazardous, and non-hazardous waste services to commercial and government customers throughout the United States including steel mills, medical and academic institutions, petro-chemical facilities and the nuclear power industry. The company—

which is headquartered in Boise, Idaho—is the oldest radioactive and hazardous waste services company in the United States.

US Ecology to Announce FY 2009 Earnings

On March 4, 2010, US Ecology, Inc. (ECOL) is scheduled to release its financial results for the fourth quarter and fiscal year ended December 31, 2009. The results will be released before the market opens and management will conduct an investor conference call the same day at 10:00 am EST to discuss the results and its 2010 business outlook. Questions will be invited after management's presentation.

Interested parties can access the conference call by dialing (866) 700-6293 and using the pass code 20083109. The conference call will also be broadcast live on the company's web site at www.americanecology.com. Finally, an audio replay of the teleconference will be made available through March 11, 2010 by calling (888) 286-8010 and using the pass code 99785873. The replay will also be available on the company's web site.

On January 4, 2010, US Ecology, Inc. declared that stockholders of record on January 15 will receive a quarterly cash dividend of \$0.18 per common share, payable on January 22.

US Ecology, Inc. (formerly known as American Ecology Corporation), through its subsidiaries, provides radioactive, PCB, hazardous, and non-hazardous waste services to commercial and government customers throughout the United States including steel mills, medical and academic institutions, petro-chemical facilities and the nuclear power industry. The company—which is headquartered in Boise, Idaho—is the oldest radioactive and hazardous waste services company in the United States.

Northwest Compact/State of Utah

Steve Creamer Resigns from EnergySolutions Christensen Named CEO & President

On February 19, 2010, EnergySolutions announced that Steve Creamer has resigned as the company's Chief Executive Officer (CEO). Creamer—who took over as the company's CEO in February 2005 upon its purchase by a private investor group—also resigned as Chairman of EnergySolutions' Board of Directors. (See *LLW Notes*, January/February 2005, pp. 1, 5 – 7.)

Upon acceptance of Creamer's resignation, EnergySolutions' Board of Directors appointed Val John Christensen as the company's CEO and President, effective immediately. Christensen—who has been serving as EnergySolutions' President since December 2008—was also elected to serve on EnergySolutions' Board of Directors. Christensen previously served as the company's Executive Vice President and General Counsel.

Steven Rogel—one of EnergySolutions' independent Directors—has assumed the role of Chairman of EnergySolutions' Board of Directors. Rogel formerly served as Chairman of the Board of Directors and CEO of Weyerhaeuser Company.

"Steve Creamer had the unique vision and energy to create a strong public company based in Utah that plays a critical role in America's nuclear industry," commented Christensen. "Steve will continue to be an important sounding board and a strong supporter of the Company."

EnergySolutions held a conference call on February 19 at 11:15 am EST to discuss the company's management changes. A replay of the conference call is available by dialing (888) 286-8010 and entering pass code 39585367.

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Utah Seeks Public Comment re Depleted Uranium Rule

The Utah Department of Environmental Quality, Division of Radiation Control, on behalf of the Utah Radiation Control Board, recently solicited public comment regarding a proposed change to Utah Radiation Control Rule R313-25-8. The proposed change involves “License Requirements for Land Disposal of Radioactive Waste— Technical Analysis.” Specifically, the rule incorporates language regarding site-specific performance assessment for facilities that accept depleted uranium for land disposal, prior to the disposal of significant quantities of depleted uranium.

The 30-day public comment period commenced on January 2, 2010. A notice of the comment period was published in the Salt Lake Tribune, the Deseret News, and the Tooele County Transcript Bulletin. Written comments were accepted through the close of business on February 2, 2010. According to the notice, “All comments received within the 30-day comment period will be considered when making a final decision regarding this proposed rule.” In addition to the opportunity for written comment, a public meeting on the proposed rule change was held in Salt Lake City on January 26, 2010.

For additional information, please contact Dane Finerfrock at (801) 536-4250 or at dfinerfrock@utah.gov.

EnergySolutions to Announce FY 2009 Earnings

On February 24, 2010, after the market closes, EnergySolutions Inc. (ES) is scheduled to release its financial results for the fourth quarter and fiscal year ended December 31, 2009. Management will conduct an investor conference call at 10:00 am EST on February 25 to discuss the results. Questions will be invited after management’s presentation.

Interested parties can access the conference call by dialing (800) 299-7089 and using the pass code 64722633. The conference call will also be broadcast live on the company’s web site at www.energysolutions.com. Finally, an audio replay of the teleconference will be made available through March 4, 2010 by calling (888) 286-8010 and using the pass code 31929819. The replay will also be available on the company’s web site.

On February 16, 2010, EnergySolutions announced that its Board of Directors had declared that stockholders of record on February 26 would receive a quarterly cash dividend of \$0.025 per share, payable on March 12.

EnergySolutions serves the global nuclear industry by offering its customers a full range of integrated services and solutions including nuclear operations, characterization, decommissioning, decontamination, site closure, transportation, nuclear materials management, the safe, secure disposition of nuclear waste, and research and engineering services across the fuel cycle.

Northwest Compact/States of Utah and Washington

**States & Compacts Submit
Comments re Blending of LLW**

Various states and compacts—including the States of Utah and Washington, as well as the Northwest Interstate Compact on Low-Level Radioactive Waste Management—submitted comments on the blending of low-level radioactive waste in preparation for the U.S. Nuclear Regulatory Commission’s stakeholder meeting that was held in Rockville, Maryland on January 14, 2010. (See 74 *Federal Register* 62,609.) The meeting, which was open to the public, included participants from various federal agencies, states and compacts, utilities, disposal site operators, brokers and processors, associations, environmental groups, and other interested stakeholders. (See *LLW Notes*, November/December 2009, pp. 1, 24 - 26.)

At NRC’s request, the Low-Level Radioactive Waste Forum designated Mark Yeager of the South Carolina Department of Health and Environmental Control to present input from states and compacts at the meeting. (See *LLW Notes*, November/December 2009, p. 17.) The organization’s Executive Director, Todd Lovinger, also attended and participated in the meeting.

The purpose of the meeting was to obtain additional information on blending and related issues in preparation for a vote paper that NRC staff is preparing for the Commission.

Comments from Utah

In its comments, the Utah Department of Environmental Quality stated in part as follows:

♦ *Utah is opposed to waste blending as the intent is to alter the waste classification for the purposes of disposal site access.*

♦ *Important matters dealing with waste blending, such as prohibition of certain practices, currently in guidance should be put into regulation. Blending issues transcend State boundaries not only because of access to limited disposal sites but because waste processors and individual generators are located throughout the Country. As a State with a commercial disposal site that accepts only Class A radioactive waste, it is important to recognize that if blending occurs, it occurs before receipt at the disposal site and enforcement of waste blending regulations is most meaningfully accomplished away from the disposal site.*

♦ *We concur with the NRC that dilution of radioactive wastes with uncontaminated materials should be explicitly prohibited.*

♦ *If some waste blending is found acceptable, the NRC should specify through a performance based rule, the criteria to blend wastes. The regulation may rely on homogeneity, concentration factors, etc. between blended waste streams. The NRC should specify, by rule, the minimum sampling and radiological characterization standards when assigning classification with respect to blending.*

♦ *The NRC has stated that waste blending is becoming an important issue because access to disposal sites is limited. Except for the disposal of sealed sources, there are no known Utah licensees who generate a waste stream that is other than Class A waste. Therefore, the closure of the Barnwell, South Carolina site to out of compact waste does not negatively impact any Utah licensees. Utah licensees with low-level radioactive waste have access to the US Ecology site in Richland, Washington. The Richland disposal site is permitted for Class A, B, and C low-level radioactive waste.*

States and Compacts *continued*

◆ Title 10 CFR Part 20, Appendix G, Subpart I (C)(12), states that classification is not required for wastes consigned to a disposal site. The NRC should expand this rule to explicitly specify who has the obligation to classify wastes and when.

Comments from Washington and the Northwest Compact

The Northwest Compact and the State of Washington submitted joint comments on the issue of blending for NRC's consideration that state in part as follows:

Concern: Provides access to existing disposal facilities for LLRW not authorized for disposal.

The primary incentive for states to form interstate compacts to manage LLRW on a regional basis is the exclusionary authority provided by federal law. To effectively regulate exclusionary authority, the compact and disposal facility operator must know the identity of the organization that generated the LLRW. If NRC were to allow re-attribution of waste following blending it would erode the effectiveness of existing law. NRC should not take action that compromises a compact's ability to effectively regulate its exclusionary authority.

Blending would potentially result in disposal facilities accepting wastes that their license does not authorize. The Clive, Utah facility is licensed by the state of Utah to accept Class A waste. Following the blending of wastes, Class B and C LLRW could also be shipped to the Clive facility contrary to the intent of the license. Such a practice will damage public perception of how LLRW disposal is regulated at a time when it is essential to work to improve public confidence in LLRW management.

Concern: Reduces incentive for development of regional facilities.

It appears the primary driver for consideration of a blending policy is the closure of the Barnwell facility. The closure of Barnwell should not be used as a reason to consider a blending policy that could provide LLRW, that otherwise would have no disposition pathway, access for disposal. Lack of access should be an incentive for future site development.

The 36 states without disposal access for Class B and C LLRW generate 15-20,000 cubic feet of LLRW annually. Although disposal is preferred to storage, this waste can be safely stored until disposal access becomes available. High-Level waste has been safely stored for many years at facilities throughout the country.

Concern: Reduces public confidence in how LLRW is managed.

It is very important that everything is done to improve public confidence in how LLRW is managed. This becomes virtually impossible when practices are allowed that result in the loss of the true identity of the generator of LLRW. When such practices are allowed the public views the management of LLRW as the equivalent of a "shell game." Everything possible must be done to eliminate this perception. To accomplish this, the attribution of waste should not be allowed to change following blending or processing.

The public will view blending as a method that provides certain LLRW access to disposal facilities, which prior to blending were not allowed. Such practices cannot be maintained if we hope to ever improve public perception regarding LLRW management.

Background

In 2007, NRC staff identified revision of the Branch Technical Position on Concentration Averaging and Encapsulation as one of seven high priority tasks in the agency's low-level radioactive waste strategic assessment. (See *LLW Notes*, November/December 2007, pp. 1, 20-23.)

In April 2009, at the request of NRC Commissioners, the agency hosted a briefing on low-level radioactive waste management and disposal at NRC headquarters in Rockville, Maryland. (See *LLW Notes*, March/April 2009, pp. 1, 30-31.)

Following the briefing, several interested stakeholders submitted comments to the Commission on various issues, including the blending of low-level radioactive waste. In particular, written comments were sent to NRC from EnergySolutions, Studsvik and Waste Control Specialists LLC. (See *LLW Notes*, September/October 2009, pp. 30-33.) The correspondences provide very different perspectives and analyses of the associated issues and highlight the strong opinions generated by this topic.

By letter dated August 27, 2009, NRC responded to comments on the issue of blending contained in EnergySolutions' correspondence. (See *LLW Notes*, September/October 2009, pp. 29-30.) By letters dated October 30, 2009, NRC responded to the correspondence from Studsvik and WCS on various issues, including the blending of low-level radioactive waste. (See *LLW Notes*, November/December 2009, pp. 13 - 17.)

On October 8, 2009, NRC announced that Chairman Gregory Jaczko "has directed the agency staff to develop a vote paper for the Commission to consider issues related to blending of low-level waste." (See *LLW Notes*, September/October 2009, pp. 28-29.)

On December 14-15, 2009, NRC hosted meetings to provide EnergySolutions, Studsvik and WCS the opportunity to explain their views on the blending of low-level radioactive waste. On January 14, 2010, NRC hosted a stakeholder meeting to solicit input on issues associated with the blending of low-level radioactive waste. The meeting, which was open to the public, was held in Rockville, Maryland. (See *LLW Notes*, November/December 2009, pp. 1, 24 - 26.)

For further information on the NRC meeting, please contact Brooke Traynham of NRC's Office of Federal and State Materials and Environmental Programs at (404) 729-3366 or at Brooke.Traynham@nrc.gov. For further information on the State of Utah's comments, please contact Dane Finerfrock of the Utah Department of Environmental Quality at (801) 536-4257 or at dfinerfrock@utah.gov. For further information on the comments from the Northwest Compact and the State of Washington, please contact Mike Garner of the Washington Department of Ecology at (360) 407-7102 or at jamg461@ecy.wa.gov.

Rocky Mountain Compact/State of New Mexico

Public Meeting re Proposed Uranium De-Conversion Plant

On January 14, 2010, the U.S. Nuclear Regulatory Commission held a public meeting in Hobbs, New Mexico, to discuss the agency's license review process for a uranium de-conversion plant proposed to be built in Lea County.

International Isotopes submitted the license application on December 31, 2009. It seeks a license to construct and operate a depleted uranium de-conversion and fluorine extraction

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processing facility in Lea County. The plant would convert depleted uranium hexafluoride into depleted uranium oxide, a form that is more chemically stable. The fluoride compounds extracted in the process would be sold commercially. The depleted uranium hexafluoride is expected to come from commercial enrichment facilities.

During the meeting, which was held in the Banquet Hall of the Lea County Events Center, NRC staff explained the technical and environmental review processes for the proposed facility, as well as NRC inspections should a license be granted. In addition, agency staff members had informal discussions with interested members of the public and answered questions from the public.

Rocky Mountain Board

Rocky Mountain Board Holds Regular Meeting

On December 14, 2009, the Rocky Mountain Low-Level Radioactive Waste Board held a regular meeting in Las Vegas, Nevada.

The following items, among others, were on the agenda for presentation and discussion at the meeting:

- ◆ status of Clean Harbors' regional facility;
- ◆ status of EnergySolutions' litigation;
- ◆ status of the Radioactive Import Deterrence Act (H.R. 515);
- ◆ regulatory issues regarding International Isotopes' proposed depleted uranium deconversion plant;
- ◆ status of the U.S. Nuclear Regulatory Commission's depleted uranium rulemaking;
- ◆ discussion of the U.S. Department of Energy's request for assistance in disposing of sealed sources;
- ◆ discussion of fiscal year 2008-2009 audit;
- ◆ Executive Director's report including financial issues, permit fee revenue and volumes authorized for export and disposal in 2009;
- ◆ consideration of amendment to the Board's budget; and,
- ◆ Executive Session for the discussion of legal issues.

For additional information, please contact Leonard Slosky, Executive Director of the Rocky Mountain Board, at (303) 825-1912 or at Lslosky@rmlwb.us.

Southeast Compact/State of Alabama

Unfinished Bellefonte Reactors Moved to Deferred Status

On January 14, 2010, the U.S. Nuclear Regulatory Commission announced that the agency has approved a request by the Tennessee Valley Authority (TVA) to change the unfinished Bellefonte Unit 1 and 2 reactors to "deferred" status. By so doing, TVA will have the opportunity to further evaluate the viability of completing construction and attempting to license the reactors for operation. The Bellefonte site is located on approximately 1,600 acres adjacent to the Tennessee River near Hollywood, Alabama.

"This is just one step in a long list of actions TVA must complete before they resume construction at Bellefonte," said Eric Leeds, Director of the NRC's Office of Nuclear Reactor Regulation. "We'll continue inspecting TVA's efforts to ensure they're maintaining the site and all the information necessary to support the plant in deferred status."

TVA submitted its request to move the reactors to "deferred" status on August 10, 2009. NRC's review of the request's supporting information

included inspection of the Bellefonte site in October 2009.

Unit 1's construction permit will expire on October 1, 2011. Unit 2's permit will expire on October 1, 2014. TVA has not indicated if it will seek to extend the permits, nor when it might seek to restart construction activities. TVA has indicated, however, that it will give NRC 120 days advance notice of any construction work, as well as provide information laid out in Commission policy to support such a decision.

In February 2009, the Commission authorized the staff to take the unique step of reinstating the permits, which TVA had withdrawn in 2006. TVA had asked the NRC to reinstate the permits for Bellefonte in August 2008.

On March 9, 2009, NRC staff issued an Order reinstating the permits in a "terminated" status. The action meant that TVA would need to provide additional information to show that the plants could be changed to "deferred" status, which would be necessary to put the plants on a path to possible future construction. The Blue Ridge Environmental Defense League, the Bellefonte Efficiency and Sustainability Team, and the Southern Alliance for Clean Energy have filed challenges to the NRC's Order before the Atomic Safety and Licensing Board (ASLB).

Construction permits for Bellefonte's two pressurized-water reactors were granted by NRC in 1974. By 1988, when TVA deferred completion of the plant, Unit 1 was approximately 88 percent complete and Unit 2 was approximately 58 percent complete. There is no nuclear fuel on the site.

Texas Compact

TLLRWDCC Publishes Proposed Import/Export Rules

On February 12, 2010, the Texas Low-Level Radioactive Waste Disposal Compact Commission (the "Texas Commission") published Preliminary Rules on the Exportation and Importation of Waste (31 Texas Administrative Code §§675.21 – 675.23) in the *Texas Register* (35 *Texas Register* 1028).

As drafted, the rule has three components of interest to LLW Forum members, including

- ◆ exportation of waste to a non-party state for disposal;
- ◆ exportation of waste to a non-party state for management or processing and return to the party states for management or disposal in the compact facility; and,
- ◆ importation of waste from a non-compact generator for management or disposal.

There is a sixty-day period provided during which interested stakeholders may provide comment on the proposed rule.

The proposed rule, as published, may be accessed on the Texas Register site, page 60, by going to the following link: <http://www.sos.state.tx.us/texreg/pdf/currview/0212prop.pdf>.

Proposed Rule

As drafted, the proposed rule is intended to set out the procedures and criteria by which petitions for export and import of low-level radioactive waste may be considered and granted or denied by the Texas Commission and by which permits for export and import agreements may be granted.

States and Compacts *continued*

Sections of the proposed rule set and assess fees associated with evaluating and processing export petitions and proposed import agreements.

In addition, sections of the proposed rule establish export permit fees and import agreement fees.

The following is a section-by-section overview of the draft proposed rule:

Exportation of Waste by a Compact Generator to a Non-Party State for Disposal

Proposed § 675.21 prohibits the exportation of low-level radioactive waste from the compact region for disposal in a non-party state without the filing of a written export petition with the Commission and its subsequent approval and issuance of an export permit. It requires that a non-refundable application fee of \$500 accompany the petition. The fee, which is payable by check or money order to the Texas Commission, is reduced to \$50 for petitioners seeking to export 100 cubic feet or less. An additional export petition evaluation fee may be assessed based on the actual time and expenses incurred in evaluating and acting on the petition. A process is set forth in the draft proposed rule for appealing the fee assessment.

The export petition must be filed and approved prior to export. The proposed import agreement shall be accompanied by a certification by the Texas Commission on Environmental Quality (TCEQ) that the waste acceptance criteria have been met. The export petition will be posted to the Texas Commission's web site and to the *Texas Register*. The compact facility operator has 20 days in which to file in writing with the Texas Commission any comments on the export petition. The Texas Commission will then distribute the export petition and comments to all interested parties for information and comment.

At a meeting held no sooner than 60 days or later than 120 days after the date of filing of the export petition, the Texas Commission will hold a meeting and act on the petition using factors

identified in the proposed rule including, among others, waste volume, type, radioactivity, economic impacts, import authorization, outstanding violations or issues, comments from interested stakeholders, and so forth.

The Texas Commission may take one of the following actions on the export petition, in whole or in part: approve the petition; deny the petition; or, approve the petition subject to specified terms and conditions. An export permit shall be issued for the term specified in the permit unless amended, revoked or cancelled. All permit holders must meet specified annual reporting requirements to the Texas Commission, which will then be posted to its web site. Permits are not assignable or transferable.

The draft proposed rule states, in part, as follows: "Nothing in this subchapter shall limit the authority of the [Texas] Commission to enter into agreements with the United States, other regional compact commissions, or individual states for the exportation or management of low-level radioactive waste. Nothing in this subchapter shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, or its disposal pursuant to 10 CFR § 20.302 (now 10 CFR § 20.2002)."

Exportation of Waste to a Non-Party State for Management or Processing and Return to the Party States for Management or for Disposal in the Compact Facility

Proposed § 675.22 states, "Where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction and return it to the party states for disposal in the compact facility, party state generators are not required to obtain an export permit."

Nonetheless, the generator is required to file a report with the Texas Commission prior to proposed export of the waste. The report shall include the following information:

- (1) the volume of waste proposed for exportation, the type, physical and

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chemical form of waste proposed for exportation, the approximate radioactivity of the waste, the specific radionuclides contained therein, and the location and name of the facility that will receive the waste for treatment; and,

- (2) the location and name of the waste processing facility(ies) receiving and processing the waste, the type of waste management employed at the waste management facility, whether the exported waste is mixed or blended with waste from other generators, and whether the exported waste is treated to encapsulate the waste.

Upon return of the waste to the generator, a report shall be filed informing the Texas Commission of:

- (1) the volume, physical form and activity of the waste returned to the party state generator; and,
- (2) certifications by the processor and generator that the waste has not been down blended or blended, mixed or commingled with low-level radioactive waste that was not generated in the party states, except for waste incidental to processing, not to exceed 1 percent of the total activity.

Importation of Waste from a Non-Compact Generator for Management or Disposal

Proposed § 675.23 prohibits the importation of low-level radioactive waste into the compact region for management or disposal that was generated in a non-party state unless the Commission has entered into an agreement for importation of such waste. No agreement to import waste for disposal may be granted unless the compact facility operator has provided to the Texas Commission a recommended total annual volume to be imported for disposal to the compact facility and certified that the disposal of imported waste will not reduce capacity for waste generated by the party states.

This section states that, “Disposal capacity is reserved for Texas and Vermont calculated by

total pre-treatment volume and total activity, and neither shall be reduced by non-Compact waste.” The Texas Commission will establish such disposal capacity by report every 5 years.

The Commission will promulgate the form of any importation agreement and post it on its web site or make it otherwise publicly available. A non-refundable application fee of \$500 shall accompany the proposed agreement, to be made payable to the Texas Commission by check or money order. An additional, non-refundable import petition evaluation fee may be assessed based on the actual time and expenses incurred in evaluating and acting on the petition.

The import petition must be filed and approved prior to import. The proposed import agreement shall be accompanied by a certification from TCEQ that the waste acceptance criteria have been met for the proposed import. The import petition will be posted to the Texas Commission’s web site and to the *Texas Register*. The compact facility operator has 20 days in which to file in writing with the Texas Commission any comments on the import petition. The Texas Commission will then distribute the import petition and comments to all interested parties for information and comment.

At a meeting held no sooner than 60 days or later than 365 days, subject to the financial resources of the Texas Commission, after the date of filing of the proposed import agreement, the Texas Commission will hold a meeting and act on the petition using factors identified in the proposed rule including, among others, waste volume, type, physical form, activity, economic impacts, the effect on the compact facility’s total annual volume recommended for importation, authorization of the compact facility to dispose of such waste, outstanding violations or issues, comments from interested stakeholders, and so forth.

The Texas Commission may take one of the following actions on the proposed importation agreement, in whole or in part: approve the

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proposed agreement; deny the proposed agreement; or, approve the proposed agreement subject to specified terms and conditions. An import agreement shall be issued for the term specified in the agreement unless amended, revoked or cancelled by the Texas Commission. The compact facility operator must meet specified quarterly reporting requirements to the Texas Commission regarding imported waste, which will then be posted to its web site. An import agreement is not assignable or transferable.

The draft proposed rule states, in part, as follows: “The [Texas] Commission continues to consider the policy issues related to assessment of fees for the importation of low-level radioactive waste based on volume or activity of the waste. Upon conclusion of consideration of this issue, the Commission may provide for such fees in this section.”

The draft proposed rule further states: “Nothing in this subchapter shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 CFR § 20.2002.”

Comment Period

The comment period on the proposed rule will close 60 days after its publication in the *Texas Register*.

Written comments may be submitted to

Margaret Henderson
Interim Executive Director
3616 Far West Boulevard
Suite 117, # 294
Austin, TX 78731

Comments may also be submitted electronically to Margaret.Henderson@tllrwdcc.org.

Background: Texas Compact and Texas Commission

Entry into the Texas Low-Level Radioactive Waste Disposal Compact (the “Texas

Compact”)—which included the states of Texas, Maine and Vermont—was ratified by an act of the Texas Legislature and signed into law by then-Governor Ann Richards in 1993. Maine subsequently withdrew from the compact, which was consented to by Congress and signed into law by then-President Bill Clinton in 1998. Texas was identified as the “host state” for a disposal facility to serve the compact region.

In November 2008, Texas Governor Rick Perry named the six Texas members of the Commission. The State of Vermont has also named its two Commissioners. (See *LLW Notes*, November/December 2008, p. 9.) The Commission held an inaugural organizational meeting on February 13, 2009. (See *LLW Notes*, January/February 2009, pp. 8 – 9.)

The Texas Commission is a legal entity, separate and distinct from the party states. As such, the Texas Compact stipulates, “The liabilities of the commission shall not be deemed liabilities of the party states.” Functionally, the Texas Commission has been established as an instrumentality of the party states and is authorized by the U.S. Congress to manage and restrict interstate commerce in low-level radioactive waste management and disposal within the party states, as an exception to the “Dormant” Commerce Clause of the U.S. Constitution.

Background: License Application Status

On January 14, 2009, by a vote of 2 to 0, TCEQ Commissioners denied hearing requests and approved an order on Waste Control Specialists LLC (WCS) Radioactive Material License application, No. R04100. (See *LLW Notes*, January/February 2009, pp. 1, 9-11.) Following the completion of condemnation proceedings and the acquisition of underlying mineral rights, TCEQ’s Executive Director signed the final license on September 10, 2009. (See *LLW Notes*, September/October 2009, pp. 1, 12-13.) Facility construction may not commence, however, until

States and Compacts *continued*

certain pre-construction requirements have been fulfilled and the TCEQ Executive Director has granted written approval.

The license allows WCS to operate two separate facilities for the disposal of Class A, B and C low-level radioactive waste—one being for the Texas Compact and the other being for federal waste as defined under the Low-Level Radioactive Waste Policy Act of 1980 and its 1985 amendments.

The WCS facility is currently authorized for the processing, storage and disposal of a broad range of hazardous, toxic, and certain types of radioactive waste. WCS is a subsidiary of Valhi, Inc.

For additional information on WCS license application, please go to the TCEQ web page at http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs_license_app.html or contact the Radioactive Materials Division at (512) 239-6466.

Actions Taken at January Texas Compact Meeting

The Texas Low-Level Radioactive Waste Disposal Compact Commission met on January 22, 2010. The meeting—which was open to the public—began at 9:00 am in the Extension Auditorium (E1.004) of the Texas State Capitol at 1400 North Congress in Austin, Texas.

A copy of the meeting agenda was posted to the Texas Compact Commission's web site at <http://www.tllrwfcc.org>.

Actions

The following is a summary of actions taken by the Commission on agenda items:

- ◆ *Approved the Annual Report subject to final*

editing by a subcommittee: Notice will be provided when the conference call or meeting to accomplish this task is scheduled.

- ◆ *Approved for publication a new Rule 675.2—to be captioned "Exportation and Importation of Waste"—to be contained in Chapter 675 of Part 21 of Title 31 of the Texas Administrative Code, as edited during the meeting:* The proposed rule will cover governing export and import of low-level radioactive waste and fees associated with the export and import permitting processes as provided for in Sections 2.01(4), 2.01(11), 3.05(6), 3.05(7), 3.05(8), 6.01, and 6.03 of the Texas Low-Level Radioactive Waste Compact (P.L. 105-236) as compiled in Chapter 403, Texas Health and Safety Code. The draft rule was published in the *Texas Register* on February 12, 2010. (See related story, this issue.)
- ◆ *Took no action on the University of Texas System shipment of waste subject to Resource Conservation and Recovery Act to EnergySolutions, LLC, in Oak Ridge, TN:* The Compact Commission determined that no action was necessary.
- ◆ *Took no action on Waste Control Specialist shipment of low level radioactive waste for processing and return to Texas for disposal:* This item was withdrawn by the applicant.
- ◆ *Took no action on draft bylaws.*
- ◆ *Renewed the contract with the Interim Executive Director for six months, pending funding.*

The next regular meeting of the Commission is scheduled for May 14, 2010. It will be held in downtown Austin, Texas—in the Capitol annex.

For additional information, please contact Margaret Henderson, Interim Executive Director of the Texas Compact Commission, at (512) 820-2930 or at margaret.henderson@tllrwfcc.org.

Compact Commission

On November 25, 2008, Texas Governor Rick Perry (R) announced appointments to the Commission. (See *LLW Notes*, November/December 2008, p. 9.) The Commission, which was created pursuant to Senate Bill 1206 in the 73rd Legislature, was established to provide for the management and disposal of low level radioactive waste while maintaining the priority of the health, safety and welfare of the citizens of Texas.

Michael Ford of Amarillo was named as Chairman and John White of Plano was named as Vice Chairman. Both terms are set to expire on November 25, 2014. In addition to Ford and White, Governor Perry appointed four other members to the Texas Commission including Richard Dolgener, Bob Gregory, Kenneth Peddicord, and Robert Wilson. Uldis Vanags and Stephen Wark have been appointed to represent the State of Vermont on the Compact Commission.

The Commission held its first meeting on February 13, 2009, and has held various meetings since then. (See *LLW Notes*, January/February 2009, pp. 8-9 and March/April 2009, pp. 11-13.)

License Application Status

On January 14, 2009, by a vote of 2 to 0, TCEQ Commissioners denied hearing requests and approved an order on Waste Control Specialists LLC (WCS) Radioactive Material License application, No. R04100. (See *LLW Notes*, January/February 2009, pp. 1, 9-11.) Following the completion of condemnation proceedings and the acquisition of underlying mineral rights, TCEQ's Executive Director signed the final license on September 10, 2009. (See *LLW Notes*, September/October 2009, pp. 1, 12-13.) Facility construction may not commence, however, until certain pre-construction requirements have been fulfilled and the TCEQ Executive Director has granted written approval.

The license allows WCS to operate two separate facilities for the disposal of Class A, B and C low-level radioactive waste—one being for the Texas Low-Level Radioactive Waste Disposal Compact, which is comprised of the States of Texas and Vermont, and the other being for federal waste as defined under the Low-Level Radioactive Waste Policy Act of 1980 and its 1985 amendments.

The WCS facility is currently authorized for the processing, storage and disposal of a broad range of hazardous, toxic, and certain types of radioactive waste. WCS is a subsidiary of Valhi, Inc.

For additional information on WCS license application, please go to the TCEQ web page at http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs_license_app.html or contact the Radioactive Materials Division at (512) 239-6466.

TLLRWDC to Edit Annual Report to Governors

The following notice was recently sent out by the Texas Low-Level Radioactive Waste Disposal Compact Commission and has been posted to the *Texas Register*:

A four-member ad hoc committee of the Texas Low-Level Radioactive Waste Disposal Compact Commission ("Compact Commission") will meet on February 11, 2010, at 10 AM, at the Texas Commission on Environmental Quality Agenda Room (Room 201S), Building E, 12100 Park 35 Circle, Austin, Texas, to edit finally the annual report to the Governors of Texas and Vermont that was considered by the Compact Commission at its meeting on January 22, 2010. Since this is not a formal

meeting, some members of the ad hoc committee may attend the meeting by telephone conferencing. The public is invited to attend.

For additional information, please contact Margaret Henderson, Interim Executive Director of the Texas Compact Commission, at (512) 820-2930 or at margaret.herderson@tllrwdcc.org.

State of North Carolina

Hearing Opportunity re GE-Hitachi Uranium Enrichment Application

On January 14, 2010, the U.S. Nuclear Regulatory Commission announced the opportunity for the public to intervene in the agency's review of an application by GE-Hitachi Global Laser Enrichment LLC for a license to construct and operate a uranium enrichment plant using laser technology near Wilmington, North Carolina. If approved, the plant would enrich uranium in the fissionable isotope U-235, for use in manufacturing nuclear fuel for nuclear power plants.

In addition, by an Order approved on January 7 and published in the *Federal Register* on January 13, the Commission set a 30-month schedule for the staff's license review and adjudicatory proceedings of the Atomic Safety and Licensing Board (ASLB).

GE-Hitachi submitted its environmental review for the application on January 30, 2009. Later that year, on June 30, the company submitted the remainder of the application. On April 9, 2009,

NRC published its notice of intent to prepare an Environmental Impact Statement (EIS) on the proposed facility and the opportunity for public comment on the environmental factors to be considered in that study. NRC formally docketed the application on August 6, 2009.

Persons wishing to become a party to the hearing on Global Laser Enrichment's application must demonstrate standing by explaining how they might be affected by the proposed facility. In addition, they must present admissible contentions regarding specific aspects of the application. Guidelines for filing petitions to intervene in the license application are spelled out in the Commission's Order. The deadline for filing a petition to intervene is March 15.

The Commission Order is available on the NRC web site at <http://www.nrc.gov/reading-rm/doc-collections/commission/orders/2010/2010-04cli.pdf>. Information on the GE-Hitachi application is available at <http://www.nrc.gov/materials/fuel-cycle-fac/laser.html>.

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EnergySolutions serves the global nuclear industry by offering its customers a full range of integrated services and solutions including nuclear operations, characterization, decommissioning, decontamination, site closure, transportation, nuclear materials management, the safe, secure disposition of nuclear waste, and research and engineering services across the fuel cycle.

For additional information please contact Mark Walker at mwalker@energysolutions.com or (801) 649-2194.

Central Interstate Compact

Central Compact Elects Jeffrey Meyers as New Chairman

On February 18, 2010, the Central Interstate Low-Level Radioactive Waste Commission held a special telephone meeting to elect a new Chairman for the remainder of the fiscal year 2009-2010. Jeffrey Meyers was elected as the new Chairman. His term will expire on June 30, 2010. Meyers replaces Catherine Sharp, who has new duties and felt it best served the Commission to resign as Chair. Sharp will remain as Oklahoma's representative on the Central Interstate Commission.

Meyers is a native of Baton Rouge, Louisiana. He received the degree of Civil Engineering from Louisiana State University in 1979. His career includes management experience in the industrial sector in central Texas in surface lignite mining/power generation. In 1985, he was a civil engineering consultant in St. Petersburg, Florida. He is presently employed with the Louisiana Department of Environmental Quality (LDEQ) as the Environmental Division Administrator of the LDEQ Emergency and Radiological Services Division. He also serves as the Louisiana Commissioner on the Central Interstate Commission.

The Central Interstate Commission votes annually for the Chairman position.

For additional information, please contact Rita Houskie, Administrator of the Central Interstate Compact, at (402) 476-8247 or at rita@cillrwcc.org.

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brittle) or determine how the reactor's systems can be modified to prevent PTS-induced vessel failure.

The rule—which was published in the *Federal Register* on January 4, 2010—is available on the NRC's web site by entering ML083470915 at <http://adamswebsearch.nrc.gov/dologin.htm>.

For additional information, please contact NRC staff members Steward Schneider at (301) 415-4123 or at Stewart.Schneider@nrc.gov or Barry Elliot at (301) 415-2709 or at Barry.Elliot@nrc.gov or Mark Kirk at (301) 415-6015 or at Mark.Kirk@nrc.gov.

Alabama, et. al. v. North Carolina**U.S. Supreme Court Hears Oral Arguments in Southeast Compact Suit**

On January 11, 2010, the U.S. Supreme Court heard oral arguments in a lawsuit initiated by the Southeast Interstate Low-Level Radioactive Waste Management Commission ("the Commission") and several of its member states against the State of North Carolina. Attorneys for the plaintiffs and defendants, as well as the U.S. Solicitor General, made presentations to the Court and answered questions from the Justices. The Court is expected to issue a decision by the end of June 2010.

The action, which seeks the enforcement of sanctions against the state for its alleged failure to develop a regional low-level radioactive waste disposal facility, was filed before the Court via original jurisdiction on June 3, 2002. (See *LLW Notes*, May/June 2002, pp. 1, 11.) This past summer, several compacts jointly filed an Amicus Brief in support of the Commission with the Court. The Solicitor General also filed an Amicus Brief to address specific questions presented by the case. (See *LLW Notes*, July/August 2009, pp. 18-21.)

"It is, of course, impossible to predict how the Court will decide the case based on the oral argument, but it was clear that the Justices were engaged with the issues that the Plaintiffs presented and recognized the importance of the case," said Carter Phillips of the law firm of Sidley Austin, which represented the member states and the Commission. "The Court's decision to grant the parties 90 minutes for the argument, by itself, reflects the significance the Court attaches to this litigation."

"We were particularly heartened by the support as *amici curiae* of the other Compact Commissions that are dealing with the problems of the proper disposal of low-level radioactive waste," said Michael Mobley, Chairman of the Commission. "It is clear that they recognize that the future of the compacting process is very much at stake in the outcome of this case."

"Compacts are important contracts between states, and North Carolina's actions raise extremely serious questions about the enforcement of the Compact governing disposal of low-level radioactive waste in the Southeast," stated Mobley in a press release issued prior to the hearing of the arguments. "Indeed, we believe North Carolina's actions, if allowed by the Court, threaten the viability of using Compacts to address other important inter-state problems as well."

Background

In September 1986, pursuant to the Southeast Compact, North Carolina was selected as the host state for the compact region. Shortly thereafter, North Carolina made a request to the Commission for financial assistance. In response, the Commission, on behalf of the party States, began providing funds to North Carolina in 1988 to assist with the development of a facility.

Over the next eleven years, the party States, via the Commission, provided approximately \$80 million to North Carolina in an effort to move siting and licensing to completion. North Carolina, however, did not site or license a facility, and in 1997, ceased all activity.

In response, the Commission found North Carolina in breach of the Southeast Compact and imposed sanctions on North Carolina in the amount of approximately \$80 million. In the interim, North Carolina took action to withdraw from the Compact. Ultimately, the state refused to comply with the sanctions.

Courts *continued*

In June 2002, the Southeast Compact Commission and four member states filed a Complaint in the U.S. Supreme Court seeking, among other things, to enforce the sanctions order. (See *LLW Notes*, May/June 2002, pp. 1, 11.) The Supreme Court accepted the case and assigned it to a Special Master for his review and recommendations to the Court as to how the matter should be resolved.

In June 2006, the Special Master found that the Southeast Compact did not authorize the Commission to impose monetary sanctions against member States and additionally that the Commission could not impose sanctions because North Carolina withdrew from the Compact prior to the sanctions determination. The Special Master found, however, that further proceedings were necessary to determine whether North Carolina breached its obligations under the Compact.

The parties engaged in discovery and then filed additional motions with the Special Master. Plaintiffs argued that North Carolina breached the Southeast Compact when it ceased performance and that they are therefore entitled to restitution of the \$80 million that the states provided to North Carolina in reliance on the Southeast Compact,

plus interest. North Carolina disagreed.

Earlier this year, the Special Master submitted a second report, with exceptions thereto being filed by the parties, for the Court's consideration. (See *LLW Notes*, May/June 2009, pp. 25.) The Special Master found that North Carolina did not breach the Compact and that North Carolina's withdrawal did not violate its implied covenant of good faith and fair dealing.

In July 2009, several compacts—including the Rocky Mountain Low-Level Radioactive Waste Board, the Northwest Interstate Compact Committee on Low-Level Waste Management, the Central Interstate Low-Level Radioactive Waste Commission, and the Midwest Interstate Low-Level Radioactive Waste Commission—jointly filed an Amicus Brief in support of the Commission with the Court. That same month, the Solicitor General filed an Amicus Brief to address specific questions presented by the case.

For additional information, please contact Kathryn Haynes or Ted Buckner of the Southeast Compact Commission at (919) 821-0500 or at khaynes@secompact.org or at tedb@secompact.org.

Chronology of Events

Staff of the Southeast Compact Commission prepared the following Chronology of Events regarding the Compact's lawsuit against North Carolina.

2000

July: the Commission filed a lawsuit in the U.S. Supreme Court against the State of North Carolina to enforce sanctions against North Carolina for the state's failure to comply with the provisions of the Southeast Compact law and to fulfill its obligations as a party state to the Compact. The Commission asked the Court to exercise its powers of original jurisdiction, which would allow the suit to bypass the lower courts and go directly to the Supreme Court.

September: North Carolina filed a Brief in Opposition to the Commission's lawsuit, opposing the action by the Commission, arguing, among other things, that the nature of the case did not justify the exercise of original jurisdiction by the Court. The Commission filed its Reply Brief in response to North Carolina.

Courts *continued*

October: The U.S. Supreme Court entered an order inviting the U.S. Solicitor General's office to provide a brief expressing the view of the United States regarding the Commission's suit against North Carolina.

2001

May: The acting U.S. Solicitor General filed an *Amicus Curiae* brief with the U.S. Supreme Court.

June: The U.S. Supreme Court entered an order denying the Commission's motion for leave to file a bill of complaint. The order did not address the merits of the Commission's complaint against North Carolina.

2002

June: The Commission joined four member states – Alabama, Florida, Tennessee, and Virginia – in filing a lawsuit in the U.S. Supreme Court against North Carolina to enforce sanctions against North Carolina. The states and the Commission asked the Court to exercise its powers of original jurisdiction, which would allow the suit to bypass the lower courts and go directly to the Supreme Court.

August: North Carolina filed a Brief in Opposition to the Commission's lawsuit. The State opposed the action by the Commission, arguing, among other things, that the Commission could not invoke the jurisdiction of the Supreme Court by adding four individual states as plaintiffs and that the nature of the case did not justify the exercise of original jurisdiction by the Court.

October: The U.S. Supreme Court entered an order inviting the U.S. Solicitor General's office to provide a brief expressing the view of the United States regarding the most recent suit against North Carolina.

2003

April: The U.S. Solicitor General filed a brief with the Supreme Court supporting the exercise of original jurisdiction and the acceptance of the suit against North Carolina. North Carolina filed a supplemental brief in response to the U.S. Solicitor General's brief.

June: The Supreme Court granted the motion for leave to file a bill of complaint and gave North Carolina thirty days to file an answer. North Carolina asked for and received an extension of time to file.

August: North Carolina filed its answer to the bill of complaint and a motion to dismiss the Commission as a plaintiff in the lawsuit.

September: The states and Commission filed an answer to North Carolina's motion to dismiss.

November: The Supreme Court appointed a Special Master with the authority to make recommendations to the Court.

Courts *continued*

December: The Special Master held his first status conference with the parties to the case.

2004

February: The U.S. Solicitor General filed a brief with the Supreme Court in response to North Carolina's motion to dismiss the Commission as a plaintiff in the lawsuit. The United States argued that the motion should be denied and the Commission should be allowed to proceed as a plaintiff.

March: The Commission and plaintiff states filed a motion for summary judgment in regard to their lawsuit seeking the enforcement of sanctions against North Carolina. North Carolina filed a motion to dismiss the plaintiffs' Bill of Complaint on the grounds that it failed to state a claim upon which relief can be granted.

May: The parties filed briefs in opposition to the pending motions. The U.S. Solicitor General filed an *Amicus Curiae* brief related to the motion for summary judgment and motion to dismiss. The brief argued that the plaintiffs should not be entitled to summary judgment to enforce the sanctions order because the Compact does not authorize the Commission to impose monetary sanctions. However the brief also argued that the plaintiffs can still pursue a judicial remedy against North Carolina for breach of its contractual obligations and that North Carolina's motion to dismiss should also be denied.

June: The parties filed reply briefs in support of the pending motions.

September: The Commission and plaintiff states and North Carolina presented oral arguments before the Special Master in support of the pending motions.

2005

No activity.

2006

June: The Special Master issued a report addressing the pending motions. The report (1) denied North Carolina's motion to dismiss the claims of the Commission, allowing the Commission to remain a party to the suit; (2) denied the plaintiffs' motion for summary judgment, finding that the Compact does not authorize the Commission to impose monetary sanctions; and (3) denied North Carolina's motion to dismiss the entire complaint, allowing the plaintiffs to pursue other monetary remedies based on other legal and equitable remedies, such as breach of contract, bad faith, and violation of the compact law. Based on his recommendation, the parties proceeded with the development of evidence to be presented to the Special Master.

October: The Special Master issued a scheduling order outlining a period of discovery through 2007 with an opportunity to file dispositive motions by late 2007.

2007

June: The Special Master issued Scheduling Order No. 2 that suspended the discovery process and

Courts *continued*

established a new schedule, which was developed by the parties, for the filing and resolution of dispositive motions. Based on the new schedule, the plaintiffs expected a preliminary indication from the Special Master by January 2008 of how he would rule on the motions.

November: The parties completed the filing of dispositive motions under Scheduling Order No. 2.

2008

January: The Commission and plaintiff states and North Carolina presented oral arguments before the Special Master in support of the pending motions.

February: At the request of the parties, the Special Master issued Scheduling Order No. 3 that deferred resumption of discovery until after a ruling by the Special Master on the pending motions.

March: The Special Master issued Scheduling Order No. 4 that directed the parties to submit limited supplemental briefs in response to legal and factual questions that arose from the January oral arguments.

June: The parties completed the filing of supplemental briefs.

2009

January: The Special Master released a draft report on the remaining issues.

March: The parties submitted their comments on the draft report to the Special Master.

April: The Special Master submitted the final versions of the preliminary report from June 2006 and the second report from 2009. The Court entered an order that noted that the Reports of the Special Master had been filed with the Court and provided a briefing schedule for submitting exceptions to the Special Master's Reports and other related filings.

September: The parties completed filing of exceptions to the reports of the Special Master.

November: The Supreme Court set January 11, 2010 as the date for oral arguments before the Court.

2010

January: The U.S. Supreme Court heard oral arguments from attorneys for the plaintiffs and defendants, as well as from the U.S. Solicitor General.

Advisory Committee on Medical Uses of Isotopes (ACMUI)

ACMUI Invites Nominations for Diagnostic Radiologist

The U.S. Nuclear Regulatory Commission's Advisory Committee on Medical Uses of Isotopes (ACMUI) is seeking nominations for the position of diagnostic radiologist. Nominees must be U.S. citizens and be able to devote approximately 160 hours per year to Committee business and have current diagnostic radiologist experience. The selected nominee will undergo a thorough security background check. Committee members currently serve a four-year term and may be considered for reappointment to an additional term.

The ACMUI advises the NRC on policy and technical issues related to the regulation of medical uses of certain radioactive materials. Responsibilities include providing comments on changes to NRC regulations and guidance documents; evaluating certain non-routine uses of radioactive material; providing technical assistance in licensing, inspection, and enforcement cases; and bringing key issues to the attention of the NRC for appropriate action.

Portions of ACMUI meetings may be open to the public.

Interested nominees should submit an electronic copy of their resume or curriculum vitae, along with a cover letter, to Ashley Cockerham of the NRC at Ashley.Cockerham@nrc.gov.

Advisory Committee on Reactor Safeguards (ACRS)

ACRS Elects Officers and Members-At-Large

Invites Nominations

The U.S. Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards (ACRS) recently announced the election of Dr. Said Abdel-Khalik as Chairman, Dr. J. Sam Armijo as Vice-Chairman, and Mr. John W. Stetkar as Member-at-Large. NRC also announced that it is seeking additional qualified candidates for appointment to the Committee.

The ACRS is a group of highly-qualified technical experts that advises the Commission, independently from NRC staff, on safety issues related to the licensing and operation of nuclear power plants and in areas of health physics and radiation protection.

Elections

Abdel-Khalik has over 35 years experience in mechanical and nuclear engineering with emphasis on reactor engineering and thermal hydraulics. He earned a master's degree and a doctorate degree from the University of Wisconsin-Madison in 1971 and 1973, respectively. He joined the Georgia Institute of Technology as the Georgia Power Distinguished Professor in 1987 and was named the Southern Nuclear Distinguished Professor in 1993.

Armijo has over 40 years of nuclear power experience—including expertise in nuclear fuels, structural materials, water chemistry, and advanced nuclear power systems. He received a bachelor's degree in metallurgical engineering from Texas Western College, his master's degree from the University of Arizona and his doctorate in materials science from Stanford University.

Stetkar has more than 29 years of experience as an engineering consultant and is an internationally recognized expert in the fields of risk assessment and reliability analysis. He also serves as a technical expert for the International Atomic Energy Agency. He holds a bachelor's degree in electrical engineering, a master's degree in nuclear engineering and an environmental engineering degree from the Massachusetts Institute of Technology. Stetkar is Principal of Stetkar & Associates in Lakeforest, California.

Nominations

NRC is seeking qualified candidates for appointment to the ACRS. The current 15-member committee includes individuals who possess specific technical expertise along with a broad perspective in addressing nuclear safety concerns. The Commission is seeking to fill multiple positions with individuals having technical expertise in the area of nuclear engineering coupled with operational exposure to issues relative to new reactor designs pertaining to digital instrumentation and control, civil/structural engineering, or radiation protection. In particular, the candidate must have at least 10 years of broad experience in nuclear engineering coupled with operational experience relative to new reactor design. Committee members serve a four-year term with the possibility of two reappointments for a total service of 12 years.

Interested candidates may submit resumes until April 13, 2010. Resumes should be sent to Kendra Freeland, ACRS, Mail Stop T2E-26, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 or e-mailed to Kendra.Freeland@nrc.gov.

ACRS Holds February Meeting

The U.S. Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards (ACRS) met on February 4-6, 2010 at the agency's headquarters in Rockville, Maryland.

The February meeting agenda included, among other things, guidance for the assessment of beyond-design-basis aircraft impacts, revisions to guidance on manual initiation of protective actions that applies to all types of nuclear power plants, proposed revisions to NUREG-1520 on the standard review plan for the NRC's review of a license application for a fuel cycle facility, the status of rulemaking for disposal of depleted uranium and other unique waste streams, and a draft ACRS report on the NRC's safety research program.

The ACRS is a group of experienced technical experts that advises the Commission, independently from NRC staff, on safety issues related to the licensing and operation of nuclear power plants and in areas of health physics and radiation protection.

Complete agendas for ACRS meetings can be found on the NRC's web site at <http://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/2010/>. For additional information on ACRS meetings, please contact Antonio Dias at (301) 415-6805.

U.S. Department of Energy

Oral Arguments Held re Yucca Mountain

On January 26-27, 2010, oral arguments were heard on a number of legal issues regarding the U.S. Department of Energy's license application for a high-level radioactive waste repository at Yucca Mountain. Arguments were heard by the U.S. Nuclear Regulatory Commission's Construction Authorization Board, which also held a case management conference concerning documents filed in the adjudicatory proceeding.

The arguments concerned several legal issues raised by the State of Nevada and the Nuclear Energy Institute. The issues center on DOE's specific requirements to project environmental conditions at Yucca Mountain thousands of years in the future and the extent of several design conditions required by NRC regulations.

The case management conference addressed concerns that were recently raised by the NRC's administrator of the Licensing Support Network, an online database of documents supporting the license application, the NRC's review, and the various challenges filed in the hearing. The administrator expressed concern about the availability of DOE's thousands of documents on the network should the department decide to withdraw the license application.

For additional information, please go to <http://www.nrc.gov/reading-rm/doc-collections/factsheets/>.

U.S. Nuclear Regulatory Commission

Registration Open for NRC's 22nd Annual Regulatory Information Conference

The U.S. Nuclear Regulatory Commission will hold its 22nd annual Regulatory Information Conference (RIC) at the Bethesda Marriott North Hotel on March 9-11, 2010. More than 3,000 persons are expected to attend the conference, including representatives from more than 25 foreign countries, members of Congress and a broad range of stakeholders from the nuclear industry. Agency speakers at the conference will include the NRC Chairman and Commissioners and Executive Director for Operations William Borchardt.

The conference brings together NRC staff, plant owners, nuclear materials users and other interested stakeholders to discuss nuclear safety topics and significant and current regulatory activities. Topics at this year's RIC include:

- ◆ applications for new nuclear power plants;
- ◆ regulatory approaches to new reactor designs;
- ◆ security and safety research;
- ◆ domestic and international nuclear power plant operating experience;
- ◆ agency safety culture; and,
- ◆ other technical issues.

The RIC, which is a joint presentation of NRC's Offices of Nuclear Reactor Regulation and Nuclear Regulatory Research, is free and open to the public. Early registration is encouraged, although on-site registration will also be available during the conference.

Persons interested in attending may register at the RIC web site and obtain a copy of the conference agenda by clicking on the RIC 2010 button on the NRC web page at www.nrc.gov.

License Renewals Continue to Move Forward

The U.S. Nuclear Regulatory Commission continues to process license renewal applications from various nuclear power plant operators. In that regard, the agency recently

- ◆ announced that it is seeking public comments on its preliminary conclusion that there are no environmental impacts that would preclude renewal of the operating license for the Duane Arnold Energy Center for an additional 20 years;
- ◆ announced that the application for a 20-year renewal of the operating licenses for Diablo Canyon Units 1 and 2 is available for public review and announced the opportunity to request a hearing on the application; and,
- ◆ held two public meetings to solicit public comments on the draft supplemental environmental impact statement (SEIS) for the license renewal application for the Prairie Island Nuclear Generating Plant Units 1 and 2.

Duane Arnold Energy Center

On February 12, 2010, NRC announced that it is seeking public comments on its preliminary conclusion that there are no environmental impacts that would preclude renewal of the operating license for the Duane Arnold Energy Center for an additional 20 years. The agency's draft supplemental environmental impact statement (SEIS) is available for public comment until April 19. It will be the subject of two public meetings to be held on March 31 at the Hiawatha City Hall beginning at 1:30 pm and at 7:00 pm. Both meetings will begin with identical overviews, including a discussion of the contents of the report, and then be opened for public comment.

The Duane Arnold Energy Center's single boiling-water reactor is located in Palo, Iowa—

approximately eight miles northwest of Cedar Rapids. The plant's owner, FPL Energy Duane Arnold, submitted the license renewal application on October 1, 2008. The current operating license expires on February 21, 2014.

At the conclusion of the public comment period, NRC staff will consider and address the comments received and issue a final supplement to the generic EIS. That supplement will contain a final conclusion regarding the environmental impact of the proposed relicensing of the Duane Arnold Energy Center.

A copy of the draft SEIS for the Duane Arnold Energy Center, along with other applicable documents, is available on NRC's Agencywide Documents Access and Management System (ADAMS) at <http://www.nrc.gov/reading-rm/adams/web-based.html>. The accession number is ML100310027. A copy of the license renewal application is available at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications/duanearnold.html>.

Diablo Canyon Nuclear Plant

On December 8, 2009, NRC announced that the application for a 20-year renewal of the operating licenses for Diablo Canyon Units 1 and 2 is available for public review. Shortly thereafter, on January 11, 2010, the agency announced the opportunity to request a hearing on the application.

The Diablo Canyon plant is located in Avila Beach—12 miles from San Luis Obispo, California. The licensee, Pacific Gas & Electric Company, submitted the renewal application on November 23, 2009 for Units 1 and 2. NRC staff subsequently determined that the application contains sufficient information for the agency to formally “docket,” or file, the application and begin its technical review. Docketing the application does not preclude requesting additional information as the review proceeds; nor does it indicate whether the Commission will grant the application.

Federal Agencies and Committees *continued*

On February 9, 2010, NRC staff conducted two public meetings to discuss the agency's review process for the Diablo Canyon license renewal application. By mid-March, interested parties must file their hearing petition requests. Petitions may be filed by anyone whose interest may be affected by the license renewal and who wishes to participate as a party in the proceeding.

The Diablo Canyon license renewal application is available on the NRC web site at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html>.

Prairie Island

On December 16, 2009, NRC held two public meetings to solicit public comments on the draft supplemental environmental impact statement (SEIS) for the license renewal application for the Prairie Island Nuclear Generating Plant Units 1 and 2. The meetings began with overviews, including a discussion of the contents of the report, and then were opened for public comment. An "open house" preceded the start of each meeting to provide interested members of the public with an opportunity to talk informally with agency staff. However, formal comments were only accepted during the transcribed meetings.

As part of the application, an environmental report was submitted and then reviewed by NRC. Agency staff also performed an on-site audit and considered comments made during the environmental "scoping" process. Based on its review, NRC has preliminarily determined that the environmental impacts of the license renewal for the Prairie Island nuclear power plant Units 1 and 2 do not preclude license renewal.

The plant is located in Welch, Minnesota— 28 miles southeast of Minneapolis, Minnesota. Its operator, Northern States Power Company, has applied for a 20-year license extension for each of the two units at the site. If approved, the expiration date for Unit 1 would be extended to August 9, 2033 and for Unit 2 would be extended to October 29, 2034.

A copy of the draft supplement to the EIS can be found on ADAMS using accession number ML0931703484 at <http://www.nrc.gov/reading-rm/adams.html>.

NRC Regulations/Status of Renewals

Under NRC regulations, a nuclear power plant's original operating license may last up to 40 years. License renewal may then be granted for up to an additional 20 years, if NRC requirements are met. To date, NRC has approved license extension requests for 59 reactor units. In addition, NRC is currently processing license renewal requests for several other reactors.

For a complete listing of completed renewal applications and those currently under review, go to <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html>.

Comment Period Extended re Proposed Uranium Recovery Facilities

On January 29, 2010, the U.S. Nuclear Regulatory Commission announced the extension of the public comment period on draft Supplemental Environmental Impact Statements (SEIS) for three proposed uranium recovery facilities in Wyoming. After receiving several requests from interested parties to extend the comment period, the agency provided an additional 30 days—until March 3—to provide comments.

The draft reports are the first issued by NRC under its Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities (GEIS, NUREG-1910), which was published in June 2009. The GEIS analyzed environmental impacts common to in-situ recovery operations in four regions of the western United States. The SEIS for each facility incorporates relevant discussions and conclusions from the GEIS and examines site-specific impacts unique to that proposed facility and its location.

Federal Agencies and Committees *continued*

All three draft SEIS preliminary recommendations are that, unless safety issues mandate otherwise, there are no environmental impacts that would preclude granting licenses for the proposed facilities.

The three draft SEIS's cover license applications for the Moore Ranch Project, proposed by Uranium One in Campbell County; the Lost Creek Project, proposed by Lost Creek ISR, LLC, for Sweetwater County; and the Nichols Ranch Project, proposed by Uranerz Energy Corp in Campbell and Johnson counties. Each draft SEIS was coordinated with the State of Wyoming, the U.S. Environmental Protection Agency, and the U.S. Bureau of Land Management—as well as potentially affected Native American tribes near the license applicant facility locations.

The GEIS and the individual draft SEIS reports are available on the NRC's web site through the agency's online documents database, ADAMS, at <http://www.nrc.gov/reading-rm/adams/web-based.html>, using accession numbers ML093350050 for Moore Ranch; ML093350051 for Lost Creek; and ML093340536 for Nichols Ranch. More information on the in situ uranium recovery process is available at <http://www.nrc.gov/materials/uranium-recovery/extraction-methods/isl-recovery-facilities.html>.

NRC Seeks Input on Open Government Initiative

The U.S. Nuclear Regulatory Commission is seeking public input on what information or data would be useful for the agency to publish online and what transparency, public participation and collaboration improvements NRC should consider in developing its Open Government Plan. Although the agency has a longstanding commitment to openness and transparency in conducting its business, it is taking this opportunity to expand and strengthen that commitment in serving the public and to support the Office of Management and Budget's Open

Government Directive.

The Directive, issued in December 2009, helps implement the President's January 21 memorandum on transparency and open government. It calls for federal agencies to address four objectives for creating a more open government including:

- 1) publish government information online,
- 2) improve the quality of government information available to the public,
- 3) create and institutionalize a culture of open government, and
- 4) create an enabling policy framework for open government.

According to the Directive, each agency will also develop and publish an Open Government Plan that describes how the agency will improve transparency and integrate public participation and collaboration into its activities. The Plan is to have at least one specific, new "flagship" initiative as well as extensive public and employee engagement in the Plan's formulation.

As one of its initial steps, NRC has launched an Open Government web page to serve as the gateway for agency activities related to the Open Government Directive. Through this page, the public has an opportunity to provide input to the agency's Open Government Plan as well as other open-government matters. NRC expects to publish its Open Government Plan by April 7, 2010.

NRC's Open Government web page can be found at <http://www.nrc.gov/open>. The Open Government Directive is available at <http://www.whitehouse.gov/open/documents/open-government-directive>.

NRC Seeks Participants re Safety Culture Policy Discussions

The U.S. Nuclear Regulatory Commission is seeking individuals interested in participating in workshops and roundtable discussions to gather input on the agency's draft policy statement on "safety culture." The workshops will be held throughout 2010.

The Commission recently published the draft safety culture policy statement setting forth NRC's expectation that all licensees and certificate holders establish and maintain a safety culture that protects public health and safety and the common defense and security. The draft policy defines safety culture as, "That assembly of characteristics, attitudes and behaviors in organizations and individuals which establishes that as an overriding priority, nuclear safety and security issues receive the attention warranted by their significance."

Staff expects that the workshops will help forge a consensus around the objectives, strategies, activities and measures that enhance safety culture for NRC-regulated activities. The effort should also help develop high-level description/traits of areas important to safety culture. These concepts will be incorporated into the final safety culture policy statement and could also be incorporated into the NRC's oversight process.

The draft safety culture policy statement can be found at <http://edocket.access.gpo.gov/2009/pdf/E9-26816.pdf>. Information about the workshops can be found at <http://edocket.access.gpo.gov/2009/pdf/E9-29793.pdf>.

Individuals or organizations interested in participating should contact Alex Sapountzis or Maria Schwartz at Alexander.Sapountzis@nrc.gov or Maria.Schwartz@nrc.gov.

NRC Approves Nuclear Reactor Vessel Protection Requirements

On January 4, 2010, the U.S. Nuclear Regulatory Commission announced that the agency has approved a final rule to provide alternate requirements for protection against pressurized thermal shock events in nuclear power plant reactor vessels. Updated analysis methods allow pressurized-water reactor (PWR) licensees to better account for some effects of aging on their reactor vessels.

The rule increases the realism of calculations used to examine a PWR's susceptibility to a phenomenon known as pressurized thermal shock (PTS). PTS can occur under some scenarios that rapidly cool the internal surface of the reactor vessel while the vessel is pressurized. This would subject the steel to substantial thermal stresses, which could lead to cracking and potential failure of the vessel. The other type of U.S. nuclear power plant design, a boiling water reactor, is not susceptible to PTS.

The rule allows licensees of operating PWRs to voluntarily adopt a more realistic technical approach for determining the probability of vessel failure during a PTS event. This revised approach was derived using data from research on currently operating PWRs. The data indicate the overall risk of PTS-induced vessel failure after 60 years of reactor operation is much lower than previously estimated.

If a licensee chooses to adopt the new approach, the rule would require PWR operators to perform detailed analyses of both reactor vessel surveillance data and the results of regular reactor vessel inspections. If the analyses' findings exceed certain limits, the operator must take steps to either limit the reactor vessel's exposure to neutron radiation (which can make the vessel

(Continued on page 22)

To Obtain Federal Government Information

by telephone

- DOE Public Affairs/Press Office (202) 586-5806
- DOE Distribution Center (202) 586-9642
- 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
- 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). listserv@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
- GAO homepage (access to reports and testimony) www.gao.gov

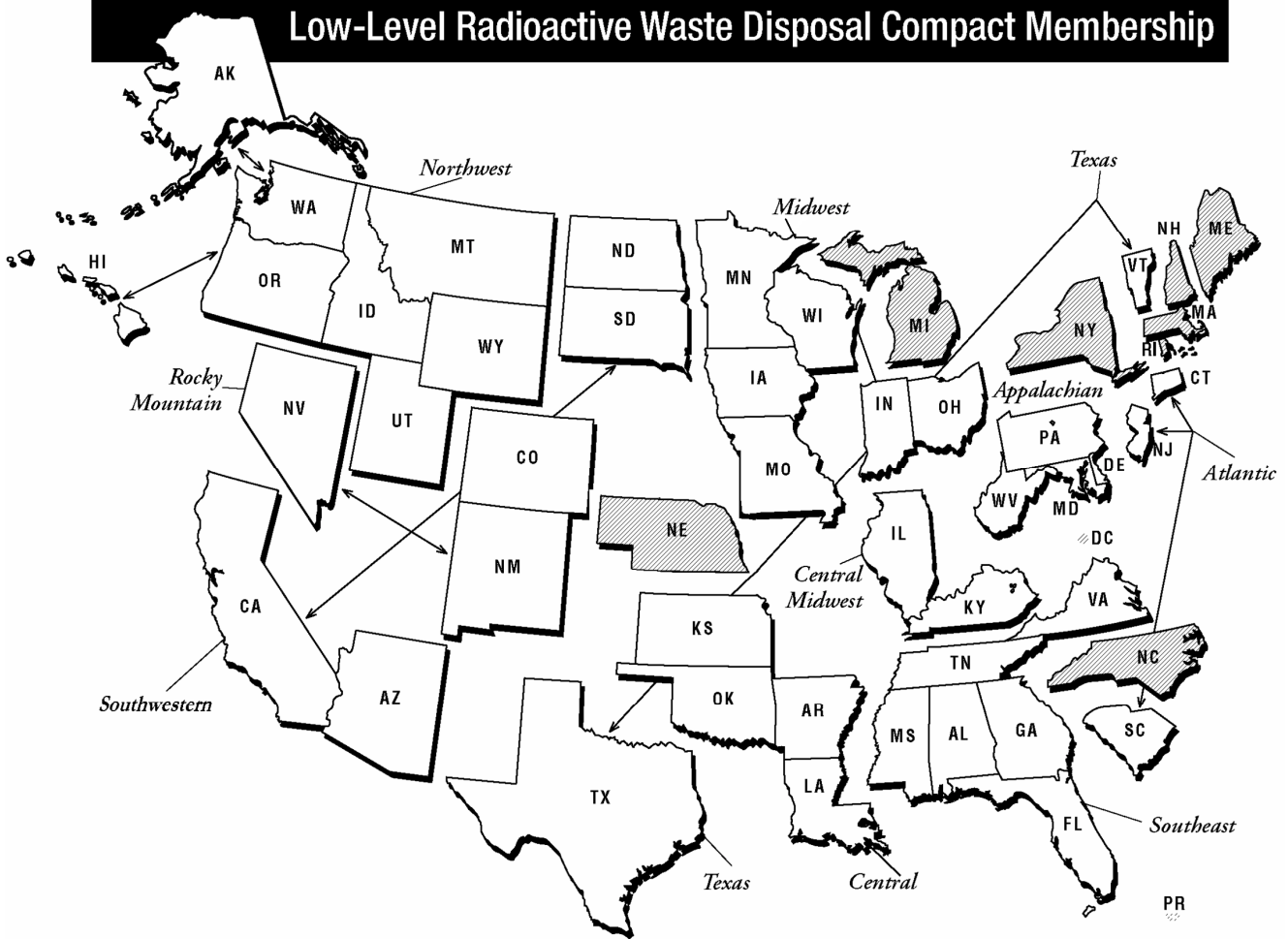
To access a variety of documents through numerous links, visit the web site for the LLW Forum, Inc. at www.llwforum.org

Accessing LLW Forum, Inc. Documents on the Web

LLW Notes, LLW Forum *Contact Information* and the *Summary Report: Low-Level Radioactive Waste Management Activities in the States and Compacts* are distributed to the Board of Directors of the LLW Forum, Inc. As of March 1998, *LLW Notes* and membership information are also available on the LLW Forum web site at www.llwforum.org. The *Summary Report* and accompanying Development Chart 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 at U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, or by calling (703) 605-6000.

Low-Level Radioactive Waste Disposal Compact Membership



Appalachian Compact

Delaware
Maryland
Pennsylvania
West Virginia

Atlantic Compact

Connecticut
New Jersey
South Carolina

Central Compact

Arkansas
Kansas
Louisiana
Oklahoma

Central Midwest Compact

Illinois
Kentucky

Northwest Compact

Alaska
Hawaii
Idaho
Montana
Oregon
Utah
Washington
Wyoming

Midwest Compact

Indiana
Iowa
Minnesota
Missouri
Ohio
Wisconsin

Rocky Mountain Compact

Colorado
Nevada
New Mexico

Northwest accepts Rocky Mountain waste as agreed between compacts

Southeast Compact

Alabama
Florida
Georgia
Mississippi
Tennessee
Virginia

Southwestern Compact

Arizona
California
North Dakota
South Dakota

Texas Compact

Texas
Vermont

Unaffiliated States

District of Columbia
Maine
Massachusetts
Michigan
Nebraska
New Hampshire
New York
North Carolina
Puerto Rico
Rhode Island