

LLW
FORUM

LLW Notes

Volume 10, Number 4

June 1995

South Carolina Legislature Passes Barnwell Proviso *Access Negotiable with Other States, Compacts*

On June 13, both houses of the South Carolina General Assembly adopted a budget for FY 1995-'96 containing a proviso relevant to the low-level radioactive waste disposal facility at Barnwell, South Carolina. The proviso includes, among other things, language to

- withdraw the state from the Southeast Compact by repealing the compact legislation;
- authorize the Governor to appoint a committee to negotiate to establish a new compact with other states "that have demonstrated a commitment to the compacting process and that have made substantial progress in implementing that process";
- authorize the new compact commission, subject to approval by the South Carolina compact representatives, to negotiate contracts with other states and with individual generators directly;
- impose a tax of \$235 on each cubic foot of low-level radioactive waste disposed of in the state, with most of the tax revenues allocated for the South Carolina Educational Assistance Endowment Fund; and
- prohibit disposal within South Carolina of low-level radioactive waste from North Carolina.

Effective Date

The budget legislation will become effective after receiving the Governor's signature, which is expected by July 1—the start of the new fiscal year. Any line items that are vetoed by the Governor may be considered by the General Assembly in special session in October.

Background

Previous Legislative Action Budget conferees from the General Assembly had agreed upon a budget proposal on June 8 that included the Barnwell proviso. The language in the proviso is the same as that adopted by the state Senate on May 5. (See *LLW Notes*, April/May 1995, p. 4.) The budget approved earlier by the state House of Representatives did not allow for extended access to Barnwell. (See *LLW Notes*, March 1995, p. 4.)

continued on page 13

In this Issue

- Special Feature: California Site • supplement*
- Federal Court on Surcharge Rebates • Page 16*
- Texas Compact Legislation • Page 20*
- GAO Report re: LLRW • Page 23*
- EPA LLW Standard Not to Apply to NRC/Agreement State Facilities • Page 26*

MASTER

LLW Forum

LLW Notes

Volume 10, Number 4 • June 28, 1995

Editor, Cynthia Norris

Contributing Writers: Holmes Brown,
Jean Colsant, Todd Lovinger, Cynthia Norris,
Laura Scheele, M. A. Shaker

Materials and Publications, Jean Colsant

Layout & Design, M. A. Shaker

LLW Notes is distributed by Afton Associates, Inc. to Low-Level Radioactive Waste Forum Participants and other state and compact officials identified by those Participants to receive *LLW Notes*. Determinations on which federal officials receive *LLW Notes* are made by Afton Associates based on LLW Forum Executive Committee guidelines in consultation with key federal officials. Specific distribution limits for *LLW Notes* are established by the Executive Committee.

To assist in further distribution, all documents included in LLW Forum mailings are listed in *LLW Notes* with information on how to obtain them.

Recipients may reproduce and distribute *LLW Notes* as they see fit, but articles in *LLW Notes* must be reproduced in their entirety and with full attribution.

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

Low-Level Radioactive Waste Forum
c/o Afton Associates, Inc.
403 East Capitol Street
Washington, DC 20003
VOICE (202)547-2620 • FAX (202)547-1668
INTERNET llwforum@aol.com

Prepared by Afton Associates for the LLW Forum under State of Washington Department of Ecology Contract Number C9400065 through a grant from the U.S. Department of Energy.

Contents

South Carolina Legislature Passes Barnwell Proviso	1
LLW Forum continued	3
LLW Forum Holds Spring Meeting	3
LLW Forum Waste Information Working Group Meets	10
LLW Forum Mixed Waste Working Group Meets	11
LLW Forum Site Tour of SEG Facility Conducted in Conjunction with Knoxville Meeting	12
New Forum Participants in New York and Washington	12
States and Compacts continued	13
Host State TCC Meets in Raleigh	13
Southeast Compact Commission Policy Unchanged	14
Courts	16
Federal Court Rules Appalachian Compact is Entitled to Additional Surcharge Funds	16
Court Calendar	18
U.S. Congress	20
Texas Compact Legislation Ordered Reported to the U.S. House and Senate	20
Mixed Waste Legislation Fails in Texas Legislature	21
GAO Cautions Against Changing Commercial LLRW Management System	23
Senate Holds Hearing on Privatization of the U.S. Enrichment Corporation	24
Federal Agencies and Committees	26
EPA Standards Not to Apply to Facilities Licensed/Regulated by NRC, Agreement States	26
President, Vice President Announce EPA Priorities	27
NRC Commissioners to Finalize Agreement State Policy	28
Senator Glenn Writes to NRC re GAO's Decommissioning Report	29
NRC Discontinues LLRW Topical Report Reviews	30
Jackson Sworn in as NRC Commissioner	31
NRC Issues Status Report on Storage Licenses	31
New Materials and Publications	32
Obtaining LLW Forum and Other Materials and Publications	39
Receiving LLW Notes by Mail	39
Special Feature: California Site	supplement

Key to Abbreviations

Code of Federal Regulations	CFR
U.S. Environmental Protection Agency	EPA
U.S. Department of Energy	DOE
U.S. Department of Transportation	DOT
U.S. General Accounting Office	GAO
U.S. Nuclear Regulatory Commission	NRC

LLW Forum Holds Spring Meeting

The LLW Forum met for three days in Knoxville, Tennessee, from May 16–18. Twenty-one Forum Participants and Alternate Participants representing 20 states and compacts participated in the meeting—along with 15 resource people from the State of Vermont, DOE, NRC, Advisory Commission on Nuclear Waste, DOT, the Congressional Research Service, the U.S. Senate Committee on Governmental Affairs, the Department of the Army, Diversified Scientific Services, Scientific Ecology Group, American Ecology, and International Technology Corporation.

Also in attendance as observers were 11 additional state and compact officials; one official from the Department of the Army; three DOE contractor staff; 11 individuals representing variously one local users group association, one national generators association, one national anti-nuclear organization, two generators, three facility developers/operators, and one broker/processor; and one private citizen.

Highlights of the meeting follow.

For further information, see *LLW Forum Meeting Report*, May 16–18, 1995, prepared by Afton Associates, Inc.

Congressional Research Service Review of Plutonium Figures in Ward Valley License Application

A staff person from the Congressional Research Service (CRS) reported on the status of his analysis of the plutonium estimates contained in the license application for the Ward Valley low-level radioactive waste disposal facility. His presentation included information on

- how CRS originally became involved in this issue;
- an earlier report prepared on the same topic;
- related data, including decontamination figures from Dresden I reactor and the Westinghouse and Indian Point models, and their implications for plutonium disposal at Ward Valley; and
- several factors indicating that in the future considerably less plutonium will likely be disposed of at low-level radioactive waste disposal facilities than in the past.

National Academy of Sciences' (NAS) Report re Ward Valley Site

An Afton staff person summarized the findings and recommendations of the National Academy of Sciences committee that had examined seven technical issues concerning the planned low-level radioactive waste disposal site in Ward Valley, California. (See related story, this issue.)

Discussion followed on a range of topics, including the following:

- the monitoring plan for the Ward Valley facility;
- an official report by the U.S. Geological Survey comparing water percolation rates at the Ward Valley site and the closed low-level radioactive waste disposal facility in Beatty, Nevada (see *LLW Notes*, October 1994, p. 30);
- how NAS' recommendations for further study will be addressed;
- pertinent findings by a contractor to the California Department of Health Services; and
- NAS' copyright policy.

Executive Session

First Quarter 1995 Financial Report Forum Participants were informed that expenditures by the LLW Forum contractor were slightly under budget for the first quarter of 1995.

Post-1996 Funding At the recommendation of the Executive Committee and the Planning Committee, the following motions were approved:

that the LLW Forum ask the State of Washington to submit a grant request to the U.S. Department of Energy on behalf of the LLW Forum;

that the LLW Forum submit a three-year grant application with a five-year planning schedule;

that the Planning Committee continue its work and explore structural changes to the LLW Forum as part of the five-year plan with an emphasis on eventual use of dues or some other option;

that the LLW Forum operate on a flat budget for calendar years 1997-1999, and

that the LLW Forum give authority to the Executive Committee and the Planning Committee to negotiate the final grant request amount with the U.S. Department of Energy and the State of Washington for calendar years 1997-1999.

Executive Committee Report

Upcoming Briefings of Federal Officials Lee Mathews, acting Convenor, reported that

- the LLW Forum Outreach Project continues to provide the Forum's newsletter and *Summary Report: Low-Level Radioactive Waste Management Activities in the States and Compacts* to interested citizens, and
- the LLW Forum Executive Committee plans to meet in Washington, D.C., with federal officials and others in the third week of June.

Amendments to the Rules of the LLW Forum

Clarifying Amendment A clarifying amendment to the *Statement of Principles* was approved as follows:

A specifically noticed brief time period shall be set aside at each LLW Forum meeting to discuss contractor proprietary information and personnel matters.

Attendance at Executive Committee Meetings At the January LLW Forum meeting, a proposal was made to amend the LLW Forum's rules regarding attendance at Executive Committee meetings. After discussion, the following language amending the *Statement of Principles* was approved:

Each Executive Committee meeting shall be open to the general public except that at each committee meeting an executive session will be set aside for legal matters, personnel matters, other matters considered to be proprietary and confidential, and other matters of LLW Forum internal governance.

... Participation in any Executive Committee meeting or a portion of such a meeting shall be permitted to any person so invited by the majority of Executive Committee members.

Overview of Plans for DOE's Mixed Waste

State and DOE Coordination A DOE official discussed

- the primary purpose of the Federal Facility Compliance Act (FFCA),
- the requirement that DOE prepare volume information and site treatment plans for DOE's mixed wastes,
- the fact that the site treatment plans are to be approved by either the host state or EPA and that DOE is not subject to fines if it is in compliance with approved site treatment plans and the corresponding compliance orders by October 1995, and
- the next steps in the FFCA process from DOE's perspective.

Commercial Mixed Waste Management

Forum Participants heard a report for the LLW Forum's Mixed Waste Working Group. (See related story, this issue.) A Connecticut official reported on the working group's interface with the FFCA Task Force noting that

- at the request of the LLW Forum, an FFCA Commercial Mixed Waste Subgroup member who is also an LLW Forum Mixed Waste Working Group member, has been placed on the FFCA Task Force Steering Committee to represent the views of non-recipient states supporting the acceptance of commercial mixed waste for management by DOE facilities; and
- the FFCA Task Force agreed to request that DOE accept commercial mixed waste for treatment when the principles outlined by the FFCA Task Force are met and after commercial treatment options have been explored as the preferred option.

At the recommendation of the Mixed Waste Working Group, the LLW Forum unanimously approved the following motion:

that the LLW Forum commend the National Low-Level Waste Management Program and Kathleen Asbell in particular for responding quickly and thoroughly to the LLW Forum's request for an update to the 1991 *Mixed Waste Management Options Report*.

Forum Participants who are Mixed Waste Working Group members agreed that, after the next FFCA Task Force meeting, they would report back to the LLW Forum on whether future actions by the LLW Forum are needed to ensure that commercial mixed waste treatment is addressed under the FFCA process.

License Termination When No Disposal Access is Available

NRC Considerations for License Termination An NRC official explained that license termination can create problems for NRC under the following scenarios:

- when low-level radioactive waste has been abandoned by a licensee;
- when a license has been revoked by NRC for poor performance; and
- when a licensee goes bankrupt and has waste on site, but no disposal capacity is available.

He noted that a licensee that is currently operating and wishes to terminate the license but has no available disposal capacity may apply for a simplified NRC license that addresses possession only. NRC staff are currently writing a commission paper to explore available options for license termination when no disposal capacity is available.

Case Studies A Forum Participant discussed the case of RAMP Industries, which was a hazardous and low-level radioactive waste broker/processor located in Denver, Colorado. An Alternate Forum Participant described the Butkin Precision Manufacturing Company, which performed precision machining of metallic parts on a subcontract basis in Connecticut.

Discussion During the discussion, Forum Participants from California, Michigan, Pennsylvania, and Washington discussed their experiences with license termination.

104th Congress: Correspondence and Pending Legislation

Legislation on Low-Level Radioactive Waste Disposal and Related Issues Forum Participants heard a report on the status of several bills before the 104th Congress involving low-level radioactive waste disposal and related issues—such as the Nuclear Waste Independent Review Act, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act, and legislation concerning the U.S. Enrichment Corporation.

Other Relevant Pending Legislation A staff person from the U.S. Senate Committee on Governmental Affairs discussed the effect of the change in party control at the U.S. House and Senate on issues related to low-level radioactive waste disposal. He also provided information on several pieces of proposed legislation, including bills on budget resolutions, the elimination of federal agencies, unfunded mandates, and regulatory reform.

Special Motions

In other action during the LLW Forum meeting, the following motions were unanimously approved:

that the LLW Forum commends Jerry Begley for his meritorious service to the nation through his active participation in the LLW Forum and wishes him the very best in his impending retirement

and

that the LLW Forum thank[s] Larry McNamara for his hard work and continuing dedication in promoting and sustaining an extremely successful and productive cooperative working relationship between the Department of Defense and the LLW Forum.

Congressional Consent to Compacts: Process and Progress

Compacts and Congress Forum Participants heard a report on the process for developing compact amendments and submitting them to the United States Congress. The discussion included an analysis of which committees in both the U.S. House of Representatives and the U.S. Senate have jurisdiction over low-level radioactive waste disposal compacts.

Recently Enacted Compact Legislation A representative of the Central Midwest Compact reviewed recent amendments to the compact, and explained the purpose of the amendments and the issues that were raised during their consideration before the 103rd Congress.

Pending Compact Legislation A Vermont official presented information on the current status of the Texas Low-Level Radioactive Waste Disposal Compact including a short overview of the compact's introduction in the 103rd and the 104th Congress, recent action on the legislation in both the U.S. House and Senate, and the schedule for upcoming hearings.

Upcoming Compact Legislation A Midwest Compact representative reviewed the content and the history of proposed amendments to the compact, describing their approval by the compact and submission to the state legislature. A representative of the Rocky Mountain Compact explained that adjustments to the compact are necessary as a result of the commission's contract with the State of Washington and the Northwest Compact for disposal access. A representative of the Central Compact discussed compact amendment language and the process for amending the compact.

Federal Radiation Protection Standards

Definition and Comparison of Technical Terms in Standards An NRC official defined and compared the technical terms relating to human exposure contained in various federal radiation protection standards including terms such as the deep dose equivalent, the whole body/any organ dose, the committed effective dose equivalent, and the total effective dose equivalent. He also explained the differences between the methodologies contained in the International Committee on Radiological Protection (ICRP) Publication Two and ICRP Publication Number 30.

Coordination of Federal Standards A U.S. Senate Government Operations Committee staff person discussed the GAO report that addressed inconsistencies in federal radiation protection standards and the strategy that federal agencies and the White House have developed to increase the consistency of radiation protection standards used by various federal agencies.

EPA Proposal for General Population Exposure Limit A Forum Participant, who is a member of the working group that developed the general population exposure standard, explained that the EPA proposal recommends that As Low As Reasonably Achievable (ALARA) principles be followed and that the proposal sets a general population exposure limit of 100-millirem effective dose equivalent received by or committed in a single year to any individual from all sources combined.

Discussion During discussion, Forum Participants pointed out that the inconsistencies in federal radiation protection standards are confusing. Forum Participants then unanimously agreed

that Afton Associates staff draft a letter for discussion at the September LLW Forum meeting that supports Senator Glenn's initiative to improve the consistency of federal radiation protection standards.

Scoping Session: Other Regulated Waste

Forum Participants

- were given information about the preamble of EPA's draft preproposal Low-Level Radioactive Waste Standards that refers to other regulated waste;
- heard about a proposal to allow disposal of baghouse dust in hazardous waste facilities; and
- discussed the disposal of radioactive materials in landfills and the release of small amounts of radioactive materials into sewers.

During the discussion, Forum Participants requested that someone from EPA attend the next LLW Forum meeting to speak about other regulated waste. Forum Participants also requested that someone from NRC attend the next LLW Forum meeting to provide information on disposal of radioactive materials in landfills and sewers.

Rationale for NRC Branch Technical Position on Performance Assessment

An NRC staff person

- explained that NRC developed the branch technical position on performance assessment in order to present options and proposed staff approaches on key regulatory issues in performance assessment;
- discussed the four key issues covered in the performance assessment branch technical position—time frame for performance assessment; uncertainty analysis; site conditions, processes and events over long periods of time; and engineered barriers; and
- noted that a draft branch technical position is due to be published in the *Federal Register* by NRC for public comment soon with a separate NUREG document on performance assessment to be published within the next year.

Panel Discussion: Long-Term Care Funding

Introduction to Long-Term Care Funding A Forum Participant from Texas

- summarized the federal requirements for financial assurances that apply to applicants for low-level radioactive waste disposal licenses;
- explained that a typical means of meeting these requirements is through establishment of a long-term care fund; and
- provided information about long-term care funding in Texas.

Forum Participants representing host states then indicated which states currently have requirements for long-term care funds or are planning to institute them.

Calculation of Funding Level, and Collection and Preservation of Funds Panelists representing Pennsylvania, Illinois and Washington covered the following points:

- desired funding level and relation, if any, to site closure method;
- methods for calculating both predictable and unpredictable long-term care expenses;
- any supplementary mechanisms for obtaining additional funds for unpredictable expenses;
- methods for collecting and preserving funds; and
- disposition of funds if a facility is never built.

Other Forum Participants also provided information on experiences or plans in their states and compacts.

Implementing the Uniform Manifest

Report of the LLW Forum Waste Information Working Group Forum Participants heard a report from the Waste Information Working Group. (See related story, this issue.) The working group will continue to follow the implementation of the uniform manifest, the implementation of state and compact tracking systems, and the interregional movement of waste as related to tracking and the manifest.

NRC's Final Rule An NRC staff person reported that NRC's final uniform manifest rule was published in the *Federal Register* on March 27, 1995, and will not be effective until March 1998, although states and compacts can implement its provisions sooner. Several of the rule's general principles were then outlined by an LLW Forum staff person, including:

- that the applicability of manifesting requirements are governed by the destination of the waste and not by the means of conveyance,
- that manifesting is only required if the licensee deems the entire shipment to be low-level radioactive waste, and
- that the applicability of manifesting requirements under the final rule will often differ between states and compacts that have disposal facility access and those that do not.

Representatives of Illinois and Washington then provided specific information about manifesting requirements for the following seven shipment transfers under the new rule:

- originating licensee to processor to disposal,
- originating licensee to sorting facility to disposal,
- originating licensee to laundry to disposal,
- originating licensee to decontamination facility to disposal,
- originating licensee to incinerator to disposal,
- originating licensee to collector to processor to disposal, and
- originating licensee (sealed source user) to sealed source manufacturer to disposal.

LLW Forum Dialogue with Low-Level Radioactive Waste Processors

Forum Participants carried out a wide-ranging discussion with a panel representing three waste processors—American Ecology, Diversified Scientific Services (DSSI), and Scientific Ecology Group (SEG). During the discussion, it was noted that volumes of radioactive waste continue to decline steeply and that treatment processes are always being developed and improved. As a result, there is a general consensus that changes in the industry are likely to be driven by lower volumes and higher costs.

Following introductory remarks, the panelists discussed the following issues:

- new treatment capacities that are being developed by industry and how they compare to DOE treatment developments;
- whether treatment capacity for mixed waste is being underutilized and what can states and compacts do regarding the situation;
- whether industry would be more interested in developing treatment capabilities for certain very small commercial mixed waste streams if the DOE waste stream were available to the commercial sector;
- any problems that generators are having in accepting waste back after treatment due to commingling that has introduced isotopes that may not be within the scope of their license;
- the ability of the commercial sector to minimize or eliminate cross-contamination and steps that are currently being taken in regard to this issue; and
- the ability of processors to comply with prescribed treatment methods.

LLW Forum Meeting—Other Topics

The following topics were also part of the agenda:

- new developments in states and compacts;
- DOE plans for Greater-Than-Class C radioactive waste management;
- federal waste management including the impact of reorganization on the DOD Executive Agency, and consolidation facilities for storage;
- the DOE Low-Level Waste Management Program including the status of the merger between Lockheed and Martin Marietta and its effect on the National Low-Level Waste Management Program;
- international export of radioactive waste for disposal or reuse including reports on the status of NRC's import/export rule and proposals to dispose of commercially generated radioactive waste in an unnamed foreign country and in Mexico;
- a description of a type of low-level radioactive waste known as a scintillation cocktail;
- a liaison report on the Host State Technical Coordinating Committee;
- the institutional control period for low-level radioactive waste facilities including NRC regulations and resulting practices, the approach to long-term care being taken by the Commonwealth of Massachusetts, and NRC's giving increased scrutiny to changing the institutional control period for contaminated sites that are being decontaminated and decommissioned;
- interregional shipment of waste for processing including the Rocky Mountain Board's draft policy on the export of sealed sources;
- the U.S. Department of Transportation's perspective on low-level radioactive waste including DOT authority over radioactive waste transportation, current regulations in this area, and the effect of DOT regulatory authority on state/compact siting efforts; and
- LLW Forum agenda planning for the September 1995 meeting.

LLW Forum Waste Information Working Group Meets

Presentations and Discussion

The Waste Information Working Group met on May 17, in conjunction with the LLW Forum spring meeting. Members of the inactive Manifest Tracking Working Group were invited to attend the meeting since a large portion of the discussion focused on NRC's final uniform manifest rule, which was published in the *Federal Register* on March 27 (60 *Federal Register* 15,649). During the course of the working group meeting, members

- listened to a presentation from LLW Forum staff on the final uniform manifest rule making, including changes from the previous rule and its practical application;
- heard a report from an official of the Rocky Mountain Low-Level Radioactive Waste Board on the impact of manifesting requirements on the disposal of sealed sources;
- discussed prior and future interaction with staff of the U.S. Department of Transportation; and
- listened to a presentation on the status of test applications of DOE's Low-Track system in the Midwest Interstate Low-Level Radioactive Waste Compact region, the Southwestern Low-Level Radioactive Waste Compact region, and the State of Connecticut.

Future Activities

Waste Information Working Group members agreed to continue to focus on

- the implementation of the uniform manifest;
- the implementation of state and compact tracking systems; and
- the interregional movement of waste as it relates to tracking and the manifest.

Attendance

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

- Janice Deshais of the Northeast Interstate Low-Level Radioactive Waste Commission;
- William Dornsife of the Pennsylvania Department of Environmental Resources;
- Michael Klebe of the Illinois Department of Nuclear Safety; and
- Marc Tenan of the Appalachian States Low-Level Radioactive Waste Commission.

Others participating in the meeting were

- Jerry Begley of the Northwest Interstate Compact on Low-Level Radioactive Waste Management;
- Eric Schwing of the Central Midwest Interstate Low-Level Radioactive Waste Commission;
- Terry Strong of the Washington Department of Health; and
- Holmes Brown, Todd Lovinger, and M. A. Shaker of the LLW Forum/Afton Associates, Inc.

Observing was

- Diane D'Arrigo of the Nuclear Information and Resource Service.

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

LLW Forum Mixed Waste Working Group Meets

Presentations and Discussion

The Mixed Waste Working Group met on May 16, in conjunction with the LLW Forum meeting. During the course of the working group meeting, members

- heard a report from a DOE representative on the department's perspective on the Federal Facility Compliance Act (FFCA) process;
- heard a report from a representative of DOE's National Low-Level Waste Management Program on the update to the *Mixed Waste Management Options Report*;
- heard a report from an NRC representative on NRC's perspective on the return of residual wastes to NRC licensees after treatment;
- heard a report from an NRC representative on the rationale for NRC's branch technical position on baghouse dust disposal;
- heard a report from a working group member on a proposal for a mixed waste disposal facility in Texas (see related story, this issue); and
- discussed recent activities of the FFCA Task Force, the next steps in the FFCA process, and preparation for the next FFCA Task Force meeting.

Resolution re Updated Options Report During the meeting, the working group unanimously approved a motion

that the Mixed Waste Working Group recommend to the LLW Forum that the LLW Forum commend the National Low-Level Waste Management Program and Kathleen Asbell in particular for responding quickly and thoroughly to the LLW Forum's request for an update to the 1991 *Mixed Waste Management Options Report*.

Attendance

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

- Harvey Collins of the California Department of Health Services;
- Domenic Forcella of the Connecticut Hazardous Waste Management Service;
- Ronald Gingerich of the Connecticut Hazardous Waste Management Service;
- Lee Mathews of the Texas Low-Level Radioactive Waste Disposal Authority;
- Don Womeldorf of the Southwestern Low-Level Radioactive Waste Compact Commission.

Others participating in the meeting were

- Jerry Begley of the Northwest Interstate Compact on Low-Level Radioactive Waste Management;
- Janice Deshais of the Northeast Interstate Low-Level Radioactive Waste Commission;
- Steve Moeller of the Nebraska Governor's Policy Research Office;
- Terry Strong of the Washington Department of Health;
- Kathleen Asbell of DOE's National Low-Level Waste Management Program;
- James Kennedy of NRC;
- Paul Nelson of the Boyd County [Nebraska] Low-Level Waste Monitoring Committee;
- Terry Plummer of DOE;
- Marilyn Stone of DOE; and
- Holmes Brown, Laura Scheele, and M. A. Shaker of Afton Associates, Inc.

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

LLW Forum Site Tour of SEG Facility Conducted in Conjunction with Knoxville Meeting

Forum Participants and others had the opportunity to tour the Scientific Ecology Group's (SEG) Bear Creek facility in Oak Ridge, Tennessee, on May 19. Transportation to and from the facility was provided by SEG, which sponsored the tour.

Itinerary Tour participants viewed the following areas:

- incinerator control room;
- UltraCompactor control room, waste sorting area;
- metal melting facility with induction furnace; and
- quantum-catalytic extraction process test area.

Attendance Ten Forum Participants and Alternates took part in the tour, along with eight additional state and compact officials, and three officials from federal agencies. Six other interested parties—including representatives of one regional users group association, one generator, and two facility developers/operators—also attended, as did three LLW Forum staff members.

New Forum Participants in New York and Washington

New York—William Valentino

On May 3, William Valentino, President of the New York State Energy Research and Development Authority (NYSERDA), was appointed by the Governor of New York to be the new Participant representing the state on the LLW Forum. He has worked as a policy and financial analyst at the state, federal and local levels of government. He served as a Marine Corps pilot in Viet Nam. He is also President of the National Association of State Energy Research and Technology Transfer Institutions, and a member of both the New York State Energy Planning Board and the New York State Environmental Board.

Valentino has a master's degree in public administration from the University of West Florida and a bachelor's degree from Long Island University. He has also completed the program for senior government executives at the JFK School of Government at Harvard University.

Washington—Terry Strong

On May 10, Terry Strong, Chair of the Northwest Interstate Compact on Low-Level Radioactive Waste Management, was appointed by the Governor of Washington to be the state's new Forum Participant. Since 1989, Strong has been Director of the Radiation Protection Division at the Department of Health for the State of Washington. He is a member of the National Conference of Radiation Control Program Directors, Washington State Environmental Health Association, Washington State Public Health Association, and the Cascade chapter of the Health Physics Society.

Strong has an M.P.H. degree in health education from the University of Michigan School of Public Health, a B.S. in bacteriology and public health from Washington State University, and an A.S. from Olympic College.

States and Compacts *continued*

South Carolina (continued from page 1)

Southeast Compact Votes At meetings on May 2 and May 18, the Southeast Low-Level Radioactive Waste Compact Commission considered extension of access to the low-level radioactive waste disposal facility at Barnwell, South Carolina. At both meetings, motions were introduced to authorize disposal of out-of-region waste at Barnwell but restrict access for North Carolina generators. These motions failed to pass by the two-thirds majority needed. (See related story, this issue.)

Following the May 2 meeting, South Carolina Governor David Beasley (R) released a prepared statement referring to public health and safety concerns related to low-level radioactive waste disposal, and to the revenue that would be lost if the Barnwell site closed. He also noted that North Carolina has missed the deadline of March 15, 1995, for licensing a new low-level radioactive waste disposal facility, and he rebuked the Southeast Compact Commission for not taking action against North Carolina. He stated that, as a result of the compact's decision, he was "drafting a proposal to

enable South Carolina to withdraw from the compact and establish procedures under which we either form a self-sustaining compact or find other partners who are committed to a true compact system and will fulfill their obligations to the partnership."

Governor Beasley's Initial Proposal Governor Beasley proposed publicly to extend access to Barnwell in a press conference on April 13, in which he called on the state General Assembly to extend the life of the Barnwell facility for up to 10 years. The Governor also criticized North Carolina for not siting a facility more expeditiously and said that he had written to all of the Governors in the Southeast Compact asking them to join him in sanctions against North Carolina, including denial of access to Barnwell. (See *LLW Notes*, April/May 1995, p. 7.)

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates, via facsimile in a News Flash on June 13.

Host State TCC Meets in Raleigh

The Host State Technical Coordinating Committee (TCC) met in Raleigh, North Carolina, on May 3-4. The TCC meeting was attended by 12 state officials, two staff persons from DOE's National Low-Level Waste Management Program, one DOE official, one EPA official, one NRC official, and five persons from private companies. Laura Scheele, an Afton staff member who serves as the LLW Forum liaison to the TCC, also attended to present a report on LLW Forum activities.

The following items constituted the TCC agenda:

- state highlights and reports;
- agency and organizational reports, including reports from DOE and the National Low-Level Waste Management Program, EPA, NRC, the LLW Forum, and the Nuclear Energy Institute/Electric Power Research Institute;
- managing large components and source term development;

- the draft report by the Conference of Radiation Control Program Director's E-5 Committee on environmental monitoring at closed low-level radioactive waste disposal sites;
- the NRC review of the 3R-STAT computer code developed by Vance & Associates; and
- a description of the proposed disposal site in Wake County, North Carolina.

The meeting included a site tour of the proposed Wake County site. The TCC plans to meet next on August 16-17 in Boston, Massachusetts, and then on December 11 in Phoenix, Arizona, in conjunction with the Department of Energy's annual Low-Level Radioactive Waste Management Conference.

For further information, contact TCC Co-Moderators Russ Garcia and Thomas Kerr of DOE's National Low-Level Waste Management Program at (208)526-0483 and (202)526-8465, respectively.

Southeast Compact/ North Carolina

Southeast Compact Commission Policy Unchanged at Second Meeting re Barnwell Facility

On May 18, the Southeast Low-Level Radioactive Waste Compact Commission met for a second time this month to consider extension of access to the low-level radioactive waste disposal facility at Barnwell, South Carolina. Two motions seeking to authorize disposal of out-of-region waste at Barnwell and to impose special access conditions for North Carolina generators failed to pass.

Because the motions concerned importation of waste into the compact region, they needed a two-thirds majority vote, with the affirmative vote of both Commissioners from the current host state of South Carolina, in order to become compact policy.

The Barnwell facility is currently designated to serve the compact region until January 1, 1996—the date set in South Carolina law for closure of the facility to out-of-state waste.

Sequence of Votes

Mike Mobley, one of the Commissioners from Tennessee, introduced a resolution that included the following operative language:

- (1) The Barnwell disposal site shall serve as a regional facility for the Southeast Compact until and beyond December 31, 1995, subject to paragraph (2) herein below, until authorized to close by the South Carolina General Assembly, or until the next regional facility is operational, whichever occurs first, but in any event, no later than December 31, 2005; and

- (2) Beginning January 1, 1996, low-level radioactive waste generated in North Carolina shall be allowed to be disposed at the regional facility in Barnwell, South Carolina, from and after the date that the Southeast Compact Commission receives notification from the State of North Carolina that it has issued a license for a regional* low-level waste disposal facility in the State of North Carolina.

The Commission shall apply a similar policy to its future host states to encourage timely site development; and

- (3) The Commission authorizes the importation of waste generated outside the Southeast region for disposal at the regional facility in Barnwell, South Carolina. The Commission reserves the right to set terms and conditions on access to the Southeast Regional Facility.

** The term "regional" was inserted during the course of the meeting.*

Before this resolution came to a vote, Compact Chair Richard Hodes of Florida turned over conduct of the meeting to Vice Chair James Setser of Georgia and introduced a substitute resolution.

States and Compacts *continued*

Hodes's substitute amended the second and third points of the previous resolution to read as follows:

(2) Beginning January 1, 1996, low-level radioactive waste generated in North Carolina shall be allowed to be disposed at the regional facility in Barnwell, South Carolina, from and after the earlier of (a) the date that the Southeast Compact Commission receives notification from the State of North Carolina that it has issued a license for a low-level waste disposal facility in the State of North Carolina or (b) the date that the Southeast Compact Commission enters into a binding Agreement with North Carolina, as the next host state, specifying reasonable commitments, schedules and assurances for timely development and operation of a new Regional Disposal Facility in the State of North Carolina. The Agreement shall provide for immediate suspension of access by generators within the next host state pending completion of formal sanctions proceedings against that state by the Southeast Compact Commission in the event that the schedules, terms and conditions of the Agreement are not adhered to by the next host state.

The Commission shall apply a similar policy to its future host states to encourage timely site development: and

(3) The Commission authorizes the importation of waste generated outside the Southeast Region for disposal at the regional facility in Barnwell, South Carolina in accordance with the terms and conditions of a contract that has been executed between the Southeast Compact Commission and another Compact Commission or unaligned State. The Commission reserves the right to set terms and conditions on access to the Southeast Regional Facility. [New language is underlined.]

Six Commissioners voted for and 10 against the substitute motion, which failed to pass. The vote then turned to Mobley's original motion. The 10 Commissioners that had opposed the substitute motion voted in favor of Mobley's motion, and the six that had supported the substitute motion voted against the original motion, which failed to pass.

Allocation of Votes

Supporting Original Motion

Thomas Holmes (AL)
William Passeti (FL)
Jimmy Palmer (MS)
Theodore Klingen (MS)
Elizabeth Partlow (SC)
Terry Haskins (SC)
Mike Mobley (TN)
Debra Shults (TN)
Charles Hawkins (VA)
Peter Schmidt (VA)

Supporting Substitute Motion

K. E. Whatley (AL)
Richard Hodes (FL)
Paul Burks (GA)
James Setser (GA)
William Briner (NC)
George Miller (NC)

Background: Previous Southeast Compact Vote

At a Southeast Compact Commission meeting on May 2, a resolution similar to that introduced by Mobley at the May 18 meeting also failed to pass. (See *LLW Notes*, April/May, p. 1.) That resolution, which received 10 of the 11 votes needed for adoption, included the following provisions:

- "The Commission authorizes the importation of waste generated both inside and outside the Southeast region for disposal at the regional facility in Barnwell, South Carolina"; and
- "Generators of low-level waste in North Carolina shall be allowed access to the regional facility in Barnwell, South Carolina, only at such time as the State of North Carolina issues a license for a low-level waste disposal facility in the State of North Carolina."

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

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates, Media Contacts and Press Monitors via facsimile in a News Flash on May 23.

Appalachian States Low-Level Radioactive Waste Commission v. O'Leary

Federal Court Rules Appalachian Compact is Entitled to Additional Surcharge Funds

On May 22, the U.S. District Court for the Middle District of Pennsylvania granted the Appalachian States Low-Level Radioactive Waste Commission's motion for summary judgment in a lawsuit concerning distribution of surcharge funds. In so doing, the court ruled that the Appalachian Commission's contract of December 1, 1992, for 18 months' access to the Barnwell low-level radioactive waste disposal facility satisfies the Low-Level Radioactive Waste Policy Amendment Act's milestone for January 1, 1993. Thus, the court determined, the commission is entitled to payment in full of all escrowed surcharges collected from Appalachian Compact generators between January 1, 1990, and December 31, 1992, plus interest.

In issuing its decision, the court declined to follow the ruling of the U.S. District Court for the Central District of Illinois in a previous lawsuit concerning the surcharge funds. In that case—*Central Midwest Interstate Low-Level Radioactive Waste Commission v. O'Leary*—the Illinois district court upheld DOE's decision to pay states and compacts who had entered into contracts for access to Barnwell on a prorated basis only. (See *LLW Notes*, August/September 1994, pp. 14–15.)

Plain Language of the Act

The Pennsylvania district court determined that the plain language of the Low-Level Radioactive Waste Policy Amendments Act does not support DOE's position that a state or compact must have a three-year disposal contract in order to receive a full payment of the escrowed funds. Instead, the court found that the critical question is whether or not a contract exists on January 1, 1993. "If by January 1, 1993, a state or compact is able to provide for the disposal of all of their ... [low-level radioactive waste], then it is to receive a full rebate of the escrowed funds."

The court rejected the Secretary's pro rata approach, noting that it is based on provisions of the act that only arise if a state or compact has failed to meet the milestone for January 1, 1993, by not entering into a disposal contract by that date. "The statute cannot be read, as the Secretary argues, to impose a three-year durational requirement on a ... [low-level radioactive waste] disposal contract formed by a compact before the 1993 Milestone."

The court also rejected, however, the Appalachian Commission's argument that Congress has explicitly spoken in opposition to the Secretary's interpretation. "The section providing that the Secretary will make payment within thirty days does not in itself sanction the 'snapshot' approach discussed by the Commission."

DOE Interpretation

In reviewing DOE's interpretation of the federal low-level radioactive waste statute, the court found DOE's positions stated in the 1992 and 1994 *Federal Register* notices on surcharge funds to be inconsistent with each other. This is significant, according to the court, in determining how much judicial deference to accord the agency's statutory interpretation. "An agency interpretation of a relevant provision which conflicts with the agency's earlier interpretation is entitled to considerably less deference than a consistently held agency view."

continued on page 19

Background: Appalachian States Low-Level Radioactive Waste Commission v. O'Leary

Plaintiff Appalachian States Low-Level Radioactive Waste Commission
Defendant U.S. Department of Energy Secretary Hazel O'Leary

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

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

November 21, 1992, the Central Midwest Commission entered into an agreement with the Southeast Compact Commission that provided generators in Illinois and Kentucky access to the Barnwell low-level radioactive waste disposal facility until June 30, 1994. The Appalachian Commission entered into a similar agreement for generators in Pennsylvania, Delaware, Maryland, and West Virginia on December 1, 1992. As of June 4, 1993, DOE had not made a determination regarding eligibility for surcharge funds based on the milestone of January 1, 1993, and the Central Midwest Commission initiated legal proceedings. (See *LLW Notes*, June 1993, pp. 14-15.)

DOE's 1994 Federal Register Notice and Subsequent Litigation On March 31, 1994, however, DOE published a second notice in the *Federal Register* (see 59 *Federal Register* 15,188). This notice, which addresses comments received in response to the first notice, indicates that states and compacts that have entered into "the standard contract of 18 month duration with the Southeast Compact Commission" are eligible to receive the surcharge funds on a prorated basis. (See *LLW Notes*, April 1994, pp. 1, 11.)

On June 30, 1994, shortly after publication of the second notice, the Appalachian Commission initiated legal proceedings seeking payment of all surcharge fees that were collected from generators of low-level radioactive waste in the Appalachian region from 1990-1992 and were being held in the escrow account. (See *LLW Notes*, August/September 1994, p. 15.)

Illinois District Court's Ruling and Distribution of the Escrowed Funds

On July 22, 1994, the U.S. District Court for the Central District of Illinois affirmed DOE's final policy on state/compact eligibility for surcharge payments, as detailed in its *Federal Register* notice of March 31, 1994. Subsequently, on September 1, 1994, DOE distributed surcharge funds to eligible states, compacts, and generators—including the Central Midwest Compact and the Appalachian Compact—on a prorated basis. (See *LLW Notes*, August/September 1994, p. 1.) Since that time, DOE has been distributing surcharge funds to eligible generators, including those in the Appalachian Compact region. Payments are made in either monthly or semiannual installments or in a single lump-sum payment at the end of the rebate period.

Court Calendar

Case Name	Description	Court	Date	Action
<i>Appalachian States Low-Level Radioactive Waste Commission v. O'Leary</i> (See related story, this issue.)	Seeks the release of all surcharge fees, collected from Appalachian region generators, being held in an escrow account by Department of Energy Secretary Hazel O'Leary.	United States District Court for the Middle District of Pennsylvania	May 22, 1995	Federal district court grants Appalachian Commission's motion for summary judgment, ruling that the commission is entitled to payment in full of all escrowed surcharges collected from Appalachian Compact generators between January 1, 1990, and December 31, 1992, plus interest.
			July 21, 1995	Deadline for federal government to file a notice of appeal.
<i>Fort Mojave Indian Tribe v. California Department of Health Services</i> (See <i>LLW Notes</i> , March 1995, pp. 7-11.)	Appeal of a lawsuit that seeks to void the certification of the final EIR/S and the issuance of a license for the planned Ward Valley facility on the basis of alleged violations of state and federal law.	Court of Appeal of the State of California	May 30, 1995	Cross-appellants Department of Health Services and its Director file a reply brief and request for judicial notice of National Academy of Sciences report and of the final revised supplemental environmental impact statement prepared by the Bureau of Land Management.
			June 13, 1995	Appellants Fort Mojave Indian Tribe and others file an objection to cross-appellants' request for judicial notice.
			June 13, 1995	Appellants Fort Mojave Indian Tribe and others file a request for judicial notice of several documents, including correspondence between U.S. Senator Barbara Boxer (D-CA) and California Governor Pete Wilson (R).

Court Calendar

Case Name	Description	Court	Date	Action
<i>Nebraska v. Central Interstate Low-Level Radioactive Waste Commission</i> (See <i>LLW Notes</i> , January/February 1995, pp. 14-15.)	Seeks a declaration by the court that Nebraska is entitled to two voting members and one non-voting member on the Central Commission and that a compact amendment concerning this issue does not require ratification by the U.S. Congress to be effective.	United States District Court for the District of Nebraska	April 11, 1995	Central Commission files a motion for summary judgment in the action.
			May 31, 1995	Nebraska files a brief in opposition to defendant's motion for summary judgment.
			June 1, 1995	Nebraska files a request for permission to file an amended complaint.
			June 12, 1995	Central Commission files a reply brief responding to arguments made in the plaintiff's brief in opposition to defendant's motion for summary judgment.

Appalachian States Low-Level Radioactive Waste Commission v. O'Leary (continued from page 16)

In addition, the court held that the agency's position on state/compact eligibility to receive surcharge payments is procedurally invalid for two reasons:

- The 1994 *Federal Register* notice was subject to "notice and comment" procedures as specified in the Administrative Procedure Act. The law requires that failure to follow these procedures will void the provision as to anyone who has not received such notice. Since, when the Appalachian Commission executed the Barnwell contract on December 1, 1992, the commission had no notice of the three-year durational requirement outlined in the 1994 *Federal Register* notice, the court found that the commission cannot be held responsible for its terms.
- DOE's 1994 *Federal Register* notice constitutes an improper instance of retroactive rulemaking because it attempts to apply a policy issued in 1994 to a contract executed in 1992. The court found that retroactive rulemaking power was not granted to DOE in the federal low-level radioactive waste statute.

Next Step

The Federal Rules of Appellate Procedure provide that parties to litigation in which the federal government is involved generally have 60 days to file a notice of appeal. Alternatively, the federal government can file a motion to reconsider within 10 days. As of press time, no appeal or motion to reconsider had been filed.

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via facsimile in a News Flash on May 24.

Texas Compact Legislation Ordered Reported to the U.S. House and Senate

Legislation to grant congressional consent to the Texas Low-Level Radioactive Waste Disposal Compact was recently approved by committees of both the U.S. House of Representatives and the U.S. Senate. The bills—H.R. 558 and S. 419—were both approved without amendment and have been ordered reported to the full House and Senate. As of press time, neither bill has been scheduled for a vote on the floor.

U.S. House of Representatives

Commerce Committee

H.R. 558 was approved by the House Commerce Committee on May 24 by a vote of 41 to 2. (See page 22 for information on Commerce Committee membership and the votes of individual members on H.R. 558.) During the markup, Representative John Bryant (D-TX) offered two separate amendments to the legislation, both of which were defeated.

The first proposed amendment would have added a proviso to the compact prohibiting the location of a disposal facility in an international zone, in an earthquake zone, or near international waters. After considerable discussion, the proposed amendment was defeated by a vote of 14 to 28. (See page 22 for information on the votes of individual committee members.)

Upon defeat of the first proposed amendment, Bryant offered a second one for consideration by the committee. The second proposed amendment would have added language to the compact imposing joint and several liability on Texas, Maine, and Vermont for any damages that Mexico incurs due to construction and operation of the facility if it is located in an international zone, in an earthquake zone, or near international waters. This proposed amendment was defeated by voice vote.

Energy and Power Subcommittee

H.R. 558 was originally referred to the Commerce Committee's Energy and Power Subcommittee. (See *LLW Notes*, January/February 1995, p. 1.) A hearing on the legislation was held on May 11. Representative Jack Fields (R-TX)—who sponsored the legislation—testified in favor of the bill, as did Laurie Rich, Executive Director of the State of Texas' Office of State-Federal Relations. Representatives Ronald Coleman (D-TX) and Henry Bonilla (R-TX) testified in opposition to the bill. David Frederick, an attorney for the Sierra Blanca Legal Defense Fund, also testified against the legislation. The subcommittee held a markup on May 16, at which time the bill was unanimously approved without amendments.

U.S. Senate

S. 419, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act, was introduced by Senator Olympia Snowe (R-ME) on February 15, 1995. (See *LLW Notes*, January/February 1995, p. 1.) Senators William Cohen (R-ME), Patrick Leahy (D-VT), and James Jeffords (R-VT) cosponsored the bill. It was subsequently referred to the Judiciary Committee, which conducted a markup on May 18. At the markup, the bill was approved without amendments. It now awaits consideration on the Senate floor.

Interior Department to Proceed with Land Transfer *No Hearing Required, But Other Conditions Apply*

In a statement dated May 31, Interior Secretary Bruce Babbitt announced his decision to move forward with the transfer of federal land in Ward Valley to the State of California for use in siting a low-level radioactive waste disposal facility. Babbitt indicated that he will not require an additional public hearing as a prerequisite for the transfer, but that certain other conditions must be met. These conditions include receipt of a "binding commitment" from the State of California that

- safeguards recommended by a National Academy of Sciences panel will be carried out (see related story, this issue);
- "the total volume and radioactivity of the material to be disposed of at the site will be limited to the amounts currently specified in condition 20 of the state license for the facility"; and
- a specific limit will be imposed on the amount of plutonium to be disposed of at the facility.

Babbitt explained his position concerning an additional public hearing as follows:

Initially, I thought the best way to air the concerns that had been raised about this site was in an additional public hearing to be held before any transfer. Eventually, I became convinced that the National Academy of Sciences was best equipped to shed light on the highly technical questions that were being raised. Throughout, my overriding concern has been, as I said in 1993, to have an 'additional measure of confidence' that the proposed transfer of the site was in the public interest. I believe the Academy report has provided the needed careful investigation, assessment, and consideration of these issues, and is a fully satisfactory substitute for the additional public hearing I called for two years ago.

Governor Wilson Looks to Congress

California Governor Pete Wilson (R) responded to Secretary Babbitt's announcement that same day with a prepared statement expressing disappointment with Babbitt's conditions and anticipating action by Congress.

Although Congress clearly delegated to the states the responsibility for managing and regulating low-level radioactive waste disposal sites, Secretary Babbitt clearly intends to frustrate that intent by having Washington DC continue to dictate the terms and conditions of our state's responsibility...

I am confident that California's Congressional Delegation and the congressional committees of jurisdiction will exercise the leadership that California and other states so clearly deserve.

Wilson also referenced a letter that he had previously sent to Babbitt in which he committed to implementing the "substantive" recommendations of the National Academy of Sciences panel. Babbitt had called the letter "a welcome step forward," but said that it does not address all the issues.

Governor Wilson's Letter

On May 26, Governor Wilson wrote to Secretary Babbitt concerning the amount of waste to be accepted at the facility, the National Academy of Sciences' (NAS) findings regarding the site, and the land transfer.

continued on page 2

Special Feature: California Site

Volume Limits

In order to provide additional assurance that there will be limitations on the amount of waste accepted at the Ward Valley facility, Wilson pledged that any license amendment to increase these limits would be subject to both "a hearing process under state licensing law and to review under the California Environmental Quality Act (CEQA)." Wilson invited the Interior Department to participate in these processes if such an amendment should be sought.

Wilson stated that the facility is licensed to accept "no more than 5.2 million curies or 5.5 million cubic feet of waste, whichever is reached first." He expressed skepticism that a change in these limits would ever be pursued.

Response to NAS Recommendations

Wilson explained that "in the interest of enhancing public confidence that the Ward Valley facility will be constructed and operated consistent with the highest scientific standards," he was including with the letter a "formal statement of commitment to implement the substantive recommendations of the majority NAS report." Many of the items recommended by NAS, Wilson wrote, "are already planned or in progress." Wilson noted, however, that since the state is responsible for all health, safety, and technical issues regarding the site—and not just for the issues addressed by the NAS report—"the state cannot and does not defer to the NAS report on every procedural detail." Specifics about the state's response to the NAS recommendations were enclosed in a three-page document that accompanied Wilson's letter.

Land Transfer

Wilson argued that, given the NAS findings and his commitment, there is no "principled basis" for delaying the transfer. He stated that he would seek congressional help on this issue if necessary.

I call upon you to do what is right—to transfer the land for the site to the State of California consistent with the long-standing federal commitment to do so. Anything less would constitute an abandonment of concern for the public health and for the safety of Californians. Other governors will be watching whether the federal government is carrying out its responsibility to help states manage low-level radioactive waste. If the Department of Interior abandons or refuses to assist us, we will call on Congress to reopen the Low-Level Radioactive Waste Policy Act.

Babbitt re Timing for Transfer

The issues that Babbitt identifies as "unaddressed" by the Wilson letter are "a plutonium limit, 'procedural' Academy recommendations (including additional sampling for tritium as described in the Academy report), and the binding character of the commitments and limits." Babbitt stated that he intends "to have further discussions with the state to resolve these issues" and that "the transfer will be carried out upon satisfactory completion of these further discussions and certain necessary procedural steps, including consultation on the impacts of the transfer and the facility on the Desert Tortoise."

Most of the preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates, Media Contacts and Press Monitors via facsimile in a News Flash on June 1.

Timeline: LLRW Disposal Facility Development—Ward Valley, CA (update)

1987

February 17 The California State Lands Commission (SLC) submits an application to the federal Bureau of Land Management (BLM) requesting that the federally owned Ward Valley site be exchanged for state lands.

1989

December US Ecology applies to the California Department of Health Services (DHS) for a license to construct and operate a disposal facility on the Ward Valley site.

1990

May 1 SLC renews its application to exchange state lands for the Ward Valley site.

July 16-18 DHS holds discretionary public hearings to gather comments on the license application.

November 21 U.S. Fish and Wildlife Service issues a biological opinion finding that the proposed facility is “not likely to jeopardize the continued existence of the desert tortoise,” contingent on “reasonable and prudent” mitigation measures.

1991

July 2 SLC requests that BLM “suspend processing” of their 1990 application.

July 22 DHS holds a second round of discretionary public hearings to gather comments on the license application and the final Environmental Impact Report/Statement (EIR/S) for the Ward Valley facility.

1992

July 13 DHS submits an application to BLM proposing to purchase the Ward Valley site.

August 13 BLM rejects SLC’s 1990 application.

September 17 SLC renews its application.

October 30 Availability of a draft supplemental EIR/S—addressing a change in the site transfer process from exchange of lands to direct sale—is announced in the Federal Register.

December 30 BLM issues a final supplemental EIS, invites comments from interested parties, and files the final supplemental EIS with EPA.

1993

January 5 California Governor Pete Wilson writes to then-U.S. Secretary of the Interior Manuel Lujan requesting accelerated sale of the Ward Valley site to California. Wilson asks that the supplemental EIS be deemed an environmental assessment and that a finding of no significant impact be issued. Wilson asks that the sale be made conditional upon certain subsequent events, including the holding of “hearings which have been agreed to by [state] officials ... unless precluded by a court of competent jurisdiction.” EPA subsequently allows BLM to withdraw the final supplemental EIS.

January 7 Then-Secretary Lujan announces his intention to proceed with the sale of the Ward Valley site to California.

February 19 Newly appointed Interior Secretary Bruce Babbitt rescinds Lujan’s record of decision transferring the site to state ownership. Babbitt returns the decision-making process to the point prior to its acceleration.

March 3 Parties to a lawsuit seeking to postpone the sale of federal land to the State of California enter into an agreement suspending all court actions in the case pending review of the transfer by Secretary Babbitt. As part of the stipulation, the Department of Interior and Bureau of Land Management agree to provide the plaintiffs with at least thirty days’ advance notice prior to transferring the land.

continued on page 4

Timeline: LLRW Disposal Facility Development—Ward Valley, CA (update)

1993 (continued)

June 2 Three geologists employed by the U.S. Geological Survey (USGS) write a two-and-a-half page memo to Secretary Babbitt commenting on the draft EIR/S.

August 11 Secretary Babbitt writes to Governor Wilson requesting that the state hold a formal public hearing on the proposed facility to assist Babbitt in deciding whether to sell the land to California.

September 2 Senator Barbara Boxer (D-CA) writes to Secretary Babbitt requesting an adjudicatory hearing on a broad range of issues concerning the Ward Valley site and suggesting hearing officers.

September 10 BLM approves the final supplemental EIR/S.

September 16 DHS certifies the final EIR/S (including the supplemental EIR/S).

September 16 DHS issues a license to US Ecology for the Ward Valley facility. That same day, Governor Wilson agrees to U.S. Secretary Babbitt's request for a hearing on the proposed transfer of federal land for the facility to the state.

September 21 Senator Boxer writes to Secretary Babbitt objecting to BLM's approval of the final supplemental EIR/S and to Governor Wilson's proposed method for conducting a hearing on the land transfer. Boxer's letter also criticizes the supplemental EIR/S for "ignor[ing]" the USGS geologists' June 2 comments.

September 24 A final supplemental EIR/S is published for comment.

October 8 The Acting Director of the USGS writes to Senator Boxer clarifying that the USGS geologists were acting as private citizens when they wrote their June 2 memo on the draft EIR/S.

October 11 Senator Boxer holds a press conference calling on Secretary Babbitt to stop the land transfer process based on the issues noted in the June 2 geologists' memo and on a draft study prepared by consultants to the Los Angeles Metropolitan Water District. Boxer also writes to Babbitt asking for an investigation of the geologists' claims.

November 16 Governor Wilson writes to Secretary Babbitt suggesting hearing officers.

November 20 Senator Boxer writes to President Bill Clinton objecting to the scope of Wilson's proposed hearing and requesting that the administration work with her to "build a consensus around an alternative to Ward Valley."

November 20 Senator Boxer writes to Secretary Babbitt objecting to the candidates for hearing officer proposed by Governor Wilson.

November 24 Secretary Babbitt writes to Governor Wilson postponing further action on the hearing pending the outcome of state court litigation.

December 8 Senator Boxer holds a press conference releasing a new report by the geologists who authored the June 2 memo. The report, known as the "Wilshire report" after one of its authors, concludes that "major objectives of the site evaluation have not been fulfilled."

1994

February 7 The Superior Court of the State of California rules that the state does not have a duty to provide an "adjudicatory" hearing prior to issuing the license for the Ward Valley facility.

February 8 The U.S. Fish and Wildlife Service designates 6.4 million acres of critical habitat for the Mojave population of the desert tortoise. The designation includes the Ward Valley site.

March 14 Secretary Babbitt writes to the Radioactive Waste Management Board of the National Academy of Sciences (NAS) asking the board to assemble an "independent expert panel to undertake a thorough evaluation of the earth sciences issues" raised by the three geologists' memo and the Wilshire report. Babbitt requests that the expert panel deliver its final report to him by December 1, 1994.

Timeline: LLRW Disposal Facility Development—Ward Valley, CA (update)

1995

March 14 Secretary Babbitt forwards to Senator Boxer a copy of his request for the NAS review. Babbitt comments, "I hope you will agree that this should advance the prospect of putting the ultimate decision whether to transfer the site for the proposed Ward Valley facility to the State on a more sound scientific basis, and is an important step toward insuring that the siting issues are addressed in a comprehensive manner."

May 4 The Superior Court of the State of California finds that virtually all of the grounds raised by petitioners contesting DHS' license approval are "without merit." However, the court orders DHS to consider the Wilshire report as though it had been issued prior to approval of the license for the Ward Valley facility.

June 1 The superior court issues a judgment ordering DHS to take certain actions consistent with the May 4 order and to "[s]et aside" its approval of the Ward Valley project pending reconsideration of the license approval in light of the Wilshire report.

June 24 DHS files a response in the superior court stating that DHS has concluded that the Wilshire report contains no new or significant information requiring a subsequent environmental impact report and that DHS reaffirms its decision granting the facility license.

July/August All parties to the California superior court lawsuit contesting DHS' license approval file notices of appeal. The case is currently pending before the Court of Appeal of the State of California.

August The U.S Geological Survey publishes an official report comparing percolation rates of precipitated water in the unsaturated zones at the Ward Valley site and the closed low-level radioactive waste disposal facility in Beatty, Nevada. The report concludes that, below a depth of 10 meters at the Ward Valley site, "downward flow is extremely slow (on the order of 3 to 5 cm per 1,000 years, as indicated by chloride concentrations ..."

November 10 NAS requests NRC to review the DHS discussion of the plutonium 239 estimates for the Ward Valley facility.

November 23 NRC responds to NAS indicating that, based on NRC's review of certain data, NRC agrees with DHS' estimate of several curies of plutonium 239.

December 8 The Nuclear Information and Resource Service (NIRS) files a formal complaint with the NRC Inspector General regarding NRC's review of plutonium projections for the Ward Valley facility.

December 14 NRC informs NAS that an NRC analysis dated December 5 shows that the estimated activity concentration for plutonium 239 contained in the Draft Environmental Impact Statement (DEIS) for 10 CFR 61 was high by two orders of magnitude. The Ward Valley license application relied upon DEIS information to project the waste stream to be analyzed for the regulatory safety analysis.

May 10 EPA and BLM write to U.S. Fish and Wildlife Service and request a formal consultation under the Endangered Species Act regarding potential impacts on the desert tortoise from the proposed transfer of the Ward Valley site and the construction and operation of the facility.

May 11 NAS releases a report on the seven technical issues raised by the Wilshire report. The report indicates that ground-water contamination at the site appears "highly unlikely."

May 31 Secretary Babbitt announces his decision to move forward with the transfer of the Ward Valley site to the State of California. He indicates that the transfer will be subject to various conditions but that no additional public hearing will be required. Governor Wilson objects to the conditions and expresses confidence that Congress will exercise leadership on this issue.

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates, Media Contacts and Press Monitors via facsimile in a News Flash on June 1.

EPA, BLM Request Consultation with Fish and Wildlife Service

In a May 10 letter, David Howekamp, Director of EPA's Region IX Air and Toxics Division, and Ed Haste, California State Director of the Bureau of Land Management (BLM), requested formal consultation with the U.S. Fish and Wildlife Service regarding potential impacts on the desert tortoise from the transfer of federal land in Ward Valley, California, to state ownership for use in siting a low-level radioactive waste disposal facility. Under the Endangered Species Act, each federal agency must, in consultation with the Interior Secretary, ensure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any endangered or threatened species or to result in the destruction or adverse modification of the species' critical habitat.

Formal consultation is required for federal action regarding the Ward Valley site—such as the BLM land transfer—because the site is within the designated critical habitat for the desert tortoise, a threatened species. Formal consultation under the Endangered Species Act is discretionary for the EPA approval to construct under the National Emissions Standards for Hazardous Air Pollutants (NESHAPs). EPA Region IX determined in June 1994 that the agency would participate in such a consultation before deciding whether to grant the approval to construct needed under NESHAPs for the Ward Valley facility. (See *LLW Notes*, July 1994, p. 6.)

Endangered Species Act Provisions

If the Interior Secretary concludes that the proposed federal action will not violate provisions of the Endangered Species Act, the Secretary is to provide the federal agency involved in the consultation process with a biological opinion that specifies the impact upon the species, the measures necessary to minimize the impact, and the terms and conditions with which the federal agencies must comply. The Fish and Wildlife Service is responsible for engaging in formal consultation with other federal agencies and for issuing biological opinions for animals.

Time Period for Consultation

Under the Endangered Species Act, the formal consultation concludes within 90 days after it is initiated—i.e., by August 8 for the desert tortoise consultation. The Fish and Wildlife Service may unilaterally extend the duration of the consultation period up to 150 days total by providing the applicants—in this case, the California Department of Health Services (DHS) for the BLM land transfer and US Ecology for the EPA NESHAPs approval to construct—with a written statement that sets forth

- the reasons why a longer period is required,
- the information that is required to complete the consultation,
- and the estimated date on which the consultation will be completed.

Extending the period beyond 150 days would require the consent of both California DHS and US Ecology. The Fish and Wildlife Service must issue a biological opinion within 45 days after concluding the consultation—in this case, no later than September 22 if the consultation period concludes within 90 days.

Upon receiving the biological opinion, BLM and EPA do not have a specified time period in which the agencies must respectively take action on the land transfer and the NESHAPs approval to construct.

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

Young Criticizes EPA's Risk Assessment re Desert Tortoise

In a June 20 letter to Interior Secretary Bruce Babbitt and EPA Administrator Carol Browner, Representative Don Young (R-AK) criticized the "unrequired, unnecessary, time-consuming and burdensome risk assessment being undertaken by EPA as part of its section 7 consultation with the U.S. Fish and Wildlife Service ('FWS') over the impact of the Ward Valley project on the desert tortoise, a threatened species." (See related story, this issue.) Young is Chair of the U.S. House of Representatives Committee on Resources, which is overseeing the reauthorization of the Endangered Species Act.

According to Young, EPA is undertaking a detailed quantitative risk assessment to determine the precise health impacts on desert tortoises in the Ward Valley site vicinity caused by exposure to low levels of ionizing radiation. EPA staff have indicated that the assessment may take longer to complete than the 90 days allowed under the Endangered Species Act (ESA) for formal consultation. Young noted in his letter that "to my knowledge, never before has any agency conducted a qualitative health risk assessment for a wildlife species for the purpose of ESA compliance."

His letter warns:

By undertaking this complex analysis at such a late point in the decisionmaking process for the Ward Valley project, and then going to the expense and cost to the taxpayer of hiring an outside consultant to conduct this purely academic exercise, it appears that EPA is marching to a very different drummer than the Clinton Administration claims that the ESA is being implemented in a way that does not produce absurd results. I can certainly tell you that it is at odds with the current intent of this Committee. In light of the Ward Valley project's importance, we are also very troubled by the fact that the Department of Interior, which is involved in this consultation process through both BLM and FWS, has not intervened to prevent EPA from pursuing this wasteful, dilatory, and useless course of action.

Request for Timely Response

Young requested that EPA and the Interior Department respond to him by June 27 on a series of questions.

1. On what grounds do EPA and/or Interior consider it necessary to undertake a quantitative health risk assessment for the desert tortoise to determine whether exposure to the low-levels of ionizing radiation will be likely to jeopardize the continued existence of this species or adversely modify or destroy its critical habitat? Why is such a study necessary when anticipated exposure levels are within natural background levels?

2. Who at EPA made the decision to undertake this risk assessment? Was BLM or FWS consulted by EPA before deciding to conduct the risk assessment? If so, what position did those agencies take and how did EPA respond? Is it now an EPA policy to conduct such studies for all future consultations?

3. Is it correct that EPA's legal staff has taken a position that this risk assessment is required? Please provide this legal analysis. Upon what basis has that legal advice been rendered? Is it EPA's legal interpretation of the ESA that the section 7(a)(2) jeopardy standard equates with the public health standards of laws such as the Clean Air Act, under which human risk assessments are generally prepared?

4. Has the EPA or any federal agency ever conducted a quantitative health risk assessment, similar to the one now in preparation by EPA, for purposes of compliance with section 7(a)(2) of the ESA?

5. Who at EPA is involved in the preparation of this risk assessment? What policy level officials are involved?

6. Which consultant has EPA hired for this purpose? What procedures were used to enter into a contract with that entity? How much is EPA paying the consultant for these services? What does EPA estimate the total cost of preparing this risk assessment to be? (*cont. p. 8*)

NAS Finds Ground-Water Contamination Highly Unlikely at Ward Valley Site

At a press conference on May 11, a National Academy of Sciences' (NAS) committee released its report concerning the planned low-level radioactive waste disposal site in Ward Valley, California. The report, which addressed seven specific technical issues about the site, was generally favorable in its conclusions, finding that ground-water contamination at the site appears highly unlikely. Additional data collection, however, is recommended by the committee in order to improve the reliability of monitoring at the site.

Two of the 17 committee members disagreed with the majority position on one or two issues, and their views are published as appendices to the report.

Babbitt's Request for a Study

In March 1994, U.S. Interior Secretary Bruce Babbitt asked NAS to assess concerns about the Ward Valley site. (See *LLW Notes*, Feb./March, 1994, p. 15.) Resolution of these concerns, Babbitt explained, would be "relevant" to his decision about whether to transfer the Ward Valley site from federal ownership to state ownership, as requested by California.

Babbitt specifically sought NAS review of technical issues about the site raised in a memo and report written in 1993 by three geologists employed by the U.S. Geological Survey. The report, known as the Wilshire Report after one of its authors, was prepared at the request of Senator Barbara Boxer (D-CA). It does not represent the position of any government agency.

Areas of Review

The committee was charged with addressing the following technical issues:

1. potential for transfer of contaminants to ground water through the unsaturated zone, i.e., through the subsurface zone above the water table;
2. potential for water infiltration into the planned disposal facility by lateral flow in the shallow subsurface;
3. potential for a hydrologic connection between the site and the Colorado River;
4. the need to monitor the unsaturated zone and ground water in the area of the facility;
5. potential for failure of surface flood control devices at the site;
6. possible impacts on desert tortoise habitat; and
7. potential problems with reestablishment of native vegetation around the facility.

The committee was not asked to make a general finding on the suitability of the site.

continued from page 7

7. Will this risk assessment be completed, as promised, within the 90-day consultation period? What efforts are underway to ensure that this risk assessment will not cause the section 7(a)(2) consultation procedure to take longer than the statutorily-authorized 90 days? Even if EPA can demonstrate that such a study is required, cost effective and appropriate, why did the Agency wait until now to conduct this risk assessment?

8. How do the Administrator of EPA and the Secretary of the Interior justify this quantitative health risk assessment for the desert tortoise in light of the Clinton Administration's current policy pronouncements on the ESA?

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

Technical Findings and Recommendations

The following are some of the general conclusions and major recommendations of the committee. For a more thorough discussion, please refer to the report itself.

Issue One

The committee concludes from multiple lines of evidence that the unsaturated zone at the Ward Valley site is very dry, and that recharge or potential transfer of contaminants through the unsaturated zone to the water table, as proposed by the Wilshire group, is highly unlikely. However, because of the limitations of the data, the committee recommends specific initial baseline and subsequent monitoring measurements ... to enhance the data base for monitoring the complex unsaturated zone ...

To guard against deficiencies in characterization and monitoring efforts, ... the committee recommends that an independent scientific peer review committee be established to provide oversight early in the permitting process, to assess and suggest improvements in the site characterization plans and monitoring investigations, and to guide the interpretation of the long-term monitoring data.

Two committee members dissented from the committee's conclusion on this issue.

Issue Two

The committee concludes that shallow subsurface (lateral) flow, as proposed by the Wilshire group, is not a significant issue at the Ward Valley site ...

The committee strongly recommends that conditions that could cause local lateral flow, such as ponding and enhanced percolation through runoff-control structures, be avoided in and immediately surrounding the trenches.

Issue Three

While there are conceivable, but unlikely flowpaths for some ground water within Ward Valley to reach the Colorado River, the committee concludes from conservative bounding calculations that, even if all 10 curies (Ci) of plutonium-239 expected in the facility were to reach the river, the potential impacts on the river water quality would be insignificant relative to present natural levels of radionuclides in the river and to accepted regulatory health standards.

Issue Four

With respect to the performance monitoring of the unsaturated zone and compliance monitoring of the ground water, the committee concludes that the Wilshire group's concerns for the absence of such plans are not borne out, as the administrative record provides definite plans for post-closure monitoring downgradient in the unsaturated zone beneath the trenches and at the water table at the site boundary. However, although remediation plans are described for ground-water contamination, none are described in the revised plan for the unsaturated zone.

Concerning monitoring of the unsaturated zone, the committee recommends

- "that site characterization should be continued through the operational phase" of the facility, and
- "that future monitoring be directed and overseen by a peer-review advisory panel ..."

continued on page 10

Special Feature: California Site

Technical Findings and Recommendations (continued)

For monitoring of the saturated zone, i.e., ground water, the committee recommends *Issue 6*

that each of the southern and eastern perimeters of the radiological control area have no fewer than four monitoring wells, inclusive of corner monitoring locations (i.e. a total of eight monitoring wells). In addition, to establish better background databases, the western and northern perimeters should be equipped with no fewer than three monitoring points (i.e. a total of three background wells).

Issue Five

The committee concludes that the proposed flood protection barrier (berm) which is designed to surround and shield the waste site from flooding and erosion, appears to be effectively engineered with thick stone (rip rap) and gravel (filter) layers to protect the trenches and cover from a rare, desert surface runoff flood event ...

The committee recommends

- construction of "an engineered sloped and lined channel for conveying storm water around the west, north, and south sides and corners of the flood protection berm" and
- development of "a long-term monitoring plan for detecting significant differential settlement of the trench-cover area and a response program for mitigating its potential negative effect(s) on surface drainage and floods."

The committee has two primary concerns about potential effects of the proposed facility on desert tortoise habitat: (1) limited habitat degradation and fragmentation associated with development of the facility, and (2) the unknown consequences of the relocation plan.

The committee recommends

- "that the relocation plan be reevaluated" and that relocation be made only outside Desert Wildlife Management Areas, and
- that formal consultation with the U.S. Fish and Wildlife Service be reinitiated. (See related story, this issue.)

Issue 7

In the opinion of the committee, the guidelines presented as part of the revegetation plan have been developed with an understanding of desert plant ecology, and do not reveal any "misconceptions about revegetation enhancement", as charged by the Wilshire group....

The committee recommends that, although moisture and vegetational gradients of the raised trench caps are expected, the revegetation program include from the start plantings of native plants designed to produce densities and cover equivalent to that expected in the high density areas, that is equivalent to the natural desert plant distribution.

The committee emphasizes the need for continued monitoring of the revegetated areas as part of the long-term monitoring program.

One committee member dissented from the committee's conclusion on this issue.

Babbitt's Response to Report

In a prepared statement dated May 11, Interior Secretary Babbitt thanked the NAS and indicated that he would review the report before deciding upon further action with respect to transfer of the Ward Valley site to state ownership. (See related story, this issue.)

First, I must express my gratitude to the National Academy of Sciences for undertaking this review ... The Academy assembled a first-rate panel of scientists and engineers to sift through and carefully analyze the best available information, and to provide answers to important public health and safety concerns.

The thorough, independent review by the Academy will measurably aid my decision-making on the proposed land transfer for the Ward Valley site. It is my intention to carefully review the findings in this report before deciding upon further actions regarding the pending land transfer application ...

I have repeatedly said that my decision on the transfer of this site will be grounded in the law and sound science. I look forward to reviewing this report in detail, to determine whether scientific issues have now been adequately addressed with regard to the use of the Ward Valley site as a low-level radioactive waste facility.

California Governor Calls for Prompt Land Transfer

California Governor Pete Wilson (R) responded to the NAS report in a prepared statement dated May 11 that emphasized the importance of the Ward Valley site to California's economy. Wilson said that the state

has done everything possible to comply with federal law requiring us to develop a low-level radioactive waste disposal facility. Now it's time for the federal government to do its part by transferring the land to the state before any more jobs are lost.

Prompt action is critical because thousands of jobs are on the line. California leads the nation in the biotechnology industry and that industry needs a safe place to dispose of its waste. Continuing to store it at the hundreds of sites where it is generated is potentially unsafe, and simply not acceptable.

Background: Process for Study

Selection of Committee Members The report was prepared by a committee of scientific and technical experts acting under the purview of the Board of Radioactive Waste Management in the National Research Council, which is the NAS' principal operating agency. Committee members were appointed by the Chair of the National Research Council, Bruce Alberts.

As explained in a March 30 letter from Stephen Rattien, Executive Director of the National Research Council commission that oversees the Board on Radioactive Waste Management, committee members were chosen "from a slate of nominees developed in consultation with members of the National Academy of Sciences and National Academy of Engineering, other scientists and engineers who serve as members of our oversight boards and commission, and a variety of groups interested in the Ward Valley waste repository issue." Rattien characterizes the committee as consisting of "two unsaturated-zone hydrologists, four ground water hydrologists, three geologists, one soil physicist, one geophysicist, three geochemists, one civil engineer, and two ecologists."

continued on page 12

Special Feature: California Site

After opponents of the Ward Valley site alleged that members of the committee were biased, Bruce Alberts defended their selection, stating that "three members of the committee—including its chairman—were first recommended to serve on the committee by some of the same environmental organizations that now claim a lack of input. None of the committee members that we selected were recommended by advocates of the Ward Valley site."

Committee Meetings The committee held two open meetings in Needles, California—the community closest to the site. At each of these meetings, members of the public were given an opportunity to address the committee during an open-microphone session. (See *LLW Notes*, October 1994, p. 5.) The committee also met in private a number of times to review data, deliberate upon the issues, and write their report.

Information Considered In addition to considering information presented at the Needles meetings, the committee reviewed the state of California's administrative record for its licensing decision, documents prepared by three scientists from the U.S. Geological Survey who raised concerns about the site, information provided by government agencies and the interested public, and relevant scientific literature.

Independent Review The Ward Valley committee's report was reviewed in draft by a group of independent experts. The reviewers were chosen by the National Research Council's report review committee and were appointed by Bruce Aberts.

The reviewers were responsible for ensuring that the report was

- responsive to the committee's charge and
- adequately supported.

This review procedure is an integral part in the preparation of NAS reports. To ensure objective and unbiased review, the names of the reviewers are withheld from the committee members and the public. The National Research Council ascertains that all of the reviewers' comments are addressed before reports are finalized.

For further information, and to obtain a copy of a seven-page statement by the NAS committee chair, contact the NAS Office of News and Public Information at (202)334-2138.

To obtain a copy of the NAS report Ward Valley: An Examination of Seven Issues in Earth Sciences and Ecology, contact

the National Academy Press

at

(202)334-3313

or

(800)624-6242.

The copyrighted report is over 200 pages long, and copies cost \$39.00, plus shipping charges of \$4.00 for the first copy and \$0.50 for each additional copy.

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates, Media Contacts and Press Monitors via facsimile in a News Flash on May 11.

Background

Similar legislation was introduced in both the Senate and House of Representatives during the 103rd Congress. However, the legislation was not scheduled for floor action by either house before Congress adjourned on October 8, 1994. (See *LLW Notes*, August/September 1994, p. 21.)

Under the terms of the Texas Compact, Texas will host a low-level radioactive waste disposal facility. Maine and Vermont are named as other party states, although additional states may be admitted under terms and conditions set by the host state, "subject to fulfillment of the rights of the initial nonhost party states." The compact places a limit on the amount of waste to be accepted from all nonhost party states. (See *LLW Notes*, May/June 1994, p. 1.)

For further information, contact Lee Mathews of the Texas Low-Level Radioactive Waste Disposal Authority at (512)451-5292.

The preceding information was distributed to Forum Participants and Alternate Participants, Federal Liaisons and Alternates via facsimile in a News Flash on May 31, 1995.

The Texas Site

The selected site is in southern Texas, in Hudspeth County, approximately 20 miles from the Mexican border and the Rio Grande. In April, an earthquake measuring 5.6 on the Richter scale occurred near Alpine, Texas. Its epicenter was approximately 100 miles southeast of the proposed site.

As part of its siting process, the Texas Low-Level Radioactive Waste Disposal Authority has collected data on seismic activity for more than five years. The proposed disposal facility was analyzed assuming both a magnitude 7 earthquake occurring six miles from the site and a magnitude 6 earthquake occurring immediately beneath the site. According to the Authority, "in both cases, our evaluations showed that the facility will perform satisfactorily with no failure of canisters or covers. We are confident that the proposed disposal facility will perform as designed following an earthquake of this magnitude."

Mixed Waste Legislation Fails in Texas Legislature

A bill introduced in the Texas legislature that would have authorized Waste Control Specialists to treat and dispose of mixed waste at a facility in Andrews County failed to pass the Texas House of Representatives before the House adjourned on May 29. The bill also would have removed the state requirement for federal or state ownership of the mixed waste disposal site.

Waste Control Specialists—which is based in Pasadena, Texas—currently holds a Resource Conservation and Recovery Act (RCRA) permit and a Toxic Substances Control Act (TSCA) permit for hazardous wastes for the Andrews County site. However, because Texas law restricts the issuance of a radioactive waste disposal permit to the Texas Low-Level Radioactive Waste

Disposal Authority, the company cannot proceed with developing a privately owned treatment and disposal facility for mixed wastes without legislative authorization. The Texas legislature meets every two years and will not reconvene until fall of 1997.

For further information, contact Lee Mathews of the Texas Low-Level Radioactive Waste Disposal Authority at (512)451-5292.

The preceding information was distributed to Forum Participants and Alternate Participants, Federal Liaisons and Alternates via facsimile in a News Flash on May 31, 1995.

U.S. Congress *continued*

Vote on Amendment One —To Prevent the Siting of a Facility Near Mexico and the Rio Grande and in an Earthquake Zone:

In Favor of Amendment

John Dingell—
Ranking Minority
Member (D-MI)
Henry Waxman (D-CA)
Edward Markey (D-MA)
Ron Wyden (D-OR)
John Bryant (D-TX)
Thomas Manton (D-NY)
Frank Pallone, Jr. (D-NJ)
Sherrod Brown (D-OH)
Blanche Lambert
Lincoln (D-AR)
Elizabeth Furse (D-OR)
Bobby Rush (D-IL)
Anna Eshoo (D-CA)
Ron Klink (D-PA)
Bart Stupak (D-MI)

Opposed to Amendment

Thomas Bliley, Jr.— Chair (R-VA)	Michael Crapo (R-ID)
Carlos Moorhead (R-CA)	Christopher Cox (R-CA)
Jack Fields (R-TX)	Nathan Deal (R-GA)
Michael Oxley (R-OH)	Richard Burr (R-NC)
Michael Bilirakis (R-FL)	Brian Bilbray (R-CA)
Dan Schaefer (R-CO)	Edward Whitfield (R-KY)
Joe Barton (R-TX)	Greg Ganske (R-IA)
J. Dennis Hastert (R-IL)	Dan Frisa (R-NY)
Cliff Stearns (R-FL)	Charlie Norwood (R-GA)
Bill Paxon (R-NY)	Rick White (R-WA)
Paul Gillmor (R-OH)	W. J. Tauzin (D-LA)
Scott Klug (R-WI)	Ralph Hall (D-TX)
Gary Franks (R-CT)	Edolphus Towns (D-NY)
James Greenwood (R-PA)	Bart Gordon (D-TN)

Not Voting

Fred Upton (R-MI)	Rick Boucher (D-VA)
Tom Coburn (R-OK)	Gerry Studds (D-MA)
	Peter Deutsch (D-FL)

Vote on H.R. 558— The Texas Low-Level Radioactive Waste Disposal Compact Consent Act—As Introduced, Without Amendment

In Favor

Thomas Bliley, Jr.— Chair (R-VA)	John Dingell— Ranking Minority Member (D-MI)
Carlos Moorhead (R-CA)	Edward Markey (D-MA)
Jack Fields (R-TX)	W. J. Tauzin (D-LA)
Michael Oxley (R-OH)	Ron Wyden (D-OR)
Michael Bilirakis (R-FL)	Ralph Hall (D-TX)
Dan Schaefer (R-CO)	Rick Boucher (D-VA)
Joe Barton (R-TX)	Thomas Manton (D-NY)
J. Dennis Hastert (R-IL)	Edolphus Towns (D-NY)
Fred Upton (R-MI)	Frank Pallone, Jr. (D-NJ)
Cliff Stearns (R-FL)	Sherrod Brown (D-OH)
Bill Paxon (R-NY)	Blanche Lambert Lincoln (D-AR)
Paul Gillmor (R-OH)	Bart Gordon (D-TN)
Scott Klug (R-WI)	Elizabeth Furse (D-OR)
Gary Franks (R-CT)	Bobby Rush (D-IL)
James Greenwood (R-PA)	Anna Eshoo (D-CA)
Michael Crapo (R-ID)	Ron Klink (D-PA)
Christopher Cox (R-CA)	
Nathan Deal (R-GA)	
Richard Burr (R-NC)	
Brian Bilbray (R-CA)	
Edward Whitfield (R-KY)	
Greg Ganske (R-IA)	
Dan Frisa (R-NY)	
Charlie Norwood (R-GA)	
Rick White (R-WA)	

Opposed

John Bryant (D-TX)
Bart Stupak (D-MI)

Not Voting

Tom Coburn (R-OK)
Henry Waxman (D-CA)
Gerry Studds (D-MA)
Peter Deutsch (D-FL)

General Accounting Office

GAO Cautions Against Changing Commercial LLRW Management System

On June 6, GAO released a report assessing the states' progress in developing new low-level radioactive waste disposal facilities, potential economic and environmental effects of these facilities, and alternatives to the current approach to developing new facilities. The report, *Radioactive Waste: Status of Commercial Low-Level Waste Facilities*, was requested by Senators Christopher Dodd (D-CT) and Joseph Lieberman (D-CT). GAO began work on the report in January 1993.

Rate of Progress

The report summarizes the progress in developing disposal facilities and describes the experiences of the following states: California, Connecticut, Michigan, Nebraska, New York, and North Carolina. GAO attributes the slow progress to the controversial nature of radioactive waste disposal. The report comments that

the time and effort states have required to form compacts, select states to develop new facilities, develop legislation and regulations, and select sites for facilities appear to be symptomatic of widespread concern about such facilities among the affected public and political officials at various state and local levels.

Economic and Environmental Effects of Facilities

GAO found that uncertainties over future volumes of commercially generated waste create difficulties in projecting costs for disposal facilities. The uncertainties include when utilities will retire nuclear power plants, when the plants will be dismantled, and how waste minimization efforts might intensify in response to potential shifts in the availability of disposal capacity and in disposal fees.

GAO determined that "specific environmental effects of the current program are unknown." However, the report states that there may be adverse environmental effects associated with long-term storage of low-level radioactive waste.

Strong Support for State/Compact Approach

GAO concluded that strong support exists for the state/compact approach and urged caution when considering alternative approaches to the existing commercial low-level radioactive waste disposal system. Alternative approaches examined include adding penalties and/or incentives to encourage timely development of disposal facilities, transferring disposal responsibility to the federal government, returning disposal responsibility to private industry, and adopting alternatives to land disposal in the United States.

The report warns that

alternative approaches ... should be viewed with caution. Supporters of the current program believe that exploring other approaches could undermine support for the state-compact approach and the progress that many states and compacts have made. Furthermore, other approaches also appear to have similar difficulties that states have encountered such as obtaining political and public acceptance of disposal facilities.

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

Senate Holds Hearing on Privatization of the U.S. Enrichment Corporation

On June 13, the Senate Committee on Energy and Natural Resources held a hearing on legislation to amend the Atomic Energy Act of 1954 to provide for the privatization of the U.S. Enrichment Corporation (USEC). The bill, S. 755, was introduced by Senator Pete Domenici (R-NM) on May 3. Senators Wendell Ford (D-KY), J. Bennett Johnston (D-LA), Ben Nighthorse Campbell (R-CO), Craig Thomas (R-WY), and Alan Simpson (R-WY) are listed as cosponsors of the legislation. As of press time, a mark-up of the bill has not been scheduled.

Background

The U.S. Enrichment Corporation originated under the Energy Policy Act of 1992. It was authorized to lease uranium enrichment facilities owned by the U.S. Department of Energy at Paducah, Kentucky, and at Piketon, Ohio. Although the corporation was established as a wholly owned government entity, the law directed that a privatization plan be developed. The corporation may implement the plan upon satisfaction of certain requirements and upon approval by the President.

An issue of importance to states and compacts is disposal responsibility for waste generated by the corporation. The USEC legislation could set a precedent for privatization of other DOE facilities. Under the proposed legislation, DOE would be required—at the request of the corporation—to accept for storage, treatment, or disposal low-level radioactive waste that the corporation generates. The corporation would be required to reimburse DOE for costs associated with the treatment, storage, or disposal of this waste, but the legislation specifies that the reimbursement shall not exceed sums that would be charged by commercial, state, regional, or interstate compact entities for similar services. The corporation would be authorized under the legislation to enter into waste management agreements with entities other than DOE.

Senate Hearing

The following individuals testified at the June 13 hearing of the Senate Committee on Energy and Natural Resources:

- Charles Curtiss, Under Secretary, U.S. Department of Energy;
- William Timbers, President and CEO, U.S. Enrichment Corporation;
- James Derryberry, Managing Editor, J. P. Morgan Securities, Inc.;
- Joe Colvin, Executive Vice President, Nuclear Energy Institute;
- Dale Alberts, President, Uranium Producers of America;
- James Phillips, Vice President of the Oil, Chemical, & Atomic Workers' Union; and
- W. Howard Arnold, President, Louisiana Energy Services.

In addition, written testimony was submitted for the record by

- Senator John Glenn (D-OH); and
- Edward Ford, Commissioner, Central Midwest Interstate Low-Level Radioactive Waste Commission.

Disposal of USEC's Waste

Ford's Testimony

The Central Midwest Compact and the Midwest Compact are seeking to add language to the legislation that would explicitly provide that no state or compact is required to accept operation, decontamination, or decommissioning waste from the corporation for disposal. According to Ford's testimony, disposition of USEC waste at commercial facilities would raise several technical, policy, and legal issues.

On a technical level, ... the vast bulk of the waste resulting from the enrichment process ... is not suitable for disposal in the facilities now being developed by the states. On a policy level, we are concerned that by privatizing the uranium enrichment process, Congress has, however unintentionally, altered the bargain that is memorialized in the Low-Level Radioactive Waste Policy Amendments Act of 1985. As a legal matter, it is not clear to us that the federal government can, through the process of "privatization," transfer to the states the responsibility for solving what is clearly a federal problem.

Amending language to this effect was submitted to the Senate Energy and Natural Resources Committee along with Ford's testimony.

Glenn's Testimony

Senator Glenn also addressed the issue of disposal of USEC's low-level radioactive waste in his written testimony.

The Midwest Compact and the State of Ohio are concerned that they will be responsible for the disposal of radioactive waste generated by either USEC or the private corporation. Ohio's enabling legislation does not envision accepting any waste from the Portsmouth facility, regardless of the owner. I believe that S. 755 should be amended to make this point clear.

Curtiss' Testimony

In his written testimony, Under Secretary Curtiss states:

The Low-Level Radioactive Waste Policy Act envisioned that Ohio and Kentucky would not be responsible for the disposal of low-level waste generated at the ... [gaseous diffusion plants]. Thus, consistent with the intent of that Act and to avoid placing any unfair burden on Ohio or Kentucky, and indeed the national compact system which did not contemplate the introduction of this waste stream into its planned approach, the Administration has agreed and the Department is willing to dispose of this waste, which should represent a modest increment to the Department's existing low-level waste disposal obligations.

Curtiss added, however, that USEC should pay the full cost of disposal, including any capital costs, and that the Department's responsibility should be limited to disposal only. "There is no justification for the Department to be required to also provide treatment of USEC's low-level waste."

Colvin's Testimony

In regard to the issue of disposal of USEC's low-level radioactive waste, Joe Colvin's written testimony states:

The industry agrees strongly that the privatized corporation must have access to low-level waste disposal in order to continue operations. If commercial disposal options are unavailable, the DOE should provide access to the privatized corporation and other U.S. enrichers at commercial rates.

House Bill

Similar legislation has also been introduced in the U.S. House of Representatives. That bill, H.R. 1216, was incorporated into H.R. 1215—the Contract with America Tax Relief Act of 1995. H.R. 1215 passed the House on April 5 and has been referred to the Senate Finance Committee. (See *LLW Notes*, April/May 1995, p. 13.)

Environmental Protection Agency

EPA Standards Not to Apply to Facilities Licensed/Regulated by NRC, Agreement States

On June 8, Eugene Durman, Director of EPA's Radiation Studies Division, announced that EPA would not proceed with the development of the Low-Level Radioactive Waste Standards (40 CFR 193) for facilities licensed by NRC or Agreement States, including low-level radioactive waste disposal facilities, processing facilities, and storage facilities. EPA will proceed with the development of radioactive waste standards for DOE. The standards for DOE radioactive wastes may include radiological criteria for low-level radioactive wastes that will allow disposal of the wastes by alternative methods, such as in the type of facility licensed under the Resource Conservation and Recovery Act (RCRA) or using a methodology analogous to uranium mill tailings piles.

According to EPA staff, EPA has decided that the cleanup problems associated with DOE radioactive wastes at federal facilities are a higher priority due to the anticipated large volumes of wastes that have yet to be generated. By proceeding with the rulemaking for DOE wastes, EPA hopes to establish a stable regulatory framework now for DOE cleanup wastes. The majority of comments submitted by states and compacts on the preproposal draft Low-Level Radioactive Waste Standards opposed application of the standards to facilities licensed by NRC or Agreement States on the grounds that existing NRC standards are sufficiently protective of public health and safety and the environment and that the promulgation of additional regulations at this time would prove disruptive to the commercial disposal system.

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via facsimile in a memo on June 9.

President, Vice President Announce EPA Priorities

On March 16, President Bill Clinton and Vice President Al Gore announced a set of 25 high priority actions for EPA as part of the Clinton/Gore Administration's efforts to reinvent government. The strategy document containing the 25 high priority actions—*Reinventing Environmental Regulation*—divides the actions into categories. The action items and the categories are shown below. One-page descriptions of each action item are contained in the strategy document.

Improvements to the Current System

Performance and Market-Based Regulations

1. Open-market air emissions trading
2. Effluent trading in watersheds

Setting Priorities Based on Sound Science

3. Refocus RCRA [Resource Conservation and Recovery Act] on high-risk wastes
4. Refocus drinking water treatment requirements on highest health risks
5. Expand use of risk assessment in local communities

Building Partnerships

6. Flexible funding for states and tribes
7. Sustainable development challenge grants
8. Regulatory negotiation and consensus-based rulemaking

Cutting Red Tape

9. 25% reduction in paperwork
10. One-stop emission reports
11. Consolidated federal air rules (one industry-one rule)

Better Accountability, Compliance and Enforcement

12. Risk-based enforcement
13. Compliance incentives for small businesses and communities
14. Small business compliance assistance centers
15. Incentives for auditing, disclosure and correction
16. Self-certification

The Power of Information

17. Public electronic access
18. Center for environmental information and statistics

Building Blocks for a New System

Alternative Performance-Based Strategies

19. Project XL [providing a limited number of responsible companies the opportunity to demonstrate excellence and leadership]
20. Alternative strategies for sectors
21. Alternative strategies for communities
22. Alternative strategies for agencies

New Tools for Government and Industry

23. Third-party audits for industry compliance
24. Multi-media permitting
25. Design for environment—"Green Chemistry Challenge"

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

Nuclear Regulatory Commission

NRC Commissioners to Finalize Agreement State Policy

In memos dated May 3 and May 5, James Taylor, NRC's Executive Director for Operations, sent three Agreement State policies—*Policy Statement on Adequacy and Compatibility of Agreement State Programs*, *Statement of Principles and Policy for the Agreement State Program* and *Procedures for the Suspension and Termination of an Agreement State Program*—to the NRC Commissioners for final approval. The Policy Statement proposed by staff provides the interpretation of the terms “adequate to protect the public health and safety” and “compatible with the Commission's regulatory program” to be used by NRC in assessing Agreement State programs. The Policy Statement also describes the general framework that NRC will use in determining those NRC program elements and regulatory requirements that Agreement State programs should implement in order to be found both adequate and compatible by NRC.

Policy Statement and Low-Level Radioactive Waste

The proposed Policy Statement reads:

Under the draft Policy Statement, the State was required to have dose limits and radiation protection release limits identical to those in 10 CFR Part 61. Other compatibility requirements relating to an Agreement State regulatory program for low-level waste (LLW) disposal would continue to be addressed on a case-by-case basis. Public comments indicated no overwhelming support to modify existing Commission policy for the compatibility determinations of Agreement State LLW regulatory programs. Thus, the Policy Statement makes a specific distinction between release and dose limits applicable to low-level waste regulatory programs and release and dose limits applicable to other specific classes of licensees. The staff believes that the revised Policy Statement is consistent with the Commission's earlier decision in the LLW area that provided Agreement States the flexibility in most areas to establish alternative requirements on a case-by-case basis which provide a level of public health and safety protection equivalent to that provided by the NRC.

The staff recognizes that, for the most part, the regulation of LLW often involves certain site-specific issues and local concerns. Accordingly, the staff believes that States should have the flexibility, with the exception of 10 CFR 61.41, to adopt measures for the regulation of LLW that are different from those of the Commission as long as such measures are consistent with the definition of compatibility.

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

Senator Glenn Writes to NRC re GAO's Decommissioning Report

In a May 8 letter to then-NRC Chair Ivan Selin, Senator John Glenn (D-OH) requested that NRC respond to a number of his concerns regarding an April 1995 GAO report, *Nuclear Regulation: Slow Progress in Identifying and Cleaning Up NRC's Licensees' Contaminated Sites*. The GAO report addressed NRC's progress in identifying all former materials licensees' sites that require additional cleanup and in ensuring that sites in NRC's Site Decommissioning Management Plan (SDMP)—i.e., sites facing difficult and/or prolonged decommissioning—are cleaned up in a timely manner. The GAO report was requested in 1993 by Senator Glenn and then-Representative Mike Synar (D-OK).

GAO Report Findings

NRC established the SDMP in 1990 to help ensure that sites contaminated by NRC-licensed operations are cleaned up in a timely manner. The SDMP does not include sites located in Agreement States. Through December 1994, an NRC contractor had reviewed 29,000 (about 75 percent) of an estimated 38,500 terminated licenses to determine whether the sites met NRC's guidelines for unrestricted use or whether the sites should become SDMP sites. Documentation for another 895 sites was insufficient for a determination to be made.

GAO found that little progress has occurred in cleaning up the SDMP sites. NRC had estimated that 11 of the 52 SDMP sites would be completed by April 1994. However, only three sites were cleaned up by that time. The report states:

NRC's efforts to provide increased assistance to sites facing difficult and lengthy cleanups, while laudable, are unlikely to resolve the numerous and complex issues encountered at existing SDMP sites. Many SDMP site cleanups have been delayed by issues involving litigation, coordination, and negotiations between affected parties, which are issues largely beyond NRC's control. In addition, in the short term,

little can be done to resolve the pressing problems experienced by sites that cannot meet current decommissioning guidelines for on-site disposal without an exemption from NRC's existing requirements. The limited availability and high cost of off-site waste disposal facilities may be addressed when state-sponsored facilities are available to accept the waste. However, even when those facilities become available, it is unclear whether they will be able to accept the types and quantities of contaminated waste present at a large number of SDMP sites.

Senator Glenn's Request

Senator Glenn requested that NRC respond to several issues, including

- whether NRC could take steps to limit the spread of contamination, such as ensuring that sites are properly secured to limit any possibility of contamination migration and expediting the review of terminated licensed sites;
- whether NRC could take steps to reduce delays in cleanup, such as instituting a management information system to better manage resources and workflow and being more proactive in providing technical assistance; and
- how contaminated sites in Agreement States are addressed.

Senator Glenn also asked NRC to provide him with a status report on each of the SDMP sites. NRC has since responded to the request.

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

Nuclear Regulatory Commission (continued)

NRC Discontinues LLRW Topical Report Reviews

In a May 17 *Federal Register* notice, NRC announced the elimination of the low-level radioactive waste topical report review program. Topical reports are documents submitted by an industry organization to NRC or an Agreement State for review. Radioactive waste generators and disposal operators may use previously reviewed and approved topical reports to demonstrate compliance with the waste classification and waste form requirements contained in 10 CFR Part 61. Low-level radioactive waste topical reports typically address issues such as the qualification of high-integrity containers, waste solidification procedures, and computer codes designed to classify waste.

NRC will not accept new low-level radioactive waste topical reports for review and will discontinue review of reports that have not seen action by NRC or a vendor in the past six months. NRC's Division of Waste Management decided to terminate the review program due to higher waste management priorities and limited staff availability.

Effect on Topical Reports Under Review

Six topical reports—three on high-integrity containers, two on waste solidification, and one on a waste classification computer code—were under NRC review at the time of the decision. According to NRC staff, four of the reports have been placed on discontinued status. NRC expects to complete the review of topical reports on the 3R-STAT computer code for waste classification and on a high-integrity container developed by Chem-Nuclear before eliminating the review program.

NRC's Suggestions for Future Guidance

In a May 10 letter to Agreement States, Richard Bangart, Director of NRC's Office of State Programs, alerted Agreement State personnel to the elimination of the program and stated:

The enclosed letter [to vendors] suggests that vendors contact individual disposal facility operators, or the regulatory agency exercising jurisdiction over that disposal facility, for guidance on the review and acceptance of a specific waste form and classification proposal, such as a topical report. When responding to such vendor or licensee proposals, if you determine that NRC technical assistance is warranted (for example, to assist in completing review of a specific proposal), we will respond to your requests for assistance following the guidance set out in Management Directive 5.7 "Technical Assistance to Agreement States."

Only Agreement State regulators can request NRC technical assistance through Management Directive 5.7.

For further information, contact Robert Nelson of NRC's Division of Waste Management at (301)415-7298. See also "New Materials and Publications."

Jackson Sworn in as NRC Commissioner

Shirley Jackson was formally sworn in as an NRC Commissioner by Vice President Al Gore on May 26. Jackson has been serving at the NRC since May 2. President Clinton in March announced his intention to designate Jackson to be NRC Chair upon the resignation of current NRC Chair Ivan Selin on July 1. (See *LLW Notes*, March 1995, p. 17.)

Selin, de Planque Leave NRC Commissioner E. Gail de Planque's term expires on June 30, and Chair Ivan Selin's resignation becomes effective July 1. As of July 1, there will be two NRC Commissioners—Shirley Jackson and Kenneth Rogers—and three open seats on the commission. In October 1994, President Clinton named Jackson and Dan Berkovitz, Counsel to the Senate Environment and Public Works Committee, as candidates to be NRC Commissioners. Republican Senators who are members of the Senate Environment and Public Works Committee have expressed reservations regarding Berkovitz and have urged President Clinton to withdraw his nomination.

NRC Issues Status Report on Storage Licenses

On June 2, NRC staff provided the NRC Commissioners with an annual report identifying the number of requests that NRC received for new licenses and for license amendments to store low-level radioactive waste, as well as the number of requests that NRC granted. From the period March 1, 1994, to March 1, 1995, NRC received 82 requests for license amendments to store low-level radioactive waste. All of the requests were submitted by materials licensees. No requests for new licenses were received.

During the reporting period, NRC approved 73 of the requests for license amendments. The remaining nine requests were pending as of March 1, 1995. NRC also approved 16 license amendment requests that were submitted prior to March 1, 1994. The report points out that

[t]he number of license amendment requests during this reporting period increased significantly over prior periods, with the greatest impact in Region I. Within this Region, the affected licensees are predominantly organizations involved in medical research and development. Region I has a large number of such licensees. In addition, Region I has been working to reduce its licensing backlog, and LLW interim storage issues have frequently arisen during the renewal process. This increase is also the likely result of the closure of the Barnwell, South Carolina, LLW disposal facility to out-of-compact waste on July 1, 1994.

Region I includes Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont. The report does not address new licenses or license amendments granted by Agreement States.

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

New Materials and Publications

Document Distribution Key

P	LLW Forum Participants	D	LLW Forum Document Recipients
A	LLW Forum Alternates	N	LLW Notes Recipients
F	LLW Forum Federal Liaisons	M	LLW Forum Meeting Report Recipients
L	LLW Forum Federal Alternates		
T	LLW Forum Media Contacts		
V	LLW Forum Press Monitors		

LLW Forum

DM *LLW Forum Meeting Report.* Afton Associates, Inc. May 1995. Proceedings from the LLW Forum spring meeting, May 16-18, 1995. (Distributed on June 9, 1995.)

DM *Radioactive Materials and Low-Level Radioactive Waste Shipment Transfers: Current NRC Regulations and Future Uniform Manifest Rule.* Hard copies of slides and accompanying notes presented at the LLW Forum meeting in Knoxville, Tennessee, on May 18, 1995.

DM *Types of Low-Level Radioactive Waste: Scintillation Cocktails.* Hard copies of slides presented by Rick Greene, Certified Health Physicist, International Technology Corporation, at the LLW Forum meeting in Knoxville, Tennessee, on May 17, 1995.

DM *Branch Technical Position for Performance Assessment of Low-Level Radioactive Waste Disposal Facilities.* Hard copies of slides presented by Andrew Campbell, Senior Staff Scientist, Advisory Committee on Nuclear Waste, NRC, at the LLW Forum meeting in Knoxville, Tennessee, on May 18, 1995. To obtain a copy of the slides, contact the NRC Public Document Room. (Distributed on June 9, 1995.)

DM *Definitions and Comparison of Technical Terms in Dose Standards.* Hard copies of slides presented by Andrew Campbell, Senior Staff Scientist, Advisory Committee on Nuclear Waste, NRC, at the LLW Forum meeting in Knoxville, Tennessee, on May 17, 1995. To obtain a copy of the slides, contact the NRC Public Document Room. (Distributed on June 9, 1995.)

PA Letter from Gregg Larson, LLW Forum Convenor, to Thomas Grumbly, Assistant Secretary for Environmental Management, DOE, thanking him for meeting with the LLW Forum Executive Committee. June 22, 1995. Attached with the letter is a March 31, 1995 letter from Gregg Larson, LLW Forum Convenor, to James Boyd, Program Manager, National Low-Level Waste Program, Idaho Operations Office, DOE, regarding budget planning.

PAFLTV Memorandum from Cynthia Norris, State/Compact Liaison, LLW Forum, re the South Carolina legislative conferees' inclusion of a proviso concerning Barnwell in their proposed budget. (Transmitted via facsimile on June 9, 1995.)

PAFL Memorandum from Laura Scheele, Federal Liaison, LLW Forum, regarding EPA's announcement that the Low-Level Radioactive Waste Standards will not apply to facilities licensed by NRC and Agreement States. (Transmitted via facsimile on June 9, 1995.)

PAFL Memorandum from Laura Scheele, Federal Liaison, LLW Forum, regarding the release of a U.S. General Accounting Office report, *Radioactive Waste: Status of Commercial Low-Level Waste Facilities* (GAO/RCED-95-67). The transmittal included the five-page executive summary from the report. (Transmitted via facsimile on June 5, 1995.)

PAFLTV Memorandum from Cynthia Norris, State/Compact Liaison, LLW Forum, regarding the South Carolina legislature's adjourning without final action on Barnwell. (Transmitted via facsimile on June 1, 1995.)

New Materials and Publications *continued*

AFLTIV Memorandum from M. A. Shaker, Management Advisor, and Cynthia Norris, State/Compact Liaison, LLW Forum, regarding the transfer of federal land in Ward Valley, California, to state ownership. (Transmitted via facsimile on May 31, 1995.) The transmittal included the following documents:

News Release: Statement of Secretary of the Interior Bruce Babbitt on Ward Valley Land Transfer. Department of the Interior. May 31, 1995.

Letter from Pete Wilson, Governor of California, to Bruce Babbitt, Secretary, Department of the Interior, concerning the transfer and transmitting the state's response to recommendations by the National Academy of Sciences. May 26, 1995.

~

PA Memorandum from Todd Lovinger, Congressional Liaison, LLW Forum, regarding a scheduled full committee hearing on the markup of the Texas compact legislation in the U.S. House of Representatives. (Transmitted via facsimile on May 22, 1995.)

~

PAFLTIV Memorandum from M. A. Shaker, Management Advisor, LLW Forum, regarding the National Research Council/National Academy of Sciences report on Ward Valley and a U.S. House of Representatives subcommittee hearing on the Texas Compact legislation. (Transmitted via facsimile on May 11, 1995.) Transmittal included the following document:

News Release: Radioactive Waste Unlikely to Reach Ground Water at Proposed Disposal Site; Continued Monitoring Needed. National Research Council. May 11, 1995.

~

PAFLTIV Memorandum from Cynthia Norris, State/Compact Liaison, LLW Forum, regarding the pending release of the National Academy of Sciences' report regarding Ward Valley, California. (Transmitted via facsimile on May 10, 1995.) Transmittal included the following document:

Media Advisory: Ward Valley Report to be Released at May 11 News Conference. National Academy of Sciences. May 9, 1995.

States and Compacts

Midwest Compact/Ohio

D *MC Information: The Midwest Low-Level Radioactive Waste Compact Commission.* Monthly newsletter. June 1995. Reports on the enabling legislation enacted by the Ohio General Assembly which was signed by Governor George Voinovich.

Northeast Compact/Connecticut/New Jersey

1993 Summary Report: Low-Level Radioactive Waste Management in Connecticut. Connecticut Hazardous Waste Management Service. April 1995. Summarizes the generation and management of low-level radioactive waste in Connecticut during 1993. The summary report and the full report are available. To order a copy of the summary report and/or the full report, contact Steve Levine of the Management Service at (203)244-2007.

~

Volunteer Approach to Siting a Low-Level Radioactive Waste Disposal Facility in Connecticut: 1995 Report to the General Assembly. Connecticut Hazardous Waste Management Service. April 1995. Recommends that the volunteer approach to siting a low-level radioactive waste disposal facility in Connecticut be allowed to operate for the next two years. To obtain a copy, contact Steve Levine of the Management Service at (203)244-2007.

New Materials and Publications *continued*

States and Compacts (continued)

Northwest Compact/ Washington

Letter from T. R. Strong, Chair, Northwest Interstate Compact, to Bruce Babbitt, Secretary, U.S. Department of the Interior, urging him not to delay the transfer of federal land in Ward Valley to the State of California for use in siting a low-level radioactive waste disposal facility. June 2, 1995.

Southeast Compact/North Carolina

PAFL *Press Release: Statement by Richard S. Hodes, M.D. Chairman.* Statement by the Chair of the Southeast Compact Commission for the Low-Level Radioactive Waste Management, concerning the South Carolina General Assembly's passage of legislation to withdraw from the Southeast Compact and establish a new compact. (Transmitted via facsimile on June 13, 1995.)

PAFL *North Carolina Governor Responds to South Carolina Low-Level Decision.* North Carolina Department of Environment, Health, and Natural Resources. News release. Provides North Carolina Governor Jim Hunt's response to the South Carolina legislature's decision to withdraw from the Southeast Low-Level Radioactive Waste Compact and to provide access to the Barnwell facility to every state except North Carolina. (Transmitted via facsimile on June 13, 1995.)

~
Understanding Radiation, Chem-Nuclear Systems, Inc. and the North Carolina Low-Level Radioactive Waste Management Authority. 1994. Teachers manuals designed for grades four through 12. The Health Physics Society will make the lesson plans available to school systems outside of North Carolina. To obtain a copy of the lesson plans, contact Sara Kempin, Public Information Officer, of the Authority at (919)733-0682.

~
Annual Report: A Report to the Citizens of the Southeast Interstate Compact Region on the Activities of the Southeast Interstate Low-Level Radioactive Waste Management Commission, July 1, 1993-June 30, 1994. Southeast Compact Commission for Low-Level Radioactive Waste Management. 1994. To obtain a copy, contact Ted Buckner of the Southeast Compact Commission at (919)821-0500.

Southwestern Compact/ California

Letter from Dana Mount, Chair, Southwestern Low-Level Radioactive Waste Commission, to President Bill Clinton, transmitting a resolution by the Southwestern Commission encouraging the Department of Interior to transfer federal land in Ward Valley, California, to the state for use in siting a low-level radioactive waste disposal facility. May 30, 1995.

Low-Level Radioactive Waste Management: The California Story. Southwestern Low-Level Radioactive Waste Commission and DOE's National Low-Level Waste Management Program, Idaho National Engineering Laboratory (INEL). May 1995. Reviews the history of the Ward Valley, California low-level radioactive waste disposal project. Includes sections on understanding radiation, defining and managing the waste, and the changing regulatory scene. To obtain a copy, contact Nicki Hobson, of Hobson & Company, at (619)598-8289. Copies cost \$4.00 each, plus shipping and handling.

South Carolina

^D South Carolina Department of Health and Environmental Control Regulation 61-63, Part VII, "Licensing Requirements for Land Disposal of Radioactive Waste." To be implemented by January 1, 1996.

New Materials and Publications *continued*

Federal Agencies

Department of Energy (DOE)

National Low-Level Waste Management Program Radionuclide Report Series, Volume 12: Cobalt-60, (DOE/LLW-128). DOE's National Low-Level Waste Management Program, Idaho National Engineering Laboratory (INEL). June 1995. Discusses the radiological and chemical characteristics of cobalt-60. Includes discussion about the waste types and forms in which cobalt 60 can be found, and the behavior of it in the environment and in the human body. To obtain a copy, contact Donna Lake at (208)526-6927.

Constructive Relationships and the FY 1997 Budget Process. Hard copies of slides presented by DOE Assistant Secretary Thomas Grumbly at the Environmental Management Budget Conference in Washington, D.C., on June 8, 1995.

Low-Level Radioactive Waste: A Cancer Patient's Perspective. DOE's National Low-Level Waste Management Program, Idaho National Engineering Laboratory (INEL). Twelve-minute video presentation. June 6, 1995. Presents a cancer patient's perspective on the necessity of providing for the disposal of low-level radioactive waste. To obtain a copy of the video, contact Paul Smith of the National Low-Level Waste Management Program at (208)526-6927.

"Implementation Guides for Use With Department of Energy Regulation for Occupational Radiation Protection," 60 *Federal Register* 95-13438. DOE. June 1, 1995. The titles of the 12 implementation guides are

- G-10 CFR 835/B1—Radiation Protection Program
- G-10 CFR 835/B2—Occupational ALARA Program
- G-10 CFR 835/C1—Internal Dosimetry Program
- G-10 CFR 835/C2—External Dosimetry Program
- G-10 CFR 835/C3—Radiation-Generating Devices
- G-10 CFR 835/C4—Evaluation and Control of Fetal Exposure
- G-10 CFR 835/E1—Instrument Calibration for Portable Survey Instruments
- G-10 CFR 835/E2—Workplace Air Monitoring
- G-10 CFR 835/G1—Posting and Labeling for Radiological Control
- G-10 CFR 835/H1—Occupational Radiation Exposure Record-Keeping and Reporting
- G-10 CFR 835/J1—Radiation Safety Training
- G-10 CFR 835/M1—Sealed Radioactivity Source Accountability and Control.

To obtain a copy of the guides, contact Steven Zobel in the Office of Worker Protection Programs and Hazardous Management at (301)903-2305.

Letter from Thomas Grumbly, Assistant Secretary for Environmental Management, DOE, to Floyd Spence (R-SC), Chair, Committee on National Security, U.S. House of Representatives, regarding DOE's FY 1996 Environmental Management budget, and supporting DOE Secretary O'Leary's May 9 letter expressing the concern of the potential impact of budget cuts. May 24, 1995.

~
Letter from Hazel O'Leary, Secretary, DOE, to Duncan Hunter (R-CA), Chair, Subcommittee on Military Procurement, Committee on National Security, U.S. House of Representatives, regarding potential consequences of cuts to DOE's FY 1996 Environmental Management budget. May 9, 1995.

~
National Low-Level Waste Management Program Radionuclide Report Series, Volume 11: Niobium-94 (DOE/LLW-127). DOE's National Low-Level Waste Management Program, Idaho National Engineering Laboratory (INEL). April 1995. Discusses radiological, chemical, and physical characteristics of niobium 94. Includes discussion about the waste types and forms in which niobium 94 can be found, and the behavior of it in the environment and in the human body. To obtain a copy, contact Donna Lake of INEL at (208)526-6927.

DOE (continued)

Analysis of DOE's Proposed Site Treatment Plan Configuration. Hard copies of slides presented by Ross & Associates Environmental Consulting, Ltd. at the National Governors' Association/Federal Facility Compliance Act State Task Force meeting in Washington, D.C., on April 24, 1995.

Estimating the Cold War Mortgage: The 1995 Baseline Environmental Management Report. Executive Summary. Office of Environmental Management, DOE. March 1995. The report provides life-cycle cost estimates, tentative schedules, and projected activities necessary to complete the Environmental Management program. To obtain a copy, contact the DOE Center for Environmental Management at (800)736-3282.

Matrix and Cross-References for Current, Former, and Proposed/Suggested Low-Level Radioactive Waste Acceptance Criteria (Revision 4). Thomas Kerr, TCC Co-Moderator, Senior Program/Project Engineer, National Low-Level Radioactive Waste Management Program, Idaho National Engineering Laboratory (INEL). February 9, 1995. To obtain a copy, contact Donna Lake of INEL at (208)526-6927.

Environmental Management 1995: Progress and Plans of the Environmental Management Program (DOE/EM-0228). DOE. February 1995. Provides a broad overview of the Environmental Management program's activities in 1994, 1995, and 1996.

Report to Congress: 1993 Annual Report on Low-Level Radioactive Waste Management Progress (DOE/EM-0236). Office of Environmental Management, DOE. November 1994. Summarizes the progress the states and compacts made during 1993 in establishing new low-level radioactive waste disposal facilities. Also provides summary information on the volume of low-level radioactive waste received for disposal in 1993 by commercially operated low-level radioactive waste disposal facilities. To obtain a copy, contact the U.S. Department of Commerce, Technology Administration, National Technical Information Service, at (703)487-4650.

Environmental Protection Agency (EPA)

Report to Congress on Flow Control and Municipal Solid Waste. Executive summary (EPA530-S-95-008). Solid Waste Emergency Response, EPA. March 1995. Presents a comparative review of states with and without flow-control authority, identifies the impact of flow control ordinances on protection and human health and the environment, and identifies the impact of flow control on the development of state and local waste management capacity and on the achievement of state and local goals for source reduction, reuse, and recycling.

Re-engineering RCRA for Recycling: Report and Recommendations of the Definition of Solid Waste Task Force (EPA530-R94-016). Solid Waste Emergency Response, EPA. November 1994. Presents the recommendations of the Definition of Solid Waste Task Force. The task force was established in October 1992 by the Director of the Office of Solid Waste to address concerns about the current solid waste definition and how it affects waste recycling.

Nuclear Regulatory Commission (NRC)

Letter from Carl Paperiello, Director, Office of Nuclear Material Safety and Safeguards, NRC, to Ramona Trovato, Director, Office of Radiation and Indoor Air, EPA, regarding preproposal environmental standards for the management, storage, and disposal of low-level radioactive waste (40 CFR 193). Enclosed with the letter are the NRC staff review comments on the above-mentioned environmental standards. June 2, 1995.

Memorandum from James Taylor, Executive Director for Operations, NRC, to the NRC Commissioners, regarding the fourth annual report to the commission, and identifying the number of requests NRC received for license amendments and licenses to store low-level radioactive waste, and the number of licenses granted by NRC. June 2, 1995.

New Materials and Publications *continued*

"Elimination of Low-Level Radioactive Waste Topical Report Review Program," 60 *Federal Register* 95-12102. NRC. May 17, 1995. States that the Low-Level Radioactive Waste Topical Report Review Program will be eliminated because of higher priorities and limited staff availability.

~

Memorandum from Richard Bangart, Director, Office of State Programs, NRC, to all Agreement States, regarding elimination of the Low-Level Radioactive Waste Topical Report Review Program. May 10, 1995.

~

Memorandum from James Taylor, Executive Director for Operations, to the Commissioners, regarding obtaining final approval by the NRC Commissioners of the staff-proposed Statement of Principles and Policy for the Agreement State Program and the staff-proposed Procedures for Suspension and Termination of an Agreement State Program. Enclosed with the memorandum are the two documents to be considered by the NRC Commissioners. May 5, 1995. To obtain a copy, contact the NRC Public Document Room and request SECY-95-115.

~

Memorandum from James Taylor, Executive Director for Operations, to the Commissioners, regarding obtaining final approval by the NRC Commissioners of the staff-proposed Policy Statement of Agreement State Programs. Enclosed with the memorandum is the document to be considered by the NRC Commission. May 3,

1995. To obtain a copy, contact the NRC Public Document Room and request SECY-95-112.

~

Field Lysimeter Investigations Test Results: Low-Level Waste Data Base Development Program. (NUREG/CR-6256, INEL-95/0073, Vol. 1). Test results for Fiscal Years 1986, 1987, 1988, and 1989. Prepared by Idaho National Engineering Laboratory for the Division of Regulatory Applications, Office of Nuclear Regulatory Research, NRC. May 1995. The study is designed to provide continuous data on nuclide release and movement and environmental conditions over a 20-year period.

~

Control of Water Infiltration Into Near Surface LLW Disposal Units (NUREG/CR-4918, Vol. 8). Progress report on field experiments at a humid region site in Beltsville, Maryland. Prepared by R. Schultz, University of California; R. Ridky, University of Maryland; and E. O'Donnell, NRC; for the Division of Regulatory Applications, Office of Nuclear Regulatory Research, NRC. April 1995. The study addresses possible means for controlling water infiltration through waste disposal unit covers in humid regions. Results of the assessment are applicable to disposal of low-level radioactive waste, uranium mill tailings, hazardous waste, and sanitary landfills.

~

The IG at the NRC: Office of the Inspector General. NRC. 1995. Provides information concerning the organization, policies and procedures of the NRC's Office of the Inspector General.

U. S. Congress

Letter from Don Young (R-AK), Chair, Committee on Resources, U.S. House of Representatives, to Bruce Babbitt, Secretary, U.S. Department of the Interior, and Carol Browner, Administrator, U.S. Environmental Protection Agency, regarding the reauthorization of the Endangered Species Act and the consultation between the Fish and Wildlife Service, BLM, and EPA concerning the potential impact of the Ward Valley project on the desert tortoise, a threatened species. June 20, 1995.

~

Letter from John Glenn (D-OH), Ranking Member, Committee on Governmental Affairs, U.S. Senate, to Ivan Selin, Chair, NRC, regarding the GAO report entitled, *Nuclear Regulation: Slow Progress in Identifying and Cleaning Up Licensees' Contaminated Sites.* May 8, 1995.

~

Letter from Don Young, Chair, U.S. House of Representatives Committee on Resources, and Frank Murkowski, Chair, U.S. Senate Committee on Energy and Natural Resources, to Bruce Babbitt, Secretary, Department of the Interior, requesting a copy of the National Academy of Sciences' report regarding the Ward Valley low-level radioactive waste disposal site. May 2, 1995.

~

New Materials and Publications *continued*

U. S. Congress (continued)

Letter from Alan Simpson (R-WY), J. Bennett Johnston (D-LA), Dirk Kempthorne (R-ID), Lauch Faircloth (R-NC), Robert Smith (R-NH), and Craig Thomas (R-WY), to Carol Browner, Administrator, EPA, concerning EPA's planned efforts to promulgate new regulations governing the management, off-site storage, and disposal of low-level radioactive waste. May 1, 1995.

General Accounting Office (GAO)

Radioactive Waste: Status of Commercial Low-Level Waste Facilities. Resources, Community, and Economic Development Division; GAO. May 1995. Report to Congressional Requesters. Reviews certain aspects of states' efforts to implement the Low-Level Radioactive Waste Policy Act of 1980.

Nuclear Regulation: Slow Progress in Identifying and Cleaning Up NRC's Licensees' Contaminated Sites (GAO/RCED-95-95). Resources, Community, and Economic Development Division; GAO. April 1995. Report to the Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate. Addresses NRC's progress in identifying all former materials licensees' sites that require additional cleanup and ensuring that sites in NRC's Site Decommissioning Management Plan are cleaned up in a timely manner.

Other

"For Our Nuclear Wastes, There's Gridlock on the Road to the Dump," *Smithsonian*, May 1995, pp. 40-50. Jeff Wheelwright.

Bridge to a Sustainable Future: National Environmental Technology Strategy. Prepared by the National Environmental Technology Council. April 1995. This national strategy builds on the ideas and recommendations in the earlier National Science and Technology Council document, *Technology for a Sustainable Future*, released in July 1994. This strategy addresses the need to remediate past environmental damage while shifting from waste management to pollution prevention and more efficient use of resources. To obtain a copy, contact the Interagency Environmental Technologies Office at (800)368-6676.

Reinventing Environmental Regulation. President Bill Clinton and Vice President Al Gore. March 16, 1995. Report contains a comprehensive set of 25 high priority actions to improve the existing regulatory system and advance towards a better environmental management system.

The Nuclear Waste Digest. The League of Women Voters Education Fund. April 1995. Provides information on recent developments in civilian and defense nuclear waste management. Consists of reprints and excerpts from publications by the Department of Energy, states,

American Indian tribes, utility associations, environmental organizations, scientists and others.

Federal agencies are required under the Environmental Justice Executive Order to develop environmental justice strategies. Environmental justice strategies are now available from the following federal agencies:

- U.S. Environmental Protection Agency
- U.S. Department of the Interior
- U.S. Department of Justice
- U.S. Department of Energy
- U.S. Nuclear Regulatory Commission
- U.S. Department of Transportation

To obtain a copy of the strategies, contact the National Center for Environmental Publications and Information at (513)586-3612. Environmental justice strategies for other federal agencies are available upon request at the same number.

Letter from E. Warnecke, Radioactive Waste Safety Standards (RADWASS) Program Co-ordinator, Division of Nuclear Fuel Cycle and Waste Management, International Atomic Energy Agency, to John Greeves, Deputy Director, Waste Management Division, NRC, regarding the RADWASS Progress Report No. 8. March 30, 1995. The report was enclosed with the letter.

Obtaining LLW Forum and Other Materials and Publications

To obtain federal government information

By telephone

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

By FAX

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

By Internet

- EPA Listserve Network
Contact John Richards for information on how to subscribe to the Listserve Network to receive *Federal Register* notices via e-mail at
voice (202)260-2253 • FAX (202)260-3884 • e-mail richards.john@epamail.epa.gov

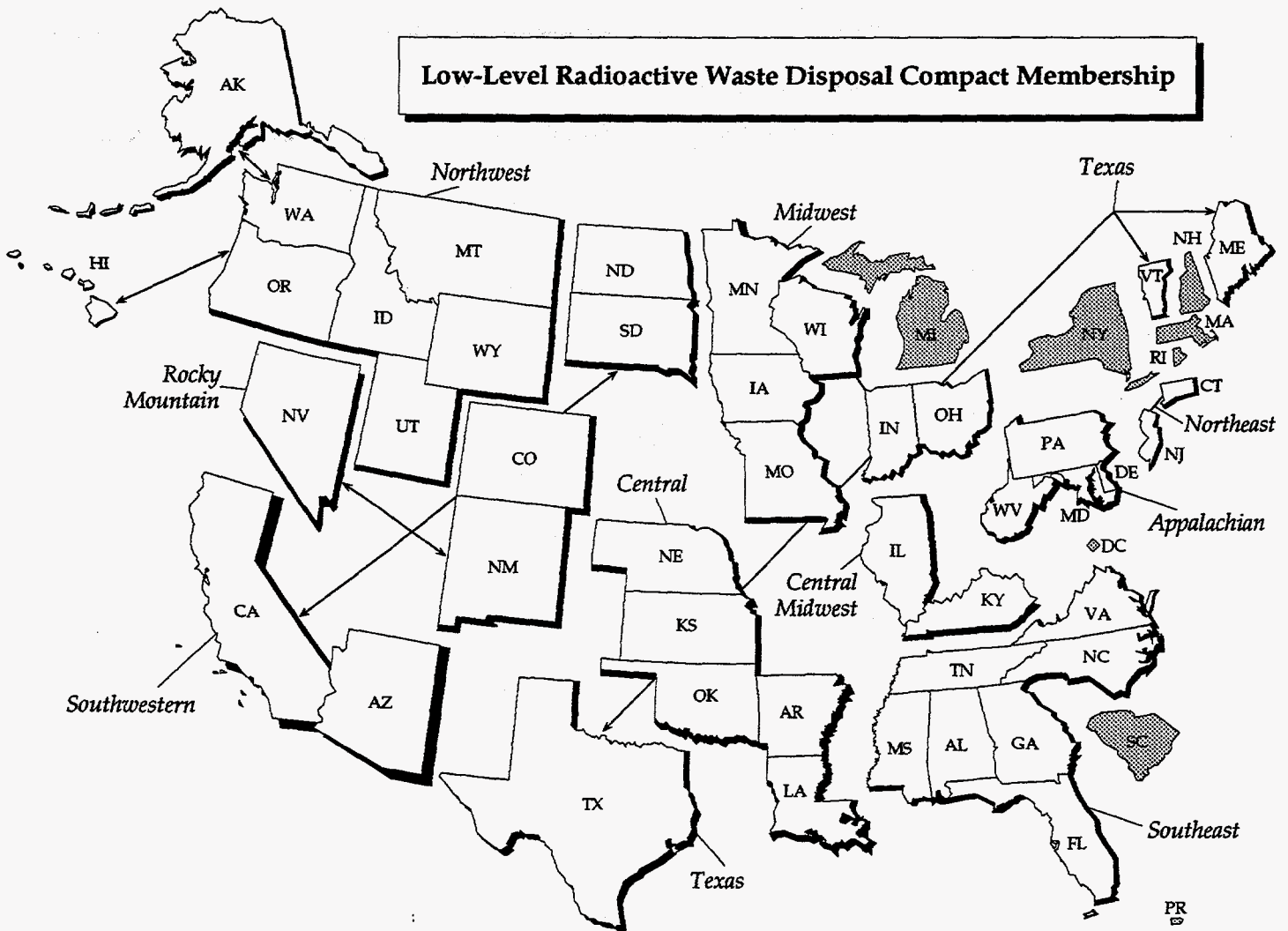
Receiving *LLW Notes* by Mail

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

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

To be placed on a list to receive *LLW Notes* and the *Summary Report* by mail, please contact Donna Lake, Senior Administrative Specialist, INEL, at (208)526-0234.

Low-Level Radioactive Waste Disposal Compact Membership



Appalachian Compact

- Delaware
- Maryland
- Pennsylvania
- West Virginia

Central Compact

- Arkansas
- Kansas
- Louisiana
- Nebraska
- Oklahoma

Central Midwest Compact

- Illinois
- Kentucky

Midwest Compact

- Indiana
- Iowa
- Minnesota
- Missouri
- Ohio
- Wisconsin

Northwest Compact

- Alaska
- Hawaii
- Idaho
- Montana
- Oregon
- Utah
- * • Washington
- Wyoming

Rocky Mountain Compact

- Colorado
- Nevada
- New Mexico

Northwest accepts Rocky Mountain waste as agreed between compacts

Northeast Compact

- Connecticut
- New Jersey

Southeast Compact

- Alabama
- Florida
- Georgia
- Mississippi
- North Carolina
- Tennessee
- Virginia

Southwestern Compact

- Arizona
- California
- North Dakota
- South Dakota

Texas Compact

- Maine
- Texas
- Vermont

Unaffiliated States

- District of Columbia
- Massachusetts
- Michigan
- New Hampshire
- New York
- Puerto Rico
- Rhode Island
- * • South Carolina
- * *current host state*
- *future host state*

Maine, Texas and Vermont are named as members of a compact passed by all three states. The compact is awaiting consent by the U.S. Congress.

The Low-Level Radioactive Waste Forum includes a Participant from each regional compact, current host state, future host state and unaffiliated state. Graphic by Afton Associates, Inc. for the LLW Forum. July 1995.

This report has been reproduced directly from the best available copy.

Available to DOE and DOE contractors from the Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831; prices available from (423) 576-8401.

Available to the public from the National Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161



DISCLAIMER

This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.

