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BOOTH GARDNER
GOVERNOR

Testimony of
Governor Booth Gardner
Delivered by
Curtis Eschels, Special Assistant to the Governor
to the
Senate Committee on the Judiciary
March 8, 1985

Thank you, Mr. Chairman and Committee members for this opportunity to testify on S. 356, ratifying the Northwest Interstate Compact on Low-Level Radioactive Waste Management. The Chairman, Senator Laxalt, and we in Washington State share the distinction of hosting the only presently operating commercial low-level waste sites.

Washington State -- along with other states with sites -- has remained reasonable and patient while it awaited Congress' ratification of various compacts. We support the intent of the Low-Level Radioactive Policy Act of 1980 and believe interstate compacts are appropriate vehicles to achieve the aim of that act. We also believe it is time for our patience to be rewarded.

The state of Washington remains committed to a reduction in the volume of waste it now receives. To that end we will encourage all reasonable and responsible approaches toward ratification of presently submitted compacts.

We also believe Congress should include very strong incentives for non-compact states to act in a responsible manner to join in a solution to a national problem. Presently we receive over fifty percent of the nation's commercial low-level waste -- even though our region generates only seven percent of the waste. Within Washington State we generate only three percent of the nation's waste. Yesterday the Chair of the Northwest Compact Commission testified on certain amendments to the 1980 Act which provide incentives for non-compact states. Ratification of the compacts is a key ingredient to a solution.

We recognize and appreciate the efforts of Senator Thurmond, Governor Riley and many others toward progress in implementing the 1980 Act. We pledge to continue working with them and others to overcome the remaining hurdles. Everybody must understand, however, that if those efforts are unsuccessful, Washington State is resolved to protect the interests of our citizens.

Congress' consent to the compacts before it will help accomplish our principal goal -- a steady reduction in volume coming to Washington State, achieved in an orderly, reasonable and firm manner.

Thank you.

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PDR WASTE
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The Nuclear Waste Policy Act of 1982 establishes a federal program leading to the siting, construction, and operation of a deep geologic repository for the disposal of the nation's "high-level" nuclear wastes. After slightly more than two years of federal implementation, it has become clear that the federal Hanford reservation within our state is being carefully considered by the federal government for location of this repository.

One of the major elements of the NWPA is to provide for a state, such as Washington, to fully participate in the various implementation processes of the federal agencies that are responsible for carrying out NWPA's siting program. One aspect of the state's participation is to initiate litigation, as a part of the state's involvement in the NWPA's processes, when the state believes the federal act is being improperly implemented. Another important element of the federal program is that states should be provided with adequate funds to carry out its participation rights under the act.

In March 1985, the State of Washington, Nuclear Waste Board initiated litigation relating to the validity of the federal Department of Energy's "siting guidelines." In addition, consideration is being given by the Nuclear Waste Board and the Attorney General's Office to litigation in a number of other areas, including:

- (1) challenges to the validity of the Department of Energy's "environmental assessments,"
- (2) the necessity of the federal government obtaining water rights under state law,
- (3) the NWPA's application to "defense wastes" as they pertain to both state funding and the scope of "consultation and cooperation agreements,"

(4) the providing of funds to the state to conduct litigation challenging federal implementation of the act,

(5) the validity of mission plans developed by the Department of Energy,

(6) the validity of EPA environmental protection standards, and

(7) participation in Nevada v. Hodel.

This list constitutes a statement of the areas where litigation, if it is to occur, will likely take place.

The request for funds contained herein should be considered as contingency funds. It is the state's view that it is entitled to obtain funds from the federal government under the NWPA to conduct any such litigation listed above. However, the federal Department of Energy has, so far, not provided such funds for such purposes when requested by the state. The Nuclear Waste Board has initiated procedures designed to obtain a formal statement of policy from the Department of Energy on this important matter. If the state is turned down in its efforts to obtain such funds, litigation as to the validity of the federal government's decision to review such funding is likely to be initiated by the state.

July 1, 1985 - June 30, 1986

Attorneys (1½-2 FTE), including benefits and overhead-----	\$ 90,000
Attorney Support Staff (1), including benefits and overhead-----	25,000
NWB Staff, including benefits and overhead-	25,000
Consultants (experts)-----	50,000
Miscellaneous-----	5,000
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	\$ 195,000

July 1, 198⁶~~5~~ - June 30, 198~~6~~⁷

Attorneys (1-1½ FTE), including benefits and overhead-----	\$ 70,000
Attorney Support Staff (1), including benefits and overhead-----	25,000
NWB Staff, including benefits and overhead-	10,000
Consultants (experts)-----	15,000
Miscellaneous-----	5,000
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	\$ 125,000