UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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NUCLEAR REGULATORY COMMISSION

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BRIEFING BY LOW LEVEL WASTE FORUM (LLWF)

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PUBLIC MEETING

Nuclear Regulatory Commission
One White Flint North
Rockville, Maryland
Friday, March 8, 1996

The Commission met in open session, pursuant to notice, at 1:05 p.m., Shirley A. Jackson, Chairman, presiding.

COMMISSIONERS PRESENT:

SHIRLEY A. JACKSON, Chairman of the Commission
KENNETH C. ROGERS, Commissioner
GRETA J. DICUS, Commissioner

STAFF PRESENT:

JOHN C. HOYLE, Secretary of the Commission

KAREN D. CYR, General Counsel

LLW FORUM EXECUTIVE COMMITTEE MEMBERS PRESENT:

GREG LARSON, Convenor

KATHRYN HAYNES, Alternate Convenor

WILLIAM DORNSIFE

LEE MATHEWS

TERRY STRONG

DON WOMELDORF

P R O C E E D I N G S

CHAIRMAN JACKSON: Good afternoon, ladies and gentlemen. This afternoon the Commission would like to welcome representatives of the Low-Level Waste Forum. The Forum periodically briefs the Commission on the status of the Low-Level Waste Siting program in the U.S. The development and construction of low-level radioactive waste disposal sites is an integral part of the nuclear program in this country not only for reactors, but for materials licensees. The establishment in this country of adequate low-level radioactive waste disposal capacity that protects the public's health and safety should be a major priority.

Earlier this week I had the opportunity to tour the Barnwell disposal site in South Carolina, and in fact I also visited the final disposal repository for low-level waste in Sweden earlier. So I am particularly anxious to hear from the Low-Level Waste Forum on the status and progress that is being made in other states and compacts as well as any comments you might have on the effect of Barnwell on the process of developing low-level waste sites.

Commissioner Rogers, do you have anything?

COMMISSIONER ROGERS: No.

CHAIRMAN JACKSON: Commissioner Dicus?

COMMISSIONER DICUS: No.

CHAIRMAN JACKSON: Mr. Larson, you may proceed.

MR. LARSON: Thank you, Chairman Jackson. It's a pleasure to be here today. We have had the opportunity to brief Commissioner Rogers in the past at visits to the NRC, but we haven't had that same opportunity for you or for our former colleague Greta. It's a pleasure to be here. We are glad to be here.

Just a few words about the Forum before we introduce ourselves. The Low-Level Waste Forum is an association of representatives of compacts and states. Compact representatives are appointed by their compact commissions and the state representatives by their governors.

Our primary purpose is to implement the federal legislation that was passed in 1980 and amended in 1985, and also to promote the objectives of interstate compacts in developing new disposal capacity.

The organization generally operates on consensus. We represent individually states and compacts and we have our own individual views on a number of issues. Occasionally we have issues that we do join together on and establish a common position. You may hear today in the discussion different positions offered by the representatives here.

Why don't we just introduce ourselves. Don.

MR. WOMELDORF: I'm Don Womeldorf. I'm the

executive director of the Southwestern Low-Level Waste Commission.

MR. DORNSIFE: I'm Bill Dornsife, director of the Pennsylvania Bureau of Radiation Protection. I represent Pennsylvania as host state for the Appalachian Compact. Under our legislation our agency has both regulatory authority and also contract oversight authority. We have the dubious distinction of trying to become an Agreement State to take over that.

CHAIRMAN JACKSON: That's a high honor.

MR. DORNSIFE: Yes.

MS. HAYNES: I'm Kathryn Haynes. I'm executive director of the Southeast Compact Commission.

MR. LARSON: Gregg Larson. I'm executive director of the Midwest Compact Commission.

MR. MATHEWS: I'm Lee Mathews, general counsel of the Texas Low-Level Radioactive Waste Disposal Authority.

MR. STRONG: I'm Terry Strong. I'm director of Washington's radiation protection program and I am the chairman of the Northwest Compact.

MR. LARSON: One of the things that the Forum does is serve as a focal point for exchanging views and information between federal agencies and people here in Washington and our states and compacts. Of course that's the purpose of the briefing this afternoon.

We would like to start off by highlighting some items that are of particular interest to us and the focus of a lot of national attention right now. The first is the status of the siting process out in the state of California, which is the host state for the Southwestern Compact Commission. Don is the representative of the compact commission and will brief you in more detail about the status of that site development effort.

MR. WOMELDORF: Thank you. Yes, I am representing the Southwestern Compact Commission, not the state of California. I want to make sure that distinction is clear.

California issued a license in 1993 which was immediately challenged in the courts. Those challenges have now been played out to the level of the California Supreme Court, and all along the way the California license activity and decision have been supported. So that is no longer an issue.

The critical path now is the transfer of the property from federal to state ownership. As you may know, the Department of Interior is saying that if this transfer takes place now there won't be any public safeguards, and of course our commission's view is that this isn't true at all, because California is an Agreement State; it's under NRC's oversight as an Agreement State; and those safeguards are going to be built in there as well as California's own

regulatory activities.

It is important, I think, to note that all of the lawsuits and all of the studies so far have indeed supported the California licensing decision. It has been one thing after another, and all along it has been yes-yes-yes, the site is okay, the technology is okay, the regulatory scheme is okay. We don't feel that one more study, as the Department of Interior currently is proposing, is going to change anything. We think it's only a delay.

So our commission's suggestion is to follow the NAS recommendation, transfer the land now, then make sure that things are going to be safe through additional studies and monitoring as appropriate.

Along those lines, you have in your packet a communication from the Forum to the Department of Interior transmitting a resolution of the Forum which was passed last month that goes along pretty much those same lines.

That is all I will say at this point. If you have any questions, of course, I will respond to those.

CHAIRMAN JACKSON: Commissioner Rogers.

COMMISSIONER ROGERS: No.

COMMISSIONER DICUS: No.

MR. LARSON: Chairman Jackson, one thing that we would like to ask the Commission is whether or not there might be some role for the Commission to play in moving the

process forward in California. I guess in the past we have had discussions with the NRC about dual regulation and some of the problems that are entailed in dual regulation between EPA and the NRC. We find ourselves in a position now where we seem to be moving in a triangular regulation where have got another regulatory agency. In this case it seems to be the Department of Interior, which doesn't really have any charge in this area.

In looking over your confirmation statement, you seem to express an interest and concern about storage of low-level radioactive waste. One of the issues that worries us about instances like the California situation is that if California is not successful in developing its disposal facility, we are going to have generators eventually storing waste again. We think it's an important public health and safety issue, and any support that the NRC could give regarding the transfer of that land to California would be very much appreciated.

CHAIRMAN JACKSON: Since in fact it's an issue between a particular branch of the federal government and the state, we would not get involved in a direct way. I understand your concerns. From the general perspective I am sympathetic. I will make sure that we take that into consideration.

MR. LARSON: Thank you.

The second status report we would like to give on a siting effort that has advanced fairly far along is the siting effort in the state of Texas where they are now going through licensing proceedings. They also have a new compact that has been formed, and that is before Congress now for consent. Lee is here representing the state of Texas.

MR. MATHEWS: Thank you. The Texas-Maine-Vermont Compact for low-level waste disposal is currently pending in Congress. House and Senate ratification bills have been passed out of the respective committees and are awaiting floor action. We anticipate that action in the House will occur first, and we understand that that could occur any time. It could happen this month; it could happen next year. But we are hopeful it will be sooner rather than later.

Under the compact arrangement, which is probably unique among the compacts, Texas will be the permanent host state for compact waste. A proposed site has already been identified in west Texas. Under the compact arrangement, Maine and Vermont will be able to send limited amounts of waste to Texas and Texas will receive $50 million in total from the other two states for that privilege.

Equally important, we think, is the fact that the host county will receive $5 million to do with as they wish, no strings attached.

The review of our license application by the state regulatory agency is, I am happy to report, complete. An environmental assessment will be issued by that agency in three weeks. This will trigger a round of adjudicative hearings, which we hope will be complete by this time next year. So always being the optimist, I believe we could have a site operating by early 1998 under the current arrangements.

That's where we are at the present.

CHAIRMAN JACKSON: Thank you.

MR. LARSON: We have talked about two compacts, one compact that is in existence and one compact that is pending, but two states that have submitted license applications in the state of California have been granted their application. We also have disposal sites that are currently operating now, one of which you visited this week, Barnwell, and two others, one in Utah and one in the state of Washington. The Utah site and the state of Washington site are both in the Northwest Compact. Terry Strong is here today and can give you a status report on what is happening at those two sites.

MR. STRONG: Washington had the first compact. It was relatively easy for us to do that, for the states adjacent to us to band together around us. Our site also has no provision for anybody else in the compact to have to

have a site. It was envisioned that ours would go on.

The provisions of the federal 1985 Amendments Act allowed a compact once it was ratified and secure to close its borders to receipt of waste from out of the region, and we have done that. In furtherance, we believe, of the intent of the federal Act, we also, after negotiation, entered into a contract with the Rocky Mountain Compact. So there are 11 western states that are in the region, all sending their waste to Hanford.

When we began this in 1980 and the federal acts were passed, no one envisioned having two sites in one region. That has been an interesting issue for us to deal with.

The niche that is filled by the Envirocare site in Utah has been an important one. Their original intent, and they continue to follow through on this, was to take large quantities of slightly contaminated material. It is this kind of material that most of the other compact regions as they look at the kinds of waste and the volumes that they would be faced with are not prepared to handle, and the niche that is filled by Envirocare is to handle just exactly that kind of material. And we don't want it at the Richland site either. So that part of the relationship goes very well. It is handling all of the material that is generated in the Northwest Compact region, and it provides an escape

valve in the interim for all the other compacts, and I think it works very well.

MR. LARSON: Kathryn Visocki is here from the Southeast Compact and can tell you a little bit more about the status of Barnwell.

MS. HAYNES: Old habits die hard. My name is Kathryn Haynes now.

[Laughter.]

CHAIRMAN JACKSON: We got it because we see your name in front of you.

MS. HAYNES: Which is funny, because I was planning anyway to start by telling you that old habits die hard. I've been with the Southeast Compact for quite a while and I spent 11 years talking about the Barnwell facility as our regional facility. Of course now I've had to break that habit. So when I speak of the Barnwell facility now, it is not within our compact any longer, as you know.

The measures that were taken last summer to withdraw South Carolina from the Southeast Compact and to make the Barnwell facility available to the whole nation except for North Carolina, those measures were attached to a budget bill in South Carolina. Therefore, there has been a lawsuit raised by a South Carolina environmental group questioning the validity of that act. It is not known at

this point what time the court will consider that question, but there is some question as to whether the act will be upheld and whether the same measures will have to be revisited in the South Carolina General Assembly.

That is just one of the areas in which we feel the access to the Barnwell facility is tenuous. There is a great deal of uncertainty. Not just because of the lawsuit, but also because of the fact that the general assembly can revisit that policy at any time. We have seen it happen before and we know it can happen again. There was supposed to be between seven to ten years of actual physical capacity for waste, but we all know that the technical capacity is not necessarily the issue.

I would like to make it clear that the Southeast Compact nonetheless does take their responsibility seriously in providing for access to disposal for its generators in the Southeast. North Carolina continues to be our selected host state and they continue to work, reviewing the license application and developing a facility.

COMMISSIONER ROGERS: What is the basis for the seven to ten years of capacity of Barnwell? What is that based on?

MS. HAYNES: I'm not sure I'm qualified to address that. It was an estimate that has been presented to us by South Carolina.

COMMISSIONER ROGERS: It's just past history that what they have been getting up to now is continued in the future at seven to ten years? What would be the basis for that?

MS. HAYNES: I'm really not sure I can answer that. All I know is that is what South Carolina tells us, that they have computed seven to ten years.

CHAIRMAN JACKSON: Based on my visit there recently, Commissioner, there is a rate of generation assumption having to do with recent history. It does not specifically take account of any premature closures, et cetera, of nuclear facilities, but it also does take account of new compaction technologies that exist. That is the kind of perspective that was offered to me recently.

COMMISSIONER ROGERS: Thank you.

MR. DORNSIFE: In the Appalachian Compact, as I mentioned, Pennsylvania is the host state. We had been pursuing under our laws and regulations a site screening process where our contractor would be identifying three sites, and those sites would then be narrowed down to one after site characterization.

Because of the controversy that we have been seeing and some other issues, we have recently added another step to the process, and it's called the community partnering process. It's an attempt to find three volunteer

communities. We have just recently completed the planning process with that new step and started implementing that process. I am pleased to say that so far the reaction has been pretty positive. It's amazing when you take pressure off elected officials at the local level in terms of forcing a site on somebody how the lines of communications are much easier to deal with.

So far we are really pleased with that new process. However, of course, it will add another two or three years to the time when we expect to have a site on line. So now we are talking probably the year 2002 or 2003 until we would be ready to accept waste.

I just want to also add that particularly with the Texas and the California issue, those two issues kind of send a chilling message to the rest of us. They are trying to move ahead with siting. Congress and the federal government had told us, states, you're responsible for this, go forth and propagate, form compacts and develop new facilities, and now two states have done that and the federal government appears to be holding up progress. So it certainly doesn't encourage the rest of us that are pursuing the process.

MR. LARSON: I represent the Midwest Compact. Our host state is the state of Ohio. Ohio just recently enacted enabling legislation, back in June of last year, that will

allow their state to go forward and develop a disposal facility. So we are really at the start of the siting process in our compact commission.

We have also put at your place a report entitled "Summary Report." It has a map on the back of the report that shows you the breakdown of states within the compacts and touches on where the siting efforts are in the other states that aren't in compacts or the other compacts that aren't represented here today. Unless you have any questions about those, we won't discuss them.

Any other questions on where we stand as far as our site development efforts?

COMMISSIONER DICUS: Just a quick question to Bill. Several of the host states and the compacts have had various sorts of processes to involve communities in the selection process, and you think yours is going to work well. What makes it unique from some of these other ones where some have worked and some have not?

MR. DORNSIFE: As you are aware, we probably had one of the more aggressive public involvement programs in our Pennsylvania program to begin with. Quite frankly, when you are talking about siting at a statewide level, it is very difficult to get the public interested in the issue. It is not until you actually get down to picking sites that people start discussing the issue at the local level, and by

then it is probably too late, because people have gotten biases. So we are thinking going to the volunteer process with a grass roots effort allows that communication to occur before a site even gets considered. Then the community has the right to decide; they are empowered to make the decision of whether they want to proceed.

COMMISSIONER DICUS: If they say yes, we want to proceed, do they have a point in time that that decision is irreversible?

MR. DORNSIFE: The way we envision our process, there are four steps. The first is just information and there is formal interest. Then there is a negotiation step. At the end of that negotiation step there is some sort of a formal agreement entered into. It can't be totally irrevocable, but there will be terms in there that will make it more binding and more difficult to get out of, but that is after a community has expressed the majority interest in pursuing it and being a host.

COMMISSIONER ROGERS: What incentives are there in your program for a community to want to advance itself as a disposal site?

MR. DORNSIFE: We have a number of incentives that were already built into the legislation. We had gone through a very detailed public involvement process that tried to identify the concerns. They range from providing

independent monitoring.

For example, we have local inspectors that have the authority to shut down a facility if they see a violation of health and safety. We have various kinds of monitoring offered free to the citizens to make sure they have not been affected. There are property guarantees. Obviously local monitoring. Transportation. We even look at affected municipalities and give them benefits. In addition, both the law and the contract requires our contractor to negotiate additional benefits, whatever the community wants. So we are probably talking several million dollars worth of benefits at the very least. Obviously not all monetarily related, but certainly some of it is monetarily related.

CHAIRMAN JACKSON: I had a question about the Southeast Compact. The focus really is still on Barnwell in the Southeast Compact. Is that correct?

MS. HAYNES: That is not correct. I was asked to take that part of the program today. Since I traditionally have spoken about Barnwell, they asked me to speak about it. Barnwell is definitely not the focus of our activities. I'm glad you asked the question. It gives me an opportunity to make the point. What I was trying to point out to you is that our focus is to develop capacity for our generators in the Southeast.

Before South Carolina took those actions we had already identified North Carolina as the host state. The application for a license had already been submitted and the process was already started to review that application. That process was not in the least bit slowed up or changed in any way. It was made very clear to North Carolina that nothing had changed; they were still the host state; and they still had an obligation. I don't want to imply that North Carolina hasn't taken that seriously, because they have. They continue to work to get the application reviewed and the license issued.

In terms of our relationship with South Carolina, however, I think there have been some assumptions made or misunderstandings in the general industry and community that there would be harsh feelings between the state of South Carolina and the Southeast Compact Commission. At least from my perception I have not seen that. We maintain a good working relationship. The state of South Carolina needed to do what they needed to do. Our commission needed to do what it needed to do. We all have respected that and continue to keep a good relationship with the state.

CHAIRMAN JACKSON: Thank you. Let me go back to your point when you were talking about California. What is it that you think the NRC can profitably do with respect to the problems with California and even Texas?

MR. LARSON: I think one thing might be to stress what the implications are if we fail in our efforts to develop disposal capacity. We have three sites operating. The one in Washington works very well for their compact, and the Rocky Mountain Compact, 11 states, but those are the only 11 states that are being served by that compact. The Envirocare facility takes only a limited part of our waste stream, high volume, low activity waste.

And Barnwell, we recognize, is not a long-term solution to our disposal needs because of its limited capacity.

So in the end we still are all very much interested and concerned about the need to develop new disposal capacity. We don't want to return to the situation that we had a year ago when we had no access to Barnwell. In my compact region we had 170-some generators storing waste on site. The same was true for the other states and compacts that also lost access to Barnwell.

California is very important as far as our success. They are the first state to have a new facility that is licensed and ready to bring on line. We have all been waiting for that to happen. To see that now in some trouble because, of all things, the federal government is not being supportive of the land transfer and allowing development of that site to go forward is troubling to us,

because we took on this responsibility, the federal government gave it to us, and we think we have gone forward in good faith to do that.

I'm not sure if that is specific enough an answer for you, Chairman Jackson.

MR. DORNSIFE: If I could add. It's somewhat troubling to me becoming an Agreement State to see an Agreement State having gone through a process of approving issues and now some other entity that clearly does not have radiological health and safety oversight looking at radiological health and safety issues. It makes you wonder who is really responsible for these issues.

MS. HAYNES: I think it's helpful to think of this in terms of what is going on in the legislatures in the states where a facility is being developed. It is very difficult for state legislatures -- I'll use North Carolina as an example -- to understand why their state has to go through all this trouble -- and it is a lot of trouble -- to develop one of these facilities and take all the political flak for it if Congress might change their mind at any moment. I think that's the perception in many host states, that Congress is not standing behind their own policy. They told us to develop these sites and now they are not assisting California and they are not assisting Texas. I think that is the very simplified perception of many people

in the host states. They are being given a tough job and they are not given any support and maybe we shouldn't do this; maybe we should just wait and see, because it looks like Congress will change its mind or the feds are changing their mind. That's a very common attitude, I think, in many of the host states.

MR. LARSON: I think our reaction would be very different if it was the NRC that was raising the concerns about the site out in California, but to have health and safety concerns related to radiation being raised by the Department of Interior is just inconsistent with what the federal government has said, which is that the Nuclear Regulatory Commission is the agency that is assigned responsibility at the federal level for regulation of radioactive material. This is where the responsibility lies, not in the Department of Interior.

Just to move on, a second topic that we wanted to talk about this afternoon was the future status of the low-level radioactive waste program within the Commission.

CHAIRMAN JACKSON: That was going to be my question.

MR. LARSON: We anticipated it.

I indicated earlier that generally the Forum operates on the basis of consensus. We all sometimes have different opinions on different issues, but this was one

that we had a unified opinion on. We did send you a letter that indicated our concern with any reduction in efforts in the low-level radioactive waste program that would affect the interaction that we have had historically between your agency and the Low-Level Waste Forum.

We have been very fortunate to have Nuclear Regulatory Commission staff attend our meetings. We have been fortunate to have Commissioners, including two of the past chairs of the Commission, come to our Forum meetings. We believe that if there is an interest in cost reduction that one of the best ways that you can minimize costs is to continue to have a good strong relationship with us, because what it allows is interaction with one organization and all of us rather than to have to deal with all of us separately. So we would encourage continued support of the Commission of participation in our meetings and other activities that the Forum is involved in.

In addition to that letter that we sent to the Commission, I think individually many states and compacts did communicate with the Commission. Without speaking for them, I did happen to have an opportunity this morning to look through the letters again. I think for the most part everyone was in agreement that the program should not be phased out, and I think most of the comments were to the effect that option 2, which was a reduction in staffing, was

perhaps necessary, but I think most states expressed some concern over the size of the reduction and felt that the size that had been recommended might impair some of the good things that the Commission staff has done in this area.

CHAIRMAN JACKSON: Have you thought about what kinds of interaction should have the greatest focus given that at least at this point most of the probable sites are in Agreement States?

MR. LARSON: I think it is true, Chairman Jackson, that most of the sites are in Agreement States. We do have three states that, if sites are eventually selected and license applications are submitted, will be coming to you rather than to their state agencies. That is Michigan, Connecticut and New Jersey. I know in their letters they did raise that concern, that by phasing out or reducing significantly the staffing of the low-level waste program that it would perhaps prevent timely licensing of facilities in those three states.

I had an opportunity also to look at the Advisory Committee on Nuclear Waste letter, and I think they did a very good job of highlighting the areas where we have received a significant amount of support from the program and we have benefited from the activities of the Commission and the staff. I think they also did indicate some areas where they thought some reductions might not affect the

overall program.

I think all of us are concerned that the kind of reduction that was talked about in the options paper might be such that it would eliminate what critical mass is necessary to keep some sort of a program going.

MR. DORNSIFE: Maybe I could offer the perspective of someone becoming an Agreement State and what kind of needs we might have. I think primarily our particular needs would be for assistance in development of guidance. Not necessarily draft guidance, but review and comment on guidance that we would be developing.

Some necessary research, particularly on engineered facilities. That is somewhat lacking. And long-term performance, waste form performance. That kind of research would be particularly helpful.

Also, obviously some presence to provide for updating of regulations as times change, to assist the Agreement States in that process.

Those are the three areas that I think would be most useful from our standpoint.

CHAIRMAN JACKSON: Have you given any thought to how these things should be paid for?

MR. DORNSIFE: I will be bold to say that obviously the nuclear power plants are a very large contributor to the problem and they need the low-level waste

disposal as much as anyone. They obviously will continue regardless of how we proceed here with the agreement program to continue to be NRC licensees.

MR. LARSON: Just to give you another example of how an issue can arise that is unanticipated. I think this was mentioned in that alternatives paper. In trying to look ahead and determine what are the needs going to be in the future, it is hard to say, but historically there have been things that arose that nobody could predict that required staff time and attention.

Just an example of something recent has been a concept that has been developed called assured storage, which is another type of approach that has been suggested to developing disposal capacity in a way where it is not called disposal; it's called storage. I think there are many members of our organization and states and compacts that have significant reservations about that type of an approach to developing some way of safely managing this waste. The NRC had an opportunity to weigh in on that in a way that I think was consistent with the views that many of us hold on that.

There are other issues like that that are going to arise in the future that are just very unpredictable. Without being able to look to the agency that has primary responsibility for radioactive materials and not have the

ability to consult with that agency when issues like that do arise is troubling to us.

Another example of an area where the Nuclear Regulatory Commission did play a role in assisting our efforts was in California and the review that was done by the National Academy of Sciences. Don is very familiar with that and might want to say a few words about that.

MR. WOMELDORF: A couple of years ago some of the project opponents identified what was seen as a misrepresentation in the license application on the amount of plutonium slated to go to Ward Valley and raised that issue, and it came up again at the National Academy of Sciences review recently.

We were pleased to see the quick response from NRC staff such as Jim Kennedy, Andy Campbell and others to help identify why those numbers looked the way they did. It showed that the California decision again was supported, that the amount of plutonium that was going to go to Ward Valley was exceedingly small, very low, and that issue, I think, has pretty well been put to bed. Others are going to pop up, and California may come back to you with other requests for information in the future, but that one seems to be quiet, at least for the time being.

MR. LARSON: Another area that has been of continuing concern to us has been dual regulation of

radioactive materials. There are two areas that we have been focusing on recently. One is the NESHAPs, the national emission standards for hazardous air pollutants, and the other has been mixed waste. Bill is going to talk a little bit about the NESHAPs program.

MR. DORNSIFE: Some of the states that are in the process of licensing facilities have had some problems with the way the NESHAPs have been handled. The dual pool regulation involved there in terms of recognizing it is a legitimate radiological health and safety issue, and having two different agencies responsible for it creates some problems.

We are obviously very supportive of the proposal to deal with that and the way that proposed regulations have come out.

There is absolutely no reason in our mind why this shouldn't be dealt with the same as all the other radiological health and safety issues that come up, including the public involvement and all the other things that the states are probably in a better position to deal with.

The other concern we have had about NESHAPs is because it is a separate agency it tends to get tied up in some of these other issues that are outside of the agreement program, like threatened and endangered species and some of

the other federal actions that are required.

MR. LARSON: Next is the other issue that is affected by dual regulation. Lee is going to comment briefly on that.

MR. MATHEWS: Members of the Forum and others have urged for a number of years that DOE consider accepting or investigating the acceptance at its sites of commercial mixed waste for treatment and disposal. There is not a whole lot of commercial mixed waste out there. It makes it difficult and expensive for the states to provide separate disposal modules for this material.

In addition, we feel like it subjects the states to additional permitting. We would have to get hazardous waste licenses and permits in addition to radioactive waste licenses. Most of the states therefore have not made any concrete plans for accepting mixed waste at their disposal facilities.

The Federal Facilities Compliance Act Task Force has put this item on their agenda for review and have approached DOE about conducting a pilot project to determine the feasibility of accepting certain mixed waste streams at certain of their disposal facilities. DOE seems favorably disposed to consider that possibility, and we are encouraged that this should go forward and be a fruitful area of cooperation and investigation with DOE.

In addition, NRC by letter dated February 9 to DOE, has encouraged DOE in this initiative regarding the pilot project. We are certainly happy to see some progress made along this line. It's worrisome to the states, and we feel like DOE probably can provide aid in this area, and we will be looking forward to the joint effort between the states, DOE and NRC.

MR. LARSON: Chairman Jackson, I think we have covered the subject areas that we wanted to touch on during the course of the briefing. I don't know if there are any other areas that you or the Commissioners might want to ask us about.

CHAIRMAN JACKSON: Commissioner Rogers.

COMMISSIONER ROGERS: Not really a different area. Since we are very much grappling with this question of what we should be doing in the low-level waste area, I think it would be perhaps helpful if we could have even a little bit more feedback from you folks on what you see as the kind of minimal strengths that NRC might have, in your view. I think that could be helpful to us in trying to make some decisions in this area.

You have touched on the two major efforts in sort of general ways, namely, helping you with regulatory activities and then helping you with technical activities via research programs. I think it would be helpful if

perhaps we could have a little more focus from you, and whether you all agree on that, I don't know. It's helpful to us to know that you think that we ought to maintain a low-level waste program. That's kind of a starting point for us to focus on low-level waste, but it doesn't really help us too much when we have to make decisions as to exactly how we are going to do this and exactly what level of efforts might be appropriate.

For example, you referred to the ACNW letter to the Commission on this subject. It occurred to me that perhaps we could help to maintain some kind of a national technical strength by networking technical experts in the individual states program together with our own technical experts so that we might not necessarily be the sole repository of technical expertise in all relevant areas to the low-level waste disposal programs, let's say, but nevertheless we could contribute and help to act as a coordinating resource for technical expertise in this area.

That way we might be able to play an important role but not necessarily have all of the expertise here, because I'm sure within each of your organizations you have technical expertise. You probably don't have all that you want, however. You probably don't have as many people as you would like to cover all of the bases, but you may have some really first rate people that are real technical

experts on some key areas of the low-level waste disposal, either the engineered barriers area, or hydrological questions. I won't try to make a list here, but I think you get the idea.

I think it would be helpful to us if you could indicate what your needs are and how we might be able to work together with you in some way to see that those needs are met without our necessarily being the only resource that is available.

Can we have some response on that? I don't expect it to be definitive. You may want to think about it some more, but what is your response to perhaps enlarging our mutual supportive roles while at the same time NRC is responding to its need to contract its FTEs and expenditures?

MR. DORNSIFE: I personally think your suggesting of being a repository for resources is probably not a bad idea. In addition, I would suggest maybe considering other parts to that resource. For example, USGS; the NIST for concrete performance. There are a number of resources that you could muster to help us. I think that's a good suggestion, something I would like to think more about.

COMMISSIONER ROGERS: I'm sure we would love to be able to have everything right here, but that isn't going to be realistic in the future. The question is, if we are not

gong to have everything, what is something that we might have that would still be very important and very useful in the research area?

If you look in the regulatory area, I don't think you can look elsewhere. You've pointed out and the ACNW has pointed out that we can play a very useful role there in assisting with regulatory questions at the state level. Not necessarily dictating them, but being a resource to look at the development of guidance. You've mentioned that. But also certain aspects of regulations. Some of those considerations are very local, very state-oriented things that have to be in your local and state statutes, but we can be helpful in certain parts of that, I would think.

I wonder if there is any way that you could give us something that is a little more focused than what we have just talked about today. Is there any mechanism that you can think of that would allow you to share your own thoughts and then get them to us?

MR. STRONG: I think we do have a lot of expertise in the state of Washington, and on a collaborative basis I don't see why we shouldn't be working even more closely together. A specific example of that, not in the low-level waste area, but earlier this week your staff and Agreement State staffs met in Vancouver, Washington, on three issues. It was not a training workshop put on by your staff. It was

a collaborative effort, and I don't see why we shouldn't do much more of that specifically in this area. It was an outstanding opportunity. I think we ought to capitalize on it.

COMMISSIONER ROGERS: What strengths do you feel you have in the area of performance assessment? This is something that we have been working on here quite hard for the last few years, particularly in the low-level waste area, that I think has really started to look very good, very professional and complete. What do you folks have in your own organization with respect to performance assessment capabilities?

MR. DORNSIFE: I think from our standpoint we can certainly identify the key issues that need to be resolved. For example, one of the issues that I think is in dire need of more research is what is the long-term performance of a concrete waste form. That would be very handy to have, because you can get chemical absorption for ten to hundreds of thousands of years without maintaining physical stability.

We have been working very closely with the folks at INEL, the DOE Low-Level Waste Technical Assistance program. We have access to a number of computer programs and experts out there to help us develop some of the early guidance documents and things that we need for performance

assessment. So we have been using other resources. We do have some expertise on our staff, certainly, but that is one of the areas we primarily look to the outside for expertise.

COMMISSIONER ROGERS: Do you within your organization share this? In other words, do you as representatives of individual compacts encourage your technical people to exchange information among each other?

MR. LARSON: We do, Commissioner Rogers. There is another organization that also operates along the same lines that we do called the Technical Coordinating Committee, which consists of representatives of host states. In once sense I am here representing the Midwest Compact, but the people who are really doing the siting work are people from the state of Ohio, and they are probably the more appropriate people to respond to your questions about performance assessment or other specific activities that they might be engaged in that interface with DOE. It's probably true with Kathryn as well.

That is certainly something that we can also take back to our organization and ask the states who are doing the siting work like Bill and other state officials the question that you have raised.

I just want to stress that in one sense some of that activity, perhaps not so much solely technical, is going on now with our organization and with the NRC. We are

fortunate to have Jim Kennedy come to our Forum meetings. He is there to answer questions that can cover a gamut of things, from performance assessment to the latest position that the Nuclear Regulatory Commission has on import and export of low-level radioactive waste. He's in the hot seat quite often during our meetings, because we have a lot of questions about what the agency that is establishing policies regarding radioactive materials is saying about different issues. So that kind of interaction is going on.

MR. DORNSIFE: One of the concerns that we run into, though, is host states essentially have two responsibilities. One is regulatory and one is site development. Obviously the concerns are somewhat different between the two. The TCC, the Technical Coordinating Committee, is more of a site development effort. NRC had been sponsoring meetings of the state regulators to talk about those issues, and recently the Conference of Radiation Control Program Directors has gotten a grant from DOE to pick up a continuing workshop effort to deal with those regulatory issues and share information about regulatory issues. So whatever support you could provide for the regulatory effort would be very much appreciated. That's really where the regulatory issues are discussed.

CHAIRMAN JACKSON: Commissioner Dicus.

COMMISSIONER DICUS: One quick thing on the

research effort, and I think it goes to Commissioner Rogers' question about your mechanism for gathering information and then putting that information together and getting it to us. You mentioned one thing in particular that would be helpful, that perhaps the individual states cannot do. For example, concrete's ability to perform over time. Are there other particular projects that you think would be worthy of the expenditure of time and effort on the agency's part that will be helpful to you? If you had a way to bring those to us, it would be helpful.

MR. DORNSIFE: Hopefully that regulatory group that the conference is sponsoring is the appropriate collection point for those ideas.

MR. LARSON: Bill's example is a good one insofar as it is the type of activity that doesn't just benefit his compact because it may be looking at a concrete container or a concrete bulk facility, but for all of our host states that are looking at that kind of technology. That kind of assistance from the NRC benefits a broad number of siting efforts.

MR. DORNSIFE: Another area that has been of concern to us that NRC has authority over is export and import of waste. Obviously we get a lot of criticism and concern expressed by the public about the possibility of waste being imported and exported. We know there are

regulations in place now. We certainly would like to work with you on those and make sure that what is in those regulations is enforced.

MR. LARSON: If there aren't any other questions, I guess we are at the end of --

CHAIRMAN JACKSON: End of your rope?

[Laughter.]

COMMISSIONER DICUS: One more. You used a term a while ago. I haven't been away from the low-level waste arena too long, but apparently this term slipped in on me in the meantime. This assured storage, what is that issue or term? I'm not familiar with it.

MR. LARSON: Assured storage is an alternative that has been put forward, I think in the belief that it might result in an easier siting and development of disposal facilities. It is basically developing a facility, not calling it a disposal facility, but calling it a storage facility, and going forward with that development without the type of rigorous regulatory compliance and performance assessment that you would go through for a 10 CFR 61 type of facility. I think the belief among some people is that that is easier to do because the public may feel more comfortable with the word "storage" than "disposal."

Speaking for myself, I don't find that to be true. I think more than anything else, when we get asked questions

by citizens about what it is that we are proposing to develop in the way of a disposal facility, they are looking for certainty in our answers, and to be telling them that we are going to develop a storage facility, the very next question is going to be, for how long, what's going to happen at the end of the storage period?

My belief is that the approach that was taken by the NRC back when it developed 10 CFR 61 is a correct approach, to call it disposal. That's what we intend to do and to subject it to the kinds of rigorous analysis that the public expects. There are some members of the public who don't think 10 CFR 61 is sufficient. To go forward and develop the kinds of facilities we are doing and to call it storage and not have it subject to those requirements is not the proper way to go. That's the position that I think staff at the NRC have communicated.

MR. DORNSIFE: I think from a regulatory standpoint we see the same kinds of concerns for this long-term storage as we see for disposal. It's materials performance concerns; it's assurance of eventual disposal. If you go beyond 100 years, what do you do about long-term care, intruder protection? Those same issues still occur with this kind of a concept. So we're not sure from a regulatory standpoint it is really a whole lot easier to deal with.

CHAIRMAN JACKSON: Those are the kinds of issues that exist in the high level waste area in spades.

MS. HAYNES: This is a concept, though, that has been given quite a bit of attention at the state level. So you probably will be hearing it frequently in the future. I know in North Carolina it has come up in several legislative hearings. The state licensing agency has received a number of questions about how they would go about licensing such a facility. So I would expect that you would be getting those kinds of questions soon as well.

MR. LARSON: There are some states that have expressed further interest in it. They want to know more about the alternative, what are the cost implications of it. So I think there will continue to be some interest in the alternative.

MR. DORNSIFE: Just as another issue, obviously we are very much interested in the rebaselining effort that is ongoing in the agency, and where it affects the low-level waste program and Agreement State programs that are integral to our efforts, we would like to be involved wherever we can in terms of helping you with that effort.

CHAIRMAN JACKSON: You will be.

MS. HAYNES: Something that has been very helpful to the Low-Level Waste Forum and its members is having regular attendance at our meetings by your staff members and

occasionally by an actual Commissioner. In the past we have had attendance from a Commissioner. I think it has happened two times. The last two chairs of the Commission have attended our Forum meetings.

We purposely schedule our meetings so that at least one of them is in the Washington area to make that a little bit more convenient for you. As I said, even if we are outside the region, we normally have a member of your staff to attend. Jim Kennedy and sometimes others. That is enormously helpful for us. It is very efficient and effective. It saves all of us having to come back and forth to Washington all the time, and for your staff, I'm sure, to travel all over the country. It helps us to know what issues are on your minds before you make decisions, and likewise I'm sure you are kept informed on the issues that are important to us.

We would like to ask you to continue to support your staff in attending our meetings and for you to attend as well when you can. Our next meeting in the Washington area is May 29 through 31, and that's in Annapolis.

CHAIRMAN JACKSON: Well, you have your sister here. In addition, I respond to invitations.

MS. HAYNES: Thank you.

MR. LARSON: I think with that we are done. I would like to do one other thing. It was an oversight on

our part not to recognize the efforts of Andy Campbell on your staff, who was very helpful to us in working through the question of the amount of plutonium going into the Ward Valley facility and assisting the NAS panel with that. We very much appreciated his help.

CHAIRMAN JACKSON: Thank you.

MR. LARSON: With that, thank you very much for your time this afternoon.

CHAIRMAN JACKSON: I would like to thank all of you representing the Low-Level Waste Forum for what I thought was a really informative and useful briefing. Obviously this is an issue that has to be addressed, given some of the things you pointed out, in a thorough but timely manner. It looks like there is some progress from what you are telling us, but as I always say, there is always room for improvement. You are clearly working to do your part in trying to move the siting process along.

As I try to capture what you have said and what my fellow Commissioners have said, it is clear that going forward appropriate partnering of resources between what is available in the states and here merits serious consideration in addition to any specific technical assistance that NRC can uniquely provide. We have to consider that as part of our ongoing rebaselining assessments, et cetera.

As Commissioner Rogers has said, and you have identified a number of things here, some focused input that is more comprehensive even than what you have already outlined on these issues from you would be helpful to us and especially helpful to me since I'm a visual learner.

Again, I would like to thank all of you for an excellent briefing. Unless my fellow Commissioners have any additional comments, we are adjourned.

[Whereupon, at 2:10 p.m., the meeting was adjourned.]

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: BRIEFING BY LOW LEVEL WASTE FORUM (LLWF) - PUBLIC MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Friday, March 8, 1996

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company

Transcriber: Michael Paulus

Reporter: Michael Paulus

LLW Forum Publications

The LLW Forum publishes a newsletter, *LLW Notes*, which is mailed regularly to compact, state and federal officials. The LLW Forum also publishes a supplement to its newsletter entitled *Summary Report: Low-Level Radioactive Waste Management Activities in the States and Compacts.*

These LLW Forum publications are available to the public through individual Forum Participants. LLW Forum publications may also be obtained from the U.S. Department of Energy's National Low-Level Waste Management Program at the Idaho National Engineering Laboratory by calling (208)526-0234.

For further information, contact your Forum Participant.

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Congress directed the U.S. Department of Energy to assist states and compacts in fulfilling the federal law. Accordingly, funding for LLW Forum management is provided by the State of Washington Department of Ecology through a grant from DOE.

low-level radioactive waste compacts

a new regional approach to a complex environmental issue

In 1980, Congress passed the Low-Level Radioactive Waste Policy Act. This law encourages states to join in interstate agreements, or compacts, to provide for disposal of commercial low-level radioactive waste. The law, and the 1985 act amending it, were endorsed by the Governors of the 50 states. Until 1985, representatives of the Governors worked to implement the federal law through a committee of the National Governors' Association. After passage of the Low-Level Radioactive Waste Policy Amendments Act of 1985, representatives of compacts and states established an independent organization to support the objectives of the federal law and the compacts—the

Low-Level Radioactive Waste Forum.

Low-Level Radioactive Waste Forum

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

LLW Forum Participants include representatives of regional low-level radioactive waste compact commissions, states that are not members of low-level radioactive waste compacts, and states that host regional disposal facilities.

Meetings

Forum Participants meet regularly to discuss issues related to low-level radioactive waste management and low-level radioactive waste compacts. Forum Participants operate mainly by consensus. To encourage participation, meeting locations are held at different locations throughout the country.

Meetings of the LLW Forum are open to the public and are regularly attended by compact, state and federal officials—as well as by representatives of industry, academia, community groups, and the press.

Subcommittees/Working Groups

LLW Forum subcommittees, task forces and working groups study specific policy issues on behalf of the LLW Forum. Currently, the LLW Forum supports two working groups—the Waste Information Working Group and the Mixed Waste Working Group.

LLW Forum Projects

In addition to regular LLW Forum activities, Forum Participants focus their cooperative efforts on projects that will further effective low-level radioactive waste management. The LLW Forum

- developed and implemented an interregional agreement to help ensure that regional borders do not impede the safe treatment of low-level radioactive waste,
- played a key role in development of the national uniform manifest for low-level radioactive waste shipment, and
- is working to provide disposal solutions for commercial mixed waste.

Management

Forum Participants serving on the LLW Forum Executive Committee act on behalf of the LLW Forum as authorized and oversee the activities of the LLW Forum's management firm, Afton Associates, Inc.

Commercial Low-Level Radioactive Waste Disposal Capacity Development Chart

Compacts/States	Siting	License*	Facility Open*
Appalachian *host* **Pennsylvania**	siting process under way	application early 1997	mid-1999
Central *host* **Nebraska**	site selected	application submitted	autumn 1999
Central Midwest *host* **Illinois**	siting process under way	application Nov. 1999	Sept. 2003
Midwest *host* **Ohio**	siting process under development	application late 2000	mid-2005
Northeast *host* **New Jersey**	siting process under way	application 1999	July 2001
host **Connecticut**	siting process under way	application 1999	2002
Northwest *host* **Washington**	*facility operational since July 1965, license reissued May 1992*		
Rocky Mountain *host* **none**	*contract with the Northwest and Washington for disposal at Washington facility*		
Southeast *host* **North Carolina**	site selected	application submitted	1999
Southwestern *host* **California**	site selected	issued Sept. 1993, currently being litigated	mid-1997
Texas *host* **Texas**	site selected	application submitted	mid-1997
Massachusetts	siting process under way	application 2000	2001/2002
Michigan	siting process under development		
New York	siting process under development		
South Carolina	*disposal authorized at facility since April 1971, license renewed through July 2000*		
District of Columbia	not siting a facility		
New Hampshire	not siting a facility		
Puerto Rico	not siting a facility		
Rhode Island	not siting a facility		

* All future dates are estimated and subject to change.

Graphic by Afton Associates for the LLW Forum. January 1996.

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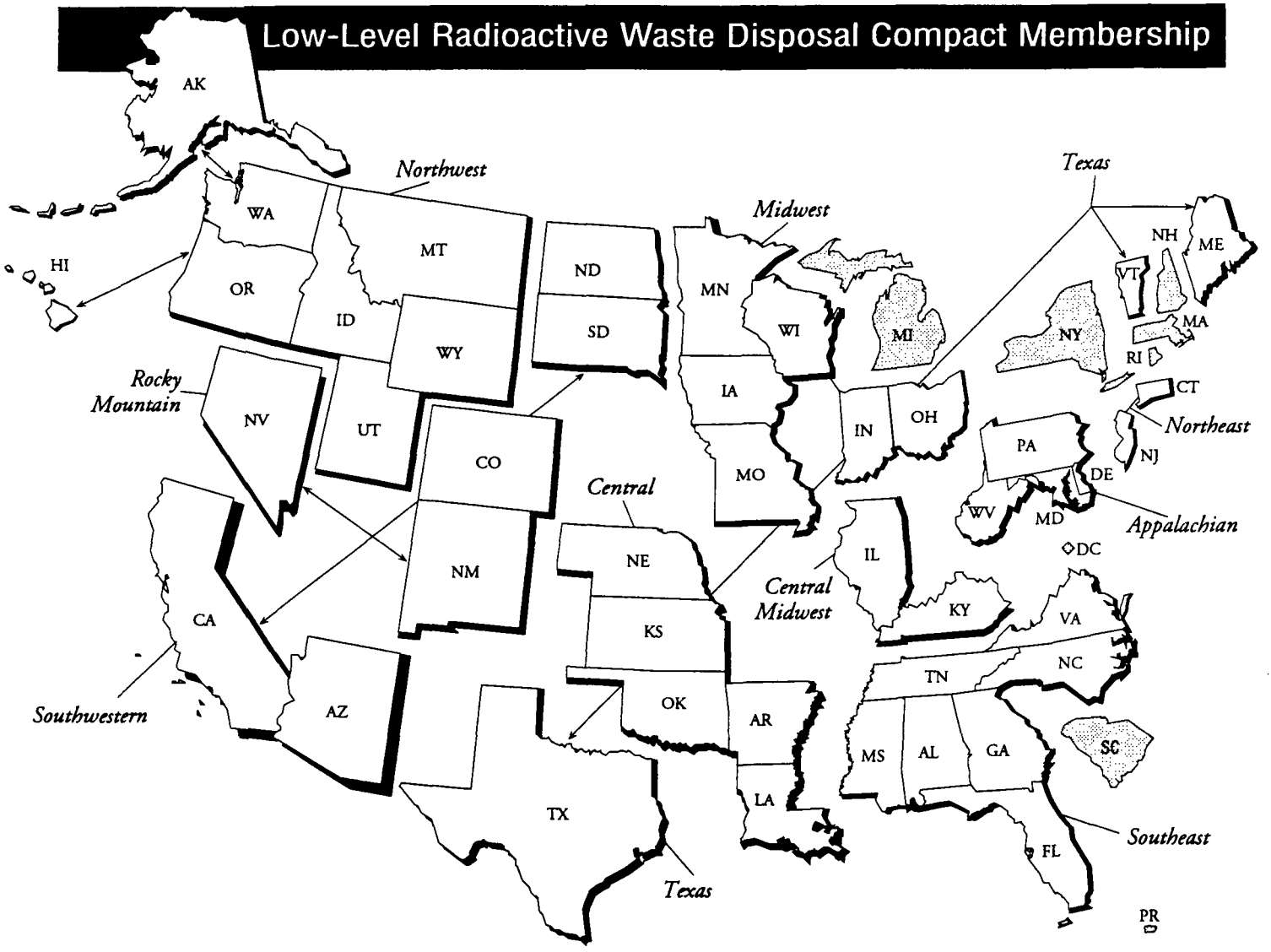
Low-Level Radioactive Waste Disposal Compact Membership



Appalachian Compact
Delaware
Maryland
Pennsylvania •
West Virginia

Central Compact
Arkansas
Kansas
Louisiana
Nebraska •
Oklahoma

Central Midwest Compact
Illinois •
Kentucky

Midwest Compact
Indiana
Iowa
Minnesota
Missouri
Ohio •
Wisconsin

Northwest Compact
Alaska
Hawaii
Idaho
Montana
Oregon
Utah
Washington * •
Wyoming

Rocky Mountain Compact
Colorado
Nevada
New Mexico

Northwest accepts Rocky Mountain waste as agreed between compacts.

Northeast Compact
Connecticut
New Jersey

Southeast Compact
Alabama
Florida
Georgia
Mississippi
North Carolina •
Tennessee
Virginia

Southwestern Compact
Arizona
California •
North Dakota
South Dakota

Texas Compact
Maine
Texas •
Vermont

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

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

The Low-Level Radioactive Waste Forum includes a representative from each regional compact, current host state *, future host state •, and unaffiliated state.

Graphic by Afton Associates, Inc. for the LLW Forum. January 1996.

Summary Report

Volume 4, Number 1 January 1996

Low-Level Radioactive Waste Management Activities in the States and Compacts

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Appalachian Compact

Governing Body Appalachian States Low-Level Radioactive Waste Commission

Member States Delaware, Maryland, Pennsylvania, West Virginia

Compact Established The compact was established February 19, 1986, and ratified by Congress on May 19, 1988. The commission's first organizational meeting was held April 30, 1990.

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Host State: Pennsylvania

Regulatory and Program Responsibility	Bureau of Radiation Protection, Department of Environmental Protection (DEP)
Siting Responsibility	Chem-Nuclear Systems, Inc.
Other Involvement	DEP Low-Level Waste Advisory Committee Environmental Quality Board
Disposal Technology	earth-mounded above-ground vault

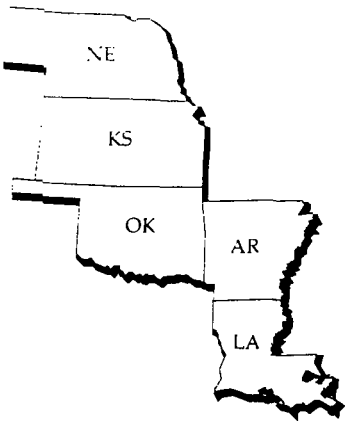
Siting Pennsylvania has completed the final stage of a three-stage disqualification process. About 75 percent of Pennsylvania has been disqualified from further consideration. Pennsylvania is developing a volunteer community siting program which is expected to be approved in January 1996. The search for a volunteer community is expected to take about three years.

Licensing Chem-Nuclear will submit a license application to DEP. Pennsylvania has applied for limited Agreement State status with NRC. A time frame for licensing has not yet been established for the new volunteer community siting program.

Development Costs To date: $35 million. Estimated total cost including construction: not provided.

Disposal Facility Operational A projected completion date is not available.

Central Compact



Governing Body Central Interstate Low-Level Radioactive Waste Commission

Member States Arkansas, Kansas, Louisiana, Nebraska, Oklahoma

Compact Established The compact was established May 12, 1983. The commission's organizational meeting was held June 29, 1983.

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions can be shipped to the commercial disposal facility in Hanford, Washington.

Development Costs As of October 31,1995: $73.4 million. Projected total cost including construction: $151.5 million.

Disposal Facility Operational The Butte facility is projected to be operational no later than autumn 1999.

Other Information The Central States Compact Commission has begun the process to amend its Compact Act. The commission has approved draft amendment language for review by member states.

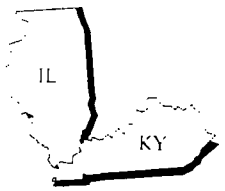
Host State: Nebraska

Regulatory and Program Responsibility	Department of Environmental Quality Department of Health
Siting Responsibility	US Ecology, Inc.
Disposal Technology	above-ground vault

Siting Property near Butte in Boyd County, Nebraska, was selected in December 1989.

Licensing A license application was submitted in July 1990. On May 31, 1995, US Ecology submitted to the host state its responses to their fourth and final round of technical comments on the application. On June 15, 1995, US Ecology submitted to the host state the eighth and final revision of the Safety Analysis Report (SAR) plus various other documents relating to the license application. The host state will continue its review of the license application.

Central Midwest Compact



Governing Body Central Midwest Interstate Low-Level Radioactive Waste Commission

Member States Illinois, Kentucky

Compact Established The compact was established in September 1984, ratified by Congress effective January 1986, and most recently amended and ratified in October 1994.

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Host State: Illinois

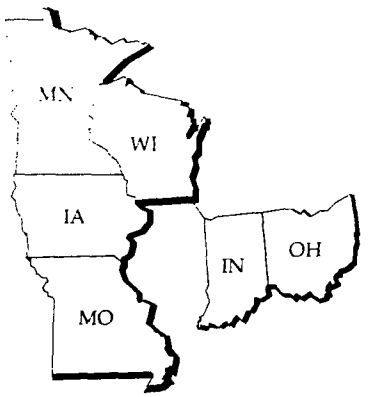
Regulatory Responsibility	Illinois Department of Nuclear Safety
Program and Siting Responsibility	Low-Level Radioactive Waste Task Group—develop siting criteria Illinois State Geological Survey and State Water Survey—statewide screening including evaluation of volunteer locations and identification of ten or more locations likely to meet the criteria facility developer—evaluation of the locations, selection and characterization of site, preparation of license application, and facility development Illinois Department of Nuclear Safety—licensing agency
Disposal Technology	above-grade, earthen-covered concrete vault

Siting The task group will develop siting criteria, and the Illinois Geological and Water Surveys will be responsible for screening the state and evaluating any volunteered sites in order to locate at least 10 areas of at least 640 acres each that appear likely to meet the criteria. The contractor will evaluate the areas identified by the Geological and Water Surveys, select three promising sites for further study, and present findings to the task group. Following the task group's approval of three sites, the contractor will select one final site for full characterization.

Licensing A license application is expected to be submitted by November 1999.

Development Costs To date: information not provided. Estimated total cost including construction: information not provided.

Disposal Facility Operational Projected by September 2003.



Midwest Compact

Governing Body Midwest Interstate Low-Level Radioactive Waste Compact Commission

Member States Indiana, Iowa, Minnesota, Missouri, Ohio, Wisconsin

Compact Established The compact was established in October 1983 and was given the consent of Congress in December 1985. Compact amendments were enacted by Ohio and Wisconsin in 1995. The amendments will be introduced in the state legislatures of Indiana, Iowa, MInnesota, and Missouri in January 1996.

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Host State: Ohio

Regulatory Responsibility	Ohio Department of Health
Program Responsibility	Ohio Low-Level Radioactive Waste Facility Development Authority (Authority)
Siting Responsibility	Ohio Low-Level Radioactive Waste Facility Development Authority
Other Involvement	Radiation Advisory Council, state agencies
Disposal Technology	above-grade, multiple-barrier facility with continuous monitoring and waste recoverability

Siting With the assistance of a contractor, the Authority will initiate a statewide screening process and eventually approve at least three sites for characterization by fall 1998. By early summer 2000, the Authority will select the disposal site to be submitted for licensing.

Licensing Upon receipt of a license application, the Health Department will review the application and make a determination on compliance with all regulatory requirements. If requested by an affected party, a License Review Board will conduct an adjudicatory hearing following the department's determination. The Director of the department will issue a decision on the license application.

Development Costs To date: $664,300. Also, $589,201 expended on public information program. Estimated total cost including construction: not available.

Disposal Facility Operational Mid-2005.

Northeast Compact

Governing Body Northeast Interstate Low-Level Radioactive Waste Commission

Member States Connecticut, New Jersey

Compact Established Congress ratified the compact in 1985, and it was signed into law by the President in 1986. Shortly thereafter, two of the four original member states—Delaware and Maryland—joined the Appalachian Compact. In 1987, the remaining member states of Connecticut and New Jersey were designated as dual host states.

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions may be shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions may be shipped to the commercial disposal facility in Hanford, Washington.

Host State: New Jersey

Regulatory Responsibility	NRC (New Jersey is not an Agreement State.) New Jersey Department of Environmental Protection
Program Responsibility	New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board (Siting Board)
Siting Responsibility	New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board
Other Involvement	New Jersey Radioactive Waste Advisory Committee (RWAC)
Disposal Technology	State law precludes shallow land burial. The technology will depend on input from the volunteer community, site-specific requirements, and the ability of the technology to be licensed.

Siting The state's siting plan seeks a volunteer community to host a disposal facility and offers significant incentives.

Licensing New Jersey's current projected date of license submittal to NRC is 1999.

Development Costs To date: $3 million. Estimated total cost including construction: $100 million.

Disposal Facility Operational Projected by 2001.

Other Information In February 1995, the Siting Board approved a voluntary siting plan. Siting efforts are funded through generator assessments.

Host State: Connecticut

Regulatory Responsibility	NRC (Connecticut is not an Agreement State.) Connecticut Department of Environmental Protection
Program Responsibility	Connecticut Office of Policy and Management—coordination Connecticut Hazardous Waste Management Service—program
Siting Responsibility	Connecticut Hazardous Waste Management Service
Other Involvement	Connecticut Siting Council Connecticut Department of Public Works
Disposal Technology	The Board of Directors of the Connecticut Hazardous Waste Management Service will select the technology in consultation with the volunteer community. The board has decided not to consider shallow land burial.

Siting The state's siting plan seeks a volunteer community to host a disposal facility and offers significant incentives. The state is prepared to use a statewide screening process if the volunteer approach does not produce a site that protects public health and safety.

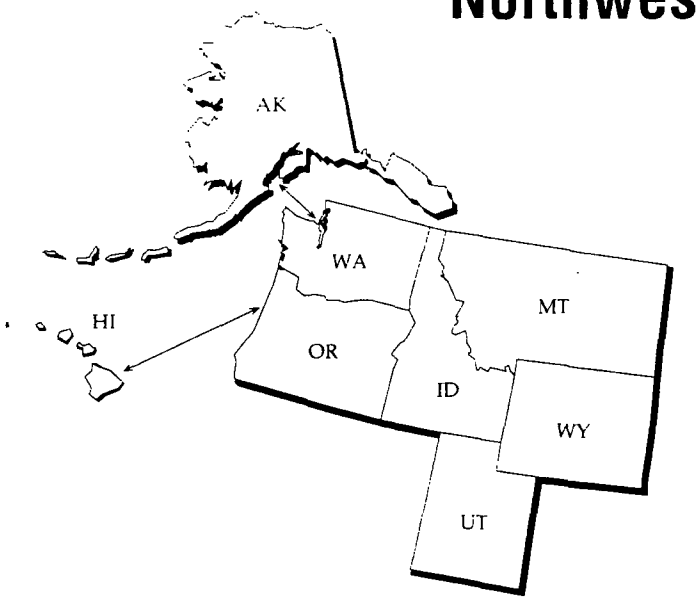
Licensing Connecticut's current projected date of license submittal to NRC is 1999.

Development Costs To date: $9.4 million. Estimated total cost including construction: $100 million.

Disposal Facility Operational Projected by 2002.

Other Information Effective April 2, 1993, the Connecticut General Assembly approved the 1993 Low-Level Radioactive Waste Management Plan. The plan's volunteer siting approach is being implemented. Siting efforts are funded through generator assessments.

Northwest Compact



Governing Body Northwest Interstate Compact Committee

Member States Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, Wyoming

Compact Established The compact was established in 1981 and ratified by Congress in December 1985.

Current Waste Management Waste is disposed of at the regional commercial disposal facility in Hanford, Washington. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the Hanford facility.

Host State: Washington

Regulatory Responsibility Department of Health

Program Responsibility Department of Ecology

Disposal Technology shallow land burial

Siting The regional low-level radioactive waste disposal facility is located on the U.S. DOE Hanford reservation on 100 acres of land subleased by US Ecology from the State of Washington.

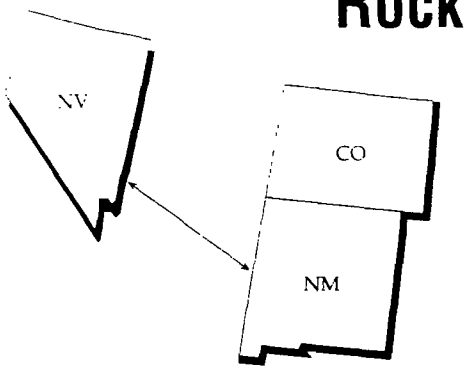
Licensing The site operator's current materials license was issued by the Washington State Department of Health on May 29, 1992. The license next comes up for renewal on May 31, 1997.

Development Costs Not applicable.

Disposal Facility Operational The compact's regional disposal facility has been in operation since July 1965.

Other Information The compact's low-level radioactive waste disposal site is not permitted for mixed waste. The compact is working with other states and compacts to encourage DOE to provide for management of the compact's mixed waste.

Rocky Mountain Compact



Governing Body Rocky Mountain Low-Level Radioactive Waste Board

Member States Colorado, Nevada, New Mexico

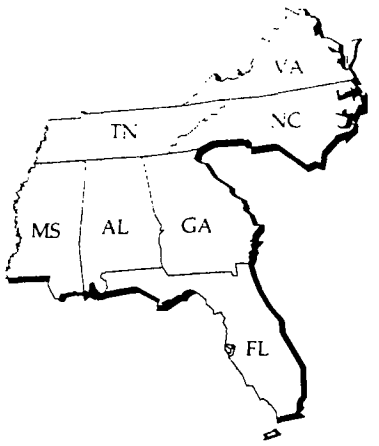
Compact Established The compact was established in 1983 and ratified by Congress in December 1985.

Current Waste Management The Rocky Mountain Board has a contract with the Northwest Interstate Compact Committee and the State of Washington for disposal at the Northwest Compact's regional commercial disposal facility in Hanford, Washington. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the Hanford facility.

Other Information Export authorization is required for all waste generated within the compact region that is sent outside of the region. Import authorization is required to bring out-of-compact waste into the region for management. No facilities within the compact region are currently authorized to receive out-of-compact waste. The compact has jurisdiction (including import and export authority) over NORM/NARM.

Host State: None

Southeast Compact



Governing Body Southeast Compact Commission for Low-Level Radioactive Waste Management

Member States Alabama, Florida, Georgia, Mississippi, North Carolina, Tennessee, and Virginia

Compact Established The Southeast Compact was established in 1983 and ratified by Congress in 1985. The compact law was amended in 1989.

Current Waste Management As of July 1, 1995, waste from all member states except North Carolina may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Since July 1995, waste in North Carolina is being stored at the sites of generation.

Host State: North Carolina

Regulatory Responsibility	Division of Radiation Protection (DRP), North Carolina Department of Environment, Health and Natural Resources
Program and Siting Responsibility	North Carolina Low-Level Radioactive Waste Management Authority (Authority)
Other Involvement	Chem-Nuclear Systems, Inc.—future facility operation
Disposal Technology	integrated vault

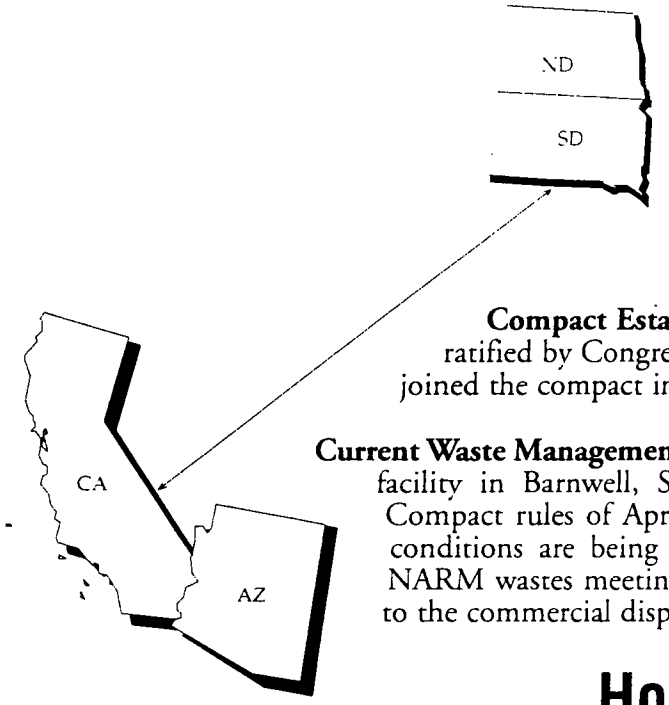
Siting In December 1993, the Authority selected a site in Wake County as its preferred site.

Licensing A license application was submitted by Chem-Nuclear to DRP in December 1993. It is expected that DRP will not issue the license before 1998.

Development Costs To date: $90million. Estimated total cost excluding construction: $112.5 million. Estimated total cost including construction: $180 million.

Disposal Facility Operational Projected by 1999.

Other Information The Governor of North Carolina has stated that the ban on North Carolina waste at the Barnwell facility is unconstitutional and may be challenged in court.



Southwestern Compact

Governing Body Southwestern Low-Level Radioactive Waste Commission

Member States Arizona, California, North Dakota, South Dakota

Compact Established The compact was established in July 1988 and ratified by Congress in November 1988. North Dakota and South Dakota joined the compact in 1989.

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Host State: California

Regulatory and Program Responsibility	Department of Health Services (DHS)
Siting Responsibility	US Ecology, Inc.
Other Involvement	U.S. Bureau of Land Management (BLM)
Disposal Technology	enhanced shallow land burial

Siting The property in Ward Valley designated as the preferred site by US Ecology in 1988 is currently owned by the federal government. California is working with BLM to transfer the land to the state.

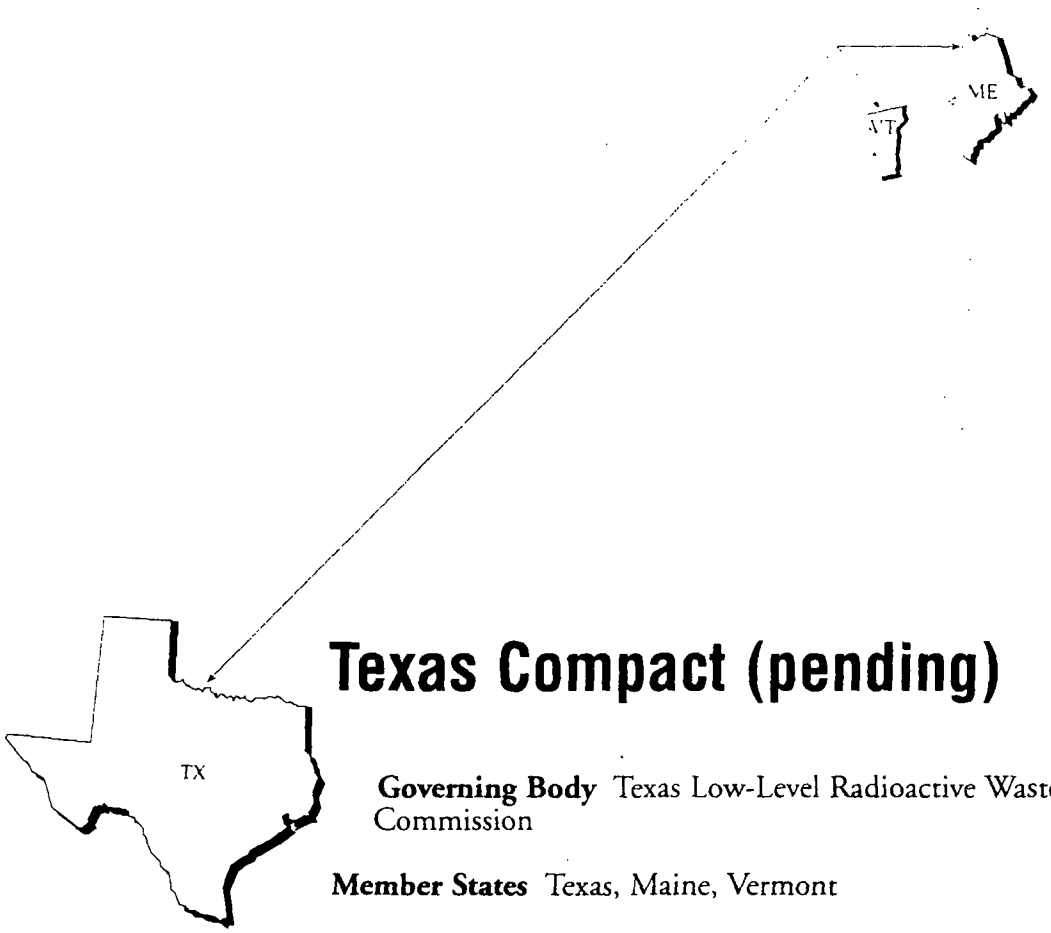
Licensing A license was issued by DHS on September 16, 1993, conditioned on DHS ownership of the land. On June 1, 1994, the Superior Court of the State of California ordered DHS to "reconsider its approval of the license." The Court of Appeal of the State of California, Second District, overturned the lower court decision and reinstated the license. On January 18, 1996, the Supreme Court of California denied the plaintiff's petition to review the appellate court's decision. There are no further avenues for appeal available in the state court system.

Development Costs As of November 1, 1995: $62.6 million (estimated $64.1 million by December 31). Estimated total cost including construction: $97 million.

Disposal Facility Operational Projected by mid-1997 contingent upon the outcome of legal actions.

Other Information At the request of the U.S. Interior Secretary, a National Academy of Sciences committee reviewed seven technical issues related to the site and found no obstacles to proceeding with development. Based on this analysis the Department of the Interior has indicated willingness to transfer land for the facility to the state, subject to certain "enforceable commitments." The state, the developer and the generators object to this intrusion into a matter under the state's jurisdiction. The U.S. Congress is seeking to legislatively transfer the land.

The license issued by DHS does not include mixed waste disposal. The Southwestern Commission and DHS are working with other states and compacts to encourage DOE to provide for management of commercial mixed waste.



Texas Compact (pending)

Governing Body Texas Low-Level Radioactive Waste Disposal Compact Commission

Member States Texas, Maine, Vermont

Compact Established In June 1993, the Governor of Texas signed into law legislation establishing a low-level radioactive waste compact with Maine and Vermont. Maine completed its approval process with the passage of a referendum on November 2, 1993. Vermont adopted the compact on April 25, 1994. The compact was submitted to the U.S. Congress for consent in the summer of 1994, but action was not taken. Congressional consent is expected in early 1996.

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Host State: Texas

Regulatory Responsibility	Texas Natural Resource Conservation Commission
Program Responsibility	Texas Low-Level Radioactive Waste Disposal Authority (Authority)
Siting Responsibility	Texas Low-Level Radioactive Waste Disposal Authority
Other Involvement	Texas Department of Health
Disposal Technology	below-ground concrete canisters

Siting The Authority began statewide site screening activities under newly enacted state law in 1983. Initial efforts identified several desirable sites in south Texas. In 1985, the Texas Legislature instructed the Authority to give preference in its site search to state-owned land. In 1987, the Authority identified several possible sites in Hudspeth County, Texas, including a site at Fort Hancock. El Paso County and others filed a lawsuit to enjoin the Authority from selecting the Fort Hancock site, and the site was abandoned in early 1991. In May 1991, the Texas Legislature amended the Authority's statute, to require the selection of a site in a 400-square mile area near Sierra Blanca in Hudspeth County. In February 1992, the Authority selected a site on the Faskin Ranch for the state's proposed low-level waste disposal facility. The ranch was purchased and site characterization began. Site characterization concluded in November 1993.

Licensing The initial installment of the license application was submitted to the Texas Natural Resource Conservation Commission in March 1992. The application is now complete. Licensing review is under way and should be complete in March 1996.

Development Costs To date: $36 million. Estimated total cost including construction: $90 million.

Disposal Facility Operational Projected by mid-1997 contingent upon the outcome of administrative review and litigation.

Massachusetts

Primary Regulatory Responsibility	Department of Public Health
Secondary Regulatory Responsibility	Department of Environmental Protection Low-Level Radioactive Waste Management Board (Management Board)
Program and Siting Responsibility	Low-Level Radioactive Waste Management Board
Disposal Technology	Shallow land burial is prohibited in Massachusetts; the chosen technology must allow monitoring and package retrieval. After a site is selected, the disposal technology will be chosen by the sited community from methods certified by the Management Board.
Current Waste Management	As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Siting The Management Board continues to work on its two-track effort to discuss out-of-state disposal solutions with other states and compacts while also pursuing an in-state disposal facility siting process. In addition to using the three-stage technical site screening process required by state law, the Management Board developed draft policies and regulations for a program to encourage volunteered sites. Issued for public review and comment in April 1995 were a *Draft Volunteer Sites Program Plan*, draft regulations to implement the plan and to provide for local technical assistance and planning funds, and a *Draft Siting Plan*. Public comments were received through July 1995 following six public hearings and briefing sessions held during May and June. The Management Board is evaluating these comments and will finalize the documents in early 1996.

In April 1995, the Management Board contracted with Foster Wheeler Environmental Corp. for technical services to support its first stage of technical screening, called Statewide Mapping and Screening. (The other two stages will follow the initial implementation of the Volunteer Sites Program.) A *Draft Statewide Mapping and Screening Protocol and Procedures* will be issued in January 1996 for public review and comment through March, before the actual screening activities begin using the state's Geographic Information System—MassGIS.

Foster Wheeler completed a second contract in December 1995 assisting the Management Board in identifying "preference" siting criteria and in preliminarily evaluating options for their application. The Management Board will initiate a series of meetings during 1996 and early 1997 to finalize the preference criteria policies.

Licensing The projected date for submittal of a license application is 2000.

Development Costs To date: not provided. Estimated total costs of preoperation and initial construction for a hypothetical above-ground vault facility without a cover have been developed based on four potential facility capacities: 35,000 cubic feet per year—$47.5 million; 50,000 cubic feet per year— $48.7 million; 80,000 cubic feet per year— $49.8 million; 467,000 cubic feet per year— $65.7 million.

Disposal Facility Operational Projected by 2001/2002.

Michigan

Regulatory Responsibility Michigan Department of Public Health
Michigan Department of Natural Resources
U.S. Nuclear Regulatory Commission
(Michigan is not an Agreement State.)

Program and Siting Responsibility Michigan Low-Level Radioactive Waste Authority (Authority)

Disposal Technology State law limits disposal technology to above- or below-ground vaults or above- or below-ground modular canisters. No final determination has been made on facility design.

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions may be shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions may be shipped to the commercial disposal facility in Hanford, Washington.

Siting As required by amendments to state law, a policy advisory board issued a series of recommendations in September 1995. The board's report included specific recommendations regarding the conduct of a volunteer host community process, revisions to state siting criteria, and consideration of compact options. The Authority is now pursuing amendments to state law that would conform state law to the recommended volunteer process.

Licensing A projected date for submittal of a license application is not available.

Development Costs To date: $12 million. Estimated total cost including construction: not available.

Disposal Facility Operational A projected date is not available.

New York

Regulatory Responsibility Department of Environmental Conservation (DEC)

Program Responsibility New York State Energy Research and Development Authority (NYSERDA)

Siting Responsibility in transition (see siting below)

Other Involvement
Department of Health (DOH)
New York City Department of Health
Department of Labor (DOL)
New York State Citizens Advisory Committee on Permanent Disposal Facility Siting and Disposal Method Selection

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Disposal Technology State law bars shallow land burial; above-grade vaults identified as tentative preferred technology.

Siting New York's siting program is in transition. The State Budget for FY 1995-96 phased out the activities of the Low-Level Radioactive Waste Siting Commission, which was established in 1987 to select a site and disposal method. The state, under Governor George Pataki, is reevaluating its approach to low-level radioactive waste management. Several relevant proposals have been put before the state legislature, including one that would provide for a volunteer siting process. No new schedule has been developed. Regulations governing site and disposal method selection were adopted by DEC in 1987.

Licensing NYSERDA is responsible for obtaining a DEC permit to construct and operate a land disposal facility and a DOL radioactive materials license, once a site and a disposal method are selected.

Development Costs Through September 30, 1995, $65.9 million has been collected through annual assessments on operating nuclear power plants (does not include surcharge rebates); $55.2 million has been spent on siting, regulation development, public participation and related activities. Estimated total cost including construction: not available at this time.

Disposal Facility Operational The DEC issued financial assurance regulations in September 1991 and regulations for design, construction, operation, closure, post-closure and institutional control in March 1993. NYSERDA is responsible for construction and operation.

South Carolina

Regulatory Responsibility Division of Radioactive Waste Management, Bureau of Solid and Hazardous Waste, South Carolina Department of Health and Environmental Control

Program Responsibility Division of Radioactive Waste Management, Bureau of Solid and Hazardous Waste, South Carolina Department of Health and Environmental Control—for Barnwell site

Other Involvement Chem-Nuclear Systems, Inc.—facility operation

Current Waste Management Waste is disposed of at the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, limited mixed wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM (radium) wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Disposal Technology enhanced shallow land disposal

Licensing A license authorizing possession and storage of waste at the Barnwell facility was first issued on November 6, 1969. On April 13, 1971, the license was amended to authorize disposal. The license has been renewed for a five-year period ending July 31, 2000.

Disposal Facility Operational The Barnwell facility has been in operation since 1969. (See above.)

Other Information The Appropriations Act for FY 1995-96, which became effective June 29, 1995, required the Governor to appoint a Low-Level Radioactive Waste Compact Negotiating Committee. The committee is directed to negotiate with representatives of other states to establish a new low-level radioactive waste management compact, subject to conditions set forth in the statute. New regulations affecting the Barnwell disposal technology became effective January 1, 1996.

District of Columbia

◇DC

Regulatory Responsibility Department of Consumer and Regulatory Affairs (DCRA)

Program Responsibility Department of Consumer and Regulatory Affairs
Service Facility Regulation Administration

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions may be shipped for disposal at the Envirocare facility.

Siting Because of the dense population and geographic size of the District of Columbia, and because of the relatively low volume of low-level radioactive waste generated within the district, DCRA is not planning to site a facility.

Other Information The District of Columbia is continuing efforts either to join a compact or to contract with one.

New Hampshire

NH

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility.

Siting New Hampshire has no plans to site a disposal facility due to the small amounts of low-level radioactive waste generated.

Other Information The Governor's Ad Hoc Committee, with the assistance of the State Radiation Advisory Committee, continues to welcome an opportunity to discuss contracts or compacts with any interested state.

Puerto Rico

PR

Puerto Rico is not planning to site a disposal facility. Further information is unavailable at this time.

Rhode Island

RI

Regulatory Responsibility Rhode Island Department of Health

Program Responsibility Rhode Island Department of Health

Siting Responsibility none

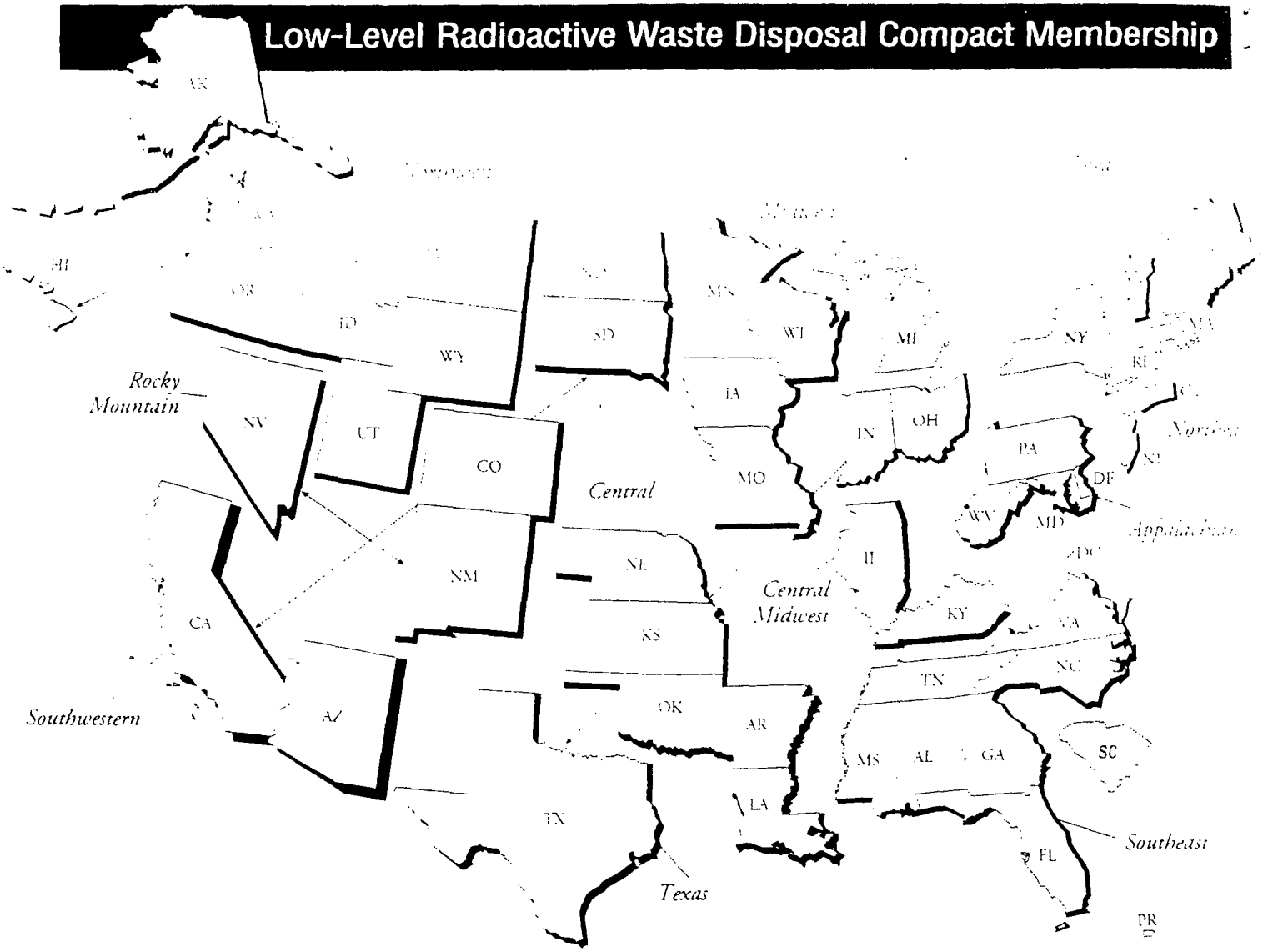
Other Involvement Rhode Island Radiation Advisory Commission

Current Waste Management As of July 1, 1995, waste may be shipped to the disposal facility in Barnwell, South Carolina. In addition, subject to the Northwest Compact rules of April 20, 1995, wastes meeting Envirocare of Utah's license conditions are being shipped for disposal at the Envirocare facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the commercial disposal facility in Hanford, Washington.

Siting The state is not planning at this time to site a facility.

Other Information The Rhode Island Radiation Advisory Commission has met with a representative of the Massachusetts Low-Level Radioactive Waste Management Board to get a brief update on the board's plans.

Low-Level Radioactive Waste Disposal Compact Membership



Appalachian Compact
Delaware
Maryland
Pennsylvania •
West Virginia

Central Compact
Arkansas
Kansas
Louisiana
Nebraska •
Oklahoma

Central Midwest Compact
Illinois •
Kentucky

Midwest Compact
Indiana
Iowa
Minnesota
Missouri
Ohio •
Wisconsin

Northwest Compact
Alaska
Hawaii
Idaho
Montana
Oregon
Utah
Washington * •
Wyoming

Rocky Mountain Compact
Colorado
Nevada
New Mexico

Northwest accepts Rocky Mountain waste as agreed between compacts.

Northeast Compact
Connecticut
New Jersey

Southeast Compact
Alabama
Florida
Georgia
Mississippi
North Carolina •
Tennessee
Virginia

Southwestern Compact
Arizona
California •
North Dakota
South Dakota

Texas Compact
Maine
Texas •
Vermont

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

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

The Low-Level Radioactive Waste Forum includes a representative from each regional compact, current host state *, future host state •, and unaffiliated state.

Graphic by Afton Associates, Inc. for the LLW Forum. January 1996.

LLW Notes

Volume 11, Number 1 January/February 1996

Fort Mojave Indian Tribe v. California Department of Health Services

Appellate Court Decision Upholding Ward Valley Licensing Stands

On January 18, the Supreme Court of California denied a petition to review a decision by the California Court of Appeal, Second Appellate District, regarding the licensing of the planned Ward Valley low-level radioactive waste disposal facility. As a result, the petitioners have exhausted their avenues for appeal in the state court system and the facility license issued in September of 1993 by the California Department of Health Services is valid.

Lower Court Decision

The lawsuit, which was filed in the Superior Court of the State of California in October 1993, sought to void the certification of a final environmental impact report (EIR) and the issuance of a license for the planned low-level radioactive waste disposal facility in Ward Valley, California. (See *LLW Notes*, Winter 1993, pp. 22–23.) In May 1994, the superior court issued an order finding virtually all of the grounds raised by the petitioners for contesting the license approval to be "without merit." However, the court directed the California Department of Health Services (DHS) to set aside its approval of the project and to review in a "pre-approval setting " a December 1993 report by three scientists employed by the U.S. Geological Survey. (See *LLW Notes*, May/June 1994, pp. 16–18.)

On appeal, however, the superior court's decision was reversed. The Court of Appeal of the State of California reinstated the project license previously issued by DHS and determined that other grounds raised by the petitioners for setting aside the EIR and the license were correctly determined by the lower court to be without merit. (See *LLW Notes*, October 1995, pp. 23-25.)

Project Status

The planned Ward Valley facility is located on federal land, which the State of California has requested be transferred to state ownership. Language conveying the land to the state was included in the final reconciliation bill passed by the U.S. Congress in November of 1995. However, President Clinton vetoed the reconciliation bill on December 6, 1995, sending it into a new round of congressional negotiations. (See *LLW Notes*, November/December 1995, pp. 14–16.) Currently, it is unclear whether the President and Congress will ever agree on a final reconciliation bill and, if so, whether the bill will include the Ward Valley transfer language.

continued on page 8

In This Issue

Low-Level Radioactive Waste Forum

LLW Notes
Volume 11, Number 1 • January/February 1996
Editor, Cynthia Norris
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LLW FORUM

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Key to Abbreviations

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

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Southeast Compact/North Carolina

North Carolina Authority Defers Project Work Pending Funding Decision

At a meeting in Raleigh on January 24, the North Carolina Low-Level Radioactive Waste Management Authority acted to seek further funding from the Southeast Compact Commission before authorizing any additional major work on facility development by the Authority's contractors or consultants.

The Authority action came in a series of motions passed after receipt of several reports from site developer Chem-Nuclear Systems Inc. (CNSI) and from other contractors. The Authority voted to

- approve the portions of reports from Chem-Nuclear Systems Inc. (CNSI) concerning work completed in 1995 but not to approve the contractor's three-month projections or action plans;
- authorize "only ... that work necessary to maintain a minimum maintenance level of effort or to accomplish essential tasks";
- defer acceptance or implementation of CNSI's Licensing Work Plan; and
- "instruct its Executive Director to attend the next Southeast Compact Commission meeting and

  (1) report the results of the Authority's negotiations with CNSI regarding its financial participation in the North Carolina project and the results and conclusions of CNSI's 'Comprehensive Site Assessment Summary Report' and the Authority's consultants and
  (2) seek sufficient funds from the Southeast Compact Commission to perform all work necessary to reach 'Evaluation Point 1' in the January 19, 1996 'Licensing Work Plan' schedule."

(See box, p. 4.)

The next regularly scheduled meeting of the Southeast Compact Commission is in April, although the commission may meet before then.

Financial Participation by Chem-Nuclear

According to a letter from Regan Voit, President of Chem-Nuclear, CNSI will contribute $1 million toward facility development.

Licensing Agency's Position

On January 16, Dayne Brown, the Director of the Division of Radiation Protection (DRP) of the North Carolina Department of Environment, Health and Natural Resources, wrote to the Authority to convey comments on a draft of the *Comprehensive Site Assessment Report*. When it issued its letter, DRP had not seen the recent reports from the Authority's consultants—Applied Geosciences, Inc. and Harding Lawson Associates.

Excerpts from Brown's comments follow:

- It is difficult to determine if significant progress has been made since our last review: (i) in more adequately demonstrating licensing criteria satisfaction; or (ii) in the applicant's understanding of crucial aspects of the site. From the materials submitted, it is not possible to determine: (i) when such progress actually will occur; or (ii) if the applicant ever will successfully respond to the numerous outstanding licensing issues.
- [L]icensing requires that the licensing authority be satisfied that the application (including supporting data) provides "reasonable assurance" that every licensing criteria designed to protect human health and the environment is satisfied. Generally, if data submissions reasonably support more than one interpretation or conclusion, this requirement is not satisfied. This is true notwithstanding that one of the equally plausible conclusions may seem to meet the criteria.
- [W]e believe that significantly more studies than described in the Report ultimately will be required. Such additional studies will increase the cost and time invested in the Wake County site well beyond that reflected in the Report, still with little assurance that the site will be licensable.

Recent Reports to the Authority

CNSI's *Comprehensive Site Assessment Summary Report*

This document summarizes progress made in resolving key technical issues identified at the beginning of the assessment. (See *LLW Notes,* November/December 1995, p. 4.) The report concludes, in part, that the "higher level of understanding of the engineered and natural systems achieved during this assessment provides additional confidence that a low-level radioactive waste disposal facility can be designed, licensed, constructed, operated, monitored, and closed on this Site while meeting the performance objectives and regulatory requirements specified by the applicable North Carolina statutes and regulations."

CNSI's *Licensing Work Plan*

This document identifies activities to be completed that, in CNSI's opinion, will provide the state regulators with sufficient information to make a licensing decision. The additional work will take 30 months to complete and will cost a total of approximately $23 million. Three "evaluation points" are outlined in the plan. These points are logical and important places for evaluating the results and addressing future activities. Evaluation Point 1, which is referenced in one of the Authority's motions, is projected to be reached six months after work begins, at a cost of $5.9 million.

Applied Geosciences Inc.'s (AGI) Letter Report

AGI concludes, in part, that "the Comprehensive Site Assessment has re-affirmed the conclusion that the Wake County Site is a suitable location for the development of the disposal facility." AGI was retained by the Authority in late 1994 to support the licensing process.

Harding Lawson Associates' (HLA) *Assessment of the Status of Licensing Issues: Proposed North Carolina Low-Level Radioactive Waste Disposal Facility, Wake County, North Carolina*

HLA reaches the following conclusion:

> It is our opinion that the combination of information in the License Application, information gathered subsequent to the submittal of the License Application, and the activities described in the Licensing Work Plan (CNSI, 1996) can adequately address the three critical licensing issues ...
>
> However, demonstrating the ability of the Wake County site to meet the regulatory requirements will not be achieved unless, and until the following occur:
>
> 1. A workable definition of Reasonable Assurance must be provided by DRP.
>
> 2. A more effective method is developed for the Applicant to receive the appropriate guidance from the regulator regarding the DRP's interpretation of standards for the regulatory and statutory requirements.

HLA was retained by the Authority to provide an independent analysis of the suitability of the proposed Wake County site. The analysis was completed in April 1995. (See *LLW Notes,* April/May 1995, p. 5.) HLA has continued to be actively involved in the licensing process as an Authority consultant.

Southeast Compact/North Carolina (continued)

- Key elements of the license application are now in a state of flux and cannot be addressed until site characterization is completed. These key elements include: site configuration; facility design, engineering and construction procedures; performance assessment; and site monitoring. In many respects, the DRP now is awaiting delivery of a substantially new license application. Our review of such an application will add considerable delay, which is not reflected in the Report's licensing schedule.

Background: Southeast Commission Policy re Project Funding

The Southeast Compact Commission voted in August 1995 to express "the sense of the Commission that continued funding (to North Carolina) will rely on an agreement between the Authority and Chem-Nuclear Systems Inc. that will assure financial participation by CNSI in future site development." (See *LLW Notes*, August/September 1995.)

Subsequently, in November 1995, the Southeast Compact Commissioners resolved

> not [to] release any further funds to the siting process until such time as we receive a response from the contractor regarding its financial participation in the project and a comprehensive site assessment report from the North Carolina Low-Level Radioactive Waste Management Authority which includes the scope, cost, and length of time required to pursue a licensing decision.

The Commissioners indicated that they expected such a report in late January or early February of 1996, and that they would consider the question of further funding after receipt of the report. (See *LLW Notes*, November/December 1995, p. 3.)

For further information, contact Andrew James of the North Carolina Authority at (919)733-0682.

The preceding information was distributed to Forum Participants and Alternate Forum Participants, Federal Liaisons and Alternates via facsimile transmission in a News Flash on January 29, 1996.

Host State TCC Meets in Phoenix

The Host State Technical Coordinating Committee (TCC) met in Phoenix, Arizona, on December 11, 1995, in conjunction with the annual DOE Low-Level Radioactive Waste Management Conference. The TCC meeting was attended by ten state staff persons, one compact staff person, two DOE National Low-Level Waste Management Program staff members, three DOE-Idaho staff persons, one NRC staff person, three Lockheed Idaho staff persons, and three 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 NRC, the National Low-Level Waste Management Program, and the LLW Forum;
- a presentation on the packaged low-level radioactive waste verification system and a demonstration using a full-scale prototype system; and
- an evaluation of the TCC moderator's role and performance.

The TCC plans to meet again on April 30–May 1 in El Paso, Texas. The meeting will include a tour of the Sierra Blanca site. Following the El Paso meeting, the TCC will meet on September 30 in Salt Lake City, Utah, in conjunction with the 1996 DOE Low-Level Radioactive Waste Management Conference. The Salt Lake City meeting will include a tour of the Envirocare of Utah site.

For further information, contact TCC Moderator Thomas Kerr of DOE's National Low-Level Waste Management Program at (208)526-8465.

American College of Nuclear Physicians v. County of San Bernardino
California Radioactive Materials Management Forum v. County of San Bernardino

Two Different Lawsuits Filed Challenging County Ordinance to Prohibit Ward Valley Facility

In December 1995, two separate lawsuits were filed in the U.S. District Court for the Central District of California challenging an ordinance passed by the San Bernardino County Board of Supervisors. The stated purpose of the ordinance, which would effectively prohibit the planned Ward Valley low-level radioactive waste disposal facility, is "to prevent and mitigate potential risks to public health and safety and to protect significant water resources from contamination from improper storage of radioactive wastes." Answers to the lawsuits were filed by the state defendants on January 23, 1996. County defendants' answers were filed on January 29.

Background

The Facts On November 21, the San Bernardino County Board of Supervisors voted 5 to 0 to pass an interim ordinance regarding the storage or disposal of low-level radioactive waste in the county. The ordinance, among other things,

- prohibits the disposal of low-level radioactive waste in San Bernardino County unless it was generated in the county,
- requires that low-level radioactive waste be disposed of in lead-lined concrete vaults, and
- provides that no radioactive waste disposal facility shall overlie a significant water resource. (See *LLW Notes*, November/December 1995, p. 5.)

The ordinance was initially set to expire on January 5, 1996. However, it has been extended for an additional 90 days.

The Parties The initial suit was brought by the California Chapter of the American College of Nuclear Physicians, the National Association of Cancer Patients, and US Ecology. The California Radioactive Materials Management (CalRad) Forum filed a separate action one week later. Both suits named the County of San Bernardino and its Board of Supervisors as defendants, and both were subsequently amended to include the California Department of Health Services (DHS) and its Director—S. Kimberly Belshe—as additional defendants.

The Issues

The lawsuits, although not identical, address similar issues, including the following:

Federal Preemption The Supremacy Clause of the U.S. Constitution provides that "the Constitution, and the Laws of the United States which shall be made in pursuance thereof ... shall be the supreme Law of the Land." Plaintiffs to both actions claim that the San Bernardino County ordinance violates the Supremacy Clause because it regulates in a field that is fully occupied by federal legislation, frustrates the purpose of federal legislation, and conflicts with that legislation. Specifically, the plaintiffs argue that the ordinance is preempted by the following federal laws for the reasons identified:

- **Atomic Energy Act** It violates the act's prohibition over the regulation of radioactive materials by any entity other than the U.S. Nuclear Regulatory Commission and NRC-authorized "Agreement States" that develop a regulatory program that is compatible with federal law.
- **Low-Level Radioactive Waste Policy Act** It interferes with the act's intent to create a comprehensive and pervasive federal/state regulatory scheme governing the siting and design of low-level radioactive waste disposal facilities.
- **Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act** It conflicts with key provisions of the Southwestern Compact, which is now federal law as a result of congressional ratification, including provisions concerning host state obligations, facility access requirements, and the express agreement to provide a regional disposal facility.

Commerce Clause The Commerce Clause of the U.S. Constitution grants to Congress the power "to regulate commerce ... among the several states." The plaintiffs argue that the ordinance violates the Commerce Clause by attempting to regulate a field that Congress has preempted. Specifically, they assert that low-level radioactive waste, an item of interstate commerce, is regulated by the above-stated federal laws.

In the alternative, the plaintiffs argue that by prohibiting in the county any low-level radioactive waste not generated there, the ordinance is discriminatory and impermissibly burdensome to interstate and intrastate commerce. They claim that the burden imposed by the ordinance is excessive in relation to any local benefits that it may provide.

State Law Preemption The Constitution of the State of California prohibits counties from enacting regulations that "conflict with general laws." Accordingly, local laws are preempted to the extent that they purport to regulate in an area occupied by state law or that they conflict with the general laws of the state. The plaintiffs argue that the ordinance is preempted by state law for the following reasons:

- "The California legislature has, through the [Radiation Control Law] ... established a comprehensive regulatory scheme governing the siting, design, licensing, safety, operation, and location of California's regional LLRW disposal facility ... The legislature has delegated to defendant ... [Department of Health Services] the authority to implement this regulatory scheme and to determine whether any plan for the disposal of LLRW within California complies with all federal public health and safety regulations which have been incorporated into, and made a part of, the general laws of the State of California ... This comprehensive state law scheme ... fully occupies the regulatory field of LLRW disposal, which cannot tolerate local, conflicting, and inconsistent regulation in this technically complex area."

- The practical effect of the ordinance is to prohibit establishment of the Ward Valley facility, which has already been licensed, in the county. It therefore creates an obstacle to contractual obligations assumed by the California legislature via the Southwestern Low-Level Radioactive Waste Disposal Compact.

- The ordinance imposes facility siting and design standards that conflict with, and are antagonistic to, those required by the California Department of Health Services—the express delegatee of the California legislature. It therefore renders dual compliance with state and local laws impossible.

Exemption from Local Regulation The plaintiffs argue that "[t]he Ward Valley facility, as a state-licensed project to be constructed and operated in furtherance of a vital state purpose on state-owned land, is exempt from local building and zoning laws, including the Ordinance."

Violation of the California Environmental Quality Act The California Environmental Quality Act (CEQA) requires that any "public agency," including "... any ... board [or] county," evaluate the environmental impacts of any "discretionary projects proposed to be carried out or approved by public agencies including, but not limited to, the enactment and amendment of zoning ordinances." The plaintiffs contend that the ordinance is invalid because the San Bernardino County Board of Supervisors incorrectly determined that the ordinance is exempt from CEQA's requirements.

According to the plaintiffs, the ordinance will result in significant environmental impacts that have not been evaluated by the county board, in the following ways:

- by preventing the timely establishment of a centralized disposal facility, the plaintiffs argue that the county board is promoting the continued use of storage facilities at hundreds of locations throughout the state—an environmentally inferior solution;

- by establishing siting and design criteria for disposal facilities within the county, and by prohibiting the disposal of all low-level radioactive waste generated outside of the county's borders; and

- by establishing facility standards that are inconsistent with those employed by DHS, the plaintiffs allege that the county board has improperly assumed authority vested in the California Department of Health Services.

continued on page 8

American College of Nuclear Physicians v. County of San Bernardino
California Radioactive Materials Management Forum v. County of San Bernardino (continued)

Relief Requested

The plaintiffs are requesting that the district court declare that the ordinance is

- preempted by the federal Low-Level Radioactive Waste Policy Act, the Southwestern Low-Level Radioactive Waste Compact Consent Act, and the Atomic Energy Act;
- invalid under the Commerce Clause of the U.S. Constitution;
- preempted by the California Radiation Control Law and the Southwestern Low-Level Radioactive Waste Compact;
- invalid under California law in that it seeks to regulate a land use on state land that is exempt from local building and zoning laws; and
- void and of no force and effect because it was enacted in violation of the requirements of the California Environmental Quality Act.

The plaintiffs are also requesting that the court declare that defendant DHS, not the County, is the agency responsible for establishing the criteria for the location of the LLRW disposal facility in the State of California, for approving the location of that facility, for protecting the health and safety of the citizens of California as to that facility's site, for defining who may use the Ward Valley Facility, for ensuring that the State of California provides for LLRW disposal capacity for its citizens and those of the Compact States in a timely manner, and for setting the packaging and disposal requirements for LLRW at the Ward Valley Facility.

State Defendants' Answer

The state defendants responded to the lawsuits:

The first amended complaint, and the whole thereof, fails to state a cause of action against State Defendants, and each of them, because such defendants are misaligned herein as defendants as State Defendants, and each of them, agree with the plaintiffs that the County Ordinance is invalid and unconstitutional as alleged.

Fort Mojave Indian Tribe v. California Department of Health Services (continued from page 1)
In addition, U.S. Secretary of the Interior Bruce Babbitt has announced his intention to transfer the land to the state. However, Babbitt has indicated that he intends to attach certain oversight conditions to the land transfer which the state of California argues are unacceptable. (See *LLW Notes*, October 1995, pp. 14–16.)

U.S. Representative Brian Bilbray (R-CA) has also introduced legislation, H.R. 2334, to convey the land from the federal government to the state. To date, no action has been taken on this legislation.

Other Litigation

Currently, there are three lawsuits challenging the planned Ward Valley disposal facility before the courts. The oldest suit—Committee to Bridge the Gap v. Babbitt—seeks to postpone the Ward Valley land transfer until alleged violations of the National Environmental Policy Act (NEPA) and the Federal Land Policy and Management Act have been remedied. (See *LLW Notes*, February 1993, p. 6.) Further action on the case has been suspended pending review of the land transfer by Secretary Babbitt.

The other two suits—*California Radioactive Materials Management Forum v. County of San Bernardino* and *American College of Nuclear Physicians v. County of San Bernardino*—challenge a local ordinance that would have the practical effect of prohibiting the planned Ward Valley disposal facility. These actions are currently pending before the U.S. District Court for the Central District of California. (See related story, this issue.)

Dicus Confirmed by U.S. Senate for NRC Commissioner

The nomination of Greta Dicus to be an NRC Commissioner was confirmed by the U.S. Senate on December 22, 1995. Accordingly, Dicus will now join the two current NRC Commissioners—Chair Shirley Jackson and Kenneth Rogers. Dicus is expected to be sworn into office on February 15, thereby allowing the five-member commission to have a quorum for the first time in nearly a year.

Dicus was nominated earlier this summer by President Bill Clinton to fill one of the three open seats on the commission. Recent press reports have indicated that the White House is considering Nils Diaz and Perry Robinson to fill the two remaining vacant seats. Diaz is a Republican professor of nuclear engineering at the University of Florida in Gainesville. Robinson is an Independent partner with Winston and Strawn, a law firm with offices in Washington, D.C.

Dicus has been appointed to a term that expires June 30, 1998. She is currently Director of the Division of Radiation Control and Emergency Management of the Arkansas Department of Health. She is also a former chair of the Central Interstate Low-Level Radioactive Waste Commission and a former Forum Participant.

Grumbly Named Under Secretary of DOE

DOE Secretary Hazel O'Leary has named Thomas Grumbly as Acting Under Secretary of Energy. Grumbly was named by President Clinton as DOE Under Secretary in December 1995. The position requires U.S. Senate confirmation. Responsibilities of the Under Secretary include oversight of DOE's nuclear materials and weapons cleanup programs, DOE's health and safety programs, and the civilian radioactive waste program.

Press reports have indicated that Alvin Alm, currently co-chair of DOE's Environmental Management Advisory Board and Vice President of Science Applications International Corporation (SAIC), will succeed Grumbly as DOE Assistant Secretary for Environmental Management. Nominees for the DOE Assistant Secretary position also require confirmation by the U.S. Senate.

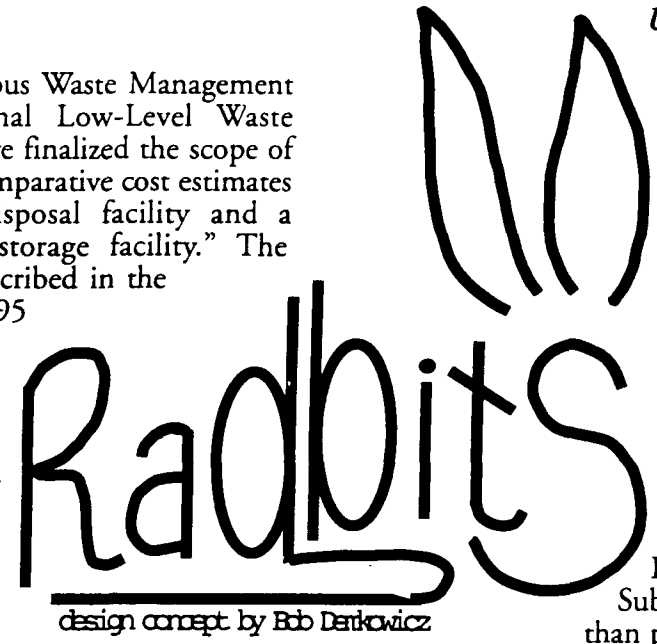
Court Calendar

Case Name	Description	Court	Date	Action
American College of Nuclear Physicians v. County of San Bernardino (See related story, this issue.)	Challenges a local ordinance that prohibits the disposal of any LLRW within San Bernardino County not generated within the county and that establishes criteria for the siting and design of LLRW disposal facilities.	United States District Court for the Central District of California, Eastern Division	December 8, 1995 January 23, 1996 January 29, 1996	Plaintiffs filed a complaint for declaratory relief. The state defendants filed an answer. The county defendants filed an answer.
California Radioactive Materials Management (CalRad) Forum v. County of San Bernardino (See related story, this issue.)	Challenges a local ordinance that prohibits the disposal of any LLRW within San Bernardino County not generated within the county and that establishes criteria for the siting and design of LLRW disposal facilities.	United States District Court for the Central District of California, Eastern Division	December 15, 1995 December 21, 1995 January 23, 1996 January 29, 1996	Plaintiffs filed a complaint for declaratory relief. Plaintiffs amended their complaint to include as defendants the California Department of Health Services and S. Kimberly Belsche. The state defendants filed an answer. The county defendants filed an answer.
Fort Mojave Indian Tribe v. California Department of Health Services (See *related story, this issue.*)	Appeal of a suit that seeks to void the certification of the final EIR/S and the issuance of a license for the Ward Valley facility based on alleged violations of state and federal law.	California Supreme Court	January 18, 1996	The Supreme Court of the State of California denied the petition for review, thereby exhausting all avenues for appeal in the state court system.
Keyserling v. Beasley (See *LLW Notes*, October 1995, p. 21.)	Challenges the inclusion of certain provisions relating to the Barnwell LLRW disposal facility in the state's General Appropriations Act of 1995	Supreme Court of the State of South Carolina	December 27, 1995 January 11, 1996	Respondents filed their brief. Petitioners filed their reply brief.

Court Calendar *continued*

Case Name	Description	Court	Date	Action
Nebraska v. Central Interstate Low-Level Radioactive Waste Commission (See *LLW Notes*, January/February 1995, pp. 16–17.)	Seeks to compel the Central Commission to pay rebate funds recently received from the U.S. Department of Energy to the State of Nebraska.	United States District Court for the District of Nebraska	October 24, 1995 November 13, 1995 December 4, 1995 January 12, 1996 January 12, 1996	Central Commission filed a brief opposing Nebraska's motion for summary judgment, and a motion for summary judgment. Central Commission filed an amended answer and counterclaim. Nebraska filed a response to the Central Commission's counterclaim. Nebraska's reply to the Central Commission's brief opposing the state's motion for summary judgment is due. Nebraska's response to the Central Commission's amended answer and to the commission's motion for summary judgment is due.
Appalachian States Low-Level Radioactive Waste Commission v. O'Leary (See *LLW Notes*, November/December 1995, pp. 6-8.)	Seeks the release of all surcharge fees, collected from Appalachian region generators, being held in an escrow account by DOE Secretary Hazel O'Leary.	United States Court of Appeals for the Third Circuit	February 9, 1996	Oral arguments are scheduled.
Midwest Interstate Low-Level Radioactive Waste Commission v. O'Leary (See *LLW Notes*, July 1995, pp. 12-14.)	Seeks payment of surcharge rebates held in escrow with respect to the period from July 1, 1995 through December 31, 1995.	United States District Court for the District of Minnesota	December 18, 1995 December 18, 1995 March 8, 1996	Plaintiff filed a reply to the defendant's motion for summary judgment. Defendant filed a reply to the plaintiff's motion for summary judgment. Oral arguments are scheduled.

Radbits



States and Compacts

The Connecticut Hazardous Waste Management Service and the National Low-Level Waste Management Program have finalized the scope of work for a study to develop "comparative cost estimates for a Connecticut LLRW disposal facility and a Connecticut LLRW assured storage facility." The "assured storage" concept is described in the cover story of the September 1995 *Radwaste* Magazine. According to the article, the concept involves "the establishment of facilities for the assured storage of low-level radioactive waste for an indefinite period of time." Rogers and Associates has contracted with the National Low-Level Waste Management Program to conduct the comparative cost study. The work plan projects that the final report will be available June 21, 1996. *For further information, contact Ronald Gingerich of the Connecticut Hazardous Waste Management Service at (860)244-2007.*

U. S. Department of Energy

DOE has extended by 60 days the public comment period on the *Draft Waste Management Programmatic Environmental Impact Statement* (WMPEIS). The comment period now closes on February 19. The WMPEIS evaluates the management and siting alternatives for the treatment, storage and/or disposal of five DOE waste streams. *For further information, call the Center for Environmental Management Information at (800)736-3282. See also "New Materials and Publications."*

U.S. Environmental Protection Agency

On January 29, EPA published in the *Federal Register* a notice that the public hearing on the proposal to rescind Subpart I of the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for NRC- and Agreement State-licensed facilities other than power reactors will be held on February 29 in Arlington, Virginia. EPA is proposing to rescind Subpart I for licensees other than power reactors once NRC adopts a constraint level rule. (See related Radbit, this issue.) The public comment period on the proposal closes on February 22. *For further information, call Eleanor Thornton of EPA's Office of Radiation and Indoor Air at (202)233-9773.*

On December 21, EPA published the proposed Hazardous Waste Identification Rule (HWIR) in the *Federal Register* for public comment. The comment period closes February 20. The proposed rule establishes constituent-specific "exit levels" for low-risk solid wastes that are designated as hazardous wastes because they are listed, or have been mixed with, derived from, or contain hazardous wastes. Under this proposal, generators of listed hazardous wastes that meet the self-implementing "exit levels" would no longer be subject to the hazardous waste management system under Subtitle C of the Resource Conservation and Recovery Act (RCRA) as listed hazardous wastes. (See *LLW Notes*, Nov./Dec. 1995, p. 20.) *For further information, contact the RCRA/Superfund Hotline at (800)424-9346.*

U.S. Nuclear Regulatory Commission

On January 30, NRC published in the *Federal Register* for public comment proposed amendments to the licensing, inspection and annual fees charged to NRC license applicants and licensees. The comment period closes February 29. The amendments would reduce the annual fees for all licensees. The proposed amendments also include revisions to hourly rates charged for the reactor, nuclear materials and nuclear waste programs and clarify that fees would be assessed for licenses authorizing the import or export of radioactive waste.

On January 22, NRC published the proposed staff technical position on the disposition of cesium-137 contaminated emission control dust [baghouse dust] and other incident-related material in the *Federal Register* for public comment. The comment period closes on March 22. Baghouse dust can become radioactively contaminated when scrap metal containing a radioactive sealed source is inadvertently smelted. The resulting volatilization of the sealed source can contaminate the finished metal product, existing dust already in storage, equipment and duct systems, and the surrounding facilities. Contaminated baghouse dust is a commercial mixed waste regulated by both EPA and NRC. The proposed guidance may be used by state permitting agencies in case-by-case requests to dispose of treated cesium-contaminated baghouse dust at hazardous waste disposal facilities permitted under Subtitle C of the Resource Conservation and Recovery Act (RCRA). *For further information, call William Lahs of NRC's Division of Waste Management at (301)415-6756. See also "New Materials and Publications."*

On January 9, NRC published a *Federal Register* notice soliciting public comment on a petition requesting that NRC change its regulations to require private land ownership of low-level radioactive waste disposal sites during operations and closure of the disposal facility and then to require conversion of the title to the site to the U.S. Department of Energy. The comment period closes on March 11. The petition was filed by Diane Burton, Managing Director of Heartland Operations to Protect the Environment (HOPE). (See *LLW Notes*, October 1995, p. 33.) *For further information, see "New Materials and Publications."*

On December 13, 1995, NRC published in the *Federal Register* for public comment the proposed rule to establish a constraint of 10 millirems per year total effective dose equivalent (TEDE) for dose to members of the public from air emissions of radionuclides from NRC- and Agreement State-licensed facilities other than power reactors. The public comment period on the rule closes on March 12. The proposed rule is necessary to provide assurance to EPA that future emissions from NRC and Agreement State licensees will not exceed levels that will provide an ample margin of safety. This action is expected to be the final step in providing EPA with a basis upon which to rescind Subpart I of the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) for NRC and Agreement state licensees other than power reactors. *For further information, see the following issues of LLW Notes: Nov./Dec. 1995, p. 20; October 1995, p. 20; April/May 1995, p. 18; and Jan./Feb. 1995, p. 22.*

U.S. Nuclear Regulatory Commission

ACNW Urges Strong, Centralized NRC LLRW Program

In a December 29 letter to NRC Chair Shirley Jackson, Paul Pomeroy, Chair of Advisory Committee on Nuclear Waste (ACNW), urged the NRC Commissioners to

- evaluate the priority of NRC's low-level radioactive waste program on the basis of public health and safety and the national need for a centralized source of regulatory and technical expertise to ensure a consistent, adequate, and coherent approach to NRC's low-level radioactive waste program; and

- direct the NRC staff to reassess the elements of the low-level radioactive waste program—on the basis of the priority assigned by the NRC Commissioners—as part of the agency-wide rebaselining process. ACNW urged the NRC staff to use the recommendations contained in the letter report to configure these elements into a program that is responsive to the national need.

The ACNW was established in 1988 to advise the NRC on nuclear waste management issues, as directed by the NRC Commissioners.

Background: Staff LLRW Options Paper

In September 1995, NRC released a staff options paper—*Alternatives to Terminating the Nuclear Regulatory Commission Low-Level Radioactive Waste Disposal Program*—that discusses the implications of ending NRC's low-level radioactive waste disposal program. The staff paper addresses three options, ranging from continuing the current NRC program to ceasing all NRC low-level radioactive waste program activities. The paper recommends option two, which is "to reduce the program to those activities required by law and a few others that are necessary and essential to the national program." At the request of the NRC Commissioners, the ACNW reviewed the staff options paper and issued the December 1995 letter report containing recommendations on the future of the NRC program.

NRC's Role in LLRW

The letter report contains the following view of what NRC's role in low-level radioactive waste management should be:

> Recognizing that the fundamental mission of the NRC is to protect the health and safety of the public and the environment, the ACNW has concluded that in the radioactive waste field, the management of LLW poses broader, more direct and ubiquitous potential risks to health and safety than any other activity. Factors contributing to the risk of low-level waste include the long time frames associated with large volumes of uranium-contaminated waste, the performance of near-surface facilities for long-term disposal, and the existence of multiple disposal sites. Hence, the proper management of the storage and disposal of such wastes should command major attention from the NRC. We note that generating, storing, and disposing of LLW at multiple sites often affect the public and other stakeholders more directly than other activities in which NRC participates. We believe the NRC provides the important consistency and technical competence that these stakeholders require to ensure that their interests are protected. Finally, the orderly progress toward safe disposal of LLW requires a stable regulatory base that can only be provided by a centralized agency thoroughly involved in the LLW program.

Next Steps for ACNW, NRC

The ACNW letter report includes a number of recommendations and observations on specific elements of NRC's low-level radioactive waste program. According to ACNW staff, the committee discussed the necessary elements for a low-level radioactive waste program at its January meeting and may continue to discuss this issue at future meetings.

NRC Division of Waste Management staff are preparing a paper analyzing the public comments received on the staff options paper for presentation to the NRC Commissioners. The ACNW letter report will be addressed in the commission paper. The future of NRC's low-level radioactive waste program will also be addressed as part of the agency-wide strategic rebaselining and reassessment initiative.

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

NRC Receives Applications to Import/Export LLRW

Since publication of NRC's final rule on the import and export of radioactive waste, the commission has received one application to import radioactive waste from a foreign country and one application to export radioactive waste to a foreign country. (See *LLW Notes*, July 1995, p. 17.) NRC is currently reviewing the import application. The export application is on hold at the request of the applicant.

Import Application

Proposed Shipments On September 22, 1995, Nuclear Sources and Services, Inc., DBA NSSI/Recovery Services Inc. (NSSI) submitted an application to NRC for a specific license to import 940 cubic feet of class A low-level radioactive waste from Mexico for a period of five years (up to 25 barrels per year). The waste to be imported is generated from the use of nickel 63 as an ionizing material in the manufacture of electrical surge arrestors. The nickel 63 is sold to a manufacturer in Mexico by a U.S. distributor. The Mexican government requires, as one of its import permit requirements, that the nickel 63 waste residues be returned to the U.S. Accordingly, NSSI's application proposes that the waste be shipped to NSSI in Houston, Texas, for volume reduction and then to Barnwell, South Carolina, for disposal. However, NSSI proposes to store the waste at its own facility when U.S. disposal sites are not available.

Application Review As part of its review process, NRC contacted officials in Texas and South Carolina—proposed import destinations for the waste—to confirm that the facilities identified in the license application can accept the proposed waste shipments and that the states do not object to the import. NRC also contacted officials at the U.S. State Department.

Virgil Autry of the South Carolina Department of Health and Environmental Control, responded by letter dated December 15, 1995. Autry's letter states:

> The Low-Level Radioactive Waste Policy Amendments Act of 1985 requires that a state only be responsible for waste generated within that state. South Carolina is therefore only responsible for disposal of low-level radioactive waste generated within the state. South Carolina has gone beyond this responsibility by allowing disposal of waste from other states and U.S. Territories. Also, under the Policy Amendments Act, South Carolina is not responsible for disposal of waste generated within another country. It has been the policy of the State of South Carolina to only accept waste generated within the borders of the United States and its Territories. There are no provisions in the state law to allow for disposal of waste generated in another country. Therefore, the State of South Carolina prohibits the disposal of any waste at the Barnwell Facility imported into this country regardless of any foreign requirements.

Next Step NRC staff indicate that the license application is still under review and that the commission has asked NSSI for additional information.

Export Application

Proposed Shipments Shortly after publication of NRC's final import/export rule, Master International Systems USA Corporation submitted an application to the NRC for a license to export class A low-level radioactive waste to the Russian Republic of Dagestan. The application indicated that Scientific Ecology Group (SEG)—a wholly owned subsidiary of Westinghouse Electric Corporation—would be the principal supplier of the waste. (See *LLW Notes*, August/September 1995, p. 26.)

Status of Application In late 1995, however, at the request of a legal representative for Master International Systems, NRC put a hold on the processing of the company's export license application. Master International Systems has indicated that it may reactivate the application at some point in the future.

Russian Law In a related matter, various recent press articles have indicated that Russian law forbids the importation of foreign radioactive waste. One article, citing a translation of Russian law supplied by Greenpeace, states that article 50, paragraph three of the Russian law on Protection of the Natural Environment would prohibit shipments such as those proposed by Master International Systems. The law, as translated, reads as follows:

> Import for the purposes of storage or permanent disposal of radioactive waste and material from other states, sea dumping, (or) sending into space for the purpose of permanent disposal of radioactive waste is forbidden.

U.S. House of Representatives

House Grants "Open Rule" for Texas Compact; *Bill Could Come Up Any Time*

The Rules Committee of the U.S. House of Representatives granted an "open rule" for consideration of H.R. 558, the Texas Low-Level Radioactive Waste Disposal Compact, at 5:30 p.m. on the evening of Tuesday, December 19. An "open" rule permits all provisions of the compact legislation to be debated and amended when it is considered on the House floor.

The following day, the full House approved by voice vote the "open rule" for consideration of the compact legislation. Consideration of whether or not to approve the rule lasted for approximately one hour, during which time proponents and opponents of the legislation engaged in spirited debate, principally over the merits of the compact rather than over the rule itself.

Future Action

Vote by the Full House Now that a majority of the House has agreed to a rule, a vote on the compact legislation itself may occur at any time. However, the House is currently not expected to vote on the legislation until after federal budgetary issues are resolved. (See related story, this issue.) Accordingly, Congressional staff predict the compact legislation is not likely to come up until late March.

Amendments U.S. Representatives John Bryant (D-TX) and Ronald Coleman (D-TX)—both of whom are vocal opponents of the Texas Compact—have announced their intention to offer amendments to the compact legislation.

- Coleman's amendment makes congressional consent to the compact subject to the condition "that no compact facility ... may be sited within 60 miles of an international boundary which is a river and which is within an active earthquake zone." An "active earthquake zone" is defined as "an area within 150 miles from the epicenter of an earthquake which measured in excess of 5.0 on the Richter scale and which occurred in 1995."
- Bryant's amendment is virtually identical to that proposed by Coleman, but it excludes the language prohibiting siting a facility within 60 miles of an international boundary which is a river.

The disposal facility site selected by the Texas Low-Level Radioactive Waste Disposal Authority 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. Accordingly, both amendments, if passed, would effectively preclude the Hudspeth County 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 seven earthquake occurring six miles from the site and a magnitude six 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."

"Dear Colleague" Letters in Support

Recent Letters Prior to debate on the "open rule" for the compact legislation, supporters of the Texas Compact sent one of four "Dear Colleague" letters to each member of the House. The four letters are similar but are addressed to different groups of Representatives:

- those who voted yes on suspension of the rules last time the bill was considered and who have received letters from their compact and/or state,
- those who voted yes on suspension of the rules last time the bill was considered and who have not received letters from their compact and/or state,
- those who voted no on suspension of the rules last time the bill was considered and who have received letters from their compact and/or state, and
- those who voted no on suspension of the rules last time the bill was considered and who have not received letters from their compact and/or state.

The Representatives signing these "Dear Colleague" letters are

Charles Stenholm (D-TX)

Jack Fields (R-TX)

Jim Longley (R-ME)

Gene Green (D-TX)

Greg Laughlin (R-TX)

Joe Barton (R-TX)

Chet Edwards (D-TX)

Bernard Sanders (I-VT)

John Baldacci (D-ME)

Bill Archer (R-TX)

Sam Johnson (R-TX)

William (Mac) Thornberry (R-TX)

Previous Letters Previously, a "Dear Colleague" letter in support of the Texas Compact was circulated by the following four "freshmen" Representatives:

Richard Burr (R-NC)

James Longley (R-ME)

Steve Stockman (R-TX)

William (Mac) Thornberry (R-TX)

"Dear Colleague" Letters in Opposition

Representative Ronald Coleman (D-TX) distributed a "Dear Colleague" letter in opposition to the Texas Compact legislation on December 1, 1995.

A separate "Dear Colleague" letter opposing H.R. 558 was distributed on December 11, 1995, by Representative Henry Bonilla (R-TX).

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Debate re Granting an Open Rule for H.R. 558 —the Texas Compact Legislation

The following Representatives spoke in favor of an open rule for the Texas Compact legislation and in favor of the legislation itself:

Dan Schaefer (R-CO)

John Baldacci (D-ME)

Joe Barton (R-TX)

Gene Green (D-TX)

Shirley Jackson Lee (D-TX)

Frank Pallone (D-NJ)

Jack Fields (R-TX)

Bernard Sanders (I-VT)

Ralph Hall (D-TX)

James Longley (R-ME)

The following Representatives spoke against the legislation:

Henry Bonilla (R-TX)

Ronald Coleman (D-TX)

Lloyd Doggett (D-TX)

John Bryant (D-TX)

The following statements were made by various Representatives during debate over whether or not to grant H.R. 558 an open rule:

Representative Dan Schaefer (R-CO)

The measure had strong bipartisan support during the Commerce Committee's consideration of it, and I am hopeful that once Members have listened to this debate at the full House level, the bill will enjoy similar wide support on final passage ... One of the important and controversial matters raised during the House's first consideration of this bill revolved around the siting of the low-level waste facility. H.R. 558, like the other nine compacts before it, does not specify a site. It was the intent of Congress that siting, like the other responsibilities outlined in the Low-Level Radioactive Waste [Policy] Act, would remain a State issue.

Representative Henry Bonilla (R-TX)

I rise in opposition to the Texas Low-Level Radioactive Waste Disposal Compact Consent Act and the rule for the bill. As you all know, this bill was considered by the House back in September. The House overwhelmingly defeated this bill by a vote on 243 to 176 under suspension of the rules ... The House already made its statement loud and clear by rejecting the bill. This bill is not in order today and I urge my colleagues to oppose the bill and the rule.

Representative John Baldacci (D-ME)

Neither the compact nor H.R. 558 specify any particular site in Texas. This decision is solely the responsibility of the Government of the State of Texas. The siting decision is the right of the State of Texas. We in Washington should not interfere in that process.

Representative Joe Barton (R-TX)

When this bill came to the floor earlier this year, it was defeated ... primarily because many Members felt ... that since one or two Members in the State of Texas on the Republican side were opposed to this legislation, that the State of Texas itself and the Republican delegation in general was opposed.

Nothing could be further from the truth. The Governor of the State of Texas, the Honorable George Bush, strongly supports the passage of this act. The former Governor, the Honorable Ann Richards, formerly when she was Governor supported this act. So both our Democrat former Governor and Republican Governor support the passage of H.R. 558.

In response to an inquiry from Representative Ronald Coleman (D-TX) as to whether or not Barton would support an amendment that would restrict the compact to only Maine, Vermont, and Texas:

I would say to the gentleman that I was one of the authors of the amendments in 1985, and it is the intent of the legislation to give the States the right to negotiate between themselves for these compacts. It would, in my opinion, be outside the scope of this particular bill to try to limit any of the legislatures in what they could do.

I would oppose the gentleman's amendment if he were to offer such an amendment. I personally do not have a problem limiting the States, but the underlying legislation gives the States the right to negotiate these compacts, and the Congress' role is simply to ratify or to not ratify the compact.

Representative Ronald Coleman (D-TX)

In response to Representative Barton's statement above:

All of my colleagues in Texas that think this is smart better start thinking ahead just a little bit. This is not about Maine and Vermont and Texas only. Once they open this site, these commissioners will elect to put radioactive nuclear waste from every State, if they want to, because only they will be doing it.

Representative Gene Green (D-TX)

We cannot continue to stick our head in the sand and say we do not have a place for this [low-level radioactive waste]. By allowing this compact, it would allow the State of Texas, a large geographic State with a great deal of urban area that produces this low-level waste, a place to store it other than the urban areas that is [sic] close to all of our homes.

Representative Sheila Jackson-Lee (D-TX)

No site will be selected without public hearings that give concerned citizens the opportunity to express their views on the location of the facility. Environmental agencies will conduct the appropriate review and resolve environmental concerns in accordance with current law and regulations. No radioactive waste from States other than Texas, Maine, and Vermont would be stored at the facility. The future facility must meet Federal regulatory standards developed by the Nuclear Regulatory Commission relating to safety in the construction and operation of the facility.

I urge my colleagues to support this bill, which approves this compact among Texas, Maine, and Vermont and permits those states to manage their low-level radioactive waste in compliance with Federal environmental law and regulations.

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Debate re Granting and Open Rule for H.R. 558—the Texas Compact Legislation *(continued from page 19)*

Representative John Bryant (D-TX)

[The Texas Low-Level Radioactive Waste] Commission is going to be able to accept nuclear waste from every State of the Union. It is, in my view, very regrettable.

We are going to offer an amendment to say that it [the compact] is limited to the two States involved, Vermont and Maine. I see no way to justify doing otherwise. The bill has been lobbied to Members of Congress from my region to say that it just involved the two States. The fact of the matter is that it does not. If it did, I think no one would mind if we offered an amendment that said this would be a compact between the three States ...

The site that has been chosen is one that is on an international border, very close to the Rio Grande River in an area that is a volatile earthquake zone. This area experienced an earthquake scoring 5.6 on the Richter scale on April 13 of this year. The epicenter was less than 100 miles away and the quake was felt by individuals several hundreds of miles away ... Mr. Speaker, it is not in the national interest to ratify this [compact] knowing that the State of Texas plans to locate this in this place. If it were to pollute the Rio Grande River, we would have an enormous problem with Mexico; a problem not only for the people of Texas, but all the people of the United States who would have to help pay this liability.

Representative Frank Pallone, Jr. (D-NJ)

Mr. Speaker, I just wanted to mention ... that this is the 10th compact to receive congressional approval. Basically, the compact system envisions that low-level radioactive waste policy is developed with the strong support of the National Governors' Association, and under the law, the task of selecting the disposal sites is the States' responsibilities. So, the subcommittee, in reporting out the bill, was cognizant of the fact that the States involved in the compact do support it.

Traditionally, Congress' responsibility is to simply act quickly on the compacts' request by the respective States and if all is in order, to approve it promptly.

In response to an inquiry from Representative Bryant as to whether or not Pallone would support an amendment that would restrict the locations in which the State of Texas may site a disposal facility:

[A]s the gentleman knows, I did not support any amendments like that in the subcommittee and I would not support it on the floor. Again, because my understanding is that this has been looked into and that those on the State level that looked into it took that into consideration.

Representative Ronald Coleman (D-TX)

In response to above-statement by Pallone:

I think the reason the gentleman from Texas asked the question is simply because it will be taxpayers in New Jersey and Kansas and California and New York that will be participating in the clean-up of an accident when it occurs. It is not going to just be Texas, Maine, or Vermont.

I hope that the gentleman and my colleagues understand that, that it will be the responsibility of all of us, because it is an international river and international boundary that belongs to the United States as well as to Mexico.

Representative Jack Fields (R-TX)

> Mr. Speaker, I think it is very important for my colleagues to understand that the site that has been chosen by the State of Texas will be used as a waste site regardless of what the House of Representatives does. That decision has been made. That is where waste generated in the State of Texas will be disposed.
>
> Mr. Speaker, the advantage of our State entering into a compact with other States is basically we put a lock on what waste our State at any point in the future would have to accept. That is why it is so important that the State has made the decision, entered into the compact and made the ironclad decision that that site is going to be used, whether this compact passes or not.
>
> ... The only thing the House would do, if they overturned this particular decision, is set a very bad precedent for other States wishing to enter into similar compacts. If this decision by the three States is overturned, it is the first time that States having made a decision will have that decision contradicted by an action of the House, and I think that is tragic.

Representative Lloyd Doggett (D-TX)

> [T]he sponsors of this measure are unwilling to limit it to the three States of Texas, Vermont and Maine. They envision a vehicle here where an unelected commission will be able to expand this compact to include an unlimited number of States.

Representative Bernard Sanders (I-VT)

> [T]here are nine compacts that have already been approved by the Congress, impacting 42 States. This will be the 10th compact. I think from a precedent point of view, it is important for this Congress to pass this compact.
>
> ... [T]his Congress is not designating a specific disposal site. That is not what we are doing. Presumably, the people of Texas have a process to determine what is in the best interests of their own people. Frankly, I would hope and expect that the people of Texas would not do anything that is environmentally dangerous to the people of their region. We in Congress are not making that decision. The people of Texas are making that decision, and I hope that we could respect that process.
>
> I would simply suggest that from a precedent point of view, from respect to local control, we should support this rule and we should eventually support the bill.

Representative Ralph Hall (D-TX)

> The States have complied with their directive, and I think we ought to honor their good-faith efforts by vote to go ratify this compact. I urge Members to vote for H.R. 558.

Representative James Longley, Jr. (R-ME)

> This is a win/win situation for all three States. In particular, the State of Texas is going to benefit to the extent of $50 million that will be contributed by the States of Maine and Vermont. I think it is a positive for all three parties involved.

Budget Process Stalled: Temporary Spending Measure Funds Government Through March 15

Ward Valley Land Transfer and USEC Privatization Remain Uncertain

In late January—following a series of budget impasses—Congress and the President passed a short-term spending measure to temporarily fund the federal government, thereby averting the third partial government shutdown since November 1995. The measure allows nine Cabinet departments and about three dozen other federal agencies which have not yet received Congressional approval of their fiscal year 1996 appropriations measures to continue operating through March 15, although most of these programs will be funded at levels below that received for fiscal year 1995.

Temporary Spending Measure

The House passed the short-term spending measure 371 to 42 on January 25 on a roll call vote, with 39 Democrats, two Republicans, and one Independent voting against it. The Senate approved the measure on January 26 by a vote of 82 to 8, with six Democrats and two Republicans opposing it.

The measure, among other things, includes the following provisions:

- funds the departments of Commerce, Justice, State, Veteran's Affairs, and Housing and Urban Development, as well as several federal agencies, through March 15 at levels approved by Congress for fiscal year 1996;
- funds Labor, Health and Human Services, Education, Interior, and other agencies through March 15 at the lower of the House-passed, Senate-passed, or 1995 funding level (but at not less than 75 percent of the 1995 funding level);
- terminates 10 minor programs permanently, denies several other programs funds through March 15, and limits the level of funding for still other programs;
- provides furlough protection through March 15 for unfunded departments, except for one day per pay period;
- funds foreign aid programs through September 30 at levels approved by Congress for 1996;
- restricts travel spending by Cabinet secretaries—except for the secretaries of state and defense, the CIA director and the United Nations ambassador; and
- orders the sale of a House office building.

Reconciliation Bill

A reconciliation bill, which is necessary to address funding shortfalls in entitlement programs and taxes, was passed by the full U.S. Congress in late November 1995. The bill included many provisions of the Republicans' "Contract with America," as well as a plan for balancing the federal budget in seven years. It also contained a provision to transfer federal land in Ward Valley to the State of California and language allowing states and compacts to refuse to accept waste generated by the U.S. Enrichment Corporation (USEC). The President vetoed the reconciliation bill on December 6, 1995.

The President and Congress have been negotiating since December to try to resolve their differences concerning the reconciliation bill. However, disputes persist to date, and both sides concede that they remain deadlocked on many issues. As a result, some congressional forecasters are predicting that a final reconciliation bill may never be passed and that funding shortfalls in entitlement programs and taxes will instead have to be dealt with through other legislative vehicles.

For additional information on the appropriations and reconciliation processes, see LLW Notes, November/December 1995, pp. 14–16.

New Materials and Publications

Document Distribution Key			
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LLW Forum

DM **Meeting Packet**
LLW Forum meeting
February 13–16, 1996

LLW Forum Meeting Agenda. Afton Associates, Inc. February 1996.

LLW Forum Meetings-at-a-Glance Schedule. Afton Associates, Inc. February 1996.

LLW Forum Meeting Preattendance List. Afton Associates, Inc. February 1996.

Status of Technical Assistance. DOE's National Low-Level Waste Management Program. February 1996.

Letter from Don Womeldorf, Executive Director, Southwestern Low-Level Radioactive Waste Commission, to Sherry Wasserman-Goodwin, Deputy Under Secretary of Defense, expressing concern over the future of the Executive Agency which manages Department of Defense low-level radioactive waste. December 19, 1995.

Letter from John Weingart, Executive Director, New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board, to James Kennedy, Senior Project Manager, Low-Level Waste and Regulatory Issues Section, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Materials Safety and Safeguards, NRC, regarding the impact on volunteer siting of requirements under the National Environmental Policy Act (NEPA). January 2, 1996.

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Amendment Introduced to Senate Version of USEC Privatization Bill

On January 25, Senator Frank Murkowski (R-AK) introduced an amendment to S. 755, legislation to privatize the U.S. Enrichment Corporation (USEC). The amendment is co-sponsored by Senators J. Bennett Johnston (D-LA), Pete Domenici (R-NM), and Wendell Ford (D-KY). It is intended to make the bill conform to language that was contained in the fiscal year 1996 budget reconciliation bill that President Clinton vetoed on December 6. (See *LLW Notes*, November/December 1995, pp. 14–15.)

Murkowski, in introducing the amendment, stated:

> It is my hope that we can move this measure as a stand-alone bill, or as part of any other legislative vehicle that is available to us in the coming weeks.

The amendment departs from the language contained in the reconciliation bill in just a few minor respects at the request of the administration. It includes the following language concerning the disposal of USEC-generated low-level radioactive waste by states and compacts:

> Sec. 13. LOW-LEVEL WASTE
> (c) STATE OR INTERSTATE COMPACTS.—Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

DM **Meeting Packet LLW Forum meeting February 13–16, 1996.**

Proposed Constitutional Amendment in Ohio re Low-Level Radioactive Waste Facility Siting. 1996.

Proposed Statewide Voter Initiative in California re Low-Level Radioactive Waste Facility Siting. 1996.

Voter Initiative in Nebraska re Low-Level Radioactive Facility Siting. 1988.

Letter from Margaret Federline, Acting Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, to Terry Plummer, Manager, Low-Level Radioactive Waste Management Program, Environmental Management, DOE, responding to a November 3, 1995 letter which stated DOE's position on the assured storage concept. January 6, 1996.

Barnwell Low-Level Radioactive Waste Management Facility Rate Schedule. Chem-Nuclear Systems, Inc. Effective July 1, 1995.

US Ecology, Inc. Washington Nuclear Center, Radioactive Waste Disposal: Schedule A Disposal Charge. Effective January 1, 1996.

Points of Contact. Department of Defense Base Realignment & Closure. February 13, 1996. Steve Mapley, Chief, Low-Level Radioactive Waste Disposal Division, Department of the Army.

Letter from Edward Ford, Chair, Central Midwest Interstate Low-Level Radioactive Waste Commission, to James Kennedy, Senior Project Manager, Low-Level Waste and Regulatory Issue Section, Office of Nuclear Material Safety and Safeguards, NRC, requesting written confirmation that NRC will consult with the affected state or compact region whenever it receives a request to export low-level radioactive waste. November 28, 1995.

Letter from Michael Weber, Chief, Low-Level Waste and Decommissioning Project Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, NRC, to Edward Ford, Chair, Central Midwest Interstate Low-Level Radioactive Waste Commission, confirming that NRC will, as a matter of practice and policy, consult with affected states and compacts on requests for export of waste from their jurisdiction to other countries. January 11, 1996.

Letter from Virgil Autry, Director, Division of Radioactive Waste Management, Bureau of Solid and Hazardous Waste Management, South Carolina Department of Health and Environmental Control, to Ronald Hauber, Director, Nonproliferation, Exports and Multilateral Relations, Office of International Programs, NRC, responding to a December 7 memorandum requesting assistance in determining whether the Barnwell Low-Level Radioactive Waste Disposal Facility can receive waste imported from Mexico for disposal. December 15, 1995.

States and Compacts

Southwestern Compact/ California

1995 Southwestern Low-Level Radioactive Waste Commission Annual Report, July 1, 1994 - June 30, 1995. January 1996. To obtain a copy, send a written request to Don Womeldorf, Executive Director, 601 North 7th Street, P.O. Box 942732, MS# 396, Sacramento, CA 94234-7320.

Massachusetts

1995 Annual Report to the Commonwealth, July 1, 1994 June 30, 1995. The Massachusetts Low-Level Radioactive Waste Management Board. November 1995. To obtain a copy, contact Ben McKelway of the Management Board at (617)727-6018.

South Carolina

Guide for High Integrity Container Topical Report Applications; Revision 2. Bureau of Solid and Hazardous Waste Management, Division of Radioactive Waste Management, South Carolina Department of Health and Environmental Control. September 1995. An application for the use of a high integrity container for disposal will be evaluated on the basis of the specific conditions applicable to the Chem-Nuclear low-level radioactive waste burial facility in Barnwell, South Carolina. To obtain a copy, contact Rodney Wingard of the South Carolina Department of Health and Environmental Control at (803)896-4249.

Federal Agencies

Advisory Committee on External Regulation of Department of Energy of Nuclear Safety

Improving Regulation of Safety at DOE Nuclear Facilities. Advisory Committee on External Regulation of Department of Energy of Nuclear Safety. December 1995. Provides advice, information, and recommendations on whether and how new and existing DOE facilities and operations might be externally regulated to ensure nuclear safety. To obtain a copy, contact the Committee at (800)736-3282.

Advisory Committee on Nuclear Waste (ACNW)

Letter from Paul Pomeroy, Chair, ACNW, to Shirley Jackson, Chair, NRC, regarding comments on SECY-95-201 and the NRC activities regarding low-level radioactive waste. December 29, 1995.

Department of Energy (DOE)

National Academy of Sciences' Ward Valley Report. A video tape of the Ward Valley, California low-level radioactive waste disposal facility report at the 17th annual DOE low-level waste management conference in Phoenix, Arizona on December 14, 1995. To obtain a copy, contact Donna Lake or Sandy Birk at (208)526-0234.

Overview of Site Treatment Plans. DOE. November 1995. Provides the status report and background information on activities under the Federal Facility Compliance Act. To obtain a copy, contact DOE's Center for Environmental Management Information at (800)736-3282.

Integrated Data Base Report—1994: U.S. Spent Nuclear Fuel and Radioactive Waste Inventories, Projections, and Characteristics (DOE/RW-0006, Rev. 11). Prepared by the Oak Ridge National Laboratory, DOE. Prepared for the Office of Civilian Radioactive Waste Management, Office of Environmental Management, DOE. September 1995. Summarizes the DOE data base for inventories, projections, and characteristics of domestic spent nuclear fuel and radioactive waste. It is updated annually to keep abreast of continual waste inventory and projection changes in the government and commercial sectors. To obtain a copy, contact DOE's Office of Scientific and Technical Information at (615)576-8401.

Draft Waste Management Programmatic Environmental Impact Statement For Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste (DOE/EIS-0200-D; Summary and volumes I-IV). Office of Environmental Management, DOE. August 1995. Evaluates the management and siting alternatives for the treatment, storage and/or disposal of the following DOE wastes: low-level radioactive waste, low-level mixed (with hazardous components) waste, transuranic waste, high-level radioactive waste, and hazardous waste. To obtain a copy of all or portions of the document, contact the Center for Environmental Management Information at (800)736-3282.

Nuclear Regulatory Commission (NRC)

PA Letter from Shirley Jackson, Commissioner, NRC, to Gregg Larson, Convenor, LLW Forum, responding to a November 15, 1995 letter which expressed concern about a reduction in the NRC staff's planned level of involvement in the LLW Forum. December 14, 1995. (Distributed January 26, 1996.)

Reassessment of NRC's Dollar Per Person-Rem Conversion Factor Policy. (NUREG–1530). Prepared by the Division of Regulatory Applications, Office of Nuclear Regulatory Research, NRC. December 1995. As a result of this report, NRC decided to adopt a $2000 per person-rem conversion factor, subject it to present worth considerations, and limit its scope solely to health effects

Memorandum from James Taylor, Executive Director for Operations, NRC, to the NRC Commissioners, regarding the proposed rulemaking that would revise 10 CFR Part 20, constraining the dose to individual members of the public for air emissions of NRC licensees other than power reactors. The purpose is to obtain commission approval of a notice of proposed rulemaking. This action is expected to be the final step in providing EPA with a basis upon which to rescind Subpart I for NRC licensees other than power reactors. The action was publicly released on November 28, 1995. Submitted to the Commission on May 24, 1995.

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U.S. Nuclear Regulatory Commission (continued)

Site Decommissioning Management Plan. (NUREG–1444, Supplement 1). Prepared by the Division of Waste Management, Office of Nuclear Material Safety and Safeguards, NRC. November 1995. Contains the NRC staff's strategy for addressing the technical, legal, and policy issues affecting the timely decommissioning of 51 contaminated sites and describes the status of decommissioning activities at the sites. To obtain a copy, contact the NRC Public Document Room at (202)634-3273.

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"Disposition of Cesium-137 Contaminated Emission Control Dust and Other Incident-Related Material," 61 *Federal Register* 1608–1627. NRC. January 22, 1996. Action: Notice: proposed staff technical position. States that NRC is proposing guidance that may be used in case-by-case requests by appropriate licensees to dispose of a specific mixed waste.

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"Heartland Operation to Protect the Environment," 61 *Federal Register* 633. NRC. January 9, 1996. Action: Notice of receipt of petition for rulemaking. The petitioner requests that the NRC amend its regulations to adopt a rule regarding government ownership of a low-level radioactive disposal site that is consistent with federal statute. NRC is requesting public comment on the suggested amendment.

Other

American Nuclear Society 1995–96 Publications Catalog. Some items that may be of interest are:

- *Personal Radiation Dose Chart.* Four pages; ANS Order No. 750022; 1-500 copies are 45 cents each; 501 or more are 30 cents each.
- *Transporting Radioactive Materials.* Addresses the need for transporting radioactive materials, describes what they are, how they benefit the public, and what precautions are taken in shipping. Eight pages; ANS Order No. 750036; Copies are 90 cents each.
- *Nuclear Energy – Low-Level Radioactive Wastes.* Addresses what radioactive wastes are, where they come from, what the concerns are, and what is being done about the waste. Aimed at the high school age audience. Twelve pages; ANS Order No. 750039; One to 150 copies are $1.35 each; 151 or more are $1.20 each.
- *Nuclear Technology Creates Careers.* Eight pages; ANS Order No. 750059; Copies are 55 cents each.
- *Nuclear Energy Facts – Small Q&A.* Fifty-six pages; ANS Order No. 750020; One to 650 copies are $2.75 each; 651 or more copies are $2.00 each.

There are four ways to order the above publications:

- by telephone: (708)579-8210
- by fax: (708)579-8314
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States and Tribes: Building New Traditions. National Conference of State Legislature (NCSL). Prepared at the direction of the NCSL Task Force on State-Tribal Relations. November 1995. Examines the condition of state-tribal relations and opportunities for mutually beneficial cooperation as the 21st century approaches, from a state legislative policy perspective. The publication addresses several issues including environmental protection, waste transportation and disposal, economic development, mining and minerals, timber/lumbering, and water rights. To order a copy, contact the NCSL Book Order Department at (303)830-2200 and request item number 9354. The cost is $25.00 plus $4.00 for shipping and handling. Payment can be received by check or charged to MasterCard, VISA, and American Express.

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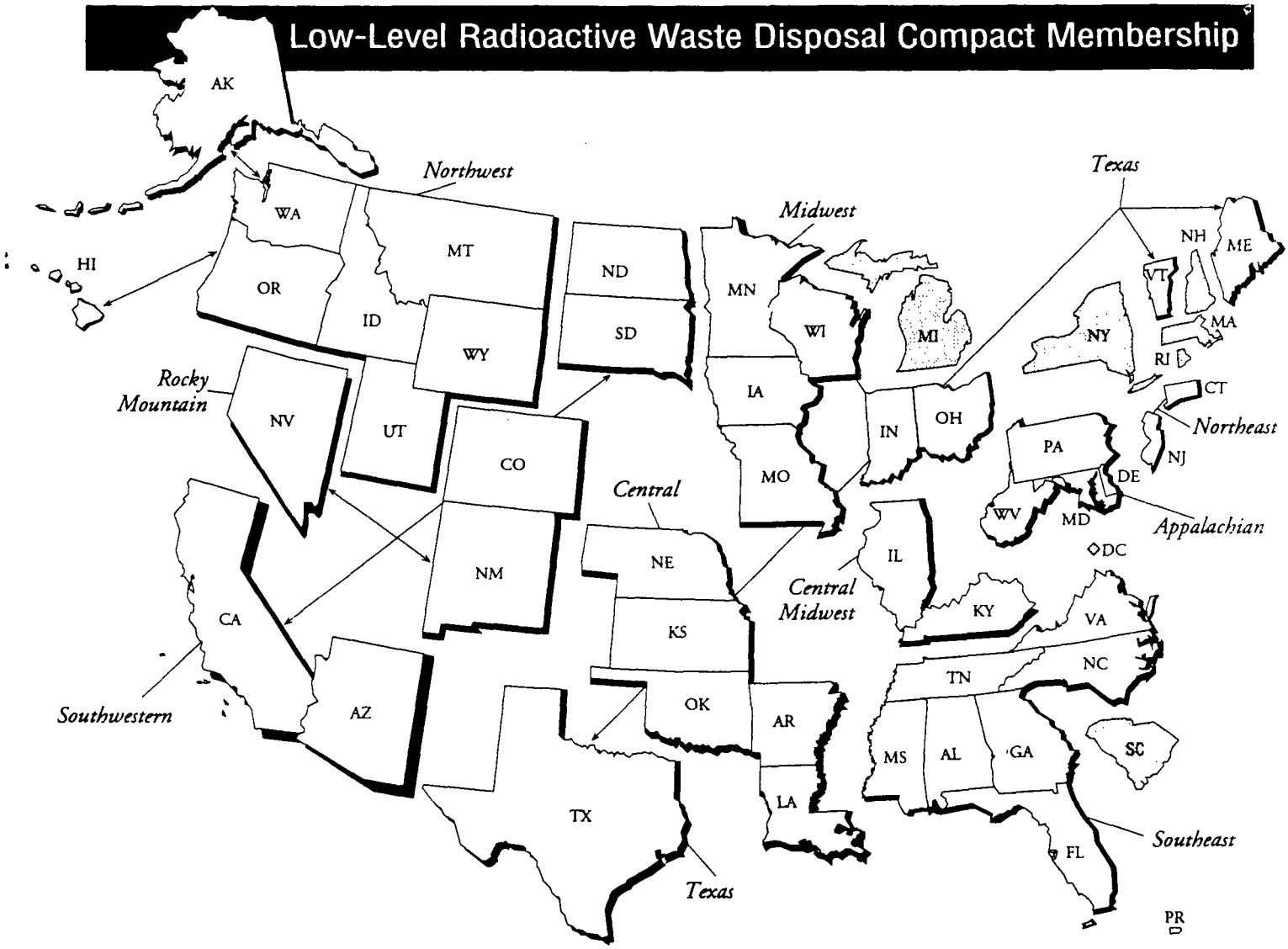
Receiving *LLW Notes* by Mail

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 tin order to allow representatives of industry, environmental and citizen groups—as well as other interest groups and members of the public—to receive these two publications directly by mail.

Members of the public may apply to DOE's National Low-Level Waste Management Program a the Idaho 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

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

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

The Low-Level Radioactive Waste Forum includes a representative from each regional compact, current host state *, future host state •, and unaffiliated state.

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