

The

# Radioactive Exchange®

*To promote the exchange of views and information on radioactive waste management*

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Volume 6 No. 4

February 28, 1987

## DOE ANNOUNCES INTENT TO HIRE HLW SITE INTEGRATION CONTRACTOR

Citing the complexity of the HLW program and the need for its continued integrity, DOE has just announced a series of "management enhancements," the key element of which will be the procurement of an outside "Systems Engineering and Design" (SE&D) contractor to integrate site characterization work. The objectives for the SE&D contractor and the overall initiative include: (1) attaining consistency in critical test and evaluation work that will lead to both site selection and licensing, (2) improving specification of headquarter requirements to project teams, leading to clearer understanding and improved responses, and (3) improving efficiency in total program management (See **Rusche Interview** for more information). The intent is also to eliminate work duplicated at each of the candidate sites. For example, currently there are three different projects using three different contractors to design aspects of the waste package or repository that in the end will be the same at all sites.

(See **DOE** in the **HLW Focus**)

## US ECOLOGY NAMES THREE CANDIDATE LLRW BURIAL SITES IN CALIFORNIA

US Ecology has selected three southern California desert sites as primary candidates for California's low-level radioactive waste disposal site. The three are: Ward Valley, about 25 miles west of Needles; Silurian Valley, 15 miles north of Baker (both in San Bernardino County); and, Panamint Valley about 30 miles north of Trona in Inyo County. All are located on Bureau of Land Management (BLM) property but none have been recommended for wilderness protection by either the BLM or Senator Cranston's proposed Desert Preservation Act.

Two alternate site areas were also identified in the event any of the three primary selections are found unsuitable during site characterization. The alternates are Fenner Valley and Danby Basin in San Bernardino County. All of the potential areas are known for their very low annual rainfall.

(See **US Ecology** pg. 2)

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(US Ecology from pg. 1)

### **Comprehensive Public Input**

With the aid of the League of Women Voters Southern California Regional Task Force, US Ecology established an independent Citizens Advisory Committee to assist in the screening of possible sites. Two rounds of consultation interviews were held with Native American groups to include cultural resources concerns in the decision. A series of over 25 public meetings and workshops was held in desert communities to inform and involve citizens. The meetings were designed to obtain advice from desert residents about criteria to be used in narrowing the broad area under study, and later, to evaluate the suitability of 16 candidate site areas. Each of the 16 areas is believed to be suitable from a technical standpoint.

### **Citizens' Top Picks**

The Citizens Advisory Committee's nearly unanimous choice was the upper Ward Valley site. While unpopulated, it is still reasonably close to employment sources and services in Needles and is located next to existing electric transmission lines and a power substation.

Ward Valley also has interstate highway and nearby rail access and there is no agriculture, mining or conflict with military activities. According to Ron Gaynor, Vice President of US Ecology, "the site appears to offer considerable depth to groundwater, as do all the sites."

Members of the advisory committee also viewed the Silurian Valley favorably. They called particular attention to the site's good highway access and the fact that there was no population or agricultural activity in the basin. Gaynor remarked that they were also aware that many residents of Baker, the nearest community, are interested in the employment opportunities and local purchasing the disposal facility will provide.

The Panamint Valley location was also frequently mentioned in public meeting

comments as being favorable. "Isolation was the reason for its popularity," Mr. Gaynor explained, "although I have to stress that each of the candidate sites is fairly remote from human habitation."

### **Inyo County Expresses Support**

The Inyo County Board of Supervisors passed a resolution by unanimous vote urging that potential sites in their country be thoroughly studied before being dropped from consideration. Community acceptance is expected to be an important factor in selection of the final site.

While the advisory committee also gave broadly favorable ratings to Fenner Valley and Danby Basin, these areas will not be investigated further unless a prime site is eliminated for technical reasons.

### **Site Characterization Begins**

US Ecology and its consultants will now begin a year-long program of technical studies at each of the sites, according to Assistant Project Manager Steve Romano. The studies will define groundwater and soil characteristics, geological features, weather conditions and air quality, plant and animal species, and potential archeological remains in the site's vicinity.

Romano also noted that local committees will be formed for each of the candidate sites. These committees will review facility design concepts including enhanced disposal technologies, mitigation of local impacts, and economic benefits.

### **Final Site Selection**

By early 1988, US Ecology will select a single preferred site and file a license application with the state. A state-prepared Environmental Impact Report will follow. The Department of Health Services will then hold formal public hearings on US Ecology's proposal. \*\*

## **LLRW DESTINED FOR HANFORD REQUIRES CERTIFICATION AS NON-RCRA REGULATED**

Effective this year -- August 1, 1987 -- US Ecology is expected to be required by the State of Washington to require that shipments of LLRW accepted at the commercial LLRW site be certified that they contain no EPA RCRA-regulated waste. Under current EPA regulations this would mean waste that contains materials listed as hazardous under RCRA, or exhibit properties similar to RCRA-listed hazardous materials will not be accepted for disposal.

The certification is expected to be included as part of the manifest that is required to accompany all shipments of LLRW to the Washington State burial facility.

### **Tough Inspection, Enforcement**

To ensure compliance with the certification requirement, the state will conduct random inspections of waste shipments to the burial facility. The inspections would include RCRA and radiological analyses. Violators who are found to ship RCRA-regulated waste will face civil penalties. \*\*

## **WASHINGTON STATE DEVELOPING LIABILITY COVERAGE REQUIREMENTS FOR SITE USERS**

Elaine Carlin, who is Executive Director of the Northwest Compact Committee and with the Washington State Department of Ecology, reported in an exclusive interview with the EXCHANGE that "a basis for possible draft regulations" intended to require that users of the Hanford commercial LLRW disposal facility have certain liability insurance coverage has been drafted and will be mailed to all site users for comments this coming month (March). She emphasized that what is being done now is prior to the formal rulemaking process to obtain the broadest possible input as early as possible. The Northwest Compact Executive Director further cautioned that the material is not draft regulations or rules but the basis upon which draft rules would be developed.

According to Ms. Carlin the formal

rulemaking is expected to be initiated this fall. A public meeting on the "draft basis" now being circulated for comment will be held on May 1. Final regulations are planned to be in place by the end of 1987.

### **Three-Fold Coverage Requirements**

As now planned eventual liability regulations would cover all parties that are involved in the processing, packaging, transporting and burial of LLRW destined for disposal at the Hanford facility. Three categories of coverage requirements are currently being investigated: bodily injury, property damage, and environmental impairment. There would be specific conditions set for each category of coverage. For example, Ms. Carlin explained the intent is to say to a site user "you have to have this kind of liability coverage for bodily injury, this kind of coverage for property damage, and this to cover environmental impairment."

The upcoming regulations would not only specify the minimum dollar amount of coverage, but also the instruments that must be executed to obtain the necessary coverage. [EDITORS NOTE: For a **Progress Report** on this initiative and an opportunity to discuss the proposal with Ms. Carlin, plan to attend the **Third Radioactive Exchange Decisionmakers' Forum, June 16-19, Traverse City, Michigan**, which includes a special panel session on liability issues. See **Calendar** for further information.] \*\*

### **BECHTEL FUNDS R&D ON "PYRAMID" TYPE LLRW DISPOSAL FACILITY**

On February 19, Bechtel Group, Inc., announced it was providing funds to support further research on engineering concepts utilized in the construction of the Egyptian pyramids to develop a safe permanent disposal facility for hazardous chemical and low-level radioactive waste.

The funds were awarded under the company's internal Technical Excellence Program to one of its engineers, Fred Feizollahi. Engineer Feizollahi's idea is to lock up dangerous waste in "subtle modern pyramids

about 20 feet high," in a facility that "meshes with the natural environment."

### **Interlocking Cannister Structure**

Feizollahi envisions "sealing the wastes in interlocking concrete boxes that would be stacked together in virtually impervious and immobile mini-pyramids." Measuring less than seven feet on a side, the individual boxes could easily be loaded and moved. Designed with interlocking cleats, the boxes lock into their mates to make a virtually indestructible monolith.

The finished structure would accommodate ground movement, strongly resisting earth movements, such as earthquakes, and the erosive forces that can damage most waste sites. This system, Feizollahi says,

virtually would eliminate the leakage into ground water that is the most frequent problem with unsophisticated burial techniques.

"A monitoring system under the structure [would allow] tracking the performance of the pyramid to further reduce the already minimal risk of leaks and liability," according Feizollahi.

During his 17 years as an engineer, Feizollahi has worked on 24 waste projects around the world. The author of 19 articles and papers on the subject of radioactive and hazardous chemical wastes, Feizollahi has assembled a four-person Bechtel team with 60 years engineering experience to help him develop the concept.  
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## **REQUEST FOR PROPOSALS - THE STATE OF WASHINGTON**

The WA State Department of Ecology invites those qualified to submit proposals to formulate design elements and determine site specific techniques (to ensure compliance with RCRA and AEA) and detail associated costs necessary for site closure and PC&M of the commercial low-level radioactive waste disposal facility at Hanford, WA. Expertise necessary in geotechnical, civil, chemical, and environmental engineering, hydrogeology, soil mechanics, and radiation health physics. Phased Project 3-8 months. Budget all phases 0.1M-0.2M, Call (206) 459-6228 for RFP. Proposal deadline: March 20.

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## **POSITION OPENINGS**

### **WASHINGTON STATE SEEKING EXPERIENCED NUCLEAR WASTE PROFESSIONALS**

The Washington State Department of Ecology has four (4) openings for professionals with experience in high level nuclear waste management. The positions are: 1) policy (non-technical) issues program manager; 2) public involvement program manager; 3) transportation program specialist; and 4) on-site representative inspector. The first three positions will be based on Olympia, Washington, and the last position will be based at Hanford, Washington.

Descriptions of the positions, minimum qualifications, salaries, and application procedures can be obtained by calling the Office of Nuclear Waste Management at (206) 459-6670 and asking for a "job application package." Applications must be received by March 4, 1987.

The State of Washington is an equal opportunity employer. Contact: Linda Steinmann or Gary Rothwell, Office of Nuclear Waste Management (206) 459-6670. \*\*

## EPRI BRC TECHNICAL SUPPORT PROGRAM

Patricia J. Robinson and Robert A. Shaw  
EPRI LLRW Program

### Background

Over the past several years, there has been considerable interest by the nuclear industry in the NRC explicitly defining an activity level in plant waste materials at which the radiological impacts would be so low as to be considered Below Regulatory Concern (BRC). This interest was also reflected in the Low-Level Waste Policy Amendments Act of 1985 in which it was mandated that the NRC establish procedures for acting expeditiously on petitions to exempt specific waste streams from the NRC regulations. In response to this mandate, the NRC published in the **Federal Register**, August 29, 1986, a policy statement and implementation plan for the handling of such petitions. The publication by the NRC of this policy statement and implementation plan has provided the long-sought opportunity for the nuclear industry to pursue the exemption of waste streams with very low activity levels from the NRC's regulations.

The implementation plan is explicitly noted to be applicable only to multiple waste producers on a national scale (e.g., nuclear power plants). The implementation plan delineates 14 NRC decision criteria which must be adequately addressed in a rulemaking petition. Because of the industry-wide applicability and the sizable technical effort required to respond to the 14 decision criteria and to support the development of such a petition, several utilities have requested that EPRI provide the technical support required for one or more rulemaking petitions. The BRC Technical Support Program has been approved by the EPRI Engineering & Operations Task Force and the Low Level Waste Subcommittee. The EEI is working in conjunction with EPRI and will support the rulemaking effort by submitting actual petitions to the NRC.

### Benefits

A favorable ruling by the NRC on a BRC rulemaking petition would allow utilities to use alternative disposal methods to disposal at licensed facilities for the specific waste streams addressed by the petition. It is likely that as much as 60% of a particular waste stream such as dry active waste could be disposed of by means other than shipment to Barnwell or Hanford. This would result in several thousand cubic feet of waste being exempted at direct operating cost savings in excess of \$300,000 per year per plant at current transportation and burial costs.

The above reduction in the waste volumes shipped to a licensed burial facility would also assist utilities in meeting the Low-Level Waste Policy Amendments Act allocation volumes and the INPO Performance Goals for solid waste volume generation. In addition to these direct benefits, the uncertainties regarding the availability of future disposal facilities could significantly increase the importance of a BRC exemption should disposal space become even more limited. Plant life extension and decommissioning are two examples where BRC exemption could be highly beneficial.

### EPRI Objectives and Program Description

The objective of the EPRI BRC effort is to provide the technical data required for the development of a rulemaking petition to exempt specific nuclear plant waste streams as being Below Regulatory Concern (BRC).

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Based on in-depth discussions with the NRC, utility representatives and industry consultants, several research needs for the BRC Technical Support Program have been identified. The research needs identified directly support the 14 decision criteria contained in the NRC policy statement and implementation plan. Twelve specific technical research projects or tasks and two program administration tasks have been identified and are listed in Table 1.

**Table 1**

**Below Regulatory Concern  
Program Outline**

**Task Description**

BRC Waste Stream Selection & Evaluation  
Ranking of Controlling Radionuclides  
Cost/Benefit Evaluation of BRC Wastes  
Critical Review of IMPACTS-BRC Code  
Radiation Variability & Sorting Evaluation  
Radionuclide Distribution Development  
Accident Scenario Base Assessment  
Monitoring/Curie Estimation Evaluation  
Non-Radiological Waste Characterization  
and Environmental Assessment  
Radiological Impact Assessment  
Compliance & Guideline Development  
BRC Waste Stream Documentation Preparation  
Program Coordination  
Technical Advisor Committee

It is expected that the program duration would be two years.

The benefits of the BRC program would accrue to all nuclear plants and could prove to be of substantially greater benefit to the nuclear industry in the long term as existing burial sites approach closure. \*\*

## IN THE NORTHEAST

The Northeast Compact Commission has announced that they successfully completed negotiations and a contract has been awarded to Roy F. Weston to assist the Commission in developing a regional management plan. At their recent meeting on February 24 the Commission considered a petition submitted by **Washington, D.C.** to join the compact. The petition was denied for lack of sufficient supporting material.

## IN THE SOUTHEAST

A comment made by **Chem-Nuclear Systems President Victor Barnhart** at a luncheon of a Wilmington North Carolina Rotary Club, stating that there was no technical need to build a LLRW in North Carolina because his company's Barnwell facility could continue to take its current input of waste for 25 more years before it used up its licensed land, has rekindled the fires opposing continued use of the S. Carolina facility. Governor Carroll Campbell took the opportunity at the National Governors' Association Winter Meeting to emphasize his opposition to the continued operation of Barnwell as a national disposal facility. S.C. legislator and S.E. Compact Commissioner Harriet Keyserling reacted by stating that the only way the site can remain open past 1992 is with legislative approval and she could not conceive of that happening.

The South Carolina newspaper "The State" followed Barnhart's comments with a scathing editorial charging that Chem-Nuclear has now changed its position from supporting former Governor Riley's effort to establish regional compacts and now wants "to sabotage the Southeastern Compact and South Carolina's public policy to keep it going."

Then, in a Letter to the Editor of "The State", President Barnhart voiced his dismay at the editorial attack and challenged the paper to "prove that there is a technical, environmental or economical justification for building a new low-level radioactive disposal facility in North Carolina, or any other state at this time."

He defended his assertion that there is no need for new disposal facilities and Chem-Nuclear's change in position regarding support for the compacting process by citing the significant decrease in LLRW accepted for disposal. As stated in his letter:

"It is absolutely clear that the assumptions made in the early 1980s, which led to the compacting process, are no longer valid. At that time it was projected that by the late 1980s as much as five million cubic feet of waste would need to be disposed of each year in the United States. ...[W]e are now projecting only 1.6 million cubic feet of waste will be disposed of nationwide in 1987. We are not projecting any significant increases in volume in the coming years. Development of a new site for the Southeast would cost millions of dollars, a cost that will be borne by all consumers. This cost translates into perhaps 10 times what disposal costs are now at the Barnwell facility."

## IN THE CENTRAL MIDWEST

Chem-Nuclear's quiet pursuit of an NRC license to operate a supercompactor at Channahon, IL (See EXCHANGE, Vol. 5, No. 20), may be a case of winning the battle but losing the war, in the opinion of state public interest groups who follow LLRW issues.

Joanna Hoelscher of Citizens for a Better Environment expects that Chem Nuclear's failure to inform the local community of their activities will have far-reaching impact. "They've hurt their own chances of being selected to operate the Central Midwest's disposal facility, but I don't think they realize the damage they've done to the entire siting process. It's got to be conducted fairly and openly if it's going to be successful."

Illinois League of Women Voters Vice President Gretchen Monti claims that Chem Nuclear was reacting to an amendment to Illinois' LLRW management law that was passed in 1986. "Although they said secrecy was necessary for competitive reasons, I think they were trying to beat the

clock. The state can't issue a license to a waste management facility unless the compact commission has designated Illinois as the host state for that facility, and it will have licensing authority any day now."

Chem-Nuclear President Victor Barnhart, contacted at the firm's Columbia SC office, stated that the company was very surprised by the "local reaction considering that the proposed facility is fairly innocuous." The company is currently in discussions with various local elements voicing opposition to the VR equipment.

Will County, wherein the Channahon facility is located, has filed a court suit charging a zoning violation.

#### IN THE MIDWEST

**Lee Jager** has resigned from the Midwest Compact Commission. He has been replaced by **David F. Hales**, a professor at the University of Michigan School of Natural Resources.

#### AT THE NATIONAL GOVERNORS' ASSOCIATION

At their 1987 Winter Meeting in Washington, D.C., the National Governors' Association adopted a policy resolution calling upon Congress to direct the Department of Energy to sponsor a study by the National Academy of Sciences to establish safe and, to the greatest extent possible, site-independent facility designs for low-level waste disposal. In addition, the Academy was called upon to survey existing practices and databases for compaction, volume reduction, packaging, containment, and classification of wastes.

Interestingly, the resolution does not call upon the states to meet the upcoming site development milestones or develop new disposal capacity. However the new Governor of S. Carolina, Republican Carroll Campbell, was not going to let his fellow Chief Executives forget about the statutory commitments in the Low-Level Radioactive Waste Policy Amendments Act (LLRWPA) for states and compacts to develop new LLRW disposal sites. In a statement not unlike that made in past year by former Governor

Riley, he warned his fellow governors that South Carolina would not be available as a national disposal site, and that they ought to be working toward meeting the LLRWPA milestones.

#### IN THE INDUSTRY

**Kaiser Engineers, Inc.** has expanded its services in environmental control and waste management with the formation of an Environmental Controls and Remediation Department. The new department has consolidated Kaiser Engineers' operations performing engineering, construction management and consulting services for the management of radioactive and hazardous waste projects. This includes the decommissioning, decontamination and reclamation of waste sites. **Beverly S. Ausmus** has joined Kaiser Engineers as manager of the department. Dr. Ausmus was most recently the program manager for environmental restoration with Bechtel International, Inc. Also joining the company are senior chemical engineer **Laura A. Hofman**, lead health physicist **Paula A. Trinoskey**, and lead environmental hygienist **Verne L. Trinoskey**. Principal chemical engineer **George B. Humphreys** has transferred to the department from the company's engineering division.

A new company -- **Avancer Technologies, Inc.** -- has been formed to commercialize a new high integrity container for LLRW and mixed waste. The container is designed to exceed the current state and NRC draft regs guide for HIC's. The Avancer HIC, which is composed of proprietary composite materials, is also UV resistant for long term above ground storage. Robert S. Watterson, President of Avancer, stated that the Avancer HIC, which is available in all standard sizes, could be a viable alternative to the poly and FRP HIC.

Negotiations are currently being conducted for supply agreements with well known firms in the nuclear waste industry. For further information contact R. S. Watterson at (704) 378-1400.

Last December **LN Technologies** successfully demonstrated their "Quick-Dry"



dewatering equipment to a group of utility representatives. During the demonstration test 250 cubic feet of Exodex resin was transferred to a 182 cu.ft. liner and dewatered over a five-hour period. The equipment is now at the CEI Perry Station. For more information contact Paul Williams at (216) 723-0915.

## ON THE MOVE

In an unexpected move, **Mike Jump** resigned

his position as Chem-Nuclear's Vice President for Site Development during the past couple of weeks. **Bob Hamilton** also assumed the post of Chem-Nuclear's Vice President for Nuclear Services last December.

**Paul Williams**, formerly of Stock Equipment company and then a private consultant, has joined **LN Technologies** as Manager of Business Development.\*\*

## Calendar

### March

- 1 **RFP RELEASE:** Illinois Department of Nuclear Safety will release RFP seeking contractor to identify four potential LLRW disposal sites.
- 3 **Hearing:** House Energy and Water Appropriations Subcommittee; Chairman Bevell, DOE HLW Appropriations.
- 1-5 **Conference:** Waste Management '87; Spons. University of Arizona, ANS, EPEI, ASME, numerous commercial firms; Tucson, Arizona; Registration Contact: M. Wacks (602) 621-2475.
- 9 **BIDDERS' CONFERENCE:** Firm interested in submitting proposals seeking contract to select four potential LLRW disposal sites in Illinois.
- 12 **CLOSING DATE:** Comments on DOE Utility LLRW Unusual Volume Allocation Authority; Contact: Jeff Smiley (301) 353-4216.
- 15-18 **Annual AIF Fuel Cycle Conference;** Boston, MA; Contact: AIF Conference Office (301) 654-9260.
- 19 **Hearing:** House Energy Research Subcommittee; Chair Marilyn Lloyd; HLW Budget; Contact: Lou Ventre (202) 225-6371.
- 24 **Meeting:** Northeast Compact Commission; Contact: Denise Prace (609) 799-1193.
- 29-4/2 **International Topical Meeting on Remote Systems and Robotics in Hostile Environments;** Pasco, WA; Spons: American Nuclear Society; Contact: J. Berger (509) 376-1178.

### April

- 1 **DEADLINE:** Proposal Seeking LLRW Burial Site Operator Selection, Central States Region.
- 4 **Hearing:** Senate Energy and Water Appropriations Subcommittee; Chair Sen. Johnston.
- 14-16 **Workshop:** Packaging, Transportation and Disposal of LLRW; Spons: Chem-Nuclear; Sheraton Charleston, Charleston, SC; Contact: Jan Edmunds-Folk (803) 259-1781.

- 22-24 **Conference:** Sixth Annual Incineration Conference on Incineration of Mixed and LLRW; Pheasant Run Resort, St. Charles, Illinois; Spons. University of California in cooperation with DOE, IAEA, ASME, and chapters of the Health Physics Society; Contact: Charlotte Baker, LLW Projects Coordinator, University of CA, Irvine, CA 92717. (714) 856-7066. Telex: 7101 115 338.

- 23 **Meeting:** Northwest Compact Committee; Contact Elaine Carlin (206) 459-6244.

- 28 **Hearing (Tentative):** House Interior Committee, Nuclear Power Reactor Decommissioning; Contact: Sam Fowler (202) 225-8331.

### May

- 1 **Public Hearing (Tentative):** Washington State proposals on Hanford Site users liability requirements; Contact: Elaine Carlin (206) 459-6228.

- 3-6 **Fourth International Symposium on Environmental Aspects of Stabilization/Solidification of Hazardous and Radioactive Wastes;** Hotel Tower Place, Atlanta, GA.; Spons: ASTM; Contact: T.M. Gilliam (615) 574-6820.

- 5-7 **Nuclear Power Assembly;** Washington, D.C.; Co-Spons: American Nuclear Energy Council, American Nuclear Society, American Public Power Association, Atomic Industrial Forum, Edison Electric Institute, National rural Electric Cooperative Association and the U.S. Committee for Energy Awareness; Contact: AIF (301) 654-9260.

- 6-8 **Annual Conference:** The Hazardous Materials Advisory Council; Radisson Mark Plaza Hotel, Washington, D.C. Contact: (202) 783-7460.

- 11-15 **Short Course:** ASME Short Course on Radioactive Waste Management for Nuclear Power; Old Town Holiday Inn, Alexandria, VA; Contact: Gloria Greene (212) 705-7398.

- TBD **(Spring 1987) Coordinated Research Program on High-Level Waste Forms;** Australia; Spons: IAEA; Contact: W. Porter (202) 252-4573.

# LLRW Volume Disposal Update

## LLRW ACCEPTED FOR DISPOSAL AT BARNWELL, BEATTY AND HANFORD

Through January 1987

(Volumes in Cubic Feet)

	<u>January</u>		<u>January</u>
<b>Northeast</b>		<b>Rocky Mountain</b>	
Connecticut	2,174.90	Colorado	0.00
New Jersey	723.20	Nevada	0.00
	<u>2,898.10</u>	New Mexico	0.00
		Wyoming	0.00
			<u>0.00</u>
<b>Appalachian</b>		<b>Western III</b>	
Pennsylvania	8,064.50	South Dakota	0.00
West Virginia	0.00	Arizona	0.00
Maryland	0.00		<u>0.00</u>
Delaware	0.00		
	<u>8,064.50</u>		
<b>Southeast</b>		<b>Northwest</b>	
Georgia	913.00	Idaho	0.00
Florida	12,347.20	Washington	6,458.00
Tennessee	8,444.40	Oregon	8,366.20
Alabama	5,026.50	Utah	0.00
N. Carolina	6,394.80	Alaska	0.00
S. Carolina	6,858.60	Hawaii	573.80
Mississippi	1,766.00	Montana	0.00
Virginia	2,055.10		<u>15,398.00</u>
	<u>43,805.60</u>		
		<b>Unaligned</b>	
<b>Central States</b>		Rhode Island	114.10
Arkansas	0.00	Vermont	0.00
Louisiana	1,552.00	New Hampshire	87.00
Nebraska	3,359.00	Maine	0.00
Kansas	622.50	New York	1,880.70
Oklahoma	7,567.50	Massachusetts	2,202.80
	<u>13,101.00</u>	Texas	0.00
		North Dakota	0.00
<b>Central Midwest</b>		California	5,973.60
Illinois	17,830.40	Puerto Rico	0.00
Kentucky	0.00	D.C.	0.00
	<u>17,830.40</u>		<u>10,258.20</u>
<b>Midwest</b>		<b>TOTAL:</b>	<b>116,791.10</b>
Wisconsin	176.00		
Indiana	0.00		
Iowa	1,351.00		
Ohio	998.00		
Michigan	919.50		
Minnesota	1,262.80		
Missouri	728.00		
	<u>5,435.30</u>		

# **the HLW Focus**

*of the Radioactive Exchange®*

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(DOE from pg. 1)

In DOE's view, the "management enhancements" will ensure a single set of criteria and standards for site characterization and evaluation of test results, and a consistent application of such criteria and standards across all three projects.

Another aspect of this initiative will be to centralize decisionmaking of key program and project priorities at Headquarters.

## **Division of Management Responsibilities**

Following the incorporation of the SE&D contractor into the organization, the new division of responsibilities within the HLW program will be as follows:

**Headquarters Responsibilities:** Management of the overall program including policy guidance, establishing generic technical requirements, managing overall costs and schedules and conducting program-wide institutional interactions; providing centralized management of all efforts leading to an NRC license; and, manage the new systems engineering and development (SE&D) contractor.

**Project Office responsibilities:** Construction operations and maintenance of the exploratory shaft facilities; conduct site characterization; participate in preparation of environmental reports and other information and data for the EIS and the NRC license application; and, carry out state, Indian tribal and local institutional relations and outreach activities.

**SE&D Contractor:** Update and management

of the site characterization plan; analysis and integration of site characterization data and specification of additional requirements; development and documentation of design and performance assessment models; manage licensing data bases and development of data and analysis specifications to fulfill licensing requirements; conduct waste package and repository design activities, including direction of architect-engineers; and, prepare environmental reports and other information and data for the EIS and the NRC license application.

## **Two Year Implementation Schedule**

According to DOE it will take about 12 months to secure the contractor and two years to achieve full effect of the management changes. DOE says that there will not be major disruptions in existing planning or in the ongoing activities. The revised program schedule outlined in the Amended Mission Plan is intended to provide enough time for a "smooth transition for all parties involved." There are likely to be transfers of functions between current contractors and the new management contractor, but there will be little impact on local or project office staffing.

## **State, Tribe Involvement in Changes**

DOE asserts that states and tribes, along with other affected parties, will be "consulted prior to the establishment of their role vis-a-vis this new management structure." Whether this will amount to simple information dissemination or in carrying out substantive consultation with states, tribes and other parties remains to

be seen. DOE feels that the enhancement of their management process is in "the spirit of recommendations of the AMFM report, as well as industry and GAO recommendations." \*\*

#### **CHAIRMAN SHARP QUESTIONS DOE ABILITY TO ACCEPT SPENT FUEL IN 1998**

In a letter sent to the Secretary of Energy, John Herrington, Congressman Phil Sharp, Chairman of the the House Energy and Power Subcommittee, raised again the question of whether DOE can legally accept spent fuel for storage at a Monitored Retrievable Storage (MRS) facility in lieu of disposal at a permanent repository. The letter also charges that DOE's unilateral action of changing the schedules **on the first and second round** "was a conscious...refusal...to comply with clear statutory requirements."

On the issue of fuel acceptance in 1998, Sharp cites Section (302)(a)5(b) of the NWPA -- "the Secretary, beginning not later than January 31, 1998 will **dispose** of the high-level radioactive waste or spent nuclear fuel," -- arguing that acceptance of waste for storage at an MRS does "not comply with the Act's requirement for disposal." He asks the Secretary to provide a legal opinion focusing on DOE's obligation under the NWPA and the contract executed with the utilities to accept spent fuel in 1998 if a repository is not operational.

#### **First Delay Called Illegal**

Although most of the barrage of Congressional criticism over the past weeks has focused on DOE's decision to delay the second repository program, Sharp raises the specter of illegality with regard to the announced five-year delay on the first repository. The Energy and Power Chairman intimates that if the announced delay in the Amended Mission Plan "is a unilateral decision...this action presents legal questions similar to those raised by DOE's decision to postpone siting of the second repository. (See **Interview with OCRWM Director Ben Rusche** for his view on this issue.) Sharpe asks DOE for a legal analysis to defend their assumption of

unilateral authority and delay the startup.

The requested deadline for DOE's response is February 20, 1987, but comments will probably not be forthcoming until mid-March. \*\*

#### **RUSCHE DEFENDS HLW SITE SELECTION IN STRONGLY WORDED LETTER TO CONGRESS**

In a strongly worded letter to Congressmen Markey, Wyden, Weaver and Swift, OCRWM Director Ben Rusche counters their charges that DOE "distorted and disregarded its own scientific analysis in order to support the selection of Hanford; manipulated data, weighting factors and analytic techniques to arrive at the predetermined set of [HLW repository] sites, and ignored finds of the NAS, by stating categorically that almost without exception [these] findings ...are without basis...." The four page letter forwarded to the Congressmen on February 18 and accompanied by a ten-page point-by-point rebuttal of the findings included in a Congressional staff committee report sent to the Secretary in October, 1986 (See EXCHANGE, Vol. 5, No. 17), exclaims that "we [DOE] believe that you have not presented any credible evidence to substantiate criticisms that the Department of Energy distorted and manipulated the multiattribute analysis (MUA) to produce the desired result...because none exists."

The OCRWM Director attacks each of seven major findings of the October '86 Congressional committee staff report with strongly worded arguments to the contrary.

#### **Rusche Defense of Site Selection**

The Director's response to charges made by the Congressmen includes the following:

**On Suppression of Information** He argues that sections of earlier drafts of the methodology report not in support of the selection of either the Deaf Smith County or Hanford sites were, in fact, supplanted in the final report, "in most cases by language very similar in substance...in some cases verbatim language."

**On The Role of Rock Diversity** Rusche contends that counter to the Congressmens' charges, rock-type diversity was not the sole basis for the selection of Hanford. Though diversity was admittedly an "important consideration" the OCRWM Director points out that "the MUA indicates Hanford is expected to have excellent postclosure performance and the lowest impacts on the community and environment in the vicinity of the site."

**On the Use of the MUA** On the charges that the conclusions of MUA were ignored, Mr. Rusche offers a lengthy explanation on its role in the decision-making process. In his view the Congressmen and their staff have "a misunderstanding" of the MUA which "lead to [the] many erroneous conclusions and inferences" contained in the October letter and staff report. The Director attempts to dispel the Congressmens' perceived premise that the MUA is intended to provide a "scientific" ranking of the five nominated sites -- a ranking devoid of judgment -- which should be then used as the sole basis for selecting three for characterization." He emphasizes that such a "premise is false. The methodology was never intended or designed to make the decision about which sites to characterize only to aid the...decisionmaker."

Given this limited role of the MUA, Rusche then points out that "there was no presumption that the three sites ranked highest by the MUA should be the three selected for characterization, and thus there was no need or incentive to manipulate the MUA to promote any supposedly favored site into the top three." \*\*

#### **COUNTERATTACK LAUNCHED TO STOP MOVE TO REVERSE DOE 2ND ROUND DECISION**

In a sudden and surprising show of force eleven Senators from the seven states that were under consideration for the second round repository (as identified in the Draft Area Recommendation Report) held a joint press conference on February 19, expressing "strong objections to any thoughts that the Department of Energy may be entertaining towards resumption of the search for a second geologic repository."

A letter, co-signed by the group -- Senators Mitchell (ME), Cohen (ME), Fowler (GA), Sanford (SC), Warner (VA), Tribble (VA), Kasten (WI), Proxmire (WI), Boschwitz (MN), Humphrey (NH) and Durenberger (MN) -- expresses full agreement with DOE's decision to postpone the second round program and their complete opposition to recent DOE pronouncements that the second round could be restarted "based on a less-than-clear indication of Congressional intent."

#### **DOE Muddies Intent**

The Senators exclaim that recent DOE testimony regarding the status of the second round program has been "confusing." According to them "it appears that DOE may interpret an appropriation of less than the requested amount (\$725 million) to be disapproval of that course proposed in the Mission Plan Amendments. (See **Rusche Interview** in this issue for his views on this question.) They point out that an appropriation of less than DOE's requested amount could be attributed to other factors, such as national fiscal constraints, and caution that "it can be very difficult to ascertain true Congressional intent...from the appropriations process."

#### **No Need for Congress to Act on Plan**

The Senators vehemently disagree with DOE's current stance that Congress' failure to affirmatively approve the Mission Plan could lead to resumption of the site specific work on the second repository. In their opinion the Nuclear Waste Policy Act (NWPA) "does not require Congress to affirmatively act to approve the Mission Plan or any Amendments thereto in order for the Department to proceed with its stated program."

In support of their view they cite the language of the NWPA stating that the Mission Plan "shall be used by the Secretary at the end of the first period of 30 calendar days...following receipt of the Mission Plan by the Congress." And, they call attention to the fact that DOE did not look for Congressional approval following submission of the original Mission Plan."

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## Charges of Playing Politics

After hearing repeatedly over the past month from their Western colleagues that DOE indefinitely postponed the second round for purely political reasons, the Senators who benefitted from this supposed political maneuver concluded the letter by turning the tables on their western counterparts. They warn the Secretary that:

"Repositories can be selected only on the basis of clear and compelling technical evidence. It would be a mistake for DOE to allow political pressures to change its technical decisions. We urge you to resist these pressures and remain committed to your sound technical decision to indefinitely postpone the site-specific search for a second repository." \*\*

## NRC'S ASSELSTINE: DROP 2ND REPOSITORY REOPEN HLW SITE SELECTION GUIDELINES

In a recent speech at an American Society for Quality Control topical conference on Nuclear Waste Management Quality Assurance Commissioner James Asselstine enumerated his major concerns with the HLW program and concluded by recommending several actions that could be taken to avoid the current "stalemate" initiated by DOE's decision to delay the second round program. In the Commissioner's view the second repository should be dropped from the program and the site selection guidelines should be reopened.

## NRC Licensing Pitfalls Listed

He identified four major pitfalls that could befall DOE with regard to the licensing process: (1) the possibility that DOE will not submit an essentially complete, high quality application for a good site supported by the information needed to address key technical issues; (2) the failure of federal agencies involved in the program to resolve their differences; (3)

the possibility that there will be sharp differences within the scientific community over technical issues; and, (4) the possibility that state, tribal and local opposition will lead to a lengthy NRC hearing process.

In order to avoid what he identifies as the most important pitfall -- the inability to submit a good license application -- the Commissioner recommends that DOE take a critical and pessimistic approach to site investigation, increase its efforts to identify, understand and address the most significant issues, and begin building a consensus within the technical community as well as with the states and tribes on technical issues.

## Eliminate Second Repository

In addition to remarks on quality assurance, the Commissioner addressed the disarray in the program caused by the decision to delay the second round program. In order to get the program "back on track" he recommends that DOE take the following actions:

- o Reopen the site selection guidelines and the site ranking methodology;
- o Eliminate the second round repository program and eliminate the capacity limits on the first repository;
- o Suspend all work on first round sites and conduct a national review of sites to identify a small number of sites that are likely to be among the best available;
- o Re-examine the schedule for repository development to ensure that it is consistent with a careful and conservative technical approach; and
- o Consider establishing a new cabinet level federal agency to operate the program.

# Interview

## ON MANAGEMENT CHANGES, THE AMENDED MISSION PLAN.....BEN RUSCHE, OCRWM DIRECTOR

The following interview with Office of Civilian Radioactive Waste Management Director Ben Rusche was conducted by Exchange publisher Edward L. Helminski on February 18, 1987.

**Ben, in the past week you surprised almost everyone by the announcement that you will issue a new RFP seeking a System Engineering and Design Contractor. Is this part of a major reorganization to give headquarters more control over the program?**

There is no reorganization. The general thesis is that the management chain will not change. The primary objectives are to provide for a more efficient management process and avoid duplication of effort. Above all, we want to insure that there is comparability of the site characterization work at the three sites.

**You do not typify it as a reorganization? How will it affect the manpower allocation and resources of the regional Chicago office, the other field offices and the regional offices?**

Well, many of the details are not finalized yet. But my impression at the moment is that it won't affect them very much. What we're doing...what this contractor will be doing will be enhancing, adding to and carrying out functions that are yet to be put in place. Instead of substituting for, or replacing, this action is adding to the current structure.

The field offices will be conducting their site characterization work under the policy direction of headquarters, under the administrative direction of the field office manager and the operations office manager. The SE&D contractor will be conducting his work under the direction of headquarters. To the extent that that this work leads to integration of the several budgets, that integration will occur as a result of the relationship between the SE&D contractor and headquarters. So the literal relationships will not change in that sense.

What we're trying to do here is something

that I have talked to you and to many people about over the past year or so. Right now we have some common functions that are being carried out three times. Some of it's necessary and some of it probably is not. We have many site specific functions that we carry out three times, of necessity, but sometimes in three different ways. The task of the SE&D contractor would be to bring these site specific functions into the context of comparability from a licensing and regulatory standpoint. If disparities are found between one site and another because one field contractor used this method and another one used that method, then these things will become evident and they will be fixed. Additionally, work that's being done that is unnecessarily duplicative will be identified and done one time by the SE&D contractor.

The simple way to put it is that site characterization will continue to be conducted as a field operation but the task of the field offices will be integrated and duplication will be reduced. Common tasks will be carried out by the SE&D contractor.

It is much too early to start trying to draw lines and interfaces very sharply because a great deal of evolution is yet to come. There are perhaps even more ways to achieve integration of processes than we have identified thus far. The final structure is going to depend somewhat on the particular people that are involved and on the experience of the contractor.

**It appears that you are attempting to centralize decisionmaking over site characterization work. Is that a correct perspective?**

I don't look at it as an authoritarian move as much as I do increasing our ability to integrate our work. You can achieve that by authoritarian arrangements but you can achieve it other ways too.

I don't want to give the impression we've got a disaster that we have to repair because I don't think that is the case. But we do not now have a management arrangement that is adequate for the licensing arena that we are going to be moving into. That's clearly a major driving force. We can't afford to have three evaluations or analyses sort of come up to the top and then find out that this guy used this approach, this guy used that approach. The key word in my mind regarding the SE&D contractor is conformity.

The net result will be that the field and operational offices will be much more highly coordinated and act more cohesively in the field. There is no question about that.

**With respect to day-to-day reporting and decisionmaking, are actions the operational officers are now allowed to take on their own going to be influenced by this "systems" approach?**

Certainly. But I tend to think of it less as a cut in authority that I do as an integrating cohesion-producing mechanism. The SE&D contractor will have a contingent at each site. However their role will be as much for gaining information, gathering information, and providing me information on things that are going on which ought to be addressed, as opposed to saying to the operational office staff "You can't do that." The intent is to find some way to get feedback from each site quickly.

This approach, I believe, has the potential for giving us a much better chance of recognizing where we may take actions in a timely manner that are of mutual benefit to the different site specific work, or to coordinate or to integrate, minimize costs and minimize duplication.

But the real import has got to be to insure quality, technical quality and comparability. We have got to have technical quality and comparability. The major function of this contractor will be to strengthen and enable us to provide our quality assurance, meet our quality assurance on a uniform, much more straightforward basis.

**Do you feel that with this set up headquarters will be more pro-active as far as providing direction on policy issues to the regional office? If there is a problem with the host state would they come here before taking action?**

I don't see the current procedures on reacting to such issues changing much. I would imagine they would be able to tell when a situation needs direction and/or deserves correction, for example. The way it is now headquarters only gets involved when someone calls our attention by saying "hey let's take a look at that because this contractor is doing it this way and that contractor is doing it that way." Under the system that we envision, we'll be much better equipped to recognize this occurrence, shorten the reaction time, and, where necessary, be in a much better position to provide coordinated, correlated direction in the system.

**Ben, now that we have covered your most recent action let's jump back to the decision on the Second Round Repository and the Department's most recent pronouncements regarding the Amended Mission Plan.**

Well Ed, in order to deal with our current stance you have to start back with the May 28th announcement. Prior to May 28th we had a site specific program to identify the location for a second repository underway. We had just completed an extensive round of briefings and hearings related to the Draft Area Recommendation Report and we had received about 60,000 comments which were just being assimilated into the system. The Secretary then concluded that the right and proper management choice to take was an indefinite postponement of site specific work. We went on to qualify that it was a postponement of the program, not a cancellation, with the thought that we had sufficient time to start again sometime in the mid-ninety's with site specific work after we had the opportunity to evaluate the need and the timing for a second repository. At the same time the Secretary indicated that we would use the mechanism of an Amendment to the Mission Plan as a vehicle for communicating the new course of action to the Congress.



**But on May 28th, when you made the postponement announcement, you said you would include it in a Mission Plan Amendment and were proceeding to implement the decision unless Congress acted to stop your actions.**

I don't believe that statement was quite as specific as you have made it. It certainly is not in my mind. I believe he said "we do plan to proceed and we are proceeding as a matter of fact."

However, at the time we recognized that the Act does not speak to Amendments to the Mission Plan, but it speaks to the Mission Plan is if it were a one time action -- something that would be set in concrete and lay out what we would do for the next 50 years. Obviously that's impractical. The concept of the Plan somewhat testifies to the fact that Congress did not consider it extensively when the Act was adopted. It was thought of as a nice addition. In transmitting our intent on the second round via Mission Plan Amendments we have used the Plan in a manner probably not envisioned by the framers of the Act.

**The Department then proceeded to carry out the postponement without waiting for any action on the part of Congress.**

Yes, we did discontinue site specific work and we discontinued the analysis of the 60,000 comments. But, we also recognized that we had to provide a means to get some feedback on the appropriateness of our course of action and we decided to use the Mission Plan as the vehicle for getting this feedback.

**But the Department has now apparently shifted gears. From the statements made at the most recent Congressional hearings the Secretary is now saying you will restart the second round if Congress does specifically take legislative action. To me that is definitely a different approach than that stated on May 28th.**

I would be more inclined to say we have more precisely articulated our decision of May 28th after discussions we had with Chairman Udall and upon obtaining a legal opinion on

our action. Our general counsel has now made it specific that guidance from Congress has to be active guidance or affirmative guidance, that it can't be tacit guidance. Therefore we proceeded to reframe the decision made on May 28th.

We are now of the opinion that legislative action as opposed to tacit agreement is necessary and that's a key factor. And in the months since receiving the legal opinion it has become clearer to us as to what kind of action might be required.

The Mission Plan represents our best judgment of the right course on the second repository and the other action. We honestly, sincerely believe that it is the right vehicle to describe to Congress the course we believe that we ought to follow and to invite their legislative action to either affirm that course or to give us direction on another course. If they don't take affirmative action, if they leave everything just like it is, it's clear that we are obligated to return to the site specific work on the second round and proceed on the most expeditious, appropriate course that we can think of to try to meet the 1989 date.

**Now, how does this timetable on Congressional action work. At this point you still have not formally submitted the Plan. When will you do so?**

The plan is now out for comment for 60 days. Following that we will review the comments and develop a final version of the Amended Plan. This should take another 60 days. That adds up to approximately 120 days from now. I would guess it will be around the latter part of June, or possibly even July 1 before we submit the final to Congress.

**How will you transmit it? Will there be a letter stating that "we submit the Amended Plan for your review and we will continue to implement the unamended plan if no legislative action is taken on the amendments?"**

No. We will send up a letter just like we did with the information copy, and we say "This is the Mission Plan which we propose be the guide for conducting the program. It

involves a number of new directions for the program and we believe legislative action is needed by the Congress to follow this course. We seek your advice and direction."

**Will there be a deadline for Congressional action?**

The deadline some people refer to and I probably agree with myself, is the review deadlines set in the Act for the Mission Plan. The Act says that the Mission Plan is to lie before Congress for 30 legislative days and then become the Mission Plan if Congress doesn't do something to it. However that was under the presumption that lying 30 legislative days with no action constituted concurrence. That is not the case here.

The essential difference, as I understand it, is that we're talking about an action on the second repository that deals with a prospective future date, a statutory deadline in the NWPA. And, to consciously turn away from that in advance of the date would not be in conformance with the Act.

Now in the case of other actions, where we have missed deadlines or rescheduled them, they have been in the context of a continuing on "a best effort basis," and do not legally constitute a conscious effort to not conform with the Act.

**So when does DOE say "Congress hasn't acted affirmatively. We must restart the 2nd round program?"**

Well, we expect they will act on our budget in October. Some direction could come through that.

**Will you submit the Amended Mission Plan to the authorization committees or to Congress en mass?**

We'll submit it to all the Committees. Everybody will have a chance to chew on it.

**And if you do not receive money for site specific work on the Second Round, you will view that as a tacit approval of that aspect of the Amended Mission Plan -- to continue**

**with the postponement.**

Well you can think of a thousand variations on this thing. All I know we will say that we will do what we are directed to do.

**But in your view this direction can be through the appropriations process.**

Yes, appropriation is new legislation.

**With this new approach...you've seemed to open pandora's box for new legislation.**

Well there's no question that there's not only an open invitation but there is a pleading for direction. That is clearly the mode in which we intended to be in then and intend to be in now.

**Ben, it appears that with this new stance regarding Congressional action on your second round decision you have maneuvered DOE into a very commanding position, almost challenging Congress to act to change your direction. Some would say that you know full well that Congress won't agree to take any action. Therefore, you are in complete control.**

Well, that's speculation. We hope that Congress will act. We have issued an earnest plea for action.

**But Congressional action means opening the Act, something the utilities probably wouldn't favor.**

It is not necessary to open the Act. Legislative action could be taken through the appropriations process.

**Now, what about the first round delay. Isn't your action here the same as the second round? Wouldn't your legal counsel also advise you that Congress needs to act affirmatively for you to proceed with this delay?**

No, not in my view. He would probably say that with regard to the first round we have at least affirmed a "best effort basis." That is, suppose we said delay until 2003 because we want to take four years to do a separate experiment not directly associated

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with site characterization. We would then probably be in the same situation we are now with the second round and then the delay would require affirmative action by Congress.

**Before you sign off here, let's clear up one more time just what DOE will do if there is no new authorizing legislation, only an appropriations bill and the appropriations language is very clear and simple -- it just says, here is \$800 million to carry out the program for FY89. What happens?**

I think we would take 30-40-50 million of that and restart the second repository program. That's because of the legal obligation that we have.

Now if the appropriations bill or Continuing Resolution has language in it like we got this year (no site specific work and no shafts) and we didn't get an affirming action on the Mission Plan, but we got specific direction which said you can't spend it on site specific work, then we wouldn't spend it. \*\*

## Wrap Up (HLW)

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### IN THE STATES

Governors of several states considered as potential hosts for the second geological repository and various members of their Congressional delegations met in closed session at the recent National Governors' Association Winter Meeting in Washington, D.C. From what the EXCHANGE has learned, the ensuing discussion focused on a possible Congressional strategy to combat any attempt to have DOE restart the second round program.

### IN THE COURTS

One of the thirty-eight plus suits filed against DOE on various aspects of the HLW program is one step closer to resolution following a February 12 hearing in the Ninth Circuit Court of Appeals in San Francisco. The suite involved is Nevada's challenge to DOE's decision to deny the use of NWSA grant funds to support litigation against DOE. Mississippi, Utah and Wisconsin also have standing as intervenors in support of the petition.

Oral arguments were presented in the San Francisco courtroom for over an hour before a panel consisting of Judges Mary Schroeder, Charles Wiggins and David Thompson. The lawyers representing the states' interests argued that if DOE can support the Department of Justice lawyers defending the interest with money from the Nuclear Waste Trust Fund, why would the states, who are designated under the Nuclear Waste Policy Act to be directly involved in oversight of DOE activities, be denied this opportunity. Utah's attorney, Michael Later, told the panel of judges that "to expect states to pick up a portion of the process is like asking someone to ride to their execution and pick up the cab fare."

Mel Murphy, representing Nevada's interest, argued that the Congress specifically set up the Nuclear Trust Fund and funded it by a tax on the generation of nuclear powered electricity so that "no one else but the generators and owners [of the HLW] should bear the cost of siting this facility." The citizens of the State of Nevada should, therefore, not be asked to bear the burden of the cost of litigation which, in the view of the states, is a necessary part of their oversight role.

DOE attorney Martin Martzen countered the states' views saying that the NWSA provided funds to states only for "consultation and cooperation." He contended that federal funding of the states' litigation costs was unauthorized and unnecessary.

The response to the states and DOE arguments was mixed but in the final analysis (to the eyes of at least one observer in the courtroom) the judges were not unfavorable to the states' petition. Initially Judge Wiggins called attention to the provisions of the NWPA calling for funding for "consultation and cooperation," remarking that he did not find that the NWPA authorized providing funds to lawyers seeking to contest DOE actions. However, the panel then called attention to language within the NWPA that specifically calls for federal funding of arbitration, mediation, and other "appropriate" means of resolving disputes. DOE was then asked was not litigation an appropriate means to resolve disputes? DOE replied that the intent of that specific provision of NWPA was as an incentive to the states to avert taking disputes to court.

The judges gave no indication of when they will rule on the matter.

## Calendar

### June

16-19 THE THIRD ANNUAL RADIOACTIVE EXCHANGE DECISIONMAKERS' FORUM -- LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT: FACING THE NEW REALITIES -- Site Development; Long Term Liability; Economics; Public Acceptance. Grand Traverse Village, Valleyview Conference Center, Traverse City, Michigan. Registration: Exchange Subscribers: Prior to May 1 - \$595.00; After May 1 - \$635.00. Non-Subscribers: Prior to May 1 - \$650.00; After May 1 - \$690.00. Contact: (202) 362-9756.

(?) HOST STATE DESIGNATION: The Midwest Compact Commission is to designate a host state if none of the four candidate states volunteer.

### June/July

REGIONAL SITE OPERATOR SELECTIONS: Central States Compact Commission to Select Regional Site Operator.

### August

1 Proposed Effective Dates: Required Certification that LLRW shipped to Hanford is non-RCRA regulated; Contact: Elaine Carlin (206) 459-6228

23-27 International Conference on Nuclear Fuel Re-processing and Waste Management; Paris, France; Spons: ANS/ENS; Contact: L. McClure (206) 526-3083.

### September

27-30 Conference: The Second International Conference on New Frontiers for Hazardous Waste Management; Westin William Penn Hotel, Pittsburgh, Pennsylvania; Sponsor: NUS Corporation Contact: Debra Wroblewski (412) 788-1080). NUS Corporation, Park West Two, Cliff Mine Road, Pittsburg, PA 15275.

### November

15-18 Atomic Industrial Forum Annual Conference; Los Angeles, CA; Contact: AIF (301) 654-9260.

(Changes from previous calendar in bold print)