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The

# Radioactive Exchange®

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

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Volume 6 No. 13

July 19, 1987

## **NEW UDALL BILL HALTS HLW PROGRAM, SETS UP STUDY, NEGOTIATOR PROCESS**

On July 15, Congressman Morris Udall introduced a new HLW bill (HR 2967) that halts the site specific related HLW program activities; establishes a Special study Commission and creates an Office of Nuclear Waste Negotiation charged with the responsibility of reaching an agreement with a state and/or Indian Tribe on the acceptance of a HLW repository. The study and the negotiation activities are to be undertaken on separate tracks concurrently.

In introducing the bill Udall expressed dismay over the current status of the program, exclaiming that: "For too long the public has perceived a high-level repository as a no-win risky operation which the federal government is attempting to force upon them without their participation or consent. The Department of Energy's implementation of its repository site selection program has only reinforced this perception. If we can find a technically safe site and negotiate a reasonable (See **Udall in the HLW Focus**)

## **ILLINOIS FINDS COMMUNITY INTEREST IN A LLRW DISPOSAL FACILITY**

The Illinois Department of Nuclear Safety's draft "Plan for Identifying Four Alternative Sites for Disposal of LLRW in Illinois" is based on the stated policy that a LLRW "disposal facility will not be located in a county which does not want it. Though the policy refers to the final location of the burial site and does not preclude studying areas whose citizenry may be opposed to final location of the disposal facility within their environs, the EXCHANGE has learned that there is sufficient local interest from various counties that those expressing opposition to the facility will not even be studied.

It was the initial intent of the IDNS, as is stated in the draft plan, to focus the screening effort "...on those counties that have favorable characteristics for a safe site and have not notified IDNS to omit them from the site selection process." IDNS officials are confident due to the interest expressed by other locales that a site satisfying state and federal regulations can be found in this group and studying unreceptive areas is unwarranted. Only one county, (See **Illinois**, pg. 2)

(Illinois from pg. 1)

Wills, the home of Chem-Nuclear's super-compaction facility, has notified IDNS that it does not want the disposal facility within its boundaries.

### **Two Counties Openly Interested**

Among the several counties and communities that have expressed a possible interest in the regional disposal facility three communities within two counties -- Lincoln in Logan County, and Farina and Vandalia in Fayette -- have openly declared their interest and have established fact-finding groups to investigate the implications of having the facility within their boundaries.

### **Acceptable Sites in Willing Counties**

Following the identification of interested host communities the "draft" siting plan outlines three more steps in the site selection process that are intended to lead to the selection of a disposal facility:

- The Application of Exclusionary Factors;
- The Application of Favorability Factors;
- The Identification of 4 Alternative Sites.

**Exclusionary Factors** - As outlined in the "draft", the IDNS outside contractor (Battelle Memorial Institute) in concert with the IDNS staff is to apply eight proposed exclusionary factors to "exclude from further consideration all portions of the candidate counties that are unconditionally unacceptable for siting a [disposal] facility."

The eight exclusionary factors are: Known resources (e.g., oil, gas, and coal reserves) with high potential for development and economic recovery; Areas within 100-year floodplain; Freestanding water; Areas either exceeding earthquake intensity MMI IX on bedrock or MMI VIII on unconsolidated material; Areas prone to erosion or landsliding or subsidence; Areas within 1.5 miles of nonconsenting municipality; Designated Federal protected lands; and, Designated State-protected lands (e.g., State reserve system, State nature system).

**Favorability Factors** - Following the

identification of excluded areas a list of fifteen favorability factors will be applied to identify areas that "enhance the disposal facility."

The fifteen factors are: Presence of low permeability glacial drift or overburden over bedrock; Absence of complex geologic structure; Absence of surficial sand and gravel resources; Areas not proximate to municipal or public water supplies; Stream orders indicative of low erosion; Absence of high ground-water yield areas; Absence of ground-water aquifers proximate to ground surface; Areas not proximate to ground-water recharge/discharge zones; Areas not proximate to petroleum and chemical plants and to fossil and nuclear power plants or existing commercial disposal sites; Proximity to State and Federal primary roads; Minimization of transportation distances from major generators; Absence of prime farmland; Absence of historic and Archaeological sites; Absence of critical habitats or habitats of important species (e.g., prairie remnants, bogs); and, Absence of areas or projected population growth or future development.

### **Alternative Site Identification**

The final stage leads to the identification of four alternative sites. According to the draft plan this activity is intended to narrow twenty potential sites down to eight and then to the final four. During this stage a sensitivity analysis will be conducted where the twenty sites will be examined according to two sets of criteria designated as Rank I and Rank II criteria. Following identification of eight sites, IDNS and Battelle are to conduct a series of reconnaissance activities that will serve as the basis for narrowing the field down to four alternative sites that will then be subjected to site characterization activities.

### **Short Timetable**

The "draft" plan is to be finalized by August 7, 1987, with the preliminary identification of eight potential sites provided to IDNS by August 28, 1987. By January 1, 1988 Battelle is to provide IDNS

with a draft report documenting the entire process that will potentially lead to four alternative sites for characterization.

Workshops to assist the public in submitting comments on the draft plan were held July 13, 14, and 15 around the State. Copies of the "draft" can be obtained by calling IDNS at (217) 785-9958. \*\*

#### **CHEM-NUCLEAR SUPERCOMPACTOR IN OPERATION AT CHANNAHON, IL.**

Despite two pending law suits, Chem-Nuclear has begun operation of the supercompactor at its Channahon, Illinois facility. The Columbia S.C.-based firm received an operating permit setting air discharge limits for the supercompactor from the Illinois EPA in the latter part of June and opened the supercompactor for business in the first week of July.

According to Chem-Nuclear officials, a truckload of supercompacted LLRW from the Illinois facility is already on the road to Barnwell. The current LLRW being processed has already undergone preliminary compaction. The supercompactor has been able to achieve a 2:1 volume reduction with this waste stream.

#### **Pending Suits**

Wills County, within which the Channahon facility resides, was unsuccessful in its bid to have the courts issue a restraining order to prohibit the operation of the supercompactor pending resolution of its suit in Federal district court. The town of Channahon has also filed suit in state court charging that Chem-Nuclear must obtain a special use permit to operate the supercompactor. \*\*

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### **POSITION OPENING**

#### **ILLINOIS DEPARTMENT OF NUCLEAR SAFETY**

##### **Manager of Illinois' Low-Level Radioactive Waste Program**

Monthly Salary: \$3,500 - \$4,500

As Chief of the Illinois Department of Nuclear Safety's Division of Low-Level Waste Management, plans and implements a statewide low-level waste program, including selection of a low-level waste disposal site and management of facility licensing; manages and advises a 12-member technical staff involved in evaluating and licensing low-level waste treatment, storage and disposal options; evaluates staff training needs in relation to low-level waste program requirements. Recommends and arranges for necessary training programs and courses; prepares technical reports and papers for presentation or publication; represents the Department at professional, public, and governmental meetings, and serves as a consultant or expert witness for the Department regarding low-level waste management issues; manages teams which evaluate contractor quality assurance and quality control procedures, and conducts field reviews and inspections to assure compliance with standards and regulations; reviews professional standards and guides for compatibility with Department policy and legislative mandates; recommends and prepares performance standards, regulations and guides related to low-level waste management.

Applicants should have extensive experience in low-level radioactive waste management. Applicants should also have a comprehensive knowledge of an experience dealing with industry and government as they relate to low-level radioactive waste management issues.

Interested applicants should send resumes to: Dr. John Cooper, Manager, Office of Environmental Safety, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704. \*\*

# LLRW Volume Disposal Update

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

Through May 1987

(Volumes in Cubic Feet)

	<u>May</u>	<u>Year to Date</u>		<u>May</u>	<u>Year to Date</u>
<b>Northeast</b>			<b>Rocky Mountain</b>		
Connecticut	2,946.20	13,448.70	Colorado	630.00	630.00
New Jersey	2,702.20	17,892.60	Nevada	0.00	0.00
	<u>5,648.40</u>	<u>31,341.30</u>	New Mexico	0.00	0.00
<b>Appalachian</b>			Wyoming	0.00	0.00
Pennsylvania	10,233.30	49,989.70		<u>630.00</u>	<u>630.00</u>
West Virginia	0.00	0.00	<b>Western III</b>		
Maryland	193.00	4,777.70	South Dakota	0.00	0.00
Delaware	90.00	547.50	Arizona	1,184.00	4,006.60
	<u>10,516.30</u>	<u>55,314.90</u>		<u>1,184.00</u>	<u>4,006.60</u>
<b>Southeast</b>			<b>Northwest</b>		
Georgia	995.00	8,892.88	Idaho	0.00	1.50
Florida	1,049.50	21,524.60	Washington	3,482.50	17,980.80
Tennessee	10,042.80	62,004.10	Oregon	4,892.30	32,685.70
Alabama	8,516.40	33,520.80	Utah	0.00	0.00
N. Carolina	6,290.50	35,246.50	Alaska	0.00	0.00
S. Carolina	7,928.80	47,594.40	Hawaii	247.30	1,707.80
Mississippi	796.00	5,736.70	Montana	0.00	0.70
Virginia	6,544.80	22,362.45		<u>8,622.10</u>	<u>52,376.50</u>
	<u>42,163.80</u>	<u>236,882.43</u>	<b>Unaligned</b>		
<b>Central States</b>			Rhode Island	0.00	320.30
Arkansas	299.40	304.30	Vermont	656.00	2,604.90
Louisiana	1,745.00	8,669.60	New Hampshire	0.00	367.50
Nebraska	1,410.50	10,708.90	Maine	1,067.00	2,180.50
Kansas	364.00	2,078.50	New York	5,642.70	26,286.30
Oklahoma	5,820.00	26,898.20	Massachusetts	3,972.00	19,755.10
	<u>9,638.90</u>	<u>48,659.50</u>	Texas	2,400.00	17,739.60
<b>Central Midwest</b>			North Dakota	0.00	2.90
Illinois	11,884.20	70,154.30	California	4,990.20	33,471.60
Kentucky	45.00	175.70	Puerto Rico	0.00	0.00
	<u>11,929.20</u>	<u>70,330.00</u>	D.C.	22.50	22.50
<b>Midwest</b>				<u>18,750.40</u>	<u>102,751.20</u>
Wisconsin	158.00	2,358.50	<b>TOTAL:</b>		
Indiana	0.00	1,282.40		<b>115,139.00</b>	<b>660,789.43</b>
Iowa	2,371.00	10,055.10	(As reported 6/15/87)		
Ohio	728.00	6,557.70	APRIL:	156,210.70	545,650.43
Michigan	2,773.00	12,276.70			
Minnesota	165.90	8,454.70			
Missouri	490.00	17,511.90			
	<u>6,685.90</u>	<u>58,497.00</u>			

## IN APPALACHIA

On July 3 the **Pennsylvania Legislature** adjourned for the summer without receiving a LLRW disposal facility siting bill from the Governor. It is, however, expected that a bill will be introduced during the summer recess and referred to the appropriate committees. On a positive note, the legislature did approve a budget bill that includes \$700,000 to support the Pennsylvania Department of Natural Resources' LLRW disposal facility siting studies, and \$200,000 to support the Appalachian Compact. The legislature is scheduled to return to business in mid-September.

## IN THE SOUTHEAST

Debate drags on the the **North Carolina General Assembly** regarding the siting of a low-level radioactive waste facility and the State's membership in the Southeast Compact. In a narrow voice vote on Wednesday, July 8, the House Water and Air Committee gave a favorable report to a proposed Committee substitute bill which includes provisions to: establish an Authority to site a LLRW disposal facility; restrict siting of a LLRW facility to volunteer counties plus the three counties having a nuclear reactor; and, (alas) withdraw North Carolina from the Southeast Compact.

Funding for the proposed initiatives would be provided in a separate House Committee bill, HB35. This measure specifies a mandate that 25% of the property taxes collected from reactors in two counties must be given to the county which receives the disposal facility. The House Water and Air Committee gave the bill a favorable report and forwarded it to the Ways and Means Committee.

In a two-hour public hearing held by the same committee on the previous day, opponents to the two bills seemed to far outnumber the proponents. Whereas none of the speakers voiced objections to the establishment of a siting authority, several objected to the "Robin Hood" approach to taxation and to the general idea of limiting the site selection to only three out of one

hundred counties. Grace Beasley, Chairman of the Brunswick County Board of Commissioners, said, "This is political segregation at its worst." Rod Autry, Vice Chairman of the Mecklenburg County Board of Commissioners, singled out one of the key authors of the bill. "Mr. Mavertic," he said, "it is time to put the game of political checkers back in its box.... I pray that you choose leadership over gamesmanship."

The majority of the public comments centered around the issue of whether to withdraw from the Southeast Compact. Industry representatives expressed concern that withdrawal would disrupt access to a disposal facility and that disposal costs would increase substantially. Representatives from the medical community claimed that withdrawal from the compact would seriously threaten medical research in North Carolina.

Several speakers predicted that if North Carolina withdraws from the Compact increased disposal costs would seriously hinder the state's ability to keep and attract medical research and other high tech industries.

Some proponents of the bills seemed particularly enamoured with placing the disposal facility near a reactor, claiming it will reduce the risk of transportation. The Executive Director of the governor's Waste Management Board, cautioned the Committee about this, noting that waste would still have to be transported to the site from the other reactors.

William S. Lee, CEO and Chairman of the Board of Duke Power Company, and William E. Graham, Vice-Chairman of the Board of Carolina Power and Light, both stated that they had no objection to their lands being considered in the siting process, but objected to siting being limited to only the three counties which have reactors.

The Committee Bill SB46 was expected to go to the House floor for debate during the past week, but that did not occur.

## IN CALIFORNIA

The California Department of Health Services recently concluded the review and evaluation of proposals submitted in response to Department of Health Services, Request for Proposals to complete the Environmental Impact Report/Statement on a Low-Level Radioactive Waste Disposal License. It intends to award the contract to the low bidder, Dames and Moore, for the bid price of \$142,618. The award is contingent upon final approval by the State. Seven proposals were received. Four met the 80 percent score criteria on the technical portion. The four firms were: Westec Services, Dames and Moore, EIP Associates, and Camp Dresser & McKee, Inc.

## IN THE CONGRESS

The EXCHANGE has learned that the **Senate Environment and Public Works Committee Nuclear Regulation Subcommittee** is considering holding oversight hearings on implementation of the Low-Level Radioactive Waste Policy Act Amendments Act (LLRWPA) and the development of the regional compacts sometime in October, 1987.

No actions are currently being considered in the House.

Senator Pressler has requested the the

Senate Judiciary Committee consider the California/South Dakota Compact, but any movement regarding this agreement will await action on the Southwest Compact recently enacted by California that includes the states of Arizona, South Dakota and North Dakota.

## IN THE INDUSTRY

**NUS Corporation's** Waste Management Services Group has opened a new regional office in Baton Rouge, Louisiana. Gary Beswick has been appointed manager of the new office. According to William Smith, NUS's Director of Industrial Programs, the office will provide a full range of engineering and consulting services, including siting and design, hydrogeologic investigations, site remediation, incinerator engineering, construction management, process engineering, regulatory analysis, air science programs, and health and safety and industrial hygiene support.

## ON THE MOVE

**Helen Burnett**, previously of US Ecology's Office of Public Affairs, has accepted the position of Senior Consultant with the Fairfax, Virginia based energy management consulting firm of Gersham, Brickner and Bratton, Inc. The firm specializes in providing technical support in the areas of waste management and resource recovery.

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## REPORTS OF NOTE (LLRW and HLW)

The Proceedings of **WASTE MANAGEMENT '87** (Tucson, Arizona, March 1987) are now available in a three-volume set. They are definitely worthwhile for anyone involved in waste management. For information on obtaining a set write the American Nuclear Society Publications Office.

(Udall from pg. 1)

repository siting agreement with the State or Indian tribe with jurisdiction over that site, I believe that the people living around the site will accept the repository."

## **Automatic Program Restart**

The Moratorium/Study Commission provision of the bill differs significantly in one aspect from the consensus bill (See EXCHANGE, Vol. 6, No. 12) he cosponsored and introduced two weeks ago. It does **not require** that Congress reauthorize the restart of the program. Instead, the Secretary of DOE is prohibited from obligating or expending any funds for a specific list of site specific related activities while the Commission study is being carried out and for six months thereafter -- an 18 month time span. After that time the bill's prohibitions on the Secretary's actions are no longer in effect.

This "automatic restart" provision should find support among those members in both the Senate and the House who found no particular fault with a moratorium, but did not want to go through another "NWP type" negotiating marathon to get the HLW program restarted (See EXCHANGE Vol. 6 No. 12).

## **DOE Site Specific Work Halted**

As specified in the bill the Secretary of Energy is prohibited during the time the proposed Commission is investigating the program and six months thereafter from obligating or spending funds for the following activities:

- o conducting site characterization activities at any site;

- o nominating or recommending sites under section 112 of the NWP;
- o conducting preliminary borings or excavations in excess of 6 inches in diameter at any site;
- o applying to the NRC or any other federal agency or officer for any permit or authorization to take any action related to the characterization of a site or the construction or operation of a repository or MRS facility;
- o preparing any environmental assessment under section 112 of the NWP; and
- o preparing any site characterization plan under section 113 of the NWP.

## **A Three-Member Commission**

Chairman Udall has proposed a three-member Commission as included in the House consensus Bill. The Commission is directed to examine and make recommendations to Congress in the following areas:

- o The adequacy of site selection guidelines under section 112(a) of the NWP;
- o The adequacy of environmental assessments prepared under section 112(b)(1)(E) of the NWP;
- o The DOE's site recommendations and the site ranking methodology upon which such recommendations are based;
- o The schedule for the siting, construction, and operation of repositories established by the NWP;
- o The emphasis on deep geologic disposal compared with alternative disposal technologies and the adequacy of DOE's program to examine such alternative technologies;

- o DOE's efforts to consult and cooperate with states and affected Indian tribes under section 117 of the NHPA;
- o Whether implementation of the NHPA should continue to be vested in DOE or should be transferred to another agency or entity;
- o The adequacy of DOE's monitored retrievable storage (MRS) proposal and the need for such a facility;
- o The advisability of providing additional economic compensation and incentives to any state or local government selected to host a repository or MRS facility;
- o The adequacy of at-reactor storage; and
- o The need for a second repository.

### **Super Negotiator To The Rescue**

In this bill Chairman Udall, a true statesman by any standards, demonstrates his deeply held conviction that the American people respond in the national interest if approached in an honest, forthright manner. In this vein he proposes to establish the Office of the Nuclear Waste Negotiator -- charged with "finding a state or Indian tribe willing to host a repository at a technically qualified site on reasonable terms."

It is a basic, simple approach that may work (and to a surprising degree is apparently working right now with regard to the siting of a LLRW disposal site in the Central Midwest and maybe even in the Midwest). The negotiating process is to be open to **all states**, (and the federal government as a landowner) not just the states already selected for characterization, or studied as potential sites for a repository. However, the siting of the MRS is not included in the process.

The Negotiator's first function is to request that the Governor of each state and any interested Indian tribe;

- "recommend 1 or more sites within the Governor's State or the Indian tribe's reservation boundaries for consideration as the site of a repository;
- propose the terms and conditions under which the State or Indian tribe would agree to host a repository at a site recommended."

### **A Preliminary Determination Of Suitability**

After reviewing the recommendations and proposals, the Negotiator is to make a "preliminary determination" of whether any recommended site is suitable. The Interior Chairman has from the very beginning of the program believed that, under NHPA, DOE was to make a preliminary determination of site suitability prior to site characterization. DOE argued otherwise and has followed this course of action.

As specified in the Bill the required preliminary determination is to be based on an assessment of the impacts of the site on the environment and the public health and safety. In making the assessment the Negotiator must consider:

- certifications provided by EPA and NRC that the proposed site "is likely to comply" with their respective agency standards and regulations governing the site development and operation.
- hydrology;
- geophysics;
- seismic activity; and
- proximity to: water supplies; populations; components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest lands; valuable natural resources; atomic energy defense activities; sites where high-level radioactive waste and spent fuel are generated or temporarily stored;
- the transportation and safety factors involved in moving such waste to the proposed site.

### **Negotiations After Prelim Determination**

Following a positive preliminary determination, negotiations are to be initiated with the Governor (or authorized representative) of the potential host state or the governing body of the Indian tribe whose reservation would be the host. Affected



states and/or tribes are to be consulted.

No specific guidelines are provided as to the terms or conditions of a final negotiated agreement, other than that it be "reasonable". The final agreement is to take effect when "enacted into Federal Law."

#### **Excavation, Boring Limited During EA**

Upon making a preliminary determination of suitability, the Negotiator is also required to notify the Secretary of Energy to prepare a site Environmental Assessment(EA). The EA is to include a detailed statement of the probable impacts of site characterization activities in addition to regional and local impacts of the proposed repository.

In conducting the EA, the DOE is directed to use available information. It is prohibited from conducting any preliminary borings or excavations unless such activities were already underway, or the Secretary certifies that such activities are necessary to comply with the law. Boreholes are limited to a diameter of six inches.

#### **Site Characterization, NRC Authorization**

Once the "agreement" with the host is enacted into law, DOE is to carry out appropriate site characterization activities in accordance with the NWA. Upon completion of site characterization the DOE Secretary is to submit an application for construction authorization for the repository. NRC is given three years after DOE's submission to either approve or disapprove of the application.\*\*

#### **NEW JOHNSTON-McCLURE HLW BILL STOPS 2ND ROUND, SEQUENCES SITE STUDIES**

In a joint press conference held at 2:00 p.m., on Friday, July 10, Senators Johnston and McClure announced the introduction of a co-sponsored bill (S. 1481) that melds together the Energy Chairman's earlier introduced Buy-a-HLW-Host-State bill (S. 839) with a blatant attempt to sway Northeastern and Midwestern Senators away from the growing coalition getting behind the bill to impose a moratorium on the entire HLW program. The bill proposes a complete

halt to the second round repository program until a DOE study is completed in 2010, and then requires that Congress specifically reauthorize its resumption.

In addition, the Senators appealed to their colleagues budget-cutting conscienceness by proposing to require the characterization of only one site rather than three. This would, in their view, save the taxpayers \$2 billion in the near-term.

The bill also attempts to address Senator Sasser's earlier voiced admonition to Johnston that he delay the authorization of the MRS until his proposed "Buy-a-Host" bill be allowed to work to entice a state to seek the MRS and relieve Tennessee of that burden. To allow this to happen the bill delays the DOE from proceeding with an MRS in Tennessee until January 1, 1989.

#### **Initiative Based on Experts' Views**

At the press conference Senator Johnston cited over and over that he was proposing the single site one-at-a-time characterization process based on the opinion of the Nuclear Regulatory Commission and the National Academy of Science experts, who, at this time, find no fundamental flaws in the sites under consideration and no significant problems with DOE's activities.

Senator McClure justified his support of the bill, including a complete a stoppage of the second round program, which he previously opposed, on the basis that the 70,000 metric ton capacity limit on the first repository, as specified in the Nuclear Waste Policy Act, is maintained. He emphasized his opposition to the Moratorium/Study proposal, exclaiming that "study" efforts would inherently fail to put the program back on track, describing such efforts "as no solution -- sheer cowardice -- unconscionable."

#### **The Bill as a Budget Saving Initiative**

The bill was introduced as stand alone legislation including preamble language that indicated the Senators' intent to possibly seek action on the measure during Budget Reconciliation deliberations or in

the Appropriations process. Its stated purpose is "To redirect the program for the disposal of spent nuclear fuel and high-level radioactive waste under the Nuclear Waste Policy Act of 1982 to achieve budget savings, and for other purposes." It is further stated that "it will result in significant budget outlays in Fiscal Years 1988, 1989 and 1990." At the press conference no mention was made of the increased total program costs due to the inclusion of the financial incentives package.

### Highlights of Key Provisions

The key provisions of the bill are as follows:

**1st Repository:** The Secretary of DOE is directed to select by January 1, 1989 a single site for characterization and proceed with characterization **only at that site**. In selecting this preferred site the Secretary is to consider the prospects for licensing a repository at the site; the number and seriousness of potentially disqualifying factors; and, the completeness of the information available. Work at the two remaining sites is to be suspended upon selection of the preferred site. The host state of the preferred site and affected local governments are eligible to enter into a proposed financial benefits package (ala Johnston's earlier proposal, S. 839 - See EXCHANGE Vol. 6, No. 6). The 70,000 metric ton limit on the 1st repository, as specified in the NWPA, is left unchanged.

**2nd Repository:** Site specific activities for a second repository are prohibited while benefits agreements are in effect for **both** an MRS facility and a first repository "unless Congress has specifically authorized and appropriated funds for such activities." NWPA provisions requiring that the President nominate and recommend a site for a second repository to Congress are voided. The Secretary is directed to complete a report on the need for a second repository by January 1, 2017, but not before January 1, 2007.

**MRS Proposal:** The Secretary is directed to proceed to construct and operate an MRS

facility at either "a site on the Clinch River in the Roane County portion of Oak Ridge TN, or a site on the Oak Ridge Federal reservation, unless another site is selected by January 1, 1989." None of DOE's proposed "restrictions" on construction of the MRS are specifically included. Instead DOE's MRS proposal as submitted to Congress in March, 1987, is referenced. A study is to be completed by June 1, 1989 on the need for the development of additional MRS facilities. The MRS host state, affected local units of local government and Indian Tribes are eligible for entering into financial incentives agreements with DOE.

**Incentives Provisions:** The benefits or incentives agreements proposal in the new bill are almost identical to Senator Johnston's earlier introduced legislation (S. 839). However, the bill recognizes that local communities, as opposed to the state, are expressing interest in hosting an MRS or, possibly, even a repository. In view of this interest, the legislation explicitly states that benefits agreements are to be negotiated in consultation with affected units of local government and 1/3 of the payments received by the state are to be transferred to affected units of local government. The new proposal does not require that a state signing a benefits agreement waive its right to judicial review.

### Authorization Levels

The proposed bill authorizes the expenditure of \$435 million for FY '88; \$688 million for FY '89, and \$630 million for FY '90. The FY '88 authorization is in line with DOE's initial FY '88 budget request of \$500 million already approved by the House Appropriations Committee.

### Second Round States Considering Proposal

From discussions with various Congressional staffers over the past week, it appears that Senator Johnston is having some success in breaking the ranks of the Senate coalition who were behind Senator Sasser's Moratorium/Study bill. One individual noted that among the group of ten

or so initial cosponsors of the moratorium bill only two did not see the possibility of accepting the Johnston/McClure approach (For more discussion See **IN THE CONGRESS -HLW APPROPRIATIONS** in **Wrap-Up (HLW)**).

### **Doe Reacts Positively**

When contacted by the EXCHANGE for their view of the bill, Ben Rusche's office provided the following statement:

"We have not had an opportunity to review the legislation, but, as we understand, it has some attractive cost-savings and, if enacted, could preserve the Nation's ability to move ahead with its waste management program. The department is presently analyzing the bill and will be in a better position to provide more detailed comments later."

**\*\***

### **MAJOR SHAKEUP IN DOE NEVADA HLW PROJECT OFFICE**

On July 14 DOE Nevada Operations staff were informed that Don Veith (perhaps the most respected and creditable DOE-HLW project manager) was being "reassigned" from his post as Director of the Nevada Ops Waste Management Project Office to become the Acting Deputy Assistant Manager for Environment, Safety and Health.

DOE Nevada Ops officials explained the move as part of a planned reorganization of the Nevada office, and denied that the reassignment has anything to do with any "differences" between Mr. Veith and the Office of Civilian Radioactive Waste Management headquarters staff. DOE headquarters referred all inquiries to the Nevada office.

According to Nevada staff, Veith's reassignment was part of a complete reorganization which created the position of Assistant Manager for Environment, Health and Safety, and raised the level of the Director of the Waste Project Office to report directly to the Nevada Ops Office director. Veith reported to the Assistant Manager.

In order to proceed with the reorganization the plan had to be approved by DOE headquarters, which it was.

### **A Surprise to Everyone**

Though DOE officials explain that the reorganization move was planned, Veith's reassignment caught most everyone the EXCHANGE contacted by complete surprise. At a July 11 hearing before Senator Bennett Johnston Veith gave perhaps the most creditable and convincing testimony to date that the Nevada Yucca Mountain site was, to his knowledge, a viable location for the site of the HLW repository.

At that time he also successfully refuted any inference made by Senator Evans that perhaps there were significant differences of opinion between DOE-OCRWM headquarters staff and the Nevada Project Office on the Yucca Mountain site. His performance at this hearing, along with that of the DOE other project director for the Hanford and Deaf Smith County sites, was perhaps the best yet in defense of DOE's program and most damaging as to ongoing state criticisms.

### **Respected By Adversaries**

Bob Loux, Director of the Nevada HLW Project, when contacted by the EXCHANGE, remarked that there were few individuals within the DOE program that had the integrity of Veith and, in Loux's view, his reassignment would be a major blow to the waste program. Other out-of-state personnel contacted by the EXCHANGE held similar views of the reassignment. One consulting engineer remarked as to how he [Veith] was the only guy doing a decent job. It was further noted by one involved with reviewing the site characterization plans that Nevada's was by far the best. He credited Veith with running "a tight ship and getting the job done."

### **An Exchange View ...**

So why is Veith being moved aside? Did his views on the conduct of the program differ from OCRWM headquarters? No one is saying. At a time when DOE needs all the

creditability it can muster to build public confidence in the program, and desperately needs experienced individuals to manage the vast overwhelming corps of outside contractors, why is someone like Mr. Veith being shifted? He surely was not one who was bending over backwards to appease state officials, yet, he gained their respect. Perhaps he was too vocal -- an inside critic, not a "yes" man. He surely was not one to complain about the program to outsiders. For that he should be promoted and brought into headquarters, not reassigned out of the program. He is a valuable asset not to be overlooked or passed by. \*\*

#### **GERMAN HLW SHAFT COLLAPSE CITED AS EVIDENCE OF PROBLEMS WITH TEXAS SITE**

In response to post-hearing questions posed by Senator John Breaux, Chairman of the Environment and Public Works Nuclear Regulation Subcommittee, regarding Texas' expressed concern with DOE's planned use of current mining technology to construct the exploratory shaft at the Deaf Smith Texas HLW repository site, Steve Frishman, Director of the Texas HLW Program's Office, has called attention to the recent shaft collapse at West Germany's HLW repository under construction at Gorleben. According to Frishman, the collapse occurred during activities and under conditions that are very similar to what would be happening at the Texas site if DOE is allowed to proceed with proposed exploratory shaft construction.

The May 12th shaft failure at Gorleben resulted in the death of one worker and, according to recently released reports, is directly attributed to the geological conditions at the site and the failure of the "ground freezing" technique DOE is saying should be used at the proposed Texas repository site.

Frishman also charges that in recent testimony, and in meetings with state officials, DOE staff has failed to discuss the accident, the similarity of geological conditions at the proposed Gorleben repository and the proposed Deaf Smith sites, and DOE's proposal to use the same

ground freezing technique that "failed" at Gorleben.

#### **The Gorleben Failure**

According to reports carried in various foreign publications, the failure at the Gorleben shaft is being directly attributed to high unexpected underground pressure developed within the borehole. One of the techniques utilized to counteract the expected high pressure was the aforementioned "ground freezing". This entailed filling 40+ boreholes, sunk to depths of approximately 270 meters, with Calcium Chloride Brine at a temperature of -40°C which, over the period of a year, froze the ground and was to have kept it frozen for two years. In spite of the freezing the shaft became severely deformed at approximately 230 meters. Massive steel rings were then used to support the excavated shaft wall but the underground pressure apparently sprang one loose and it fell, killing one worker and severely injuring others working at the bottom of the shaft.

#### **Texas Cites Similarities to Gorleben**

Frishman explained to Breaux that:

"There is much significance to be found related to [the Gorleben incident] and the DOE's analysis, activities, and decisions associated with the Deaf Smith County site.... [T]he shaft construction method involve[s] ground freezing as does the DOE's plan for the Deaf Smith site; the upper geologic sections at both sites have much similarity in thickness, rock types, depth planned for ground freezing, hydrologic conditions, and variability of sediment and rock types in the upper section; both are construction projects associated with nuclear waste disposal facilities for which the expectation is that the highest possible quality and conservatism of design and construction is to be applied; given the geologic and hydrologic setting at both sites, considerable uncertainty is to be expected regarding subsurface conditions as interpreted from borehole tests used in developing

shaft plans and designs; and there is a major design priority, since both shafts are to bottom in salt, that there be no unplanned flow of water into the shaft during its construction and operation."

Frishman then points out (as is stated in at least one June 12 report) that, as a result of the shaft failure, the bottom "14 meters of the shaft were plugged with cement in order to avoid further structural collapse." He further states that the future of the Gorleben shaft is reported to be "uncertain, and it may be necessary to abandon it since repairs may not be feasible or safe."

In Frishman's view, the incident heightens Texas' concerns "about the ability to construct a safe exploratory shaft facility, and adds a great deal of additional uncertainty to the matter of whether a repository facility can be safely constructed and then support a finding of reasonable assurance that it will perform as predicted in the short and long term isolation of nuclear waste."

#### **Charges DOE With Not Revealing Incident**

In his response Frishman also charges that DOE, despite its close observation of the Gorleben incident because of its "numerous similarities to the Deaf Smith County salt repository project," did not inform either the state or the Congress of the incident.

He cites the recent testimony provided by Jeff Neff at Senator Johnston's June 29 hearing wherein Mr. Neff, as project manager of the Salt Repository Project office, proffered the following statement:

"Texas' concern is that the Ogallala and Dockum aquifers could be contaminated during construction of shafts for site characterization. This will be avoided through use of a proven (over 100 years old) ground freezing technique which is widely employed for digging tunnels and mine shafts where water is anticipated. For example, shafts for mines in Saskatchewan, Canada, have successfully penetrated major aquifers with ground freezing during shaft construction. **The method is being tested during**

**construction of the repository in the Federal Republic of Germany at Gorleben."** [Emphasis added]

Frishman concludes that DOE's continued silence about Gorleben is attributable to "either the DOE program managers [failure] to recognize the significance of this event to the technical integrity of our national repository program, or the intent was to avoid airing this potentially adverse information until a sufficiently specific question arose regarding the matter and a response was required." \*\*

#### **DUKE POWER PURCHASES DRY SPENT FUEL STORAGE CASKS**

On July 2, Duke Power signed a contract with NUTECH of California for the purchase of ten dry storage casks for the long term storage of spent fuel at its Oconee nuclear facility. The casks are to be delivered over a period of 18 months with the first scheduled for arrival at Oconee during the first part of 1990.

According to Duke Power the casks are of NUTECH design, each with a storage capacity of 24 assemblies. The monetary value of the contract was not revealed.

#### **Building Separate Storage Facility**

Duke will construct a stand alone spent fuel storage building at the Oconee station to hold the storage casks. The structure consists of a concrete building over a concrete pad with construction scheduled to start in 1989 and be completed in 18 months.

#### **HLW Program Uncertainties Weighed**

According to Duke officials the decision to proceed to set up a dry cask storage facility was partially motivated by the uncertainty regarding the timing of the availability of DOE's proposed Monitored Retrievable Storage (MRS) facility. Other factors that weighed in the decision were available space at the Oconee station and the relative economics of the possibility of using storage capacity at other Duke facilities. \*\*

## IN THE STATES

The **Nevada** legislature has approved and Governor Bryan has signed legislation creating a new county within Nevada that includes only the intermediate area surrounding the proposed Yucca Mountain site for the HLW repository. Carved out of Nye County, and named Bullfrog, its county seat is in the State Capitol, Carson City. It has no residents.

The successful effort to create the county was led by Assemblyman Paul May (D) and Senator Tom Hickey (D). Their immediate objective was to insure that state government was the recipient of the DOE funds to oversee HLW repository site characterization activities and to thwart the effort of Nye County officials interested in seeking local economic gain in exchange for the repository. According to state officials all of the southern Nevada counties and municipalities have adopted resolutions opposing the location of the repository at the Yucca Mountain site. Nye County is expected to challenge the move in the courts.

## IN THE CONGRESS

**PRICE-ANDERSON REAUTHORIZATION** With the completion of markup in the House Commerce Committee and positive movement in the Senate Environment and Public Works Committee, there is a distinct possibility that Congress will reauthorize Price-Anderson before the end of this September. That is the new target date since on September 30th five current contracts will expire and DOE will not have the authority to renew the contracts offering P-A liability coverage unless the Act is reauthorized. Liability coverage will remain in effect for all other contracts until they expire regardless of whether P-A is reauthorized.

The brighter future for early full passage of a P-A Reauthorization bill is a result of the Commerce Committee completing markup on HR 1414 on July 8 and reports of development of "new" compromise draft vehicle in the Senate Environment and Public Works Committee. And, even though

the **Nuclear Regulation Subcommittee** markup has been delayed until July 21, with full Committee markup on June 28, industry sources report that a new Public Works vehicle being drafted could be acceptable. According to EXCHANGE sources the new draft generally parallels the compromise reached by the Committee members during the past Congress. It is not expected to include any provisions requiring the DOE contractors be liable for gross negligence and willful misconduct (GN&WM).

The next critical move in the **House** is in the **Rules Committee** where the conflict over contractor liability for GN&WM will again be the key issue.

The **House Commerce Committee** reported out an amended version of HR1414 that included a Walgren proposed amendment providing that the government could seek to recover the costs of claims arising from incidents related to the transport of spent fuel from transport contractors. The amount of possible recovered costs was capped at the lessor of three times the profit of the contract or ten percent of the amount of the contract. Commerce added other changes but by in large the significant provisions were similar to the House Interior bill. A Wyden amendment to make all DOE contractors liable for GN&WM was defeated by a tie vote.

The EXCHANGE has learned that **Dingell** will be pushing for an open rule to allow members (Wyden, et. al.) to propose floor amendments requiring that DOE contractors be liable for GN&WM. South Carolina's **Butler Derrick**, a powerful member of the Rules Committee, has stated his opposition to requiring that not-for-profits and firms obtaining \$1 per year profit for managing a DOE facility (i.e., Dupont at Savannah River) be subject to GN&WM liability. Derrick is expected to oppose any efforts to allow floor amendments placing such requirements on those firms, but hopes to work something out so as not to obstruct passage of the P-A Reauthorization. Rules is expected to meet on July 23, or so, to make their determination. Consideration has been delayed because the full S/T Committee has not yet marked up Marilyn

Lloyd's Subcommittee version. The delay is strictly logistical.

**House Floor action** on the P-A Reauthorization is scheduled for the week of June 27 but could be delayed until the following week if the GN&WM issue stalls final action in Rules.

**HLW TRANSPORTATION** Congressional action on the various HLW transportation bills is a bit uncertain at this time primarily due to the Senate Parliamentarian's decision to refer the Hecht-Proxmire bill to the Senate Environment and Public Works Committee rather than to the friendlier Commerce Committee (See EXCHANGE Vol. 6 No. 11). The Environment and Public Works Nuclear Regulation Subcommittee has already had hearings on HLW transportation and plans no further action at this time. The referral came as a surprise to Senate staffers who had crafted the measure as an amendment to the Hazardous Material Transportation Act (HMTA) reauthorization bill rather than as an amendment to the Atomic Energy Act.

The referral does not preclude the Commerce Surface Transportation Subcommittee from including nuclear waste provisions in a bill reauthorizing HMTA but, as of yet, no decision has been made by the Committee leadership to pursue this course of action. Senator Brock Adams, a member of the Subcommittee and a strong supporter of the Hecht/Proxmire initiative can be expected to push for inclusion of such provisions. Meanwhile efforts are being made to have the Hecht/Proxmire bill referred to the Commerce Committee.

**HLW APPROPRIATIONS** The House approved DOE's initial budget request for \$500 million to support HLW program activities but made it very clear in the accompanying language that "No funds are provided for drilling of any exploratory shaft at any site in the United States or Canada in FY 1988. In addition, since there has been no authorization of a Monitored Retrievable Storage facility, no funds are provided for any such facility."

No more than \$24,000,000 is available for work on a second repository. This amount

is exactly what the DOE budget requested and, according to the Appropriation Committee's report language, is to be used for work included in the DOE budget justification. DOE, of course, in its budget justification requests the funds only for non-site specific work on the second repository which is in line with the DOE decision to "indefinitely postpone" the second round program.

Meanwhile in the Senate it is becoming apparent that the first significant battle to change the direction of the HLW program will take place in the markup of the Energy and Water Appropriations bill. A "Dear Colleague" letter signed by Senators Sasser (a member of the Energy and Water Appropriations Subcommittee) Proxmire (WI) and Kasten (WI) (members of the full Appropriations Committee); Brock Adams (WA); Mitchell (ME); Reid (NV); Hecht (NV); Sanford (SC); Gore (TN); Evans (WA); Cohen (ME); Bentsen (TX); Gramm (TX); Packwood (OR) and Rockefeller (WV) is requesting support for limiting DOE appropriations for FY'88 to \$275 million with continuing prohibition on DOE undertaking any site specific activities on the first or second repository and the MRS. The net effect of this level of funding -- if approved -- would be to impose a virtual moratorium on DOE HLW activities as proposed in the bill introduced by many of the same Senators in the past couple of weeks (See EXCHANGE, Vol. 6, No. 12).

Senator Johnston, Chairman of the Energy and Water Appropriations Subcommittee, along with Senator McClure, will be aiming to set an FY '88 appropriations level at a minimum of \$435 million -- the level of authorization included in the new "Incentives/Sequential Characterization bill they both introduced in the past week (See Related story this issue).

It should be noted that Senator Johnston and McClure were undecided on the legislative vehicle that would be used to seek Senate approval of the jointly sponsored bill at the time of their press conference. The bill was introduced as a stand alone measure, but the preamble language opened the possibility of it also



being considered in the Budget Reconciliation Process or in Appropriations. It now appears from discussions with Congressional staff, that under new rules governing the Budget Reconciliation, Committee action on an "authorization" bill of the nature of the Johnston/McClure incentives package may not be germane. Therefore the first opportunity to clash over the HLW program becomes the Energy and Water Appropriations bill. The Committee begins Budget Reconciliation deliberations next Tuesday, July 21, and work is scheduled to be completed by Thursday.

Although no markup of the Senate Energy and Water Appropriations bill had been set up as of Wednesday, July 15, staff expects it to be completed prior to the August recess.

**HEARINGS** If anyone was laboring under the misconception that any of the HLW bills introduced in the Senate within the past several weeks had any chance of getting through the Energy Committee, he or she had to only attend Senator Johnston's July 16 hearing on bills introduced by Hecht, Evans, Packwood and discover that the powerful Energy Chairman elected not to attend. He left his duties to Senator Hatfield, who subsequently turned them over to Senator Evans. After about two hours or so of the proceeding, the only other members who attended were: Hecht, (who was there from the beginning); Bingaman, and Ford.

In the Chair's absence Senator Hatfield took the opportunity to artfully question Mr. Rusche regarding DOE's capability to select one of the three potential sites as the best one to characterize, the one that had the best chance of being licensed. Mr. Rusche declined saying it was premature. According to the Johnston and McClure bill, DOE would have only a year and a half to rectify this situation and pick a preferred

single site for characterization. In a followup question Mr. Rusche did explain that DOE has the necessary data to rank the current sites according to various criteria and seemed to infer that a 'best' overall site could be found if Congress provided the direction on the manner in which the criteria should be weighed.

## IN THE OCRWM

### SUPER-GORILLA INTEGRATION CONTRACT

OCRWM staff remains committed to issuing the Request for Proposal (RFP) seeking a contractor capable of integrating the management of site characterization activities at the three potential HLW repository sites. Representatives from several interested firms contacted by the EXCHANGE have criticized DOE's lack of specific direction regarding conflict-of-interest requirements. Some have expressed disbelief at OCRWM's proposed management scheme as depicted in the draft proposal distributed to interested firms at the past briefing session (See EXCHANGE, Vol. 6, No. 12). As one industrial put it, "it sure wasn't developed by anyone with systems management experience."

According to the various discussions within the contractor community there are at least two major firms working out a multifirm joint venture to seek the contract. One group is headed by a major aero space systems management company, the other headed by one of the major contractors from the nuclear service industry. There is also a feeling that one or more additional major contractors from within the nuclear community may enter the fray. OCRWM staff has given no specific direction ruling out any current HLW program contractor so the field of potential contractors could still grow.