The

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

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UDALL HAS NEW VERSION OF HLW BILL, HUCKABY PROPOSES TO PUT MRS IN

House Interior Chairman Morris K. Udall opened his October 8 markup session on the two HLW bills he has cosponsored, HR 2967 and HR 2888, by revealing that he had a new version of HR 2967 to use as the Committee markup vehicle, and that the ensuing time would be used for open discussion among members rather than proceed as a formal markup. Though for the most part the session was just that, the Committee did reach a consensus on at least three issues -- the Chair's substitute would be the Committee markup vehicle; the Study Commission as proposed in the Chair's substitute would consist of three members chosen in manner to include the input from respective minority parties; and that the Commission would be given limited subpoena authority.

The new vehicle revealed by the Chair reflected in part the views he expressed in his interview with the Exchange this past July (See Exchange Vol. 6 No. 14) and addressed concerns raised by the NRC regarding their proposed role in the Negotiator's site recommendation process (See Exchange Vol. 6 No. 16 Part II)
(See **Udall** in **the HLW Focus**)

CHEM-NUCLEAR RAISES DISPOSAL CHARGES FOR SOUTHEAST GENERATORS

Chem-Nuclear has notified all users of its Barnwell LLRW burial facility that effective November 1, a two-tiered rate schedule will go into effect at the facility -- one schedule for Southeast generators, another for those outside the region. On that date, all LLRW delivered for disposal from Southeast generators will be charged an additional $10 per cubic foot over current rates. This increase will be followed by another $10 per cubic foot raise on January 1, 1988. The net result is that Southeast generators, who have been prohibited by the Compact Board from exporting their waste to other regional facilities, will be paying the same disposal fees as out-of-region generators who use the Barnwell facility.

Under the terms of the Low-level Radioactive Waste Amendments Act (LLRWPAA), generators from unsited regions using existing disposal facilities pay $10.00 surcharge through December 31, 1987, and will pay an additional $10.00 beginning January 1, 1988.
(See **Chem-Nuclear** pg. 2)

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(**Chem-Nuclear** from pg. 1)
This surcharge differential was a key element in achieving a compromise among states with burial sites and those without during the negotiations leading to the LLRWPAA.

Lack of Waste Volumes Caused Action

In an exclusive interview with Exchange Publisher, Ed Helminski, Chem-Nuclear President, Victor Barnhart, explained that this action was not taken to disrupt the Compact process, but was necessary for business reasons because of the decrease in the volumes of waste received at the Barnwell facility over the past two years. President Barnhart explained his firm's actions in the following manner:

"No business likes to increase its prices, but under the circumstances we have no choice."

"The recent increase in South Carolina's surcharge fee further complicated our competitive situation. Volumes have been declining and are expected to continue to decline, but we still have an obligation to operate, at Barnwell, the best low-level radioactive waste disposal facility that we can. That takes money. The only way we could see to obtain the needed revenue was to increase the disposal rates for Southeast Compact generators."

"These increases, effective November 1 of this year and January 1 of next year, bring disposal charges for Southeast generators even with the prices imposed by the 1985 amendments Act on out-of-region generators."

"We don't make decisions like this happily, but we do have to make them to keep the Barnwell facility available to waste generators."

"Chem-Nuclear's only business is the nuclear waste business. We cannot bet the entire future of our company on the continued operation of the Barnwell Facility, even though it makes economic and environmental sense to continue of the site. Our intention is to be the successful bidder and developer for new LLW disposal sites."

"We decided to increase our Southeast prices only after extensive internal and external review. It was a business decision, not a political one. In no way is it intended to or should if affect public policy with regard to the compact process."

Reactions from Generators, States

Prior to publicly announcing the price differential and increase, Chem-Nuclear executives visited with the senior management of several major Southeast LLRW generators during the last week of September to explain their current business situation and obtain their reaction to the impending announcement. From what Exchange has learned, only a few comments were received, only one was overwhelmingly negative.

However, after the actual announcement was made, several representatives of major utility generators contacted by The Exchange, though declining to comment publicly until they reviewed the proposal and its implications, were decidedly negative. Comments ranged from "it defeats the purpose of the Low-Level Radioactive Waste Policy Amendments Act," to "they're destroying the incentives for states to join a compact."

South Carolina's Governor's Office was surprised by the action and refrained from comment while all its ramifications were studied. It was pointed out by others that the state does have the authority to respond to address the action. The Southeast Compact Board also declined to comment until the proposal was studied.

A Competitor's Reaction

Jerry Scoville, Vice President of American Ecology, the parent company of US Ecology which operates the Beatty and Hanford LLRW burial facilities, expressed apprehension about Chem Nuclear's move:

"I don't really understand Chem Nuclear's reasons for raising their prices. Waste volumes are down, but they've been down for quite a while and I'm sure that they, like we, have made necessary reductions in operating costs to accommodate this lower volume by now. I think it must be more in line with their stated goal of trying to maintain their Barnwell facility beyond the congressionally ratified closure date of 1992."

The former President of US Ecology cautioned that Chem Nuclear's recent action "will likely precipitate the discussion of rate review practices by South Carolina and/or the Southeast Compact." He did remark that US Ecology has agreed to the closure of Beatty in the same time from within which Barnwell is to close. **

Wrap Up (LLRW)

SUPERCOLLIDER AND LLRW?

Recent reports in some regional newsletters have implied that DOE's procurement award for the Supercollider (SCC) may take into account the availability of a bidding states LLRW disposal capacity. DOE spokesman have definitely said that this is not the case. In fact, it is the Department's policy that LLRW from the Supercollider will be disposed of at a DOE site. The Department may consider using a state's commercial facility but it's availability could in no way be incorporated into the decision on the location of the SCC.

IN THE ROCKY MTN WEST

At their October 1 meeting, the Rocky Mountain Compact Board approved reopening discussions with Rhode Island, and the District of Columbia on the possibility of executing long term contracts for the disposal of their generators LLRW at the Beatty regional facility. A board decision on the execution of such contracts is expected to be made in November.

The next Board meeting is scheduled for December 4 in Nevada.

IN THE INDUSTRY

Chem-Nuclear was recently awarded a contract to provide Burnable Poison Rod Assemblies (BPRAs) Consolidation services at Virginia Power's Surry Power Station. The scope of work consisted of processing, packaging, loading liners, and providing waste classification documentation of BPRAs and other irradiated reactor components. The resultant waste was transported in Chem-Nuclear's 3-55 cask to the Barnwell disposal facility. The project started in early August 1987 and was completed on September 30, 1987. The BPRA consolidation project was accomplished using Chem-Nuclear's submergible compactor shear. The equivalent of 60 full-length BPRAs was packed for each 3-55 cask shipment. This equated to a processing rate of 12 full-length BPRAs per 8-hour shift.

LN Technologies has processed a series of five Quick-Dry liners at a large midwest BWR. Approximately 300 cubic feet of equivalent new powdex was processed in each 182 cubic foot liner. A demonstration of Quick-Dry will be conducted in November before the next Quick-Dry unit is shipped to a customer site. If you would like to attend, please contact either Paul Williams at (216) 723-0915 or Stan Hodges (803) 256-4355.

Following successful completion of the final 25 foot drop test, a topical report describing **LN Technologies'** new high integrity container has been submitted to the USNRC and the states of South Carolina, Washington, and Nevada. The new HIC is made of hybrid materials -- one selected for structural strength and another for resistance to corrosive material. LN Technologies has designated the new HIC series as "Barrier Plus -- the Higher Integrity Container."

ON DOE DEFENSE PROGRAMS LLRW AND MIXED WASTE PROGRAM.....

The following interview records the key elements of an open discussion on DOE Defense Programs LLRW and Mixed Waste Programs between Exchange Publisher Ed Helminski, Tom Hindman, now the Acting Director of DOE's office of Defense Waste and Transport Management (ODWTM) and Deputy Director of that office; Walt Frankhauser, Director of ODWTM's Waste Operations and Projects Division; and Critz George, the Acting Director of ODWTM's Hazardous Waste and Remedial Actions Division. The discussion took place on October 5.

With the release of the By-product rule DOE put most of its waste management practices under EPA RCRA regulation. With respect to mixed low-level waste-- hazardous, and radioactive waste-- this had the effect of prohibiting the disposal of such wastes at the currently operating federal disposal sites since they do not comply with RCRA regulations. Where is all the waste going? Is it being stored in a central location?

There isn't one site. For the most part the waste is being stored at each generating location.

In what manner?

In some cases it's covered over. If it doesn't present an exposure problem, it's just being stored in drums in buildings and concrete facilities.

Are you having waste streams analyzed to determine if there are RCRA components or are you assuming that certain waste streams are mixed streams based on where they eminate from?

Right now the waste is being stored on a suspect basis. In other words, if the plant that generates the waste stream deals with chemicals that are either listed or by their characteristics, fall under RCRA regulation, then the waste stream is assumed to be mixed.

Does this mean that all low-level radioactive waste at DOE facilities is being suspected of being mixed waste?

No, not all of it.

About how much is mixed?

We don't know at this point and that's our honest estimate. Right now a lot of it is being stored. If I gave you any numbers right now they'd be misleading because I don't know how much is being stored.

For example, if you look at Rocky Flats, most of their low-level waste is being treated as mixed low-level waste because it contains parts per billion levels of RCRA-regulated contaminants. The state has directed the facility to proceed in this manner. It's fair to say that we have not completely resolved all of the necessary related issues in order to characterize that waste.

What is the current status of your efforts to have federal disposal sites meet RCRA requirements for mixed waste?

Well, for the last two years we've had a program at Oak Ridge called, LLWDDD (pronounced "Elwood")- The Low-Level Waste Disposal, Development, and Demonstration project. It came about as a direct result of the Chestnut Ridge EIS. This effort is being carried out with the State's and with EPA's full involvement. It includes developing new technologies for engineered disposal, ranging from prepackaging, containerization and monitoring, to engineered barriers.

Is there a time table to have a new site in operation?

We plan to have an EIS for a new facility which will incorporate a lot of these new technologies on the streets in the 1989-90 time frame.

And this facility will be at Oak Ridge?

Yes, but in many ways it's going to set technology precedents for all of DOE's humid site disposal operations.

Has DOE set out a policy or guideline specifically outlining conceptual design criteria?

No, we haven't set out any specific conceptual design criteria. However, we are developing requirements to meet the various state and NRC regulations such as groundwater protection requirements, monitoring and so forth. Our specific requirements will be more prescriptive than NRC's Part 61. We feel that we are comparable with Part 61. We consider it as a standard that we want to meet even though we are not regulated by it.

We are faced with developing sites at facilities which operate in totally different climatological conditions therefore each site must be designed to assure compliance with applicable state and federal requirements--groundwater protection standards and the like. At Savannah River, and Oak Ridge we're looking at disposal sites in humid climates, but at Hanford, Idaho and Nevada we have a desert climate, where we're looking essentially at typical shallow land burial.

Though there is no policy endorsing a standard conceptual design, there is a total awareness throughout the system of the raft of state and federal waste requirements, so that what you're seeing, is much more of a demand for rigorous segregation of waste streams, and knowledge of the processes producing the waste to confirm that something is, in fact, low-level waste, that it does not contain RCRA constituents. Only this material is being treated as low-level waste. All of the stuff known to have RCRA constituents and all that is suspect of having RCRA constituents is being stored around the system.

Are the facilities devoting a lot of resources to waste segregation and lab analyses?

We are doing both--analyzing some waste streams and assuming others are RCRA contaminated due to the process from which they came. Ultimately, DOE and the states, or EPA, as it's appropriate, are going to negotiate the level of compliance with RCRA that's needed for these facilities.

RCRA, as you know, literally sets no lower limits on hazardous contaminants. If this literal interpretation is used it will bankrupt the Treasury. However, a number of states are considering designating some of our waste by characteristic or where it's coming from, a process characterization, rather than exhaustive analysis, which is costly, and in some cases risky, from a radioactive standpoint.

What you are saying then that there is the possibility that a disposal site at Hanford and another at one of DOE's other facilities will have different RCRA-related requirements?

Yes, that is possible.

Are you disposing of RCRA-contaminated waste at either the Hanford or the Nevada Test Site facility at this time?

No.

How much waste is being stored as mixed waste? What percentage of the current waste stream?

I don't know what the percentages at each site are. I wish I could tell you that. Savannah River, for example, annually generates 800,000 cubic feet of low-level waste, but only about 50,000 to 60,000 cubic feet of that is being stored right now.

Is that typical?

No, because at the other end of the spectrum, we have Rocky Flats. Here, the State of Colorado has insisted that low-level radioactive waste with trace quantities of RCRA regulated contaminants, literally parts per billion of organics, be declared as mixed waste and stored on site.

Is any of the waste a candidate for long term storage, to be stored until the radioactive component decays to below the levels of regulatory concern to NRC, and then disposed of in a commercial hazardous waste facility?

We are not looking at long term storage. We looked at the bulk of the waste that we're storing right now. Most of it is contaminated fission products and we're just not going into long-term storage. Even if we had such a plan, once the full impact of the RCRA re-authorization comes down, it is going to say "treat it or you can store it in permanent facilities for up to 90 days." So, there will be enormous pressure to treat it and dispose of it.

With the need to conserve disposal capacity the Department is now emphasizing waste incineration is that not correct? Is an incinerator in the works for Nevada Operations?

Not in Nevada, not right now.

What we're trying to do is anticipate the requirements of the Hazardous and Solid Waste Amendments Act which has all sorts of handling provisions in terms of the disposal of untreated hazardous waste.

With regard to waste processing, the way it's going to spread out is that a number of our larger generating facilities, like Savannah River, Hanford or Idaho, will have a processing capabilities to deal with their waste streams, so that they can be treated to avoid building up a large waste stream backlog.

What kind of processing are we talking about?

Largely incineration. Now that doesn't take care of all your problems. In some cases, concrete or bitumen solidification will help. If the remaining waste is still hazardous, and if it still can't be delisted or whatever the other available mechanisms are under RCRA, then we'll have permanent waste disposal in a RCRA-permitted facility.

With regard to incineration, are you talking about centralized incineration, perhaps two or three facilities in the country, or setting up incinerators at each of the larger facilities?

We did an informal study recently which looked at all the economic and other aspects of on-site incineration -- centralized processing, centralized disposal, regional treatment, you name it. It didn't come out strongly in favor of any of these options.

As a result, and this is not at all DOE policy at this point, I see a lot of the smaller generators shipping their waste to some of the large sites. It's certainly a lot more economical. But, I don't see DOE, en masse, moving large quantities of radioactive waste to centralized facilities. Smaller facilities will end up sharing this service with the larger ones, but that would be the degree of centralization.

We have found that most, the vast majority of DOE hazardous waste streams or mixed waste streams, are really waste waters, and it doesn't make sense to think in terms of doing anything other than on-site treatment of those waters to get them down to the point where you've got sludges or something. It's at that point, where you're talking about concentrated waste streams, that you can even consider where you might need something like a more regional site. And, incineration is the only area where we saw any possibilities of this nature. So, incineration is coming out as a natural because it's one area where you can possibly have regional treatment capabilities, and it gets rid of listed organics.

So you think there would be three, four DOE processing sites?

Maybe three or four would be economically feasible.

And, they will meet state Clean Air regulations?

Yes. For instance, Savannah River would have to have a permit from the South Carolina Department of Health and Environ-

mental Control (DHEC), which takes the Clean Air Act into consideration.

Has DOE adopted a mindset that incineration is to be employed to deal with mixed waste?

Rather than adopting a mindset for incineration we've adopted a mindset for volume reduction, and if that means incineration, then that's the way we'll do it, then yes.

All in all, then, DOE's move to incineration therefore has come about in order to deal with the mixed and hazardous waste problem?

No, there's another factor involved. Under CERCLA liability laws, DOE can never be held harmless in perpetuity for any of its hazardous waste that it is now shipping to commercial facilities. And so, as one of our goals, we'd like to get DOE out of that mode.

So you'd like to eliminate the waste stream that's going to the commercial sector?

Yes. That's a liability in the long term that we can't afford.

Since DOE will still be liable under CERCLA for contamination caused by their own disposal sites, why the move away from commercial sites?

Well, the problem occurs when we may have deposited only 20% or so of the waste at a particular site, and then at some point in the future, it turns out that we're 80% or 90% liable for CERCLA action. We are trying to prevent the Department from getting vested in any more such exposures.

Has this concern become a priorty since the CERCLA action at the Maxey Flats burial facility in Kentucky?

It didn't take that to tell us this was going to be a problem, but certainly Maxey Flats is a good example.

How much of the waste is DOE liable for at Maxey Flats?

We don't know the answer to that question yet, but the interim agreement among the Principle Responsible Parties states that the Federal Government, which is being represented principally by the Department of the Navy, will accept responsibility for 80% of the Remedial Investigation and Feasibility Study (RI/FS) and related costs. This will be split between Navy and DOE. And, then after the RI/FS is completed, along with searches of disposal records and all that, we'll have a much better answer as to the real liability question, and then we believe everything will be renegotiated.

On the matter of federal disposal site development, has DOE considered not developing new LLRW disposal facilities and using the new commercial sites instead, if they're developed?

We've not even thought about that. At the time these sites do come on board, my first impression is that any proposal to utilize them would face the federal government's involvement in assuming long-term liabilities for environmental contamination. We will still be liable for activities at our own sites, but then we will be cleaning up our own waste not somebody elses.

Another factor that won't escape scrutiny is that with our own sites we won't run into the problem we faced in '79 with Hanford and Beatty closing, losing access to disposal sites. With our own sites we will have the assurance of long-term availability of processing and disposal.

When will DOE's first incinerator be in full operation?

In two years, hopefully, at Idaho. We have a processing capability out there now, which was built for the purpose of processing transuranic waste. That facility, right now, is in the process of being modified to meet certain EPA requirements. and they are planning to go through a full trial burn in, I believe, early 1989.

And this facility will treat more than just its own waste?

We have the capacity to deal with more than Idaho waste, possibly waste from Western, and Midwestern facilities. It's feasible to look at some of the smaller generators shipping a longer distance.

And, when will the low-level waste site at Oak Ridge be operational?

By the mid 1990's.

Will this be a RCRA permitted site?

No, not at this time.

Is this facility going to be of a tumulus-based design?

The chances are it's going to be an above-grade facility.

We should mention the fact that the state of Nevada has informed DOE's Nevada Operations that it intends to seek interim status under RCRA so that their disposal site may

So, when could the Nevada site be accepting mixed waste from DOE facilities?

Next calendar year sometime. They have to discuss the specifics of the permit with the state of Nevada.

So then, you may have a centralized mixed waste disposal facility at Nevada for a certain period of time?

I wouldn't quite call it centralized, utterly centralized. The Nevada site has historically served the defense programs. Basically, what would happen under the permit is that the Nevada test site would be able to extend their service to those same generators to include mixed waste. It would not be opened up, however, to other large generators.

So, that would actually be the first permitted mixed waste facility in the United States?

Correct. It may well be the first one in the United States. Certainly our first.
accept mixed waste.

...A Reminder...Call For Papers

Those interested in submitting a paper for the **1988 International Conference on the Incineration of Hazardous Radioactive and Mixed Waste, (May 3-6), San Francisco, CA,** are reminded that the due date for abstracts is November 1, 1987. Areas of interest include: Incineration and off-gas treatment (of hazardous chemical, infection and/or radioactive wastes) experience, in industrial, commercial, medical, institutional or regulatory setting; Safety provisions in incinerator designs, including assessment of postulated accident conditions; Off-gas effluent monitoring and analysis and compliance with national regulatory emission limits; Matrices for ash immobilization, methods of ash volume reduction and waste form properties; R&D in the incineration and off-gas treatment technologies, and analysis of test burn data; Overviews of regional and national programs for processing hazardous wastes by incineration; Economics of incineration: regional vs. private, impact of regulations and state compacts and comparisons of waste processing/disposal technologies.

For more information contact Jim Tripodes or Charlotte Baker, University of California, Irvine, CA 92717, (714) 856-6200.

(**Udall** from pg. 1)
Much of the discussion at the first session centered on Republican efforts to assure that the Commission membership included minority as well as majority representation.

Inclusion of MRS Raised

Rep. Huckaby (D-KY) took the opportunity to announce his intent to introduce an amendment at the next markup to expand the Negotiator's purview to include looking for states interested in the Monitored Retrievable Storage facility (MRS). His proposed language encountered some opposition because it authorized the MRS. Members voiced a need for Congress to specifically authorize the MRS. Chairman Udall did not oppose including the MRS in the Negotiator's package but did express concern over automatically including authorization. (Aside: The views he expressed were those he revealed in the Exchange's July interview.)

Highlights - The Udall Substitute

Overview As in the earlier version, the substitute provides for the establishment of a three member Study Commission. However, the agenda of issues that is to be addressed is reduced, as well as the period of study, from twelve to six months.

The Secretary of Energy is prohibited from expending funds to "excavate any exploratory shaft or "take action to select a site for a searching repository" until six months after the Commission report is submitted -- a year after the enactment of the legislation. This is a much narrower prohibition than the earlier version. which did not allow the Secretary to: conduct any on-site characterization activities; prepare any environmental assessments or site plans as required by the Nuclear Waste Policy Act (NWPA); acquire any right, title or interest in any candidate site; apply to the NRC for a construction authorization for either a repository or an MRS or any other federal agency for rights-of-use permits etc. for either facility.

The substitute does allow the Secretary to study the feasibility of siting an MRS in any state upon the request of the Governor.

Study Commission's Charge The Commission is directed to develop a report for Congress which at the minimum will consider:

-- the need for a second permanent repository, a MRS, and further research on alternative technologies for permanent disposal of spent nuclear fuel and high level radioactive waste;

-- whether responsibility for implementing the nuclear waste program should be transferred from the Department of Energy (DOE) to another federal agency or a federally chartered public corporation;

-- the need for a permanent, technical peer review organization to provide technical advise and oversight to DOE (or such agency or corporation to which the responsibility for implementing the program may be transferred); and

-- whether sites should be characterized sequentially or a minimum of 3 candidates sites should be characterized concurrently.

The last "charge" has the Commission studying the single site characterization process proposed by the Johnston-McClure-Energy Bill prior to taking action in that direction. The six month time table, is however, not in conflict with the Johnston-McClure timetable for designating a single site -- January 1, 1989.

As noted above, an amendment to the substitute, proposed by Connecticut Representative Gejdenson, was already adopted by the Subcommittee, giving the Commission limited subpoena powers.

The Office of Technology Assessment, the Library of Congress, and the General Accounting Office are to provide staff support to the Commission as allowed by their respective budgets.

Review of Current DOE Program Instead of having the Commission perform a review of DOE's program to date, the substitute purposes that the review now be undertaken by the Office of Technology Assessment.

As proposed, the OTA is to

- o review the adequacy of, and recommend any necessary revisions to, DOE's site selection guidelines;
- o review the adequacy of, and identify any deficiencies in the environmental assessments prepared under NWPA;
- o review and identify any deficiencies in DOE's site recommendations and the site ranking methodology upon which such recommendations are based; and
- o report its findings to the Congress **within 6 months** after the date of enactment of the Act.

The manner in which OTA is directed to perform this task with funds from the Nuclear Trust Fund has raised concerns within OTA management. OTA's mandate specifically prohibits undertaking legislatively mandated studies, requiring instead, that requests for studies be made by members and then approved by the OTA Board. Mr. Udall, however, currently chairs the OTA Board.

The Negotiator The Negotiator is directed to attempt "to find a State or Indian tribe willing to host a repository at a technically qualified site on reasonable terms," but is not directed to survey all the governors and tribes to identify acceptable sites as set out in the initial version. The focus appears to be on those states or Indian reservations in which a potential repository site has already been identified, though staff maintains that this is not the intent of the language.

As stated in the subsititute, the Negotiator is to enter into negotiations with the Governor of a state in which a potential repository site is located, or the governing body of any Indian tribe on whose reservation a potential site is located. The Negotiator is also authorized to consult with neighboring states and local units of government.

NRC, EPA Roles The substitute allows the Negotiator to consult with EPA and NRC, but does not require that either agency provide the Negotiator with a written certification that a proposed site would comply with their respective agency's regulations. NRC objected to this provision in its comments on the earlier version of the bill (See Exchange Vol. 6 No. 16 Part II) on the grounds that such certification could be viewed as "prejudgment of the issues and could reduce public confidence in the objectivity of the Commission licensing decision." The substitute states that:

> "the recommendations, comments, and views of Federal agencies provided are not intended to constitute formal agency findings or final determinations of a potential site's suitability for characterization, and not intended to prejudice later consideration of the site's suitability by any agency commenting thereon."

NAS Peer Review, Volunteer States

At the markup discussion, Representative Barbara Vucanovich (R-NV) and Rep. Phil Sharp (D-IN) announced their intentions to

introduce amendments and circulated "first" drafts. Among the amendments, Vucanovich is expected to formally propose is one that will allow states, other than those already identified with potential repository sites, to volunteer to host the HLW repository.

Sharp will introduce an amendment to establish a scientific and technical peer review panel. Its members would be appointed upon recommendations from the National Academy of Sciences. The panel would strictly be limited to review technical and scientific issues related to the HLW repository program. As described in the draft circulated at the session Sharp's "Nuclear Waste Technical Advisory Board" would be an independent, eleven member body established within the executive branch. It would undertake to evaluate the technical scientific validity of DOE activities. As initially proposed it could act on its own with individual members capable of holding hearings. This freedom will be pared down by the time it is formally proposed on Tuesday, October 20.**

BREAUX, SIMPSON, PUSH ENVIRONMENT COMMITTEE TO ACT ON ENERGY HLW BILL

Senator Breaux, Chairman of the Environment and Public Works Subcommittee on Nuclear Regulation, and ranking Minority member, Senator Alan Simpson seized the opportunity at an October 15 Environment and Public Works markup session on Committee Budget Reconciliation recommendations to push their colleagues to take assertive action, via the Reconciliation process, on the Johnston-McClure-Energy Committee HLW legislation.

Breaux first raised the Johnston bill in the context of attempting to make the Committee members aware that the actions taken by the Senate Budget Committee in setting budget marks, ended up putting the Environment and Public Works Committee in a tough situation, with only a very narrow set of options within which to cut programs to meet their "mark." The only clear option was to raise NRC user fees, an action the Committee was not inclined to pursue. He pointed out that the Energy Committee had been given "credit" for meeting their mark by restricting the HLW program to characterizing only one site, and eliminating the second round program -- intitatives which were within the jursidiction of the Environmental Committeee. He urged that the Committee act so that the $100 million credited to the Energy Committee also be credited to their Committee.

Changes in Energy Bill Sought

Senator Simpson backed up Breaux's proposal. He outlined what he and Breaux had identified as substantive concerns with provisions of the Energy bill dealing with the single site characterization, the second repository and the MRS. Simpson, specifically stated that he wanted to make sure that the MRS, as included in the Johnston bill, was not going to become a de-facto repository. Breaux then revealed a staff "outline" of a legislative proposal to develop a Committee Budget Reconciliation Recommendation dealing with the HLW program.

Senator Mitchell of Maine took a contrary view to the "outline's" inclusion of a prohibition of the second round program without stopping funding of $41 million for the Underground Research Laboratory (URL). He continued to point out that the URL's focus was on granite formations. (i.e. the medium for the second repository).

Senator Reid of Nevada attempted to fend off Mitchell's criticism of the staff outline by remarking that maybe the Committee should even stop the URL funding and achieve more savings.

In the end the Committee agreed to have the staff prepare a legislative proposal on a Budget Reconciliation Recommendation based on the outline for Monday, October 19.

The Breaux "Outline" of Proposed Changes

The staff outline, as presented on the afternoon of October 15, recommends that the Environment Committee modify the Johnston-McClure-Energy Committee bill's provisions dealing with the first repository,

but accept the bill's treatment of the second repository program, and authorization of the MRS without "preference for a specific location." The staff does recommend the inclusion of certain safeguards to ensure that the MRS would not become "a de-facto" repository.

The recommended modifications to the first repository program (as contained in Johnston bill) are as follows:

- o Set forth the requirements and procedures for the acquisition and evaluation of surface-based data, to be collected through a surface investigation program prior to the selection of a single site for at depth characterization, necessary to address the critical issues that relate to the suitability or licensability of the site; address the role of the NRC in the identification of such information as it relates to licensability;

- o Define the role of the NRC and the public in the review of the decision-making process, including the technical justification for the decision, to select a single site; and

- o Define what additional requirements, including a role for the NRC, are warranted for the development of site characterization plans and the conduct of site characterization.

With respect to the MRS, the staff outline advises the Environment Committee to adopt "safeguards" to protect it from becoming a "de-facto" respository. Such safeguards could include linking the amount of waste that could be received at the repository and the progress at the repostory site; including an overall limit on the amount of waste that could be stored at the MRS at any one time; and a mechanism for establishing a penalty payment to the involved State and local governments if waste is not removed from the facility on the time-frame proposed by the Department. It is also suggested that some mechanism be established that would allow for limited waivers of the capacity limits in the event of unforeseen problems with the repository program.

Observations ... Perspectives

Breaux and Simpson's action surprised many, including some key Congressinal staffers. Both Senators are genuinely distressed that the only clear option open to the Committeee to meet their Budget Reconciliation markup is to increase NRC user fees -- the Agency over which their subcommittee has primary jurisdiction. They do not intend to let the Energy Committee steal away a budget savings of $100 million without getting some credit for budget savings.
But, there is also genuine concern on both Senators' part, particularly Simpson, since he was a key player in developing the compromise that lead to passage of the NWPA, that there be some substantive changes to the Johnston HLW package as attached to the Energy and Water Appropriations bill. These concerns could be accommodated with floor amendments to the Appropriations Bill. But, this would seem to have to be coupled with getting credit for the budget savings the bill achieves to get the Committee out of their dilemma of not having an easy way to acheive their mark.

At this point in time it appears that neither Simpson or Breaux have been directly involved in Johnston's efforts to gain passage of the Energy Appropriations bill with the new HLW legislation. Johnston's effort, thus far, has concentrated on dealing with the leadership, and Senators Sasser, Reid and Adams to attempt to assauge their intent to filibuster and after failing that offering a plethora of floor amendments. If nothing else Breaux and Simpson did get Johnston's attention, and, in the Exchange's view, their concerns will most assuredly be accommodated by more than just lip service.**

OCRWM ISSUES SUPER GORILLA INTEGRATOR CONTRACTOR RFP

On October 5, the Department of Energy (DOE) issued, as planned, a Request of Proposals (RFP) seeking outside contractors interested in the management and operating contract for "systems engineering, development and management of the nuclear waste management system for the Office of Civilian Radioactive Waste

Management (OCRWM)" -- The Super Gorilla Integrator Contractor. According to the RFP the contract is to be awarded for a ten-year period at an estimated cost of $100 million per year -- a total of 1 billion dollars! The selection of the contractor is to be made by May 1988. The closing date for proposal submission is January 15, 1988. A bidders' conference is scheduled for 8:30 a.m. on November 5, 1987 at DOE's Headquarters in Washington, D.C.

The RFP makes no reference to ongoing Congressional initiatives that will undoubtedly change the structure of the program.

Work Statement Assumes Three Sites

The RFP was written as if OCRWM will proceed to characterize three sites, requiring the contractor to have offices for each of the three projects-- Basalt, Tuff, Salt.

As summarized in the RFP the contractor is: responsible for design and analysis of the Nuclear Waste Management System to ensure that the system is optimized and that the interfaces between the system elements are clearly specified and controlled, including transportation considerations; assigned specific responsibilities to ensure that the first repository candidate sites are characterized and that the selected site is engineered and developed through receipt of an NRC Construction Authorization; to provide the strategy options, leadership, and resources to assist DOE in obtaining the Nuclear Regulatory Commission (NRC) licenses; required to perform Title III Design and Inspection, and to support DOE and the selected repository operator in obtaining the license to operate the first repository and in preparing for acceptance testing and operations; assigned responsibility for the second repository in areas such as interpretating second repository requirements with the other elements of the Nuclear Waste Managements System and assisting second repository program participants to comply with the NWPA, and is (should Congress approve the MRS) required to provide design and licensing services for the MRS, unless and until DOE makes a decision to transfer these services to a separate requirement to be competed.

Management Scheme

According to the convoluted management scheme the contractor and OCRWM headquarters staff will have responsibility over the project and operations offices. Field contractors will apparently be managed jointly by the Super Gorilla contractor and the project offices, with exploratory shaft and design construction contrators reporting to the project and operations offices, who in turn will report to the Super Gorilla contractor and OCRWM headquarters.

Price Anderson Coverage?

The RFP notifies the contractors that liability coverage for incidents arising from the use of nuclear materials is intended to be provided under Price-Anderson once it is reauthorized. No provisions are made for the contractor assuming liability for incidents arising out of its own gross intelligence of willful misconduct.

Vague Conflict of Interest Provisions

The Department will generally determine whether an organizational conflict with current work exists by considering the following two questions:

> Are there conflicting roles which might bias a contractor's judgement in relation to its work for the Department? Is the contractor being given an unfair competitive advantage based on the performances of the contract?

The contracting officer may make the award, despite a conflict, if it is in the best interest of the United States. All DOE current contractors and subcontractors are required to fully discuss how their proposals were prepared in order to demonstrate how conflicts were avoided in proposal preparation. A contractor may omit certain "work" elements from his proposal if their undertaking would constitute a conflict and if permitted to do so under the RFP. **

Wrap Up (HLW)

IN THE CONGRESS

HLW LEGISLATION Negotiations continue between **Senator Johnston and McClure's** staffs and those of Senators who oppose inclusion of the Johnston-McClure-Energy bill in the Energy and Water Appropriations bill. Now Environment and Resources Committee staff are getting involved given Senator Breaux's and Simpson's recent actions (See related story this issue). So far, no firm accomodation has been reached to avoid the opposition's intent of launching a filibuster and once its broken filling the floor with numerous amendments. The Bork controversy and nomination vote has made the scheduling floor action on any bills a major problem. There was some speculation among Senator staffers on Thursday afternoon (October 15) that the Energy and Water Appropriations bill may be brought up around October 21.

The **House Energy Subcommittee,** chaired by Congressman Phil Sharp, is to hold a hearing on the Udall-cosponsored HLW bills on October 16 (as this edition was being printed). NRC and DOE are to testify. No further action is currently planned by the Committee. A report on the hearing will appear in the next issue.

Calendar

October

16 **Hearing; House Commerce Energy Subcommittee; New HLW Bills; Contact Sue Sheriden (202) 225-2600**

21 **Possible Senate Floor Action; Energy and Water Appropriations Bill (HR2700); including Johnston--McClure Energy Committee HLW Bill.**

20 **Markup; House Interior Subcommittee on Energy & Environment; Udall HLW Bills (HR2888) (HR2967); Contact Sam Fowler (202) 225-8331**

21-22 **Meeting: OCRWM; Quality Assurance Coordinating Group Meeting; Amarillo, TX; Contact; Karl Sommers (202) 586-1639.**

27-29 Workshop: Radioactive Waste Packaging, Transportation and Disposal; Sheraton Charleston Hotel, 170 Lockwood Drive, Charleston, SC; Spons: Chem-Nuclear Systems, Inc.; Contact: Jan E. Folk (301) 259-1781 or Tammi Pennington (803) 256-0450.

27-29 **Workshop: Evaluation of Low Level Radioactive Waste Disposal Techonologies; Spons: Electric Power Research Institute; The Sheraton World, Orlando, FL, (800) 327-0363; Registration fee: EPRI member $100; Non-member $400; Contact: Norine Ferris (415) 855-2026).**

29-30 Conference: Nuclear Materials Licensee Conference; Ambassador West Hotel, Chicago, IL; Contact: Illinois Department of Nuclear Safety, Office of Radiation Safety (217) 785-9918.

November

4 **Meeting: Northwest Compact Committee; The Sheraton Missoula Hotel, 200 South Pattee Street, Missoula, Montana, Contact Elaine Carlin (206) 459-6244.**

5 **Bidders's Conference: Super Gorilla Contract RFP, Washington, D.C.; DOE 8:30 a.m.; Contact Aleta Egeland (202) 586-1360.**

8-10 **Meeting: Legislative Working Group on High-Level Waste/Transportation Working Group; The Adam's Mark Hotel, St. Louis, MO; Fee: $65.00: Contact: Cheryl Runyon, National Conference of State Legislatures, (303) 623-7800**

13 Annual Conference: Calrad Forum "The Future for Low-Level Waste Management and Disposal in California;" Radisson Plaza Hotel, Manhattan Beach, CA.; Contact: Jean Parker, Administrative Director, CRMMF, P.O. Box 40279, San Francisco, CA 94140 (415) 647-3353.

14 Workshop: Calrad Forum "Radioactive Materials Users' Workshop: Working Together to Promote the Development of New LLRW Disposal Facilities;" Radisson Plaza Hotel, Manhattan Beach, CA.; Contact: Jean Parker, Administrative Director, CRMMF, P.O. Box 40279, San Francisco, CA 94140 (415) 647-3353.

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

15-19 Meeting: American Nuclear Society; Los Angeles, CA; Contact: ANS Meetings Dept. (312) 352-6611.

17-19 **Meeting: OCRWM; Repository/Waste Package Coordinator Group; Washington, DC; Contact Mark Frei, (202) 586-9322.**

November-December

30-5 Conference: International Waste Management Conference; Kowloon, Hong Kong, Westin Shangri-La Hotel; Spons: ASME/IAEA/AESJ/Canada Nuc. Soc./-ANS/Rep. China Nuc. oc./ENS; Contact: Larry Oyen, Sargent & Lundy, (312) 269-6750.

December

1-3 Short Course: Packaging and Transportation of Radioactive Waste Material; emphasizes "hands on" skills in dealing with regulatory compliance, techniques and procedures and disposal facility requirements. Las Vegas, NV; Fee: $525.00 (includes a tour of a LLRW disposal facility); Contact: Peggy Thompson, US Ecology Nuclear, 9200 Shelbyville Road, Suite 300, Louisville, KY 40222; (800) 626-5334.

1-3 **Meeting: OCRWM; Institutional Socioeconomic Coordinating Group; Las Vegas, NV; Contact Barry Gale (202) 586-1116.**

4 **Meeting: Rocky Mtn Compact Board; Some place in Nevada; Contact: (303) 825-1912**

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