

Northwest Interstate Compact

On Low-Level Radioactive Waste Management

P.O. Box 47600, Olympia, Washington 98504-7600. (360) 407-7102. Mike Garner, Executive Director

June 29, 2000

Mr. Paul Lohaus, Director
Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville, MD 20852

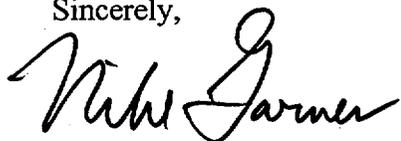
Dear Mr. Lohaus:

At the June 13, 2000 meeting of the Northwest Interstate Compact Committee, the Dawn Mining Company, in accordance with U.S. Nuclear Regulatory Commission guidance document 60 FR 49296, Criteria 8, sought the approval of the Compact Committee to dispose of non-11.e(2) material in a licensed 11.e(2) tailings disposal area. Following review and discussion of this issue, the Northwest Compact Committee concluded that in this instance the approval of the Northwest Compact is not required (see enclosure).

Please review and comment on the draft response prepared on behalf of the Northwest Compact Committee addressing the request made by the Dawn Mining Company. Specifically, I would like to ensure that such a letter meets the guidance requirements of 60 FR 49296, Criteria 8.

The Northwest Compact Committee is holding a conference call meeting on July 21, 2000 to finalize its response to the Dawn Mining Company. If at all possible it would be very helpful to receive your comments before this meeting. Please submit your comments to Mike Garner, Executive Director, Northwest Interstate Compact at P.O. Box 47600, Olympia, WA 98504-7600. If you have any questions please contact Mike Garner at (360) 407-7102. Your assistance in this matter is greatly appreciated.

Sincerely,



Mike Garner, Executive Director
Northwest Interstate Compact

Enclosure

cc: Mr. Dennis Sollenberger, Office of State and Tribal Programs
Northwest Compact Committee Members

ALASKA . HAWAII . IDAHO . MONTANA . OREGON . UTAH . WASHINGTON . WYOMING

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Mr. Paul Lohaus, Director
Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike, 3rd Floor
Rockville, MD 20852

Dear Mr. Lohaus:

On June 13, 2000, Dawn Mining Company came before the Committee of the Northwest Interstate Compact on Low-Level Radioactive Waste Management seeking the approval of the Committee to dispose of non-11e. (2) material in a licensed 11e. (2) impoundment at its mill site located near Ford, Washington. The non-11e. (2) material is source material, water treatment plant sludge originating at the Midnite Mine site located on the Spokane Indian Reservation. Dawn Mining Company stated this was part of the approval process required under the Nuclear Regulatory Commission guidance document 60 FR 49296, which states, "The 11e. (2) licensee must provide documentation showing approval by the Regional Low-Level Waste Compact in whose jurisdiction the waste originates as well as approval by the Compact in whose jurisdiction the disposal site is located."

The proposal submitted by Dawn Mining Company to the Washington State Department of Health includes no waste from any sources other than the mine or mill sites currently operated by the company. The Northwest Interstate Compact Committee does not believe a decision is required on the part of the Committee as disposal would occur on property that was established and is maintained by Dawn Mining Company for the express purpose of management of their own waste. Therefore the site is not a "regional facility" requiring the approval of the Compact Committee, as defined in Article IV, Section 1 of the Compact.

The Compact therefore is of the view that no approval by the Northwest Compact is required for the activity covered in the application. The Compact does not intend to waive any authority granted to it by law, nor is this intended to cast any question concerning the full authority of the State of Washington or any other Northwest Compact member state to approve or regulate such activities in question to the extent granted by federal and state law.

Sincerely,

Mike Garner, Executive Director
Northwest Interstate Compact

Enclosure

cc: Mr. Gary Robertson, Washington State Department of Health
Mr. David Delcour, Dawn Mining Company
Northwest Interstate Compact Committee

Subtitle A—General Provisions

42 USC 2021d
note.*Infra.*42 USC 2021d
note.

Effective date.

42 USC 2021d
note.42 USC 2021d
note.
Alaska.
Hawaii.
Idaho.
Montana.
Oregon.
Utah.
Washington.
Wyoming.Health.
Safety.

SEC. 211. CONGRESSIONAL FINDING.

The Congress hereby finds that each of the compacts set forth in subtitle B is in furtherance of the Low-Level Radioactive Waste Policy Act.

SEC. 212. CONDITIONS OF CONSENT TO COMPACTS.

The consent of the Congress to each of the compacts set forth in subtitle B—

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended; and

(3) is granted only for so long as the regional commission, committee, or board established in the compact complies with all of the provisions of such Act.

SEC. 213. CONGRESSIONAL REVIEW.

The Congress may alter, amend, or repeal this Act with respect to any compact set forth in subtitle B after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.

Subtitle B—Congressional Consent to Compacts

SEC. 221. NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT.

The consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows:

"NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE
WASTE MANAGEMENT

"ARTICLE I—POLICY AND PURPOSE

"The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

"ARTICLE II—DEFINITIONS

"As used in this compact:

"(1) 'Facility' means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

"(2) 'Low-level waste' means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten (10) nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

"(3) 'Generator' means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

"(4) 'Host state' means a state in which a facility is located.

"ARTICLE III—REGULATORY PRACTICES

"Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

Transportation.

"(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

"(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

"(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

"(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

"(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Transportation.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this article.

"ARTICLE IV—REGIONAL FACILITIES

"(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

"(2) No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in article V.

"(3) Until such time as paragraph (2) of article IV takes effect, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

"(A) The generator's name and address;

"(B) A description of the contents of the low-level waste container.

Regulations.

"(C) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable Federal regulations and such additional requirements as may be imposed by the host state;

"(D) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

Health.
Safety.

"(4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one (1) party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

Hazardous
materials.
Washington.
Oregon.
Idaho.
Prohibition.

"(5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the State of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

"(6) Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

"ARTICLE V—NORTHWEST LOW-LEVEL WASTE COMPACT COMMITTEE

"The governor of each party state shall designate one (1) official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact.

The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of article IV to the contrary, the committee may enter into arrangements with states provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds (2/3) vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

Regulations.

“ARTICLE VI—ELIGIBLE PARTIES AND EFFECTIVE DATE

“(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two (2) states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

Alaska.
Hawaii.
Idaho.
Montana.
Oregon.
Utah.
Washington.
Wyoming.
Effective date.

“(2) After the compact has initially taken effect pursuant to paragraph (1) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

“(3) Paragraph (2) of article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in public law 96-573, Congress may withdraw its consent to the compact after every five (5) year period.

Effective date.
42 USC 2021b
note.

“ARTICLE VII—SEVERABILITY

“If any provision of this compact, or its application to any person or circumstances, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable.”

Provisions held
invalid.

SEC. 222. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

42 USC 2021d
note.

The consent of Congress is hereby given to the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the Central Interstate Low-Level Radioactive Waste Compact, and to each and every part and article thereof. Such compact reads substantially as follows:

Arkansas.
Iowa.
Kansas.
Louisiana.
Minnesota.
Missouri.
Nebraska.
North Dakota.
Oklahoma.