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FINAL REPLY:

Dirk Kempthorne
Governor of Idaho
Western Governors' Association

TO:

Chairman Meserve

FOR SIGNATURE OF : ** GRN **

CRC NO: 00-0548

DESC:

Policy Resolutions on Significant Issues and
Federal Legislation Affecting the West

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AUTHOR: CHRM Dirk Kempthorne
AFFILIATION: ID-GOV
ADDRESSEE: CHRM Richard Meserve
SUBJECT: Concerns Western Governors' policy resolutions on significant issues and federal legislation affecting the West

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August 14, 2000



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Richard A. Meserve
Chairman
U.S. Nuclear Regulatory Commission
One White Flint North Building
11555 Rockville Pike
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Dear Mr. Meserve:

As Chairman of the Western Governors' Association, I am pleased to provide you with copies of selected policy resolutions which were adopted by the Western Governors at their 2000 Annual Meeting. The Western Governors' policy resolutions express the Governors' collective position on significant issues and federal legislation affecting the West.

We believe that you will find the enclosed policy resolutions of special interest and encourage you to examine them. The Western Governors are interested in your response and opinions regarding the issues identified by the Governors' resolutions. We also encourage you to identify other issues you believe are affecting the West.

WGA is an association of Governors from eighteen Western states and three Pacific-flag islands. As expressed in the resolutions before you, the Governors believe that cooperation among the States, the Administration, Congress and those who live in the West is essential to effectively address these issues.

Please contact either me, or Jim Souby, Executive Director of WGA, if you have comments or questions regarding these WGA resolutions or the Association's programs. If you would like other WGA policy resolutions, you may contact the Denver office or log onto the WGA homepage (www.westgov.org).

Sincerely,

Dirk Kempthorne
Governor of Idaho
Chairman

enclosures



Policy Resolution 00 - 016

U.S. Department of Energy Waste Isolation Pilot Plant (WIPP) and TRU Waste

**Western
Governors'
Association**

Annual Meeting
June 13, 2000
Honolulu, Hawaii

SPONSOR: Governor Johnson

A. BACKGROUND

1. For over 50 years, the United States has been involved in the research, development and production of nuclear weapons using a national network of facilities, including U.S. Department of Energy (DOE) sites in six Western states. As a result, large quantities of radioactive and hazardous chemical waste have accumulated. Much of this existing waste poses a serious threat to public health and the environment.
2. At DOE facilities in Western states, millions of cubic feet of transuranic (TRU) wastes -- some mixed with hazardous chemical wastes -- await permanent disposal. Some are in temporary retrievable storage. However, prior to 1970, much of this waste was buried in shallow trenches or discharged as liquid onto the ground, resulting in considerable contamination of both soil and groundwater. More waste will be generated as a result of continuing stewardship of the U.S. nuclear weapons stockpile, environmental remediation activities, and decontamination/decommissioning of aging facilities at DOE sites.
3. The Waste Isolation Pilot Plant (WIPP) in New Mexico was constructed to serve as a permanent repository for selected defense-related TRU wastes. On March 26, 1999, WIPP received its first shipment of contact-handled TRU waste from the Los Alamos National Laboratory. The opening of WIPP occurred only after DOE demonstrated compliance with all applicable regulatory requirements and withstood several legal challenges.
4. To date, the WIPP shipping campaign has proceeded in a safe and uneventful manner. The success of the WIPP campaign is directly attributable to a cooperative effort between DOE and the Western states in a regional program to plan, develop and implement the Western Governors' Association (WGA) WIPP Transportation Safety Program. This program addresses both accident prevention and emergency response, with much attention focused on public information, participation and outreach.
5. The cleanup, transport and permanent disposal of radioactive and hazardous chemical wastes at DOE facilities continue to be issues of vital concern to the

Western states. As the only permanent repository for defense-related TRU waste, the WIPP is an integral component of DOE's national cleanup program and is critical to its success.

6. The DOE has designated up to 23 sites as "Small Quantity Generator Sites." These sites, due either to their size or location, will need to ship their TRU waste to another location for characterization and/or repackaging before shipping it to WIPP. Potential interim sites include larger DOE facilities, WIPP and private waste handling companies. DOE is currently estimating that there will be over 11,000 inter-site shipments. These inter-site shipments may have serious health and safety implications for our citizens.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors believe that the continuing safe transport and operation of WIPP is paramount to the expeditious cleanup and disposal of TRU waste from the U.S. nuclear weapons complex.
2. The Western Governors express their expectation that DOE will fulfill the commitment made by the Secretary of Energy in the 1996 Memorandum of Agreement and follow the WGA procedures as contained in the WIPP Transportation Safety Program Implementation Guide, as amended, for the transport of all transuranic waste through the Western states, whether to WIPP or to an interim site for storage, characterization and/or repackaging. The Governors further encourage the Secretary to provide the DOE-Carlsbad Area Office with the resources to implement their charter as the National TRU Waste Program to manage all transuranic waste handling and transportation activities.
3. To ensure the preceding objectives are met, the Western Governors support the following policy positions:
 - a. DOE must continue to comply with both the letter and spirit of all applicable requirements specified in the WIPP Land Withdrawal Act (Public Law 102-579, as amended by P.L. 104-201).
 - b. DOE must work cooperatively with the U.S. Environmental Protection Agency (EPA) in its ongoing recertification of WIPP's compliance with the applicable disposal standards and criteria in 40 CFR Parts 191 and 194. DOE's strict compliance with those EPA standards is imperative.
 - c. DOE must take immediate action to secure and/or allocate additional funding to TRU waste characterization/certification activities at DOE sites in order to facilitate the timely, efficient cleanup of the U.S. nuclear weapons complex. These funds should not be taken from the WIPP program, thereby limiting its ability to increase throughput, meet safety and environmental requirements and continue the safe and uneventful transport of these wastes.

- d. DOE must expeditiously pursue the procurement of additional TRU waste transportation containers in order to achieve WIPP's maximum rate of waste receipt as expeditiously as safety and compliance considerations will allow.
- e. DOE must continue to provide in-kind, financial, technical and other appropriate assistance to any state or Indian tribe through whose jurisdiction TRU waste will be transported for the purpose of planning, developing and implementing WGA TRU waste and WIPP-specific transportation safety programs.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. WGA shall convey this resolution to the appropriate members and committees of the U.S. Congress, the Secretaries of Energy and Transportation, the Chairman of the U.S. Nuclear Regulatory Commission (NRC), and the Administrator of the U.S. Environmental Protection Agency (EPA).
2. In accordance with the policy established by this resolution, the WGA and its Technical Advisory Group for WIPP Transportation are directed to work cooperatively with the Congress, DOE, the Department of Transportation, NRC, and EPA to ensure the continuing safe and uneventful transport of TRU waste to WIPP.
3. WGA is directed to monitor DOE's progress toward achieving the policy objectives specified in this resolution and to report its finding and recommendations to the Western Governors.

This resolution was originally adopted as Policy Resolution 89-006 in 1989 and was readopted in 1992, 1995, 1998 and 1999.

Approval of a WGA resolution requires an affirmative vote of two-thirds of the Board of the Directors present at the meeting. Dissenting votes, if any, are indicated in the resolution. The Board of Directors is comprised of the governors of Alaska, American Samoa, Arizona, California, Colorado, Guam, Hawaii, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Northern Mariana Islands, Oregon, South Dakota, Texas, Utah, Washington and Wyoming.

All policy resolutions are posted on the WGA Web site (www.westgov.org) or you may request a copy by writing or calling:

Western Governors' Association
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**Western
Governors'
Association**

POLICY RESOLUTION 00 - 031

Private Storage of Commercial Spent Nuclear Fuel

Annual Meeting
June 13, 2000
Honolulu, Hawaii

SPONSORS: Governors Leavitt and Guinn

A. BACKGROUND

1. The Nuclear Waste Policy Act of 1982 requires the Federal Government to provide for permanent disposal of spent nuclear fuel.
2. The Nuclear Waste Policy Act requires the owners and operators of nuclear power reactors to assume primary responsibility for providing interim storage of spent nuclear fuel. The Act requires that federal officials expedite the effective use of existing reactor storage facilities and the addition of needed new storage capacity, consistent with:
 - a. Protection of public health and safety, and the environment;
 - b. Economic considerations;
 - c. Continued operation of such reactor;
 - d. Any applicable provisions of law; and
 - e. Views of the population surrounding such reactor.
3. U. S. Department of Energy (DOE) originally projected that a deep geologic repository would be available for acceptance of spent nuclear fuel in 2003. Recently DOE revised their schedule to project that the repository will not be available until at least 2010.
4. Both DOE and the Nuclear Regulatory Commission (NRC) have determined that technology for safe, cost effective, dry cask, at-reactor storage exists, and some designs are currently licensed and in use in this country and abroad.
5. On December 1, 1989, the Western Governors' Association adopted Resolution 89-024 which stated that spent nuclear fuel should remain at reactor sites until a state has agreed to storage and DOE provides reasonable transportation, safety, and emergency response assurances to the western states. The resolution was re-adopted in 1992, 1995, 1997, and 1999.

6. WGA's current resolution 99-014 effectively expresses concerns with DOE interim storage sites. However, similar concerns exist with a private high level nuclear waste interim storage facility, which could be sited in the West, distant from existing reactors.
7. At a private, interim storage facility, each nuclear utility that stores spent nuclear fuel will retain ownership and liability for its own waste.
8. Moreover, federal resources will not be available to enhance state and local infrastructure and emergency response capabilities.
9. Without an available permanent disposal site, there is no guarantee that a private interim storage site will be temporary. There is no way to ensure that spent fuel rods which are shipped and stored at a private temporary or interim facility will ever be removed.
10. Under its current regulatory authority, NRC can license a surface storage area for 20 years. The license may be renewed. NRC has determined that spent fuel can be stored safely for 100 years and some congressional bills have called for an initial 100 year licensing period. However, there is no data that surface storage is viable for longer than 100 years.
11. The General Accounting Office, with concurrence from DOE, has determined that sufficient temporary capacity exists for spent fuel to be stored at existing sites, pending completion of a permanent disposal facility.

B. GOVERNOR'S POLICY STATEMENT

1. It is the objective of the Western Governors' Association (WGA) to support the national policy for permanent deep geologic disposal of spent nuclear fuel. Congress and the Administration should recognize that, if a permanent deep geologic repository does not open on schedule, most reactor sites are believed to have the capacity for additional on-site storage.
2. A private interim storage facility shall not be located within the geographic boundaries of a western state without the written consent of the governor.
3. Commercial spent nuclear fuel should remain at the reactor site until:
 - a. A permanent storage/disposal site is operational.
 - b. DOE and the nuclear utility companies have worked with the corridor states to implement an acceptable transportation plan for shipping the waste to permanent storage or disposal sites.

- c. DOE and the nuclear utility companies have put into place adequate infrastructure capacity to handle, store, and dispose of this waste.
 - d. DOE, the U.S. Department of Transportation and the nuclear utility companies have ensured adequate state and local emergency and medical responder training and the resources in case of an accident or mishap while shipping this waste.
4. It is not the intent of this resolution to interfere with DOE's compliance with agreements that have been negotiated with the western states for the cleanup of DOE sites and facilities or which are contained as part of a court decree or settlement agreement, such as those now in place between DOE and the states of Colorado, Idaho, and Washington.

C. GOVERNOR'S MANAGEMENT DIRECTIVE

1. The WGA shall convey this resolution to the appropriate members and committees of Congress, the Secretary of Energy, Secretary of Transportation, chairman of the Nuclear Regulatory Commission, and the nuclear utilities.
2. The WGA and the Waste Task Force are to work with Congress, the Nuclear Regulatory Commission, the U.S. Department of Energy and the National Association of Utility Regulators to develop the appropriate elements of policy to anticipate the need for interim storage at reactor sites.

This resolution originally adopted in 1997 as policy resolution 97-007.

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