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Western Interstate Energy Board/ WINB

June 19, 1998

Dr. Edward Y. Shum
Environmental Project Manager
Spent Fuel Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards
Nuclear Regulatory Commission
Washington, D.C. 20555

RE: Scope of the Private Fuel Storage, L.L.C. (PFS) Environmental Impact Statement

Dear Dr. Shum:

The following comments are submitted on behalf of the High-Level Radioactive Waste (HLW) Committee of the Western Interstate Energy Board. The Board is appointed by the governors of the participating states. The HLW Committee of the Board is comprised of representatives from 11 western states who have experience and expertise in nuclear waste transportation. The Committee has been involved in examining issues associated with the transportation of spent nuclear fuel (SNF) and high-level radioactive waste over the past 15 years and has over that time offered the U.S. Department of Energy comments on preparations for potential shipments of SNF and HLW under the Nuclear Waste Policy Act.

Based on this experience, the Committee and the Western Governors' Association have identified key elements that are necessary for the safe and uneventful shipment of spent nuclear fuel. These include evaluation of alternative shipping modes and routes and assessment and mitigation of risks to corridor communities. The Committee urges NRC to include a full and complete analysis of the impacts of transportation in the PFS EIS.

The Committee believes:

1. There are inescapable parallels and linkages between the PFS proposal and the Nuclear Waste Policy Act (NWPA);

2. The requirements for a safe and uneventful shipping campaign under the PFS proposal and under the NWPA are essentially the same;

3. It is unreasonable and may violate National Environmental Policy Act (NEPA) requirements to limit the scope of the PFS EIS to systematically exclude an evaluation of major transportation impacts resulting from the PFS proposal; and

4. The scope of the PFS EIS must include an evaluation of transportation alternatives and impacts.

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Similarities of the PFS Proposal to Shipments Under the NWPA

The PFS proposal is being advanced because of the failure of the federal government to accept spent nuclear fuel in 1998 under the Nuclear Waste Policy Act. Many, if not all, of the impacts on corridor states from SNF shipments to a potential repository (e.g.,Yucca Mountain) would be present in shipments to the proposed Private Fuel Storage facility in Utah. It is likely that many of the transportation corridors will be the same and the potential impacts on transit communities will be the same.

For example:

- The unprecedented volume of spent fuel to be shipped under the PFS proposal (40,000 metric tons initially with possibly another 40,000 metric tons later) is of a similar magnitude as proposed shipments under the NWPA (70,000 metric tons). In both cases, the magnitude of shipments resulting from the operation of the proposed storage facility will be many times greater than has previously been experienced in the history of nuclear waste transportation in the United States. We would also note that, even under PFS's preferred scenario involving only rail shipments, a number of reactors likely to ship under the PFS proposal do not have rail access and may require truck shipment. If the SNF is shipped by truck, the number of individual shipments would increase substantially beyond PFS's expectations.

- The type of material to be shipped under the PFS proposal is the same as that which would be shipped under the NWPA.

- All the PFS shipping origins are also projected origins under the NWPA.

- The range of potential routes to be used under the PFS proposal is similar to those available for shipments under the NWPA proposal.

- The distance shipments would have to travel under the PFS proposal is comparable to the distance of potential shipments under the NWPA. In both cases the shipments will traverse numerous states and impact numerous corridor communities.

- The potential carriers used by PFS are the same as those that would be used under the NWPA.

- The potential impact to the public and the environment in the event of a severe transportation accident would be similar for both PFS and NWPA shipments.

These similarities dictate that the key elements identified by both the HLW Committee and western governors as necessary for a successful shipping campaign under the NWPA must also apply to shipments to the proposed PFS facility.

Comparison of What Is Needed Under the NWPA and the PFS Proposal

The following table provides an overview comparison of the views of western states on actions needed for safe and uneventful shipments under the NWPA and actions likely to be taken under the PFS proposal. Attached to these comments are the referenced resolutions adopted by the Western Governors' Association.

Comparison of Positions on Elements of NWPA Transportation System

Transportation Element	**Actions necessary for safe and uneventful shipment under the NWPA (per WGA policies)**	**Required under the PFS proposal**
Transportation Planning	In Resolution 89-024, WGA states that spent nuclear fuel should remain at commercial facilities until there is an acceptable transportation plan for shipping to western disposal sites and until there is adequate infrastructure capacity to handle and dispose of the waste.	None.
Mode and route analysis and selection	In Resolution 93-003 and 95-020, WGA calls on DOE to "develop a sound methodology for evaluating optional mixes of routes and transportation modes." In Resolution 96-019, WGA continues to insist that DOE "identified shipping routes" before shipments began.	None. The only requirement is the NRC safeguards requirement which does not include an analysis of the overall safety of alternative routes and modes. The NRC has never denied a proposed shipping route.
Assistance to state, tribal and local governments	In Resolution 93-003, WGA calls on DOE to "fulfill emergency preparedness requirements (sec. 180)." In Resolution 97-015, WGA calls on DOE to promulgate regulations which would prohibit shipments if "funds and assistance have not been made available to states and tribes." In Resolution 95-020, WGA calls for technical assistance and training funds and a prohibition on shipments to an interim storage facility unless the funds were provided. In Resolution 96-019, WGA finds DOE policies for implementing 180(c) inadequate and that states must be "fully compensated..."	None.

Transportation Element	Actions necessary for safe and uneventful shipment under the NWPA (per WGA policies)	Required under the PFS proposal
Operational elements	In Resolution 89-024, WGA calls for DOE to develop an "acceptable transportation plan." In Resolution 92-004, WGA urges DOE to apply lessons learned through the WIPP safety program to other DOE shipping campaigns. In Resolution 95-020, WGA again calls for a "comprehensive transportation plan."	None.
Cask testing	In Resolution 93-003 and 95-020, WGA calls for DOE to conduct full-scale cask testing	None.

The western governors have thus made clear that a comprehensive transportation plan is necessary for a shipping campaign of the magnitude contemplated for the NWPA or under the PFS proposal. Such a plan would: evaluate alternative shipping modes and routes to determine the safest combination of shipping mode and route; identify assistance that will be needed to ensure communities along shipping routes are prepared[1]; and establish operating protocols (e.g., advance notification procedures, real-time tracking mechanism; carrier operating protocols such as speed limits, pre-shipment route inspection procedures; emergency response protocols; safe parking procedures).

The PFS EIS should undertake much of the analysis contemplated in a comprehensive transportation plan and incorporate the results as the preferred alternative in the EIS.

The Scope of the PFS EIS Must be Expanded to Include an Evaluation of Transportation Alternatives and Impacts

Under the PFS proposal, the EIS is the only vehicle for a comprehensive evaluation of impacts of transportation alternatives. To the knowledge of the HLW Committee, PFS is not under any other legal obligation to present a comprehensive evaluation of its proposal. Segmenting the impacts of the PFS proposal (e.g., excluding transportation outside the "region," excluding an evaluation of backhauling after storage) not only denies the states and the public a

[1] As illustrated by the enactment of the NWPA, it is Congress' intent to assist state and local governments in preparing for large-scale SNF/HLW shipments. In NWPA Section 180(c) Congress mandated that DOE provide such assistance for training to "cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations."

comprehensive assessment of the PFS proposal, but it may also violate NEPA.[2]

The HLW Committee of the Western Interstate Energy Board believes that the scope of the PFS EIS must include, at a minimum, the following:[3]

- An analysis of alternative transportation modes and routes. The analysis of routes should include not only the traditional assessment of distance, population exposure and time in transit, but should also examine factors which could (a) threaten the integrity of the cask, (b) pose problems in the recovery from an accident which did not result in a release of radioactive materials, and (c) cause delays in transit. The analysis of modes and routes should take into account recent work by the U.S. Department of Transportation under the Hazardous Materials Transportation Uniform Safety Act.

- An analysis of alternative operating protocols. For example, the EIS should consider the impacts of using special train protocols (dedicated trains traveling a maximum of 35 mph with one train stopping when another train passes).

- An analysis of the level of emergency preparedness along the likely shipping routes.

- An analysis of the impact of alternative shipping casks on shipment numbers and safety.

- An analysis of requisite coordination and communications with DOE's Civilian Radioactive Waste Management Program and with affected states and tribes.

- An analysis of the impacts from moving the spent fuel after its storage period (believed to be 20 years, or possibly 40 years, under the contract) either back to its origin or to a repository. Such an analysis would include the effects of fuel decay and degradation.

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[2] For example, under 40 CFR 1508.25 (a)(1) of the Council on Environmental Quality regulations, the scope of an EIS may depend on its relationship to other connected actions. According to the regulations, actions "...are closely related and therefore should be discussed in the same impact statement" if they:

"(i) Automatically trigger other actions which may require environmental impact statements;
"(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously;
"(iii) Are interdependent parts of a larger action and depend on the larger action for their justification."

The HLW Committee believes that these conditions apply in the case of transportation to the proposed PFS storage facility. For example, states along the transportation routes need to be prepared for shipments.

[3] In the NWPA program, DOE has committed to conduct such an analysis as part of a repository EIS. In Volume III of the Yucca Mountain Environmental Assessment, which was conducted in 1986, DOE stated that, "[t]he DOE believes that the general methods and national average data used are adequate for this stage of the repository-siting process. Route-specific analyses and an evaluation of the impacts on host States and States along transportation corridors will be included in the environmental impact statement. The route-specific analyses to be performed in the future will proceed in the following sequence: (1) define important parameters; (2) gather data; (3) develop models as required; (4) perform analysis; (5) consider mitigating measures; (6) report results." At a minimum, the PFS EIS should incorporate the same analysis as was committed to by DOE for NWPA shipments.

▸ An analysis comparing the impacts of extended at-reactor SNF storage versus transport to a centralized interim SNF storage facility.

The HLW Committee appreciates this opportunity to provide the NRC with comments on the scope of the PFS environmental impact statement.

Sincerely,

Ken Niles
Co-Chair

Captain Allan Turner
Co-Chair

cc: Western Governors' Association
HLW Committee

Western Governors' Association

Originally Adopted June 22, 1993, Modified and Readopted June 24, 1996

Resolution 93-003

Sponsor: Governor Batt

Subject: A Transportation Program for Shipment of Spent Fuel Under the Nuclear Waste Policy Act

A. BACKGROUND

1. Under the Nuclear Waste Policy Act of 1982 (NWPA), the federal government agreed to accept spent nuclear fuel from commercial nuclear reactors beginning on January 31, 1998. For the past 10 years nuclear utility ratepayers have been paying into the Nuclear Waste Fund to finance the disposal of spent fuel. Many of the nation's nuclear utilities have been relying on the federal government to take possession of the spent fuel for disposal beginning in 1998. The U.S. Department of Energy (DOE) is responsible for the management and permanent disposal of these wastes.

2. Disposal of spent fuel under the NWPA and the Nuclear Waste Policy Act Amendments of 1987 (NWPAA) will require transporting increasingly large quantities of spent nuclear fuel and high-level radioactive wastes.

3. As pressure has increased on DOE to honor the 1998 deadline, various schemes have been suggested to meet the deadline, including a December 1992 DOE proposal to quickly build interim storage capacity at an existing federal facility.

4. Western governors have recognized for some time that the successful management of spent nuclear fuel requires the development of a safe, publicly acceptable transportation plan. In 1985, 1988, 1991, and again in 1992, the WGA adopted policy resolutions urging DOE to develop a comprehensive transportation plan to guide all transportation decisions under the NWPA, the NWPAA, and other DOE nuclear waste programs (including mixed waste). Such a comprehensive plan is necessary to allow the federal government and the states to execute their respective responsibilities to ensure the safety of citizens along shipping routes and the uneventful movement of these wastes. DOE has yet to develop such a plan.

5. To help guide preparations for the shipment of spent nuclear fuel, the Western Interstate Energy Board has developed a strategic plan and a schedule of activities which need to be accomplished before large scale shipments can begin. This plan and schedule clearly show that there is insufficient time between now and 1998 to implement a prudent transportation plan.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors' Association finds that, as a result of previous federal government inaction and delays, and a lack of strategic planning involving stakeholders, DOE cannot develop a national transportation program in time to meet the 1998 spent fuel acceptance date.

2. In order to expedite development of a system for accepting commercial spent nuclear fuel and high-level radioactive waste, the federal government must expand its focus beyond siting and

develop, in coordination with the states, a logical, and timely transportation program. This involves DOE policy commitments to:

- develop responsible routing criteria;
- develop a sound methodology for evaluating optional mixes of routes and transportation modes;
- fix the shipping origins and destinations points as early as possible;
- ensure the availability of rail and truck shipping casks;
- expeditiously evaluate and select the design for a multi-purpose casks;
- conduct full-scale cask testing; and
- fulfill emergency preparedness requirements (Section 180 of the Nuclear Waste Policy Act Amendments) prior to shipping spent fuel.

3. The federal government should examine alternate waste acceptance options, such as providing funds to utilities for expanding on-site storage or for assessing other options.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. This resolution shall be conveyed to the President, Secretaries of Energy and Transportation, the chairman of the Nuclear Regulatory Commission, and appropriate members and committees of Congress.

2. The Western Governors' Association staff, in cooperation with the Western Interstate Energy Board, shall monitor the implementation of this resolution and provide the Department of Energy with assistance in the development and implementation of a plan for the transportation of spent nuclear fuel under the NWPA.

http://www.westgov.org/wga/policy/92004.htm

Western Governors' Association

Originally Adopted June 23, 1992, Readopted June 26, 1995

Resolution 92-004 (Revision 1)

SPONSORS: **Governors Johnson and Geringer**

SUBJECT: **U.S. Department of Energy Transport of Nuclear Waste**

A. BACKGROUND

1. This Nation must dispose of significant amounts of high-level and transuranic nuclear waste which continues to be held in temporary storage. The need for final disposal of this waste has become an issue of national concern.

2. The U.S. Department of Energy (DOE) is responsible for the management and permanent disposal of these wastes. Management and disposal will require transporting unprecedented quantities of high-level and transuranic nuclear waste.

3. Western states will bear most of the national burden of nuclear waste transport.

a. The Waste Isolation Pilot Plant (WIPP) in New Mexico is DOE's planned disposal site for transuranic waste.

b. The Yucca Mountain site in Nevada is being studied as the site for permanent disposal of commercial spent nuclear fuel and defense high-level waste.

c. DOE has temporarily stored defense nuclear waste at six sites located in western states: Hanford (Washington), Rocky Flats (Colorado), Idaho National Engineering Laboratory, Nevada Test Site, Lawrence Livermore National Laboratory (California), and Los Alamos (New Mexico).

d. DOE has proposed to bring spent fuel from foreign research reactors back to the United States for management as part of the national nuclear non-proliferation program.

e. DOE ships unclassified high-level and transuranic nuclear material among its facilities and other users. High-level cesium capsules are shipped in and out of the Hanford Washington facility.

4. Establishing public confidence that nuclear waste can be transported safely will require an extraordinary safety program, information to the public about that safety program and a continuing record of safe transportation.

5. The governors recognize the success of the transportation safety program developed under cooperative agreement among western states and DOE to prepare for transuranic radioactive waste shipments to WIPP. This safety program focuses on the states' prominent role in the areas of accident prevention, emergency response preparedness, and public awareness and participation. Components of the state/DOE WIPP program include:

http://www.westgov.org/wga/policy/92004.htm

a. selecting routes

b. inspecting shipments

c. ensuring high-quality drivers

d. safety audits of the carrier

e. restrictions for travel when weather and road conditions are unsafe

f. coordinated shipment scheduling and notification

g. computer and satellite tracking of each shipment

h. designating safe parking areas

I. radiation detection and safety equipment

j. emergency response planning, training and guidance

k. informing and involving the public

6. The WIPP Transportation Safety Program was successfully adapted for application to DOE's recently concluded Cesium-137 Capsule Return shipping campaign between a commercial facility in Colorado and the Hanford site. This shipping campaign experienced no accidents and was completed almost one year ahead of schedule and under budget.

7. The DOE has identified important actions that could be taken to improve its transport safety program. Its Transportation Assessment and Integration (TRAIN) planning process has identified areas for safety improvements and set useful program goals. The DOE has also taken important steps to improve communication and coordination with state, tribal, local, and professional associations through the Transportation External Coordination (TEC) Working Group.

B. GOVERNORS' POLICY STATEMENT

1. The objective of the Western Governors' Association is the safe and uneventful transport of nuclear waste from current temporary storage facilities to more suitable permanent repositories. The Western Governors are committed to working with Congress and DOE to achieve this objective.

2. Early coordination and effective communications with state, tribal, and local governments is essential to the ultimate success of any nuclear waste transportation safety program.

3. DOE should proceed expeditiously with the implementation of the initiatives identified in TRAIN to provide uniform safety procedures and coordination with state, tribal, and local governments for route-controlled DOE shipping campaigns and shipments to DOE facilities.

4. A safety and information program similar to that developed with western states for shipments of transuranic waste to WIPP should be utilized for all route-controlled DOE shipping campaigns. Safety programs should be evaluated and improved as needed.

http://www.westgov.org/wga/policy/92004.htm

5. DOE should work to identify flexible funding resources and cooperative agreements between their civilian, power and defense agencies as a means for supporting WGA and DOE application of lessons learned through the WIPP safety program to other DOE shipping campaigns.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Western Governors' Association shall convey this resolution to the Secretary of Energy, appropriate congressional committees and the western delegation.

2. The WGA Technical Advisory Group for WIPP Transport is directed to continue working cooperatively with DOE to establish and implement an exemplary safety program necessary to reach a high level of public confidence that nuclear waste can be transported in a safe and uneventful manner. The Advisory Group is also to continue working with DOE to adapt and apply the safety programs developed for WIPP shipments to other route-controlled DOE shipping campaigns and shipments to DOE facilities.

http://www.westgov.org/wga/policy/89024.htm

Western Governors' Association

Originally Adopted December 1, 1989, Readopted June 26, 1995

Resolution 89-024 (Revision 2)

SPONSOR: **Governor Miller**

SUBJECT: **Storage of Spent Commercial Nuclear Reactor Fuel**

A. BACKGROUND

1. Through the Nuclear Waste Policy Act of 1982 the Federal Government has the responsibility to provide for the permanent disposal of spent nuclear fuel.

2. Through the Nuclear Waste Policy Act, Congress found that the owners and operators of nuclear power reactors have 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. the 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. the views of the population surrounding such reactor.

3. The U.S. Department of Energy (DOE) originally projected that a 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. Since the repository will not be available for spent fuel disposal in 2003, commercial nuclear reactors in the nation will require additional spent fuel storage capacity beyond that which is, or can be made, available in existing spent fuel storage pools at the individual reactor sites.

5. 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.

6. The Monitored Retrievable Storage Review Commission has concluded that a Monitored Retrievable Storage System (Interim Storage Facility) is not justified as conceived under current law. They further concluded that spent fuel storage should be available away from the reactor site for health and safety emergencies. For circumstances which threaten the continued operation of reactors, a User-Funded Interim Storage facility (UFIS) should be built. The costs of such a facility should be incurred by the rate payers.

http://www.westgov.org/wga/policy/89024.htm

B. GOVERNORS' POLICY STATEMENT

1. It is the objective of the Western Governors' Association to support the national policy for permanent, safe, geologic disposal of spent nuclear reactor fuel. Congress and the Federal Government must anticipate that, if the permanent geologic repository does not open on schedule, most reactors will need interim storage. It must be assured that any interim storage is safe, cost effective and fiscally equitable to the rate payers.

2. The Western Governors' Association acknowledges the adoption by NRC of the statement of confidence for at-reactor passive storage. With the statement of confidence, and the permanent geologic repository not being available, the Western Governors' Association endorse at-reactor dry storage, where such storage is permissible under state law, as an acceptable means of interim storage until a permanent geologic repository becomes available.

3. An Interim Storage Facility shall not be located within the geographic boundaries of a state without that state's Governor's written consent.

4. The West is getting stuck with disposing of the nations nuclear and radioactive waste.

5. The West should be given assurances by DOE that disposal in the West is safe and acceptable.

6. Consequently, spent nuclear fuel waste should remain at commercial facilities until the following issues are resolved to the satisfaction of the western states:

a. That the DOE has an acceptable transportation plan for shipping this waste to western disposal sites.

b. That the DOE has adequate infrastructure capacity to handle and dispose of this waste.

c. That the DOE has ensured adequate responder training in case of an accident of mishap while shipping this waste to a western disposal

facility.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Western Governors' Association shall convey this resolution to the appropriate members and committees of Congress, the Secretary of the Department of Energy, and the Nuclear Regulatory Commission.

2. The Western Governors' Association 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.

http://www.westgov.org/wga/policy/97015.htm

Western Governors' Association

June 24, 1997

Resolution 97 - 015

SPONSOR: Governor Miller

SUBJECT: Fulfilling a Federal Obligation to Fund Preparations For Shipments of Spent Nuclear Fuel and High-Level Radioactive Waste

A. BACKGROUND

1. Section 180(c) of the Nuclear Waste Policy Act and similar provisions of new legislation proposed by Congress that would supercede the original NWPA Act requires the Secretary of Energy to provide technical assistance and funds to states and tribes for training required for the safe routine shipment and for emergency situations involving the transportation of spent nuclear fuel and high-level radioactive waste under the Act. Funds for implementing these provisions are derived from the users of nuclear power for management of commercial spent nuclear fuel and from the U.S. Treasury for the management of Department of Energy waste.

2. As a result of the Federal Government's policies on the storage and disposal of spent fuel and high-level radioactive waste, western transportation corridor states, local governments and Indian tribes will be required to expend substantial effort and resources to protect the public health and safety of their residents.

3. Sound, cost-effective preparation for spent fuel and high-level waste shipments requires adequate lead time. The cost-effective expenditure of Section 180(c) funds requires that shipping routes be identified early (as recommended in WGA Resolution 93-003) to enable states, tribes, and the federal government to focus resources on actual shipping routes and not allocate resources along all potential shipping routes.

4. The Department of Energy issued a Notice of Proposed Policy and Procedures in the Federal Register in May 1996, that set forth an approach to Section 180(c) implementation which would jeopardize western and other states' ability to assure the safe and uneventful transport of spent fuel and high-level radioactive waste and, at the same time, would subject states to potentially costly unfunded mandates.

5. The Department of Energy's impending failure to meet the objective of the Nuclear Waste Policy Act to begin picking up spent fuel from reactors in 1998 has spawned private sector activities to locate a Monitored Retrievable or Interim Storage facility in the West. If developed, such a private facility would trigger the potential shipment of 10,000 metric tons or more of spent fuel through the West. These shipments would occur outside the shipping system being developed by the Department of Energy and outside the waste management system envisioned under the Nuclear Waste Policy Act.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors strongly recommend that the Department of Energy expeditiously promulgate regulations to implement Section 180(c). Such regulations should:

a. Apply to all shipments to a Monitored Retrievable or Interim Storage facility and repository regardless of

http://www.westgov.org/wga/policy/97015.htm

whether such facility is operated by the Department of Energy or another entity;

b. Prohibit shipments of spent fuel and high-level waste to storage facilities or a repository if Section 180(c) funds and assistance have not been made available to states and tribes;

c. Provide for the development and funding of state and tribal plans that identify:

1) the minimum elements necessary to ensure safe routine transportation and procedures for dealing with emergency response situations,

2) the current emergency response and safe transportation capabilities along each corridor,

3) the activities needed to achieve the minimum elements necessary to ensure safe routine transportation and emergency response, and

4) performance measures to evaluate programs implemented under the plan.

d. Provide annual implementation grants to states and tribes with 75 percent of the grant funds allocated according to the number of projected shipment miles in the jurisdiction and 25 percent of the funds allocated by the Secretary to ensure minimum funding levels and program capabilities among impacted states and tribes;

e. Provide flexibility in the expenditure of Section 180(c) funds by states and tribes pursuant to the provisions of the state or tribal plan; and

f. Establish Regional Training Advisory Teams of states and tribes to review and coordinate plans along shipment corridors and a National Training Advisory Committee to report to the Department of Energy on progress and needed additional actions.

2. The Governors continue to insist that no shipments of spent fuel and high-level radioactive waste shall be made to storage facilities or a repository until DOE has identified shipping routes and Section 180(c) funds and assistance have been made available to states at least three years prior to the start of shipments, notwithstanding any sudden changes in DOE's shipping schedule.

3. The Governors recommend that the Department of Energy involve western states and tribes in the process of soliciting comments and developing final regulatory language that will implement the provisions of this policy statement.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. This resolution is to be conveyed to the Secretary of Energy and the appropriate committees of Congress. The Western Interstate Energy Board, in conjunction with the WGA staff, is directed to provide regulatory language to the Department of Energy as a beginning point for the promulgation of rules to implement Section 180(c).

Note: This policy resolution was originally adopted by the western governors in 1994 as 94-005. It was modified and readopted in 1997.

Western Governors' Association

June 24, 1996

Resolution 96-019

Sponsors: Governors Miller and Nelson

Subject: Funding for Emergency Preparedness for Spent Nuclear Fuel and High-Level Radioactive Waste Transportation

A. BACKGROUND

1. The Nuclear Waste Policy Act, as amended (NWPA) provides for the siting and construction of a repository for spent nuclear fuel and high-level radioactive waste (HLW) and for the transportation of spent fuel and HLW from over 100 generator sites around the country to the repository. Section 180 (c) of the Act requires DOE to provide technical and financial assistance to states "for training public safety officials of appropriate units of local government and Indian Tribes through whose jurisdiction [DOE] plans to transport spent nuclear fuel or high-level radioactive waste."

2. Bills pending before Congress would, if enacted into law, authorize the construction of an interim storage facility for spent fuel and HLW in Nevada and could result in the shipment of nuclear materials to such a facility as early as 1998.

3. Reports prepared for the U.S. Department of Energy (DOE) have identified over 100 cities with populations of 100,000 or more in 43 states that could be impacted by spent fuel shipments to a repository and/or an interim storage facility.

4. Data on spent fuel and high-level waste inventories indicates that there could be as many as 61,500 truck shipments and between 1,800 and 10,400 rail shipments during the 25 year loading phase of facility operations.

5. The ability of states and communities along nuclear waste transportation routes to adequately prepare to assure safe transport of these materials through their jurisdictions and to respond effectively to emergency situations requires that the federal government identify shipping routes at least five years prior to planned shipments, and provide financial and technical assistance for training and emergency preparedness at least 3 years before shipments begin.

6. In 1994, the Western Governors recommended that the Department promulgate regulations that would insure that each state located along a nuclear waste route would have access to adequate resources to assure safe transport of these materials and to respond to accidents and incidents (ref. WGA Resolution 94-005).

7. The NWPA specifically states that the generators of spent fuel and HLW are responsible for paying the costs of disposing those materials. The Nuclear Waste Fund was established to fund NWPA activities, including the transportation of spent fuel and HLW and preparedness and emergency response along potential shipping routes.

8. On May 16, 1996, DOE published a notice in the Federal Register seeking comments on proposed

policies and procedures for implementing its Section 180 (c) responsibilities. That notice articulates the Department's position that it is not required to provide funds and technical assistance for states and tribes to fully prepare for and respond to spent fuel and HLW shipments within their borders, but that DOE's responsibility is only to assist states and tribes to "incrementally increase their [current] level of preparedness for NWPA shipments." DOE also proposes to deny all funding for critical activities such as alternate route designation, route and risk assessment, emergency preparedness drills and exercises, record keeping, infrastructure improvement, and equipment maintenance. This comes at a time when both DOE and the Federal Emergency Management Agency are reducing funding for radiological and emergency responder training, monitoring equipment and preparedness.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors' Association finds that the Section 180 (c) implementing policies and procedures proposed in the May 16, 1996 Federal Register notice jeopardize western and other states' ability to assure safe and uneventful transport of spent fuel and HLW and, at the same time, subject states to potentially costly unfunded mandates.

2. The Governors believe it is the responsibility of the generators of spent fuel and HLW and the federal government, not the states, to pay for all costs associated with assuring safe transportation, responding effectively to accidents and emergencies that will inevitably occur, and otherwise assuring public health and safety.

3. The Governors believe implementing policies and procedures for Section 180 (c) of the NWPA must assure that states are fully compensated for all training, preparedness, and response costs associated with spent fuel and HLW shipments within their borders. Funding formulae for Section 180 (c) assistance to states must not be based on arbitrarily-established DOE criteria, but on state-specific assessments of need funded under Section 180 (c).

4. The Governors continue to insist that no shipments of spent fuel and HLW shall be made to storage facilities or a repository until DOE has identified shipping routes and Section 180 (c) funds and assistance have been made available to states at least three years prior to the start of shipments, notwithstanding any sudden changes in DOE's shipping schedule.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. This resolution shall be transmitted to the Secretary of Energy and made part of the record of decision with respect to the implementing policies and procedures for Section 180 (c) assistance. The resolution shall also be conveyed to the Secretary of Transportation, Chairman of the Nuclear Regulatory Commission, the Director of the Department of Energy Office of Civilian Radioactive Waste Management, members of the western delegation and committees of Congress, and the Governors of those western states and Indian tribes potentially affected by spent nuclear fuel and HLW transportation.

http://www.westgov.org/wga/policy/95020.htm

Western Governors' Association

June 26, 1995

Resolution 95 -020

SPONSORS: **Governors Leavitt, Nelson, and Miller**

SUBJECT: **Transportation of Spent Nuclear Fuel and High-Level Radioactive Waste**

A. BACKGROUND

1. This nation must dispose of significant amounts of spent nuclear fuel and high-level radioactive waste.

2. The federal government is responsible for the disposal of these wastes under the Nuclear Waste Policy Act (NWPA).

3. Plans of the federal government place a disproportionate share of the national burden of nuclear waste transportation on western states.

4. The governors recognize that a transportation program developed and implemented cooperatively with western states, such as that used for recent cesium shipments and that being planned for shipments to the Waste Isolation Pilot Plant, can be developed with proper planning and commitment by the federal government.

5. Pending litigation and proposed federal legislation have increased pressure on the federal government to accept private reactor spent nuclear fuel under the NWPA beginning in 1998, well before the Department of Energy's (DOE) plans to accept waste in 2010.

6. The analysis by and experience of western states show that adequate preparations cannot be in place to accommodate large scale shipments beginning in 1998.

7. For many years, western governors have consistently urged the federal government to develop a comprehensive transportation plan, including the preparation of contingency plans for events such as the early shipment of waste.

8. DOE has not prepared a comprehensive transportation plan and has no effective contingency plans to accommodate shipments beginning in 1998.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors' Association finds that as a result of federal government inaction and delays, and inadequate strategic planning involving stakeholders, a national transportation system cannot be in place in time to begin accepting spent nuclear fuel in 1998.

2. The objective of the Western Governors' Association -- the safe and uneventful transport of nuclear waste -- must be paramount in all federal policies affecting nuclear waste transportation.

http://www.westgov.org/wga/policy/95020.htm

3. Critical steps need to be taken to prepare for shipments, including but not limited to:

a. The preparation of a comprehensive transportation plan that includes the analysis of all needed transport safety activities in a single document;

b. The development of responsible criteria for selecting shipping routes;

c. The development of a sound methodology for evaluating optional mixes of routes and transportation modes;

d. The expeditious amendment of the Nuclear Waste Policy Act to provide states and tribes with technical assistance and training funds prior to any large-scale shipment of spent fuel to a repository and/or centralized storage facilities, whether such facilities are publicly or privately owned;

e. The prohibition on any major shipping campaign to interim storage facilities until such technical assistance and training funds have been provided at least three years prior to the commencement of any such shipping campaign;

f. Adoption of regulations to implement a mutually acceptable program of technical assistance and training funds, such as those recommended by the Western Governors' Association;

g. Appropriations to fund technical assistance and training monies to states and tribes through whose jurisdiction spent fuel and high-level radioactive waste are to be transported; and

h. The full-scale testing of casks to be used to transport spent nuclear fuel and high-level radioactive waste.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. This resolution shall be conveyed to the President, the Secretaries of Energy and Transportation, the chairman of the Nuclear Regulatory Commission, and appropriate members and committees of Congress.

2. The Western Governors' Association staff, in cooperation with the Western Interstate Energy Board, shall monitor implementation of this resolution and provide the federal government with assistance in the development and implementation of a transportation plan for spent nuclear fuel and high-level radioactive waste.