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MINUTES OF NUCLEAR WASTE BOARD MEETING

July 20, 1984

Hearings Room
Building #1 - Rowsix
4224 Sixth Avenue, S.E., Lacey, WA

Board Members Present:

- Warren A. Bishop, Chair
- Senator Sam Guess
- Nicholas D. Lewis
- Representative Louise Miller
- Representative Dick Nelson
- Representative Nancy Rust
- Richard H. Watson
- Senator Al Williams
- Ray Lasmanis, DNR Designee
- John Beare, DSHS Designee
- Royston Filby, Water Research Center Designee
- Donald W. Moos

WM Record File
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Docket No. _____
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Special Meeting

The special meeting was called to order by Warren A. Bishop, Chair. Mr. Bishop recognized several members of the Advisory Council who were in attendance: Commissioner W.H. Sebero, Jim Worthington, Mayor Fred Jarrett, Councilman Lane A. Bray, and Jerome Finnigan.

Mr. Bishop introduced J. William Bennett, Acting Associate Director of the Office of Geologic Repository Deployment of the Office of Civilian Radioactive Waste Management, United States Department of Energy. Mr. Bennett had come from Washington, D.C. at the invitation of the Board to brief the members on the draft Mission Plan.

Mr. Bennett prefaced his presentation by remarking he appreciated the effort and attention the Board and the state of Washington is showing in the program and the constructive, firm approach taken. He proceeded to describe the progress of the entire program using view graphs, copies of which will be sent to the Board. He said the Act (Section 301) specifies eleven detailed items which the Mission Plan is supposed to describe, and required a draft plan be ready in

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April of 1984, with a final plan due in June of 1984. The schedule has been delayed and the Department is now receiving and analyzing comments on the draft Plan just issued for public comment.

Mr. Bennett said in addition to the eleven items to be addressed, it was decided the Plan should also cover the general strategy and plans for all the activities of the Department. It describes the plans for repository deployment, and plans and strategy for incorporating Monitored Retrievable Storage into the overall waste disposal system, including Federal interim storage.

Mr. Bennett described and discussed the four or five top-level objectives contained in Volume I of the Mission Plan:

1. Site, license, construct and operate geologic repositories for the safe, environmentally acceptable disposal of radioactive waste.
2. Assure federal acceptance of waste by January 31, 1998, for disposal in accordance with the acceptance schedule provided for in the Department's disposal contracts with utilities.
3. Submit a proposal to Congress to develop Monitored Retrievable Storage as an available option to geologic repositories should it be needed.
4. Assist utilities in providing adequate, at-reactor storage of spent fuel prior to federal acceptance and stand ready to provide limited federal government storage to any utility determined by the NRC to be eligible for such service.
5. To manage the technical program and funds collected for disposal and storage services or otherwise provided through appropriation in an effective, integrated and efficient manner.

In his discussion of the major objectives, Mr. Bennett did remark the schedule was a very tight one. There is a potential for rescheduling but, he said, the Department felt the schedule would be kept assuming the Guidelines are adopted soon; the EIS is not substantially modified; the President approves the selected sites on schedule; there is no litigation; and there is no Notice of Disapproval by the state with the selected site.

In discussing the Monitored Retrievable Storage issue, Mr. Bennett said a proposal will be submitted to Congress by June of 1985 to develop MRS as an option to geologic storage should: (1) it be needed to serve as a backup to the

repository; and/or (2) a delay or major problem occur in the deployment of the two geologic repositories. The proposal would describe a siting plan for MRS, design of facilities, needs and uses including an Environmental Assessment. It will include a plan for integrating the facility into the overall system of waste handling, transportation, and disposal facilities.

He said as the details of the plan develop, the states would have ample time prior to the June, 1985 submittal to Congress to get more detail on the plans.

Following his discussion of the five major objectives, Mr. Bennett discussed in more detail the repository features of the Plan. He explained the five phases of the process culminating in an operating repository in the year 2004.

Mr. Bennett responded to questions raised previously about the level of information for the nine potential sites. He said the level was not and will not be equal. Hanford and Nevada have more information than the seven non-federal salt sites by reason of earlier activity. He continued the Department did not believe equivalent information is required, and believed the Act mandated "available information" to support the nomination decision for site characterization. He said no credit would be given a site for lack of information, and should the information increase the uncertainty the site would be penalized.

Concerning second shafts, Mr. Bennett explained the Department had been looking at safety requirements, such as egress from shaft, gas emissions, etc., and came to the conclusion two exploratory shafts are required to support the at-depth testing facilities for safety reasons. The final selection of size for the second shaft considered the movement of large equipment, men, rock hauling, etc. However, a decision has been made to limit the shaft size to a six foot diameter.

Following Mr. Bennett's overview of the draft Mission Plan, the Chair called for a short recess. Upon reconvening the meeting, he thanked Mr. Bennett and turned the questioning period over to the Chair of the Mission Plan Review Committee, Richard H. Watson. (See attached for list of Committee members.) The Committee had developed numerous questions (copies of which were given to all members) concerning the Plan.

Mr. Watson asked how the Department proposed to deal with non-equivalent data from different sites. Mr. Bennett replied that if they feel they have sufficient data to make an evaluation, but not at the same level of data as another site, a conservative bounding assumption would be made to

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compare it against other sites. He said, to the degree they are compared, they are not going to assume a site would do better than the ranges of available data would allow them to assume. He said "realistically conservative" assumptions would be used, and only those they could defend.

Mr. Bennett went on to say the comparison of sites will be contained in Chapter 7 of the Environmental Assessment. All sites will be compared realistically.

Representative Nelson continued on this issue by asking how they are going to approach the area of sufficiency and equivalency of information. Will the Mission Plan lay out the rationale? Mr. Bennett replied it could be addressed in the Mission Plan, but the forum for addressing the issue is going to be the Environmental Assessments, particularly in Chapter 7. He went on to say the rules for comparing sites are in the Guidelines. He said should they find a site not suitable, the Department would not continue to study it.

Representative Nelson asked Mr. Bennett if the Department had asked Congress what their interpretation of "available information" was. Mr. Bennett replied the Department believes the consensus of Congress was the Department would have to show there was sufficient information to support the evaluation that the Act requires, but that beyond that they did not have to show that they are all of equivalent information.

David Stevens said that since there is the requirement to submit the Mission Plan to Congress, he wondered what the Congressional action would be--conduct hearings, approval of the Plan, etc. Mr. Bennett said he believed there would be hearings on the draft Plan, perhaps by Congressman Udall's Committee in early August. He went on to say he had heard they were talking about delaying that date to allow the comments to come in to the Department. The Act requires the Department to submit the Plan to Congress, where it must reside for a 30-day period while Congress is in session. If Congress is silent, the Department would assume that the Plan is supported by Congress. Since the time is limited for this session of Congress, it may be feasible, he said, to have the Plan submitted to the next Congress in January for a 30-day period.

Mr. Stevens then asked what actions are there, if any, which are contingent upon submission of the Mission Plan, or reaction of Congress once it is submitted. Mr. Bennett said he could think of none as far as implementation of the program is concerned. One major issue the Department is hoping the Mission Plan will elicit a response from Congress on is the three-site suitability issue. That is, what did Congress mean in saying the Department should make a prelim-

inary determination on the suitability of three sites as a way to satisfy NEPA requirements. Does the Department have to have found three sites suitable at the end of site characterization is the key question.

Nick Lewis inquired how the first nine sites were selected. Mr. Bennett again referred to the Environmental Assessment, saying there is a chapter in each Environmental Assessment describing how the site became one of the nine. He said the Department is planning to issue nine Environmental Assessments with an extensive discussion in each. He added that if it were felt to be important to have this information, the Mission Plan probably could be incorporate it in some way. Mr. Lewis then asked if there were some inequity between the selection process for the first nine sites and the second set of sites. Mr. Bennett replied by saying, from the point of view if inequity is measured in degree to which you became one of the nine, versus the degree to which the second states get to participate, yes. The Act made it clear the Department was to pick the potential acceptable sites based upon the work that had been done prior to the Act. Mr. Lewis replied that it might serve the public purpose if the Mission Plan were to be more explicit in that respect.

Mr. Lewis continued by suggesting there was some unevenness in the selection of only one tuff site, one basalt site, and 7 salt sites. Mr. Bennett explained the history of the original work which started with the salt sites, going to a screening of Federal reservations, and arriving at the nine. Mr. Lewis said he thought this information would be a useful part of the Mission Plan for the benefit of the public.

Mr. Lewis then asked if the public and the states will have an opportunity to comment on the nomination process before the three sites are selected. He pointed out the Mission Plan does not discuss this in much detail. Mr. Bennett replied absolutely yes. He said the process is described in the Guidelines and its application will be described in the Environmental Assessments. The nine sites will be grouped into geologic settings, of which there are five: one in Hanford, one in Nevada, one in Utah, one in Texas, and one in the Gulf Coast. Within those settings, the preferred site will be selected. The preferred sites will then be compared to the Guidelines for suitability determinations to be made. Since the Mission Plan is a planning document, Mr. Lewis wondered why this selection process was not included. Mr. Bennett replied he thought this was a good comment and something that could be done.

Mr. Lewis asked about the Department's agreement with the Nuclear Regulatory Commission in the Guidelines process to defer the Department's determination of suitability after

the site characterization. It is not contained in the Mission Plan.

Mr. Bennett responded that the Commission's final position on the Guidelines said in order for the Commission to concur in the Guidelines, the Department had to remove the statement that said "...we would make the finding of preliminary suitability at the time of recommendation of the three sites." He said the Department did not, in order to obtain Commission concurrence, have to add a statement saying when that determination would be made. However, during the discussions that led to the concurrence, Office Director Ben Rusche agreed with Commissioner Asselstine that it should not be made before characterization. However, Mr. Rusche did not agree with Commissioner Asselstine's view that all three sites had to be found suitable in order to proceed. He did agree to remove that as a debate from the Guidelines' process and attempt to resolve that through the Mission Plan process.

Mr. Bennett continued by saying that the Department needs Congress to react to the question, "Does the Department have to find three sites suitable in order to select one?". The Department thinks not, but does need Congress to tell them. Mr. Lewis asked if the Department had a position on when they would make the decision on suitability, and Mr. Bennett replied they needed the answer to the previous question before a decision could be made.

Mr. Stevens asked when the draft of the commingling study regarding defense wastes might be available. Mr. Bennett replied it should be very soon, as it was his understanding the final agreement within the Department was reached about a week ago and is now going through the final sign-offs at the secretarial level.

Mr. Watson asked where the decision points might arise in the alternatives to geological repositories, such as MRS, and what kinds of criteria might be involved in making that decision. He wondered if it were appropriate for the Mission Plan to deal with those possibilities. Mr. Bennett agreed it would be appropriate and that it was not clearly addressed in the Mission Plan. He said the first final Mission Plan might not answer all the questions on MRS. The report to Congress due next summer--defining the role of that facility in the overall program in its time, its need, and how it interfaces with the rest of the facilities--will make the inter-relationship more clear.

Representative Nelson then asked what the Department's preliminary thinking was on the MRS. Mr. Bennett said the thinking was to determine how MRS could be part of the total waste disposal system to serve some role between the reactor

and the eventual repository. It would be a hybrid of a storage role and a transportation system optimization role, and a role to mesh with repository to potentially prepare the waste to minimize handling operations at the repository. He said the principal interest for re-examining this facility was to make the system more efficient.

Further discussion followed on the revised view of the MRS, and Mr. Bishop asked where the plans would be revealed for purposes of review. Mr. Bennett responded the details would be revealed in the Congressional Report and the draft Environmental Assessment. They should also be in the final Mission Plan. This would show how it interfaces with the reactor, the repository, and the transportation system that links them.

In response to a question by Mr. Stevens, Mr. Bennett said he did not think the final Mission Plan would contain any major detail. It will probably only scope out the range of options that are being considered for it. Although the report is due in June of next year, he said drafts should be available before that time.

Representative Nelson wanted to know if no site can be characterized and MRS become a live option, should the Mission Plan admit to a permanent or semi-permanent storage until an acceptable repository or alternative is found?

Mr. Bennett replied the long-term role for MRS will be one of the things considered, to make sure there is sufficient flexibility in the system for MRS to fill the gap between the time the need to start taking waste and the time the repository is available.

Representative Nelson then reiterated his question, "If everything fails, should the Mission Plan cover that extreme?"

Bennett replied the Department did not conceive there would never be a repository found. Said in other words, Nelson suggests something to take the place of a repository forever. In which case, he said alternative suggestions would be welcome.

Elaine Rose commented it would be helpful to have a specific section in the Mission Plan addressing public and state participation, delineating points on which there were going to be hearings. She stated the Act describes a C&C process and asked what does consultation with the Governor and the Legislature mean to the Department--informational, public hearings? Mr. Bennett replied the views of the Department are best described by the C&C Agreement, trying to structure with each state by putting it into writing. Ms. Rose asked

if there were no C&C Agreement, is consultation still required under the Act. Mr. Bennett said in the absence of a C&C Agreement, they would proceed as close to the words as laid out in the Agreement, but the Department would like to have a signed Agreement, even if both parties were unable to agree on everything. Mr. Bennett remarked that Washington State was in the forefront of this movement.

Ms. Rose asked what the difference was between the Environmental Assessment versus the Environmental Impact Statement in terms of consultation. Mr. Bennett said the Department wants to consult fully as possible on both the EA and the EIS. He said the EIS will probably have more specific, formal interactions laid out by NEPA that will need to be followed that will be overlaying on the process.

Ms. Rose then pointed out a discrepancy with respect to the site disapproval. Section 115 speaks of the Governor and the Legislature issuing the disapproval, and Section 116 states the Governor or the Legislature. She asked if the Department will go to Congress to seek an amendment to clear this ambiguity, or can the Department itself try to resolve this inconsistency, or do the states have to work this out for themselves. Mr. Bennett replied that this issue has been referred to Department counsel. He said he could see two paths: (1) to make a policy decision within the Department, or (2) to go back to Congress.

Ms. Rose said the Act requires the draft EA to give a description of the decision process by which a site is recommended and she wanted to know if the draft EA would actually be a draft nomination, or would the explanation of the process be more general. Mr. Bennett said when the draft EA is read, yes, it would be known who is going to be nominated. If the site is found to be suitable versus the Guidelines, the site will be one for nomination. He emphasized the Department is seeking comments on the EA.

Ms. Rose then commented there appears to be no discussion of hearings on the site characterization in the Mission Plan, and asked if that were an oversight. Mr. Bennett said he was surprised to hear that, as the Department is planning to hold hearings and, as a matter of fact, the Act requires hearings.

Don Provost asked if the Plan envisioned the start of exploratory shaft work before comments are received on the Site Characterization Plan. Mr. Bennett said that is what is envisioned in the current Plan as being possible. He continued by saying that since BWIP is the only one involved in that sequence, it would be necessary to ascertain the collective position to decide if starting the shaft would make sense. The Department would not want to start the

shaft if the eventual resolution of major issues on the geohydrologic baseline would be jeopardized by starting the shaft earlier.

Concerning foreign wastes and defense wastes, Mr. Provost commented very little is set forth in the Mission Plan. He said because of the importance of defense waste in the state of Washington, the state feels more explanation should be covered in the Plan. He said it appears the Department is looking at engineered barriers only for this waste, and the state believes this to be inconsistent with the Act. Could there be more emphasis on defense wastes and foreign wastes, he asked? Mr. Bennett said if the decision were made to dispose of defense wastes in commercial repositories, then all of the considerations relative to that would be subject to the provisions of the NWPA. Mr. Provost was concerned about the 149 tanks presently stored at Hanford, and Mr. Bennett said he was not aware of plans for current waste as the decision on commingling had not yet been made. Representative Nelson asked for Mr. Bennett's personal view and he admitted he was not familiar with the condition of current defense wastes and the risk it poses since his expertise is in the spent fuel, commercial waste field.

During the discussion that followed, Representative Miller made the comment she thought an expert dealing with defense wastes should be brought in to explain that program. She also asked if when speaking of foreign wastes, would it include defense wastes, or simply be commercial. Mr. Bennett replied the Department is not planning to accept foreign wastes--either spent fuel or high-level radioactive wastes--for disposal. He said they would not dispose of such material of foreign origin at any repository, unless required by an international treaty or Federal statute. He continued that if so directed, the Department would assess the impact and consult with people on the best way to proceed. Currently there are no plans for that.

Mr. Bishop inserted the comment that he planned to ask for public comment later in the afternoon meeting, as he wanted to give the Board all opportunity to have their questions addressed.

Representative Miller asked if ownership would be retained by the company producing the wastes of the wastes currently in interim storage, either on-site or near a commercial plant. Mr. Bennett said the utilities will store their wastes on their sites and retain ownership. She also mentioned the utilities' responsibility for currently stored wastes, the possibility of Presidential rejection of one of the three sites, and Tribal involvement in research. Mr. Bennett replied the utilities retain their responsibility for their wastes; if the President rejects a site, an addi-

tional site would be recommended; and any information gathered by Tribes or any other under Federal grant would be shared by any interested parties.

Mr. Lasmanis asked whether the equivalence of data will be used on a "site" basis, or on an "issue" basis. Mr. Bennett said both would be considered on a matrix form.

Concerning the transportation issue, Mr. Provost questioned the lack of explanation on the liability in the Mission Plan. He asked what is the Federal government's liability, beginning with the transportation phase. Mr. Bennett said without going into the full problem, he felt it should be addressed in the Mission Plan.

Mr. Watson expressed his own concern and those of the Committee concerning the alternatives for a possible missed target date of 1998. He thought it would also enhance public confidence to have alternative plans with some sense of relatively likely diversions from the schedule. Mr. Bennett said that could be done easily and the Department could select some of the long-range set of options and present the total schedule for those.

Mr. Watson also emphasized the state concern for adequate time for state review. He said incorporation of specific review opportunities in the Mission Plan would be extremely helpful. Mr. Bennett suggested the Board identify the items of particular concern to which you desire early access and ask for the Mission Plan to elaborate the details for those particular items.

Representative Nelson asked Mr. Bennett if he could provide an analysis as to why the assumption human institutions are inadequate custodians for high-level nuclear waste. Mr. Bennett said he would furnish this without going into a complex discussion in this meeting.

Mr. Bishop thanked Mr. Bennett for his appearance at the Board meeting and assured him the questions posed today, and others not covered, would be forwarded to the Department for consideration.

The work session was adjourned.

Regular Meeting

The regular meeting of the Nuclear Waste Board was convened at 1:00 p.m. by Chair Warren Bishop.

There being no objection, the minutes of the previous meeting were approved as published.

Mr. Bishop introduced Michael Lawrence, the new Manager of the Richland Operations Office, U.S. Department of Energy. Mr. Lawrence recently came to the Richland Office from Washington, D.C. to replace Alex G. Fremling, who retired this summer.

Mr. Bishop also acknowledged the presence of Anita Monoian, a member of the Advisory Council and Chair of the Public Involvement Working Group of the Council, who was in attendance.

Communications

In the packets distributed to the members of the Board were three letters, which Mr. Stevens briefly discussed:

1. Letter of June 27 to Warren A. Bishop, Chair, from Ben C. Rusche, Director of the Office of Civilian Radioactive Waste Management in Washington D.C., in reply to our letter of May 7, 1984. Mr. Rusche advised the state will be formally invited to comment on the draft evaluation report concerning the commingling of defense wastes, and the state's comments would accompany the final report when transmitted to the President.

Representative Nelson inquired if there were a separate EIS for defense wastes and Mr. Stevens advised that was so, although he understood that issuance had been delayed until the end of the year.

2. A copy of our letter to J. William Bennett, Acting Associate Director of the Geologic Repository Deployment Program, USDOE, inviting him to brief the Board on the Mission Plan, and the acceptance for him by Charles R. Head, Office of Civilian Radioactive Waste Management, written on July 12. Mr. Head also agreed to give consideration, to the maximum extent feasible, to the comments received after the briefing of July 20, and past the formal receipt date of July 9.

3. A copy of a letter to David W. Stevens of July 12, from O.L. Olson, Project Manager for BWIP, in response to our letter of May 7 asking for an explanation for the reason of a second exploratory shaft. Mr. Stevens explained there was a thick packet of supporting material which had not yet been studied, but when that review is made a summary of the major points would be available. He said they confirmed, as was mentioned in the morning briefing, there is a plan to proceed with the second shaft. Although no decision had yet been made as to a larger second shaft, they indicated they would like to have our comments on that feature. He said that according to Bill Bennett they would not be making that second shaft larger than it would be necessary for site characterization, and making it a repository-useful shaft will not be done at the time of its construction.

Mr. Lasmanis commented the risks of drilling a shaft are considerable and he felt they had not adequately addressed the issue in case of failure nor given a back-up measure. Mr. Bishop suggested the Review Committee include this point in their response on the Mission Plan.

Advisory Council Activities

Mr. Bishop reported the Public Involvement Working Draft Plan of July 19, 1984, was included in the packets. This draft was prepared by the Working Group of the Council and Mr. Bishop requested the members send any comments or suggestions to Marta Wilder. They should be received in the Office by August 2 to be considered at the meeting of the Group planned for August 7. Mr. Bishop continued by stating the Council had authorized at its meeting on the 19th to begin to implement the plan, but it would be restricted to the resources available under the grant. Marta said the Group, in conjunction with the Contractor, is currently working on a computerized mailing list, a newsletter, and an issues list, which the Council indicated they would like to see in writing.

Environmental Monitoring Review Committee

Don Provost reported the first meeting of the Committee will be in Richland on July 26. They will meet in the Federal Building at 9:00 a.m. The purpose of the meeting will be to review and evaluate with USDOE monitoring efforts at the Hanford Reservation. The contractors will also be in attendance and will explain their efforts and to whom they report. This will be the first step in getting a handle on

the environmental situation, and there should be enough information from this first meeting to begin to comment on the Environmental Assessment.

Larry Caldwell of the Hanford Oversight Committee asked if the meeting would be open to the public. Mr. Provost responded that the Committee would meet in open session.

Representative Nelson asked if there were an outline of what the Committee will be looking at during its tenure.

Mr. Provost said the first step was to determine what monitoring they are doing now and to whom they report. They will look at the level of their results, evaluate the findings, and consider spot-check sampling in an ongoing basis. Representative Nelson inquired if the Committee would also be looking at air, water emissions, and groundwater sampling. Mr. Provost thought they would be looking at all elements. In response to further question by Representative Nelson, Mr. Provost said they would be looking at reported "hot spots", transporting of materials, radioactive release incidents, etc. Mr. Lewis advised there are also some statelevel monitoring capabilities through WDOE, DSHS, and EFSEC. Mr. Provost said all of this will be folded in with the Committee's review to get a total picture on the Reservation. Mr. Provost said he would try to obtain a copy of the DSHS Report on Monitoring for members of the Board.

Mission Plan Review

Mr. Stevens explained the Review Committee had put together a comprehensive set of questions, many of which were discussed in the morning briefing by USDOE. He said now the Board must decide the route to take to transmit these concerns to the U.S. Department of Energy for their consideration in revising the Mission Plan. Senator Guess suggested a document containing positive comments be prepared by staff and the Committee, based upon the questions prepared and those brought up in the morning meeting. He then moved to authorize the Chair to sign the letter of transmittal to the Department. Mr. Lewis supported the motion to allow the Committee and staff to prepare the final document, considering the short time frame to submit comments. Representative Nelson said he would like to see the final document before it is submitted, without causing any undue delay. He also said he was still disturbed about the issue of equivalency of information, and thought this was an important enough issue to be highlighted in response.

The motion was called for and adopted.

Technical/Contractor Activities

Well-Logging Proposal: William A. Brewer reported no meeting has been set to discuss the proposal at the policy level with the U.S. Department of Energy. Several attempts have been made but, with the change of personnel at Richland and other conflicting meetings, delays have been encountered.

Technical Activities: Dr. Brewer reported he had a very productive meeting with the technical people at USDOE and Rockwell in Richland on July 19th. He said he is currently documenting technical objectives in regional hydrologic modeling, as water is the issue which right now has the least technical solutions in hand. Another meeting will be held in three or four weeks.

Contractor Activities: Dr. Brewer said the Office had contracted with Division of Geology and Earth Resources at DNR to prepare a large-region tectonic map which will show faults and deep structures that can be related to seismic activity and could establish boundary conditions for the hydrologic studies. Envirosphere and Shannon and Wilson, our contractors, are evaluating the adequacy of hydrology models. These are complex, extensive mathematical models in an area where technology is changing very fast.

Defense Waste Project Proposal

Don Provost reported that the state has asked the USDOE for participation in the decision-making process concerning the final disposition of defense wastes at Hanford. He said the defense side of USDOE and USDOE are now evaluating processes for handling the 149 tanks of defense waste at Hanford. The two options they are reviewing are: (1) construct an immobilization facility with eventual shipment to a geologic repository, and (2) in situ disposal of the old tanks.

He continued the state had wanted, through the C&C process and the grant for the National Waste Policy Act, to participate in that decision. However, USDOE has said this participation is not under the purview of the NWPA. Late in the negotiations, USDOE suggested and said they might look favorably upon a separate USDOE grant to cover state participation in the defense waste decision. The C&C Team has made the recommendation to the Board that such negotiations be started on a contract. He said because of limited staff and an unmapped area, it was felt the first year of such a grant would be best handled primarily by a contractor, as early next year the USDOE will be issuing an EIS. They will then be doing a risk analysis on the options. Authority from the Board is sought to develop a grant proposal for

submission to USDOE at the same time as the regular Office grant is submitted in September.

In response to Mr. Bishop's question, Mr. Provost said he thought the funds would come from the Defense Department to USDOE, and not from the NWPA funds. He added the accountability of the use of the funds would have to be kept separate.

Nick Lewis moved to instruct the staff to meet with the appropriate representative of USDOE to develop a suitable Defense Waste Monitoring Project addressing issues of state concern that were a part of the C&C Agreement negotiations, but were not incorporated in that draft Agreement, with the understanding the proposal would be returned to the Board for approval.

Discussion followed on the inability of the C&C Team to incorporate the defense waste issue into the draft Agreement; recognition of the concerns of the state by USDOE and their willingness to look into an agreement with regard to a Monitoring Project, which brought this proposal to the Board; and the ability to comment on the risk evaluation and the possibility of new EPA regulation to cover this problem.

Representative Nelson expressed the opinion the state should hold to its position to have the problem of defense wastes covered in the C&C Agreement.

Senator Guess stated the problem goes back to Congress who gave the Defense Department the awesome powers to start the nuclear process. He said the Defense Department has consistently kept the civilian agencies, i.e., AEC, out of the picture and added in his opinion it was up to Congress to make any changes that are necessary to solve the issue. He felt either the NWPA should be amended, or a separate Act passed to direct the Department of Defense. He continued by saying he thought it would be of no value to the state to hold out on the C&C on this issue because that was a condition that had been imposed by Congress and only through our Congressional delegation could the state impact that decision.

Mr. Provost pointed out that regardless of the dollar amount that was necessary to develop a geological disposal, substantial risks are involved not only to those handling the material but to all concerned. His feeling was the state must be involved.

Don Moos said he felt the Board should not ignore this problem and suggested that the Board, through the Chair, should express its deep concern to the Washington Congressional delegation. He also thought a letter from the Governor to

the White House, incorporating Representative Nelson's citation of the \$23 billion being expended for commercial waste disposal while the defense waste problem is being ignored. Mr. Lewis said he wanted his motion to reflect an encompassing of a whole program, including the suggestions made by Mr. Moos, to communicate with the Congressional delegation, both at the Board level and the Gubernatorial level.

Mr. Lewis then restated his motion in its entirety, as follows: "The staff be directed to meet with the appropriate representatives of the USDOE to develop a suitable defense waste monitoring program and that program should address issues of state concern that were part of the Consultation and Cooperation Agreement negotiations which were not incorporated within the draft Agreement."

The motion was called for and was adopted.

C&C Negotiating Team Report

Mr. Stevens, Team Chair, first thanked the other members of the Negotiating Team who had spent so many long and strenuous hours putting together a draft document: Charlie Roe, Chuck Lean, Don Provost, Nick Lewis, Ted Hunter, and Elaine Rose. (Warren Bishop served as an ex officio member.)

Three documents were distributed to the Board: (1) A draft working document dated June 29, 1984; (2) a three-page list of editorial changes to the draft C&C Agreement (a result of two meetings of the state team subsequent to the last negotiating session); and (3) a cover memorandum from the Team to the Board, with a brief description of a summary of the Articles contained in the draft with a recommendation from the Team.

Mr. Moos said he was still concerned with the subject of liability and the effect on the Public Involvement Program if no conclusion on liability can be stated in the C&C Agreement. Mr. Lewis stated he was firmly and totally committed to the Team's position that the state is due strict and unlimited liability from the Federal government. He said further, he was comfortable with recommendations contained in the document to work with both Congress and the Legislature to seek resolution of this issue since the Team could not reach a consensus on this issue. He also planned in a separate document to circulate to the Board language which he believed would be appropriate to the draft and acceptable to the USDOE to fully protect the state citizens at this time.

Mr. Bishop re-emphasized the fact that no reaction has yet come from USDOE on this document, and the Team may have to

take one more look at the response from them. He asked the Board to review the document, offer suggested language, and be prepared to make some decision on the course of action the Board wishes to take at the next meeting. He also requested any suggestions be sent to David Stevens, who would make copies and distribute them to all members.

In the discussion that followed Senator Guess asked if there was information to show that any accident has happened or was likely to happen that would exceed the \$500 million liability ceiling under the Price/Anderson Act. Mr. Stevens said USDOE had been requested by the state to make a risk analysis, which he understood is now under way. It was also pointed out that the Price/Anderson Act only covers nuclear plants and does not include nuclear repositories, but would include only transportation of wastes.

David Stevens replied, the Secretary of Energy has recommended to Congress three changes in the existing law: (1) to extend its life beyond 1987; (2) to extend its authority to cover repositories; and (3) to increase its dollar limits. The U.S. House Interior Committee has had one hearing and the indication is that they would come back to that issue next year.

Chuck Lean pointed out that it is not clear that the Price/Anderson Act covers a repository. The USDOE thinks it does, and are treating it that way, but to backstop themselves they have offered an amendment to Congress. He said another point to keep in mind was even if Price/Anderson does cover a repository, it provides coverage only for actions of USDOE's contractors. It will not provide coverage for any of the U.S. Department of Energy itself. That would throw the state back under general Federal Tort Claims Act Liability for the Federal government, and they have a lot of defenses they can throw against us. He said he was still disturbed the USDOE could not agree at least in principle that the Federal government would be responsible for any accidents caused by the result of a national repository.

Charlie Roe added that in the course of the negotiations the most USDOE would go for would be the proposed amendments to the Price/Anderson Act, and their view as a matter of policy to go no further.

Following further discussion on the Liability issue, the Board was asked to study the documents and send any comments, changes, or modifications to David Stevens in the Nuclear Waste Office. The C&C Agreement will appear on the Agenda for the August 17 meeting for discussion and action. He said a clean copy and a memorandum setting forth USDOE's reactions will be sent to the Board prior to the next meet-

ing. He also asked the state Team to hold one more meeting to consider the response from USDOE.

NRC Representatives/Office Staff Meeting

David Stevens reported members of the Waste Management staff of the Nuclear Regulatory Commission had been visiting the Umatillas Indian Tribe in Oregon. The representatives visited Olympia and met briefly with the Office staff. Joe Bunting, Chief, Licensing Process and Integration Branch, his Assistant Cathy Russell and two members of the transportation side of the NRC, John Cook and Charles McDonald were present. We received a briefing on the USDOE Guidelines concurrence process and on current transportation policy and program activity within NRC. Mr. Stevens stated we have had a good rapport with the NRC and on balance they have been quite supportive of the state concerns.

Semi-Annual Report

A draft of the Semi-Annual Report to the Governor and members of the Legislature was distributed to the Board for their examination. Marta Wilder of the Office explained the report is prepared by the Office for the Board and must be reviewed by the Office of Financial Management before it can be sent to the printer. Senator Guess suggested since such a volume of mail and reports are received, he would like to see a one-page "Executive Summary" on a colored sheet prefacing any reports.

Grant Request Approval

Gary Rothwell of the Office reported it is anticipated the coming year will be much more active because of the activities and decisions of the USDOE which will require Board and Office consideration. He said a draft proposal should be presented to USDOE for preliminary consideration by the first of August. The Office is still awaiting certain other pieces of information, including a proposal from the Joint Science and Technology Committee of the Legislature indicating if they are going to piggy back on the WDOE grant or apply for a separate grant. He said that staffing positions have now been approved and no big increases are anticipated prior to the USDOE decision in January as to whether or not Washington is still in consideration as a repository site. If it is, there would be a possible need for additional staff. Should that be necessary, a grant amendment would be submitted. Travel, printing, supplies and other costs will be similar to last year's grant, he said. Contract work will be increased, as many of the decision documents from USDOE will require a one-time review and it would not be practical to hire permanent staff for each level of work. He said the contractor is assessing costs

depending upon our requests, and preliminary estimates have just been received. He said the proposal could run from half a million dollars to \$1.1 million, depending upon the work requested. The total grant should be in the neighborhood of \$1.4 million to \$2.2 million for the coming year, assuming the Joint Science and Technology Committee is included.

He said consideration is being given to breaking the grant down into a "phased" grant, as the schedules are often missed by the USDOE and so much of the costs are dependent upon reviewing their documents. He said as soon as necessary information is received, the Office would be looking to the Board for final direction at the August meeting as to how they want the final proposal submitted to the USDOE.

Senator Williams said he thought the two grants should be looked at separately, each taking care of any travel, etc. of its own members. Mr. Moos asked how the grant would be handled and if it would go through the same audit processes as the other legislative activities. Senator Williams replied there are a limited number of Joint Committees in the Legislature and all bookkeeping and accounting were done through legislative accounting offices, with the proper transfers made from each body. He assumed the S&T grant would be handled in much the same manner as the Joint Legislative Transportation Committee. Mr. Moos said he hoped when the separate S&T grant is presented it would go down to the State Capitol and be processed similar to the Joint Transportation Committee. He also thought that any travel of Board members authorized by the Chair should be handled by the WDOE grant and any other authorization should be taken care of by the Committee grant.

Mr. Bishop said more work would be needed concerning the nature, form, and structure of the grant and the Office would be consulting with the Committee to develop clear lines of understanding.

Draft Travel Policy

A draft Travel Policy Statement was circulated to the Board, outlining a working procedure for travel by the Board members or their designees. In essence it would require written authorization by the Chair for grant-funded travel or per diem, other than for Board or Council meeting or scheduled committee meetings. It would also require review and approval of the Director of the Department of Ecology and the Governor's Office for any out-of-state travel by a Governor's appointee.

Mr. Moos moved the adoption of the Policy Statement.

In the discussion that followed it was decided a Travel Request form should be developed by the Office for use of the members in requesting permission to travel under the terms of the Travel Policy.

The motion was called for and adopted. The Office was instructed to develop some procedures and transmit them to the members.

Other Business

Dr. Filby said he thought the adopted Policy did not address the issue of who speaks for the Board. He said it was possible a member would choose to pay his own way and in that case would be in a position to speak for the Board. The Chair felt this issue was addressed in the Board Bylaws, and would review them to see if it would be necessary to draft a policy statement on this point.

Representative Nelson suggested that at some future date the Board be briefed on the Department of Navy's decision to store spent nuclear reactor material at Hanford. The Chair responded that the necessary contacts would be made to see if arrangements could be made to bring such a briefing before the Board.

Public Comment

David Tarnas of WashPIRG, University of Washington, said on July 5 USDOE announced they were changing the design for the repository at Hanford upon recommendations of their geologists. He said in response to his question of yesterday, the USDOE representative stated this was nothing new, but new to the media. Mr. Tarnas questioned why the news was released at this time if there were nothing new in the finding, and if there were something new in the findings is there a change in the understanding on the part of the USDOE on the part of the geologic regime. He wanted to know if their understanding of the geologic regime is adequate to come out with a draft Environmental Assessment upon which the decision to narrow to three sites will be based. He said he saw the need for an independent scientific review of the Rockwell activities at Hanford.

Concerning the issue of full liability by the Federal government, and realizing the state wants a negotiating position in the C&C Agreement, Mr. Tarnas wondered if the state should say it will make its acceptance of the site contingent upon the acceptance by the USDOE of unlimited liability. Mr. Bishop responded to this query by saying the Negotiating Team had discussed this particular point and no

doubt would be discussing it again at the next meeting in considering the various approaches.

Dr. Brewer responded to Mr. Tarnas' first question by stating it was a very complex, technical issue and suggested rather than take the time of the Board he would talk to David and perhaps relieve some of his concerns. Ray Lasmanis added the Board was aware of some of the things that were mentioned to the media recently, but was not satisfied with their level of knowledge and the Geology Division in DNR is working on this very vigorously in assisting Dr. Brewer to develop evidence which they hope will bring USDOE/Rockwell to a higher level of awareness.

Dr. Filby commented there is no formal independent technical review of the work in the whole USDOE program, and he felt this was a distinct lack and will be an area in which public confidence will be determined.

There being no further business, the meeting was adjourned.