NFEDERATED TRIBES AND BAN
Yakima Indian Nation

WM Record File 101.4
WM Project 10
Docket No.
PDR ✓
LPDR ✓
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STATEMENT OF RUSSELL JIM

TASK FORCE ADVISORY MEETING

APRIL 15, 1983

Under Section 2(2) of the Nuclear Waste Policy Act, the Yakima Indian Nation has been determined to be an "affected tribe" as regards the BWIP project at Hanford, Washington.

Therefore, under the Act the Yakima Nation, like the State of Washington, will have during the period of this study, the

(1) ability to obtain grants to cover expenses associated with Site Characterization Section 116C(1)(A),

(2) ability to obtain technical and financial assistance to mitigate impact associated with repository construction, Section 116C(2)(A),

(3) ability to enter into agreements regarding consultation and cooperation, Section 117(2)(C),

(4) ability to obtain timely and complete information on determinations or plans from DOE and NRC on all aspects of repositories, Section 117(A)(1).

Though the Yakima Nation has this concurrent ability we will still wish to "coordinate" our responsibility with the

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State of Washington. We use the word "coordinate" advisedly. Though we believe that the DOE may request that we both use the same experts and have a mutual plan and contract, conversations between the Chairman of the Task Force and our legal counsel have indicated that such an approach is not favored by the Task Force. The Yakima Nation would concur. During the time we had to proceed on our own without DOE funding or assistance, we have made other arrangements and obligations regarding expert advice. Further, as the Chairman of the Task Force suggested, the interests of the two governments may not coincide and in any event the mutual effort would cause expense not productive towards our mutual but separate responsibilities.

As you know, we have filed objections to the proposed guidelines and have testified at the March 21, 1983 Seattle hearing. As members of the Task Force Advisory Committee, I feel that we should be very concerned about DOE's failure to consult even as much as we should be concerned with the undue haste that DOE has shown in the adoption of the guidelines.

Likewise, yesterday we filed our second set of comments on the site selection, Draft EA and Site Characterization Plan. We likewise testified on March 25, 1983 at Richland and filed our first set of written comments.

Although we did not receive NRC's Site Characterization Analysis until it was too late to really reference this critique, NRC's SCA clearly shows that we must certainly do something to convince DOE not to continue their hell-or-high-

water approach. While the Yakima Nation continues not to be pro nuclear or anti nuclear, but merely pro safety, this attitude by DOE gives us great pause and makes us very wary.

Fl. No. 847 REPRINTED

Fl No. 1193

ENGROSSED SUBSTITUTE SENATE BILL NO. 3273

BY

Committee on Energy and Utilities
(Originally sponsored by ~~Senators Williams, Hurley,~~ Bauer and Talmadge)

BRIEF TITLE

Establishing the Washington radioactive waste commission.

SENATE RECORD—

Filed by Committee and ordered printed
3/15/83
3/30/83 *On motion Substituted for Original Bill, placed on calendar*

3/30/83 *Read second time and*

AMENDED
ORDERED ENGROSSED
Advanced to Third Reading
Under Suspension of Rules

3/30/83 *Read third time and*

PASSED *Yeas* 25, *Nays* 22
3/30/83 *Title Agreed to*
3/30/83 *Sent to House*

s/s SID SNYDER
Secretary of the Senate.

HOUSE RECORD—

Received from Senate
Read first time and referred to Committee on ENERGY & UTILITIES
4-13-83 *Reported back by Committee with the recommendation*
MAJORITY do pass
MAJORITY do pass as amended (11)
MINORITY do not pass
That Substitute Senate Bill be substituted therefor and that Substitute Bill Do Pass
Passed to second reading.
4-13-83

4-21-83 *Read second time and*
amended.

4-21-83 *Read third time and*
Held

Yeas, *Nays*
Title Agreed to
Returned to Senate

Chief Clerk.

Received from the H
Enrolled
Signed, President of the Se
Signed, Speaker of the H
Signed by the Gove

SENATE RECORD—

4-24-83 *Returned to Se*
and placed ~~in Committee on Rules~~
on *third reading* *Referre*

Reported back
Committee with the recommendation
MAJORITY do pass
MAJORITY do pass as amended
MINORITY do not pass
That Substitute Senate Bill be substituted therefor and that Substi Bill Do Pass
~~*Passed to second reading.*~~
MAY 3 1983 Read third t
MAY 3 1983 Returned to second reading for amendment
MAY 3 1983 AMENDED
ORDERED ENGROSSED
~~Advanced to Third Reading~~
Under S ensi of Rules
MAY 3 1983 *Read third time*

Passed *Yeas* 47, *Nays*
MAY 3 1983 *Title Agree*
MAY 3 1983 *Sent to*

IN THE LEGISLATURE
of the

STATE OF WASHINGTON

CERTIFICATION OF ENROLLED ENACTMENT

SUBSTITUTE SENATE BILL NO. 3273

CHAPTER NO.

Passed the Senate May 3, 19 83

Yeas 47 *Nays* 0

Passed the House May 6, 19 83
as amended

Yeas 91 *Nays* 4

The Senate concurred in the House amendments and passed the bill as amended-5/6/83.

Yeas 43 Nays 2

CERTIFICATE

I, Sidney R. Snyder, Secretary of the Senate of the State of Washington do hereby certify that the attached is enrolled Substitute Senate Bill No. 3273 as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary of the Senate

REENGROSSED SUBSTITUTE SENATE BILL NO. 3273
AS AMENDED BY THE HOUSE

State of Washington 48th Legislature 1983 Regular Session

by Committee on Energy and Utilities (Originally sponsored by Senators Williams, Hurley, Bauer and Talmadge)

Filed by Committee March 15, 1983, and ordered printed.

1 AN ACT Relating to radioactive waste; amending section 3, chapter
2 207, Laws of 1961 as last amended by section 125, chapter 141, Laws
3 of 1979 and RCW 70.98.030; adding a new chapter to Title 43 RCW;
4 creating new sections; repealing section 12, chapter 295, Laws of
5 1981 and RCW 43.21F.075; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. Sec. 1. The legislature finds that the safe
8 transporting, handling, storage, or otherwise caring for radioactive
9 wastes is required to protect the health, safety, and welfare of the
10 citizens of the state of Washington. It is the purpose of this
11 chapter to establish authority for the state to exercise appropriate
12 oversight and care for the safe management and disposal of
13 radioactive wastes; to consult with the federal government and other
14 states on interim or permanent storage of these radioactive wastes;
15 and to carry out the state responsibilities under the federal nuclear
16 waste policy act of 1982.

17 NEW SECTION. Sec. 2. The department of ecology is herein
13 designated as the executive branch agency to carry out the authority
19 and responsibility set forth in this chapter, including executive
20 branch participation in the federal nuclear waste policy act of 1982
21 and the federal low-level radioactive waste policy act of 1980. The
22 department may receive federal financial assistance for carrying out
23 radioactive waste management activities, including assistance for
24 monitoring and evaluating the program of repository exploration and
25 siting undertaken by the federal government.
26 The department shall submit a written report at least
27 semiannually to the governor and to each member of the legislature on
28 the radioactive waste program, its progress in carrying out its

1 responsibilities, and any recommendations for legislative or
2 administrative action that will improve the state's management and
3 control activity in maximizing public health and safety.

4 NEW SECTION. Sec. 3. All departments, agencies, and officers of
5 this state and its subdivisions shall cooperate with the department
6 in the furtherance of any of its activities pursuant to this chapter.

7 NEW SECTION. Sec. 4. There is hereby created a nuclear waste
8 policy and review board to assist the department in carrying out its
9 responsibilities under this chapter. The board shall consist of the
10 following members: The chairman of the advisory council who shall
11 also serve as chairman of the review board, the director of the
12 department or the director's designee, the director of the energy
13 office or the director's designee, the commissioner of public lands
14 or the commissioner's designee, the secretary of social and health
15 services or the secretary's designee, the chairman of the energy
16 facility site evaluation council or the chairman's designee, four
17 members of the state senate, appointed by the president of the
18 senate, and four members of the house of representatives, appointed
19 by the speaker, who shall be selected from each of the caucuses in
20 each house, but no more than two members of each house shall be of
21 the same political party. Legislative members shall be ex officio
22 nonvoting members of the board and shall serve while members of the
23 legislature, at the pleasure of the appointing officer. The board
24 shall be responsible for identifying and reviewing state agency
25 policies relating to the management of radioactive wastes; analyzing
26 recommendations of the advisory council to determine how state
27 agencies may be responsive to the needs of the department in carrying
28 out its duties under this chapter; assisting the department in
29 determining ways in which coordination among state agencies can be
30 improved; carrying out such review activities that will enable the
31 governor to effectively evaluate federal actions; reviewing the
32 activities of advisory and technical committees created by the
33 governor; advising the director on the need for additional advisory
34 and technical committees; and assisting the department to participate
35 in the consultation and concurrence process provided for in the

1 federal waste management act of 1982 and the low-level waste policy
2 act of 1980 and to monitor and comment on decisions of the northwest
3 interstate compact committee on low-level radioactive waste
4 management.
5 Nonlegislative members shall receive reimbursement for travel
6 expenses incurred in the performance of their duties in accordance
7 with RCW 43.03.050 and 43.03.060. Legislative members shall receive
8 reimbursement for travel expenses incurred in the performance of
9 their duties in accordance with RCW 44.04.120. The legislature shall
10 seek reimbursement from available sources, including the federal
11 government, for legislative expenditures incurred pursuant to the
12 provisions of this act.

13 NEW SECTION. Sec. 5. (1) An advisory council is hereby
14 established of not less than fifteen members appointed by the
15 governor to provide advice, counsel, and recommendations to the
16 department on all aspects of the radioactive waste management
17 program. The council shall particularly advise the department on
18 maximizing opportunities for public involvement in the program,
19 soliciting public input, and assisting in the need for wide
20 understanding of the issues involved in nuclear waste management.
21 The governor shall appoint the chairman of the advisory council who
22 shall also serve as chairman of the waste policy and review board.
23 Members of the council shall be selected from all areas of the state
24 and shall include a broad range of citizens, representatives of local
25 governments, and representatives of such other interests as the
26 governor determines will best further the purposes of this chapter.
27 A representative of an affected Indian tribe may be an ex officio
28 nonvoting member of the council. Terms of council members shall not
29 exceed two years and they shall continue to serve until their
30 successors are appointed. Vacancies shall be filled in the same
31 manner as original appointments. Members may be reappointed.
32 Members shall receive reimbursement for travel expenses incurred in
33 the performance of their duties in accordance with RCW 43.03.050 and
34 43.03.060.

35 NEW SECTION. Sec. 6. The department may establish such

1 additional advisory and technical committees as it deems necessary.

2 NEW SECTION. Sec. 7. The department of ecology is authorized to
3 adopt such rules as are necessary to carry out its responsibility
4 under this chapter. The department of social and health services is
5 authorized to adopt such rules as are necessary to carry out its
6 responsibilities under chapter 43.145 RCW.

7 NEW SECTION. Sec. 8. The director of ecology shall, in addition
8 to the powers and duties otherwise imposed by law, have the following
9 special powers and duties:
10 (1) To fulfill the responsibilities of the state under the lease
11 between the state of Washington and the federal government executed
12 September 10, 1964, covering one thousand acres of land lying within
13 the Hanford reservation near Richland, Washington. The department of
14 ecology may sublease to private or public entities all or a portion
15 of the land for specific purposes or activities which are determined,
16 after public hearing, to be in consonance with the terms of the lease
17 and in the best interests of the citizens of the state consistent
18 with any criteria that may be developed as a requirement by the
19 legislature;
20 (2) To assume the responsibilities of the state under the
21 perpetual care agreement between the state of Washington and the
22 federal government executed July 29, 1965. In order to finance
23 perpetual surveillance and maintenance under the agreement, the
24 department of ecology shall impose and collect fees from parties
25 holding radioactive materials for waste management purposes. The
26 fees shall be established by rule adopted under chapter 34.04 RCW and
27 shall be an amount determined by the state radiation control agency
28 to be necessary to defray the estimated liability of the state. Such
29 fees shall reflect equity between the disposal facilities of this and
30 other states. All such fees, when received by the department of
31 ecology, shall be transmitted to the state treasurer, who shall act
32 as custodian. The treasurer shall place the money in a special
33 account which may be designated the "perpetual maintenance account."
34 Appropriations are required to permit expenditures and payment of
35 obligations from this account, and the condition of the account and

its administration shall be reported biennially to the legislature by the director. Moneys in the perpetual maintenance account shall be invested by the state investment board in the same manner as other state moneys. Any interest accruing as a result of investment shall accrue to the perpetual maintenance account. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the perpetual maintenance account. The perpetual maintenance account shall be used exclusively for surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations; and

(3) To assure maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities.

Sec. 9. Section 3, chapter 207, Laws of 1961 as last amended by section 125, chapter 141, Laws of 1979 and RCW 70.98.030 are each amended to read as follows:

(1) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(2) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other ((nuclear)) <u>atomic or subatomic</u> particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(3) (a) "General license" means a license effective pursuant to regulations promulgated by the state radiation control agency, without the filing of an application, to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(b) "Specific license" means a license, issued after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing byproduct, source, special nuclear materials, or other radioactive materials

occurring naturally or produced artificially.

(4) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Atomic Energy Commission, or any successor thereto, and other than federal government agencies licensed by the United States Atomic Energy Commission, or any successor thereto.

(5) ((~~"Source material" means (a) uranium, thorium, or any other material which the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such or (b) ores containing one or more of the foregoing materials, in such concentration as the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material in such concentration to be source material~~)) "Source material" means (a) uranium, thorium, or any other material which is determined by the United States Nuclear Regulatory Commission or its successor pursuant to the provisions of section 61 of the United States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 209) to be source material; or (b) ores containing one or more of the foregoing materials, in such concentration as the commission may by regulation determine from time to time.

(6) ((~~"Special nuclear material" means (a) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (b) any material artificially enriched by any of the foregoing, but does not include source material~~)) "Special nuclear material" means (a) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the United States Nuclear Regulatory Commission or its successor, pursuant to the provisions of section 51 of the United States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2071),

1 determines to be special nuclear material, but does not include
2 source materials or (b) any material artificially enriched by any of
3 the foregoing, but does not include source material.
4 (7) "Registration" means registration with the state department
5 of social and health services by any person possessing a source of
6 ionizing radiation in accordance with rules, regulations and
7 standards adopted by the department of social and health services.
8 (8) "Radiation source" means any type of device or substance
9 which is capable of producing or emitting ionizing radiation.

10 NEW SECTION. Sec. 10. The rules of strict construction do not
11 apply to this act and it shall be liberally construed in order to
12 carry out the objective for which it is designed, in accordance with
13 the legislative intent to give the department of ecology the maximum
14 possible freedom in carrying the provisions of this act into effect.

15 NEW SECTION. Sec. 11. If any part of this act shall be found to
16 be in conflict with federal requirements which are a prescribed
17 condition to the allocation of federal funds to the state, such
18 conflicting part of this act is hereby declared to be inoperative
19 solely to the extent of such conflict and with respect to the
20 agencies directly affected, and such finding or determination shall
21 not affect the operation of the remainder of this act in its
22 application to the agencies concerned. The rules and regulations
23 under this act shall meet federal requirements which are a necessary
24 condition to the receipt of federal funds by the state.

25 NEW SECTION. Sec. 12. If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. Sec. 13. Section 12, chapter 295, Laws of 1981 and
30 RCW 43.21F.075 are each repealed.

31 NEW SECTION. Sec. 14. The governor shall study whether the
32 following powers, duties, and functions should be transferred to the
33 department of ecology:
34 (1) All powers, duties, and functions authorized to be performed

1 by the department of social and health services and its secretary by
2 chapter 70.121 RCW;
3 (2) All powers, duties, and functions authorized to be performed
4 by the department of social and health services and its secretary by
5 chapter 70.98 RCW, including those relating to agreements now
6 existing, or hereinafter entered into, with the United States
7 operating under authority of the Atomic Energy Act of 1954, as
8 amended. The functions included in this subsection include, but are
9 not limited to, the licensing and regulation of radiation producing
10 devices and radioactive materials now administered by the licensing
11 program, materials compliance program, x-ray compliance program, and
12 x-ray projects program of such department;
13 (3) Those of the board of health relating to programs transferred
14 in subsections (1) and (2) of this section; and
15 (4) The designation as the state radiation control agency under
16 RCW 70.98.050.
17 The study shall be conducted adhering to the provisions of the
18 open public meetings act, chapter 42.30 RCW. The results shall be
19 reported to the legislature by January 15, 1984.

20 NEW SECTION. Sec. 15. Sections 1 through 8 and 14 of this act
21 shall constitute a new chapter in Title 43 RCW.

22 NEW SECTION. Sec. 16. This act is necessary for the immediate
23 preservation of the public peace, health, and safety, the support of
24 the state government and its existing public institutions, and shall
25 take effect immediately.

Passed the Senate May 6, 1983.

President of the Senate.

Passed the House May 6, 1983.

Speaker of the House.