

Sac

JOHN SPRELL MAXX
Governor



WARREN A. BISHOP
Chair

WM DOCKET CONTROL
CENTER

STATE OF WASHINGTON

NUCLEAR WASTE BOARD

'85 OCT 15 ^{P 3:32} Mail Stop PV-11 • Olympia, Washington 98504 • (206) 459-6670

NUCLEAR WASTE BOARD WM Record File

101.3

WM Project 10
Docket No. _____
PDR
LPDR

Regular Meeting

October 18, 1985
1:30 p.m.

EFSEC Hearing Room
Rowesix, Building 1
4224 - 6th Ave. S.E.
Lacey, Washington

Distribution:
KEB MJB
JOB RDM
DRM CER
J Linehan
HJM
D Kunitiro
GW Kerr
(Return to WM, 623-SS)

AGENDA

- | | |
|---|----------------|
| 1. Introductory Remarks | Warren Bishop |
| 2. Minutes of Meeting, September 20, 1985 | |
| 3. Status of Low-Level Compact Process | Lynda Brothers |
| 4. Report on Final EA Presentation | Warren Bishop |
| 5. Public Involvement Report | Marta Wilder |
| 6. Committee Reports | |
| a. Transportation Committee | Dick Watson |
| b. Socioeconomic Committee | Curt Eschels |
| c. Environmental Monitoring Committee | Bob Mooney |
| d. Defense Waste Committee | Warren Bishop |
| e. Mission Plan Review | Dick Watson |
| 7. Meeting Reports | |
| a. International Topical Meeting on
High-Level Waste Disposal (Richland) | |
| 8. Review of Creighton Study | Jerry Parker |
| 9. Staffing Plan for Office of High-
Level Nuclear Waste Management | Terry Husseman |

8510250556 851018
PDR WASTE
WM-10 PDR

1577

- | | |
|--|---------------|
| 10. National Academy of Science
Review of Ranking Methodology | Max Power |
| 11. Washington State Institute for
Public Policy | Max Power |
| 12. Litigation Status | Charlie Roe |
| 13. Federal Legislation Status | Charlie Roe |
| 14. Technical Report | Bill Brewer |
| 15. Contracts Report | Gary Rothwell |
| 16. Other Business | |
| 17. Public Comment | |
| 18. Adjourn | |

NOTE: The USDOE will make a presentation to the Nuclear Waste Board in the EFSEC Hearings Room beginning at 1:30 p.m. on October 17, 1985, concerning the state of Washington's comments on the Draft Environmental Assessment and how they are being treated as USDOE prepares the Final Environmental Assessment. The meeting is open to all those interested in high-level nuclear waste management.

ANDREA BEATTY RINKER
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

NUCLEAR WASTE ADVISORY COUNCIL

Regular Meeting

October 18, 1985

9:30 a.m.

EFSEC Hearings Room
Rowesix, Building 1
4224 - 6th Ave. S.E.
Lacey, Washington

AGENDA

- | | |
|-------------------------|----------------|
| 1. Introductory Remarks | Warren Bishop |
| 2. Council Organization | Warren Bishop |
| 3. Council Orientation | Terry Husseman |
| 4. Other Business | |
| 5. Adjourn | |

MINUTES OF NUCLEAR WASTE BOARD MEETING

September 20, 1985

1:30 p.m.

**EFSEC Hearings Room
Rowesix, Building #1
4224 Sixth Avenue S.E.
Lacey, Washington 98504**

Board Members Present:

**Warren A. Bishop, Chair
Dr. John Beare, DSHS Designee
Senator Max Benitz
Curtis Eschels
Dr. Royston Filby, Water Research Center Designee
Senator H.A. "Barney" Goltz
Senator Sam Guess
Representative Shirley Hankins
Ray Lasmanis, DNR Designee
Representative Dick Nelson
Representative Nancy Rust
Richard H. Watson**

Advisory Council Members Present:

**Dr. Jerome Finnigan
Mayor Joe Jackson
Anita Monoian
W. H. Sebero**

The meeting was called to order by Warren A. Bishop, Chair.

In his opening remarks, Mr. Bishop announced that Tom Tinsley of the U.S. Department of Energy in Richland is leaving his position there to work with Science Application in Nevada. Mr. Tinsley thanked the Board for the opportunity to work with it and introduced Max Powell who would be taking over his duties in Richland. Mr. Bishop remarked that Mr. Powell had been a member of the USDOE C&C negotiating team and was known to some of the Board members.

Mr. Bishop also announced on behalf of Department of Ecology Director Andrea Beatty Riniker that Terry Husseman was the new Program Director of the Office of High-Level Nuclear Waste Management. He introduced Mr. Husseman, who said he was looking forward to working with and for the Board and Advisory Council and all of the

issues the program entails. Mr. Husseman acknowledged the help Don Provost, Acting Program Director, had given him during his first week, and complimented him on the fine job he had done during the interim. He announced that Don had agreed to stay on with the Office to head up the technical program.

Mr. Bishop added his appreciation for Mr. Provost's assistance during the interim period and expressed his pleasure that Don would continue to be an important member of the team.

The minutes of the August 16, 1985 meeting were approved as published.

Status of Low-Level Compact Process

Elaine Carlin, Program Manager for the Low-Level Radioactive Waste Program, Department of Ecology, reported on the status of the low-level compact process for Lynda Brothers, Assistant Director for Hazardous Substances and Air Quality. She said Congressman Udall's legislation to amend the Low-Level Radioactive Waste Policy Act was reported out of the House Committee on Interior and Insular Affairs on July 31. Companion Senate bills were introduced by Senators Thurmond and McClure. She said yesterday the Senate Judiciary Committee approved and reported out all six Compact bills with the understanding that an amendment to the Low-Level Waste Policy Act would be passed at the same time the Compacts are ratified, and, that the amendment package would deal in particular with the policy for the interim, or transition, period.

Ms. Carlin said a seventh Compact, the Northeast Compact, has been introduced into the House. It would include Maryland, Connecticut, Delaware, and New Jersey. Additional House and Senate hearings are now scheduled for early October.

Ms. Carlin said one of the more controversial provisions in the Udall bill is a requirement that the three sited states enter into an agreement with each other to establish which disposal facilities shall accept waste from which generators of such waste. She reported Lynda Brothers participated in a meeting with representatives of South Carolina, Nevada, and Washington to discuss the merits of this provision and the potential difficulties involved with implementation.

Concerning regional and state activities, Ms. Carlin said next Tuesday the Northwest Interstate Compact Committee will meet in Juneau, Alaska. The agenda includes an evaluation of impacts of the Udall bill, if passed, on the Northwest Compact. She said the Department of Ecology's Low-Level Waste Program is beginning an examination of alternative options related to low-level waste disposal that would be available to the state of Washington in the event the Udall bill and Compact ratification legislation are not adopted into law.

Representative Nelson asked what was the prognosis on the Udall bill. Ms. Carlin responded her personal opinion was it was judged very encouraging that the bill passed so quickly through the Subcommittee and full Committee. She thought it would move quickly through Markey's committees, and something should be known more definitely around the middle of November. She felt it has the best chance for success now that it has ever had.

Curtis Eschels added that earlier today he had spoken with Washington, D.C. and learned the draft should be available for comment next week. He said earlier this week Governor Gardner, along with Governor Riley of South Carolina and Governor Bryan of Nevada, sent letters to nuclear utility executive officers, alerting them to the condition that it was thought the states had gone further than desired and that the entire compromise package, while still acceptable, should not be tampered with any further. Today, he said, the Governor should be able to send out a letter to the other 47 Governors urging their cooperation and active involvement with their Congressional delegations and Committee members. He said the state is using all available resources to get the legislation passed, the Compacts ratified, and avert a national crisis.

Ms. Carlin added the information she provided was current as of today according to her contacts in Washington, D.C. She said she would have more information on Markey's staff work on a revision of certain provisions of the Udall bill.

U.S. EPA Standards Meeting

Mr. Bishop said the presentation by Dan Egan of the Environmental Protection Agency this morning on the final nuclear high-level waste disposal standards was extremely valuable to the Board and the public. He said six copies of the final report were on hand and available to any member wishing a copy today. Additional copies will be made available for the public upon request.

Representative Nelson inquired if the Board would comment on the standards. Mr. Provost replied the standards are now final and there is no formal comment period. However, he said, when the document is reviewed with legal staff there was a 180-day period in which the Board could send comments if it chose to do so. Regarding the issue of performance assessment, Mr. Provost said, the Nuclear Regulatory Commission has committed to changing their regulation to cover the performance assessment aspects. In that case, he said, there will be a period for comment.

Representative Nelson said it was heard previously that the rules had been altered from the first draft and in some respects were beneficial to the state's position. He asked whether that is still the reading of those rules. If not, should some comments be made to the point that perhaps the rules could have been improved. Mr. Provost replied EPA opened up the process several years ago, went

out for public comment, closed public comment, and held a meeting with the states. They then opened up for short public comment again. After several years of working on the Standards they went from 10 kilometers to the accessible environment, considered a 2 kilometers, and went to a final of 5 kilometers. Mr. Provost thought the final regulations are considered definitely more restrictive than they were originally. A point raised by many parties, he said, was that because of the length of time and the substantial change between the original Standards and the final, there might be a case for a lawsuit under the Administrative Procedures Act.

Mr. Provost said this was a legal question he was unable to answer, and it would be necessary to look at the total area on the technical side. He said the consensus of those he spoke with was that this would be a difficult lawsuit to win on technical issues, as EPA has a well-documented technical case in its Standards.

Representative Nelson asked about the personal dose time limit of 1000 years set to insure that Hanford remain an acceptable site. Mr. Provost replied at a hearing on standards he attended in 1983 this was a major point of issue. He recalled that was not the purpose of inserting that limit and 1000 years was not a Hanford-specific standard, but based more on the traditional way of handling radioactive waste standards. He said it was a generic-type request from many people from many areas.

Mr. Bishop said Charlie Roe was in the process of reviewing the EPA Standard and would be making further observations to the Board regarding the legal aspects.

National Academy of Sciences Review

Mr. Bishop referred to the testimony by Governor Gardner and Curtis Eschels last month before Congressman Markey's Subcommittee on Energy Conservation and Power, in which a strong case was made to create a "pause" in the program to allow an independent evaluation or review. Subsequently, Ben Rusche was in the state, met with the Governor, and indicated it was the intent of USDOE to adhere to the request for a pause. He said they were thinking seriously of obtaining an independent review by the National Academy of Sciences. Mr. Bishop asked Mr. Eschels to report on the current status.

Mr. Eschels referred to the joint press release of September 5 by Governor Gardner and Representative Al Swift, and the related copies of correspondence from Ben Rusche, previously sent to the Board. He said the press release points out they are both pleased that the Department has asked for that review and they consider it a first step in implementing Governor Gardner's recommendation to Congress. Mr. Eschels said the state is looking for two reassurances before signing off:

1. The Department would commit to live by the results of the Academy's report.

2. The scope of the Academy's review be wide enough to give a solid review to establish public confidence.

Mr. Eschels reported at that hearing, Senator Evans asked Ben Rusche directly: "Will the Department be bound if the Academy's review comes back critical of the methodology? Will you revise your methodology?" The answer was an unqualified "Yes".

On the commitment there was an exchange of letters, as noted, and the state's comment is contained in the Press Release (see attached). Mr. Eschels said he thought the Department understands the necessity of looking broadly at that methodology so that there are no further unanswered questions. He thought the Academy also understands that its reputation will bring credibility to that study. He stated the state would continue to work on how broad the scope would be, but must recognize the state is not directing the Academy in this effort.

Concerning the time, Mr. Eschels said, the Academy has no doubt begun work. There is a meeting scheduled by the Academy in early October, and they expect to issue the review about mid-November. Other states expressed concern that if the Academy's report is issued in mid-November it leaves very little time for the Department to react or respond, if there are changes that are necessary. Mr. Bishop added that staffs of various Congressmen are watching this issue very carefully.

Dr. Filby asked if the original intention in asking for the review was for a technical review of all aspects of the site selection. He said his impression was that it was quite a limited study of the actual methodology used in ranking the sites. He felt it was the technical content and future site characterization work that really needs the technical review of the Academy. Mr. Eschels said he thought it was broader than what can be inferred from Mr. Rusche's letter to the Academy. He speaks about reviewing the "adequacy of a ranking methodology to be used in the final EAs" and that is probably insufficient to have a complete sign-off on the restoration of public confidence. However, Mr. Eschels said, the state is mindful that the Department of Energy has the responsibility to do this ranking and no one is expecting the Academy to do the ranking--only to review the methods that were used and all the assumptions that go into it. This would give the Department a high-quality peer review to assure that they are not only using the right methodology, but they are applying it properly.

Dr. Filby stated his feeling about the peer review is that it is more necessary in evaluating the scientific data obtained, the hydrological data, the geochemical data, and even more important when it comes to evaluating the site characterization, assuming that Hanford is selected, to evaluate the technical work as it goes along with site characterization. Mr. Eschels said he thought that the

Academy understands that if it puts its stamp of approval on the methodology, given its reputation and high standards, it will have to look thoroughly at sensitivity of the data, the adequacy of the methodology, and the quality assurance practices followed. Dr. Filby said this could not happen in two or three weeks, and Mr. Eschels said they would be working on the issue for six weeks.

Dr. Filby then asked if the review was going to be restricted to the methodology used in ranking the sites prior to the determination of suitability. Mr. Eschels thought Mr. Rusche's letter implies that, and Governor Gardner and Representative Swift would not be satisfied if there is that kind of limitation.

Mr. Bishop asked how Mr. Eschels felt it would become apparent that the intensity of review intended by the Governor and the Congressman and others is actually going to occur. Mr. Eschels said there would be an indication when there is a document describing the scope of the Academy's work. That document should be executed between the Department and the Academy, and that will give an early indication. He said simultaneously there are resources within the state of Washington which have already examined the methodology, and they might be asked to monitor the Academy's work to enable the state to react in a knowledgeable way to the report. Mr. Bishop said he estimated that within the next week or so the state should be able to see the document that constitutes the basis of agreement between the National Academy of Sciences and the U.S. Department of Energy. Mr. Eschels said he assumes the same since the Academy will begin its work early in October.

Mr. Bishop assured the Board there will be discussions with the staff of the Science and Technology Committee (now the Institute for Public Policy), which had retained an independent consulting firm to do an independent analysis of the methodology.

Public Involvement

Marta Wilder thanked the Board for its comments on the Semi-Annual Report, which were incorporated in the final draft now being typed. The report will then go to the Office of Financial Management for a 10-day review before it is issued. The August/September Newsletter was mailed the first week of September, and the October/November Newsletter is being composed. It will contain articles on other states' programs, Mission Plan review, an international perspective on the waste situation, and perhaps a brief article on the EPA presentation today. Ms. Wilder said since distribution of the Newsletter, 60 requests for Fact Sheets had been received as a result of the check-off box on the back of the Newsletter.

Ms. Wilder reported she had the opportunity to meet with Dick Frohnen with the Public Affairs Office in Nevada. Nevada is just starting its public information program, she said, and she furnished Mr. Frohnen with a packet of material available in the Office.

With regard to the proposed survey, Ms. Wilder said a plan is being discussed and a meeting with Mr. Husseman and Mr. Bishop will be held next week to work out some details. The Advisory Council will be fully involved in developing the questions, Ms. Wilder said, with periodic reports to the Board.

In August and September five presentations were made to about 500 people. Ms. Wilder reported there is a nearly-completed updated slide show, and work is being done on two technical modules to incorporate in the overview. One will be on defense waste, and the other on the site characterization plan. Mr. Provost will make a presentation to the Washington State Public Health Association next week.

Advisory Council Status

Mr. Bishop advised that it was hoped the new members of the Advisory Council would be known some time next week. As soon as they are appointed, he said, a date would be set for a two-day orientation to be held in Richland.

Committee Reports

Socioeconomic Committee. Mr. Eschels reported a meeting of the Committee was held on September 16. He said the agenda was limited to defining the scope of the activities.

1. Examining the grants-in-lieu-of-taxes available under NWPA during site characterization to the state and local governments.
2. Exploring means to compensate governments for construction-related costs.
3. Pursuing the Economic Damage Analysis that the Board has insisted be performed as part of the Final Environmental Assessment.

Mr. Eschels said assignments have been made, and the next meeting will be held on October 15.

Contractor Assistance. Ray Lasmanis, Chair of the Committee, reported the first meeting of the group was held on September 5. He said they considered various options, planning as if Hanford were one of the three sites nominated. Options considered were:

1. Continue with a single prime, such as being done currently.
2. Go with two primes, with one addressing technical issues and the other the public awareness programs.

3. Go with three primes in areas consisting of (a) geotechnical, (b) public awareness, and (c) transportation and socioeconomics.

Mr. Lasmanis reported it was the consensus of the Working Group that the Board should go with several primes, and not just one contractor. He said the advantages of this direction included the extreme technical expertise and sophistication required of both the contractors and those appearing before the Board in the next five years, should Hanford be nominated. Also, there would be more accountability for the programs. In addition, there is a greater possibility to select contractors with the best expertise, and it would minimize conflicts of interest. With three national sites being selected, he said, there is the possibility that most of the well-qualified contractors could be working for USDOE or their primes.

Mr. Lasmanis added no number of prime contractors was determined as the staff working for the group would need to be expanded in the technical and other areas. He said it would be desirable to have a program manager on staff responsible for each one of the specialties, such as public awareness, geotechnical matters, hydrology, transportation, etc. Because time is a critical factor, Mr. Lasmanis said the Committee recommended the Board to instruct staff to prepare a staffing plan, keeping in mind that these program managers would need to be put in place close to the time the contractors are selected. This could take place in January, 1986, he said.

Mr. Lasmanis pointed out the contract with EnviroSphere expires the end of this month, and the Committee recommends that EnviroSphere's contract be extended until the time the President makes his decision. This would allow the program to continue in a smooth way. However, he said, as soon as is practical the Committee feels the Board should instruct staff to prepare RFQs so that any potential consulting companies or contractors can get their qualification to the Board in order to be prepared, once the decision is made by the President, to go out for bids. He said he understood it takes a minimum of 60 days to get a prime contract in place. Since this will cause a gap, coordination will be necessary and the Committee will assist the Board in the Committee's subsequent meetings. The recommendation at this time, he said, was to have EnviroSphere continue in two areas: (1) defense wastes, and (2) public awareness. Should EnviroSphere be selected as one of the primes, Phase II could be implemented by either expanding their activities, or winding down their activities.

Resolution 85-2. Mr. Bishop called attention to a draft Resolution pertaining to the staffing plan in the members' packets. Senator Guess inquired if there were money in the budget to cover the expanded staff. Mr. Bishop replied in the affirmative, as it was a

part of the grant proposal which is about to be authorized. Mr. Provost said the grant request tried to anticipate this, but should the plan be adopted and require a change in the grant USDOE would be willing to consider a change in the grant.

Mr. Provost offered further explanation of the Resolution. He said the purpose of the trip he and Director Riniker made to New Mexico was to observe the staff of the New Mexico Environmental Evaluation Group to determine their criteria. He said they have an unusual arrangement by subcontracting with the University, which only has a small overhead to cover costs. Because the staff that would be needed for this program has very unique requirements, they would not fit into the Washington State classification system, which calls for supervision at a certain level. In most cases, the technical people needed would not be supervising. He said Washington could follow the New Mexico system, or go to the Personnel Board to request unique classifications. In order to do this the plan proposed would be needed, with justification for each position.

Mr. Bishop added this Resolution should cover the recommendation to have program managers for each area identified. Should the Resolution be adopted, he said, a staffing plan would be presented to the Board at the October meeting.

Mr. Lasmanis said he would support the effort to go before the Personnel Board to request unique classification as his own Division consisted mostly of geologists. He said their value to the state is based on their scientific expertise, and not on how many people they supervise.

Dr. Filby inquired if the Contractor Assistance Committee had considered the role that qualified University personnel might play in the contractor issue. He asked how these people with the expertise they have could be involved in the review, perhaps interacting with the contractors. Mr. Lasmanis said the Committee did not consider the type of contracts that would be let, but this was an area the Committee could assist the Board with in subsequent meetings. Senator Guess said he thought the quality of people in the Washington universities justified consideration in this program. He thought they could contribute at less cost, had the capability of doing the job, and should be utilized.

Mr. Eschels said that since a staffing plan would be considered at the next Board meeting, he hoped the impression was not given that the only people allowed to work on this program would be on the high-level nuclear waste staff. He also thought advice would come from the Nuclear Waste Advisory Council, when the appointments are made, as the public involvement program is a very strong part of their charter. Another part, he said, is to build better communications with the universities and other academic institutions in the technical community within the state. He said this is another opportunity to use the resources in the state. Mr. Lasmanis added that although there was not time in the first meeting to discuss all the details, they recognized there was a need for all the technical

and scientific assistance that could be mustered. He thought the university system was a part of that. Regarding program managers on staff, he said, it was felt they needed to be full-time staff people, and not individuals with other responsibilities.

Mr. Bishop said at least two proposals had been received from university groups and the Committee would examine those at the time they develop procedures for shaping the kind of technical assistance required.

Dr. Filby pointed out that at Washington State University there are already two groups which continually monitor the progress of the repository program. One is a technical group and the other is a social science group, and both are very interested in participating in further site characterization and will stay actively involved.

It was moved and seconded that Resolution 85-2 be approved. The motion was carried unanimously.

Dr. Beare commented that while the Resolution speaks to the issue, a different kind of a resolution will be required to be convincing to the Personnel Board to do anything related to changing their entire structure of personnel appraisal. He said he believed all agencies suffer from the same problem mentioned by Mr. Lasmanis, as there is no recognition of professional expertise as relates to salary or other factors. Mr. Bishop thought the need for such a structure for this program could be demonstrated, but if the need arose to reshape Board action, it will be done.

Mission Plan Committee. Mr. Watson stated EnviroSphere had reviewed the final Mission Plan issued this summer, with particular regard to the extent to which it was responsive to and reflected the comments of the Board. A subset of the Mission Plan Committee met on September 6 to decide how the Board might want to proceed. The Committee felt it was important that the state go on record with its review of the final Mission Plan and the adequacy which it believed the Department of Energy responded to the state's concerns. The review is now in the hands of the Mission Plan Committee for their study. Staff will prepare an enumeration of the key points that come out of that review and the Board will be presented with a recommendation that this review of the Mission Plan be forwarded to the U.S. Department of Energy. This will be essentially to put them on notice, he said, that the state expects its comments to be considered and reflected upon in the next revision of the Mission Plan.

Representative Nelson said the initial Mission Plan gave very brief attention to the U.S. Geologic Survey's concern about the whole program--the pace of the program, the lack of time to do adequate data collection and analysis, and the inattention to other siting possibilities in the western states. He asked if the final Mission Plan spoke to those issues, and if not, does the state plan to bring them up again. Mr. Watson replied a great deal of the state's comment and other parties' comment on the Mission Plan did address those issues. He said there is a considerable amount of response to

them, but Envirosphere's review of that is quite explicit with regard to matching the state's comments and how they were handled in the Mission Plan.

Dr. Brewer added that a lot of the concerns the Survey had early on were the same ones that state and others had. He said while they did not respond specifically to the Survey, they did respond to some of the issues, which amounted to a recognition of the problem with a promise to work on it. Dr. Brewer thought the first internal review of the Mission Plan would be more instructive to the state than what is in the Plan right now. He thought there was not enough new data at the time the Mission Plan was drafted to have a good understanding of the program. Should they not respond in the first revision, he said, it should be considered there is something very wrong.

Mr. Provost commented on the schedule. He said between the time the draft Mission Plan was issued and the final, the schedule slipped 11 months, yet the ending date is the same--1998. He said a very large chunk of that time was taken out of the NRC licensing process. NRC had earlier indicated that the time in the draft was barely sufficient to do the job. This creates a serious problem and Curt Eschels did testify, as did others, about this particular issue. He said the state's primary focus was to be sure the job is done properly.

In response to Mr. Bishop's inquiry as to the timeframe for the first evaluation, Dr. Brewer said it was not specified.

Transportation Committee. Mr. Watson reported the group met yesterday. They first reviewed a staff review of the Transportation Business Plan. He distributed draft comments for submittal by the Board to the U.S. Department of Energy. The three main issues addressed were: (1) Cask Testing, (2) Private Sector Utilization, and (3) Trade-offs Between Cask Safety Margin and Capacity in Minimizing Overall Transportation System Risk.

Mr. Watson said the group had also reviewed the report by Cooper Consultants and their recommendations on the transportation aspects. Primary recommendations were to evaluate the USDOE generic transportation data as it was applied in the Transportation Risk Assessment and to develop and compile route specific data for the Northwest traffic density accident rates to facilitate route specific risk analysis and to assess the adequacy of emergency response capabilities. Staff is in the process now, he said, of developing a scope of work to cover the collection of this data and determine what would be necessary to assess the adequacy of emergency response capabilities.

Mr. Watson said, with regard to the actual risk assessment models themselves, it is still believed it is important for the state to have access to these models to be able to do sensitivity testing, etc., particularly if the effort is to be made to develop route specific data. He said because of the complexity of the models, alternatives are being investigated, including the possibility of a

consortium of state universities or individual state institutions of high learning or research, or a private consultant.

Mr. Watson reported surprise information came to the group at yesterday's meeting, and he asked Nancy Kirner of the Radiation Control Unit of the Department of Social and Health Services to convey the information to the Board.

Nancy Kirner said she had learned that the U.S. Department of Energy has tentative plans to ship some spent nuclear fuel through the Port of Tacoma on its way from Taiwan to the Savannah River plant in South Carolina. This would be a campaign of one or two shipments per month for two years or so. She thought it would probably go by highway, not by rail; will probably involve an NRC-certified cask; will probably be a legal-weight and legal-size shipment requiring no special permits to travel on highways. In the Transportation Group meeting, she said, it was felt these shipments should be handled under the Nuclear Waste Policy Act provisions. What that would specifically entail was up for negotiation. Ms. Kirner said the transportation was being handled by the Transportation Manager out of the Savannah River plant.

Ms. Kirner said possible state actions include inspections of trailer-tractor combinations involving the Washington State Patrol, Utilities & Transportation Commission, and the Department of Social & Health Services. There would also be notification requirements. She said there was a possibility that routes or times for shipment would be considered to avoid congestion and traffic jams. Additional emergency response training could also be an element of the Washington program, plus other options for action or inaction.

Ms. Kirner said the Transportation Office at the Savannah River plant wants to come to talk to the state of Washington about their plan. She thought there would be a meeting in October involving the Transportation Committee, as well as other interested persons. She said to her knowledge no contracts have been signed. She asked if Curt Eschels had more official information through the Office of the Governor.

Mr. Eschels said the Governor's Office will convene that meeting among the agencies which are responsible for protecting the public health within the state of Washington. That, he said, is the first concern. A second concern has to do with the intimation by USDOE that this spent fuel is somehow not high-level radioactive waste when there is a federal law that specifies a workable procedure for interacting with the states. He said he believed the Committee was right to ask to have this material treated as if it were NWPA material. He thought state actions will first include convening of this group responsible for regulation, notification, and safety, and a meeting will be held with USDOE to communicate clearly to them the requirements the state of Washington feels are necessary to protect its citizens.

Mr. Eschels said he thought from USDOE's standpoint there should be two advantages: (1) avoiding any inference that might be drawn that implementation of the NWPA could be characterized by how this waste shipment is being handled; and (2) by cooperating with the state of Washington, the federal government can be assured that shipments are going to be done in a way that is smooth and regular and avoid any disruption or irregularity of their program.

Senator Goltz asked if this were the first time, to the state's knowledge, that high-level nuclear waste will have been transported through the state of Washington by truck. Mr. Eschels responded in the negative and said there is already a mechanism by which the shipper notifies the state of Washington, which convenes a group including the State Patrol, the Radiation Unit of DSHS, and the Department of Emergency Management. This assures that inspectors and emergency response people are alerted and that the shipment goes through with complete protection and a smooth transit. That, he said, is what the state is looking for on this series of shipments.

Senator Goltz said that while the announcement that Tacoma would be the receiving port is somewhat of a surprise and unanticipated, then this is not an unusual or first-time event. Mr. Eschels assured him there is a mechanism in place and thought there were four or five shipments of high-level radioactive waste in 1984.

Senator Goltz asked if the Governor's Office is satisfied that the Price-Anderson Act protects the state from exposure to liability which might arise due to this shipment through the state. Mr. Eschels said this brought up another subject, which would be discussed later under the pending legislation report. He said it appeared to him USDOE is attempting to treat this kind of shipment, which is foreign fuel from a research reactor, under the non-proliferation treaty as being distinct from high-level waste under the high-level Nuclear Waste Policy Act. In the public mind, it is high-level radioactive waste. He thought there was a good opportunity to show that mechanism can work and as more of those shipments arrive, with or without a repository, to have the mechanism in place to protect public health and assure a smooth transit.

Senator Guess said he understood these spent-fuel shipments should not be considered foreign wastes; they have been experimental and the United States has owned it all the time. He thought these shipments should be handled in the same manner as all prior shipments have been. Mr. Eschels said there was a report by the U.S. Government Accounting Office in the summer of 1984 which addressed this question. In that report it was pointed out, for the shipments looked at by GAO, the foreign country does have title to it and retains title throughout the transportation phase until it is accepted at Savannah River, at which time the U.S. government takes title.

Dr. Beare said one of the concerns the Department of Social & Health Services had was the manner in which the state was informed of these shipments. He thought there should be some plan established on how

the state would be informed, by whom, and how the state would react. The news of this shipment, he said, was learned through the state of Oregon. The original call was made to that state inquiring about the transportation corridors through Washington State. He felt the state of Oregon was not in a position to respond to that inquiry.

Mr. Watson said in the discussions at the meeting yesterday nothing different was seen about these shipments from shipments that might occur under the Nuclear Waste Policy Act, except for their frequency and the actual route they would take which would be different from shipments going into Hanford or shipments going out of Hanford, should it not be chosen as a site. They thought this was an opportunity to use these shipments as a prototype of a situation the state will be faced with, irrespective of any decisions that are made with regard to Hanford.

Ray Lasmanis asked how many shipments of high-level nuclear waste actually passed through and into Washington State. Mr. Provost stated the GAO report summarizes data concerning shipments that went through Portland and one east coast port. The report is in the Office and could be made available to the Board upon request, he said. He continued that this became an issue in the earlier C&C negotiations, but there is very little information from USDOE about these shipments.

Mr. Bishop said the recommendation of the Transportation Committee was to make a specific request of USDOE that these shipments be treated as they would be treated under the Nuclear Waste Policy Act. He wondered if there had been any conversations with USDOE that would indicate the Board had any chance of success in this request.

David Stewart-Smith of the Oregon Department of Energy said they had contacted the U.S. Department of Energy when they received word of these shipments. He said they contacted Lake Barrett, the person responsible for the transportation program for USDOE, who was not even aware of these shipments. Mr. Stewart-Smith thought the Board would be breaking some new ground with this request and recommended the action highly. He said his understanding from the individual who contacted him from Savannah River was that these wastes are not research reactor shipments, but are power reactor shipments.

Representative Nelson said in light of Mr. Stewart-Smith's last statement, he wanted to know what the disposition of that spent fuel would be and whether it would be held for disposal or reprocessed. Mr. Eschels said this would be explored in the planned meeting. He said the GAO report describes what happened to the foreign spent-fuel shipments that came in up through 1983.

Mr. Eschels said he wanted to express appreciation to the state of Oregon in giving the state information before the USDOE. He also had talked with Mike Lawrence, USDOE in Richland, who has been helpful in doing what Mr. Stewart-Smith suggested--that is, raising the consciousness of senior management in USDOE to treat this kind of shipment.

It was moved and seconded that a letter to USDOE concerning the foreign waste shipments be prepared in response to the recommendation of the Transportation Committee. Representative Hankins suggested the liability question should be addressed in the proposed letter. Mr. Bishop agreed and said this would be incorporated in the letter. The motion was carried unanimously.

Senator Goltz moved that the Chair would be authorized to send the draft letter of comments on the Business Transportation Plan in final form to the U.S. Department of Energy. The motion was seconded and carried without opposition.

Meeting Reports

National Governor's Association Task Force. Mr. Provost reported that on August 23 and 24, Curt Eschels and he attended the meeting in Charleston, South Carolina. Traditionally, the states have worked through a special representative, Holmes Brown, of the NGA. Because Mr. Brown is leaving the Association and staff is being restructured, he said the group was looking for assistance in Washington, D.C. and a large part of the meeting dealt with this issue. Also discussed was the issue of the Price-Anderson Act, which expires in 1987. Mr. Provost said the Association of Attorneys General met the previous day to review drafts of Price-Anderson legislation. The second day the group toured the Savannah River plant, which included their glassification plant now well ahead of schedule. He said it was his understanding such a facility would be planned for Hanford, should it be selected.

Mr. Eschels added the Savannah plant seemed to going from a smaller model to a full-scale model without a prototype in between. Senator Guess believed it would be 12-scale, 8-scale, to 1/2-scale. He said they had tested the laws of similitude at each step and the 12 to 8 worked fine, 8 to 1/2 also worked fine, and the laws of similitude held straight across the board. Mr. Eschels thought perhaps he was talking about pilot plant versus full-scale operation.

Concerning Price-Anderson, Mr. Eschels said there is a group working on refining the draft which was distributed at the South Carolina meeting. Following discussion and some refinement, he said that draft has been sent to all of the states on the Task Force and contacts within the Congressional staff for comment. They are to be returned by early October in order to have a Price-Anderson draft which has the support of quite a number of states, and would be presented to Congress with a request that it be introduced and considered as a proposal by the states. He thought initial hearings on that language would be scheduled on October 22 and 23. One of those days would be devoted to commercial power plant coverage, on which the state will not take a position either way. The state's concern will deal only with waste disposal systems. Mr. Bishop said a copy of the fifth draft of the legislation would be sent to the Board.

Mr. Bishop added that Senator Simpson is also planning to hold oversight hearings on October 29.

New Mexico Environmental Evaluation Group. In addition to his prior remarks, Mr. Provost said the state of New Mexico was very helpful in arranging a flight from Santa Fe to New Mexico, and Director Riniker and he were able to make the very interesting underground tour. He said he would agree with Senator Guess that it would be a worthwhile trip for the Board at the appropriate time. Mr. Bishop's plans are being developed to give the Board the opportunity to see this facility and they will be discussed at the October meeting. In response to Representative Rust's inquiry, Mr. Provost explained the site is designed for defense transuranics in a salt site 2,150 feet under ground. Research on high-level waste can be done there, but it is built for defense waste only. He said they are ahead of schedule and under budget on the project. Senator Guess asked about the mining equipment, and Mr. Provost said Westinghouse is now doing the mining.

House Subcommittee on Radioactive Waste and Senate Energy & Utilities Committee. Mr. Bishop said during the September Legislative Weekend he and Don Provost had attended the House Subcommittee hearing, and he and Dr. Brewer attended the Senate Energy & Utilities Committee hearing. Mr. Provost said a status of the current activities of the Nuclear Waste Board was provided to bring the members up to date. Mr. Bishop said in the Senate the major subjects were reported by the Institute of Public Policy group, covering both the Monitored Retrievable Storage report they had prepared and the Mission Plan.

NRC Meeting on Preliminary Determination of Suitability. Mr. Provost reported that at the meeting held in Washington, D.C. on September 6, Ben Rusche of USDOE testified, as well as the Nez Perce, the Yakimas, Minnesota, Nevada, Utah, Washington, Wisconsin, and the Environmental Policy Institute. All maintained one position, that the Preliminary Determination of Suitability should come after characterization is substantially complete. He said Edison Electric testified that USDOE should be allowed to do that at any time. Mr. Provost said the NRC staff attorney said there is an environmental impact statement and he was sure that NRC would require three acceptable sites. He said this was no doubt an ongoing issue and NRC would not take a public position on this, but that requirement could come at a later date.

Mr. Provost said at some meetings on the Mission Plan which Mr. Eschels had attended the Commissioners had informally announced that four to one they supported the USDOE position.

Mission Plan Hearings--U.S. Senate, U.S. House. Mr. Eschels referred to the testimony presented to the Subcommittee on Energy Research and Development of the Senate Energy and Natural Resources Committee and to the House Committee on Interior and Insular Affairs

on September 12 and 13, 1985. Copies were furnished the members and are available from the Office of High-Level Nuclear Waste Management upon request.

Following a short history, including the Board's comments on the Draft Mission Plan, he mentioned that the overall assessment was there had been a big improvement, but the state was not quite satisfied and had remaining comments. In the testimony, he said, there is a list including the Preliminary Determination, Defense Waste, the ranking methodology and the review by the National Academy of Sciences. Those three were emphasized for the committees. He said there was great interest in the Senate, particularly by Senator Domenici, on the defense waste question. The testimony also included comment on the MRS, transportation issues, the schedules mentioned by Mr. Provost--compression in the front end--and it closed with a request to those committees and Congress generally to hold USDOE to the process the Congress established to emphasize public safety in its review and oversight. Not requested that day, he said, were many major changes to the Nuclear Waste Policy Act, believing that the process is there and set out and could accomplish what it was intended to do--that is, establish a safe repository. However, he said, given the comments in the testimony and other indications received, the confidence is beginning to diminish. He made these same statements directly to Ben Rusche, and he felt the state's problem was understood. Mr. Eschels said he thought Mr. Rusche is caught somewhat between the schedule he feels is very firm from Congress and all the tests and assurances he must provide.

Mr. Eschels said the state maintains public safety must be the principal concern and for that reason the state did not complain loudly when the final EA was not issued "on schedule", because high-quality work was expected which would result in public safety.

Attached to the given testimony was Governor Gardner's testimony to the Nuclear Regulatory Commission which was specifically on the Preliminary Determination question.

Institute for Public Policy

Max Power of the Institute announced an upcoming series of regional briefings on the status of the Nuclear Waste Policy Act for members of the Legislature. This will be a backgrounder, he said, and will be used to inform the Legislators on some of the current thinking on state issues. He provided a list of locations and dates (see attached). He emphasized these briefings should not be considered as hearings, but informal information meetings. He said they were hoping to have representatives from USDOE to present their technical program. Board members were invited to join the Institute at any meeting near his or her home. The meetings will be open to the public, he said.

Mr. Power said while they are out in the state, they will be visiting some of the universities in the state to create a network of university people with expertise in many of the specialized areas touched by the repository program. From this network, he said, they would expect to get a good peer review as well as to help identify specialists available to the Board or the Institute for contracting on more extensive kinds of issues.

Mr. Provost inquired about the clipping service the Board had requested. Mr. Power said the Institute agreed, in discussion with the Board staff, to take on the task of providing summaries of news clippings around the state on the high-level nuclear waste topic. This is being structured, he said, and their staff will try to reproduce the pertinent clippings on a weekly basis. He said the tentative understanding was to make a number of copies available to the Board staff on a regular basis for distribution to the members of the Board.

Litigation

Charlie Roe, Assistant Attorney General, furnished the Board with three memos dealing with the status of litigation and proposed federal legislation (see attached).

Among the highlights, he recounted, were:

Siting Guidelines Litigations. Mr. Roe said no date has yet been set for oral argument on the USDOE motion to dismiss the Board's case. The only new event, he said, was that the states of Mississippi, Vermont, and Utah asked permission through a motion to intervene for limited purposes to support the state's position in opposition to the motion to dismiss. These requests were denied late last month.

Monitored Retrievable Storage (MRS). Mr. Roe said on August 20 Tennessee did file its action against USDOE with regard to locating an MRS facility in Tennessee. He said they are contending they are entitled to have C&C negotiations. They have also set forth an argument that the whole statute is unconstitutional.

Water Rights. Mr. Roe reported that although promised, no response to Governor Gardner's letter to Secretary Herrington on the water rights issue had been received as of the close of business on September 16, 1985. Yesterday, on the 19th, Mr. Roe said he received a call from USDOE stating the Department was still working on a response which had moved out of the attorneys hands and was with the higher echelons of the Department. The caller hoped the response would come out this month, but he could promise nothing.

Preliminary Determination of Suitability [Section 114(f)]. Mr. Roe said both the Governor and Don Provost had testified on this issue before the Nuclear Regulatory Commission on September 6, 1985.

He said the first formal interpretation given by USDOE to Section 114(f) was in the Mission Plan. If that is a reviewable, there are 180 days to make a determination if the state should challenge. This will be followed very closely, he said.

Liability Legislation

The status of the pending legislation was charted in Mr. Roe's memo of September 17. He said Attorney General Pittman appointed him a chairman of a drafting group for the High-Level Nuclear Waste Subcommittee on the Price-Anderson effort and work is being coordinated with the Governor's Office, as well as the National Governor's Association. It is hoped there would be one voice in that whole issue, he said.

Mr. Bishop inquired about the status of H.R. 2534, sponsored by representatives Morrison and Dicks. Mr. Roe said he checked with the staff in the House and Senate. He said the House Committee staff had no suggestion of a hearing scheduled, and the Senate staff knew of no other hearings on Price-Anderson, other than the announced schedule. He said they thought the setting of October 22 and 23 for hearing S.1225 by Senator Dole would hold firm. He added this was the bill to follow, and for local interest it would be HR 2524. Mr. Roe said the bills mentioned in his third memo are not being pursued by anyone at this time and could be considered relatively dormant.

Technical Report

Dr. Brewer reported a productive technical meeting was held in Richland on August 29. He remarked if the relationships in Washington, D.C. went as well as they do between the working professionals in Richland, everyone would be happier. He said there has been a concern with the laboratory quality of geochemical data in the past and now the Department has purchased some very expensive, sophisticated new equipment which Dr. Brewer felt will give a whole new data set that can be tied into the prediction of repository performance.

Dr. Brewer said a lot of the older deep drill holes close to the repository are being reconfigured into multi-port piezometers, very sophisticated measuring instruments. He said for the first time the hydrologic intercommunications between deep wells is being seen, which is necessary to establish the basic groundwater flow parameters. In 1982 the Site Characterization Report was severely criticized because it was based on single-point measurements, he said. Now, high-quality data is being received and the hydrologic data taken from here on out should be credible. EnviroSphere has been requested to review the old data and highlight any specific data sets that should be removed, and USDOE and Rockwell are beginning to do this also.

Dr. Brewer said after a year and a half the Washington State University well-logging project has been approved. In the meanwhile, USGS has prepared and is about ready to operate a computer model of the regional hydrologic system. The WSU data will be fed into this. This is important, he said, as the Department now realizes there must be regional data to understand local data, and second there are two non-USDOE technical organizations performing part of the evaluation of the regional system.

Dr. Brewer said USDOE has been very cooperative in providing over a hundred technical slides, which gives the Office the ability to talk to specialized audiences about the different aspects of the geotechnical work going on at Hanford. The Board and staff can be supported with very good documentation in the form of slides.

Ray Lasmanis asked the status of the cold-water barrier study. Dr. Brewer responded the plane surveying has been done, and they are doing some geophysical lines now, such as gravity and magnetics. He said the investigation of the barrier is well on track, but it is not certain when they will drill and are only doing preparatory work. He said more and more that they are coming around to the probable explanation is that it is a bedrock fault.

Representative Nelson asked if a detailed work plan for site characterization had been developed with a time schedule, and if so, how does it compare with the time available under the Act. Dr. Brewer said the SCP was discussed at their meeting and he was told there is a preliminary draft in circulation, but it has not cleared all the levels of internal review. He expected that draft would be available before too long, this Fall being about the closing date for data entry into that draft. He added this would be sufficient in the technical sense for peer review. After that, the question will be whether there is enough time in the overall schedule to do the work.

Oregon Report

David Stewart-Smith of the Oregon Department of Energy reported the contract to partially fund Oregon's portion of the Oregon-Washington Cooperative Review Program is taking form. A request would be made to a Subcommittee of the Oregon Legislative Emergency Board for spending authority to implement that contract on October 10 and to the full Committee on the 11th.

Currently, Oregon is also working with the U.S. Department of Energy in the leadership of their Public Advisory Committee to set up a radiation monitoring workshop in late October, similar to the one held in Washington recently. This would address the Hanford issue from Oregon's perspective. He said the Washington Department of Social and Health Services has been invited to present its data, along with the Oregon State Health Division, the USDOE, and other interested groups.

Oregon is continuing to work with Washington agencies to implement a cooperative reciprocal recognition of Oregon and Washington inspections of transportation shipments.

During the regular Oregon Legislative Session earlier this year an Interim Committee on Hazardous Materials was set up which intends to address as part of their agenda Oregon's interest in the Hanford site. He said Peter Green, a committee staff person, spent most of the day in Olympia to begin to get a feel for Washington's program and for Washington legislative involvement. Mr. Green would continue to make contact with Board members and Washington legislators, he said.

Mr. Stewart-Smith said the role of Oregon's Public Advisory Committee has expanded to include interaction with the Legislative Interim Committee, and the Oregon executive agencies involved in the Hanford review program welcome this expansion of their role.

Other Business

Representative Nelson said he was interested in the state's attitude on the Monitored Retrievable Storage recommendation. He asked if any formal response is being planned. Mr. Provost said USDOE's formal presentation to Congress is coming up very soon. He felt sure there would be hearings held at that time. That would give the state the opportunity to make formal comments to Congress and the U.S. Department of Energy. This will be a very sensitive issue, Mr. Provost said, as there are many benefits for the state of Washington, but there is strong opposition from corridor states and others. There is also a legal question as to whether MRS is beyond the scope of the Act. He said the Office is looking at the whole issue.

Mr. Watson commented as Chair of the Transportation Working Group that staff has looked at the MRS question in a very preliminary sense from a standpoint of transportation. They have done a memo analysis to the members of the Working Group, which will be forwarded to the full Board, if desired. It is simply reflective of present thinking about the issue and does not contain any data or in-depth analysis, he said. The conclusion drawn was that if Hanford were to be chosen as a site, it would appear as though MRS would be favorable to the state of Washington from a transportation standpoint. If not chosen, it would be more or less neutral for the state of Washington. From an overall transportation risk standpoint, it is unclear what the impacts are, he said. They could conceivably be higher with MRS by moving the wastes to a more densely populated area of the East.

Mr. Provost added the intent was to submit the proposal to Congress in January and hearings would be held at an appropriate later date. In response to Representative Nelson's inquiry, Mr. Provost said at this time review of the MRS issue is being done in-house. He also said one of the issues of concern in the Midwest was that if an MRS

facility is built, there will never be a geologic repository. All these issues are being reviewed, he said.

Mr. Bishop noted that the Institute for Public Policy staff had prepared a report on MRS, and asked Max Power if that had been distributed to the Board. Mr. Power said it was made available to the House and Senate and to the legislative members, but he was unsure if the other members had received a copy. Mr. Bishop requested copy be provided so the Office could distribute the report to the full Board.

Representative Nelson referred to the EPA Standards discussion this morning and the question of calculating uncertainty. He wondered who would make the final decision and what method would be used to determine the uncertainty of a site and whether the final decision would be according to the rules of the Standards. He said there was no straight-line approach as events occur in a predictable, but probabilistic fashion. He thought the state needs to point out early the flaws in the technique and insist all the agencies decide how they are going to approach those kinds of calculations to the satisfaction of the state.

Dr. Brewer said he spoke to Dan Egan about this issue after the meeting this morning. He said he asked if EPA, for example, planned to issue a prescriptive procedure that they thought the Department should follow in establishing this confidence. Mr. Egan said they did not as they are not a regulatory agency. The agency with the teeth is the Nuclear Regulatory Commission, and he thought it would be appropriate during the period that NRC is reviewing Part 191 and formulating their regulations to follow through with the same Technical Positions they have done in geochemistry and hydrologic stress testing, and other areas. That would be a process allowing public input. Dr. Brewer said he had the same problem--if it were to be a probabilistic model that can never be proven for 10,000 years, there should be some very strong assurances at the beginning that it is appropriately conservative and mathematically well conceived.

Mr. Bishop said he thought the Board should go on record with the Nuclear Regulatory Commission that such a process would occur. Mr. Provost pointed out there are many meetings being held with USDOE and the NRC on such issues as this, and most of them are in Washington, D.C. He said the Office is trying to find some cost-effective ways to receive knowledge and tracking of these meetings as a part of the staffing issue. He said the final argument will be done during the licensing process between NRC and USDOE and the state should begin to build its case now. Options are being explored, he added.

Public Comment

David Tarnas of the University of Washington said he would like to clarify what the Academy review is doing from his discussions with the Board of Radioactive Waste Management in the Academy. He said

the review has begun and will be only on the ranking methodology. It will not cover the data used in its application. That would be a separate study that would require sponsorship by USDOE at a later date. He thought pressure should be kept on USDOE to do so. He said it was also important to realize this is the second time the Academy has reviewed the ranking methodology. He said it was a letter review that came out last March, commenting on the draft Environmental Assessment.

Mr. Tarnas said Dr. Filby's comments on the need to have review during the site characterization phase could be done in different ways. One potential would be to set up a panel similar to the one at the Waste Isolation Pilot Project in New Mexico, which is a panel named by the Academy with the specific expertise for the review of documents every year.

Mr. Tarnas said he would like to encourage the state to develop a comprehensive policy on MRS. He thought it would be useful to have discussions with Tennessee before the hearings since Tennessee is the only state in which sites were chosen. They perhaps are the only state to see it within their purview to make very substantive comments as it affects the state. Should Hanford not be chosen at this time for a repository, it may continue to be an MRS facility. Mr. Tarnas thought it very important to develop a policy to ask if USDOE is approaching this MRS issue in a different manner than was intended in the Nuclear Waste Policy Act as they say now MRS is an integrated part of the waste management process. The question remains, he said, if the Act suggests it was to be an integrated part of it, or was it supposed to be an alternate long-term storage technology.

Tom Buchanan of Greenpeace suggested that if the Board submitted a letter to the USDOE on the shipment of the spent fuel from Taiwan, they include (1) have alternative routes been examined, such as barges going through the Panama Canal to avoid the mainland entirely; (2) if the NRC-licensed cask is being used, is it being transported over to Taiwan and the quantity. He said there was also a concern about the casks if they are on the roads in Washington, Oregon, or any other state. As the casks that were originally tested at Sandia Laboratories were only tested in a one-way crash. He said a head-on crash has never been tested on these older casks. He said the casks were only tested in a 1200° fire and in many cases a diesel fire on the road could produce temperatures of about 2000° F. The problem there, he explained, is there are a number of rubber-seated safety valves in those casks, and should the rubber catch fire and burn through the seated valve, the valve would pop off allowing the steam and gas to be released to the environment. He said the steam release in such a case has been estimated as being equal to the Hiroshima bomb. In the case of emergency response in the small towns along the route, he wondered if the fire and police officials would be trained to deal with that kind of an accident. Mr. Buchanan also thought the Board should inquire in its letter what route designations in Washington would be, both for these shipments and any future shipments.

Mr. Buchanan asked Dr. Brewer if he had come across any actual construction activity in his discussions of the specific work plan with the officials in Richland. He asked if they had procured pipe for the exploratory shafts, had gone ahead with any of the basic construction plan, or any bidding for materials. Dr. Brewer replied it was his understanding that some long lead-time items for the exploratory shafts, liners in particular which need a long lead-time for fabrication, have been ordered. He said Mr. Mecca of USDOE could bring him up to date on that. Dr. Brewer said the exploratory shafts themselves have been discussed at a number of points along the way. He thought two six-foot shafts are reasonable because of the safety and efficiency arguments. He said there was an earlier ambitious plan to go right ahead with large-diameter shafts, but assurance has been given this has been put off.

Mr. Buchanan asked if the procured pipe had gone through a public bidding process, and Dr. Brewer asked Mr. Mecca to respond. Mr. Mecca said he did not have the answer with him, but believed it was as they had very stringent procurement requirements and he would check on this. Mr. Buchanan said he asked because of the legal injunction filed by the Yakima Indian Nation to stop the drilling rig. The process of site characterization, taking into account long lead-time on pipe procurement, etc., should be followed to the extent that the sites should be characterized first before any further procurement, construction, or drilling activity takes place. He felt construction and procurement should be monitored more closely. Dr. Brewer pointed out that items such as shaft lines are critical to the exploratory shaft, and the exploratory shaft is critical to the in situ testing, and in situ testing is on the critical path for the whole program. He said while USDOE is still aiming for 1998, the state would certainly not want that period of in situ testing shortened any more simply by being overly critical of the long lead-time procurement. Mr. Buchanan said the original shaft drilling, which was stopped at about 150 feet, probably had a very similar argument. He said it was stopped legally for the reason that there was no characterization in place.

There being no further business, the meeting was adjourned.

A NUCLEAR WASTE REPOSITORY
IN WASHINGTON?

Regional Briefings for Legislators

The Washington State Institute for Public Policy will present briefings on the nuclear waste repository issue at:

Tacoma

Tacoma Community College
Building 18, Room 2
5900 South 12th Street
Tacoma, WA

Wednesday, October 2, 1985
7 - 9 p.m.

Seattle

North Seattle Community College
Resource Center, Room 1132
9600 College Way North
Seattle, WA

Monday, October 7, 1985
7 - 9 p.m.

Spokane

Spokane Falls Community College
Spartan Union, Senate Chambers
West 3410 Fort Wright Dr.
Spokane, WA

Tuesday, October 8, 1985
7 - 9 p.m.

Yakima

Yakima Valley Community College
Anthon Hall, Room A-100
16th and Nob Hill Blvd.
Yakima, WA

Thursday, October 10, 1985
7 - 9 p.m.

Vancouver

Clark College
Hanna Hall, Room 111
1800 E. McLoughlin Blvd.
Vancouver, WA

Monday, October 14, 1985
7 - 9 p.m.

The goal is to give representatives and senators a summary of important policy questions for the State, the nature of the technical concerns about a Hanford repository, how the U. S. Department of Energy proposes to evaluate safety in terms of these concerns, and sources of follow-up information. The setting will be informal, non-adversarial, and conducive to asking questions and sharing concerns.



OFFICE OF THE ATTORNEY GENERAL

M E M O R A N D U M

September 18, 1985

TO: WARREN BISHOP, Chairman
Nuclear Waste Board

FROM: CHARLES ROE *CR*
Senior Assistant Attorney General

SUBJECT: Litigation Status Report

The following is a statement of recent events involving litigation under the Nuclear Waste Policy Act.

1. Siting Guideline Litigation

State of Washington, Nuclear Waste Board v. United States Department of Energy, 9th Circuit Nos. 85-7128 and 85-7253

As previously reported, the USDOE moved to dismiss the Board's case on the grounds that the guidelines are not "ripe" for review. All briefing by the parties has been completed. No date has been set for oral argument. It does not appear that time for oral argument will be granted.

Last month Mississippi, Vermont, and Utah filed a motion to intervene in our suit for the limited purpose of supporting our position on the United States' motion to dismiss. The motion was denied late last month.

2. Funding Litigation

- A. Nevada v. Hodel, 9th Circuit No. 84-7846. This case involves Nevada's dispute with USDOE over the refusal of the federal agency to fund physical activities proposed for conduct by Nevada. The federal Court of Appeals in San Francisco heard oral argument on August 12, 1985. The next step is for that court to render an opinion.

OFFICE OF THE ATTORNEY GENERAL

Warren Bishop
September 18, 1985
Page 2

- B. Potential Litigation Funding Litigation. The USDOE has denied Washington's request for funds to support litigation involving the federal government's implementation of the Nuclear Waste Policy Act. A review with other states indicates many states are interested but no state has immediate plans to initiate litigation. (As reported orally at the last board meeting, the "litigation funding" issue may be decided in Nevada v. Hodel, supra.)

3. "Potentially Acceptable Siting" Litigation

In Texas v. United States Department of Energy, _____ F.2d _____ (5th Cir. No. 84-4826, decided June 10, 1985), the federal appellate court in New Orleans granted a motion to dismiss on the grounds that USDOE's designations of sites in Texas as "potentially acceptable sites" for consideration for characterization were not final actions under section 119 of NWPA which are ripe for review. The Attorney General's Office in Texas is now evaluating whether it will request review of this ruling by the United States Supreme Court.

4. EPA Standards

In Natural Resources Defense Council, Inc. v. Thomas, U.S.D.C., D.C. No. 85-0518, an environmental group initiated litigation designed to force the Environmental Protection Agency (EPA) to adopt "standards for protection of the general environment from off-site releases from radioactive materials in repositories" as required by section 121 of NWPA. A "consent order" has been agreed to by the parties that requires EPA to adopt such standards by August 15, 1985. Such standards have not, as yet, been published in the Federal Register.

5. "Monitored Retrievable Storage" (MRS)

Tennessee v. Herrington, U.S.D.Ct. M.D. Tenn. No. 385-0959 relates to section 141 of NWPA. That section directs USDOE to report to Congress its recommendations relating to the establishment of a monitored retrievable storage (MRS) facility for the disposal of high level nuclear waste. In July, 1985, USDOE recommended the location of such a facility in Tennessee. On August 20, 1985, Tennessee challenged USDOE's processing of the MRS provisions of NWPA contending that USDOE's actions were in conflict with "cooperation and consultation" requirements of NWPA and that NWPA, itself, conflicts with the federal constitution, Art. I, sec. 7.

OFFICE OF THE ATTORNEY GENERAL

Warren Bishop
September 18, 1985
Page 3

6. Water Rights

USDOE has not responded "on the merits" to Governor Gardner's letter to Secretary Herrington as to whether USDOE will comply with Washington's water right laws in relation to site characterization and repository operations at Hanford. As earlier reported, USDOE's attorney advised me that they would respond by September 16, 1985. No response has been received as of the end of the work day of September 16, 1985.

7. Other Areas of Examination

- A. Defense Wastes. I continue to work closely with you and Don Provost in this important area.
- B. Section 114(F) - Preliminary Determination of Suitability. Don Provost presented a statement on this issue to the Nuclear Regulatory Commission on September 6, 1985. This issue remains a forefront issue in our litigation evaluation activity.

I trust this will assist you in the conduct of your Board's meeting next Friday.

CBR/ks

cc: Terry Husseman
Jeff Goltz



OFFICE OF THE ATTORNEY GENERAL

M E M O R A N D U M

September 17, 1985

TO: WARREN BISHOP, Chairman
Nuclear Waste Board

FROM: CHARLES ROE *CRoe*
Senior Assistant Attorney General

SUBJECT: Proposed Federal Legislation -
Nuclear Waste Policy Act
(other than liability legislation)

This is submitted, as requested, as a status report on presently pending federal legislative proposals relating to the Nuclear Waste Policy Act (other than "liability" legislation). By memorandum of last month, I described briefly the following bills:

1. H.R. 1695 by Representative Oakar of Ohio relating to restrictions and conditions on the transportation of high-level radioactive waste.
2. S. 1162 by Senator Hart of Colorado relating to the incorporation of various transportation impacts into the selection process for high-level radioactive waste.
3. S. 1235 by Senator Simpson relating to the establishment of a government agency to takeover Nuclear Regulatory Commission activities.

No hearings or other activity have been conducted during the past month relating to these three bills.

No new legislation has been introduced in the past 30 days.

CBR:bj



OFFICE OF THE ATTORNEY GENERAL

Inter-office Correspondence

Date: September 17, 1985

To: WARREN BISHOP

From: CHARLES ROE *Charles*

**Subject: Status Report - Federal High Level Nuclear Waste
Liability Legislation**

Attached hereto is a status report on the subject matter which was prepared in relation to the Nuclear Waste Board meeting to be conducted on September 20, 1985.

I trust this will be of assistance to you.

CBR:bj

Attachment

CONGRESSIONAL PROPOSALS

September 17, 1985-R

ON

FEDERAL LIABILITY FOR HIGH LEVEL NUCLEAR WASTE ACTIVITIES

Proposals	Amendment to Price-Anderson Act	Expressly Applicable to DOE Waste Program	Strict Liability	Compensation Objective	Funding Source	Congressional Status
A. Senate						
1. S. 1225 (by Senator Dole NOTE: prime sponsors are Senators McClure and Simpson)	Yes	Yes	No--(covers only those injuries relat- ing to "extraordinary nuclear occurrences" as defined by USDOE regulations)	Full compensa- tion as to those covered.	1. First \$2.4 billion from Nuclear Waste Fund of NMPA. 2. Remainder to be pro- vided from source under expedited procedure requiring Congress to act on compensation plan submitted by President within 60 days.	Hearings on Oct. 22 and 23, 1985 before Subcom- mittee on Senate Environ- ment and Public Works, Nuclear Resources Subcom- mittee (chaired by Senator Simpson)
2. S. 445 (by Senator Hart)	Yes	No	? (waiver of defenses applies to all nuclear incidents)	Full compensation.	?	"
B. House of Representatives						
1. H.R. 51 (by Rep. Price)	Yes	No	? (waiver of defenses applicable to all nuclear incidents)	\$1 billion per incident limitation.	?	Last hearings held on June 6, 1985 by the House Interior and Insular Committee's Subcommittee on Energy and the Environment.
2. H.R. 445 (by Rep. Seiberling)	Yes	No	? (waiver of defenses applicable to all nuclear incidents)	Full compensation.	?	"
3. H.R. 2524 (by Rep. Morrison and Rep. Dicks)	Yes	Yes	Yes(?) (waiver of defenses applies to all DOE waste activities)	Full compensation.	1. First \$5 billion from Nuclear Waste Fund of NMPA. 2. Remainder from general federal revenues.	"
4. H.R. 2665 (by Rep. Weiss)	Yes	No	? (waiver of defenses applies to all DOE activities).	Full compensation.	?	"

ANDREA BEATTY RINKER
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

Contact: Marta Wilder,
Information Officer
(206) 459-6695 or 459-6670

P R E S S N O T I C E

October 8, 1985

DATE: October 17, 1985

TIME: 1:30 p.m.

PLACE: Energy Facility Site Evaluation Council Hearings Room
 4224-6th Avenue, Building 1
 Lacey, Washington

The Nuclear Waste Board's comments on the U.S. Department of Energy's Draft Environmental Assessment will undergo a review by the USDOE on October 17, 1985, at 1:30 p.m. in Lacey. The U.S. Department of Energy will present a wrap-up of how the state's comments are being handled in the final USDOE Environmental Assessment, which is expected to be released either late this year or early next year (1986).

In the final Environmental Assessment, USDOE will recommend its top three choices of sites to study further for the nation's first high-level nuclear waste repository. In the earlier draft EA (released December, 1984), the Hanford Reservation was listed as potentially one of the top three sites. Sites in Texas and Nevada also were recommended by USDOE as potential top contenders.

The meeting is open to the public.

#