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MINUTES OF NUCLEAR WASTE ADVISORY COUNCIL MEETING  
March 15, 1985

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9:30 a.m.  
EFSEC Hearings Room  
Rowesix - Building #1  
4224 Sixth Avenue S.E.  
Lacey, Washington

Council Members Present:

- Warren A. Bishop, Chair
- Councilman Lane A. Bray
- Ms. Anita Monoian
- Commissioner W. H. Sebero
- Mr. Jim Worthington

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

In his opening remarks, Mr. Bishop expressed his appreciation, and that of the Board, for the efforts by Anita Monoian and her working group, the staff, the consultants, and the League of Women Voters in making the four public workshops so successful. He said he thought they were very worthwhile for the public and the state, and both received a better understanding of the program and the problems. All comments received, he said, would be compiled and appended to the response submitted by the state on the draft Environmental Assessment.

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

Review of Workshops

Ms. Monoian noted the excellent attendance by the members of the Advisory Council. She said each workshop was attended by at least one member of the Council. She asked Marta Wilder to give an overview of the Workshop Summary, copies of which were sent to the members. She said over 400 people signed up at the workshops to receive the document, and any suggestions would be welcome before it is printed and mailed out. Also planned, she said, was an article for the upcoming Newsletter offering the Summary to those interested. Ms. Monoian said she was pleased with the layout, comparisons, and graphs, and thought the Summary had been well pulled together. Board approval will be sought at the afternoon meeting, she said, to print and mail the Summary.

Pat Serie of EnviroSphere briefly reviewed the Summary. She said some text descriptions were done on issues important in particular areas and less important in others. The attempt was made, she

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said, to present the public's views by locations in order to see the different geographic differences. The category mentioned the most, both in the questionnaires and in small group discussion, Ms. Serie said, was in the area of policy. Although this is a broad category, the questions were also broad. Health and safety issues were second or third, depending upon results from written responses or discussion groups. Transportation ranked in the top five. Groundwater also ranked high on the questionnaires, but did not make the top five in small group discussions. Environmental concerns ranked five in both the questionnaires and group discussions.

Ms. Serie said an analysis of the workshops by the public was also included in the Summary, which could be considered as other public forum activities are undertaken. She also requested any comments from the Council before it is sent out.

Mr. Bishop said copies of the Summary would be available at the Board meeting for members of the public. He said, it also would be made available to those not planning to attend the Board meeting.

Ms. Monoian said using the League of Women Voters as facilitators for the workshops proved to be the positive experience they had hoped it would be. She expressed the hope the League would continue to be involved as other public involvement activities are planned. Mr. Bishop added his appreciation of the League's involvement, and said he hoped their experience and preliminary training in these workshops would stimulate their interest to make this one of their statewide projects. Ms. Monoian said this subject was under discussion by the League, but she knew of no decision as yet.

#### EA Comment Submission Schedule

Mr. Stevens first reported on the USDOE hearings on the draft Environmental Assessment. The Department first scheduled only two hearings, he said, one in Richland and one in Olympia. Mr. Stevens said the Board was concerned about the lack of a hearing in more populous areas and the Governor formally requested and received a commitment for two additional hearings, one in Spokane and one in Portland. The Board later requested an additional hearing in Seattle. Mr. Stevens said that although the Seattle hearing was scheduled late and held on a Saturday, there was a good turnout. A staff member attended each hearing to learn the kinds of issues and concerns the public had. He commented there was a full range of concerns in Seattle, in Portland they were heavily concentrated on the Columbia River and transportation issues, and in Spokane there was a great deal of comment in the area of transportation. Marta Wilder of the staff attended the Spokane meeting and reported it was a very long meeting with well prepared testimony. All facets were mentioned from the Monitored Retreivable Storage Program to the question of the site selection and siting process. Many environmental groups and the League of

Women Voters testified, as well as many citizens, engineers and professional people. Mr. Stevens said the U.S. Department of Energy extended both the afternoon and evening hearings in Portland because of the numbers of people who signed up to testify.

Concerning the state's schedule for comment, Mr. Stevens said authorization would be sought this afternoon at the Board meeting to submit the draft comments to the Department, based upon verbal assurances by the Director of the Office of Civilian Radioactive Waste Management, Mr. Ben Rusche, that the state would have its full range of comments considered as they prepare the final Environmental Assessment. If authorization is granted to move forward, all comments received by next Monday will be submitted on Tuesday to be received on Wednesday, March 20. Along with the comments, he said, a cover letter which will indicate the expectation that all comments will be considered in the final comments. Mr. Stevens said in checking with other involved states he learned they are taking approximately the same kind of action. He said that the final Environmental Assessment is expected to be issued in August of this year with formal nominations and recommendations for the three sites. The expectation is that the President will make that formal designation by October. This will then trigger the final preparation and release of the Site Characterization Plan, which is essentially the testing plan for each of the three sites to be characterized. That plan, he said, will be introduced in draft and will be circulated for review by the states and other interested parties. Still unknown, he said, is whether the states would have an opportunity to review the final, when that process will actually be concluded, and when the Department will actually start the formal process of characterization.

Mr. Stevens said in addition to the comments from the Board, staff and consultants, comments from universities, interested agencies, and the public will be appended to the document to be submitted in one package.

#### Status of Legislation

EHB 54      Tort Liability. This bill improves the opportunity for the state not be held liable and places it as the operator of a radioactive waste repository. The bill is currently in House Rules 2.

HB 55      This bill requires the Nuclear Waste Board to undertake a study of the risks associated with transportation of radioactive waste by any mode of transportation. This bill would probably give the state some reinforcement if the bill passes, as it will enable the state to go to the U.S. Department of Energy with the support of the Legislature. House Bill 55 is currently in the Senate Energy and Utilities Committee.

In response to a question Mr. Stevens said no state funds would result from this bill as the Legislature feels that the responsibility of funding rests with the federal government.

Another question asked was what does HB 55 cover, and Mr. Stevens replied it was fairly general, but quite inclusive. It would include a study of risks, an assessment of all health and safety risks, as well as economic risks. It would include response to transportation accidents involving radioactive materials, identifying those organizations that would be responsible for coping with an emergency, along with their capabilities for doing so, recommendations for state and local authorities on alternative routes for transportation.

Discussion continued, and Mr. Bray wondered if the state has the same concerns about other hazardous wastes going through the state, and is there a similar uniform basis for all types of accidents, rather than just looking at the high-level wastes, particularly the transport of chemicals. Mr. Stevens said he was not certain about the uniformity, but there was a statewide plan regarding the checkpoints for hazardous wastes entering the state, plus checkpoints at the site. He said that although some progress had been made there was still more to be done with this issue which had become more complex.

HB 56            This bill would specifically extend the responsibility of the Nuclear Waste Board in the area of low-level wastes as referred to in the Act. It would make the Board responsible for authorizing major policy action proposed by the Department of Ecology relating to the Low-Level Waste Policy Act of 1980. This bill is currently in House Rules 2.

SSB 3799        This bill authorizes the monitoring of federal research regarding the suitability of Hanford as a radioactive waste disposal facility. It specifically requires a statewide baseline monitoring be set up by the Department of Social & Health Services. Through Board action the U.S. Department of Energy has funded a beginning effort and there is now a contract between the Board and the Department of Ecology and Department of Social & Health Services to take the lead on this program. Since the full statewide program is over and above the repository program, there is a request for an appropriation to enable the Department of Social & Health Services to continue the program into the next biennium. The bill has been passed out, but there is no appropriation attached.

SSB 3468        This bill would direct the Board to monitor and evaluate federal research regarding the site search at Hanford. It directs the Board to conduct its own independent testing and evaluation, which is essentially

what is being done now under the federal Act. It would make the position more firm, he said, having this authority under state law as well. This bill would require a quarterly report of the review to the Legislature. This bill is currently in Senate Rules 2.

SSB 3808 This bill would mandate a study being taken by the Nuclear Waste Board of the impacts of a long-term storage or disposal of high-level waste in Washington on state agencies and local governments. That report would be made to the Legislature and to the public, and the Board should seek funds from the federal government to carry out this directive. This bill is currently in Senate Rules 2.

In discussion Mr. Stevens said there is already provision under the Nuclear Waste Policy Act for the state to receive during site characterization "in lieu" tax payments for site characterization activities. Should the process go beyond site characterization, he said, the state would want to be in a position of developing all of the potential impacts that could occur. The federal government is instructed to pay for those impacts. He said that would be a study that should be launched fairly quickly, regardless of whether this bill passes. The state does need to have the ability to develop the full range of socio-economic impacts, which should include not only the impacts on the local areas and services, but local governments and the various state agencies as well. He said the federal government would be asked for funds for this purpose.

#### Future Public Involvement Plans

Ms. Monohan referred to the material in the packets concerning the Public Involvement Plan for March-September, 1985, prepared by Envirosphere and staff. Ms. Serie of Envirosphere briefly reviewed the plan. She said following the conclusion of the workshops, the Public Involvement Plan presented to the Council last summer was reviewed. The draft Plan presented today reviewed accomplishments, including establishing a mailing list and a media list, the bi-monthly Newsletter, slide presentation, and the public workshops. Also completed were six Fact Sheets, which were used in the workshops:

- Overview: High-Level Nuclear Waste Management in Washington
- What is High-Level Nuclear Waste?
- Finding a Repository Site - Step by Step
- Repository Concept: Deep Geologic Disposal
- Transportation
- Geology/Hydrology at the Hanford Site

The next section of the plan included some recommendations for activities appropriate for the next six months, using the tools and system which are in place. Some of these included a toll-free

number, local involvement by the Advisory Council, media monitoring, additional Fact Sheets concerning:

Socio-economic Impacts of the Proposed Repository  
Environmental Impacts of the Proposed Repository  
Basic Radiation Facts  
Glossary of Terms Regarding Nuclear Waste

Also suggested were focus papers to meet the technical information need of a special public such as universities, experts in the nuclear waste field, certain interest groups, and others. Also recommended was contact with state teacher organizations and the school system to provide distribution of information to students; meetings with the Editorial Boards in the state not previously contacted; planning speeches and presentations which could involve the Advisory Council members; television and radio coverage; C&C Hearings when the time is appropriate; interest group networking; and exhibits that could be displayed at state and local fairs and other gatherings. Also recommended was another public survey to be conducted in the fall of 1985 to sample 1,000 to 2,000 Washington citizens about the issues of high-level nuclear waste to follow up the original survey done in 1983.

Marta Wilder discussed the implementation of the draft Plan presented. She said she would like the Advisory Council to review the Plan and send any comments or suggestions back to her by March 21. A Public Involvement Working Group meeting is planned for March 22 to review the Plan, future Newsletters and other ideas presented. Mr. Bray inquired about the status of the C&C hearings, and Mr. Bishop said this was currently in a holding pattern because of the concentration on the Environmental Assessment activity. He said the whole C&C Agreement issue would be readdressed, but no time has been set for this action, which could involve more negotiations with the U.S. Department of Energy.

Mr. Bishop introduced Curt Eschels, new Chair of the Energy Facility Site Evaluation Council (EFSEC), and newly named to the Nuclear Waste Board. He said Mr. Eschels comes well qualified as he headed the staff of the Senate Energy & Utilities Committee for many years. In addition to his duties at EFSEC, Mr. Eschels serves in the Office of the Governor for Policy Coordination in the fields of both high-level nuclear waste and low-level waste.

Mr. Eschels complimented the Advisory Council for its commitment to public involvement, noting that the Governor's three criteria regarding Hanford included safety, that safety be demonstrated superior to all other sites, and it must be acceptable to the people of the state of Washington. He said the Governor believes the public involvement must be there--getting the information out to the public, listening to the public and channeling their comments to the U.S. Department of Energy.

Mr. Bishop reviewed some discussions that had been held in connection with the role of the Advisory Council to strengthen and

revitalize the body. He said the membership of the Council will terminate in May, and it was important to recruit persons who are willing to serve and can participate in the planning and direction of the Council. He outlined briefly some thoughts he had on the structure of the Council, in addition to a program and a plan.

In addition to retaining the Public Involvement Working Group to continue and augment their work, he suggested a Task Force be set up composed of people from the private sector engaged in the public involvement field. This would be of assistance in improving the Council's outreach and ability to communicate with the citizens. He said he felt even more strongly about this plan after attending and participating in the public workshops where several people in the public relations field had approached him seeking ways to participate and make the program more meaningful.

Another suggestion being discussed, Mr. Bishop said, was to establish a working group on governmental relations, perhaps including County Commissioners, health officers, and city officials. He said from the workshop experience he learned there are cities which do not understand the process and are very concerned about the issue, and it was vital to involve them. Important in this regard, he said, was to be careful to have members on the Advisory Council who could give a subgroup leadership to a task force of officials from the local entities.

A third suggested task force, Mr. Bishop said, could be a group of professional technicians in the engineering and scientific fields, with an interest in this process. This would be a carefully selected, balanced group of people who would furnish objective views, he said.

Mr. Eschels said he concurred with all the remarks made by the Chair, and he looked upon his suggestions as opportunities to do a better job and have contributed to a better project. He added this process was perhaps one of the biggest to affect Washington State and its citizens for hundreds, and perhaps thousands, of years.

Mr. Sebero said there was an excellent opportunity for the Council to reach cities and counties through their state associations. He also asked who would approach the Governor with the recommendations of Council membership. Mr. Bishop asked for members and the public to send any suggested names for membership and these names would be forwarded to the Governor. Willingness to participate will be a most important factor, he said.

#### Litigation Report

Charlie Roe, Senior Assistant Attorney General, briefly discussed the two memorandums prepared by his office providing a comprehensive overview of areas of potential litigation. Each member of the Council was provided with copies of these papers.

Mr. Roe said the Board took action in two areas, one involving litigation, and the other initiation of letters to the U.S. Department of Energy to establish a formal framework for potential litigation. He said on the 7th of March the state of Washington filed in the 9th Circuit Court of Appeals in San Francisco a petition for review, asking that the Court examine the validity of the siting guidelines which were adopted on December 6, 1984, by the U.S. Department of Energy. That case deals with the fundamental document regarding the criteria the Department of Energy is relying upon to develop its Environmental Assessments and make the determinations with regard to what sites shall be characterized under the Nuclear Waste Policy Act.

He spoke briefly about the areas mentioned in his Memorandum of February 26, which dealt with transportation, defense wastes, and the omitted areas where the guidelines should have dealt with the criteria, and other areas where these siting guidelines are deficient. He said his office had not completed its evaluation of all the subjects, but these are some that will undoubtedly be raised as the litigation proceedings progress.

The second area of litigation, the Amicus Curiae brief, was filed on March 12th with the 9th Circuit in support of the state of Nevada's attempt to set aside restrictions or limitations on funding. The state's brief, he said, was filed to support the general proposition that the costs of state participation and others, Indian tribes, etc., in this program ought to be borne by the national government and that funding entitlement should be broadly construed to ensure the federal program is carried out appropriately. In the brief, the state contends the program cannot be carried out properly unless the states are adequately funded to ensure the federal government is adequately carrying out its program consistent with the Nuclear Waste Policy Act.

Defense waste was one of the potential litigation areas, Mr. Roe said, and involves two categories: (1) defense wastes and whether they are within the scope of the Nuclear Waste Policy Act, and (2) the issue of whether the state is entitled to funds in relation to the Hanford site and the Nuclear Waste Board's oversight responsibility, including an entitlement of funds to evaluate the existing defense wastes stored at Hanford. A letter was sent by Governor Gardner to Secretary Herrington of the Department of Energy, asking for the federal government's position on these two issues. Depending upon the response, he said, there may well be litigation in that area.

The second area of potential litigation would be water rights. At the present time the state understands the U.S. Department Energy believes it does not need to comply with state water rights law, and the state's evaluation leads to a different conclusion, he said. A similar type of letter has been sent, and a similar scenario might spin out from that, Mr. Roe said.



Mr. Roe reported that with regard to the litigation concerning the guidelines, the state of Colorado Attorney General's Office told him yesterday they intend to announce on behalf of that state that they plan either to move to intervene, or bring an action similar to that of the state of Washington. No determination had been made of their exact strategy, he said, but they seemed to be leaning to intervene in the Washington case.

Mr. Roe said the Environmental Defense Fund Group expressed a similar sentiment that they planned one way or another to become involved in the Washington State case, and on the side of Washington. Other states, he said, are looking at the situation, but to date he did not know if others would be participating at this time.

Mr. Roe mentioned a siting guidelines case initiated by the Environmental Policy Institute in January is already pending in the 9th Circuit.

Other litigation concerns a case in the United States District Court in the District of Columbia initiated by the Natural Resources Defense Council. The case deals with the failure of the Environmental Protection Agency to adopt final standards, as required under the Nuclear Waste Policy Act. Those standards should have been adopted by January 7, 1984, he said.

Another case of some interest is the case of the state of Texas v. the U.S. Department of Energy. They have initiated a challenge as to how the site was determined in the state of Texas, known as the Deaf Smith Site. This is probably a relatively narrow case, Mr. Roe said, and the issue would probably not bring the state of Washington into it. However, Mr. Roe said his office is following all of the other cases closely.

Mr. Bishop reported the Chair of the Board had initiated a letter to Mike Lawrence, Richland Operations Manager, asking for USDOE to have a formal response to USDOE's failure to authorize expenditure of funds out of the grant for litigation, or for legal counsel on litigation.

In response to a question concerning the WashPIRG v. Nuclear Waste Board case, Mr. Roe said that action was brought with the primary interest being the question of preparing an Environmental Impact Statement before the Board conducts any hearings under state law with regard to the C&C Agreement. He said his office advised the Board prior to this action that they believe no EIS was needed before the public hearings. Discussions have been held with the WashPIRG attorneys concerning resolving the issue without litigation and have also advised that the state may move to dismiss the case on the ground the case is premature. He said the case is pending in court, but neither side is pursuing it.

Mr. Bray asked if the litigation items had first tried to be resolved through direct contact with USDOE. Mr. Roe said their office had pursued the preliminary approach through letters and discussions, and Mr. Bishop added they are still trying to resolve these issues without litigation. Concerning the siting guidelines, he said, the state over the years has made numerous comments and the issues were raised in the formal comments, as these guidelines are federal regulations the U.S. Department of Energy is interpreting. Under the statute, Mr. Roe said, there is a provision whereby the state can take the extraordinary effort by going directly to a Court of Appeals in the United States federal court system, but it must be done within 180 days of the date of the decision.

#### Future Workshop Discussion

Marta Wilder was asked to continue her discussion of the public involvement plans, and reported several requests from different communities had been received to hold a workshop on the program in their areas. She said, Friday the Working Group would discuss this possibility, with the idea of taking the slide presentation. She added the Office had already received requests for permission to use the slide presentation. Don Provost has made a presentation to the East Side and West Side Health Directors, and there is currently a pending request by the Nez Perce Indians. Should the members know of any groups with an interest in the slide show, Ms. Wilder asked that she be advised.

Ms. Wilder reported the toll-free Hotline idea had been revived, and costs, staffing, etc. are being investigated.

Pat Serie of Envirosphere reported that the April Newsletter is in the planning stage and will be discussed in more detail with the Working Group next Friday. One focus will be to summarize the workshops with responses, results and their use. Another major element will be a summary of the Board's major comments on the draft Environmental Assessment in a manner understandable to the public. A third area will be to publicize the information available either from the Office or direction to other sources. This is a column, she said, that should continue to grow in the Newsletter. Publication should be in mid-April, Ms. Serie said. The mailing list is currently about 5,000 and she urged Council members and the public to continue to send names of any interested parties.

Ms. Serie asked if the members had any comments on the effectiveness of the Newsletter. Mr. Sebero mentioned he noted some items were out of date when the Newsletter was received, such as workshop dates published.

Mr. Bray asked if there was consideration to expand the slide show with a little more detail. Rather than have a staff person read the script, he wondered if a voice tape could be added in order to

allow anyone to present the show. Ms. Wilder said this had been discussed, but one of the drawbacks was the constant change in the program, and another was the budget restriction. There is a written script available, she said.

Mr. Bishop added there is pending an amendment to the grant which has been submitted to USDOE, and in that amendment would be additional funds to augment the public involvement program, as well as some of the suggested changes of activities of the Advisory Council. He said consideration would be given to the suggestions made, should the funds be granted.

Ms. Monoian repeated the date of the next Public Involvement Group meeting to be held on March 22 at the Sea-Tac Tower One near the Airport.

Mr. Worthington inquired what the response had been from the public on the activities of the Advisory Council--the public workshops, public involvement, etc. Ms. Wilder responded the response she had received was very positive, particularly since the workshops were held. She felt the workshops were needed, and proved valuable in this respect. Ms. Monoian added she thought the workshops had developed momentum and it was important to take advantage of that momentum.

#### Public Comment

Eileen Buller of the Hanford Oversight Committee asked if it would be possible to have in the Newsletter in April a listing of the litigation. Mr. Bishop said he thought this a good idea. She was concerned about the reconstitution of the Advisory Council suggested by Mr. Bishop. She recommended preparing more slide shows going into more sophisticated material. Ms. Buller inquired if the USDOE representative could be asked today what their policy is concerning their sending out speakers for public groups and/or sending out contractor representatives. She wondered if there had been a change in that policy. Mr. Bishop replied he would direct that question to Mr. Tinsley when public comment was complete.

David Tarnas of WashPIRG said he had missed the first part of the meeting when Mr. Bishop discussed the restructuring of the Advisory Council and asked what the process for suggestions would be. Mr. Bishop reviewed his remarks, explaining it was more of a conceptual discussion. First would be the make-up of the new Council, he said, and plans then would be developed. Mr. Bishop stated that should the task forces be developed they would serve as Ad Hoc groups, and he welcomed any suggestions from the Council members. Mr. Tarnas said he agreed with the approach and noted there had been a great deal of interest in the scientific group at the University of Washington to become involved in some fashion.

Mr. Tom Tinsley of the U.S. Department of Energy was asked to respond to Ms. Buller's question concerning their speakers' program. He stated there was no specific written policy relative to

the USDOE outreach program. He understood Rockwell has a Speakers' Bureau, and the contact for that is Marry Moravek, or you could contact Mr. Tinsley. He said USDOE employs Lee Olson, John Anttonen, Dave Squires and himself to participate in making BWIP presentations all over the state. Mr. Tinsley said he does it specifically with the Indian tribes. Arrangements can be made, he said, for any kind of presentation at any time, with a couple of weeks' notice. It is a totally open policy. Mr. Bishop wondered if this information could be publicized throughout the state. Mr. Tinsley said many of the service groups and others call their External Affairs Office to request presentations, and the affected Indian tribes know to call him. He said these services are advertised in the Hanford Science Center. Most of the presentations they make are a standard overview with a BWIP specific presentation, but he said most groups who would be interested in a technical or socio-economic topic, need only to request and a presentation along those lines would be developed. Ms. Monofian asked if their presentations would be geared toward various ages of school-age children, and Mr. Tinsley replied in the affirmative. He said they also participate with the Indian tribes in helping them set up their own programs by providing slides and materials to take to the schools. He added USDOE is happy to assist in anyway to develop a program for the various school levels.

There being no further business, the meeting was adjourned.