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'87 JUN 15 AM 11:30 NUCLEAR WASTE BOARD  
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LPDR-Wm-10 (2)

**MINUTES OF NUCLEAR WASTE BOARD MEETING  
MAY 15, 1987**

**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  
Curtis Eschels

**Board Designees-Alternate Designees  
Present:**

Dr. Royston H. Filby, Water Research Center Designee  
Ray Lasmanis, DNR Designee  
Pat Tangora, State Energy Office Designee

**Delegates:**

Fred Adair, representing:  
Representative Dick Nelson  
John Erickson, representing:  
Terry Strong, DSHS Alternate Designee

WM Record File  
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WM Project 10  
Docket No. \_\_\_\_\_  
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The meeting was called to order by Warren A. Bishop, Chair.

### **Introductory Remarks**

Mr. Bishop noted that on April 27 the Legislature had commenced in a special session to review various budget and revenue matters. He acknowledged the absence of Legislative Board members due to current status of the budget issues.

### **Approval of Minutes**

A motion was entertained to approved the April 17, 1987 Nuclear Waste Board Minutes. The motion was moved, seconded, and carried. The Minutes were approved as written.

### **Correspondence**

Mr. Husseman briefly discussed correspondence that had occurred since the last Board meeting. The first item was a letter to Senator McClure, Committee on Energy and Natural Resources, from Curtis Eschels, dated April 27, 1987. Enclosed with the letter were the state of Washington's responses to Senator McClure's questions resulting from previous testimony presented by Washington State during March 1987.

The next item was a response letter from the NRC, dated April 13, 1987 and referred to a request by Senator Bennett Johnston for further clarification of the NRC's staff comments on USDOE's final environmental assessments of the potential repository sites. The letter indicated that the NRC had identified technical concerns regarding the sites under con-

sideration and there was no evidence to disqualify the sites from further testing to determine suitability for a repository.

In December, 1986 Governor Gardner had recommended a proposed course of action to USDOE as a possible solution to the credibility issue. The Department was urged to take the lead in organizing a national conflict resolution process that would be aimed at developing a proposal for a mid-course correction to the high-level waste repository program. The Governor's proposal was rejected by Ben Rusche, USDOE, in a letter dated April 24, 1987. The U.S. Department of Energy indicated that it considered Congress to be the national forum and that if the Governor's proposal for a national conflict resolution process was to be implemented it should be done so by Congress.

A letter transmitted on April 6, 1987 from Congressman Udall to Governor Bryan, state of Nevada, indicated concurrence on the issue that an independent commission be created to investigate the current siting process. As follow-up to his letter, Congressmen Udall has directed his staff to draft legislation to carry out the concept of investigating the siting process.

A technical meeting had been held in Richland, Washington on April 7-9 to discuss a proposed geohydrology testing program at the Hanford site. It was assumed the testing program would establish a baseline prior to the construction of the first exploratory shaft. However, during the meeting Ralph Stein of USDOE Headquarters

commented that DOE is considering the possibility of drilling the exploratory shaft during the pre-ES testing program. A letter to John Antonnen, Richland Operations Office, dated April 29, 1987 from Stephen Kale pertained to the subject of the pre-ES Hydrology Program Evaluation. It states that the decision has been made to continue the program evaluation by considering the effects of sinking the exploratory shafts to the first basalt flow while hydrology data acquisition is underway. To accomplish this, a two-phase approach will be implemented. The first phase will consist of drilling a shaft down to the basalt (approximately 400 feet); the drill rig will then be moved to a second site and another shaft will be drilled down to the basalt. Upon completion of the second shaft, the drill rig will be moved to the original shaft and drilling would commence down into the basalt. If the first phase is determined to be feasible and cost effective the second phase would then follow. This would consist of reconvening the Hydrology Task Group to perform a study to evaluate the engineering aspects of sinking the shafts.

#### Testimony Before Congress

Kathleen Mix, Assistant Attorney General, presented testimony for Kenneth Eikenberry, Attorney General, on April 28, 1987 to the Subcommittee on Oversight and Investigations, Committee on Energy and Commerce. The testimony dealt with the 10 CFR Part 962 and byproduct material. During the April 28 hearing, DOE announced its final interpretative rule of 10 CFR Part 962 for

the purpose of clarifying its obligations under RCRA and to also interpret the AEA definition of "byproduct material". The effect of DOE's final rule is that all DOE radioactive waste which is hazardous under RCRA will be subject to regulation under both RCRA and the AEA. This does not, however, affect materials that are defined as byproduct material under section 11e(2) of the Atomic Energy Act. Accordingly, for purposes of RCRA, DOE interprets the term byproduct material to refer only to the radioactive component of a nuclear waste. The nonradioactive chemically hazardous component of the waste will be subject to regulation under RCRA.

On April 29, 1987 testimony that dealt with the financial incentive Senate bill 839 was presented to the Senate Committee on Energy & Natural Resources by the state of Washington. The state declined USDOE's offer to negotiate on a price at which the Hanford site would be characterized. In addition, the testimony stated that the scientific aspect of the current site selection process had taken a secondary role and as a result the decisions made by USDOE for site selection have been deemed non-credible.

Charles Roe presented the testimony of Governor Gardner on April 30, 1987 to the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works. It focused on the federal policy on liability for damages from nuclear incidents. The testimony included a consensus of fundamental elements of a federal nuclear incident liability

policy for the disposal of high-level radioactive waste as viewed by various governors and other state officials. The four major elements are:

1. Strict liability (regardless of fault)
2. Full compensation through fully funded financing sources
3. Procedure for obtaining monies under the just described elements should be "red-tape" free and reasonably attainable
4. Direct federal government liability for all damages arising from nuclear incidents occurring in the context of the high-level waste repository disposal program of the NWPA.

It was noted that none of the bills currently pending in Congress satisfies the four elements listed, however, they are not totally without merit.

#### **Status of Seismic Survey Proposal**

The Department of Natural Resources (DNR) has contended there are substantial gas potentials around the Hanford area and throughout the Columbia Basin. As a result of this issue, DNR has developed a phased approach for a reflection seismic survey that would locate possible hidden exploration targets for petroleum beneath the Hanford site. This approach was presented to the Nuclear Waste Board during its April meeting in which the Board supported and endorsed DNR's proposed study. The Department of Natural Resources

is currently awaiting USDOE's approval to fund the reflection seismic study and also the preparation of an RFP that would enable DNR to begin the phased study.

#### **Draft Site Characterization Focus Paper**

USDOE has begun a long-term study program referred to as site characterization in order to determine whether or not Hanford can meet the requirements for a deep geologic repository for high-level nuclear waste. Under the Nuclear Waste Policy Act (NWPA) this program of studies must be described in a Site Characterization Plan (SCP). The NWPA also requires USDOE to provide the SCP for review by the U.S. Nuclear Regulatory Commission (USNRC), the affected states and tribes, and the public prior to the commencement of drilling the exploratory shafts necessary for site characterization.

The Site Characterization Plan consists of a 9,500 page document that cites 1,865 references. A draft version of a focus paper had been prepared in an attempt to identify key Hanford technical and programmatic issues of the site characterization process, recommend actions to USDOE for resolution of the issues, and also to explain how citizens can become involved in the process. The Board was requested to review the focus paper and submit comments within two-three weeks so that a final version of the document could be drawn up.

As part of the state's public information and involvement program the

focus paper will be used to provide citizens with an overview of the state's issues as related to site characterization. The Nuclear Waste Board and Advisory Council will be sponsoring upcoming public meetings that will offer information about the SCP and provide an opportunity for the citizens to express their views to state officials.

#### **Report on Coordinating Group Meetings**

Don Provost informed the Board that there had been several important meetings that had occurred in the past month. They are as follows:

On April 23 the Quality Assurance Coordinating Group (QACG) held a meeting in Germantown, Maryland. The dominant issue of the meeting centered on the affected party participation in QA audits. A procedure was developed to ensure participation of the states/tribes. The following criteria were addressed and thoroughly discussed.

- BWIP and HQ will develop an overall meeting schedule and, within reason, try to avoid conflicts in meeting times.
- Project Offices will send notices of upcoming audits at least 30 days prior to an audit. Additionally, an audit schedule will be issued on an annual basis setting tentative audit dates.
- Instead of including an agenda or schedule in the 30 day notice, a scope of work for the audit will be identified in the letter

to allow affected parties time to respond back to DOE.

- Prepare a comprehensive mailing list and identify changes in the audit schedule, scope of work or checklist.
- Do not limit attendance at audits and allow at least one representative from each affected party to attend any audit.
- Send an audit checklist prior to the audit to observers 10 days prior to the audit, as the audit checklist can change up to the date of the audit.

On May 5-7, the Environmental Coordinating Group and Environmental Regulatory Compliance Coordinating Group held meetings in Seattle. The issue of regulatory compliance was discussed and USDOE was requested to be more specific in its terms of timelines and application for permits.

NRC held a meeting on May 14 that dealt with general technical positions (GTP's) on the acceptability of data collected under an inadequate quality assurance program.

Pat Tangora reported on a two-day session of the Transportation Coordinating Group meeting. An update of USDOE's transportation studies had been discussed during the first day of the session. The second day focused on risk models that USDOE will be using to estimate transportation impacts during the EIS process and further site selection. In order to allow for distinction between the sites

more definitely USDOE proposes to modify the models that will be used.

Bill Brewer reported on a National Academy of Sciences National Research Council meeting that took place in Portland, Oregon. The meeting was represented by a Panel of the Board on Radioactive Waste for the NAS/NRC and was comprised of well respected, independent experts who are under contract to USDOE. The Panel's charge was to review the complete aspect of management for the 149 single-shell tank wastes. The NAS/NRC Board and Panel has scheduled a July meeting in Seattle and the state of Washington will be requested to present its position and information on single-shell tank waste management.

#### **Committee Reports**

##### **Environmental Monitoring Committee:**

The committee met during the month of May. A major issue discussed during the meeting was the current DSHS budget on environmental monitoring. It was noted that a prior \$1.2 million request from the general fund had been included in the Governor's budget. The Legislators were to review the request during the interim session of legislation.

**Transportation Committee:** A meeting of the committee was held on May 14. The major topic of discussion was the transportation of transuranic waste from Hanford to the waste isolation pilot plant in New Mexico. There will be a June 23 meeting with USDOE and Oregon Department of Energy staff to discuss the issues of

routing, emergency response, site inspections, etc.

##### **Hanford Historical Documents Review**

**Committee:** An ongoing endeavor of the committee has been the Hanford Health Effects Panel's (HHEP) recommendations for dose reconstruction and epidemiological studies focusing on thyroid morbidity. The HHDC and USDOE/PNL had previously entered into negotiations to conduct a joint dose reconstruction study project due to cost, type of data involved, and the issue of credibility. During the February HHDC meeting the committee tentatively agreed to support, in principle, a joint dose reconstruction study project with USDOE. This agreement, however, was contingent on USDOE's commitment to fund a thyroid morbidity study to be performed independently of the dose reconstruction study.

During its March meeting, the committee had approved the Hanford Environmental Dose Reconstruction Project Draft Overview and criteria for the selection of a Technical Steering Panel (TSP), as amended by the HHDC. In addition, a draft Notice of Agreement for the proposed dose reconstruction project had been reviewed but no action taken. Currently, the HHDC and USDOE have not been able to reach a final agreement to perform a joint dose reconstruction project. This matter is currently being discussed among the HHDC members due to the unresolved issue of USDOE's agreement to fund an independent thyroid morbidity study. The next scheduled meeting for the HHDC will be May 18 in Mission, Oregon.

Socioeconomic Committee: On April 28 the Department of Ecology and Impact Assessment, Inc. signed a contract to begin preparation of the socioeconomic impact report. The initial task orders provide for:

- Reconnaissance study
- Preliminary identification of impacts
- A draft and final research design
- Review of the monitoring and mitigation plan of USDOE for site characterization

In addition, a peer review panel and a state review panel will be selected to review major work products.

The association of local governments in Clark-Skamania counties, Cowlitz-Wahkiakum counties, and Benton-Franklin counties have approved the contracts for the review of the impact study. USDOE is currently reviewing the contracts; once funding is approved the contract will be signed by the Department and the local governments. The contract with the Benton-Franklin governments also provide for the funding of local assessors to calculate payments equal to taxes (PETT) due under provisions of the Act.

In regard to payments equal to taxes, a meeting was held between USDOE and the states/tribes on May 11-12 to discuss the PETT guidelines and rules. As previously stated, the states believe the NWPA establishes payments equal to taxes are to be cal-

culated in the same manner as taxes paid by private entities. However, USDOE Headquarters contends that it will proceed with rulemaking that will likely limit the application of PETT determinations since the payments do not actually represent taxes but are merely measured by the equivalent tax amounts.

#### Litigation Status

Narda Pierce briefly reported on significant recent developments in the Nuclear Waste Policy Act litigation cases. In regard to the suspension of the second repository search, Washington v. Herrington, No. 87-7085, the state of Texas moved for a 17-day extension in time in which to file its brief. The Court granted Texas' motion and set May 22, 1987 as the date by which all petitioners must submit their opening briefs. Ms. Pierce noted that several parties will be filing briefs in support of the state of Washington's motion for declaratory judgment. The Department of Justice and eastern states have 30 days (subsequent to the May 22 deadline) to file their briefs.

Current efforts are directed toward USDOE's release of "internal deliberative files" that produced over a million documents for inspection. An effort is being made to organization a review process in which a computer coding program will keep track of all information studied. Additional requests have also been made for copies of indices, microformed documents, and access to the personal files of USDOE employees involved in the repository projects.

### Federal Legislation

The following hearings and meetings have been scheduled in the Senate:

**June 2, 1987:** Senate Environment and Public Works Subcommittee on Nuclear Regulation Waste Policy Oversight Hearings (witnesses from states/tribes), 9:30 a.m. in Room 405 Dirksen.

**June 9, 1987:** Senate Environment and Public Works Subcommittee on Nuclear Regulation Mark-Up on Price-Anderson Act Reauthorization Bill (tentative).

**June 18, 1987:** Senate Environment and Public Works Subcommittee on Nuclear Regulation Hearing on MRS Proposal with federal witnesses, 9:30 a.m. in Room 405 Dirksen.

The following hearings have been scheduled in the House:

**June 2, 1987:** House Energy and Commerce Subcommittee on Energy and Power Oversight Hearing on the MRS Proposal and Related Repository Issues.

**June 3, 1987:** House Energy and Commerce Subcommittee on Energy and Power High-Level Waste Oversight Hearing.

### Other Business

Russell Jim, Advisory Council member and Manager of the Nuclear Waste Program for the Yakima Indian

Nation, presented a "Fact Sheet" that was designed to focus on some of the reserved rights of the Yakima Indian Nation. The intent of the fact sheet was to provide general information and various concerns of the indigenous people as it regards to treaty language. Mr. Bishop noted that Russell Jim had also presented the "Yakima Indian Nation Fact Sheet" to the Advisory Council and it was agreed that the "Fact Sheet" be incorporated into an upcoming informational newsletter.

Dan Silver, Institute of Public Policy, discussed a letter addressed to Senator Brock Adams, dated May 11, signed by several Washington State Senators and Representatives. The letter referred to the Nuclear Waste Nuclear Waste Policy Act and the need to find an acceptable course for long-term disposal of high-level nuclear waste. A national regional system of Monitored Retrievable Storage was suggested as a possible short-term solution to the issue (see attached May 11 letter).

### Public Comment

None.

There being no further business, the meeting was adjourned.



# WASHINGTON STATE LEGISLATURE

Senate • House of Representatives • Legislative Building • Olympia, Washington 98504

May 11, 1987

The Honorable Brock Adams  
United States Senator  
513 Hart Senate Office Building  
Washington, D. C. 20510

Letters sent to  
all of Washington  
State's delegation.

SUBJECT: Nuclear Waste Policy Act

Dear Senator Adams:

There is now substantial evidence that the Nuclear Waste Policy Act is not working as planned. The nation is struggling to find a politically acceptable course for the long-term disposal of high-level nuclear waste. The time has come to revise the Act. We believe it might be fruitful to focus on a shorter term solution which keeps our long term options open. This solution could be a national regional system of Monitored Retrievable Storage. If done correctly, there could be substantial benefits to the state of Washington with such a system.

A study of a potential regional Monitored Retrievable Storage system would be worthwhile for Washington for these reasons:

1. Despite the best congressional intentions, defense waste cleanup is proceeding too slowly. Siting of an MRS facility at Hanford would provide leverage for cleanup of the defense wastes located on the Reservation.
2. The proposed cutback in nuclear production at Hanford, including USDOE's projection for the N Reactor going off line in 1995, could lead to a loss of interest by USDOE in cleaning up the Reservation. Not only would an MRS help assure cleanup, it would also provide jobs for workers who might lose their production jobs. We estimate operating an MRS could provide as many as 1,200 jobs per year.
3. The nation is at a political impasse in the siting of a repository. Recent proposals include forcing a repository on a state which is bitterly opposed to it. This is not the basis for good policy making. If Washington were to participate in an interim solution for handling high-level waste through an MRS, this might help ease the way for a cooperative approach by other states to address this severe national problem.
4. In fact, the country just does not seem ready for the siting of a permanent repository. We might be far better off taking a modified approach, along the lines we see in Europe. The European model of interim storage of high level wastes seems to have avoided the public outrage which haunts our national search for a permanent repository.

Letter to Senator Adams  
May 11, 1987  
Page 2 of 3

5. An MRS at Hanford would accept wastes generated in the Northwest region, including WNP-2, Trojan, and the Idaho National Engineering Laboratory, as well as the defense wastes on the Hanford Reservation. The additional transportation risks to Washington associated with such a project would be small. A national regional system would reduce transportation risks for the foreseeable future, when compared to the current USDOE scenario of a single eastern MRS and a permanent Western repository.
6. Regional storage of high-level waste has the simple, but compelling, notion of equity. Those parts of the country which benefit from nuclear power, and also generate wastes, should also own the responsibility for the safe storage of those wastes. Pitting the Eastern United States against the West, which seems to be our national policy, is not a responsible approach. Wastes should be handled by those who generate them.

We recognize, of course, that there are substantial risks involved in a regional MRS system, and in particular, siting a combined defense and commercial MRS at Hanford. Nevertheless, we believe that the idea warrants a hard look. We were pleased to note that Congressman Morrison recently persuaded a House Subcommittee on Energy Research and Development to add \$5 million to an authorization bill for the study of a regional MRS.

We urge you to support this approach.

Thank you for your attention to our request. We look forward to learning your thinking on this matter.

Sincerely,

My E. Brey

Shirley Hankins

Peter F. Brooks

Dick Olson

Dick Barnes

Gene Wusold

Letter to Senator Adams  
May 11, 1987  
Page 3 of 6

Jim Jennings

Lois Stratton

Cliff Bailey

Jerry Solinger

P. J. Gallagher

Fred May

W. H. Hutchins

Mike Dorr

Seth Armstrong

Nancy West

Ken D. Jacobsen

Terese Miller

John G. Meyer, M.D.

Ann Wilson

Emilio Cantu

Bill Smithson

Joseph Nelson

Alan Bunchel

Bob Allen

### Signatories

Senator Max E. Benitz

Representative Shirley Hankins

Representative Peter T. Brooks

Representative Jim Jesernig

Senator Lois J. Stratton

Senator Cliff Bailey

Senator Jerry Saling

Representative P.J. Gallagher

Representative Fred O. May

Senator Irv Newhouse

Representative Mike Todd

Representative Seth Armstrong

Representative Nancy Rust

Representative Dick Nelson

Representative Dick Barnes

Representative Jolene Unsoeld

Representative Ken G. Jacobsen

Representative Louise Miller

Representative John A. Moyer

Representative Sim Wilson

Senator Emilio Cantu

Senator Bill Smitherman

Senator Gary A. Nelson

Senator Alan Bluechel

Senator Brad Owen