

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

Date Printed: Sep 30, 2004 11:28

PAPER NUMBER: LTR-04-0609 LOGGING DATE: 09/29/2004

ACTION OFFICE: EDO / OGC

To: Strosnider  
NMSS

AUTHOR: Todd Lovinger

AFFILIATION: DC

ADDRESSEE: ~~Nils Diaz~~ Sen. Inhofe  
Sen. Jeffords

CYS: EDO  
DEDMRS  
DEDH  
DEDM  
AO  
DEDR  
OGC

SUBJECT: Forwards resolution passed by LLW Forum re S. 2763 on byproduct material

ACTION: Information

DISTRIBUTION: RF

LETTER DATE: 09/28/2004

ACKNOWLEDGED: No

SPECIAL HANDLING: Immediate Release via SECY/EDO/DPC

NOTES: OCM # 6008

FILE LOCATION: ADAMS

DATE DUE:

DATE SIGNED:

6008

# LOW-LEVEL RADIOACTIVE WASTE FORUM, INC.

1619 12<sup>TH</sup> Street, N.W. – Washington, D.C. 20009  
(202) 265-7990 \* (202) 265-7995 FAX

**To:** NRC Chair Nils Diaz  
**From:** Todd Lovinger, Executive Director  
Low-Level Radioactive Waste Forum, Inc.  
**Date:** September 28, 2004  
**Re:** Resolution Passed by LLW Forum

1.04

Please call if you have any questions.

04 SEP 28 PM 1:56  
014 PM 211 PFC'D

6008

**LOW-LEVEL RADIOACTIVE WASTE FORUM, INC.**

1619 12<sup>TH</sup> Street, N.W. – Washington, D.C. 20009  
(202) 265-7990 \* (202) 265-7995 FAX

September 28, 2004

CHAIRMAN REC'D  
04 SEP 28 PM 1:56

The Honorable James M. Inhofe  
Chair  
U.S. Senate Committee on Environment and Public Works  
410 Dirksen Senate Office Building  
Washington, DC 20510-6175

The Honorable James M. Jeffords  
Ranking Member  
U.S. Senate Committee on Environment and Public Works  
456 Dirksen Senate Office Building  
Washington, DC 20510-6175

Dear Senators Inhofe and Jeffords:

At its recent meeting in Buffalo, New York, members of the Low-Level Radioactive Waste Forum, Inc. (LLW Forum) were presented an overview of proposed legislation pending before your committee, S. 2763, to amend the Atomic Energy Act of 1954 to expand the definition of radioactive "byproduct material" to include: (1) discrete sources of radium-226 from commercial, medical, or research activities; (2) material made radioactive by particle accelerators; and (3) any discrete source of naturally occurring radioactive material (other than source material) that the U.S. Nuclear Regulatory Commission (NRC) determines would pose a threat similar to that posed by discrete radium-226 sources. Officials from several federal agencies—including NRC, the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Energy (DOE)—participated in the discussion, as did state and compact officials and members of the waste management and disposal industry.

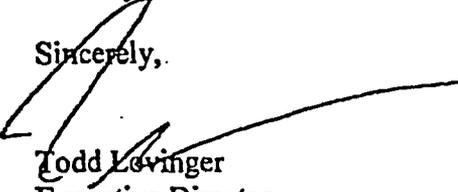
The LLW Forum is an independent, non-profit organization established to facilitate state and compact implementation of the Low-Level Radioactive Waste Policy Act of 1980 and its 1985 amendments and to promote the objectives of low-level radioactive waste regional compacts and unaffiliated states. Directors that serve on the Board of the LLW Forum are appointed by Governors and compact commissions as the designated liaisons of states and compacts on low-level radioactive waste disposal and management issues. The LLW Forum provides an opportunity for state and compact officials to share information with one another and to exchange views with officials of federal agencies, members of the industry and other interested parties.

The LLW Forum appreciates the committee's interest in this important issue. At the conclusion of the discussion on the proposed legislation, the Board of Directors of the LLW Forum passed the attached resolution. The resolution identifies what we believe to be some unintended adverse consequences of the proposed legislation and asks Congress to work with states, compacts and federal agencies to resolve the concern.

If you have any questions about the attached resolution or any other matters related to this issue, please feel free to call me at (202) 265-7990.

Thank you.

Sincerely,



Todd Levinger  
Executive Director  
LLW Forum

Enclosure

cc The Honorable John W. Warner (R-Virginia)  
The Honorable Christopher S. Bond (R-Missouri)  
The Honorable George V. Voinovich (R-Ohio)  
The Honorable Michael D. Crapo (R-Idaho)  
The Honorable Lincoln Chafee (R-Rhode Island)  
The Honorable John Cornyn (R-Texas)  
The Honorable Lisa Murkowski (R-Alaska)  
The Honorable Craig Thomas (R-Wyoming)  
The Honorable Wayne Allard (R-Colorado)  
The Honorable Max Baucus (D-Montana)  
The Honorable Harry Reid (D-Nevada)  
The Honorable Bob Graham (D-Florida)  
The Honorable Joseph I. Lieberman (D-Connecticut)  
The Honorable Barbara Boxer (D-California)  
The Honorable Ron Wyden (D-Oregon)  
The Honorable Thomas R. Carper (D-Delaware)  
The Honorable Hillary Rodham Clinton (D-New York)

U.S. Nuclear Regulatory Commission Chair Nils J. Diaz  
U.S. Department of Energy Secretary Spencer Abraham  
U.S. Environmental Protection Agency Administrator Mike Leavitt

## RESOLUTION RE SENATE BILL 2763

WHEREAS there is a legitimate interest in providing for the federal regulation of discrete radium sources, accelerator-produced radioactive material, and similar materials that may pose a threat to homeland security;

WHEREAS currently, disposal managed under the low-level radioactive waste compact system provides a safe means of disposing all such materials;

WHEREAS S. 2763 as introduced and referred to the Senate Environment and Public Works Committee would define such material as "by-product material" to initiate federal regulation of these materials; and

WHEREAS S. 2763 as introduced, by changing the definition of such materials, would create unintended adverse consequences including, but not necessarily limited to the following:

- Potential elimination of the only disposal outlet for the majority of high-activity discrete radium sources in the nation; and,
- Potential roll back of Congressionally approved compact regulation of these materials that has provided for the safe disposal for nearly two decades;

THEREFORE the Low-Level Radioactive Waste Forum encourages the Senate Environment and Public Works Committee to work with the Congressionally approved compacts, states, and federal agencies to refine S. 2763 so that the unintended adverse consequences are avoided.