



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555

SEP 24 1980

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MEMORANDUM FOR: John B. Martin, Director
Division of Waste Management

FROM: Malcolm R. Knapp, Acting Chief
High-Level Waste Licensing Management Branch

SUBJECT: WEST VALLEY BILL PASSES CONGRESS

The attached bill on West Valley passed both the House and Senate on September 17, 1980. In essence, it directs DOE to develop a demonstration project at West Valley for the purpose of demonstrating solidification techniques which can be used for preparing high-level radioactive waste for disposal. Particular provisions of the bill that are of interest to the Division of Waste Management (WM) are:

- o DOE is directed to solidify the waste into a form that is suitable for permanent disposal.
- o DOE is directed to develop containers for the solidified waste that are suitable for permanent disposal.
- o DOE is directed to enter into an agreement with NRC that establishes an informal review and consultation process between the two agencies for the West Valley demonstration project.
- o DOE shall submit a plan to the NRC which describes the principal technical activities that will take place at West Valley (e.g., solidification, removal of waste, preparation of waste for disposal, and decontamination). NRC shall review and comment on the plan.
- o DOE shall consult with NRC with respect to the form in which the high-level waste shall be solidified and the containers to be used in the permanent disposal of such waste.
- o DOE shall revise the plan to meet any objections specified in the NRC comments or publish a statement detailing the reasons for not revising the plan.
- o DOE shall submit safety analysis reports and other such information that the NRC may require in its review of the West Valley Project.
- o NRC shall have access to the site to inspect project activities for the purpose of assuring the public health and safety.

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John B. Martin

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The Projects Section meet with personnel from the Division of Fuel Cycle and Material Safety (FC) on September 22 to discuss the role that the Division of Waste Management will play in this project. It was decided that any division of responsibility between WM and FC would be deferred until after a briefing from DOE on the project-now scheduled for mid-October. After the DOE briefing, we will be in a better position to define the respective rol of the two Divisions.

Regis R. Boyle for
Malcolm R. Knapp, Acting Chief
High-Level Waste Licensing
Management Branch
Division of Waste Management

Enclosure:
As stated

NAYS—3

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Biden	Hart	Stewart
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So the bill (H.R. 7592) was passed.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HUDDLESTON, Mr. JOHNSTON, Mr. INOUYE, Mr. SASSER, Mr. LAXALT, Mr. STEVENS, Mr. MAGNUSON, and Mr. YOUNG conferees on the part of the Senate.

Mr. HUDDLESTON. Mr. President, I just want to take a minute to express my appreciation to the staff who have worked so diligently to prepare this legislation, on the majority side the subcommittee staff director, Carolyn Fuller, and her assistant, Dorothy Douglas; and Rick Pierce on the minority side.

Again, I thank our ranking minority member, the Senator from Nevada (Mr. LAXALT) for helping put together what was a somewhat unusual military construction bill this year.

We had significant budget amendments submitted in March modifying the January request. We had the Indian Ocean/Persian Gulf situation develop. That policy is still in an evolving stage, and we have had to deal with a number of issues associated with U.S. policy there.

There was, of course, the MX missile request which included test facilities and raised many important questions relating to the basing site and mode. We also had the Space Shuttle, which as I mentioned in my opening statement, has significant military applications. And, finally, we had to work within budget constraints.

So I think everybody made a significant effort to contribute to the final product.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to the consideration of H.R. 7831, which the clerk will state by title. The assistant legislative clerk read as follows:

Calendar 1017. H.R. 7831, an act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WEST VALLEY DEMONSTRATION PROJECT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2443.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2443) entitled "An Act to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. This Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary shall carry out in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of high level radioactive waste under the project.

(5) The Secretary shall decontaminate and decommission—

(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

(B) the facilities used in the solidification of the waste, and

(C) any material and hardware used in connection with the project,

in accordance with such requirements as the Commission may prescribe.

(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the

reports of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

(3) The Secretary shall—

(A) undertake detailed engineering and cost estimates for the project,

(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and slicing techniques,

(C) conduct appropriate safety analyses of the project, and

(D) prepare required environmental impact analyses of the project.

(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 under which the State will carry out the following:

(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

(B) The Secretary shall provide technical assistance in securing required license amendments.

(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

(c) Within one year from the date of the enactment of this Act, the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project. The agreement shall provide for the following:

(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health

and safety which may be presented by the project.

(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, and the commercial operator of the Center.

SEC. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than \$5,000,000 for the fiscal year ending September 30, 1981.

(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

SEC. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

SEC. 6. For purposes of this Act:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "State" means the State of New York.

(4) The term "high level radioactive waste" means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

(5) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

(6) The term "low level radioactive waste" means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(7) The term "project" means the project prescribed by section 2(a).

(8) The term "Center" means the Western New York Service Center in West Valley, New York.

Mr. JACKSON. Mr. President, the House has recently adopted an amendment in the nature of a substitute for the text of the act S. 2443. It is important that this legislation be enacted in this Congress so that the nuclear waste stored at the Western New York Service Center in West Valley, N.Y., can be processed into a form suitable for permanent disposal. I, nonetheless, feel that the House-passed version of S. 2443 contains deficiencies which must necessarily be corrected in order to achieve enactment of a workable bill. The Senate-passed version of S. 2443 contained, under the provision for a cooperative agreement with the State of New York, a requirement that the Department of Energy be party to the licensing amendment which will be required in order to conduct the project. I believe that reinserting this provision will insure that the interests of the Federal Government, which will bear 90 percent of the cost of the project, will be protected.

A further amendment is required to section 2(c) of the act in order to clarify the status of the Secretary's activities with respect to the Nuclear Regulatory Commission's responsibilities. The proviso which is proposed to be added to section 2(c) makes it clear that the review and consultation by the Nuclear Regulatory Commission will be performed on an informal basis and not require formal procedures or actions by the Commissioners themselves. This approach is in full keeping with the longstanding tradition of informal review by the nuclear regulators of Federal Government nuclear activities not intended to result in commercial activity.

In this process the Department of Energy provides full technical information to the staff of the Nuclear Regulatory Commission. This information is carefully reviewed, critiqued, and analyzed to insure that the project is conducted with standards fully equivalent to those imposed on licensed activities. The Commission communicates its concerns back to the Department of Energy, and the Department of Energy acts to resolve the concerns by providing further technical information or by making modifications in the facilities.

With these changes, I believe the bill will provide the full opportunity for the Department of Energy and the State of New York to move quickly forward to establish a project for the safe processing of the high-level nuclear waste stored at the West Valley site. I wish to commend Senators MOYNIHAN and JAVITS for their leadership in this bill and the Members of the New York delegation in the House of Representatives.

An editorial published in today's New York Daily News aptly summarizes the process, except that the editors were re-

miss in not including New York's distinguished senior Senator, Senator JAVITS who, as the bill's cosponsor has worked intensively with me, with my distinguished colleague Senator McCURE and with all those involved in the West Valley bill and deserves recognition as do his colleagues. Indeed, New York's two Senators, its Governor, and certainly West Valley's Congressman STAN LUNDINE have aptly represented the State's and the Nation's concern that these stored wastes be safely and swiftly disposed.

I hope the House of Representatives will accept the amendments to the bill without asking for a conference to resolve these differences. With the shortness of time and the need for beginning action in the fiscal year 1981, I hope that we can send the bill to the President in the next few days.

Mr. MOYNIHAN. Mr. President, today the Senate will act on the West Valley nuclear waste solidification bill—S. 2443—setting in motion a technological enterprise which is so vital to our basic education in managing nuclear waste. Senate passage of the West Valley bill—nearly identical to the version it passed on June 12, 1980—marks the first time in 4 years that the Senate and House of Representatives have agreed on the nature of the Federal role in the project. It has not been easy.

West Valley is the site of this Nation's only commercial nuclear fuel reprocessing plant. Over 75 percent of the high-level waste at West Valley is from Federal facilities or commercial reactors under contract with the former Atomic Energy Commission. The high level wastes at West Valley are the only such wastes in the United States that are not managed by the Federal Government. New York State does not belong in the nuclear waste business. It is important that the facility be under the care and management of the Department of Energy which possesses the necessary technical resources to oversee the solidification and safe removal of the wastes.

On March 8, 1977, the GAO recommended that the Nuclear Regulatory Commission develop criteria for handling the waste and decommissioning the site. The GAO report also recommended that the NRC and the Department of Energy develop a policy of Federal assistance to New York for the site. On March 15, 1978, the DOE Task Force for Review of Nuclear Waste Management stated that "DOE should accept responsibility for the high level waste at West Valley."

Over a year later, Secretary James Schlesinger wrote to Governor Hugh Carey expressing DOE's willingness to accept overall management responsibility and bear a portion of the costs of a program of high-level liquid waste solidification, storage, transfer to a Federal repository for solidified wastes, and decommissioning of all facilities associated with these activities. As recently as September 21, 1979, Secretary Duncan wrote to Governor Carey expressing his desire to reach a final agreement on arrangements for beginning the waste solidification project at West Valley. However, the

Department of Energy cannot proceed on the project without the proper authorization. That is the purpose of S. 2443.

The House has returned S. 2443 to the Senate with few changes of substance. For example, the consultative role of the Nuclear Regulatory Commission has been made more explicit in the House version of the bill. Language in other provisions of the bill has been tightened to leave little doubt of the intent of Congress to see this unique undertaking proceed in the most open and deliberate manner. No party's legal responsibilities are the lesser for this law.

I would be remiss if I failed to record at this time my profound gratitude to Dr. James Schlesinger, Dr. John Sawhill—soon to be chairman of the Synthetic Fuels Corporation—and Dr. Worth Bateman. These three gentlemen, in their unenviable position of running the Department of Energy past and present, have conscientiously negotiated with the State of New York, on behalf of the Federal Government. There were many complications associated with this project during these 4 years which I am sure gave them pause to consider another line of employment. Nonetheless, each stayed the course and for this each is to be commended.

It would not be an overstatement to suggest that Senator HENRY JACKSON is, in the end, the individual most responsible for the successful culmination of the West Valley legislation. His unwavering support and his generosity in lending the assistance of his staff have brought us to this day.

Mr. JAVITS. Mr. President, this is the third time the Senate has passed the legislation to clean up West Valley and we believe this final version of our bill will serve the interests of New Yorkers well. We have sent to the House for final passage a bill which makes the State of New York a partner with the Federal Government in a 10-year, \$200 million project to solidify and dispose of the nuclear wastes which have threatened the health and wellbeing of New Yorkers in this rich farmland area on the outskirts of Buffalo.

It is high time, after the 4 long years that Senator MOYNIHAN, Congressman LUNDINE, and I have worked to enact such a program, that the United States assume its rightful responsibilities and clean up that waste and take it away from the highly populated area where it now lies. Further, I intend to see to it that, once enacted, this program goes forward without any further delay and I am certain that we can continue to count on the excellent support we have had from the Senate Energy Committee and particularly its distinguished chairman.

UP AMENDMENT NO. 1600

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is the Senator moving to concur in the House amendments with an amendment?

Mr. MOYNIHAN. Mr. President, I will ask in a moment that the Senate concur

in the House amendment with an amendment which I now send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1600.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 4, after line 23, insert the following:

(D) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

On page 5, line 2, strike the period and insert the following: "Provided, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law."

Mr. JAVITS. Mr. President, I ask unanimous consent that my name be added to that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I move that the Senate concur in the House amendment with the amendment I have sent to the desk.

The motion was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to exceed 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PROCEDURE NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, this has been cleared with the Republican leader, and the acting Republican leader is here with me and can speak for himself.

I ask unanimous consent that on Monday the Senate proceed to the consideration of the State-Justice appropriation bill, provided the HUD appropriation bill has been disposed of by that time and provided that the Department of Transportation appropriation bill and the military construction appropriation bill have been disposed of by that time, but in any event that the State-Justice appropriation bill follow the disposition of the

three aforementioned measures, with the further understanding that on Tuesday, of course, the nuclear fuel sale to India proceed as under the previous order and that the Senate then pick up on Wednesday with the disposition of any of the aforementioned appropriation bills and that following the State-Justice appropriation bill the Interior appropriation bill be taken up.

Mr. STEVENS. Mr. President, that has been agreed to.

The PRESIDING OFFICER. May the Chair inquire of the distinguished majority leader whether or not that means that the Tarapur sale of enriched uranium to India will follow State, Commerce, Justice if it has not been passed on Monday?

Mr. ROBERT C. BYRD. No. Under the previous order, on Tuesday the Senate will come in at 9 o'clock, and following the two leaders and any orders for the recognition of Senators, the Senate is to proceed to the Tarapur matter, the disapproval resolution.

Mr. McCLURE. Mr. President, reserving the right to object—and I do not intend to object—it is my understanding that the Interior Department appropriation bill will not come up before next Wednesday?

Mr. STEVENS. And will not occur before Tarapur.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BUMPERS. Mr. President, reserving the right to object, I discussed the State, Justice, Commerce bill with Senator HOLLINGS a moment ago and told him that I cannot be here on Friday or Monday. I have a very important amendment which I think Senator HOLLINGS and I will be able to agree on. But in the event that we are not, would it be possible to defer final votes on that bill until after the sale to India resolution in order that I might offer the amendment if Senator HOLLINGS and I cannot agree?

Mr. ROBERT C. BYRD. Yes. It is agreeable—in order to protect the Senator from Arkansas (Mr. BUMPERS) on the amendment to the State, Justice, Commerce bill—to carry that amendment only and, of course, final passage, over beyond Monday. Am I understanding the Senator correctly?

Mr. BUMPERS. The Senator is correct.

Mr. ROBERT C. BYRD. So if State, Justice, Commerce appropriations was to reach the point where it was about to go to third reading on Monday, with no other amendments, the Senator would be protected and that bill would be put over until an appropriate time, consonant with the order entered, so as to give the Senator his opportunity to call up his amendment thereto.

Mr. BUMPERS. And the majority leader amends his request to make that specific?

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. I thank the majority leader very much.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER (Mr.

of bringing the conference report to the floor as soon as possible—in order to facilitate floor scheduling of other major substantive legislation during the closing weeks of this session.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3904, PRIVATE MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1979

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MAKING IN ORDER ON OR AFTER FRIDAY, SEPTEMBER 19, 1980, CONSIDERATION OF CONFERENCE REPORT ON H.R. 3904, MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1979

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that it be in order on or after Friday, September 19, 1980, to consider the conference report on the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RESIGNATION AS CONFEREES AND APPOINTMENT OF CONFEREES ON CHILD NUTRITION LEGISLATION

The SPEAKER laid before the House the following resignation as a conferee:

WASHINGTON, D.C.
September 17, 1980.

HON. CARL PERKINS,
Education and Labor Committee, Rayburn Building.

DEAR MR. CHAIRMAN: In compliance with House Rule XLIII, I must refrain from participation in the business of the committees of which I am a member.

Consequently, I am unable to act as a conferee on the Child Nutrition legislation and would ask that you excuse me from this duty and appoint another member to the conference committee.

Sincerely yours,

MICHAEL O. MYERS,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. The Chair appoints the gentleman from New Jersey (Mr. THOMPSON) to fill the vacancy, and the Senate will be notified of the action of the House.

WEST VALLEY DEMONSTRATION PROJECT ACT

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2443) to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y., with Senate amendments to the House amendment, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 4, after line 23, of the House engrossed amendment, insert:

(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

Page 5, line 2, of the House engrossed amendment, after "project" insert: "Provided, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law".

Mr. OTTINGER (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. DINGELL. Mr. Speaker, I reserve the right to object only to note that I have a reservation to the earlier unanimous-consent request. I would indicate to the Chair that I will probably not assert that objection.

The SPEAKER. There is no objection to the suspension of the reading?

Mr. DINGELL. I do not object to that. I just want to make sure that the Chair is aware of the fact that I have a reservation earlier noted.

Mr. Speaker, I withdraw my reservation of objection to the reading of the amendments.

The SPEAKER. Is there objection to the request of the gentleman from New York (Mr. OTTINGER) to dispense with the reading of the amendments?

There was no objection.

The SPEAKER. Is there objection to

the initial request of the gentleman from Florida (Mr. FUQUA)?

Mr. LUJAN. Mr. Speaker, reserving the right to object to bringing up the bill by unanimous consent, I do so simply to ask the gentleman if this was the research bill that we had for West Valley and how does the Senate bill differ from the House passed bill?

Mr. FUQUA. Let me say to the gentleman from New Mexico, this is the bill that passed the House on suspension on Monday relating to the West Valley, or commonly referred to as the West Valley bill. It is the R. & D. program.

The Senate did add two germane amendments, one requiring that the license be jointly complied with by the Department of Energy and the other that there were not required to be formal actions by the Nuclear Regulatory Commission. Both are germane amendments.

Mr. LUJAN. Mr. Speaker, if the gentleman would continue to yield, on the first amendment I do not quite understand what that is all about, that both the Department of Energy and the State of New York must agree to the provisions?

Mr. LUNDINE. Mr. Speaker, will the gentleman yield to me?

Mr. LUJAN. I yield to the gentleman from New York.

Mr. LUNDINE. The original bill that came out of the Committee on Science and Technology provided that the Department of Energy and the State of New York would jointly apply for an amendment to the existing license to allow this demonstration project to occur. When the bill was considered by the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, the requirement that the Department of Energy join the State of New York was eliminated from that version of the bill and, thereby, eliminated from the House passed bill last Monday.

In discussions with several Senators and the minority, as well as the majority, the feeling was that they did not want the State of New York going in and applying a loan for an amendment to this license, that they wanted a provision in it that the amendment to the license would be agreed on by the Department of Energy.

Therefore, the original Science and Technology Committee language was replaced in the Senate bill and that is what this action is.

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Mr. LUJAN. I would agree with the gentleman that that is a desirable provision.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. FUQUA)?

Mr. OTTINGER. Reserving the right to object, I reserve the right to object to get some clarification from the Chairman. In the second Senate amendment it says that it will not require formal procedures or actions. The exact language is:

The Commission—

That is the Nuclear Regulatory Commission—

pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law.

I want to make it clear that Senator JAVTS informs me that it was the intent of the Senate that this should mean they will not require formal procedures such as licensing procedures, but it does not preclude the Commission from taking any action that otherwise would be authorized by law.

Mr. FUQUA. If the gentleman will yield, I think the gentleman has explained it very well. I think that is the intent.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding. Is it not because it is a research project that you do not go into a full blown licensing proceeding?

Mr. OTTINGER. That was the accommodation that was reached on the bill. The question of whether you need licensing research and development or demonstration projects has not fully been resolved.

Mr. LUJAN. If the gentleman will yield, at least in this particular one we do not.

Mr. OTTINGER. That is correct. That is correct.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. FUQUA)?

Mr. DINGELL. Mr. Speaker, I have not withdrawn my reservation of objection.

Mr. Speaker, referring to the committee print, H.R. 6865, if I could have the attention of my good friend from the State of Florida, I would observe that I believe the first amendment—and that is the amendment which relates to the "submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration"—would appear, if I am correct, at page 5, line 10, is that correct, as a new item (D)?

Mr. FUQUA. If the gentleman will yield, that is my understanding of the House bill.

Mr. DINGELL. I continue the reservation of objection. I would assume that clause, which sort of floats, would be made into a full sentence, because if it appears at that point in the bill, it simply says:

Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

I believe that should read:

The agreement shall provide for the submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon

as possible with the Nuclear Regulatory Commission providing for the demonstration.

Otherwise we have a clause which hangs and which without some good exercise of the human mind is inoperative. Am I correct in that appreciation?

Mr. FUQUA. If the gentleman will yield, I think there could be a technical error in the bill, and I would certainly have no objection to making a technical correction in the amendment as passed by the Senate.

Mr. DINGELL. I am not sure whether that does not get us to the point where we maybe have to accept this and then send it back to the Senate with an amendment. That makes extra problems, but we do want to pass a piece of legislation for the gentleman from New York that is going to deal with the question and not leave hanging and dangling a lot of questions unanswered. I recognize, indeed, the desire for speed in this matter, but I am troubled that we should proceed carefully.

The second question is, as I understand it, the other bill, the House version of the bill, would include the second language which says:

Provided, That review and consultation by the Commission—

And so forth, would go in at the end of the sentence after the word "project" at line 14 of page 5. Is that correct? Am I correct in my appreciation that that amendment should go there?

Mr. FUQUA. If the gentleman will yield, it is my understanding that that is the correct place where the amendment should be inserted.

Mr. DINGELL. Mr. Speaker, I thank my good friend, the gentleman from Florida (Mr. FUQUA).

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, the Senate action has been to add two amendments to the bill which passed the House. The House action was to accept a modified version of the bill which was reported by the Committee on Interstate and Foreign Commerce, and thus the Senate action was to accept our committee's version of the bill with two amendments.

The first amendment directs the Secretary of Energy to jointly submit a license amendment to the Nuclear Regulatory Commission to allow the activities to occur on the West Valley site. This subjects the Secretary to the jurisdiction of the Nuclear Regulatory Commission and places the Secretary in the position of a licensee in regard to all aspects of the project.

The second amendment provides that the agreement between the Secretary of Energy and the Nuclear Regulatory Commission provide for informal procedures for the Commission's review and consultation of the Department's plan. This requirement for informal procedure applies only to the provisions of the agency agreement executed pursuant to subsection 2(c) and does not affect the procedures which would be used when the Secretary jointly submits the required license application

amendment pursuant to section 2(b)(4)(D) nor does it affect the provisions of section 5(a) which states that nothing in the bill, including the two Senate amendments shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974.

Mr. DINGELL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. FUQUA)?

There was no objection.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES REGARDING HOUSE RESOLUTION 745

The SPEAKER laid before the House the following communication from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and the Committee on the Judiciary:

THE WHITE HOUSE,

Washington, September 17, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I am writing in response to H. Res. 745 passed by the House of Representatives on September 10, 1980.

On July 23, 1980, Chairman Rodino of the Committee on the Judiciary and Chairman Zablocki of the Committee on Foreign Affairs requested that I comment on H. Res. 745. On August 18, 1980, I submitted to those Committees a statement by me and a report of my counsel, together with the information to be furnished by two Executive Branch Departments, which contained the answers and related information called for in the Resolution.

The August 18, 1980 submission and the supplemental report of my counsel dated September 17, 1980 and attached to this transmittal letter constitute my response to H. Res. 745 as passed on September 10, 1980. I am also enclosing letters from the Department of State and the Department of Justice which confirm that these Departments have fully complied with paragraphs 6 and 7 and paragraphs 8 and 9 of H. Res. 745 respectively.

Sincerely,

JIMMY CARTER.

WILLIAM S. MOORHEAD

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, I join with my colleagues in wishing good things in his future endeavors for BILL MOORHEAD, who I have had the privilege and the pleasure of serving with in this body for 10 years.

Although I have not served on any House committees with BILL, I do have the opportunity of sharing his counsel every Thursday morning when we both participate as part of the majority whip's organization.

BILL MOORHEAD has amassed an excellent legislative record in the areas of community development, housing, energy, the arts and humanities, freedom

How can HRC treat a license amendment informally?