



Appalachian States Low-Level Radioactive Waste Commission

FINAL MEETING MINUTES

November 1, 2024

CALL TO ORDER

Mr. Abbott called the meeting to order at 10:05 a.m.

INTRODUCTION AND ROLL CALL

Mr. Janati conducted the roll call and the members introduced themselves. The attendees are listed below:

Members and Alternates

- Dwight Shearer – Alternate from Pennsylvania
- Adam Walters – Alternate from Pennsylvania
- Clifford Mitchell – Member from Maryland
- Tyler Abbott – Member from Maryland
- Ed Hammerberg – Alternate from Maryland
- Robert Brinsfield – Alternate Member from Delaware
- Tera Patton – Member from West Virginia
- Matthew T. Smith – Alternate for West Virginia

Commission Staff

- Rich Janati, Administrator
- Timothy Anderson, Esquire
- Maria Kennison, Esquire

PA DEP Staff

- Stephanie Banning
- Molly Adams
- Chad Duppstadt
- Dave Baracco
- Ryan Bankert
- Troy Prutzman
- Michael Karchner
- Everette Whitlow
- Courtney Torres
- Eduardo Muro



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- Matthew Sims

ADOPTION OR MODIFICATION OF THE AGENDA

There were no modifications to the proposed meeting agenda.

APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

Mr. Abbott asked if any member had modifications or changes to the minutes of the October 27, 2023, annual meeting. There were no comments and the Commission voted to approve the minutes unanimously.

REPORT OF THE CHAIRMAN AND ADMINISTRATOR

Review of Treasurer's Report for FY 2023-24

Mr. Janati discussed the Treasurer's Report, which is a statement of revenues and expenditures for the Commission's Operating Fund during fiscal year (FY) 2023-2024. Both the Operating Fund and Surcharge Fund are being invested by the Pennsylvania Treasury Department under the INVEST Program. Interest from the Operating Fund during this FY was \$870. Actual expenses for this period totaled \$32,596 which is \$14,604 less than the budgeted amount of \$47,200. The reason we were under the budgeted amount is because Mr. Janati was hired as an annuitant, and he was able to perform the duties and responsibilities of the Commission as a Pennsylvania Department of Environmental Protection (DEP) employee. That will change beginning in January of 2025.

The Commission's expenses exceeded our revenue by \$31,726. Mr. Janati stated that this happens every year as the Commission has no revenue source aside from the interest collected on the Operating Fund. In the past the Commission had an office and staff when the member states provided contributions and that was how expenses were paid. To maintain the Operating Fund, funds are periodically transferred from the Surcharge Fund to the Operating Fund. The Surcharge Fund consists of restricted funds provided by the Department of Energy (DOE) and has accumulated interest. The Surcharge Fund had an interest amount of \$70,734. The Commission has been using the interest earned from the Surcharge Fund to fund day-to-day operations. The Commission informed the DOE of this and received no response, which has been interpreted as tacit permission. Mr. Janati said at the end of June 2024, the Operating Fund had a balance of \$30,741. Mr. Janati broke down Surcharge Fund to unassigned and restricted. The Surcharge Fund had an interest on the restricted fund and the total amount is \$1,284,675. The remaining amount of \$1,647,303 constitutes as the principal.



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STATUS REPORT ON CLIVE AND WCS DISPOSAL FACILITIES

Mr. Janati provided an update on the status of Clive and WCS commercial LLRW disposal facilities and recent developments.

The EnergySolutions Clive facility accepts Class A waste from all states except those in the Northwest and Rocky Mountain Compacts because they have access to a regional facility in Richland, Washington. The facility also provides for disposal of bulk waste and large components such as steam generators from the nuclear power plants. This facility is not a regional facility and is regulated by the State of Utah.

Mr. Janati stated that EnergySolutions has received approval for disposal of Class A radioactive sealed sources. This is a significant development because large quantities of these sources are being stored on site by various generators. The approval of this request is positive news from a national security standpoint as it will provide an additional facility for disposal of this type of waste.

They are also seeking approval for license renewal of Class A waste, a federal cell and an exempted waste cell. The State of Utah has decoupled the license renewal review of the licensing of federal cell requests, and that's going to expedite the process.

The WCS facility is a regional facility for the Texas Compact (Texas and Vermont) and accepts all classes of LLRW from both commercial and federal facilities. In April 2012, the Texas Commission on Environmental Quality authorized WCS to accept waste and begin disposal activities. Additionally, the Texas Compact Commission has established rules for the importation and exportation of LLRW into and out of the Texas region. The annual limit on radioactivity for out-of-compact waste is 275,000 Ci, but there is no annual limit on volume for out-of-compact waste. Disposal of large quantities of Depleted Uranium and Greater-Than-Class C waste is being considered by WCS.

The most recent development is that construction of a new cell has been completed and it will add about 425,000 ft³ of capacity at the WCS facility. The license renewal application review is in progress so they're now in timely review of their license application.

INFORMATION ON LLRW DISPOSAL FOR THE APPALACHIAN COMPACT

Mr. Janati discussed the waste disposal information for calendar year 2023. The Appalachian Compact disposed of 71,986 ft³ of LLRW, with 68,455 ft³, coming from Pennsylvania, 3,482 ft³ from Maryland, 42 ft³ from West Virginia, and 7 ft³ from Delaware. Most of Pennsylvania's waste was generated by the industry and nuclear utilities. Maryland's waste was mostly generated by industry, nuclear power plants, and the government. Most of the class A waste generated within the compact was shipped to the EnergySolutions Clive Facility in Utah. Mr.



Janati also provided information on the radioactivity of waste generated in the compact. The compact generated about 28,946 Ci of LLRW. Pennsylvania generated about 28,831 Ci waste and Maryland generated about 115 Ci of waste. Both Delaware and West Virginia generated less than 0.1 Ci.

Mr. Janati provided a brief discussion of waste disposal trends in the compact for the period of 2002 to 2023. The Barnwell disposal facility in South Carolina stopped accepting waste from outside the Atlantic Compact in July 2008, resulting in the storage of Class B and C wastes, mainly by the nuclear utilities, for about 5 years. Beginning in 2014 and through 2023, the reported volume and radioactivity also includes Class B and C wastes that were shipped to the WCS facility in Texas. In 2016, the Safety Light facility in PA started cleanup effort under the Environmental Protection Agency's (EPA) Superfund Program, which generated large quantities of Class A waste. The cleanup continues but currently there is not much LLRW being generated by this facility.

Mr. Janati provided a brief discussion of radioactivity of waste for the period of 2002 through 2023. From the years 2002 through 2008, the activity level of waste being shipped was very high due to the availability of the Barnwell facility in South Carolina to our Compact. In 2007 and 2008 the nuclear power plants in the compact shipped large quantities of high activity irradiated components to Barnwell knowing that they will no longer have access to this facility.

The shipment of radioactive waste has been relatively low after the closure of the Barnwell facility to our compact beginning in 2009. We began shipping waste to the WCS facility in 2014 and we have been able to ship Class B and C wastes that contain higher activity to this facility. In 2018 and 2023, the reported activity is very high because of the shipments of irradiated reactor components from a nuclear power plant in PA to the WCS facility in Texas.

Mr. Janati presented a pie chart showing that in 2023, about 62% of the compact's LLRW by volume was disposed at the Clive facility in Utah and about 38% by volume was disposed at the WCS facility in Texas. In comparison, about 98% of the compact's LLRW radioactivity was disposed at the WCS facility and about 2% of radioactivity was disposed at the Clive facility. Mr. Janati stated that these statistics show us that our generators are sending some of their higher concentrations of waste to the WCS facility.

Mr. Hammerberg asked whether we continue to separate TENORM (Technologically Enhanced Naturally Occurring Radioactive Material) from LLRW for the purpose of tracking and reporting waste. Mr. Janati stated that in the Appalachian Compact the definition of LLRW does not include TENORM, and therefore, we ensure that the reported LLRW disposal information excludes TENORM.



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Mr. Mitchell stated that politically, a decision could be made for the WCS and Clive facilities to stop receiving waste from the Appalachian Compact. Mr. Janati stated that they could, but it would be more complicated in the case of the Clive facility, because it is not a regional or compact facility. Mr. Anderson agreed and noted that since the Clive facility is not a compact facility, the Northwest Compact does not have the authority under the US Constitution to exclude disposal of out-of-compact waste at Clive. Mr. Janati said if this scenario were to occur, the Clive facility would likely no longer be economically feasible to continue operations.

Mr. Walters questioned the variations in the waste disposal data provided from year to year, suggesting that there must be significant reductions in operations or economic factors in play. Mr. Janati explained that the variations are the result of refueling outages at the nuclear power plants, shipments of irradiated components, as well as clean up and decommissioning activities that could affect the generation and disposal of LLRW. As an example, Mr. Shearer cited the Peach Bottom power upgrade, which led to an increase in LLRW due to the replacement of some of the plant's components.

UNFINISHED BUSINESS

Evaluation of Costs and Benefits of Having Commission Personnel with the Ability to Prepare Financial Statements

Mr. Janati stated that we had this item listed on the agenda last year, so at the recommendation of the counsel, we decided that this agenda item will remain for the annual meeting. In summary, we had our 2022-2023 audit completed. One of the recommendations they made was for us to have qualified staff who is capable of preparing the Commission's financial statements.

Currently, we hire a private firm to conduct the audit and to prepare the financial statements. So, I am asking, do we want to hire someone who has the expertise to prepare the financial statements for the Commission? The cost most likely will be higher than the \$6,500 that we pay now to conduct the audit and to prepare the Commission's financial statements, considering that the number of transactions that we incur are also limited.

Attorney Anderson stated that in a large agency or in a large for-profit enterprise, the auditor does not prepare the financial statement; someone else completes it and the auditor audits the financial statements. It is the auditor's recommendation to find another way of having the financial statements prepared. Mr. Mitchell stated that from a risk point of view, I am having a hard time understanding what the risk is here considering that we have a very small number of transactions. Mr. Janati concurred with Mr. Mitchell and stated that his original recommendation was to pass a resolution stating that as long as there is no siting process for a LLRW disposal facility and the Commission does not have any offices, there will not be a need to hire a staff to



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prepare the Commission's financial statements. However, I will support the Counsel's recommendation to include this topic for discussion at the Commission's annual meetings.

At the end of this discussion, the Commission concluded that it is not feasible to hire staff with the ability to prepare financial statements at this time.

Mr. Shearer stated that DEP has several staff members that attend this meeting. We want to ensure that we have robust redundancy and effective layering in place so that the workforce knowledge sponsored for the Commission is preserved. Additionally, we want to ensure that DEP staff are introduced to this Commission and that Mr. Janati, as the Administrator, has that good working knowledge relationship that we can continue to support.

Discussion of the Bylaws

Mr. Andersen stated that at the last meeting there was a discussion about how to have a full complement of members to sign documents when needed. This issue arose at the end of the period leading up to the last meeting when we didn't have a member to assign certain tasks. And because we had suspended the siting process in the late 1990s, we no longer have an executive director.

The bylaws are full of the duties of the executive director. We split up the duties of the executive director between the chair and the vice chair. Our primary concern would be for the ability to execute contracts that cost over \$10,000. We were in a situation where we did not have any signatories at the end of last year. We did not have a chair or a vice chair.

The way the bylaws are set up, the chair and vice chair must be members and cannot be alternates. We are considering taking the secretary and treasurer roles and putting them between the chair and the vice chair. The secretary and the treasurer could also be alternates. Then that would give us four officers plus the chair's designee. If we have a two-signature contract, we will not have the ability to find two people who could sign it. Especially if we had a vacant seat. Our members are often appointed by state agencies and membership could change if there is an election coming up.

The Committee reviewed the changes in the bylaws. In Article 5, Page 12, Section 1, we split the treasurer versus having the secretary/treasurer if there is an executive director then the director would fill that position of the secretary/treasurer. However, if there isn't one, there would be two separate roles.



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Section 2 outlines the duties of the now added secretary and the treasurer to provide clarity to their roles. In Section 3, we added more specificity as to who would be eligible to be chair, vice chair, secretary, and treasurer. If they are elected and there isn't an executive director, they could be a member or an alternate. During last year's meeting, we did not have two officers appointed by different party states, and we would prefer that they are not all from one state. On Page 13 in Section 3, this ties again that if there is no executive director then this is how the roles are to be built. The chair would still act as the executive director. If there isn't an executive director, the secretary and treasurer would be elected.

If there is anything under the bylaws that requires one action of the chair and the executive director, it is just going to be completed by the chair and the vice chair. That needs to change from how the bylaws are currently written.

The last piece of changes made have to do with signing checks and drafts. We made it such that there would be more people that could sign it. We added additional authorized persons in the event that two people would need to sign. This would only be necessary if the contract was over \$10,000. This could be the chair, the chair's designee, or the vice chair. The secretary and the treasurer would also have more options. Mr. Anderson reminded the Commission members that Mr. Janati is officially the chair's designee. He stated the changes you see are distributed as needed in advance of the meeting in order to allow the Commission to vote to change the bylaws at the meeting.

At the conclusion of the discussion, the Commission approved the proposed changes to the bylaws that separate the offices of secretary and treasurer and outline their respective duties; specify the eligibility requirements for the officers: chair, vice-chair, treasurer, and secretary; and outline the responsibility and authority for signing Commission checks and drafts in light of the above changes.

Update on LLW Forum Activities

Mr. Janati provided an update on recent activities of the LLW Forum (Forum), a national organization that the Commission is a member of. The Forum also includes as members other interstate LLRW Compacts, several independent states and federal agencies including NRC, EPA, DOE, LLRW generators, and industrial sectors such as the processors and the disposal facilities. There are also individual member states of New York and Massachusetts. The Forum provides an opportunity for the members to interact and discuss radioactive waste management and disposal issues. It is a place for collaboration, information-sharing, policy and regulatory influence, and technical expertise. The DOE is a major supporter of the Forum and provides a



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large portion of the Forum's budget. While primarily established for use by the compacts, other related organizations are also included as well. The new executive director was hired in 2019. He manages the day-to-day operations of the Forum, monitors developments in various Compacts, represents the Forum at professional conferences such as the Waste Management Conference, and periodically meets with the appropriate federal agencies including the NRC, DOE, and NSA.

The financial status of the Forum has improved. We now have a positive balance, and any excess goes in reserve. The Forum will form subcommittees and working groups as needed to address specific tasks or issues. Mr. Hammerberg is on the Missions and Operations Subcommittee. This subcommittee was formed to address some of the strategic issues. Mr. Janati stated that he serves on the Agenda Committee and the Disused Sealed Sources Working Group. The Working Group made 24 recommendations. We are now focusing on five recommendations and hopefully we'll get some completed. It is going to take some effort on the part of the agreement states and the NRC to ensure that the radioactive sources that are being used are also being disposed of in a timely manner versus being held in storage.

The Agenda Committee meets periodically to identify topics for discussion at meetings. Mr. Janati mentioned several topics that were discussed at the Forum meetings including the Nuclear Energy Institute's presentation about the resurgence of interest in nuclear power plants and the restart of TMI Unit-1; the ADVANCE Act; and panel discussions on management and disposal of TENORM and waste attribution. He also mentioned the Forum is assisting the Southwest Compact on issues that involve exportation of radioactive waste from this compact to Texas for disposal at the WCS facility.

We also have panel discussions at the Forum meetings. For example, TENORM was the subject of a panel discussion a few times because the disposal of TENORM is a complex issue. Another subject or topic we had related to waste attribution. We wanted to make sure the waste that is generated, is attributed to that respective compact commissions, rather than to the compact that is accepting the waste for processing. The other issue was financial assurance of radioactive material and radioactive sources. Mr. Janati recommended that the Commission maintain its membership with the Forum. He stated that it is important to stay engaged with current trends, issues and developments in LLRW management and disposal benefitting from collective knowledge and support.



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NEW BUSINESS

Election of Officers

The Commission voted unanimously to elect Frederick Siger, Secretary, Pennsylvania Department of Community and Economic Development, as the chair and Clifford Mitchel, Director, Environmental Health Bureau, Maryland Department of Health and Mental Hygiene, as the vice-chair of the Commission for the coming year. Dwight Shearer, Director, Bureau of Radiation Protection, Pennsylvania Department of Environmental Protection, as Treasurer, and Tera Patton, Director, Radiation, Toxics and Indoor Air Division, West Virginia Department of Health and Human Services, as the Secretary of the Commission.

Adoption of the Revised Approved Budget for FY 2024-25 and Proposed Budget for FY 2025-26

Mr. Janati presented a revised budget for the 2024-2025 fiscal year. The revision was made to reflect the expected decrease in the budget amount for the administrator fee. He said we had initially budgeted \$25,000 but now it is \$12,500 because it is only for six months from January 1, 2025, through June 2025. The audit and professional financial statements have gone up \$1,000 and total \$6,500. Meeting announcements in the Federal Register and local newspapers have gone up by approximately \$100. The bylaws require that we announce our meetings in two newspapers in each of the party states and the Federal Register. We also request hard copies of our bank statements that costs \$36 a year. With that included the budget for fiscal year 2024-2025 is \$48,336. The budget for 2025-2026 is similar to the 2024-2025 budget except that the administrator fee is higher because it will be for one year. The Commission approved the revised 2024-2025 budget of \$48,336 and the proposed 2025-2026 budget of \$60,836.

2025 Annual Meeting

The Commission passed a motion to accept November 7th as the date for the 2025 annual meeting.

PUBLIC COMMENT

There were no members of the public in attendance.

ADJOURNMENT

Mr. Abbott adjourned the meeting at 11:46 a.m.