

MINUTES

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMMISSION ANNUAL MEETING

NOVEMBER 2, 2012

I. CALL TO ORDER

Chairman Krancer called the meeting to order at about 10:00 AM.

II. INTRODUCTION AND ROLL CALL

There was a roll call, and the members introduced themselves. The attendees are listed below:

Members and Alternates

- Michael Krancer, Chairman and Member from Pennsylvania
- David Allard, Alternate from Pennsylvania
- Charles Goodhart, Alternate from Pennsylvania
- Stephen Ostroff, Alternate from Pennsylvania
- Robert Summers, Vice-chair and Member from Maryland
- Clifford Mitchell, Alternate from Maryland
- Edward Hammerberg, Alternate from Maryland
- Everett DeWhitt, Alternate from Delaware
- Michael Dorsey, Alternate from West Virginia (Via Telephone)

Commission Staff

- Rich Janati, PA Department of Environmental Protection (PA DEP)
- Timothy Anderson, Esquire, Pepper Hamilton
- Michelle Skjoldal, Esquire, Pepper Hamilton

Others Present

- James Barnhart, PA DEP
- Dave Ralicki, PA DEP

III. ADOPTION OR MODIFICATION OF THE AGENDA

There were no modifications to the proposed meeting agenda.

IV. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

Chairman Krancer asked if any member had any modifications, changes or clarifications with regard to the minutes of the November 4, 2011 annual meeting. There were no comments and the Commission voted to approve the minutes unanimously.

V. REPORT OF THE CHAIRMAN AND EXECUTIVE DIRECTOR

A. Treasurer's Report

Mr. Janati discussed the Treasurer's Report, which is a statement of revenues and expenditures for fiscal year 2011-2012. Revenue sources for the Commission consist of interest income from the Operating Fund and checking account. The Operating Fund is invested by the Pennsylvania Treasury Department under the INVEST Program. Interest from the Operating Fund was \$124, which is \$176 less than the projected amount of \$300. Actual expenses for this period totaled \$28,157 and were \$43 lower than the budgeted amount. However, the Commission's expenditures exceeded its revenues by \$28,033.

B. Review of Independent Auditor's Report for FY 2011-12

Mr. Janati discussed the Independent Auditor's Report for fiscal year 2011-2012. The audit was conducted by Greenawalt and Company in accordance with Government Auditing Standards, and included a review of the Commission's internal control structure, its laws and regulations. The audit concluded that there were no items of non-compliance or negative findings.

The balance sheet reflects the Commission's assets, consisting of "cash" and "investments." The cash reflects the balance in the checking account at Citizens Bank, which was \$35,677 at the end of June 2012. The Commission's total net assets were \$2,939,911 at the end of June 30, 2012.

The balance sheet also reflects that the Commission's assets which are divided into three distinct funds.

1. The Unappropriated Fund is the same as the checking account with Citizens Bank.
2. The Appropriated Fund consists of funds appropriated to pay for activities such as Project Restart, fiscal stabilization, and legal fees. The Appropriated Fund had a balance of \$235,738.

3. The Surcharge Fund is received from the U.S. Department of Energy (DOE) as part of incentives paid to the states for meeting certain site development milestones. This fund had a balance of \$2,668,496 as of June 30, 2012. The audit report also pointed out that the Commission was not involved in any litigation that could adversely affect its financial position.

Regarding the use of the Surcharged Funds for the Commission's administrative expenses, Mr. Anderson said that if the need arises, the Commission should first seek an opinion letter from DOE on this matter.

Mr. Hammerberg asked about the status of the movement of the Commission's funds within the INVEST Program. Mr. Janati explained that during the previous annual meeting, the Commission adopted a motion to have the administration of the Commission investigate movement of some or all of the Commission funds into the custom pool of the PA Treasury's INVEST Program. He stated that after further investigation and consultation with the counsel, he sought and received approval from the Chairman for the transfer of the entire amount in the restricted account (Surcharge Funds) from the community pool into the custom pool of the INVEST Program. He said the custom pool has a higher interest rate than the community pool.

C. Status of LLRW Disposal Facilities and Recent Developments

Mr. Janati stated that there are currently four commercial LLRW disposal facilities in the United States. These facilities are Barnwell in South Carolina, the *EnergySolutions* facility in Utah, Richland in Washington and the new Waste Control Specialists (WCS) facility in Texas.

1. The Barnwell facility accepts all classes of LLRW from the three members of the Atlantic Compact (Connecticut, New Jersey and South Carolina). As of July 1, 2008, this facility no longer accepts LLRW from outside the Atlantic Compact.
2. The *EnergySolutions* Clive facility accepts Class A waste from all states except those in the Northwest and Rocky Mountain Compacts. This facility is not a regional facility and it is regulated by the State of Utah. In April of 2012, the State of Utah approved a variance request for the disposal of Class A sealed sources at this facility. The variance will have a term of one year from the date the first shipment is received at the Clive facility and will be partially funded by the Conference of Radiation Control Program Directors (CRCPD). Only Class A sealed sources recovered as part of a round-up coordinated by the CRCPD Source Collection and Threat Reduction (SCATR) Program are authorized for disposal at the Clive facility. The disposal of sealed sources will be limited to Class A waste and the half-lives of the isotopes in the sources to be disposed of should be equal to the half-life of Cs-137 or less. Mr. Janati stated that each source must be registered with

the Off-Site Source Recovery Project (OSRP) before it can be accepted for disposal. A list of the sealed sources that the licensees have registered with OSRP will be sent to an authorized broker. Licensees will then be contacted by a broker to schedule a date and time for collection of their sources.

3. The Richland facility is a regional facility and accepts all classes of LLRW, but only from the member states of the Northwest and Rocky Mountain Compacts. This facility continues to accept radium sources from the Appalachian Compact and other states and compacts.
4. WCS Disposal facility is a regional facility for the Texas Compact (Texas and Vermont) and accepts all classes of LLRW from both commercial and federal facilities. Construction of this facility began in January 2011. In April 2012, the Texas Commission on Environmental Quality (TCEQ) authorized WCS to accept waste and begin disposal activity including collection and disposal of sealed sources. Additionally, the Texas Compact Commission (TCC) has established rules for the importation and exportation of LLRW into and out of the Texas region. The generators outside the Texas Compact must secure a contract with WCS, obtain a Generator Certification, file an import petition with the TCC and receive approval prior to disposal of waste at the facility. The generators must also obtain certification for transport from the State of Texas. Mr. Janati stated that the current facility license limits disposal of out-of-region waste to a maximum of 30 percent of the total facility volume and radioactivity. Also, LLRW from international origin will not be accepted for disposal at the WCS facility. The facility is a near-surface disposal facility and its license requires that LLRW containers be placed inside a concrete over-pack for additional protection.

Mr. Janati said that the amount of paperwork involved for obtaining access to the WCS facility has made the process difficult for small generators. He said there are several brokers, i.e., Bionomics Inc. available to assist small generators with the necessary paperwork for access. Mr. Janati pointed out that the TCC defines “small generator” as a generator of LLRW that generates no more than 100 ft³ of waste annually.

Mr. Allard stated that PA DEP did some outreach with the material licensees, including the hospitals in PA, for disposal of disused sealed sources.

D. Information on LLRW Generation in the Appalachian Compact

Mr. Barnhart presented several charts and tables containing information on the LLRW generation in the Appalachian Compact (compact). During calendar year 2011, the compact generated about 167,157.3 cubic feet (ft³) of Class A LLRW. The total radioactivity of this LLRW was about 495.47 curies (Ci). Pennsylvania disposed of about 155,508.5 ft³ or 93 percent of waste by volume, most of which was generated by the utility, government and industrial generators. Maryland

disposed of about 10,568.7 ft³ of waste or approximately 6 percent of total volume, most of which was generated by the government category. Delaware and West Virginia generated about 1,061 ft³ and 19.1 ft³, respectively. Mr. Barnhart also provided information on the radioactivity of Class A LLRW generated in the compact. Pennsylvania disposed of about 492.61 Ci or 99 percent of waste by radioactivity, most of which was generated by the nuclear utilities. Maryland generated about 1.84 Ci or 0.40 percent of waste by radioactivity. Delaware and West Virginia generated about 1.0 and 0.02 Ci respectively. All Class A waste generated within the compact was shipped to the Energy Solutions disposal facility in Clive, Utah.

Mr. Barnhart said that because of the closure of the Barnwell disposal facility to LLRW generators outside the Atlantic Compact, all Class B and C wastes generated in the Appalachian Compact are currently being stored at various sites. The nuclear utilities generate the majority of Class B and C wastes in the compact. Mr. Barnhart said that the LLRW storage information will be included in the department's annual report for calendar year 2011, and the report will be available on the department's website.

Mr. Hammerberg asked if the Manifest Information Management System (MIMS) database includes waste disposal information from the WCS facility. Mr. Barnhart said he has not investigated this yet. If the information is not included in the MIMS database, he will ask that the DOE make arrangements with WSC to include that information. Mr. Summers asked if the Commission has been in contact with the generators of Class B and C wastes regarding their plans for proper management of these wastes. Mr. Janati replied that almost all Class B and C wastes in the compact are being generated by the nuclear power plants. He said the majority of the utilities in the compact are in the process of obtaining disposal access to the WCS facility. Mr. Janati also said that unfortunately, the cost of disposal for Class B and C wastes at this facility is very high. He stated that the amount of paperwork involved in obtaining access to this facility has made the process difficult for nonparty compact waste (imported waste). He pointed out that the Texas Compact Commission appears to be moving slowly and cautiously for approval of imported waste, specifically waste that contains large curie content. He said by law, the WCS facility may not accept more than 50,000 cubic feet of imported waste annually. The radioactivity limit for imported waste is 120,000 curies annually, except that in the first year the facility may accept 220,000 curies.

VI. UNFINISHED BUSINESS

A. Update on NRC Low-Level Waste Program Activities

Mr. Janati provided an overview of the recent NRC Low-Level Waste Program activities as follows:

1. Large-Scale Blending of Waste - In March 2011, the NRC issued guidance for reviewing large-scale blending of LLRW. This guidance should assist the NRC staff and Agreement States in making informed decisions regarding large-scale blending applications or requests from licensees. Mr. Janati stated that the concept of blending waste was discussed extensively at a previous meeting of the Commission.
2. Storage of LLRW - In August 2011, the NRC issued a Regulatory Issue Summary (RIS 2011-09) associated with extended storage of LLRW to provide licensees with a consolidated list of available resources that will assist with the extended storage of LLRW. The RIS also provides a summary of the type of information contained in the listed resources.
3. Volume Reduction Policy Statement - In May 2012, the NRC issued a revised Policy Statement on Volume Reduction Policy. The NRC recognizes that volume reduction is only one aspect of an effective program for managing LLRW. The revised policy statement encourages licensees to also consider other factors such as operational efficiency, reductions in occupational exposures, security, and cost in deciding how to best manage LLRW.
4. Branch Technical Position (BTP) on Concentration Averaging - In June 2012, the NRC issued the revised BTP for public comment. One of the key revisions includes the NRC Commission's new position on blending of waste. The BTP serves as a guidance and contains acceptable methods for classifying various waste streams or mixtures of these waste streams for disposal in accordance with the NRC LLRW regulations in 10 CFR Part 61 (Licensing Requirements for Land Disposal of LLRW).
5. 10 CFR Part 61 Rulemaking - In January 2012, the NRC Commission approved expanding the current limited-scope revision to Part 61 regarding site-specific analysis to bring a clearer risk-informed approach to Part 61. The NRC staff is currently evaluating the issues associated with revising Part 61 and is seeking input from various stakeholders. In summary, the specific revisions to Part 61 are as follows:
 - a. Allowing licensees the flexibility to use ICRP (International Commission on Radiological Protection) methodologies in a site-specific performance assessment for the disposal of all radioactive waste.
 - b. A two-tiered approach that establishes a compliance period that covers the reasonably foreseeable future and a longer period of performance to evaluate the performance of the site over longer timeframes.
 - c. Flexibility for disposal facilities to establish site-specific waste acceptance criteria based on the results of the site's performance assessment and intruder assessment.

- d. A compatibility category for the elements of the revised rule to ensure alignment between states and federal government on safety fundamentals, while providing the states with the flexibility to determine how to implement these safety requirements.

The NRC staff has been asked to provide an extended proposed rule to the Commission within 18 months of the publication of the Staff Requirements Memorandum (SRM), dated January 19, 2012.

Mr. Janati provided a discussion of Part 61, Subpart C requirements for land disposal of LLRW, specifically protection of the general population, protection of individuals from inadvertent intrusion, protection of individuals during operations, and stability of the disposal site after closure. Mr. Janati stated that the NRC is considering a rulemaking to revise Part 61 for several reasons including the emergence of potential waste streams not considered in the original Part 61 rulemaking such as large quantities of depleted uranium (DU), DOE's increasing use of commercial LLRW disposal facilities, and extensive international operating experience in the management of waste. The NRC is currently seeking input from various stakeholders regarding the proposed rulemaking. Mr. Allard stated that it is the chemical toxicity of DU and the soluble uranium in groundwater as the pathway that should be of primary concern to the NRC and not the radiological toxicity of DU.

B. Overview of PA DEP and Appalachian Compact Commission Recent Activities and Initiatives

Mr. Janati provided an overview of PA DEP and the Appalachian Compact Commission recent activities and initiatives involving LLRW management and disposal as follows:

Large-Scale Blending of Waste - PA DEP provided input and worked closely with the NRC staff on a risk-informed, performance-based blending concept for LLRW.

NRC Working Group on LLRW Storage - PA DEP represented the Organization of Agreement States on the NRC Storage Working Group and the development of the Regulatory Issue Summary on Extended Storage.

NRC Part 61 Rulemaking - PA DEP represented the host state (PA) and the Appalachian Compact Commission on the LLW Forum Working Group and provided extensive comments to the NRC regarding Part 61 revisions.

Availability of WCS Disposal Facility - The Commission provided a bulletin to all LLRW generators in the compact and informed them of the availability of the WCS disposal facility and specifically, disposal options for Class B and C wastes.

The Commission also responded to several inquiries by the generators regarding access to the WCS disposal facility.

TCEQ Request for Assistance - PA DEP provided information and assistance to the TCEQ in support of a characterization study for LLRW to be disposed of at the WCS facility.

Disposal of Sealed Sources - PA DEP provided two separate Information Notices to the PA licensees and LLRW generators on collection and disposal of sealed sources at the EnergySolutions facility in Utah and the WCS facility in Texas.

Mr. Summers asked how the Appalachian Compact compares to the other compacts in terms of the volume of LLRW. Mr. Janati replied that the Appalachian Compact is one of the largest generators of commercial LLRW in the nation. This is mainly due to the large number of nuclear power plants in the compact. There are currently eleven operating nuclear plants in the compact; nine in Pennsylvania and two in Maryland. Mr. Janati pointed out that there are also many non-nuclear power plant generators of LLRW in the compact including industrial, medical and research facilities. Mr. Allard stated that over the past several years, the cleanup and decommissioning activities at some of the old industrial facilities in PA generated considerable amounts of low-activity waste requiring disposal.

VII. NEW BUSINESS

A. Election of Officers

The Commission members voted unanimously to elect Secretary Krancer as the chair and Secretary Summers as the vice-chair of the Commission. Mr. Anderson reminded the Commission members that since 1998, and following the closure of the Commission offices, the duties of the executive director were split up between the chair and the vice-chair.

B. Adoption of Fiscal Year 2012-13 Proposed Budget

Mr. Janati presented the proposed budget for fiscal year 2012-13. He stated that the proposed budget is very similar to the approved budget for fiscal year 2012-13, but the projected amount of interest for the Operating Fund is lower by about \$200. Annual meeting expenses and the cost of the annual audit are projected to increase by about \$200 each. Mr. Janati also said that the Low-Level Waste Forum (LLW Forum) is considering an increase in its membership fees of \$1,000 for compacts (from \$8,500 to \$9,500). He said the LLW Forum was established several years ago to facilitate state and compact implementation of the Low-Level Waste Policy Act. The LLW Forum membership consists of several states and compacts (including the Appalachian Compact), several federal agencies (NRC, DOE, and EPA), as well as the operators of the existing LLRW disposal facilities.

Mr. Hammerberg added that the LLW Forum has not increased its membership fees for a long time. He also said the Forum is partially funded by a grant from DOE, but they want to be prepared for the possibility that the DOE grant may no longer be available. He said he believes the Forum is taking this approach to show DOE they are not entirely relying on DOE funds for their existence and that they are a responsible organization looking at other sources of funds as well. Mr. Ostroff recommended that the Commission's budget for fiscal year 2013-14 reflect an increase of \$1,000 to consider the possibility that the LLW Forum might increase its membership fee for compacts. Mr. Anderson supported Mr. Ostroff's recommendation. Mr. Summers stated that as a large generator of LLRW that has no LLRW disposal facility, it is important that the compact remains involved in national developments and continues to maintain a positive relationship with other compacts through membership at the LLW Forum. At the conclusion of this discussion, the Commission voted unanimously to approve a proposed budget of \$29,600 for fiscal year 2013-14.

C. Proposed Date for 2013 Annual Meeting

The Commission voted to hold its next annual meeting on October 31, 2013. The meeting will be held at the Hilton Hotel in Harrisburg, PA. Mr. Mitchell inquired about the latest LLRW annual report. He said that the latest report posted on the Commission website is for 2008. Mr. Janati said that the latest published annual report is for 2010. He said that PA DEP is currently modifying its website and the reports for 2009 and 2010 will be posted on the website in the near future. Mr. Mitchell stated that that he would like to see a link to the Commission website on the Maryland Department of the Environment (MDE) website as well as the Maryland Department of Health and Mental Hygiene (DHMH) website. He said that the reports are informative and it is important that members of the public have access to the information in a timely manner.

VIII. PUBLIC COMMENT

There were no members of the public in attendance.

IX. ADJOURNMENT

The meeting was adjourned by a unanimous vote at approximately 11:32 a.m.