



Appalachian States Low-Level Radioactive Waste Commission

DRAFT MEETING MINUTES

November 6, 2020

CALL TO ORDER

Ms. Laleker called the meeting to order at 10:00 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

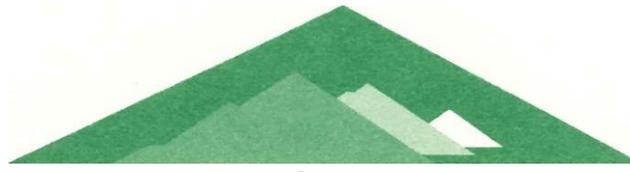
- David Allard, Alternate Member from Pennsylvania
- Edward Hammerberg, Alternate Member from Maryland
- Kaley Laleker, Member from Maryland
- Clifford Mitchell, Member from Maryland
- Tera Patton, Member from West Virginia
- Richard Roman, Alternate Member from Pennsylvania
- Albert Romanosky, Alternate Member from Maryland
- Matthew Smith, Alternate Member from West Virginia
- Matthew Higgins, Alternate Member from Delaware

Commission Staff

- Rich Janati, Administrator, PA DEP
- Timothy Anderson, Esquire, Troutman Pepper
- Michelle Skjoldal, Esquire, Troutman Pepper

Others Present

- Andrew Taverna, Staff Member, PA DEP



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ADOPTION OR MODIFICATION OF THE AGENDA

Mr. Allard requested the addition of an agenda item at the end of public comment section to discuss a proposed amendment to the bylaws.

APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

Ms. Laleker asked if any member had modifications or changes to the minutes of the November 8, 2019 annual meeting. There were no comments and the Commission voted to approve the minutes unanimously.

REPORT OF THE CHAIRMAN AND EXECUTIVE DIRECTOR

Review of Treasurer's Report for FY 2019-20

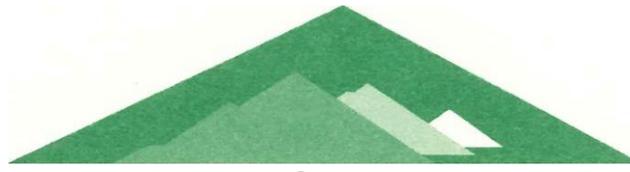
Mr. Janati discussed the Treasurer's Report, which is a statement of revenues and expenditures for the Commission's Operating Fund during fiscal year (FY) 2019-2020. This fund is being invested by the Pennsylvania Treasury Department under the INVEST Program. Interest from the Operating Fund during this FY was \$876. Actual expenses for this period totaled \$28,580 which is less than the budgeted amount of \$30,200 by \$1,620. The Commission's expenditures exceeded its revenues by \$29,200.

STATUS OF COMMERCIAL LLRW DISPOSAL FACILITIES AND RECENT DEVELOPMENTS

Mr. Janati provided an update on the status of commercial LLRW disposal facilities and recent national developments involving management and disposal of low-level radioactive waste (LLRW).

There are currently four (4) commercial LLRW disposal facilities in the United States. These facilities are Barnwell in South Carolina; the Energy Solutions facility in Clive, Utah; Richland in Washington; and the 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 Energy Solutions Clive facility accepts Class A waste from all states except those in the Northwest and Rocky Mountain Compacts. 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. The Utah Department of Environmental Quality is currently conducting a regulatory review for disposal of large quantities of depleted uranium and Class A radioactive sealed sources at this facility.



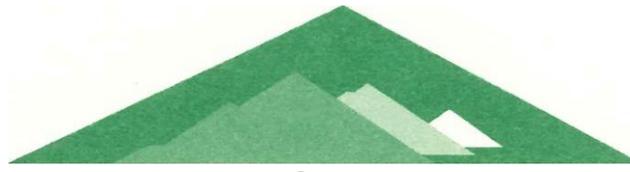
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3. The Richland facility is a regional facility and accepts all classes of LLRW but only from the Northwest and Rocky Mountain Compacts.
4. The WCS facility is a regional facility for the Texas Compact (Texas and Vermont) and accepts all classes of LLRW from both commercial and federal facilities. In April 2012, the Texas Commission on Environmental Quality (TCEQ) 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 curies (Ci), but there is no annual limit on volume for out-of-compact waste. The TCEQ granted an increase in the total capacity of the commercial facility from 2.3 million cubic feet (ft³) to 9 million ft³. Additionally, disposal of large quantities of depleted uranium and Greater-Than-Class C (GTCC) waste is being considered by WCS.

Mr. Janati stated that the WCS facility is having financial issues. This is partly due to overestimating the amount of waste that would be disposed of at this facility. Measures are being taken to remedy this such as lowering fees and surcharges. In July 2020, TCEQ approved a fee reduction for disposal of LLRW at the WCS facility. It is expected that the reduction in fees will increase the amount of waste that would be disposed of at this facility. Mr. Janati also stated that the Texas Compact Commission is preparing a contingency plan for the disposal and management of LLRW in the event that the compact facility should be closed.

Mr. Janati said earlier this summer the Nuclear Regulatory Commission (NRC) issued an environmental impact statement (EIS) for the proposed consolidated interim storage facility for spent nuclear fuel (SNF) at the existing WCS disposal site in Andrews County. This is a joint venture of Orano USA and WCS. This facility would be able to accept 5,000 metric tons of commercial SNF and greater than Class C (GTCC) waste. Currently, there is no disposal facilities for SNF from the nuclear power plants and GTCC waste. The goal is to expand the capacity of this facility from 5,000 metric tons to 40,000 metric tons.

Holtech, another company, submitted an application for a SNF and GTCC waste interim storage facility in New Mexico. The NRC has issued a draft EIS for that facility. Mr. Janati said within the next year or so, we'll find out whether these facilities will be able to receive a license.



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INFORMATION ON LLRW DISPOSAL FOR THE APPALACHIAN COMPACT

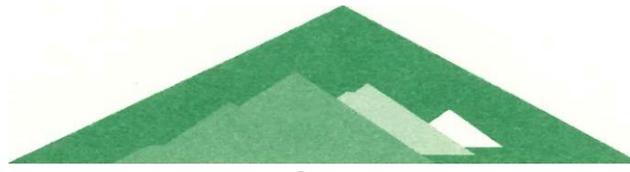
Mr. Janati provided background information on the DOE's Manifest Information Management System (MIMS). The MIMS contains information on LLRW disposal at the current commercial LLRW disposal facilities. Mr. Janati said DEP has significantly reduced the regulated community's administrative LLRW reporting requirements by obtaining the appropriate disposal information directly from the MIMS database.

Mr. Taverna discussed the waste disposal information for calendar year 2019. The Appalachian Compact disposed of about 319,367 ft³ of LLRW. Pennsylvania disposed of about 302,148 ft³, most of which was generated by the government (due to the decommissioning of the Safety Light site in PA by the EPA), the industrial and the utility sectors. Maryland disposed of about 17,193 ft³ of waste, most of which was generated by the industry sector. Delaware disposed of about 26 ft³ of waste, most of which was generated by the industry sector. West Virginia did not generate waste requiring disposal in calendar year 2019. Almost all Class A waste from the Compact was shipped to the EnergySolutions Clive facility. Mr. Taverna also provided information on the radioactivity (curie) of waste generated in the Compact. The Compact generated about 910 Ci of LLRW. Pennsylvania generated about 837 Ci of waste, Maryland generated about 73 Ci of waste, and Delaware generated about 0.003Ci respectively.

Mr. Taverna provided a brief discussion of waste disposal trends in the Compact for the period of 1999 through 2019. The Barnwell disposal facility in South Carolina stopped accepting waste from outside the Atlantic Compact in 2008, resulting in the storage of Class B and C wastes, mainly by the nuclear utilities, during 2009 through 2013. The total radioactivity reported during this period represents only Class A waste that was shipped to the Clive facility in Utah. Beginning in 2014 and through 2019, the reported radioactivity also includes Class B waste that was shipped to the WCS facility in Texas.

Mr. Taverna presented a pie chart showing that in 2019, about 99.87% of the Compact's LLRW by volume was disposed at the Clive facility in Utah, and only 0.13% by volume was disposed at the WCS facility in Texas. In comparison, about 77% of the Compact's LLRW by radioactivity was disposed at the Clive facility, and about 23% by radioactivity was disposed at the WCS facility.

Mr. Janati stated that the Energy Solution's facility in Clive, Utah plays an important role in management and disposal of LLRW in the Appalachian compact. He said due to blending of Class A waste with Class B waste, the volume of Class B waste that would have been disposed at the WCS facility in Texas has diminished significantly.



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Mr. Anderson stated that the Commission as a matter of administrative convenience passed a resolution many years ago interpreting our compact in such a way that only waste that is manifested for disposal, and so entered into the MIMS database, is considered waste for our purposes. He said anything else that is in storage, in transit, or in a processor is characterized as radioactive materials and not waste.

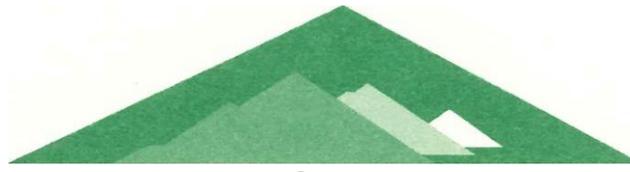
Mr. Romanosky inquired about the number of academic institutions in Maryland that generated LLRW in 2019 (32 ft³). He also inquired about the LLRW generators listed under the government category. Mr. Taverna said we have access to historical data as well as listing of all the LLRW generator names. He said he could always contact Energy Solutions, WCS and DOE if he has any questions about a particular generator or the amount of waste they generate. Mr. Taverna took an action to provide that information to Mr. Romanosky via email.

Mr. Hammerberg asked if the disposal numbers reported in the MIMS for low-activity waste or TENORM (Technologically Enhanced Naturally Occurring Radioactive Materials) would be used to determine if another party state should be designated as the host state, if we were actively in the siting process. Mr. Janati said the definition of LLRW in our compact does not include TENORM. He said TENORM would not have been allowed for disposal at the regional facility in PA. Mr. Anderson said the waste would be treated as LLRW if it is both manifested for disposal and is characterized as LLRW according to the compact's definition, which is the same as federal definition. Mr. Allard said he and Mr. Taverna will take this as an action. He said we will look at the compact's historical data in the MIMS to separate out TENORM waste from LLRW for the purpose of tracking.

UNFINISHED BUSINESS

Correspondence to DOE re Surcharge Funds

Mr. Anderson stated the letter informing DOE of the Commission's intent to spend the income from the surcharge fund on the annual budget of the Commission had been sent. He explained that under this scenario, there would be an annual transfer of the income from the restricted funds or surcharge funds to the unrestricted funds of the Commission. He said a response was quickly received from DOE disagreeing with us because we don't have a regional facility and therefore, we can't mitigate the effects of a regional facility on the host state. We followed up with an email explaining a few additional talking points, notably the Commission's participation in the LLW Forum. He said he made several attempts to contact the attorney from DOE, but he never called back. Mr. Allard suggested regrouping and sending an additional letter to the DOE



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in February 2021. He said the letter should point out that we have no intention of spending surcharge funds, but to utilize the revenue from the fund for the Commission's routine activities.

A motion was passed that a responsive letter be sent to DOE in February 2021 accepting DOE's position that the surcharge money received from DOE cannot be spent on Commission activities so long as a regional facility is not in the process of being cited in the Compact, and further stating that the Commission intends to spend the interest on the surcharge funds for the Commission's activities on the basis that the interest is outside the restrictions of the Act.

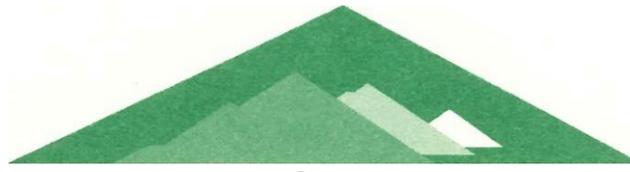
Update on LLW Forum Activities

Mr. Hammerberg provided an update on recent activities of the LLW Forum (Forum), an organization that the Commission is a member of. The Forum also includes as members other interstate LLRW compacts, several states and federal agencies including NRC and DOE, LLRW disposal facilities, LLRW generators and LLRW service providers. He said the Forum is an organization where policy issues can be addressed. It provides a venue for the members to interact and discuss topics of mutual interest.

He said that some members had been dissatisfied with the lack of transparency within the Forum, particularly as it related to the activities of the executive director, and they were concerned about the overall viability of the organization. He said Forum had been facing budget deficits for several years and some compacts had either dropped out of the organization or threatened to do so.

He stated that the Forum hired Dan Shrum as the new executive director in the wake of the departure of the long-term executive director. He said Dan was formerly with Energy Solutions and he has many contacts in the field and with the regulators and compacts. He said the funding situation has improved under Dan's leadership. We are projecting for calendar year 2020 that the organization will be financially solvent for the first time in seven or eight years. The Board is much more engaged than in previous years and people are expressing what their expectations are for the organization. There is movement to get these concerns addressed.

A virtual meeting was held in place of an in-person meeting due to COVID-19. The meeting went well and was well received. It was held free of charge for anyone to participate. One of the concerns regarding a virtual format is the lack of engagement and interaction that would be experienced with a face-to-face meeting. It felt a bit constrained with having to type in questions. A spring meeting is scheduled in Baltimore for April 2021, but it is questionable if it



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can be held in-person due to the continuing pandemic. It may need to be changed to a virtual format.

In summary, the organization is moving forward, and a lot of the concerns have been righted. The compacts that had dropped out have all rejoined; therefore, all compacts are represented in the Forum. We're working on a strategic plan to identify specific activities that the Forum should be taking on for the short-term, medium-term, and long-term in support of compacts.

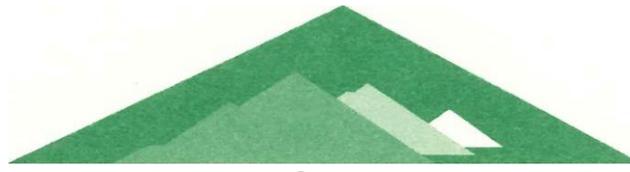
NEW BUSINESS

Election of Officers

The Commission members voted unanimously to elect David Allard, Director, Bureau of Radiation and Protection, Pennsylvania Department of Environmental Protection, as the chair of the Commission, and Kaley Laleker, Director, Land and Materials Administration, Maryland Department of the Environment, as the vice-chair of the Commission.

Adoption of the Revised Approved Budget for FY 2020-21 and Proposed Budget for FY 2021-22

Mr. Janati presented the revised budget for FY 2020-21 and the proposed budget for FY 2021-22. He said the current budget has a reduction to \$1,500 for the cost of travel, down from \$5,000 due to holding virtual meetings in place of in-person meetings. The \$1,500 would cover the expenses for PA members to travel out-of-state to attend this year's annual meeting and the cost of travel to attend the Forum meeting in Baltimore if the meeting is in-person and not a virtual meeting. Mr. Janati stated that the cost of the audit is higher by about \$300 because of new requirements, including cybersecurity. Expenses have also been reduced from \$37,700 to \$32,500, a reduction of \$5,200, mainly due to lower cost of travel and for cancellation of the contract with the Hilton for this year's annual meeting. He said the proposed budget for FY 2021-22 is very similar to the proposed revised budget for FY 2020-21 except that the LLW Forum meeting sponsorship is zero dollars since we would not have to host the meeting every year. The other change would be if we decide to host the next year's Commission meeting at the Harrisburg Hilton. If so, it would cost approximately \$1,500. The Commission voted unanimously to approve the proposed revised budget of \$32,500 for FY 2020-21 and the proposed budget of \$30,000 for FY 2021-22.



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2021 Annual Meeting

The Commission passed a motion to accept November 5th, as the primary and October 29th as the secondary date for the 2021 annual meeting.

Amendment of Bylaws

A motion was passed that the bylaws be amended to allow for the holding of a virtual meeting in the event of a state of emergency or other condition that, in the opinion of the Chair, would make an in-person meeting impractical and inadvisable, with the amendment stating that the decision to hold a meeting virtually is at the discretion of the Chair.

Mr. Anderson stated that the Commission is not able to amend the bylaws at this year's meeting because the bylaws require that the amendment must be distributed 14 days prior to the Commission meeting. Ms. Skjoldal stated that this requirement stems primarily from article ten, section four of the bylaws. Mr. Anderson said the attorneys will draft an amendment and then have it distributed in time for adoption at next year's meeting

PUBLIC COMMENT

There were no members of the public in attendance.

ADJOURNMENT

Ms. Laleker adjourned the meeting at approximately 12:36 p.m.