

**MINUTES OF THE REGULAR MEETING OF THE  
ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD**

ELDORADO HOTEL  
309 West San Francisco Street  
Santa Fe, New Mexico

September 13, 2006

**ATTENDANTS**

Board Members:

Ron Curry, Acting Chair, New Mexico  
Gary Baughman, Colorado  
Leo Drozdoff, Nevada

Barbara Green, Legal Counsel  
Leonard Slosky, Executive Director  
Vicki Green, Recording Secretary

Others:

Robert Gallegos, City of Santa Fe Public Utilities Department  
Craig Wilkinson, Titanium Metal Corporation  
Jim Freels, Louisiana Enrichment Facility  
Karl Gross, Louisiana Enrichment Facility  
Adrian Edwards, City of Henderson, Nevada  
Phil Retallick, Clean Harbors Environmental Services, Inc.  
Jerry Goad, Colorado Attorney General's Office/Colorado Department of Public Health & Environment  
Joe Vranka, Colorado Department of Public Health & Environment  
Norman Higley, outside counsel for City of Englewood  
Pete Maggoire, North Wind, Inc.  
Maureen Gannon, PNM  
Tim Knaus, TimeT  
Chad Hyslop, American Ecology  
Paul Wolfe, Colorado Springs Utilities  
Tom Porta, Nevada Department of Environmental Protection  
Ron Zegers, Southern Nevada Water Authority  
Jim Ferland, Louisiana Enrichment Facility  
Marshall Cohen, Louisiana Enrichment Facility  
Reinhold Lindler, Louisiana Enrichment Facility  
John Lawrence, Louisiana Enrichment Facility  
John Dalton, U.S. Environmental Protection Agency

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Steve Zappe, New Mexico State Environment Department/HUB  
Jim Spaanstra, Faegre & Benson LLP/Clean Harbors  
Cindy Padilla, New Mexico State Environment Department  
Walter Medina, New Mexico State Environment Department  
John Parker, New Mexico State Environment Department  
Sayuri Yamada, ACI  
Karin V. Foster, IPANM  
Tracey Hughes, New Mexico Environment Department  
Kalliroi Matsatikis, Concerned Citizens for Nuclear Safety  
Richard Griffith, Colorado Springs Utilities  
Marissa Stone, New Mexico Environment Department  
Bill Geary, Clean Harbors Environmental Services, Inc.  
Arjun Makhijani, Institute for Energy and Environmental Research  
Tannis Fox, New Mexico Environment Department

On the phone:

Ali Sogue, City & County of Denver  
Amy Woodis, Metro Wastewater  
Bob Thomas, Metro Wastewater  
Kristine Preston, Department of the Army  
Melody Massa, Department of the Army  
Dave Horton, Department of the Army  
Pam Wheldon, Concerned Citizens of Eastern Colorado  
Howard Kenison, Lindquist & Vennum, LLP/ADCO  
Anne Winans, Denver Water  
Joan Seeman, Sierra Club

### **REGULAR MEETING**

Mr. Curry, Acting Chair, called the meeting to order at 10:11 a.m.

Mr. Curry made a motion to go into Executive Session. Mr. Baughman seconded; the motion carried unanimously.

At 10:32 a.m. Mr. Curry made a motion to go into Regular Session. Mr. Baughman seconded; the motion carried unanimously.

**PRESENTATION BY LOUISIANA ENERGY SERVICES ON WASTE DISPOSAL PATHWAY FACILITY**

This portion of the meeting was transcribed by a court reporter. Contact the Rocky Mountain Low-Level Radioactive Waste Board for information on how to obtain a copy of the transcript.

No decisions were made by the Board regarding this matter.

**CONSIDERATION OF IEER'S REQUEST FOR HEARING ON CLASSIFICATION AND DISPOSAL OF DEPLETED URANIUM**

This portion of the meeting was transcribed by a court reporter. Contact the Rocky Mountain Low-Level Radioactive Waste Board for information on how to obtain a copy of the transcript.

**APPROVAL OF THE MINUTES**

Mr. Curry asked if there were comments or corrections to the minutes of August 9, 2006 Regular Meeting. As there were none, Mr. Drozdoff moved to approve the minutes of the August 9, 2006 Regular Meeting. Mr. Baughman seconded; the motion carried unanimously.

**CONSIDERATION OF EMERGENCY RULE TO ALLOW THE DISPOSAL OF UTILITY RESIDUALS AT FACILITIES NOT DESIGNATED AS REGIONAL FACILITIES**

This portion of the meeting was transcribed by a court reporter. Contact the Rocky Mountain Low-Level Radioactive Waste Board for information on how to obtain a copy of the transcript.

The following summarizes the decisions made by the Board.

Mr. Baughman made a motion to adopt the proposed Emergency Rule to Allow the Disposal of Utility Residuals at Facilities Not Designated as Regional Facilities as proposed by staff with the deletion of the clause "that is provided by the public" under Item E. Mr. Curry seconded; Mr. Drozdoff voted in opposition. The motion carried. The Emergency Rule as adopted is attached.

**CONSIDERATION OF ENFORCEMENT MORATORIUM ON UTILITY RESIDUALS**

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The following summarizes the decisions made by the Board.

There were several changes made to the proposed enforcement moratorium. The name of the resolution was changed to the "Enforcement Moratorium on Potential Violations." Two new "Whereas" were added at the beginning of the document as follows: "Whereas, the Rocky Mountain Low-Level Radioactive Waste Board enacted Resolution 2006-01 on May 30, 2006, which imposed a nine-month enforcement moratorium on potential violations of the Compact and Board Rules arising from the disposal of water treatment residuals within the Compact States; and "Whereas, the Board has adopted an emergency rule that exempts all utility residuals generated in the Compact Region from Article VII(a) of the Compact." In addition, a repealer was added: "This Resolution 2006-03 shall repeal and take the place of Resolution 2006-01."

Mr. Baughman made a motion to adopt the Enforcement Moratorium on Utility Residuals as amended. Mr. Curry seconded; Mr. Drozdoff voted in opposition. The motion carried. The Enforcement Moratorium as adopted is attached.

**CONSIDERATION OF THE STATE OF COLORADO'S AMENDED APPLICATION FOR ROCKY MOUNTAIN RADIOACTIVE WASTE COMPACT APPROVAL OF A LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY CONCERNING THE CLEAN HARBORS DEER TRAIL FACILITY**

This portion of the meeting was transcribed by a court reporter. Contact the Rocky Mountain Low-Level Radioactive Waste Board for information on how to obtain a copy of the transcript.

The following summarizes the decisions made by the Board.

Mr. Baughman moved to approve Colorado's amended application as proposed. Mr. Curry seconded; Mr. Drozdoff voted in opposition. The motion carried. The designation as adopted is attached.

**CONSIDERATION OF IMPOSITION OR CHANGE IN THE COMPACT SURCHARGE**

The Board tabled this item to revisit it at a later date.

**CONSIDERATION OF AMENDMENT TO RULE – WASTE EXPORT CONCERNING REQUIREMENTS REGARDING A REGIONAL DISPOSAL FACILITY**

Mr. Baughman moved to approve the amended Rule 6 as proposed. Mr. Curry seconded; Mr. Drozdoff abstained. The motion carried.

**CONSIDERATION OF APPLICATION TO IMPORT WASTE INTO NEVADA FOR PROCESSING**

After discussion this item was tabled to the next meeting pending research on the issues of concern to the State of Nevada regarding the application. Mr. Drozdoff will report back to the Board.

**OTHER BUSINESS**

The Board decided to meet within the next ninety days to consider a permanent rule regarding NORM disposal. Between now and then, a stakeholder meeting will be held in each of the three states to discuss state's issues and a proposed rule.

Mr. Curry made a motion to go into Executive Session to seek legal advice from the Board's counsel. Mr. Baughman seconded; the motion carried unanimously. The Board went into executive session at 3:39 p.m.

## **EMERGENCY RULE 2006-01**

**September 13, 2006**

### **UTILITY RESIDUALS**

#### **01.1 Meaning of Terms**

For purposes of this Rule, the following terms shall have these meanings:

A. “Source Material” shall mean material, in any physical or chemical form, including ores, that contains by weight one-twentieth of one percent (0.05%) or more of: (i) Uranium, (ii) Thorium, or (iii) any combination thereof. Source material does not include special nuclear material.

B. “Utility Residuals” shall mean solid and liquid residual materials other than Source Material that are produced by drinking water treatment processes, wastewater treatment processes, and electricity generating processes.

C. “Water Treatment Plants” shall mean facilities that treat drinking water that is provided to the public.

D. “Wastewater Treatment Plants” shall mean facilities that treat municipal wastewater or provide reclaimed water to the public.

E. “Electric Generating Plants” shall mean facilities that generate electricity.

#### **01.2 Applicability**

This rule shall apply to Utility Residuals generated by Water Treatment Plants, Wastewater Treatment Plants, and Electric Generating Plants.

#### **01.3 Disposal of Utility Residuals.**

The disposal within the Compact region of any Utility Residuals generated within the Compact region is not subject to Article VII(a) of the Rocky Mountain Low-Level Radioactive Waste Compact provided that such disposal is allowed by the state in which the disposal occurs.

# ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD

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## BEFORE THE ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD

### RESOLUTION 2006 - 03

#### ENFORCEMENT MORATORIUM ON POTENTIAL VIOLATIONS OF THE ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT OR BOARD RULES ARISING FROM THE DISPOSAL OF UTILITY RESIDUALS.

**WHEREAS**, the Rocky Mountain Low-Level Radioactive Waste Board ("Board") enacted Resolution 2006-01 on May 30, 2006, which imposed a nine-month enforcement moratorium on potential violations of the Compact and Board Rules arising from the disposal of water treatment residuals within the Compact States; and

**WHEREAS**, the Board has adopted an emergency rule that exempts utility residuals generated in the Compact Region from Article VII(a) of the Compact; and

**WHEREAS**, the Board further wants to clarify that disposal of utility residuals generated in the Compact Region that occurred prior to adoption of the emergency rule will not be subject to enforcement actions for alleged violations of Article VII(a); and

**WHEREAS**, Resolution 2006-01 is no longer necessary.

**NOW, THEREFORE BE IT RESOLVED**, by the Rocky Mountain Low-Level Radioactive Waste Board, that:

**Section 1.** Neither the Executive Director of the Rocky Mountain Low-Level Radioactive Waste Compact nor the Board shall initiate any enforcement action against any person for potential violations of the Compact or Board Rules arising from the disposal within the Compact Region of utility residuals generated within the Compact Region that has occurred prior to the date of the emergency rule.

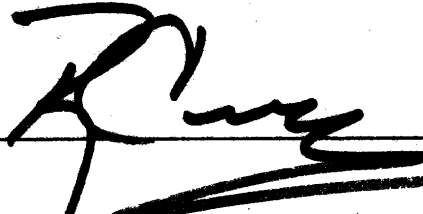
**Section 2. Safety Clause.** The Board hereby finds, determines, and declares that this bears a rational relation to the proper legislative object sought to be obtained.

MEMBER STATES: COLORADO, NEVADA, NEW MEXICO  
EXECUTIVE DIRECTOR: LEONARD C. SLOSKY

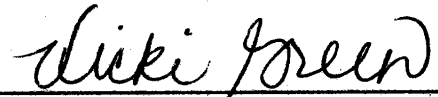
**Section 3. Severability.** If any clause, paragraph, or part of this Resolution or the application thereof to any person or circumstances shall for any reason be adjudged by a Court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

**Section 4. Effective Date.** This Resolution shall become effective upon adoption. Upon a motion duly made and seconded, the foregoing resolution was adopted by the following vote on the 13<sup>th</sup> day of September 2006. This Resolution 2006-03 shall repeal and take the place of Resolution 2006-01.

**ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD**

  
\_\_\_\_\_, Chair

**ATTEST: Vicki Green**  
**Board Administrator**

**BY:**   
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## BEFORE THE ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD

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### AMENDED DESIGNATION OF CLEAN HARBORS DEER TRAIL FACILITY AS A REGIONAL FACILITY FOR THE DISPOSAL OF NORM/TENORM

#### REGIONAL FACILITY DESIGNATION - CHDTF-06-01

**WHEREAS**, the Rocky Mountain Low-Level Radioactive Waste Compact, 99 Stat. 1902-1090, 42 USC § 2121d, ("Compact") has jurisdiction over low-level radioactive waste as defined in the Compact; and

**WHEREAS**, the Rocky Mountain Low-Level Radioactive Waste Board ("Board") designated the Clean Harbors Deer Trail Facility ("CHDTF") as a Regional Facility for disposal of waste from mining, milling, smelting, or similar processing of ores and mineral-bearing materials primarily for radium ("Radium Processing Wastes") on June 8, 2005, pursuant to the Compact and the Rules of the Board; and

**WHEREAS**, the June 8, 2005 Regional Facility Designation for CHDTF included the condition that CHDTF shall not accept any low-level radioactive waste, as defined in the Compact, except for Radium Processing Wastes; and

**WHEREAS**, the Board has received an application dated April 13, 2006 ("the Application") from the State of Colorado, without waiving any arguments, to amend the Regional Facility Designation of CHDTF to include disposal of naturally-occurring radioactive material (NORM) and technologically-enhanced naturally-occurring radioactive material (TENORM) within specified limits; and

**WHEREAS**, the State of Colorado's application asked for the amended designation to be non-exclusive, and this request is addressed by the accompanying Emergency Rule and Enforcement Moratorium; and



MEMBER STATES: COLORADO, NEVADA, NEW MEXICO  
EXECUTIVE DIRECTOR: LEONARD C. SLOSKY

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**Regional Facility Designation - CHDTF-06-01**

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**WHEREAS**, the State of Colorado requests that the Executive Director of the Compact convene the relevant stakeholders to address the issues of NORM and TENORM disposal and craft a permanent rule to replace the emergency rule within 90-days. The permanent rule should consider the approach taken by the Central Midwest Interstate Low-Level Radioactive Waste Commission; and

**WHEREAS**, public meetings were held on May 9, May 30, and August 9, 2006 in Denver, Colorado and September 13, 2006 in Santa Fe, New Mexico on the application for Amended Designation of Regional Facility; and

**WHEREAS**, public notice of the May 9, May 30, August 9, and September 13, 2006 meetings was made in accordance with the Board's requirements for notice of public meetings.

**NOW, THEREFORE, BE IT RESOLVED BY THE ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD:**

**Section 1. Findings.**

- (1) Under the 510,000 cubic yards of licensed capacity, there is sufficient availability for the NORM/TENORM expected to be disposed by generators within the region at the CHDTF over the next five years.
- (2) The Board finds that there will be, for the foreseeable future, sufficient demand to render the operation of the proposed facility economically feasible without endangering the economic feasibility of the operation of any other regional facility.
- (3) The Board finds that with the very large licensed and physical capacity of the proposed facility, CHDTF will have sufficient capacity to serve the needs of the region for a reasonable period of years.
- (4) All applicable notice and public hearing requirements have been satisfied.

**Section 2. Approval of Amended Designation and Conditions.** The designation of CHDTF as a Regional Facility is hereby amended to allow the disposal of NORM/TENORM, including Radium Processing Wastes, subject to the following conditions.

- (1) The CHDTF shall only accept the following low-level radioactive waste, as defined by the Board's Rules:

**Regional Facility Designation - CHDTF-06-01**

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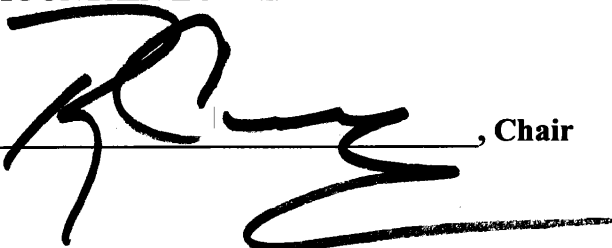
NORM and TENORM, including Radium Processing Wastes. The specific radionuclides are limited to K-40 and all of the radionuclides in the decay series for Uranium (U)-238, U-235, and Thorium (Th)-232. The summed activity of all radionuclides per gram shall not exceed 2,000 picocuries (pCi). The Radium-226 activity per gram shall not exceed 400 pCi. The total U and Th content shall be less than 0.05 percent by weight.

- (2) The CHDTF shall not accept any low-level radioactive waste, as defined by the Board's Rules, other than NORM/TENORM, including Radium Processing Wastes, within the limits specified in (1).
- (3) The CHDTF shall not accept any low-level radioactive waste, as defined by the Board's Rules, including NORM/TENORM and Radium Processing Wastes, from outside the Compact Region unless the Board has granted import authorization in writing for such waste.
- (4) Clean Harbors Deer Trail, LLC shall provide the Board a monthly report specifying the number of tons of NORM/TENORM, including Radium Processing Wastes, received from each source (generator). The monthly reports shall be provided to the Board within 10 business days of the end of each month.
- (5) Upon request by the Board, Clean Harbors Deer Trail, LLC shall provide the Board access to and copies of any shipping documents and/or manifests for radioactive and non-radioactive wastes received at the CHDTF.
- (6) Clean Harbors Deer Trail, LLC shall collect the Compact Surcharge, as defined by the Board's Rules, imposed by the Board on each unit of NORM/TENORM, including Radium Processing Wastes, which are received at the CHDTF. Clean Harbors Deer Trail, LLC shall pay the Compact Surcharge to the Board within 30 days of the end of each month.

**Section 3. Effective Date.** This Amended Designation shall supersede the June 8, 2005 Designation and become effective upon approval.

Upon a motion duly made and seconded, the foregoing designation was adopted by the following vote on the 13<sup>th</sup> day of September, 2006.

**ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD**

 , Chair

**ATTEST: Vicki Green**  
**Board Administrator**

BY: *Vicki Green*