

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

Alexis Park Resort  
375 East Harmon  
Las Vegas, Nevada

September 23, 2005

**ATTENDANTS**

Board Members:

Larry Boschult, Nevada  
Ron Curry, New Mexico  
Howard Roitman, Colorado

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

Others:

Richard Conley, Department of Defense  
Lynn Kurnfell, Faegre & Benson, LLP  
Pete Maggiore, North Wind, Inc.  
Kathryn Haynes, Southeast Compact

**REGULAR MEETING**

Mr. Boschult, Chair, called the meeting to order at 1:32 p.m. The audience and members of the Board introduced themselves. Mr. Curry noted that Pete Maggiore was the former of Secretary of the New Mexico Environment Department.

The first item on the agenda was the approval of the minutes of the June 8, 2005 Regular and Annual Meetings and the July 13, 2005 Telephonic Meeting. Mr. Curry moved to approve the minutes, as submitted, of the June 8, 2004 Regular and Annual Meetings and the July 13, 2005 Telephonic Meeting. Mr. Boschult seconded; the motion carried unanimously.

### **Update on the Clean Harbors Regional Facility Licensing Process**

Mr. Roitman summarized the status of the draft license. The Colorado Department of Public Health and Environment (CDPHE) has issued two documents for public review. One is the draft renewal of the Resource Conservation & Recovery Act (RCRA) permit and one is a proposed radioactive materials license. Both are out for 45 days for the public comment period which would expire, he believed, on October 11, 2005. A public meeting is scheduled for this Monday in the area around the facility. CDPHE has a couple of requests in-house asking for an extension of the public comment period as well as a postponement of the hearing. The requests for an extension of the public comment period are under review by the CDPHE. The hearing will proceed on Monday. CDPHE is keeping an open mind in terms of what they hear from people during the public comment period.

Mr. Boschult asked for any questions or comments.

Mr. Slosky noted that when the Rocky Mountain Low-Level Radioactive Waste Board (Board) made the designation it included two stipulations that needed to be included in the CDPHE license. He has not had input from legal counsel, but it appeared to him that the draft license included those stipulations. Pending legal counsel review, it does appear that the capacity and the conditions concerning out-of-region waste do appear in the draft license as the Board required. As the license may change as a result of public comment, Mr. Slosky will continue to monitor that process.

Mr. Boschult asked for any questions or comments. As there were none, he moved on to the next agenda item.

### **Update on the NORM/TENORM Work Group**

Mr. Slosky reported that the NORM/TENORM Work Group (WG) had met twice. The initial meeting was organizational in nature in determining how to proceed. As discussed at the last Board meeting, Mr. Slosky did select a contractor to assist the Board in this effort. The Cadmus Group (contractor) is the same contractor who wrote the radionuclide rule for the U.S. Environmental Protection Agency (EPA) and has recently written a guidance document on managing the radioactive drinking water residuals for the EPA.

At the last WG meeting on September 6, 2005, the draft research plan was considered and approved by the WG. The research plan consists of two phases. The first is to identify the drinking water providers in the three states that are likely to generate radioactive drinking water

residuals. The second is to obtain data as to the nature of the waste generated, quantity of the waste, current management practices, current costs, etc.

It is Mr. Slosky's hope that the draft report for the first phase will be completed at the end of this month or the beginning of next month. After the WG reviews the document, he expects the WG will task the contractor to initiate the second phase very promptly. That phase is the phase that will give the substantial data in terms of the nature and extent of the issues and problems within our three states. At this point, it is a work in progress. It is hard to predict how fast the second phase will go. What the work group asked is that the contractor first come to the states to obtain any data from the states. Then what the states do not have data on, the contractor will obtain from the drinking water providers. That is why it is a little harder to determine how long it will take, due to the dependency on other's schedules in providing information. His hope is that we would have the results of the second phase by the end of October or the first of November.

After some discussion, Mr. Slosky stated that as soon as the research is completed, he would contact the Board.

Mr. Boschult asked if there were any questions or comments and as there were none, they moved on to the next agenda item.

### **Fiscal Year 2004-2005 Audit**

The annual audit raised no issues. The Board ended the year under budget in all categories.

If the Board had any questions Mr. Slosky could not answer regarding the audit, he would be happy to set up a meeting with the auditors.

### **Update on Matters Concerning the U.S. Air Force**

Mr. Slosky explained that as this was an enforcement matter he could not speak to the Board about the specifics. He went on to say that in a recent exchange of letters between the U.S. Air Force (Air Force) and the Board, both sides expressed an interest to sit down and look for a resolution to the issue. There was some discussion regarding the Board's role and the Executive Director's role in enforcement matters. In addition, Mr. Slosky gave a background on the previous issues the Board had with the Air Force and the Department of Defense.

### **Update on National Compact Developments**

Mr. Boschult skipped over the national compact developments, as that had been very well addressed at the recent Low-Level Waste Forum Meeting.

### **Executive Director's Report**

Mr. Slosky reported that the Board had approximately \$150,000 cash on hand as of August 31, 2005. He reminded the Board that some investment instruments would mature at the end of September, which would be one of the following action items to consider. The investment decision that the Board made at its last telephonic meeting was implemented and is reflected in the investment summary provided in the Briefing Book.

### **Permit Fee Revenue**

Mr. Slosky noted that the permit fee revenues were higher than usual, due to application fees from the U.S. Army Corps of Engineers and the City and County of Denver, totaling over \$147,000 so far in calendar year 2005.

### **Budget vs. Expenditure Comparison**

Mr. Slosky explained that the Board was two months into the fiscal year. He explained that all categories were under budget except for Salaries. This was due to the bonus awarded to the Administrator at the beginning of the year. He went on to explain that this variance will narrow as the year goes on.

Mr. Slosky noted that the Board would have significant expenses in support of the LLW Forum Meeting, which would show up on next month's report. However, he did not anticipate exceeding any budget items.

### **Status of Volumes Authorized For Import, Export and Disposal in 2005**

Mr. Slosky referred the Board to Tab K. He noted that an import permit had been granted to a Nevada operation, which should be exported from the compact shortly. He went on to explain that the Shattuck waste removal should be completed by the end of the calendar year.

### **Consideration of Investment of Board Funds**

Mr. Slosky referred the Board to Tab L. Brenda Fredrickson, the investment advisor from Wells Fargo, had provided the Board with investment options and suggestions in terms of the Board's investment ladder. Of the \$300,000 that would mature at the end of September, she recommended that the Board invest \$150,000 with a 2008 maturity and \$150,000 with a 2009 maturity.

Mr. Boschult made the motion to give Mr. Slosky the authority to invest \$150,000 with a 2008 maturity and \$150,000 with a 2009 maturity in the highest yielding federal agency notes available when the funds are available. Mr. Roitman seconded; the motion carried unanimously.

### **Consideration of Board's Lease**

Mr. Slosky reminded the Board that the office lease had expired in August. After some very difficult negotiations with the landlord, he secured substantially lower rates. He gave the lease to Ms. Green reviewed the lease to make sure that it raised no legal issues. Ms. Green recommended to the Board to renew the lease.

Mr. Curry made a motion to authorize the Chair to sign the new lease. Mr. Roitman seconded; the motion carried unanimously.

Ms. Boschult asked if there were any questions or comments.

Mr. Curry noted that he would update the Board at each meeting regarding the status of the State of New Mexico's dealings with Louisiana Energy Services (LES) and their proposed uranium enrichment site in New Mexico. He understood that LES had made an inquiry as to whether they would be on the agenda. Mr. Curry felt it was important that LES recognize the authority of the Board, although he was not sure that this had fully accepted by LES.

At the last Board Meeting at Santa Fe, New Mexico LES stated that they needed a hazardous waste permit (the transcripts had been reviewed to verify this). So, the New Mexico Environment Department (NMED) asked LES at two State Legislative Hearings for clarification. Twice LES said they thought that they needed the permit and then LES sent a letter to NMED stating that they do not think that they need the permit. So, NMED informed LES that they needed more information.

LES has also stated that they think they did not need a National Pollution Discharge Elimination System (NPDES) permit because they have been given an exemption from the EPA. NMED has not been able to locate anything on the exemption, nor has the EPA been able to locate any

exemption issued to LES. So, the NMED informed LES that they are going to need a storm water run-off permit for construction at the very least. Currently, LES has submitted an application to the NMED for a ground water discharge permit, which they have acknowledged that they do need. However, that particular permit is on hold at this time.

Mr. Curry reiterated that he felt it was important for entities that operate both in and out of these three states that expect to do business within the three states, understand and recognize the authority that this Board has, and will continue to have, over operations such as this and others. He explained that he did not want LES to become a precedent-setting entity that thinks it can ignore the authority of this Compact.

Mr. Slosky stated that he understood that the LES license is proceeding with the Nuclear Regulatory Commission (NRC).

Mr. Curry stated that LES has shown a great deal of inconsistency in the way that they deal with any governmental entity except the NRC. He explained that it has been said that LES' dealings with the State of New Mexico have been disrespectful. He thought that was illustrated at the last Board meeting in New Mexico. If the Board will allow, Mr. Curry will continue to give updates on the state's relationship with LES and importance of this Board in areas like this.

There was discussion regarding radioactive licensing authority and the State's sidebar agreement with LES.

There was also discussion regarding a potential RCRA facility in New Mexico, the Triassic Park facility.

With no further questions or comments, Mr. Curry made a motion to adjourn the meeting. Mr. Boschult seconded; the motion carried unanimously. The Board meeting was adjourned at 2:36 p.m. The Board then met in executive session to obtain legal advice.