

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

The Rio All-Suite Hotel & Casino
3700 West Flamingo Road
Las Vegas, Nevada

November 19, 2004

ATTENDANTS

Board Members:

Larry Boschult, Nevada
Ron Curry, New Mexico
Matt Knoedler, Colorado

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

Others:

Richard Conley, Department of Defense

REGULAR MEETING

Mr. Boschult, Chair, called the meeting to order at 9:30 a.m.

Mr. Slosky noted that Mr. Knoedler's title had changed. Mr. Knoedler is now Member-elect of the Colorado House of Representatives. When asked whether this would change his status as a Board member, Mr. Knoedler explained that he could be replaced on the Rocky Mountain Low-Level Radioactive Waste Board (Board), but he did not foresee this occurring until March 2005.

The first item on the agenda was the approval of the minutes of the June 8, 2004 Regular and Annual Meetings, the July 14, 2004 Telephonic Meeting, and the October 12, 2004 Telephonic Meeting. Mr. Slosky noted typographic errors in the draft June 8, 2004 Meeting and October 12, 2004 Telephonic Meeting minutes. Mr. Knoedler moved to approve the minutes of the June 8, 2004 Regular Meeting, the July 14, 2004 Telephonic Meeting and the October 12, 2004 Telephonic Meeting, with typographic errors corrected. Mr. Curry seconded; the motion carried unanimously.

CONSIDERATION OF AMENDMENT FROM THE U.S. ARMY CORPS OF ENGINEERS CONCERNING SHATTUCK WASTE EXPORT

Mr. Slosky referred the Board to Tab F, which contained a request filed by the U.S. Army Corps of Engineers (U.S. ACE) to amend the permit for the Shattuck waste. He explained that the amendment fee had been received; so, this was a complete amendment request. He referred the Board to the next item in Tab F, which contained U.S. ACE's latest status report. Through the end of October, the U.S. ACE reported exportation of just over 116,000 cubic yards, or 78 percent of their permitted volume. The amendment request indicates that the U.S. ACE will not complete the export of the waste by the end of this calendar year, which is when their permit terminates. The U.S. ACE had anticipated completion by this year but, due to various delays, the project did not start exporting when anticipated. The U.S. ACE is requesting an extension through the end of next year.

The reason the amendment was brought before the Board for action is that there has been a freeze for over 1½ years on issuing U.S. Department of Defense (DoD) permits because of DoD compliance issues. Normally, this extension request would have been within Mr. Slosky's authority to grant but, due to the freeze on DoD permits, it is before the Board for action. He noted that there is concern that, should the extension not be granted, all Shattuck removal operations would halt at the end of the year. Mr. Slosky had also received feedback that the public supports the permit amendment. Mr. Knoedler agreed that the Colorado Governor's office had received the same feedback. He stated that the State of Colorado supports amending the permit.

Mr. Slosky advised that, after the Board has discussed the matter and solicited any public input, the Board could go into Executive Session to obtain legal advice.

The Board discussed with Mr. Conley (representing the Executive Agent) the U.S. ACE amendment request as well as status of the alleged violation with the U.S. Air Force.

DEVELOPMENTS IN THE ROCKY MOUNTAIN STATES

Mr. Boschult referred the Board to Tab G. Mr. Slosky summarized the proposed Uranium Enrichment Facility in Lea, New Mexico. Staff had originally asked the company that filed this license application with the Nuclear Regulatory Commission (NRC) to come to this meeting. Unfortunately, the company was unable to attend. Staff then asked for a written briefing to provide to the Board, but none was received. Provided under Tab G is the result of web research of the proposed facility. In summary, Louisiana Energy Services (LES) is a partnership of several nuclear energy companies. The proposed facility will provide enriched uranium for commercial

nuclear power plants. The byproduct of the enrichment process is depleted uranium. LES has proposed several options for disposition of the waste. Mr. Slosky noted that the disposition of the waste was a major issue for the State of New Mexico and could be an issue for this compact.

Mr. Curry gave a brief background regarding the State of New Mexico's dealings with LES. He concurred with Mr. Slosky that the disposition of waste was the main issue for the State of New Mexico. He explained that LES had assured Governor Richardson that the waste from the facility would be taken out of state. However, to insure that this will occur, Governor Richardson is seeking federal legislation to guarantee that the waste will leave the State of New Mexico. New Mexico does not want a disposal waste facility located in the state.

LES proposes to build their own deconversion facility in Texas, possibly with WCS. LES has not supported either the Environment Department or Attorney General's Office of the State of New Mexico as having standing in front of the NRC regarding the waste issues. So, the State of New Mexico, through the Environment Department, is looking into taking what is called an interested party or interested state role in which they would discuss the issues that are already in front of the NRC.

NRC's license process calls for all the arguments on all the items to be brought forward at the very beginning of the process. This is the reverse of how they have done it in the past when LES has applied for a license in Louisiana and Tennessee. This has caused a great deal of consternation in the New Mexico Attorney General's office, Governor's office, and the Environment Department. The Environment Department may need to issue anywhere from one to four different permits to the facility. Probably the most significant is a ground water discharge permit which is currently under review.

LES hopes to have its license completed within 18 to 24 months, which is fast for an NRC license. With the support of public officials, elected and otherwise, in the State of New Mexico, LES has been able to move at a very fast pace. Mr. Curry speculated that LES would be announcing where it would locate the deconversion facility by the end of the year.

After some discussion, Mr. Slosky and Ms. Green explained that if the waste leaves the confines of the Compact, then LES would have to apply for a waste export permit. If the waste is kept at the facility in storage within the Compact region, then it is not being disposed of and LES would not need any export approval from the Compact. If LES is going to dispose of the waste (and it is the Board's judgment as to whether LES activities fall within the Compact definition of disposal) in any state within the Compact, then the Board would have to approve of that disposal facility as Regional Facility. The Board can only approve a disposal facility with the affirmative vote of the Host State.

Mr. Curry explained that LES was likely unaware of the Board and its function. He suggested that the Board send a letter to LES. Mr. Slosky suggested drafting a letter setting forth the Board's basic authorities. Mr. Knoedler asked that the letter request that LES identify its plan. Mr. Curry agreed and suggested that the letter also include a definition of disposal under the Compact.

It was agreed that Mr. Slosky would prepare a draft letter and circulate a copy to the Board members; Mr. Boschult would sign the final copy of the letter to LES.

Mr. Knoedler gave the Board an update on the proposed NORM Disposal Facility in Last Chance, Colorado. To date, the Colorado Department of Health and Environment (CDHE) had not received an application. However, once approached by the applicant CDHE would contact the Board.

There was discussion regarding the approval of the facility and the Board's role. Such approval would have to come from this Board in response to an application from the State of Colorado. Mr. Slosky advised the Board to discuss this in more detail during the Executive Session and suggested that the Board also review its procedures for approving a regional facility.

Mr. Boschult brought another item to the agenda. He informed the Board that the State of Nevada had received a report of waste importation from Britain. The details will be forwarded to Mr. Slosky for his determination as to how to proceed. It was determined that Mr. Boschult's supervisor would communicate directly with Mr. Slosky, and Mr. Boschult would step aside so as not to create a potential conflict of interest with his role on the Board.

UPDATE OF NATIONAL COMPACT DEVELOPMENTS

Mr. Slosky referred the Board to Tab H. He summarized the finding of the U.S. General Accounting Office report and the Senate Hearings regarding said report. He briefed the Board on two Senate bills, as well as the U.S. EPA's efforts regarding low activity waste.

A break was requested at 11:00 a.m. The Board reconvened at 11:20 a.m.

Due to time constraints, Mr. Slosky asked the Board to defer the remaining national compact development topics to a later time.

EXECUTIVE DIRECTOR'S REPORT

Mr. Slosky reported that the Board had a little over \$148,000 cash on hand as of September 30,

2004. He reminded the Board that the next security, a Federal Farm Credit Note of \$290,000, would mature on June 17, 2005.

PERMIT FEE REVENUE

Mr. Slosky noted that the Board had received a little over \$83,000 in permit fee revenues through October 2004. This year's permit fee revenue is higher than usual, due to an application fee from the City and County of Denver for \$59,200.

BUDGET VS. EXPENDITURE COMPARISON

Mr. Slosky referred the Board to the handout. He reported that total expenditures as of October 31, 2004 were at 24 percent of the budget mark, excluding the contingency. Only salaries were at the budget mark of 33.3 percent for the year. Accounting and Contract Services were greater than the budget mark, as the audit has been paid for the year and the Board had to replace its server. The Board continues to be significantly under budget.

STATUS OF VOLUMES AUTHORIZED FOR EXPORT AND DISPOSAL IN 2004

Mr. Slosky referred the Board to Tab K. He noted that CCOD and the U.S. ACE continue to dispose of the greatest volume of waste.

FISCAL YEAR 2003-2004 AUDIT

The annual audit raised no issues. The Board ended the year at 27 percent less than budget, not including the contingency.

Mr. Slosky stated that if the Board had any questions he could not answer regarding the audit, he would be happy to set up a meeting with the auditors. There were none.

ANNUAL REPORT

Mr. Slosky explained that the draft annual report had figures through October 2004. The final report would show figures through November 2004. The Board discussed the draft Annual Report.

The only change suggested by the Board was by Mr. Knoedler. His title needed to be changed from "Member-elect" to "Representative-elect."

WEB SITE

Mr. Slosky referred the Board to Tab N. He noted that he had found a few more typographical errors that would be corrected. Ms. Green suggested that a section be added regarding waste import. Mr. Slosky agreed and also suggested adding information on low-level waste. After a brief review of the waste export application form, Mr. Slosky suggested that the fee schedule and Appendix A be contained within the export application section.

Mr. Slosky explained that the Board had used 30 percent, or a little over \$800, of its \$2,700 budget for the web page. He stated that the contractor was very easy to work with and could make changes as the Board needed. He reminded the Board of their discussion at the last meeting regarding designing a password protected "members only" section. The web site was created with this option in mind, should the Board desire to utilize it in the future.

Mr. Boschult asked if the Board's mailing list would be notified of the web site. Mr. Slosky suggested that staff would notify the mailing list when the next meeting notice was distributed.

The Board was very positive about the web site. Mr. Slosky suggested that the Board provide him with additional comments within the next two weeks. His goal is to bring the web site on line by the first of the year.

With no further questions or comments, Mr. Knoedler made a motion to adjourn the meeting. Mr. Boschult seconded; the motion carried unanimously. The Board meeting was adjourned at 11:50 a.m. The Board then met in executive session to receive legal advice.