

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

BRADBURY SCIENCE MUSEUM
1350 Central Avenue
Los Alamos, New Mexico 87544

April 13, 2010

ATTENDANTS

Board Members:

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

Barbara Green, Legal Counsel
Leonard Slosky, Executive Director
Sheri Reynolds, Recording Secretary

Others:

Barb Carlock, U.S. Army, Department of Defense, Joint Munitions Command
Judy Woodson, U.S. Army, Department of Defense, Joint Munitions Command
Hal Warren, Adams County Attorney
Steve Laflin, International Isotopes, Inc.
Steve Baca, Clean Harbors Environmental Services
George CeBula, Clean Harbors Environmental Services
Marissa Bardino, New Mexico Environment Department

REGULAR MEETING

Mr. Curry, Chair, called the meeting to order at 9:14 a.m.

The first item on the agenda was the approval of the minutes of the December 14, 2009 Regular Meeting. Mr. Drozdoff moved to approve the minutes as submitted. Mr. Baughman seconded; the motion carried.

STATUS OF CLEAN HARBORS REGIONAL FACILITY

Mr. Baughman began the discussion by summarizing the status of two pending lawsuits concerning the Clean Harbors Deer Trail Facility (CHDTF). He explained that the State of Colorado has entered into agreements to stay those cases. There are ongoing discussions and most have been positive with agreements to exchange written materials that are currently being prepared. He believes that they will continue to make progress during the settlement discussions.

Ms. Green added that the litigation is among the State of Colorado, Adams County, and the CHDTF and does not involve the Board. She is pleased to hear about settlement discussions.

Mr. Slosky directed the Board to Tab F for the monthly CHDTF waste receipts summary and added that in 2010 there have been a handful of shipments of NORM/TENORM in small quantities and a commensurate compact surcharge paid to the Board.

STATUS OF ENERGYSOLUTIONS

Ms. Green summarized the litigation explaining that the *EnergySolutions* (ES) facility in Clive, Utah sued the Northwest Compact (NWC) arguing that the NWC had no jurisdiction over proposed shipments of low-level radioactive waste from Italy to the ES facility in Clive, Utah. The State of Utah is a member of the NWC. Eight compacts and the Council of State Governments filed an amicus brief in support of the NWC. The defendants and the amici argued that the NWC does have authority over whether the waste from Italy can be disposed at the ES Clive facility. The NWC has never made a formal determination as to whether or not that waste could be disposed of at ES. The case presents a facial challenge to the NWC's authority in the first instance and is based on the language of the Northwest Compact and the Waste Policy Amendments Act, which are two parts of the same bill passed by Congress when the compact system was put in place. The case was argued in front of the 10th Circuit Court of Appeals in Denver in January 2010 and the court has not issued any ruling. Mr. Drozdoff asked when a decision might be made. Ms. Green explained that it could take as long as a year.

Mr. Slosky added that he believes that regardless how the court rules he does not believe it will be the last word. Mr. Curry asked if it is likely that the case will be taken to the U.S. Supreme Court. Ms. Green responded that unless the State of Utah and the NWC are able to carve out a settlement agreement with ES, it is unlikely that either party will let the decision rest at the Court of Appeals level.

PUBLIC HEARING: REQUEST FROM INTERNATIONAL ISOTOPES FOR BOARD TO CONSIDER WHETHER THE DEPLETED URANIUM IT WILL RECEIVE WOULD BE SUBJECT TO THE BOARD'S JURISDICTION

Ms. Green directed the Board to Tab G and provided background leading up to the hearing. International Isotopes, Inc. (INIS) asked the Board to determine whether or not it would need import authorization for certain material that it would be importing into the region. There was initially discussion about amending Rule 7, or providing an exemption to the rule in order to allow INIS to bring this material into the region without filing for an import permit. It was recommended that the Board handle this as a declaratory order rather than a rule-making proceeding. This approach was recommended in order to base a decision on a fact-specific

presentation, as opposed to formulating a broader regulatory policy which may need to change in the future.

Ms. Green explained that the hearing would allow INIS to make a presentation to the Board and would address two issues to be determined by the Board: 1) Does the DUF_6 to be imported by INIS to its proposed New Mexico processing facility fall within the Compact definition of low-level radioactive waste; and 2) If the DUF_6 to be imported by INIS to its proposed New Mexico processing facility does fall within the Compact definition of low-level radioactive waste, then is an import permit or other authorization from the Board required before it can be accepted for processing at the INIS New Mexico facility? If the Board determines that the DUF_6 does not fall within the Compact definition of low-level radioactive waste, then the Board would issue a declaratory order to that effect with whatever conditions it might decide to impose. If the Board were to determine that this material is not low-level radioactive waste, the Board would explain under what circumstances that is the case, and a declaratory order would be issued that puts “sidebars” on that determination. If the Board determines that the material is low-level radioactive waste, then the material would be subject to the Board’s import requirements.

Ms. Green added that if the Board is ready to make a decision at the close of the hearing, the Board could direct legal counsel and staff to prepare a declaratory order which would be prepared and available to the Board within a couple of weeks. The Board could either approve the order via a telephonic meeting or at the next regular Board meeting.

Mr. Curry opened the discussion by stating that the State of New Mexico and its dealings with INIS have been productive and transparent. He added that the State of New Mexico has entered into an agreement with INIS similar, though smaller in scale, to the Louisiana Energy Services (LES) agreement that was completed in a short period of time with minimal, if any, disagreements.

Mr. Laflin of INIS was invited to speak before the Board. He opened with a brief overview of the proposed facility located approximately 15 miles west of Hobbs, New Mexico. The proposed facility will provide DUF_6 de-conversion and fluorine extraction services. INIS anticipates providing services to all of the enrichment companies including LES in Eunice, New Mexico; GE-Hitachi in Wilmington, North Carolina; Areva in Eagle Rock, Idaho; United States Enrichment Corporation (USEC) in Paducah, Kentucky; and U.S. DOE Portsmouth in Piketon, Ohio. The issues that were specifically brought up at the last Board meeting were determining whether or not the DUF_6 is considered a waste when imported to the INIS facility, and establishing an economy-of-scale or annual basis for exporting shipments out of the region. Mr. Laflin acknowledged that the exporting issue was easy as there are already provisions in place for annual applications of waste for export. The import issue, however, is of primary concern and, as Mr. Curry pointed out, the relations with the New Mexico Environment Department

(NMED) and INIS would remain transparent and issues could be quickly resolved if the parties stay as far in front of issues as possible to avoid surprises.

Mr. Laflin explained that he believes the DUF_6 coming in to the INIS facility is not a “waste” and should not be subject to Rule 7 for two reasons: 1) the enrichment companies do not consider DUF_6 a waste. It is an issue of inventory management since 90% of their output ends up in the depleted uranium category and 2) INIS considers DUF_6 an asset since it has fluorine attached to it, and the fluorine is the basis of their business in producing useful products. Some of the fluorine will go into manufacturing high-purity silicon tetrafluoride gas (SiF_4) which is, in turn, used to manufacture thin-film photovoltaic (PV) for solar applications. Once INIS has extracted fluorine the waste product is depleted uranium oxide (UO_2) which has been argued to have potential uses. However, INIS has assumed that it will be declared a waste. It will be shipped to either the Waste Control Specialists’ disposal facility in Texas, if they are authorized to accept it, or to EnergySolutions’ disposal facility in Utah.

Mr. Drozdoff asked what kind of environmental permitting INIS is pursuing. Mr. Laflin explained that they will prepare a full environmental impact statement. An environmental report was prepared as part of the U.S. Nuclear Regulatory Commission (NRC) license application which was submitted in December of 2009. A full Environmental Impact Statement Review is currently underway, along with a complete public hearing process. The process takes about 18-24 months to complete and is expected to conclude by January 2012. All of the permitting such as air, groundwater, construction permits, and those required by the NRC and State of New Mexico will be completed.

Mr. Drozdoff asked if a RCRA permit will be required. Mr. Laflin explained that the only RCRA material that INIS will have on-site is calcium fluoride which is a neutralization product used in the scrubbers that will neutralize any fugitive fluorine that may be in the air ventilation system. There are markets for it so INIS will try to sell it rather than dispose of it.

Mr. Baughman asked if markets are in place for selling all of the products that INIS will generate from processing DU. Mr. Laflin responded that they have had discussions with prospective customers. INIS has also completed a formal market analysis to confirm existing markets and the potential impact by INIS entering those markets. Through this process INIS has confirmed a price basis for their business plan and established estimated volumes. INIS intends to start announcing contract agreements over the next year and a half.

Mr. Baughman explained that it makes sense to him that the DU being received by INIS for reprocessing should not be considered a waste. He expressed concern over an issue present in the hazardous waste world referred to as “speculative accumulation” where there is an accumulation of hazardous material resulting from anticipated product for a market that is not quite developed. He suggested that this issue be addressed in the conditions of the declaratory

order. Mr. Laflin responded that INIS has publicly committed that it will not be a de facto disposal facility for product, for waste, or for excess DU. DUF₆ will not be received at the facility if it is not placed into the production line within a reasonable period of time. Product and waste will be shipped out of the facility once they accumulate a reasonable volume or an economic means of transport is established. In addition to that commitment, Mr. Laflin went a step further by establishing an agreement with the NMED which limits volumes of material and numbers of containers and cylinders allowed at the facility.

Mr. Curry asked what kind of relationship INIS has with LES. Mr. Laflin believes that it is a strong business-customer relationship. He added that from an environmental, nuclear regulatory, and an economic development standpoint it makes sense for both companies to work together and to capitalize on whatever synergy exists.

Mr. Curry asked if Mr. Laflin has had any discussions with New Mexico's Hazardous Waste Bureau, which is the agency that handles RCRA licensing. Mr. Laflin stated that there have been one or two initial meetings to discuss permits required. He added that they have just begun the process of hiring consultants to assist with permit applications and additional documents that the State of New Mexico will require. He anticipates having permit applications submitted within four or five months. Mr. Curry asked Mr. Laflin to describe his relationship with the NRC and how it might look now that the NRC has two new members. Mr. Laflin explained that INIS personally met with all of the commissioners about three years ago to discuss this project. He further explained that the NRC added a budget line item to fund the staff currently in place to review their license application which was submitted in December. He added that the application process for a CFR Part 40 license was interesting, since none of the other facilities applying for this type of license are producing product or are doing what INIS is doing from an operations standpoint. The NRC recognized that it needs to update Part 40 to make it look more like a reactor plant regulatory guide with an integrated safety analysis and protective measures that are all part of the Part 70 licensing. The NRC put out a white paper about a year and a half ago that includes all of these considerations. INIS meets with the NRC team on a quarterly basis face-to-face and on a monthly basis via conference call to discuss future regulations, safety analysis standards, and security plan requirements that will be implemented in the next few years. INIS will be one of the first applicants to meet all of the new requirements.

Mr. Drozdoff asked Mr. Laflin to read the last paragraph of Mr. Slosky's recommendation dated April 6, 2010 and respond. Mr. Laflin responded that the reporting of incoming/outgoing material will all be part of their inventory management operation. Mr. Drozdoff added that, if a declaratory order is granted, inventory reporting will be important to the Board to make sure that things are on track. Mr. Laflin responded that this information will be required by the NMED and a process of validation will be in place.

Mr. Slosky asked when INIS expects to receive the NRC license. Mr. Laflin explained that the publicly disclosed date is January 2012. The NRC has optimistically stated that it believes the review will go much quicker and could be as early as mid-2011. Mr. Slosky added that it is his understanding that the fluorine extraction is integral to produce the usable products and put the DU in a form that is suitable for disposal. Mr. Laflin explained that there are two paths to achieving this. The initial plant will convert the DUF_6 into DUF_4 referred to as “green salt” which is a solid form. The DUF_4 will then be put through the fluorine extraction process to obtain the high purity fluoride gases. The second phase will either expand that operation, depending on the markets, or will begin a process that converts DUF_6 directly into oxide which will extract fluorine in the form of anhydrous hydrofluoric acid, another valuable commercial product. Mr. Slosky asked about the small plant currently operating in Idaho. Mr. Laflin explained that the plant began operating in 2006 and has been producing small quantities of material through a batch production process for the past one and a half years. Over the past year, they have been verifying the analytical processes in the laboratory, since there are no established procedures. The facility is currently being used for demonstration and testing as they scale up for the larger facility. All of the components will be tested in Idaho before being added to the formal design of the plant in New Mexico. Mr. Slosky asked if any fluorine products have been sold from the Idaho plant. Mr. Laflin responded that they produced a small amount of germanium tetrafluoride that was sold to a customer in 2008, which was used for research and development work. He added that the market for germanium tetrafluoride has since dried up due to the downturn of the economy. They have now shifted their efforts to the testing and design phase of continuous process development in place of batch production process.

Mr. Slosky asked for more information regarding the markets for extracted fluorine products. Mr. Laflin explained that the two gases they will focus on initially are boron trifluoride (BF_3) and silicon tetrafluoride (SiF_4). The volumes for the production plant and those two gases were determined by details of a Charles River Report conducted late 2009 which provided a detailed market analysis of those gases, their applications, prospective customers, pricing, etc. BF_3 is used in manufacturing organic complexes for the petro-chem industry (11-12M lbs per year); however, their largest market will be in the nuclear sector where BF_3 is enriched to B^{10} . B^{10} is a neutron-absorbing material used in a variety of applications including emergency shutdown procedures (as poison for reactors), in shielding materials, control rods, nuclear instruments, and the like. Demands for BF_3 are going through the roof with the blossoming reactor construction plans in China. The SiF_4 market is a bit of a wildcard. Initially, they expect to produce just a few hundred thousand pounds sold wholesale to companies that produce chemical vapor deposition and ion implant products. Long term, however, there are opportunities to go direct to silicon manufacturers using hi-purity SiF_4 gas which would provide further upside to subsequent growth of phases II and III of the plant.

Mr. Slosky asked when contracts might be in place for the sale of any useful products. Mr. Laflin explained that many of their customers want to wait until there are qualification samples available. He believes that over the next six months there will be some contract agreements announced. Mr. Slosky asked what will be done with the fluorine if there is no commercial outlet. Mr. Laflin stated that without the contract agreements there will be no commercial funding from investors to build the plant. Ms. Green asked if there would be a problem if the Board made a condition with respect to the declaratory order that reflected that there be contracts in place. Mr. Laflin explained that having the contracts in place is an obligation to INIS' current and future investors, the state land office, and the counties with regard to the land transfer process. Even the ownership title of the property does not take place unless the facility is built and staffed. Mr. Curry asked who INIS' competition is. Mr. Laflin explained that there is no competition in the U.S. currently. The key difference is that they have a patented process for fluorine extraction. He is aware of companies that are looking at the large volumes of DU expected to be produced by the many enrichment plants coming online and are setting their sights on building de-conversion facilities with no beneficial fluorine extraction. It is to their advantage that they can take small quantities of DU early on and generate multiple revenue streams. Mr. Slosky asked what their fluorine storage capacity is and if there is another storage facility in which fluorine would be stored. Mr. Laflin responded that he is not certain of the storage capacity, but anticipates hauling two tube trailers per week to meet their production rate volumes. The tube trailers hold about 40,000 pounds. He added that there are interim storage vessels where the fluorine goes initially from the process. The material is then sampled to verify it meets specifications then is moved into a storage vessel for loading into tube trailer. Mr. Laflin added that he will provide the Board with those volumes.

Ms. Green asked if there are other federal agencies that have jurisdiction over the processing or the INIS facility, aside from the NRC license, and jurisdiction of this Board. Mr. Laflin explained that the NRC has taken over roles of other regulatory agencies that would normally be involved such as the EPA which will be controlled by the NRC license. The Department of Homeland Security's requirements are included in a security plan which is approved and licensed with the NRC process. OSHA will be involved in development of separate segments of the project. INIS will be built in segments so that they can keep the licensed material, uranium, segmented from the hazardous material. This will allow INIS to control different areas under basic OSHA safety standards rather than requiring the NRC to license each area (i.e., how to load a tube trailer). This will also allow INIS to expand and grow. Ms. Green asked Mr. Laflin to provide the Board with a copy of the Memorandum of Understanding.

Mr. Slosky was asked to present his recommendation to the Board. Mr. Slosky began by clarifying a few items. INIS initially raised the issue of obtaining an annual permit for export. He explained that this is not an issue for this hearing because the Board has a long history of issuing annual permits as a standard procedure. To be clear, Mr. Slosky explained that the Board

has and will continue to determine what is waste and when it is waste irrespective of what generators or others call it. The WCS facility in Texas and the ES facility in Utah are not currently licensed to take large quantities of DU. He added that the NRC has a rule-making underway to establish additional requirements for the disposal of large quantities of DU which he will discuss as a later agenda item. Utah is wrestling with this issue while the Utah Radiation Control Board completes a performance assessment. He is not aware if there has been a license amendment submitted in Texas or not, but WCS has indicated they are interested in receiving DU, which will require licensing in Texas.

The matter at hand, determining whether the DU that INIS will be receiving is a waste or not, depends on what INIS does with the DU it receives. Any material received from LES would not require an import permit, since both facilities are located within the compact region. The question is whether the DU the INIS facility receives from other enrichment facilities outside the compact region or from DOE stockpiles would be subject to import permitting requirements. Mr. Slosky believes that the DU imported is not a "waste" if it is used to produce commercial products of value. However, if there are technical problems with the processing, if there is not a market for those materials, or if the facility becomes a de-conversion facility without a commercial product, then he believes that the facility is a waste processing facility. He added that over the decades that this facility will operate, its status could conceivably change. There could be markets in place at one point in time and not at other points in time, so this is potentially a fluid situation. This is why he suggested that if the facility operates as planned, he does not believe it is a waste processing facility, and the DU received is not waste. However, if certain events happen, or certain conditions arise, it could become a waste processing facility. Therefore, he suggests that the Board carefully structure the declaratory order to set the conditions under which the import of the DU would not be regulated by the Board, and/or define the conditions under which the received DU would require import approval by the Board. As has been already mentioned, he believes it appropriate to have certain reporting requirements placed on the facility so that the Board can monitor its status. Again, it has been mentioned that if the Board is in agreement, staff and legal counsel can be directed to draft a declaratory order that the Board may consider at a future meeting.

Mr. Curry opened the discussion for public comment. There was none.

Mr. Curry asked if Mr. Laflin had anything further to add. Mr. Laflin expressed appreciation for the Board's timely consideration of this issue. Mr. Slosky asked if having the Board consider a declaratory order at a meeting this fall would be soon enough for Mr. Laflin. Mr. Laflin responded that consideration at a meeting this fall would be fine. It was recommended by Mr. Drozdoff that the Board meet in person to consider the declaratory order rather than via teleconference. Mr. Curry suggested the Board schedule a meeting in September and all agreed.

Ms. Green asked if there are additional conditions that the Board would like to add to the declaratory order. Mr. Drozdoff suggested that a condition be based on the agreement made with the State of New Mexico determining that the facility ever be considered a storage or waste facility. Mr. Slosky added that the declaratory order could include by reference or some other manner the conditions that New Mexico has stipulated. Mr. Slosky also requested that as part of this motion he be allowed to communicate with INIS on preparation of the order specifically relating to the conditions and reporting requirements.

Mr. Drozdoff made a motion to direct the staff and legal counsel to prepare a declaratory order based on Mr. Slosky's recommendations for consideration at the next Board meeting. Mr. Baughman seconded; the motion carried unanimously.

UPDATE ON LOUISIANA ENERGY SERVICES, L.P. (LES) FACILITY

Mr. Slosky asked if the Board would mind a quick update on LES, though not on the agenda. He explained that LES had long-standing commitments elsewhere this week and were apologetic that they could not participate in the meeting and promised to provide the Board updates at each of the following meetings, at which time they plan to be in operation and producing waste. He believes that LES is going through final review by the NRC and plans to begin operation of the first cascade in the coming weeks. Mr. Curry mentioned that the plant inauguration is planned for June 2, 2010 and expects that the Board will receive a formal invitation to that event. He feels that it is important for the Board to be present at the event and to let the community know the role that the Board will play going forward with LES. Mr. Curry added that all of the major elected officials of New Mexico will be present including former Senator Pete Domenici. Mr. Slosky added that for those who are not aware, LES is the first commercial uranium enrichment facility in the history of nation, so it is a major event.

UPDATE ON NATIONAL DEVELOPMENTS

Mr. Slosky directed the Board to Tab H and summarized the items included. He included a number of handouts from the LLW Forum meeting last month that may be of interest to the Board. Mr. Slosky added that as of the conclusion of the March LLW Forum meeting his term as chairperson began and will continue for two years.

The first handout Mr. Slosky discussed is an update on the Texas Compact Commission. Despite limited funding, they are getting organized and starting to deal with some critical issues including the end of a public comment period for import and export rules. All of the generators, particularly Class B and C waste generators outside of the Rocky Mountain, Northwest, and Atlantic regions, are very anxious to know if import of waste will be allowed from outside their

compact region. Outside of the compact's jurisdiction is a proposed federal waste disposal facility. The DOE, after a number of years of negotiation, has agreed to take ownership of that facility at closure, which was a major hurdle in making the federal facility a reality. Financing of the facility is held up because of litigation over a county bond issue that recently passed by three votes. The construction of the facility has not begun and it is uncertain when it will begin.

The next item Mr. Slosky discussed is the NRC revamping of 10 CFR 61, the low-level waste disposal regulation. This regulation divides low-level waste into A, B, or C classes. The NRC is early on in the process and does not anticipate proposing a rule for another five years. This has the potential of being very disruptive to the compact system because many states and compacts incorporated 10 CFR 61 in their statutes and regulations. Mr. Slosky added that the Rocky Mountain Compact froze its definition of low-level waste at the time Congress approved it, but many compacts have a floating definition. If 10 CFR 61 is amended, that action would unilaterally amend various compacts so a redefining of classes, expanding of classes, doing away with classes, or any of the items that the NRC has under consideration, could be extremely disruptive. Mr. Curry asked what the time frame is for a new regulation to take affect after it is adopted. Mr. Slosky explained that the NRC usually allows two or three years for states to conform depending on the compatibility that is assigned to it. There are different compatibility classes which vary from regulation to regulation under the agreement state program. Ms. Green asked if there is any discussion of redefining NORM. Mr. Slosky responded that he believes everything is on the table.

Mr. Slosky provided the Board an update on the NRC rulemaking for DU. He explained that the NRC intends to have a technical basis document available this fall that will give hints as to where they are headed. They intend to have a rule drafted by the fall of next year. This will primarily affect the states with low-level waste disposal facilities, such as Utah and Texas. How helpful or disruptive this regulation will be depends largely on the substance and to what extent the NRC requires the states to conform. The biggest danger is if the NRC adopts a minimalist approach and then prohibits the states from doing a more rigorous performance assessment.

Mr. Slosky spoke about the NRC's plans to address blending of low-level radioactive waste. Since the majority of states do not have access to Class B or C disposal facilities, there is a big push by the industry to down-blend waste to Class A for disposal at ES in Utah. A paper was submitted to the NRC in April, which has not yet been made public. Utah has taken a very strong position not to license the Utah facility for Class B and C waste, so this backdoor approach to accept B and C waste is not being well received.

Another NRC initiative that Mr. Slosky introduced is their assessment of the lack of waste disposal access for academic and medical research. A year ago, Mr. Slosky was scheduled to speak before the NRC commissioners on this matter. Several university academic

representatives that spoke were not entirely accurate in their presentation and painted very dire pictures about compacts not allowing waste to be processed or disposed of. The NRC is looking into disposal availability and cost to academic institutions. Clearly, the cost has gone up. Mr. Slosky remembers when the main research universities in Colorado were rolling their drums off of the back of a truck for just a couple of dollars per drum. The National Academy of Science did a report a few years ago about the impact of waste disposal on academic research. He is hopeful that other universities that are more knowledgeable will speak up. Research institutions generate small quantities of B & C waste. This is an ongoing issue that he will continue to follow.

The next topic that Mr. Slosky presented regards sealed source disposal and national security. The most recent deliverable is in the briefing book. This is a joint homeland security and DOE effort that Mr. Slosky participated in for a while. After what he felt was a waste of time, he stepped out and requested that his name be removed. Near the back of the handout there are some very interesting alternatives proposed on how to deal with sealed sources, such as disposing of them at WIPP, building a new facility outside of compact restriction, requesting an exemption from the compacts, etc. Mr. Slosky is unsure what the right course of action might be to attempt to influence this since every comment he has provided, including those in writing, have been ignored. In the handout is an appendix about the ES litigation which is interesting since ES is not licensed to accept sealed sources.

While on this subject, Mr. Slosky turned the focus to the OSRP program. The Board was briefed about the OSRP program in the fall of 2008 in Hobbs, New Mexico and it became clear at that time that sealed sources were being exported outside of the region in violation of the compact requirements. Since then he has attempted to get DOE to agree not to accept sealed sources from generators in the Rocky Mountain region without authorization from this Board. The DOE has expressed little concern over this matter. A series of letters were issued to the Northwest Compact requesting their assistance with disposing of sealed sources that have collected by the DOE, including those collected from this compact. Mr. Slosky was promised last fall that this Board would receive a letter requesting assistance from DOE, which is why this item was originally placed on the agenda. Mr. Slosky was informed a couple of weeks ago that the DOE declined the invitation to appear before the Board. Last week, Mr. Slosky received a call from DOE headquarters explaining that this issue was not ripe for discussion. They requested that Mr. Slosky meet in D.C. to speak with their lawyers about why DOE is not subject to the Board's jurisdiction. This is a subject of confusion because there is a big difference between generators of waste exporting waste from this compact over which this Board has jurisdiction, versus this compact's jurisdiction over DOE. It is Mr. Slosky's intent to have further discussions with DOE headquarters about this matter.

Mr. Slosky added that the President has appointed a blue-ribbon committee to look into the future of nuclear issues in this country. Most have conceived this as the “What do we do next after Yucca Mountain?” The committee had their first meeting a couple of weeks ago and, to most people’s surprise, Secretary Chew indicated that he wanted the panel to tackle both the DOE low-level waste program and the commercial low-level waste program. What that means, Mr. Slosky does not yet know. He added that there is no one on the panel that is close to being a representative of the compacts or that would be viewed as a state representative. Mr. Curry added that WIPP is always in play whenever the blue-ribbon panel meets, and that former Senator Domenici is part of the panel. He added that the inclusion of low-level waste into the discussion will not enhance the urgency of high-level waste and will add an inefficiency to the panel. As an example, in New Mexico if they were to expand WIPP any further beyond their current definition in Congress, they would have to amend the Land Withdrawal Act in Congress. So in essence, it would literally take an act of Congress to make this happen. Mr. Slosky added that the EIS on the greater than Class C (GTCC) low-level waste is due to come out later this year. Removing Yucca Mountain as an alternative leaves WIPP and a few other alternatives that are going to be included in that EIS. Mr. Curry expects that if WIPP is considered as an alternative, there will be some severe qualifications put on it for GTCC. He added that the State of New Mexico vehemently opposes placing WIPP as one of the alternatives.

The last item that Mr. Slosky would like to mention is that he participated in an EPA workshop on the dirty bomb exercise that is upcoming in Philadelphia in the next couple of weeks. This was a preparatory workshop to identify the issues people would have to deal with in a dirty bomb scenario. He added that the EPA plans to hold other emergency exercise scenarios in each of the EPA regions to prepare communities at the state and local level. It is likely that each of the Board members will find the EPA planning an exercise, whether a dirty bomb or other weapon of mass destruction, within their region.

Mr. Drozdoff explained that he found this discussion very helpful and would like to see this as a standing agenda item. Mr. Slosky offered to follow any other topics that may be of particular interest to the Board. He will continue to follow these topics and keep the Board apprised of new developments.

EXECUTIVE DIRECTOR'S REPORT

Mr. Slosky directed the Board to Tab I and reported that the Board had \$768,759 in liquid assets as of March 31, 2010. Some of these funds will be considered for reinvestment in a later agenda item. He explained that there was an investment scheduled to mature in December 2010; however, that institution failed and the FDIC recently returned the Board’s investment. Mr. Slosky added that the permit fee revenues so far this year show nothing unusual.

BUDGET VS. EXPENDITURE COMPARISON

Mr. Slosky directed the Board to Tab J for the Budget/Expenditure Comparison through March 31, 2010. He explained that the Board is at 75% of the fiscal year and has had several budget changes this year due to unexpected expenditures primarily in the Legal category. Mr. Slosky is recommending in another agenda item that the Board consider an amendment to the Legal category largely associated with the ES lawsuit. Tab K provides the volumes authorized for export for 2009 and 2010. Mr. Slosky added that there is nothing unusual and that we will continue to track all exports.

CONSIDERATION OF AMENDMENT TO BOARD BUDGET

Mr. Slosky directed the Board to Tab L to consider an amendment to the Board's budget. Mr. Slosky recommends that the Board consider reprogramming funds to the Legal category from the Contingency. Legal counsel suggested that \$24,000 will resolve that category for the remainder of the fiscal year.

Mr. Drozdoff moved to amend the budget as proposed. Mr. Baughman seconded; the motion carried unanimously.

CONSIDERATION OF INVESTMENT OF BOARD FUNDS

Mr. Slosky opened the discussion by recommending that the Board invest \$350,000 of available funds. He directed the Board to Tab M for a rate sheet provided by Brenda Fredrickson at Wells Fargo. He explained that the rates continue to fall and that the established ladder strategy appears to work well in mitigating the rate fluctuations. Current rates range between 2.6% to 5.0%. The Board currently has \$260,000 that will mature in 2011, \$100,000 in 2012, \$450,000 in 2013, and \$450,000 in 2014. Mr. Slosky suggested that the Board extend the ladder into 2015, but recommended that only \$100,000 be invested in a five-year term so less money is committed at the lower interest rate. He recommended that the remaining bulk of the available funds be invested to mature in 2012, since interest rates will likely be higher at that point. Wells Fargo identified the highest yielding five-year term investment is a federal agency note at 3.15%. The risk is that the agency can call them back before they mature. Mr. Slosky explained that this is unlikely if interest rates increase. The two-year agency notes are yielding the highest rate at 1.5%. Mr. Baughman made a motion to approve the purchase of a \$100,000 five-year investment and a \$250,000 two-year investment as discussed. Mr. Curry seconded; the motion carried unanimously.

With no further questions, Mr. Curry moved to adjourn Regular Meeting of April 13, 2010 at 11:21 a.m. Mr. Drozdoff seconded; the motion carried unanimously.