

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION  
ANNUAL REPORT FOR FISCAL YEAR 2009  
(July 1, 2008 to June 30, 2009)

“The Commission shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report submitted on or before January 15 of each year . . . .” (P.L. No. 100-712, 102 Stat. 4773.)

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## **HIGHLIGHTS OF FISCAL YEAR 2008 (July 1, 2008-June 30, 2009) ACTIVITIES**

### **I. STATUS OF THE REGIONAL DISPOSAL FACILITY**

#### **A. FISCAL YEAR 2009 HOST STATE REPORT**

The State of California provided the following report:

“The Radiologic Health Branch has 1937 active radioactive materials licenses. During the year to date it has issued 61 new licenses and terminated 101. There have been no inquiries regarding, or interest expressed in, development of a low-level radioactive waste disposal facility in California at this time.”

#### **B. FISCAL YEAR 2009 LICENSEE REPORT**

US Ecology, Inc. provided the following report:

“US Ecology is not presently undertaking efforts to develop a regional disposal facility for the Southwestern Compact region. The Company is awaiting information on the State of California's specific plans to carry out its continuing obligation under state and federal law to develop a regional low-level radioactive waste disposal facility.”

### **II. COMPACT COMMISSION**

#### **A. COMMISSION MEETINGS**

The Southwestern Low-Level Radioactive Waste Commission (membership list attached) held its 54<sup>th</sup> annual meeting on October 16, 2008 at Sacramento, California. Chairman Godwin stated that the California Bureau of State Audits (BSA) had completed its audit of the Commission's program. No information had been received from the State of California regarding plans to develop a low-level radioactive waste facility. The Barnwell Facility closed to Southwestern Region generators on July 1, 2008 and so there is now no place for the disposal of Classes B and C waste. The Commission amended its Bylaws to provide an alternative to having one person record fiscal documents and a different person make the deposit. The amendment required photocopying of fiscal documents and deposit receipts. It extended the document entitled “Policy of the Southwestern Low-Level Radioactive Waste Commission Regarding Exportation of Various Low-Level Radioactive Waste Streams” for one year. The Commission amended the Policy Document to include specified review procedures to be followed by the Exportation Advisory Committee. A second amendment was to require Commission approval for waste sent outside of the Southwestern Region for storage prior to disposal. The Commission extended for one year the document entitled “Requirements of the Southwestern Low-Level Radioactive Waste Commission for Exportation Petitions for Low-Level Radioactive Waste Disposal,” to allow waste exportation through calendar year 2009. The Commission voted to continue exportation fees for calendar year 2009

at \$1.35 per cubic foot, with a minimum fee of \$55.00, and \$0.10 per cubic foot for volumes in excess of 40,000 cubic feet. The Commission did not take action to extend the document entitled "Southwestern Low-Level Radioactive Waste Commission Resolution Relating to the Contingency Exportation of Waste from the Region". In other actions the Commission approved the draft Annual Report, amended its Fiscal Year 2009 budget of \$253,580 and adopted a Fiscal Year 2010 budget of \$232,370. The Commission has hired Kathy A. Davis as the new Executive Director starting on July 1, 2008 and Don Womeldorf, retiring Executive Director, would continue on for a transition period until December 31, 2008. He would then continue to serve the Commission as a Consultant.

The Commission's 55<sup>th</sup> meeting was held on April 24, 2009 at Phoenix, Arizona. The Commission members had extensive discussion on Public Law 100-712 regarding the maintaining of a registry by our Compact. Our legal counsel was directed by the Commission to develop a Bylaw for protecting such sensitive information from disclosure under the guidelines of Homeland Security. Legal counsel was also authorized to work with the California State Radiologic Branch for the release of such information. The Commission also directed staff to develop a letter to the California Governor requesting a change to the incompatibility of the California Law to the Federal law be resolved (California Health and Safety Code section 115261). This letter would be prepared for the Chair's signature. Perma-Fix, who had acquired legacy waste from Pecos, a previous owner of the Washington state facility, was in attendance. While the Manifests seem to be in good order, actual petitions from our Compact are not on file and Perma-Fix requested a path way to proceed for filing these late petitions so that proper disposal can take place at Energy Solutions in Clive, Utah. The Executive Director was to continue to work with Perma-Fix and review each petition request. It would also be necessary to verify with the State of California Radiologic Branch any Companies that may be out of business. A follow-up report would be given at the next Commission meeting. Other petition issues were discussed regarding the National Science Foundation (NSF) and proper signature requirements by a Generator in compliance with the Compact law. The Petition form was to be amended to reflect those concerns. A Bylaw change was made to allow travel and participation in related seminars, forums, lectures and other like kind information exchanges for the purposes related to the duties of the Executive Director and as approved in advance by the Chair.

#### B. CHAIR'S ACTIVITIES

The Chair stated, as last year, the Commission has awaited the initiation of a waste site project by the Host State. We have received no indication that California is initiating such a project as is required by California Law and Federal Law. At present, the Executive and the Legislative Branches appear to continue focusing on the budgetary difficulties of the State of California. There has been no response to any correspondence sent to the Governor's or Legislator's offices to date.

While the State Auditor reported that California's inability to establish a licensed disposal facility in California has significant consequences, there continues to be no effort on the part of the State of California to initiate a process. In the absence of a regional disposal facility, Arizona, California, North Dakota and South Dakota generators must find other ways to dispose of the waste that they generate or must store it on-site. Now, because of the closure of Barnwell, SC, there is no facility accepting Classes B and C waste. Generators indicate a capacity of storage on site of up to 3 to 5 years, however to site a waste facility could take up to 8 years to complete.

#### C. EXECUTIVE DIRECTOR'S ACTIVITIES

At the October 16, 2008 meeting Mr. Womeldorf reported that for the year 2008, to date, 178 petitions for exportation to Energy Solutions of Utah had been processed. A smooth transition is underway between the two Executive Directors. The Commission designated Kathy Davis as the Commission's representative on the LLW Forum Board. Ms. Davis reported on progress with the proposed Texas waste disposal site as well as her attendance of the LLW Forum in March 2009.

#### D. COMMISSION MEMBERSHIP STATUS

Arizona, North Dakota, and South Dakota are each authorized one Commission member and one alternate. During the fiscal year, the three states' members and alternates positions were completely filled. California, as the host state, is authorized four Commission members and one alternate. Having four California members is important because it permits the host state members to comprise at least 51 percent of the membership on the Commission, as authorized by the Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act. At the close of the fiscal year California had three Commissioners and one vacancy.

#### PROJECTIONS OF THE REGIONAL DISPOSAL FACILITY'S ANTICIPATED FUTURE CAPACITY

The projections of the facility's anticipated future capacity is unknown as is the status of the regional waste facility. Current California law prohibits the proposed Ward Valley radioactive waste disposal site from serving as California's facility for purposes of the Southwestern Low-Level Radioactive Waste Disposal Compact and prohibits disposing of low-level radioactive waste using shallow land burial. New requirements for a low-level disposal facility have yet to be developed by the California Department of Health Services.

#### BUDGET: FY 2010 (July 1, 2009-June 30, 2010)

The Commission approved a budget for FY 2010 as follows:

Personnel services \$ 133,000

Operating expense \$ 46,770

Meetings expense \$ 2,600

Travel \$ 34,000

Workshop expense \$16,000

Total \$ 232,370

The Commission anticipated receipts for FY 2010 in the amount of \$ 232,370 to be derived from exportation fees, workshop registrations, and bank interest.

#### DONATIONS, GRANTS, AND OTHER RESOURCES ACCEPTED

No donations, grants, or other resources were accepted during FY 2009.

#### RECOMMENDATIONS: ALTERNATIVE TECHNOLOGIES

California, as host state, is responsible for selecting the low-level radioactive waste disposal technology. Current California law prohibits the disposal of low-level radioactive waste in shallow land burial, i.e., disposal of low-level radioactive waste in or within the upper 30 meters of the earth's surface. The law specifies the use of multiple, engineered barriers to provide for the retention of the radioactive waste within the engineered barriers to last not less than 500 years, using best available technology. No further recommendations were made for alternative technologies.

**ATTACHMENTS**

I. AUDIT REPORT: FY 2009.

The audit report is attached.

II. COMMISSION MEMBERSHIP

A list of Commission members, alternates, and staff is attached.

ATTACHMENT I

ATTACHMENT II

THE SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Each party state is represented by one Commissioner, appointed by the Governor and confirmed by the Senate of the appointing state. One member represents the host county and the host state is authorized additional members to comprise a majority of the Commission. Appointed alternates may act in a member's absence. The following individuals served as Commissioners, Alternates and staff during the fiscal year.

COMMISSIONER

ARIZONA

**Aubrey V. Godwin**  
Arizona Radiation Regulatory Agency  
4814 South 40th Street  
Phoenix AZ 85040

CALIFORNIA

**Donna L. Earley**  
8700 Beverly Blvd SSB650  
Los Angeles CA 90048  
**Kenneth G. Vadnais**  
5553 Hollister Avenue  
Goleta CA 93117  
**George W. Campbell**  
PO Box 155  
Manchester CA 95459

NORTH DAKOTA

**Dana K. Mount**  
North Dakota Department of Health  
Environmental Health Section  
Gold Seal Center, Fourth Floor  
918 East Divide Avenue  
Bismarck, ND 58501-1947

**SOUTH DAKOTA Joe Nadenicek**  
Department of Environment and Natural Resources  
523 East Capitol (Foss Bldg.)  
Pierre SD 57501-3181  
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ALTERNATE COMMISSIONER

**Peter S. Brierty**  
Office of the San Bernardino County Fire Marshall  
620 South E Street  
San Bernardino CA 92415-0153  
**Terry L. O'Clair**  
North Dakota Department of Health  
Radiation and Indoor Air  
918 East Divide Avenue  
Bismarck ND 58501-1947  
**Bob McDonald**  
Department of Environment and Natural Resources  
523 East Capitol (Foss Bldg.)  
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COMMISSION STAFF

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