

# CALIFORNIA RADIOACTIVE MATERIALS MANAGEMENT FORUM

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March 15, 2008

### *The Strategic Assessment of the NRC's LLW Program and Disposal of Class B and C LLW*

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**Carol S. Marcus, Ph.D., M.D.**  
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Nuclear Regulatory Commission's Advisory  
Committee on Nuclear Waste and Materials

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**James M. Woolfenden, M.D.**  
University of Arizona

Dear Dr. Ryan and Committee Members,

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**John Closs**  
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Cal Rad Forum would like to offer a few comments on the NRC staff's Strategic Assessment of the Commission's low-level waste program as it relates to disposal of Class B and C low-level waste (LLW) after June 30, 2008.

##### ENGINEERING & SERVICES

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We believe finding disposal options for Class B and C LLW generated by non-DOE users of radioactive materials in the thirty-six states that will lose access to the Barnwell disposal facility next July 1 is the major issue facing the nation in the area of low-level waste disposal. Because this cut-off date is so close, any near-term solution must rely on existing disposal facilities. Unfortunately, the Strategic Assessment fails to assign a high priority to activities that might substantially improve the situation in the near term.

##### INDUSTRIAL

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#### **Cal Rad's Proposed Solutions**

##### AT LARGE

**Robert Carretta, M.D.**  
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**Roger Richter**  
California Healthcare Association  
**Donna Earley**  
Cedars-Sinai Medical Center

Long-Term: Cal Rad supports the Health Physics Society's proposal for disposing of non-DOE Class B and C LLW at the disposal facility for non-DOE Greater-than-Class C LLW that the Department of Energy has been mandated by Congress to develop.

Near-Term: Cal Rad proposes disposing of non-DOE Class B and C LLW at existing disposal facilities that the DOE now operates for its own

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wastes. This solution might require some simple, straightforward amendments to existing statutes. In any event, it is certainly not necessary to repeal the existing Policy Act or the Compact framework, only to provide access to DOE disposal facilities for those users of radioactive materials who otherwise will have no pathway for disposal of their Class B and C wastes.

### **Comments on The Strategic Assessment**

Legislative changes should be assigned a high priority. The report's summary of examining legislative changes (page C-11 of the Strategic Assessment) notes a number of potential benefits from this approach and an investment of only 0.15 FTE per year. Nevertheless, the report assigns a low ranking on the questionable basis that this task would be difficult with a low probability. However, we believe examination of legislative changes is justified by the high benefit-to-cost ratio. For example, the report notes the following:

“If new legislation were passed that enabled all LLW to have a reliable disposal path, the effect on safety and security would be significant.”

“The impact of this task on effectiveness would be potentially high if legislative changes are eventually made that allow similar types of waste to be disposed of similarly and on a risk-informed basis.”

“The ultimate benefits of this effort would be potentially large with respect to effectiveness (e.g., improvement in regulatory flexibility, elimination of regulatory overlap) as well as the cost of disposal, and potentially safety and security as well by eliminating any need for long-term storage of LLW.”

But the report argues that “... there is likely to be very large resistance to change in the current system; resistance to change is fairly common in situations in which an established system has been in place for an extended period of time.” Certainly, twenty-eight years since enactment of the LLW Policy Act is a long time, especially when no new disposal facilities have been produced and most of the nation's Class B and C wastes are about to lose their only disposal path. In addition, there is widespread agreement that the current system has failed, so change might not be as difficult as the report asserts.

We hope the Committee, and the Commission; will recognize the benefits of legislative changes. Indeed, the NRC has, in the past, urged a new framework for LLW disposal.

Reliance on Part 61.58 is misplaced. The report's summary of developing guidance to meet the provisions of 10CFR61.58 regarding alternate means of classifying and characterizing waste on a case-specific basis is found on page C-16 of the Assessment. The transcript of the ACNW&M meeting on December 18, 2007 indicates that some place great reliance on use of 10CFR61.58 to solve the Class B, C disposal problem. This reliance is misplaced — at

least for a near-term solution. Utah, the State where most Class A waste is now disposed, and will be disposed for many years, does not include anything equivalent to Part 61.58 in its regulations. Furthermore, in 2005, Utah enacted a law banning storage and disposal of Class B and C wastes (Section 19-3-103.7. Prohibition of certain radioactive wastes.). It is reasonable to expect that Utah would object to any effort to reclassify these wastes now and would assert that their statutory ban applies to waste classes as they were defined when the law was enacted.

We hope the Committee will take our comments into consideration as you prepare your letter on the Strategic Assessment to the Commission.

Cal Rad plans to have a representative on a phone bridge on March 18<sup>th</sup> to answer any questions the Committee and staff may have concerning our comments and positions.

Sincerely,

Alan Pasternak

cc: Cal Rad Forum Board of Directors  
Cal Rad Forum Corporate and Institutional Members