

**The Regional LLRW Compacts — Can They Still Be a
Vehicle for RadWaste Management
Outline of Remarks by
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Cal Rad Forum: An association of organizations that use radioactive materials.

I appreciate the invitation to speak at this conference and to present the perspective of organizations that generate LLRW and require access to LLRW disposal facilities.

A. How do the compacts intend to spend the next 28(?) years if they should continue in existence? What are you going to do that's different than what you have done for the past 28 years?

Some suggestions:

1) Southeast Compact says, "Voluntary acceptance has been, and will continue to be, central to a lasting solution to this issue." LLW Forum says, "The Low-Level Radioactive Waste Forum, Inc. was established in 1985 to facilitate communications and interactions among states and compacts – the parties responsible for implementing the Act." And it speaks of establishing cooperative agreements.

Fine! Then why don't the compacts and LLW Forum urge the Atlantic Compact and South Carolina to take a small step forward and voluntarily accept problematic B/C wastes from out-of compact states? For example, waste at facilities undergoing decommissioning (waste cannot be stored on site).

2) Compacts and the LLW Forum should be open to new ideas not anticipated by the LLW Policy Act in 1980. For example, a role for the DOE in solving the B/C disposal problem. Unfortunately, Compacts see this possibility as a threat.

Examples:

Low-Level Waste Forum. A policy statement on the Forum's web site warns against use of federal disposal facilities as an alternative or complement to the present system.

Southeast Compact Commission. Policy Statement: "One could argue that the federal government is no better equipped to deal with public opposition than are state governments. In the case of the siting efforts in the Southwestern Compact, it was the Federal government – not the state of California or the public of California — that ended the siting of a disposal facility on federal land."

This is only half the story. In 2002 (George Bush, not Bill Clinton, was now the President), California enacted AB 2214, called for by then Governor Gray Davis, killing the Ward Valley project. Indeed, the state has received a letter from NRC citing provisions in AB 2214 which are incompatible with NRC regs. Discussed with Mike Mobley, Chairman of the Southeast Compact Commission and was pleased to hear that our concerns about this policy statement may be taken up at next meeting of the SE Commission.

DIGRESSION: February 2006 Statement by Bruce Babbitt, former Secretary of the Interior in the Clinton Administration, illustrates political opposition in very high places: "Ward Valley was a perfectly reasonable solution."

3) Cal Rad proposals: Support Health Physics Society recommendation to use DOE's Greater-Than-Class C (GTCC) disposal facility for disposal of Class B/C wastes in the long-term. Near-term, allow non-DOE users of radioactive materials to use DOE disposal facilities for B/C wastes. THIS CAN BE DONE WITHOUT ELIMINATING THE COMPACTS.

B. How have things changed since passage of the Low-Level Radioactive Waste Policy Act 28 years ago? Compacts need to consider if these changes call for adjustments in the administrative organizations involved with the Act.

1) The US Supreme Court struck down the "Take title" provision of the Act in 1992. (This provision required states to "take title and possession of wastes lacking access to disposal.) This removed a major incentive for compact host states to fulfill their contractual obligations to develop their compact's regional disposal facility.

2) As noted yesterday by Bill Sinclair of Utah: the compact system has not provided regional equity, which was the whole point of the Act. In fact, there is less regional equity now than in 1980.

3) 36 states with no access for Class B/C disposal. In 2006, B/C waste from the 36 states accounted for 95% of the curies in the LLW disposed of at 3 commercial facilities (Barnwell, Richland, Clive).

C. Compacts need to address the B/C disposal issue head-on. That means access to disposal facilities. For example, "blending" to change B/C wastes to Class A waste in hopes of getting the waste into the Clive, Utah disposal facility is unlikely to succeed. Cite statements of Utah regulator Bill Sinclair here on 9/3 and at Richland meeting of the LLW Forum on 4/28:

NRC regulation at Part 61.58 is not a part of the Utah regulatory scheme and is not an NRC compatibility requirement.

(Part 61.58 Alternative requirements for waste classification and characteristics: “The Commission may, upon request or on its own initiative, authorize other provisions for the classification and characteristics of waste on a specific basis, if, after evaluation, of the specific characteristics of the waste, disposal site, and method of disposal, it finds reasonable assurance of compliance with the performance objectives of subpart C of this part.”)

Statement by Ralph Anderson of the Nuclear Energy Institute (NEI) yesterday: Changes in regulations to allow blending and other approaches to changing waste classification are not directed at any state or disposal facility operator and like all suggested changes are “controversial.” I disagree with the first part, but OK, as long as we all understand that these “controversial” actions are not directed toward a near-term solution to the B/C disposal problem.

D. Again, as I mentioned yesterday, DOE’s Off-Site Source Recovery Project (OSRP) described yesterday by Julia Whitworth (DOE) and John Winston (Council of Radiation Control Program Directors, CRCPD) is an excellent example of how DOE can contribute to a solution to a national problem.