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COMMITTEE REPORT

HOUSE

2/24/81

FURTHER: JUDICIARY

(11)

Date: March 17 1981

Mr. Speaker:

The Committee on RESOURCES has had CSSB 29(Jud)

"An Act relating to nuclear materials."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HC 5 for CSSB 29(Jud) same title
 new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the Judiciary Committee

MEMBERS SIGNING
DO PASS

Tommy Anderson

Frank J. Zschmitt

D. Smith

William J. ...

Eric A. ...

...

...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tommy Anderson
Frank J. Zschmitt
 CO-CHAIRMAN

Kristina



KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

DON GILMAN
MAYOR

February 25, 1981

The Honorable Hugh Malone
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: Senate Bill CSSB-29, which prohibits the transportation of high level nuclear waste in the State and which bans nuclear fuel facilities in Alaska and bans storage or disposal of nuclear waste in Alaska.

Dear Hugh:

Let's don't do this to our government at this time. Instead of that let's try to encourage nuclear facilities and try to solve the nuclear problems. Certainly we can dispose of nuclear waste in Alaska easier than they can in the more crowded areas of say, Illinois or Pennsylvania, or wherever. Let's try to encourage it. Let's encourage nuclear facilities. Let's not join with the preservationists, etc., who are screaming to stop our nuclear plants.

I hope you will use common sense in this and go along with opposing this Senate Bill.

Sincerely,

Stan Thompson
Borough Mayor

ST:tm
cc: The Honorable Patrick O Connell

For your information
H Malone

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

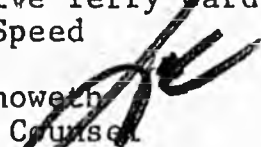
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 11, 1981

SUBJECT: Nuclear materials and hazardous wastes, draft
HCS CSSB 29 (Resources)

TO: Representative Terry Gardiner
Attn: Bob Speed

FROM: John B. Chenoweth
Legislative Counsel 

This bill is drafted on the premise that

- (1) nuclear waste disposal in the state may be allowed in specially constructed facilities [sec. 2] or otherwise [sec. 5];
- (2) all other nuclear facilities are banned from the state [sec. 1] unless the ban is found unconstitutional or invalid [sec. 18], in which case their construction and operation is permitted under stringent regulation and financial responsibility requirements [secs. 3 - 5].

I could not follow the convolutions in the definitions of "high level nuclear waste" and "low level nuclear waste" which you provided. Please check these carefully.

I also may have botched the distinction between "extremely hazardous wastes" and "hazardous wastes" in AS 46.32. You should check this carefully in context. I am not satisfied with the introduction of these concepts in a title where the administering agency is already to be concerned with "hazardous substances". See AS 46.03.822 and 46.03.826(3). Is there some better way to tie these together?

Please note that there is no provision speaking to the transportation of "hazardous wastes". Is this an oversight? Did I just miss this in your notes?

Representative Terry Gardiner

Page 2

March 11, 1981

As a practical matter -- rather than a drafting concern -- is the requirement of the financial responsibility provisions regarding in perpetuity care of nuclear material one that can be met reasonably?

It is of concern, though I have not taken the time to do research, that the standards applicable to attempting to distinguish "extremely hazardous waste" and "hazardous waste" may be too vague to support the distinctions which the Department of Environmental Conservation shall make under AS 46.32.040, and that prosecutions based on the statute and any regulation adopted under it may be set aside for failure to give adequate notice as a violation of the constitutional protection of due process.

JBC:ljb

Enclosure

Lynn Rice
SR 20186-A
Fairbanks, Alaska 99701

March 12, 1981

Senate and House Representatives
Pouch V
Juneau, Alaska 99811

Dear House and Senate Members,

I submit the following as written testimony for HB 72 and CS for SB 29.

I am testifying on this matter because I am concerned about the proliferation of nuclear activity, the resulting toxic wastes that this activity produces, and its affect on the environment, and ultimately, men, women, and children.

My recommendations for changes in these bills comes from document #1, Montana Initiative #80. I am enclosing a copy of this initiative for your information. I hope you will notice Section 1, a through g, which gives a good description of the unresolved issues regarding nuclear activity.

I would like to point out that while it has been reported that nuclear power is not feasible in Alaska, these bills (HB 72 and SB 29) describe other nuclear facilities related to nuclear power and therefore are just as much to blame for contributing to the addition of highly toxic and extremely long term nuclear wastes as a nuclear power plant - a legacy to future generations I don't want the responsibility for.

Because we all must take the responsibility for these important decisions, it is for this reason I am submitting testimony. It is also for this reason that we must add the important requirement of a vote of the people before a nuclear facility permit is issued. (As number 5 under item b, section 18.45.025).

The reason for including in section 18.45.025 the item on emergency approval authority invalid for nuclear facilities, is to prevent federal fast-tracking procedures which might attempt to eliminate usual channels of permit approval.

The reason for deleting "high level" is because it seems inappropriate and misleading for what I see as the intentions of this section. For example, plutonium is a product of nuclear power plants, and lasts for thousands of years, but is classified as a transuranic waste. Low level wastes can last for hundreds of years (see p. 22, A Nuclear Waste Primer, for half-lives examples), and can also be a product of nuclear power plants. For these reasons I believe "high level" should be deleted and left to read simply nuclear waste materials.

I am including as part of my testimony a copy of A Nuclear Waste Primer, published by the League of Women Voters Education Fund. I urge you to look this pamphlet over, as it presents a comprehensive yet brief and understandable study of nuclear power.

In CS for SB 29, I would like to point out that low level radiation, as men-

tioned in section 46.03.250, is carcinogenic, just as high level waste is carcinogenic, just as high level waste is carcinogenic, especially if the low level waste contains transuranic elements. (Low level wastes are classified as such if they contain less than 10 nanocuries of transuranic elements per gram of material (p.12); some low level wastes are completely free of transuranic elements).

Alpha-emitting isotopes such as plutonium, if it enters the body through a cut, or by breathing the air, eating food or drinking water containing the isotope, can cause highly concentrated local damage (cancer) from its decay.

The same is true for beta radiation. "The chemical similarities of some of these radioisotopes to naturally occurring elements in the body make them especially dangerous. For example, the chemical resemblance of strontium-90 to calcium results in its concentrating in the bones". (p.20) The decay of this material usually results in bone cancer.

To give you an idea of how toxic these low level wastes can be, "Most LLW will decay to the hazard level of uranium ore after 100 years, according to DOE officials". (p.22).

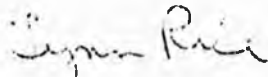
About 25% of low level waste comes from medical and research facilities, 18% from industry, and 14% from government and military operations. The remainder 43% comes from nuclear plants. (p.33).

I am not familiar with the specific wastes that are created in Alaska by medicine, education, or scientific research. I suggest that the legislature look into this to see exactly what you are dealing with.

The problem with storing anything but short lived nuclear waste materials, is the problem of guaranteeing containment for the hazardous life of the material. A Nuclear Waste Primer describes various LLW storage sites where the waste has leaked and migrated into the surrounding environment, causing contamination. Again, I urge you to read this document to gain a better understanding of nuclear power and specifically, nuclear waste storage.

Thankyou for your time and consideration of these recommendations for HB 72, and CS for SB 29.

Sincerely,



Lynn Rice

Enclosures: three pages of recommendations, A Nuclear Waste Primer - published by the League of Women Voters Education Fund, Initiative number 80 from the Montana state election of 11/80.

The following documents are used in this discussion:

1. Initiative number 80 from the Montana state election of November, 1980. (I believe this initiative was passed into law at that time).
2. Alaska State Legislature House Bill 72.
3. Alaska State Legislature Senate Bill (Committee Substitute for) 29.
4. A Nuclear Waste Primer, published by the League of Women Voters Education Fund.

Initiative 80, Section I (1) (a) through (g) gives a good overview of the unresolved issues of nuclear power.

In Section 2 of HB 72, I would suggest the following changes to amend Sec. 18.45.025, Facilities Siting Permit Required: Mark out from "fuel" up to "in the state" and replace all that with "facility". (It now reads "nuclear facility".) Now, include "Definitions", "(1) (a) "Nuclear facility" means each plant, unit, or other facility designed for, or capable of, (i) generating electricity by means of nuclear fission, (ii) converting, enriching, fabricating, or reprocessing uranium minerals or nuclear fuels, or (iii) storing or disposing of radioactive wastes or materials from a nuclear facility".

In Section 2 of HB 72, Sec. 18.45.025, (a), after "unless he (or she) has first obtained a permit", insert "which demonstrates environmental compatibility and public need" ("from the Department of Environmental Conservation").

In Section 2 of HB 72, Sec. 18.45.025, insert at the end of (a), after "Department of Environmental Conservation.", "A facility, with respect to which a permit is issued, may not thereafter be constructed, operated or maintained except in conformity with the permit and any terms, conditions and modifications contained therein. A permit may only be issued pursuant to this chapter."

I suggest adding the following to this section: "This chapter does not apply to any aspect of a facility over which an agency of the federal government has exclusive jurisdiction, but applies to any unpreempted aspect of a facility over which an agency of the federal government has partial jurisdiction."

Again in this same section, I suggest adding the following as item (b)"(5): the majority of the voters in a statewide election called by initiative or referendum according to the laws of this state has approved the permit."

I recommend the following requirements be included in the regulations adopted by the Department of Environmental Conservation governing the issuance of a permit for a nuclear facility: The Department of Environmental Conservation may not issue a permit to construct a nuclear facility unless it finds that (a) no legal limits exist regarding the rights of a person or group of persons to bring suit for and recover full and just compensation from the designers, manufacturers, distributors, owners, and/or operators of a nuclear facility for damages resulting from the existence or operation of the facility; and further, that no legal limits exist regarding the total compensation which may be required from the designers, manufacturers, distributors, owners and/or operators of a nuclear facility for damages resulting from

the existence or operation of such facility;

(b) the effectiveness of all safety systems, including but not limited to the emergency core cooling systems, of such nuclear facility has been demonstrated, to the satisfaction of the department, by the comprehensive laboratory testing of substantially similar physical systems in actual operation;

(c) the radioactive materials from such nuclear facilities can be contained with no reasonable chance, as determined by the board, of intentional or unintentional escape or diversion of such materials into the natural environment in such manner as to cause substantial or long-term harm or hazard to present or future generations due to imperfect storage technologies, earthquakes or other acts of God, theft, sabotage, acts of war or other social instabilities, or whatever other causes the department may deem to be reasonably possible, at any time during which such materials remain a radiological hazard; and

(d) the owner of such nuclear facility has posted with the board a bond totaling not less than 30 percent of the total capital cost of the facility, as estimated by the department, to pay for the decommissioning of the facility and the decontamination of any area contaminated with radioactive materials due to the existence or operation of the facility in the event the owner fails to pay the full costs of such decommissioning and decontamination. Excess bond, if any, shall be refunded to the owner upon demonstration, to the satisfaction of the department, that the site and environs of the facility pose no radiological danger to present or future generations and that whatever other conditions the department may deem reasonable have been met.

(2) Nothing in this section shall be construed as relieving the owner of a nuclear facility from full financial responsibility for the decommissioning of such facility and decontamination of any area contaminated with radioactive materials as a result of the existence or operation of such facility at any time during which such materials remain a radiological hazard.

Please note: If there is the slightest chance the Department of Environmental Conservation will not include the above requirements in their regulations which will govern the issuance of a permit for a nuclear facility, I suggest that these additional requirements be included in the legislation.

I suggest the following items be added to Sec. 18.45.025. Annual review of evacuation and emergency medical aid plans. (1) The governor shall annually publish, publicize, and release to the news media and to the appropriate officials of affected communities, in a manner designed to inform residents of the affected communities, the entire evacuation plan specified in the licensing of each permitted nuclear facility within this state. Copies of such plan shall be made available to the public upon request at no more than the cost of reproduction. (2) The governor shall establish procedures for annual review by state and local officials of established evacuation and emergency medical aid plans with regard for, but not limited to such factors as the adequacy of such plans, changes in traffic patterns, population densities, the locations of schools, hospitals, and industrial developments, and other factors as requested by locally elected representatives.

Finally, in this section include the following important item: Emergency approval authority invalid for nuclear facilities. The department may not waive compliance with any of the provisions of this act relating to certification of a nuclear facility.

Going on to the next section, (after Sec. 46.03.842) Section 46.03.844, I suggest deleting "high level" in "Storage and disposal of high level nuclear waste material". (It now reads "Storage and disposal of nuclear waste material"). Delete "high level" throughout this section. Deletions would include "(a)The storage and disposal of ~~high level~~ (delete) nuclear waste material in the state is prohibited." It would also include "(b) For purposes of this section, "~~high level~~ (delete) nuclear waste material.""

In this same section, I suggest adding item (C) under (b) (1). It would read "(C) nuclear waste materials produced or the by-product of mining of uranium;"

In this same section, under item (b)(1)(B), I suggest adding the following: "material of a kind or quantity which, when stored or disposed, would constitute a threat to the health or safety of the public and or pose a substantial present or potential hazard to the environment, as determined by the department under AS 46.03.250 by regulation;"

In this same section, under item (b) (2), I suggest adding the following: "does not include radioactive materials used in medicine, education, or scientific research which are short lived low-level wastes and are stored or disposed of in conformity with procedures established by the department by regulation".

LR.



Alaska State Legislature

House of Representatives

Committee on Resources

Terry Gardiner, Co-Chairman
Fred F. Zharoff, Co-Chairman
465-3715

Pouch V
State Capitol
Juneau, Alaska 99811

MEMO: March 12, 1971

TO: Jack Chenowith
Legal Counsel

FROM: Bob Speed, *B.S.*

RE: HCS CSSB 29/Nuclear and hazardous materials and waste

In its meeting of March 11, the House Resources Committee adopted the following amendments to the draft for HCS CSSB 29 by the Resources Committee. Please redraft in final for presentation to the committee for its review and approval. The bill has been scheduled for review next Tuesday, March 17 prior to a motion to move the bill out of committee.

Page 6, line 14: delete subsection (D) having to do with uranium mine and mill tailings.

Page 8, line 14: delete subsection (D) having to do with uranium mine and mill tailings, as on page 6.

Page 5, line 3: after "scientific research" add ", non-destructive testing or security screening" and continue the remainder of the sentence.

Page 7, lines 24 and 28: delete references to AS 46.03.842-844 and insert in their place a new reference, as per page 5, line 29 to page 7, line 4 of this bill (and specifically page 5, line 29 and page 6, line 20), "AS 18.45.130 and 18.45.140" in both references.

Page 9, line 7: after "properties" add "to the greatest extent feasible." and delete "in accordance with regulations adopted by the department"

Page 9, line 8: changed "and" to "or"

Page 9, line 9: change "protect" to "ensure protection of"

page 9, line one (1): delete "a quantity of"

page 9, line 22: after "wastes" add "or hazardous wastes in excess of 1,000 kilograms per month" and complete sentence.

-more-

amendments: HCS CSSB 29 (Resources)
memo: 3-12-81: page 2

in all references to nuclear disposal facility(ies) insert
"high level" before the word "nuclear"

page 11, line 6: after "human health" insert "livestock, wildlife,
property, or the" before the word "environment".

Thanks, Jack. These represent the changes the committee requested
by adoption of amendments.

If you have any questions, call me (465-3734 or 3779).

A handwritten mark, possibly initials or a signature, consisting of a stylized 'B' or '3' shape with a vertical line extending downwards.