

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

2046 SSSA HAZARDOUS MATERIALS & WASTE MGMT. COMMITTEE 2046

1 to be established by the Secretary. Unless the Secretary
2 takes final action which is dispositive of the petition
3 for reconsideration within 90 days of the date it is
4 filed, such petition may be deemed to have been denied
5 for purposes of judicial review.

6 "(b) JUDICIAL REVIEW-- (1) No person may seek
7 judicial review of any determination made under section
8 112 of this Act unless such person shall have submitted
9 a petition for reconsideration to the Secretary. Judicial
10 review may be obtained by filing a petition for review
11 with the United States Court of Appeals for the District
12 of Columbia Circuit or for the Circuit wherein the
13 petitioner is domiciled or has its principal place of
14 business within 60 days after the date of final dispo-
15 sition by the Secretary on the petition for reconsideration,
16 or the date on which it is deemed denied. A copy of the
17 petition for review shall be transmitted promptly by the
18 clerk of the court to the Secretary or other officer
19 designated by him for that purpose.

0 "(?) Upon the filing of a petition under subsection
1 (a), the court shall have jurisdiction to review the
2 determination in accordance with chapter 7 of title 5
3 of the United States Code and to grant appropriate relief
4 as provided therein.

5 "(3) The judgment of the court affirming or setting
6 aside, in whole or in part, any determination of the

1 Secretary shall be final, subject to review by the
2 Supreme Court of the United States upon certiorari or
3 certification as provided in section 1254 of title 28
4 of the United States Code.

5 "(4) Any action instituted under this section
6 shall survive, notwithstanding any change in the person
7 occupying the office of Secretary or any vacancy in
8 such office."

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PROXIMITY AMENDMENT 1

(d) Upon enactment of this section, all parts of HM-164, except for Part 172, Part 173, and Part 177.825(c), (d) and (e), is suspended until it can be amended to:

(1) Allow states to require of shippers information on Type B or LQ (large quantity) radioactive shipments passing through their borders, before or after the shipments are made, in addition to whatever information may be required of shippers by the Department of Transportation, in order to ensure the safety of the radioactive shipments. The types of information can include but not be limited to information on the frequency of shipments, the number of shipments, the kinds and kilogram- and curie-quantity of each shipment, the routes of shipments, the packaging of shipments and the timing of shipments. The states are expected to share this information with interested local jurisdictions to facilitate emergency response preparation.

(2) Explicitly recognize the right of any state, local or regional government, or bridge, tunnel or turnpike authority, in instances where they determine in consultation with other affected jurisdictions that a federal routing decision endangers local health and welfare, to impose transportation restrictions and controls on Type B or LQ radioactive shipments more stringent than those imposed by HM-164, as long as such restrictions and controls conform with 49 U.S.C. 1811(a) and (b).

Such restrictions and controls shall include but not be limited to:

- a. Time-of-day restrictions.
- b. Designation of route and mode of shipment.
- c. Permit fees on shippers for the purpose of funding the enforcement of radioactive materials transportation regulations and emergency response capabilities.

(3) Provide that no federal, state or regional designation of preferred routes for Type B or LQ radioactive shipments take effect until a duly-authorized State or Regional Advisory Group, composed of representatives of the city, county, regional and state governments, has certified that:

- a. Adequate emergency response plans and capabilities are in existence.

PROXMIRE AMENDMENT 2

Section 116. (a) The Secretary shall establish a panel to conduct a study and make recommendations within 24 months on the appropriate local, state and federal roles in hazardous materials routing, prenotification, and emergency response and enforcement activities. The study should also assess and make recommendations concerning: (1) safety problems; (2) the adequacy of available technical and financial assistance to state and local governments to perform enforcement, emergency response, and route selection responsibilities; (3) the adequacy of existing prenotification systems, emergency response plans and capabilities, enforcement capabilities, and the desirability of improvements in these areas; (4) the social, environmental and financial impact on state and local governments due to the transporting of hazardous materials; (5) the responsibility of state and local governments to exercise their traditional police powers in imposing restrictions and controls over the transporting of hazardous materials.

(b) The panel shall consist of 15 members with knowledge or experience in the transportation of hazardous materials and shall include representatives of shippers and carriers of hazardous materials by various modes, organizations which represent employees involved in the transportation of hazardous materials, the Department of Transportation, state, regional and local governments, emergency response agencies, and citizens' and environmental groups. The Secretary shall select the members of the panel from lists of qualified candidates supplied by organizations representing the parties to be included in the panel.

(c) In preparing such report, the panel shall consult with State, local, and regional governments and with appropriate Federal agencies, and shall seek the advice of various groups interested in the safety of the transportation of hazardous materials, including shippers, carriers, and users of hazardous materials and bulk package or container manufacturers; organizations which represent employees engaged in the transportation of hazardous materials; citizens' and environmental groups; and private organizations concerned with transportation safety or the provision of emergency services in response to a major accident involving the transportation of hazardous materials.

(d) The Secretary shall provide such staff and other support as may be necessary for the panel to perform its duties from funds within the Department of Transportation budget.

(e) In order to acquire information for the study, the panel shall evaluate the ongoing research and demonstration projects of the Department of Transportation.

(f) The panel will prepare a report and recommendations from its study that will be submitted to the Secretary and Congress for appropriate action.

(g) Upon enactment of this section, the final rule relating to highway routing of radioactive materials (HM-164), which was issued by the Secretary of Transportation on January 19, 1981 and which is scheduled to go into effect on February 1, 1982, is suspended with the exception of Parts 172, 173, 177.825(c), (d), and (e). Before lifting the suspension of HM-164, the Secretary shall review the final report and recommendations of the panel, and shall incorporate the recommendations of the panel in amending HM-164.

CONFERENCE OF WESTERN ATTORNEYS GENERAL
WESTERN (LEGISLATIVE) CONFERENCE
WESTERN GOVERNORS' CONFERENCE



WESTERN OFFICE

The Council of State Governments

**WESTERN OFFICE
OF THE
COUNCIL OF STATE GOVERNMENTS**

The Western Office of the Council of State Governments is supported and directed by elected state officials in the fourteen western states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, Wyoming, and three Pacific Island Territories of American Samoa, Guam and the Northern Mariana Islands.

The Western Office serves as the principal staff to three regional leadership conferences:

- The Western Governors' Conference
- The Western (Legislative) Conference
- The Conference of Western Attorneys General

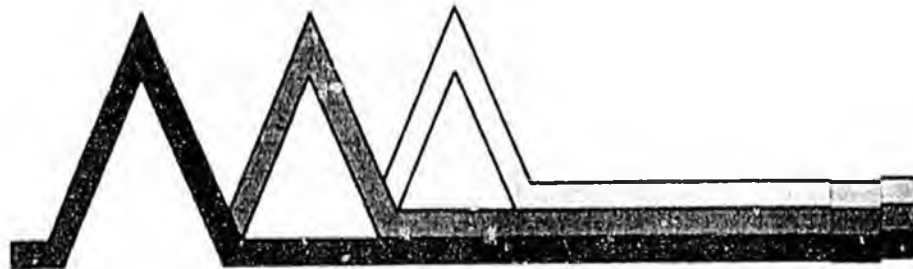
These conferences are organized to discuss, study and take action on significant regional situations and problems. Each year, the conferences select priority western state issues such as energy development, environmental regulation, hazardous materials disposal, land management, transportation financing, and water policy as the focus of their work. Interim study committees are appointed to analyze the policy areas identified by the conferences. The Western Office, working closely with western states' staff and other regional organizations, provides policy analysis, survey research, and program planning services to the three conferences.

The central goals of the Western Office and the Western Conferences are:

- to provide an informed medium for state leaders to exchange views on significant western and national issues,
- to foster effective interstate cooperation and input on national policy formulation, and
- to promote improved joint problem-solving among the participating western states.

The Western Office, in addition to its conference responsibilities, publishes a quarterly newsletter, prepares position papers, and writes journal articles on public policies in the western states. The Western Office also collaborates on national studies and research projects of interest to state government with the Lexington, New York, Atlanta, Chicago and Washington, D.C. offices of the Council of State Governments.

**CONFERENCE OF WESTERN ATTORNEYS GENERAL
WESTERN (LEGISLATIVE) CONFERENCE
WESTERN GOVERNORS' CONFERENCE**



THE WESTERN GOVERNORS' CONFERENCE

The Western Governors' Conference provides an effective forum for the member governors to exchange information, sponsor policy analysis, and take joint action on important Western State issues. Some topics of concern include energy development, environmental protection, hazardous waste disposal, international trade promotion, land use management, water allocation, correctional policies, and fiscal policies.

The following principles underlie the Conference's work:

- The Western States, because of their rapidly expanding populations, accelerating economies, and vast open spaces, share similar problems and opportunities;
- The nation's needs for the energy resources of the Western States require an integrated regional voice and perspective; and
- The competing demands on the limited resources of the West (such as the demands on water for energy development, agricultural production, and urban/industrial growth) necessitate a constructive and responsive relationship among the States. Such a relationship is indispensable in formulating and implementing effective regional and national policies.

The governors elect a chair and vice chair each year to oversee the activities of the Conference. A Staff Advisory Committee (SAC), comprised of the senior aides to the governors, participates in the policy studies of the Conference and advises the officers on the annual meeting program.

The Western Office is staff to the Western Governors' Conference and the Staff Advisory Committee.



THE WESTERN (LEGISLATIVE) CONFERENCE

The Western Conference is comprised of elected and appointed officials of the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, and the Pacific Territories of American Samoa, Guam, and the Northern Mariana Islands.

The purpose and objectives of the Western Conference are to foster and encourage interstate cooperation on and participation in the consideration of common problems in the west. The Conference provides a medium for state legislators to exchange ideas, knowledge and experience toward the development of action research and policy positions on major western issues.

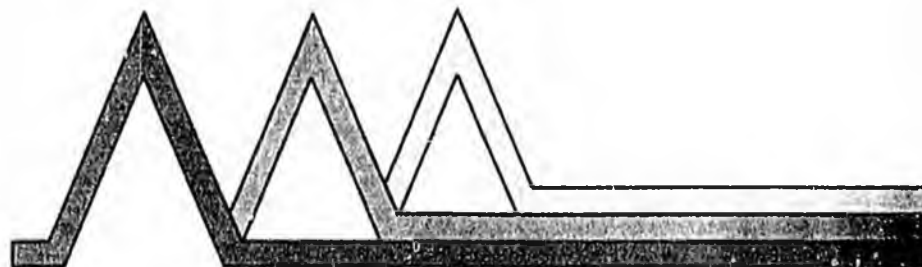
The Western Conference is governed by an Executive Committee composed of the Conference's elected officers, appointed state delegates, and chairs of the conference study committees. The Executive Committee sets interim conference policy and recommends bylaws to implement conference rules.

Conference members meet in committee sessions several times a year, and the entire membership meets annually for three days. During the committee meetings and the annual conference, held throughout the western region, legislators and appointed officials address a variety of issues of concern to the region. Each year, the Conference's leadership determines the priority issues within the region, and establishes policy committees to examine these issues.

For 1980-82, legislative committees include:

- corrections
- energy and minerals development
- energy conservation and renewable resources
- hazardous materials and waste management
- international trade
- public lands
- transportation
- water policy

The committees meet to examine policy approaches to these issues in member states. For example, the transportation committee would consider alternative methods of highway funding, and the corrections committee would review sentencing structures across the states. Committees also review federal legislation and develop regional policy positions on national statutory and administrative policies. Committee membership includes legislators appointed from both houses of each state, legislative staff and executive agency representatives.



THE CONFERENCE OF WESTERN ATTORNEYS GENERAL

The Conference of Western Attorneys General is comprised of the state attorneys general of the following fourteen western states and two Pacific territories: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, Wyoming, American Samoa and Guam.

While the Conference is a part of and staffed by the Western Office of the Council of State Governments (CSG) in San Francisco, the Conference is closely associated and coordinates its work with the National Association of Attorneys General (NAAG), with offices in Washington, D.C.

Because of recent history and developments in the West, much of the interest and many of the activities of the Conference are directed toward natural resources and energy issues. Yet, the Conference seeks to be responsive to other issues such as the unfortunate prison tragedies that befell the States of New Mexico and Idaho and the hazards of radioactive waste disposal and transportation.

The Attorneys General who are members of the Conference meet at least four times a year. The Conference holds an annual three-day meeting in one of the western states - usually in July. Members of the Conference also caucus at three major NAAG meetings throughout the United States.

Much of the ongoing work of the Conference is conducted through committees which usually have as members the deputy attorney general or solicitor from each of the offices. The Litigation Action Committee attempts to facilitate the exchange of information and expertise on civil and criminal litigation having broad interest. The Subcommittee on Public Lands has undertaken a systematic study of the many legal issues presented by the federal ownership and management of lands in the western states and continues to provide a forum for the sharing of litigation information. Recent *ad hoc* committees have addressed correctional and prison law problems and the underpayment of oil and gas royalties to the western states by federal lessees.

OFFICERS OF THE CONFERENCE OF WESTERN ATTORNEYS GENERAL



David Leroy

CHAIR, 1981-82

David Leroy
Attorney General, Idaho

VICE CHAIR, 1981-82
CHAIR ELECT, 1982-83

Robert K. Corbin
Attorney General, Arizona

MEMBERS OF THE CONFERENCE

Wilson Condon, Alaska
Aviata Fa'Alevao, American Samoa
Robert Corbin, Arizona
George Deukmejian, California
John MacFarlane, Colorado
Jack Avery, Guam
Tany Hong, Hawaii
David Leroy, Idaho
Michael Greely, Montana
Richard Bryan, Nevada
Jeff Bingaman, New Mexico
Robert Wefald, North Dakota
Dave Frohnmayr, Oregon
David Wilkinson, Utah
Kenneth Eikenberry, Washington
Steven Freudenthal, Wyoming

**COMMITTEES OF THE
CONFERENCE OF
WESTERN ATTORNEYS GENERAL**

- LITIGATION ACTION COMMITTEE
- SUBCOMMITTEE ON PUBLIC LANDS

AD HOC Subcommittee on Oil and Gas Royalties

AD HOC Subcommittee on Correctional Law and Policy

**OFFICERS
OF THE
WESTERN (LEGISLATIVE) CONFERENCE**



Senator Cary Peterson

CHAIR, 1981-82	Senator Cary Peterson Utah
CHAIR ELECT, 1982-83	Representative Russ Donley Wyoming
VICE CHAIR	Senator Sam Guess Washington
PAST CHAIR	Senator Keith Ashworth Nevada

WESTERN CONFERENCE EXECUTIVE COMMITTEE

The Executive Committee is composed of legislative leadership from each state and serves as the interim governing body between annual meetings. It is the primary organizational policy-setting and operational oversight body for the Conference.

1980-1982 CONFERENCE WORKPLAN

OFFICERS OF THE WESTERN GOVERNORS' CONFERENCE

WESTERN CONFERENCE COMMITTEES

Committees are composed of appointed members from each house of member state legislators to each committee. The committees constitute the policy research, analysis and action committees of the Conference. The 1980-82 committees and their purposes are:

Corrections Committee - to improve western states' corrections policies and institutional practices by clarifying the corrections problems in each western state and by developing alternative policy responses to these problems, including possible regional approaches in selected areas.

Energy and Mineral Development Committee - to review the nature and consequences of the trade-offs between environmental quality, rapid population growth, resource development and demands for water; and to develop an informed western states' position on how to reconcile the inherent conflicts through amended statutory, regulatory and administrative policies.

Energy Conservation and Renewable Resources Committee - to encourage the increase in supply of existing energy resources through conservation and expanded renewable resource programs by evaluating and disseminating information on the most promising governmental and private sector programs.

Hazardous Materials and Waste Management Committee - to develop an interstate nuclear compact for identifying and implementing a regional low-level radioactive waste siting and management system for the western states, and to encourage individual state legislation to lessen the danger from toxic and chemical wastes.

International Trade Committee - to increase legislator knowledge of exporting problems and, working in conjunction with western states' International Trade Directors, to develop legislation designed to expand exporting opportunities for small and medium-sized business in the western states.

Public Lands Committee - to document particular public lands ownership and management problems and to develop alternative proposals - state and federal - for dealing with them.

Transportation Committee - to develop alternative ways to increase western state highway funding in light of lower gas revenues, to expand the number of states participating in the Multi-State Highway Transportation Agreement; and to propose improved handling, manifesting and transportation of hazardous material.

Water Policy Committee - to establish an effective western legislative voice in water resource policy so as to protect states' water rights.



Governor Ed Herschler

CHAIR, 1981-82	Governor Ed Herschler Wyoming
VICE CHAIR AND CHAIR ELECT, 1982-83	Governor Victor Atiyeh Oregon
PAST CHAIR, 1980-81	Governor Robert List Nevada

MEMBERS OF THE CONFERENCE

Governor Jay S. Hammond, Alaska
Governor Peter Coleman, American Samoa
Governor Bruce Babbitt, Arizona
Governor Edmund Brown, Jr., California
Governor Richard D. Lamm, Colorado
Governor Paul Calvo, Guam
Governor George Ariyoshi, Hawaii
Governor John V. Evans, Idaho
Governor J. Schwinden, Montana
Governor Robert List, Nevada
Governor Bruce King, New Mexico
Governor Allen I. Olson, North Dakota
Governor Pedro P. Toranzo, Northern Marianas
Governor Victor Atiyeh, Oregon
Governor Scott M. Matheson, Utah
Governor John Spillman, Washington
Governor Ed Herschler, Wyoming

**WESTERN GOVERNORS' CONFERENCE
PAST CHAIRS**

1980-1981	Governor Robert List Nevada
1979-1980	Governor Peter Coleman American Samoa
1978-1979	Governor John Evans Idaho
1977-1978	Governor George Airyoshi Hawaii
1976-1977	Governor Jay Hammond Alaska
1975-1976	Governor Mike O'Callaghan Nevada
1974-1975	Governor Mike O'Callaghan Nevada
1973-1974	Governor Bruce King New Mexico
1972-1973	Governor Tom McCall Oregon
1971-1972	Governor Forrest Anderson Montana
1970-1971	Governor Stanley Hathway Wyoming
1969-1970	Governor Calvin Rampton Utah
1968-1969	Governor Daniel Evans Washington
1967-1968	Governor John Burns Hawaii
1966-1967	Governor Tim Babcock Montana
1965-1966	Governor Grant Sawyer Nevada
1964-1965	Governor Mark Hatfield Oregon
1963-1964	Governor Edmund G. Brown California
1962-1963	Governor William Egan Alaska

**STAFF
OF THE
WESTERN OFFICE**

Dan Sprague
Director

Staff Director for Western Governors and Legislative Conferences
Administration and Management of Western Office Program,
Personnel and Publications

John Thorson
Associate Director
Staff Attorney

Staff Director for Attorneys General
Energy and Minerals Development Committee
Public Lands Committee
Clean Air Project

Leah Brumer
Associate Director

Energy Conservation and Renewable Resources Committee
Corrections Committee
Hazardous Materials Committee

Claudia Marselle
Associate Director

Water Policy Committee
Transportation Committee

Jan Leno
Research Associate

Barbara Perdue
Executive Assistant
Coordinator, Annual Meetings

Cheryl Schweitzer
Gwon Zwahlen

Conference, Newsletter and
Office Management Staff

REGIONAL RESPONSIVENESS IN THE '80's

WESTERN OFFICE

165 Post Street
Fifth Floor
San Francisco, CA 94108
(415) 986-3760



WESTERN CONFERENCE

THE COUNCIL OF STATE GOVERNMENTS

165 POST STREET, 5th FLOOR

SAN FRANCISCO, CALIFORNIA 94108

[415] 986-3760

WESTERN CONFERENCE COMMITTEE MEETING SCHEDULE

SHERATON-PALACE HOTEL
SAN FRANCISCO, CALIFORNIA
APRIL 2-5, 1982

REGISTRATION - Outside French Parlor Room, 2nd Floor:

Times: Friday: 8:00 a.m. - 1:00 p.m.
5:00 p.m. - 6:00 p.m.
Saturday: 8:00 a.m. - 9:30 a.m.
Monday: 7:30 a.m. - 9:00 a.m.

FRIDAY, APRIL 2

Energy & Mineral Development	Parlor D	8:45 a.m. - 11:45 a.m.
Public Lands	Bonanza Room	9:00 a.m. - 5:00 p.m.

FREE FOR LUNCHEON

Energy & Mineral Development	Tour of Chevron Refinery	12:00 Noon - 4:30 p.m.
Corrections	Tour of San Quentin	1:00 p.m. - 5:00 p.m.
Transportation	Tour of BART & MUNI	1:00 p.m. - 5:00 p.m.
Resolutions/Rules Subcommittee	Bonanza Room	5:15 p.m. - 6:15 p.m.

HOSTED RECEPTION

French Parlor	6:00 p.m. - 7:30 p.m.
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SATURDAY, APRIL 3

Executive Committee Breakfast	French Parlor	7:00 a.m. - 9:00 a.m.
Legislative Service Agency Dir.	Parlor E	9:00 a.m. - 12:00 Noon
Public Lands	Parlor G	9:00 a.m. - 12:00 Noon
Energy & Mineral Development	Bonanza Room	9:00 a.m. - 12:00 Noon
Corrections	Parlor D	9:00 a.m. - 5:00 p.m.
Transportation	Parlor C	9:00 a.m. - 5:00 p.m.

HOSTED LUNCHEON - (Speaker -
Frank McCormick, Senior
Economist, Bank of America)

French Parlor	12:15 p.m. - 1:30 p.m.
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SUNDAY, APRIL 4 - NO MEETINGS SCHEDULED

MONDAY, APRIL 5

Energy Conservation	Parlor D	8:30 a.m. - 5:00 p.m.
Hazardous Materials	Sierra Room	9:00 a.m. - 5:00 p.m.
GROUP LUNCHEON	Parlor C	12:00 Noon - 1:00 p.m.

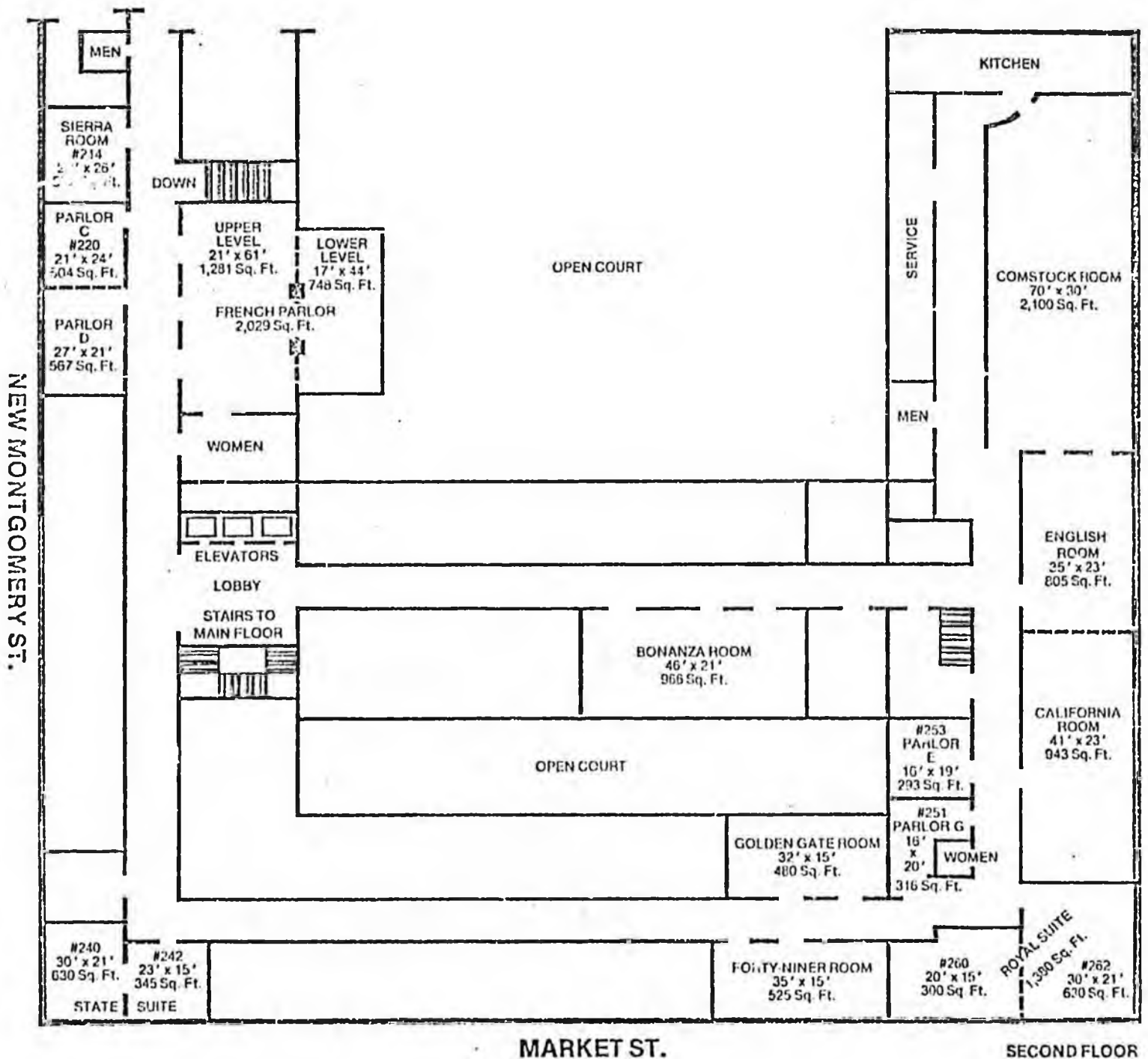
Composed of Legislators, representing the following States:

Alaska • American Samoa • Arizona • California • Colorado • Commonwealth of the Northern Mariana Islands
Guam • Hawaii • Idaho • Montana • Nevada • New Mexico • Oregon • Utah • Washington • Wyoming



Sheraton-Palace Hotel

CONVENTION FACILITIES





WESTERN CONFERENCE

THE COUNCIL OF STATE GOVERNMENTS

165 POST STREET, 5th FLOOR

SAN FRANCISCO, CALIFORNIA 94108

(415) 386-3760

WESTERN CONFERENCE COMMITTEE MEETINGS

Sheraton-Palace Hotel
San Francisco, California
April 2-5, 1982

PRELIMINARY ATTENDANCE LIST

ARIETA, Dave, Chevron, U.S.A., Energy & Mineral, CA
ABEL, Pamela, Energy Conservation, Cheyenne, WY

BACON, Art, (Speaker), Interstate Commerce Commission, San Francisco, CA
BAILEY, Frank H., Executive Director, CSG Headquarters, Lexington, KY
BANGERTER, Senator Jack, Energy Conservation/Executive, Bountiful, UT
BARENGO, Speaker Robert R., Executive, Reno, NV
BARLOW, Senator Haven J., Corrections, Layton, UT
BARR, Michael, (Speaker), Pillsbury Madison & Sutro, San Francisco, CA
BENDIX, Dr. Selina, (Speaker), Bendix Environmental Research, San Francisco, CA
BERRY, Representative Dan C., Executive, Eunice, NM
BIBLE, William A., (Speaker), Legislative Council Bureau, Carson City, NV
BILBRAY, James H., Transportation, Las Vegas, NV
BLACK, Senator Wilford R., Jr., Executive, Salt Lake City, UT
BOWEN, Jack, (Speaker), State Senate Transportation Committee, Olympia, WA
BUDGE, Representative Reed, Transportation, Silver Springs, ID
BURT, Nancy, Legislative, Sacramento, CA

CHATBURN, Representative J. Vard, Hazardous, Alvion, ID
CURTISS, Representative Aubyn A., Public Lands, Fortine, MT

DAILY, Senator O. R. "Bud", Corrections, Rawlins, WY
DONLEY, Representative Russ, Executive, Casper, WY
DOVER, Senator Harold L., Energy Conservation, Lewiston, MT
DOWLING, Diana S., Legislative, Helena, MT

ELIASON, Senator Dick, Energy & Mineral, Juneau, AK
ERIKSON, Robert E., Legislative, Public Lands, NV

FAATZ, Representative Jeanne, Transportation, Denver, CO
FAHRENKAMP, Bettye, Alaska State Senator, Energy & Mineral, Juneau, AK
FISCHER, Victor, Hazardous, Juneau, AK

Comprised of Legislators, representing the following States:

Alaska • American Samoa • Arizona • California • Colorado • Commonwealth of the Northern Mariana Islands
Cuba • Hawaii • Idaho • Montana • Nevada • New Mexico • Oregon • Utah • Washington • Wyoming

Preliminary Attendance List
Western Conference Committee Meetings
April 2-5, 1982
Page 2

GABE, Jeff, (Speaker), Citizens for a Better Environment, San Francisco, CA
GLASER, Senator Norman D., Public Lands/Executive, Halleck, NV
GOLDER, Representative James D., Hazardous, Boise, ID
GOODOVER, Senator Pat, Executive, San Francisco, CA
GRANDIS, Ed, (Speaker), Environmental Policy Institute, Washington, D.C.
GROSE, Andrew P., Legislative Council Bureau, Legislative, Carson City, NV

HARRIS, Richard, (Speaker), New Mexico State Corporation Commission, Santa Fe, NM
HICKEY, Assemblyman Thomas J., Public Lands, North Las Vegas, NV

JACKSON, Betsy, Office of Legislative Research, Salt Lake City, UT
JOHNSON, Representative Dwayne T., Transportation, West Valley City, UT

KEATING, Senator Thomas F., Hazardous, Billing, MT
KRISBERG, Barry, (Speaker), National Council on Crime and Delinquency, Corrections
KOLSTAD, Senator Allen C., Corrections, Chester, MT
KUNASEK, Representative Carl J., Hazardous, Mesa, AZ

LANE, Representative Joe, Public Lands, Phoenix, AZ
LEWIS, Representative C. W. "Bill", Energy & Mineral, Phoenix, AZ
LOMBARD, Representative Kip, Executive, OR
LORY, Representative Earl C., Hazardous, Missoula, MT
LUTU, Paasuka, Legislative Office, AS

MARKS, Representative Robert L., Executive, Clancy, MT
MARTIN, Hank (Speaker), California Manufacturers' Association, Sacramento, CA
MARTINEX, Senator Alex G., Executive, Santa Fe, NM
MATHESON, Senator Ivan M., Public Lands, Cedar City, NV
MATTEUCCI, Judy, Legislative Council Bureau, Corrections, Carson City, NV
MENAHAN, Representative William, Corrections, Anaconda, MT
MERRILL, Senator Israel, Energy & Mineral, Blackfoot, ID
MOORE, Jeanne, Chevron, U.S.A., San Francisco, CA
MORGAN, Senator Jack M., Energy & Mineral, Farmington, NM
MOWDAY, David, (Speaker), U. S. Environmental Protection Agency, San Francisco, CA

McDERMOTT, Representative Patricia L., Corrections, Pocatello, ID

NELSON, Roger, (Speaker), Utah International, San Francisco, CA
NICHOLS, Senator Milt, Energy Conservation, Cheyenne, WY
NEELSON, Melissa, (Speaker), Office of Surface Mining, Washington, D.C.

OTLEY, Patricia, Burlington - Northern, Inc., Seattle, WA

Preliminary Attendance List
Western Conference Committee Meetings
April 2-5, 1982
Page 3

PALMER, Arthur J., Legislative, Carson City, NV
PARKS, Representative Raymond, Energy & Mineral, Elackfoot, ID
PERDUE, Carl H., Castle & Cooke, Inc., San Francisco, CA
PETERSON, Senator Cary G., Executive, Nephi, UT
POPE, Carl, (Speaker), Sierra Club, San Francisco, CA
PRICE, Assemblyman Bob, Transportation, North Las Vegas, NV

RAWSON, Representative Roger, Energy Conservation, Hooper, UT
RILEY, Thomas W., (Speaker), P.G. & E., San Francisco, CA
RISCH, Senator Jim, Executive, Boise, ID
ROBERTSTON, Richard, (Speaker), Planning & Policy Development, Washington, D.C.

SAURENMAN, John, (Speaker), Department of Justice, Los Angeles, CA
SCHMIDT, Deborah, Environmental Quality Council, Energy Conservation, Helena, MT
SCHOFIELD, Assemblyman Jim, Hazardous, Las Vegas, NV
SCOTT, Edward, (Speaker), Chevron, U.S.A., Concord, CA
SESSIONS, Representative John C., Transportation, Driggs, ID
SHELTON, David, (Speaker), Mine Land Reclamation Division, Denver, CO
SHOEMAKER, Representative Robert N., Corrections, Denver, CO
SIEGAL, Sara, U. S. Environmental Protection Agency, San Francisco, CA
SIMONS, Representative Marlene, Public Lands, Beulah, WY
SLOSKY, Leonard, (Speaker), Governor's Office, Denver, CO
SOSNAMAN, Representative James J., Executive, Phoenix, AZ
STEPHENS, Senator Stan, Corrections, Havre, MT
STEVENS, Jan, (Speaker), Office of Attorney General, Sacramento, CA
STODDARD, Kent, (Speaker), State Office of Appropriate Technology, Sacramento, CA
STRAND, Representative Ann, Hazardous, Rock Springs, WY
STRATTEN, Representative Hal, Energy Conservation, Albuquerque, NM
STRAUS, David, (Speaker), Interaction Associates, San Francisco, CA
STRONG, Richard, Transportation, Salt Lake City, UT

THOMAS, Ralph E., Legislative Service Office, Legislative, Cheyenne, WY
TROWBRIDGE, Representative Tom, Corrections, Encampment, WY

VALDES, Martha, (Speaker), Assembly Committee on Consumer Protection & Toxic
Materials, Sacramento, CA
VERGIELS, Representative John M., Corrections, Las Vegas, NV
VINICH, Representative John, Energy Conservation, Hudson, WY

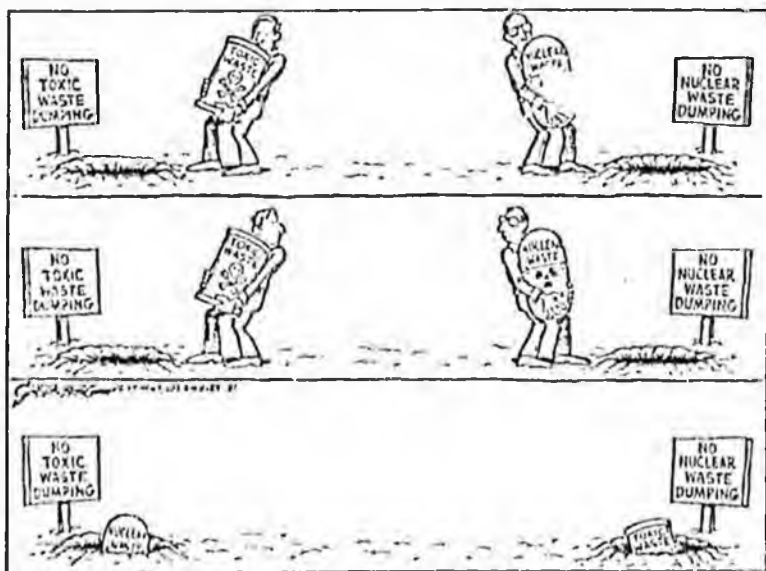
WAGNER, Senator Sue, Corrections, Reno, NV
WARD, Jerry, (Speaker), Motor Vehicle Department, Phoenix, AZ
WALLIS, Representative Dick, Energy & Mineral, Gillette, WY
WEINER, Peter, (Speaker), Governor's Office, Sacramento, CA
WHALLON, Representative Glen, (Speaker), Transportation, Milwaukie, OR
WILSON, Leonard V., Council of State Governments, Waitsfield, VT

ZIEGLER, Senator Robert H., Sr., Executive, Juneau, AK

Toxic chemicals: How much does the public need to know?

By HAL RUBIN

For more than half a century, polychlorinated biphenyl (PCB) has been used commercially to insulate and to retard fires in electrical transformers as well as for other purposes. Some workers exposed to PCB developed skin ailments and other physical problems. But not until the past decade has refined testing provided evidence that PCB causes cancer. In 1976, after numerous leaks and spills had occurred, the manufacture of PCB was banned by the federal Environmental Protection Agency.



Recently the Assembly Committee on Consumer Protection and Toxic Materials held hearings on a bill requiring that utility poles still having PCB-loaded components be marked with eye-level reflective bands. Firemen supported the bill because it would help them and nearby residents to avoid PCB exposure during power line fires or other emergencies. Utility spokesmen opposed the bill, saying there already were yellow squares marking the dangerous capacitors and transformers.

The bill never got out of committee, but the debate revealed one of the thorny aspects of the toxic-chemical issue: How much does the public need to know? It's no secret that industry uses 60,000 to 70,000 chemical compounds, many of them petroleum-derived synthetics developed since World War II. About 5,000 state businesses annually generate more than 5 million tons of hazardous wastes as by-products of production. In addition, about 300 million pounds of pesticides, herbicides and fungicides are applied annually to California agricultural fields. But what does all of that mean to the public welfare?

The need to know is only one of the complex issues con-

Hal Ruben is a free-lance writer in Sacramento and a frequent contributor to the Journal.

fronting both the industries which produce the hazardous wastes and the government which must decide how to protect the public. The Brown Administration has given toxic-waste problems high priority in recent years, and the Legislature has passed a stream of bills dealing with disposal and transportation of dangerous materials. (See box.) But these questions still await answers:

- Do the laws guarantee greater public safety? Not necessarily, said a state auditor general's report in October. The auditor general charged that the state Department of Health Services' four-year-old control program for toxic wastes has failed because of inefficiency and lack of enforcement. State health chief Beverlee Myers agreed with the criticism and promised that a departmental reorganization would improve enforcement. She said funding and manpower shortages were the chief problems.

- Who is responsible for paying the costs of toxic-waste cleanup? Should it be the businesses and industries that produce the waste or the government that requires the cleanup? In a recent out-of-court settlement of a \$45 million lawsuit filed by the state, Occidental Chemical Company agreed to pump contaminated ground water from its Lathrop plant — water that contains dangerous levels of agricultural chemicals such as DBCP and EDP — and to treat the extracted water in a specially constructed plant on its premises. The state called the settlement a potential "model for the chemical industry." But the high costs of dealing with the state's total toxic-waste problems are bound to be the subject of continuing court tests. So far, state investigators have identified 93 hazardous waste sites and expect to find hundreds more. Many will be cleaned up by industry, but abandoned sites will have to be paid for by the state.

- Do state or local governments control toxic-waste decisions? A court test on this issue was avoided last month when West Covina voters rejected a ballot proposition that would have banned all hazardous wastes from the BKK landfill in West Covina — the last state-certified dumpsite for such waste south of the Tehachapi Mountains. The state feared that industries would dump their toxic wastes illegally if voters approved the local ban, and it promised a prompt court challenge if the proposition passed.

Cleanups and inspections

A total of 24 toxic-chemical bills was introduced in the Legislature in the past two years; 15 out of 16 passed in 1980 and three more passed this year. The two most significant laws of 1981 assign the costs of most future cleanup of dumps and spills (SB 618) and of new inspections of vehicles carrying hazardous materials (AB 1012) to the businesses involved — a policy that pleases the Brown Administration and is generally accepted by the chemical industry.

"People responsible for wastes are paying for the program — that is the principle to pursue," says Ken Finney, the governor's assistant on toxic substances.

In October Governor Brown signed a controversial executive order which effectively reversed how California handles its policy on toxic waste. In the past, the state has relied on "secure" landfill for waste disposal — that is,

Major toxic-substance legislation and executive orders, 1980-81

1980

Occupational safety and health

SB 1874 (Nejedly) — Gives workers the right to know the hazards they face from exposure to chemicals on the job. Requires manufacturers to inform employers and requires employers to train workers on acute and chronic health risks. Adds 11 industrial hygienists to inspect workplaces; funds expanded occupational health epidemiology.

Response system

SB 183 (Nejedly) — Establishes a statewide emergency response program system for toxic spills, including a training program for local police and fire personnel.

Transportation

AB 2747 (Wray); AB 2140 (Torres); SB 1903 (Marks) — Tightens regulation of hazardous-waste transportation, including nuclear fuel shipments.

Liability

SB 1465 (Garamendi); AB 3132 (Egeland); AB 2823 (Berman) — Establishes new civil and criminal penalties for illegal hazardous-waste disposal.

Enforcement powers

AB 2700 (McCarthy); AB 2408 (Tanner); AB 2691 (Tucker); AB 2362 (Gage) — Expands state and local enforcement powers; doubles state inspection and monitoring activities to combat illegal disposal practices.

Construction bans

SB 1499 (Presley); AB 2370 (Filante) — Prevents construction on properties contaminated by hazardous wastes; provides for identification, evaluation and treatment of abandoned hazardous-waste sites.

Fees

SB 1466, SB 1477 (Garamendi) — Establishes fees for hazardous-waste dischargers.

New programs

Authorizes the Office of Appropriate Technology to investigate alternatives to land-based waste disposal and to develop new regulations for airborne carcinogens.

Coordination

By executive order, Governor Brown created the Toxic Substances Coordination Council to eliminate duplication and inconsistencies in state programs regulating toxic substances.

1981

Superfund

SB 618 (Carpenter) — Imposes industry fees to help finance cleanup of abandoned dumps and toxic spills; compensates victims of toxic exposure for medical expenses; funds research into new technology at the University of California.

Vehicle inspections

AB 1012 (McCarthy) — Establishes California Highway Patrol program of terminals and inspections for vehicles transporting hazardous materials.

Statute of limitations

SB 802 (Garamendi) — Extends statute of limitations for illegal dumping of toxic wastes from one year from date of disposal to three years from the discovery of the dumping.

Landfill phaseout

By executive order, Governor Brown directed phaseout of landfilling for six categories of toxic wastes and the substitution of alternative technologies for treatment and disposal. A new Division of Toxic Substances in the state Department of Health Services also was set up to be directed by Robert D. Stephens, former chief of the department's materials laboratory in Berkeley.

burying poisonous and dangerous chemical garbage in the established dumping sites. But landfill locations are filling rapidly, and no local agencies are volunteering to provide new dump sites. Brown's executive order begins the phase-out (in 1983) of land disposal for six highly toxic and persistent wastes, including PCBs, cyanides and toxic metals, among others. Alternative methods of disposal are mandated — but finding those methods in time to replace landfills will be costly and technically difficult.

Bob Judd, director of the Office of Appropriate Technology (OAT), had a key role in formulating the governor's new policy. "To my knowledge there never has been a 'secure' landfill," Judd says. "Some are more secure than others. California's Love Canal — the Stringfellow Quarry Class I site near Riverside — is now shut down. For three years it has been leaking acids and other pesticides. A multi-million dollar cleanup is necessary."

Under the old strategy, toxic wastes were controlled only by specifying where they had to go. Highly toxic materials were limited to Class I sites, of which there were 11 through the state. But in the past two years, four of those sites have been closed down and because of local opposition, no new Class I dumps have been added for seven years.

Producers and shippers of wastes are already required to submit a manifest (a ticket) to the Department of Health Services indicating what kind of wastes they have and what they do with them. The system works reasonably well with companies which play by the rules, but "midnight dumpers" easily ignore the manifests and there aren't enough enforcement officers to hamper their operations.

Another problem: 60 to 70 percent of the toxic wastes produced never leave the site where they are generated. Until recently, the Department of Health Services had to rely on an honor system with companies using on-site disposal. The department expects to gain on-site inspection power with its reorganization and new legislation. (One of the on-site disposals — at the Aerojet-General Corporation near Sacramento — is included in the EPA list of the most dangerous chemical waste deposits in the nation. The state is suing Aerojet for negligently polluting the water supply in the area with a variety of toxic compounds.)

What are the alternatives to landfill? OAT Director Judd says that in Holland and Scandinavia, land disposal is forbidden and advanced techniques of treatment and disposal are used. (Some of the techniques have already been adopted in New York and Louisiana.) "About 75 percent of the highly toxic wastes that now go to landfill can be better treated in other ways," Judd says. The OAT plan is to encourage construction of privately owned facilities that use chemical or biological techniques. Other alternatives include high-temperature incineration, recycling, reduction of the amount of toxics produced, and interim encapsulation and surface storage until the needed technology is developed.

Kent Stoddard, director of OAT's Toxic Waste Assessment Program, concedes that the siting of new facilities is not going to be easy. "Nobody wants to be the dumping ground for hazardous materials," he says. "It is understandable why West Covina doesn't want to become a dumping ground for all of Southern California." Stoddard favors a system of small, specialized facilities close to the generating sources — facilities that would not represent any greater danger than the plant that produces the waste. If reasonable liability provisions are added, local communities could be won over, he believes.

Bryant Fischback, who participated in the OAT study, is the chairman of the toxic substance subcommittee of the Chemical Industry Council of California. He has reservations about the feasibility of life without landfills. "There should be a trend toward alternatives to landfill," he con-

cedes. "That's a good direction, but we (the industry) have to be careful that we are not mandated into how we make our business decisions — unless there is a clear public health or environmental problem associated with how we run our business." Fischback still sees a need for landfill sites, and he worries that the state may try to dictate which of the alternative treatment methods a company should use. In addition, the six categories of toxic materials to be banned from landfill are too inclusive, Fischback asserts.

The Chemical Manufacturers Association (CMA) considers the need for new landfill sites to be so critical that it advocates permanent state landfill-siting approval boards, with local representation, that have the authority to override local zoning regulations. Fischback prefers local control "unless local authorities are unwilling or unable to address the siting issue."

Answering public concern

Others in the industry are not convinced that alternative methods can be put on-line in time for the phasing out of six categories of highly hazardous wastes by 1983. But Stoddard of OAT feels public opinion will support alternative handling of toxic wastes and reject new dumping sites: "Polls show we are more likely to be allowed to site a sophisticated treatment facility before we can site a new landfill, so we feel we are on a much faster track going after better treatment facilities."

The state still has to make some basic decisions about how

it will respond to public concern over possible correlations between toxic chemicals and health problems.

David Roe, regional counsel for the Environmental Defense Fund, has urged the governor to help clear up public confusion about the toxics issue. He wants the state government's theme to be, "We may not know everything, but what we know, you and the public are entitled to know." But chemical-industry officials are genuinely troubled about the prospect of having to divulge what they know to government agencies and the public. For practical reasons they are reluctant to divulge details about their products; trade secrets are jealously guarded. They also doubt that the effects of toxic chemicals, involving the technical subjects of toxicology and epidemiology, can be understood by a lay person. To reassure the public, they are investing in media campaigns that stress their companies' expertise and concern for public safety. The chemical industry also relies on the theme that everything in life involves risk; in exchange for the good things in life from modern chemistry, a statistically negligible risk is acceptable.

Reviewing the past two years and looking ahead, OAT Director Judd concedes that government is moving into ever more sensitive areas. "I don't see how any new administration can sidestep dealing with the toxics issue," he says. "What has been put in place as the first step is enormously important."

(For additional information, see "Toxic-chemical storm over California," *CJ*, December 1979.)

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Only the *California Journal* has published a detailed, low-cost booklet describing all 165 of the proposed legislative and congressional districts for next year's elections — complete with nine maps. This 16-page Reapportionment 1981 special report was published in the November issue of the *Journal* but is now available as a separate item at the following prices: 50 or more copies, 50 cents each; 10-49 copies, 75 cents each; two to 9 copies, 95 cents each; single copy, \$1.25.

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ENVIRONMENTAL PROTECTION PROGRAMS

The President's FY 1983 request for the U.S. Environmental Protection Agency (EPA) is \$3.6 billion which represents a 2.3% decrease from FY 1982 and a 32% decrease from FY 1981 levels. Research and development activities will decrease by 30% from FY 1982 and by 45% from FY 1981. A significant decrease in FY 1983 is proposed for federal abatement, control and compliance activities which would result in a total cut from FY 1982 of 17% and from FY 1981 of 33%. Grants to states and local governments for air, water and land pollution control programs would total \$182 million, down 23% from FY 1982 and 33% from FY 1981. The Administration has requested a supplemental appropriation of \$2.4 billion for FY 1982 to cover promised funding of the wastewater treatment construction grants program. An FY 1983 request of \$230 million for "Superfund" represents a \$40 million increase over FY 1982 levels.

Under the President's proposal, state and local governments would no longer receive funding for the following programs: Clean Lakes, Arcwide Water Quality Management Planning (Sec. 208), Solid Waste Management, Resource Recovery, Noise Control and Toxics Enforcement. EPA will instead encourage states to assume more responsibility for environmental programs and expedite regulatory reform efforts to reduce the burden on the regulated community, state and local governments.

FY 1983 Budget Proposal:

EPA Budget (in millions)	FY 1981	FY 1982	FY 1983
State Grants for			
Pollution Abatement:			
Air Pollution	87.7	87.7	70.0
Hazardous Waste	26.5	41.0	35.1
Safe Drinking Water:			
Public Systems			
Supervision	29.5	29.5	23.6
Underground Injection			
Control	6.6	6.6	5.5
Water Quality Management			
(Sec 106)	51.2	51.2	40.8
Pesticide Enforcement			
Grants	8.0	8.7	6.9
Superfund	40.3	190.0	230.0
Wastewater Treatment			
Construction Grants	3,900.2	2,400.0*	2,400.0

* Supplemental appropriation pending in Congress.

Source: The Proposed FY 1983 Federal Budget - Impact on the States

NGA / NESL

Impact on the States: The Administration's proposal to significantly reduce state grants for pollution control may hamper some states' efforts to meet compliance deadlines established by federal law. It should be noted, however, that mandates and compliance deadlines under the Clean Water Act and Clean Air Act are subject to congressional reauthorization this year. With fewer federal resources devoted to research and development and enforcement, states may anticipate receiving less technical assistance from EPA. On the other hand, EPA will work to streamline existing state program requirements aimed at reducing state administrative costs. While a significant increase in "Superfund" expenditures is forecast, the clean-up of abandoned hazardous waste sites may be hindered by EPA projections that only 19 remedial site clean-ups will be completed by the end of FY 1983.

NATURAL RESOURCES PROGRAMS

The Administration has identified the small state discretionary grant programs used for resource management as low priority and, therefore, does not request FY 1983 funding. The programs eliminated which were provided funds in the past include:

- water resources planning and management (Water Resources Council);
- coastal zone management state grants;
- urban park improvement and acquisition;
- historic preservation; and
- state park land acquisition (Land and Water Conservation Fund).

The Administration feels that these programs should be at the prerogative of state and local governments where priorities can be determined by the willingness of taxpayers and the private sector to finance such activities. Planning and construction financed at the local level will also result in more cost-effective solutions to land and water resource problems. Budget authority in FY 1981 for these eliminated programs was \$248 million.

FY 1983 Budget Proposal: The Administration's budget would increase direct federal expenditures for western water projects funded by the Department of the Interior. The Administration will recommend funding new project construction after adoption of new financing and cost-sharing guidelines to shift the costs of such projects from the federal government to the direct beneficiaries. State grants for surface mining reclamation and enforcement activities are increased by \$9 million in outlays from FY 1982 levels.

The budget continues to emphasize user charges and fee systems as a potential federal revenue source, e.g., increased user fees for

national parks, recreation areas, historic sites, wild and scenic rivers, fish hatcheries and wildlife refuges. The FY 1983 budget reiterates the 1982 theme that user charges be employed to support deep draft harbors and channels as well as inland waterways.

Impact on the States: Many states were dependent upon the funds to assist them in resource management activities. Without this federal assistance, some states will have to abandon these activities or seek alternative funding sources.

ENVIRONMENTAL HEALTH

EPA BUDGET BLUES - Senate Environment marks up its recommendations on the Environmental Protection Agency's fiscal year 1983 budget this week, while on the House side, Science's natural resources subcommittee continues spotlighting EPA's research and development funding proposals.

Environment's recommendations to the Budget Committee will be drawn up at sessions on Wednesday, March 3, Thursday, March 4, and, if necessary, on Friday, March 5. All meetings are at 10 a.m. in 4200 Dirksen.

The committee recommendations will cover the Nuclear Regulatory Commission, Fish & Wildlife Service, water resources and other programs, as well as EPA. (See related stories in this issue.)

Science's hearings resume on Tuesday, March 2, at 2 p.m. in 2325 Rayburn, and on Thursday, March 4, at 2 p.m. in 2318 Rayburn.

Senators' Concerns: Environment members' reactions to the Reagan administration's proposed \$961 million budget for EPA ranged from Sen. Gary Hart's (D-Colo.) suggestion to beef the budget up to 1981 levels to Sen. Steve Symms' (R-Idaho) contention that an additional \$130 million or more "ought to be cut out."

Given members' stated concerns about possible effects of the proposed cuts on enforcement, water and air quality programs, toxic substances control and research, as well as their doubts about states' capability to shoulder the programs, Environment is unlikely to endorse the administration's fiscal 1983 numbers.

One strong possibility is that the committee will opt to keep EPA at its current FY 1982 level of \$1.1 billion for operating programs, plus funding for the "Superfund" and sewer construction grant accounts.

EPA's Reply: EPA Administrator Anne M. Gorsuch reiterated before the committee last week the administration's belief that by improving

management, spending money only on efforts required by statute and delegating programs to states "as Congress intended," EPA can do a good job with less money.

The "vast majority" of the environmental legislation EPA is charged with carrying out is not "new," Gorsuch said, nor has the agency's workload just now doubled. "Enormous investments" made in environmental programs in the past several years are allowing EPA now to fully implement those efforts with reduced amounts of money, she said.

Part of this investment has gone to states, Gorsuch said, preparing them to take on more program responsibilities.

But Sen. Jennings Randolph (D-W.Va.) questioned the use of this delegation approach when it is accompanied by sharp cuts in grants to the states. "It seem inconsistent to ask the states to shoulder more of the regulatory burden and at the same time reduce the assistance necessary for them to carry out this responsibility."

Science Hearings: The adequacy of EPA's budget for health effects research to support the agency's standard-setting activities is the main topic of the natural resources subcommittee's March 2 hearing. Witnesses include former Occupational Safety and Health Administration official Morton Corn, now with Johns Hopkins University, and representatives of several research institutes.

On March 4, EPA's Gorsuch and other agency officials testify.

At hearings last week, former Council on Environmental Quality Chairman Russell W. Peterson urged a tripling of the EPA R&D budget to bring it back up to the 1979 funding level. He charged that the agency is inconsistent in arguing that it lacks scientific basis for environmental regulation -- such as to control acid rain -- while it eliminates the means to develop the needed data.

Former EPA research official

Richard M. Dowd told the subcommittee that federal environmental research becomes more important as additional regulatory responsibilities are placed on the states. Generally, he noted, states fund "very little research," an observation backed by Peterson, who also is a former Delaware governor.

General Mills, Inc. Vice President J. William Haun said Congress should consider legislation to define more clearly the role and objectives of an EPA R&D program, which now "is somewhat of a mystery to many of us in industry."

Also, because many companies are working on pollution control technology, Haun said, EPA should not duplicate those research and demonstration activities.

He suggested that EPA set up industry advisory committees to get "direct expert advice" on available pollution control technology, pollution control costs and the "environmental side-effects" of "overly stringent" standards aimed at controlling pollution in a single "medium," such as air.

Senate Environment staff contacts: Jim Davenport, x48212, or Jackie Schafer, x46032, both majority; Phil Cummings, x47543, minority. House Science: Tony Clark, x51121, majority; Maryanne Bach, x55029, minority. -- Rose Jacobius

BUDGET

SENATE ENERGY AGENDA - Little is known about Senate Energy's plans for preparing its budget recommendations other than that the panel will be meeting a lot this week.

Sessions are scheduled to begin at 2 p.m. Tuesday, March 2, in 3110 Dirksen. They continue at 10 a.m. Wednesday, and at 10:30 Thursday in the same room.

Staff say the panel will take up the agencies under its jurisdiction in alphabetical order. The agenda includes: the president's Naval Petroleum Reserves office, the Advisory

Council on Historic Preservation, Alaska Land Use Planning Commission, the Army Corps of Engineers, the Energy Department, the Housing and Urban Development Department's Solar Energy and Energy Conservation Bank, the Interior Department, the Treasury Department, the National Science Foundation, the office of the federal inspector for the Alaska Natural Gas Transportation System and the U.S. Synthetic Fuels Corp.

The committee's tack in preparing budget recommendations will depend heavily on the progress made between Republican and Democratic leaders and the administration in negotiating a compromise national budget proposal. (See related Budget story.)

The committee, in any instance, is not expected to simply accept the president's 1983 program requests. At budget hearings last week, members complained, among other things, about cuts proposed in Energy's fossil fuels and renewable energy budgets and about reports that the administration is overstating receipts expected from the outer continental shelf leasing program.

Energy Democrat Wendell H. Ford (D-Ky.), for one, bluntly warned Energy Secretary James Edwards last week that "your nuclear plans may well die if fossil plans die too. The Clinch River [breeder reactor] program lived last year because the fossil fuel programs lived.... People on this committee understand this."

Energy Chairman James McClure (R-Idaho) differed with Edwards, too, on the basis for the administration's decision to drop conservation and renewable programs. "The basic policy seems to indicate that all energy choices are simply economic as far as our government is concerned," said McClure. But because of the potential for energy supply disruptions and the need to create alternatives, McClure said, "there are reasons for non-economic choices."

Energy contacts: Richard Grundy, majority, x42564; Mike Harvey, minority, x40611.

Controlling Toxic Chemicals

	Authorized FY 81		Actual FY 83 Needs		Reagan/Gorsuch FY 83	
	Permanent Positions	Dollars (000)	Permanent Positions	Dollars (000)	Permanent Positions	Dollars (000)
Research & Development						
Intramural		11,838.3		29,707.7		14,617.2
Extramural		28,673.4		56,520.1		15,295.3
Total	187.1	40,511.7	349.4	86,227.8	171.9	29,912.5
Abatement and Control						
Intramural		20,481.7		44,715.0		17,314.9
Extramural		43,734.8		76,712.5		22,396.0
Total	502.1	64,216.5	991.6	121,427.5	401.1	39,710.9
Enforcement						
Intramural		2,695.1		18,199.3		2,817.3
Extramural		1,480.8		1,936.5		0.0
Total	86.2	4,175.9	427.0	20,135.8	68.8	2,817.3
State Grants						
Total	-	1,000.0	7.1	40,126.7	7.0	0.0
Total Program						
Intramural		35,015.1		92,622.0		34,749.4
Extramural		74,889.0		162,490.1		37,691.3
Grand Total	775.4	109,904.1	1,775.1	255,112.1	641.5	72,440.7

Protecting Water Quality

	Authorized FY 81		Actual FY 83 Needs		Reagan/Gorsuch FY 83	
	Permanent Positions	Dollars (000)	Permanent Positions	Dollars (000)	Permanent Positions	Dollars (000)
Research & Development						
Intramural		25,665.5		31,441.6		19,708.9
Extramural		38,361.8		45,892.7		5,305.0
Total	494.3	64,027.3	511.0	77,334.3	296.3	25,013.9
Abatement and Control						
Intramural		54,174.9		68,092.4		53,572.6
Extramural		70,843.5		49,575.5		37,126.3
Total	1,487.6	125,018.4	1,483.6	117,667.9	1,037.8	90,698.9
Enforcement						
Intramural		24,764.8		55,036.3		19,797.4
Extramural		9,835.9		15,782.6		3,386.8
Total	752.9	34,600.7	1,452.0	70,818.9	492.9	23,184.2
State Grants						
Total	-	96,230.0	-	142,963.7	-	46,080.0
Total Program						
Intramural		104,605.2		154,570.3		97,078.9
Extramural		215,271.2		254,214.5		96,198.1
Grand Total	2,734.8	319,875.4	3,446.6	408,784.8	1,827.0	188,277.0

Ensuring Clean Air

	Authorized FY 81		Actual FY 83 Needs		Reagan/Gorsuch FY 83	
	Permanent Positions	Dollars (000)	Permanent Positions	Dollars (000)	Permanent Positions	Dollars (000)
Research & Development						
Intramural		28,855.6		39,335.0		24,134.7
Extramural		45,587.7		69,745.0		26,253.0
Total	451.8	74,443.3	501.6	109,080.0	308.5	50,387.7
Abatement and Control						
Intramural		34,671.7		58,751.0		13,703.6
Extramural		27,208.8		33,127.7		15,930.6
Total	890.6	61,880.7	1,357.9	91,878.7	701.2	47,634.2
Enforcement						
Intramural		18,045.3		34,349.0		13,563.5
Extramural		13,663.0		18,145.7		6,915.6
Total	9.4	31,708.3	904.3	52,494.7	345.3	20,479.1
State Grants						
Total		87,673.0		173,434.8		78,987.8
Total Program						
Intramural		81,572.0		132,435.0		69,401.8
Extramural		174,132.5		294,453.2		128,087.0
Grand Total	1,931.8	255,705.1	2,763.8	426,888.2	1,355.0	197,488.8

Protecting Against Pesticides

	Authorized FY 81		Actual FY 83 Needs		Reagan/Gorsuch FY 83	
	Permanent Positions	Dollars (000)	Permanent Positions	Dollars (000)	Permanent Positions	Dollars (000)
Research & Development						
Intramural		6,136.4		6,445.3		3,983.2
Extramural		3,897.7		4,510.5		1,987.2
Total	114.1	10,034.1	114.1	10,955.8	67.0	5,970.4
Abatement and Control						
Intramural		22,275.3		37,713.8		20,903.0
Extramural		28,260.6		46,891.0		11,570.7
Total	673.2	50,285.7	937.8	84,604.8	505.7	32,473.7
Enforcement						
Intramural		3,907.8		5,840.8		3,212.8
Extramural		111.6		2,180.8		45.3
Total	121.4	4,019.4	169.3	8,021.6	96.6	3,258.1
State Grants						
Intramural		433.8		455.0		
Extramural		10,920.0		12,636.8		
Total	16.1	11,353.8	16.1	13,091.8		8,918.4
Total Program						
Intramural		32,753.3		50,454.9		28,099.0
Extramural		43,189.9		66,219.1		22,571.0
Grand Total	924.9	75,943.2	1,237.3	116,674.0	669.8	50,620.3

Reagan's Environmental Federalism— Are the States Up to the Challenge?

The Administration wants the states to pick up a greater share of the enforcement burden with less federal help, but critics argue that they already lack the capacity.

BY LAWRENCE MOSHER

After a year in office, the Reagan Administration has launched a profound shift in power from Washington to the state capitals that will dramatically alter how environmental programs are carried out in the future.

Proponents of these changes promise that they will lead to a more efficient system of environmental protection at much less cost. But critics warn that the Reaganites are ruthlessly destroying the federal environmental machinery with no guarantees that the states can or will pick up the pieces.

Regardless of who are right, it's now clear that by this summer, the Administration's new environmental policy direction will become almost impossible to reverse, at least through most of this decade. In that respect, President Reagan's New Federalism doctrine could be described as the great environmental gamble of the 1980s.

The federalism concept has always been a key part of the nation's environmental protection system. Under the major federal statutes dealing with air, water, solid and hazardous wastes and surface mining, the states have the option of running their own programs with federal assistance.

So far, the states have varied considerably in their willingness to administer these programs. The determining factors have been local industry pressures, public support of environmental protection and the attitudes of the bureaucrats at the Environmental Protection Agency (EPA), and the Interior Department.

State environmental officials have long complained about what they considered to be an overbearing and unnecessary federal presence that signified a lack of confidence in their capacity to administer environmental affairs. During the Carter

Administration, when many environmentalists held federal positions, federal-state relations grew even thornier.

The federalism tug of wars of the past decade now appear to be over. The reasons are not only the Administration's New Federalism but also its now apparent determination to dismantle EPA as the nation's primary environmental protection institution.

Not only have the Reaganites wrought a sea change in that agency's bureaucratic attitudes, but they have also induced an institutional shrinkage through budget cuts and a strikingly high attrition rate that could significantly diminish the agency's potency by the end of this year. Ready or not, the states and cities may soon have to administer and pay for the major environmental programs because the EPA of the 1970s will no longer be around. (See *NJ*, 10/24/81, p. 1899.)

Although such White House staffers as Rich Williamson, the President's intergovernmental assistant, refer to the New Federalism as "the quiet revolution," that label may soon be drowned out by the din of institutional complaints now beginning to resound across the land.

"We are groping our way down a dark passageway and hoping it will turn out all right," Utah Gov. Scott M. Matheson admitted in an interview. Matheson is a member of the Presidential Advisory Committee on Federalism and is chairman of the National Governors' Association's water management subcommittee.

"We don't want to just balance the federal budget," Matheson said. "We have to balance the federal system, too. I'm a great believer in the federalism concept. But the problem is that from the moment the President, there is no agreement on what federalism means."

State officials are keenly aware of the potential collision between Reagan's New

Federalism and the public's demand for a clean environment. Matheson, for one, is concerned that unless the states are helped with sufficient funds, statutory changes and regulatory reforms, they will not be able to handle their added environmental responsibilities.

Interior Secretary James G. Watt is more optimistic, predicting that the states will "rise to the challenge." Watt has assumed a leadership role in this area as chairman of the Advisory Commission on Intergovernmental Relations and an active member of the Presidential Advisory Committee on Federalism.

"The many new responsibilities thrust upon the federal government in the past two decades have exceeded the capability of the federal system to handle them," Watt told the House Government Operations Subcommittee on Intergovernmental Relations and Human Resources on Oct. 6. "Large amounts of money have been thrown at problems simply in the hopes of achieving some benefits."

Watt believes the environmental area is particularly ripe for a major shift in responsibility to the states, where he says the job can be done at less cost and with more public accountability.

"The states have been suffering from their years of relative neglect in the federal system," he said. He predicted that higher user fees and greater cost sharing would "diminish the demands for federal involvement" in many programs.

MORE FOR LESS?

That may or may not be true. But in the meantime, state and city officials are afraid of being saddled with more environmental responsibilities while receiving less money to discharge them.

So far, with the exception of sewage treatment construction grants, there have been no cuts in the federal aid EPA gives to the states that carry out their own

environmental programs. But the federal free ride is about to end. For fiscal 1983, state grants face a sizable slash.

Late last year, Congress gave the Administration most of what it sought by way of reducing the federal role in building municipal sewage treatment systems. By 1985, the federal share will have shrunk from 75 per cent of the cost to 55 per cent as funds are restricted by a narrower definition of water quality benefits.

State grants for other environmental programs, however, remain at \$87 million for the current fiscal year, which comes to 7.3 per cent of EPA's \$1.19 billion budget for fiscal 1982. How much less the Administration will seek for 1983 is still not clear.

EPA administrator Anne M. Gorsuch did not succeed in staving off a significant cut in state grants proposed by the Office of Management and Budget (OMB) for 1983, according to agency sources. Last September, Gorsuch suggested cutting EPA's over-all 1983 spending by 18 per cent, but OMB reportedly pressed for a 34 per cent reduction. After a meeting with Reagan, a compromise was reportedly reached that came closer to Gorsuch's figure. Either way, however, the agency faces continued budgetary attacks of massive proportions.

"We're not going to zero out state grants," Joseph A. Cannon, EPA's acting associate administrator for policy and resource management, said in an interview. "We're doing everything we can to minimize the impact of the budget reductions. But I admit these cuts are still perceived to be a problem by the states."

Cannon was responding in particular to the recent comments of John Anderson, Connecticut's deputy commissioner of environmental protection. Anderson said if the states do not get the funds they need, the Administration's New Federalism will fail.

"We simply don't have the resources to pick up the slack when federal grants are cut," he said. "If the federal government is thinking of turning over more programs to the states without funding, they will find the states are already spread too thin."

A case in point is Iowa. Its 1982 environmental budget is 15 per cent less than last year's outlay of \$2.6 million.

The reduction forced the state to drop its municipal water monitoring program under the 1974 Safe Drinking Water Act.

Iowa had started the program in 1977. When it cut its funds for the program, that triggered the loss of a matching federal grant. And when the state then withdrew, EPA had to take back the job of monitoring Iowa's drinking water. But the federal agency is performing only about 15 per cent of the inspection work the state had been doing, according to J. Edward Brown, Iowa's water quality director.

"We are now concerned that EPA is not doing as good a job as the state did,"



Ready or not, the states and cities may soon have to administer and pay for the major environmental programs because the EPA of the 1970s will no longer be around.

Brown said. "Also, if there is a problem, the state regulatory process is closer at hand to deal with."

Enforcement through lawsuits is another area where the states may not be able to fill what is perceived to be a growing federal vacuum.

"Any cutback in EPA as a viable organization hurts us," said Dennis Abrams, West Virginia's deputy attorney general. "Threatening EPA lawsuits is how we mostly get voluntary compliance. We don't have the resources to conduct special investigations. Our hands are totally tied."

EPA's enforcement director, William

A. Sullivan, says he has kept his staff at about 90 lawyers. But he disclosed in an interview that he will be placing greater emphasis on negotiating settlements with pollution offenders before resorting to the courts.

Under EPA's administrative reorganization last year, most enforcement activities were taken from one office and assigned to the agency's various concerns—air, water, wastes and toxics. Sullivan said one of his top goals is to "improve the quality of the cases brought forward." He faulted the previous Administrations for not providing the Justice Department with sufficient case information and for lax supervision of EPA's own lawyers. He said no time records had ever been kept on cases prepared by EPA's attorneys.

In a Dec. 29 memorandum to the agency's 10 regional administrators, Sullivan directed priority attention to emergency pollution problems such as unsafe hazardous waste sites subject to cleanup under the new superfund statute. He also ordered a speed-up in case management, giving regional offices 30 days to issue violation notices and his own staff two weeks to determine whether to refer cases to the Justice Department for litigation.

But EPA will be looking more to the states for general enforcement. "We need to eliminate the race to the courthouse with the states," Sullivan said, "which means we will not file automatically but will carve up the action with the states. And this will vary dramatically."

The quality of EPA's legal staff, however, also may vary. "We are seeing the cream of experienced, skilled, mature people leaving," said William

Drayton Jr., EPA's assistant administrator for planning and management during the Carter Administration.

"These people have been there since the Nixon and Ford Administrations, and are now bailing out. Without them, the current industry challenge will leave a snarl of bad precedents."

EPA CUTBACKS

Drayton, now a private consultant in Washington, organized a Save EPA Committee last fall to protest the Reagan budgetary cutbacks. Drayton now contends that the Administration is skirting legality by attempting to implement still

unannounced 1983 staff reduction plans before Congress has the opportunity to debate and approve the budget.

"By June, the Reagan Administration will have driven out, fired or demoted roughly 80 per cent of EPA's headquarters civil servants," Drayton charged in a Jan. 2 committee memorandum. "Any manager knows what this means—the organization's effective end."

Drayton said in an interview that EPA will begin to fire 800 to 1,500 of its Washington staff in March to achieve a total staff reduction to 8,112 permanent, full-time employees before the current fiscal year ends on Sept. 30. This is the level of agency staffing the President will request for fiscal 1983, Drayton said, and would amount to a cut of 3,295 employees from the actual 1981 level of 11,407.

How many firings actually take place will depend on the number of staffers who quit. Since the beginning of Reagan's term, EPA's attrition rate has averaged 2.7 per cent a month, according to Drayton. The net staff decline after figuring hirings comes to 1.7 per cent a month.

Drayton estimates that out of EPA's headquarters staff of 5,298 who were there at the beginning of the Reagan Administration, only about 1,000 will not have quit, been fired or "bumped" to a lesser job by June. He said the Administration itself estimates that for every two persons fired, three others get downgraded, shifted from permanent to temporary status or shifted involuntarily to a less desirable job that doesn't fit their skills or interests.

"Anger, divisiveness, fear and institutional paralysis unavoidably flow from such losses and bumping," Drayton said. "Imagine the impact on the agency's capacity to get its complex, technical work done at all, let alone competently."

John P. Horton, EPA's assistant administrator for administration, has admitted that the new reorganization would take the agency below its 1982 authorized personnel level. But he justified this on the basis that the staff reductions are "in the direction this Administration wants to go."

Horton disputes Drayton's assertion that he and Gorsuch are attempting to reach the agency's fiscal 1983 staff level by this summer. He acknowledged, however, that at least 400 persons would be fired by late spring and did not rule out the possibility that as many as 800 could be discharged.

"A lot of what we are doing should have been done years ago," Horton said. He rejected environmentalist fears that EPA will not be able to discharge its legislative duties because of the successive budget cuts.

A MIXED BAG

If EPA reduces its activities and the states are required to shoulder much of the environmental control burden, the results could be very mixed, to judge by the recent record.

Watt's own western states, for example, have been less than enthusiastic about his major reorganization of Interior's surface mining office. Watt's changes have cut federal enforcement and caused a total rewrite of the federal regulations implementing the 1977 Surface Mining and Reclama-



Utah Gov. Scott M. Matheson: "We're groping our way down a dark passageway and hoping it will turn out all right."

Carter Administration and have been unenthusiastic about making further changes now. But the Appalachian coal states, with many marginal coal operators fighting the added costs, have been receptive to the more flexible rules.

In the last Administration, the surface mining office flanked the programs of eight states: Alabama, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Tennessee and Virginia. Indiana and Virginia then sued Interior, contesting the constitutionality of two regulations. (See *NJ*, 5/30/81, p. 971.)

Although the two states lost their court fight, Watt approved Virginia's resubmit-

ted program last December under the new mining office's streamlined rules and expects to approve Indiana's by the end of January. The other six states are in the process of resubmitting their programs under state court injunctions.

Edward Grandis of the Environmental Policy Center, a Washington lobbying group, called the changes "disheartening" and warned that all the Appalachian states will weaken their programs to "the lowest common denominator, Virginia's." Grandis asserted in an interview that Virginia's new program would result in less public oversight and more reclamation abuses through less specific rules

dealing with the dumping of "spoils," or earth removed from the mining site.

The mining office's deputy director, J. Stephen Griles, counters that the simplified rules more accurately reflect the intent of the statute. "The act intended this to be a true example of federalism," Griles said, "by leaving the details to the states. The previous Administration violated this intent."

Griles said his office will still require "environmentally sound" state programs and will issue violations if the states fail to require proper spoils disposal and contour reclamation. Under the new rules, however, federal cessation orders can be triggered only if there is "imminent danger" to the public health and safety.

In other areas, Watt has taken conflicting actions involving states' rights. In disclaiming federal water rights affecting fish and wildlife, Watt supported the supremacy of western states' water law. He also backed the states in opposing a bill (HR 4230) last November that seeks to extend federal eminent domain authority to coal slurry pipelines.

But in rewriting coal leasing regulations and in his position on oil shale leasing legislation (S 1484), Watt went against the wishes of key western governors by watering down the state role in energy development planning. (See *NJ*, 12/5/81, p. 2144.)

TOXICS AND WATER

At EPA, the status and prospects of the Administration's federalism effort are also mixed. The toxics program is entirely federal, and the 1976 Toxic Substances Control Act provides for no state administration. The agency's pesticides program, however, has been fully delegated for three years. Under the 1972



EPA official Joseph A. Cannon: "We're doing everything we can to minimize the impact of the budget reductions."

tion Act to make them more flexible.

Most western coal states had worked hard to obtain conditional approval of their reclamation programs during the

Federal Insecticide, Fungicide and Rodenticide Act, the states enforce labeling rules and evaluate health hazards.

All but six states and the District of Columbia are running their own tap water programs under the 1974 Safe Drinking Water Act. The holdouts are Indiana, Oregon, Pennsylvania, South Dakota and Wyoming, in addition to Iowa, which handed the program back to EPA last year.

Significantly, fear of a future cutoff of federal funds is one of the reasons those states refused to take on the program, according to Marian Mlay, deputy director of EPA's drinking water office.

The statute also regulates underground injections carried out by the oil and gas industry, mining companies and municipalities. In 1980, Congress amended the act to make it easier for states to qualify for administering the oil and gas provisions. So far, only Oklahoma has qualified, although Texas and New Mexico reportedly are close.

EPA's brightest prospects for a successful transition to state control is in the water permit program under the 1972 Federal Water Pollution Control Act. This has been one of the areas of greatest frustration to state environmental officials. After eight years, there are still 23 states and territories that have not elected to take over management of the program.

"Many states complain that the administrative burdens discourage them from assuming responsibility for the program," said Martha G. Prothro, EPA's acting director for water enforcement and permits.

EPA initiated a consolidated permit regulation review last April to simplify the process and cut the costs of state administration. The streamlined version, scheduled for completion by March, should cut the permit processing time by up to 40 per cent, Prothro predicted. She said water permits have taken as long as a year to issue.

"Our regulatory programs have been too fat," Bruce R. Barrett, EPA's acting assistant administrator for water, said in an interview. "Their endless requirements have been counterproductive. If we keep them lean and mean, we will get more pollution control in the end." To help ease coming federal cuts, EPA is urging more states to use permit fees, he adds.

EPA officials are less optimistic, however, about the hazardous waste program

under the 1976 Resources Conservation and Recovery Act. Only 27 states and territories have been granted authority to administer portions of "phase one" activities, such as defining hazardous wastes and setting standards for their transportation. No states are into "phase two," issuing permits for interim and permanent waste facilities.

John Skinner, EPA's director of hazardous waste state programs, blamed much of the "chaos and confusion" on regulations developed by the Carter Administration and on a lawsuit brought by the Environmental Defense Fund Inc., a Chicago group called Citizens for a Better Environment and the National Solid Waste Management Association. The suit forced EPA to issue regulations more than a year ago that should have been issued in



Bruce R. Barrett of EPA: "Our regulatory programs have been too fat. Their endless requirements have been counterproductive."

April 1978 under the statute.

Last October, after reviewing and suspending some of the regulations, Gorsuch said EPA could not issue final rules on waste sites until

October 1983. The U.S. District Court for the District of Columbia has ordered EPA to issue the regulations by Feb. 1 and has denied Gorsuch's motion to reconsider the deadline.

Roger A. Kanerva, Illinois's environmental programs manager, criticized EPA's regulations issued under the previous Administration as too inflexible. "We had a pretty good program," he said, "but then we had to substantially revise our regulations and we still didn't have federal approval for even the phase one program."

More significantly, Kanerva said he doesn't see much change in the direction

of more flexibility at EPA under the Reagan Administration. But he acknowledged that the environmental lawsuits were "not helpful." And, as Skinner indicated, new EPA "guidances" to the states have just been issued, and the continuing confusion will still take time to remedy.

Skinner said 18 more states and territories are expected to apply to run their own phase one operations this year and the agency expects to authorize 15 states to begin phase two operations by the end of 1982. States that appear to be uninterested in qualifying to administer any of the federal hazardous waste programs are Alaska, Colorado, Hawaii, Idaho, Indiana, Michigan, Minnesota, Nebraska, Nevada, Ohio, Washington, West Virginia and Wyoming.

CLEARING THE AIR

EPA's most important program, in the minds of many, is clean air. How Congress revises the Clean Air Act will greatly affect the Administration's ability to shift more of the administration of environmental protection to the states.

But the states are not united on what changes they want, and the Administration has avoided a leadership role in revising the statute during the current debate over the legislation.

Unlike other environmental laws, the act does not establish a system for states to take over administration. Instead, it specifically gives the states management responsibility to control air pollutants, authorizing them to set emission limits for such "stationary source" pollutants as sulfur dioxide and particulates. But for "mobile source" pollutants—carbon monoxide, nitrogen oxides and hydrocarbons from cars—Congress itself sets the limits, which are designed to meet national air quality standards set by EPA.

Currently, every time a state wants to revise specific emission limits—something that may take place dozens of times a year—it must get EPA's approval.

EPA has traditionally had a backlog of hundreds of state plan revisions, which sometimes have taken two years to wind their way through its regional and headquarters labyrinths. This process constitutes one of the major sore points between the states and EPA because the states feel such close supervision is no longer needed.

"What we have now just doesn't work," said Kanerva. "The system is all



Former EPA official William Drayton Jr.: "If Gorsuch succeeds, no one will be able to put the agency back together again for years."

jammed up. And if EPA's state grants get cut by 30 per cent, which is the rumor, then we just won't be able to handle the program."

The Western Governors Policy Office (Westpo), representing 14 states, is now advocating that federal approval of state plans be automatic after 90 days unless EPA specifically objects.

The National Governors' Association, the State and Territorial Air Pollution Program Administrators and other groups have supported a similar change that is incorporated in a bill (HR 5252) introduced by Rep. Thomas A. Luken, D-Ohio, and also sponsored by Energy and

with only a pro forma sign-off in Washington. Soon after taking office, however, Gorsuch insisted on personally approving each state request. Only later was she persuaded to delegate the task to Kathleen M. Bennett, assistant administrator for air, noise and radiation.

"The move is inconsistent with promoting greater state flexibility," said Daniel M. Barolo, a New York state environmental official. "The basic decision should be made at the regional level. They talk as if this is only temporary. But the delays only add to our problems."

The states, however, do not agree on what to do about such interstate pollution

A congressional move to give EPA more authority to deal with long-range pollution transport problems would obviously exacerbate the Administration's twin goals of cutting back EPA and strengthening state power. The irony here is that acid rain may not remain a threat just to the Northeast and eastern Canada. Portions of the West, too, could suffer if nitrogen dioxide, a source of acid rain, worsens.

TAKING OVER

Whether the Administration's policies result in less environmental protection will be known only after the states come to grips with their new role and the cutbacks at EPA begin to take hold.

New York's Barolo thinks that fears of reduced pollution control are overblown. "We are not going to walk away from the gains we have made up to now," he said. "The polls show that people want a clean environment and will see that the programs are not gutted at the state level."

James R. Marshall, EPA's regional chief of staff in New York, agrees. "No governor can afford to let these environmental programs drop," he said. "The public visibility of these issues is too high."

There is concern at the state level, however, over EPA's continued ability to provide technical support services, particularly in the area of toxic substances, where most states lack expertise. "We have to rely on EPA to deal with some of these exotic toxics," Iowa's Brown said.

Illinois's Kanerva summed up the nature of the Administration's environmental gamble this way:

"The bottom line is whether the Administration in Washington provides enough transition time. So far, all we see is the budget cutting, but we are not sure yet how much administrative flexibility is coming too."

"What we don't need anymore is EPA's omnipotent presence. I was in this business before EPA was around, and before there was strong citizen support for environmental enforcement. And I certainly don't want to go back to that period. What we want now is the ability to team up with EPA. As long as EPA is there for backup, that's all we need."

But will a viable EPA exist after successive budget cuts and staff losses? EPA's top officials are quick to dismiss this worry. But Drayton and a flock of disillusioned staffers who have quit or been fired do worry.

"Time is running out for EPA," Drayton said. "If Gorsuch succeeds in her budget and personnel policies, no one will be able to put the agency back together again for years. By June it will be too late." □

'Good Neighbor' Program Has Enemies

Last February, less than a month after taking office, Interior Secretary James G. Watt invited western governors to submit requests to buy small parcels of federal land for such public purposes as schools and parks. Under several federal laws, the government can sell or swap federal lands for state or private parcels, and part of the so-called sagebrush rebellion arose over western frustrations in getting Interior's Bureau of Land Management (BLM) to act.

"The Department of the Interior's land managers must be more responsive to community needs," Watt said, "especially in those western states where much of the land is owned by the federal government." Nevada, for example, is 87 per cent federally owned, and the ownership pattern in Utah, which is 65 per cent federally owned, resembles a checkerboard over much of the state. (See *NJ*, 3/21/81, p. 477.)

Land swaps require a complicated, time-consuming process that includes establishing equivalent values. The number of swaps dwindled from 212 in 1970 to 46 in 1979, and federal land traded in 1979 amounted to only 31,620 acres. But regulations issued last April and the publication of a land exchange manual are expected to speed up the process. There are now some 400 land exchange proposals, with 95 awaiting final BLM approval.

In response to Watt's February 1981 request, western governors have asked to buy 351 federal parcels totaling 916,179 acres. Of these, BLM has acted so far on 60 tracts that total about 33,500 acres. Most of the requested acreage is in Nevada (321,000), Wyoming (203,530) and California (179,350).

But in Colorado, a proposal by Rangely, one of the state's energy boomtowns, to buy 106 acres of BLM land to build housing for construction workers has hit a snag. Twelve local landowners are suing BLM for allegedly offering the land at below-market prices. They argue that the town would be better off using some of its own 1,800 empty lots, which would save the costs of municipal expansion of services to the outlying federal land.

Similar complaints are reportedly cropping up in Idaho and Montana. Watt's "good neighbor" program appears to be running into another of his ideological tenets—the free market.

Commerce Committee chairman John D. Dingell, D-Mich., and ranking Republican James T. Broyhill of North Carolina.

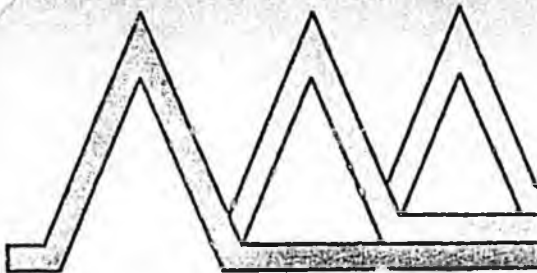
Rather than propose its own comprehensive bill, the Administration has decided to support the Luken bill, although it appears to focus on changes that affect the auto industry. The Luken-Dingell bill, as it is now called on Capitol Hill, is touted as a bipartisan effort to revise the Clean Air Act. But that perception may change if the bill begins to look too anti-environmental.

In the past, EPA made the critical decisions on state plans to achieve air quality goals in its 10 regional offices,

problems as acid rain. The Clean Air Act does not address the problem directly, and environmentalists are calling for statutory changes.

Northeastern states, the recipients of acid rain, urged Congress last November to give EPA specific statutory authority to curb the formation of acid rain.

But Westpo is urging a hands-off approach by the federal government to allow the states an opportunity to develop "unique and different regional solutions," as Matheson described it. The western states would back an imposed federal solution "only after state efforts to resolve the problem have failed."



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HAZARDOUS MATERIALS COMMITTEE

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T A B L E O F C O N T E N T S

- I. Rocky Mountain Low-Level Radioactive Waste Compact - Summary of Key Provisions
- II. Reagan's Environmental Federalism - Are the States Up to the Challenge? / National Journal
- III. EPA Budget Analysis / National Wildlife Federation
- IV. EPA Budget Blues / Environmental and Energy Study Conference Weekly Bulletin
- V. Environmental Protection Programs - Proposed Federal FY 1983 Budget Overview / NGA, NCSI.
- VI. Toxic Chemicals: How much does the public need to know? / California Journal

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from: *Nation Energy Update*
 February 24, 1972

EPA Budget Proposal 11½ Percent Less Than FY-82. The administration's proposed FY-83 budget for the Environmental Protection Agency is \$961 million, down 11½% from the FY-82 budget estimate of \$1,086.1 million. According to EPA officials, the hallmark of the new budget is more "lean and effecient" programs, but environmentalists and democratic leaders characterize the budget differently. The National Wildlife Federation, which had already analyzed an earlier, \$975 million FY-83 budget that was prepared by EPA Administrator Anne Gorsuch, called the lower administration proposal a "clear case of homicide by strangulation." Meanwhile, Speaker of the House Tip O'Neill called the budget "a radical demolition program" and promised to make the budget a major campaign issue that the Democrats are "going to fight every step of the way." Rep. Gillis Long, (D-LA) chairman of the House Democratic Caucus, has announced the creation of a special task force on the environment to develop a Democratic budget alternative to the President's proposal.

The three hardest hit programs in the new budget proposal are Air -- down 16.2%, water quality -- down 21.4%, and drinking water -- down 16.7%.

According to projections, the EPA staff will be reduced by almost 12% in FY-83 to implement the budget cuts. Interestingly, Gorsuch has assured EPA staff that there will be "no involuntary separations due to reductions in force during the remainder of FY-82" and that this policy will continue in effect during FY-83. EPA's top budget chief Morgan Kingborn has denied allegations that the Gorsuch announcement was in response to EPA high attrition rates. He stated that attrition in FY-80, the last year of the Carter Administration, was higher than attrition in FY-81. (*Inside EPA*, Feb. 12)

EPA'S PROPOSED FY-83 OPERATING BUDGET - COMPARED TO PRIOR YEARS, INITIAL PROPOSAL*

(\$ in millions)

	Carter FY-81 (actual)	FY-82 (estimate)	Gorsuch FY-83** (proposal)	1983 President	1983 difference from 1982 estimate
Air	\$ 235.4	\$ 219.8	\$197.5	\$184.1	-16.2%
Water quality	318.3	236.8	191.7	186.0	-21.4%
Drinking water	79.3	83.8	72.6	69.8	-16.7%
Hazardous waste	141.4	107.2	103.4	103.3	-3.6%
Pesticides	64.8	53.7	50.9	50.8	-5.4%
Radiation	14.2	10.4	11.2	10.4	0%
Noise	12.2	2.0	--	--	across out
Interdisciplinary	13.9	17.7	23.6	20.7	+16.9%
Toxics	91.1	77.4	72.4	68.6	-11.4%
Energy	84.6	52.5	35.6	34.5	-34.3%
Management & support	215.7	224.7	208.5	233.3	+3.8%
Reimbursements	21.3	0.1	--	0.1	--
Scientific activities overseas	0.1	--	--	--	--
U.S. regulatory council	2.4	--	--	--	--
TOTAL	\$1,297.7	\$1,086.1	\$971.9	\$961.4	-11.6%

* Figures may not add up precisely because of rounding
 ** Proposal as reported in Inside EPA, Oct. 1, p. 1.



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AGENDA

Hazardous Materials Committee

Sheraton-Palace Hotel
San Francisco, California

Monday, April 5, 1982

Senator Laurence Jacobsen (Nevada), Chair

9:00-10:00 am

Welcome

Senator Jacobson

Issue Update

- Rocky Mountain Compact
Leonard Slosky, Colorado Governor's Office
- Radioactive Waste Management
Tom Riley, Pacific Gas and Electric
- Federal Transportation Regulations
- High Level Nuclear Waste Legislation
Sam Hohmann

10:00-12:00 noon

Environmental Federalism - Federal Perspective/EPA Budget Changes and their Impact on the States

Panel Participants

- David Mowday, Director Toxics and Waste Management Division - U. S. Environmental Protection Agency, Region IX
- Jeffrey Gabe, Citizens for a Better Environment
- Peter Weiner, Special Assistant to the Governor for Toxic Substances Control (California)

Comprised of Legislators, representing the following States:

Alaska • American Samoa • Arizona • California • Colorado • Commonwealth of the Northern Mariana Islands
Guam • Hawaii • Idaho • Montana • Nevada • New Mexico • Oregon • Utah • Washington • Wyoming

12:00 - 1:30 p.m.

Luncheon

1:30 - 2:30 p.m.

Business Session/Annual Meeting Agenda and Resolutions

Senator Jacobsen

2:30 - 4:30 p.m.

Environmental Federalism - California Perspective

Legislative Overview

Martha Valdes, Senior Consultant to the Assembly
Committee on Consumer Protection and Toxic Materials

Panel Discussion: California's Approach to Facility
Siting and Landfill Alternatives

Selina Bendix, Bendix Environmental Research, Inc.

Hank Martin, California Manufacturers Association

Kent Stoddard, State Office of Appropriate Technology

Martha Valdes, Assembly Committee on Consumer
Protection and Toxic Materials



Official Business

Alaska State Legislature

Senate

Office of the President

February 10, 1981

file

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senator Vic Fischer

FROM: Senator Jay Kerttula
Senate President

You have been appointed to the Western Conference Hazardous Materials and Waste Management Committee.

This committee will study certain provisions of the Resource Conservation and Recovery Act (and regulations) and examine regional risks in the generation, use, packaging, handling, storage and ultimate disposal of hazardous substances in the region.

Purpose: to develop an interstate nuclear compact for identifying and implementing a regional low-level radioactive waste siting and management system for the western states, and to encourage individual state legislation to lessen the danger from toxic and chemical wastes.

You have also been appointed to the Committee on Suggested State Legislation (SSL)

This committee collects and formulates draft bills relating to a wide variety of important state legislative issues. The most significant and relevant proposals are disseminated through an annual publication. The committee's membership, in addition to legislators, includes a cross-section of state officials, Commissioners on Uniform State Laws, Commissioners on Interstate Cooperation, Attorneys General, legislative staff.



**CONFERENCE OF
WESTERN ATTORNEYS GENERAL**
THE COUNCIL OF STATE GOVERNMENTS

165 POST STREET, 5th FLOOR

SAN FRANCISCO, CALIFORNIA 94108

[415] 986-3760

To: Hazardous Materials Committee

From: Jan Leno, Staff Consultant

Date: May 6, 1982

Re: April Meeting Minutes

Enclosed you will find an attendance list and minutes from the recent meeting held April 5 in San Francisco. Also enclosed is a copy of a recent article from the Governor's Bulletin, put out by the National Governor's Association, concerning the status of the various regional low-level waste compacts, and an article on Hazardous Waste Cleanup from NCSL's Dateline Washington (April 5)

The Annual Meeting is scheduled for August 22-25 in Salt Lake City. Please contact me if you have any further agenda item suggestions. I look forward to seeing you in Salt Lake.

WC12-3

Alaska • American Samoa • Arizona • California • Colorado • Guam • Hawaii • Idaho • Montana
Nevada • New Mexico • North Dakota • Oregon • Utah • Washington • Wyoming

Hazardous Materials Committee

Attendance List

Members:

Representative Earl Cory (Montana) - Acting Chair
Senator Vic Fischer (Alaska)
Representative Jim Golder (Idaho)
Representative Thomas Keating (Montana)
Representative Carl Kunasek (Arizona)
Representative Jim Schofield (Nevada)
Representative Ann Strand (Wyoming)

Observers

Dave Arrieta (Chevron USA)
Jeanne Moore (Chevron USA)
Sara Siegal (U.S. Environmental Protection Agency, Region IX)
Jan Leno (CSG Staff)

Minutes
Hazardous Materials Committee
April 5, 1982

The meeting was called to order by Representative Earl Lory (Montana) who acted as chair in the absence of Committee Chair Senator Laurence Jacobsen (Nevada). Representative Lory welcomed the members and opened the meeting with a number of issue updates.

- The first of these was a presentation on the Rocky Mountain low-level Waste Update made by Leonard Slosky, from the Colorado Governor's Office.

Mr. Slosky summarized the historical background related to the development of the Rocky Mountain Low-Level Radioactive Waste Compact. Discussion among western states was initiated following the passage of the Low-Level Radioactive Waste Policy Act of 1980 (P.L. 96-573F) which delegated responsibility for the disposal of low-level radioactive waste to the states. Regional solutions were recommended.

Initially, the states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming were considered eligible for participation in a "southwest" regional compact. As discussions proceeded, California was eliminated because of the large volume of waste it generates, and Utah joined the Northwest REgional Copmpact. Although, Wyoming has not committed itself to a compact region, Arizona, Colorado, Nevada and New Mexico have negotiated a compact agreement which basically only remains to be adpted by member states.

The Colorado and New Mexico legislatures had bill introductions in 1982 which contained the compact and enabling legislation. The Nevada legislature does not meet in 1982, and no action was taken in Arizona.

- Next, the Committee heard a presentation by Thomas Riley, of Pacific Gas & Electric, on low-level Radioactive Waste Management in the Western States. Mr. Riley began by noting that the states - and particularly those from the Rocky Mountains - has responded with great promptness in implementing the low-level Radioactive Waste Policy Act, signed into law in December, 1980. He commented that in the Northwest the compact have already been enacted by the States of Washington, Oregon, Idaho and Utah, has passed one house in Hawaii, and is likely to be considered by legislatures in Alaska, Montana, and Wyoming next year. As for the Rocky Mountain states, legislation has been introduced in Colorado and New Mexico, and legislation will most likely be introduced in Nevada and Arizona next year.

Mr. Riley distributed three handouts: Exhibit 1 listed the Compact Groupings and states as of March 30, 1982; Exhibit 2 displayed the rate of waste generation by Compact grouping; and Exhibit 3 portrayed a graph of projected annual disposal capacity and disposal cost. These data showed that the Rocky Mountain and Northwest States are producing far less material than the other compact regions, and as a result the disposal costs are far higher.

This cost differential is explained by the fixed costs associated with the operation of this type of facility. Since the costs function on a scale of volume, the larger the volume the lower the unit cost will be. Mr. Riley underlined the necessity of considering the imp-

lications of these economic data in our ongoing implementation of the low-level Radioactive Waste Policy Act.

At this point the Committee was joined by members of the Energy Conservation Committee for the remainder of the morning.

EPA Budget Changes and their Impact on the States

Panel Participants:

- David Mowday, Director of Toxics and Waste Management Division,
U.S. Environmental Protection Agency, Region IX
- Jeffrey Gabe, Citizens for a Better Environment
- Peter Weiner, Special Assistant to the Governor,
for Toxic Substances Control (California)

Mr. Mowday began by assuring the committee members that hazardous materials control is the EPA's highest priority for the 1980's. Despite large reductions in other areas, the FY1982-83 budget provides for continued commitment to funding for Superfund, which provides both remedial and immediate emergency responses to toxic spills and abandoned waste sites. This commitment is illustrated, Mowday said, by a 21% increase over 1981 Superfund spending levels.

Mr. Gabe responded by offering his doubts of the Administration's commitment to protect the environment. He pointed to decreased budgets for most EPA programs, which overall represented (with inflation) a 45% reduction from FY1981. He said the cuts were being made on the basis of three assumptions, which he challenged. These are: decreased workload within the EPA, increased efficiency, and state assumption of responsibility. These assumptions are not sound, he claimed, because some of the programs for which EPA has responsibility have only just begun to operate, there are an evergrowing number of pollutants, and federal grants to the States have been cut 16%. He also cited a survey conducted by the National Resources Defense Council which revealed that 45 states are reducing their enforcement efforts in this area, and 35 cannot assume additional responsibilities. He suggested that states should examine their own legislative records and environmental needs (for example, stringency restrictions) and create new revenue sources (such as permit fees) to help support protection of the environment.

Mr. Weiner began by claiming that EPA is both anti-industry and anti-environment, since its policies are leading to hobbling industrial growth and deterioration of the environment. His budget analysis suggests cuts of 39% in EPA purchasing power, a reduction in staff from 11,400 to 8,100 and a decrease in state grants for hazardous waste programs of over 20% (taking inflation into account). As for increases in the Superfund budget, he remarked that this budget should increase since the money is coming from industry.

He noted that California industry is upset about EPA's failure to spend funds available for hazardous waste clean-up, California's "mini-Superfund" was created to supplement inadequate federal funding. However, to the extent that state tax revenues from industry are used in place of collected, yet unspent federal tax dollars, California industry is paying twice for the same service.

Mr. Weiner observed that the EPA cuts threaten economic and industrial development because, without on-going research on new disposal technologies, on siting, and without insurance requirements, potential host site communities will be less willing to accept

sites. EPA's lack of enforcement further contributes to community reluctance to host a site because community leaders can offer no assurances to the public that sites will be adequately monitored and that public health will be protected. He noted that since June, 1981 EPA has not sent any cases to the Justice Department for enforcement.

- Sam Hohmann (Nevada Legislative Staff) presented an update on recent Congressional and State activities in the area of high level nuclear waste management. He began by explaining the 1979 recommendations of a Congressionally-man-dated interagency review group. Although this group's report did not lead to any action in the 96th Congress, the 97th Congress is seeing a fair amount of interest in this issue. A number of bills have been filed - notably HR5016, HR3806, and S1662 - all of which address the following main issues: interim spent fuel stor-age, monitored retrievable storage, permanent repositories, financing fees, test-ing and experimental facilities, and state and public participation and Congres-sional oversight. States have responded to the various Congressional proposals in a number of ways, including prohibition of out-of-state spent fuel disposal, pro-hibition of permanent state facility development, creation of a commission to consul't with the federal government on AFR storage, and support for a morato-rium on storage and disposal unless the governo and legislature concur.

Environmental Federalism - California Perspective

Ms. Martha Valdes, Senior Consultant to the State Assembly Committee on Consumer Protection and Hazardous Materials, began by giving an overview of legislative proposals enacted by the California legislature in the past year. One of the two major bills en-acted creates a fund, financed by a progressive tax on hazardous waste disposal, to clean up abandoned hazardous waste sites, contain emergency situations caused by hazardous substances, and indemnify victims damaged by a release of hazardous substances. This "superfund" provides up to \$10 million a year for the next 10 years and is intended to supplement federal superfund monies. A second major legislative initiative created a Hazardous Waste Management Council to develop and recommend a method and criteria for siting hazardous waste facilities.

Ms. Valdes was then joined by the three other panelists in a discussion of California's ap-proach to facility siting and alternatives to landfill.

Dr. Selina Bendix, Director, of Bendix Environmental Research, inc., started off by not-ing that California is the fourth largest generator of hazardous waste in the country. She noted that landfill postpones problems and creates unsolvable risks, especially in light of seismic problems. With respect to recycling, she said it is important to get users and producers together and in so doing a new industry is being created. Dr. Bendix comment-ed that the public fears of incineration as an alternative to landfill are unfounded be-cause risk is minimal when incineration is done properly. She also cited a study done by the State Office of Appropriate Technology which concluded that 70% of hazardous waste could be dealt with through reuse, chemical treatment, or destruction.

Kent Stoddard, from the State Office of Appropriate Technology, underlined that studies show how little we know about the generation and management of hazardous substances despite a comprehensive tracking system. He also emphasized a tremendous discrepancy in the volume estimates of hazardous materials. With respect to facility siting, he noted that the issue is more complex than merely where to locate a site and that public opposi-tion is rational. At this time landfill is considered the last resort, since there are migra-tion and air pollution problems in even excellent natural sites. He suggested that treat-ment facilities should be located close to the source of generation, where the benefits

are felt. When the right type of facility is proposed in the right location, it is possible to obtain public support.

Hank Martin, Environmental Director of the California Manufacturers Association, said it is in industry's interest to have good management of facilities. He noted that industry's concern is not with phasing out land disposal, but in "getting from here to there." He said industry is expected to come up with alternative capacities, which he referred to as "technology forcing".

STATES CITE PROGRESS IN LOW LEVEL WASTE DISPOSAL NEGOTIATIONS

In late 1979, the problem of low level radioactive waste disposal received national attention. Following a series of transportation and packaging incidents at the three operating commercial sites, two of the sites — Beatty, Nevada and Hanford, Washington — closed down. The third facility, located at Barnwell, South Carolina, instituted a program to reduce by half the waste it accepted.

The increasing volume of the wastes meant that unless a method of dealing with their safe disposal was found, what was a serious national problem would soon become a crisis. The nation is expected to generate 321,000 cubic meters of low-level waste by 1990 compared to 99,000 cubic meters in 1980.

Most commercial low-level waste is contaminated paper, plastics rubble, filters, construction tools and protective clothing from nuclear power plants. The growing use of radioactive materials in such products as luminous watch dials, measurement devices and smoke alarms, contributed to the increased volume of industrial waste. The medical and academic community also increased their use of radioactive materials over the past decade. The threat of reduced or curtailed disposal capacity for medical facilities, industry and nuclear utilities moved Congress to action.

The first response was to propose a federally-mandated solution, but the governors of the three affected states had a different perspective. In November of 1979, they proposed that Congress allow states an opportunity to devise their own state-oriented solution. A month later, the Executive Committee of the National Governors' Association asked a special Low Level Radioactive Waste Task Force, chaired by Governor Bruce Babbitt of Arizona, to submit a report to the NGA annual meeting in August of 1980. The report recommended that states be responsible for low level waste, that regional compacts be negotiated and that the regions be allowed to exclude out-of-region waste.

"Since low-level waste is generated in every state, it is unfair to expect three states to shoulder the sole responsibility for the safe disposal of the nation's waste," the task force report said. "Unlike high-level waste, the problem is not so technologically complex that it requires the leadership of the federal government." The task force opted for a regional

approach because, with the exception of a few of the biggest waste generating states, the volume of waste generated in a single state would be too small to make operation of a disposal site economical.

In December of 1980, Congress adopted the Low Level Waste Policy Act which reflected many of the NGA recommendations. This law delegated full responsibility for providing low level waste disposal capacity to each state, encouraged regional compacting, and permitted the exclusion by regions of wastes generated beyond their borders as of January 1, 1986. Since passage of the legislation, the National Governors' Association, other regional organizations, and individual states have been working to implement the provisions of the act.

The following summaries indicate that states have accepted the challenge of assuming responsibility for low level waste disposal and have made significant progress in what has been viewed as a test of the principles of new federalism. The summaries are based on the presentations of regional representatives who attended an NGA-sponsored seminar on February 22.

The Northwest Region

The Northwest Compact was the first to gain ratification when the Idaho state legislature voted its approval in April of 1981. It was joined soon thereafter by Washington state and Oregon. Utah joined by Executive Order last year and has subsequently ratified the compact by legislative action. In January of this year, Montana became the fifth compact member by means of an Executive Order. Alaska, Hawaii and Wyoming are the remaining eligible states. The site selection process was not a problem in the Northwest because of the existence of the Hanford facility. Congressional ratification hearings are likely to focus on one element of the Northwest compact — the prohibition of out-of-region waste after July 1, 1983.

The Southeast Region

A second region, the Southeast, which has an operating commercial repository has also made rapid progress in concluding a compact. Final language was agreed to in January, and the compact has been introduced in six of the seven eligible states. Both houses of the Georgia legis-

lature have ratified the compact. South Carolina, Florida, Alabama, and Mississippi also hope to achieve ratification this year. Tennessee and North Carolina are the remaining eligible states. North Carolina, however, has not introduced the compact and has met with the mid-Atlantic group. Negotiators emphasize the Southeast compact creates an institutional framework to manage low level waste, not a document to govern every contingency.

The compact assures all member states access to a regional facility but also requires that each state share equally in the chance of hosting a future facility. A regional commission is authorized to draw up criteria for a regional facility and may designate a host state if necessary. The Southeast compact will exclude out-of-region waste as of January 1, 1986.

The Northeast Region

The Northeast region includes the six New England states, plus New York, New Jersey and Pennsylvania. These nine states generate over 40 percent of the nation's low level waste by volume. The task of negotiating a compact is complicated by the absence of an existing operating site.

The Northeastern governors have endorsed the concept of a low level waste compact or compacts for their region, and a policy-level working group, composed of executive and legislative branch personnel, is currently devising a low level waste management plan for the Northeast. Aided by a technical subcommittee, the working group intends to conclude a compact by the end of the year for submission to state legislatures in 1983.

The Central Region

The Central region agreed on compact language in January. Two states — Kansas and Missouri — of the nine eligible have introduced ratification legislation. The remaining eligible states — Minnesota, North Dakota, Iowa, Nebraska, Oklahoma, Arkansas and Louisiana — are expected to seek ratification next session. The Central Regional compact contains a unique siting feature, if no state volunteers. After the commission establishes siting criteria, private waste disposal contractors would be asked to submit proposals to the commission. Following a review of the proposals, the commission would make a choice based on technical criteria. The Central compact also contains a provision allowing the region, rather

than the host state alone, to establish disposal fees.

The Mid-Atlantic Region

The Mid-Atlantic region, in its present form, is one of the newer regions, and several of its members are negotiating with other regions. States which have participated in recent negotiations include Delaware, Maryland, Virginia, West Virginia, North Carolina, Kentucky and the District of Columbia. A draft compact has evolved following several recent meetings. The draft document states that all members are equal partners, sharing benefits and responsibilities. The management structure created by the compact will be sustained through generator fees, and the regional commission will have broad powers, including siting authority if that proves necessary. Final wording of the compact and membership in the region are not yet determined. Ratification by member states is not expected until next year.

The Rocky Mountain Region

This region consists of Arizona, Colorado, Nevada, New Mexico, and Wyoming. Compact language was completed last year and has been introduced in New Mexico and Colorado. Other member states are expected to introduce the compact next session. The Rocky Mountain document includes several provisions that separate it from other compacts. First, the compact anticipates a state volunteering to host the regional facility. Second, no member state is required to host a site unless they generate at least 20 percent of the region's waste.

The Midwest Region

Nearly a year before passage of the federal law, a group of five Midwestern states — Ohio, Indiana, Illinois, Wisconsin and Michigan — met to discuss interstate cooperation. Following passage of the act, the Midwest group expanded to include representatives from North Dakota and Maryland. Many attendees at Midwest meetings may eventually join other regions. The Midwest has adopted a singular procedure for obtaining a final version of their compact. The draft, completed late last year, has been sent to the relevant legislative committees in interested states for review over the next four months.

Any amendments will be considered in early July. A final text will be ready for submission to Midwest legislatures in early 1983.

Hazardous Waste Cleanup: EPA Dumps Higher Costs on States

States will be required to shoulder a greater share of hazardous waste cleanup costs than anticipated under the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

According to the guidance document recently released by the Environmental Protection Agency (EPA), states will have to pay 10 percent of all costs associated with cleanup at privately-owned sites and 50 percent of all costs for publicly-owned sites. It was originally thought that state expenses would only be related to construction costs, but this provision covers costs from the initial feasibility study through construction.

Moreover, contrary to the intent of the legislation, states will be responsible for 100 percent of site operation and maintenance costs following an initial six months of federal funding.

Leaving some leeway for state legislative involvement, the guidance document says that an "authorized state official" must assure that the state will meet the necessary financial matching requirements.

EPA maintained its position (reported in *Dateline*, 3/8/82, p. 2) that states can impose taxes on industry for the same purposes as the federal hazardous waste "superfund." A final de-

cision on this issue must still be made by the courts, however.

Cleanup Guidelines

Under proposed rules detailing the operation of the federal hazardous waste program, EPA has opted to review each site on its own merit rather than adopt uniform national standards.

The extent of the hazard would be weighed against the cost of various cleanup alternatives.

Copies of the National Contingency Plan outlining implementation can be obtained from Donna Wise in NCSL's Washington office. The guidance document is also available.

6/23 3:30pm

FREE CONFERENCE COMMITTEE REPORT

Date June 23, 1981

Mr. President:
Mr. Speaker:

The Free Conference Committee considering CS FOR SENATE BILL NO. 29 (JUD) (nuclear materials) and HOUSE CS FOR CS FOR SENATE BILL NO. 29 (JUD) (hazardous wastes and to nuclear and radioactive facilities and materials; eff. date) recommends that

(type in bill version and title)

Free Conference CS for Senate Bill 29 "An Act relating to hazardous wastes and to nuclear and radioactive facilities and materials; and providing for an effective date." be adopted along with a letter of intent.

Charles H. Stenholm
Senator/Fahrenkamp, Chairman

Charles H. Stenholm
Senator Parr

Robert Rodey
Senator Rodey

Thomas H. O'Connell
Rep. O'Connell, Chairman

Thomas H. O'Connell
Representative Anderson

Thomas H. O'Connell
Representative Brown

FCC Letter of Intent for FCCSSB 29

In passing this Free Conference Committee report it is the intention of the Legislature that the Department of Environmental Conservation shall not administer the Hazardous Waste Program such that either private citizens or businesses are required to obtain permits from both the federal and state governments for the same activity.



THE WESTERN CONFERENCE of The Council of State Governments



Conference Staff
The Council of State Governments
Western Office
165 Post Street, 5th Floor
San Francisco, California 94108
(415) 986-3760

Date: June 15, 1981

To: Members, Hazardous Materials Committee

From: Senator Lawrence Jacobsen, Chairman

Subject: First Meeting of the Hazardous Materials Committee, Sun Valley, Idaho, June 28-30, 1981

I enclose the agenda for the conference on low-level radioactive waste, to be held in Sun Valley, Idaho, June 28-30, 1981. The meeting is co-sponsored by the Western Conference of the Council of State Governments, the Conference of Western Attorneys General, and the National Conference of State Legislatures.

The Sun Valley Conference will attempt to address the problems of management, transportation, and disposal of low-level radioactive wastes. In particular the conference will examine the following issues:

Practicalities of interstate compacts and agreements to manage LLW on a regional basis

- Is this feasible?
- What is required to make regional compacts work?
- What are their drawbacks?

Establishment of a disposal site

- What are desirable site characteristics and what characteristics impede the movement of waste materials?
- What are the safeguards required to protect the public health and environment?
- How should the states, legislators and the public be involved in the siting process?

Transportation of LLW

- What is the response of local and state governments to the recent DOT regulations regarding highway routing?
- How are they responding?
- What problems exist in the area of driver training, packaging, inspection, and emergency response capabilities?

There will be panels of speakers for each of the workshop sessions to present federal, industry, state and local perspectives and experiences on these issues.

Please note that the Hazardous Materials Committee will meet for a working dinner at Godfrey's (Elkhorn Village Inn) at 7 p.m. on Monday, June 29. At that time, we will discuss the issues to be addressed in our two-year work plan. We will also select the topic for the Committee session at the Annual Meeting, to be held in Reno in late August. We will use the survey responses you sent to begin the discussion. I urge you to give the work plan some additional thought. You may find the attached articles useful (and provocative) in preparing for the meeting:

1. Status of Nuclear Waste Legislation in the 97th Congress
2. "The Toxic Connection: Synfuels and Toxic Substances"
3. "Will the Hazardous Waste Regulations Protect Us?"
4. "Controlling Toxic Wastes: A Model State Program"

Finally, if you plan to attend the meeting but have not yet sent in your reservation form, please phone Olga Byrd at the Western Office as soon as possible. Ms. Byrd will handle your reservation at the Elkhorn Village Inn.



THE WESTERN CONFERENCE

of

The Council of State Governments



Conference Staff
The Council of State Governments
Western Office
165 Post Street, 5th Floor
San Francisco, California 94108
(415) 986-3760

April 15, 1981

Senator Vic Fisher
State Capitol, Pouch V
Juneau, Alaska 99811

Dear Senator Fisher:

I am pleased to learn that you have been appointed to serve on the Western Conference's Hazardous Materials Committee for 1981-82. The Committee will hold its first meeting in conjunction with the Western Conference's Transportation Committee, at Elkhorn Village Inn in Sun Valley, Idaho, on June 28-30. The agenda will focus on low-level radioactive waste issues. The meeting is co-sponsored by the Council of State Governments, the National Conference of State Legislatures, and the Idaho Attorney General's office.

As you know, two of the three low-level radioactive waste disposal sites in the United States are in our region: Beatty, Nevada and Hanford, Washington. These sites have experienced a variety of operating problems, have been closed periodically, and may face limits on the amounts of waste they can continue to receive.

The nature and scope of the low-level waste disposal problem is of great importance to the western states. The Committee will consider a variety of topics, including:

- national low-level waste policy and the authority and responsibility it assigns to the states;
- current regional efforts, including interstate compacts and other cooperative mechanisms;
- the economics of low-level waste disposal and other criteria for site selection;
- packaging and transportation of low-level wastes; and
- interim solutions for disposal shortages.

The meeting will include a tour of the Idaho National Engineering Laboratory and an opportunity to examine its disposal facilities.

Senator Fisher
April 15, 1981
Page 2

Please plan to arrive in Sun Valley by Sunday evening, June 28, so that you can participate in the program on Monday morning. We have reserved a block of rooms at Elkhorn Village Inn. Please return the enclosed registration form to the Western Office.

The program and agenda will be full and informative. We will set aside time for the Western Conference Committee to meet and discuss other hazardous materials issues that they would like to address at the Annual Meeting and other future Committee meetings. So that the Western Office staff can learn of your interests and concerns in this area, please complete the enclosed questionnaire and return it by May 6, with your registration form, to Leah Brumer at the Western Office. Ms. Brumer will staff our Committee.

I look forward to meeting you in the coming months. You will receive a detailed agenda and briefing materials prior to the meeting.

Yours truly,

Lawrence Jacobsen

Senator Lawrence Jacobsen (Nevada)
Chair, Hazardous Materials Committee

Enclosures



THE WESTERN CONFERENCE

of

The Council of State Governments



Conference Staff
The Council of State Governments
Western Office
165 Post Street, 5th Floor
San Francisco, California 94108
(415) 986-3760

HAZARDOUS MATERIALS COMMITTEE

QUESTIONNAIRE

1981-1982

I. Please identify your major policy interests in hazardous materials (rank):

- chemical substances
 - hazardous air pollutants
 - toxic water pollutants
 - pesticides
 - solid and hazardous wastes
 - Other (Specify; e.g., uranium mill tailings)
-
-

2. Please identify the issues of greatest concern to you (rank):

- siting of waste facilities
- treatment, storage and disposal technologies
- clean-up
- facility and site ownership
- transportation
- emergency response
- worker safety
- abandoned sites
- regulatory enforcement

3. Which of the following pieces of federal legislation would you like updates on:

- Resource Conservation and Recovery Act
- Federal Insecticide, Fugicide and Rodenticide Act
- Toxic Substances Control Act
- Clean Water Act
- Clean Air Act
- "Superfund"

4. Please attach copies of legislation which illustrate the major hazardous waste issues in your state.

5. Which programs or legislation in your state illustrate innovative or successful ways of handling hazardous materials?

6. Please provide copies of recent legislative or agency reports that describe the nature and scope of the hazardous materials problem in your state.



THE WESTERN CONFERENCE

of

The Council of State Governments



Conference Staff
The Council of State Governments
Western Office
165 Post Street, 5th Floor
San Francisco, California 94108
(415) 986-3760

Meeting of the

HAZARDOUS MATERIALS COMMITTEE

Elkhorn Village Inn
Sun Valley, Idaho 83353

June 28-30, 1981

Name: _____

Address: _____

Phone: (work) _____ (home) _____

Legislative Committees: _____

Staff Contact: _____ Phone: _____

ROOM RESERVATIONS: Single (\$44) _____ Double (\$52) _____

TRAVEL PLANS: Arrival - June __; _____ am/pm

Departure - June __; _____ am/pm

(If arriving after 6 pm, please list a credit card number: _____)

___ I will attend the meeting but will not need a room reservation.

___ I am unable to attend the meeting.

Registration fee: \$50 (includes several meals)

Please return this form no later than May 6, 1981 to: THE COUNCIL OF STATE GOVERNMENTS
165 POST STREET, SUITE 501
SAN FRANCISCO, CA 94108

June 18, 1981

Senator Lawrence Jacobsen
Chair, Hazardous Materials
Committee
Council of State Governments
Western Office
165 Post Street, 5th Floor
San Francisco, CA 94108

Dear Senator Jacobsen:

Please forgive me for not responding sooner to your letter regarding the June 28-30 meeting of the Western Conference's Hazardous Materials Committee.

I have been waiting for our legislative session to adjourn, but it seems to be dragging on forever. Talk now is of adjournment by June 27, but we have had lots of dates mentioned before that never materialized.

In view of the situation, I will not be able to attend the Sun Valley meeting. However, I am extremely interested in the work of this particular committee, and will want to participate as best I can in future activities.

My best wishes for a most successful meeting, and I look forward to meeting you personally in the future.

Sincerely,

Sen. Vic Fischer

/sq



Resource Development Council

for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501
Box 516, Anchorage, Alaska 99510 - 907/278-9615

file

URGENT ATTENTION, PLEASE

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Dan Wohl

STAFF CONSULTANTS

Terry Brady
Sara Hemphill
Robert Hock
Frank H. Jones
Dr. James Drew
Dale Tobbs

April 30, 1981

Dear ^{Vic} Legislator:

The Resource Development Council, at a meeting on April 22, 1981, adopted the following position on House CS for CS for Senate Bill No. 29 "An Act relating to nuclear materials and extremely hazardous and hazardous wastes; and providing for an effective date."

The Resource Development Council finds it is not in the best interests of Alaska for the following reasons:

(1) The bill would create a duplication in areas which are already controlled by the federal government. This means an increase of permits, regulations and bureaucracy.

At present there does not appear to be a demonstrable need or justification for this legislation. The recent stringent RCRA regulations provide more than adequate protection from hazardous waste storage, transportation and disposal in Alaska.

Determination of radioactivity that constitutes a threat to public health is presently regulated by the U. S. Nuclear Regulatory Commission and the Department of Transportation Hazardous Materials Office.

(2) The bill attempts to treat three separate problems as one: nuclear power plants, nuclear waste and hazardous waste. Each problem needs to be addressed on its merits.

(3) The bill with its all-inclusive definition of low level waste and hazardous waste would be impossible to enforce. The definitions are so broad that a person who is a small generator of almost any kind of waste will be subject to this bill.

The definition could include everything from a smoke alarm, a digital watch to old carburetors. Any equipment presently being used in Alaska with a

Legislators--2

nuclear component is now sent back to the source for disposal (example--the densometer used in construction for measuring gravel density on road beds, etc.).

(4) The bill is premature and not technically sound. It would make it impossible to use any sort of nuclear power pack, and as technology improves this could eliminate the possibility of inexpensive power in the bush.

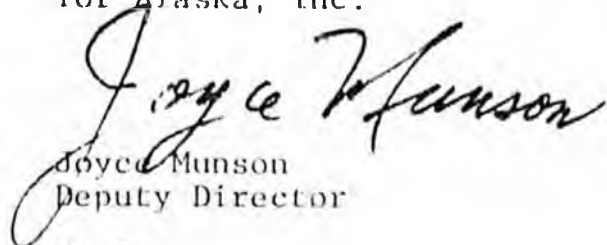
In Canada there will be a reactor ready for market by 1984 that will generate a scant 2 thermal Megawatts of power which will be enough to heat a building complex, hotel or perhaps a village. (See attachment.)

In conclusion, the Resource Development Council believes further research needs to be done, possibly by the newly created Alaska Energy Center, before the passage of such legislation.

It is the Resource Development Council's position that unless there is a proven need for such legislation, it will only create more problems than it can possibly solve.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.


Joyce Munson
Deputy Director

Encl.

Downsizing nuclear plants

Over the years, the nuclear industry has built larger and larger reactors to produce electric power. Such reactors require elaborate safety systems because they operate at high pressures and contain large amounts of radioactive material. But now Canada's government-owned nuclear company is going in the opposite direction. It is developing the cheapest and smallest reactor ever designed for commercial use. Instead of producing superheated steam to turn electrical generators, it will produce hot water to heat buildings. The Canadians claim that it is so safe it can literally be put in basements to replace conventional furnaces.

The reactor, known as Slowpoke, is being developed by Atomic Energy of Canada Ltd. (AEC), which has also successfully marketed a power reactor known as the Candu. But Slowpoke, which stands for "safe low-power critical

up, it could be practical," concedes one Canadian utility executive.

Extreme simplicity. The key to both the low cost and safety of the system is its extreme simplicity of design. The reactor is modeled after small, pool-type research reactors used at many universities. Its vessel is a 25-ft.-deep concrete-lined pool dug in the ground. The small fuel core is immersed directly in the water-filled pool. The nuclear reaction heats the water in the pool to 190F, and the heat is removed through a double loop of heat exchangers that isolate the heated water from the radioactive core.

Unlike commercial power reactors, Slowpoke does not generate the high temperatures typical of large reactors. As a result, the reactor does not need to be pressurized, eliminating the need for expensive and potentially faulty safety systems such as the one that failed at Three Mile Island. Nor does the fuel con-

tain enough plutonium to be practical for weapons production.

"If we want to put reactors close to people, they have to be inherently safe without engineered safety systems and simple enough to be understood by the public," argues W. Hilborn, AEC project manager. The

says that Slowpoke is designed so that the reaction cannot continue unless hydrogen atoms present in the water reflect nuclear particles back into the fuel rods. If the water would overheat and begin to boil, the bubbles formed would reduce the

amount of water around the core, and the reaction would slow automatically. Moreover, if the water would boil completely away, he adds, the nuclear reaction would be unable to continue, and the remaining heat could be dissipated into the air without any additional cooling.

Untended. The Canadians are banking on the inherent safety of the reactor design to pare operating costs. They argue that constant, on-site monitoring—which typically accounts for 25% of the operating costs of a reactor—is not necessary with Slowpoke. "An untended reactor is safer in many ways than one to which people have access," says Hilborn. AEC hopes to gain approval for a system in

which several sealed heating reactors could be inspected weekly but monitored from a single remote control board.

Still, the public is not likely to take readily to the idea of having radiation sources in building basements, however safe the reactor. "Can you imagine the response of the public if we start putting reactors in basements all over Ottawa?" asks one Canadian energy official. And the remote monitoring concept is almost certain not to fly in the U.S., where the Nuclear Regulatory Commission requires constant surveillance for operating reactors and where public opposition to nuclear power is intense.

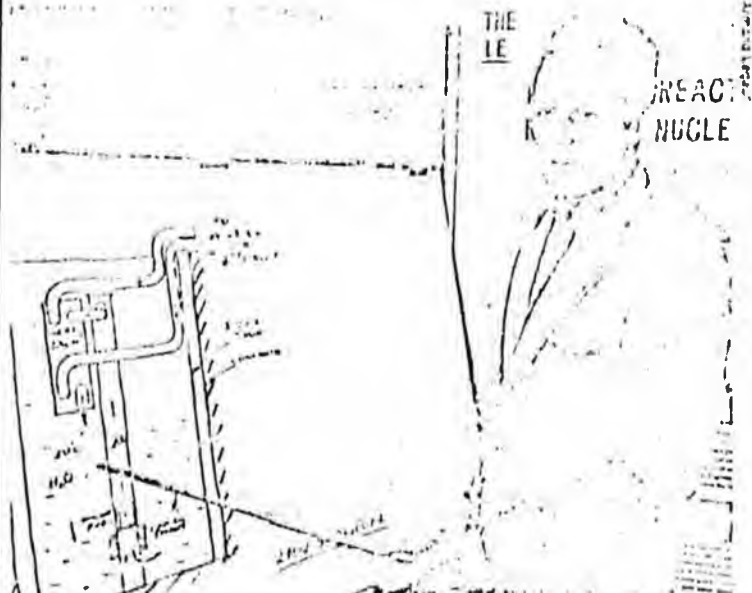
But AEC is eyeing the world market, where it has already built a solid reputation for its 600 Mw Candu reactor. The Slowpoke could shore up AEC's sales, which have been hurt by rising fears over nuclear safety. With a scant 3.1% profit on sales of \$432 million last year, the company badly needs new products, and it expects to have a prototype of the

Canada's Slowpoke will be just big enough to heat a large hotel

heating reactor ready by 1984. That would give it a product at the opposite end of the spectrum that could have strong sales appeal in the face of rising prices for oil and natural gas.

Acceptance. There are indications that the world will be receptive to the Slowpoke concept. The Soviets, not bothered by public opposition, started up a 5 Mw heating reactor in the small town of Dmitrovgrad last January and now they are building two much larger pressurized units to supply heat to the cities of Gorki and Novovoronezh. And the French are developing a pool-type reactor called Thermos. That reactor, which produces 100 Mw of thermal energy, is being considered for heating up to 30,000 homes in Grenoble. If the project is approved next summer, the reactor could be in place as early as 1985 at an estimated cost of \$100 million. In addition, a similar project is being pursued jointly by Sweden and Finland.

Officials at the Canadian company point out that their Slowpoke system does not require the elaborate core-cooling safeguards of the larger reactors, and it eliminates the need for district distribution systems required for the French and Soviet approaches. Hilborn maintains that inexpensive Slowpoke will offset the economies of scale of the bigger projects. And he foresees its use in many parts of the world where petroleum is expensive and district heating systems are not practical. "We're not trying to build an elaborate machine," he says. "We're trying to go back and rediscover the Model T Ford."



Project Slowpoke's Hilborn: An "inherently safe" reactor.

experiment," will generate a scant 2 thermal Mw of power—just enough to heat a large hotel or building complex.

The idea of using small reactors to provide heat is also being explored in France, Scandinavia, and the Soviet Union, and has been used in some military applications. But AEC believes that Slowpoke is the safest and least expensive system under consideration. Although the concept is still in the test stage, the company estimates that it can build the reactor for as little as \$350,000. That works out to \$125 a thermal kw, compared with \$400 to \$500 for equivalent power generated by conventional nuclear reactors. "If their numbers hold

File - WESTERN CONFERENCE
HAZARDOUS MATERIALS
& WASTE COMMITTEE

FROM THE DESK OF

Senator Jalmar Keritula

Attached are charts showing
the locations, amounts and
classification of both low
level and high level radioactive
waste disposal areas.....figures
from the Department of Energy

3-19

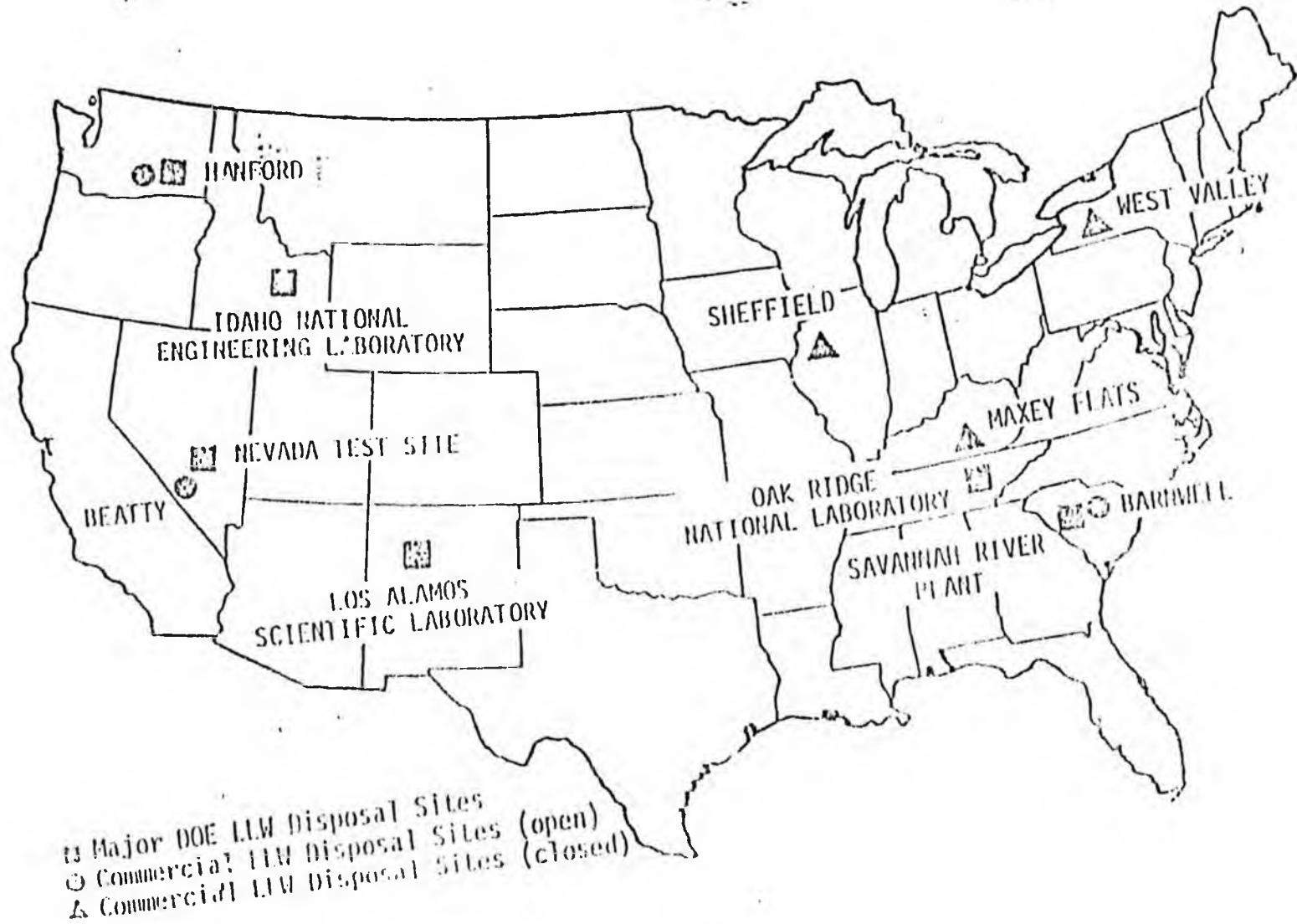


FIGURE 3-8
LOCATIONS OF MAJOR DOE AND COMMERCIAL LLW BURIAL SITES

1/6/81

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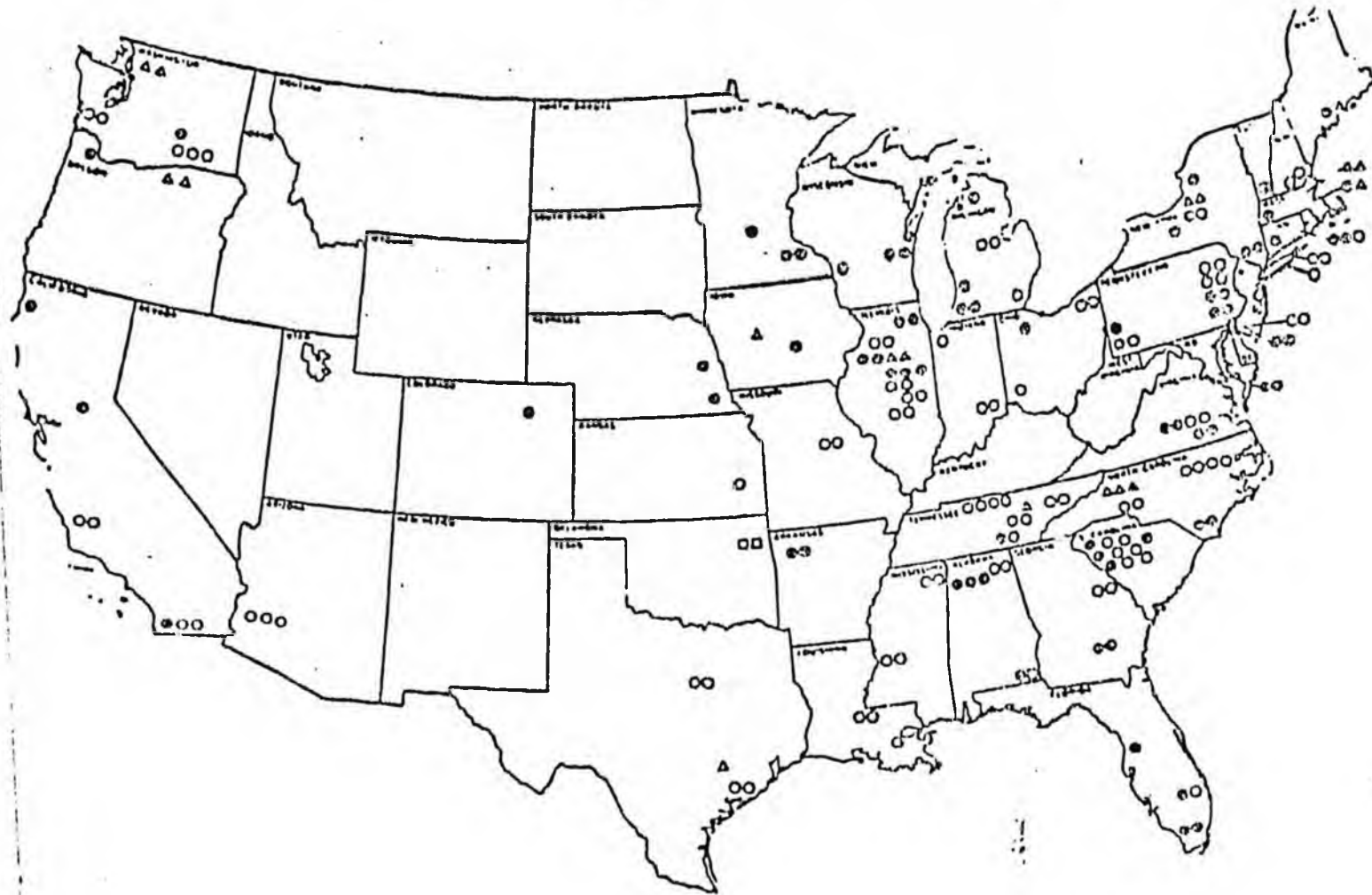
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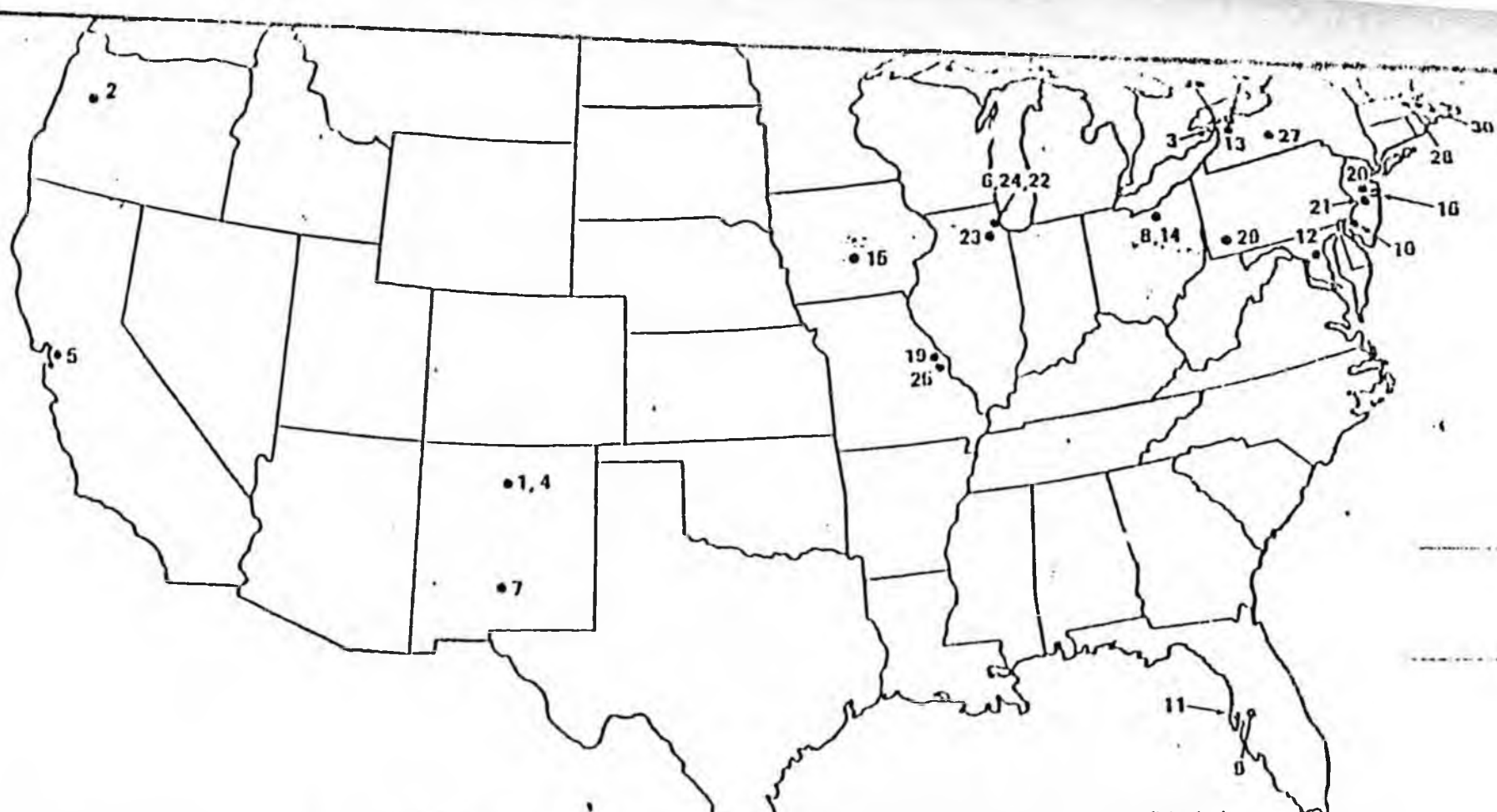
Key
 ● Operable
 ○ Under Construction
 □ With Limited Work Authorizations
 ▲ On Order

74 Reactors with operating licenses	64,988 MWe
87 Reactors with construction permits	96,830 MWe
2 Reactors with limited work authorizations	2,300 MWe
19 Reactors on order (including 2 units not sited on map)	22,282 MWe
182 Total	178,400 MWe

June 30 1980

Source: Atomic Industrial Forum, 1980.

9-3

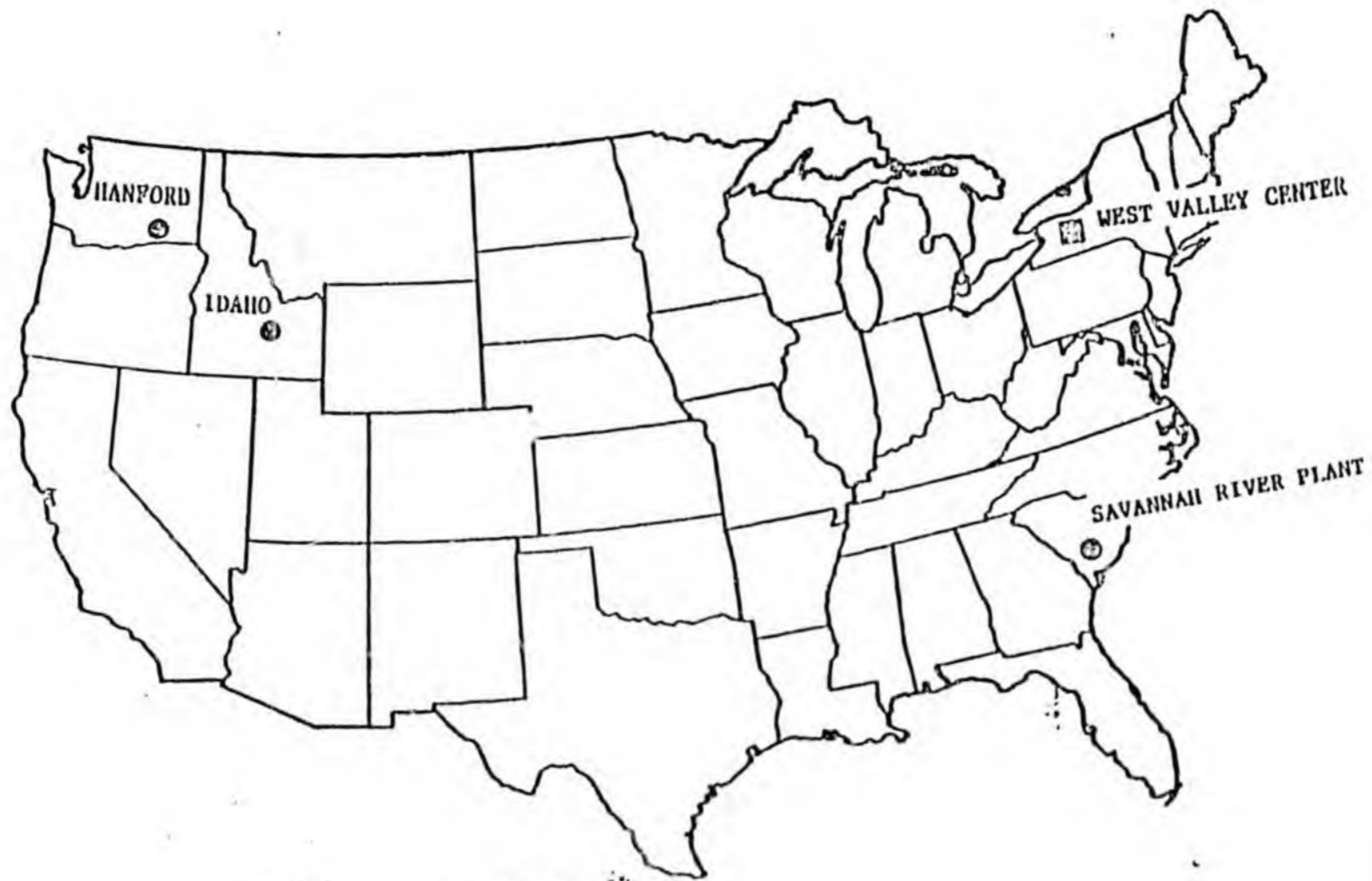


- | | | | |
|---|---------------------------------------|---|-----------------------------|
| 1. Acid/Pueblo Canyon | 9. Conser Inc. | 17. Lake Ontario Ordnance Works Associated Properties | 24. Palos Park |
| 2. Albany Metallurgical Research Center | 10. E.I. du Pont de Nemours & Company | 18. Linda Air Products | 25. St. Louis Airport |
| 3. Ashland Company | 11. Gardiner, Inc. | 19. Mallinckrodt, Inc. | 26. Seaway Industrial Park |
| 4. Bayo Canyon | 12. W. B. Grace & Company | 20. Middlesex Landfill | 27. Seneca Army Depot |
| 5. University of California | 13. Gullet Steel Corp. | 21. Millissex Sampling Plant | 28. Shiprak Landfill |
| 6. University of Chicago | 14. Harshaw Chemical Company | 22. National Guard Armory | 29. Universal Cyclops, Inc. |
| 7. Cimarron Mesa | 15. Iowa State University | 23. Ohio Chemical Company | 30. Ventron Corporation |
| 8. Condit, Inc. | 16. Kellco | | 31. Watertown Arsenal |

FIGURE 9-1

LOCATION OF SITES THAT REQUIRE OR MAY REQUIRE REMEDIAL ACTION

source: U.S. Department of Energy, 1980, A Report to the Congress to Accompany the Proposed Residual Radioactive Material Control Act, OMB/Sub 80 13329/1.

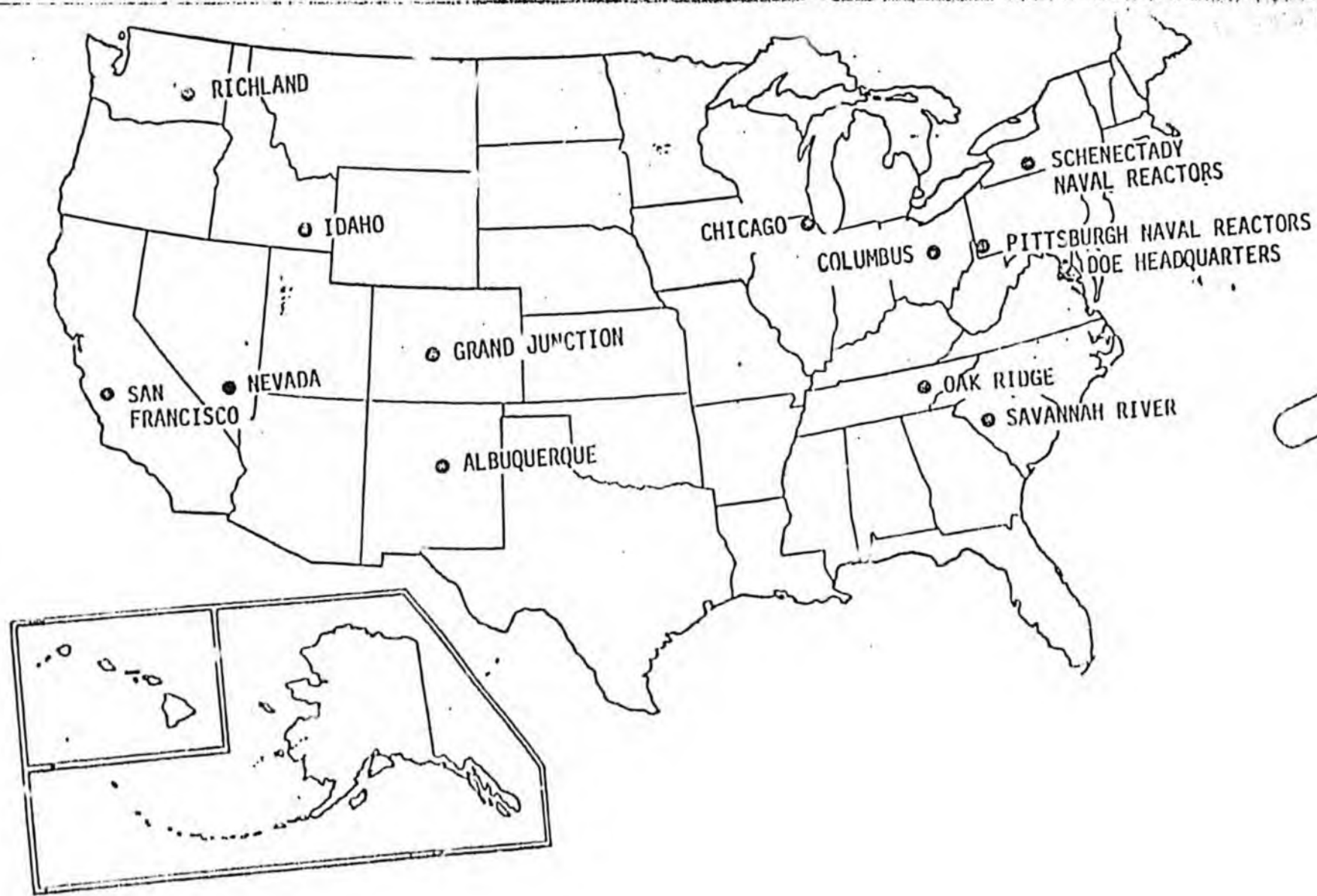


3-2

○ DOE
■ COMMERCIAL

FIGURE 3-1
LOCATIONS OF HIGH-LEVEL WASTE
STORAGE SITES

3



F-13

FIGURE F-3
DOE FIELD OFFICE LOCATIONS

The major classes of radioactive materials considered in this document are as follows:

- o High-Level Wastes--These wastes are generated in reprocessing and contain virtually all of the fission products and most of the actinides not separated out during reprocessing. These wastes are being considered for disposal in geologic repositories or by other technical options designed to provide long-term isolation of the wastes from the biosphere.
- o Transuranic Wastes--These wastes are produced primarily from the reprocessing of defense spent reactor fuels, the fabrication of plutonium to produce nuclear weapons and, if it should occur, plutonium fuel fabrication for use in nuclear power reactors. Transuranic wastes contain low levels of radioactivity but varying amounts of long-lived elements above uranium in the Periodic Table of Elements, mainly plutonium. This waste is currently defined as material containing more than 10 nanocuries of transuranic activity per gram of material.
- o Spent Nuclear Fuel--These are the irradiated fuel assemblies that are removed from a nuclear reactor after having served their useful life. This material (if declared waste) is considered for disposal in geologic repositories.
- o Uranium Mine and Mill Tailings--These wastes are the residues from uranium mining and milling operations. They are hazardous because they contain low concentrations of radioactive materials which, although naturally occurring, contain long-lived radionuclides. The tailings, with a consistency similar to sand, are generated in large volumes--about 10 to 15 million tons annually--and are presently stored in waste piles at the site of mining and milling operations.
- o Decontamination and Decommissioning Wastes--As defense and civilian reactors and other nuclear facilities reach the end of their productive lifetimes, parts of them will have to be handled as either transuranic or low-level wastes, and disposed of accordingly. Decontamination and decommissioning activities will generate significant quantities of wastes in the future.
- o Low-Level Wastes--These wastes exclude HLW, spent fuel, transuranics, and uranium mill tailings as defined above. Low-level wastes are generated in almost all activities involving radioactive materials and are presently being disposed of by shallow land burial.

LOCATIONS OF HIGH-LEVEL WASTE STORAGE SITES

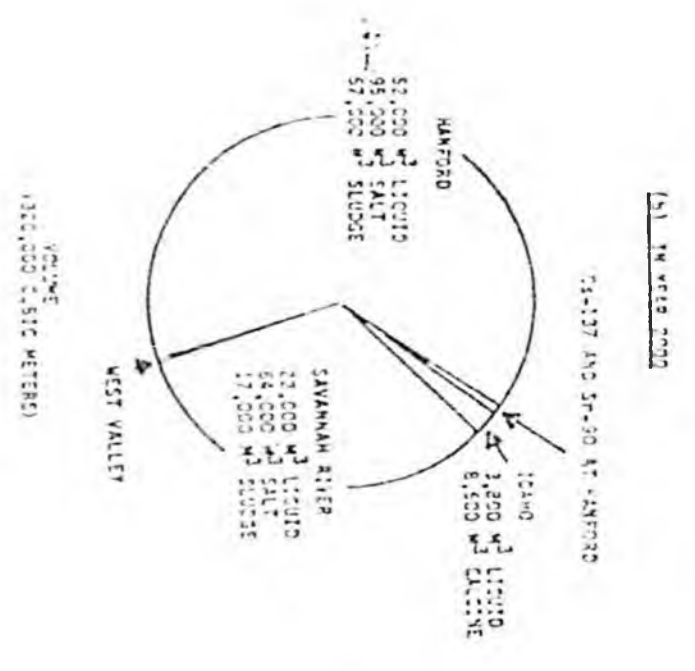
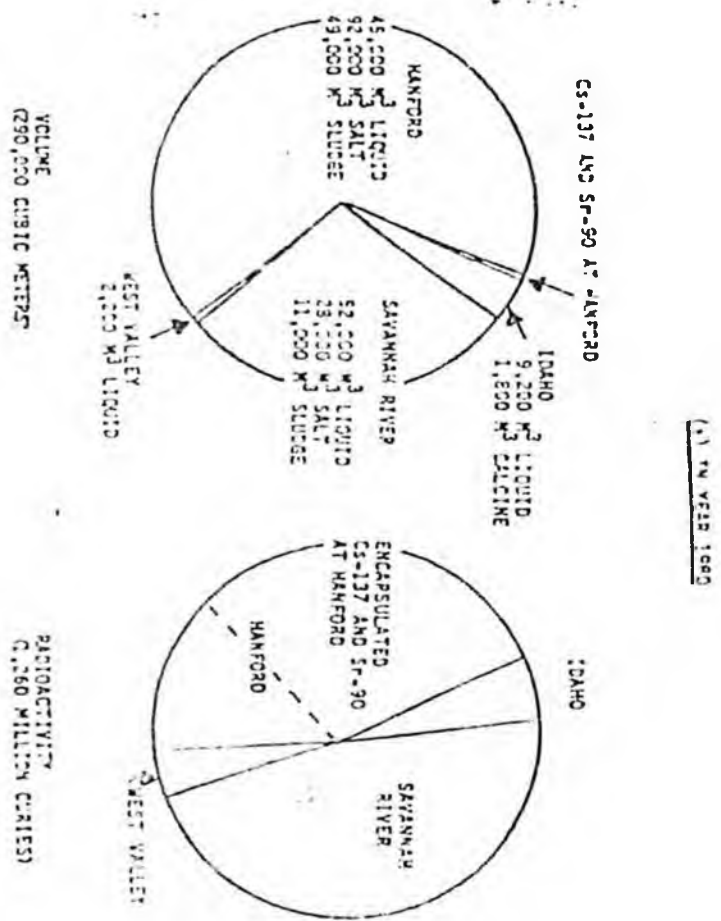


FIGURE 3-3
PRESENT AND PROJECTED QUANTITIES OF HIGH-LEVEL WASTE



Official Business

Alaska State Legislature

Senate

Office of the Secretary

January 27, 1981

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM TO: Senator Fischer, Room 205, Behrends
From: The Secretary of the Senate
Subject: *Peggy M.* Appointments by the President

On January 26, 1981 President Kerttula appointed you to
the following committees:

Hazardous Materials & Waste Management Committee

Committee on Suggested State Legislation
(for the COUNCIL OF STATE GOVERNMENTS)

Monday, June 29 (cont'd)

7:00 Western Conference Hazardous Materials Committee
- Dinner at Godfreys, Elkhorn Village Inn

Committee business and development of two-year work plan

Tuesday, June 30

8:15 - 10:00 a.m. Repeat Workshop Sessions

10:00 - 12:00 noon Reporting from workshop groups

Group Discussions on Regionalization

12:00 noon Leave for Idaho National Engineering Laboratory (optional)

✓LB
✓CM
✓JT
✓DS

file:
nuclear/hazardous
wastes

ENVIRONMENTAL POLICY CENTER
317 Pennsylvania Ave., S.E., Washington, D.C. 20003
202/547-5330

April 17, 1981

To: Interested Parties

From: Dave Berick, Washington Representative

STATUS OF NUCLEAR WASTE LEGISLATION IN THE NEW 97th CONGRESS AND REAGAN ADMINISTRATION

This status report is a continuation of the Environmental Policy Center's series of summaries of nuclear waste legislation begun last year. These reports are intended to keep representatives of state and local governments, members of the press, and concerned citizens up to date on developments concerning federal nuclear waste legislation and policies. Your comments and suggestions for improving this effort are appreciated.

Outlook for the 97th Congress---Nuclear waste legislation progressed further in the last Congress than many expected. Although the final tally shows that the only legislation to be enacted dealt only with assignment of responsibility for low-level waste disposal to state governments(see discussion of Low-Level Radioactive Waste Policy Act below), comprehensive nuclear waste bills passed both Houses of Congress and only lack of time at the end of the session kept these bills from a genuine House-Senate conference. As a result of this "progress" and continued pressure from the nuclear industry and the implications of ongoing rulemaking activities at the Nuclear Regulatory Commission(especially the "waste confidence proceeding"), final enactment of nuclear waste legislation is expected before the end of the 97th Congress.

On the surface, the current legislative debate is shaping up as a replay of action last year. The same committees are positioning themselves in much the same posture, to play much the same roles. For example, Senators Percy(R-IL) and Glenn(D-OH) have reintroduced their bill to establish a State Planning Council and containing a detailed structure for state/federal waste repository siting decisions(see details on S. 95 below). Senator Johnston(D-LA) has introduced a bill, along with Sen. Jackson(D-WA), almost identical to the Senate Energy Committee bill which the Senate passed last July(see details on S. 637 below). Rep. Barry Goldwater, Jr. has introduced a bill, on behalf of the House Science and Technology Committee, which is identical in intent to last year's McCormack Bill(then numbered H.R. 7418), to authorize the construction of two unlicensed waste disposal demonstration repositories(now numbered H.R. 1909; details below).

While there are numerous and subtle differences between these new bills and those developed last year, the intent of the sponsors is essentially unchanged. Similarly, the flow of legislative action is also expected to develop along much the same pattern as last year. The Senate Environment and Public Works Committee(chaired by Sen. Robert Stafford(R-VT) and its Subcommittee on Nuclear Regulation(chaired by Sen. Alan Simpson(R-WY) are expected to challenge the Senate Energy Committee initiatives. The Senate Energy Committee(now chaired by Sen. James McClure(R-ID) can be expected to continue its role as an advocate for the nuclear industry with a vengeance. While not endorsing the Johnston-Jackson Bill, McClure has repeatedly stated the his belief in the importance of waste legislation to the nuclear industry. His position, however, differs significantly from Johnston's in his support for demonstration repositories. Senators Percy and Glenn can be expected to intrude, as they did last year, in the debate on the state consultation and concurrence issue.

Outlook in the House---As in the Senate, action is expected to follow last year's plot, but with some new twists. It is clear that the Science and Tech Committee, notably Rep. Marilyn Bouquard(D-TN) (who assumed the chair of the nuclear subcommittee from Mike McCormack and Republican members Manuel Lujan(R-NM) and Goldwater(R-CA) intend to follow last year's gameplan and attempt to completely redirect the Department of Energy's waste programs. Rather than a more methodical program aimed at eventual development of licensed, full-scale repositories, Science and Tech hopes to funnel DOE's efforts into immediate construction of at least two unlicensed demonstration facilities to be in operation by 1988.

Action in the Science and Technology Committee is already drawing opposition within the Committee. At least one member, Rep. Stan Lundine(D-NY), has introduced alternative legislation(see details of H.R. 1993 below). Science and Tech can be expected to try to carry out its agenda for demonstration repositories in its mark-up of the DOE Authorization Act for Fiscal Year 1982 beginning the last week in April, as well as through passage of the Goldwater Bill(H.R. 1909). Science and Tech can also be expected to try to convince the House Appropriations Committee to follow its lead and reallocate DOE's waste budget towards demonstration repositories, as they successfully did last year. These actions in the House Appropriations and Science and Technology Committees will be the first important developments on nuclear waste in this Congress.

Both the House Interior and Commerce Committees, chaired by Rep. Mo Udall(D-AZ) and Rep. John Dingell(D-MI) respectively, are expected to offer alternatives to the Goldwater Bill in the House. Both are expected to support the type of step-by-step procedure for siting and licensing of geologic repositories they advocated last year. In addition, Rep. Richard Ottinger(D-NY), a nuclear critic, has taken over the chair of the Commerce subcommittee handling nuclear legislation. While neither Udall nor Dingell have introduced any nuclear waste legislation, Udall is expected to introduce the waste bill which passed the House at the end of the session(then numbered H.R. 8378).

Reagan Administration Waste Policy---Despite the Reagan Administration's early advocacy of nuclear energy, the details of the Administration's nuclear waste policies are far from clear. Preliminary statements by DOE officials indicate that Reagan plan will call for a speed-up of the Carter Administration timetable for development of waste repositories, but there is no indication at this point that there will be a shift toward the type of permanent surface storage technology advocated by Sen. Johnston and Jackson. Current DOE plans call for development of three prime sites at Hanford, Washington in basalt and at the Nevada Test Site in volcanic tuff and one additional site in salt; rather than the Carter plan for deferral of site selection until more sites in more media were available sometime in 1985 or 1986. The selection of the salt site is now scheduled to take place in 1982 from among Gulf Coast salt domes and bedded salt formations. Drilling of exploratory shafts is scheduled to be underway by 1983. Furthermore, DOE now intends to build a "testing and evaluation facility", or demonstration repository, at one of the three prime sites beginning in 1985. This demonstration repository is expected to be in operation by 1988. Under the DOE plan, this demonstration repository would be expanded into a full-scale repository. DOE would not, however, submit an application to the NRC until after the demonstration had begun.

This accelerated schedule is a significant departure from the Carter Administration timetable and policy against "demonstration" repositories. While DOE intends to continue to explore other geologic media including selection of a site in granite in 1988 or 1989, it is clear that the program is being reoriented toward an early demonstration of waste disposal without NRC licensing. DOE offers assurances of NRC review and compliance with NEPA so as not to jeopardize eventual use of the "demonstration" site as a full-scale repository. No information is available at this time on the Reagan Administration's views toward the role of state and local governments or the Carter "consultation and concurrence" policy.

As if to underscore its commitment to demonstration of waste disposal, the Reagan Administration has endorsed and expedited construction of the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico as a first waste disposal facility thereby reversing the Carter Administration policy to bank the WIPP site. The Reagan Administration has also endorsed the separation of nuclear waste programs for commercial and defense production, also reversing the Carter policy of combining commercial and defense waste programs to the extent possible. Responsibility for developing management and disposal facilities for defense wastes has been transferred to the DOE Assistant Secretary for Defense Programs under the new DOE reorganization.

Reagan Administration Policy on Spent Fuel and Reprocessing -- In related developments, the Reagan Administration has declared that it will not endorse federal away-from-reactor spent fuel storage and that spent fuel storage is the exclusive responsibility of the private sector. The DOE spent fuel program is being reoriented to help utilities develop improved ways to store spent fuel at reactor sites. The President has also informed the DOE Secretary Edwards that the federal government would not finance or subsidize operation of the Allied-General Nuclear Services reprocessing plant at Barnwell, S.C. These "private enterprise" decisions reflect a narrowing of the federal role in managing the "back end" of the nuclear fuel cycle. The Reagan reversal of the Carter spent fuel policy coupled with the "economic" moratorium on reprocessing outwardly appears to limit federal responsibility to "disposal only".

Summaries of Current Nuclear Waste Bills in the Congress:

S. 95 Nuclear Waste Management Reorganization Act (Percy-Glenn) This bill is identical to S. 742, originally introduced by Percy and Glenn in 1979. Provisions include:

- * Establishment of a state planning council, called a "waste management planning council" in the bill, but having the same intent as that proposed under the Carter waste policy.
- * Establishment of a federal interagency coordinating committee, modeled on the Interagency Review Group on Nuclear Waste Management, to be responsible for federal waste policy.
- * Establishment of specific state/federal responsibilities for siting nuclear waste repositories including a negotiated memorandum of understanding, specific reports to the state at site selection, repository design, loading, and closure.
- * Creation of a veto/override process in which the state is allowed to expressly disapprove a DOE siting decision. DOE must obtain approval of both the Senate and the House in order to override the state and construct the repository.
- * Provisions for state review panels to review DOE's repository plans and to act as the principal state contact with the federal government.

S. 637 Nuclear Waste Policy Act (Johnston-Johnson) This bill is very similar to the waste bill which passed the Senate in July. The major provisions include:

- * The bill is limited to civilian nuclear waste only.
- * Establishment of an unlimited away-from-reactor spent fuel storage program to be operated by DOE. DOE would be given explicit authority to acquire at least one AFR facility. Title to spent fuel would transfer to DOE at the nuclear power plant gate and utilities would retain a nontransferable right to the residual fuel value, if any.
- * The bill would create a revolving fund to pay for spent fuel storage, transportation, and long-term storage of the spent fuel.
- * Deferral of permanent disposal as a primary waste management goal in favor of a program for long-term storage in surface, or near-surface, engineered facilities. Wastes would be perpetually retrievable and monitored.
- * Alternatives to long-term storage would be specifically prohibited. Neither the NRC nor DOE in its compliance with NEPA could consider an alternative to long-term storage as prescribed in the bill.
- * Long-term storage would be statutorily equivalent to "permanent disposal" with containment only to the extent the hazard is equivalent to uranium ore.
- * States would be allowed to object to DOE's decision to site a long-term storage facility, referred to as a "safe repository", subject to approval of either the Senate or the House. Upon receipt of a state's formal objections, the President would review them and either uphold them or forward them to the Congress.
- * A policy of "consultation and concurrence" would be imposed, and DOE would be authorized to enter into cooperative agreements with potential host states. These provisions do not apply to any defense or research and development waste facilities or spent fuel AFR storage.

H.R. 1909 Nuclear Waste Management Research, Development, and Demonstration Act (Goldwater) This bill is modeled on legislation which passed the House Science and Technology Committee last year to require DOE to construct unlicensed demonstration repositories. It is narrowly drafted to fall exclusively within the jurisdiction of the Science Committee and prevent either the Interior or Commerce Committee from getting referral of the bill, as they were able to do last year. The major provisions of the bill are:

- * Redirect the entire DOE waste isolation program towards the construction of two "technology demonstration" repositories to be in operation in 1987 and 1988.
- * DOE must select two sites in different geologic media, within 180 days of enactment, to hold at least 40 canisters of vitrified high-level waste.
- * Wastes would be fully retrievable and demonstrations would run 20 years to 2007.
- * The bill explicitly prohibits these demonstrations from being converted into full-scale repositories; a provision which may prevent referral to other House committees.
- * Repositories would be designed to protect public health and safety through engineered barriers and containers, not geology, and would contain the wastes only to a level of risk comparable to that of uranium ore.
- * State would be given only a "consultation role". There would be no NRC licensing.

H.R. 1993 Radioactive Waste Research, Development and Policy Act (Lundine) This bill, introduced by Rep. Stanley Lundine (D-NY) represents most immediate alternative to the Goldwater Bill in the Science and Tech Committee. Provisions include:

- * Requires DOE to develop a "mission plan" modeled on NASA's comprehensive planning process for the resolution of technology and siting problems for high-level waste disposal. The plan would be subject to Congressional approval & map future DOE waste policy.
- * Authorizes construction of demonstration repositories, if approved in the mission plan. Demonstration repositories would be limited to 40 metric tons of spent fuel and would be exempt from NEPA and NRC licensing, although states would be consulted.
- * Authorizes construction of intermediate scale facilities, if approved in the mission plan. These facilities would be limited to 1000 metric tons of spent fuel, but would be expected to be expanded to full-scale repositories.
- * Creates an independent mediation board for binding arbitration of state/federal conflicts in siting or construction of intermediate or full-scale repositories.
- * DOE would be required to select sites for intermediate scale facilities by January 1, 1987. These facilities would be subject to NEPA and NRC "preliminary" review.
- * Authorizes state review boards to serve as principal representative of state.
- * Authorizes payments in lieu of taxes to host states of all three types of waste facilities, in amounts determined by DOE.
- * Creates a trust fund for the purpose of financing all nuclear waste activities and payments in lieu of taxes. The trust fund would be supported by a "tax" on spent fuel. These fees would be assessed on the amount of spent fuel in interim storage.
- * Establishes an interagency review group to oversee federal nuclear waste policy.
- * Establishes a federal state planning council.
- * Prohibits transfer of title of spent fuel to the federal government until it is received at a repository for disposal.
- * Establishes a spent fuel dry storage demonstration program to assist utilities with development of improved on-site storage.
- * Establishes a policy of commercial-only reprocessing with no federal subsidy or operation of commercial reprocessing, although it continues R & D.

Low-Level Nuclear Waste Policy Act Enacted last year, this legislation establishes a policy that states are responsible for low-level radioactive wastes generated within their borders. States may manage disposal either by establishing their own disposal sites or by entering into cooperative agreements with other states. Such compacts must be approved by Congress, but may exclude commercial wastes generated outside of the compact after Jan. 1, 1986. The Act does not apply to any wastes generated by federal defense or R & D activities. Congress may review and revoke such compacts every five years. (Public Law P.L. 96-573)

The Toxic Connection

Synfuels and Toxic Substances

by James Cannon

"The energy shortage is America's number one problem."

"No, the spread of poisons and toxic wastes in our environment is."

"STOP! You're both right."

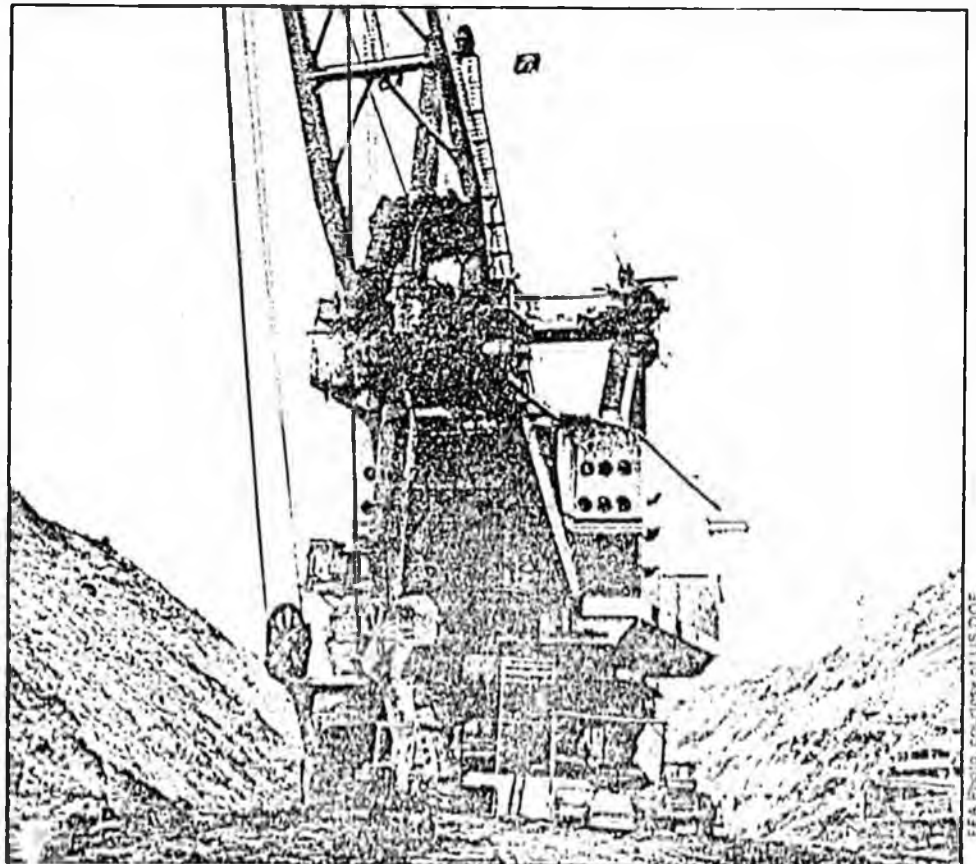
Sound like an old TV commercial? Maybe it does, but this argument points to a frightening reality: some of the proposed technologies for solving the energy crisis release toxic by-products that pose grave dangers to human health and the environment.

On June 30, 1979, Congress enacted the Energy Security Act, the most recent of several laws setting in motion a national energy program that could guide us for at least the next few years. It lays heavy emphasis on the use of coal for electric power plants and coal and shale oil for synfuel production. Most environmentalists, including CBE, oppose this energy strategy because of the tremendous air pollution and environmental devastation that it will cause. And the multibillion dollar national program to establish a synfuels industry will deflect money from the development of more environmentally sound and reliable (and probably cheaper in the long run) "alternative" energy options, such as solar and wind power and conservation.

However, another equally serious though less frequently discussed problem attends the increased use of coal and the development of synfuels: toxic by-products that must somehow be safely disposed.

Coal mining has already disturbed about 8 million acres of land, mostly forested hillsides in Appalachia; and more and more strip mining is taking place in the Midwest and West. Each new 1,000 megawatt (Mw) power plant requires either the strip mining of between 1,000 and 12,700 acres of land or the deep mining of between 27,000 and 32,000 acres.¹

The mining process, in addition to destroying the surface of land, exposes toxic substances that are found in coal. The major component of coal is carbon—the



A 20-story high coal shovel loader at a surface mine near Matissa, Illinois.

substance that burns in the presence of oxygen and liberates energy in the form of heat. Several percent of coal is made of sulfur and nitrogen, substances that, when burned, form the dangerous pollutants sulfur dioxide and nitrogen oxides; when sulfur dioxide and nitrogen oxides dissolve in water, they form strong acids.

Synfuel production releases toxic by-products.

The bulk of the remainder is ash. The fraction of one percent still unaccounted for is an amalgam of highly toxic chemicals, including carcinogens, such as nickel and chromium; teratogens, such as arsenic; very toxic heavy metals, such as beryllium, cadmium, and mercury, and even radioactive uranium.

When the coal is mined, these toxic substances are exposed and can leach into the environment. Like the chemical change that turns the inside of an apple

brown within seconds after it has been sliced open, toxic substances are released as soon as the picks and dynamite shatter the geologic prison that encapsulates the coal.

For example, when coal is mined, the now-exposed sulfur mixes with air and water and forms sulfuric acid. When this acidic water runs off from the mine site into ponds, streams, and rivers, it raises the acidity of these bodies of water. The acidic water can be poisonous to fish and other aquatic life and can corrode metal structures and concrete. Perhaps more importantly, the acids, as they leave the mine, dissolve heavy metals and other toxic chemicals contained in the coal. These chemicals, too, are carried to places where they can wreak environmental harm. Water quality in about 10,000 miles of streams and rivers in Appalachia has been degraded by the toxic pollutants from coal mine runoff. Some streams have become so polluted that they are completely devoid of life.²

James Cannon is CBE's executive director.

Yet the extraction of coal is only part of the problem. Not all of the coal that is mined is marketable. About 20 to 29% remains at the mine site, where it is mixed with rock, dirt, and other mine wastes in huge "gob" piles. Toxic substances in these piles can easily leach into the environment through the action of wind and rain. According to a recent Congressional Office of Technology Assessment (OTA) study, about 50 million tons of solid wastes containing toxic chemicals were left at mine sites in 1975. In this century, about 3 billion tons of wastes have accumulated in 3,000 to 5,000 refuse dumps in eastern coal fields alone.³

When coal is burned in an electric power plant, not all of the material is consumed in the boilers. Most of the toxic substances remain unaltered. They either accumulate at the bottom of the boiler as ash and slag, or they escape through the smokestack as airborne particulate matter. If the power plant is equipped with the best available air pollution control technology, some of these toxic particulates

The water quality in 10,000 miles of streams and rivers in Appalachia has been degraded by the toxic substances in coal mine runoff.

are removed from the air. The ash, slag, and sludge from air pollution control devices are all destined for the power plant's disposal heap. Among the toxic substances in the ash are barium, cadmium, cobalt, lead, nickel, uranium, and zinc.⁴

In 1978, utilities discarded some 70 million tons of ash, slag, and sludge near their coal burning plants. About one quarter of this waste has been reclaimed and used in products such as cinder blocks and cement. However, the remainder, which contains most of the toxic substances, is sitting in huge dumps and will remain there indefinitely. A large (1,600 Mw) coal burning plant, over its lifetime, will produce enough solid waste to cover more than one square mile of land to a height of 20 feet.⁴

However, simple stockpiling of this waste may threaten the environment. Rain water can carry the toxic pollutants to underground drinking water supplies or to nearby streams. In dry climates, the toxic substances can be whipped into the air by gusts of wind. But dumping coal wastes near the power plant is cheap—only \$2 per ton.⁵

The United States Environmental Protection Agency (US EPA) is considering regulations under the Resource Conservation and Recovery Act (RCRA) that would require that utilities take special precautions against leaching chemicals or blowing dust when disposing of ash. For example, utilities could be required to line all disposal sites with impermeable shields. Or they could be required to capture and clean the water that runs off from the disposal sites. Such disposal practices are not currently in wide use, at least in part because such practices would raise the cost of ash disposal to between \$50 and \$100 per ton.⁵ Even if US EPA acts promptly to establish such regulations, it will be a long time before this disposal problem is solved.

The United States owns more oil in oil shale deposits—some 600 billion barrels—than the Arab countries have in all their vast oil deposits. Technically, oil shale contains neither oil nor shale. It is composed of an organic compound, called kerogen, which is bound in a marble-like rock. If oil shale is heated in an oxygen-deprived atmosphere, the kerogen is converted into a crude oil-like liquid that flows from the rock. If all of this oil from shale were extracted from the nation's shale deposits, it would total more than 10 times the proven domestic reserves of conventional oil.

Unfortunately the mining of shale and the extraction of its oil pose difficult problems. Each ton, even of high grade shale rock, contains less than one barrel of oil—about 30 gallons. (The United States consumes about 18 million barrels of oil per day.) Thus, to be of any use, vast amounts of shale rock, including some

The retorting process for oil shale is like sucking the juice from an orange and ending up with a bowling ball.

overlying dirt and rubble, must be mined.* Over 25 million tons of high grade shale (more of lower grade varieties) would be mined each year to supply a commercial shale plant (50,000 barrels of oil per day). In other words, 30% more earth must be moved for a shale plant than is currently

*Technologies are being developed so that the oil can be extracted from the rock without removing it from the ground ("in situ" processes), but these are further from commercialization than the retorting techniques and pose environmental hazards underground.

moved at the largest coal strip mine in the country. The environmental problems posed by dynamiting, digging, loading onto trucks, and transporting such huge quantities of shale are truly staggering. Reclamation alone exceeds by far any challenge ever undertaken by a mining company.

Once mined, shale is baked until the oil is liberated, in furnaces at the mine site called retorts. This leads to the second major problem with oil shale. Unlike coal, which, once mined, can be shipped to a power plant and forgotten by the mine operator, the shale rock remains after oil is extracted from it. This "spent" shale poses the largest waste disposal problem ever faced by American industry. The problem is worsened by a peculiar characteristic of the retorting process: Shale rock expands as it is heated, and remains expanded even after it has cooled. Thus the spent shale occupies *more* space after the oil has been removed than before. The retorting process is like sucking the juice from an orange and ending up with a bowling ball.

One shale oil plant will produce enough spent shale to fill a canyon 6 football fields wide, 200 feet deep, and 10 miles long.

Just as you can't fit a round peg into a square hole, you can't squeeze all of the spent shale into the hole from which it was originally mined. It simply won't fit. Thus, companies designing the first commercial retorting plants, as well as environmentalists, are worried about how to dispose of the incredible piles of rubble produced by processing shale. To give you an idea of the magnitude of the problem, a 100,000 barrel per day shale plant would, during its lifetime, produce enough shale to fill a canyon 6 football fields wide, 200 feet deep, and 10 miles long.⁶ The national plan for production of synthetic fuel calls for nine such plants by 1995.

As with coal waste, spent shale is not inert. Whereas coal wastes yield acids, spent shale is extremely alkaline. Runoff from small test shale projects often has a pH of 12.5 or more.⁶ The runoff also contains an assortment of toxic contaminants

*The pH is a scale that measures acidity or alkalinity of solutions. pH 1 is the most acid, pH 7 is neutral (pure water), and pH 14 is the most alkaline.

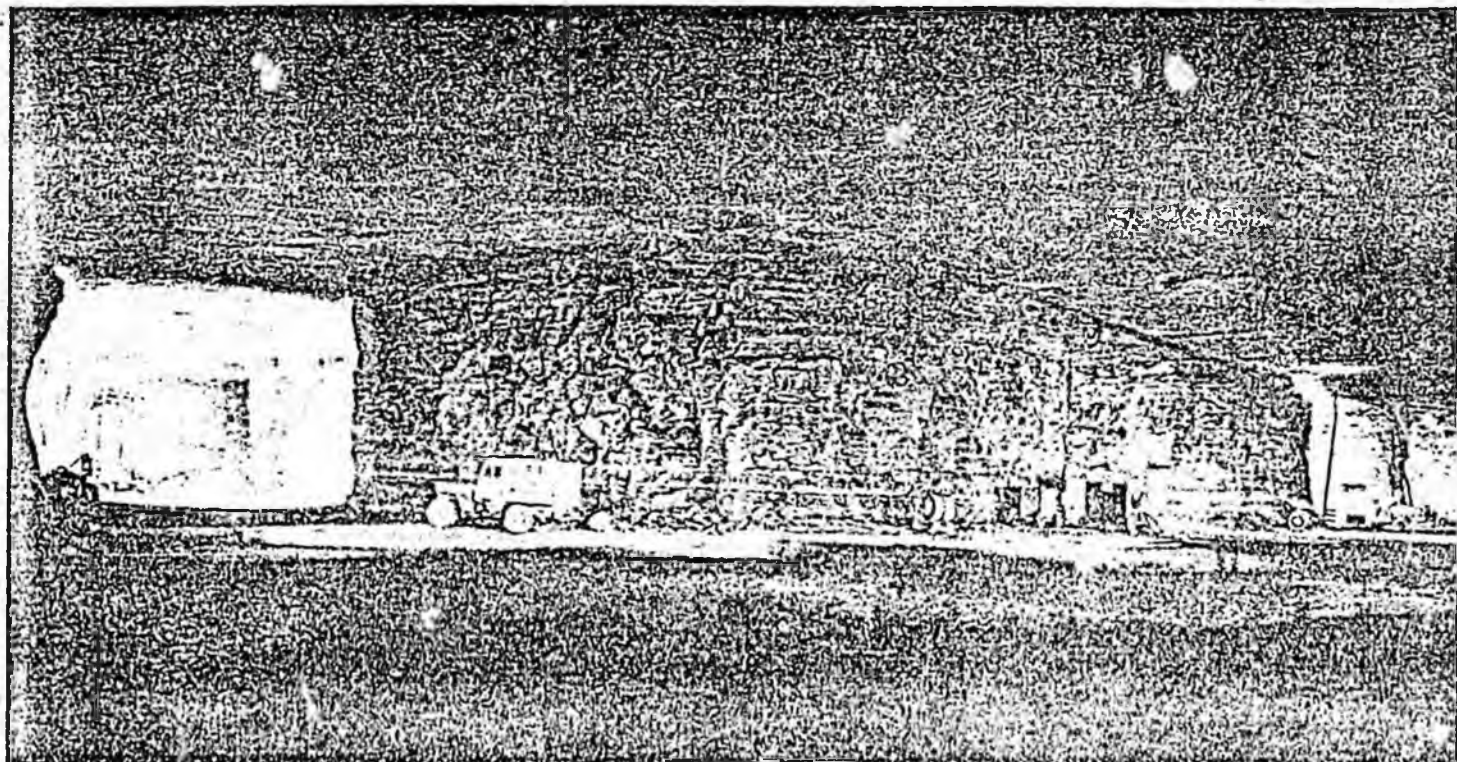


Photo courtesy of US DOE

Underground view of US Department of Energy's Anvil Points of shale mine, located near Tulle, Colorado

similar to those found in coal wastes. Blowing winds from spent shale piles, unless covered by vegetation or grasses, could transport the toxic substances in shale dust to population centers near the sposal sites.

Much of the coal and all of the shale oil that will be mined under the national energy program will be used to produce synfuels—liquid petroleum fuels similar to crude oil. The retorting process, which converts shale oil to synfuel, leaves the problematic spent shale. Coal conversion plants, which convert solid coal to liquid synfuel, generate ash and slag similar to the waste produced from coal-burning power plants. The dangers of these substances have already been discussed. But there is yet another problem with synfuels.

The processing of coal or shale-derived oil into commercially saleable products, such as gasoline, may release high concentrations of toxic substances. Synfuel production plants will operate in a fashion similar to oil refineries and are likely to generate a host of known or suspected carcinogenic hydrocarbons similar to those from their oil refinery siblings.

A pilot coal liquefaction plant in Tacoma, Washington, run by Gull Oil Corp., has already had several accidents that resulted in the release of highly toxic materials. On December 19, 1979, for example, 2,300 gallons of coal-derived liquids es-

aped when a worker accidentally left a critical valve open. The discharges, which contained dangerous concentrations of toxic and corrosive phenols, seeped into the soil and invaded the underground water table. Thirty-five feet of soil were later removed by Gull and deposited in a nearby hazardous waste dump. A \$500,000 government-funded cleanup effort was then conducted by the Department of Energy to drain the contaminated underground water. Gull was fined \$20,000 for failing to report the spill to state authorities and for violations of three water pollution regulations.⁷

The toxic wastes from synfuels might catapult this energy strategy from ill-advised to catastrophic.

Gull is now heading a group composed of foreign corporations and the governments of Japan and Germany. This group hopes to build a much larger \$1.4 billion synfuels plant (50% funded by the US Department of Energy) in Morgantown, West Virginia. But its efforts are being opposed by local environmentalists who fear the toxic pollution and subsequent health effects that such a plant might cause.

Society's problems do not exist in isolation; they are interrelated. In the best of

circumstances, we can "kill two birds with one stone" by solving two interrelated problems with one action; but this is rare. In some cases, actions that correct one problem worsen another.

And then there are actions that, no matter how well intentioned, not only fail to solve the problem that they were designed to correct, but also exacerbate another. A major increase in the use of coal and shale oil might very well be such a case. Because of the costs and technological problems, synfuels might not be America's best bet to provide lasting energy sources. But it is toxic wastes from synfuels that might catapult this energy strategy from ill-advised to catastrophic.

Notes

1. US Environmental Protection Agency: *Energy from the West*. Washington, DC, July, 1977, and calculations done by the Office of Technology Assessment, Washington, DC.
2. US Environmental Protection Agency: *Report of the Committee on Health and Environmental Effects of Increased Coal Utilization*. Washington, DC, 1978.
3. Office of Technology Assessment: *The Direct Use of Coal*. Washington, DC, 1978.
4. Pacific Gas and Electric Co: *Notice of Intention* (a 3 volume analysis of a proposed coal burning power plant). San Francisco, CA, 1978.
5. Edison Electric Research Institute, "Solid Waste Update." *EPA Journal*, April, 1979.
6. American Society of Agronomy: *Reclamation of Drastically Disturbed Lands*. Madison, Wisconsin, 1978 and CBE calculations.
7. *Wall Street Journal*, July 31, 1980.

Will the Hazardous Waste Regulations Protect Us?

Besides being over 2 years late, the hazardous waste regulations are not even complete. They are also "the most complex federal regulations ever issued." Why were they delayed so long? What will they actually accomplish?

by Bill Forcade and Amy Berk

The Problem

Long before 1976, the year when the Resource Conservation and Recovery Act was enacted, the US Congress was aware of the dangers to human health and the environment that were posed by the careless handling of hazardous wastes. In the 1920s and 30s, when the United States' chemical and other industries were in their infancy, most industry scientists knew that some of their wastes could be harmful. But most figured that if these wastes were taken far from human habitation and were buried in the purifying earth, all would be well. However, as the chemical and other industries grew in the 40s, 50s, and 60s, several things happened. First, the cities began expanding out to areas that in the 20s were "far from human habitation." Second, scientific research began to reveal the insidious ways that minute quantities of highly toxic materials could damage human health. Third, scientists also began to discover that wastes left in unlined lagoons or dumped onto ordinary landfills could leach into the underground water system and contaminate public drinking water.

Meanwhile, the quantities of hazardous wastes produced by industry were growing by leaps and bounds. And the convenient conventional wisdom that burying wastes was sufficient, prevailed. It was easier and cheaper to stockpile wastes on one's property, bury them, dump them in an ordinary landfill, or give them to a hauler to worry about, than to design manufacturing methods that produce less waste or to treat the waste once it was produced. Most manufacturers just didn't think too much about their chemical offal.

Bill Forcade is a CBE attorney.
Amy Berk is editor of the *CBE Environmental Review*.

And for unscrupulous haulers, there was big money to be made in hauling wastes and just dumping them any old place instead of treating them.

The Resource Conservation and Recovery Act

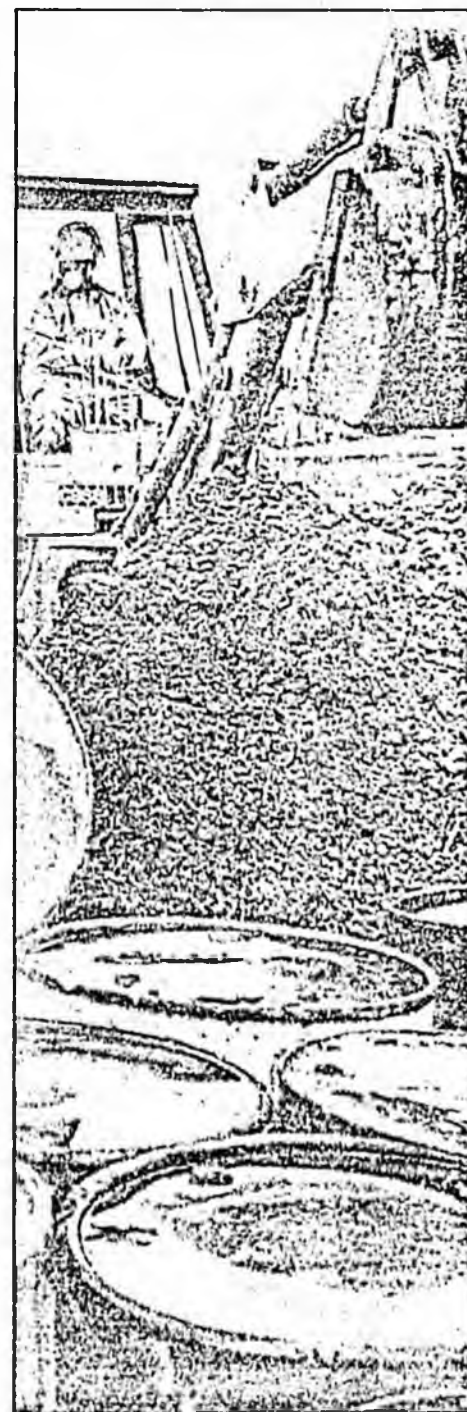
In the 60s and 70s, the public and their elected representatives in state and federal legislatures became aware of the serious hazards posed by the irresponsible handling of hazardous wastes. Reports of poisonings, explosions, and contaminated water supplies were growing.

By October 21, 1976, the US Congress finally passed the Resource Conservation and Recovery Act (RCRA), a comprehensive law designed to control and recycle all kinds of wastes. Specific emphasis was placed on controlling hazardous wastes, which Congress considered to be an urgent problem. Thus Congress mandated the US Environmental Protection Agency (US EPA) to issue the hazardous waste control regulations within 18 months—by April 21, 1978—the minimum time that Congress felt that US EPA would need to transform the mandate of RCRA into enforceable regulations.

In October, 1976, the environmentalists were congratulating themselves that they had secured the enactment of a good law that would result in the control of hazardous wastes. They believed that a solution for this horrible problem would be initiated in eighteen months. However, that was not what happened.

The Regulations Are Late

As late as April, 1978, it seemed as if the regulations would be issued on time and that they would establish strong controls. A few weeks before the regulations were due, the deputy administrator of US EPA



testified before Congress that everything was on time. But by late June, 1978, no regulations had been issued. There were no good explanations for the delay and no indication of when the regulations would be issued.

The problems causing the delay were never fully explained. It appears that regulations covering hazardous waste disposal did exist early in 1978 and that those regulations could have been issued on time. However, those regulations were for some reason deemed unsatisfactory by US EPA administrator Douglas Costle, and were rejected.



Photo by John Kudia, courtesy of the Niagara Gazette, Niagara Falls, NY

There are at least two theories for the rejection. First, because US EPA had just lost several cases in the courts, it felt that its regulations must be able to withstand challenges in court by industry. The original hazardous waste regulations may have had weaknesses that had to be corrected. Second, the cost to implement the original regulations may have been excessive and inflationary. US EPA may have decided to rewrite the regulations to reduce the costs to US EPA to run the program and the costs to industry to comply with the program. Whatever the reasons, the original regulations were rejected in 1978, and the program to control hazardous wastes was significantly rewritten over the following two years.

Shortly after US EPA decided to rewrite the hazardous waste regulations, two significant things occurred. In July, 1978, several environmental groups, including CBE, sued US EPA because the regulations were late; and in August, 1978, the New York State Health Commissioner recommended that pregnant women and children under 2 years leave an area known as Love Canal.

Environmentalists Sue US EPA

Environmentalists had sued US EPA as a way to expedite the issuance of the regulations. When Congress passes a law requiring US EPA to issue regulations by a certain date and US EPA does not do it, the courts can hear the problem and attempt to solve it. However, the courts cannot override other laws, including the laws that set the budget for US EPA. The attorneys for US EPA made clear to the judge that the amount of money and people available to US EPA prevented them from developing regulations before mid 1979 that would be acceptable to Douglas Costle. Environmentalists pointed out that Congress had given US EPA significantly more money than US EPA had asked for, and that US EPA was not presently seeking more money. The Court was in a precarious position, and Judge Gosell did not believe that he should throw Douglas Costle in jail because the Congress had not given US EPA enough money to issue the regulations on time. Thus, the judge ordered US EPA to issue the regulations in mid 1979 and to expedite them wherever possible.

Love Canal

Love Canal is an area of Niagara Falls, New York, whose name is now synony-

mous with the tragedies caused by improper hazardous waste disposal. In the 30s and 40s, Hooker Chemical Company carelessly dumped some of the most toxic chemicals known to humankind—including benzene, PCBs, and dioxin-contaminated pesticide residues—into a shallow, abandoned canal known as Love Canal. In 1953, Hooker deeded the land containing Love Canal to the Niagara Falls Board of Education for a mere one dollar. Hooker knew that there were dangerous chemicals there and that an elementary school would be built on the site. By August, 1979, reports began appearing in national newspapers about the abnormally high levels of miscarriages, birth defects, cancer, kidney diseases, and deafness among the residents and school children living near Love Canal. All evidence indicated that the toxic chemicals were leaking from Love Canal into the air, homes, and school in the area. And these chemicals were seriously affecting the health and well-being of the residents. (For a truly terrifying and detailed account of what happened at Love Canal and other places in the country, read *Laying Waste: The Poisoning of America by Toxic Chemicals* written by Michael Brown.) The evacuation recommended by the health commissioner in August only marked the first public acknowledgement of an ongoing tragedy.

Public outrage over Hooker's actions at Love Canal and the growing publicity of other "chemical time bombs" exerted great pressure on the Congress and White House to pressure US EPA to issue the hazardous waste regulations. Despite several Congressional hearings concerning the delays, US EPA maintained that they were proceeding as fast as they could, that the problem of regulatory control of hazardous wastes was much larger than they had anticipated, and that no internal US EPA problems were contributing to the delay.

Delay Is Detrimental

By May 19, 1980, most of the required regulations were satisfactory to Douglas Costle, and he officially signed them into law. However, that two year delay proved to be very detrimental.

First, irresponsible dumping of hazardous materials continued unimpeded for an extra two years. In fact, dumping may have increased in expectation of strict and expensive federal regulations.

Second, the delay slowed down state