

## *C. Board and Committee Activities*

Following are:

- I. A synopsis of Board actions, and Board activities in support of WGA initiatives, since the April 1999 meeting in Santa Fe;
- II. A review of the committee structure; and
- III. A report on the activities of the Committees since the October meeting.

### **I. Synopsis of Board Actions Since April Meeting in Santa Fe**

- In April, Chairman John Nunley (WY) appointed **Marsha Smith (ID) to chair the Committee on Regional Electric Power Cooperation**. Marsha replaces Roger Hamilton (OR), who stepped down as chairman.
- In follow-up to the April Board meeting discussions, on June 10, **the WIEB Team** (John Nunley, WY, Alan Davis, MT, Jeff Burks, UT, Rose McKinney-James, NV, and Bill Keese, CA) met with: T.J. Glauthier, Deputy Secretary of Energy; Rick Glick, Secretary Richardson's advisor on electric industry restructuring; Dan Reicher, Assistant Secretary for Energy Efficiency and Renewable Energy; and Dan Adamson, Deputy Assistant Secretary for Power Technologies. Reports from the meeting indicate that Glauthier and Glick were particularly receptive to the work being done by CREPC. No closure was reached on a point of contact for western states in the Deputy Secretary's office. Such a point of contact would provide an entre to programs outside of efficiency and renewables and provide overall coordination between the Department's energy programs and the West. It is unclear what mechanism might be used to enable western states to provide input into DOE's budget planning. A number of WIEB team members believe it is important for western states to work with Congress on funding issues.
- At their June 13-15 meeting in Jackson, Wyoming the **Western Governors' Association** held a plenary session on the future of western energy. This session did not include any significant discussion of the state role in electric system reliability or coal and climate change, two topics the Board raised with Deputy Secretary Glauthier in April. Two energy-related resolutions were adopted at the WGA meeting. The first, and most contentious resolution at the meeting, amended an existing WGA policy on spent nuclear fuel by stating that: "The governors support efforts by the federal government to examine alternative waste acceptance options, including but not limited to, providing funds to utilities for expanded on-site storage and taking title to spent nuclear fuel at individual reactor sites." The resolution was sponsored by Governors Guinn (NV) and Leavitt (UT). The second resolution amended existing policy on hydro relicensing to emphasize the need to preserve low-cost hydro power as well as maintain environmental standards. The meeting provided a step toward strengthening the relations between western governors and western premiers, including the adoption of a resolution on relations with the Western Premiers' Conference. During the energy plenary session, Energy Secretary Richardson announced a \$75,000 grant to WIEB to support electricity work and a \$70,000 grant to WGA (which will flow to WIEB) to support the work of the Air

Pollution Prevention Forum of the Western Regional Air Partnership.

- While in Jackson, ten western governors sent a letter to EPA informing Administrator Browner that the governors have directed the Mobile Sources Forum of the Western Regional Air Partnership to study and make recommendations on EPA's recently proposed rule on **sulfur in gasoline**. The governors urged EPA to cooperate with the Forum and to consider the findings of the forum before adopting a final rule. The Mobile Sources Forum (which includes the oil industry and environmental groups) reached agreement on suggested amendments to the proposed rule dealing with small refiners. The agreement retains the 30 ppm standard for the sulfur content of gasoline and provides more time for compliance by small western refiners. In September, the Western Regional Air Partnership endorsed the Forum's recommendation, which has been forwarded to EPA. [Click here for a press release and the text of the recommendations.](#) Sulfur in gasoline is an issue the Board discussed with air and auto industry representatives in April 1996. The next regulatory step by EPA is likely to be a proposed reduction in the sulfur content of diesel.
- In July, DOE has signed a **\$70,000 cooperative agreement with WGA for the work of the Air Pollution Prevention Forum**. The funds will flow to WIEB to do the work. DOE has indicated that it may provide an additional \$60,000 for this activity in FY 2000, depending on the progress of the Forum. A progress report will be given to DOE in early November.
- On September 15, the Board signed a contract with DOE providing **\$75,000 to WIEB for the work of the Committee on Regional Electric Power Cooperation**. This is one-half the funds WIEB requested. Roughly one-half of the funds will be used to reimburse state travel to western industry meetings (e.g., Western Systems Coordinating Council, western transmission associations, NERC/NAERO committee meetings, regional transmission organization discussions); the other half will be for staff support of CREPC.
- In July, western state air directors asked the Board for help in estimating the capacity utilization rate for western coal-fired power plants in the year 2018. This is an important part of designing an **emissions trading system under the EPA's regional haze rule**. The information on historic utilization rates was presented to the WRAP's Market Trading Forum on July 29. It appears that the Market Trading Forum will base their capacity utilization factor in 2018 on the data supplied.
- In late July, Doug Larson spoke to the Energy & Minerals Committee of the **Western Legislative Conference** on electric system reliability and transmission efficiency. The Committee, and subsequently the Conference, adopted a resolution urging Congress to incorporate into any **federal reliability legislation** (1) deference to interconnection-wide standards developed in the West; and (2) **a significant role for states in reliability decisions**. These have been the major legislative priorities of the Committee on Regional Electric Power Cooperation. The resolution is being used in CREPC's efforts to build support for including in federal legislation a collective state advisory role to FERC and a state "savings clause."

- In September, **Governor Dirk Kempthorne (ID), Vice Chairman of WGA, wrote a letter to Congress conveying support for legislative language giving states a role in reliability decisions.** The language was developed through negotiations among CREPC, the western industry, the National Association of Regulatory Utility Commissioners, NASEO and the North American Electric Reliability Council. A similar letter is being sent by the Western Legislative Conference. Efforts are being made to incorporate the language into the House and Senate electric industry restructuring mark-up bills.
- On October 1, **Terry Pruitt joined the WIEB staff.** Terry is a law school graduate with undergraduate degrees in economics and English. He will primarily work on CREPC activities. As part of its approval of Board budgets in April 1998 and April 1999, the Board directed that this position be filled, contingent upon a reasonable expectation that adequate revenues would be available to sustain such a position for at least two years. (The position became vacant when Brad Wetstone left the Board staff in January 1998.) Sufficient revenues are expected to fund this position.
- As of October 8, **dues** from voting members of the Board for the current year had been received from Washington, Oregon, Nevada (partial dues via contract, full dues payment will occur), Arizona, New Mexico, Utah, Wyoming and Colorado. Rick Grice (Colorado Office of Energy Management) has indicated that his office will not be paying dues in future years. The Colorado PUC, in conjunction with the Department of Natural Resources and the Department of Public Safety, are pursuing ways of funding Colorado's dues beginning next year. Associate member dues have been received from Nebraska, Saskatchewan, Alberta and British Columbia. B.C. paid at last year's rate because of budget cycle requirements.
- **CREPC has asked PUCs to make contributions to WIEB to support the Committee's work.** The recommendation was for total PUC contributions (\$12,000 from the Western Conference of Public Service Commissioners (WCPSC) and \$4,400 from each of the 11 PUCs) to match WIEB's allocation to CREPC activities (\$60,000). As of October 8, the WCPSC and the commissions in Washington, Oregon, Idaho, Montana, California, and Nevada have contributed to support CREPC's work. In addition, the California Energy Commission contributed \$5,000 for work on information tracking and disclosure.

## II. Committee Structure

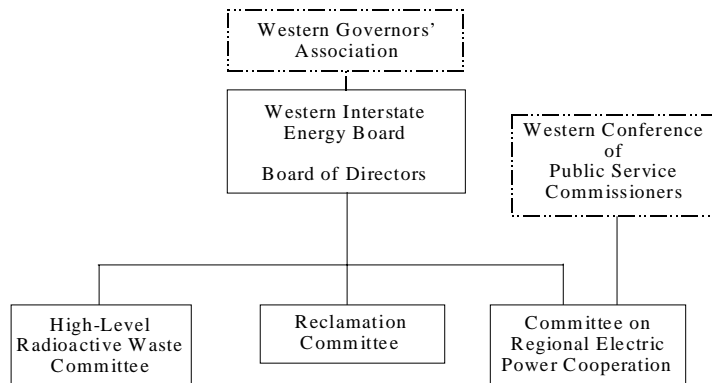
The Board has three committees. The committee structure allows subgroupings of states/provinces to pursue particular issues in depth. One committee, the Committee on Regional Electric Power Cooperation, is a joint committee of the Board and the Western Conference of Public Service Commissioners.

The Board chair appoints committee chairs. (The exception is the chair of the Committee on Regional Electric Power Cooperation who is jointly appointed by the chairs of WIEB and the Western Conference of Public Service Commissioners.)

Board members make appointments to committees of interest to their state/province. Typically, Board members have appointed the state/provincial experts in a particular topic to such committees. Often committee appointments are from agencies other than the Board member's agency.

In pursuing their issues, the committees have developed working relationships with outside parties, such as: the Reclamation Committee's work with the Office of Surface Mining and the Interstate Mining Compact Commission (which represents eastern states); the Committee on Regional Electric Power Cooperation's relationship with the Western Systems Coordination Council, western regional transmission groups, DOE, and the Federal Energy Regulatory Commission; and the High-Level Radioactive Waste Committee's relationship with DOE's Office of Civilian Radioactive Waste Management, the Department of Transportation, and the Nuclear Regulatory Commission.

The following chart shows the Board's committees.



### III. Committee Activities Since October

#### *Reclamation Committee*

*[The Reclamation Committee includes the states of Colorado, Montana, New Mexico, Utah and Wyoming. Mike Long, Director of the Colorado Division of Mines and Geology, chairs the Committee.]*

#### Activities Since April

- In May, in response to litigation in West Virginia, OSM initiated an effort to determine **whether the findings states are making in their coal mining permits are legally adequate**. The Reclamation Committee expressed concern that this issue not become an item in the oversight of state programs. The Committee has been steadfast in its efforts to ensure oversight focuses on environmental outcomes and is not used for other purposes, such as process reviews or data collection. In response, OSM has agreed to a meeting in November in which the states and OSM will collectively review the quality of their permit findings in light of the West Virginia litigation.
- In June, OSM held meetings in the West to obtain information about whether its **rules governing revegetation** should be changed. The Reclamation Committee has been advocating changes for some years to reflect the lower rainfall and vegetation (grasslands and desert) conditions in western coal mining regions. The OSM rules are designed for reclamation to forest land and farm land. Committee members participated in OSM's meetings.
- In June, the federal Office of Surface Mining (OSM) initiated a review of the way in which **citizen complaints involving blasting practices** are reviewed in states. The Reclamation Committee is cooperating with the review to ensure that it does not result in new federal procedures that increase costs and offer no benefits to the West. Only one state in the West, Wyoming, has received blasting complaints. Blasting complaints are fairly common in the East.
- On August 3-5, OSM held a workshop with all states on **the future implementation of the Surface Mining Act**. The workshop reinforced one of the Reclamation Committee's top goals: ensuring that the oversight of state programs focuses on environmental outcomes not procedural issues. During the workshop, the Reclamation Committee met to discuss current issues and set its next meeting for November 16. The issues discussed were funding of Title V (regulatory) grants in future years, permit findings necessary to comply with a recent federal court decision, OSM's collection of data on citizen complaints on blasting, and the potential extension of the fee on coal for the clean-up of abandoned mines.
- In August, the Reclamation Committee weighed-in on **OSM's succession planning** effort. OSM will experience significant retirements in the next few years and is developing a plan to replace the retiring employees. The Committee said, "Our overall belief is that the implementation of SMCRA in the future will be more technically demanding than in the past. As a result, there is a need to have high-quality technical resources available to both OSM and the states. Our first priority is to ensure that

high-quality technical resources are available within state regulatory programs. These resources can be effectively supplemented through OSM hiring persons with skills that are not available in each state or by setting aside resources to contract for such skills as the need arises.”

- In response to concerns expressed by the Committee and the Interstate Mining Compact Commission in testimony on the FY 2000 budget for OSM, House and Senate Appropriations Committees have added \$1.5 million in **state regulatory grants**, bringing the FY 2000 total to \$52.1 million. This is still less than the \$56.7 million the states requested, a funding level that will not require state cutbacks. The Reclamation Committee has joined an OSM task force to resolve the problem of chronic shortfalls in state regulatory grants. The Administration is committed to asking for more money for regulatory grant funds in FY 2001, but it appears that the request will again fall short of state program needs. All states are now developing information on activities that will be eliminated if the federal government fails to provide its share of state regulatory grants.
- In the FY 2000 appropriation to OSM, Congress is not honoring the request of the Reclamation Committee and the Western Governors' Association **to appropriate the growing surplus in the Abandoned Mine Land Fund** which will reach \$1.6 billion this year. The Committee has also learned of Congressional proposals to increase substantially the amount of the interest on the AML Fund which is being diverted to pay for the health benefits of retired miners and to extend the AML fee beyond its scheduled expiration in 2004 (but at a lower rate). Unfortunately, the funding of miners' health benefits from interest on the AML Fund is providing an incentive to hold down appropriations for clean-up of mines in order to maximize the surplus in the Fund and the resulting interest on the surplus. The Committee is presently seeking to determine the position of the western coal industry on extension of the AML fee and diversion of monies to pay for retired miners' health benefits. WGA has a resolution seeking appropriation of the unexpended balance in the AML funds to move ahead with abandoned mine cleanup.
- The Committee is **meeting on November 16** in Denver. The agenda for the meeting includes: the adequacy of western state and OSM findings in mining permits; state regulatory grants; OSM's technology transfer and training programs which benefit states; review of how citizen complaints on blasting are handled; and diversion of AML funds to pay for retired miners' health benefits.
- The Committee is also advising OSM on the use of its Applicant/Violator System in light of recent litigation and OSM's internal list of priority topics.

## ***High-Level Radioactive Waste Committee***

*[This Committee focuses on issues related to the transportation of commercial spent nuclear fuel and high-level radioactive defense waste (SNF/HLW) under the Nuclear Waste Policy Act (NWPA). The NWPA transportation program would involve an unprecedented number of SNF/HLW shipments traveling by rail and truck through numerous western states to a potential storage facility located at Yucca Mountain, Nevada. Ken Niles of the Oregon Office of Energy and Captain Allan Turner of the Colorado State Patrol co-chair the Committee.]*

### **Activities Since April**

- The Committee held its **final meeting under the Office of Civilian Radioactive Waste Management (OCRWM) cooperative agreement** on June 9-10 in Seattle. The Committee received updates on activities at Yucca Mountain as well as on activities surrounding the licensing of a proposed privately owned and operated interim nuclear waste storage facility on the Goshute Indian reservation in Utah. The Committee also discussed how it would continue to operate under its current funding situation. **OCRWM has eliminated funding for its regional cooperative agreement groups, including WIEB.** With the Committee's meeting in June, all carry-over funds have also been exhausted. The Committee has executed an unfunded no-cost extension with OCRWM through April 14, 2000. This extension keeps open the legal instrument for the cooperative agreement, thereby making it more expedient to recommence funding should OCRWM decide to do so. Under the Board-approved work plan (which reflects the elimination of funding under the OCRWM cooperative agreement) approximately 15 hours of staff time per month will be available to spend on radioactive waste issues. No future meetings of the Committee will be planned. The Committee agreed that future staff and Committee activities would be conducted largely through electronic means, including use of e-mail and the Committee's site on the Internet. Also at the meeting, [the Committee reviewed a draft "report card"](#) to DOE grading the agency's progress on a variety of key nuclear waste transportation elements within its OCRWM program. The Committee is currently reviewing the draft report card, which it plans to release in late October.
- On August 6, DOE released its **Draft Environmental Impact Statement for the potential nuclear waste repository at Yucca Mountain, Nevada.** The EIS is the agency's latest step towards preparing the repository for licensing and for recommending the site to the President by 2001. The Committee plans to submit comments to DOE on the EIS.
- The Supreme Court has let stand lower court rulings which allow DOE to be sued for **monetary damages for the agency's failure to commence accepting SNF by January 31, 1998**, as required under the NWPA. The Court has also let stand the ruling that DOE could not be forced to begin accepting SNF before it is properly prepared to do so. DOE continues to work with utilities in an attempt to reach an agreement under which DOE would take title to the SNF now stored on site at reactors around the country in exchange for utilities dropping their lawsuits against the agency.
- By a 40-6 vote, on April 21 the House Commerce Committee voted in favor of legislation ([H.R. 45](#)) to **rewrite the NWPA.** H.R. 45 seeks to mandate the construction of an

interim SNF/HLW storage facility in Nevada, and would require the facility to begin accepting waste by no later than 2003. H.R. 45 was introduced by Rep. Fred Upton of Michigan and is strikingly similar to last year's interim storage proposal in the House (H.R. 1270). The legislation falls far short of comporting with the nuclear waste transportation policy provisions of western states. In the Senate, the Energy and Natural Resources Committee delayed action on S. 608, which also called for the construction and operation of an interim SNF storage facility near Yucca Mountain by no later than June 30, 2003. Instead, the Committee began consideration of a substitute bill, S. 1287. Similar to S. 608, the substitute bill was sponsored by Sen. Frank Murkowski (R-AK) and retains many of the transportation provisions which western governors have called for over the past ten years, including: requiring DOE to "evaluate the relative safety" of shipping modes and routes; requiring DOE to designate mandatory preferred routes based on its safety analysis; requiring DOT to promulgate rail routing regulations; stating that no shipments will occur unless technical assistance and funds have been made available to states and tribes at least three years in advance of shipments; and providing that 75 percent of the funding be allocated to states/tribes based on projected shipment miles through each jurisdiction, while 25 percent is to be allocated "to ensure minimum funding and program capability levels." The bill does not, however, call for the full scale destructive testing of transportation casks. The key difference between S. 1287 and S. 608 is that S. 1287 authorizes DOE to contract with utilities to take title and pay for storage of spent fuel at reactor sites. This new language in the bill is designed to allow DOE to follow through on its current offer to take title to SNF at reactor sites in exchange for utilities dropping their lawsuits against DOE for failing to begin timely SNF disposal as required under the NHPA. S. 1287 also provides that if the NRC finds that spent fuel cannot be stored at a reactor site, then DOE is authorized to store the fuel at the repository site (once the NRC has authorized construction of the repository) or at a privately-owned storage site. S. 1287 was reported to the full Senate by the Energy and Natural Resources Committee on June 24.

- The Nuclear Regulatory Commission (NRC) is continuing its process of preparing an EIS addressing the proposed construction of a **private interim SNF storage facility in Utah**. The facility would be constructed under the pending license application filed with the NRC in 1997 by Private Fuel Storage, L.L.C. (PFS), which is a consortium of utilities owning nuclear power plants. The proposed facility is to be located on the Skull Valley Goshute Indian reservation 60 miles outside of Salt Lake City. The facility would store up to 4,000 dry casks (40,000 metric tons of uranium) on the reservation. The Goshutes have already signed a 25-year lease with PFS, with an option to extend the lease by another 25 years. Utah Governor Mike Leavitt strongly opposes the facility.
- On June 22, [Nevada filed a petition](#) with the NRC requesting that the Commission modify its **regulations governing the potential sabotage of spent nuclear fuel casks**. In the 27-page petition, the state asked for amendments to NRC regulations governing: the assumptions about sabotage of spent fuel casks; the definition of "radiological sabotage"; the Commission's advanced approval of routes that are used to ship spent fuel; armed escorts of spent fuel shipments by highway and rail; additional shipment planning and scheduling requirements; a requirement that all rail shipments be by dedicated train; and the assessment of consequences of terrorist attacks. On Sept. 13, the NRC published the Nevada petition in the Federal Register. The NRC is seeking comments on the petition through November 29, 1999. Nevada has asked that the WIEB High-Level

Radioactive Waste Committee offer comments to the NRC in support of Nevada's petition. The Committee is currently discussing the issuance of a joint letter with WGA supporting the Nevada petition. In June 1998, WGA passed a resolution calling for the same review of potential terrorism and sabotage threats which is being requested by Nevada ([click here for the WGA Resolution](#)).

- **DOE Transportation External Coordination Working Group (TEC/WG):** In July, Committee Co-Chair Ken Niles (OR) and Committee member Chris Wentz (NM) attended DOE's TEC/WG meeting in Philadelphia. Through its Transportation Protocols Topic Group, which first met at the January TEC/WG meeting, DOE is continuing to develop a set of uniform transportation regulations and practices, organized into 17 separate protocol areas. This series of protocols is to be applied across the Department's various radioactive waste transportation programs. The first three protocols being addressed by the Topic Group are Projected Shipment Planning Information, Shipment Prenotification, and Routing. Comments on these three proposed protocols were submitted by Committee members from both California and New Mexico.
- DOE has shelved further development on its program to implement Section 180(c) of the Nuclear Waste Policy Act to provide **funding and technical assistance for states** and tribes to prepare for SNF/HLW shipments.
- On August 31, DOE successfully completed its **first cross-country shipment of foreign research reactor spent nuclear fuel**. The shipments traveled in two separate truck convoys from the Savannah River Site in South Carolina to the Idaho National Engineering and Environmental Laboratory (INEEL). The route selected for the shipments was I-80 through Nebraska, Wyoming, and Utah.
- On April 28, the **first interstate shipment of transuranic (TRU) waste arrived at the Waste Isolation Pilot Plant (WIPP)** in New Mexico. The shipment began at INEEL and crossed through Idaho, Utah, Wyoming, and Colorado before arriving at its destination. After crossing Utah and Wyoming on I-80, the truck followed Interstate 25 through Colorado to U.S. 285 in New Mexico.

## ***Committee on Regional Electric Power Cooperation***

*[This is a joint committee of the Board and the Western Conference of Public Service Commissioners. It includes all the states and provinces in the electrically-synchronized western grid, plus Saskatchewan. The Northwest Power Planning Council also participates in the Committee's meetings. Marsha Smith of the Idaho Public Utility Commission chairs the Committee.]*

### **Activities Since April**

- At its April 22 meeting, CREPC gave the following instructions to its representatives to the Western Interconnection Coordination Forum regarding **the state/provincial role in reliability decisions**:
  - A. Any mandatory regional, national or North American standard should embody the social value of reliability and the proper balance between reliability and costs to consumers, and should be established through a formal process that includes states/provinces and affords significant weight to determinations made by the states/provinces; and
  - B. CREPC's representatives to WICF should
    - \* Support a strong state role before Congress, FERC and NERC,
    - \* Seek WICF support for that position,
    - \* Seek a state/provincial role in the final structuring of the Western Interconnection, and
    - \* Set a time limit to determine what the state/provincial role should be.
- The Committee approved resolutions on "**Sharing Data on Power Source Claims in the West**" with abstentions by NM, SK, WY, AB, BC and NWPPC and on "**Consistency of Western Power Labels Where Possible**" with abstentions by NV, BC, SK, NM, AB, WY and NWPPC.
- The Committee voted to recommend Marsha Smith (ID-PUC) as the **new Committee chair** to replace Roger Hamilton. Later in April, WIEB Chairman John Nunley appointed Marsha Smith (ID-PUC) as chair of the Committee.
- Also at its April meeting, the Committee agreed on **travel priorities** should travel funds become available from DOE.
- At its annual meeting on July 17-20 in Sun Valley, the **Western Legislative Conference adopted a resolution** urging Congress to incorporate into any federal reliability legislation (1) deference to interconnection-wide standards developed in the West; and (2) a significant role for states in reliability decisions.
- In August, CREPC joined the other members of the Western Interconnection Coordination Forum (WSCC, SWRTA, NRTA, WRTA) in submitting comments to FERC on one element of its **proposed rule on regional transmission organizations**. The comments focused on the need for a Western Interconnection Organization to deal with "seams issues" between RTOs.
- In August, at the request of the **Colorado PUC**, WIEB staff briefed the new chairman on

regional electric power issues.

- In August, CREPC representatives to **WICF and the WSCC Board of Trustees** secured the support of those organizations for **language providing a state role in reliability decisions** under federal electric industry restructuring legislation.
- In September, the **Western Governors' Association** wrote Congress urging that language providing a **state role in reliability decisions** be incorporated into federal reliability legislation.
- On September 28-29, CREPC members and WIEB staff participated in a WICF-sponsored workshop on a **proposed Western Interconnection Organization (WIO)**. Since the last Board meeting, CREPC representatives and staff have been very active in the WICF work groups which were developing options for the governance of a new WIO, the relationship of the WIO to subregional groups (e.g., California ISO, Northwest Power Pool), and the structure of committees within the WIO. Governance that involves states and provinces is a priority for the Committee. The Committee will be offering additional advice to WICF on the WIO proposal during its meeting on October 19-20.
- The Committee is meeting on October 19-20. [Click here for the CREPC meeting agenda.](#)