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Summary of the May 4, 2005 Meeting of the High-Level Radioactive Waste Committee Meeting Salt Lake City, Utah

With 10 states participating (AZ, CA, CO, ID, NE, NV, NM, OR, UT, WY), the High-Level Radioactive Waste (HLW) Committee:

- Reviewed the relative merits of funding formulas versus needs-based funding, and concluded that it is premature for the U.S. Department of Energy (DOE) to finalize 180(c) funding allocations until more decisions have been made with regard to mode, routing, etc.
- Discussed final editing changes to the potential renewal of the Western Governors' Resolution on the Transportation of Spent Nuclear Fuel and High-Level Radioactive Waste, which is sunsetting.
- Resolved to send copies of the "Principles of Agreement" to John Parkyn, Private Fuels Storage, LLC (PFS) and to Paul Golan at DOE-RW.
- Agreed to work with the other State Regional Groups (SRGs) to develop versions of the 180(c) Topic Group papers that reflect the states' concerns.
- Agreed to continue work on developing a 180(c) implementation pilot project.
- Received an update on the Nuclear Waste Policy Act (NWPA) transportation program from Judith Holm, DOE-RW.
- Received an update from Earl Easton, U.S. Nuclear Regulatory Commission (NRC), on the Package Performance Study, rail cask safety, recent National Academy of Sciences (NAS) reports, and other issues.
- Received updates from the other SRGs.
- Conducted a roundtable discussion of recent developments.
- Received reports on the activities of the Transportation External Coordination (TEC) Topic Groups.
- Received an update on the states' comments on DOE's Transportation Practices Manual.
- Reviewed work done to date on developing a procedure to enable Western states to better share information on unusual nuclear materials shipment events.

Status of the NWPA Transportation Program:

Judith Holm (DOE-RW) provided an update on activities of the Office of National Transportation (ONT):

- Alex Thrower, currently with DOE-EM, is moving to RW and will be WIEB's point of contact at ONT.
- The 2012 revised opening date for Yucca Mountain is unofficial; no official revised opening date has been decided on at this time.
- The Civilian Waste Program had requested \$187 million for FY05, but only received \$25 million due to the delayed opening date for Yucca Mountain.
- The \$10 million figure DOE had been using as a placeholder for annual 180(c) appropriations was calculated based on estimated costs of training materials, average salary of state health physicists and other supporting activities. In RW's FY06 budget proposal, RW staff requested \$15 million for annual 180(c) funding, which was increased to \$30 million by DOE management. This funding was later cut from the budget due to delays in the opening date for Yucca Mountain.
- Work continues on the Environmental Impact Statement (EIS) for the proposed Caliente (NV) rail spur to Yucca Mountain, to include studying alternate alignments proposed in public meetings and in scoping comments. DOE expects the draft EIS to be completed in FY06.
- DOE prefers to use dedicated trains, but may use general freight for some limited shipments. The decision on dedicated trains is expected this fiscal year.
- DOE is not looking into any specific contingencies in case rail access to Yucca is delayed. They have not specifically looked at shipping legal-weight truck casks by rail to Yucca, although that has been done in other DOE shipping campaigns.
- ONT plans to maximize the use of existing cask designs and NRC Certificates of Compliance for transport casks. ONT prefers using cask systems that provide maximum flexibility in terms of facility and fuel compatibility.
- RW will solicit input from cask vendors on ways to increase capabilities of casks to accommodate SNF inventory at facilities with infrastructure limitations.
- ONT plans to procure approximately 120 cask cars, 60 buffer cars, and 30 escort cars, and is developing a policy on implementing the Association of American Railroads standard for rail cars.
- DOE considers PFS to be completely "outside the system," and is therefore not considering PFS in any of its planning activities.
- DOE is working to resolve the question of who can be allowed access to the Sandia Investment Planning Model, and what approvals might be required. Another option might be for the HLW Committee to give its scenarios to Sandia and have Sandia run them. Judith does not prefer this option and regards it as a last-resort. She expects she should have an

answer in the next few weeks.

- DOE favors developing a suite of routes, rather than just primary and secondary routes as has been done for many past shipping campaigns. This decision is based primarily on the security benefits of less-predictable routing, but also allows greater flexibility to react to severe weather or other situations that might require re-routing. DOE recognizes that this approach will require greater funding to prepare multiple routes.
- DOE is considering holding the September TEC meeting at the Pueblo Transportation Training Center. In addition to touring the facility, the meeting could include technical discussions with industry representatives. Ken Niles suggested that the meeting be held while there is some training in progress, so we can see the facility in action.
- RW is focusing a lot of attention on the work done by the TEC Topic Groups:
 - Tribal: A notification letter was mailed to tribal leaders of the 39 tribes within one-half mile of representative routes.
 - Rail: DOE is waiting for the Midwest and Northeast to develop their lists of proposed routes; RW will review and expand on those regional lists to develop DOE's route proposal, which they will then submit to all the regions for review. Kevin Blackwell, Federal Railroad Administration (FRA), requested that the railroads be included in the rail Topic Group to ensure that all proposed routes are acceptable to the railroads.
 - 180(c): The group has reached consensus on several key issues, and has prepared several draft papers. They are examining putting together a 180(c) implementation pilot project to test the system, probably starting in FY07.
 - Security: DOE is working to identify key areas for consideration, and determining who should be involved in this group at what level.

State of Nevada Concerns:

Bob Halstead (NV) brought up several issues of concern to Nevada:

- NRC must conduct full-scale regulatory cask testing, as well as testing to failure, as was recommended by the majority of non-industry stakeholders commenting on the Package Performance Study.
- NRC and DOE need to conduct a realistic study of the risks from a terrorist attack on a shipping cask using multiple high-energy devices. Such an attack could lead to a release and dispersion of radioactive materials, resulting in long-term health effects and a very expensive clean-up operation.
- Nevada believes the Caliente rail spur is a poor choice for rail routing. There are significant concerns about problematic geographic/terrain characteristics, numerous tunnels and bridges, and impacts on other land uses along the corridor. The line to Caliente has been out of service several times due to severe flooding, most recently in January 2005, and

repairs have not been completed. Additionally, FRA requirements on rough terrain will require train crews to exceed their 12-hour limit. Nevada has communicated these concerns to DOE since 1991.

Nuclear Regulatory Commission Update:

Earl Easton, NRC, spoke on the following issues:

- Most rail hazmat releases are due to conditions that would not apply to SNF casks, such as fittings failing.
- The Package Performance Study advisory group concluded that full-scale cask testing to failure was not necessary, and that only a demonstration test was required. Therefore, the NRC is going forward with its plans for a demonstration test.
- The report on the Baltimore tunnel fire should be out this August.
- NRC's response to the NAS storage study will be ready in September. The NAS transportation study may not be out until September; at this point, the NRC has not seen a draft of this second study, and therefore cannot comment on it.

Other SRG updates:

Council of State Governments Midwest

- The Midwest will hold their next meeting May 24-25 in Traverse City, Michigan. (Scott Field and Bill Mackie will attend for WIEB/WGA.)
- The Midwest had hoped to have their routing proposal ready for DOE by June, but that may be delayed due to difficulties with data collection.
- An updated draft of the Midwest's Handbook should be ready by the May meeting, with the final copy hopefully being released in June.

Council of State Governments – East

- The Northeast is holding a joint meeting with the Southern States Energy Board (SSEB) June 14-15 in New Orleans. (Scott Field will attend for WIEB.)
- The direction of the Northeast's barge study will be reviewed at their June meeting. Nearly all Northeastern reactors could conceivably use barge transport.
- The Northeast is not yet working on developing specific routes, but has been developing some routing criteria, which they will present at the June meeting.
- They are developing a transportation planning guide based on the Midwest's Handbook.
- They are working to improve outreach effort to a broader range of officials in their region.

SSEB:

- The South is holding a joint meeting with CSG-East, June 14-15 in New Orleans. At their December meeting, SSEB agreed to wait for DOE to propose routes, rather than initiate their own route proposal.
- In their Scope Of Work, SSEB proposed a special project to study barge feasibility, but has not yet begun work on the study.
- The South is also updating their radioactive materials shipment handbook.

180(c) Topic Group activities:

Tammy Ottmer (CO) reported that the TEC 180(c) Topic Group has been working on ten draft papers, copies of which have been provided to Committee members. The State representatives on the group have worked to ensure that the States' Principles of Agreement are incorporated into the documents. So far the group has reached consensus on the following issues:

- Funding distribution method
- Timing and eligibility
- Allowable activities/training
- Definitions
- Pass-through requirements
- Contingency plans
- Promulgating rules on 180(c) implementation

The issues still under discussion are:

- Funding allocation
- State fees
- How to fund operational (non-training) activities

The Committee agreed that the four SRGs should work on the Topic Group papers to develop a final version that the states consider acceptable. WIEB staff will work with the other Committee Topic Group representatives to develop this, and present the final product to DOE. A separate deadline of May 18 was set for Committee members to provide feedback on the grant application and guidance documents.

The current direction the group is pursuing is based on the approach used in the U.S. Department of Transportation's Hazardous Materials Emergency Preparedness (HMEP) grant program. Members were requested to relate experiences their states have had with HMEP, positive and negative, to the Committee's representatives on the Topic Group.

The relative merits and limitations of funding formulas versus needs-based funding was discussed. Many Committee members felt formula-based funding does not ensure that funding levels will be high enough to address the states' critical needs. However, other members pointed out that federal needs assessments are extremely time-consuming, and often still do not meet the needs they are supposed to address. Joe Strolin (NV) pointed out that the central issue

was whether or not a specific formula is an appropriate surrogate for risk. Aubrey Godwin (AZ) felt that a formula may be acceptable, as long as there are separate funds available to address critical needs not met by the formula funding.

The Committee concluded that because of the current uncertainties in the transportation system (e.g., routing, mode, intermodal transfers, schedules, security measures), it is premature for DOE to finalize 180(c) and other funding allocations for annual implementation grants. Once states and tribes have assessed their needs through planning grants provided by DOE, DOE should then consult with states and tribes to determine how to best allocate funds to states and tribes.

The Committee also discussed RW's idea of conducting a pilot program to test 180(c) implementation. Judith Holm suggested that each region could identify one or possibly two states to go through a prototype grant application process. The states would then implement the 180(c) planning grant, conducting all activities up to, but not including, the actual conduct of training. Judith expects the pilot program to be in the FY06 budget. Doug Larson pointed out that this is very similar to the special project that WIEB proposed in its Scope of Work submitted to DOE. Judith suggested that WIEB develop the special project proposal in more detail over the next six months in conjunction with the work the 180(c) Topic Group is doing.

Rail Topic Group:

Bill Mackie, WGA, reported on the activities of the Rail Topic Group. The group has decided that it would be premature to write a routing paper until there is more certainty in the process.

The group has agreed to focus on four issues:

- Rail planning process, protocols and guidance
- Inspections
- Escorts
- Shipment tracking

Security Topic Group:

Several members expressed frustration with the Security Topic Group at the April TEC meeting. Bob Halstead (NV) stated that he was glad DOE had formed the Topic Group, because it meant they were acknowledging the security risks inherent in NWPA shipments. However, he felt that it was a mistake to break the group up into smaller work groups before the group had been allowed to coalesce as a whole. Halstead suggested that the STG subgroups be reorganized to work on three task areas: protection of shipments (including threat assessment); protection of shipment information; and intelligence activities. Security

clearances for participants should only be required for the intelligence activities subgroup.

Several members felt that DOE had not provided sufficient direction as to what they wanted from the group. Captain Allan Turner (CO) observed that the group cannot develop a plan to address security threats until those threats have been identified and communicated. Judith Holm agreed that DOE needed to provide more direction to the Security Group.

DOE Transportation Practices Manual:

Ken Niles (OR) Barbara Byron (CA), and Anne deLain Clark (NM) have been working with the other SRGs to develop recommended changes to DOE's Radioactive Materials Transportation Practices Manual. The Practices Manual was originally developed through TEC, and some members felt that process was one of the best interactions the States have had with DOE. The manual needs to be updated, and the SRGs have agreed to develop suggestions for changes.

The group has elected to stick with the existing format of the manual, and provide states' comments on each section. Ken is currently making changes based on a recent conference call, with several items flagged for later discussion. He will provide this draft to the rest of the Committee for discussion and comments. Once the SRGs have finalized a document incorporating the states' input, the document will be provided to Alex Thrower at DOE-RW.

Kevin Blackwell also stated that FRA is updating their Security Compliance Oversight Program (SCOP), and would welcome comments from the states and regions.

State Roundtable:

Arizona: Aubrey Godwin had nothing new to report.

California: Barbara Byron reported that the Lawrence Livermore National Laboratory is planning to double their plutonium storage capacity. The missing SNF segments at Humboldt Bay may have been located in the SNF pool.

Colorado: Tammy Ottmer reported that WIPP had completed the last transuranic waste shipment from Rocky Flats. Colorado has increased law enforcement monitoring of WIPP shipments. A quarterly meeting on Fort St. Vrain dry cask storage was held recently with local officials.

Idaho: Kathleen Trevor reported that the Idaho National Engineering and Environmental Laboratory has changed its name to the Idaho National Laboratory (INL). In the 2005 Defense Authorization Act, Congress clarified how DOE can

classify waste from reprocessing. The legislation's impact in Idaho relates to how DOE will manage tank residuals left after cleaning, and could allow some contamination to remain in place. Idaho is working with DOE and the NRC regarding legislation implementation. DOE also continues to pursue classification of remaining INL tank farm liquids as transuranic waste. Calcined waste remains classified as high-level waste.

Nebraska: Jonathan Schwarz reported that Fort Calhoun Nuclear Station's and Cooper Nuclear Station's spent fuel pools will be full by early 2006. Fort Calhoun has begun work on a dry cask storage pad, and Cooper has applied for a license to do the same.

Nevada: Joe Strolin reported that the controversy over data falsification at Yucca Mountain is still playing out. Nevada believes that the allegations that have come to light so far are only the tip of a very large iceberg, and that this may be "the nail in Yucca's coffin." Nevada is also preparing comments on the draft EIS for the Caliente rail spur and is heavily engaged in pre-licensing activities.

New Mexico: Anne deLain Clark reported that DOE's permit modification to accept Remote-Handled waste at WIPP is still pending at the New Mexico Environment Department.

Oregon: Ken Niles reported that the Navy is conducting a tabletop exercise with the Confederated Tribes of the Umatilla Indian Reservation involving Naval reactor spent fuel shipments. The Oregon State University reactor currently uses highly-enriched uranium (HEU), but the Department of Homeland Security is providing funding to convert the reactor and ship the HEU to INL within the next two or three years. The Trojan reactor is owned by Enron, which is in bankruptcy. There are questions over who will take ownership of the Trojan SNF.

Utah: Connie Nakahara reported that Utah is continuing their work on PFS's license application. The Federal Appeals Court ruling has been appealed, and Utah has filed a petition to the U.S. Supreme Court. The U.S. Solicitor General's opinion is due in June.

Washington: With no representatives from Washington present, Ken Niles reported that a Federal judge is expected to at least partially lift the injunction barring shipments of transuranic waste to Hanford. Plutonium shipments from Hanford to Savannah River are also on indefinite hold.

Wyoming: Scott Ramsay reported that they had problems getting information from DOE regarding rail LLW shipments from Rocky Flats to Envirocare. Since that time, the state is getting better information on shipments, such as the silo shipments from Fernald.

Business Meeting / Next Steps:

Bill Mackie discussed procedures to share near-real-time information among Western states on radioactive materials incidents. The Committee concluded that the best method would be for Bill to e-mail the members and then post the information on the WGA website. An unresolved question was how best to obtain information on incidents in other regions; Bill agreed to coordinate with the other SRGs on this.

The Committee discussed and agreed on the wording of a draft for a proposed renewal of the Western Governors' resolution on the Transportation of Spent Nuclear Fuel and High-Level Radioactive Waste. Joe Strolin will incorporate the latest changes and send a draft around by next week. Connie Nakahara stated that Utah Governor Huntsman is tentatively in favor of co-sponsoring the resolution, but wants to see the wording before he commits to it.

The Committee resolved to send a copy of the "Principles of Agreement Among States On Expectations Regarding Preparations for OCRWM Shipments" to PFS. Paul Golan at DOE-RW will be copied on the letter to encourage DOE to become more involved in the PFS planning process. Barbara Byron agreed to draft the letters.

The Committee agreed that the proposed 180(c) pilot project was worth pursuing. Arizona, California, and Wyoming expressed interest in being the prototype state(s). The other states agreed to help scope out how this project should best be conducted.

Doug Larson reported that Judith Holm had asked WIEB to conduct more analysis of the "What If" scenarios. The Committee agreed to focus initially on the following three scenarios: 1) rail access to Yucca Mountain is delayed, 2) PFS becomes an integral part of the NWPA system, and 3) alternative mode and routing decisions are made.

The Committee agreed to table sending a letter to the NRC on the Package Performance Study until more data had been gathered.

Next Meeting:

To be determined. There was little interest in a proposal to hold a joint meeting with TEC in September at Pueblo, CO.