

**Blue Ribbon Commission, Transportation & Storage Subcommittee
Panel on the Relationship Between Storage and Fuel Cycle Facilities
Remarks by Jim Williams, Western Governors' Association
Washington, D.C., August 19, 2010**

Introduction

The Western Governors' Association appreciates your invitation to provide a state government perspective for this panel discussion on the relationship between storage and progress on disposal and fuel cycle facilities. At the July 7 Disposal Subcommittee meeting, we agreed with Matthew Bunn's assertion that perhaps the most important contribution this Commission could make would be to describe a political and institutional approach to rebuild public trust in this policy area. We further recommended an independent inquiry to review past experience and lessons learned (regarding which the West is a major resource), and to suggest guidelines for federal-state-local interaction going forward.

We understand that the Commission probably cannot follow through on the recommendation, even if it might agree that it is warranted and should be done. So, today, without the results of a more thorough and painstaking process, I'll attempt to provide some preliminary thoughts regarding centralized interim storage. These start with the current WGA policy resolution on interim storage, briefly review the history behind the resolution, suggest some themes that link the history and the resolution, and suggest a few thoughts for your consideration going forward.

Why the Focus on Political and Institutional Approach?

Political and institutional process is important in any policy area. So, why do we and others elevate this importance regarding policy for the back end of the nuclear fuel cycle? The reasons trace to the peculiar nature of this policy area. Not only does the general public dread highly radioactive waste and mistrust its federal program managers, but in no other policy area do federal policies cut so differently among states and localities. Thus, the "fairness" of policy regarding the back end of the nuclear fuel cycle can be perceived differently by different parties at different times, and the sense of fairness is difficult to establish and maintain.

A good case can be made that the failures *and successes* in this policy area over the past 25 years are largely attributable to implementation policies and procedures—not directly or primarily to the technical strategy for high-level waste management. Therefore, we agree with the advice that you have received from several quarters that the success of this Commission's recommendations will be largely determined by the political and institutional approach for implementation—in particular the policies and processes used for its implementation in our federal system of government. We add that much of the experience to date has focused on the West, making it a useful resource for lessons learned.

Current WGA Policy Regarding Centralized Storage of SNF/HLW.

Since 1989, western states have had a policy regarding centralized storage—a policy that has been revisited and revised every three years, most recently in 2009. The basic provisions are:

- In the event that centralized interim storage, either private or federal, is deemed necessary, no such facility.....shall be located within....a Western state without the written consent of the governor.
- Commercial spent nuclear fuel should remain at the reactor site until:
 - a) A permanent storage disposal site is operational.
 - b) An acceptable transportation plan is developed and implemented with corridor states.
 - c) Adequate emergency and medical responder training and resources are ensured.
- “Interim” storage is a misnomer without a long-term solution.

A copy of this resolution is appended.

Centralized Interim Storage: A Brief History

The western states position is not casual, but is firmly grounded in history and experience, which includes:

1. The NWPA of 1982: “Monitored Retrievable Storage (MRS)” (Subtitle C)
 - Required a detailed study of need for MRS and a comparison 3 alternative sites
2. MRS proposed in Oak Ridge, TN (Clinch River in Roane County).
 - After detailed study, the site was ultimately disapproved by the State.
3. The NWPAA of 1987: An MRS Commission (Section 143)
 - Report delivered to Congress in 1989 said that MRS was not needed
4. The NWPAA of 1987: Nuclear Waste Negotiator (Title IV)
 - Mescalero Apache in New Mexico and Owl Creek (Fremont County) Wyoming; the sites were disapproved by the states and tribes
5. Private Fuel Storage, in Skull Valley (UT)
 - Bureau of Indian Affairs disapproved the lease for the proposed facility and Bureau of Land Management denied right-of-way access across federal lands

Result: Years of as yet unproductive assessment and contention, even with permanent disposal in prospect (though uncertain) has left us in our current state

Conclusions:

- WGA Governors policy resolution is based on history and experience
- Recommend a dramatic change in how this issue is approached from an intergovernmental standpoint

**Western Governors' Association
Policy Resolution 09-5**

Interim Storage and Transportation of Commercial Spent Nuclear Fuel

A. BACKGROUND

1. The Nuclear Waste Policy Act of 1982 requires the Federal Government to provide for the permanent disposal of spent nuclear fuel. Currently more than 61,000 tons of spent fuel is stored at or near nuclear power plants sites and research reactors in 38 states.
2. The Nuclear Waste Policy Act currently requires the owners and operators of nuclear power reactors to assume primary responsibility for providing interim storage of spent nuclear fuel. The Act requires that federal officials expedite the effective use of existing reactor storage facilities and the addition of needed new storage capacity, consistent with:
 - a. Protection of public health and safety, and the environment;
 - b. Economic considerations;
 - c. Continued operation of such reactor;
 - d. Any applicable provisions of law; and
 - e. Views of the population surrounding such reactor.
3. The U. S. Department of Energy (DOE) originally projected that a deep geologic repository would be available for acceptance of spent nuclear fuel in 1998. It is becoming increasingly uncertain whether DOE current HLW repository program will result in an operating repository within the foreseeable future. In any event, spent fuel generated at U.S. commercial reactors will soon exceed the current statutory capacity limit for the federal repository (70,000 metric tons).
4. Both DOE and the Nuclear Regulatory Commission (NRC) have determined that the technology for the safe, cost-effective, dry cask, at-reactor storage of spent fuel exists; dry cask storage facilities are operating at fifty-five sites in this country, and additional dry storage installations are planned at other reactor sites.
5. The Western Governors' Association has stated that, should centralized interim storage sites be necessary to accommodate spent fuel storage, no such storage site should be located in a state unless the governor of that state has agreed to such storage and DOE has provided reasonable transportation, safety, and emergency response assurances to the western states.
6. WGA's policy resolution 08-6 expresses the governors' concerns regarding transportation of spent fuel through western states and directs that:

“[No] shipments of spent nuclear fuel and HLW be made to storage facilities or a repository, until shipping routes have been cooperatively identified and funds and assistance have been made available to states at least three years prior to the start

of shipments, notwithstanding whether such facilities are publicly or privately owned.”

At a private interim storage facility each nuclear utility that stores spent nuclear fuel will retain ownership and liability for its own waste, therefore federal resources would not be available to enhance state and local infrastructure and emergency response capabilities. There is currently no provision for federal interim storage sites for commercial spent fuel, and therefore, no such transportation requirements.

7. Without an available permanent disposal site, there is no guarantee that an interim storage site will be temporary. There is no way to ensure spent fuel rods that are shipped to and stored at an interim facility will ever be removed.
8. Under its current regulatory authority, NRC can license a surface storage area for 20 years. The license may be renewed. NRC has determined that spent fuel can be stored safely for at least 100 years and some congressional bills have called for an initial 100 year licensing period.
9. The Government Accountability Office, with concurrence from DOE, has determined that sufficient temporary capacity exists for spent fuel to be stored at existing sites, pending completion of a permanent disposal facility.
10. On February 21, 2006, the NRC issued a license to Private Fuel Storage, LLC, to operate a private interim storage site for spent nuclear fuel in Skull Valley, Utah, on land leased from the Skull Valley Band of Goshute Indians. However, the project could not proceed without Bureau of Indian Affairs’ (BIA) and Bureau of Land Management’s (BLM) consent. In 2006, BIA disapproved the lease for the proposed facility and BLM denied right-of-way access across federal lands, thereby halting the project.
11. With the growing uncertainties over the current federal high-level radioactive waste repository program, it is becoming increasingly likely that there could be new federal initiatives involving centralized interim storage facilities for commercial spent nuclear fuel.

B. GOVERNORS' POLICY STATEMENT

1. It is the objective of the Western Governors' Association (WGA) to support the options for the disposition of spent nuclear fuel, consistent with the principles of science, fairness, safety, environmental protection, and equity. Congress and the Administration should recognize that most reactor sites are believed to have the capacity for additional on-site storage.
2. In the event that centralized interim storage, either private or federal, is deemed necessary, no such facility, whether publicly or privately owned, shall be located within the geographic boundaries of a Western state without the written consent of the governor.

3. Commercial spent nuclear fuel should remain at the reactor site until:
 - a. A permanent storage/disposal site is operational.
 - b. DOE and the nuclear utility companies have worked with the corridor states to implement an acceptable transportation plan for shipping the waste to permanent storage or disposal sites.
 - c. DOE and the nuclear utility companies have put into place adequate infrastructure capacity to handle, store, and dispose of this waste.
 - d. DOE, the U.S. Department of Transportation and the nuclear utility companies have ensured adequate state and local emergency and medical responder training and resources in case of an accident or terrorist attack while shipping this waste.
4. Should any interim storage site begin operations, it will, out of necessity, play a major role in the NWPA transportation system. Therefore, DOE must include any such sites in its transportation planning. This planning should begin as soon as such site receives a license from the NRC.
5. The creation of interim storage sites would be a direct result of the Federal government's failure to begin accepting spent fuel on schedule. Therefore, the Governors maintain that it is the federal government's responsibility to ensure adequate preparation for shipments to these facilities, coordination with states, and provision of adequate funding to reimburse the states for costs associated with shipments to any interim storage facility, whether publicly or privately owned. The Governors consider it to be entirely appropriate to use the Nuclear Waste Fund to pay for these activities.
6. The Governors support existing federal radioactive waste transport safety requirements designed to protect public health and safety, including the Hazardous Materials Transportation Authorization Act and the Resource Conservation and Recovery Act.
7. It is not the intent of this resolution to interfere with DOE's compliance with agreements that have been negotiated with the western states for the cleanup of DOE sites and facilities which are contained as part of a court decree or settlement agreement, such as those now in place between DOE and the states of Colorado, Idaho, and Washington.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Western Governors' Association shall post this resolution to its web site to be referred to and transmitted as necessary.

2. WGA shall work with Congress, the Nuclear Regulatory Commission, the U.S. Department of Energy and the National Association of Utility Regulators to develop the appropriate elements of policy to anticipate the need for interim storage at reactor sites.

F:\09resos\Interim Storage.doc