

**MINUTES
of the
THIRD MEETING
of the
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE**

**September 24-25, 2003
Pecos River Village Conference Center
Carlsbad**

The third meeting of the Radioactive and Hazardous Materials Committee was called to order by Representative John A. Heaton, chair, at 9:45 a.m. at the Pecos River Village Conference Center in Carlsbad.

PRESENT

Rep. John A. Heaton, Chair
Sen. Mary Jane M. Garcia
Rep. Manuel G. Herrera
Sen. Gay G. Kernan (September 24)
Sen. Don Kidd (September 24)
Sen. Carroll H. Leavell
Rep. Antonio Lujan
Rep. Pauline J. Ponce

ABSENT

Sen. Richard C. Martinez, Vice Chair
Rep. Donald E. Bratton
Sen. Phil A. Griego
Rep. Jeannette O. Wallace

Advisory Members

Rep. Thomas A. Anderson

Sen. Clinton D. Harden, Jr.
Sen. William H. Payne
Sen. John Pinto
Rep. Avon W. Wilson

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Maha Khoury
Cenissa Martinez

Guests

The guest list is in the meeting file.

Wednesday, September 24

Committee Business

Representative Heaton welcomed committee members and guests. Committee members and staff introduced themselves. Chairman Heaton described the last meeting of the committee

and the agenda and schedule for the current two-day meeting.

Center of Excellence for Hazardous Materials Management (CEHMM)

Dr. Alan Moghissi described the structure, purpose and vision of CEHMM, its accessibility to the public and the proposed activities of the center, which are set forth in more detail in the handout. An assessment panel was established at the request of the City of Carlsbad that studies the desirability of the formation of CEHMM in Carlsbad and has an interim board of directors formed by the mayor. After approval, a nonprofit was created and the board of directors had its first meeting this month. A discussion ensued on funding for the center. After Los Alamos, Carlsbad has the most engineers and Ph.D.s per capita in New Mexico. The center will have the capacity to bring resources together and address problems in the public and private sectors relating to science and environmental issues. Members of the audience introduced themselves upon request from Representative Heaton.

Waste Isolation Pilot Plant (WIPP)

Roger Nelson, chief scientist, gave a slide presentation on the history of WIPP and its shipments, updates, cleanup and safety performance. He described the equipment used and transuranic waste (TRU) packs. Panel one at WIPP was filled in March 2003. Panel two is now being filled and panel three is being mined. Mr. Nelson described the regulatory changes over the years and the modifications made through the Nuclear Regulatory Commission. He projects an early completion of the WIPP project and expects higher shipments per week. Mr. Nelson and Dr. Ines Triay, manager, believe that eliminating three unnecessary tests will increase worker safety and save money. The three tests were explained. WIPP submitted a permit modification request for remote handled (RH) waste from the New Mexico Department of Environment (ED) and the federal Environmental Protection Agency (EPA). WIPP must be certified by EPA every five years, and recertification is due in six months. A 26,000-page report will be submitted to the EPA in January. Mr. Nelson and Dr. Triay explained legacy waste and TRU waste. Sixteen states have TRU waste shipped to WIPP. A discussion ensued of "quick to WIPP", which means expediting removal of TRU waste from Area G at Los Alamos National Laboratory (LANL). LANL is scheduled to finish disposing its legacy waste to WIPP by 2010. Discussions ensued on the transportation of waste from the Savannah River site, saving mileage by using an alternate route and seeking federal assistance for highways and roads in New Mexico, particularly on Highway 128. A discussion took place on waste characterization, volatile organic compounds and ED regulation. WIPP has a better understanding of the kinds of waste and how to handle them than when it first opened. Dr. Triay described alternative methods for quality assurance checks, including strengthening the monitoring program, and the three unnecessary procedures that WIPP is required to perform, namely head space gas sampling and analysis, solids sampling and analysis and physical examination of contents of containers. A discussion ensued on RH waste and contact handled (CH) waste and what the obstacles are for the ED and EPA to approve the change from CH to RH. Dr. Triay explained legacy waste as waste produced after 1970; pre-1970 waste and how it is being evaluated; and newly generated waste, how much there is and whether WIPP can accommodate it.

Mr. Nelson discussed the modern pit facility (MPF). Mr. Nelson does not represent the National Nuclear Safety Administration (NNSA). He explained what plutonium pits are and what a MPF is. There are five possible sites being considered for the MPF by the federal government and LANL and WIPP are two of them. NNSA should make a decision by April 2004. The MPF would employ around 1,000 people and cost somewhere between \$2.2 and \$4.1 billion. He described some of the specifications for a MPF and the stages of decision-making.

Committee Business

The committee recessed for lunch from 12:10 p.m. to 1:10 p.m.

New Mexico Department of Environment

Ron Curry, secretary of environment, introduced himself and his staff, stating each person's qualifications, education and experience. He stated that it is important to know who the people at ED are and to know that ED has a good environmental background and regulatory experience. Mr. Curry explained the history and purpose of ED and stated that ED will request a 30 percent increase to \$15 million for its budget. ED currently handles 93 federal grants and 16 special funds. The prior habit of spending grant and fund money before spending general fund money will change. Mr. Curry discussed the improvements in the legal division of the department, the changes made in bureau chiefs and how ED impacts all businesses and residents of the state. ED resisted Senator Dominici's language relating to WIPP and Mr. Curry sent a letter to Senator Bingaman on public participation and the state-federal relationship. ED has a right to do some of the EPA's job in New Mexico in certain areas like hazardous and solid waste. As an enforcement agency, ED needs primacy or else the EPA will take over regulation and enforcement. Mr. Curry discussed ED's rejection of WIPP's permit modification request and stated that ED needs to be more specific when responding to WIPP. He graded WIPP's communication with ED as a B+, Sandia National Laboratories' as a B- or C+ and LANL's as an F.

Sandra Martin, acting chief of the Hazardous Waste Bureau, outlined the history of WIPP permits, the applicable laws and the types of permit modifications. She explained the number of times WIPP has requested modification and the complexity of those requests. She went over the handout and explained the status of the current WIPP permit modification requests. A discussion ensued on RH waste permit scheduling and the specifics of the RH permit modification. A notice of deficiency will be released by the ED in October and then the department will discuss other issues with WIPP. Bob Forrest, mayor of Carlsbad, was introduced.

Environmental Evaluation Group

Matthew Silva, director, Environmental Evaluation Group (EEG), described the nature of EEG and its creation by the federal Department of Energy (DOE) 25 years ago. EEG has been providing an independent technical review of the WIPP project for the last 25 years. Mr. Silva summarized the last four reports and described the issues addressed in the last 12 months, including the TRUPAC-III container and RH waste issues. EEG regularly comments on WIPP issues, permit modification requests and waste characterization. A discussion ensued on the

mission of EEG, its role and independence as well as the regulation of WIPP, the hearing process and whether EEG is duplicating other efforts in overseeing the WIPP project. Representative Heaton stated that there has been a dramatic change within the DOE in the last 12 years, with its focus shifting to safety, cleanup, health and environment.

Technology Commercialization International

Roy Brown, vice president for research and development, discussed the proposed nuclear medicine facility in Carlsbad by Technology Commercialization International (TCI) Medical. TCI is an Albuquerque-based biotech company that is involved in many projects in both the United States and Russia. TCI Medical has a medical imaging division and a nuclear medicine products (radio nuclides) division. It manufactures radio pharmaceuticals to be used for diagnostic and therapeutic purposes. It is planning to build a radio pharmaceutical plant in Carlsbad to develop various nuclear drugs. The plant would require no storage facility since radio isotope drugs must be made, shipped and used immediately before they lose their effectiveness. Mr. Brown described the benefits that such a plant would have for the community as well as TCI Medical's collaboration with New Mexico State University (NMSU). TCI Medical has met with the State Investment Council and the State Private Equity Council in hopes of receiving \$7 million. A decision by the State Investment Council should be made in October.

Los Alamos National Laboratory Actinide Chemistry Program

Dr. Ned Elkins, LANL, discussed the history of the actinide chemistry program at LANL. Actinides are a unique group of radio nuclides that are categorized as beyond uranium. The primary purpose of this program is to assist and respond to issues and challenges that will come up at WIPP. LANL collaborates with the Carlsbad Environmental Monitoring and Research Center (CEMRC) and NMSU in actinide chemistry studies. These entities represent the "cutting edge" of actinide and nuclear chemistry in the world.

Sandia National Laboratories Performance Assessment for WIPP

Paul E. Shoemaker, manager, Carlsbad Programs Group of Sandia National Laboratories, discussed the nature of WIPP, the design concept and applicable federal regulations. He described conceptual and process models, scenario development, release mechanisms and pathways, drilling assumptions and the various types of uncertainties in relation to WIPP. He spoke about the brine and gas flow and the probabilities of pressure, saturation and porosity. Performance assessment is a probabilistic framework to estimate releases to the accessible environment for 10,000 years, identify the processes and events that might affect the system and examine the effects of these processes and events on the system. The assessment incorporates all its data and information into an overall probability distribution of cumulative releases.

Committee Business

The committee recessed at 4:15 p.m. and reconvened the following day at 9:00 a.m. when it met at CEMRC for a tour of the facility.

Carlsbad Environmental Monitoring and Research Center

Representative Heaton gave a brief history and background of CEMRC. It is an independent university operation. It was initially established by a grant from DOE but this funding will run out next year. It collaborates with LANL, NMSU and others and contracts with both private and public entities. Deborah Moir, associate director, took the committee on a tour of the facility and its laboratories, including the whole body count program. Ms. Moir explained the WIPP oversight functions and CEMRC's public outreach program. Thereafter, the committee went back to the Pecos River Village Conference Center to continue the meeting.

Carlsbad Fire Department

Mike Reynolds, Carlsbad fire chief, described the natural gas pipeline rupture in Carlsbad on August 19, 2000 and showed slides of the damage done. Twelve people died instantly, one bursting into flames. The pipeline was significantly corroded and it ruptured as a result of too much pressure. No one knows the source of ignition. The committee and members of the audience discussed safety measures and pipeline safety laws. Mr. Reynolds discussed the litigation that ensued as a result of the pipeline incident. Mr. Reynolds described the status of a regional emergency response training center for Lea, Eddy and Chaves counties. A business plan is now being developed for the training program. Thereafter, the facility will be designed and built. The fire department wants it to be a center of excellence for educational training.

Committee Business

The committee recessed for lunch from noon until 1:30 p.m.

Smalley Foundation on Pipeline Safety

Peter Esposito, CEO, and Dwight Haddock, president, both of the Smalley Foundation on Pipeline Safety, described the Texas-based nonprofit organization that was formed after an explosion in Lively, Texas, caused the death of Danielle Smalley. Her father funds the foundation. The foundation's main purpose is to train first responders in responding to pipeline accidents and emergencies. The foundation trains everyone from school bus drivers to police officers and emergency medical technicians. The foundation tries to raise public awareness of pipeline dangers and conducts safety training. It has a training scheduled with the Carlsbad Foundation this fall. Mr. Esposito showed two videos and a slide presentation. Mr. Esposito discussed pipeline easements, rights of way, locations of pipelines and excavation dangers. A discussion ensued on getting information to the public on these dangers.

Office of Pipeline Safety, U.S. Department of Transportation

Augustine Lopez, state liaison at the Houston office of the U.S. Department of Transportation, oversees five states. He explained the qualifications for levels of federal funding and for interstate agent status. He went over New Mexico pipeline safety program performance. New Mexico inspects and conducts enforcement for gas pipelines but only conducts inspections on liquid pipelines. Enforcement of liquid pipelines is done by the federal office. There are staffing problems in New Mexico and insufficient staff for the job. Enforcement has improved from last year but needs to improve further. Mr. Lopez stated that if New Mexico is going to

move the Office of Pipeline Safety to another agency, it is important to track the funding so it is not lost. State pipeline safety laws can adopt federal rules or be more stringent. At this point, New Mexico does not qualify to become certified as an interstate agent. Mr. Lopez went over the federal scoring levels for New Mexico on liquid and gas pipelines.

Oil Conservation Division

Lori Wrotenbery, director, described the duties and objectives of the Oil Conservation Division (OCD) of the Energy, Minerals and Natural Resources Department. The division regulates crude oil and natural gas operations, including drilling, production, plugging of oil and gas wells, storage, transportation, processing and refining of oil and gas. The objectives are to prevent waste of resources, protect rights of owners, prevent pollution of fresh water resources and protect the public health and environment. The division has been running well and there are few, if any, complaints from the public. Ms. Wrotenbery discussed the possible advantages of consolidating all pipeline functions in the division, such as stationing pipeline safety staff in the division's existing district offices, thus bringing the division closer to the regulated operations. Also, since the division already inspects gathering and transmission lines and responds to emergencies along these lines, the pipeline safety inspectors could work together with existing division inspectors to maximize their coverage of operations. Like the pipeline safety staff, the division's environmental staff evaluates the integrity of pipelines. Coordination of these two programs would increase the efficiency of permitting and monitoring efforts. Ms. Wrotenbery spoke about the strides made by the division in automating its information and processes and making information available to the public on the internet. Wherever the pipeline safety program is, it needs adequate funding and staffing. Even if the safety program is not moved to the division, with adequate staffing the two agencies can collaborate and improve pipeline safety. Discussions ensued on employees, their specialties and training; on the state's authority to shut down pipelines; on how penalties are imposed on pipeline companies; and the relationship between federal and state oversight and regulation.

Public Regulation Commission

David King, commissioner, and Bruno Carrara, manager, Pipeline Safety Bureau, both of the Public Regulation Commission (PRC), represented the PRC. Mr. King described a meeting with the Federal Energy Commission. He described various incidents and dealings with utility companies. PRC's attitude is to solve problems, not to lay blame. PRC has attorneys dealing with utility companies on a regular basis. The mechanism is in place at PRC to handle pipeline safety. PRC meets regularly with utility companies and has started preventive measures in terms of safety. PRC has leverage over the companies. The program needs to be better, but it is in the right agency. PRC has a tight budget, but Mr. King insists that the pipeline safety program works as it has been set up and should not be moved to OCD. Mr. Carrara described the programs within the Pipeline Safety Bureau. He went over the handout and discussed generating revenue and charging fees to supplement the budget of the bureau and what other states do. The bureau has been running on less than one-half of the budget required to do the job. A discussion took place on how to charge the industry for inspection and oversight of the pipelines and on the recommendation of the PRC Study Subcommittee to move pipeline oversight to OCD in order to

help PRC, not as a punitive measure. Mr. King stated that PRC's budget was cut again last year and that it requires more funding to do a better job. Discussions ensued on vacant positions at PRC that have not been filled and how PRC can get what it needs to do a good job with pipeline safety. Various committee members proposed that the committee endorse a bill authorizing PRC to charge inspection fees to cover the cost of the pipeline safety program.

Committee Business and Adjournment

The committee approved the minutes of the August meeting and adjourned at 4:35 p.m.