

Texas Low-Level Radioactive Waste Disposal Compact Commission
Hearing Agenda
April 5, 2010
1 PM

Ashley Morgan: Good afternoon just a reminder please be sure and sign in and complete a registration card if you intend to provide oral testimony. We will begin momentarily . We have a sign in sheet out at the front table as well as registration cards if you intend to comment please feel out a registration card for the Compact Commission please. We will begin momentarily.

Ashley Morgan: I would like to welcome everyone to this public hearing being conducted by the Texas Low-Level Radioactive Waste Disposal Compact Commission with the assistance of the Texas Commission on Environmental Quality and the Texas Attorney General's Office. My name is Ashley Morgan I am with TCEQ administratively supporting the Texas Compact Commission and will moderate this public hearing on behalf of the Compact Commission I would also like to introduce a few individuals here this afternoon representative Lon Burnam Representative thank you for joining us. We also have two Compact Commissioners I believe, Commissioner Bob Wilson and I know I saw Commissioner John White, I'm sorry you scooted over. There you are. Commissioner White. We also have a few other members from the Texas Commission on Environmental Quality as well Susan Jablonski from the Radioactive Waste Division specifically. We are here this afternoon to receive oral and or written comments on the proposed new subchapter B to be added to chapter 675 part 21 title 31 Texas Administrative Code. If you intend to present oral testimony and if you have not already signed in at the Registration table please again please do so at this time. If you are not familiar with the proposed Rule copies of the proposal for the Texas Registry are available at the registration table. There are also copies of the hearing notice and contact information for the Compact so that if anyone is planning to submit written comments you can quickly do so from the information the mailing address and the email on the hearing notice. For the record you may submit comments to the Texas Low-Level Radioactive Waste Disposal Compact Commission address 3616 Far West Blvd., Suite 117 #294, Austin, Texas 78731. email address Margaret.Henderson@tllrwddc.org and again we have this information here as well as at the registration table outside for your reference. The Compact Commission will continue to accept written comments until midnight Tuesday, April 13, 2010. The Compact will also be accepting oral comments tomorrow evening April 6, 2010 at Andrews, Texas at Andrews High School beginning at 6:00 PM there are also copies of the Andrews hearing notice for your reference outside the front door. This hearing is structured strictly for receipt of oral or written comments open discussion during this hearing is not allowed. However, if anyone has additional questions or comments regarding this rule please visit the Compact's website at www.tllrwddc.org/index.html again that information is on the handouts that we have up front as well as in front of me here on the stage. We'd like to make sure everyone is given an opportunity to speak today, if someone before you has already addressed your concerns it's not necessary to repeat those comments and you may simply endorse those comments and the Compact will be sure to acknowledge those are your concerns as well. We will now begin receiving testimony in the order in which you registered. Once I call

your name please come to the podium, sorry the microphone no podium today the microphone. State your name and who you represent for the record and then present your testimony, please speak clearly and to the microphone as today's oral comments are being recorded for the record and so that the Compact Commission can issue a response to comment. Thank you.

1st we have Mr. Richard Simpson again Mr. Simpson if you will approach the microphone and state your name and who you represent for the record.

CD Track time: 10:26

Richard Simpson: Hello my name is Richard Simpson. For the record, I'm representing myself no organization. I live in Austin. Fifteen years ago I lived in El Paso and became involved in the Sierra Blanca Radioactive Waste Site Application Hearing and got to learn a little bit about the Compact and what it was suppose to do and not suppose to do and at that time everyone was still convinced that the Compact was in place to limit the amount of waste that would come into Texas rather than to expand it. And whenever the provision that was in the legislation and in the Compact was brought up it mentioned that the Commissioner's ability to import waste from other states that were not in the Compact the explanation was always given that oh it'll never be invoked it's only an emergency provision it's only there to prevent something like what happened with three mile island waste when they needed to dispose of it in an emergency and there was no easy way to do that. And we were assured that this would never become a regular feature of the Compact. Well time's change; 675.23 would invoke the right of the Commissioners to import waste from any state that they desired. Largely justified on an economic basis. I'm here to voice my belief that the Commissioners should not exercise its right and I urge them to reject the inclusion of this rule along with the others about exporting the waste. I think that the way the facility has been developed and the extent to which cumulative impacts will affect operation of the Compact Facility because of things like the Uranium enrichment facility next door, which will generate waste for the Federal part of the WCS facility. I think these things are creating a situation that was never really anticipated when the Compact was created in the first place. Thanks for this opportunity to voice my opinion and I look forward to seeing what happens.

Ashley Morgan: Thank you Mr. Simpson. Next we have Mr. Andy Wilson. Mr. Wilson please approach the microphone and state your name and who you represent for the record.

13:14

Andy Wilson: Hi, my name is Andy Wilson I'm here representing the Public Citizen a national non-profit consumer advocacy group and our concern with this is that the rights of consumers are not being protected. I will - I will go ahead and endorse future comments that I know that are coming from the Seed Coalition and others about the manner in which this permit was approved in the first place and the fact that TCEQ was not able to -well TCEQ's staff in the first place went ahead and said that we should not be building a nuclear waste storage facility in Andrews County to begin with. Commissioners overturned that rule and despite not knowing that there would be opportunities for waste to be coming from other various streams from outside the state. I think that this means that not only should the Compact Commission not go ahead with

approving this, but that the TCEQ needs to look at this again and really decide whether this is what we want to do. In most other countries where there is a functioning nuclear power sector that power sector is in fact socialized it is run by the government - public wealth being used to create a public good. Public good, public risk - and the United States regulatory or the United States nuclear industry has largely been private wealth, private good, private reward. We are now looking at a situation with this where we are looking to socialize these risks and have the public take a very large amount of risk in terms of ecological impact and economic impacts not only related to the site itself, but also transportation issues, how the waste goes to and from, there are security issues related to that etcetera. But the economic rewards will all be held by a very few individuals and those will largely not be shared not only by the state of Texas as a whole, but by the Compact Commission and in its original intent and its original agreement. I think that we need to go back and think of this of what as what the original Compact was meant to accomplish and this was an agreement between states that would allow us to import and take care of one another's waste and on a good faith basis - and opening up this Andrews County site to waste from all other states or many other states we're largely abrogating the need for that original Compact and what it was designed to do. So I believe that this is something that the Commission should not do and should back away from as soon as possible. Thank you.

Ashley Morgan: Thank you Mr. Wilson. Next we have Trevor Level if you will approach the microphone state your name and who you represent for the record.

17:09

Trevor Lovell: Hello, my name is Trevor Lovell (pronounced "level") and I'm here as the Director as ReEnergize Texas. ReEnergize Texas is a Coalition of student groups spanning the entire state and what we do is we work together towards positive solutions to climate and energy problems that we face as a country. I've read through this proposed rule and I've read some different commentary on it and much of it is sort of the covers the mundane necessities of running a ya know a Compact such as the one being formed here but if you read it in a vacuum you could be led to believe that its well conceived but if you step out you take even a cursory examination of the factors effecting the implementation of this policy it renders it a clear misstep and it will ultimately have significant negative impacts on the people of Texas. The portion I speak about is of course the importation rule and it's being driven by WCS without any sincere consideration of the impact that it will have on the state. To read the language in this rule one would think that importing radioactive waste was all up side - that all it does generate jobs and revenues and there's no risk, that there is not risk, not potential downside. Now I don't dispute the fact that there is an upside there can be jobs and revenues created. But what I would dispute is that that's the only thing that's going on. While I was preparing this testimony I had a quote passed to me that I think is pretty apt and it comes from a novel by Frank Herbert it goes approximately like this, "Show me a completely smooth operation and I will show you a cover up. On the water real boats rock." Now you've heard or will hear numerous people who are more expert than I am about the specifics of what liabilities and risks this rule creates for the state of Texas. At the very least I would ask that the Compact Commissioners refuse to incorporate a rule such as this one without officially acknowledging numerous problems such as, as has been stated, the facility at Andrews County as permitted is insufficient to handle the amount of waste that is coming

from Texas and Vermont alone let alone from other states, that despite clear threats to the environment and resources of local populations they are using questionable legal interpretations to follow the letter of the law and avoid having to use an environmental impact statement and follow the spirit of the law. There's no limit in the rule to the amount of radioactive waste that could come in, which kind of makes it not even a rule, and the rule fails to anywhere acknowledge the state's liability in the event of a leak or any other need to clean up. So what's happening here falls into a pattern that I think Mr. Wilson was touching on a moment ago that's been described by economist Thomas Freedman it goes something like this, "They're doing what basically happened on Wall Street in terms of investment securities through the rhetoric and influence WCS is seeking to underestimate the risk, reduce the perception of risk for this facility. Private types profit for themselves and then socialize the cost by leaving the liability for any future problems failures of this facility with us the people of Texas and I would say that that's unfair, but that doesn't really get at why that's important this is an unsustainable model of socialized capitalism that departs from our heritage of pride and responsibility in the state of Texas; it squashes real innovation and opportunity and it rewards those that can best take advantage of situation for personal gain at the expense of all others. Ok, so I said at the beginning that we work toward positive solutions and so on and so that's all the diatribe I have in me. I wanted to tell a little story that's been going on with me the last few months all across the state this spring there's something that's been going on students at the major universities, both public and private across the state have decided that they're tired of waiting for their campuses to go green and they've begun taking upon themselves. In the first week of March the student bodies at UT Austin, Rice University out of Houston and Texas A&M in College Station all voted in favor of creating new student fees to fund energy and sustainability projects for their campuses. So that's to say that during the toughest recession in at least a generation while tuition has been sky rocketing these students at Texas Universities are taking personal responsibility to begin addressing pressing environmental issues and this is going to happen four more times this month in the state of Texas at UT San Antonio, UT Pan American, UT El Paso and the University of North Texas in Denton and additional colleges are looking to follow suit in the following academic year, Now perhaps young people are grateful that you know as a generation we're sort of inheriting the most powerful country in the world, where prosperity is common place and we feel like that kind of created a mess in getting there and we're happy to clean that up, whatever the motivation is an inspiring moment I think that we can all learn something from what's going on. If young men and women can make a decision to take personal responsibility then we can hope at least that the Compact Commissioners can do the same the problem is that these members are unlikely to involved in the Compact when the problems begin to reveal themselves. In twenty or thirty years if the site leaks or there are other problems its people that are my age who will be sitting up at you know on stages like this one making these kinds of decisions now if the green fees are any indication you know we will have thirty years of taking personal responsibility behind us and we'll be you know pretty well prepared to deal with that as far as new generation can, but when people start looking into it and they find out that these arguments were made that people pointed out there were flaws in the constructs of the rules that people were warned against making Texas the nation's repository for low-level radioactive waste which is dangerous, that in fact professionals at the TCEQ as was mentioned recommended against storing waste at this facility and in fact several resigned from the agency over it there not going to be happy. There going to cry out that

it was obvious this site should have been more carefully reviewed that the rules should have been more carefully reviewed and that surely the people who made the rules should have known better than to add out of state waste to an overgrown pile of our waste when so many of the signs pointed to slowing down and doing the job right. And I I'm afraid that that's what we kinda lost generally not just in this situation, but across the country this willingness to do the job right you know instead of. Instead, everything is determined based on some sort of perceptions and jockeying for position and I know that the members of this Compact Commission have to feel pressure to keep the thing moving forward that there's a fear that any delay however minor any request to revisit an issue or reconsider a paragraph or anything will slow down the momentum of the project and that somehow the you know the enemies of the Compact the anti-nuclear forces out and about will wriggle someway to stop the project dead. And I just think that taking the time to get the job done right will not cost the Compact or any of the goals that these folks were selected to accomplish. It's clear in reading this rule that more deliberation is needed and that some significant changes should be made. And so I just ask that in considering the criticism to this rule that people think about that they take among their own merits and not you know associate them with the people that are making just listen to the arguments. The students and young people that are part of ReEnergize Texas are called on their peers to take responsibility and they've found their peers ready and willing. You know I think that you can promote industry, job creation, new revenues and promote safety, accountability and intelligent guidance by improving this rule. So remember, "Real boats rock," and making this rule you need to acknowledge that there's the potential for problems and be leaders set an example and just do the job right. Thank you.

Ashley Morgan: Thank you Mr. Lovell. At this time I'd like to note that Commissioner Gregory is also in attendance I apologize Commissioner Gregory. I should have mentioned it several several minutes ago. Welcome. Next we have Cyrus Reed Mr. Reed if you will approach the microphone and state your name and who you represent for the record.

25:45

Cyrus Reed: Yes, good afternoon. My name is Cyrus Reed; I'm Conservation Director of the Lonestar chapter of the Sierra Club. We did already file extensive written comments on the Rules so I'm not going to go through all those comments. I did want to give a little background which is back when we were discussing the Compact with the legislature and the legislature agreed to allow a private facility to operate, manage the Compact facility as well as a separate facility for Federal Low-Level Radioactive Waste they specifically put some provisions in that law that said you can't start accepting waste at the Federal facility until we take care of Compact waste, and the reason they did that is because the purpose of the law was to make sure we took care of Texas waste and our at that time our other Compact partners which were at that time Maine and Vermont, but today its Vermont. There was never a discuss this notion that we needed to immediately open up this facility to import other waste and the concerns the Lonestar chapter of the Sierra Club are about the waste import section. We understand there may be a need in the short term for waste exports and we don't have an issue with that. We know there are facilities now that need to send their waste places before we deal with this facility. So that's a little background. I also wanted to mention, as a lot of people probably know Lonestar chapter of the Sierra Club and Sierra Club Nationally did contest the license.

The Commissioners at least two of the three Commissioners disagreed with our assessment but we have appealed that decision to State District Court which the judge in that case has not made a ruling yet. So there's still that issue when TCEQ did issue the license they put about fifty-two preconstruction conditions on that license. Some of those conditions have been met, but according to a letter dated March 16 that's on TCEQ's website not all those conditions have been met in the mean time WCS has sought some amendments to the license to change part of their design. My understanding is that TCEQ is going to do a notice deficiency on that design all of this background information is to say the place isn't operating all the conditions haven't been met the appeal is still working it's way through the process we don't feel like there's a need to go forward with a rule on importation at this time, in fact we think there would be every reason if they wanted to go forward with a rule on importation to say let's just say no to importation at least over the next ten years see if this facility actually gets off the ground operates, operates well and then we might look at that other issue, but we don't feel there's any need to do it at this time. We did make some specific comments on the actual importation proposed importation agreements. We noted there's no - there doesn't appear to be actual limits on the volume or curies. There is some attention to consulting with TCEQ, but our view is that because the license is based upon waste characterizations from Vermont and Texas, any imports of waste would actually require either a minor or major amendment depending and so if the Commission were to go forward with an importation rule which obviously I've stated we're against at a minimum we would want to make it clear that an amendment would be needed there would need to be a TCEQ process before it could go to the Compact Commission. We also noted that there's the rule says nothing about international waste there doesn't appear to be anything in the rule that would prevent Texas from not only importing waste from other states, but even other countries. We also noted the issue of storage. WCS has a current storage license at which they've been importing waste from other states. Our view of the law is that the Compact Commission has authorization over both management and disposal and storage fits in as part as management again we feel like both TCEQ and the Compact Commission should be ruling on the potential to import waste from other states through the storage license. And we of course have many other concerns involving the potential liability to Texas Taxpayers from this out of Compact waste in the future should things go awry. So I won't go over all the specific comments, but those are my general ones and what we'd like to ask the Compact Commission is to go ahead deal with the export now; let's put off the import let's see if the facility actually works and operates before we start opening it up to other states. So those are my comments. Thank you.

Ashley Morgan: Thank you. Jerry Grisak please approach the microphone state your name for the record and who you represent and I apologize if I said your name incorrectly.

30:58

Jerry Grisak: Thank you my name is Jerry Grisak and you said it just fine. I'll very short comment here that just be things I'm think qualified to comment on and I'll start and finish with the same statement and that is that the geology and hydrogeology of this site may be the best I have ever seen for isolation of low radioactive waste from the environment. I say so on a basis of something like forty years of experience I'm a licensed geologist professional hydrogeologist, a hydrogeologist is a groundwater

geologist. I've study the geology in groundwater aspects of radioactive hazardous waste disposal for almost forty years starting as a graduate student in 1971. I've authored or co-authored numerous technical papers published in scientific journals over thirty of those are in the context of radioactive waste management and disposal. I've conducted personally studies on numerous radioactive waste disposal and storage sites including Waste Control Specialist site in Texas, Yucca Mountain in Nevada and Nevada test site, Hanford Washington, Savannah River, Georgia, waste isolation pilot plant in New Mexico, several Swiss potential radioactive waste disposal sites and Canadian Low-Level Radioactive disposal sites at Chaulk River, Ontario; White Shell Nuclear Research Establishment in Manitoba, Defense Research Establishment Suffield in Alberta and a Bruce Nuclear Power Development in Ontario, Interra as Corporation - many of these studies under my direction - is currently involved in hydrogeologic characterization and performance assessment at the waste control specialist site a Nevada test site at the Bruce Intermediate Level disposal site in Ontario and we're involved in hydrogeologic characterization and performance assessment at sites in Switzerland, Germany, Sweden and Japan. One specific issue on the geologic and hydrogeologic aspects at WCS is the Ogallala Aquifer, and it has been inferred that the WCS site is located on the Ogallala Aquifer I just want to be clear that the Texas Water Development Board in 2003 reconciled fifty years worth of published and available data for the Southern Ogallala groundwater available in the Southern Ogallala groundwater availability model stopping the Aquifer several miles distant from the WCS Compact and Federal Facilities and WCS has demonstrated in and of itself with hundreds of wells that the Ogallala Aquifer is not present at the facility. Facilities are also separated from the non-potable water and sandstones in the Dockum group by 500 feet of virtually impermeable clays. Investigations and continuing measurements on going at this moment demonstrate there is no downward movement of moisture from the surface there by totally isolating the waste from the environment. There is no pathway to the environment from the disposal sites and I'll close again with saying the geology and hydrogeology of this site make it the best I have ever seen for isolation of low-level radioactive waste from the environment. Thank you.

Ashley Morgan: Thank you. Next Mr. Steve Cook, I believe it's Cook if you'll approach the microphone and state your name for the record and who you represent.

34:57

Steve Cook: It is Cook.

Ashley Morgan: I didn't know if it was Crook or Cook. Cook for the record.

Steve Cook: Thank you. My name is Steve Cook. I'm the President of Cook Joyce, Incorporated and I'm a registered professional Engineer in the State of Texas. Cook Joyce is an engineering and consulting company located here in Austin and we've been in business since 1983. I personally have been performing site characterizations and designing, permitting and constructing landfills for over 30 years. In that time I've had the opportunity to characterize sites and design and construct landfills in all parts of Texas and at locations in Louisiana, Mississippi and Alabama. All in all, the WCS site is the best landfill site that I have worked on in my career. I've been working at the WCS site for about 10 years, For much of that time site characterization and monitoring has

continued at the WCS site. Thousands of work hours have been spent at the site by diverse and talented group of geologist, hydrogeologists and engineers who have been performing studies on varied characteristics of the site and you just heard from one of those talented geologists. In that time we have drilled hundreds of borings and have installed over 300 wells. We've had hundreds of geologic and geotechnical laboratory characterization analyses performed; over 12 hundred direct measurements of water saturation in the Dockum red bed clay stones have been made. Water levels in about 250 wells completed in the caliche sands and gravels just on top of the docum red beds are measured monthly and other wells are measured quarterly. A number of studies have been made regarding the stability of the site from erosional and subsidence standpoints. Including installing a 2000' deep boring to evaluate the possibility of salt dissolution at the site. The results have of theses studies have been well documented and are on file with the TCEQ. The results of the studies demonstrate that the Dockum red beds are not saturated, there scattered spotty pools of water on top of the Dockum red beds. The Ogallala Aquifer is not present at the location of the land disposal area there is no evidence of salt dissolution at the site; the area is egrading not eroding. The area is geologically stable and hydrologically isolated. This is one of the most characterized if not the most characterized site in the United States. The site is arid about - 14 inches of rainfall per year and some 60 odd inches of devaporation and evapotranspiration it's over 3 ½ miles to the nearest residence. The waste will all be disposed below the top of the Dockum red bed clay stones. Based on the real work that I have been involved with at this site I feel confident in reiterating for you that this is the best landfill site that I have worked with. It is the most characterized and it is the correct site for disposal of low-level radioactive waste. With that in mind I would urge adoption of the export and import rules. Thank you.

Ashley Morgan: Thank you Mr. Cook. Next is Kalesha Roberts. Ms. Roberts? She may have stepped out for a moment. I'll try her again in a few moments. Eliza Brown please. Ms. Brown if you will state your name for the record and who you represent.

39:23

Eliza Brown: My name is Eliza Brown and I represent the Sustainable Energy and Economic Development or SEED Coalition and hello to the Commissioners who are here. With all due respect to the two gentlemen who just spoke we would urge - I do want to endorse the comments of Mr. Lovell, Mr. Wilson, Mr. Cyrus Reed, and possible comments from Representative Lon Burnam. With all due respect to the gentleman who just spoke, they are employees of WCS and we would like to see an independent evaluation separate from money and influence done on the suitability of this site and we haven't seen that. In the introduction of the rule it says the purpose of the Compact is to provide a framework of for the cooperative effort to limit the number of facilities needed to effectively efficiently and economically manage low-level radioactive waste and to encourage the reduction of generation thereof. A further purpose is to cooperate under the party among the party states in the protection of the health, safety, and welfare of the citizens and to distribute the cost, benefits, and obligations among the party states. There's a lot of things in there that I don't think that the new rule is accomplishing and and if there is any kind of effort to encourage the reduction of generation of waste this is this rule by preemptively opening up the site for import is doing the opposite. Process issues - we really think that the Compact Commission is rushing ahead irresponsibly with

this rule making and should not approve the import portion of this rule. The TCEQ license has been appealed by the Sierra Club, the site has yet to be constructed and the Compact Commission does not have adequate resources to get all of the Commissioners here to the public hearings, they don't have adequate resources to hire the staff to review these import agreements they cannot afford an attorney they don't even have bylaws yet. We believe that its irresponsible and detrimental to the public's interest to move forward with this rule under these circumstances and that the site should be proved to be fully operational before we can consider import. Specific comments on the rule it really is it seems like once you read it an open invitation to import, yes it doesn't approve import perse, but you only need a 4 vote you know you only need a majority vote of the Commission to approve importation and this needs - this process needs to be slowed down and there needs to be limitations put on the amount of waste that could be imported. At this point in time we should be limiting the waste to the Compact member states Texas and Vermont. The capacity of the site is only licensed for 2.3 million cubic feet and I know these numbers have been disputed, but the only numbers out there currently is the Compact Commission volume rule has said that there's that Vermont needs 1 million cubic feet to take care of its decommissioning in Vermont Yankee and that they are limited to 20% of what Texas can dispose of so that puts Texas at 5 million a total of 6 million cubic feet. So Texas and Vermont needs are over maybe not that much, but they are over the amount of capacity that is licensed currently and at a very minimum the rule should limit the amount of waste in volumes and curies levels that can be imported and there should be an absolute ban on foreign waste. There's also - there also should be a technical TCEQ technical evaluation and approval of the waste before it can be imported into the state. Like Mr. Reed said the only radioactive waste streams from Texas and Vermont have been evaluated by TCEQ and we think the rule must require before the Compact Commission can consider any import agreement that WCS needs to obtain a TCEQ amendment to its license for the waste it wishes to import. We also think that the rule should consider the liability that this brings for Texas Taxpayers. The waste once it for the Compact Facility once it crosses the state line Texas become Texas Taxpayers become liable and will be responsible for cleaning up cost if and when the site leaks. All of the Low-Level Radioactive waste disposal facilities in the country built in the 70's with exception of Clive have leaked and that may not happen at the WCS site, but the rule needs to consider the financial and environmental burden of radioactive waste lasting thousands of years that a leak could would cost the taxpayers and public health and the amount that it would cost to clean up. This should be considered a major environmental rule. I know that the Commissioners have used semantics in my opinion to say that this is not actually approving import, because they have to go forward, but this sets up the guidelines for how its done and by approving by putting approving the rule that is currently being proposed it allows WCS and I quote Rod Baltzer has said many times, "to go out and get contracts and set rates." So in essence it is encouraging the generation of new waste and it is just not responsible when this rule could dramatically increase the amount of waste that's coming to the site and increasing the possible threats to the environment and public health. When the WCS site has limited capacity to not consider this and not conduct an impact analysis and not conduct environmental impact statement. Transportation transport of radioactive waste will be coming in on trucks through Texas communities and an independent comprehensive - independent being the key word - transportation safety and impact study must be a condition of any consideration of all wastes coming into Texas if an accident occurs state and local

governments will be responsible for emergency response and for taking actions to protect the public health and safety and this should be a requirement in the rule to notify emergency responders 24hrs in advance of import and export shipments so that they can be prepared with proper equipment if they need to respond to an accident. There's no there's nothing in the rule that protects public health and safety. It's just it as far as and this is another liability and far as liabilities are concerned you know the rule discusses the positive fiscal benefits of the rules but absolutely none of the liabilities for Texas Taxpayers when they take title to this license and bring it into their state. We also agree with Mr. Reed that waste that's being imported now under WCS's existing storage license should be subject to Compact Commission approval as well and should be under this as well, because currently they are importing waste all around the country and possibly the world to quote, "Store at their license," with the intention of disposing it later and we think that they should be going through the process of getting Compact Commissioner approval. Initially for importing for storage and the public participation process in the rule is wholly inadequate they briefly mention a 20 day comment period, but there's the public participation process - needs to be specifically outlined how and when the public will be informed of the import petition how the public can participate how public comments will be considered by the Commission and just in closing we really believe that they're just rushing ahead of with this rule way to quickly and that it just without the site being operational and without adequate funding of the Compact Commission to even review the import agreements and attend this hearing its we agree with the Sierra Club that they should go forward with the export rule and postpone any consideration of the import rule and we will be submitting detailed written comments as well, Thanks.

Ashley Morgan: Thank you Ms. Brown. Next can I call Mr. or Ms. Roberts again. If you'll come to the microphone and state your name and who you are with for the record.

49:41

Kalesha Roberts: Hi, my name is Kalesha Roberts, I just wanted, I don't necessarily want to say I'm for or against, but just wanted to speak in doing research on this topic how very difficult it's been just to understand some of the terminology. I'm an artist myself and I would say that I create visual vocabulary over terms to hope that people would understand and sometimes they don't. And the term Compact Facility shoots different images into my head as to what that is, is that something that makes me just think of waste something that's unsafe, something that could be behind a grocery store. And I think that that triggers misguided direction and what the focus of this ruling is specifically, because it's already been approved for them to import and export across and to this new facility. What is being set up now is the set of rules to hold accountability so that the public can watch this dispose or watch this checklist go through which is what I think is important and should be more publicized than I think some of the other things that have been brought up, it's to the focus on nuclear waste get so out of context because its such a hot word and Compact Facility comes along with that. So I believe that's not necessarily about the public safety or anything, but it's about I think it's really important to have those list of that checklist of accountability it proves that people can watch. Thanks.

Ashley Morgan: Thank you. Okay Representative Lon Burnam please.

51.38

Lon Burnam: Thank you. Before I get to my prepared comments specifically want to thank all the community volunteers and public interest advocates that have shown up on such a short all but legal notice. I think the number of points that have already been made bear noting briefly. I want to thank Mr. Simpson for pointing out that in essence this rule totally violates the intent of the Compact Legislation. I'm one of those people that half of my legislative career the time that I've been in the legislature has been involved with assessing the proposed bills that have become before the legislature. Three sessions, my first three sessions the legislation did not pass my fourth session the legislation passed but in all four of those sessions the public discussion was about limiting importation of radioactive waste. The public discussion has always been about complying with the intent of national legislation doing our part to store our waste and join in Compact with but as everybody here knows one of the three states has withdrawn and so in reality we should only have to be dealing with the waste from one state. And unfortunately all the public discussion I've heard to date from proponents of rushing this rule are the people that are putting private profit for one monopoly interest over public interest. So I want to clarify now that I've thanked the public interest advocates that are here today that I'm here on behalf of my constituents - 150,000 people who live in Fort Worth, Texas and the State of Texas because I think this rule is fiscally irresponsible and is also irresponsible to the safety of my constituents. Now, I'll go to my prepared comments and elaborate on that thought. First of all I do want to note Commissioners that I do appreciate the fact that at least three of you are here in the audience to take and make observations on this hearing, but the one staffer that the Commission has apparently is not here or she would be conducting the hearing. If I can make it on the day after Easter to Austin, I have a hard time understanding why the staffer can't be here to staff the meeting and make sure that this a webcast and taped. I had to make sure that it was for the last meetings; I shouldn't have had to do that today. Obviously we're not adequately staffed up with Commission to do the job that needs to be done. It's obvious and has been stated over and over again this Compact Commission is being asked to adopt rules when it doesn't even have its rules of procedures in place. Doesn't have adequate funding to do the job that it's been asked to do so on a process point this process is fundamentally flawed. The rule that is being proposed is fundamentally violates at least 8 if not 18 years of public discussion about what the law is about and what the law is intended to accomplish. I want to move to the content of the rule itself, there are three points some of which have been briefly discussed. This rule contains no real limit on the volume or the radioactivity of the imported waste. The cause of the lack of the of controls on volume we risk leaving both Texas and Vermont waste homeless with no place to go. Now I've been to the site and I can debate with the two WCS employees that were here about the various aspects of the quality of this site, but that's not what we're here to talk about today. I think that site is probably, because of the efforts of the public interest community not WCS, the best possible site in Texas to assume our responsibility for waste generated in Texas and our Compact State. I'm not here to discuss or prepare to debate whether or not it's the best site in the world to become the international waste dump site for the world's waste material. But that's what we're really discussing today when we are discussing this rule cause this rule is so fundamentally flawed. What we're talking about is creating the international global communities nuclear waste dump site in Texas almost as importantly as those safety issues is the liability imposed on the State of

Texas. So I'm here as a dually elected official effectively reelected for an 8th time representing the State of Texas facing billions of dollars in deficit in the next budget to talk to you about the fiscal impact. There is no fiscal impact statement on these rules its required for every law that passes the Texas Legislature, but we can't get one in this rule process to talk about what will negatively impact the state budget for hundreds and hundreds of years to come, because ultimately who do you think in this socialized system a private profit for WCS and socialize external problems to be dealt with who do you thinks going to deal with that the State of Texas is going to be stuck whenever WCS abandons this project with its 10 years from now or 15 years from now and they maximize their profit. They're going to cut and run that is guaranteed over and over again we see how it works in this country with the corporations taking advantage of bad public sector management most recently I witnessed it at this WCS project when I was out there in Andrews County last week and towards the end of the tour when we went to this huge barn storing radioactive waste. I was reintroduced to some radioactive waste that I hadn't even thought about in 16 or 18 years, but it's from a sight in Galveston Island that was abandoned about 16 years ago the article in Southern Exposure talked about the rats and the roaches coming in and out of these containers that were holding radioactive waste. EPA 16 years later because the waste has been abandoned is paying WCS to manage that waste, store on site until they figure out what to do with it. You couldn't look for a better example of socialized economics in this country the corporations make all the profit and then they dump the responsibilities for public health on the private on the private sector. I don't want to let WCS get away with importing all the waste from all over this country possibly all the waste from all over the world and dumping the fiscal management responsibilities on the State of Texas and finally I'm going to talk about transportation. I'm going to use a brief analogy for those of you who know anything about my district I represent inner city Fort Worth in inner city Fort Worth we have a particularly unique transportation challenge - its called all those imports from the Asian Rim. Over half of them that come into the Los Angeles port authority come through my district at Tower 55. Tower 55 is a one signal light mechanism for controlling over half of the imports into this country from the Asian Pacific Rim. It causes a lot of problems; it causes a lot of air pollution, it causes a lot of hazards and dangers for my children in my district that crawl under trains because they sit there for 24hrs at time on our railroad tracks. Well let's fast forward - that's importing commercial goods now we're talking about my district being the host for transportation of over half of the nation's nuclear waste cause you can bet your bottom dollar its going to be coming through on those interstates in Fort Worth to West Texas so again we have the unique opportunity to address transportation problems, but they're not addressed in this rule process. My district doesn't need or want half of the world's nuclear waste being transported through our district as an economic engine for Andrews County or to ensure WCS's profit margin. The rule as proposed is fundamentally flawed it should not be adopted they need to go back to the drawing board. Thank you.

Ashley Morgan: Thank you. Next we have Mr. Robert Eye please state your name for the record and who you represent.

1:00:00

Robert Eye: Thank you, my name is Robert Eye and my last name is spelt E Y E, I'm an attorney. I live in Lawrence, Kansas my practice is in Topeka, Kansas. I've been involved with various aspects of the uranium fuel cycle since the early 1980's when I represented the State of Kansas in the United States to the with the Kansas Attorney Generals Office in two cases before the United States Supreme Court dealt with nuclear power since then I've represented public interest groups, units of government and others in everything from nuclear power plant licensing cases to radioactive waste dumps, whistleblower cases and so forth. One of the best experiences I think I've ever had was representing public interest groups that oppose the establishment of a radioactive waste dump. Under the auspices of this central inner state low-level radioactive waste compact it was proposed for the North Central Nebraska Community in Boyd County, Nebraska. I would just like to have cautionary note to those that have to make decisions about this particular waste treatment Texas and at the risk of sounding like a carpetbagger, I can tell you that these experiences I think are pretty uniform irrespective of the location. As Nebraskans gained awareness about the implications of a 5 million cubic foot radioactive waste dump in their state support decreased. Didn't increase, in fact it decreased to the point were then Governor Ben Nelson later to become Senator Ben Nelson essentially repudiated the site. The site had inherent problems true, but even had the site not had inherent problems the support for the site based upon equity and fairness began to diminish as Nebraskans and frankly people in South Dakota who lived right next to the site and others in the Compact realized the basic unfairness of concentrating a particular radioactive waste stream on in a site that had very little benefit from it inherently. The radioactive waste is generated while that will eventually end up at Andrews presumably was generated for purposes other than benefitting Andrews County. The equity of it just doesn't add up. Moreover as Nebraskans learn that likely cost of long term liabilities support diminished as Nebraskans learned that the life of the site would not outlive the hazardous life of the radioactive waste that was placed in it particularly long lived waste streams like Radio Iodine 129, plutonium and so forth that would remain hazardous and potentially lethal for literally hundreds of thousands of years. Nebraskans took a very pragmatic approach to it and ask the question, can you assure us that the structures in which you place these materials will outlive the hazardous life of the materials in them? That answer frankly was evaded by the developers in the Compact Commission and that evasion cost that Compact Commission and its developer credibility to the point were support that had been present diminished and site was abandoned. A cautionary note millions and millions of rate payer dollars went in to that site in its characterization and in the politicization of its support those dollars are gone not to be used for anything productive. Wasted. This is a this is just one experience, but it's a it's a experience that I think may have some value in considering your situation now. Just a close this site though perhaps characterized by various people as either suitable or unsuitable will eventually not be the point. The point that will be have to be reconciled is whether there is a social support for it. Those who promote nuclear power frequently say well this is just an engineering problem that we need to get around. Actually its much more multi faceted than engineering problem alone, if this particular industry and its back end of the fuel cycle cannot be reconciled with public support than we need to back up and try another way and I might add the clients that I represented in Boyd County, Nebraska was a public interest group its called Save Boyd County Association. The county was about 3500 people total was the poorest per capita county in Nebraska. It was so remote that at that point the television signals from Omaha and Lincoln wouldn't reach it just very

isolated. Nobody thought for a moment when Boyd County was selected that they would be able to mobilize sufficient support over the long haul to beat this dump, they did. The tenacity the persistence and frankly the courage of those who stood up and fought that dump successfully is to be admired and hopefully emulated anywhere where one of these dumps attempts to be established. Do we need to deal with radioactive waste stream? Absolutely! But to do it in a way that's simple expeditious and not responsible is contrary to both the public's interest and to the interest of future generations. Thank you.

Ashley Morgan: Thank you. Is there anyone else that would like to present oral testimony at this time?

Robert Eye: Thank you sir appreciate that I represent the Sustainable Energy and Economic Development Coalition the SEED Coalition. Yes Sir.

Ashley Morgan: Once again is there anyone else that would like to present oral testimony at this time? Ok I would like to remind everyone that the Compact will also be accepting oral comments tomorrow evening April 6, 2010 in Andrews, Texas at Andrews High School beginning at 6 PM. There are copies of the Andrews Hearing Notice for your reference outside on the registration table additionally you may supplement your oral comments you provided today in written form and the Compact will be accepting those written comments until Midnight on Tuesday April 13, 2010. If there are no further comments, yes sir?

Rep. Burnam: For the record may I ask will the Commission be funding the transportation of the Commissioners for the Hearing tomorrow evening and will the Commission have any staff or will the TCEQ be asked to staff the hearing again tomorrow?

Ashley Morgan: We will be ask to staff the hearing tomorrow evening. Commissioners might Compact Commissioners might attend, but their not going to be there in quorum.

Rep. Burnam: They might attend, but they won't be

Ashley Morgan: But we will be

Rep. Burnam: Compensated for their travel expenses as most Commission members for the State of Texas are?

Ashley Morgan: Yes sir they would be if they attended. We will be recording for the Compact again tomorrow evening.

Rep. Burnam: The question is are there funds to reimburse their travel expenses?

Ashley Morgan: Yes sir.

Thank You.

Ashley Morgan: If there are no further comments this hearing is now closed. The Compact appreciates your comments. Thank you for coming.