

**TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL
COMPACT COMMISSION**

**Approved
Minutes of the
June 5, 2009 Commission Meeting at the
Rusk Building,
208 E. 10th St., Suite 227
Austin, TX 78701**

1. Call to Order

The meeting was called to order at 09:43 hrs (CST)

2. Roll Call

The results of a visual roll call showed seven Commissioners in attendance and one absent (Dr. Peddicord).

3. Introduction of Guests

Guests in attendance were introduced.

4. Status of recordings from February 3, February 26 and 27, and April 2, 2009, meetings

Commissioner Wilson stated that all recordings of Commission meetings were being maintained in accordance with Texas Open Meetings Act requirements

5. Discussion and possible action on funding and budget

- a. Interagency Contract between the Commission and the Texas Commission on Environmental Quality (TCEQ) to include review and approval of possible revisions to initial budget for FY2009 per *Health And Safety Code, Title 5. Sanitation And Environmental Quality, Subtitle D. Nuclear And Radioactive Materials, Chapter 403, Texas Low-Level Radioactive Waste Disposal Compact, Sec. 3.04(6)*

Chairman Ford provided a brief synopsis of the changes that had been agreed to by both the Commission and TCEQ. Those agreements were being finalized in the form of a contract revision which had not yet been received by the Compact Commission.

- b. Review and approval and adoption of possible revisions to budgets for FY2010 and FY 2011 per *Health And Safety Code, Title 5. Sanitation And Environmental Quality, Subtitle D. Nuclear And Radioactive Materials, Chapter 403, Texas Low-Level Radioactive Waste Disposal Compact, Sec. 3.04(6)*

No action was taken under this agenda item.

- c. Legislative appropriations rider for payment of annual pro-rata share of Commission operations for FY 2010-2011

Chairman Ford reported that the Texas legislature had completed its session with an appropriation in support of the Commission for \$100K per annum for the biennium for the reimbursement of Commissioner travel expenses. Roughly five times more travel monies than had budgeted by the Commission. The appropriations actions taken by the Texas legislature obviously falls well short of the financial needs of the Commission. Chairman Ford reported that the Texas Governor's office continues to work to meet the Commission's stated financial needs.

d. Discussion and possible action with respect to invoicing Vermont for its party state pro-rata share of Commission operations

Commissioner Wilson raised a concern with regard to the payment by Vermont to an independent Compact Commission bank account and likewise the Commission's ability to seek payment for the Texas pro-rata share of Commission expenses. Lengthy discussion ensued regarding the various determinations made by the Commission regarding its "separate and distinct" status, that the Commission was not a state agency, and that numerous financial controls were stipulated within the Compact Law. Previous determinations by Texas Comptroller staff regarding the Commission's ability to receive payment from the party states was also discussed. The Commission agreed to table this item pending the recommendations of the newly formed Finance working group (Ford, Smith, Wilson) to be reported at the July meeting.

At the request of the Chair, Ms. Kathryn Haynes, Executive Director of the Southeast Compact, addressed the Commission regarding her experiences related to establishing a Compact Commission and the actions taken to run the Compact on a day-to-day basis, both then and now. Ms. Haynes extended the offer of the Southeast Compact to assist in any way that the Texas Compact might need.

Upon the recommendation of Judge Dolgener, Ms. Haynes also addressed the Commission regarding agenda item 10, at this point in the meeting.

6. Discussion and possible action to contract or hire for services necessary to carry out Commission duties and functions per *Texas Low-Level Radioactive Waste Disposal Compact, Sec. 3.05(1) and (3)*, to include:

a. Interim Executive Director

The Commission voted 6-1 to hire Margaret Henderson of Ouray, CO as the interim Executive Director. The Commission then voted unanimously to authorize the Chair to negotiate, with the assistance of legal counsel, and enter into a contract with Margaret Henderson to be in substantial conformity with the draft contract presented to the Commission, and as amended during deliberations with comments provided during the meeting by Commissioner Gregory and after the meeting by Commissioner Wilson.

b. Legal Counsel

No action was taken on this agenda item due to the interests of time and Commissioner travel schedules.

c. Certified Public Accountant

No action was taken on this agenda item due to the interests of time and Commissioner travel schedules.

d. Information Technology Service of email and Internet site design and hosting

The Commission voted unanimously to authorize the expenditure of \$3500 for the creation of a web site and the purchase of email and file backup services that would centralize Commission email correspondence, facilitate a timely response to public record requests, and facilitate broader public access to Commission activities and publications.

e. Other services as determined by the Commission

The Commission voted unanimously to approve reimbursement of expenses incurred by individual Commissioners for the purpose of (a) responding to Public Information Act requests and (b) preparing for public meetings (e.g., audio recording equipment rental).

7. Discussion and possible action to purchase essential equipment and materials necessary to carry out Commission duties and functions per *Texas Low-Level Radioactive Waste Disposal Compact, Sec. 3.05(3)*.

The Commission voted unanimously to approve the expenditure of \$4500 for the purchase of a laptop computer, printer and expendable supplies necessary for the operation of the computer equipment (e.g., printer ink).

8. Discussion and possible action on total volume of low-level radioactive waste that the host state will dispose of in the compact facility in the years 1995-2045, including decommissioning waste.

a. Results of stakeholders' meeting, April 14, 2009

This item was briefly summarized under item 8.b.

b. Discussion and possible action on adoption of a rule or rules including but not limited to adding a new Chapter 675, Part 21 to Title 31, Texas Administrative Code in order to comply with the requirements of Section 3.04(11), of the Texas Low-Level Radioactive Waste Disposal Compact Commission as adopted by Chapter 403, Texas Health and Safety Code

Commissioner Wilson provided a brief synopsis of the rationale behind the structure and content of the rule. After a brief discussion and opportunity for public comment, this Commission voted unanimously to propose the draft total volume rule as presented.

9. Discussion and possible action by the Commission with regard to requests or petitions made by:

a. Compact Generators

Representatives of South Texas Nuclear Project (Mr. Rene Ruiz, Cox Smith, on behalf of STP), Comanche Peak (Mr. Bob Knapp, Luminant), and Vermont Yankee (Mr. Mark Carver, Entergy) discussed their related concerns with regard to the continued exportation of LLRW to management and disposal facilities outside of the Texas Compact. Although the utilities had not offered written petitions to export LLRW out of the Compact and had suggested alternate means of allowing export in lieu of discreet export permits, the utilities ultimately brought forward individual verbal petitions to the Commission that were ultimately ruled out of order due to the fact that such petitions had not been publicly noticed.

A Compact Facility representative (Mr. Rod Baltzer, WCS) stated that free storage at the Compact Facility would be made available to Compact Generators on an as-needed basis.

In accordance with the advice of counsel, the Commission unanimously approved the formation of a Committee to evaluate (with the assistance of counsel) the promulgation of an emergency rule or order that might alleviate actual health and safety concerns (for workers or members of the public) or potential violations of license conditions. The working group consists for the following Commissioners: Ford, Vanags, White. The Commission also approved the working group to begin the drafting of Bylaws.

b. Compact Facility

No action was taken on this agenda item due to the interests of time and Commissioner travel schedules.

c. Non-Compact Entities

No action was taken on this agenda item due to the interests of time and Commissioner travel schedules.

10. Discussion and possible action with respect to a request by the Southeast Compact Commission on amicus briefing in a suit pending as an original action in the Supreme Court of the United States, No. 220132 ORG, styled *State of Alabama et. al., Plaintiffs v. State of North Carolina*.

Ms. Haynes summarized the action before the U.S. Supreme Court and the basis for the amicus brief. Commissioner Wilson moved to recommend the formation of a committee to study the brief being prepared by the Rocky Mountain Compact. The motion was seconded and approved unanimously by the Commission. The members of the committee formed to study the amicus brief and report their recommendations to the Commission are Commissioners Dolgener, Vanags and Wilson.

11. Discussion and possible action by the Commission with regard to

a. Bylaws, policies, and operating rules and the assigned priorities thereof

No action was taken on this agenda item due to the interests of time and Commissioner travel schedules.

b. Operating plans for the Commission

No action was taken on this agenda item due to the interests of time and Commissioner travel schedules.

12. Agenda items for next meeting

No action was taken on this agenda item due to the interests of time and Commissioner travel schedules

13. Selection of next meeting date and location

No action was taken on this agenda item due to the interests of time and Commissioner travel schedules.

14. Public Comment

No action was taken on this *specific* agenda item due to the interests of time and Commissioner travel schedules. Public comment was requested at various times throughout the meeting.

15. Adjourn

The meeting was adjourned at approximately 3:15 PM (CST).