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OFFICE OF THE ATTORNEY GENERAL
STATE OF MAINE
AUGUSTA, MAINE

STATE OF MAINE

**Commission
on Radioactive Waste**

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1987

1987 ANNUAL REPORT

ROBERT DEMKOWICZ, Environmental Specialist
MARY GROW, Public Information
BONNIE SAVAGE, Secretary



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SENATOR RONALD E. USHER

STATE OF MAINE
STATE HOUSE STATION #120, AUGUSTA, MAINE 04333
ADVISORY COMMISSION ON RADIOACTIVE WASTE

January 27, 1988

The Maine Legislature
State House Station #2 and #3
Augusta, Maine 04333

Dear Colleagues:

The accompanying document is the Advisory Commission on Radioactive Waste's annual report for the calendar year 1987. This report is submitted to you in accordance with 38 M.R.S.A. 1453 (4), which requires the Advisory Commission to "report to the Governor and the Legislature annually, during the regular legislative session and at other times as necessary."

As the new chairman of the Advisory Commission, I would like to repeat my predecessor's invitation to you to call on us whenever you or your constituents need information about radioactive waste disposal. Our office is on the third floor of the Maine State Retirement Building, across Sewall Street from the parking garage. During office hours, you can reach the staff at 289-3059. We also have a 24-hour toll-free answering machine at 1-800-453-4013.

Sincerely,

A handwritten signature in cursive script that reads "James Mitchell".

Rep. James Mitchell
Chair, Advisory Commission
on Radioactive Waste

/bs

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Annual Report, Calendar Year 1987

Introduction

During 1987 the Maine Advisory Commission on Radioactive Waste continued to monitor and to report and advise on both the federal high-level waste disposal program and the state's progress toward meeting its obligation to provide a low-level waste disposal facility.

The year ended with Maine no longer under immediate consideration as a national high-level repository site. However, the Advisory Commission, fearing another change in federal policy, recommends continued vigilance and continued defensive work (see page 3).

In the low-level waste field, the Maine Low-level Radioactive Waste Authority created by the legislature in June made a fast start (too fast, some critics say), approving a low-level waste management plan intended to meet the Jan. 1, 1988, federal guideline. The Advisory Commission recommends that the state continue both planning for an in-state disposal facility and looking for an out-of-state disposal option (see page 4).

A. High-level waste

The federal high-level radioactive waste disposal program went through a series of dramatic changes in 1987, as the U.S. Department of Energy adjusted its plans and timetables and ultimately was redirected by Congress as the year ended. Major developments were:

- 1) DOE's January 1987 draft Mission Plan Amendment contained new schedules for siting and building the first (western) and second (eastern) high-level waste repositories. The new schedule for a possible repository in one of seven central and eastern states, including Maine, called for site selection to begin in the mid 1990's, with the goal of opening the repository about 2025. However, DOE officials decided that the Mission Plan timetable could not override the timetable in the 1982 Nuclear Waste Policy Act, and that unless Congress voted approval of the Mission Plan Amendment, DOE would have to continue to try to implement the already-slipped schedule set in 1982.

2) Congress did not act on the Mission Plan Amendment, so on Oct. 1, 1987, Energy Secretary John Herrington announced resumption of the second-repository search. DOE would take up the search where it was suspended in May 1986, he said, starting by reviewing about 60,000 comments received on the January 1986 Draft Area Recommendation Report (the document listing Maine's Sebago Lake Batholith and Bottle Lake Complex among 12 potential eastern repository sites).

3) Meanwhile, Congress debated two different approaches to amending the 1982 Nuclear Waste Policy Act, the (Arizona Rep. Morris) Udall moratorium/commission bill and the (Louisiana Sen. Bennett) Johnston sequential characterization bill (also known as the Bribe Bill and the Screw Nevada Bill). In pre-adjournment chaos, House and Senate agreed Dec. 21 on an amendments package accepting a revised Johnston bill: Yucca Mountain, Nevada, is specifically named as the first site to be characterized for a high-level waste repository, and the multi-million-dollar "incentives" package Johnston proposed is cut by 80%.

As for the second repository, the 1987 Nuclear Waste Policy Act Amendments Act provides:

- The 1982 NWSA requirement that a second repository be sited (though not built) is repealed, and no further site-specific second-repository activities are allowed unless Congress specifically authorizes and funds them.
- Between 2007 and 2010, the Secretary of Energy is to report to the president on whether a second repository is needed.
- Research on crystalline rock is to be phased out within six months.
- If crystalline rock is ever again considered as a repository medium, potential disqualifying factors are to include seasonal population increases, proximity to public drinking water supplies, and impact on Indian lands and Indian trust lands.

* * * * *

Although Maine now appears to be out of the running for a national nuclear waste repository at least until after the year 2010, the situation could change. The 1987 law says that if the Yucca Mountain site is found unsuitable, Congress is to decide what to do next. Nevada officials opposed to the repository claim they can show the site is technically unsuitable. They are also seeking political support for reconsideration in the states through which high-level waste must be transported to get to Nevada from major east-coast producers like Pennsylvania and Massachusetts. Yucca Mountain has been alleged to be the most promising, technically, of the three final western candidate sites. Should it be disqualified during the next one to three years of study, Congress is likely to reexamine Maine and other second-round states as well as the Hanford, Washington, and Deaf Smith County, Texas, candidate sites.

Under these circumstances, the Advisory Commission
RECOMMENDS:

- That the legislature continue to support scientific studies by the Maine Geological Survey and other appropriate agencies that will provide information on Maine's technical suitability (or lack thereof) as a site for a high-level radioactive waste repository.

* * * * *

B. Low-level waste

The first session of the 113th legislature approved the Advisory Commission's bill establishing the Maine Low-level Radioactive Waste Authority, a major step toward meeting Maine's responsibility (under federal law) to provide a low-level radioactive waste disposal facility. After Governor McKernan appointed the six public members to join State Geologist Walter Anderson, the Authority contracted with Acres International Inc. of Buffalo, New York, to draft a low-level waste management plan. The plan was submitted to the U.S. Department of Energy and the three states with commercial low-level waste disposal facilities (South Carolina, Washington, Nevada) with the intent of meeting the Jan. 1, 1988, "milestone" (deadline) in the 1985 federal Low-level Radioactive Waste Policy Amendments Act.

The Department of Environmental Protection issued an RFP in December 1987 for a contractor to write low-level radioactive waste disposal facility siting guidelines. These regulations, to be in place by September 1988, will direct the DEP/BEP review of a disposal facility license application, scheduled in the management plan for the spring of 1991.

Advisory Commission members and staff have provided information to both the Authority (which had no permanent staff of its own in 1987) and DEP. The Advisory Commission reviewed the draft management plan and after the Authority's Dec. 14 hearing submitted a brief written comment.

The Advisory Commission continues to support Maine's two-track approach to low-level waste disposal, urging continued efforts to negotiate a contract or compact for out-of-state disposal and continued progress toward developing an in-state site. Pursuing the latter track, in the Commission's opinion, both strengthens Maine's position in negotiations (by demonstrating that Maine is not at the mercy of a potential partner) and provides a way, if necessary, to meet the state's obligation under federal law (See Note 1, below).

Therefore, the Advisory Commission RECOMMENDS:

- That the Governor's office continue to pursue all possible avenues for out-of-state disposal of Maine's low-level radioactive waste (See Note 2, below).
- That the legislature provide political and financial support for the Authority as it undertakes the politically and technically difficult assignment of siting and building a Maine low-level radioactive waste disposal facility.
- That the legislature and legislators individually seek to promote public understanding of low-level radioactive waste management and informed public review of the Authority's plans.

Low-level waste: Note 1

At least one person fears that if Maine builds a low-level disposal facility, less diligent states will invoke the emergency access provision in the 1985 Low-level Radioactive Waste Policy Amendments Act to make the Nuclear Regulatory Commission make Maine take their waste. The emergency access provision (Sec. 6 of the 1985 law) does indeed allow NRC to allow a generator to send waste to a compact's or state's facility the generator would not normally be entitled to use, but only "if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security," and if NRC finds no other way to mitigate the threat. Emergency use, if granted, is limited by the law to 180 days with one 180-day extension allowed. NRC decides which facility or facilities will take the waste. No state can be required to take on an emergency basis

more than 20% of the volume it took during the previous calendar year, nor can it be required to take waste not meeting criteria in its license. At the end of 1987, NRC had proposed a rule implementing Sec. 6.

Because Maine's disposal facility, if one is built, will probably not be close to many out-of-state generators and will accept relatively small volumes of waste, the Advisory Commission does not expect the emergency access provision to affect it. However, the Commission will keep the possible problem in mind as the Authority's work proceeds.

Low-level waste: Note 2

During 1987 three states (California, Texas, Massachusetts) that had planned to build their own single-state disposal facilities began looking for compact partners, preferably states that don't generate much low-level waste. One reason for their policy changes was uncertainty over whether a single-state site has the legal authority to exclude out-of-state low-level waste. Maine Attorney General James Tierney has given the Advisory Commission a written opinion that a single-state disposal facility probably can exclude out-of-state waste. His argument is based on judicial interpretations of the commerce and federal supremacy clauses of the U.S. Constitution. Others, including Holmes Brown (formerly on the National Governors Association staff, now a consultant who has advised the Maine Authority, among others), the Vermont Attorney General's office, and other lawyers, hold that individual states probably cannot exclude out-of-state waste. In addition to discussing constitutional issues, they look at the legislative history of the 1985 Low-level Radioactive Waste Policy Amendments Act, especially Congress's explicit grant of exclusionary power to low-level waste compacts with no parallel provision for states. As Mr. Tierney wrote, until a court case is brought and decided (or Congress amends the law to make a specific statement one way or the other), the question remains open. The Advisory Commission monitors the issue.

* * * * *

C. Commission members/meetings/publications/staff

Advisory Commission members during 1987 were:

	Term expires
Sen. Judy Kany, Chair	12/03/88
Commissioner Dean Marriott, Vice-chair	*
Walter Anderson, State Geologist	*
Joseph Blinick, licensee member	12/31/88
Rep. Reed Coles	12/03/88
Charles Frizzle, licensee member	12/31/87
Rep. Muriel Holloway	12/03/88
Donald Hoxie, Dept. of Human Services	*
Sen. Margaret Ludwig	12/03/88
Rep. James Mitchell	12/03/88
Gwen O'Connor, public member	12/31/88
Alan Philbrook, public member	12/31/87
David Sparks, replaced by Stephen Ward, Governor's office	**
Sen. Ronald Usher	12/03/88

* Ex officio

** Serves at the Governor's pleasure

The Advisory Commission met January 20, March 10, April 14, June 8, August 6, September 29, and November 5, 1987. A special "brainstorming session" to discuss possible amendments to the federal Nuclear Waste Policy Act was held February 20.

Publications during the year included seven regular issues of the Update newsletter (February, March, April, June, August, October, and December), plus a single-page extra edition when Energy Secretary John Herrington announced resumption of the second-repository search; a 49-page Low-level Radioactive Waste Backgrounder; and nine Low-level Radioactive Waste Fact Sheets. The backgrounder and fact sheets were published in October. The fact sheets were intended primarily for the public. The backgrounder was intended primarily as a reference handbook for media people following low-level waste, but is available to others on request and is being used in college classes.

The Commission's videotape on low-level waste was made available in September. Ten copies circulated briskly until the November 3 referendum, after which (unfortunately for our goal of informing the public) interest vanished. At the end of 1987 Commission staff were revising the video, which is suitable for audiences from junior high students to adults.

The Commission staff during 1987 consisted of Robert Demkowicz, Environmental Specialist IV; Mary Grow, Public Information Specialist; and Bonnie Savage, Secretary.

* * * * *

D. Plans for 1988

Under state law, the purpose of the Advisory Commission on Radioactive Waste "is to advise the Governor and the Legislature on matters relating to radioactive waste management." Its duties are to:

1. Study management, transportation, storage and disposal of radioactive waste, including low-level and high-level radioactive waste generated in or near this State;
2. Evaluate methods and criteria for siting and constructing low-level radioactive waste disposal or storage facilities;
3. Evaluate methods and criteria for siting and constructing high-level radioactive waste repositories or storage facilities;
4. Advise the Governor and the Legislature on the findings and recommendations of the Commission;
5. Assist the Governor in regional efforts to manage radioactive waste; and
6. Provide opportunities for public input, disseminate information to the general public and promote public understanding concerning radioactive waste issues.

Although the imminent threat of a federal high-level repository in Maine has lifted, the Advisory Commission intends to keep informed of developments in the United States and abroad that may have future impacts on Maine. Through newsletters and other printed and electronic information sources and personal contacts, the Commission will:

- Monitor technical and political developments as DOE tries to develop a repository in Nevada.
- Monitor NRC and other federal rule-making and other pertinent federal activities concerning high-level waste disposal and, when appropriate, advise the legislature, the governor, and/or the Congressional delegation on reactions or responses.
- Collect and disseminate information on other countries' high-level waste disposal programs.

As the Maine Low-level Radioactive Waste Authority proceeds with plans for a Maine low-level waste disposal facility, the Advisory Commission sees itself balancing between being the Authority's assistant and being its critic. The Commission will:

- Provide unbiased information to help Maine people understand the sources, nature, and hazards of low-level radioactive waste, and to understand and evaluate proposed disposal technologies, site selection standards and processes, and facility designs.
- Monitor the Authority's activities and, when appropriate, advise the legislature and the governor on reactions or responses.
- On request and if not in conflict with the two programs just listed, assist the Authority, especially with public information.
- Collect and disseminate information on low-level waste disposal elsewhere in the United States and abroad.
- Specifically, monitor and report on the chances of Maine's joining a regional compact or contracting for out-of-state low-level waste disposal, and when appropriate recommend State action.
- Monitor and report on, and when appropriate recommend State reactions to, changes in federal laws and regulations governing low-level waste management.

ADVISORY COMMISSION ON RADIOACTIVE WASTE
REPORT FOR FISCAL YEAR 1988

<u>REVENUE RECEIVED</u>	FISCAL YEAR 87 7-1-86 to 7-1-87	FISCAL YEAR 88 7-1-87 to 9-30-87
(A) Rad Waste Fund (4536.1, 4530.2)	\$204,844	\$ 78,550
(B) D.O.E Grant (3536.1)	14,363	
(C) General Fund (1536.1)	6,716	
Total Revenue Received for F/Y 87	<u>225,923</u>	
Plus Balance Forward From F/Y 86	<u> </u>	<u>69,951</u>
Total Revenue available	<u> </u>	<u>148,501</u>
EXPENSES BY LINE ITEM: (4536.1, 4530.2, 3536.1, 1536.1)		
Personal Services	68,085	20,675
Per Diem	850	160
Consultant Services	656	
In State Travel	1,050	59
Out of State Travel	11,127	1,409
Postage	5,144	1,304
Printing	5,786	1,560
General Operating	<u>7,981</u>	<u>1,750</u>
Office Supplies	458	4,614
Rents	2,078	167
Indirect Cost-STA-CAP	2,104	1,118
Capital Expenditures	5,415	743
TOTAL EXPENSES	<u>110,757</u>	<u>28,945</u>
Indirect Cost-DI-CAP	12,221	***17,163
Total cash outlays	<u>122,978</u>	TOTAL <u>46,108</u>

(D) REBATES:		
Maine Yankee	31,263	
Univ. of Maine	181	
TOTAL REBATES	<u>31,444</u>	

CASH BALANCES END OF PERIOD:		
Rad. Waste (4536.1, 4530.2)	55,580	102,384
D.O.E. Grant (3536.1)	14,362**	
General Fund (1536.1)	9****	9
TOTAL BALANCES END OF PERIOD	<u>\$ 69,951</u>	<u>102,393</u>

<u>FEES INCOME BY GENERATOR - 4536.1</u>		
	FISCAL YEAR 1987.	1988
	thru 9-30-87	
Maine Yankee	\$ 36,740	269,850
Jackson Labs		1,650
Univ. of Maine		2,100
Foundation for Blood Research		1,200
(E) Portsmouth Naval Shipyard		
Mt. Desert Bio International		1,050
Paper Co.		750
FMC Corp.		300
Georgia Pacific		300
Bates College		300
Fraser Paper		300
Me. Medical Ctr.		750
TOTAL	<u>36,740</u>	<u>278,550</u>

\$200,000 of FY88 Income transferred to (4590.2) Radioactive Waste Authority leaving a balance of \$78,550 income into Rad Waste Fund accounts (4536.1, 4530.2)

- (A) 4536.1 = Commission; 4530.2 = Technical Staff
Balance shown includes balance forward from FY86.
(B) High Level Waste revenue - Department of Energy Grant
(C) High Level Waste revenue - State of Maine General Fund
(D) Rebates are made to reduce the fund balance to the Legislative Statute Limit of \$150,000.
Effective FY88 the limit has been increased to \$250,000.
(E) Portsmouth Naval Shipyard did not contribute to this fund

** Balance includes \$6,312 of Milestone Funds-(transferred to the Radioactive Waste Authority account #4590.2 - eff. 9/3/87)
*** \$8,050 obligated for Indirect cost transferred to overhead 9-87.
**** cash balance end of period reflects a \$1,550 decrease in cash due to Governor McKernan's Instructions return unused portion of general fund allotment.

Prepared 1/8/88

ADVISORY COMMISSION ON RADIOACTIVE WASTE
 REPORT FOR FISCAL YEAR 1988
 (JULY 1, 1987 - JUNE 30, 1988)

Advisory Commission on Radioactive
 Waste-Low & High Level-----4536.1
 Technical Studies DEP-Low & High Level - 4530.2
 Dept. of Energy Grant-High Level-----3536.1 INACTIVE
 State of Maine General Fund-High Level - 1536.1 INACTIVE

	<u>4536.1</u>		<u>4530.2</u>		<u>3536.1</u>		<u>1536.1</u>		<u>ALL ACCOUNTS</u>	
	EXPENDITURES		EXPENDITURES		EXPENDITURES		EXPENDITURES		TOTAL	
	<u>BUDGETED</u>	<u>ACTUAL</u>	<u>BUDGETED</u>	<u>ACTUAL</u>	<u>BUDGETED</u>	<u>ACTUAL</u>	<u>BUDGETED</u>	<u>ACTUAL</u>	<u>BUDGETED</u>	<u>ACTUAL</u>
PERSONAL SERVICES	6,000	160	116,849	20,675					122,849	20,835
Prof. Fees - Not State	300		42,500						42,800	
Prof. Fees - By State	100								100	
Travel - In State	2,000	59	2,400						4,400	59
Travel - Out of State	6,000	1,409	9,840						15,840	1,409
Utilities	1,100	1,092	2,100	259					3,200	1,351
Rents			3,400	1,118					3,400	1,118
Gen. Oper. Expense	3,600	128	18,800	2,864					22,400	2,992
Office Supplies	289		400	167					689	167
Other Supplies	1,000		800	271					1,800	271
Indirect Cost (STA-CAP)	652	83	6,156	660					6,808	743
Capital			3,260						3,260	
GRAND TOTAL	21,041	2,931	206,505	26,014					227,546	28,945

NOTE: Budgeted figures are for entire fiscal year.
 Actual figures are expenses incurred to 9-30-87.

Prepared 1/8/88
 R.W. Fitzmaurice
 289-2691

ADVISORY COMMISSION ON RADIOACTIVE WASTE
 REPORT FOR FISCAL YEAR 1987
 ACTUAL EXPENDITURES FOR PERIOD
 JULY 1, 1986 THRU JUNE 30, 1987

Advisory Commission on Radioactive
 Waste-Low & High Level-----4536.1
 Technical Studies DEP-Low & High Level - 4530.2
 Dept. of Energy Grant-High Level-----3536.1
 State of Maine General Fund-High Level - 1536.1

	<u>4536.1</u>		<u>4530.2</u>		<u>3536.1</u>		<u>1536.1</u>		<u>ALL ACCOUNTS</u>	
	EXPENDITURES		EXPENDITURES		EXPENDITURES		EXPENDITURES		TOTAL	
	BUDGETED	ACTUAL	BUDGETED	ACTUAL	BUDGETED	ACTUAL	BUDGETED	ACTUAL	BUDGETED	ACTUAL
PERSONAL SERVICES	6,000	850	73,923	68,085	12,000*				91,923	68,935
Prof. Fees - Not State		284	5,961	372					5,961	656
Prof. Fees - By State		21		3						24
Travel - In State	1,759	767	2,170	245				37	3,929	1,049
Travel - Out of State	5,837	2,696	7,600	5,497			2,000	2,934	15,437	11,127
Utilities	893	1,345	5,826	939					6,719	2,284
Rents				2,078						2,078
Gen. Oper. Expense	5,482	1,985	9,420	10,815			4,515	1,763	19,417	14,563
Office Supplies	100	24	1,362	434					1,462	458
Other Supplies	150	932	200	709			201	423	551	2,064
Indirect Cost (STA-CAP)	961	(23)	5,108	2,127					6,069	2,104
Capital				5,415	720				720	5,415
GRAND TOTAL	21,182	8,881	111,570	96,719	12,720	46,168	6,716	5,157	152,188	110,757

* Budgeting error - being corrected.

UNLIQUIDATED OBLIGATIONS (as of June 30, 1987):

4536.1 \$491. Departmental Indirect Cost
 4530.2 - \$2,308. Departmental Indirect Cost

Balance of Departmental Indirect Cost earned thru 6-30-87 journalled 10-87. Balance of unliquidated obligations due is -0-.

Prepared 1/7/88
 R.W. Fitzmaurice
 289-2691