

AB 2214 (Keeley)

Low-Level Radioactive Waste Disposal

As Amended: 5/28/02

SUMMARY

This bill would specify that: (1) Ward Valley shall not be the state's low-level radioactive waste disposal facility and (2) any other facility shall be designed to permanently isolate and completely contain radioactive materials.

BACKGROUND

- In 1988, Ward Valley was selected as the state's low-level radioactive waste disposal facility. The facility was proposed to dispose of wastes from the Southwestern Compact states of California, North Dakota, South Dakota, and Arizona for the next 30 years.
- The proposed facility was designed to utilize shallow land burial of waste in a region west of the City of Needles, near the Colorado River. Radioactive waste would be placed in steel containers, disposed in unlined trenches, and covered with dirt.
- There are seven sites in the United States where commercial low-level radioactive waste has been disposed of in a similar manner. Radioactive materials have migrated from at least six of these sites,

including one that has been designated as a Superfund site.

- The proposal for the Ward Valley facility generated intense opposition from community members. A 1993 report by the Senate Office of Research highlighted key concerns with the proposal, including:
 - Inadequacy of shallow land burial as a disposal method.
 - Lack of a redundant system for waste containment to prevent leakage to the environment.
 - Poor operator track record for US Ecology, the contractor selected by the state to operate the Ward Valley facility.
 - Risk of financial responsibility by the state for damage caused by a release of radioactive materials and the costs of onsite cleanup and remediation.
- Proponents of Ward Valley claimed that the proposed facility would not present a risk because it was sited in a closed basin. These assertions are contradicted by a US Geologic Survey (USGS) study in which the Ward Valley aquifer is said to be a basin "from which ground water drains to the Colorado River," which supplies water to millions of Southern California residents.
- Proponents also claimed that the arid environment would cause water

to flow upwards away from groundwater. However, testing now shows that tritium from nuclear bomb tests has migrated to depths of 100 feet below Ward Valley within just 35-40 years.

- The Ward Valley license contains two provisions related to liability: (1) maintaining liability insurance of \$10 million limited to off-site damages, and (2) indemnifying the state for any claims. According to DHS, the worst-case scenario would not exceed \$6.2 million. According to an analysis prepared by then State Controller, now Governor Gray Davis, these liability provisions would be inadequate and the state would become the “deep pocket” for responsibility. The report estimated potential on-site costs of up to \$500 million.
- Part of the state’s motivation to join the Southwestern Compact was a “take title” provision in the LLRW Policy Act which required states to take responsibility for wastes if a disposal facility was not established by January 1, 1996. The United States Supreme Court held this provision unconstitutional in New York v. United States 488 U.S. 1041 (1992).
- In 1999, a federal District Court ruled that the federal Department of Interior was not obligated to transfer the Ward Valley lands to the state. Governor Gray Davis announced he would not appeal the court decision, effectively ending the state’s efforts to pursue the Ward Valley proposal.
- US Ecology filed suit against the state asking the courts to force the state to move forward with the Ward Valley proposal and to reapply for a land transfer from the federal Department of Interior. The federal

district court denied all of US Ecology’s claims; the appellate court upheld that decision, except it sent the weakest of the damage claims back to the lower court for further deliberation.

- The fundamental flaw in the existing federal and state regulatory systems is that a low-level radioactive waste disposal facility is allowed to leak. Given that existing disposal facilities have leaked within 10-20 years, while these wastes will remain radioactive for hundreds or thousands of years, it is simply inappropriate to allow a design which may result in leakage.

THIS BILL

AB 2214 would establish two policies regarding low-level radioactive waste disposal facilities in California:

- (1) The bill would specify that the proposed Ward Valley site shall not serve as the state’s radioactive waste disposal facility and prohibit the state from future efforts to transfer the land for the facility, and
- (2) The bill would specify that, if the state authorizes a low-level radioactive disposal facility, the facility must be designed to permanently isolate and completely contain radioactive materials.

Unlike the Ward Valley facility which proposed the shallow land burial of waste in unlined trenches, AB 2214 is intended to establish strict design standards to ensure that wastes are “permanently isolated from the biosphere inhabited by man,” through the use of multiple, redundant engineered barriers.

As proposed to be amended, the bill would require a facility be designed and constructed to meet the following design objectives:

- Provide complete containment of waste materials
- Utilize best available technology
- Provide visual inspection or remote monitoring to detect any potential or actual release of radioactive materials into the biosphere inhabited by man.
- Provide methods to prevent any potential release, or remediate any actual release, of radioactive materials into the biosphere inhabited by man.

In addition, the amendments would specifically prohibit the use of shallow land burial, defined as the disposal in the upper 30 meters of the earth's surface without additional confinement of engineered barriers. This was the approach utilized at Ward Valley.

These amendments are intended to recast the bill's provisions to ensure that the requirements would be compatible with Nuclear Regulatory Commission (NRC) regulations, including the definition of a "disposal" facility. They have been crafted to be consistent with language used by other states which have agreements with the NRC.

The amendments would also direct the Department of Health Services to promote the reduction in the generation of radioactive waste, by volume and radioactivity, through the minimization of waste, the substitution of materials, and the compaction of waste that must be transported and disposed.

COMMENT

According to Mr. Keeley, "there are serious problems with the disposal of radioactive waste and these problems need to be addressed. At this time, however, there are only two obvious policy conclusions: Ward Valley is an inappropriate site and if a facility is constructed it must be designed so radioactive material does not escape."

SUPPORT

Americans for a Safe Future
Bay Area Nuclear Waste Coalition
Breast Cancer Action
California League of Conservation Voters
Californians for Radioactive Safeguards
CalPirg
City of Los Angeles
Committee to Bridge the Gap
Communities for a Better Environment
Concerned Citizens to Stop Outside Dumping (CCSOD)
County of Los Angeles
County of San Bernardino
Greenaction
Interfaith Coalition to Stop Ward Valley
National Association of Jewish Women
Natural Resources Defense Council
Physicians for Social Responsibility:
 Los Angeles and San Francisco/Bay Area Chapters
Planning & Conservation League
Public Citizen
Sierra Club California
Southern California Association of Governments
Southern California Federation of Scientists
United Methodist Church
women for:
19 Individuals (Laretta Barnes, Leroy Brown, Felicita Butler, Marilyn Cantlay, Edare Carroll, James Conn, Margaret Fleming, Jessea Greeman, Norm Helmuth, Kathryn

Hopkins, Meryl Kabacy, PhD, Leslie
Kemp, Mha Atma Kaus Khalsa,
Dawn Kowalski, Susan Mogilka,
Debbie Ruskay, Mary Stuck, Maxina
Ventura, Maxine Wolf)

OPPOSITION

BioCom
Boeing
California Chamber of Commerce
California Council for Environmental
and Economic Balance
California Radioactive Materials
Management Forum
Southern California Edison
Southwestern Low-Level Radioactive
Waste Commission

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