

MINUTES

HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

DATE: Monday, February 06, 2017

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Raybould, Vice Chairman Thompson, Representatives Hartgen, Vander Woude, Anderson, Anderst, Mendive (Mendive), Trujillo, Chaney, Nate, Cheatham, Horman, Malek, Moon, Smith, Scott, Jordan, Rubel

**ABSENT/
EXCUSED:** None.

GUESTS: Kathleen Trever, Office of the Idaho Attorney General; Hannah Schwan, ICL.

Chairman Raybould called the meeting to order at 1:30 p.m.

MOTION: **Rep. Trujillo** made a motion to approve the minutes of January 24, 2017. **Motion carried by voice vote.**

Kathleen Trever, Deputy Attorney General, presented information on the transference of spent nuclear fuel rods into Idaho for the Idaho National Laboratory (INL) to use for testing and research. Ms. Trever stated that to understand the current situation, the actions and agreements of the past must be reviewed. An agreement negotiated in 1995 between the state of Idaho, the federal government, through agencies with various names, but currently the United States Department of Energy (DOE), and the US Navy, became a federal court order that incorporated three guiding principles: 1) Idaho must not become the default repository of spent nuclear fuel; 2) the DOE must address waste already in Idaho; and 3) INL must be a viable national lab. Repository wastes were dealt with over a 40-year timeframe with deadlines for waste removal, requirements for treatment and safe interim storage, and limits on incoming spent fuel shipments. The Navy and DOE obligations were separated with the Navy being accountable for fuel coming in and the DOE responsible for deadlines for waste removal. The agreement required dual representation for the state of Idaho of both the Governor's Office and the Attorney General's Office. The DOE is not in compliance with the deadline to solidify liquid waste by December 31, 2012, nor with the requirement to ship a 3-year running average of 2,000 cubic meters per year of transuranic waste out of Idaho. There has been progress in 20 years in the amount of waste out of Idaho, but a February 2014 incident at the New Mexico disposal facility halted shipments out. The facility opened January 2017 but INL shipments have not yet resumed. The only remedy under the 1995 consent order is stoppage of incoming DOE shipments. The 2002-2008 Buried Transuranic Waste Litigation & Resolution; 2008 Navy Spent Fuel Addendum; and the 2011 Commercial Fuel Research MOA are all post 1995 legal modifications that do not effect the 1995 federal consent order. Because the DOE is out of compliance with transuranic and high-level waste deadlines, and the only remedy under the 1995 court order is stoppage of incoming DOE shipments, the DOE request to the state of Idaho to allow 2 research shipments has resulted in two years of discussions with no resolution. The new Secretary of Energy, Rick Perry, has indicated that the Yucca Mountain, Nevada disposal facility may again be viable, and Ms. Trever said discussions with the new administration may be hopeful.

Ms. Trever addressed committee questions, stating that Idaho does have the authority to waive DOE performance but the state is looking at the overall accountability of the DOE. After two years of negotiations, the DOE still has not provided assurances about disposal of incoming materials and both the 1995 agreement and the 2011 MOA provide Idaho the remedy of stopping DOE shipments, whether they are connected to research or cleanup. The DOE runs and manages both the INL cleanup and the national lab through different contracting mechanisms, but it is still under the same rule and required to meet deadlines. The decision makers for Idaho under the 1995 settlement are the Governor and the Attorney General who can deny entry or, in agreement together, waive a court order, and the DOE is charged with deciding what kind of work is done and who is the contractor, so they would be the one negotiating action as long as the proposal involves a small amount of materials. The 1995 agreement has been adopted and is a part of a federal court order, and it would take court approval to make a new agreement, grandfather the old agreement, set aside the agreement or change the language of the agreement, and the Governor, Attorney General, the Navy, and the DOE would need to come together to reach different options for proceeding. Currently there is still not a single accord between the parties, and discussions are on hold until the new federal administration is settled. Idaho has already started the process by communicating with the transition team.

Chairman Raybould discussed changes to Joint Rule 18 regarding the fiscal notation on proposed legislation coming to the committee and the correct way to review the fiscal notes on proposed legislation.

ADJOURN: There being no further business to come before the committee the meeting adjourned at 2:52 p.m.

Representative Raybould
Chair

Lorrie Byerly
Secretary