

## LOW-LEVEL RADIOACTIVE WASTE SITES: STILL A POLITICAL FOOTBALL

The State of California continues its battle to license Ward Valley; the New York State legislature fails to act on option to examine West Valley.

**W**HAT HAD BECOME A bellwether in progress toward construction of low-level radioactive waste (LLRW) facilities is now a political football that has landed back in court—the Supreme Court of California, that is. Despite resounding success in the State of California Third Appellate Court in May 1993 of a suit against the California Department of Health Services (DHS) and the Senate Rules Committee (SRC), the issue of licensing the Ward Valley, California, disposal facility was still at an impasse as *Newsline* went to press this month. The issue has polarized waste generators, anti-nuclear activists and politicians in California and galvanized similar communities in other states much farther behind in developing solutions to the problem of low-level waste disposal.

The suit, in which the Society of Nuclear Medicine (SNM) and the American College of Nuclear Physicians (ACNP) participated, challenged a DHS order for formal adjudicatory proceedings prior to approval of US Ecology's application for a license to construct and operate an LLRW facility in Ward Valley. The suit petitioned the court to rule as unlawful the SRC's interference in the administration of the law, which does not otherwise require adjudicatory proceedings. In what has been termed a "superb" legal opinion, the Third Appellate Court ruled for the petitioners in May, precluding further hearings. But the SRC filed an appeal to the State Supreme Court, which should decide shortly whether to hear the case or simply uphold the appellate court decision. Proponents of the California LLRW site think there's a good chance the supreme

court will uphold the lower court ruling. But this may not necessarily be a touch-down for the LLRW site.

### After You...

In addition to approval of the license and to certification of US Ecology's environmental impact report (published in April 1991), California must obtain title to the Ward Valley site from the federal government. Opponents of the project are urging Interior Secretary Bruce Babbitt to condition the land transfer on additional hearings, an action that would appear to constitute federal interference in the licensing process. The irony of this protracted process, according to Carol Marcus, PhD, MD, Vice President-Elect, SNM, and cochairperson of ACNP government relations, is that nothing precluded DHS from approving the license in the first place; politics alone keeps the state in a state of paralysis. In a "you go first" mode, DHS refuses to sign the license until the court rules; the Department of the Interior won't transfer the land until there's a permit.

### Taking Advantage of Politics

But if politics motivates this stalemate, then politics can be a tool to break the stalemate, according to Kristen Morris, SNM/ACNP director of government affairs. Recognizing that additional legal efforts will further escalate, and make prohibitive, Ward Valley site costs (now nearing \$500 per cubic foot), Ms. Morris believes SNM/ACNP and other organizations should exert political pressure wherever possible. Among its many actions to this end, SNM/ACNP representatives recently met with Harry P. Ward, MD, chancellor of the University

of Arkansas for Medical Sciences and a personal friend of the President and Mrs. Clinton. As a result of this meeting, Chancellor Ward wrote a letter to the President in which he "... endorse(s) the sale of the [Ward Valley] land for the project, and the actions by the Department of the Interior would send an important message to seeing that these wastes [are] managed properly." The SNM and ACNP as well as corporate and institutional members of the CalRad Forum have crafted letters to Secretary Babbitt outlining the issues and encouraging him to transfer the land unencumbered by any conditions on California's licensing process.

### Balancing Politics with Education

While political pressure has its place, it is clear that the polarized proponents and opponents of LLRW sites could each use politics to mire the process further. According to Ms. Morris, it is necessary to present a balanced view in which the issues are clearly and responsibly presented, with sensitivity to the concerns and fears of opponents – fears that often are based in lack of knowledge. "It is an insatiable process," says Ms. Morris, "and it is possible that attention will be paid only when it comes to a crisis." To avoid crisis, it is necessary to educate physicians as well as the public. Both must recognize and understand, for example, the long-term impact on society of reduction in or elimination of research in nuclear medicine if waste disposal is curtailed. Both must understand the high cost and potential hazard of creating and maintaining thousands of waste disposal sites rather than a few central-

ized sites in isolated, controlled areas. Physicians, particularly researchers, should take up the gauntlet and fight to maintain the capacity of our centers of excellence to sustain excellence. Citizens must be made aware of the peaceful use of nuclear materials and how loss of research capacity effects each of us as individuals.

**New York:  
Heightening Awareness**

Rose Dill, PhD, executive director of the New York State Citizen Advisory Committee on Site and Disposal Method Selection (NYSCAC), agrees. As someone who has experienced nuclear medicine, she believes nuclear medicine physicians need to communicate more clearly to patients what they are doing and how valuable nuclear medicine is. She relates an example of how such knowledge can change even the most adamantly opposed lay person. In an open session of the NYSCAC, a very vocal opponent of nuclear materials and of LLRW sites had an epiphanous experience when a physician in the audience addressed the importance of radionuclides and described how he used nuclear medicine as a radiologist. Afterward the layman sought out the physician and told him he had only just realized that a tumor on his optic nerve had been cured three years by nuclear materials. He clearly was struck by a new awareness of the peaceful uses of nuclear materials and the necessity to protect nuclear medicine procedures and processes. He now supports LLRW sites.

The NYSCAC was established by statute in 1990 as an independent advisory committee on permanent disposal facilities siting and disposal selection of low-level radioactive waste in New York State. Members are appointed by the Governor of New York, and the committee mandate will be in effect until the Department of Environmental Conservation issues a final environmental impact statement on the disposal site. In addition to assisting and advising the

New York State LLRW Siting Commission, the NYSCAC conducts a public participation program, holds workshops and seminars across the state regarding pertinent issues and reports citizen comments and concerns to the Commission and the Governor.

Emphasis on public participation is deemed essential to the success of the entire project, slated for completion by 2001. The Siting Commission is developing a strong communications program, components of which include roundtable discussions with representatives from business, education, waste generators, members of potential site communities, and the general public. Communication staff also conduct focused groups to address controversy. According to Barbara Congemi, technical communications manager, "the public is interested, wants details and contributes ideas, but diffusing contention is a slow process and will occur only through ongoing dialogue and consensus building."

**Long Way to Go**

Unlike California, New York State has not chosen a site or a disposal method and still faces a hearing process. Like California, New York State is beset with controversy and politics. Douglas A. Eldridge, general counsel and acting executive director of the Siting Commission, says that opposition to LLRW sites is "an issue whose contentiousness goes far, far beyond the intrinsic concern to humanity. LLRW sites should be seen simply as a public work like other public works and should go forward in a straightforward manner."

But a small group of very vocal, very energetic individuals opposed to nuclear power in its entirety fosters the contention, which stirs a pervasive anxiety among the uninformed. This anxiety reached the legislature and may have influenced its failure to act on the option "to allow examination of the most likely site for an LLRW." The site, the Western New York Nuclear Service Center at West Valley in the Town of Ashford,

is excluded from consideration or even evaluation as a site by the 1986 law which initiated the siting process. The center was one of six national locations that accepted LLRW disposal from 1969 to 1975, and segments of the Ashford community opposed further waste disposal. However, the town board voted unanimously in 1991 to remove the exclusion and came forward to volunteer the site. Although the Siting Commission cannot by law identify a preferred site until the disposal method has been selected, the legislature's failure to rescind the exclusion of West Valley prevents a highly likely volunteer from being considered at all.

Disposal methodology is a larger issue in the Northeast than in the West because simple shallow-land burial is not an option due to the amount of rainfall in the East. New York State is exploring several options, which include above-ground vaults with or without earthen covers, below-ground vaults with or without modular disposal units, deep mine, augured hole, and lateral mine (drift) methods.

**Call to Consciousness**

Both Mr. Eldridge and Ms. Congemi believe that nuclear medicine physicians could help significantly by becoming more proactive. In New York State, physicians might work with the Siting Commission and others, visiting potential site communities and talking with local officials about the value of nuclear medicine and of LLRW sites. Physicians throughout the country can give similar presentations to community and medical organizations to educate not only the lay person but physician colleagues who may have indistinct fears of nuclear energy.

The reality is that many more within the nuclear medicine profession, which clearly is a stakeholder, should become informed and help raise the consciousness of the medical profession in general and the lay public at large. It might be the only way to advance the ball.

*Maryanne Shanahan*