

# SOUTH CAROLINA NUCLEAR ADVISORY COUNCIL

## MINUTES

December 4, 2003

1:00 PM, Tri-County Alliance Building  
Barnwell, South Carolina

Members present: Chairman - Mr. Ben Rusche, Dr. Carolyn Hudson, Dr. Vince Van Brunt, Mr. Bill Mottel, Dr. David Peterson, Mr. Steve Byrne, Sen. Greg Ryberg, and Rep. Skipper Perry

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The Governor's Nuclear Advisory Council convened on Thursday, December 4, 2003, at 1:00 PM. Mr. Ben Rusche, Chairman of the Council, called the meeting to order and welcomed the speakers and guests. He then introduced two new members of the Council, Dr. David Peterson and Mr. Bill Mottel.

Mr. Rusche asked for a motion to approve the agenda. Dr. Van Brunt made the motion, which was seconded by Mr. Mottel and approved by the Council. Ms. Hudson then moved to approve the minutes from the August 27 meeting, Mr. Mottel seconded, and the Council agreed.

Mr. Rusche thanked Chem-Nuclear for their efforts in helping the Council hold its meeting in Barnwell, and for the tour of the Chem-Nuclear facility. He then stated that the purpose of the meeting was to give Council members an overview of the roles and responsibilities of the Budget and Control Board, the Atlantic Compact Commission, Chem-Nuclear, the Public Service Commission, the Department of Health and Environmental Control, and nuclear utilities in operating and using the Barnwell low-level radioactive waste disposal facility. He

stated that the Barnwell facility was and remains an asset to South Carolina and to the nation.

Mr. Rusche then announced that the Nuclear Advisory Council will meet quarterly in 2004. He also introduced a new subcommittee on Barnwell issues, which will be chaired by Mr. Byrne and staffed by Ms. Billing and Dr. Peterson. These items completed, Mr. Rusche asked that the speakers begin their presentations.

Mr. Bill Newberry, Director of the Budget and Control Board's Radioactive Waste Disposal Program, spoke about the role that the Board has played since legislation passed in 2000 allowing South Carolina to join the Atlantic Compact Commission. He explained how the Board sets disposal rates for Barnwell, and that the policy regarding disposal rates for non-Compact waste generators was to maximize revenue for the State education funds. He also noted that the Board has the authority to authorize the importation of waste from outside of the Compact region, up to the caps for disposal established in state law. He said that this fiscal year, for the first time, demand for capacity at Barnwell exceeded supply. Mr. Newberry also explained that the Board acts in the interest of the State in hearings before the Public Service Commission to determine Chem-Nuclear's allowable costs. At the end of each fiscal year, Chem-Nuclear is reimbursed for its allowable costs, and then guaranteed a margin of 29% profit on top of those costs. Once Chem-Nuclear is reimbursed, Barnwell County gets \$2 million, then SC waste generators are allowed a 33% refund of their disposal fees in that fiscal year. The remainder of the revenue is deposited into two

education accounts. 70% goes to the K-12 School Building Fund, and 30% to Higher Education scholarships.

Mr. Newberry encouraged the Council members and others to visit the state's website at [www.barnwelldisposal.com](http://www.barnwelldisposal.com), which outlines all of this information.

Mr. Newberry noted that a key responsibility of the Board is its role as landlord of the Chem-Nuclear property. The State, as required by federal law, owns the land on which Chem-Nuclear operates the disposal site. When the site is closed, the State must monitor and maintain it for 100 years, and that responsibility belongs to the Board. The extended care fund, which is monitored by the State Treasurer, was established for this purpose. Waste generators who use the Barnwell site pay as assessment \$2.80 per cubic foot which is deposited into the fund.

The fund balance in 2001 was \$104 million. However, withdrawals from the fund to offset the state budget crisis have left it at \$24.9 million. A Board study in 2001 determined a fund balance of \$70 million in 2002 was necessary to provide maintenance, monitoring, and other services if necessary.

At the close of Mr. Newberry's presentation, Sen. Ryberg suggested that the Council draft a letter to the Governor recommending that this fund be protected from future withdrawals, and the Council agreed with this course of action.

Mr. Max Batavia, Executive Director of the Atlantic Compact Commission, addressed the Council next. He began by stating that he shared the Council's concern about the extended care fund, and that he supported the Council's

decision to recommend that the fund be protected in a trust agreement or some other arrangement.

Mr. Batavia presented an overview of the activities of the Northeast Compact. He focused primarily on events in 1999-2000 that led to South Carolina's decision to join with Connecticut and New Jersey in a new compact, named the Atlantic Low-Level Radioactive Waste Management Compact. In exchange for agreeing that South Carolina would act as permanent host state for radioactive waste disposal for the Compact, and would accept up to 800,000 cubic feet of low-level waste from Connecticut and New Jersey, Connecticut and New Jersey agreed to pay \$12 million dollars to South Carolina. That money is earmarked by law for economic development projects in Barnwell, Bamberg, and Allendale counties.

Mr. Batavia went on to explain that the Compact is governed by a Commission of four people representing the three states. These commissioners are appointed by the Governors of their respective states. South Carolina has two commissioners, and the other states each have one. The office is run by an Executive Director and is located in Columbia, SC. Mr. Batavia invited the Council to attend all future meetings of the Atlantic Compact, and encouraged them to consult the Atlantic Compact web page at [www.atlanticcompact.org](http://www.atlanticcompact.org).

Sen. Ryberg asked if the Commissioners served coterminous with the Governor, and Mr. Batavia replied that the law was not clear on that point. Sen. Ryberg then asked if the Chairman of the Atlantic Compact Commission was always from South Carolina, and Mr. Batavia responded affirmatively.

Mr. Jim Latham, Vice President of Operations for Chem-Nuclear Systems, LLC, addressed the Council next. He presented a history of the operation since it opened in the early 1970's, and explained that over the years the amount of waste disposed of at the site has diminished considerably. He also provided an overview of environmental management procedures at the site, and explained how the trenches are capped once they are filled with waste. He noted that since the new law governing the Barnwell facility passed in 2000, the amount of waste allowed to be disposed of at the site has decreased each fiscal year. This fiscal year, the site will be allowed to dispose of 60,000 cubic feet of waste.

Mr. Henry Porter, Assistant Director of DHEC's Division of Waste Management, next addressed the Council. Mr. Porter provided the Council with a profile of DHEC's regulatory oversight, including the source of their authority to regulate the company, state and federal regulations governing the operation of low-level radioactive waste disposal sites, conditions of Chem-Nuclear's license to operate their site, and DHEC's regulatory compliance program.

Part of DHEC's program includes weekly inspections of the site to ensure compliance with all state and federal regulations, and semi-annual license inspections in which DHEC staff examine their records and scrutinize disposal operations. In addition, an onsite DHEC regulator inspects each shipment of waste that comes to Barnwell to ensure compliance with both DOT regulations for shipment of radioactive waste and DHEC's waste acceptance criteria.

Mr. Porter noted that 28 million cubic feet of the 30 million cubic feet of space licensed for disposal operations has already been used. About 2 million

cubic feet of space remains. He also explained that over the years 11.2 million curies of radioactivity had been buried at the site, but that amount has decayed to about 3 million curies today.

Mr. Jim Spearman, Technical Advisor, Public Service Commission (PSC), addressed the Council next. He first addressed a previous question regarding the closing of the facility. He said according to the Atlantic Compact Implementation Act, as long as there is low-level nuclear waste being generated in South Carolina, and there is capacity available, the site will remain open. However, he said that when it gets below a certain level, it is not economical for the owner to operate the site. He reported that prior to June 7, 2000, the PSC had nothing to do with the Barnwell facility. However, the Atlantic Compact Implementation Act changed the way business was conducted at Barnwell by allowing the site operation to recover its costs to operate the facility (called "allowable costs", plus a profit margin of 29% on top of those costs. This new law gave the PSC the responsibility for determining the allowable operating costs for Chem-Nuclear, and instructing them to audit the company's books and records. The Act also goes into what types of costs are considered necessary for disposal, and which costs must be excluded. Chem-Nuclear has 90 days after the end of the fiscal year to apply to the Commission for an adjustment in the allowable costs or to ask for additional costs to be included that the Commission has not included previously.

He commented on the April 2001 hearings and said that the company was not set up for regulation at that time and this was a trying and learning experience for all.

An Operations and Efficiency Plan, submitted by Chem-Nuclear to the PSC by their order, will be the benchmark on which future costs are based. With the implementation of a new accounting system, and other internal changes, the PSC is hoping to make this a more efficient process.

Mr. Paul Mothena, Supervisor, Radwaste Services for the V. C. Summer Nuclear Station next addressed the Council. Mr. Mothena reported that the number one goal of the facility is to protect the health and safety of the public, the employees, and the environment by effectively and consistently handling and shipping radioactive waste. They deal with the following types of items: filters and demineralizing resins, old spent fuel racks, large components like steam generators, protective clothing, metal, pumps, valves and motors, and trash. They can either keep the waste, send it to a processor or bury it directly.

Mr. Mothena noted that the company sends most of its Class A waste to Envirocare, a disposal company in Utah, because it is less expensive than Barnwell. They send their B and C waste to Barnwell. As a SC generator, they are issued a 33% rebate on their disposal costs at the end of each year.

Mr. Mothena concluded by discussing the competing issues of waste disposal which are: 1) the company wants to be good environmental stewards through volume reduction, but get incentives for direct burial; 2) the company wants to keep their costs down to keep Barnwell open; 3) the company wants

South Carolina to get the money for waste disposal; 4) the public doesn't want South Carolina to be the "Nation's Dumping Ground" and the State needs revenue. There was no additional discussion.

Chairman Rusche commended the speakers for each of their presentations and their ability to present the various aspects of each issue and the usefulness of each session.

He asked for recommendations to the Barnwell facility that may be made to the Legislature and the Governor that may benefit the State of South Carolina to make it better.

Members of the Council commented that the meeting information was very beneficial to them. Representative Perry commented that Barnwell is very unique and would like for it to be referred to as something more positive than a "dumping ground".

Chairman Rusche then thanked the visitors for coming and asked for any comments from the audience.

He thanked everyone for coming and the meeting was adjourned at 3:30 PM.