

SEEKING THE WIN-WIN ALTERNATIVE: NEGOTIATIONS FOR REGIONAL ACCESS

**Presentation by
Kathryn Visocki**

Waste Management '02

"Count Down to '93: Issues Associated with On-Site Storage"

That's the title of this morning's session. And you've just heard four people talk about on-site storage after 1992.

But, I'm not here today to talk about storage. In the Southeast, we're still hopeful that we will successfully negotiate for continuous access to disposal for our region.

Our challenge is negotiating a win-win situation for all parties involved.

In my remarks today, I will try to give you an up-to-the-minute report on these negotiations for disposal access. And believe me, at this point, the story changes by the minute.

But if you need more information about the history and context of these negotiations, I encourage you to read the paper that I co-authored with my colleague, Ms. Sherol Bremen.

The bottom line for us is that the project has fallen behind. The schedule released by the North Carolina Low-Level Radioactive Waste Management Authority in July 1991 indicates that the North Carolina facility will not be open before February 1996.

One of the biggest challenges facing many states and compacts today is what to do with low-level radioactive waste during the period between the closing of the three existing sites, and the opening of new regional facilities. The situation after 1992 worries many state officials who face the possibility of being asked in 1996 to manage, or "take title," to waste generated in their state.

The Southeast Compact is not in the best situation, compared to other Compacts. The seven states in the Northwest Compact will have continuous access to their regional facility. And the four states in the Rocky Mountain compact will probably also have continuous access to Hanford.

Then there are the Southwestern and Central Midwest Compacts which probably face a period of less than a year during which they will have no access to a disposal facility.

But the Southeast Compact is certainly not in the worst situation after 1992, either. In Vermont, the projected date for a new facility is 1999. And then, in a few states, there is no

organized siting effort at all. By comparison, we face an interim period of approximately three years.

The North Carolina site should be operating by early 1996. So we still hope to be able to avoid the problems associated with the take-title provision.

However, there are several other significant issues related to the interim period from 1993 to 1996 that are of far greater concern to the Southeast Compact Commission.

The single most important issue related to the interim period for the Southeast Compact is the potential diversion of resources from the development of the second regional facility in North Carolina.

If the Barnwell facility closes at the end of 1992, which is what the current law requires, the current sources of funding for the new facility would be eliminated. That is because it is financed from surcharges on wastes disposed at the Barnwell facility.

Also, if the Southeast Compact Commission is forced to pursue other strategies for managing low-level radioactive waste during the interim period, efforts to develop the regional facility in North Carolina will be diluted.

Further, it is possible the project will lose support from generators if they are forced to spend more money and resources to store their waste. The eight states in the Southeast Compact include about 200 generators who dispose of about 300,000 cubic feet of low-level radioactive waste every year.

So, what is our Commission doing about the interim period?

In April 1991, the Commission appointed a task force to study the issue of regional waste management during the interim period and to recommend the preferred option.

To fully evaluate all of the available options, the task force met with and received information from generators, the general public, and other Commissioners in the Southeast Compact. The task force also asked other compacts for information.

In general, the options fall into three categories:

- Temporary storage within the region;
- Negotiation with other compacts for storage or disposal of waste from the Southeast region;
- And, continued use of the Barnwell facility.

After studying the reports, the Commission adopted a resolution declaring that disposal at Barnwell was the option most protective of health and safety and the environment. And the

Commission requested that the South Carolina General Assembly keep Barnwell open as a regional disposal facility until the second regional facility is operating.

Implementation will not come easily. South Carolina Governor Carroll Campbell and the South Carolina Department of Health and Environmental Control publicly supported keeping Barnwell open, provided that North Carolina meets its deadlines.

However, keeping Barnwell open will require action by the South Carolina legislature. Both South Carolina law and the Southeast Compact Law specify that Barnwell will close as a regional facility on December 31, 1992.

Tempers run hot on this issue in the South Carolina General Assembly and the 1992 session has been no exception.

It is clear in South Carolina that people still believe it is unfair for them to bear the burden for waste from other states. The difference of opinion lies in which tactic will be quickest and most successful in getting South Carolina out of the disposal business.

Many South Carolinians believe that North Carolina is dragging its feet in siting. They maintain that continued access to the Barnwell facility will only serve to ease the pressure on North Carolina and slow progress.

They are skeptical that North Carolina will ever open a disposal facility for the region. This skepticism is made worse by the fact that in 1990 North Carolina failed to meet its regional agreement for the management of hazardous waste. The main hazardous waste disposal facility used by North Carolina is located in South Carolina.

The South Carolina legislature wants something significant in return for keeping Barnwell open past 1992. And South Carolina citizens want more than mere words of reassurance. After all, they have staunchly insisted on closing Barnwell for over a decade.

Governor Campbell made a proposal that was formally adopted by the Southeast Compact Commission on February 14. That proposal requires North Carolina to meet three specific milestones. Failure to meet each milestone will result in the payment of \$5 million to South Carolina.

But, even this may not satisfy enough South Carolina legislators.

Up to this point, efforts in the South Carolina Legislature have been moving along two tracks in the House of Representatives.

In the House Committee on Agriculture, Natural Resources and Environmental Affairs, House Bill 3003 is expected to be discussed this afternoon. This is the bill which was introduced last year by Representative Joseph Wilder from Barnwell County. It would only extend operation through 1994, so this is not enough. But so far all efforts to amend the bill in subcommittee to extend the closure date until December 31, 1995, have failed.

The other effort in the House has been connected to the Appropriations bill. An amendment was proposed to include the projected revenues from Barnwell for 1993. However, that line item and the amendment necessary to continue operation of Barnwell were voted down (15-10) two weeks ago (February 20) in the House Ways & Means Committee.

It is expected that the issue will be raised again when the appropriations bill is discussed on the House Floor next week.

When this happens, we've been told to expect a number of proposals for amendments. These may be related to the length of time the facility is kept open, the amount or class of waste it receives, or perhaps the origin of the waste. They may also suggest further demands on North Carolina, such as changes in their siting criteria (Good Neighbor) or further assurances that the North Carolina site will open in 1996.

There **is** the possibility that the South Carolina General Assembly will take out-of-region waste after 1992. This has caused quite a stir across the nation. Frankly, I'm concerned that this has raised false hopes among other states and compacts. They may mistakenly believe they will not need to site facilities in their own regions. Of course, this is simply not true.

The Southeast Compact has the final say about out-of-region waste. The Commission will need to weigh the potential impact on facility siting in other regions.

Many people think if we survive the Supreme Court challenge, then the greatest challenge facing implementation of the regional compact system today will be overcoming the crisis associated with the interim period. We take a different view.

Crisis has often been the catalyst needed to overcome inertia and create much needed change.

We envision the interim period as the force that will bring the Low-Level Radioactive Waste Policy Act to fruition. In states which have failed to join compacts or site their own facilities, politicians and their constituents will be forced either to assume the perceived costs of developing disposal capacity, or forgo the benefits of using materials which result in the generation of low-level radioactive waste. Do you think the public will stand to do without the goods and services we all demand? Unlikely.

I believe that there will be a surge of constituent pressure on politicians. They will be encouraged to take the steps necessary to get facilities sited.

TO SUMMARIZE: During the 1980's and 1990's, states and compacts have experienced delays and cost overruns in siting low-level radioactive waste disposal sites.

1) The Southeast Compact Commission faces a three-year interim period when it is possible that: no regional disposal facility will be available.

2) The Southeast Compact Commission has recommended the continued use of the Barnwell facility as a regional facility for the interim period. But the decision lies in the hands of the South Carolina General Assembly and the decision may not be reached until June 1992. The terms and conditions of continued operation are still being debated.

3) The Commission continues to pursue other options for waste management after 1992, but it is too early to say what the outcome of these options may be.

4) The regional waste disposal system envisioned by the Low-Level Radioactive Waste Policy Act remains the most acceptable solution to the states for their low-level radioactive waste disposal problem.

5) Finally, the Southeast Compact is succeeding. North Carolina is making progress. It is committed to opening its facility. We will have a site for the Southeast Region.

But one way or another, South Carolina is definitely getting out of the disposal business. It is simply a question of when.

And that's what I call a win-win situation.