

AGREEMENT TO ACCEPT ROCKY MOUNTAIN WASTE

This agreement is entered into this **30th** day of **September**, 19**92**, by the Rocky Mountain Low-Level Radioactive Waste Board ("the Board") and the Northwest Low-Level Waste Compact Committee ("the Committee").

RECITALS

- A. The Low-Level Radioactive Waste Policy Act, of 1980, as amended, ("Policy Act"), provides that the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis. 42 U.S.C. § 2021d(a)(1).
- B. Pursuant to the Policy Act, the States of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming (together "Northwest States") have formed the Northwest Interstate Compact on Low-Level Radioactive Waste ("Northwest Compact"), with a facility for the disposal of low-level radioactive waste located at Richland, Washington ("Benton County facility").
- C. Pursuant to the Policy Act, the States of Colorado, Nevada, and New Mexico (together "Rocky Mountain States") have formed the Rocky Mountain Low-Level Radioactive Waste Compact ("Rocky Mountain Compact") with a facility for the disposal of low-level radioactive waste located at Beatty, Nevada ("Beatty facility").
- D. Both the Northwest Compact and the Rocky Mountain Compact have been ratified by Congress.
- E. As of January 1, 1993, the Beatty facility will be closed.
- F. The volume of waste requiring disposal which is generated by the member states of the Rocky Mountain Compact is dramatically lower than was expected when the Rocky Mountain Compact was adopted. Additionally, the one nuclear power plant in the Rocky Mountain States has been closed and is to be decommissioned. Because this reactor is a High Temperature Gas Cooled reactor, far less waste will be

produced by its decommissioning than would be produced by a water-cooled reactor. No new nuclear power plants are being planned for the Rocky Mountain States. This reduction in waste generation makes it uneconomical and unnecessary to build a new disposal facility to accept waste generated in the Rocky Mountain States for disposal after January 1, 1993.

- G. Both the Northwest States and the Rocky Mountain States recognize that the disposal of low-level radioactive waste in a safe, economical manner is a national problem which can only be solved if every region of the country establishes a long-term solution to the problem of disposal of waste generated within the region. It is in the interest of both the Rocky Mountain and the Northwest States to help solve this national problem. Arizona, California, North Dakota, and South Dakota have entered into a compact and are establishing a facility to dispose of the waste being generated in those states. Consequently, this agreement will provide a long-term solution to the problem of low-level radioactive waste disposal for the rest of the western United States.
- H. Both the Northwest States and the Rocky Mountain States are committed to protecting and nurturing the compacting process established by the Policy Act. This agreement will further that process by consolidating disposal facilities in the western states.
- I. It will be beneficial to the generators in the Rocky Mountain States to be able to dispose of their waste at the Benton County facility, in part, because it will be less expensive to do so than it would be to dispose of waste at any new disposal facility which might be built in the Rocky Mountain States.
- J. The Board has entered into a series of contracts with the District of Columbia, the State of Maine, the State of New Hampshire, and the State of Rhode Island to permit the disposal of waste generated within those states at the Beatty facility. The total amount of money to be generated by these contracts is unknown at this time, since the payments are, in part, dependent upon

the amount of waste disposed of during the period ending December 31, 1992. All payments received under these contracts are being and will continue to be placed in an interest-bearing account segregated from the Board's other funds. The total anticipated revenue, including accumulated interest, from these contracts is in excess of \$1.2 million.

- K. In addition, the Board agreed upon the terms of a contract with the State of Vermont to accept Vermont waste at the Beatty facility. This contract, which was anticipated to generate in excess of \$1.1 million by January 1, 1993, was subject to authorization by the Vermont legislature. At the present time, the Vermont legislature has decided not to enter into this contract.
- L. Article 5 of the Northwest Compact authorizes the Committee to enter into this agreement, if approved by a two-thirds majority of the members of the compact, including the state in which the affected disposal facility is located. Article 7, Sections B and C together with Article 6, Section (o) (ix) of the Rocky Mountain Compact authorizes the Board to enter into this agreement. In 1990 the State of Washington enacted legislation, Substitute House Bill No. 2958, authorizing Washington's representative to approve access to the Richland facility for the Rocky Mountain states.
- M. Public Service Company of Colorado has announced that it intends to decommission the Fort St. Vrain nuclear power reactor promptly. Consequently, it is anticipated that up to 140,000 cubic feet of waste generated by this decommissioning will require disposal at the Richland facility prior to January 1, 1996.
- N. The Board by adopting this contract hereby certifies that it will encourage its generators to minimize the generation of low-level waste by sound management practices and engage in volume reduction techniques and storage of waste for decay when applicable, to further minimize waste volumes.

AGREEMENT

1. Definitions. Unless the context otherwise requires, the following terms shall have the following meanings for the purposes of this agreement:

- a. "Board" means the Rocky Mountain Low-Level Radioactive Waste Board.
- b. The term "Commercial Nuclear Power Reactor" means any unit of a civilian light-water moderated utilization facility required to be licensed under section 103 or 104b of the Atomic Energy Act of 1954 (42 U.S.C. 2133 or 2134(b)).
- c. "Committee" means the Northwest Low-Level Waste Compact Committee.
- d. "Disposal" means the isolation of waste from the biosphere, with no intention of retrieval, such as by land burial.
- e. "Facility" means any site, location, structure or property used or to be used for storage treatment, or disposal of low-level waste, excluding federal waste facilities.
- f. "Generate" means to produce low-level waste.
- g. "Low-level waste" or "waste" means radioactive waste that either:
 - (i) Is not high-level radioactive waste, spent nuclear fuel or by-product material as defined in Section 11(e) (2) of the Atomic Energy Act of 1954 (68 Stat. 922, 42 U.S.C. 2014 (e) (2)) , waste generated as a result of atomic energy defense activities of the Federal government, and waste for which the Federal government is responsible under Section 3 (b) (1) of the Low-Level Radioactive Waste Policy Act of 1985; or
 - (ii) Is classified by the Federal government as low-level waste, consistent with the Low-Level Radioactive Waste Policy Amendments Act of 1985, or contains naturally occurring, or accelerator produced radioactive material which is not excluded by (1).
- h. "Northwest States" means the States of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming.
- i. "Reactor waste!" means waste generated by the decommissioning of a civilian, helium-cooled nuclear power reactor.
- j. "Rocky Mountain States" means the States of Colorado, New Mexico, and Nevada, so long as they are members of the Rocky Mountain Compact. Should any of

these states cease to be a member of the Rocky Mountain Compact, it shall no longer be considered a Rocky Mountain state.

k. "Rocky Mountain waste" means low-level waste generated in the Rocky Mountain states.

1. "User fee" means a surcharge on Rocky Mountain waste to be paid to the State of Washington by the generator or its broker.

2. Access. Subject to the provisions of paragraphs 3 and 4, below, commencing January 1, 1993, at the Benton County facility, the Committee shall accept for disposal low-level waste generated in the Rocky Mountain States ("Rocky Mountain waste") on the same terms and conditions and subject to the same restrictions as waste generated within the Northwest States. Nothing in this agreement shall be construed to require the acceptance of waste other than waste generated in Colorado, New Mexico, and Nevada, nor shall anything in this agreement be construed to require the acceptance of waste which would not be accepted for disposal if generated within the Northwest states.

3. Volume Limitation. Nothing in this agreement shall require the Northwest States to accept for disposal at the Richland facility more than 6,000 cubic feet of Rocky Mountain Waste per year, without the consent of the State of Washington and the Committee. To allow for growth in the Rocky Mountain States, the volume limitation contained in this paragraph shall be increased by 3% per year beginning in 1994. Further, to the extent that the Rocky Mountain States do not utilize all of the disposal capacity to which they are entitled under this agreement in any year, up to 2,000 cubic feet per year of the unused capacity may be carried forward and utilized in the subsequent two year period. For the purposes of computing, the volume limitations imposed by this paragraph, waste generated as a result of the decommissioning of the Fort St. Vrain nuclear power reactor shall not be considered, except to the extent that the total volume of such waste disposed of at the Benton County facility exceeds 140,000 cubic feet. The 140,000 cubic foot limitation for waste generated as a result of the decommissioning of the Fort St. Vrain nuclear power reactor is based upon current federal regulatory requirements. Should these requirements be modified to require the disposal of more waste at a low-level radioactive waste disposal facility than is presently required, the State of Washington and the Committee will consider raising the 140,000 cubic foot limitation to comport with the modified federal regulatory requirements.

4. Payment. The Board shall have the right to make payment under either of the following two alternatives.

A. The Board may elect to pay the State of Washington \$2.5 million on or before January 31, 1993; or

B. If the Board fails to pay \$2.5 million on or before January 31, 1993, it shall assign the proceeds, including accumulated interest, of the contracts described in paragraph J above, to the State of Washington. Additionally, the State of Washington may impose a \$50.00 per cubic foot user fee on all Rocky Mountain nonreactor waste disposed of at the Benton County facility and \$100 per cubic foot user fee on all Rocky Mountain reactor waste disposed of at the Benton County facility until the total sum of \$3.5 million (including sums received from the assignment of the proceeds of the contracts described in paragraph J and all user fees imposed under this contract) has been paid or until December 31, 1995, whichever shall occur first. If a total of \$3.5 million has not been received by December 31, 1995, the State of Washington may impose a \$100 per cubic foot user fee on all Rocky Mountain waste disposed of at the Benton County facility until the \$3.5 million has been paid. If payment is made pursuant to this alternative B, once the sum of \$3.5 million has been paid, the non-reactor waste generated in the Rocky Mountain region shall be accepted at the Benton County facility on the same terms and conditions as though it had been generated in the Northwest region. However, the State of Washington may continue to impose a \$100 per cubic foot user fee on all Rocky Mountain reactor waste. Aside from the imposition of the \$100 user fee described in this paragraph, all Rocky Mountain reactor waste shall be treated on the same terms and conditions as waste generated by commercial nuclear power reactors located in the Northwest region.

5. Term. Unless terminated earlier pursuant to paragraph six below, this agreement shall remain in effect until the Benton County facility is closed permanently.

6. Termination. Subject to the provisions of paragraph 4, after giving thirty days written notice and opportunity to cure, either party may terminate this agreement upon a material breach by the other party. Additionally, the Board may terminate this agreement upon thirty days written notice if the Benton County facility is closed for a period which is expected to exceed one year. If the Board terminates this agreement for either of the reasons listed above prior to January 1, 2003 or if this agreement is declared invalid by a court of competent jurisdiction and all appeals are exhausted or the time for appeal has expired, the Board shall be entitled to a refund of the consideration paid pursuant to paragraph four. However, the amount of this refund shall be reduced by ten percent for each complete year after 1992 during which the contract remains in effect prior to termination. In the event that the Benton County facility is to be closed, the Committee shall, to the extent possible under the circumstances, give the Board reasonable advance notice of the closure. If the Board terminates this agreement for any reason other than the reasons listed above, it shall not be entitled to a refund- of the sums paid.

Additionally, the Board shall have the right to terminate this contract by giving written notice to the Committee on or before December 1, 1992 that it is doing so. Such written notice shall relieve the Board of the responsibility for payment imposed by paragraph four of this agreement.

7. Participation. The Board and each of the Rocky Mountain states shall be notified of and may send representatives to observe all public meetings held by the committee. The Board will be invited to participate as an interested party in any studies or proceedings regarding the rates for the disposal of waste at the Benton County facility.

8. Severability. If any material provision of this agreement or its application is held to be invalid, the entire agreement shall be deemed invalid. To this end the provisions of this agreement are not severable.

9. Conditions Precedent. This agreement shall be conditioned upon passage by a two-thirds majority, including the State of Washington, of the Committee. This agreement shall be further conditioned upon passage by a majority of the Board.

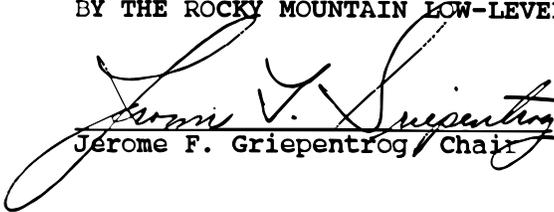
BY THE NORTHWEST LOW-LEVEL WASTE COMPACT COMMITTEE



Roger Stanley, Chair

September 30, 1992
Date

BY THE ROCKY MOUNTAIN LOW-LEVEL WASTE BOARD



Jerome F. Griepentrog, Chair

10-13-92
Date

APPROVED BY THE STATE OF WASHINGTON



Booth Gardner, Governor

10-20-92
Date