

completes its business today, it stand in adjournment until the hour of 12 noon on Wednesday, October 22. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period of morning business until 12:30 p.m. with Senators permitted to speak for up to 5 minutes each, with the exception of Senator BAUCUS for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I also ask unanimous consent that at 12:30 p.m. the Senate resume consideration of S. 1173, the ISTEAs reauthorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Tomorrow, the Senate will be in a period of morning business until the hour of 12:30, after coming in at noon. At 12:30, we will go back to the ISTEAs legislation. It is hoped that the Senate will make some progress on this important legislation which authorizes the funding for transportation projects and safety programs so essential to the transportation infrastructure of this country.

As a reminder to all Senators, a cloture motion was filed this afternoon on the ISTEAs legislation. Therefore, all second-degree amendments must be filed prior to the vote on Thursday. In addition, a cloture vote will occur on Thursday, with the exact time to be announced later, with the mandatory quorum being waived.

In addition, the Senate may turn to appropriations conference reports that become available at any time and, of course, Members can expect votes during the day tomorrow.

I know Senator CHAFEE, the distinguished Senator from Rhode Island, would like very much to get on with the substance of this bill. I believe it is important legislation and that there is a growing desire to work together on this bipartisan issue, and I believe and hope that we will get cloture on Thursday. If not, then we would have another vote on Friday, so that we could get to the germane amendments and deal with this issue in a serious way.

It is my intent to continue to work with the members of the committee—they have done good work on this legislation, it was reported out of the committee unanimously—and complete action on it next week so we will have this 6-year bill completed in the Senate. Then we can see what might happen at that point. Then it would be my intention, shortly after that, whenever that may be, late next week I hope, to go to fast track legislation.

This is ambitious, but these are very important bills that I believe most Senators want us to act on. The President of the United States today personally asked me to try to move both of these bills, and I will continue to work

with Senator DASCHLE and other Senators to try to find a way to move this process forward. We did have some good faith exhibited today. Our committees were allowed to meet. We did move some nominations that are required, needed for the administration in order for it to be able to do its work. I hope we can continue in that vein.

So far we have not been able to get everybody to agree to a process whereby we can move on to important, substantive legislation like ISTEAs and fast track and Amtrak and adoption and foster care legislation. But it is certainly my intention to do everything I can to get to these serious issues.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of the distinguished Senator from Alaska, Senator MURKOWSKI. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

WARD VALLEY LOW-LEVEL WASTE DISPOSAL FACILITY

Mr. MURKOWSKI. Mr. President, it is often useful to compare the public statements of Government officials with their private statements. Such a comparison can say a great deal about an official's true motives, not to mention their character. Last week, in response to a question I posed for the public record, the Department of the Interior provided me with a copy of a memo written by Deputy Secretary of the Interior John Garamendi to his boss, Secretary Bruce Babbitt. This memorandum was dated February 21, 1996, and it concerns the Ward Valley low-level waste disposal issue.

For those who do not know, Ward Valley is the site of a low-level radioactive waste facility licensed by the State of California under the Federal Low-Level Radioactive Waste Policy Act. The site sits on the Bureau of Land Management land in a remote and sparsely populated area of the Mojave Desert. But the Department of the Interior reversed an earlier decision to sell the land to California, and has insisted on study after study to achieve endless delays.

Meanwhile, low-level radioactive waste is piling up at hundreds of urban locations all across California. It is stored in basements, stored in parking lots, stored in trailers, stored in warehouses, and temporary shelters. It is on college campuses, it is in residential neighborhoods, it is in hospitals—sites that were not designed for permanent storage. As long as the waste in these temporary locations in populated areas is where it is, it is subject to accidental radioactive release from, fire, earthquakes, and floods.

Governor Wilson is understandably concerned about the health and safety

of Californians. That is his job. He is frustrated by the delays California has faced in trying to get this facility open, and so am I.

I am further frustrated by the fact that the President's nominee to be the Deputy Secretary of the Interior, Mr. John Garamendi, appeared before our committee, the Energy and Natural Resources Committee, on July 27, 1995, and testified under oath that Ward Valley and the issue should and would be quickly resolved. Mind you, this was July, 1995.

It may interest my colleagues to know that Ward Valley was scrutinized by two—not one, but two—environmental impact statements under NEPA, and two biological opinions under the Endangered Species Act. Although all these environmental reviews have been favorable to the Ward Valley facility, the Secretary of the Interior continues to opt for further studies rather than just transferring the land to California.

In 1994, having seemingly exhausted the studies available to delay the process under NEPA and the Endangered Species Act, the Secretary turned to the National Academy of Sciences and asked for yet another study. But in May 1995 the National Academy of Sciences study was complete, and again it was favorable to the Ward Valley site.

Finally, it appeared that Secretary Babbitt had little choice but to transfer the land, and announced his intention to do so in May 1995. Environmentalists bitterly complained. Greenpeace even picketed the Secretary. Movie stars and pop singers rallied against the facility. It did not matter what the science said. The facts didn't seem to matter. It was simply good politics in California to oppose a radioactive waste site and I guess the Secretary did not like the unfavorable press he was getting at the time.

Indeed, the politics of Ward Valley seems to loom large in another memorandum that we have uncovered, going back to 1993. I have a memorandum to the Secretary from October 19, 1993, that speaks to the prevailing mindset at Interior, and it says:

And I quote:

This memorandum addresses only the politics of Ward Valley. I can imagine no scenario that allows us to go forward with the land transfer and retain credibility with Boxer and the enviros.

So to keep themselves out of hot water with environmental groups, Deputy Secretary Garamendi had to devise a new way to delay Ward Valley while simultaneously waging a public relations and political campaign against the site.

As far as John Garamendi was concerned, a new excuse for a new study and further delay simply had to be found.

So in February 1996, the Department of Interior evidently struck gold, or thought they had. A former low-level waste facility in Beatty, NV, was determined to be "leaking."

Ignoring the fact the Director of the U.S. Geological Survey told him that you could not relate Ward Valley with the Beatty, NV, site, Deputy Secretary Garamendi knew a good excuse for another study when he saw one and a PR campaign to go with it.

So environmental and radiological factsheets were prepared by the Department for the press and the public, factsheets that were later criticized by the chair of the Nuclear Regulatory Commission for the errors and misinformation they contained.

Press conferences were held where Deputy Secretary Garamendi announced that new tritium tests would be conducted, and another new EIS would be performed because of so-called new information about the Beatty, NV, site.

These new studies and the lawsuits that would surely follow might take years.

But what were Interior's true motivations? Did Interior ever intend to transfer the site under their watch? Was Interior interested in the public health and safety or good PR and political advantage?

Mr. President, I now have the internal memo that cuts through the public statements and press releases to provide clear insight into the Department's motivations. Let me read this memorandum for my colleagues. It is dated February 21, 1996, memorandum to Bruce Babbitt from John Garamendi. Subject: Ward Valley:

Attached are the Ward Valley [press] clips. We have taken the high ground. Wilson—

Meaning Governor Pete Wilson—

is the venal toady of special interests (radiation business).

It goes further to state:

I do not think Greenpeace will picket you any longer. I will maintain a heavy PR campaign until the issue is finally won.

Mr. President, here is the Deputy Secretary of Interior engaged in a PR campaign to portray the Governor of California as a venal toady. For those in this Chamber who may not know the precise definition of a "venal toady," it means a deferential, fawning parasite who is open to bribery.

A venal toady. That is Secretary Garamendi's characterization of the Governor of California, or the goal of his PR campaign. I am not sure which.

Is this what Deputy Secretary Garamendi calls the high ground? Is it taking the high ground to call for study after study and create delay after delay while ignoring all the studies that show the site is safe so far?

Is it taking the high ground to keep radioactive waste spread around 800 locations in California subject to some accidental release, a flood, fire or earthquake, where literally millions of people could be exposed to radioactivity, or finding a site and put it there, which we have given California the authority to do?

Is it taking the high ground to say you are working to protect public

health when you are, in fact, endangering the public's health?

Is it taking the high ground to pretend to be pursuing a careful deliberative process following standards of good Government when, in fact, you are waging a ruthless PR campaign in which misstatements and half-truths are used?

Remember, I am not the one claiming that misstatements have been made. President Clinton's own selection as chair of the Nuclear Regulatory Commission, Dr. Shirley Jackson, has highlighted the Interior Department's misleading errors and misstatements in her letter to me of July 22, 1997, which I ask unanimous consent be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES,
NUCLEAR REGULATORY COMMISSION,
Washington, DC, July 22, 1997.

Hon. BRUCE BABBITT,
Secretary, U.S. Department of Interior, Washington, DC.

DEAR SECRETARY BABBITT: I am writing on behalf of the U.S. Nuclear Regulatory Commission (NRC) to share our views related to the Department of Interior's (DOI) actions regarding the proposed Ward Valley low-level radioactive waste (LLW) disposal facility in California. In February 1996, DOI announced that it would prepare a second supplement to an environmental impact statement (SEIS) for the transfer of land from the Federal government to the State of California, for the development of the Ward Valley low-level radioactive waste (LLW) disposal facility. We understand that DOI has identified 13 issues that it believes need to be addressed in the SEIS. DOI also stated that it would not make a decision on the land transfer until the SEIS was completed. NRC will actively serve as a "commenting agency" on the SEIS in accordance with the Council of Environmental Quality regulations in 40 CFR 1503.2 "Duty To Comment." NRC's interest in the Ward Valley disposal facility is focussed on protection of public health and safety, and many of the 13 issues to be addressed in the SEIS are related to our areas of expertise. As a commenting agency, we will review the draft SEIS, and provide comments based on the requirements in federal law and regulations, and our knowledge of policy, technical, and legal issues in LLW management. We would also be available to discuss these issues with DOI, both before and after publication of the draft SEIS.

On a related matter, it is our understanding that Deputy Secretary John Garamendi of DOI held a press conference on July 22, 1996, addressing the effect of Ward Valley facility availability on the use of radioisotopes in medicine and medical research. It was recently brought to our attention that DOI distributed a document entitled, "Medical, Research, and Academic Low Level Radioactive Waste (LLRW) Fact Sheet" at the press conference. This Fact Sheet contains several errors and statements that may mislead the reader. To assist DOI, we have addressed these errors and statements in the enclosure to this letter. Some of the points contained in the Fact Sheet are useful and contribute to the dialogue on this issue; however, NRC is concerned that some of the subjective information of the document is characterized as factual. We are particularly concerned by the statement that the NRC definition of LLW "... is an unfortunate and misleading catch-all definition ..." In fact, NRC's defi-

nition is taken from Federal law, specifically the Low-Level Radioactive Waste Policy Act of 1980, and the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPA). Additionally, it is NRC's view that some of the information that was referenced or relied on in the Fact Sheet may not represent a balanced perspective based on facts. For example, a table of the sources and amounts of radioactive waste that is projected to go to the Ward Valley facility is erroneously attributed to NRC, the U.S. Department of Energy (DOE), U.S. Ecology, the Southwestern Compact, and the Ward Valley EIS. Raw data from the sources quoted appear to have been interpreted based on uncertain assumptions about future activities of generators to produce the figures in the table. Additionally, NRC noted that the figures in the table are identical to those in a March 1994 Committee to Bridge the Gap report.

With respect to the relationship between LLW disposal policy and medicine and medical research, we note that the National Academy of Sciences Board on Radiation Effects Research has prepared a Prospectus for a study entitled, "The Impact of United States Low-Level Radioactive Waste Management Policy on Biomedical Research." The study would, among other things, "Evaluate the effects of higher disposal costs and on-site storage on the current and future activities of biomedical research, including the effects of state noncompliance [with the LLRWPA of 1985] on institutions conducting biological and biomedical research and on hospitals where radioisotopes are crucial for the diagnosis and treatment of disease." Thus, the issue of medical uses of radioisotopes and how they have been affected by the Ward Valley process is far less clear than the Fact Sheet portrays.

Finally, since there are no formal arrangements that permit NRC to review and comment on the technical accuracy of various DOI documents on LLW and Ward Valley, we may not be aware such documents exist, thus the absence of NRC comments does not imply an NRC judgment with respect to the technical accuracy or completeness of such documents.

I trust our comments will be helpful in your efforts to address Ward Valley issues.

Sincerely,

SHIRLEY ANN JACKSON,
Chairman.

Enclosure.

NRC STAFF COMMENTS ON THE DEPARTMENT OF INTERIOR "FACT SHEET"¹

1. The Fact Sheet contains a projection of LLW to be sent to the Ward Valley disposal facility over its 30-year life, and attributes the table to the Department of Energy, the U.S. Nuclear Regulatory Commission, the Southwestern Compact, U.S. Ecology, and the Ward Valley environmental impact statement. In fact, the figures in the table are identical to those in a table from a March 1994 Committee to Bridge the Gap report, are substantially different from California projections, and are based on assumptions that are not identified. The actual assumptions used are contained in the Committee to Bridge the Gap report and minimize the amount and importance of the medical waste stream.

2. The Fact Sheet is incomplete in that it provides only anecdotal evidence of the impact of not having the Ward Valley disposal facility available to medical generators. Although its arguments about short-lived

¹"Medical, Research, and Academic Low Level Radioactive Waste (LLRW) Fact Sheet." U.S. Department of Interior, Office of the Deputy Secretary. Distributed at a press conference of the Deputy Secretary on July 22, 1996.

radionuclides appear to be generally true, the Fact Sheet downplays the effects on generators that use longer-lived radionuclides. According to the Fact Sheet, there are an estimated 53 research hospitals in California, out of some 500 hospitals overall. The Fact Sheet describes the impact at three of these research organizations and concludes that they can manage their waste, either by disposing of it at an out-of-state facility (Barnwell or Environcare), storing it, or, for sealed sources, sending them back to the manufacturer. The Fact Sheet concludes that there is a no health and safety impact from the approach, but does not address broader issues such as the continued availability of existing disposal sites as an option, and the fact that transferring a sealed source to a manufacturer does not eliminate the problem, but simply shifts it from one organization to another.

3. The Fact Sheet does not address the more complex issues concerning use of radioisotopes in medicine, such as how medical research in general has been affected by issues such as disposal and storage cost increases, and the need to switch from longer-lived radionuclides to short-lived nuclides or non-radioactive materials. The National Academy of Sciences Board on Radiation Effects Research has prepared a Prospectus for a study entitled "The Impact of United States Low-Level Radioactive Waste Management Policy on Biomedical Research." The study would, among other things, "Evaluate the effects on higher disposal costs and on-site storage on the current and future activities on biomedical research, including the effects of state non-compliance on institutions conducting biological and biomedical research and on hospitals where radioisotopes are crucial for the diagnosis and treatment of disease." Thus, the issue of medical uses of radioisotopes and how they have been affected by the Ward Valley process is far less clear than the Fact Sheet portrays.

4. The Fact Sheet characterizes the NRC definition of LLW in 10 CFR Part 61 as "unfortunate and misleading" because it includes both long-lived and short-lived radionuclides. It fails to acknowledge that this definition is contained in Federal law (the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Amendments Act of 1985) and that information on the kinds and amounts of radionuclides contained in LLW for land disposal is widely available in NRC regulations and/or NUREGS, and from DOE. In developing Part 61 in the early 1980s, NRC sought public comment on the proposed rule, and provided extensive information on the assumptions, analyses, and proposed content of the regulation for review. In developing the regulations for LLW, including how different classes are defined, NRC received and considered extensive public input. Four regional workshops were held, and 107 persons commented on the draft rulemaking for 10 CFR Part 61, which defines LLW. In short, NRC encouraged public involvement in developing the definition of, and defining the risk associated with LLW.

The Fact Sheet focuses on the half-life of radionuclides, but fails to discuss risk to the

public from the efforts of ionizing radiation and how they are affected by the half-life of radionuclides. Public health and safety is measured in terms of risk, not half-life. Risk is a function of radiation dose, and the determination of risk depends on a variety of factors, including the type of radiation emitted, the concentration of radionuclides in the medium in which they are present, the likelihood that barriers isolating the radionuclides will be effective, and the likelihood of exposure if radioactive materials are not fully contained. The Fact Sheet is misleading when it states that the half-life of ¹²³I used in medicine is 13 hours, and that of ¹²⁹I from nuclear power plants is 16 million years and that it remains hazardous for 160-320 million years. Either isotope can be a risk to the public, depending upon the other factors discussed above, and half-life by itself does not indicate risk.

5. In the definition section, the Fact Sheet defines "radioactive half-life" as "The general rule is that the hazardous life of a radioactive substance is 10-20 times its half-life." This definition contains a new term (hazardous) not used by the national or international health physics or radiation protection communities, and not defined in the Fact Sheet.

Mr. MURKOWSKI. Mr. President, I might add, I did not seek this letter from the NRC. It came unsolicited. Perhaps one might give the Department the benefit of the doubt and recognize that it is human to err. But then you encounter a memorandum such as that of February 21 to the Secretary and the Department's intent becomes obvious.

This is nothing more than a political and public relations game. Secretary Garamendi seems to be saying: Let's not worry about the waste or danger it may pose. If nothing is done, that's fine. Let somebody else take care of it on their watch. But let's just make the Governor of California look like a "parasite open to bribery," as the definition of "venal toady" describes.

I believe that the Department of Interior has absolutely no intention of transferring the Ward Valley land until they are ordered to do so by the Congress or the courts.

If the Senators from California and I cannot work out something with respect to land transfer legislation, we will either have to have a floor fight of some kind or be content to let the courts decide the issue.

I encourage my colleagues to recognize the significance of the administration's attitude toward the Ward Valley issue and refer to the memorandum that I have highlighted of February 21, 1996, from John Garamendi to Bruce Babbitt where he criticizes, in inappropriate terms, the motivation of the Governor of California and suggests to

the Secretary that he does not think Greenpeace will picket him any longer.

So again, Mr. President, the terminology, referring to the Governor of California as "the venal toady of special interests," deserves reflection by my colleagues on the total inappropriateness of such a memorandum from the Deputy Secretary, John Garamendi, to the Secretary of the Interior, Bruce Babbitt.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Thereupon, the Senate, at 5:59 p.m., adjourned until Wednesday, October 22, 1997, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 21, 1997:

DEPARTMENT OF STATE

BRIAN DEAN CURRAN, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOZAMBIQUE.

TIMBERLAKE FOSTER, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF MAURITANIA.

THOMAS M. FOGLIETTA, OF PENNSYLVANIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ITALY.

SECURITIES AND EXCHANGE COMMISSION

PAUL R. CAREY, OF NEW YORK, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 2002.

LAURA S. UNGER, OF NEW YORK, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 2001.

NATIONAL TRANSPORTATION SAFETY BOARD

GEORGE W. BLACK, JR., OF GEORGIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2001.

JOHN ARTHUR HAMMERSCHMIDT, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2000.

JAMES E. HALL, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2002.

DEPARTMENT OF STATE

ALPHONSE F. LA PORTA, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONGOLIA.

STEPHEN W. BOSWORTH, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

RICHARD CONWAY CASEY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

DALE A. KIMBALL, OF UTAH, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH.