

DOE FINANCIAL ASSURANCE PRESENTATION

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My presentation topic is "California's approach to license application review in meeting financial assurances for the proposed Ward Valley site."

The purpose of my presentation is to provide you with information on specific financial assurance provisions contained in 10 CFR Part 61 and how California intends to satisfy those requirements. Also, as rate setter, California intends to demonstrate how it will assure allowable costs to the rate base through a financial prudence review. The key provisions of financial assurance are:

- 10 CFR Section 61.61 - This provision requires an applicant to demonstrate its ability to finance licensed activities.
- 10 CFR Section 61.62 - This provision requires an applicant to provide assurance that sufficient funds will be available for site closure and stabilization.
- 10 CFR Section 61.63 - This provision requires an applicant to provide "a copy of a binding arrangement, such as a lease, between the applicant and the disposal site owner, so that sufficient funds will be available to cover the costs of the institutional control period."

To assist California in its determination of financial assurance compliance to be demonstrated by the applicant for Part 61 requirements is NUREG guidance document 1199 "Standard Format and Content of a License Application for a Low-Level Radioactive Waste (LLRW) Disposal Facility." The detailed financial assurance provisions of NUREG 1199 are then embodied in NUREG 1200, "Standard Review Plan for the Review of a License Application for a LLRW Disposal Facility."

Now, a detailed explanation of the key NRC financial assurance provisions.

10 CFR Section 61.61 - This provision requires an applicant to demonstrate its ability to finance licensed activities. Pursuant to the requirements of Section 30477(a)(5) of Title 17 of the California Code of Regulations, the applicant was required to provide this information in its application to become the State's License designee. Updates of that financial information have been submitted to the Department of Health Services (DHS) periodically and are included in the license application.

The submittal to DHS includes the applicant's published annual financial reports for the last 3 years along with a 3 year projection. The applicant was required to post a one million dollar bond performance instrument with DHS. A performance guarantee to the State from the applicant unconditionally and irrevocably guarantees the State of California faithfully and timely performance on all conditions contained in the 1984 application.

10 CFR Section 61.62 - This provision requires an applicant to provide assurance that sufficient funds will be available for site closure and stabilization. California has provided for this in Title 17 of its Regulations by requiring a 10% surcharge on disposal rates. Therefore, the applicant need not address this provision in its application. The specific financial assurances presented in NUREG 1199 are not necessary since California provides this assurance by regulation.

10 CFR Section 61.63 - This provision requires an applicant to provide a copy of a binding arrangement, such as a lease, between the applicant and the disposal site owner that will allow for sufficient funds to be available to cover the cost of the institutional control period. Therefore, DHS will establish an appropriate disposal rate surcharge and accumulate these funds in an appropriate fund.

To illustrate the California financial assurance relationship to Part 61 requirements, (Attachment 1) a revenue collection and disbursement flow chart has been prepared. As you can see, the revenue collected is comprised of two

components. The disposal charge on the left is to provide the operator with a recovery of cost for development and operations. Also, a profit factor will be an element of each phase. On the right hand portion is the surcharge component. California has established a host state fund and Part 61 requirements for closure and institutional care are part of this fund. Separate from Part 61 requirements are those created by the Southwestern Compact Commission. The surcharge will also collect money to pay for regulatory activities, local government costs, compact commission costs and discretionary third party liability.

The DHS is supporting a bill, SB 2021, which would provide temporary authority until regulations are in place, to collect \$30.00/ft³ on disposal of Class A waste, \$40.00/ft³ on Class B waste, and \$50.00/ft³ on Class C waste. The breakdown of waste disposed is estimated to be roughly 94% Class A, 4% and 2% C. This money would be used to fund activities other than closure since departmental regulations already assess a 10% closure surcharge. The DHS plans on maintaining a minimum balance of one million in its regulatory account.

Now, lets turn to license review of the applicant's license application. The Department has contracted with Roy F. Weston, Inc. to assist in making a detailed review of the applicant's license application for completeness and conformance to U.S. Nuclear Regulatory Commission guidance documents and California Radiation Control Regulations. The Department is also reviewing the financial assurance section with its staff.

The review has prompted additional questions to provide clarification of financial compliance. In general, the questions ask for more details on site closure costs, the effects of Browning Ferris Industries decision to disinvest in the hazardous waste industry which includes its interest in American Ecology, cash flow projection, project financing, and litigation.

Lastly, I want to discuss the Departments' financial prudence review. As the rate setter and regulator, the Department must decide what costs are allowed into the rate base for recovery. If the Department were to perform its own review and then implement its findings, the perception of conflict of

interest and objectivity may arise. Therefore, in order to maintain the integrity of this process, the DHS is putting out a Request for Proposal (RFP) to have a private contractor perform a prudency review and make recommendations to the Department. The scope of work requires the successful bidder to perform the following:

1. Appropriateness of Work Tasks - The Contractor will review the NRC guidance documents along with other state requirements to determine the reasonableness of work tasks performed by the applicant. If it is determined the task was unnecessary to perform, the DHS would then have the authority to exclude the cost of this item from the rate base.
2. Reasonableness of Cost - The Contractor will review the cost to determine if work of a similar nature based on industry standards is comparable to that charged by subcontractors of the applicant.

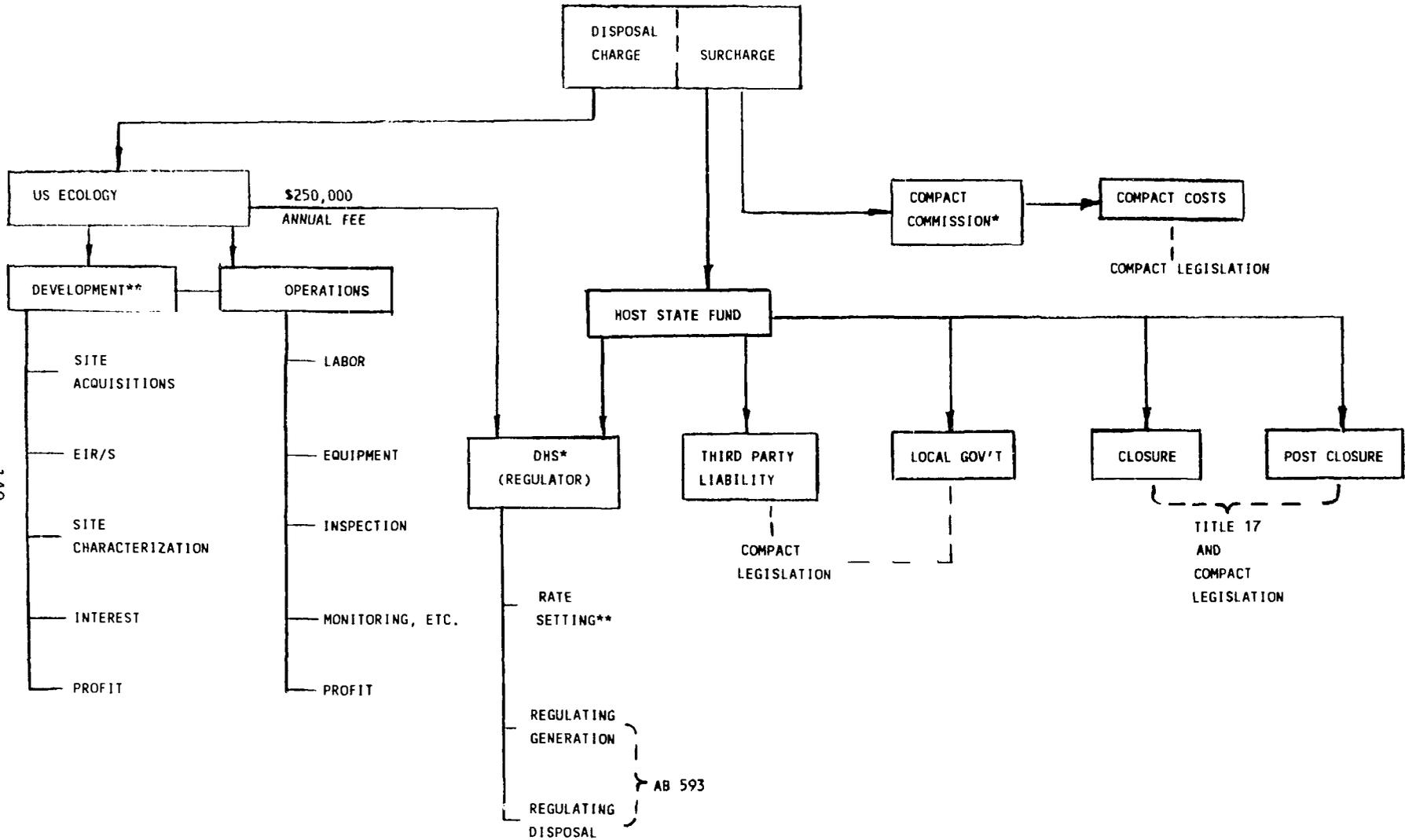
The DHS regulations allow only reasonable costs to be included in the rate base. If the charges are determined to be excessive DHS has the authority to make adjustments to the rate base.

3. Rate Setting - The Contractor will evaluate different approaches to rate setting (i.e., volume, radioactivity) and recommend the preferred choice to the Department.

This concludes my presentation on financial assurance. Thank you for the opportunity to present California's approach to license review for financial assurances.

CALIFORNIA LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY
REVENUE COLLECTION AND DISBURSEMENT

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* COSTS PROVIDED FOR BY COMPACT LEGISLATION AND CURRENTLY PAID FOR OUT OF DEPARTMENT OF ENERGY REBATES UNTIL THE FACILITY BECOMES OPERATIONAL.

** PROVIDED FOR IN SB 342 AND TITLE 17.