

No Veto for States on Radwaste Sites

The Senate has passed judgment, by a surprising 83-0 vote, on the politically difficult question of how much of a voice to give the states in the siting of geologic repositories for highly radioactive waste from nuclear power plants. A state would not be given a veto over the Department of Energy's selection of a site within its borders, the Senate decided, but, if the state opposed the choice, either the House or Senate could force DOE to look elsewhere by adopting a resolution of disapproval.

In view of the Senate's unanimity, the one-house veto may turn out to be the solution Congress has been groping for in its efforts to define the much discussed concept of state "consultation and concurrence" in siting decisions. A number of senators and representatives have wanted the states to have an outright veto; but most appear reluctant to go that far and some, especially among the stronger proponents of nuclear energy, have shown no interest in modifying the doctrine of federal preemption.

Senator John Glenn (D-Ohio), chairman of a governmental affairs subcommittee, originally had proposed giving states a veto over siting decisions but arrived at the one-house veto in negotiations with other senators. Senator Mark Hatfield (R-Oregon) may have expressed the attitude of most of his colleagues when he observed, shortly before the Senate acted, "Simply allowing the state to say 'no' [would be] simply inviting nothing but no's." As the saying goes, nobody wants a radwaste repository in his own backyard, and numerous states have passed laws in an effort either to put themselves off limits to such repositories or, at a minimum, ensure that they are closely consulted if DOE should look their way.

The Glenn amendment spelling out the one-house veto and formal procedures for affected states to participate in siting decisions through a state "repository review panel" was accepted as part of the comprehensive nuclear waste bill which the Senate passed on 30 July. Ironically, Senator Bennett Johnston, chairman of the energy regulation subcommittee and a principal sponsor of the radwaste legislation, is holding out for a veto for his own state of Louisiana even though he was not one of those who favored giving all states such a right.

Johnston let it be known, through his home-state colleague, Senator Russell Long, that, in his view, the Glenn amendment should have no effect on the validity of the "principles of understanding" agreed to in 1978 by Louisiana Governor Edwin Edwards and the then Deputy Secretary of Energy, John O'Leary. These principles consisted of certain conditions DOE would meet in return for the state's going along with development of the Strategic Petroleum Reserve in Louisiana salt domes. One condition was that neither of the two salt domes which DOE was investigating as a possible radwaste repository site would be used for such a facility if the state objected. Several other states, such as New Mexico and New York, have in the past been promised a right of veto by DOE officials. A commonly held view is that DOE has had no authority to make binding commitments of this kind, and whether the deal Governor Edwards struck with the department will stand up if the Glenn amendment becomes law may be an open question.

It is of course possible that Congress will not complete

action in radwaste legislation before it adjourns. If the Glenn amendment represents a likely compromise, the Senate-passed bill contains other provisions that are highly controversial and may not win favor in the House of Representatives. In particular, the bill calls for early development of a facility for monitored long-term retrievable storage of spent reactor fuel—a facility in which spent fuel could be kept almost indefinitely, certainly for several decades and perhaps a century.

Senator Johnston, the chief proponent of this disposal concept, sees it as a way to store wastes safely even if all of the geologic formations investigated should be suspect as to their integrity over time. But others, and especially the Carter Administration officials who developed the radwaste policy announced by the President in February, would view adoption of this concept as an invitation to an alarming new deferral of a politically acceptable solution to the radwaste problem.

The Administration policy is to try to choose a suitable geologic site, from a variety of media (salt, granite, and basalt, for example), by 1987 and to have the repository licensed and built by 1997. The Johnston legislation itself calls for development of a geologic repository, but, quite clearly, the Louisiana senator would be neither surprised nor dismayed if it were not built.

The Senate bill, which nuclear industry lobbyists enthusiastically favor, also provides for early development of

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"away-from-reactor" storage of spent fuel, with DOE taking title to the storage at the reactor site upon payment of a one-time fee. In the event the fuel were later reprocessed for recovery of its plutonium and unburned uranium, the utility could recover the value of those resources. Senator Gary Hart (D-Colo.), chairman of the nuclear regulation subcommittee, tried unsuccessfully to limit the need for "AFR" storage by making it accessible only to utilities who can show that their needs cannot be met on site.

An important feature of the Senate bill which seemed to win general approval would have each state accept responsibility for the low level wastes (LLW) generated within its boundaries. Most states would be expected to do this through congressionally approved compacts with their neighbors, with an LLW burial ground to be developed for each of several regions.

The House of Representatives has yet to act on radwaste legislation, but the differences between the bills being pushed by Representative Mike McCormack (D-Wash.) and Representative Morris Udall (D-Ariz.) are such that this year the House may not be able to come to terms even with itself on this issue, much less with the Senate. According to a White House source, the Administration may prefer no bill to the one passed by the Senate, principally because of its objections to the provision for long-term retrievable storage.—LUTHER J. CARTER