

PUBLIC HEARING ON THE PROPOSED
HANFORD COMPLIANCE AND CLEANUP PROGRAM

VERBATIM REPORT OF PROCEEDINGS
Taken on Tuesday, April 25, 1989
7:00 p.m. at the General Administration Building
Olympia, Washington

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Court Reporter



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1 MS. ROWLETT: The hearing is being transcribed
2 right now. The minutes will be available. So everyone
3 that signed in, that will be available to. What we would
4 like for people to do, I have a list of everyone who
5 signed in. If there is anyone who didn't sign in, at the
6 end I will ask if there are any more, and we will let you
7 stand up then.

8 What I would like to ask you to do is go in this
9 order, and then if people will come up and state their
10 name and address and give their comments, that will be
11 great.

12 Does anyone have any questions about the
13 procedure, or should we just get started?

14 The first name I have here is Steve Thompson.

15 MR. THOMPSON: Hello, I'm Steve Thompson. I am
16 an attorney from Seattle. I live at 547 Northeast 102nd
17 Street, zip code 98125.

18 In my experience as a lawyer I have learned that
19 the uncertainties and expenses associated with litigation
20 can be quite high. But I think, however, that this
21 proposed Hanford cleanup agreement so fails to safeguard
22 the rights of our state's present and future citizens,
23 that it should not be signed by the Governor in its
24 present form.

25 I am particularly disturbed about the lack of a

1 direct enforcement mechanism, such as a consent decree, in
2 the agreement. Without such a mechanism, the proposed
3 agreement amounts to no more than a promise, and I do not
4 believe a promise is enough when we are threatened by some
5 of the most dangerous materials known to man.

6 MS. ROWLETT: Thank you. Okay.

7 Doris Cellarius?

8 MS. CELLARIUS: Good evening. My name is Doris
9 Cellarius, and I live at 2439 Crestline Drive in Olympia,
10 Washington.

11 I am testifying on the Hanford Federal Facility
12 Agreement Consent Order on behalf of the Cascade Chapter
13 of the Sierra Club. The Sierra Club asked me to present
14 our testimony because I helped to lead the club's effort
15 in the reauthorization of RCRA in 1984 and Superfund in
16 1986. I'm pleased to testify about a legal agreement that
17 will bring my state's major toxics pollutor, the Hanford
18 Reservation, into compliance with RCRA and Superfund.

19 The Executive Committee of the Cascade Chapter
20 of the Sierra Club has voted to support the Hanford
21 Agreement. The Sierra Club asks, however, that specific
22 changes to the legal language be made and that the
23 technical action plan be changed so that the purex phase
24 one liquid discharges are quickly brought into RCRA
25 Superfund compliance. We believe these changes will

1 strengthen the agreement and provide for even more
2 environmental benefits.

3 These changes affirm the Sierra Club position
4 that the Department of Energy at the Hanford Reservation
5 should subject itself to the full force of the law. The
6 Sierra Club calls on the Department of Energy to make it
7 absolutely clear to the citizens of Washington that it
8 will abide by the legal authority of the Department of
9 Ecology and the Environmental Protection Agency.

10 We call upon the Department of Energy to end
11 self-imposed exemption where it is treated differently
12 from private parties.

13 That is if a business violates RCRA it will be
14 fined, financially punished. If the DOE violates RCRA it
15 will not be fin ed, it will not be punished. Limitations
16 such as this communicate to citizens that the Department
17 of Energy holds itself immune from the full legal
18 authority of the state and Environmental Protection
19 Agency.

20 While only Congress can make DOE financially
21 liable if it violates RCRA, and while it may also take an
22 act of Congress to defend the Hanford Agreement as a
23 Consent Decree, the Sierra Club asks the Department of
24 Energy to support changes in the Hanford Agreement that
25 the make it the strongest RCRA and Superfund compliance

1 plan signed in the state of Washington.

2 Accordingly, the Sierra Club asks that the
3 Department of energy, the Environmental Protection Agency
4 and the Department of Ecology agree to make these changes
5 in the legal agreement.

6 One, change the language on the power of EPA to
7 enforce Superfund at Hanford. Current language gives EPA
8 weak Superfund enforcement authority at Hanford. The
9 Hanford Agreement must contain language giving the EPA the
10 same ability to enforce Superfund at Hanford that it has
11 in the strongest cleanup agreements signed with business.

12 Two, guarantee absolute state jurisdiction over
13 RCRA at Hanford. Make sure that the RCRA dispute
14 resolution authority of the director of Ecology is
15 equitable to the Superfund dispute resolution authority of
16 the EPA Regional Administrator. Make sure that DOE cannot
17 argue that makes way streams are not RCRA regulated.

18 Secondly, we ask the specific language we added
19 to clearly state that the Hanford Agreement is subject to
20 RCRA and Superfund enforcement suits brought by citizen
21 groups.

22 We ask that the purex phase two liquid
23 discharges be brought into RCRA compliance within three-
24 years. Language detailing our positions will be filed as
25 written comments to the Hanford Agreement.

1 The Sierra Club would like to commend the
2 Department of Ecology for its success in getting precedent
3 setting rank which included in this Hanford Agreement.
4 Key RCRA enforcement language regarding final arbitration
5 of RCRA disputes specific legal definition of RCRA
6 requirements and the landmark DOE endorsement of the
7 state's jurisdiction over RCRA enforcement are part of
8 this Hanford agreement and were one of the remarkable
9 concessions from the federal government.

10 We also would like to communicate our deep
11 concern that the United States Department of Justice would
12 not work with the state to allow the Hanford Agreement to
13 be voluntarily entered as a consent decree.

14 The Sierra Club is dedicated to getting getting
15 legislation passed so that the Department of Ecology will
16 not have to rely on the U.S. Department of Justice
17 cooperation. So the Region 10 EPA will not have to agree
18 to language that weakens their enforcement power.

19 This legislation is moving through the Congress.

20 In fact, this week a House of Representative subcommittee
21 will vote on legislation to ensure strong state and EPA
22 RCRA enforcement at federal facilities such as Hanford.

23 We ask the citizens of Washington to join with
24 us to get that and other legislation passed by Congress.
25 Can ask them to join in a movement that now includes the

1 Department of Ecology, our Governor and State Attorney
2 General and other states' Attorney Generals and state
3 legislatures and city council members that host DOE
4 facilities.

5 Together we can make Hanford the good citizen of
6 Washington state.

7 MS. ROWLETT: Thank you. Roger von Gohren?

8 MR. VON GOHREN: I'm Roger von Gohren speaking
9 on behalf of the Association of Washington Business, which
10 is a statewide association of businesses located at P.O.
11 Box 658, Olympia, Washington 98507. I have three points
12 to make.

13 Number one is that we support the agreement and
14 encourage that it be signed on May 15th.

15 We believe that a voluntary agreement that has
16 been done in the way this one has rather than through the
17 courts and litigation is far superior and it is faster and
18 less expensive, moves us toward getting the job done.

19 The second point is that we believe the clean up
20 is a beginning for Hanford. It is not a return of Hanford
21 or beginning of a return for Hanford to the jack rabbits,
22 it is not abandonment, it is not a closure, it is a
23 beginning.

24 The third point I would like to make is that we
25 hope for the physical as well as an environmentally

1 responsible approach to the cleanup. I see in the
2 material presented tonight a number of points that suggest
3 that is being given serious consideration and I applaud
4 that.

5 That concludes my comments.

6 MS. ROWLETT: Thank you. Senator Benitz?

7 SENATOR BENITZ: I am Senator Max Benitz, a
8 Chairman of the Senate Energy and Utilities Committee for
9 the State of Washington. I am also the senator
10 representing the 8th Legislative District, which includes
11 the Hanford Reservation and all of Richiland, most of
12 Kennewick and the rural area towards Prosser.

13 My testimony will be just a little bit different
14 from some of the things we have run into with EPA and
15 other agencies, and I have made my living in agricultural
16 in the area on the shady side of the Hanford project since
17 1946. And I also represent many people that work at
18 Hanford.

19 And one of the surprising things that I am
20 continually reminded of is how one can perceive a problem
21 that can make life difficult for honest, hard working men
22 and women trying to make a living at an honest
23 profession. And that is certainly the comparison I want
24 to make with Hanford to what has happened to our fruit
25 business.

1 Recently a perception fostered by very few
2 people led many people in this country to feel they
3 couldn't safely pick up a Washington state apple and eat
4 it. The alar is an example that we have run into for many
5 years and it is just as unfair that the perception at
6 Hanford is a boiling caldron of untended wastes on the
7 verge of contaminating our river, wiping out all our crops
8 and killing us. There have been these horror stories for
9 years.

10 Well, certainly there is a need to clean up the
11 wastes at Hanford. We owe that to future generations and
12 it is the law. But we must require of the three parties a
13 cleanup program that is both environmentally responsible
14 and physically responsible. One that continually strives
15 to identify and use the best technology available and one
16 that outweighs the real risk from those wastes, not the
17 nightmarish risk perceptions fostered by a hadnful of some
18 poorly informed environmentalists.

19 If we do that, future generations can live
20 safely to an active productive Hanford that will continue
21 to contribute to this state's economy as it has for almost
22 fifty years.

23 I caution you gentlemen not to be swayed by
24 those who would make this agreement a tool in their
25 argument that says, since you're cleaning up Hanford, you

1 should simultaneously shut down its active programs and
2 turn away new ones. Hanford will be getting billions of
3 dollars in cleanup money, and so we here, and there will
4 be jobs for many people. Some others say so shut down
5 purex today. Who knows what these people will want to
6 shut down tomorrow.

7 I could not disagree more with that rationale.
8 Cleanup does not mean that Hanford should immediately lock
9 it's gate, nor does it mean that new businesses should
10 automatically be branded as environmentally dangerous and
11 sent to other locations. Quite the opposite.

12 I see in this agreement a program that will make
13 Hanford so environmentally responsible that even the most
14 radical environmentalists would have difficulty twisting
15 what is real into a perception of a huge problem. Those
16 who have been arguing for independent oversight now seem
17 too reluctant to acknowledge the time has arrived. The
18 State and the EPA will have state representatives
19 overseeing this program.

20 I also see in this agreement a road map for an
21 orderly, efficient cleanup that is required by law. It
22 gives the state the enforceability and funding it asks
23 for. And it gives the Department of Energy a tough
24 schedule, but one it can live with. Frankly, I urge you
25 to request those who would use it as a foot in the door to

1 foster their own shut down Hanford arguments.

2 On the other side, I would hope they would be a
3 positive part of the solution of the problem. If you can
4 make this agreement work, and if we all work to help you
5 get the funding you need, and notice I said need, not
6 want, I see a strong future for Hanford, and I urge you to
7 sign this agreement on May 15th and get on with this job.

8 Thank you.

9 MS. ROWLETT: Thank you.

10 Gerald Pollet?

11 MR. POLLET: My name is Gerald Pollet. I
12 represent Heart of America Northwest, which is a citizens
13 group with 16,000 members in the state of Washington that
14 has been concerned over the past two years with getting us
15 to the point where we could be discussing independent
16 oversight and the possibility of funding levels reaching
17 2.8 billion dollars over the next five years for Hanford
18 cleanup. We agree with the representative from Washington
19 -- the Association of Washington business that this
20 agreement does represent a new beginning.

21 In the same point, that doesn't mean that we do
22 not believe that there are key elements must be, indeed it
23 is imperative that they be renegotiated prior to signing
24 or that specific areas be addressed and clarified prior to
25 signing.

1 The reason for that is, as Senator Benitz noted
2 a few minutes ago, it is important that the public never
3 get the perception in 5 years or 10 years or 25 years that
4 we are not totally on top of any problems from Hanford
5 wastes. Without a good public involvement plan, that will
6 not happen.

7 The enforceability provisions of this agreement
8 are lacking. We believe that it is in the court of public
9 opinion rather than federal district court where this
10 agreement is likely to be enforced.

11 We have specific areas in our written testimony
12 that I will submit that we ask for responses and
13 distinctions to be drawn, and we would like them to be
14 drawn in writing in response to this summary.

15 Turning to public involvement. I would like to
16 start with the fact that again this is going to be the
17 critical area where this agreement is going to be
18 enforced. We ask that the public involvement plan be
19 redrafted in accordance with public desires as ascertained
20 through a formal public scoping process. That has not
21 happened to date and we thank the representatives of
22 Ecology and EPA for their willingness to discuss such a
23 process and de-link the communities relations plan from
24 the three-party agreement as it is signed.

25 There should be a formal obligation on the U.S.

1 DOE to pay the full costs of the public plan so created.
2 That ought to be obligated by May 15th in a renegotiated
3 portion of the agreement. After all, U.S. DOE is the
4 responsible party.

5 Currently we believe that the plan seems to, in
6 terms of funding obligations, the agreement seems to focus
7 on the RCRA and CERCLA formal requirements and we want to
8 be guaranteed that the public involvement plan as a whole,
9 going well beyond just immediate RCRA hearings, is going
10 to be funded.

11 We would also like the plan to be renamed from a
12 Community Relations Plan, to which we have had nothing but
13 negative comments because it sounds like a PR plan, to
14 public involvement plan.

15 A meaningful advisory committee drawn from a
16 broad spectrum of independent interests and expertise is
17 necessary, we believe, for this agreement to work over the
18 next 30 years. Such committee's role would be to focus on
19 the annual report of the agencies regarding compliance and
20 time lines and to render a public opinion about the budget
21 requests for the following year and time line
22 modifications.

23 In the agreement itself, the agencies should be
24 formally obligated to consider the public report of that
25 advisory committee before issuing any formal budget

1 request or time line modification. That would guarantee
2 that the public involvement process is a meaningful one if
3 those requirements are written in, and that is a mandate
4 of a broad balanced public advisory committee on this
5 agreement that has expertise that builds up over the
6 years.

7 I am going to skip over our questions about
8 enforceability and ask very quickly that they be responded
9 to in the responsiveness summary. For instance, we are
10 asking whether the Department of Justice letter can carry
11 any legal weight. And, if not, does it need to be
12 redrafted in some form because of the fact that to many
13 attorneys it reads no differently than bond counsel
14 opinion in a WPPSS case where counsel opined that the
15 utilities had the authority to enter into their contracts
16 with WPPSS. That opinion didn't carry any water with the
17 Washington Supreme Court and it had no legal force and we
18 see no legal force in the current letter. In fact, we do
19 not see much weight in that letter and we would like it
20 clarified in the record what weight that letter carries.

21 We think that the state oversight provisions are
22 commendable and, therefore, it comes down to a question of
23 funding as to whether this agreement will work. We would
24 like at this point to ask that the State and EPA than DOE
25 responding in writing to the public about the current

1 plans to reprogram dollars away from Hanford to Savannah
2 River, including funds for liquid effluent discharge
3 termination that congress has been notified about.

4 We believe upon first glance that this violates
5 the spirit of this agreement, if not the letter of this
6 agreement, and we are greatly disturbed by that.

7 We also would like to ask that an independent
8 inquiry be made into the time line for the vitrification
9 plant. Without the vitrification plant on line, working
10 and glassifying liquid high level nuclear wastes as
11 quickly as possible, every year that goes by we are faced
12 with the fact that there is strong potential for leakage
13 from single shell tanks. Even stabilized tanks leak.

14 The current time line in the agreement calls for
15 an on-line date of December 1999. That has slipped from,
16 first of all, the 1987 Defense Waste Management Plan.
17 And, secondly, it slipped from what the State was pursuing
18 at Congressional hearings just a year ago.

19 We believe that that plant can be built within
20 an eight-year time line and that funding constraints are
21 likely to be the most significant constraints, not
22 engineering ones at this point. And we would ask for an
23 independent review with modification of the time line
24 dependent upon it.

25 Lastly, turning to other significant issues, we

1 ask that there be an investigation of the river bed at
2 Hanford. In the historical documents it is widely noted
3 that there were significant hot spots resulting in
4 potentially significant contamination of people using the
5 river.

6 We fail to find any investigation off site or of
7 the river itself in the agreement and we suggest that
8 there be a plan for an investigation that also decides
9 long-term management options for the river, if sediments
10 are found to be contaminated, i.e., a ban on dredging, if
11 need be.

12 Lastly, we would like to point out that the deep
13 contamination decommissioning of the contaminated
14 facilities is not limited to just the eight reactors. We
15 also are disturbed by statements from DOE that the
16 facilities will not be part of the agreement because they
17 are facilities, not waste sites.

18 I would like to point out that CERCLA
19 specifically applies to facilities, as does our state
20 Superfund. In fact, it says the term facility means any
21 building structure, installation, equipment, pipe or
22 pipeline, weld pit, pond, lagoon impoundment, et cetera,
23 and that is found in 42 U.S. Code 9601, Subsection 9.

24 We would like to make sure that the guarantees
25 in writing by May 15th that the DOE will acknowledge state

1 and EPA jurisdiction over the decontamination and
2 decommissioning of all those facilities. In the comment
3 period it was noted that this would be folded into the
4 agreement only vis-a-vis those wastes that are generated
5 in terms of their ultimate disposal from the facility.
6 That is not the intent of the law we believe. It should
7 rather be noted that the law intends for the facility
8 itself to be covered because it poses the threat of a
9 significant release.

10 With that, I will turn this in. And I would
11 also like to close in saying that I feel it is unfortunate
12 that this was held in Olympia and not in Seattle or in
13 both places. I know many people in Vancouver asked for a
14 formal hearing, as did the people in Seattle. We have had
15 several people who called us up in the last two days and
16 said they couldn't make it, and one volunteer thus
17 submitted her written comments for me to bring down. And
18 I will submit those. Thank you.

19 MS. ROWLETT: Thank you.

20 Representative Shirley Hankins?

21 REPRESENTATIVE HANKINS: Good evening, ladies
22 and gentleman. I am Representative Shirley Hankins from
23 the 8th Legislative District, which is as the Senator
24 described most of the Tri-Cities, and the Hanford
25 Reservation is indeed a part of our legislative district.

1 I would like to give you a little more of an
2 upbeat greeting this evening by congratulating all of you
3 who spent your time to work on this agreement and
4 particularly congratulate the director of the Department
5 of Ecology. I think Ms. Gregwoir (phonetic) and her staff
6 deserve a real boquet for the work they have done and also
7 in getting the agreement out of the Department of
8 Justice. I'm not a lawyer, so I believe it is probably
9 true what they said.

10 With that, I would also like to say that I
11 believe that this is a winning situation for the State of
12 Washington, and also for the federal government. It gives
13 us some good guidelines and it allows the State to be
14 involved in the project. I probably am the most irritated
15 of the legislators when we have so many people thinking
16 that we should do thousand of things for them, like make
17 sure that everybody gets to say 20 words on every subject
18 and that everybody gets to have major input.

19 I believe people can make input by letters or
20 phone calls to not only their legislators, but to members
21 of Congress. Public meetings are fine, but I don't
22 believe we have to have more than a half dozen at any
23 time.

24 I also believe that the Environmental Protection
25 Agency and the U.S. Department of Energy have agreed to

1 this, it is a binding agreement and will have that signed
2 by May 15th and most everybody will then be a little more
3 comfortable perhaps with the fact that, yes, we will go
4 forward with cleanup of the Hanford Reservation.

5 With that, I am going to close my remarks and
6 hope that we can move forward with this project.

7 Thank you.

8 MS. ROWLETT: Well, that concludes all the names
9 on my list. Does anybody else care to come up and give
10 comment?

11 If not, then that concludes our meeting for
12 tonight. Thanks to everyone for taking the time to come
13 out.

14 (Meeting was concluded at 8:10 p.m..)

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