



U.S. DEPARTMENT OF  
**ENERGY**

# ***Settlement of the Buried Waste Dispute***

**Brett R. Bowhan**

***Acting Chief Counsel***

***Idaho Operations Office***

**Environmental Conflict Resolution (General) Training**

**Washington, D.C. ❖ September 25, 2009**

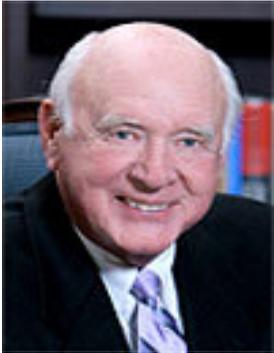


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# History of Agreement



**"The legal grounds are not near as important as the moral and political grounds, and I can use the courts till you can step on my beard."**

**--Cecil Andrus, N.Y. Times, Oct. 23, 1988**

**"I'm extremely pleased that we are at a point where I believe that the sentence our governor used ... about the creating of trust holds true."**

**--Cecil Andrus at press conference announcing buried waste agreement, July 1, 2008**



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# History

- **Governor Andrus' was concerned about spent nuclear fuel and waste in Idaho, and he succeeded in obtaining a court order requiring DOE to complete an Environmental Impact Statement.**
- **DOE could not ship spent nuclear fuel to INL pending the EIS, only small amounts of Navy SNF could be shipped.**
- **A subsequent challenge to the Final EIS by Governor Batt resulted in the 1995 Settlement Agreement which comprehensively included milestones for treatment and shipment from Idaho the spent nuclear fuel, high-level waste, and transuranic waste stored at INL.**



# ***Dispute Over Buried Waste***

- **A July 2008 agreement on how to implement a 2006 court decision resolved 6 years of litigation on buried waste at INL:**
  - **Idaho filed suit in 2002 contending that the 1995 Settlement Agreement required DOE to retrieve and ship “buried” transuranic waste out of Idaho.**
  - **DOE asserted that the 1995 agreement only covered stored wastes, and that the buried wastes were covered by the 1991 CERCLA cleanup agreement among DOE, Idaho, and EPA.**



# ***Dispute over buried waste continues***

Over the 6 years of litigation:

- **DOE and Idaho worked together to resolve the dispute.**
- **DOE, Idaho, and EPA cooperatively assessed and planned cleanup of the burial area.**
- **DOE began digging up “targeted” wastes per the consensus of the three agencies.**



Subsurface Disposal Area at the Radioactive Waste Management Complex



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# The Agreement to Implement

- In July of 2008, the U.S. Department of Energy and the State of Idaho announced an agreement on cleaning up transuranic waste buried at DOE's Idaho Site.
- The cleanup plan was strongly supported by the citizens of Idaho.
- This cleanup plan was embodied in court documents (July 3, 2008) and a final CERCLA Record of Decision (September 25, 2008).



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# Waste deal finalized

State, DOE agreement will protect Snake River Plain Aquifer

ON JULY 1, 2008, the U.S. Department of Energy and the State of Idaho announced their agreement to a cleanup plan for buried waste at the Idaho National Laboratory site that provides for the long-term protection of the Snake River Plain Aquifer. The cleanup plan was developed after an exhaustive technical review and balancing of potential risks to the public, workers, and the environment. DOE and its regulators believe this agreement will ensure the buried transuranic waste poses no safety threat to the water in the aquifer and will protect the aquifer from any long-term threats posed by any of the buried waste in the Subsurface Disposal Area.



*"We enter into this agreement confident that it is in the best interest of the aquifer, the Idaho National Laboratory and all Idahoans."*  
Governor  
C.L. Butch Otter



*"Every step we take to resolve the issues of the past moves us into the future"*  
James Rispoli,  
DOE Assistant  
Secretary for  
Environmental  
Management



# Agreement to Implement- Highlights



*“We enter into this agreement confident that it is in the best interest of the aquifer, the Idaho National Laboratory, and all Idahoans. “*

*Idaho Governor  
C.L. “Butch” Otter*



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# *The Agreement to Implement (continued)*

The detailed plan for “targeted waste” retrievals:

- achieved the best balance of the risks unique to our disposal site
- was designed to get the highest concentration of hazardous materials considering collocation of other non-transuranic hazardous contaminants
- considered whether there were alternatives to retrieval that addressed the environmental hazards or health risks



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# ***Record of Decision***

## ***Consistent with the Agreement to Implement:***

- **On September 25, 2008 the U.S. Department of Energy, Idaho Department of Environmental Quality and U.S. Environmental Protection Agency signed a record of decision implementing the agreement to remediate the Subsurface Disposal Area.**
- **Cost- approximately \$1.3 billion**
- **Time- approximately 20 years**



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# ***What the State Agreed to***

- **Retrieval of “targeted waste” (highest concentration of transuranics, solvents, and other hazardous materials) from 5.69 acres of specific pit areas**
- **DOE will retrieve no less than 6,238 m<sup>3</sup> of targeted waste from the SDA**
- **Added Series 742 Sludge as a new targeted waste**
- **In situ grouting of specific locations (0.2 acres) for protection against migration of TC-99 and I-129.**



# ***What the State Agreed to (continued)***

- **Cover the entire SDA with an evapotranspiration barrier**
- **Continue the vapor vacuum extraction to remove and treat solvent vapor from the vadose zone, inhibiting transport of organic compounds into the aquifer**
- **Maintain long- term monitoring, surveillance and maintenance, and institutional controls**
- **Five year Agency reviews of the remedies to assure they continue to meet cleanup objectives**



# ***ADR was not possible***

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- **Initially both DOE and the State refused to engage in ADR**
- **State specifically rejected ADR per court question even when DOE/DOJ expressed a desire to go to mediation**
- **Highly politicized issues**
- **Prior disputes and Pit 9 litigation created a contentious climate.**



# Atmosphere of Trust Through CERCLA Work

- **Proactive participation by the State**
  - participation in SDA oversight activities under FFA/CO
  - open lines of communication
- **DOE was already actively digging up waste**
  - showed that historical SDA records were accurate
  - showed that waste retrieval was a “dirty” job with numerous associated risks
- **Overall Result**
  - Over time, trust developed between DOE and the State



Buried Waste Exhumation



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