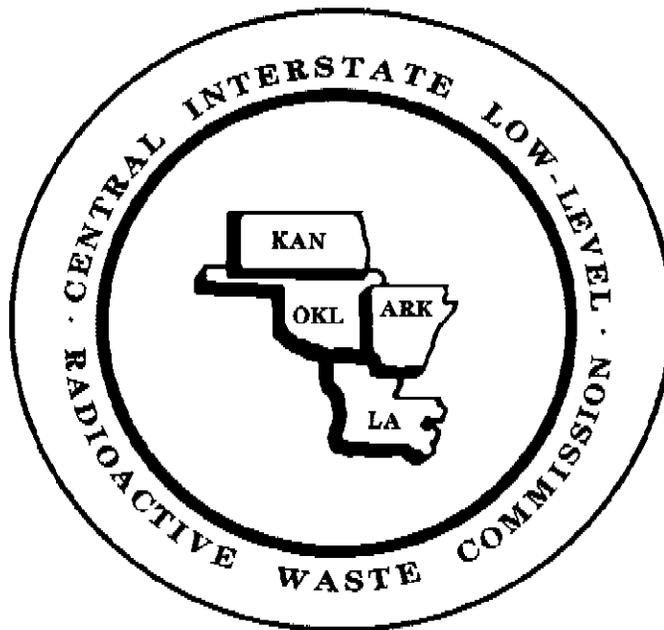


Central Interstate Low-Level Radioactive Waste Commission



**Annual Report
2005-2006**

The purpose and objectives of the Commission are:

To carry out the mandate of the Central Interstate LLRW Compact by providing for and encouraging the safe and economical management of LLRW within the four-state Compact region;

To provide a framework for a cooperative effort to promote the health, safety, and welfare of the citizens and the environment of the Compact region;

To select the necessary regional facilities to accept compatible wastes generated in and from party states, and meeting the requirements of the Compact, giving each party state the right to have the wastes generated within its borders properly managed at such regional facilities;

To take whatever action is necessary to encourage the reduction of waste generated within the Compact region; and

To faithfully and diligently perform its duties and powers as are granted by the Compact.

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**Central Interstate Low-Level
Radioactive Waste Compact**

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Project Background

The Commission's developer, US Ecology, Inc., (USE) submitted a license application for a low-level radioactive waste disposal facility near the Village of Butte in Boyd County in July 1990. The application was submitted to the Nebraska Department of Environmental Control (now known as Environmental Quality and referenced as NDEQ) and the Nebraska Department of Health (now known as Health and Human Services Regulation & Licensure and referenced as NDHHS).

The State of Nebraska deemed the application complete for technical review in December 1991. In May 1995, after several years of review, US Ecology submitted its responses to the fourth and final round of the state's technical comments.

In June 1995 US Ecology submitted its eighth revision to the Safety Analysis Report (SAR). On July 26, 1995 the LLRW Program indicated that it would take approximately one year to conduct its final review activities and confirmed that no more technical information would be accepted from the applicant unless the reviewers requested it. State evaluations and future decisions are to be based on this final product.

During the review of the license application, the State did not issue or commit to a review schedule or a public comment schedule. The Compact statutes, in the five-member states charge the Commission to "require the Host State to process all applications for permits and licenses required for the development and operation of any regional facility or facilities within a reasonable period from the time that a completed application is submitted."

The Commission's Facility Review Committee (FRC) drafted a technical review schedule that was in compliance with the respective federal and state laws and regulations. This draft schedule was adopted by the Commissioners at their January 1996 meeting. At the March 1996 meeting, the Commissioners voted to reaffirm their schedule. At the Annual Meeting of the Commission in June 1996 the Commissioners rescinded the Commission's technical review schedule and unanimously approved setting a Special Commission Meeting on August 27, 1996 for the purpose of "... developing and determining a reasonable schedule for the completion of the processing of the pending application for a license for the Compact's regional low-level radioactive waste disposal facility."

At public information meetings conducted by the NDEQ and the NDHHS on August 19 and 21, 1996 the state released information that called for the issuance of a Draft Safety Evaluation Report (DSER) and a Draft Environmental Impact Assessment (DEIA) in October 1997. Nebraska provided this same information along with other materials at the Commission's special meeting on August 27, 1996 but did not directly participate in the meeting.

At the meeting in September 1996 the Commissioners approved a motion that established a time frame between December 14, 1996 and January 14, 1997 as the scheduled date for receipt of the DSER and DEIA and a draft license decision from the LLRW Program. They also approved a motion that there be a single consolidated comprehensive public comment period and public hearing process on the draft documents and draft license decision.

On November 27, 1996 the State of Nebraska filed suit against the Commission alleging that it was aggrieved by the Commission's two motions.

In October 1997 the State released their Draft Safety Evaluation Report and the Draft Environmental Impact Analysis. Of the 152 evaluation areas, the reviewers found US Ecology's

application and technical materials acceptable in 123 cases and unacceptable in only 29 instances. In the area of safety assessment, the state conducted their own Independent Performance Assessment for which the results indicated annual doses less than the regulatory limits. The state additionally indicated in the draft evaluation documents that the proposed facility would result in impacts to several environmental resources. However, the state's draft environmental impact analysis indicated all potential adverse environmental impacts can be mitigated except for sociocultural impacts. The draft documents indicated that these impacts are expected to decline during the period of facility operation, assuming the facility operates without radiological accidents. The draft license decision was not released with the draft evaluation documents.

The release of the draft evaluation documents started the 90-day public comment period ending with a public hearing on the evaluation documents. The public hearings were held in early February 1998 in Naper, Nebraska and in Butte, Nebraska (the host community).

The interested public and the Commission's developer participated in the public comment period and the public hearing. US Ecology said the state's finding of 29 unacceptable areas provided

clear guidance for future US Ecology work on fully resolving all regulatory concerns for the successful licensing of the llrw disposal facility. The 123 acceptable findings were also reviewed by US Ecology to confirm their technical sufficiency. US Ecology continued to conduct environmental sampling and monitoring in anticipation of the release of the state reviewer's responses to the public comments they received and materials and testimony received during the February public hearing.

On August 6, 1998 Nebraska regulators announced in a press conference their "Intent to Deny" US Ecology's license application to construct, operate, and close a LLRW disposal facility in Butte, Nebraska. Public hearings were again held in Naper and Butte Nebraska in November 1998.

On December 21, 1998 NDEQ and NDHHS regulators denied US Ecology's license application. The decision to deny the application cited six objections. All environmental monitoring activities at the Butte, Nebraska site ceased as of December 31, 1998.

After the issuance of the denial decision, three major waste generators of the Region filed a lawsuit against the State, its agents and the Commission, claiming injury due to the 'bad

faith' review by the State's regulators.

At the Commission's Mid-Year meeting, held in January 1999, various actions were taken in response to the denial decision by Nebraska regulators. Those actions included the initiation of cost-cutting measures and instruction to Commission's legal counsel and US Ecology to request a contested case hearing challenging the licensing decision. US Ecology filed petitions with the regulatory agencies and the Commission filed to intervene in the requested contested case hearings. Also in January 1999 the Commission realigned itself as a plaintiff in the 'bad faith' claims made by the major generators against the State.

US Ecology's Lincoln and Butte, Nebraska offices were closed March 31, 1999.

In April 1999, in U.S. District Court, Judge Richard Kopf granted a preliminary injunction barring Nebraska from spending any additional money paid by waste generators in the Central Interstate Compact Region on license review activities and halted the contested case proceedings.

In May 1999 Nebraska's legislature passed LB 530. The governor signed the Bill withdrawing Nebraska from the Central Interstate Compact effective August 27, 1999.

Rule 23 of the Central Interstate LLRW Compact Commission addresses the withdrawal of a compact member state and to comply with Rule 23, the Commission convened a special meeting on September 22, 1999 to provide the state the opportunity to explain its withdrawal. The State of Nebraska's presentation included Legislative Bill 530 and the notice of withdrawal. A motion was made during the meeting requesting documents from the State of Nebraska for the Commission's use in determining if Nebraska acted in good faith as a compact member state and as the compact host state. The request stipulated a 120-day deadline. The meeting was recessed to continue at a future date to be determined by the Chair.

Outside legal counsel reported at the 2001 Annual Meeting of the Commission on the Rule 23 proceedings. The report indicated that a review of over 500 boxes had been completed and that a "privilege log" had not yet been provided. The State's attorney indicated that a privilege log had been provided for the Federal litigation and a separate log would not be provided for the Rule 23 proceedings.

In June 2001 the State of Nebraska began its review of the Commission's central file and identified over 100,000 pages to be provided in the Federal litigation discovery efforts.

The Eighth Circuit Court of Appeals upheld the US District Court's decision not to dismiss the litigation on Nebraska's claim of sovereign immunity.

The major generators' civil rights claims were barred by sovereign immunity by the Court but were allowed to remain in the litigation as a third party complaint against the Commission.

The trial began June 3, 2002 and continued for approximately eight weeks. The Commission received a favorable decision in the 'bad faith' lawsuit on September 30, 2002 and was awarded the sum of \$151,408,240.37 plus post-judgment interest. It did not, however, grant Commission's request of an appointment of a special master for an independent review of the license application.

In October 2002 the Commission held a meeting at which it voted to formally ask the State of Nebraska to voluntarily agree to cede its Agreement State Status to the Nuclear Regulatory Commission with respect to the licensing and regulation of a low-level radioactive waste disposal facility that may be located within the state. Nebraska refused the request and at the January 2003 meeting of the Commissioners a resolution was adopted to notify the U. S.

Nuclear Regulatory Commission and the State of Nebraska of the Commission's intent to seek by petition revocation of that portion of the Nebraska's Agreement State Status. The resolution also advised that no formal procedure to revoke be initiated until after the completion of the Federal litigation.

The Commissioners reconvened the Rule 23 Proceeding that began in 1999 upon receipt of Nebraska's decision to withdraw from the Compact at the January 2003 meeting. Nebraska was given a 60-day period to submit evidence of 'good faith' that the Commissioners formally received at the April 10, 2003 meeting. Deliberation took place in open session at the June 25, 2003, Annual Meeting. The Commission listed 13 particulars and voted 4-1 to revoke Nebraska's membership and to impose sanctions with an effective date of one year from notification. The State received official notification on July 17, 2003 and on August 22, 2003, Nebraska filed a complaint in U.S. District Court contesting the Commission's actions.

In October 2002, the State of Nebraska appealed the Court's decision on the 'bad-faith' litigation. The Eighth Circuit Court of Appeals heard oral arguments in June 2003 and affirmed the lower court decision in February 2004. Nebraska filed a petition for rehearing en banc in March and on April 22,

2004 the Eighth Circuit Court of Appeals denied the state's petition. On July 16, 2004, Nebraska filed a Petition for Writ of Certiorari with the U. S. Supreme Court.

Boyd County Board members amended local zoning regulations to require the issuance of a conditional-use permit before construction of a llrw disposal facility could begin. The Boards original purpose was to amend the zoning regulations in such a way that would have prohibited the disposal of radioactive materials and hazardous waste within the county.

Nebraska's Governor signed into law a Bill that reduced the interest rate that the state pays on judgments from 10 percent to a flexible rate that changes with the U.S. Treasury note yield. The Commission had asked the Court to lift the stay of the \$151 million judgment, claiming that Nebraska had passed the law in response to the judgment "to weaken the statutory means of promptly enforcing judgments against the state." Judge Kopf denied the Commission's request.

The Commissioners declined the proposed settlement offer made by the state at its June 8, 2004 meeting and indicated a counter-proposal would be forth coming. The Commission held two additional meetings to consider the terms of agreement and accepted (3-1 vote with Kansas voting no) the revised offer at the August 9, 2004 meeting with

Nebraska agreeing to pay the Commission \$140.5 million in principal over a 4 year period. The agreement also stipulated that all pending litigation and claims would be ended amicably, and for a period of nine months a cooperative effort would be made to access disposal outside the region for waste generated within the compact boundaries.

At the Commission's January 12, 2005 meeting, the Commissioners formed three committees for the purpose of looking at options for the holding and/or investing of some or all of the settlement funds; to review claims against the funds; and the continuing negotiations for disposal access.

Project Status Update

At a two-day meeting in July 2005, the Commission held discussion on the future role and alternatives of the compact. Resolutions were adopted that ceased siting activity, suspended talks with Texas, the monitoring of generators' needs, the distribution of all but \$15 million of the settlement funds and the disposition of the land in Boyd County.

The Executive Consultant reported at the February, 2006 meeting that the nation's disposal availability for Class A waste was sufficient for the foreseeable future, however

disposal options for Class B & C waste would end in 2008 with the closing of the Barnwell facility.

The Consultant recommended that the Commission remain intact and offered a Revised Operating Plan of which the Commission adopted as a guidance document.

Instructions were given to offer the Boyd County land to the Village of Butte and to distribute an additional \$10 million to the major generators.

Instructions were given to Legal Counsel, in May 2006, to defend against the litigation brought by the major generators regarding the remaining \$5 million still in the Commission's possession.



Significant Events Recap

Commission Meetings

- Special Meeting July 14-15, 2005

A special two-day meeting was held in Little Rock, Arkansas on July 14 and 15, 2005. The Commission came together to discuss the future role of the Commission and to review claims against the settlement funds.

The Chair acknowledged that the compact landscape had changed and felt a thorough and thoughtful approach was necessary in making decisions on the future of the compact. She went on to state, as the Commissioner for Arkansas, that the compact system, flawed as it was, still provided some protection.

Kansas stated that the general acceptance in Kansas was to idle the compact down to a minimal level of activity until such time as federal legislation abolishes the compact system or the compact is needed again.

Oklahoma indicated that her state's perception was different due to the lack of a nuclear utility but that the compact still served a purpose.

Louisiana stated that his state showed no interest in initiating the development of another site or abandoning the compact. He expressed concern for the smaller generators that are more focused on providing services or products than they are concerned with long-term storage of LLRW.

Entergy's attorney spoke for the generators and addressed the perceived failure of the compact and the system. He indicated that the only failure was in the siting of the Nebraska facility. Radioactive waste is a constant for the major generators and they continue to be responsible

for the disposal of their waste. They do not see that abandoning the compact or the system as a good idea. The compact provides a framework should disposal availability become a problem. He indicated that the major generators could endorse a "standby" approach, where a system is in place should a problem with disposal develop.

US Ecology's representative addressed the protection the compact system offers and expressed his opinion that Congress would probably not proactively abolish the LLRW Policy Act because there is no crisis at present.

The representative from the Southeast Compact spoke to the role of the compact and its future. She indicated that although the language of the compacts is different, the overall mission is the same—to provide continuous access to reliable waste management services for the purpose of protecting public health and safety as well as the environment of the region.

The Commissioners continued their discussion on the future role of the Commission that resulted in requesting that the Executive Consultant draft resolutions that would reflect the Commissioners' positions.

Resolution I (*Siting*)

The Commission, having received and considered information regarding the availability and adequacy of options for the processing, storage and disposal of LLRW, has determined that no need currently exists for the siting, construction and operation of a disposal facility in the Compact region.

Therefore, it is hereby Resolved that no currently available or anticipated funds shall be utilized in the siting of a disposal facility within the region, but that the Commission will defer active efforts to site a disposal facility until such time as it determines that the needs of the LLRW generators in the region and the public interest justify pursuit of such a facility.

Resolution II (*monitoring, generator needs, business plan*)

It is hereby Resolved that the Commission shall take all appropriate and necessary steps to ensure that its activities are organized, staffed and financed at a level which will provide optimal efficient use of resources while providing for (a) ongoing monitoring of developments in the national and regional LLRW generation and disposal fields; (b) an annual review of the activities of the Compact to assure that the needs of generators and the public are met; and (c) the establishment and annual review of a business

plan for the activities and services of the Compact.

Resolution III died for the lack of a second. The Resolution addressed negotiations with Envirocare of Utah for disposal access.

**Resolution IV
(Texas talks suspended)**

The Commission, having now determined that options for the processing, storage and disposal of LLRW are currently adequate to the needs of the region and having pursued arrangements for access to the proposed disposal facility in the State of Texas during the preceding 12 month period, it is hereby Resolved that the 10% escrow of funds from the settlement of the claims against Nebraska is deemed to be no longer required or appropriate, that it shall not be established or maintained and that active pursuit of arrangements regarding the Texas facility shall be indefinitely suspended, to be resumed only upon authorization by the Commission.

**Resolution V
(review of small generator needs)**

The Commission's Consultant is hereby directed to carry out a review of the disposal needs and practices of small generators of LLRW in the member states and to report the results of said review to the Commission not later than its January 2006 meeting.

The Chair indicated that the future role of the Commission was still

without definition and that additional information was needed. Kansas felt the Commission's office location should remain in Lincoln, Nebraska for now.

**Resolution (unnumbered)
(Community Improvement Funds Claim)**

The Commission anticipates receiving a substantial payment from the State of Nebraska on or about August 1, 2005, pursuant to the Settlement Agreement between Nebraska and the Commission. Assuming timely receipt of such payment the Commission Resolves to pay to the States of Arkansas, Kansas, Louisiana and Oklahoma the total sum of \$4,223,058.70 to be divided equally among them in resolution of the claim held by those States relating to their payments of Community Improvement funds. The Commission has been instructed by Louisiana that its share of the total sum should be paid to Entergy Louisiana, Inc. The Commission has been instructed by Kansas that its share of the total sum should be paid as follows: 60% to Wolf Creek Nuclear Operating Company; 30% to the State of Kansas; and 10% to Coleman Corp., now known as Jarden Corp. The specific distributions per this resolution will be:

Arkansas	\$1,055,764.66
Oklahoma	\$1,055,764.66
Entergy Louisiana, Inc.	\$1,055,764.66
Wolf Creek Nuclear Operating Co.	\$ 633,458.79
Kansas	\$ 316,729.40
Jarden Corp	\$ 105,567.47

**Resolution (unnumbered)
(US Ecology Claim)**

The Commission anticipates receiving a substantial payment from the State of Nebraska on or about August 1, 2005, pursuant to the Settlement Agreement between Nebraska and the Commission. Assuming timely receipt of such payment, the Commission Resolves to pay to US Ecology, Inc. the total sum of \$11,804,739.16 in resolution of the claim submitted by US Ecology, Inc. This resolution also incorporates the terms set out in the letter from Steve Romano to Laura Gilson dated July 8, 2005, except that the Commission reserves the right to direct US Ecology to dispose of or otherwise deal with the real property owned by US Ecology near Butte, Nebraska in a manner different from that set out in said letter.

There was much discussion between the Commissioners, Major Generators, Outside Legal Counsel, and the Executive Consultant regarding the amount of settlement funds to be returned to the Major Generators. The Major Generator representative expressed concern over the withholding of interest by the Commission for the purpose of possible future claims or future mission. He proposed that the Commission remain in control of \$4 million for such purposes. The Chair responded that future claims may be relevant but in a larger scope disposal opportunity and statutory obligation with respect to the compact deserved more emphasis and that the Commission needed time to look

at options. The Commission decided to pay back the Major Generators principal investment amounts and all interests with a hold back of \$15 million with a decision to be made at the January 2006 meeting thus giving the Executive Consultant time to advise the Commission.

**Resolution (unnumbered)
(Major Generator Claims)**

The Commission anticipates receiving a substantial payment from the State of Nebraska on or about August 1, 2005, pursuant to the Settlement Agreement between Nebraska and the Commission. The Commission acknowledges receipt of a joint claim submitted by the Major Generators. The Commission has previously resolved to investigate, study and consider its future role and obligations, and has tasked its consultant to initiate such investigation and report to it concerning the same. The Commission Resolves to withhold, for the time being, the sum of \$15,000,000.00 from the amount the Major Generators claim to be owed by the Commission, until such investigation and report is completed, and it can be determined whether or not it has any need for the retention of the substantial funds. The Commission Resolves that it is presently making no final decision regarding disposition of the \$15,000,000.00 it is retaining pursuant to this resolution. Assuming timely receipt of the anticipated payment by Nebraska, the Commission Resolves to pay to the Major Generators at this time the total sum of \$114,745,716.10 on their claim, and reserves final decision on

payment of the \$15,000,000.00 retained by it. The total sum to be paid pursuant to this resolution shall be divided among the Major Generator claimants as follows:

Entergy Arkansas (20.57%)	\$23,603,193.80
Entergy Gulf States (17.30%)	\$19,851,008.88
Entergy Louisiana (16.07%)	\$18,439,636.58
Nebraska Public Power District (16.07%)	\$18,428,162.01
Omaha Public Power District (13.48%)	\$15,467,722.53
Wolf Creek Nuclear Operating Company (16.52%)	\$18,955,992.30

Budgetary changes were made to remove the Butte Site Maintenance line item and to include provisions for the Executive Consultant.

- Special Telephone Meeting July 20, 2005

A special meeting via telephone was called to take action on three federal export application, eight non-federal export applications and four utility export applications. All submitted applications to export llrw were approved for fiscal year 2005-2006.

- Special Telephone Meeting October 28, 2005

The Commission came together in a special telephone meeting. The meeting was called to take action on the

Boyd County property and export applications.

The Executive Consultant indicated that there were two alternatives regarding the disposition of the Boyd County property. One alternative was to offer the property to sale on the open market and the second alternative was to donate it to the Village of Butte.

Louisiana expressed concern that the donation of the property might constitute acknowledgment of a claim against the settlement funds. Kansas voiced concern with respect to the Commission making a gift of some undetermined value and asked for an appraisal. He was also concerned that the gift was not tied to the settlement of a claim and would not help to avoid any future claims that might come from the Village.

The Commission asked the Executive Consultant to obtain a valid appraisal of the property.

Five non-federal export applications were also on the agenda. The Commissioners approved them all.

- Mid-Year Meeting February 24, 2006

The Mid-Year Meeting of the Commission was held in Little Rock, Arkansas. The purpose of the meeting was to take action on routine business matters as well as the disposition of the

settlement funds and the property in Boyd County. The Executive Consultant was hired by the Commission to study where the Commission was, options for the future, and the management possibilities of the waste generated within the region. The Consultant reported that the nation's disposal availability for Class A waste was in good shape for the foreseeable future and disposal options for Class B & C would end on June 30, 2008 with the closing of the Barnwell facility. He indicated that a license decision on the Texas facility was not expected before September 2007. He also reported on a survey of the smaller generators needs and agreed with the Commission's decision to not site a facility at this time.

The Consultant recommended that the Commission maintain its current structure and to not disband, and should the Commission decide to go to a minimal level of operations development of a revised operating plan and administrative changes were recommended. He also recommended that the Commission retain sufficient funds from the settlement to operate without limitations and restrictions imposed by law or third parties.

The Commissioners adopted the revised operating plan presented by the Consultant as a guidance document with the deletion of items four and six.

The Louisiana Commissioner offered a motion to instruct US Ecology, the legal title holder of the property in Boyd County, to transfer the title of the property to the Village upon the release of all current and future claims the Village might have against US Ecology or the Commission. The motion was adopted by the Commission with Kansas as an opposing vote.

With the adoption of the Executive Consultant's revised operating plan, the Chair characterized the Commission's activities to be in a 'ramp down' state and expressed the continued need to remain cautious and thoughtful in decision making. The Chair also recommended retaining a portion of the remaining settlement funds and to review their retention annually. Louisiana agreed with the Chair and added that the obligations of the Compact remain as long as the Low-Level Waste Policy Act is in effect.

The Commissioners voted to return approximately \$10 million of the remaining settlement funds to the Major Generators.

Seven non-federal export applications and one federal export application were approved.

The Chair announced that Mr. Henry was retiring and that this was his last meeting with the Commission. She introduced the new Commissioner from Louisiana, Thomas Bickham.

- Emergency Teleconference Meeting May 11, 2006

An Emergency Teleconference was called due to the filing of litigation against the Commission by the Major Generators concerning the remaining \$5 million of the settlement funds retained by the Commission. The Major Generators characterized the money as attributable to their pre-payments and asked the Court to impose a trust on the money.

The Commission voted to authorize Outside Legal Counsel to file all necessary responsive pleadings, to assert all available and appropriate defenses, and to proceed with the defense of the case under supervision of the Chair and/or Litigation Committee.

- Annual Meeting June 21, 2006

The Annual Meeting of the Central Interstate LLRW Commission was held in Overland Park, Kansas. The Commissioners came together to take action on routine administrative business, commissioner expenses, meeting requirements, restrictions on retained

settlement funds, deferred sitting, and office logistics.

The administrator reported that the \$10 million had been dispersed to the Major Generators.

Commission's outside legal counsel updated the Commissioners on the disposition of the Boyd County property. He stated that the Village of Butte had accepted the Commission's offer to give them the land and released all claims against the Commission. He also reported that it had been the Major Generators' funds that had purchased the land and communication with them had produced no objections. Counsel also updated the Commission on the litigation.

One federal export application was approved.

The Chair stated that discussions and actions had taken place at previous meetings regarding the future direction of the Commission and the prepared Resolution formalized those issues. The Commission adopted the 'Restatement of deferred pursuit of development of a disposal facility' Resolution as follows:

WHEREAS the Central Interstate Compact Commission (the "Commission") has the continuing statutory obligation and authority pursuant to Federal law to manage the disposal of

low-level radioactive waste generated within the compact member states; and

WHEREAS in furtherance of such obligation the Commission pursued in good faith the licensing of a disposal facility for its low-level radioactive waste to be sited in its member-state Nebraska. Ultimately the license application was denied and questions surrounding the application were addressed through federal litigation. The Commission prevailed in the lawsuit and was awarded the costs associated with its lengthy effort to obtain a license, as well as the pre and post judgment interest on those costs; and

WHEREAS member-state Nebraska has withdrawn from the Central Interstate Compact, leaving four (4) remaining member-states respectively Arkansas, Kansas, Louisiana and Oklahoma (hereafter the "Compact Region"); and

WHEREAS the Commission has reviewed its responsibilities, obligations and alternatives under the Compact, consulted with and surveyed both the major generators of low-level wastes within the Compact Region as well as the small generators, and has determined that:

- 1) *The total volume of low-level wastes generated in the Compact Region has significantly decreased due to the completion of decommissioning activities, various compaction techniques and a reduction in use of radioactive procedures,*
- 2) *Availability of commercial low-level radioactive waste disposal sites throughout the United States is a reasonable alternative to siting an in-Compact disposal facility at this time. Specifically, disposal sites for the Compact Region's Class A wastes appear available in the current market for the next 15-20 years or more. A disposal site outside the Compact Region for Class B and C wastes remains available until at least June 30, 2008,**
- 3) *A recent General Accounting Office's report (June 2004—GAO-04-604) determined that most generators can store small volumes of Class B and C waste on site without imposing health or safety risks,*
- 4) *The federal government is currently reviewing the Low-Level Radioactive Waste Policy Act of 1985, as amended and such review could alter the current obligations of the Commission,*
- 5) *The Compact Region's generators currently do not support the renewal of*

licensing activity by the Compact for the reasons stated above; and

WHEAREAS the Commission will continue to meet its statutory obligations to manage the Compact's waste, will remain alert to opportunities and alternatives for management of its waste, and will maintain its readiness to respond to the needs of the generators of low-level radioactive waste within the Compact.

THEREFORE, IT IS HEREBY RESOLVED that the Commission will defer active efforts to site, develop or operate a disposal facility within the Compact Region until such time as it determines that the needs of the low-level radioactive waste generators in the Compact Region and the public's interest, health and safety justify pursuit of such a facility.

The agenda item relating to the restrictions of the retained settlement funds was tabled due to ongoing litigation.

The motion was adopted regarding the Commission's By-Laws, Article IV (E) (1), amendment relating to the number of meetings to be held. The number of meetings required was reduced to one a year.

No action was taken on the commissioners' expenses or the location of the Commission's office.

Developer-US Ecology

The Commissioners voted to approve funding for US Ecology for fiscal year 2005-2006 to continue site maintenance, and to provide information and support, to maintain project documents and materials, and remain available for any new issues that may arise during the year.

US Ecology reported activities to the Commission at the June 2005 Annual Meeting that included annual inspection of stored geological core samples from the site and maintenance of the chain of custody records, and maintenance of the site to stay in compliance with the State of Nebraska requirements.

At the February 24, 2006 meeting, the Commission approved a plan to offer the Butte site to the Village of Butte and gave US Ecology and legal counsel instructions to prepare the appropriate offer.

The Village of Butte accepted the offer and the land transfer was completed in April 2006.

Waste Report

This year's Waste Survey was included in the Commission's mailing of the 2005-2006 export applications. The survey was also made available to those generators using the Commission's web site.

Twenty-eight (28) shippers responded to the survey. Respondents included 6 medical facilities, 8 higher education facilities, 1 utility, 4 industrial facilities and 9 research/other facilities.

The two commercial disposal facilities available are the Barnwell, South Carolina, disposal facility and Energy *Solutions* in Clive, Utah.

When asked how long they could store waste if they were unable to ship for disposal the respondents' replies ranged from 90 days to indefinitely, however, they hoped that this would not be required.

The approximate costs associated with storing their waste ranges from \$1,000 to \$60,000 depending on the length of storage.

Annual costs for low-level radioactive waste management that includes minimization technology and on-site storage were reported as low as \$2,000 per year to as high as \$1,000,000 per year.

Three respondents indicated recent capital costs incurred or planned for the management of LLRW. Additional storage space is planned for one utility.

Two higher education facilities indicated that modifications to operations have been made because of LLRW disposal / management problems.

A sample of concerns expressed by the Region's generators are as follows:

- Availability – Class B & C Waste disposal options
- Any restriction and limitation that would require storage, additional costs, and the promotion of dilute and disperse over concentration and contain; the latter is a more suitable method of disposal. The former falls short of an ideal waste disposal option
- The high cost of disposal of carbon-14 and tritium

wastes. Where and when will disposal of llrw within the Compact be available and at what cost?

- We are concerned about a site existing whenever we need to dispose of waste.
- Access to disposal sites at a reasonable cost.

Disposal Information

The Manifest Information Management System (MIMS) is a database, developed in 1986 by DOE to be used to monitor the management of commercial low-level radioactive waste.

(<http://mims.apps.em.doe.gov>)

GAO raised concerns (GAO-04-604) regarding the usefulness and reliability of the MIMS data in 2004. Inaccuracies were identified and resolved in December 2004.

The Commission approved 30 export applications for this reporting period: 6 from Arkansas, 13 from Kansas, 10 from Louisiana, and 1 from Oklahoma

The generators used both Barnwell, S.C. facility and the Envirocare of Utah facility during this reporting period.

Disposal Site	Year Received	Generator Class	Total Volume (ft3)	Total Activity (curies)	Class A Volume (ft3)	Class A Activity (curies)	Class B Volume (ft3)	Class B Activity (curies)	Class C Volume (ft3)	Class C Activity (curies)	Brokered Volume (ft3)
Barnwell	2005	Academic	5.18	0.19	0.00	0.00	0.00	0.00	5.18	0.19	0.00
Barnwell	2005	Industry	68.80	80.88	0.00	0.00	0.00	0.00	68.80	80.88	0.00
Barnwell	2005	Medical	1.00	0.13	0.00	0.00	0.00	0.00	1.00	0.13	0.00
Barnwell	2005	Utility	316.80	1,414.08	259.79	168.06	15.50	781.97	41.51	464.04	0.00
Barnwell	2006	Academic	0.30	0.00	0.00	0.00	0.00	0.00	0.30	0.00	0.00
Barnwell	2006	Government	2.30	2.01	0.00	0.00	0.00	0.00	2.30	2.01	0.00
Barnwell	2006	Industry	36.70	77.96	0.00	0.00	0.00	0.00	36.70	77.96	0.00
Barnwell	2006	Utility	471.82	1,256.10	140.94	53.53	234.76	677.85	96.12	524.72	0.00
Clive	2005	Academic	1,402.55	0.02	1,402.55	0.02					0.00
Clive	2005	Industry	3,828.41	6.56	3,828.41	6.56					0.00
Clive	2006	Industry	7,821.79	12.96	7,821.79	12.96					0.00
Clive	2006	Undefined	114.87	23.43	114.87	23.43					0.00
Total:			14,070.52	2,874.31	13,568.35	264.57	250.26	1,459.82	251.91	1,149.92	0.00

Summary of Litigation

During the Commission's existence, it has been in litigation many times, and has been successful in defending its legal position. Most recent and current litigation is summarized below. Visit our web site (www.cillrwcc.org) for details of past litigation.

ENTERGY ARKANSAS, INC., ET AL. V. NEBRASKA **United States District Court for the District of Nebraska** **(Case No. 4:98-cv-3411)**

In December, 1998, several of the region's major generators filed a lawsuit in federal court which alleged that the State of Nebraska had processed and ultimately denied US Ecology's license application in bad faith, and that such actions violated the Compact. The Commission was originally named a defendant in the suit. At its January, 1999, meeting, the Commission authorized its outside counsel to ask the court to realign it as a plaintiff in the lawsuit and to join in the claims originally made by the major generators as well as elaborate on claims of the CIC based squarely on specific Compact obligations. The court granted that motion.

Over the next several years, the parties engaged in a lengthy and complicated discovery process. Nebraska also took two appeals to the Eighth Circuit of Appeals. The first such appeal challenged the district court's entry of a preliminary injunction which stayed state administrative proceedings relating to the license application denial, and prohibited Nebraska from charging the Commission any additional money for licensing work or litigation. The second appeal challenged the district court's decision to deny the State's motion to dismiss the Commission's claims. Both appeals were rejected by the Eighth Circuit.

The case was tried to the court without a jury, over Nebraska's protest. Commencing on June 3, 2002, and concluding on July 30, 2002, the parties presented extensive evidence to Judge Kopf. Approximately 30 witnesses testified and about 2,000 exhibits (totaling nearly 100,000 pages in length) were received in evidence. On September 30, 2002, following briefing and oral argument, Judge Kopf entered judgment in favor of the Commission. The court's decision awarded total damages to the Commission in the amount of \$151,408,240.37, plus post-judgment interest at 1.68% until paid. The major generators' claims against the Commission, which sought to impose some form of trust on the Commission's receipt of the judgment funds, were rejected by the court.

Nebraska appealed the monetary judgment to the Eighth Circuit Court of Appeals. Oral argument was held before a panel of the Eighth Circuit on June 12, 2003. On February 18, 2004, the Eighth Circuit Court of Appeals affirmed the district court's decision. Thereafter, Nebraska sought rehearing by the entire Eighth Circuit, which request was denied on a vote of 6-3. Nebraska then filed a petition for certiorari requesting the United States Supreme Court to review the Eighth Circuit's decision.

While the State's certiorari petition was pending, Nebraska and the CIC entered settlement negotiations. Following those lengthy negotiations, the State of Nebraska and the Commission entered into a

settlement which resolved all of the various disputes remaining between them. The terms of the settlement are discussed in more detail later.

NEBRASKA V. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMMISSION
United States District Court for the District of Nebraska
(Case No. 4:03-cv-3308)

On August 30, 1999, the State of Nebraska, through its Governor, notified the Commission that it was formally withdrawing from the Compact. Under the terms of Compact Article VII(d), that withdrawal was to take effect five years thereafter, or on August 30, 2004. Shortly after receiving Nebraska's withdrawal notice, the Commission instituted proceedings pursuant to its Rule 23 which provides an administrative process to determine remaining obligations of party states which seek to withdraw from the Compact. The Commission's Rule 23 proceedings were effectively put on hold pending the outcome of the federal lawsuit alleging that Nebraska had processed and denied the license application in bad faith. Following the court's decision in that litigation, the Commission revived its Rule 23 administrative proceeding. On June 25, 2003, following a hearing before the Commission, the Commission adopted two resolutions revoking the State of Nebraska's membership in the Compact and imposing sanctions. On August 22, 2003, Nebraska filed a lawsuit in the United States District Court alleging that the Commission's actions in revoking Nebraska's membership in the Compact were invalid for several reasons.

Over the next nine months, the parties conducted discovery relating to the legal issues raised by litigation. This lawsuit was ultimately resolved by the global settlement entered into by the Commission and the State of Nebraska, which is discussed in more detail below.

CIC AND NEBRASKA SETTLE THEIR REMAINING DISPUTES

In the spring of 2004, Nebraska's Attorney General approached the Commission's legal counsel with a request that the parties attempt to settle the various legal disputes still remaining. The parties negotiated over the next several months. Effective August 1, 2004, Nebraska and the CIC entered into a comprehensive settlement agreement which is intended to resolve all disputes remaining between them.

The settlement agreement provides that Nebraska will pay to the Commission \$140,541,076.79 in four equal annual installments commencing on August 1, 2005. The unpaid balance bears interest at the rate of 3.75% starting August 1, 2004. There is no prepayment penalty, so Nebraska may pay the principal amount early and save some interest expense. Nebraska and CIC have made a joint offer to Texas for access to the disposal facility proposed for the Texas Compact; if Nebraska and CIC strike a deal with Texas within certain agreed parameters, the principal amount of the settlement is reduced to \$130 million.

The settlement agreement further provides that Nebraska and CIC agree to cooperate for a period of at least nine months in an effort to find a disposal capacity for waste generated within the CIC region and Nebraska. Nebraska has agreed to dismiss all remaining litigation, including withdrawing its cert petition in the "bad faith" litigation. Upon Nebraska making all payments required by the agreement, CIC agrees to release Nebraska from all obligations under the Compact, including the obligation to be the region's first host state. If Nebraska's Legislature fails to appropriate the money for the agreed payments or if for

any other reason Nebraska does not make the payments on time, then the Commission would have various available collection remedies as stated in the agreement, and Nebraska would again be subject to its host state obligation.

**ENTERGY ARKANSAS, INC., ET AL. V. CENTRAL INTERSTATE
LOW-LEVEL RADIOACTIVE WASTE COMMISSION
United States District Court for the District of Nebraska
(Case No. 4:06-cv-3101)**

On April 25, 2006, the major generators sued the Commission, contending that they were entitled to the \$5 million the Commission had retained from the settlement proceeds for its own use. The major generators asked the Court to impose a trust on the \$5 million held by the Commission.

Export Applications for FY05-06 can now be accessed through the
Commission's Web Page @ www.cillrwcc.org

Information and Education

The Commission maintains a mailing list of individuals and organizations interested in Commission activities. Commission meetings are open to the public and meeting announcements, materials, Annual Reports are distributed to interested persons and groups. The Commission's office responds to various requests for information that are received.

Items contained on the Commission's web page are newsletter articles, Annual Reports, minutes of Commission meetings, notices of meetings, legal summaries and other appropriate information. The web site may be accessed at <http://www.cillrwcc.org>.

STATUS OF COMMISSION FUNDS

as of June 30, 2006

Rebate Funds

\$829,461^{Principal}

Rebate funds can only be spent to:

1. establish low-level radioactive waste disposal facilities;
2. mitigate the impact of low-level radioactive waste disposal facilities on host state;
3. regulate low-level radioactive waste disposal facilities; or
4. ensure the decommissioning, closure, and care during the period of institutional control of low-level radioactive waste disposal facilities.

Settlement Funds

\$5,000,000.00

Effective August 1, 2004, Nebraska and the CIC entered into a comprehensive settlement agreement. Nebraska paid the Commission \$145,811,366.17 on August 1, 2005. The Commission paid on claims received from major generators, member states and the developer.

Commission Cash Expenitures for Fiscal Year 2005-2006 and Budget for Fiscal Year 2006-2007

Expense	FY03-04	FY04-05	FY05-06 Budget	FY05-06 Actual	FY06-07 Budget
Salaries & Benefits	63,429	73,405	93,125	74,159	82,250
Rent	28,092	28,464	30,000	18,550	16,000
Telephone	4,887	4,707	6,000	3,791	4,500
Postage	743	701	1,500	83	750
Copy & Printing	287	374	500	0	1000
Machine Lease & Maintenance	2,060	1,583	4,000	1,647	2,000
Meeting Transcriptions	1,816	2,716	4,000	2,585	2,000
Dues & Subscriptions	8,842	8,787	9,000	8,762	9,000
Office Equipment & Supplies	4,486	2,164	5,000	2,020	5,000
Travel & Meeting Expense	4,436	14,060	15,000	11,997	10,000
Insurance	3,660	3,833	4,000	3,945	4,000
Accounting	20,200	24,400	25,000	22,000	16,600
Legal Fees	147,759	197,906	100,000	54,498	900,000
Miscellaneous	60	137	500	0	500
Cash Reserve / Recover Shortfall	0	0	0	0	0
Butte Site/USE/Exec Consult(05-06)	33,706	57,404	74,174	20,739	0
Total	324,463	420,441	371,799	224,775	243,600

**CENTRAL INTERSTATE LOW-LEVEL
RADIOACTIVE WASTE COMMISSION**

Financial Statements

June 30, 2006 and 2005

(With Independent Auditors' Reports Thereon)

Independent Auditors' Report

The Commissioners
Central Interstate Low-Level
Radioactive Waste Commission:

We have audited the accompanying statements of net assets of the Central Interstate Low-Level Radioactive Waste Commission (the Commission) as of June 30, 2006 and 2005, and the related statements of revenues, expenses, and changes in net assets and cash flows for the years then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Central Interstate Low-Level Radioactive Waste Commission as of June 30, 2006 and 2005, and changes in its net assets and its cash flows for the years then ended in conformity with U.S. generally accepted accounting principles.

In accordance with *Government Auditing Standards*, we also have issued our report dated August 28, 2006 on our consideration of the Commission's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, grants, agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

The Commission has not presented Management's Discussion and Analysis that U.S. generally accepted accounting principles has determined is necessary to supplement, although not required to be part of, the basic financial statements.

/s/ KPMG LLP

Omaha, Nebraska
August 28, 2006

**CENTRAL INTERSTATE LOW-LEVEL
RADIOACTIVE WASTE COMMISSION**

Statements of Net Assets

June 30, 2006 and 2005

Assets	2006	2005
	<hr/>	<hr/>
Current assets:		
Cash and cash equivalents	\$ 638,797	715,725
Receivable from the State of Nebraska	—	37,853
Total current assets	<hr/> 638,797	<hr/> 753,578
Restricted assets:		
Rebate fund	995,255	964,265
Settlement proceeds fund	5,417,807	—
Receivable from the State of Nebraska	—	145,334,323
Total restricted assets	<hr/> 6,413,062	<hr/> 146,298,588
Capital assets	81,539	78,763
Less accumulated depreciation	79,247	76,970
Total capital assets, net	<hr/> 2,292	<hr/> 1,793
Total assets	<hr/> \$ 7,054,151	<hr/> 147,053,959
Liabilities and Net Assets		
Current liabilities:		
Accounts payable	\$ 8,620	39,823
Accrued expenses	14,360	14,770
Litigation settlement payable	—	130,773,514
Total liabilities	<hr/> 22,980	<hr/> 130,828,107
Net assets:		
Invested in capital assets	2,292	1,793
Restricted	6,413,062	15,525,074
Unrestricted	615,817	698,985
Total net assets	<hr/> 7,031,171	<hr/> 16,225,852
Total liabilities and net assets	<hr/> \$ 7,054,151	<hr/> 147,053,959

See accompanying notes to financial statements.

**CENTRAL INTERSTATE LOW-LEVEL
RADIOACTIVE WASTE COMMISSION**

Statements of Revenues, Expenses, and Changes in Net Assets

Years ended June 30, 2006 and 2005

	2006	2005
Operating revenues:		
Commission member fees	\$ 100,000	100,000
Export application fees	20,100	498,375
Total operating revenues	120,100	598,375
Operating expenses:		
Salaries and benefits	74,138	73,405
Professional services	99,821	130,263
Office and administrative	20,248	22,149
Rent	18,550	28,464
Travel	12,008	14,059
Depreciation	1,922	2,470
U.S. Ecology site maintenance	—	18,532
U.S. Ecology consulting	—	39,009
Total operating expenses	226,687	328,351
Total operating income	(106,587)	270,024
Nonoperating revenues (expenses):		
Interest income	911,906	35,472
Proceeds from litigation settlement	—	15,372,176
Distribution of litigation settlement	(10,000,000)	(130,773,514)
Total nonoperating expenses	(9,088,094)	(115,365,866)
Change in net assets	(9,194,681)	(115,095,842)
Net assets:		
Beginning of the year	16,225,852	131,321,694
End of the year	\$ 7,031,171	16,225,852

See accompanying notes to financial statements.

**CENTRAL INTERSTATE LOW-LEVEL
RADIOACTIVE WASTE COMMISSION**

Statements of Cash Flows

Years ended June 30, 2006 and 2005

	<u>2006</u>	<u>2005</u>
Cash flows from operating activities:		
Receipts from customers	\$ 120,100	598,375
Payments to employees	(74,138)	(73,405)
Other payments	(182,240)	(337,005)
Net cash provided by (used in) operating activities	<u>(136,278)</u>	<u>187,965</u>
Cash flows from capital and related financing activities:		
Purchases of capital assets	(2,421)	—
Net cash used in capital and related financing activities	<u>(2,421)</u>	<u>—</u>
Cash flows from investing activities:		
Interest received	911,906	35,472
Receipts from the State of Nebraska	145,372,176	—
Distribution of litigation fund	(140,773,514)	—
Net purchases of investments	(5,448,797)	(20,862)
Net cash provided by investing activities	<u>61,771</u>	<u>14,610</u>
Net increase (decrease) in cash and cash equivalents	(76,928)	202,575
Cash and cash equivalents at beginning of year	<u>715,725</u>	<u>513,150</u>
Cash and cash equivalents at end of year	<u>\$ 638,797</u>	<u>715,725</u>
Reconciliation of operating income to net cash provided by (used in) operating activities:		
Total operating income	\$ (106,587)	270,024
Adjustments to reconcile operating income to net cash provided by (used in) operating activities:		
Depreciation expense	1,922	2,470
Changes in assets and liabilities:		
Accounts payable	(31,203)	7,730
Accrued expenses	(410)	(92,259)
Net cash provided by (used in) operating activities	<u>\$ (136,278)</u>	<u>187,965</u>

See accompanying notes to financial statements.

Notes to Financial Statements

June 30, 2006 and 2005

(1) Organization

The Central Interstate Low-Level Radioactive Waste Commission (the Commission) was established in 1984 by an interstate compact among the states of Arkansas, Kansas, Louisiana, Nebraska, and Oklahoma with the consent of Congress through the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act. The purpose of the Commission is to carry out the mandate of the Central Interstate Low-Level Radioactive Waste Compact (the Compact) by providing for and encouraging the safe and economical management of low-level radioactive waste within the Compact's region.

The Commission is an instrumentality of the Compact member states and, as such, is exempt from federal and state income taxes under Section 115 of the Internal Revenue Code.

(2) Summary of Significant Accounting Policies

(a) Basis of Accounting

The accompanying financial statements are prepared on the accrual basis and reflect assets and liabilities owned by the Commission and the results of the Commission's operations.

The Commission applies all applicable Financial Accounting Standards Board Statements and Interpretations, Accounting Principles Board Opinions, and Accounting Research Bulletins, except for those that conflict with or contradict Government Accounting Standards Board (GASB) pronouncements.

(b) Revenue Recognition

Funding from Major Generators

The major generators previously provided funding for the siting, licensing, development, and construction of the facility. Revenues are recognized as earned, and expenses are recognized as incurred. The Commission did not receive funding from the major generators for the years ended June 30, 2006 and 2005.

Commission Member Fees

Commission members pay a \$25,000 annual membership fee.

Export Application Fees

Fees for approval to export waste are recorded as revenue when earned. This fee is used to cover the Commission's operating expenses.

(c) Property and Equipment

Property and equipment consists of furniture, fixtures, and equipment recorded at cost. Depreciation is calculated on a straight-line basis over the estimated useful lives of the assets of three to five years.

(d) Restricted Assets

Use of the rebate fund is restricted to payment of certain costs incurred in the establishment of

a low-level waste facility or mitigate the impact of low-level radioactive waste disposal facilities on the host state.

The composition of restricted assets in the rebate and settlement proceeds funds at June 30, 2006 and 2005 is set forth in the following table. Investments are stated at fair value.

		2006	2005
Certificates of deposit	\$	600,000	600,000
Federal investment trust accounts		5,813,062	364,265
Total restricted assets in the rebate fund	\$	6,413,062	964,265

Interest Rate Risk—Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The Commission does not have a formal investment policy that limits investment maturities as a means of managing its exposure to fair value losses arising from increasing interest rates. The federal investment trust accounts are redeemable upon demand and therefore, are not susceptible to interest rate risk. The certificates of deposit mature in less than two years.

Credit Risk—Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. GASB Statement No. 40 requires that disclosure be made as to the credit rating of all fixed income securities except obligations of the U.S. government or obligations explicitly guaranteed by the U.S. government. The Commission has no investment policy that would further limit its investment choices. All of the Commission’s restricted assets as of June 30, 2006 and 2005 are obligations of the U.S. government or obligations explicitly guaranteed by the U.S. government, except for the certificates of deposits which are not rated.

Concentration of Credit Risk—The Commission places no limit on the amount that may be invested in any one issuer.

The Commission’s investment securities are exposed to custodial credit risk if the securities are uninsured, not registered in the name of the Commission and are held by either: the counterparty, the counterparty’s trust department, or agent not in the Commission’s name. The investment risk is that, in the event of the failure of the counterparty to a transaction, the Commission will not be able to recover the sale of the investment or collateral securities that are in the possession of the outside party. As of June 30, 2006 and 2005, the Commission’s investments are uninsured, and held by the counterparty’s agent in the Commission’s name.

Included in restricted assets at June 30, 2005 are receivables from the State of Nebraska of \$145,334,323, related to a legal settlement between the Commission and the State of Nebraska (see note 5).

(e) **Cash and Cash Equivalents**

For purposes of the statements of cash flows, the Commission considers investments with a maturity of three months or less when purchased to be cash equivalents. At June 30, 2006 and 2005, the Commission had \$638,797 and \$715,725, respectively, invested in cash and short-term federal investment trust accounts backed by the full faith of the federal government.

(f) **Use of Estimates**

The preparation of the financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amount of

assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results may differ from the estimates and assumptions used in preparing the financial statements.

(3) Capital Assets

Capital asset activity for the years ended June 30, 2006 and 2005 is shown below:

		Balance at beginning of period	Increases	Decreases	Balance at end of period
2006:					
Equipment	\$	37,950	2,421	(355)	40,726
Furniture and fixtures		40,813	—	—	40,813
Accumulated depreciation		(76,970)	(1,922)	355	(79,247)
	\$	<u>1,793</u>	<u>499</u>	<u>—</u>	<u>2,292</u>
2005:					
Equipment	\$	44,795	—	6,845	37,950
Furniture and fixtures		40,813	—	—	40,813
Accumulated depreciation		(81,345)	(2,470)	(6,845)	(76,970)
	\$	<u>4,263</u>	<u>(2,470)</u>	<u>—</u>	<u>1,793</u>

(4) Legal Proceedings

In December 1998, the State of Nebraska denied U.S. Ecology’s license to build and operate the facility. In June 1999, Nebraska passed a law that would withdraw Nebraska from the Commission effective in August 1999. Nebraska would remain a member for up to five years after its notice to withdraw was submitted to the Commission. The Commission joined in a lawsuit with the major generators and U.S. Ecology against the State of Nebraska for licensing of the site or damages, or both, for a bad-faith denial by Nebraska. The case was tried commencing June 3, 2002 and ended July 31, 2002.

On August 17, 2004, the State of Nebraska and the Commission reached a settlement to resolve this lawsuit effective August 1, 2004. Under the terms of the agreement, the State of Nebraska agreed to fully pay the settlement, plus interest in the amount of \$140,541,077. Since the settlement resolved the existing contingencies regarding the Commission’s receipt of these amounts, the Commission recorded a receivable from the State of Nebraska and recognized nonoperating income in the amount of \$130,000,000 as of June 30, 2004. The difference of \$10,541,077 was related to a contingent discount available to the State of Nebraska on its final principal payment. The discount was contingent upon negotiating access to the waste disposal site in the State of Texas for waste generated by the members of the Compact and Nebraska.

On August 1, 2005, the State of Nebraska, pursuant to the settlement agreement, paid the Commission \$145,811,367. As a result, the Commission recorded an additional receivable from the State of Nebraska and recognized nonoperating income at June 30, 2005 for \$15,334,324 for the interest earned on the settlement through June 30, 2005 and for resolving the contingent discount as the State of Nebraska and the Commission failed to negotiate access to the waste disposal site in the State of Texas in the allowable timeframe as defined in the settlement agreement. Interest on the settlement agreement from July 1, 2005 through August 1, 2005 is \$439,191 and was recognized as interest income in 2006. On August 1, 2005, the Commission filed a Satisfaction of Judgment with the federal courts, and therefore, terminating all litigation between the State of Nebraska and the Commission.

The Major Generators took the position that the Commission was legally obligated to reimburse them from the settlement proceeds the portion of the settlement attributable to the money paid to the Commission for the Nebraska project, plus interest. In addition, the Commission determined that certain other parties involved with the Compact were obligated to receive a portion of the settlement proceeds. Therefore, the Commission resolved that \$130,773,514 of the settlement proceeds received on August 1, 2005 would be distributed to the Major Generators, the States of Arkansas, Kansas, Louisiana, and Oklahoma for community improvement funds, and the U.S. Ecology. As a result, the Commission recorded a litigation settlement liability and recognized a nonoperating loss at June 30, 2005 of \$130,773,514. The Commission resolved to retain the remaining \$15,000,000 of the settlement proceeds with no final decision regarding retention of the money or if the Commission has a legal obligation to distribute it. Since the future obligation of the \$15,000,000 was not known, a corresponding liability was not recorded at June 30, 2005.

During 2006, the Commission agreed to distribute \$10,000,000 of the remaining \$15,000,000 of the settlement proceeds to claims made against it by the major generators. As a result, the Commission recorded a nonoperating loss at June 30, 2006 of \$10,000,000. The Commission resolved during 2006 to retain the remaining \$5,000,000 of the settlement proceeds. However, on April 25, 2006, the major generators filed a lawsuit against the Commission to force the Commission to distribute the remaining \$5,000,000 of settlement proceeds. The Commission believes it has valid defenses against this lawsuit and cannot determine the probability of an unfavorable settlement or the estimated amount to be distributed, if any. Therefore, the Commission has not reflected a liability in connection with this lawsuit at June 30, 2006.

(5) Commitments

The Commission leases office space under an operating lease. Future minimum lease payments under this lease with an initial term in excess of one year are as follows:

Fiscal year ending:						
2007					\$	6,071

Total rent expense charged to operations was \$18,500 and \$28,464 for the years ended June 30, 2006 and 2005, respectively.

**Independent Auditors' Report on Internal Control over Financial Reporting and
on Compliance and Other Matters Based on an Audit of Financial Statements
Performed in Accordance with *Government Auditing Standards***

The Commissioners
Central Interstate Low-Level
Radioactive Waste Commission:

We have audited the financial statements of Central Interstate Low-Level Radioactive Waste Commission (the Commission) as of and for the year ended June 30, 2006, and have issued our report thereon dated August 28, 2006. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control over Financial Reporting

In planning and performing our audit, we considered the Commission's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide an opinion on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the Commission's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. The reportable condition is described as follows:

The Commission lacks appropriate segregation of duties or other mitigating controls over disbursements under \$5,000.

A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that also are considered to be material weaknesses. However, we believe that the reportable condition described above is not a material weakness.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Commission's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of the Commissioners and the Commission management and is not intended to be, and should not be, used by anyone other than these specified parties.

/s/ KPMG LLP

Omaha, Nebraska
August 28, 2006