

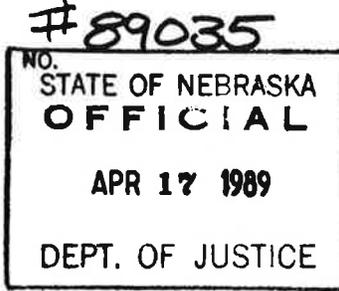
Linda Willard

DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General



TO: Dennis Grams, Director,
Nebraska Department of Environmental Control

FROM: Robert M. Spire, Attorney General
Linda L. Willard, Assistant Attorney General

RE: Low-Level Radioactive Waste Local Committees

DATE: April 13, 1989

You have posed several questions regarding representation on the low-level radioactive waste local monitoring committees established by Neb.Rev.Stat. §81-15,101.01(2) (1988 Cum.Supp.). Your questions address specifically subsections (2)(a) and (c) of the statute. These subsections read:

(2) Each local monitoring committee shall be composed of the following nine members:

(a) Two members selected from municipalities which have zoning jurisdiction within fifteen miles of the proposed site or, if there are no such municipalities, from the municipality in closest proximity to the proposed site, to be appointed by the chief executive officer of each municipality or by the governing body if there is no chief executive officer;

. . .

L. Jay Bartel
Elaine A. Catin
Delores N. Coe-Barbee
Dale A. Comer
David Edward Cygan
Lynne R. Fritz

Denise E. Frost
Yvonne E. Gates
Royce N. Harper
William L. Howland
Marilyn B. Hutchinson
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Kimberly A. Klein
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Susan M. Ugai
Terri M. Weeks
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(c) Two members appointed by the board of directors of the natural resources district in which the site is proposed; . . .

You have inquired whether there is a preference under subsection (2)(a) for selection of the two members from the closest community if more than one municipality has zoning restrictions within fifteen miles of the site. It is our determination that the legislature's preference for the closest community applies only if no communities have zoning restrictions within fifteen miles of the site. The specific words of the statute are "Two members selected from municipalities which have zoning jurisdiction within fifteen miles of the proposed site. . . to be appointed by the chief executive office of each municipality. . . ." If more than one municipality is within the fifteen mile radius, the statute is clear that there is a legislative preference for representation from two of the communities as opposed to only one.

The statute is silent on how the municipalities shall be selected if more than two municipalities are within the fifteen mile range. In the absence of any direction from the legislature, the most democratic method would be to have the selection made by a consensus of the governing bodies or officers of all the municipalities within the fifteen mile radius.

Finally, you have inquired about the members selected by the natural resources district. The statute does not require nor does it forbid that the person selected by the natural resources district be a member of the board of that district nor does the statute require that the individual reside within either the county of the proposed site or the natural resources district. Explicit in the legislation, however, is the legislative intent that the local committee, through its members, provide significant input concerning local needs and resources and that the individual represent the citizens of the proposed site area. Therefore, the individual selected by the natural resources district board should be someone who can adequately represent the citizens of the area

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and who is also knowledgeable regarding the local needs and resources of the specific site area.

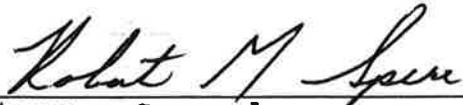
Sincerely yours,

ROBERT M. SPIRE
Attorney General



Linda L. Willard
Assistant Attorney General

Approved:



Attorney General

28-162-3