

DOCKET NO. 11005711

DOCKETED
USNRC

May 27, 2008 (3:30pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

2434

Secretary
U.S. Nuclear Regulatory Commission,
Washington, D.C., 20555
Attn. Rulemaking and Adjudication Staff.

Dear Secretary:

I am writing in reference to the EnergySolutions' application to import 20,000 tons of low level radioactive waste from Unidentified Italian Low level waste generators, USNRC Docket number 11005711.

I believe it is in the best interest of our country that Congress and the NRC should consider the following points in evaluating this "first of a kind" large volume, low level radioactive waste (LLRW) Import application:

1) There are only 3 licensed Low -Level disposal sites in the US

Currently there are only three low-level waste disposal facilities available to the US medical, industrial, research and power industries;

- American Ecology , Hanford, WA, which is only open to the eight states in the Northwest Compact
- Envirocare-EnergySolutions, Clive UT site, Open to the entire nation
- Chem-Nuclear-EnergySolutions , Barnwell, South Carolina which is schedule to close (July 08) to all states except SC, NJ and CT(Mid Atlantic compact)

This low-level waste disposal situation puts the Radioactive and nuclear industry in a serious condition as after June 30, 2008. Post June 30, approximately 95%, of the US low-level waste volume ((per EnergySolutions) will be disposed at the Clive UT site. This creates a "monopolistic" situation, where EnergySolutions has market price control as well as volume acceptance control to accept or restrict any materials. In this manner US Generators of LLRW will have limited or restricted access due to the sole discretion of a monopolist; EnergySolutions. Without access, Generators will be forced to store LLW at their facilities, exposing the public to greater associated risk(s).

This national situation becomes especially critical in light of the proposed new nuclear plants planned to support the necessary future energy demand which will potentially increase the waste generated by over 30%.

With this in mind, it is inconceivable that a company would request to bring non-US waste into the US and utilize our limited disposal capacity for its final resting place. This may compromise the future of nuclear energy by limiting or deferring new reactor plant builds which could result in the building of non-green energy producing power plants.

In addition to utilizing limited disposal capacity, other issues include:

Template = SEC Y-043

Secy-02

1. Increased US waste transport presents:

- a. a statistically higher risk of a potential transport accident
- b. higher overall radiation exposure to the general public
- c. higher risk of handling accidents by industry drivers and workers

2. Increased waste handling for processing presents:

- a. Higher risk for a radiation accident to workers and public
- b. Higher personnel radiation exposure to workers and public

3. Increased waste handling for disposal presents:

- a. A higher risk for a radiation accident to workers and public
- b. Higher personnel radiation exposure to workers and public
- c. Potential remediation and liability issues should future problems ever occur with the processing or disposal facility

4. Secondary waste generation

Currently, waste incinerated by EnergySolutions at their Bear Creek facility, creates secondary waste in the form of incinerator ash and filters. Also, metals are melted to recycle the metal in the form of shielding creating secondary waste in the form of slag and filters. Because the filtration systems are not 100% efficient, some radioisotopes will be discharged. Gaseous radionuclides (Tritium and Carbon 14) are discharged to the atmosphere. The increased discharge from the incineration of foreign waste will add to the annual discharge limits and potentially preclude other US waste from being volume reduced.

5. Waste storage liabilities:

Current regulations require that all clients sending waste into the State of Tennessee must have a return of waste clause. Obviously this includes the EnergySolutions Bear Creek Incineration and Metal Melt facility. This allows for the return of the waste to the generating client should non-acceptable waste or orphan waste be discovered after delivery to Bear Creek or disposal access become unavailable prior to disposition. This prevents the US from becoming responsible for waste storage and the future liabilities associated with storage of waste. Receiving Foreign wastes from international clients will result in by-passing these regulations, unless the Government of that country agrees to sign a reciprocal agreement with the US and the associated state Government(s).

6. Future Disposal and remediation liabilities

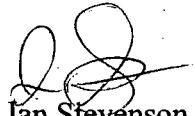
The Envirocare-EnergySolutions disposal facility is a State licensed facility that will remain a private entity in perpetuity. The State of Utah accepts no responsibility for the facility once it is shut down. Long term Care is to be addressed through a private funding mechanism established by Envirocare-EnergySolutions and is based on projected costs provided for by Envirocare-EnergySolutions. This funding scenario and model are symbolic of the early days of LLW where disposal sites closed and then required extensive remediation at Taxpayers expense. The Maxey Flats site in Kentucky is a

specific example, yet the Envirocare-EnergySolutions facility still operates under the same previous model. Maxey Flats KY required remediation be paid for by *Potentially Responsible Parties* (PRP's) as identified and compelled under the *Comprehensive Environmental Response, Compensation and Liabilities Act of 1980* (CERCLA) and amended via the *Superfund Amendments and re-Authorization act of 1986*(SARA) and went through extensive legal proceedings to collect funds from former generators. Under the act, "*PRP's can be compelled to conduct removal actions where possible*" which would be impossible for Italian or foreign waste sometime in the future, when commercial arrangements are forgotten and Italian or foreign generators no longer exist or are not locatable. Additionally the legal authorities and powers embodied in CERCLA-Superfund would not apply to a foreign entity unless their host country entered into a reciprocal agreement with the US. Should approval of the Application be granted, then at a minimum there should be an enforceable return of waste clause as well as binding agreement to the conditions and requirements set forth in CERCLA and SARA by the Italian Government.

Conclusion

I submit that the NRC deny the requested import license in consideration of the issues I have highlighted above. In addition EnergySolutions has stated that a significant amount of waste had already been imported and processed. It seems appropriate that a review of all of the import permits be conducted and reassessed to assure the US is not becoming the dumping ground for the world.

Thanks you for your consideration.



Ian Stevenson
Lynchburg, VA