



## ENVIROSAFE SERVICES OF IDAHO, INC.

REC'D BY

March 7, 2000

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VIA FACSIMILE (301) 415-1757 AND U.S. MAIL

Chairman Richard A. Meserve  
Nuclear Regulatory Commission  
One White Flint North Building 17D1  
11555 Rockville Pike  
Rockville, MD 20852

**Re: Disposal of FUSRAP Wastes**

Dear Chairman Meserve:

This letter is in response to the February 28, 2000 letter you received from Idaho State Senator Clint Stennett. Envirosafe Services of Idaho, Inc. (ESII) owns and operates a waste treatment, storage and disposal facility in a remote, desert location in southwestern Idaho. The facility operates under a joint state and federal Resource Conservation and Recovery Act (RCRA) permit and a federal Toxic Substances Control Act (TSCA) permit.

As you know, RCRA Subtitle-C facilities like ESII operate under the control of an extensive set of regulations promulgated by the Environmental Protection Agency (EPA). These regulations establish standards and specifications that relate to facility design and operation, personnel safety and training, and environmental monitoring. Permits held by Subtitle-C facilities are highly detailed and specific, and allow for close scrutiny and wide ranging authority by the State and/or Federal Agency granting the permit.

Over the past two years ESII has worked with the Idaho Department of Environmental Quality (IDEQ) to develop policies and procedures for acceptance of certain low activity wastes associated with the Formerly Utilized Sites Remedial Action Program (FUSRAP). These wastes are primarily soils and related materials that are not regulated by the Nuclear Regulatory Commission (NRC). The Company retained a highly qualified consultant, Radiation Safety Associates, Inc. of Hebron, Connecticut to review and develop waste acceptance criteria and operational procedures that would be acceptable to the IDEQ. Through this review, it was determined that controls in place under the RCRA permit were most likely sufficient for acceptance of FUSRAP wastes at the very low activity levels that ESII would receive. However, at the request of the IDEQ, ESII went beyond the regulatory requirements to design a more comprehensive program.

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Working with its consultant and the IDEQ, ESII developed acceptance criteria for FUSRAP wastes using widely accepted modeling techniques (RESRAD) and highly conservative assumptions. In fact, based on the low activities associated with FUSRAP related wastes that ESII has received to this point, and a review of data associated with other FUSRAP wastes to be received, ESII believes that the actual dose rate at the facility will be less than 100 mR/yr. Despite these conservative limits, ESII also revised its already stringent RCRA safety and health program to include additional radiation worker training and health monitoring that is equivalent to those that would be in place at a NRC licensed facility for receipt of FUSRAP wastes. This program meets the requirements of 10 CFR Part 20 and is administered by a fully trained Radiation Safety Officer.

ESII also developed operational procedures that exceed regulatory requirements. The Company developed and implemented container release procedures that are equivalent to the Department of Transportation's (DOT) requirements for Class 7 Material, even though ESII will not accept Class 7 Material under its acceptance criteria. ESII also implemented changes to its environmental monitoring program to include installation and operation of stationary and particulate sampling and radon gas measurement. Finally, working with its engineering consultant, Morrison Knudsen, ESII determined that its RCRA landfill cap substantiates NRC's Radon Flux Modeling at ESII's maximum acceptance levels and is equivalent to an NRC required landfill cap.

At the request of the IDEQ, ESII added these waste acceptance and operating criteria, as well as the wide range of personnel safety and monitoring procedures to its permit through a modification process that included notification to the public. The net result of these modifications is that ESII's procedures for acceptance of FUSRAP waste are essentially equivalent to those in place at an NRC licensed facility even though the waste is not regulated by NRC and the activity levels associated with the waste will be hundreds and sometimes thousands of times less than wastes received by an NRC licensed facility. IDEQ used its wide ranging omnibus authority over ESII's RCRA permit to make and enforce implementation of these modifications, a clear indication that IDEQ has and will use its ample authority over the ESII facility to regulate FUSRAP wastes.

It is important to note in the interest of perspective that RCRA facilities like ESII have for many years safely managed Naturally Occurring Radioactive Materials (NORM) from petroleum and related industries at higher activity levels than most FUSRAP wastes. ESII has also managed wastes associated with CERCLA and other remedial projects from states in the Western United States that include soils that have naturally occurring activities that exceeded some of the FUSRAP wastes already received by the facility.

The US Army Corp of Engineers (USACE) has also been highly conservative and cautious in its selection of disposal facilities for the FUSRAP wastes. ESII submitted multiple volumes of information and data to the USACE as part of a bid solicitation process. In addition, a team of health physicists audited ESII and found the facility's program for acceptance of FUSRAP waste to be acceptable and protective. It has been our experience throughout this long process that the USACE has in place a very comprehensive program to select and monitor potential disposal options for FUSRAP wastes.

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Throughout the process described above ESII has regularly updated the Idaho legislature and the Governor's office as to its activities. The Company has responded to questions and concerns and provided tours of its facility to all interested parties. Despite the efforts of a competitor to introduce draconian legislation that would have severely affected not only ESII's business, but also the mining industry in the State of Idaho, the legislature has expressed its confidence in the IDEQ and the Company. This process culminated in an informational hearing before the Environmental Affairs Committee of the Idaho House of Representatives, which is chaired by Representative Jack Barraclough, a professional geologist very familiar with the ESII facility. Senator Stennett was invited to this hearing but did not attend. If he would have been present he would have received answers to many of the questions that he now poses to the Nuclear Regulatory Commission.

Senator Stennett appears to be under the impression that receipt of FUSRAP at ESII or any Subtitle-C facility is unregulated. This is simply not the case. Clearly, ESII is a case study that confirms that FUSRAP materials are under more than adequate regulatory control and that the regulatory system has worked as it is designed. It is ESII's view that the USACE, the IDEQ and the Company have all worked within the existing regulatory framework to offer a highly protective disposal option for FUSRAP wastes, and that additional regulation of this waste would be redundant and unnecessary. Senator Stennett also states in his letter that the IDEQ has no authority over what he describes as ESII's "self imposed" acceptance criteria. Again, this is simply not the case. These criteria were actually formal permit modifications that are fully enforceable by IDEQ. Noncompliance with these or any of the facility's permit conditions could result in administrative or civil action by IDEQ.

As you can see by the description above, ESII takes very seriously its important position as one of only a few facilities selected by the USACE to receive FUSRAP materials. A review of the protective measure in place at our Subtitle-C facility clearly supports the NRC's position in its July 29, 1999 letter to United State Representative John D. Dingle that Subtitle-C landfills offer a protective option for disposal of low activity FUSRAP waste.

I would be happy to meet with you or your staff to provide additional information about our facility and our programs for acceptance of FUSRAP wastes.

Sincerely,

*Doug Roberts / M. Simpson ESII*

Douglas E. Roberts

Vice President - Regulatory and External Affairs

Enclosure

cc: Governor Dirk Kempthorne  
Senator Larry Craig  
Senator Mike Crapo  
Representative Mike Simpson  
Representative Helen Chenoweth  
Vice President Al Gore

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**Carol Drowner, Administrator, USEPA**

**Robert J. Martin, EPA, Hazardous Waste and Superfund Ombudsman**

**Frank Marcinowski, Director, Radiation Protection Division, EPA Office of Radiation  
and Indoor Air**

**C. Stephen Allred, Director – Idaho Department of Environmental Quality**

**State Representative Jack Barraclough, Chairman – House Environmental Affairs  
Committee**

**State Senator Clint Stennett**