

EDO Principal Correspondence Control

FROM: DUE: 11/24/03 EDO CONTROL: G20030682
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FINAL REPLY:

Representative Bob Bishop

TO:

Chairman Diaz

FOR SIGNATURE OF : ** PRI ** CRC NO: 03-0727

Chairman Diaz

DESC:

ROUTING:

Request for NRC Reopen the Public Comment Period
on Envirocare's License Amendment Application
Concerning Byproduct Material Generated at the
DOE's Fernald Ohio Facility

Travers
Norry
Paperiello
Kane
Collins
Dean
Burns/Cyr
Caldwell, RIII
Lohaus, STP

DATE: 11/13/03

ASSIGNED TO: CONTACT:
NMSS Virgilio

SPECIAL INSTRUCTIONS OR REMARKS:

Template: SECY-017

E-RIDS: SECY-01

ROB BISHOP
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COMMITTEE ON ARMED SERVICES
COMMITTEE ON RESOURCES
COMMITTEE ON SCIENCE

Congress of the United States
House of Representatives
Washington, DC 20515-4401
November 11, 2003

The Honorable Nils J. Diaz, PhD
Chairman
Nuclear Regulatory Commission
Mail Stop O-P1 37
Washington, D.C. 20555-0001

Dear Dr. Diaz:

I write to respectfully request that the Nuclear Regulatory Commission (NRC) reopen the public comment period on a license amendment application that is awaiting consideration by the Commission.

As you are aware, Envirocare, a Utah based company, has applied for an amendment to their 11e(2) license to accept greater concentrations of radioactive material, namely 11e(2) byproduct material generated at the Department of Energy's Fernald Ohio facility. Presently Envirocare is licensed to handle radioactive concentrations of up to 4,000 picocuries of radium per gram. Their license amendment, if approved by the NRC, would permit them to accept byproduct material of up to 100,000 picocuries of radium per gram.

Your favorable consideration of my request would be most appreciated. Please do not hesitate to contact me with any questions you may have regarding this request.

Respectfully,

A handwritten signature in black ink, appearing to read "Rob Bishop".

Rob Bishop
Member of Congress

OFFICE OF CONGRESSMAN ROB BISHOP
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PRESS RELEASE

For immediate release
Tuesday, November 11, 2003

Contact: Scott Parker
202.225.0453/202.225.5100

Bishop Provides Positive Action Plan for Mill Tailing Waste First District Congressman Puts Hold on Potential Byproduct Material for Utah

Washington, DC--- In regard to the recent debate over additional waste in Utah, Congressman Bishop issued the following statement:

"Public safety has always been the primary concern of my office and the entire Utah delegation. In the debate over potential waste coming to Utah, there are some groups paid to paint the most positive picture, and other groups paid to always paint the worst possible picture. Fortunately, there are impartial organizations paid to make decisions based on sound science with public safety as their number one concern. Federal organizations include the Nuclear Regulatory Commission (NRC) and the Department of Energy (DOE). For the state, it is the Department of Environmental Quality created by Governor Bangerter while I was in legislative leadership. All licensing and regulatory requirements made by these entities are always done by experts in the field who clearly understand these issues and are charged with ensuring public safety. Even though state and federal agencies have the expertise to make final decisions, I fully support any effort to give the state the final say regarding what will or won't be stored and regulated in Utah. The provision dealing with Ohio waste was proposed and supported by the DOE and the Bush administration. Because this is a national issue, originating from the DOE, the provision will most likely become law. To bring finality to the issue, to ensure Utah controls its waste destiny, to make decisions based on sound science, and to eliminate the emotionalism of the issue, my office is proposing the following plan of action:

- We have asked the Nuclear Regulatory Commission to re-open and extend the public comment period on amending Envirocare's license and on the Fernald waste issue as it applies to the State of Utah. All interested parties would then be allowed to submit comments and questions for review.
- We have asked the NRC to place no artificial barriers in granting the State of Utah "Agreement State" status. Utah has already applied to become an "Agreement State" under NRC guidelines, which would allow the state to have primacy over waste issues and make final determinations on what waste will and won't come to Utah. The approval of the "Agreement State" status is expected in the next few months.
- We have requested and received agreement from Envirocare that the company will not bid on accepting the Fernald waste until Utah gains its primacy as an "Agreement State." The company will also delay any action until the state legislative task force, which is looking at B and C waste issues, completes its work and issues a report at the end of next year.

"This arrangement basically does two things: it allows for more time for public comment and expert opinion to be gathered, and it empowers the State of Utah to control its own destiny when it comes to

radioactive waste. I and my staff have reviewed with impartial experts in Utah and Washington all of the material given me. They were fully aware of all the information and understood the complexity of the issue. It is not as simple as some entities would have it appear. I still feel that the DOE proposal has merit and is safer for Utahns. When the state of Utah gets its agreement state status, and if the state thinks it's a good idea, this waste will be transported in the safest manner possible, and will be stored and regulated according to strict state guidelines that ensure the safety of all Utahns. But this is a decision that, with additional time, will best be left up to the state. The provision in the Energy Bill can move forward. It does not and never did mandate that this waste had to come to Envirocare. In fact, it empowers the plan I'm announcing today. Utah will soon gain primacy over this issue, and can then make the final decision about rejecting or accepting these mill tailings."

The current debate in Utah began after the U.S. Department of Energy proposed a provision in the Energy Bill that would allow for radioactive tailings from the Fernald clean-up site to be transported and stored commercially. Noting this change would substantially improve the safety and cost of moving and disposing the waste, Congressman Bishop signed a letter in July of this year supporting the DOE proposal. Envirocare, a Tooele waste disposal and storage company with a solid health and safety record, stood to win a potential contract to handle these tailings.

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