



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

June 13, 1989

tribution:

DO 4495  
Surmeier  
VStello  
JTaylor  
HThompson  
JBlaha  
RBangart  
PLohaus  
JJones  
RFonner  
JGreeves  
CJenkins  
JJones

RBernero  
MBell  
AHenry  
NMSS r/f  
NMSS dir. r/f

The Honorable Ronald D. Coleman  
United States House of Representatives  
Washington, D. C. 20515

Dear Congressman Coleman:

I am responding to your May 17, 1989 letter asking for our comments on arranging a meeting between U.S. Nuclear Regulatory Commission (NRC) staff and El Paso County officials and their technical consultants.

As discussed during the meeting with you on May 17, it is not appropriate for NRC, as a Federal regulatory agency, to enter the site selection or regulatory process being carried out at the State level within Texas. NRC has relinquished to Texas, under Section 274 of the Atomic Energy Act, the authority and regulatory responsibility to license and otherwise regulate any low-level waste disposal facility established in Texas. As a matter of law, Texas acts in this regard under its statutes and regulations, not those of the Federal government.

The regulations adopted by the Texas Bureau of Radiation Control, for licensing disposal of low-level waste, are compatible with NRC's Part 61 regulations, and contain siting requirements equivalent to those contained in Part 61. The Texas Bureau of Radiation Control is the proper agency to provide technical guidance and direction to the siting process in Texas that is taking place under Texas law. The El Paso County representatives should meet with Texas Bureau of Radiation Control staff to discuss any questions they may have on siting and interpretation of the Texas regulations.

Under the Agreement State program, NRC may provide technical assistance to individual Agreement State radiation control programs if the licensing body requests it. Such technical assistance could include specific help dealing with an individual licensing case. In many cases, Agreement State regulatory agencies apply and use in their programs guidance developed by NRC, such as our Standard Format and Content Guide (SFCG) and our Standard Review Plan (SRP) for licensing low-level waste disposal facilities. I am enclosing copies of these documents. Agreement States may also revise and reissue such guidance to reflect specific State statutes. Thus, after any meeting between the El Paso County representatives and the Texas Bureau of Radiation Control, if questions or issues remain, the Texas Bureau of Radiation Control could request NRC technical assistance to help address remaining issues.

Originated: NMSS:Lohaus

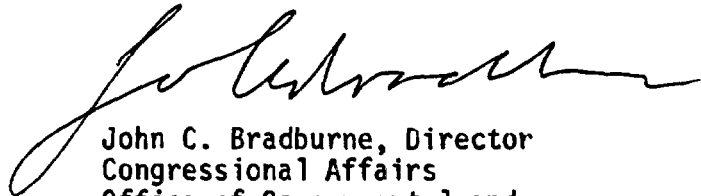
8906200262 890613  
PDR WASTE  
WM-3 PDC

409  
NL14  
WM-3

If NRC staff scheduled a meeting with El Paso County representatives, such a meeting would have a limited agenda. We could not discuss interpretation of Texas regulations, application of regulatory requirements within the State of Texas, any site specific issues, any other matters regarding the Texas site, or the adequacy of the Texas radiation control program since an application has not been submitted to the Texas Bureau of Radiation Control, and no regulatory analyses have been performed. We could only discuss our Part 61 regulations and generic guidance provided to the State of Texas as contained in the enclosed SFCG and SRP.

In closing, we do not believe that the issues of concern with the El Paso representatives would likely be addressed to their satisfaction in the generic meeting. We believe the best course of action is for them to fully participate in the regulatory review process in Texas. After any meeting between El Paso County representatives and the Texas Bureau of Radiation Control, we would be pleased to respond to requests for NRC technical assistance from the Texas Bureau of Radiation Control.

Sincerely,

A handwritten signature in dark ink, appearing to read "John C. Bradburne", written in a cursive style.

John C. Bradburne, Director  
Congressional Affairs  
Office of Governmental and  
Public Affairs

Enclosures:

- 1) Standard Format & Content Guide
- 2) Standard Review Plan

The Honorable Ronald D. Coleman  
United States House of Representatives  
Washington, D.C. 20515-4316

Dear Congressman Coleman:

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As discussed during the meeting with you on May 17, it is not appropriate for NRC, as a Federal regulatory agency, to enter the site selection or regulatory process being carried out at the State level within Texas. NRC has relinquished to Texas, under Section 274 of the Atomic Energy Act, the authority and regulatory responsibility to license and otherwise regulate any low-level waste disposal facility established in Texas. As a matter of law, Texas acts in this regard under its statutes and regulations, not those of the Federal government.

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If NRC staff scheduled a meeting with El Paso County representatives, such a meeting would have a limited agenda. We could not discuss interpretation of Texas regulations, application of regulatory requirements within the State of Texas, any site specific issues, any other matters regarding the

Texas site, or the adequacy of the Texas radiation control program since an application has not been submitted to the Texas Bureau of Radiation Control, and no regulatory analyses have been performed. We could only discuss our Part 61 regulations and generic guidance provided to the State of Texas as contained in the enclosed SFCG and SRP.

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Sincerely,

John C. Bradburne, Director  
Congressional Affairs

Enclosures:

- 1) Standard Format & Content guide
- 2) Standard Review Plan

Distribution: (EDO 4495) Central File # 409

NMSS dir.Off.r/f	DMorris, EDO(4495)	RFonner, OGC	SECY
KMCarr, OCM	HThompson, DEDS	VStello, EDO	RBernero, NMSS
JBradburne,GPA/OCA	RBangart, LLWM	JGreeves, LLWM	MBell, LLRB
JSurmeier, LLTB	PLohaus, LLOB	CJenkins, NMSS	AHenry, LLWM
	JJones, LLOB tf	JJones, LLOB rf	NMSS rf

PDR YES ☒

PDR NO ☐ Category: Proprietary ☐ or CF Only ☐

ACNW YES ☒ NO ☐

SUBJECT ABSTRACT: TEXAS LLW DISPOSAL FACILITY

\* See Previous Concurrence

OFC :LLOB*	:TEdit*	:GPA/SLTP*	:OGC*	:LLWM*	:LLWM*
NAME:PLohaus/jj	:EKraus	:CKammerer	:RFonner	:JGreeves	:RBangart
DATE:05/26/89	:05/30/89	:05/26/89	:05/31/89	:05/31/89	:05/31/89

OFC :NMSS	:DEDS	:EDO	:OCM	:GPA/OCA
NAME:RBernero	:HThompson	:VStello	:KMCarr	:JCBradburne
DATE: 6/02/89	: 6/6/89	: 6/17/89	: 7/1/89	: 6/18/89

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Concurrence received from:  
--H.Denton on 6/9  
--D.Rathbun on 6/12  
--Commissioner Carr on 6/13/89

The Honorable Ronald D. Coleman  
United States House of Representatives  
Washington, D.C. 20515-4316

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Thus, we believe the El Paso county representatives should first plan to meet with Texas Bureau of Radiation Control staff to discuss any questions they may have on siting and interpretation of the Texas regulations. The regulations adopted by the Texas Bureau of Radiation Control, for licensing disposal of low-level waste, are compatible with NRC's Part 61 regulations, and contain siting requirements equivalent to those contained in Part 61. The Texas Bureau of Radiation Control is the proper agency to provide technical guidance and direction to the siting process in Texas that is taking place under Texas law.

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In closing, we do not believe it is appropriate to hold such a generic meeting with the El Paso representatives. Rather, we believe the best course of action, for all concerned, is to support the regulatory review process in Texas.

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John C. Bradburne, Director  
Congressional Affairs

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	JJones, LLOB tf	JJones, LLOB rf	NMSS rf

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ACNW YES ☒ NO ☐

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DATE:05/26/89	:05/30/89	:05/26/89	:05/31/89	:05/31/89	:05/31/89

OFC :NMSS	:DEDS	:EDO	:OCM	:GPA/OCA
NAME:RBernero	:HThompson	:VStello	:KMCarr	:JCBradburne
DATE:6/2/89	: / /89	: / /89	: / /89	: / /89

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Sincerely,

John C. Bradburne, Director  
Congressional Affairs, GPA

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 KMCarr, OCM HThompson, DEDS VStello, EDO RBernero, NMSS  
 JBradburne,GPA/OCA RBangart, LLWM JGreeves, LLWM MBell, LLRB  
 JSurmeier, LLTB PLohaus, LLOB CJenkins, NMSS AHenry, LLWM  
 JJones, LLOB rf JJones, LLOB rf NMSS rf

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DATE: / /89	: / /89	: / /89	: / /89	: / /89

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THE HONORABLE RONALD D. COLEMAN

- 2 -

application of regulatory requirements within the State of Texas, any site specific issues, any other matters regarding the Texas site or the adequacy of the Texas radiation control program since an application has not been submitted to the Texas Bureau of Radiation Control and no regulatory analyses have been performed at this point in time.

In closing, I believe the best course of action at this point for all concerned is to support the regulatory review process in Texas.

Sincerely,

Victor Stello, Jr.  
Executive Director for Operations

Distribution: (EDO 4495) Central File # 409  
NMSS dir. Off. r/f EDO RFonner, OGC SECY  
DMorris, EDO (4495) HThompson, NMSS VStello, EDO JBradburne, GPA/OCA  
RBangart, LLWM JGreeves, LLWM MBell, LLRB JSurmeier, LLTB  
PLOhaus, LLOB CJenkins, NMSS AHenry, LLWM JJones, LLOB tf  
JJones, LLOB rf NMSS rf

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PDR NO ☐ Category: Proprietary ☐ or CF Only ☐

ACNW YES ☒ NO ☐

SUBJECT ABSTRACT: TEXAS LLW DISPOSAL FACILITY

OFC : LLOB *PHR* : TEdit : GPA/OCA : GPA/SLTP : OGC : LLWM : LLWM  
NAME: PLOhaus/jj : EKraus : JBradburne: Okammerer : RFonner : JGreeves : RBangart  
DATE *5/26/89* : / /89 : / /89 : *5/26/89* : / /89 : / /89 : / /89

OFC : NMSS : NMSS : OCM : DEDS : EDO  
NAME: CPaperiello: RBernero : Comm. Carr : HThompson : VStello  
DATE: / /89 : / /89 : / /89 : / /89 : / /89

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THE HONORABLE RONALD D. COLEMAN

- 2 -

In closing, I believe <sup>that</sup> the best course of action, <sup>now</sup> at this point, for all concerned is to support the regulatory review process in Texas.

Sincerely,

Victor Stello, Jr. Executive Director for  
Operations

Distribution: (EDO 4495) Central File # 409 NMSS Dir. Off. r/f E  
& DO  
r/f R Fonner, OGC SECY  
DMorris, EDO (4495) HThompson, NMSS VStello, EDO JBradburne, GPA/OCA  
RBangart, LLWM JGreeves, LLWM MBell, LLRB JSurmeier, LLTB  
PLOhaus, LLOB CJenkins, NMSS AHenry, LLWM JJones, LLOB tf  
JJones, LLOB rf NMSS rf PDR YES ☒

PDR NO ☐ Category: Proprietary ☐ or CF Only ☐

ACNW YES ☐ NO ☐

SUBJECT ABSTRACT:

OFC :LLOB :TEdit :GPA/OCA :LLWM :LLWM :NMSS :NMSS  
NAME: PLOhaus/jj :EKraus :JBradburne:JGreeves :RBangart :CPaperiello:RBernero  
DATE: / /89 :05/30/89 : / /89 : / /89 : / /89 : / /89 : / /89

OFC :OGC :OCM :DEDS :EDO  
NAME: RFonner :Comm. Carr :HThompson :VStello  
DATE: / /89 : / /89 : / /89 : / /89

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

**ACTION**

EDO Principal Correspondence Control

FROM:

DUE: 06/02/89

EDO CONTROL: 0004495 ✓

DOC DT: 05/17/89

FINAL REPLY:

Rep. Ronald D. Coleman

TO:

John Bradburne, OCA

FOR SIGNATURE OF:

\*\* GRN \*\*

CRC NO: 89-0484

~~Executive Director~~

*OCA (at their request)*

DESC:

ROUTING:

ENCLOSES LETTER FROM GEORGE H. BECKWITH REQUESTING  
MEETING BETWEEN NRC AND EL PASO COUNTY TO DISCUSS  
THE INTERPRETATION OF SITING REQUIREMENTS AS  
OUTLINED IN 10 CFR PART 61.50 & PART 45.50 OF THE  
TEXAS REGULATIONS FOR CONTROL OF RADIATION

Beckjard, RES  
Denton, GPA

DATE: 05/19/89

ASSIGNED TO:

CONTACT:

NMSS

Bernero

SPECIAL INSTRUCTIONS OR REMARKS:

<u>LLWM Action</u>
Due to NMSS Director's Office
By <u>5/30/89</u>
<u>5/19/89</u>

*Assign to O.B.  
for response  
JAS  
5/22*

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

PAPER NUMBER: CRC-89-0484                      LOGGING DATE: May 19 89

ACTION OFFICE: EDO

AUTHOR: R.D. Coleman  
AFFILIATION: U.S. HOUSE OF REPRESENTATIVES

LETTER DATE: May 17 89              FILE CODE:

SUBJECT: Request mtg between reps of the NRC and El Paso  
County to discuss the interpretation of siting  
requirements of the Tx regs for control of  
radiation

ACTION: Signature of EDO

DISTRIBUTION: RF, OCA to Ack

SPECIAL HANDLING: None

NOTES: Response should be coord with OCA

DATE DUE: Jun 1 89

SIGNATURE: .                      DATE SIGNED:

AFFILIATION:

EDO---004495

REC'D On. EDO  
Date 5-19-89  
Time 11:40