

The Honorable Mark Udall
United States House of Representatives
Washington, DC 20515

Dear Congressman Udall:

On behalf of the U. S. Nuclear Regulatory Commission (NRC), I am responding to your April 6, 2005, letter to me, in which you expressed concerns about an application by Clean Harbors Deer Trail for disposal of radioactive materials in Colorado. In addition, you requested the status of an application by Connecticut Yankee Atomic Power Company (CYAPC) for disposal of radioactive demolition debris from the decommissioning of CYAPC's Haddam Neck plant and whether the NRC views the application as a possible precedent for disposal of radioactive materials in other States (possibly including Colorado).

The NRC does not have regulatory authority or jurisdiction over the Clean Harbors Deer Trail application for disposal of radioactive materials in Colorado. Colorado is an Agreement State under Section 274 of the Atomic Energy Act and has regulatory authority over the licensing of low-level waste disposal in Colorado. In early February, the Colorado Department of Public Health and Environment received a radioactive materials license application from Clean Harbors Deer Trail for disposal of certain limited low-level radioactive waste materials, including limited Naturally Occurring Radioactive Materials (NORM) and Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM), from licensed facilities. This application is currently under review.

Clean Harbors Deer Trail also has a pending hazardous waste permit renewal application to allow its Colorado facility to receive limited unlicensed NORM and TENORM materials. The Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division will determine whether a Resource Conservation and Recovery Act (RCRA) permit may be adapted to provide appropriate protections and controls for these materials. Colorado is reviewing the hazardous waste permit renewal application in parallel with the radioactive materials license application. Colorado has been conducting a public process since September 2004, and information is available on the Colorado Department of Public Health and Environment Web site at <http://www.cdphe.state.co.us/hm/hwy36.htm>. Other States have also authorized disposal of NORM from non-nuclear-fuel-cycle industries. Facilities disposing of NORM and TENORM, and RCRA Facilities are not regulated by NRC, but by the States.

You also asked about the status of CYAPC's application by CYAPC for disposal of radioactive demolition debris from the decommissioning of CYAPC's Haddam Neck plant and whether the NRC views the application as a possible precedent for disposal of radioactive materials in other States. CYAPC, an NRC licensee, has requested approval to dispose of demolition debris from decommissioning the Haddam Neck Plant at the US Ecology site in Idaho. The request was submitted on September 16, 2004, pursuant to Section 20.2002 of Title 10 of the Code of Federal Regulations, "Method of Obtaining Approval of Proposed Disposal Procedures." The approval CYAPC seeks an authorization to use alternate disposal

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CYAPC's request is consistent with the language of 10 CFR 20.2002. In reviewing the request, NRC staff will ensure that any dose from the disposal will be maintained within the dose limits set forth in Part 20, "Standards for Protection against Radiation," and be as low as is reasonably achievable. The staff will also evaluate the proposal to ensure it will not cause significant environmental impact. The staff's Environmental Assessment (EA) for the CYAPC request was published in the Federal Register on April 13, 2005. The Commission may therefore act on the request at any time.

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The Clean Harbors Deer Trail has a hazardous waste permit renewal application pending that would allow its Colorado facility to receive NORM and TENORM. The Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division will determine whether a Resource Conservation and Recovery Act (RCRA) permit may be adapted to provide appropriate protections and controls for these materials. The radioactive materials license and hazardous waste permit renewal application are being reviewed concurrently. It is our understanding that the Colorado Department of Public Health and Environment will accept public comment on this Radioactive Materials License Application through May 31, 2005 and hold a public meeting to present this information in late spring of 2005.

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At the outset, it must be understood that the NRC does not have regulatory authority or jurisdiction over the application by Clean Harbors Deer Trail on disposal of radioactive materials in Colorado. In early February, the Colorado Department of Public Health and Environment received a radioactive materials license application from Clean Harbors Deer Trail for disposal of certain limited low-level radioactive waste including Naturally Occurring Radioactive Materials (NORM) and Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) at its facility. The Clean Harbors Deer Trail has a hazardous waste permit renewal application pending that would allow the facility to receive NORM and TENORM. The Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division will determine whether a Resource Conservation and Recovery Act (RCRA) permit may be adapted to provide appropriate protections and controls for these materials. The radioactive materials license and hazardous waste permit renewal application are being reviewed concurrently. It is our understanding that the Colorado Department of Public Health and Environment will accept public comment on this Radioactive Materials License Application through May 31, 2005 and a public meeting to present this information is expected to be held in late spring of 2005.

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On behalf of the U. S. Nuclear Regulatory Commission (NRC), I am responding to your April 6, 2005, letter to me, in which you expressed concerns about an application by Clean Harbors Deer Trail for disposal of radioactive materials in Colorado. In addition, you requested the status of an application by Connecticut Yankee Atomic Power Company (CYAPCO) for disposal of radioactive demolition debris from the decommissioning of CYAPCO's Haddam Neck plant and whether the NRC views the application as a possible precedent for disposal of radioactive materials in other States (possibly including Colorado).

The NRC does not have regulatory authority or jurisdiction over the Clean Harbors Deer Trail application for disposal of radioactive materials in Colorado. Colorado is an Agreement State under Section 274 of the Atomic Energy Act and has regulatory authority over the licensing of low-level waste disposal in Colorado. In early February, the Colorado Department of Public Health and Environment received a radioactive materials license application from Clean Harbors Deer Trail for disposal of certain limited low-level radioactive waste materials, including limited Naturally Occurring Radioactive Materials (NORM) and Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM), from licensed facilities. We understand that this application is currently under review.

Clean Harbors Deer Trail also has a pending hazardous waste permit renewal application to allow its Colorado facility to receive limited unlicensed NORM and TENORM materials. The Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division will determine whether a Resource Conservation and Recovery Act (RCRA) C permit may be adapted to provide appropriate protections and controls for these materials. We understand that Colorado is reviewing the hazardous waste permit renewal application in parallel with the radioactive materials license application. Colorado has been conducting a public process since September 2004, and information is available on the Colorado Department of Public Health and Environment Web site at <http://www.cdphe.state.co.us/hm/hwy36.htm>. Other States have also authorized disposal of NORM from non-nuclear-fuel-cycle industries. Facilities disposing of NORM and TENORM, and RCRA Facilities are not regulated by NRC, but by the States.

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The CYAPCO's request is consistent with the long-standing provisions of 10 CFR 20.2002.

In reviewing the request, NRC staff will ensure that any radiation doses from the disposal will be maintained within the limits set forth in Part 20, "Standards for Protection against Radiation," and be as low as is reasonably achievable. The staff will also evaluate the proposal to ensure it will not cause significant environmental impact. The staff's Environmental Assessment (EA) for the CYAPCO request was published in the Federal Register on April 18, 2005, and the NRC final action was taken on April 19, 2005.

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OFC	NMSS:OD	DEDMRS	EDO	OCM	
NAME	JRStrosnider	MVirgilio	LReyes	NDiaz	
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At the outset, it must be understood that the NRC does not have regulatory authority or jurisdiction over the application by Clean Harbors Deer Trail on disposal of radioactive materials in Colorado. In early February, the Colorado Department of Public Health and Environment received a radioactive materials license application from Clean Harbors Deer Trail for disposal of certain limited low-level radioactive waste including Naturally Occurring Radioactive Materials (NORM) and Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) at its facility. The Clean Harbors Deer Trail has a hazardous waste permit renewal application pending that would allow the facility to receive NORM and TENORM. The Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division will determine whether a Resource Conservation and Recovery Act (RCRA) permit may be adapted to provide appropriate protections and controls for these materials. The radioactive materials license and hazardous waste permit renewal application are being reviewed concurrently. It is our understanding that the Colorado Department of Public Health and Environment will accept public comment on this Radioactive Materials License Application through May 31, 2005 and a public meeting to present this information is expected to be held in late spring of 2005.

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