June 6, 2008

The Honorable David Vitter
United States Senate
Washington, D.C. 20510

Dear Senator Vitter:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of April 30, 2008, expressing your concerns associated with the September 14, 2007 application from EnergySolutions, Inc., to import approximately 20,000 tons of radioactive waste from Italy. I want to assure you that the NRC will not approve the import until the staff has verified whether the import satisfies all NRC licensing criteria, which includes verification that an appropriate facility will accept it.

The NRC allows imports of radioactive waste into the country only after it has a clear understanding of the type and composition of the material. In situations where the type or composition is not fully characterized prior to the import, the NRC allows applicants to provide, with appropriate justification, maximum bounding concentrations or activity levels anticipated in the shipment for the NRC to consider in its import licensing deliberations.

The U.S. Department of Transportation (DOT) and NRC regulations govern domestic transportation of all regulated nuclear material. DOT authorizes transportation of shipments of radioactive material imported into and exported from the U.S. under the International Atomic Energy Agency's "Regulations for the Transport of Radioactive Material" (TS-R-1). TS-R-1 provides an internationally accepted transportation safety standard under which an applicant can safely transport material. DOT and NRC domestic transportation safety requirements are compatible with TS-R-1. The applicant must demonstrate compliance with all applicable requirements prior to shipment. In instances where some relevant data are not available, TS-R-1 applies more restrictive activity limits on the shipment than would be applied if all relevant data were available. Similarly, for any radioactive waste that may have to be returned to Italy, regulations require that transport of any material unsuitable for disposal will be adequately handled to ensure the safe and secure transport of the material.

With regard to the current status of this application, on May 8, 2008, members of the Northwest Interstate Compact adopted a resolution stating that the existing compact procedures do not address the import of foreign waste and that such waste would need Compact approval before disposal at the EnergySolutions facility in Utah. The Northwest Compact notified the NRC by letter on May 15, 2008, that "should it choose to issue the import license it is doing so with the understanding there is no facility within the Northwest Compact region that is authorized to legally accept this waste for disposal." Prior to the Compact's resolution, EnergySolutions filed a lawsuit in Federal district court against the Northwest Compact challenging the Compact's authority over the proposed import. The NRC is carefully monitoring developments and will evaluate the situation after the June 10, 2008 deadline to file comments or request a hearing.

The Commission appreciates your interest on this matter. Please feel free to contact me should you have any questions.

Sincerely,

/RA/

Dale E. Klein