

The public health and safety require the United States to have commercially viable low-level radioactive waste (“LLRW”) disposal companies such as *EnergySolutions* that can safely and responsibly manage the recycling, processing and disposal of nuclear material. There is a global marketplace for nuclear services, including waste processing and disposal services, and the viability of U.S. commercial disposal companies is significantly enhanced by participation in this global market. Significant delay in the issuance of this routine import license could establish a climate of regulatory uncertainty that would be detrimental to the viability of the commercial LLRW disposal industry in this country.

II. BACKGROUND

On September 14, 2007, *EnergySolutions* filed an application² with the NRC for a license to import up to 20,000 tons of LLRW into the United States from Italy under the provisions of 10 CFR Part 110. Most of the imported LLRW is to be processed for recycling and beneficial use at the *EnergySolutions* Bear Creek Facility in Oak Ridge, Tennessee (the “Bear Creek Facility”).³ The remaining material will be dispositioned as Class A LLRW at the *EnergySolutions* disposal site in Clive, Utah (the “Clive Facility”).⁴ Also on September 14, 2007, *EnergySolutions* filed an application under Part 110 for a license to export a portion of that waste in the unlikely event that it cannot be dispositioned at *EnergySolutions*’ facilities in Utah.⁵ *EnergySolutions* does not expect that there will be any need to export material back to Italy.

² Application for Specific License to Import Radioactive Material (from Italy), Lic. No. IW023 (Sept. 17, 2007), available at ADAMS Accession No. ML072950080 (“Import Application”).

³ See *id.* at 4; see also *EnergySolutions* Response to NRC Request For Additional Information Dated November 29, 2007 at 4 (Dec. 5, 2007) (“Initial RAI Response”).

⁴ Import Application at 4; Initial RAI Response at 4-5.

⁵ Application for Specific License to Export Radioactive Material (from Italy), Lic. No. XW013 (Sept. 17, 2007), available at ADAMS Accession No. ML072950080 (“Export Application”).

EnergySolutions applied for the import and export licenses to support a routine commercial transaction. The company provides LLRW services to the commercial nuclear sector and many other nuclear users, including hospitals, research facilities, the Tennessee Valley Authority, and the U.S. Departments of Energy and Defense. In addition to the safe disposition of domestic-generated LLRW, EnergySolutions has, pursuant to import licenses granted by the NRC, imported LLRW from numerous foreign countries for processing and ultimate disposition at the Clive Facility.⁶ All of the material will be inspected prior to shipment from Italy to ensure it will meet the criteria for EnergySolutions' licenses at the Bear Creek Facility and Clive Facility.⁷ Thus, the Italian material to be imported under the proposed import license would be, from a public health and safety perspective, indistinguishable from the domestic and international LLRW that EnergySolutions routinely receives, processes, and dispositions at its facilities.

The amount of waste expected to be ultimately dispositioned at the Clive Facility under the proposed licenses is small in comparison to the capacity of the facility. During each year of the five-year duration of the importations, the proposed Italian import project will amount to less than one percent of the waste receipts at the Clive Facility.⁸

⁶ *E.g.*, Import License No. IW017 (Oct. 10, 2006), *available at* ADAMS Accession No. ML062860179 (authorizing importation of Class A LLRW from Canada for recycling and/or disposal); Import License No. IW018 (Dec. 14, 2007), *available at* ADAMS Accession No. ML080080262 (authorizing reimportation of Class A and C LLRW from France for disposal); Import License No. IW009 (Oct. 16, 2003), *available at* ADAMS Accession No. ML032960176 (authorizing importation of Class A LLRW from Germany for recycling and/or disposal).

⁷ Initial RAI Response at 3.

⁸ Testimony of R. Steve Creamer, Chairman and Chief Executive Officer, EnergySolutions, before the Energy and Air Quality Subcommittee, House Energy and Commerce Committee at 6 (May 20, 2008), *available at* http://energycommerce.house.gov/cmte_mtgs/110-eaq-hrg.052008.Creamer-Testimony.pdf (“Creamer Testimony”).

In accordance with the regulations in 10 CFR Part 110, the NRC solicited the views of the Executive Branch,⁹ the states of Utah¹⁰ and Tennessee,¹¹ the Southeast Compact Commission for Low-Level Radioactive Waste Management (“Southeast Compact”),¹² of which the State of Tennessee is a member, and the Northwest Interstate Compact on Low-Level Radioactive Waste Management (“Northwest Compact”),¹³ of which the State of Utah is a member.

All but one of the agencies or compacts consulted concurred with the legality of the proposed action. The U.S. Department of State informed the NRC that “the proposed import and export would appear consistent with [the Joint Convention on Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management] guidelines.”¹⁴ The Tennessee DEC found “no technical reason to prohibit” the proposed action.¹⁵ The Utah Radiation Control Board, DEQ, requested that the NRC deny the license for policy reasons.¹⁶ The Director of the Utah Division of Radiation Control (a member of the Utah Radiation Control Board), however, informed the NRC that Utah’s rules “do not prohibit the disposal of low-level radioactive waste

⁹ Letter from S. Dembek, NRC, to R. DeLaBarre, U.S. Dep’t of State (Oct. 25, 2007), *available at* ADAMS Accession No. ML072980277.

¹⁰ Letter from S. Dembek, NRC, to D. Finerfrock, Utah Dep’t of Env’tl. Quality (“DEQ”), “Application for NRC Import License (IW023)” (Feb. 19, 2008), *available at* ADAMS Accession No. ML080500111.

¹¹ Letter from S. Dembek, NRC, to J. Graves, Tenn. Dep’t of Env’t and Conservation (“DEC”), “Application for NRC Import License (IW023)” (Feb. 19, 2008), *available at* ADAMS Accession No. ML080500338.

¹² Letter from S. Dembek, NRC, to K. Haynes, Southeast Compact, “Application for NRC Import License (IW023)” (Feb. 19, 2008), *available at* ADAMS Accession No. ML080500349.

¹³ Letter from S. Dembek, NRC, to M. Garner, Northwest Compact, “Application for NRC Import License (IW023)” (Feb. 19, 2008), *available at* ADAMS Accession No. ML080500204.

¹⁴ Letter from R. Stratford, U.S. Dep’t of State, to S. Dembek, NRC (Apr. 25, 2008), *available at* ADAMS Accession No. ML081190551 (“Stratford Letter”).

¹⁵ Letter from J. Graves, Tenn. DEC, to S. Dembek, NRC, “Applications for NRC Import License IW023 and NRC Export License XW013” (Mar. 4, 2008), *available at* ADAMS Accession No. ML080770097.

¹⁶ Letter from Governor J. Huntsman, Utah, to Chairman D. Klein, NRC, Importation of Foreign Low-Level Radioactive Waste” enclosure (Mar. 13, 2008), *available at* ADAMS Accession No. ML080810290 (“Gov. Huntsman Letter”).

from foreign generators.”¹⁷ The Southeast Compact did not oppose the import or export license.¹⁸ Only the Northwest Compact proposed a legal objection, alleging that its rules prohibit disposal of foreign LLRW at the Clive Facility.¹⁹

The NRC also published notices of receipt of these applications in the *Federal Register* on February 11, 2008.²⁰ In response, the NRC has received two requests for hearings on the applications. This Answer responds to the Petition from various organizations in “Middle Tennessee” (collectively “Petitioners”).²¹ The Petition appears to attempt to establish an affected interest and identifies nine issues that purportedly “need to be addressed” prior to issuance of the licenses.²²

III. LEGAL STANDARDS

A. Standards for Hearings on Export and Import Licenses

1. Hearing Request or Intervention Petition.

To request a hearing in an import or export licensing proceeding under 10 CFR 110.82:

(b) Hearing requests and intervention petitions must:

¹⁷ E-mail from D. Finerfrock, Utah DEQ, to S. Dembek, NRC, “License Application IW023” (Mar. 26, 2008), available at ADAMS Accession No. ML080870476 (“Finerfrock E-mail”).

¹⁸ Letter from K. Haynes, Southeast Compact, to S. Dembek, NRC, “Applications for NRC Import License (IW023) and Export License (XW013)” (Mar. 24, 2008), available at ADAMS Accession No. ML080840341. The Southeast Compact did ask the NRC to “examine the extent to which the disposal of foreign waste at Clive would impact the long-term disposal capacity for commercial low-level radioactive waste.” *Id.* Responsibility for addressing the country’s long-term LLRW disposal needs, however, rests with the states and the Department of Energy (“DOE”), not the NRC. Letter from Chairman D. Klein, NRC, to Representative B. Gordon, U.S. House of Representatives, at 2 (Apr. 9, 2008), available at ADAMS Accession No. ML080440443.

¹⁹ Letter from M. Garner, Northwest Compact, to S. Dembek, NRC, “Application for NRC Import License (IW023)” (May 15, 2008), available at ADAMS Accession No. ML081480331.

²⁰ Request for a License to Export Radioactive Waste, 73 Fed. Reg. 7764 (Feb. 11, 2008); Request for a License to Import Radioactive Waste, 73 Fed. Reg. 7765 (Feb. 11, 2008).

²¹ See Petition. The other petition, the State of Utah’s Request for a Hearing and Petition for Leave to Intervene, (June 10, 2008) is addressed in EnergySolutions’ separate Answer to that petition.

²² See generally Petition.

- (1) State the name, address and telephone number of the requestor or petitioner;
- (2) Set forth the issues sought to be raised;
- (3) Explain why a hearing or an intervention would be in the public interest and how a hearing or intervention would assist the Commission in making the determinations required by § 110.45.
- (4) Specify, when a person asserts that his interest may be affected, both the facts pertaining to his interest and how it may be affected with particular reference to the factors in §110.84.²³

2. Commission Action on a Hearing Request or Intervention Petition.

Under “the Nuclear Non-Proliferation Act of 1978 (NNPA), Congress gave the Commission discretion to hold public hearings [on export and import license applications], or not, ‘as the Commission deems appropriate.’”²⁴ 10 CFR 110.84 lists the factors that the Commission will consider in determining whether to grant a hearing request. For the instant petition, the relevant factors are:

- (a) In an export licensing proceeding, or in an import licensing proceeding in which a hearing request or intervention petition does not assert or establish an interest which may be affected, the Commission will consider:
 - (1) Whether a hearing would be in the public interest; and
 - (2) Whether a hearing would assist the Commission in making the statutory determinations required by the Atomic Energy Act.
- (b) If a hearing request or intervention petition asserts an interest which may be affected, the Commission will consider
 - (1) The nature of the alleged interest;
 - (2) How that interest relates to issuance or denial; and
 - (3) The possible effect of any order on that interest, including whether the relief requested is within the Commission’s authority, and, if so, whether granting relief would redress the alleged injury.

- (d) Before granting or denying a hearing request or intervention petition, the Commission will review the Executive Branch’s views on the license

²³ 10 CFR 110.82(b).

²⁴ *U.S. Dep’t of Energy* (Plutonium Export License), CLI-04-17, 59 NRC 357, 366 (2004) (“*Plutonium Export*”).

application and may request further information from the petitioner, requester, the Commission staff, the Executive Branch or others.

- (e) The Commission will deny a request or petition that pertains solely to matters outside its jurisdiction.

- (g) After consideration of the factors covered by paragraphs (a) through (f), the Commission will issue a notice or order granting or denying a hearing request or intervention petition. Upon the affirmative vote of two Commissioners a hearing will be ordered. A notice granting a hearing will be published in the Federal Register and will specify whether the hearing will be oral or consist of written comments. A denial notice will set forth the reasons for denial.²⁵

Under Section 110.84, the Commission has “traditionally applied the judicial concepts of standing to determine whether a potential intervenor has an ‘interest [that] may be affected’ within the meaning of section 189a of the AEA.”²⁶ Section (B), below, explains in detail the judicial standing concepts as they apply to this proceeding under Section 110.84(b).

3. Issuance or Denial of Licenses

The Commission will issue an export license if, after soliciting and receiving the views of the Executive Branch regarding the proposed export, it finds that the applicable criteria in Section 110.42 are met.²⁷ The Commission will issue an import license if it finds that (1) the proposed import will not be inimical to the common defense and security; (2) it will not constitute an unreasonable risk to the public health and safety; (3) NEPA requirements are met; and (4) an appropriate facility has agreed to accept the waste for management and disposal.²⁸

²⁵ 10 CFR 110.84

²⁶ *Plutonium Export*, CLI-04-17, 59 NRC at 363.

²⁷ See 10 CFR 110.45(a).

²⁸ See 10 CFR 110.45(b).

B. Standing

1. Applicable Legal Standards and Relevant NRC Precedent

To determine whether a petitioner’s “interest” provides a sufficient basis for intervention in an export or import license proceeding, the Commission relies on “current judicial concepts of standing.”²⁹ To demonstrate standing, a petitioner thus must allege: (a) a particularized injury within the zone of interests protected by the relevant statute (“injury-in-fact”), (b) that is fairly traceable to the challenged action (“causation”) and (c) is likely to be redressed by a favorable decision (“redressibility”).³⁰ The purpose of these standing requirements is to require a petitioner to allege “such a personal stake in the outcome of the controversy as to demonstrate that a concrete adverseness exists which will sharpen the presentation of issues.”³¹

To establish injury-in-fact, a petitioner must assert injuries that are “distinct and palpable, particular and concrete, as opposed to being conjectural or hypothetical.”³² For example, “unsupported general references to radiological consequences are insufficient to establish a basis for injury” for purposes of standing.³³ Further, some courts require a showing of “both (i) a *substantially* increased risk of harm and (ii) a *substantial* probability of harm with that increase taken into account.”³⁴

²⁹ *Plutonium Export*, CLI-04-17, 59 NRC at 363; *Quivira Mining Co.* (Ambrosia Lake Facility, Grants, New Mexico), CLI-98-11, 48 NRC 1, 5-6 (1998) (citing *Portland Gen. Elec. Co.* (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 613-14 (1976)), *aff’d sub nom. Envirocare of Utah, Inc. v. NRC*, 194 F.3d 72 (D.C. Cir. 1999).

³⁰ *Quivira Mining*, CLI-98-11, 48 NRC at 6 (citing *Cleveland Elec. Illuminating Co.* (Perry Nuclear Power Plant, Unit 1), CLI-93-21, 38 NRC 87, 92 (1993); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-62 (1992)).

³¹ *Sequoyah Fuels Corp.* (Gore, Oklahoma Site), CLI-94-12, 40 NRC 64, 72 (1994) (internal quotation marks omitted (quoting *Duke Power Co. v. Carolina Env’tl. Study Group, Inc.*, 438 U.S. 59, 72 (1978))).

³² *Int’l Uranium (USA) Corp.* (White Mesa Uranium Mill), CLI-98-6, 47 NRC 116, 117 (1998) (citing *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 103 (1998); *Warth v. Seldin*, 422 U.S. 490, 508-09 (1975); *see also Sequoyah Fuels*, CLI-94-12, 40 NRC at 72 (citations omitted)).

³³ *Sacramento Mun. Util. Dist.* (Rancho Seco Nuclear Generating Station), LBP-92-23, 36 NRC 120, 130 (1992).

³⁴ *Pub. Citizen, Inc., v. Nat’l Highway Traffic Safety Admin.*, 513 F.3d 234, 237 (D.C. Cir. 2008) (emphasis in original).

The injury-in-fact analysis requires that the petitioner’s interests fall “within the zone of interest protected or regulated by the statute at issue.”³⁵ The Commission has noted that its “principal concern is to ensure that parties participating in [NRC] adjudicatory proceedings have interests that are cognizable” under the applicable statutes – such as the Atomic Energy Act (“AEA”) or National Environmental Policy Act (“NEPA”).³⁶ “Merely because one may be injured by a particular agency action . . . ‘does not necessarily mean one is within the zone of interests to be protected by a given statute.’”³⁷ The zone of interests test for standing in NRC proceedings, however, “does not encompass economic harm that is not directly related to environmental or radiological harm.”³⁸ As such, the “bare mention[] of health and safety cannot be used to establish standing when the essence of [the petitioner’s] concern is economics, not safety.”³⁹

Next, to establish causation, a petitioner must establish that the injuries alleged are “fairly traceable to the proposed action”⁴⁰—in this case, NRC issuance or denial of an import and export license. Specifically, “the assertion of an injury without also establishing the causal link to the challenged [agency action] is insufficient to establish . . . standing.”⁴¹

³⁵ *Quivira Mining*, CLI-98-11, 48 NRC at 11.

³⁶ *Id.* at 6 n.2.

³⁷ *Id.* at 11 (citing *Air Courier Conference of Am. v. Am. Postal Workers Union*, 498 U.S. 517, 523-24 (1991)).

³⁸ *Pac. Gas & Elec. Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-02-16, 55 NRC 317, 336 (citations omitted).

³⁹ *Id.* at 337 (citing and comparing with *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 325 (1999)).

⁴⁰ *Sequoiah Fuels*, CLI-94-12, 40 NRC at 75.

⁴¹ *Northeast Nuclear Energy Co.* (Millstone Nuclear Power Station, Unit 3), LBP-98-22, 48 NRC 149, 155 (1998).

Finally, to establish redressibility, a petitioner must show that “its actual or threatened injuries can be cured by some action of the tribunal.”⁴²

2. Standing Based On Geographic Proximity

In evaluating standing based on geographic proximity, the burden falls on the petitioner to demonstrate that the “licensing action raises an ‘obvious potential for offsite consequences.’”⁴³ Otherwise, the “standing inquiry reverts to ‘traditional standing’ analysis of whether the petitioner has made a specific showing of injury, causation, and redressability.”⁴⁴

a. Proximity to the Facility at Issue

Under the “proximity presumption,” an individual petitioner, or a member of an organization, may assert standing based solely upon a showing that his or her residence is within the geographical area that might be affected by an accidental release of fission products from a facility or other source of radioactivity. As a “rule of thumb,” the NRC generally has applied a presumption of standing in initial power-reactor construction permit and operating license proceedings for individuals who live within 50 miles of a plant.⁴⁵

In other proceedings, however, including export and import proceedings such as this one, the Commission has held there is no proximity presumption “[a]bsent situations involving such obvious and clear potential for offsite consequences [as the construction and operation of the reactor itself].”⁴⁶ Instead, the Commission “determine[s] on a *case-by-case basis* whether the proximity presumption should apply, considering the ‘obvious potential for offsite [radiological] consequences,’ or lack thereof, from the application at issue, and specifically ‘taking into

⁴² *Sequoyah Fuels Corp.* (Gore, Oklahoma Site Decommissioning), CLI-01-2, 53 NRC 9, 14 (2001).

⁴³ *Exelon Generating Co., LLC* (Peach Bottom Atomic Power Station, Units 2 and 3), CLI-05-26, 62 NRC 577, 581 (2005).

⁴⁴ *Id.*

⁴⁵ *See Sequoyah Fuels*, CLI-94-12, 40 NRC at 75 n.22.

⁴⁶ *Plutonium Export*, CLI-04-17, 59 NRC at 364.

account the nature of the proposed action and the significance of the radioactive source.”⁴⁷

Furthermore, the smaller the risk of offsite consequences, the closer the petitioner must reside to be realistically threatened.⁴⁸ For example, a Board held that a distance of 43 miles from a spent fuel pool facility, coupled with generalized claims of injury from radiation, was insufficient to establish standing in a spent fuel pool license amendment case.⁴⁹ In so ruling, the Board stated that “we note that we know of no scenario under which the radiation attributable to the fuel pool could affect a residence 43 miles distant from the fuel pool; and petitioner has not informed us of any such scenario.”⁵⁰

b. Proximity to Potential Transportation Routes

The principles discussed above also apply to claims of standing based on a petitioner’s asserted geographical proximity to potential transportation routes for radiological materials. In the *Plutonium Export* case, the Commission refused to admit a group of organizational petitioners who asserted representational standing because certain of their members resided within five miles of the highways and railroad lines upon which the plutonium shipments would travel, and within an eighth of a mile from the harbor at which the plutonium would be

⁴⁷ *Consumers Energy Co.* (Big Rock Point Independent Spent Fuel Storage Installation), CLI-07-19, 65 NRC 423, 426 (2007) (quoting *Peach Bottom*, CLI-05-26, 62 NRC at 580-81); see also *Ga. Inst. of Tech.* (Georgia Tech. Research Reactor), CLI-95-12, 42 NRC 111, 116-17 (1995); *Sequoyah Fuels*, CLI-94-12, 40 NRC at 75 n.22; *Armed Forces Radiobiology Inst.* (Cobalt-60 Storage Facility), ALAB-682, 16 NRC 150, 154 (1982); *Northern States Power Co.* (Pathfinder Atomic Plant), LBP-90-3, 31 NRC 40, 43 n.1, 45 (1990).

⁴⁸ See, e.g., *Pac. Gas & Elec. Co.* (Diablo Canyon Power Plant Independent Spent Fuel Storage Installation), LBP-02-23, 56 NRC 413, 427, *recons. denied*, LBP-02-25, 56 NRC 467, 474-76 (2002) (in a proceeding for a license to construct and operate an ISFSI at an operating reactor, granting standing to petitioners who lived within 17 miles of the facility, but denying standing to a petitioner who lived 20 miles from the facility); *Tenn. Valley Auth.* (Sequoyah Nuclear Plant, Units 1 and 2; Watts Bar Nuclear Plant, Unit 1), LBP-02-14, 56 NRC 15, 25 (2002) (allowing for the proximity presumption to apply to an organization’s members who lived within 17 miles of the Sequoyah and Watts Bar reactors at which “TVA propose[d] to add tens of millions of curies of highly combustible radioactive hydrogen gas” to the reactors’ core inventory).

⁴⁹ *Boston Edison Co.* (Pilgrim Nuclear Power Station), LBP-85-24, 22 NRC 97, 99 (1985).

⁵⁰ *Id.*

transferred onto ships.⁵¹ The Commission held that petitioners cannot establish standing solely by alleging proximity to transportation routes; rather, they must affirmatively establish a nexus between the licensing action and the petitioners' alleged injury.⁵²

3. Standing of Organizations

a. Standing of an Organization in its Own Right

An organization that wishes to intervene in a proceeding may do so either in its own right (by demonstrating injury to its organizational interests), or in a representative capacity (by demonstrating harm to the interests of its members).⁵³ To intervene in a proceeding in its own right, an organization must allege—just as an individual petitioner must allege—that it will suffer an immediate or threatened injury to its organizational interests that can be fairly traced to the proposed action and be redressed by a favorable decision.⁵⁴

Therefore, an organizational petitioner must show a “risk of ‘discrete institutional injury to itself, other than the general environmental and policy interests of the sort [the federal courts and NRC] repeatedly have found insufficient for organizational standing.’”⁵⁵ In *Sierra Club v. Morton*, the U.S. Supreme Court held that a “special interest in the conservation and the sound maintenance of the national parks, game refuges, and forests of the country” was insufficient to provide organizational standing to petitioner.⁵⁶ The Court stated that:

[A] mere ‘interest in a problem,’ no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem,

⁵¹ *Plutonium Export*, CLI-04-17, 59 NRC at 364 n.11.

⁵² *Id.* at 365-66.

⁵³ *Yankee Atomic Electric Co.* (Yankee Nuclear Power Station), CLI-98-21, 48 NRC 185, 195 (1998) (*citing Georgia Tech*, CLI-95-12, 42 NRC at 115).

⁵⁴ *See Georgia Tech*, CLI-95-12, 42 NRC at 115.

⁵⁵ *Consumers Energy Co.* (Palisades Nuclear Power Plant), CLI-07-18, 65 NRC 399, 411-12 (2007) (*quoting Int'l Uranium (USA) Corp.* (White Mesa Uranium Mill), CLI-01-21, 54 NRC 247, 252 (2001)) (emphasis in original).

⁵⁶ 405 U.S. 727, 730 (1972).

is not sufficient by itself to render the organization ‘adversely affected’ or ‘aggrieved’ . . . [I]f a ‘special interest’ in this subject were enough to entitle [petitioner] to commence this litigation, there would appear to be no objective basis upon which to disallow a suit by any other bona fide ‘special interest’ organization, however small or short-lived.⁵⁷

b. Representational Standing

To invoke representational standing, an organization must: (1) show that at least one of its members has standing in his or her own right (*i.e.*, by demonstrating geographic proximity in cases where the presumption applies, or by demonstrating injury-in-fact within the zone of protected interests, causation, and redressability); (2) identify that member by name and address; and (3) show, “preferably by affidavit,” that the organization is authorized by that member to request a hearing on behalf of the member.⁵⁸ Where the affidavit of the member is devoid of any statement that he or she wants and has authorized the organization to represent his or her interests, the presiding officer should not infer such authorization.⁵⁹ Indeed, the Commission has held that “[t]he failure both to identify the member(s) [that petitioners] purport to represent and to provide proof of authorization therefore precludes [petitioners] from qualifying as intervenors.”⁶⁰

IV. ARGUMENT

The Petition provides no valid justification for the Commission to hold a hearing. As explained below, all of the relevant factors in 10 CFR 110.84 weigh against Petitioners. Petitioners fail to demonstrate standing, contrary to Section 110.84(b), and they fail to show that

⁵⁷ *Id.* at 739.

⁵⁸ *Palisades*, CLI-07-18, 65 NRC at 409; *see also Northern States Power Co.* (Monticello Nuclear Generating Plant; Prairie Island Nuclear Generating Plant, Units 1 & 2; Prairie Island Independent Spent Fuel Storage Installation), CLI-00-14, 52 NRC 37, 47 (2000); *GPU Nuclear Inc.* (Oyster Creek Nuclear Generating Station), CLI-00-6, 51 NRC 193, 202 (2000).

⁵⁹ *Duquesne Light Co.* (Beaver Valley Power Station, Unit 2), LBP-84-6, 19 NRC 393, 411 (1984).

⁶⁰ *Palisades*, CLI-07-18, 65 NRC at 410.

a hearing on the issues they raise will be in the public interest or that a hearing would assist the Commission, contrary to Section 110.84(a). Independent of the foregoing, as explained in Section II above, the Executive Branch has expressed the view that the proposed export license would be consistent with the Joint Convention on Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management guidelines.⁶¹ Thus, the relevant factors weigh against Utah's request, and the Commission should deny the request for hearing.

A. Petitioners Fail to Establish An Interest That May Be Affected

Petitioners fail to show how their interest may be affected, contrary to 10 CFR 110.82 and 110.84. As explained above, because the Petitioners are “organizations,” they must either demonstrate that they have standing in their own right or that they have representational standing on behalf of their members. The Petitioners do not specify or explain whether they are claiming organizational or representational standing,⁶² nor is it clear whether the listed addresses are the homes of individuals or the various organizations' places of business (or both). Regardless of how the Petition is analyzed, however, it fails to demonstrate either organizational or representational standing.

1. *Petitioners Fail to Establish Organizational Standing*

The Petition does not articulate any specific organizational interests beyond expressing Petitioners' concern that the “public at large” and “those in the vicinity, downwind, and downstream on transport routes” will be impacted from “radioactive liquid and air releases and

⁶¹ See Stratford Letter.

⁶² In fact, Petitioners appear to suggest that the Commission should disregard all standing principles when they suggest that the “public at large” will be impacted. Petition at 2.

effluents and related material.”⁶³ As explained in Section III, above, this generalized interest is insufficient to demonstrate organizational standing.⁶⁴

Absent any identified organizational interest beyond a generalized interest in protecting the public from radiological releases from LLRW, the Petitioner organizations cannot demonstrate organizational standing.⁶⁵

2. Petitioners Fail to Establish Representational Standing

If we interpret the Petition as requesting representational standing for the Petitioner organizations on behalf of the listed individuals, the Petition still fails, because: (1) none of the listed individuals clearly authorize any of the organizations to represent their interest; (2) Petitioners cannot take advantage of the proximity presumption, either with respect to the facilities where the waste will be processed or disposed, or with respect to the transportation routes; and (3) the Petition fails to show injury-in-fact, causation, and redressability for the individuals listed.

a. No Individual Has Authorized The Organizations to Seek A Hearing

The Petition fails to show that any of the organizations are authorized to request a hearing on behalf of any individual. This showing is a prerequisite to any claim of representational standing, and the showing is made “preferably by affidavit.”⁶⁶ The Petition’s self-serving statement that “the below-listed organizations oppose” the applications and request a hearing falls far short of the specific authorization required. Thus, the Petition fails to demonstrate

⁶³ *Id.*

⁶⁴ *Plutonium Export*, CLI-04-17, 59 NRC at 363-64 (quoting *Sierra Club v. Morton*, 405 U.S. at 739).

⁶⁵ *See id.*

⁶⁶ *Palisades*, CLI-07-18, 65 NRC at 409; *see also Monticello*, CLI-00-14, 52 NRC at 47; *Oyster Creek*, CLI-00-6, 51 NRC at 202.

representational standing, because no individuals have clearly authorized the Petitioner organizations to represent their interests.

b. Petitioners Cannot Rely on the Proximity Presumption

Even if we assume, *arguendo*, that the organizations are authorized to represent the listed individuals, the Petition also fails to show representational standing to the extent Petitioners seek to rely on the “proximity presumption.” As explained above, in import or export licensing cases, this presumption can only be invoked with a showing of “an obvious potential for offsite consequences.”⁶⁷ The distance at which the presumption applies “must be judged on a case-by-case basis, taking into account the nature of the proposed action and the significance of the radioactive source.”⁶⁸ Petitioners’ allegations of the effect of radioactive releases on the “public at large” and those in the vicinity of the waste fall far short of the required showing, especially considering the distances between the *EnergySolutions* facilities and the addresses listed in the Petition.

In *Plutonium Export*, petitioners sought to demonstrate standing by showing their proximity to plutonium transport routes and shipment locations to be used under the proposed export license.⁶⁹ The petitioners submitted numerous supporting declarations from individuals who lived as close as one-eighth of a mile of the harbor to be used for the proposed shipments.⁷⁰ The petitioners also alleged that there was an obvious potential for offsite consequences because of the possibility of terrorist attacks on the plutonium shipments.⁷¹ This was insufficient to demonstrate standing, however, because the petitioners failed to provide “evidence of a specific

⁶⁷ *Plutonium Export*, CLI-04-17, 59 NRC at 365 (quoting *Georgia Tech*, CLI-95-12, 42 NRC at 116-17).

⁶⁸ *Id.*

⁶⁹ *Id.* at 364.

⁷⁰ *Id.* at 364 n.11.

⁷¹ *Id.* at 365.

and credible” scenario that would lead to radiological releases.⁷² Here, Petitioners similarly seek to rely on “generalized and hypothetical harm”⁷³ from “radioactive liquid and air releases and effluents and released material from processing.”⁷⁴ They provide no evidence to show that there will be any releases beyond regulatory limits or that there is any danger of resulting harm to individuals located at the addresses listed in the Petition.

Many of the addresses listed in the Petition are hundreds of miles or more from any of the proposed locations for the imported material, far beyond the scope of any conceivable offsite consequences. Most egregiously, the address listed for Dr. Paul Connert, Ellen Connert, and the “American Environmental Health Studies Project, Inc.” is in New York State, nearly 1,000 miles from any facility involved in the proposed project. The address provided for Diane D’Arrigo and Nuclear Information and Resource Service (“NIRS”) is in Maryland, and Glen Carroll and “Nuclear Watch South” are purportedly located in Atlanta, Georgia, both hundreds of miles from any relevant location.⁷⁵ Even the closest identified address (Ann Harris/ “Sierra Club . . . Nuclear Task Force”) in Rockwood, Tennessee is approximately ten miles from the EnergySolutions Bear Creek Facility where the waste will be processed. Even this is a greater

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Petition at 2.

⁷⁵ Indeed, *all* of the listed addresses are many miles from the facilities involved in the proposed import. The “Tennessee Environmental Council” and “Tennessee Conservation Voters” are purportedly located in Nashville, approximately 150 miles from the Bear Creek Facility. “Citizens to ENDIT” is purportedly located in Murfreesboro, Tennessee, also approximately 150 miles away. “Friends of the Earth” is purportedly located in Columbia, South Carolina (as is one of the listed addresses for the Sierra Club), more than 100 miles from the potential port of entry in Charleston. The remaining Sierra Club addresses are also similarly distant from the locations of the imported waste: Memphis, Tennessee is over 350 miles from the Bear Creek Facility; Mandeville, Louisiana is over 30 miles from New Orleans; Rockwood, Tennessee is over ten miles from the Bear Creek Facility; Jonesborough, Tennessee is over 100 miles from Bear Creek. The “Bellefonte Efficiency and Sustainability Team” is purportedly located in Crossville, Tennessee, over 30 miles from Bear Creek. The “Southern Alliance for Clean Energy” is located in Knoxville, Tennessee, over 25 miles away.

distance than that claimed by most of the declarants who were denied standing in the *Plutonium Export* case.⁷⁶

The Commission's decision in *Plutonium Export* also forecloses Petitioners' apparent claim of standing based on proximity to proposed transport routes.⁷⁷ Instead, Petitioners "must demonstrate a causal connection between the licensing action and the injury alleged."⁷⁸

Petitioners provide no evidence suggesting the possibility of excessive radiological releases during the transportation of low-level waste under the proposed licenses. In fact, the proposed shipments are no different from the numerous ongoing shipments that occur routinely involving domestic waste that is substantially the same as the imported waste.⁷⁹

Thus, Petitioners cannot invoke the proximity presumption and must instead show standing under the judicial standing analysis.

c. Petitioners Fail the Judicial Standing Test

Under the traditional judicial standing test, Petitioners must show injury-in-fact within the zone of interest, causation, and redressability.⁸⁰ Under this analysis, even if we again assume, *arguendo*, that the organizations are authorized to represent the listed individuals, the Petition still fails, because it does not explain how the alleged "releases and effluents" will reach the listed locations, much less reach them in sufficient concentrations to cause harm to any individual.⁸¹

⁷⁶ See 59 NRC at 364 n.11.

⁷⁷ *Id.*

⁷⁸ *Id.*; see also *Diablo Canyon*, LBP-02-23, 56 NRC at 433-34.

⁷⁹ See, e.g., "How [s]afe are radioactive material transportation packages?" available at http://www.sandia.gov/tp/SAFE_RAM/RECORD.HTM ("Radioactive material has been shipped in the U.S. for more than 50 years with no occurrences of death or serious injury from exposure of the contents of these shipments.").

⁸⁰ See, e.g., *Quivira Mining*, CLI-98-11, 48 NRC at 6; *Lujan v. Defenders of Wildlife*, 504 U.S. at 560-62.

⁸¹ Petition at 2.

Although the Petition claims that “those in the vicinity, downwind, downstream” or along transport routes will “[c]ertainly” be affected, it fails to claim that any of the organizations are located in such areas, much less does it demonstrate that they are.⁸² Nor does it provide any evidence to suggest that individuals in such locations will be in danger of suffering any injury from the dose they might receive.⁸³ Thus, the Petition fails to show any injury-in-fact or any “causal connection between the licensing action and the injury alleged.”⁸⁴

As a result, Petitioners have failed to demonstrate standing. This failure cuts strongly against Petitioners in the Commission’s consideration of the relevant factors in 10 CFR 110.84.

B. Discretionary Intervention Would Not Assist The Commission Or Be In The Public Interest

Petitioners fail to show that a hearing on the issues they raise would be in the public interest, or that they would assist the Commission in making its required findings, contrary to 10 CFR 110.82 and 110.84. To the extent required under NRC regulations, all of the issues Petitioners raise are fully addressed in the Import and Export License Applications, EnergySolutions’ RAI Responses, and other materials in the record. Any desire for additional information, beyond that required for the Commission’s determination under 10 CFR 110.45, is irrelevant.

Critically, Petitioners do not claim that they have any specialized expertise or information on any of the topics listed below, nor does the Petition provide any evidence suggesting that

⁸² *Id.*

⁸³ *See Boston Edison Co. (Pilgrim Nuclear Power Station), LBP-85-24, 22 NRC 97, 98-99, aff’d on other grounds, ALAB-816, 22 NRC 461 (1985) (denying standing to petitioner challenging a license amendment for spent fuel pool reracking because “we know of no scenario under which the radiation attributable to the fuel pool could affect a residence 43 miles distant from the fuel pool; and petitioner has not informed us of any such scenario.”).*

⁸⁴ *Plutonium Export, 59 NRC at 364 n.11. For the same reasons, the Petition also fails to show both a substantially increased risk of harm to the Petitioner organizations or their members and a substantial probability of harm with that increase taken into account. See Pub. Citizen, 513 F.3d at 237.*

Petitioners could contribute in this fashion. Thus, if a hearing were to be held, it is unclear how any evidence presented by Petitioners would assist the Commission in making its required findings.⁸⁵

Petitioners identify the following “issues that need to be addressed.”⁸⁶ None of them has any merit or raises an issue that would be appropriate for a hearing.

1. *“the amount and type of materials that will be processed in Tennessee by the various methods and what will remain in the state as solid waste or restricted or unrestricted ‘recycled’ material”*

This information is available in the record. The Import Application specifies the amount and type of materials in question.⁸⁷ This information is amplified in considerable detail in the Supplemental RAI Response.⁸⁸ All of the material will be transported first to the Bear Creek Facility in Tennessee.⁸⁹ None of the material processed at Bear Creek will remain there—the Supplemental RAI Response clearly states that “[t]here will be no long term storage of Class B, C, or GTCC waste at the Bear Creek Facility.”⁹⁰ The materials will be dispositioned as specified in the Initial RAI Response.⁹¹

2. *“the amount of radioactive or slightly radioactive metal that could or would enter into commercial metal recycling through the EnergySolutions state license (including regulatory controls and enforcement mechanisms that prevent*

⁸⁵ Cf. *Plutonium Export*, 59 NRC at 368 (“Petitioners themselves acknowledge that they do not possess any specialized knowledge not already in the public record”); see also *Transnuclear, Inc.* (Export of 93.3% Enriched Uranium), CLI-00-16, 52 NRC 68, 72 (2000) (“[T]here is nothing in [the] petition indicating that [petitioner] possesses special knowledge or that it will present significant information not already available to and considered by the Commission.”).

⁸⁶ Petition at 1.

⁸⁷ Import Application at 2.

⁸⁸ EnergySolutions Response to NRC Supplemental Request For Additional Information Regarding License Applications: IW023 & XW013, at 4-5 (Jan. 11, 2008) (“Supplemental RAI Response”).

⁸⁹ Initial RAI Response at 3.

⁹⁰ Supplemental RAI Response at 1.

⁹¹ Initial RAI Response at 4-5.

releases); more specifics on the determinations and destinations for metal that goes for 'restricted' reuse or recycle [sic], including transport routes”

This information is available in the Import Application and RAI Responses and in the state licenses and applicable regulations.⁹² To the extent that Petitioners desire “more specific[]” information, including information regarding transportation routes, they fail to explain why such additional information is required for the Commission to make its determinations under 10 CFR 110.45.⁹³

3. *“determination of the final destinations of the radioactive waste at various levels resulting from various kinds of processing of the imported waste; This is of special concern since Utah and the NW Compact are refusing to accept this waste, which had been destined for EnergySolutions’ Clive, UT facility under the application. It is also of concern because the Tennessee Dept of Environment and Conservation licenses for processing allow some radioactive material to be released –that is go [sic] to unregulated destinations including landfills in the state.”*

As explained in response to issue (1), above, information on the final destinations of the material is clearly available in the application and RAI Responses.

Neither Utah nor the Northwest Compact has the right to “refus[e] to accept” the imported material. In response to the NRC’s questions regarding the instant Import Application, the Director of Utah’s Division of Radiation Control, DEQ, responded that Utah’s rules “do not prohibit the disposal of low-level radioactive waste from foreign generators.”⁹⁴ Thus, Utah cannot prevent EnergySolutions from accepting the waste at the Clive Facility. The Northwest Compact simply lacks jurisdiction over the Clive Facility, because Clive is not a “regional disposal facility” within the meaning of the Low-Level Radioactive Waste Policy Act

⁹² See generally Import Application; Initial RAI Response at 4-5; Supplemental RAI Response at 3-5.

⁹³ Petition at 1.

⁹⁴ E-mail from D. Finerfrock, DEQ, to S. Dembek, NRC “License Application IW023” (Mar. 26, 2008), available at ADAMS Accession No. ML080870476.

(“LLRWPA”).⁹⁵ Instead, the Clive Facility is an independent, privately operated business enterprise, so the Northwest Compact also cannot prevent EnergySolutions from accepting the waste at the Clive Facility.

Petitioners also appear to challenge the adequacy of Tennessee’s environmental regulations. However, none of the waste will be disposed of in Tennessee, and as such, this issue is irrelevant to the findings NRC must make.⁹⁶ There will also be no “release” of any of the material imported under this license.⁹⁷ Moreover, under the agreement states program, the Commission found Tennessee’s radioactive materials regulation program to be “compatible with the Commission’s program . . . and . . . adequate to protect the public health and safety.”⁹⁸ The NRC periodically reviews the Tennessee’s radiation control program, and in its most recent Integrated Materials Performance Evaluation, the NRC reached the same conclusion.⁹⁹ The Commission should not entertain a challenge to this generic determination in the context of this import and export licensing proceeding.

4. *“additional technical information on how the waste will meet acceptance criteria at US facilities and estimates of the amount of material and waste that could be returned to Italy, doubling the transport distance for the sake of processing in the US.”*

⁹⁵ The LLRWPA only authorizes each compact to “restrict the use of the *regional disposal facilities* under the compact to the disposal of low-level radioactive waste generated within the compact region.” 42 U.S.C. § 2021d(c) (emphasis added). The LLRWPA states that “[t]he term ‘regional disposal facility’ means a non-Federal low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated under a compact.” 42 U.S.C. § 2021b(11). The Clive Facility, however, was not in operation on January 1, 1985; nor was it “subsequently established and operated under a compact.” The Northwest Compact’s lack of jurisdiction over the Clive Facility is more fully explained in EnergySolutions’ Answer to Utah’s Request for Hearing.

⁹⁶ See response to issue 1, above.

⁹⁷ See *id.*

⁹⁸ Agreement Between Atomic Energy Commission and State of Tennessee; Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State, 30 Fed. Reg. 10,918, 10,919 (Aug. 21, 1965).

⁹⁹ Letter from M. Virgilio, NRC, to K. Stachowski, Tenn. DEC (June 9, 2004) available at ADAMS Accession No. ML043630141.

This information is available in the Import and Export Applications and RAI Responses. The Import Application explains “how the waste will meet acceptance criteria.”¹⁰⁰ The Initial RAI Response explains that EnergySolutions expects that “none of the material will need to be returned to Italy.”¹⁰¹ The export license application was filed for contingency purposes, to permit return of the material in the unlikely event it must be returned to Italy.¹⁰²

5. *“transportation to, from and through Tennessee (especially since it appears that there is no insurance for transport of such materials through commercial Port of Charleston and it is unclear which ports will actually be used)”*

As explained in the Import Application, all shipments within the United States will be conducted in accordance with applicable regulations.¹⁰³ EnergySolutions currently makes routine shipments on a periodic basis that meet all applicable regulatory requirements, including transportation permitting and insurance requirements. The shipments made in connection with the proposed import are no different and present no unique issues warranting further consideration.

6. *“transport of radioactively recycled metal from the TN processing locations, through the US, to Japan and supposed ‘restricted’ use in Japan should be considered to determine the likelihood of the material coming back to the US, to determine whether it will impact the public workers even though it is in “restricted” settings, and to evaluate the controls that will keep the metal under restricted conditions and use.”*

This application concerns only the import of the material and export of any portion of the material that must be returned to Italy. The subsequent shipments of recycled material to Japan will be undertaken pursuant to the general licenses granted in 10 CFR 110.21, 110.22, and 110.23 and any issues or impacts related to such exports are therefore outside the scope of this

¹⁰⁰ Import Application at 4.

¹⁰¹ Initial RAI Response at 3.

¹⁰² Export Application at 1; *see also id.* at 3 (specifying that “up to approximately 1,000 tons” could be returned under the proposed export license).

¹⁰³ Import Application at 4.

license application. To the extent any consideration of impacts to the workers or the public in Japan could be an appropriate consideration, the time for raising such concerns was when the Commission adopted its rules regarding general export licenses.

7. *“impacts on the public health and safety and common defense and security of the states and our nation, specifically with regard to the radioactive materials in this application but also with regard to setting a precedent for additional large imports for processing and disposal in the US. Talk about more radioactive waste from the UK has already been made public.”*

Petitioners’ vague allegation of “impacts” fails to contradict any of the information in the Import and Export License Applications, RAI Responses, Executive Branch views, and other material in the record. To the extent Petitioners speculate about the effect of precedent on future shipments, their allegations are also irrelevant. Future shipments would be governed by future licenses. This is a routine application for the commercial importation of low-level waste and there are numerous recent examples of similar imports that the Commission has authorized.¹⁰⁴ Thus, issuance of the requested license will not set any new “precedent.” To the contrary, all potential future imports will be subject to NRC licensing requirements and will be subject to public comment and potential hearings.

8. *“whether this license application furthers the ‘important policy goals’ set forth in 60 FR 37556-7 as guidance for granting ‘low-level’ and intermediate level waste importations.”*

With this claim, Petitioners misinterpret the policy the Commission articulated in the cited Final Rule, apparently hoping that the Commission will adopt a new policy prohibiting all

¹⁰⁴ *E.g.*, Import License No. IW017 (Oct. 10, 2006), *available at* ADAMS Accession No. ML062860179 (authorizing importation of Class A LLRW from Canada for recycling and/or disposal and specifying that nonconforming material will be returned to Canada under an appropriate export license); Import License No. IW022 (Sept. 25, 2007), *available at* ADAMS Accession No. ML072750266 (authorizing importation of Class A LLRW from Canada for recycling and specifying that nonconforming material will be returned to Canada under an appropriate export license); Import License No. IW009 (Oct. 16, 2003), *available at* ADAMS Accession No. ML032960176 (authorizing importation of Class A LLRW from Germany for recycling and/or disposal, and specifying that certain byproducts will be returned to Germany under an appropriate export license).

importation of low-level radioactive waste for commercial purposes. In the Final Rule promulgating the current regulations on import and export of radioactive waste, the Commission rejected comments that “urged the NRC to ban all imports and exports of radioactive waste” or to limit such movements to “extraordinary circumstances.”¹⁰⁵ This was because “[i]nternational commerce in radioactive waste into and out of the United States, may be desirable from a policy perspective.”¹⁰⁶

The Commission continued by citing certain “example[s]” of instances where “commerce involving radioactive waste may further important policy goals,” but these examples are not comprehensive.¹⁰⁷ The Commission’s regulations do not restrict all imports to such examples, nor do they require imports or exports to fulfill “important policy goals.”¹⁰⁸ As noted above, the Commission also has a long history of permitting the importation of low-level radioactive waste for commercial purposes.

Thus, the policy debate Petitioners desire—whether the proposed licenses further “important policy goals”—would not assist the Commission in making its required determinations under 10 CFR 110.45.

9. *“clarification and clear identification of the port(s) through which the radioactive waste and material would be shipped and routes to, from and through TN; identification of state regulations that apply to offloading, handling and temporary storage in any port facility as well as clarification as to whether the port authorities have the ability to off-load and handle nuclear waste and respond in case of emergency. [The license application is vague as to which ports might be used and there is evidence that Charleston, SC, one of the ports named in the license application can't handle nuclear waste. There appear to be uncertainties and concerns about whether New Orleans can or will be able or willing to handle it.]”*

¹⁰⁵ Final Rule, Import and Export of Radioactive Waste, 60 Fed. Reg. 37,556, 37,557 (July 21, 1995).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *See* 10 CFR 110.45.

The Import Application clearly states that the waste will be shipped to the Port of Charleston or Port of New Orleans and from there by truck, barge, or rail to the EnergySolutions facilities in Tennessee.¹⁰⁹ To the extent that Petitioners’ desire “clarification” of this information, including information regarding transportation routes, they fail to explain why such additional information is required for the NRC to make its determinations under 10 CFR 110.45. In fact, it is the Petition, not the Import Application that is vague. Petitioners fail to set forth any purported “evidence” about the Port of Charleston, or what “uncertainties” there may be regarding the Port of New Orleans.

In sum, none of the issues Petitioners raise suggest that a hearing would be in the public interest or would assist the Commission in making the required statutory determinations on the license applications, contrary to 10 CFR 110.84(a).

V. CONCLUSION

For the foregoing reasons, the Commission should deny the Petition in its entirety.

Respectfully submitted,

Signed (electronically) by Raphael P. Kuyler
John E. Matthews
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¹⁰⁹ Import Application at 4.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Commission

In the Matter of)	Docket Nos. 110-05711 (Import)
ENERGYSOLUTIONS, LLC)	110-05710 (Export)
(Radioactive Waste Import/Export Licenses))	July 10, 2008

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ENERGYSOLUTIONS' ANSWER OPPOSING VARIOUS ORGANIZATIONS' REQUEST FOR HEARING have been served upon the following persons on July 10, 2008 through the Electronic Information Exchange.

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