

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION (NRC)**

Before the Commission

In the Matter of:)	License Nos. IW023 and XWO13
)	Docket No. 11005711 (import)
ENERGYSOLUTIONS)	and No. 11005710 (export)
(Radioactive waste import/export)	
licenses for Italian waste))	July 31, 2008

14 Organizations'
Motion to File Reply Out Of Time and
Response to Motion to Strike

This is a Motion to File Reply Out Of Time to EnergySolutions' Response to our Hearing Request and our Response to EnergySolutions' Motion to Strike.

Motion to File Reply Out Of Time

The deadline for our groups to reply to EnergySolutions' Response to our Hearing Request was July 21, 2008. Our reply (Corrected RESPONSE TO EnergySolutions' RESPONSE to REQUEST FOR HEARING) was submitted via the EIE system on July 22, 2008 as a "corrected" response.

On July 21, 2008, while in the process of completing our response and declarations and converting them to the proper form for submission to the EIE system, my computer froze, loosing the final reply document. The technical problems with my computer cannot be fixed and I am in the process of getting a new one because of this very incident. I could not get on the EIE system that night. As soon as I was able to send email I sent the only remaining version of our reply that was accessible even though it was an earlier, incomplete one, along with the two declarations to all parties.

I realized that the version originally sent had obvious errors and had lost much of the content of the response as it was an earlier draft so I reconstructed and submitted the complete document as a "corrected" document in the sense that it included all the

information in the lost one. I did not consider this adding to the reply but providing our complete response-- the substance of the reply with clarifications of the issues raised in our original hearing request. The “corrected” reply was submitted later on July 22, 2008 due to a fire in my home on the evening of July 21st which prevented me from reconstructing the document sooner.

I was mistaken in my understanding of the term “correction.” I have since been instructed that “correction” is only for typos and misstatements. EnergySolutions’ point about our “corrected” filing not being a “correction” in the legal sense of the term is well taken.

At the time of the filing on July 21st I was not aware of the procedural step permitting request for extension of time. I now understand that we should have then filed a “motion to file reply out of time.” Therefore, *we are making this motion now.*

We anticipate future legal counsel to avoid making legal technical mistakes such as the misunderstanding about the term “correction.” Obviously improved computer equipment should prevent the loss of documents and access to internet and EIE system that happened July 21st. We are making our best good faith effort to get a hearing according to the NRC’s regulations.

Although we were not able to get the documents up onto the EIE system we did send them to all parties via email and put them up via the EIE system the next day. Every good faith effort is being made to comply with the legal requirements so that NRC will hold a hearing on this important application.

Response to Motion to Strike

We oppose the Motion to Strike our request for a Hearing in Middle Tennessee on EnergySolutions’ application to import Italy’s nuclear waste to process and dispose. John Matthews, legal counsel for EnergySolutions, and I have spoken twice regarding the our withdrawing our “corrected” filing. Since the content (which had been lost in the computer freeze) which was submitted in the second version is important to our hearing

request we cannot agree to removing it. We ask that we be granted the Motion to File Out of Time. Mr. Matthews did not agree to our requesting the out of time filing saying it should have been filed on July 22nd. We have discussed these matters but have not come to an agreement. NIRS et al request NRC to grant our Motion to File Out of Time and deny EnergySolutions' Motion to Strike.

We believe the content of our reply provides the information required in 10 CFR 110, that it is appropriate and responds to the concerns raised by EnergySolutions in its Response. A hearing on this issue will assist NRC in making the best educated determination on this precedent-setting and significant application by allowing NRC to hear from affected parties directly.

DATED this 31st day of July, 2008.

Respectfully submitted,

Diane D'Arrigo

Nuclear Information and Resource Service
6930 Carroll Avenue, Suite 340
Takoma Park, Maryland 20912
E-mail: dianed@nirs.org

Nuclear Information and Resource Service
Diane D'Arrigo, Radioactive Waste Project Director
6930 Carroll Ave #340
Takoma Park, MD 20912
301 270 6477 x 16
dianed@nirs.org

Tennessee Environmental Council
John McFadden, Executive Director
One Vantage Way, Suite D-105
Nashville, TN 37228
615-248-6500
john@tectn.org

Citizens to ENDIT (End Nuclear Dumping In Tennessee)
Kathleen Ferris, Co-Founder
Murfreesboro, TN
k.r.ferris@comcast.net

Tennessee Conservation Voters
Chris Ford, Executive Director
2021 21st Ave. So., Ste. 431
Nashville, TN 37212
615-269-9090
cford@tnconservationvoters.org

Tom Clements
Friends of the Earth
1112 Florence Street
Columbia, SC 29201
803 834 3084
tomclements329@cs.com

Sierra Club

Steven Sondheim, Energy Chair
Tennessee Chapter
271 N Rose
Memphis, TN 38117
901 761-1793
stevensonndheim@yahoo.com

Leslie March, Conservation Chair
Delta Chapter
67017 Dolan St.
Mandeville, Louisiana 70471
lesliemarch@hotmail.com

Susan Corbett, Executive Committee
South Carolina Chapter
Columbia, SC
jscorbett@mindspring.com

Ann Harris National Committee
Nuclear Task Force
341 Swing Loop
Rockwood, TN 37854
apickle@aol.com

Linda Modica, Chair
Radiation Committee
Jonesborough, TN
linda.c.modica@mac.com

Louise Gorenflo
Bellefonte Efficiency and Sustainability Team
185 Hood Drive
Crossville TN 38555
931/484-2633
lgorenflo@gmail.com

American Environmental Health Studies Project, Inc.
Dr. Paul Connett, Ellen Connett, former editor, Waste Not
82 Judson St
Canton, NY 13617
315-379-9200
paul@fluoridealert.org

Sara Barczak, Safe Energy Director
117 S. Gay Street
Knoxville, TN 37902
sara@cleanenergy.org

Glenn Carroll, Coordinator
Nuclear Watch South
P.O. Box 8574
Atlanta, GA 31106
404-378-4263
atom.girl@mindspring.com

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSIONERS

In the Matter of:)
ENERGYSOLUTIONS) License Nos. IW023 and XWO13
(Radioactive waste import/export) Docket No. 11005711 (import
licenses for Italian waste)) and No. 11005710 (export)
) July 31, 2008

CERTIFICATE OF SERVICE

I hereby certify that a copy of 14 Organizations' **Motion to File Reply Out Of Time and Response to Motion to Strike** was served on the persons listed below:

Hearing Docket

E-mail: hearingdocket@nrc.gov

Emile L. Julian, Esq.

E-mail: elj@nrc.gov

Rebecca L. Giitter

E-mail: rl@nrc.gov

Evangeline S. Ngbea

E-mail: esn@nrc.gov

Linda Lewis

Email: linda.lewis@nrc.gov

Andrew L. Bates

Email: alb@nrc.gov

OCAAMAIL

E-mail: ocaamail@nrc.gov

OGCMail Center

Kristy Remsburg

Herald Speiser

Martin Circe

E-mail: ogcmailcenter@nrc.gov

Herald M. Speiser

Email: hms1@nrc.gov

Christine Pierpont

E-mail: cmp@nrc.gov

Brooke Smith

E-mail: bgs@nrc.gov

Tom Ryan

E-mail: tpr@nrc.gov

Nancy Greathead

E-mail: nsg@nrc.gov

Denise Chancellor

Email: dchancellor@utah.gov

Fred Nelson

Email: fnelson@utah.gov

Cindy Howard

Email: choward@utah.gov

Gloria Griffith

E-mail: gl44797@earthlink.net

Michael Mariotte

Email: nirsnet@nirs.org

Mark Ledoux

Email: mledoux@energysolutions.com

Raphael Kuyler

Email: rkuyler@morganlewis.com

Tye Rogers

Email: trogers@energysolutions.com

John Matthews

Email: jmatthews@morganlewis.com

DATE July 31, 2008

/Signed (electronically) by Diane D'Arrigo/

Diane D'Arrigo

Radioactive Waste Project Director
Nuclear Information and Resource Service
6930 Carroll Avenue, Suite 340
Takoma Park, Maryland 20912
E-mail: dianed@nirs.org