

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Sep 25, 2008 13:34

PAPER NUMBER: LTR-08-0502

LOGGING DATE: 09/24/2008

ACTION OFFICE:

OIP *JOCC*

AUTHOR: REP Bart Gordon

AFFILIATION: CONG

ADDRESSEE: Dale Klein

SUBJECT: Expresses continued concerns regarding the application of EnergySolutions, Inc, for a license to import tons of LLRW into the U.S. from Italy for treatment and disposal

ACTION: Signature of Chairman

DISTRIBUTION: RF, SECY/RAS, EDO, OGC, OCA to Ack

LETTER DATE: 09/23/2008

ACKNOWLEDGED No

SPECIAL HANDLING: OIP should coordinate response with the OGC

NOTES: Chairman Correspondence...Tentative affirmation...Oct 6th
.....SECY to place on comment docket

FILE LOCATION: ADAMS

DATE DUE: 10/08/2008

DATE SIGNED:



Congress of the United States
House of Representatives
Washington, DC 20515

September 23, 2008

The Honorable Dale Klein
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
One White Flint North
Rockville, Maryland 20852

Dear Chairman Klein:

It is our understanding that the Nuclear Regulatory Commission (NRC) will soon be making a decision concerning the application of EnergySolutions, Inc., (ES) for a license to import 20,000 tons of low-level radioactive waste (LLRW) into the United States from Italy for treatment and disposal. The waste would be treated at ES' Tennessee facilities with the remainder shipped to its Clive, Utah, facility for final disposal. We are writing to request that you reject this application.

As you know, EnergySolutions' license application has already been rejected by the Northwest Interstate Compact on Low-Level Radioactive Waste Management in which the Utah site is located. In May, after a unanimous vote opposing the disposal of this waste in Utah, the Compact sent its official response to the NRC stating that if the NRC approved the import license, it did so "with the understanding there is no facility within the Northwest Compact region that is authorized to legally accept this waste for disposal."¹

The NRC has no authority to import waste when there is not a facility to ultimately dispose of it. According to NRC regulations, an applicant for an import license must have "an appropriate facility [that] has agreed to accept the waste for management or disposal."² This requirement was reiterated in your April 9, 2008, letter to Rep. Gordon which stated, "LLRW Compacts may restrict out of compact LLRW from being disposed in their regional facilities if they so choose."³ Because EnergySolutions does not have a disposal agreement, its license application should be denied.

¹ Letter "RE: Application for NRC Import License (IW023)," from Mike Garner, executive director, Northwest Compact, to Stephen Dembek, branch chief, Export Controls and International Organizations, Office of International Programs, NRC, May 15, 2008.

² 10 CFR 110.43(d)

³ Letter from Chairman Klein to Rep. Bart Gordon, April 9, 2008, p. 1.

Received SECY/C&R
Date: 9/24/08
Time: 3:00

Additionally, during the public comment period, over 4,000 comments were received concerning this license application. Only a handful – mostly from persons connected with the nuclear waste industry – favored its approval. In his written testimony before the Energy and Air Quality Subcommittee of the House Energy and Commerce Committee earlier this year, Steve Creamer, ES' chief executive officer, stated that, in order to be a "leader in the energy field," the United States was obligated to take in other countries' nuclear waste. "We should stand ready to provide technical solutions to those countries that are in need," he added.

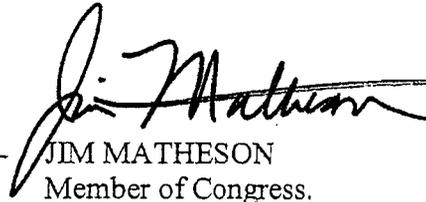
Nothing in the Low-Level Radioactive Waste Policy Amendments Act of 1985 (P.L. 99-240), its legislative history or the resulting regulations governing the disposal of radioactive waste could lead to a conclusion that the United States intended to become the nuclear waste dumping ground for "countries in need." As a nation, we must establish and maintain facilities to process and dispose of our own nuclear waste. We expect this need to grow over the next several decades as additional nuclear power plants are constructed. Other nations must do the same for their own radioactive waste if they intend to build nuclear power plants.

Therefore, by this letter, we are requesting once again that this license application be rejected by the Commission.

Sincerely,



BART GORDON
Member of Congress



JIM MATHESON
Member of Congress.