

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE SECRETARY

In the Matter of)
)

ENERGYSOLUTIONS)

(Radioactive Waste Import/Export
Licenses)
_____)

Docket Nos. 110-05896 (import)
110-05897 (export)

**HEARING REQUEST AND PETITION TO INTERVENE BY
TENNESSEE ENVIRONMENTAL COUNCIL, OAK RIDGE ENVIRONMENTAL
PEACE ALLIANCE, CITIZENS TO END NUCLEAR DUMPING IN
TENNESSEE,**

INTRODUCTION

As provided by NRC regulations and the notice posted in the Federal Register on November 30, 2010, Petitioners Tennessee Environmental Council (TEC), Oak Ridge Environmental Peace Alliance (OREPA), and Citizens to End Nuclear Dumping in Tennessee (ENDIT), hereby request a hearing on EnergySolutions' application for a license to (a) import radioactive waste from the German corporation Eckert and Ziegler Nuclitec (EZN) through Virginia to Tennessee for incineration and (b) export the radioactive waste back to Germany after incineration. This hearing request is also supported by the following additional organizations, who have joined Petitioners in submitting comments on the license applications as permitted by 10 C.F.R. 110.81:

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**ISSUES SOUGHT TO BE RAISED AND COMMENTS ON LICENSE
APPLICATION**

Petitioners seek a hearing on the following concerns that are not addressed in EnergySolutions' license application. In particular, the application fails to provide the following information:

-- WHAT THE WASTE IS: the amount, form, character, class and type of radioactivity and radioactive waste and material that would be imported and incinerated/processed in Tennessee. We want to know the volume, mass, curies (becquerels) of all radionuclides, chemical and physical form;

-- WHERE THE WASTE IS COMING FROM (countries and industries): the need for specific information on the sources and origins of the radioactive wastes. Since the German company, EZN, is in the business of collecting radioactive waste from all over the world, EnergySolutions should specifically identify the sources, industries, geographical origins and characterization of all wastes;

--HOW LONG WILL THE RADIOACTIVE WASTE MATERIALS BE IN THE UNITED STATES: what are the time limits for domestic transit to and from Oak Ridge, storage both prior to and after incineration, and total duration of the waste material in any form being in the U.S. In no case should the radioactive waste material in any form be in the U.S. for longer than 90 days.

-- HOW MUCH RADIOACTIVITY WILL STAY HERE (in our air, water, soil, landfills, etc): the amount of radioactivity that will remain in the state/country as solid waste going to solid waste landfills or to restricted or unrestricted "recycling" or to cement kilns. This is of concern because the Tennessee Department of

Environment and Conservation license for EnergySolutions allows some radioactive waste/material to be released for unrestricted reuse or disposal—that is, to go to unregulated destinations including commercial and municipal landfills in the state. Additionally, what is the disposal path of the incinerators' radioactive air filters which must be removed after becoming clogged?

-- WHETHER ANY RADIOACTIVITY GETS INTO RECYCLING: the amount of radioactive or slightly radioactive material, if any, that could enter into commercial or restricted recycling through the EnergySolutions state license;

-- WHERE THE RADIOACTIVITY WILL GO: a determination of the final destinations of the radioactive waste at various levels resulting from various kinds of processing of the imported waste;

-- COMPLIANCE WITH LICENSES AND HOW MUCH RADIOACTIVITY WILL GET OUT: the need for additional technical information on how the waste will meet acceptance criteria at US EnergySolutions facilities and technical information on the routine and accidental air and water radioactive emissions from those facilities;

-- HOW MUCH RADIOACTIVITY WILL GO BACK TO EUROPE AND HOW: the need for more specific determination of the amount and levels of radioactivity of material and waste that could be returned to Germany, since the radioactivity will be concentrated and the transport distance will be doubled, just for the sake of burning it in the US;

--ULTIMATE DESTINATION IN GERMANY FOR RADIOACTIVE ASH AND OTHER RETURNS: is there a possibility the radioactive materials will be orphaned in the U.S. because of Germany's unwillingness to take it back, what are the specific disposal plans and guarantees?;

-- TRANSPORT INFORMATION AND RISKS: specific information on the transport routes to, from and through Tennessee and Virginia including documentation of transport insurance liability for the wastes and materials, and specific information on transport containers and protocols;

-- CLARIFICATION AND CLEAR IDENTIFICATION OF THE PORTS through which the radioactive waste and material would be shipped and routes to, from and through TN and the US; 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;

-- PUBLIC HEALTH, SAFETY, SECURITY: 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 transport in, through and out of the US;

--WORKPLACE RELATED RISKS AND EXPOSURE: What level of exposure will workers incur? How many employees will receive the maximum allowable dose

per year, and over what period of time? Who will be responsible for the healthcare costs of those who become ill?

-- CUMULATIVE EFFECTS: What will be the cumulative emissions and potential health effects of the incineration of this additional foreign waste (and potentially much more of it) combined with the existing radioactive emissions in the Oak Ridge area? Presently people in Oak Ridge are exposed to routine and accidental releases from the Oak Ridge-DOE TSCA incinerator for DOE mixed radioactive and hazardous wastes across the weapons complex, the Kingston DSSI boiler for mixed radioactive and hazardous wastes, the two EnergySolutions incinerators on Bear Creek Road, the new Impact pyroprocessor near Oak Ridge; Oak Ridge DOE site operations, as well as other industrial emissions;

--EXAMINATION OF THE PREMISE that the business of world-wide radioactive waste management is good for the people of the USA. In the letter which accompanied their application, under justification of the License, Energy Solutions states that this effort will “assist in maintaining the US competitive advantage in waste management and decommissioning.” We wish to challenge this premise. We also wish to request the NRC to waive 10 C.F.R. 51.22(c)(15) for the purpose of addressing this issue and other environmental issues raised by EnergySolutions’ license application. Import licenses were excluded from environmental review because an import license does not itself permit the use of radioactive material in the United States. 45 Fed. Reg. 13,739, 13,748 (March 3,

1980). In this case, however, the issuance of an import license is the key federal action that will allow the incineration of foreign-made radioactive waste in a Tennessee incinerator. EnergySolutions has provided virtually no information to assure the affected public that the waste to be shipped will conform to the specifications of the incinerator, i.e., that the health and safety of the public will be protected. Yet, EnergySolutions claims that the import of the radioactive waste will be good for the U.S. economy. This is the type of cost-benefit analysis that should be addressed in an environmental impact statement.

WHY A HEARING IS IN THE PUBLIC INTEREST AND WOULD ASSIST COMMISSION IN MAKING THE DETERMINATIONS REQUIRED BY 10 C.F.R. 110.45

A hearing is in the public interest and would assist the Commission in making the determinations required by the Atomic Energy Act and 10 CFR 110.45 because it would ensure that EnergySolutions provides all the information that is necessary to protect public health and safety and the environment, and would also address the legal and policy issues raised by this proposal to use U.S. facilities to process dangerous materials that could be processed in their country of origin.

The public also needs a clear explanation of the limited criteria that NRC considers in determining whether or not to approve such applications. NRC appears to be the gate-keeper but only considers certain aspects of nuclear waste imports and exports. Clarification is needed on many specifics of these EnergySolutions applications and on overall plans by the processing industry for

continued import proposals. Hearings would help identify where the larger decisions are made on how much waste overall could be imported to the US (mainly TN) for incineration and other processing in the months and years to come. Hearings would go a long way to facilitating better understanding of the burgeoning nuclear waste processing industry in TN and the US.

A hearing is also in the public interest because many individuals, residents, organizations and the public at large will be impacted by the transport and incineration of the radioactive waste to be imported. The waste must be transported along highways from a Virginia coastal port to and from Oak Ridge, where it poses the risk of normal and accidental radiation emissions. During incineration, the waste also poses a risk of radioactive liquid and gaseous releases (legal or illegal). Any routine or accidental releases of radiation from burning the foreign waste cannot be confined to the immediate vicinity of the Energy Solutions incinerators. Certainly those in the area, downwind, downstream or along transport routes to and from the incinerators could be affected, as well as taxpayers and residents who could end up paying the economic and health price. The hearings are needed to identify and address these local, regional and very public concerns.

Finally, a hearing is required by the Atomic Energy Act because Petitioners have demonstrated their standing to request a hearing on the proposed export/import license. See the attached declarations of standing from Ann P. Harris for TEC and ENDIT and Ralph Hutchison for OREPA.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 30, 2010, I served the foregoing Hearing Request and Petition to Intervene on the following persons by posting on the NRC's Electronic Information Exchange:

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Electronically signed by Donald Safer