RAS XX-30

RULES AND DIRECTIVES BRANCH

2011 JAN 25 AM 8:37

CITIZENS TASK FORCE
P. O. Box 504
Mentone, AL 35984

January 14, 2011

RECEIVED

DOCKETED
USNRC

January 26, 2011 (2:10 p.m.)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Docket Nos. 110-05896 and 110-05897

Office of the Secretary
Chief, Rules, Announcements & Directive Branch
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Attn: Rulemaking and Adjudications

TO: Members of the Nuclear Regulatory Commission

RE: EnergySolutions Application IW029 & XW018
Docket Nos. 110-05896 (Import)
& 110-05897 (Export)

Thank you for granting me additional time to prepare my comments regarding the above stated Application by EnergySolutions. However, my notice of extension arrived on Wednesday, January 12. An eight inch snow prevented mail from coming into or leaving our local US Post Office until that date. According to your letter, only those who requested an extension were granted one. I feel it would have been in the best interest of public participation and input if an additional 30 days (at the minimum) were granted in this matter that poses multiple avenues of impacts to human health and the environment.

I am opposed to the above identified Application for Licence for the following reasons.

I recommend a Formal Public Hearing to give the citizens an opportunity to address the issues and risks of the Import/Export of Worldwide Nuclear Waste into the USA for disposal, storage, reuse or treatment such as incineration.

1. I challenge the perception that the NRC has the authority/responsibility to regulate and license the import and export of nuclear/radioactive waste for foreign governments and/or international corporations.

2. Has the NRC tabulated the tax burden of the American public to finance the regulation, monitoring, environmental impact of the proposed plan?

3. How does the NRC justify the increased risks to the environment by the importation and incineration of 1000 Tons of foreign nuclear wastes in the USA?

4. Is the NRC prepared to "open the gates" to additional foreign disposal methods and enterprises on the USA soil by other international corporations?

5. Does the NRC have a limit on the tonnage of radioactive waste that may be imported into this country from foreign governments and corporations?

Template= SECY-043

DS 03

6. Has the NRC adopted a working assumption that the risks and acceptable levels of increased human exposure to radiation are acceptable in this case?

7. Has the NRC conducted a thorough evaluation of the critical aspects of weaknesses in the proposition to import and export radioactive materials?

8. Has the NRC considered the danger of escalated risks associated with transporting massive loads of foreign government/corporation radioactive materials through tunnels, interstate highways, and near large populated areas?

9. Duratek's License will expire in 2014. Will giving EnergySolutions an import/export License through 2016 guarantee the NRC will approve Duratek's License renewal without public notice and comment?

10. Does the NRC acknowledge that all incinerators emit products of incomplete combustion into the air thereby increasing the levels of exposure to harmful byproducts of the process such as Dioxin and Furans (for example)?

11. Has the NRC considered the issue of "upset conditions" that happen during incineration that have the potential of releasing even more particles of incomplete combustion out into the environment?

12. Has the Duratek Incinerator been thoroughly inspected, updated and evaluated of the present condition of the scrubbers, emission stack, loading mechanism and other critical aspects of the device?

13. Has the NRC, the USEPA, TDEC and Tennessee Health Department completed thorough air and water testing around the Duratek Incinerator, both downwind and in nearby water sources, for radionuclide levels? What is the date of the most recent testing and by what agency?

14. What is the plan for Duratek and EnergySolutions to educate and train employees who are responsible for the transport, unloading, burning, repackaging, monitoring, filing daily reports, etc?

15. Does the NRC offer a mechanism for EnergySolution or Duratek employees to report work site safety issues or improper management conditions without fear of job loss?

16. Has the NRC considered the possibility Germany's waste stream could include nuclear wastes from other countries? In this case, is EnergySolutions or Duratek responsible for assuring the imported waste stream complies with the NRC License in this matter?

17. The transport and handling of nuclear waste (treated or non-treated) may be done by sub-contractors. Are sub-contractors required to comply with the same rules that EnergySolutions must obey under their License with the NRC?

18. Is the NRC aware EnergySolutions has a problematic company history such as: violating Operating Permits, Stockholders lawsuit, and poor management practices in other locations in the United States or abroad?

For example:

A. http://blogs.knoxnews.com/munger/2009/05/energysolutions_may_be_fined_f.html

(Posted May 2009) EnergySolutions may be fined for leaky waste load The Associated Press has reported, drawing information from The Salt Lake Tribune, that the state of Utah is proposing a fine against EnergySolutions for a leaking waste shipment (with a hose patched with duct tape) that was bound for the Oak Ridge. As reported earlier, the sludge waste originated in Oak Ridge and was sent to EnergySolutions for treatment and extraction of rad solids before the liquid solvents were returned to Oak Ridge for incineration.

B. http://www.sltrib.com/sltrib/money/50054374-79/whistle-case-court-energysolutions.html.csp

(Sept 2010) "Whistle-blowers who allege a Utah radioactive-waste site did shoddy work for the federal government can proceed with their 2003 lawsuit after an appeals court reinstated the case Wednesday."

C. http://healutah.org/news/energysolutions/101808

(Oct 2008) "For months, EnergySolutions Inc. has been fighting for permission to bring foreign radioactive waste to its Tooele County landfill. Turns out, the Salt Lake City-based nuclear-waste operation has been doing so for eight years, bypassing approval of regional regulators and running counter to past company promises."

D. http://healutah.org/news/panelconsideringpublicviewsnewradioactivewasteregs/01/11/11

(Jan 2011) "(Utah) State radiation regulators will wait at least another month before they finalize new standards for burying unusual types of radioactive waste at EnergySolutions' specialized landfill in Tooele County."

E. http://www.pr-inside.com/energysolutions-inc-long-term-investors-r2184847.htm

(Oct 2010) Unhappy Long term investors file lawsuit against EnergySolutions Directors.

F. http://www.highbeam.com/doc/1G1-156664799.html

Jan. 3--Article: The Knoxville News-Sentinel (Knoxville, TN)
Article date:January 3, 2007
Duratek pays $300K for radioactive release. A $300,000 settlement against Oak Ridge contractor Duratek Federal Services was announced today by the U.S. Attorney's Office in Knoxville.
Duratek was charged with discharging radioactive material on Sept. 24, 2002, from a contact water pond at a disposal facility at Oak Ridge National Laboratory.

19. Is the NRC aware EnergySolutions agreement to send the incinerated waste back to Germany could change if the German government refuses to take it back or the German citizens refuse to allow it back into the Country? Recent news accounts reveal 30,000 Germans protested the landfilling of nuclear waste in their country.

http://www.independent.co.uk/news/world/europe/german-police-battle-nuclear-train-protesters-2128036.html

German police battle nuclear train protesters
By Tony Paterson in Berlin
Monday, 8 November 2010
Riot police using water cannon, teargas and baton charges fought thousands of demonstrators attempting to halt the shipment of 123 tons of atomic waste to a disputed storage site in northern Germany yesterday.
More than 30,000 protesters took to fields, roads, lanes and railway tracks around the northern town of Danneberg to try to stop the movement – initially by rail and then road – of nuclear waste containers sent from France for storage in a disused salt mine close to the nearby village of Gorleben. The protests, which amounted to one of the largest anti-nuclear demonstrations in Germany for 30 years, were given added momentum by Chancellor Angela Merkel's recent decision to extend the life of the country's 17 nuclear power stations by an average of 12 years. (Read the entire article at the link above)

20. Incinerated materials cannot be completely confined within the combustion process and is released into prevailing wind currents to distant places. For this reason, has the NRC alerted other state environmental regulatory agencies about the EnergySolutions plan to burn nuclear materials in Oak Ridge?

21. Harmful Incineration emissions can contaminate farmland, crops, and other related large and small businesses. Has the NRC notified the Tennessee Agricultural Department?

22. Was the EnergySolutions plan designed or based on the state of the art technology under a best case scenario? If so, that is unacceptable reasoning as there has never been an incinerator that did not have upset conditions because of equipment failure or malfunction or human error. The EnergySolutions Permit should not be granted without considering a Worst Case Scenario under every possible situation from the time the radioactive waste is received from it's source, transported across oceans, entering the receiving seaport of the U.S.A., transported by rail, roads and waterways into the Oak Ridge, TN facility where it is to be incinerated, throughout the incineration process, storage and eventual return to Germany.

23. Is EnergySolutions and Duratek fully insured for emergency contingencies?

24. In case EnergySolutions Corporation becomes suddenly insolvent during the years of the Permit, what is the Plan of Action to shut down the facility and operation? How will this be funded? I recommend an appropriate fund be set aside beforehand for this possibility.

25. Has the NRC identified how much water will be required in the process of incinerating nuclear wastes? How will the waste waters be processed and disposed of? Where? What is the source of water to be used, public or private reserves?

26. Will the Incineration of radioactive waste require the use of waste disposal facilities in other states? If so, these states need to be notified and the appropriate Public Notice and Comment process should be given.

A case in point:

The NRC failed to properly monitor the transport and disposal of radioactive wastes in the past. A lawsuit against Chemical Waste Management, Inc. filed by Alabama Attorney General, James Evans, revealed Martin Marietta sent radioactive wastes from their Oak Ridge, TN facility for disposal at CWM's Emelle, AL landfill for twelve years (1980-1991). CWM, tested and was aware there was radioactive material in the waste stream, but they accepted and dumped the waste knowing their Operating Permit did not allow them to do so. Twelve years is a long time for the NRC, AL Dept of Environmental Mgmt, USEPA and other Federal and state regulatory agencies to fail in their duty to protect the environment and make sure the regulations were strictly adhered to. Eighty CWM workers were exposed to the radioactive wastes. What measures has the NRC taken to make sure this does not happen again?

27. How is the Oak Ridge incinerator protected from acts of terrorism or vandalism?

28. What NRC regulations address rainwater runoff and collection of contaminated waste waters from the incinerator facility? What is the ultimate disposal method and destination? Are holding ponds double lined with HDPE liners and installed with a leachate collection system? Are there leak detectors and is the wastewater system subject to daily BAT monitoring?

29. Has the NRC considered or required background studies and tests for radionuclide in the vicinity of the incinerator, the groundwater and above ground water sources? Background concentrations are critical to evaluate increasing levels of contamination over time. If the Background Studies have not been made, I highly recommend the NRC or appropriate agency establish these levels before the foreign nuclear waste is permitted to come to Oak Brook.

30. Is the NRC confident the groundwater Monitoring Wells are placed in the most appropriate location around the perimeter of the incinerator site to detect offsite migration of radiated liquids? Has the direction of groundwater flow been established? Is the groundwater flow determined by actual hydro geological testing or by computer modeling? Have down gradient monitoring wells been constructed? Have background water studies been completed in the down gradient monitoring wells for comparison studies in the future?

31. Has the NRC considered potential long-term human exposure to radiation levels and the increased risk to human health in the agency's Permit decisions?

32. Has the NRC established what condition the EnergySolutions Corporation may lose its Operating License? Are sub-contractors monitored for regulatory compliance? Who is directly responsible should a sub-contractor fail to comply with the regulatory statutes of the License--EnergySolutions or some other entity? Does the NRC have an updated list of sub-contractors for EnergySolutions or Duratek?

33. What is the process of transferring the NRC Operating License from EnergySolutions to another Corporation should there be an ownership transfer? If Duratek loses their Operating License, would this effect EnergySolutions' License?

34. In case of a Permit Modifications, how will the public be notified? Will there be an opportunity for Public Comment?

35. Provide a list of Federal and State regulatory agencies that will have authority to monitor and insure the regulations are adhered to? What Agency or companies will be responsible for Air, Water and Soil testing at the Facility and Disposal/Storage sites, and what are the required test schedules?

36. Is off-site radiation monitoring required at the incinerator site?

37. In support of the Citizens Right to Know, I recommend copies of the Operation License, Incident Reports, Air/Water/Soil Monitoring Reports, Notice of Violations, Corrective Actions, Emergency Response Reports, Onsite Incidents/Accidents Reports, Regulatory Agency Site Visit Reports and Observations, Equipment Failures and other related documentation should be made available for Public Perusal in the community nearest the facility where the Public may have unrestricted access such as a Public Library.

38. Has the Southeast Compact approved the EnergySolutions or Duratek plan to import nuclear waste into the region for incineration and storage? Has the NRC and the Southeast Compact discussed the issue? Does the Southeast Compact have the authority to prohibit the plan?

39. Foreign Governments and global corporations have varied rules about radioactive materials that do not comply with the U.S.A. environmental and handling requirements. How will EnergySolutions and the NRC be assured the waste stream will be what is listed in EnergySolutions' License Application? Will wastes that do not conform to the acceptable waste stream be returned to Germany or disposed of in the U.S.A.?

40. Has there been a health assessment in the Oak Ridge community because of years of exposure to toxic chemicals and radioactive materials?

41. Are Air monitors that can detect miniscule levels of radioactive particles been installed in every direction around the Duratek incinerator? Are the Air Monitors placed in various distances away from the incinerator stack in the direction most appropriate according to the prevailing winds?

42. In 2007, EnergySolutions applied for a License to bring in 20,000 Tons of Italy radioactive waste to be processed in Tennessee and disposed of in Utah. Why is the NRC giving a License to any nuclear disposal/treatment/transport entity, foreign or domestic, whose plan has not been approved by the Northeast Compact?

43. The Southeast Compact has not addressed the proposed issue of incineration, storage or transportation of the proposed German/foreign nuclear waste. If the Southeast Compact decides against the plan to bring in 1000 tons of German nuclear waste for incineration, would it make an impact on the NRC to issue a License?

These are my concerns. I look forward to a reply.

Sincerely,

Kaye Kiker, Organizer
205-609-8100