

RONALD D. COLEMAN
16TH DISTRICT, TEXAS

COMMITTEE ON APPROPRIATIONS

MAJORITY WHIP AT LARGE

CHAIRMAN, CONGRESSIONAL
BORDER CAUCUS



Congress of the United States
House of Representatives
Washington, DC 20515
January 8, 1990

416 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4831

DISTRICT OFFICES
FEDERAL BUILDING, SUITE 723
700 EAST SAN ANTONIO STREET
EL PASO, TX 79901
(915) 534-6200

U.S. POST OFFICE BUILDING, ROOM 304
PECOS, TX 79772
(915) 445-6218

SPECIAL PHONE FOR THE
HEARING IMPAIRED
TTY-202-225-1904
VOICE-202-225-0656

The Honorable Kenneth Carr
Chairman
Nuclear Regulatory Commission
Room 17D1, Mail Stop 16G15
Washington, D.C. 20555

Dear Mr. Chairman:

Thank you for providing me a copy of the Texas Governor's certification of the site selected in fulfillment of the third milestone of the federal Low-Level Radioactive Waste Policy Act. The Governor's certification states the State of Texas will provide the storage management, or disposal of low-level radioactive waste generated within the state and requiring disposal after December 31, 1992.

A number of factors involved in the certification process concern me, and I believe they are serious enough to warrant the Nuclear Regulatory Commission's involvement in making an independent site evaluation. From the outset, I should state that I am not opposed to the safe disposal of radioactive waste and I consider the Radioactive Waste Policy Act a good beginning. I do object to the idea that a State can install a low-level nuclear waste disposal site in a border area based on political considerations and do so without notifying neighboring nations. I also object to other nations doing the same thing to us. My only purpose in requesting NRC's action is to ensure the most geologically sound site is selected and that fair consideration is given to the interests of states or nations likely to be affected by the establishment of low-level radioactive waste disposal facilities.

When Congress passed the Radioactive Waste Policy Act, it essentially established a federal policy that each state is responsible for the disposal of its own radioactive waste, whether by compact or independently. Responding to federal legislation, the Texas Legislature provided for waste disposal within its borders by establishing the Texas Low-Level Radioactive Waste Disposal Authority in 1981, which was charged with the mandate to select, prepare, construct, operate, maintain, decommission, close and finance a disposal site for Texas low-level waste. Since that time, this Authority has been directly responsible to the Legislature for actions taken in Texas regarding site selection and the United States Congress has no immediate jurisdiction over this process.

In looking back through the history of this matter, my personal opinion is that the Low-Level Radioactive Waste Authority was never allocated sufficient funds to conduct its operations properly or to hire experts with the qualifications necessary to make sound determinations. It therefore had to

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CORRESPONDENCE PDC

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resort to political expediency in making a siting decision. Going back to the actual regulations governing site selection, it was ludicrous to assume that a state legislature could ever be objective enough to endorse a siting decision on other than political grounds.

Subsequent to creating the Authority, the Texas Legislature capitulated to eastern Texas, which has more representatives, by directing the Authority to focus its siting on lands that were state-owned. In fact, in determining acceptable dump sites the Authority was ordered to give "preference" to publicly owned land. The adoption of this 1985 provision by the Texas Legislature was made along regional lines, and, as everyone knew, virtually guaranteed the eventual placement of the site somewhere on sparsely populated public land found in West Texas despite the fact that more geologically suitable sites may exist on privately owned land in East Texas. This directive resulted in the consideration of land tracts in Hudspeth County, one of which has now been designated by the authority. This is one of those sparsely populated counties mentioned above; it has a population of 2,500 residents. In fact, close to 90% of the waste expected to be stored originates in east Texas. There is little question but that the under-represented areas of West Texas in the Texas Legislature were effectively defeated on this issue.

There are indeed several serious problems with the site selected by the state authority. In the first place, the decision on the part of the State of Texas to locate the dump site in this area is in violation of a 1983 "Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area" with Mexico, which declared that an area of sixty miles on both sides of the border between the two countries should be an environmentally protected zone. There is a potential liability to the United States under principles of international environmental law and responsibility to the Republic of Mexico that could result if there is ever a failure of the site. This is particularly acute given the mountain front setting of the site, the likely shallow groundwater recharge of an international aquifer, the geological activity of the area and the direct surface water connection to the Rio Grande.

More importantly, and the grounds on which I am requesting an independent NRC site evaluation, there would be environmental consequences for the United States. The proposed site in Hudspeth County Texas and the dumping of these materials in our area would threaten not only two international aquifers, but also the Rio Grande, which is located only fourteen miles south of the designated site and which serves as the international boundary. Also affected could be Guadalupe Mountains National Park, Lincoln National Forest, Big Bend National Park under the National Park Service jurisdiction, and a wildlife sanctuary being operated near the Rio Grande.

Thousands of people on both sides of the border use the Rio Grande water for irrigation, drinking, domestic uses and livestock water. The proposed site is also in close proximity to El Paso, Texas, the largest population center

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directly on the U.S.-Mexico Border. The potential for groundwater contamination from a leakage at the facility and the eventual seepage of this groundwater into the Rio Grande certainly could pose a problem for the thirteen counties downstream from El Paso which also depend on Rio Grande Water. These counties are: Jeff Davis, Presidio, Brewster, Terrell, Val Verde, Kinney, Maverick, Dimmit, Webb, Zapata, Starr, Hidalgo, and Cameron.

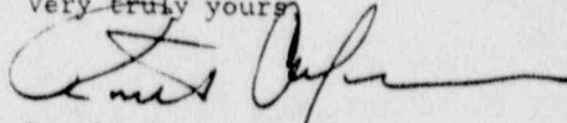
Independent consultants on this case have documented that there is a great risk of failure of this site because part of the radioactive wastes will have an active life of 350 years or more. No one can be sure of the changes that will occur over the next 350 or more years. According to these consultants, in the case under consideration the site proposed on the Rio Grande is in an area of potential earthquakes as have occurred and is subject to destructive erosion by the torrential rains which will occur in the area during the next 350 or more years. Not only have these consultants documented the fact that the site is located on a 100-year flood plain, but there is evidence of a tectonic fissure in its geologic formation.

In view of the foregoing, I would like to formally request the NRC's involvement in this issue by conducting an independent evaluation of the site designated by the authority. The Authority has announced plans to conduct a public hearing on this issue sometime this spring in Fort Hancock, Texas, and I believe it would be worthwhile for the NRC to have a representative present at the meeting. An evaluation of this site in which no other consideration other than the worthiness of the selected site is taken into consideration is necessary.

As always, I appreciate your assistance in this matter. If I can provide you with additional information or you have any questions, please do not hesitate to contact me.

With kindest personal regards, I remain

Very truly yours



Ronald D. Coleman
Member of Congress

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