

NEW YORK
STATE
SENATE

ALBANY, NEW YORK 12247



JAMES W. WRIGHT
SENATOR, 46TH DISTRICT

ROOM 814
LEGISLATIVE OFFICE BUILDING
ALBANY, NY 12247

CHAIRMAN
COMMITTEE ON ALCOHOLISM AND
DRUG ABUSE
COMMITTEE MEMBER
AGRICULTURE
CRIME VICTIMS, CRIME & CORRECTION
HIGHER EDUCATION
LOCAL GOVERNMENT
TOURISM, RECREATION &
SPORTS DEVELOPMENT
VETERANS

June 22, 1994

Honorable Ivan Selin
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Selin:

As you are well aware, effective June 30, 1994, the Barnwell Low-Level Radioactive Waste (LLRW) disposal facility located in South Carolina will no longer be available for storage and disposal of LLRW from New York State.

As the impending deadline approaches, there is consensus that New York needs a balanced and comprehensive solution, consistent with federal law, outlining both short-term and long-term management strategies for handling LLRW by-product. Unable to develop a balanced proposal, in the eleventh hour, Governor Cuomo has indicated that he will recommend the use of state-owned nuclear power plants as the state's LLRW repository.

There are only two such facilities in the state, one located in Westchester County and the other being the John A. Fitzpatrick Nuclear Power Plant located in Oswego County (part of my Legislative District).

I am opposed to the designation of any nuclear power plant as a site for a statewide storage facility. First and foremost, this suggestion clearly flies in the face of our obligation to our communities to ensure the safe operation of nuclear reactors.

Moreover, it is in direct conflict with your agency's long-term policy of opposition to any activity at a nuclear reactor site which is not generally supportive of activities authorized by the operating license. Required on-site storage would necessarily create a diversion of management attention from its primary function of safe operation of the reactor. This is especially the case for storage of waste types with which the utility has no experience. Power reactors are licensed for power generation, not long-term storage of LLRW.

In addition, and with particular reference to the possible designation of the Fitzpatrick site in Oswego County, consideration must be given to significant environmental concerns, such as its close proximity to Lake Ontario, (an important natural resource providing a source of fresh water to hundreds of thousands of citizens), the location of ecologically sensitive and unique wetlands, and the abundance of recreational areas including a multi-million dollar tourism industry. I have enclosed a narrative of the detailed report prepared by the County of Oswego in 1989, reflecting these concerns.

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Subsequent to that report, in September of 1989, the New York State Low-Level Radioactive Waste Siting Commission conducted a thorough, statewide exclusionary screening process, eliminating the Oswego site.

As an additional concern, there has been some indication that a LLRW storage facility sited at the state-owned facility would be located on state land immediately adjacent to the plant proper, and not necessarily within the secured perimeter of the plant. Such a possibility presents, the same public safety concerns that are present whether the repository is situated within the confines of the plant or directly adjacent to it.

For example, local emergency response plans have been developed over the years in the event of any nuclear emergencies. These plans if required to be put in effect, directly affect the continued safe operation of any low-level facility located nearby.

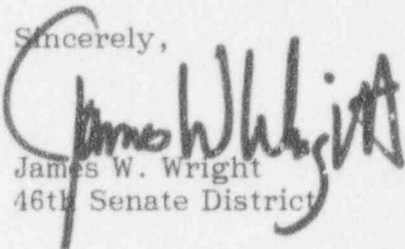
Also, the location of such a facility at or near a nuclear power plant could adversely affect the ability to monitor on-site dose levels, or to detect any radiation leakage.

Finally, I would like to point out that all proposals made to date have only addressed the question of **storage** of low-level radioactive wastes, and have not dealt with the long-term issue of **disposal** of these wastes.

In conclusion, I realize that at this point there is no definitive proposal before the State or the NRC to implement this plan. I did, however, want to bring this matter to your attention since I believe if left unchecked, the Fitzpatrick facility may become a repository for waste it is totally unequipped to store.

I look forward to the benefit of your thoughts on this matter of mutual concern.

Sincerely,



James W. Wright
46th Senate District

JWW/mgm

encl.

OSWEGO COUNTY'S POSITION PAPER
(EXECUTIVE SUMMARY OF RESPONSIVENESS REPORT):

REGARDING NEW YORK STATE'S IDENTIFICATION OF THE
TOWNS OF SCRIBA AND NEW HAVEN
AS A CANDIDATE AREA FOR A
LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY

23 JANUARY 1989

PRODUCED BY:

OSWEGO COUNTY ENVIRONMENTAL MANAGEMENT COUNCIL STAFF

OSWEGO COUNTY HEALTH DEPARTMENT
(ENVIRONMENTAL MANAGEMENT SECTION)

OSWEGO COUNTY PLANNING DEPARTMENT

SUBMITTED TO:

NYS LOW-LEVEL RADIOACTIVE WASTE SITING COMMISSION
AT 6:30 P.M., WEDNESDAY, 25 JANUARY 1989 AT THE
PUBLIC MEETING HELD AT THE OSWEGO HIGH SCHOOL, OSWEGO, NY

SUBMITTED BY:

OSWEGO COUNTY LEGISLATIVE HEALTH COMMITTEE

THE COUNTY HAS DEVELOPED A BODY OF RESEARCH THAT SUPPORTS THE CONTENTION THAT IT DOES NOT MEET STATE CRITERION FOR FACILITY SITING. THIS INCLUDES THIRTY-SIX (36) PAGES OF DOCUMENTATION CONCERNING THE SCRIBA/NEW HAVEN AREA REGARDING GEOLOGY, NATURAL RESOURCES, GROUNDWATER, SURFACE WATER, WEATHER CONDITIONS, AIR QUALITY, ECOLOGY, INCOMPATIBLE NEARBY SOURCES OF RADIATION, POPULATION PATTERNS, LAND USE, TRANSPORTATION, SOCIOECONOMICS AND COMMUNITY SERVICES, AND CULTURAL RESOURCES AND AESTHETICS. FURTHERMORE, THE COUNTY HAS INFORMATION THAT SUGGESTS THAT THE STATE WAS NOT ONLY ARBITRARY IN ITS EVALUATION OF FACTORS (IE: BEDROCK TYPE); IT ALSO DID NOT APPLY EQUAL UTILIZATION OF WEIGHING FACTORS TO EACH SITING AREA DURING ITS SCREENING PROCESS. REGARDING THE SCRIBA/NEW HAVEN AREA, THE COMMISSION CONVENIENTLY USED VALUE JUDGEMENTS THAT MANUFACTURED INACCURATE SCORES FOR THE AREA IN QUESTION. ADDITIONALLY, SOME ESSENTIAL ISSUES AND QUESTIONS WERE NOT EVEN CONSIDERED BY THE COMMISSION DURING ITS EVALUATION OF AREAS.

THIS USE OF INAPPROPRIATE INFORMATION BY THE STATE IS OF MAJOR CONCERN TO THE COUNTY. OTHER CONCERNS CONSIST OF THE CONTINUOUS USE OF AMBIGUOUS TERMINOLOGY, GROSS DATA, AND INDEFINITE STATEMENTS. OSWEGO COUNTY TAKES ISSUE WITH MANY OF THE STATE'S CRITERIA, AND THE RELATED SUPPORTING INFORMATION; MORE IMPORTANTLY, MUCH OF THE SPECIFIC DATA USED TO ANALYZE THE TOWNS OF SCRIBA AND NEW HAVEN IS FACTUALLY INACCURATE.

FOR INSTANCE:

1. THE POTENTIAL IMPACTS TO TOURISM HAVE CONVENIENTLY BEEN BRUSHED ASIDE BY THE STATE. IT CERTAINLY IS OF MAJOR IMPORTANCE IN OSWEGO COUNTY WHERE FOR INSTANCE THE PERCENT CHANGE IN NON-RESIDENT FISHING LICENSE SALES WAS OVER 11,000% MORE THAN THE STATE AVERAGE FOR THE PERIOD OF 1972-1986, AND THE COUNTY HAS REALIZED AN 81% INCREASE IN TOURISM RELATED EMPLOYMENT IN THE PERIOD OF 1976-86 (THIS IS OVER 55% MORE THAN THE STATE AVERAGE FOR THIS PERIOD).
2. EVEN THOUGH THE STATE HAS ACKNOWLEDGED THAT IT IS IMPORTANT, THEY CHOSE TO IGNORE THE FACT THAT THE TWO TOWNS HAVE NUMEROUS AREAS LISTED AS "STATE SIGNIFICANT HABITATS" AND AS "STATE NATURAL HERITAGE PROGRAM AREAS;" THAT THERE ARE NUMEROUS PLANTS AND ANIMALS THAT ARE LISTED ON THE ENDANGERED, THREATENED AND SPECIAL CONCERN LISTS OF THE STATE; AND THAT THIS COASTAL AREA HAS THE LARGEST DOCUMENTED CONCENTRATION OF MIGRATING EAGLES, HAWKS, HARRIERS, AND OTHER RAPTORS IN EASTERN NORTH AMERICA.
3. EVEN THOUGH THE STATE HAS IDENTIFIED IT AS AN IMPORTANT FACTOR TO CONSIDER, THEY DO NOT RECOGNIZE THAT SCRIBA AND NEW HAVEN HAVE APPROXIMATELY 35% OF THEIR LAND AREA IN MODERATE TO HIGHLY PERMEABLE SOILS, SOILS THE STATE HAS TO AVOID FOR THE

PUBLIC'S HEALTH AND SAFETY.

4. ALTHOUGH, THE STATE CONSIDERS SEVERE WEATHER AS AN IMPORTANT PREFERENCE CRITERION, THEY HAVE BLATANTLY MINIMIZED THE IMPACT EXTREME WEATHER CONDITIONS HAVE IN THIS AREA.

AGAIN, THESE ARE EXAMPLES OF FACTORS THE STATE CONVENIENTLY DID NOT CONSIDER AND WEIGH APPROPRIATELY IN ITS EVALUATION OF SCRIBA AND NEW HAVEN. ITEMS THAT OBVIOUSLY MAKE OSWEGO COUNTY A LEAST FAVORABLE AREA.

FOR THE PURPOSES OF THIS VERBAL PRESENTATION, WE WILL HIGHLIGHT SOME SPECIFIC ITEMS OF MAJOR CONCERN RELATED TO THE ERRORS MADE DURING THE CRITERIA WEIGHTING STAGE. THESE CONCERNS ARE A RESULT OF TOTALLY INADEQUATE LARGE SCALE INFORMATION THAT WAS USED BY THE STATE. THIS IS DESCRIBED IN MORE DETAIL IN THE PREVIOUSLY MENTIONED REPORT.

SPECIFIC CONCERNS

1. THE STATE HAS OVERLOOKED, OR MISINTERPRETED VERY IMPORTANT GEOLOGICAL INFORMATION ABOUT THE TWO TOWNS. THE COMMISSION INFORMS US THAT WE HAVE A LIMESTONE BEDROCK UNDERLYING THIS AREA, AND THAT THIS ROCK HAS GOOD POTENTIAL FOR DEVELOPMENT OF A DEEP MINE DISPOSAL FACILITY, HOWEVER, WHILE IT IS TRUE THAT WE HAVE THIS TYPE OF BEDROCK, IT MAY BE MORE THAN 1000 FEET BELOW ANOTHER TYPE OF BEDROCK THAT WAS IGNORED BY THE STATE.

SANDSTONE A TYPE OF BEDROCK FOUND ON THE FIRST OR PRIMARY LAYER IN THE SITE AREA, IS CHARACTERIZED BY THE COMMISSION AS HAVING BAD QUALITIES FOR NEW MINES. GEOLOGISTS AGREE SANDSTONE ALSO HAS POTENTIAL AS A GROUNDWATER AQUIFER. LIMESTONE BEDROCK WAS ONE FACTOR THAT THE STATE EXPLAINED MADE SCRIBA/NEW HAVEN SEEM FAVORABLE FOR A DISPOSAL FACILITY. THEREFORE, IT IS INEXCUSABLE THAT A MISTAKE OF THIS MAGNITUDE WAS MADE IN REGARDS TO THIS CRITERION, AND THE STATE SHOULD IMMEDIATELY RE-EVALUATE THE AREA TAKING THIS NEW INFORMATION INTO CONSIDERATION.

2. THE CRITERION UTILIZED BY THE COMMISSION ACKNOWLEDGES THAT A DISPOSAL FACILITY MUST NOT BE SITED OVER A GROUNDWATER AQUIFER, BUT DOES NOT RECOGNIZE THE PRESENCE OF AQUIFERS IN SCRIBA OR NEW HAVEN (APPARENTLY MAKING THEM MORE FAVORABLE AREAS). THE COUNTY ABSOLUTELY DISAGREES, AND HAS DOCUMENTATION TO PROVE THAT A LARGE PERCENTAGE OF THE LAND AREA INCLUDES PRINCIPAL AQUIFERS.

3. DUE TO THE UNIQUE NATURE OF THE SANDSTONE, AND THE NATURE OF OTHER GEOLOGIC DEPOSITS, THE COUNTY IS CONCERNED IF A ACCIDENTAL RELEASE OF RADIOACTIVITY WERE TO OCCUR, AND CONTAMINATE THE GROUNDWATER, THAT THE CONTAMINATION COULD MIGRATE SOUTH-EAST (FOLLOWING THE DIP OF THE PERMEABLE BEDROCK) AND HAVE A DETRIMENTAL EFFECT ON THE SAND RIDGE AQUIFER (WHICH SUPPLIES DRINKING WATER TO THE VILLAGE OF PHOENIX) OR THE MEXICO AQUIFER (WHICH SUPPLIES DRINKING WATER TO THE VILLAGE OF MEXICO).
4. THE STATE FEELS IT MAY BE IMPORTANT TO NOT LOCATE A SITE NEAR A SURFACE WATER BODY DUE TO POTENTIAL CONTAMINATION. OSWEGO COUNTY FIRMLY BELIEVES THE DISPOSAL FACILITY SHOULD NOT BE LOCATED NEAR A SURFACE WATER BODY, AND WE ALSO DISAGREE WITH THE STATE AS TO WHAT A SURFACE WATER BODY IS. THE STATE DOES NOT RECOGNIZE ANY WATER BODIES EXCEPT FOR LAKE ONTARIO, AND THE OSWEGO RIVER. EXCLUDED ARE CATFISH CREEK, BUTTERFLY CREEK, OR ANY OTHER BODIES OF SURFACE WATER IN THESE TOWNS. MORE IMPORTANTLY, WETLANDS, WHICH REPRESENT AT LEAST 37% OF NEW HAVEN AND 23% OF SCRIBA ARE ALSO SURFACE WATER BODIES. ALL THESE WATER BODIES FLOW TO LAKE ONTARIO, AND IF CONTAMINATION WERE TO ENTER THEM, THE TRANSPORTATION OF RADIOACTIVE MATERIALS WOULD BE MUCH FASTER THAN THE STATE'S MISCONSTRUED ESTIMATIONS.

5. OVER 190,000 PEOPLE AND TWO BREWERIES IN CENTRAL NY, AND OVER EIGHT (8) MILLION PEOPLE IN CANADA AND NEW YORK RELY ON THE LAKE FOR POTABLE WATER. IT IS OBVIOUS THAT LAKE ONTARIO DESERVES MUCH GREATER PROTECTION THAN HAS BEEN CONSIDERED IN THE PROCESS TO THIS POINT. MUCH MORE WEIGHT MUST BE GIVEN TO SURFACE WATER CRITERION, BASED ON THE FACT THAT A SITE WILL BE IN EXISTENCE FOR OVER 500 YEARS.
6. THE STATE IDENTIFIED WETLANDS IN THE TOWNS BY BASICALLY LOOKING AT ROAD MAPS AND LOCATING AREAS THAT HAD THE LITTLE "SWAMPY" SYMBOLS. THE COUNTY TAKES ISSUE WITH THE FACT THAT THE INFORMATION AND DATA RELIED ON WAS SIMPLISTIC, AND THAT IT IS THE KIND OF INFORMATION THAT WOULD BE FOUND IN AN ELEMENTARY SCHOOL CLASSROOM. THIS INFORMATION (OR LACK OF) IS QUITE INSUBSTANTIAL TO THE HIGH WEIGHTING OF THIS FACTOR FOR THE TWO TOWNS.

THE COUNTY HAS MUCH MORE COMPREHENSIVE INFORMATION ABOUT OUR WETLANDS THAT WAS DEVELOPED THROUGH A THREE (3) YEAR PROJECT. BY USING THE STATE'S GUIDELINES THAT RECOMMEND THAT IT IS MOST FAVORABLE TO NOT LOCATE A DISPOSAL FACILITY WITHIN A MILE OF ANY WETLANDS, THE COUNTY CAN DOCUMENT THAT 100% OF THE LAND AREA OF BOTH TOWNS SHOULD BE ELIMINATED FROM CONSIDERATION.

7. IT IS DISTURBING TO NOTE THAT THE FEDERAL NUCLEAR REGULATORY COMMISSION SPECIFICALLY NOTES THAT THE VICINITY OF NUCLEAR POWER PLANTS TO A DISPOSAL SITE IS UNSUITABLE AND INCOMPATIBLE. IT IS DISTURBING BECAUSE THE STATE HAS EXTREMELY MINIMIZED THE IMPORTANCE OF THIS ISSUE, AND MAY BE BREACHING FEDERAL POLICY IN THE CONSIDERATION OF SCRIBA AND NEW HAVEN FOR THE DISPOSAL FACILITY.

THE COUNTY IS OF THE STRONG OPINION THAT THIS IS ONE OF THE MOST IMPORTANT ISSUES CONCERNING THE SCRIBA/NEW HAVEN AREA. THE FACT THAT WE HAVE THREE NUCLEAR POWER PLANTS IN THIS AREA, IN REALITY, MAKES US THE LEAST FAVORABLE LOCATION IN THE STATE.

THE REASONS ARE NUMEROUS:

- A. MONITORING FOR RADIOACTIVITY RELEASES WOULD BE MORE DIFFICULT (ESPECIALLY DURING BLIZZARD CONDITIONS). AS A RESULT, EARLY WARNING AND PROMPT IMPLEMENTATION OF EVACUATION PLANS WOULD BE JEOPARDIZED.
- B. BECAUSE OF THIS LAPSE OF TIME OF IDENTIFICATION OF THE SOURCE OF A RELEASE, EVACUATION PLANS WOULD TAKE LONGER TO IMPLEMENT, AND CLEAN-UP OF THE AREA WOULD BE HAMPERED, THEREBY UNDULY COMPROMISING THE PUBLIC HEALTH AND WELFARE.

- C. THE COSTLY INSTALLATION OF THE COMPLEX MONITORING SYSTEM NEEDED IN THIS AREA WOULD FURTHER PROLONG THE OPENING OF A FACILITY.
 - D. THE NRC HAS INDICATED THAT A FACILITY LOCATED NEAR OTHER POTENTIAL SOURCES, MAY NOT BE LICENSED.
 - E. IF A RELEASE WERE TO OCCUR, IT IS LIKELY THAT THE FEDERAL GOVERNMENT WOULD REQUIRE THAT ALL NUCLEAR FACILITIES IN THE AREA BE SHUT-DOWN, FOR AN INDEFINITE PERIOD OF TIME. THIS NOT ONLY REPRESENTS AN ECONOMIC HARDSHIP FOR OSWEGO COUNTY, BUT ALSO FOR THE ENTIRE STATE, AS ELECTRICITY FROM THESE PLANTS IS SUPPLIED TO AS FAR AWAY AS LONG ISLAND.
8. THE CONSIDERATION OF TRANSPORTATION IN TERMS OF THE CRITERION RELATED TO PROXIMITY TO WASTE GENERATION HAS THE PRACTICAL RESULT THAT THE MAJORITY OF THE CANDIDATE AREAS ARE IN CENTRAL NEW YORK. BEING ONE OF ONLY THIRTEEN (13) CRITERIA BY WHICH OUR AREAS WERE NUMERICALLY SCORED, EASE OF TRANSPORTATION HAS BEEN HIGHLY OVER RATED RELATIVE TO CRITERIA WHICH ARE IMPORTANT TO SITING A FACILITY WHICH WILL WORK. THE WEIGHT GIVEN TO THIS ONE FACTOR IS UNJUSTIFIED WHILE THE STATE GAVE MINIMAL CONSIDERATION TO ISSUES IMPORTANT TO THE SITES' PERFORMANCE OBJECTIVES. THESE INCLUDE HIGH YIELD AQUIFERS, PERMEABLE SOILS, SURFACE WATER QUALITY, PROXIMITY TO WETLANDS AND NEARBY INCOMPATIBLE

ACTIVITIES,

IN CONCLUSION, IT IS EVIDENT THAT BY COMPARING THE SCRIBA/NEW HAVEN AREA WITH OTHER AREAS RAISES QUESTIONS CONCERNING THE ADEQUACY AND FAIRNESS OF THE STATES IDENTIFICATION SYSTEM. FURTHERMORE, IT IS EXTREMELY ARBITRARY THAT WE ARE ONE OF TEN AREAS, AND IT IS OBVIOUS THAT THE STATE NEEDS TO DO ITS HOMEWORK BETTER.

THE COUNTY IS FIRM IN ITS OPINION THAT IS A LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY HAS TO BE SITED, IT MUST BE LOCATED AT THE BEST POSSIBLE SITE IN THE STATE. OSWEGO COUNTY INCLUDES NO SUCH AREAS. THE COUNTY'S RESPONSIVENESS REPORT FACTUALLY DOCUMENTS THIS PREMISE.