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February 1, 2008

Mr. Michael Garner, Executive Director
Northwest Interstate Compact on
Low-Level Radioactive Waste Management
Washington State Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

Dear Mr. Garner:

In September of 2007, Energy*Solutions* filed an application with the Nuclear Regulatory Commission (NRC) to import 20,000 tons of radioactive waste from nuclear reactors being decommissioned in Italy. According to that application, the waste would be processed in Tennessee with the resulting product to be disposed of in Energy*Solutions'* Clive, Utah, Class A disposal site.

Energy*Solution*s has the only low-level radioactive waste (LLRW) disposal site in private hands in the United States. By its own accounting, it disposes of more than 90 percent of the LLRW generated in the United States. It does so through a license granted by the State of Utah as an NRC agreement state and with the permission of the Northwest Interstate Compact on Low-Level Radioactive Waste Management. However, in its 1998 Second Amended Resolution and Order, permitting LLRW to be disposed of at the Utah, site, the Compact stated that only because the facility served "an important national purpose" would it be allowed to accept waste from states outside of the compact. The Compact reserved the right to "modify or rescind" its authorization at any time.[1]

In the next few days, the Compact will be asked by the NRC to approve or disapprove this license to dispose of foreign nuclear waste at Energy*Solutions*' Utah site. These plans by Energy*Solutions* suggest that it is time for the Northwest Compact to reexamine the basis of its earlier approval and determine what national purpose is served by allowing Energy*Solutions* to open its site to foreign waste. This is a very important decision. If granted, this import license would represent an unprecedented reversal in this nation's approach to the disposal of its own LLRW. It would say to the world that the United States is open for business and will take the world's low-level radioactive waste until our facilities are filled, regardless of the needs of our own country. Additionally, such an action would have the additional effect of making the United States responsible for monitoring foreign waste for hundreds of years as some LLRW has a half-life of 500 or more years.

[1] "Second Amended Resolution and Order," Northwest Interstate Compact, Nov. 9, 1998, p. 2.

The U.S. has a long-term storage challenge for both low-level and high-level waste, and many European countries face exactly the same challenge. We are rapidly approaching the limits of the existing Class B and C LLRW disposal sites. It has been projected that there are 20 years of storage available for Class A LLRW, but this is based on using all of the Energy*Solutions*' capacity for domestic waste.[2] Currently, not a single country in Europe has disposal options for all classes of its LLRW. Despite the plans of various countries for siting LLRW disposal facilities, they have had the same difficulties as in the U.S. to actually implement those plans.[3] Energy*Solutions* would offer a convenient alternative to confronting those thorny issues.

Since the Low-Level Radioactive Waste Policy Act of 1980 was passed to address the problem of disposal of LLRW from U.S. nuclear reactors and other sources, and amended in 1985 to establish regional compacts to look for LLRW disposal sites, the focus of our regulatory system has been on establishing a process to site and license facilities to handle domestic waste. Although small amounts of foreign radioactive waste occasionally have been processed in the United States over the years, the largest appears to have been 1.4 million pounds.[4] Energy*Solutions* is asking to import 40 million pounds, an increase of more than 25-fold.

If this application were a one-time occurrence, perhaps it would be of less significance. However, a review of the documents filed with the Securities and Exchange Commission by Energy*Solutions* at the time of its initial public offering in November of 2007 make it clear that it plans to aggressively pursue "specialized decommissioning and disposal services" in both the United States and Europe.[5] One of its greatest assets is its large site for disposing of LLRW material. It is highly likely that Energy*Solutions*' application to import, process and dispose of Italian LLRW is simply the first in a string that will follow if this one is approved.

I would ask the Compact to carefully examine the situation that is unfolding with Energy*Solutions* to determine if it serves a national purpose. It appears that it is exploiting a loophole in our country's nuclear waste regulatory framework and its agreement with the Compact to put the United States on a path to becoming the nuclear garbage repository for the world. I cannot believe this was the intention of the Compact when the 1998 approval was granted. In particular, I ask the Compact to examine these matters with an eye toward the long-term storage needs of the country and to revoke or amend the Second Amended Resolution and Order.

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[2] General Accounting Office, "Low-Level Radioactive Waste: Disposal Availability Adequate in the Short Term, but Oversight Needed to Identify any Future Shortfalls," GAO-04-604, June 2004, p. 5.
[3] Government Accountability Office, "Low-Level Radioactive Waste Management: Approaches Used by Foreign Countries May Provide Useful Lessons for Managing U.S. Radioactive Waste," GAO-07-221, March 2007, p. 24.
[4] There have been a total of 24 applications to import low-level radioactive waste filed with the NRC, of which six were withdrawn or not issued, and five are pending. Some are for amounts as small as a cubic meter or a few dozen kilograms. NRC, "Import License Spreadsheet" (copy attached).
[5] Prospectus of Energy*Solutions*, SEC Registration No. 333-141645, Nov. 17, 2007, pp. 4-5.

Pending completion of this effort, I ask that you indicate to the NRC that the Northwest Compact cannot support the application by Energy*Solutions* to import 20,000 tons of Italian nuclear waste for processing and disposal in Utah.

If you have any questions or need additional information, please contact Edith Holleman, counsel, Investigations and Oversight Subcommittee, at (202) 225-8459, or Erica Antonson, legislative assistant in my office, at (202) 225-4231.

Thank you for your consideration of this matter.

Sincerely,

BART GORDON
Chairman

Cc: The Honorable Ralph Hall
Ranking Member

Number[	Name[	DocRef[	Commodity[	Quantity[	Unit[	Country[	Use[	Action[
IW001	NEN Life Science Products		LLW, Containing Nickel-63	26.6	m3	Mexico	Treatment in Texas, Disposal at Barnwell, SC	RWA
IW002	Siemens Power Corp		Class A radwaste, LEU, 5.0%, oxide, comb. Material	1200	kg	Germany	Incinerate & re-export for uranium recovery	Issued
IW002/01	Framatome ANP Richland, Inc.		Class A radioactive waste in the form of LEU, 5.0%, oxide, comb.	0	kg	Germany	Amend to change licensee name from Siemens Power Corporation to Framatome	Issued
IW003	ALARON Corp		Class A radwaste, contaminated condenser tubing. Class A waste	110	m3	Taiwan	Decontaminate, recycle, dispose of contaminants	Withdrawn
IW004	Diversified Scientific Services, Inc		Class A mixed radwaste in the form of liquid products	1000	Ci	Canada	Thermal destruction	Issued
IW004/01	Diversified Scientific Services, Inc		Class A mixed radwaste in the form of liquid products			Canada	Amend to change radioactive material license number reference from R-73014.K98	Issued
IW004/02	Diversified Scientific Services, Inc		Class A mixed radwaste in the form of liquid products			Canada	Amend to ext expiration date from 4/30/02 to 12/31/04	Issued
IW004/03	Diversified Scientific Services, Inc		Class A mixed radwaste in the form of liquid products			Canada	Amend to 1) ext exp from 12/31/04 to 12/31/06; & 2) update domestic license info	Issued
IW004/04	Diversified Scientific Services Inc (DSSI)	Ltr. Dtd. 12/22/06	Class A mixed radwaste in the form of liquid products	0	kg	Canada	Amend to ext exp date	Issued
IW005	Chem-Nuclear Systems		Class A radwaste, contaminated condenser tubing, Class A waste	635035.8	kg	Taiwan	Decontaminate, recycle, dispose of contaminants	Withdrawn
IW006	Allied Technology Group, Inc		Class A radwaste, contaminated metal	626000	kg	Taiwan	Decontaminate, recycle, dispose of contaminants	Issued
IW007	GTS Duratek		Class A radioactive waste, contaminated condenser tubing	612356	kg	Taiwan	Decontaminate, recycle, dispose of contaminants	RWA
IW008	Starmet CMI		Class A radwaste, in the form of DU & mineral oil	80000	kg	Ukraine	Processing & re-manufacture of DU into shielding material	Issued
IW008/01	Starmet CMI		Class A radwaste, (DU metal & oxide & mineral oil)	170000	kg	Ukraine	Amend to incr qty of DU from 80,000 kgs to 250,000 kgs; incr qty of mineral oil	RWA
IW009	Framatome ANP		Class A radwaste, (LEU contam combustible material)	1200	kg	Germany	Incinerate, recover U; disp of residue	Issued

IW009/01	Framatome ANP		Class A radwaste, (LEU contam combustible material)		Germany	Amend to correct description	Issued
IW010	Philotechnics, Ltd.		Class A waste, Depl U	50000 kg	UK	For recycle and/or disposal of aircraft counterweights	Issued
IW010/01	Philotechnics	Ltr Dtd. 06/17/03	Class A radwaste, as DU aircraft counterweights for recycle &/or disposal	100000 kg	United Kingdom	Amend to 1) incr qty; 2) ext exp date; 3) add IC; & 4) update licensee address	Withdrawn
IW011	Allied Technology Group		Class A radioactive waste, contaminated scrap metal	3000 t	Taiwan	For processing and recycle or disposal of metal	Pending
IW012	Diversified Scientific Services, Inc		Class A mixed radwaste, 189,000 kgs in 900 drums	600 Ci	Canada	Thermal destruction	Issued
IW012/01	Diversified Scientific Services, Inc		Class A mixed radwaste, Addl 189,000 kg	600 Ci	Canada	Amend to 1) incr qty & 2) ext exp date	Issued
IW012/02	Diversified Scientific Services, Inc		Class A mixed radwaste, Addl 189,000 kg	600 Ci	Canada	Amend to 1) incr qty & 2) ext exp date	Issued
IW012/03	DSSI/Perma-Fix	Appl Dtd. 05/11/07	Class A mixed radwaste (378,000 kgs of contam matls)	5500 Ci	Canada	Amend to: 1) incr qty; 2) ext exp date; & 3) chg licensee contact name	Issued
IW013	RACE		LLW		Various	Processing to reduce volume	RWA
IW014	Sud-Chemie		Class A mixed radwaste, 1,750 kgs	35 kg	South Korea	Return of waste for disposal	RWA
IW015	DSSI/Perma-Fix	Ltr Dtd. 03/16/04	Class A mixed radwaste (Tritium, C-14, Mixed Fission Products)	200 Ci	Mexico	Thermal destruction	Pending
IW016	Eastern Technologies, Inc		Class A radwaste (Co-60, Co-58, & Mn-54)		Mexico	Laundering & decontamination of protective clothing & related products	Issued
IW017	Duratek Services		Class A radwaste as contaminants of various matls (metals, wood, plastics, liquids		Canada	For recycle and re-use or processing for volume reduction, etc	Issued
IW018	AREVA NP	Ltr Dtd. 05/01/06	Class A & C radwaste, mixed fission products (Fe-55, Co-60, Ni-63 & Pu-241)	545 kg	France	Originally from Surry Power Station - to be returned & processed by	Pending
IW019	UniTech Services	Appl Dtd 08/17/06	Radwaste including metals & dry activity matls that may be radioactively contam	0.5 TBq	Canada	Matls to be sorted by type & levels of radioactivity & returned to Canada for	Issued

IW019-R	UniTech Services		Radwaste including metals & dry activity matls that may be radioactively contam	0 kg	Canada	License revised to 1) improve precision of licensee addresses & related info; & 2)	Issued
IW020-EX	AREVA NP	DLN:06:069	Radwaste, packing matl contam with UO2 Powder	5000 kg	Canada	Return for burial at U.S. Ecology &/or incineration	Issued
IW021	Westinghouse Electric	EFM-07-0432	Class A Radwaste, as waste filter cake & shot contam with LEU	72.29 kg	Canada	Return for disposal at Energy Solutions in Clive, Utah	Issued
IW022	Perma-Fix Northwest, Inc.	Appl Dtd. 05/16/07	Class A radwaste (as contam metal, dry activity matl & liquids	134 TBq	Canada	Recycle, re-use, or processing for volume reduction, etc. (Ref XW012)	Issued
IW023	EnergySolu-tions	IT-IM-2007-09	Class A & C radwaste as contam of metal, dry activity matl & liquids	640 TBq	Italy	Processing & recycling for beneficial reuse at TN facilities &/or disposal at UT facility	Pending
IW024	AREVA NP	Appl Dtd. 09/25/07	Class A & C radwaste (as contam metal, dry activities matl & liquid)	1 m3	France	Originally from XXXXXXXXX to be returned & processed by EnergySolutions for	Pending