

PRESS RELEASE – CITIZENS HAVE NO STANDING WITH GOVERNMENT:

Foreign Radioactive Waste OK'd to Burn in TN--June 9, 2011

ISSUED BY: Tennessee Environmental Council (TEC), Don Safer, Chairman of the Board; Oak Ridge Environmental Peace Alliance (OREPA), Ralph Hutcheson, Coordinator; Citizens to End Nuclear Dumping in Tennessee (ENDIT), Kathleen Ferris, Co-Founder.

Both the Tennessee government and the US government have approved the import and burning of radioactive German waste in Tennessee despite formal petitions by citizens. The Tennessee Department of Environment and Conservation has told the U.S. Nuclear Regulatory Commission that because authorization to burn radioactive waste had already been granted to EnergySolutions/Duratek through an earlier license, the state sees no technical reason to prevent 1000 tons of German waste being brought into Tennessee. The NRC has now granted permission to EnergySolutions/Duratek to import the German waste which will be burnt at Oak Ridge. Citizens' petitions for hearings and legal adjudicatory process have been denied.

On November 3, 2010, EnergySolutions/Duratek, an international corporation with facilities in Memphis and Oak Ridge, filed import and export applications with the Nuclear Regulatory Commission, seeking authorization to import 1000 tons of radioactive waste from Germany to be incinerated in their Bear Creek facility in Oak Ridge.

In December of 2010, during the height of the holiday season, while few other people were paying attention, two separate petitions were filed with the NRC by four Tennessee citizens' groups, requesting public hearings regarding the importation of radioactive waste from Germany and requesting environmental impact studies. The first petition was filed on Dec. 14 by the Citizens' Advisory Panel of the Oak Ridge Reservation Local Oversight Committee (CAP); the second on Dec. 29 by the three groups listed above and co-signed by twenty-two other environmental groups.

On June 6, 2011, the Nuclear Regulatory Commission issued their decision, directing the Office of International Programs to issue license IW029 granting EnergySolutions permission to import the German waste, and telling all four citizens' groups from Tennessee that they do not "have standing" and that their petitions for hearings were denied.

We fully recognize that the term "to have standing" is a technical legal term; we also recognize that at all levels of state and federal government, the people of Tennessee literally lack "standing" when up against the all-powerful moneyed interests of the nuclear industry. We are David fighting Goliath, and we seem to have lost this battle for our health and welfare.

According to EnergySolutions' report to the NRC, 44% of the 1,000 tons of German waste consists of plastics. When burned, plastics create dioxins, which at low levels of exposure have been linked to immune system suppression, reproductive disorders, and a variety of cancers. An article in the magazine Der Spiegel indicates that Germany has state-of-the-art incinerators in their own country, but our understanding is that regulations for burning plastics are stricter in Europe than in the U.S. Perhaps that is why the Germans consider it necessary to ship their radioactive waste to the United States for incineration. Some of the toxins from this waste will escape into our atmosphere to be breathed by our

people, to wash down onto our soil and plants, and into our waters. But our governments, both federal and state, place a lower premium on the health of their own citizens than on the profits and welfare of the nuclear industry.

Regarding the federal government, on December 15, the U.S. Department of State, acting on behalf of the executive branch of government, gave their blessings to the importation of German waste, stating that it was “consistent with the Joint Convention on the Safety of Spent Fuel Management and on Radioactive Waste Management guidelines”.

Tennessee’s senior senator, Lamar Alexander, promptly and publicly announced his support for the importation of radiological waste from Germany to be processed in Tennessee. Because Germany has agreed to accept the return of the boiler ash and unburned parts after processing (but not the radioactive fly ash), he and Senator Bob Corker are not opposed to this transaction. The pro-nuclear positions of both men are a matter of record.

At the state level, Governor Bill Haslam, who entered office claiming that he would bring transparency to government, ignored our numerous letters which 1) expressed our alarm that Tennessee may become a destination for the processing of radioactive waste from all over the world; 2) pointed out that if EnergySolutions is granted this import license to bring German waste here for incineration, it will likely bring a flood of foreign radioactive waste to Tennessee; and 3) informed him of the environmental dangers of incineration, which causes routine releases of toxins into the atmosphere, such as dioxins, furans, heavy metals, and fine particulates which can cause cancer, asthma, birth defects, heart disease, and disruption of the immune and reproductive systems.

Instead of using his influence as governor to prevent Tennessee from becoming contaminated by the world’s radioactive waste, as we asked of him, Gov. Haslam’s response was to forward our letters to Mr. Robert J. Martineau, his newly appointed Commissioner of the Tennessee Department of Environment and Conservation.

Commissioner Martineau responded to individual letters and emails as follows:

Whether or not to allow Energy Solutions to import waste to the United States for treatment is a federal policy issue and the decision is up to the United States Nuclear Regulatory Commission (USNRC). This authorization process is outside the regulatory authority of the State.

The State of Tennessee, through the Department of Environment and Conservation’s Division of Radiological Health, issues licenses and inspects radioactive waste processors in Tennessee to ensure they are meeting the requirements in their radioactive materials license and the rules found in State Regulations for Protection Against Radiation. The Division is charged with protecting the citizens, workers, and the environment from unnecessary exposure to ionizing radiation. This is a responsibility that the Department takes very seriously. It is important to note that the Department has authority to regulate radioactive waste processors but cannot regulate the origins of the waste.

In other words, the State of Tennessee will accept the imported nuclear waste if the NRC allows it to

enter the country. On the other hand, the NRC says that if the state grants the license to incinerate, they will allow radioactive waste to be imported. Throughout this circular process, the citizens, whose health will be most impacted, have no standing with either. There is no space for us in that cozy bed with the nuclear industry because both the federal and state governments are already there.

We received no direct reply to the formal petition we sent requesting the TDEC Division of Radiological Health to grant us an opportunity to participate in the DRH's review of Duratek Services, Inc.'s ("Duratek's") application for an amendment to its license for the Bear Creek incinerators. We further asked:

- . . . DRH to establish the following requirements for the proceeding:*
- *The scope of the proceeding should include all matters that are relevant to the public health and environmental effects of the proposed license amendment, including the following:*
 - *Duratek's proposal to significantly expand the scope and purpose of its operation by incinerating 1,000 tons of imported radioactive waste to be imported from Germany by its parent corporation, EnergySolutions, Inc., as described in a November 3, 2010, import/export license application submitted by EnergySolutions to the NRC;*
 - *Whether Duratek proposes to incinerate or otherwise process any other imported radioactive material whose importation is not subject to specific licensing by NRC (see 10 C.F.R. § 110.27);*
 - *Whether DRH and other relevant departments of TDEC should prepare an environmental study that comprehensively analyzes the cumulative environmental impacts of the current and expanded operation of the Bear Creek facility, including the proposed incineration and other processing of imported radioactive waste. The environmental analysis should include an evaluation of the relative costs and benefits of measures to mitigate or avoid adverse impacts to public health and well-being.*
 - *Given that significant portions of the documents related to Duratek's current and proposed operations have been redacted and are therefore not publicly available, Petitioners request access, under a protective order, to complete copies of all documents that are relevant to Duratek's license amendment application and the proposed incineration and processing of imported radioactive waste.*
 - *Finally, Petitioners request DRH to stay any decisions regarding the proposed license amendment and/or the expanded operation of the Bear Creek facility, until the public participation process is complete. Petitioners also request that DRH defer providing the NRC with any comments on EnergySolutions' import/export license application until DRH's public participation process is completed.*

Our answer came in the form of letter dated Feb. 10, 2011, signed by Johnny Graves, from the TDEC Division of Radiological Health to the NRC:

Upon review of this information and the references to the authorizations granted by the Tennessee Radioactive Material Licenses issued to Duratek, the Division finds no technical reason to prohibit the processing of this described waste at Duratek facilities in Tennessee.

Nuclear is Big Business in Tennessee. Tennessee processors already receive 75% of the nation's low-level radioactive waste, some 41 million pounds per year, much of which ends up in our landfills. Tennessee is

the only state that allows commercial burning of radioactive waste, licensing six incinerators to dispose of the stuff that other people don't want to burn in their backyards.

Now that the precedent has been set with German waste permitted to enter the U.S. for burning, Tennessee is slated to become the destination for processing radioactive waste from all over the world. EnergySolutions previously applied to import 20,000 tons of Italian nuclear waste to Oak Ridge. We can probably assume that the Italians will be next. Then who? The Japanese? Is it possible that we will receive "low-level" radioactive waste from the Fukushima Daiichi disaster? Who would stop it from coming to Tennessee?