NIRS

wise
World Information Service on Energy
founded in 1978

NUCLEAR MONITOR

A Publication of World Information Service on Energy (WISE) and the Nuclear Information & Resource Service (NIRS), incorporating the former WISE News Communique

#589 **June 27, 2003**

U.S.: TEXAS GIVES GO-AHEAD FOR TWO WASTE DUMPS

The Texas State Legislature has just given the go-ahead for the first new so-called "low-level" radioactive waste disposal sites to be realized in the United States in decades. The two disposal sites will hold wastes from nuclear weapons production and commercial producers (mainly nuclear energy). The proposed dump sites in Andrews County are located on top of the Ogallala aquifer, the largest in the U.S.

(589.5525) Texas Radiation Online - Projected to open in 2008, the site would have two dumps: one for federal nuclear weapons waste with an initial capacity of 162 million cubic feet (4.6 million cubic meters) and one for commercial radioactive waste (primarily from nuclear energy) from the Texas Compact (1).

A "Compact" consists of a number of states which store radioactive waste from their territories in a disposal site in one of the states, in this case Texas.

The Compact currently includes Texas, Maine and Vermont, but Maine will be leaving in 2004. Not only could other states replace Maine, but both dumps could end up accepting additional radioactive waste from the entire nation due to legal loopholes.

Equivalent to a football field over 280 stories tall (2), the original capacity of the federal weapons dump would be 60 times that projected for the commercial dump over its 35-year term (3).

The site is expected to be operated by Waste Control Specialists LLC (WCS) in Andrews County, Texas, which currently operates a mixed hazardous and radioactive ("low level" and transuranic) waste processing facility.

Andrews is approximately forty miles from the Waste Isolation Pilot Project (WIPP, the U.S.' first deep geologic repository for nuclear waste) in Carlsbad, New Mexico. It has been suspected that WCS seeks to become a companion site to WIPP, as WCS has increased the handling of transuranic waste, and plans to expand by adding services elsewhere in nuclear fuel chain.

Aquifer and earthquake risks

An environmental assessment was never conducted prior to issuing WCS's radioactive processing license, despite serious suitability questions. The proposed site, located in Andrews County, is dug into the Ogallala formation, which resides about 30-40 feet below the surface (4).

The Ogallala is the largest aquifer in the United States, extending through Texas, New Mexico, Oklahoma, Kansas, Colorado, Wyoming, Nebraska, and South Dakota.

Without producing evidence, company geologists claimed the formation was absent at the proposed WCS site in Andrews, that it had been misidentified in their previous permit application, and that the material present at their site is indigenous to another formation over 350 miles away, not the Ogallala (5).

This claim was never questioned on record by the State Bureau of Radiation Control. Later, WCS was formally criticized by the University of Texas on hydrology (6).

In response WCS changed their story a second time, and produced a geological survey which claimed that the Ogallala was "partially there", not absent.

In the 1980s, Andrews County was rejected by the U.S. Department of Energy (DOE) in screenings for siting a high-level radioactive waste repository, due to the presence of the Ogallala. The state's now-defunct Disposal Authority additionally had rejected the County in 1987 for siting a "low-level" radioactive waste dump for nuclear energy waste (7).

The area is also seismically active with 18 seismic events counted within a 30 mile radius (48 kilometers). Of these, the latest occurred on 2 June 2001 at a depth of 5 km, with a 3.3 magnitude, and the largest occurred on 2 January 1992, approximately 15 miles from the site with a 5.5 magnitude. Eight of these events happened in 1976 alone (8).

Lobbying
WCS and its parent company, Valhi, have waged a massive campaign for eight years, spending hundreds of millions of dollars in campaign contributions and insider lobbyists in both Texas and Washington to evade Texas law, which until now, has prevented a private company from operating a disposal site.

Valhi's owner, Harold Simmons, is a personal friend of U.S. president George W. Bush, and was instrumental in funding both his campaign for Texas governor and for U.S. president. Valhi was majority owner of Halliburton when US Vice President Cheney was employed as its CEO.

US Interior Secretary Gayle Norton was employed as an attorney of Valhi's subsidiary, National Lead Industries, defending the company in lawsuits involving schoolchildren poisoned by the use of the company's lead paint in New York schools (9).

Regulatory
It's now up to Texans to challenge the regulatory process at the Texas Commission on Environmental Quality (TCEQ, formerly TX Natural Resource Conservation Commission). New state regulations for radioactive waste disposal must be developed and adopted by late 2003. The process of developing rules includes several opportunities for public participation: comments on draft rules packages are being considered for adoption.

Licensing begins with the filing of applications in early 2004. TCEQ will select an applicant by 2005, and the technical review is to be completed by late 2006.

The State Office of Administrative Hearings will then conduct a contested case hearing if, and only if, an "affected person" requests a hearing. There is a danger that the definition of "affected person" may be drastically narrowed through legislation passed during the 30 June – 30 July 2003 special session, making it impossible for anyone to meet the requirements (10).

Between now and 2008, there are two regular state legislative sessions and many opportunities to stop the dumps through legal, administrative, and legislative avenues.

Notes:
1. Texas State Legislature, 78th Session, H.B. 1567, Enrolled version; p. 14, lines 13-27 and p. 15, lines 1-15.
2. Department of Energy, *EM Progress newsletter*, Fall/Winter 2002, p. 9; available at www.em.doe.gov/emprog/
3. Rogers and Associates Engineers, *Texas Compact Low-Level Radioactive Waste Generation Trends and Management Alternatives Study*, RAE-42774-019-5407-2, conducted for Texas Natural Resource Conservation Commission, August 2000, p. 1-5.
4. AM Environmental, 1993, RCRA permit application for a hazardous waste storage, treatment, and disposal facility: prepared for Waste Control Specialists. Texas Department of Health, Bureau of Radiation Control, License L04971.
5. Lehman, T. M., 1996, *Geology of the WCS facility, Andrews County, Texas*, submitted for license application.
6. University of Texas, Bureau of Economic Geology, *Review of Data on Hydrogeology and Related Issues in Andrews County, Texas*, for Texas Low-Level Radioactive Waste Disposal Authority, 1999
7. Texas Low-Level Radioactive Waste Disposal Authority, internal memorandum entitled "Evaluation of Andrews County Site", to Ruben Alvarado, P.E. from Lawrence R. Jacobi, Jr., P.E, 29 July 1987, and related materials.
8. Independent research, USGS Earthquake Hazards Program, National Seismic Hazard Mapping Project, and National Earthquake Information Center.
9. Various sources: Texas newspapers 1995- 2003. National Institute on Money in State Politics, Texans for Public Justice, and many others.
10. Texas State Legislature, 78th Session, H.B. 1567, Enrolled version; section 25 & Fiscal Note.

Source and contact: Tristan Mendoza, Researcher, Producer, and Director of Texas Radiation Online
Email: tristan@blackhat.net
Web: www.TexasRadiation.org and www.RadTexas.org