

011
RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board JUL 30 AIO 07

In the Matter of)

US ECOLOGY, INC.)

(Sheffield, Illinois Low-Level
Waste Burial Site))

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Docket No. 27-39 SC

THIRD JOINT REPORT ON THE STATUS
OF THE SETTLEMENT NEGOTIATIONS

Preliminary Statement

This is the Third Status Report filed jointly by the NRC Staff, the State of Illinois, and US Ecology, Inc. with regard to negotiations for a voluntary settlement of this proceeding. Earlier reports were filed on November 15, 1983 and July 27, 1984. The instant report responds to the Memorandum and Order issued by the presiding Atomic Safety and Licensing Board ("Licensing Board" or "Board") on May 29, 1985.^{1/} The Board ordered the parties to file a Third Joint Report on or before July 29, 1985 "setting forth all actions taken since the second joint report and describing any other factual or legal developments which in any party's judgment, has a bearing on this proceeding."

^{1/} US Ecology, Inc. (Sheffield, Illinois Low-Level
Radioactive Waste Disposal Site), "Memorandum and Order
(Footnote Continued)

8507310110 850729
PDR ADDCK 02700039 PDR
C

DS07

Implementation of the option available under Section 151 of the Nuclear Waste Policy Act of 1982, 42 U.S.C. §10171 continues to be the principal focal point of ongoing settlement deliberations. As the Board is aware, that provision authorizes the Secretary of Energy to assume control over low-level waste disposal sites upon determination by the Nuclear Regulatory Commission that certain conditions have been met. Therefore, this report describes actions which have been taken by the parties and the Department of Energy ("DOE") regarding DOE's possible assumption of title and custody of the Sheffield site.

It should be noted that US Ecology has remained on the site and that numerous governmental agencies, both state and federal, have continued over the past year to monitor the site, collect data thereon and have continued the process of studying and analyzing that data, both from the standpoint of protecting the public health and safety and considering the eventual disposition of the site.

Discussion

As described in the last report, DOE has been in the process of developing procedures for the receipt of applications under Section 151 of the Act. Since the various meetings and consultations described in the last report, DOE

(Footnote Continued)

Requiring Parties to Report Jointly on the Status of Settlement Negotiations" (May 29, 1985).

has proceeded to compile considerable information regarding the technical and legal aspects attendant to a potential application for Sheffield for assumption of custody and control of the site. This information has been provided to DOE by the NRC, US Ecology, the State of Illinois, the United States Geological Survey, the Illinois Geological Survey and DOE consultants. Some seventy documented information sources have been catalogued and used by DOE to draft a report on the Sheffield site. Counsel for US Ecology has been advised by DOE that the draft Sheffield report will be available for public review and comment in the near future. It is anticipated that the report will further focus the settlement deliberations among the parties and provide a basis for DOE's review of any application under Section 151. DOE may also request other information, based upon the content of any such application.

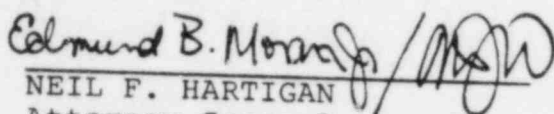
Parallel to its compilation of Sheffield site-specific data, DOE has prepared a draft "guidance document" for procedures governing submission and review of applications under Section 151. DOE has advised counsel for US Ecology that it intends to approach the NRC in the near future with the draft guidance for concurrence in a Memorandum of Understanding. It will then offer the guidance for comment by States, such as Illinois, with low-level waste disposal sites. DOE anticipates being ready to receive formal applications under Section 151 by the end of 1985.

Inasmuch as none of the parties has seen the latest version of the draft report for Sheffield or the draft guidance for application submission and review, they cannot comment upon the particulars of any application that might be submitted for Sheffield. Nonetheless, the parties continue to share the general consensus stated in the last report that no insurmountable legal or technical obstacles are immediately apparent to the successful implementation of Section 151 by DOE for Sheffield. DOE has not advised any of the parties or their counsel to the contrary.

On this basis, the parties remain of the view that ongoing settlement negotiations which would utilize procedures developed by DOE under Section 151 of the Nuclear Waste Policy Act of 1982 should be encouraged and may reasonably be expected to lead to an amicable resolution of the issues before the Licensing Board in the NRC proceeding. Accordingly, the parties suggest that the proceeding be held in abeyance pending the conclusion of matters before DOE. As before, the parties commit themselves to good faith

actions to resolve the issues. The parties reserve the right to litigate all factual and legal issues in this matter in the event a settlement is not reached. The parties will keep the Licensing Board informed of any major developments.

Respectfully submitted,


NEIL F. HARTIGAN

Attorney General

State of Illinois

By: Edmund B. Moran, Jr.

Assistant Attorney

General

Environmental Control


Division

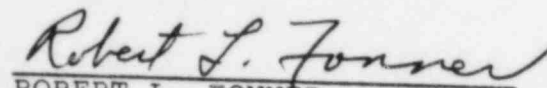
13th Floor

100 West Randolph Street

Chicago, IL 60601

312/917-2512


MARK J. WETTERHAHN
Counsel for US Ecology, Inc.
Conner & Wetterhahn, P.C.
Suite 1050
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
202/833-3500



ROBERT L. FONNER

Counsel for NRC Staff

301/492-8692

July 29, 1985

Robert Russel, Esq.
Johnson, Martin & Russell
10 Park Avenue West
Princeton, Illinois 61356

Mark J. Wetterhahn, Esq.
Robert Rader, Esq.
Conner, Moore & Corber
1747 Pennsylvania Avenue, N.W.
Suite 1050
Washington, DC 20006

Mr. Jerry Scoville
Chairman of the Board for
U.S. Ecology, Inc.
P.O. Box 7246
Louisville, KY 40207

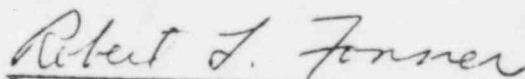
Atomic Safety and Licensing
Appeal Board*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

D.J. McRae, Esq.
217 West Second Street
Kewaunee, IL 61443

Mr. Charles F. Eason, Esq.
U.S. Ecology, Inc.
Director for Governmental Affairs
1501 Wilson Boulevard
Suite 900
Arlington, Virginia 22209

Atomic Safety and Licensing
Board Panel*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Donald L. Etchison
Director, Dept. of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704


Robert L. Fonner
Counsel for NRC Staff