

CENTRAL INTERSTATE LLRW

COMMISSION



US Ecology Response

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an American Ecology company

RESPONSE TO PROPOSED LICENSE DECISION

The State of Nebraska's decision to issue an Intent To Deny a license for the LLRW facility in Boyd County has very questionable bases. Since the filing of US Ecology's application in 1990, the State reviewers and US Ecology have communicated through comments and responses on the content of the application. With the submission of SAR Revision 8 in 1995, US Ecology completed their part of the review after meeting with specific technical reviewers to address and resolve all outstanding issues.

Unfortunately, in reaching their decision the Directors did not advise US Ecology of new concerns based upon information they had gathered outside of the formal licensing and technical review process. This occurred in six of the seven reasons for the Directors' issuance of their Intent To Deny.

Five of those issues relate to the physical characteristics of the Butte site and the groundwater table. US Ecology furnished pertinent groundwater level information to the reviewers through December of 1994. After the submittal of that information, it was jointly agreed that no further information was needed for completion of the technical review. US Ecology advised the State that for site characterization purposes no additional groundwater information was prepared. Groundwater level readings continued to be taken and kept in their raw form in the event the State's final technical

review raised questions regarding this issue. When the State issued their DSER and DEIA, groundwater levels were deemed to be acceptable and not be an issue in licensing.

The DSER did state, however, that US Ecology would be required to furnish hydrographs for the years 1995, 1996, and 1997. Additionally, a request was received from the LLRW program managers asking for this information but specifically noting that such data was not required for the license review process. US Ecology was also verbally advised that the purpose in their requesting the hydrograph information was to satisfy requests from the public for access to the data.

US Ecology furnished this information as part of their Annual Environmental Monitoring Report in June of 1998. Also during that month US Ecology received an oral request from the LLRW program's subcontractor, HDR Engineering, for information on the geologic characteristics of the fill and soil underneath the disposal cells. This was represented to US Ecology as information required for inclusion in their public information initiative as mandated by the Nebraska State Legislature. US Ecology complied with this request and submitted the requested information in June 1998.

Without further advice from the LLRW program to US Ecology, the Directors used the hydrograph and geologic information to form the basis of their Intent To Deny without identifying any concerns to US Ecology. Unlike the preceding process of comment and response, the Directors unilaterally interpreted this information. US Ecology was not given the opportunity to respond to the State's assumptions on these particular issues.

This action by the State runs counter to normal license application review methods; a question is both formulated and answered by the reviewer without any technical input or analysis from the applicant. In fact, had US Ecology been advised in a timely manner of the State's concerns in this area, we would have been able to respond adequately and appropriately to show that these concerns were in fact not a barrier to safe and secure disposal of LLRW.

In the other example of the State gathering information after the release of the DSER/DEIA and outside of the established licensing review process, a Nebraska investment consulting firm was engaged by HDR at the request of the DEQ Director to perform a review of US Ecology's financial condition. Representatives of the firm visited US Ecology's corporate parent, American Ecology, at their offices in Boise, Idaho early in 1998. After meeting with American Ecology officials, the reviewers advised that they had not formed any particular impression regarding the status of American Ecology's finances with respect to the licensing responsibilities of US Ecology.

Prior to the visit to Boise, US Ecology was advised by LLRW program officials that this visit and research was being conducted independently of the license application review process and was intended to provide the Director of the NDEQ with information to enable the Director to arrive at a licensing decision. The result of this research was made known only to the Director without any concerns being passed on to US Ecology for additional analysis or a technical response.

In the remaining issue in the Intent To Deny, accident scenarios, the Directors ignored agreements made between US Ecology and the technical reviewer and chose two

barely credible accident scenarios which were previously resolved by US Ecology and the reviewer. In the first case, the State advised that US Ecology did not address likely accidents such as a truck fire immediately inside the entrance to the facility or the dispersion of material during a tornado. In fact, the truck fire at the entrance was discussed in meetings with the review manager and resolved during that meeting. It was noted and recognized that such an accident is not credible since any waste-bearing truck entering the facility would immediately proceed to an area well inside the facility boundary where it would stay until the acceptance process was completed. US Ecology and the review manager agreed that the most appropriate location for analyzing the effects of a truck fire would be at that location some distance from the actual facility entrance. Regarding the tornado dispersion of waste packages, it was noted once again that this was not a credible scenario. Waste handling operations would not be conducted in the event of any threat of severe weather. Further, waste would be either inside the vehicle or already in the disposal cell during such severe weather threats. The disposal cells were shown to have the structural ability to withstand the effects of any possible tornado. In the unlikely event, however, that a tornado would strike the facility during actual waste unloading operations, the Directors failed to recognize the impact of a tornado on a waste container in the event it were picked up and blown off site and the package breached. During such an occurrence the extreme turbulence would disperse the contents to such an extent that any subsequent disposition would be barely higher than background levels.

It is also worth noting that in the Directors' summary of their reasons for issuing the Intent To Deny, regulations from the State's departments of Environmental Quality and Health are referenced. Such referencing is the same as that done when the previous

Intent To Deny was issued in 1993 and later resolved with expensive but productive face-to-face meetings with the technical reviewers, not the Directors. Here again, we see similar but not duplicative regulations. Also, the Directors have repeated the various definitions of facility, disposal facility, buffer zone, to somehow arrive at a conclusion that, for example, the waste emplaced in the disposal cells are within the zone of fluctuation of the groundwater table when in fact, the waste is totally isolated from groundwater through its emplacement in an above-grade structure. It appears that the State used very tenuous logic in finding relationships between the regulatory definitions of elements of the disposal facility to achieve certain predetermined goals.

In summary, US Ecology feels that the reasons for the Directors' issuance of an Intent To Deny are without valid scientific, technical, or reasonable foundation and will vigorously dispute the Directors' assertions during the upcoming public comment period. US Ecology looks forward to additional face-to-face meetings with the technical reviewers to address and resolve the issues raised in the Intent To Deny.