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Sierra Club asks TCEQ to Reconsider Andrews County Radioactive Waste License Decision

The Sierra Club filed a “Motion for Rehearing” with the Texas Commission on Environmental Quality this week on the May decision to grant a license to Waste Control Specialists to dispose of thousands of cubic feet of radioactive byproduct material in Andrews County, smack on the border with New Mexico.

In filing the “motion for rehearing”, the Sierra Club is asking the TCEQ Commissioners to reconsider the 2-1 decision made by the Commission to (1) deny Sierra Club and 12 residents of Eunice, New Mexico a contested case hearing and (2) grant the license sought by Waste Control Specialists. Unless the time for the Commission to act on the motion is extended, the motion for rehearing is overruled by operation of law 45 days after interested persons are notified of the Commission’s order granting the license in this case, 45 days from June 7 (August 8).

TCEQ Commissioners Dr. Bryan Shaw and “Buddy” Garcia voted in favor of granting the license and denying the contested case hearing

request, while Commissioner Larry Soward asserted that it would be in TCEQ and the state’s best interest to allow a hearing to proceed to make sure that there were no merits to the argument that the site is unsafe for burial of radioactive materials.

Many residents of Eunice believe the license conditions will not protect them from wind-blown radioactive debris, potential traffic accidents and the possibility of leakage into the underlying aquifer.

In fact, Pat Bobeck, a former TCEQ staff geologist who left the agency due to objections to the pending WCS licensing, attests that after years of application review and WCS efforts at improvements in the application, the applicant failed to adequately characterize the site.

“The application contained inconsistencies and contradictions and a lack of detailed geologic data,” Bobeck noted. “There is water there in that clay and in the siltstone and water is going

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Environmental Groups Raise Concerns About Luminant's Proposed Nuclear Plant

In the first step in a long process, the Nuclear Regulatory Commission held a public meeting in Glen Rose, Texas earlier this month on the proposed expansion of Luminant's Comanche Peak Nuclear Plant. The purpose of the public meeting was to answer questions and receive comments from the public about the review and licensing process.

Most of the more than 200 Somervell, Hood and Erath County residents in attendance voiced their support for the proposed expansion by Luminant, the generation arm of the company formerly known as TXU, which has publicly announced its intention to construct two new units totaling 3,700 MWs using an as-yet-uncertified new design of the Japan's Mitsubishi Heavy Industries.

Among those attending the meeting who expressed concerns about the proposed expansion and its implications were State Representative Lon Burnam (D-Fort Worth), members of Sierra Club's Dallas regional group, the Sustainable Energy and Economic Development Coalition and the Lone Star Chapter of the Sierra Club.

In explaining the licensing process, NRC officials told the audience that once an application is received – which is expected in September according to Luminant officials -- there would actually be several processes

occurring at once:

- a review and potential certification of the design of the nuclear reactor, which is known as USABWR or U.S. Advanced Boiler Water Reactor;
- an environmental review of the application, which would lead to a public scoping meeting, as well as a final environmental impact statement; and
- a technical and safety review of the application.

While refusing to give an exact date, NRC officials said no license could be granted until the design was certified, and the environmental and technical and safety review were conducted, processes that could take several years, and most likely not before 2012.

During the three hour meeting, relatively few individuals took advantage of the expertise in the room to ask questions about the process, or ask Luminant about its design, water use, management of radioactive wastes, the added infrastructure costs to the county, or the estimated cost of the reactors, which some have independently estimated as costing more than \$22 billion. Instead, entities – from the City of Glen Rose, the City of Granbury,

Sierra Club Tells Governor's Competitiveness Council – Right on Energy Efficiency & Wind Transmission, Wrong on Global Warming

The Lone Star Chapter of the Sierra Club told the Governor's Competitive Council this week in a public hearing that the 36 recommendations contained in the Council's proposed 2008 Energy Plan offered much good on smart meters, energy efficiency, wind transmission and solar power. But the Sierra Club said the Plan sends the wrong message on efforts and future requirements to reduce global warming gases.

“There is much good in these recommendations,” noted Cyrus Reed, Conservation Director of the Lone Star Chapter of the Sierra Club. **“But on the chief energy issue of our day – how to reduce global warming gases – the Council chose to recommend ‘educating’ our citizens about the costs of global warming legislation, instead of viewing it as an opportunity to reenergize our economy to be the clean energy state of the future.”**

The Lone Star Chapter also submitted to the Council copies of its recently updated report on state energy policy previously submitted to the House Select Committee on Energy Capacity and Environmental Effects. The report contains 12 specific legislative policies that would help Texas meet its energy demand, while reducing global warming generation and other pollutants. The report – *Cool Texas: A 12-*

Step Plan for Meeting our Electricity Needs that is Good for Texas... and the Climate – is available on the Sierra Club's Lone Star Chapter website at <http://texas.sierraclub.org>.

Governor's report recommendations lauded by the Sierra Club as good first steps are:

- Amending the rules and allocation formulas at the Texas Department of Housing and Community Affairs to offer incentives for solar power for low-income housing;
- Issuing an expeditious ruling (by the state Public Utility Commission, PUC) on the Competitive Renewable Energy Zones and resulting transmission lines so that more wind capacity can be added to the grid;
- Raising the energy efficiency goals for utilities to higher levels;
- Increasing funding for customer education through the PUC using the Systems Benefit Fund monies;
- Requiring utilities to deploy advanced meters as quickly as possible.
- Moving as quickly as possible in deploying “advanced meters.”
- Studying the potential for “conductor” technology to improve transmission capabilities.

However, Reed highlighted the very negative

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impacts of Recommendation 11, which calls on the state to “*form a private-public partnership... to educate the public on the cost of carbon regulation to Texans.... (and) conducting a study highlighting the cost of carbon regulation.*”

“Instead of putting our heads in the sand and hoping that federal global warming legislation doesn’t pass, and then having public money spent on telling Texans that it’s bad, Texas should prepare ourselves to reduce global warming gases and become real leaders on a new clean energy economy,” Reed told the Council. **“We can reduce global warming gases, create jobs and save consumers money if we are smart on how we respond to the challenge of climate change and expected federal legislation.”**

Reed described the steps that the State of Texas could take that would reduce global warming gases, increase clean electricity generation and prepare Texas for federal global warming legislation:

- Create a global warming reporting

and inventory system – as many other states have done – or join the existing Climate Registry so that companies could determine their contribution and begin to make reductions;

- Create a flexible global warming action plan with input from stakeholders to identify cost-effective and beneficial ways to reduce global warming gases;
- For new electric utilities, begin to regulate carbon dioxide emissions, and require carbon offsets for new permits;
- Increase energy efficiency requirements at investor-owned utilities to 100 percent of growth by 2015, and begin a revolving loan program so that electric cooperatives, river authorities and municipal non-competitive utilities can meet their electric demand through energy efficiency;
- Fund the state weatherization program for low-income Texans – already funded through the Systems Benefit Fund whose balance is over \$700 million – with an emergency \$80 to

What is the Governor’s Competitiveness Council?

In November of 2007, Texas Gov. Rick Perry appointed 29 public and private sector leaders to the Governor’s Competitiveness Council to “identify the issues affecting Texas’ competitiveness in the global marketplace” and charged the council with “establishing recommendations to enhance the state’s competitive edge and the quality of life for all Texans.” The Governor asked the Council to make recommendations on six targeted industry clusters, including energy. The Council recommendations will be complete in August 2008. The Governor’s Competitiveness Council 2008 Energy Plan can be found at <http://www.governor.state.tx.us/gcc>.

Sierra Club, Public Citizen Settle Clean Air Act Lawsuit Against American Electric Power Company

A settlement has been reached between environmental groups Sierra Club and Public Citizen and Ohio-based American Electric Power Company (AEP) in a Clean Air Act lawsuit over a coal-fired power plant in Northeast Texas.

A consent decree signed by Federal Judge David Folsom last week officially ends a three-year-long court battle between the environmental groups and AEP, one of the country's largest electric utilities, over alleged air pollution violations at the company's Welsh coal-fired power plant in Titus County, Texas.

The lawsuit alleged thousands of federal Clean Air Act violations at AEP's Welsh Power Plant. Some of the alleged violations were brought to light by a disgruntled former AEP employee.

Southwestern Electric Power Company (SWEPCO), AEP's subsidiary in the region, was also named as a defendant in the lawsuit.

Ken Kramer, director of the Lone Star Chapter of the Sierra Club, said: "The new requirements for continuous monitoring of emissions of soot from the coal-burning plant will help assure that those emissions stay within permitted levels. Compliance with permit limitations on air emissions is critical to protecting public health."

The consent decree requires AEP to:

- Install continuous electronic monitors for particulate matter on all three of the Welsh plant's coal-fired boilers;
- Secure an additional 65 megawatts of renewable energy commitments in the SWEPCO service area;
- Spend up to \$2 million in environmental mitigation projects in SWEPCO's service area; and
- Install and maintain an ambient particulate matter monitor in the area around the Welsh plant.

Austin attorney David Frederick and the nonprofit Environmental Integrity Project represented the environmental groups in the lawsuit.

In February 2008, the US EPA issued a formal notice of violation against the Welsh plant, alleging certain Clean Air Act violations based in part on the claims made in the lawsuit by Sierra Club and Public Citizen.

The Consent Decree does not prevent EPA from continuing with its enforcement action.

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than \$22 billion. Instead, entities – from the City of Glen Rose, the City of Granbury, both Somervell and Hood Counties, the local school district and hospital and Chambers of Commerce and State Senator Kip Averitt (R-Waco) announced that they fully supported the expansion and voiced their opinion that review of the application should be as speedy as possible.

Some local residents did ask questions about emergency preparedness, the wisdom of siting a new nuclear plant right next to another, the need to buy off property around any new units, and the source of water for the plant. However, most of the more detailed questions about the regulatory process and concerns about the plant did not come from local residents.

Citing the experience of Fort Worth residents with high energy costs – in part due to cost overruns and problems at the existing Comanche Peak plant, State Representative

Lon Burnam raised concerns about the cost of the proposed nuclear plants and whether NRC would look at the economic costs to energy consumers, as well to the state as a whole.

NRC answered that it would not be looking at the issue in detail, but would conduct a cost-benefit analysis as part of the environmental review. SEED executive director Karen Hadden asked both Luminant and the NRC to consider alternatives to new nuclear power such as wind, solar, geothermal and efficiency, while also pointing out that the design chosen by Luminant “has never been built anywhere in the world.”

Cyrus Reed, conservation director of the Lone Star Chapter of the Sierra Club, questioned whether the power produced by the new reactors will be needed, whether the NRC will look at the implications of building a new plant next to an aging plant, and whether the NRC will be taking into account the full cost of managing nuclear fuel, including the full uranium cycle from cradle to grave, the hazards of workers’ exposure and the impacts of climate change on water availability in the area.

The Sierra Club continues to oppose nuclear power as too costly, too risky, producing too much waste, and using too much water. The Club believes Texas should instead look to demand response, energy efficiency, and on-site and off-site renewables for our power needs.



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- \$100 million fund to reduce energy consumption for low-income Texans.
- Increase the Renewable Portfolio Standard to 20 percent of sales by 2020, with a specific carve-out for solar or other non-wind renewable resources;
 - Help commercialize solar power and electricity storage through the Governor's Emerging Technology Fund
 - Ramp up commercial, public and residential building efficiencies through an Advanced Building Program which could include home rating systems for energy
 - Encourage the development of electric cars and plug-in hybrids through Green Fleet requirements, tax breaks and infrastructure studies to help steer transportation solutions that will reduce global warming gases.

In discussing likely federal global warming legislation and its impacts on the Texas economy with PUC Commissioner Paul Hudson and RRC Commissioner Michael Williams, who advise the Competitiveness Council, Reed responded that Sierra Club viewed it as an opportunity to make the state a leader.

Reed said the the Club would be involved in the regulatory, and legislative process to help create jobs in Texas, and reduce energy demand through energy efficiency, on-site solar and create transmission lines so that clean energy

can be added to the mix. **“No state has more to gain with energy efficiency and renewables than Texas. Tens of thousands of new, high-paying “green-collar” jobs could be created in the next 10 years,”** said Reed.

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to move that waste around. It's going to cause problems and there's no way around that.”

The license is the first of two being sought by the waste management company.

The “byproduct” license allows the company to bury uranium milling and mining waste, as well as so-called K-65 waste, leftover highly-contaminated weapons waste that was previously stored in Fernald, Ohio and near Niagara Falls, New York.

A second license would allow the company to take low-level radioactive waste from Texas's nuclear power plants, and potentially other states, as well as “federal” low-level radioactive waste from Department of Energy sites.

TCEQ is conducting an environmental assessment and review of the second license application.

More information about the proposed site and license is on the Sierra Club's Lone Star Chapter website at <http://texas.sierraclub.org>.





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