

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

www.BREDL.org ~ PO Box 88 Glendale Springs, North Carolina 28629 ~ Phone (336) 982-2691 ~ Fax (336) 982-2954 ~ BREDL@skybest.com

March 28, 2005

Jean Sulc, Chair
Savannah River Site Citizens Advisory Board
Building 742-A, Room 190
Aiken, SC 29808

Dear Ms. Sulc:

On behalf of the Blue Ridge Environmental Defense League, I request an opportunity to address the SRS Citizens Advisory Board. I would like to present our findings and make a series of recommendations.

The mission of the Savannah River Site Citizens Advisory Board is to provide “advice and recommendations to the U. S. Department of Energy, the U. S. Environmental Protection Agency Region IV, and the South Carolina Department of Health and Environmental Control on environmental remediation, waste management and related issues.” In your capacity as advisor to the DOE, EPA and DHEC, I respectfully request that you transmit these recommendations to all appropriate agencies.

Statement to the Savannah River Site Citizens Advisory Board

We recommend that the Savannah River Site Citizens Advisory Board take immediate steps to implement the following measures for the protection of residents of the Central Savannah River Area:

Block the U.S. Department of Energy from disposing high-level radioactive waste in South Carolina, a precedent which also threatens communities with contaminated DOE sites in Idaho, Washington and other states.

Direct DOE to immediately implement an open, transparent and public review process on high-level nuclear waste tank closures.

Grant EPA direct regulatory authority over the disposal of DOE's high-level radioactive waste.

Ensure that the external regulator of high-level waste have the discretion to set an appropriate cleanup standard for the waste that protects public health and the environment.

These recommendations are largely based on the National Academies report "*Risk and Decisions.*"¹ First, the *R&D* report provides a sound basis for the SRS-CAB to call for open decision-making on high-level radioactive waste issues regarding tank closure. Two-way communication between the CAB and the general public would help to provide necessary

transparency and accountability. It is important to note that two high-level radioactive waste tanks at SRS have already been closed without the first public hearing being held. This is a mockery of public participation. The CAB should ensure that not one more tank shall be closed without first holding public hearings in North Augusta, Augusta, and Savannah. Second, splitting regulatory authority would give U.S. EPA the authority to approve or disapprove disposal alternatives proposed by DOE, ending the conflict of interest inherent in one agency petitioning for and approving its own variances and exemptions. Third, we stand in solidarity with our sister organizations who have members in the affected communities near atomic weapons-related sites in other states; they clearly see that events in South Carolina are a precedent for further loopholes in laws which are designed to protect public health by reducing risk from radioactive waste. Finally, for too long DOE has told communities affected by high-level radioactive waste what the issues are; this is backwards. The DOE should be going to local residents and asking what issues are important to them.

As you well know, presently there are 49 underground tanks store 37 million gallons of liquid high-level radioactive waste at the Savannah River Site. Of this, 3 million gallons are sludge, the remainder is salt waste comprised of solids and supernate. Toxic contamination at SRS caused by weapons development, testing, and manufacture includes trichloroethylene, tetrachloroethylene, arsenic, cadmium, chromium, mercury, and lead. The groundwater at SRS is contaminated with radioactive tritium, plutonium-239, plutonium-238, strontium-90, and cesium-137.

The Department of Energy's Accelerated Cleanup program is a methodology to save time and money by removing some of the high-level radioactive waste, pour a concrete "grout" over the remainder, and abandon the tanks. DOE had hoped to save tens of billions of dollars and decades of work.

However, the DOE program defied expert opinion and was contrary to the law. The legal fight over this program is well known to you all and is yet to be settled. The Nuclear Waste Policy Act prohibits surface disposal of high-level radioactive waste in sandy soil above aquifers. Leaving such waste at SRS would pollute the Savannah River and spread radioactive contamination to the Tuscaloosa aquifera water source for Alabama, Georgia, South Carolina, and North Carolina.

Citizens objected to this plan and the courts agreed. So, last year at DOE's urging, Senator Lindsay Graham introduced a controversial amendment allowing high-level nuclear waste to remain in the tanks at SRS: Section 3116 of the 2005 Defense Authorization Bill. This amendment gave the DOE the authority, in consultation with the Nuclear Regulatory Commission, to re-classify high-level liquid nuclear waste at SRS as "waste incidental to processing," thereby overturning a federal court decision and carving a loophole in the Nuclear Waste Policy Act. With the passage of the amendment Graham said that the cleanup would be done "at a cost savings to the taxpayer of almost \$16 billion."²

So, let us compare the total cost of high-level liquid waste cleanup at SRS before and after Congress passed the 2005 Defense Authorization Bill. Before the legislation was enacted, SRS Project No. SR-0014C Radioactive Liquid Tank Waste Stabilization and Disposition-2035 had a

30-year lifecycle cost projection of \$11,867,072,000.³ One year later, the lifecycle cost projection for the identical project is \$11,860,869,000.⁴ In other words, permitting a high-level nuclear waste dump in South Carolina has reduced tank cleanup costs during the next thirty years by only \$6,203,000, a savings of just 0.05%.

Comparison of Congressional Budget Requests for Savannah River Site in 2005 and 2006

Line Item: Radioactive Liquid Tank Waste Stabilization and Disposition-2035

SRS Tank Cleanup	FY 2005	FY 2006	Change in \$	Change %
Budget, Annual	\$586,634,000	\$582,292,000	(\$4,342,000)	-0.74%
Lifecycle cost-30 year	\$11,867,072,000	\$11,860,869,000	(\$6,203,000)	-0.05%

This is a far cry from the \$16 billion savings promised by the Senator. And for what? It is fair to ask where did the inflated numbers come from? We at BREDL are convinced that the DOE provided falsified data to gain an exemption so it could add cement to the waste, leave it underground, and reduce costs. The Department of Energy has some explaining to do and the CAB should demand some answers.

Last year the SRS-CAB endorsed the DOE-EM’s concept of Risk-based End States for SRS; a model which is designed to accelerate cleanup and reduce site-wide and system-wide costs. Such a cleanup plan is based on specific variances, that is, a “significantly different cleanup approach or different end state,” from agreements and practices such as those spelled out in the SRS Performance Management Plan. Although the name was recently changed from Risk-based End States to simply “End States,” the basic concept is unchanged. The DOE is now considering additional waste streams to be buried at SRS under the precedent created by Section 3116. In a recent letter to SC Department of Health and Environmental Control, Paul Golan lays out the plan as follows:

If the Department in consultation with the NRC concludes it meets the 3116 requirements for disposal as low-level waste and we receive the necessary permits from the state, the remaining low-activity fraction of salt waste will be treated and result in an addition of approximately 0.2 million curies of radioactivity to the low-level waste Saltstone Disposal Facility when all radioactive tank waste is disposed.⁵

The camel’s nose is under the tent; that is, the pattern set by Congress will create further exemptions, variances, and loopholes. At the very least, the SRS-CAB should now revisit its approval of the DOE’s Risk-Based End States concept before it is too late.

The 2005 Defense Authorization Bill also had a provision, inserted by Rep. Spratt (D-SC), which requires DOE to work with the National Academy of Science to study technically sound alternatives to deep geologic burial of high-level nuclear waste and transuranic wastes. The recently published NAS report, *Risk and Decisions*, contains a series of findings and recommendations both technical and procedural.

In *Risk and Decisions*, the NAS states that the outlook for DOE's waste program is uncertain and lacks a well-structured process. We believe this is partially the result of bureaucratic intransigence and legislative meddling. Further, the NAS found that "The credibility of DOE's planning and decision making is reduced by the apparent conflict of interest created by DOE's authority both to propose and to approve disposition plans for radioactive waste."⁶ The report continues, saying, "The burden of proof for departing from the default disposition option must be on the petitioner seeking alternative decomposition...The burden of proof would be weak indeed if it was simply a matter of DOE convincing itself that it is right." Yet, this is precisely the situation in which we now find ourselves. A separate federal entity is needed for decision making in the matter of alternative waste disposal.

To regain its credibility, the DOE must undertake a process which is "participatory; logical; consistent with current scientific knowledge and practice; transparent and traceable; structured with reasonable independence of the decision authority from the petitioner; subjected to thorough, independent peer review; technically credible, with believable results; and framed to address the needs of the decision process."⁷

Has DOE taken heed of these recommendations? Not so we can tell. At present, no-bid contracts are being let by DOE "to analyze its controversial program of reclassifying certain materials in tanks of high-level radioactive waste as 'incidental' waste."⁸ And the contract was awarded to John Greeves of JTG Consulting, a Nuclear Regulatory Commission official who retired in October.⁹ This will do nothing to cure the DOE's credibility problems. Further, DOE makes an incredible assertion that delaying accelerated cleanup at the Savannah River Site will cost \$1 million/day. The CAB can and should ask to see the data supporting such a claim and provide it to the public.

The DOE's end run around the law, re-classifying the high-level radioactive waste remaining in the tanks as "waste incidental to processing," cannot and must not stand. The Savannah River Site Citizens Advisory Board simply must do something to stop the DOE from riding roughshod over South Carolina. Radioactive tritium has been found in drinking water 70 miles downstream from SRS. We call upon you to support real public health protection for the residents of the Central Savannah River Area. It is up to you all to take the initiative.

Respectfully,

Louis Zeller, Campaign Coordinator

1. [Risk and Decisions: About Disposition of Transuranic and High-Level Radioactive Waste, National Research Council of the National Academies, Division of Earth and Life Studies, Board on Radioactive Waste Management, Committee on Risk-Based Approaches for Disposition of Transuranic and High-Level Radioactive Waste, National Academies Press, March 2005]
2. [Office of Sen. Graham press release, *SRS Cleanup Efforts Move Forward in the Senate*, June 3, 2004]
3. [Dept. of Energy FY 2005 Congressional Budget Request, February 2004]
4. [Dept of Energy FY 2006 Congressional Budget Request, February 2005]

5. [Letter from Paul Golan, Acting Asst. DOE Secretary for Environmental Management, to Robert King, Jr., Deputy Commissioner, SC Department of Health and Environmental Control, January 27, 2005]
6. [R&D, Finding 7]
7. [R&D, Finding 8]
8. [Inside EnergyEXTRA (21-Jan-05)] (Attachment A)
9. Solicitation No. DE-FG09-05SR20345 (Attachment B)

Attachment A

Inside EnergyEXTRA (21-Jan-05)

Ex-NRC chief tabbed for DOE pact

The Energy Department this week announced plans to award a no-bid contract to a consulting firm run by a recently retired Nuclear Regulatory Commission official. The contract entails evaluating a controversial environmental cleanup practice that DOE has asked NRC to sanction.

DOE awarded the \$40,000 contract to JGT Consulting, a Maryland-based firm run by John Greeves, a former director of NRC's division of waste management and environmental protection. Greeves retired from NRC on Oct. 29. DOE tapped Greeves to analyze its controversial program of reclassifying certain materials in tanks of high-level radioactive waste as "incidental" waste.

This would allow DOE to entomb them onsite in concrete instead of sending them to an underground nuclear waste repository, which federal law mandates be done with all high-level waste. Critics say DOE's plan poses grave dangers to public health and the environment.

Last year, Congress passed a law directing DOE to have NRC evaluate the reclassification scheme. The no-bid contract planned for Greeves' firm fulfills a provision of that law. Greeves will focus on reclassifying materials in tanks of high-level waste at DOE's Savannah River Site in South Carolina. DOE must submit its first "non-high-level waste determination" to NRC by the end of this month.

The department said the "urgency of the requirement" and "the vendor's nuclear/regulatory experience" justified awarding the contract to Greeves' firm without considering other companies.

"[I]t is essential to complete the work for waste determinations immediately/urgently and thus precludes full and open competition. Delay in award of this procurement would result in serious financial injury to the Government," DOE said in a Federal Business Opportunities Notice Tuesday.

Greeves did not return phone calls placed to him Friday.

The public has until Feb. 1 to comment on the proposed contract.

Attachment B

DOE Savannah River Operations Office Notice

General Information

Document Type: Presolicitation Notice
Solicitation Number: DE-FG09-05SR20345
Posted Date: Jan 18, 2005
Original Response Date: Feb 01, 2005
Current Response Date: Feb 01, 2005
Original Archive Date: Mar 03, 2005
Current Archive Date: Mar 03, 2005
Classification Code: L -- Technical representative services
Set Aside: N/A

Contracting Office Address

P.O. Box A Aiken, SC 29802

Description

The DOE Savannah River Operations Office awarded Purchase Order to JTG Consulting (poc: John Greeves) to assist the DOE Savannah River Operations Office with technical and programmatic support relative to its plans to make non-high-level waste determinations for radioactive wastes resulting from spent fuel reprocessing, that DOE-SR plans to manage and dispose onsite as low-level waste at SRS. These services are required by DOE-SR and DOE-EM as waste determinations are made to implement the SRS EM accelerated cleanup. The Secretary of Energy is required to consult on waste determinations with the Nuclear Regulatory Commission (NRC). The first DOE deliverable is due to the NRC by the end of January 2005, and the advice/technical services defined in this procurement is required prior to that time. The waste determination preparation and approval work is critical path to completion of the EM accelerated cleanup at the Savannah River Site and each day of delay will result in additional lifecycle cost to the Government of \$1 million. Therefore, it is essential to complete the work for waste determinations immediately/urgently and thus precludes full and open competition. Delay in award of this procurement would result in serious financial injury to the Government. The DOE-SR Contracting Officer has determined that based on urgency of the requirement as well as the vendor's nuclear/regulatory experience, they are the only source reasonably available to fulfill this urgent requirement, and that justification for other than full and open competition at FAR 6.302.2 applies.

Point of Contact

Donnie Campbell, Contracting Officer, 803-952-7732, donnie04.campbell@srs.gov;
Rita Pernell, Contract Specialist, 803-952-9274, rita.pernell@srs.gov
Email your questions to Rita Pernell, Contract Specialist at rita.pernell@srs.gov

<http://www1.eps.gov/spg/DOE/PAM/HQ/DE%2DAF09%2D05SR20344/SynopsisP.html>