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Sent: Monday, 6 March 2006 8:21 AM
To: \$ARPANSA Secretariat
Subject: Submission re Draft Guidelines for Radioactive Waste Facilities

Submission to ARPANSA on Draft Regulatory Guidance for Radioactive Waste Management Facilities; Near Surface Disposal Facilities; and Storage Facilities

(Submitted by: Robyn Aldrick, 272 Williamstown Road, Port Melbourne, 3207)

The Draft Regulatory Guidance is deficient in that it pays scant regard to the importance of public involvement in decision making regarding radioactive waste facilities, and public acceptance of decisions.

As such the ARPANSA Draft Regulatory Guidance is out of step with international trends. See the excerpt below from the IAEA's 'Radioactive Waste Management: Status and Trends'. The Draft Regulatory Guidance makes extensive reference to IAEA literature on technical issues and it is inconsistent that IAEA literature on social inclusiveness and acceptance is ignored.

The Draft Regulatory Guidance notes that an applicant for an ARPANSA licence would need to address the NH&MRC criteria which includes the proviso that "the site should not be located in an area which is of special cultural or historical significance" and that "the site should not be located in an area where land ownership rights or control could compromise retention of long-term control over the facility." However the NH&MRC Code states that those criteria need not be met. Nor would the CEO of ARPANSA be required to ensure that such criteria were satisfied.

The importance of including specific reference to public inclusion and acceptance is all the greater because the federal government's handling of radioactive waste management issues over the past decade has been so profoundly undemocratic and racist, as discussed in the SA and NT summaries below.

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Excerpt from:
International Atomic Energy Agency
February 2005
Radioactive Waste Management: Status and Trends
Issue #4, pp.93-94.

7.4 Topical Issue: Societal Issues Related to Geological Repositories

There is now a widely held view that one of the greatest challenges to the development of geological repositories for HLW or spent nuclear fuel is the need to develop greater public confidence in this waste management approach. The scientific and engineering aspects of waste management safety are therefore no longer of exclusive importance, with issues relating to the quality of the decision making process being of comparable importance to a constructive outcome [7.33].

During the past decade many of those countries with significant amounts of radioactive waste have begun to modify their decision-making procedures with the aim of introducing more deliberative and inclusive decision making processes – see Reference [7.34] for one example. In some countries, decisions about future waste management strategies and/or the selection of potential disposal sites are being considered through parliamentary procedures. In others, wide public participation processes, including the participation of non governmental organizations, are being organized to assist with the determination of future waste management strategies. There are also many instances of local participatory processes relating to local waste management issues having been established or strengthened, leading to broader public support for the eventual outcomes.

It is now widely believed that an important element in establishing public confidence in a particular waste management strategy is the perceived trust and credibility of the implementing organization and of the regulatory authority. Establishing trust can be enhanced when an inclusive approach to public involvement is adopted from the beginning of the planning process to help ensure that all those who wish to take part in the process have an opportunity to express their views and have access to information on how public comments have been considered and addressed. Experience suggests that trust is promoted by providing access to accurate and understandable information about the development programme, conceptual design and the siting process at different levels of detail suitable for a broad range of interested parties. The openness and traceability of the decision making process is important. In addition to the perceived trust and credibility of the responsible organization, other aspects of public acceptability can be location specific, based on local requirements and cultural context [7.35].

Any attempt to involve the public in an effective way should adhere to the following principles [7.36]:

Participation should be:

- * started early and occur throughout the process (with defined cycles of activity),
- * interactive - a two-way process including feedback, and
- * inclusive, transparent and honest.

A key requirement is the development, at the outset of a disposal programme, of a public involvement programme that defines the overall objectives and outlines a series of public activities connected with the various phases of the assessment process. The public involvement programme needs to provide easy access by any interested individuals and must be fair, i.e. the public must be able to contribute to defining the scope and nature of the programme itself.

The audiences for public involvement activities may include representatives from local communities, administrative units (e.g. national, regional and local), government officials, indigenous peoples where appropriate, regulatory agencies, community and public interest groups, environmental organizations, industry and trade groups, the scientific community and the news media. Different audiences may be involved through the various phases of the repository life cycle and be drawn from the local, regional or national levels, as appropriate. For example, during the development of

national policy, the relevant audience may be the entire general public within a Member State.

As the process moves forward into more focused siting activities, the issues may become more narrowly defined, as alternatives are considered and a specific site is proposed. At this time, interest may be focused on the communities located nearest to the proposed site as well as communities bordering that location and those along likely transport routes. Significant levels of interest may exist at regional and national levels throughout the project development phase. Interest will also extend to neighbouring countries, as mandated under a number of international treaties and conventions, particularly if the proposed facility is located near an international border.

In some IAEA Member States, committees representing a range of local community interests (e.g. local government, schools, business and environmental groups, and interested citizens) have been formed to assist impact assessment and impact management planning activities. In addition, experience suggests that these local committees may have continuing value during the repository construction and operation phases to help with the implementation of the impact management measures. They also can monitor related repository operations and serve as an independent information source to interested parties.

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Defeated proposal to dump on SA

In February 1998, the federal government announced its intention to build a national radioactive waste dump in central South Australia.

The Kupa Piti Kungka Tjuta – a senior Aboriginal women's council, comprising women who suffered the effects of the British nuclear testing program – played a leading role in the campaign against the dump, as did the Kokatha and Barngala Traditional Owners.

Aboriginal people were coerced into signing clearances for test drilling of short-listed sites for the proposed dump. The federal government made it clear that if clearances for test drilling were not granted by Aboriginal groups, drilling would take place anyway.

Aboriginal people were between "a rock and a hard place" according to Stewart Motha from the Aboriginal Legal Rights Movement: "If Aboriginal groups do get involved in clearances they face the possibility that the Government will point to that involvement as an indication of consent for the project. If they refuse to participate, who will protect Aboriginal heritage, dreaming and sacred sites?"

Aboriginal groups did reluctantly engage in surveys resulting in the signing of so-called Heritage Clearance Agreements. One risk was that those agreements would be misrepresented by the federal government as amounting to Aboriginal consent to the construction and operation of the dump. That risk was in fact realised.

In 2002, the federal government tried to buy-off Aboriginal opposition to the dump. Three Native Title claimant groups – the Kokatha, Kuyani and Barngala – were offered \$90,000 to surrender their Native Title rights, but only on the condition that all three groups agreed. The Kokatha and Barngala refused, so the government's ploy failed. Dr. Roger Thomas, a Kokatha elder, said: "Our Native Title rights are not for sale. We are talking about our culture, our lore and our dreaming. We are talking about our future generations we're protecting here. We do not have a "for sale" sign up and we never will."

On July 7, 2003, the federal government used the Lands Acquisition Act 1989 to seize land for the dump. Native Title rights and interests were annulled. This took place with no forewarning and no consultation with Aboriginal people or the South Australian government.

On July 14, 2004, the federal government abandoned the plan to build a radioactive waste dump in SA. The decision reflected the strength and persistence of the campaign against the dump. The victory was also helped by the ruling of the full bench of the Federal Court in June 2004 that the government had illegally used the urgency provision of the Land Acquisition Act.

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Dumping on Northern Territorians

The Howard government's plan to dump nuclear waste on Aboriginal land in SA was defeated. But now the government is attempting to impose a nuclear waste dump on the Northern Territory.

Three sites are being considered – Hart's Range and Mt Everard near Alice Springs, and Fisher's Ridge near Katherine. None of these sites was short-listed when environmental and scientific criteria were used to locate potential dump sites in the 1990s.

The federal government failed in its attempt to dump radioactive waste in SA in large part because of its heavy-handed, undemocratic and racist handling of the issue. But the government appears to have drawn the opposite conclusion. It now wants to impose a nuclear waste dump on the NT and is behaving in a still more thuggish manner than it did in SA.

Draconian legislation was passed through the federal parliament in December 2005 to by-pass normal decision-making processes in relation to the proposed dump. This legislation – the Commonwealth Radioactive Waste Management Act 2005 – undermines environmental, public safety and Aboriginal heritage protections. It prevents the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 from having effect during investigation of the sites, and it excludes the Native Title Act 1993 from operating at all.

The proposed dump is opposed by a number of Aboriginal groups including the Central Lands Council. Many were incensed by federal science minister Brendan

Nelson, who repeatedly said that the proposed dump sites were "in the middle of nowhere".

Canberra foists nuclear waste on Aboriginal communities

Central Lands Council, July 15, 2005

The Director of the Central Land Council, Mr David Ross said today that there had been no approach from the Federal Government about a locating a nuclear waste dump in Central Australia.

"I think people in Canberra just looked at a map and thought it looked remote and empty.

"However, the two proposed sites in Central Australia – Mt Everard and Harts Range – are close to people's homes and communities," he said. "We have all watched the courageous struggle of the Kupa Piti Kungka Tjutas to stop this dump being built on their country nearby in SA, and some of those women have recently visited Alice Springs to talk about their experience. It would seem that the Australian Government has not learnt anything from the defeat of the waste dump proposal in SA.

Walk in the sand with us, traditional owners urge PM

ABC, October 4, 2005

Traditional owners of land near Alice Springs earmarked for a national nuclear waste dump have called for the Prime Minister and Science Minister to visit the area and meet with them.

The Athenge Lhere group are traditional owners of the Mount Everard site, which is north of Alice Springs. It is one of three sites in the Northern Territory being considered by the Federal Government for the dump.

Kathleen Martin Williams, who is one of the traditional owners, says a visit may help the ministers understand the community's reservations. "I'd like Johnny Howard and his sidekicks, especially that Brendan Nelson, to come here take off their shoes and walk in the red sand with us," she said.

"Maybe they will appreciate our country. Maybe."

Traditional owners take their fight to Canberra

Central Lands Council, November 3, 2005

Traditional owners of the two proposed waste dump sites in Central Australia are taking their fight to Canberra.

Steven McCormack, who lives close to the Mt Everard site said that a nuclear waste dump would be devastating for him and his family. "This land is not empty – people live right nearby. We hunt and collect bush tucker here and I am the custodian of a sacred site within the boundaries of the defence land. We don't want this poison here.