



Department of Energy

Washington, DC 20585

March 28, 2014

Richard A. Hyde, P.E.
Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711

Dear Mr. Hyde:

The Department of Energy (DOE) is considering a proposal to temporarily store certain radioactive wastes which cannot currently be shipped directly to the intended DOE disposal facility. This action is necessary due to an unexpected interruption in the transuranic waste disposal operations of the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico, and to fulfill regulatory commitments associated with the waste inventories.

After careful evaluation, DOE has decided to acquire through its WIPP site contractor, contingent upon the completion of an appropriate analysis of the potential environmental impacts pursuant to the National Environmental Policy Act, temporary storage services from Waste Control Specialists, LLC (WCS). WCS has the authority to receive, process, store and transfer radioactive waste under Radioactive Material License (RML) Number R04100, issued by the Texas Commission on Environmental Quality (TCEQ). DOE and WCS have worked diligently to evaluate the waste inventory to ensure it meets the facilities licensed receipt and storage capabilities, pursuant to RML R04100. DOE has no intention of pursuing disposal of this waste inventory at WCS's low-level waste disposal facility. In accordance with RML R04100 Condition 11.B, DOE qualifies as an "authorized federal agency" (AFA).

This AFA letter addresses DOE's commitments related to its proposal to store radioactive wastes originating from the Los Alamos National Laboratory and, potentially, from the inventory currently stored at the surface of the WIPP facility. DOE is not currently proposing to transport or store wastes from other DOE site inventories at WCS.

DOE recognizes this 1-year license storage limit (365 days from the initial date of receipt of waste) is applicable on a per shipment basis and agrees to remove the wastes by the end of the applicable 1-year limit. The Department does not intend nor is seeking to store the wastes at WCS indefinitely. DOE commits, upon the resumption of normal disposal operations at WIPP, to promptly initiate shipment of any stored waste to WIPP. Due to the current uncertainty in the time required to resume disposal operations, DOE will provide TCEQ 1) regular updates regarding the status of the WIPP facility and



resumption of operations, and 2) a written plan by September 30 for the removal of DOE waste that will be in storage at WCS.

In the event that any portion of the stored waste inventory is anticipated to exceed the authorized 1-year limit, DOE will provide timely notification to TCEQ, request additional storage time, and address removal of the waste from the WCS site if TCEQ does not provide written authorization for additional storage time.

DOE recognizes that any container integrity concerns associated with the waste inventory proposed to be stored at WCS must be resolved to the satisfaction of TCEQ. DOE also recognizes that TCEQ must receive and approve of waste characterization prior to waste shipment, and under no circumstance will an exceedance of special nuclear materials, as defined by 10 Code of Federal Regulations Part 70, as provided in License Condition 206, be shipped to WCS for storage.

Summaries of the security reviews completed by DOE have already been separately provided to TCEQ for review and use to confirm the adequacy of WCS security capabilities.

Further, this letter acknowledges DOE's continuing ownership of the radioactive wastes proposed for temporary storage within the WCS waste storage facilities and provides the DOE's commitment to take back and relocate the waste to another authorized facility or DOE site within 6 months of a written request to do so by TCEQ at no cost to the State of Texas using DOE-provided transportation and casks. DOE understands that any such request by the TCEQ would be based only on WCS' failure to comply with any order of the TCEQ or the Executive Director.

If you have any questions regarding this commitment, please contact me at (202) 586-0370.

Sincerely,



Frank Marcinowski
Deputy Assistant Secretary for
Waste Management

cc: Rod Baltzer, President
Waste Control Specialists, LLC