



June 19, 2012

Robert Wilson  
Chairman  
Texas Low-Level Radioactive Waste Disposal Compact Commission  
3616 Far West Blvd., Suite 17, #294  
Austin, TX 78731

**Re: WCS Response to Comments Received on Import Applications – June 10, 2012**

Dear Chairman Wilson:

WCS has reviewed comments from others for import applications for which the comment period ended June 10, 2012. We will not respond point by point or application by application, but wanted to provide general responses to the following comments that were raised.

**Disposal Capacity** – several comments suggested the disposal capacity is unknown and thus importation should not be approved. WCS has provided a disposal capacity report, which we have attached again for your convenience. This document is based on the historical shipping data for Texas and Vermont generators and uses the Texas Compact nuclear utilities decommissioning estimates that were submitted to the U.S. Nuclear Regulatory Agency. The WCS disposal capacity report shows there are 1 million cubic feet and 2 million curies of excess capacity, which means that Texas and Vermont have unlimited use and there is still room for significant importation under the current license. Additionally, the Texas legislature was comfortable stipulating that 50,000 cubic feet and 220,000 curies could be imported in year one. This should be enough support to allow importation up to the legislative limits without waiting for the TCEQ disposal capacity study.

Comments also raised the question about the legality of import given that the legislative language that states import is acceptable “to the extent the acceptance does not diminish the disposal volume or curie capacity available to party states”. If the legislature did not want any importation, they would not have specifically stated that up to 50,000 cubic feet and 220,000 curies could be imported in the first year.

**Water in the Buffer Zone** – WCS has over 520 monitoring wells, many of which are dry. The disposal facility does have pockets of water in the first ~30 feet deep from surface that are results from playas (small depressions that act as a collection area for rainwater). These pockets of water are not continuous and are not connected to any drinking water sources.

WCS is required to monitor a buffer zone that is 100 feet away from the waste disposal area. License condition #67 states in part "...In the event that saturated conditions are detected in the buffer zone, the Licensee shall cease all waste disposal operations and notify the executive director immediately." WCS ceased operations and notified the executive director. Two additional wells were drilled between the two wells that were saturated and the disposal area to ensure there was at least 100 feet of unsaturated conditions. After this, we were allowed to continue operations. We have included a photo of the area as an attachment to these comments for your reference. If the water is not able to be pumped out prior to any expansion needed, WCS could excavate the former playa area to remove the saturated condition. We would most likely do this with a license amendment to expand the physical disposal area further to the east.

WCS is in compliance with our license and there is at least 700 feet of unsaturated conditions between the waste disposal area and the saturated buffer zone wells.

**Legal Challenges** – Several comments noted the legal challenges that TCEQ and WCS has faced regarding our license. It is important to note that the legal decisions have been appealed by TCEQ and the Texas Attorney General and this has stayed the court matters. WCS continues to operate in the normal course of business while the appeals are pending. The appeals could take several years depending on the court schedules. We will also note that this is not unusual for us as legal challenges have been filed on other licenses in the past. This is just one of the challenges that our industry has become accustomed to dealing with in the normal course of business.

**Shipping Containers** – Several comments noted concerns about the safety of shipping casks. There are four specialized "10-180B" shipping casks that are the primary shipping container for Class B/C resins and filters. Earlier this year, EnergySolutions, the owner of the Certificate of Compliance (license) for these casks took them out of service to review a hypothetical fire scenario. The NRC subsequently approved the continued use of the casks, with added controls, until a minor modification was implemented. Cask shipments are now being scheduled and include the Compact facility as a disposal destination.

**Closer Facility** – several comments suggested the waste seeking to be imported go to a closer facility than WCS. There are no other facilities for the waste to go to for disposal. WCS is the only disposal option for Class B/C LLW for 36 states. There is a need for disposal to protect health, safety and the environment and the Compact landfill was specifically designed to dispose of Class B/C LLW.

**Stable Waste Form** – several comments noted LLW was described as "unstable" in the import applications. "Unstable" refers to structural stability and is defined in 10 CFR 61 concerning the waste form. The regulation requires that the disposal facility be designed to provide structural stability for this type of waste. All of the LLW received will be put into a Modular Concrete Canister (MCC) that are designed, licensed and built to provide the stability for the waste and landfill. The CWF has been fully assessed to dispose of this waste and found to be safe, compliant and protective.

Responses to comments that were more specific to individual applications are below.

- TVA – Federal or Compact LLW? The definition of "Federal" waste is that is LLW from nuclear weapons research or development. TVA is a nuclear power plant that produces electricity and it does not meet the definition of Federal LLW.

- TVA – High Curie Content. The highest curie content LLW is typically irradiated hardware, such as that described in one of TVA's import applications. It is important to note that the curies will decay significantly after even one year. Our calculations show that the 150,000 curies we recommend for TVA for irradiated hardware will decay to less than 130,000 curies in one year. Decay factors are currently not considered in our license, but they are to be included in the disposal capacity report required under SB 1504. We would also note that higher curies for carbon are captured by the metals of the irradiated hardware and should be considered separately from carbon in other waste forms.
- TVA – Are Control Rod Blades HLW? Control Rod Blades are not high-level radioactive waste (HLW). The definition of HLW is: (1) Irradiated reactor fuel, (2) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel, and (3) solids into which such liquid wastes have been converted. Control Rod Blades are not fuel or from the processing of fuel therefore they are not HLW.
- Previous Violations – a few comments had concerns about previous violations on certain applications. WCS has a rigorous generator certification process before a generator may ship to the Compact facility. The shipping documentation and other aspects are also closely reviewed to ensure compliance with our license and related transportation requirements. The existence of violations does not mean that non-compliant LLW will be disposed of at the Compact facility.

Please let us know if you have any further questions or comments.

Sincerely,



Rod Baltzer  
President

Cc Milton B. Lee II, Commissioner, Vice Chair, TLLRWD Compact Commission  
Peter Bradford, Commissioner, TLLRWD Compact Commission  
The Honorable Richard H. Dolgener, Commissioner, TLLRWD Compact Commission  
Eric J. Doyal, Commissioner, TLLRWD Compact Commission  
Linda Morris, Commissioner, TLLRWD Compact Commission  
John M. Salsman, Commissioner, TLLRWD Compact Commission  
Richard Saudek, Commissioner, TLLRWD Compact Commission  
Leigh Ing

Attachments:

- (1) Aerial Photo of CWF Well locations.
- (2) WCS Disposal Capacity Report, February 2012

## WCS Picture of CWF Wells

