

# WASTE CONTROL SPECIALISTS LLC

November 1, 2011

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

RE: Export Petitions

- Hardin Simmons University
- St. Gobain Crystals
- Ametek
- Hospira
- Luminant Power
- South Texas Project Nuclear Operating Company
- Vermont Yankee
- Northwest Eye Associates
- Clean Harbors Environmental Services
- St. Mary's University

Dear Chairman Wilson,

Waste Control Specialists LLC (“WCS”) appreciates the opportunity to provide input and comments to the Texas Low-Level Radioactive Waste Disposal Compact Commission (“Commission”) on the subject export petitions. WCS objects to the exportation of the low-level radioactive waste (“LLRW” or “waste”) cited in each of the above petitions. WCS does not object to the scintillation fluids in the Texas State University and VA North Texas Health Care System petitions.

We have completed construction of the Compact Waste Facility (“CWF”) and have submitted all of the required construction certification documentation to the Texas Commission on Environmental Quality (“TCEQ”). We continue to be on schedule to begin disposal operations before the end of the calendar year.

The petitions from non-utility generators do not cite any urgent safety or operational needs as reasons why these wastes need to be exported prior to the opening of the CWF for disposal. The CWF should be used for all LLRW disposal needs by party state generators once it is available at the end of this year. There are multiple waste brokers that have contracts with WCS who could support the non-utility petitioners with disposal at the CWF if the petitioner is unable or unwilling to do so directly with WCS. Given this, WCS urges the Commission to deny these export petitions.

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The petitions from utility generators are similar and request exportation of two types of waste: Class A High Dose Rate and Class A Dry Active Waste (DAW). The utility generators' rationales for not utilizing the CWF includes the current absence of TCEQ approved Waste Acceptance Criteria (WAC), Interim Rates established by TCEQ that are higher than their budgeted amounts, a swap of Class A party state capacity for Class B/C nonparty state importation capacity and commingling uncertainty concerns. However, the utility petitions do not cite any urgent safety or operational needs as a reason the waste would need to be exported prior to the CWF being available for disposal.

The Waste Acceptance Plan (WAP), and associated procedures detail the important license and regulatory requirements for WCS and its generators to ensure LLRW is accepted and disposed of in compliance with 30 TAC Chapter 336. In contrast to a WAP, Waste Acceptance Criteria (WAC) is typically used as a non-license guidance document for generators. A WAC is a commonly used document throughout the low-level radioactive waste industry to give additional and practical guidance to generators on what the licensee's expectations are and assist generators in shipping compliant waste to the disposal facility.

The WAP is in its final approval stage and the utility petitioners have been integrally involved in the approval process through stakeholder meetings with TCEQ and WCS. The WAP is required to be approved by TCEQ prior to the CWF opening and WCS anticipates that the WAP will be complete prior to the opening of the CWF in December. The WAP and related WAC are substantially similar to other disposal facilities that the utility petitioners have used or are using for disposal.

Earlier this year, the Texas Legislature passed legislation that authorizes Interim Rates for disposal at the CWF. TCEQ subsequently established Interim Rates in accordance with the legislation to allow for disposal at an approved price before a maximum rate is established through rulemaking and potentially a contested case hearing. A copy of the TCEQ interim rates is attached. The Interim Rates are not subject to a true-up or other adjustments, so there is no risk to generators that waste disposed of in the CWF will be more expensive than the Interim Rate.

The utility petitioners claim that the disposal volumes they have requested for exportation would be better served for the importation of Class B/C waste from nonparty states. This fails to recognize that WCS has been required, at utility petitioners' request, to save capacity for the party state generators and is further limited to using only 30% of its disposal volume for importation from nonparty states. The loss of this Class A waste volume may not provide WCS additional Class B/C capacity. Additionally, WCS is limited on the amount of curies it can import. Although the petitioners do not disclose how many curies they propose to export, we expect it will be lower than the curies to be imported from Class B/C waste. This may result in excess volume capacity, but no increase in curies and thus an underutilization of the landfill which would increase the disposal costs per unit for all generators.

We disagree that the utility petitioners should be able to export their waste until all uncertainties are resolved regarding commingling. Rulemaking through the TCEQ regarding comingling is not needed to ship to the CWF. WCS is ready, willing and able to accept their Class A DAW

without any processing, which would remove the comingling matters. We recognize that this may be less cost-effective than their current methodology and cause utility petitioners to change certain operating procedures. However, this alone shouldn't be an excuse for the CWF to go unused as disposal volumes are needed in order to ensure the financial viability of the CWF.

The minimum fiscal impact of the requested exportation is summarized below. As can be seen, exportations also hurts Andrews County and the State of Texas. The amounts could be higher if surcharges apply to the waste that has been requested for export.

	Volume requested for Export	TCEQ Interim Rate (\$/cf)	Revenue		
			CWF	Andrews County	Texas
Non-Utility	44	\$ 150	\$ 6,525	\$ 326	\$ 326
Vermont Yankee	26,000	\$ 150	\$ 3,900,000	\$ 195,000	\$ 195,000
	2,700	\$ 250	\$ 675,000	\$ 33,750	\$ 33,750
Commanche Peak	15,000	\$ 150	\$ 2,250,000	\$ 112,500	\$ 112,500
	1,400	\$ 250	\$ 350,000	\$ 17,500	\$ 17,500
South Texas Plan	20,500	\$ 150	\$ 3,075,000	\$ 153,750	\$ 153,750
	1,750	\$ 250	\$ 437,500	\$ 21,875	\$ 21,875
SUM			\$ 10,694,025	\$ 534,701	\$ 534,701

In summary, each of the subject exportation petitions should be denied since there are no urgent safety or operational needs cited, the construction of the CWF is complete, and WCS expects the CWF to start disposal operations before the end of this calendar year.

Respectfully,



Rod Baltzer  
 President,  
 Waste Control Specialists LLC

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

## TCEQ EXECUTIVE DIRECTOR INTERIM DISPOSAL RATE FOR THE COMPACT WASTE DISPOSAL FACILITY

### 1. Base Disposal Charge:

<b>1A. Waste Volume Charge</b>	<b>Charge per cubic foot (\$/ft3)</b>
Class A LLW- Routine	\$150
Class A LLW - Shielded	\$250
Class B and C LLW	\$1,000
Sources	\$500
Biological Waste (Untreated)	\$350

<b>1B. Radioactivity Charge</b>	
Curie Inventory Charge (\$/mCi)	\$0.55
Maximum Curie Charge (per shipment) (excluding C-14)	\$220,000 /shipment
Carbon-14 Inventory Charge (\$/mCi)	\$1.00
Special Nuclear Material Charge (\$/gram)	\$100

### 2. Surcharges to the Base Disposal Charge:

<b>2A. Weight Surcharge - Weight (lbs.) of Container</b>	<b>Surcharge (\$/container)</b>
10,000 to 50,000 lbs	\$10,000
Greater than 50,000 lbs	\$20,000

<b>2B. Dose Rate Surcharge - Surface Dose Rate (R/hour) of Container</b>	<b>Surcharge per cubic foot (\$/ft3)</b>
1-5 R/hour	\$100
Greater than 5 to 50 R/hour	\$200
Greater than 50 to 100 R/hour	\$300
Greater than 100 R/hour	\$400

<b>2C. Irradiated Hardware Surcharge</b>	
Surcharge for special handling per shipment	\$75,000 / shipment

<b>2D. Cask (Shielding Waste) Surcharge</b>	
Cask handling surcharge per cask	\$2,500 / cask

### 3. State and County Fees:

<b>3A. State General Revenue Fee (State of Texas)</b>	+ 5% of gross disposal receipts
<b>3B. Host County Impact Fee (Andrews County, Texas)</b>	+ 5% of gross disposal receipts

Established - August 25, 2011

**Notes to Rate Schedule:**

- a. Base disposal charge includes TCEQ Regulatory Fee and Texas Compact Fee. The TCEQ Regulatory Fee will be for regulatory costs and will be deposited quarterly into General Revenue Dedicated Low-Level Radioactive Waste Account - 0088. The Texas Compact Fee will match appropriated funding and be deposited quarterly into General Revenue Dedicated Low-Level Radioactive Waste Disposal Compact Commission Account - 5151 as per HB 2694, 82th Texas Legislature.
- b. Waste volume charges are the base rate per unit of volume. Volume charges are based on gross volume as specified in manifest.
- c. Activity charges are the base rate per unit of activity. Activity rates are based on gross activities as specified in manifest.
- d. For dose rates in excess of 100 R/hr., remote equipment operating costs and/or specialized shielding costs may be necessary.
- e. All waste must be shipped in an approved disposal container.
- f. Shipments exceeding 50,000 lbs. will be accepted by special request.
- g. Shipments exceeding 100 R/Hr will be accepted by special request.

**Notes to Waste Acceptance Criteria:**

1. All waste must be shipped in an approved disposal container.
2. Shipments exceeding 50,000 lbs. will be accepted by special request.
3. Shipments exceeding 100 R/Hr will be accepted by special request.
4. Out-of-Spec. containers include anything that cannot fit in a canister or does not meet the requirements of §336.362(b)(1). Special engineering, operations, and regulatory procedures are required.
5. Non-conforming packages or contents will require inspection and may be rejected.