



March 13, 2014

Texas Low-Level Radioactive Waste Disposal Compact Commission
333 Guadalupe Street, #3-240
Austin, TX 78701

RE: Applications for Importation, Import/Export Rule

Dear Chairman Wilson and Compact Commissioners,

SEED Coalition remains concerned about any and all applications to import radioactive waste for disposal in Texas and we urge that no applications be approved at this time. The February 14, 2014 release of radiation at the WIPP site illustrates the fact that even the best of sites can leak. DOE stated in 2013 that “The “pilot” plant today is an international model for the safe, environmentally sound disposal of radioactive materials.” WIPP has been referred to as the “gold standard” site, accepting trans-uranic waste which comes largely from legacy nuclear weapons materials. It has won awards for excellence in environmental achievements from the New Mexico Environmental Department.

Yet now, only fifteen years after operation has begun, radiation has escaped from the site, including plutonium and americium. Contamination has been detected 26 miles away, including in the Carlsbad, New Mexico city area. The number of exposed workers is now reported as 17. While clearly there are differences between the WIPP site and the WCS facility, but WCS does accept plutonium and americium – or any other radionuclide, and extensive safety claims have been made about both sites. If a radioactive release and worker exposure can occur at a repository site touted for safety, so early in its operating life, this should serve as a warning to Texas and New Mexico about potential risks at the WCS site, even though they may be risks of a different nature technologically.

TCEQ staff felt strongly enough about water contamination risks at the WCS site that they unanimously recommended denying the license, and three employees resigned their positions. They sited concerns about the presence of water, and instead of ensuring that the site is dry, the TCEQ has now approved license amendments that are more lax. Instead of requiring a dry site and having a designated dry line 150 feet from waste, radioactive materials can now be buried even when there is standing water at the facility, as long as it's not directly where the canister is to be placed. While WCS touts the design of the site, it is not dry, which was considered to be a crucial safety concern that is key to preventing the contamination of water.

The WIPP site failure and the loosening of TCEQ requirements are factors that greatly increase our concern about the risk of radioactive contamination of water, which have been laid out in great detail in previous comments and which will be further discussed in these comments.

Regarding import / export rules

More detail should be required in the import applications, since they are too vague at this time. There should be distinctions between the amount of Class B and Class C waste that applicants seek to dispose of at the Waste Control Specialists site. It is not only hard for the public to comment appropriately when this distinction is blurred, but it is also hard for the Compact Commission to effectively do their job, since ensuring the availability of enough space for Texas and Vermont to dispose of their radioactive waste is an important role of the Commission.

Likewise, it is important to improve tracking systems so that a link can clearly be established and followed between the original application to import waste, the related files for the Compact Commission and the disposal manifests from the site. Again, this is important not only in the world of public accountability, but is also important for ensuring that the Compact Commission can adequately ensure capacity at the site for Texas and Vermont and so that any radioactive leak can quickly be identified and dealt with, with correct information readily available for all involved entities - the Compact Commission, TCEQ, Waste Control Specialists and the public.

Public Reporting Request

We request that a report be provided to the public at each Compact Commission meeting and that it be posted online as well, that details the volume and curies of waste disposed of at the site to date. Does the Compact Commission have the information regarding how much of the disposed waste is Class B or Class C? If not, please obtain it from TCEQ and include it in reports that the public can access.

As discussed earlier, the water contamination risk is serious enough that it was a factor in TCEQ Radioactive Materials Division members unanimously recommending denial of WCS' license and three TCEQ employees quit due to their concerns.

An August 14, 2007 interoffice memorandum included the following statements: "Analysis of the data submitted by Waste Control Specialists LLC, in its license application for near-surface disposal of radioactive waste, has resulted in the following conclusions:

Groundwater is likely to intrude into the proposed disposal units and contact the waste from either or both of two water tables near the proposed facility.

The Applicant has failed to demonstrate compliance with 30 TAC §336.728(f) which states "The disposal site shall provide sufficient depth to the water table so that groundwater, perennial or otherwise, shall not intrude into the waste."

Recent water monitoring reports from the WCS site in Andrews County are not reassuring. The October 2012 OAG Water Level Report states that the water level rise in several wells came from a potable water source and evidence of a leak in the buried water supply line was found. A pressure drop was detected in the water supply line east of the Compact Waste Facility Staging Building Foundation. While the line was reportedly repaired, water levels increase in CWF-10A and OAG-34 as a result of the leak. This is not reassuring at a site that is supposed to be dry today and remain dry for thousands to millions of years.

Furthermore, two wells that have been of great concern remain saturated, OAG-21 and OAG-22. WCS reports that they expected these saturated conditions in the vicinity of the playa because it was a "localized, closed surface depression. The water beneath the former small playa appears to be an isolated and localized lens of infiltrated surface water in the OAG unit. This lens of infiltrated surface water is being removed by pumping OAG-21."

TCEQ is no longer reporting to you as Compact Commissioners about water levels at the site or whether they continue to attempt pumping efforts, which were anticipated to continue for 18 months some time ago. The Compact Commission used to request and receive such information in the past and should do so again, especially considering that radioactive waste continues to be buried at the Compact Waste Facility site (and the Federal facility).

Of 302 wells gauged in October 2012, there were 214 considered to be dry (unsaturated) and 87 had measurable water levels above the top of red beds (saturated). **This means that over 40% of the wells were saturated.** It should be noted that a well can be considered dry if the water in it is below the level of measurement.

Table 1 OAG Water Levels October 2012 provides data for the wells. SEED Coalition highlighted a data column for wells that were less than 30' in their Depth to Water. **There were 48 wells with less than 30' depth to water. Eight of these wells were under 21' in depth to water.**

Please halt approval of all applications until the Compact Waste Facility site can be clearly determined to be dry.

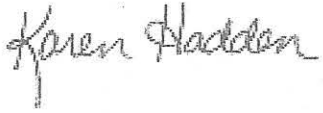
The mission of the Texas Low-Level Radioactive Waste Disposal Compact Commission includes protection of public health and safety.

Please consult with independent legal and technical advisors to determine whether license requirements are being met, and ask TCEQ to routinely provide you with a public presentation of the water monitoring data at Compact Commission meetings.

There have been in-depth discussions of the site geology and water levels in the past, and it is time again for detailed scientific information to be brought to light in order to

ensure public health and safety and prevent radioactive contamination of water or accidents, which clearly can happen at highly engineered sites, such as the WIPP site.

Sincerely,

A handwritten signature in cursive script that reads "Karen Hadden".

Karen Hadden, Executive Director
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