

October 30, 2009

Mr. J. Scott Kirk, CHP
Director of Licensing and Corporate
Compliance
Corporate Radiation Safety Officer
Waste Control Specialists, LLC
5430 LBJ Freeway, Suite 1700
Three Lincoln Center
Dallas, TX, 75240

Dear Mr. Kirk:

I am writing in response to your letter of September 22, 2009, to Ms. Annette Vietti-Cook, Secretary, U.S. Nuclear Regulatory Commission (NRC), in which you provide Waste Control Specialists' comments on blending of low-level radioactive waste (LLW). Your letter raises concerns with blending of LLW that results in a lower waste classification and states that you believe that statements we made in our August 27, 2009, letter to Thomas E. Magette of EnergySolutions imply that there is a new NRC policy on blending of LLW. Your view is that any policy changes should only be accomplished by an open and transparent process. Your letter also provided an attachment that further addresses blending of LLW. We have addressed each of your statements in the enclosure to this letter.

Your letter concludes that NRC policy prohibits the blending or dilution of radioactive material for the purpose of changing its waste classification. This statement is an incorrect interpretation of our position, and nothing in NRC's regulations prohibits blending. While staff guidance discourages blending, it also recognizes that there may be circumstances where blending that results in a lower waste classification is appropriate.

My August 27, 2009, letter to Thomas Magette of EnergySolutions summarizes NRC's regulations and staff guidance on blending of LLW, as it currently exists, and states the following:

- Blending is not prohibited nor explicitly addressed in NRC regulations.
- While the staff has stated that wastes should not be mixed *solely* [emphasis added] to lower the waste classification, NRC guidance acknowledges that blending, including some blending that may lower the waste classification, may be appropriate under certain circumstances.
- Waste classification is related to the safety of the disposed waste, and NRC regulations do not require waste to be classified prior to its shipment for disposal.

- The acceptability of any specific blending proposal would have to be evaluated by the appropriate regulatory authority, and NRC's guidance would be one way for a licensee to demonstrate compliance with the regulations. Other approaches may also be found acceptable.

Further, on October 8, 2009, Chairman Jaczko directed the staff to prepare a vote paper on blending for Commission consideration. This paper will address, among other things, any policy issues associated with blending. Because of the significant stakeholder interest in this topic, we will seek stakeholder input on blending before the paper is completed, as well as consider the views already expressed by stakeholders, including Waste Control Specialists, on this topic.

If you have any questions, please call me at (301) 415-7437.

Sincerely,

/RA/

Larry W. Camper, Director
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
NRC Staff Analysis of Waste
Control Specialists September 22,
2009, Comments on Blending

- The acceptability of any specific blending proposal would have to be evaluated by the appropriate regulatory authority, and NRC's guidance would be one way for a licensee to demonstrate compliance with the regulations. Other approaches may also be found acceptable.

Further, on October 8, 2009, Chairman Jaczko directed the staff to prepare a vote paper on blending for Commission consideration. This paper will address, among other things, any policy issues associated with blending. Because of the significant stakeholder interest in this topic, we will seek stakeholder input on blending before the paper is completed, as well as consider the views already expressed by stakeholders, including Waste Control Specialists, on this topic.

If you have any questions, please call me at (301) 415-7437.

Sincerely,

/RA/

Larry W. Camper, Director
 Division of Waste Management
 and Environmental Protection
 Office of Federal and State Materials
 and Environmental Management Programs

Enclosure:
 NRC Staff Analysis of Waste
 Control Specialists September 22,
 2009, Comments on Blending

DISTRIBUTION: LTR-09-0483 SECY
 SME r/f RidsFsmeOd BFleming

ML092920437

OFC	EPPAD	EPPAD	EPPAD	OGC	DWMEP	DWMEP
NAME	JKennedy	GSuber	AWalker-Smith	BJones	PBubar	LCamper
DATE	10/20/2009	10/28/2009	10/28/ /2009	10/28/2009	10/29/2009	10/30/2009

OFFICIAL RECORD COPY