



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001**

December 8, 2016

Robert V. Eye
Robert V. Eye Law Office
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Lawrence, KS 66049

**SUBJECT: WASTE CONTROL SPECIALISTS LLC (CONSOLIDATED INTERIM SPENT FUEL
STORAGE FACILITY), DOCKET NO. 72-1050**

Dear Mr. Eye:

By letter dated October 26, 2016, you asked the U.S. Nuclear Regulatory Commission (NRC) to dismiss the application of Waste Control Specialists (WCS) for a license under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72 to construct and operate a consolidated interim storage facility, and to stop its environmental review of the application.

The NRC staff is currently conducting its acceptance review of the WCS application, filed on April 28, 2016 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML16133A313). The NRC staff has not yet made a decision on whether to accept the WCS application for docketing. By letter dated June 22, 2016 (ADAMS Accession Number ML16175A277), the NRC requested supplemental information from WCS to aid in the acceptance review; WCS informed the NRC, by letter dated November 16, 2016 (ADAMS Accession Number ML16330A094), of its intent to provide its final submittal of the supplemental information by December 16, 2016. In the interim, WCS requested, by letter dated July 21, 2016 (ADAMS Accession Number ML16229A340), that the NRC initiate its environmental impact statement (EIS) process for the application. By letter dated October 7, 2016 (ADAMS Accession Number ML16285A317), the NRC staff informed WCS that it would begin the EIS process, but noted that this decision does not presuppose the outcome of the acceptance review. If the NRC staff does not accept the application for docketing, it will terminate the EIS process.

In your letter, you assert that the NRC must dismiss the WCS application because the WCS plan of operations does not comport with the Nuclear Waste Policy Act of 1982, as amended. This issue is beyond the scope of the NRC staff's acceptance review. "In conducting this 'acceptance review,' the Staff does not consider the technical or legal merits of the application; rather, the Staff's preliminary review is simply a screening process—a determination whether the license application contains sufficient information for the NRC to begin its safety review." *U.S. Department of Energy* (High Level Waste Repository: Pre-Application Matters, CLI-08-20, 67 NRC 272, 274 (2008)). If the NRC staff accepts the application, the NRC will issue a notice of opportunity to request a hearing and petition for leave to intervene, consistent with the NRC's rules of practice in 10 CFR Part 2. To the extent that the issues raised in your letter are relevant to the NRC's decision whether to grant a license to WCS, they will be considered as part of the NRC's licensing review, should the NRC staff accept the application for docketing.

Sincerely,

/RA John Tappert Acting for/

Marc L. Dapas, Director
Office of Nuclear Material Safety
and Safeguards

In your letter, you assert that the NRC must dismiss the WCS application because the WCS plan of operations does not comport with the Nuclear Waste Policy Act of 1982, as amended. This issue is beyond the scope of the NRC staff's acceptance review. "In conducting this 'acceptance review,' the Staff does not consider the technical or legal merits of the application; rather, the Staff's preliminary review is simply a screening process—a determination whether the license application contains sufficient information for the NRC to begin its safety review." *U.S. Department of Energy* (High Level Waste Repository: Pre-Application Matters, CLI-08-20, 67 NRC 272, 274 (2008)). If the NRC staff accepts the application, the NRC will issue a notice of opportunity to request a hearing and petition for leave to intervene, consistent with the NRC's rules of practice in 10 CFR Part 2. To the extent that the issues raised in your letter are relevant to the NRC's decision whether to grant a license to WCS, they will be considered as part of the NRC's licensing review, should the NRC staff accept the application for docketing.

Sincerely

/RA John Tappert Acting for/

Marc L. Dapas, Director
Office of Nuclear Material Safety
and Safeguards

Identical letter sent to Diane Curran and Mindy Goldstein

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