

March 20, 2017

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)	
)	
)	Docket No. 72-1050
Waste Control Specialists LLC)	
Consolidated Interim Spent Fuel Storage)	
Facility Project)	

NRC STAFF'S RESPONSE TO THE NUCLEAR INFORMATION AND RESOURCE
SERVICE'S MOTION FOR AN
EXTENSION OF TIME TO REQUEST A HEARING

INTRODUCTION

Pursuant to 10 CFR § 2.323, the Nuclear Regulatory Commission Staff ("Staff") hereby responds to the Nuclear Information and Resource Service's (NIRS) motion for an extension of time to request a hearing in this proceeding. As discussed below, the Staff has no objection to a 60 day extension of time.

BACKGROUND

By letter dated April 28, 2016, Waste Control Specialists LLC (WCS) tendered a specific license application ("the application") under 10 CFR Part 72 requesting authorization to construct and operate a consolidated interim storage facility for spent nuclear fuel and reactor related greater than class C low level radioactive waste in Andrews County, Texas. On June 22, 2016, the Staff sent WCS a letter stating that several Requests for Supplemental

Information (RSI's) would need to be resolved before the application was acceptable for docketing. See Letter from Mark Lombard to Scott Kirk, "Acceptance review of specific license application requesting authorization to construct and operate a consolidated interim storage facility for spent nuclear fuel- supplemental information needed" (June 22, 2016) (Adams Accession No. ML16175A305). After several supplements to the application, on January 26, 2017, the Staff determined the application was acceptable for docketing. See Letter from Mark Lombard to Michael Ford, "License application to construct and operate a consolidated interim storage facility for spent nuclear fuel in Andrews County, Texas- accepted for review" (January 26, 2017) (Adams Accession No. ML7018A168). On January 30, 2017, the Notice of Docketing and Opportunity to Request a Hearing and Petition for Leave to Intervene ("the Notice") on the application was published in the *Federal Register*. See 82 Fed. Reg. 8773 (Jan. 30, 2017).

The Notice provided 60 days for filing petitions to intervene, in accordance with 10 CFR § 2.309. In a motion dated March 2, 2017, which was served through the Electronic Information Exchange (EIE) on March 3, 2017, the Sierra Club requested a 120 day extension request for filing a petition to intervene and request a hearing. Subsequently, the Sierra Club withdrew its motion and submitted a joint motion with WCS seeking a 60 day extension of time. In a letter dated March 9, 2017, which was served through the EIE on March 10, 2017, NIRS, on behalf of itself and 19 other organizations, sought an extension of 120 days to file petitions to intervene¹.

¹ The letter also seeks an extension of the scoping period by 90 days. Since the extension of scoping is not an adjudicatory matter, the Staff will not further respond to this request in this filing beyond noting

DISCUSSION

The Staff received the applicant's revision to its SAR, which was dated March 16, 2017, on March 17, 2017. The Staff has not yet had the opportunity to determine the extent of the revisions. In light of the timing of this revision in the middle of the intervention period, the Staff does not object to a 60 day extension of the intervention period, to May 30, 2017.

The Staff does, however, object to an extension of 120 days. The basic framework for NRC licensing proceedings is that contentions are filed and admitted based on the application, not on any subsequent Staff review. See, e.g. *Shieldalloy Metallurgical Corp.* (License Amendment Request for Decommissioning of the Newfield, New Jersey Facility), CLI-07-20, 65 NRC 499, 501 (2007). ("Prompt identification [of contentions] maintains the proceeding's primary focus on adequacy of the application at issue.")

In the instant case, NIRS is asking that the time frame for intervention be extended by 120 days because it states it needs more time for experts to examine the application and to notify additional communities that might, in the view of NIRS, be impacted by the proposed application. The application was filed April 28, 2016. As noted above, in light of the March 17 submission of certain revisions to the application, the NRC Staff does not object to extending the time frame for intervention for 60 days, to May 31, 2017. With an extension to May 31, 2017, the application will have been available for review by NIRS and its experts for more than a year before petitions to intervene are due, and they will have had a substantial amount of

that the Staff has extended the scoping period to April 28, 2017. See 82 Fed. Reg. 14039 (Mar. 16, 2017).

time to examine any revisions in the March 17 submission. NIRS has not justified why it needs a 120 day extension, and thus the Staff is opposed to a 120 day extension.

CONCLUSION

For the reasons described above, the Staff Opposes the 120 day requested extension, but does not object to a shorter extension of 60 days.

Respectfully submitted,

/signed (electronically) by/
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Dated at Arlington, Virginia
this 20th day of March 2017

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CERTIFICATE OF SERVICE

I hereby certify that the NRC STAFF'S RESPONSE TO THE NUCLEAR INFORMATION AND RESOURCE SERVICE'S MOTION FOR AN EXTENSION OF TIME TO REQUEST A HEARING has been filed through the E-Filing system this 20th day of March, 2017.

/Signed (electronically) by/

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Dated at Arlington, Virginia
this 20th day of March, 2017