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# PUBLIC SUBMISSION

**Docket:** NRC-2016-0231

Waste Control Specialists LLC's Consolidated Interim Spent Fuel Storage Facility Project

**Comment On:** NRC-2016-0231-0005

Environmental Reviews: Waste Control Specialists, LLC; Consolidated Interim Spent Fuel Storage Facility Project

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## General Comment

Why Are These Risks Being Taken?

For no good reason. Certainly not to increase public health, safety, security, or environmental protection, despite WCS and nuclear power industry claims and PR spin to the contrary. Truth be told, it's to transfer liability, costs, and risks, for the highly radioactive irradiated nuclear fuel, from the companies that generated it, and profited from its generation, onto the backs of federal taxpayers. That's a pretty big favor to the companies - in fact, it's unique in all of industry!

Dr. Mark Cooper of Vermont Law School calculated, in December 2013, in his expert witness comments to the U.S. Nuclear Regulatory Commission's (NRC) Nuclear Waste Confidence/Continued Storage of Spent Nuclear Fuel EIS proceeding, calculated that the first 200 years of commercial irradiated nuclear fuel storage will cost \$210 to 350 billion (yes, with a B). (See his expert comments at < <https://web.archive.org/web/20160909042541/http://www.nirs.org/radwaste/exhibitd2013-12-16markcooperfinaldeclaration.pdf>>, as well as the related press release at < <http://www.cleanenergy.org/2013/12/19/waste-disposal-nrc/>>.) His estimate assumed two centralized interim storage sites, one repository, and ongoing on-site storage at nuclear power plants, as needed. It effectively doubled the costs of nuclear-generated electricity, because that cost had never been accounted for. Thus, centralized interim storage, as at WCS, would be yet another significant public subsidy, for the nuclear power industry, on top of more than a half-century of significant public subsidies of various sorts. (See the Union of Concerned Scientists' 2011 report < <http://www.ucsusa.org/nuclear-power/cost-nuclear-power/nuclear-power-subsidies-report#.WK3Iz4WkUZU>>, for a comprehensive overview of the many assorted, unmatched by any other industry, public subsidies the nuclear power industry has enjoyed over the past several decades.)

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At NRC public comment meetings in NM and TX in mid-Feb. 2017, WCS CEO Rod Baltzer pushed back against this criticism. He said that the taxpayer is already obligated to pay for irradiated nuclear fuel storage, because DOE signed contracts with utilities in the 1980s, pledging to begin taking out the garbage in 1998. He pointed out that the utilities have sued DOE for breach of contract, and won damages from the U.S. Judgment Fund, which draws taxpayer funding from the U.S. Treasury, not ratepayer funding from the Nuclear Waste Fund.

But our criticism actually still holds. Under the Nuclear Waste Policy Act, as Amended, the nuclear utilities are responsible for interim storage of irradiated nuclear fuel. Taxpayers are responsible for final disposal.

This simple fact formed the basis for an environmental coalition letter to NRC in Oct. 2016, pointing out that the WCS license application is illegal, and that the agency should cease and desist from processing it.

Current law requires a final disposal repository to be operating (not just licensed), before a centralized interim storage site can be opened. Even then, the centralized interim storage site could only be a federal facility, not a private one (even if that private facility - in this case, WCS - has only one customer, the federal DOE).

WCS is seeking an end run around this legal constraint. This is very risky for the U.S. federal taxpayer. The linkage between an operating final disposal repository, and a centralized interim storage site, in the Nuclear Waste Policy Act, as Amended, is to guard against centralized interim storage from becoming a de facto permanent, surface storage parking lot dump, the costs, liabilities and risks of which, the U.S. federal taxpayer may get stuck with indefinitely.

This end run around the precautionary linkage between an operating repository, and centralized interim storage, that WCS seeks, would be a huge boon to the nuclear power industry. It would expedite the transfer of all costs, risks, and liabilities for irradiated nuclear fuel, from the utilities that profited from its generation, onto the backs of U.S. federal taxpayers, sooner rather than later -- even before a repository is operating. Long before, actually: the DOE's most recent estimate, as to when a repository can be opened, is 2048!

Such an accelerated transfer of the costs, risks, and liabilities for irradiated nuclear fuel means the nuclear utilities can walk away from the mess they've made all the sooner, removing that headache from their own ledgers.

WCS is clear about those costs, risks, and liabilities. WCS has been careful, making it a licensing condition, that all those costs, risks, and liabilities for the irradiated nuclear fuel would be solely on DOE. After all, DOE - U.S. federal taxpayers - will be shouldering all costs, risks, and liabilities. If anything goes wrong, it won't be WCS's problem - it'll be the taxpayers' problem!