



STATE OF TEXAS  
HOUSE OF REPRESENTATIVES  
DISTRICT 103

RAFAEL ANCHIA  
MEMBER

March 22, 2017

The Honorable Annette L. Vietti-Cook  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Mail Stop O-16G4  
Washington, DC 20555-0001

[NRCExecSec@nrc.gov](mailto:NRCExecSec@nrc.gov)  
[Annette.Vietti-Cook@nrc.gov](mailto:Annette.Vietti-Cook@nrc.gov)

RE: Docket No. 72-1050; NRC-2016-0231  
Waste Control Specialists LLC's Consolidated Interim Spent Fuel Storage Facility

Dear Secretary Vietti-Cook:

The short time period for intervention in the WCS license application to store 5000 MT of high-level radioactive waste from nuclear reactors around the country is of great concern and could negatively impact many of my constituents, who have health and safety concerns. On behalf of my constituents, I formally request that the U.S. Nuclear Regulatory Commission ("NRC") extend the deadline by at least 120 days. WCS' application is one of unprecedented magnitude and raises a significant number of novel and complex issues.

Federal Register notice of license docketing, and the opportunity to request a hearing and to petition for leave to intervene was published on January 30, 2017, under document citation 82 FR 8773, with a March 31, 2017 deadline.

I represent the 103<sup>rd</sup> House District in Texas. The district includes Dallas and North Oak Cliff, Oak Lawn, portions of West Dallas, the Medical District, Love Field Airport, Irving and Farmers Branch. These communities are traversed by and abut major rail and interstate highway corridors such as IH 30, IH 35E and IH 635. I also currently chair the International Trade and Intergovernmental Affairs Committee and serve on the Energy Resources Committee and know that a large percentage of interstate and international shipments cross through densely populated parts of Dallas and Fort Worth.

Because of this logistics connectivity, and much of the nation's high-level radioactive waste could potentially be transported through our region, posing risks from accidents, leaks or terrorism incidents. Individuals, businesses and governmental entities in my district need time to fully consider the potential risks and economic impacts that may result from WCS' plan and whether they wish to intervene in the licensing process to protect their interests.

March 22, 2017  
Secretary Vietti-Cook  
Page Two

Attached are a letter and other documents sent to the NRC by SEED Coalition, a non-profit environmental organization that works statewide in Texas and has members in Dallas, including the district I represent. The organization believes a deadline extension is crucial in order to protect public health and safety and that an undue burden is being imposed by the short timeframe currently in place.

SEED Coalition states that:

“Never has there been an effort to transport and store high-level radioactive waste in such vast quantities and from so many nuclear reactor sites around the country, putting it on railways and potentially highways and waterways across the nation. This national-scale project raises a significant number of complex and important technical issues under the National Environmental Policy Act, relating to both transportation and storage of spent fuel. The WCS application also constitutes the first time any private entity has applied for a license to operate a spent fuel storage facility that will be owned by the federal government.”

SEED Coalition states that they’ve written to NRC previously, stating that “proposed spent fuel storage facility is not authorized by the federal Nuclear Waste Policy Act (NWPA), because the NWPA requires that a permanent disposal repository must be operational before a consolidated storage site can be developed.”

Instead of halting the process, NRC responded that this key issue can be raised later as a contention. Adequate time is needed for this issue and many important health and safety issues to be fully addressed, with time for research and expert testimony.

Another NGO, Public Citizen, with members who are my constituents, has recently generated over 13,000 comments to NRC raising concerns about the plan to store high-level radioactive waste in Texas, based on similar issues to those described in the letter by SEED Coalition.

In San Antonio, Bexar County Commissioners have passed a resolution (also attached) opposing transport of high-level radioactive waste through the community, and Dallas needs time to consider similar concerns.

I hope that you will honor the 120-day (or more) intervention deadline extension request I hereby submit and ask that you notify me as soon as possible about whether you will do so.

Sincerely,



Rafael Anchia  
Texas State Representative  
District 103

Enclosures

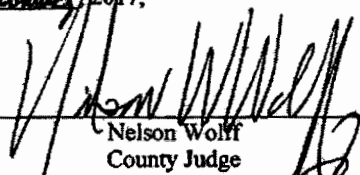


## **Protect Our Lives, Land and Water From Radioactive Waste Risks**

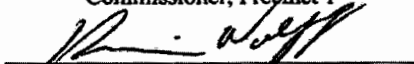
- WHEREAS,** Andrews County in Texas and Eddy and Lea Counties in NM are targeted for forty years or more of storage for the nation's most dangerous nuclear reactor waste, which could lead to dangerous de facto permanent dumps, and importing high-level radioactive waste would put millions of people at risk for financial and health impacts from potential accidents or incidents; and
- WHEREAS,** transporting high-level radioactive waste for the purpose of consolidated storage would unnecessarily increase risks of accidents or terrorism activity, and the waste would likely travel through the San Antonio region, where major military bases are located; and
- WHEREAS,** high-level radioactive waste should remain secured at or near the site of generation and be transported only once, when a scientifically viable permanent disposal site becomes available; and
- WHEREAS,** high-level radioactive waste consists of irradiated (spent) fuel from nuclear power reactors and/or weapons production that includes uranium, plutonium and other radioactive elements that must be isolated for thousands of years or longer. The waste on a single train car would likely contain as much plutonium as was in the bomb dropped on Nagasaki; and
- WHEREAS,** exposure to radioactivity is known to lead to birth defects, genetic damage, and cancers and unshielded exposure to high-level radioactive waste could give a lethal dose; and
- WHEREAS,** our lives, land and aquifers must be protected from radioactive contamination which could result from accidents, radiation releases or leaks, or terrorist actions during the thousands of high-level radioactive waste shipments that would occur for a period of 24 years if consolidated storage is licensed; and
- WHEREAS,** an accident releasing only a small amount of radioactivity could contaminate a 42-square mile area. A DOE study found that cleanup could cost \$620 million in a rural area and \$9.5 billion in the most heavily contaminated square mile of a large city; and
- WHEREAS,** small communities with largely Hispanic populations and few resources to fight back are being targeted to host the radioactive waste dumps, an example of extreme environmental injustice; and
- WHEREAS,** many states have previously rejected consolidated high-level radioactive waste storage or disposal, and Texas farmers and ranchers concerned about the Ogallala Aquifer defeated a proposed Deaf Smith County nuclear disposal site in the 1980's.
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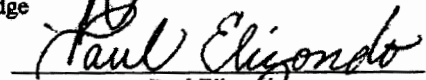
**THEREFORE, BE IT RESOLVED** that Bexar County does not support or consent to consolidated interim storage of radioactive waste in Texas and nearby New Mexico, or the transportation of high-level radioactive waste on our railways or highways for the purpose of consolidated storage or permanent disposal of high-level radioactive waste in Texas or New Mexico.

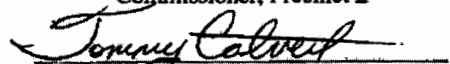
Approved on, this 21 day of February, 2017.

  
Nelson Wolff  
County Judge

  
Sergio "Chico" Rodriguez  
Commissioner, Precinct 1

  
Kevin A. Wolff  
Commissioner, Precinct 3

  
Paul Elizondo  
Commissioner, Precinct 2

  
Tommy Calvert  
Commissioner, Precinct 4

March 7, 2017

Annette L. Vietti-Cook  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Mail Stop O-16G4  
Washington, DC 20555-0001

[NRCExecSec@nrc.gov](mailto:NRCExecSec@nrc.gov)  
[Annette.Vietti-Cook@nrc.gov](mailto:Annette.Vietti-Cook@nrc.gov)

RE: Docket No. 72-1050; NRC-2016-0231  
Waste Control Specialists LLC's Consolidated Interim Spent Fuel Storage Facility

Dear Ms. Vietti-Cook:

On behalf of the Sustainable Energy and Economic Development Coalition (SEED Coalition), I am writing to request an extension of 120 days for submission of hearing requests and petitions to intervene regarding the license application of Waste Control Specialists (WCS) for a Consolidated Interim Spent Fuel Storage facility in Andrews, Texas. The NRC published a Federal Register notice of opportunity to request a hearing on January 30, 2016 at 82 Fed. Reg. 8,773. The Federal Register notice allowed members of the public only 60 days, or until March 31, 2017, to submit requests for a hearing and petitions to intervene.

SEED Coalition is a project of Texas Fund for Energy and Environmental Education, Inc., a statewide nonprofit organization working for clean air and clean energy in Texas. The organization advocates for sustainable energy, including energy efficiency, renewable energy, and conservation. SEED Coalition has members whose interests in a safe, secure and healthy environment would be adversely affected by the proposed licensing of the WCS facility.

SEED Coalition respectfully submits that under NRC regulation 10 C.F.R. § 2.307, the NRC has good cause to extend the time period for preparing hearing requests and petitions to intervene by 120 days until July 1, 2017, for the following reasons:

1. WCS' application is unprecedented and raises a significant number of novel and complex issues. If granted, the WCS application would allow 5,000 MT of spent fuel, eventually growing to 40,000 MT, to be stored for 40 years (or longer) above-ground at the existing WCS facility in Andrews County, Texas. At least 4000 shipments to the facility would take place for over 20 years. Never has there been an effort to transport and store high-level radioactive waste in such vast quantities and from so many nuclear reactor sites around the country, putting it on railways and potentially highways and

waterways across the nation. This national-scale project raises a significant number of complex and important technical issues under the National Environmental Policy Act, relating to both transportation and storage of spent fuel. The WCS application also constitutes the first time any private entity has applied for a license to operate a spent fuel storage facility that will be owned by the federal government. The SEED Coalition previously wrote to the NRC Commissioners to seek dismissal of WCS' application because the proposed spent fuel storage facility is not authorized by the federal Nuclear Waste Policy Act (NWPA), because the NWPA requires that a permanent disposal repository must be operational before a consolidated storage site can be developed, which is not the case. NRC has responded that this issue can be addressed later as a contention. (Copies of our correspondence with the NRC are attached, see Attachments 1 and 2.)

Experts need time to be able to delve into the viability of casks and canisters for transport and storage in extreme desert climate conditions, the potential for earthquakes and water contamination, the cumulative impacts of hazardous waste storage and multiple nuclear facilities in the region, and how damaged thin canisters would be handled since no dry cell or wet pool is included in the license application. Furthermore, experts need to dive into concerns about whether the site would become a de facto permanent storage facility, and whether long-term consolidated storage would take the pressure off to develop a scientifically viable permanent disposal facility.

Experts also need time to examine the huge uncertainties about the financial viability of Waste Control Specialists. The San Antonio Express-News reported on February 26, 2017, that "Federal filings indicate WCS operated at a loss of \$26.5 million in 2015 and \$17.9 million the first six months of 2016, the latest numbers available." WCS is due to be sold to EnergySolutions, but an antitrust suit by the U.S. Department of Justice is blocking the sale. Their lawyers argue that combining the companies could create a monopoly. It is hard to know which company will be at the helm and if they are financially stable enough to be responsible thousands of tons of high-level radioactive waste from around the country.

These novel and complex issues require additional time for retention of legal and technical experts and preparation of contentions. Our expert witnesses will need time to gather full information on numerous key environmental and health and safety-related issues, such as the potential for terrorist attacks as waste is moved and in consolidated storage, an incredibly important national security issue.

2. Some of the information in the application is proprietary. Our attorneys and experts will need time to review the public parts of the application and determine whether it is also necessary to request access to proprietary information for purposes of preparing contentions.

3. For purposes of developing NEPA contentions regarding transportation risks, SEED Coalition will need time to contact states, counties, and cities through which spent fuel rods would travel to the proposed WCS facility. Experts will need an opportunity to examine what costs and additional risks would be involved, such as additional emergency responder and security training and equipment that may be needed.

4. The application is still changing significantly. WCS has not completed its response to a Request for Supplemental Information issued by the NRC on According to an NRC summary of a telephone call with WCS that took place on December 19, 2016 (Attachment 3), WCS plans to submit Rev.1 of the Safety Analysis Report and Environmental Report in March. At a March 1, 2017, public meeting between WCS and the NRC, we recently learned that WCS plans to submit revisions to five chapters of the license application – Chapter 3 (Technical Information), Chapter 4 (Conformity to General Design Criteria), Chapter 5 (Operating Procedures – Administrative and Management Controls), Chapter 6 (Quality Assurance Program), and Chapter 9(Physical Protection). All of these areas are significant with respect to the safety and security of the proposed facility. In addition, NRC has requested WCS to submit additional information regarding Greater Than Class C waste, an important and technically complex issue. A copy of viewgraphs presented by WCS during the meeting is attached as Attachment 4.

According to statements by NRC during the March 1 meeting, two sets of Requests for Additional Information RAI's) from the NRC are anticipated. For RAI's issued in May 2017, WCS has until the end of July 2017 to respond. A second set of RAIS's may be issued mid-September July 2017, and responses from the applicant are due mid-

January, 2018. Given the NRC's demands for a significant amount of additional information, it would be wasteful of SEED Coalition's limited time and resources to require us to prepare contentions now.

5. There is no good or fair reason to rush the hearing process. As discussed above, WCS is a long way from submitting a complete application, and NRC will also need to take additional time in order to make sure it is complete and begin its review. At the March meeting, the NRC also said it would take two years for it to review WCS' application. And WCS admits that federal legislation will be needed before the application can be approved. Nor is there any safety or environmental reason to rush the hearing process. Spent fuel that would be shipped to the WCS facility is securely stored for now at ISFSI sites and doesn't need to be moved any time soon.

6. Citizens and governmental entities need additional time to consider whether they should intervene in order to protect local interests, including health, safety and financial impacts.

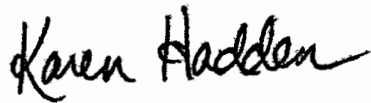
For example, Bexar County Commissioners passed a resolution on February 21, 2017, opposing the transport of high-level radioactive waste transport through the San Antonio region. San Antonio is home to numerous military bases, including a Strategic Air Command base, so rail transport through the region has unique risks that need to be considered. The Commissioners need additional time to consider whether to intervene in order to leverage their concerns.

7. Finally, the issues raised by WCS' application are too important to the safety and security of our nation not to do it right. The radioactive waste involved has half-lives that extend far into the future, with some radionuclides remaining radioactive for over a million years, so we must make sure that these materials will end up properly isolated.

Therefore, in order to ensure the hearing process is fair for the SEED Coalition and other members of the public, the NRC has good cause to extend the deadline for hearing requests and petitions to intervene by 120 days, or until July 31, 2017. And the NRC would have no justification for continuing to require what would amount to premature hearing requests and petitions to intervene, and undue burdens on the public.

Thank you for your consideration.

Sincerely,



Karen Hadden, Executive Director  
SEED Coalition  
605 Carismatic Lane, Austin, TX 78748

[Karendhadden@gmail.com](mailto:Karendhadden@gmail.com)

Cc w/attachments:NRC Chairman Kristine L. Svinicki  
Comm. Jeff Baran  
Comm. Stephen G. Burns

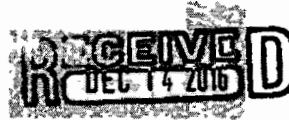
Congressman Lloyd Doggett (D-TX 35<sup>th</sup> District)





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

December 8, 2016



Diane Curran  
Harmon Curran Spielberg & Eisenberg, L.L.P.  
1725 DeSales Street NW, Suite 500  
Washington, D.C. 20036

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

Dear Ms. Curran:

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.

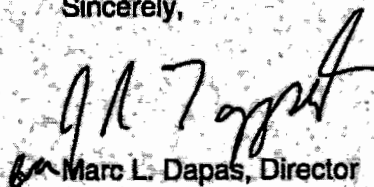
The NRC staff is currently conducting its acceptance review of the WCS application, filed on April 28, 2016 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML16133A313). The NRC staff has not yet made a decision on whether to accept the WCS application for docketing. By letter 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.

D. Curran

- 2 -

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,



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



October 27, 2016

Victor M. McCree, Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
By e-mail to [victor.mccree@nrc.gov](mailto:victor.mccree@nrc.gov)

SUBJECT: *WCS License Application for Spent Fuel Storage Facility  
In Andrews County, TX, Docket No. 72-1050*

Dear Mr. McCree:

On behalf of Beyond Nuclear, Nuclear Information and Resource Service, Public Citizen, Inc., and SEED Coalition,<sup>1</sup> we are writing to ask you to immediately order the dismissal of Waste Control Specialists, L.L.C.'s ("WCS") application for a license for a consolidated interim spent fuel storage facility ("CISF") in Andrews County, Texas, because the terms under which WCS seeks a license for the Andrews County facility are precluded by the Nuclear Waste Policy Act of 1982, as amended ("NWPA").

WCS' license application, filed April 28, 2016, seeks U.S. Nuclear Regulatory Commission ("NRC") approval to build and operate a storage facility for up to 5,000 metric tons ("MT") of spent fuel at the Andrews County site.<sup>2</sup> WCS also anticipates expanding the capacity of the facility to 40,000 MT through subsequent license amendments. Environmental Report at 1-1. NRC recently informed WCS that it has embarked on an environmental review of WCS' license

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<sup>1</sup> Beyond Nuclear is a national nonprofit organization that aims to educate and activate the public about the connections between nuclear power and nuclear weapons and the need to abandon both to safeguard our future. Beyond Nuclear advocates for an energy future that is sustainable, benign and democratic.

Nuclear Information and Resource Service is the national information and networking center for organizations and individuals concerned about nuclear power, radioactive waste, radiation and sustainable energy issues.

Public Citizen, Inc., is a national, nonprofit consumer advocacy organization with over 400,000 members and supporters nationwide. Public Citizen's mission is to protect openness and democratic accountability in government and the health, safety and financial interests of consumers. Public Citizen advocates for policies that will lead to safe, affordable and environmentally sustainable energy.

SEED Coalition is an environmental nonprofit organization with 2,000 members that works in Texas and other states to protect human health and the environment, including land, air, water and wildlife. The organization focuses on clean energy advocacy as a means to reduce pollution. SEED Coalition opposes the storage of radioactive waste from around the U.S. in Texas or New Mexico due to health and safety and environmental concerns. SEED Coalition's members include neighbors of the proposed WCS facility and associated transportation routes.

<sup>2</sup> The NRC Staff has yet to approve the completeness of WCS' application. See letter from Mark D. Lombard, NRC, to Scott Kirk, WCS (June 22, 2016) (ML16175A305), asking WCS to provide a significant amount of additional information. WCS has proposed to complete the application by the end of October. Letter from J. Scott Kirk, WCS to Mark Lombard, NRC (July 21, 2016) (ML16229A340).



application, pursuant to the National Environmental Policy Act (“NEPA”). Letter from Mark D. Lombard, NRC, to Michael Ford, WCS (Oct. 7, 2016) (ML16285A317).

While WCS plans to construct and operate the proposed facility, it assumes that the U.S. Department of Energy (“DOE”) will take ownership of the spent fuel to be stored at the site. License Application at 1-1 – 1-6. For instance, at page 1-1, the application asserts that “[t]he U.S. Department of Energy (DOE) will be contractually responsible for taking title of the spent fuel at the commercial reactor sites and transporting the spent fuel to the CISF, by rail.” This assumption of federal ownership of spent fuel is central to WCS’ license application: WCS has stated that it does not intend to build or operate the proposed facility unless and until the federal government takes title to the spent fuel. License Application at 1-6 (“WCS shall not receive [spent nuclear fuel] until such a contract with the DOE is provided to the NRC as a condition of the license.”).

The NRC must drop its NEPA review and dismiss WCS’ license application because the key condition of WCS’ application -- federal acquisition of title to commercially-generated spent fuel prior to the opening of a permanent repository -- is inconsistent with the NWSA, Congress’ “comprehensive scheme for the interim and permanent disposal of high-level radioactive waste generated by civilian nuclear power plants.” *Indiana Mich. Power Co. v. DOE*, 88 F.3d 1272, 1273 (D.C. Cir. 1996).<sup>3</sup> Section 111 of the NWSA specifically provides that the federal government will not take title to spent fuel until it is received at a repository:

The generators and owners of high-level radioactive waste and spent nuclear fuel have the primary responsibility to provide for, and the responsibility to pay the costs of, the interim storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary of Energy in accordance with the provisions of this Act [42 U.S.C. 10101 et seq.]

42 U.S.C. § 10131(a)(5). Further, Section 123 provides that “[d]elivery, and acceptance by the Secretary [of Energy], of any high-level radioactive waste or spent nuclear fuel *for a repository* . . . shall constitute a transfer to the Secretary of title to such waste or spent fuel.” 42 U.S.C. § 10143 (emphasis added); *see also* 42 U.S.C. § 10222(a)(5)(A) (requiring DOE to “take title” to spent fuel *only* “following commencement of operation of a repository”).

The *only* NWSA provision that allows transfer of title to spent fuel from commercial licensees to the DOE, prior to the opening of a repository, is the emergency “Interim Storage Program” found in Subtitle B of the NWSA. *But the Interim Storage Program expired in 1990.*

42 U.S.C. § 10156(a)(1). Thus the NWSA contains no current provision that would allow DOE to assume title and responsibility for the spent fuel to be stored at the proposed CISF.

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<sup>3</sup> In *Indiana Mich. Power Co.*, the court held that the NWSA required the DOE to meet its contractual obligation to dispose of spent fuel starting in 1998, but concluded that the obligation to take title was separate, and did not commence until a repository opened. 88 F.3d at 1276.

As the Commission has recognized, by providing, in the Interim Storage Program, a narrow time period (1982 to 1990) when DOE could take title to spent fuel prior to the opening of a repository, “Congress intended to force the utilities to solve their own interim storage solutions after the federal program had ‘bought them time’ to do so.”<sup>4</sup> *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-02-29, 56 NRC 390, 405-06 (2002). This resolve to force licensees to solve their own problems was based on “Congress’ belief that interim storage was the generators’ responsibility.” *Id.* at 404.

Congressional intent to place responsibility for interim spent fuel storage squarely on licensees also is reflected in the other, extremely narrow, provisions of the Interim Storage Program. For instance, the Interim Storage Program limited the amount of spent fuel that could be transferred to the DOE to only 1,900 metric tons (“MT”). 42 U.S.C. §§10151(b)(2), 10155(a)(1). And before transferring that stopgap quantity of spent fuel to the DOE, a reactor licensee was required to persuade the NRC that a lack of adequate spent fuel storage capacity at an operating nuclear reactor would jeopardize “the continued, orderly operation” of the reactor. 42 U.S.C. § 10151(a)(3). Finally, the Interim Storage Program required spent fuel storage at a federal facility, not a privately owned facility. 42 U.S.C. § 10151(b)(2).<sup>5</sup> All of these provisions show that Congress intended, prior to the opening of a repository, to sharply restrict the time and circumstances under which the DOE could take title to spent fuel.

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<sup>4</sup> In *Private Fuel Storage*, the Commission concluded that the NWSA did not preclude it from licensing a private away-from-reactor spent fuel storage facility. But that decision concerned only privately owned waste. The Commission has never asserted that in licensing a private spent fuel storage facility, it could ignore the NWSA’s prohibition against transfer of title of spent fuel to the federal government in the absence of a repository.

<sup>5</sup> Notably, even if the Interim Storage Program remained effective today, none of its requirements could be satisfied by WCS’ license application:

- WCS would not be able to demonstrate that a lack of adequate spent fuel storage capacity at an operating nuclear reactor would jeopardize “the continued, orderly operation” of the reactor, as required by 42 U.S.C. § 10151(a)(3), because the first installment of spent fuel proposed for storage at the WCS facility would be from closed reactors. Thus the continued operation of nuclear reactors is not at issue. For the remaining 35,000 MT of spent fuel to be stored at the facility, WCS has made no attempt to show that additional offsite storage capacity is needed for the continued, orderly operation of existing reactors.
- While the Interim Storage Program was intended for only 1,900 MT of spent fuel, 42 U.S.C. §§10151(b)(2), 10155(a)(1), WCS’ proposed facility would store up to 40,000 MT of spent fuel. Even the first installment of the application seeks authorization to store 5,000 MT of spent fuel – more than twice the quantity of spent fuel authorized by the NWSA for federal government ownership.
- The Interim Storage Program required that reactor licensees must pay the costs of spent fuel storage and related activities. 42 U.S.C. § 10156(a)(3). In contrast, WCS assumes that DOE will pay for the costs of building the facility, storing spent fuel, and decommissioning the facility after it is closed. License Application at 1-5 – 1-6.
- While the Interim Storage Program provided for spent fuel storage at a federal facility, 42 U.S.C. § 10151(b)(2), WCS proposes to store federally-owned spent fuel at a private facility.



By assuming that DOE will take title to the spent fuel to be stored at the CISF, WCS flouts the limitations of the NWPA and the “responsibility” of spent fuel generators to come up with “their own interim storage solutions.” *Private Fuel Storage*, 56 NRC at 404-06. Taking responsibility for spent fuel logically includes all obligations incident to the ownership of spent fuel, such as financing the cost of building and maintaining a facility to safely house the spent fuel, and liability for operational problems and accidents.<sup>6</sup> But WCS would have the DOE assume all responsibility for the spent fuel, including title to the spent fuel and financial responsibility for maintaining it. *See, e.g.*, License Application at 1-5 (“The funding for constructing the CISF is expected to be primarily through a contract for storage of [spent fuel] with the DOE”); *id.* at 1-6 (“WCS will obtain funds to operate the CISF pursuant to a contract with the DOE.”). These assertions are diametrically opposed to the plain language and the intent of the NWPA.

Accordingly, the NWPA precludes the DOE from taking title to commercial spent fuel for storage at WCS’ proposed facility. And by the same token, the NWPA would preclude NRC from permitting individual reactor licensees to transfer title of spent fuel to the federal government for purposes of storing spent fuel at the CISF. Having previously issued reactor licensees a “general license” to “receive title to and own spent fuel” under 10 C.F.R. § 72.6, the NRC could not approve a subsequent transfer of spent fuel title and ownership to the federal government because such a transfer would not be “consistent with applicable provisions of the law. . .” 10 C.F.R. § 72.50(c)(2).

Given the fundamental incompatibility of WCS’ license application with the NWPA, the NRC has no lawful basis to review WCS’ application. Therefore, the NRC must dismiss the application and drop its NEPA review.

Please provide us with immediate written assurance that you will instruct the NRC Staff to refuse to continue to review WCS’ application and reject it as inconsistent with the NWPA. To continue to review WCS’ license application, forcing citizen groups to review it and prepare for a hearing as if it were a legitimate and lawful license application, would be grossly unfair to the affected public.

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<sup>6</sup> Under 10 C.F.R. § 72.6(b), the NRC issues a general license for title and ownership of spent fuel, without requiring an application; but transfer requires authorization in a specific license.



Sincerely,

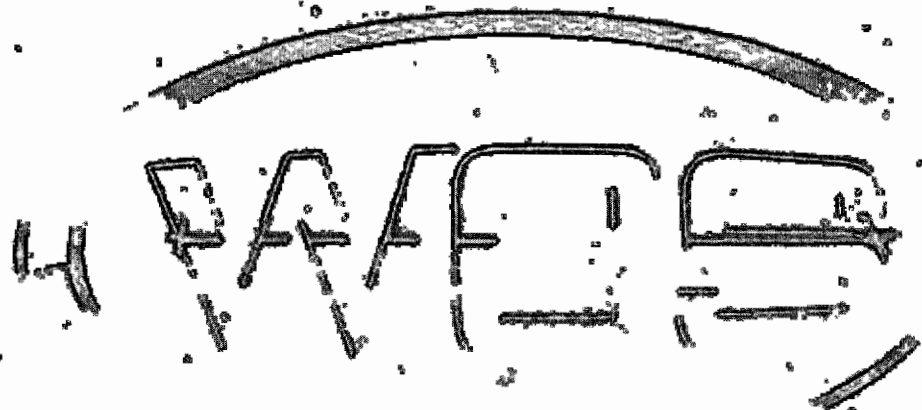
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Public Citizen, Inc., and SEED Coalition

Cc: NRC Commissioners:  
Stephen G. Burns, Chairman  
Kristine L. Svinicki  
Jeff Baran



# WCS CISF License Application

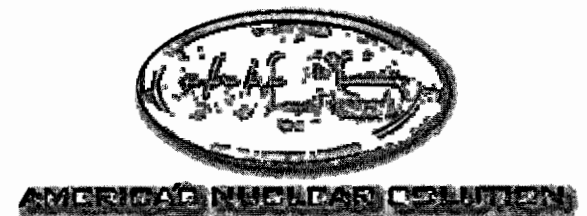
## Revision 1 Comments

*Wednesday, 1 MARCH 2017*



# Overview

- RSI Phase Lessons Learned
- Approach to Revision 1
- Scope of Revision 1 Changes
- Summary of Revision 1 Changes
- Approach to RAI Phase



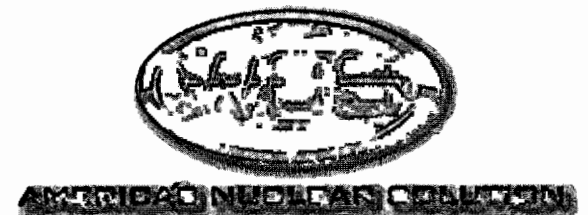
# RSI Phase Lessons Learned

- Seek opportunities for direct communication whenever possible
- Two RegCon LL's still informing on our processes.



# REGCON Lesson Learned – 1

- *There Are No Secrets to the Part 72 Licensing Process*
  - Requirements are clearly communicated in
    - 10 CFR Part 72 – entirety of requirements & process
    - Reg. Guide 3.48 – SAR Format and content
    - NUREG 1567 (SRP) & SFST Interim Staff Guidance (ISGs)
      - Criteria for acceptance



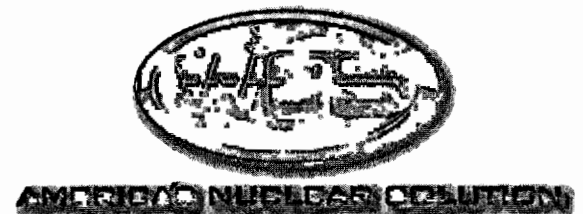
# REGCON Lesson Learned – 2

- *Strive For Clarity*
  - *Reality*: Two partners with two very different configuration management systems
  - *Challenge*: Maintain clarity when describing how two different systems perform same safety functions
  - *Task*: Place yourself in the role of the reviewer
  - *Goal*: *Ensure clarity prevails in lieu of complexity*



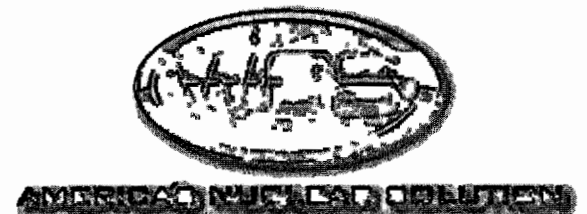
# Approach To Revision 1

- Revisions followed RSI Commitments
- Followed the guidance of NUREG-1567 & RG 3.48
- Previous RSI responses unaffected
- Cross Walks
  - Tracking changes in section numbering
    - Chapter numbering remain unaffected
  - Tracking changes in RSI response locations



# Scope of Revision 1 Changes

- Revised SAR Chapters
  - 3, 4, 5, 6 & 9
  - Followed the guidance of NUREG-1567 & RG 3.48
  - Previous RSI responses unaffected
- Minor Changes in Other Parts of the Application



# Summary of Revision 1 Changes

- Key Changes
  - Revised select SAR chapters
    - Based on responses to RSI's
    - Stricter adherence to NUREG 1567 by following Reg. Guide 3.48
  - Consistency changes throughout
    - E.g., GTCC Language
    - Referencing
    - Applied RSI revisions to additional sections
  - Addressed additional Observations
    - E.g., Observation 1.1 – Modified docket numbers in SAR Table 1-4.
  - Some clarifications and corrections
    - Licensed material
    - Fixed typographical errors



# Summary of Revision 1 Changes

- Key Changes
  - New Appendix Chapter H consolidates GTCC discussions
    - as discussed in Nov.
  - Chapter 1 revised “1.2.4” discussion
    - Incorporates changes discussed in August and November
  - Chapter 3 reorganized to clearly define design criteria
    - For facility and support systems





# Summary of Revision 1 Changes

- Key Changes
  - Chapter 4 expands discussion of SSC safety classifications
    - Now includes crosswalk demonstrating Subpart F compliance
  - Chapter 5 provides more detailed description of facility operations
  - Chapter 6 focuses on safety-related Waste Mgmt issues
  - Chapter 9 expands on ALARA considerations, WCS' radiation protection program and dose estimates
  - Editorial changes to Tech Specs and proposed license



# Approach to RAI Phase

- Follow the processes in SFM-25 and utilize discussions on Draft RAIs and Draft Responses as much as possible
- Seek opportunities to communicate and clarify issues when/where possible





**AMERICAN NUCLEAR ENERGY**

**QUESTIONS?**



**CONVERSATION RECORD**

12/23/2016

NAME OF PERSON(S) CONTACTED OR IN CONTACT WITH YOU

DATE OF CONTACT

TYPE OF CONVERSATION

See below.

12/19/2016

E-MAIL

TELEPHONE

INCOMING

OUTGOING

E-MAIL ADDRESS

TELEPHONE NUMBER

(888) 447-9153

ORGANIZATION

DOCKET NUMBER(S)

See below.

72-1050

LICENSE NUMBER(S)

CONTROL NUMBER(S)

SUBJECT

Request for Supplemental Information Clarification Teleconference

SUMMARY

NRC participants: Chris Allen, David Tang, Jason Piotter, Yoida Diaz-Sanabria and John McKirgan  
 Waste-Control Specialists (WCS): Michael Ford, Terry Sides, Ben Mason and Renee-Murdock  
 Nuclear Assurance Corporation: Wren Fowler and George Carver  
 TN Americas, LLC: Jack Boshoven

The call commenced at approximately 1:30 P.M. Eastern Standard Time. WCS first discussed the background to the supplemental information request (question 4.7 of ML16175A277), and then outlined how their approach to licensing and operating the facility had changed from that described in their April 28 submittal (ML16133A313). They stated that the building would be classified as important to safety versus not important to safety, and the overhead crane would not be single failure proof. They also identified that both engineering controls and administrative controls would be implemented to ensure accidents would not occur due to either seismic or severe weather events. In addition, they indicated their intention to rely on previously evaluated drop analyses for the systems utilized, and their intent to implement administrative controls to ensure these previously evaluated drop analyses remained bounding. WCS explained that these changes would be described both through additional text in the Safety Analysis Report and some additional drawings. Since these proposed changes appeared to align with the guidance documents applicable to the license

**Continue on Page 2**

ACTION REQUIRED (IF ANY)

**Continue on Page 3**

NAME OF PERSON DOCUMENTING CONVERSATION

Chris Allen

SIGNATURE

*William C. Allen*

**CONVERSATION RECORD (continued)**

SUMMARY: (Continued from page 1)

application, staff simply re-emphasized that the submittal needed to clearly explain and justify both the building's design and operational features. WCS also notified the NRC that submittal of both a revised environmental report and revision 1 to the Safety Analysis Report would be delayed until March, 2017. Subsequently, the call concluded at approximately 2:30 P.M. Eastern Standard Time.