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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

Document: NRC-2016-0231-DRAFT-0164

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General Comment

170

See attached file(s)

Attachments

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SUNSI Review Complete

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E-RIDS= ADM-03

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April 28, 2017

via electronic mail

Cindy Bladey
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Washington, D. C. 20555-0001
<http://www.regulations.gov>

RE: Docket ID NRC-2016-0231. Waste Control Specialists, LLC; Consolidated Interim Spent Fuel Storage Facility Project, EIS Scoping Comments

Dear Ms. Bladey:

Below please find comments submitted by Uranium Watch on the Scope of the Environmental Impact Statement (EIS) for the proposed Waste Control Specialists, LLC; Consolidated Interim Spent Fuel Storage Facility Project. Docket 72-1050. Uranium Watch is a public interest nonprofit located southeast Utah.

1. GENERAL COMMENTS

1.1. The Nuclear Regulatory Commission (NRC) should be clearer in the way it refers to nuclear fuel that has been removed from a nuclear reactor. The notice of this EIS scoping comment opportunity refers to the reactor fuel as "spent" nuclear fuel. This gives the impression that the fuel is less hazardous than when it was initially introduced into a reactor. That is not the case, since the fuel is far more hazardous. A term, such as "irradiated nuclear fuel" would be more accurate and appropriate.

1.2. On April 18, 2017, Waste Control Specialists, LLC (WCS) submitted a letter (ML17110A206) to the NRC, requesting that the NRC temporarily suspend all safety and environmental review activities as well as public participation activities associated with the Consolidated Interim Spent Fuel Storage Facility (CISF) April 2016 Application. WCS requested that the suspense period commence on the date of the Suspension Request and continuing through the completion of the sale of WCS to EnergySolutions. The sale of WCS to EnergySolutions is currently the subject of a court proceeding, and

the outcome is unknown at this time. On April 19, 2017, WCS and NRC staff submitted a joint motion to the Commission requesting that the Commission withdraw the January 20, 2017, Hearing Notice and suspend the opportunity to request an adjudicatory proceeding associated with the CISF (ML17109A480). The Commission has yet to respond to these petitions. The Commission should have responded to these WCS requests in a timely manner, providing clarity to the Environmental Review process and to WCS, NRC staff, and the public.

1.3. The NRC should have posted these submittals on the NRC CISF website and must update the application review schedule.

1.4. Given WCS requests, the NRC should suspend the Application and Environmental Reviews until the ability of WCS to complete the application process and, if approved, complete the proposed project is established.

1.5. WCS has submitted documents that have been withheld from public review. The NRC must provide a complete list of withheld or partially withheld documents and assure that WCS provides un-redacted, non-proprietary versions of these documents for public review.

1.6. Many of the documents submitted as part of the Application reference other document, however, those documents are not readily available. Any document that is referred to in the Application and/or reviewed by the NRC must be made readily available to the public as part of the Application review and technical and environmental analysis process.

1.7. The NRC should not rely on outdated studies, data, and information in support of its technical and environmental evaluations; for example, NUREG-0170 (1977). The NRC should not rely on generic information, which does consider specific information that is relevant to the proposed action. The information relied on must reflect current information and conditions.

1.8. All documents that the NRC relies on to develop the EIS must be cited, with specificity, in the EIS and made readily available to the public. The NRC should make these documents available as it conducts the review process, not at the end of the process.

2. LEGAL FRAMEWORK

2.1. The EIS must provide a complete analysis of the legal framework for the WCS proposal, particularly as it relates to the Nuclear Waste Policy Act and Department of Energy (DOE) requirements and the ability of the DOE to take ownership and financial and legal responsibility for the irradiated nuclear fuel during storage.

2.2. The EIS must provide a complete analysis associated with the financial and legal responsibilities for the irradiated nuclear fuel. This includes financial responsibilities for

the waste and any accidents, repairs, exposures, and other impacts during transport. This includes financial responsibilities for the waste, and any accidents, repairs, exposures, and other impacts during storage for the proposed licensing period and indefinitely.

2.3. The EIS must analyze the impacts of indefinite storage of the waste at the WCS site, because there is no other facility (temporary or permanent) to receive and safety store the irradiated nuclear fuel and the WCS site may become very long term storage site or a *de facto* permanent site.

2.4. The EIS must identify and explain all relevant local, state, tribal, and federal statutes, regulations, and requirements that apply to the proposed project.

2.5. The EIS must identify and explain all relevant local, state, tribal and federal approvals, permits, and licenses that must be obtained by WCS, its contractors, or related entities to further the proposed project. The EIS must identify all relevant legal provisions and the applicable permitting authorities.

2.6. The EIS must contain the schedule for applications for other approvals, permits, and licenses. The NRC must assure that all such approvals, permits, and licenses have been obtained and that WCS complies with and continues to comply with their requirements.

2.7. The NRC must not assume that WCS will comply with all local, state, tribal, and federal requirements and, therefore, the impacts affected by those requirements are *de facto* minimal. Historically, there is no absolutely no basis for the assumption that a licensee will comply with other applicable statutes, regulations, and requirements.

2.8. The NRC must identify the circumstances under which other local, state, tribal, and federal jurisdictions might be triggered; for example, due to releases of radiological and hazardous materials, accidents, and other foreseen and unforeseen circumstances.

2.9. The EIS must analyze the potential financial and legal responsibilities associated with unforeseen events that cause harm or adverse impacts to the fuel, canisters, dry casks, modes of transport, transfer facilities, roads, railroads, air, surface water, ground water, land, native and non-native plant and animal species, workers, members of the public, and any other aspect of the environment. The question that must be answered is: Who pays when things go awry?

3. TRANSPORTATION

3.1. The EIS must evaluate the impacts from the handling and transportation of the fuel from the point of origin to the WCS site, including cumulative impacts. This includes an analysis of impacts along the transportation routes, emergency response planning on those routes, costs, accidents, and all other associated health and safety and environmental impacts. The analysis of emergency planning must include who pays for the emergency preparedness planning, training, and response.

3.2. The EIS must evaluate the possibility that the fuel canisters or casks cannot be accepted at the WCS site, or at a point prior to arrival at the WCS site. Statements that damaged fuel, canisters, and casks cannot be accepted by WCS does not address what, exactly, will happen to those canisters and casks if they are not acceptable after arrival or a canister cannot be transferred to another cask at the CISF. The handling of the fuel rods and the containers if they are damaged or otherwise unacceptable upon arrival is a significant issue that must be addressed by the NRC in its safety and environmental reviews.

3.3. The NRC must identify the sources of the 5,000 MTU and state the amount of waste from each site, the types of canisters and casks, means of handling and transportation and other data and information relevant to the handling and transport of the waste from the source. Information on the means of transport, number of dry casks to be transported, amount of fuel in each canister and cask, transfer from one mode of transport to another, and other relevant data must be provided and evaluated in the EIS. The potential impacts from fuel handling must be fully evaluated.

3.4. The NRC must reach out to stakeholders and hold public meetings at the reactor fuel sources and on the transportation routes associated with the handling and transport of the proposed 5,000 MTU of irradiated fuel. The NRC must consult with all affected jurisdictions on the transportation routes.

3.5. The NRC must evaluate the impacts from dry casks that must be returned to a nuclear reactor site, if they are unacceptable to WCS.

3.6. The NRC must examine the role of the Interstate Commerce Commission and the Department of Transportation in licensing and approving the volume of proposed shipments and determine the National Environmental Policy Act (NEPA) obligations of these agencies in this regard.

3.7. The NRC must evaluate all transportation routes from reactor site to WCS CISF, not just one or two "representative" routes.

4. SAFETY OF CANISTERS AND CASKS

4.1. The safety of thin-walled canisters that cannot be monitored, inspected, repaired, and safely retrieved is a primary issue that must be addressed by the NRC in its safety and environmental reviews. This includes the transportation of these canisters, receipt at the WCS site, possible diversion to another location, and short-term and long-term storage at the WCS facility.

4.2. The EIS must compare the safety of various canister designs—including monitoring, inspection, repair, retrievability, and transferability—for use in transportation and for

storage at the WCS site.

4.3. The safety issues associate with the transport and storage of fuel rods from high burn up fuel must also be specifically addressed by the NRC in its safety and environmental reviews.

4.4. The EIS must fully evaluate the safety of the systems used to transfer the fuel canisters from one dry cask to another at the CISF and the impacts associated with the disposition of the shipping casks that no longer contain fuel canisters.

5. CUMULATIVE IMPACTS

5.1. The NRC must evaluate the cumulative impacts of transportation of the waste to the WCS site and eventual transportation of the waste to another temporary or permanent irradiated nuclear fuel disposal site.

5.2. The NRC must evaluate the cumulative impacts associated with another possible CISF in nearby New Mexico.

5.3. The NRC must evaluate the cumulative impacts associated with the other types of waste disposed of at the WCS low level waste facility and the other nuclear waste and nuclear fuel chain operations in the surrounding area.

6. SITE SUITABILITY

6.1. The NRC must evaluate every aspect of the site, including geology, hydrogeological conditions (current and future), discharge from the site into New Mexico, lightening, extreme weather events, temperature, and all other aspects of the site. The evaluation must include the possibility that the facility would become a *de facto* permanent storage site.

6.2. The NRC must analyze the impacts of the environment on the stored canisters, including temperature, extreme weather, lightening, and other environmental parameters over the short-term and long-term. In order to do this, the NRC must have complete information regarding the ability of the canisters and casks to withstand environmental impacts and intrusion. The NRC and the public must have a full understanding to the ability of these canisters and casks to standup over time.

6.3. The environmental impacts must be accessed as they pertain to the ability of WCS to monitor, inspect, repair, and retrieve canisters and spent fuel rods over time. The NRC and the public must have full knowledge regarding how any environmental impacts to the canisters can be mitigated.

6.4. Also, the NRC must provide a full analysis and description regarding how any impacts to the environment from the fuel in the canisters will be mitigated.

6.5. The ability of WCS to mitigate any problems must be a major element in the NRC technical and environmental reviews.

7. COMMUNITY IMPACTS

7.1. The EIS must fully address the impacts to the community. This must also include the possibility of social, economic, and political intimidation of those who speak out or want to speak out against the proposed CISF. Residents of Texas have long been the subject of various types of intimidation and voter suppression for their positions, economic circumstances, and cultural and racial identities.

7.2. The EIS must evaluate the full range of impacts associated with community consent and Environmental Justice.

7.3. The impacts to the community must also include the possibility of the CISF becoming a *de facto* permanent storage site, the fears and apprehensions of the community over time, fluctuations in job potential and economic impacts, inability of the community to affect the outcome of the NRC licensing process, inability of the community to affect the operation of the CISF over time, and other, less obvious, social and economic impacts.

8. ALTERNATIVES¹

8.1. The NRC must consider the application of the following guidance from Council on Environmental Quality (CEQ):

If an EIS is prepared in connection with an application for a permit or other federal approval, must the EIS rigorously analyze and discuss alternatives that are outside the capability of the applicant or can it be limited to reasonable alternatives that can be carried out by the applicant? Section 1502.14 requires the EIS to examine all reasonable alternatives to the proposal. In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.

¹ These comments are based on the Environmental Protection Agency Region 8 comments on the Scope of the EIS for the proposed Independent Spent Fuel Storage Installation at the Skull Valley Reservation, Utah; October 19, 1998 (ML010260384).

The CEQ recognizes that alternatives outside the capability of the federal agency must still be analyzed if they are reasonable:

Must the EIS analyze alternatives outside the jurisdiction or capability of the agency or beyond what Congress has authorized? An alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable. A potential conflict with local or federal law does not necessarily render an alternative unreasonable, although such conflicts must be considered. Alternatives that are outside the scope of what Congress has approved or funded must still be evaluated in the EIS if they are reasonable, because the EIS may serve as the basis for modifying the Congressional approval or funding in light of NEPA's goals and policies." [See Section 1500.1(a) and Section 1506.2(d) of 40 CFR Part 1500 and the Forty Questions and Answers about the NEPA Regulations, March, 1981, CEQ.]

8.2. Transportation risks associated with the transport of irradiated nuclear fuel are controversial regarding their environmental risks, and additional disclosure of the incremental risks presented by the operation of the proposed CISF are warranted. An analysis of the practical alternatives to reducing such risks must be included in the EIS. The NRC must include an analysis of reasonable alternatives to reduce transportation risks within the WCS CISF EIS process. Such an assessment must include an analysis of who pays for the emergency preparedness planning, training, and response.

8.3. Recommended Alternatives to be analyzed include:

8.3.1. The impacts associated with the entire transportation corridor: The EIS should analyze the complete array of environmental risks and means to reduce those risks along the entire transportation corridor that originates at the nuclear reactor and culminates at the WCS site. This would include rail and truck shipments, the potential route designation, licensing conditions and compliance for potential carriers, and the means that the utilities would work with the responsible state and local governments to handle emergency response in the case of transport accidents.

8.3.2 The impacts of No Action on this CISF and the irradiated nuclear fuel remains on-site until there is permanent site for disposition of the fuel: An effective analysis of the environmental risks and benefits of taking no federal action could include comparing the impacts of extended storage at the licensed nuclear reactors versus transport to the proposed CISF. A No Action Alternative should also analyze the relative environmental risks of delaying consideration of any CISF until the federal government has made its decisions on the site(s) for permanent disposition of irradiated nuclear fuel.

8.3.3. The Impacts of the CISF if a permanent federal repository for irradiated nuclear fuel is unavailable at the time of WCS license (or contract) expiration: An analysis of the impacts of moving the spent fuel after its storage period (40 years or

more), to a temporary or permanent federal repository. Such an analysis would include the effects of fuel decay and degradation, canister and dry cask degradation, need to transfer the fuel to other containers, inability to move the fuel due to safety issues, and other considerations.

8.3.4. Financial Assurance: As part of the proposed action, NRC should consider alternative mitigation in the terms of sufficient financial assurance to protect the environment. NRC could describe the costs and benefits of the proposed WCS facility, especially in terms of the environmental protection costs. The establishment of bonding or a trust fund adequate for the government to operate the WCS facility in case of financial limitations of the applicant could be explored in this EIS in order to provide full disclosure of the potential costs for which the government could be responsible.

9. CONCLUSION

9.1. There are substantial questions regarding the ability of WCS to complete the licensing of the proposed CISF and carry out proposed action, if approved. There are unresolved legal issues associated with the Nuclear Waste Policy Act and the ability of the DOE to take responsibility for the irradiated fuel during transportation and storage. Therefore, Uranium Watch urges the NRC to suspension of the licensing process until these legal, financial, and regulatory hurdles are satisfactorily resolved.

Sincerely,

Sarah Fields
Program Director
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