



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

EDUARDO J. SANCHEZ, M.D., M.P.H.
COMMISSIONER

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March 24, 2005

U.S. NUCLEAR REGULATORY COMMISSION
DECOMMISSIONING DIRECTORATE
ATTN JOHN HICKMAN PROJECT MANAGER
MAIL STOP 7 F27
WASHINGTON DC 20555-0001

Dear Mr. Hickman,

We wish to recommend some wording changes to clarify some important ambiguities within this Environmental Assessment finding of "No Significant Impact."

- 1) It appears that the NRC has not asked for the amount of radioactivity already handled this year by WCS RCRA landfill workers, nor the amount of existing buried radioactive material currently in this facility. NRC staff has further concluded that no environmental assessment is necessary. Without additional site-specific analyses, we have assumed that your decision is based on the fact that any RCRA facility would be an appropriate disposal option for the contaminated demolition debris from your Licensee. If this is the case, the wording of the final sentence on Page one should be changed to reflect the burial at any RCRA facility.
- 2) We suggest the inclusion of a general statement addressing the fact that when involving an Agreement State, the appropriate State regulatory agency must concur that their statutes will be complied with when allowing the proposed burial of a specific waste that has been declared exempt for RCRA facility burial by the NRC.
- 3) We noted in the last sentence of the Introduction that WCS' RCRA facility is licensed by either the Texas Department of Health (TDH) or Texas Commission on Environmental Quality (TCEQ). The sentence should be modified to reflect that is under a RCRA permit issued by TCEQ. As a side note, TDH, following a reorganization in September 2004, is now known as the Department of State Health Services (DSHS).
- 4) Finally, this same sentence closes with, "and any disposal must comply with State requirements." The proposed material that you are granting a "custom, one-time exemption," bound by burial in a RCRA facility, is not currently listed as exempt from licensing in Texas by rule or statute.

John Hickman
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It is our understanding, that unless TCEQ's RCRA permit issued to WCS authorizes waste exempted by NRC as well as that exempted by DSHS to be disposed of in their RCRA landfill, WCS will be required to formally request a Proposal for Rule-making in Texas, to allow DSHS to accept and recognize this material as exempt also.

If you would like to discuss this matter or need clarification regarding our comments, please contact David Wood of my staff, at (512) 834-6688, extension 2208.

Sincerely,



Ruth E. McBurney, Manager
Radiation Safety Licensing Branch

CC Paul Lohaus, NRC
Bill Dornsife, WCS
Susan Jablonski, TCEQ

BCC RAR, REM, GLS, DMW
