



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

June 8, 2022

Chris Shaw, Licensing Manager
and Corporate RSO
The Summit at Preston Trails
17103 Preston Road, Suite #200
Dallas, TX 75248

SUBJECT: RESPONSE TO THE MARCH 18, 2022, WASTE CONTROL SPECIALISTS LLC
REQUEST TO EXTEND THE POSSESSION TIME OF LOS ALAMOS
NATIONAL LABORATORY WASTE IN THE EXEMPTION ORDER CONDITION
8.B.4 UNTIL DECEMBER 31, 2024
(CAC NO. 001542/DOCKET NO. 070-7005/EPID NO. L-2022-LLO-0002)

Dear Chris Shaw:

On March 18, 2022, Waste Control Specialists LLC (WCS) sent a letter to the U.S. Nuclear Regulatory Commission (NRC) requesting modification of Condition 8.B.4 of the currently effective NRC Exemption Order to WCS. In the letter, WCS requested permission to possess U.S. Department of Energy (DOE) Los Alamos National Laboratory (LANL) Waste at the WCS Low-Level Waste Disposal Site (WCS Site) near Andrews, Texas, until December 31, 2024. The publicly available WCS request is available in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession No. ML22081A181.

Since 2001, the NRC has issued several Orders granting WCS exemptions from the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 70, "Domestic Licensing of Special Nuclear Material," to possess special nuclear material (SNM). Each Order has allowed WCS to possess greater than a critical mass of SNM without obtaining a Part 70 license from the NRC. The currently effective NRC Order to WCS is dated December 3, 2014 (ML14238A268; *Federal Register* citation 79 FR 73647; 2014 Order). The 2014 Order contains conditions that allow WCS to possess and store the LANL Waste at two locations at the WCS Site without obtaining an NRC Part 70 license. The LANL Waste is transuranic waste with SNM that originated from LANL and is destined for disposal at the DOE Waste Isolation Pilot Plant Facility in New Mexico.

Order Condition 8.B.4 of the 2014 Order to WCS states that, "WCS is allowed to possess the LANL Waste for a maximum of 2 years." Order Condition 11 of the 2014 Order to WCS states that, "The Director of the Office of Nuclear Material Safety and Safeguards (NMSS) (or designee), may, in writing, relax or rescind any of the above conditions upon demonstration by WCS of good cause." Order Condition 8.B.4 was first modified by the September 23, 2016, NRC letter to WCS extending WCS's authorized possession until December 23, 2018 (ML16097A265). This condition was again modified by the December 19, 2018, NRC letter to

WCS extending WCS's authorized possession until December 23, 2020 (ML18269A318). This condition was most recently modified by the December 7, 2020, NRC letter to WCS extending WCS's authorized possession until December 23, 2022 (ML20252A182).

In its March 18, 2022, letter, WCS requested that it be allowed to continue to store LANL Waste at the WCS Site until December 31, 2024, because the final disposition plan for the LANL Waste has not been finalized and will not be completed (i.e., all LANL Waste shipped from the WCS Site) before December 2022. The DOE-led Integrated Project Team (which includes the DOE, the Texas Commission on Environmental Quality (TCEQ), the NRC, the U.S. Environmental Protection Agency, and WCS) is still determining a recommended path forward for the safe disposition of the LANL Waste. As part of its participation on the Integrated Project Team, the NRC is aware of the options under consideration and that there has been no change to the LANL Waste in storage at the WCS Site since 2020. WCS requested extending the possession time by a little more than two years, from "until December 23, 2022" to "until December 31, 2024". While the previous extensions were for exactly two years, allowing WCS to store the LANL Waste for slightly more than 2 years (i.e., 8 days) does not affect the NRC review of the March 18, 2022, WCS letter.

Consistent with both the 2014 Order to WCS and the December 7, 2020, NRC letter to WCS modifying the 2014 Order Condition 8.B.4, the NRC has determined that an additional extension of the timeframe for the possession and storage of LANL Waste at the WCS Site is appropriate because: (1) it is consistent with the timeframe for storage of waste at the WCS Site previously approved by the NRC and permitted by TCEQ; and (2) it maintains a definitive possession time specified in the Order.

As noted in the 2014 Order to WCS and the December 7, 2020, NRC letter to WCS:

- the 2014 Order contains conditions that enable the LANL Waste to be safely and securely possessed and stored at the WCS Site;
- under the 2014 Order, WCS is responsible for the safe and secure possession of radioactive material at the WCS Site; and
- the 2014 Order contains conditions that require WCS to: (1) notify the NRC if any of the Order conditions are violated, and (2) obtain the NRC's approval prior to changing any activities associated with the Order conditions.

The NRC finds that the LANL Waste continues to be safely and securely stored at the WCS Site consistent with the requirements of the 2014 Order. The NRC also finds that the LANL Waste in storage at both the TSDF and the WCS FWF disposal cell continues to be safely and securely stored consistent with the requirements of the currently effective Order to WCS and confirmed via the NRC's participation on the Integrated Project Team.

Based on the above, the NRC has determined that WCS demonstrated good cause in satisfying the Condition 11 requirements of the currently effective Order to WCS. Consequently, the possession time limit specified in Condition 8.B.4 of the 2014 Order to WCS is modified to allow WCS to possess the LANL Waste until December 31, 2024.

The NRC staff prepared an environmental assessment (EA) in support of its review of the WCS request to modify the possession time limit specified in Condition 8.B.4 and determined that the proposed action will not have a significant effect on the quality of the human environment. The EA (ML22094A132) can also be found at (87 FR 32198).

In accordance with 10 CFR Section 2.390, "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of ADAMS. ADAMS is accessible from the NRC Website at <https://www.nrc.gov/readingrm/adams.html>.

If you have any questions or need additional information, then please contact Mr. Harry Felsher of my staff at Harry.Felsher@nrc.gov or at 301-415-6559.

Sincerely,



Signed by Lubinski, John
on 06/08/22

John W. Lubinski, Director
Office of Nuclear Material Safety
and Safeguards

Docket No. 0700-7005

cc: A. Forbes
Texas Commission on Environmental Quality
email: ashley.forbes@tceq.texas.gov

J. Cartwright
Waste Control Specialists LLC
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NRC Response Letter to C. Shaw from J. Lubinski for WCS Request to Extend Possession Time of LANL Waste until December 31, 2024 DATE June 8, 2022

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