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June 2, 2009

Mr. Mark Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

COPY

Re: Waste Control Specialists LLC; License No. R04971 (Currently Amendment No. 47)

Dear Mr. Vickery:

As we have previously discussed, Waste Control Specialists LLC (WCS) has entered into an arrangement with the Tennessee-based waste processor, Studsvik, Inc., to accept for interim storage thermally processed Class B and Class C low-level radioactive waste. This waste is the end-product of Studsvik's processing of ion exchange resins originating at nuclear power plants throughout the country. Studsvik provides a valuable national service because its patented processes reduce the volume of low-level radioactive waste necessary for disposal by more than 80%, thus preserving future valuable landfill utilization. Studsvik will transport the waste to WCS for interim storage at WCS' radioactive material storage and processing facility authorized under License No. R04971.

WCS received a letter from Mr. Dan Eden of TCEQ dated May 20, 2009 commenting that; (i) the TCEQ staff had not yet completed its review regarding WCS' interim storage of the Studsvik material and (ii) TCEQ's interpretation of License Condition 29.B is that WCS must notify the Executive Director within three business days of the initial receipt of waste, which WCS assumes that TCEQ believes would include the Studsvik waste. Based on conversations with you, it appears staff's primary question regarding the interim storage of the Studsvik waste is, "Does WCS have authority to receive the waste for interim storage under License No. R04971?"

Based on a review of the license and the underlying regulations, it is clear that:

- (1) WCS has the authority to accept the Studsvik waste into interim storage, for a period of time that could exceed 365 days, pursuant to License No. R04971.
- (2) Under past practices and prior investigations and audits of WCS by TCEQ and the Department of Health and Human Services, the three day notice requirement found at License Condition 29.B. only applied to the first receipt of waste at the storage facility in 1998, and is therefore not applicable to the receipt of Studsvik waste.

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Path Forward

Now that WCS has received a final order for a low-level radioactive waste disposal license, the company fully intends to seek authorization from the Texas Low Level Radioactive Waste Disposal Compact Commission (Compact Commission) to permanently dispose of the Studsvik waste at the appropriate time. While the interim storage of the Studsvik material is authorized under the 1997 license, permanent disposal at the Compact disposal facility must be approved by the Compact Commission.

WCS is well aware that importation of waste for permanent disposal in the Compact Waste Disposal Facility is subject to the agreement of the Compact Commission. The company is already taking steps to inform the Compact Commission that it will begin interim storage of the waste on June 8, 2009. WCS is also informing the Compact Commission that once all license conditions of its low-level disposal license are met, the company will be seeking authorization to permanently dispose the Studsvik waste in the Compact Waste Disposal Facility in Andrews.

The ability to store low-level radioactive waste at a central storage facility and then dispose of it at a separate disposal facility near that storage site is in the best interests of all parties. It will reduce the burden on generators of the waste that do not have storage facilities designed for this type of waste and will allow the waste to be processed into a very safe form for storage. It will also minimize public transportation of the Studsvik waste as it will be shipped from generators to Studsvik and then to one location for storage and possible eventual disposal instead of back to generators across the nation.

Background

In 1997, WCS was issued License No. R04971 by the Texas Department of Health (TDH), now the Texas Department of State Health Services (DSHS), authorizing the storage and treatment of radioactive materials, including Class A, B, C and "Greater Than Class C" (GTCC) low-level radioactive waste and byproduct material. WCS operated the storage and processing facility for approximately a decade before the Texas legislature transferred the jurisdiction over these operations to TCEQ. Since the facility's opening, WCS has provided extremely valuable storage and treatment services to the nation's generators of low-level radioactive waste and byproduct material, including the Department of Energy and the State of Texas. WCS is currently providing secure storage for GTCC waste recovered from the Gulf Nuclear site in Webster, Texas, near Houston.

On January 25, 2008, WCS submitted a Licensing Action Plan to Mr. Eden seeking authorizations for upgrading WCS' facilities for the storage of the Studsvik material. A meeting was held between representatives of WCS and TCEQ on February 12, 2008 to discuss the Licensing Action Plan. During this meeting, it was suggested, and WCS agreed, that it made sense to seek the various license amendments outlined in the Plan in a staged approach. Accordingly, WCS submitted a license amendment request on May 14, 2008 to: (i) establish modified financial assurances for the storage initiative and (ii) authorize an unrestricted term of storage for the material.

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Pursuant to the original Licensing Action Plan, WCS believed that the license amendments could be processed by TCEQ and the facility placed into service in a timely fashion which would enable Studsvik to continue to keep its processing facility open and not have to downsize its workforce.¹ Additionally, based on initial data from Studsvik, the original Plan contained dose rate assumptions that have since turned out to be at the absolute upper range. Accordingly, the facility upgrades that were originally proposed in the Licensing Action Plan, which were designed to address the higher dose rate and potential ALARA (As Low As Is Reasonably Achievable) concerns regarding worker exposure, were no longer necessary. *

During the summer of 2008, several meetings were held between and among representatives of WCS, Studsvik and the TCEQ regarding the project. Also during this timeframe, WCS obtained additional detailed information from Studsvik regarding the projected waste streams and the expected lower dose rates. Based on this information, WCS determined that the storage initiative could move forward under the existing authority of License No. R04971 and license amendments were not necessary. Studsvik and WCS determined that the material could be placed into interim storage on the low specific activity (LSA) pad in Secure Environmental Enclosures (SECsTM) manufactured by Dufrane Nuclear Shielding, Inc. that provided sufficient shielding to protect workers from exposure. The decision to place the Studsvik material into interim storage at WCS was made the first week of October 2008 and was immediately conveyed to you.

Since that time, Studsvik has moved forward on securing contracts to process waste under its amended license issued by the State of Tennessee on October 1, 2008, with plans to send the processed material to WCS for interim storage.

Authority to Store under License No. R04971 and Plan for Storage of Processed Material

WCS recently provided TCEQ with an analysis regarding the authority to receive and store the processed waste from Studsvik under existing License No. R04971. The analysis concludes that the processed waste clearly meets all of the required criteria concerning form, volume and level of activity for receipt and storage at the WCS facility pursuant to its existing license. There is no question that WCS is currently authorized to receive and store the processed waste.

WCS' proposal is to place the material into interim storage in accordance with License Condition 23.B. This license condition requires that "all waste be placed into interim storage or transferred to an authorized recipient within 365 days of the initial date of receipt." "Interim storage" is defined in License Condition 15.C. as waste packaged in accordance with Title 49 Code of Federal Regulations (CFR), as amended, and that meets current or stated acceptance requirements for an authorized disposal facility or an authorized federal agency. When read together, it is clear that WCS can store materials for longer than 365 days if the material is placed into "interim storage." My legal interpretation of the license based on my understanding of the processed material from Studsvik is that the material will "meet the current or stated

¹ Due to the decision of the Atlantic States Compact to restrict the disposal facility in Barnwell, South Carolina, to receipt from generators in member states only after July 1, 2008, the Studsvik processing facility in Erwin, Tennessee, was faced with the prospect of laying off more than 100 persons and mothballing the facility until a path forward could be located for its processed material.

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acceptance requirements for an authorized disposal facility or an authorized federal agency" and, therefore, can be placed into "interim storage" without any restriction of the 365 day holding time limit.

However, even if the material were to be subject to the 365 day holding time limit, which it is not, WCS intends to petition the Compact Commission for the Studsvik material to be imported into the Compact Waste Disposal Facility for permanent disposal. WCS expects this petition will be ruled on by the Compact Commission within 365 days of WCS' acceptance of the material. If the Compact Commission were to agree to accept the Studsvik material for disposal into the Compact Waste Disposal Facility, the WCS site would be an authorized disposal facility meeting the 365 day holding time limit requirement. If the Compact Commission were to deny acceptance of the waste for disposal, Studsvik has a take-back agreement with the State of Tennessee and the waste could be shipped back to Studsvik. In either event, the 365 day time limit could be met.

Origin of Waste

WCS is cognizant of the restrictions in the Texas Compact pertaining to the "management" of out of compact waste. (However, with the recent Federal court decision in the Energy Solutions litigation involving the Northwest Interstate Compact,) it is apparent that the Compact Commission may only regulate the disposal of waste at the Compact Waste Disposal Facility and not the storage and processing of such waste at a separate facility other than the designated regional disposal facility. Nevertheless, WCS intends to inform the Compact Commission by letter and at its next meeting on June 5, 2009 that WCS will receive low-level radioactive waste from Studsvik for interim storage beginning on June 8, 2009.

Discussion - License Condition 29.B

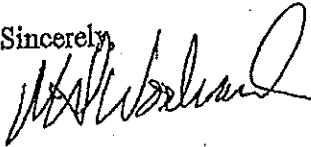
As a courtesy, WCS is pleased to inform you that the first shipment of Studsvik waste will be received at the WCS site for interim storage on Monday, June 8, 2009.

The requirement to notify the Executive Director at least three business days prior to the receipt of waste has been interpreted by DSHS as only applying to the very first waste shipment received by WCS on February 20, 1998. In a DSHS (then TDH) inspection report dated June 8, 1998, WCS received an alleged violation for failure to provide this notification. WCS provided evidence that the original notification was submitted as required by the license with the first waste received on February 20, 1998 and the alleged violation was withdrawn. In annual inspections of WCS' waste receipt records by both DSHS and TCEQ since 1998, no subsequent notification violations were reported or proposed. This is consistent with WCS' interpretation and implementation of this license condition that no notification to the Executive Director at least three business days prior to the receipt of waste for each waste stream is required. Only notification three business days prior to the receipt of the very first waste for the storage and processing facility was required.

Thank you for your attention to these important matters.

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Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Woodward". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Michael L. Woodward

cc: Mr. Bill Lindquist, WCS
Mr. Dan Eden, TCEQ
Ms. Stephanie Bergeron Perdue, TCEQ