

Attachment B

RESPONSE TO PUBLIC COMMENT

In accordance with Texas Health & Safety Code Section 401.232, the Texas Commission on Environmental Quality (TCEQ) conducted a public meeting on March 31, 2005 in Andrews County to receive public comment regarding an administratively complete license application from Waste Control Specialists LLC for near-surface disposal of low-level radioactive waste. Five elected officials submitted comments, including U.S. Congressman Mike Conway represented by his aide Ricky Wright; Texas Senator Kel Seliger; Andrews County Judge Richard Dolgener; Andrews County Commissioner Hiram Hubert; Mayor Robert Zap, City of Andrews; New Mexico Senator Carroll Leavell; and Mayor Monte Newman, City of Hobbs, New Mexico

Forty-nine total comments were received on the administratively complete license application, including forty-one verbal and eight written comments. All comments were taken into consideration in the Evaluation of Merit of the application, and those raising technical issues will be considered during the Technical Review of the application.

Of the forty-nine total comments received, thirty-eight expressed support for the proposed disposal authority, six expressed opposition, and the remaining five were silent on the question of support, but expressed various other concerns related to the proposed facility. Because of the similarity in the types of comments received, the comments and responses have been categorized as follows:

General Support For the Proposed Facility

Comment: Support in general was expressed by thirty-four commentators, variously citing reasons including suitable geology and facility design, confidence in the applicant, appreciation for the applicant's service to the community, and the positive economic impact of the proposed facility. Ten of these commentators expressed support of the application, but did not specify reasons. Following are commentators who expressed support in general: U.S. Congressman Mike Conway's Aid, Ricky Wright, Texas Senator Kel Seliger, Andrews County Judge Richard Dolgener Andrews County Commissioner Hiram Hubert, Andrews Mayor Robert Zap, New Mexico Senator Carroll Leavell, City of Hobbs Mayor Monte Newman, Guy Crawford, George Dials, Lloyd Eisenrich, Lief Ericksson, Kendall Fowler, Bryan Fritz, Vanessa Garcia, Vickie Gardner, Glen Hackler, Tanya Johnson, Lacey King, Eddie Simpson Kocureck, Jennifer Koop, Eddie McNett,, , Martin Martinez, Margie Manthei, Danny Osterhout, Mike Rhodes, Byron Randolph, Gerald Reid, Elicia Sanchez ,Russell Shannon, Chad Tomkins, Dee Dee Wallace, Julia Wallace, Nancy Wallace, Andrea Warnke, and Paige Whiteside.

Response: The executive director acknowledges the comments. Site characteristics, including geology, facility design and socioeconomic impacts will be evaluated during a technical review of the application.

Need For Safe Disposal of Radioactive Medical wastes.

Comment: Four commentors expressed support for the proposed Compact waste facility because radioactive medical wastes should be safely disposed in a single location. The four commentors included Robert Bernstein, M.D.; John C. White, Radiation Safety Officer, University of Texas; Jose A. Lopez, Ph.D., P.E., Director Environmental Health and Safety, University of Texas Southwestern Medical Center at Dallas; and Lynne Wilson, a cancer survivor and citizen of the City of Andrews. Dr. Lopez said “our standard of living is directly dependent on the accessibility of a low-level radioactive waste disposal facility as a repository for the waste byproduct of these beneficial uses of radioactive materials.” It was noted that Mr. Lee Cheney expressed a concern about whether radioactive medical waste would require disposal within a centrally located low-level radioactive waste disposal facility.

Response: The executive director acknowledges the comments. The impact of disposal of radioactive medical wastes and alternate waste management methods will be considered as part of a technical review of the application.

Opposition to Proposed Facility Because of Potential Groundwater Contamination and related socioeconomic issues

Comment: Four commentors, including Heather Alden, David Post, John E. Post and Peggy Prior, commented that the proposed facility would contaminate groundwater. John Post said that he believed that interbedded sandstones in the red bed clay beneath the proposed facility were interconnected and would serve as conduits for contaminants leaking from the facility. He also said that the static level of the water in a well on his ranch, which he believes to be drawing from the Santa Rosa sandstone formation, has dropped several feet since WCS began pumping from that formation. David Post said leaks from the facility could percolate through faults and fissures at the site of the proposed facility to contaminate five water-bearing formations in the area. John Post said these issues may “render the (his) ranch unusable for the production of livestock.” In relation to potential groundwater contamination, Peggy Prior expressed concern about possible transportation accidents resulting in leaks to the environment.

Response: Site characteristics including surface water hydrology, geology, the potential for groundwater contamination, and related socioeconomic issues such as business and transportation impacts will be evaluated during the technical review of the application.

Opposition to Proposed Facility Because of Potential for More Radioactive Waste

Comment: Two commentors including Lee Cheney and Rose Gardner commented that development

of the proposed low-level radioactive waste disposal facility would lead to increasing amounts of more and different types of radioactive wastes coming to the area. Mr. Cheney said that wastes from a proposed uranium enrichment plant across the border in New Mexico could eventually be disposed of in the proposed facility if such wastes were re-classified as low-level radioactive waste. Ms. Gardner said that a proliferation of radioactive wastes in the area would adversely impact Eunice, New Mexico, which is five miles west of the proposed facility.

Response: The executive director acknowledges the comments. Volumes of waste, levels of radioactivity, and potential effects on human health and safety and the environment will be evaluated during the technical review of the application.

Assertion of Bad Faith Efforts By Applicant to Acquire Ownership Of Mineral Interests

Comment: Three commentors, including Linda Caperton, Lan Martinez and Dan Pike, asserted that WCS was not acting in good faith in its efforts to acquire their rights as mineral interest holders for property where the proposed disposal of low-level radioactive waste is planned.

Response: The executive director acknowledges the comment. Issues concerning mineral rights ownership will be evaluated during the technical review of the application.

Request for information on Water Sheds

One commentor, Michele Westin, requested information about the facility's location in relation to the Colorado river Basin and the Pecos River Water Basin.

Response: The executive director acknowledges the comment. Issues concerning facility location and potential hydrologic impacts will be evaluated during the technical review of the application.

Request For Adequate Operating Term, Equality of Design/Operation of Compact and Federal Facilities, and Regulatory Compliance

Comment: One commentor, Edward Selig, stated that his organization, *Advocates for Responsible Disposal in Texas (ARDT)*, support the TCEQ's efforts in reviewing the proposed application to license a low-level radioactive waste disposal facility for waste generators in the Texas Compact - Texas and Vermont. He said any licensed compact facility must remain open through at least 2063 in order to accommodate the expected operating lives of the two nuclear power generating plants in Texas. He said that the compact and federal facilities should be designed and operated equitably and that the license application should be modified to achieve this. He said that any major potential technical

deficiencies should be identified as soon as possible in order that they be corrected in time to avoid ultimate derailment of the licensing effort. He said areas of special concern involved the operating term of the facility, equity of design and operation of the compact and federal facilities, and whether the applicant can demonstrate in a timely manner “evidence that arrangements have been made for assumption of ownership in fee by the State or Federal government before the commission issues a license.”

Response: The executive director acknowledges the comment. The operating term, facility design, operating conditions and ownership issues will be evaluated during the technical review of the application.