

TCEQ License R04100

Application by  
Waste Control Specialists LLC  
For Amendment 26 to Radioactive  
Material License R04100

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Before the  
Texas Commission on  
Environmental Quality

2014 JUL 24 AM 11: 08

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

The Executive Director of the Texas Commission on Environmental Quality (TCEQ) files this Response to Public Comment on the application by Waste Control Specialists LLC (WCS or Applicant) for a major amendment to its radioactive material license authorizing revisions to certain license conditions in the low-level radioactive waste disposal license.

As required by Title 30 Texas Administrative Code (TAC) Subchapter G at §55.253, the Executive Director has prepared a response to public comments submitted on the WCS license application. The comment period ended on May 20, 2014. The TCEQ Office of the Chief Clerk received three comment letters and three (3) requests for a public meeting. Three written comments were received from Cyrus Reed of the Sierra Club; Karen Hadden of (SEED) with other signatories; and the Honorable Lon Burnam, State Representative, Texas House of Representatives.

**I. Description of Facility**

WCS is authorized under one license to operate separate facilities for the disposal, storage and processing of low-level radioactive waste at a site located on the Texas-New Mexico state line. The low-level radioactive disposal facility is located at 9998 West Highway 176, approximately 30 miles west of the city of Andrews in Andrews County, Texas. The facility is located approximately five miles east of the city of Eunice, New Mexico.

**II. Procedural History**

This major amendment stems from a series of applications, and other environmental reviews and studies by the Applicant and TCEQ staff.

WCS submitted a major amendment application (the C-14 application) to the Texas Commission on Environmental Quality (TCEQ) on August 5, 2013 to modify License Condition (LC) 5 to remove the carbon-14 (C-14) limit in the Compact Waste Disposal Facility (CWF) and to remove the C-14, technetium-99 (Tc-99) and iodine-129 (I-129) limits in the Federal Waste Disposal Facility

(FWF); modify LC 46 to authorize the disposal of large quantities of depleted uranium (DU); and remove LC 143 to allow for the disposal of all Class A, B and C waste. A revision of the August 5, 2013 C-14 application was submitted on November 22, 2013 and supplemental information was provided on January 28, 2014.

WCS submitted a major amendment application (the expansion application) to the TCEQ on August 5, 2013 to expand the CWF horizontally and vertically to allow 9,000,000 cubic feet of total waste volume and to expand the FWF horizontally and vertically to replace the Non-Containerized Disposal Unit (NCDU). The amendment requests an increase in CWF volume from 2,310,000 cubic feet to 9,000,000 cubic feet. The Applicant requests a revision to the license that would allow an increase in the CWF decay corrected radioactivity through minor amendment. The amendment requests an increased FWF waste capacity from 26,000,000 cubic feet to 31,000,000 cubic feet. The Applicant does not request an increase in the FWF waste volume limit of 26,000,000 cubic feet. Waste volume refers to the amount of waste disposed, and waste capacity refers to the physical area in which waste may be disposed. The Applicant does not request an increase in FWF radioactivity. A revision of the August 5, 2013 expansion application was submitted on October 28, 2013. Supplements to the expansion application were submitted on February 17, 2014 and February 21, 2014.

WCS submitted a major amendment application (the FA application) to the TCEQ on August 8, 2013 to revise the financial assurance amounts and to implement a methodology to adjust the financial assurance annually without amending the license. Supplements to the August 8, 2013 FA application were submitted on December 13, 2013 and February 28, 2014.

The Executive Director combined these applications and declared the above described applications administratively complete on December 13, 2013 for the application dated August 5, 2013 to expand the Compact Waste Facility and the Federal Waste Facility; October 25, 2013 for the application dated August 8, 2013 to revise the financial assurance amounts; and August 20, 2013 for the application dated August 5, 2013 to remove or modify disposal concentration limits or waste types. After a supplement was received on February 17, 2014 for the application dated August 5, 2013 to expand the Compact Waste Facility and the Federal Waste Facility, the Executive Director updated the declaration of administrative completeness on February 28, 2014. The application was declared technically complete on April 16, 2014 and was published on April 20, 2014 in the Andrews County News and in the *Texas Register* on April 25, 2014.

### **III. Access to Rules, Laws, and Records**

TCEQ rules are available at the following link on the TCEQ website:

<http://www.tceq.state.tx.us/nav/rules/current.html>

The Texas Health and Safety Code and the Texas Water Code are available at the Texas Legislature online website:

<http://www.statutes.legis.state.tx.us/>

Other useful information is available at the TCEQ main website:

<http://www.tceq.texas.gov/>

TCEQ records on this application for amendment 26 WCS low-level radioactive waste disposal facility may be accessed at the TCEQ Office of Chief Clerk, Building F, 1<sup>st</sup> Floor, 12100 Park 35 Circle, Austin, Texas 78753, by contacting TCEQ Office of Chief Clerk by phone at (512) 239-3300, or by contacting the Radioactive Materials Division. The license application materials including the Executive Director's technical summary and draft license may also be available for viewing and copying at the Andrews County Library at 109 N.W. 1<sup>st</sup> Street in Andrews, Texas.

More information about this license application or about the radioactive materials licensing process is available from the TCEQ's Public Education Program at 1-800-687-4040. The draft license is available for viewing on the internet at:

[http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs\\_license\\_app.html](http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs_license_app.html)

### **IV. Public Meeting**

Pursuant to 30 TAC §55.253(b)(2), the Executive Director determined that there was not a significant degree of public interest in the license application, as only three requests were received and were not from individuals residing in the surrounding area of the facility.

### **V. Written Comments and Responses**

The Executive Director received written comments during the comment period. The first comment received was from the Honorable Lon Burnam, State Representative, Texas House of Representatives. The SEED Coalition contains identical language to Representative Burnam's language and concludes their

letter with multiple signature blocks from several organizations specifically Public Citizen, South Texas Association for Responsible Energy, Texas Campaign for the Environment, Energia Mia, and Environment Texas. The Lone Star Chapter of the Texas Sierra Club also submitted similar comments and, where appropriate, will be distinguished below.

This response to comments is part of the major amendment application process as required by TCEQ rules in 30 TAC Chapter 55 at Subchapter G. The Executive Director cites to statutes, rules and other supporting documents as well as the draft license in order to respond to comments specifically and directly relating to the proposed amendment. Some of the topics in the comment letters were either not relevant or material to the major amendment at issue or involved topics outside of the jurisdiction of TCEQ. Should the commission set this matter for a contested case hearing and otherwise determine other general issues relating to radioactive waste disposal are appropriate to address in any additional forums, then the Executive Director will respond accordingly.

#### **A. Comments Regarding the Decrease in Financial Assurance**

Commenters stated that the financial assurance (FA) should not decrease if the volume and type of low level radioactive waste (LLRW) increase -- citing general concerns about liability, risk management and burdens on Texas taxpayers. They also state that the amount of money posted as FA by WCS should serve to decrease the financial risk for Texas taxpayers since FA is used to remove a threat to public health, safety, and the environment. Commenters are concerned that Texas taxpayers assume financial liability if the FA is insufficient in event of an accident or a post-closure situation. They express concern that this amendment decreases FA by over \$50 million (including \$46 million for any decommissioning and closure costs) while increasing the volume of radioactive material more than three-fold from 2.39 million to 9.0 million cubic feet and increasing the types of waste that can be accepted for disposal, including depleted uranium.

#### **Response:**

The Executive Director offers the following response to the comments. The elements of financial assurance review by the TCEQ are set by statute and rule as follows. In the specific statutes and rules relating to low-level radioactive waste disposal licensing, FA consists of four categories: 1) decommissioning and closure, 2) post-operational (also called post-closure) surveillance, 3) institutional control, and 4) corrective action. By statute and rule, FA

calculations and categories are subject to a detailed review and process which is continuous and not just related to the licensing amendment application process which is the subject of this comment. The issues presented by the commenters, such as liability, risk management and tax burdens are not expressly included in the required elements of FA in the applicable statutes and rules relating to amending FA for a single license. The Executive Director is committed to following the express requirements of the statutes as set forth by the Texas Legislature and involved the public in the related rulemaking prior to the specific licensing process that was followed for this major amendment. *See* statutes and rules including but not limited to Sections 401.107, 401.109 of the Texas Health & Safety Code and applicable rules in 30 TAC Chapters 281, 305 and 336.

By statute and rule, the cost estimates for decommissioning and closure involve the continuous assessment to determine that sufficient funds will be available to carry out disposal site closure and stabilization. This includes review of the facilities and equipment to determine if they are contaminated and planning subsequent decontamination of any contamination as well as the dismantling of all facilities and removal of all equipment. Costs are determined by the closure plan and based on costs that would be incurred if an independent contractor were hired to perform the closure and stabilization work.

When the original application was processed in 2004, the FA cost included all planned and reasonably foreseeable facilities and equipment under a number of theoretical worst-case scenarios. In the ten years since the original application was received, and since the license was issued and the facility began operating, these original calculations and assumptions were subject to annual review and recalculation. The decrease is a logical outgrowth of the current reality at the site as it reflects the constructed and as-built facilities and the actual equipment currently in use. Any construction of new facilities or expansion of current facilities would require an increase in FA. The FA would primarily increase in the decommissioning and closure category, but the post-operational and institutional control will also increase. The FA for decommissioning and closure will be recalculated to cover the expansion of the facility as proposed in this license amendment 120 days before planned commencement of facility construction.

The FA for post-operational surveillance and institutional control are to cover the costs for monitoring the site and maintaining institutional control. After closure, the post-operational period is 5 years for the Compact Waste Facility (CWF) and 30 years for the Federal Waste Facility (FWF). After the post-operational period, the institutional control period is 100 years. During the institutional control period, the custodial agency will carry out the institutional control program,

including environmental monitoring, periodic surveillance, and minor custodial care. Costs include, but not limited to, such items as taking and analyzing samples from groundwater monitoring wells and inspecting the cover and cap system. These costs are dependent on the size of the facility, but not on the radioactive content of the disposed waste. These costs decreased due to the same reason that the decommissioning FA cost decreased since surveillance and monitoring of only the facility as currently constructed is considered in the cost calculations. The FA for post-operational surveillance and institutional control will be recalculated to cover the expansion of the facility as proposed in this license amendment 120 days before planned commencement of facility construction.

The corrective action FA cost estimate was recalculated due to a change in the failure scenario used in the calculations. A disposal unit liner failure was originally used to calculate the FA cost. Based on the updated performance assessment model, a failure in the liner would not be detected until 160 years after the failure. An analysis of the events required to result in a liner failure demonstrate that a liner failure is highly improbable and since this failure would not be detected during the institutional care period, a new failure scenario was chosen. A more likely, but still improbable, failure scenario is failure of several components of the cover system. Correction of this failure would not require excavation of the waste and thus is independent of the radioactive content of the waste. The decrease in cost of the corrective action financial assurance is due to the lower costs of fixing the cover system compared to rectifying a liner failure.

After this detailed performance assessment and annual review was complete, the decrease in the overall financial amount triggered the major amendment process under rule 30 TAC §305.62(i)(1)(j) and application requirement relevant to the discussion in this response to comments.

## **B. Comments regarding TCEQ Amendment Process, Curie Limits and Waste Streams**

1. All three commenters object to the license condition which authorizes future increases in the curie limits through the minor amendment process. Objections are that it 1) would create less transparency, 2) is contrary to the spirit of the rules developed through Senate Bill 1604 in 2009 (which helped define the difference between major, minor and administrative amendments on radioactive waste disposal licenses), 3) reduces the public comment period to only 10 days which is too short, and 4) removes the opportunity for a contested case hearing. The comments continue that raising the total allowable radioactivity is not

inconsequential since Curie limits help ensure the safety of the facilities in Andrews County, the availability of space for waste from Texas and Vermont generators, and the protection of the local environment and its residents, so therefore, public input is appropriate.

**Response:**

The Executive Director reexamined the applicable statutory language and the regulatory preamble of 30 TAC §305.62 (the implementation of SB 1604, 80<sup>th</sup> Legislature, 2007) to address this comment.

The overall cap to the curie limits are set by statute and cannot be amended by the TCEQ in a licensing action. See §401.207 of the Texas Health & Safety Code.

It is the Executive Director's opinion that subsequent amendments to this major amendment will be minor for the most part and the rulemaking supports the determination that future amendments that will not impact the curie limits could be processed as minor amendments. The preamble makes it clear that "in response to comments, §305.62(i)(2) was revised to specify that minor modifications made to the facility that are not currently authorized by an existing license condition which do not pose a potential significant impact on public health and safety, worker safety, or environmental health *must* be a minor amendment." See 34 Tex. Reg. 1629, 1630 (March 6, 2009)(emphasis added).

Therefore, when an application for an amendment does not fit the express terms to trigger a major amendment, such as curie limit review and does not pose a potential detrimental impact on public health and safety, worker safety, or environmental health, then it is the Executive Director's position that it must be treated as a minor amendment and be afforded technical review and public input.

LC 145 requires a minor amendment in order for the license holder to process increases in the CWF decay corrected radioactivity. This license condition also adds specifications allowing limits in decay corrected radioactivity to increase incrementally for disposal into the CWF. The Executive Director offers, in response to this comment, that including this license condition with a required minor amendment process requires the TCEQ staff to conduct an appropriate review and affords the public the opportunity to comment.

2. All three commenters opposed the revision to license condition number 46.C that currently requires a license amendment to add a new type of waste stream or class for disposal but in the proposed amended license would provide that any waste streams not classified as Class A, B, or C LLRW shall not be

accepted for disposal unless authorized by the Executive Director. The reason for the objection is that

- a. Approving WCS to dispose of highly dangerous waste streams that the Legislature did not intend to accept should go through an amendment process and allow the public to have input.
- b. The proposed amendment would directly contravene the initial purpose of the Compact Disposal Facility: disposing of Class A, B, or C low-level radioactive waste from Texas and Vermont generators.

**Response to comment 2)a.:**

Yes, the Executive Director agrees that highly dangerous waste streams should go through an amendment process involving public input.

There are two types of amendments that involve public input regarding waste streams set by TCEQ rules at 30 TAC §305.62(i):

*(i) Types of amendments for radioactive material licenses authorized in Chapter 336 of this title (relating to Radioactive Substance Rules).*

*(1) Major amendments. A major amendment is one which:*

- (A) authorizes a change in the type or concentration limits of wastes to be received;*
- (B) authorizes receipt of wastes determined by the executive director not to be authorized in the existing license;*
- (C) authorizes a change in the licensee, owner or operator of the licensed facility;*
- (D) authorizes closure and the final closure plan for the disposal site;*
- (E) transfers the license to the custodial agency;*
- (F) authorizes enlargement of the licensed area beyond the boundaries of the existing license;*
- (G) authorizes a change of the method specified in the license for disposal of by-product material as defined in the Texas Radiation Control Act, Texas Health and Safety Code, §401.003(3)(B);*
- (H) grants an exemption from any provision of Chapter 336 of this title;*
- (I) authorizes a new technology or new process that requires an engineering review, unless the new technology or new process meets criteria in §305.62(i)(2)(A) of this title;*
- (J) authorizes a reduction in financial assurance amounts; or*
- (K) authorizes a change which has a potentially significant effect on the human environment and for which the executive director has prepared a written environmental analysis or has determined that an environmental analysis is required;*

*(2) Minor amendments. An application for a minor amendment is subject to public notice requirements of Chapter 39 of this title (relating to Public Notice), but is not subject to an opportunity to request a contested case hearing. A minor amendment is one which:*

*(A) authorizes a modification that is not specifically authorized in an existing condition in a license issued under Chapter 336 of this title and which does not pose a potential detrimental impact on public health and safety, worker safety, or environmental health;*

*(B) authorizes the addition of previously reviewed production or processing equipment, and where an environmental assessment has been completed; or*

*(C) any amendment, after completion of a review, the executive director determines is a minor amendment.*

The preamble for the above rule makes it clear that “in response to comments, §305.62(i)(2) was revised to specify that minor modifications made to the facility that are not currently authorized by an existing license condition which do not pose a potential significant impact on public health and safety, worker safety, or environmental health *must* be a minor amendment.” See 34 Tex. Reg. 1629, 1630 (March 6, 2009)(emphasis added). Therefore, when an application for an amendment does not fit the express terms to trigger a major amendment, such as waste stream review and does not pose potential health, safety and environmental health, safety, and environmental impacts, in other words, it is not dangerous, then it is the Executive Director’s position that it must be treated as a minor amendment and be afforded technical review and it still gets public input.

The Applicant and the Executive Director have proposed the revision to LC 46 under a major amendment with this Amendment 26. It has been rewritten and updated to revise the prohibition of disposing of waste which was not evaluated in the original land disposal facility application and adding the requirement that the Licensee ensures all waste received for disposal complies with the performance objectives specified in 30 TAC §336.723 as demonstrated by the results of the updated information from the performance assessment.

- Accordingly, LC 46.A no longer includes language regarding the disposal prohibition on uranium enrichment waste, uranium conversion waste, uranium deconversion waste, and large quantities of DU or similar material.
- Accordingly, LC 46.B no longer includes language regarding waste streams containing DU in concentrations greater than ten (10) nanocuries per gram and adds a new requirement that waste streams containing DU in concentrations greater than ten (10)

nanocuries per gram be disposed at the greatest depth possible in the disposal units in either Modular Concrete Canisters (MCC) or in the In-Cell Non-Containerized Disposal Unit consistent with procedure LL-OP-7.1 if the waste is kept inside the original metal canisters.

- Accordingly, LC 46.C no longer discusses potential amendments and instead adds a new limits acceptance to waste streams to those classified as Class A, B, or C LLRW.
- Section 3.2 of the WAC adds a prohibition of uranium hexafluoride and deletes DU from uranium enrichment, DU from uranium conversion/deconversion, large quantities of DU, DU exempt radioactive materials (i.e., counterweights), and waste containing greater than 10 nanocuries per gram DU.

In the future, it is anticipated that applications for new waste streams may trigger minor amendment review as long the waste stream does not pose a potential detrimental impact on public health and safety, worker safety, or environmental health, and those applications will be afforded an opportunity for public comment. If the application is more appropriate for a major amendment, such as this Amendment 26, then the Executive Director will process it accordingly.

#### **Response to Comment 2)b.:**

TCEQ's license complies with current law. The Texas laws regarding low-level radioactive waste disposal have changed over the years since the concept was originally enacted. In 2011, the Texas Legislature passed Senate Bill (SB) 1504 and added certain safeguards to protect both the capacity for Vermont and Texas radioactive waste disposal. On September 1, 2011, Senate Bill 1504 became effective and shortly thereafter, Section 401.207 of the Texas Health & Safety Code was codified to allow for the legal entry of out-of-state waste for disposal, now called nonparty compact waste into the Compact Waste Facility. TCEQ, together with the Texas Low Level Radioactive Waste Disposal Compact Commission (Compact Commission), are charged with implementing these statutory provisions. The Executive Director did not receive any comments from Vermont or the Compact Commission regarding this license amendment regarding this proposed license condition or other aspects of this Amendment 26. Additionally, the U.S. Nuclear Regulatory Commission recently reviewed the license and had no comments.

#### **C. Comments regarding Types, Concentrations, Limits and Containerization for Waste Streams or for Specific Radionuclides**

1. Comments were received regarding the license amendment that would remove the following from the current list of explicitly prohibited waste: greater than Class C (GTCC) waste, waste streams not specifically authorized by the license, and depleted uranium (in concentrations greater than 10 nanocuries per gram). Additionally, the Sierra Club expressed concern about the removal of limitations on the amount of carbon-14 (C-14). Some concern was expressed regarding the involvement of the public and the State oversight in the changing nature of the waste received.

**Response:**

The Executive Director offers the following response. While the response to comment regarding a single amendment is an opportunity to explain revisions to the license, the Executive Director would also like to take the opportunity to remind the public of the continuous nature of TCEQ's oversight which runs the spectrum from the TCEQ's residential inspectors' review of a single shipment onsite in Andrews to the overall technical and scientific review required for a type, concentration or radioactivity of waste streams and volumes of waste.

In response to the amendment application at hand and as is required annually and continuously throughout the life of this facility, WCS submits a Performance Assessment (PA). The PA is the major analysis tool for determining the effect on public health and safety from LLRW disposal during the operational, closure, and post-closure periods. The PA evaluates the dose to the public through air (airborne contamination during disposal activities) and groundwater (contamination migrating from the disposal site to drinking water sources after closure of the site), workers during disposal activities, accident scenarios, and an inadvertent intruder (100 years or more after closure).

Parts of the analysis and reviews from the PA were submitted as part of the major amendment application. The major amendment application was refined from the initial PA by using more realistic assumptions for the release and transport calculations. The Application included an increased radioactive waste inventory that is not likely to be exceeded. The Application addressed the most current societal, geological and environmental conditions of the disposal facility. The updated PA included a revised inventory that serves as a bounding inventory that will not be exceeded and demonstrated that the performance objectives of 30 TAC §§336.723-727 would be met if:

- The activities of C-14 in the CWF and the C-14, technetium-99 (Tc-99) and iodine-129 (I-129) in the FWF were set at fifty times the total activity

requested in the original license application, which is far greater than the amount of C-14, I-129 and Tc-99 that will likely be received at the site;

- The Class C inventory in the PA for the CWF was increased from 1% in the original PA to 10% of the waste volume to demonstrate that all Class A, B and C waste streams could safely be authorized for disposal in the CWF; and
- Disposal of large quantities of depleted uranium (DU) was allowed.

In the review of the original license application back in 2004, the disposal of *large quantities* of DU was prohibited pending further evaluation of the long-term dose to future receptors. The updated PA provided an analysis of the effects of various quantities of DU. The PA analysis and other technical reviews demonstrated that DU can be disposed of and grouted in the original metal canisters within modular concrete canisters (MCC) or in the In-Cell Non-Containerized Disposal Unit at the greatest depth operationally possible in the disposal units and meet the performance objectives of 30 TAC §§336.723-727.

2. The Executive Director notes that the Sierra Club commented that the waste prohibition on GTCC waste should be stated explicitly on the license and not just refer to regulation that prohibits GTCC waste disposal at the Compact Facility.

**Response:**

The Executive Director responds that the license language was changed from explicitly prohibiting GTCC waste by name to prohibiting waste "specifically prohibited from disposal in accordance with THSC Chapter 401 and Chapter 336, Radioactive Substance Rules" so that the license need not be amended if the applicable statutes and regulations are modified. Outside of this licensing action and this license, the regulated community and the governmental agencies, such as the Nuclear Regulatory Commission, the Department of Energy and other federal and state agencies are examining this issue, and TCEQ and the Applicant agree that the license should be written to comply with legislative and regulatory requirements.

3. The Sierra Club asked if the two different disposal container options for depleted uranium disposal that will be authorized on the license have been studied for use with depleted uranium.

**Response:**

The Department of Energy and the nuclear industry have decades of experience of storing uranium and depleted uranium. The containers used for disposal at the LLRW disposal facility have been designed and extensively tested for holding various types of LLRW for disposal and meeting the performance objectives of 30 TAC §§336.723-727.

4. The Sierra Club expressed concern about disposing waste in Non-Containerized Disposal Units.

**Response:**

Bulk waste disposal in non-containerized disposal units is not the subject of this major amendment as it was previously authorized by Amendment 20 of the license. The bulk waste must comply with the applicable rules, including the stability requirement in 30 TAC §336.362(b)(2). License condition numbers 102-108, 148-149, and 156 provide requirements for the placement of bulk waste as amended in Amendment 20.

**D. Comments regarding Increases in Volume**

1. The Sierra Club expressed a specific concern that a volume increase would be authorized in this amendment without knowing the boundaries or exact depths of the disposal units since the actual construction documents for the expansion would not be known until 120 days before construction was planned.

**Response:**

The Executive Director responds that the horizontal and vertical boundaries (limits) for the expanded LLRW disposal facility are contained in the major amendment applications and associated revisions and supplements, which is included by reference in license condition number 207.A of the proposed amended license. The horizontal boundary of the FWF will not be changed in the proposed amendment. The bottom of the clay liner in the expanded FWF is 3,348 feet the lowest point above mean sea level (MSL) and the depth at which waste will be disposed is elevation 3,355 feet MSL, which is specified in license condition 66. The proposed amendment for the expanded CWF will move the bottom of the clay liner to 3,358 feet MSL and the lowest point at which waste will be disposed to approximately 3,365 feet MSL. Expansion construction documents will be reviewed by the Executive Director for adherence to the horizontal and vertical limits established in the application (LC 65). The CWF will

be expanded by physically extending the boundaries of the waste disposal facility. The engineering drawings and the new extent of the CWF has been reviewed and approved and is sufficient to contain the new volume of waste. The disposal volume increase of the FWF is accomplished by expanding the FWF into the area once reserved for the Non-Containerized Disposal Unit (NCDU).

### **E. Comments regarding Water**

1. Representative Burnam and SEED Coalition commented that restraint, not expansion is warranted by the continuing presence of water in wells surrounding and directly adjacent to the disposal cells.

#### **Response:**

The presence of water in OAG wells near the disposal cells is not expected to impact waste disposal operations. WCS is working to mitigate any saturated conditions within the OAG near the disposal facilities. As required by their license, WCS continues to monitor and evaluate any changes in saturated conditions near the disposal facilities. The license also requires an evaluation of hydrologic conditions prior to major construction activities to assure that the buffer zone remains unsaturated. In addition, the annual performance assessment and other monitoring activities required by the TCEQ ensure an ongoing evaluation of saturated conditions and groundwater movement in the vicinity of the waste disposal operations.

2. Sierra Club commented how increasing the lowest point of disposal by 15 feet will impact saturated water levels at 120 feet below the surface is unclear.

#### **Response:**

Based on available data from previous investigations and the monitor wells currently installed around the facility, increasing the depth of the disposal units by 15 feet is not expected to alter unsaturated/saturated conditions in the area. However, WCS is required to evaluate hydrologic conditions prior to the commencement of major construction activities and any changes in saturation will be evaluated by the TCEQ. In addition, the annual performance assessment and other monitoring activities required by the TCEQ ensure an ongoing evaluation of saturated conditions and groundwater movement in the vicinity of the waste disposal operations.

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
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### **CERTIFICATE OF SERVICE**

I certify that on July 24, 2014, the foregoing Executive Director's Response to Public Comment was filed in the Office of the Chief Clerk of the Texas Commission on Environmental Quality and sent by first-class mail to all persons on the attached mailing list.



Amie Richardson

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CARLOS CASTANEDA  
710 E DEAN KEETON ST APT 201  
AUSTIN TX 78705-3200

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1512 HERITAGE BLVD  
ANDREWS TX 79714-2309

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300 SW 11TH PL  
ANDREWS TX 79714-6824

JAMES DILDINE  
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ANDREWS TX 79714-3835

WAYNE EPPLER  
500 N MAIN ST  
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JAL NM 88252-1224

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GERRY GRISAK  
2001 SPANISH OAK TRL  
ROUND ROCK TX 78681-1304

MICHAEL R GROSS  
901 MICHIGAN AVE #44  
HOBBS NM 88240

BERNARD L GULLY  
201 NE AVENUE K  
ANDREWS TX 79714-3612

KAREN HADDEN  
605 CARISMATIC LN  
AUSTIN TX 78748-2923

ROBIN HARPER  
1132 TERRACE DR  
ANDREWS TX 79714-3820

CHARLES HEMANN  
1202 NW 8TH PL  
ANDREWS TX 79714-2807

HIRAM HUBERT  
1016 GOLF COURSE RD  
ANDREWS TX 79714-3810

LEIGH ING  
TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL  
COMPACT COMMISSION  
333 GUADALUPE ST NO 3-240  
AUSTIN TX 78701-3938

DON INGRAM  
210 E BROADWAY ST  
ANDREWS TX 79714-6507

DOLPHUS BUD JONES  
1106 NW 9TH ST  
ANDREWS TX 79714-3216

BRIAN MCNETT  
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ANDREWS TX 79714-2305

TOM JONES  
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LUKE METZGER  
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PATSY KLINE  
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PHIL KRINER  
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ODESSA TX 79762-5946

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