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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 5, 2006

Mr. Rodney A. Baltzer  
President  
Waste Control Specialists LLC  
5430 LBJ Freeway, Suite 1700  
Three Lincoln Centre  
Dallas, Texas 75240

Dear Mr. Baltzer:

The Radioactive Material Licensing Team and outside consultants of the Texas Commission on Environmental Quality (TCEQ) have been reviewing Revision 11, submitted on March 31, 2006, and Revision 12, submitted on April 28, 2006, to your application for a radioactive material license authorizing the disposal of low-level radioactive waste. I want to take this opportunity to alert you to the status of the review. These recent revisions make considerable technical changes to the application late in the technical review process. The new conceptual model for the site's geology and hydrogeology and new designs for the disposal facilities require extensive technical review.

Staff have advised me that substantial effort went into the submission of your response to the second technical notice of deficiency. However, serious concerns about the application remain, and many deficiencies identified in the previous notices have not been adequately addressed. The second technical notice of deficiency issued on January 30, 2006 cannot be closed based on the information submitted. Under TCEQ rules, an application may be returned if the necessary additional information requested is not timely received in response to a notice of deficiency. The number and nature of the unresolved deficiencies in the license application are significant. The outstanding technical issues are problematic and affect our ability to offer a recommendation to issue a license for the proposed facilities.

Some significant issues remaining unresolved include the incomplete characterization of the site, performance assessment, waste characterization, and facility design as described below.

- The site characterization does not sufficiently demonstrate depth to the water table. It has not been adequately demonstrated that groundwater will not intrude into the disposal units and contact waste.

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- The application does not sufficiently discuss surface geologic processes, such as erosion, to demonstrate that these processes will not affect the ability of the disposal site to meet the performance objectives and to provide defensible modeling and prediction of long-term impacts. The application lacks site-specific data on surface geologic processes to support conclusions made in the application.
- The performance assessment does not appear to use defensible assumptions in the modeling or use adequate waste characterization for the basis of the assessment.
- Waste characterization information in the application appears to be an underestimation in terms of total radioactivity and specific radionuclide concentration. This underestimation impacts performance assessment, worker dose calculations, accident scenario assessments and the overall assessment of the site in meeting required performance objectives.
- The facility design does not comply with TCEQ rules with respect to the proposed disposal of Class A low-level radioactive waste containing longer-lived radionuclides.

There are additional technical issues related to the current application including the adequacy of engineering features of the proposed facility design; groundwater monitoring and other environmental monitoring parameters; radiological protection and related ALARA (“As Low As Reasonably Achievable” requirement for exposure to radiation) considerations; proposed staffing and training programs; corrective action plan for operations; waste verification plans; decommissioning plan; cost estimates; and the lack of professional engineering seals on documents as required.

The application includes two requests for specific exemption from TCEQ rules. The requests for exemption do not include necessary justification to recommend granting these exemptions. The requests for exemption from applicable rules do not adequately explain that the proposed exemption is as protective of the environment and the public health as the method or standard that would otherwise apply, and evidence that arrangements have been made for assumption of ownership in fee by the federal government for the federal waste disposal facility has not been provided in the application.

Given these concerns, I will direct staff to prepare a specific list of issues that were not adequately addressed in your response to the second technical notice of deficiency. In order to address these deficiencies and to provide staff additional time to review any supplemental responses, you will need to request an extension of time consistent with TCEQ rules. Considering the level of response to the first technical notice of deficiency and the second technical notice of deficiency, the schedule for completing the technical review in 15 months is in jeopardy. Therefore, any further responses and corresponding revisions to the application

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must be thorough, concise and address all issues. Please contact me at (512) 239-2104 within 24 hours of receipt of this letter to discuss a proposed timeline for moving forward.

Sincerely,

A handwritten signature in cursive script that reads "Dan Eden".

Dan Eden, Deputy Director  
Office of Permitting, Remediation and Registration  
Texas Commission on Environmental Quality