

# TEXAS HOUSE OF REPRESENTATIVES



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**LON BURNAM**  
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April 16, 2012

Mark R. Vickery, P.G., Executive Director (MC 109)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Dear Mr. Vickery,

I would like to thank you and your staff for all the hard work you have put into the low-level radioactive waste disposal project in Andrews, Texas. The project is unquestionably complex, involving difficult questions of technical sufficiency and environmental policy. That said, given recent events at the site, I am concerned that **public health and safety are at risk if the licensee is allowed to begin waste disposal operations**. Also there are crucial questions regarding the geologic adequacy of the site that, I believe, still stand unanswered.

Waste Control Specialists (WCS) is poised to begin accepting low-level radioactive waste at its Andrews, Texas disposal facility. We are all aware of the many years and millions of dollars that have brought us to this point. My understanding is that WCS can begin once they receive one final "certification letter" from your office. License R04100, condition 41 reads, in pertinent part:

No waste may be received until all information required to be submitted under this license is submitted and the executive director has inspected the facility and has found it to be in conformance with the description, design, and construction described in the application and as modified by this license.

Once WCS receives the executive director's written operations authorization, confirming that you have found the facility to be in conformance with the license, the licensee may open its doors and begin accepting and disposing of radioactive waste at the site. For the reasons outlined below, **I urge you not to issue that authorization.**

Of primary concern is WCS's ability to demonstrate that radionuclides or chemical constituents from radioactive waste will not contact known nearby groundwater tables. Recent letters from WCS to TCEQ indicate the persistent presence of water in a monitoring well inside the buffer zone, OAG-21. A March 28, 2012, letter states that over 23,000 gallons of water was pumped out of OAG-21 in four months, and yet there is still over three feet of groundwater remaining above the OAG/Dockum contact. The persistent presence of such a vast amount of water after such extensive pumping by the licensee calls into question the veracity of WCS's claim that the site is "hydrologically isolated."

Two more observation wells were completed in January of this year: OW-1 and OW-2. They sit inside the buffer zone, between OAG-21 and the Compact Waste Facility. After these wells sat dry for two months, they showed measurable water in the end caps at the beginning of March.

**Has WCS adequately demonstrated that water will not intrude into the waste disposal facility?** Is there sufficient space between the waste disposal facility and saturated conditions that appropriate action can be taken in the event that environmental monitoring detects a release of radionuclides or chemical constituents from the disposal facility? According to WCS, continued pumping—eighteen more months at the current rate—will be required to eliminate saturated conditions in the vicinity of the well.

**What is the source of the water in OAG-21?** What evidence has WCS provided that the water in OAG-21 is, in fact, isolated and not connected to the Ogallala Aquifer? What is the lateral extent of the playa from which water in OAG-21 is drawn? Has WCS adequately considered future conditions—such as climate models indicating increased rainfall in the region—into consideration?

License R04100, condition 65 requires WCS to maintain a buffer zone in a lateral perimeter of at least 100 feet around all disposal waste. The condition further provides: "In the event that saturated conditions are detected in the buffer zone, the Licensee shall cease all waste disposal operations and notify the executive director immediately." Saturated conditions have *already* been detected within the buffer zone.

Under current conditions, WCS will be in violation of the license the moment radioactive waste is accepted at the site for disposal. **What action has TCEQ's Office of Compliance and Enforcement taken to ensure that license condition 65 is not violated and that the presence of water inside the buffer zone poses no threat to public health and safety?** To be sure, though the license was issued over two-and-a-half years ago, WCS has not started Compact Waste Facility operations. This has been because of the ongoing concerns I address today. The barriers are coming down nonetheless.

For these reasons, **I urge you not to issue the certification letter authorizing the site to become operational until license condition 65 has been met, until you have answered these crucial questions about the source and implications of the current presence of groundwater inside the buffer zone, and until you can assure the public that their health and safety are not in jeopardy.**

The licensee cannot be authorized to accept radioactive waste until it has demonstrated that radionuclides can never be released into groundwater. **There is groundwater within the buffer zone today**, and we as stewards of the public good cannot simply accept WCS' assertion that the presence of groundwater at the site is not a problem.

Again, I thank you for your continued efforts to ensure the health of our fellow citizens and the safety of the environment we live in. I would greatly appreciate a written response to my inquiries at your earliest convenience. Please feel free to call my Capitol office with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Lon Burnam". The signature is written in black ink and is positioned above the printed name.

Lon Burnam