

October ___, 2017

By email to: Michelle.Hunter@state.nm.us

Michelle Hunter, Chief
Ground Water Quality Bureau
New Mexico Environment Department
P. O. Box 5469
Santa Fe, NM 87502-5469

Re: • Public Comments about draft Ground Water Discharge Permit DP-1817 for Waste Control Specialists, LLC
 • Proposed discharge of 170,500,000 gallons per day of storm water and industrial wastewater from the WCS site in Texas to New Mexico
 • Need to stop public comment period, meet the requirements of the Resolution Agreement, and begin the public comment period again

Dear Ms. Hunter:

I am very concerned about the discriminatory manner in which the New Mexico Environment Department has conducted the public permitting process for the Waste Control Specialist (WCS) draft groundwater discharge permit DP-1817. The Environment Department has not met the basic requirements of the January 2017 Resolution Agreement it made with the U.S. Environmental Protection Agency to resolve the Title VI Civil Rights complaint filed in 2002 by three environmental organizations (Citizens for Alternatives to Radioactive Dumping (CARD), Water Information Network (WIN), Conservative Use of Resources and the Environment (CURE)) and two individuals.

The complaint was filed because of the discriminatory manner in which the Environment Department conducted the public permitting process for Triassic Park, a proposed hazardous waste facility located east of Roswell, New Mexico. Unfortunately, the WCS discharge permitting process seems to be going forward with few changes from how things were run 15 years ago. Actually, in some ways it was easier for local people to inform themselves 15 years ago. At that time, there were paper copies of the draft permit and some other documents at the site. There were information meetings (though none in Spanish) and there was a Fact Sheet. None of this is available today for people from potentially affected communities.

The WCS permitting process must be stopped once again. The Environment Department must meet the requirements of the Resolution Agreement before the public comment period reopens. It is not okay for the Environment Department to discriminate one more time.

The WCS hazardous and radioactive waste storage and disposal facility is located in Andrews County, Texas, on the Texas – New Mexico state line. The closest community, Eunice, New Mexico, is populated with a majority of people who identify as Hispanic. A majority of these families speak Spanish in the home. Yet, only the most recent public notice has been translated into Spanish. Key documents, reports, maps and correspondence in the administrative record have not been translated into Spanish. The Low English Proficiency (LEP) public cannot provide informed comments about a proposal to discharge up to 170,500,000 gallons per day (gpd) of stormwater runoff from Texas to flow into New Mexico through unnamed ditches in both states; into the Monument Draw; and into the Rio Grande.

Some of my other concerns include:

1. WCS has discharged into New Mexico for many years without an Environment Department permit. I request that the Environment Department make this permit a priority. Even so, the Department must meet the human rights and environmental justice requirements in the Resolution Agreement before putting the draft permit out for public comment.
2. WCS owns 800-acres in New Mexico, a portion of which they use for storage of soils. The draft permit does not include requirements for the industrial and storm water discharges from these operations in New Mexico.
3. Discharge permits issued by the Texas Commission on Environmental Quality (TCEQ) no longer require WCS to meet New Mexico water quality standards. Prior to 2012, the TCEQ discharge permits required WCS to meet New Mexico water quality standards. In order to protect New Mexico's water for present and potential future use as domestic and agricultural water supplies and to protect public health, the Environment Department must include sampling for all pollutants of concern to New Mexicans from WCS operations in Appendix A to the draft permit.
4. The draft permit should include methods to slow water down and contain it during large storm events. Currently there are a few berms in Texas and one in New Mexico, but there may not be enough berms. Further, the berms described in the permit may not be large enough to contain the amount of water generated during storm events. This is inadequate. The draft permit must include provisions for the installation of green infrastructure and low-impact design throughout the landscape affected by discharges from WCS.
5. The Environment Department should impose requirements for WCS to implement an electronic public reading room (EPRR), with the opportunity for the public to sign up to receive notifications when key permit documents are posted - similar to the

transparency systems established for the Waste Isolation Pilot Plant (WIPP) and Los Alamos National Laboratory (LANL). Both WIPP and LANL wastes are being stored at WCS. This is an opportunity for more transparency about WCS operations and its discharges.

6. Because southeastern New Mexico is not a digital environment, vital documents should also be placed in local libraries or community centers where the public will be able read them during both business and non-business hours.

7. Condition 8 of the draft permit requires WCS to conduct semi-annual groundwater sampling for certain pollutants in specific wells. It omits specific reporting requirements; this must be corrected.

Further, Condition 8 also allows WCS to request the elimination of pollutants from the sampling list if over the course of one year, no contamination is found. This is inadequate. Because of changing aquifer conditions, the Environment Department should require at least five years of sampling before allowing WCS the opportunity to request the removal of a pollutant from the Appendix A sampling list.

8. I am especially concerned about the lack of specificity about the role of the Environment Department and the New Mexico public in the closure and post-closure monitoring plans as required in the TCEQ permits. The draft permit should specify the relationships, communication protocols and public notification processes for the closure and post-closure monitoring plans. The New Mexico discharge permit must include our own closure and post-closure plans with requirements that will adequately protect current and future generations of New Mexicans and our environment.

9. I am concerned about the lack of financial assurance requirements in the draft permit. WCS has been teetering on the brink of bankruptcy for months and even years. WCS recently lost the antitrust lawsuit brought by the U.S. Department of Justice. On April 18, 2017, WCS asked the Nuclear Regulatory Commission to temporarily suspend review of its application to build and operate a consolidated interim storage facility for 44,000 tons of nuclear power plant fuel.

The financial assurance that Texas has allowed WCS to use is completely inadequate. We must include financial assurance requirements that are strong enough to protect New Mexico completely, as well as ensure robust cleanup of land WCS is polluting.

In conclusion, this permitting process must not continue in a discriminatory manner. The Environment Department must stop this permitting process and meet the Resolution Agreement requirements before moving ahead with a new draft permit.

When NMED does craft a new draft permit, it must be one that adequately protects the people, communities, water, air, and land of New Mexico. If WCS does not want to meet these requirements, then the Environment Department must use its regulatory power to fine WCS for every day of un-permitted discharge they allow on New Mexico lands. New Mexico can use that money to protect and remediate the land WCS is polluting.

Thank you for your careful consideration of my comments. Please add my name to the WCS facility mailing list.

Sincerely,

Name: _____

Address: _____

Contact Info: _____