

JUNE 28, 1993

Dianne R. Nielson, Ph.D.
Executive Director
Department of Environmental Quality
168 North 1950 West
P.O. Box 144810
Salt Lake City, Ut 84114-4810

Dear Dr. Nielson:

Thank you for your letters of February 12 and March 17, 1993, responding to our comments and recommendations following our review of the State's radiation control program which were sent to the State of Utah in our letters of September 2 and December 24, 1992.

We appreciate the positive actions you and your staff are implementing in response to our comments. Our understanding is that the State is developing a decommissioning rule that, when adopted, would bring your regulations up-to-date. Your responses to the other comments appear acceptable, except for the land ownership exemption which is discussed below, and we will verify them during the next review of your program.

The State's response on the rationale for the exemption from the land ownership requirement presented the concept of exercising control of the site equivalent to that provided by governmental ownership. The Nuclear Regulatory Commission (NRC) staff considers this to be an acceptable approach to providing the rationale for the exemption. The State presented several clarifying points on how the State would exercise control of the site without the need for the State or Federal government to have title to the site. The Commission approved this approach as acceptable with the proper implementing mechanism(s) put in place. With the implementation of a restrictive covenant that will run with the land (an example is presented as Enclosure 1), the Commission considers the State's controls to be adequate. Please submit a copy of a final restrictive covenant when it is implemented so that our documentation will be complete.

The State may wish to consider requiring some level of trust fund to support the potential activities contained in the deed covenants after the license is terminated. The States response indicates that the entire remaining trust fund would be returned to the licensee when the licensee has met the requirements for license termination. Such funding would be a reasonable additional level of compensation for government ownership that, while not necessary, would be prudent.

The Commission decided that the State of Utah's rationale of exercising effective control of the waste disposal site without State or Federal land ownership is acceptable and is equivalent control to that which would be provided by implementing State or Federal land ownership. (See SECY-93-136 and the resulting Staff Requirements Memorandum, Enclosures 2 and 3).

In discussions with your staff on February 17, 1993 and in subsequent discussions, your staff agreed to update, as part of the annual review, the Trust Agreement and supporting calculations to remove the inconsistencies identified in the attachment to the December 24, 1992 letter from me to Mr. Kenneth Alkema. Enclosure 4 contains a discussion of the major issues and the comments identified by the NRC staff. We will review this update during our next program review.

I appreciate your support of the State's radiation control program and look forward to working with you in the future. Should you have any questions, please feel free to contact me or Robert Doda, Region IV, State Agreements Officer.

Sincerely,

Carlton Kammerer, Director
Office of State Programs

Enclosures:
As stated

cc: W. Sinclair, State of Utah
L. Anderson, State of Utah

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Carlton Kammerer, Director
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