



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF RADIATION CONTROL

DED (SP08) Rds/Erke
PHL
FCC
SLP
HAB/ASPD

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

William J. Sinclair
Director

168 North 1950 West
P.O. Box 144850
Salt Lake City, Utah 84114-4850
(801) 536-4250
(801) 533-4097 Fax
(801) 536-4414 T.D.D.
www.deq.state.ut.us Web

March 6, 2000

Charles Judd, President
Envirocare of Utah, Inc.
46 West Broadway, Suite 116
Salt Lake City, UT 84101

00 MAR 10 PM 4: 10
OSP

Dear Mr. Judd:

This correspondence is in regards to our recent meeting of February 29, 2000 with you and your counsel, Jim Holtkamp and Fred Nelson of the Utah Attorney General's Office and myself regarding the issue of land ownership. As you are aware, Utah Radiation Control rule R313-25-28(1) requires that "disposal of waste received from other persons may be permitted only on land owned in fee by the Federal or a State government." Envirocare received an exemption to the above rule by letter of March 3, 1991 for disposal of Class A low-level radioactive waste. On November 1, 1999, Envirocare submitted a license amendment request to receive Class B and C low-level radioactive waste. This submittal constituted a "new license" as described in the Radiation Control Act. As such, requirements for government land ownership must be met absent the granting of a further exemption if allowed by law.

As we discussed in the meeting, it is our expectation that Envirocare must first explore the possibility of either federal ownership or federal perpetual care of the Envirocare site. The Department of Energy (DOE) has responsibility currently for the 100-acre Vitro tailings site located within the Envirocare facility as well as the future responsibility of the uranium/thorium mill tailings disposal area. These two areas constitute a significant portion of the existing 640-acre site. Envirocare committed to making a good faith effort to explore this possibility and providing documentation of the outcome of such effort. An offer was also made of State support and input on this issue before DOE

If this effort is not successful, it was suggested that Envirocare and the Division enter into discussions regarding a framework for state ownership which would need to be presented to the legislature for approval. It was noted that the Division will be reporting to the Legislative Management Committee on a routine basis and that could be a potential forum to gain input on the acceptability of state ownership after the details had been worked out by Envirocare and the Division.

OSP-006 Template

SP-AG-28

March 1, 2000
Page 2

If both a federal or state ownership proposal does not appear to be feasible, then Envirocare and the Division should entertain discussion regarding an exemption request to the land ownership rule to be presented to the Utah Radiation Control Board if allowed by law. These discussions could be framed to examine the current requirements and determine if any enhancements are needed. It is important to recognize that this work should commence immediately if the Envirocare proposed time schedule is to be met.

Additionally, the Division has requested an opinion from the Nuclear Regulatory Commission regarding private land ownership in letters of December 14, 1999 and clarifying letter of February 25, 2000. The intent of these letters was to gain early involvement of our oversight Agency to determine if an exemption is permissible on Envirocare's proposal such that upon reaching any final decision on this matter that the NRC is fully aware of the process and how the decision was made.

If you have any questions regarding this correspondence, please do not hesitate to contact me.

UTAH RADIATION CONTROL BOARD



William J. Sinclair, Executive Secretary

cc: Dianne Nielson, Ph.D., Executive Director, UDEQ
Myron Bateman, E.H.S., M.P.A., Health Officer/Department Director, Tooele County Health Department
Fred Nelson, Utah Attorney General's Office
Ken Alkema, Envirocare of Utah, Inc.
Paul Lohaus, Director, NRC Office of State Programs
Charles Hackney, NRC Region IV
Milt Lammering, EPA Region VIII



State of Utah
DIVISION OF RADIATION CONTROL
DEPARTMENT OF ENVIRONMENTAL QUALITY

P.O. Box 144850
 Salt Lake City Utah 84114-4850

RETURN SERVICE REQUESTED



NO POSTAGE
 NEEDED
 IF MAILED
 IN THE
 UNITED STATES

030703

POSTAGE WILL BE PAID BY ADDRESSEE

PAUL LOHAUS DIRECTOR
 STATE AGREEMENT PROGRAM
 OFFICE OF STATE PROGRAMS
 MAIL STOP- 03D23
 U. S. NUCLEAR REGULATORY COMMISSION (NRC)
 WASHINGTON DC 20555-0001

20555-0001

