

REQUEST REPLY BY 1/19/01

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

COMSECY-01-0001

January 2, 2001



I approve.

*Nils J. Diaz*  
Nils J. Diaz 1/16/01

MEMORANDUM TO: Chairman Meserve  
Commissioner Dicus  
 Commissioner Diaz  
Commissioner McGaffigan  
Commissioner Merrifield

FROM: William D. Travers *William Travers*  
Executive Director For Operations

SUBJECT: RESPONSE LETTER TO UTAH ON LAND OWNERSHIP ISSUE

I have attached a proposed letter (Attachment 1) to Mr. William J. Sinclair, Director of the Utah Division of Radiation Control, responding to his request for Commission comments or concerns on an Envirocare of Utah, Inc., petition for exemption to the government land ownership rule for Class B and C waste. Attachment 2 is Mr. Sinclair's incoming request and Attachment 3 provides historical background information on the Envirocare site land ownership exemption previously granted for Class A waste.

The staff's proposed response notes that long-term control and protection is an essential consideration in finding reasonable assurance that the public will be protected from the hazards associated with Class B and C waste. For this reason, NRC's Part 61 requires either State or Federal ownership, which provides one of the multiple barriers to protect the site from disturbance in the future and to protect individuals from potential exposure that would be associated with unauthorized site intrusion.

The staff notes that it did not conduct a detailed technical review, given the absence of a review by Utah staff. It may be possible to provide long-term protection and control in a manner that would obviate the need for actual government ownership. However, based on its limited review of the exemption request, the staff does not believe that the NRC would grant such an exemption for disposal of Class B and C waste in the absence of clear evidence that the level of long-term control and protection afforded by Envirocare's proposal is essentially similar to that which would be provided by government ownership. (The staff's supporting technical rationale is an enclosure to Attachment 1.)

In addition, the staff's proposed response recognizes Utah's legislative proposal to establish a surveillance and maintenance fund, funded by fees assessed on the disposal of Class B and C waste, to fund activities such as environmental monitoring, and fence and sign replacement after the end of the 100 year institutional control period. The proposed legislation would also allow the transfer of ownership of the site to the Federal or State government at the end of the institutional control period. Staff notes it may be appropriate to await the passage of this legislation, and assurance of assumption of government ownership at the end of 100 years, before granting this exemption.

The Utah Radiation Control Board issued a Public Notice announcing a public comment period to commence on November 14, 2000 and to end on December 13, 2000. Due to the large number of requests to speak at a December 1, 2000 public meeting, two additional

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