

OHIO DEPARTMENT OF HEALTH

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BOB TAFT
Governor

J. NICK BAIRD, M.D.
Director of Health

February 16, 2005

Paul H. Lohaus, Director
Office of State and Tribal Programs
United States Nuclear Regulatory Commission
Washington, D.C. 20555-0001

05 FEB 29 PM 2:04

STP

SUBJECT: TRU WASTE STAGED AT BATTELLE – WEST JEFFERSON, OH.

Dear Mr. Lohaus:

As stated in our January 22, 2004 letter of response to your December 24, 2003 letter on the subject of cooperation and coordination of our two agencies relative to the Battelle West Jefferson (BWJ) decommissioning project, the Ohio Department of Health (ODH) acknowledges the NRC's position that "...the regulation of Battelle's special nuclear material is a matter within the jurisdiction of the NRC", including the "...decommissioning of the licensed operation and the termination of the [USNRC] license".

It is in this spirit of cooperation and coordination that this letter of concern is being written.

ODH is of the understanding that the construction of the TRU waste "staging" pad and the transfer of TRU waste containers was a site decommissioning action made necessary primarily by Battelle's NRC decommissioning license expiration date of December 31, 2005. It is also the understanding of ODH that permanent off site disposal of the staged TRU waste must occur for decommissioning activities to be considered complete.

ODH is concerned that the end of major decommissioning activities at the BWJ site is fast approaching and plans for off site disposal of the staged TRU waste have not been finalized. Please be advised that currently, ODH is of the opinion that if the staged TRU waste cannot be removed from the site by the NRC's date certain, then it is no longer being staged, it is being "stored". Therefore, at the present time, should this scenario come to fruition, ODH intends to give due consideration to a path forward requiring Battelle to license their TRU waste "storage" facility as a Assured Isolation Facility in accordance with State of Ohio requirements.

At this time, I am requesting a meeting between ODH and NRC to discuss this issue in greater detail.

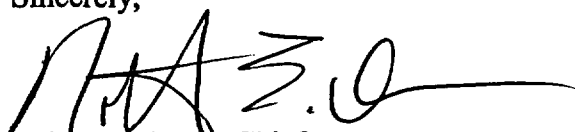
STP-DDL *Complete*

RIDS: SP07

SISP Review *Complete*

If you have any immediate questions or concerns regarding the content of this letter, please call me. Otherwise, please contact Ms. Ruth Vandegrift of my staff at 614-644-2727 at your earliest convenience to coordinate the meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Owen', with a long horizontal flourish extending to the right.

Robert E. Owen, Chief
Bureau of Radiation Protection

Cf: J. Lynch, States Agreement Officer, USNRC Region III
R. Vandegrift, Program Administrator, BRP Environmental Radiation Safety Section
S. Helmer, Supervisor, BRP Decommissioning/Waste Management Programs
L. Himes, Assistant Counsel, ODH Office of General Counsel
C. McCracken, HP3, BRP Decommissioning Program

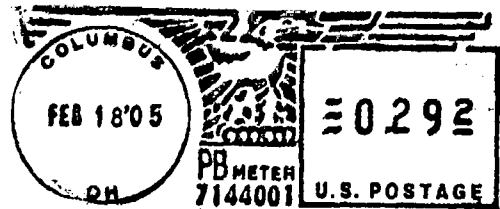
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HEA 6402 (Rev. 5/98)

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