

November 4, 2005

The Honorable Tim Pawlenty  
Governor of Minnesota  
St. Paul, Minnesota 55155

Dear Governor Pawlenty:

I am pleased to inform you that the U.S. Nuclear Regulatory Commission (NRC) has completed its review of your application for an Agreement submitted on July 6, 2004. Under the proposed Agreement, NRC would discontinue and the State of Minnesota would assume authority over: (1) byproduct materials as defined in Section 11e.(1) of the Atomic Energy Act of 1954, as amended (Act); (2) source materials; and (3) special nuclear materials in quantities not sufficient to form a critical mass.

NRC staff is publishing notice of the proposed Agreement for 30 days public review and comment. A copy of the *Federal Register* notice is enclosed which provides the Commission's determination that the proposed Minnesota Program is both adequate to protect the public health and safety and compatible with the NRC's regulatory program. Publication of the proposed Agreement and the Commission's findings for public review and comment is required by Section 274 of the Act.

Your request for an Agreement, and the materials over which Minnesota will assume regulatory jurisdiction under the proposed Agreement, are clear and consistent with provisions of the Act. However, NRC staff, during its review of the Minnesota application, became aware of a past action taken by Minnesota State agencies to establish a public radiation dose standard to the Prairie Island Nuclear Power Plant independent spent fuel storage installation. During review of a website provided in the Minnesota application: <http://www.leg.state.mn.us/leg/statutes.asp>, NRC staff also identified statutes and regulations such as the Radioactive Waste Management Act codified at Mn. Stat. §§ 116C.705 to 116C.76, which, while not applicable to the regulation of materials under the Agreement, could be interpreted as attempting to assert authority in areas reserved to the NRC. Under Section 274 of the Act, the NRC retains authority and responsibility with respect to regulation of the construction and operation of any production or utilization facility from a radiological health and safety standpoint, including the high level waste generated from such facilities.

I want to assure you that NRC shares the interest and commitment of the State of Minnesota to ensure protection of public health and safety, and the Commission looks forward to continuing to work with Minnesota in completing the proposed Agreement. My staff contact is Ms. Janet R. Schlueter, Director, Office of State and Tribal Programs. She can be reached at (301) 415-3340.

Sincerely,

/RA/

Nils J. Diaz

Enclosure: As stated