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State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

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March 22, 2007

Dennis Lawyer, Health Physicist
Commercial and R&D Branch
U.S. Nuclear Regulatory Commission, Region I
475 Allendale Road
King of Prussia, PA 19406

Dear Mr. Lawyer:

Staff of the Bureau of Environmental Radiation (BER) reviewed the document: (Docket No. 04000341) *Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Source Materials License No. STC-133, for Unrestricted Release of the Defense Logistics Agency's Facility in Hillsborough, New Jersey.*

In a previous letter to you dated July 20, 2006, the Department agreed with your finding of no significant impact if certain conditions were met. In the October 16, 2006 federal register notice, the Nuclear Regulatory Commission (NRC) did not address these conditions.

One of the conditions was related to the deed notice proposed by the licensee in its April 26, 2006 letter to the NRC. The Department's regulations at N.J.A.C. 7:28-12 consider unrestricted use as any use that does not require the continued use of engineering or institutional controls in order to meet established standards. Since the licensee used an industrial/commercial scenario to establish the Derived Concentration Guideline Levels, the Department believes that a deed restriction to limit site use to industrial or commercial use is necessary. In this case, the licensee is perfectly willing to institute a deed notice restricting site use to commercial/industrial, but the NRC does not believe it is necessary. We disagree with the approach taken by the NRC, that the site can be released for unrestricted use.

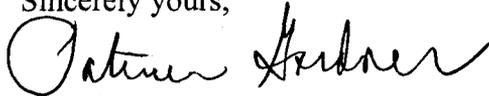
We also believe that the licensee should demonstrate that the final status survey results will meet our release criterion of 15 millirem per year.

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NMSS/RGN1 MATERIALS-002

Therefore, for the reasons stated above, the Department cannot agree with the NRC's finding of no significant impact. Thank you for giving us the opportunity to comment on this Environmental Assessment. Please contact Ed Truskowski at (609) 984-5542, if you have any questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Patricia Gardner". The signature is written in a cursive style with a large initial "P".

Patricia Gardner
Manager

- c. William Cszasz, BER, Radioactive Material Section
- Ed Truskowski, BER, Radiological Assessment Section