

June 15, 2007

Mr. Frank Marcinowski
Deputy Assistant Secretary for Regulatory Compliance
EM-10/Forrestal Building
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

SUBJECT: ENHANCED CONSULTATION PROCESS FOR WASTE DETERMINATION
ACTIVITIES CONDUCTED UNDER THE RONALD W. REAGAN NATIONAL
DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Dear Mr. Marcinowski:

The purpose of this letter is to share our views on the significant progress the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Energy (DOE) have made in developing an enhanced consultation process for waste determination activities conducted under Section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (NDAA). As you may recall, during the November 16, 2006, public meeting to discuss interactions under the NDAA with respect to non-high-level-waste determinations, NRC and DOE provided their perspectives on the NDAA consultation process to date, including aspects of the process that had been successful as well as areas for improvement. During the meeting, NRC and DOE agreed that earlier and more frequent interactions prior to DOE development of draft waste determinations, as well as the resolution of certain generic technical issues common to multiple waste determinations, would further improve the process. Additionally, the agencies discussed the need to have agency-to-agency meetings and the importance of public involvement. Both NRC and DOE agreed that the public should be informed of the content and outcomes of our interactions.

Following the November 2006 public meeting, DOE and NRC began discussions on how best to develop a process that reflects the attributes agreed upon during the meeting. These discussions culminated in general agreement on a process that maintains DOE's decision making authority provided in the NDAA while preserving the opportunity for NRC to conduct independent technical reviews of DOE waste determinations. The process leverages early interactions between NRC and DOE, and in some cases the State of South Carolina, the State of Idaho, and/or the Environmental Protection Agency (EPA) to address generic technical issues and to initiate discussions on technical approaches such as modeling parameters, assumptions, and codes prior to DOE's preparation of a specific waste determination.

Over the past several months, NRC, DOE, the Environmental Protection Agency, and the South Carolina Department of Health and Environmental Control have met on various technical topics that are relevant to future waste determinations at the Savannah River Site, such as hydrogeology, closure cap conceptual approach, and potential pathways. These meetings have been very positive and productive. Providing feedback on these and other technical issues at the preliminary, conceptual stage has been useful to NRC staff and should assist DOE in addressing up front areas that might otherwise result in NRC requests for additional

information.

While the implementation of this process is still in the early stages, the process appears to be working. I recognize that much work lies ahead of us, but I am encouraged by the progress that has been made and the collaborative nature in which both agencies have been interacting.

I look forward to our upcoming public meeting during July 2007, to discuss the progress that has been made since the November 2006 public meeting. As I am sure you would agree, during this meeting it will be important to discuss the steps that NRC and DOE have taken, as well as to provide information regarding the content and outcome of our interactions held to date and address our progress in resolving generic technical issues. We also plan to provide information on our NDAA monitoring plans and related activities during the meeting.

Sincerely,

/RA/

Larry W. Camper, Director
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

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