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October 23, 2007

Hon. Morris Stern
United States Bankruptcy Court
District of New Jersey
Martin Luther king, Jr. Federal Building
50 Walnut Street 3rd Floor
Newark, New Jersey 07102

Re: Bayonne Medical Center.
Bankr. Case No.07-15195

Dear Judge Stern:

On April 16, 2007, the Bayonne Medical Center ("Debtor") filed a voluntary petition for relief in this Court under chapter 11 of title 11 of the Bankruptcy Code in the U.S. Bankruptcy Court in this District. The Debtor continues to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

On April 27, 2007, the United States Nuclear Regulatory Commission ("NRC") learned of Debtor's bankruptcy filing.

On October 3, 2007, the Debtor filed an application, inter alia, for an order authorizing the sale of all or substantially all of its assets, approving auction procedures and authorizing the assumption and assignment of certain executory contracts and unexpired leases in connection with the sale of the Debtor's assets (the "Application").

This Court entered an Order dated October 10, 2007, granting the Application (the "Sale Order") and, among other things, scheduling an auction relating to the sale of the Debtor's assets for October 24, 2007.

Debtor currently holds a license from the NRC to use, possess and store certain radioactive materials (NRC License No. 29-12253-01) (attached as Exhibit 1), including but not limited to, strontium-90 and iridium-192.

Debtor's license remains and will continue to remain in effect, pursuant to sections 81, 161, and 183 of the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2111, 2201, and 2233), and NRC's regulations at 10 CFR § 30.36 (2007), with respect to the possession, transfer, and storage of licensed radioactive material remaining in Debtor's possession, as contamination or in other forms, until the NRC notifies Debtor in writing that the license is terminated.

Until notified by the NRC in writing that the license is terminated, Debtor must restrict activity involving the licensed radioactive material to decommissioning and safe, secure storage or transfer of the licensed radioactive material, and continue to control entry into restricted areas until Debtor has determined and the NRC has confirmed, that such areas are suitable for release in accordance with NRC requirements.

Although in bankruptcy, Debtor remains responsible for all regulatory requirements under its NRC license, including those relating to security and control of licensed radioactive material, decontamination and decommissioning of contaminated facilities, and retention of personnel required by the license conditions.

The NRC's regulations at 10 CFR 30.34(b) do not permit Debtor to transfer, assign, or dispose of its NRC license or the licensed radioactive material, either voluntarily or involuntarily, directly or indirectly, through a transfer of control of the license or any of the licensed radioactive material, to any person or entity, without prior written approval of the NRC.

The NRC notified the Debtor of its continuing obligations, as described in paragraphs 6-9 above, in a letter dated May 10, 2007 (attached as Exhibit 2). The NRC is concerned that the NRC license or the licensed radioactive material may be included within the assets that may be sold by the Debtor at the October 24, 2007 auction.

The NRC understands that the automatic stay provision in Section 362(a) of the U.S. Bankruptcy Code stays legal actions against the Debtor, except in certain limited circumstances that include public health, safety, and environmental obligations. *See Midlantic National Bank v New Jersey Department of Environmental Protection*, 474 U.S. 494 (1986); *Pacific Gas and Electric Company v. California ex rel. California Department of Toxic Substances Control*, 350 F.3d 932 (9th Cir. 2003), *cert. denied*, *Pacific Gas and Electric Company v. California Public Utilities Commission*, 543 U.S. 956 (2004); *In re Chateaugay Corporation*, 944 F.2d 997 (2d Cir. 1991).

The NRC requests that the court prohibit Debtor from transferring or disposing of its NRC license or any of the licensed radioactive material without prior NRC approval.

WHEREFORE, the NRC requests that the Court issue an order consistent with the NRC's request herein.

Respectfully submitted,

CHRISTOPHER J. CHRISTIE
United States Attorney

s/ Anthony J. LaBruna
By: ANTHONY J. LABRUNA
Assistant U.S. Attorney