March 10, 2010

Mr. Sherwood Martinelli
351 Dyckman Street
Peekskill, NY 10566

Dear Mr. Martinelli:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) staff to your letter dated December 15, 2009. In your letter, you requested that the NRC take immediate enforcement action to shutdown nuclear reactor and fuel facilities until such time that weapons-grade fissile materials were removed from such facilities and returned to the U.S. Department of Defense or U.S. Department of Energy (DOE). In addition, you made several other requests for NRC action regarding your concerns on the use of weapons-grade fissile materials.

The NRC's mission is to protect public health and safety and the environment, and to promote the common defense and security. The NRC establishes rules and regulations that set high standards for effective safety and security at nuclear facilities, and the NRC closely monitors nuclear facilities to ensure that licensees maintain and operate facilities in accordance with these regulations. NRC regulations help ensure that nuclear facilities are among the safest and most secure industrial facilities in our Nation.

The NRC conducts evaluations of the safety and security of all of our Nation's commercial nuclear facilities. If the results of these evaluations or any other information suggest that further actions are necessary, the NRC is prepared to take appropriate measures to ensure the continued safety and security of these facilities and the health and safety of the public.

Your petition was premised on the understanding that weapons-grade fissile material, which is highly concentrated, will always remain weapons-grade fissile material even when down blended (lowered in concentration). Once highly concentrated fissile material is down blended, it can no longer function in a weapons capacity. As such, down blended fissile material is no longer considered weapons-grade fissile material and does not require the same elevated levels of safety and security controls but rather those controls appropriate to the materials risk. Commercial facilities that down blend weapons grade fissile material do not have a license to re-enrich the material. Concerning, United States Enrichment Corporation (USEC) specifically, its commercial license only allows for the use of low-enriched fuel, non-weapons grade materials and they are not authorized under the NRC license to down blend. USEC conducts activities on a DOE site and is subject to NRC and DOE security programs. Finally, the commercial reactor fleet utilizes only low-enriched, non-weapons grade fuel for power generation.

Nonetheless, we considered your letter as a request to modify, suspend, or revoke a license under Title 10 of the *Code* of *Federal Regulations* Subpart 2.206 (10 CFR 2.206), "Requests for Action Under this Subpart." However, in accordance with NRC procedures that implement 10 CFR 2.206 (NRC Management Directive 8.11 "Review Process for 10 CFR 2.206 Petitions"), the NRC staff has determined that your petition does not meet the criteria for review under 10 CFR 2.206. The NRC staff does not treat a general assertion of a safety or security problem as a formal petition under 10 CFR 2.206 without supporting facts. Your assertion that weapons-grade fissile material is present at the U.S. nuclear reactors and fuel facilities is not supported by the facts, as discussed above.

I hope that you find this information useful. If you have any additional questions, please feel free to contact Anthony Markley at the above address or at (301) 415-3165.

Sincerely,

/RA/

Thomas B. Blount, Deputy Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

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