



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GREG BELL
LIEUTENANT GOVERNOR

March 19, 2010

Ines Triay
Assistant Secretary for Environmental Management
United States Department of Energy
1000 Independence Ave., SW
Washington, D.C. 20585

Dear Dr. Triay,

I appreciate the opportunity I had to meet with you to discuss the disposition of depleted uranium in the State of Utah. I want to thank you for your professionalism and that of your staff during that very productive conversation.

Before I describe the terms of the agreement we reached, I thought it might be helpful to briefly review the history leading to our meeting. Our discussion was prompted by the DOE's decision to ship depleted uranium from the Savannah River clean-up site by train to Clive, Utah. DOE sent the first trainload of depleted uranium on or about December 14, 2009.

When I learned of that shipment, you and I spoke on the telephone and I voiced a number of concerns centered around the fact that the Utah Radiation Control Board (the "Board") was in the midst of two separate processes to address the health and safety concerns surrounding the disposal of depleted uranium.

First, the Board, at that time, was considering a license amendment for the Clive facility to address the potential need to remove and remediate any stored depleted uranium. That amendment also addressed the provision of a surety to fund the costs associated with removal and remediation.

Second, the Board was in the process of a rulemaking that would, if adopted, require a performance assessment before the facility could accept any additional depleted uranium. The Board's rulemaking was prompted, in part, by questions and issues raised by the public and by the U.S. Nuclear Regulatory Commission ("NRC"). In light of these

concerns, the Board felt it imperative to fully investigate whether and how depleted uranium might be stored safely at the Clive facility prior to accepting such material.

It is against this backdrop that we met in Washington D.C. Again, I sincerely appreciate our candid conversation and the opportunity to mutually agree on a pathway forward. The following is intended to commemorate the terms of the agreement we reached at that February 22, 2010, meeting as per notes written down by my Chief of Staff, Jason Perry regarding the storage and disposal of depleted uranium at the Clive, Utah, facility. For ease of reference, the three planned shipments from the Savannah River site will be referred to as trains one, two, and three, respectively:

1. Train one will remain temporarily stored at the Clive facility. The long-term disposition of train one will be addressed in a site specific performance assessment that is currently underway in Utah. If it is determined that the material cannot be safely stored in Utah, the DOE will remove it immediately at its own expense. Both parties understand that this assessment may take up to two years or longer to complete based on the complexity of the issues.
2. The State of Utah will increase its testing of the contents of train one while it is being held in temporary storage. If this shipment is found to exceed class A radiation levels, the DOE will immediately remove the entire contents of train one from Utah at its own expense.
3. Trains two and three of depleted uranium will not be sent to Utah for storage or disposal but will be redirected to Texas.
4. The DOE will not make subsequent shipments of any other depleted uranium to Utah until the State concludes its rulemaking process and the site-specific performance assessment is completed.
5. If either the NRC or the Board rulemaking reveals that depleted uranium cannot be safely stored and/or disposed of at the Clive facility, the DOE will not ship any depleted uranium to that site.
6. Dr. Triay or a DOE representative will come to Utah to speak to the Utah Radiation Control Board. I would like to officially invite you to attend the meeting scheduled for May 11, 2010.

Thank you again for your careful attention to this matter. We look forward to working with the DOE to assess whether depleted uranium can be stored safely at the Clive facility, and, if so, what conditions will ensure the long-term protection for our

citizens and the environment. Given the importance of this matter to the citizens of Utah, I ask that you countersign and return this letter to me to memorialize our agreement.

Please do not hesitate to contact my office to further discuss this letter.

Sincerely,



Gary R. Herbert
Governor

Ines Triay
Assistant Secretary for Environmental Management
United States Department of Energy

P.S. I look forward to hosting you here in the Great State of Utah. I am excited about your coming here and meeting with our people. I also look forward to having a joint press conference with you and announcing the agreement to have the Department of Energy taking over the long term responsibility of the Clive operation, as we had also discussed. Thanks again for your service to our country and to our state.

