



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
NASHVILLE, TENNESSEE 37243-0435

ROBERT J. MARTINEAU, JR.
COMMISSIONER

BILL HASLAM
GOVERNOR

February 29, 2012

Michael F. Weber
Deputy Executive Director for Materials, Waste,
Research, State, Tribal and Compliance Programs
U.S. Nuclear Regulatory Commission
One White Flint North Building
Room 017116
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Mr. Weber:

This letter relates to an ongoing discussion between NRC and the Tennessee Department of Environment and Conservation's Division of Radiological Health (DRH).

On October 13, 2011, DRH Director Debra Shults sent an email to Duncan White requesting comments on a license amendment we proposed to grant to one of our licensees for an exemption from Tennessee's regulations that would allow extremely low-level radioactive waste to be disposed of safely at the U.S. Ecology RCRA-permitted hazardous waste site in Idaho. NRC responded with a letter dated October 26, 2011 in which it stated that Tennessee did not have authority to issue such an exemption.

Based upon my review of NRC statements and exemptions granted by other agreement states, some with NRC concurrence for disposal of like materials at the US Ecology site, Tennessee's actions are well within established precedent. Our state Agreement, entered into in 1965, provides narrow exceptions to the discontinuance of NRC authority, none of which seem to apply to this exemption. Despite requests by my staff, NRC has provided no rationale for the position taken in its October 26 letter, which appears to me to be inconsistent with prior activities of other agreement states and the NRC.

Nevertheless, I instructed my staff to discuss the matter with NRC to attempt to find a timely solution that would be acceptable to all parties and that would provide a clear and efficient path to our licensee for access to the US Ecology site. To date, despite several conversations between my staff and NRC, no progress has been made.

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Accordingly, I believe it is time to move the discussion to the executive level. I would like to meet with you at your earliest opportunity to discuss this matter and come to a sensible resolution. I intend to bring several members of my staff as well as representatives of the licensee. We are available to meet during the weeks of March 5 or March 12, 2012. Since this rather simple matter has remained unresolved for nearly four months, I would appreciate a meeting date in the near term.

I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, reading "Robert J. Martineau, Jr.", with a large, stylized flourish extending from the end of the name.

Robert J. Martineau, Jr.
Commissioner

RJM:cm