APR 0 9 1997

Phillip J. Lachman
Merrell Pharmaceuticals, Inc.
21?0 Galbraith Road
Cincinnati, OH 45215-6300

Dear Mr. Lachman:

We have completed our review of your October 9, 1996, financial assurance package and find that we will need additional information as follows:

1. Submit Evidence Indicating that the Persons Signing the Surety Bond and the Standby Trust Agreement for the Licensee are Authorized to Represent the Company *(Regulatory Guide 3.66*, pages 3-14 and 3-17)

   The submitted surety bond and standby trust agreement are both signed by vice presidents of the licensee. However, the submission does not provide sufficient evidence indicating that these individuals are authorized to represent the licensee, as recommended in *Regulatory Guide 3.66* "Standard Format and Content of Financial Assurance Mechanisms Required for Decommissioning Under 10 CFR Parts 30, 40, 70, and 72" (June 1990), pages 3-14 and 3-17. The submission includes a copy of the licensee's corporate by-laws, which authorize company vice presidents to represent the licensee "at the request of the President or in his absence or in the event of his inability or refusal to act." The submission, however, does not indicate whether any of these conditions applied at the time the surety bond and replacement standby trust were executed.

   Evidence of authority to represent the licensee is necessary to ensure the validity and enforceability of the mechanism. Therefore, please submit evidence (e.g., a written request or authorization from the president) indicating that the persons signing the surety bond and standby trust agreement are authorized to do so.

2. Revise the Standby Trust Agreement to Include Language Omitted From Section 5 Limiting Withdrawals to No More Than 10 Percent of the Outstanding Balance Without Written NRC Approval

   The standby trust agreement submitted by the licensee does not include the following provision in Section 5: "No withdrawal from the fund can exceed ___ percent of the outstanding balance of the Fund or ___ dollars, whichever is greater, unless NRC approval is attached." NRC guidance specifies that the appropriate level to complete the blanks is 10 percent, meaning that no more than 10 percent of the outstanding balance of the trust may be withdrawn at a time without written approval from NRC. This provision provides NRC greater opportunity to monitor the licensee's decommissioning spending by requiring NRC approval for withdrawals larger than the specified amount. Please revise Section 5 of the submitted standby trust agreement to add this provision.

We will continue our review of your application upon receipt of this information. Please reply in duplicate, within 30 days, and refer to Control Number 00210.

If you have any questions or require clarification on any of the information stated above, you may contact us at (630) 829-9887.

Sincerely,

Original Signed By
Kevin G. Null
Nuclear Materials Licensing Branch

License No. 34-03643-01
Docket No. 030-05696

cc: Mr. Cort Horton, RSO
Merrell Pharmaceuticals, Inc.

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