

February 29, 2012

Mr. Rusty Lundberg
Director
Utah Division of Radiation Control
195 North 1950 West
Salt Lake City, UT 84114-4850

SUBJECT: STATE OF UTAH'S REQUEST FOR ROUTINE TECHNICAL ASSISTANCE
REGARDING DISPOSAL OF WASTE EXCEEDING CLASS A LIMITS

Dear Mr. Lundberg:

I am responding to your letter, dated December 20, 2011, requesting routine technical assistance from the U.S. Nuclear Regulatory Commission (NRC). The request related to an enforcement action that the Utah Division of Radiation Control took against EnergySolutions' Clive Facility for receiving and disposing of 23 waste containers of low-level radioactive waste that exceeded Class A limits. Specifically, Utah Division of Radiation Control requested NRC to comment on EnergySolutions' position on leaving the waste in place and the Utah Division of Radiation Control concurrence on that position.

Routine technical assistance, as described in NRC's Management Directive 5.7, is provided to Agreement States as a regular part of NRC's day-to-day interaction with States. Routine technical assistance may include discussion of technical issues regarding licensing and compliance such as the performance of confirmatory reviews by NRC staff of completed State technical assessments, on a case-by-case basis, when resources are available. In this case, NRC was able to provide the requested assistance regarding disposal of low-level radioactive waste at the Clive facility.

NRC's regulations for the land disposal of radioactive waste, 10 CFR Part 61, with which Utah's regulations are compatible, emphasize a performance-based approach that ensures safe disposal through compliance with key objectives and technical requirements while allowing licensees flexibility to determine how to meet the performance objectives. Specifically, the performance objectives require protection of the general population from releases of radioactivity (Section 61.41), protection of individuals from inadvertent intrusion (Section 61.42), protection of individuals during operations (Section 61.43), and stability of the disposal site after closure (Section 61.44).

As discussed with you on February 23, 2012, the NRC staff found that in issuing the Notice of Violation, dated July 7, 2011, for the disposal of 23 waste containers that exceeded Class A limits, the Utah Division of Radiation Control properly requested assessments to document the potential impacts to members of the public and individuals during operations. These assessments are used to demonstrate compliance with two of the performance objectives listed above, namely, Sections 61.41 and 61.43. However, NRC staff notes that the Notice of Violation did not request demonstrations of compliance with Sections 61.42 and 61.44, and the documents reviewed did not provide a rationale for excluding these assessments. NRC staff believes these assessments are necessary to provide reasonable assurance that exposures to

humans are within the limits established by the performance objectives and to inform a conclusion on the enforcement action. In addition, the NRC staff identified several areas where additional information from the licensee would support the conclusions determined by your program.

Further details of the NRC staff's peer review are provided in the enclosed technical evaluation report. If you have any questions or require further clarification of any of the information provided, please do not hesitate to contact me at (301) 415-3340 or Mr. Christopher Grossman at (301) 415-7658.

Sincerely,

/RA/

Brian J. McDermott, Director
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
Technical Evaluation Report

R. Lundberg

2

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Brian J. McDermott, Director
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Enclosure:
Technical Evaluation Report

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