



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**  
WASHINGTON, D.C. 20555-0001

July 5, 2016

Scott T. Anderson, Director  
Division of Waste Management  
and Radiation Control  
Department of Environmental Quality  
P.O. Box 144880  
Salt Lake City, UT 84114-4880

Dear Mr. Anderson:

By letter dated March 7, 2016, the Utah Division of Waste Management and Radiation Control (Division) requested the Nuclear Regulatory Commission's (NRC) position on the proposed combined closure and post-closure cost estimate and consolidated financial surety mechanism for three EnergySolutions facilities located in Clive, UT. Specifically, the Division requested the NRC's position regarding regulatory issues associated with:

- 1) combining the closure and post-closure cost estimates for three licensed/permitted facilities while addressing requirements of both the EPA and the NRC; and
- 2) establishing a single consolidated financial surety mechanism to cover the combined closure and post-closure cost estimate for the three licensed/permitted facilities, which are administered by the Division under separate state statutory authorities, overseen in part by the EPA and the NRC.

The NRC staff has reviewed this request and both understands and agrees with eliminating duplicative costs that may be avoided if the Division approves its licensee to utilize a combined closure and post-closure cost estimate and consolidated financial surety mechanism. However, these arrangements are only acceptable if the surety amount is adequate to provide sufficient funds to cover all the estimated costs of conducting and completing disposal site closure and stabilization and the licensee clearly identifies and commits for use the separate closure and post-closure cost estimates associated with each individual licensed/permitted facility. For example, taking advantage of a single contractor mobilization cost versus that for three sites, or economies of scale when purchasing or conducting like activities at all three sites is prudent. However, these cost savings should be reflected in a single cost estimate that has three components corresponding to the three separate licensed/permitted facilities.

The NRC criteria for acceptance of consolidated financial sureties with earmarked financial or surety arrangements established to meet requirements of other Federal or State agencies, and/or local governmental bodies for decontamination, closure, and stabilization are contained in 10 Code of Federal Regulations (CFR) 61, Subpart E for land disposal of radioactive waste, and Utah's corresponding criteria is in Utah Administrative Code (UAC) Sections R313-25-31 and 32. It is the NRC staff's position that the Division should only approve a single consolidated financial surety mechanism – based on a combined closure and post-closure cost estimate – if the Division determines that the surety is adequate to satisfy the funding requirements for disposal site closure and stabilization (UAC Section R313-25-31) and if the portion of the surety

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which is assigned to each of the three licensed/permitted facilities is clearly identified and exclusively committed for use in accomplishing the activities associated with each individual facility.

If you have any questions regarding the results of this review, please contact me at (301) 415-3340, or Paul Michalak, Chief of the Agreement State Programs Branch, at (301) 415-5804 or [Paul.Michalak@nrc.gov](mailto:Paul.Michalak@nrc.gov).

Sincerely,

**/RA/**

Daniel S. Collins, Director  
Division of Material Safety, State, Tribal  
and Rulemaking Programs  
Office of Nuclear Material Safety  
and Safeguards

S. Anderson

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Sincerely,

*/RA/*

Daniel S. Collins, Director  
Division of Material Safety, State, Tribal  
and Rulemaking Programs  
Office of Nuclear Material Safety  
and Safeguards

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