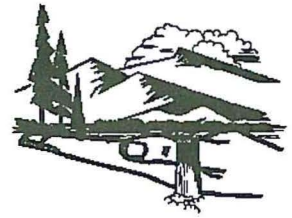




Matthew H. Mead, Governor

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Todd Parfitt, Director

May 26, 2017

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

Two White Flint North
11545 Rockville Pike
Rockville, Maryland 20852-2738

Dear Mr. Collins,

The Nuclear Regulatory Commission (NRC) has expressed concern that Wyoming does not have a standby trust equivalent mechanism in place and has requested that Wyoming demonstrate that: the state has adequately designated a fund that has resources that are adequate for the purposes of paying for the decommissioning of the sites for which the funds have been collected; the state has the ability to hold and use funds collected for decommissioning purposes; and the state will not have the authority to divert funds to other state projects. Although Wyoming does not utilize standby trusts, the state does have a financial mechanism in place that satisfies all of NRC's concerns.

The State of Wyoming utilizes a fiduciary fund rather than a standby trust. The fiduciary fund, known as Fund 487, has been established to account for cash received as reclamation/remediation bonds. As a fiduciary fund, the cash is held by the state on behalf of others and is designated for a specific purpose. Therefore, those funds are not subject to appropriation for other use. The only options for disposition of the cash in the fund are a release of the bond to the permittee following the State's acceptance of the permittee's reclamation/remediation, or disbursement of funds to pay for reclamation/remediation expenses subsequent to bond forfeiture proceeding through the Environmental Quality Council. Therefore, the funds cannot be diverted to fund other state projects and can only be used for the above purposes.

Additionally, Wyoming statutes require that the state and its agencies comply with generally accepted accounting principles (GAAP). W.S. 9-4-204(s) states, in part:

It is the intent of the legislation to establish uniform requirements for state government accounting and financial reporting in accordance with the generally accepted accounting principles (GAAP) as promulgated by the governmental accounting standards board (GASB), or its successor bodies, so that the financial position and the results of operations of state government can be publically available to citizens, legislators, financial institutions and others interested in such information.

Further, W.S. 9-4-204(s)(vi) states:

A deviation from generally accepted accounting principles shall not be made unless authorized by law.

The Statute requires the state and its agencies to comply with GAAP. W.S. 9-4-204(t) mandates that the state and its agencies use the fund type defined by subsections and those definitions comport with GAAP. Fiduciary funds are included as W.S. 9-4-204(t)(iii):

(iii) Fiduciary fund types:

(A) Private-purpose trust funds – to account for any trust arrangement not properly reported in a pension trust fund or an investment trust fund under which principal and income benefit individuals, private organizations or other governments;

(B) Investment trust funds – to account for legally separate governments pooling their resources in an investment portfolio for the benefit of all participants;

(C) Pension and other employee benefit trust funds – to account for the assets held by the state government as trustee for employee retirement systems;

(D) Agency funds – to account for assets that state government holds on behalf of others as their agent.

In review of the requirements of NRC regarding financial assurance, the Wyoming Department of Environmental Quality (WDEQ) is confident it meets these requirements. The State of Wyoming has an adequately designated fund that has resources that are adequate for the purposes of paying for the decommissioning of sites for which the funds have been collected, and these funds cannot be redirected. Historically, NRC has agreed that the State's fiduciary funds were comparable to stand by trusts. This is demonstrated by the fact that numerous operators within the State have been exempted from the requirements of a standby trust because of the existence of Wyoming's fiduciary funds. WDEQ appreciates the opportunity to provide some clarity on the topic and expects NRC to find that Wyoming financial assurance accounts meet NRC expectations for adequacy and compatibility.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd Parfitt", with a stylized flourish at the end.

Todd Parfitt
Director of Wyoming Department of Environmental Quality

cc: Kyle Wendtland
Ryan Schierman