



Battelle

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December 10, 1992

Mr. John Hickey
Fuel Cycle Division
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

**Certification of Financial Assurance for Decommissioning of
Battelle Facilities at Columbus and West Jefferson, Ohio and
Acceptance of Current NRC Guidance of Acceptable Cleanup Criteria and
Practices for D&D (License No. SNM-7) Docket 70-8**

Dear Mr. Hickey:

I received your letter to me dated October 26, 1992, providing your comments to my letter to you dated June 19, 1992. I anticipate being able to respond to that letter by the end of December, 1992. Since your letter requires action to be taken by Battelle's Board of Trustees and by DOE, an additional month is required to obtain all of the information requested. However, I am providing information supplementing and modifying my June 19, 1992 letter.

On June 19, 1990, Battelle sent to the NRC its Certification of Financial Assurance for Decommissioning the Battelle Facilities. Among those documents submitted with the Certification was a Request for Exemption, requesting an exemption from NRC regulations to permit Battelle to use a DOE Statement of Intent to provide a substantial portion of the financial assurance to complete the decontamination and decommissioning. On November 19, 1991, the NRC Staff sent its review comments on the referenced Certification.

In response to the NRC letter and to comments received in subsequent meetings, we submitted a letter to you on June 19, 1992, with proposals to amend the Certification and accompanying documents. Included in the June 19, 1992 submittal was a modified DOE Statement of Intent, which consists of a letter from Donald L. Bray, Assistant Manager for Projects and Energy Programs, DOE: Chicago Operations Office, to Dr. Kenneth Brog of Battelle, dated April 3, 1992. In that letter, DOE indicates its commitment, subject to the availability of appropriated funding, to provide 100% of the funding to accomplish ongoing surveillance, maintenance and management oversight, and 90% of the funding necessary to accomplish the remaining activities in the schedule and budget baseline for decontamination and decommissioning of the Battelle facilities. In response to an NRC Staff request, Battelle also offered to make certain modifications to the language of the proposed Government and Industrial Trusts.

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On September 8 and 28, 1992, Daniel T. Swanson, an attorney representing Battelle, had phone conversations with David Futoma, NRC Office of the General Counsel, regarding the referenced matter. In the conversations, Mr. Swanson indicated to Mr. Futoma the objection that DOE had to placing restrictions on the Government Trust. In essence, DOE feels that the funds in the Government Trust, which were provided by DOE, should not be further encumbered as originally agreed to by Battelle and DOE. For these reasons, DOE will not authorize Battelle to restrict DOE's use of funds from the Government Trust. Accordingly, as indicated in the referenced phone conversation, Battelle is withdrawing its proposal to use a Government Trust as part of its Decommissioning Funding Plan. Battelle would continue to rely on the funds currently in the existing Government Trust to partially satisfy the interim financial certification obligations. Once Battelle's exemption is granted, allowing the use of a DOE Statement of Intent, the Government Trust may or may not continue to exist as Battelle and DOE elect, but it would no longer be relied on as a component of Battelle's proposed Decommissioning Funding Plan. Battelle would continue to use the private Industrial Trust as part of its satisfaction of the Decommissioning Funding Plan, to handle the funds provided by Battelle. Battelle remains committed to structuring a revised Industrial Trust as proposed in the June 19, 1992 letter from Battelle.

Battelle does not consider that this development necessitates an amendment to its Request for Exemption. The Request for Exemption is not dependent on the use of the Government Trust, and merely requests permission for Battelle to rely on the DOE Statement of Intent and the DOE funding process to cover 90% of Battelle's responsibility for the ultimate Decommissioning Funding Plan, which must be submitted no later than the spring of 1993. Although the Request for Exemption references the Government Trust as being available to receive DOE funds, it does not represent that DOE is obligated to utilize that instrument in the future. Accordingly, the Request for Exemption can be reviewed independently of the issue of whether or not a Government Trust exists.

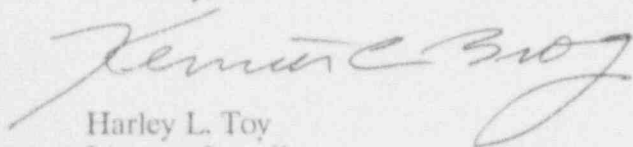
The NRC has adequate assurance that withdrawals from the Government Trust will be made in a proper fashion, since all expenditures from that fund must be made to further the activities which are a part of the technical, schedule, and budget baselines controlled by DOE for the Battelle Decommissioning and Decontamination Project. DOE should be allowed to choose whether or not to use the Government Trust, as it deems appropriate. For example, DOE may elect to utilize that Trust to supplement its allocation of funding for a given year, based on fiscal considerations. Finally, there is no statutory nor regulatory requirement for use of a Government Trust fund in a decommissioning and decontamination project. Although perhaps a trust is appropriate for private functions, it is inappropriate and unnecessary and has far reaching implications, where the funds are provided and managed by another Federal agency. DOE maintains very tight controls over the budgeting, funding, allocation, and work activity of the BCLDP, through the use of a DOE controlled technical, cost, and schedule baseline. The NRC acknowledged that DOE would have primary control and oversight over the day-to-day operation of the BCLDP in its letter to Martin Langsam dated December 18, 1990. Between the DOE Statement of Intent and the Battelle private trust, the NRC will have assurance as to the existence of sufficient funds to accomplish the decommissioning and decontamination of the Battelle facilities.

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On a separate matter raised in your October 26, 1992 letter related to current NRC cleanup criteria, Battelle, for its License SNM-7, hereby accepts current NRC guidance on acceptable cleanup criteria and practices for decontamination and decommissioning as delineated in your letter to Mr. Harley L. Toy dated April 17, 1992. We propose to reflect our acceptance of current NRC guidance by modifying the referenced language referred to in our June 19, 1992 letter to read as follows: "released for use without any radiological restrictions, including released for unrestricted use as defined by NRC regulations, as described in the John W. N. Hickey letter dated April 17, 1992 to Harley L. Toy."

I stand ready to respond to any questions that you have regarding this submittal.

Sincerely,



Harley L. Toy
License Coordinator
Battelle Columbus Laboratories
Decommissioning Project

HLT:lat

cc: Tin Mo, NRC
David J. Futoma, NRC OGC
Jerry Swift, NRC
Jefferson O. Neff, DOE-Columbus