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U.S. NUCLEAR REGULATORY COMMISSION  
OFFICE OF STATE PROGRAMS

OFFICE OF STATE PROGRAMS FAX: (301) 415-3502

NUMBER OF PAGES: 12 including this page

DATE: June 27, 1997

TO: RADIATION CONTROL PROGRAM DIRECTORS IN  
AGREEMENT STATES  
OHIO, OKLAHOMA, PENNSYLVANIA

FROM: PAUL H. LOHAUS, DEPUTY DIRECTOR  
OFFICE OF STATE PROGRAMS

SUBJECT: ATTACHED FOR YOUR INFORMATION IS A CONFIRMATORY  
ACTION LETTER DATED JUNE 25, 1997 ISSUED TO  
ENVIROCARE OF UTAH

030041

NRC FILE CENTER COPY

VERIFICATION - 415-3340

SP  
9707070101 970627  
PDR ADOCK 04008989  
C PDR



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SP-A-4

# MEETING NOTICE

Type: New X  
Revised     

NRC Contact: Tim Harris, 301-415-6613  
301-415-5397 (FAX)

Date: July 2, 1997

Time: 1:30 AM - 4:00 PM

Location: U.S. Nuclear Regulatory Commission  
11545 Rockville Pike  
Two White Flint North  
Rockville, MD 20852  
Room T-6A1

Purpose: Discussion of possession of special nuclear material and related  
issues with Envirocare of Utah. Meeting was requested by  
Envirocare.

Comments: None

Type: Public X  
Non-Public     

Docket/Project: 040-08989

Facility: Envirocare of Utah, Clive, Utah

Attendees:	<u>NRC Offices/Regions</u>	<u>Outside Organizations</u>
	NMSS	Envirocare of Utah
	OSP	State of Utah
	OGC	
	RIV	



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 25, 1997

EA 97-303

Mr. Charles A. Judd, President  
Envirocare of Utah, Inc.  
American Towers Commercial  
46 West Broadway, Suite 240  
Salt Lake City, Utah 84101

SUBJECT: Confirmatory Order (Effective Immediately)

Dear Mr. Judd:

The enclosed Confirmatory Order (Effective Immediately) is being issued to confirm the commitments documented in our letter of June 23, 1997. This Order supersedes our Confirmatory Action Letter (CAL) dated June 12, 1997.

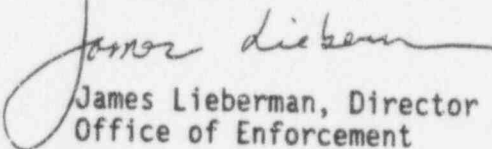
Pursuant to section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this order may also subject the person to civil monetary penalty.

In addition, as you are aware, any resumption of receipt of Special Nuclear Material (SNM) is subject to the approval of the State of Utah in accordance with the State's requirements. In that regard we intend to invite the State to participate in any meetings related to this Order and consult with them with respect to the regulatory decisions required by this Order.

Questions concerning this Order should be addressed to Mr. James Lieberman, Director, Office of Enforcement, who can be reached at (301) 415-2741.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

Sincerely,

  
James Lieberman, Director  
Office of Enforcement

Docket No. 040-8989  
License No. SMC-1559

State of Utah License No. UT2300249

Enclosure: As Stated

970627005T 1p

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of

ENVIROCARE OF UTAH, INC.  
Salt Lake City, Utah

)  
)  
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)

Docket No. 040-8989  
License No. SMC-1559  
EA 97-303

CONFIRMATORY ORDER  
(EFFECTIVE IMMEDIATELY)

I

Envirocare of Utah, Inc., (Envirocare) is the holder of Utah License No. UT2300249 issued by the State of Utah. The State license authorizes Envirocare to transfer, receive, possess and use designated radioactive material as specified therein. The State license was most recently amended on August 16, 1996, and is currently under timely renewal status. Envirocare is also the holder of NRC License No. SMC-1559, issued by the Nuclear Regulatory Commission (NRC or Commission). The NRC license authorizes Envirocare to possess and dispose of source material as defined in 10 CFR Part 40, but does not authorize possession of Special Nuclear Material (SNM). The NRC license was issued on November 19, 1993; was most recently amended on August 7, 1996; and is due to expire on November 30, 2003.

II

NRC requirements in 10 CFR 150.10 state, in part, that any person in an Agreement State who receives or possesses SNM in quantities not sufficient to form a critical mass is exempt from the requirements for a license contained in Chapters 6, 7, and 8 of the Atomic Energy Act. 10 CFR 150.11(a) states, in part, that special nuclear material in quantities not sufficient to form a critical mass means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235.

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On June 9 - 10, 1997, the NRC conducted an inspection of Envirocare's facility near Clive, Utah. During the inspection, the NRC identified that Envirocare had received, and had caused to be present on site, SNM in excess of the 350 gram limit defined by the formula in 10 CFR 150.11. Specifically, the inspection revealed that Envirocare had caused to be present on site more than 2,400 grams of uranium-235 that had not been disposed of.

Based on further review of Envirocare's procedures, the NRC concluded that Envirocare did not correctly account for all SNM under its control that is awaiting disposal as being in its possession, which resulted in possession of SNM in excess of the quantities specified in 10 CFR 150.10 and 10 CFR 150.11(a), a violation of the requirement for an NRC license.

### III

As a result of the NRC findings, the NRC issued to Envirocare a Confirmatory Action Letter (CAL) on June 12, 1997, which confirmed that Envirocare would take certain actions. These actions included: (1) discontinuing receipt of SNM at its facility, except in clearly defined circumstances, until receipt of written approval by the NRC; and (2) submitting a plan to the NRC for removal, or disposal at its site by June 25, 1997, of waste materials such that the sum of all SNM remaining on site would not exceed the formula quantity prescribed by 10 CFR 150.11 and Envirocare's Agreement State license.

Envirocare submitted a plan on June 16, 1997, to NRC in accordance with these commitments. In addition, in a letter dated June 18, 1997, Envirocare

requested an extension of the June 25, 1997 deadline, to August 1, 1997, with respect to achieving compliance with NRC requirements.

On June 19, 1997, representatives of Envirocare met with representatives of the NRC staff during a management meeting at the NRC headquarters office in Rockville, Maryland. During the meeting, the NRC discussed the commitments described in the CAL and proposed that Envirocare not receive any shipments of SNM pending written NRC approval, except for shipments in transit as of June 11, 1997, as provided in Paragraph IV.2 of this Order. In addition, by letter dated June 23, 1997, the NRC described to Envirocare the NRC's understanding of Envirocare's commitments, and proposed incorporating those commitments into a Confirmatory Order.

Envirocare subsequently consented to issuing this Order with the conditions, as described in Section IV below, in a waiver signed on June 25, 1997. Envirocare also agreed to waive its hearing rights. The NRC has reviewed the above conditions and concludes that implementation of these actions would provide enhanced assurance that Envirocare's program for disposal of radioactive material will be conducted safely and in accordance with NRC requirements.

I find that Envirocare's commitments as set forth in Section IV are acceptable and necessary to provide for the public health, safety, and interest. In view of the foregoing, I have determined that Envirocare's commitments should be confirmed by this Order. Based on the above and Envirocare's consent, this



Order supersedes the CAL dated June 12, 1997, and is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 53, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 70 and 150, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Effective immediately, Envirocare shall not receive Special Nuclear Material (SNM) at its facility until four business days after compliance with Condition 4, except as described in Condition 2 below, unless Envirocare has received written authorization from the NRC. Such authorization will be based on review and approval by the NRC of Envirocare's submittal of a compliance plan for meeting the terms of the exemption granted in 10 CFR 150.10 and 150.11 relating to possession of SNM. NRC and Envirocare will meet on or before July 3, 1997, to discuss the issue of SNM possession limits. Envirocare shall submit its compliance plan no later than July 7, 1997. This condition applies to mixed and non-mixed low-level radioactive waste containing SNM.
2. Shipments of SNM enroute to the Envirocare facility as of June 11, 1997, may be received at the facility. In addition, any shipment, whether or not enroute by June 11, 1997, containing one gram or less of SNM per conveyance (single rail car or truck) may be received.

3. All SNM within the restricted area at the site, other than SNM placed within the disposal cell, shall be included in determining application of the exemption granted in 10 CFR 150.10. This condition is an interim condition and will be replaced by the compliance plan required by condition 1 above, after written approval of the compliance plan by the NRC.
4. Envirocare will submit to the NRC no later than August 4, 1997, written confirmation, under oath or affirmation, that the actions described in the disposal plan dated June 16, 1997, have been completed.
5. Any written communication submitted by Envirocare in connection with this Order shall be provided to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011-8064.

The Regional Administrator, NRC Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by Envirocare of good cause.

V

Any person adversely affected by this Confirmatory Order, other than Envirocare, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the



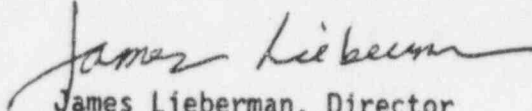
Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011-8064, and to Envirocare. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order

or proceedings. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

  
James Lieberman, Director  
Office of Enforcement

Dated at Rockville, Maryland  
this 25<sup>th</sup> day of June 1997

United States Nuclear Regulatory Commission  
Office of Public Affairs  
Washington, DC 20555  
Phone 301-415-8200 Fax 301-415-2234  
Internet:opa@nrc.gov

No. 97-097

FOR IMMEDIATE RELEASE  
(Thursday, June 26, 1997)

### NRC ISSUES CONFIRMATORY ORDER TO ENVIROCARE

The Nuclear Regulatory Commission has today issued a Confirmatory Order to Envirocare of Utah, Inc. directing the company to stop receiving shipments of waste material containing the special nuclear material uranium-235. Shipments en route to Envirocare on or before June 11 may be received.

The company also must submit by July 7 an acceptable compliance plan for handling waste that will conform to the provisions of the Commission's regulations and limit the quantity of special nuclear material held on the site outside of a permanent disposal cell to less than 350 grams.

Envirocare submitted a plan on June 16 to the NRC outlining how it will either remove the excess amounts of uranium-235 from the facility or place it in a licensed disposal cell. Under additional terms of the Order, company officials must confirm in writing and under oath by August 4 that the actions described in this plan have been completed. The company may resume receiving shipments of waste material four business days after the confirmation is provided unless written authorization is given earlier by the NRC.

The Order extends to August 4 the date for removing or disposing of the excess uranium-235. A Confirmatory Action Letter (CAL) sent June 12 set a compliance date of June 25. Today's Order supersedes the June 12 CAL. Company officials requested the extension because it was physically not possible to meet the June 25 deadline.

NRC and Envirocare will hold a meeting open to the public on or before July 3 to discuss special nuclear material possession limits and how the company can comply with the terms of the Commission's regulations. The NRC intends to coordinate its actions with the State of Utah, Division of Radiation Control.

NRC inspectors learned June 10 that more than 2,400 grams of uranium-235 had been held in temporary storage at the Envirocare facility near Clive, Utah. Conditions of the State of Utah license under which Envirocare is permitted to dispose

of mildly radioactive waste material allow only 350 grams of which includes uranium-235, to be held at the site without being placed in a permanent disposal cell. Possession and processing of more than 350 grams of special nuclear material before burial in a disposal cell would require an NRC license.

The uranium-235 that Envirocare has been holding is dispersed in contaminated soil and other waste material it has received from government and industrial cleanup projects. NRC and State of Utah officials agree that there is no danger of a criticality incident arising from the violation. Theoretically, if a sufficient quantity of special nuclear material were lumped together, a nuclear chain reaction, or criticality, could occur. However, the uranium-235 is dispersed throughout tons of dirt and debris where it poses no threat of such an event. Once the debris is dumped into the licensed, permanent disposal cells it is no longer subject to the 350-gram limit.

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## &lt; TRANSACTION REPORT &gt;

06-27-1997(FRI) 23:14

## [ BROADCAST ]

NO.	DATE	TIME	DESTINATION STATION	PG.	DURATION	MODE	RESULT
32991	6-27	21:13	701 328 5200	12	0° 04' 30"	NORM.E	OK
32992		21:18	503 731 4081	12	0° 04' 28"	NORM.E	OK
32993		21:23	401 277 2456	12	0° 08' 14"	NORM.E	OK
32994		21:31	8037377412	12	0° 04' 36"	NORM.E	OK
32995		21:36	615 532 7938	12	0° 04' 34"	NORM.E	OK
32996		21:41	5128346708	12	0° 04' 48"	NORM.E	OK
32997		21:46	801 533 4097	12	0° 05' 27"	NORM.E	OK
32998		21:52	360 753 1496	12	0° 04' 29"	NORM.E	OK
32999		21:57	518 457 2225	12	0° 04' 35"	NORM.E	OK
33000		22:02	518 457 5545	12	0° 05' 12"	NORM.E	OK
33001		22:07	NEW YORK CITY	12	0° 04' 37"	NORM.E	OK
33002		22:12	502 227 7862	12	0° 05' 31"	NORMAL	OK
33003		22:18	AECB (613) 995-5086	12	0° 05' 15"	NORMAL	OK
33004		22:24	WASHINGTON DC	12	0° 04' 28"	NORM.E	OK
33005		22:28	7996726	12	0° 04' 32"	NORM.E	OK
33006		22:33	217 782 1328	12	0° 06' 14"	NORM.E	OK
33007		22:40	512 239 6362	12	0° 04' 38"	NORM.E	OK
33008		22:45	4024714840	12	0° 06' 51"	NORMAL	OK
33009		22:52	912 262 3143	12	0° 05' 23"	NORMAL	OK
33010		23:14	NEVADA - <i>mailed 7/1/97</i>	0			U000
				228	1° 38' 22"		

## &lt; TRANSACTION REPORT &gt;

06-27-1997(FRI) 21:12

## [ BROADCAST ]

NO.	DATE	TIME	DESTINATION STATION	PG.	DURATION	MODE	RESULT
32966	6-27	18:15	610 337 5324	12	0° 04' 34"	NORM.E	OK
32967		18:20	404 562 4955	12	0° 04' 35"	NORM.E	OK
32968		18:24	7085151096	12	0° 08' 55"	NORM.E	OK
32969		18:34	817 860 8122	12	0° 04' 31"	NORM.E	OK
32970		18:39	5109750381	12	0° 04' 48"	NORM.E	OK
32971		18:44	334 613 5387	12	0° 08' 15"	NORM.E	OK
32972		18:52	602 437 0705	12	0° 04' 40"	NORM.E	OK
32973		18:57	5016612468	12	0° 05' 12"	NORM.E	OK
32974		19:03	0111916 3243610	12	0° 04' 32"	NORM.E	OK
32975		19:08	303 343 3697	12	0° 05' 12"	NORM.E	OK
32976		19:13	904 487 0435	12	0° 05' 00"	NORM.E	OK
32977		19:18	404 362 2653	12	0° 04' 34"	NORM.E	OK
32978		19:23	217 524 4724	12	0° 04' 36"	NORM.E	OK
32979		19:28	515 242 6284	12	0° 04' 35"	NORM.E	OK
32980		19:33	913 296 0984	12	0° 05' 22"	NORM.E	OK
32981		19:39	502 564 6533	12	0° 04' 30"	NORM.E	OK
32982		19:44	LOUISIANA	12	0° 05' 10"	NORM.E	OK
32983		19:49	MAINE	12	0° 41' 21"	G2	OK
32984		20:31	410 631 3198	12	0° 05' 17"	NORMAL	OK
32985		20:37	601+354+6167	12	0° 07' 19"	NORMAL	OK
32986		20:44	402 471 9449	12	0° 04' 34"	NORM.E	OK
32987		20:50	603 225 2325	12	0° 04' 41"	NORM.E	OK
32988		20:55	5058271544	12	0° 06' 58"	NORMAL	OK
32989		21:03	518 458 6434	12	0° 04' 38"	NORM.E	OK
32990		21:08	919 571 4148	12	0° 04' 29"	NORM.E	OK
				300	2° 48' 18"		



# < TRANSACTION REPORT >

06-27-1997(FRI) 09:50

[ TRANSMIT ]

NO.	DATE	TIME	DESTINATION STATION	PG.	DURATION	MODE	RESULT
32952	6-27	09:44	NYSERDA	12	0°05'49"	NORMAL	OK
			<i>space</i>	12	0°05'49"		

# < TRANSACTION REPORT >

06-27-1997(FRI) 09:35

## [ BROADCAST ]

NO.	DATE	TIME	DESTINATION STATION	PG.	DURATION	MODE	RESULT
32948	6-27	09:15	405 271 8425	12	0° 04' 28"	NORM.E	OK
32949		09:20	6177272098	12	0° 05' 11"	NORM.E	OK
32950		09:25	OHIO	12	0° 04' 46"	NORM.E	OK
32951		09:30	PENNSYLVANIA	12	0° 04' 35"	NORM.E	OK
				48	0° 19' 00"		

# < TRANSACTION REPORT >

06-27-1997(FRI) 06:59

[ TRANSMIT ]

NO.	DATE	TIME	DESTINATION STATION	PG.	DURATION	MODE	RESULT
32944	6-27	06:54	93019032461	10	0° 03' 59"	NORM.E	OK
			<i>Alexander Williams</i>	10	0° 03' 59"		
			<i>DOE</i>				