



# Appalachian States Low-Level Radioactive Waste Commission

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March 2, 2021

The Honorable Jennifer Granholm  
Secretary of Energy  
100 Independence Ave, SW  
Washington, DC 20585

## **Re: Surcharge Funds**

Dear Secretary Granholm:

Congratulations on your recent confirmation, and best wishes for all your anticipated hard work related to the nation's energy needs, advancing technology, legacy weapons complex clean-ups, and radioactive waste challenges facing the DOE and the nation.

This letter follows-up on a series of letters and email correspondence<sup>1</sup> discussing use by the Appalachian States Low-Level Radioactive Waste Commission<sup>2</sup> (Commission) of the income on surcharge funds for the Commission's routine activities. As explained in previous correspondence, under the federal Low-Level Radioactive Waste Policy Amendments Act of 1985<sup>3</sup> (Federal LLW Act), Sited States collected disposal surcharges during specified time periods. The Sited States transferred 25% of the surcharges to an escrow account held by the Secretary of Energy, as trustee. The Secretary of Energy paid escrowed surcharges that originated in the Appalachian Compact to the Commission. The Commission is holding surcharge funds in the principal amount of approximately \$1.65 million.

The Commission acknowledges that, based on the language of the Federal LLW Act, the principal amount of surcharge monies received from the Secretary of Energy should not be spent on Commission activities so long as a regional facility is not in the process of being cited in the Compact region. The Commission does, however, intend to spend the *investment income* on the surcharge funds for the Commission's routine activities; this use of investment income is outside the restrictions of the Federal LLW Act. Using the income for this purpose will ensure that the Commission can continue to perform the

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<sup>1</sup> See, November 22, 2019 Letter from Kaley Laleker (Commission Chair) to former DOE Secretary Rick Perry; February 25, 2020 letter from Mark Robeck, DOE Deputy General Counsel for Energy Policy to Ms. Laleker; September 22, 2020 email from Commission's outside legal counsel Timothy Anderson.

<sup>2</sup> The Appalachian Commission is the governing body of the Appalachian States Low-Level Radioactive Waste Compact ("Appalachian Compact").

<sup>3</sup> 42 U.S.C. § 2021b et seq.

statutory, programmatic, and administrative functions which the Appalachian Compact requires.

Sincerely,

A handwritten signature in black ink, appearing to read "D. J. Allard". The signature is fluid and cursive, with the first name "D. J." and the last name "Allard" clearly distinguishable.

David J. Allard, CHP  
Chair

Enclosure

cc: Kaley Laleker, Vice Chairman  
Rich Janati, Administrator  
Michelle Skjoldal, Counsel  
Tim Anderson, Counsel