

April 29, 2002

Honorable Jim Hodges
Governor
State of South Carolina
P.O. 11829
Columbia, SC 29211

REFERENCE: Extended Care Fund for Barnwell LLRW Disposal Facility

Dear Governor Hodges:

At its April 25, 2002, meeting the S.C. Governor's Nuclear Advisory Council directed that I write you to express the Council's profound concern over the recent proposals to use the assets in the Barnwell Extended Care Fund to meet the current budgetary needs of the State.

This fund was established for a clear public purpose: to protect the health and safety of the citizens of South Carolina through long-term care and maintenance of the Barnwell site with funds provided by the users of that site, most of whom are not South Carolinians – rather than by the taxpayers of South Carolina.

Those proposing to take these funds suggest that the General Assembly would replace them in the future "for cleanup if it needed to be done" or "should the need arise." There are no "if's" about the need for this fund. The State will have to carry out its responsibility for maintenance and monitoring of the site once it is closed. The recent consultant's report on the fund indicates that under the very best of circumstances the State will incur costs of over \$235,000,000 (in current dollars) to meet these obligations. After factoring in the effects of inflation over the 100-plus year monitoring period, the actual cost to the State will be many times that amount.

Depleting this fund at the present time will only result in the taxpayers of South Carolina being asked to pay for something the users of that site from all across the United States have already paid for. Further, we will add to this burden because, by reducing or eliminating the current balance in the fund, the State will derive no benefit from the compound interest that would be earned on that fund balance. It is the interest earned on this fund which will enable the State to cover the expenses we will face in the years to come without having to tax the citizens of South Carolina.

Depleting this fund could also result in legal complications stemming from provisions of the Atlantic Compact agreement between South Carolina and the states of Connecticut and New Jersey as well as from provisions in the lease agreement between South Carolina and the site operator, Chem-Nuclear, Inc., which govern the Perpetual Care Fund. Further complications could arise from the application of CERCLA in the absence of an adequate Care Fund. All of this would only add to the State's burden and the cost to the taxpayers.

Recently Ben Johnson, the Chairman of the Atlantic Compact Commission, wrote to the Chairman of the S.C. Senate Finance Committee to express the Commission's concerns about moves to deplete the Perpetual Care Fund. Our Council concurs in the issues and concerns raised by the Commission on this matter.

Page 2
April 29, 2002
Honorable Jim Hodges

The Council strongly urges you to work with the Budget and Control Board and the leadership of the General Assembly to identify other appropriate sources of funds to meet the State's current budget needs. Further we ask that you work with the Budget and Control Board to insure the future integrity of this fund by converting it into a trust fund similar to the one established by the Board to cover the costs of site closure and decommissioning.

If there are any additional monies drawn out of this fund, we strongly urge you to work with the leadership of the General Assembly to establish an enforceable mechanism that spells out the timetable for prompt repayment of the monies - with interest - to minimize the burden that this action will place on the taxpayers of our State.

In so many ways, South Carolina has been a leader among the states in addressing issues relating to nuclear technology and nuclear materials. This Perpetual Care Fund is but one example of the foresight and wisdom of the General Assembly and the Budget and Control Board when they acted to establish the fund back in 1967. We must not allow the demands of the moment, no matter how pressing they may seem, to undermine the enduring policies that have served our State so well for so long.

South Carolina must remain true to the principles that have guided our state in this matter for many years. That we will bear the burden of our benefits. That we will sustain prudent fiscal management of our public responsibilities. And that this generation will not ask our children and our children's children and their children's children to assume this responsibility on our behalf.

Sincerely yours,

John J. Stucker, Ph.D.
Chairman
S.C. Governor's Nuclear Advisory Council

cc: The Honorable Robert L. Peeler
The Honorable David H. Wilkins
The Honorable Glenn F. McConnell
The Members of the S.C. Budget and Control Board
Benjamin A. Johnson, Chairman, Atlantic Compact Commission