



HENRY McMASTER  
GOVERNOR

August 30, 2020

The Honorable Alan M. Wilson  
Attorney General of South Carolina  
Post Office Box 11549  
Columbia, South Carolina 29211

Dear Attorney General Wilson:

I recently received a copy of the Settlement Agreement you executed with the federal government regarding the cancellation of the Mixed Oxide Fuel Fabrication Facility (“MOX”) project and the Department of Energy’s (“DOE”) storage of defense plutonium and defense plutonium materials at the Savannah River Site (“SRS”). As you know, I did not receive the Settlement Agreement until late last week, at which point you had already signed it on behalf the State. Having carefully reviewed the document and your outside counsel’s responses to my immediate questions regarding the same, I am compelled to express my concerns regarding the Settlement Agreement.

First, I am not convinced that this long-term arrangement provides sufficient assurances that DOE will remove the plutonium from our State in a timely manner. Currently, federal law provides that all defense plutonium transported into the State between 2002 and the present must be removed from SRS by January 1, 2022. However, under the Settlement Agreement, it appears that DOE will not be required to remove this plutonium until January 1, 2037. And if DOE only removes half of the total amount currently at SRS by this new deadline, the State of South Carolina will be forced to forgo legal action until January 1, 2042. I understand that settlement negotiations are inherently fluid in nature and that the transfer of defense plutonium is not an expeditious process, but the Settlement Agreement does not appear to align with previous discussions. At bottom, I cannot support a compromise that extends the existing removal deadline by up to twenty years.

Second, after reviewing your counsel’s responses to my questions regarding the anticipated use of the settlement proceeds, I must note my concerns regarding the payment of attorneys’ fees. After years of DOE repeatedly ignoring its obligations and abandoning the MOX project, President Trump and his Administration have demonstrated their commitment to removing surplus plutonium from our State. Secretary Brouillette’s willingness to address these inherited issues is

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noted and most appreciated. However, the federal government's relatively recent attention to this important issue is due in no small part to our zealous advocacy and coordination with members of the congressional delegation. Accordingly, while I recognize that this has been complicated and time-consuming litigation and that you needed the assistance of outside counsel to pursue these complex claims, I simply cannot endorse the payment of \$75 million in attorneys' fees under the circumstances.

To be clear, I appreciate your efforts to recover the economic and impact assistance payments owed to the State and your pursuit of this litigation more generally. However, as I have repeatedly conveyed, it is of paramount importance that South Carolina not become a permanent plutonium waste repository. Therefore, I cannot support a Settlement Agreement that extends DOE's existing removal deadlines by up to twenty years and potentially sidelines South Carolina's future leadership by restricting the State's ability to enforce its legal rights.

Yours very truly,

A handwritten signature in blue ink, appearing to read "Henry McMaster", is centered on the page. The signature is fluid and cursive.

Henry McMaster