

October 17, 2003

MEMORANDUM TO: Gary Janosko, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety
and Safeguards, NMSS

FROM: Robert A. Nelson, Chief **/RA/**
Uranium Processing Section
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety
and Safeguards, NMSS

SUBJECT: QUALITY AUDIT OF URANIUM PROCESSING SECTION

I am responding to the subject memorandum dated September 30, 2003, that documented the results of Office of Nuclear Material Safety and Safeguards quality audit of my Section. The response to each of the Audit Team's recommendations is attached.

Attachment: Response to Recommendations

**RESPONSE TO RECOMMENDATIONS OF
NMSS QUALITY AUDIT
DIVISION OF FUEL CYCLE SAFETY AND SAFEGUARDS**

Recommendation: Staff guidance should indicate what the appropriate guidance is (are) [for surety reviews] and such standard(s) should be used consistently/appropriately for all future surety reviews.

Response: Guidance for form and content, including specific wording, of financial assurance instruments (FAIs) is contained in the October 1988 "Technical Position on Financial Assurances for Reclamation, Decommissioning, and Long-Term Surveillance and Control of Uranium Recovery Facilities." The Handbook for Management Directive 8.12, "Decommissioning Financial Assurance Instrument Security Program" states that licensing project managers or license reviewers are responsible for ensuring that the licensees they manage have submitted the required financial assurance instruments and that the instruments are acceptable to the Nuclear Regulatory Commission (NRC). Because specialized experience is required to review the adequacy of FAIs, all new or revised FAIs are forwarded to the NMSS Financial Assurance Instrument Custodian in the Division of Waste Management (DWM) for review. DWM employs the services of a contractor with special qualifications to review these instruments. The Office of the General Counsel reviews the contractor's FAI review comments before DWM provides the comments to FCSS in the form of a request for additional information, if warranted. A new or revised FAI is not accepted until DWM's comments are resolved.

The Technical Position also includes guidance for determining the adequacy of site-specific reclamation and decommissioning cost estimates in Section 4.0. The guidance covers both conventional mills and *in situ* leach extraction facilities. Recently, the staff developed a Standard Review Plan (SRP) for *In Situ* Leach Uranium Extraction License Applications (NUREG-1569) and revised the Standard review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (NUREG-1620, Rev. 1). Appendix C of each document includes guidance for site-specific facility cost estimates. Appendix C of each NUREG was developed based on the Technical Position and supercedes Section 4.0 of that document. Appendix C to each NUREG states, "The licensee should include a contingency amount to the total cost estimate for final site closure. The staff considers a 15-percent contingency to be an acceptable minimum [*emphasis added*] amount." Higher amounts may be required based on site-specific circumstances and/or higher amounts may be proposed by the licensee.

Licensees are required by 10 CFR 40, Appendix A, Criterion 9, to adjust cost estimates annually to account for inflation and changes in reclamation plans. The cost estimates, once approved by license amendment, fix the level of funding that must be included in the FAI. These estimates, not the FAI instruments, are the subject of the "surety reviews" conducted by Uranium Processing Section staff.

In summary, Appendix C of NUREGs 1620 and 1569 contain the current staff guidance for conducting reviews of reclamation/decommissioning cost estimates and the Technical Position provides guidance for the form and content of FAIs. No changes to these documents are planned.

Recommendation: FCSS management might consider long-term technical assistance requests within NRC. If DWM is unable to support a particular review, it is possible that either the Office of Nuclear Reactor Regulation (NRR) or the Office of [Nuclear Regulatory] Research (RES) may be able to provide such experience.

Response: The report addresses two skill specialties that staff suggested need augmentation: geotechnical engineering and groundwater hydrology. The Section has two hydrologists and plans to hire a third. This level of staffing is expected to be sufficient. Until this level is achieved, the Section hopes to augment its staff with a rotational assignee. The skill specialty of geotechnical engineering represents a unique problem. There is insufficient work to justify a full-time geotechnical engineer and the budget can not afford another project manager who would provide the related skills. As noted in the audit report, FCSS has requested technical assistance from DWM and is initiating a contract with the Center for Nuclear Waste Regulatory Analysis to provide technical support in FY04. The report also correctly notes that these sources may not be available after a high-level waste repository license application is received.

The Strategic Workforce Planning (SWP) database was used to identify those organizations within NRC that have individuals with geotechnical engineering experience. The database groups geotechnical engineering with mining engineering, but the database serves as a good starting point for further contacts. Although NRR has two individuals with self-assessment scores of either "expert" or "extensive," their experience is limited to nuclear reactors. RES has only one individual with experience in the nuclear waste category above the "applied" level. As expected, the only NMSS organization with geotechnical engineers with experience above the applied level is DWM. FCFB will contact the organizations identified by the SWP database to determine the extent of support that can be obtained from within NRC.

Recommendation: If there is no Safety Evaluation Report (SER) or Technical Evaluation Report (TER), the cover letter should clearly state the basis for the staff acceptance of the changes or clearly state where that information can be located. Where a SER/TER is included, the changes should be clearly described in the document. Specifically discuss in the SER/TER or other documentation of the staff evaluation, changes made to the license/certificate.

Response: Agree. Pending development/promulgation of Branch/Section guidance, Section staff will be reminded of this requirement at Section meetings and the managers will focus on this area during concurrence reviews.

Recommendation: If the basis is found in a document other than the SER/TER, it should be clearly indicated (with, for example, dates/ADAMS accession numbers).

Response: Agree; see previous response.

Recommendation: The Office of the Chief Information Officer should regularly review and ensure the effectiveness of instructions provided to the public for access to ADAMS docket files.

Response: Agree.

Recommendation: The Uranium Processing Section Licensing Assistant indicated that Distribution Lists were under development. This process should be continued and, as appropriate, use of such lists should be implemented and made part of standard procedures.

Response: Agree. The Branch secretary maintains a distribution list for most dockets and uses this list for distribution of correspondence. The Section will continue this practice and will develop distribution lists for those dockets that don't have them.

Recommendation: Consider informal mentoring of senior staff when they transfer into the section from other parts of the agency.

Response: Agree. It is a standard practice of the current Section Chief to interview all new staff members as soon as possible after assignment to the Section. This interview includes, among other topics, developmental needs and the staff member is encouraged to develop an IDP and obtain a mentor. While in DWM, the current Section Chief developed a new employee orientation procedure as part of the Branch's Operating Procedures Manual. That procedure will be modified as needed and used for the current Section.

Recommendation: Consider developing or (if it still exists) updating an FCSS project managers' handbook or manual. Some of the other NMSS divisions find such documents quite useful.

Response: Two such documents are known to exist: (1) The Licensing and International Safeguards Branch Materials Licensing Procedures Manual, July 1999; and (2) the Special Projects Branch Project Manager's Handbook, March 1999. The locations of the electronic files for these documents are unknown. Both documents are out-of-date. Given the resources that would be required to revise these documents, there is no plan to do so. Rather, staff will use these existing documents to the extent that they remain applicable.

Recommendation: It may not be resource or cost-effective to develop new standard review plans in these areas (i.e., rare earth and conversion facilities) but there should be some written guidance for staff regarding the appropriate existing guidance to use.

Response: Because of the variety of facilities involved (e.g., rare earth processing facility, uranium conversion facility, gaseous diffusion plants) and the variety of associated licensing actions, development of new written guidance is neither practical nor cost-effective. Furthermore, the Branch has no budget for additional guidance development. Alternately, the Section Chief, in consultation with the senior technical staff, will identify the appropriate guidance to be used at the time the license application or amendment request is received.

Recommendation: Training concerning cost estimates for surety reviews should be offered periodically to ensure consistency and quality in the surety reviews.

Response: Disagree. The Audit Team noted that formal training for conducting cost estimates for surety reviews was offered in 1998. This training, the last of this type, was of very limited scope and focused on inflation adjustments. Such adjustments are relatively straightforward and guidance for inflation adjustments is provided in Appendix C of the SRPs. Recurring training in this area is not warranted.

The inconsistencies with surety reviews noted by the Audit Team dealt principally with the appropriate level of the contingency. This issue is addressed in response to the first comment and will be addressed separately with the Section staff. There does not appear to be a need for additional training in this area, for qualified staff, as opposed to any other area of the SRP's.

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