

May 14, 2013

MEMORANDUM TO: Bill von Till, Chief  
Uranium Recovery Licensing Branch  
Decommissioning and Uranium Recovery  
Licensing Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

FROM: Stephen J. Cohen, Team Leader /RA/  
Uranium Recovery Licensing Branch  
Decommissioning and Uranium Recovery  
Licensing Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: PUBLIC MEETING SUMMARY

On April 24, 2013, representatives of the National Mining Association (NMA) met with the U.S. Nuclear Regulatory Commission (NRC) staff regarding issues raised in its letter dated January 7, 2013, to Chairman Allison M. Macfarlane. A summary of the meeting is enclosed.

Enclosure: Meeting Summary

cc: Katie Sweeney, NMA  
Anthony Thompson, Thompson & Pugsley  
Christopher Pugsley, Thompson & Pugsley

CONTACT: S. Cohen, FSME/DWMEP  
(301) 415-7182

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DISTRIBUTION: APersinko BSpitzberg/RIV AMohseni LCamper

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OFFICE	DWMEP	DWMEP	DWMEP	OCFO	DWMEP
NAME	SCohen	BGarrett	BvonTill	SCoplin	SCohen
DATE	5/13/13	5/09/13	5/13/13	5/14/13	5/14/13

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## MEETING SUMMARY

DATE: April 24, 2014

TIME: 8:30 a.m. to 11:30 a.m.

PLACE: U.S. Nuclear Regulatory Commission, Headquarters  
One White Flint North, Room O-12B2  
Rockville, Maryland

PURPOSE: This meeting was held at the request of the National Mining Association (NMA) regarding issues raised in its letter dated January 7, 2013 to Chairman Allison M. Macfarlane.

### ATTENDEES:

See Attached Attendee List.

### BACKGROUND:

NMA requested a meeting to discuss various issues regarding the NRC's uranium recovery regulatory program. These issues were raised in a letter dated January 7, 2013, and addressed to Chairman Macfarlane (ADAMS Accession No. ML13009A118). The staff responded to this letter on February 11, 2013 (ADAMS Accession No. ML13042A129) and on February 12, 2013 (ADAMS Accession No. ML13011A326).

### DISCUSSION:

NRC staff read an opening statement at the meeting. NRC staff and NMA representatives addressed the topics set out in the meeting agenda (Attachment 1). Specific action items identified by the staff during this meeting are summarized at the end of each section.

#### 1. NRC Billing Practices

NMA stated that industry needs more detailed invoices to understand what activities have occurred and the cost of each activity. Specifically, industry would like the names of staff working on each activity, the number of hours spent on each activity, and a description of each staff member's work. NMA emphasized that its members receive invoices in excess of \$300K with essentially no information to support the invoice amount. NMA member companies are typically publicly traded and company management needs to justify costs to shareholders.

Staff from the Office of the Chief Financial Officer (OCFO) stated that the requested level of invoice detail is available, and that the newer invoice format was the result of surveys of licensees to determine which information was most desired. To obtain more detail, licensees or applicants may send an email to the OCFO requesting this information. Regarding contractors,

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descriptions of activities must go through the NRC project manager. However, the staff committed to determining which information regarding contractor invoices could be released. Staff will also investigate the release of biweekly reports to inform licensees and applicants of pending charges.

**ACTION ITEM 1: Determine which contractor invoice details can be released – NRC, 6/14/2013**

**ACTION ITEM 2: Determine if and the manner in which biweekly reports can be issued - NRC, 6/14/2013**

**ACTION ITEM 3: Provide a contact for requests for more invoice detail – NRC, completed**  
Response to Action Item 3. Licensees and applicants should email requests for more invoice detail to [FEES.Resource@nrc.gov](mailto:FEES.Resource@nrc.gov). Licensees should copy the NRC Project Manager on all requests. Any additional requests should be directed to the Uranium Recovery Licensing Branch Team Leader.

## 2. Pre-licensing Construction Rule, 10 CFR 40.32(e)

NMA stated that industry does not have any clear indication regarding the manner in which the pre-construction rule would be implemented. For example, if an applicant constructed a central processing plant and wellfields before a license is issued, industry is uncertain whether or not the NRC staff will reject a license application. Industry is concerned about this issue because the construction season in some uranium recovery states is quite short due to winter.

Staff from the Office of the General Counsel (OGC) stated that the NRC does not have an outright prohibition on pre-licensing construction that has a nexus to radiological health and safety. However, the NRC does have a strong “disincentive”, which is the “grounds for denial” clause in 10 CFR 40.32(e). OGC staff also stated that the applicants/licensees bear some risk under the National Historic Preservation Act by potentially disturbing historic and cultural resources during pre-licensing construction that has nexus to radiological health and safety. Furthermore, the NRC staff is concerned that excessive pre-licensing construction could impact the applicant’s/licensee’s ability to properly characterize background.

The staff committed to completing a RIS that provides guidance on implementing the pre-licensing construction rule.

**ACTION ITEM 4: Prepare RIS for guidance on implementing pre-licensing construction rule – NRC, 12/31/2013**

## 3. Structure and Focus of Licensing Reviews

Industry believes that the staff does not always focus on areas of the review that pertain to the highest risks and spends much time and money on areas that pertain little to actual radiation safety risks. Radon emissions from uranium recovery facilities are an example of an area where the level of review effort is not commensurate with the risk. Also, the environmental reviews require excessive amounts of resources. Industry recommends standardizing responses to various comments because many of the comments are the same. Furthermore, industry would like the NRC staff to utilize the GEIS more effectively as was done for the

Powertech, Dewey-Burdock SEIS. The staff and NMA representatives agreed that a “lessons-learned” workshop would be useful to discuss these issues. Because of the delay between actually completing an SEIS and publication, NMA would like the staff to issue a letter stating that the review is completed and is being prepared for publication.

**ACTION ITEM 5: Schedule a lessons-learned workshop in Denver – NRC, Fiscal Year 2014**

**ACTION ITEM 6: Investigate the ability to issue a completion letter for the SEIS prior to publication – NRC, 9/1/2013**

4. Agency Resources for Reviews of New License Applications and Amendments

NMA representatives and the NRC staff discussed the current situation regarding agency resources and reviews. Staff stated that even with the 40 percent submission rate, the staff still expects to experience delays in initiating reviews. Staff also asked if NMA was successful at developing a list that could be updated quarterly. NMA stated that legal restrictions exist that prevent companies from providing information to NMA without first notifying shareholders. Therefore, it is unlikely that NMA would be able to act as a clearinghouse for letters of intent.

Staff stated that it has suffered some delays due to constant continuing resolutions and sequestration. However, it is branching out to other groups in the Division of Waste Management and Environmental Protection to get help on applications.

The staff stated that it is changing its policy regarding the public list. If an application is not submitted at any time during the fiscal year stated in a letter of intent and that letter of intent is not updated, the staff will remove that project from its public list.

**ACTION ITEM 7: Remove projects from the public list that do not arrive in the fiscal year stated in the letter of intent unless the letter of intent is updated – NRC, Ongoing**

5. Lack of Progress on Guidance Documents

NMA expressed concerns at the lack of progress on some of the important guidance documents. NMA representatives asked if the staff would be receptive to having industry do some of the updates and submit them to the staff for endorsement. This is similar to the strategy that the Nuclear Energy Institute (NEI) has used in the past. No clear decision was made on this issue; however, the staff agreed to provide industry with a list of guidance documents and dates by which guidance will be updated or created.

Along the lines of guidance, NMA expressed the concerns of industry that 10 CFR 40.42, as it is written, should not apply to groundwater in ISRs. As 40.42 is written, it refers to buildings or outdoor areas, not groundwater. Also, groundwater cannot be remediated in 2 years; therefore, the staff's interpretation of this regulation is unnecessarily causing more work for the licensees. Staff agreed to review this issue.

**ACTION ITEM 8: Provide industry with a list of guidance documents and dates by which guidance will be updated or created – NRC, completed**

**ACTION ITEM 9: Review issues regarding 10 CFR 40.42 timeliness in decommissioning as it relates to ISRs – NRC, 9/30/2013**

Response to Action Item 8. The list of guidance documents and the approximate completion dates are, as follows:

- Revisions to NUREG-1569 – FY 2015, earliest
- New Conventional Mill and Heap Leach Facility Standard Review Plan – FY 2014
- Regulatory Guide 4.14 – FY 2015
- Regulatory Guide 3.51 – FY 2014
- Regulatory Guide 3.59 – FY 2014
- Regulatory Guide 8.30 – FY 2014
- Radon Guidance – FY 2014

#### 6. Section 106 Review Process

NMA stated that the Section 106 process requires too much time and is too expensive. Although applicants have attempted to jumpstart the process by early communications with the Tribes, the Tribes do not necessarily want to talk to the applicants. NMA wants the NRC staff to develop specific procedures and timeframes for the Section 106 process and not allow the Tribes to derail the environmental review process.

The staff stated that it has made much progress in improving the Section 106 process. The staff has developed a good working relationship with the Advisory Council for Historic Preservation (ACHP) and has developed open site approach to traditional cultural property (TCP) surveys that the Tribes frequently request. Regarding TCP surveys, these are relatively new; however, the ACHP states that an agency must provide an adequate justification for not performing such a survey.

The staff is also preparing a Section 106 guidance document that will be issued in draft form by the end of the calendar year 2013. The Tribes and the public may provide comments on this draft.

#### 7. Environmental Protection Agency's (EPA's) 40 CFR Part 61, Subpart W, Rulemaking

According to NMA, the Part 61, Subpart W, is with EPA's Office of Policy and will go the Office of Management and Budget (OMB) sometime this year. This rulemaking could stay with OMB for an extended time period. NMA would like the NRC to work with EPA to eliminate this dual regulation.

The staff stated that, if necessary, it will prepare a confirmatory rule. However, it will not explicitly enforce Subpart W. It will simply disclose the fact that licensees may be required to comply with it. If a confirmatory rule is require, dual regulation could be addressed at that point in time.

ATTACHMENTS:

1. Agenda
2. List of Attendees

**AGENDA**  
**National Mining Association and Uranium Recovery Industry**  
**Uranium Recovery Issues**  
**April 24, 2013**

	<b>Topic</b>	<b>Lead</b>
	Introductions	NRC Staff
1	Agency Resources for Reviews of New License Applications and Amendments	NMA
2	Section 106 Review Process	NMA
3	NRC Billing Practices	NMA
4	Structure and Focus of Licensing Reviews	NMA
5	Lack of Progress on Guidance Documents	NMA
6	EPA's 40 CFR Part 61, Subpart W Rulemaking	NMA
7	Pre-licensing Construction Rule, 10 CFR 40.32(e)	NMA
	Conclusion	NRC Staff



**LIST OF PARTICIPANTS**  
**National Mining Association and Uranium Recovery Industry**  
**Uranium Recovery Issues**  
**April 24, 2013**

<b>NAME</b>	<b>ORGANIZATION</b>
Stephen J. Cohen	USNRC
Chris Pugsley	Thompson & Pugsley
Anthony J. Thompson	Thompson & Pugsley
Bill von Till	USNRC
Kevin Hsueh	USNRC
Aby Mohseni	USNRC
Joan Olmstead	USNRC
James Firth	USNRC
*Patricia McGrady-Finneran	USNRC
*Haimanot Yilma (via phone)	USNRC
*Diana Diaz-Toro (via phone)	USNRC
*Johari Moore (via phone)	USNRC
*Mike Neuman (via (phone)	Uranium Resources, Inc.
*Andrew Mauer	Nuclear Energy Institute
*Mike Welling	Virginia Department of Health
*Jon Winter	Uranium One
*Mike Thomas	Uranerz Energy Corporation
*Billy Blaney	USNRC
*Seth Coplin	USNRC
Katie Sweeney	National Mining Association
Andrew Persinko	USNRC

**\*Participated via Teleconference**