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December 5, 2016

MEMORANDUM TO: Marc L. Dapas, Director
Office of Nuclear Material Safety
and Safeguards

Tison A. Campbell, Deputy Assistant General Counsel
for Reactor and Materials Rulemaking
Office of the General Counsel

Daniel S. Collins, Director
Division of Material Safety, State, Tribal, and
Rulemaking Programs

Daniel H. Dorman, Regional Administrator
NRC Region I

FROM: Lisa C. Dimmick, Senior Healthy Physicist */RA/*
Agreement State Programs Branch
Division of Material Safety, State, Tribal,
and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards

SUBJECT: MINUTES: SEPTEMBER 6, 2016, SPECIAL MANAGEMENT
REVIEW BOARD MEETING

Enclosed are the minutes of the Special Management Review Board (MRB) meeting held on September 6, 2016, to discuss the periodic meeting held with the Texas Agreement State Program, and to discuss the Special Review conducted of the Texas Commission on Environmental Quality. If you have comments or questions, please contact me at (301) 415-0694.

Enclosure:
Meeting Minutes

cc: Earl Fordham, WA
Organization of Agreement States
Liaison to the MRB

MRB Members

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MINUTES: SPECIAL MANAGEMENT REVIEW BOARD MEETING OF
SEPTEMBER 6, 2016

The attendees were as follows:

In person at U.S. Nuclear Regulatory Commission Headquarters in Rockville, Maryland:

Marc Dapas, MRB Chair, NMSS
Tison Campbell, MRB Member, OGC
Daniel Collins, MRB Member, NMSS
Stephen Poy, NMSS
Dave Esh, NMSS
Charles, McGuire, TCEQ

Lisa Dimmick, NMSS
Paul Michalak, NMSS
Duncan White, NMSS
Joe O'Hara, NMSS
Vince Holahan, NMSS
Mark Shaffer, Region IV

By videoconference:

Randy Erickson, Region IV

By telephone:

Dan Dorman, MRB Member, Region I
Earl Fordham, MRB Member, WA
Bill Maier, Region IV
Jim Lynch, Region III
Binesh Tharakan, Region IV
Bobby Janecka, TCEQ
Sara Fields, Uranium Watch
Betsy McShue, WCS

Lizette Roldan-Otero, NMSS
Kathy Modes, NMSS
Charlotte Sullivan, TDSHS
Chuck Flynn, TDSHS
Karl VonAhn, TDSHS
Helen Watkins, TDSHS
Erica Grey, Sierra Club

1. **Convention.** Ms. Lisa Dimmick convened the meeting at 9:00 a.m. (ET). She noted that this Management Review Board (MRB) meeting was open to the public. She transferred the lead to Mr. Marc Dapas, Chair of the MRB. Introductions of the attendees were conducted.

2. **Periodic Meeting Discussions:**

Periodic Meeting with the Texas Agreement State Program: Texas Department of State Health Services and Texas Commission on Environmental Quality

Mr. Randy Erickson summarized for the MRB the periodic meeting discussions held with the two agencies that comprise the Texas Agreement State Program: Texas Department of State Health Services (DSHS) and Texas Commission on Environmental Quality (TCEQ). The meetings were held on February 10 and 11, 2016. Mr. Erickson noted that the last Integrated Materials Performance Evaluation Program (IMPEP) review of Texas was in 2014. Texas' performance was found satisfactory for all indicators reviewed. In addition, Texas was found adequate to protect public health and safety, and compatible with the U.S. Nuclear Regulatory Commission (NRC).

The summary for the meeting with the DSHS may be found in the NRC's Agencywide Documents Access and Management System (ADAMS) using accession number ML16098A260. Mr. Erickson noted the program status at the time of the periodic meeting: 1528 licensees, 5 staff level vacancies, no backlog of licensing actions, no rules overdue for adoption, response to incidents and allegations has been appropriate. A total of 9.9 percent of higher priority and initial inspections conducted overdue with 2 inspections overdue at the time of the periodic meeting.

The MRB discussed the status staff turnover since the periodic meeting in February as well as succession planning for retirements. DSHS management indicated to the MRB that all inspector positions have been filled and all but one have been qualified. Requests to hire have been granted promptly. Texas also indicated that while it does not have a formal succession plan, Texas does start monitoring planned retirements about a year in advance and it initiates a level of informal planning. The MRB discussed the U.S. Government Accountability Office (GAO) audit on materials licensing and Texas' pre-licensing guidance process. Texas discussed with the MRB, the actions it has taken to strengthen the Texas licensing program as a result of the GAO audit. The MRB inquired about the status of inspection frequencies and overdue inspections. Texas reported that it now plans initial inspections at 6 months instead of 1 year to prevent initial inspections from going overdue. In addition, Texas reported that at the time of the MRB, there were no overdue Priority 1, 2 or 3 inspections.

The summary for the meeting with the TCEQ may be found in ADAMS using accession number ML16103A315. Mr. Erickson noted the program status at the time of the periodic meeting: 11 Uranium licenses and 1 LLRW licensee, 2 staff level vacancies, no overdue inspections, current on licensing actions, three rules overdue for adoption. TCEQ is addressing the open recommendations from the 2014 IMPEP review.

The MRB discussed with TCEQ management the actions taken to address the recommendations on staffing and inspection procedures from the 2014 IMPEP review.

Mr. Erickson stated that the staff recommended that the next IMPEP review of the Texas Agreement State Program be conducted as scheduled in February 2018. The MRB agreed with the staff's recommendation.

Special Review: Texas Commission on Environmental Quality

Mr. Stephen Poy summarized for the MRB the results of the special review conducted for TCEQ on April 4–5, 2016. The special review report may be found in ADAMS using accession number ML16271A352. The special review was conducted under IMPEP and focused on TCEQ's licensing process for reviewing depleted uranium disposal, including the basis for granting a license amendment to dispose of depleted uranium, the associated performance assessment model for such disposal, and procedures and guidance related to the use of the performance assessment model. Based on information from TCEQ management and staff, the decision to grant the license amendment for the disposal of depleted uranium was informed by a number of factors, including the performance assessment model developed by the licensee in support of the license amendment. The review team concluded that the site characteristics provide

adequate margin to protect public health and safety. However, the review team identified some items of concern that involved the lack of documentation needed to support this complex licensing decision. The review team recommended for TCEQ's consideration, and the MRB agreed with, documentation-related items for improvement. The MRB discussed, and agreed that there were no health and safety issues as a result of the performances weaknesses identified. The MRB requested that the final report of the special review be bolstered to fully explain that health and safety is adequately protected. The MRB directed that the NRC staff follow up on recommended items for improvement during the next IMPEP review of the Texas Agreement State Program in 2018.

3. **Public Comments.** Ms. Sara Fields (Uranium Watch) commented on her concerns to ensure safe transportation of licensed materials between uranium recovery facilities throughout the State of Texas. She was concerned that an event similar to what happened with licensed material shipped from the Cameco Resources' Smith Ranch-Highland in-situ leach facility in Wyoming for disposal at the White Mesa Mill could also occur in Texas. Ms. Erica Grey (Sierra Club) commented on her concerns regarding inspection frequencies at uranium recovery facilities, the oversight of Class C injections wells, and the disposal of depleted uranium waste at the Waste Control Specialists low level waste disposal site
4. **Precedents/Lessons Learned.** None applicable to these reviews.
5. **Adjournment.** The meeting was adjourned at 10:30 a.m. (ET).