August 2, 2001

MEMORANDUM TO: Melvyn Leach, Acting Chief
Fuel Cycle Licensing Branch
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety
And Safeguards

FROM: Michael Layton, Hydrogeologist **/RA/**
Fuel Cycle Licensing Branch
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety
And Safeguards

SUBJECT: MEETING SUMMARY, *IN SITU* LEACH PERMITTING STATES AND NRC MEETING OF JUNE 12, 2001

Attached is the summary of the June 12, 2001, meeting among representatives from the States of Nebraska, New Mexico and Wyoming; and the Nuclear Regulatory Commission regarding NRC's reliance on individual State's Underground Injection Control (UIC) Program for the protection of ground-water at NRC-licensed *In Situ* Leach Uranium Extraction Facilities. This meeting summary was reviewed by the participants. The meeting was conducted to partially fulfill the requirements of the Commission's Staff Requirements Memorandum SECY-99-013, issued on July 26, 2000 and SECY-01-00026 issued on May 30, 2001.

Attachment 1: Meeting Summary
Attachment 2: Meeting Talking Points
Attachment 3: Attendance List

CONTACT: Michael Layton, NMSS/FCSS
(301) 415-6676

cc: Mario Salazar, Office of Ground Water
and Drinking Water, EPA
David Miesbach - Nebraska DEQ
Kevin Myers - New Mexico Env. Dep.
Roberta Hoy - Wyoming LQD

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DATE	7/26/01		7/26/01		8/2/01			

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Meeting Summary

Topic: States and NRC Discussions: NRC's reliance on ground-water protection reviews performed by non-Agreement States for licensing actions at *In Situ* Leach Uranium Extraction Facilities

Date/Time: June 12, 2001; 3:00 pm to 5:00 pm

Location: Beethoven Meeting Room, Executive Tower Hotel Conference Center, Denver, Colorado

Meeting Agenda: (see Attachment 2)

Attendees: (see attendance sheet, Attachment 3)

Dave Carlson - Nebraska DEQ
David Miesbach - Nebraska DEQ
Steve Ingle - Wyoming LQD
Roberta Hoy - Wyoming LQD
Kevin Myers - New Mexico Env. Dep.
Gary Janosko - NRC
Melvyn Leach - NRC
Michael Weber - NRC
Dan Gillen - NRC
Maria Schwartz - NRC
Michael Layton -NRC

Discussions: The NRC requested this meeting with representatives from the States of Nebraska, New Mexico, and Wyoming to determine the level of interest for beginning discussions on the extent to which NRC could rely on ground-water protection reviews at *in situ* leach (ISL) uranium extraction facilities performed by the three non-Agreement States. This meeting was scheduled to coincide with the annual NMA/NRC Uranium Recovery Workshop, and serve as a kick-off meeting for future discussions.

After introductions, NRC participants gave a narration of the background behind NRC seeking ways to reduce duplicative efforts, since both the NRC and EPA-authorized States share regulatory oversight at ISL facilities. The NRC also described the two meetings that were held with EPA headquarters staff and management in late 2000, and provided copies of the meeting summaries to the participants. The NRC explained that this effort is being undertaken in accordance with specific directions from the Commission, as described in two Staff Requirements Memoranda (SRMs)

The NRC also described that one outcome from the NRC/EPA meetings was EPA's view that the federal Underground Injection Control (UIC) program was more complementary to NRC's licensing program at ISL facilities, and not duplicative. EPA also viewed that any potential duplication would occur between the State-administered programs and NRC's licensing, because the States implement the specific permit requirements and often impose requirements in addition to the federal UIC program. An example of this is ground-water restoration in the exempted aquifer area. Other technical areas that NRC considers have a potential for duplication between the State and NRC programs are listed in the talking points.

Through the course of discussions, several questions and comments were posed by the State participants. One comment was that endpoint of the process and future interactions needed to be identified - were we looking for a formal agreement? WDEQ does not consider it

appropriate for the NRC to rely on the State reviews [without a formal agreement] for several reasons, including: addressing public and industry comments; conflicting technical and/or regulatory interpretations; and state-specific issues, such as water rights and water quality standards. The NRC participants indicated that at this stage it was too early to determine whether a formal agreement, like a memorandum of understanding, was achievable or not. The NRC's goal at this early stage was to begin discussion with the States, identify areas where overlapping reviews were obvious and then see if there was a way to reduce or eliminate the duplication. The NRC staff would need to inform the Commission of the results of these early discussions and ask for guidance before committing the resources to enter into formal agreements.

A second question was raised concerning the level of NRC oversight of States in technical review areas. NRC participants pointed out that the States are currently implementing their permitting programs through authority from the EPA, not the NRC. Consequently, NRC would have no oversight authority over the State's program. That oversight would rest with the EPA. NRC outlined its vision of how the State/ NRC interactions could work for those technical areas that are duplicative:

1. Licensee's would submit applications or permit/license revision requests to the State and NRC for review, as is currently done. The NRC would not begin its review until the State's review was completed or nearly completed.
2. The State would complete its technical review in accordance with current practices.
3. NRC would receive the State's review and perform a limited review of the State's review, comparing it to NRC's Standard Review Plan (NUREG-1569).
4. NRC would accept the State's review as basis for NRC's licensing action if the review adequately addressed the acceptance criteria outlined in the Standard Review Plan. In the event of technical disagreements, the NRC would work cooperatively with the State to resolve the disagreement.

The question of resource impacts associated with participating in this effort was raised. Some State participants needed to meet with their respective management and determine whether they wanted to continue participating, given the limited resources in the State's program. NRC indicated that the amount of resource impact on the State participants would likely be minimal during these early stages.

The question of jurisdiction for 11e.(2) byproduct material was also raised. One State participant pointed out that the oversight of evaporation ponds should be added to the list. One state raised the concern over water pumped from an ISL facility to a plant, and the evaporation ponds used for wastewater. NRC considers evaporation ponds as 11(e).2 byproduct material, and views that it has sole jurisdiction over 11e.(2) byproduct material and source material; however, the Safe Drinking Water Act and the Atomic Energy Act each provide authority for ground-water protection at ISL facilities, resulting in shared jurisdiction in the ISL wellfields. Reducing the unnecessary burden caused by this circumstance is the incentive for finding ways to reduce or eliminate duplication between State and NRC regulatory programs.

Several questions on the details of documentation and communication with the States were raised. Currently, not all communications from the NRC get to the appropriate staff in the States. Also, paper versus electronic submittals was raised- NRC is going to electronic submittals, but States will require paper submittals for some time to come. NRC admitted that it

could do a better job of providing documentation and communicating with the technical staff at the States. The details of improving communication will need to be worked out.

NRC provided copies of its guidance documents to the State participants (NUREG-1569 , Reg. Guide 3.46, and electronic copies of the Uranium Recovery Commission Papers and SRMs). NRC asked for each State to provide copies of any available guidance documents or regulations to the NRC, that NRC does not already have, at some point in the near future.

It was suggested that a cross-walk table showing the applicable State regulations and NRC guidance would be helpful for future discussions to determine where State and NRC reviews would be the same and where they would be different. NRC agreed to begin drafting such a cross walk.

At the conclusion of the meeting, the participants agreed to continue discussions by telephone and e-mail and work toward scheduling future meetings through conference calls, if continued participation is approved by the respective State managers. NRC is working toward a goal of making an information report to the Commission in by October of this year regarding the progress of discussions with the States, and the potential for reducing or eliminating duplicative technical reviews.

No binding agreements or programmatic decisions were made by either the NRC or the State participants during this meeting.

Talking Points
NRC and EPA-authorized States

Topic: NRC reliance on ground-water protection reviews performed by non-Agreement States for licensing actions at *in situ* leach facilities
Date: Tuesday June 12, 2001
Time: 3:00 pm to 5:00 pm
Place: Beethoven Meeting Room, Executive Tower Hotel Conference Center

1. Introductions and Background

2. Overlapping Technical Review Areas
   - Wellfield Characterization, Monitoring, Approvals
   - Well Design, Mechanical Integrity Testing
   - Excursion Determination & Corrective Action
   - Deep Well Disposal
   - Wellfield Restoration
   - Surety Reviews
   - Others?

3. Guidance Documents
   - NRC's Regulatory Guide 3.46 and NUREG-1569
   - Available State Guidance Documents

4. NRC and State Interactions
   - How would this work?

5. Future Communications and Meetings

Attachment 2

MEETING ATTENDANCE

Meeting Attendance
NRC/State Discussions:
Ground Water Reviews at ISLs.
June 12, 2001
3:00p-5:00p
Executive Tower Hotel, Denver, CO.

Name	Affiliation	Telephone & E-mail
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