POLICY ISSUE
INFORMATION

September 18, 2002 SECY-02-0169

FOR: The Commissioners

FROM: William D. Travers
Executive Director for Operations

SUBJECT: 2002 ANNUAL UPDATE - STATUS OF DECOMMISSIONING PROGRAM

PURPOSE:

To provide the Commission with an annual comprehensive overview of decommissioning activities, including the decommissioning of Site Decommissioning Management Plan (SDMP) sites and other complex decommissioning sites, commercial reactors, research and test reactors, uranium mill tailings facilities, and fuel cycle facilities. This report is a stand-alone document and provides a status update on the decommissioning activities presented in SECY-01-0156, as well as current key decommissioning program issues.

SUMMARY:

This paper provides a comprehensive overview of all decommissioning activities. Consistent with Commission direction, the staff has provided a stand-alone document that presents a combined overview of all decommissioning activities within the Office of Nuclear Material Safety and Safeguards (NMSS), Office of Nuclear Regulatory Research (RES), and the Office of Nuclear Reactor Regulation (NRR). Using SECY-01-0156 as a baseline, progress made in each of the program areas, through at least June 1, 2002, is described in this paper.

CONTACT: John T. Buckley, NMSS
(301) 415-6607

BACKGROUND:

The Commission issued a Staff Requirements Memorandum (SRM) (M990729B) on August 26, 1999, requesting that the staff provide: (1) the status of the remaining active SDMP sites, including plans and schedules for each site; and (2) a summary report on all sites currently in the SDMP. In addition, an SRM dated June 23, 1999, directed the staff to provide a single coordinated annual report on all decommissioning activities, instead of annual reports from separate offices. In response to these SRMs, the staff provided a comprehensive overview of decommissioning activities in SECY-00-0094 and SECY-01-0156, dated April 20, 2000, and August 17, 2001, respectively.

The Commission has expressed interest in continuing the annual reporting process embodied in SECY-00-0094 and SECY-01-0156, highlighting significant accomplishments and changes. Further, in the SRM (M010928B) associated with SECY-01-0156 dated October 16, 2001, and the September 28, 2001, Commission briefing on decommissioning activities and status, the Commission requested that the staff discuss all aspects of decommissioning activities. In addition to the activities discussed in SECY-01-0156, the Commission requested a discussion on the decommissioning programs for uranium mill tailings facilities, non-power reactors, and fuel cycle facilities. Further, the Commission requested a discussion on the status of routine decommissioning activities. The Commission also requested that the staff highlight decommissioning activities that may need Commission attention and identify high-priority issues to be addressed in the next year.

DISCUSSION:

1. Summary of Decommissioning Program

The U.S. Nuclear Regulatory Commission (NRC) regulates the decontamination and decommissioning of materials and fuel cycle facilities, power reactors, research and test reactors, and uranium mill tailings facilities, with the ultimate goal of license termination. A broad spectrum of activities associated with these program functions is discussed in Attachment 1. Principal program areas are discussed below.

Approximately 300 materials licenses are terminated each year. Most of these license terminations are routine, and the sites require little, if any, remediation to meet NRC's unrestricted release criteria. The decommissioning program includes termination of licenses that are not routine because the sites involve more complex decommissioning activities. Currently, there are 25 materials facilities undergoing non-routine decommissioning, 9 fuel cycle facilities, 20 nuclear power reactors, 16 research and test reactors, and 18 uranium recovery facilities undergoing decommissioning, or in long-term safe storage. Details on these sites are presented in Section 2, below.

NMSS, NRR, and RES share responsibility for decommissioning program activities. NRR has project management responsibility for all stages of research- and test-reactor decommissioning and oversight of the initial stages of power-reactor decommissioning. NMSS regulates the decommissioning of nuclear material facilities, fuel cycle facilities, and uranium recovery facilities, and has oversight of power reactors once the spent fuel is no longer stored in the spent fuel pool. RES provides substantial technical support through the development of

guidance, data, and models to support dose assessments. Examples of RES products since publication of SECY-01-0156 include: a probabilistic version of the RESRAD-BUILD computer code; data on the stability, absorption, and transport potential of chelating agent complexed radionuclides from resins in low-level waste; data on solubility and leaching of radionuclides in slags; and data on the release of radionuclides and chelating agents from ion-exchange resins. In addition, RES conducted various analyses as described in Attachment 1. (Note: NMSS and NRR are reevaluating the point at which power reactors are transferred to NMSS for project management, to improve efficiency and better use staff resources.)

The staff has taken steps to ensure integration of decommissioning activities within the Nuclear Waste Safety Arena. First, NMSS and RES mutually track and manage decommissioning activities. Second, the Decommissioning Management Board (hereafter the Board) meets bi-weekly to provide management input on decommissioning activities and issues. The Board, composed of managers from NMSS, RES, NRR, and the Regions, along with Office of the General Counsel (OGC), serves as an effective mechanism for integrating inter-Office and regional program activities and issue resolution. The Board is a mechanism by which the staff has enhanced intra-agency communication and ensure that NRC's regulatory processes are integrated.

The staff continues to implement streamlining objectives such as: (a) assuming a more proactive role in interacting with licensees undergoing decommissioning; (b) expanding the acceptance review process, to include a limited technical review, to reduce the need for additional rounds of questions; (c) ensuring that institutional controls and financial assurance requirements are adequate before beginning a technical review of the decommissioning plan (DP); (d) implementing other procedures, e.g., focused site visits to reduce the number of requests for additional information; (e) conducting in-process/side-by-side confirmatory surveys; and (f) relying more heavily on licensees' quality assurance programs rather than conducting large-scale confirmatory surveys. Furthermore, the staff is incorporating strategies to achieve the performance goals identified as part of the Agency's strategic planning process and Strategic Plan for FYs 2000-2005. Examples of strategies being incorporated include: focusing on resolving key issues, such as institutional control for restricted release and partial site release; participating in stakeholder workshops to seek licensee, industry, and public input; updating, consolidating, and risk-informing/performance-orienting decommissioning guidance; working with industry to identify and resolve technical and policy issues associated with decommissioning (e.g., Nuclear Energy Institute questions and answers); and developing both a stakeholder database and website.

NRC's Strategic Plan for FY 2000-2005 identifies the objective, scope, and general schedule for the program evaluation entitled, "Changes to the Decommissioning Process." The program will be evaluated over a two-year period from Fiscal Year 2001 to 2003. The staff completed a Work Plan in FY 2001 and will complete Procedures and Criteria in FY 2002 in preparation for conducting and reporting on the evaluation during FY 2003.

2. Decommissioning Activities

a. Material Facilities

NMSS initially presented the SDMP to the Commission in SECY-90-121, dated March 29, 1990. The SDMP was created in response to SRMs dated August 22, 1989, and January 31, 1990, which directed the staff to develop a comprehensive strategy for achieving closure of decommissioning issues in a timely manner, and to develop a list of contaminated sites, in order of cleanup priority. Attachment 2 provides the criteria for placing a site on the SDMP.

The License Termination Rule (LTR) (10 CFR Part 20, Subpart E) authorized two different sets of cleanup criteria--the SDMP Action Plan criteria, and dose-based criteria. Under the provisions of 10 CFR 20.1401(b), any licensee that submitted its DP before August 20, 1998, and received NRC approval of that DP before August 20, 1999, could use the SDMP Action Plan criteria for site remediation. In the SRM on SECY-99-195, the Commission granted an extension of the DP approval deadline, for 12 sites, to August 20, 2000. In September 2000, the staff notified the Commission that all 12 DPs were approved by the deadline. All other sites must use the dose-based criteria of the LTR. In addition, Agreement States were expected to adopt equivalent dose criteria by August 20, 2000. As of June 30, 2002, 25 States had adopted the LTR, or other legally binding requirements, and 7 States had not.

There are currently 22 SDMP sites and three additional complex sites undergoing decommissioning (see Attachment 3). Twenty-four sites have been removed from the SDMP after successful remediation (see Attachment 4). In addition, 11 sites have been removed from the SDMP by transfer to an Agreement State or the U.S. Environmental Protection Agency (EPA) (see Attachment 5). NRC is currently committed to removing one site from the SDMP in fiscal year 2002 (FY2002) and FY2003. Since publication of SECY-01-0156, two sites were removed from the SDMP after successful remediation. Cabot Corporation, in Revere, PA, was removed in September 2001, and Lake City Army Ammunition Plant was removed in October 2001.

In addition to regulating the cleanup of SDMP and complex decommissioning sites, the decommissioning program is responsible for overseeing the cleanup of contaminated sites identified under the Oak Ridge National Laboratory (ORNL) Terminated License Review Project. As a result of the ORNL review, and subsequent follow-up by the Regions, 40 formerly licensed sites were found to have residual contamination levels exceeding NRC's criteria for unrestricted release (see Attachment 6). After successful remediation, ninteen sites have been closed, and 11 have been closed by transfer to Agreement States or a Federal entity. One site, International Mining Company, was closed in 2001. Ten sites remain open pending remediation. Two of the formerly licensed sites were added to the SDMP because these sites require non-routine decommissioning activities. The remaining sites are considered to be non-complex and, therefore, do not warrant placement on the SDMP at this time. However, it is possible that these sites may be added to the SDMP if site information changes. The staff officially completed the Terminated License Review Project on September 26, 2001, with the publication of the "Final Report on Results of Terminated License Reviews."

Although NRC has completed its evaluation of formerly licensed sites, several Agreement States continue to evaluate license files transferred to them under the Terminated License

Review Project. Approximately 100 files remain to be reviewed. NRC established a grant program to provide financial assistance to Agreement States to support reviews of outstanding NRC formerly licensed files. Since the grant program began in January 2001, two sites have been found to have contamination levels exceeding NRC's unrestricted release criteria.

In calendar year 2001, the Division of Waste Management staff continued implementation of the rebaselining initiative that began in September 1999. The objective of rebaselining was to develop and implement a comprehensive integrated plan for successfully bringing SDMP and complex decommissioning sites to closure. Site status summaries are maintained, and updated monthly, for each SDMP and complex decommissioning site (see Attachment 7). These summaries describe the status of each site and identify the technical and regulatory issues impacting removal of the site from the SDMP, or completion of decommissioning as of the date indicated on every summary. The staff also developed and maintains Gantt charts for each site, which are updated quarterly, to guide the management of decommissioning activities. The Gantt charts identify all major decommissioning activities and schedules for completion. For those licensees that have submitted a DP, the schedules are based on the staff's assessment of the complexity of the DP review. For those licensees that have not submitted a DP, the schedules are based on other information available to the staff and the decommissioning approach anticipated by the staff.

A table summarizing the decommissioning schedule for all SDMP and complex decommissioning sites is provided in Attachment 8. The schedules presented can be influenced by the quality and timeliness of licensee submittals and modifications in the licensee's remediation schedule. However, the staff's streamlining efforts will mitigate these schedule impacts somewhat. From the table, the following conclusions can be drawn: (1) 4 of 25 SDMP and complex decommissioning sites have not yet submitted DPs (the last DP should be submitted in 2003); (2) NRC has approved 14 of 21 DPs submitted to date [the last DP (Fansteel, Inc.) should be approved by 2009]; and (3) the last site (Fansteel) should be removed from the SDMP by 2015. Fansteel has an extremely protracted schedule because of its bankruptcy and uncertainty regarding future decommissioning plans. Site decommissioning schedules are based on the assumptions presented in Attachment 9 and licensee input.

b. Fuel Cycle Facilities

NMSS provides licensing oversight and decommissioning project management to fuel cycle facilities including conversion plants, enrichment plants, and fuel manufacturing plants. Most of these facilities have been in operation for 20 or more years. As technology improves and operations at these facilities change, there are often unused areas on the site with residual contamination. Pursuant to 10 CFR 70.38 (NRC's "Timeliness Rule"), any licensee with a building or outdoor area with residual contamination that has not been in use for two years must begin decommissioning, and submit a DP, or request an extension to the time period for submitting a DP. The NRC staff continues to work closely with the States and EPA to regulate remediation of unused portions of fuel cycle facilities. In 2002, one conversion facility (Honeywell), two Navy fuel manufacturers (BWX Technologies and Nuclear Fuel Services), and four commercial fuel manufacturers (Framatome Richland, General Atomics, Westinghouse Hematite, and ABB Windsor) have decommissioning activities in progress. Details on the status of each of these facilities is presented in Attachment 1.

c. Reactor Decommissioning

NMSS and NRR signed a Memorandum of Understanding (MOU), on March 10, 1995, that delineates the responsibilities for power reactor decommissioning between NRR and NMSS. In accordance with the MOU, NRR, along with the appropriate Region, will be responsible for project management, inspection, and oversight for a power reactor undergoing decommissioning, until the spent fuel is permanently removed from the spent fuel pool. Once the spent fuel is permanently removed from the spent fuel pool, the facility is transferred to NMSS, and NMSS assumes responsibility for project management, and, along with the appropriate Region, inspection oversight. However, a facility may submit a License Termination Plan (LTP) before the spent fuel is permanently removed from the spent fuel pool. In this case, NRR retains project management oversight, while NMSS is responsible for reviewing the LTP and preparing the safety evaluation report, the environmental assessment, and the license termination order and amendment. NMSS is also responsible for confirmatory surveys and license termination activities, including assurance that appropriate site-release criteria have been met. The staff is preparing a paper that informs the Commission of changes in staff regulatory oversight of decommissioning commercial nuclear reactor plants, whereby the responsibility for project management will be transferred from NRR to NMSS earlier in the decommissioning process. As discussed in this paper, the transfer of project management responsibility should result in a more efficient and effective approach that maintains safety while increasing public confidence and reducing unnecessary regulatory burden on reactor licensees.

NRR currently has regulatory project management responsibility for 18 decommissioning power reactors. Plant status summaries for reactors under NRR project management are provided in Attachment 10. Regulatory project management responsibilities for two reactors (Fermi 1 and Peach Bottom Unit 1) have been transferred from NRR to NMSS. Plant status summaries for Fermi 1 and Peach Bottom Unit 1 are provided in Attachment 11. NMSS is currently reviewing the LTPs for Maine Yankee, Saxton, and Connecticut Yankee, and expects to receive the LTP for Big Rock Point in January 2003. Attachment 12 provides a schedule for reactor decommissioning activities.

In February 2001, the responsibility for reactor decommissioning rulemaking and generic activities was transferred from NRR's Division of Licensing and Project Management (DLPM) to the Division of Regulatory Improvement Programs (DRIP). This transfer of activities allows the rulemaking for decommissioning to be consolidated with all other NRR rulemaking responsibilities in DRIP, and allows DLPM project managers to continue to process licensing actions. Project management responsibilities for 15 of the 18 power reactors under NRR oversight remained with DLPM. Decommissioning project management of three early demonstration reactors--GE VBWR, Nuclear Ship Savannah, and Saxton--is assigned to the Research and Test Reactor Section in DRIP.

Currently, 12 research and test reactors have decommissioning orders or amendments. Additionally, four research and test reactors are in "possession-only" status, either waiting for shutdown of another research or test reactor at the site or for removal of the fuel from the site by the U.S. Department of Energy (DOE). Further, 4 of the 12 test and research reactors with decommissioning orders or amendments and 1 of the 4 test and research reactors in possession-only status still have fuel in storage at the reactor. NRR is responsible for project

management and inspection of these facilities. Plant status summaries for research and test reactors under NRR project management are provided in Attachment 13.

d. Uranium Mill Tailings Facilities

The NRC authority over Atomic Energy Act 11e.(2) byproduct material at licensed uranium (or thorium) mill sites was established in Title II of the Uranium Mill Tailings Radiation Control Act of 1978. NRC and the Agreement States that are authorized for 11e.(2) byproduct material (Colorado, Illinois, Texas, and Washington) oversee decommissioning at licensed sites. Under Title I of that Act, DOE was authorized to remediate the 24 designated abandoned uranium mill sites, with State and NRC concurrence on remedial plans, activities, and completion reports. NRC was also authorized to concur in the long-term surveillance plan for each site and place it under general license to DOE, when remediation was complete. The surface decommissioning at all Title I sites is complete.

NMSS provides project management and technical review for decommissioning and reclamation of facilities that are regulated under 10 CFR Part 40, Appendix A. These licensees include conventional uranium mills and other facilities that process ore primarily for its source material content, such as uranium in-situ leach, heap leach, and ion-exchange facilities. Currently, there are 12 Title II NRC-licensed sites in decommissioning. Additionally, six Title I sites are completing ground water restoration (three active and three natural flushing), and restoration plans for eight other sites are currently under staff review. Attachment 14 provides the status of Title II sites.

3. Guidance and Rulemaking Activities

In SRMs dated July 20, 2000, and September 5, 2000, the Commission directed the staff to develop a Rulemaking Plan to address the entombment option for power reactors. On June 1, 2001, the staff forwarded SECY-01-099, “Rulemaking Plan and Advanced Notice of Proposed Rulemaking [ANPR]: Entombment for Power Reactors,” which contained three options for proceeding. The ANPR was published for public comment in October 2001. Comments were received from nineteen parties during the comment period, which ended on December 31, 2001. The staff will present a preferred option to the Commission later this year.

In response to the NMSS performance goals in the Strategic Plan, NMSS implemented a project to consolidate and update the policies and guidance of its decommissioning program. The final product will be completed in FY 2003 and will consist of a three-volume NUREG series that will address the following topics: (1) decommissioning process; (2) characterization, survey, and determination of radiological criteria; and (3) financial assurance, recordkeeping, and timeliness.

The staff has undertaken an effort to update the 1988 “Generic Environmental Impact Statement (EIS) on Decommissioning” (NUREG-0586) for power reactors. The staff worked closely with EPA, industry, and interested members of the public in defining the scope of the draft EIS. In October 2001, the staff published Draft Supplement 1 for comment. The staff plans to issue the Final Supplement in October 2002.

The Commission issued an SRM, dated June 23, 1999, requesting that the staff: (1) consider the viability of an integrated, risk-informed reactor decommissioning rule versus individual rulemakings, to address insurance, emergency preparedness, safeguards, backfit, fitness-for-duty, and staffing -- if viable, the staff should outline its plans for pursuing such a rule; and (2) provide a single coordinated annual report on all decommissioning activities. SECY-99-168, dated June 30, 1999, recommended approval of an integrated rulemaking approach and outlined plans for such a rulemaking. Accordingly, the staff subsumed earlier rulemaking activities in the areas of emergency planning, insurance, safeguards, operator staffing, and backfit into one integrated rulemaking. The staff is re-evaluating this rulemaking and will provide a recommendation to the Commission.

The staff presented decommissioning policy options to the Commission in SECY-01-100, "Policy Issues Related to Safeguards, Insurance, and Emergency Preparedness at Decommissioning Plants," dated June 4, 2001. The policy recommendations in this paper were premised on the very low likelihood of a zirconium fire and the staff's judgment that the decommissioning site safeguards policy recommended in the paper would provide a high assurance of adequate protection against radiological sabotage. While this paper was under Commission review, the September 11 terrorist attacks took place, raising safeguards implications that had not been previously considered for any nuclear facility. The staff realized that the safeguards recommendations in SECY-01-100 needed to be reassessed and, on October 25, 2001, withdrew the decommissioning policy options paper. In the aftermath of the September 11 terrorist attacks, the Chairman directed the staff to thoroughly reevaluate NRC's safeguards and physical security programs. This comprehensive safeguards and security review will reevaluate the threat vulnerability and risks for NRC-licensed facilities, materials, and activities, including decommissioning plants, and develop appropriate regulatory and rulemaking recommendations. To support future decommissioning regulation, the staff will revise and resubmit a policy options paper on decommissioning regulatory issues (superseding SECY-01-100), related to insurance and emergency planning, 3 months after Commission direction is received on programmatic regulatory changes for safeguards and security. In the absence of any anticipated nuclear power plant decommissionings soon, the staff believes that there is no immediate need for moving forward with a majority of the decommissioning regulatory improvement work currently planned. Specifically, broad-scope regulatory improvements for decommissioning do not appear to be of sufficient priority, given an apparent lack of future licensees that would benefit. Because of other higher priorities, resources are being deferred for decommissioning rulemakings that are not currently in progress or not related to security, and will not be included in the FY 2004 and FY 2005 budgets. If any plants do unexpectedly shut down permanently, decommissioning regulatory issues could continue to be addressed through the exemption process in a manner similar to the current practice.

In September 2001, the staff published a proposed rule adding a new section 10 CFR 50.83, to standardize the process for allowing a licensee to release part of its reactor facility or site for unrestricted use (partial site release) before receiving NRC approval of its LTP. The staff is currently resolving public comments and plans to provide the final rule to the Commission in November 2002.

A listing of the major decommissioning documents developed during the past year is presented in Attachment 15.

4. Issues Requiring Commission Attention

In addition to the items discussed in Section 3, several other issues will also require future Commission attention. Decommissioning funding is one such issue. The Commission previously asked the staff to analyze decommissioning funding issues in Agreement States and non-Agreement States. In accordance with SRM-SECY-99-0193, staff is currently administering a grant program to facilitate cleanup of formerly terminated NRC sites in Agreement States. Similarly, following the Commission's direction in SRM-SECY-00-0180, staff worked toward a MOU with DOE for long-term stewardship of potential restricted release sites (SECY-02-0008), and staff conducted a financial analysis of decommissioning sites in non-Agreement States (SECY-02-0079). The staff will provide further information to the Commission as part of the LTR analysis, and will provide recommendations to enhance licensee requirements for financial assurance. Regarding the DOE MOU, the staff plans to provide status reports on DOE's actions, or seek direction if DOE makes decisions about its role in long-term stewardship.

Other issues requiring Commission attention next year will be identified as part of the staff's response to the SRM resulting from AAR Manufacturing Group Inc.'s (AAR's) request to remediate areas of their site with greater than 0.05 percent by weight source material [40.13 (a)]. In an SRM dated June 18, 2002, the Commission approved the staff's proposal to deny the use of 10 CFR 40.13(a) as a decommissioning criterion and require AAR to return to its approved remediation plan, meet the terms of the LTR voluntarily, or be subject to license, under which the LTR would be applicable. The SRM also: (1) instructs the staff to consider creative options that would make restricted release (under the LTR) more available to a site, using AAR as a pilot for consideration of alternative approaches; (2) advises the staff to interact with AAR to determine if there are options AAR would like the NRC staff to consider, which the staff believes are viable and which can be accomplished in a time frame which would be acceptable to both AAR and NRC; and (3) instructs the staff to conduct a comprehensive analysis of the restricted release provisions (10 CFR 20.1403) and the alternate criteria (10 CFR 20.1404) of the LTR, and how to make those provisions more available for licensee use. In 2003, the staff will prepare Commission papers presenting the results of its analyses and provide feedback to the Commission on the interactions with AAR.

RESOURCES:

The total decommissioning program staff budget, for FY 2002 and FY 2003, is 64 full time equivalents (FTEs) and 57 FTEs, respectively. These resource figures include: licensing casework directly related to SDMP and other complex decommissioning sites; inspections; regional follow-up on formerly terminated license sites; project management and technical support for decommissioning power reactors, uranium mill tailings facilities and fuel cycle facilities; development of rules and guidance; and EIS' and environmental assessments. These figures do not include overhead associated with the decommissioning program. Resource breakdown for staff (in FTEs) and contractor support (in thousands of dollars), as reflected in the FY 2002 budget to Congress, by Office, follows:

	FY02		FY03	
	Staff (FTE)	Contractor ($ K)	Staff (FTE)	Contractor ($ K)
NMSS	24	2118	21	2190
NRR	13	200	10	290
RES	9	1954	11	2775
OGC	2		2	
Regions	16		13	
TOTAL	64	4272	57	5255

COORDINATION:

OGC has reviewed this paper and has no legal objections. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objections.

/RA Carl J. Paperiello Acting For/

William D. Travers
Executive Director
for Operations

ATTACHMENTS:

1. “Decommissioning Program Activities”
2. “Criteria for Placing Site on the SDMP”
3. “Current SDMP and Complex Decommissioning Sites”
4. “Sites Removed from the SDMP after Successful Remediation”
5. “Sites Removed from the SDMP by Transfer to Agreement States or EPA”
6. “Contaminated Formerly Licensed Sites”
7. “Site Status Summaries for SDMP and Complex Decommissioning Sites”
8. “Schedule for Termination of SDMP and Complex Decommissioning Sites”
9. “Assumptions Used to Develop SDMP and Complex Decommissioning Site Gantt Charts”
10. “Status Summaries for Reactors Undergoing Decommissioning”
11. “Plant Status Summaries for Fermi Unit 1 and Peach Bottom Unit 1"
12. “Schedule for Reactor Decommissioning Activities”
13. “Plant Status Summaries for Research and Test Reactors”
14. “Title II Site Decommissioning Status”
15. “Major Decommissioning Documents”

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*see previous concurrence

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DATE	8/1 /02	8/2 /02	8/26/02	8/19/02	8/19/02	8/19 /02

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NAME	S Treby*	P Lohaus*	T Pulliam*	T Essig*	D Gillen*	J Greeves
DATE	9/4/02	8/20/02	8/5/02	8/16/02	8/19/02	09/05/02

OFC	NMSS	DEDMRS	EDO
NAME	MVF for M Virgilio	C Paperiello	W Travers CJPaperiello for
DATE	09/10/02	9/18/02	9/18/02