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MEMORANDUM FOR: Carlton C. Kammerer, Director
State Programs, GPA

FROM: Richard L. Bangart, Director
Division of Low-Level Waste Management
and Decommissioning, NMSS

SUBJECT: COMMENTS AND RECOMMENDATIONS FROM THE CALIFORNIA
AGREEMENT STATE PROGRAM REVIEW VISIT, APRIL 9-12

The attached report provides a summary of staff comments and recommendations relative to review of the LLW portion of the California RCP. We recommend that a copy of the attached report be sent to Jack McGurk, Director, Division of Environmental Health, California Department of Health. Thank you for the opportunity to participate in this review.

(SIGNED) RICHARD L. BANGART

Richard L. Bangart, Director
Division of Low-Level Waste Management
and Decommissioning, NMSS

Enclosure: As stated

cc: J. Horner

Distribution: (LLWM 90-097) Central File # 409.5 NMSS r/f
RBangart JGreeves JAustin JSurmeier PLOhaus
JShaffner JKennedy LLWM t/f LLOB r/f LLOB t/f
PDR YES X Category: Proprietary or CF Only
PDR NO NO
ACNW YES X

SUBJECT ABSTRACT: COMMENTS AND RECOMMENDATIONS FROM THE CALIFORNIA AGREEMENT
STATE PROGRAM REVIEW VISIT, APRIL 9-12, 1990
* See Previous Concurrence

OFC :LLOB* :LLOB* :LLOB* :LLTB :LLTB :LLTB :LLTB :LLTB
NAME: JShaffner/jj: JKennedy: PLOhaus : JSurmeier: BJagannath: FRoss : JGreeves: RBangart
DATE: 07/12/90 : 07/12/90: 07/12/90 : 7/18/90 : 7/18/90 : 7/18/90: 7/20/90: 7/21/90

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MEMORANDUM FOR: Carlton C. Kammerer, Director
State Programs, GPA

FROM: Richard L. Bangart, Director
Division of Low-Level Waste Management
and Decommissioning, NMSS

SUBJECT: LLWM STAFF COMMENTS RESULTING FROM PARTICIPATION IN THE
CALIFORNIA AGREEMENT STATE PROGRAM REVIEW VISIT, APRIL 9-12

The attached report provides a summary of staff comments and recommendations relative to review of the LLW portion of the California RCP. We recommend that a copy of the attached report be sent to Jack McGurk, Director, Division of Environmental Health, California Department of Health. Thank you for the opportunity to participate in this review.

Richard L. Bangart, Director
Division of Low-Level Waste Management
and Decommissioning, NMSS

Enclosure: As stated

cc: J. Hornor

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MEMORANDUM FOR: Carlton C. Kammerer, Director
State Programs, GPA

FROM: Richard L. Bangart, Director
Division of Low-Level Waste Management
and Decommissioning, NMSS

SUBJECT: LLWM STAFF COMMENTS RESULTING FROM PARTICIPATION IN THE
CALIFORNIA AGREEMENT STATE PROGRAM REVIEW VISIT, APRIL 9-12

As you know, the LLWM staff assisted Jack Hornor, Region V RSAO, in the review visit of the California State Radiation control Program (RCP), April 9-12, 1990. At the end of the review, LLWM team members provided information relevant to the LLW portion of the review to Mr. Hornor. The attached report provides a more complete summary of staff comments and recommendations relative to the review of the LLW portion of the California RCP. We recommend that a copy of the attached report be sent to Jack McGurk, Director, Division of Environmental Health, California Department of Health. Thank you for the opportunity to participate in this review.

Richard L. Bangart, Director
Division of Low-Level Waste Management
and Decommissioning, NMSS

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NAME:JShaffner/jj:JKennedy	:PLOhaus	:Surmeier	:JGreeves	:RBangart	
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**REVIEW VISIT - CALIFORNIA LLW REGULATORY PROGRAM
APRIL 9-12, 1990**

NRC Participants: J. Hornor, RSAO, R V; B. Jagannath, LLTB; F. Ross, LLTB;
J. Shaffner, LLOB

Persons Contacted: J. McGurk, Director, Environmental Health Division;
D. Womeldorf, Chief, Environmental Management Branch;
R. Junkert, G. Butner, R. Huck, Environmental Management
Branch (EMB); P. Serie (R. F. Weston); E. Bailey, Chief,
Radiological Health Branch (RHB); and members of the Fiscal
Review Group

Scope of Visit: Off-year review visit; to familiarize LLWM staff with the
overall LLW disposal program in California.

Materials Reviewed: LLW license application (in part); Contractor and Staff
interrogatories; LLW legislation and regulations; MOU with
the Regional Water Quality Control Board (RWQCP); MOU with
RHB; EMB checklist for licensing issues; example guidance
to applicant; process for LLW disposal rate setting
(to establish independence of regulatory process regarding
Health and Safety)

Comments and recommendations on California's Agreement State LLW Regulatory
Program are presented below. California's responses to questions regarding
their LLW program are included as an attachment.

1. Staffing - Category II

Comment:

Through the use of contractors and ad hoc committees, both internal and
external to the Division of Environmental Health (DEH), the LLW regulatory
program in EMB currently contains most, if not all, disciplines necessary
for licensing. It was noted, however, that there was no one with an
extensive background in earth sciences on the full time LLW core staff in
EMB. Currently, the expertise is represented by a combination of
part-time earth science assistance from the Regional Water Quality Control
Board (RWQCB) and by the LLW Project Director who has some expertise in
this area.

Recommendation:

It is recommended that DEH consider hiring a full time LLW regulatory
staff member with expertise in earth sciences in the event that current
EMB staff members used in this area are unavailable due to shifting
workload or other priorities.

ENCLOSURE

2. Technical Quality of Licensing Actions - Category I

Comment:

EMB staff, working with its license review group, evaluates interrogatories developed by its contractor before requiring a response from the license applicant. Changes or deletions to the interrogatories may be made by EMB, and a level of effort specified by EMB for preparation of the response by the license applicant.

Recommendation:

EMB should document the decision making process for its review of interrogatories and the actual changes made to specific interrogatories. Such a record will be needed to document the basis and defend the EMB review throughout the licensing process.

3. Licensing Procedures - Category II

Comment:

Although informal procedures appear to be well established between staff both in and out of EMB, it was noted that EMB has made little progress since the last review in developing written licensing procedures and checklists.

Recommendation:

To ensure program continuity and uniformity, EMB should develop and implement written procedures for licensing activities.

Comment:

Interrogatories for the license applicant do not always explain the basis and regulatory justification for the question.

Recommendation:

Future interrogatories should include the basis for the comment, the concern, and, where possible and appropriate, a statement of the action that is recommended to resolve the concern (such as providing certain additional information). Such an approach will aid in determining the regulatory impact of the question and the effort needed to resolve it, and, in general, facilitate the resolution of comments.

4. Compliance

Comment:

Although it is still early in the licensing process, EMB needs to put into place its compliance program for the LLW disposal facility.

Recommendation:

EMB should begin work on its compliance program, including developing inspection procedures, hiring and training inspection personnel, and modifying the enforcement process currently being used by RHB in the materials program, as necessary for LLW.

**QUESTIONS FOR CALIFORNIA STATE LLW PROGRAM OFFICE
AND THEIR RESPONSES**

1. Describe the role, if any, of the RHB in LLW regulation (licensing, compliance), and when does it "kick in"?

EMB is the primary licensing entity for the LLW disposal facility. RHB has a role in ensuring generator compliance with LLW disposal requirements. They also have a Q/A role in review of the license application. The respective roles and responsibilities of RHB & FMB with respect to LLW are specified in an MOU dated 11/29/88.

2. Describe the Q/A checks used to ensure a quality review by contractor personnel reviewing the license application:

- a. Are there independent reviews by State staff?

There are reviews of contractor work by both state staff and Ebasco, Inc., a contractor hired specifically for Q/A.

- b. Are contractors visited?

Developer contractors are visited both by State staff and Q/A contractors to ensure prudence and reasonableness of work effort.

- c. What is the frequency of the contact with the contractor?

There is almost daily contact between EMB staff and the prime license review contractor.

- d. Is there management oversight of contractor's progress and work product?

All contractors are required to submit monthly progress reports. These are supplemented by conference calls and evaluations by EMB and the Bureau of Land Management (as appropriate for EIS development).

3. Describe the process by which the State will develop the SER and EA from contractor application review.

Prime contractors will develop SER and EIR documents as well as supplemental license conditions. The EMB and license review committee oversees both processes. EMB is responsible for developing the final license based on SER and EIS Process.

4. Describe the compliance program that will be instituted at the LLW facility, both for transportation and site inspection; please include construction inspection.

ATTACHMENT

There will be two on site inspectors when the site is operational with rotating responsibilities for transportation and site inspections. EMB anticipates hiring a civil engineer to be used in part to inspect facility construction. Full development of the LLW compliance program is pending.

5. Describe the financial surety mechanisms for the facility, including closure, PC&M, and liability (if appropriate).

The State has a very complex system for rate setting which captures the many elements of cost associated with developing, regulating and ensuring a facility. Within this system they have a mechanism for developing and adjusting surety mechanisms including closure, PC & M and third party liability. In addition, the licensee must carry \$10M of insurance.

6. Briefly outline program for assessment of civil penalties as they apply to LLW.

The mechanism for assessment of LLW specific civil penalties has yet to be developed. However, the RHB has a mechanism in place that is easily adaptable to LLW needs.

7. Briefly describe the LLW fee structure.

The waste disposal fee will be set by DHS as part of the overall rate setting mechanism.

8. Discuss any independent testing or monitoring program to be initiated by the State regarding the LLW facility construction and operation.

EMB currently anticipates little or no independent testing of engineering materials during site construction. This is due to the simplicity of the site. Independent monitoring and testing will take place during site operations. It will be performed by DHS on site personnel and supplemented by EMB contractors as necessary.

9. Discuss the attention given by upper management (Division Director level and higher) to LLW regulation.

There is a great deal of interest and attention to the LLW program all the way up to the Governor's office. It was noted that in the Department's quarterly reports to the Governor, LLW is always an issue.

10. Describe the availability of lab facilities for both radiological and non-radiological analyses.

While lab facilities are available for both radiological and non-radiological testing, EMB does not anticipate the need for much independent engineering types of tests (soil testing, concrete strength testing, etc.).

11. Describe any proposed increment in full time EMB staff for the LLW project from now through the licensing process, and the reasons for the change; include the number and disciplines.

Through the licensing process, the LLW regulatory program plans to "ramp up" from a current level of approximately 2-3 FTE's to about 12. Since the staffing process is cumbersome it is not anticipated that they will be fully staffed until licensing is complete so staff is geared mainly for compliance. As anticipated, about $\frac{1}{2}$ of the staff will be headquartered in Southern California in the vicinity of the site and the other half in Sacramento. Staff responsibilities will include both on site and generator inspections as well as license maintenance.

12. Describe the status of mixed waste regulation in California.

The regulatory status of mixed waste in California is still in the formative stage. There is an ad hoc mixed waste management task force. Ebasco, Inc. has developed a mixed waste management plan for the State. The RWQCB is very involved with this as an agency that has some hazardous material authority in the state. Overall, the strategy is to manage mixed waste in a way to minimize it both by avoiding its creation and reducing its volume. Currently, 700 C.F. per year of mixed waste is being produced in California.

13. Briefly describe interactions with other State agencies which have a role or responsibility in LLW management.

The primary outside agency with LLW interest and authority is the Regional Water Quality Control Board. See also list of ad hoc committees and working groups.

14. Describe the process for public involvement during the licensing process (hearings, dissemination of information through media, availability of reports and studies, etc.).

Citizens advisory groups established during site development have been kept intact during the licensing process. The public will have an opportunity to comment on the application. There will be four public workshops and concurrent EIS hearings in the vicinity of the proposed site. These hearings are currently scheduled for summer, 1990. Input will be factored into the decisionmaking documents (due for completion in late 1990).

15. Describe the role of any technical or citizen's advisory committees in the licensing process.

See answers to 13 & 14. See also table of ad hoc committees.

16. Has EMB or its contractors developed any procedures to supplement NRC's license review documents (NUREG 1199/1200)? If so, please furnish copies.

Weston has produced a license review plan that was provided to NRC for review. To date EMB has produced no additional supplemental procedures.

17. Has EMB developed procedures for inspection at a LLW facility?

Procedures for facility inspection will be developed by the new EMB health physicist who is starting shortly. EMB may petition NRC for some technical assistance in this area.

18. Are there procedures for enforcement actions?

Mechanisms and authority are in place for enforcement. To date there are no LLW specific procedures.

19. Will the State's emergency plan be supplemented for the LLW facility? Describe the process.

Yes. San Bernadino County wants to be involved in the process. LLW specific supplements to the ER Plan will be developed during the license review process.