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DISCIBUTION:

WMRP r/f  
SBilhorn r/f  
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MAY 22 1986

NOTE TO: Philip Justus, Acting Chief  
Geotechnical Branch, DWM

FROM: John Linehan, Acting Chief  
Repository Projects Branch, DWM

SUBJECT: STAFF POSITION ON CORE HANDLING

*JL 5/22/86*

The staff has expressed concern regarding the handling of core samples collected at the potential geologic repository sites. This concern was specifically addressed for the NNWSI in a letter to Dr. Vieth dated November 18, 1985. In response, Dr. Vieth sent a letter to NRC (February 26, 1986) requesting guidance. Our reply, see attachment, provides some general references; however, the staff have not reviewed these and determined specifically what core handling practice and procedures will be needed to meet licensing requirements and NRC approval. While NNWSI seems to be taking the lead for DOE on developing acceptable core handling procedures, BWIP and SRPO are following their progress and will, no doubt, be using the same procedures, as applicable.

The purpose of this note is to identify the need to evaluate the information referenced in this letter and determine what will meet our acceptance so that we can provide comments to DOE once they submit their revised core handling procedures for our review. In addition since the procedures DOE develop may have a major impact on the reliability of information derived from core sampling, I would like you to consider the need for more detailed staff guidance to facilitate DOE's efforts at this time.

Please notify me as to what action you consider appropriate.

Attachment:  
May 19, 1986 letter to Dr. Vieth regarding core handling

cc: JLinehan  
JGreeves  
SBilhorn

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In response to your concern regarding rules of evidence, Mr. Olmstead's remarks must be taken within the context of the Commission's rules of evidence for licensing proceedings. 10 CFR 2.743 generally delineates the types and forms of evidence which will be accepted in NRC licensing proceedings. Specifically with regard to the care and custody of core samples, information from core samples entered as evidence can be challenged on the basis of its reliability, including questions of alleged tampering. The intent of our November 18, 1985

[illegible]

letter was to identify certain procedures the DOE must implement to help preserve the integrity of the core samples and assure the reliability of information to be used to support licensing findings. We suggest that you discuss this subject further with the DOE legal counsel.

For guidance on the rules of evidence applicable to NRC proceedings, see Section 3.11, and the cases cited therein, of the enclosed NRC Staff Practice and Procedure Digest, NUREG-0386. This Digest is updated periodically and may prove useful to your legal staff. Updates of the Digest are available through the Government Printing Office. In addition, while not directly applicable to NRC proceedings, the NRC adjudicatory boards often look to the Federal Rules of Evidence for guidance.

We hope you find the above information responsive to the concerns raised in your February 28, 1986 letter. While the staff stands ready to consult with you on these matters, we cannot be prescriptive on implementation of DOE's program. Specifically, the DOE should develop positions based on the unique knowledge resulting from DOE sponsored research/site activities and internal consultation among DOE technical experts and legal counsel. Designated staff contacts, such as the On-Site Licensing Representatives and project technical contacts, should be used to provide informal feedback to facilitate the DOE's efforts.

Please contact King Stablein (FTS 427-4611) if you want to discuss further NNWSI's plans to resolve the NRC's concerns regarding handling, transportation, and storage of core.

John J. Linehan, Acting Chief  
Repository Projects Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

Enclosure:

U.S. NRC Staff Practice and Procedure Digest, NUREG-0386, January 1986.

Record Note: This letter has been coordinated with Chip Cameron, ELD.

DFC :WMRP	:WMGT	:WMRP	:WMRP	:WMGT	:WMRP	:
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