



Attachment K

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

October 30, 1986

Mr. J. H. Anttonen
Assistant Manager for Commercial Nuclear Waste
Richland Operations Office
U.S. Department of Energy
P.O. Box 550
Richland, Wa. 99352

Dear Mr. Anttonen:

In a meeting among RHO (Graham, Carter and Hadley) and DOE/RL (Mecca and Kovacs) representatives and myself in Mr. Graham's office yesterday we discussed the training for RHO personnel relative to the provisions of Appendix 7. Mr. Mecca and I highlighted various concepts and meanings of terms contained in Appendix 7 for the RHO representatives. I agreed to identify the items over which I considered there may be misunderstanding and which should be addressed in the training sessions planned for contractor personnel. This information is for RHO's (Carter's) use in preparing the training package and presentations. The comments which follow reflect areas mentioned at the meeting noted herein as well as additional areas which I consider should be addressed. (References to paragraphs in the comments which follow are to paragraphs in Appendix 7.)

a. DOE, DOE contractors and subcontractors upon DR request and following specified QA checks, (see section 3a of the Procedural Agreement) shall provide copies of records of raw data. There is a requirement in the Site-Specific Procedural Agreement that this be accomplished (upon request) with specified QA checks within 45 days of the recording of the raw data.

Raw data in this context is data or information which is factual, i.e. an observation made by a qualified observer or automatically by a device which can record or otherwise preserve information. Raw data is not limited to factual information about material objects or processes, but also includes information about people's action. For example, observations made by a qualified auditor are raw data since they are considered factual.

Information which is deduced by reason involving subjective decision making is not considered raw data in this context. However, information deduced logically from factual information by application of generally available procedures is similar to raw data in the context of Appendix 7, paragraph 3. For example, plans for testing and drawings of conceptualized components and

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systems are not considered raw data. However, information concerning hydrologic potentials calculated in accordance with some procedure, e.a., a computer program, and expressed as a potential map or in some other summarized format would be considered raw data, if the procedure was generally available to the NRC or the public. For example, output from the HEADCO program would be considered raw data, since the information represents manipulations of other raw data by a known and available, non-decisional protocol. There is nothing predecisional about the output of HEADCO using available raw data. On the other hand, information deduced by specified manipulations of other raw data by use of a procedure which is not generally available--not released by the DOE--should not be made available to the OR without DOE clearance and approval. (Only review of such information is permitted without DOE clearance or approval.)

The determining factor in deciding whether or not information can be released as raw data is whether or not recipients could have generated the same information with expenditure of some effort considering the procedure for the data manipulation was available to them. In this regard the intent of the the DOE/NRC agreement is to encourage information exchange and not to occasion unnecessary duplication of data evaluations. In the above example concerning HEADCO, since the program is available to the NRC, it would be within the capability of NRC staff to evaluate raw hydrologic data to produce the same deduced information produced by the BWIP personnel, however, such work would be redundant. Hence the interpretation that the output of HEADCO is information which can be given to the OR by contractor or subcontractor staff once specified QA checks are accomplished.

b. Records and documents are not the same. A record is any recorded information in any form. A document is a record which has been signed by a cognizant person(s) indicating completion and/or quality--official--and which will be maintained as is without change or destruction indefinitely or for a specified length of time. Documents are a subset of items referred to as records.

c. Paragraph 3 of Appendix 7 regarding records states that "records shall be available for review, but not to copy or receive copy for retention, at any stage of completion." This means that draft documents as well as final documents, including EA drafts and SCP drafts can be reviewed at any stage of completion. Paragraph 4 addresses release of the documents to the OR for retention. Note the special status of EA and SCP drafts which can not be made public. However, as noted above paragraph 4 does not restrict the OR's review of drafts of the SCP, for example, in contractor or DOE areas.

d. Access to records as provided in paragraph 3 means the freedom to review entire record files whether they be in the document

control center or in contractor staff areas as working files, since working files and permanent files may both be pertinent to a potential licensing decision. It is expected that DOE, contractor and subcontractor personnel will identify such records upon request by the OR and in general assist him logistically in any desired review. Such notification of a request for assistance to review files should be considered to automatically accompany notification of an intent to review a particular area of interest, including interaction with project participants, as provided in paragraph 2.

e. Records which the OR would not normally have access to for review purposes are those which have to do with personnel actions not related to a licensing decision. However, qualifications and training records of personnel accomplishing work for the project would be available for review. Records regarding income, attendance and other personal matters would not be available for review. In addition records which detail company financial status or other company proprietary information not available to DDE by contract should not be available for review. However, recommendations of staff to management or identification of problems by staff, for example, internal audit observations and findings, are records which should be made available to the OR upon request for review purposes. As noted audit observations should be given to the OR as raw data. Records of findings and other decisional information should not be released to the OR without DOE approval, although review is appropriate.

f. Access to areas where testing and other data gathering activities or construction activity, including drilling activities forming part of site characterization, is ongoing shall be provided to the OR in the same manner as those project personnel working in the area, if necessary safety/security training has been received by the OR and appropriate safety and security provisions are met. This ready access is agreed to in paragraph 7. Discussions with non-supervisory personnel shall be limited unless arranged with DOE or appropriate supervisors in accordance with paragraph 2. Communication with personnel which is not of a technical nature, but is logistically necessary to review the activities in any area, including pertinent current records of the activities, for example, laboratory notebooks or pertinent procedures, or is pertinent to safety is appropriate and can be accomplished without first clearing with supervisory personnel as is required for technical discussions which take significant time and could disrupt the personnel in accomplishing their work.

The purpose of the restrictions on interactions with project personnel identified in paragraph 2 is assure orderly accomplishment of assigned duties and not to inhibit or abridge eventual discussion when time permits. In general personnel and supervisors should attempt to accommodate the OR's technical questions or discussions when they would take less than 10

minutes. Given the large scope of the DR's review, interaction with any particular contractor personnel will be minimal and the total time involved with the DR will be inconsequential from a standpoint of interrupting productive effort. It should be the objective of the training to communicate this idea to foster cooperation and openness with contractor and DOE personnel.

f. Information, which is in DOE or contractor files and which has been obtained by agreement with providers that it remain proprietary, is available for review, if the DR agrees in writing on a case basis to observe the proprietary nature of the information and conditions of the proprietary agreement would allow DR review. Classified information pertinent to the repository licensing, if any, is available to the DR for review if his "Q" clearance is sufficient to allow access. In general information which could be made available to DOE should be made available to the DR for review purposes.

g. Paragraph 1 covers attendance at meetings. This item is intended to provide for attendance at all technical meetings related to site characterization including those associated with repository system design and construction, since site characterization plans hinge on the repository design and construction. The intent is to allow review of the process and decision making as well as to facilitate cognizance and understanding of pertinent facts and plans. Meetings on technical matters are part of the design process. Meetings which are strictly administrative and do not entail design information would not normally be open to the DR unless the administrative issues being discussed were relative to administrative controls called for by QA criteria.

Meetings which address issues related to licensing proceedings and other interactions with the NRC are also meetings, which although not specifically addressed by Appendix 7, will allow the DR to appreciate issues in this area and to identify concerns which could potentially delay licensing. In this regard the current agreement to provide DR access to training sessions of the RHD personnel is in the spirit of the DOE/NRC agreement to cooperate in exchanging information and in general to facilitate communications as provided for in the first paragraph of the Morgan/Davis Procedural Agreement and under item 1, NRC On-Site Representatives.

Attendance at meetings concerning NRC interactions and licensing strategy is also in the spirit of the intent to assure cooperation in the overall licensing endeavor identified in that Procedural Agreement. Restriction from such meetings could suggest to personnel that there is an "us against them" position. This should be avoided. The intent is to assure a smooth licensing with minimal contention. There should be no hidden thoughts in the strategy associated with licensing. If there are misunderstandings these should be highlighted early for formal

resolution. This is best accomplished when strategies are being formulated. Hence OR access to "technical and licensing strategy" meetings is important.

h. Many meetings among contractor personnel or among DOE and contractor personnel are not noticed to the OR. Hence the 24 hour advanced notification of the OR's desire to attend per paragraph 1 is not possible. Notification of cognizant supervisory contractor personnel or DOE project personnel participating in the meeting is sufficient. If, such personnel do not believe the meeting is appropriate for the OR to attend, he should be so advised and will upon such advice leave or not attend the meeting. He may raise the issue of attendance to higher management if so desired, per the provisions of paragraph 1. However, since most meetings pertain to technical issues and/or relate to licensing, attendance should be permitted.

i. Attendance at meetings is in the context of being an observer. If questions are asked of the OR or he is requested to comment on a particular concern, his responses are appropriate and consistent with providing rapid feedback of information to project personnel. However, they should be considered informal responses and not in any way binding. He should not participate in a meeting unless asked. Actions which are subsequently taken as a result of the information or concern identified by the OR are strictly voluntary on the part of the program participant and at no time should they be considered per the direction of the OR. Paragraph 5 of Appendix 7 addresses this informal nature of the information provided by the OR.

Sincerely,



F. Robert Cook
Senior On-Site Licensing
Representative, BWIP
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

copy to:
R. Carter
J. Mecca
J. Graham

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TO: J. H. Anttonen, AMC

THRU: ^{DDK}
J. G. Keating, BWI
O. L. Olson, AMC

FROM: ^{Mecca}
Mecca, BWI

COMMENTS ON NRC ONSITE REPRESENTATIVE'S LETTER OF OCTOBER 30, 1986

We do not agree with the attached NRC (F. Cook) letter, and believe he has once again attempted to stretch his interpretation of Appendix 7 way beyond its intent. The problems with his letter and interpretations are as follows:

1. There is an implicit suggestion that "raw data" should be provided to the Onsite Representative (OR) of NRC on a regular basis whether it has been requested or not. This is not true, and the necessity of a request should be noted. We, on the other hand, do agree, we need to turn this data within 45 days.
2. The definition of "raw data" to include "information deduced logically from factual information" is an illogical extension of the definition. We would then have to define what is meant by logic. The letter defines this as a deduction which is proceduralized by a process which has been made available to the NRC or the public. The argument is stretching NRC logic to include a new range of information at a level of interpretation higher than simply "raw data."
3. There is a suggestion that the OR should have access to internal audit observations. We do not concur that Appendix 7 requires the definition of "raw data" to be expanded in this regard. The OR has no audit responsibilities for one thing, and audit observations are not as "factual" as the letter suggests. Audit observations (let alone findings) are often subject to differences of opinion.
4. The OR's definition of a "record" is poor and is not agreed to.
5. We wholly disagree over access to working files on "automatic notification" of an area for review. "Working files" should be defined and are not available. We would not consider them to include, however, rough drafts on PC or PC files for example.

6. Paragraph f on the third page of the OR letter must have some material omitted in error from the look of last rambling sentence.
7. In discussing meetings the OR letter provides a large expansion to the Appendix 7 scope by including (penultimate paragraph on the fourth page) for attendance at meetings "related to licensing proceedings and other interactions with NRC. The following paragraph continues a misleading portrayal of licensing proceedings to justify this extension. However, licensing and NRC interactions are established as adversarial proceedings. It would be totally inappropriate to include the OR in meetings to discuss how to deal with NRC.
8. The last sentence of paragraph h on the last page of the letter also attempts to expand Appendix 7 to include everything since it notes that "since most meetings pertain to technical issues and/or relate to licensing, attendance should be permitted." This is not a logical extension of the provisions of the Appendix 7 agreement.

Although I cannot agree with the OR letter, I believe that the training should go forward at Rockwell and that the OR, Mr. Carter and I have one more session to discuss both his letter and our above concerns.

I further suggest that if the NRC believes in the OR's letter, that he take it up further with Mr. Browning and reopen Appendix 7 negotiations.

BWI:JEM

Attachment

cc: J. Keating, BWI
O. Olson, AMC
J. Graham, RHO
R. Carter, RHO
R. Carosino, OCC
J. Comins Rick, OCC
J. Kovacs, BWI