REVISED

March 24, 2006

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

Jesse L. Funches
Chief Financial Officer

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - COMJSM-06-0001 - REGULATION OF GROUNDWATER PROTECTION AT *IN SITU* LEACH URANIUM EXTRACTION FACILITIES

The Commission has approved initiation of a rulemaking effort specifically tailored to groundwater protection programs at *in situ* leach (ISL) uranium recovery facilities. The staff should focus on eliminating dual regulation by the NRC and EPA of groundwater protection. The NRC should retain its jurisdiction over the wellfield and groundwater under its Atomic Energy Act authority, but should defer active regulation of groundwater protection programs to the EPA or the EPA-authorized state through EPA's underground injection-control permit program. The staff should actively engage interested stakeholders through public workshops, should request that EPA and EPA-authorized states work closely with the staff, and should share draft proposed rule language via the NRC web page. The staff should provide the proposed rule to the Commission in January 2007, followed by a final rule in September 2007. In light of this tight schedule, the staff should address only those changes directed by this SRM in the rulemaking effort.

(EDO) (SECY Suspense: 1/29/07)

The staff should meet with licensees and other interested stakeholders to discuss implementation of the following interim solution:

1. Pursue memoranda of understanding (MOUs) with Wyoming and Nebraska through which the states would agree to uphold current NRC regulations and license conditions, and

2. Exercise enforcement discretion to allow current licensees to meet state groundwater requirements in lieu of alternative conditions that may exist in their licenses. This will allow them sufficient time to prepare license amendment requests to revise or eliminate such conditions and provide an effective regulatory framework for states to assume oversight of groundwater protection programs.

The staff should keep the Commission informed of progress on achieving the interim solution and provide the Commission with a time line and resource estimates for completion of this rulemaking, consistent with a proposed rule being submitted by January 29, 2007. The staff should plan on covering the costs of this rulemaking not through Part 171 fees for existing

uranium recovery licensees, but instead through the surcharge, which is assessed to all NRC licensees paying Part 171 fees.

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
OGC
OCA
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR