

July 8, 2008

MEMORANDUM TO: Martin J. Virgilio
Deputy Executive Director for Materials, Waste,
Research, State, Tribal, and Compliance Programs
Office of the Executive Director for Operations

George C. Pangburn, Deputy Director
Office of Federal and State Materials
and Environmental Management Programs

Karen D. Cyr
General Counsel

Charles Casto, Deputy Regional Administrator
Region IV

FROM: Kim K. Lukes, Project Manager **/RA/**
State Agreements and Industrial Safety Branch
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: MINUTES: JUNE 19, 2008, SPECIAL MANAGEMENT
REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on June 19, 2008, to discuss periodic meetings held with the Colorado and the North Dakota Agreement State Programs. If you have comments or questions, please contact me at (301) 415-6701.

Enclosure: Minutes of the Management
Review Board Meeting

cc: Jared Thompson, Arkansas
Organization of Agreement States
Liaison to the MRB

Joseph Vranka, P.E., Manager
Colorado Radiation Control Program

Steve Tarlton, Unit Leader
Colorado Radiation Management Unit

Terry O'Clair, Director
North Dakota Division of Air Quality

Daniel Harman, Program Manager
North Dakota Radiation Control Program

Management Review Board Members

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SCampbell, OEDO
RErickson, RIV/RSOA
LMcLean, RIV/RSOA
WRautzen, FSME/DMSSA
DSollenberger, FSME/DMSSA

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NAME	KKLukes	ATMcCraw	
DATE	07/ 08 /08	07/ 08 /08	

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF JUNE 19, 2008

These minutes are presented in the same general order as the items that were discussed in the meeting. The attendees were as follows:

Martin Virgilio, MRB Chair, DEDMRT
Karen Cyr, MRB Member, OGC
Robert Lewis, FSME
James Luehman, FSME
Duncan White, FSME
Kim Lukes, FSME

George Pangburn, Acting MRB Member, FSME
Aaron McCraw, FSME
William Rautzen, FSME
Galen Andersen, Secure Energy, LLC
George Andersen, Secure Energy, LLC

By Teleconference:

Charles Casto, MRB Member, Region IV
Linda McLean, Region IV
Terry O'Clair, ND
Daniel Harman, ND

Jared Thompson, OAS Liaison, AR
Joseph Vranka, CO
Steve Tarlton, CO
Stephen Campbell, OEDO

1. **Convention.** Ms. Kim Lukes convened the meeting at 1:35 p.m. She noted that this MRB meeting was open to the public. Two members of the public, affiliated with Secure Energy, LLC, participated in this meeting. She then transferred the lead to Mr. Martin Virgilio, Chair of the MRB. Introductions of the attendees were conducted.
2. **Periodic Meetings Discussions.**

Periodic Meeting with Colorado. Mr. William Rautzen led the discussion of the results of the periodic meeting with Colorado (ADAMS Accession Number: ML080910526). The meeting was held in Denver, Colorado, on March 4, 2008. Mr. Rautzen indicated that the last Integrated Materials Performance Evaluation Program (IMPEP) was conducted in March 2006, and the review team found the program satisfactory for all performance indicators. Mr. Rautzen noted that the review team made four recommendations regarding the program's performance. Mr. Rautzen provided an overview of three out of the four recommendations that the team felt should remain open to give the Program additional time to implement. Mr. Rautzen indicated that the recommendation for the Program to develop and implement a process for issuance of provisional licenses in a timely manner, as well as timely termination of these licenses, should be verified and closed at the next IMPEP review. Mr. George Pangburn asked for clarification about the Program's use of provisional licenses. Mr. Steve Tarlton replied that the State issues these licenses to parties that end up with radioactive material in their possession in order to help facilitate disposal of this material. A common example of this type of licensee would be a scrap recycler. Mr. Jared Thompson questioned how often these licenses are issued by the State. Mr. Tarlton replied that the State issues approximately five to six of these licenses per year. Mr. Rautzen discussed that the State currently has no vacancies in the Program, but anticipates a staff loss due to retirement in the near future. Mr. Virgilio commended the State for its ability to quickly hire staff during a period of staff loss. Mr. Virgilio believed that the State appropriately addressed the issue of staff losses by hiring junior staff. Mr. Virgilio believed that, rather consider this change in the Program as a weakness, this change be considered a

strength because of the fresh ideas junior staff brought to the Program on how to improve various State processes. Mr. Rautzen also noted that routine inspections are generally performed by the due date, but because of previous staff losses, occasionally that goal is not met, and they are performed with the additional 25 percent window. The State is able to perform initial inspections within 12 months of issuance, and all Increased Controls inspections were performed within the first year. The State's regulations and data input into NMED are mostly up to date. Mr. Rautzen noted that there has been an increased interest in uranium mining in the State and that the State anticipates new uranium mill applications in the near future. Mr. Pangburn inquired if the anticipated application for Energy Fuels is for a conventional mine, and Mr. Rautzen affirmatively responded. Mr. Vranka provided his thanks to the NRC staff that participated in the periodic meeting and commented that the State appreciates the NRC providing funds for State training of new staff. The MRB concluded that the next IMPEP review of the Colorado Agreement State Program should take place, as currently scheduled, in Fiscal Year 2010.

Periodic Meeting with North Dakota. Mr. Rautzen led the discussion of the results of the periodic meeting with North Dakota (ADAMS Accession Number: ML080870131). The meeting was held in Bismarck, North Dakota, on March 18, 2008. Mr. Rautzen indicated that the last IMPEP was conducted in April 2007, and the review team found the program satisfactory, but needs improvement, for the performance indicator, Status of the Materials Inspection Program, and satisfactory for all remaining performance indicators reviewed. Mr. Rautzen noted that there were no recommendations regarding program performance made after the IMPEP review. Mr. Rautzen indicated that following the 2007 IMPEP review, the Program lost both the remaining senior health physicist and the Program manager in rapid succession. Those losses left the Program with the initial replacement individual as the senior health physicist. Mr. Rautzen informed the MRB that just after the periodic review, the Program lost that initial replacement individual, as well. Of the two remaining individuals both have less than one year experience. Mr. Rautzen noted that the Minnesota Program has offered assistance to the Program to both train staff and perform inspections of North Dakota licensees. Mr. Terry O'Clair extended his gratitude to the Minnesota Program and hopes that their assistance will continue. Mr. Jared Thompson sympathized with the Program's situation and commended the Program for working with the Minnesota Program. Mr. Virgilio concurred with Mr. Thompson's appreciation for States supporting other States. Mr. Thompson questioned if the State is currently staffed. Mr. O'Clair responded that there is currently a vacancy with the recent loss of their inspector. Mr. O'Clair added that the vacancy has been posted on the Conference of Radiation Control Program Directors' website and in local North Dakota newspapers. Mr. O'Clair noted that they have not seen a big pool of applicants for the position. Mr. Rautzen noted that during the 2007 IMPEP review, the inspection program generally performed most inspections within the additional 25 percent window. Mr. Pangburn inquired if the Program is currently experiencing a licensing backlog. Mr. Daniel Harman responded that the backlog that exists, as of now, is mainly due to reciprocity cases with the recent boom in the oil exploration industry. Mr. Harman noted that they intend to eliminate this practice of working within the 25 percent window in the near future. Mr. Rautzen also noted that the Program has decided to adopt NRC regulations by reference. Ms. Karen Cyr applauded the Program's attempt to gain efficiencies in their Program by adopting NRC regulations by reference. Mr. Pangburn suggested that the next periodic meeting be elevated from the team's original recommendation of 18 months to 1 year due to the recent staff loss in

the Program. Mr. Thompson questioned the State if a periodic review in one year would be burdensome to the State. Mr. O'Clair did not foresee a problem in having a periodic meeting in one year. The MRB unanimously agreed to have the next periodic meeting in one year. Mr. Harman questioned if the State would have priority in getting new staff in training due to the recent staff loss in their Program. Mr. Virgilio noted that the NRC staff will follow up on this request. A member of the public, Mr. Galen Andersen, questioned if there has been any progress in the State in regard to uranium milling and mining. Mr. O'Clair noted that they have not received any applications as of yet; however, a State geologist is currently preparing regulations on reviewing any applications that may come in to the State. Mr. Pangburn clarified that the State does not have authority for byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act of 1954, as amended. The MRB concluded that the next IMPEP review of the North Dakota Agreement State Program should take place in Fiscal Year 2010, as currently scheduled, with a periodic meeting in one year.

Comments. Ms. Lukes reiterated the MRB's decisions to maintain the next IMPEP review for Colorado as currently scheduled. She also reiterated the MRB's decision to accelerate the next periodic meeting with North Dakota to be held with the State in one year and the next IMPEP review to be held as currently scheduled.

Items for Follow Up. Mr. Harman questioned if the State would have priority in getting new staff registered in training due to the recent staff loss in their Program. Following the MRB meeting, NRC staff contacted Mr. Harman and assisted in addressing his request.

3. **Precedents/Lessons Learned.** The MRB established no new precedents to be applied to the IMPEP process during this meeting.
4. **Good Practices.** No good practices were identified during this review.
5. **Adjournment.** The meeting was adjourned at approximately 2:40 p.m.