



**CITY  
OF  
BOULDER**

**OFFICE OF THE CITY MANAGER**

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September 17, 2009

Arthur T. Howell III, Division Director  
Region IV – Division of Nuclear Materials Safety  
United States Nuclear Regulatory Commission  
612 East Lamar Boulevard, Suite 400  
Arlington, Texas 76011-4125

RE: September 17, 2009 Public Meeting with the National Institute of Standards and Technology;  
Docket No. 030-03732

Dear Mr. Howell:

On behalf of the City of Boulder, I want to thank the Nuclear Regulatory Commission for conducting a special inspection of the plutonium contamination event that occurred on June 9, 2008 at the National Institute of Standards and Technology (NIST) Boulder facility. We sincerely appreciate the Commission's efforts and thank you for hosting a public meeting on the matter in our community on September 17, 2009.

As indicated in correspondence dated July 14, 2008 to the Committee on Science and Technology, the City is the proud home of several federal laboratories which are valued members of our community. The situation of June 9, 2008, however, highlighted the need for enhanced communications, planning and reporting between the City and NIST. Since then, both the City and NIST have worked cooperatively in addressing a number of requests identified in the July 14, 2008 correspondence. In an effort to further improve communications and formalize long term responsibilities between the parties, the City and NIST have discussed and expressed support for the development and execution of a Memorandum of Understanding (MOU). As the parties continue to work jointly in developing an MOU, the City proposes that it address a number of items including, but not limited to the following:

1. The development of a long-term communications plan between the City and NIST regarding the regulation of activities conducted and materials stored at the Boulder facility. The plan will include regular meetings between the parties and the use of NIST's recently hired site manager to coordinate communication on NIST's behalf.
2. A requirement that NIST develop and submit annually to the City the following:
  - a. appropriate security protocols pertaining to the physical security of the NIST Boulder facility including any and all hazardous materials and laboratories. NIST would be required to undergo an independent security audit on an annual basis with the findings submitted to and reviewed with the City.
  - b. a rigorous safety training program which all NIST employees and researchers will be required to attend and complete on a regular and routine basis. NIST should submit to the City an annual

- report that includes a listing of training programs implemented, type of training undertaken for NIST employee groups, and the proposed schedule for future training. The MOU should also address opportunities to integrate appropriate City employees into relevant NIST training programs.
3. A requirement that NIST annually report to the City a comprehensive list of any and all hazardous material and all radioactive licensed material (type and quantity) stored and used at the NIST facility.
  4. A requirement that NIST devote additional resources to the Boulder facility to correct outdated laboratory spaces that do not meet current safety regulations or benchmarks for design and use, and that any laboratory equipment which does not meet current safety regulations or, where its condition is unknown, be immediately removed from the facility and decommissioned.
  5. In correspondence dated July 22, 2008, NIST indicated the following:

NIST suspended use of all radioactive materials at its Boulder facility. We will not be reapplying to the Nuclear Regulatory Commission for permission to use plutonium or any other special nuclear materials at any time in the foreseeable future. In the future, should NIST demonstrate to the NRC's satisfaction that it has the radiation safety programs, plans, controls, and auditing procedures in place to safely handle lower risk radiation sources, we will notify the City prior to restarting such work and will provide documentation of our safety practices, procedures, and training requirements.

This position was reiterated by NIST in correspondence dated July 30, 2009. It is the City's understanding that unless NIST receives permission to utilize radioactive materials by June 2010, it would need to commence the decommission process as it relates to that specific license. Recently we have learned that NIST may be planning to retain its license by continued use of radioactive material. The City respectfully requests that NIST immediately clarify its intentions in this regard and that the MOU outline the process through which the City will receive notification of any and all license requests, renewals and terminations.

As the Nuclear Regulatory Commission continues its Special Inspection process of this contamination event, the City requests that the Commission adopt findings that support these principles and the timely completion and execution of an MOU that encompasses these concerns.

We appreciate the efforts of the Commission and NIST during the process and look forward to working together as the process is completed and the Special Inspection report issued. Following completion of the report, we respectfully request the ability to submit supplemental comments to the Commission.

Sincerely,



Jane S. Brautigam  
City Manager

Cc: The Honorable Mark Udall  
The Honorable Michael Bennet  
The Honorable Jared Polis  
The Honorable Bart Gordon, Chair, Committee of Science and Technology  
Matt Appelbaum, Mayor  
Crystal Gray, Deputy Mayor

Arthur T. Howell III, Division Director

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Suzy Ageton, Council Member  
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Ken Wilson, Council Member  
Patrick Gallagher, Deputy Director, NIST  
Richard F. Kayser, NIST Chief Scientist  
Kent Rochford, NIST Boulder Chief Technical Representative  
Paul J. Fetherston, Deputy City Manager  
Maureen Rait, Executive Director, Public Works  
Ned Williams, Director, Public Works/ Utilities  
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