

April 12, 2010

Mr. Frank Marcinowski
Deputy Assistant Secretary
for Technical and Regulatory Support
EM-40/Cloverleaf Building
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585-2040

SUBJECT: REVIEW OF OPERATING PROTOCOLS FOR INTERACTIONS BETWEEN
THE U.S. NUCLEAR REGULATORY COMMISSION AND THE DEPARTMENT
OF ENERGY RELATED TO WASTE INCIDENTAL TO REPROCESSING

Dear Mr. Marcinowski:

I want to thank you and the others from the U.S. Department of Energy (DOE), for taking the time to meet with us on March 16, 2010. Those of us who attended from the U.S. Nuclear Regulatory Commission (NRC) appreciate the exchange of information and especially Marty Letourneau's very informative presentation on the Complex Wide Review of DOE Order 435.1. Even though you have been in your current position at DOE for a while now, I wanted to take this opportunity to say welcome, and to say that we look forward to continuing to work with you.

As you are certainly aware, the NRC has quite a long history of working with DOE in the Waste Incidental to Reprocessing (WIR) arena. Our shared history predates the enactment of Section 3116 of the Ronald W. Reagan National Defense Authorization Act of 2005 (NDAA), when NRC supported various DOE initiatives related to tank waste. Since the passage of the NDAA in 2005, the relationship between NRC and DOE has experienced substantial growth and the establishment of more formal interactions. With this history in mind, I believe that there is some benefit in reviewing our operating protocols.

Given the NRC's role under the NDAA, as well as our operating principles as a regulator, we strive to conduct our activities in an as open and transparent manner as is practicable. This openness and transparency is a matter of NRC policy and is a big part of NRC's culture. Because of these guiding principles, we would like to see that all WIR related meetings between NRC and DOE be open to the public whenever feasible. There may be good reasons to hold a non-public meeting from time to time, but the basis for holding such a meeting should be fully understood and agreed upon well in advance.

If DOE requests to meet with NRC, we would expect DOE to notify the public of the meeting. If NRC requests the meeting, we will notify the public. NRC, again as a matter of policy, requires a 10 day prior notification to the public. We ask that DOE use the same guideline, whenever

possible, when requesting a meeting with NRC related to WIR activities. Otherwise, the possibility exists that we may have to request that the meeting be postponed.

With regard to documents that DOE submits to NRC, we believe the same principles should apply. However, NRC does not plan to ask DOE to justify why a particular document is considered sensitive or "for official use only." If DOE requests that NRC not post certain documents as publicly available, then NRC will honor that request. Of course, it will be necessary for NRC to post key documents that are submitted to NRC for review, such as a Draft Waste Determination or a Performance Assessment, as publicly available.

Recognizing that points of contact (POC) change over time, I would like to provide you with the names of our key WIR staff, as things currently stand, and request that you provide us with the POCs on your staff.

Nishka Devaser – Savannah River Site, Saltstone Facilities

Maurice Heath – Savannah River Site, F Area Tank Farm

Maurice Heath – Idaho National Laboratory, INTEC Tank Farm

Maurice Heath – West Valley, Wetted Equipment Waste Determination

Don Lowman - Savannah River Site, H Area Tank Farm

Don Lowman – Hanford Site, C Area Tank Farm

Gregory Suber - Branch Chief for WIR Project and Program Management

Chris McKenney - Branch Chief for WIR Technical Issues

Over the last couple of years, significant improvement has been made in the communication between our respective staffs. During this time we have had staff level bi-weekly scheduled telephone conference calls. These calls have been very valuable in ensuring that everyone (NRC and DOE) involved in the WIR activities at various DOE sites are kept abreast of issues, aware of upcoming changes, and other developments. We would like to see these calls continue. More recently, like we did on March 16th, we have held meetings on a more or less quarterly basis between more senior managers in the respective programs. These meetings have been very beneficial, and we would like to see them continue. If there are other ways that you believe that we can continue to improve our communications, we would very much appreciate hearing from you about those ideas.

F. Marcinowski

3

I believe that the WIR work that we are both involved in is very important, and I look forward to continuing to work with you on these issues.

Sincerely,

/RA/

Larry W. Camper, Director
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

W. Levitan

3

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