

T. Bergman, et al

December 22, 2006

MEMORANDUM TO: Thomas A. Bergman
Office of Nuclear Reactor Regulation

Marian L. Zabler
Office of the General Counsel

Michael E. Waterman
Office of Nuclear Regulatory Research

FROM: Jack R. Strosnider, Director */RA/*
Office of Nuclear Material Safety
and Safeguards

SUBJECT: AD HOC REVIEW PANEL - DIFFERING PROFESSIONAL OPINION
INVOLVING MANAGEMENT POLICY ON LICENSING NEW FUEL
CYCLE FACILITIES (DPO-2006-005)

In accordance with Management Directive (MD) 10.159, "The NRC Differing Professional Opinions Program," I am appointing you as members of a Differing Professional Opinion (DPO) Ad Hoc Review Panel to review a DPO regarding management policy on licensing new fuel cycle facilities. A copy of the DPO is enclosed.

I have designated Thomas A. Bergman chairman of this Panel and Marian L. Zabler as a Panel member. Michael E. Waterman, who was proposed by the DPO submitter, will serve as the third member of the Panel. I have designated William E. Kemper, Office of Nuclear Regulatory Research, and Andrew Persinko, Office of Federal and State Materials and Environmental Management Programs, to serve as expert consultants to the panel. In accordance with the guidance included in MD 10.159, and consistent with the revised DPO Program objectives, I task the DPO Panel to do the following:

- Review the DPO to determine if there is enough information for a detailed review of the issue.
- Schedule and conduct a meeting with the submitters to discuss the scope of the issue. The scope of the DPO Panel's review should remain fully focused on the issues as defined in the original written DPO, and will not exceed those issues.

CONTACT: Robert L. O'Connell, NMSS/FSME
301-415-7877

- Consult with me, after meeting with the submitters, to establish a timeliness goal for the disposition of the DPO that is based on the significance and complexity of the issues and the priority of other agency work. Provide a copy of the milestones and timeliness goals (and any revised goals) to the DPO Program Manager (DPOPM) and the submitters.
- Document the DPO Panel's understanding of the submitters' issues following the meeting and send the submitters a copy of the documented Statement of Concerns for the submitters' review and comment. This process will ensure that the DPO Panel understands the submitters' concerns and reviews the appropriate issues.
- Request technical assistance through me, if necessary.
- Perform a detailed review of the issues and conduct any record reviews, interviews, and discussions you deem necessary for a complete, objective, independent, and impartial review. The review should include periodic discussions between the full panel and the submitters, to provide the submitters the opportunity to further clarify the submitters' views and to facilitate the exchange of information. However, there should be no separate communication between individual DPO Panel members and the submitters or key staff members on these issues during the review, except with the knowledge and agreement of all DPO Panel members. In other words, all DPO Panel members should be equally informed on the issues to ensure a thorough, impartial, and independent review.
- Provide monthly status updates on your activities via email to the DPOPM no later than noon the last day of the month. This information will be included in the Monthly Status Report on the DPO Program that is forwarded to the Commission. Please provide a copy of email status updates to me and the submitters.
- Issue a DPO Panel report, including conclusions and recommendations to me regarding the disposition of the issues presented in the DPO. The report should be a consensus product and include all DPO Panel member's concurrence. Follow the specific processing instructions for DPO documents. Two signed paper copies of the report should be provided to the DPOPM who will provide a copy of the report to the submitters.
- Consider comments from me and from the submitters (if applicable) on your report to ensure that the report completely and accurately characterizes the existing staff position and DPO issues. Subsequent to the DPO Panel's review, either: (1) notify me that the original report is final, or (2) issue a revised report (only if the DPO Panel believes it is warranted).
- Consult me as soon as you believe that a schedule extension is necessary to complete your review of the DPO. Disposition of this DPO should be considered important and time sensitive activity. The DPO process begins on the day that the DPOPM accepts the DPO and concludes on the day that I issue a DPO Decision memorandum. In accordance with the goals in MD 10.159, all routine DPO cases are expected to be completed within 60 days and all complex cases within 120 days. In this case, the **timeliness goals based on working days are March 30, 2007, and May 29, 2007**, respectively. Please note that the 120-day time frame may only be extended with the approval of the EDO through the DPOPM. Although timeliness is an important DPO Program objective, the DPO Program also sets out to ensure that issues receive a thorough and independent review. Therefore, if you determine that you require an

extension in order to ensure that you have sufficient time to perform a complete review, please send the DPOPM an email with your reason for the extension request.

Note that DPO-related time should be charged to Activity Code ZG0007.

Although the submitters have not filed this DPO confidentially, the matter should be treated as though they had. The submitters' names should not be used in discussions (they may be referred to as the "DPO submitters"), documents should be distributed on an "as-needed" basis, and managers and staff should be counseled against "hallway talk" on the matter.

I appreciate your willingness to serve and your dedication to completing an independent and objective review of this DPO. Successful resolution of the issues is important for NRC and its stakeholders. Since the DPO process has been undergoing revision, as you conduct your review, please note any changes you would recommend. If you have any questions, you may contact me or the Renée Pedersen, DPOPM, in the Office of Enforcement at (301) 415-2741 or email DPOPM@nrc.gov.

I look forward to receiving your independent review results and recommendations.

Enclosure: DPO-2006-005

cc w/o Enclosure:

W. Kemper, RES
A. Persinko, FSME
Submitters
DPOPM

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W. Kemper, RES
A. Persinko, FSME
Submitters
DPOPM

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