

July 18, 2012

MEMORANDUM TO: Michael F. Weber
Deputy Executive Director for Materials, Waste,
Research, State, Tribal, and Compliance Programs

Bradley W. Jones, Assistant General Counsel
for Reactor and Materials Rulemaking
Office of the General Counsel

Steven West, Acting Deputy Director
Office of Federal and State Materials
and Environmental Management Programs

Anne Boland, Director
Division of Nuclear Materials Safety
Region III

FROM: Michelle Beardsley, Health Physicist */RA K. Meyer for/*
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: MINUTES: JULY 9, 2012
SPECIAL MANAGEMENT REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the Special MRB meeting held on July 9, 2012 to discuss the periodic meetings held with the Colorado and North Dakota Agreement State Programs. If you have comments or questions, please contact me at (610) 337-6942.

Enclosure: Cover Page and Minutes of the
Management Review Board Meeting

cc w/encl.: Robert Gallagher, Massachusetts
Organization of Agreement States
Liaison to the MRB

Management Review Board Members

Distribution: DCD (SP01)
MSSA_Technical_Asst Resource
RidsEdoMailCenter
RidsOgcMailCenter
RidsFsmeDmssa
RidsFsmeOd
RidsRgn1MailCenter
RidsRgn4MailCenter
MKotzalas, OEDO
DWhite, FSME
LDimmick, FSME
JKatanic, FSME
RBrowder, RIV/RSOA
RErickson, RIV/RSOA
VCampbell, RIV
AVegel, RIV
CEinberg, FSME
SPoy, FSME
Steve Tarlton, CO
Terry O'Clair, ND
JWeil, OCA (2 copies)

ML12200A008

OFC	FSME/MSSA	
NAME	MBeardsley/knm1	
DATE	07/18/12	

OFFICIAL RECORD COPY

MINUTES: SPECIAL MANAGEMENT REVIEW BOARD MEETING OF July 9, 2012

The attendees were as follows:

In person at U.S. Nuclear Regulatory Commission (NRC) Headquarters in Rockville, Maryland:

Michael Weber, MRB Chair, DEDO
Steven West, MRB Member, FSME
Duncan White, FSME
Lisa Dimmick, FSME
Stephen Poy, FSME

Bradley Jones, MRB Member, OGC
Karen Meyer, FSME
Janine Katanic, FSME
Michelle Beardsley, FSME
Joan Olmstead, FSME

By telephone:

Anne Boland, MRB Member, Region III
Rachel Browder, Region IV
Randy Erickson, Region IV
Steve Tarlton, CO
Gary Baughman, CO
James Grice, CO
Jennifer Thurston, Sheep Mountain Alliance
Sara Fields, Uranium Watch Group

Robert Gallagher, MRB Member, MA
Vivian Campbell, Region IV
Jim Lynch, Region III
Terry O'Clair, ND
Dan Harman, ND
James Jarvis, CO
Ed Stroud, CO
Dave Stradinger, ND

1. **Convention.** Ms. Beardsley convened the meeting at 2:04 p.m. She noted that this MRB meeting was open to the public; two members of the public participated in this meeting. She then transferred the lead to Mr. Michael Weber, Chair of the MRB. Introductions of the attendees were conducted.

2. **Periodic Meetings Discussions:**

Periodic Meeting with the Colorado Agreement State Program

Mr. Randy Erikson led the discussion of the results of the periodic meeting held with the Colorado Radiation Management Program (ADAMS Accession Number: ML12137A866). The meeting was held in Denver on April 16, 2012. Mr. Erikson stated that the last IMPEP review was conducted in 2010. Seven of the eight performance indicators reviewed were found satisfactory and the performance indicator- Sealed Source and Device Evaluation Program was found satisfactory, but needs improvement. The review team made four recommendations and kept open one recommendation from the previous review. The MRB agreed that the Colorado Agreement State Program be found adequate to protect public health and safety, and compatible with NRC's program.

During the periodic meeting, Mr. Erikson stated that staff found the Colorado Program had made progress on all of the recommendations made during the previous IMPEP review in that they have developed procedures for: handling, marking transmitting and storing documents that contain sensitive information, termination/decommissioning reviews, record retention, pre-licensing guidance and SS&D performance and documentation.

Mr. Erikson noted that the strength of the Program lies with its highly motivated and dedicated staff and management. He also noted that the Program has been able to fill

recent vacancies with talented individuals, including the position in the uranium recovery program, and have a good balance of staff for licensing, inspection and other related areas.

Mr. Erickson further noted that the Program is current on all inspections and that they have a very active licensing program. He discussed several issues that the State provided as feedback on NRC's program including requests to: update guidance on uranium recovery, provide webinar training courses, extend response deadlines for States' comments on NRC information, and mark emails, letters, etc. conspicuously as to whether they pertain to reactor or materials matters. The MRB agreed to take these matters under consideration.

Ms. Thurston from the Sheep Mountain Alliance Group voiced concerns regarding the uranium milling permitting process by the State, i.e. lack of public inclusion in the process and the lack of a definition of what exactly constitutes the uranium "milling" process/activities. Ms. Fields of the Uranium Watch Group also voiced similar concerns regarding the need for public inclusion in the uranium mill permitting process and the lack of an approved reclamation plan for the Canyon Ridge and Sweeney Mill sites. In addition, the MRB discussed the need for any further assistance from NRC regarding the current Piñon Ridge litigation on this matter in the State. The State indicated that assistance is not needed at this time but future consultation may be requested.

Staff recommended, and the MRB agreed, that the next IMPEP review take place in FY 2014 as scheduled.

Periodic Meeting with the North Dakota Agreement State Program

Ms. Browder led the discussion of the results of the periodic meeting held with the North Dakota Radiation Control Program (ADAMS Accession Number: ML12097A460). The meeting was held in Bismarck on March 8, 2012. Ms. Browder stated that the last IMPEP review was conducted in April 2011. North Dakota's performance was found unsatisfactory for the performance indicator- Technical Quality of Inspections; satisfactory, but needs improvement for the performance indicators- Status of Materials Inspection Program, Technical Quality of Licensing and Technical Quality of Incident and Allegation Activities; and satisfactory for the remaining performance indicators reviewed. The team made 11 recommendations which addressed training and staff retention, the inspection and licensing programs and the development of policies and procedures for incidents and allegations. The team also recommended, and the MRB agreed, that the North Dakota Program be placed on Heightened Oversight and that a Periodic Meeting be held within one year, and that a followup IMPEP review be conducted one year following the Periodic Meeting. The MRB agreed that the North Dakota program be found adequate to protect public health and safety, but needs improvement, and compatible with NRC's program. In accordance with FSME Procedure SA-122, *Heightened Oversight and Monitoring*, the Program developed a Performance Improvement Plan (PIP) (ML112341233) and bimonthly calls between the State and NRC were initiated.

During the periodic meeting Ms. Browder stated that staff found the Program had made significant progress on all recommendations and continues to track and document their actions using the PIP.

Ms. Browder noted that there has been stability in the staffing of the Program since the last IMPEP. The MRB questioned statements in the report that indicated staffing as both a strength and weakness. Ms. Browder explained that the competency of current staff provides strength to the Program; the weakness lies in the staffing level which currently appears adequate. However, any future turnover or losses could pose problems. The State indicated that they are in the process of cross-training staff from other areas and have a request before the Governor for additional positions. The MRB also pointed out an inconsistency in the report as to the length of time that the current staff has been in place, i.e. one or two years. Ms. Katanic clarified that it was approximately 1.5 years.

Ms Browder stated that the number of licenses authorized by the Program has increased by approximately 20 percent over the last year due to the increase of radiography and well logging licensees to support the oil and gas industry activities in the State. She noted that this has posed challenges in both the licensing and inspection areas of the Program. The MRB questioned if the State has met the criteria in Management Directive 5.6 for inspection performance. Ms. Browder indicated that they did meet the criteria for routine high priority (Priority 1, 2 and 3) inspections; however, they have not met the criteria for performing reciprocity inspections. She further noted that at the time of the Periodic Meeting, the Program was current on all inspections, licensing actions, and regulation amendments.

Staff recommended, and the MRB agreed, that the next IMPEP review (followup review) take place in FY 2013 as scheduled.

Comments. Mr. Weber restated the MRB's decisions to maintain the next IMPEP review for the Colorado Agreement State Program as currently scheduled in FY 2014, and in FY 2013 for the North Dakota Agreement State Program.

3. **Precedents/Lessons Learned.** None noted.
4. **Adjournment.** The meeting was adjourned at 3:38 p.m.