



KATIE SWEENEY
General Counsel

December 2, 2013

Drew Persinko
Bill VonTill
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Drew and Bill:

Several months ago, representatives from the National Mining Association (NMA) met with Nuclear Regulatory Commission (NRC) staff regarding a variety of uranium recovery industry regulatory issues. NMA appreciates the staff's willingness to meet to work to find solutions to these issues. This purpose of this letter is to follow up on several of the issues raised in anticipation of our meeting on Dec.5.

NRC Billing Practices

At our last meeting, we had a productive discussion about ways to provide licensees more detailed invoices since many invoices fail to contain meaningful descriptions of work done by NRC staff and contractors. NMA appreciates NRC's conclusion that more details can be provided upon request to the Office of the Chief Financial Officer and project managers. NRC also agreed to look into determining (1) which contractor invoice details can be released and (2) if biweekly reports can be issued to licensees. NMA looks forward to responses from NRC on those two matters at our next meeting.

Pre-licensing Construction Rule

NMA agreed at that meeting to follow up on one key issue discussed – providing NRC with a list of activities that the uranium recovery industry would like additional clarification regarding whether they may be undertaken under 10 CFR Part 40.32(e). When industry originally raised the possibility of a new rulemaking on this issue, the goal was to clarify the scope of pre-licensing site construction activities that could be conducted without concern for denial of a requested license. Despite the conclusion of

the rulemaking, industry remains confused about the types of activities that are acceptable. Certain site preparation activities are clearly allowed such as clearing land, site grading and erosion control, and construction of main access roadways, non-security related guardhouses, utilities, parking lots, or administrative buildings not used to process, handle or store classified information. But there are other activities that licensees would like to be able to undertake without risk of having their pending applications denied.

Structure and Focus of Licensing Reviews

At our last meeting, we discussed scheduling a lessons-learned workshop in Denver in fiscal year 2014. The workshop is an important tool to promote efficient and timely licensing. NMA realizes that many federal agencies have imposed travel restrictions on staff due to fiscal constraints. NMA, therefore, suggests that in lieu of having the workshop in Denver, NRC should hold the workshop at NRC headquarters. NMA recommends that NRC schedule the workshop around the Nuclear Energy Institute's Jan. 22, 2014, nuclear fuel supply forum to facilitate industry participation.

Agency Resources

NMA continues to have significant concerns about agency resources. While there have been some developments outside of NRC's control, such as the sequester, failure of Congress to pass budgets and the government shut-down, NRC could do more to ensure it appropriately marshals the resources it has. As NMA has commented in the past, the agency should exercise better management and oversight of the hourly fees and investigate additional ways to reduce those fees by streamlining regulatory processes. NMA looks forward to the upcoming lessons learned workshop as an opportunity to ascertain whether the additional experience gained by the staff has resulted in more efficient and less resource-intensive licensing.

Guidance Documents

NMA appreciates NRC providing a list of guidance documents and timeframes for their development or updating. NMA is particularly interested in the status of the radon dose calculation guidance. NMA would like an opportunity to present some new data on dose calculations and perhaps have a technical workshop on such issues prior to NRC's finalizing the guidance.

Also, as discussed at our last meeting, NMA is evaluating whether to develop drafts of any of the upcoming guidance documents in the hopes of expediting timeframes for development/updates. NMA will provide staff notice if the association decides to move forward with drafting. In the meantime, NMA would like to be notified of any changes to the NRC schedule for developing and updating of key guidance documents.

Subpart W Rulemaking

The Environmental Protection Agency (EPA) sent its proposed 40 CFR Part 61, Subpart W rule to the Office of Management and Budget (OMB) in July 2013. EPA anticipates the rule will be proposed prior to the end of 2013. NMA urges NRC to engage in this rulemaking process. NRC has opportunities to comment on the direction of the rule both while it is at OMB and when it is published for public comment. NRC should urge EPA to ensure any rule observes the shared delegation of authority Congress granted EPA and NRC under the Uranium Mill Tailings Radiation Control Act (UMTRCA). UMTRCA directs EPA to set generally applicable health and environmental standards for mill tailings facilities but reserves to NRC the implementation of these standards at active facilities. NRC should work with EPA to minimize any dual jurisdiction issues and to maintain needed flexibility for implementation.

Part 192 Rulemaking

EPA continues to work on a rulemaking to revise 40 CFR Part 192, "Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings and Uranium *In Situ* Leaching Processing Facilities." Eventually, NRC will have to propose a rule to conform to EPA's rule. NMA believes there may be an opportunity to address certain items of interest to the uranium recovery industry through the NRC rulemaking process. For example, the rulemaking could be used to clarify application of the timeliness rule to decommissioning of ISR facilities. NMA would be interested in NRC's views of other issues that may be appropriate to address in a NRC conforming rule.

Section 106 Process

NMA remains concerned about how NRC conducts the National Historic Preservation Act's (NHPA) Section 106 process. NMA would like an update on the status of NRC efforts to prepare a Section 106 guidance document specifically for the uranium recovery industry and how NRC feels that approach is better than a regional programmatic agreement. NMA believes an open discussion on this issue will allow all interested stakeholders to better understand how the process can be improved and can lead to more efficient licensing.

NRC Inspector General Report

NMA would also like to discuss the NRC Office of Inspector General (OIG) recently completed an audit of NRC's process for preparing Environmental Impact Statements (EISs) in accordance with the National Environmental Policy Act (NEPA). NMA disagrees with OIG's conclusions regarding the NEPA work NRC has completed regarding the *in situ* uranium recovery facilities. We believe OIG misapprehends both the NRC and the Council on Environmental Quality's regulations governing tiering off of a generic EIS. NMA is preparing a response to the report refuting its conclusions.

Persinko/VonTill

Date

Page Four

NMA's uranium recovery members appreciate your time and the opportunity to continue engaging with staff on these key issues. Again, we look forward to a productive meeting on Dec. 5. In the meantime, please do not hesitate to contact me at 202/463-2627 to discuss these issues.

Sincerely,

A handwritten signature in black ink that reads "Katie Sweeney". The signature is written in a cursive, flowing style.

Katie Sweeney