



NRC PDR

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

October 6, 1989

Mr. Jerry Griepentrog, Director  
Department of Human Resources  
505 East King Street, Room 600  
Carson City, Nevada 89710

Dear Mr. Griepentrog:

This is to confirm the discussion Messrs. Jack Hornor and Joel Lubenau held with Ms. Myla Florence and your staff on August 25, 1989 following our follow-up review of the State's radiation control program.

We were pleased to note the many improvements that have taken place in your program. As a result of our review, we find that the State's program for regulating agreement materials is adequate to protect the public health and safety and is compatible with the Commission's program.

We were especially pleased with the improvement in the timeliness of the State's enforcement actions and with the escalated enforcement in the case of the University of Nevada. We agree with your staff that the repeated violations at the University justify the State's decision to eliminate the University's broad scope "A" type license and to replace it with a more restrictive broad scope "B" type license for the Reno campus plus specific licenses for the Las Vegas campus and other off-campus locations. This is a new approach for resolving this kind of problem and the NRC staff will be closely following the results of this action.

We were also pleased that the State provided funds for new instrumentation for the program. These instruments were sorely needed and have enhanced the ability of the inspectors to perform their compliance functions.

The appointment of a full time project manager for the low-level waste program has, in our opinion, been an important factor in the improvements found during this review. The division of responsibilities has allowed the Supervisor of the Radiological Health Section to concentrate his efforts on improving the radioactive materials program, and we feel both programs will continue to benefit from the reorganization.

As we discussed, we are pleased with the excellent progress the State has made and we look forward to continuing to work with the State.

Enclosure 1 contains a summary of the follow-up review.

Enclosure 2 contains an explanation of our policies and practices for reviewing Agreement State Programs. A second copy of this letter and enclosures is provided for placement in the State Public Document Room or otherwise to be made available for public examination.

DF-02  
11

8910160020

11 pp.

OCT 6 1989

I appreciate the courtesy and cooperation extended the NRC staff during the review.

Sincerely,

*Original signed by Carlton Kammerer*

Carlton Kammerer, Director  
State, Local and Indian Tribe Programs  
Office of Governmental and Public Affairs

Enclosures:

As stated

cc: Myla Florence, Administrator, Nevada Health Division  
William C. Schneider, Chief, Nevada Bureau of  
Regulatory Health Services  
Stanley Marshall, Supervisor, Nevada  
Radiological Health Section  
John B. Martin, Regional Administrator, NRC  
James M. Taylor, Acting Executive Director for Operations  
Robert R. Loux, State Liaison Officer  
State of Nevada Public Document Room  
NRC Public Document Room

bcc: Chairman Carr  
Commissioner Roberts  
Commissioner Rogers  
Commissioner Curtiss

## ENCLOSURE 1

### STAFF REPORT AND FOLLOW-UP EVALUATION OF THE NEVADA RADIATION CONTROL PROGRAM FOR THE PERIOD DECEMBER 3, 1988 TO AUGUST 25, 1989

The follow-up review to the 14th regulatory program review meeting with Nevada representatives was held during the period August 14-25, 1989. The State was represented by Stanley Marshall, Supervisor, Radiological Health Section (RHS), and John Vaden, Low Level Waste Project Manager. The review of the Carson City office conducted by Jack Hornor and Joel Lubenau included a two-day accompaniment of Mr. Marshall and Larry Boschult, Senior Inspector, during an unannounced inspection at the Reno campus of the University of Nevada on August 22-23. Mr. Hornor also visited the Las Vegas regional office and the Beatty low-level radioactive waste site during which time he accompanied inspectors on three additional inspections. The purpose of the follow-up review was to evaluate the corrective actions taken by the State in response to the findings of the December 3, 1988 routine review and to assess the current status of the adequacy and compatibility of the program.

#### CONCLUSIONS

The results of our review indicate the State's program for regulating agreement materials is adequate to protect the public health and safety and compatible with the Commission's program. Significant improvements were found in the materials program, particularly in the State's enforcement procedures.

#### SUMMARY DISCUSSION WITH STATE REPRESENTATIVES

A summary meeting to present the results of the follow-up review was held on August 25, 1989, by Mr. Hornor and Mr. Lubenau with Myla Florence, Administrator, Health Division. The summary meeting was also attended by Mr. Ron Lange, Administrative Health Services Officer, and Mr. William Schneider, Chief, Bureau of Regulatory Health Services. The State was congratulated on the finding of adequacy and compatibility and for the improvements in the program in response to the NRC findings during the December 1988 review. In particular, the staff was praised for the timely enforcement actions taken since that time.

The State's enforcement actions against the University of Nevada and the findings of the unannounced inspection on August 22 and 23 were discussed. The NRC agreed with the State that repeated violations found in the University's safety program stem from inadequate procedures and insufficient training of users of radioactive material. The NRC staff concurred with the State's decision to eliminate the broad scope "A" license and to replace it with a more restrictive broad scope "B" type license plus certain specific licenses for off-campus locations, and the NRC will be closely following the results of this action.

The State was also commended for providing the funds for new instrumentation for the program. The need for a new emergency response vehicle in the Las Vegas office was discussed, and the State agreed to do this as soon as possible. To facilitate future State funding, the NRC agreed to make an effort to time their program reviews to coincide with Nevada's legislative budget reviews which are held in the summer of even years.

The State representatives thanked the NRC for the assistance and interest in improving their program.

#### PROGRAM CHANGES RELATED TO DECEMBER 1988 REVIEW FINDINGS

##### A. Organization

##### 1. Internal Organization of Radiation Control Program (Category II)

###### Summary of Review Findings and Recommendations

During visits to the Las Vegas and Beatty offices, we noted a lack of communication between the RHS Supervisor and the regional offices. For example,

- a. The Las Vegas inspectors were not always kept current on the status of the licenses in their jurisdiction.
- b. Copies of enforcement correspondence were not always forwarded to the Las Vegas inspectors.
- c. Regional offices were not always furnished copies of internal procedures or material distributed by the NRC such as Information Notices, All Agreement State letters, etc.
- d. Regional staff were not always advised of the acting supervisor during the Supervisor's absence.

We recommended the Supervisor review his procedures and take the necessary steps to establish better communications between headquarters and the regional offices.

###### Present Status

We found in our review of the files and discussions with the staff that communications have improved between the Supervisor and the regional staff.

- a. The Las Vegas staff now takes an active part in all licensing actions of licensees in their jurisdiction. Copies of license or amendment applications are reviewed in Las Vegas and drafts of the license and deficiency letters are forwarded to the senior reviewer in Carson City for peer review and final action. Copies of all correspondence are maintained in files in both offices.

- b. Final copies of enforcement letters are now sent to the Las Vegas office at the time they are mailed to the licensee. The Las Vegas staff checks the files periodically to ensure the casework is complete.
- c. The Las Vegas office is now on the NRC mailing list for All Agreement State letters, Information Notices, etc. Internal memos regarding staff policy are sent to each inspector.
- d. A memo to all of the staff was issued in February which establishes a standing policy for transferring responsibility during the Supervisor's absence.

## 2. Legal Assistance (Category II)

### Summary of Review Findings and Recommendations

According to program management, it had been difficult to obtain legal assistance in an appropriate time frame. We recommended the availability of legal services be reviewed to assure that legal assistance will be readily available.

### Present Status

The Health Division now has a full time attorney for legal assistance.

## B. Management and Administration

### 1. Management (Category II)

#### Summary of Review Findings and Recommendations

- a. We found that for the most part, only cursory reviews of licensing actions and inspection reports had been performed by the Supervisor, and the results of the reviews had not been provided to the regional inspectors. We recommended the Supervisor use comprehensive reviews to evaluate the staff's work and to anticipate the need for program changes or staff training. We pointed out the need for individual staff members to be advised of the results of each review.
- b. In our discussions, we found the Supervisor to be unsure of the progress the staff had made or of problems they had encountered in current issues such as amending licenses to comply with the new Part 35 equivalent regulations recently adopted by the State. We suggested management place more emphasis on improving communication between staff and supervision, and staff input was encouraged.

- c. We suggested the State add a full time project manager to be responsible for the supervision and coordination of all low-level waste licensing and compliance functions. This recommendation was based on problems identified in the low-level waste program as well as in the radioactive materials program.

#### Present Status

- a. It appears the Supervisor is making more thorough evaluations of licensing actions and inspection reports, and the results of the reviews are being discussed with the staff, although there was little documentation on file. Sample review forms were given to the Supervisor by the NRC.
- b. Communication between the Supervisor and staff appears to have improved since the Supervisor has been relieved of the low-level waste program duties. The staff has provided input into licensing and compliance procedures and forms, and the Supervisor was reminded of the value of staff input on policy as well.
- c. John Vaden has been named Low-Level Waste Project Manager. As a result of the division of responsibilities, the Supervisor of the Radiologic Health Section has been able to devote more time to strengthening the radioactive materials program.

### C. Licensing

#### 1. Licensing Procedures (Category II)

##### Summary of Review Findings and Recommendations

- a. We found the State had no review plan in place for renewing the license of the low level waste site. We recommended a written plan for review of the low-level waste license be developed. We suggested this plan include the proposed strategy for the entire renewal process, methods used for coordination between the contractor and the staff, and the anticipated amount of program effort required.
- b. Complex licenses should receive second party review, and there should be opportunity for feedback of information from compliance inspectors to license reviewers. There is no peer review available to the

one license reviewer in the Carson City office, and the Las Vegas inspection staff does not participate in the licensing process. We suggested procedures be developed to allow the Las Vegas staff to review drafts of licenses or amendments prior to issuance. We also recommended supervisory review be used as second party review for complex licenses.

- c. The State recently asked the NRC to furnish guidance on updating the current low-level waste site license. While the guidance was provided in June 1988, the recommendations were not used in the latest amendment and the license has some questionable areas. We recommended an administrative rewrite of the site license following the suggested language in the June 7, 1988 response from the NRC.

#### Present Status

- a. The Low-Level Waste Project Manager has completed a review plan for renewing the license of the low-level waste site. The renewal process is proceeding on schedule according to the plan.
- b. The inspection and licensing functions have been integrated and are now performed by all technical staff. The procedures have been changed to allow for peer or management review of all licensing actions. License or amendment applications are reviewed by the staff, either in Carson City or Las Vegas, and drafts of the license and deficiency letters receive peer review from the senior license reviewer in Carson City. The Supervisor will provide peer review to licenses written by the senior reviewer or for complex licenses.
- c. The new site license is expected to be issued at the end of 1988. Because of the time element and the effort required to rewrite the current license, the NRC has agreed it is not necessary to rewrite the license at this time.

#### D. Compliance

##### 1. Enforcement Procedures (Category I)

###### Summary of Review Findings and Recommendations

- a. Pursuant to NRC guidelines, enforcement procedures should be sufficient to provide a substantial

deterrent to licensee noncompliance with regulatory requirements. In many cases, Nevada's enforcement has not been timely or appropriate. During the University of Nevada inspection that was completed on June 3, 1988, the inspectors cited 15 separate violations including one violation having 155 recurring examples. In addition, several violations were repeats from previous inspections. The staff issued a routine notice of violation requesting the licensee to apprise the staff of planned corrective actions. A response was received and although the State concluded that the licensee's response was not adequate, no further action was taken by the State. The State should have pursued escalated enforcement at the conclusion of the inspection, or failing that, upon receipt of the inadequate response to the enforcement letter.

- b. Enforcement actions should be timely with enforcement letters issued within thirty days following inspections. In the case of the University, the exit interview was not held until more than six weeks after the inspection was completed and the enforcement letter was overdue by eight weeks. In our compliance file review we found several other instances of late enforcement letters. This was a repeat finding.
- c. According to the guidelines, the inspector should review licensee responses to enforcement letters. The regional inspectors were not furnished copies of the enforcement correspondence nor were they provided an opportunity to review licensee responses prior to the State's acknowledgement. We recommended procedures be developed to provide for review of licensee responses to enforcement letters by regional inspectors as well as by the Supervisor, and that copies of all enforcement correspondence be promptly forwarded to the regional office.

#### Present Status

- a. The State has held several enforcement conferences with the Chancellor of the University of Nevada and his staff. Routine and special unannounced follow-up inspections have been performed to verify adherence to the commitments made by the University. Many of the original violations have not been successfully resolved and as a result the State has advised the Chancellor the



State will not renew the broad scope "A" license. The University will be allowed to operate under a timely renewal for approximately ninety days while in the process of submitting an application for a Type "B" broad scope license for the Reno campus and specific licenses for the Las Vegas campus and other associated use locations. In good faith, the University has formed a new safety advisory committee and hired a qualified full-time consultant to assist in preparing the new application, in writing a new radiation safety manual, and in developing new training programs.

The State has asked the consultant to provide progress reports during the transition period, and plans to have frequent discussions with the University during the application development and review, including meetings with management. The first meeting is scheduled for September 12, 1989.

Corrective actions on items of non-compliance currently not resolved are also being required of the University, and the State is keeping the enforcement correspondence current.

- b. All enforcement actions since the December review were reviewed, and the State has taken timely and appropriate action in each case.
- c. New procedures have been developed to allow evaluation of licensee responses by both the inspector and the compliance supervisors. All licensee responses to enforcement letters are sent directly to the appropriate inspector for review and comment prior to management review.

## 2. Inspection Reports (Category II)

Some new, improved inspection report forms had been recently developed by the staff, but we found further improvement and standardization was needed in the report forms.

### Present Status

New inspection forms have been developed for nuclear medicine, gauges, industrial radiography, Sr-90 eye applicators, nuclear pharmacies, service licenses, small R&D laboratories, and teletherapy devices. The forms will be evaluated during the next full file review.

Confirmatory Measurements (Category II)

It was found the State lacked adequate radiation monitoring instrumentation. Some of the instruments available to the inspectors were out of date, and some were inoperable. In order to make the proper measurements, we recommended the State purchase GM detectors with various types of probes and ion chambers for each inspector plus a spare set for each office to use when instruments are out of service. We also recommended velometers for measuring air flow rates in hoods and ventilation systems using volatile radioactive material be provided for both the Carson City and Las Vegas offices. We suggested all instruments, including the velometers, be calibrated by an outside calibration service or facility.

Present Status

The Department received \$54,000 for new instrumentation. All offices now have sufficient proper equipment for each inspector plus backup instruments. The new instruments include GMs, ion chambers, alpha counters, velometers and gas flow proportional counters. All portable equipment will be sent to an outside vendor for calibration.

## ENCLOSURE 2

### APPLICATION OF "GUIDELINES FOR NRC REVIEW OF AGREEMENT STATE RADIATION CONTROL PROGRAMS"

The "Guidelines for NRC Review of Agreement State Radiation Control Programs" were published in the Federal Register on June 4, 1987, as an NRC Policy Statement. The Guide provides 29 indicators for evaluating Agreement State program areas. Guidance as to their relative importance to an Agreement State program is provided by categorizing the indicators into two categories.

Category I indicators address program functions which directly relate to the State's ability to protect the public health and safety. If significant problems exist in one or more Category I indicator areas, then the need for improvements may be critical.

Category II indicators address program functions which provide essential technical and administrative support for the primary program functions. Good performance in meeting the guidelines for these indicators is essential in order to avoid the development of problems in one or more of the principal program areas, i.e., those that fall under Category I indicators. Category II indicators frequently can be used to identify underlying problems that are causing or contributing to difficulties in Category I indicators.

It is the NRC's intention to use these categories in the following manner. In reporting findings to State management, the NRC will indicate the category of each comment made. If no significant Category I comments are provided, this will indicate that the program is adequate to protect the public health and safety and is compatible with the NRC's program. If one or more significant Category I comments are provided, the State will be notified that the program deficiencies may seriously affect the State's ability to protect the public health and safety and that the need of improvement in particular program areas is critical. If, following receipt and evaluation, the State's response appears satisfactory in addressing the significant Category I comments, the staff may offer findings of adequacy and compatibility as appropriate or defer such offering until the State's actions are examined and their effectiveness confirmed in a subsequent review. If additional information is needed to evaluate the State's actions, the staff may request the information through follow-up correspondence or perform a special limited review. NRC staff may hold a special meeting with appropriate State representatives. No significant items will be left unresolved over a prolonged period. The Commission will be informed and copies of the review correspondence to the States will be placed in the NRC Public Document Room. If the State program does not improve or if additional significant Category I deficiencies have developed, a staff finding that the program is not adequate will be considered and the NRC may institute proceedings to suspend or revoke all or part of the Agreement in accordance with Section 274j of the Atomic Energy Act of 1954, as amended.