

TEXAS RADIATION ADVISORY BOARD MINUTES

First Quarter Meeting

February 26, 2005

Austin, Texas

Michael S. Ford, C.H.P., Chair, called the meeting to order at 9:00 a.m., with the following members present: Susan E. Best, M.D., Ph.D.; Thomas M. Burnette; Ian Hamilton, Ph.D.; W. Kim Howard, M.D.; Rick Jacobi; Mitchell Lucas; Odis R. Mack; Troy Marceleno; Kevin L. Raabe; Elaine L. Wells

The following members were absent: Bradley Bunn, Earl P. Erdmann; Bruce A. Matson, D.D.S.; Judith A. Pester, M.D.

Guest present: Ches Blevins; Mark S. Pelizza, URI, Inc.; Doris Bryan, Radiation Technology; Jim Clark, Everest Exploration Inc.; Bob Wilson, Jackson, Sjobert, McCarthy & Wilson, LLP; Jep Hill, Law Offices of Jep Hill; Victor Alcoria, Thompson & Knight; W. Mays; Robert Emery, Ph.D.

Texas Department of State Health Services (DSHS) central office staff present: Richard Bays, Tom Godard

Department of State Health Services (DSHS) staff present: Richard A. Ratliff, P.E.; Cindy Cardwell; Tommy Cardwell; Ruben Cortez; Helen Watkins, Margaret Henderson; Ruth E. McBurney, C.H.P.; Pete Myers, Alice Rogers, P.E.; Jerry Cogburn; Phil Shaver; Shirin Anderson; Sheri Schoppe; Elva Ramirez; Rosemary Ward

Texas Commission of Environmental Quality (TCEQ) staff present: Susan Jablonski; George Fitzgerald; Don Redmond; Devane Clarke

Texas Railroad Commission (TRC) staff present: Jill Hybner

Minutes of the September 18, 2004 and December 11, 2004 meetings were submitted for approval. Corrections were made to September 18, 2004 TRAB minutes.

On motion and second the full board approved the minutes. Motion passed unanimously.

Michael S. Ford introduced Dr. Robert Emery, DRPH, C.H.P as guest speaker. Dr. Emery gave speech on "Factors Influencing Radiation Overexposure Events in Texas from 1970 to 2000." Dr. Emery stated data showed a change in trends decreasing exposure. The rate at which over exposure of radiation events is remarkably very low today. Dr. Emery explained that one leading factor for this decrease of overexposure is due to states adopting radiation rules requiring some type of radiation training and certification qualification for radiographers. He stated that the Bureau of Radiation Control, now known as Department of State Health Services, did an excellent job in collecting information that was used for this study.

Dr. Emery discussed that if rig counts continue to go up, statistically, one could expect the number of radiation overexposures to increase as well. Dr. Emery had several suggestions to help prevent overexposures from occurring in the future.

- 1) To organize a targeted public health advisory for oil and gas companies and associated industries.
- 2) To reassess radiation protection programs to make sure procedures are working.
- 3) At some threshold level, to implement targeted inspections.

He suggested that Texas play the leadership role for other states and other oil producing nations by issuing an advisory.

On motion and second, TRAB moved to issue an advisory. Motion passed unanimously.

Dr. Emery closed by informing everyone that the study would be published in the "Health Physics Journal" in the July edition.

I. Committee of the Whole Board

- (A) Approval of member absences for calendar year 2004

Committee was asked to vote on approval or disapproval of Dr. Matson's absences for calendar year 2004. Margaret Henderson read the rules regarding number of absences TRAB members are allowed to miss per calendar year. It was noted that Dr. Matson had missed 3 TRAB meetings last year. Committee members took a vote.

On motion and second the full board approved Dr. Matson's absences. Motion passed.

- (B) Insurance as a means to fund the Radiation & Perpetual Care Account

Mr. Odis Mack brought the committee up to date on information discussed at the last TRAB meeting regarding using insurance for clean ups and abandoned sources. He continued to research the issue and was not able to get in touch with American Nuclear Insurers. He reported that some regulated companies were uninterested. Mr. Ford suggested putting this item aside until the next quarter meeting.

- (C) Financial security update related to entities, types and amounts and the status of the agencies' review of the adequacy of those amounts.

Mrs. Ruth McBurney reported to the committee that from the nine uranium licensees, the agency has in financial assurance over 49 million dollars. Mr. Ford asked for clarification on technical renewal of licenses at a ten-year interval. He specifically wanted to know if that was consistent with previous practice? Mrs. McBurney reported that before it was a 7 to 10 year renewal and now the Nuclear Regulatory Commission (NRC) has gone to 10-year license. It was stated that WCS is doing a parent company guaranty. She was questioned about Gulf Nuclear regarding what the state put up for the clean up cost and where did that money come from? Susan Jablonski reported that it came from the Texas Commission on Environmental Quality's (TCEQ) state superfund account.

On motion and second, the board moved to send suggestions to the agencies regarding methods and means for financial security. The chair appointed Rick Jacobi and Kevin Raabe to draft correspondence to the agencies on behalf of the board and suggested having an ad hoc committee to start addressing financial security issues.

On motion and second the full board approved. Motion passed.

- (D) Implementation of Government Code §418.178 regarding confidentiality of information about radioactive material that is "more than likely to be used in the construction or assembly of a nuclear weapon or weapon of mass destruction."

Mr. Ford stated there was no new information produced on this topic.

- (E) Pending Legislation relating to radiation

Mr. Rick Bays address this item under public comment.

- (F) Public comment

Mr. Rick Bays discussed pending legislation relating to radiation. He reported that the DSHS members had been spending considerable amount of time downtown working with legislators and staff drafting a budget in both the House and the Senate. Mr. Bays reported that the agency had 16 items requesting additional appropriations including the 5% restoration of funds. Mr. Rick Bays tentatively has a meeting set up with Representative Isett to discuss specifics on the Health Physicist Classification and what the needs are for Radiation Control.

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Mr. Bays stated that there is discussion, but not a bill filed, that would move Uranium Mining and Byproduct Waste Storage and Disposal back to TCEQ.

Mr. Bays gave recognition to the radiation staff for helping with byproduct 11(e)2 waste storage permit. This permit was finally issued after many months of hard work from the radiation staff.

II. Waste and Industrial Committee (Ian Hamilton, Chair)

Dr. Hamilton stated that several representatives were present to offer comments to the board in view of increase in the price of uranium and shortage that's forthcoming and comments about a revitalization of the industry in South Texas. Mark Pelizza addressed the committee. Mr. Pelizza stated three points were important: (1) Maintaining adequate staffing and funding for the Agency to regulate uranium mining in Texas; (2) financial security and (3) waste disposal issues.

(A) Uranium mining in Texas and by-product material disposal and storage in Texas.

Mr. Mark S. Pelizza with URI, Inc., and Mr. Wallace Mays both provided information on Uranium Mining and by-product material. Mr. Mays gave a brief summary of his experience with in situ mines. He stated there is a discrepancy between supply and demand in the nation today. He suggested that one way to solve global warming is to use more nuclear power. He stated that there are 4 nuclear power reactors in plants in Texas. He reported that in the last 10 years the 103 nuclear power plants in the United States have improved their operations since deregulation equivalent to building 26 more nuclear power plants without the capital investment. Worldwide demand is growing strong in Asia, Russia, India, South Korea and China. China plans to build 2 new nuclear power plants every year for the next 20 years. India plans to build 20 new plants. Mr. Ches Blevins, introduced himself as an attorney in Austin and is mostly involved in closing down plants. He is general counsel to Texas Mining and Reclamation in Texas.

Mr. Bob Wilson talked briefly about regulatory issues and risk involved in the mining industry. He noted political issues and long term liability will be important and that most lawsuits now are about transportation of uranium, instead of mining.

On motion and second, the board adopted a resolution, proposing that the agencies and statewide elected officials consider the following actions:

1. Provide sufficient funding for the agencies so that they may carry out their regulatory function in a timely manner.
2. Provide for additional human resources at the regulatory agencies to allow them to timely complete review of applications for new production, license amendments and license termination applications for decommissioned sites.
3. Update and re-issue "Regulatory Guides" that provide for timely processing by outlining standard methods of preparing and evaluating new license applications, financial security amounts, major license amendments and license termination applications.
4. Support the development of a cost-effective in-state disposal facility for byproduct material that is protective of human health and the environment.
5. Provide for University research to develop new technology and refinements applicable to insitu uranium mining techniques and aquifer restoration methods that reduce costs and increase reliability and safety.

Motion passed unanimously.

- (B) Update on the results of the Railroad Commission's rule requiring oil and gas companies to monitor for radioactivity in the oilfield and the outcome of that effort.

Mrs. Jill Hybner referred everyone to a memo handout and gave a brief update on the NORM rule. She informed committee that by March 3, 2005 the rule requires that all NORM-contaminated equipment be tagged. The inspectors have equipment to monitor this so they will be doing spot checks. Mrs. Hybner also discussed other items involved with financial security including cost amount for two facilities that store oil and gas NORM waste prior to disposal in a well. Mr. Ford commented about previous recommendations about labels on tagged equipment and Ms. Hybner said she would relay the message to staff.

- (C) Mr. Devane Clarke, Health Physicists with the Radioactive Licensing team at Texas Commission on Environmental Quality, (TCEQ). Mr. Clarke requested the board's recommendation for adoption of proposed

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rules which could authorize licensing Commercial Disposal of Naturally Occurring Radioactive Material Waste generated from Public Water Systems. Proposed rules were published in the Texas Register on January 28, 2005 and a public hearing was held on February 24, 2005. Rules are:

- (1) 30 TAC Subchapter M: Public Notice For Radioactive Material Licenses §§39.703, 39.707, 39.709- recommendation for final adoption
- (2) 30 TAC §§336.1, 336.105, 336.211, 336.211, 36.501, and 336.601- recommendation for final adoption
- (3) 30 TAC Subchapter K consisting of §§336.1001, 336.1003, 336.1005, 336.1007, 336.1009, 336.1011, 336.1013, 336.1015, 336.1017, and 336.1019- recommendation for final adoption

On motion and second by the subcommittee and whole board, motion passed for adoption of rules.

III Program Reports

- (A) Richard Ratliff with Department of State Health Services (DSHS) stated that the Nuclear Regulatory Commission did a one-day radiation program review on March 15, 2005. This was done prior to their full program review in September 2005, which will be a full week review. Mr. Ratliff informed committee that Conference of Radiation Control Program Directors, Inc., (CRCPD) has hired a new Executive Director by the name of Thom Kerr who was with the Department of Energy in Idaho. Mr. Ratliff stated that Mr. Kerr would be a good addition to the CRCPD program.

Ruth McBurney informed committee that DSHS did issue the amendment to Waste Control Specialist, Inc. to expand storage capability. Amendment was issued on February 23, 2005.

Cindy Cardwell informed committee about staff changes in Policy Standards and Quality Assurance (PQSA). Mrs. Cardwell stated that the department agreed upon a new process for rulemaking. New process includes many steps. She anticipated that rules would take longer to get to board. She highly recommended that board members to get on the interested person's list so they will get draft rules early on.

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Tommy Cardwell talked briefly about Radiation staff vacancies. There has been a 50% turnover in radioactive material inspectors in the last two years.

(B) Texas Commission on Environmental Quality (TCEQ)

Susan Jablonski talked briefly on Estimated Permitting Time Line. She also gave details of notice of public meeting for proposed radioactive material License RW4100. The board discussed staffing vacancies if the Uranium Program is transferred to TCEQ. Eight positions would transfer as well as staff if they wished to.

(C) Railroad Commission of Texas, (RRC) Jill Hybner did not have comments.

IV Board member request for agenda items for next meeting

None.

V Public Comment

The next quarterly meeting is tentatively scheduled for April 30, 2005 in Austin, Texas.

The meeting adjourned at 12:00 p.m.

Respectfully submitted,

Elaine L. Wells, Secretary
Texas Radiation Advisory Board