

-EXAMPLE-

**MEMORANDUM OF UNDERSTANDING  
STATE OF \_\_\_\_\_ AND THE  
U.S. NUCLEAR REGULATORY COMMISSION**

**1. Purpose**

This Memorandum of Understanding (MOU) between the State of \_\_\_\_\_ (hereafter the "State") and the U.S. Nuclear Regulatory Commission (hereafter the "NRC") expresses the desire of the parties to cooperate in reducing or eliminating duplicative active regulation and oversight of ground-water protection at *in situ* leach uranium extraction facilities (hereafter "ISL facilities"). ISL facilities are both licensed by the NRC under authority of the Atomic Energy Act of 1954, as amended, and permitted for Underground Injection Control (hereafter "UIC") by the State under the authority of the Safe Drinking Water Act, as amended, as delegated by the U.S. Environmental Protection Agency (hereafter the "EPA"). This MOU is intended to provide the basis by which the NRC will defer active regulation and oversight of ground-water protection to the State at those licensed ISL facilities which the State exercises regulation and oversight through its UIC permitting authority.

**2. Background**

Under sections 84,161, and 183 of the Atomic Energy Act of 1954, as amended, the NRC is responsible for protecting public health, safety and the environment for the extraction, concentration, processing, and possession of uranium and thorium as source material and the management and disposal of wastes resulting from the extraction of uranium and thorium for its source material content. The NRC implements its authority at ISL facilities by applicable regulations in Title 10 Code of Federal Regulations (hereafter "10 CFR") Part 40, including applicable portions of Appendix A to 10 CFR Part 40; and applicable portions of 10 CFR Part 20. The NRC implements specific requirements, not contained in the regulations, by specific license conditions as a means of fulfilling its responsibilities under the Atomic Energy Act of 1954, as amended. The NRC provides guidance for achieving compliance with requirements through various Regulatory Guides and NUREG-1569, Standard Review Plan for In Situ Leach Uranium Extraction License Applications (hereafter "NUREG-1569").

Ground-water protection at ISL facilities is one such area that the NRC regulates by specific license conditions. These license conditions include: 1) prescribing the sampling and analysis of specific radiological and non-radiological constituents in the groundwater; 2) setting numerical standards of those constituents for protecting ground-water quality; 3) prescribing specific placement, construction, and sampling frequency of monitoring wells; 4) prescribing

specific corrective action measures if exceedances are determined; and 5) requiring restoration of ground-water quality of economically depleted portions of the uranium ore zones to specific ground-water quality standards. The NRC conducts routine periodic inspection of the ISL facilities to assure compliance with regulatory and license requirements.

The State is responsible for ground-water protection at ISL facilities under authority of sections \_\_\_\_\_ [State Legislative Citation]. The State issues permits for underground injection control at ISL facilities under authority delegated by the EPA pursuant to sections 1421 et seq. of the Safe Drinking Water Act , as amended. The State UIC permits include: 1) prescribing the sampling and analysis of specific radiological and non-radiological constituents in the groundwater; 2) setting numerical standards of those constituents for protecting ground-water quality; 3) prescribing specific placement, construction, and sampling frequency of monitoring wells; 4) prescribing specific corrective action measures if exceedances are determined; and 5) requiring restoration of ground-water quality of economically depleted portions of the uranium ore zones to specific ground-water quality standards. The State conducts routine periodic inspection of the ISL facilities to assure compliance with regulatory and permit requirements. The State provides guidance for achieving compliance through various documents such as: [list State Guidance Documents].

The EPA performs a policy guidance and oversight role to the EPA-authorized State. The EPA provides consultation and coordination with the NRC on matters of ground-water protection at ISL facilities.

### **3. Principles of Cooperation**

- A. The NRC concludes that the State program for ground-water protection at ISL facilities provides adequate protection of public health, safety, and the environment equivalent to the NRC program. Accordingly, in light of the State's authority and State actions and in the interest of minimizing duplication of government efforts and reducing regulatory burden on the licensed/permitted entities, the NRC is exercising its regulatory discretion and deferring active regulation of ground-water protection at ISL facilities within the State of \_\_\_\_\_, as long as the State is able to provide at least an equivalent level of protection for public health, safety and the environment as the ground-water protection program established by the NRC.
- B. However, the NRC will retain active regulation and oversight for the following ground-water areas where the State program does not provide at least the same level protection as the NRC program: [List Programmatic Areas]

- C. In addition, the NRC will retain active regulation and oversight for the uranium processing facilities, control of source material, and management and disposal of discrete surface wastes classified as 11e.(2) byproduct material, which include wastes generated from the restoration of ground-water.
- D. The NRC and the State will continue to work cooperatively for the issuance of a single financial assurance instrument to meet NRC's responsibilities under section 161x. of the Atomic Energy Act of 1954, as amended.
- E. Notwithstanding the above deferral, nothing in this MOU is intended to restrict or extend the constitutional or statutory authority of either the NRC or the State or to affect or vary the terms of future agreement between the State and the NRC under section 274b. of the Atomic Energy Act of 1954, as amended.

#### **4. Implementation**

- A. Subject to condition 3. B. above, upon execution of this MOU, the NRC will amend the existing ISL licenses for facilities in the State and will not impose specific license conditions for ground-water protection and the NRC will not impose specific license conditions for ground-water protection upon issuing licenses for new ISL facilities or renewing existing ISL licenses.
- B. The NRC will defer enforcement of ground-water protection requirements to the State except as noted in condition 3.B above.
- C. The State shall provide NRC with copies of all permits and inspection reports involving ground-water protection at ISL facilities.
- D. The State shall notify NRC of any significant change to its ground-water protection program.
- E. The State shall allow the NRC full access to State files and records involving ground-water protection at ISL facilities and make appropriate State staff available to NRC staff for the purpose of reviewing applications for termination of NRC licenses, and for the purpose of determining whether this agreement should be continued, amended, or terminated. In that regard, the State agrees that the NRC may review its ground-water protection program as necessary, including periodic reviews and in response to petitions submitted under 10 CFR 2.206 of the Commission's regulations, to determine whether the program and its implementation remains equivalent to the NRC's program.

- F. The NRC shall re-instate active regulation of ground-water protection at ISL facilities within the State if: 1) the State's EPA authorization for UIC permitting is rescinded; 2) the State is not providing an equivalent level of protection for public health, safety, and environment and the State has not taken remedial action to remedy the matter within a reasonable time; 3) at the request of an ISL licensee; or 4) if this agreement is terminated.
  
- G. The State shall notify the NRC if EPA has notified the State that its EPA authorization for UIC permitting is in jeopardy of rescission. The State will also provide copies of any EPA evaluation of its UIC permitting program and the associated State responses. The NRC shall notify the State upon receiving any petitions submitted under 10 CFR 2.206 that could affect this MOU, or any licensee request to re-instate active regulation of ground-water protection.
  
- H. Allegations concerning ground water issues under this MOU will be referred to the State.

**3. Points of Contact**

The NRC principal contact under this MOU shall be the Director of the Office of Nuclear Material Safety and Safeguards or his or her designee. The principal State contact shall be the Director of the \_\_\_\_\_ or his or her designee.

**4. Amendment and Termination**

This MOU may be amended or modified upon written agreement by both parties to the MOU, and may be terminated by either party upon 60 days of written notice.

**5. Effective Date**

This MOU shall take effect upon signing by the Governor of the State of \_\_\_\_\_ and the Chairman of the U.S. Nuclear Regulatory Commission.

For the State of \_\_\_\_\_.

Date at \_\_\_\_\_, \_\_ this \_\_\_\_ Day of \_\_\_\_\_, 20\_ .

\_\_\_\_\_  
Governor.

For the United States Nuclear Regulatory Commission.

Date at \_\_\_\_\_, \_\_ this \_\_\_\_ Day of \_\_\_\_\_, 20\_ .

\_\_\_\_\_  
Chairman.