

MEMORANDUM FOR: Robert F. Burnett, Director
Division of Safeguards and Transportation
Office of Nuclear Material Safety
and Safeguards

Richard E. Cunningham, Director
Division of Industrial and Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

Stuart A. Treby
Assistant General Counsel for Rulemaking
and Fuel Cycle
Office of the General Counsel

FROM: B. J. Youngblood, Director
Division of High-Level Waste Management
Office of Nuclear Material Safety
and Safeguards

SUBJECT: MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE U.S. NUCLEAR
REGULATORY COMMISSION (NRC) AND THE OFFICE OF NUCLEAR WASTE
NEGOTIATOR (ONWN)

The purpose of this memorandum is to request your review and comments on the enclosed MOU. As noted in the enclosed letter dated February 8, 1991, the Nuclear Waste Negotiator, Mr. David Leroy, proposed entering into an MOU with the NRC, similar to the existing agreement between ONWN and the U.S. Department of Energy (DOE). Chairman Carr responded in his letter of March 12, 1991 that the NRC was in favor of this arrangement if it was consistent with the NRC's role and mission in the national high-level radioactive waste (HLW) program.

Subsequently, the Division of High-Level Waste Management (HLWM) was tasked to coordinate the development of an MOU between NRC and ONWN. A mark-up of the existing MOU between DOE and ONWN reflecting changes HLWM believes are necessary to develop an NRC/ONWN MOU is enclosed. This markup is intended to include consideration of regulatory aspects of the monitored retrievable storage facility, geologic repository, and HLW transportation programs.

Please provide any comments to Bob Carlson, HLWM no later than May 17, 1991. He can be reached on extension 20435.

(Original Signed by _____)

B. J. Youngblood, Director
Division of High-Level Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated
cc: R. Bernero
G. Arlotto

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FIRST MEMORANDUM OF UNDERSTANDING
BETWEEN THE
OFFICE OF THE NUCLEAR WASTE NEGOTIATOR
AND THE

~~DEPARTMENT OF ENERGY~~ Nuclear Regulatory Commission

~~November, 1990~~

I. INTRODUCTION

This MEMORANDUM OF UNDERSTANDING (MOU) outlines the initial procedures for interactions between the Office of the Nuclear Waste Negotiator (ONWN) and the ~~Department of Energy (DOE)~~ ^{Nuclear Regulatory Commission (NRC)} in carrying out the Nuclear Waste Policy Amendments Act of 1987 (title V of Public Law 100-203),¹ which amended the Nuclear Waste Policy Act of 1982 (Public Law 97-425) (the Act) and, inter alia, created the ONWN. The ONWN is an independent establishment in the Executive Branch, separate from ~~DOE~~ ^{NRC} and all other operating departments and agencies of the Federal Government. This independence facilitates the mission of the ONWN to find States or Indian Tribes willing to negotiate regarding the siting of a monitored retrievable storage facility or a permanent repository within their jurisdictions as part of an integrated waste management system for the disposal of spent nuclear fuel and high-level radioactive waste.

II. PURPOSE

The purpose of this MOU is to establish a working relationship between the ONWN and ~~DOE~~ ^{NRC} that assures a timely flow

¹42 U.S.C. 10241 et seq.

of information between the parties; provides the ONWN with use of such DOE services, facilities, and personnel as the Secretary of Energy (Secretary) determines appropriate; and maintains each party's independence.

Handwritten: ~~Three Committees (Committee)~~
NRC's Chairman

III. AUTHORITY

This MOU is entered into under the authority of section 409 of the Act (42 U.S.C. 10249), which provides that each department, agency, and instrumentality of the United States may furnish the Negotiator such information as he determines to be necessary to carry out the functions of the ONWN, and under the authority of section 408 of the Act (42 U.S.C. 10248(4)), which specifies that the Negotiator may utilize the services, personnel, and facilities of other Federal agencies, subject to the consent of the head of any such agency.

IV. MATTERS NOT ADDRESSED

Subsequent MOU's between the parties addressing procedures and relations regarding other provisions of the Act may be entered into at a later date. ~~Such provisions include those relating to the environmental assessment of sites for a monitored retrievable storage facility or a permanent repository and financial assistance grants to potential host jurisdictions to assess the feasibility of siting a monitored retrievable storage facility~~

V. POLICY

The working relationship of the parties under this MOU will be consistent with the provisions of the Act. ^{NRC} DOE will respond

Handwritten: ~~to the extent that the provisions of the Act require DOE to respond with a written response to the request to use facilities or property including those for the same subject as~~

in a timely manner to all written requests made by the ONWN to DOE for services, personnel, facilities, or information, subject to the discretion of the ~~Secretary~~ and as permitted by law.

NRC's Chairman

Information made available to the ONWN under this agreement may be used at that agency's option in carrying out its responsibilities under the Act. The ONWN and DOE contemplate that all information requested and provided would be information that may be released to the public.

VI. POINTS OF CONTACT

The points of contact for routine, daily communication between the ONWN and DOE will be Counsel for the ONWN located in the Washington, D.C. liaison office and the Director of the Office of Strategic Planning and International Programs within DOE's ~~Office of Civilian Radioactive Waste Management~~ Nuclear Material Safety and Safeguards.

VII. SUPPLEMENTAL INTERAGENCY AGREEMENTS

Unless otherwise agreed by the ~~Secretary~~ and the Negotiator, when requested by the Negotiator to provide services, personnel, facilities or information, DOE shall determine whether compliance with such requests will be in furtherance of its purposes, responsibilities, and obligations. To the extent DOE determines that compliance is in furtherance of such purposes, responsibilities and obligations, it will assume the costs of such compliance.

NRC's Chairman

If it is determined that a commitment, obligation, or transfer of funds is required, the details of the levels of

support to be furnished one organization by the other with respect to funding will be developed in specific interagency agreements.

All obligations or expenditures emanating from activities conducted under this MOU or any subsequent interagency agreements are subject to the availability of appropriated funds.

VIII. AMENDMENT OR TERMINATION

This MOU may be modified, amended, or terminated by mutual written agreement, or may be terminated unilaterally by either party upon thirty (30) days written notice to the other party.

IX. EFFECTIVE DATE

This MOU shall be effective upon execution by the Negotiator and the ~~Secretary~~

~~Commissioner~~
NRC's Chairman

~~Nuclear Reg. Commission~~
~~DEPARTMENT OF ENERGY~~

Date: 11/29/90

By James D. Watkins
~~JAMES D. WATKINS, SECRETARY~~
~~Admiral, U.S. NAVY (Retired)~~
Kenneth Carr, Chairman

OFFICE OF THE UNITED STATES NUCLEAR WASTE NEGOTIATOR

Date: 11-29-90

By David H. Leroy
DAVID H. LEROY, NEGOTIATOR