



U.S. Department of Energy
Grand Junction Office
2597 B ¾ Road
Grand Junction, CO 81503

WM-110

April 24, 2003

Ms. Susan Frant, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: U.S. Nuclear Regulatory Commission Roles and Responsibilities as a Cooperating Agency for the U.S. Department of Energy—Moab, Utah, Project Environmental Impact Statement

Dear Ms. Frant:

The U.S. Department of Energy Grand Junction Office (DOE-GJO) would like to establish the roles and responsibilities of each of the Cooperating Agencies involved in preparation of DOE's *Remediation of the Moab Uranium Mill Tailings, Grand County, Utah, Environmental Impact Statement* (EIS). On the basis of previous communications with you, including our letter to Mr. Daniel Gillen dated March 7, 2003, and conversations between our respective staffs on March 20, 2003, DOE is proposing specific roles, actions, schedules, and deliverables for the interactions expected to occur between DOE-GJO and the U.S. Nuclear Regulatory Commission (NRC) during preparation of the EIS. We anticipate that successful interaction between our agencies will enhance the analyses in our EIS and ensure that the scope and content of the EIS are sufficient to support adoption by NRC should it require NEPA documentation for future decision-making or licensing actions associated with DOE's selection of an alternative in the Record of Decision.

The enclosed table outlines specific actions and performance schedules associated with EIS preparation and identifies the responsible party for each action. The actions for which NRC is responsible have been specifically selected to draw on the expertise of NRC's staff. Participation by NRC staff will strengthen the analyses used in the EIS and also will provide assurance to NRC that issues for which it has jurisdictional authority have been adequately addressed. We anticipate that the specific scope and content of the listed actions can be developed via phone calls between our respective technical staffs. Please be assured that this listing is not intended to limit the contributions NRC may make to other elements of the EIS by way of its participation in the Quarterly Cooperating Agency Participation (QCAP) meetings.

We understand that Mr. Myron Fliegel will be the point-of-contact (POC), and will represent NRC, for all interactions related to actions under this Cooperating Agency Agreement. Mr. Joel Berwick, DOE-GJO's Moab Project Manager (970-248-6002, [JBerwick@gjo.doe.gov]), will serve as DOE-GJO's POC. We would propose, however, that the routine information exchange activities that have been ongoing for some weeks continue at the staff level and that those actions need not pass through our respective POCs.

DOE-GJO is planning to hold the first QCAP meeting for the Cooperating Agencies during the first week of June 2003 in Moab. Meeting times and locations have not yet been finalized, but we have received concurrences from most agencies that either June 3, 4, or 5 would be acceptable. We currently are

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planning an afternoon meeting, but depending upon the final agenda, we may expand this meeting to last most of the day. Prior to each QCAP meeting, we will develop and issue an agenda that will describe the planned scope and content of the meeting. It is DOE's intention to use the QCAP forum to brief its Cooperating Agencies on the progress being made on the EIS. Additionally, we plan to solicit input on some of the more critical issues associated with the EIS, such as ground water modeling and surface remediation planning. As appropriate, we may ask specific agencies, like NRC, to make brief presentations describing their contribution to the EIS at each QCAP meeting. On a related matter, our first quarterly public information meeting will likely be the third week of June. With our limited budgets, we are not asking Cooperating Agencies to attend the public information meetings; however, your attendance would certainly be welcome.

Affixing your signature to this memorandum and returning a copy to me shall commit DOE and NRC to conducting and successfully accomplishing the actions identified in the enclosed table. Our goal will be to craft an EIS that supports both agencies' future decision-making. Through this Cooperating Agency Agreement, DOE and NRC will have a framework by which we can seek consensus on the analyses and mitigations associated with the EIS as well as resolve potential differences. In some cases, resolution may involve the expression of multiple agencies' viewpoints. If agency staff cannot reach consensus or determine a mutually acceptable resolution, the matter will be jointly elevated as appropriate to achieve resolution. Final decisions by DOE will be made only after an earnest attempt to resolve issues has occurred. None of the signatories waives their sovereign immunity by entering into this agreement and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this agreement. Nothing in this Cooperating Agency Agreement shall preclude or abridge the obligation of NRC to independently comment on the adequacy of the EIS or the effects upon the environment of the proposed action and its reasonable alternatives.

We look forward to working with you in the generation of the Moab Project EIS, and thank you again for your willingness to participate.

Sincerely,



Donna Bergman-Tabbert, Manager
U.S. Department of Energy
Grand Junction Office



Susan Frant, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission

Ms. Susan Frant

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Enclosure

cc w/enclosure:

A. Berry, DOE-GJO

J. Berwick, DOE-GJO

R. Plienness, DOE-GJO

T. Anderson, Battelle

M. Butherus, Stoller

T. Wright, Stoller

Project File MOA 9.2 (K. Sutton)

Moab Administrative Record MOA 15.0 (K. Sutton)

**COOPERATIVE AGENCY TASK LIST – U.S. NUCLEAR REGULATORY
COMMISSION**

ACTION	RESPONSIBLE AGENCY	DUE DATE
- Provide descriptions of tailings pile cover conceptual designs, water resources protection strategy, soil, and radon remediation strategies.	DOE	5/30/03
- Comment on descriptions of tailings pile cover conceptual designs, water resources protection strategy, soil, and radon remediation strategies.	NRC	6/30/03
- Provide characterization of Vicinity Properties and results of impact analyses. - Provide licensing strategy for White Mesa disposal alternative.	DOE	6/20/03
- Provide water resources protection strategy. - Identify proposed compliance standards.	DOE	6/25/03
- Comment on water resources protection strategy and proposed compliance standards.	NRC	7/25/03
- Comment on characterization of Vicinity Properties and results of impact analysis. - Comment on licensing strategy for White Mesa disposal alternative.	NRC	7/17/03

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Smg 5/22/03