

ATTACHMENT C:

F. R. COOK'S COMMENTS ON DOE/RL'S LETTER TO RHO CONCERNING
APPENDIX 7 AGREEMENTS

1. Page 1, P 4--The paragraph indicates that the OR is not chartered to generate "official" questions which would necessitate added technical work or impact program direction. The paragraph puts the creation of "official NRC positions" in the same category as "official NRC questions." I conclude that questions which the OR's may ask are within the scope of the agreement in Appendix 7, and, insofar as they are associated with concerns relating to potential licensing issues, are appropriate. I am not certain of what constitutes an "official NRC question". I do understand official requests for information or evaluations which are needed in NRC Staff's opinion to resolve issues (which may be phrased as questions) during licensing proceedings.

In summary, if DOE means by "official question", "Potential licensing issue documented in writing from NRC staff" I have no disagreement. This is consistent with the provision 5 of Appendix 7. However, it should be understood by DOE that all OR questions, even if they constitute concerns relating to potential licensing issues, and even if they would identify a valid need for work and impact direction, are informal and entirely appropriate for the OR to ask.

A good example of such a question is the one I raised concerning the design justifying the location of the repository considering in-situ stresses in the basalt horizon being considered. (See the discussion contained in the base report for this attachment under item (2), REPOSITORY.) I suspect that DOE's ambiguous reference to "recent discussions" in the first paragraph of their letter on Appendix 7 (Attachment B) refers to the questions I have asked related to this concern.

2. Page 1, P 5--This paragraph incorrectly attempts to delimit the scope of OR Office activities outlined in Appendix 7 by prescribing a limit on the NRC manpower to be assigned to the Office to carry out the Staff's goal of obtaining current information regarding site investigations. (This goal is consistent with the intent to expedite the identification of potential licensing issues and, hence, the licensing process itself.) Specifically, DOE suggests that only "long term activities" call for additional manpower assignments. I consider many of the ongoing activities are not adequately reviewed by the OR alone, given the extent of these activities. Activity and data reviews from time-to-time are appropriate and in my opinion are best determined by NRC management considering available funds and manpower.

The suggestion that "data reviews" are outside the scope of the activities covered by Appendix 7 and require "requests", apparently from NRC headquarters staff, is a position of DOE/RL's which is not supported by any provisions in the Site-Specific Procedural Agreements, except Appendix 7 itself. (See item 2 of Appendix 7 for timing for notification of areas to be reviewed.) It is the OR's intent to comply with these Appendix 7 provisions for staff personnel assigned to the site for all of the areas they review, including those which may have been specifically planned prior to their assignment. Insofar as such notification entails discussion with DOE, discussion suggested in p 5 is consistent with the Appendix 7 agreement.

Considering needs for security clearances DOE would routinely be informed of pending additions to the OR office when necessary 277 forms are forwarded to DOE. This should constitute adequate notice.

3. Page 2, P 1, item (2)--This item addresses access to facilities which is not the subject of item (2) of Appendix 7. Item 7 of Appendix 7 provides for access to facilities. The directions provided by DOE in item 2 of their letter defeat the intent of item 7 of Appendix 7 to provide access subject to the control measures for security, radiological protection and personnel safety. Specifically, the denial of keys to various facilities where most of the RHO personnel work (such keys have been provided heretofore) is inconsistent with the spirit and intent of the Appendix 7 agreement.

Based on discussions with DOE (Olson) the objective in restricting access to the facilities is to assure the OR does not view records available in the various facilities without contractor knowledge and supervision, considering some information may be loose, not pertinent to licensing and, hence, would be none of the OR's business. Olson indicated the change in DOE's position to restrict access by denying the necessary keys was agreed to by the DOE/RL management, suggesting it would be fruitless for me to negotiate this moderate operational aggravation at a higher level in DOE.

4. Page 2, P 1, item (3)--DOE has indicated that the OR "can review certain documents", but has not defined what is meant by "certain documents". (Emphasis added.) The words which DOE has added are inconsistent with those in Appendix 7 which apply to records and not documents. My comments on the control of records in the base memorandum for this attachment under the heading QUALITY ASSURANCE is pertinent to this issue. DOE should clarify that all records available to DOE as provided in their contracts with their prime contractors at any stage of completion are to be made available for OR review.

5. Page 3, item 7--DOE has interpreted this item to require notification of a desire to observe activities consistent with

the requirement of item 2 of Appendix 7 to provide notification when discussions and reviews with personnel were accomplished. I consider this is inconsistent with the provisions which allow for unannounced observations of testing and data gathering activities. I also consider the intent of this item is to allow the OR review of records pertinent to the activities.