

July 21, 2006

Mr. David L. Miesbach, P.G.
Ground Water Unit Supervisor
Water Quality Division
Nebraska Department of Environmental Quality
Suite 400, The Atrium
1200 N Street
Lincoln, NE 68509-8922

SUBJECT: MEMORANDUM OF UNDERSTANDING REGARDING REGULATION OF
GROUNDWATER PROTECTION AT *IN SITU* LEACH URANIUM EXTRACTION
FACILITIES

Dear Mr. Chancellor:

The U.S. Nuclear Regulatory Commission (NRC) staff has been in periodic discussions with the State of Wyoming, Land Quality Division staff over the last several years concerning the day-to-day regulation of groundwater at *in situ* leach (ISL) facilities. These discussions have centered around the development of a Memorandum of Understanding (MOU) between the State and the NRC that would defer active groundwater regulation to the State under the State's underground injection control (UIC) program. The MOU between the State and the NRC has not been finalized due to policy issues that needed to be resolved by NRC.

The Commission has directed the NRC staff, in Staff Requirements Memorandum (SRM) - COMJSM-06-0001, to develop a rulemaking effort specifically tailored to groundwater protection programs at ISL facilities and focus on eliminating dual regulation by the NRC and the Environmental Protection Agency (EPA) of groundwater protection. The NRC should retain its jurisdiction over the wellfield and groundwater under its Atomic Energy Act authority, but should defer active regulation of groundwater protection programs to the EPA or EPA-authorized States through EPA's UIC permit program. In this SRM, the Commission also directed the staff to pursue an interim solution that could be implemented prior to promulgation of the final rule.

Part of the interim solution proposed by the Commission is to pursue a MOU with Nebraska and Wyoming through which the States would agree to uphold current NRC regulation and license conditions.

The NRC would like to initiate further discussions with you and your staff to continue to pursue the groundwater MOU as an interim measure through which the State would agree to uphold current NRC groundwater regulations and license conditions while the ISL rulemaking goes forward. Please respond at your earliest convenience with your thoughts on our proposal.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

Gary S. Janosko, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

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