



Department of Energy
Washington, D.C. 20545

WM DOCKET CONTROL
CENTER

'85 MAY 24 A11:50

WM Record File

WM Project 39

Docket No.

PDR ☒

LPDR

Distribution:

REB LPH GNUENOLT

DEM Gillen HAISFIELD

(Return to WM, 623-SS)

Sollenberger 73
O. SMITH - URFO

MAY 21 1985

Mr. Robert E. Browning
Director, Waste Management Division
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Browning:

I am enclosing for your final review, two copies of the DOE/NRC Memorandum of Understanding (MOU) relative to the UMTRA Project. This version of the MOU incorporates a number of changes from the one I forwarded on April 5, 1985, as agreed upon in discussions between members of our staffs. These changes are listed in the enclosure to this letter.

I believe this version of the MOU now reflects the needs and concerns of both the DOE and the NRC. If you concur, please sign the enclosed copies and return one for our records.

Please let me know if you have any further questions or comments.

Sincerely,

J. E. Baublitz, Acting

John E. Baublitz, Director
Division of Remedial Action Projects
Office of Terminal Waste Disposal
and Remedial Action
Office of Nuclear Energy

2 Enclosures

8506060283 850521
PDR WASTE PDR
WM-39

Enclosure

Changes from the April 5, 1985, version of the MOU.

- o Item V.A.6 has been revised to include reference to Section 105(a) of the Act.
- o Section VI A has been revised to include the provision that the DOE is to notify NRC promptly of any significant changes in material currently under review by the NRC.
- o Appendix: Document Coordination Table
 - Item 3.1.2: Purpose of transmittal for "Modification to RAP" has been changed from "Review/Comment" to "Concurrence"
 - Item 3.2.2: Purpose of transmittal for "Remedial Action Inspection Plan" has been changed from "Review/Comment" to "Concurrence"
 - Item 3.2.3: Purpose of transmittal for "Site-specific EH&S Plan" has been changed from "Review/Comment" to "Information."
 - Item 3.5: "Remilling Agreement/Contract" has been changed to "Remilling Contract." If remilling is to be performed at any site, this action and the approach and supporting rationale will be covered in the RAP and be reviewed by the NRC in that context. The

intent of Item 3.5 is to obtain, subsequently, the benefit of NRC comment on the specific terms of the remilling contract.

- Item 5.1: "License Application" has been changed to "Draft License Application."

- Response times have been changed as follows:

Draft EIS - from 30 to 45 days

Draft RAP - from 45 days to 45-60 days

Modification to RAP - from 20 days to 20-30 days

- o Appendix Section 3.1.2.1: An explanatory note has been added to the effect that NRC review of quality assurance and environmental health and safety procedures is addressed in Sections 3.2.2 and 3.2.3, respectively.
- o Appendix Section 3.1.3: To be consistent with the following paragraph, quotation marks have been added around the word "separate"
- o Appendix Section 3.2.2: In the fourth line, the word "significant" has been deleted.
- o Appendix Section 3.2.2.1: The words "for NRC concurrence" have been added at the end of the last sentence.

- o Appendix Section 3.2.3: In the seventh line, the word "significant" has been deleted and in the last line "review and comment" has been changed to "information."

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U. S. DEPARTMENT OF ENERGY
AND
THE U. S. NUCLEAR REGULATORY COMMISSION

I. PARTIES

- A. The parties to this Memorandum of Understanding (MOU) are the U. S. Department of Energy (DOE) and the U. S. Nuclear Regulatory Commission (NRC).
- B. The DOE will administer and execute its responsibilities under this MOU through its Uranium Mill Tailings Remedial Actions (UMTRA) Project Office, Albuquerque Operations Office. The NRC will administer and execute its responsibilities under this MOU through its Office of Nuclear Material Safety and Safeguards (NMSS).

II. PURPOSE AND AUTHORITY

Under authority of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), Public Law 95-604 (42 U.S.C. 7901 et. seq.), as amended, the DOE and NRC have entered into this MOU in order to provide for an orderly process for executing their respective statutory responsibilities under Title I of the UMTRCA. It is contemplated that such process will minimize or eliminate unnecessary duplication of effort, will facilitate and expedite reviews and concurrences, and will promote the accomplishment of the objectives of Title I of the UMTRCA within the statutorily mandated schedule.

III. BACKGROUND

Title I of the UMTRCA authorizes the Department of Energy (DOE) to undertake remedial action at designated inactive uranium processing sites and associated vicinity properties containing uranium mill tailings and other residual radioactive materials derived from the inactive processing sites. The purpose of these remedial actions is to stabilize and control uranium mill tailings and other residual radioactive materials in a safe and environmentally sound manner.

The selection and performance of remedial actions undertaken by DOE pursuant to the UMTRCA are to be with the full participation of the affected states and Indian tribes and with the concurrence of the NRC. Such remedial actions are to be performed in accordance with standards established by the Environmental Protection Agency (EPA), 40 CFR 192, and consistent with applicable federal and state law.

This MOU delineates the concurrence procedures and areas of cooperation between the DOE and the NRC in the implementation of Title I of the UMTRCA. The UMTRA Project has a statutorily-imposed completion schedule of seven years from the date of promulgation of the EPA Standards. The EPA Standards were promulgated effective March 7, 1983.

Within DOE, program responsibility for carrying out Title I of UMTRCA is within the Division of Remedial Action Projects, DOE Headquarters. Field responsibility has been delegated to the Albuquerque Operations Office, where the UMTRA Project Office has been established. Consequently, DOE will execute its responsibilities under Title I of the UMTRCA principally through the UMTRA Project Office. The DOE Liaison with NRC for purposes of implementing this MOU shall be the Manager, UMTRA Project Office.

Within NRC, the program responsibility for carrying out Title I of UMTRCA is within NMSS, NRC Headquarters. NRC will execute such responsibilities principally through the Low-Level Waste and Uranium Recovery Projects Branch (WMLU) in the Division of Waste Management. The NRC Liaison with DOE for purposes of this MOU shall be the Chief, WMLU.

IV. DEFINITIONS

- A. Except as otherwise defined in this Article, the definition of terms used in this MOU shall be the same as in Title I of the UMTRCA.
- B. The following terms shall have the following meanings:
 - 1. "Processing site" means any of the twenty-four inactive uranium mill sites: (1) designated by DOE, pursuant to Section 102(a) of the UMTRCA, for remedial action under the UMTRCA; and (2) listed in the notice of such designation published in the Federal Register at 44FR74892 (December 18, 1979).
 - 2. "Vicinity property" means any real property and improvement thereon which: (1) is in the vicinity of a processing site or in the vicinity of the uranium mill currently owned by the Tennessee Valley Authority (TVA) in Edgemont, South Dakota; (2) is determined by the DOE, in consultation with affected states or Indian tribes and the NRC, to be contaminated with residual radioactive materials derived from a processing site or the TVA mill in Edgemont, South Dakota; and (3) the DOE has designated and included, pursuant to Section 102(e) of the UMTRCA, within the scope of the UMTRA Project as eligible for remedial action under the UMTRA Project.

3. "Disposal site" means the site, which may include a processing site or vicinity property, used for the permanent disposition, stabilization and control of residual radioactive materials.
4. "EPA Standards" means the standards of general application promulgated by the EPA at 40 CFR 192, for the protection of the public health, safety and the environment from radiological and nonradiological hazards associated with residual radioactive materials. DOE and NRC interpret the EPA Standards to require specific analyses of and a determination of the need for groundwater protection or restoration in accordance with Subpart C, and to require the implementation of any such protection or restoration measures so determined to be needed.
5. "Designation" means the DOE action to formally identify a processing site or potential vicinity property as eligible for remedial action by DOE under Title I of the UMTRCA, on the basis of radiological surveys or assessments of historical data available.
6. "Inclusion" means the DOE actions of: confirming, on the basis of detailed surveys, that radiological conditions at a designated potential vicinity property exceed the concentrations or levels of contamination set forth in the EPA Standards; and formally including the property within the designation of the processing site as eligible for remedial action.
7. "Remedial action" means the stabilization and control of, decontamination and decommissioning of, and cleanup of processing sites and vicinity properties in accordance with the EPA Standards and consistent with applicable federal and state law.
8. "Remedial Action Plan" means the document, developed by DOE in order to obtain from the NRC (and the affected state or Indian tribe) concurrence with DOE's selection of remedial action and to document the bases for DOE's conclusion that the proposed remedial actions for a processing site or disposal site, or both, will meet the EPA Standards, and which includes: site characterization data; conceptual design; the estimated costs of design, construction and any necessary land acquisitions; the environmental, health and safety plan; the radiological support plan; the quality assurance plan; the remedial action schedule; the public participation and information plan; a discussion of the requisite permits and approvals; and any additional analyses and documentation necessary to demonstrate that the proposed remedial action is fully consistent and complies with the EPA Standards.

9. "Participating agency" means: (1) the NRC; and (2) any state or Indian tribe party to a cooperative agreement with DOE under Title I of the UMTRCA.
10. "Cooperative agreement" means, a contractual instrument executed by an affected state or Indian tribe and the DOE, and concurred with by the NRC, for the purpose of defining the DOE and state/tribe responsibilities in connection with remedial action, and which contains such terms and conditions as DOE deems appropriate and consistent with the purposes of the UMTRCA.

V. SCOPE OF COORDINATION

- A. For the purposes of this MOU, NRC responsibilities under the UMTRCA are indicated below:

<u>UMTRCA RESPONSIBILITY</u>	<u>UMTRCA SECTION</u>	<u>NRC ROLE</u>
1. <u>Designation</u>		
Designation of processing sites and potential vicinity properties and determination of site boundaries.	102(a) 102(e)	Consultation with DOE.
2. <u>Remedial Actions</u>		
Selection and performance of remedial action at processing, disposal, and vicinity property sites.	108(a)	Concur in DOE selection and performance.
Determination that radio-active materials should be removed from processing sites.	104(b)(1)- State 105(b)- Tribe	Concur in DOE decision.
Allowing mineral recovery from residual radioactive materials.	108(b)	Concur in DOE decision to allow recovery.
Determination that remedial action is completed.	104(f)(1)	Concur in DOE determination.

3. Acquisition/Disposal of Lands

Acquisition/disposal of processing sites.	104(a),(e)	Concur in DOE decision to require state acquisition or to allow state sale/retention or transfer of the acquired site.
Designation of DOE-controlled or DOI-administered lands as disposal sites.	104(b)(2)	Concur in DOE designation.

4. Long-Term Maintenance of Disposal Sites

Long-term maintenance, monitoring and emergency measures at disposal sites in such manner as will protect the public health, safety, and the environment.	104(f)(2) 105(b)	Issue license.
Sale or lease of subsurface mineral rights at licensed disposal sites.	104(h)	Concur, along with DOE, in DOI decision to sell or lease mineral rights.

5. Public Participation

Public participation in program, including designation, selection of remedial action, execution of cooperative agreements.	111	Encourage, together with DOE and EPA.
--	-----	---------------------------------------

6. Administrative

Execution of cooperative agreements.	103(e)- 105(a)	Concur in each cooperative agreement between DOE and a state or tribe.
Preparation of annual report to Congress.	114(a)	Consultation with DOE.

Documentation of UMTRA
Project.

114(e)

NRC action with
DOE.

- B. Appendix A, Review and Concurrence Procedures, sets forth the detailed procedures for DOE and NRC coordination in the implementation of Title I of the UMTRCA. Appendix A may be amended from time to time by the parties to accommodate the dynamic nature of the UMTRA Project. DOE agrees to use its best efforts to provide quality UMTRA Project coordination documents in a timely manner for NRC review, including all pertinent information or data concerning any DOE-proposed remedial action design, processing site, disposal site, or vicinity property. NRC agrees to use its best efforts to respond within the response times for action set forth in Appendix A. The UMTRA Processing Site Schedule, as it may be revised from time to time, shall serve as the baseline planning schedule for coordination of responsibilities under this MOU. DOE shall prepare and maintain a current detailed annual schedule itemizing the documentation to be submitted by DOE to NRC for the purpose of review, comment and/or concurrence, and shall provide such schedules, and any revisions thereto, to NRC. DOE shall further provide a schedule identifying various milestones in the remedial action for each processing/disposal site by which NRC can establish a visitation schedule to participate in the quality assurance audits as they pertain to compliance with the EPA Standards.
- C. DOE and NRC agree that the principal focus of NRC coordination and concurrence under this MOU is to assure compliance with the EPA Standards in the DOE's selection of remedial action among reasonable remedial action alternatives and implementation of such remedial action.

VI. RESOLUTION OF INTERAGENCY CONFLICTS

- A. Any required concurrence of NRC under this MOU shall be communicated to the DOE Liaison in writing. A decision to withhold concurrence shall be communicated to the DOE Liaison with a written rationale therefor. Concurrences shall not be unreasonably withheld or denied. Lack of compliance, or lack of sufficient demonstration of compliance, with the EPA Standards shall constitute reasonable grounds for withholding or denying concurrence in the selection or performance of remedial action. Informal communication during the review and concurrence process is to be encouraged, including notification by NRC to DOE at the earliest opportunity of issues which may preclude NRC concurrence and notification by DOE to NRC at the earliest opportunity of any significant changes to documents under review by NRC.
- B. Any conflict arising under this MOU shall be resolved at the lowest possible level of agency decision making but shall be referred to successive levels of agency decision making until resolution is reached.

VII. EFFECTIVE DATE

This MOU shall take effect upon the latter date of execution by DOE and NRC.

VIII. TERM AND TERMINATION

The term of this MOU shall be from the effective date through whichever of the following two dates is the earlier date: (1) the date DOE and the NRC mutually agree in writing that the objectives of the remedial action program have been met and that all activities under this MOU, or any modification thereto, have been completed; or (2) March 7, 1990, or such other date as Congress shall establish as the date of termination of the Secretary's authority to perform remedial action or maintenance and surveillance under the UMTRCA.

IX. PROCUREMENT AND FUNDING

Each party shall be responsible for funding its performance under this MOU. Each party shall procure services, equipment, or supplies under its own regulations and shall be solely responsible for managing and directing its contractors' efforts.

X. PUBLIC INFORMATION COORDINATION

Consistent with the Freedom of Information Act (5 U.S.C. 552), timely release of information to the public regarding the coordination of UMTRCA activities under this MOU shall be conducted according to each agency's own standard operating procedure, with appropriate coordination between DOE and NRC.

XI. APPENDIX

The following appendix is attached to and made a part of this MOU:

Appendix A - Review and Concurrence Procedures.

XII. EXECUTION

The parties have executed this MOU in several counterparts.

DEPARTMENT OF ENERGY

NUCLEAR REGULATORY COMMISSION

By: John E. Faubus

By: _____

Date: 5/10/85

Date: _____

APPENDIX A

REVIEW AND CONCURRENCE PROCEDURES

1.0 REVIEW AND CONCURRENCE DOCUMENTS

These Procedures set forth coordination responsibilities, including the preparation and transmittal of documents, the review of such documents, the preparation of comments, and in some cases an indication of concurrence or non-concurrence with such documents. The Document Coordination Table, below, is intended to be a graphic identification of the document, the version of the document (e.g., draft, final), the number of copies to be transmitted, the purpose of the transmittal (i.e., for information, review and comment, concurrence), the response time, and the pertinent Section of the Procedures which provides for NRC-DOE coordination of the document. The response times shown are calendar days from receipt of the document.

DOCUMENT COORDINATION TABLE

<u>PROCEDURES SECTION</u>	<u>UMTRAP DOCUMENT</u>	<u>PURPOSE OF TRANSMITTAL</u>	<u>RESPONSE TIME</u>	<u># OF COPIES</u>
3.1.1	Draft EA	Review/Comment	45 days	15
	Final EA	Information	N/A	15
	Preliminary Draft EIS	Review/Comment	45 days	15
	Draft EIS	Review/Comment	45 days	15
	Preliminary Final EIS	Review/Comment	30 days	15
	Final EIS	Information	N/A	15
	Notice of Intent	Information	N/A	2
	VP Environmental Report	Information	N/A	2
3.1.2	Draft RAP	Review/Comment	45-60 days	15
	Final RAP	Concurrence	45 days	15
	Modification RAP	Concurrence	20-30 days	4
3.1.3	REA (Normal Cases)	Information	N/A	2
	REA (Supp. Stds., separate disposal site)	Concurrence	30 days	2
	Modification to VPMIM	Concurrence	30 days	4
3.2.1	Detailed Design	Information	N/A	2

DOE GM-4-85AL26037
DOE-NRC MOU
UMTRA Project

<u>PROCEDURES SECTION</u>	<u>UMTRAP DOCUMENT</u>	<u>PURPOSE OF TRANSMITTAL</u>	<u>RESPONSE TIME</u>	<u># OF COPIES</u>
3.2.2	Modifications to UMTRAP QA Plan	Information	N/A	2
	Remedial Action Inspection Plan	Concurrence	21 days	2
	NRC In-Process/On-Site Report Review	Resolution of Issues		2
3.2.3	Modifications to UMTRA Project EH&S Plan	Information	N/A	2
	Site-Specific EH&S Plan	Information	21 days	2
3.4	Certification Report- -Processing Site, Disposal Site, -Separate VPs	Concurrence	45 days	2
	Certification Report- Normal VPs	Concurrence	30 days	2
		Information	N/A	2
3.5	Remilling Contract	Review/Comment	Reasonable Time	2
4.2	Prior Written Notice of Pre-RAP Processing Site Acquisition or Acquisition of VP	Concurrence	20 days	1
4.3	Prior Written Notice of State Sale/Retention of Processing Site/ VP	Concurrence	20 days	1
4.4	Indian Permits/Easements /Rights of Way	Information	N/A	2
4.5	Prior Written Notice of State Transfer of Title to Disposal Site	Concurrence	Reasonable Time	1
5.1	UMTRA Project Licensing Plan	Review/Comment	30 days	4
	Draft License Application	Review/Comment	30 days	4
5.2	UMTRA Project Main- tenance and Surveillance Plan	Review/Comment	60 days	4

<u>PROCEDURES SECTION</u>	<u>UMTRAP DOCUMENT</u>	<u>PURPOSE OF TRANSMITTAL</u>	<u>RESPONSE TIME</u>	<u># OF COPIES</u>
6.1	Draft Cooperative Agree- ment or Modification	Review/Comment	30 days	2
	Executed Cooperative Agreement or Modification	Concurrence	21 days	4
6.2	Annual Report to Congress	Consultation/ Separate Comments	Timely Response	2

2.0 DESIGNATION

- 2.1 Processing Sites - DOE, in consultation with NRC, has designated the processing sites included within the UMTRA Project. In connection with such designation, DOE assigned to each site a relative priority for carrying out remedial action at such site. The priorities are indicated in 44 FR 74892 (December 18, 1979).
- 2.2 Vicinity Properties - DOE, with the concurrence of NRC, developed a Summary Protocol for the Survey and Inclusion of Vicinity Properties (Summary Protocol) as guidance for designation and inclusion of vicinity properties. DOE will include designated properties within the scope of the UMTRA Project cleanup effort in accordance with the Summary Protocol.

3.0 REMEDIAL ACTIONS

- 3.1 Selection of Remedial Action - DOE has the primary responsibility for selecting remedial action under Title I of the UMTRCA. Selection of remedial action shall be with the concurrence of participating agencies. NRC concurrence shall be effected as provided herein.
- 3.1.1 Environmental Documents - The DOE, in selecting remedial action, will comply with the National Environmental Policy Act (NEPA), and will prepare and provide to NRC, for review and comment, copies of environmental documents for processing sites at various stages of development. NRC will review the environmental documents referenced in the Document Coordination Table and will notify DOE of any issues or concerns regarding the proposed remedial action and/or the assessment of the various alternatives being considered by DOE and which affect or potentially affect NRC concurrence with the pertinent Remedial Action Plan. NRC comments shall be provided either orally or in writing as such issues or concerns are identified by NRC. Formal

written comments may be provided by NRC during the public comment period. DOE and NRC shall attempt to reconcile comments raised by NRC's review of environmental documents.

DOE and NRC acknowledge that NEPA compliance for vicinity properties may be accomplished by the environmental documents prepared for the associated processing site, in which case the procedures for review will be those outlined above. Otherwise, DOE shall submit the pertinent environmental document to NRC for information.

In the event DOE conducts scoping in connection with environmental documents, DOE shall provide NRC with an opportunity to participate in the scoping process, and shall provide to NRC thirty-day prior notice of any scoping meeting or other related public participation meeting.

- 3.1.2 Remedial Action Plans - DOE shall prepare a Remedial Action Plan (RAP) for each processing site, except that DOE shall prepare one RAP for: (a) the Old Rifle and New Rifle processing sites; and (b) the Slick Rock North Continent and Slick Rock Union Carbide processing sites. DOE shall provide to NRC copies of the RAP in draft, final and modified form.

NRC shall review the RAP, in draft, final and modified form, and provide comments to DOE. DOE and NRC shall attempt to reconcile any NRC comments in the course of DOE's preparation of a final RAP. In connection with any final RAP, NRC shall provide one of the following:

- .1 Indicate in writing its concurrence with the selection of the remedial action by concurrence with the RAP. While NRC may provide comments to DOE on any section of the RAP, NRC concurrence is required only for those aspects which are pertinent to a determination as to whether the proposed remedial action complies with the EPA Standards and other applicable law, and is consistent with the purposes of Title I of the UMTRCA. Consequently, NRC concurrence is not required for sections of the RAP concerning: quality assurance, environmental health and safety, cost estimates; schedules; and public participation and information. NRC review of quality assurance and environmental health and safety procedures is addressed in Sections 3.2.2 and 3.2.3, respectively.
- .2 Indicate in writing its conditional concurrence with the RAP. In such conditional concurrence NRC shall specifically identify any issues which prevent full concurrence. NRC shall separately advise DOE of the extent of any construction activities, which DOE

proposes to pursue in advance of full NRC concurrence, which DOE may pursue without prejudice to NRC's conditional concurrence. DOE and NRC shall attempt to reconcile such issues in a timely manner. NRC may recommend technical approaches or methods to resolve such issues.

- .3 Indicate in writing its non-concurrence, identifying which aspects of the remedial action are inadequate to meet the EPA Standards.

With respect to modifications to a RAP, DOE may proceed with remedial actions at its own risk pending NRC concurrence. DOE and NRC shall attempt to reconcile any NRC comments as necessary to obtain NRC concurrence with modifications to the RAP. Upon concurrence by NRC and any other affected participating agency or agencies, the RAP, or any modification thereof, shall become an appendix to the cooperative agreement with such participating agency or agencies.

- 3.1.3 Radiological and Engineering Assessments - DOE shall prepare a Radiological and Engineering Assessment (REA) and shall select remedial actions for each vicinity property or group of vicinity properties in accordance with the Vicinity Property Management and Implementation Manual (VPMIM), which is an UMTRA management document concurred with by NRC, which details the procedures for the inclusion of vicinity properties and the selection and performance of remedial actions at vicinity properties. DOE shall provide copies of all such REAs to NRC for information.

DOE and NRC presently contemplate that: remedial action at the majority of vicinity properties will consist of removal of residual radioactive materials such that the standards set forth in Subpart B of the EPA Standards are met; that long-term control of the residual radioactive materials removed will be accomplished in conjunction with the disposal of residual radioactive materials at the associated processing site in accordance with Subpart A of the EPA Standards; and that such long-term control will be the same as that presented in the RAP for the associated processing site, with which NRC concurs under Section 3.1.2 of these Procedures. Consequently NRC shall exercise a "separate" concurrence for vicinity properties only in those cases where: DOE proposes to use the supplemental standards set forth in Subpart C of the EPA Standards; DOE proposes to designate, include or perform remedial action at a vicinity property or group of vicinity properties after NRC has concurred with DOE's certification of the completion of remedial action at the disposal site; or DOE proposes to use a disposal site other than that used for the residual radioactive materials at an UMTRA processing site, except

that in the case of the Edgemont, South Dakota, vicinity properties, NRC has already concurred with DOE's use of the disposal site for decommission and decontamination of the mill site owned by the Tennessee Valley Authority (TVA) through its concurrence with DOE Interagency Agreement No. DE-AIO4-84AL27241.

For cases of "separate" NRC concurrence as discussed above, DOE shall submit to NRC for its review and concurrence copies of a Radiological and Engineering Assessment (REA) for each vicinity property or group of vicinity properties. The REA shall include a radiological assessment of the vicinity property, design data for the proposed remedial action, and, where appropriate, DOE's rationale for application of supplemental standards. NRC shall review the REA and indicate concurrence with the recommended remedial action or provide comments to DOE. DOE and NRC shall attempt to reconcile any NRC comments prior to DOE initiation of remedial action at the subject vicinity property or properties.

DOE shall submit to NRC for its review and concurrence any proposed modification to the Vicinity Property Management and Implementation Manual (VPMIM).

3.2 Performance of Remedial Actions at Processing/Disposal Sites

3.2.1 Design - For each Remedial Action Plan, DOE shall prepare a detailed design of remedial actions which is in accordance with the Remedial Action Plan developed by DOE and concurred with by NRC. DOE will provide NRC with copies of the DOE-approved detailed design.

3.2.2 Quality Assurance - Copies of the Project QA Plan have been provided by DOE to NRC for information purposes. DOE shall provide to NRC copies of any modifications to the Project QA Plan.

DOE shall implement a graded approach to QA during site remedial action activities as follows:

- .1 DOE shall cause its prime remedial actions contractors to define quality assurance procedures in a site-specific Remedial Action Inspection Plan, which will contain, as a minimum, details regarding or provision for:
organizational structure; testing and inspection; qualifications and certificate of inspection of test personnel; quality assurance records control; control of measuring and test equipment;

and nonconformance and corrective action. DOE shall provide to NRC copies of such Remedial Action Inspection Plan for NRC concurrence.

- .2 DOE shall perform in-process surveillance activities in order to: evaluate quality and compliance of the remedial actions with relevant design specifications and standards; assure accurate measurement of appropriate radiological and physical conditions; assessment of completion of remedial action; and readiness of the site for DOE certification.
- .3 DOE will provide to NRC a schedule of remedial action milestone completion dates. NRC may conduct on-site reviews of remedial action activities from time to time for the primary purposes of assuring that the DOE-prescribed system of quality assurance is in place and is functioning in a manner which assures compliance with the RAP and the EPA Standards. Secondary reasons for such on-site visits include surveillance of rip rap source areas and unusual construction features and review of the design as-built. NRC and DOE shall attempt to immediately resolve any issues arising out of such inspection. NRC shall provide two copies of any report resulting from such inspection to the DOE Liaison upon NRC issuance of the report. DOE will notify the NRC Liaison of analyses and resolution of issues identified during NRC on-site reviews.

3.2.3 Environmental Health and Safety - DOE shall have overall responsibility for the health and safety of occupational workers and the general public during remedial actions at UMTRA Project sites. Copies of the UMTRA Project Environmental Health and Safety Plan have been provided by DOE to NRC. DOE shall provide to NRC copies of any modification to the UMTRA Project Environmental Health and Safety Plan. DOE shall cause its remedial action contractor(s) to prepare detailed and site-specific plans/procedures for implementing the UMTRA Project Environmental Health and Safety Plan. DOE shall provide to NRC copies of such plans/procedures for information.

3.3 Performance of Remedial Actions at Vicinity Properties - DOE shall perform on-site remedial action in connection with vicinity properties in accordance with the VPMIM. NRC concurrence with completion of remedial actions at vicinity properties shall be as provided for in Section 3.4 of these procedures.

3.4 Certification - DOE shall evidence completion of remedial actions by preparation of a certification report. DOE shall provide to NRC, for review and concurrence, copies of any such certification report prepared for a processing or disposal site, or a vicinity property requiring "separate" NRC concurrence as provided in Section 2.1.3 of these Procedures. NRC shall review the report and transmit comments to DOE. DOE and NRC shall attempt to reconcile any NRC comments; DOE shall provide a revised version of the certification report, if necessary, to NRC for concurrence. NRC concurrence with the certification report shall be considered by DOE and NRC as concurrence that remedial actions are completed. A certification report shall consist of a DOE determination of completion supported by:

- a. A Final Completion Report containing but not limited to: a description of remedial action; a description of post remedial action conditions; as built specifications and drawings; field test reports, and verification measurement results.
- b. Final Audit Reports (including reports of in-process surveillances prepared by DOE and/its contractors).
- c. DOE Certification Summary.

DOE shall provide to NRC information copies of certification reports for vicinity properties that do not require "separate" NRC concurrence as provided in Section 2.1.3 of these Procedures.

3.5 Remilling - Pursuant to Section 108(b) of the UMTRCA, DOE, with the concurrence of the NRC, may permit the remilling of residual radioactive materials at a processing site in conjunction with remedial action. DOE shall include any proposed remilling alternative in the Remedial Action Plan for that site. NRC concurrence with such Remedial Action Plan shall be considered concurrence with DOE's decision to permit remilling, provided that NRC shall also have the right to review and comment on any proposed agreement or contract, between DOE and the person selected to remill the residual radioactive materials, which sets forth the terms and conditions of remilling.

4.0 ACQUISITION AND DISPOSAL OF LANDS

4.1 Right of Entry - DOE shall assure that NRC has a permanent right of entry to inspect processing sites and disposal sites, including those on Indian lands, in furtherance of the provisions of Title I of the UMTRCA and to enforce the UMTRCA and any rules prescribed thereunder. DOE shall also assure that the NRC has a right to inspect any vicinity property,

including any on Indian lands, for the same purposes during the course of remedial actions on that property. Any NRC entry onto a processing site, disposal site, or vicinity property shall be coordinated in advance by NRC with the DOE Liaison.

4.2 Acquisition

4.2.1 State Acquisition - NRC has a responsibility to make a concurrence decision under UMTRCA regarding DOE decisions to require State acquisition of processing sites, disposal sites, and vicinity properties. NRC concurrence with DOE acquisition decisions normally will be effectuated by its concurrence with the RAP. In those cases where acquisition will be initiated prior to DOE submittal to NRC of a RAP for concurrence, and in those cases where DOE decides that acquisition of a vicinity property is appropriate, then DOE shall provide to NRC written notice of its decision regarding acquisition and the rationale therefor and request NRC concurrence with such decision.

4.2.2 DOE Acquisition - From time to time DOE may, pursuant to Section 106 of the UMTRCA, initiate either of the following methods of direct federal acquisition of a processing site, disposal site, or vicinity property:

- .1 Withdrawal of public lands pursuant to the Federal Land Policy and Management Act (FLPMA).
- .2 Utilization of the U. S. Army Corps of Engineers (Corps) to acquire real estate by purchase, donation, or condemnation on behalf of DOE.

In the event of such direct federal acquisition, DOE shall provide to NRC information regarding the acquisition in the appropriate licensing submittal.

4.3 Sale of Sites - The parties acknowledge that in the case of any processing site or vicinity property to which DOE or an affected state acquire title and for which DOE and such state share the costs of acquisition under a cooperative agreement, the state may sell such site or property or retain such site or property for permanent use by the state solely for park, recreational, or other public purposes. DOE shall, prior to such sale or retention, provide to NRC written notice of the proposed sale or retention and request NRC concurrence with same.

- 4.4 Indian Lands - DOE shall provide to NRC information copies of any permit, easement, right-of-entry or other real estate agreement authorizing DOE to conduct remedial actions or maintenance, monitoring or emergency measures at disposal sites on Indian lands.
- 4.5 Transfer of Title - The parties acknowledge that title to any disposal site acquired by a state under a cooperative agreement with DOE, and all residual radioactive materials deposited at such disposal site, must be transferred to the Government upon completion of remedial action. DOE shall, prior to such transfer of title, provide to NRC written notice of the proposed transfer of title requesting NRC concurrence with same within a reasonable period of time. NRC shall respond to DOE within a reasonable period of time.

5.0 LONG-TERM MAINTENANCE OF DISPOSAL SITES

- 5.1 General - With the exception of the disposal site for residual radioactive materials removed from Edgemont, South Dakota, vicinity properties, which is an NRC-licensed TVA-owned site, DOE shall assume custody of each disposal site which has been transferred to or otherwise acquired by the Government and perform monitoring, maintenance, and emergency measures necessary to protect public health, safety, and the environment and such other actions required by a license to be issued by NRC, until such time, if ever, as the President designates another federal agency to perform such monitoring, maintenance, and emergency measures.
- 5.2 License - Pursuant to Sections 104(f)(2) and 105(b) of the UMRCA, NRC shall issue a license to DOE for the long-term monitoring, maintenance, and surveillance of the site after NRC concurrence with DOE's certification report.

In order to facilitate the licensing process, DOE shall prepare an UMTRA Project Licensing Plan for NRC review and comment, which shall consist of: a description of the licensing process for UMTRA sites; milestones in the licensing process; and NRC and DOE responsibilities.

Based upon the Project Licensing Plan, DOE shall prepare and submit to NRC four copies of a license application for long-term maintenance of each disposal site. After development of license conditions, NRC shall issue a license to DOE or such other federal agency designated by the President to perform such long-term maintenance.

- 5.3 Maintenance and Surveillance - Guidelines for the maintenance and surveillance portion of the license application shall be documented in a UMTRA Project Maintenance and Surveillance Plan which describes the monitoring, maintenance, and emergency measures to be performed by DOE, or such other federal agency as designated by the President, in order to maintain design conditions as certified. The license application will address site-specific provisions and site-specific issues, and NRC will generate license conditions as needed.

DOE shall submit to NRC, for review and comment, copies of the UMTRA Project Maintenance and Surveillance Plan. NRC shall provide comments to DOE. DOE and NRC shall attempt to reconcile any NRC comments.

- 5.4 Sale or Lease of Minerals - Pursuant to Section 104(h) of the UMTRCA, the Secretary of the Interior may dispose of subsurface mineral rights, by sale or lease, in connection with any disposal site to which the Government takes title under Title I of the UMTRCA. Such sale or lease is subject to: concurrence by DOE and NRC; and issuance of a license or license modification by NRC which shall govern disturbance and restoration of the disposal site.

6.0 ADMINISTRATION

6.1 Cooperative Agreements

- 6.1.1 Concurrence - DOE shall provide to NRC, for review and comment, copies of a cooperative agreement, in draft form at the same time such draft or revised draft is provided to other participating agencies. Upon execution of the cooperative agreement or modification thereof by the affected state or tribe, DOE shall transmit the agreement to NRC for review and concurrence; provided that modifications which merely increase the estimated costs of funds obligated in the cooperative agreement without revision to the RAP shall not require NRC concurrence.
- 6.1.2 Administration - The parties contemplate that DOE and NRC will interface with other participating agencies in the performance of this MOU. However, the appropriate DOE Contracting Officer shall be responsible for the administration of the cooperative agreements, including sole responsibility on behalf of the Government for the modification thereof or any change thereto affecting cost, schedule or performance thereunder. The Manager, UMTRA Project

Office, shall be designated by DOE as the Contracting Officer's Representative (COR) for purposes of the administration of cooperative agreements. The COR shall be responsible for monitoring the technical compliance of each state or Indian tribe and managing the performance of DOE under the cooperative agreements. Each party shall attempt to keep the other informed regarding any interface with participating agencies which effects activities within the scope of this MOU.

6.2 Annual Report to Congress

Until January 1, 1986, except as such date is extended by Congress, DOE shall prepare an annual report to Congress on the status of the UMTRA Project as required by Section 114(a) of the UMTRCA. The report shall be prepared in consultation with NRC and shall contain any separate views, comments, or recommendations of the NRC. NRC shall provide a timely response to DOE's request for input to such report.

6.3 Documentation of UMTRAP

Pursuant to Section 114(e) of the UMTRCA, NRC, in cooperation with DOE, shall ensure that any relevant information, other than trade secrets and other proprietary information otherwise exempted from mandatory disclosure under any other provision of law, obtained from the conduct of remedial actions is documented systematically, and made publicly available conveniently for use.