

DMG/85/08/01/01

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AUG 7 1985

Mr. James Hoyle
Contracts and Industrial Relations Division
U.S. Department of Energy
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

Distribution:

WM sf
WMLU r/f
NMSS s/f
JO Bunting
DM Gillen
DE Martin
MJ Bell
RE Browning
GN Gnugnoli

Dear Mr. Hoyle:

Enclosed are three signed copies of Modification No. A006 to Cooperative Agreement No. DE-FC04 - 81AL16309. NRC staff have reviewed the modification and believe that it is consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978. We have retained one signed copy for our files. Please note that although pages 3 through 10 of the modification identify it as No. A006 (the "A" designation being consistent with cost modifications), page one indicates the modification as being No. M006.

Sincerely,

Original signed by
Leo B. Higginbotham

Leo B. Higginbotham, Chief
Low-Level Waste and Uranium
Recovery Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure:
As stated

8508300336 850807
PDR WASTE PDR
WM-5

WM Record File

4061.4

WM Project 5
Bundel No. _____
PDR ☒
LPDR _____

Distribution:

(Return to WM, G23-SS)

OFC	: WMLU:rb	: WMLU	: WMLU	:	:	:	:
NAME	: DM Gillen	: DE Martin	: LB Higginbotham	:	:	:	:
DATE	: 85/08/06	: 85/08/6	: 85/08/7	:	:	:	:

MODIFICATION OF COOPERATIVE AGREEMENT

Page 1 of 10

1. Modification No. M006

2. Effective Date:

3. Purchase Request No.

4. Cooperative Agreement No. DE-FC04-81AL16309

5. Issued By:

Department of Energy
Albuquerque Operations Office
Contracts and Industrial Relations
Division
P.O. Box 5400
Albuquerque, NM 87115

6. State/Indian Tribe

State of Utah
Department of Health
P.O. Box 2500
Salt Lake City, UT 84110

7. Accounting and Appropriation Data (If Required):

Increase DOE Funding \$0; Increase State Funding \$106,378; Total DOE Funding \$8,668,008;
Total State Funding \$2,574,616

8. () The above numbered Cooperative Agreement is modified to reflect the administrative changes set forth in block 9.

(X) This agreement is entered into pursuant to authority of Public Law 95-604.
It modifies the above numbered Cooperative Agreement as set forth in block 9.

9. Description of Modification:

Bilateral modification to amend Articles VI - Allowable Costs, VII - Payments, and VIII - Cost Limitation and Obligation of Funds.

Except as provided herein, all terms and conditions of the document referenced in block 4, as heretofore changed, remain unchanged and in full force and effect.

10. () State/Indian Tribe is not required to sign this document.

(X) State/Indian Tribe is required to sign this document and return 3 copies to issuing office.

11. (State of Utah)

By

James L. Odema
(Signature of person authorized to sign)

Director, Div. of Env. Hlth 07/09/85

Title of Signer

Date Signed

12. United States of America

Theetis V. Hill

Theetis V. Hill
Contracting Officer

7/24/85
Date Signed

13. Nuclear Regulatory Commission

By

Robert H. Higginbottom
(Signature)
Chief, Low-Level Waste and Uranium Recovery
Projects Branch, Division of Waste Management
NMSS

Title of Signer

8/7/85
Date Signed

14. Department of Health

By:

Suzanne Dandoy
Suzanne Dandoy, M.D., M.P.H.
Executive Director

I. The purposes of this modification are to:

- A. Revise Article VI, Allowable Costs to reflect the negotiated upper limit for allowable costs associated with State-performed remedial actions at the Vitro millsite and the Clive depository site;
- B. Revise Article VII, Payments to reflect the letter of credit Treasury Financial Communication System (TFCS) method of advance payment; and
- C. Revise Article VIII, Cost Limitation and Obligation of Funds to reflect the estimated allowable costs to be incurred by both DOE and the State of Utah for the period from October 1, 1983 through September 30, 1985. Article VIII, as revised, also reflects increased obligations of the State funding under the Cooperative Agreement.

II. The following modifications to the Cooperative Agreement are required to accomplish the purposes specified above:

A. Article VI, Allowable Costs, Paragraph D is revised as follows:

"D. Sharing of allowable costs under this Agreement shall be as follows:

- 1. Except for allowable costs associated with State-performed remedial actions at the Vitro millsite and the Clive depository site, DOE shall pay ninety percent (90%) and the State shall pay ten percent (10%) of allowable costs under this Agreement.
- 2. In the case of allowable costs associated with State-performed remedial actions (excluding land acquisition) at the Vitro millsite and the Clive depository site:
 - a. DOE shall pay ninety percent (90%) and the State shall pay ten percent (10%) of allowable costs under this Agreement up to an amount equal to the mutually agreed estimated costs of stabilizing the Vitro residual radioactive materials in place (hereinafter referred to as the "SIP Cost Estimate").
 - b. DOE shall pay seventy-five percent (75%) and the State shall pay twenty-five percent (25%) of allowable costs under this Agreement which exceed the amount of the SIP Cost Estimate up to a mutually agreed upper limit of cost-sharing (hereinafter referred to as the "Upper Limit").

- c. The State shall pay one hundred percent (100%) of any costs in excess of the Upper Limit.
- 3. For purposes of calculating the DOE and State share of allowable costs under this Agreement:

- a. The SIP Cost Estimate is \$42,000,000 in 1984 dollars. The SIP Cost Estimate is based upon the quantities and conditions DOE and the State have agreed should be used by the DOE in developing the Remedial Action Plan for the Vitro millsite.

From time to time under this Agreement the State may have need to execute changes to its prime construction contract for remedial actions at the Vitro millsite on the basis of a variance in quantities or conditions from those used in the Remedial Action Plan. The State shall notify the Contracting Officer of:

- (1) Individual changes exceeding \$100,000; and
- (2) Cumulative changes exceeding \$100,000 where individual actions are less than \$100,000.

Upon such notification DOE and the State shall determine whether such change or changes necessitate a revision to the SIP Cost Estimate of \$42,000,000, in which case they shall negotiate in good faith an appropriate revision to the SIP Cost Estimate.

- b. The Upper Limit is \$46,200,000. In the event DOE and the State make a revision or revisions to the SIP Cost Estimate in accordance with subparagraph 3.a., above, they shall make a corresponding revision or revisions to the Upper Limit.

B. Article VII, Payments is revised as follows:

"VII. PAYMENTS

- A. DOE shall make payment for its share of allowable costs by advance payment as provided for in this article or by reimbursement by Treasury check. The State shall make payment for its share of allowable costs by cash contribution, or

as provided in the article hereof entitled Acquisition, Disposition and Use of Real Property, by in-kind contributions. The term "cash contribution" means the State's cash payment from non-Government funds for its share of allowable costs. Such cash payments: (i) shall not be included as contributions for any other Government assistance program; (ii) shall not be made from funds paid by the Government under any other Government assistance program; and (iii) shall otherwise conform to the provisions of this Agreement and the Act.

- B. DOE shall submit quarterly, or at more frequent intervals by mutual agreement between the State Site Representative and the Contracting Officer, Standard Form 1114, "Bill for Collection," supported by a statement of allowable costs incurred by DOE. DOE shall submit the Standard Form 1114, original and two copies, to the State Site Representative. Prompt payment shall be made by the State for the appropriate State share of the total allowable costs.
- C. The parties contemplate implementation of the Treasury Financial Communication System (TFCS) method of advance payment by DOE to the State. Until such time as DOE and the State are able to implement the TFCS method of advance payment, the State shall submit monthly, or at more frequent intervals by mutual agreement between the State Site Representative and the Contracting Officer, an original and two copies of OMB Standard Form 270, "Request for Advance or Reimbursement," to request advance payment for the DOE share of allowable costs incurred by the State. DOE shall promptly make a weekly advance by electronic funds transfer on the basis of the State-submitted OMB Standard Form 270 as payment to the State for the appropriate DOE share of the total allowable costs. In lieu of payment by advance, the State may submit an OMB Standard Form 270, or such other form of request acceptable to DOE and the State, showing allowable costs incurred by the State and requesting that the Contracting Officer reimburse the State by Treasury check or offset such costs against the appropriate State share of the total allowable costs.

The following terms and conditions shall apply to any advance payment under this Agreement:

1. No such advance payment shall be made: (1) without the approval of the Contracting Officer as to the financial

necessity therefor; and (2) without the submission by the State of OMB Standard Form 270 and properly certified invoice or invoices.

2. Funds so advanced to the State by DOE under this Agreement may be used by the State solely for the purposes of making payments for items of allowable cost as defined in the article hereof entitled Allowable Costs, or to reimburse the State for such items of allowable costs, and for such other purposes as the Contracting Officer may approve in writing. Any interpretation required as to the proper use of such funds shall be made in writing by the Contracting Officer.
3. The State may at any time repay all or part of the funds so advanced hereunder. Whenever so requested in writing by the Contracting Officer, the State shall repay to the Government such part of the unliquidated balance of advance payments as shall, in the opinion of the Contracting Officer, be in excess of current requirements.
4. If upon completion or termination of this Agreement all such advance payments have not been fully liquidated, the balance thereof shall be deducted from any sums otherwise due or which may become due to the State from the Government, and any deficiency shall be paid by the State to the Government upon demand.
5. Any interest earned by the State on such advances of Government funds shall be remitted to the Contracting Officer when earned.
6. Funds so advanced must be deposited in a member bank of the Federal Reserve System, or an "insured" bank within the meaning of the act creating the Federal Deposit Insurance Corporation (Act of August 23, 1935, 49 Stat. 684, as amended; 12 U.S.C. 264).
7. Such payment is provisional subject to a determination by the Contracting Officer that the amount paid by DOE is for an item of allowable cost under the article hereof entitled Allowable Costs. At any time or times prior to closeout of this Agreement, the Contracting Officer may have the statements of cost and other supporting documentation audited for the purpose of determining the allowability of costs.

- D. After DOE and the State have implemented the TFCS method of advance payment in accordance with the DOE Accounting Handbook, all Government funds for the payment of DOE's share of the total allowable costs under this Agreement shall be disbursed in accordance with the TFCS system. In addition to the terms and conditions listed in Subparagraphs C.1 through C.7 above, the following terms and conditions shall apply to the utilization of the TFCS method of advance payment:
1. Government funds for DOE's share of allowable costs shall be disbursed through the TFCS.
 2. The State agrees to provide the Contracting Officer with such information and documentation as is required by the Contracting Officer for the implementation of the TFCS method of advance payment.
 3. The State shall initiate a request for funds only when actually needed for the performance of remedial action or acquisition of real estate.
 4. The State shall, on a monthly basis, submit to the Contracting Officer: (a) an original and two copies of the OMB Standard Form 272, "Federal Cash Transaction Report;" and (b) copies of invoices, vouchers, or supporting data as required by the Contracting Officer in written instructions to the State Site Representative.
 5. The State shall provide to the Contracting Officer a monthly report showing the monthly accrued costs incurred by the State under this Agreement.
- E. Upon a finding by the Contracting Officer that the State has failed to observe any of the conditions of this article or has failed to comply with any material provision of this Agreement, the Government, without limiting any rights which it may otherwise have, may, in its discretion and upon written notice to the State, withhold further payments on this Agreement. Upon the continuance of any such failure for a period of thirty (30) days after such written notice to the State, the Government may, in its discretion, and without limiting any other rights which the Government may have, demand immediate repayment of the unliquidated balance of advance payments hereunder.
- F. Notwithstanding any other provision of this Agreement, the State shall not transfer, pledge, or otherwise assign this

Agreement, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

- G. The terms of this Agreement shall be considered adequate security for advance payments hereunder, except that if at any time the Contracting Officer deems the security furnished by the State to be inadequate, the State shall furnish such additional security as may be satisfactory to the Contracting Officer, to the extent that such additional security is available."

- C. Article VIII, Cost Limitation and Obligation of Funds, is amended to revise Paragraphs C., D. and E., as follows:

- "C. 1. Cost Estimate Period No. 3 shall be from October 1, 1983 through September 30, 1985. The estimated allowable costs to be incurred during Cost Estimate Period No. 3 are as follows:

a. State -

- (1) Acquisition of Capital Equipment - \$60,000.
- (2) Vitro millsite and Clive depository site Remedial Action (Includes engineering and management costs) - \$13,256,547
- (3) Central Valley remedial actions - \$1,500,000
- (4) Acquisition of Real Property - \$50,000

b. DOE - \$5,275,000.

2. The total allowable costs incurred or to be incurred by the State from the effective date of this Agreement through the latest Cost Estimate Period shown above is estimated to be \$14,996,000.
3. The total allowable costs incurred or to be incurred by DOE from the effective date of this Agreement through the latest Cost Estimate Period shown above is estimated to be \$10,750,163.12.
4. The total allowable costs incurred or to be incurred by DOE and the State from the effective date of this

Agreement through the latest Cost Estimate Period shown above is \$25,746,163.12 (hereinafter referred to as the "Total Cost Limitation").

5. At such time as either party has reason to believe that the allowable costs it will incur in performing its responsibilities under this Agreement will be greater than the estimated allowable costs shown above, then such party shall notify the other in writing to that effect, giving its revised estimate of allowable costs, and the parties shall execute a modification to this Agreement appropriately revising the estimated allowable costs shown above; Provided, that, prior to being included as part of the Total Cost Limitation, the estimated allowable costs associated with remedial action shall be established and revised by execution and modification of Remedial Action Plans and Radiological Engineering Assessments, as appropriate, pursuant to the article hereof entitled Description of Remedial Action Program.

- D. The State, for the period from the effective date of this Agreement through the latest Cost Estimate Period, has obligated funds in the amount of \$2,574,616, for payment of its share of the Total Cost Limitation. The State shall not be liable in an amount in excess of the funds it has obligated herein; DOE shall not be required to perform cost-shared work under this Agreement or to otherwise incur allowable costs therefor beyond such time as the amount of funds obligated by the State is less than the State's share of the Total Cost Limitation. Prior to each Government fiscal year or from time to time during the performance of this Agreement, as necessary, the State shall increase the amount of funds obligated by written notice to the Contracting Officer specifying the amount of such increase. Upon such written notice the parties shall execute a modification to this Agreement which reflects the increased obligation of funds by the State.
- E. DOE, for the period from the effective date of this Agreement through the latest Cost Estimate Period shown above in Paragraphs B. and C.: (1) has obligated funds in the amount of \$8,668,008 for payment to the State of DOE's share of allowable costs which the State incurs under this Agreement; and (2) will obligate funds in an amount sufficient to pay to DOE contractors and subcontractors DOE's share of allowable costs which DOE incurs under this Agreement. DOE shall not be liable to the State in an amount in excess of the funds it has obligated herein for payment to the State; the State

shall not be required to perform cost-shared work under this Agreement or to otherwise incur allowable costs therefor beyond such time as the amount of funds obligated by DCE is less than DOE's share of the amount shown in Paragraph C.2. of this article. Prior to each Government fiscal year, or from time to time under this Agreement as necessary, DOE shall increase the amount of funds obligated by modification to this Agreement which reflects the increased obligation of funds by DOE. Through the State's compliance with the article hereof entitled Reporting Requirements, DOE should be advised when a DOE increase in obligated funds is necessary; however, the State shall be responsible for providing DOE with written notice, as early as possible, of the need for an increase in DOE funding under this Agreement."

- D. Article IV, State Performance of Remedial Action, is amended to revise Paragraph B.5 as follows:

"B. 5. The State shall use its best efforts to complete the design and construction effort at the Vitro millsite and Clive depository site by December 31, 1987. When the State has finished its design and construction efforts at the Vitro millsite and the Clive despository site, the State shall prepare and furnish to DOE and the Commission a final completion report including, but not limited to, pre- and post-remedial action levels, a description of the remedial actions, and a complete reproducible set of record drawings, specifications, and calculations for each site."