

TO: Rick Rough

DATE: February 20, 2001

FROM: Joel Dorfman *Joel*

THRU: Sandi Park *S Park*

SUBJECT: NEW REIMBURSABLE AGREEMENT WITH DOE FOR PEBBLE BED
MODULAR REACTOR TRAVEL COSTS

The attached reimbursable agreement arrived late Friday and is on an URGENT time frame. The agreement funds travel for two RES staff (Ashok Thadani and Tom King) to travel to South Africa for the "Pebble Bed" reactor project. The following issues are associated with this agreement:

- The agreement provides \$20K for travel costs, but does not fund NRC staff costs. Therefore, the agreement does not recover full costs. Commission policy (SRM to SECY-97-146) permits NRC to accept reimbursement of travel expenses for attending certain meetings without recovering salary and benefits costs. The travel under this reimbursable agreement fits this exception to the full cost recovery policy.
- The trip is "Phase I". Phase II involves a planned reimbursable agreement with DOE for maybe \$800K for both staff costs and contract support. The project appears to be pre-application interactions between NRC and a future licensee for assessing the viability of licensing a new reactor design in the U.S. My concern is whether NRC can accept funds from an outside source (DOE) for this work under the Economy Act. GAO rulings on the Economy Act have indicated that NRC may not be reimbursed for performing work that is part of its required statutory mission. Brian Kildee, OGC, has advised that NRC could accept reimbursable funds for pre-application work performed before NRC and the potential licensee sign a pre-application "agreement".
- Tom King, RES, wants to have a meeting with RES, OGC, and OCFO staff to resolve the issue of whether DOE can fund the Phase II work. He needs this issue clarified in order to finalize a Commission paper and another reimbursable agreement with DOE.

Recommendation

Concur on the attached routing slip.

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