

From: Lemont, Stephen
Sent: Monday, January 09, 2012 10:15 AM
To: 'Mcmillen, Matthew C'
Cc: 'Gorman, Patrick (CONTR)'; Persinko, Andrew; Hsueh, Kevin; Lemoncelli, Mauri; Diaz-Toro, Diana; Reilly, Breeda; Reeves, Rosemary; 'Montgomery, Joseph (CONTR)'; 'Le Duc, Edward'; 'Lee Webb'; 'Javier Marques'; 'jeddins@achp.gov'; 'jim.kay@areva.com'; 'FRENCH Michael (AREVA)'; 'Suzi Pengilly'
Subject: RE: Final Section 106 Memorandum of Agreement (MOA) for AREVA Eagle Rock Enrichment Facility for DOE Markup
Attachments: Proposed Amendment to MOA 11-1-11.docx; AREVA Request for Modification of MOA 9-29-11.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Matt,

Thank you for the attached proposed amendment to the Section 106 MOA for AREVA's Eagle Rock Enrichment Facility (EREF) project, which you provided for the purpose of allowing DOE to fulfill the requirements of Section 106 of the National Historic Preservation Act for its proposed loan guarantee to AREVA for the EREF project. The text of the proposed amendment is similar to the generic language that AREVA had requested to be included in a modified MOA, in its letter to the NRC dated September 29, 2011 (also attached).

We understand that DOE has consulted with ACHP regarding Section 106 compliance for the proposed loan guarantee, and that ACHP provided DOE with the generic language for the proposed MOA amendment. Thus, as part of NRC's consideration of this proposed amendment, on December 22, 2011, we conducted a conference call with ACHP staff to discuss the generic amendment text. The ACHP staff members who participated in this call were Lee Webb and Javier Marques, from whom we understand you had obtained the generic language, and John Eddins, ACHP's acting liaison to NRC. After discussing ACHP's basis for, and NRC's concerns regarding, the generic language, Mr. Marques indicated that he would redraft the generic language and also consider whether DOE should become a signatory to the MOA, and that ACHP would discuss the matter with DOE.

Following our receipt of the revised amendment language from ACHP, NRC will resume its consideration of the proposed MOA amendment.

Steve Lemont

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From: Mcmillen, Matthew C [<mailto:Matthew.Mcmillen@hq.doe.gov>]
Sent: Tuesday, November 01, 2011 9:33 AM
To: Lemont, Stephen
Cc: Gorman, Patrick (CONTR); Persinko, Andrew; Diaz-Toro, Diana; Lemoncelli, Mauri; Reilly, Breeda; Montgomery, Joseph (CONTR); Le Duc, Edward; Lee Webb; Javier Marques; jim.kay@areva.com; FRENCH Michael (AREVA); Suzi Pengilly
Subject: RE: Final Section 106 Memorandum of Agreement (MOA) for AREVA Eagle Rock Enrichment Facility for DOE Markup

Steve,

Following up on our Wednesday, October 26 conference call, we have consulted the Advisory Council on Historic Preservation (ACHP) and given further consideration to the possible approaches to Section 106 compliance for DOE's proposed loan guarantee to AREVA's Eagle Rock project. We believe that the approach suggested by AREVA to amend the Memorandum of Agreement (MOA) among AREVA, NRC, and the Idaho SHPO with the stipulation language addressing coordination with other federal agencies, which ACHP provided, is the most expedient and preferred approach. NRC expressed a concern that this stipulation language regarding coordination appears very generic. However, this is the language currently being promoted by ACHP, which you can see was used in stipulation VII of the attached example MOA signed by the Executive Director of ACHP last month (9/8/11). We believe this approach has the added advantage of allowing other federal organizations that might provide other forms of financial assistance (e.g., grant or loan) or approvals for the Eagle Rock project to comply with Section 106 requirements without burdening the signatories with further amendments to the MOA.

Because compliance with the MOA is an NRC license condition, in the unlikely event that unexpected discoveries of protected resources occurs, such occurrences would best be addressed by the SHPO and NRC. Consequently, we see no role for DOE in MOA compliance and no compelling reason for DOE to become a signatory to the MOA. Therefore, we reiterate and support the request made by AREVA that the attached stipulation language be added as an amendment to the MOA. Please advise if this approach is agreeable to NRC.

Thanks,

Matt

Matthew McMillen
Director, Environmental Compliance
DOE Loan Programs Office
202-586-7248

From: Lemont, Stephen [<mailto:Stephen.Lemont@nrc.gov>]
Sent: Thursday, October 27, 2011 8:52 AM
To: Montgomery, Joseph (CONTR)
Cc: Mcmillen, Matthew C; Gorman, Patrick (CONTR); Persinko, Andrew; Diaz-Toro, Diana; Lemoncelli, Mauri; Reilly, Breeda
Subject: Final Section 106 Memorandum of Agreement (MOA) for AREVA Eagle Rock Enrichment Facility for DOE Markup

Joe,

I have attached the MS Word version of the subject Final Section 106 MOA. As we discussed during our teleconference yesterday, DOE will mark this up to include the appropriate language that would be necessary for your agency to become a required signatory to the MOA. As we also discussed yesterday, we ask that you please be specific in this language with regard to DOE's roles and responsibilities under this MOA. Please make all revisions as tracked changes and return the marked up MOA to me electronically via email, after which the NRC will review DOE's suggested revisions.

Also, my management has requested that you send us a copy of an executed MOA that DOE had developed itself for a previous loan guarantee action.

Please contact me if you have any questions.

Thanks,
Steve

Stephen Lemont, Ph.D.

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