

MEMORANDUM FOR: Carlton Kammerer, Director
State, Local, and Indian Tribe Programs

FROM: Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: PROPOSED AMENDED AGREEMENT WITH THE STATE OF UTAH

The Office of Nuclear Material Safety and Safeguards staff has reviewed the prepublication Federal Register notice and Utah submittal and addendum describing Utah's proposed program for the assumption of regulatory authority for land disposal of source, byproduct, and special nuclear material received from other persons. It is noted that the proposed agreement explicitly excludes the regulation of byproduct material resulting from the extraction or concentration of source material (i.e., byproduct material defined by Section 11(e)(2) of the Atomic Energy Act).

We concur in the proposal to publish the Federal Register notice soliciting comments on the proposed agreement.

We would like to point out, however, our continuing concern that the State of Utah has no provision in State law for State ownership of land on which a low-level waste disposal facility occurs. Although Utah's regulations require State or Federal land ownership, staff is concerned that elimination of one of these ownership categories limits regulatory flexibility. The lack of such authority may place the State in the position of having to grant an exemption for the Clive site from the land ownership requirement, if the license for that site is amended at a future time to include broader disposal authority for byproduct, source or special nuclear material. We again would urge the State of Utah to amend its statutes to include provision for State ownership of any land on which a low-level waste facility, regulated pursuant to the terms of this proposed agreement, occurs.

If you have any questions about the contents of this memorandum, please contact Paul Lohaus, Chief, Operations Branch, LLWM.

(Signed) Robert M. Bernero

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

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PDR YES

PDR NO Category: Proprietary or CF Only

ACNW YES NO

SUBJECT ABSTRACT: PROPOSED UTAH AGREEMENT

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