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Ms. Anne Stubbs
Coalition of Northeastern Governors
400 North Capitol Street, NW, Suite 382
Washington, D.C. 20001

Dear Ms. Stubbs:

Recently, you asked Faith Brenneman to identify avenues for financial responsibility for unanticipated contingencies at a LLW disposal site during the institutional control period. A wide variety of possible scenarios exist, so that without a specific example, it is not possible to identify who would assume responsibility for liability. In addition, I told Faith that you should consult your legal counsel with regard to state liability.

Additionally, based on our work on the financial requirements for 10 CFR Part 61, a number of general observations can be made. Generally, a lease arrangement between the original licensee and the state as site landowner would be the vehicle for specifically delineating responsibility for all necessary maintenance, monitoring, and surveillance costs for up to a 100-years following closure at the site. To cover unanticipated contingencies during the long-term care period, the language of the compact could serve to identify cost sharing between the host state and other parties.

Based on the 10 CFR Part 61 rule, a technical criteria was delineated requiring each disposal facility applicant to provide evidence of financial responsibility for long-term care costs for up to 100 years. In the EIS, the staff pointed out that financial responsibility for cleanup of unanticipated long-term care activities that are acts of God and that are not explicitly provided for in the lease, would be borne by the appropriate governmental agencies and by the state as site owner. The staff feels it is the responsibility of the applicant, the regulatory authority, the state as land owner, and all other parties to the proceeding to review the lease at the time of the licensing hearing to ensure that the proposed lease arrangement provides for all of the possible site specific expenses that pertain to required and predictable activities at that particular site. Additionally, states could also obtain third party liability insurance from the nuclear insurance pools

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for unanticipated contingencies. Assuming the site is located on state-owned land, we understand the state could obtain liability insurance for offsite property damage and bodily injury for accidents involving nuclear materials during the institutional control period. Staff from American Nuclear Insurers have told us that at present, all of the existing LLW disposal sites, (including those sites no longer actively receiving wastes) have this type of coverage. Our conversations with these people indicated the sites each had third party liability coverage of between ten and twenty million dollars.

I am enclosing a sample "Nuclear Energy Liability Policy" form, as well as a reprint of an informational pamphlet on nuclear insurance. I obtained both of these forms from Ms. Peggy Cronin, a liability underwriter with American Nuclear Insurers. She can be reached at (202) 677-7305.

Good luck with your research in this area. If you need more information, I can be reached at 427-4647.

Sincerely,

Mary Jo Seemann
Licensing Process and
Integration Branch

Enclosures:

1. Portion of Appendix K of 10 CFR Part 61
2. Sample ANI Policy Form
3. ANI Informational Pamphlet on Nuclear Insurance

cc: Faith Brenneman

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