

NUCKOLLS COUNTY NUCLEAR AND HAZARDOUS WASTE
MONITORING COMMITTEE

Box 698
Lawrence, NE 68957

July 13, 1990

Director
Division of Freedom of Information and
Publications Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Freedom of Information Act requests regarding
regulation of radioactive materials in the State of
Nebraska (FOIAs 90-264 [addressed to Carlton Kammerer]
and 90-265 [addressed to Robert Doda])

Dear Sir or Madam:

Pursuant to the federal Freedom of Information Act and in
response to a June 27, 1990 "Statement of Estimated Fees
for Freedom of Information Act (FOIA) Request" signed by
Linda Robinson, Chief, FOIA/LPDR Branch, the following
information is provided:

1. The monitoring committee requests the
above-referenced information in its capacity as a
legislatively-mandated public body charged with oversight,
monitoring, and information-exchange responsibilities in
representing the interests of the citizens of a Nebraska
site area designated as a possible location of a radioactive
and hazardous waste dump proposed to accept waste from, but
not limited to, Arkansas, Louisiana, Oklahoma, Kansas, and
Nebraska.

The committee's mandate, specified in Title 194, Rules
and Regulations for the Disposal of Low-Level Radioactive
Waste, Nebraska Department of Environmental Control, Chapter
11, is to maintain communication with the project developer
and the Nebraska State regulator (Department of
Environmental Control) "to assure protection of the public
health and safety and the protection of the air, land, and
water resources of the area." These responsibilities
continue at least until a license is issued for the
facility, according to Lancaster County (Nebraska) District
Court ruling of February, 1990.

To carry out its duties in examining, among many
relevant issues, regulatory issues, the committee requests
NRC records regarding the State of Nebraska's program for
regulating radioactive materials. The committee intends to
analyze the requested information to determine the nature,
extent, requirements, and compliance of Nebraska's
regulatory program as it pertains to protecting the public

health and safety and compatibility with the Commission's program for regulation of such materials.

2. The monitoring committee will undertake a thorough examination of the substance of the records with respect to, but not limited to, technical and legal information regarding public health and safety and compatibility with NRC's program for regulation of radioactive materials. Depending upon the substantive nature of the requested documents' contents, the committee intends to extract all relevant data.

3. With the assistance of the committee's team of legal and technical advisors (which includes persons with professional experience, expertise, and formal education in engineering, law, regulatory enforcement, and litigation involving technical and legal issues of waste management), the committee will continue its investigation and study, begun in March, 1989, of technical, institutional, and legal issues pertinent to management of low-level radioactive waste and mixed hazardous waste. The requested information will provide specificity to the committee's analysis of Nebraska's regulatory authority and program for regulation of radioactive materials in the state, an analysis referenced in the committee's 1990 Annual Report in sections entitled, "Licensing and Insurance," "Regulatory Development, Information and Data Gathering, Enforcement, and Judicial Review," and "Criminal Issues."

4. The requested information, as primary source documentation, is expected to 1) clarify and define the facts regarding Nebraska's regulatory authority and program for regulation of radioactive materials, 2) provide currently unavailable information which will elucidate the nature of and compliance with agreement between the State of Nebraska and the federal government with respect to regulation of radioactive materials, and 3) contribute significantly to public understanding of the operations and activities of the government.

5. The public primarily benefited from the understanding garnered from the requested documents includes citizens of Nebraska (whose residents currently number between 1.5 and 2 million) whose counties named Nuckolls, Nemaha, and Boyd are currently targeted as potential hosts to a radioactive and hazardous waste facility. The public secondarily benefited is comprised of citizens from other host states and areas currently under consideration for location of projects which involve radioactive materials.

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particularly those acquiring information disseminated by this committee.

6. Methods under consideration for information dissemination include public meetings, reports, and press releases, and, as mandated, public files.

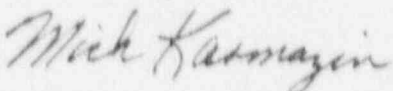
7. If the requested information is compiled and published, a publication charge to cover reproduction costs may be requested if the publication is voluminous. All other public access to information is anticipated to be provided free of charge.

8. No requester or any other party to this request has any commercial or private interest whatsoever in the agency records sought.

Based upon the information provided to me in Linda Robinson's June 27, 1990 "Statement" as to the number of pages of records from June, 1987 to June 11, 1990, I request that the narrower scope request be directed first toward documents from the earliest date on record through 1970 rather than, as currently contemplated, from June, 1987 to June 11, 1990.

Thank you for your prompt attention to this matter.

Sincerely,



Mick Karmazin, Chairman

AGREEMENT
BETWEEN THE
UNITED STATES ATOMIC ENERGY COMMISSION
AND THE
STATE OF NEBRASKA
FOR
DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY
AND
RESPONSIBILITY WITHIN THE STATE PURSUANT TO
SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

WHEREAS, The United States Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended, (hereinafter referred to as the Act) to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

WHEREAS, The Governor of the State of Nebraska is authorized, under Section 71-3509 of the 1963 Radiation Control Act, to enter into this Agreement with the Commission; and

WHEREAS, The Governor of the State of Nebraska certified on June 3, 1966, that the State of Nebraska (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

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WHEREAS, The Commission found on August 16, 1966, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

WHEREAS, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

WHEREAS, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption from licensing of these materials subject to this Agreement; and

WHEREAS, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I

Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

- A. Byproduct materials;
- B. Source materials; and
- C. Special nuclear materials in quantities not sufficient to form a critical mass.

ARTICLE II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

- A. The construction and operation of any production or utilization facility;
- B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
- C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;
- D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ARTICLE III

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ARTICLE IV

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ARTICLE V

The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement States in the formulation of

standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ARTICLE VI

The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ARTICLE VII


The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ARTICLE VIII

This agreement shall become effective on October 1, 1966, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

Done at Lincoln, State of Nebraska, in triplicate, this 29th day of August, 1966.

FOR THE UNITED STATES ATOMIC ENERGY COMMISSION


James T. Ramsey
James T. Ramsey, Commissioner

FOR THE STATE OF NEBRASKA

Frank B. Morrison
Frank B. Morrison, Governor



attest: Frank B. Morrison