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AGREEMENT

BETWEEN

THE UNITED STATES NUCLEAR REGULATORY COMMISSION (USNRC)

AND

THE NATIONAL COOPERATIVE FOR THE STORAGE OF
RADIOACTIVE WASTE IN SWITZERLAND (NAGRA)

ON

COOPERATION IN RADIOACTIVE WASTE MANAGEMENT
SAFETY RESEARCH

Agreement

Between

The United States Nuclear Regulatory Commission (USNRC)

and

The National Cooperative for the Storage of
Radioactive Waste in Switzerland (NAGRA)

on

Cooperation in Radioactive Waste Management
Safety Research

WHEREAS

The United States Nuclear Regulatory Commission (USNRC) and the National Cooperative for the Storage of Radioactive Waste of Switzerland (NAGRA), hereinafter referred to as the Parties, have a mutual interest in radioactive waste management safety research;

USNRC and NAGRA believe that a cooperative program of equitable sharing of their respective research data, technology, and experience in the management of radioactive waste would be of mutual benefit; and

USNRC and NAGRA recognize the contribution that such research in radioactive waste management can make to protecting the environment, while furthering the safe and economic application of nuclear energy;

USNRC is responsible in the United States for licensing the disposal of commercial spent fuel and high-level and low-level radioactive wastes. NAGRA is responsible in Switzerland for the disposal of all radioactive waste. Consequently, for purposes of this Agreement, NAGRA acts also on behalf of the Swiss Federal Government;

Therefore, in consideration of the mutual covenants contained herein, and in conformity with the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland concerning Civil

Uses of Atomic Energy, which was signed at Washington on December 30, 1965, entered into force on August 8, 1966, and was amended November 2, 1973, with effect from January 29, 1974;

IT IS AGREED AS FOLLOWS

Article I - Objective

NAGRA and USNRC, in accordance with the provisions of this Agreement and subject to the applicable laws and regulations in force in their respective countries, will join together in a two-party agreement to cooperate in experimental and analytical studies relating to radioactive waste management safety research. Cooperation between the Parties shall be on the basis of mutual benefit, equality, and reciprocity.

Article II - Scope of Objective

A. Scope of Activities

The cooperative research program to be carried out by NAGRA and USNRC within the framework of this Agreement shall consist of cooperation and exchange of information regarding radioactive waste management safety research.

B. Dissemination of Information

It is agreed that NAGRA and USNRC will share the experimental results and information produced under this program. Useful information established through the program may be presented by NAGRA and USNRC to all interested parties through appropriate meetings. The information exchange and dissemination will be in accordance with Article VI of this Agreement.

C. Technical Group Meeting

An annual technical group meeting shall be arranged jointly by NAGRA and USNRC. The objective of the meeting shall be to discuss the present status and future work of the NAGRA and USNRC radioactive waste management programs and to advise on the technical information exchange including technical review and exchanging information obtained from the program.

Article III - NAGRA Scope of Responsibilities

- A. NAGRA agrees to provide the necessary personnel, materials, equipment, and services in order to carry out the radioactive waste management safety research programs as described in the Appendix and any mutually agreed upon amendment thereto.
- B. NAGRA agrees to accept USNRC-assigned technical experts to participate in the NAGRA radioactive waste management safety research programs. The information derived through the activities of these technical experts will be freely utilized by NAGRA and disseminated between NAGRA and USNRC for their own use in accordance with Article VI. The assignment and the workscope of these experts shall be subject to agreement between the Coordinators for the Parties prior to the assignment.
- C. NAGRA agrees to provide USNRC access to NAGRA radioactive waste management safety research data, results of analyses and evaluation of these data, and computer codes used in the NAGRA programs, as necessary to achieve the objectives of this Agreement and in accordance with Article VI insofar as access to such data is not restricted by further agreements with third parties. This access shall be available as long as this Agreement is in effect.
- D. NAGRA agrees to accept personnel from USNRC and its contractors on temporary visits to NAGRA for work conducted under this Agreement.
- E. NAGRA agrees to fund the total costs of travel, salary, living expenses and any other costs arising from NAGRA assignees to USNRC and its contractors.

Article IV - USNRC Scope of Responsibilities

- A. USNRC agrees to provide the necessary personnel, materials, equipment, and services in order to carry out the radioactive waste management safety research programs as described in the Appendix and any mutually agreed amendment thereto.
- B. USNRC agrees to accept NAGRA-assigned technical experts to participate in the USNRC radioactive waste management safety research programs. The information derived through the activities of these technical experts will be freely utilized by USNRC and disseminated between NAGRA and USNRC for their own use in accordance with Article VI. The assignment and the workscope of these experts shall be subject to agreement between the Coordinators for the Parties prior to the assignment.
- C. USNRC agrees to provide NAGRA access to USNRC radioactive waste management safety research data, results of analyses and evaluation of these data, and computer codes used in the USNRC programs, as necessary to achieve the objectives of this Agreement in accordance with Article VI insofar as access to such data is not restricted by further agreements with third parties. This access shall be available as long as this Agreement is in effect.
- D. USNRC agrees to accept personnel from NAGRA and its contractors on temporary visits to USNRC and its contractors for work conducted under this Agreement.
- E. USNRC agrees to fund the total costs of travel, salary, living expenses and any other costs arising from USNRC assignees to NAGRA.

Article V - Exchange of Personnel

As provided in Articles III and IV above, either Party is permitted to assign to the other Party scientifically qualified personnel after having reached agreement between the Administrators for the two Parties and a specific

personnel assignment agreement is established between the institutions concerned prior to the assignment.

Article VI - Scientific Information Exchange

A. General

The Parties agree that, following the grant by the transmitting Party of approval to publish, information provided, exchanged, or arising under this Agreement may be given wide distribution, subject to the need to protect proprietary information, to copyright restrictions, and to the provisions of Article IX (Patents). Such information may be made available to the public by either Party through customary channels and in accordance with normal procedures of the Parties.

B. Use of Proprietary Information

1. Definitions as used in this Agreement

- a. The term "information" means scientific or technical data, results or methods of research and development, and any other information intended to be provided, exchanged, or arising under this Agreement.
- b. The term "proprietary information" means information provided or exchanged which contains trade secrets or commercial or financial information which is privileged or confidential, and may only include such information which:
 - (i) has been held in confidence by its owner;
 - (ii) is of a type which is customarily held in confidence by its owner;
 - (iii) has not been transmitted by the transmitting Party to

other entities, including the receiving Party, except on the basis that it be held in confidence; and

- (iv) is not otherwise available to the receiving Party from another source without restriction on its further dissemination.

2. Procedures

- a. A Party receiving proprietary information pursuant to this Agreement shall respect the privileged nature thereof. Any document which contains proprietary information shall be clearly marked with the following, or substantially similar, restrictive legend:

"This document contains proprietary information furnished in confidence under an Agreement dated..... between the United States Nuclear Regulatory Commission and the National Cooperative for the Storage of Radioactive Waste of Switzerland and shall not be disseminated outside these organizations, their contractors, and the concerned departments and agencies of Governments of the United States and Switzerland without prior approval of"

This notice shall be marked on any reproduction hereof, in whole or in part. These limitations shall terminate automatically when this information is disclosed by the owner without restriction.

- b. Proprietary information received in confidence under this Agreement may be disseminated by the receiving Party to:
 - (i) persons within or employed by the receiving Party, and concerned Government departments and Government agencies in the country of the receiving Party; and

- (ii) prime or subcontractors of the receiving Party working on projects within the geographical limits of the receiving Party's country, for use only within the framework of their contracts with the receiving Party in work relating to the subject matter of the proprietary information;

provided that any such proprietary information shall be disseminated pursuant to an agreement of confidentiality and shall be marked with a restrictive legend substantially identical to that appearing in sub-section B.2.a. above.

- c. With the prior consent of the Party providing proprietary information under this Agreement, the receiving Party may disseminate such proprietary information more widely than otherwise permitted in the foregoing sub-section B.2.b. The Parties shall cooperate with each other in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party shall grant such approval to the extent permitted by its national policies, regulations, and laws.
- 3. Each Party shall exercise its best efforts to ensure that proprietary information received by it under this Agreement shall be controlled as provided herein. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of this Article, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.
 - 4. No proprietary information orally communicated shall be subject to the limited disclosure requirements of the Agreement unless the individual communicating such information places the recipient on notice as to the proprietary character of the information communicated.

Article VII - Management

To supervise the execution of this Agreement, each Party shall name an Administrator. The Administrators or their designees shall normally meet annually, in conjunction with the technical group meeting described in Article II.C., to review the past year's activities, to evaluate the status of cooperation, including the balance of exchanges, and to approve plans for the following year's activities. The Administrators shall also consider any new major proposals for cooperation. Day-to-day management of the cooperation shall be carried out by Coordinators designated by each Administrator.

Article VIII - Copyrights

Copyrights of the Parties shall be accorded treatment consistent with internationally recognized standards of protection. As to copyrights on materials within the scope of paragraph 1 of Article VI above owned or controlled by a Party, that Party shall make efforts to grant the other Party a license to reproduce or translate the copyrighted materials.

Article IX - Disclaimer

The application or use of any information exchanged or transferred between the Parties under this Agreement shall be the responsibility of the Party receiving the information, and the transmitting Party does not warrant the suitability of the information for any particular use or application.

Article X - Patents

- A. With respect to any invention or discovery conceived or first actually reduced to practice in the implementation of this Agreement:
 - 1. If conceived or first actually reduced to practice by personnel of a Party (the Assigning Party) or its contractors while assigned to the

other Party (the Recipient Party) or its contractors in connection with an exchange of scientists, engineers, and other specialists:

- a. The Recipient Party shall acquire all right, title, and interest in and to such invention or discovery and any patent application or patent that may result in its own country and in third countries; and
 - b. The Assigning Party shall acquire all right, title, and interest in and to such invention, discovery, patent application, or patent in its own country.
2. If conceived by or first actually reduced to practice by a Party or its contractors as a direct result of employing information that has been communicated to it under this Agreement by the other Party or its contractors but not otherwise agreed to under a cooperative effort covered by subparagraph 3 below:
 - a. The Party so conceiving or first actually reducing to practice such invention or discovery shall acquire all right, title, and interest in and to such invention or discovery and any patent application or patent that may result in its own country and in third countries; and
 - b. The other Party shall acquire all right, title, and interest in and to such invention, discovery, patent application, or patent in its own country.
3. For other specific forms of cooperation, including exchange of samples, materials, instruments, and components for special joint research projects, the Parties shall provide for appropriate distribution of rights to inventions. In general, however, each Party should formally determine the rights to such inventions in its own country, and the rights to such inventions in other countries should be agreed to by the Parties on an equitable basis.

4. Notwithstanding the allocation of rights covered under subparagraphs 1 and 2 above, in any case where one Party first actually reduces to practice after the execution of this Agreement an invention that is a consequence of it, either conceived by the other Party prior to the execution of this Agreement or conceived by the other Party outside of the cooperative activities implementing this Agreement, the Parties shall provide for an appropriate distribution of rights, taking into account existing commitments with third parties; provided, however, that each Party shall determine the rights to such invention in its own country.
- B. The Party owning a patent covering any invention referred to in paragraph A above shall license the patent to nationals or licensees of the other Party, upon request of the other Party, on nondiscriminatory terms and conditions under similar circumstances. At the time of such a request, the other Party will be informed of all licenses already granted under such patent.
- C. Each Party shall take all necessary steps to provide the cooperation from its inventors required to carry out the provisions of this article. Each Party shall assume the responsibility to pay awards or compensation required to be paid to its employees according to the laws of its country.

Article X - Liability

- A. Each Party shall alone be responsible for accidents to its staff or damages to its property, regardless of where the damages have been incurred, and shall not bring suit or lodge any other claims against the other Party for damages to its property or accidents to its staff, unless the claim is based on gross negligence or intentional misconduct as otherwise noted in paragraph B. below.
- B. If damages to the staff or property of one Party are due to the gross negligence or intentional misconduct of the staff of the other Party, the latter Party shall compensate the former for the damages incurred.


- C. The foregoing provisions of this Article shall have no applicability to damages caused by a nuclear incident, as defined by the laws of the countries to which the Parties belong. Compensation for damages caused by such a nuclear incident shall be in accordance with the laws of the countries of the Parties.

Article XI - Final Provisions

- A. This Agreement shall enter into force upon signature of the Parties and shall remain in force for a period of five years. However, all information protected by provisions of this Agreement as proprietary, confidential, privileged, or otherwise subject to restriction on disclosure shall remain so protected indefinitely unless mutually agreed to in writing.
- B. Either Party may withdraw from the present Agreement after providing the other Party written notice at least 180 days prior to its intended date of withdrawal. The Party not withdrawing shall reserve the right to determine if the withdrawal will result in the other Party receiving a disproportionate share of the expected benefit from this Agreement. If so, both Parties will endeavor to reach an equitable settlement of the matter through negotiation.
- C. All costs arising from implementation of this Agreement shall be borne by the Party that incurs them except when specifically agreed to otherwise by both Parties.
- D. The Parties to this Agreement reserve the right to modify or extend the Agreement upon mutual written agreement of the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement

FOR THE UNITED STATES NUCLEAR
REGULATORY COMMISSION

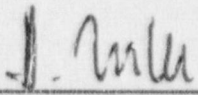
BY: 

TITLE: Executive Director for Operations

PLACE: Bethesda, MD

DATE: August 26, 1986

FOR THE NATIONAL COOPERATIVE
FOR THE STORAGE OF RADIOACTIVE
WASTE IN SWITZERLAND

BY: 

Managing Director

Deputy

TITLE: Managing Director

PLACE: Baden, Switzerland

DATE: September 26, 1986

Appendix

Scope of NAGRA and USNRC Responsibilities

I. NAGRA Principal Activity

The following items have been identified as technical areas in which NAGRA is actively engaged and which are suitable for cooperation and exchange of information:

- a. Hydrologic tests in crystalline rock at Grimsel and in northern Switzerland with emphasis on fracture flow and effect of heat on flow characteristics
- b. Performance tests of waste package/backfill/host rock with emphasis on radionuclide source term data
- c. In situ measurements of radionuclide migration in crystalline rock with emphasis on relationship between radionuclide migration rate and ground water flow rate
- d. As these activities are carried out, additional or modified activities may be identified to be carried out by mutual agreement

II. USNRC Principal Activity

The following items have been identified as technical areas in which USNRC is actively engaged and which are suitable for cooperation and exchange of information:

- a. Field tests and site characterization techniques associated with flow of groundwater and transport of contaminants in saturated and unsaturated fractured rocks
- b. Radionuclide source term data from laboratory and in situ tests of high-level waste packages
- c. Effects of valence state, speciation, and fracture surface properties in radionuclide migration
- d. Thermohydrologic interactions in a repository due to the heat generated by the aggregate of emplaced waste, and thermohydrologic interactions in geologic or engineered materials in regions immediately adjacent to individual waste packages
- e. Sealing of shafts and boreholes and performance of backfill materials
- f. As these activities are carried out, additional or modified activities may be identified to be carried out by mutual agreement