PETER G. MORROS, Director
H. DODGION, *Administrator*
(2) 687-4670
DD 687-4678
Administration
Mining Regulation and Reclamation
Water Pollution Control
Facsimile 687-5856

STATE OF NEVADA
BOB MILLER
Governor

Waste Management
Corrective Actions
Federal Facilities
Air Quality
Water Quality Planning
Facsimile 687-6396

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138
Carson City, Nevada 89706-0851

November 30, 1998

Gerry W. Johnson, Manager
U.S. Department of Energy
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

RE: MODIFICATION TO PART C OF THE MUTUAL CONSENT AGREEMENT (MCA) BETWEEN THE STATE OF NEVADA AND THE U.S. DEPARTMENT OF ENERGY (DOE) FOR THE STORAGE OF LOW-LEVEL LAND DISPOSAL RESTRICTED MIXED WASTE

The DOE Nevada Operation's Office request to modify the MCA's condition stipulating the location where records relating to the MCA shall be maintained has been reviewed and is approved.

All existing and future records which are required to be kept in accordance with the MCA may now be maintained in Building 132 in Mercury instead of at the Area 5 RWMS facility. The first sentence in Part C of the MCA shall now read

"DOE/NV will maintain the records related to these wastes at Building 132 in Mercury, Nevada."

If there are any questions related to this matter they should be directed to Paul Liebendorfer at (775) 687-4670 extension 3039.

Sincerely,

Allen Biaggi
Administrator

AB/PL/js

cc: P. Hall, DOE/ERD
S.A. Hejazi, DOE/OCC
W.A. Clayton, DOE/WMD
M.McKinnon, NDEP/LV
K.Beckley, NDEP/CC

ACTION
INFO OCC ERD WMD MGR
MGR ✓
AMBFS
AMTS
AMNS
AMEM ✓

PETER G. MORROS, Director
L.H. DODGION, *Administrator*
(702) 687-4670
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Administration
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Address Reply to:
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STATE OF NEVADA
BOB MILLER
Governor

Waste Management
/Corrective Actions
Federal Facilities
Facsimile 885-086

Air Quality
Water Quality Planni
Facsimile 687-639

Located at:
333 W. Nye Lane
Carson City, NV 8971

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

Capitol Complex
Carson City, Nevada 89710

June 7, 1995

Donald R. Elle, Ph.D., Director
Environmental Protection Division
U.S. Department of Energy
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

RE: MUTUAL CONSENT AGREEMENT for the STORAGE LOW LEVEL MIXED WASTES

Dear Dr. Elle:

Enclosed is a signed original of the above referenced document which incorporates the recent changes which reflect the current situation. The principal changes are:

A. Recognizes DOE has submitted a modification/revision to its Part B application for a mixed waste storage facility;

B. Recognizes that DNA may also generate wastes to be stored at this facility;

C. Requires DOE/NV to develop treatment and disposal alternatives within nine (9) months of placement of any ER generated LDR wastes on the pad.

D. The disposition of mixed LDR wastes covered by the FFC Act Site Treatment Plan that are stored on the pad will be addressed by the Compliance Order developed under that process.

ACTION
INFO EPD OCC AMEM
MGR ✓
AMA
AMESSH ✓
AMO
AMEM ✓
OCFO

If you have any questions concerning this issue, please contact me at (702) 687-4670 EXT: 3039.

Sincerely,

Paul Liebendorfer, P.E.
Chief
Bureau of Federal Facilities

PL/db

Enclosure

cc: Sharon Hejazi, DOE
G. Leah Dever, DOE/EM
Kent Hanson, NDEP/AG
J. Sieren, NDEP/LV

MUTUAL CONSENT AGREEMENT BETWEEN THE STATE OF NEVADA AND THE DEPARTMENT OF ENERGY FOR THE STORAGE OF LOW-LEVEL LAND DISPOSAL RESTRICTED MIXED WASTE

This consent agreement is entered into between the DOE Nevada Operations Office (DOE/NV), and the Department of Conservation and Natural Resources, Division of Environmental Protection, state of Nevada (NDEP). This document represents the understanding and commitments of both parties relative to the storage and management of mixed (hazardous and radioactive) wastes generated by DOE/NV activities within the state of Nevada.

Whereas the DOE/NV is responsible for initiating characterization work to determine the extent to which historic activities carried out by DOE/NV have contaminated various sites within the state of Nevada; and

Whereas the DOE/NV is responsible for remediation of all sites in the state of Nevada which have been contaminated by DOE/NV activities; and

Whereas the DOE/NV is legally responsible for the proper management of all wastes generated by DOE/NV within the state of Nevada from operational, characterization, and remediation activities, including those wastes which are by definition hazardous wastes in accordance with state and federal hazardous waste statutes and regulation; and

Whereas the Federal Facility Compliance Act (FFCA) authorizes DOE, until October 8, 1995, to store existing and operationally identified newly generated mixed waste, which would otherwise be subject to the storage prohibition under the Land Disposal Restriction (LDR) provisions of the Resource Conservation and Recovery Act (RCRA), for which there is no designated treatment capacity; and

Whereas the DOE/NV will almost certainly generate LDR prohibited low-level mixed wastes as a result of their Environmental Restoration (ER) characterization and remediation activities within the state of Nevada; and

Whereas the DOE/NV is in the process of reevaluating all of its operational activities and it is highly probable that discrete sources of operationally generated LDR mixed wastes will be identified; and

Whereas the DOE/NV does not presently have an authorized (i.e., permitted, interim status, or operated under a consent agreement) storage facility for the management of newly generated low-level mixed wastes from any source; and

Whereas the DOE/NV on January 13, 1995, submitted an addendum to its Part B permit application to include a mixed waste storage facility; and

Whereas the NDEP, under NRS 459.565, has the authority to order the owner or operator of a facility to conduct site assessment and remediation activities to reduce or eliminate a hazard; and

Whereas the DOE/NV, the Defense Nuclear Agency (DNA) and the NDEP are currently in the process of negotiating a Federal Facility Agreement and Consent Order (FFACO) for the investigation and corrective action activities within the state of Nevada; and

Whereas the NDEP and the DOE/NV concur that it is not in the best interests of either party to delay site characterization and remediation actions, based on the possibility that such actions may generate a LDR low-level mixed waste for which there are presently no legally authorized storage facilities on site; and

Whereas the DOE/NV does presently operate the Transuranic (TRU) mixed waste storage pad under a Settlement Agreement with the NDEP; and

Whereas the TRU mixed waste storage pad is adequately designed and has sufficient capacity to appropriately manage additional volumes of any LDR mixed wastes generated by DOE/NV within the state of Nevada in the near term without impacting the TRU mixed wastes currently in storage.

Now, therefore, after having given due consideration to the previous facts both parties agree to the following:

A. DOE/NV will continue its evaluation of existing operations and the site characterization activities in accordance with approved site characterization plans. Future schedules for corrective actions will be determined based on the results of the characterization activities and on the requirements in the FFACO being negotiated; and

B. DOE/NV will operate and manage this existing facility, the TRU mixed waste storage pad, in conformance with applicable RCRA requirements and acknowledges that failure to do so makes them subject to appropriate penalties resulting from violations for noncompliance with RCRA requirements, as provided for in the FFCA.

C. DOE/NV will maintain the records related to these wastes at the Area 5 Radioactive Waste Management Site (RWMS) facility. These records must contain the following characterization information for all wastes, (1) RCRA hazardous constituents concentrations, and (2) the radionuclide data that justifies the waste being classified as a mixed waste, instead of just hazardous waste. The radiological data will be provided as a matter of comity.

D. The NDEP authorizes DOE/NV to utilize the unused portion of the existing TRU mixed waste storage pad as the designated facility to store and manage all mixed wastes generated by DOE/NV within the state of Nevada from

operational, characterization, and remediation activities, until a permitted storage facility is available.

E. NDEP authorizes DOE/NV to store newly identified mixed wastes, which have not been identified in the Site Treatment Plan, generated from environmental restoration activities, including characterization and remediation, on the TRU mixed waste storage pad. Within nine months of the date of placement of such waste on the TRU mixed waste storage pad, DOE/NV will submit to NDEP a plan for treatment and disposal of such waste. Upon NDEP's concurrence, this plan will be deemed to be a compliance schedule for the purpose of the LDR storage prohibition.

F. The NDEP will not take any enforcement action for matters covered by this Agreement, provided DOE/NV is in compliance with the terms and conditions of the Agreement.

G. The terms and conditions of this Agreement will expire upon this facility, or a new facility to which these wastes are transferred to, becoming regulated under a RCRA permit.

Now, therefore, the parties hereto have signed this agreement in recognition of their commitment to fulfilling the obligations committed to herein through good faith negotiations.

L.H. Dodgion, Administrator
Division of Environmental Protection

6/6/95
Date

Terry A. Vaeth, Acting Manager
U.S. Department of Energy

6/1/95
Date