

MEMORANDUM OF UNDERSTANDING

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**BETWEEN
THE UNITED STATES DEPARTMENT OF ENERGY
AND
THE MESA COUNTY BOARD OF COMMISSIONERS**

The purpose of this Memorandum of Understanding between the United States Department of Energy, Grand Junction Projects Office (hereinafter "Department") and the Mesa County Board of Commissioners (hereinafter "County"), is to build confidence and trust and to improve communication between the Parties by formalizing a protocol for the Department to provide meaningful consultation with and participation of the County in the Department's utilization of the Cheney Repository. This Memorandum of Understanding shall serve in lieu of the County's Conditional Use Permit and Certificate of Designation adopted by the County by Resolution No. MCM 88-30, dated March 29, 1988 and the amendments thereto.

The County acknowledges that the Department's operation of the Cheney Repository, which is located on federal land within Mesa County, is part of a pervasive federal scheme established by Congress in the Uranium Mill Tailings Radiation Control Act, 42 U.S.C. § 7901 *et seq.*, (hereinafter "UMTRCA") to properly control and dispose of residual radioactive material from inactive uranium processing sites so as to protect the public health, safety and welfare from the potential harmful affects of such materials.

The Department acknowledges that the citizens of Mesa County and its elected officials have a vital interest in the operation of the Cheney Repository and must be consulted with and actively participate in the Department's decision making process for the utilization of the Cheney Repository. The Department shall incorporate or otherwise respond to the views of the County and its citizens in making any decisions concerning the Cheney Repository.

Therefore, the Department and the County agree to the following:

- (1) Consistent with the terms of this Memorandum of Understanding, the Department agrees that it will only consider disposing of the following types of radioactive materials at the Cheney Repository:
 - (a) Residual radioactive material, as that term is defined in 42 U.S.C. § 7911 (7);
 - (b) Byproduct material, as that term is defined in 42 U.S.C. § 2014 (e) (2); and
 - (c) Radioactively contaminated debris and naturally occurring radioactive material from the Department's Grand Junction Projects Office compound.

- (2) The Department shall never dispose of any radioactive material at the Cheney Repository without obtaining the prior approval of its regulator, the U.S. Nuclear Regulatory Commission and, in those instances where they have regulatory jurisdiction, the U.S. Environmental Protection Agency or the State of Colorado.

- (3) The Department shall, on an annual basis, provide the County with a management plan of the Cheney Repository for the County's review and comment. The annual management plan shall, at a minimum, include the types, estimated quantities and source of radioactive materials which the Department proposes to dispose of at the Cheney Repository, and the estimated remaining capacity of the Cheney Repository. The Department shall provide the management plan to the County at least sixty days prior to the start of the calendar year or sixty days prior to the seasonal opening of the Cheney Repository; and the County will provide the Department with any comments or concerns within 30 days of receipt of the plan. The Department shall also periodically conduct public meetings to inform the citizens of Mesa County of the status of the Cheney Repository.

- (4) It is the Department's intent to use the Cheney Repository almost exclusively as a facility for the continued disposal of radioactive material from properties located within Mesa County, with first priority being given to the material within Mesa County. The Department shall consult with the County on any proposal to use the Cheney Repository to dispose of radioactive material from properties located outside Mesa County, and shall identify the proposed quantities of such materials in the Department's annual management plan for the Cheney Repository. Any decision to accept materials outside of Mesa County will take into consideration the volumes to be disposed, and the impact that these volumes will have on the remaining capacity of

the Cheney Repository to accept Mesa County material. DOE will strive to maintain sufficient capacity to accommodate the needs of Mesa County, given the information available.

- (5) The Department shall abide by any reasonable requirements sought by the County regarding the transportation of radioactive material to the Cheney Repository, including the maintenance of an Emergency Contingency Plan.
- (6) At the County's request, the Department shall make available to the County all records relevant to the operation of the Cheney Repository which are not otherwise protected from disclosure by law, and shall make its employees and contractors available to respond to any questions concerning the Cheney Repository.
- (7) The Department and the County agree to work cooperatively to seek legislative authority from Congress to continue to operate the Cheney Repository after the Department's authority to perform remedial action expires under UMTRCA.

Any requirement for the payment or obligation of funds by the Department established by the terms of this Memorandum of Understanding shall be subject to the availability of appropriated funds, and no provision herein shall be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

This Memorandum of Understanding shall apply to and be binding upon the Parties, together with their administrative officers, agents, and employees, notwithstanding any change in administration or governance of the Parties.

This Memorandum of Understanding may be amended by written agreement between the Parties.

This Memorandum of Understanding may be terminated by mutual written agreement of the Parties.

U.S. DEPARTMENT OF ENERGY
GRAND JUNCTION PROJECTS OFFICE

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By: James Lampley
James Lampley, Manager

Date: 3/29/96

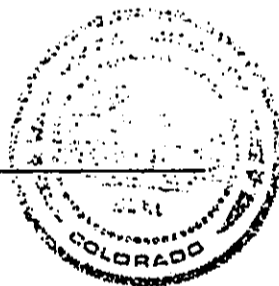
U.S. DEPARTMENT OF ENERGY
ALBUQUERQUE OPERATIONS OFFICE

By: John Arthur
John Arthur, Manager
Office of Environment and Project Management

Date: 4/4/96

MESA COUNTY BOARD OF COMMISSIONERS

By: Kathy Hall
Kathy Hall, Chair



Date: 4/22/96