MEMORANDUM OF UNDERSTANDING
between the
State of Nevada
and the
U.S. Department of Energy

I. PURPOSE & GOALS

This Memorandum of Understanding (MOU) acknowledges the broad shared interests between the State of Nevada (Nevada) and the U.S. Department of Energy (DOE) regarding activities at the Nevada National Security Site (NNSS), and formalizes the senior-level NNSS Working Group (Working Group) convened by Nevada Governor Brian Sandoval and U.S. Secretary of Energy Ernest Moniz to address issues of interest related to the NNSS.

This MOU supports the continuation of a variety of activities between Nevada and DOE (hereinafter, the Parties), including the review and discussion of various matters, such as waste streams, waste classification, waste acceptance criteria, public safety and environmental stewardship, public outreach and education, and future missions at the NNSS.

This MOU is premised on the principles of proactive and candid communication, in order to promote a collaborative working relationship between the Parties. The Parties recognize that stakeholder engagement is essential for understanding local concerns and impacts. The Parties also recognize that through such proactive communications, the Working Group can help inform stakeholders, identify areas of improvement, and resolve key concerns.

II. BACKGROUND

Nevada dutifully served the United States for more than forty years during above and below ground nuclear tests at the NNSS, starting with the first test detonation at Frenchman Flat in 1951. Today, two decades after the cessation of live nuclear testing, the Parties acknowledge the broader and critical national security mission that the NNSS serves and recognize their mutual interest in long-term and safe management of the NNSS.

Today, the NNSS is a federally controlled enclave, restricted and guarded by a 24-hour security force. NNSS's 1,360 square miles are managed by DOE – with the National Nuclear Security Administration (NNSA) as the lead – and its status is intended to remain restricted in perpetuity. The NNSS is located in a remote area approximately 65 miles northwest of Las Vegas, Nevada.

Since 1961, low-level radioactive waste (LLW) has been disposed of at Area 5, a 740-acre site located within Frenchman Flat in the southeastern section of the NNSS. Area 5's natural features – topography, geology, hydrology, and geographic isolation – make it optimal for safe disposal of LLW. To date, approximately 300 acres have been utilized for waste disposal at Area 5. Disposal of LLW wastes from outside of Nevada will be accomplished within the existing boundaries of Area 5.

Radioactive waste is categorized according to existing federal law. These waste categorizations include high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material. For radioactive waste not in any of these categories, the waste qualifies as LLW and is subject to specific LLW regulations and requirements. LLW typically consists of containerized debris, trash, soil, equipment, tools, and personal protective clothing. The classification of an object or material as LLW does not exclusively depend on its level of radioactivity.

In June 2013, Governor Sandoval sent a letter expressing concerns to Secretary Moniz regarding the proposed disposal of Consolidated Edison Uranium Solidification Project (CEUSP) material at Area 5 as LLW. Governor Sandoval highlighted issues with categorizing LLW by exception – essentially, defining LLW by what it is not — and noted Nevada's concerns with proposed transportation routes and methods, engagement with affected local governments and Native American Tribes, worker health and safety, and environmental protection in regards to the CEUSP disposal campaign.

Later that summer, Governor Sandoval and Secretary Moniz agreed to convene a senior-level working group to review matters related to the disposal of the CEUSP canisters at the NNSS.

Since that time, the Working Group has met in person four times and by phone on numerous occasions to address CEUSP disposition questions. The Parties have come to better understand the unique relationship that must be maintained between Nevada and DOE, and have identified other opportunities to improve communication and collaboration on additional matters related to the NNSS mission.

Throughout this process, the Parties have acknowledged the significant need for and benefit from this level of engagement. The Working Group efforts have clarified numerous technical, legal and environmental issues, and collaborated in direct public engagement on these issues associated with the CEUSP disposal campaign.

DOE held several public meetings in Las Vegas and Nye County where members of the public were invited to learn about the proposed CEUSP disposal campaign, submit written comments, or pose questions directly to DOE experts. In addition to answers given at the meetings, DOE also answered questions in written form and made those answers available to the public online at:

www.nv.energy.gov/outreach/pdfs/Summary%20of%20Qs-n-As_2-11-2014_FINAL.pdf

At Nevada's request, DOE prepared a Supplement Analysis pursuant to the National Environmental Policy Act (NEPA) in order to determine whether a supplemental, or new environmental impact statement, or no further NEPA documentation is required. As a result, DOE determined that no further NEPA documentation is required. The document is available to the public online at:

http://energy.gov/sites/prod/files/2014/09/f18/EIS-0200-SA-04-2014.pdf

After Nevada and local governments raised concerns about the security of proposed CEUSP waste shipments, DOE agreed to utilize the well-regarded Office of Secure Transport (OST) to provide armed security personnel to escort the shipments of this waste from its current location in Oak Ridge, Tennessee to the NNSS. This agreement ensures that the shipments will be continuously guarded and monitored during

transportation to the NNSS. Once the shipments arrive at the NNSS, DOE has also agreed, at the State's request, to dispose of the canisters at Area 5 of the NNSS in a manner that will provide for even greater isolation than required by existing DOE requirements in order to protect the material in perpetuity from theft, diversion, or other intentional destructive acts.

The Parties also met regularly with Members and staff of Nevada's Congressional delegation, local elected officials and key staff members, including local and regional emergency management staff and representatives of Native American Tribes. As a result of these meetings, the Parties recognized an opportunity for additional emergency management education, training and information sharing. DOE subsequently held four in-depth meetings with local emergency responders and also invited key officials to attend a nationally focused full-scale exercise in Colorado. As a result of these meetings, local Nevada officials and OST gained significant insight regarding how local emergency response teams will work cooperatively in the highly unlikely event of an accident involving the shipment of the CEUSP waste.

DOE also agreed to review Nevada National Security Site Waste Acceptance Criteria (WAC) Revision 10. As a result of this review and discussion with Nevada officials, DOE subsequently agreed to retract certain requirements on the WAC Revision 10. As part of this MOU, the Parties agree to proactively review and consult in the event that future revisions to the WAC are necessary.

The Parties also briefed the Nevada Congressional delegation, members of the Nevada Legislature, and other affected stakeholders to solicit feedback, answer questions and inform individuals of progress in resolving concerns regarding the proposed CEUSP campaign.

Moreover, DOE proactively identified two waste streams that were appropriate for disposal at locations other than the NNSS, and the Working Group has identified potential unique missions that may warrant further examination.

Missions of the Pertinent Entities

Nevada Mission:

The State of Nevada remains committed to a long-term collaborative relationship with DOE based on mutual respect, sound science, protection of the environment, and public health and safety.

U.S. Department of Energy Mission:

The mission of the Department of Energy (DOE) is to ensure America's security and prosperity by addressing its energy, environmental and nuclear challenges through transformative science and technology solutions. DOE understands and values that its mission will only be successful if the states in which its facilities and operations operate are full partners.

DOE Office of Environmental Management Mission:

The mission of the Office of Environmental Management is to complete the safe cleanup of the environmental legacy brought about from five decades of nuclear weapons development and government-sponsored nuclear energy research. Nevada is a longstanding, historic and essential partner in this mission.

DOE National Nuclear Security Administration Mission:

The mission of the National Nuclear Security Administration (NNSA) is to enhance national security through the military application of nuclear science. NNSA maintains and enhances safety, security, reliability, and performance of the U.S. nuclear weapons stockpile without nuclear testing; works to reduce global danger from weapons of mass destruction; provides the U.S. Navy with safe and effective nuclear propulsion; and responds to nuclear and radiological emergencies in the U.S. and abroad.

DOE Nevada National Security Site Mission:

The Nevada National Security Site (NNSS) helps ensure the security of the United States and its allies by supporting the stewardship of the nuclear deterrent, providing emergency response capability and training, and contributing to key nonproliferation and arms control initiatives. The NNSS executes unique national-level experiments, supports national security customers through work for others, manages the legacy of the Cold War nuclear deterrent, and provides long-term stewardship for site missions. The NNSS will fully utilize the inherent capabilities and remote location of the NNSS to support all of our national security initiatives.

III. ACKNOWLEDGEMENTS

The Parties acknowledge Nevada's dutiful and unique service to the United States through hosting nuclear testing at the NNSS; the critical national nuclear, energy and environmental security mission that the NNSS serves, and the mutual interest in its effective management; the need for a long-term relationship based on mutual respect, sound science, and the protection of the environment, public health and safety.

IV. WORKING AGREEMENT

Staff & Timing

The Parties hereby formally establish the DOE Nevada National Security Site Working Group (Working Group), which shall consist of senior-level state and federal employees designated by the Governor of the State of Nevada and the U.S. Secretary of Energy, to address issues of interest related to the NNSS as described herein. In addition, the Working Group may consult with other interested stakeholders, including the Nevada Congressional delegation, to collect their individual opinions on governmental activities. The Working Group may exchange information with affected local governments, including Native American Tribes, and others.

The Parties agree to dedicate senior-level staff and resources to serve on the Working Group. The Working Group shall convene regularly, but no less than twice per year. Either Party can initiate dialogue and call for a meeting of the Working Group at any mutually-agreed upon time and location.

Discussion Topics

The Parties agree to engage–as necessary and in good faith–to meaningfully review, discuss and revise practices associated with and implementation of activities involving the NNSS:

- Expanded or Additional Missions
  - The Parties acknowledge the unique national security mission that the NNSS serves and agree to discuss opportunities for expanded or additional missions at the NNSS. The research effort at the site on Unmanned Aerial Vehicles is one such example.

- Waste Acceptance Criteria
  - The Parties agree that the Working Group shall review any future changes to waste acceptance criteria (WAC) for the NNSS. The Parties shall have adequate time to review and discuss any proposed changes to the WAC prior to finalization. The Parties agree to provide reasonable notice of proposed WAC changes to relevant stakeholders prior to finalization.

- Low-Level Waste Classification
  - The Parties agree that a broad spectrum of wastes exist within the existing LLW classification system. The Parties agree that the current LLW waste classification system will benefit from a review by an independent scientific body. The Parties agree to work collaboratively to advance this goal.

- Public Health & Safety
  - The Parties agree to review and discuss LLW transportation in order to ensure consistency and adherence to existing routing agreements in Nevada and the disposition of LLW streams of interest at NNSS, with an emphasis on public and worker health and safety, and environmental protection.

- Communications & Education
  - The Parties agree to discuss needs for ongoing public communication and education surrounding LLW transportation and disposition, and participate in continuing engagement with other federal agencies and local elected officials, as well as local emergency management and response entities.

V. GENERAL

This MOU shall be effective upon signature and remain in effect until changed or terminated by either Party through written notice to the other Party. This MOU in no way

restricts either Party from participating in any activity with other public agencies, organizations or individuals.

All agreements herein are subject to, and will be carried out in compliance with, all applicable laws, regulations and other legal requirements. This MOU is neither a fiscal nor funds obligation document; nothing in this MOU authorizes or is intended to obligate the Parties to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value. This MOU represents a good faith commitment of the Parties to work closely together, with full transparency, to achieve the joint goals and respective missions of the signatories.

STATE OF NEVADA

BRIAN SANDOVAL
Governor

Date: 12-22-14

U.S. DEPARTMENT OF ENERGY

ERNEST MONIZ
Secretary of Energy

Date: DEC 22 2014