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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE UNITED STATES ARMY CORPS OF ENGINEERS
AND THE UNITED STATES DEPARTMENT OF ENERGY**

1. PURPOSE. The U.S. Army Corps Engineers (USACE) and the U.S. Department of Energy (DOE) enter this Memorandum of Understanding (MOU) for USACE to provide DOE emergency services to restore water supplies at specific Strategic Petroleum Reserve (SPR) sites.

2. AUTHORITY. This MOU is entered into pursuant to the Economy in Government Act, 31 U.S.C. §1535, and 10 U.S.C. §3036(d).

3. BACKGROUND. The Department of Energy has committed to Congress to establish a Recovery Program, which provides the capability to return the SPR sites to operational status when the sites are rendered non-operational during an emergency drawdown, due to natural disasters or other disabling events. The SPR Recovery Program mandates that the SPR re-establish operational status of the Raw Water Intake Structures (RWIS) after a disabling event as quickly as possible, and/or within 15 days for one site and 30 days for multiple sites.

4. PROGRAM AND ADMINISTRATION GUIDELINES

a. Provisions for Assistance

When a Presidential decision is made to drawdown the SPR and the SPR's RWISs on the intercostal waterways are deemed non-operational due to a disabling event, the DOE may request assistance from the USACE, on an emergency basis, to reinstate the SPR RWIS to an operational status. Upon request and acceptance, USACE will use its best efforts to provide the services DOE requests.

The DOE may also request USACE participation, on a non-emergency basis, to test or exercise the emergency response capabilities of the SPR Recovery Program systems. USACE participation in DOE's exercises is discretionary.

Nothing in this MOU shall affect other ongoing arrangements between the parties.

b. Interagency Communications

The USACE shall appoint representatives for the USACE offices in New Orleans and Galveston, and DOE shall appoint a representatives for SPR Project Management Office in New Orleans, as the points of contact on all matters relating to this MOU.

When DOE requests USACE assistance under this MOU, the USACE and DOE representatives shall coordinate all requests for assistance and shall conclude Individual Support Agreements (ISAs) under which USACE will furnish the requested services. The ISAs shall describe in detail the scope of the services to be provided, schedules, necessary funding arrangements, individual project managers, and any other details necessary to describe clearly the parties' obligations with respect to the requested services. Each party's

authorized representative shall agree to the ISA before USACE initiates services.

c. DOE Responsibilities

DOE shall have the responsibility for requesting ISAs and defining the project requirements for the sites covered by this MOU.

DOE will notify the designated USACE representatives when an emergency situation requires USACE assistance.

DOE shall assist the USACE to obtain access to construction sites, rights of entry, and support facilities.

DOE will designate DOE engineering personnel to serve as technical consultants to the USACE whenever DOE requests assistance under this MOU.

To expedite services, DOE shall provide USACE any Government-furnished material and equipment available and requested. If the Office of Management and Budget requests, DOE will confirm USACE manpower required for the tasks under this MOU.

d. USACE Responsibilities

The USACE will assist DOE in planning, developing, and implementing ISAs and other activities to achieve the goals specified in this MOU.

The USACE shall inform DOE of all contracts entered under this MOU and provide DOE copies thereof.

The USACE shall provide periodic financial and project status reports as specified in each ISA.

5. DOE SITES COVERED BY THIS MOU

a. Bryan Mound, Brazoria County, Texas, located on the east bank of the Brazos River Diversion Channel, off the Gulf Intracoastal Waterway, 2 miles south of the city of Freeport, Brazoria County, Texas.

b. Big Hill, Jefferson County, Texas, located on north bank of the Gulf Intracoastal Waterway, 22 miles southwest of Port Arthur, Texas.

c. West Hackberry, Calcasieu Parish, Louisiana, located on the south bank of the Gulf Intracoastal Waterway, 5 miles west of the State Route 27 bridge, between Calcasieu Lake and the Sabine River in Calcasieu Parish, Louisiana.

6. FUNDING

The DOE will pay all costs USACE incurs in providing DOE the requested assistance. DOE may make funding transfers of \$250,000 or more by SF 1151, Non Expenditure Transfer Authorization, which DOE shall prepare and forward to

the Department of Treasury for processing to CDR HQUSACE (CERM-FC) Washington, D.C. 20314-1000.

DOE may also pay for services provided hereunder either by SF 1080, Voucher for Transfers Between Appropriations and/or Funds, or SF 1081, Voucher and Schedule of Withdrawals and Credits. The USACE will advise DOE of the appropriate USACE action addressee for Forms 1080 and 1081.

If the USACE forecasts actual costs to exceed the funds available, the USACE shall promptly notify the DOE of the amount of the additional funding necessary to pay for the assistance. The DOE shall either provide the additional funds to the USACE, limit requested assistance to that which can be financed by the available funds, or direct task termination. The USACE shall conduct a final accounting within 120 days of project completion to determine the actual costs of the assistance provided, and within 90 days thereof, shall return any DOE advanced funds in excess of the actual costs.

7. APPLICABLE LAWS

The USACE shall furnish all assistance under this MOU in accordance with applicable U.S. laws and regulations. Unless otherwise required by law, all contract work undertaken by the USACE shall be performed in accordance with the Department of Defense, Department of the Army and the U.S. Army Corps of Engineers procurement and claims policies and procedures.

8. RECORDS AND REPORTS

The USACE shall establish and maintain records and receipts of the expenditure of DOE funds. Records shall be maintained in sufficient detail to permit identification of the nature of expenditures made by the USACE and shall be made available for DOE inspection.

The USACE shall provide the DOE project progress, financial, and related status reports on tasks agreed upon under this MOU, including reports on all funds received, obligated, and expended. Frequency of reports will be agreed upon in the individual ISAs.

9. CLAIMS AND DISPUTES

All claims submitted by contractors arising under or relating to contracts awarded by the USACE for this MOU and the individual ISAs shall be resolved in accordance with United States law and the terms of the individual contract. The USACE has dispute resolution authority for these claims. Any contracting officer's final decision pursuant to such a claim may be appealed by the contractor pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601-613). The Corps of Engineers Board of Contract Appeals (ENG BCA) is designated as the appropriate board of contract appeals. In lieu of appealing to the ENG BCA, the contractor may bring an action directly to the United States Claims Court. The USACE shall be responsible for litigating all such appeals. The USACE shall consult with the DOE regarding any settlement negotiations.

The USACE shall notify the DOE of meritorious claims or appeals and shall submit requests to the DOE for funds to cover such claims or appeals. The DOE shall promptly provide such funds as are necessary to pay the costs of meritorious claims or appeals.

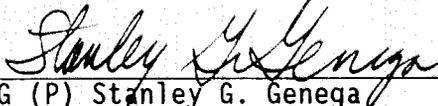
10. PUBLIC INFORMATION

DOE shall provide any justification and explanation of the DOE programs to Congress. The USACE will provide, upon request, information to support contacts with Congress. The USACE will make public announcements and respond to all inquiries relating to its ordinary procurement and contract award and administration process.

11. EFFECTIVE DATE, AMENDMENT AND TERMINATION

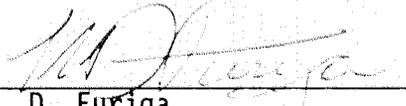
- a. This MOU is effective upon the date of the last signature by the parties.
- b. This MOU may be amended or modified only by written agreement. Upon the request of either party, both parties shall review this MOU to assure that it continues to reflect the appropriate understandings and procedures necessary for current needs and capabilities. This MOU shall be in effect for five (5) years from the date of execution and may be renewed upon mutual agreement.
- c. Either party may terminate this MOU by providing sixty calendar days written notice to the other. Upon termination, DOE will reimburse USACE for all costs and expenses that USACE incurred in providing the services DOE requested, including any USACE costs incurred in closing out, transferring or terminating any contracts.

Accepted and Approved for the
U.S. Army Corps of Engineers


BG (P) Stanley G. Genega
Directory of Civil Works

Date: 18 Sep 92

Accepted and Approved for the
Department of Energy


R. D. Furiga
Deputy Assistant Secretary for
Strategic Petroleum Reserves

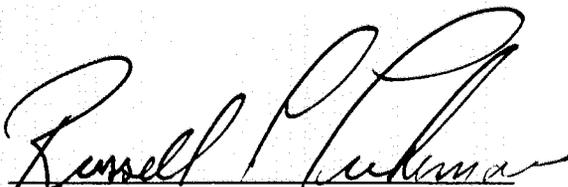
Date: 9-10-92

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES ARMY CORPS OF ENGINEERS
AND THE
UNITED STATES DEPARTMENT OF ENERGY
AMENDMENT NO. 1

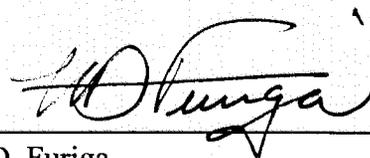
In accordance with Article 11 of the Memorandum of Understanding which expires on September 18, 1997, we agree to extend this Memorandum of Understanding for an additional 5 years. The amended termination date is September 18, 2002.

U.S. Army Corps of Engineers

U.S. Department of Energy



MG Russell L. Fuhrman
Director of Civil Works



R.D. Furiga
Deputy Assistant Secretary for
Strategic Petroleum Reserve

Date: 1 July 97

Date: 7-2-97

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

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