

memorandum

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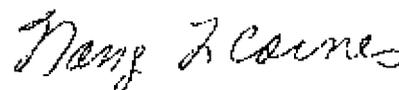
DATE: September 28, 1999

REPLY TO:
ATTN OF: CC-10:Blumenfeld

SUBJECT: **RECORD OF DECISION FOR REMEDIAL ACTION FOR THE GROUNDWATER OPERABLE UNIT AT THE CHEMICAL PLANT AREA OF THE WELDON SPRING SITE; CONCURRENCE WITH COMMENT**

TO: Rod Nelson, Assistant Manager for Environmental Management, EM-90

The purpose of this Memorandum is to transmit to you the Office Of Chief Counsel's (OCC) concurrence and comment on the above-referenced Record Of Decision (ROD). OCC concurs with the substance of the ROD. However, OCC wishes to note a potential procedural defect in the issuance of the ROD that could form the basis for a challenge to the ROD. A member of the public submitted a request for extension to the public comment period via facsimile on the last day of the 30 day public comment period for the Proposed Plan that formed the basis for the selected remedy in the ROD. The requested extension was not granted. Section 300.430 (1)(f)(3)(c) of the NCP provides that: "Upon timely request, the lead agency will extend the public comment period by a minimum of 30 additional days... ." While there is EPA guidance suggesting that a request for extension of public comment submitted on the last day of the initial public comment period is not timely, there remains the possibility that not granting the request for extension could form the basis for a challenge to the ROD after it is finalized and issued.



Nancy L. Carnes
Assistant Chief Counsel
for Environment

CC:
Steve McCracken, WSSRAP

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CONTENTS

85055

DECLARATION STATEMENT	iii
NOTATION	ix
1 SITE HISTORY	1
2 SCOPE AND ROLE OF REMEDIAL ACTION	5
3 COMMUNITY PARTICIPATION	9
4 SITE CHARACTERISTICS	11
4.1 Environmental Setting	11
4.1.1 Geology	11
4.1.2 Hydrogeology	11
4.1.3 Surface Water	14
4.1.4 Land Use	14
4.2 Nature and Extent of Contamination	15
4.2.1 Groundwater	15
4.2.2 Springwater	16
5 SUMMARY OF SITE RISKS	17
5.1 Human Health Risk Assessment	17
5.2 Ecological Assessment	19
6 DESCRIPTION OF REMEDIAL ALTERNATIVES	21
6.1 Alternative 1: No Action	21
6.2 Alternative 2: Long-Term Monitoring	21
6.3 Alternative 3: Monitored Natural Attenuation	22
6.4 Alternative 4: Groundwater Removal and On-Site Treatment Using Granular Activated Carbon and Ion Exchange	22
6.5 Alternative 7: Removal and On-Site Treatment of Groundwater in Zones 1 and 2	23
6.6 Alternative 8: In-Situ Treatment of TCE Using In-Well Vapor Stripping	23
6.7 Alternative 9: In-Situ Chemical Oxidation of TCE Using Fenton-Like Reagents	24