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**SOUTH PLUME EE/CA EXTENSION REQUEST -
INFORMAL DISPUTE**

07/31/90

DOE-1553-90

DOE-FMPC/USEPA

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LETTER

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Department of Energy

FMPC Site Office
P.O. Box 398705
Cincinnati, Ohio 45239-8705
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July 31, 1990

DOE-1553-90

Kevin Pierard, Section Manager
Minnesota and Ohio RCRA Enforcement
U. S. Environmental Protection Agency
Region V - 5HR-12
230 S. Dearborn Street
Chicago, Illinois 60604

Dear Mr. Pierard:

SOUTH PLUME EE/CA EXTENSION REQUEST - INFORMAL DISPUTE

This follows up our July 27, 1990 conversation as part of the informal dispute over the length of the extended deadline for the U. S. Department of Energy (DOE) to submit a revised engineering evaluation and cost analysis (EE/CA) for the South Plume removal action. You mentioned you were not aware that DOE had already provided a preliminary response to EPA's comments on the EE/CA. The preliminary response with copies of other comments received on the EE/CA was sent to Ms. C. A. McCord with our July 2, 1990 letter requesting reconsideration of the EE/CA deadline. I have enclosed a copy for you. In the future we will provide you with copies of letters like the July 2, 1990 letter.

As we discussed, the DOE originally requested that EPA extend the June 17, 1990 deadline to August 1, 1990 for good cause under Section XVIII of the CERCLA Consent Agreement. In response, EPA only granted a fifteen (15) day extension. On July 2, 1990, DOE informally disputed the 15-day extension and asked that EPA reconsider DOE's original request. The EPA's reasoning for granting a 15-day extension was that DOE had EPA's comments before the close of the comment period. Therefore, DOE did not need the additional time in which to prepare a revised EE/CA. The DOE disagrees. Such a limitation would have effectively precluded DOE's consideration of the totality of all comments, especially comments received from the public at the end of the comment period, in its revision of the EE/CA. This would have been inconsistent with CERCLA's public participation goals. EPA has yet to respond to our July 2, 1990 request for reconsideration.

As I indicated, we take our responsibilities under the Consent Agreement and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) very seriously. We intend to continue adhering strictly to the requirements and procedures

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agreed to in the Consent Agreement. More specifically, we have been using our best efforts to consider all public comments on the EE/CA's proposed alternatives, prepare a responsiveness summary, and revise the EE/CA after evaluation of comments. In this regard, the DOE distributed copies of comments (including EPA's) immediately upon receipt to persons working on this effort for their review. We based our initial request for 45 days upon a good faith estimate of the time required to complete the tasks of comment evaluation and response, and subsequent revision of the EE/CA. The 15-day extension simply did not afford the time necessary; we received some comments at the end of the extended comment period. I trust that once you review the preliminary draft response to EPA's comments sent to Ms. McCord on July 2, 1990 you will find DOE's best efforts to meet the deadline satisfactory and you will agree to the originally requested 45-day extension, thus ending the informal dispute at this stage.

Please call me at FTS/774-6319 if you wish to discuss this matter further.

Sincerely,



Gerald W. Westerbeck
FMPC Site Manager

Enclosure:As stated

cc w/o encl.: L. P. Duffy, EM-1
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