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**CONCERNS DOE FAILURE TO EXERCISE  
CERCLA ACCESS AUTHORITIES**

07/09/90

**USEPA/DOE-ORO  
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LETTER**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 1907

REGION 5

230 SOUTH DEARBORN ST.  
CHICAGO, ILLINOIS 60604

JUL 09 1990

REPLY TO THE ATTENTION OF:  
5RA-14

Mr. Joe LaGrone  
Manager  
United States Department of Energy  
Oak Ridge Operations  
P.O. Box 2001  
Oak Ridge, Tennessee 37831-8501

Dear Mr. LaGrone:

On June 29, 1990, the United States Environmental Protection Agency (U.S. EPA) notified the United States Department of Energy (U.S. DOE) that the new Consent Agreement under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for the Feed Materials Production Center is effective. Based on our oversight of U.S. DOE's compliance with the Consent Agreement, we have already identified two areas in which U.S. DOE is currently out of compliance. I am very concerned about this, and am bringing this to your personal attention for the necessary action.

U.S. DOE has failed to exercise CERCLA access authorities in accordance with the requirements of Section XXVIII of the 1990 Consent Agreement. The Consent Agreement requires that if voluntary access is not obtained within thirty (30) days of the approval of any work plan, Engineering Evaluation/Cost Analysis (EE/CA), or proposal that requires access to properties not owned or leased to U.S. DOE, U.S. DOE is required to refer the matter to the United States Department of Justice for the appropriate judicial process. U.S. DOE has failed to develop the required referral for the Century Farms property in order to gain access for the installation and continued sampling of groundwater monitoring wells and the sampling of existing water supply wells. Historically, U.S. DOE's failure to exercise the delegated access authorities has resulted in delays in the remedial investigation and feasibility study work. The procedures required by the Consent Agreement were developed in order to minimize additional delays.

U.S. DOE is also in violation of Section IX(C) of the Consent Agreement. On April 16, 1990, U.S. DOE submitted a EE/CA for removal response action #3 to address the south groundwater contamination plume. U.S. EPA disapproved this document and provided extensive comments in a letter dated May 17, 1990. U.S. DOE was required to address U.S. EPA's comments in a revision that was due June 17, 1990. On June 14, 1990, U.S. DOE requested a 45-day extension for submission of the revised EE/CA. On June 19, 1990, U.S. EPA granted a 15-day extension to July 2, 1990. On July 2, 1990, U.S. DOE repeated a request for the 45-day extension. U.S. DOE has failed to comply with document revision requirements of Section IX(C) of the 1990 Consent Agreement.

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Date Rec'd JUL 16 1990

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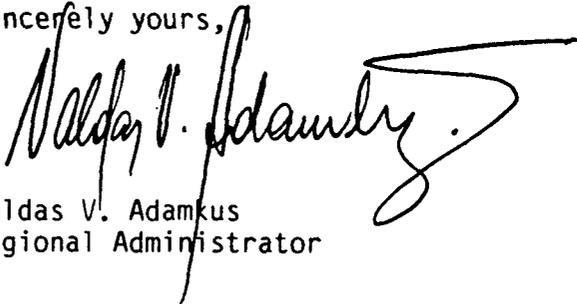
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U.S. EPA considers any violation of the 1990 Consent Agreement to be very serious. The above violations, the use of access authorities and the completion of documents, have been chronic U.S. DOE problems in the past. 1907

I encourage U.S. DOE to resolve this situation expeditiously. I would welcome a meeting with you in Chicago to discuss this matter and the further implementation of the Consent Agreement. Please call me to discuss this further.

Sincerely yours,



Valdas V. Adamkus  
Regional Administrator