

Subject: Rejection of Extension Request for Regulatory Milestone
From: Martin McBride 2/15/94 9:20 PM
To: Donald Pearman at EM
To: Willis Bixby at EM
To: Roger Whitfield at EM
cc: Ralph Lightner at EM
cc: Autar Rampertaap at EM
cc: Jeffrey Ciocco at EM
cc: Mark Silverman at RFO-01
cc: Frazer Lockhart at RFO-01
cc: Richard Schassburger at RFO-01
cc: Leanne Smith at RFO-01

Earlier this evening, EPA and the Colorado Department of Health notified DOE:RFO that they rejected a DOE request to modify a workplan and extend two milestones for Operable Unit 8 in the Interagency Agreement (IAG). In rejecting the request, the agencies stated that DOE is in violation of the IAG.

There may be substantial civil penalties associated with this action, i.e., \$5,000 for the first week in violation and \$10,000 for each week thereafter. The next step in the process is for DOE to invoke ~~the~~ formal dispute with the agencies within 14 days.

RFO had asked the agencies ~~to~~ to modify the workplan for Operable Unit 8 (OU-8) and to extend two milestones for submittal of the draft and final RFI/RI Reports. Our justifications include:

- The need to modify the OU-8 workplan to account for areas that are likely to be disturbed by future transition and D&D activities. The OU-8 area is within the industrial area of the plant, adjacent to process buildings. We believe that continuing under the current plan does not make sense because it would have us characterize areas that are likely to be disturbed by future building transition and D&D activities.
- Funding prioritization decisions made in past years which directed limited Environmental Restoration funding to higher priority OU's at Rocky Flats.

The regulatory rejection was based in part on their perception that:

- DOE failed to secure adequate funding under the terms of the IAG,
- A unilateral decision was made to allocate no funding to OU-8 for RFI/RI implementation, and
- Insufficient data to justify the work plan modification was supplied with the DOE request.

This issue was categorized as an Unusual Occurrence and reported via the normal reporting channels this evening. I will followup with an issue paper tomorrow,

in accordance with the Secretary's August 18, 1993 guidance on reporting enforcement actions. Please contact me at (303) 966-3457 if you need additional information.

Martin McBride

Acting Assistant Manager
for Environmental Restoration,
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