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Department of Energy

ROCKY FLATS OFFICE
P.O. BOX 928
GOLDEN, COLORADO 80402-0928

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EG&G 92-DOE-5798
ROCKY FLATS PERMIT
CORRESPONDENCE CONTROL

ACTION

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BENJAMIN, A.		
BERMAN, H.S.		
BRANCH, D.B.		
BURLINGAME, A.H.		
CARNIVAL, G.J.		
COPP, R.D.		
CROUCHER, D.W.		
DAVIS, J.G.		
EVERED, J.E.	X	
FERRERA, D.W.		
GOODWIN, R.		
HANNI, B.J.		
HEALY, T.J.		
HILBIG, J.G.		
IDEKER, E.H.		
KERSH, J.M.	X	
KIRBY, W.A.		
KRIEG, D.		
KUESTER, A.W.		
LEE, E.M.		
MAJESTIC, J.R.		
MARX, G.E.		
MORGAN, R.V.		
PIZZUTO, V.M.		
POTTER, G.L.		
SANDLIN, N.B.		
SHEPLER, R.L.		
SULLIVAN, M.T.		
SWANSON, E.R.		
TALLMAN, K.G.		
WIEBE, J.S.		
WILKINSON, R.B.		
WILSON, J.M.		
YOUNG, E.R.		
ZANE, J.O.		

Mr. Fred Dowsett
Monitoring and Enforcement
Hazardous Material and Waste
Management Division
Colorado Department of Health
4210 East 11th Avenue
Denver, Colorado 80220

Dear Mr. Dowsett:

The U.S. Department of Energy (DOE) Rocky Flats Office and EG&G Rocky Flats, Inc. (EG&G) acknowledge receipt of the Notice of Violation (NOV) No. 92-05-22-01 dated May 22, 1992, from the Colorado Department of Health (CDH) regarding the Draft Phase I RFI/RI Work Plan for Operable Unit No. 8 (OU 8)-700 Area. DOE and EG&G were disappointed to receive a NOV under the Resource Conservation and Recovery Act (RCRA) Part B permit on a "draft" document submitted to meet a milestone under the Interagency Agreement (IAG). This draft document was submitted in good faith to meet a milestone and anticipated comments by both CDH and the U.S. Environmental Protection Agency (EPA) prior to finalization and submission in final on September 28, 1992. In addition, of the four "deficiencies" cited by CDH in the NOV, three were identified in the transmittal letter of the document to CDH by DOE. It seems more appropriate to us to use the processes identified in the IAG as the vehicle to resolve any conflicts on milestone submissions rather than resorting to a RCRA Part B permit NOVs.

At this time, DOE would like to separate the substantive issues pertaining to the document, which were cited as "deficiencies" by CDH, from any acquisition problems CDH and EPA may perceive. In accordance with Part 12, paragraph 92 of the IAG, DOE hereby notifies you of its objection to the inappropriate issuance of the NOV as the means to advocate discontent with DOE's acquisition process. As provided in the aforementioned provisions of the IAG, DOE seeks to invoke the dispute resolution process.

Notwithstanding the invocation of dispute resolution, DOE and EG&G are eager to work with CDH to resolve the issues presented by the State in the NOV. In the spirit of cooperation as embodied in the IAG, the State may opt to stay dispute resolution invocation subsequent to an opportunity for a meeting of the parties to informally discuss and resolve any misunderstandings that may exist.

Regarding CDH's averment of "deficiencies" in the draft Work Plan, DOE will respond by June 22, 1992, in accordance with the NOV requirements in the following manner. In regard to the first "deficiency" cited in the NOV, changes to Individual Hazardous Substance Site (IHSS) location configurations have been proposed in the OU 8 Draft Work Plan from the most recent information available in the Draft Historical Release Report (HRR). The most recent changes to IHSS location configurations may not yet have been transmitted to CDH and EPA because the OU 8 Draft Work Plan and the HRR have been developed on a parallel schedule. It was the goal to have both be consistent. IHSS location configuration will be confirmed, especially regarding IHSS 123.3, 150.6, and 144N.

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In regard to the three remaining "deficiencies" cited in the NOV, compilation of Rocky Flats Environmental Data System data has been completed. Review and evaluation of the existing data and subsequent summary into the Work Plan will be incorporated and utilized to support Data Quality Objectives (DQO). The Field Sampling Plan will be revised to support DQOs based on existing information. Presentation of proposed sample locations will be presented in IHSS maps to provide better clarity.

We must note, however, that although it is our intention to provide the additional information required by CDH, it is also our belief that the "deficiencies" cited by CDH were not properly the subject of an NOV. With regard to the first "deficiency" identified by CDH, we used more current information in the OU 8 Draft Work Plan than that contained in the earlier Draft Historical Release Report sent to CDH, since the current information was judged to be more accurate. Moreover, with regard to the remaining issues, it is EG&G's belief that the Draft Work Plan, as submitted, was entirely consistent with the understandings EG&G reached with CDH and EPA on these same issues at the OU 8 Scoping Meeting of April 16, 1992.

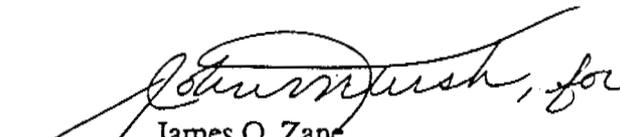
We would therefore request a meeting with CDH to discuss averred "deficiencies" in the OU 8 Draft Work Plan and any concerns with the acquisition process. We believe that the IAG establishes an effective procedural framework through which the parties may appeal differences related to the IAG and its milestones. We prefer in the future that the parties resolve, in accordance with the processes outlined in the IAG, any conflict arising from IAG milestones.

Sincerely,



Terry A. Vaeth
Manager

U.S. Department of Energy, RFO



James O. Zane
General Manager
EG&G Rocky Flats, Inc.

F. Dowsett
92-DOE-5798

3

JUN 05 1992

cc:

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