

102694-9

Department of Energy



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

OCT 20 1994

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EC&G
ROCKY FLATS PLANT
CORRESPONDENCE CONTROL

94-DOE-10843

DIST. LTR ENC

JRLINGAME, A.H.		
JSBY, W.S.		
JRNIVAL, G.J.		
JRDOVA, R.C.		
JVIS, J.G.		
JRRERA, D.W.		
JAY, R.E.		
JIS, J.A.		
JOVER, W.S.		
JLAN, P.M.		
JANNI, B.J.		
JALY, T.J.		
JDAHL, T.G.		
JBIG, J.G.		
JTCHINS, N.M.		
JCKSON, D.T.		
JLL, R.E.		
JESTER, A.W.		
JARX, G.E.		
JDONALD, M.M.		
JKENNA, F.G.		
JRGAN, R.V.		
JZUTO, V.M.		
JOTTER, G.L.		
JNDLIN, N.B.		
JTTERWHITE, D.G.		
JHUBERT, A.L.		
JHWARTZ, J.K.		
JTLOCK, G.H.		
JIGER, S.G.	X	
JBIN, P.M.		
JORHEIS, G.M.		
JLSON, J.M.		
JOWDERY, C	X	
JHOLLOWELL, L	X	

Mr. Joe Schieffelin, Unit Leader
Hazardous Waste Facilities
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80222-1530

Dear Mr. Schieffelin:

The Department of Energy (DOE) received your response to our proposed settlement language for the Operable Unit No. 9 dispute. We believe that we can come to agreement on one issue at this time. We, therefore, propose that it is appropriate to separate the two issues regarding the two separate tank sets, and to settle the issue upon which we agree, while elevating the issue surrounding the active RCRA tanks pursuant to Part 12 of the Interagency Agreement (IAG).

In regard to tanks T-8 and T-9, it appears that your proposed language is largely consistent with the language in our October 7, 1994, proposal. One notable exception is the issue of ancillary equipment. This issue had not been previously raised in our communications, meetings, or correspondence. We believe it has been clear that such equipment is to be investigated separately under the Technical Memorandum 1 (TM 1) Volume 2, which will address the pipelines. TM 1 Volume 1 clearly stated that pipelines would be dealt with separately in TM 1 Volume 2. The segregation of tanks from pipelines was necessary to expedite the tank investigation since additional data was needed to supplement the available pipeline data. Consistent with your counterproposal, DOE will submit an investigation plan that will address the T-8 and T-9 tanks. Your counterproposal also included two separate plans for investigation of the tanks. In the interest of efficiency, however, we intend to supply the information in one plan. I have revised and signed the enclosed counterproposal language, which I believe settles this dispute with respect to these tanks. If you concur with the resolution language for tanks T-8 & T-9, please sign the enclosed resolution and return a copy to me.

As to the issue of tanks T-24 and T-32, your counterproposal language is not acceptable. In our meeting and various telephone conversations, I understood that supplying you with the information demonstrating the RCRA status of these tanks would suffice to render investigation of these tanks under the IAG as an unnecessary activity until such time that the tanks become inactive. In response to your request, we have documented the active RCRA permit status of these tanks, and therefore do not intend to prematurely investigate these tanks under the IAG. Since resolution of issues regarding tanks T-24 and T-32 is not seemingly in the offing, we agree with you that immediate elevation of this portion of the dispute to the Dispute Resolution Committee (DRC) should occur. This letter, with our previous correspondence and RCRA status information (enclosed), serves as DOE's portion of the written statement to the DRC describing the issues underlying the dispute and attempts at resolution.



RCVD. W/O ENC

CORRES. CONTROL	X	X
DMN RECORDS	X	X
ATS/T130G		

Reviewed for Addressee
Corres. Control RFP

10-24-94
DATE BY

Ref Ltr. #

DOE ORDER # 5400.1

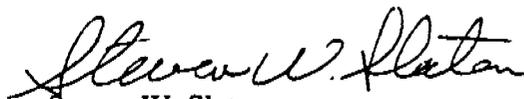
Joe Schieffelin
94-DOE-10843

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OCT 20 1994

We seek your concurrence on the T-8 and T-9 resolution. If, however, we cannot reach agreement via your concurrence, immediate elevation to the DRC should occur for issues regarding both sets of tanks.

Sincerely,



Steven W. Slaten
IAG Project Coordinator
Environmental Restoration

Enclosure

cc w/o Enclosure:

M. Hestmark, EPA
M. Silverman, OOM, RFFO
L. Smith, OOM, RFFO
J. Roberson, AMER, RFFO
D. Ruscitto, AMOW, RFFO
D. Brockman, AMES&H, RFFO
F. Lockhart, ER, RFFO
R. Schassburger, ER, RFFO
S. Slaten, ER, RFFO
R. Sarter, ER, RFFO
M. Roy, OCC, RFFO
J. Burd, SAIC
S. Stiger, EG&G
C. Cowdry, EG&G

Resolution by Interagency Agreement Project Coordinators of OU 9 Dispute October 20, 1994

Issues:

The approved Operable Unit (OU) 9 Work Plan (Section 7.1) indicated that tanks and pipelines which are active waste management units would not be included in the scope of work because these structures and associated soils would be addressed at the time of closure in accordance with the Resource Conservation and Recovery Act (RCRA) Part B Permit Application. The work plan also indicated that some units could not practically be investigated at this time due to the potential for disruption of Rocky Flats Plant operations.

The proposed investigation in the Draft Final Technical Memorandum 1 (TM) that discussed the investigation of the OU 9 tanks included deferral of the investigation of actively permitted tanks such as T-24 and T-32. The TM also included deferral of investigation of the active unpermitted tanks such as T-8 and T-9 because investigation of these tanks would be disruptive of plant operations and wasteful of funds.

Colorado Department of Public Health and the Environment (CDPHE) subsequently disapproved the TM proposal to defer investigations of the T-8, T-9, T-24, and T-32 tanks. The Department of Energy (DOE), on September 8, 1994, invoked dispute resolution pursuant to Part 12 of the Interagency Agreement (IAG). The DOE disputed the decision of CDPHE based on the addition to the scope of work.

Background:

In 1980, the DOE submitted a protective RCRA Part A Application which included all of the tanks and pipelines in the Original Process Waste Lines (OPWL) system. The T-8, T-9, T-24, and T-32 tanks were included in that application by association with the OPWL. The T-8 and T-9 tanks were used for a variety of purposes including laundry and process water retention. This use ceased in the early 1980s and no RCRA closure was obtained for the tanks. The tanks are now used for plenum deluge retention in support of the plant vital safety systems.

The T-24 and T-32 tanks were used for process water retention and are still used for that purpose. These tanks were included in Revision O of the Rocky Flats Plant Part B Permit Application submitted to the regulatory agencies on or about November 26, 1986. The associated Part A Permit Application specifically identifies Unit 40, in particular Unit 40.20 through 40.26, which is Process Waste Tank, T-24. The Facility Description Section of the Part B Permit Application, Page I-125, identifies Unit 40.20 through 40.26 (T-24) and the associated below grade sump, which is T-32.

In accordance with the IAG, the Final Phase I RCRA Facility Investigation/Remedial Investigation (RFI/RI) Work Plan for OU 9, which includes all of the OPWL, was submitted to the regulatory agencies in February 1992 and was subsequently approved by those agencies. The work plan indicated that tanks and pipelines which are active waste management units would not be included in the scope of work because these structures and associated soils would be addressed at the time of closure in accordance with the RCRA Part B Permit Application (Section 7.1). The work plan also indicated that some units could not practically be investigated at this time due to the potential for disruption of Rocky Flats Plant operations.

The TM that discussed the investigation of the OU 9 tanks that are located outside of large buildings was submitted on March 15, 1994 to the regulatory agencies for review and

approval. CDPHE subsequently disapproved the proposed deferral of investigations of the T-8, T-9, T-24, and T-32 tanks.

The DOE on September 8, 1994 disputed the decision of CDPHE. The DOE, CDPHE and EPA held a dispute resolution meeting at the IAG Coordinator level on September 19, 1994. In that meeting DOE agreed to provide the permit status of the T-24 and T-32 tanks to CDPHE. These tanks were included in a permit application as evidenced in the attached documents. These documents were received by the regulatory agencies as evident by the date receipt stamps on letters and permits. Tanks T-24 and T-32 are currently operated under RCRA interim status and receive and are intended to continue receiving laboratory wastewater. Tanks T-24 and T-32 are part of the wastewater treatment system at the Rocky Flats Environmental Technology Site.

The DOE determined, as referenced in our letter of August 5, 1994, that the T-8 and T-9 tanks were included in a RCRA Part A application of 1980 and, thereby, had interim status. The DOE in the August 5 letter proposed to submit a closure plan and conduct a RCRA closure for these tanks. CDPHE, as referenced in their letter of August 22, 1994, "recognized that the Original Process Waste Lines and affiliated tanks are a complex system with a diverse regulatory history." CDPHE, in that letter, rejected the proposal by the DOE to conduct a RCRA closure of these tanks and took the position that the investigation of these tanks be conducted under the authority of the IAG.

Resolution:

As part of this resolution, DOE, CDPHE and EPA IAG Coordinators agree to the following:

1. To bifurcate the two separate tank set issues of dispute and resolve those issues in which the IAG Coordinators are in agreement and elevate to the Dispute Resolution Committee (DRC) those other issues in which the IAG Coordinators are not in agreement. Specifically, the T-8 and T-9 issues are resolved as indicated in item 3 below and the T-24 and T-32 issues are elevated to the DRC.
2. As of the execution date of this dispute resolution, CDPHE grants full and unconditional approval of Technical Memorandum 1 to the Phase I RFI/RI Work Plan for Operable Unit 9.
3. In accordance with the IAG, DOE will submit a plan to complete investigation of tanks T-8 and T-9 within 90 days of the execution of this dispute resolution. This plan shall include investigation of the soil, groundwater water, and tanks similar to that which was proposed for other tanks in the OU9 TM 1 (e.g., investigation of both the surface and subsurface soils above and in the vicinity of the tanks; investigation of the groundwater if encountered in boreholes from which subsurface soil samples are obtained; an external inspection of the tanks if accessible; an internal inspection of the tanks; and an investigation of the internal residue with wipe samples or rinse and rinsate sampling). The investigation will be conducted within 18 months of the execution of this dispute resolution. An 18 month period is necessary to allow continuation and prevent disruption of vital safety systems operations. The DOE Operations Division, therefore, will investigate contingencies for feasible alternative containment, if needed.

Steven W. Slaten
Interagency Agreement Coordinator, DOE

Date

Joe Schieffelin
Unit Leader, CDPHE

Date

Martin Hestmark
RFP Manager, EPA

Date