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CORRESPONDENCE CONTROL
INCOMING LTR NO.

Department of Energy

2403 RF 92

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

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APR 28 1992

92-DOE-4405
ROCKY FLATS PLANT
CORRESPONDENCE CONTROL

ACTION	DIST.	LTR	ENC
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.	XX		
FERRERA, D.W.			
GOODWIN, R.	XX		
HANNI, B.J.			
HEALY, T.J.			
HILBIG, J.G.			
IDEKER, E.H.			
KERSH, J.M.	XX		
KIRBY, W.A.			
KRIEG, D.			
KUESTER, A.W.			
LEE, E.M.	XX		
MAJESTIC, J.R.			
MARX, G.E.	XX		
MORGAN, R.V.	XX		
PIZZUTO, V.M.	XX		
POTTER, G.L.			
SANDLIN, N.B.			
SHEPLER, R.L.			
SULLIVAN, M.T.			
SWANSON, E.R.			
TALLMAN, K.G.			
E. J.S.			
INSON, R.B.			
WILSON, J.M.			
YOUNG, E.B.			
ZANE, J.O.			
McKenna G	XX		
Shubert A	XX		

Mr. Jack McGraw, Acting Regional Administrator
U.S. Environmental Protection Agency
Region VIII
999 18th Street, Suite 500
Denver, CO 80202-2405

Dear Mr. McGraw:

As you know, the U.S. Department of Energy (DOE), Rocky Flats Office (RFO) entered into a Federal Facility Compliance Agreement (known as "FFCA II") with the U.S. Environmental Protection Agency (EPA) on May 10, 1991, to address alleged noncompliance at the Rocky Flats Plant (RFP) regarding the storage of mixed wastes that are restricted from land disposal under the Resource Conservation and Recovery Act (RCRA). The purpose of this letter is to formally request, per the terms of FFCA II, that "Thirds" mixed wastes (as referred to in the RCRA Land Disposal Restriction [LDR] regulations) generated and stored at RFP be considered as covered wastes under Chapter IV., Paragraph 10. of FFCA II.

Barring action by EPA Headquarters, Thirds wastes placed into storage at RFP after May 8, 1992, would be prohibited LDR wastes and subject to the storage restriction. The DOE has applied to EPA for an extension of the LDR effective date for Thirds wastes at DOE facilities. At this time, it is uncertain what the final determination will be on this application; it appears, however, that such a determination will not be made until after May 8, 1992. As of this date, Rocky Flats will not have in place facilities to treat Thirds wastes so as to bring them into compliance with applicable LDR requirements, prompting our request that these waste forms be specifically addressed in FFCA II.

To accomplish this, we propose to invoke the provisions of FFCA II at Chapter VI. Paragraph 16.A.(7). which states:

"for newly identified LDR storage wastes in the APR (Annual LDR Progress Report), DOE shall request that EPA approve the inclusion of such wastes in this Agreement as covered wastes."

The waste forms at RFP that qualify as Thirds are found on the enclosed list, to assist you in your determination in this matter. As specified in FFCA II, all these waste forms are addressed in the Annual LDR progress Report submitted to your office on March 31, 1992. Additionally, our operating contractor (EG&G Rocky Flats) has analyzed the wastes likely to be produced and stored at RFP after May 8, 1992, and believes that the attached list, to the best of their knowledge, encompasses all those Thirds wastes likely to be placed into storage after that date. The inclusion of Thirds wastes in the Progress report reflects our belief that such wastes would eventually be included under FFCA II, and our desire that this inclusion take place. Thirds wastes are also being addressed in the Comprehensive Treatment and Management Plan which will be submitted under FFCA II, as well as the programmatic activities that support this Plan, demonstrating our intention to incorporate Thirds wastes as part of our overall, ongoing LDR waste management efforts.

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Reviewed for Addressee
Corres. Control RFP
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DATE BY

ADMIN RECORD

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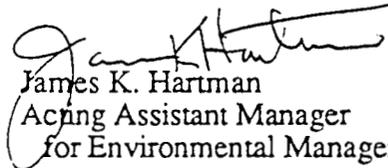
APR 28 1992

Finally, in an effort to assure that Thirds wastes are unambiguously covered as a class in FFCA II, my staff has prepared proposed amendments to FFCA II, a copy of which is also enclosed. These proposed amendments include a change to FFCA II at Chapter IV, Paragraph 10. ("Covered Matters") to explicitly include Thirds mixed wastes, and a change at Chapter XVII, Paragraph 69. for consistency. We ask that your staff review these proposed amendments for inclusion in FFCA II. We would additionally be willing to discuss other FFCA II amendments in which your office might be interested. Since we have invited the State of Colorado to resume LDR negotiations (see enclosed letter) we feel that it would be timely to discuss with EPA further revision to FFCA II. We will of course keep your office informed of the status of LDR negotiations with the State and work with you to determine the most appropriate and productive role for EPA in these negotiations.

Thank you for your consideration of our request. Since there is little time remaining until the May 8, 1992, deadline, we ask that your office respond to our request as soon as possible. Additionally, I suggest that we meet personally, at your convenience, to discuss these and other issues surrounding LDR compliance at Rocky Flats Prior to the May 8, 1992, deadline. Please call me if you would be interested in such a meeting.

If you have any questions or would like more information on this matter, please do not hesitate to call me or have your staff call Tom Lukow of my staff at 966-4561.

Sincerely,


James K. Hartman
Acting Assistant Manager
for Environmental Management

Enclosures

cc w/o Enclosures:
T. McCall, Jr., EPA, HQ
J. Sowinski, CDH
D. Miller, Co. Attorney General's Office
M. Hestmark, EPA
L. Duffy, EM-1
E. Livingston, EM-1
G. Patton, EM-2
J. Lythe, EM-30
P. Bubar, EM-323
L. Stevens, EM-331
D. Louison, CP-30
D. Ruge, GC-11
M. Stone, EH-221
T. Lukow, WMED, RFO
J. Rampe, WPB, RFO
M. Roy, OCC, RFO
J. Kersh, EG&G
G. McKenna, EG&G

~~Proposed amendment to FFCA II at Chapter IV, Paragraph 10:~~

IV. COVERED MATTERS

10. Except as specifically set forth elsewhere in this Agreement, this Agreement shall only apply to the LDR requirements pertaining to past and on-going generation, accumulation, storage, and treatment of:

- (1) the hazardous waste portion of radioactive mixed waste;
- (2) the hazardous waste portion of mixed residues; [and]
- (3) certain non-radioactive hazardous wastes as described in paragraph 18 (Non-radioactive Hazardous Waste Shipping Schedule); *and*
- 4) *the hazardous waste portion of radioactive mixed wastes or mixed residues containing wastes classified as "Thirds" within the LDR regulations (55 Fed. Reg. 22520, June 1, 1990), and which are placed into storage after May 8, 1992 (If an extension is granted by EPA altering the May 8, 1992, date, "Thirds" wastes placed into storage after the expiration of the extension granted by EPA will be covered by this Agreement);*
at the RFP which are subject to the LDR prohibitions and which do not meet LDR treatment standards. *The wastes described in this paragraph, [These wastes,] including mixed residues, are referred to herein as "covered wastes".*

Proposed amendment to FFCA II at Chapter XVII, Paragraph 69:

XVII. COVENANT NOT TO SEEK CIVIL
ENFORCEMENT ACTION AND RESERVATION OF RIGHTS

69. In recognition that DOE is currently storing and will continue to generate and store radioactive mixed wastes *referred to as "covered wastes" in Chapter IV., Paragraph 10. of this Agreement* [contain solvent waste and California list waste subject to the land disposal restrictions of RCRA (referred to in this section as "covered wastes")] at those units known to EPA as of the effective date of this Agreement, and, for those units subsequently approved by EPA as covered units as provided for in Paragraph 16.A of this Agreement.

Proposed additions or modifications to the original text of FFCA II are shown in italics; original text proposed to be deleted appears in brackets.

THIRD-THIRD WASTE FORMS

<u>Waste Category</u>	<u>Rad Class</u>	<u>EPA Codes</u>	<u>Gen. Rate-m³/mo</u>		<u>m³ Inventory</u>
			<u>1990/91</u>	<u>Avg.</u>	
Analytical Lab Solutions	LLM	D002, D007	0.62		0.63
Beryllium Fines	LLM	P015	0.21		1.22
Excess Chemicals	LLM	D001	0.41		0.41
Glovebox Parts with Lead	LLM	D008	0		0.38
Ground Glass	LLM	D008, D009	1.15		3.36
Heavy Metal, Non-SS	LLM	D008	0		1.45
Lead	LLM	D008	3.76		30.20
Leaded Gloves	LLM	D008	1.36		2.52
Leaded Gloves (Acid Contam.)	LLM	D008	0		0.23
Paints	LLM	D001	0		0.38
Particulate Sludges	LLM	D001	0.21		0.41
Sand from BBO	LLM	D003, D007	0		0.23
Silver Nitrate	LLM	D001, D002, D011	0		0.84
Ground Glass	TRM	D008, D009	0		0.23
Heavy Metal	TRM	D008	0		5.66
Lead	TRM	D008	1.35		3.14
Leaded Gloves	TRM	D008	3.85		20.19
Leaded Gloves (Acid Contam.)	TRM	D008	3.87		25.39

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SWEC GOLDEN CO.

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THIRD-THIRD WASTE FORMS

(CONT.)

<u>Waste Category</u>	<u>Rad Class</u>	<u>EPA Codes</u>	<u>Gen. Rate-m³/mo</u>		<u>m³ Inventory</u>
			<u>1990/91</u>	<u>Avg. 1991</u>	
Misc. Pu Recovery By-Products-Crucibles	TRM	D003	0		0.61
Misc. Pu Recovery By-Products-Salts	TRM	D003, D007	0		9.56
Sand Slag & Crucible	TRM	D003, D007	0		12.92
Solidified Lab Waste	TRM	D007	0.40		1.22

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SWIS GOLDEN CO.

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