

EPA COMMENTS

We have reviewed the October 8, 1993 version of "An Analysis of the Potential for Redirection of the Rocky Flats Environmental Restoration Program" (The SPIRIT Report). Our comments on some important aspects of this document follow. In general, we find this to be a commendable effort. We will cooperate in any way possible to see that it continues and evolves into an effective, efficient, and implementable ER program.

GENERAL COMMENTS

I. Revised Approach (Section 1.2)

1. We concur completely that IM/IRA's have been taking too long to develop and execute. We do not think the record supports DOE's contention that this is the result of slow reviews by EPA and CDH. Internal EG&G/DOE requirements, many of little if any value, are what have generally held up the process.

2. Statements to the effect that EPA requires a full risk assessment as part of IM/IRA's are incorrect. Where appropriate, risk can be used as one factor in IM/IRA decisions. Risk analysis is not always required. Conversely, a rudimentary calculation showing low risks is not necessarily a valid reason for refusing to take an action, as DOE has done. The potential for migration and other factors must be considered as well.

3. We support the concept of a "Sitewide" IM/IRA under which numerous similar early actions could be taken as the need and opportunity arises. Administrative mechanisms for such an approach are available, and could be explored any time DOE chooses to initiate the process. PEAs must include appropriate levels of public involvement. Under the NCP, non-time critical removals utilize the public involvement process found in 40 CFR 300.415. Further discussion among all parties may be necessary to resolve possible legal issues raised by the proposed approach.

II. Major Assumptions (Section 1.3)

1. There appears to be some confusion and misunderstanding over what a "baseline" risk is, how it is calculated, and what role risk values play in decision making. While the use of "post removal" numbers in a "baseline" risk assessment is allowable if circumstances warrant, that is not the usual procedure. This approach often fails to establish an adequate basis for evaluating the efficacy of such actions. We prefer that "credit" for early risk reduction be applied against a pre-action baseline in making final remedial decisions. Further, the assumption that use of a "baseline" which moves as Early Actions are completed will naturally lead to more "no action" final RODs may be

erroneous in many cases. Our concern here is that this assumption may steer the analysis too strongly toward the "dig it up and drum it" approach to early actions when better and cheaper early actions which do not incur the additional risk of long-term storage may be available.

2. Cleanup to levels that facilitate a desired end-use as determined by consensus of interested parties is consistent with CERCLA. DOE's evident belief that EPA will insist on cleanup to levels required for unrestricted use despite any such end-use decisions has no basis in fact.

3. Legal and administrative mechanisms are available whereby investigation and early action wastes at CERCLA sites could be stored and/or treated and disposed of on site without violation of federal statutes. We concur that it makes no sense to proceed with actions which produce large waste quantities until and unless adequate facilities are available for processing and disposal. DOE must take the lead in alleviating these problems, including development of treatment technologies to minimize disposal requirements. We will try to help clear obstacles to expanding treatment/storage/disposal capacity.

III. Other Planning and Productivity Initiatives (Section 2.3)

1. It appears there has been some difficulty in communication between the SPIRIT team and the participants in the other initiatives mentioned. The savings attributed to peer review and the resulting elimination of "unnecessary" investigations are illusory; savings compared to what? Several of the items listed as focus issues for the QAT (ponds, risk, and site use) were not addressed by that body.

2. The glowing review given to the sitewide EIS and the NEPA process rings hollow, particularly in light of later sections which correctly point out several basic problems with this same process. The fact that DOE thinks people are "comfortable" with NEPA falls pitifully short of providing a justification for perpetuating the duplicative and counter-productive application of NEPA to the ER program. The failure to obtain a CX (an internal DOE decision) and the resulting delay in establishing storage for the IDW is an excellent case in point for inappropriate application of NEPA by DOE on DOE.

IV. The IAG (Section 3.1)

1. While it is true that EPA comments often resulted in increased RI scope, much of the increase in scope and extension of schedules experienced since the IAG was signed resulted from DOE and EG&G imposing inappropriate standards and irrelevant bureaucratic requirements on themselves and their contractors. This plan asserts that the IAG requires "major schedule and/or

procedural modifications" to account for the fact that "the processes for accomplishing work at RFP have become more complex". We suggest that an aggressive effort to simplify the RFP "processes" would be a much more useful endeavor. Continuing to regard these "processes" as immutable, severely limits possibilities for streamlining the cleanup program.

2. EPA, as a signing party, does not "recognize that the IAG is outdated". Rather, we second your conclusion that the IM/IRA-centered approach suggested in this plan could be accommodated within the existing agreement. The fact that the agreement has not lived up to its potential derives mainly from failures in commitment and execution. Foremost among these failures, and the root cause of many other problems, is the failure to control costs, be accountable for budgets, and request adequate funds.

3. Modifications to the agreement may well be beneficial in some instances. The suggestions presented here warrant further consideration: We will be pleased to establish and participate in an appropriate forum for such discussions. A fundamental aspect of these discussion must be expanding the agreement to, as SPIRIT suggests, "reflect the new mission" by which we assume you mean including transition/D&D.

V. Waste Storage (Section 3.2)

1. DOE says they will need to build large new storage cells to accommodate waste generated by PEAs. While this may be so, an accurate and timely waste characterization and/or setting a BRC standard for radionuclides may significantly ease this problem. Spending huge sums to store dirt is not good.

2. If additional waste storage units must be constructed for any significant cleanup to occur at RFP, it makes sense to site them at RFP. Public objections to any waste reconfiguration at RFP will present problems, but EPA supports consideration of long-term waste storage and/or disposal on site to relieve the waste disposal squeeze.

3. If retrievable waste cells are constructed for on-site storage of waste, the storage must be factored into the comprehensive risk assessment. The risk associated with storing indefinitely in temporary storage units may be greater than leaving contamination as is.

VI. Future Land Use (Section 3.3)

1. Those who harbor "the perception that final remedial actions that do not meet...a residential risk assessment scenario cannot be pursued" are misinformed, and confusing risk assessment with risk management. There is no statutory provision, regulatory

requirement, or policy statement on which to base such a "perception". There is no need to joust with windmills; there are plenty of real giants out there.

2. Future land use is, in our opinion, correctly identified as a major issue needing immediate attention. EPA supports an appropriate group conducting the necessary analysis. DOE must take responsibility for ensuring it happens. We are concerned that there are at least four groups or studies addressing this: (1) the SWEIS is looking at future land and facility use; (2) the CRA has as a major land use analysis task for the specific purpose of defining the reasonable maximum exposure scenario; (3) the Local Impacts Initiative is out of the planning stages and ready to begin their own analysis; and (4) apparently there is some kind of land use site model being used in the IPP. We would like to see these efforts consolidated and money saved.

VII. Reclassification of IHSSs (Section 4.2)

1. In one case, the suggestion is made that IHSSs be grouped into new OUs by remedial action type and/or location. We disagree this approach will help accelerate schedules, and find it contradictory with the basic plan to reclassify IHSSs by their potential for a NFA or PEA.

2. We have been and will continue cooperating with efforts to link ER work logically to Transition/D&D. It seems obvious that the universe and nature of IHSSs needs to be revised to accommodate the new activities. If we were involved in the transition/D&D process, this would be much easier.

3. One of the primary concerns with this proposal is that there is insufficient field characterization data for the majority of IHSSs upon which to base NFA/PEA decisions. As we have seen in several instances, IM/IRAs have been implemented only to find concentrations of contaminants much lower, or higher, than expected. For a small percentage of IHSSs, no further action might be warranted, but in most cases, the historical release information is very sketchy and unreliable.

VIII. Budget/Schedule Problems (Section 4.3)

1. The apparent savings attributed to SPIRIT appear to derive primarily from changes in cost estimating procedures and assumptions. These "savings" could be imaginary. We would like to see the new standard assumptions used. Effective action to reduce the cost of performing cleanup work (consistently several times higher than comparable costs on non-DOE sites) would make a real difference. This plan says nothing about DOE's commitment to controlling costs. This issue is fundamental; no plan which fails to address it will substantially improve matters.

2. Much is made of the savings attributed to the use of IM/IRAs due to their purported ability to "dramatically reduce the volume of contaminated waste requiring treatment". We can not understand either what waste is being referred to or how IM/IRAs will dramatically reduce the amount of this material to be treated. If this is an outgrowth of the assumption that early actions will necessarily lead to more lenient cleanup levels, the assumption is flawed and the logic is faulty.

3. We have a basic problem with DOE's contention that dropping of "traditional milestones" would somehow help speed things up. Our experience shows that lack of enforceable milestones leads instead to lack of funds, and therefore to no progress at all. We are willing to discuss alternatives to the current system, but enforceable deadlines will have to be part of any new approach since avoiding negative consequences is apparently the only legitimate basis for funding recognized by DOE-HQ.

IX. Changes in OU Configurations (Section 4.4)

1. The consolidation of OUs within the Industrial Area has our full support. We have been cooperating with efforts to consolidate the ER program in the IA for some months now, and will continue to do so.

2. Establishing a groundwater OU appears to be an ill-considered approach to temporarily avoiding what is apparently regarded as an insurmountable problem. Creating an artificial horizontal boundary will preclude integrated solutions to soils/groundwater contamination problems which recognize no such boundary. An artificial horizontal boundary is worse than the vertical ones DOE claims have been so problematical to date. Interim RODs and deferrals to other units could be used to work around these problems and avoid the pitfalls of a groundwater OU.

3. The existing OU 5 and 6 setup and the associated IM/IRA in development for the ponds allows for the necessary uses of the ponds without deferring all action on surface water until an unspecified future date. We prefer to stick with this scheme as long as it appears to be working.

4. We will support attempts to reconfigure OUs when necessary to reduce duplicative efforts and limit problems with boundaries limiting proper investigation of contaminant pathways. We have been examining the question of reorganizing OUs ourselves, and would like to discuss some other possibilities.

5. Any OU reorganization scheme must incorporate the buildings and equipment which will undergo D&D. To make reasonable judgements on overall priorities, we must examine the full range of problems on an equal basis. Then we will be ready to

construct a comprehensive program and avoid expending undue effort on incidental problems.

X. Deferring or Terminating Current Activities (Section 4.5)

1. While we are no more interested in expending large amounts of money treating clean water than is DOE, we have seen no solid evidence that either the OU 1 or 2 IM/IRAs should be discontinued. We will need to see a more convincing argument than presented here before we could approve such an action.

2. Likewise, we cannot agree to reverse a hard-won agreement on the Solar Ponds without a definitive argument. If you feel you have one, we encourage you to submit it to EPA and CDH.

XI. IM/IRA Process (Section 4.6)

1. It must be clearly understood that areas where PEAs are completed will still require RI/FSSs, although these may be reduced in scope, and proposed plans and RODs.

2. The plan indicates DOE believes IM/IRAs are only taken at the direction of EPA/CDH. This is incorrect. Under the IAG, DOE may propose IM/IRA's at any time, and has challenged those proposed by the agencies on several occasions.

3. It is not clear what advantages DOE sees in the RMA IM/IRA process as described. It looks just as cumbersome as the one we have now, which was based on the RMA system to begin with.

SPECIFIC COMMENTS

Page 18: There is some short-sightedness demonstrated by stating that government control of the facility in the next 20 years leads to some conclusions about the future site use. With radionuclides, we have to think about much longer term conditions and consequences.

Page 19, Section 3.6. Of the four types of resources said to have a major impact on ER redirection efforts at RFP, only two (funding and personnel) are discussed in the subsequent paragraphs. What about facilities and materials?

Page 21 in section 4.2.1: The terms COC and background are used incorrectly. If an analyte is not significantly above background, it would not be identified as a COC as we have currently defined it.

Page 22: Be aware that removing soil hot spots may not be as easy as this documents suggests. There are no soil action levels, and DOE does not have a background surface soil program to speak of.

Page 23, No Further Action IHSSs Table: For IHSSs 105.1 and 105.2 it is stated that these tanks were "completely excavated during field operation construction". This has never been stated anywhere else, our understanding has been that these tanks were closed in place.

Page 33, Item 3.5. This section discusses in broad terms the savings that could be realized if OUs are reconfigured. It does not offset the potential savings with the costs to prepare new work plans for the reconfigured OUs, or the costs to examine and replace existing information that would become obsolete.

Page 36, Section 4.7.1. We feel use of a rolling schedule with periodic renegotiation is worth considering, if appropriate linkages to budgets and mechanisms for enforcement can be worked out. This would have to include reconsideration of current IAG anti-deficiency provisions. At other DOE sites this type of arrangement has led to essentially continuous negotiations. A timetable and strict format for these negotiations, including dispute resolution, must be agreed upon by all parties before this type of proposal could be accepted.

RECOMMENDATIONS

1. The document is not clear in many aspects of how the new approach will work when the current IAG approach is not working. Savings of time and money are predicted, but the background information supporting these goals is missing or diluted, and must be provided to give the plan adequate support.
2. There are many specific statements in the plan which should be clarified or corrected before this document receives wider distribution.
3. The decisions on which IHSS's fall in which categories (NFA, PEA, RI/FS, D&D) are not well documented. Our first look at Tables 4.4 and 4.5 shows inaccurate and inconsistent IHSS classifications. Before we can agree that this sorting is acceptable we will need to know more about the basis for it.
4. We give our full endorsement to the goals stated for early action: Reduce risk, Eliminate sources, Stop the spread of contaminants, Accelerate the ROD, and Expedite any further required remediation. We will cooperate with any effort which endeavors to further these goals or remove obstacles which inhibit such efforts. We urge you to include us in subsequent stages of the SPIRIT process.