



AUG 09 1988

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2405



000025213

Ref: 8WM-C

George Di Ciero
City Manager
City of Broomfield
Number 6 Garden Office Center
Broomfield, Colorado 80020

Dear Mr. Di Ciero:

As you note in your letter of July 20, 1988 to Mr. Robert Duprey the Department of Energy's Rocky Flats Plant has violated its NPDES permit limitations for the months of February through June 1988. We are well aware of the violations and are working with the Department of Energy to correct the violations. We share your concern for Great Western Reservoir.

As you are aware, the City of Broomfield, EPA, DOE, and Rockwell met on June 15, 1988 to discuss solutions and alternatives to correct this problem at the Rocky Flats Plant. Since that meeting, DOE has not discharged from Outfall 001. Instead it has disposed of the effluent by means of spray irrigation on the land.

With respect to Federal agency compliance with environmental laws, Federal agencies must comply with environmental laws in the same manner and degree as non-Federal entities and EPA will utilize the full range of its permissible enforcement mechanisms to ensure compliance by Federal facilities. However, EPA also recognizes that there are certain limitations and differences in the types of enforcement actions which EPA can take at Federal facilities. EPA must consider its mandate to provide technical assistance as well as the restrictions inherent in the Federal budget and appropriations process. EPA must also abide by interpretations of the Constitution and Federal law rendered by the Department of Justice.

EPA is strengthening its compliance monitoring activities at Federal facilities by ensuring that EPA or State presence is being demonstrated at all Federal facilities which have the potential for environmental impact. Federal facilities are to be inspected at least as frequently as all other sources.

EPA is improving the efficiency and effectiveness of the Federal agency A-106 pollution abatement planning process by attempting to address compliance problems at Federal facilities

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before they become violations, linking the process more closely to identified EPA environmental priorities and other systematic program improvements.

EPA pursues "timely and appropriate" enforcement responses to address violations at Federal facilities in a manner similar to actions taken to address violations at non-Federal facilities. EPA's enforcement responses emphasize that if a violation is not or will not be corrected within the timeframe for violations of that class, a consensual enforcement action should be taken.

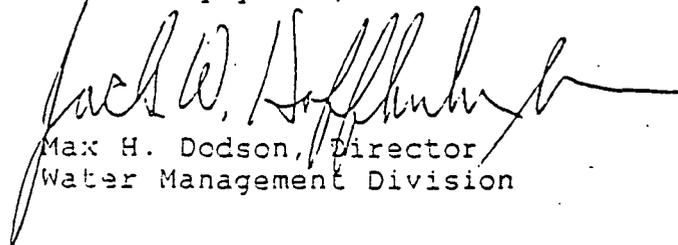
EPA's formal enforcement responses to violations at Federal facilities emphasize the use of mutually negotiated remedial actions and schedules in the first instance, formalized through bilateral Compliance Agreements. EPA will issue proposed administrative enforcement actions where mutual agreement cannot be reached in a timely manner, and will promptly utilize all available dispute resolution mechanisms to effectively resolve areas of disagreement. Federal agency officials are required to take all available steps to obtain sufficient funds to achieve compliance on the most expeditious schedule possible.

EPA's enforcement process for Executive Branch Agencies is purely administrative, and neither provides for civil judicial action nor assessment of civil penalties. This limitation does not apply to enforcement actions taken by States which have been delegated NPDES authority over Federal facilities. The State of Colorado does not yet have this delegation for the NPDES program. However, in its 1989 water pollution program workplan, Colorado has indicated its desire to pursue this delegation. For a number of years we have encouraged the State to assume this delegation for all Federal facilities in Colorado.

With respect to Rocky Flats' compliance problems, EPA has begun its progressive enforcement response by issuing a Notification of Violation to DOE, a copy of which is enclosed.

We will keep you informed of DOE's response and solicit your comment to any remedial action plan proposed by DOE. If you have any further questions, please contact Michael Reed of my staff at (303) 293-1836.

Sincerely yours,



Max H. Dodson, Director
Water Management Division

cc: Pat Nelson, CDH
Albert Whiteman, DOE ✓

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