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U.S. ENVIRONMENTAL PROTECTION AGENCY

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June 18, 1991

Mr. Frazer Lockhart
U.S. Department of Energy
Rocky Flats Office
P.O. Box 928
Golden, CO 80402-0928

Dear Mr. Lockhart:

This letter is in response to Mr. Tom Olsen's (DOE) and Mr. Jim Koffer's (EG&G) request to EPA and CDH for guidance on the disposition of contaminated soils disturbed during construction activities. Specifically, guidance was first sought on disposition of contaminated soils disturbed during routine facility construction activities such as installation of pipes or utilities, where such activities occur in and around individual hazardous substance sites and second, disposition of toluene contaminated soils associated with the implementation of the 881 Hillside IM/IRA.

The following is a summary of the "contained in" policy which applies to the above projects. Environmental media, (ground water and soils), contaminated with listed hazardous waste is subject to RCRA and the Colorado Hazardous Waste Act (CHWA), including land disposal restrictions. "Contains" is interpreted to mean the presence of hazardous wastes at levels that pose a health risk greater than 10^{-6} carcinogenic risk or that exceed Rfd levels assuming direct exposure.

Therefore, specific to ongoing construction activities at the Rocky Flats Plant, the following items must be addressed. Soils disturbed during construction activities must undergo a hazardous waste determination. Samples representative of the soil within the entire construction area must be collected for analysis prior to construction. If listed hazardous waste is present, DOE has the option of either managing the media or hazardous waste, or evaluating the contaminant levels in terms of a direct exposure risk scenario. Sampling and analytical procedures and risk assessments must be completed in a manner consistent with the Interagency Agreement (IAG) requirements. Sampling plans and subsequent evaluations must be submitted to EPA and CDH for approval, prior to construction.

If analysis of representative samples shows that the contaminated medium does not pose an unacceptable risk, the medium is not considered to "contain" a listed hazardous waste, and Part 264 and land disposal restriction requirements do not apply. However, if the risk assessment analysis shows that

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hazardous waste is present in concentrations above health based standards, then both the media and any associated hazardous waste generated are subject to full RCRA and CHWA regulation including the land disposal restrictions. Additionally, RCRA corrective action and CERCLA remedial action requirements are applicable.

If the media is determined not to be hazardous waste, but is contaminated with hazardous constituents or radionuclides, the media is subject to RCRA corrective action requirements, CERCLA remedial requirements, and possibly, regulation as solid waste and other appropriate standards determined under the IAG and approved by EPA and CDH.

Please contact Patricia Corbetta (294-1071) at EPA, or Noreen Matsuura (331-4920) at CDH if you have any further questions regarding this matter.

Sincerely,

Martin Hestmark

Martin Hestmark, Manager
Rocky Flats Project
Environmental Protection Agency

Gary W. Baughman

Gary W. Baughman, Unit Leader
Hazardous Waste Facilities
Colorado Department of Health

cc: Peter Ornstein, EPA
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