

CORRES. CONTROL
 INCOMING LTR NO.

00644RF96

DUE
 DATE

ACTION

DIST.	LTR	ENC
ALLEN, R.C.		
BENSUSSEN, S.J.		
BRENNAN, P.D.		
BRYNER, C.J.		
BUHL, T.R.		
CARD, R.G.		
DEAN, C.		
EVANS, B.L.		
FERRERA, D.W.		
GILLISON, W.R.		
HEDAHL, T.G.	X	
HERRING, C.L.		
HILL, J.A.		
KELL, R.E.		
KELLY, G.M.	X	
MANI, V.		
MARTINEZ, L.A.		
McANALLY, J.L.		
McGOVERN, L.J.		
McKIBBIN, J.G.		
MEADOWS, S.M.		
NORTH, K.		
O'BRIEN, G.D.		
SANDLIN, N.B.		
SHUMWAY, W.K.		
SPEARS, M.S.		
STEELMAN, M.		
TUOR, N.R.		
TURNER, K.A.		
VOORHEIS, G.M.		
VALLER, C.A.		
Woods, L.	X	
HILLIPS, F.	X	

CORRES. CONTROL	X	X
MN RECORD/080		
TS/T130G		

Reviewed for Addressee
 Corres. Control RFP

5/8/96
 DATE BY

Ltr. #

ORDER # 5400.1



Department of Energy

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

MAY 7 1996

96-DOE-07504

Mr. Tim Rehder
 U.S. Environmental Protection Agency, Region VIII
 999 18th Street, Suite 500, 8EPR-FT
 Denver, Colorado 80202-2405

Dear Mr. Rehder:

As part of the closure of the Rocky Flats Environmental Technology Site (RFETS), two fuel oil storage tanks (Tanks 221 and 224) must be removed. Berms were created around the tanks to provide secondary containment in the event of a fuel oil spill from the tanks. Sparse wetland vegetation has developed within the bermed area of the tanks. It is estimated that the bermed area has a maximum of 12,000 sq. ft. of wetlands vegetation. This figure was generated without examining the soils within the bermed area. The vegetation is supported by water from steam used to heat the tanks and direct precipitation which is detained by the berms. The area within the bermed area is not directly connected (physically or hydraulically) to any other wetlands. This area will be disturbed during removal of the tanks, the bermed area is currently scheduled to be filled in beginning on June 17, 1996.

I would like to request a determination be made as to whether or not, the removal of Tanks 221 and 224 are a Comprehensive Environmental Response Compensation and Liability Act (CERCLA) response action. This request is in accordance with the Memorandum of Agreement for the Administration of a Wetlands Bank at Rocky Flats (MOA).

As expressed in the MOA, the U.S. Environmental Protection Agency (EPA) will make the determination of whether or not wetlands impacts on RFETS are related to CERCLA response actions. Section 121 (e) of CERCLA established that a Clean Water Act (CWA) Section 404 permit is not required for CERCLA response actions conducted entirely on site. However, it is EPA's responsibility to ensure that that substantive requirements of CWA Section 404 are met. CERCLA response actions must meet the substantive requirements of Section 404 of the CWA. For non-CERCLA actions on RFETS, the U.S. Army Corps of Engineers (COE) will administer the substantive and administrative requirements of CWA Section 404 including compliance with CWA Section 404 (b)(1) Guidelines. If the wetlands impacts are not CERCLA related, the COE has jurisdiction.

In this instance, what we feel is a non-CERCLA activity, the fuel tank decommissioning and removal was noticed to EPA. As noted in our letter 96-DOE-07463 dated March 27, 1996, at the direction of EPA, the Department of Energy (DOE) requested the COE visit the site to verify the wetlands delineation. The Site did so and our March 27, 1996 letter, transmitted the COE wetlands determination. Subsequent verbal exchanges related to the tank removal project appear to be a reversal of the policy expressed in the MOA.

ADMIN RECCRD
 SW-A-003944

8 MAY 96 2:25

RFETS-CO-1

Kent
 Dorr

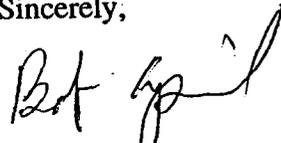
Mr. Tim Rehder

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MAY 7 1996

Please respond as soon as possible to our determination request so the project can proceed on schedule. If you have any questions or concerns, please contact John Stover, of my staff, at 966-9735.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob April".

Bob April, Group Lead
Environmental Liaison Group

cc:
J. Rau, TA, RFFO
J. Stover, ELG, RFFO
L. Woods, K-H