

MEMO

DATE: April 21, 1998
TO: Cynthia Dingman/Juan Hernandez
FROM: Vern Guthrie
SUBJECT: DRAFT ASSESSMENT ON B123 PROJECT DATED 4/14/98

Attached are comments to the draft assessment from several individuals that have been involved in preparing documents or ensuring that documents meet the required criteria under certain guidelines and/or requirements. I have read the comments and believe that much of the information has merit.

Additionally, for Deficiency #1, I understand that K-H gave instruction that the SAP was not required prior to proceeding with the characterization.

Observation #1 - In reply to this item, I believe that the waste associated with B123 was identified through sampling and analysis, as a significant amount of the contents were surveyed. Using that information, a management decision, supported by the cost/benefit determination, was made to dispose of interior material as LLW.

Observation #2 - The Waste Management Plan was signed by Waste Operations personnel and this should have been sufficient. If senior management within that organization was not comfortable with the review process, additional staff could have been included in the review/approval effort.

Please review this information and let's discuss part or all of the material at your convenience.

CC:
M. Aycock
T. Dieter
T. Hopkins
J. Patterson

ADMIN RECEIVED

B123-A-000146

2/6

COMMENTS ON DRAFT ASSESSMENT REPORT
INDEPENDENT ASSESSMENT NO. 98-01310RMRS
BUILDING 123 DECONTAMINATION AND DECOMMISSIONING WASTE MANAGEMENT PROCESS

Comments by: Ted A. Hopkins

GENERAL COMMENT: QA has cited various requirements: ANSI/ASQC; DOE Order 5700.6C; NQA-110; and CFR 830.120©(2)(I) as being applicable to the 123 PAM operations. Further, QA has cited Closure Projects as being deficient for not following these requirements.

Response: Administrative requirements are not applicable to CERCLA operations unless specifically authorized (e.g., Administrative Records). This is best illustrated by the *CERCLA Compliance With Other Laws Manual*, August 8, 1988, EPA/540/G-89/006 which states, "Section 121 (e) of CERCLA codifies EPA's earlier policy that on-site response actions may proceed without obtaining permits. ...In determining the extent to which on-site CERCLA response actions must comply with other environmental and public health laws, one should distinguish between substantive requirements, which may be applicable or relevant and appropriate, and administrative requirements which are not. The determination of whether a requirement is substantive need not be documented. Substantive requirements are those requirements that pertain directly to actions or conditions in the environment. Examples of substantive requirements include quantitative health or risk based restrictions upon exposure to types of hazardous substances (e.g., MCLs); technology based requirements for actions taken upon hazardous substances (e.g., incinerator standards); and restrictions upon activities in certain special locations (e.g., flood plain prohibitions).

Administrative requirements are those mechanisms that facilitate the implementation of the substantive requirement of a statute or regulation. Administrative requirements include the approval of, or consultation with administrative bodies, consultation, issuance of permits, documentation, reporting, recordkeeping, and enforcement. In general, administrative requirements prescribe methods and procedures by which substantive requirements are made effective for purposes of a particular environmental or public health program.

... While Superfund cleanups will comply with all the substantive requirements that permits enforce, on-site CERCLA cleanups are not required to obtain the actual permit papers, or to obtain the approval of State or local administrative boards. Instead the Feasibility Study, the Proposed Plan, the ROD, the Community Relations Plan, and the Administrative Record will document that the substantive requirements of other Federal and State laws have been identified and will be complied with.

The CERCLA program has its own set of administrative procedures which assure proper implementation of CERCLA. The application of conflicting administrative requirements could result in delay or confusion.

... The following considerations may be balanced in determining whether such requirements are substantive or administrative:

- The basic purpose of the requirement;
- Any adverse effect on the ability of the action to protect human health and the environment if the requirements was not met;
- The existence of other requirements (e.g., CERCLA procedures) at the site that would provide functionally equivalent compliance; and
- Classification of similar or identical requirements as substantive or administrative in other CERCLA situations."

The 123 PAM is a CERCLA removal action. As such it is subject to CERCLA through RFCA implementation. The 123 PAM identified the ARARs for this operation. The CERCLA program has its own set of administrative procedures which assure proper implementation of CERCLA. The application of conflicting administrative requirements could result in delay or confusion. The deficiencies cited in this report are primarily derived from administrative requirements. As such, failing to meet these requirements should not be identified as deficiency but

as an observation. QA should meet with Closure Projects to evaluate which administrative requirements should be adopted as Best Management Practices and which should not.

I am requesting that QA review its findings and evaluate each of requirements cited. Identify each requirement as being substantive or administrative and justify their inclusion into the RFCA 123 PAM as Best Management Practice or To Be Considered requirement.

GENERAL COMMENT #2:

In regard to Sampling and Analysis Plans, Closure Projects was cited for failing to produce SAPs for building characterization and failing to follow the Controlled Document Procedures required for SAPs.

Response:

The question as to whether a Reconnaissance Level Characterization Plan is a SAP or not and what sampling operations trigger SAPs is a complicated question. In B779, the RLCP was included in the DOP and approved by the State. If the State approves the RLCP, is that sufficient to eliminate this concern? Would work plan documents implementing the RLCP require State approval and/or be managed as Controlled Documents? In B123, the asbestos characterization was conducted by a certified inspector following state guidance, is a SAP required for those operations? The answer to these questions have implications far beyond B123 and should be addressed on a site-wide basis.

I have contacted the Environmental Leadership Team in regard to this issue. The ELT has agreed to establish a site-wide team consisting of RMRS, Kaiser-Hill, and Safe-Site representatives to resolve this issue. The ELT is proposing to write RSOP in accordance with RFCA for specific characterization needs: asbestos, lead, lead paint, PCBs, etc. The goal of this approach is to receive State approval for a large number of sampling operations being conducted under a "general license" approval. Specific work elements (e.g., twenty lead paint samples taken from B910) such as location and number of samples would be identified in a work plan. Would QA require work plans developed from RSOPs to be Controlled as SAP? Clearly, QA needs to be a member of this team. Please contact Gary Konwinski in regard to this issue.

SPECIFIC RECOMMENDATIONS:

Deficiency #1:

Eliminate completely. The use of RLCP Vs a SAP was approved by Kaiser-Hill. See Mary Aycock's response which is attached.

If Deficiency #1 is allowed to remain, please consider the following recommendations:

Page 6 of 20: Section 3.4

Please identify the specific site documents that are the drivers instead of the federal or DOE orders cited in this section. For example, the requirement to follow ANSI/ASQC E4 is found in what Rocky Flats document? This will help the engineers, project managers more easily correct any deficiencies and possibly identify programmatic discrepancies.

Page 7 of 14; Section Requirements

Paragraph five (5) does not have a driver associated with it. Please include the correct citation.

Page 8 of 20; Section Discussion:

Paragraph three (3)

The blanket statement that ALL sampling must be conducted in accordance with a SAP should be rewritten. This question will be addressed by the ELT.

Page 8 of 20 Section Discussion:

Paragraph five (5)

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Delete (the equivalent of a SAP). This is yet to be officially determined. A RLCP may or may not be equivalent to a SAP.

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Paragraph four (4)

NTS just completed an audit of RF and approved the site for shipments. I believe that this audit found RF internal procedures adequate to meet their WAC. Is it the position of this audit that the NTS audit was inaccurate? I would contend that internal requirements for waste characterization are adequate for the purposes of characterizing and shipping waste. And it appears that NTS agrees. I recommend deleting paragraph 5 and 6.

Page 9 or 20

Paragraph four (4)

Delete last sentence, inflammatory.

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Paragraph five (5)

Recommendations:

“Evaluate and verify data derived from sampling operations and radiological surveys conducted without approved SAPs.” Just what kind and how do you propose to evaluate and verify this data? The State is going to approve the final rad survey. Are you proposing statistically valid SAPs be developed for operations already completed? And if so, what good would this requirement accomplish? I recommend deleting the first sentence of this recommendation.

Deficiency #2

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Recommendation: Delete this deficiency as being an administrative requirement not subject to this CERCLA project.

Deficiency #3

No Comment

Deficiency #4

Issued against Waste Management

No Comment

Deficiency #5

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Response:

The prescribed use of RMRS Document Control Procedures for documents from the 123 PAM operations is an administrative requirement and therefore is not applicable to this project.

Recommendation: Delete this deficiency as being an administrative requirement not subject to this CERCLA project.

Deficiency #6

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Issued against Waste Management

No Comment

Observation #1

It appears that waste from B123 was characterized as low-level radioactive waste based upon cost/benefit

Response:

This is incorrect. Sampling from the unapproved document demonstrated that the paint in these areas was above background and was therefore LLW. See Mary Aycock for details.

Recommendation: Delete this section.

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Observation #2

The B123 Waste Management Plan and other waste planning and characterization documents were not reviewed by the appropriate waste program personnel.

Response: If a vice-president, manager, or CEO has to provide documentation that they are personally qualified to conduct/review all work under their authority, QA should start writing this observation against Clegg Crawford when he signs a contract, Consent Order, or any number of documents he routinely authorizes with his signature. This observation is nothing short of ludicrous.

Recommendation: Delete.

cc:Mail for: Mary Aycock

Subject: Re: Response to Assessment No. 98-0131-RMRS
From: Kent Dorr at mail6 4/17/98 9:49 AM
To: Mary Aycock at MAIL9
To: Vern Guthrie at Mail5
To: Jack Massie at Charlie12

Mary, from what I have been able to read of the incomplete and very subjective report/assessment, I concur w/ your write up. I will also be providing a response to the paper.
Kent

Reply Separator

Subject: Response to Assessment No. 98-0131-RMRS
Author: Mary Aycock at mail9
Date: 4/16/98 1:11 PM

I am writing this memo to request your concurrence with the following response to "Deficiency No. 1" as listed in the referenced report entitled "Independent Assessment No. 98-0131-RMRS Building 123 Decontamination and Decommissioning Waste Management Process. The deficiency states the following:

"Building 123 waste characterization was not performed according to approved planing and technical documents and was not performed according to the prescribed sequence. Deficiencies exist regarding data generated from sampling operations conducted without approved Sampling and Analysis Plans and associated Data Quality Objectives..."

We are contesting this Deficiency based on the following facts:

1. At the time of initial characterization of Building 123, volumes of historical data were compiled showing asbestos, lead, radiological, and hazardous chemical sampling data which had been collected prior to 1997. Individual characterization plans, including signed radiological survey instructions were prepared based on this review and exist in the project files. These project files, which include detailed instructions for sampling activities, were not reviewed as part of the referenced assessment. A listing of the "approved planning and technical documents" used for characterization of Building 123 are attached.

2. In addition to attached planning and technical documents being in place in March of 1997, an "Approved Sampling and Analysis Plan" as defined by CERCLA (and outlined in RFCA, Appendix I under Guidance for Conducting Remedial Investigation and Feasibility Studies Under CERCLA, EPA, 1988a) was NOT required for sampling construction debris (asbestos and paint chips) or media associated with D&D actions for the building structure. The SAP requirement was defined by RMRS and K-H Compliance to be for "environmental samples" (i.e. soil and groundwater) which is why a SAP was written for the B123 Under Building Contamination (IHSS 121 and 148), but not for the building itself.

Please respond and let me know if you agree with our interpretation of the requirements which were in place in March of 1997, when initial characterization of Building 123 began.