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Department of Energy

ROCKY FLATS OFFICE
P.O. BOX 628
GOLDEN, COLORADO 80402-0928

November 9, 1992

92-DOE-12906

Mr. Gary Baughman
Facilities Section
Hazardous Waste Control Program
Colorado Department of Health
4300 Cherry Creek Dr. S.
Denver CO 80222-1530

Mr. Martin Hestmark
Rocky Flats Team
U.S. Environmental Protection Agency
Region VIII
999 18th Street
Suite 500
Denver, CO 80202-2466

Dear Messrs Baughman and Hestmark:

The U.S. Department of Energy Rocky Flats Office (DOE) acknowledges receipt on October 26, 1992, of your correspondence dated October 22, 1992, which requested DOE to develop an Interim Measure/Interim Remedial Action (IM/IRA) for management of the A-series ponds, B-series ponds, Pond C-2, and the Landfill Pond under CERCLA/RCRA. According to your letter, the aforementioned request was made pursuant to Paragraph 150 of the Interagency Agreement (IAG). An earlier letter from the U.S. Environmental Agency (EPA) dated June 26, 1992, discussed an intention to pursue a limited IM/IRA pertaining to discharge control and spill containment which did not include the breadth of items listed in the October 22, 1992, letter.

The ponds are currently regulated by and are in compliance with the National Pollutant Discharge Elimination System (NPDES) permit limitations. It is our understanding that the new NPDES permit will be prepared over the coming year. Additionally, the Rocky Flats Plant has been working with the Colorado Department of Health (CDH) to ensure that discharges from the terminal ponds (Ponds A-4 and C-2) meet Segment 4 standards as established by the Colorado Water Quality Control Commission and administered by the Water Quality Control Division of CDH.

Considering the fact that the Ponds are currently managed in compliance with environmental regulations and that the appropriate authority to address regulatory requirements is NPDES, DOE is perplexed at the CDH and EPA assertion of authority under the IAG. Particularly unclear is the invocation of authority under Paragraph 150 of the IAG which describes a category of work, an IM/IRA, to be developed by DOE to comply with CERCLA/RCRA/Colorado Hazardous Waste Act. Further, DOE is unclear whether CDH and EPA intended to advocate that additional work was necessary to accomplish the objectives of the IAG as set forth in Part 32. On its face, such action seems unnecessary since the ponds are presently meeting requirements of environmental mandates.

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Obviously, clarification of the EPA and CDH objectives is needed to more substantively respond to the request for an IM/IRA regarding water management for the Ponds. To timely meet procedural requirements of the IAG, DOE hereby invokes dispute resolution as provided in Paragraphs 150 and 191 regarding the need for an IM/IRA or additional work and as further detailed in Parts 12 and 16 of the IAG.

DOE requests that CDH clarify the comments provided in the October 22, 1992, letter, particularly in respect to Items 3, 4, 5, and 6, concerning pond cleanup schedules, discontinuation of water treatment, transfer, and spray evaporation. DOE also requests clarification from EPA on the pond clean-up time table. Until schedules for environmental restoration and other plant activities are determined, DOE believes establishing schedules for pond replacement now is premature.

Water management at Rocky Flats Plant continues to follow the best management practices and good engineering judgement required by the NPDES permit, Federal Facilities Compliance Agreement and Agreement-in-Principle. A timely meeting of the parties is imperative to address the perception of a need to mandate a change in the applicable regulation of the Ponds. DOE would appreciate your clarification on these matters as soon as possible, so that we may better determine the focus of future discussions with your organizations. If you have any questions regarding these issues, please contact me at 966-5918.

Sincerely,

Thomas E. Lubow

for
James K. Hartman
Assistant Manager
for Environmental Management

cc:

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