



STATE OF IDAHO
DIVISION OF
ENVIRONMENTAL QUALITY

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Dirk Kempthorne, Governor
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July 19, 2000

Ms. Kathleen E. Hain
Environmental Restoration Division
U.S. Department of Energy
Idaho Operation Office
850 Energy Drive
Idaho Falls, ID 83401-1563

SUBJECT: Response to Letter OU 7-10 Staged Interim Action Project – Transmittal of Stage II Remedial Design/Remedial Action Work Plan, Dated June 30, 2000

Dear Ms. Hain:

This is in response to your June 30, 2000 letter requesting an extension of the enforceable deadlines for Pit 9 (OU 7-10) and the buried waste at the Subsurface Disposal Area (OU 7-13/14). Your letter states that the Department of Energy (DOE) intends to defer completion of comment resolution for the Stage II Remedial Design and Remedial Action Work Plan, pending a final decision on the need to proceed with Stage II. DOE requests that DEQ and EPA initiate negotiations to resolve this matter. Your letter goes on to state that once agreement is reached on the project scope and data needs for the OU 7-13/14 Remedial Investigation and Feasibility Study (RI/FS), DOE will be able to establish a revised schedule for OU 7-10 and the OU 7-13/14 RI/FS.

Regarding your request for extension of enforceable milestones, your letter fails to address the requirements of the Federal Facility Agreement and Consent Order (FFA/CO). Specifically, DOE fails to identify:

- The specific deadlines for which the extension is being sought;
- The length of the extension;
- Any timetable or deadline that would be impacted if the extension were granted; and
- "Good Cause" for the extension as required by Paragraph 13.1 of the FFA/CO.

Moreover, your letter is inconsistent with the intent of recent discussions on this subject. On April 20, 2000, DOE, DEQ and EPA signed an Agreement in Principle which was based on project scope and data needs, intended to lead to a mutually acceptable revised schedule for both OU 7-10 and OU 7-13/14. As part of those discussions, DOE agreed to produce the assumptions used to develop the schedules provided to DEQ and EPA on June 1, 2000. Meanwhile, the agreed upon probing work can be completed. Unfortunately, DOE, DEQ and EPA meetings scheduled for July 20-21, 2000 had to be delayed when DOE did not provide these schedule assumptions. The absence of a complete schedule has made it increasingly difficult to make progress.

We are very concerned with your stated intent to defer the resolution of comments from DEQ and EPA on the Pit 9 Stage II Remedial Design and Remedial Action Work Plan. Section VIII of the FFA/CO includes the process for document review, comment resolution and finalization for documents submitted by DOE to DEQ and EPA. Section IX of the FFA/CO provides a dispute resolution process for use when comment resolution between the Agencies is not effective. There is no provision for DOE to simply inform DEQ and EPA of an intent to defer this work which is required

by a Record of Decision, the Pit 9 Settlement Agreement and the FFA/CO. DOE is legally obligated to implement the Pit 9 Stage II Remedial Design and Remedial Action Work Plan concurrent with RI/FS for the buried waste in the pits and trenches under OU 7-13/14. DOE made the commitment in the Pit 9 Settlement Agreement to use the Stage II results for development of the OU 7-13/14 Feasibility Study, and the enforceable schedules were developed under this framework.

Continuation of the Pit 9 effort is essential to demonstrate retrieval as a cleanup alternative, and provide data necessary to evaluate this alternative in the RI/FS for the pits and trenches. DOE has not yet conducted a waste retrieval effort on buried wastes of this type, and associated costs have not been determined. Also, technical and safety issues must be resolved through actual attempts to retrieve waste. Any plan by DOE to address these issues in the Feasibility Study for OU 7-13/14 based solely on the Pit 9 design and absent any operational data, jeopardizes the ability to adequately assess retrieval as a technology option for the buried waste. The Remedial Design and Remedial Action Work Plan now undergoing review by DEQ and EPA is based on data and information on Pit 9, not the other pits and trenches. The broader utility of this design will have to be assessed once the demonstration is complete. The demonstration effort in Stage II is intended to draw upon data being collected through the ongoing Pit 9 probing effort. This will allow the identification of areas of Pit 9 with high concentrations of plutonium. Approaches like this have the potential for tremendous savings in overall remediation costs for retrieval of the buried waste in OU 7-13/14 provided the technology can be demonstrated.

In response to your proposal to take interim action at the Subsurface Disposal Area prior to the completion of the OU 7-13/14 RI/FS, it should be noted that the options you mention have been proposed and rejected for budgetary or other reasons. It is unfortunate that DOE has cut even modest funding needed to broaden the technology spectrum necessary to address the buried waste problem. As you are aware from our meeting this past January, the treatment alternatives under consideration were determined unworthy of further study or eliminated from treatability studies due to budget constraints. We are very supportive of any DOE effort to address organic contamination in the vadose zone within the scope of the existing Record of Decision.

Please contact me at (208) 373-0285, if you would like to discuss this matter further.

Sincerely,


Dean J. Nygard
Site Remediation Manager

DN:mp

cc: Wayne Pierre, EPA
Daryl Koch, DEQ
Jean Underwood, DEQ
Brian Edgerton, DOE
Aaron Armstrong, DOE