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State of Idaho
Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706

U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

May 23, 2001

Beverly Cook
U.S. Department of Energy
Idaho Operations Office
850 Energy Drive
Idaho Falls, ID 83401-1563

Warren Burgholz
U.S. Department of Energy
Idaho Operations Office
850 Energy Drive
Idaho Falls, ID 83401-1563

RE: Dispute Resolution

Dear Ms. Cook and Mr. Burgholz:

The following letter is written in response to the May 4, 2001 Settlement Proposal forwarded by the Department of Energy (DOE) and subsequent conversations between Steve Allred and Warren Burgholz. In those discussions, it was agreed the DEQ and EPA would jointly propose a resolution consistent with the expectations of the State and EPA. This letter conveys the DEQ and the EPA's Joint proposal.

In order for you to better understand our counterproposal, it is important that we convey our concern that DOE's May 4th proposal does not reflect the disputed discussions during the April 17 meeting. First, your proposal indicates that construction will not be completed until 2010 and retrieval operations will not be completed until 2016. We do not consider these to be consistent with a fast track schedule that we believe is necessary for completion of the localized retrieval demonstrations. Second, your proposal presumes the remedy for both the eight acres of transuranic (TRU) wastes and the remaining ninety acres that will be addressed by a future comprehensive Record of Decision. Any proposal to DEQ and EPA must allow for the completion of the retrieval demonstrations project prior to any remedy decision for the remaining pits and trenches complex in WAG 7.

With this in mind DEQ and EPA are willing to agree to a reasonable extension of deadlines for performance of the Pit 9 Record of Decision and those portions of the Waste Area Group (WAG) 7 Remedial decision process dependant upon the information necessary from the Pit 9 demonstration. Such extension would be based on DOE's ability to demonstrate tangible impacts to its cleanup schedule. In our view, and without the benefit of a demonstration by DOE of tangible impacts, a reasonable schedule

extension would at most have Stage II Construction starting in September 2002; retrieval starting in March 2005; the Stage II Remedial Action Report due by June 2006; and the Stage III 90% Remedial Design/Remedial Action Work Plan due by March 2008.

> In addition, DOE will further agree to make payment of stipulated penalties based upon the provisions of the FFA/CO and the 1997 Agreement to Resolve Disputes for its failure to meet the revised schedule deadlines developed under the 1997 Agreement. Finally, DOE would complete those provisions of the 1997 Agreement to Resolve Dispute which it has failed to complete to date. Included in this would be completion of treatability studies and hot tests of in situ vitrification of transuranic radioactive waste and in situ grouting of transuranic radioactive waste.

In summary, DEQ and EPA find the proposal for settlement by DOE to be unreasonable. The only resolution that is acceptable to DEQ and EPA is a continued aggressive project schedule for the Interim Action Project so that retrieval technology is developed and can be evaluated in the remedy selection process for WAG 7. Short of this, the DEQ and EPA have no choice but to issue a decision on dispute review under the FFA/CO.

Sincerely,

C. Stephen Allred, Director
Department of Environmental Quality

Sincerely,

Chuck Findley, Acting Regional Administrator
Region 10, Environmental Protection Agency