GWOU ADMINISTRATIVE RECORD
SECTION TITLE:
GW-300-303-1.08

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 85216

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

OCT 14 1999

Ms. Cindy Kemper
Director, Hazardous Waste Program
Division of Environmental Quality
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102-0176

Mr. Steve McCracken
United States Department of Energy
Weldon Spring Site Remedial Action Project
7295 Highway 94 South
St. Charles, Missouri 63304

Dear Mr. McCracken and Ms. Kemper:

Re: Weldon Spring Site Groundwater Operable Unit

This responds to Ms. Kemper's letter of September 27, 1999, requesting that unresolved issues pertaining to the proposed remedial action for the Groundwater Operable Unit (GWOU) be elevated to the Senior Executive Committee for resolution. As we discussed in our September 10, 1999, meeting, since the state of Missouri is not a party to the First Amended Federal Facility Agreement (FFA) in the matter of the Department of Energy's (DOE) Weldon Spring Site, the Missouri Department of Natural Resources (MDNR) cannot invoke dispute resolution under the FFA. However, since the Environmental Protection Agency (EPA) is also committed to trying to reach a mutually satisfactory resolution of the outstanding issues and takes seriously all the state's concerns, we suggest that EPA, DOE, and MDNR agree to follow a process similar to the FFA's dispute resolution procedure to address the remaining issues.

We understand from your letter that two issues may have been resolved, however, we are not clear on the status of the remaining issues. We suggest the parties adopt the following procedure to attempt to resolve the remaining issues:

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RECYCLE

1. Within two weeks of the effective date of this agreement, MDNR, as the disputing party, would submit, in writing, a statement of the remaining issues the state of Missouri has with respect to the proposed remedial action, the technical and legal basis for this position, and the proposed changes necessary to satisfy its concerns.

2. Designated agency representatives, consistent with EPA's branch chief level, would have 21 days from receipt of MDNR's submittal to meet, in person or by teleconference, to resolve the dispute. If the dispute is resolved to everyone's satisfaction, a written statement would be prepared setting forth the issue and manner in which that issue was agreed to be resolved.

3. At the conclusion of this 21-day time period, if any party does not agree that the dispute has been fully resolved at the branch chief level, the parties will have two weeks from the end of the 21-day period to meet again, at the program manager level, to attempt to resolve the dispute. If the dispute is resolved to everyone's satisfaction, a written statement would be prepared setting forth the issue and manner in which that issue was agreed to be resolved.

4. At the conclusion of this two-week time period, if any party does not agree that the dispute has been fully resolved at the program manager level, the Regional Administrator will decide all remaining issues, after having the opportunity to consult with senior officials within MDNR and DOE.

5. The public comment period will be extended for a time period to cover this process; i.e., an additional 60 days from the date the notice of the extension is published. The expectation of the parties would be that the dispute resolution process could be completed during this extended comment period, so that information developed during this process could be included in the administrative record supporting the record of decision.

6. This agreement pertains only to the issues MDNR has raised in its comments on the GWOU proposed plan, and does not alter either DOE's or EPA's rights or obligations under the FFA or MDNR's rights to contest the remedy selected for the GWOU.

If you agree to this process, please note your agreement by signing in the space provided below. EPA will consider this agreement effective upon receipt of the signed pages from each party. EPA would like to resolve these issues as quickly as possible. If we have not heard back from you on this proposal by October 29, 1999, we will assume you are not interested in following this approach.

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If you have any comments or questions on this proposal, please contact me at (913) 551-7050 or Dan Wall of my staff (913)-551-7710.

Stephen H. McCracken
Project Manager

Date

Cindy Kemper
Director
Hazardous Waste Program

Date

Sincerely,

Michael J. Sanderson
Director
Superfund Division

cc: John Young, MDNR