



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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February 8, 1995

Mr. James E. Rasmussen
U.S. Department of Energy
P. O. Box 550
Richland, WA 99352

Mr. Joe F. Nemecek
Bechtel Hanford, Inc.
P. O. Box 969
Richland, WA 99352

Dear Messrs. Rasmussen and Nemecek:

Re: Regulatory Status of 100-D Pond Piping

The Washington State Department of Ecology (Ecology) is in receipt of the U.S. Department of Energy's (USDOE) letters dated September 30, 1994, and October 25, 1994, regarding cleanup of the 100-D Pond. The letters record USDOE's concerns about the application of requirements of the Resource Conservation and Recovery Act (RCRA) and associated state regulations, Chapter 173-303 of the Washington Administrative Code (WAC), to 100-D Pond piping.

Ecology considers the 100-D Pond piping subject to the closure requirements of the federal RCRA program and associated state regulations. Ecology would like to focus our future discussions regarding the 100-D Pond piping on the many important technical questions, such as, what hazardous substances remain in the piping, have releases occurred, what is the potential for future releases, and what is the most efficient way to address these releases or potential releases? It seems as if confusion over the regulatory status of the 100-D Pond piping has delayed progress on these technical questions. In an effort to eliminate this confusion, Ecology will review the regulatory status of the 100-D Pond piping below in some detail.

It is Ecology's understanding the piping in question was used to carry dangerous waste to 100-D Pond, the piping was dedicated to the 100-D Pond waste management system, the piping was used only to carry waste to 100-D Pond (i.e., no treatment occurred in the piping, there was no intent to recover materials from the piping), and, since D-Pond is no longer in operation, the piping has no anticipated future use. Based on this understanding, Ecology believes that wastes were abandoned when they were discharged to the 100-D Pond piping and the piping was used to manage dangerous waste in association with the 100-D Pond dangerous waste management unit.

Piping in general is not specifically included or excluded from the list of materials addressed by the RCRA closure regulations. Instead, the RCRA closure regulations use broad terms such as



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"equipment," "structures," and "containment systems" to provide regulators the flexibility they need to address site specific circumstances. In response to suggestions they more specifically define terms such as "contaminated" and "containment systems," EPA wrote, *"The Agency believes the language of the proposed rule can be interpreted reasonably and it is not necessary to list in the regulations every piece of equipment and facility that must be decontaminated at every type of facility. As a result, (EPA) is promulgating the final rule as proposed."* (See 51 FR 16426.)

In the case of 100-D Pond, it is Ecology's position that the piping must be addressed in order to fulfill the RCRA closure performance standard for surface impoundments. Because the piping was used to manage dangerous waste in association with the 100-D Pond dangerous waste management unit, it likely contains and/or is contaminated by dangerous waste and/or dangerous waste residuals. The RCRA closure performance standard requires, in part, that facility owner/operators close facilities in a manner which,

"controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere." (40 CFR Section 265.111(b) as referenced by WAC 173-303-400.)

Facility owner/operators also must,

"remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structure sand equipment contaminated with waste and leachate . . ." (see 40 CFR Section 265.228(a)(1) as referenced by WAC 173-303-400.)

Since the 100-D Pond piping was used to manage dangerous waste in association with 100-D Pond and, likely, still contains dangerous wastes or residuals, or is contaminated by dangerous wastes or residuals, Ecology's position is it is clearly within the scope of the closure performance standard. In addition, releases of dangerous waste, dangerous waste residuals, and/or dangerous waste constituents from the piping will be considered releases from the 100-D Pond waste management unit, subject to appropriate remediation during 100-D Pond closure and/or post-closure care. For more information on the RCRA closure process as implemented in Washington State, we suggest USDOE consult Ecology's Guidance for Clean Closure of Dangerous Waste Facilities, Document #94-111, copy enclosed.

In USDOE's letter dated September 30, 1994, USDOE proposes to address the 100-D Pond piping using the process mandated by the Comprehensive Emergency Response and Liability Act (CERCLA). USDOE suggests that the piping be addressed as part of the process sewer system, and writes ". . . the pipelines can be remediated more appropriately as a waste unit within the 100-DR-1 OU." In support of this suggestion, USDOE references the 100-DR-1 Operable Unit Focused Feasibility Study Report (Document DOE/RL-94-64, draft A) and the Proposed Plan for Interim Remedial Measures at the 100-DR-1 Operable Unit (Document DOE/RL-94-100, Draft A). Ecology encourages coordination of RCRA and CERCLA requirements, as discussed, for



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example, in condition II.K.J of the Hanford Facility RCRA Permit. We recognize that most units at the Hanford Facility are subject to regulation under both RCRA and CERCLA, and we welcome thoughtful proposals designed to minimize or eliminate duplicative application of those regulations. However, regarding the 100-D Pond piping specifically, Ecology reviewed both cited documents and found no mention of coordination with RCRA closure requirements or removal of dangerous waste and waste residuals from the 100-D Pond piping.

Ecology understands that the pipelines in the 100-DR-1 Operable Unit may be addressed through the CERCLA program prior to completion of RCRA closure. It is not our intent to use the RCRA closure process to delay timely remediation under CERCLA; however, since the 100-D Pond and associated piping are subject to RCRA closure, all activities conducted in advance of RCRA closure and/or pursuant to CERCLA should be designed to concurrently fulfill closure requirements, if not, costly and potentially duplicative activities may be required. Please see Section 2.5 of Ecology's closure guidance (Ecology Publication 94-111) for a more complete discussion of activities conducted prior to closure.

Ecology suggests that the RCRA 100-D Pond Unit Manager, the CERCLA 100-DR-1 Operable Unit Manger, and appropriate personnel from USDOE meet to discuss the coordination of RCRA and CERCLA requirements to the 100-D Pond piping and record their agreement in writing. This approach is contemplated by EPA's recently finalized guidance RCRA/CERCLA Interface - Interim Final Guidance, dated August 3, 1994, copy enclosed. We are confident that an appropriate strategy, designed to fulfill all applicable regulatory requirements, can be developed.

We look forward to USDOE's response to this letter. Please contact Alisa Huckaby, of my staff, at (503) 786-3034, if you have any questions or to arrange the suggested meeting.

Sincerely,



David L. Lundstrom
200 Area Section Manager
Nuclear Waste Program

DL:AH:mf
Enclosures

cc: Nancy Werdel, USDOE
Dan Duncan, EPA
Doug Sherwood, EPA
Bill Cox, BHI
Administrative Record - 100-D Pond