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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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August 11, 2005

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EDMC

Mr. Keith A. Klein, Manager
Richland Operations Office
United States Department of Energy
P.O. Box 550, MSIN: A7-50
Richland, Washington 99352

Dear Mr. Klein:

Re: Letter dated May 11, 2005, from Keith Klein, U. S. Department of Energy (USDOE) to Michael A. Wilson Washington State Department of Ecology (Ecology) regarding the Submittal of DOE/RL-96-73, Revision 2, 324 Building Radiochemical Engineering Cells, High-Level Vault, Low-Level Vault, and Associated Areas Closure Plan

Ecology has received and reviewed the revised 324 Building Radiochemical Engineering Cells, High-Level Vault, Low-Level Vault, and Associated Areas Closure Plan, Revision 2 submitted May 11, 2005. Several areas of concern have been identified and are documented in the enclosed Notice of Deficiency (NOD) table. The May 11, 2005, version of the closure plan submitted contains additional text that was not presented in the application. These changes have led to the denial of the closure plan.

Ecology has conducted workshops with the USDOE and its contractors in an attempt to resolve issues. Please revise the closure plan application as agreed to during the workshops held July 28 and August 3 and 4, 2005. In addition, the State Environmental Policy Act (SEPA) Environmental Checklist will require revision to be consistent with the closure plan. Please submit the revised closure plan and SEPA checklist in written format, as well as providing an electronic version by August 31, 2005.

If you have any questions, please contact Jeanne Wallace at 372-7931.

Sincerely,

Rick Bond
Transition Project Manager
Nuclear Waste Program

JW:nc

cc/enc: Dave Bartus, EPA
Nick Ceto, EPA
Kevin Bazzell, USDOE
Rudy Guercia, USDOE
Stuart Harris, CTUIR
Gabriel Bohnee, NPT
Russell Jim, YN
Ken Niles, ODOE
Administrative Record
Environmental Portal

Notice of Deficiency (NOD) #2 324 Building Radiochemical Engineering Cells, High-Level Vault, Low-Level Vault, and Associated Areas Closure Plan DOE/RL-96-73, Revision 2, submitted May 11, 2005 Prepared by Jeanne Wallace, June 2005	
Comment Number	**Comment**
	Chapter 1
1.	For clarification, in evaluating the January 2004 revision 1A of the closure plan application a deficiency was documented and communicated in the Notice of Deficiency (NOD) Comments Response Table for the 324 Building Radiochemical Engineering Cells, High-Level Vault, Low-Level Vault, and Associated Areas Closure Plan, DOE/RL-96-73, Rev 1A (renumbered as formal Revision 2 per comment NOD no. 1) including Comment Resolutions March 9, 2005, was enclosed with the May 11, 2005, submittal of 324 Building Radiochemical Engineering Cells, High-Level Vault, Low-Level Vault, and Associated Areas Closure Plan. New information not presented in the January 29, 2005, closure plan application was inserted into the revised closure plan application submitted May 11, 2005. The May 2005 application was to have been revised in accordance with the NOD Table and agreements reached during NOD workshops. The new information changed conditions outside the scope of revision and were changed without informing or receiving concurrence from Ecology. The text was changed after submitting what should have been a true, accurate, and complete application dated January 29, 2004. The revision of text occurred without approval or notification of the Washington State Department of Ecology (Ecology). The only changes to the closure plan should have reflected those documented in the NOD Comment Response Table. See Figure 6-2 Closure Process Flowchart of the Hanford Federal Facility Agreement and Consent Order. In an effort to avoid multiple Notice of Deficiency cycles in revision of the 324 closure plan, Ecology provided concise direction in a December 18, 2002, correspondence and then held multiple workshops with the permittee. The workshops allowed Ecology and the regulated party to discuss and develop appropriate responses to comments as well as closure plan text. After conducting an extended and resource intense workshop cycle, Ecology discovered that further changes were made without prior notification of Ecology.

2. Newly inserted closure plan text is inconsistent with Table 6-1, Revision 2, as well as Ecology guidance to the U.S. Department of Energy (USDOE). Table 6-1 was developed by Ecology, revising Table 6-1 contained in revision 1 of the closure plan in a December 18, 2002, letter to USDOE Director, Joel Hebdon from Fredrick Bond, Project Manager. Ecology's intent was to provide clear direction to revise the text of the closure plan to be consistent with standards and actions specified in the revised Table 6-1.

Excerpt from Table 6-1 Addressing Soil/Groundwater.
Closure Performance Standards and Activities for Areas Undergoing Closure.

Area	Components	Closure Performance Standard	Closure Activities
Soil/ Ground-water	Potentially contaminated soil	• Localized soil contamination (if any) will be removed to clean closure standards. • Wide-spread soil contamination will be coordinated with the soil and ground remediation planned for the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) operable units.	• Potentially contaminated soil will be characterized to define nature and extent of contamination. • Localized contamination will be removed and disposed of as mixed waste. • For wide-spread contamination, a contaminant of concern list will be developed so that future CERCLA investigation and cleanup actions can be coordinated.

* Detailed description of the closure actions and activities are included in Chapter 7.0.
* Closure of components will be achieved through removal. Removal of any dangerous wastes or dangerous constituents during partial or final closure will be handled in accordance with applicable requirements of Washington Administrative Code (WAC) 173-303.

3. Certification Statement in the front of the document. The Certification Statement is not compliant with the Dangerous Waste Regulations requirements for documents to be certified in accordance with WAC 173-303-810(13) Certification. (a) Except as provided in (b) of this subsection, any person signing the documents required under (a) or (b) of subsection (12) of this section must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and

	belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." In addition, all closure activities must be conducted and certified in accordance with the approved closure plan as stated in the December 18, 2002, letter to USDOE Director, Joel Hebdon, from Fredrick Bond, Project Manager. Please replace statement with the certification language provided.
4.	The statement 'including regulatory approvals of close out documentation' occurs throughout document; pages 1-6, 1-8, ... The statements do not specify the approving entity. However, in section 6.1 more appropriate and preferred language is used "... and including *obtaining* EPA and/or Ecology approval of the appropriate project closeout documents ...". Please insert "obtaining" between "including" and "regulatory" into the less clear statements throughout the application.
5.	Section 2.4. The Security Information section 2.4 describes the requirements as current as of *March 1998*. Please verify that this information is current as of March 2005 and insert the date of the application revision. This comment was not made in review of the original plan because it was outside the scope of revision. However, the document should contain current information when it is issued.
6.	Throughout the document detail was removed from figures making them less useful. Due to security reasons, it may be appropriate to remove the detail however, it is inappropriate to do this without communicating the changes. In addition, the quality of the photograph copies are so poor they are virtually useless. For example, figures 2-8, 2-9, 2-10 and 2-11. Ecology requests clarification of why detail was removed from the document. Please provide actual photographs and detailed figures rather than copies for official use only. This comment was not made in review of the original plan because the modified figures were not provided in the application for revision.
7.	Page 6-2 contains a sentence stating that the U.S. Environmental Protection Agency (EPA) will approve *any* CERCLA activities. This is an accurate statement but for clarification, closure activities, including those performed in conjunction with CERCLA activities will be approved by Ecology. This point of clarification would be appropriate for the application. Ecology must oversee closure activities in order to approve the closure certification that actions are conducted in accordance with the approved closure plan. This responsibility is not deferrable to CERCLA.
8.	Section 6.2.5 addresses the closure strategy for the underlying soils and groundwater. The May 2005 version of this section contains text that was not submitted or discussed in what should have been true, accurate, and complete application dated January 29, 2004. The changes to the text occurred without approval or notification of Ecology. The only changes to the closure plan should have reflected those documented in the NOD Response

Table. See Figure 6-2 Closure Process Flowchart of the Hanford Federal Facility Agreement and Consent Order.

In an effort to avoid multiple NOD cycles in revision of the 324 closure plan, Ecology provided concise direction in a December 18, 2002, correspondence and then held multiple workshops with the permittee. The workshops allowed Ecology and the regulated party to discuss and develop appropriate responses to comments, as well as closure plan text. After conducting such an extended and resource intensive workshop cycle, Ecology is very disappointed that further changes were made without informing Ecology.

The following is the text modifications presented and agreed to by Ecology through the workshop process. The changes are highlighted. Note the clean closure standards text was not modified;

"6.2.5 Underlying Soils and Groundwater

The closure strategy for the soils and/or groundwater potentially contaminated with dangerous wastes from treatment, storage, and disposal (TSD) operations is provided in Figure 6-5. The following closure activities will be performed to close the unit with respect to soils and groundwater:

- Prepare a sampling and analysis plan for soil sampling for Ecology approval. Submit sampling plan to Ecology 180 days prior to planned implementation of sampling to allow for Ecology review and approval prior in advance of sampling. Soil sampling requirements are addressed in section 7.5.2.
- Clean closure standards for soil are the numeric cleanup levels calculated using the residential exposure assumptions according to the Model Toxics Control Act (MTCA) Method B (WAC 173-340). Where no cleanup values can be calculated using MTCA Method B, the values in the MTCA Method A table can be used, as appropriate.
- If no dangerous waste is found above MTCA levels, the area can be closed with respect to the closure of this unit. If dangerous waste is identified above the standard, the following actions will be taken.
    - If concentrations or conditions warrant an interim measure for soil removal, an Interim Measures Plan will be prepared and submitted to ecology for the removal.

	- If an interim measure is not warranted, soil investigations and remediation will be scheduled and coordinated with the CERCLA operable unit, identifying the contaminants of concern, cleanup levels and specifying Resource Conservation and Recovery Act (RCRA) as an Applicable or Relevant and Appropriate Requirement (ARAR). (Note: The current 300-FF-2 operable unit remediation strategy is to use industrial cleanup standards [MTCA Method C] consistent with the 300-FF-1 Final Record of Decision.)" Revision 0, revision 1, and the January 29, 2004, application revision 1A of the 324 closure plan submitted contained the following bulleted text in section 6.5 of the closure plan; "Clean closure standards for soil are the numeric cleanup levels calculated using the residential exposure assumptions according to MTCA Method B (WAC 173-340). Where no cleanup values can be calculated using MTCA Method B, the values in the MTCA Method A table can be used, as appropriate. The second bullet stated if no dangerous waste is found above MTCA cleanup levels …". The redline/strikeout version of the text Ecology was provided for resolution of the NOD associated with section 6.5 and subsequently approved consisted of replacing the first two bullets in section 6.5 with one bullet that read; "Prepare a sampling and analysis plan for soil sampling for Ecology approval. Submit sampling plan to Ecology 180 days prior to planned implementation of sampling to allow for Ecology review and approval prior in advance of sampling. Soil sampling requirements are addressed in section 7.5.2." No changes were proposed for the rest of this section. However, when the draft application was submitted May 11, 2005, to prepare for issuance other portions of section 6.5 were modified. In addition to the agreed to changes to the text, the bullet presenting clean closure standards was deleted and the acronym "MTCA" was replaced with "land use cleanup" in the last bullet. Please revise text to use approved text presented originally in Revision 0, 1, 1A, and the workshops as presented above.
9.	7.5.2, page 7-8, line 43 and 44. During the NOD workshops, it was agreed that "conducted over these accessible soil areas" was to be deleted from line 43 because the entire building is being removed to allow unobstructed access to the soil beneath the building. Please revise text accordingly.
10.	Section 7.5.2, page 7-9, line 14. The acronym MTCA was deleted from the sentence. Please use the text below

	which was posed by the permittee and agreed to by Ecology in the workshops; "Sampling and analysis for waste management purposes can be conducted simultaneously with that of the components being evaluated for closure. This coordinated sampling and analysis plan must have the capabilities for achieving the detection limits and methodologies for determining both designation limits and MTCA cleanup levels." Please revise text to use approved text presented as stated above.
11.	Section 7.5.2, Line 16. This entire paragraph has been modified from that which was provided in: 1) the January 2004 application and 2) the negotiated language developed December 2004 redline/strikeout version. The following is language proposed by the permittee and agreed to by Ecology in the workshops; "As addressed in section 6.2.5, and required by WAC 173-303-610(2)(b)(i), the clean closure standards for the soil are the numeric cleanup levels calculated using residential exposure assumptions according to the Model Toxics Control Act (MTCA) Method B (WAC 173-340). Where no cleanup values can be calculated using MTCA Method B, the values in the MTCA Method A table can be used, as appropriate." Please revise text to use approved text presented as stated above.
12.	Section 7.5.3. The following is language proposed by the permittee in the workshops; January 2004 application language - This plan will describe how the removal will be done, provide cleanup standards *(based on the MTCA clean closure standards for TSD contaminants of concern or approved alternative)*, and specify how sampling will be performed to verify cleanup objectives have been met. This plan will be incorporated into the closure plan, as described in the closure modification requirements contained in Section 7.8. If interim removal actions can be performed to meet the closure performance standards, then the unit will be closed. Without acknowledging or approval changed to: May 11, 2005, application language - This plan will describe how the removal will be done, provide cleanup standards *consistent with the current 300-FF-2 operable unit remediation strategy to use industrial cleanup standards consistent with the 300-FF-1 Final Record of Decision and* specify how sampling will be performed to verify cleanup objectives have been met. This plan will be incorporated into the closure plan, as described in the

	closure modification requirements contained in 7.8. ... Please revise text to use approved text presented in the January 2004 application as stated above.
13.	7.5.4 January 29, 2004, Application language, page 7-16, 7.5.3, line 36. "(based on the MTCA clean closure standards for TSD contaminants of concern or approved alternative)," May 11, 2005, Application language "consistent with the current 300-FF-2 operable unit remediation strategy to use industrial cleanup standards consistent with the 300-FF-1 Final Record of Decision" Please revise text to use approved text presented in the January 2004 application as stated above.
14.	The agreed to text modified the January 2004 application to read as follows; "7.7 Schedule for Closure December 2004 version The closure schedule is presented in Appendix 7A of this closure plan. Removal of inventory from B-Cell, D-Cell, and the HLV already has been completed in accordance with the Tri-Party Agreement (TPA) Milestones M-89-01 and M-89-02 and is reflected in the closure schedule provided in Appendix 7A. Because of the complexity and significant radiological contamination of the 324 Building, the schedule proposed for completion of M-89-00 is greater than 180 days." The May 11, 2005, application inserted new language without acknowledging or approval. Delete line 22 through 30 which inserted confusing discussion of TPA milestone M94. Use only agreed to text presented above.
15.	8-i. Editorial comment. A space should be deleted between sections 8.1.5 and 8.1.6. A space should be added after section 8.1.6.