

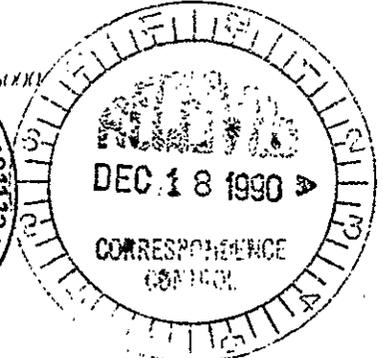
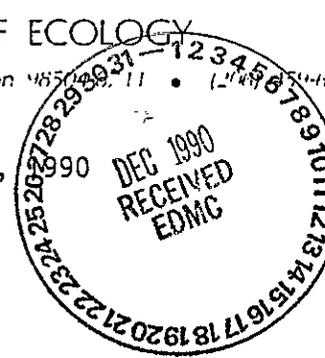


STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Stop PV-11 • Olympia, Washington 98500 • (206) 835-8000

December 10, 1990



START

Mr. Steve Wisness
U.S. Department of Energy
P.O. Box 550
Richland, WA 99352

Re: Removal Action in the 100-NR-1 Operable Unit

Dear Mr. Wisness:

This letter is in response to the October 22, 1990 letter from USDOE regarding the unauthorized devegetation removal action in the N-Springs area of the 100-NR-1 Operable Unit. It is apparent there is disagreement over this action and interpretations regarding the language in Section 7.2.4 of the Hanford Federal Facility Agreement and Consent Order. We must resolve these disagreements and come to a mutual understanding on this important issue.

The only hope in averting more misunderstandings is to discuss this action and the significance of applicable statutes, regulations, Executive Orders and the Hanford Federal Facility Agreement and Consent Order. The following defines our position and should provide the basis for further discussions.

Section 7.2.4 states "...an Interim Remedial Action (IRA) proposal shall be submitted by the DOE to the lead regulatory agency." No formal proposal was ever transmitted to Ecology or EPA. This section further notes "Any proposal for an IRA ... must be approved by the EPA prior to initiation of field work." This requirement was not honored.

There was no consultation in the announcement of an "action plan" at the August Unit Managers' meeting, or the declaration at the next month's meeting that the action was already underway. Ecology and EPA believed the verbal assurances at the August meeting that actions would not commence without further consultation and approval. Furthermore, paragraphs 38 and 39 of the TPA provide that Ecology and EPA shall make the selection of IRAs and Interim Measures. We believe this unilateral action undertaken by USDOE is contrary to the spirit and the letter of the Agreement.

We disagree with the assumption expressed in your letter that the action was not inconsistent with the complex and numerous provisions and ramifications of CERCLA, RCRA, or TPA milestones. CERCLA identifies radioactive substances as hazardous. The hazardous constituents taken up by the mulberry trees were not determined. The information potential of the trees as a biological sampling mechanism was lost. Work plans being developed for the 100 Area recognize the importance of ecological monitoring and of indicator species or ecological indicators.

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We do not agree that WHC EII 2.3 was followed. It is contradictory that although USDOE contends that the action did not meet EPA Interim Corrective Measure (ICM) criteria as described in EPA 530/SW-89-031, USDOE nonetheless carried out what amounts to an ICM. The fact that an action was undertaken manifests that ICM criteria were met, and that the HSWA procedures should have been followed.

The three parties must meet to resolve this dispute. Please contact us within two weeks of receiving this letter to schedule a meeting to initiate discussions.

Sincerely,

Tim Nord
Hanford Project Manager
Nuclear & Mixed Waste Management

cc: Roger Stanley, Ecology
Paul Day, EPA
~~STAB~~ Veneziano, WHC

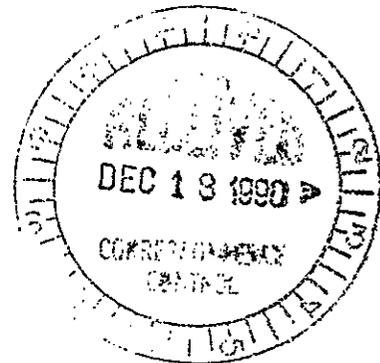
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