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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

1315 W. 4th Avenue • Kennewick, Washington 99336-6018 • (509) 735-7581

March 27, 1996

Mr. Kevin Bazzell  
U.S. Department of Energy  
P.O. Box 550  
Richland, WA 99532



Dear Mr. Bazzell:

Re: Sampling and Analysis Plan Approval Process for the Backlog Soil Containers in the Central Waste Complex

This letter is to notify the U.S. Department of Energy (USDOE) and its contractors, of the potential risk in proceeding to sample backlog soils containers for the purpose of disposal without approval by the Washington State Department of Ecology (Ecology) prior to the actual sampling event.

As you are aware, land disposal of waste within the state of Washington that has been designated as containing Listed codes (e.g., F, P, U, and K) is prohibited by law unless one of the following regulatory pathways are taken (with the exception of treatment per LDR requirements, which has not been considered for this waste thus far):

- 1) An appropriate delisting procedure is performed either through a state authorized contained-in demonstration, or a federal delisting petition;
- 2) waste analysis performed by the generator, pursuant to 40 CFR 268.7 indicates the levels of listed waste fall below the treatment standards as stipulated in 40 CFR 268.40; or
- 3) the generator has adequate process knowledge to determine the waste meets LDR treatment standards under 40 CFR part 268.7.

In a previous letter to USDOE from Ecology (e.g., "Disposal of Backlog Soils Drums and Boxes Currently Stored in Central Waste Complex," February 6, 1996) an acceptable sampling scheme, including the necessary number of samples required to allow for delisting, was presented. It was also stated that delisting is based on comparison of statistically adequate analytical data with health based limits as per the Model Toxics Control Act, and statistical adequacy would be determined by Ecology. This approach would fall under item (1) above.

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It is understood the pathways discussed under item (2) or (3) would not involve approval of the generator sampling and analysis plan (SAP) by Ecology; however, Ecology has the authority at any time to assess the appropriateness of the generator waste analysis and, based on this assessment, require additional data which may include more sampling. At such a point USDOE would be obligated to provide the requested data prior to land disposal or risk inappropriate management of the waste.

At present, it is Ecology's understanding USDOE is proceeding with recommendations from its contractor to finalize a SAP without Ecology approval by the first of April 1996 and begin sampling sometime in May 1996. Again, USDOE needs to be aware Ecology may not accept the results as proof the subject waste is excluded from LDR requirements under RCRA.

Further discussion of these issues should occur between Ecology and USDOE at the earliest possible convenience.

If you have any questions or concerns, please contact me at (509) 736-3012.

Sincerely,



Ted A. Wooley, CWC Unit Manager  
Nuclear Waste Program

TW:mf

cc: Rudy Guercia, USDOE  
Joe Waring, USDOE  
Doug Sherwood, EPA  
Rick Pierce, WHC  
Administrative Record, Central Waste Complex