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DEPARTMENT OF ECOLOGY

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November 30, 1989

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Mr. Leo P. Duffy
Special Assistant to the Secretary
U.S. Department of Energy
100 Independence Avenue S.W.
Washington, D.C. 20585

Dear Mr. Duffy:

On behalf of the state of Washington, it is my pleasure to offer comment on the Secretary's Environmental Restoration and Waste Management, Five-Year Plan (DOE/S-0070, August, 1989).

In doing so I would first like to congratulate Secretary Watkins, yourself, and involved staff for an exceptional step towards the resolution of the long-standing federal facility compliance and cleanup issues at USDOE facilities nationwide. Your initiative and leadership have laid the foundation for what promises to be a successful and credible cleanup program.

Your commitment and new openness in addressing the formidable problems facing USDOE is commendable. The major initiatives discussed in the plan mark a fundamental change in USDOE's attitude toward the environment and the public health and safety. Where a year ago we had grave doubts of USDOE's ability to effectively come to grips with its waste problems, we now are optimistic that cleanup can be achieved, and the public trust can be gained.

We look forward to working with USDOE to successfully implement the cleanup plan. We particularly appreciate your efforts to involve the public and affected states and tribes in your planning. This practice will be continued and expanded.

The following discussion is offered as our evaluation of the principle elements of the five-year plan. We have recommended several general revisions which we believe are in keeping with the spirit of the plan and would also enhance the effectiveness of USDOE's cleanup efforts.



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1. USDOE'S COMMITMENT TO MEET THE TERMS OF CLEANUP AGREEMENTS
(Secs. 1.1.1, 1.2.2, 1.2.3, and other locations throughout the five-year plan)

Stronger language needs to be incorporated under which USDOE:

- a) Recognizes the abilities of state and federal regulators to enforce cleanup agreements; and
- b) Affirms its commitment to meet all agreement terms.

USDOE should also discuss the relationship between these agreements and national and individual site five-year plans. In the case of Washington State, the Hanford Federal Facility Agreement and Consent Order will continue as the primary working document throughout the implementation of compliance and cleanup actions. It can not be otherwise if the public trust is to be gained.

2. USDOE EFFORTS TO ESTABLISH A NATIONAL PRIORITIZATION SYSTEM
(Forward and sections 1.2.1.2, and 1.2.2)

USDOE, in cooperation with state, USEPA, Indian Nation, and environmental group representatives are presently working to develop a national priority system to guide cleanup actions. Five-year plan language should be revised to reflect these cooperative efforts. Specifically, definitive language should be added to the five-year plan through which USDOE commits to pursue full funding in order to:

- a) Adequately address imminent hazard situations; and
- b) Meet Agreement terms and the requirements of federal and state environmental laws.

The system should be used to prioritize only activities other than those relating to imminent hazards or compliance issues, and/or those actions resulting from consensual situations i.e., the negotiation or renegotiation of schedules in a CERCLA section 120 interagency agreement affecting Environmental Restoration (ER) activities.

Further recommendations regarding this aspect of the five-year plan, are being provided to your staff through the External Review Group (ERG) process.

3. USDOE SUPPORT OF THE ESTABLISHMENT OF A STABLE LONG TERM FUNDING MECHANISM (Sec. 1.3.2)

The plan recognizes the critical need for a stable long term funding mechanism. The plan needs to provide the details of such a funding mechanism. It must also urge the Administration and Congress to take action to establish such a mechanism.

This mechanism must be adequate to ensure the performance of activities under the five-year plan including those delineated under compliance and cleanup agreements between USDOE, and/or the states.

4. USDOE COMMITMENT OF ENVIRONMENTAL PRIORITIES OVER PRODUCTION

Consistent with the Secretary's June, 1989 10 point initiative, USDOE should reaffirm that environmental compliance and cleanup will be afforded priority over production.

5. USDOE COMMITMENT TO MEET ESTABLISHED STATE AND USEPA STANDARDS (Sections 1.1.1, and 1.2.3)

USDOE should reaffirm its commitment to meet state and USEPA compliance and cleanup standards rather than pursuing the development of alternative "national standards".

6. FIVE-YEAR PLAN LANGUAGE ADDRESSING USDOE'S TRANSPORTATION SYSTEM (Sec. 4.1.8.1)

Safe and uneventful waste shipments are critical to the successful cleanup of USDOE sites, and to the successful operation of high-level and transuranic waste disposal programs. On the other hand, the transportation of nuclear and mixed waste is a major concern to the citizens of states where waste is located, and to the citizens of corridor states. We recommend that the five-year plan be amended to describe a comprehensive USDOE effort which ensures adequate transportation planning and preparedness for transportation accidents. The five-year plan should also describe an education program which will fully advise the public on associated safety issues.

7. COMMITMENT TO CULTURAL CHANGE (Sec. 1.1.2)

One of the most encouraging of the Secretary's initiatives has been the recognition that large scale cultural change is essential to success i.e., a recognition that USDOE staff must "buy in" fully to the ethic of environmental stewardship, and openness. The importance of this task and of unfailing, aggressive, attentiveness can not be forgotten. If it is, public

confidence will be lost and compliance and cleanup efforts will fail.

We recommend that the five-year plan be substantially amended to include concise, yet specific, descriptions of actions to be taken to ensure cultural change. This language should include a description of independent assessments in progress or planned, actions to reorganize the agency, and other specific institutional actions taken.

8. USDOE'S COMMITMENT TO OPENNESS, PUBLIC INVOLVEMENT, AND THE AVAILABILITY OF INFORMATION (Secs. 1.1.2 through 1.2.1.2)

This past year has seen the initiation of a number of efforts by both USDOE and its contractors which reflect a growing open approach to environmental issues, and to associated public involvement. Opportunities for meaningful involvement by state, USEPA, effected Indian Nation and citizen group representatives have increased dramatically. Specifically, we have been encouraged by the early involvement of key parties in the five-year plan effort and have found USDOE responsive to our concerns. Interactions between citizen interest groups, the general public, and USDOE are similarly on the rise.

We feel that USDOE must be particularly attentive now in nurturing this new approach. Policy statements within the five-year plan should be reaffirmed and supportive practices described. These practices should detail:

- a) Continued USDOE efforts to routinely involve key participants in meaningful early review and the revision of pertinent documents.
- b) USDOE efforts to establish meaningful public outreach programs.
- c) Efforts to ensure that USDOE and contractor staff deal openly and candidly with the public, regulators, and other involved parties. Practices which condone secrecy and/or the withholding of pertinent information can not be tolerated.
- d) Changes made or planned by USDOE and/or its contractors to simplify and expedite document classification, clearance, and release.

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9. USDOE RECOGNITION AND SUPPORT OF INDIAN NATION AND STATE INVOLVEMENT (Forward and sections 1.1.1, 1.2.1.2, 1.2.3, and 1.3.4)

We recommend that USDOE strengthen the five-year plan by expanding on language recognizing tribal sovereignty, treaty rights, and the need for formal involvement of effected tribes. Language referencing USDOE's developing policy of reimbursing states for oversight activities should be updated. This language (section 1.3.4) should also address USDOE's new policies on reimbursement for tribal involvement.

10. USDOE'S COMMITMENT TO A 30-YEAR CLEANUP GOAL

Our concern in this instance results from USDOE's response to state requests that it fully commit to a 30-year cleanup nationwide (USDOE has chosen not to, and has instead adopted 30 years as a cleanup goal).

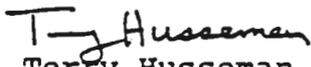
We recognize that funding may not be assured, and that in some instances technical issues may delay the completion of cleanup actions. Nonetheless, we encourage USDOE to recognize that success overall will depend largely on the level of its commitment and on the stance it takes at this early stage of implementation. Establishing 30 years simply as a goal brings the agency's commitment immediately into question.

We recommend that USDOE strengthen its 30-year goal to a full commitment throughout the five-year plan, and that it adopt a firmly determined stance to complete cleanup no later than the year 2018. We also recommend that USDOE recognize that many cleanup efforts (sites) can and should be completed in far less than 30 years.

Please note that state comments regarding USDOE's draft Applied Research, Development, Demonstration, Testing and Evaluation Plan (October, 1989) will be provided under separate cover.

And again, congratulations and our best for continued success.

Sincerely,


Terry Husseman
Assistant Director
Waste Management

cc: Dan Silver
Mike Lawrence

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