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Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

09-EMD-0052

MAR 30 2009

Ms. J. A. Hedges, Program Manager
Nuclear Waste Program
State of Washington
Department of Ecology
3100 Port of Benton
Richland, Washington 99354

RECEIVED
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EDMC

Dear Ms. Hedges:

600 AREA PURGEWATER STORAGE AND TREATMENT FACILITY MODUTANK #2
RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) OF 1976 PROTECTIVE
FILING

References: (1) EPA OSWER 9453.1991(01), "Withdrawal of An Interim Status Part A
Permit Application," dtd. June 1991.

(2) EPA ltr. to Philip X. Masciantonio, from J. Winston Porter, "EPA Discussion
on Protective Filings," dtd. March 24, 1986.

The U.S. Department of Energy, Richland Operations Office (RL), requests the concurrence from the State of Washington, Department of Ecology (Ecology) regarding the regulatory status of the 600 Area Purgewater Storage and Treatment Facility, Modutank #2. RL's position is that because Modutank #2 never managed dangerous waste or contaminated media, it is not a treatment, storage and disposal (TSD) unit under interim status, and is not subject to the interim status requirements for TSD facilities as defined at WAC 173-303. RL's position is consistent with the U.S. Environmental Protection Agency's position that units for which Part A applications were filed but at which hazardous wastes were never actually stored, treated, or disposed never became "subject to the requirements to have a RCRA permit," References (1) and (2). RL submitted a protective filing for Modutank #2 on January 26, 1990. RL's position is that because Modutank #2 has not been used to manage dangerous waste, it has never attained interim status and hence has never been subject to the regulatory requirements of WAC 173-303, including the requirement to close Modutank #2 according to the requirements of an approved closure plan incorporated into the Hanford Dangerous Waste permit.

Prompt concurrence with this regulatory understanding is requested so that RL will be able to quickly implement changes to its purgewater management, in response to expected large increases in purgewater generation.

Ms. J. A. Hedges
09-EMD-0052

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If you have any questions, please contact me, or your staff may contact Ray J. Corey, Assistant Manager for Safety and Environment, on (509) 376-0108.

Sincerely,



David A. Brockman
Manager

EMD:ACM

cc: C. Conaway, Ecology
G. Davis, Ecology
M. N. Jaraysi, CHPRC
E. R. Skinnarland, Ecology
Environmental Portal, LMSI
Ecology NWP Library
HF Operating Record (S. A. Thompson, FH, E6-28)
Administrative Record, H6-08 (HF RCRA Permit)
