



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10 HANFORD PROJECT OFFICE
712 SWIFT BOULEVARD, SUITE 5
RICHLAND, WASHINGTON 99352

June 17, 1994

Eric Goller
100 Area RL Monitor
U.S. Department of Energy
P.O. Box 550 A5-19
Richland, WA 99352

Subject: Overdue DOE Responses to Regulator Comments, 100-KR-1

Dear Mr. Goller:

This is to inform the U.S. Department of Energy (DOE) that they are delinquent in providing responses to regulator comments submitted on the 100-KR-1 Limited Field Investigation and Qualitative Risk Assessment documents. The comments represent the combined efforts of the Washington State Department of Ecology, U.S. Environmental Protection Agency, and EPA contractors; and were submitted to help these documents provide a legally and technically sound basis for the remedial decision process at the 100-KR-1 operable unit. The DOE's management has committed to responding to regulator comments within 30 days (Hanford Federal Facility Agreement and Consent Order [TPA], figures 9-1 and 9-3). We request that the pattern of delayed DOE responses to regulator comments on 100 Area documents (for which 100-KR-1 is an example) change to come into compliance with the TPA.

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Enclosed please find records of correspondence between myself and my DOE counterpart. The DOE acknowledged receipt of the 100-KR-1 comment responses via an electronic mail message on April 12, 1994 (enclosure 1). (Enclosure 1 is discussed further in enclosure 2.) Now, over two months later, we have not received comment responses, or a letter requesting an extension to the comment response period, or any verbal or written request for additional response time. On May 23, 1994 we sent an informal written message (enclosure 3) via electronic mail to DOE as a reminder of the overdue status of DOE's responses in the hopes that this formal letter could be avoided. The DOE did not respond to that reminder. The 100-KR-1 comments are part of a pattern of non-responsiveness which is unacceptable. We strongly urge DOE to take a more responsive stance to regulator comments on 100 Area documents. If you have any questions, please call me at (509) 376-9884.

Sincerely,
Laurence E Gadbois
Laurence E. Gadbois
100-KR-1 Unit Manager



START

Mr. Eric Goller

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June 17, 1994

copy: David Holland, Ecology
Allan Krug, WHC
Mike Thompson, DOE
Patrick Willison, DOE
Administrative Record, 100-KR-1

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Enclosure 1

[102] From: Eric D Goller at ~DOE6 4/12/94 7:23PM (1881 bytes: 26 ln)
To: Laurence E Gadbois at ~TPA1
cc: K M (Mike) Thompson at ~DOE13, Douglas R Sherwood at ~TPA1, Paul M Pak,
Eric D Goller
Subject: Outrage to EPA's Comments on the 100-KR-1 LFI Report

----- Message Contents -----

Larry,

Your transmittal of 245 comments is an incredible outrage! Your motivation is incomprehensible. ALL HIGH PRIORITY WASTE SITES WERE RECOMMENDED BY RL TO REMAIN ON THE IRM PATH!

You have participated in many comment resolution meetings on other source OU LFI Reports and QRAs. A constant theme is: "Do you disagree with the waste site IRM candidacy recommendations?" If not, we should apply our collective energy to more useful efforts on future work. Your current focus forces RL to apply scarce resources on addressing your comments on issues on which WE ALREADY HAVE VIRTUALLY TOTAL AGREEMENT!!!

I strenuously request that you withdraw all of your comments from the Administrative Record and re-examine them for value added benefit to our collective efforts. If you refuse to do so, I will expend my time and energy seeking alternate ways to officially document a DOE-RL protest on your performance, and your agency's performance, on the subject LFI Report and numerous other elements of our work associated with 100 Area OUs, risk assessment, etc.

This is not a threat, but a sincere warning. I do not have time to bluff.

Please feel free to call me if this is not absolutely clear.

Eric

9413293.4260

Enclosure 2. Clarification of Issues Raised in Enclosure 1.

Enclosure 1 appears to reflect an attitude toward regulator comments which is unacceptable, especially for two reasons. The first paragraph inaccurately identifies the interim remedial measures (IRM) status of the high priority waste sites, and uses that inaccurate understanding to question the regulators' motives. Regulator motive is to foster the legal and technical credibility of our remedial decision process. For DOE to inaccurately state the IRM status of high priority waste sites and then use that inaccurate statement to challenge regulators' motives is not acceptable. (Note that the effluent discharge pipes were dropped from IRM status at 100-KR-1. There were not investigated, however the analogous waste site, the effluent discharge pipes at 100-BC were investigated and continued on the IRM path.)

The second paragraph of enclosure 1 highlights a fundamental difference between a DOE and regulatory perspective at this operable unit. A technically sound analysis is needed to make remedial decisions, and until that is done, remedial decisions would be arbitrary and capricious. Technically sound does not the same as technically exhaustive, but as far as the analysis goes, it must be defensible. We are not allowed to look at the remedial decision in a go no-go manner. If we disagree with an analysis, we cannot arbitrarily accept the conclusion based on that analysis. The DOE appears to be asking us to accept or reject the final recommendations and then move on to future work, rather than ensure the final recommendations are appropriately derived.

It is stated in enclosure 1 that the regulators and DOE have reached virtually total agreement on issues raised on the comments. Again on this point DOE illustrates a lack of understanding of the comments and issues raised by the regulators. Two examples are presented to illustrate this point:

- (1) The risk assessment document defines the current occasional-use scenario as 6 feet of clean fill over all waste sites. Comments point out that some waste sites contain an unknown depth of fill, and others contain perhaps several but substantially less than 6 feet of clean overfill. Accounting for the substantial shielding effect of 6 feet of clean cover in a "current occasional-use scenario" when this cover does not exist is misleading and is not an issue on which we have "virtually total agreement".
- (2) Regarding background calculations, a population distribution was generated using two samples. Yes, two samples. Further, a statistical threshold was calculated from this population distribution and used as a background value. Remedial decision making based on this type of statistical analysis is not an issue on which we have "virtually total agreement".

The last half of enclosure 1 does not warrant a response.

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Enclosure 3

[67] From: L E (Larry) Gadbois at ~TPA1 5/23/94 4:46PM (1764 bytes: 35 ln)
To: Eric D Goller at ~DOE6
Receipt Requested
cc: Patrick W Willison at ~DOE0, ^Wash St Dept of Ecology at ~DOE_HANFORD_1
bcc: L E (Larry) Gadbois
Subject: Comment Responses.

----- Message Contents -----
Memo May 23, 1994

To: Eric Goller, DOE
CC: Patrick Willison, DOE
David Holland, Ecology

From: Larry Gadbois, EPA

Subject: Overdue DOE responses to regulator comments.

This is a reminder that DOE's responses to the combined EPA/Ecology comments on 100-KR-1 LFI/QRA are overdue. In the TPA, DOE commits to providing comments within 30 days. It has now been 42 days since the comments were submitted via electronic format to DOE and copied to DOE contractors. We have not received any verbal or written request for an extension to the 30-day response period.

We have made efforts to accelerate the comment/response process by: (1) sending DOE draft general comments (March 11) 31 days prior to formal transmittal (April 11) to facilitate informal comment resolution to obviate the need for some of the formal comments, (however DOE chose to not respond to those comments) and (2) transmitting formal comments five days before they were due. Our efforts to accelerate the comment/response process are nullified by DOE taking an extended interval to provide comment responses.

We would appreciate a better effort to provide comment responses within the time commitment of the TPA. If DOE has significant reason to need additional time, we would appreciate a letter identifying that need. If you have any questions regarding this, please feel free to give me a call at (509) 376-9884.

Larry

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