



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

March 22, 2004

Reply To
Attn (C): ECL-117

Mr. Keith A. Klein, Manager
U.S. Department of Energy
Richland Operations Office
P.O. Box 550, A7-50
Richland, WA 99352

Dear Keith,

This letter is to advise the U.S. Department of Energy (DOE) that the U.S. Environmental Protection Agency (EPA) is considering assessing additional stipulated penalties, as provided for in the Hanford Federal Facility Agreement and Consent Order (TPA), for the Department's continued failure to initiate full-scale sludge removal from the K-Basins. This activity was required to begin on or before December 31, 2002, according to TPA Milestone M-34-08.

On April 3, 2003, EPA assessed stipulated penalties in the amount of \$76,000 for failure to perform the required activities, which represented the penalty accrual through April 1, 2003. In that letter EPA reiterated the stipulated penalty clause of Article XX of the TPA, which states that DOE would be liable for additional penalties of up to \$10,000 per week for continued failure to initiate full-scale sludge removal.

Since the issuance of EPA's penalty action, we have been in almost continuous dialogue with DOE over this matter. Each time it appears that the work is about to begin, a change of strategy is proposed and planning is restarted. Delay after delay has occurred. Now, over 14 months past the TPA milestone date, DOE has yet to propose a comprehensive strategy for dealing with K-basin sludge. I was also deeply troubled to learn that DOE has essentially abandoned the goal of achieving the 8/31/04 date for completion of sludge removal from the K-Basins and is expecting the contractor to achieve a date nearly 2 years later. EPA has not agreed to such a change.

The interim action Record of Decision for the K-Basin sludge called for this material to be removed from the Basins and staged in a 200 Area facility, such as T-Plant, until it could be processed for shipping to the Waste Isolation Pilot Plant (WIPP) in New Mexico. I now understand that DOE is hoping to end or suspend the T-Plant mission and has no plans to transfer the sludge to that facility. While EPA agrees that it would be preferable to treat K-Basin sludge and ship directly to WIPP, therefore by-passing the need for storage at T-Plant, DOE has yet to develop a comprehensive strategy that can achieve that goal. Recent proposals to treat North Loadout Pit Sludge in the 300 Area address only about 10 percent of K-Basin sludge and will require an Operational Readiness Review of the 325 Facility before sludge removal can begin. Even when this work is completed and sludge removal is initiated, there is no clear pathway for the preparation and shipment of the remainder of the sludge.

2

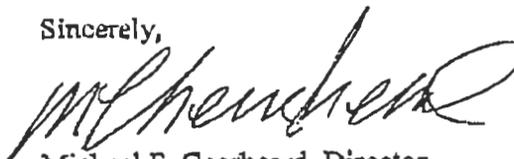
I believe EPA has been extremely patient in allowing DOE to propose a revised comprehensive strategy for remediation activities for the K-Basins, and we have provided feedback on the myriad of proposals put forth by DOE and its contractors. Our goal in entering in to these discussions has been development of a revised strategy for completing remedial actions in the K-Basins that would offer net positive environmental benefits, while providing additional schedule flexibility to DOE. I have been supportive of development of such a strategy; however, continued delay of remediation of the K-Basins is unacceptable to EPA. The continuing risk of release from the Basins must be addressed in a prompt and comprehensive fashion, subject to enforceable milestones under the TPA. Of paramount importance is removal of sludge from the Basins, as called for in the TPA.

EPA has actively supported efforts to develop a time critical removal action for treatment and disposal of North Loadout Pit Sludge, in order to move the project forward. However, this work is only part of the solution. We believe that DOE's proposed actions to delay completion of sludge removal from the K-Basins by nearly 2 years, coupled with the lack of a comprehensive strategy for the remainder of Basin remedial actions, demands that we set a firm deadline for completing negotiations for a revised strategy and schedule for completion of remedial actions at the K-Basins.

This letter serves as notification that DOE has 30 days from the receipt of this letter to gain EPA acceptance for a revised strategy and set of milestones for completion of remedial actions for the K-Basins. During this period EPA will evaluate the need to assess additional stipulated penalties. If by May 1, 2004, the agencies have not agreed to a revised path forward for the K-Basins, EPA anticipates assessing additional stipulated penalties, which as of March 16, 2004 are in the amount of \$500,000.

If you have any questions regarding this matter, please contact me at 206-553-7151 or Nick Coto at 509-376-9529. Larry Gadbois, K-Basins Project Manager, will be available to work with your staff on an expedited schedule for completing negotiations for a revised schedule. Larry can be reached at 509-376-9884.

Sincerely,



Michael F. Gearheard, Director
Environmental Cleanup Office

cc: Mike Wilson, Ecology
Ken Niles, Oregon Office of Energy
Russell Jim, Yakama Nation
Pat Sobotta, Nez Perce Tribe
Stuart Harris, CTUIR