



ENERGY AND ENVIRONMENT CABINET

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Division of Waste Management
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Leonard K. Peters
Secretary

January 26, 2015

Ms. Jennifer Woodard
US Department of Energy
Portsmouth/Paducah Project Site Office
PO Box 1410
Paducah, Kentucky 42002

RE: Conditional Concurrence with the Proposed Plan for the Burial Grounds Operable Unit Source Areas for Solid Waste Management Units 5 and 6 of (DOE/LX/07-1275&D2)
Paducah Gaseous Diffusion Plant
Paducah, McCracken County, Kentucky
KY8-890-008-982

Ms. Woodard:

The Kentucky Division of Waste Management (Division) has completed its review of the above-stated document submitted on July 18, 2013. The Division's D1 comments have all been appropriately addressed in the D2 version of the document.

In previous correspondence, the Division has taken the position that it would be premature to render a decision regarding DOE's preferred Alternative 5 (Kentucky Subtitle D Cap, Land Use Controls and Monitoring) until such time as a Record of Decision (ROD) for the Waste Disposition Alternatives (WDA) project had been finalized. The Division had taken this stance in view of the fact that the area where SWMUs 5&6 are located was being actively considered as the location of a possible CERCLA cell. Obviously, selection of a capping remedy for SWMUs 5&6 would be inconsistent with the construction of a CERCLA cell at the same location.

Recently, DOE has expressed significant reservations with respect to utilizing this area--known as Site 9--as the location for any future CERCLA cell. In addition, the Paducah Citizens Advisory Board has recently expressed its interest in using sites other than Site 9 as the location for any future cell. Given these recent developments, the Division believes it is now appropriate

to issue its position with respect to DOE's preferred alternative in advance of WDA ROD signature.

The Division agrees with DOE's selection of Alternative 5 (Kentucky Subtitle D Cap, Land Use Controls and Monitoring) as the preferred alternative for this remedial action. All alternatives evaluated met the threshold criteria of overall protection of human health and the environment and compliance with ARARs identified in the feasibility study. However, Alternative 5 was the only alternative which met the primary balancing criteria of cost; more specifically cost-effectiveness in that it was the only remedy with costs proportional to overall effectiveness.

At this time, the Division is identifying KRS 224.80-100 et seq. as ARAR for all alternatives evaluated under the approved *Feasibility Study for SWMUs 5 & 6 of the Burial Grounds Operable Unit*, including preferred Alternative 5, which would leave contamination in place in excess of unrestricted levels. It remains the Division's position that restrictive covenants at the PGDP are required only at the time of property transfer and that requirement fields in ARAR tables and language in proposed plans would reflect that agreement. Therefore, the Division is conditioning its approval of this Proposed Plan upon DOE's acceptance of the attached language. The Division requests that a D2/R1 revision to the Proposed Plan containing the requested changes be submitted for final concurrence no later than 30 days from the date of receipt of this conditional concurrence letter.

If you have any questions or require additional information, please contact Gaye Brewer at (270) 898-8468, or e-mail gaye.brewer@ky.gov.

Sincerely,



For April J. Webb, P.E., Manager
Hazardous Waste Branch

AJW:tm:lww:gb

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DWM File: #1100-E, Graybar ARM20130010 (Proposed Plan for BGOU SWMUs 5&6)

Attachment: Condition for Concurrence

**Kentucky's Conditions for Concurrence with the
Proposed Plan for Solid Waste Management Units 5 and 6 of the Burial Grounds
Operable Unit**

(DOE/LX/07-1275&D2)

January 26, 2015

Specific Condition

Summary of Alternatives; (Alternative 5) Kentucky Subtitle D Cap, LUCs, and Monitoring; Page 12; 1st Column; Lines 4 – 28: Please modify the text as indicated below. Text to be added is underlined.

“A LUCIP will be prepared after the ROD for EPA and KDEP approval. LUCs will be designed and implemented through a LUCIP to ensure protectiveness. LUCs maintain restrictions on direct contact with the waste and soils by controlling access. LUCs for this remedial action consist of the following:

- Excavation/Penetration Permit (E/PP) Program
- Warning Signs
- Property Record Notices
- Contingent Deed/Lease Restrictions
- An Environmental Covenant meeting the requirements of KRS 224.80-100 et seq to be filed at the time of property transfer

The E/PP program includes a specific permitting procedure designed to provide a common site-wide system to identify and control potential personnel hazards related to trenching, excavation, and penetration greater than 6 inches into the surface of the earth, concrete, or pavement. Warning signs are a physical control placed at the source areas and left posted until such time as contaminant levels have reduced so that unrestricted use is allowed. Should DOE transfer or convey ownership of the property encompassing SWMUs 5 and 6, any deed or lease would include use restrictions prohibiting residential development or agricultural development within the SWMUs 5 and 6 source areas. KRS 224.80-100 et seq is hereby identified as ARAR for the preferred alternative (Alternative 5) since this alternative seeks to leave contamination in place in excess of unrestricted levels.”