



## ENERGY AND ENVIRONMENT CABINET

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Leonard K. Peters  
Secretary

March 20, 2015

Ms. Jennifer Woodard  
U.S. Department of Energy Site Office  
Attention: Ms. Jennifer Woodard  
5501 Hobbs Road  
Kevil, Kentucky 42053

**RE: Feasibility Study for Solid Waste Management Units 2, 3, 7 and 30 of the Burial Grounds Operable Unit (DOE/LX/07-1274&D2)**

**Proposed Plan for the Burial Grounds Operable Unit Source Areas for Solid Waste Management Units 5 and 6 (DOE/LX/07-1275&D2)**

**Remedial Investigation / Feasibility Study Report for CERCLA Waste Disposal Alternatives Evaluation and Subsequent Documents (DOE/LX/07-0244&D2)**

Paducah Gaseous Diffusion Plant  
Paducah, McCracken County, Kentucky  
KY8-890-008-982

Ms. Woodard:

On January 22, 2015 the Division of Waste Management (Division) identified KRS 224.80-100 et seq. as a potential ARAR to be applied to the above listed project documents. Subsequently, the Division conditionally approved these documents by citing the requirement that Kentucky's UECA statute be identified as ARAR for each of the associated projects. Questions have since been raised as to whether the statute sets a mandatory requirement to file an environmental covenant as part of remedies that leave waste in place above unrestricted levels. Kentucky regulation 401 KAR 100:030 §8(3) (b) 1-3 makes clear that an environmental covenant must in fact be filed in cases where such waste will be managed in place. In other words, the decision to file an environmental covenant is not a voluntary one. It is therefore necessary to cite this regulation as ARAR in conjunction with KRS 224.80-100 et seq. for each of the above listed projects. This letter serves to identify as a new condition for approval of the above-listed documents that 401 KAR 100:030 §8(3) (b) 1-3 also be cited as ARAR. 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 would reflect that agreement.

If you have any questions or require additional information, please contact Todd Mullins at (502) 564-6716, ext. 4690 or e-mail at [todd.mullins@ky.gov](mailto:todd.mullins@ky.gov).

Sincerely,



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

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

DWM File: #1100-E, Graybar ARM20120012 (FS for BGOU SWMUs 2, 3, 7 & 30)

DWM File: #1040; Graybar: AIN20120007 (CERCLA WDAE RI/FS Report)