



Department of Energy

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AUG 12 2019

PPPO-02-5711247-19

Mr. Brian Begley
Federal Facility Agreement Manager
Division of Waste Management
Kentucky Department for Environmental Protection
300 Sower Boulevard, 2nd Floor
Frankfort, Kentucky 40601

Ms. Julie Corkran
Federal Facility Agreement Manager
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Dear Mr. Begley and Ms. Corkran:

PADUCAH FEDERAL FACILITY AGREEMENT—SIGNED MEMORANDUM OF AGREEMENT FOR RESOLUTION OF FORMAL DISPUTES ON U.S. ENVIRONMENTAL PROTECTION AGENCY CONDITIONAL CONCURRENCE ON THE REMOVAL NOTIFICATION FOR DEMOLITION OF THE C-400 CLEANING BUILDING IN THE C-400 COMPLEX OPERABLE UNIT AT THE PADUCAH GASEOUS DIFFUSION PLANT, PADUCAH, KENTUCKY, DOE/LX/07-2420&D2 AND THE ENGINEERING EVALUATION/COST ANALYSIS FOR DEMOLITION OF THE C-400 CLEANING BUILDING IN THE C-400 COMPLEX OPERABLE UNIT AT THE PADUCAH GASEOUS DIFFUSION PLANT, PADUCAH, KENTUCKY, DOE/LX/07-2425&D2

Please find enclosed the signed Memorandum of Agreement for Resolution of Formal Disputes on EPA Conditional Concurrence on the *Removal Notification for Demolition of the C-400 Cleaning Building in the C-400 Complex Operable Unit at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky, DOE/LX/07-2420&D2* and the *Engineering Evaluation/Cost Analysis for Demolition of the C-400 Cleaning Building in the C-400 Complex Operable Unit at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky, DOE/LX/07-2425&D2*.

If you have any questions or require additional information, please contact me at (270) 441-6862.

Sincerely,

Tracey Duncan
Federal Facility Agreement Manager
Portsmouth/Paducah Project Office

ENV 1.A-01831

Enclosure:

Signed Memorandum of Agreement

Administrative Record File—C400OUREMOVAL

e-copy w/enclosure:

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MEMORANDUM OF AGREEMENT FOR RESOLUTION OF FORMAL DISPUTES
on EPA Conditional Concurrence on the
Removal Notification for Demolition of the C-400 Cleaning Building in the C-400 Complex Operable Unit at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky, DOE/LX/07-2420&D2
and the
Engineering Evaluation/Cost Analysis for Demolition of the C-400 Cleaning Building in the C-400 Complex Operable Unit at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky, DOE/LX/07-2425&D2

Background

In accordance with Section XX.I, Finalization of Documents, of the *Federal Facility Agreement for the Paducah Gaseous Diffusion Plant*, DOE/OR/07-1707 (FFA), the U.S. Environmental Protection Agency, Region 4 (EPA), in a letter to the U.S. Department of Energy (DOE), dated May 7, 2018, provided conditional concurrence on the *Removal Notification for Demolition of the C-400 Cleaning Building in the C-400 Complex Operable Unit at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky, DOE/LX/07-2420&D2* (Removal Notification). In EPA's conditional concurrence letter, EPA identified five conditions for resolution. The Kentucky Department for Environmental Protection (KDEP) had concurred with the D1 and D2 versions of the Removal Notification on February 9, 2018, and April 16, 2018, respectively, with final concurrence to be provided upon EPA's concurrence with the D2 Removal Notification.

Pursuant to Section XXV.A, Informal Dispute, of the Paducah FFA, DOE invoked informal dispute resolution on June 4, 2018, regarding Conditions 1, 2, 3, 4, and 5 of EPA's conditional concurrence. The FFA parties, in good faith, conducted a period of informal dispute under Section XXV.A, Informal Dispute, of the FFA and were not able to reach agreement. As a result, on July 6, 2018, DOE elevated the dispute to the Dispute Resolution Committee (DRC) for resolution in accordance with Section XXV.B, Formal Dispute, of the FFA. The DRC was unable to resolve the dispute, and the EPA and KDEP DRC representatives did not issue a joint written decision (Section XXV.B.3). As a result, on August 15, 2018, DOE, as the disputing party, in accordance with Section XXV.B.3, of the FFA, issued the "Written Statement Initiating Formal Dispute Resolution" to the Senior Executive Committee (SEC) for resolution.

KDEP concurred on the D2 *Engineering Evaluation/Cost Analysis for Demolition of the C-400 Building*, DOE/LX/07-2425&D2 (EE/CA) in a letter dated August 22, 2018. EPA provided conditional concurrence on the EE/CA in a letter dated August 27, 2018. During the informal dispute period, the FFA parties were not able to reach an agreement on four of the 22 conditions not related to the Removal Notification dispute. Accordingly, DOE elevated the dispute to the DRC on November 20, 2018. The DRC was unable to resolve the four disputed conditions, and the EPA and KDEP DRC representatives did not issue a joint written decision. As a result, on March 6, 2019, DOE, as the disputing party, elevated the four disputed conditions to the SEC for resolution.

The demolition of the C-400 Cleaning Building as an FFA Non-Time Critical Removal Action (NTCRA) and the remedial action schedule for the C-400 Complex Operable Unit (OU) were established as part of the *Memorandum of Agreement on the C-400 Complex under the Federal Facility Agreement for the Paducah Gaseous Diffusion Plant, Paducah, Kentucky*, dated August 8, 2017 (August 2017 FFA Senior Managers C-400 Complex MOA).

The SEC has reviewed the written statements of formal dispute, conducted consultation on the disputed conditions, evaluated C-400 Building Deactivation basement areas data, and reached a path forward for resolution on the formal disputes associated with the C-400 Cleaning Building Removal Notification and the C-400 Cleaning Building Engineering Evaluation/Cost Analysis.

Resolution Terms and Conditions

Although the specific disputed EPA Conditions elevated to the SEC by DOE are not resolved, the undersigned agree that the Formal Disputes invoked by DOE hereby are resolved. The terms and conditions of the dispute resolution Memorandum of Agreement (MOA) are set forth below.

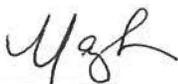
1. The FFA parties agree that physical demolition of the C-400 Building down to slab as a NTCRA will not be completed prior to the C-400 Complex RI Field Start date.
2. The FFA parties agree to proceed with the C-400 Complex Remedial Investigation/Feasibility Study (RI/FS) project.
3. The FFA parties agree that a revision to the *Removal Notification for Demolition of the C-400 Cleaning Building in the C-400 Complex Operable Unit at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky*, DOE/LX/07-2420&D2, (Removal Notification) submitted on March 8, 2018, to address the EPA conditions is not required at this time because the NTCRA is suspended per this July 2019 SEC Formal Dispute MOA. The parties acknowledge that this MOA does not resolve EPA conditions on the Removal Notification.
4. The FFA parties agree that a revision to the *Engineering Evaluation/Cost Analysis for Demolition of the C-400 Cleaning Building in the C-400 Complex Operable Unit at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky*, DOE/LX/07-2425&D2 C-400 Building Engineering Evaluation/Cost Analysis (EE/CA)] submitted on July 26, 2018, is not required at this time because the NTCRA is suspended per this July 2019 SEC Formal Dispute MOA. Informal dispute agreements reached by the FFA parties on the EPA Conditions shall be addressed in the Primary Documents for the NTCRA when the NTCRA proceeds. The parties acknowledge that this MOA does not resolve four EPA conditions on the EE/CA.
5. The FFA parties agree that a *Memorandum to File* will be added to the Administrative Record documenting that the D1 and D2 CERCLA process Primary Documents (Removal Notification, EE/CA, Action Memorandum, Removal Action Work Plan) related to the C-400 Cleaning Building NTCRA are not approved and the NTCRA was suspended per this July 2019 SEC Formal Dispute MOA. In this one instance, EPA and KDEP will review and approve the *Memorandum to File* prior to DOE placement in the Administrative Record file.
6. The FFA parties agree that, to avoid delays in finalizing the C-400 Complex D2 RI/FS Work Plan, reporting of the C-400 Deactivation data will be merged with the D2 RI/FS Work Plan to accelerate the documentation process consistent with FFA Section XX.C. DOE will submit, concurrent with submittal of the D2 RI/FS Work Plan, an Appendix to document the sampling results (available at the time of submittal) from the implementation of the Four Rivers Nuclear Partnership, LLC, July 2018 C-400 Cleaning Building Deactivation Basement Slab and Subsurface Structures, Sampling and

Analysis Plan/Quality Assurance Project Plan. The Appendix will follow the Preliminary Characterization Summary Report outline in Appendix D of the Paducah FFA. The FFA parties will use the information in the Appendix for determining if additional RI/FS sampling associated with the basement areas, subsurface structures and subgrade environmental media is needed to finalize the C-400 Complex RI/FS Work Plan.

Other Terms and Conditions

Pursuant to Section XXV.B of the Paducah Gaseous Diffusion Plant FFA, resolution of these disputes constitutes a final resolution of the disputes, which resolution is incorporated into and becomes a term and condition of the Paducah Gaseous Diffusion Plant FFA. Nothing in this MOA modifies other FFA Terms and Conditions or other CERCLA projects at the Paducah Gaseous Diffusion Plant, except as specifically stated above.

To the extent authorized under the Paducah Gaseous Diffusion Plant FFA, nothing in this MOA shall prevent any of the Parties from disputing any other matters related to the aforementioned projects.



Mary S. Walker
Regional Administrator
U.S. Environmental Protection Agency, Region 4

8/1/2019

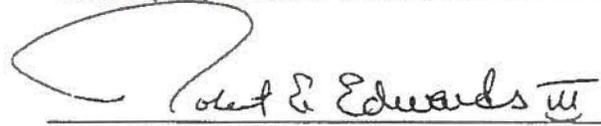
Date



Anthony R. Hattor
Commissioner
Kentucky Department for Environmental Protection

7/29/2019

Date



Robert E. Edwards, III
Manager
U.S. Department of Energy
Portsmouth/Paducah Project Office

07/25/2019

Date