South Carolina Department of Health and Environmental Control

2600 Bull Street
Columbia, S.C. 29201

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May 6, 1987

CERTIFIED MAIL
P345 624 310

Mr. S. R. Wright, Director
Environmental Division
Department of Energy
Savannah River Operations Office
PO Box A
Aiken, SC 29802

File Reference: Savannah River Plant - SC1890008989

Dear Mr. Wright:

Enclosed is a completed executed copy of Settlement Agreement 87-27-SW signed by the Commissioner on May 1, 1987.

The Department is in receipt of the revised Part B Permit Application for M Area (except sludge storage tanks) and container storage.

Thank you for your cooperation.

Very truly yours,

Gail Rawls Jeter

Gail Rawls Jeter
Enforcement Section
Bureau of Solid and Hazardous
Waste Management

GRJ/trh
Enclosure
cc: Lewis R. Bedenbaugh, Facility Compliance
Samuel L. Finklea, III, Legal Office
Eric C. Gleason, Permitting
David Wilson, Permitting
Harry Mathis, Water Supply
Kin Hill, Lower Savannah
John Lank, EPA Region IV
Rich Campbell, EPA Region IV

THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

IN RE: UNITED STATES DEPARTMENT OF ENERGY
BARNWELL, AIKEN, AND ALLENDALE COUNTIES

SETTLEMENT AGREEMENT
87-27-SW

The United States Department of Energy (DOE") owns and administers the Savannah River Plant ("SRP"), (SC1890008989), a nuclear materials production facility located in Barnwell, Aiken, and Allendale Counties, in South Carolina.

Operations of the SRP have involved the handling and disposal of various forms of wastes, including chemical, solid, liquid, and hazardous wastes.

Under Section 6001 of the Resource Conservation and Recovery Act ("RCRA"), federal facilities and activities shall be subject, "...to and must comply with all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injuctive relief and such sanctions as may be imposed by a Court to enforce such relief), respecting control and abatement of solid waste or hazardous waste disposal in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges."

FINDINGS OF FACT

1) DOE owns and administers SRP, a national defense nuclear materials production facility located in Barnwell, Aiken, and Allendale Counties in South Carolina.

2) On September 21, 1979, the South Carolina Department of Health and Environmental Control (DHEC) instituted emergency hazardous waste management regulations. On March 31, 1980, DHEC promulgated the South Carolina Hazardous Waste Management Regulations. These regulations were amended on January 29, 1981; on June 22, 1984; and January 24, 1986.

3) Pursuant to the emergency regulations, on December 19, 1979, DOE submitted to DHEC a notification of its hazardous waste activities. On September 29, 1980, DOE submitted to DHEC an application for a hazardous waste facility permit (Part A) for storage and for disposal in seepage basins. At that time, DOE and the U.S. Justice Department questioned the extent of RCRA and State jurisdiction over DOE hazardous waste activities. The September 29, 1980, submission modified the December 19, 1979, notification by excluding certain waste management units which DOE had determined were not covered by the Federal program.

4) On April 2, 1981, the U.S. Environmental Protection Agency (EPA) granted DHEC interim authorization to conduct Phase I of the Federal hazardous waste program. Phase II, Components A and B were granted November 18, 1982. Phase II, Component C was granted December 22, 1983. DHEC's Final Authorization application was approved by EPA on November 8, 1985.

5) On August 2, 1984, DHEC formally requested additional information concerning the application for a hazardous waste facility permit ("Part B") under the South Carolina Hazardous Waste Management Act for SRP. The Part B was required to be submitted no later than six months after receipt of the August 2,1984, letter.

6) On February 6, 1985, SRP submitted to DHEC its Part B.

7) DOE and DHEC entered into a Memorandum of Agreement (MOA) on April 8,

1985.

8) DHEC personnel conducted an initial review of SRP's Part B and issued a Notice of Deficiencies ("NOD") on November 21, 1985. SRP was given thirty (30) days from receipt of the NOD to respond to the deficiencies.

9) SRP submitted a timely response to DHEC's November 21, 1985, NOD. SRP's comments were received by DHEC on December 27, 1985.

10) DHEC's review of SRP's comments to the November 21, 1985, NOD indicates that SRP has failed to adequately address some of the deficiencies which were cited. On March 3, 1986, and May 9, 1986, DOE submitted additional revisions to the ground-water portion of its Part B which have been reviewed also. DHEC's second NOD as transmitted by DHEC letter of October 2, 1986, is attached to this Agreement ("Attachment").

CONCLUSIONS OF LAW

SRP has violated Department Hazardous Waste Management Regulations, promulgated pursuant to Section 44-56-10 et seq. of the 1976 South Carolina Code of Laws, as amended, as follows:

1) R.61-79.270.13, for failure to include U002 waste on the Part A;

2) R.61-79.270.14(b)(7), for failure to include the names and addresses of emergency coordinators, the description of the procedure for removing soil for F and H area basins, and the sampling/testing procedures to ensure adequate removal of contaminated soil in the contingency plan of the Part B;

3) R.61-79.270.14(b) (8), for failure to provide in the Part B a description of the container storage area loading/unloading procedures, structures, and equipment;

4) R.61-79.270.14(b) (12), for failure to include personnel training procedures associated with storage building 709-2G and personnel training

to respond to emergency procedures and use of emergency equipment in the Part B;

5) R.61-79.270.14(b)13, for failure to include in the Part B complete closure and post-closure plans;

6) R.61-79.270.14(b)19, for failure to submit in the Part B an adequate topographic map;

7) R.61-79.270.14(c) (1), for failure to include in the Part B a complete summary of the ground-water monitoring data obtained during the interim status period;

8) R.61-79.270.14(c) (2), for failure to adequately identify in the Part B the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property including ground-water flow direction and rate and the basis for such identification;

9) R.61-79.270.14(c) (3), for failure to include in the Part B a delineation of the waste management area(s) and the proposed point of compliance on the topographic map;

10) R.61-79.270.14(c) (4), for failure to include in the Part B an adequate description of the plumes(s) of contamination that have entered the ground water;

11) R.61-79.270.14(c) (7), for failure to include in the Part B sufficient information to establish a compliance monitoring program for F and H Areas;

12) R.61-79.270.15(a), for failure to include in the Part B a complete description of the containment system for container storage areas;

13) R.61-79.270.17(f), for failure to include in the Part B a complete description of how hazardous waste residues and contaminated materials will be removed from the units at closure;

AGREEMENT

Whereas, without trial or adjudication of any issue of fact or law,

the parties have agreed to the following settlement agreement, thereby resolving disputes set forth as described above, without this Settlement Agreement constituting an admission by DOE in respect to any such issue(s) of fact or law alleged herein or through their attorneys and authorized officials;

NOW THEREFORE, in the spirit of mutual cooperation between DHEC and DOE and in settlement of existing disputes stated herein, and consistent with the Memorandum of Agreement (MOA) between DOE and DHEC dated April 8, 1985, DOE will perform the following:

1) On or before April 30, 1987, submit to DHEC a revised Part B Permit Application for M Area Settling Basin, Overflow Ditch, Seep Area, and Lost Lake and for the container storage buildings to include corrections to the deficiencies as described in DHEC's November 21, 1985, NOD and in this Agreement and its Attachment.

2) On or before April 15, 1988, submit to DHEC a revised Part B Permit Application for F and H Area Seepage Basins to include corrections to the deficiencies as described in DHEC's November 21, 1985, NOD and in this Agreement and its Attachment.

3) On or before June 1, 1987, pay to the Department four thousand five hundred dollars (4,500.00).

IT IS FURTHER AGREED THAT, consistent with the MOA:

(a) DOE shall be permitted to exceed the time schedules set forth in this Agreement only to the extent that the delay is caused by reasons entirely beyond the control of DOE or the control of any entity controlled by or under common control of DOE. In any event, the burden of establishing a basis for an extension shall be exclusively on DOE.

deemed a violation of the Hazardous Waste Management Act, and therefore shall be deemed unlawful. Upon ascertaing any such violation, the Department shall promptly initiate action to obtain compliance with both this Agreement and the aforesaid Act.

THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Date: May 1, 1987
Columbia, South Carolina

By: Michael D. Jarrett
Michael D. Jarrett
Commissioner

WE CONSENT;

UNITED STATES DEPARTMENT OF ENERGY

R Morgan
U.S. Department of Energy

Date: 4/23/87

Garner D Bauer
Attorney for U.S. Department of Energy

Date: 4/21/87

THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

For Hartsill W. Truesdale, P.E., Chief
Bureau of Solid and Hazardous Waste Management

Date: 30 April 1987

Sam L Finklea III
Approved by: Legal Office

Date: May 1, 1987