Department of Energy
Oak Ridge Operations
Paducah Site Office
P.O. Box 1410
Paducah, KY 42001

November 21, 2003

Mr. Anthony R. Hatton, Acting Director
Division of Waste Management
Kentucky Department for Environmental Protection
14 Reilly Road
Frankfort Office Park
Frankfort, Kentucky 40601

Dear Mr. Hatton:

WITHDRAWAL OF CLOSURE PLANS IN ACCORDANCE WITH THE AGREED ORDER (KNREPC FILE NUMBERS: DWM-31434-042, DAQ-31740-030 AND DOW-26141-042)

The Department of Energy (DOE) is providing notification to the Kentucky Department for Environmental Protection (KDEP) that it is hereby withdrawing previously submitted closure plans in accordance with paragraph 89 of the Agreed Order (KNREPC File Numbers: DWM-31434-042, DAQ-31740-030 and DOW-26141-042). Please refer to *Enclosure 1: Closure Plans Submitted to the Division for DOE Material Storage Areas (DMSAs) as of October 29, 2003* and *Enclosure 2: Closure Plans Submitted to the Division for Solid Waste Management Units (SWMUs) as of October 29, 2003*, regarding the previously submitted plans.

Twenty-three closure plans had been submitted as a result of Notices of Violation (NOVs) received from KDEP prior to finalization of the Agreed Order. The NOVs were issued for alleged unpermitted storage of Resource Conservation and Recovery Act hazardous waste. It is important to note that the hazardous waste addressed by the NOVs has been containerized, labeled, and stored in accordance with applicable regulations. Prior to submittal of the twenty-three closure plans, verifications were made to ensure there was no evidence of spills or releases in the areas where the hazardous waste had been located.

In addition to notifying the Cabinet that DOE is withdrawing the twenty-three previously submitted closure plans, this letter explains the future actions DOE intends to take with respect to the re-submission of the closure plans. As discussed in greater detail below, consistent with the terms of the Agreed Order, (1) some of the closure plans will be resubmitted within 90 days of entry of the Agreed Order; (2) some of the closure plans (for areas that have not yet been completely characterized) will be resubmitted, as appropriate, within 120 days of completion of characterization and receipt of final validated for entry into the Oak Ridge Environmental

Information System (OREIS) database; (3) one of the closure plans will not be resubmitted because, pursuant to the provisions of the Agreed Order, the area in question did not store hazardous waste without a permit; and (4) one of the closure plans will not be resubmitted because DOE is deferring closure to a future Federal Facility Agreement (FFA) response action.

Closure Plans To Be Resubmitted Within 90 Days of Entry of Agreed Order: DOE is withdrawing the previously submitted closure plans for SWMU 214 (DMSA OS-03), SWMU 216 (DMSA OS-05), SWMU 220 (DMSA OS-09), SWMU 222 (DMSA OS-11), SWMU 231 (DMSA C-310-02), SWMU 244 (DMSA C-331-10), SWMU 249 (DMSA C-331-15), SWMU 287 (DMSA C-333-31), SWMU 301 (DMSA C-335-05), SWMU 350 (DMSA C-400-04), SWMU 351 (DMSA C-400-05), SWMU 354 (DMSA C-409-01), and SWMU 355 (DMSA C-409-02). DOE will resubmit these closure plans in accordance with the requirements of paragraph 89 of the Agreed Order.

Closure Plans To Be Resubmitted Within 120 Days of Completion of Characterization and Receipt of Final Validated Data: DOE is withdrawing the previously submitted Closure Plans for SWMU 159 (C-746-H3 Pad), SWMU 206 (C-753-A Toxic Substance Control Act Building), SWMU 223 (DMSA OS-12), SWMU 239 (DMSA C-331-05), SWMU 240 (DMSA C-331-06), SWMU 250 (DMSA C-331-16), SWMU 276 (DMSA C-333-20), and SWMU 277 (DMSA C-333-21). These SWMUs/DMSAs have not been fully characterized as defined by paragraph 89 of the Agreed Order. If appropriate, these closure plans will be submitted at a later date in accordance with paragraph 89 of the Agreed Order.

Closure Plan That Will Not Be Resubmitted Because Area Did Not Store Hazardous Waste DOE received an NOV dated February 28, 2002, that cited DOE for alleged unpermitted storage of hazardous waste in SWMU 248 (DMSA C-331-14). The finding was based upon approximately one quart of oil that was removed from a Honan oil filter and identified by DOE as newly generated waste. The NOV required DOE to revise the Part A Application and to submit a closure plan within 180 calendar days of receipt of the NOV. The Part A was revised, and DOE submitted the closure plan to KDEP on August 27, 2002. Paragraph 68 of the Agreed Order, states that "newly generated waste shall include fluids drained from equipment located in inside DMSAs." Since the oil that was drained from the equipment is newly generated waste, there was no "unpermitted storage of hazardous waste" in SWMU 248. Accordingly, DOE is withdrawing the closure plan for SWMU 248 and does not intend to resubmit this closure plan.

Closure Plan That Will Not Be Resubmitted Because Action Is Being Deferred To A Future FFA Response Action: DOE received an NOV dated January 18, 2002, for SWMU 464 (C-746-A West End Smelter) for alleged "failure to comply with 401 KAR 32:030, Section 2 and Section 5, 401 KAR 38:010, Section 4, KRS 224.46-520 and Part II of the facility's Hazardous Waste Management Permit." DOE was required to submit a closure plan to the Cabinet per the

NOV. The plan was submitted by DOE on October 31, 2002. Based on paragraph 83 of the Agreed Order, DOE is withdrawing the previously submitted closure plan and deferring the closure of SWMU 464 to a FFA response action in the future.

If you have any questions or require additional information, please call me at (270) 210-2215.

Sincerely,

William E. Murphie, Manager
Portsmouth/Paducah Project Office

Enclosures

cc w/o enclosures:
G. A. Bazzell, EM-94
R. H. Blumenfeld, CC-10
G. Brewer, KDEP/Paducah
C. A. Czuchna, EM-98
DMC/Kevil
D. R. Guminski, BJC/Kevil
C. A. Hudson, CJE/Kevil
R. J. Keeling, BJC/Kevil
S. Tucker, LAN-CON/Kevil
G. E. VanSickle, BJC/Kevil
P. W. Willison, BJC/OR

Enclosure 1 - Closure Plans Submitted to the Division for Department of Energy Material Storage Areas (DMSAs) As of October 29, 2003

Date Submitted to KDWM	SWMU Number	Facility Name	Document Number	Accept or Withdraw Closure Plan
4/20/01	350	DMSA C-400-04	BJC/PAD-226	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
10/1/01	244	DMSA C-331-10	BJC/PAD-297	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
12/7/01	301	DMSA C-335-05	BJC/PAD-311	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
7/22/02	222	DMSA OS-11	BJC/PAD-390	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
7/22/02	249	DMSA C-331-15	BJC/PAD-391	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
7/23/02	220	DMSA OS-9	BJC/PAD-389	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
7/23/02	214	DMSA OS-3	BJC/PAD-393	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
8/27/02	248	DMSA C-331-14	BJC/PAD-406	Withdraw per Paragraph 68 of the Agreed Order
8/27/02	351	DMSA C-400-05	BJC/PAD-487	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
9/9/02	287	DMSA C-333-31	BJC/PAD-426	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
9/27/02	355	DMSA C-409-02	BJC/PAD-434	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
9/27/02	354	DMSA C-409-01	BJC/PAD-431	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
9/27/02	223	DMSA OS-12	BJC/PAD-435	Withdraw as NOT Fully Characterized per Paragraph 89 of the Agreed Order
9/27/02	216	DMSA OS-5	BJC/PAD-432	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
4/14/03	250	DMSA C-331-16	BJC/PAD-518	Withdraw as NOT Fully Characterized per Paragraph 89 of the Agreed Order
4/14/03	239	DMSA C-331-05	BJC/PAD-488	Withdraw as NOT Fully Characterized per Paragraph 89 of the Agreed Order
4/14/03	240	DMSA C-331-06	BJC/PAD-511	Withdraw as NOT Fully Characterized per Paragraph 89 of the Agreed Order
4/14/03	276	DMSA C-333-20	BJC/PAD-495	Withdraw as NOT Fully Characterized per Paragraph 89 of the Agreed Order
4/14/03	231	DMSA C-310-02	BJC/PAD-494	Withdraw and Resubmit per Paragraph 89 of the Agreed Order
4/14/03	277	DMSA C-333-21	BJC/PAD-510	Withdraw NOT Fully Characterized per Paragraph 89 of the Agreed Order

Enclosure 2 - Closure Plans Submitted to the Division for Non-Department of Energy Storage Area (DMSA) Solid Waste Management Units (SWMUs)
As of October 29, 2003

Date Submitted to KDWM	SWMU Number	Facility Name	Document Number	Accept or Withdraw Closure Plan
7/23/02	159	C-746-H3 Pad	BJC/PAD-395	Withdraw as NOT Fully Characterized per Paragraph 89 of the Agreed Order
7/23/02	206	C-753-A TSCA Storage Building	BJC/PAD-394	Withdraw as NOT Fully Characterized per Paragraph 89 of the Agreed Order
10/31/02	464	C-746-A West End Smelter	BJC/PAD-449	Withdraw per Paragraph 89 of the Agreed Order and defer to FFA per Paragraph 83