

I. General Nature of the Dispute

A. Disputing Parties: EPA and DOE

B. Interested Party: South Carolina (Department of Health and Environmental Control)

C. Statement Of Dispute: Whether a DOE Low Level Waste Disposal Facility May Continue to Receive CERCLA Off-Site Waste.

DOE owns a low-level waste disposal facility (LLWDF) in E Area, Savannah River Site that is not permitted by EPA or South Carolina. As an unlined disposal facility, the LLWDF slit trenches have been a long-time concern of EPA. This concern had never matured into a formal dispute. Then in October, 2006, EPA, based on a review of data provided by DOE, alleged that tritium had been released from one or more of the facility's trenches into the vadose zone beneath the trenches. Subsequently, EPA notified DOE that the facility is immediately unacceptable for receipt of off-site CERCLA waste and that all other CERCLA off-site waste disposal authorizations at SRS are proposed to be determined unacceptable in 60 days (40 CFR §300.440).

II. Evolution of the Dispute

A. Pre-dispute Resolution Phase (PDR)

- ✓ Concern proposed to be addressed through amendment to FFA

B. Informal Alternative Dispute Resolution Phase (IADR)

- ✓ EPA Fact Finding of Release
- ✓ Proposed to be addressed through FFA Site Evaluation Process (Section X)

C. Formal Alternative Dispute Resolution Phase (FADR)

- ✓ EPA Notice of Off-site Unacceptability
- ✓ Governed by EPA agency administrative procedure
- ✓ Presentation by DOE to EPA
- ✓ Negotiated settlement
- ✓ Notice of Acceptability

D. Dispute Adjudication Phase

✓ Avoided

III. Background Documents

- A. First letter about release – requests meeting. (EPA Region 4 Letter, Subject: Off-Site Acceptability of CERCLA Waste at the E-Area Slit Trenches, United States Department of Energy Savannah River Site, Aiken, South Carolina, dated 10/30/06.)
- B. Determination of release. (EPA Region 4 Letter, Subject: A CERCLA Release of Tritium at the E-Area Slit Trenches, United States Department of Energy, Savannah River Site, Aiken, South Carolina, dated 1/31/07.)
- C. DOE response to determination of release. (DOE-SR Letter, Subject: A Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Release of Tritium at the E-Area Slit Trenches, United States Department of Energy (DOE), Savannah River Site (SRS), Aiken, South Carolina (Your letter, 1/31/07), dated 2/20/07.)
- D. Notice of unacceptability. (EPA Region 4 Letter, Subject: Notice of Unacceptability for all CERCLA Off-Site Rule Units, Savannah River Site, Aiken, SC, dated 2/16/07.)
- E. DOE response to notice of unacceptability. (DOE-SR Letter, Subject: Notice of Unacceptability for all Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Off-Site Rule Units, Savannah River Site (SRS), Aiken, South Carolina (Your letter, 2/16/07 and letter, Hennessey to Hill, 2/20/07), dated 2/26/07.)
- F. DOE Counsel major comments letter to EPA. (Email, Subject: The Department of Energy, Savannah River Operations Office Major Comments to the Environmental Protection Agency Region 4 February 16, 2007 Notice of Unacceptability for All CERCLA Off-Site Rule Units, dated 3/16/07.)
- G. DOE presentation to EPA. (DOE-SR Presentation to EPA Concerning the Off-Site Rule, dated 3/22/07.)

- H. Final resolution of dispute. (EPA Region 4 Letter, Subject: Notice of Acceptability under the CERCLA Off-Site Rule E-Area Slit Trenches, Savannah River Site, Aiken, South Carolina, dated 1/17/08.)