

**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS 08/13/2004**



**State of Oregon
Department of
Environmental
Quality**

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8/13/04 EQC Meeting Handout

State of Oregon

Department of Environmental Quality

Memorandum

DEQ Item No. 04-1359 (26.27)

DATE: August 13, 2004

TO: Environmental Quality Commission

FROM:  Stephanie Hallock, Director

SUBJECT: Amended Discussion Draft of the Commission Order" for the August 13, 2004 meeting
(Revision to Attachment A of the August 2, 2004 Staff Report)

Enclosed is an amended draft of the "Findings and Conclusions of the Commission and Order" (a revision to Attachment A of the August 2nd Staff Report). The attached amended draft includes the following revisions:

- Deletion of the word "Draft" from the title;
- Deletion of the parenthetical notes after paragraphs 19, 21, 32, and 37;
- Correction of two spacing errors;
- Deletion of the phrase "on the deactivation furnace system" from paragraphs 51 and 52; and
- Addition of a list of Commission members to the last page, and a signature line.

Please use this draft of the Order during your discussions on August 13, 2004 meeting.

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the Matter of Hazardous Waste Storage and
Treatment Permit No. ORQ 000 009 431
Umatilla Chemical Agent Disposal Facility (UMCDF)
Authorization to Commence Chemical Agent
Operations

FINDINGS AND
CONCLUSIONS OF THE
COMMISSION AND ORDER

BACKGROUND FINDINGS

1. On February 10, 1997, the Environmental Quality Commission (Commission) issued the FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER (Commission Order) directing issuance of a Hazardous Waste Storage and Treatment Permit (HW Permit) to the United States Army (Army) for construction and operation of incinerators to destroy chemical weapons stored at the Umatilla Chemical Depot. The incineration facility is known as the Umatilla Chemical Agent Disposal Facility (UMCDF).

2. The UMCDF HW Permit names the U.S. Army Umatilla Chemical Depot (UMCD) and U.S. Army Project Manager for Chemical Stockpile Disposal (PMCS¹) as Owner and Operator, and Washington Demilitarization Company (WDC) as Co-Operator. Collectively, these three entities are referred to as the "Permittees."

3. On March 28, 2002 the Commission issued the FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER in the matter of HW Permit Modification UMCDF-01-028-MISC(EQC), "Approval Process for UMCDF Operations" (Approval Process Order).

¹ PMCS¹ is now known as the Program Manager for Elimination of Chemical Weapons (PM ECW).

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3 4. The Approval Process Order modified the HW Permit to add Permit Condition
4 II.A.5. and Attachment 6 (“Requirements for Commencement of Unit and Facility Operations”),
5 Conditions D.1. through D.11., to the HW Permit.

6 5. On February 5, 2003 the Department of Environmental Quality (Department), on
7 behalf of the Commission, signed a “Stipulation and Order for Dismissal of Appeal” related to
8 the Permittees’ appeal of the Department’s decision on the class 2 permit modification request
9 UMCDF-01-017-WAST(2), “Agent-free Clarification.” Condition D.12. was added to
10 Attachment 6 of the HW Permit as one of the terms of the dismissal.

11 6. On July 18, 2003 the Commission approved a permit modification request
12 UMCDF-02-039-BRA(EQC), “Required Operation of the Brine Reduction Area.” The
13 modifications to the permit related to the operation of the brine reduction area included the
14 addition of Condition D.13. to Attachment 6 of the HW Permit.

15 7. On behalf of the Commission, the Department provided public notice on April 23,
16 2004 that a public comment period would be held from May 4 through June 7, 2004 and that the
17 Commission would hold a public hearing on May 20, 2004 to hear public comment on the start
18 of agent operations at UMCDF.

19 8. On May 4, 2004 the Department published the “Compliance Assessment for the
20 Start of Chemical Agent Operations” (May Compliance Assessment). The May Compliance
21 Assessment was placed in the designated information repositories and provided upon request to
22 interested parties for review and comment.

23 9. The May Compliance Assessment listed 69 requirements to be completed by
24 UMCDF and/or the Department prior to the start of chemical agent operations. Thirty-nine of
25 the 69 requirements had been met at the opening of the public comment period.
26

1
2 10. The Commission accepted oral public comment at a hearing held in Hermiston,
3 Oregon on May 20, 2004. Twenty-six persons provided oral comments.

4 11. The Department received 11 written comments by the close of the comment
5 period on June 7, 2004.

6 12. The Department updated the Compliance Assessment as of July 23, 2004 (July
7 Compliance Assessment). Five requirements were added as part of a conditional Department
8 approval on May 28, 2004 of permit modification request UMCDF-03-010-BRA(2), "Brine
9 Reduction Area Performance Test."

10 13. The July Compliance Assessment included:

- 11 (a) the compliance status of each of the 74 requirements;
12 (b) a summary of Department enforcement actions;
13 (c) a transcript of the May 20 public hearing;
14 (d) copies of all written comments received; and
15 (e) an index to the documents relied upon by the Department in preparing the July
16 Compliance Assessment.

17 14. The Department concluded that 69 of the 74 specific requirements listed in Tables
18 C-1, C-2, and C-3 of Appendix C of the July Compliance Assessment had been completed.

19 15. The July Compliance Assessment was provided to the Commission as part of the
20 staff report (August Staff Report) prepared for the August 13, 2004 special meeting of the
21 Commission held in Hermiston, Oregon to consider authorizing the start of chemical agent
22 operations at UMCDF.
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**FINDINGS PERTAINING TO THE PERMITTEES' COMPLIANCE WITH
ATTACHMENT 6 OF THE HW PERMIT**

16. HW Permit Condition II.A.5. states that the Permittees shall not introduce hazardous waste into any permitted hazardous waste treatment or storage unit until the applicable requirements of Attachment 6 have been met.

17. Attachment 6 states that prior to introducing hazardous waste into any permitted treatment or storage unit, or commencing surrogate or agent shakedown periods on the liquid incinerators, the deactivation furnace system, or the metal parts furnace, the Permittees must be in compliance with Conditions B.1. through B.3.

18. Condition B.1. of Attachment 6 requires that the Permittees be in compliance with all HW Permit conditions applicable to the permitted treatment or storage unit. The deactivation furnace system will be the first furnace at UMCDF to commence chemical agent shakedown operations.

19. The July Compliance Assessment (Appendix C-1, Table 1) listed 24 requirements related to Condition B.1 and applicable to the start of agent shakedown operations on the deactivation furnace system. The Department concluded in the August Staff Report that all 24 requirements were completed as of July 30, 2004, and that the Permittees are in compliance with other HW Permit conditions not specifically listed in the July Compliance Assessment.

20. Condition B.2. of Attachment 6 requires that the Permittees be in compliance with applicable conditions located elsewhere Attachment 6. The applicable conditions of Attachment 6 are Condition B.3. and Conditions D.1. through D.13.

21. Condition B.3. of Attachment 6 requires the Permittees to be in compliance with all applicable permit modification request approval conditions imposed by the Department. The July Compliance Assessment (Appendix C, Table C-2) identified 19 requirements related to

1 conditional Department permit modification request approvals. The Department concluded in
2 the August Staff Report that the Permittees had completed all 19 requirements.

3
4 22. Attachment 6 states that prior to commencing the agent shakedown period on the
5 first incinerator (or by the date specified) the Permittees must complete all of the requirements of
6 Conditions D.1. through D.13.

7 23. The July Compliance Assessment (Appendix C, Table C-1) listed 15 requirements
8 related to Conditions D.1 through D.13. applicable to the start of agent shakedown operations on
9 the deactivation furnace system. At the August 13, 2004 meeting of the Commission the
10 Department provided an addendum to the August Staff Report that concluded all 15
11 requirements related to Attachment 6, Conditions D.1 through D.13. had been completed, with
12 the exception of Condition D.11., requiring the written authorization from the Commission.

13 24. Condition D.1. of Attachment 6 requires the Permittees to implement a
14 waste/munitions tracking procedure and system approved by the Department. The Department
15 approved the munition tracking procedure on June 21, 2004.

16 25. Condition D.2. of Attachment 6 requires the Permittees to obtain approval of the
17 Class 3 permit modification request UMCDF-00-004-WAST(3), "Permitted Storage in J-Block"
18 providing additional permitted storage for secondary wastes generated by UMCDF operations.
19 The Department approved the permit modification request on June 18, 2002.

20 26. Condition D.2. of Attachment 6 also requires the Permittees to implement any
21 required physical and/or procedural changes necessary for the storage of secondary wastes in J-
22 Block. The Department conducted inspections of the storage structures in J-Block designated for
23 the storage of secondary waste and on June 25, 2004 concluded that the required changes had
24 been implemented.

25 27. Condition D.3. of Attachment 6 requires the Permittees to notify the Department,
26 no less than 30 days nor more than 90 days prior to the start of agent operations, that each of the

1 UMCDF drawings and specifications contained in the HW Permit application has been certified
2 by a qualified Professional Engineer licensed in Oregon within the preceding 12 months, or that
3 the Permittees have reviewed the specification(s) or drawing(s) and determined that no update is
4 needed. The Permittees submitted the notification on June 15, 2004. On June 25, 2004 the
5 Department determined the submittal was adequate. Provided that chemical agent operations
6 start on or before September 13, 2004, the Permittees have met the requirements of Condition
7 D.3.

8
9 28. Condition D.4. of Attachment 6 requires the Permittees to complete the
10 characterization and/or segregation of wastes stored at the Umatilla Chemical Depot (UMCD)
11 and obtain Department approval of permit modification request(s) to add all UMCD wastes to
12 the list of permitted waste feed streams to the liquid incinerators, deactivation furnace system
13 and/or the metal parts furnace as applicable. The Permittees submitted two permit modification
14 requests to meet the requirements of Condition D.4.:

- 15 (a) The Permittees completed the characterization and segregation of UMCD
16 secondary wastes and on July 22, 2003 submitted a Class 2 permit modification
17 request [UMCDF-03-035-WAST(2), "Umatilla Chemical Depot Secondary
18 Waste"] to the Department proposing feed rates and treatment units for each
19 waste stream. However, the permit modification request did not address the fact
20 that UMCDF treatment of multi-agent-contaminated waste streams is currently
21 prohibited because of issues with chemical agent monitoring during processing.
22 The Department required that a condition be added to the HW permit that an
23 additional permit modification request to resolve the monitoring issues during
24 the treatment of multi-agent-contaminated wastes be submitted to the
25 Department prior to the commencement of the second agent campaign. The
26 Department approved the UMCDF-03-035-WAST(2) on March 19, 2004.

1
2 (b) The Permittees submitted an additional Class 1 permit modification request
3 [UMCDF-04-008-MPF(1R), "Metal Parts Furnace Discharge Airlock
4 Monitoring During Processing of Secondary Waste"] on April 12, 2004 to
5 specify how UMCDF would ensure that secondary wastes processed through
6 the metal parts furnace were fully treated. The permit modification request was
7 approved by the Department on July 23, 2004.

8 Based on the approval of the two permit modification requests, and the HW Permit
9 requirement that an additional permit modification request be submitted to resolve the multi-
10 agent monitoring issues, the Department concluded that the Permittees have met the intent of
11 Condition D.4., which was to ensure that UMCD had identified, characterized, and permitted for
12 treatment, all of the chemical agent-contaminated wastes stored at UMCD.

13 29. Condition D.5. of Attachment 6 requires the Permittees to notify the Department
14 in writing no later than September 1, 2002 that a technical decision has been reached on the
15 treatment method that will be utilized for agent-contaminated carbon, to include supporting
16 documentation concerning the basis for the decision. The Permittees provided notification on
17 September 3, 2002 (the first business day after the deadline) of their decision to utilize a carbon
18 micronization system to treat spent carbon in the deactivation furnace system. The required
19 supporting documentation was included.

20 30. Condition D.6. of Attachment 6 requires the Permittees to submit a progress
21 report to the Department, no less than 45 days nor more than 90 days prior to the start of
22 chemical agent operations, concerning the status of the design and implementation of the carbon
23 treatment technology identified per Condition D.5. The Permittees submitted a progress report
24 on May 27, 2004. Provided that chemical agent operations start on or before August 25, 2004,
25 the Permittees have met the requirement of Condition D.6. The Commission finds that
26 submission of continuing quarterly progress reports concerning the treatment of spent carbon is

1 appropriate. Authorization to commence agent operations is therefore conditioned upon a
2 continuing reporting requirement regarding progress on spent carbon treatment technology.

3
4 31. Condition D.7. of Attachment 6 requires the Permittees to provide the Department
5 copies of any Pre-Operational Survey(s) and/or Operational Readiness Evaluation(s) conducted
6 in accordance with the Program Manager for Chemical Demilitarization's (now Chemical
7 Materials Agency) "Policy Statement No. 28" governing the conduct of such surveys or
8 evaluations at demilitarization facilities. The Permittees submitted an Operational Readiness
9 Review Final Report on June 10, 2002.

10 32. Condition D.8. of Attachment 6 requires the Permittees to provide the Department
11 a verification statement that all findings designated as "Category 1" from Pre-Operational
12 Surveys and/or Operational Readiness Evaluations have been resolved in accordance with Policy
13 Statement No. 28. The Permittees provided a final verification statement on July 28, 2004 that
14 all Category 1 findings had been closed. The only exception was a Category 1 finding related to
15 the Commissions' written authorization to commence agent operations as required by Condition
16 D.11.; this Order satisfies that condition.

17 33. Condition D.9. of Attachment 6 requires the Permittees to provide the Department
18 the schedule for resolution of findings identified in Pre-Operational Surveys and/or Operational
19 Readiness Evaluations that were designated as "Category 2," in accordance with Policy
20 Statement No. 28. The Permittees provided a Category 2 Finding closure schedule on June 10,
21 2004 and an updated schedule on July 23, 2004.

22 34. Condition D.10. of Attachment 6 requires the Permittees provide to the
23 Department a copy of the [Chemical Materials Agency] authorization to start chemical agent
24 operations. The U.S. Army Chemical Materials Agency (CMA) provided conditional approval
25 on June 29, 2004 for the start of chemical agent operations at UMCDF. The CMA's approval
26 was conditioned on the closure of all remaining Category 1 findings generated by the

1 Operational Readiness Review process. A copy of the CMA conditional approval was provided
2 to the Department on July 6, 2004.

3
4 35. Condition D.11. of Attachment 6 requires the Permittees to obtain written
5 notification from the Commission authorizing the start of chemical agent operations. When
6 executed by the Commission, this Order will serve as the written notification required by
7 Condition D.11.

8 36. Condition D.12. of Attachment 6 requires the Permittees to submit a permit
9 modification request, no later than February 28, 2003, to revise the UMCDF Laboratory Quality
10 Control Plan and the Standard Operating Procedure related to analysis of chemical agent in
11 wastes. The permit modification request UMCDF-03-011-WAST(1R) was submitted on
12 February 27, 2003 and approved by the Department on May 28, 2004.

13 37. Condition D.13. of Attachment 6 requires the Permittees to have the brine
14 reduction area operational and ready to treat pollution abatement system brines generated from
15 agent operations. In an addendum to the August Staff Report the Department concluded that the
16 brine reduction area is operational and ready to treat brines.

17
18 **FINDINGS PERTAINING TO THE PERMITTEES' COMPLIANCE WITH OTHER**
19 **ENVIRONMENTAL PERMITS**

20 38. The Department issued an Air Contaminant Discharge Permit (Air Permit) to the
21 UMCD in February 1997 (Permit Number 25-0024). The Air Permit was renewed and re-issued
22 in July, 2002.

23 39. The July Compliance Assessment (Appendix C, Table C-3) included seven
24 requirements related to the Air Permit. The Department concluded that UMCDF was in
25 compliance with all of the requirements.

1 40. The Department issued a National Pollutant Discharge Elimination System Storm
2 Water Discharge Permit to the UMCD in June, 1998 and a Water Pollution Control Facilities
3 Permit (collectively, the “Water Permits”) January, 2002.

4 41. The UMCD handles wastewater from the UMCDF. The Department conducted a
5 file review and onsite inspection of the UMCD/UMCDF wastewater facilities in May 2004. The
6 July Compliance Assessment (Appendix C, Table C-3) included two requirements related to the
7 Water Permits. The Department concluded that UMCDF was in compliance with both of the
8 requirements.

9 42. UMCDF is also subject to a national permit issued to the U.S. Army’s Chemical
10 Materials Agency in 2002 by the U.S. Environmental Protection Agency (EPA). The EPA
11 national permit applied to the disposal of wastes containing polychlorinated biphenyls (PCBs)
12 under the requirements of the Toxic Substances and Control Act (TSCA). The July Compliance
13 Assessment (Appendix C, Table C-3) included three requirements related to the TSCA Permit.
14 The Department concluded that UMCDF was in compliance with the requirements of the TSCA
15 Permit.

16 43. The July Compliance Assessment included four requirements necessary to ensure
17 that the UMCD is ready to support chemical agent operations at UMCDF. The Department
18 concluded that the UMCD had submitted the necessary information documenting its readiness to
19 transport chemical agent munitions to UMCDF for processing.

20
21 **GENERAL FINDINGS PERTAINING TO UMCDF’S READINESS TO COMMENCE**
22 **CHEMICAL AGENT OPERATIONS**
23

24 44. The Director of the Oregon Office of Homeland Security provided a briefing to
25 the Commission on July 16, 2004 on the status of the Chemical Stockpile Emergency
26 Preparedness Program (CSEPP). The CSEPP Executive Review Panel appointed by the

1 governor met on July 1, 2004 and concluded that there are no outstanding CSEPP issues that
2 would justify a delay in the start of chemical agent operations.

3
4 45. The UMCD emergency operations center is overpressurized and staffed 24 hours
5 a day. In the event that the emergency operations center is unable to perform critical functions
6 such as offsite notifications, hazard predictions, or emergency response coordination, UMCDF
7 will be immediately notified and operations will cease until such time that the operations center
8 has regained functional capability.

9 46. Monitoring equipment has been installed in the Hermiston office of the
10 Department's Chemical Demilitarization Program, enabling the Department and the public to
11 monitor operational parameters during chemical agent operations.

12 47. The Chemical Demilitarization Program compliance inspectors will maintain a
13 frequent onsite presence at UMCDF and will continue to vigorously enforce the requirements of
14 UMCDF's permits to ensure compliance with Oregon's environmental laws.

15 48. Since the beginning of hazardous waste operations with surrogate material in July,
16 2002 the Department has issued 11 notices of noncompliance related to the operation of
17 UMCDF, several of which have resulted in notices of violation and assessment of civil penalties.
18 The Commission does not believe that the number and severity of the noncompliances noted to
19 date indicate an inability or unwillingness on the part of the Permittees to comply with the
20 requirements of Oregon environmental law.

21 49. The U.S. Department of Health and Human Services, Centers for Disease Control
22 and Prevention (CDC), has made frequent onsite visits to review UMCDF's chemical agent
23 monitoring program. UMCDF has responded appropriately to CDC's recommendations for
24 improving the reliability, precision, and accuracy of the agent monitoring program. CDC has
25 stated that it believes that UMCDF's agent monitoring program is adequate and ready to support
26 the start of agent operations.

1
2 50. UMCDF has successfully completed surrogate trial burns on liquid incinerator 1,
3 the deactivation furnace system, and the metal parts furnace.

4
5 **CONCLUSION OF THE COMMISSION**

6 51. Based on the information in the record before the Commission as of August 13,
7 2004, the Commission concludes that the UMCDF Permittees are in compliance with the
8 requirements of Attachment 6 to the HW Permit applicable to the commencement of agent
9 shakedown operations.

10 52. Based on the information in the record before the Commission as of August 13,
11 2004, the Commission concludes that the UMCDF Permittees have complied with other
12 requirements applicable to the commencement of agent shakedown operations, as identified by
13 the Department in the July Compliance Assessment.

14
15 **ORDER**

16 Now, therefore, IT IS ORDERED that:

17 1. These findings, conclusions and order shall constitute the Commission's final
18 decision and response to public comments.

19 2. The Umatilla Chemical Agent Disposal Facility is hereby authorized to
20 commence chemical agent ~~shakedown~~ operations ^{beginning with shakedown} in accordance with all of the applicable
21 requirements of its Hazardous Waste, Air, Water, and PCB disposal (TSCA) Permits.

22 3. The UMCDF Permittees will provide the Department quarterly progress reports
23 on the status of the carbon micronization system and the issues related to the treatment of spent
24 carbon. The first such progress report should be submitted to the Department no later than
25 January 15, 2005 and continue on a quarterly basis until such time that the Department
26 determines the progress reports are no longer required. The Department shall inform the

1 Commission if it believes that adequate progress is not being made to ensure that UMCDF is
2 ready to treat spent carbon immediately after the completion of the stockpile disposal operations.

3
4 4. If Permittees commence chemical agent operations after August 25, 2004 the
5 information required under Condition D.6. must be re-submitted to the Department. If the
6 Permittees commence chemical agent operations after September 13, 2004 the information
7 required under Condition D.3. of Attachment 6 of the HW Permit must also be re-submitted.
8 The commencement of chemical agent operations for the purposes of this Order is defined as
9 removal of chemical agent munitions from UMCD storage for transport to UMCDF.

10 5. This Order shall serve as the written notification authorizing the start of agent
11 shakedown operations per the requirements of Condition D.11. of Attachment 6 of the HW
12 Permit.

13 6. This Order shall be an Order in Other Than a Contested Case, subject to judicial
14 review pursuant to ORS 183.484.

15 DATED this ____ day of August, 2004.

16 Mark Reeve
17 Chair

18 Lynn Hampton
19 Vice-Chair

20 Deirdre Malarkey
21 Member

22 Ken Williamson
23 Member

24 _____
25 Mark Reeve, Chair
26 For the Environmental Quality Commission



Oregon State Public Interest Research Group
1536 SE 11th Avenue, Portland, OR 97214 (503) 231-4161
fax (503) 231-4007 • www.ospirg.org

August 5, 2004

Sent via facsimile to 503-229-6762 and U.S. mail

Environmental Quality Commission
c/o Oregon Department of Environmental Quality
811 SW Sixth Ave
Portland, OR 97204

RE: Umatilla Chemical Weapons Depot startup

Dear Commissioners:

I write you on behalf of the Oregon State Public Interest Research Group (OSPIRG), a non-profit, non-partisan public interest advocacy organization with more than 25,000 members across the state of Oregon. I am writing in support of a request submitted to you through the Oregon Department of Justice on August 3, 2004, from the citizen group Petitioners in the case recently decided by Judge Michael Marcus in the Multnomah County Circuit Court.

As you know, in his decision, Judge Marcus remanded the Environmental Quality Commission's decision to deny the Petitioners' request for revocation/modification and required that you modify the permit by adding conditions that make clear that employees at the Umatilla Depot are free to come forward with safety and compliance concerns without fear or reprisal or retaliation. In the letter sent to DOJ on August 3, the Petitioners essentially made three requests of the EQC prior to your granting approval to begin burning at Umatilla:

1) That the EQC modify the permit, as ordered by Judge Marcus, to increase whistleblower protection and alter the failed safety culture at the Army's chemical warfare agent incineration facilities. Petitioners noted that, in order for this to happen, there must be full public participation in defining the modification, including present and former workers. We agree that, since there is no equivalent permit modification listed in 40 C.F.R. § 270.42, Appendix I (permit modification standards), the modification should be processed as a class III permit modification.

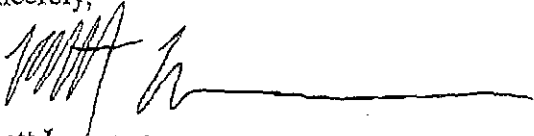
2) That the EQC make "findings" on a number of issues identified in Marcus' ruling as "compelling" before giving approval to begin burning. The Petitioners urged the Commission to directly address the alarming evidence about health risk and other issues before making any decision to allow agent shakedown, testing, or operations. We agree that it is imperative that the EQC address this evidence and make the appropriate findings before allowing agent operations to begin.

3) That the EQC withhold approval of operations until 10 days after the Oregon Court of Appeals rules on the merits in the pending appeal of the *GASPI* suit, which is due to be argued

on August 20, 2004. We agree that there is no justification for starting agent operations until after the Court of Appeals has issued its decision on the merits of that case.

In sum, OSPIRG shares the concerns set out in the Petitioners in their August 3 letter and we hope the Commission will be responsive to those requests. We thus urge you to delay the beginning of agent operations at Umalilla pending: (1) an appropriate and meaningful modification of the permit, (2) a full assessment and the release of findings concerning the compelling evidence on issues noted by Judge Marcus, and (3) a decision in the GASP I appeal. Thank you very much for your consideration of these concerns and I look forward to hearing of your decision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rhett Lawrence', followed by a long horizontal line extending to the right.

Rhett Lawrence
Environmental Advocate

HALLOCK Stephanie

From: BONARD Andrea
Sent: Tuesday, August 10, 2004 10:30 AM
To: MURPHEY Dennis; OLIVER Sue
Subject: FW: UMCDF permit modification

FYI, I also sent this to Mikell.

-----Original Message-----

From: David Monk [mailto:dmonk@oregontoxics.org]
Sent: Monday, August 09, 2004 8:58 PM
To: BONARD Andrea
Subject: UMCDF permit modification

Oregon Environmental Quality Commission
c/o Oregon Department of Environmental Quality
811 SW Sixth Ave.
Portland OF 97204-1390

Dear Members of the Oregon EQC:

I am writing in support of the August 3, 2004 letter written by Stuart A. Sugarman, Richard E. Condit and Mick G. Harrison, Counsel for Petitioners and sent to Mr. Bushong, Trial Attorney for the Oregon Department of Justice regarding UMCDF permit modification and chemical warfare agent operations.

It is imperative that the UMCDF permit be modified in accordance with Judge Marcus' mandate for whistleblower protection. There must be full public participation in defining the modification, including present and former workers and the permit modification ensuring whistleblower protection should be processed as a class 3 modification.

Operations should not commence at the facility until Petitioners' evidence on several important issues that Judge Marcus called "compelling and alarming" are specifically addressed by the Oregon DEQ and EQC. Most notably this evidence has to do with the smaller quantity of toxins emitted from alternative neutralization facilities, the smaller amount of water used by alternative neutralization facilities and the failure of the present monitoring system to reliably detect agent. It is imperative that the EQC address the compelling evidence on these issues and others before making any decision to allow agent operations to begin.

Finally, there is a pending appeal in the GASP I law suit which is to be argued August 20th. There is no justification for starting agent operations until after the Court of Appeals issues its decision on the merits of the case.

Please protect the health and safety of the public and workers and delay the start up of agent operations until:

An appropriate and meaningful modification of the permit;

A full assessment and the making of findings concerning the compelling evidence on issues

8/10/2004

noted by Judge Marcus;
A decision in the GASP I appeal.

Sincerely,

David Monk
Executive Director
Oregon Toxics Alliance

8/10/2004

As a public employe ~~and one~~ whose 25 year career in government has been devoted to protecting the environment, I am proud to bring forward a recommendation to you today to allow destruction of the chemical weapons stockpile at the Umatilla Army Depot to begin.

16 of my 25 years in government have been with the state Department of Environmental Quality. For 12 of those 16 years I have been responsible for development of the environmental permits and oversight of environmental compliance.

The environmental permits and the scientific and technical underpinnings represent some of the finest work done by our Department on your behalf and for the citizens of Oregon.

Many people at DEQ have been part of this work over the years, and I want to acknowledge a few of them today:

Brett McKnight

Fredrick Moore + Tom Beam

Peter Brewer + Doug Welch

Dan Hickman

Dan Duso

Nick Speed

Wayne Thomas

Dennis Murphey

Sue Oliver, who has provided the foundation upon which all of our technical and legal efforts have proceeded, and has been the voice and face of DEQ in this community since our Hermiston office opened.

I would also like to acknowledge former members of the Environmental Quality Commission who contributed to decisions about the permits and the project over the years:

Bill Wessinger, Carol Whipple, Linda McMahan, Henry Lorenzen, Melinda Eden, Tony Van Vliet and Harvey Bennett.

Like yourselves, these Commissioners represent what is finest about government in Oregon — volunteers who give generously of their time, ~~with little or no compensation~~ unpaid, to ~~pe~~ shape environmental policy for the future of Oregon, as you are doing here today.

I would also like to thank our sister agencies, Oregon Emergency Management and the Health Division, our federal partners and particularly Kathy Massimino of EPA, and the Tribal Government of the Confederated Tribes of the Umatilla Indian Reservation.

I would also like to acknowledge the support we have received over the years from several representatives of the Governor's office, represented here today by Craig Campbell.

Finally, Mr. Chairman and members of the Commission, I would like to say how personally rewarding it is for me to bring this recommendation to you today.

Over the years, working on this project, I have been privileged to participate in the finest aspects of this country's democratic process.

I have also been privileged to get to know many of the citizens in this community and to work with them.

Together, we have debated the merits of incineration and the merits of alternative technologies, and I am confident that debate will continue until all the weapons are destroyed.

Together, we have researched ~~and discussed~~ ^{and debated} relative risks and health effects, and welcomed a parade of technical experts to the community to speak to us on these issues.

Together, we formulated, debated, and ultimately defined the regulatory requirements in the permits.

Together, we built one of the finest emergency preparedness networks in the country.

Together, we pressurized schools and hospitals.

Together, we developed and continue to use a superb public outreach and communication plan.

Together, we have heard the passion of Kaye Jones, J.R. Wilkinson, Stuart Dick and others speaking against incineration.

Together, we have heard the equal passion of Frank Harbenrider, Dennis Boherty, Jerry Tallman and others in the community urging us to get on with the process.

Together, we have heard from workers at the facility concerned about safety and together we have heard workers at the facility tell us how safe the facility is.

- Together, we have ^{watched the facility be constructed} received many presentations from the Army and their contractors.
- Together we have shared hours and hours of public ~~me~~ hearings and public meetings.
- Together we have served on the CAC, the ERP, and the ^{Governing Board}.
- Together, we have welcomed a delegation from Russia who came to learn about how ~~to~~ our process for getting to the decision before you today.

Together, we have read, heard, and seen the media report on every aspect of this process, from every possible perspective.

In short, together we have seen part of what it means to live in a democratic society and we have reinforced that government does, in fact, belong to the people.

Mr. Chairman and members of the Commission, as one who stood on the first slab of concrete laid at this facility and has been part of every aspect of its regulation since, I ~~recommend~~ respectfully request that you accept the Department's recommendation to allow destruction of chemical weapons to begin.

State of Oregon


Department of Environmental Quality

Memorandum

DEQ Item No. 04-1252 (26.27)

DATE: August 2, 2004

TO: Environmental Quality Commission
Stephanie Hallock
Larry Knudsen
Mikell O'Meally

FROM:  Dennis Murphey, Administrator
Chemical Demilitarization Program

SUBJECT: Transmittal of Material for the August 13, 2004 EQC Meeting
Agenda Item A, "Decision on the Start of Chemical Agent Operations at the Umatilla Chemical Agent Disposal Facility"

Enclosed are materials in preparation for your August 13, 2004 special meeting in Hermiston:

- The Staff Report for your decision on the start of chemical agent operations. (The enclosed copy is unsigned, but a signed copy will be available at the meeting.)
- Master Agenda, including logistics information for the meeting.

We will provide a supplemental package next week that will address the three remaining items noted in the Staff Report as "open."

Please feel free to call me at 541/567-8297, ext. 22 if you have any questions or would like additional information before the meeting. I can also be reached on my cell phone at 541/561-3542.

Enclosures: "Staff Report to the Environmental Quality Commission, Decision on the Start of Chemical Agent Operations at the Umatilla Chemical Agent Disposal Facility," dated August 2, 2004. (DEQ Item No. 04-1253)

"Master Agenda for the August 13, 2004 EQC Meeting in Hermiston."

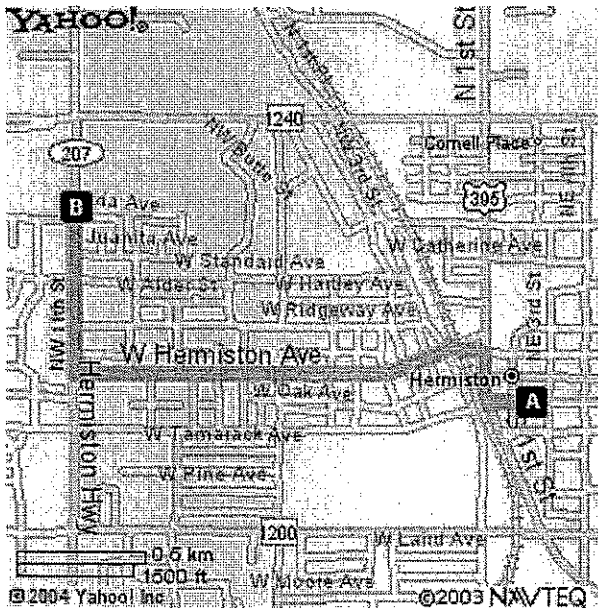
cc: Craig Campbell, Office of the Governor
Larry Edelman, Oregon Department of Justice
Stephen Bushong, Oregon Department of Justice
Paul Slyman, DEQ HQ
Sue Oliver, DEQ Hermiston

August 13, 2004 EQC Meeting
Good Shepherd Medical Center, Room 5
610 NW 11th, Hermiston, Oregon
Phone/Fax: 541-567-6151/564-9109

- 8:15 to 11:30 Meet in the ground-floor lobby of the DEQ Headquarters building (811 SW Sixth Ave., Portland) and join carpool to Hermiston.
Carpool includes: Mark, Ken, Stephanie, Paul, Mikell, and Dave LeBrun, DEQ Office of Compliance and Enforcement; Didi and Lynn will meet everyone at the Hermiston office
- 11:30 to 12:15 Arrive at DEQ Hermiston office (256 E. Hurlburt Avenue), working lunch will be served at the office
- 12:15 to 12:30 Travel to Good Shepherd Medical Center (610 NW 11th, Room 5, Hermiston)
- 12:30 to 2:00 EQC Meeting
- 2:00 to 3:00 Informal discussion session with EQC members and the public; we anticipate the session will last approximately one hour, but it will continue until 3:30 if necessary.
- 3:00 to 6:00 Travel to Portland

From the DEQ Hermiston Office (256 E Hurlburt Avenue, Hermiston) to Good Shepherd (Good Shepherd Medical Center, Room 5, 610 NW 11th, Hermiston)

- Off Hurlburt turn right on South 1st/US-395 and continue on North 1st
- Turn left on West Hermiston Avenue
- Turn right on NW 11th Street and arrive at Good Shepherd
- Go through main entrance, down hall past cafeteria



**Special Meeting
of the
Oregon Environmental Quality Commission**

August 13, 2004, 12:30 p.m. – 2:00 p.m.

Good Shepherd Medical Center
610 NW Eleventh Ave., Room 5
Hermiston, Oregon

A. Action Item: Decision on the Start of Chemical Agent Operations at the Umatilla Chemical Agent Disposal Facility

Dennis Murphey, DEQ Chemical Demilitarization Program Administrator, and Sue Oliver, DEQ Senior Hazardous Waste Specialist, will present the Department's recommendations on the start of chemical agent operations at the Umatilla Chemical Agent Disposal Facility (UMCDF). The presentation will include a review of the Department's compliance assessment of UMCDF, public comments received, and other pertinent information in regards to the program. The Commission will make a decision whether to approve the start of chemical agent operations at this meeting.

Adjourn

Future Environmental Quality Commission meeting dates in 2004 include:
September 9-10, Bandon; October 28-29, Tillamook; December 9-10, Portland

Agenda Notes

Public Discussion: Following the formal portion of the commission meeting, there will be an informal discussion session in order to allow interested members of the public the opportunity to interact with the Commission members.

Staff Report: The staff report for the item on this agenda will be available Monday, August 1, and can be viewed and printed from DEQ's Web site at <http://www.deq.state.or.us/about/eqc/eqc.htm>. To request a copy to be sent by mail, contact Shelly Ingram in the Department of Environmental Quality's Hermiston Office, 256 East Hurlburt, Suite 117, Hermiston, Oregon, 97838; telephone 541-567-8297 ext. 25, or 503-229-6993 (TTY). If special physical, language or other accommodations are needed for this meeting, please advise Shelly Ingram as soon as possible, but at least 48 hours in advance of the meeting.

Environmental Quality Commission Members

The Environmental Quality Commission is a five-member, all volunteer, citizen panel appointed by the governor for four-year terms to serve as DEQ's policy and rule-making board. Members are eligible for reappointment but may not serve more than two consecutive terms.

Mark Reeve, Chair

Mark Reeve is an attorney with Reeve Kearns in Portland. He received his A.B. at Harvard University and his J.D. at the University of Washington. Commissioner Reeve was appointed to the EQC in 1997 and reappointed for a second term in 2001. He became Chair of the EQC in 2003. Commissioner Reeve also serves as Co-Chair of the Oregon Watershed Enhancement Board.

Lynn Hampton, Vice Chair

Lynn Hampton serves as Tribal Prosecutor for the Confederated Tribes of the Umatilla Indian Reservation and previously was Deputy District Attorney for Umatilla County. She received her B.A. at University of Oregon and her J.D. at University of Oregon School of Law. Commissioner Hampton was appointed to the EQC in July 2003 and lives in Pendleton.

Deirdre Malarkey, Commissioner

Deirdre Malarkey graduated from Reed College and received her M.A. and Ph.D. from the University of Oregon. She has served previously on two state natural resource boards and on the Water Resources Commission and retired as a land use planner. Commissioner Malarkey was appointed to the EQC in 1999 and lives in Eugene.

Ken Williamson, Commissioner

Ken Williamson is head of the Department of Civil, Construction and Environmental Engineering at Oregon State University and serves as Co-Director of the Center for Water and Environmental Sustainability. He received his B.S. and M.S. at Oregon State University and his Ph.D. at Stanford University. Commissioner Williamson was appointed to the EQC in February 2004 and he lives in Corvallis.

The fifth Commission seat is currently vacant.

Stephanie Hallock, Director

Department of Environmental Quality

811 SW Sixth Avenue, Portland, OR 97204-1390

Telephone: (503) 229-5696 Toll Free in Oregon: (800) 452-4011

TTY: (503) 229-6993 Fax: (503) 229-6124

E-mail: deq.info@deq.state.or.us

Mikell O'Mealy, Assistant to the Commission

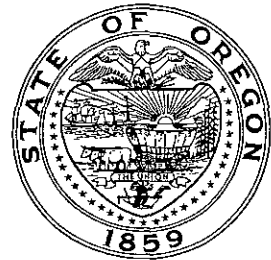
Telephone: (503) 229-5301



State of Oregon
Department of
Environmental
Quality

Environmental Quality Commission
Staff Report

August 13, 2004



Environmental Quality Commission

**Decision on the
Start of Chemical Agent Operations
at the
Umatilla Chemical Agent Disposal Facility**

**Umatilla Chemical Agent Disposal Facility
Hazardous Waste Storage and Treatment Permit No.
ORQ 000 009 431**

Prepared By
Oregon Department of Environmental Quality
Chemical Demilitarization Program
256 E. Hurlburt

State of Oregon
Department of Environmental Quality

Memorandum

Date: August 2, 2004

To: Environmental Quality Commission

From: Stephanie Hallock, Director

Subject: Agenda Item A, Action Item: Decision on Start of Chemical Agent Operation at the Umatilla Chemical Agent Disposal Facility (UMCDF) August 13, 2004 EQC Meeting

A signed copy will be available at the meeting

Department Recommendation Conditioned upon final resolution of three issues discussed in this Staff Report, the Department recommends that the Commission provide written notification to the Umatilla Chemical Agent Disposal Facility (UMCDF) authorizing the start of agent shakedown operations. The written notification to UMCDF will be provided through the Chair's execution of the FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER included here as Attachment A, with any revisions as directed by the Commission.

Approval of the start of chemical agent operations will allow UMCDF to begin treatment and disposal of the chemical warfare agent munitions and containers stored at the Umatilla Chemical Depot (UMCD). Operations at UMCDF will be governed by the requirements of the Hazardous Waste Storage and Treatment Permit No. ORQ 000 009 431 (HW Permit) and the requirements of other applicable permits.

The three issues requiring final resolution include 1) completion of the Post-Trial Burn Health and Ecological Risk Assessment protocol; 2) determination of whether the Brine Reduction Area (BRA) is operational and ready to treat brines; and 3) modification of the HW Permit to add requirements in response to a July 26, 2004 ruling by the Multnomah County Circuit Court in Case No. 0009 09349 (GASP III). The Department intends to prepare an addendum to this Staff Report just prior to the August 13 meeting that will include a determination of whether these three issues have been satisfactorily resolved. Discussion of each issue is included below.

Background On March 28, 2002 the Commission signed the "Findings and Conclusions of the Commission and Order," approving Permit Modification UMCDF-01-028-MISC(EQC), "Approval Process for UMCDF Operations" (Approval Process Order). The Approval Process Order (see Attachment B) unilaterally modified the UMCDF HW Permit to add requirements related to the start of

operations at UMCDF by adding Condition II.A.5. and Conditions D.1. through D.11. to a new attachment (Attachment 6) to the HW Permit ("Requirements for Commencement of Unit and Facility Operations"). Two additional agent start-up conditions were added to Attachment 6 in 2003.

Condition D.11. requires the UMCDF to obtain the written authorization of the Commission prior to commencing agent operations. As systemization and testing activities at UMCDF approached completion in early 2004, the Department, in consultation with the Commission, developed a process to conduct a detailed review of UMCDF's compliance status and obtain public comment prior to the Commission's decision to authorize the start of agent operations. Attachment C to this Staff Report contains a summary of public comments received and the Department's response. Attachment D is a "Compliance Assessment" prepared by the Department on July 23 and discussed below.

Compliance Assessment

The Department assessed UMCDF's overall compliance status with the requirements of hazardous waste regulations, various environment permits, and other activities required by DEQ to be completed prior to the start of agent operations. On May 4, 2004 the Department released the *Compliance Assessment for the Start of Chemical Agent Operations (Revision 0)* for public comment. The May Compliance Assessment listed 69 requirements to be completed by UMCDF and/or the Department prior to the start of chemical agent operations. Thirty-nine of the 69 requirements had been completed at the opening of the public comment period.

The Department updated the Compliance Assessment as of July 23, 2004 (July Compliance Assessment, included here as Attachment D) and added five requirements related to a conditional Department approval on May 28, 2004 of the Brine Reduction Area Performance Test plan. The July Compliance Assessment includes the compliance status of each requirement; a summary of Department enforcement actions; a transcript of the May 20 public hearing; copies of all written comments received; and an index to the documents relied upon by the Department in preparing the Compliance Assessment.

In summary, there were 39 requirements generated by review of the UMCDF HW Permit, 19 requirements generated by conditional Department approvals of permit modification requests, and 16 requirements from review of other environmental permits, for a total of 74 discrete requirements that must be completed before UMCDF may begin agent operations. In addition to the requirement that the Commission provide written authorization to start operations, there were four open requirements as of July 23, 2004:

1. Requirement 1-18 is related to a HW Permit condition that prohibits the start of chemical agent operations until the Department has notified UMCDF that the Post-Trial Burn Human Health and Ecological Risk Assessment (PostRA) Protocol has been completed. The PostRA protocol contains detailed information on how the Department proposes to conduct the Post-RA after the completion of the first agent trial burn to assess whether operation of UMCDF will pose adverse health or ecological risks. The Department is finalizing the Protocol in response to public comments received during a comment period held in late 2003 and expects to provide the required notification to UMCDF no later than August 6, 2004.
2. Requirement 1-34 is related to UMCDF's internal process known as an "Operational Readiness Review" (ORR) designed to evaluate UMCDF's readiness to begin chemical agent operations. The ORR is conducted by the Washington Demilitarization Company and overseen by various external agencies. The ORR methodology includes the generation of findings, categorized by significance, that require resolution. Findings deemed "Category 1" are considered essential to the safety of personnel or the environment or the operational readiness of the system and must be resolved before the start of operations. Condition D.8. requires that UMCDF provide a verification statement to the Department that all Category 1 findings have been closed.

In a letter to the Department on July 23, 2004, UMCDF indicated there were still four Category 1 findings open. However, on July 28, 2004 the UMCDF Permittees provided an updated statement verifying that all Category 1 findings except for one finding related to obtaining the Commission authorization, have been completed and closed. Consequently, the Department has concluded that the UMCDF Permittees have complied with Condition D.8. of Attachment 6 to the HW Permit and Requirement 1-34 can now be closed.

3. Requirement 1-39 is related to the operation and testing of the Brine Reduction Area (BRA) and the HW Permit requirement that the BRA be "operational and ready to treat pollution abatement system brines" by the time agent operations begin. The July Compliance Assessment included 10 requirements related to the operation of the brine reduction area. The Department concluded that all of the requirements had been met, with the exception of the requirement related to the successful completion of a BRA performance test.

A BRA Performance Test was conducted the week of July 12, 2004 and preliminary test results were provided to the Department on July 23rd. Based on the calculation methodology currently required by the HW Permit, the BRA performance test did not demonstrate compliance with the 80% treatment effectiveness standard.

Treatment effectiveness is measured by calculating the total weight reduction of the liquid brine fed into the system by comparing it with the amount of dried salts collected. However, the brine feed to the drum dryers during the performance test was at a higher density than is likely to be seen during normal operations. A significant amount of salt dried on the drums and dropped off into the catch pan below the drums instead of into the intended salt collection area. The formula in the HW Permit anticipated that only liquids (and maybe minor quantities of solids) would fall through into the catch pan. Consequently, material that falls into the catch pan is not counted as "collected" under the current permit formula, even if it meets the definition of dried salts.

Because Department review of the preliminary operational data (including demonstrated feed rates) seems to indicate that the BRA operated effectively, the current treatment effectiveness formula is being reevaluated to determine whether or not it accurately reflects actual operation of the BRA. The Permittees submitted a Class 1 permit modification request on July 29, 2004 to revise the formula to better represent actual conditions. Resolution of this issue will be addressed in an addendum to this Staff Report.

4. Requirement 2-14 is related to condition imposed by the Department that requires the Permittees to implement certain changes to the agent monitoring system in the pollution abatement carbon filter systems. There were two permit modification requests associated with this requirement, one of which was approved by the Department on July 25. The other modification request was submitted by UMCDF on July 22 to provide the final documentation of the "as-built" design changes. Upon review of the July 22 submittal, the Department determined that UMCDF had completed the necessary actions to close Requirement 2-14.

Public Comment Opportunities

A public comment period was held from May 4 through June 7, 2004. The public was invited to comment on the May Compliance Assessment. At the close of the comment period on June 7, 2004 the Department had received 11 written comments and 26 people had testified at a public hearing held before the Commission in Hermiston on May 20, 2004.

Only one of the oral comments and one of the written comments directly addressed the contents of the May Compliance Assessment. Most commenters instead expressed their opinion on the more general issue of whether UMCDF should be allowed to start chemical agent operations. Of the 26 persons providing testimony at the May 20 public hearing, 22 expressed their support for starting agent operations. Seven commenters identified themselves as employees of UMCDF, but pointed out that they were speaking as local residents. The recurring theme of testimony in support was that agent disposal operations should begin as soon as possible because of the danger posed to the local community by the continued storage of the stockpile.

One commenter expressed a preference for delaying the start of UMCDF until after the beginning of the school year because of the protection offered by the schools' overpressurized shelter areas. Five of the persons who gave oral testimony at the hearing also provided written material mirroring their oral comments. Of the other six written comments submitted during the comment period, three supported the start of agent operations, two were opposed, and one did not express a clear opinion, but requested that numerous health and environmental studies be conducted before, during, and after the disposal operations.

Commenters in support included State Representative Robert Jenson and State Senator David Nelson, and elected officials from the City of Hermiston, Umatilla County Commission, and the City of Umatilla. A representative of the Chemical Stockpile Emergency Preparedness Program (CSEPP) also expressed support for starting chemical agent operations. A member of the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation presented a resolution from the Board in support of the start of chemical agent operations.

The four commenters who spoke at the May 20 hearing opposing the start of agent operations all identified themselves as members of G.A.S.P., a local group opposing incineration. The G.A.S.P. members expressed their continuing objections to incineration of the chemical weapons stockpile because of their belief that:

- The Army misled the Department and the Commission on such issues as the operation of the Brine Reduction Area and the Dunnage Incinerator;
- The risk assessment process is inadequate and fails to take into account the adverse health effects, especially to sensitive populations, of exposure to dioxins and other chemicals;
- There are non-incineration alternatives available to destroy the Umatilla stockpile;

- The risks of continued storage of the stockpile are overstated;
- The excessive number of permit modifications indicate that the facility as built is very different than the design that was originally permitted; and
- The chemical agent monitoring system is inadequate.

The above issues have been repeatedly presented to the Department and the Commission, in addition to being extensively argued before the Multnomah County Circuit Court during one or more of the three legal actions already taken by G.A.S.P. against the Department and the Commission. The Department has responded to these issues previously.

Of the three written comments submitted in opposition to starting chemical agent operations, two expressed concerns similar to one or more of the items listed above. The written comments from G.A.S.P. included all issues listed above, additional issues argued through court proceedings, and comments on the May Compliance Assessment. G.A.S.P. expressed dissatisfaction with the Compliance Assessment because it was "not complete" and failed to do a complete "inventory" of each and every HW Permit condition.

The Department believes that the Compliance Assessment included those HW Permit conditions that represented both ongoing requirements (such as submittal of quarterly reports or completion of quarterly sampling for the Comprehensive Monitoring Program), and requirements specific to the start of chemical agent operations in the deactivation furnace system and liquid incinerator 1 (such as approval of final operating parameters and completion of required facility construction certifications).

One of the written comments contained a list of nine items that the commenter believed should be made part of the HW Permit, such as a requirement for baseline health study of the Hermiston and Umatilla area, and long-term (at least 20 years) studies of soil and water.

The Department reviewed all of the oral and written comments received during the comment period. Attachment C includes a more detailed summary of the public comments received and the Department's response. The transcript of the May 20 hearing and copies of written comments are included in Appendix E of Attachment D.

Key Issue

Has the Umatilla Chemical Agent Disposal Facility (UMCDF) satisfied the requirements of its environmental permits that are prerequisite to the start of chemical agent operations?

Compliance with Requirements of the UMCDF HW Permit

As discussed above, as of July 30, 72 of the 74 requirements listed in the July Compliance Assessment are now considered completed and closed. The Department will address the two remaining requirements (the PostRA Protocol and the operational status of the BRA) in an addendum to this Staff Report that will be prepared prior to the August 13 meeting of the Commission.

Compliance with Requirements of Other Environmental Permits

The July Compliance Assessment lists a total of 14 requirements from UMCDF's Air Contaminant Discharge Permit, UMCD's Water Pollution Control Facility Permit and National Pollution Discharge Elimination System Storm Water Discharge Permit, and the UMCD draft Hazardous Waste Storage Permit. All items associated with the air, water, and storage permits were found to be in compliance.

The July Compliance Assessment also included two requirements related to UMCDF's compliance with the U.S. Toxic Substances Control Act (TSCA), a federal program that governs facilities that dispose of polychlorinated biphenyls (PCBs). The U.S. Environmental Protection Agency (EPA) issued a "National Permit" in 2002 to the Army's chemical demilitarization incineration facilities. On July 9, 2004 the EPA determined that UMCDF had met the requirements of the TSCA program and the Army's National Permit and so the two requirements of the July Compliance Assessment were considered completed and closed.

General Compliance History of UMCDF

As described in Section 3.4 of the July Compliance Assessment, the Department has issued nine Notices of Noncompliance (NON) to UMCDF since the start of hazardous waste operations in July, 2002. Seven of the NONs were referred to the Department's Office of Compliance and Enforcement (OCE) for consideration of formal enforcement action. Of the seven NONs referred to OCE, four have resulted in the issuance of a Notice of Violation and Assessment of Civil Penalty. OCE decided not to take further action on two of the referrals, and one is still under OCE review. The UMCDF Permittees have appealed each of the NOV's, only one of which has

been completely resolved (through a Mutual Agreement and Order). Resolution is still pending on the remaining three NOV appeals.

The most significant violations to date at UMCDF include:

- Constructing a brine transfer station for loading tanker trucks without obtaining Department approval through a permit modification request;
- Failure to follow standard operating procedures, resulting in a small vial of diluted GB nerve agent being removed from the Permittees' control;
- Feeding hazardous waste to an incinerator when a required instrument was not operating properly (in this case, a level indicator in the quench tower of the pollution abatement system);
- Exceedance of permitted emissions rates for liquid incinerator 1 and the deactivation furnace system during testing;
- Resuming waste feed to an incinerator, without Department approval, after the same automatic waste feed cutoff occurred five times in 30 operating days;
- Feeding hazardous waste to an incinerator when some of the required instrumentation had been disabled; and
- Processing hazardous waste through the metal parts furnace when the pollution abatement system carbon filter system was bypassed.

Other violations noted by the Department have included failure to properly label, store, and/or manage hazardous waste. The UMCDF also submits to the Department a quarterly noncompliance report generated by UMCDF's internal process to ensure environmental compliance. Many of the items self-reported by the Permittees are also related to the improper management of hazardous waste (such as disposal of aerosol cans or management of used oil and antifreeze) or failure to complete required documentation (such as improper labeling of hazardous waste containers, incomplete/inaccurate shipment manifests, and untimely submittal of reports).

The Department has reviewed the compliance history maintained by the Utah DEQ for the Tooele Chemical Agent Disposal Facility (TOCDF) and also reviewed the enforcement correspondence generated by the Alabama Department of Environmental Management (ADEM), the regulatory agency for the Anniston Chemical Agent Disposal Facility (ANCDF).

A compliance history for the Aberdeen Chemical Agent Disposal Facility (a mustard neutralization facility) was requested from the Maryland Department of the Environment (MDE), but MDE has never issued any formal correspondence or enforcement actions related to the Aberdeen facility. MDE conducted an inspection in the fall of 2003, but apparently did not cite

the facility for any violations.

Review of the TOCDF and ANCDF compliance histories reveal that violations are often similar to those noted by the Department and self-reported by the UMCDF permittees. For example, TOCDF and ANCDF violations include open containers of hazardous waste, failure to conduct inspections or not conducting inspections properly, failure to remove liquid from sumps within the required time frame, failure to follow facility standard operating procedures, failure to follow training, monitoring, or contingency plans, and failure to obtain approval for design changes prior to implementing the changes.

Review of the ANCDF violations did not indicate any significant violations that were directly related to furnace operations during processing of chemical agent. The vast majority of the "areas of noncompliance" cited by ADEM are in the areas of recordkeeping and management of hazardous waste.

The most significant violations noted at TOCDF that were directly related to the processing of chemical agent include:

- Exceeding the incinerator feed rates and failing to cut-off waste feed when feed rates were exceeded;
- Feeding waste while waste feed cut-off instruments were not operating properly;
- Improper waste feed;
- Operating equipment while sensors were by-passed; and
- Failure to operate tank systems in accordance with permit requirements, to include exceeding the permitted capacity of a hazardous waste storage tank, failure to decontaminate a tank prior to placing a different waste in the tank, and placement of incompatible materials into a tank system

Because TOCDF has been in chemical agent operations since 1996, its compliance history is more extensive than either UMCDF's or ANCDF's. In addition, state regulatory environments can vary widely, resulting in different levels of inspection frequency and enforcement intensity when regulating a hazardous waste treatment and storage facility. Consequently, direct comparison of compliance histories is not necessarily indicative that one facility is "more compliant" than another. However, review of the compliance histories of ANCDF and TOCDF indicate that other chemical demilitarization facilities have compliance histories similar to UMCDF's.

The Department does not believe that the number, type, or magnitude of the violations noted to date at UMCDF indicate an inability or unwillingness on the part of the Permittees to comply with the requirements of Oregon

environmental law. In general, the Department has been satisfied with UMCDF's response to NONs and corrective actions that are taken by the facility upon notification by the Department.

Requirements Imposed by the Multnomah County Circuit Court

On July 26, 2004 the Multnomah County Circuit court issued its ruling in the case referred to as "GASP III." The Court remanded "for further proceedings" the Commission Order that denied the petitioners' request for permit revocation. Although the Court found no legal basis to reverse the Commission's July 14, 2000 decision not to revoke the permit, the Court also concluded that:

"Without the addition of whistleblower functions, the permitted activity endangers human health and the environment and can only be regulated to acceptable levels by modification of the permit to require the permittees prominently a) to advise workers of their obligation to report good faith concerns regarding the safety of workers, the public, or the environment, and related noncompliance with permit requirements, b) to notify workers of their obligation to convey such concerns to Respondents if those concerns are not otherwise sufficiently resolved, and c) to assure all workers that they will not be disadvantaged in any way by communicating such concerns in good faith."

Consequently, the UMCDF Permittees are preparing a Class 1 permit modification request for submittal to the Department that will propose to add language to the HW Permit to comply with the Court's Order. The addendum being prepared for the August 13 meeting will include further discussion of the permit modification request and how the Department proposes to determine UMCDF's compliance.

Resolution of Two Secondary Waste Issues

While most of the issues surrounding the storage, treatment, and disposal of chemical agent-contaminated secondary wastes have been resolved, the Department will continue to monitor and assess UMCDF's progress on resolving two remaining issues: chemical agent monitoring during the processing of multi-agent-contaminated wastes, and the design and permitting of a method to destroy agent-contaminated spent carbon from filter systems.

First, the Department has required that a permit modification request to resolve monitoring issues during treatment of multi-agent-contaminated wastes be submitted to the Department prior to the commencement of the second agent campaign. Treatment of multi-agent contaminated waste is not

expected to occur until after the stockpile is destroyed, which will allow time for multi-agent monitoring requirements to be addressed in the HW Permit.

Second, because the Permittees have complied with Conditions D.5. and D.6., there are no longer any specific HW Permit conditions governing the selection of a treatment technology for spent carbon. For this reason, the Draft FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER in Attachment A of this Staff Report includes the finding that:

“...submission of continuing quarterly progress reports concerning the treatment of spent carbon is appropriate. Authorization to commence agent operations is therefore conditioned upon a continuing reporting requirement regarding progress on spent carbon treatment technology.”

Paragraph 3 of the Order states:

“The UMCDF Permittees will provide the Department quarterly progress reports on the status of the carbon micronization system and the issues related to the treatment of spent carbon. The first such progress report should be submitted to the Department no later than January 15, 2005 and continue on a quarterly basis until such time that the Department determines the progress reports are no longer required. The Department shall inform the Commission if it believes that adequate progress is not being made to ensure that UMCDF is ready to treat spent carbon immediately after the completion of the stockpile disposal operations.”

The Department believes that incorporating the above requirement into the Order, combined with a fixed time limit for submittal of a permit modification request to resolve the multi-agent monitoring issues, will serve to meet the intent of the Commission and the Department that no chemical agent-contaminated secondary waste streams will remain untreated after stockpile destruction is complete.

**EQC Action
Alternatives**

1. *Approve the start of chemical agent operations at the UMCDF through the adoption of the Order in Attachment A.*

Pending completion of the PostRA Protocol, the determination that the BRA is operational, and satisfaction of the Circuit Court's order, the Department believes that UMCDF has met the HW Permit requirements specific to the start of GB chemical agent shakedown operations. If the Commission approves the start of chemical agent operations the UMCDF Permittees have indicated that loading and moving the first transport container from a storage igloo to the UMCDF Container Handling Building could take place within a matter of days.

2. *Conditionally approve the start of chemical agent operations at the UMCDF.*

Under a conditional Commission approval, UMCDF would not be able to begin agent shakedown operations until the conditions were met. For example, if the permit modification request to respond to the Circuit Court order cannot be processed prior to the August 13 meeting the Commission could approve agent operations contingent upon approval by the Department of the request. However, the Department would prefer that a conditional approval be avoided.

3. *Take no action.*

If the Commission takes no action UMCDF will not be able to begin chemical agent operations. The Department will then discuss the outstanding issues with the Commission and propose a plan for resolution.

Rationale and Next Steps

The Department will be preparing an addendum to this Staff Report to address the three open issues prior to the August 13 meeting. If the Commission approves the start of chemical agent operations, the Department will prepare a final Order for the Chair's signature and transmittal to the UMCDF Permittees. The Department will also prepare and disseminate the appropriate public notice documents.

Attachments

- A** [DISCUSSION DRAFT] FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER in the Matter of *the Start of Chemical Agent Operations at the Umatilla Chemical Agent Disposal Facility*, Hazardous Waste Storage and Treatment Permit No. ORQ 000 009 431
- B** FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER in the Matter of *Approval Process for UMCDF Operations*, UMCDF Permit Modification No. UMCDF-01-028-MISC(EQC),
- C** Summary of Public Comments and Department Response
- D** *Compliance Assessment for the Start of Chemical Agent Operations, (Revision 1)*, Oregon DEQ, July 23, 2004.

Available Upon Request

Compliance Assessment [for the] Start of Chemical Agent Operations (Revision 0), Oregon Department of Environmental Quality, May 4, 2004 (DEQ Item No. 04-0679).

Opinion and Order on Judicial Review (GASP III), Multnomah County Circuit Court, Case No. 0009 09349, July 26, 2004.

Permit Condition D.8., Verification of Closure for Operational Readiness Review (ORR) Category 1 Findings, letter from UMCDF Permittees to the Department, July 28, 2004 (DEQ Item No. 04-1229).

Conditional Approval of Class 1 Permit Modification Request UMCDF-04-031-PFS(1R), "Pollution Abatement System Carbon Filter System Dry Conditions," letter from the Department to the UMCDF Permittees, July 25, 2004 (DEQ Item No. 04-1209).

Submittal of Class 1 Permit Modification Request UMCDF-04-005-PFS(1R), "As-Built for the Carbon Filter System Agent Monitoring Design Changes," submitted to the Department from UMCDF on July 22, 2004 (DEQ Item No. 04-1193).

Approved:

A signed copy will be available at the meeting

Division: _____

Dennis Murphey, Administrator
DEQ Chemical Demilitarization Program

Report Prepared By: Sue Oliver, Sr. Hazardous Waste Specialist
Phone: (541) 567-8297 ext. 26

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State of Oregon

Department of Environmental Quality

Memorandum

DEQ Item No. 04-1313 (26.27)

Date: August 10, 2004
To: Environmental Quality Commission
From: Stephanie Hallock, Director
Subject: Addendum to August 2, 2004 Staff Report

A signed version will be available
at the August 13 meeting.

Agenda Item A, Action Item: Decision on Start of Chemical Agent Operations
at the Umatilla Chemical Agent Disposal Facility (UMCDF)
August 13, 2004 EQC Meeting

Introduction

As reported to you in the Staff Report dated August 2, 2004, the Department assessed the Umatilla Chemical Agent Disposal Facility's (UMCDF) compliance with environmental regulatory requirements as part of the process to determine UMCDF's readiness to commence agent operations. At the time of the August 2nd Staff Report, there were three issues requiring final resolution:

- 1) completion of the Post-Trial Burn Health and Ecological Risk Assessment protocol;
- 2) determination of whether the Brine Reduction Area (BRA) is operational and ready to treat brines; and
- 3) modification of the UMCDF Hazardous Waste Storage and Treatment Permit (HW Permit) to add requirements in response to a July 26, 2004 ruling by the Multnomah County Circuit Court in Case No. 0009 09349 (*GASP III*).

Each of the requirements has been completed and is discussed below. Note that the discussion of the HW Permit modification also includes new issues related to a letter received on August 3, 2004 from the G.A.S.P. petitioners.

**Post-Trial Burn
Risk Assessment
Protocol**

Condition ILN.3. of the HW Permit prohibits the start of chemical agent operations until the Department has notified UMCDF that the Post-Trial Burn Human Health and Ecological Risk Assessment (PostRA) Protocol has been completed (Requirement 1-18 of the July 23, 2004 Compliance Assessment provided in the August 2 Staff Report). The PostRA protocol contains detailed information on how the Department plans to conduct risk

assessments after the completion of the first agent trial burn to assess whether operation of UMCDF will pose adverse health or ecological risks. The "Post-Trial Burn Risk Assessment Work Plan" was finalized by Ecology and Environment, Inc. (a Department contractor) and delivered to the Department on August 5, 2004. The Department transmitted a copy to the UMCDF Permittees on August 9, 2004 and this requirement is now closed. The Department is preparing public notice documents (including a response to comments) and will place copies of the Work Plan in the information repositories by August 19th.

**Operation of the
Brine Reduction
Area**

Condition D.13. of Attachment 6 to the HW Permit requires that the UMCDF Permittees "must have the Brine Reduction Area operational and ready to treat pollution abatement system brines generated from agent operation" (Requirement 1-39 of the July 23, 2004 Compliance Assessment).

The BRA Performance Test was conducted July 12 through July 15, 2004. Preliminary results delivered to the Department on July 23, 2004 indicated compliance with all emission limits while feeding brine at the maximum expected density and feed rate. Emissions of particulate matter were less than 1% of the permit limit and emissions of metals were between 2% and 72% of the permitted limits. The manganese emissions during one test run were greater than the permit limit, but when averaged with the other runs (as required to determine compliance), were well below the permit limits.

However, the treatment effectiveness of the BRA ranged from 59% to 72%, which is less than the 80% effectiveness required in the HW Permit. As discussed in the August 2nd Staff Report, the formula initially used to calculate treatment effectiveness did not take into account the dried salts that were falling into a catch pan. UMCDF submitted a Class 1 permit modification request on July 29, 2004 to revise the formula to better represent actual conditions and account for all of the dried salts, not just those captured in the dryer salt bin. The modification request was approved by the Department on August 3, 2004. The BRA met the 80% treatment effectiveness requirement for all test runs when calculated using the new equation.

The testing appears to have been conducted in accordance with the BRA Performance Test Plan, although the Final BRA Performance Test Report is not due until mid-October. However, based on the Department's observation

of the Performance Test and the preliminary data provided, the Department has concluded that the BRA is operational and ready to treat brines from agent operations and that the requirement of Condition D.13. of Attachment 6 to the HW Permit has been met.

**Remand by the
Multnomah
County Circuit
Court**

GASP III Court Order

On July 26, 2004 the Multnomah County Circuit Court issued its *Opinion and Order on Judicial Review* in the case referred to as "*GASP III*" (Court Order). The Court remanded "for further proceedings" the July 2000 Commission Order that denied the petitioners' request for permit revocation. Although the Court found no legal basis to reverse the Commission's decision not to revoke the permit, the Court also concluded that:

"Without the addition of whistleblower functions, the permitted activity endangers human health and the environment and can only be regulated to acceptable levels by modification of the permit to require the permittees prominently a) to advise workers of their obligation to report good faith concerns regarding the safety of workers, the public, or the environment, and related noncompliance with permit requirements, b) to notify workers of their obligation to convey such concerns to Respondents if those concerns are not otherwise sufficiently resolved, and c) to assure all workers that they will not be disadvantaged in any way by communicating such concerns in good faith."

Modification of the HW Permit by the Department

Because this modification was specifically ordered by the Court, the Department of Justice (DOJ) advised the Department that it was appropriate to modify the UMCDF HW Permit effective immediately to reflect the Court's Order (see DOJ Opinion in Attachment A). On August 6, 2004 the Department added the following conditions to Module II (General Facility Conditions) of the UMCDF HW Permit to address the requirements of the Court Order:

II.S. Employee Whistleblower Protections

- II.S.1. The Permittees shall have a program in place to prominently:
- i. Advise workers of their obligation to report good faith concerns regarding the safety of workers, the public, or the

- environment, and related noncompliance with permit requirements;
- ii. Notify workers of their obligation to convey such concerns to the Department if those concerns are not otherwise sufficiently resolved; and
 - iii. Assure all workers that they will not be disadvantaged in any way by communicating such concerns in good faith.

II.S.2. By July 31 of each year, the Permittees shall provide a written certification that the program required by Condition II.S.1. of this Permit remains in place and shall provide verification that all employee training required by the program has been conducted and maintained current.

The Department notified the Permittees on August 6th that the UMCDF HW Permit had been modified (see Department letter in Attachment A), and a notice was sent to the Umatilla mailing list on August 9th.

Modification Request from the Permittees

On August 2, 2004 the UMCDF Permittees submitted a Class 1 permit modification request that proposed to implement the requirements of the Court Order by adding a permit condition regarding employee "whistleblower protection" and updating mandatory training programs. The proposed training would ensure that all workers are informed of their rights and obligations to communicate any concerns they might have to their management, and to communicate those concerns to the Department if not satisfactorily resolved.

Washington Demilitarization Company (WDC) incorporated the requirements into its existing "Employee Concerns" procedure. The Umatilla Chemical Depot (UMCD) and the U.S. Army Program Manager for the Elimination of Chemical Weapons (PM ECW) implemented a new policy titled "Employee Reporting of Environmental Concerns" that applies to all military and civilian employees and contractors.

All three Permittees immediately instituted site-wide briefing sessions for all personnel to inform them of their rights and obligations concerning the reporting of safety or environmental concerns. The Department conducted an inspection of employee training records on August 4, 2004. The Permittees had completed briefing sessions for 100% of the PM ECW employees and contractors, and approximately 84% of WDC employees and contractors. UMCD indicated that it had completed the training for approximately 72% of

its personnel. All of the Permittees have put requirements in place to ensure that all remaining employees receive the initial briefing, to include those that are returning from vacations or have been engaged in duties elsewhere.

The Department reviewed the revised training procedures, new policies, initial briefing packages, employee bulletins, and signed training rosters and concluded that the UMCDF is adequately addressing the requirements imposed by the Court now reflected in Module II of the HW Permit. Ongoing training will be assured through incorporation of the information into annual refresher training required for all UMCDF and UCMD personnel.

The Department conditionally approved the permit modification request on August 9, 2004 (see Attachment B). The Department did not approve the revisions to the HW permit language as proposed by the Permittees because those requirements had already been incorporated by the Department-initiated permit modification discussed above. However, approval of this permit modification request added a condition to ensure that UMCDF training programs include the training required by the new "Employee Whistleblower Protections" (Condition II.S.) imposed by the Department.

August 3, 2004 Letter from G.A.S.P.

On August 3, 2004 the DOJ received a letter from G.A.S.P. (Attachment C)¹ concerning implementation of the Court Order. A copy of the letter was provided to all of the Commissioners. G.A.S.P. requested that:

- 1) the permit modification ordered by the Court be processed as a Class 3 modification (the letter included suggested permit language);
- 2) the Commission "specifically address and make findings on the issues raised and evidence presented in *GASP III*" before approving chemical agent destruction operations; and
- 3) that agent operations be postponed until 10 days after the Oregon Court of Appeals issues a decision on the merits in *GASP I* (which is scheduled for oral arguments before the Court of Appeals on August 20).

As discussed above, the Department modified the HW Permit to include the requirements as mandated by the Court, and approved the Class 1 permit modification request from the Permittees to modify the training programs that

¹ In addition, on August 9, 2004 the Oregon State Public Interest Group (OSPIRG) sent a letter to the Commission, care of the Department, expressing its support of the G.A.S.P. position.

implement the new requirements. As noted in the opinion provided by the DOJ in Attachment A, both actions were appropriate responses to the Court Order.

As both the Court Order and G.A.S.P. have noted, the Commission did not make findings of fact in July 2000 when it declined the G.A.S.P. request for revocation of the HW Permit, although it accepted the staff report. As noted in the Court Order (pp. 18-19), the Commission was not required to make findings then, nor is it required to do so now.

GASP I challenged the issuance of the HW Permit to UMCDF and was filed in August 1997. The Multnomah County Circuit Court issued its Final Judgment in *GASP I* in June 1999. G.A.S.P. filed an appeal with the Oregon Court of Appeals in July 1999. *GASP I* is scheduled for oral arguments before the Court of Appeals on August 20, 2004. It is unknown how long it will be after the August 20 hearing that the Court would issue a ruling in *GASP I*. However, it would likely be at least several months, if not longer.

**Department
Conclusions and
Recommendation**

The *Key Issue* as defined in the August 2, 2004 Staff Report was:

"Has the Umatilla Chemical Agent Disposal Facility (UMCDF) satisfied the requirements of its environmental permits that are prerequisite to the start of chemical agent operations?"

With the resolution of the outstanding issues identified in the August 2nd Staff Report, and compliance with the Court's Order by modifying the HW Permit to incorporate requirements for protection of whistleblowers, the Department believes that UMCDF has satisfied the requirements identified as prerequisite to the start of chemical agent operations.

As related to the August 3, 2004 request from the G.A.S.P. Petitioners, the Department recommends that the Commission take no action to make findings related to *GASP III*. Although some of the specific evidence brought forth by the Petitioners during the *GASP III* trial had not been previously considered by either the Department or the Commission, the Department is fully aware of the issues raised by the Petitioners in *GASP III*, most of which were similar, if not identical, to those raised in *GASP I*. The Department considers some of these issues resolved, such as the lack of a dunnage incinerator, efficacy of carbon filter systems, and operability of the brine reduction area. There are other issues that the Department will continue to review for applicability to UMCDF operations (such as risk assessment methodologies and chemical agent monitoring technologies).

In the *GASP III* ruling the Court concluded that, other than the need to include a whistleblower provision in the HW Permit, the Commission's July 14, 2000 Order declining the Petitioners' revocation request was supported by substantial evidence in the record. The Commission is under no legal obligation to make findings.

In addition, the Department does not believe that any purpose would be served by postponing the start of agent operations until a ruling is issued by the Court of Appeals in *GASP I*. *GASP I* has been pending with the Court of Appeals for five years and there is no fixed timeline for final resolution.

The Department recommends that the Commission provide written notification to the UMCDF authorizing the start of agent shakedown operations. The August 2nd Staff Report also includes further discussion of UMCDF's compliance status and discusses three Commission alternatives identified by the Department (approve, conditionally approve, or take no action).

Please refer to the Attachment A of the August 2nd Staff Report for the draft of the FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER. The Department proposes that the final Commission Order serve as the written authorization required by Condition D.11. of Attachment 6 to the HW Permit.

Attachments

- A August 6, 2004 Department of Justice Opinion Providing Guidance to DEQ on Processing UMCDF Permit Modification to Incorporate *GASP III* Order Requirements (DEQ Item No. 04-1307)
August 6, 2004 Letter from the Department to the UMCDF Permittees: Issuance of Revised UMCDF HW Permit—Permit Modification UMCDF-04-040-MISC(DEQ) Incorporation of Requirements from *GASP III* Order (DEQ Item No. 04-1298)
- B August 9, 2004 Letter from Department to UMCDF Permittees Conditionally Approving the Class 1 Permit Modification Request UMCDF-04-034-MISC(1R), "Employee Training" (DEQ Item No. 04-1311)
- C August 3, 2004 Letter from G.A.S.P. Petitioners regarding "UMCDF permit modification and chemical warfare agent operations," in response to Court remand in *GASP III* for incorporation of whistleblower protections (DEQ Item No. 04-1268)
August 6, 2004 Department of Justice Letter Responding to Stuart Sugarman Re: UMCDF Permit Modification and Agent Operations in response to *GASP III* Order (DEQ Item No. 04-1308)

Available Upon Request Letter from the Department to the UMCDF Permittees, "*Notification of Department Completion of the Post-Trial Burn Risk Assessment Protocol*," August 9, 2004 (DEQ Item No. 04-1314)

"Final Post-Trial Burn Risk Assessment Work Plan for the Umatilla Chemical Agent Disposal Facility," August, 2004, Ecology and Environment, Inc. (DEQ Item Nos. 04-1304 and 04-1305).

Submittal to the Department from the UMCDF Permittees, "*UMCDF Brine Reduction Area (BRA) Performance Test Preliminary Report, Revision 0*," July 23, 2004 (DEQ Item No. 04-1210)

UMCDF Submittal of Class 1 Permit Modification Request (PMR) UMCDF-04-033-BRA(1R), "*Brine Reduction Area (BRA) Treatment Effectiveness*," July 29, 2004 (DEQ Item No. 04-1240)

Email from Doug Welch to Sue Oliver regarding *Completion of Review of Preliminary BRA Performance Test Results*, August 5, 2004 (DEQ Item No. 04-1302)

Department Approval of Class 1 Permit Modification Request UMCDF-04-033-BRA(1R), "*Brine Reduction Area Treatment Effectiveness*," August 3, 2004 (DEQ Item No. 04-1266)

Opinion and Order on Judicial Review (GASP III), Multnomah County Circuit Court, Case No. 0009 09349, July 26, 2004 (DEQ Item No. 04-1288)

Notice of Decision, Permit Modification UMCDF-04-040-MISC(DEQ) "*Incorporation of Requirements from GASP III Order*," August 9, 2004 (DEQ Item No. 04-1299)

Class 1 Permit Modification Request (PMR) UMCDF-04-034-MISC(1R), "*Employee Training*," August 2, 2004 (DEQ Item Nos. 04-1261 and 04-1262)

Supplemental Information Submittal for Class 1 Permit Modification Request (PMR) UMCDF-04-034-MISC(1R) "*Employee Training*," August 6, 2004 (DEQ Item No. 04-1303)

Department Memorandum regarding Whistleblower Training Program "*Inspection to Support Class 1 Permit Modification Request UMCDF-04-034-MISC (1R) Employee Training*," August 4, 2004 (DEQ Item No. 04-1278)

Department Review Report, Class 1 Permit Modification Request
UMCDF-04-034-MISC(1R) "Employee Training," August 9, 2004 (DEQ
Item No. 04-1310)

Approved:

A signed copy will be available
at the August 13 meeting.

Division:

Dennis Murphey, Administrator
DEQ Chemical Demilitarization Program

Report Prepared By: Sue Oliver, Chemical Demilitarization Specialist
Phone: (541) 567-8297 ext. 26

Report Contributors: Tom Beam, P.E.
RCRA Permitting Lead
Dan Duso
RCRA Compliance Inspector
Lena Iles
Executive Support Specialist
Shelly Ingram
Public Information Representative
Nick Speed
Hazardous Waste Specialist
Dan Swanson
Hazardous Waste Specialist
Doug Welch, P.E.
Environmental Engineer

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ATTACHMENT A

**Department of Justice Opinion
Regarding UMCDF Permit Modification
to Incorporate GASP III Order Requirements**

**August 6, 2004
(DEQ Item No. 04-1307)**

**Letter from the Department to the UMCDF Permittees:
Issuance of Revised UMCDF HW Permit to
Incorporate Requirements from GASP III Order**

**August 6, 2004
(DEQ Item No. 04-1298)**

Addendum to August 2, 2004 Staff Report

**Start of Chemical Agent Operations
Umatilla Chemical Agent Disposal Facility
Environmental Quality Commission
2004**

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HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

Scanned

August 6, 2004

04-1307

Dennis Murphey
Chemical Demilitarization Program Administrator
Oregon Department of Environmental Quality
256 E. Hurlburt Ave., Suite 105
Hermiston, OR. 97838

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

AUG 06 2004

Re: UMCDF Permit Modification for Addition of Whistleblower Protection

Dear Dennis:

HERMISTON OFFICE

You asked whether DEQ can appropriately respond to the Court's order in *GASP III* by (1) modifying Module II of the Umatilla Chemical Agent Disposal Facility (UMCDF) hazardous waste permit to incorporate immediately the Court's whistleblower protection requirements, and (2) processing for approval the Class 1 permit modification request (PMR) submitted by the permittees to modify their respective whistleblower training programs. I believe both actions are legally appropriate.

I reviewed the Court's order and find it to be clear and unambiguous. It requires that the permit be modified to require the permittees "prominently (a) to advise workers of their obligation to report good faith concerns regarding the safety of workers, the public, or the environment, and related noncompliance with permit requirements, (b) to notify workers of their obligation to convey such concerns to Respondents if those concerns are not otherwise sufficiently resolved, and (c) to assure all workers that they will not be disadvantaged in any way by communicating such concerns in good faith." DEQ can, therefore, modify the permit to impose those specific court ordered requirements immediately.

I have also reviewed the Class 1 PMR [UMCDF-04-034-MISC(1R)] submitted by the permittees. The PMR would modify the respective training plans of the permittees with respect to whistleblower protection. The modifications would be incorporated through changes to the Part B permit application which is an enforceable part of the UMCDF permit. Although the PMR also proposed revised permit language to incorporate the Court order, a decision by DEQ to modify the permit immediately would negate the need for the permittees' proposed language.

Pursuant to 40 CFR Part 270.42(a) and Appendix I B.5 (b) changes to facility training plans that do not affect the type or decrease the amount of training ("other changes") may be implemented through Class 1 modifications. The changes proposed by the permittees do not appear to affect the type or decrease the amount of training. Rather, they increase and upgrade training with respect to whistleblower protection and reporting of employee concerns.

Dennis Murphey
August 6, 2004
Page 2

Therefore, I believe a Class 1 modification is an appropriate vehicle to implement the changes. I do recommend, however, that DEQ require prior approval of the Class 1 to assure that the changes fully implement the modified Module II requirements. I also note that 40 CFR 270.42 (a)(1)(iii) provides a process for the public to request subsequent agency review of Class 1 modifications. While it appears that provision was intended for Class 1 modifications made without prior agency approval, I recommend that you provide that opportunity nevertheless since there is otherwise no specific opportunity for public input.

Please let me know if you have additional questions.

Sincerely,

L. Edelman
Larry H. Edelman
Assistant Attorney General
Natural Resources Section

LHE:la/GENUS938.DOC

cc. Steve Bushong
Larry Knudsen



Oregon

Theodore R. Kulongoski, Governor

04-1298

Department of Environmental Quality

Eastern Region

Hermiston Office

256 E Hurlburt

Hermiston, OR 97838

Phone: (541) 567-8297

FAX: (541) 567-4741

TTY: (503) 229-6993

Scanned

August 6, 2004

Sent by Certified Mail # 7004 0750 0002 7978 0088 Sent by Certified Mail # 7004 0750 0002 7978 0095

Lieutenant Colonel David E. Holliday
Commander
Umatilla Chemical Depot
Attn.: SCBUL-CO
Hermiston, OR 97838

Mr. Douglas G. Hamrick
Project General Manager
Washington Demilitarization Company
78068 Ordnance Road
Hermiston, OR 97838

Sent by Certified Mail # 7004 0750 0002 7978 0071

Mr. Don E. Barclay
UMCDF Site Project Manager
Program Manager for the Elimination of Chemical Weapons
78072 Ordnance Road
Hermiston, OR 97838

Re: Issuance of Revised UMCDF HW Permit--Permit
Modification UMCDF-04-040-MISC(DEQ),
"Incorporation of Requirements from GASP III Order"
Umatilla Chemical Agent Disposal Facility
ORQ 000 009 431
DEQ Item No. 04-1298 (92,97)

Dear LTC Holliday, Mr. Barclay, and Mr. Hamrick:

Effective this date, the Department of Environmental Quality (Department) has modified the UMCDF Hazardous Waste Storage and Treatment Permit (HW Permit) to comply with the Multnomah County Circuit Court "*Opinion and Order on Judicial Review*" issued on July 26, 2004 in the matter of G.A.S.P., et al., vs. Environmental Quality Commission, et al., Case No. 0009 09349 (GASP III). The Court ordered that the UMCDF HW Permit be modified to include the addition of "whistleblower functions."

Department-initiated Permit Modification UMCDF-04-040-MISC(DEQ), "Incorporation of Requirements from GASP III Order," adds Condition II.S. to Module II of the HW Permit as follows:

II.S. EMPLOYEE WHISTLEBLOWER PROTECTIONS

II.S.1. The Permittees shall have a program in place to prominently:

LTC Holliday, Mr. Barclay and Mr. Hammick
August 6, 2004
DEQ Item No 04-1298 (92.97)
Page 2

- i. Advise workers of their obligation to report good faith concerns regarding the safety of workers, the public, or the environment, and related noncompliance with permit requirements;
- ii. Notify workers of their obligation to convey such concerns to the Department if those concerns are not otherwise sufficiently resolved; and
- iii. Assure all workers that they will not be disadvantaged in any way by communicating such concerns in good faith.

II.S.2. By July 31 of each year, the Permittees shall provide a written certification that the program required by Condition II.S.1. of this Permit remains in place and shall provide verification that all employee training required by the program has been conducted and maintained current.

The Department will issue the approved change pages to the HW Permit under separate cover and will notify all interested parties on its Umatilla mailing list of this modification within ten (10) days (no later than August 16, 2004).

The Department continues to review the Class 1 Permit Modification Request UMCD-04-034-MISC(1R), "Employee Training," which was received on August 2, 2004 and describes how the Permittees intend to implement the requirements of Judge Marcus' Order.

If you have any questions concerning this matter, please call Tom Beam of my staff at (541) 567-8297, ext. 30.

Sincerely,



Dennis Murphey
Administrator
Chemical Demilitarization Program

Cf: Thomas Beam, DEQ Hermiston
Sue Oliver, DEQ Hermiston
Stephanie Hallock, DEQ Director
Stephen Bushong, DOJ Salem
Larry Edelman, DOJ Portland
Stan Barry, WDC
Allan Bean, WDC
Catherine Massimino, USEPA Region X
Robert Nelson, UMCD
Michael Strong, PM ECW

ATTACHMENT B

Letter from Department to UMCDF Permittees
Conditionally Approving the Class 1 Permit Modification Request
UMCDF-04-034-MISC(1R), "Employee Training"

August 9, 2004
(DEQ Item No. 04-1311)

Addendum to August 2, 2004 Staff Report

Start of Chemical Agent Operations
Umatilla Chemical Agent Disposal Facility
Environmental Quality Commission
2004

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Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality

Eastern Region
Hermiston Office
256 E Hurlburt
Hermiston, OR 97838
Phone: (541) 567-8297
FAX: (541) 567-4741
TTY: (503) 229-6993

August 9, 2004

Sent by Certified Mail #7004 0750 0002 7978 0132 Sent by Certified Mail #7004 0750 0002 7978 0149

Lieutenant Colonel David E. Holliday
Commander
Umatilla Chemical Depot
Attn.: SCBUL-CO
Hermiston, OR 97838

Mr. Douglas G. Hamrick
Project General Manager
Washington Demilitarization Company
78068 Ordnance Road
Hermiston, OR 97838

Sent by Certified Mail #7004 0750 0002 7978 0156

Mr. Don E. Barclay
UMCDF Site Project Manager
Program Manager for the Elimination of Chemical Weapons
78072 Ordnance Road
Hermiston, OR 97838

Re: Conditional Approval (w/changes) of Class 1 Permit
Modification Request UMCDF-04-034-MISC(1R),
"Employee Training"
Umatilla Chemical Agent Disposal Facility
ORQ 000 009 431
DEQ Item No. 04-1311 (17)

Dear LTC Holliday, Mr. Barclay, and Mr. Hamrick:

The Department of Environmental Quality (Department) has completed its review of the Class 1 Permit Modification Request UMCDF-04-034-MISC(1R) "Employee Training," submitted August 2, 2004 (ENV-04-0246), including the supplemental information package submitted August 6, 2004 (ENV-04-0254). The purpose of this Permit Modification Request (PMR) was to address UMCDF employee "whistleblower" rights and protections as ordered by Judge Michael H. Marcus of the Multnomah County Circuit Court in his July 26, 2004 *Opinion and Order on Judicial Review* for the GASP III case

In accordance with 40 CFR §270.42(a) and Appendix I, Items A.1 and B.5.b, as adopted by Oregon rule OAR 340-100-0002, the Department approves the proposed changes in this Permit Modification Request effective immediately, subject to the changes and conditions noted below. The Department will issue the approved change pages to the HW Permit and RCRA Part B Permit Application under separate cover at a later date.

The Department's approval includes the following changes to those proposed by the Permittees in the submitted PMR:

LTC Holliday, Mr Barclay and Mr. Hamrick
August 9, 2004
DEQ Item No. 04-1311 (17)
Page 2

- The Permittees' proposed Permit Condition IIF.3. is not included with this approval, as the Department has already revised the HW Permit [Permit Modification Tracking No. UMCDF-04-040-MISC(DEQ) issued on August 6, 2004 (DEQ Item No. 04-1298)] to incorporate the requirements mandated by Judge Michael H. Marcus in his Opinion and Order on Judicial Review for the GASP III case; and
- A new Condition IIF.1.i. will be added to the HW Permit that reads "The Permittees will implement the employee concerns training identified in Section H of the Permit Application to comply with the requirements of Condition IIS.1. of this Permit."

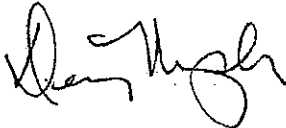
The Department's approval of this PMR is subject to the following conditions:

- Changes to the UMCDF employee training program (including the Employee Concerns procedure) identified in the material submitted as part of this PMR (including the supplemental information) may not be further modified in any manner unless first approved by the Department via an appropriate permit modification request.
- Army Policy Statement PS-IRM-300 "Employee Reporting of Environmental Concerns" issued on August 4, 2004 must be renewed prior to its expiration so that it remains in effect throughout the UMCDF project as part of the program approved with this PMR.

In accordance with 40 CFR §270.42(a)(1)(ii), the Permittees are required to notify all interested parties on the Department's Umatilla mailing list of this approval within ninety (90) days (no later than November 7, 2004).

If you have any questions concerning this matter, please call Tom Beam of my staff at (541) 567-8297, ext. 30.

Sincerely,



Dennis Murphey
Administrator
Chemical Demilitarization Program

Cf: Thomas Beam, DEQ Hermiston
Sue Oliver, DEQ Hermiston
Stephen Bushong, DOJ Salem
Larry Edelman, DOJ Portland
Stan Barry, WDC
Allan Bean, WDC
Catherine Massimino, USEPA Region X
Robert Nelson, UMCD
Michael Strong, PM ECW

ATTACHMENT C

Letter from G.A.S.P. Petitioners regarding Court remand in GASP III

August 3, 2004
(DEQ Item No. 04-1268)

Department of Justice Letter Responding to G.A.S.P. Letter

August 6, 2004
(DEQ Item No. 04-1308)

Addendum to August 2, 2004 Staff Report

Start of Chemical Agent Operations
Umatilla Chemical Agent Disposal Facility
Environmental Quality Commission
2004

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FILE

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04-1268

STUART A. SUGARMAN, LLC
ATTORNEY AT LAW

3430 S.E. BELMONT ST., SUITE 101
PORTLAND, OREGON 97214
EMAIL: BLC@HEVANET.COM

(503) 234-2694

FAX (503) 234-1830

August 3, 2004

VIA FACSIMILE: 503-378-3465

Stephen K. Bushong, Esq.
Trial Attorney
Oregon Department of Justice
1162 Court Street NE
Salem, Oregon 97301-4096

Re: UMCDF permit modification and chemical warfare agent operations

Dear Mr. Bushong:

The purpose of this letter is to seek the cooperation of your clients and to inform your clients of the Petitioners' position on the issue of permit modification and the start of chemical warfare agent operations. We request that you provide a copy of this letter to the Environmental Quality Commission (EQC) and the Director of the Department of Environmental Quality (DEQ) for their independent consideration.

As you know, the Circuit Court remanded the EQC's decision to deny Petitioners' request for revocation/modification and required that the EQC modify the permit by adding conditions that make clear that employees at UMCDF are protected to come forward and reveal safety and compliance issues. We point out that such protections would apply to DEQ personnel as well.

The Circuit Court concluded, in part, that "[w]ithout the addition of the whistleblower functions, the permitted activity endangers human health and the environment and can only be regulated to acceptable levels by modification of the permit [by adding whistleblower protections]." *GASP III*, Opinion and Order on Judicial Review at 46. The Court also noted that "meaningfully encouraging workers to report good faith concerns for safety, hazards, and related noncompliance with permit conditions would represent a substantial safety function." Opinion at 45.

Meaningful encouragement will require something more than a few meetings and conduct consistent with the status quo. The Court correctly stated that the "mere existence of a federal whistleblower statute has not been sufficient to ensure the full participation of ... workers in protecting health, safety and the environment." Opinion at 44. Therefore, Petitioners request a

Mr. Stephen Bushong

Page 2 of 5

3 August 2004

comprehensive permit modification that is designed to alter the failed safety culture at the Army's chemical warfare agent incineration facilities.

In order to meaningfully address this important issue, full public participation is required. The input of current and former workers, independent of the Army and its contractors, should also be recruited to provide their opinions on the creation of an appropriate permit modification. The Court expects that the anticipated modification will alter the status quo and aid in the protection of human health and the environment, as well as ensure compliance with safety and permit requirements. There is no equivalent permit modification listed in 40 C.F.R. § 270.42, Appendix I (permit modification standards). Therefore, the modification should be processed as a class 3 permit modification. 40 C.F.R. § 270.42(d). If the permittees have sought the DEQ Director's determination that would allow this modification to be processed as a class 1 or 2 modification, then Petitioners request to be immediately informed and be permitted to meaningfully participate in the process to determine the appropriate permit modification procedures and substance. Failure to provide timely and proper notice would violate both Petitioners' notice and comment rights and the spirit, if not the letter, of Judge Marcus' ruling.

In sum, Petitioners request that the permit modification ordered by the Court be processed as a class 3 modification. Petitioners propose that the permit be modified to add a new section LCC.1. to Module L. Petitioners proposed permit modification is attached. Please advise us in writing of your clients' intentions regarding this issue.

Next, it is the Petitioners' understanding that your clients intend to approve the commencement of chemical warfare agent operations at the EQC's August 13, 2004 meeting. The push to start agent operations is premature in light of pending concerns, including the need to properly modify the UMCDF permit.

The task before the Commission is a daunting one. As you know, and as should be conveyed to the DEQ and Commission, the Circuit Court found much of Petitioners' evidence on several important issues "compelling." Opinion at 25 (Petitioners challenge regarding dioxin is well supported in the record and "alarming.") Petitioners also established at trial that alternatives like neutralization have "demonstrated their practical utility." Opinion at 27. And the evidence demonstrates that the Army (not Petitioners) "estimates a far smaller quantity of dioxin, PCBs, and hazardous waste emissions from alternative neutralization facilities, and less water consumption, than with incineration." Opinion at 27. Regarding ACAMS and DAAMS, the Court noted that Petitioners' "produced evidence supporting the inference that ACAMS and DAAMS do not reliably detect agent." Opinion at 31. Concerning these and several other issues, the Court noted the significance of the information presented and lamented the fact that the agencies (DEQ & EQC) had not assessed and made findings concerning this evidence.

Consequently, Petitioners request that the Commission consider the Court's opinion and specifically address and make findings on the issues raised and evidence presented in *GASP III* prior to making a decision regarding initiation of chemical warfare agent operations of any kind. The *GASP III* record makes clear why Petitioners oppose the use of incineration to dispose of chemical warfare agents. The Commission must directly address the "compelling" evidence about

Mr. Stephen Bushong

Page 3 of 5

3 August 2004

health risk and other issues before making any decision to allow agent shutdown, testing, or operations.

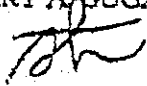
Finally, there is the pending appeal in GASP I, which is due to be argued on August 20, 2004. In light of the permit modification issue and pending appeal, Petitioners are requesting that your clients agree to postpone the commencement of agent operations until ten (10) days after the Court of Appeals issues its decision on the merits. Please advise us in writing whether your clients will agree to a stay of agent operations pending the permit modification and a decision in the GASP I appeal.

Failure to reach agreement or to communicate on these issues will result in Petitioners seeking injunctive relief in one or more fora to block agent operations. However, it is Petitioners hope that the parties can reach an agreement and avoid additional litigation.

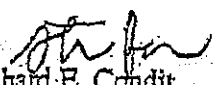
Please advise us in writing of your clients' position on the issues referenced herein on or before the close of business on August 6, 2004.

Sincerely,

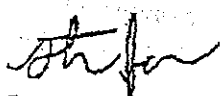
STUART A. SUGARMAN, LLC



Stuart A. Sugarman



Richard E. Condit
5505 Connecticut Ave., NW, #283
Washington, D.C. 20015-2601
Tel. 202.829.2444
Fax 202.318.3211



Mick G. Harrison
Environmental Center
116 1/2 S. College Ave., Suite 10
Bloomington, IN 47401
Tel: (859) 321.1586
Fax: (859) 986.2695

Counsel for Petitioners

Mr. Stephen Bushong

Page 4 of 5

3 August 2004

Appendix A - Petitioners GASP, et al. Proposed Permit Modification

MODULE 1 - STANDARD PERMIT CONDITIONS

LCC. EMPLOYEE PROTECTION

LCC.1. Discrimination by the Permittee, or a contractor or subcontractor against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in 29 C.F.R. Part 24.

(A) The protected activities include but are not limited to:

(i) Providing the Environmental Quality Commission, (Commission), Department of Environmental Quality (DEQ), Environmental Protection Agency (EPA) or his or her employer information about alleged violations of either of the statutes or regulations named in this permit or possible violations of requirements imposed under those statutes or regulations;

(ii) Refusing to engage in any practice made unlawful under the permit, statutes, or regulations named in this permit, if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission, DEQ, or EPA to institute action against his or her employer for the administration or enforcement of the requirements stated in this permit;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State executive, judicial, or legislative proceeding regarding any provision (or proposed provision) of the statutes or regulations named in this permit.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

LCC.2. Those activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

LCC.3. This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the permit, statute or regulations referenced herein.

LCC.4. Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph LCC.1 of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 30 days after an alleged violation occurs. The employee may do this by filing a

Mr. Stephen Bushong

Page 5 of 5

3 August 2004

complaint alleging the violation with the Department of Labor, Occupational Safety and Health Administration. The Department of Labor may order reinstatement, back pay, and compensatory damages.

I.CC.5. A violation of I.CC.1, I.CC.6, or I.CC.7 of this module by the Permittee, or a contractor or subcontractor is grounds for--

(A) Denial, revocation, modification, or suspension of the permit;

(B) Imposition of a civil penalty on the permittee, and/or

(C) Other enforcement action.

I.CC.6. Each Permittee and each contractor or subcontractor shall prominently post a "Notice to Employees," repeating these standards. This form must be posted at locations and in a typeface sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work.

(A) In addition to the posted notice, each employee, contractor employee, or sub-contractor employee will receive an individual copy of the notice required by this section. Such notice will be in English and in the language of the employee if s/he speaks a language other than English as a first language.

(i) A record showing that each employee, contractor employee, or sub-contractor employee received notice of her or his rights will be maintained in the permanent record of the facility.

(B) Further, each employee, contractor employee, or sub-contractor employee will receive training of not less than 30 minutes instructing how any safety or compliance concerns can be reported to DEQ, EQC, EPA, and facility management. The training will emphasize reporting to state agencies and EPA and will not state or imply that reporting to facility management is required. In addition, managers and supervisors will be instructed that employees have a protected right to raise safety and compliance issues and that no action may be taken against them for raising such issues.

(i) A record showing that each employee, contractor employee, or sub-contractor employee, including supervisors and managers, received training regarding her or his right to raise safety or compliance issues will be maintained in the permanent record of the facility.

I.CC.7. No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor or in any Court may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph I.CC.1 (and 29 C.F.R. Part 24) of this section including, but not limited to, providing information to the Commission, DEQ, or EPA or to his or her employer regarding potential violations or other matters within Commission's, DEQ's or EPA's regulatory responsibilities.

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HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

04-1308

Scanned

August 6, 2004

By Facsimile and First Class Mail

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

Stuart A. Sugarman, LLC
3430 SE Belmont St, Suite 101
Portland, Oregon 97214

AUG 06 2004

Re: UMCDF Permit Modification and Agent Operations

HERMISTON OFFICE

Dear Mr. Sugarman:

Your fax letter of August 4, 2004 to Stephen Bushong concerning modification of the Umatilla Chemical Agent Disposal Facility (UMCDF) hazardous waste permit to comply with the Court's decision in *GASP III* and agent operations was referred to me for response.

In your letter you request on behalf of Petitioners (*GASP et. al.*) that (1) the permit modification ordered by the Court be processed as a Class 3 modification; (2) the Environmental Quality Commission (EQC) address and make findings on the issues raised and evidence presented in *GASP III* before approving chemical agent destruction operations; and (3) DEQ/EQC stipulate to a postponement of agent operations until 10 days after the Oregon Court of Appeals issues a decision on the merits in *GASP I*. A copy of your letter was provided to DEQ and to members of the EQC as you requested.

With respect to the permit modification, DEQ today modified Module II of the permit to add the whistleblower protection requirements as ordered by the court. I've attached a copy of the letter from DEQ to the UMCDF Permittees notifying them of the modified permit language. The permittees have submitted to DEQ for approval a Class 1 permit modification request (PMR) pursuant to 40 CFR 270.42 and Appendix I B.5.b (as incorporated by Oregon hazardous waste regulations) to implement the whistleblower requirements through amendments to their respective training plans and procedures. The PMR is currently under review by DEQ.

Your requests that the EQC make findings on the evidence in *GASP III* and agree to a stay of agent operations pending a decision by the Court of Appeals will be addressed by the EQC at its meeting in Hermiston on August 13, 2004.

If you have any questions, please feel free to give me a call at (503) 229-5725.

Sincerely,

L. Edelman
Larry H. Edelman
Assistant Attorney General
Natural Resources Section

LHE:tal/GENJ8700.DOC
Enclosure
cc. Dennis Murphey

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HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

August 6, 2004

04-1307

Dennis Murphey
Chemical Demilitarization Program Administrator
Oregon Department of Environmental Quality
256 E. Hurlburt Ave., Suite 105
Hermiston, OR. 97838

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

AUG 06 2004

Re: UMCDF Permit Modification for Addition of Whistleblower Protection

Dear Dennis:

HERMISTON OFFICE

You asked whether DEQ can appropriately respond to the Court's order in *GASP III* by (1) modifying Module II of the Umatilla Chemical Agent Disposal Facility (UMCDF) hazardous waste permit to incorporate immediately the Court's whistleblower protection requirements, and (2) processing for approval the Class 1 permit modification request (PMR) submitted by the permittees to modify their respective whistleblower training programs. I believe both actions are legally appropriate.

I reviewed the Court's order and find it to be clear and unambiguous. It requires that the permit be modified to require the permittees "prominently (a) to advise workers of their obligation to report good faith concerns regarding the safety of workers, the public, or the environment, and related noncompliance with permit requirements, (b) to notify workers of their obligation to convey such concerns to Respondents if those concerns are not otherwise sufficiently resolved, and (c) to assure all workers that they will not be disadvantaged in any way by communicating such concerns in good faith." DEQ can, therefore, modify the permit to impose those specific court ordered requirements immediately.

I have also reviewed the Class 1 PMR [UMCDF-04-034-MISC(1R)] submitted by the permittees. The PMR would modify the respective training plans of the permittees with respect to whistleblower protection. The modifications would be incorporated through changes to the Part B permit application which is an enforceable part of the UMCDF permit. Although the PMR also proposed revised permit language to incorporate the Court order, a decision by DEQ to modify the permit immediately would negate the need for the permittees' proposed language.


Pursuant to 40 CFR Part 270.42(a) and Appendix I B.5 (b) changes to facility training plans that do not affect the type or decrease the amount of training ("other changes") may be implemented through Class 1 modifications. The changes proposed by the permittees do not appear to affect the type or decrease the amount of training. Rather, they increase and upgrade training with respect to whistleblower protection and reporting of employee concerns.

Dennis Murphey
August 6, 2004
Page 2

Therefore, I believe a Class 1 modification is an appropriate vehicle to implement the changes. I do recommend, however, that DEQ require prior approval of the Class 1 to assure that the changes fully implement the modified Module II requirements. I also note that 40 CFR 270.42 (a)(1)(iii) provides a process for the public to request subsequent agency review of Class 1 modifications. While it appears that provision was intended for Class 1 modifications made without prior agency approval, I recommend that you provide that opportunity nevertheless since there is otherwise no specific opportunity for public input.

Please let me know if you have additional questions.

Sincerely,


Larry H. Edelman
Assistant Attorney General
Natural Resources Section

LHE:la/GEN18938.DOC

cc. Steve Bushong
Larry Knudsen



Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality

Eastern Region
Hermiston Office
256 E Hurlburt
Hermiston, OR 97838
Phone: (541) 567-8297
FAX: (541) 567-4741
TTY: (503) 229-6993

August 6, 2004

Sent by Certified Mail # 7004 0750 0002 7978 0088 Sent by Certified Mail # 7004 0750 0002 7978 0095

Lieutenant Colonel David E. Holliday
Commander
Umatilla Chemical Depot
Attn.: SCBUL-CO
Hermiston, OR 97838

Mr. Douglas G. Hamrick
Project General Manager
Washington Demilitarization Company
78068 Ordnance Road
Hermiston, OR 97838

Sent by Certified Mail # 7004 0750 0002 7978 0071

Mr. Don E. Barclay
UMCDF Site Project Manager
Program Manager for the Elimination of Chemical Weapons
78072 Ordnance Road
Hermiston, OR 97838

Re: Issuance of Revised UMCDF HW Permit--Permit
Modification UMCDF-04-040-MISC(DEQ),
"Incorporation of Requirements from GASP III Order"
Umatilla Chemical Agent Disposal Facility
ORQ 000 009 431
DEQ Item No. 04-1298 (92.97)

Dear LTC Holliday, Mr. Barclay, and Mr. Hamrick:

Effective this date, the Department of Environmental Quality (Department) has modified the UMCDF Hazardous Waste Storage and Treatment Permit (HW Permit) to comply with the Multnomah County Circuit Court "*Opinion and Order on Judicial Review*" issued on July 26, 2004 in the matter of G.A.S.P., et al., vs. Environmental Quality Commission, et al., Case No. 0009 09349 (GASP III). The Court ordered that the UMCDF HW Permit be modified to include the addition of "whistleblower functions."

Department-initiated Permit Modification UMCDF-04-040-MISC(DEQ), "Incorporation of Requirements from GASP III Order," adds Condition I.I.S. to Module II of the HW Permit as follows:

I.I.S. EMPLOYEE WHISTLEBLOWER PROTECTIONS

I.I.S.1. The Permittees shall have a program in place to prominently:

- i. Advise workers of their obligation to report good faith concerns regarding the safety of workers, the public, or the environment, and related noncompliance with permit requirements;
- ii. Notify workers of their obligation to convey such concerns to the Department if those concerns are not otherwise sufficiently resolved; and
- iii. Assure all workers that they will not be disadvantaged in any way by communicating such concerns in good faith.

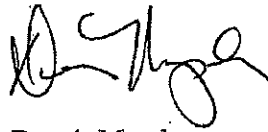
II.S.2. By July 31 of each year, the Permittees shall provide a written certification that the program required by Condition II.S.1. of this Permit remains in place and shall provide verification that all employee training required by the program has been conducted and maintained current.

The Department will issue the approved change pages to the HW Permit under separate cover and will notify all interested parties on its Umatilla mailing list of this modification within ten (10) days (no later than August 16, 2004).

The Department continues to review the Class 1 Permit Modification Request UMCDF-04-034-MISC(1R), "Employee Training," which was received on August 2, 2004 and describes how the Permittees intend to implement the requirements of Judge Marcus' Order.

If you have any questions concerning this matter, please call Tom Beam of my staff at (541) 567-8297, ext. 30.

Sincerely,



Dennis Murphey
Administrator
Chemical Demilitarization Program

Cf: Thomas Beam, DEQ Hermiston
Sue Oliver, DEQ Hermiston
Stephanie Hallock, DEQ Director
Stephen Bushong, DOJ Salem
Larry Edelman, DOJ Portland
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04-1268

STUART A. SUGARMAN, LLC
ATTORNEY AT LAW

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(503) 234-2694

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August 3, 2004

VIA FACSIMILE: 503-378-3465

Stephen K. Bushong, Esq.
Trial Attorney
Oregon Department of Justice
1162 Court Street NE
Salem, Oregon 97301-4096

mark comment on the record that letter rec'd. Ask if anyone wants to discuss?

Re: UMCDF permit modification and chemical warfare agent operations

Dear Mr. Bushong:

The purpose of this letter is to seek the cooperation of your clients and to inform your clients of the Petitioners' position on the issue of permit modification and the start of chemical warfare agent operations. We request that you provide a copy of this letter to the Environmental Quality Commission (EQC) and the Director of the Department of Environmental Quality (DEQ) for their independent consideration.

As you know, the Circuit Court remanded the EQC's decision to deny Petitioners' request for revocation/modification and required that the EQC modify the permit by adding conditions that make clear that employees at UMCDF are protected to come forward and reveal safety and compliance issues. We point out that such protections would apply to DEQ personnel as well.

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Meaningful encouragement will require something more than a few meetings and conduct consistent with the status quo. The Court correctly stated that the "mere existence of a federal whistleblower statute has not been sufficient to ensure the full participation of . . . workers in protecting health, safety and the environment." Opinion at 44. Therefore, Petitioners request a

Mr. Stephen Bushong

Page 2 of 5

3 August 2004

comprehensive permit modification that is designed to alter the failed safety culture at the Army's chemical warfare agent incineration facilities.

In order to meaningfully address this important issue, full public participation is required. The input of current and former workers, independent of the Army and its contractors, should also be recruited to provide their opinions on the creation of an appropriate permit modification. The Court expects that the anticipated modification will alter the status quo and aid in the protection of human health and the environment, as well as ensure compliance with safety and permit requirements. There is no equivalent permit modification listed in 40 C.F.R. § 270.42, Appendix I (permit modification standards). Therefore, the modification should be processed as a class 3 permit modification. 40 C.F.R. § 270.42(d). If the permittees have sought the DEQ Director's determination that would allow this modification to be processed as a class 1 or 2 modification, then Petitioners request to be immediately informed and be permitted to meaningfully participate in the process to determine the appropriate permit modification procedures and substance. Failure to provide timely and proper notice would violate both Petitioners' notice and comment rights and the spirit, if not the letter, of Judge Marcus' ruling.

modification to training plan, did per appendix they to HW permit. Not new. Training in HW.

In sum, Petitioners request that the permit modification ordered by the Court be processed as a class 3 modification. Petitioners propose that the permit be modified to add a new section LOC-1. to Module I. Petitioners proposed permit modification is attached. Please advise us in writing of your clients' intentions regarding this issue.

Next, it is the Petitioners' understanding that your clients intend to approve the commencement of chemical warfare agent operations at the EQC's August 13, 2004 meeting. The push to start agent operations is premature in light of pending concerns, including the need to properly modify the UMCDF permit.

The task before the Commission is a daunting one. As you know, and as should be conveyed to the DEQ and Commission, the Circuit Court found much of Petitioners' evidence on several important issues "compelling." Opinion at 25 (Petitioners challenge regarding dioxin is well supported in the record and "alarming.") Petitioners also established at trial that alternatives like neutralization have "demonstrated their practical utility." Opinion at 27. And the evidence demonstrates that the Army (not Petitioners) "estimates a far smaller quantity of dioxin, PCBs, and hazardous waste emissions from alternative neutralization facilities, and less water consumption, than with incineration." Opinion at 27. Regarding ACAMS and DAAMS, the Court noted that Petitioners' "produced evidence supporting the inference that ACAMS and DAAMS do not reliably detect agent." Opinion at 31. Concerning these and several other issues, the Court noted the significance of the information presented and lamented the fact that the agencies (DEQ & EQC) had not assessed and made findings concerning this evidence.

irrelevant

where does the court lament

Consequently, Petitioners request that the Commission consider the Court's opinion and specifically address and make findings on the issues raised and evidence presented in GASP III prior to making a decision regarding initiation of chemical warfare agent operations of any kind. The GASP III record makes clear why Petitioners oppose the use of incineration to dispose of chemical warfare agents. The Commission must directly address the "compelling" evidence about

Marcus says nothing about this right?

Mr. Stephen Bushong
Page 3 of 5
3 August 2004

health risk and other issues before making any decision to allow agent shakedown, testing, or operations.

not related

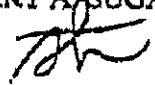
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Failure to reach agreement or to communicate on these issues will result in Petitioners seeking injunctive relief in one or more fora to block agent operations. However, it is Petitioners hope that the parties can reach an agreement and avoid additional litigation.

Please advise us in writing of your clients' position on the issues referenced herein on or before the close of business on August 6, 2004.

Sincerely,

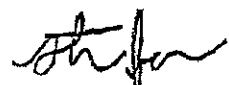
STUART A. SUGARMAN, LLC



Stuart A. Sugarman



Richard E. Condit
5505 Connecticut Ave., NW, #283
Washington, D.C. 20015-2601
Tel. 202.829.2444
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Mick G. Harrison
Environmental Center
116 1/2 S. College Ave., Suite 10
Bloomington, IN 47401
Tel.: (859) 321.1586
Fax: (859) 986.2695

Counsel for Petitioners

Mr. Stephen Bushong
Page 4 of 5
3 August 2004

Appendix A - Petitioners GASP, et al. Proposed Permit Modification

do we have proposed language?

MODULE I - STANDARD PERMIT CONDITIONS

LCC. EMPLOYEE PROTECTION

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(iii) Requesting the Commission, DEQ, or EPA to institute action against his or her employer for the administration or enforcement of the requirements stated in this permit;

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(v) Assisting or participating in, or is about to assist or participate in, these activities.

LCC.2. These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

LCC.3. This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the permit, statute or regulations referenced herein.

LCC.4. Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph LCC.1 of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 30 days after an alleged violation occurs. The employee may do this by filing a

Mr. Stephen Bushong
Page 5 of 5
3 August 2004

complaint alleging the violation with the Department of Labor, Occupational Safety and Health Administration. The Department of Labor may order reinstatement, back pay, and compensatory damages.

I.CC.5. A violation of I.CC.1, I.CC.6, or I.CC.7 of this module by the Permittee, or a contractor or subcontractor is grounds for--

- (A) Denial, revocation, modification, or suspension of the permit;
- (B) Imposition of a civil penalty on the permittee, and/or
- (C) Other enforcement action.

I.CC.6. Each Permittee and each contractor or subcontractor shall prominently post a "Notice to Employees," repeating these standards. This form must be posted at locations and in a typeface sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work.

(A) In addition to the posted notice, each employee, contractor employee, or sub-contractor employee will receive an individual copy of the notice required by this section. Such notice will be in English and in the language of the employee if s/he speaks a language other than English as a first language.

(i) A record showing that each employee, contractor employee, or sub-contractor employee received notice of her or his rights will be maintained in the permanent record of the facility.

(B) Further, each employee, contractor employee, or sub-contractor employee will receive training of not less than 30 minutes instructing how any safety or compliance concerns can be reported to DEQ, EQC, EPA, and facility management. The training will emphasize reporting to state agencies and EPA and will not state or imply that reporting to facility management is required. In addition, managers and supervisors will be instructed that employees have a protected right to raise safety and compliance issues and that no action may be taken against them for raising such issues.

(i) A record showing that each employee, contractor employee, or sub-contractor employee, including supervisors and managers, received training regarding her or his right to raise safety or compliance issues will be maintained in the permanent record of the facility.

I.CC.7. No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor or in any Court may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph I.CC.1 (and 29 C.F.R. Part 24) of this section including, but not limited to, providing information to the Commission, DEQ, or EPA or to his or her employer regarding potential violations or other matters within Commission's, DEQ's or EPA's regulatory responsibilities.

Oregon Department of Justice Fax Cover Sheet

TRIAL DIVISION

Special Litigation Section
1162 Court Street NE
Salem, OR 97301-4096
Phone: (503) 378-6313
Fax: (503) 378-3465

Date: August 3, 2004Subject: GASP III

No. Pages (including cover sheet): _____

TO:

NAME	COMPANY	PHONE NO.	FAX NO.
Dennis Murphy			(541) 567-4741
Larry Edelman			

FROM: Stephen K. Bushong**TITLE:** Attorney-In-Charge**Special Instructions:**

If you do not receive complete fax information or it is not clearly received, please call us immediately.

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HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

04-1308

August 6, 2004

By Facsimile and First Class Mail

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

Stuart A. Sugarman, LLC
3430 SE Belmont St, Suite 101
Portland, Oregon 97214

AUG 06 2004

Re: UMCDF Permit Modification and Agent Operations

HERMISTON OFFICE

Dear Mr. Sugarman:

Your fax letter of August 4, 2004 to Stephen Bushong concerning modification of the Umatilla Chemical Agent Disposal Facility (UMCDF) hazardous waste permit to comply with the Court's decision in *GASP III* and agent operations was referred to me for response.


In your letter you request on behalf of Petitioners (*GASP et. al.*) that (1) the permit modification ordered by the Court be processed as a Class 3 modification; (2) the Environmental Quality Commission (EQC) address and make findings on the issues raised and evidence presented in *GASP III* before approving chemical agent destruction operations; and (3) DEQ/EQC stipulate to a postponement of agent operations until 10 days after the Oregon Court of Appeals issues a decision on the merits in *GASP I*. A copy of your letter was provided to DEQ and to members of the EQC as you requested.

With respect to the permit modification, DEQ today modified Module II of the permit to add the whistleblower protection requirements as ordered by the court. I've attached a copy of the letter from DEQ to the UMCDF Permittees notifying them of the modified permit language. The permittees have submitted to DEQ for approval a Class 1 permit modification request (PMR) pursuant to 40 CFR 270.42 and Appendix I B.5.b (as incorporated by Oregon hazardous waste regulations) to implement the whistleblower requirements through amendments to their respective training plans and procedures. The PMR is currently under review by DEQ.

Your requests that the EQC make findings on the evidence in *GASP III* and agree to a stay of agent operations pending a decision by the Court of Appeals will be addressed by the EQC at its meeting in Hermiston on August 13, 2004.

If you have any questions, please feel free to give me a call at (503) 229-5725.

Sincerely,


Larry H. Edelman
Assistant Attorney General
Natural Resources Section

LHE:lal/GENJ8700.DOC
Enclosure
cc. Dennis Murphey



Oregon

Theodore R. Kulmowski, Governor

Department of Environmental Quality

Eastern Region

Hermiston Office

256 E Hurlburt

Hermiston, OR 97838

Phone: (541) 567-8297

FAX: (541) 567-4741

TTY: (503) 229-6993

August 6, 2004

Sent by Certified Mail # 7004 0750 0002 7978 0088

Sent by Certified Mail # 7004 0750 0002 7978 0095

Lieutenant Colonel David E. Holliday
Commander
Umatilla Chemical Depot
Attn.: SCBUL-CO
Hermiston, OR 97838

Mr. Douglas G. Hamrick
Project General Manager
Washington Demilitarization Company
78068 Ordnance Road
Hermiston, OR 97838

Sent by Certified Mail # 7004 0750 0002 7978 0071

Mr. Don E. Barclay
UMCDF Site Project Manager
Program Manager for the Elimination of Chemical Weapons
78072 Ordnance Road
Hermiston, OR 97838

Re: Issuance of Revised UMCDF HW Permit-Permit
Modification UMCDF-04-040-MISC(DEQ),
"Incorporation of Requirements from GASP III Order"
Umatilla Chemical Agent Disposal Facility
ORQ 000 009 431
DEQ Item No. 04-1298 (92.97)

Dear LTC Holliday, Mr. Barclay, and Mr. Hamrick:

Effective this date, the Department of Environmental Quality (Department) has modified the UMCDF Hazardous Waste Storage and Treatment Permit (HW Permit) to comply with the Multnomah County Circuit Court "*Opinion and Order on Judicial Review*" issued on July 26, 2004 in the matter of G.A.S.P., et al., vs. Environmental Quality Commission, et al., Case No. 0009 09349 (GASP III). The Court ordered that the UMCDF HW Permit be modified to include the addition of "whistleblower functions."

Department-initiated Permit Modification UMCDF-04-040-MISC(DEQ), "Incorporation of Requirements from GASP III Order," adds Condition ILS. to Module II of the HW Permit as follows:

II.S. EMPLOYEE WHISTLEBLOWER PROTECTIONS

II.S.1. The Permittees shall have a program in place to prominently:

LTC Holliday, Mr. Barclay and Mr. Hamrick
August 6, 2004
DEQ Item No. 04-1298 (92.97)
Page 2

- i. Advise workers of their obligation to report good faith concerns regarding the safety of workers, the public, or the environment, and related noncompliance with permit requirements;
- ii. Notify workers of their obligation to convey such concerns to the Department if those concerns are not otherwise sufficiently resolved; and
- iii. Assure all workers that they will not be disadvantaged in any way by communicating such concerns in good faith.

II.S.2. By July 31 of each year, the Permittees shall provide a written certification that the program required by Condition II.S.1. of this Permit remains in place and shall provide verification that all employee training required by the program has been conducted and maintained current.

The Department will issue the approved change pages to the HW Permit under separate cover and will notify all interested parties on its Umatilla mailing list of this modification within ten (10) days (no later than August 16, 2004).

The Department continues to review the Class 1 Permit Modification Request UMCDF-04-034-MISC(1R), "Employee Training," which was received on August 2, 2004 and describes how the Permittees intend to implement the requirements of Judge Marcus' Order.

If you have any questions concerning this matter, please call Tom Beam of my staff at (541) 567-8297, ext. 30.

Sincerely,



Dennis Murphey
Administrator
Chemical Demilitarization Program

Cf: Thomas Beam, DEQ Hermiston
Sue Oliver, DEQ Hermiston
Stephanie Hallock, DEQ Director
Stephen Bushong, DOJ Salem
Larry Edelman, DOJ Portland
Stan Barry, WDC
Allan Bean, WDC
Catherine Massimino, USEPA Region X
Robert Nelson, UMCD
Michael Strong, PM ECW

ATTACHMENT A

DRAFT

Findings and Conclusions of the Commission and Order

In the Matter of

Hazardous Waste Storage and Treatment Permit No.

ORQ 000 009 431

“Authorization to Commence Chemical Agent Operations”

August 2004

Umatilla Chemical Agent Disposal Facility (UMCDF)

Start of Chemical Agent Operations
Umatilla Chemical Agent Disposal Facility
Environmental Quality Commission
2004

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DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the Matter of Hazardous Waste Storage and
Treatment Permit No. ORQ 000 009 431
Umatilla Chemical Agent Disposal Facility (UMCDF)
Authorization to Commence Chemical Agent
Operations

FINDINGS AND
CONCLUSIONS OF THE
COMMISSION AND ORDER

*****DRAFT*****

BACKGROUND FINDINGS

1. On February 10, 1997, the Environmental Quality Commission (Commission) issued the FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER (Commission Order) directing issuance of a Hazardous Waste Storage and Treatment Permit (HW Permit) to the United States Army (Army) for construction and operation of incinerators to destroy chemical weapons stored at the Umatilla Chemical Depot. The incineration facility is known as the Umatilla Chemical Agent Disposal Facility (UMCDF).

2. The UMCDF HW Permit names the U.S. Army Umatilla Chemical Depot (UMCD) and U.S. Army Project Manager for Chemical Stockpile Disposal (PMCS¹) as Owner and Operator, and Washington Demilitarization Company (WDC) as Co-Operator. Collectively, these three entities are referred to as the "Permittees."

3. On March 28, 2002 the Commission issued the FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER in the matter of HW Permit Modification UMCDF-01-028-MISC(EQC), "Approval Process for UMCDF Operations"(Approval Process Order).

¹ PMCS¹ is now known as the Program Manager for Elimination of Chemical Weapons (PM ECW).

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

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3 4. The Approval Process Order modified the HW Permit to add Permit Condition
4 II.A.5. and Attachment 6 (“Requirements for Commencement of Unit and Facility Operations”),
5 Conditions D.1. through D.11., to the HW Permit.

6 5. On February 5, 2003 the Department of Environmental Quality (Department), on
7 behalf of the Commission, signed a “Stipulation and Order for Dismissal of Appeal” related to
8 the Permittees’ appeal of the Department’s decision on the class 2 permit modification request
9 UMCDF-01-017-WAST(2), “Agent-free Clarification.” Condition D.12. was added to
10 Attachment 6 of the HW Permit as one of the terms of the dismissal.

11 6. On July 18, 2003 the Commission approved a permit modification request
12 UMCDF-02-039-BRA(EQC), “Required Operation of the Brine Reduction Area.” The
13 modifications to the permit related to the operation of the brine reduction area included the
14 addition of Condition D.13. to Attachment 6 of the HW Permit.

15 7. On behalf of the Commission, the Department provided public notice on April 23,
16 2004 that a public comment period would be held from May 4 through June 7, 2004 and that the
17 Commission would hold a public hearing on May 20, 2004 to hear public comment on the start
18 of agent operations at UMCDF.

19 8. On May 4, 2004 the Department published the “Compliance Assessment for the
20 Start of Chemical Agent Operations” (May Compliance Assessment). The May Compliance
21 Assessment was placed in the designated information repositories and provided upon request to
22 interested parties for review and comment.

23 9. The May Compliance Assessment listed 69 requirements to be completed by
24 UMCDF and/or the Department prior to the start of chemical agent operations. Thirty-nine of
25 the 69 requirements had been met at the opening of the public comment period.
26

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

1
2 10. The Commission accepted oral public comment at a hearing held in Hermiston,
3 Oregon on May 20, 2004. Twenty-six persons provided oral comments.

4 11. The Department received 11 written comments by the close of the comment
5 period on June 7, 2004.

6 12. The Department updated the Compliance Assessment as of July 23, 2004 (July
7 Compliance Assessment). Five requirements were added as part of a conditional Department
8 approval on May 28, 2004 of permit modification request UMCDF-03-010-BRA(2), "Brine
9 Reduction Area Performance Test."

10 13. The July Compliance Assessment included:

- 11 (a) the compliance status of each of the 74 requirements;
- 12 (b) a summary of Department enforcement actions;
- 13 (c) a transcript of the May 20 public hearing;
- 14 (d) copies of all written comments received; and
- 15 (e) an index to the documents relied upon by the Department in preparing the July
16 Compliance Assessment.

17 14. The Department concluded that 69 of the 74 specific requirements listed in Tables
18 C-1, C-2, and C-3 of Appendix C of the July Compliance Assessment had been completed.

19 15. The July Compliance Assessment was provided to the Commission as part of the
20 staff report (August Staff Report) prepared for the August 13, 2004 special meeting of the
21 Commission held in Hermiston, Oregon to consider authorizing the start of chemical agent
22 operations at UMCDF.

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

FINDINGS PERTAINING TO THE PERMITTEES' COMPLIANCE WITH
ATTACHMENT 6 OF THE HW PERMIT

16. HW Permit Condition II.A.5. states that the Permittees shall not introduce hazardous waste into any permitted hazardous waste treatment or storage unit until the applicable requirements of Attachment 6 have been met.

17. Attachment 6 states that prior to introducing hazardous waste into any permitted treatment or storage unit, or commencing surrogate or agent shakedown periods on the liquid incinerators, the deactivation furnace system, or the metal parts furnace, the Permittees must be in compliance with Conditions B.1. through B.3.

18. Condition B.1. of Attachment 6 requires that the Permittees be in compliance with all HW Permit conditions applicable to the permitted treatment or storage unit. The deactivation furnace system will be the first furnace at UMCDF to commence chemical agent shakedown operations.

19. The July Compliance Assessment (Appendix C-1, Table 1) listed 24 requirements related to Condition B.1 and applicable to the start of agent shakedown operations on the deactivation furnace system. The Department concluded in the August Staff Report that all 24 requirements were completed as of July 30, 2004, and that the Permittees are in compliance with other HW Permit conditions not specifically listed in the July Compliance Assessment.

[NOTE: The July Compliance Assessment had one open requirement related to Condition B.1., the completion of the health risk assessment protocol. The protocol should be completed by August 6th.]

20. Condition B.2. of Attachment 6 requires that the Permittees be in compliance with applicable conditions located elsewhere Attachment 6. The applicable conditions of Attachment 6 are Condition B.3. and Conditions D.1. through D.13.

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

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21. Condition B.3. of Attachment 6 requires the Permittees to be in compliance with all applicable permit modification request approval conditions imposed by the Department. The July Compliance Assessment (Appendix C, Table C-2) identified 19 requirements related to conditional Department permit modification request approvals. The Department concluded in the August Staff Report that the Permittees had completed all 19 requirements.

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[NOTE: The July Compliance Assessment had one open requirement related to Condition B.3., the installation and implementation of changes required through a permit modification request on the carbon filter systems. UMCDF completed the changes, as noted in the August Staff Report.]

12
13
22. Attachment 6 states that prior to commencing the agent shakedown period on the first incinerator (or by the date specified) the Permittees must complete all of the requirements of Conditions D.1. through D.13.

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23. The July Compliance Assessment (Appendix C, Table C-1) listed 15 requirements related to Conditions D.1 through D.13. applicable to the start of agent shakedown operations on the deactivation furnace system. At the August 13, 2004 meeting of the Commission the Department provided an addendum to the August Staff Report that concluded all 15 requirements related to Attachment 6, Conditions D.1 through D.13. had been completed, with the exception of Condition D.11., requiring the written authorization from the Commission.

20
21
22
24. Condition D.1. of Attachment 6 requires the Permittees to implement a waste/munitions tracking procedure and system approved by the Department. The Department approved the munition tracking procedure on June 21, 2004.

23
24
25
26
25. Condition D.2. of Attachment 6 requires the Permittees to obtain approval of the Class 3 permit modification request UMCDF-00-004-WAST(3), "Permitted Storage in J-Block" providing additional permitted storage for secondary wastes generated by UMCDF operations. The Department approved the permit modification request on June 18, 2002.

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

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2 26. Condition D.2. of Attachment 6 also requires the Permittees to implement any
3 required physical and/or procedural changes necessary for the storage of secondary wastes in J-
4 Block. The Department conducted inspections of the storage structures in J-Block designated for
5 the storage of secondary waste and on June 25, 2004 concluded that the required changes had
6 been implemented.

7 27. Condition D.3. of Attachment 6 requires the Permittees to notify the Department,
8 no less than 30 days nor more than 90 days prior to the start of agent operations, that each of the
9 UMCDF drawings and specifications contained in the HW Permit application has been certified
10 by a qualified Professional Engineer licensed in Oregon within the preceding 12 months, or that
11 the Permittees have reviewed the specification(s) or drawing(s) and determined that no update is
12 needed. The Permittees submitted the notification on June 15, 2004. On June 25, 2004 the
13 Department determined the submittal was adequate. Provided that chemical agent operations
14 start on or before September 13, 2004, the Permittees have met the requirements of Condition
15 D.3.

16 28. Condition D.4. of Attachment 6 requires the Permittees to complete the
17 characterization and/or segregation of wastes stored at the Umatilla Chemical Depot (UMCD)
18 and obtain Department approval of permit modification request(s) to add all UMCD wastes to
19 the list of permitted waste feed streams to the liquid incinerators, deactivation furnace system
20 and/or the metal parts furnace as applicable. The Permittees submitted two permit modification
21 requests to meet the requirements of Condition D.4.:

- 22 (a) The Permittees completed the characterization and segregation of UMCD
23 secondary wastes and on July 22, 2003 submitted a Class 2 permit modification
24 request [UMCDF-03-035-WAST(2), "Umatilla Chemical Depot Secondary
25 Waste"] to the Department proposing feed rates and treatment units for each
26 waste stream. However, the permit modification request did not address the fact

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

1 that UMCDF treatment of multi-agent-contaminated waste streams is currently
2 prohibited because of issues with chemical agent monitoring during processing.
3 The Department required that a condition be added to the HW permit that an
4 additional permit modification request to resolve the monitoring issues during
5 the treatment of multi-agent-contaminated wastes be submitted to the
6 Department prior to the commencement of the second agent campaign. The
7 Department approved the UMCDF-03-035-WAST(2) on March 19, 2004.

- 8
9 (b) The Permittees submitted an additional Class 1 permit modification request
10 [UMCDF-04-008-MPF(1R), "Metal Parts Furnace Discharge Airlock
11 Monitoring During Processing of Secondary Waste"] on April 12, 2004 to
12 specify how UMCDF would ensure that secondary wastes processed through
13 the metal parts furnace were fully treated. The permit modification request was
14 approved by the Department on July 23, 2004.

15 Based on the approval of the two permit modification requests, and the HW Permit
16 requirement that an additional permit modification request be submitted to resolve the multi-
17 agent monitoring issues, the Department concluded that the Permittees have met the intent of
18 Condition D.4., which was to ensure that UMCD had identified, characterized, and permitted for
19 treatment, all of the chemical agent-contaminated wastes stored at UMCD.

20 29. Condition D.5. of Attachment 6 requires the Permittees to notify the Department
21 in writing no later than September 1, 2002 that a technical decision has been reached on the
22 treatment method that will be utilized for agent-contaminated carbon, to include supporting
23 documentation concerning the basis for the decision. The Permittees provided notification on
24 September 3, 2002 (the first business day after the deadline) of their decision to utilize a carbon
25 micronization system to treat spent carbon in the deactivation furnace system. The required
26 supporting documentation was included.

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

1
2 30. Condition D.6. of Attachment 6 requires the Permittees to submit a progress
3 report to the Department, no less than 45 days nor more than 90 days prior to the start of
4 chemical agent operations, concerning the status of the design and implementation of the carbon
5 treatment technology identified per Condition D.5. The Permittees submitted a progress report
6 on May 27, 2004. Provided that chemical agent operations start on or before August 25, 2004,
7 the Permittees have met the requirement of Condition D.6. The Commission finds that
8 submission of continuing quarterly progress reports concerning the treatment of spent carbon is
9 appropriate. Authorization to commence agent operations is therefore conditioned upon a
10 continuing reporting requirement regarding progress on spent carbon treatment technology.

11 31. Condition D.7. of Attachment 6 requires the Permittees to provide the Department
12 copies of any Pre-Operational Survey(s) and/or Operational Readiness Evaluation(s) conducted
13 in accordance with the Program Manager for Chemical Demilitarization's (now Chemical
14 Materials Agency) "Policy Statement No. 28" governing the conduct of such surveys or
15 evaluations at demilitarization facilities. The Permittees submitted an Operational Readiness
16 Review Final Report on June 10, 2002.

17 32. Condition D.8. of Attachment 6 requires the Permittees to provide the Department
18 a verification statement that all findings designated as "Category 1" from Pre-Operational
19 Surveys and/or Operational Readiness Evaluations have been resolved in accordance with Policy
20 Statement No. 28. The Permittees provided a final verification statement on July 28, 2004 that
21 all Category 1 findings had been closed. The only exception was a Category 1 finding related to
22 the Commissions' written authorization to commence agent operations as required by Condition
23 D.11.; this Order satisfies that condition.

24 **[NOTE: This requirement was still listed as open in the July Compliance Assessment**
25 **because the verification statement submitted by the Permittees on July 23 indicated**

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

1 that there were still open category 1 findings. An updated statement was submitted
2 on the above date, as noted in the August Staff Report.]

3
4 33. Condition D.9. of Attachment 6 requires the Permittees to provide the Department
5 the schedule for resolution of findings identified in Pre-Operational Surveys and/or Operational
6 Readiness Evaluations that were designated as "Category 2," in accordance with Policy
7 Statement No. 28. The Permittees provided a Category 2 Finding closure schedule on June 10,
8 2004 and an updated schedule on July 23, 2004.

9 34. Condition D.10. of Attachment 6 requires the Permittees provide to the
10 Department a copy of the [Chemical Materials Agency] authorization to start chemical agent
11 operations. The U.S. Army Chemical Materials Agency (CMA) provided conditional approval
12 on June 29, 2004 for the start of chemical agent operations at UMCDF. The CMA's approval
13 was conditioned on the closure of all remaining Category 1 findings generated by the
14 Operational Readiness Review process. A copy of the CMA conditional approval was provided
15 to the Department on July 6, 2004.

16 35. Condition D.11. of Attachment 6 requires the Permittees to obtain written
17 notification from the Commission authorizing the start of chemical agent operations. When
18 executed by the Commission, this Order will serve as the written notification required by
19 Condition D.11.

20 36. Condition D.12. of Attachment 6 requires the Permittees to submit a permit
21 modification request, no later than February 28, 2003, to revise the UMCDF Laboratory Quality
22 Control Plan and the Standard Operating Procedure related to analysis of chemical agent in
23 wastes. The permit modification request UMCDF-03-011-WAST(1R) was submitted on
24 February 27, 2003 and approved by the Department on May 28, 2004.

25 37. Condition D.13. of Attachment 6 requires the Permittees to have the brine
26 reduction area operational and ready to treat pollution abatement system brines generated from

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

1 agent operations. In an addendum to the August Staff Report the Department concluded that the
2 brine reduction area is operational and ready to treat brines.

3 [NOTE: This requirement was still listed as open in the July Compliance Assessment
4 and as an open item in the August Staff Report. The Department cannot yet conclude
5 that the BRA is operational and ready to treat brines—based on the results of the
6 BRA Performance Test, there is one more permit modification request related to the
7 BRA that must be processed and approved.]
8

9
10 **FINDINGS PERTAINING TO THE PERMITTEES' COMPLIANCE WITH OTHER**
11 **ENVIRONMENTAL PERMITS**

12 38. The Department issued an Air Contaminant Discharge Permit (Air Permit) to the
13 UMCD in February 1997 (Permit Number 25-0024). The Air Permit was renewed and re-issued
14 in July, 2002.

15 39. The July Compliance Assessment (Appendix C, Table C-3) included seven
16 requirements related to the Air Permit. The Department concluded that UMCDF was in
17 compliance with all of the requirements.

18 40. The Department issued a National Pollutant Discharge Elimination System Storm
19 Water Discharge Permit to the UMCD in June, 1998 and a Water Pollution Control Facilities
20 Permit (collectively, the "Water Permits") January, 2002.

21 41. The UMCD handles wastewater from the UMCDF. The Department conducted a
22 file review and onsite inspection of the UMCD/UMCDF wastewater facilities in May 2004. The
23 July Compliance Assessment (Appendix C, Table C-3) included two requirements related to the
24 Water Permits. The Department concluded that UMCDF was in compliance with both of the
25 requirements.
26

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

1
2 42. UMCDF is also subject to a national permit issued to the U.S. Army's Chemical
3 Materials Agency in 2002 by the U.S. Environmental Protection Agency (EPA). The EPA
4 national permit applied to the disposal of wastes containing polychlorinated biphenyls (PCBs)
5 under the requirements of the Toxic Substances and Control Act (TSCA). The July Compliance
6 Assessment (Appendix C, Table C-3) included three requirements related to the TSCA Permit.
7 The Department concluded that UMCDF was in compliance with the requirements of the TSCA
8 Permit.

9 43. The July Compliance Assessment included four requirements necessary to ensure
10 that the UMCD is ready to support chemical agent operations at UMCDF. The Department
11 concluded that the UMCD had submitted the necessary information documenting its readiness to
12 transport chemical agent munitions to UMCDF for processing.

13
14 **GENERAL FINDINGS PERTAINING TO UMCDF'S READINESS TO COMMENCE**
15 **CHEMICAL AGENT OPERATIONS**

16 44. The Director of the Oregon Office of Homeland Security provided a briefing to
17 the Commission on July 16, 2004 on the status of the Chemical Stockpile Emergency
18 Preparedness Program (CSEPP). The CSEPP Executive Review Panel appointed by the
19 governor met on July 1, 2004 and concluded that there are no outstanding CSEPP issues that
20 would justify a delay in the start of chemical agent operations.

21 45. The UMCD emergency operations center is overpressurized and staffed 24 hours
22 a day. In the event that the emergency operations center is unable to perform critical functions
23 such as offsite notifications, hazard predictions, or emergency response coordination, UMCDF
24 will be immediately notified and operations will cease until such time that the operations center
25 has regained functional capability.
26

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

1
2 46. Monitoring equipment has been installed in the Hermiston office of the
3 Department's Chemical Demilitarization Program, enabling the Department and the public to
4 monitor operational parameters during chemical agent operations.

5 47. The Chemical Demilitarization Program compliance inspectors will maintain a
6 frequent onsite presence at UMCDF and will continue to vigorously enforce the requirements of
7 UMCDF's permits to ensure compliance with Oregon's environmental laws.

8 48. Since the beginning of hazardous waste operations with surrogate material in July,
9 2002 the Department has issued 11 notices of noncompliance related to the operation of
10 UMCDF, several of which have resulted in notices of violation and assessment of civil penalties.
11 The Commission does not believe that the number and severity of the noncompliances noted to
12 date indicate an inability or unwillingness on the part of the Permittees to comply with the
13 requirements of Oregon environmental law.

14 49. The U.S. Department of Health and Human Services, Centers for Disease Control
15 and Prevention (CDC), has made frequent onsite visits to review UMCDF's chemical agent
16 monitoring program. UMCDF has responded appropriately to CDC's recommendations for
17 improving the reliability, precision, and accuracy of the agent monitoring program. CDC has
18 stated that it believes that UMCDF's agent monitoring program is adequate and ready to support
19 the start of agent operations.

20 50. UMCDF has successfully completed surrogate trial burns on liquid incinerator 1,
21 the deactivation furnace system, and the metal parts furnace.

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

CONCLUSION OF THE COMMISSION

51. Based on the information in the record before the Commission as of August 13, 2004, the Commission concludes that the UMCDF Permittees are in compliance with the requirements of Attachment 6 to the HW Permit applicable to the commencement of agent shakedown operations on the deactivation furnace system.

52. Based on the information in the record before the Commission as of August 13, 2004, the Commission concludes that the UMCDF Permittees have complied with other requirements applicable to the commencement of agent shakedown operations on the deactivation furnace system, as identified by the Department in the July Compliance Assessment.

ORDER

Now, therefore, IT IS ORDERED that:

1. These findings, conclusions and order shall constitute the Commission's final decision and response to public comments.

2. The Umatilla Chemical Agent Disposal Facility is hereby authorized to commence chemical agent shakedown operations on the deactivation furnace system in accordance with all of the applicable requirements of its Hazardous Waste, Air, Water, and PCB disposal(TSCA) Permits.

3. The UMCDF Permittees will provide the Department quarterly progress reports on the status of the carbon micronization system and the issues related to the treatment of spent carbon. The first such progress report should be submitted to the Department no later than January 15, 2005 and continue on a quarterly basis until such time that the Department determines the progress reports are no longer required. The Department shall inform the

DISCUSSION DRAFT FOR AUGUST 13 2004 MEETING

1 Commission if it believes that adequate progress is not being made to ensure that UMCDF is
2 ready to treat spent carbon immediately after the completion of the stockpile disposal operations.

3
4 4. If Permittees commence chemical agent operations after August 25, 2004 the
5 information required under Condition D.6. must be re-submitted to the Department. If the
6 Permittees commence chemical agent operations after September 13, 2004 the information
7 required under Condition D.3. of Attachment 6 of the HW Permit must also be re-submitted.
8 The commencement of chemical agent operations for the purposes of this Order is defined as
9 removal of chemical agent munitions from UMCD storage for transport to UMCDF.

10 5. This Order shall serve as the written notification authorizing the start of agent
11 shakedown operations per the requirements of Condition D.11. of Attachment 6 of the HW
12 Permit.

13 6. This Order shall be an Order in Other Than a Contested Case, subject to judicial
14 review pursuant to ORS 183.484.

15 DATED this _____ day of August, 2004.

16
17
18 Mark Reeve, Chair
19 For the Environmental Quality Commission
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21
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26

ATTACHMENT B

Findings and Conclusions of the Commission and Order

In the Matter of

Hazardous Waste Storage and Treatment Permit No.

ORQ 000 009 431

Permit Modification No. UMCDF-01-028-MISC(EQC),

“Approval Process for UMCDF Operations”

March 28, 2002

Umatilla Chemical Agent Disposal Facility (UMCDF)

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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the Matter of Hazardous Waste Storage and
Treatment Permit No. ORQ 000 009 431
Umatilla Chemical Agent Disposal Facility (UMCDF)
Permit Modification No. UMCDF-01-028-
MISC(EQC), "Approval Process for UMCDF
Operations."

FINDINGS AND
CONCLUSIONS OF THE
COMMISSION AND ORDER

BACKGROUND FINDINGS

1. On February 10, 1997, the Environmental Quality Commission issued FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER ("Commission Order") directing issuance of a Hazardous Waste Storage and Treatment Permit (HW Permit) to the United States Army (Army) for construction and operation of incinerators to destroy chemical weapons stored at the Umatilla Chemical Depot (the incineration facility is known as the Umatilla Chemical Agent Disposal Facility or UMCDF).

2. The UMCDF HW Permit names the U.S. Army Umatilla Chemical Depot (UMCD) and U.S. Army Project Manager for Chemical Stockpile Disposal (PMCS D) as Owner and Operator, and Washington Demilitarization Company (WDC) as Co-Operator. Collectively, these three entities are referred to as the "Permittees."

3. On September 21, 2001, the Environmental Quality Commission (Commission) directed the Department of Environmental Quality (Department) to prepare and issue a proposed modification to the UMCDF HW Permit requiring written Department approval for the Permittees to start UMCDF surrogate testing operations and written Commission approval for the Permittees to start UMCDF agent destruction operations.

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///

1 4. On October 22, 2001, the Department issued for public review and comment a
2 proposed permit modification ["Approval Process for UMCDF Operations," Tracking
3 Number UMCDF-01-028-MISC(EQC)] to the UMCDF HW Permit.

4 5. A public comment period on the proposed permit modification UMCDF-01-
5 028-MISC(EQC) was held open from October 22 through December 10, 2001.

6 6. The Department held a public hearing on proposed permit modification
7 UMCDF-01-028-MISC(EQC) on November 29, 2001. One oral comment was received.

8 7. The Commission accepted additional oral public comment on proposed permit
9 modification UMCDF-01-028-MISC(EQC) on December 7, 2001. Five oral comments were
10 received.

11 8. Fourteen (14) written comments were submitted during the public comment
12 period. A full copy of all comments received during the public comment period was sent by
13 the Department to the Commission on December 12, 2001.

14 9. Written transcripts of the oral public comments provided on both November
15 29 and December 7, 2001 were sent to the Commission on February 15, 2002.

16 10. The Department revised the proposed permit modification UMCDF-01-028-
17 MISC(EQC) to address written and oral comments received during the public comment
18 period. A copy of the revised proposed permit modification UMCDF-01-028-MISC(EQC)
19 was sent to the Commission on February 15, 2002.

20 11. The Commission held a meeting to consider the proposed modification
21 UMCDF-01-028-MISC(EQC) to the UMCDF HW Permit on March 8, 2002. Additional oral
22 discussion and comment were provided at this meeting by Department staff and the Army. A
23 complete index of documents reviewed by the Commission as part of the Administrative
24 Record for this proceeding is attached to this Order as Exhibit A.

25 ///

26 ///

1 **GENERAL FINDINGS PERTAINING TO UMCDF DESIGN MODIFICATIONS**

2 12. In accordance with 40 CFR §270.41(a)(1), the Commission may unilaterally
3 modify a hazardous waste facility permit upon a finding that there have been "material and
4 substantial alterations or additions to the permitted facility or activity which occurred after
5 permit issuance which justify the application of permit conditions that are different or absent
6 in the existing permit."

7 13. UMCDF was constructed without the Dunnage Incinerator, which was
8 initially proposed by the Permittees and permitted by the Commission as the primary
9 treatment unit for secondary process wastes generated during UMCDF operations.

10 14. With the elimination of the Dunnage Incinerator, over half of the hazardous
11 waste streams listed in the UMCDF Waste Analysis Plan (Attachment 2 of the HW Permit)
12 have no identified permitted treatment unit.

13 15. Condition II.B.3. of the HW Permit requires the Permittees to process "all
14 chemical agents and chemical agent-contaminated materials currently stored or otherwise
15 located at the Umatilla Chemical Depot." The Permittees have not yet submitted the
16 necessary permit modification requests to treat agent-contaminated materials stored at
17 UMCDF.

18 16. UMCDF submitted extensive design upgrades to the Pollution Abatement
19 System Carbon Filter System [Permit Modification Nos. UMCDF-97-005-PAS(2TA),
20 "Pollution Abatement System Carbon Filter System," and UMCDF-99-043-PAS(2),
21 "Upgrade of the Exhaust Induced Draft Fans and Rectifying Permit Inconsistencies."].

22 17. As of March 15, 2002, the Department has reviewed 1125 "Engineering
23 Change Proposals" representing 4,967 engineering changes made during UMCDF
24 construction.

25 18. As of March 25, 2002, the Permittees have made 90 submittals to the
26 Department under HW Permit Condition II.Q., which allows the Permittees to inform the

1 Department when equipment, materials, or procedures are being replaced with "equivalent or
2 superior" items and so do not require a permit modification.

3 19. As of March 25, 2002, the Permittees have submitted 137 Permit Modification
4 Requests to the Department, including five Class 3 modifications, 31 Class 2 modifications
5 and 101 Class 1 modifications.

6 20. The cumulative effect of the engineering changes warrants agency review of
7 compliance and operational status prior to start of hazardous waste operations at UMCDF.

8
9 **GENERAL FINDINGS PERTAINING TO NEW INFORMATION**

10 **ABOUT UMCDF OPERATIONS**

11 21. In accordance with 40 CFR §270.41(a)(2) the Commission may unilaterally
12 modify a hazardous waste facility permit upon a finding that there is new information, "not
13 available at the time of permit issuance [that] would have justified the application of different
14 permit conditions at the time of issuance."

15 22. The primary permitted treatment unit for chemical agent-contaminated
16 process wastes (Dunnage Incinerator) will not be constructed at UMCDF.

17 23. UMCDF's operational schedule to treat the chemical agent stockpile has been
18 extended from the original estimated duration of 40 months to 70 months. The 70-month
19 time frame does not include the time needed to treat UMCD wastes and UMCDF secondary
20 process wastes.

21
22 **FINDINGS REGARDING LEGAL STANDARDS**

23 **FOR PERMIT MODIFICATION**

24 24. The Commission may unilaterally modify a hazardous waste facility permit
25 upon a finding that any of the following causes set forth in 40 CFR §270.41 (incorporated by
26 reference through Oregon Administrative Rule (OAR) 340-100-0001 et seq.) exist:

1 A. "There are material and substantial alterations or additions to the
2 permitted facility or activity which occurred after permit issuance which justify the
3 application of permit conditions that are different or absent in the existing permit."

4 *See* 40 CFR §270.41(a)(1).

5 B. "The Director has received information. Permits may be modified
6 during their terms for this cause only if the information was not available at the time
7 of permit issuance (other than revised regulations, guidance, or test methods) and
8 would have justified the application of different permit conditions at the time of
9 issuance." *See* 40 §CFR 270.41(a)(2).

10 C. New statutory, regulatory, or judicially mandated standards. *See* 40
11 CFR §270.41(a)(3).

12 D. "Acts of God" or uncontrollable circumstances warranting revised
13 compliance schedules. *See* 40 CFR §270.41(a)(4).

14 25. The legislative policy stated in Oregon Revised Statute (ORS) 466.010 gives
15 the Commission the authority to protect the public health and safety and the environment of
16 Oregon to the "maximum extent possible" and "exercise the maximum amount of control
17 over actions within Oregon relating to hazardous waste."

18 26. Section 3005 of the Resource Conservation and Recovery Act (RCRA), 40
19 CFR §270.32 ("omnibus" authority), and Oregon implementing regulations (OAR Divisions
20 100 and 105) allow inclusion of permit conditions not specifically identified in the
21 regulations where the regulatory agency finds such conditions necessary to protect public
22 health and the environment. 40 CFR §270.32(b)(2) states that "Each permit issued under
23 section 3005 of this act shall contain terms and conditions as the Administrator or State
24 Director determines necessary to protect human health and the environment."

25 ///

26 ///

CONCLUSION OF THE COMMISSION

1
2 27. The Commission has adequate legal authority to unilaterally modify the
3 UMCDF HW Permit as proposed.

4 28. The design modifications made to UMCDF since the original HW Permit was
5 issued in February 1997 constitute "material and substantial alterations" to the UMCDF. The
6 cumulative impact of these changes is significant.

7 29. The extended UMCDF operational schedule and the lack of identified
8 treatment units for UMCDF and UMCD chemical agent-contaminated wastes constitute new
9 information that was not available when the HW Permit was issued and which would have
10 justified different permit conditions.

11 30. Chemical agent-contaminated wastes from UMCD and UMCDF pose a threat
12 to human health and the environment. Permit Modification UMCDF-01-028-MISC(EQC),
13 "Approval Process for UMCDF Operations," gives the Commission and the Department
14 explicit regulatory authority regarding the identification and permitting of treatment
15 methodologies for secondary process wastes prior to surrogate and/or chemical agent
16 operations at UMCDF.

17 31. On the basis of the Administrative Record set forth in Exhibit A to this Order,
18 sufficient cause exists to unilaterally modify the UMCDF Hazardous Waste Storage and
19 Treatment Permit (No. ORQ 000 009 431) pursuant to the criteria set forth at 40 CFR
20 §270.41(a)(1) and 40 CFR §270.41(a)(2).

21 32. The Commission adopts the recommendations in the Staff Report dated
22 February 15, 2002 (presented to the Commission on March 8, 2002) as modified in Exhibit
23 B.

24 33. The modification to the UMCDF HW Permit adding Permit Condition II.A.5.
25 and Attachment 6 ("Requirements for Commencement of Unit and Facility Operations"), as
26 set forth in Exhibit B, is necessary to protect human health and the environment. The

1 UMCDF Permittees must obtain written Department approval for the start of surrogate
2 operations, and written Commission approval for the start of chemical agent operations.
3

4 **ORDER**

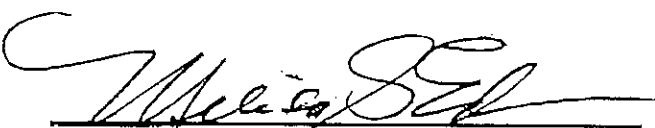
5 Now, therefore, IT IS ORDERED that:

6 1. These findings, conclusions and order shall constitute the Commission's final
7 permit modification decision and response to public comments.

8 2. Hazardous Waste Storage and Treatment Permit No. ORQ 000 009 431 is
9 modified in accordance with Permit Modification No. UMCDF-01-028-MISC(EQC),
10 "Approval Process for UMCDF Operations," as set forth in Exhibit B.

11 3. This Order shall be an Order in Other Than A Contested Case, and no
12 administrative appeal of the permit modification shall be provided to the applicant or third
13 parties.

14
15 DATED this 28th day of March, 2002.

16
17 
18 _____
19 Melinda S. Eden, Chair
20 For the Environmental Quality Commission
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EXHIBIT A
Permit Modification No. UMCDF-01-028-MISC(EQC)
ADMINISTRATIVE RECORD

DEQ Item No	Document Description	Date of Document	Date Received	Organization From	Organization To
01-1103	Agenda Item H, Action Item: Approval Process for Umatilla Chemical Agent Disposal Facility Operation September 20-21, 2001 EQC Staff Report [UMCDF-01-028-MISC(EQC)]	8/31/2001	8/31/2001	Oregon DEQ-Headquarters	Oregon Environmental Quality Commission (EQC)
01-1104	CDP Presentation to EQC at September 20-21, 2001 Meeting- Approval Process for UMCDF Operations Agenda Item H UMCDF-01-028-MISC(EQC)	9/21/2001	9/21/2001	Oregon DEQ-Hermiston	EQC
01-1105	Army Presentation to EQC at 9/21/01 Meeting- UMCDF Status Report UMCDF-01-028-MISC(EQC)	9/21/2001	9/21/2001	Permittees	EQC
01-1177	Press Release: U.S. Army Chemical Demilitarization Program Releases Updated Official Schedule and Cost Estimates	10/4/2001	10/7/2001	U.S. Army Program Manager Chemical Demilitarization (PMCD)	Media
01-1284	Public Notice: Request For Comments and Notice of Public Hearing, UMCDF-01-028-MISC(EQC), Approval Process For UMCDF Operation	10/22/2001	10/23/2001	Oregon DEQ-Hermiston	Public Mailing List
01-1296	Fact Sheet and Information Package For UMCDF-01-028-MISC(EQC), Proposed Permit Modification For Approval Process For UMCDF Operation	10/23/2001	10/23/2001	Oregon DEQ-Hermiston	Public Mailing List

EXHIBIT A, PAGE A-1

FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER
APPROVAL PROCESS FOR UMCDF OPERATIONS
UMATILLA CHEMICAL AGENT DISPOSAL FACILITY

DEQ Item No	Document Description	Date of Document	Date Received	Organization From	Organization To
01-1327	Transmittal of Information Package - Proposed Modification to the UMCDF Hazardous Waste Permit "Approval Process for UMCDF Operations"	11/2/2001	11/2/2001	Oregon DEQ-Hermiston	EQC/DEQ-Headquarters/Dept of Justice
01-1385	E-Mail: Comment From Andrew Butz on Permit Modification Request UMCDF-01-028-MISC(EQC), Approval Process For UMCDF Operation.	11/26/2001	11/26/2001	Public	Oregon DEQ-Hermiston
01-1408	Invitation to Comment on Permit Modification Request UMCDF-01-028-MISC(EQC), "Approval Process for UMCDF Operations"	11/29/2001	11/29/2001	Oregon DEQ-Hermiston	Umatilla Chemical Agent Disposal Facility (UMCDF)
01-1409	Invitation to Comment on Permit Modification Request UMCDF-01-028-MISC(EQC), "Approval Process for UMCDF Operations"	11/29/2001	11/29/2001	Oregon DEQ-Hermiston	GASP et al
01-1418	John Herron Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	11/30/2001	12/3/2001	Public	Oregon DEQ-Hermiston
01-1425	DEQ Memorandum Presiding Officers Report 11/29/01 Public Hearing Permit Number ORQ 000 009 431 with sign in sheets (Attachment 01-1426 Audio Tape)	12/3/2001	12/4/2001	Oregon DEQ-Pendleton	Oregon DEQ-Hermiston
01-1426	Attachment to 01-1425: Audio Tape From 11/29/01 Public Hearing Permit Number ORQ 000 009 431	12/3/2001	12/4/2001	Oregon DEQ-Pendleton	Oregon DEQ-Hermiston

EXHIBIT A, PAGE A-2

FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER
 APPROVAL PROCESS FOR UMCDF OPERATIONS

UMATILLA CHEMICAL AGENT DISPOSAL FACILITY

DEQ Item No	Document Description	Date of Document	Date Received	Organization From	Organization To
01-1465	Stephen McFadden Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	12/10/2001	12/10/2001	Public	Oregon DEQ-Hermiston
01-1473	Confederated Tribes Of The Umatilla Indian Reservation Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	12/7/2001	12/10/2001	Confederated Tribes of the Umatilla Indian Reservation (CTUIR)	Oregon DEQ-Hermiston
01-1474	John Ledger Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	12/10/2001	12/10/2001	Associated Oregon Industries	Oregon DEQ-Hermiston
01-1475	Confederated Tribes Of The Umatilla Indian Reservation Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	12/7/2001	12/10/2001	CTUIR	Oregon DEQ-Hermiston
01-1476	Frank Harkenrider Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	12/7/2001	12/10/2001	Public	Oregon DEQ-Hermiston

EXHIBIT A, PAGE A-3

FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER
 APPROVAL PROCESS FOR UMCDF OPERATIONS
 UMATILLA CHEMICAL AGENT DISPOSAL FACILITY

DEQ Item No	Document Description	Date of Document	Date Received	Organization From	Organization To
01-1477	Bob Severson Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	12/8/2001	12/10/2001	City of Hermiston (OR)	Oregon DEQ-Hermiston
01-1478	Public Hearing Transcript for the Permit Modification UMCDF-01-028-MISC(EQC) Held on 11/29/01	11/29/2001	12/10/2001	Bridges & Associates	Oregon DEQ-Hermiston
01-1483	Bob Palzer Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	12/10/2001	12/10/2001	Public	Oregon DEQ-Hermiston
01-1484	Public Comment from Morrow County Concerning Modification No. UMCDF-01-028-MISC(EQC), Testimony Before The Environmental Quality Commission, Dec. 7, 2001	12/7/2001	12/10/2001	Morrow County (OR)	Oregon DEQ-Hermiston
01-1485	James Wilkinson Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	12/10/2001	12/10/2001	Public	Oregon DEQ-Hermiston
01-1486	Permittees' Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC(EQC) "Approval Process for UMCDF Operation".	12/7/2001	12/10/2001	UMCDF	Oregon DEQ-Hermiston

EXHIBIT A, PAGE A-4

FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER
 APPROVAL PROCESS FOR UMCDF OPERATIONS
 UMATILLA CHEMICAL AGENT DISPOSAL FACILITY

DEQ Item No	Document Description	Date of Document	Date Received	Organization From	Organization To
01-1487	Stephen A McFadden M.S. Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC	12/10/2001	12/10/2001	Public	Oregon DEQ-Hermiston
01-1488	Karyn Jones of GASP Comments on Proposed Modification of Hazardous Waste Storage and Treatment Permit for the Umatilla Chemical Agent Disposal Facility UMCDF-01-028-MISC	12/10/2001	12/10/2001	GASP et al	Oregon DEQ-Hermiston
01-1489	Permittees' Comments to Permit Modification UMCDF-01-028-MISC(EQC)	12/10/2001	12/10/2001	UMCDF	Oregon DEQ-Hermiston
01-1490	Request For Legal Advice Concerning Proposed Permit Modification No. UMCDF-01-028-MISC(EQC), "Approval Process for Umatilla Chemical Agent Disposal Facility (UMCDF) Operation"	12/11/2001	12/11/2001	Oregon DEQ-Hermiston	Dept of Justice
01-1495	Supporting information to Document #01-1489: PMCD Policy Statement No. 28 Concerning Preoperational Surveys and Operational Readiness Evaluations (OREs) [Includes TOCDF Preoperational Survey (UMCDF-01-028-MISC(EQC))]	6/1/2000	12/11/2001	PMCD	Oregon DEQ-Hermiston
01-1494	Memorandum Transmitting Public Comments Received during the Comment Period for Proposed Permit Modification Request No. UMCDF-01-028-MISC(EQC), "Approval Process for Umatilla Chemical Agent Disposal Facility (UMCDF) Operation"	12/12/2001	12/12/2001	Oregon DEQ-Hermiston	EQC/DEQ-Headquarters
01-1529	Environmental Quality Commission Minutes of the Two Hundred and Ninety-Eighth Meeting on September 20-21, 2001, Regular Meeting	9/20/2001	12/14/2001	EQC	Attendees

EXHIBIT A, PAGE A-5

FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER
 APPROVAL PROCESS FOR UMCDF OPERATIONS
 UMATILLA CHEMICAL AGENT DISPOSAL FACILITY

DEQ Item No	Document Description	Date of Document	Date Received	Organization From	Organization To
01-1541	Transcript of Comments Received on Permit Modification UMCDF-01-028-MISC(EQC) at the Environmental Quality Commission Meeting Held on December 7, 2001 in Portland (CD-ROM Included)	12/7/2001	12/17/2001	Steinbock, Mundt & Galisky, Inc.	Oregon DEQ-Hermiston
01-1562	Transmittal of Written Comments Received on Permit Modification No. UMCDF-01-028-MISC(EQC)	12/21/2001	12/21/2001	Oregon DEQ-Hermiston	UMCDF
02-0012	Attachment of 02-0011 - PMCD Pre-Op Policy and Program Examples	1/2/2002	1/2/2002	UMCDF	EQC
02-0137	Memorandum From Larry Edelman Regarding Legal Issues Related to Proposed UMCDF Permit Modification 01-028-MISC(EQC), "Approval Process for UMCDF Operation"	1/25/2002	1/28/2002	Dept of Justice	Oregon DEQ-Hermiston
02-0259	Staff Report Agenda Item E, Action Item: Decision on Modification of the Umatilla Chemical Agent Disposal Facility (UMCDF) Hazardous Waste Permit to Incorporate Start-Up Approval Conditions March 7-8, 2002 EQC Meeting	2/15/2002	2/15/2002	Oregon DEQ-Headquarters	EQC
02-0260	Transmittal of Staff Report Related to Agenda Item E, Environmental Quality Commission Meeting March 8, 2002 Attachment 02-0259	2/15/2002	2/15/2002	Oregon DEQ-Hermiston	EQC
02-0323	Additional Comments from Permittees, Agenda Item E for March 7-8, 2002, Environmental Quality Commission Meeting: Proposed Modification of the UMCDF Hazardous Waste Permit	3/5/2002	3/5/2002	UMCDF	EQC
All previous permit actions and permit modifications available for review in the DEQ Hermiston office and are hereby incorporated by reference in this administrative record					

EXHIBIT A, PAGE A-6

FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER
 APPROVAL PROCESS FOR UMCDF OPERATIONS
 UMATILLA CHEMICAL AGENT DISPOSAL FACILITY

EXHIBIT B
Permit Modification No. UMCDF-01-028-MISC(EQC)
MODIFICATIONS TO PERMIT NO. ORQ 000 009 431

Underlined text to be added to the Umatilla Chemical Agent Disposal Facility
Hazardous Waste Storage and Treatment Permit No. ORQ 000 009 431

MODULE II—GENERAL FACILITY CONDITIONS

II.A. DESIGN AND OPERATION OF FACILITY

II.A.5. Commencement of Hazardous Waste Operations

- i. The Permittee shall not introduce hazardous waste into any permitted hazardous waste treatment or storage unit until the applicable requirements of Attachment 6 have been met.

ATTACHMENT 6

REQUIREMENTS FOR COMMENCEMENT OF UNIT AND FACILITY OPERATIONS

A. Introduction

In accordance with Permit Condition II.A.5., the Permittee shall not introduce hazardous waste into any permitted hazardous waste treatment or storage unit until the requirements of this Attachment have been met. It is the purpose of this Attachment to clarify specific requirements that must be met prior to the commencement of Shakedown Period I (Surrogate Shakedown) and Shakedown Period II (Agent Shakedown) for the first incinerator to commence Shakedown Period I or II. This Attachment also includes requirements for commencement of Shakedown Period I or II on each individual incinerator, and requirements to be met prior to introducing hazardous waste into other permitted treatment and storage units.

EXHIBIT B, PAGE B-1

FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER
APPROVAL PROCESS FOR UMCDF OPERATIONS
UMATILLA CHEMICAL AGENT DISPOSAL FACILITY

B. Requirements for Commencement of Operations of Permitted Hazardous Waste Treatment Or Storage Units

Prior to introducing hazardous waste into any permitted treatment or storage unit, or commencing a Shakedown Period I or II for the Liquid Incinerators (LICs) 1 or 2, Deactivation Furnace System (DFS), or Metal Parts Furnace (MPF), the Permittee must:

- B.1. Be in compliance with all HW Permit Conditions applicable to the permitted treatment or storage unit;
- B.2. Be in compliance with applicable conditions located elsewhere in this Attachment; and
- B.3. Be in compliance with all applicable Permit Modification Request approval conditions imposed by the Department.

C. Requirements for Commencement of Shakedown Period I (Surrogate) on the First Incinerator

Prior to commencing a Shakedown Period I (Surrogate) for the first incinerator, the Permittee must complete all of the following:

- C.1. No less than 30 days, nor more than 90 days, prior to the beginning of the first Shakedown Period I, the Permittee must notify the Department in writing that each of the UMCDF drawings in Volume V of the HW Permit Application, and the specifications contained in Volumes IV, VI, and VII, have been certified by a qualified Professional Engineer licensed in Oregon within the preceding 12 months, or that the Permittee has reviewed the specification(s) or drawing(s) and determined that no update is needed;

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- C.2. The Permittee must submit Permit Modification Request(s) to the Department to add secondary wastes expected to be generated by UMCDF operations to the list of permitted waste feed streams to the Liquid Incinerators, Deactivation Furnace System and/or the Metal Parts Furnace;
- C.3. The Permittee must submit Permit Modification Request(s) to the Department to modify the Metal Parts Furnace (design and permitted waste feed streams) as necessary to treat personal protective equipment and other halogenated and non-halogenated plastics;
- C.4. The Permittee and the Department must have reached agreement on the procedure to ensure that specified Department staff will have adequate 24-hour access, without undue delay, to the Department's on-site work spaces both outside the double-fence area of UMCDF, and within UMCDF; and
- C.5. The Permittee must have written notification from the Department authorizing the start of surrogate shakedown operations.

D. Requirements for Commencement of Shakedown Period II (Agent) on the First Incinerator

Prior to commencing a Shakedown Period II (Agent) for the first incinerator, or by the date specified, the Permittee must complete all of the following:

- D.1. The Permittee must implement a waste/munitions tracking procedure and system approved by the Department;
- D.2. The Permittee must obtain approval of the Class 3 Permit Modification Request UMCDF-00-004-WAST(3), "Permitted Storage in J-Block" providing additional permitted storage for secondary wastes generated by UMCDF operations. Any

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required physical and/or procedural changes necessary for the storage of secondary wastes must be implemented by UMCDF;

- D.3. No less than 30 days, nor more than 90 days, prior to the beginning of the first Shakedown Period II, the Permittee must notify the Department in writing that each of the UMCDF drawings in Volume V of the HW Permit Application, and the specifications contained in Volumes IV, VI, and VII, have been certified by a qualified Professional Engineer licensed in Oregon within the preceding 12 months, or that the Permittee has reviewed the specification(s) or drawing(s) and determined that no update is needed;
- D.4. The Permittee must complete the characterization and/or segregation of UMCD wastes and obtain Department approval of Permit Modification Request(s) to add all UMCD wastes to the list of permitted waste feed streams to the Liquid Incinerators, Deactivation Furnace System and/or the Metal Parts Furnace;
- D.5. No later than September 1, 2002, the Permittee must notify the Department in writing that a technical decision has been reached on the treatment method that will be utilized for agent-contaminated carbon. The notification must include supporting information concerning the basis for the decision;
- D.6. No less than 45 days, nor more than 90 days, prior to the beginning of the first Shakedown Period II, the Permittee must submit a progress report to the Department concerning the status of the design and implementation of the carbon treatment technology identified per Permit Condition D.5. of this Attachment;

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APPROVAL PROCESS FOR UMCDF OPERATIONS
UMATILLA CHEMICAL AGENT DISPOSAL FACILITY

- D.7. The Permittee must provide to the Department copies of any Pre-Operational Survey(s) and/or Operational Readiness Evaluation(s) conducted in accordance with the Program Manager for Chemical Demilitarization's (PMCD) Policy Statement No. 28 governing the conduct of such surveys or evaluations at demilitarization facilities;
- D.8. The Permittee must provide to the Department a verification statement that all nonconformances/observations designated as "Category 1" from Pre-Operational Surveys and/or Operational Readiness Evaluations have been resolved in accordance with PMCD's Policy Statement No. 28;
- D.9. The Permittee must provide to the Department the schedule for resolution of items identified in Pre-Operational Surveys and/or Operational Readiness Evaluations that were designated as "Category 2," in accordance with PMCD's Policy Statement No. 28;
- D.10. The Permittee must provide to the Department a copy of the PMCD authorization to start chemical agent operations; and
- D.11. The Permittee must have written notification from the Environmental Quality Commission authorizing the start of agent shakedown operations.

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FINDINGS AND CONCLUSIONS OF THE COMMISSION AND ORDER
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ATTACHMENT C

Summary of Public Comments And Department Response

Start of Chemical Agent Operations
Umatilla Chemical Agent Disposal Facility
Environmental Quality Commission
2004

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ATTACHMENT C

Summary of Public Comments and Department Response

Persons that testified before the Environmental Quality Commission at the May 20, 2004 public hearing (see note) held in Hermiston, Oregon (in order of appearance):

1. Evelyn Jenson, on behalf of Representative Robert Jenson*
2. James Wenzl
3. Julia Holland
4. Meg Capps, on behalf of the Umatilla County Board of Commissioners and the Umatilla County Emergency Management Department*
5. Bill Howard, on behalf of Umatilla County Emergency Management Department*
6. Dennis Doherty, Umatilla County Commissioner
7. Tiah Estabrook
8. Elaine Benton
9. Stephanie Johansen
10. Armand Minthorn, Confederated Tribes of the Umatilla Indian Reservation*
11. Deb Stockman
12. Randall Kowalke
13. Susan Ash
14. Frank Harkenrider
15. George Hash, Mayor of Umatilla
16. Vikki Born
17. Harmon Springer, Councilor, on behalf of the City of Hermiston*
18. David Wallick
19. Kathy Siron
20. Guy Lovelace
21. Karyn Jones*
22. Stuart Dick
23. Susan Jones
24. J.R. Wilkinson*
25. Rusty Brewer
26. T.J. Rodriguez

*Also provided written comments (See next page)

Note: The transcript of the May 20 hearing is included in Appendix E of Attachment D (“Compliance Assessment for the Start of Agent Operations”)

Persons Providing Written Comments May 4 through June 7, 2004

Commenter (see note)	DEQ Item No.
Patricia Garoutte	04-0755
The Honorable Bob Jenson, State Representative, District 58**	04-0785
Hermiston City Council**	04-0787
The Honorable David Nelson, State Senator, District 29	04-0786
Richard and Virginia Coleman	04-0788
CSEPP Update for the Environmental Quality Commission, submitted by Meg Capps, on behalf of the Umatilla County Board of Commissioners and the Umatilla County Emergency Management Department*	04-0807
Eric L. Nicholson	04-0815
Fay L. Moses	04-0822
Lolita Vlcek and Dr. Vincent Mulier	04-0885
Rodney S. Skeen, Confederated Tribes of the Umatilla Indian Reservation*	04-0916
Karyn J. Jones, et al., G.A.S.P.*	04-0902

*Also provided oral comments (See previous page)

Note: Copies of written comments are included in Appendix E of Attachment D (“Compliance Assessment for the Start of Agent Operations”)

Summary of Comments

The overwhelming number of persons who commented orally or in writing in favor of approving the start of agent operations cited the risks of the stockpile and the need to dispose of it as soon as possible to ensure the community's safety.

(Jenson, Wenzl, Holland, Benton, Doherty, Johansen, Ash, Kowalke, Stockman, Harkenrider, Hash, Born, Springer, Wallick, Siron, Lovelace, Brewer, Rodriguez, Coleman, Moses, and Nelson)

The representatives of the Chemical Stockpile Emergency Preparedness Program (CSEPP) community in Umatilla and Morrow counties expressed support for the start of operations as soon as possible, as did the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).

(Capps, Howard, Minthorn, Skeen)

One of the commenters (Estabrook) expressed support for starting agent operations, but requested that consideration be given to delaying the start until September when children are back in school, because the schools are prepared to respond in the event of an emergency and ensure the children's safety.

Response: The Department concurs with the commenter that area schools are well prepared to respond in the event of an emergency related to the chemical stockpile. The overpressurization systems installed in local schools (and other area facilities), combined with regular "shelter-in-place" drills, provide protection during school hours. The Department understands the commenter's concern, but does not believe that delaying the start of UMCDF operations until the start of the school year will provide any additional measure of safety.

Four of the commenters (K. Jones, Dick, S. Jones, Wilkinson) who spoke at the May 20 hearing opposing the start of agent operations expressed their objections to incineration of the chemical weapons stockpile because they believe that:

- The Army misled the Department and the Commission on such issues as the operation of the Brine Reduction Area and the Dunnage Incinerator;
- The risk assessment process is inadequate and fails to take into account the adverse health effects, especially to sensitive populations, of exposure to dioxins and other chemicals;
- There are non-incineration alternatives available to destroy the Umatilla stockpile;
- The risks of continued storage of the stockpile are overstated;
- The excessive number of permit modifications indicate that the facility as built is very different than the design that was originally permitted; and
- The chemical agent monitoring system is inadequate.

Response: The above issues have been repeatedly presented to the Department and the Commission, in addition to being extensively argued before the Multnomah County Circuit Court during one or more of the three legal actions already taken by G.A.S.P. against the Department and the Commission. The Department has responded to these issues previously.

In addition to the comments on the issues listed above, the written and oral comments from G.A.S.P. (Jones) included comments on the May Compliance Assessment. G.A.S.P. expressed dissatisfaction with the Compliance Assessment because it was “not complete” and failed to do a complete “inventory” of each and every HW Permit condition.

Response: The Department believes that the Compliance Assessment included those HW Permit conditions that represented both ongoing requirements (such as submittal of quarterly reports or completion of quarterly sampling for the Comprehensive Monitoring Program), and requirements specific to the start of chemical agent operations in the deactivation furnace system and liquid incinerator 1 (such as approval of final operating parameters and completion of required facility construction certifications). The Department continually reviews the compliance status of the Permittees with every requirement in the HW Permit, and will continue to do so for the life of the project.

The commenters cite a specific permit condition (VII.E.) to support their claim that the Dunnage incinerator is “required.” However, the fact that the Dunnage incinerator was *permitted* as a treatment unit does not mean that its construction and operation were *required*. The waste streams that were originally intended for treatment in the Dunnage incinerator have been permitted for treatment in other furnaces.

Two commenters (Nicholson, Vlcek/Mulier) writing to oppose the start of chemical agent operations expressed their concerns that UMCDF would emit pollutants that pose a threat to human health and the environment and that operation of UMCDF presents a risk of “potentially catastrophic consequences.” One commenter (Garoutte) did not express a specific opinion on whether to approve the start of chemical agent operations, but expressed her concerns about the potential for toxic emissions to the environment. She stated that

- a “base study of all health problems that occur in the Umatilla and Hermiston area for at least twenty years” must be conducted;
- there should “never be incineration of more than one toxic chemical at a time”;
- the UMCDF should be “thoroughly scrubbed” between chemical agents;
- DEQ should do “all policing and testing of the toxic dispersion”;

- all area waters, from the Columbia River to private wells, should be checked every six months;
- incineration should be stopped immediately upon discovery of any problems;
- the storage area should be “off limits to humans and wildlife after disposal of the chemicals”; and
- soils and underground water supplies should be regularly checked for contamination for twenty years.

Response: Many of the items that Ms. Garoutte mentioned in her list are existing requirements. For example, only one chemical agent type will be in the facility at any one time, and the facility must be thoroughly decontaminated between agent campaigns. The Department thoroughly reviews all test plans and oversees all trial burns conducted at the facility. UMCDF has many redundant control systems that will cut off the feed of chemical agent to a furnace if there are problems with the furnace or its pollution abatement system. The facility has been collecting soil and biota samples through the Comprehensive Monitoring Program for several years, and sampling will continue for one year after closure.

The Department does not believe that the extensive health and water studies suggested by the commenter are necessary. The Department will assess the potential risks of UMCDF operations on human health and the environment through standard and accepted risk assessment methods.

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ATTACHMENT D

Compliance Assessment for the Start of Chemical Agent Operations (Revision 1)

(DEQ Item No. 04-1207)

July 23, 2004

Start of Chemical Agent Operations
Umatilla Chemical Agent Disposal Facility
Environmental Quality Commission
2004

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**Compliance Assessment
for the
Start of Chemical Agent Operations
Umatilla Chemical Agent Disposal Facility
(Revision 1)**

**HAZARDOUS WASTE STORAGE AND TREATMENT
PERMIT NO. ORQ 000 009 431**



Prepared By

**Oregon Department of Environmental Quality
Chemical Demilitarization Program
256 E. Hurlburt, Suite 105
Hermiston, OR 97838
541-567-8297**

July 23, 2004

[DEQ Item No. 04-1207]

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Compliance Assessment
for the
Start of Chemical Agent Operations
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(Revision 1)

July 23, 2004

HAZARDOUS WASTE STORAGE AND TREATMENT
PERMIT NO. ORQ 000 009 431

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LIST OF ACRONYMS

ACAMS	Automatic Continuous Air Monitoring System
ACDP	Air Contaminant Discharge Permit
ACS	Agent Collection System
ANCDF	Anniston Chemical Agent Disposal Facility
ASME	American Society of Mechanical Engineers
AWFCO	Automatic Waste Feed Cut-Off
BDS	Bulk Drain Station
BRA	Brine Reduction Area
CAIRA	Chemical Accident/Incident Response and Assistance
CDC	Centers for Disease Control and Prevention
CDP	[DEQ] Chemical Demilitarization Program
CFR	Code of Federal Regulations
CHB	Container Handling Building
CEMS	Continuous Emission Monitoring System
CMA	[U.S. Army] Chemical Materials Agency (formerly Program Manager for Chemical Demilitarization)
CMP	Comprehensive Monitoring Program
CMS	Carbon Micronization System
CSEPP	Chemical Stockpile Emergency Preparedness Program
DAAMS	Depot Area Air Monitoring System
DEQ	[Oregon] Department of Environmental Quality
DFS	Deactivation Furnace System
EOC	Emergency Operations Center
EONC	Enhanced Onsite Container (munition transport container)
EPA	U.S. Environmental Protection Agency
EQC	[Oregon] Environmental Quality Commission
FCC	Facility Construction Certification
FMC	Facility Modification Certification
FRP	Fiberglass Reinforced Piping
HDC	Heated Discharge Conveyor (part of the DFS)
HVC	Heating, Ventilation, and Cooling
HW	Hazardous Waste
IQRPE	Independent Qualified Registered Professional Engineer
JACADS	Johnston Atoll Chemical Agent Disposal System
LIC	Liquid Incinerator
LQCP	Laboratory Quality Control Plan
MAO	Mutual Agreement and Order

MDB	Munitions Demilitarization Building
MPF	Metal Parts Furnace
NOD	Notice of Deficiency
NON	Notice of Noncompliance
NOV	Notice of Violation
NPCD	[EPA] National Program Chemicals Division
	NPDES National Pollutant Discharge Elimination System (storm water discharge)
OCE	[DEQ] Office of Compliance and Enforcement
ORR	Operational Readiness Review
PAS	Pollution Abatement System
PCB	Polychlorinated Biphenyl
PFS	Pollution Abatement System Carbon Filter System
PMCD	[U.S. Army] Program Manager for Chemical Demilitarization (see CMA)
PMCS	[U.S. Army] Project Manager for Chemical Stockpile Disposal (see PM ECW)
PM ECW	[U.S. Army] Program Manager for Elimination of Chemical Weapons (formerly Project Manager for Chemical Stockpile Disposal)
PMN	Perimeter Monitoring Network
PMR	Permit Modification Request
PostRA	Post-Trial Burn Health and Ecological Risk Assessment
QRA	Quantitative Risk Assessment
RCRA	Resource Conservation and Recovery Act
SDS	Spent Decontamination System
SOP	Standard Operating Procedure
STB	Surrogate Trial Burn
TOCDF	Tooele Chemical Agent Disposal Facility
TSCA	Toxic Substances Control Act
UMCD	Umatilla Chemical Depot
UMCDF	Umatilla Chemical Agent Disposal Facility
WDC	Washington Demilitarization Company
WPCF	Water Pollution Control Facility

Compliance Assessment
for the
Start of Chemical Agent Operations
Umatilla Chemical Agent Disposal Facility

July 23, 2004

EXECUTIVE SUMMARY

The Umatilla Chemical Agent Disposal Facility (UMCDF) is located in northeastern Oregon at the Umatilla Chemical Depot (UMCD), about seven miles west of Hermiston, Oregon (about 175 miles east of Portland, Oregon). The UMCDF is a hazardous waste treatment facility that will use four incinerators to destroy the stockpile of chemical warfare agents (including the nerve agents GB and VX, and the blister agent HD—also known as “mustard”) that has been stored at UMCD since 1962. A Hazardous Waste Storage and Treatment Permit (HW Permit) was issued by the Oregon Environmental Quality Commission (EQC or Commission) in February 1997. Construction of UMCDF was completed in 2001 and since then the facility has been completing various systemization and testing activities, to include test burns on the incinerators using “surrogate” material to simulate chemical agent.

Attachment 6 of the HW Permit requires, among other things, that the UMCDF Permittees obtain written authorization from the EQC prior to starting chemical agent operations. On behalf of the EQC, the Oregon Department of Environmental Quality (DEQ or Department) assessed UMCDF’s overall compliance status with the requirements of hazardous waste regulations, various environment permits, and completion of other activities required by DEQ to be completed prior to the start of agent operations. The DEQ issued a Compliance Assessment document for public comment on May 4, 2004. The May Compliance Assessment identified a total of 69 discrete requirements that needed to be completed before UMCDF could be authorized to begin chemical warfare agent operations. At the time the May 4 Compliance Assessment was issued, 39 of the 69 requirements had been met and were considered closed. The DEQ imposed an additional five requirements between the May 4, 2004 Compliance Assessment and the July 23, 2004 Assessment, for a total of 74 requirements.

As of July 23, 2004, UMCDF has met 69 of the 74 requirements. Therefore, the Department is unable to conclude at this time that UMCDF is in full compliance with all requirements necessary to recommend approval of the start of agent operations; however, the EQC is currently scheduled to meet on August 13, 2004 in Hermiston to consider authorizing the start of chemical agent operations at UMCDF. The Department believes that the remaining requirements can be completed by the time of the meeting.

The five remaining requirement include 1) completion of a health risk assessment protocol; 2) closure of findings generated from a UMCDF review of its operational readiness; 3) demonstration of the readiness of the Brine Reduction Area to treat brines from agent operations; 4) implementation of changes to the agent monitoring system on the pollution abatement system carbon filters; and 5) authorization from the EQC.

Compliance Assessment
for the
Start of Chemical Agent Operations
Umatilla Chemical Agent Disposal Facility
(Revision 1)

July 23, 2004

1. INTRODUCTION

On March 28, 2002 the Oregon Environmental Quality Commission (EQC or Commission) signed the "Findings and Conclusions of the Commission and Order," approving Permit Modification UMCDF-01-028-MISC(EQC), "Approval Process for UMCDF Operations." The Commission Order modified the Umatilla Chemical Agent Disposal Facility (UMCDF) Hazardous Waste Storage and Treatment Permit (HW Permit) to add requirements related to the start of operations at UMCDF (in addition to existing requirements). The new requirements were added to the HW Permit as Attachment 6, "Requirements for the Commencement of Unit and Facility Operations" (see Appendix A). Two requirements (Conditions D.12. and D.13.) have been added to Attachment 6 since it was first added to the HW Permit.

One of the requirements of Attachment 6 of the HW Permit is UMCDF must obtain the written authorization of the Commission prior to commencing agent operations. On behalf of the Commission, the Oregon Department of Environmental Quality (DEQ or Department) assessed the UMCDF Permittees'¹ compliance with various regulatory requirements and published a Compliance Assessment in May, 2004² A public comment period was held from May 4 through June 7, 2004 (see Appendix B) and the public was invited to comment on the Compliance Assessment and the readiness of UMCDF to begin chemical agent operations. A public hearing was held in Hermiston on May 20, 2004 before the Commission.

¹ There are three "Permittees" named on the UMCDF HW Permit. The U.S. Army Umatilla Chemical Depot and the U.S. Army Project Manager for Chemical Stockpile Disposal (now known as the Program Manager for Elimination of Chemical Weapons) are named as Owner and Operator of UMCDF. Washington Demilitarization Company (the Army's construction and operations contractor) was added to the HW Permit as a co-operator of UMCDF after being awarded the contract to build and operate UMCDF.

² "Compliance Assessment [for the] Start of Chemical Agent Operations (Revision 0)," Oregon Department of Environmental Quality, May 4, 2004 (DEQ Item No. 04-0679).

The Department has updated the Compliance Assessment to reflect the current status of the requirements listed (see Appendix C), update the enforcement actions taken by the Department against UMCDF (Appendix D), incorporate public comments (Appendix E) and present a list of documents that the Department relied upon in assessing UMCDF's compliance status (Appendix F). A brief background and description of UMCDF and the HW Permit is presented below in Section 2. Section 3 describes the process that the Department used to develop the list of requirements that are listed in the tables in Appendix C and provides a summary of UMCDF compliance status with the requirements that are still open. Section 4 discusses the public comments received and Section 5 presents the Department's conclusions about UMCDF's compliance status as of July 23, 2004.

2. DESCRIPTION OF UMCDF

The Umatilla Chemical Agent Disposal Facility (UMCDF) is located in northeastern Oregon at the Umatilla Chemical Depot (UMCD), about seven miles west of Hermiston, Oregon (about 175 miles east of Portland, Oregon). The address is 78072 Ordnance Road, Hermiston, OR 97838-9544. The UMCDF is a hazardous waste treatment facility that will use four incinerators to destroy the stockpile of chemical warfare agents that has been stored at UMCD since the 1960s.

The chemical agents stored at UMCD include nerve agents and blister ("mustard") agents in liquid form. Nerve agents ("GB" and "VX") are contained in munitions, such as rockets, projectiles, and land mines, and in large containers, such as spray tanks, bombs, and "ton containers." Mustard agent is stored only in ton containers.

UMCDF includes two liquid injection incinerators (Liquid Incinerators 1 and 2) to destroy liquid nerve and blister agents, and two other high temperature furnaces that will thermally treat metal parts and destroy any explosives and propellants (the "Metal Parts Furnace" and the "Deactivation Furnace System"). Container handling, munitions disassembly, and incinerator loading is conducted within an enclosed building called the "Munitions Demilitarization Building" (MDB). Air emissions from the building and the incinerators will be filtered before being released to the atmosphere. Computer controls will shut down waste feed to the incinerators if proper operating conditions are not maintained or if chemical agent is detected in the exhaust from any of the four incinerators or the MDB.

The HW Permit to build and operate UMCDF was issued to the United States Army by the EQC and the Department in February 1997. An Air Contaminant Discharge Permit was issued by the Department at the same time. Construction was completed in August 2001 and UMCDF then completed "systemization" (a pre-operational testing phase that involves testing components, instruments, and associated equipment using non-hazardous materials and waste feeds). UMCDF entered a new phase of testing operations in July 2002 when it began feeding "surrogate" material, a mix of chemicals that is designed to simulate the chemical agent itself, but is much less toxic. Operational testing of the incinerators and their pollution abatement systems begin with what is called a "shakedown" phase. The shakedown process allows the facility to test systems in an integrated operation and to train the facility staff in various operations and maintenance activities. When the facility has completed the shakedown phase on an incinerator, it must conduct a full-scale test known as a "trial burn."

Because of the extreme toxicity of chemical warfare agents, each incinerator at UMCDF must first successfully pass a "surrogate trial burn" (STB) before chemical agent is fed to the furnace. Once UMCDF receives approval to start agent operations, each incinerator must go through the shakedown phase again (with chemical agent), and then successfully pass a chemical agent trial burn overseen by inspectors from the Department and the U.S. Environmental Protection Agency.

Three STBs have been conducted at UMCDF as of July, 2004. The STB on Liquid Incinerator 1 (LIC1) was conducted from January 27 through February 8, 2003. The STB on the Deactivation Furnace System (DFS) was conducted from September 26 through October 13, 2003. The STB on the Metal Parts Furnace (MPF) was conducted from January 15 through February 1, 2004. Liquid Incinerator 2 (LIC2) is scheduled to undergo a STB in August, 2004. Results to date indicate that the UMCDF incinerators will be able to meet performance and emission standards during agent operations.

3. COMPLIANCE REVIEW AND ASSESSMENT

DEQ reviewed the conditions of the UMCDF HW Permit to develop a list of requirements for the start of agent operations in general, and requirements specific to the start of the Deactivation Furnace System and the Liquid Incinerator 1 (as the first incinerators that will process chemical warfare agent). Thirty-nine requirements were identified through review of the HW Permit.

The DEQ often imposes additional conditions when it approves Permit Modification Requests or accepts Facility Construction/Modification Certification

Packages. In the May Compliance Assessment there were 14 requirements identified during the review of conditional approvals. An additional five approval conditions were imposed in the interim. As of July 23, 2004 there were 19 approval conditions.

An additional 16 regulatory requirements were identified through the Department's review of other environmental permits that govern operations at UMCDF. For example, UMCDF compliance with environmental regulations is overseen not only by the DEQ, but also by the U.S. Environmental Protection Agency (EPA). EPA issued a National Permit to the U.S. Army's demilitarization facilities under the Toxic Substance and Control Act (TSCA) that governs facilities that dispose of polychlorinated biphenyls (PCBs). The TSCA permit contains conditions specific to the start of agent operations at UMCDF.

The Department also regulates the UMCDF through an air contaminant discharge permit and water pollution control facilities permits. The Umatilla Chemical Depot (UMCD) is also governed by various regulations regarding the storage of hazardous waste. Because UMCD is the agency that will be loading, transporting, and delivering the chemical agent munitions to the UMCDF, the Department required that UMCD submit certain documents to the DEQ to confirm that that UMCD is ready to support the start of agent operations (for example, a Road Evaluation and a Transportation Plan).

In summary, there were 39 requirements generated by review of the UMCDF HW Permit, 19 requirements generated by conditional Department approvals, and 16 requirements from review of other environmental permits, for a total of 74 discrete requirements that must be completed before UMCDF may begin agent operations. As of July 23, 2004, 69 of the 74 requirements have been met and are considered closed. A summary of the various open requirements and UMCDF's current compliance status with each is presented below in sections 3.1 through 3.3. Section 3.4 presents a discussion and summary of regulatory enforcement actions that the Department has taken against UMCDF for environmental violations since the start of surrogate operations in July 2002.

3.1 Conditions of the UMCDF Hazardous Waste Storage and Treatment Permit

Table C-1 in Appendix C ("Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit") lists 39 requirements related to conditions in the UMCDF Hazardous Waste Storage and Treatment Permit (HW Permit). There were 19 requirements still open at the time the initial Compliance Assessment was prepared on May 4, 2004. As of July 23, 2004 the Department has determined that UMCDF is in full compliance with 35 of the 39 requirements

and these items are considered closed.³ The remaining four open requirements listed in Table C-1 are discussed below.

Requirement 1-18 is related to preparation of a Post-Trial Burn Human Health and Ecological Risk Assessment (PostRA) Protocol. The PostRA protocol contains detailed information on how the DEQ will conduct the Post-RA after the completion of the first agent trial burn to assess whether operation of UMCDF will pose any unacceptable risks to the local population. The Protocol must be completed before the start of agent operations. The Department is finalizing the Protocol in response to public comments received during a comment period held in late 2003 and expects to have it complete no later than July 30, 2004.

Requirement 1-34 is related to UMCDF's internal process known as an "Operational Readiness Review" (ORR). The ORR is a review process designed to evaluate UMCDF's readiness to begin chemical agent operations. The ORR was conducted by the Washington Demilitarization Company, as allowed by the U.S. Army Chemical Materials Agency "Policy Statement 28" (Preoperational Surveys and Operational Readiness Evaluations, dated August 26, 2003). The ORR generates "findings," which are categorized by significance. Category 1 findings are considered essential to the safety of personnel or the environment or the operational readiness of the system and must be resolved before the start of operations. Condition D.8. of Attachment 6 requires that UMCDF provide a verification statement to the Department that all Category 1 findings have been closed. In a letter to the Department on July 23, 2004, UMCDF indicated there were still four Category 1 findings open, but it anticipated the findings would be closed by July 26, 2004. This requirement cannot be closed until the final verification statement is received.

Requirement 1-37 is related to Condition D.11. of Attachment 6 that states that UMCDF may not commence agent shakedown operations until it obtains written notification from the Commission authorizing the start of agent shakedown operations. The Commission is currently scheduled to meet August 13, 2004 to consider the authorization.

Requirement 1-39 is related to the operation and testing of the Brine Reduction Area (BRA) and the HW Permit requirement that the BRA be "operational and ready to treat pollution abatement system brines" by the time agent operations begin. The Department will not consider this requirement met

³ Some of the requirements listed as closed are actually "continuing" requirements related to such things as submittal of quarterly or annual reports. "Closure" of these items for the purposes of this Compliance Assessment does not relieve UMCDF of continuing compliance with these types of requirements. The Department will monitor UMCDF's ongoing compliance with these and other conditions of the HW Permit throughout the operating life of the facility.

until such time that UMCDF has successfully demonstrated through a Performance Test that the BRA can operate at expected brine feed rates and within its permit limits. A BRA Performance Test was conducted the week of July 12, 2004. Preliminary results were delivered to the Department on July 23 and are under review.

3.2 Conditional Department Approvals

Table C-2 (“Compliance with Conditional Department Approvals”) lists 19 requirements that were imposed as conditions when the Department approved certain Permit Modification Requests (PMRs) or accepted certain Facility Construction Certification (FCC) or Facility Modification Certification (FMC) Packages. Five additional approval conditions were imposed on UMCDF since the time of the May Compliance Assessment. Eighteen of the 19 requirements have been completed and are considered closed. The remaining requirement (2-14) was imposed by the Department when it approved a permit modification request in January 2004 that changed how the carbon filters in the pollution abatement system are sampled and monitored for chemical agent. Implementation of physical design changes to the agent monitoring system included installing new temperature instrumentation and carbon sample canisters. Changes to critical systems require additional permit modifications to confirm the changes were implemented as designed and approved.

On July 14, 2004 UMCDF submitted a permit modification request to close out requirement 2-14. Supplemental information was submitted on July 23. The material is still under Department review, although the Department believes that resolution of the issues will be reached by July 30, 2004.

3.3 Requirements of Other Environmental Permits

Table C-3 (“Compliance with the Requirements of Other Environmental Permits”) lists a total of 16 requirements from the Air Contaminant Discharge Permit, Water Pollution Control Facility Permits, National Pollution Discharge Elimination System Storm Water Discharge Permit, the UMCD draft Hazardous Waste Storage Permit, and the Toxic Substances Control Act Permit. All items associated with the Air Permit were found to be in compliance, as were the requirements of the water permits (requirements 3-8 and 3-9). On July 9, 2004 the EPA granted approval to UMCDF to begin operations with rockets containing polychlorinated biphenyls (PCBs) under the national Toxic Substances Control Act (TSCA) Permit issued to the Army.

3.4 UMCDF Compliance History

The Department conducts regular compliance inspections of the UMCDF site and the UMCDF Permittees also conduct regular internal reviews of their compliance with the requirements of the HW Permit and with various other regulations governing the storage, management, and transportation of hazardous waste. The UMCDF Permittees submit a quarterly report to the Department describing any non-compliances that were identified during the quarter, and the corrective action to preclude recurrence. A summary of self-reported violations (through June 30, 2004) and Department enforcement actions (through July 23, 2004) is provided below. The summary of Department enforcement actions is limited to those actions involving UMCDF—enforcement actions taken against the Umatilla Chemical Depot involving only UMCD hazardous waste storage activities are not included here.

Self-Reported Violations

UMCDF provides the Department a report each quarter on a summary of any violations the UMCDF Environmental Compliance personnel have noted. The quarterly report lists all violations noted through UMCDF's internal compliance program. It should be noted that significant violations, especially HW Permit violations, are communicated immediately upon discovery directly to the Department through other reporting mechanisms. UMCDF submitted eight quarterly reports covering self-reported non-compliances (and the corrective actions taken) for the period July 1, 2002 through June 30, 2004.

Most of the items listed in the reports are relatively minor violations and the Department did not usually take any formal enforcement action against UMCDF related to those violations. For example, there were some instances of improper management of hazardous waste such as aerosol cans, fluorescent lamps, and oil filters. In other cases there were paperwork errors involving shipment manifests, failure to record an inspection time on a log sheet or meet a reporting deadline, and failure to place an accumulation start date on containers used to manage hazardous wastes. Given the nature and complexity of hazardous waste storage and management regulations these types of violations are not unusual for a large facility, and the Department believes that UMCDF took appropriate corrective action after violations were discovered.

The quarterly non-compliance reports also contain self-reported violations of HW Permit conditions governing the treatment of hazardous waste. These violations occurred during shakedown and testing operations as incinerators were brought on line and testing operations began. Several were related to control software issues that have since been corrected. In other instances UMCDF

exceeded permitted emission limits for some metals during testing conducted prior to and during surrogate trial burn operations. The Department considered some of these violations to be significant enough to warrant the issuance of a Notice of Non-Compliance and/or a Notice of Violation and assessment of a civil penalty.

Department Enforcement Actions Against UMCDF

Since July 2002 the Department has issued nine Notices of Non-Compliance (NON) to UMCDF related to hazardous waste violations and two NONs to the Umatilla Chemical Depot (UCMD) for violations of UMCDF's Air Contaminant Discharge Permit (Air Permit). Violations of the Air Permit are issued only to UMCD because it is the sole permittee listed on the UMCDF Air Permit. Seven of the 11 NONs in this time frame were referred to the Department's Office of Compliance and Enforcement (OCE) for further action and determination of whether a Notice of Violation (NOV) should be issued and a civil penalty issued. Additionally, a NON was issued on July 23, 2004 that will also result in a referral to OCE. Of the six NONs referred to OCE, four have resulted in an NOV and assessment of civil penalties, in two cases OCE decided not to pursue the matter further. In one case the Department and the Permittees held settlement negotiations and ultimately signed a Mutual Agreement and Order. The remaining three cases have all been appealed by the UMCDF Permittees and are pending final resolution.

A description of each of the 11 NONs (and associated NOV if applicable) issued since July 2002 is included in Appendix D.

4. PUBLIC COMMENTS

The public comment period on the Start of Agent Operations at UMCDF was open from May 4, 2004 through June 7, 2004. A public hearing was held on May 20, 2004 in Hermiston before the Environmental Quality Commission. Approximately 200 people attended the hearing and 26 persons provided oral testimony at the hearing. A transcript of the May 20 hearing, and copies of all written comments received, are included in Appendix E. The following persons provided testimony at the hearing:

- Evelyn Jenson, a legislative aide for State Representative Bob Jenson, expressed support for the safe incineration of chemical weapons and her belief that DEQ had done its job in ensuring safety. Ms. Jenson also submitted written comments on behalf of Representative Jenson.

- James Wenzl, representing his family who lives in Hermiston, expressed support for incinerating the weapons to remove the hazardous chemical agents to leave a positive legacy for his children.
- Julia Holland agreed with Mr. Wenzl's testimony.
- Meg Capps, Umatilla County Emergency Response Manager, described her community's efforts to prepare for a potential emergency and expressed her support for starting the destruction of chemical weapons as soon as possible. Ms. Capps also provided written materials for review.
- Bill Howard, from the Umatilla-Morrow County Chemical Stockpile Emergency Preparedness Program (CSEPP), explained his community's plans for responding to the unlikely event of a chemical emergency and expressed his support for starting the destruction of chemical weapons as soon as possible.
- Dennis D. Doherty, Umatilla County Commissioner, expressed his support for starting agent operations as soon as possible. Commissioner Doherty also provided written comment.
- Tiah Estabrook, Hermiston community member with three small children, asked that chemical agent operations begin in September when children are back in school, because the schools are prepared to respond in the event of an emergency and ensure the children's safety.
- Elaine Benton agreed with Mr. Wenzl's testimony.
- Stephanie Johansen, a past resident of Hermiston, expressed support for starting agent operations to reduce the risk of continued storage.
- Armand Minthorn, member of the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation, read a Board resolution in support of the start of agent operations when the Army has proven compliance with all requirements of the DEQ hazardous waste storage and treatment permit. Mr. Minthorn submitted a copy of the Board resolution.
- Deb Stockman, Hermiston resident, expressed support for starting agent operations on behalf of herself and her family.
- Randall Kowalke, Hermiston resident, expressed support for starting agent operations.
- Susan A. Ash, expressed agreement with Ms. Stockman and Mr. Wenzl.
- Frank Harkenrider, expressed his support for starting agent operations as soon as possible.

- George Hash, Umatilla Mayor, expressed his support for incineration because the Army and community are ready and because it is the safest way to reduce the risk posed by the chemical weapons.
- Vikki Born, an employee of Washington Demilitarization Company, speaking as a Hermiston resident, expressed support for the start of chemical agent destruction on behalf of her husband and children.
- Harmon Springer, a Hermiston City Council member and speaking on behalf of the City of Hermiston, expressed the City's support for the destruction of the chemical agents as soon as possible. Mr. Springer submitted a letter from the City of Hermiston signed by the Mayor and the City Council members.
- David Wallick, Hermiston resident, presented comments from his seven year old son in support of destroying the chemical agents.
- Kathy Siron, Hermiston resident, expressed support for starting chemical agent operations as soon as possible to reduce the risk of storage and make her community safe.
- Guy M. Lovelace, Hermiston resident, expressed concerns on behalf of his family about the risk of continued storage of chemical weapons at the Umatilla Depot, and confidence in the incineration facility and its operators to safely destroy the weapons.
- Karyn J. Jones, representing GASP, the Oregon Wildlife Federation, the Sierra Club and plaintiffs in the GASP lawsuit, expressed opposition to incineration of chemical weapons, and support for a decision by the Commission to deny approval for the start of chemical agent operations and to revoke the permit for the UMCDF. Ms. Jones also submitted written comments on behalf of GASP.
- Stuart Dick, third generation Eastern Oregonian, expressed a number of concerns relating to the UMCDF permit and current plans for destroying chemical weapons and monitoring emissions at the facility.
- Susan L. Jones, Hermiston resident, teacher, and member of the GASP Board, expressed concern about dioxins and the health of the people in the community, and opposed incineration of chemical weapons.
- J.R. Wilkinson, GASP researcher, expressed concern about a number of UMCDF permit requirements and urged the Commission to revoke the permit and consider whether incineration is the right approach.
- Rusty Brewer, Hermiston resident, expressed his support for incineration and his desire to see chemical agent destruction begin soon.

- T.J. Rodriguez, fourth generation Oregonian, expressed support for starting the destruction of chemical weapons at the UMCDF as soon as possible.

In addition to the persons listed above who provided written comment in addition to oral testimony, the Department received an additional six written comments:

- Patricia Garoutte expressed her concern about the potential for toxic emissions to the environment and requested that a health study be conducted in the local area and that water and soil be checked regularly for contamination.
- State Senator David Nelson expressed support destroying the chemical weapons as soon as possible.
- Richard and Virginia Coleman expressed their confidence in the incineration facility and belief that operations should start as soon as possible.
- Eric Nicholson expressed his objections to incineration of the weapons because of the dangers in the process and the possibility of toxic pollution spreading over Western Oregon, Washington, Idaho, Montana, and California.
- Fay Moses expressed support for starting incineration as soon as possible.
- Lolita Vlcek and Dr. Vincent Mulier oppose the incineration of the chemical weapons because of the unknown and potentially catastrophic consequences.

5. CONCLUSION

As of the date of this document, the Department is unable to conclude that UMCDF is in full compliance with all requirements necessary to recommend approval of the start of agent operations. However, 69 of the 74 requirements listed in the tables in Appendix C have been completed, and the Department believes that three of the five remaining items could be closed out by July 30, 2004. Aside from the authorization of the Commission to start chemical agent operations, the last requirement to be closed will probably be related to the issue of whether the Brine Reduction Area is “operational and ready to treat brines.” The Department has not completed its review of the preliminary data from the Performance Test and so cannot draw a conclusion about the readiness of the Brine Reduction Area.

APPENDIX A

Requirements For Commencement Of Unit And Facility Operations

**(Attachment 6 to the UMCDF Hazardous Waste
Storage and Treatment Permit)**

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ATTACHMENT 6

Requirements For Commencement Of Unit And Facility Operations

Introduction

In accordance with Permit Condition II.A.5., the Permittee shall not introduce hazardous waste into any permitted hazardous waste treatment or storage unit until the requirements of this Attachment have been met. It is the purpose of this Attachment to clarify specific requirements that must be met prior to the commencement of Shakedown Period I (Surrogate Shakedown) and Shakedown Period II (Agent Shakedown) for the first incinerator to commence Shakedown Period I or II. This Attachment also includes requirements for commencement of Shakedown Period I or II on each individual incinerator, and requirements to be met prior to introducing hazardous waste into other permitted treatment and storage units.

Requirements for Commencement of Operations of Permitted Hazardous Waste Treatment Or Storage Units

Prior to introducing hazardous waste into any permitted treatment or storage unit, or commencing a Shakedown Period I or II for the Liquid Incinerators (LICs) 1 or 2, Deactivation Furnace System (DFS), or Metal Parts Furnace (MPF), the Permittee must:

- B.1. Be in compliance with all HW Permit Conditions applicable to the permitted treatment or storage unit;
- B.2. Be in compliance with applicable conditions located elsewhere in this Attachment; and
- B.3. Be in compliance with all applicable Permit Modification Request approval conditions imposed by the Department.

Requirements for Commencement of Shakedown Period I (Surrogate) on the First Incinerator

Prior to commencing a Shakedown Period I (Surrogate) for the first incinerator, the Permittee must complete all of the following:

- C.1. No less than 30 days, nor more than 90 days, prior to the beginning of the first Shakedown Period I, the Permittee must notify the Department in writing that each of the UMCDF drawings in Volume V of the HW Permit Application, and the specifications contained in Volumes IV, VI, and VII, have been certified by a qualified Professional Engineer licensed in Oregon within the preceding 12 months, or that the Permittee has reviewed the specification(s) or drawing(s) and determined that no update is needed;
- C.2. The Permittee must submit Permit Modification Request(s) to the Department to add secondary wastes expected to be generated by UMCDF operations to the list of permitted waste feed streams to the Liquid Incinerators, Deactivation Furnace System and/or the Metal Parts Furnace;
- C.3. The Permittee must submit Permit Modification Request(s) to the Department to modify the Metal Parts Furnace (design and permitted waste feed streams) as necessary to treat personal protective equipment and other halogenated and non-halogenated plastics;
- C.4. The Permittee and the Department must have reached agreement on the procedure to ensure that specified Department staff will have adequate 24-hour access, without undue delay, to the Department's on-site work spaces both outside the double-fence area of UMCDF, and within UMCDF; and
- C.5. The Permittee must have written notification from the Department authorizing the start of surrogate shakedown operations.

Requirements for Commencement of Shakedown Period II (Agent) on the First Incinerator

Prior to commencing a Shakedown Period II (Agent) for the first incinerator, or by the date specified, the Permittee must complete all of the following:

- D.1. The Permittee must implement a waste/munitions tracking procedure and system approved by the Department;
- D.2. The Permittee must obtain approval of the Class 3 Permit Modification Request UMCDF-00-004-WAST(3), "Permitted Storage in J-Block" providing additional permitted storage for secondary wastes generated by UMCDF operations. Any required physical and/or procedural changes necessary for the storage of secondary wastes must be implemented by UMCDF;
- D.3. No less than 30 days, nor more than 90 days, prior to the beginning of the first Shakedown Period II, the Permittee must notify the Department in writing that each of the UMCDF drawings in Volume V of the HW Permit Application, and the specifications contained in Volumes IV, VI, and VII, have been certified by a qualified Professional Engineer licensed in Oregon within the preceding 12 months, or that the Permittee has reviewed the specification(s) or drawing(s) and determined that no update is needed;
- D.4. The Permittee must complete the characterization and/or segregation of UMCD wastes and obtain Department approval of Permit Modification Request(s) to add all UMCD wastes to the list of permitted waste feed streams to the Liquid Incinerators, Deactivation Furnace System and/or the Metal Parts Furnace;
- D.5. No later than September 1, 2002, the Permittee must notify the Department in writing that a technical decision has been reached on the treatment method that will be utilized for agent-contaminated carbon. The notification must include supporting information concerning the basis for the decision;

- D.6. No less than 45 days, nor more than 90 days, prior to the beginning of the first Shakedown Period II, the Permittee must submit a progress report to the Department concerning the status of the design and implementation of the carbon treatment technology identified per Permit Condition D.5. of this Attachment;
- D.7. The Permittee must provide to the Department copies of any Pre-Operational Survey(s) and/or Operational Readiness Evaluation(s) conducted in accordance with the Program Manager for Chemical Demilitarization's (PMCD) Policy Statement No. 28 governing the conduct of such surveys or evaluations at demilitarization facilities;
- D.8. The Permittee must provide to the Department a verification statement that all nonconformances/observations designated as "Category 1" from Pre-Operational Surveys and/or Operational Readiness Evaluations have been resolved in accordance with PMCD's Policy Statement No. 28;
- D.9. The Permittee must provide to the Department the schedule for resolution of items identified in Pre-Operational Surveys and/or Operational Readiness Evaluations that were designated as "Category 2," in accordance with PMCD's Policy Statement No. 28;
- D.10. The Permittee must provide to the Department a copy of the PMCD authorization to start chemical agent operations; and
- D.11. The Permittee must have written notification from the Environmental Quality Commission authorizing the start of agent shakedown operations.
- D.12. No later than February 28, 2003, the Permittee must submit a Permit Modification Request to DEQ revising the Laboratory Quality Control Plan (LQCP), UM-PL-017 and Standard Operating Procedure (SOP) UM-0000-M-559 "Agent Extraction and Analyses of Wastes", located in Attachment D-2 of the UMCDF Hazardous Waste Permit Application.
- D.13. The Permittee must have the Brine Reduction Area operational and ready to treat pollution abatement system brines generated from agent operation.

APPENDIX B

Request for Comments and Notice of Public Hearing

**“Compliance Assessment for Start of Agent Operations”
Umatilla Chemical Agent Disposal Facility**

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Public Notice: Request for Comments and Notice of Public Hearing

Request for Public Comment Start of Agent Operations Umatilla Chemical Agent Disposal Facility (UMCDF) (Hazardous Waste Storage and Treatment Permit No. ORQ 000 009 431)

Notice issued: April 23, 2004

Public Comment Period:
May 4, 2004 through June 7, 2004.

Written comments due:
No later than 5:00 p.m., June 7, 2004

Public Hearing:
7:00 p.m., May 20, 2004.
Hermiston Community Center, 415 South
Highway 395, Hermiston, OR 97838

DEQ staff will give a brief presentation before the hearing begins. The hearing will be held before the members of the Environmental Quality Commission (EQC), DEQ's governing body. The public is encouraged to comment during the hearing. Spanish translation will be provided.

Who is affected?
Residents in the Mid-Columbia Basin, particularly those living near the Umatilla Chemical Depot.

Why is this hearing being held?
The hearing on May 20, is being held in conjunction with the regular meeting of the EQC. The Commission must give its approval before incineration of chemical weapons can begin at the Umatilla Chemical Agent Disposal Facility (UMCDF). To provide continuing public involvement in the decision process, the EQC and DEQ are asking for public comments in regards to the readiness of the UMCDF to begin chemical agent incineration later in 2004. In addition, DEQ is seeking public comment on the initial results of a compliance assessment which will be available on May 4, 2004.

What is a "compliance assessment"?
The compliance assessment is a process the DEQ is using to review UMCDF's compliance with requirements in the facility's Hazardous Waste Storage and Treatment Permit (HW Permit) before the beginning of chemical agent operations. The EQC will consider the public comments in the process of determining whether UMCDF has met each of these permit requirements in addition to the overall readiness of UMCDF to begin agent operations.

Where is UMCDF located?

The UMCDF is located in northeastern Oregon at the Umatilla Chemical Depot, about seven miles west of Hermiston, Oregon (about 175 miles east of Portland, Oregon). The address is 78072 Ordnance Road, Hermiston, OR 97838-9544.

What kind of facility is UMCDF?

The UMCDF is a hazardous waste storage and treatment facility that will use four incinerators to destroy a stockpile of chemical warfare agents that has been stored at the Umatilla Chemical Depot since 1962. The chemical agent stockpile at UMCDF includes about 3,717 tons of nerve agents ("VX" and "GB") and blister ("mustard") agents in liquid form.

Nerve agents are contained in munitions, such as rockets, projectiles and land mines, and in large containers, such as spray tanks, bombs, and "ton containers." Mustard agent is stored only in ton containers. All of the chemical warfare agents are highly toxic.

Who are the UMCDF Permittees?

There are three Permittees named on the UMCDF HW Permit. The U.S. Army Umatilla Chemical Depot and the U.S. Army Program Manager for Elimination of Chemical Weapons (PMECW) are named as Owner and Operator of UMCDF, and Washington Demilitarization Company (the Army's construction and operations contractor) is named as a co-operator of UMCDF.

What are DEQ's responsibilities?

The DEQ is the state agency that helps protect Oregon's environment. One of DEQ's responsibilities is to oversee the management of hazardous wastes in Oregon by issuing and enforcing hazardous waste permits. In February 1997, the DEQ and the EQC issued a Hazardous Waste Storage and Treatment Permit (HW Permit) to the UMCDF. It is DEQ's responsibility, under the direction of the EQC, to ensure that UMCDF complies with all of the conditions of the HW Permit. One of those conditions requires UMCDF to obtain written



State of Oregon
Department of
Environmental
Quality

Office of the
Director
Chemical
Demilitarization
Program
256 E. Hurlburt
Hermiston, OR 97838
Phone: (541) 567-8297
(800) 452-4011
Fax: (541) 567-4741
Contact: Shelly Ingram
DEQ Item No. 04-0461

www.deq.state.or.us

approval from DEQ before beginning chemical agent operations.

DEQ maintains an office in Hermiston that houses the DEQ's Chemical Demilitarization Program (CDP). DEQ's CDP staff is devoted exclusively to overseeing activities related to the storage and disposal of chemical warfare agents at the Umatilla Chemical Depot.

Where can I get more information?

Additional information about the EQC and the meeting agenda can be obtained at:
<http://www.deq.state.or.us/about/eqc/eqc.htm>

Each of the Information Repositories listed below has information about UMCDF. You can also call, write, or e-mail the DEQ Office in Hermiston (ingram.shelly@deq.state.or.us) to request a copy of the compliance assessment. The compliance assessment will be available on or about May 04, 2004. It will include a list of each HW Permit requirement that applies to the beginning of chemical agent operations and the DEQ's assessment of UMCDF's compliance status.

How can I review documents?

You can review documents related to the Umatilla Chemical Agent Disposal Facility at the Hermiston DEQ office (please call ahead for an appointment) or at one of the following information repositories:

Hermiston Public Library
235 E. Gladys Avenue
Hermiston, OR 97838
(541) 567-2882

Mid Columbia Library (Kennewick Branch)
1620 S. Union St.
Kennewick, WA 99336
(509) 586-3156

Pendleton Public Library
502 S.W. Dorion Avenue
Pendleton, OR 97801
(541) 966-0210

Portland State University Library
951 S.W. Hall, Fifth Floor
Portland, OR 97204
(503) 725-4617

How can I send comments?

DEQ will accept oral and written comments at the meeting on May 20, or written

comments by mail, fax and e-mail at any time during the comment period.

Contact Name: Shelly Ingram, Chemical Demilitarization Program, Hermiston DEQ.

Phone: 541-567-8297 (ext. 25) or toll free in Oregon (800) 452-4011.

Mailing address: DEQ Chemical Demilitarization Program, 256 E. Hurlburt, Suite 105, Hermiston, OR 97838

Fax: 541-567-4741

E-mail: ingram.shelly@deq.state.or.us
(Please include "Public Comment" in the subject line. E-mail comments will be acknowledged as soon as possible. The DEQ is not responsible for delays between servers that result in missed comment deadlines.)

What happens next?

After the completion of the public comment period the DEQ will review and consider all oral and written comments received during the comment period. DEQ staff will prepare a report for the EQC with a recommendation on whether or not DEQ believes the EQC should approve the start up of chemical agent operations. The report will include an update to the compliance assessment, re-assessing progress made by UMCDF during the public comment period. The EQC will make a final decision at a meeting later in the year.

Accessibility information

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact Shelly Ingram at (541) 567-8297 (ext. 25) or toll free in Oregon at (800) 452-4011.

People with hearing impairments may call DEQ's TTY number, (503) 229-6993.

APPENDIX C

Status of Applicable Requirements

**“Compliance Assessment for Start of Agent Operations”
Umatilla Chemical Agent Disposal Facility**

STATUS OF APPLICABLE REQUIREMENTS

The tables in this Appendix list each of the specific requirements that the Department reviewed to assess the compliance status of the Umatilla Chemical Agent Disposal Facility (UMCDF) and their status as of July 23, 2004. There are a total of 74 discrete requirements grouped into three tables:

Table C-1, beginning on page C-1, lists 39 requirements specifically called out in the UMCDF Hazardous Waste Storage and Treatment Permit (HW Permit). Thirty-five of the 39 requirements are considered complete as of July 23, 2004.

Table C-2 (page C-17) lists 19 requirements that were imposed as conditions when the Department approved certain Permit Modification Requests or Facility Construction/Modification Certification Packages. Eighteen of the 19 requirements in Table 2 have been completed and are considered closed as of July 23, 2004.

Table C-3 (page C-25) lists 16 requirements of other environmental permits. All 16 requirements listed in Table 3 have been completed and are considered closed as of July 23, 2004.

Of the 74 requirements listed in the three tables, the five that are not yet completed and closed are listed below:

Req. No.	Open Requirements	Page No.
1-18	Department of Environmental Quality's completion of the Post-Trial Burn Health Risk Assessment Protocol	C-7
1-34	UMCDF's submittal of a Verification Statement regarding closure of Category 1 findings	C-14
1-37	Written authorization from the Oregon Environmental Quality Commission to start chemical agent operations	C-15
1-39	Demonstration that the Brine Reduction Area (BRA) is operational and ready to treat pollution abatement system brines generated from chemical agent operations.	C-16
2-14	Installation and/or implementation of all approved changes from Permit Modification Request (PMR) UMCDF-03-014-PFS(2) "Carbon Filter System Agent Monitoring Changes"	C-22

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.

No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-1	By February 5 of each year submit a Permit Modification Request updating Appendix A of Attachment H-3 [Umatilla Chemical Agent Disposal Facility (UMCDF) Implementing Documents] of the Permit Application, or a letter documenting that an update is not necessary.	I.L.1. and Attachment 6, Condition B.1.	<p>A Class 1 Permit Modification Request (PMR) ["Annual Procedure Review and Update," UMCDF-03-017-MISC(1R)], was submitted on March 24, 2003. The processing of this PMR was suspended due to settlement negotiations on a Notice of Noncompliance (NON) that related to enforceability of UMCDF operating procedures. A Mutual Agreement and Order (MAO) settling the NON was signed on January 29, 2004. It was agreed that this PMR would serve as the 2004 annual update. The Department of Environmental quality (DEQ or Department) issued a Notice of Deficiency (NOD) on this PMR on March 11, 2004. A response from the Permittees was received on May 13, 2004. The Department approved the PMR on July 20, 2004.</p> <p>Submittal of PMR UMCDF 03-017-MISC(1R) fulfilled this requirement.</p>	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.

No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-2	Provide all necessary equipment to the Department for installation and maintenance of a remote computer monitoring station in the Hermiston DEQ office to provide unrestricted 24-hour access to key UMCDF operating and monitoring data.	I.N.1.v. and Attachment 6, Condition B.1.	Monitoring equipment was installed at the DEQ Chemical Demilitarization Program office in Hermiston, Oregon on May 16, 2002 and maintenance criteria partially established on July 23, 2002. The Department and the Permittees have agreed on the maintenance and update requirements for the monitor. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
1-3	Prior to the re-introduction of hazardous waste into the Deactivation Furnace (DFS) and Liquid Incinerator 1 (LIC1) obtain Department acceptance of the Facility Modification Certification (FMC) Package for the replacement of Fiberglass Reinforced Plastic (FRP) in the pollution abatement systems.	I.R. and Attachment 6, Condition B.1.	UMCDF submitted FMC package (FMC-039), "LIC1 Replacement of FRP Piping," on May 26, 2004. The Department reviewed and accepted the FMC package on June 4, 2004. UMCDF submitted the FMC package (FMC-040), "DFS Replacement of FRP Piping," on July 8, 2004. The Department reviewed and accepted the FMC package on July 12, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.

No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-4	Updated as-built design document shall be submitted no less frequently than on an annual basis by permit modification request(s) that include the rationale for minor changes not previously approved by the Department.	II.A.2.iv and Attachment 6, Condition B.1.	The required annual permit modification requests have been submitted. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-5	Notify DEQ of all temporary and minor changes made to the UMCDF permitted design within an operating day (within 12 hours—by 12:00 pm of the end of each operating day).	II.A.2.vi. and Attachment 6, Condition B.1.	UMCDF submits daily reports to the Department. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-6	Submit quarterly Comprehensive Monitoring Program (CMP) Reports (within 90 days of completion of sampling event) and place a copy of each quarterly report in the Hermiston Public Library.	II.A.4.iv. and Attachment 6, Condition B.1.	The most recent CMP Quarterly Report was received on January 27, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-7	Submit an annual CMP report that summarizes the sampling results from the previous four quarters and place a copy of the report in the Hermiston Public Library.	II.A.4.iv. and Attachment 6, Condition B.1.	The most recent CMP Annual Report was received on December 31, 2003. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1, Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.				
No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-8	Maintain an independent oversight program and provide reports upon request by the DEQ. The independent oversight program is subject to review on a periodic basis.	II.E.5. and Attachment 6, Condition B.1.	The independent oversight program was initially accepted by the DEQ on June 9, 2000. UMCDF provided an update to the Department on May 30, 2002, and again on April 12, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-9	Maintain the most current revision of the UMCD Chemical Accident/Incident Response and Assistance (CAIRA) Plan on file at the UMCD Emergency Operations Center (EOC) and provide a copy to the DEQ for review.	II.H.1.i. and Attachment 6, Condition B.1.	The latest version of the UMCD CAIRA Plan (dated July 1, 2004) was provided to the Department on July 6, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-10	Submit semi-annual written progress reports on the status of the Chemical Stockpile Emergency Preparedness Program (CSEPP) (By January 31 and July 31 of each calendar year).	II.H.4. and Attachment 6, Condition B.1.	The most recent CSEPP report was received January 20, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.				
No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-11	Establish a "positive-pressurized" Emergency Operations Center (EOC) within 300 days of the effective date of the HW Permit.	II.H.5. and Attachment 6, Condition B.1.	EOC pressurization was demonstrated on December 12, 1997 (DEQ observed) and accepted on January 11, 1998. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-12	Within 90 days of the effective date of the HW Permit, adequately staff the EOC 24 hours a day, 7 days a week.	II.H.5. and Attachment 6, Condition B.1.	The Umatilla Chemical Depot (UMCD) notified the Department that 24-hour staffing was initiated on May 11, 1997. The Department conducted an unannounced nighttime inspection in October 1999 to confirm staffing. The staffing level was reaffirmed by the UMCD on May 15, 2000. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-13	Submit an annual statement (by March 31 of each calendar year) certifying that a program is in place to reduce the volume and toxicity of hazardous waste generated during the preceding calendar year (i.e. Pollution Prevention Certification).	II.I.1.ii. and Attachment 6, Condition B.1.	The most recent certification statement was submitted on March 11, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.				
No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-14	Submit an annual report to DEQ Headquarters covering the activities of each permitted Hazardous Waste Management Unit for the preceding calendar year.	II.I.1.iii. and Attachment 6, Condition B.1.	The most recent certification statement was electronically submitted to Department Headquarters on March 17, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-15	Submit an insurance policy compendium by February 12 of each year that includes a signed statement attesting that the compendium represents liability coverage equal to, or in excess of, the amounts submitted to the EQC on July 11, 1997.	II.M. and Attachment 6, Condition B.1.	The most recent insurance compendium and signed statement was submitted on January 29, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-16	Submit executive summaries of trial burn reports (for trial burns conducted after issuance of the UMCDF HW Permit) for all other Chemical Stockpile Disposal Program facilities within 60 days of issuing the report to the applicable state or federal regulatory agency.	II.N.1.i. and Attachment 6, Condition B.1.	UMCDF has provided trial burn report summaries (and trial burn reports when requested) from other demilitarization facilities as required. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.				
No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-17	Provide an annual inventory (by June 30 of each calendar year) of all Chemical Demilitarization Program Toxicity reports issued by the Army or its contractors pertaining to agents GB, VX and HD.	II.N.1.ii. and Attachment 6, Condition B.1.	The most recent toxicity report index was provided on April 22, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-18	UMCDF must receive notification from the DEQ that the Post Trial Burn Risk Assessment Protocol has been prepared.	II.N.3. and Attachment 6, Condition B.1.	The Post-Trial Burn Risk Assessment Protocol has undergone public review and comment and is being finalized. The Department expects completion of this requirement no later than July 30, 2004.	<input type="checkbox"/>
1-19	Provide a report indicating that UMCDF has satisfactorily responded to the recommendations regarding the UMCDF chemical agent air monitoring program as contained in the November 2003 Technical Report by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), a UMCDF independent oversight agency.	VI.A.1.vii. and II.E.5. and Attachment 6, Condition B.1.	The CDC conducted on-site visits in February and May 2004. On June 3, 2004 the CDC provided a "Technical Evaluation Report" of their most recent reviews of the chemical agent air monitoring program at UMCDF. UMCDF satisfactorily responded to the CDC recommendations and on July 20, 2004 the CDC provided a letter to the U.S. Army stating that "UMCDF's chemical warfare agent air-monitoring program is prepared to support agent operations." UMCDF has complied with this requirement	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).

Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.

No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-20	Submit a revised Brine Reduction Area (BRA) miscellaneous units performance test plan as a Permit Modification at least 180 days prior to proposed start date of performance test.	V.A.4.i. and Attachment 6, Condition D.13.	A Class 2 Permit Modification Request [UMCDF-03-010-BRA(2), "Brine Reduction Area Performance Test"] was submitted on April 8, 2003 and conditionally approved by the Department on May 28, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
1-21	Submit the Brine Reduction Area (BRA) limited stack test plan at least 90 days prior to the proposed start date of the limited stack test.	V.A.4.i. and Attachment 6, Condition D.13.	The limited stack test was intended to provide information relevant to operation of the BRA during surrogate operations. No limited stack test plan has been submitted because the BRA has not been used for surrogate operations. Approval of the BRA Performance Test Plan (see Requirement 1-20 above) satisfied this requirement. See Requirement 1-20.	<input checked="" type="checkbox"/>
1-22	Submit a quarterly report (within 30 days of the end of each calendar quarter) containing operating information for each incinerator (operating time, malfunctions, waste feed cut-offs, etc.).	VI.A.4.iii. and Attachment 6, Condition B.1.	The most recent quarterly report was submitted on July 23, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.

No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-23	The Permittee may not start agent operations in the Deactivation Furnace System (DFS) until the Department has approved in writing both the surrogate trial burn test data and the operating parameters proposed as a result of the surrogate trial burn.	VI.A.5.iv. and Attachment 6, Condition B.1.	The DFS Surrogate Trial Burn Report was submitted on December 15, 2003 and accepted by the Department on July 7, 2004. A Class 1 Permit Modification Request (PMR) [UMCDF-04-026-DFS(1R) "Deactivation Furnace System Proposed Operating Parameters"] was submitted on July 9, 2004 and approved by the Department on July 22, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
1-24	The Permittee may not start agent operations in Liquid Incinerator 1 until the Department has approved in writing both the surrogate trial burn test data and the operating parameters proposed as a result of the surrogate trial burn.	VI.A.5.iv. and Attachment 6, Condition B.1.	The LIC1 Surrogate Trial Burn Report was submitted on May 8, 2003 and accepted by the Department on June 7, 2004. A Class 1 Permit Modification Request UMCDF-03-031-LIC(1R) "Liquid Incinerator 1 Proposed Operating Parameters" was submitted on June 19, 2003 and approved by the Department on July 16, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.				
No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-25	Submit a report of all quarterly Continuous Emission Monitoring (CEM) systems calibration error and annual CEM performance specification tests.	VI.A.8.ii. and Attachment 6, Condition B.1.	The most recent Absolute Calibration Audit quarterly report for the UMCDF furnaces was submitted on July 12, 2004. The most recent report on Performance Specification Test results was submitted on April 28, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-26	Submit an annual report (by February 1 of each year) summarizing quality control problems experienced with stack gas monitors, chemical agent ventilation system monitors, and ambient air chemical agent monitors during the previous calendar year.	VII.A.5.i. and Attachment 6, Condition B.1.	The most recent annual report was submitted on January 29, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
1-27	The Permittee must implement a waste/munitions tracking procedure and system approved by the Department.	III.E.5. and Attachment 6, Condition D.1.	A Munitions Tracking Procedure (SOP UM-OP-015) was submitted to the Department on September 25, 2003. The SOP was subsequently revised and re-submitted to the Department on April 27, 2004. The Department approved the Munitions Tracking Program on June 21, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.

No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-28	The Permittee must obtain approval of the Class 3 Permit Modification Request UMCDF-00-004-WAST(3), "Permitted Storage in J-Block" providing additional permitted storage for secondary wastes generated by UMCDF operations. Any required physical and/or procedural changes necessary for the storage of secondary wastes must be implemented by UMCDF.	Attachment 6, Condition D.2.	<p>UMCDF-00-004-WAST(3) was submitted on February 29, 2000 and approved by the Department on June 18, 2002. The Permittees submitted a letter on April 14, 2004 indicating that igloos required to start agent operations had the required physical changes installed. A Department inspection on June 11, 2004 did not confirm that the physical modifications to the igloos were complete. A re-inspection on June 25, 2004 confirmed that the required changes to the igloos had been made.</p> <p>UMCDF has complied with this requirement.</p>	<input checked="" type="checkbox"/>
1-29	No less than 30 days, nor more than 90 days, prior to the beginning of chemical agent operations the Permittee must notify the Department in writing that each of the UMCDF drawings and specifications in the HW Permit Application have been certified by a qualified Professional Engineer within the preceding 12 months, or that the Permittee has reviewed them and determined that no update is needed.	Attachment 6, Condition D.3.	<p>On June 15, 2004 UMCDF submitted notification to the Department regarding the certification of drawings and specifications. On June 25, 2004, the Department determined the submittal met the requirements of Attachment 6, Condition D.3.</p> <p>UMCDF has complied with this requirement.</p>	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.				
No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-30	The Permittee must complete the characterization and/or segregation of UMCD wastes and obtain Department approval of Permit Modification Request(s) to add all UMCD wastes to the list of permitted waste feed streams to the Liquid Incinerators, Deactivation Furnace System and/or the Metal Parts Furnace.	Attachment 6, Condition D.4.	A Class 2 Permit Modification Request [UMCDF-03-035-WAST(2)] was received on July 22, 2003 and approved by the Department on March 19, 2004. A related PMR [UMCDF-04-008-MPF(1R)] was submitted to the Department on April 12, 2004 and approved on July 23, 2004. UMCDF has complied with this requirement	<input checked="" type="checkbox"/>
1-31	No later than September 1, 2002, the Permittee must notify the Department in writing that a technical decision has been reached on the treatment method that will be utilized for agent-contaminated carbon. The notification must include supporting information concerning the basis for the decision.	Attachment 6, Condition D.5.	The Permittees notified the Department on September 3, 2002 that UMCDF intends to utilize the Carbon Micronization System to treat spent carbon in the Deactivation Furnace System. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.				
No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-32	No less than 45 days, nor more than 90 days, prior to the beginning of chemical agent operations the Permittee must submit a progress report to the Department concerning the status of the design and implementation of the carbon treatment technology identified per Permit Condition D.5. of this Attachment (See No. 1-31).	Attachment 6, Condition D.6.	UMCDF submitted a progress report on the status of the Carbon Micronization System on May 27, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
1-33	The Permittee must provide to the Department copies of Operational Readiness Reviews conducted in accordance with Policy Statement 28 from the U.S. Army Chemical Materials Agency (CMA).	Attachment 6, Condition D.7.	UMCDF submitted a an Operational Readiness Review (ORR) Final Report and Category 2 Finding Closure Schedule on June 10, 2004. The Department also prepared an internal report of Department staff observation of the ORR process. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).

◆ Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.				
No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-34	The Permittee must provide to the Department a verification statement that all "Category 1" findings generated from the Operational Readiness Review have been resolved in accordance with CMA Policy Statement No. 28.	Attachment 6, Condition D.8.	A verification statement was submitted on July 23, 2004. Four Category 1 findings remain open.	◆
1-35	The Permittee must provide to the Department the schedule for resolution of Category 2 findings generated from the Operational Readiness Review.	Attachment 6, Condition D.9.	UMCDF submitted a an Operational Readiness Review (ORR) Final Report and Category 2 Finding Closure Schedule on June 10, 2004. An updated Category 2 Finding Closure Schedule was submitted on July 23, 2004 (included with the verification statement submitted for requirement 1-34, above).	☑

- (1) ☑ Closed, no further action needed (except ongoing compliance, where applicable).
 ◆ Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.

No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-36	The Permittee must provide to the Department a copy of the U.S. Army Chemical Materials Agency's authorization to start chemical agent operations.	Attachment 6, Condition D.10.	Conditional approval for the start of chemical agent operations was granted by the Chemical Materials Agency on June 29, 2004. Conditions included resolution of Category 1 Findings (see Requirement 1-34); approval by the Environmental Quality Commission (see Requirement 1-37); and conclusion of the 30-day period following congressional notification. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
1-37	Obtain written notification from the Environmental Quality Commission authorizing the start of agent shakedown operations.	Attachment 6, Condition D.11	The Commission is scheduled to meet on August 13, 2004 in Hermiston, Oregon to consider authorizing UMCDF to commence agent shakedown operations.	<input type="checkbox"/>
1-38	No later than February 28, 2003, the Permittee must submit a Permit Modification Request to DEQ revising the Laboratory Quality Control Plan (LQCP), UM-PL-017 and Standard Operating Procedure (SOP) for Agent Extraction and Analyses of Wastes.	Attachment 6, Condition D.12.	A Class 1 Permit Modification Request [UMCDF-03-011-WAST(1R)] was received on February 27, 2003 and approved by the Department on May 28, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-1. Compliance with the Conditions of the Hazardous Waste Storage and Treatment Permit.				
No.	REQUIREMENT	HW PERMIT CONDITION	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
1-39	UMCDF must have the Brine Reduction Area (BRA) operational and ready to treat pollution abatement system brines generated from chemical agent operations.	Attachment 6, Condition D.13	The BRA Performance Test was conducted July 12-July 15, 2004. Preliminary results were submitted on July 23, 2004 and are under review by the Department.	◆

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

[These are requirements from conditional approvals of Permit Modification Requests (PMR), Facility Construction Certifications (FCC) packages, and Facility Modification Certifications (FMC) packages. They could also be considered requirements of the HW Permit, Attachment 6, Condition B.3.]

Table C-2. Compliance with Conditional Department Approvals.				
No.	REQUIREMENT	Permit Mod or FCC/FMC Package	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
2-1	Submit Permit Modification Requests with the final approved baseline alarm and interlock matrices for Liquid Incinerator 2, Deactivation Furnace, Metal Parts Furnace, and the Brine Reduction Area.	UMCDF-02-012-MISC(1R), "Update of Section D-1 and Section D-1B-01 of Attachment D-3 of the Application"	The required permit modification requests have been submitted by the Permittees and approved by the Department. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-2	Address the issues related to the scrubber tower packed bed minimum differential pressure Automatic Waste Feed Cut Off set point for the Deactivation Furnace system (DFS) and Metal Parts Furnace (MPF).	UMCDF-02-023-LIC(1R), "LIC 1 & 2 Scrubber dP AWFCO & Prealarm"	These issues were addressed through the review and approval process of the DFS and MPF surrogate trial burn plans submitted by the Permittees. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-3	Within 30 days of relocating the scrubber caustic lines on the LIC1, LIC2, DFS and MPF systems submit a PMR to update the RCRA drawings showing the as-built construction of the approved changes.	UMCDF-02-008-PAS(1R), "Relocation of Scrubber Caustic Line"	These issues were addressed through two Class 1 permit modification requests submitted by the Permittees and approved by the Department. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-2. Compliance with Conditional Department Approvals.				
No.	REQUIREMENT	Permit Mod or FCC/FMC Package	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
2-4	No later than March 31, 2003 the Permittees must provide the Department the results of the ongoing engineering evaluation of the brine strainer coating, along with the planned path forward to implement a long-term solution.	UMCDF-03-008-PAS(1R), "Pollution Abatement System Brine Strainer Deviation"	UMCDF submitted the required engineering evaluation on April 15, 2003, which was accepted by the Department on May 2, 2003. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-5	At least 30 days prior to the start of chemical agent operations, the Permittees must submit any PMRs necessary for implementation of the long-term solution for problems with the brine strainer coatings.	UMCDF-03-008-PAS(1R), "Pollution Abatement System Brine Strainer Deviation"	UMCDF submitted Permit Modification Request 03-025-PAS(1R) ("Pollution Abatement System Quench Brine Strainer Update") on June 5, 2003. The Department approved the PMR on June 27, 2003, which closed out the issues surrounding the PAS brine strainers. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-2. Compliance with Conditional Department Approvals.				
No.	REQUIREMENT	Permit Mod or FCC/FMC Package	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
2-6	Submit a Permit Modification Request (PMR) to establish an automatic waste feed cut off set point for the Brine Reduction Area (BRA) Pollution Abatement System (PAS) Exhaust Stack Flow Rate and an operating range for the Drum Dryer Steam Pressure prior to conducting the BRA Performance Test.	UMCDF-03-053-BRA(1R), "Brine Reduction Area Shakedown"	The required information was included in three different PMRs approved by the Department prior to the BRA Performance Test conducted July 12-15, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-7	Submit an addendum to the Container Handling Building (CHB) Facility Construction Certification (FCC) package with clarification of listed issues no later than February 8, 2002	Department Acceptance of FCC Package "CHB60"	The addendum was submitted to the Department on February 7, 2002 UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-8	Conduct a Facility Construction Certification (FCC) prior to introduction of agent and/or decon solution after replacement of valve 11-PSV-026 [conservation vent for Agent Collection System (ACS) Tanks 101 and 102].	Department Acceptance of FCC Package "ACS 00/40"	The Facility Modification Certification (FMC) Package 029 (Agent Collection System) was accepted by the Department on March 2, 2004.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.


Table C-2. Compliance with Conditional Department Approvals.				
No.	REQUIREMENT	Permit Mod or FCC/FMC Package	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
2-9	Upon acceptance of the Facility Construction Certification (FCC) of the Pollution Abatement System (PAS) common systems on May 22, 2002 the Department expressed concerns about the Non-Destructive Examination (NDE) weld testing for piping systems prior to the start of chemical agent operations.	Department Acceptance of FCC Package "PAS Common Systems"	On October 7, 2003 UMCDF submitted a letter to the Department in response to concerns about the NDE testing. The Department accepted the response on February 20, 2004. The issues have been resolved. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-10	The Department indicated in its acceptance letter of the Facility Construction Certification (FCC) for the Munitions Demilitarization Building (MDB) that it would conduct a formal inspection of MDB floor coatings prior to agent operations.	Department Acceptance of FCC Package "MDB Systems"	Department inspection of the MDB floor coatings was completed on July 21, 2004. A letter will be sent to UMCDF to confirm completion of the inspections. The Department will be conducting ongoing inspections of the floor coating integrity.	<input checked="" type="checkbox"/>
2-11	The Department indicated in its acceptance of the Facility Construction Certification (FCC) Package of the Munitions Demilitarization Building (MDB) Heating, Ventilation, and Cooling (HVC) System that it would conduct a formal inspection of the filter unit vestibules to verify water tightness.	Department Acceptance of FCC Package "MDB HVC System"	The Department conducted multiple inspections of the MDB HVC filter unit vestibules and determined on July 7, 2004 that repairs had been adequate to demonstrate water tightness. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-2. Compliance with Conditional Department Approvals.				
No.	REQUIREMENT	Permit Mod or FCC/FMC Package	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
2-12	The Department required that the Permittees conduct an inspection of the Bulk Drain Stations (BDS) equipment before the Department would accept the BDS Facility Construction Certification (FCC) Package for the BDS.	Department Non-acceptance of FCC Package "BDS System"	A revised FCC Package was submitted on August 21, 2002 and accepted by the Department on September 27, 2002. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-13	The jam sensors on the Deactivation Furnace System (DFS) feed chutes and heated discharge conveyor (HDC) had not yet been installed at the time FCC was conducted on this portion of the DFS system. The UMCDF Permittees were requested to notify the Department upon completion of the work.	Department Acceptance of FCC Package "DFS Feed Chutes, Access Blast Doors, and HDC"	The Department observed the installation of the DFS jam sensors and sent a letter to the UMCDF Permittees on January 6, 2003 indicating this issue was closed. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-2. Compliance with Conditional Department Approvals.

No.	REQUIREMENT	Permit Mod or FCC/FMC Package	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
2-14	All approved changes from this Permit Modification Request (PMR) must be installed and implemented prior to the start of chemical agent operations. A PMR must be submitted to incorporate into the HW Permit the new operating conditions for determining thermal equilibrium of the pollution abatement system carbon filter system (PFS).	UMCDF-03-014-PFS(2) "Carbon Filter System Agent Monitoring Changes"	<p>PMR UMCDF-04-031-PFS(1R) Pollution Abatement System Carbon Filter System Dry Conditions was received on July 14, 2004. UMCDF submitted a supplemental information package on July 23, 2004. This PMR is under Department review.</p> <p>An additional Class 1 Permit Modification Request (PMR) UMCDF-04-005-PFS(1R) "As-Built for the Carbon Filter System Agent Monitoring Changes" related to the implementation of changes was submitted by UMCDF on July 22, 2004 and is under Department review.</p>	

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-2. Compliance with Conditional Department Approvals.				
No.	REQUIREMENT	Permit Mod or FCC/FMC Package	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
2-15	At least seven (7) days prior to the start of the BRA performance test, the Permittees must provide the Department with documentation showing that the continuous emission monitors (CEMs) for NO _x , SO _x and CO to be used for the performance test will operate in accordance with the sampling and quality control documents included in the BRA Performance Test Plan.	UMCDF-03-010-BRA(2), "Brine Reduction Area Performance Test"	UMCDF submitted the additional documentation to the Department on June 17, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-16	At least ten (10) days prior to the start of the BRA performance test, the Permittees must provide the Department with information identifying the final composition and purity of the six metals spiking solutions that will be used.	UMCDF-03-010-BRA(2), "Brine Reduction Area Performance Test"	UMCDF submitted the additional documentation to the Department on June 9, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-2. Compliance with Conditional Department Approvals.

No.	REQUIREMENT	Permit Mod or FCC/FMC Package	STATUS UPDATE (As of July 23, 2004)	COMPLIANCE STATUS (1)
2-17	At least seven (7) days prior to the start of the BRA performance test, the Permittees must provide the Department with information from pre-testing activities confirming that excessive filter loading will not occur for the particle size distribution sample.	UMCDF-03-010-BRA(2), "Brine Reduction Area Performance Test"	UMCDF submitted the additional documentation to the Department on June 25, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-18	Prior to the start of the BRA performance test, the Permittees must submit (and receive approval for) a permit modification request that updates Annex C of the SAP (Appendix A of the BRA PTP).	UMCDF-03-010-BRA(2), "Brine Reduction Area Performance Test"	Permit Modification Request UMCDF-04-024-BRA(1R), "Brine Reduction Area Performance Test Plan Changes" was submitted on June 24, 2004 and approved by the Department on June 28, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
2-19	No later than June 22, 2004, UMCDF must meet with the Department to establish a path forward for determining an acceptable characterization sampling approach for brines.	UMCDF-03-010-BRA(2), "Brine Reduction Area Performance Test"	UMCDF met with the Department on June 22, 2004 and submitted confirmation of the proposed sampling approach on July 23, 2004.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-3. Compliance with the Requirements of Other Environmental Permits.				
No.	REQUIREMENT	PERMIT CONDITION	STATUS UPDATE (As of July 30, 2004)	COMPLIANCE STATUS (1)
3-1	Air Pollution Control Discharge Permit (ACDP) No. 25-0024 requires that the Permittee develop an Emergency Safety Vent operating plan.	ACDP Condition 3.1.b.	UMCDF maintains a written plan for the operation of the pollution abatement system carbon filter system bypass. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
3-2	ACDP No. 25-0024 requires that the Permittee develop and implement a written startup, shutdown, and malfunction plan for each incinerator and that a copy of the procedure be provided to the Department for prior authorization if UMCDF sources are expected to emit excess emissions of criteria pollutants during startup, shutdown, or scheduled maintenance.	ACDP Conditions 3.1.c. and 7.5.d.	UMCDF maintains a written startup, shutdown, and malfunction plan for each incinerator (UM-PL-059). A copy of the procedure is available for review but was not submitted to the Department because there are no UMCDF sources that are expected to emit excess emissions of criteria pollutants during startup, shutdown, or scheduled maintenance. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
3-3	ACDP No. 25-0024 requires the Permittee to establish training programs that meet the applicable requirements of 40 CFR 63 and American Society of Mechanical Engineers (ASME) standards.	ACDP Conditions 3.1.i. and 3.1.ii.	UMCDF has developed and implemented a site-specific training program that meets the requirements. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-3. Compliance with the Requirements of Other Environmental Permits.

No.	REQUIREMENT	PERMIT CONDITION	STATUS UPDATE (As of July 30, 2004)	COMPLIANCE STATUS (1)
3-4	ACDP No. 25-0024 requires the Permittee to submit to the Department by March 15 of each year an annual report concerning operating parameters, changes which affected air contaminant emissions, major maintenance performed on pollution control equipment, and a summary of air quality complaints received	ACDP Condition 7.3.	The most recent annual report was received on March 9, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
3-5	ACDP No. 25-0024 requires the Permittee to submit to the Department by January 30 and July 30 of each year an Excess Emissions and Continuous Monitoring Performance Report and a Summary Report of Start-up and Shutdown Events Occurring During Report Period	ACDP Condition 7.4.	The most recent semi-annual reports were received on January 28, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
3-6	ACDP Permit No. 25-0024 requires that if more than 10 excess emission events or operating parameter limit violations occur during a 60-day period, the permittee must submit a written report within 5 calendar days of the 10 th violation.	ACDP Conditions 3.1.g. and 7.5.c.	The most recent report submitted under this permit condition was received on July 15, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-3. Compliance with the Requirements of Other Environmental Permits.

No.	REQUIREMENT	PERMIT CONDITION	STATUS UPDATE (As of July 30, 2004)	COMPLIANCE STATUS (1)
3-7	ACDP No. 25-0024 requires that any time an action taken by the permittee during a startup, shutdown or malfunction is not consistent with the procedures specified in the Startup, Shutdown, and Malfunction plan, the permittee must report (by phone or fax) actions taken within 2 working days after commencing action, followed by a letter postmarked within 7 working days after the end of the event.”	ACDP Condition 7.5.e.	The most recent report submitted under this permit condition was received on June 23, 2004. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
3-8	Water Pollution Control Facilities (WPCF) Permit No. 101456 (issued March 4, 2003) requires that quarterly discharge and inspection reports be submitted to the Department within 15 days after the end of the quarter.	WPCF Permit No. 101456 Schedule B Conditions 2.a. and 2.b.	UMCDF submits quarterly reports to the Department’s Water Quality (WQ) Program. The WQ Program conducted a file review and on-site inspection in May 2004 and found UMCD to be in compliance with WPCF Permit No. 101456. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-3. Compliance with the Requirements of Other Environmental Permits.				
No.	REQUIREMENT	PERMIT CONDITION	STATUS UPDATE (As of July 30, 2004)	COMPLIANCE STATUS (1)
3-9	The UMCDF National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit No. 200-J requires that discharge and inspection reports be submitted to the Department.	NPDES Permit 200-J	UMCDF submits quarterly reports to the Department's Water Quality (WQ) Program. The WQ Program conducted a file review and on-site inspection in May 2004 and found UMCD to be in compliance with NPDEA Permit No. 200-J. UMCDF has maintained compliance with this requirement.	<input checked="" type="checkbox"/>
3-10	A National Permit was issued to the U.S. Army by the U. Environmental Protection Agency (EPA) National Program Chemicals Division (NPCD) pursuant to the Toxic Substances Control Act (TSCA) ("TSCA Permit") requires that prior to the start of operations UMCDF submit a report of the results of its campaign to detect and eliminate ancillary process equipment that contains (polychlorinated biphenyl) PCB contaminants.	TSCA Permit Condition 2.b.(1)	On July 9, 2003 UMCDF submitted a report to the EPA NPCD titled "Evaluation of PCB Sources at Umatilla Chemical Agent Disposal Facility." On January 2, 2004 the EPA indicated that it accepted the report as meeting the requirements of this TSCA permit condition. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

- (1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-3. Compliance with the Requirements of Other Environmental Permits.

No.	REQUIREMENT	PERMIT CONDITION	STATUS UPDATE (As of July 30, 2004)	COMPLIANCE STATUS (1)
3-11	The TSCA Permit requires UMCDF to submit to the NPCD certain required documents (e.g., RCRA application documents, trial burn plans and any modifications related to trial burn plans).	TSCA Permit Condition 2.b.(4)	Contact with the EPA TSCA Program indicates that UMCDF has provided the required information. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
3-12	The TSCA Permit requires that UMCDF obtain written authorization from EPA to dispose of PCBs prior to beginning shakedown operations on M55 rockets with firing tubes containing 50 ppm PCBs.	TSCA Permit Conditions 1.c. and 2.e.(1)B.	EPA provided approval on July 9, 2004 to UMCDF to begin PCB disposal operations no earlier than July 17, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
3-13	The Draft Hazardous Waste (HW) Storage Permit for the Umatilla Chemical Depot (UMCD) requires UMCD to provide to the Department a copy of the UMCD Standard Operating Procedures (SOP) related to operational limitations during adverse weather conditions.	Draft UMCD HW Storage Permit Condition II.A.4.i.	UMCD submitted the required information on May 6, 2004. The Department completed its review on June 14, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

Table C-3. Compliance with the Requirements of Other Environmental Permits.

No.	REQUIREMENT	PERMIT CONDITION	STATUS UPDATE (As of July 30, 2004)	COMPLIANCE STATUS (1)
3-14	The UMCD HW Storage Permit requires that copies be provided to the Department of the written SOPs addressing all aspects of the movement of munitions and bulk items (to include loading of the munitions into transport containers and onto transport vehicles, and other associated operational activities).	Draft UMCD HW Storage Permit Condition VI.A.1.	UMCD submitted the required information on May 6, 2004. The Department completed its review on June 14, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
3-15	The UMCD HW Storage Permit requires that documentation be provided to the Department concerning the training requirements for personnel responsible for munitions movement.	Draft UMCD HW Storage Permit Condition VI.A.2.	UMCD submitted the required information on May 6, 2004. The Department completed its review on June 14, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>
3-16	The UMCD HW Storage Permit requires that documentation be provided to the Department substantiating that the roads to be used for munitions movement have been evaluated and determined to be fully capable of safe usage under maximum load conditions.	Draft UMCD HW Storage Permit Condition VI.A.4.	UMCD submitted the required information on May 6, 2004. The Department completed its review on June 14, 2004. UMCDF has complied with this requirement.	<input checked="" type="checkbox"/>

(1) Closed, no further action needed (except ongoing compliance, where applicable).
 Not yet complete.

APPENDIX D

**DEPARTMENT ENFORCEMENT
ACTIONS**

**“Compliance Assessment for Start of Agent Operations”
Umatilla Chemical Agent Disposal Facility**

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Notice of Non-Compliance (NON):	ERH-02-001
Date NON Issued:	September 4, 2002
Issued to:	Umatilla Chemical Depot (UMCD) U.S. Army Program Manager for Elimination of Chemical Weapons (PM ECW) Washington Demilitarization Company (WDC)
Description of Violation:	Based upon an inspection conducted on August 26, 2002 the Department determined that the Permittees modified the Brine Reduction Area Tank system (a permitted hazardous waste management unit) by constructing a system to transfer brines to a tanker truck. The Permittees did not obtain Department approval of the modification through a Permit Modification Request. The Permittees responded to Violation 2 of the NON on September 17, 2002 and to Violation 1 on October 3, 2002.
Referred to Office of Compliance and Enforcement:	September 11, 2002
Notice(s) of Violation (NOV):	LQ/HW-ER-03-043 and LQ/HW-ER-03-044
Date NOV(s) Issued:	February 10, 2004
Issued to:	PM ECW WDC
Amount of Civil Penalty Assessed:	PM ECW: \$15,000 WDC: \$15,000
Resolution of Violation:	On February 27, 2004 PM ECW and WDC filed an Answer, Request for Hearing and Request for Informal Discussion on the Notices of Violation and Assessments of Civil Penalty. The Permittees contended that they followed the proper procedure for implementing a temporary modification and that no Permit Modification Request was required for the modification to the Brine Reduction Area Tank system. This case is still pending with the DEQ Office of Compliance and Enforcement.
CASE PENDING	

Notice of Non-Compliance (NON):	ERH-02-002
Date NON Issued:	September 13, 2002
Issued to:	Umatilla Chemical Depot (UMCD) U.S. Army Program Manager for Elimination of Chemical Weapons (PM ECW) Washington Demilitarization Company (WDC)
Description of Violation:	On August 24, 2002 the Permittees notified the Department that one of its laboratory personnel had left UMCD while carrying a small vial of diluted chemical agent used to calibrate the agent air monitoring devices. The Department determined that UMCD failed to follow its Standard Operating Procedure (SOP) concerning the handling of dilute chemical agent standards. The Permittees responded to the NON on September 30, 2002.
Referred to Office of Compliance and Enforcement:	September 17, 2002
Notice(s) of Violation (NOV):	LW/HW-ER-02-169, LW/HW-ER-02-203, and LW/HW-ER-02-204
Date NOV(s) Issued:	February 25, 2003
Issued to:	PM ECW WDC UMCD
Amount of Civil Penalty Assessed:	PM ECW: \$3,600 WDC: \$3,600 UMCD \$4,200
Resolution of Violation:	On March 26, 2003 the Permittees responded to the requirements in the NOV's to document corrective actions taken to prevent a recurrence of the violations and assure the Department that it was following its SOPs. On March 14, 2003 the Permittees filed an Answer, Request for Hearing and Request for Informal Discussion on the Notices of Violation and Assessments of Civil Penalty. The Permittees contended that the Standard Operating Procedure was not an enforceable document. The Department and the Permittees entered negotiations and a Mutual Agreement and Order was signed on January 29, 2004. The Permittees agreed to pay a combined civil penalty of \$3,800. The Department agreed to act on a pending Permit Modification Request intended to clarify which UMCD operational procedures would be listed in the Permit Application and enforceable by the Department. The Permittees paid the civil penalty on February 18, 2004.

CASE RESOLVED

Notice of Non-Compliance (NON):	ERH-02-003
Date NON Issued:	September 18, 2002
Issued to:	Umatilla Chemical Depot (UMCD) U.S. Army Program Manager for Elimination of Chemical Weapons (PM ECW) Washington Demilitarization Company (WDC)
Description of Violation:	On August 29, 2002 the Permittees notified the Department that a level indicator on Liquid Incinerator 1's quench tower did not operate properly during manual purging, a necessary regular maintenance activity. The Department determined that UMCDF continued to feed hazardous waste when a required instrument was not operating properly. The Permittees responded to the NON on September 30, 2002.
Referred to Office of Compliance and Enforcement:	October 2, 2002
Notice(s) of Violation (NOV):	DEQ's Office of Compliance and Enforcement decided not to pursue formal enforcement action.
Date NOV(s) Issued:	Not issued.
Amount of Civil Penalty Assessed:	None.
Resolution of Violation:	The Permittees submitted a permit modification request on September 19, 2002 to allow UMCDF to continue feeding hazardous waste even when this instrument was not operating properly during intermittent and short maintenance periods. The Department approved the request on September 23, 2002.
CASE RESOLVED	

Notice of Non-Compliance (NON):	ERH-02-004
Date NON Issued:	September 18, 2002
Issued to:	Umatilla Chemical Depot (UMCD) U.S. Army Program Manager for Elimination of Chemical Weapons (PM ECW) Washington Demilitarization Company (WDC)
Description of Violation:	On August 30, 2002 the Permittees notified the Department that five permitted emission rates for Liquid Incinerator 1 had been exceeded during a "mini-test" being conducted in preparation for surrogate trial burns.
Referred to Office of Compliance and Enforcement:	Not referred.
Notice(s) of Violation (NOV):	Not issued.
Date NOV(s) Issued:	Not applicable
Amount of Civil Penalty Assessed:	None.
Resolution of Violation: CASE RESOLVED	No action was required, other than to comply with a plan previously agreed to regarding avoidance of future violations during testing activities.

Notice of Non-Compliance (NON):	ERH-02-005
Date NON Issued:	September 25, 2002
Issued to:	Umatilla Chemical Depot (UMCD) U.S. Army Program Manager for Elimination of Chemical Weapons (PM ECW) Washington Demilitarization Company (WDC)
Description of Violation:	On September 10, 2002 the Permittees notified the Department that UMCD had failed to notify the Department when the same automatic waste feed cutoff (AWFCO) occurred five times within 30 operating days. The Department determined that waste feed resumed to the Liquid Incinerator 1 after the fifth AWFCO without prior approval from the Department, a violation of the UMCD HW Permit. The Permittees responded to the NON on October 2 and October 30, 2002.
Referred to Office of Compliance and Enforcement:	Not referred.
Notice(s) of Violation (NOV):	Not issued.
Date NOV(s) Issued:	Not applicable.
Amount of Civil Penalty Assessed:	None.
Resolution of Violation:	The Permittees initiated appropriate corrective actions and provided the Department the information required in the NON.
CASE RESOLVED	

Notice of Non-Compliance (NON):	ERH-03-001
Date NON Issued:	January 21, 2003
Issued to:	Umatilla Chemical Depot (UMCD) U.S. Army Program Manager for Elimination of Chemical Weapons (PM ECW) Washington Demilitarization Company (WDC)
Description of Violation:	On October 1, 2002 the Permittees notified the Department that UMCD had been processing hazardous waste in Liquid Incinerator 1 with some of required permit instrumentation disabled. The Department determined that UMCD did not properly monitor operating conditions during hazardous waste processing, a violation of the UMCD HW Permit. The Permittees responded to the NON on September 25, 2003 objecting to the classification of the violation. (This incident also resulted in an Air Contaminant Discharge Permit violation—see NON ERH-03-002.)
Referred to Office of Compliance and Enforcement:	March 4, 2003
Notice(s) of Violation (NOV):	LQ/HW-ER-03-049 and LQ/HW-ER-03-050
Date NOV(s) Issued:	March 18, 2004
Issued to:	PM ECW WDC
Amount of Civil Penalty Assessed:	PM ECW: \$16,800 WDC: \$16,800
Resolution of Violation:	On April 6, 2004 PM ECW and WDC filed an Answer, Request for Hearing and Request for Informal Discussion on the Notices of Violation and Assessments of Civil Penalty. The Permittees contend that the Department had approved the disabling of the instrumentation. An informal hearing was held on May 12, 2004. On June 17, 2004 the Permittees submitted some additional information regarding the noncompliance. This case is still pending with the Office of Compliance and Enforcement.
CASE PENDING	

Notice of Non-Compliance (NON):	ERH-03-002
Date NON Issued:	January 21, 2003
Issued to:	Umatilla Chemical Depot (UMCD)
Description of Violation:	On October 1, 2002 the Permittees notified the Department that UMCDF had been processing hazardous waste in Liquid Incinerator 1 with some of required permit instrumentation disabled. The Department determined that UMCDF did not properly monitor operating conditions during hazardous waste processing, a violation of the Air Contaminant Discharge Permit. (This incident also resulted in a HW Permit violation—see NON ERH-03-001.)
Referred to Office of Compliance and Enforcement:	February 28, 2003
Notice(s) of Violation (NOV):	DEQ's Office of Compliance and Enforcement decided not to pursue formal enforcement action.
Date NOV(s) Issued:	Not issued.
Issued to:	Not applicable.
Amount of Civil Penalty Assessed:	None.
Resolution of Violation:	No formal action was pursued against UMCD for this violation.
CASE RESOLVED	

Notice of Non-Compliance (NON):	ERH-03-005(a)
Date NON Issued:	May 12, 2003
Issued to:	Umatilla Chemical Depot (UMCD)
Description of Violation:	The Permittees notified the Department that on March 29, 2003, during a test being conducted on the Deactivation Furnace System (DFS), UMCD exceeded the allowed semi-volatile emission rates (lead and cadmium combined). The Department determined that the exceedance was a violation of the Air Contaminant Discharge Permit.
Referred to Office of Compliance and Enforcement:	Not referred.
Notice(s) of Violation (NOV):	Not referred.
Date NOV(s) Issued:	Not issued.
Issued to:	Not applicable
Amount of Civil Penalty Assessed:	None.
Resolution of Violation: CASE RESOLVED	The Department issued a letter on April 16, 2003 outlining the steps to be completed prior to resuming waste feed to the DFS. No additional corrective action was required.

Notice of Non-Compliance (NON):	ERH-03-005(b)
Date NON Issued:	July 18, 2003
Issued to:	Umatilla Chemical Depot (UMCD) U.S. Army Program Manager for Elimination of Chemical Weapons (PM ECW) Washington Demilitarization Company (WDC)
Description of Violation:	During an inspection conducted by the Department on July 10, 2003, the inspector noted three containers that had not been labeled properly with an accumulation start date, a violation of hazardous waste management regulations.
Referred to Office of Compliance and Enforcement:	Not referred.
Notice(s) of Violation (NOV):	Not referred.
Date NOV(s) Issued:	Not applicable
Issued to:	Not applicable.
Amount of Civil Penalty Assessed:	None.
Resolution of Violation:	Corrective action was taken immediately upon discovery and no additional action was required.
CASE RESOLVED	

Notice of Non-Compliance (NON):	ERH-03-006
Date NON Issued:	August 18, 2003
Issued to:	Umatilla Chemical Depot (UMCD) U.S. Army Program Manager for Elimination of Chemical Weapons (PM ECW) Washington Demilitarization Company (WDC)
Description of Violation:	On August 11, 2003 the Permittees notified the Department that the Metal Parts Furnace (MPF) had processed hazardous waste when the pollution abatement system carbon filter system (PFS) were in "bypass" mode and offline. Operation of the MPF with the PFS offline is a violation of several conditions in the HW Permit. The NON required UMCDF to cease hazardous waste feed to both the Metal Parts Furnace and the Deactivation Furnace System until the Department granted written authorization to re-start the furnaces. The Permittees responded on August 28, 2003.
Referred to Office of Compliance and Enforcement:	October 13, 2003
Notice(s) of Violation (NOV):	LQ/HW-ER-03-0181 and LQ/HW-ER-03-0182.
Date NOV(s) Issued:	May 10, 2004
Issued to:	PMECW WDC
Amount of Civil Penalty Assessed:	PMECW: \$92,400 WDC: \$92,400
Resolution of Violation:	On September 5, 2003 the Department replied to the Permittees' August 28 response by requesting additional information. The Permittees submitted additional material on September 15 and on September 19 the Department granted permission to resume waste feed to the Metal Parts Furnace. On May 21, 2004 PM ECW and WDC filed an Answer, Request for Hearing and Request for Informal Discussion on the notices of violation and assessments of Civil Penalty. The Permittees contend that not all of the violations cited occurred on all of the days the Department listed in the ONON. This case is pending with the Office of Compliance and Enforcement.
	CASE PENDING

Notice of Non-Compliance (NON):	ERH-04-003
Date NON Issued:	July 23, 2004
Issued to:	Umatilla Chemical Depot (UMCD) U.S. Army Program Manager for Elimination of Chemical Weapons (PM ECW) Washington Demilitarization Company (WDC)
Description of Violation:	On July 14, 2004 a DEQ inspector was observing process sampling in the UMCDF Residue Handling Area as part of the DEQ's oversight of the Brine Reduction Area Performance Test. The inspector observed numerous drums containing hazardous waste that were improperly labeled.
Referred to Office of Compliance and Enforcement:	Referral package is being prepared.
Notice(s) of Violation (NOV):	Pending.
Date NOV(s) Issued:	Pending
Issued to:	Pending
Amount of Civil Penalty Assessed:	Pending
Resolution of Violation:	The drums were properly labeled after the inspector contacted the UMCDF Environmental Shift Representative. This case is pending with the Office of Compliance and Enforcement.
CASE PENDING	

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APPENDIX E

PUBLIC COMMENTS

**“Compliance Assessment for Start of Agent Operations”
Umatilla Chemical Agent Disposal Facility**

**Transcript of Public Hearing held May 20, 2004
and
Written comments received during public comment period**

The following persons provided oral testimony at a public hearing held before the Environmental Quality Commission on May 20, 2004 in Hermiston, Oregon:

Commenter	Transcript Page No.	Commenter	Transcript Page No.
Evelyn Jenson, on behalf of Representative Robert Jenson	10	Frank Harkenrider	37
James Wenzl	11	George Hash, Mayor of Umatilla	38
Julia Holland	13	Vikki Born	41
Meg Capps, for the Umatilla County Board of Commissioners and the Umatilla County Emergency Management Department	13	Harmon Springer, Councilor, on behalf of the City of Hermiston	41
Bill Howard, on behalf of Umatilla County Emergency Management Department	19	David Wallick	43
Dennis Doherty, Umatilla County Comm.	23	Kathy Siron	44
Tiah Estabrook	25	Guy Lovelace	45
Elaine Benton	27	Karyn Jones	46
Stephanie Johansen	27	Stuart Dick	50
Armand Minthorn, Confederated Tribes of the Umatilla Indian Reservation	28	Susan Jones	60
Deb Stockman	31	J.R. Wilkinson	65
Randall Kowalke	35	Rusty Brewer	73
Susan Ash	37	T.J. Rodriguez	74

Written comments received during the public comment period held May 4 through June 7, 2004:

Commenter	DEQ Item No.
Patricia Garoutte	04-0755
The Honorable Bob Jenson, State Representative, District 58	04-0785
Hermiston City Council	04-0787
The Honorable David Nelson, State Senator, District 29	04-0786
Richard and Virginia Coleman	04-0788
CSEPP Update, submitted by Meg Capps	04-0807
Eric L. Nicholson	04-0815
Fay L. Moses	04-0822
Lolita Vlcek and Dr. Vincent Mulier	04-0885
Rodney S. Skeen, Confederated Tribes of the Umatilla Indian Reservation	04-0916
Karyn J. Jones, et al., G.A.S.P.	04-0902

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STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

MAY 20, 2004

PUBLIC HEARING

PROPOSED START OF
CHEMICAL AGENT OPERATIONS AT THE UMATILLA
CHEMICAL AGENT DISPOSAL FACILITY

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

JUN 01 2004

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BRIDGES & ASSOCIATES
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Pendleton, Oregon 97801
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1 MR. REEVE: Welcome to the
2 Environmental Quality Commission meeting. My
3 name is Mark Reeve, I'm the Chair of the
4 Environmental Quality Commission.

5 I'll briefly introduce the
6 Commission and our other staff here. And then
7 we'll move on to the public testimony portion
8 of the evening, which is I'm sure why you're
9 all here.

10 And I appreciate seeing such a good
11 attendance. This is obviously a critical issue
12 for the community and for this Commission. And
13 I appreciate the efforts that all of you have
14 made to come out and be heard on this topic.
15 And we look forward from hearing from you
16 tonight.

17 Briefly, the Commission is a
18 volunteer Commission of citizens from different
19 parts of the state.

20 We're a five member Commission, but
21 presently have four members, with one vacancy.

22 On my far right is Commissioner
23 Deedee Malarkey, from the Eugene area.

24 On my immediate right, Commissioner
25 Lynn Hampton, from Pendleton. I'm from the

1 Portland area. And to my left is Ken
2 Williamson from the Corvallis area.

3 We have with us also the director of
4 the DEQ, Stephanie Hallock. And her assistant
5 and our assistant Mikell O'Mealy.

6 Many of you have already filled out
7 the sheets that indicate that you'd like to
8 address us tonight. These are sheets that look
9 something like this (indicating).

10 If there are any members of the
11 audience who wish talk, who haven't filled one
12 out, please fill one and bring it up so that we
13 can take your testimony in the order that you
14 sign up.

15 If any of you need any assistance
16 from an interpreter for another language,
17 Spanish, we can arrange to have that and make
18 sure that we get your testimony.

19 I also wanted to mention that we are
20 taking written testimony, so that if any of you
21 have come with letters or comments that you'd
22 like to provide, I believe you can leave you
23 can them at the back desk or with Mikell
24 O'Mealy. And we will be looking through and
25 reviewing all of those comments as well.

1 I'll do a very brief introduction,
2 I'll then ask a staff member, one of the DEQ
3 staff members who's been closely involved with
4 this project for a long time, Sue Oliver, to
5 give us a quick introduction. And then we'll
6 move on to actually taking the public
7 testimony.

8 It's been approximately seven years
9 since this Commission first issued a permit to
10 the facility that allowed, essentially allowed
11 the construction to begin.

12 And from the very start, it was the
13 contemplation I believe of the Commission at
14 that time that we would indeed allow start of
15 agent operations if, and only if, the facility
16 demonstrated that it could be operated in a
17 safe fashion.

18 So one of the key issues that the
19 Commission will be looking at over the next
20 period of weeks will be whether the facility is
21 indeed ready to start operations with agent.

22 The facility is close to beginning
23 the destruction of weapons that have been
24 stored at the Depot for 40 years and have been
25 in your backyard for 40 years.

1 We do want to express our
2 appreciation for all of the work that members
3 of this community have done over the years,
4 particularly in the last seven years, but even
5 before then, and leading up to tonight, and to
6 the facility becoming operational.

7 Giving your input, giving many hours
8 of review, many hours of testimony, serving on
9 any number of different bodies and coming to
10 meetings and expressing your views, it really
11 is helpful and it's also part of what makes
12 Oregon government work in both working with
13 citizens and letting us be more responsive to
14 the community and learning what the community
15 concerns are.

16 The hearing is to take public
17 comments. And it will be tape-recorded and
18 transcribed.

19 The number of people certainly is a
20 concern. It's both a wonderful thing to have
21 this many people interested, but it's also just
22 a practical matter, we need to see if we can
23 wrap this up in a reasonable time frame.

24 So I will ask that people limit
25 their comments to five minutes or less. And I

1 would also ask that people limit their comments
2 particularly if another commenter has
3 essentially covered the same ground or made
4 similar points.

5 We're most interested, obviously, in
6 hearing a diversity of views and hearing all
7 the issues that people may have. And a quick
8 reference to a particular topic or issue may
9 suffice to let us know that you agree with what
10 a previous commenter may have said.

11 I will be calling people in,
12 frankly, a random, nearly a random order. It's
13 essentially the order in which these sheets
14 have been filled out. So please don't try to
15 read anything into the particular order in
16 which you may be called.

17 We will ask that people speak at the
18 podium and into the microphone. I realize it's
19 not the most comfortable thing for many of you.

20 Some of you may not be used to
21 public speaking, but we do need to make sure
22 that we can all hear and that people in the
23 back of the room still get the benefit of the
24 sound system and are able to hear all of the
25 comments.

1 With that, I would ask that we have
2 a brief introduction from Sue Oliver of the
3 DEQ. And then we'll begin with our first
4 couple of people.

5 And just so they know who they are,
6 the first three names will be Evelyn Jensen,
7 next will be James Wenzl, and next will be
8 Julia Holland. So, Sue.

9 MS. OLIVER: Thank you,
10 Mr. Chairman, members of the Commission,
11 members of the audience.

12 My name is Sue Oliver. I work with
13 the Department's chemical demilitarization
14 program here in Hermiston.

15 I just wanted to give a brief
16 update. As you're aware, we opened the public
17 comment period on May 4th.

18 At that time, we issued what was
19 called a compliance assessment. They covered
20 essentially the environmental related
21 requirements that the Department believes the
22 facility needs to comply with prior to the
23 Department coming to the Commission to
24 recommend approval for the start of agent
25 operations.

1 At the time the compliance
2 assessment was issued, we had listed 69
3 specific conditions that were related either
4 specifically to the hazardous waste treatment
5 and disposal permit that the facility has or
6 related to other environmental permit required
7 items.

8 The compliance assessment itself,
9 the document is on the back table. We prepared
10 a status update that was current as of
11 yesterday for where we're at with the
12 requirements that are currently open.

13 Of the 69 requirements that were
14 listed in the compliance assessment, at the
15 time of issuance, there were 30 that still
16 remained open.

17 At this point, we have closed two of
18 those items related to water permit. Our water
19 quality division did do an inspection, reviewed
20 the files, and did on-site inspections. And so
21 we have closed those requirements.

22 Of the remaining 28 requirements,
23 one of those is of course your approval for the
24 start of agent operations.

25 The remaining 27 after that, are

1 related to various different issues. Some
2 approvals required by other federal agencies,
3 some are required by actions that are needed to
4 be taken by the Department.

5 And we still have some things that
6 the facility needs to submit to the Department,
7 in which case they might or might not need
8 additional action by the facility. So that's
9 kind of where we're at.

10 Now, the document titled Status
11 Update of Open Requirements is on the back
12 table. We've also put on the back table the
13 public notice.

14 And I would like to remind the
15 audience that if you're not comfortable
16 speaking and you still want to submit comments,
17 please feel free to provide written comments.

18 They can be submitted up until the
19 close of the comment period on June 7th. So
20 you could either submit something tonight or
21 there's information on this notice sheet that's
22 on the back about submitting written comments.

23 We will accept fax or e-mails, or by
24 regular mail of course, any comments the public
25 might have.

1 And we do appreciate the great
2 turnout we've had here tonight.

3 MR. REEVE: Thank you, Sue.

4 MS. OLIVER: Thank you.

5 MR. REEVE: Evelyn Jensen.

6 MS. JENSEN: Thank you.

7 MR. REEVE: Good evening.

8 MS. JENSEN: I'm Evelyn Jensen.

9 A legislative aide for State Representative Bob
10 Jensen. And I'm here to read a letter of his.
11 He's unable to be here because he's at a tax
12 committee meeting down in Salem.

13 "Dear Chairman Reeve: The issues of
14 community safety must be the paramount concern
15 of the Environmental Quality Commission as you
16 reach a decision on the disposal of the agents
17 at the Umatilla Chemical Agent Disposal
18 Facility.

19 "The issue has been well addressed
20 during the past decade. And the community will
21 be better off if the project goes forward
22 quickly.

23 "I strongly support safe
24 incineration and believe that the Department
25 has done its job to assure public safety.

1 "Delay or leaving these agents
2 around is the worst possible option. And I
3 urge the Department and the Commission to move
4 forward with all deliberate speed. Sincerely,
5 State Representative Bob Jensen."

6 MR. REEVE: Thank you.

7 MS. JENSEN: Thank you.

8 MR. REEVE: James Wenzl.

9 MR. WENZL: Thank you for
10 providing me the opportunity to speak tonight.
11 I'm here representing myself, my wife, and my
12 children.

13 I do work at the demilitarization
14 site. But I am a member of the Hermiston
15 community. I live in the immediate response
16 zone.

17 I've had the privilege to work in
18 chem demil for over ten years at two different
19 operational facilities. That gives me the
20 knowledge of the science. But again, I'm here
21 representing my family that lives here.

22 In the immediate response zone, you
23 know the layout of the land and that we're the
24 closest to the facility, but more importantly
25 the storage area.

1 Sir, your comment was "It's in your
2 backyard," actually it's in my front yard, but
3 that's all right.

4 I've had an excellent opportunity
5 from '98 to 2003 to work with CSEPP as a first
6 responder. What that provides me is a
7 different perspective of the project, because I
8 think depending on where you work and how you
9 view it, that is your perspective.

10 No different than if I worked for
11 DEQ that my perspective might be different. I
12 can't just separate myself from what I do and
13 my job.

14 Because to me, the destruction of
15 this agent is more than a job. It's a passion
16 that I truly have.

17 We're going to rid the state of
18 Oregon of some of the nastiest substance known
19 to man.

20 That's very important for work, for
21 myself, because I'm not leaving that legacy for
22 my children or hopefully my grandchildren to
23 have to deal with or rather take care of it
24 now, because I believe the time is of the
25 essence.

1 The Depot and the command of the
2 Depot has done an excellent job maintaining
3 that inventory for decades.

4 But in December of 2003, they had
5 agent detection readings, that as minimal as
6 they were, outside of those storage igloos. An
7 anomaly perhaps. But should it show urgency?
8 Definitely.

9 What I'd like to just leave with you
10 and the thought to think of is: If there was
11 an act of God or an act of terrorism and we
12 left the munitions sitting there while we're
13 waiting and we had the capability and the
14 facility that we do to destroy it and something
15 went wrong, can you live with that?

16 Personally I can't. I say the time
17 is now. Thank you for your time.

18 MR. REEVE: Thank you.

19 Julia Holland

20 MS. HOLLAND. Hello. And thank
21 you. And I just have to say I agree with
22 previous testimony.

23 MR. REEVE: Thank you. The
24 next three will be Meg Capps then Bill Howard
25 and then Dennis Doherty. So Meg Capps.

1 MS. CAPPS: Good evening. My
2 name is Meg Capps. And I'm the Umatilla County
3 emergency manager.

4 I've been involved in the CSEPP
5 program since 1998. And today I want to talk
6 to you a little bit about emergency
7 preparedness and the things that we have done
8 to ensure the safety of our committees.

9 First of all, one major flaw that
10 our community had was the ability to
11 communicate from one end of Morrow County to
12 the other of Umatilla County.

13 We had problems with our VHF system.
14 Similar to what the first responders
15 experienced in the 9-11 tragedy, our first
16 responders have not been able to communicate
17 across a wide region.

18 However, notifying the shortcoming,
19 or identifying the shortcoming, we came
20 together as a community to identify a solution
21 to this problem. That solution was the 450
22 megahertz radio system.

23 We have been working on that system
24 to have that installed since September of 2001.
25 The first responders have indicated that they

1 would like to have the system operational prior
2 to agent disposal start-up. By operational, I
3 mean able to function in response to a CSEPP
4 emergency.

5 At this point, the 450 megahertz
6 tactical communication project is on target for
7 June completion. The radios are currently
8 being installed, responder training is
9 underway.

10 We have a quality assurance team
11 that is on-site this week reviewing signal
12 strength and coverage testing.

13 The first responder community has
14 also implemented an advisory board to work
15 issues such as long-term system governess,
16 operational and procedural protocols, and a
17 system life after CSEPP goes away.

18 Another area of emergency
19 preparedness recently was conducted on May 5th.
20 That was our full scale annual exercise.

21 This gave us a chance to exercise
22 our plans, our people, and our procedures.
23 15 performance measures were evaluated, with 14
24 passing.

25 We guage ourself on an

1 all-or-nothing, so one tiny mistake can lead to
2 failure.

3 However, in the 14 areas were -- of
4 success were very promising. We had 11,000
5 people participating in this exercise. This
6 comes from local, state, and federal people.

7 Things that were different this year
8 included a day exercise as opposed to an
9 evening exercise. Schools participated in
10 real-time.

11 Our educational service district and
12 Mid Columbia Bus Company supported our schools
13 in our emergency operation center.

14 Our incident command location was in
15 Morrow County. Previous years it had been in
16 Umatilla County.

17 We've implemented new technologies
18 including the incident response information
19 system under the lead of Morrow County
20 emergency management.

21 Again, several new technological
22 advances have allowed to us become even more
23 efficient at what we do.

24 A few of the strengths that were
25 noted by the evaluators were the use of the

1 incident command system, responder tracking
2 technologies, performance of a retrofitted
3 decontamination trailer, expanded video
4 teleconferencing capabilities, and cutting edge
5 use of the web as a tool for public information
6 and internal coordination.

7 Finally, one of our most critical
8 responders in a chemical emergency will be the
9 public.

10 I'd like to touch base on a few of
11 the educational enhancements that we've done
12 since the June 2002 time when Governor
13 Kitzhaber certified emergency preparedness as
14 adequate.

15 We believe it is critical for our
16 citizens to know how they would be notified and
17 what they should do in a chemical emergency.

18 Since July of 2000, television,
19 radio, and newspaper ads have provided useful
20 preparedness information.

21 Each month focuses on a different
22 topic. We can talk about tone-alert radios,
23 shelter in place kits. We educate our public
24 on how they can, if they don't have those
25 pieces of equipment, how they can ascertain

1 them.

2 We have a website for our public to
3 access. Last year, 2003, we received 145,810
4 web page requests.

5 Morrow County launched its new
6 public education tool, Wally's Clubhouse in
7 2003. Again, targeting children for public
8 education purposes.

9 We also spoke, public information
10 officers also spoke to 31,920 people at 237
11 events last year. And we follow up all of our
12 public education outreach with a survey to
13 gauge how we're doing.

14 Again, I've only touched on a few
15 area of emergency preparedness. And my
16 colleague Bill Howard and county commissioner
17 Dennis Doherty will hit on a few more.

18 But again, we are ready to respond
19 in the unlikely event of an emergency.

20 The Umatilla County board of
21 commissioners and the Umatilla County emergency
22 management support start-up at the earliest
23 possible time as soon as necessary, as soon as
24 the necessary approvals are issued by the
25 Oregon Environmental Quality Commission and the

1 proper federal oversight group. Thank you.

2 Oh, as a note. I have some
3 information that I'm going to leave with your
4 administrative staff.

5 MR. REEVE: Great. Thanks.

6 Bill Howard.

7 MR. HOWARD: Good evening,
8 ladies and gentlemen of the Commission and our
9 elected officials and all of our public.
10 Thanks for your attendance.

11 My name is Bill Howard, I'm the
12 Umatilla Morrow County logistics officer for
13 the CSEPP program. I've been with the program
14 about five years.

15 I'd like to give you a quick
16 overview of the emergency preparedness
17 capabilities that are currently in place from
18 my point of view.

19 We have created, since this program
20 started, emergency operation centers in
21 Umatilla, Morrow, and Benton Counties, as well
22 as the states of Oregon and Washington that are
23 ready to coordinate our response activities.

24 They have state-of-the-art computer
25 software to track and forecast the location of

1 toxic fumes and plumes.

2 We have a nationally recognized
3 joint information center in Pendleton, Oregon
4 that is equipped to provide residents with
5 timely information during an emergency.

6 In our IRZ areas we have 26 key
7 facilities that are in the areas closest to the
8 Depot that have been equipped with
9 overpressurization protective filtration
10 systems.

11 They include 21 schools and
12 head-start facilities and five public
13 buildings. The day-to-day residents of those
14 facilities total about 7,800 residents.

15 In addition, we have three school
16 districts that have been provided with
17 evacuation buses and they would evacuate over
18 1,900 students from the area.

19 A total of over 9,700 individuals
20 that would either be in an overpressurized
21 facility or evacuated from the area.

22 We have implemented and installed a
23 multi-part public warning system: including
24 70 outdoor sirens; 19 highway reader boards to
25 provide emergency traffic information; over

1 15,000 tone alert radios installed in the
2 Oregon area and Washington homes and
3 businesses, many with strobe lights that are
4 for the hard of hearing or in areas where
5 there's a lot of noise during the day.

6 We have installed and equipped a
7 number of highway advisory radio systems. We
8 have vibrating pagers for the deaf and the hard
9 of hearing.

10 We have the comprehensive emergency
11 alerting system connected to our activation
12 systems.

13 And we have installed a network of
14 radios in all the school buses in the
15 overpressurized facilities so that we can
16 maintain control of those facilities.

17 ODOT has also installed swing arm
18 barricades at four Interstate 84 locations. We
19 have handed out 17,450 shelter in place kits,
20 including duct tape, plastic, and instructions
21 to homes and businesses in Oregon and 875 in
22 Washington.

23 In Irrigon, 852 homes have received
24 recirculating air chemical filters. Umatilla
25 County Commissioners are working on a proposal

1 to install 1,450 or so more filters in the
2 Umatilla area.

3 We continually improve the tactical
4 communication systems with back-up systems,
5 including computerized emergency management
6 radio systems and a telephone system to allow
7 response officials to coordinate information
8 during an emergency.

9 First responders have been issued
10 personal protective equipment, including suits,
11 boots, hoods, and breathing apparatus to at
12 least 16 fire departments, three police
13 departments, seven hospitals, two emergency
14 medical services groups in Oregon and in
15 Washington.

16 Three hospitals and four fire
17 departments in Oregon are equipped to
18 decontaminate people who may have been exposed
19 to chemicals.

20 Five Washington hospitals are also
21 trained in chemical awareness. And seven
22 decontamination units, portable decontamination
23 units, are available.

24 I would like to reiterate our ideal,
25 our concept here is that we are ready to

1 respond in the unlikely event of an emergency
2 at the chemical Depot.

3 And Umatilla County emergency
4 services and management staff support start-up
5 up at the earlier possibility time.

6 Thank you very much.

7 MR. REEVE: Thank you.

8 ~~Dennis Doherty.~~

9 MR. DOHERTY: Thank you.

10 Mr. Chairman and members of the Commission.
11 The things and matters that my colleagues Meg
12 Capps and Bill Howard have just described
13 didn't happen by accident. But we haven't
14 always had those things.

15 At the end of calendar year 1999,
16 the outpost community experienced a defining
17 watershed event. That was the false alarm
18 event which many believed to be real.

19 It led to real panic. And it was
20 our functional equivalent of New York City's
21 9-11.

22 That event galvanized the community.
23 It also brought our federal partners into full
24 play with us, and they have provided the
25 funding and assistance and support that has

1 enabled us to produce the events which have
2 been described to you.

3 The outpost community bore down and
4 we got ourselves ready so that our
5 unpreparedness would not be the cause of any
6 delay for start-up.

7 At that time, we received a visit
8 from Senator Wyden. I remember him telling us
9 that we need to keep our eye on the ball. And
10 what he was talking about as the ball was the
11 nerve agents. Then the game is to get rid of
12 the nerve agents.

13 My point is this: We can't begin
14 moving the ball down the field until we have
15 start-up. We need and want the authorization
16 that only you can give for that. It's time to
17 put the ball in play.

18 Now, folks, there are hundreds of
19 people ready to get on with the chemical
20 demilitarization mission.

21 There are 1,200 plus working on the
22 Depot. There are scores and scores and scores
23 of volunteers and firemen and policemen and
24 medical personnel and Red Cross personnel and
25 amateur radio operators and CSEPP employees and

1 local government officials and state and
2 federal partners.

3 Our own DEQ employees are working
4 long days and long weeks doing their due
5 diligence jobs on our behalf.

6 And then there is the public, which
7 is strongly supportive. The recent survey
8 shows us that 86.8 percent of the public
9 supports a decision to begin versus 7.6 percent
10 that oppose beginning. The other 5.8 percent
11 don't know, don't care, or wouldn't say.

12 I hope that you will reaffirm the
13 commitment and hard work of so many and ratify
14 the 86.8 percent of the public who support
15 start-up by authorizing the Army and WMD to
16 begin ASAP, meaning as soon as possible,
17 WAFUD, without further unnecessary delay.

18 Thank you.

19 MR. REEVE: The next three will
20 be Tiah Estabrook, Elaine Benton, and Stephanie
21 Johansen.

22 MS. ESTABROOK: Thank you. My
23 name is Tiah Estabrook. I am a member of the
24 community. I have three small children who go
25 to school here in the Hermiston community.

1 And my concern is, I'm all for
2 getting rid of it. Obviously I don't want it
3 in my backyard. However, I feel we should wait
4 until school starts back.

5 I think our schools have practiced
6 it, they're ready for it, they know what to do.
7 My concern is that we start this summer and
8 we're out camping, we're out fishing, we're out
9 playing at the local swimming pool or doing
10 whatever, and not that it would thrill me to
11 know that I am at work while my children are at
12 school, but it would ease my mind to know that
13 my children are in their school where I know
14 they're safe.

15 I can lock myself in at work with my
16 fellow employees and I don't have the fear that
17 my children are out somewhere doing something
18 and not knowing that they're safe.

19 And I would just like to wait a
20 couple more months, wait. And not start in
21 July. I would rather we start in September.

22 At this point, what is a couple more
23 months when we know that if we wait our kids
24 are safe and the school's there to take care of
25 them. Thank you.

1 MR. REEVE: Thank you.

2 Elaine Benton.

3 MS. BENTON: My name is Elaine
4 Benton. I live here in Hermiston. And Mr. Jim
5 Wenzl's testimony expressed it accurately.

6 MR. REEVE: Great, thank you.

7 Stephanie Johansen.

8 MS. JOHANSEN: Hi. My name is
9 Stephanie Johansen. I used to live in
10 Hermiston and now I live in Kennewick,
11 Washington.

12 I work for Washington
13 Demilitarization Company, but my opinions don't
14 represent those of WDC or the Army.

15 I'm here to express my support for
16 allowing the Army to begin agent operations in
17 July, or as soon as possible.

18 The stockpile is the most risk to
19 the community while it's in storage. Once we
20 begin agent operations, as we process the
21 chemical weapons, they'll be under engineering
22 controls and that's safer than it is in
23 storage.

24 So at this time the most expeditious
25 approach to reducing the risk is to allow the

1 chemical agent operations to begin as soon as
2 possible. Thank you.

3 MR. REEVE: Thank you.

4 Our next three presenters will be
5 Armand Minthorn, Deb Stockman, and Randall
6 Kowalke. Mr. Minthorn.

7 MR. MINTHORN: Good evening.
8 My name is Armand Minthorn. I'm a member of
9 the Confederated Tribes of Umatilla and a
10 member of our board of trustees.

11 I'd like to read into the record
12 tonight a resolution that our board passed two
13 weeks ago.

14 Starting out, Resolution 04031:
15 "Whereas, the treaty signed in 1855 by the
16 United States Government and the peoples known
17 as the Confederated Tribes of the Umatilla
18 Indian Reservation recognizes certain rights of
19 said Confederated Tribes.

20 "And whereas, the board of trustees
21 as a governing body of the Confederated Tribes
22 of the Umatilla Indian Reservation in
23 Pendleton, Mission, Oregon, by the authority of
24 Article 6 of the Tribe's constitution and
25 bylaws adopted on November 4 or 1949, and

1 approved on December 7, 1949.

2 "Whereas, the United States Army of
3 the United States Department of Defense
4 operates the Umatilla Chemical Depot near
5 Hermiston, Oregon, that stores approximately
6 12 percent of the United States stockpile of
7 chemical warfare agents, configured in both
8 chemical weapons and bulk containers.

9 "And whereas, the UMCD is located
10 within the ceded lands of the Confederated
11 Tribes, approximately 30 miles directly west of
12 the Umatilla Indian Reservation.

13 "And whereas, a memorandum of
14 agreement was established between the
15 Confederated Tribes and the US Department of
16 the Army concerning the destruction of the
17 chemical weapons stockpile stored at UMCD.

18 "And whereas, the United States Army
19 has built an incinerator at the UMCD to destroy
20 all said chemical agents and chemical weapons
21 stored at the UMCD.

22 "And whereas, the Confederated
23 Tribes has numerous historical, cultural,
24 natural, and economic resources on and near the
25 UMCD. And these resources are at risk from the

1 continued storage of these chemical weapons and
2 bulk containers.

3 "And whereas, the board of trustee's
4 resolution No. 01106, October 15, 2001, calls
5 for the timely destruction of all chemical
6 weapons in bulk, items stored at the UMCD
7 provided that said destruction is carried out
8 in a manner that is consistent with the
9 Resources Conservation Recovery Act Permit for
10 the incinerator facility as well any other
11 applicable environmental standards and is
12 protective of the Confederated Tribe's rights
13 and resources.

14 "And whereas, the Attachment 6 of
15 the Resources Conservation and Recovery Act
16 Permit contains certain requirements that must
17 be met prior to the start of agent shakedown
18 operations, including requirements for
19 completed plans, for storage and disposal of
20 secondary waste, a fully operational brine
21 reduction area, a completed preoperational
22 survey, and/or operational readiness
23 evaluation, and written notification from the
24 Oregon Environmental Quality Commission
25 authorizing agent shakedown operations.

1 "And whereas, the Oregon
2 Environmental Quality Commission is seeking
3 comment from the surrounding communities on the
4 start of agent shakedown operations.

5 "Now, therefore be it resolved that
6 the board of trustees supports the start of
7 agent shakedown operations at the UMCDF
8 provided that the facility is fully compliant
9 with its Resources Conservation and Recovery
10 Act Permit and that the Army has defined to
11 the satisfaction of the CQIR board of trustees,
12 a joint mitigation process.

13 "The Army and the CQIR will follow
14 if the incineration facility is observed to
15 have negatively impacted Tribal resources.

16 "And that the said resolution has
17 not been modified, amended, appealed, and is
18 still in full force and effect, dated this 3rd
19 day of May, 2004. Signed Antone Minthorn,
20 Chairman, board of trustees." Thank you.

21 MR. REEVE: Thank you.

22 Deb Stockman.

23 MS. STOCKMAN: Good evening.
24 My name is Deb Stockman. I'm a resident of
25 Hermiston. And on behalf of myself and my

1 family, I would like to share my perspective on
2 the demil facility and its task at hand.

3 Most of us are inquisitive. We like
4 to know what's going on. We are intrigued when
5 someone can give us statistics and we love a
6 good story from the media.

7 Then why aren't we listening to the
8 facts about our own demil site? Or are we only
9 hearing what some want us to hear?

10 Let me give you a few facts that you
11 might not get from any group opposing
12 incineration.

13 Will this plant be able to safely
14 and successfully dispose of agent and
15 munitions?

16 Fact: The design and process of
17 this plant has already been tried and proven
18 with the Johnston Atoll Chemical Agent Disposal
19 System or JACADS.

20 JACADS was the United States first
21 full scale chemical weapons disposal facility.
22 Built in 1985 on Johnston Island, JACADS safely
23 and successfully disposed of approximately
24 7 percent of the U.S. chemical weapons
25 stockpile.

1 More than 2,000 tons of chemical
2 agent and more than 410,000 munitions, the only
3 thing that ever caused enough alarm for
4 evacuation on the island was a hurricane.

5 Will the people at UMCDF be ready to
6 perform their task? Fact: Most of the people
7 from JACADS have now transferred to UMCDF,
8 bringing with them all their experience and
9 knowledge.

10 Add that to the rest of the trained
11 and dedicated people that not only work at the
12 site but live with their family and friends in
13 this area, and you have a formula that I feel
14 will ensure the safe and successful disposal
15 of the stockpile at UMCDF.

16 Will the environment be protected?
17 Fact: During the disposal period at JACADS,
18 the island was a host to an array of wildlife.

19 34 species of coral and more than
20 300 fish species exist around the Atoll.
21 15 species of seabirds are known to breed on
22 Johnston Island, with over 500,000 seabirds
23 using Atoll for roosting and nesting.

24 Several threatened and endangered
25 species frequent the island, including the

1 green sea turtle and Hawaiian monk seal. All
2 these, living safely along side a demil
3 facility just like the one here.

4 Upon the final closure of JACADS,
5 the island was returned to a natural state and
6 is now a wild bird sanctuary.

7 What about the risk of burning the
8 agent? Well, what about the risk of walking
9 across a busy street?

10 The fact is you probably run more of
11 a risk getting in your car and driving to this
12 meeting than actually being exposed to anything
13 out there on site.

14 And if exposure is a concern, then
15 why the opposition to getting rid of it?
16 Letting munitions deteriorate in the igloos is
17 far worse than anything that can happen inside
18 that plant.

19 For those of you that still may have
20 some concerns, here's an idea: Visit your
21 outreach office, talk to the people and get
22 educated on the process of the project instead
23 of listening to groups that won't even make
24 themselves available for public questions.

25 The bottom line is the Army and the

1 contractor are not the enemy here. These
2 organizations are made up of people that live
3 right here in Hermiston and the surrounding
4 areas.

5 They have just as much to risk as
6 anyone. And I don't feel that they would be
7 doing what they are doing unless they are sure
8 that it is safe for our community and their
9 families as well.

10 Safety is a priority with both of
11 these organizations. And I truly believe that
12 with our support, they will accomplish their
13 task and make our community a safer place to
14 live. Thank you.

15 MR. REEVE: Thank you.

16 Next, Randall Kowalke.

17 MR. KOWALKE: Yes. I'm Randall
18 Kowalke. And good evening, Chairman Reeve,
19 Commissioners, and the director.

20 I am new to the area, I've lived
21 here about a year and have become familiar with
22 the Depot and have done some homework.

23 I also submitted written testimony a
24 month or so ago on some technical points which
25 I won't belabor at this hearing.

1 We have an urgency to get on with
2 this process. And I'm concerned that we won't.
3 The public process certainly is necessary, but
4 we've had seven years. I don't think friend --
5 time is our friend in this situation.

6 I said earlier that I had lived here
7 about a year. Prior to living in Hermiston, I
8 spent eight years in the center of the Tsunami
9 inundation zone on the Oregon coast with an
10 active volcano 200 miles offshore.

11 And prior to that was the town of
12 Anchorage, which has other threats. We had
13 once a month, the china breaking in our
14 cabinets.

15 We have here a similar impending
16 disaster at the Depot, in my opinion. Living
17 at the coast there was very little we could do
18 to deal with the Tsunami.

19 It was of some interest to me when I
20 came here and received a radio that goes off
21 every noon at Wednesday, that we had sirens
22 installed in my neighborhood at the coast, and
23 the similarity was just too much to escape.

24 What you have the power to do is
25 remove this catastrophe before something

1 happens.

2 The others are in hands beyond
3 yours. But this one you can stop now. We can
4 get on with getting those weapons destroyed and
5 return this area to the safe place it once was
6 when Chairman Minthorn's people were the only
7 residents.

8 I urge you to move forward at great
9 speed. Thank you.

10 MR. REEVE: Thank you.

11 Our next three speakers will be
12 Susan Ash, Frank Harkenrider, and George Hash.

13 MS. ASH: Good evening. My
14 name is Susan Ash. And I am a resident of
15 Hermiston. I'm also an employee at the Depot.

16 And I would just like to say that we
17 should move forward. I agree completely with
18 the previous statements, especially those made
19 by Deb Stockman and Jim Wenzl.

20 MR. REEVE: Thank you.

21 MR. HARKENRIDER: Good evening.
22 My name is Frank J. Harkenrider. And I welcome
23 you to the city of Hermiston, especially
24 Stephanie Hallock. We go back a long ways, I
25 won't get into that.

1 But I agree with most of the
2 speakers. Let's don't delay the incineration
3 any longer. Let's get on with the program.

4 It's been okayed by the National
5 Research Council. And what they say has been
6 exactly right. We've been 20 years trying to
7 destroy this ammunition or nerve agent out
8 there.

9 Let's get on with the process, the
10 sooner the better. Please don't delay.

11 MR. HASH: Mr. Chairman, my
12 name is George Hash. And I'm mayor of
13 Umatilla. I've lived in this area for 48
14 years.

15 My wife worked and retired from the
16 Depot, and that was back during the days when
17 to check the leakage out there in those igloos,
18 they used a rabbit. Boy, the animal waste
19 people would have a great day with that,
20 wouldn't they?

21 You know, we've come a long way
22 since then. And I've never met anyone who has
23 worked on there on the Depot, whether they're
24 retired or working there right now has had the
25 least bit of concern about the safety of the

1 program out there.

2 I've worked with CSEPP from the
3 beginning. And Meg Capps and Chris Brown will
4 attest to the fact that I was somewhat of a
5 pain in the posterior when they first started,
6 because I'm the kind of a person that likes to
7 see something done yesterday instead of waiting
8 a long ways.

9 And it seemed like they were forever
10 getting some of that communications and some of
11 that safety stuff put in shape.

12 But I've also, during that time I
13 raised so much, Sam, that I think Frank and
14 several others around here and I went back to
15 Washington D.C. to testify at the headquarters
16 of FEMA there.

17 And I visited the Tooele Depot.
18 I've observed not only the construction of that
19 facility, but also was there while they were
20 incinerating some of that gas.

21 And I have served on, and I still am
22 serving on the Governor's Executive Review
23 Panel.

24 I've seen the program put together
25 step by step. And I've seen some of these

1 things that I was concerned about taken care
2 of, to point that I cannot see where there's
3 anything that we could do now to make the
4 incineration of that gas any safer than what
5 the program is designed for right now.

6 Now, the people of Umatilla feel
7 perfectly comfortable with getting on with
8 incineration of this.

9 The rent survey, and I think our
10 Commissioner brought out the figures
11 86½ percent are for it. And those that are not
12 for it don't know anything about it. Actually
13 that was their stock answer.

14 I'm not a rocket scientist, and I
15 don't think there are too many of us here. But
16 I think all of us realize the fact that any
17 metal container will deteriorate over a period
18 of time.

19 And what really concerns me is when
20 I, on a regular basis, get a report of the
21 leaks out there at the Depot. And I think it's
22 a shame that we've waited this long.

23 We need to get on with the program,
24 get rid of that stuff so we can sit back and
25 feel at ease again and feel safe in this area.

1 I sure thank you.

2 MR. REEVE: Thank you.

3 Our next three speakers will be
4 Vikki Born, Harmon Springer, and David Wallick.

5 MS. BORN: Good evening. I am
6 an employee of the Washington Demil Company,
7 but I'm here as a Hermiston resident and on
8 behalf of my husband and my children.

9 And I just want to say that I am in
10 favor of start-up of agent operations in July.
11 I feel very safe with the incineration process.

12 And I do not feel safe with it being
13 stored in the igloos for a long period of time.
14 And that's all. Thank you.

15 MR. REEVE: Thank you.

16 Mr. Springer.

17 MR. SPRINGER: Thank you. My
18 name is Harmon Springer. My wife and I have
19 lived in Hermiston for 38 years, raised our
20 three sons here.

21 We operated the local radio station
22 for more than 30 years. I'm now a member of
23 the Hermiston City Council.

24 A disposal project as complicated as
25 the chemical demilitarization at the Umatilla

1 Chemical Depot takes a lot of time, money, and
2 patience.

3 And a lot of time, money, and
4 patience have been expended since the United
5 States Government signed international treaties
6 to dispose of the chemical warfare agents.

7 Most long-time residents of this
8 area have not been too uncomfortable with the
9 stockpile of lethal weapons at the Umatilla
10 Army Depot up to this time.

11 The stockpile of chemical agents,
12 especially those in rockets, have become
13 worrisome and too many -- have become worrisome
14 to many people. And time and patience is
15 running low, especially where appeals and
16 stallings have become a tactic.

17 Years of time and hundreds of
18 millions of dollars have been spent by the Army
19 to accomplish what it has been ordered to do,
20 to destroy the chemical war agents. Everything
21 is about ready to go, so please, please let the
22 disposal begin.

23 And finally, I would like to say
24 that we have a written document from the City
25 of Hermiston with the signature of each city

1 council member and the mayor, all urging you to
2 move as quickly as possible to get rid of this
3 stuff out at the Depot. Thank you.

4 MR. REEVE: Thank you.

5 David Wallick.

6 MR. WALLICK: Hi, welcome to
7 Hermiston. I'm David Wallick. I live here
8 with my wife and two kids.

9 You've heard from a lot of different
10 people, but I want you to hear from my seven
11 year old. Before I was trying to figure out
12 what I wanted to tell you tonight, I decided,
13 I'll ask him.

14 And he listens to me, he reads the
15 newspaper. And he hears about this chemical
16 facility at school.

17 So I asked him what would he say if
18 I let him come and talk to you tonight. And he
19 said "Daddy, you've got to hurry up and get
20 that stuff out of here, it's scary." And
21 that's what 86 percent of the people in this
22 town think.

23 And please don't delay. Let us get
24 started and get rid of it. Thank you.

25 MR. REEVE: Our next three

1 speakers will be Kathy Siron, Guy Lovelace, and
2 Karyn Jones. Did I say that right, is it
3 Siron?

4 MS. SIRON: It's Siron, but
5 that's okay.

6 MR. REEVE: Siron, okay.

7 MS. SIRON: Good evening,
8 Chairman and panel. I am Kathy Siron. I am a
9 citizen of Hermiston. I am a new, brand new
10 homeowner for the first time.

11 I'm also an employee of SW Research
12 Institute at the Umatilla Army Depot. That is
13 the company that runs the lab.

14 I speak as a citizen of Hermiston,
15 that we have had these chemical weapons out
16 there way too long.

17 It's, to me, the two scary things is
18 leaving it out there to leak more and to be
19 sprayed by the pesticides planes that buzz you
20 as you go down Westland Road, literally have
21 been sprayed with the pesticides.

22 So I urge you to let us get on with
23 our job. The plant, I feel totally
24 comfortable.

25 Like I said, I bought a brand new

1 home. It's within the close, the first circle.
2 And, you know, I feel I was more apt to come
3 down with hepatitis, AIDS, or tuberculosis as a
4 former respiratory therapist.

5 So let's get on with it, take care,
6 and make our community safe.

7 MR. REEVE: Guy Lovelace.

8 MR. LOVELACE: I'm Guy
9 Lovelace. Colonel of the Unites States,
10 retired. Resident of Hermiston. Employee of
11 Washington Demil Company.

12 I've been involved with the chemical
13 weapons program in one way or another for over
14 40 years. And have been involved with this
15 chemical demil program for a little over
16 11 years, including working at the JACADS
17 facility at Johnston Island.

18 I'm addressing you in my capacity as
19 a private citizen, a resident of Hermiston, on
20 behalf of myself, my wife, and my mother who
21 all live with me here in Hermiston.

22 I have concerns and I have
23 confidences. My concerns is that the continued
24 storage of the chemical weapons at Umatilla
25 Chemical Depot, for a period of five months,

1 produces risk greater than the risk associated
2 with the entire incineration process for the
3 stocks that are located at the Depot.

4 My confidences are confidence in the
5 incineration process, which has been well
6 demonstrated, in the facility which has been
7 constructed for the incineration process at the
8 Depot, and in the skills and the training of
9 the people who are going to be operating that
10 facility.

11 I encourage you to make the
12 decisions to permit this to go forward as soon
13 as possible, so that those things about which I
14 have been concerned will go away. Thank you.

15 MR. REEVE: Thank you.

16 Karyn Jones:

17 MS. JONES: My name is Karyn
18 Jones. And I'm here representing GASP, the
19 Oregon Wildlife Federation and Sierra Club and
20 the 22 individual plaintiffs in GASP III, I,
21 and II.

22 To begin with, I'd like to quote
23 Albert Eisenstein. "Any intelligent fool can
24 make things bigger and more complex. It takes
25 a touch of genius and a lot of courage to move

1 in the opposite direction."

2 The Army's chemical warfare agent
3 disposal program is billions of dollars over
4 budget and more than a decade beyond original
5 plans for completion.

6 In Oregon, the Army began with an
7 incineration plan that included a dunnage
8 incinerator, a functioning brine reduction
9 area, munitions that could be easily drained
10 and processed in liquid incinerators, and
11 munitions that were supposed to be so
12 insignificant that no pollution abatement
13 carbon filters would be needed.

14 Today, concerned members of the
15 public have a more honest understanding of the
16 Army's incineration program.

17 In our December 14th, 1998 letter to
18 the Environmental Quality Commission we raised
19 a variety of issues that could serve as a basis
20 for modification or revocation of the current
21 permit.

22 Included among the issues raised
23 were the following: number one, concerns about
24 the selection and use of a PAS carbon filter;
25 two, failures to fully access the risks of

1 incineration; three, refusal to recognize the
2 availability of full or partial
3 non-incineration solutions; four, overstatement
4 of the so-called risk of storage; five,
5 incidents at the Tooele, Utah facility; six,
6 cover up of reports indicating that the agents
7 are more toxic than originally disclosed;
8 seven, underassessed impacts of exposure to
9 non-lethal quantities of agent; eight, problems
10 of the virtually ignored non-cancer impacts of
11 dioxin; nine, the vanishing dunnage
12 incinerator; and ten, the expected
13 disappearance of the brine reduction area.

14 For its part, the collective
15 regulatory apparatus in the state of Oregon has
16 seemed determined to follow the Army's lead.

17 A military contract was hired to
18 assess the risks posed by the incinerators and
19 is the lead technical advisor to the state.

20 A wall shows up during construction,
21 indicating that the dunnage incinerator may not
22 be installed, after assuring the public, DEQ,
23 and the Environmental Quality on an ongoing
24 basis for several years that the dunnage
25 incinerator would be installed and fully

1 functional.

2 The EQC reinvents its decision about
3 the role of PAS carbon filters. The Army and
4 Washington Demil Corporation have a concern
5 about the application of the concept of
6 agent-free and are given a contested case
7 process to resolve the issue and non-cancer
8 impacts of dioxin and breast-feeding infants
9 are left out of the risk assessment.

10 In the face of these and other
11 irregularities, we have struggled to bring an
12 opposing view to the decision-making process.

13 We support a decision by the EQC to
14 deny approval for the start up of the
15 incinerators.

16 The following are causes for
17 terminating a permit during its term: number
18 one, compliance by the permittee with any
19 condition of the permit; number two, the
20 permittees failure in the application or during
21 the permitting process to disclose fully all
22 relevant facts or the permittee's
23 misrepresentation of any relevant facts at any
24 time; or three, a determination that the
25 permitted activity endangers human health or

1 the environment and can only be regulated to
2 accept the levels by permit modification or
3 termination.

4 We believe that all of these
5 conditions and causes have at this time been
6 met. And we would encourage you to deny
7 start-up and revoke the permit.

8 MR. REEVE: Thank you. You
9 have some written materials? Is a copy being
10 also given to the staff?

11 MS. JONES: Yes.

12 MR. REEVE: Thank you. Our
13 next three speakers will be Stuart Dick, Susan
14 L. Jones, JR Wilkinson. Stuart Dick.

15 MR. DICK: My name is Stuart
16 Dick. I'm a third generation Oregonian, East
17 Oregonian. I was born an Eastern Oregonian.

18 I have lived my life as an Eastern
19 Oregonian. And I'm proud to say that I want my
20 children to do the same.

21 I would like to ask a few questions
22 perhaps of the audience. I've heard a number
23 of speakers speak against -- speak in favor of
24 this incinerator.

25 I'd like to know how many of those

1 speakers either are second or third generation
2 Oregonians or do not work -- and do not work
3 for the incinerator. Please raise your hand.
4 One, two, three, four, five, six, seven, eight.

5 That's my concern. Just like the
6 survey that we're hearing about that tells us
7 86 percent of the citizens of this area want to
8 see this incinerator begin.

9 Of course, it was a survey that was
10 funded for by the United States Army taxpayer
11 money. So we could pretty much be assured that
12 that was going to be 86 percent, because we've
13 watched these kind of surveys. I watched them
14 for 12 years though this whole process.

15 We've been told that this
16 incinerator is a state of the art proven mature
17 technology. In the beginning, we were told
18 there was no other technology. But we were
19 promised this is mature, proven technology.

20 Yet in the past six years, there
21 have been 230 permit modifications. Now, I'm a
22 contractor, that means it's a change-order.
23 That means we don't build what we said we're
24 going to build, we need to change it.

25 Some of these are Class I, some of

1 these are Class II, some are these are
2 Class III. And every single time, except for a
3 couple, the EQC and the DEQ have approved the
4 permit modifications. It's a rubber stamp.

5 And my concern is that this whole
6 committee, this whole meeting is a rubber
7 stamp. It's already a done deal.

8 And the reason why I'm concerned,
9 not just because we've had some workers
10 sickened and the Army lied, not just because
11 the Army lied when they brought the chemicals
12 into our backyard and dumped them here, said
13 "They're safe, don't worry about them."

14 25 years later when they want to get
15 rid of them, "Oh, we've got to get rid of them,
16 they're leaking."

17 But in court testimony we found out
18 these leakers and so-called the urgency to get
19 rid of them has been another scare tactic to
20 convince us to proceed with incineration.

21 Now, I am concerned for the heritage
22 of Eastern Oregon. When the first white man
23 came to Eastern Oregon, it was a wonderful,
24 wonderful place. The Indians had not destroyed
25 anything.

1 The Columbia River was the most
2 magnificent river in the world. We've just
3 about destroyed the Columbia River.

4 It's one of the few places that show
5 up on an infrared map from the atmosphere. The
6 other place is Chernobyl, because the Columbia
7 River shows up with radioactivity.

8 We're doing the same thing with our,
9 with the mass destruction we dumped in our
10 backyard.

11 And the concern is, the concern of
12 scientists is that these carcinogens that come
13 out of the smokestack, magnify and multiply up
14 to a hundred times into the food chain.

15 So the majority of the people that
16 come and testify that they want to incinerate,
17 are working here. And as soon as they're done,
18 they're going to move on to the next place,
19 just like they came from Johnston Atoll. And
20 they're going to leave it to us.

21 And those furans, PCBs, and dioxins,
22 by the way which is there no monitoring, we're
23 told they're state of the art monitoring.
24 There's no monitoring for PCBs, dioxins,
25 furans, carcinogens.

1 I see you shaking your head, but I'm
2 telling you it's a fact. The Army does not
3 monitor for toxic compounds such as PCBs,
4 dioxins, or heavy metals except during a
5 limited time during trial burn phase.

6 And if you note during the trial
7 burn phase, we've had all the fines by the DEQ,
8 because they dismantled all of the testing
9 equipment so they could get the trial burns
10 successfully passed. And then we fine them.

11 Well, who pays for the fine? We do,
12 the taxpayers. So it's just a slap in the
13 wrist. Why don't we shut them down?

14 If they're going to have to be fined
15 \$200,000, why don't we shut them down and make
16 them do it right? Because we're having to live
17 by those test results, because there is no
18 in-time real testing going on.

19 Now, there is a system that would
20 test. And I would be one -- I've been an
21 opponent of this from day one. But if the EQC
22 would be willing to put on this new, put on
23 this system that our congress people are asking
24 for, the National Research Council that's
25 purported all the time by the -- those that

1 favor incineration, they're saying we need this
2 new system.

3 And I'm not an expert on this. But
4 I can tell you what it's called. It's "One
5 such events monitoring system recommended by
6 the National Research Council."

7 It's an infrared monitoring system
8 called the open-path fourier transform infrared
9 spectrometer. There are numerous companies
10 producing this infrared technology.

11 "FTIR technology uses infrared light
12 beams shot horizontally from an instrument that
13 looks like a telescope to monitor air for
14 pollutants."

15 Now, what I -- I'm not going to read
16 all through this, but what I'm going to tell
17 you is this system, and you know because are
18 aware of is this, this system works.

19 And it tells us within seconds
20 whether we have pollutants, whether we have
21 agent, whether we have PCBs, dioxins, furans,
22 whatever. It tells us what we have.

23 Now, I would be satisfied with that.
24 If you would put in this system that would tell
25 us what we have, because we don't have a

1 monitoring system that tells us what we have.

2 This ACAM and DAM system is a disaster.

3 During our most recent trial, it is
4 important to note that workers that raised
5 issues internally and public have been harassed
6 even by Army's attorney right in the courtroom.

7 On August 13th, 2003, under
8 cross-examination by Army attorney Robert
9 Foster, Mr. Tom Cramer testified, testifying to
10 the inadequate monitoring system was told that
11 if he testified, his head would be on the
12 chopping block. This is during the trial.

13 This shows the Army's willingness to
14 quash those who challenge the effectiveness of
15 the monitors.

16 Now, what are these monitors? The
17 ACAM-DAMs, ACAMs and DAMs monitoring systems,
18 promoted by the Army cannot provide timely and
19 accurate agent chemical detection and
20 identification to be relied upon for the
21 protection of workers and the public.

22 Well, look what happened to the
23 workers that were sickened. We never did find
24 out what that was, because there's no
25 monitoring to tell us what's going on.

1 The EQC, Environmental Quality
2 Commission, all that I'm asking for is that we
3 have environmental quality in our -- for our
4 heritage. And this is to me the most troubling
5 portion, that we do not have any way to know
6 what's going up that smokestack.

7 Judge Marcus ruled, in his most --
8 in a ruling on March 1st, 2004, regarding the
9 concerns of what was happening with the
10 monitoring systems and with Mr. Cramer.

11 And after hearing the testimony,
12 this is what Judge Marcus stated, quote, "Why
13 would any rational agency in DEQ, EQC's role,
14 not require in the permit that devices designed
15 to detect agent and emissions within the
16 facility and escaping from the facility
17 actually perform as intended and be regularly
18 validated in that performance?"

19 The fact is that the so-called
20 monitoring, they do not perform as intended and
21 they are not regularly validated for that
22 performance.

23 And Judge Marcus is asking you why
24 do you not -- why would you, any rational
25 agency in DEQ, EQC's role not require in the

1 permit that devices designed to detect agent
2 and emissions within the facility and escaping
3 from that facility actually perform as intended
4 and be regularly validated in the performance?

5 Now, if you think that I am feeling
6 angry, I am feeling angry because my children
7 live here. And the dioxins, furans, PCBs that
8 go up to that smokestack, they get in the food
9 chain, they magnify and multiply and it gets
10 into my kids' bodies.

11 And wife is a nurse and she works
12 for Dr. Farney. She worked for Dr. Farney, now
13 she works for Dr. Gordon. And cancers,
14 cancers, cancers. We are in the center of the
15 cancer zone.

16 And what I'm saying is give us some
17 protection that you're not allowing,
18 Environmental Quality Commission, you're not
19 allowing, so give us this system, infrared
20 system that can tell us what's going on.

21 And I can guarantee you, the Army
22 does not want this to happen, because they know
23 that what's going up that smokestack, because
24 every single protection that we've been given
25 has been overridden with a change-order, permit

1 modifications, that we ever nothing protecting
2 us.

3 Secondly, Mr. Marcus said, Judge
4 Marcus, quote, "Why would any rational agency
5 in DEQ, EQC's role, not require in the permit
6 that the Army expressly and notoriously forgo
7 any rights or power to prohibit good-faith
8 testimony by employees concerning hazards in
9 the operation of the facility or otherwise
10 restrict the operation of Touhy regulations in
11 the service of safety oversight?" Our people
12 that are trying to speak out are quashed by the
13 Army.

14 We -- I represent GASP. And we have
15 initiated lawsuits. For every dollar that we
16 have -- come out of our pocket, we have to
17 fight thousands of dollars from the taxpayer.

18 It's unfair. It's like David versus
19 Goliath. We don't -- just like this survey, do
20 we get to -- I'd like to initiate a survey. We
21 don't get the opportunity. We simply don't get
22 the opportunity.

23 So all that I'm asking for you is
24 give us a safe monitoring system. Is that,
25 ma'am, Lynn Hampton, is that too difficult to

1 ask for?

2 Give us a monitoring system that
3 works. It's called for by the National
4 Research Council, it's called for by our
5 congressman. Give us that monitoring system
6 and you'll never hear another word from me.

7 But if you don't, you're going to
8 hear from me every single opportunity until I
9 know that it's safe for my children to live.

10 MR. REEVE: Thank you.

11 MR. DICK: Thanks.

12 MR. REEVE: Thanks.

13 Our next speaker is Susan Jones.

14 MS. JONES: My name is Susan
15 Jones. I'm a life-time resident of Hermiston.
16 And I taught for 25 years in Morrow County at
17 A.C. Houghton Elementary School which is
18 located in Irrigon, Oregon.

19 And participated many times in the
20 drills that we have constantly out there to
21 make sure that our staff and students are
22 safely housed within our contained area.

23 I am also a teacher at this time,
24 but in the Hermiston School District, and also
25 participate in the drills.

1 I am a member of the GASP board.
2 I'd like to make it very clear at this time
3 that I too am very concerned about the people
4 that live in this community.

5 They are dear to my heart,
6 especially the children that I teach, and
7 have -- in some instances even have -- now, the
8 children of the first children that I taught.
9 And I can consider it a great honor.

10 I want to address at this time some
11 health issues that I have concerns about. The
12 analysis of human health risks posed by
13 dioxin-like chemicals that will be emitted by
14 the UMCDF presented by DEQ and EQC and the Army
15 are outdated, inadequate, and unreliable, and
16 provide no reasonable basis for asserting that
17 public health and the environment will be
18 protected.

19 There is no reasonable debate that
20 dioxin poses a significant threat to the human
21 health and the environment.

22 Beyond the significant cancer threat
23 posed by dioxin, there are non-cancer effects
24 that damage neurological development, the
25 immune system, and may play a role in diabetes

1 and other illnesses.

2 The significance of the threat from
3 dioxins, non-cancer impacts were discussed by
4 Drs. Michael McCalley, Peter DuFur, and Joseph
5 Thornton.

6 Dr. Joseph Thornton is an assistant
7 professor at the University of Oregon.
8 Dr. Thornton received his Ph.D. in biological
9 sciences from Columbia University.

10 Dr. Thornton has studied the impacts
11 of dioxins on humans and animals for over a
12 dozen years. For many of the dioxin's toxics
13 effects, there is no threshold; that is, no
14 dose below which the substance does not cause
15 toxic effects.

16 The toxic effects of dioxin for
17 which there are likely no threshold include
18 effects on the developing fetus and the
19 developing child; to some extent, cancer,
20 possibly effects on the immune system, effects
21 on reproduction and behavior.

22 Dioxin is the most potent synthetic
23 carcinogenic ever tested in laboratory animals.
24 Studies reveal that humans are as susceptible
25 to the potent carcinogenic effects of dioxin as

1 the laboratory animals that were subjected to
2 the dioxin tests.

3 And we know from studies in the
4 Netherlands, of mothers and children, what
5 might be considered slightly higher than the
6 typical amounts of dioxin-like compounds in
7 their blood, reveal that dioxin causes reduced
8 cognitive and intellectual abilities in
9 developing children.

10 Dr. Michael McCalley is an expert in
11 public health practice and has a distinguished
12 career. Dr. McCalley noted a concern that
13 studies have associated dioxins with diabetes.

14 Diabetes is a serious public health
15 concern which could be viewed as a public
16 health emergency.

17 And as a side note, I have had a
18 number of children in my classroom, and
19 colleagues, that have had serious health
20 problems from diabetes, which involves seizures
21 and periods of time for which they have no
22 control over their mental capacities.

23 And I have seen what this can do to
24 the lives of individual people and how it can
25 effect them. And this causes me personally

1 grave concern, since I have witnessed it
2 personally with students.

3 Dr. Peter DuFur's work focuses on
4 risk assessment and technology. And Dr. DuFur
5 testified that dioxin is a highly toxic
6 chemical that causes a variety of cancer and
7 non-cancer adverse health effects in animals
8 and in humans.

9 The views of Drs. Thornton,
10 McCalley, and DuFur expressing concern that the
11 current body burdens of dioxin in the
12 population at this time is dangerously close or
13 beyond the threshold that will cause adverse
14 effects, is supported by the EPA.

15 I want to make clear my view that I
16 would oppose the incineration of the agents
17 strictly on this basis.

18 I would not agree at any time to
19 have a clear conscience that would cause any
20 problem for our children or our population that
21 is living within this area.

22 And I hope that the EQC will take
23 this into concern and serious conversation
24 given to it. Thank you.

25 MR. REEVE: Thank you.

1 Our next speaker is JR Wilkinson.

2 MR. WILKINSON: Good evening.

3 My name is James R. Wilkinson. I'm here as a
4 GASP researcher. This is my -- it sound weird
5 from up here.

6 I'm here to speak on some of the
7 issues to follow up on the previous speakers
8 from GASP.

9 And I wanted to first say that I
10 listened to the testimony this afternoon, and I
11 was also concerned about getting a checklist.

12 My expectations from attending the
13 earlier EQC meetings was to get a report card,
14 a status of what each one of the permit
15 conditions were within the permit, rather than
16 just a checklist, "We've met that." I would
17 like to see some type of report card.

18 Along that line, within your
19 compliance document, I wanted to focus because
20 I'd like to, one, respond to some of the things
21 I heard today and this evening, but I can't.

22 And I want to focus in on one
23 particular area of the compliance assessment
24 that's on Page 6, the third paragraph, it says,
25 "UMCDF was constructed without a dunnage

1 furnace." And I want to speak directly to that
2 particular issue.

3 Now, my concern is that I have
4 Exhibit 22 from GASP III. Exhibit 22 is the
5 permit signed by Ms. Hallock as well as
6 then-Commissioner Melinda Eden.

7 Now, the permit, what I was kind of
8 expecting rather than the checklist that we
9 heard about today, was actually going down
10 through each one of the 1-C, 1-C1, and kind of
11 getting an idea of exactly what the status is
12 relative to each one of these permit
13 conditions, not the one that we heard about
14 today.

15 For example, "The permit may be
16 modified, revoked, or issued for just cause
17 under CFR-40." Another one is "In accordance
18 with ORS 466.170."

19 What are these types of provisions
20 that allow the Commission to revoke, modify the
21 permit unilaterally?

22 I submit that the dunnage furnace
23 not being included, constructed at the
24 facility, is more than just cause.

25 And why do I say that? It's also

1 consistent with the obligation for corrective
2 actions under the permit, under 1-I.

3 It also requires that they must have
4 all the necessary permits and that they are
5 complying with all the corrective actions.

6 Now, I want to bring -- and I wanted
7 to actually have an overhead so I could
8 actually walk you through the permit, to those
9 specific areas of the permit where I believe
10 that there is information clearly demonstrating
11 that there's noncompliance with the permit.

12 And we're not talking about missing
13 data or something seems to be, we are talking a
14 furnace from the system that was permitted.

15 When we were sold this furnace, the
16 facility in the very beginning, there were five
17 furnaces that were permitted. We're now down
18 to four.

19 And this is actually one of the
20 first times that I've seen a direct comment
21 that the dunnage and furnace was not
22 constructed.

23 We've always seen it in the permit,
24 well, there's four furnaces. That's not
25 consistent with what is in the permit.

1 So to walk you through it, on
2 Page 23 of 66, Item 7-E, the dunnage
3 incinerator, it lists its maintenance
4 procedures, its performance standards,
5 limitation on waste feed.

6 It identifies a metal feed rates and
7 the chlorine chloride feed rates as well as its
8 operating conditions, its monitoring
9 conditions, and the waste feed cutoffs.

10 This is a major portion of the
11 permit. There has never been a permit
12 modification to remove the dunnage incinerator.

13 I think it's egregious not to be
14 going through this process, in essence, to
15 remove the dunnage and furnace when we're
16 looking at going through a checklist to say
17 "Well, did they meet that? What happened to
18 the dunnage incinerator?"

19 To make it even more of a concern to
20 myself and to the plaintiffs is that the EPA
21 regional application, the Part A, lists the
22 dunnage incinerator.

23 Right here, under Section -- excuse
24 me for a minute, Section 7, Line 8, lists the
25 dunnage incinerator as 0.530 short tons per

1 hour processing feed. There is no processing
2 feed. There is no furnace.

3 We heard Wayne Thomas testify that
4 the furnace was discovered or rather the wall
5 was discovered where the dunnage was supposed
6 to be installed in August of 1998.

7 This permit application was signed
8 by Lieutenant Colonel Tom Woloszyn on December
9 27th of 2000.

10 This is 28 months after the
11 discovery of the dunnage wall, the Army
12 submitted a permit application testifying that
13 they were going to build a dunnage furnace.

14 I think this is just egregious that
15 we have a major -- we have evidence in the
16 court record of a dunnage furnace with the
17 information requiring it, yet we're walking
18 through a checklist of "Well, they didn't get
19 that little piece of paper in to us, and boy
20 that's a problem."

21 I think it's an issue big enough
22 right here to talk about what are you going to
23 do to revoke the permit now? To talk about the
24 dunnage, the secondary waste streams and
25 getting back to the contract that was agreed to

1 between the public, between the Environmental
2 Quality Commission, DEQ, the US army, and the
3 contractors.

4 And I would hope that you would take
5 your due diligence not to be involved in a
6 popularity contest, but to go back through this
7 permit and see.

8 I don't want to see Umatilla up
9 there with Challenger, with the Columbia, or
10 other disasters because we rushed to burn
11 rather than ensuring that we took due diligence
12 to make sure we were doing the proper thing.

13 And I urge you to take that time.
14 Take that breather. Don't be forced into a
15 deadline by the cheerleaders in this process.

16 I think there is good evidence here
17 to suggest that we need to slow down and really
18 say "What did we do here? Are we heading in
19 the proper direction?" Thank you.

20 Oh, one more thing just real
21 quickly.

22 MR. REEVE: Okay.

23 MR. WILKINSON: And I don't
24 know if it's been brought to your attention,
25 but we did hear this afternoon quite a bit

1 about the management and how much we were
2 putting into our workers and everything.

3 I have here a March 15th, 2004
4 letter from the Army to the EG&G contractor at
5 Utah saying that as of January and February
6 assessments, performance is regressing back
7 toward the pre-July 15th, 2002, TOCDF
8 operational discipline.

9 For the most part, these events are
10 almost exclusively associated with operational
11 performance and work execution. The
12 responsibility of line management.

13 There are 11 big ticket issues in
14 here that they've identified on how management
15 has slipped back to its previous problems that
16 allowed an event and dangerous situations to
17 occur.

18 So again, we have evidence occurring
19 almost on a semi regular basis. I hope you're
20 being informed. That's it. Thank you.

21 MR. REEVE: Have you put any
22 written comments into the record?

23 MR. WILKINSON: Oh, well we
24 still have time.

25 MR. REEVE: Well, right. I was

1 just saying, because a number of your comments
2 were fairly specific. It would probably help
3 staff if you did make written comments.

4 MR. WILKINSON: Yeah. I didn't
5 even get to CSEPP yet. So that's another whole
6 ball of wax.

7 MR. REEVE: You have until June
8 7th.

9 MR. WILKINSON: I appreciate
10 that. Thank you.

11 MR. REEVE: Thanks. We have
12 one more, okay. We have one more person who's
13 signed up to speak.

14 I also wanted to let members of the
15 audience know that we use the sign-up sheets
16 not to hound you, but to allow people
17 information, that is to get out information
18 about activities or any things that are going
19 to happen relative to the DEQ and the facility.

20 So it helps that if you've attended
21 tonight and have an interest in this issue and
22 this facility, to go ahead to please sign in
23 back so that we can keep you apprised of
24 developments.

25 And again, if there's anybody else

1 who wishes to address us tonight orally, you do
2 need to fill out one of these sheets and hand
3 it into staff.

4 With that, our next speaker is Rusty
5 Brewer.

6 MR. BREWER: Hi. My name is
7 Rusty Brewer. At present I live in Hermiston
8 and have for about 45 years.

9 About 1984, I attended a hearing in
10 Irrigon held by the Umatilla Depot personnel,
11 they were just installing a glove box procedure
12 so that they could disarm some of these
13 chemical projectiles and bombs.

14 Since I lived about one mile north
15 of the ordnance fence, it was more than a
16 passing interest at the time. And my daughter
17 was in charge of the swimming pool at the
18 Depot, so I really paid attention.

19 And as I listened, it seemed that
20 the people there were very well qualified to do
21 what they were doing to do.

22 They invited us to an inspection of
23 the facilities, including a glove box which
24 they used to disarm and handle this material.

25 I know you don't act precipitously,

1 but that was 20 years ago. And some of the
2 disarmed material is still being held in
3 containers out there for 20 years.

4 And although at age 80 I've led a
5 full life probably, I want you to know that I
6 would sure like to see the end of this. And
7 I'm sure you would too.

8 In listening to some of the people
9 from GASP, makes me gasp. As the poet said "If
10 ignorance is bliss, is folly to be wise." And
11 I'm almost sorry I listened to some of that,
12 because it just seems that there is such an
13 effort to frighten us about this.

14 And like evacuating a vacuum
15 chamber, pretty soon you have done all you're
16 going to do to evacuate it. And how many more
17 studies and speeches you have to hear, I pity
18 you for. Thanks.

19 MR. REEVE: Next, TJ Rodriguez.

20 MS. RODRIGUEZ: Good evening.
21 I've been sitting here listening to a lot of
22 people talk and taken into consideration a lot
23 of things that they're saying.

24 I am a fourth generation Oregon
25 resident. I have nieces in this area that are

1 five generations. I have a 14 year old
2 daughter and a ten year old daughter that do
3 attend schools in the area.

4 My biggest concern with this
5 facility is not starting. We have some weapons
6 that are more dangerous than anything we could
7 ever think of that are just 11 miles away from
8 where we currently sit.

9 Thinking of a car accident or 9-11
10 brings horrific thoughts to my mind. About
11 five years ago, the Hermiston and Pendleton
12 area experienced something that hadn't happened
13 in this area, and that was a dust storm.

14 There were 64 cars involved. I
15 believe around 14 people died. This was
16 something that happened within a matter of an
17 hour.

18 You have to take into consideration
19 the weapons that are stored there. The
20 thousands of pounds of weapons that are stored
21 in that facility.

22 And know that in a minute it could
23 wipe out this whole city. That's astounding to
24 me.

25 I work for a company by the name of

1 SAIC, who is a contractor out at the demil
2 site. I've been there for five years.

3 In that time, I have gotten to know
4 a lot of people who work very hard to get that
5 facility to be the best facility it can be.

6 I love my job. I definitely love
7 the city that I've grown up in. I grew up
8 here, graduated from school here.

9 I would love to see my daughter be
10 able to do the same thing, and I would love to
11 see her children also live and graduate here.

12 We've got to get rid of this
13 horrible thing that sits here. And I'm asking
14 you as a mom, as a citizen of this town, to
15 please let this start. Don't stop it.

16 We can discuss dioxins and cancers
17 and everything that's been around for a long
18 time, and we're talking probably hundreds of
19 years. These weapons have been made in this
20 last century.

21 We actually, as people, can burn
22 them, get rid of them, and bring this city back
23 to a place that it used to be. How many other
24 people can say that they've done something like
25 that?

1 You guys have a lot to think about,
2 I know you do. But keep in mind that your
3 thought processes aren't just affecting me,
4 it's going to affect thousands of other people
5 that live here.

6 And Mr. Dick saying that, you know,
7 the Army did a survey for who was wanting this
8 to happen, well, you know what, they didn't ask
9 me. I want it done, because I live here.

10 I guess that's all I have to say.
11 Thank you.

12 MR. REEVE: Thank you. That
13 concludes the public testimony tonight. Since
14 we've -- as I understand it, we have now heard
15 from the folks who have signed up.

16 I just wanted to, in closing, thank
17 everybody again for coming out here. I know in
18 this day and age when people have many other
19 things to do and many other obligations, it's
20 sometimes low down on the list to come out and
21 participate as a citizen in things that are
22 affecting your community, but this is a very
23 important decision. And we take it very
24 seriously.

25 And we appreciate very strongly your

1 interest and your involvement. We will be
2 continuing to receive written comment through
3 June 7th.

4 And following that, we will ask
5 staff to go through, review, and analyze all
6 the comments they've received. Update their
7 assessment and provide us with a report and
8 recommendation that we will consider, as we
9 consider all of the comments we've heard
10 tonight and all of the other testimony that's
11 been provided.

12 When we do make a decision, we
13 currently have the decision scheduled for our
14 next meeting, which is in mid July.

15 And it will remain to be seen
16 whether we can stick to that schedule or not,
17 it really depends on probably things that are
18 outside of our control.

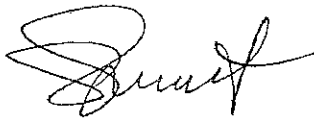
19 But it's certainly our hope and
20 intent to move forward deliberately and yet
21 quickly to make a decision, as I know many of
22 you would wish us to do.

23 Are there any other comments from
24 other Commissioners? No. Okay. Well, thank
25 you very much. And we're adjourned.

1 STATE OF OREGON)
2)
3 County of Umatilla)
4

5 I, Susanne Starkweather, do hereby
6 certify that at the time and place heretofore
7 mentioned in the caption of the foregoing
8 matter, I was a Professional Shorthand Reporter
9 and Notary Public for Oregon; that at said time
10 and place I reported in stenotype all testimony
11 adduced and proceedings had in the foregoing
12 matter; that thereafter my notes were reduced
13 to typewriting and that the foregoing
14 transcript consisting of 78 pages is a true and
15 correct transcript of all such testimony
16 adduced and proceedings had and of the whole
17 thereof.

18 Witness my hand at Pendleton,
19 Oregon, on this 28th day of May, 2004.

20
21
22 
23

24 Susanne Starkweather
25 Professional Court Reporter
Notary Public for Oregon
My commission expires: 12-26-2004

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Shelby Ingram
 Office of The Director
 Chemical Demilitarization Program
 256 E Hurlburt
 Hermiston, Oregon 97838

Ms. Ingram:

There are some concerns of mine, I feel must be part of the Hazardous Waste Storage and Treatment permit.

1. There must be a base study of all health problems that occur in the Umatilla and Hermiston area for at least twenty years; especially in the respiratory, nervous system, cognitive, epidermis and cancer fields for everyone. Keeping a special eye on the personnel who handled the deadly toxic chemicals. These studies must be open to the public at all times.
2. There must never be incineration of more than one toxic chemical at a time, as the mixtures of what I call "Witches Brew" has never been studied, so consequences are unknown at this time. This could result in many unknown complications occurring.
3. The UMCDF must be thoroughly scrubbed after each type of chemical incineration, and physically checked by DEQ before another chemical can be incinerated.
4. DEQ must not allow the U.S. Army Umatilla Chemical Depot, U.S Army Program Manager for Elimination of Chemical Weapons to do their own policing and testing of the toxic dispersion.
5. DEQ must do all policing and testing of the toxic dispersion.
6. All waters, including the Columbia river and all other rivers, creeks, water sheds, irrigation ditches, personal and public wells, to be checked every six months. Records and base studies kept for twenty years, and be open to the public at all times.
7. If any problems do occur; incineration to be stopped immediately upon discovery.
8. The storage areas must be off limits to humans and wild life after disposal of the chemicals.
9. All contaminated soils and containers be incinerated and soils checked for more contamination seeping into the underground water system for twenty years. These reports also must be open for public observation.

Thank you for all you do.

Patricia Garoutte

Sincerely, Patricia Garoutte

Phone: 479-7830 or 479-2722 debnpat228@earthlink.net

STATE OF OREGON
 DEPARTMENT OF ENVIRONMENTAL QUALITY
 RECEIVED

MAY 17 2004

HERMISTON OFFICE

BOB JENSON
State Representative
DISTRICT 58
MORROW AND UMATILLA
COUNTIES



04-0785
REPLY TO ADDRESS INDICATED:
H-485 State Capitol
Salem, OR 97310
Phone: (503) 986-1457
FAX: (503) 986-1322
 2126 NW 21st Street
Pendleton, OR 97801
Phone/FAX: (541) 276-5821

HOUSE OF REPRESENTATIVES
SALEM, OREGON
97310

May 18, 2004

Mark Reeve, Chairman
Environmental Quality Commission
811 SW 6th Ave.
Portland, OR 97204

Dear Chairman Reeve,

The issues of community safety must be the paramount concern of the Environmental Quality Commission as you reach a decision on the disposal of the agents at the Umatilla Chemical Agent Disposal Facility. This issue has been well addressed during the past decade and the community will be better off if the project goes forward quickly. I strongly support safe incineration and believe that the Department has done its job to assure public safety

Delay or leaving these agents around is the worst possible option and I urge the Department and the Commission to move forward with all deliberate speed.

Sincerely,

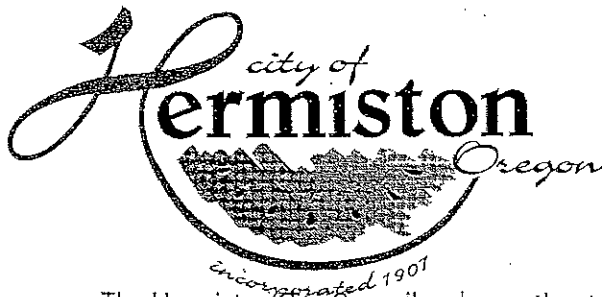
A handwritten signature in cursive script, appearing to read "Bob Jenson".

Bob Jenson
State Representative, District 58

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

MAY 21 2004

HERMISTON OFFICE



04-0787

May 18, 2004

The Hermiston City Council endorses the start of chemical disposal operations at the Umatilla Chemical Depot for the following reasons:

- The Umatilla Chemical Depot has been a trusted and valued part of the community since its inception in 1941.
- The Army has safely destroyed 8,700 of its 31,500 tons of chemical agents to date at other stockpile sites.
- Vigilant oversight by the Oregon Department of Environmental Quality, U.S. Environmental Protection Agency, U.S. Centers for Disease Control, the National Research Council, Congress and others have helped ensure protection of human health and the environment
- The Army and communities surrounding the Umatilla Chemical Depot have taken a leading role in the worldwide movement to eliminate chemical weapons through the Chemical Weapons Convention treaty.
- The community has made great strides in emergency preparedness.
- The majority of Hermiston residents want the disposal project to begin as soon and as safely as possible.

The risks of a major incident involving the storage and disposal of chemical weapons are both extremely low. However, in comparing the two risks, the National Research Council has stated, "the risk to the public and to the environment of continued storage overwhelms the potential risk of processing and destruction of stockpiled chemical agent...The destruction of aging chemical munitions should proceed as quickly as possible."

The City of Hermiston has endorsed the disposal project since the Army first proposed incinerating chemical weapons in 1984. Hundreds of men and women from our community are engaged in the project to build, test and operate the Umatilla Chemical Agent Disposal Facility. This workforce is moving forward with the support, appreciation and cooperation of the communities surrounding the Umatilla Chemical Depot.

Therefore, in the interests of community safety and security, we urge the Oregon Department of Environmental Quality and Environmental Quality Commission to approve start-up of the Umatilla Chemical Agent Disposal Facility.

Walter E. Achuff Walter E. Achuff

Manuel P. Gutierrez Manuel Gutierrez

Harmon Springer Harmon Springer

DuWayne F. White DuWayne F. White

Jackie C. Myers Jackie C. Myers

Rod S. Hardin Rod S. Hardin

Robbie Wolfe Robbie Wolfe

Marie L. Baldo Marie L. Baldo

Bob Severson
Mayor Bob Severson

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

MAY 21 2004

HERMISTON OFFICE

May 20th 2004

04-0786

Oregon Environmental Commission

Thank you for coming to Hearings
and conducting hearings on this important
issue.

I am in favor of proceeding with
the prescribed burn with accountability by
DEQ. I have visited the Aberdeen
plant in ~~west~~ Maryland, heard testimony
about the burn in Johnson Atoll and
am convinced that the current program
is safe. The weapons must be
destroyed as soon as possible for
safety concerns. Please proceed
with the prescribed burn.

Thank you.

Senator David Nelson

541-278-2332

04-0788

INGRAM Shelly

From: Coleman Richard [richard.coleman@wgint.com]

Sent: Thursday, May 20, 2004 3:24 PM

To: INGRAM Shelly

Subject: Public Comment 5/20/04

Dear Shelly,

We have in place, at UMCD, a facility that is ready to eliminate hazardous materials in a safe manner. We all know that the storage of these materials any longer will only make matters worse. We need to stop wasting time and we need to start the burning campaign now. I am confident in the method being used. I feel that my family and community are safe and in good hands.

Thank you,
Richard and Virginia Coleman
5 NE 8th Street
Pendleton, OR 97801

5/21/2004

Umatilla County

A1&A2	1,981
B	6,363
C	15,405
D	3,246
E	505
IRZ	<u>29,500</u>
N	3,562
P	1,559
Q	506
PAZ	<u>5,627</u>

UC Total 35,127

Morrow County

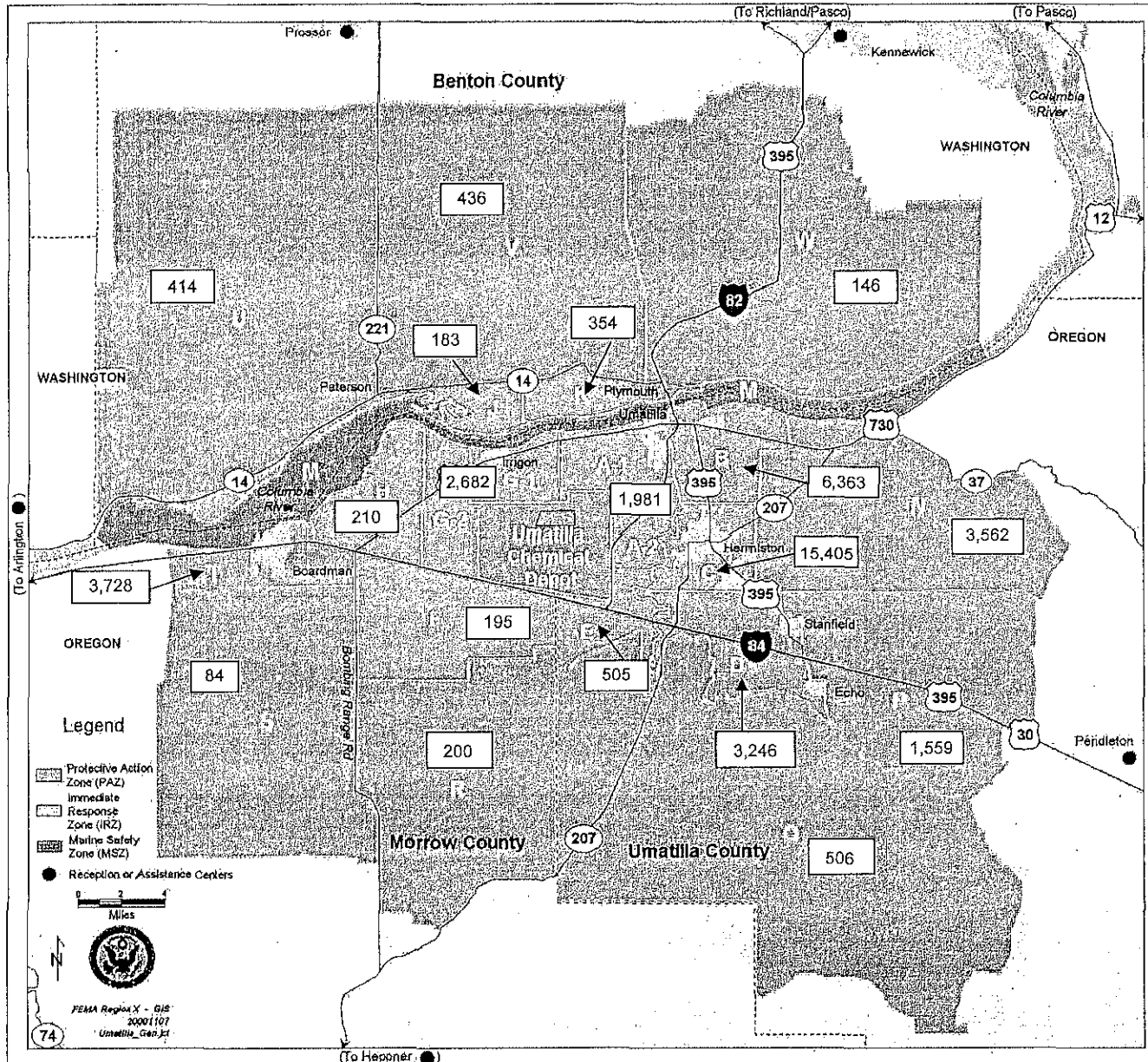
G1&G2	2,682
F	195
H	210
IRZ	<u>3,087</u>
R	200
S	84
T	3,728
PAZ	<u>4,012</u>

MC Total 7,099

Benton County

J	183
K	354
IRZ	<u>537</u>
U	414
V	436
W	146
PAZ	<u>996</u>

BC Total 1,533



	<u>IRZ</u>	<u>PAZ</u>	<u>TOTAL</u>
OREGON	32,587	9,639	42,226
WASHINGTON	537	996	1,533

Source: Transportation Evacuation Plan, SCM Consultants



OREGON CSEPP
Chemical Stockpile Emergency Preparedness Program

Update for Environmental Quality Commission

A snapshot of Oregon CSEPP activities from January 1 through May 19, 2004

JANUARY 2004

- **January 13** – CSEPP managers met with local hospital administration to discuss options for hospital responder compensation. Requirements will be submitted to CSEPP no later than February 6 for consideration.
- **January 14** – FEMA and Congressional announcement of an additional \$3.0 million award for Phase 2 of evacuation infrastructure project.
- **January 14&15** – Michael Parker, Director, Chemical Materials Agency and Craig Campbell, Senior Policy Advisor for Oregon Governor Ted Kulongoski visit Umatilla site. Their itinerary included meetings with local elected officials, the Confederated Tribes and Oregon Department of Environmental Quality; attendance at the Oregon CSEPP Governing Board and Citizen Advisory Commission meetings; and tours of the Depot Operations Center, Umatilla Chemical Agent Disposal Facility, Joint Information Center and Umatilla County Emergency Operations Center.
- **January 15** – 450 MHz Advisory Board meets. Agenda includes: Channel layout spreadsheet, coverage, installation of radios/consoles, system maintenance plan, and schedule of events (MOU, installation, consoles, training, system turnover).
- **January 16** – State of Oregon receives FY 04 budget award in Smartlink.
- **January 20** – Umatilla County CSEPP Planner Shawn Halsey accepts position as Umatilla County Communications Coordinator.
- **January 22** – Members of the Hermiston Fire Department began a nine-week situational Spanish course. Course curriculum focused on terms and common phrases that will be useful in emergency situations. The class was sponsored by CSEPP and taught by Maria Duron, Hispanic community liaison for CSEPP.
- **January 26** – Umatilla County Commissioners sign an MOA with NOAA for a new transmitter at the Pendleton National Weather Service station. The new transmitter will broadcast the same signal as received in the Immediate Response and Protective Action Zones. This will let the Umatilla County EOC monitor Tone Alert Radio broadcasts and allows installation of Tone Alert Radios in homes and agency offices of CSEPP responders and emergency management staff in Pendleton.
- **January 27** – Army begins public opinion survey to determine what the public knows about chemical weapons storage and disposal activities at the Umatilla Chemical Depot. 400 citizens near the Depot will be surveyed by phone over the next two weeks.



Hermiston Fire and Rescue personnel play Simon Says during situational Spanish classes taught by CSEPP Hispanic Liaison, Maria Duron.

- **February 26** – Additional supplies have been received for issuance at over pressurized schools including first aid kits, blood borne pathogens kits, flashlights, additional blankets, tool kits and audio visual equipment.
- **Monthly activity**
 - 450 MHz Radio Project Team – *February Accomplishments*: Completed the turn up and commissioning of the microwave “ring”. Completed Motorola link audits, testing, and connections to the microwave system. Began Motorola system optimization. Completed antenna troubleshooting work at Gleason and Golgotha. Continued development of the Advisory Board and the User Group. Completed initial training of the Communications Coordinator. *March Goals*: Begin mobile installations and radio template programming. Complete system optimization. Begin site and microwave transition to OSP. Complete technical training for the microwave. Complete the installation of the microwave network management terminal. Complete the development of the transition plan for migrating onto the system. Continued progress on Advisory Board structure and governance. See February 12 for Advisory Board activities. Begin system management plan.
 - IRIS Project – Responder training and work on the bar-code technology continues. Antenna testing continues to select the best product for installation on tactical vehicles. IRIS/WiFi emphasis is on preparing for the April 24 exercise. Currently testing secure Recon software. Final WiFi install is in process at the Pilot decon station site. The Steering Committee is convening next week to decide on where to go with Phase II. There are seven persons in the group. They will establish priorities for the coming year.
 - Evacuation Infrastructure Project – Project is moving towards final implementation of Phase I. Currently programming traffic signals, installing traffic cameras for remote management of evacuation. Two more cameras will be added at proposed decontamination sites. Power is at all sites, three cameras are installed and operational. The Hermiston Safety Center server was relocated. Oregon Department of Transportation (ODOT) is meeting with traffic people to work on linking traffic signals. Engineering work done for signal linking, and ODOT is reviewing. Met with ODOT to discuss Elm Street coordination; facilitation will save time and problems. Will begin engineering for Highland this summer. Will go to bid for Elm Street in late May-early June.
 - Tone Alert Radio deliveries – 92
 - Public Affairs
 - Media campaign ads – “Kids at Schools, a Mom’s perspective”
 - Out reach events / presentations – 12 presentations, 1,560 people attending
 - www.csepp.net page hits – 9,732

MARCH 2004

- **March** – First of four CSEPP decontamination trailer’s sent for retrofit. Trailers were originally purchased in 1997. Fire chiefs will travel to Salem on March 22 to inspect the trailer. Two additional trailers will be sent for retrofit after the annual CSEPP exercise in May. Fourth trailer will be held until \$30,000 funding is available.
- **March 2** – Additional radios installed in school (Echo school district and OCDC) buses for the management of bus traffic during a CSEPP event when the buses are enroute of picking up or delivering students.
- **March 4** – Community Responder Coordination Committee (CRCC) decides to change focus of April 24 drill from a medical / field decontamination exercise to an IRIS communications exercise.
- **March 8** – Hermiston Fire and Emergency Services District board is briefed on the planned expansion of the Hermiston Safety Center. The facility, located in the IRZ, houses Hermiston Fire, the Hermiston Police Department, Hermiston Dispatch Center, and is the location of the Incident Command System Operations center in a CSEPP response. The existing area utilized for the CSEPP Operations center is not pressurized. CSEPP will partner with the City in the funding / over pressurization of the new Hermiston Emergency Response Operations Site (HEROS) portion of the building.
- **March 8** – Oregon Department of Transportation Port of Entry Facility over pressurization equipment declared operational. This is the 26th over pressurization facility to come on line.
- **March 9 - 11** – Craig Conklin (FEMA HQ) and Dennis Legel (Army HQ) visit the Umatilla CSEPP Community.

APRIL 2004

- April 1 – Twenty two community volunteers completed a two-day Joint Information Center training and drill hosted by CSEPP.
 - April 13 – The first of four Oregon decon trailers retrofit is complete. Trailer modifications address weatherization issues, increase efficiency and double the capacity of each site. Cost of retrofits for four trailers will be \$255,000. Work was performed by Trailer Works, Independence Oregon.
 - April 14 – The Oregon Department of Human Services (ODHS) congratulated the Oregon CSEPP Governing Board on the security of the new IRIS system. ODHS hired a technology firm to travel to Eastern Oregon and attempt to “hack into” all local health alert networks in the area, to include the new IRIS / WiFi systems. The company was unable to gain access.
 - April 24 – Pre-exercise first responder drill to focus on IRIS capabilities and new bar code scanning capabilities.
 - April 26 – 27 – FEMA hosts Cooperative Agreement (CA) tools training for region / state / county CSEPP staffs at Camp Murray in Washington State.
- **Monthly activity**
 - Public Affairs
 - Media campaign ads – “Before Plastic and Duct Tape”
 - Out reach events / presentations – 15 presentations, 1,368 people attending
 - www.csepp.net page hits – 7,853



Grant Higginson, State Health Officer and Janet Hlavaty-LaPosa, FEMA check out the newly retrofitted Heppner decon Trailer.

MAY 2004

- May 5 – Nearly 11,000 people participate in 2004 Annual CSEPP Exercise. Fourteen of fifteen performance measures passed. No major trouble areas were identified. All items noted were characterized as “minor tweaks” that are quickly solvable. Community strengths noted included: use of the Incident Command System, local school participation and support of Educational Service District, responder tracking innovations, expanded use of Video Conferencing capabilities, volunteer participation, cutting edge use of the World Wide Web as a tool for public information and internal coordination, communication enhancements like the IRIS / WiFi and expanded participation and play of the American Red Cross. Challenges noted included: on-post / off-post communication and coordination, traffic control point implementing procedures, and radio communications with St. Anthony Hospital. The final report is expected by the end of June.





OREGON Chemical Stockpile Emergency
Preparedness Program (CSEPP)
2003 Annual Report

January 14, 2004



**American
Red Cross**

TOP ACCOMPLISHMENTS

Public Preparedness

- 778 Tone Alert Radios distributed. There are currently 15,369 Tone Alert Radios in homes and businesses surrounding the Umatilla Chemical Depot.
- 700 shelter-in-place kits distributed. A total of 18,150 have been distributed to date.
- 790 recirculating air filters distributed in Irrigon. A total of 852 have been distributed to date.
- 31,920 people contacted by the public information team during 237 events.
- Governor-appointed Executive Review Panel met August 21 to review program progress in the year since the previous governor had certified adequate community readiness. Once again, the panel determined that community readiness to be adequate with the caveat that first responders required the 450 MHz tactical communications system to be fully complete prior to commencement of agent destruction at the Umatilla Chemical Demilitarization Facility.



Nearly 60 people attended the annual meeting of the Governor's Executive Review Panel on August 21.

School Preparedness

- UHF radios installed in all school over-pressurized zones to allow direct communication to Emergency Operation Center.
- Began project to establish communications between the Emergency Operations Center and school busses in the event of a community emergency while busses are enroute. Plans for evacuation of enroute busses is being created.
- School principals partnered with CSEPP for new TV, radio and print ads designed to let parents know "Kids are Safe."
- Two new Oregon schools were over-pressurized, bringing the total number of schools and Head Start facilities protected to 31. Twenty-one of these facilities are over-pressurized, and 10 are facilities that would evacuate in a chemical emergency.



Phil Starkey (right), Principal of Armand Larive Middle Schools records a 30-second CSEPP radio ad titled "Kids are Safe" with the help of KOHU radio station announcer Jeff Walker.

Public Warning Systems

- Changed the emergency alert and test tones for CSEPP siren system. The public can now distinguish between a test and an emergency.
- A program to provide vibrating pagers for deaf and hard of hearing Immediate Response Zone citizens was implemented in 2003.

Leadership

- The Confederated Tribes of the Umatilla Indian Reservation accepted an invitation to sit on the Oregon CSEPP Governing Board.

PROGRAM STRUCTURE

LEADERSHIP

The Oregon CSEP Program has operated under the direction of the Oregon Governing Board since August of 2000. The Confederated Tribes of the Umatilla Indian Reservation joined the board as a voting member in 2003. This ten member Board includes representation from each of the following groups public; Immediate Response Zone cities; first responders; medical community; Umatilla County; Morrow County; the State of Oregon; Confederated Tribes of the Umatilla Indian Reservation; Umatilla Chemical Depot and the Federal Emergency Management Agency. The Governing Board received national recognition for its leadership at the 2001 National CSEPP Conference.

Morrow County Commissioner, John Wenholz assumed chair duties from Umatilla County Commissioner, Dennis Doherty on September 17.

PERSONNEL

Five separate agencies have dedicated staff members who make up the Oregon CSEP Program. They include: Morrow County (3.9 FTE), Umatilla County (7.25 FTE), Red Cross (1 FTE), Oregon State CSEPP (7.8 FTE) and the Oregon Department of Health Services (2.5 FTE).

Joining the Oregon CSEP Program staff in 2003 was: Dawn Blalack, Hazard Analyst (Umatilla County). Open positions as of December 31: Communications Coordinator (Oregon Emergency Management) and Communications Coordinator (Umatilla County).

PROGRAM STATUS

ALERT & NOTIFICATION SYSTEM (ANS)

Benchmark: Functioning Alert and Notification System for the Immediate Response Zone and Protective Action Zone.

Status: A six-part public warning system is in place and fully functional. A program to provide vibrating pagers for deaf and hard of hearing Immediate Response Zone citizens was implemented in 2003. Other components of the system include: Sirens, Highway Reader Boards, Highway Advisory Radio, Tone Alert Radios, and the Emergency Alert System.

Sirens:

- In April, Oregon changed its emergency alert and notification siren system tones to match those being used in Washington. The Westminster Chime was adopted for the test tone and a steady tone was adopted as the real chemical emergency tone. Previously, Oregon had used a steady tone for test purposes generating a chance for public confusion in areas where both sirens can be heard. A month long intense public education and advertising campaign preceded changing the tones.
- There are currently 70 CSEPP sirens spread throughout the Oregon and Washington Immediate Response and Protective Action Zones. Seven sirens are located on the Umatilla Chemical Depot. Forty-three are in the Oregon communities immediately surrounding the Depot. Twenty are located in Washington.
- Routine testing is on going. Sirens are silently tested weekly and audibly on the last Tuesday of each month.



ATTENTION!

If you live or work in these cities close to the Umatilla Chemical Depot:
Boardman Echo Irrigon
Hermiston Plymouth Paterson
Stanfield Umatilla

Beginning Tuesday, April 29, the monthly CSEPP siren tests will use a tone that sounds like Westminster chimes – what some people say sounds like a door bell or the chimes of a grandfather clock.

Now it will be easier to tell the difference between the sirens' test and emergency tones. If the Umatilla Chemical Depot has an emergency, sirens will make a solid, steady warning tone for three minutes straight, meaning you should take protective action.

Be prepared if you live or work in the emergency zones close to the Umatilla Chemical Depot in Oregon or in Washington. Know the CSEPP siren tones and what to do.



To hear the siren tones, visit us at www.oregon.gov/DES/epa and click on the "How will I be warned" icon.

Or call –
In Oregon
877-367-2737
In Washington
800-841-7953

CHEMICAL STOCKPILE EMERGENCY
PREPAREDNESS PROGRAM

Alert and Notification Systems (continued):

AMERICAN RED CROSS

2003 Activities:

- Achieved increased ability to respond faster, more efficiently, with more equipment, and with more highly qualified personnel than in the past years.
- Reorganization of The American Red Cross nationally and within Oregon. Nationally, all chapters within a region of the country have been brought under a Service Area Executive and Chapter Solutions Team. This increases the number of skilled professionals available to assist chapters with specific challenges.
- Within the CSEPP community, American Red Cross has reduced the number of chapters directly affected by a CSEPP incident from five chapters to two. The Oregon Mountain River Chapter now covers Central and Northeastern Oregon. This was a consolidation of the Deschutes County Chapter, Hood River Chapter, Columbia Gorge Chapter, Umatilla County Chapter, and the State Service Delivery Area in Morrow County.
- Consolidating resources produces the following advantages:
 - Reduction in paid staff and overhead costs
 - Increase in number and skill level of immediately available volunteers
 - Increase in immediately available supplies and equipment
- Improved cross border response with Red Cross units in Washington State by having Red Cross units respond together, practice together, and train together.
- Equipment and Supplies: FY03 funding increased availability of bed spaces in Mass Care Shelters to 2,000 people.
- Planning and Response Operations: A weeklong intensive work session in February with a 5-person team will update and revalidate:
 - Shelter Site Information
 - Personnel Training and Experience Records
 - Vendor Agreements to support American Red Cross response
 - Establish or improve liaison relations with leaders and responders within all of the local communities affected by an incident or hosting evacuees
- Training and Exercises: Recurring basic training was offered in all CSEPP communities.
 - Eight responders were sent to intermediate American Red Cross training
 - American Red Cross took part in the FEMA annual exercise in June. American Red Cross responders from two states and eight chapters took part. Over 125 volunteers participated at 19 different locations across the two-state area.
 - Three CSEPP funded weekend training rendezvous were conducted. Over 100 people were trained at a greatly reduced cost. Students at rendezvous stay in a American Red Cross shelter that they must establish and operate while also receiving training.
- Public Education: The American Red Cross will continue to work closely with the CSEPP Public Information Officers to ensure American Red Cross preparedness and CSEPP information and materials are distributed. The two programs support and compliment each other.

AUTOMATION

Benchmark: Functioning Automated Data Processing System connecting critical military installation facilities, on-post Emergency Operations Center, off-post Emergency Operations Center, Joint Information Center, and State Emergency Operations Center.

Status: Computer terminals with FEMIS and D2-Puff access exist in the Depot Emergency Operations Center, Umatilla and Morrow County Emergency Operations Centers, the Joint Information Center and the Oregon State Emergency Operations Center. Additionally, computers with FEMIS and D2-Puff access have been placed at: Hermiston Safety Center, Umatilla Fire Department, Umatilla Police Department, Stanfield City Hall, Echo City Hall, Boardman Fire Department and Irrigon Fire Department. This provides Immediate Response Zone cities the ability to track Depot activity, participate in shared reports and identify resources.

Exercises / Training (continued)

Operations / Medical Exercise

- In March 2003, the medical community conducted an exercise to deploy and setup their decontamination equipment. Three hospitals and five fire departments participated in the half-day exercise. The Confederated Tribes of the Umatilla Indian Reservation also participated by reinforcing St. Anthony Hospital. Decontamination sites handled both ambulatory and non-ambulatory patients successfully.
- Planning and preparation is underway for an exercise to be conducted in April of 2004 that will test both medical preparedness and new wireless communications equipment.



Table Top

- Recovery Table Top -- On January 23, 2003, the Umatilla CSEPP Community conducted a Recovery Table Top Exercise. It was organized to address the activities that would follow an emergency involving the chemical weapons stockpile, after response needs had been met. The population's longer-term needs would include the investigation and clean up of potentially contaminated areas, reunification of divided families, resumption of commercial activities, and compensation for those who lost income or incurred expenses from the chemical event. There were over 80 participants from federal, state, tribal, county and other organizations. As a result, of the exercise current plans were upgraded and integrated across a wide spectrum of emergency management.

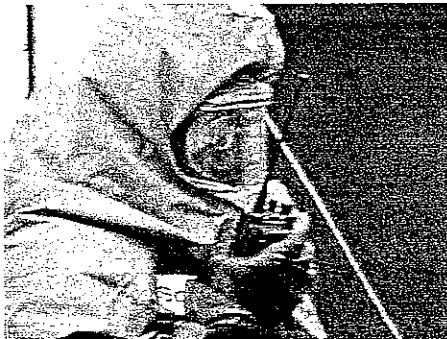
Training

- Personal Protective Equipment -- Throughout the year classes were conducted at various locations to recertify first responders in the use of their Personal Protective Equipment.
- Incident Command System -- A one-week basic ICS course was conducted for individuals selected as liaison personnel to the Umatilla Chemical Depot.
- Basic Public Information -- Umatilla Public Information Group taught it's annual "Ready, Set, PIO!" course in October. Forty enrollees from all over the states of Oregon and Washington with representation from a wide range of professions (including 6 local principals) received "hands on" training in how to deal with the media in emergency situations. Case studies included a Spokane, Washington school shooting incident, an Amber Alert incident, a Umatilla Chemical Depot Tour and a special presentation on the Deseret Intruder incident.

MEDICAL PREPAREDNESS

Benchmark: A medical program for off-post medical preparation and response to a CSEPP incident/accident.

Status: Equipment is provided and training is on-going for hospitals and first responders. Annual field exercises test medical / decon capability. The Center for Disease Control (CDC) assessed the medical preparedness of the Umatilla CSEPP Community during the January 2002 Operations / Medical Exercise. Report concluded that "... all elements are in place to successfully conduct a medical response should a chemical release from the Umatilla Chemical Depot take place."



Personal Protective Equipment (PPE)

- 250 fire fighters, other first responders and hospital personnel were trained in the use of and issued level "C" Personal Protective Equipment (PPE) equipment by the Oregon Department of Health Services. They included staff and volunteers from:

- 10 Fire Departments
- 3 Police Departments
- 3 Hospitals
- 2 Emergency Medical Service Groups

SHELTER-IN-PLACE

Benchmark: To provide shelter-in-place kits for Immediate Response Zone and Protective Action Zone structures to provide citizens additional indoor protection from chemical accidents that might occur on roadways or at the Umatilla Chemical Depot. To increase the public awareness and understanding of what this protective action is and how to implement shelter-in-place if instructed to do so by emergency management officials.

Status: Shelter-in-place kits continue to be distributed. Kits include plastic sheeting and duct tape to seal doors, windows, vents or other air passageways of a selected shelter room. The kits also typically include scissors and English and Spanish instructions.

- 700 shelter-in-place kits were distributed to Umatilla and Morrow County residents during 2003.
- A total of 18,150 shelter-in-place kits have been distributed to date.
- New residents can obtain their free shelter-in-place kit at:
 - The city halls in Umatilla, Irrigon, Boardman and Stanfield or the OutReach Office in Hermiston, or
 - By calling the Tone Alert Radio / Shelter-in-Place request line at (800) 307-7708.
- A total of 852 Recirculating Air Filters (RAFs) have been distributed to residents in Irrigon. Irrigon is the closest city to the chemical storage area at the Umatilla Chemical Depot. A number of industrial air filters were also installed in Irrigon businesses. 790 RAF were distributed in 2003 via a combination of door-to-door delivery and two separate "Irrigon Safety Awareness Days" events. These events included informational booths from American Red Cross, Irrigon Rural Fire Protection District, CSEPP, and the OutReach Office. Residents were required to show proof of residency, participate in a presentation on how to shelter in place and how the recirculating air filter works in conjunction with sheltering before they were given their unit. Shelter in place kits and tone alert radios were also distributed during these two events.
- Public Information Officers made presentations to the management and staffs at 47 businesses in 2003. They spoke to 1,421 people specifically about both home and business shelter-in-place. Thirteen businesses requested and received a facility walk-through and additional information on how to develop a shelter in place annex to their existing facility emergency response plan. One Hermiston business requested and received CSEPP staff evaluation of their initial shelter in place drill.
- Representatives from the National Institute for Chemical Studies participated with the Umatilla Public Information Officers in public outreach activities during Ready Week. Activities included participation in the Irrigon Safety Days, a public meeting in Echo, media appearances and Cinco de Mayo events.
- Two Oregon representatives participated in the National Protective Action Working Integrated Process Team to study the utility and implementation of current and future protective actions in response to chemical events and provide a comprehensive protective action reference document for emergency management officials.



Irrigon residents watch as Dr. Jan Taylor of the National Institute for Chemical Studies explains how to shelter in place using their recirculating air filter.

PUBLIC EDUCATION

Benchmark: A program for public information and education with an emphasis on understanding protective actions. The vision of the public information officers is "a public that can and will act appropriately upon notification of a chemical emergency at the Umatilla Chemical Depot."

Status: State, county and FEMA Region X public information officers continue to aggressively conduct a comprehensive public awareness campaign. A variety of means were used to increase the awareness and knowledge of the public. Tactics included: production and distribution of print materials, presentations, information booths at key community events, a local web page, a paid media campaign and the addition of a contract Hispanic liaison.

Public Education (continued):

- Media Campaign – The Umatilla Public Information Group (UPIG) again enhanced out reach efforts by using a paid advertising campaign. Products developed by the Umatilla Public Information Group are available to other CSEPP site public information teams via the web. Each month focused on a different theme. Two topics received increased emphasis in 2003:
 - “Kids are safe”—CSEPP partnered with Armand Larive Middle School in the production of a new TV ad. The ad showed staff and students at Armand Larive conducting an over pressurization drill. Filming of the commercial generated TV and print news stories. Principal Phil Starkey recorded the radio ads, which ran in conjunction with the TV spots. Full-page print ads with photos with statements from numerous principals were placed in three newspapers.
 - “New siren tones” – The public information team developed and successfully implemented a full communication plan to educate the public about the change in test and emergency tones made by Oregon sirens. The plan included the production of new TV, radio and print ads.
- Survey -- A telephone survey was conducted in June to assess campaign effectiveness and public knowledge of protective actions. The survey sampled 822 residents living in the emergency planning zones. Results indicate that knowledge of protective actions continues to improve since the baseline survey in June of 2000. A sample of results is listed below.
 - 95% -- Public awareness of chemical agents is high
 - 85% -- agree they know what to do if warned of a chemical emergency
 - 78% -- confident they would be notified quickly
 - 72% -- confident they know how to shelter in place
 - 67% -- know difference in siren sounds

RESPONSE PLAN

Benchmark: Coordinated plans in conformance with established CSEPP guidance for each state and Immediate Response Zone and Protective Action Zone county, which are to be updated as CSEPP guidance is revised or the jurisdiction’s circumstances change.

Status: The Oregon Governing Board promulgated the Bi County Emergency Response plan on January 10, 2001. The off-post response to a Umatilla Chemical Depot emergency would be managed under the Incident Command System. Integrated community plans based on the incident command system are developed and available on a secured web site. Wireless connectivity with the web-based plan and IRIS utilities is undergoing development and was in limited use during the June annual exercise. Swing-arm barricades are installed at four Interstate 84 locations.

2003 Activities:

- Bi county response plan was reviewed and is in process of being updated.
- The site Integrated Process Team formed a Bi-state Incident Command System (ICS) Coordination Committee to help ensure efficient response to a chemical event across the state line. Web pages have been developed to provide an easily accessible, centralized location for committee related information and activities. They can be accessed at www.csepp.net/ICS.
- Umatilla County began discussions with the Confederated Tribes of the Umatilla Indian Reservation, Wildhorse Resort and Casino, and the American Red Cross to establish a Reception Center for Evacuee Support in the event of a Community Emergency at the Umatilla Chemical Depot.
- Oregon, by virtue of a contract with the Morrow/Umatilla Counties Educational Services District, has established an around-the-clock liaison within the Umatilla Chemical Depot EOC. All persons serving in this role are trained in chemical hazard analysis and are subjected to background investigations to allow access to the EOC.
- Expanded “Cyber Joint Information System” capabilities and partnerships. Umatilla Public Information Team members introduced other CSEPP sites to the “Cyber Joint Information System” during August and November classes at Oak Ridge National Labs.
- Expanded information available through and use of Joint information Center electronic status boards.

COMPUTER AIDED DISPATCH (CAD)

Project Lead / Point of Contact: Kathy Lieuallen, Umatilla County Sheriff's Department

Goal: To increase the efficiency of key dispatch centers.

Status: Oregon CSEPP received 2003 funding to assist in the implementation of a computer-aided first responder dispatch system. Although initially intended for the Sheriff's Departments of Umatilla and Morrow Counties, subsequent coordination within the community led to an expansion to virtually all Immediate Response Zone response agencies. Supplemental federal funding along with increased cost share contributions and reallocation of federal funds covered the additional costs.

The Computer Aided Dispatch (CAD) system provides dispatchers instantaneous access to name, location, pending and prior incidents, hazards and warrant information. CAD will allow dispatchers to see the location of the enhanced 911 phone call and the corresponding agencies that will respond to that area. Additionally the dispatcher can type in an address and the agencies that will respond to that address will show up. CAD displays status of all police, fire and Emergency Medical Services (EMS) units. With the connectivity and tracking, it will be easy to see what units have been sent to an address and what units are available to dispatch to a call. The agencies will be able to check the CAD to look back at calls and times to better plan and manage the resources. The Records Management System (RMS) automates the police records management functions of an agency. CAD and RMS can also be used to show a visual history of types of incidents and where they have occurred over a selected period of time.

The initial network to connect all agencies involved is planned for implementation in early February 2004. Additionally in February the servers should be installed and testing will begin on the system. We have gathered information from many different sources to populate the Geographic Information System (GIS) for CAD. This will allow dispatchers to accurately send units from the correct agencies, and help them determine the correct routes to rural addresses. Codes for dispatch assignment were coordinated between all agencies and will be in the new system. Unit numbers and other identifiers for tracking units and personnel were agreed upon and will be in the system as well.

The agencies who have joined together in this venture are: Morrow County Sheriff, Umatilla County Sheriff, Boardman PD, Boardman Fire, Hermiston PD, Hermiston Fire, City of Umatilla PD, Stanfield PD, Stanfield Fire, Pendleton PD, and Pendleton Fire.

The target for going live with CAD is May 2004.

INFRASTRUCTURE EVACUATION PROJECT

Project Lead / Point of Contact: Casey Beard, Morrow County Emergency Management

Goal: To complete the transportation improvements necessary to facilitate a two hour evacuation of 90% of the general population on the Hermiston/Hwy 395 corridor.

Status: In 2002 Morrow County contracted SCM Consultants, Inc. for the development of a Transportation Evacuation Plan. The main objective was the determination of evacuation routes that would allow for a safe and expeditious evacuation of the population in case of an accident or natural disaster at the Umatilla Chemical Depot that released toxic gases to the atmosphere. Because of the Umatilla Community / Morrow County proposed maximum threshold of two hours for the evacuation of 90% of the population at risk, the study also involved the identification of transportation improvements that would help make evacuation a feasible alternative.

The 3 Phase (3-year) work and funding schedule to minimize the impact and better manage a project of this size was developed. The goals of the "Plan" were to avoid land acquisition/condemnation; work within existing Right-of-Ways; avoid new major construction; complete the project within a 3-year time limit from date of funding; and minimize disruption to current system.

Oak Ridge National Laboratory completed an assessment of proposed alternatives in July 2003.

IRIS PROJECT

Project Lead / Point of Contact: Casey Beard, Morrow County Emergency Management

Goal: To provide First Responders greater access to pertinent information in the field, coordination with the Emergency Operations Center and real-time communication of critical data.

Status: Morrow County contracted with IRZ Consulting in January 2003 for an Incident Response Information System (IRIS). A second contract was signed in December 2003 for expanded WiFi coverage. Quality assurance for the project is being provided by SCM consulting (Tetra Tek).

The Incident Response Information System (IRIS) combines software, hardware and real time wireless communications. It creates a bridge between field emergency responders and emergency command centers. Through the IRIS responders have access to:

- Real time update of the plume model,
- Bi County Response Plan, Incident Command structure, base maps and implementing procedures,
- Database information
 - Satellite & aerial digital imagery,
 - Critical facility data (shows location of facilities, occupancy number, building layout, contact person, etc.)
 - Special populations
- Geographic Information System (GIS) data collection and map utilities, and
- Provides field data management and data collection.



Responders field-tested IRIS technologies during the annual CSEPP exercise in June.

Special population information for the data bank was gathered through a mail survey of Boardman and Irrigon residents in August 2003.

CSEPP has purchased 53 handheld Recons, 15 Panasonic Toughbook 29 laptops, 1 tablet PC and 1 Panasonic Toughbook 27 for first responders use.

SoloOffice has been installed on hazard analyst computers in Morrow County, Umatilla County and the Community Liaison Officer at the depot. Information for the first responders will be pushed from the Emergency Operations Centers to IRIS on the handheld Recons and Toughbook Laptops.

WiFi connectivity for Boardman, Hermiston, Umatilla, Irrigon, Stanfield, the Hwy 395 and 730 corridors are being installed. An opening ceremony for WiFi is anticipated in January 2004.

Mandatory training for users is in process.

Shelly Ingram
DEQ Chemical Demilitarization
Program,
256 E. Hurlburt, Suite 105,
Hermiston, OR 97838

Eric Nicholson
23441 Hwy 36
Cheshire OR
97419
5/25/04

04-0815

Dear Shelly,

I am writing to express my concern regarding the planned incineration of chemical weapons in the Hermiston area. There are a number of concerns:

- There is potential for chemical weapons to leak in the process.
- The incineration will put/release toxic pollution into the air, poisoning, potentially, huge numbers of citizens ~~of~~ over a large indeterminate area, affecting Western Oregon as well, and surrounding areas, such as Washington State, Idaho, Montana, California
- The toxic poisons from such incineration releases could have a world wide effect, as air circulates the entire earth. Minute, very small amounts in the air could have disastrous effects.
- There is potential for human error in the process of incineration, which could be disastrous.
- There is potential for negative affect that has not been considered or perceived - unknown disastrous possibilities.
- Damage, once created by the planned incineration, cannot be undone. A once beautiful thriving area may be changed forever into an area with deadly polluted air.

Many people, among them close friends, share my concerns about the potential of the Chemical Weapons Incineration Plan. Please DO NOT incinerate any chemical weapons in Hermiston, or anywhere else !!!

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

MAY 27 2004

Sincerely,
Eric F. Nicholson

5-26-04

04-0822

I want to add my support of the depot to proceed with the incineration as soon as possible.

I have always felt safe when I worked at the depot after we received the chemicals.

We (the Army) were trying to figure out how to get rid of the chemicals when I retired in 1983.

The cost & delays caused by GASP is very irritating.

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

MAY 27 2004

HERMISTON OFFICE

Jay L Moses
2008 E Airport Rd
Hermiston, OR 97838

04-0885

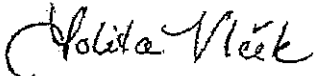
State of Oregon
Department of Environmental Quality
Office of the Director
Chemical Demilitarization Program
266 E. Hulburt
Hermiston, OR
Fax: 541-567-4741

June 4, 2004

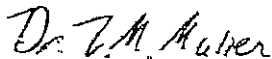
Sir/Ma'am;

We are opposed to the incineration of chemical weapons at the Umatilla Chemical Agent Disposal Facility. The consequences on human health and the environment are unknown and potentially catastrophic. It is not intelligent or humane to subject people to such a dangerous experiment.

Sincerely,



Lolita Vlcek
579 Azalea Dr.
Elkton, OR 97436



Dr. Vincent Mulier
686 E. 22nd
Eugene, OR



CONFEDERATED TRIBES
of the

S-D
04-0916

Umatilla Indian Reservation

DEPARTMENT OF SCIENCE AND ENGINEERING

Scanned

P.O. Box 638
73239 Confederated Way
PENDLETON, OREGON 97801

Phone (541) 966-2400
Fax (541) 278-5380

7 June 2004

Mr. Dennis Murphey
Department of Environmental Quality
Eastern Region Hermiston Office
256 East Hurlburt, Suite 105
Hermiston, OR 97838

RE: Request for Public Comment, Start of Agent Operations

Dear Mr. Murphey;

On behalf of the Department of Science and Engineering of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), I am submitting the following comments on the start of chemical agent operations at the Umatilla Chemical Agent Disposal Facility (UMCDF). These comments reflect the opinion of our Board of Trustees as of 1 May 2004. Please note that we are continuing to work with the Army to resolve our outstanding issues on the protection of the rights and resources of the CTUIR. The Board of Trustees will notify you in writing when we have reached a satisfactory conclusion.

If you have any questions concerning this issue please feel free to contact me by telephone at (541) 966-2413.

Sincerely,

Rodney S. Skeen, Ph.D, P.E.
Chemical Engineer, CTUIR-DoSE

Cc:
Armand Minthorn, Member, CTUIR-BOT
Stuart Harris, Manager, CTUIR-DoSE
File

Enclosure

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

JUN 09 2004

HERMISTON OFFICE

CERTIFICATE

The undersigned, Antone Minthorn and Rose Mary Narcisse, hereby certify that they are the Chairman and Secretary respectively of the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation and that a regular held meeting of said Board of Trustees in the Board Room of the Tribal Office building, Pendleton (Mission), Oregon on May 10, 2004, a quorum of said Board was present and the following Resolution was polled and adopted by a vote of 7, 0, 0 abstaining.

RESOLUTION

- WHEREAS,** the Treaty signed in 1855 by the United States Government and the peoples now known as the Confederated Tribes of the Umatilla Indian Reservation (Confederated Tribes), recognizes certain rights of said Confederated Tribes; **AND**
- WHEREAS,** the Board of Trustees is the governing body of the Confederated Tribes of the Umatilla Indian Reservation, Pendleton (Mission), Oregon, by the authority of Article VI of the Tribes' Constitution and By-Laws, adopted on November 4, 1949 and approved on December 7, 1949; **AND**
- WHEREAS,** the United States Army of the United States Department of Defense operates the Umatilla Chemical Depot (UMCD) near Hermiston, Oregon, that stores approximately 12% of the United States' stockpile of chemical warfare agents configured in both chemical weapons and bulk containers; **AND**
- WHEREAS,** the UMCD is located within the ceded lands of the Confederated Tribes, approximately thirty miles directly west of the Umatilla Indian Reservation; **AND**
- WHEREAS,** a Memorandum of Agreement was established between the Confederated Tribes and the U.S. Department of the Army concerning the destruction of the chemical weapons stockpile stored at the UMCD, **AND**
- WHEREAS,** the United States Army has built an incinerator at the UMCD to destroy all said chemical agents and chemical weapons stored at the UMCD; **AND**
- WHEREAS,** the Confederated Tribes has numerous historical, cultural, natural, and economic resources on and near the UMCD and these resources are at risk from the continued storage of these chemical weapons and bulk containers; **AND**
- WHEREAS,** Board of Trustees Resolution No. 01-106 (October 15, 2001), calls for timely destruction of all chemical weapons and bulk items stored at the UMCD provided that said destruction is carried out in a manner that is consistent with the Resources Conservation and Recovery Act Permit for the incinerator facility, as well as any other applicable environmental standards, and is protective of the Confederated Tribes rights and resources; **AND**

Resolution 04-031: ON UMCDF CHEMICAL AGENT START-UP

May 3, 2004

Page 2 of 2

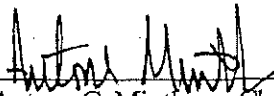
WHEREAS, Attachment 6 of the Resources Conservation and Recovery Act Permit contains certain requirements that must be met prior to the start of agent shakedown operations, including requirements for completed plans for storage and disposal of secondary waste, a fully operational Brine Reduction Area, a completed Pre-Operational Survey and/or Operational Readiness Evaluation, and written notification from the Oregon Environmental Quality Commission authorizing agent shakedown operations; **AND**

WHEREAS, the Oregon Environmental Quality Commission is seeking comment from the surrounding communities on the start of agent shakedown operations; **NOW THEREFORE BE IT**

RESOLVED, that the Board of Trustees supports the start of agent shakedown operations at the UMCDF provided the facility is fully compliant with its Resources Conservation and Recovery Act Permit, and that the Army has defined to the satisfaction of the CTUIR Board of Trustees the joint mitigation process the Army and the CTUIR will follow if the incineration facility is observed to have negatively impacted Tribal resources.

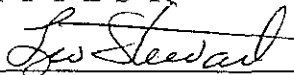
AND, that said Resolution has not been modified, amended, or repealed and is still in full force and effect.

DATED this 3rd day of May, 2004.



Antone C. Minthorn, Chairman
Board of Trustees

A T T E S T:

For 

Rose Mary Narcisse, Secretary
Board of Trustees

04-0902

ILES Lena

From: Karyn Jones [karynj@oregontrail.net]
Sent: Monday, June 07, 2004 4:54 PM
To: ILES Lena
Subject: GASP et al Startup comments

G.A.S.P.
P O Box 1693
Hermiston, OR 97838

June 7, 2004

Dennis Murphy, Program Manager
Chemical Demilitarization Program
Oregon Department of Environmental Quality
256 East Hurlburt Avenue, Suite 105
Hermiston, OR 97838

RE: Approval Process for Start of Agent Operations at UMCDF
Umatilla Chemical Agent Disposal Facility (UMCDF)

Dear Mr. Murphy:

On behalf of G.A.S.P. et al we submit the following comments.

We oppose start-up of the Umatilla Chemical Agent Disposal Facility (UMCDF) because its owner/operator has failed to fulfilled its Hazardous Waste Permit Application Part A, the State of Oregon Storage and Treatment of Hazardous Waste permit (ORQ 000 009 431), and other federal and state laws. Our comments today incorporate by reference the Administrative Record for *GASP I, II, and III* and our Petitioner's Post-Trial Brief, which was submitted to Multnomah Circuit Court on May 10, 2004.

Karyn Jones delivered the *Brief* to Environmental Quality Commission (EQC) members and to Department of Environmental Quality (DEQ) staff during her May 20, 2004 testimony. The *Brief* can also be found on www.gaspinfo.org by clicking on the left side "Post Trial Brief." We believe the issues presented in the *Brief* should be immediately resolved.

Nevertheless, the concerns listed below are neither comprehensive nor exclusive, but identify those crucial to investigate prior to embarking on the most dangerous venture in Oregon's history. No other state authorized project has the potential to spew devastation on human health and safety and the environment than the one the Army and State are poised to begin. We believe it is imperative that all measures for safe operations be accounted for and that "no stone is left unturned." Our fear is that the Army's schedule will press action, rather than careful analyses and consideration. The EQC must avoid the rush-to-burn mentality and document to Oregonians that they reviewed and revealed every

6/7/2004

Application and Permit requirement. There is no doubt that our children inherit this decision.

1. The DEQ issued its Compliance Assessment on May 4 and it states in Appendices C that, "Of the 69 requirements listed in the three tables, the 30 that are still considered open are listed below." It was clear to most people at the May 20-21 EQC meetings that the tasks remaining by the DEQ and the Permittees could not be completed or reviewed prior to the July EQC meeting. At the May meeting, the EQC should have announced that it would make its review at its August meetings and that the deadlines were extended, including the public comment period. It was short-sighted to not do this.

2. In addition, the documents referenced in Appendices C are not available in the public repositories. How can the public review referenced documents to prepare informed comments when they are not available at accessible locations such as the World Wide Web, the Public Repositories, or the Public Outreach Office? The DEQ should inventory and report on the availability of documents listed in the Appendices C and ensure that they are available at the repositories listed in the Request for Comments and Notice of Public Hearing.

3. We are disappointed that the DEQ applied a narrow interpretation to its "checklist." We expected a complete inventory of the Permit requirements (e.g., CSEPP) rather than those listed in Appendices C. We request that a comprehensive Permit review be completed and that a new "checklist" be submitted for public review and comment.

4. The Environmental Protection Agency (EPA) Part A Application signed on/near April 15, 2004, by LTC CM David E. Holliday, UMCD Commander; by Don E. Barclay, UMCDF Site Project Manager for Chemical Stockpile Disposal; and by Douglas G. Hamrick, Umatilla Project Manager, Washington Demilitarization Company includes as Part XII, Line 8 the Dunnage Incinerator (DUN). This incinerator is required under Permit Module VII.E.

However, we learned by Plaintiff Attorney Mick Harrison's direct examination of former DEQ Program Manger Wayne Thomas that the DEQ discovered the DUN unilaterally removed by the Army:

Q Okay. Can you tell the Court what the history of the Army's communications to the State have been over time as to when they planned to use the Dunnage incinerator, and when they planned not to use it and when they might have changed their mind again?

A I will do my best.

Q Thank you.

A The Dunnage incinerator is a treatment unit that is included in the original application. We were notified, I believe, it originally started in some of the monthly meetings we were having that the Army was evaluating putting the Dunnage incinerator on hold and not constructing that or installing that unit.

We kind of got a clue that they might be doing that because they put up a wall in the plant and we thought, how are they going to get the incinerator through there, you know? They are going to have to take the wall down here. We might have something going on.

That was the first clue that we got from our construction observation of the site. And I think the first written formal correspondence was a letter in August of '98, I believe, where we were formally told that as of that date the DUN was on hold.

And, let's see, subsequently we had discussions with the Army about that, and what that meant and how the waste streams would be managed that were targeted for the DUN, and we had a special EQC meeting in August of '99, almost, I think it was by the day and a year later than when we got the letter just coincidentally.

And the Army came in and talked about the incinerator and the issues of managing secondary waste. Let's see --

Q What did they say about the Dunnage incinerator?

A Well, let's see --

Q I don't need an exact quote, just in a nutshell, the essence of what they were saying.

A Well, in a nutshell, it is kind of hard to do as well. I would say that the Army said that the Dunnage incinerator would operate at the feed rates that it was permitted to do and they were evaluating --

THE COURT: Would not or would?

THE WITNESS: Would operate. And they were evaluating different options for the wastes that were targeted for the DUN, in particular waste carbon treatment was something that they were looking at.

BY MR. HARRISON:

Q So if I understand your testimony, the Army was telling you -- and, again, this year was '99, was it?

A Yes.

Q That they intended to use the Dunnage incinerator, but they were looking -- and they intended to use it at the waste speeds originally contemplated, but some of the waste streams might not go to the DUN such as carbon. Did I hear you correctly?

A I think that's a reasonable paraphrase.

Q Okay. So were there any subsequent communications from the Army that changed that plan?

A Ah, we had, let's see, we had a series of meetings I believe. They created what is called secondary waste integrated process team. I can never remember if it is process or product. I think it is process. To discuss secondary waste issues at Umatilla. Sue Oliver of my staff actually sat on that and represented the agency there.

And at that -- at those IBT meetings, there were discussions about how the secondary wastes were going to be managed and treated at Umatilla. And then -- so that's through the fall of 1999.

Q Okay. Just stop there for a moment.

GASP v. EQC, August 28, 2002, Volume 6a, pg 67-70.

As the Thomas testimony demonstrates, the DEQ failed to take immediate action to revoke the permit when the "DUN Wall" was discovered. Thereafter in August 1998, the Agency began to conspire with the Army to segment secondary waste streams to other furnaces in a manner that damages the integrity of the DEQ and the Army and the viability of the Permit. *Brief* section 4.D, begins on page 45 to further detail our concerns. The EQC must not ignore such evidence as it considers the aggressiveness of the DEQ to enforce Permit conditions and the truthfulness of the Army to report operational changes or problems.

Furthermore, we believe that had the Army and the State revealed the "DUN Wall" and their subsequent negotiations that these actions would have supported *GASP I*. In this way, the Army by not revealing its construction activities and the DEQ by its discovery and its negotiation strategies combined their actions to undermine the judicial process and, therefore, perpetrated an egregious injustice on the plaintiffs and on all Oregonians.

5. The EQC should implement new Permit requirements including monitoring improvements. Start of chemical operations will not be protective of public health and the environment because the ACAMs and DAAMs air monitors cannot adequately detect the presence of chemical warfare agents in the stack

of the incinerator or elsewhere in the facility. Our concerns are detailed in *Brief* sections 3 and 4.B, which respond to the Honorable Judge Marcus and his March 1 Opinion and Order on Petitioner's Motion for Sanctions and Final Briefing Order when he asked:

Why would any rational agency in DEQ/EQC's role not require in the permit that devices designed to detect agent in emissions within the facility and escaping from the facility actually perform as intended and be regularly validated in that performance?

6. The EQC should implement new Permit requirements for worker "whistleblower" protection. As revealed during *GASP v. EQC*, there are no worker protection clauses in the Permit. Our concerns are detailed in *Brief* sections 7 and 8, which are responsive to the Honorable Judge Marcus and his March 1 Order wherein he asked:

Why would any rational agency in DEQ/EQC's role not require in the permit that the Army expressly and notoriously forgo any right or power to prohibit good faith testimony by employees concerning hazards in the operation of the facility, or otherwise restrict the operation of Touhy regulations in the service of safety oversight?

7. Start of operations will not be protective of public health and the environment because lead, mercury, cadmium, chromium, arsenic, and other metals will be released into the environment. Metals are not destroyed during incineration. Moreover, at present, no UMCDF pollution control devices were constructed that will adequately capture and control metals. Stack monitoring for these metals are non-existent.

8. Start of operations will not be protective of public health and the environment because the Phase II Quantitative Risk Assessment or other assessments did not consider the following factors: (1) risks to workers; (2) background exposures (i.e., current body burdens) to pesticides, dioxins, PCBs, and other dioxin-like substances, mercury and other metals; (3) other sources of contaminants that contributed to local body burdens; (4) sensitive sub-populations such as pregnant women (including the fetus), the elderly, persons who have or have had illnesses or have compromised immune systems; (5) non-cancer impacts of dioxin and dioxin-like substances; (6) current rates of disease (e.g., diabetes, cancer, asthma) in potentially effected communities; (7) impacts of technologies that may replace the dunnage incinerator; (8) particulate matter (PM) 2.5; and, (9) synergistic impacts of metals.

9. Start of operations will not be protective of public health and the environment because the deactivation furnace (DFS) discharge conveyor bin and bin enclosure are sources of the release of chemical warfare agents into workspace and the environment.

10. Start of operations will not be protective of public health and the environment because chemical warfare agent contaminated munitions/materials will improperly combust in the feed chute leading to the DFS.

11. Start of operations will not be protective of public health and the environment because the waste stream of munitions and related materials have not been sufficiently characterized in order to determine the types and quantities of substances (e.g., mercury and other metals) to be incinerated.

12. Start of operations will not be protective of public health and the environment because the relied upon pollution abatement system carbon filter units are insufficiently tested or proven technology for

use in filtering gases created during incineration.

13. Start of operations will not be protective of public health and the environment because infrared and ultra-violet chemical monitoring technologies could be used to more accurately and timely inform the agencies and communities what is being emitted from the incinerator stack and what is crossing the boundary of the UMCDF facility.

14. Start of operations will not be protective of public health and the environment because the facility is permitted to release untreated mustard gas, vx and gb through the stack emissions during operation.

15. The incineration system as presently configured at UMCDF is not the best available technology as required by Oregon law.

The start of chemical operations will not meet the mandate of the EQC to provide maximum protection for human health and safety and the environment. Principally, the Compliance Assessment is not complete and it leaves too much unanswered. Our concerns are detailed in our *Brief*; nevertheless, we do believe the EQC has adequate information and authority to revoke the Permit until remaining questions are resolved including the fate of the DUN.

Sincerely,

Karyn J. Jones, G.A.S.P. Executive Director
James R. (JR) Wilkinson, Researcher
Richard Condit, Esquire

APPENDIX F

Index of Related Documents

*“Compliance Assessment for
Start of Agent Operations”*

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Index of Related Documents

“Compliance Assessment for Start of Agent Operations-Revision 0”

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
GENERAL DOCUMENTS			
02-0448	Findings and Conclusions of the [Environmental Quality] Commission and Order,” Permit Modification UMCDF-01-028-MISC(EQC), “Approval Process for UMCDF Operations”	3/28/02	N/A
04-0461	Public Notice: Request for Comments and Notice of Public Meeting for Compliance Assessment for Start of Agent Operations at the Umatilla Chemical Agent Disposal Facility	4/23/04	N/A
04-0679	Compliance Assessment Start of Chemical Agent Operations Umatilla Chemical Agent Disposal Facility Revision 0	5/04/04	N/A
04-0751	Umatilla Chemical Demilitarization Program Status Update Environmental Quality Commission May 20, 2004 (Agenda Item G)	5/14/04	N/A
04-0775	Status Update of Open Requirements for the Start of Chemical Agent Operations at the Umatilla Chemical Agent Disposal Facility May 20, 2004 (DEQ)	5/20/04	N/A

⁴ The Department of Environmental Quality (DEQ) assigns a unique identifying number to documents received or issued by the DEQ Chemical Demilitarization Program. The documents are grouped into information categories. For submittals received, for example, on a quarterly basis, this index lists the most recent submittal, and also the category number of the submittals related to that topic.

⁵ “N/A” indicates that the document cited is not applicable to a specific requirement listed in Tables C-1, C-2, or C-3 of Appendix C. Note also that not every single document related to determining compliance with the requirements in Appendix C will be listed here. In most cases, the final document (such as Department approval of a permit modification request) is the only document listed—however, the Department approval letter is intended to incorporate by reference all underlying information leading to that approval (such as the permit modification request, notices of deficiency, supplemental information submittals, etc.).

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-0859	Transcripts from the State of Oregon Department of Environmental Quality May 20, 2004 Meeting Item F: U.S. Army Presentation on the Preparation for the Start of Agent Operations at the Umatilla Chemical Agent Disposal Facility	5/20/04	N/A
04-0860	Transcripts from the State of Oregon Department of Environmental Quality May 20, 2004 Meeting Item G Update on the Umatilla chemical Agent Disposal Facility	5/20/04	N/A
04-0862	Transcripts from the State of Oregon Department of Environmental Quality May 20, 2004 Meeting Item I: DEQ Presentation on the Approval Process For Start of Agent Operations at the Umatilla Chemical Agent Disposal Facility	5/20/04	N/A
04-1206	Draft Minutes of the Three Hundredth and Eighteenth Meeting of the Oregon Environmental Quality Commission	5/21/04	N/A
N/A	Permit for the Storage and Treatment of Hazardous Waste, Umatilla Chemical Agent Disposal Facility, Permit No. ORQ 000 009 431, originally issued February, 1997	7/15/04 (most recent update)	N/A
PUBLIC COMMENTS RECEIVED			
04-0858	Transcript from the State of Oregon Department of Environmental Quality May 20, 2004 Public Hearing regarding the Proposed Start of Chemical Agent Operations at the Umatilla Chemical Agent Disposal Facility	5/20/04	N/A
04-0755	Patricia Garoutte	5/13/04	N/A
04-0785	The Honorable Bob Jenson, State Representative, District 58	5/18/04	N/A
04-0787	Hermiston City Council	5/18/04	N/A
04-0786	The Honorable David Nelson, State Senator, District 29	5/20/04	N/A

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-0788	Richard and Virginia Coleman	5/20/04	N/A
04-0807	CSEPP Update for the Environmental Quality Commission, submitted by Meg Capps, on behalf of the Umatilla County Board of Commissioners and the Umatilla County Emergency Management Department	5/20/04	N/A
04-0815	Eric L. Nicholson	5/25/04	N/A
04-0822	Fay L. Moses	5/26/04	N/A
04-0885	Lolita Vlcek and Dr. Vincent Mulier	6/04/04	N/A
04-0916	Rodney S. Skeen, Confederated Tribes of the Umatilla Indian Reservation	6/07/04	N/A
04-0902	Karyn J. Jones, et al., G.A.S.P.	6/07/04	N/A

TABLE 1 REQUIREMENTS

03-0551 03-0552	Submittal of Class 1 Permit Modification Request UMCDF-03-017-MISC(1R), "Annual Procedure Review and Update" (Transmittal Letter and PMR)	3/24/03	1-1
04-0934	Letter from UMCDF to the Department concerning "Permit Condition I.N.1.v., Compliance Checklist Item 1-2, Remote Monitoring [Rockwell Software View (RS View)]"	6/14/02	1-2
04-0881	Department Acceptance of Facility Modification Certification Package FMC-039, "LIC1 Replacement of FRP Piping	6/04/04	1-3
04-1077	Department Acceptance of Facility Modification Certification Package FMC-040, "DFS Replacement of FRP Piping"	7/12/04	1-3
04-0479	Department Approval of Class 1 Permit Modification Request (PMR) UMCDF-03-056-MDB(1R), [Second] Annual Update to the Munitions Demilitarization Building and Specification 13215	3/25/04	1-4

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-0477	Department Approval of Class 1 Permit Modification Request (PMR) UMCDF-03-055-MISC(1R), [Second] Annual Update to the General and Pollution Abatement System Drawings and Specifications 03100, 03300, 09850, 09900, 15829, 15830 and 15987	3/25/04	1-4
04-0340	Department Approval of Class 1 PMR UMCDF-03-051-MISC(1R), [Second] Annual Update to the Demilitarization Drawings with Specification 15120	3/5/04	1-4
04-0441	Department Approval of Class 1 Permit Modification Request (PMR) UMCDF-03-047-MISC(1R), [Second] Annual Update to the Container Handling, Personnel Maintenance, and Munitions Demilitarization Buildings and the Laboratory Drawings with Specifications 03200, 03250, 05500, and 15161	3/19/04	1-4
04-0475	Department Approval of Class 1 Permit Modification Request (PMR) UMCDF-03-040-BRA(1R), Annual Update to the Brine Reduction Area and Process and Utility Building Drawings with Specifications 11510, 11522 and 11524	3/25/04	1-4
04-1018	Department Approval of Class 1 Permit Modification Request UMCDF-04-011-LIC(1R), "Annual Update to the LICs 1 and 2 with Specifications 13187 and 13211"	6/30/04	1-4
04-1138	Department Approval of Class 1 Permit Modification Request UMCDF-04-015-MISC(1R) "Annual Update to the DFS and MPF Drawings with Specifications 13185, 13188, 13210, 13212"	7/16/04	1-4
Category 26.40	Daily Notification of Minor Changes and Temporary Modifications IAW Permit Condition II.A.2.vi	Various	1-5
04-0614	Comprehensive Monitoring Program Quarterly Report for the January 2004 Sampling Event per Permit Condition II.A.4.iv	4/26/04	1-6
04-0615			(Most recent submittal)
04-0622	(Transmittal, Report, and Data Validation disk)		

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
03-2328 03-2329	Permit Condition II.A.4.iv., Submittal of Comprehensive Monitoring Program 2003 Annual Report (Transmittal Letter and Report)	12/31/03	1-7 (Most recent submittal)
Category 50.02	Submittal of the Comprehensive Monitoring Program Quarterly and Annual Reports IAW Permit Condition II.A.4.iv.	Various	1-6 and 1-7 (All submittals)
04-0569	UMCDF submittal per Permit Condition II.E.5, "Update to the UMCDF Independent Oversight Program"	4/12/04	1-8
04-1121 04-1122	Permit Condition II.H.1.i., Update of the Umatilla Chemical Depot Chemical Accident/Incident Response and Assistance Plan (CAIRA) (Transmittal letter and CAIRA Plan)	7/6/04	1-9 (Most recent submittal)
Category 81	Updates of the Umatilla Chemical Depot (UMCD) Chemical Accident/Incident Response and Assistance Plan (CAIRA) submitted in accordance with Permit Condition II.H.1.i.	Various	1-9 (All submittals)
04-0097 04-0098	Permit Condition II.H.4., Chemical Stockpile Emergency Preparedness Program (CSEPP) Progress Report (Transmittal Letter and Report)	1/20/04	1-10 (Most recent submittal)
Category 26.03	Semi-Annual Progress Report on the Chemical Stockpile Emergency Preparedness Program (CSEPP) IAW Permit Condition II.H.4.	Various	1-10 (All submittals)
2868	Letter from the Department to the Umatilla Chemical Depot confirming compliance with the requirement of Condition II.H.5. regarding the overpressurization of the Emergency Operations Center.	1/11/98	1-11
00-0693	Letter from Umatilla Chemical Depot regarding Requirement to meet Permit Condition I.L.1.-Operation Center Staffing Requirements	5/15/00	1-12

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-0378	Umatilla Chemical Agent Disposal Facility (UMCDF) Hazardous Waste Permit (ORQ 000 009 431- Permit Condition II.I.1.ii., Annual Certification Statement	03/11/2004	1-13 (Most recent submittal)
Category 26.08	Annual Certification Statements submitted by Umatilla Chemical Agent Disposal Facility (UMCDF) in accordance with Permit Condition II.I.1.ii.	Various	1-13 (All submittals)
04-0589	2003 Hazardous Waste Reporting and Registration Verification Report Permit Condition II.I.1.iii.	4/13/04	1-14 (Most recent submittal)
Category 26.07	Annual Hazardous Waste Reporting and Registration Verification Reports submitted per Permit Condition II.I.1.iii.	Various	1-14 (All submittals)
04-0190	Submittal per Permit Condition II.M, Liability Requirements, Insurance Policy Compendium	1/29/2004	1-15 (Most recent submittal)
Category 26.04	Submittals of Liability Insurance Policy Compendium in accordance with Permit Condition II.M.	Various	1-15 (All submittals)
Category 26.09	Submittal of Executive Summaries of trial burn reports from other demilitarization facilities IAW Permit Condition II.N.1.i.	Various	1-16 (All submittals)
04-0638	Submittal from UMCDF of a list of Toxicity Reports Related to GB, VX and HD in accordance with Permit Condition II.N.1.ii.	4/30/03	1-17 (Most recent submittal)
Category 26.12	Submittals of Toxicity Report lists related to GB, VX and HD chemical agents in accordance with Permit Condition II.N.1.ii.	Various	1-17 (All submittals)

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
03-1828 03-1829	Public Review Draft of the Post-Trial Burn Risk Assessment Work Plan for the Umatilla Chemical Agent Disposal Facility Prepared by Ecology and Environment (Volumes 1 and 2)	10/1/03	1-18
04-0910	Technical Evaluation Report from the Centers for Disease Control: Review of the Chemical Agent Air Monitoring Program at the Umatilla Chemical Agent Disposal Facility	6/03/04	1-19
04-1181	Submittal of Centers for Disease Control and Prevention (CDC) Acceptance of UMCDF Response to the June 2004 "Review of the Chemical Agent Air Monitoring Program at the Umatilla Chemical Agent Disposal Facility"	7/21/04	1-19
04-1182	Attachment to 04-1181: Memorandum from Don Barclay (UMCDF) to Greg St. Pierre (CMA) transmitting the response from Washington Demilitarization Company to the CDC Recommendations contained in the June 2004 Technical Evaluation Report	7/01/04	1-19
04-1183	Attachment to 04-1181: Systems Contractor Response to the Centers for Disease Control and Prevention (CDC) Report Dated 03 June 2004	6/30/04	1-19
04-1184	Attachment to 04-1181: Letter from Drew Lyle (CMA) to John Decker (CDC) summarizing the agreement made during a teleconference held July 19, 2004 regarding the response to the June 2004 CDC recommendations	7/19/04	1-19
04-1185	Attachment to 04-1181: Letter from Linda Anderson (CDC) to Drew Lyle (CMA) transmitting CDC's concurrence with the proposed resolution of the CDC recommendation regarding actions in the event of an agent detection in the stack.	7/20/04	1-19
04-0835	Department Conditional Approval (with changes) of Class 2 Permit Modification Request UMCDF-03-010-BRA(2), "Brine Reduction Area Performance Test"	5/28/04	1-20 1-21 2-6

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-1202	Submittal of Second Quarter 2004 Incinerator Shutdown Report in accordance with Permit Condition VI.A.4.iii.	7/23/04	1-22 (Most recent submittal)
Category 26.10	Submittal of Quarterly Incinerator Shutdown Reports in accordance with Permit Condition VI.a.4.iii.	Various	1-22 (All submittals)
04-1061	Department Acceptance of the Deactivation Furnace System Surrogate Trial Burn Report	7/07/04	1-23
04-1190	Department Approval of Class 1 Permit Modification Request (PMR) UMCDF-04-026-DFS(1R) "Deactivation Furnace System Proposed Operating Parameters"	7/22/04	1-23
04-0894	Department Acceptance of the Liquid Incinerator 1 Surrogate Trial Burn Report	6/07/04	1-24
04-1136	Department Approval of Class 1 Permit Modification Request UMCDF-03-031-LIC(1R) "Liquid Incinerator #1 Proposed Operating Parameters"	7/16/04	1-24
04-1108	Submittal of Second Quarter 2004 Absolute Calibration Audit Report (LIC1, LIC2, MPF, and DFS) in accordance with Permit Condition VI.A.8.ii.	7/12/04	1-25 (Most recent submittal)
04-0652	Submittal of Report on the Performance Specification Test for the liquid Incinerator (LIC) 2 Continuous Emissions Monitoring System in accordance with Permit Condition VI.A.8.ii.	4/28/04	1-25 (Most recent submittal)
Category 26.14	Submittals of Quarterly Absolute Calibration Audit Reports IAW Permit Condition VI.A.8.ii.	Various	1-25 (All submittals)
04-0191	Submittal of 2003 Annual Report of CEMS, ACAMS, and DAAMS Quality Assurance/Quality Control Reliability Problems IAW Permit Condition VII.A.5.i.	1/29/04	1-26 (Most recent submittal)

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
Category 26.11	Submittal of Annual Reports for CEMS, ACAMS, and DAAMS Quality Assurance/Quality Control Reliability Problems IAW Permit Condition VII.A.5.i.	Various	1-26 (All submittals)
04-0974	Department Approval of the UMCDF Munitions Tracking Program	6/21/04	1-27
04-1016	Email from Nick Speed to Sue Oliver regarding Readiness of J-Block Storage Igloos to Support UMCDF Agent Operations	6/25/04	1-28
04-1015	Email from Tom Beam to Dennis Murphey regarding UMCDF Compliance with HW Permit Attachment6, Condition D.3	6/25/04	1-29
04-0446	Department Approval of Class 2 Permit Modification Request UMCDF-03-035-WAST(2), "Umatilla Chemical Depot Secondary Waste"	3/19/04	1-30
04-1198	Department Approval of Class 1 Permit Modification Request (PMR) UMCDF-04-008-MPF(1R), Metal Parts Furnace Discharge Airlock Monitoring During Processing of Secondary Waste	7/23/04	1-30
02-1459	UMCDF Letter transmitting "Decision to Process Agent-Contaminated Spent Carbon Utilizing a Carbon Micronization System at the UMCDF"	9/2/2002	1-31
04-0826	Carbon Micronization System (CMS) Progress Report Submittal, Requirement for Commencement of Shakedown Period II in accordance with Attachment 6 Condition D.6	5/27/04	1-32
04-0924 04-0925	Submittal of Operational Readiness Review Final Report and Section D.9 Category 2 Finding Closure Schedule (Transmittal and Report)	6/10/04	1-33 1-35
04-1140	Memorandum from Dan Duso to Dennis Murphey re: UMCDF Operational Readiness Review Process	7/16/04	1-33
04-1164	Attachment to 04-1140: Functional Area Assessment List	(Various)	1-33

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-1165	Attachment to 04-1140: Criteria Review Approach Document (CRAD) Information Packages	(Various)	1-33
04-1166	Attachment to 04-1140: UMCDP Operational Readiness Review Interview Report	(Various)	1-33
04-1167	Attachment to 04-1140: Integrated Operations Demonstration (IOD) Packets	(Various)	1-33
04-1168	Attachment to 04-1140: Integrated Operations Demonstration (IOD) Evaluator Reports	(Various)	1-33
04-1203	UMCDP Submittal per Permit Condition D.8., Verification of Closure for Operational Readiness Review (ORR) Category 1 Findings and Status of Category 2 Findings	7/23/04	1-34 1-35
04-1059	Submittal of U.S. Army Chemical Materials Agency (CMA) Approval to Start Agent Operations	7/06/04	1-36
04-0839	Department Approval of Class 1 Permit Modification Request UMCDP-03-011-WAST(1R), "Update of the LQCP and Addition of SOP UM-0000-M-559, Agent Extraction & Analyses"	5/28/04	1-38
04-1204	Submittal of the Brine Reduction Area (BRA) Post Performance Test Preliminary Data Summary	7/23/04	1-39
TABLE 2 REQUIREMENTS			
03-1210	Department Approval of Class 1 Permit Modification Request UMCDP-03-003-DFS(1R), "Deactivation Furnace System Alarm and Interlock Matrix"	7/3/2003	2-1
03-1883	Department Approval of Class 1 Permit Modification Request UMCDP-03-036-MPF(1R), "Baseline Metal Parts Furnace Alarm and Interlock Matrix"	10/23/03	2-1
03-2105	Department Approval of Class 1 Permit Modification Request UMCDP-03-048-LIC(1R), "Baseline Liquid Incinerator #2 Alarm and Interlock Matrix"	11/26/03	2-1

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-0197	Approval of Class 1 Permit Modification Request UMCDF-03-042-BRA(1R) "Baseline Brine Reduction Area Alarm and Interlock Matrix"	2/3/04	2-1
02-1388	Department Approval of Class 2 Permit Modification Request UMCDF-01-027-DFS(2), "Deactivation Furnace System Surrogate Trial Burn Plan"	8/30/02	2-2
03-0434	Department Approval of Class 2 Permit Modification Request UMCDF-01-030-MPF(2), "Metal Parts Furnace Surrogate Trial Burn Plan"	3/14/2003	2-2
03-0002	Department Approval of Class 1 Permit Modification Request UMCDF-02-024-LIC(1R), Liquid Incinerator (LIC)1 Caustic Line Relocation As-Built Design	1/3/2003	2-3
03-0668	Department Approval of Class 1 Permit Modification Request UMCDF-02-027-PAS(1R), "Caustic Line Relocation As-Built for Deactivation Furnace System, Liquid Incinerator 2 and Metal Parts Furnace"	4/11/03	2-3
03-0707	Letter from UMCDF Permittees to DEQ transmitting the "Results of Brine Strainer Coating Engineering Evaluation and Implementation Plan"	4/14/03	2-4
03-0804	Letter from DEQ to UMCDF Permittees regarding "Brine Strainer Coating Evaluation/Resolution and Request to Eliminate Daily Inspections of Unlined Carbon Steel Brine Strainers [UMCDF-03-008-PAS(1R)]"	5/2/03	2-4
03-1135	Department Approval of Class 1 Permit Modification Request UMCDF-03-025-PAS(1R), "Pollution Abatement System Quench Brine Strainer Update"	6/27/03	2-5
04-0946	Department Approval of Class 1 Permit Modification Request UMCDF-04-019-BRA(1R), "Brine Reduction Area Operating/Recording Parameters"	6/16/04	2-6
04-1074	Department Approval of Class 1 Permit Modification Request UMCDF-04-012-BRA(1R), "BRA Operation Parameter Changes"	7/9/04	2-6

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
02-0205	Submittal from UMCDF to DEQ of an Addendum to Facility Construction Certification CHB 60 System, Container Handling Building (Attachment 02-0206 BINDER)	2/7/02	2-7
04-0338	Department Acceptance of Facility Modification Certification FMC-029 "Agent Tank System Modifications"	3/02/04	2-8
04-0266	Department Review and Determination of Adequacy of "Facility Construction Certification (FCC) Adequacy of Welding Non-Destructive Examination (NDE)" Response	2/20/04	2-9
04-1205	Email from Dan Duso to Sue Oliver confirming the completion of the Munitions Demilitarization Building floor coating inspections conducted from July 1-21, 2004 to conclude final acceptance of FCC Package "MDB Systems" (see Item no. 02-0797)	7/21/04	2-10
04-1045	Letter to UMCDF Regarding Completion of Department Water Tightness Inspections of the Heating Ventilation and Cooling Filter Unit Vestibules	7/07/04	2-11
02-1602	Department Acceptance of Facility Construction Certification "Bulk Drain Stations System" 100% Certification	9/27/02	2-12
03-0009	Installation of Jam Sensors in the Deactivation Furnace System (DFS), Feed Chutes, and Discharge Chute	1/6/03	2-13
04-1129 04-1130	Submittal of Permit Modification Request UMCDF-04-031-PFS(1R) "Pollution Abatement System Carbon Filter System Dry Conditions" (Transmittal, PMR)	7/14/04	2-14
04-1196	Submittal of Supplemental Information to Class 1 Permit Modification Request (PMR) UMCDF-04-031-PFS(1R) Pollution Abatement System Carbon Filter System Dry Conditions	7/23/04	2-14

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-1193 04-1194 04-1195	Submittal of Class 1 Permit Modification Request (PMR) UMCDF-04-005-PFS(1R) As-Built for the Carbon Filter System Agent Monitoring Changes (Transmittal, PMR, Drawings)	7/22/04	2-14
04-0968	Transmittal of Additional Information for Conditional Approval of Class 2 Permit Modification (PMR) UMCDF-03-010-BRA(2), Brine Reduction Area (BRA) Performance Test (CEMs information)	6/17/04	2-15
04-0917	Transmittal of Additional Information for Conditional Approval of Class 2 Permit Modification Request (PMR) UMCDF-03-010-BRA(2), Brine Reduction Area (BRA) Performance Test (metals spiking solutions)	6/9/04	2-16
04-1001	Transmittal of Additional Information Regarding Particle Size Distribution for Conditional Approval of Class 2 Permit Modification (PMR) UMCDF-03-010-BRA(2), Brine Reduction Area (BRA) Performance Test	6/25/04	2-17
04-1008	Department Approval of Class 1 Permit Modification Request UMCDF-04-024-BRA(1R), "Brine Reduction Area Performance Test Plan Changes"	6/28/04	2-18
04-1188	Completion of Brine Characterization Sampling Approach Meeting in accordance with Conditional Approval of Permit Modification Request (PMR) UMCDF-03-010-BRA(2), Brine Reduction Area Performance Test	7/20/04	2-19
TABLE 3 REQUIREMENTS			
04-0721	Information Regarding UMCDF's Demonstration of Compliance with Air Permit Conditions 3.1.c., 3.1.i. and 7.5.d. re: Startup & Shutdown Plan and Training Program	4/21/04	3-2 3-3
01-0222	Various emails regarding Compliance with the Training Requirements of the Hazardous Waste combustor Maximum Achievable Control Technology regulations	1/09/01	3-3

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-0364	Annual Report Submitted in accordance with Air Pollution Control Discharge Permit No. 25-0024 (ACDP), Condition 7.3.	3/9/04	3-4 (Most recent submittal)
Category 210.05	Annual Reports Submitted in accordance with Air Pollution Control Discharge Permit No. 25-0024 (ACDP) Condition 7.3.	Various	3-4 (All submittals)
04-0182	Submittal per Air Contaminant Discharge Permit Condition 7.4.: Semi-Annual Reports	1/28/04	3-5 (Most recent submittal)
Category 210.04	Submittal of Semi-Annual Reports in accordance with Air Contaminant Discharge Permit Condition 7.4.	Various	3-5 (All submittals)
04-1133	Permit Condition 7.5, Operational Parameter Limit Occurrences, Liquid Incinerator 2 (LIC 2)	7/15/04	3-6 (Most recent submittal)
Category 210.03	Reports on Excess Emission Events or Operational Parameter Limit Occurrences, submitted IAW ACDP Condition 7.5.c.	Various	3-6 (All submittals)
04-0991	Permit Condition 7.5.e, Startup, Shutdown, Malfunction (SSM) Deviation Report for the Liquid Incinerator Furnace #2 (LIC 2)	6/23/04	3-7
Category 210.03	Reports on Startup, Shutdown, Malfunction (SSM) Deviations for submitted IAW ACDP condition 7.5.e.	Various	3-7
04-0809	Email from Heidi Williams, DEQ Water Quality Inspector, Regarding results of file review and on-site inspections for the UMCD water permits.	5/13/04	3-8 3-9
04-0745	Results of water quality inspection conducted on May 12, 2004 by DEQ for Permit #'s 101456, 102031, & 200-J	5/12/04	3-8 3-9

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
Category 520	UMCDF submittals related to Water Quality permits.	Various	3-8 3-9 (All submittals)
03-1247	Request from UMCDF Permittees to EPA for Approval to Dispose of Polychlorinated Biphenyls (PCBs) TSCA Permit), submitted IAW TSCA Permit Condition 2.b.(1), "Evaluation of PCB Sources at Umatilla Chemical Agent Disposal Facility"	7/9/03	3-10
04-0226	Letter from EPA to UMCDF Permittees accepting the report titled "Evaluation of PCB sources at UMCDF" as satisfying condition 2. (b)(1) of the DFS National approval for disposal of PCBs	1/2/04	3-10
04-0765	Communication from EPA TSCA Program concerning UMCDF's Compliance with National TSCA Permit	4/28/04	3-11
04-1153	Letter from the National Program Chemicals Division of EPA authorizing Umatilla Chemical Agent Disposal Facility to begin PCB disposal operations on July 17, 2004	7/09/04	3-12
04-0703	UMCD Requirements for Compliance Assessment for Start of Agent Operations—Transmittal of documents (DEQ item nos. 04-0704 through 04-0712)	5/6/04	3-13 3-14 3-15 3-16
04-0989	Internal Review of Documents Submitted by Umatilla Chemical Depot to Meet Requirements Listed in the May 2004 Compliance Assessment	6/14/04	3-13 3-14 3-15 3-16
ENFORCEMENT ACTIONS (July 2002-July 2004)			

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
Documents related to Notice of Noncompliance ERH-02-001			
02-1456	Notice of Non-Compliance #ERH-02-001	9/04/02	N/A
02-1549	Permittee's Response to Notice of Noncompliance No. ERH-02-001, Violation 2	9/17/02	N/A
02-1657	Permittee's Response to Notice of Non-Compliance No. ERH-02-001, Violation 1	10/03/02	N/A
02-1539	Notice of Non-Compliance Referral Package Sent to the Office of Compliance and Enforcement Regarding ERH-02-001	9/10/02	N/A
04-0235	Notice of Violation and Assessment of Civil Penalty No. LQ/HW-ER-03-043 Umatilla County (related to NON ERH-02-001), issued to U.S. Army Program Manager for Elimination of Chemical Weapons	2/10/04	N/A
04-0236	Notice of Violation and Assessment of Civil Penalty No. LQ/HW-ER-03-044 Umatilla County (related to NON ERH-02-001), issued to Washington Demilitarization Company	2/10/04	N/A
04-0326	Answer, Request for Hearing and Request for Informal Discussion related to Notices of Violation and Assessments of Civil Penalties Nos. LQ/HW-ER-03-043 and LQ/HW-ER-03-044 (related to NON 02-001)	2/27/04	N/A
Documents related to Notice of Noncompliance ERH-02-002			
02-1495	Notice of Non-Compliance #ERH-02-002	9/13/02	N/A
02-1540	The Program Manager for Chemical Demilitarization Independent Investigation of the 23 August 2002 Category I Non-Surety Emergency at the Umatilla Chemical Agent Disposal Facility (Vial incident, related to NON ERH-02-002)	9/09/04	N/A
02-1630	Permittee's Response to Notice of Non-Compliance ERH-02-002	9/30/02	N/A

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
02-1550	Notice of Non-Compliance Referral Package Sent to the Office of Compliance and Enforcement Regarding ERH-02-002	9/17/02	N/A
03-0358	Notice of Violation, Compliance Order and Assessment of Civil Penalty No. LQ/HW-ER-02-169 (related to NON ERH-02-002), issued to U.S. Army Program Manager for Elimination of Chemical Weapons	2/25/03	N/A
03-0359	Notice of Violation, Compliance Order and Assessment of Civil Penalty No. LQ/HW-ER-02-203 (related to NON ERH-02-002), issued to Washington Demilitarization Company	2/25/03	N/A
03-0360	Notice of Violation and Assessment of Civil Penalty No. LQ/HW-ER-02-204 Umatilla County (related to NON ERH-02-002), issued to U.S. Army Umatilla Chemical Depot	2/25/03	N/A
03-0479 03-0480	Permittees' Answer, Request for Hearing and Request for Informal Discussion - Notice of Violation, Compliance Orders and Assessment of Civil Penalties NO. LQ/HW-02-169, 203 and 204 (related to NON ERH-02-002) (Transmittal and Request for Hearing)	3/14/03	N/A
03-0584	Permittees' Response to Notices of Violation, Compliance Order and Assessment of Civil Penalty Nos. LQ/HW-ER-02-169, 203 and 204 (related to NON ERH-02-002)	3/26/03	N/A
04-0185	Mutual Agreement and Order (MAO), Case Nos. LQ/HW-ER-02-169, LW/HW-ER-02-203, and LQ/HW-ER-02-204 (related to NON ERH-02-002)	1/29/04	N/A
04-0258	Payment of Fine in Regards to LQ/HW-ER-02-169, LQ/HW-ER-02-203, and LQ/HW-ER-02-204 (related to NON ERH-02-002)	2/18/04	N/A
Documents related to Notice of Noncompliance ERH-02-003			
02-1560	Notice of Non-Compliance ERH-02-003	9/18/02	N/A
02-1629	Response to Notice of Non-Compliance ERH-02-003	9/30/02	N/A

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
02-1659	Notice of Non-Compliance Referral Package Sent to the Office of Compliance and Enforcement Regarding ERH-02-003	10/02/02	N/A
02-1580	Approval Letter Class 1 Permit Modification Request UMCDF-02-033-LIC(1R), "Quench Tower Level Indicator Operation"	9/23/02	N/A
Documents related to Notice of Noncompliance ERH-02-004			
02-1561	Notice of Non-Compliance ERH-02-004	9/18/02	N/A
02-1482	Department Response to Permittees' Proposal for Liquid Incinerator Surrogate Trial Burn Changes to Address Excess Metal Emissions	9/05/02	N/A
Documents related to Notice of Noncompliance ERH-02-005			
02-1596	Notice of Non-Compliance ERH-02-005	9/25/02	N/A
02-1654	Response to Notice of Non-Compliance No. ERH-02-005	10/02/02	N/A
02-1838	Automatic Waste Feed Cut-off (AWFCO) Assessment Report for Liquid Incinerator (LIC1) Response for Notice of Noncompliance #ERH-02-005	10/30/02	N/A
Documents related to Notice of Noncompliance ERH-03-001			
03-0103	Notice of Non-Compliance ERH-03-001	1/21/03	N/A
03-0389	Notice of Non-Compliance Referral Package Sent to the Office of Compliance and Enforcement Regarding ERH-03-001 and ERH-03-002	3/04/03	N/A
03-1750	Permittees' Response to Classification of Notice of Noncompliance (NON) #ERH-03-001	9/25/03	N/A
04-0451	Notice of Violation and Assessment of Civil Penalty No. LQ/HW-ER-03-049 Umatilla County issued to Program Manager for Elimination of Chemical Weapons D. Barclay (related to NON ERH-03-001)	3/18/04	N/A

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-0452	Notice of Violation and Assessment of Civil Penalty No. LQ/HW-ER-03-050 issued to Washington Demilitarization Company (related to NON ERH-03-001)	3/18/04	N/A
04-0553	Permittees' Appeal and Request for Contested Case Hearing in the matter of Notices of Violation and Assessments of Civil Penalties Nos. IQ/HW-ER-03-049 and LQ/HW-ER-03-050 (related to NON ERH-03-001)	4/06/02	N/A
04-0993	Submittal Regarding Additional Information concerning the Liquid Incinerator 1 Rolling One Hour Average Notice of Violation (LQ/HW-ER-03-049 and LQ/HW-ER-03-050) (related to NON ERH-03-001)	6/17/04	N/A
04-0994	Attachment to 04-0993: Additional Information Regarding Notices of Violation LQ/HW-ER-049 & LQ/HW-ER-050 (related to NON ERH-03-001)	6/17/04	N/A
Documents related to Notice of Noncompliance ERH-03-002			
03-0104	Notice of Noncompliance No. ERH-03-002	1/21/03	N/A
03-0389	Notice of Non-Compliance Referral Package Sent to the Office of Compliance and Enforcement Regarding ERH-03-001 and ERH-03-002	3/04/03	N/A
Documents related to Notice of Noncompliance ERH-03-005(a)			
03-0803	U.S. Army Umatilla Chemical Depot Air Contaminant Discharge Permit (ACDP NO. 25-0024) Notice of Non-Compliance ERH-03-005	5/01/03	N/A
03-0712	Information Needed to Support a UMCDF Request to Restart Hazardous Waste Feed to the Deactivation Furnace System	4/16/03	N/A
Documents related to Notice of Noncompliance ERH-03-005(b)			
03-1301	Notice of Non-Compliance ERH-03-005	7/18/03	N/A
Documents related to Notice of Noncompliance ERH-03-006			

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
03-1498	Notice of Non-Compliance ERH-03-006	8/18/03	N/A
03-1548 03-1549	Permittees' Response to Notice of Noncompliance No. ERH-03-006 (Transmittal and Response)	8/28/03	N/A
03-1583	Department Reply to Permittees' Response to the Notice of Non-Compliance ERH-03-006	9/5/03	N/A
03-1649	Second Response to Notice of Non-Compliance (NON) Number ERH-03-006 and Request to Release Stop Feed Order for the Metal Parts Furnace (MPF)	9/15/03	N/A
03-1665	Authorization to Resume Hazardous Waste Feed to the Metal Parts Furnace (related to NON ERH-03-006)	9/19/03	N/A
03-1812	Notice of Non-Compliance Referral Package Sent to the Office of Compliance and Enforcement Regarding ERH-03-006	10/13/03	N/A
04-0717	Notice of Violation and Assessment of Civil Penalty No. LQ/HW-ER-03-181 Umatilla County (related to NON ERH-03-006) issued to Washington Demilitarization Company	5/05/04	N/A
04-0718	Notice of Violation and Assessment of Civil Penalty No. LQ/HW-ER-03-182 Umatilla County (related to NON ERH-03-006) issued to Program Manager for Elimination of Chemical Weapons	5/05/04	N/A
04-0816 04-0817	Answer, Request for Hearing and Request for Informal Discussion from the U.S. Army Program Manger for the Elimination of chemical Weapons and Washington Demilitarization Company (collectively "Respondents") in response to the Notices and Assessments Nos. LQ/HW-ER-03-181 and LQ/HW-ER-03-182 (related to NON ERH-03-006) (Transmittal and Request)	05/21/04	N/A
Documents related to Notice of Noncompliance ERH-04-003			

DEQ Item No. ⁴	Document Description	Date of Document	Related Requirement Number ⁵
04-1199	Notice of Noncompliance ERH-04-003	7/23/04	N/A
SELF-REPORTED NONCOMPLIANCES (July 2002-July 2004)			
02-1714	Permit Condition I.V., Other Noncompliance Reporting Third Quarter of 2002	10/10/02	N/A
03-0069	Permit Condition I.V., Other Noncompliance Reporting, Fourth Quarter of 2002	1/13/03	N/A
03-0706	Permit Condition I.V., Other Noncompliance Reporting for the First Quarter of 2003	4/14/03	N/A
03-1303	Permit Condition I.V., Other Noncompliance Reporting for the Second Quarter of 2003	7/15/03	N/A
03-1820	Permit Condition I.V., Other Noncompliance Reporting for the Third Quarter of 2003	10/14/03	N/A
04-0061	Permit Condition I.V., Other Noncompliance Reporting for the Fourth Quarter of 2003	1/14/04	N/A
04-0595	Permit Condition I.V., Other Noncompliance Reporting for the First Quarter of 2004	4/15/04	N/A
04-1117	Permit Condition I.V., Other Noncompliance Reporting for Second Quarter of 2004	7/13/04	N/A

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