



# THE MEMPHIS DEPOT TENNESSEE

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## ADMINISTRATIVE RECORD COVER SHEET

AR File Number 32



DEFENSE LOGISTICS AGENCY  
DEFENSE DISTRIBUTION REGION CENTRAL  
2153 AIRWAYS BOULEVARD  
MEMPHIS, TENNESSEE 38114-5210



IN REPLY DMRE-G (Margaret J. Krueger/(901)775-6306/dd)  
REFER TO

15 Apr 93

Teresa H. Atkins  
Assistant Region Counsel  
USEPA  
Region IV  
345 Courtland St., N.E.  
Atlanta, GA 30365

RE: Federal Facilities Agreement  
Memphis Depot Site, Memphis, Tennessee

Dear Teresa:

Following our conversations of 1 and 12 April 1993, I reviewed the draft that we prepared on March 3, 1993 and the records of our last negotiation session. The draft appears to contain all of the changes that were agreed to by all parties. I have enclosed a summary of those changes to assist you in reviewing the draft.

In addition to the changes that we have already incorporated, we are willing to make most of the other changes that you requested. We have considered the changes proposed in the provisions covering the Site Management Plan, the Five Year Review, and the Letter of Intent/Public Comments/Modification. I am optimistic that we can resolve those issues to our mutual satisfaction.

The only significant point of contention remaining is the State's request to modify the Stipulated Penalties provision. Unfortunately, guidance from DoD Headquarters precludes us from accommodating the State's request to assess and collect penalties. If the State is unwilling to accept the compromise language on Stipulated Penalties, then we will have to reserve this issue for resolution at a higher level.

I agree that another meeting is not necessary at this time to finalize the agreement for signature. If you are satisfied with the approach that I have outlined, we will prepare a final draft that incorporates language satisfying your concerns regarding the three provisions cited above. Please respond by Friday, 23 April 1993.

We are hopeful that we can successfully conclude these negotiations and jointly focus our efforts on cleaning up the site.

Sincerely,

*M. Krueger*

MARGARET J. KRUEGER  
Acting Counsel

1 Encl  
Explanation of Changes

DMRE-G PAGE 2  
Ms. Teresa Atkins

15 Apr 93

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Explanation of changes put in 3/3/93 draft:

1. At Page 6 (Definitions) the definition of "facility" was simplified after discussion of facility/site/DDRC/DLA at 12/92 meeting. The CERCLA definition is referenced to make it less confusing.
2. In accordance with the 12/92 meeting, at page 10 (Purpose) I added EPA's requested language concerning operable units except for "The final determination of an Operable Unit must be agreed upon by all parties . . ." which goes beyond and is unrelated to the model language of this section. I recommend adding it to Site Management Plan. I note that EPA's additional suggestion of not capitalizing "site" and adding the words "for each operable unit" after this term each time it appears would change its meaning drastically. Site (in its present form) means the whole CERCLA site or facility not just the location of one operable unit.
3. At page 18 where there was a question as to whether the State should "identify" (our position) or "confirm" (State position) the State ARARS; the term "coordinate" is used.
4. In accordance with the 12/92 meeting, at page 30 (Endangerment) a sentence was added which was in the Albany Agreement and is beneficial to EPA/TDEC interests.
5. At page 34 (Quality Assurance) the QA standards were added per EPA's request (these are in Albany).
6. At page 35 (Retention of Records) in accordance with the 12/92 meeting and EPA's request, records will be retained for 10 instead of 5 years by DDMT.
7. At page 40 (Confidential Information), the Albany language was used as EPA requested.
8. At page 46 (Deadlines) language was added to state DDMT will submit the SMP on a timely basis.
9. In accordance with the 12/92 meeting, at page 51 (Consultation), the informal dispute process EPA requested was added. I note that it is not clear how this affects the time schedule for the formal resolution process which must be invoked during the same time period (same 30 days). This aspect needs to be discussed.
10. At page 60 (Enforceability) Albany language was

added at end of the Section in accordance with 12/92 meeting.

11. Input is needed on the Installation Description/Findings of Fact and on the three modified sections submitted to the State for their review on 3 March 1993. (Force Majeure; Reservation of Rights; Stipulated Penalties)

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