

921

**OPERABLE UNIT #3
FERNALD, OHIO
OH6 890 008**

09-10-90

**USEPA/DOE-FMPC
2
LETTER**

921



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

SEP 10 1990

REPLY TO THE ATTENTION OF:

Mr. Bobby Davis
United States Department of Energy
Feed Materials Production Center
P.O. Box 398705
Cincinnati, Ohio 45239-8705

5HR-12

RE: Operable Unit #3
Fernald, Ohio
OH6 890 008

Dear Mr. Davis:

During the August 24, 1990, meeting regarding the initial review of Applicable or Relevant and Appropriate Requirements (ARARs) for Operable Unit #3, the mis-scoping of this operable unit was discussed. The United States Department of Energy (U.S. DOE) has failed to include the buildings; all waste; any other by-product material or production materials, including thorium; hazardous waste management units, and underground storage tanks in the review of ARARs for this operable unit. This problem, along with several solutions, were discussed with U.S. DOE representatives and contractors during this meeting:

The fact that U.S. DOE has not declared the Feed Materials Production Center (FMPC) a non-production facility, or certain buildings to be subject to U.S. DOE's Decontamination and Decommissioning (D&D) program, does not exempt any area or material on the site from the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or the 1990 Consent Agreement. All buildings and waste at the site are subject to the remedial response action requirements. Decontamination of the buildings under the CERCLA response action does not necessarily mean that the buildings have to be destroyed or decommissioned. U.S. DOE's incomplete scoping of Operable Unit #3 is a very serious matter and can no longer be ignored. This issue was discussed with U.S. DOE staff several months ago.

The site, as defined by the 1990 Consent Agreement, includes "all areas within the property boundary of FMPC and any other areas that received or potentially received released hazardous substances, pollutants, contaminants, or hazardous constituents." No buildings, waste, or hazardous substances at the Site are excluded under the terms of this Consent Agreement. Additionally, the comprehensive cleanup called for the Consent Agreement, which amends 1986 Federal Facilities Compliance Agreement (FFCA), is being accomplished through division of the site into five Operable Units. Section V - Scope of the 1990 Consent Agreement requires U.S. DOE to conduct and report upon an Remedial Investigation (RI) and Risk Assessment and

2

Feasibility Study (FS) for each Operable Unit at the Site and to meet the purposes of Section IV of the Agreement. Section IV provides for that among the purposes of the Consent Agreement are to: (1) establish requirements to determine fully the nature and extent of the threat to public health or welfare or the environment caused by the release and threatened release of hazardous substances. at the Site; (2) establish requirements for the performance of an FS to identify, evaluate, and select alternatives for the appropriate remedial action(s); and (3) select and implement the response actions to be taken at the Site. Clearly, the 1986 FFCA and 1990 Consent Agreement contemplate no exclusion by U.S. DOE of the buildings, any waste or other by-product material, production materials, thorium, waste management units, or underground storage tanks for the remedial response action(s).

Section X(C)(3) of the 1990 Consent Agreement defines Operable Unit #3 for the remedial response action at the FMPC. Operable Unit #3 consists of: the production area and suspect areas outside the production area, including the effluent line to the Great Miami River. All areas and materials within the production area, except those specified as part of another operable unit, are included in Operable Unit #3. The site is defined as "all areas within the property boundary of FMPC and any other areas that received or potentially received released hazardous substances, pollutants, contaminants, or hazardous constituents."

All documents submitted for Operable Unit #3 are required to be comprehensive and include all areas and materials within the production area and the effluent line to the Great Miami (except as provided for in another operable unit) in order to comply with the 1990 Consent Agreement. The United States Environmental Protection Agency (U.S. EPA) can not approve any document for Operable Unit #3 that does not include the above. I strongly encourage U.S. DOE to propose a resolution to this problem as soon as possible and not submit incomplete documents that are not approvable.

If there are any questions regarding this matter, I may be contacted at (312/FTS) 886-4436.

Sincerely,



Catherine A. McCord
Remedial Project Manager

cc: Richard Shank OEPA
Graham Mitchell, OEPA - SWDO
Leo Duffy, U.S. DOE - HDQ
Joe LaGrone, U.S. DOE - ORO