

1061

**STIPULATED PENALTIES  
U.S. DOE - FERNALD  
OH6 890 008 976**

**01/17/91**

**USEPA/DOE-FMPC  
2  
LETTER**



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

1061  
C: ERA Files  
AR File

**JAN 17 1991**

REPLY TO ATTENTION OF:

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

5HR-12

RE: Stipulated Penalties  
U.S. DOE - Fernald  
OH6 890 008 976

Dear Mr. Avel:

To date, the United States Environmental Protection Agency (U.S. EPA) has assessed stipulated penalties pursuant to Section XVII of the 1990 Consent Agreement three times. The procedures for assessing stipulated penalties and the maximum amount of the penalty are governed by Section XVII.

The following is a list of assessed stipulated penalties accrued to date:

- (1) On December 4, 1990, U.S. EPA assessed stipulated penalties for failure to comply with access requirements of Section XXVIII.
  - (a) date of violation: 11/06/90
  - (b) number of weeks of violation: 8
  - (c) penalty: \$2,500 for week 1, \$5,000/week for weeks 2 & 3, \$10,000/week for weeks 4 - 8. Total penalty = \$62,500.
  
- (2) On December 7, 1990, U.S. EPA assessed stipulated penalties for Operable Unit (OU) #4 Remedial Investigation (RI) report:
  - (a) date of violation: 12/07/90
  - (b) number of weeks of violation: 6
  - (c) penalty: \$5,000 for week 1, \$10,000/week for weeks 2 through 6, and will continue to accrue for each additional week (or part thereof).

- (3) On December 21, 1990, U.S. EPA assessed stipulated penalties for OU#3 Initial Screening of Alternatives (ISA) report. 1061
- (a) date of violation: 12/21/90
  - (b) number of weeks of violation: 4
  - (c) penalty: \$5,000 for week 1, \$10,000/week for weeks 2 through 4, and will continue to accrue for each additional week (or part thereof).

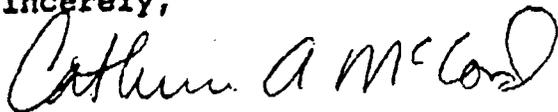
As provided in Section XVII.B, "no assessment of a stipulated penalty shall be final until the conclusion of dispute resolution procedures related to the assessment of the stipulated penalty." U.S. DOE has invoked dispute resolution for each of the above three actions.

The first violation, regarding access issues, was remedied by U.S. DOE on December 31, 1990. Therefore, total stipulated penalties in the amount of \$62,500 accrued for this violation. The second and third violations have yet to be addressed by U.S. DOE and stipulated penalties continue to accrue at the rates set forth above until such violations have been remedied or the parties agree otherwise.

U.S. EPA will send U.S. DOE an accounting, similar to this one, of accrued stipulated penalties at the beginning of each calendar quarter. Once a stipulated penalty is final, U.S. EPA's Financial and Accounting Section will send a collection letter for any penalty that is past due, in accordance with payment requirements of 31 U.S.C. § 3717.

Please contact me at (312/FTS) 886-4436, if you have any questions.

Sincerely,



Catherine A. McCord  
Remedial Project Manger

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