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OU#4 ALT SCREENING DISPUTE RESOLUTION
U.S. DOE FERNALD
OH6 890 008 976

10-18-90

USEPA/DOE
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LETTER

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBOR
CHICAGO, ILLINOIS

2136

OCT 18 1990

REPLY TO ATTENTION OF:

5HR-12

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

RE: OU#4 Alt Screening
Dispute Resolution
U.S. DOE Fernald
OH6 890 008

Dear Mr. Avel:

The United States Environmental Protection Agency (U.S. EPA) acknowledges the receipt of your October 11, 1990, letter regarding the termination of the dispute for Operable Unit #4 - Initial Screening of Alternatives. Dispute resolution teleconferences were held on September 27 and October 3, 1990. The United States Environmental Protection Agency (U.S. EPA) terminated this dispute with an October 3, 1990, letter. #1672 2135

On July 27 and August 7, 1990, U.S. DOE and U.S. EPA met to identify and propose all potential Applicable or Relevant and Appropriate Requirements (ARARs) and other information in the form of advisories, criteria and guidance that may be necessary to ensure protectiveness and be appropriate for the use in a specific alternative (To Be Considered, TBC) for Operable Unit #4. This identification and discussion of potential ARARs and TBCs was in accordance with the requirements of Section XII.F of the 1990 Consent Agreement (Agreement). The Agreement recognizes that ARAR identification is necessarily an iterative process and that potential ARARs must be re-examined throughout the Remedial Investigation/Feasibility Study (RI/FS) process. In accordance with the Agreement, U.S. EPA included a reasoned statement regarding the proposed ARAR and TBC determination in its comments on the draft Initial Screening of Alternatives document. Further, U.S. EPA identified potential ARARs and TBCs it believed were not properly addressed in the document. A summary of ARARs and TBCs and whether they will be attained by a specific alternative will be contained in an appendix to the RI/FS report. In accordance with the Agreement, the determination of final ARARs will be made by U.S. EPA and is not subject to dispute by U.S. DOE.

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CERCLA and the NCP require that the alternative that is finally selected in the Record of Decision (ROD) must ensure protection of human health and the environment and meet ARARs (unless a waiver is granted). Accordingly, viable alternatives to be evaluated as to whether or not they meet these threshold criteria must be carried through to the detailed analysis of alternatives. The decision that a remedy must attain a certain standard may be questioned during the comment period of the ROD. Let me clarify that U.S. EPA has determined 40 CFR 191, Subpart A, to be a potential relevant and appropriate requirement, and 40 CFR 191, Subpart B, and other Agency and Department guidance and policy to be potential TBCs that need to be considered as the alternatives for Operable Unit #4 are developed and evaluated.

As stated in U.S. EPA's October 3, 1990, letter, it appears that the list of alternatives carried forward in the Initial Screening of Alternatives document to the detailed analysis of alternatives is appropriate and will allow for this development and evaluation. The revised Initial Screening of Alternatives document is due within thirty (30) days of U.S. EPA's October 3 letter, not twenty-one (21) days as the letter states.

If you have any questions, I may be contacted at (312/FTS) 886-4436.

Sincerely,

Catherine A. McCord

Catherine A. McCord
Remedial Project Manager

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