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**RESPONSE TO NOTICE OF VIOLATION (ISSUE 1
AND 3), DATED FEBRUARY 4, 1992**

05/04/92

**DOE-1507-92
DOE-FN/OEPA
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LETTER**



Department of Energy
Fernald Environmental Management Project
P.O. Box 398705
Cincinnati, Ohio 45239-8705
(513) 738-6357

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MAY 0 4 1992

DOE-1507-92

Mr. Phillip E. Harris
Division of Hazardous Waste
Ohio Environmental Protection Agency
40 South Main Street
Dayton, Ohio 45402-2086

Dear Mr. Harris:

RESPONSE TO NOTICE OF VIOLATION (ISSUES 1 AND 3), DATED FEBRUARY 4, 1992

- References:
1. P. E. Harris, Ohio EPA, to R. E. Tiller, "Notice of Violations Regarding the Groundwater Quality Assessment Annual Reports," dated February 4, 1992
 2. Letter, DOE-1058-92, R. E. Tiller to P. E. Harris, "Response to Notice of Violation," dated March 4, 1992
 3. Letter, DOE-1305-92, R. E. Tiller to P. E. Harris, Response to Notice of Violation (NOV), Number 4, Issued February 4, 1992," dated April 3, 1992

On February 4, 1992, the Ohio Environmental Protection Agency (Ohio EPA), Office of Hazardous Waste Management, notified the Department of Energy (DOE), Fernald Environmental Management Project (FEMP) that four (4) Resource Conservation and Recovery Act (RCRA) Notice of Violations (NOVs) were being issued against the FEMP (Reference 1).

On March 4, 1992, a response was sent to the Ohio EPA addressing NOV-2 (Reference 2). The response requirement for NOV-2 was thirty (30) days. The FEMP met this response requirement. On April 3, 1992, a response was sent to the Ohio EPA addressing NOV-4 (Reference 3). The response requirement for NOV-4 was sixty (60) days. The FEMP met this response requirement. This letter and enclosed report serve to address NOV-1 and NOV-3. The response requirement for NOV-1 is ninety (90) days. No date was given for a response requirement for NOV-3. This letter and enclosed report respond to response requirements stipulated in Reference 1.

The Ohio EPA has alleged that the FEMP is in violation of OAC 3745-65-93(D)(4)(a), and has failed to determine the rate and extent of migration of hazardous waste or hazardous waste constituents in the groundwater (Reference 1, NOV-1). The Ohio EPA requested that the FEMP submit plans that incorporate procedures and schedules for the development of site specific hydrological data for the FEMP site. The FEMP does not agree that it violated the

requirements cited in Reference 1. The FEMP is listed on the National Priority List (NPL) under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and is conducting a Remedial Investigation/-Feasibility Study (RI/FS), and other response actions, pursuant to an Amended Consent Agreement with the United States Environmental Agency (U.S. EPA). The scope of the RI/FS includes, but not limited to, actions to assess the nature and extent of releases of hazardous constituents associated with the Waste Pit Area, including Waste Pit 4. The RI/FS Work Plan includes procedures and schedules for the development of hydrogeological data and information for the site. The Ohio EPA has reviewed and commented on the RI/FS work plans. Groundwater information will continue to be developed in the RI/FS and provided to the Ohio EPA. This is further discussed in the enclosed response.

The enclosed report responds to the 11 specific comments which the Ohio EPA made in Reference 1. The report explains that site specific pump test data was used in the 1989 RCRA assessment. It also explains how the rate and extent of hazardous constituents in the aquifer were determined. The site specific pump test data was factored into the construction of a Swift III, finite-difference, numerical groundwater flow model for the FEMP site. Hydraulic conductivities predicted by the model are more conservative than the site specific pump test data. In 1990 and 1991, the predicted hydraulic conductivities resulting from the model were used in place of the site specific pump test data in the RCRA assessment.

The enclosed report also explains that the FEMP has already submitted plans to the Ohio EPA for the development of additional site specific hydrogeological data for the FEMP site as part of the CERCLA South Groundwater Contamination Plume (South Plume) Removal Action. The Ohio EPA has conditionally approved the plans that call for conducting a pump test. Additional pump tests have not been ruled out. Results of the South Plume Pump test will be compared against the model to determine how well the model is predicting flow behavior. At this time, any decision to commit to an additional test (i.e., in the waste pit area) is pending results from the upcoming test. All information developed in the CERCLA program is sent to both the United States Environmental Protection Agency (U.S. EPA) and the Ohio EPA and is used in the FEMP RCRA groundwater assessment. This information is applied to RCRA compliance as appropriate.

In addition to using additional pump test data to evaluate the model, work is and will continue on validating modeled predictions of flow and solute transport through the use of field collected groundwater chemistry and water table elevation data. Water chemistry data is collected quarterly across the site and the South Plume area. Quarterly contour maps are constructed using this field data and compared to model predictions. Groundwater table elevations data is currently being collected every month across the site and the South Plume Area. To date, field observations and model predictions appear to agree fairly well.

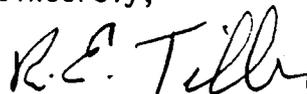
On February 4, 1992, the Ohio EPA also alleged that the FEMP was in violation of OAC 3745-65-93(D)(3)(d). The Ohio EPA referenced a statement in the 1989 RCRA Report that states that selected wells were sampled for selected parameters. The Ohio EPA states that "this action is not consistent with the regulations. As stated in OAC 3745-65-93(D)(3)(d), all RCRA assessment monitoring wells should be sampled for all parameters described in the

Sampling and Analysis Plan." The response requirement requested by the Ohio EPA was that "Future sampling methodology and procedures should strictly adhere to the approved Sampling and Analysis Plan." Sampling was and is conducted in strict adherence to the RCRA Sampling and Analysis Plan. However, the wording in the 1989 Annual Report may not have clearly stated this. The wording refers to the fact that wells selected for sampling and tested for specific constituents as part of the RCRA Sampling and Analysis Plan were chosen from a larger group of wells installed for the CERCLA process. All required sampling for the wells and parameters listed in the RCRA Sampling and Analysis Plan were completed, and a review of the data will confirm that the sampling was done in accordance with the plan.

We are available to meet with Ohio EPA Southwest District Office (SWDO) representatives to further discuss the attached report and assure that Ohio EPA SWDO concerns have been adequately addressed.

If you have any questions or concerns regarding this issue, please contact Ed Skintik at (513) 738-6660.

Sincerely,



R. E. Tiller
Manager

FN:Skintik

Enclosures: As Stated

cc w/encs.:

AR Coordinator, WEMCO

cc w/encs. (excluding appendices):

K. A. Hayes, EM-424, TREV
J. A. Saric, USEPA-V, HRE-8J
R. Bendula, OEPA-Dayton
G. E. Mitchell, OEPA-Dayton
P. Pardi, OEPA-Dayton
M. Proffitt, OEPA-Dayton
T. Schneider, OEPA-Dayton
L. S. Farmer, WEMCO
V. A. Franklin, WEMCO
J. P. Hopper, WEMCO
E. D. Savage, WEMCO

bcc w/encs. (excluding appendices):

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W. S. Sidle, DOE-ORFO
C. J. Fermaintt, DOE-FN
D. Rast, DOE-FN
D. J. Brettschneider, WEMCO
D. J. Carr, WEMCO
M. Cherry, WEMCO
K. Nickel, WEMCO
J. M. Sattler, WEMCO
S. G. Schneider, WEMCO