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R-023-708 .1

**UNH REMOVAL ACTION - (NOTICE LETTER OF ENFORCEMENT
ACTION OF OUTSTANDING VIOLATIONS)**

10/17/94

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NOTICE

DOE-FN/FERMCO



State of Ohio Environmental Protection Agency

Southwest District Office

401 East Fifth Street
Dayton, Ohio 45402-2911
(513) 285-6357
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FERNALD _____

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FILE: _____

George V. Voinovich
Governor

October 17, 1994

LIBRARY: _____
RE: U.S.DOE FEMP
UNH REMOVAL ACTION
HAMILTON COUNTY

Mr. Jack R. Craig, Acting Director
Department of Energy
Fernald Area Office
P.O. Box 538705
Cincinnati, OH 45253-8705

Mr. Don Ofte, President
FERMCO
P.O. Box 398704
Cincinnati, OH 45239-8704

Dear Sirs:

The purpose of this letter is to notify you of Ohio EPA Southwest District Office's intent to refer U.S. DOE-FEMP and FERMCO for appropriate enforcement action regarding outstanding violations that exist with the storage of Uranyl Nitrate (UNH) in tanks at this facility. The basis for this decision is the violations of the tank standards as documented by Ohio EPA and U.S. DOE-FEMP's inability to complete the treatment of the UNH. These violations constitute a violation of the Stipulated Amended Consent Decree and contempt of court.

As you are aware, U.S. DOE-FEMP originally committed to commence treatment of the UNH in November of 1991. Since then DOE-FEMP has delayed the project for various reasons. I have raised Ohio EPA's concerns with these delays by letters dated April 3, 1992, November 15, 1993 and March 14, 1994. On June 3, 1994, U.S. DOE-FEMP responded to my March 14, 1994, letter. Attached to U.S. DOE-FEMP's response was a Master Plan for the UNH project which indicated that treatment of the UNH would commence on January 16, 1994.

In addition to the treatment issue, Ohio EPA had concerns that the UNH tank system did not meet RCRA standards. On December 9, 1993, representatives of the Division of Hazardous Waste Management conducted an inspection of the UNH storage system. By letter dated December 17, 1993, the findings of that inspection were forwarded to U.S. DOE-FEMP and FERMCO. As a result of the inspection three violations were documented and further information was requested. U.S. DOE-FEMP submitted the requested information and four additional violations of Ohio's hazardous waste regulations were cited.

On October 6, 1994, Ohio EPA Southwest District Office was notified by telephone that six additional leaks had been identified with the UNH storage tanks. Two of the leaks identified are directly from tanks. This is significant since these are the first leaks identified from the UNH system that directly involve tank structure. The existence of these leaks raises questions regarding the integrity of all the tanks within the UNH system, especially considering the potential impacts of winter weather on the system.

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On October 13, 1994, through teleconference, Ohio EPA SWDO representatives and representatives from U.S. DOE-FEMP and FERMCO discussed the status of the current leaks in the UNH tanks. During these discussions, it was revealed that it is unlikely that U.S. DOE-FEMP and FERMCO would be able to meet the January 16, 1995 commitment for initiating the neutralization of the UNH. With Ohio EPA's heightened concern with the status of the UNH system, we find that U.S. DOE-FEMP and FERMCO's response to this serious situation is unacceptable.

To address this issue in the short term, there are several questions which U.S. DOE-FEMP and FERMCO must address. For instance, what is U.S. DOE and FERMCO's level of confidence that the tank system will provide adequate storage until the project is completed? How is the facility prepared to contend with the potentially threatening situation of tank system failures resulting in the release of UNH? What plans do U.S. DOE-FEMP and FERMCO have to address this situation?

Utilizing best professional judgement in terms of protection of human health and the environment and worker safety, U.S. DOE and FERMCO must evaluate whether emergency actions outside the scope of the Removal Action Work Plan are warranted. Emergency actions might include, but not be limited to, transference of UNH to alternate storage devices or transference of UNH directly to the treatment process. U.S. DOE and FERMCO must evaluate the risk associated with these emergency actions verses continued storage of UNH in the leaking tanks. In addition to evaluating the risk associated with the emergency actions U.S. DOE and FERMCO must also evaluate the risk associated with the proposed extended treatment schedule for the UNH which could delay treatment until September of 1995. This could be a major concern depending on the integrity of the UNH storage/treatment system.

I am requesting that DOE-FEMP/FERMCO consider available options in this matter and communicate your response to my concerns within five (5) days from your receipt of this letter. Your prompt attention to this issue is appreciated.

Sincerely,



Thomas A. Winston, P.E.
District Chief, SWDO

TAW/br

cc: Paul Pardi, DHWM, SWDO
Graham Mitchell, OFFO, SWDO
Tom Schneider, OFFO, SWDO
Phil Hamric, DOE-Ohio Field Office

Jim Saric, U.S. EPA
Laurie Stevenson, DHWM, CO
Jack Van Kley, AGO

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