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G-000-710.26

ACA AMENDMENT TO ELIMINATE CSOU REQUIREMENTS

07/01/96

USEPA

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COMMENTS



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REPLY TO THE ATTENTION OF:
SRF-5J

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

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

RE: ACA Amendment to Eliminate
CSOU Requirements

Dear Mr. Reising:

The United States Environmental Protection Agency (U.S. EPA) has completed its review of the United States Department of Energy's (U.S. DOE) May 14, 1996, letter requesting deletion of the 1991 Amended Consent Agreement (ACA) requirements to submit various Comprehensive Site-wide Operable Unit (CSOU) documents.

In accordance with Section XXXIII of the September 1991, ACA, U.S. EPA and U.S. DOE may by mutual agreement modify the requirements of the ACA.

Section X (C) and (G) of the ACA requires submittal of a Site-Wide Remedial Investigation (RI), including a projected residual risk assessment work plan addendum and report. The work plan is due six (6) months after approval of the OU 3 Record of Decision (ROD). A Feasibility Study (FS) could also be required, depending on the risk assessment results. A Proposed Plan (PP) and ultimately a ROD could also be required.

The purpose of the CSOU was to ensure acceptable risk levels were achieved for the selected remedies in OUs 1-5. Also, at the signing of the ACA the final remedy for several of the OUs was not known, and leaving waste material in-situ was an option being considered.

U.S. EPA concurs with U.S. DOE's request to eliminate the CSOU requirements based on the following facts. No additional risk information will be obtained within six (6) months after completion of the OU 3 ROD, and any additional information regarding residual risk assessment will not be available until site-wide remedial actions are completed and contaminant sources removed. All contaminated material remaining on-site will be placed in the on-site disposal facility. To assure all residual risks are within acceptable levels, Section XI (D) of the ACA requires a site-wide residual risk assessment to be submitted to U.S. EPA following completion of the response actions.

Based on the facts set out above, U.S. EPA believes this modification is acceptable. The Ohio Environmental Protection Agency has also been advised of this action.

Attached is a modification to the ACA for your signature along with specific changed pages to the ACA. Please sign the amendment and return it to U.S. EPA. Pursuant to Section XXXIII (B) of the ACA, such amendments or modifications shall have as the effective date that date on which they are signed by U.S. EPA.

Please contact me at (312) 886-0992 if you have any questions regarding this matter.

Sincerely,



James A. Saric
Remedial Project Manager
Federal Facilities Section
SFD Remedial Response Branch #2

Enclosures

cc: Tom Schneider, OEPA-SWDO
Jack Baublitz, U.S. DOE-HDQ
John Bradburne, FERMCO
Charles Little, FERMCO
Terry Hagen, FERMCO
Michael Yates, FERMCO

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
U.S. DEPARTMENT OF ENERGY)	Administrative
FEED MATERIALS PRODUCTION CENTER)	Docket Number: V-W-90-C-057
FERNALD, OHIO)	
)	
OH6 890 008 976)	

AGREEMENT TO AMEND CONSENT AGREEMENT

On the basis of the facts set forth below, and in accordance with Section XXXIII of the September 1991 Amended Consent Agreement ("ACA"), the United States Department of Energy ("U.S. DOE") and the United States Environmental Protection Agency ("U.S. EPA") hereby agree to delete from the ACA the requirement for the submittal of the Comprehensive Sitewide Operable Unit (CSOU) documents, including a Remedial Investigation (RI), projected residual risk assessment work plan addendum and report, Feasibility Study (FS), Proposed Plan (PP) and Record of Decision (ROD).

BACKGROUND

A. On September 20, 1991, U.S. EPA signed the ACA which, pursuant to Section X (C) and (G), required submittal of a Sitewide RI, including a projected residual risk assessment work plan addendum and report. The work plan was due six (6) months after approval of the OU 3 ROD. An FS could also be required, depending on the risk assessment results. In addition, a PP and a ROD could also be required.

2. The purpose of the CSOU was to ensure acceptable risk levels were achieved for the selected remedies in OUs 1-5.

3. On May 14, 1996, U.S. DOE submitted a request and justification for deletion of the requirement that it produce the CSOU required documents.

4. Additional information regarding residual risk assessment will not be available until sitewide remedial actions are completed and contaminant sources removed.

5. Section XI (D) of the ACA requires a sitewide residual risk assesment to be submitted to U.S. EPA following completion of the response actions.

6. Pursuant to Section XXXIII of the ACA, U.S. EPA and

U.S. DOE may amend or modify the ACA solely upon written consent of both U.S. DOE and U.S. EPA. In addition, any such amendments or modifications shall have as their effective date that date on which they are signed by U.S. EPA.

7. In deleting the requirements for the CSOU, U.S. EPA and U.S. DOE have consulted with, and accepted input from, the Ohio Environmental Protection Agency.

AGREEMENT

8. This agreement shall modify Section X., paragraph C., pages 36 and 37 of the ACA, by deleting the requirements for the submission of the CSOU Site-Wide RI/Projected Residual Risk Assessment Work Plan Addendum, Site-Wide RI/Projected Residual Risk Assessment Report, FS Report, PP, and draft ROD.

9. U.S. EPA and U.S. DOE have revised pages 36 and 37 which are attached hereto as Attachment one (1). In accordance with Section XXXIII.B., the deletion of the requirement for the submittal of the CSOU documents is effective on the date U.S. EPA signs this Agreement, and revised pages 36 and 37 are hereby incorporated into and made part of the ACA.

10. U.S. DOE and U.S. EPA individually certify that the signatories to this Agreement have the authority to bind U.S. DOE and U.S. EPA to the requirements of this Agreement.

IT IS SO AGREED:

By: _____ Date: _____
Johnny W. Reising, Manager
Environmental Restoration
U.S. Department of Energy
Fernald Environmental Management Project

By: _____ Date: _____
William E. Muno
Director
Superfund Division
U.S. Environmental Protection Agency
Region V

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- c. FS Report/Comprehensive Response Action Risk Evaluation: September 10, 1993;
 - d. Proposed Plan: September 10, 1993;
- Proposed Draft Record of Decision: June 10, 1994

#5. Operable Unit 5: Environmental Media. Groundwater, surface water, soil not included in the definitions of OU #1-4, sediments, flora, and fauna.

- a. Initial Screening of Alternatives: April 16, 1993;
- b. RI Report/Baseline Risk Assessment*: June 24, 1994;
- c. FS Report/Comprehensive Response Action Risk Evaluation: November 16, 1994;
- d. Proposed Plan: November 16, 1994;

Proposed Draft Record of Decision: July 3, 1995.

* The Site-Wide Ecological Assessment shall be included in the Baseline Risk Assessment for OU 5.

Comprehensive Site-Wide Operable Unit: An evaluation of remedies selected for OUs 1-5, above (including remedial and removal actions) to ensure that they are protective of human health and the environment on a site-wide basis, as required by CERCLA, the NCP and applicable U.S. EPA policy and guidance.

- a. Site-Wide RI/Projected Residual Risk Assessment Work Plan Addendum: (NOT REQUIRED PURSUANT TO THE JUNE , 1996 AMENDMENT);
- b. Site-Wide RI/Projected Residual Risk Assessment Report: (NOT REQUIRED PURSUANT TO THE JUNE , 1996 AMENDMENT);
- c. FS Report: (NOT REQUIRED PURSUANT TO THE JUNE , 1996 AMENDMENT);
- d. Proposed Plan: (NOT REQUIRED PURSUANT TO THE JUNE , 1996 AMENDMENT); and

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Proposed Draft Record of Decision: (NOT REQUIRED
PURSUANT TO THE JUNE , 1996 AMENDMENT).

D. For each of Operable Units 1-5 at the Site, U.S. DOE shall conduct and report upon an RI and Baseline Risk Assessment that shall be finalized as provided for by Section XII of this Agreement, and in accordance with the requirements and time schedules set forth in the approved RI work plan, as amended by this Agreement. Each Baseline Risk Assessment shall include a scenario evaluating current conditions at the Site, assuming no further response actions and no institutional controls for the OU under consideration and shall assume no additional contribution of risk from the other individual OUs. A Baseline Risk Assessment shall be incorporated into each OU RI Report.

E. For each of Operable Units 1-5 at the Site, U.S. DOE shall develop and submit to U.S. EPA an Initial Screening of Alternatives to be finalized in accordance with Section XII. For Operable Units 1-5, U.S. DOE shall within five (5) days of submittal of the Initial Screening of Alternatives to U.S. EPA notify the State of Ohio and request the State to identify potential State ARARs within thirty (30) days or less of receipt of the Initial Screening of Alternatives in accordance with the requirements of Section 121 of CERCLA.