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APR 14 2003

Mr. Gene Jablonowski, Remedial Project Manager
United States Environmental Protection Agency
Region V, SRF-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

DOE-0329-03

Mr. Tom Schneider, Project Manager
Ohio Environmental Protection Agency
401 East 5th Street
Dayton, Ohio 45402-2911

Dear Mr. Jablonowski and Mr. Schneider:

**PAGE CHANGE TO THE DRAFT FINAL PROPOSED PLAN FOR OPERABLE UNIT 4, SILO 3
REMEDIAL ACTION**

- References:
1. E-mail, G. Jablonowski to N. Akgündüz and J. Reising, "Silo 3 Proposed Plan Comment," dated April 9, 2003
 2. Letter, DOE-0261, J. Reising to G. Jablonowski and T. Schneider, "Draft Final Proposed Plan for Operable Unit 4, Silo 3 Remedial Action," dated March 14, 2003
 3. Letter, T. Schneider to J. Reising, "Approval - Revised Draft Proposed Plan for Operable Unit 4 Silo 3 Remedial Action," dated April 7, 2003

In Reference 1, the United States Environmental Protection Agency (USEPA) requested that the Department of Energy (DOE) revise the draft Final Proposed Plan (PP) for Silo 3 (Reference 2) to clarify the USEPA involvement in implementing the contingent remedy. Enclosed is a revision to Page 9 of the PP incorporating the following text, "Regulatory approval will be obtained prior to finalizing such a decision," and "Upon completion of the previously discussed interaction with the USEPA, OEPA, and the Public, (existing text) *and receipt of regulatory agency approval,...*"

In addition, revised Pages 20 and 21 of the PP are enclosed to clarify compliance with the National Environmental Policy Act (NEPA), in response to a stakeholder comment at the April 8, 2003 Cleanup Progress Briefing.

APR 14 2003

Mr. Gene Jablonowski
Mr. Tom Schneider

-2-

DOE-0329-03

-- 8223

The enclosed revisions will be included in the final PP, to be issued for public comment upon receipt of the USEPA approval.

If there are any questions, please contact Nina Akgündüz at (513) 648-3110.

Sincerely,



Johnny W. Reising
Fernald Remedial Action
Project Manager

FCP:Akgündüz

Enclosures: As Stated

cc w/enclosures:

N. Akgündüz, OH/FCP
G. Brown, OH/FCP
J. Hall, OH/FCP
J. Saric, USEPA-V, SR-6J
T. Schneider, OEPA-Dayton (three copies of enclosure)
M. Cullerton, Tetra Tech
M. Shupe, HSI GeoTrans
R. Vandegrift, ODH
AR Coordinator, Fluor Fernald, Inc./MS78

cc w/o enclosures:

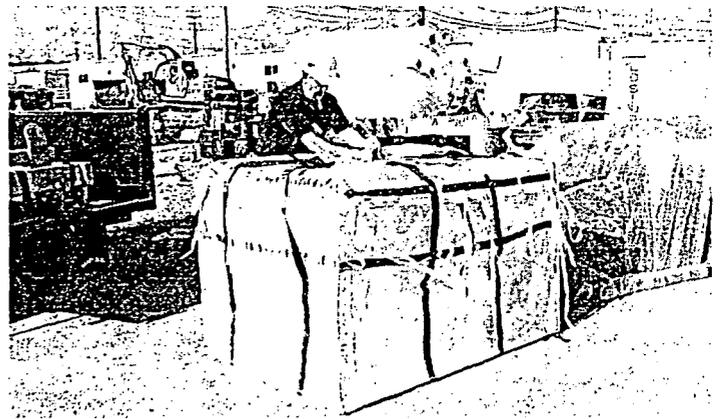
R. Greenberg, EM-31/CLOV
S. Robison, EM-31/CLOV
S. Beckman, Fluor Fernald, Inc./MS52-4
D. Carr, Fluor Fernald, Inc./MS1
R. Corradi, Fluor Fernald, Inc./MS52-4
T. Hagen, Fluor Fernald, Inc./MS1
D. Nixon, Fluor Fernald, Inc./MS65-2
D. Thiel, Fluor Fernald, Inc./MS52-2
T. Walsh, Fluor Fernald, Inc./MS52-3
ECDC, Fluor Fernald, Inc./MS52-7

In the event one or all of these concerns were to materialize during full scale operations the on-line efficiency, capacity and cost of the remedy would be impacted. For example the plugging of the spray nozzles or the plugging of the conveyor screws would require the shutdown of operations and the performance of intrusive maintenance. Maintenance workers would be required to don fully encapsulating protective clothing and supplied air respirators and then come in direct contact with the waste materials. These actions would delay operations and subject workers to potential exposures to thorium bearing material, with resultant schedule and cost increases.

DOE will interact with EPA, Ohio EPA, and the involved stakeholders during the future mock up efforts to implement this treatment system. In the event that one or both of the waste additives cannot be practically applied, DOE will consult with the regulatory agencies and involved stakeholders on the details of the operational difficulties. The results of mock up testing, startup, and initial operations will be made available to EPA. Ohio EPA, and other stakeholders, as will adequate opportunity for input to any decision to alter the scope of treatment or to pursue the contingency plan. Regulatory approval will be obtained prior to finalizing such a decision.

Under the conditions where the costs and/or projected worker exposures associated with the application of one or both of the additives become disproportionate with the potential benefits gained, DOE will cease efforts to apply that portion of the liquid solution to the waste that is causing the operational impediments. If the operational impediments result in the decision to discontinue all steps of the liquid treatment process, then a contingency backup action will be implemented. This contingency action will involve the use of a double packaging system as a backup means to further reduce the potential dispersability of waste material released under a hypothetical severe accident involving material transit. The contingency plan will meet all Remedial Action Objectives, ARARs, and other criteria specified for the Proposed Revised Cleanup Plan. Upon completion of the previously discussed interaction with the EPA, Ohio EPA, and the public, and receipt of regulatory agency approval, the basis and rationale for the contingency-action decisions will be documented in a formal post-decision memorandum, and will be documented for the public in a Remedial Design Fact Sheet, to the administrative record file.

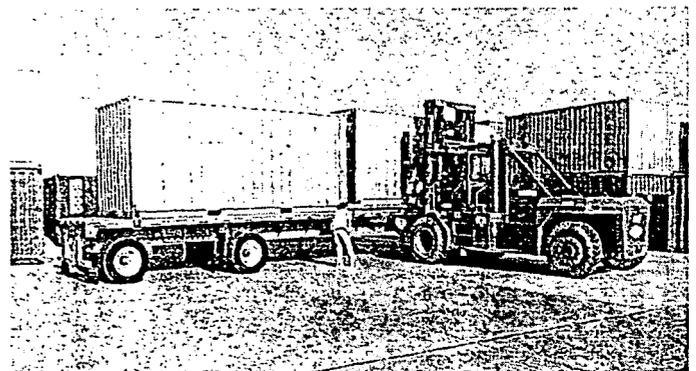
Waste Packaging and Shipping. Once the waste is retrieved from the silo it would be transferred by screw conveyor to a load hopper for direct delivery into the selected packaging configuration. The previously described chemical solution would be added as the waste enters the package.



Representative DOT LSA-II lined, soft-sided container package

For purposes of evaluating the alternative, a lined soft-sided package container meeting DOT-LSA-II requirements was selected to represent the range of available packaging configurations.

The packaging and mode of transportation remains unchanged—from the currently approved cleanup plan. These soft-sided containerseontainers would be placed into steel sealand containers and placed on trucks for off-site transport. Other modes of transportation are available for this same packaging configuration, including direct load onto rail flatbed cars with rail transport to a truck offloading station closer to the disposal facility or direct rail transport to the disposal facility. The Nevada Test Site can only receive waste containers by truck, therefore only direct truck transport or intermodal transport with offloading from rail to truck is acceptable for disposal at this location. In the event rail transport were to be implemented as the mode of transportation, dedicated unit trains would be used to the maximum extent practical.



Steel sealand cargo containers to transport DOT LSA-II soft-sided packagescontainers

The schedules for implementing the two alternatives are comparable (both satisfy enforceable milestone requirements for Operable Unit 4); the proposed revised remedy, however, offers meaningful schedule improvements attributable to a shorter operations and shipping duration. In terms of short-term effectiveness, both remedies are comparable. Fewer shipments would be expected under the proposed revised remedy, with the calculated risks during transportation associated with the proposed revised remedy being slightly higher but still within the acceptable range established for the remedy by the 1998 Silo 3 ESD. The proposed revised remedy will be less costly to implement than the currently approved cleanup plan due to the adoption of a more straightforward treatment approach that results in fewer packages to ship. Ohio EPA supports the proposed changes to the remedy, and the final criterion (community acceptance) will be evaluated after DOE and EPA receive public comments on this Proposed Plan.

National Environmental Policy Act. It is DOE policy to integrate NEPA requirements into the procedural and documentation requirements of CERCLA, wherever practicable. This policy is embodied within DOE Order 5400.4 defining the roles and responsibilities of the DOE regarding compliance with CERCLA and the integration of the remedial process with NEPA.

The incorporation of NEPA values into the original OU4 FS and PP resulted in a broader and more detailed analysis of the potential environmental impacts associated with implementing the alternatives. The original OU4 FS and PP also included a broad evaluation of cumulative impacts of all FEMP site remediation activities. The resulting integrated process and documentation package for OU4 was termed a Feasibility Study/Proposed Plan - Environmental Impact Statement (FS/PP-EIS)

Integrated CERCLA/NEPA documents (i.e., FS and PP) were prepared for each of the four ensuing OUs at the FEMP. Cumulative impacts were evaluated and updated as each remaining OU (i.e., 1, 2, 3, and 5) prepared its FS/PP documents.

NEPA regulations (10 CFR 1021) require that DOE prepare a Supplemental EIS (SEIS) when the agency has made a substantial change in a proposed action, or if there are new significant circumstances in the proposed EIS action that are relevant to environmental concerns. Case law confirms, however, that an agency does not need to supplement an EIS every time new information comes to light. The agency is required to take a hard look at the environmental impacts of its planned action, and to apply a "rule of reason" in deciding whether or not to prepare a SEIS.

In applying this rule of reason, the agency should evaluate factors related to the new information or circumstances for the action. These factors might include the environmental significance and probable accuracy of the new information or circumstances, the care that the agency used to evaluate the information and its impact, and the degree to which the information supports the agency's decision of whether to prepare a SEIS. In addition, the DOE NEPA regulations allow the preparation of a "Supplement Analysis" where the decision to prepare a SEIS is unclear.

Four Supplemental Analyses have been prepared evaluating changes to the original OU4 FS/PP EIS:

- January 9, 1996, evaluating shipping material for disposal via truck as opposed to the combination of rail/truck evaluated in the OU4 FS/PP-EIS.
- August 20, 1996 evaluating the Silo 3 remediation alternatives, including on-site treatment with disposal at the NTS or a PCDF, and transportation of untreated Silo 3 material to an off-site facility.
- March 3, 1998 evaluating Accelerated Waste Retrieval of the Silos 1 and 2 material.
- March 13, 2000 considering of alternatives for the remediation of the Silos 1 and 2 material.

No additional impacts were identified as a result of these reevaluations, and in each case, DOE determined that no additional NEPA evaluation or documentation was required.

This PP utilizes the same CERCLA/NEPA strategy by integrating the RI/FS documentation previously completed by all five operable units at the FEMP. This includes the original OU4 FS, PP, and ROD, the revised Silos 1 and 2 FS/PP and ROD Amendment, and the ESD for Silo 3 and the previously identified Supplemental Analyses.

The potential change recommended by DOE in this PP is bounded by the alternatives evaluated in the original FS/PP/EIS and the subsequent Supplemental Annalyses. Therefore, it is DOE's determination that potential NEPA issues associated with the change recommended in this PP have been adequately evaluated and that no additional NEPA documentation or evaluation is necessary.

4

8223

In accordance with both CERCLA and NEPA processes, these documents are made available to the public for comment. Public involvement is an important factor in the decision-making process for site remediation. Public comments will be considered in the selection of a revised remedy for Silo 3 material, which will be presented in a ROD Amendment. Applying the integrated approach for CERCLA and NEPA, DOE plans to prepare and issue a single ROD Amendment, which will be signed by both DOE and EPA. The contents of the documents prepared for the remedial actions at the FEMP site are not intended to represent a statement on the legal applicability of NEPA to remedial actions conducted under CERCLA.

In summary, DOE and EPA conclude that the proposed revised cleanup plan for Silo 3 represents the best overall balance of the evaluation criteria; provides effectiveness proportionate to its cost; and meets the CERCLA statutory preference for remedies that employ treatment as a principal element. As a result, DOE and EPA are recommending the implementation of the proposed revised remedy as the final remedy for Silo 3.

5