

**ATTACHMENT 2**

**TEXT OF PUBLIC COMMENTS**

**AND**

**RESPONSIVENESS SUMMARY**

1 Comment 1: Edwa Yocum

2 "DOE has not addressed the issue of what happens after two years off-site temporary storage. So my  
3 comment is that the Fernald facility must never become a permanent disposal or storage site for Silos 1, 2,  
4 and 3 materials.

5 The surrounding Fernald community after many meetings with DOE, Fernald decides to support the  
6 balance approach towards the model towards the cleanup of the Fernald Site. And I hope DOE  
7 headquarters and Fluor Fernald will continue to support that balance of approach model because by  
8 working together, DOE, Fluor Fernald, and community members will have accomplished a safe  
9 environment for future generations."

10 Response:

11 The role of permanent protective offsite disposal of the Silo materials as a key component of the  
12 'balanced approach' to disposal of waste from closure of the FCP is identified as a key driver for the  
13 decision to consider temporary offsite storage in Section 1.2 of the ESD. In section 3.1, the ESD  
14 addresses the concerns raised in this comment by imposing specific constraints on offsite storage,  
15 including the prohibition on return of Silo material to the FCP once it has been accepted at an offsite  
16 facility, and the two-year limit on temporary storage. Upon final approval of this ESD, these limitations  
17 will become enforceable by the U.S. EPA under CERCLA and the 1991 *Consent Agreement as Amended*  
18 *under CERCLA Sections 120 and 106(a)* between the U.S. EPA and the DOE.

19 In November 2004, Fluor Fernald issued Requests for Proposal (RFP's) for temporary offsite storage  
20 and/or permanent disposal of Silo 1, 2, and 3 materials in accordance with this ESD. To ensure the ability  
21 to satisfy the two-year limit on offsite storage, these RFPs required that proposals for temporary offsite  
22 storage include evidence that the facility has the ability to obtain approval of the necessary license for  
23 disposal license amendment within 18 months of contract award. The RFPs also specify that the DOE  
24 will retain ownership of the Silo material during any offsite storage period, and will be responsible for  
25 transferring the material to another facility for disposal if necessary to ensure disposal within the two-year  
26 period.

27 Comment 2: Vicki Dastillung:

28 "While the ESD answers some of our problems of what to do with the waste so that we can go forward  
29 with our clean-up, it opens up a lot of questions and fears for residents. It makes us worry that once the  
30 waste leaves, it could come back to us again or that it could become a case of national musical chairs  
31 where the waste just keeps traveling around and/or we pay for it indefinitely with no real pressure to make  
32 a permanent solution.

1 The waste needs to find a permanent home, not at Fernald, but if it goes into a situation temporarily where  
2 the public can't trust DOE's word as far as its previous agreements, future agreements could be in  
3 jeopardy because of the lack of credibility."

4 Response:

5 As stated in Section 1.2 of the ESD, the DOE's primary goal in adding the option for temporary offsite  
6 storage to the remedy for OU4 is to "maintain continuing progress towards completing treatment and  
7 offsite disposal of the silo materials in the most cost-effective and expeditious manner." Further, in order  
8 to ensure that adding this option does not result in a fundamental change to the scope, performance, or  
9 cost of the OU4 remedy, the revised remedy will 1) maintain the current final remedy of protective offsite  
10 disposal; 3) maintain all current criteria for treatment, packaging, transportation and disposal; and 4)  
11 preclude return of the material to the FCP. The ESD maintains the commitment, enforceable by the U.S.  
12 EPA under CERCLA and the 1991 *Consent Agreement as Amended under CERCLA Sections 120 and*  
13 *106(a)*, that DOE complete final, protective disposal of the Silo 1, 2 and 3 materials no more than two  
14 years from initiating offsite storage.

15 Comment 3: Robert Vogel

16 "The need for offsite interim storage of Operable Unit 4 material is unfortunate since a great deal of effort  
17 has been expended to establish that following treatment K-65 material will meet an acceptable leach rate  
18 for lead. The effort to examine and enhance treatment of the material was lengthy and from the amount  
19 of data alone indicated DOE's commitment to meet TCLP goals for the treated material. After having  
20 been involved in this effort well more than a decade, I am very familiar with the data both before and  
21 following treatment. As a result I have previously raised the issue on several occasions of the difference  
22 between TCLP data from the most recent treatability testing as opposed to previous testing. The  
23 difference being primarily that the treated material appears to have come from the 1989 sampling event,  
24 resulting in much lower pretreatment TCLP data and extremely low TCLP data following treatment.  
25 Neither of these conditions occurred in previous testing. The point here is that of all the very good data  
26 which was developed to support meeting the regulatory requirements for K-65 material (irregardless of  
27 11e.(2) status) the most recent data is weakest in terms of credibility. And credibility of data may be the  
28 deciding issue for where the material ultimately resides following interim storage.

29  
30 I also realize that the issue of final disposition is not purely technical and that political forces will drive  
31 many decisions. But the fact remains that at the core of all of these decisions is the ability to believe in  
32 the data. This is essential for the disposition of K-65 material and for other wastes which ultimately must  
33 be stored somewhere.

34  
35 The solution is actually much easier than it was even two or three years ago. This is the result of a great  
36 deal of K-65 material being removed from the silo. A few samples of this material of unquestionable  
37 origin could be tested using the most recent formulation. TCLP data from these tests would have a great  
38 deal of credibility in establishing the benefits of the treatment process and acceptability for permanent  
39 offsite disposition."

1 Response:

2 ~~The primary issue raised by this comment involves the integrity of the historical data used to demonstrate~~  
3 ~~the effectiveness of the chemical stabilization process in reducing the leachability of lead in Silos 1 and 2~~  
4 ~~material. First, it must be recognized that the November 2003 *Final Explanation of Significant*~~  
5 ~~*Differences for Operable Unit 4 Silos 1 and 2 Remedial Actions* removed the Toxicity Characteristic~~  
6 ~~Leaching Procedure (TCLP) analysis as a performance criteria for the chemical stabilization process,~~  
7 ~~requiring only that the Silos 1 and 2 material be treated by chemical stabilization to attain the waste~~  
8 ~~Acceptance Criteria (WAC) of the selected disposal facility.~~

9 The November 2003 ESD states that, although sampling and analysis of treated waste to meet TCLP  
10 criterion will no longer be required, "Treatability study data collected from past and future studies will be  
11 used both to optimize the chemical stabilization process requirements and to obtain the maximum  
12 reasonably obtainable reduction in leachability." Available data identifies a direct relationship between  
13 the pH of the stabilization mix and the leachability of lead in the treated product. While the studies  
14 indicate some variation in the data it does support the position that limiting our product to this specific pH  
15 range will provide a meaningful reduction in the leachability of lead. Our intent is to rely on this  
16 relationship as a basis for mix design and a fulfillment of the commitment to provide the maximum  
17 reasonably obtainable reduction in leachability. During the initial process runs with K-65 material,  
18 samples will be obtained to verify the mix. We will examine the pH of these initial mix designs to verify  
19 that we are within the target pH range derived from the studies. Adjustments to the mix will be made, if  
20 necessary, based on the samples from these initial containers.