



## Department of Energy

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Fernald Area Office

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MAR 6 2000

Mr. James A. Saric, Remedial Project Manager  
U.S. Environmental Protection Agency  
Region V, SRF-5J  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

DOE-0456-00

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

Dear Mr. Saric and Mr. Schneider:

### CONSERVATION EASEMENT ENVIRONMENTAL PROJECT

The purpose of this correspondence is to propose that the Conservation Easement Environmental Project, required under the 1997 Dispute Resolution Agreement between the U.S. Environmental Protection Agency (U.S. EPA) and Department of Energy, Fernald Environmental Management Project (DOE-FEMP), be closed out. The 1997 Dispute Resolution Agreement required the completion of five environmental projects: two separate recycling projects, the establishment of the conservation easement, the development of an ecological habitat area (i.e., the Ecological Restoration Park) and the implementation of an Ecological Research Grant Project. At this time, both recycling projects are complete: the Ecological Restoration Park is complete, and the installation of the "infrastructure" for the Ecological Research Grant Project is complete with monitoring ongoing. The total cost of the five environmental projects was originally estimated to be approximately \$1.2 Million. Approximately \$1.7 Million has been spent to date and another \$100,000 is projected to complete the Ecological Research Grant Project over the next two years.

The property targeted for establishment of the Conservation Easement Project was pursued by DOE-FEMP in good faith for more than a year. The Army Corps of Engineers was tasked by DOE-FEMP to negotiate with the owners of the property in an effort to establish the conservation easement. Despite early indications that the ownership of the property were interested in the conservation easement and some early discussion regarding the price of the easement, the negotiations reached an impasse in the latter part of 1999. As a result of the impasse in negotiations, DOE-FEMP has concluded that the property initially targeted for the conservation easement should no longer be pursued.

Mr. James A. Saric  
Mr. Tom Schneider

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The Dispute Resolution Agreement contained five specific provisions for stipulated penalties totaling \$975,000 that could be assessed if the agreed upon environmental projects were not completed. The Dispute Resolution Agreement contained the specific provision that a stipulated penalty of \$200,000 could be assessed if the Conservation Easement Project was not implemented. DOE-FEMP is requesting that U.S. EPA consider money spent on the other environmental projects in excess of what was originally planned in lieu of assessing the stipulated penalty for not implementing the Conservation Easement Project. In turn, DOE-FEMP would not pursue any further work on the Conservation Easement Project.

DOE-FEMP is requesting that the U.S. EPA provide confirmation that this approach is acceptable for the close out of the Conservation Easement Project. Please feel free to contact me at (513) 648-3139, if there are any questions regarding this matter.

Sincerely,



Johnny W. Reising  
Fernald Remedial Action  
Project Manager

FEMP:Nickel

cc:

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