



Department of Energy

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JUN 30 1997

DOE-1136-97

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

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

Dear Mr. Saric and Mr. Schneider:

AGREEMENT IN PRINCIPLE TO RESOLVE DISPUTE

- References:
- 1) Letter, J. Reising to J. Saric and T. Schneider, "Agreement in Principle to Resolve Dispute Concerning Extension of Time to Meet Operable Unit 4 Milestones," dated June 16, 1997.
 - 2) Letter, J. Saric to J. Reising, "June 16, 1997 OU4 Dispute Letter," dated June 20, 1997, (received June 23, 1997).

Pursuant to Section 12, Paragraph D of the May 15, 1997, Agreement in Principle, the Department of Energy, Fernald Environmental Management Project (DOE-FEMP) has reviewed the U.S. Environmental Protection Agency's (U.S. EPA) disapproval of our June 16, 1997, submittal of draft schedules and proposal for resolution of stipulated penalties.

The DOE-FEMP appreciates the cooperation and progress toward final resolution exhibited by the U.S. EPA and Ohio Environmental Protection Agency (OEPA). As a result of conference calls of June 23 and 27, 1997, with both EPAs, DOE offers the following proposals:

Schedules

As stated in your correspondence of June 20, 1997, DOE and EPA agree on the date of September 15, 1997, for submittal of the draft Explanation of Significant Differences (ESD) for Silo 3.

In reference to the other dates contained in your letter, DOE offers the following:

- A) Award of multi-tech proof of principle contract:
 - DOE Original Proposal - N/A
 - EPA Counter Proposal - August 10, 1998
 - DOE Revised Offer - August 10, 1998

- B) Submittal of Draft Silos 1 and 2 Feasibility Study/Proposed Plan (FS/PP) to the EPAs:
 - DOE Original Proposal - February 1, 2000
 - EPA Counter Proposal - October 1, 1999
 - DOE Revised Offer - February 1, 2000

- C) Submittal of Draft Silos 1 and 2 Record of Decision (ROD) Amendment to EPA:
 - DOE Original Proposal - March 5, 2001
 - EPA Counter Proposal - September 1, 2000
 - DOE Revised Offer - December 29, 2000

The bases for the DOE revised offer are as follows:

- A) Award of multi-tech proof of principle contract

The EPA's counter proposal to include this milestone is acceptable and is consistent with the original DOE schedule.

- B) Submittal of Draft Silos 1 and 2 FS/PP to the EPA

The DOE proposes that the original proposed date of February 1, 2000, be maintained. The FS/PP is being driven by the need to incorporate the Proof of Principle (P. of P.) testing data into the document. The P. of P. Test Reports will provide analytical data, cost and schedule data, as well as, pre-conceptual design data. The P. of P. testing is a new and innovative approach that requires a complex and time-consuming procurement process. The P. of P. procurement will be challenging to execute due to the fact that multiple vendors will be evaluated, resulting in multiple contract awards. Additionally, DOE wishes to ensure that adequate time is available for full public involvement at this critical juncture in the project.

- C) Submittal of Draft Silos 1 and 2 ROD Amendment to EPAs

The DOE agrees that the ROD amendment submittal date could be accelerated, however, this is very risky due to the fact the schedule is already a "Zero Float" schedule.

The DOE proposes the revised date of December 29, 2000, which has been accomplished primarily by performing parallel DOE reviews of the ROD Amendment.

Please find enclosed a Draft Proposal for Resolution of Stipulated Penalties.

DOE wishes to further discuss your statement in the June 20, 1997, correspondence, that unless and until U.S. DOE amends the OU4 ROD and U.S. EPA approves new implementation schedules, the existing ROD requirements and associated schedules continue to apply to U.S. DOE. It is U.S. DOE's position that the Amendment to the ACA, in accordance with Paragraph 12 of the Agreement in Principle, will modify the submission dates for future OU4 deliverables.

Pursuant to the Agreement in Principle, Section 12, Paragraph D, DOE-FEMP will continue in good faith to negotiate to meet the terms of the agreement and amend the Consent Agreement no later than July 14, 1997.

We look forward to the EPA's response to this letter and reiterate our willingness to participate in direct negotiation in the interim.

If you have any questions, please feel free to contact me at (513) 648-3139.

Sincerely,



Johnny W. Reising
Fernald Remedial Action
Project Manager

FEMP:Akgunduz

Enclosure: As Stated

cc w/o enc:

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