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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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CHICAGO, IL 60604-3590

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FILE:
REPLY TO THE ATTENTION OF:

SRF-5J

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

RE: OU 4 Post-ROD Changes

Dear Mr. Reising:

At the request of representatives of the United States Department of Energy (U.S. DOE), the Ohio Environmental Protection Agency (OEPA), and the Fernald Citizen's Task Force (FCTF), The United States Environmental Protection Agency (U.S. EPA) provides the following explanation for its position regarding changes to the Operable Unit (OU) 4 Record of Decision (ROD). Specifically, U.S. EPA believes U.S. DOE should proceed with a ROD amendment for the Silo 1 and 2 contents and an Explanation of Significant Differences (ESD) for the Silo 3 contents.

Pursuant to the National Contingency Plan (NCP), if a remedial action differs significantly from the remedy selected in the ROD with respect to scope, performance, or cost, the lead Agency must issue either an: (1) explanation of significant differences (ESD); or (2) a ROD Amendment (40 CFR Section 300.435(c)(2)). The standard for determining whether an ESD or ROD amendment is required is whether the difference fundamentally alters the remedy selected in the ROD (40 CFR Section 300.435(c)(2)(i) and (ii)). When issuing either an ESD or a ROD amendment, the lead Agency must follow NCP prescribed procedures, including public notice, but in general an ESD is for less significant changes and is administratively streamlined.

With respect to the contents of Silo 3, U.S. DOE is currently considering several stabilization technologies, including cementation. U.S. EPA believes cementation can meet the treatment objectives of vitrification and is considering whether other stabilization technologies can also attain or exceed that level of performance. While changing the remedy for the Silo 3 contents from vitrification to some other stabilization technology is significantly different from the remedy selected in the OU 4 ROD, U.S. EPA believes that such a change does not fundamentally alter the selected remedy because of several factors including: (1) the scope of the remedy still encompasses the same waste material with ultimate disposal off-site; (2) the performance of the

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stabilization technology to be selected will meet the treatment objectives of vitrification, and (3) the cost of the stabilization technology to be selected will be essentially the same as that for vitrification.

With respect to the contents of Silos 1 and 2, the proposed change, based upon the factor of cost alone, is clearly fundamental. The estimated cost to vitrify Silo 1 and 2 materials would increase from approximately $70 million to $500 million. Other stabilization technologies (e.g., cementation) are estimated to cost around $400 million. Some increase in cost can be reasonably expected, and whether a cost increase is not significant, or is significant and requires an ESD, or fundamentally alters the selected remedy and must be covered by a ROD amendment, is a case-by-case question. Therefore, U.S. EPA cannot specify a bright line standard for these situations. However, U.S. EPA believes that in virtually any case, a cost increase of the magnitude described above would clearly require a ROD amendment. Therefore, U.S. EPA believes that the anticipated cost changes to the Silos 1 and 2 remedy will require a ROD amendment.

Thus, based on the above factors, U.S. EPA believes that the most appropriate action is first an ESD for the Silo 3 contents, and second a ROD amendment for the Silo 1 and 2 contents.

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

cc: Tom Schneider, OEPA-SWDO
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