



Department of Energy

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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:

VULNERABILITY IN REGULATORY MILESTONE FOR OPERABLE UNIT 1 - "INITIATION OF OPERATIONS (i.e., LOADING OF WASTE)"

The purpose of this letter is to provide advance notification to your agency of a situation that may impact the Department of Energy's (DOE) ability to meet the regulatory milestone for Operable Unit 1 (OU1) of March 1, 1999, for "Initiation of Operations (i.e., Loading of Waste)." The situation is a lawsuit filed by Waste Control Specialists and a resulting legal injunction precluding the DOE from entering into contracts for commercial low level waste disposal, which specifically impacts off-site disposal of OU1 wastes.

To date, the Waste Pit Remedial Action Project - OU1 is on schedule to achieve its regulatory milestones. The DOE has already committed significant resources to the readiness of this project, and is poised to commit considerable additional resources in the Spring of 1998. However, project actions are becoming more and more dependent upon the specifications and requirements of the final disposal facility for the OU1 wastes. Further commitment of resources without definitive identification of the disposal facility may not be a prudent undertaking for the DOE. Near term actions such as the following: procurement of railcars; subcontractor design submittal; and, commencing construction may be jeopardized.

As the OU1 project naturally progresses through the design phase and enters into the construction and startup phases, project transition points will be encountered. These transitions typically have associated project cost increases. In particular, the authorization

to mobilize construction has attached a significant commitment. The DOE shall be monitoring resource allocation to the OU1 project in consideration of any developments in the ongoing legal situation.

We recognized the urgency to promptly resolve this issue in light of the increasing cost risks being taken and impending regulatory milestones. Additionally, the DOE evaluated various contingencies, and has concluded there are no options available that: allow the DOE to initiate and maintain waste pit remediation at the levels contemplated; meet the milestone schedule in the Remedial Action Work Plan (RAWP); and, are in compliance with the decision process that supports the Record of Decision (ROD).

At this point in time, the DOE is continuing to move forward toward achieving the goal to remediate the waste pits utilizing the services of bulk disposal by rail transportation to an off-site permitted commercial disposal facility as specified in the OU1 ROD, to meet the regulatory milestones established in the OU1 RAWP.

If you have any questions regarding this subject, please contact Dave Lojek at (513) 648-3127.

Sincerely,



Johnny W. Reising
Fernald Remedial Action
Project Manager

FEMP:Hall

cc:

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