



1917

Fluor Daniel Fernald, Inc.
P. O. Box 538704
Cincinnati, OH 45253-8704

FACSIMILE LEAD SHEET

No. of Pages: 3
(Including Lead Sheet)

DATE: January 4, 1999

TO: Tom Schneider

COMPANY NAME: OEPA-OFFO

LOCATION:

FAX NO. TO BE CALLED: (937) 285-6404 TELEPHONE NO.: (937) 285-6466

FROM: Steve Beckman TELEPHONE NO.: (513) 648-5264

PROJECT NAME: Fernald Environmental Mgmt. CONTRACT NO.: DE-AC24-92OR21972

MESSAGE

SUBJECT: USEPA REGION IX LETTER ON NTS / CERCLA OFFSITE RULE

Nina asked me to fax you a copy of this letter. It clarifies that the USEPA Region IX approval of NTS under the Offsite Rule does, in fact, specifically apply to OU4 material.

SMB
SMB

c: Nina Akgunduz
File Record Storage Copy 40730
~~AR coordinator, MS 78~~

1



1917

Fluor Daniel Fernald, Inc.
P. O. Box 538704
Cincinnati, OH 45253-8704

FACSIMILE LEAD SHEET

No. of Pages: 3
(Including Lead Sheet)

DATE: January 4, 1999

TO: Gene Jablonowski

COMPANY NAME: USEPA Region V

LOCATION:

FAX NO. TO BE CALLED: (312) 353-8426 NO.: (312) 886-4591

FROM: Steve Beckman TELEPHONE NO.: (513) 648-5264

PROJECT NAME: Fernald Environmental Mgmt. CONTRACT NO.: DE-AC24-92OR21972

MESSAGE

SUBJECT: USEPA REGION IX LETTER ON NTS / CERCLA OFFSITE RULE

Nina asked me to fax you a copy of this letter. It clarifies that the USEPA Region IX approval of NTS under the Offsite Rule does, in fact, specifically apply to OU4 material.

SMB

c: Nina Akgunduz
File Record Storage Copy 40730
AR coordinator, MS 78

c = Steve Beckman
Terry Hager
Dennis Nixon



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

1917

FILE:
LIBRARY:

FERNALD
LOG M-000001
Dec 29 8 43 AM '98

December 4, 1998

Steve A. Mellington
Deputy Assistant Manager for
Environmental Management DOE/NV
Nevada Operations Office
P.O. Box 98518
Las Vegas, Nevada 89193-8518

RE: Clarification of Acceptable Waste at Department of Energy, Nevada Test Site in Accordance with the Provisions of the Determination of Acceptability Pursuant to the CERCLA Off-Site Rule

Dear Mr. Mellington;

On July 7, 1998, the U.S. Environmental Protection Agency (USEPA) Region 9, issued an affirmative determination under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Off-Site Rule (40 CFR 300.440) to DOE Nevada Test Site (NTS) allowing receipt of low-level radioactive waste at waste management units Areas 5 and 3. In addition to clarifying that the waste received at NTS must be from generators that have been approved by DOE and must not be required to be managed in accordance with the Resource Conservation and Recovery Act (RCRA); the letter transmitting the affirmative determination specified that the waste approved to be received must be classified according to the statutory definition in the Atomic Energy Act (AEA) of low-level radioactive waste. The definition of low-level radioactive waste typically excludes what are defined in the AEA as 11(e)(2) materials.

Generally, AEA 11(e)(2) materials are "by-product material" defined as: (1) any radioactive material (except special nuclear material) yielded in, or made radioactive by exposure to, the radiation incident to the process of producing or utilizing special nuclear material; and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

It has been brought to the attention of USEPA Region 9 that Chapter IV of DOE Order 5820.2A (9/26/88), the controlling and applicable DOE document for the management radioactive waste; states that certain materials not considered to be low-level radioactive waste could be managed as low-level waste in accordance with the requirements of Chapter III of DOE Order 5820.2A. The materials specified in DOE Order 5820.2A that can be managed as low-level waste are defined in the order as: "small volumes of DOE waste containing 11(e)(2) by-product material [defined in the previous paragraph] or naturally occurring and accelerator produced radioactive material."

Region 9 has also been informed that Fernald Environmental Management Project (FEMP) has, under the terms of the ROD for several operable units (OU) at the FEMP, identified waste subject to the provisions of Chapter IV of DOE Order 5820.2A allowing management of

11(e)(2) by product materials as low-level waste as material destined for disposal at NTS. 1917

The purpose of this letter is to clarify the conditions of the CERCLA Off-Site Rule (OSR) affirmative determination issued July 7, 1998. In general, OSR approval is extended to certain units at a facility. In the case of NTS, OSR approval has been given to Area 5 and Area 3. Low-level radioactive waste is managed in these units. It is acknowledged that DOE Order 5820.2A is the controlling DOE regulatory directive pertaining to Area 5 and Area 3. As discussed above, this Order clarifies that certain small volumes of DOE waste, such as that generated by FEMP OU4 identified as 11(e)(2) materials, may be managed as low-level radioactive waste. The waste from FEMP meeting the provisions of DOE Order 5820.2A would be managed in the areas at NTS that have been approved under the OSR for the management of low-level radioactive waste. Therefore; the CERCLA OSR approval dated July 7, 1998 is clarified to include management of small volumes of 11(e)(2) materials from Fernald OU4 as low-level waste under the provisions of Chapters IV and III of DOE Order 5820.2A or any subsequent applicable DOE directive.

If you have any questions concerning this matter, please contact Kandice Bellamy, Region 9's CERCLA Off-Site Coordinator, at (415) 744-2130.

Sincerely,



Rich Vaille, Chief, P.E.
State Programs and Compliance Branch

cc: Paul Liebendorfer, NDEP
Chief, Bureau of Federal Facilities
Capitol Complex
333 W. Nye Lane
Carson City, NV 89710

DOE/NV
E.F. Disanza
W.A. Clayton
S.A. Hejazi

DOE/HQ, EM-30
James Turi

Mr. James A. Saric, RPM
USEPA, Region V-SRF-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Mr. Johnny W. Reising
Deputy Associate Director
Department of Energy
Fernald Environmental Management Project
P.O. Box 53805
Cincinnati, Ohio 45253-8705

Mr. Jack Craig, Director
Department of Energy
Fernald Environmental Management Project
P.O. Box 538705
Cincinnati, Ohio 45253-8705

Nina Akgunduz
OU4 Team Leader
Department of Energy
Fernald Environmental Management Project
P.O. Box 53805
Cincinnati, Ohio 45253-8705