



State of Ohio Environmental Protection Agency

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Southwest District Office

401 East Fifth Street
Dayton, Ohio 45402-2911

TELE: (937) 285-6357 FAX: (937) 285-6404

Bob Taft, Governor
Maureen O'Connor, Lt. Governor
Christopher Jones, Director

February 28, 2001

Mr. Steve McCracken
USDOE FEMP
P.O. Box 538705
Cincinnati, OH 45253-8705

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Dear Mr. McCracken,

We the Natural Resource Trustee representatives for the Ohio Environmental Protection Agency (OhioEPA) and the United States Fish & Wildlife Service (USFWS) are writing you to express our deep concerns with the Department of Energy's (DOE) apparent lack of commitment to successful settlement of the Natural Resource Damage claims and the State of Ohio's lawsuit. To date the trustees including the DOE have made good progress towards settlement and implementation of natural resource restoration at Fernald. We have a tentative agreement on settlement and stand prepared to sign a Memorandum of Understanding that all parties agree can lead to a final settlement agreement. Reaching this point is the result of over three years of negotiation and consultation amongst trustees and stakeholders at Fernald.

Up to the point of our January 31, 2001 Natural Resource Trustee meeting, we had agreed to yearly restoration projects and were actively working with the Fernald Citizens Advisory Board on recommendations for involving public input to our designs and use plans. However, the DOE's request for funding and subsequent direction to its contractor during baseline development, suggest DOE is no longer committed to the settlement and restoration plan negotiated by the trustees over the last three years. The budget request and revised baseline, as we understand them, result in the stoppage of on-going natural resource restoration efforts and the dismantling of the existing Natural Resources Group within Fluor Fernald. Dissolution of the Natural Resources Group will deflect a necessary focus on the natural resource restoration efforts with unacceptable impacts on the timely resolution of the State of Ohio's claim. One important aspect of the current process is the incorporation of natural resource restoration considerations into the remedial work around the site. The apparent direction of DOE on this matter will certainly create a disconnect in current process that will, in time, lead to a more costly site closure and duplication of efforts in the restoration and remedial programs.

This is not the first time DOE has wavered in its commitment to Natural Resource Restoration. Previous difficulties were encountered during the design phases of the A1P1 Wetland Mitigation and the A8P2 Forest Demonstration Area when DOE retracted prior commitments. Therefore we believe it is necessary for DOE to clearly commit to the natural resource restoration as outlined in the September 2000 Detailed Scope of Work

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developed by DOE and the trustees. Additionally, we believe it is necessary that DOE provide for restoration work in a separate funding allocation from the current Operable Unit or PBS's. Once DOE has taken these steps and negotiated an acceptable schedule for restoration projects at the site we are prepared to move forward with signing the MOU and finalizing settlement of the NRDA claims and the State of Ohio's lawsuit.

The trustees are currently at an impasse due to the lack of clarity in the DOE position on the direction to be taken in the natural resource claims. In order to clarify the DOE position and allow the trustees to proceed on the most practical path, please provide a written response by April 1, 2001 concerning the following three items. First, confirm DOE's level of commitment to continuing the restoration work at Fernald as outlined in the September 2000 Scope of Work. Second, provide a separate funding line or PBS for Natural Resource Restoration to ensure adequate resource allocations. Third, develop an acceptable schedule for implementation of restoration projects at Fernald.

If you have any questions concerning this letter, please contact us.

Sincerely



Thomas A. Schneider
Fernald Project Manager
Office of Federal Facilities Oversight
Ohio EPA



William J. Kurey
Acting Supervisor
Reynoldsburg Ohio Field Office
USF&WS

cc: Mark Navarre, OEPA Legal
Tim Kern, OAG
Daniel Dertke, US DOJ
John Ebersole, US DOE
Pete Yerace, US DOE
Janet Wong, DOI, Office of the Field Solicitor

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