



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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4913

JUN 17 2003

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

REPLY TO THE ATTENTION OF

LIBRARY
FILE: John L. Leclerq
2003 JUN 18 P 2:51
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RE: Institutional Control Plan

Dear Mr. Reising:

The purpose of this letter is to memorialize the understanding resulting from recent discussions between representatives of the United States Environmental Protection Agency (U.S. EPA) and the United States Department of Energy (U.S. DOE) concerning development of an Institutional Control (IC) Plan to ensure the long term performance and protectiveness of the remedies at the Fernald site, and to maintain the various land use controls required in the future. Specifically, U.S. EPA and U.S. DOE agree that the January 31, 1996, Operable Unit 5 (OU 5) Record of Decision (ROD)¹ and the 1991 Amended Consent Agreement (ACA) require that U.S. DOE submit an IC Plan to U.S. EPA for review and approval as a primary document. Further, U.S. EPA and U.S. DOE agree that as a primary document, upon approval by U.S. EPA, U.S. DOE's implementation of the IC plan will be an enforceable obligation under the ACA.

U.S. DOE must submit an IC plan to U.S. EPA by September 30, 2003. The IC plan must include three parts. The first portion must include details of the institutional controls at the Fernald site as well as provide specifics on how U.S. DOE will maintain, monitor, inspect, and provide reports on the status of the

¹The OU 5 ROD declaration specifically mentions the need for institutional controls, such as access controls, deed restrictions and alternate water supplies, during and after remedial activities to minimize the potential for human exposure to site introduced contaminants and ensure the continued protection of human health. Section 9 of the OU 5 ROD states that "An institutional control plan, focused on specifying the short term (i.e. during remedy implementation) and long-term institutional control measures to be applied at the site, will be developed during remedial design to complement this final land use plan." To date an IC plan has not been submitted and much of the remediation at the site is underway or has been completed.

institutional controls. Further U.S. DOE must provide the details of how they will enforce any institutional control violations should they occur in the future.

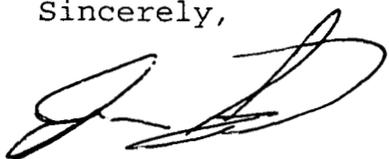
The second portion of the IC plan should include a revised Operation and Maintenance Master Plan for Aquifer and Wastewater Restoration. This document needs to be updated to reflect the current status of the aquifer restoration and provide specific details on how U.S. DOE is going to maintain, monitor and report on aquifer performance to meet the final remediation levels.

The third portion of the IC plan must include the Post Closure Care and Inspection Plan for the On-Site Disposal Facility (OSDF). This plan needs to include specifics on the OSDF future groundwater monitoring and reporting, as well as update the status of the Leachate Transmission System.

U.S. DOE has already taken many steps in addressing long term protectiveness of the remedies, but there are some details that must be documented to ensure future protectiveness and the long term stewardship of the Fernald site. Finally, placing this long term remedy performance and maintenance information as well as the IC information in one document will ensure the various controls are maintained on the property once remediation is completed.

Please send us written confirmation at your earliest convenience stating that U.S. DOE agrees that this letter accurately summarizes U.S. DOE's position with respect to the IC plan. U.S. EPA looks forward to meeting in the near future to continue to assist in the development of the IC plan. If you have any questions regarding this matter, please contact me at (312) 886-0992.

Sincerely,



James A. Saric
Remedial Project Manager
Federal Facilities Section
SFD Remedial Response Branch #2

- cc: Tom Schneider, OEPA-SWDO
- Sally Robison, U.S. DOE-HDQ
- Jamie Jameson, Fluor Fernald
- Terry Hagen, Fluor Fernald
- Tim Poff, Fluor Fernald