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State of Ohio Environmental Protection Agency
Southwest District

401 East Fifth Street
Dayton, Ohio 45402-2911

TELE: (937) 285-6357
FAX: (937) 285-6249

January 5, 2005

Robert Warther, Manager
USDOE Ohio Field Office
175 Tri-County Parkway
Springdale, Ohio 45246-3222

Dear Mr. Warther:

This letter follows up on Ohio EPA's August 31, 2004 letter to Bill Taylor (copy attached) and on my conversations with you and Johnny Reising regarding the Fernald Cost Recovery Grant (CRG). First let me say again that Ohio fully understands that the CRG funding for Fernald oversight will be decreasing as the work is completed. However, it appears that Ohio and the Department of Energy (DOE) need to agree on the timing for this decrease. Over the next 18 months our staff will decrease, in fact, one Fernald team member has just accepted a position in another OEPA program and we do not plan to fill any of these openings.

You have noted that since the DOE staff is decreasing, Ohio's should as well. This position assumes that the work effort is decreasing and that Ohio EPA only works with DOE staff. The fact is that we work closely with DOE and Fluor Fernald (FF) staff. Further, the work is far from decreasing. In fact, the work scheduled for calendar year 2005 is some of the most ambitious yet. The purpose of this letter is to document some of the work that still needs to be accomplished between now and December, 2006.

Following is a short list of projects that jump to mind that will be faced in the coming year. We are aware that FF is developing an extensive planning document to lay out work for 2005 that includes much more detail on the activities they expect to undertake. It is likely this document will highlight that the required level of effort at Fernald is anything but declining.

1. Close out reports for each Operable Unit. The effort for OU2 is now underway.
2. Silos - ESD, Transportation Plans, and everything else that needs to happen as we all seek a solution to this difficult problem.
3. Aquifer response tests to be conducted through 2005. This will be a critical effort in that it will be the last real chance (with the FF expertise) to gather information on the aquifer and remediation efforts for years to come. This information will feed into the Aquifer Certification Plan. Our contractor, GeoTrans, will need to be involved in this effort.

4. **Develop Aquifer Certification Plan.** This will be a major effort also involving GeoTrans. It is important to note that the development of the soil certification approach took more than a year of intense negotiations to develop.
5. **Develop and Implement a Ground Water Remediation Plan for Waste Pit Area.** This is the last groundwater module to require design characterization, development of a remediation plan and implementation of that plan. Again, GeoTrans will be involved in this effort.
6. **Continued filling and capping of On Site Disposal Facility (OSDF) cells 4-8.** This will result in more waste placed and cells capped than any other year in Fernald project history. Although some of this work has been done in the past, the OSDF is a critical priority for Ohio, since the waste in it will remain here forever. The number of cells to be capped exceeds that of all prior years combined. In addition, each cell is different as new ways of constructing and placing wastes continue to be proposed by FF.
7. **The preparation and/or review of Certification Reports for all areas following cleanup.** This is a major priority for all parties.
8. **Restoration work following certification and natural resource damage assessment settlement negotiations.**
9. **Environmental monitoring- including the development of a strategy for continuing monitoring of some areas and media and/or ending the monitoring as cleanup is completed.** An unresolved question here is whether we want to continue to monitor environmental media for some period of time following cleanup to document the reduction in releases? Stakeholders should also be involved in this effort.
10. **Review of characterization, design and remediation plans and change requests.** The current accelerated cleanup schedule is driving FF to continue to propose new ways of conducting cleanup activities. Review of these proposals is necessary to insure that the FF submittals meet environmental requirements. Inconsistency in document quality can require extra effort.
11. **Planning for transition from Environmental Management (EM) to Legacy Management (LM).** We have started discussions with EM and LM about transition and what EM functions will actually need to continue after the official "closure" under FF's contract. We are also having discussions with LM on future regulatory oversight needs.
12. **Remediation plans have yet to be submitted for any of the site stream corridors.** Remediation will be necessary along Paddy's Run, the Pilot Plant Drainage Ditch and the Storm Sewer Outfall Ditch.
13. **Both Ohio EPA and US EPA had extensive comments on the last version of the Legacy Management and Institutional Controls Plan (LMIC).** Based upon initial reviews of the response to comments, numerous issues will remain outstanding. Issues ranging from OSDF horizontal till well data assessment to institutional controls to public outreach remain unresolved. This will be the operating manual for the site following transition to LM and will be the result of much discussion over the next year.

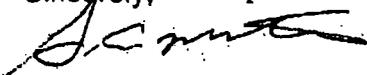
14. Continued stakeholder involvement activities. Ohio believes it is extremely important to keep the public involved at Fernald as the site is completed. Now is the time when the tone will be set for the future relationships with the Department (EM or LM) and regulators. If DOE leaves the impression that they were rushing to finish the job or they are not willing to keep the public informed and involved (even if that is not the case), that will be the lasting impression the public has about the site and DOE will squander the good will it has generated with the community. DOE needs the local stakeholders of today to be telling the new residents that move into the area in the future about the complete cleanup job that the federal government did at Fernald. This is what is meant by the term "Community Based Stewardship". If we all do our jobs, the community will play a critical role in making sure the remedy remains protective into the future.

These are some of the critical tasks that need to be accomplished or at least worked on this year, and none of them are "routine activities." Many of these tasks will be done for the first time this year. So, while we are all planning for the end of this project, we need to make sure that we all have the staff and resources to get this remaining work accomplished in a quality manner. To fail in doing a complete job at this final point in the cleanup will have lasting impacts on the actual technical cleanup and on how the job is perceived by the public.

As stated in our August 31, 2004 letter, cost recovery for oversight is a key provision of the 1988 Consent Decree and therefore is clearly a legal obligation for DOE. We have had a long history of working together to assure that timely and adequate resources were provided to keep the cleanup process moving. I am hopeful that we can continue this approach through the remainder of the project.

These funding issues are pressing and we request a response from you by January 14, 2005. We look forward to discussing these issues with you in more detail.

Sincerely,



Graham E. Mitchell
Chief, OFFO

cc: Bill Taylor, DOE
Johnny Reising, DOE
Joe Koncelik, Director OEPA
Dale Vitale, Ohio AG
Timothy Kern, Ohio AG
Mark Navarre, Legal OEPA