



EXEC-2007-011944

Department of Energy

Washington, DC 20585

October 29, 2007

MEMORANDUM FOR C.H. ALBRIGHT, JR.
UNDER SECRETARY OF ENERGY

FROM:

MICHAEL W. OWEN
DIRECTOR
OFFICE OF LEGACY MANAGEMENT

JAMES A. RISPOLI
ASSISTANT SECRETARY FOR
ENVIRONMENTAL MANAGEMENT

SUBJECT: **ACTION:** Approve Partial Critical Decision-4 for the
Fernald Closure Project

ISSUE: All Environmental Management (EM) work at the Fernald Closure Project (FCP) has been completed, and the project is ready for Critical Decision-4, *Project Completion*, authorizing contract close-out and transfer of project records to the Office of Legacy Management (LM). The only outstanding EM obligation is to permanently dispose of the Silos 1 & 2 wastes by no later than October 31, 2009. This waste is currently held in interim storage at the Waste Control Specialists (WCS) facility in Andrews, Texas. Approval of this partial CD-4 is granted on the condition that EM will complete final disposition of this waste on or before the above deadline imposed by the U.S. Environmental Protection Agency.

BACKGROUND: The DOE Order 413.3 (Program and Project Management for the Acquisition of Capital Projects) requires approval by the Deputy Secretary (S-2) of CD-4 for projects exceeding a total life cycle cost (LCC) of \$1B. This authority is further delegated to the Assistant Secretary for Environmental Management per S-2 memorandum dated August 16, 2007. This CD-4 for the FCP requires approval by the Under Secretary because upon EM mission completion, responsibility for performing long term surveillance and maintenance and records management transfers to another Program Secretarial Office. EM completed the FCP with a LCC of \$2.9B; this represents costs incurred from Fiscal Year (FY) 1997 through 2006. This LCC does not include the planned Baseline Change Proposal (BCP) for an additional \$21.3M to permanently dispose of the Silos 1 & 2 waste currently held in interim storage in Texas.

The FCP is a DOE-owned and operated environmental remediation project, conducted in accordance with the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA). The end-state for the FCP is a Federally-owned, undeveloped park with an emphasis on wildlife. On



November 20, 2000, EM awarded a contract to Fluor Fernald, Inc. (FFI) to complete the remaining scope of the environmental remediation project and to prepare the site for long-term surveillance & maintenance (LTS&M) of all CERCLA remedies. On October 29, 2006, FFI declared physical completion, and on January 18, 2007, the EM-1 approved acceptance of the physical completion of work required from FFI. On January 22, 2007, EM transferred operational responsibility for the entire FCP site to LM.

A Site Transition Plan (STP) for the FCP was approved by EM-1 and LM-1 on March 29, 2005. The STP and an April 2007 "addendum" to the STP are included in the CD-4 package. It is the EM Consolidated Business Center's (EMCBC) responsibility to complete all punch list items in the STP addendum.

Regulatory completion of the FCP will be a post-CD-4 activity. EM estimates that regulatory completion will be achieved by December 31, 2007, however, LM will be responsible for components of regulatory completion associated with Operable Unit 5 (the Aquifer Restoration Project), since final groundwater remediation is not expected to be complete until the year 2025. The EM continues to make progress towards settlement of the Natural Resources Damage (NRD) claim filed by the State of Ohio; EM anticipates settlement of the claim by no later than June 30, 2008.

Formal transfer and realignment of work scope from EM to LM is documented via memorandum, dated December 2, 2005, to the Chief Financial Officer, and funding target for FY 2007 – 2011 was transferred from EM to LM. The LM's assumption of operational responsibility for the FCP on January 22, 2007, was not affected by the Continuing Resolution that has been in place since the beginning of FY 2007, nor will it be impacted by the Continuing Resolution in place at the beginning of FY 2008.

SENSITIVITIES: None.

POLICY IMPACT: None.

URGENCY: None.

RECOMMENDATION: That the Under Secretary sign this memorandum, thereby approving partial Critical Decision-4 for the Fernald Closure Project.

CONCURRENCE:

APPROVE: _____



DISAPPROVE: _____

Date: November 29, 2007