



**Department of Energy  
Office of Legacy Management**

March 23, 2011

Mr. Timothy Fischer  
U.S. Environmental Protection Agency  
Region V-SRF-6J  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590

Mr. Thomas Schneider, Project Manager  
Ohio Environmental Protection Agency  
Southwest District Office  
401 East Fifth Street  
Dayton, Ohio 45402-2911

Dear Mr. Fischer and Mr. Schneider:

**Subject: Status of the Legacy Management and Institutional Controls Plan (LMICP)  
Change Pages for the Fernald Preserve**

The change pages to the LMICP submitted to the United States Environmental Protection Agency (EPA) and the Ohio Environmental Protection Agency (OEPA) on September 15, 2010 have undergone review and comment. EPA has approved the LMICP without comment. We have worked with OEPA to resolve their comments and have reduced the outstanding issues to how the Natural Resource Consent Decree requirements are identified and discussed in the LMICP.

As you know, the ongoing remedy implementation and associated institutional controls required by the record of decisions are enforceable through the consent agreement. Provisions of the Natural Resource Consent Decree are enforced separately from the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) consent agreement. The question being discussed is should provisions of the Consent Decree be included in Volume 2 of the LMICP. Volume 2 is the portion of the LMICP that is enforceable through the consent agreement.

DOE believes it necessary to clarify this issue and will need additional internal review before a position can be developed. However, given this is the only remaining issue and it does not preclude implementation, DOE-LM is recommending that all changes to which agreement has been achieved be issued as change pages and this remaining issue be held in abeyance until the next annual review in September 2011. I am seeking your concurrence on this recommendation.

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REPLY TO: Harrison Office

Mr. Timothy Fischer  
Mr. Thomas Schneider  
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If you have any questions regarding this matter, please call me at (513) 648-3148.

Sincerely,

A handwritten signature in black ink that reads "Jane Powell". The signature is written in a cursive style with a large, looping initial "J".

Jane Powell  
Fernald Preserve Site Manager  
DOE-LM-20.1

cc:

T. Pauling, DOE  
K. Reed, DOE  
B. Hertel, Stoller  
G. Lupton, Stoller  
C. White, Stoller  
Project File (Thru W. Sumner)  
Administrative Records (Thru W. Sumner)