



FRIDAY MAILING

2/27/98

INCLUDED IN THIS MAILING ARE:

- Technical Report Summary: Containing the Cold War Mess
- Technical Report Summary: Preliminary Responses to Comments on the Accelerating Cleanup
- Technical Report Summary: Integrated Environmental Monitoring Status Report for Third Quarter 1997
- Newsclippings

CAB MEETINGS:

- STEERING COMMITTEE MEETING:** The Steering Committee will meet on Wednesday, March 11, 1998, at 6:30 p.m. in the Jamtek Building, 10845 Hamilton-Cleves Highway.
- FERNALD CITIZENS ADVISORY BOARD MEETING:** The next meeting of the Fernald Citizens Advisory Board will be held on Saturday, March 14, 1998, at 8:30 a.m. in the Alpha Building, 10967 Hamilton-Cleves Highway.

OTHER MEETINGS:

- COMMUNITY REUSE ORGANIZATION MEETING:** The CRO will meet on Tuesday, March 3, 1998, at 6:30 p.m. in the Ross High School Media Center, 3425 Hamilton-Cleves Highway.
- SILOS PROJECT PUBLIC INVOLVEMENT WORKSHOP:** This workshop will be held on Wednesday, March 4, 1998, at 6:30 p.m. in Classroom D of the Alpha Building.
- FERNALD CLEANUP PROGRESS BRIEFING:** The March Fernald Monthly Cleanup Progress Briefing will be held on Tuesday, March 10, 1998, at 6:30 p.m. in the Alpha Building

QUESTIONS:

Please call John at [redacted] or Doug at [redacted] with questions or concerns.

You may also fax or e-mail us at:

John	Fax: 281-3331	E-Mail: john_annlegate@law.uc.edu
Doug	Fax: 648-3629	E-Mail: [redacted]



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What is Containing the Cold War Mess?

Containing the Cold War Mess is a publication by the Institute for Energy and Environmental Research (IEER) that evaluates the Environmental Management Program of the US Department of Energy. IEER utilizes three case studies (improperly buried transuranic wastes, high-level waste tanks at Hanford, and the Silos Project at Fernald), along with previous work of the Institute to evaluate the EM's progress and to make recommendations for its future.

What are the main findings of the IEER?

1. Nuclear weapons production and associated activities have created tens of millions of cubic meters of dangerous wastes and roughly two billion cubic meters of contaminated soil and water.
2. Since 1989, DOE has made considerable progress in characterizing many of the crucial problems of environmental remediation and waste management in the nuclear weapons complex, but much remains to be done.
3. DOE is proceeding with the most expensive environmental program in history without national remediation standards to govern and guide the process.
4. Despite about \$40 billion dollars in expenditures since 1989, DOE does not have a solid direction, plan, priorities, or implementation strategy for dealing with the remediation and waste management problems. Institutional factors are the single most crucial element in DOE's failure to achieve a sound direction.
5. The US waste classification system is an unsound basis for implementing waste management or environmental remediation decisions.
6. DOE is not holding contractors sufficiently accountable for project mismanagement and poor technical decisions.
7. A number of problems cannot be satisfactorily solved with presently available technology. Sound research and development and careful project planning will be needed over a long period.

Overall, the authors find that the prospects of DOE's EM program succeeding are poor. The most important reforms needed are internal, institutional changes. The authors suggest that the EM program should be replaced and offer the following options:

- The EPA could be given the authority to carry out remediation, with regulation by the NRC.
- The affected states and Indian tribes could be given the authority and the money to remediate the weapons complexes in their states, under national clean-up standards enforced by the EPA and with mandatory guidelines for public participation.
- A public corporation, operating under strict public accountability and openness rules, could be created for the purpose of doing and/or subcontracting environmental remediation.

Technical Report Summary:

Containing the Cold War Mess: Restructuring the Environmental Management of the U.S. Nuclear Weapons Complex by the Institute for Energy and Environmental Research, October 1997 (page 1)

What are the main recommendations of the IEER?

The authors make several recommendations that should be considered no matter which agency ultimately carries out environmental remediation at these sites. These recommendations are:

- Create a new, rational, environmentally-protective system of radioactive waste classification.
- Coordinate waste management and environmental remediation.
- Approach remediation with independently enforced, national, health-based cleanup and waste management standards.
- Suspend the politically expedient Yucca Mountain and WIPP repository programs and put in place a scientifically sound program of long-term waste management.
- Provide funds and technical support to communities that have residual contamination.
- Manage non-radioactive toxic components of wastes in ways that do not seriously compromise management of radioactive components.
- Stabilize waste in order to greatly reduce or eliminate the most serious environmental and health threats.
- Provide the states, Indian tribes, and the public with timely information.

What were the findings specific to the Silos Project at Fernald?

- The project has been severely compromised by avoidable problems including contractor incompetence and lack of adequate DOE oversight.
- The Vitrification Pilot Plant experienced dramatic cost and schedule increases over the course of two years.
- Technical, managerial, and financial shortcomings early on in the Pilot Plant led to efforts to attempt to abandon treatment selected in the Record of Decision. Changes from vitrification to cementation for all or part of the waste have been proposed even though there seems to be no established, essential technical obstacle to proceeding with a vitrification program for wastes in all three silos. The report, however, mentions that both lead and sulfate could present problems to vitrification. In a Pacific Northwest Laboratory study, no sulfate layer was formed during vitrification with Silo 3 waste, leading to the conclusion that the type of sulfate is what is important during vitrification. The report also indicates that vitrification of Silos 1 and 2 separately from the vitrification of Silo 3 waste was never examined by DOE. Most problems with the project were merely the result of inadequate laboratory work being performed before the pilot plant was designed.
- The EPA has indicated that DOE should proceed with an Amendment to the ROD for Silos 1 and 2 waste prior to any thorough explanation for the dramatic cost increases. EPA has also indicated it may allow DOE to substitute an inferior treatment technology for Silo 3 waste, without amending the ROD.



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Technical Report Summary:

Containing the Cold War Mess: Restructuring the Environmental Management of the U.S. Nuclear Weapons

Complex by the Institute for Energy and Environmental Research, October 1997 (page 2)



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What were some of the findings from the Transuranic Waste Management Case Study?

1. A large volume of transuranic (TRU) waste has been disposed of by shallow land burial at a number of sites in the DOE complex.
2. DOE is putting most of the TRU waste management money into retrievably stored TRU waste which is a less urgent risk than buried TRU wastes.
3. Official data on the volume, mass, and radioactivity of buried TRU waste and transuranic soil are inconsistent and contradictory.
4. DOE definitions and management practices for TRU waste have varied from site to site and from year to year.
5. Rapid migration of transuranic elements from the soil to the groundwater has been documented at several sites.
6. DOE has no comprehensive plan for dealing with buried transuranic wastes and transuranic contaminated soil.
7. Separate management of "buried" and "retrievably stored" transuranic wastes gives rise to illogical outcomes and perverse incentives.

What were some of the findings from the study of High-Level Tank Waste at Hanford?

1. The Hanford high-level radioactive tanks are the single most complicated and expensive component in the EM program of the US nuclear weapons complex.
2. Since 1989, DOE has made progress in characterizing the contents of the tanks; however, deadlines for characterization relating to safety issues have not been met.
3. DOE's plan to manage the Hanford tanks is seriously flawed, incomplete, and has incorrect priorities.
4. DOE has relied on "sluicing" to remove waste from the tanks. This technology utilizes large volumes of water and could create new leaks or re-open old ones.
5. The goal to remove only 99% of waste from the tanks is arbitrary and environmentally unsound.
6. DOE is rushing into the vitrification option for Hanford high-level waste without sufficient consideration of the obstacles and without having learned from problems at other sites, including Fernald.
7. The "privatization" program for treating high-level waste in the tanks is inappropriate, ill-conceived, and is unlikely to yield good results either on technical or economic grounds. The authors are against privatization programs in general. They do not feel that privatization has or will be successful. Privatization also results in the bidding of the same players as always.
8. Contamination of the soil as well as the groundwater beneath the tank farms pose serious problems.

Technical Report Summary:

Containing the Cold War Mess: Restructuring the Environmental Management of the U. S. Nuclear Weapons Complex by the Institute for Energy and Environmental Research, October 1997 (page 3)



The Preliminary Responses to Comments on the Accelerating Cleanup lists the comments made by stakeholders and the corresponding responses from DOE to the National 2006 Plan. Several items of interest and their corresponding page numbers are listed below:

- Many comments were received that indicated that data was missing, inconsistent, or of poor quality in the National 2006 Plan. EM is working to improve the quality of data within the plan. The data provided for these cost will be based upon baselines which are based on sound assumptions. Baselines will be validated and developed in conjunction with stakeholders and Tribal Nations. Sites will include post-closure costs in their baselines. *(Pages 2-3 to 2-4)*

- Commentors were concerned with the definition of "end-state," the issue of ongoing missions at sites, and the long-term stewardship requirements. Each site will define the end-state assumption for the site. The current end-state planning does not rule out cleaning up the site to a more protective end-state. The EM's Environmental Management Advisory Board will provide advise and recommendations on long-term stewardship. *(Pages 2-4 to 2-5)*

- Stakeholders are concerned that end-states are being developed without adequate public participation. End-states outlined in the National 2006 Plan have not necessarily been agreed to by all parties and are somewhat uncertain. *(Pages 2-5 to 2-6)*

- "Cleanup" needs to be better defined. The next Site and National Plans will be more explicit in their description of "cleanup." *(Pages 2-6 to 2-7)*

- Views are varied as to whether enhanced performance targets are achievable. EM does not expect all sites to achieve the same efficiency gains. EM has held workouts with sites to better define these goals. These goals will be based on credible baselines that include known methods of achieving enhanced performance goals. *(Pages 2-8 to 2-9)* Contingency plans are needed in case enhanced performance targets are not met. These targets are only goals at this point; if these targets are not achieved, the site baseline will reflect the estimated cost and schedule to conduct the mission without enhanced performance. *(Page 2-10)*

- Enhanced performance targets may create an adverse incentive structure for sites with regard to safety and/or security. It is unacceptable to meet these goals by relaxing regulatory compliance, creating adverse work conditions or performing work to lower standards. *(Page 2-9; Also see Pages 2-21 to 2-22)* In addition, EM's oversight of contractors has been poor and this, along with budget constraints and streamlining initiatives, are resulting in poor quality work and unsafe working conditions. EM will use the "Department of Energy Basic Elements of Contracting Reform" to develop contracting strategies. *(Pages 2-30 to 2-31)*

- Stakeholders also expressed concern that, in order for EM to meet the accelerated schedule and reduced funding of the 2006 plan, it will not be able to meet the requirements of various compliance agreements. EM is committed to meeting compliance with all applicable laws, orders, agreements, and regulations. *(Pages 2-12 to 2-13)*

• Some commentors felt that EM's funding assumptions for the outyears will be detrimental to EM's mission. All sites were assumed to have flat funding over the life cycle in the original document. In the revised document, funding will be reallocated from closed sites to those that have continuing mission during the outyears. (Pages 2-14 to 2-15)

• Many commentors do not believe the issue of transportation is adequately addressed in the National Discussion Draft, including the budget allocations necessary to safely transport, treat, and dispose of wastes. Each site will be providing disposition maps that will quantify the amount of wastes, identify types of treatment and disposal alternatives, and allow for a detailed analysis of transportation requirements. Safe transportation and storage of wastes will not be compromised. (Pages 2-16 to 2-17) In addition, stakeholders requested clarification on terms and areas within the Intersite Transfer section of the document. The waste disposition maps to be included in the Draft National 2006 Plan should address many of these issues. (Pages 2-17 to 2-18)

• Comments expressed concern that EM is relying too heavily on innovative technologies to generate cost savings and achieve enhanced performance targets. Many feel that it makes sense to use existing technologies, because cost savings are more certain and new technologies need sufficient time and funding to be developed. EM recognizes that cost savings from new technologies can be uncertain. EM will ask sites for better clarification of the projected benefits of new technologies and their confidence in these projects. (Pages 2-19 to 2-20)

• Some believe that EM could more effectively achieve the goals of accelerated cleanup by shifting resources or reorganizing activities. EM is trying to accelerate site closing by the year 2006. The "Defense Facilities Closure Projects" account will ensure that these site closures can be accomplished by the year 2006. (Page 2-23)

• EM may not receive the allocations in the funding targets; commentors wanted to know how EM would manage possible reductions. EM cannot discuss or analyze all potential scenarios; however, programmatic risk management efforts will be incorporated into the 2006 planning process to identify "at-risk" activities. (Page 2-24)

• The possibility of late openings of key disposal facilities needs to be addressed more thoroughly and contingency plans developed. EM believes that EPA will give final approval for WIPP this spring, and it will be able to begin accepting wastes close to the scheduled time. If it does not open, assumptions will be changed. Programmatic risk will also be incorporated into disposition maps. (Pages 2-25 to 2-26)

• Congress seems to be reluctant to provide funding for new privatization projects. Comments cite the EM has not developed contingency plans for this funding. Funding has been given to these projects so far. (Pages 2-27 to 2-28) Also, EM has not adequately defined "privatization." EM will use the definition provided in the FY1998 budget. (Pages 2-28 to 2-29) EM has not demonstrated privatization to be an economically or technically viable contracting approach. EM recognizes that privatization may not be the best approach for all projects, but it can be used to lower the cost and enhance performance targets of appropriate projects. EM is collecting data to provide support to the program that is thorough and defensible. (Pages 2-29 to 2-30)



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Technical Report Summary:

**Preliminary Responses to Comments on the Accelerating Cleanup: Focus on 2006 National Discussion Draft
Office of Environmental Management, December 1997 (page 2)**



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- Unresolved issues in the Record of Decision of the Waste Management Programmatic Environmental Impact Statement (WM PEIS) make it impossible for sites to accurately estimate the amount of waste being shipped from or entering a site. This inability to define waste quantities adds uncertainty to cost estimates and other aspects of the 2006 Plan. Sites will incorporate the preferred alternatives from the WM PEIS released in May 1997 into their Draft Site 2006 Plans. The national plan will incorporate these site plans and provide a more detailed discussion on the WM PEIS and its relationship to the 2006 Plan. *(Pages 2-31 to 2-32)*

- Stakeholders are concerned that the definition of "complete" for a site does not adequately address the problem of groundwater contamination. In order to address this concern, sites will be provided a clearer definition of the end-state of groundwater and provide long-term remediation assumptions, restrictions, and descriptions for the groundwater portion of the project. *(Pages 2-32 to 2-33)* In addition, stakeholders do not feel that estimate costs for groundwater remediation are accurate, thus sufficient funding may not exist. The programmatic risk assessment will address this issue. *(Pages 2-33 to 2-34)*

- Although public participation is used by DOE, most occurs at the site level. More national public participation programs should exist, in addition to the "National Dialogue". DOE should also facilitate discussions that involve multiple sites and address intersite concerns. EM agrees that intersite dialogues are important and anticipates increase cross-site and regional workshops. *(Pages 2-35 to 2-36)*

- The stakeholder comment period is given too late in the process to be effective and the time period allowed for responses did not provide time for stakeholders to fully understand the issues. EM is committed to a robust program of public participation. In addition, DOE does not provide all of its information to the public. The internet will be utilized to provide more information to the public. *(Pages 2-35 to 2-37)*

Technical Report Summary:

Preliminary Responses to Comments on the Accelerating Cleanup: Focus on 2006 National Discussion Draft
Office of Environmental Management, December 1997



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What is the Integrated Environmental Monitoring Status Report?

This status report is the first document prepared to meet the reporting obligation defined in the Integrated Environmental Monitoring Plan (IEMP). The purpose of this document is to provide timely information on environmental releases to ensure that remediation activities remain within established thresholds. Because the IEMP approach was instituted in August 1997, some of the information contained in the report may have been gathered under previous reporting schemes, but this information has been incorporated to comply with the IEMP to the greatest extent possible. The report provides information on the four major environmental media monitored under the IEMP: groundwater, surface water, air, and natural resources.

What are the major points in the Groundwater Monitoring Update?

- Each well within the South Plume Module Operation System was operational for 96% of the time during this period. Since the start-up of the system in August 1993, 363.5 pounds of uranium have been removed from the Great Miami Aquifer.
- There is some uncertainty as to whether the south plume is being captured in the northeastern lobe.
- Two new wells are being installed in the South Plume Optimization Module and construction is underway on the pipeline distribution network for three groundwater restoration modules: South Plume Optimization Module, South Field Extraction Module, and the Injection Demonstration Module.
- Occasional FRL exceedences were detected on the property boundary for total chromium, manganese, and zinc. Since these exceedences were occasional and sporadic, no new actions are warranted.
- No FRL exceedences were observed and only five of the sixteen parameters monitored were detected for the On-Site Disposal Facility Baseline Sampling.

What were the findings for surface water and treated effluent?

- Surface water and treated effluent discharges were in compliance 99.8% of the time from January through September 1997. Total suspended solids exceeded permit limits on two occasions when bypass of storm water occurred.
- Through September 1997, 112 pounds of uranium were discharged to the Great Miami River, which is well below the limit of 600 pounds. The limit of 20µg/L of uranium concentration discharged to the river was also achieved during this time.
- No FRL or BTV exceedences attributable to the FEMP were observed to the Great Miami River. FRL exceedences for six metals and one semi-volatile organic compound were observed at various on-property sampling locations. These sporadic exceedences will be expected until remediation is complete.
- Total uranium concentration within the Pilot Plant Drainage Ditch have decreased since a sump was installed.

Technical Report Summary:

Integrated Environmental Monitoring Status Report for Third Quarter 1997
FEMP, December 1997, Document # 51350-PL-001



What were the results of air monitoring activities?

- Total uranium and TSP (total suspended particulate) data were within historical ranges.
- Eight new air monitoring stations were installed and the relocation of one of the existing air monitoring stations is complete. There are 18 monitoring stations within the NESHAP (National Emissions Standards for Hazardous Air Pollutants) monitoring network. Compliance monitoring will begin on January 1, 1998.
- From January through September 1997, there were three exceedances of the 100 pCi/L radon limit. All were associated with the K-65 silos and were of short duration. In the past, these exceedances were associated with strong atmospheric inversions. No additional actions are planned.
- All results for Direct Radiation Monitoring from January through September 1997 were within historical ranges and exhibited no increasing trends.
- All data shows that locations monitored for NESHAP stack emissions are within historical ranges.

What are the results of the Natural Resources monitoring?

- Any sediment loading occurring in Paddys Run after rainfall events is derived from upstream of the FEMP. This sediment loading persists for only one to two days after the rainfall. Because of these observations, it is proposed that the ongoing monitoring of sediment loading to Paddys Run be eliminated.
- 85 acres of the projected 305 acres of habitat has been impacted thus far.
- There were five unexpected cultural resource discoveries; none of them were significant enough for further studies.
- From January through September, an additional 0.5 acres of wetlands was identified. Impacts to these wetlands will be identified in future revisions of the Natural Resource Impact Assessment.

February 21, 1998
The Cincinnati Enquirer
Page B3
"Team will study radioactive mishap"
Reporter: Lew Moores

Team will study radioactive mishap

They'll try to prevent repeat leak

BY LEW MOORES
The Cincinnati Enquirer

CROSBY TOWNSHIP — A team of technical experts has been formed by Fluor Daniel Fernald to look into what steps need to be taken to assure that an incident last year involving a leaking metal box does not happen again.

The box contained radioactive waste from the former Fernald uranium processing plant. Fluor Daniel Fernald is under contract with the U.S. Department of Energy to clean up Fernald.

While it cannot be guaranteed that a container or box containing radioactive waste would never leak, say both Fluor Daniel and DOE officials, steps can be taken to minimize the impact of such an event.

"You can never guarantee that there will never be a leak, but you can ensure that you can address any issues that do arise," said David Kozlowski,

associate director for safety and assessment for the DOE. "Clearly our goal here at Fernald is not ever having another leaking container on the road."

Metal boxes carrying low-level radioactive waste were discovered leaking as they were being transported from Fernald to Nevada on Dec. 15. The leaks, involving two containers in the truck transporting the waste, were discovered in Kingman, Ariz.

The containers were on their way to the Nevada Test Site for burial.

A report issued earlier this month by the DOE said that a

contractor changed the container design after winning the contract to make the containers. Because of the change, the report noted, when the box was filled with heavy waste a leak was created.

The design change was made without the DOE's awareness, and investigators determined the leaks posed no serious health or environmental risks.

"Our goal is not to have another event like the one we had in Kingman, Arizona," Mr. Kozlowski said. "The goal should be that there should be no future container failures."

The team of technical experts will number about six and will oversee an internal Fluor Daniel Fernald team that is looking at what actions to take to prevent this from happening.

A report is due to the DOE by March 6, said Dr. Donald Paine, vice president of waste management and sites projects for Fluor Daniel Fernald.

Dr. Paine said the team of experts will "do an independent quality check to make sure we haven't missed anything and that the actions will meet all the issues and needs identified in that particular report."

The team will look at how

material is ordered, making sure "that when you change something you know you're still getting what you wanted," Mr. Kozlowski said.

He said that, in addition, the team will look at what types of containers are being used, the treating, packaging and transporting of waste and the need to develop a plan to dispatch a support team in the field when something like this occurs.

Dr. Paine said they are looking at the integrity of the containers, the waste form of the material and the absorbents used inside the containers.

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Weapons Complex Monitor

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"Nevada Senators Incredulous at DOE Report on Shipment Leaks"

NEVADA SENATORS INCREDULOUS AT DOE REPORT ON SHIPMENT LEAKS

*Contractor Should Be Held 'Fully Accountable;'
DOE Showed 'Remarkably Poor Judgment'*

Nevada U.S. Senators Richard Bryan (D) and Harry Reid (D) reacted with outrage to the Department of Energy's finding that leaks from low-level radioactive waste containers en route to the Nevada Test Site were due to a design flaw. According to a just-concluded investigation by a Type B Accident Investigation Board, "strong, tight container[s]" were not delivered by the supplier CGR Compacting Inc., leading to the Dec. 15

leak (*WC Monitor*, Vol. 8 Nos. 50 & 51). The Board's report showed that Fluor Daniel was continuing to use containers that earlier were found to have design flaws. Furthermore, some transporters and handlers lacked a basic understanding of the properties of the waste, specifically that excess free liquid would form during transportation. Because of the relatively low potential threat DOE considered the LLRW shipments to pose to public health and safety, DOE and Fluor failed to provide appropriate attention and oversight to the shipments.

Upon reading the Board's report, Bryan pointed to the manufacturer's substitution of a different container from the originally tested design without notifying DOE of the switch and charged, "This is an unconscionable action from any contractor, and [Fluor Daniel Fernald] should be held fully accountable for a serious breach of safety standards." Added Reid: "By executing a contract that allowed for the procurement of untested containers for shipments of radioactive waste, [DOE] showed remarkably poor judgment."

Points to Larger Transportation Questions

Both Senators maintained that the finding cast doubt over the safety of any intersite transportation of radioactive materials. "The most telling part of this report is the questions that it raises about canister safety," remarked Reid, adding, "If we can't even build a safe canister to ship low-level waste, how can we even begin to imagine shipping the most dangerous substance known to mankind across the nation's highways and railways?" Bryan declared: "There is a larger picture to this issue, and that is the DOE's over-reliance on the work of contractors and a lack of adequate safeguards....This is the same path DOE has followed with regard to Yucca Mountain, which has resulted in the people of Nevada having no faith in the DOE and its ability to manage a program and protect their health and safety."

Bryan and Nevada Governor Bob Miller had jointly asked Energy Secretary Federico Peña to halt all LLRW shipments to NTS while the department investigated the Dec. 15 leak, but the Secretary agreed to stop only shipments originating from Fernald. ◀

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"DOE Fights Court Order to Accept WCS Bids on Disposal Contracts"**1302****DOE FIGHTS COURT ORDER TO ACCEPT
WCS BIDS ON DISPOSAL CONTRACTS***Ruling Based on Errors of
Law and Fact, Department Says*

A U.S. District Judge's preliminary injunction prohibiting the Department of Energy from denying Waste Control Specialists (WCS) bids or contracts for DOE LLRW or mixed waste disposal services (*WC Monitor*, Vol. 8 Nos. 37 & 38) is "founded on both errors of law and clearly erroneous findings of fact," the department charges in a Statement of Jurisdiction filed with the U.S. Court of Appeals (5th Circuit). DOE—seeking Administrative Procedure Act (APA) review of the department's response to WCS's proposed alternative regulatory scheme for commercial low-level radioactive waste disposal facilities with DOE waste—asserts that "fundamentally, the [district] court has no jurisdiction even to entertain WCS's complaint" because DOE's response is not a "final agency action" under the APA.

No Chance to Consider Policy Change

The department acknowledges that while it denied WCS's alternative regulatory scheme "as submitted," it:

advised WCS that [DOE] is considering a policy change that might accommodate the novel 'self-regulation' concept....Not satisfied to let the agency's policy development process run its proper course, WCS filed suit and obtained a preliminary injunction that interferes with not only future contract solicitations, but also a competitive procurement that was pending [the Fernald RFP] before WCS even submitted the proposal that it concedes is unprecedented.

The department adds that WCS's alternative regulatory proposal "requires DOE to undertake a sensitive balancing of many factors, including the agency's overall waste management policy and allocation of resources," and that "It is precisely such circumstances that the Supreme Court and this court have held agency action nonreviewable under the APA." And since there's nothing in the Atomic Energy Act (AEA) that requires an agency to "implement a party's novel 'suggestion'," the preliminary injunction represents "an abuse of discretion that compels reversal."

No 'Irreparable Harm'

DOE goes on to charge that "WCS has not suffered any legal consequences attributable to the agency's threshold response to" WCS's proposed alternative regulatory scheme:

WCS's allegations of irreparable harm were not supported by affidavit, and its claims of injury due to lost future contracts—contracts for which there are not even any RFPs—is wholly speculative....DOE, on the other hand, submitted a declaration detailing the damage that it and the public would suffer as a result of the requested injunction....among other things, delay in awarding the Fernald contract could contribute to millions of dollars in additional costs for waste disposal activities this fiscal year, potentially subject the agency to environmental fines, and may result in greater risk to the public....

Some Other Remedy?

The department asserts that "The preliminary injunction is an inappropriate remedy," because the ruling isn't directed at the court's determination that DOE's response to WCS's proposal was arbitrary and unlawful. Rather, DOE insists, the injunction "improperly interferes with both a pending competitive procurement and future procurements." The injunction is an "extraordinary" remedy under the law, the department argues. ◀

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"Prime Contractor Employment Falls 6.3% During FY97 at DOE Sites"

PRIME CONTRACTOR EMPLOYMENT FALLS 6.3% DURING FY97 AT DOE SITES

Department of Energy prime-contractor employment fell 6.3 percent—to 105,372 from 111,989—around the weapons complex during FY97, according to figures just released by the DOE Office of Worker and Community Transition. Among the sites, Oak Ridge lost the highest number of employees—1,769—while Pinellas' drop from 538 employees to five while the site was closing down comprised the greatest-percentage drop. Notably, a few sites saw their workforces grow: Los Alamos National Laboratory's staffing level increased by 248, followed by Idaho (129), Kansas City (18), and Fernald (three). (See chart on p. 6 for site-by-site staffing levels from Sept. 30, 1996, to Sept. 30, 1997.) ◀

DOE PRIME CONTRACTOR EMPLOYMENT BY SITE Through September 30, 1997			
SITE	Total 9/30/96	Total 9/30/97	DEL- TA
Kansas City	3,661	3,679	(18)
Los Alamos National Laboratory	6,439	6,687	(248)
Pantex	3,327	2,920	407
Sandia National Laboratory	8,057	7,576	481
Waste Isolation Pilot Project	636	636	0
Pinellas	538	5	533
Idaho National Engineering and Environmental Laboratory	5,739	5,868	(129)
Nevada	2,765	2,345	420
Oak Ridge	15,815	14,046	1,769
Lawrence Livermore National Laboratory	6,688	6,403	285
Mound	924	740	184
Fernald	1,986	1,989	(3)
Richland	12,099	11,137	962
Rocky Flats	3,535	3,410	125
Savannah River	14,379	13,231	1,148
Subtotal	86,588	80,672	5,916
Other Sites	25,401	24,700	701
Grand Total	111,989	105,372	6,617

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"NTS LLRW Disposal Volumes"

1302

NTS LLRW Disposal Volumes

The Nevada Test Site accepted only four shipments totaling 1,177 cubic feet of low-level radioactive waste in January, due largely to the suspension of deliveries from Fernald following the Dec. 15 leak of a Fernald shipment to NTS (*see related story*). Fernald leads all DOE sites in shipping LLRW to NTS. The site has received 93 shipments totaling 118,055 cubic feet of LLRW from nine sites in FY98. •

WASTE MANAGEMENT PROJECT FY 98 RADIOACTIVE WASTE SUMMARY

DOE Approved Generators	Disposal Location	W/E 01 Feb 97			FY 98 TOTAL			WMP TOTAL	
		No. of Shipments	(Cu.Ft.)	Volume (Cu. M.)	No. of Shipments	Volume (Cu. Ft.)	Volume (Cu. M.)	Volume (Cu. Ft.)	Volume (Cu. M.)
Aberdeen	Area 3	0	0	0.00	0.0	0	0.00	120	3.40
	Area 5	0	0	0.00	1.0	448	12.69	66,504	1,883.19
Allied Signal	Area 5	0	0	0.00	0.0	0	0.00	413	11.69
Bechtel Nevada	Area 3	0	0	0.00	0.0	0	0.00	204,945	5,803.39
	Area 5	0	0	0.00	0.0	0	0.00	14,138	400.34
	Mixed	0	0	0.00	0.0	0	0.00	163	4.62
FERMCO	Area 3	0	0	0.00	26.0	46,923	1,328.71	3,158,736	89,455.29
	Area 5	0	0	0.00	19.0	15,962	452.00	2,473,156	70,031.86
General Atomic	Area 3	0	0	0.00	0.0	0	0.00	138,096	3,910.44
	Area 5	0	0	0.00	5.0	6,745	191.00	432,545	12,248.30
IT Corporation	Area 3	0	0	0.00	0	0	0.00	419	11.87
	Area 5	0	0	0.00	0.0	0	0.00	7,676	217.36
ITRI	Area 5	0	0	0.00	0.0	0	0.00	5,055	143.14
LNLL, CA	Area 3	0	0	0.00	0.0	0	0.00	66,101	1,871.77
	Area 5	0	0	0.00	11.0	9,977	282.51	42,597	1,208.21
MOUND	Area 3	0	0	0.00	0.0	0	0.00	13,550	383.69
	Area 5	0	0	0.00	11.0	15,375	435.38	1,587,697	44,958.49
PANTEX	Area 5	0	0	0.00	0.0	0	0.00	104,717	2,965.24
RMI	Area 5	0	0	0.00	0.0	0	0.00	33,657	953.06
ROCKETDYNE	Area 3	0	0	0.00	0.0	0	0.00	105	2.97
	Area 5	0	0	0.00	4.0	2,080	58.91	38,802	1,098.74
Rocky Flats	Area 5	0	0	0.00	14.0	19,148	542.22	2,160,002	61,184.35
	Mixed	0	0	0.00	0.0	0	0.00	283,372	8,024.19
SANDIA Nil Lab, CA	Area 3	0	0	0.00	0.0	0	0.00	2,287	64.76
	Area 5	0	0	0.00	0.0	0	0.00	15,703	444.67
SANDIA Nil Lab, NM	Area 5	0	0	0.00	2.0	1,395	39.51	10,920	309.23
Inactive offsite waste generators	Area 3	0	0	0.00	0.0	0	0.00	89,980	2,547.95
	Area 5	0	0	0.00	0.0	0	0.00	38,654	1,094.56
Inactive onsite waste generators	Area 3	0	0	0.00	0.0	0	0.00	8,211,495	232,523.26
	Area 5	0	0	0.00	0.0	0	0.00	76,538	2,167.31
GRAND TOTAL		0	0	0.00	93	118,055	3,342.93	19,278,144	545,895.35

Total offsite waste received in FY 98 = 118,055 Cu. Ft.; 3,342.93 Cu. M.
Total onsite waste received in FY 98 = 0 Cu. Ft.; 0.0 Cu. M.

Offsite waste comprises approximately 55.83% of the total waste inventory
Onsite waste comprises approximately 44.17% of the total waste inventory

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"Solicitations...Expressions of Interest"

EXPRESSIONS OF INTEREST

Fluor Daniel Fernald Analytical Services

Fluor Daniel Fernald, prime contractor for the Department of Energy's Fernald Environmental Management Project in Hamilton/Butler Counties, Ohio, seeks QUALIFIED commercial analytical laboratories to provide analytical services in support of remediation activities. Analyses needed include: SW-846 Methodologies, CLP Methodologies, and Radiochemical analyses for soils, sludges, surface waters, ground waters, and biota. **Send expressions of interest by Feb. 28, 1998**, to: Fluor Daniel Fernald, ATTN. Ellen Hansmann. (MS 52-2), P.O. Box 538704, Cincinnati, Ohio 45253-8704. **Contact: Ellen Hansmann 513-648-3703 CITE: (W-029 SN163127) (CBD, 1/29/98)**

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"Solicitations...Presolicitation Notice"

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PRESOLICITATION NOTICE

Fluor Daniel Fernald

Construction of Water Storage Tank/Pumping Station; Decontamination and Dismantlement of Maintenance/Tank Farm Complex

Fluor Daniel Fernald, prime contractor for the Department of Energy's Fernald Environmental Management Project in Hamilton/Butler Counties, Ohio, intends to release a bid package around March 2, 1998, for a project consisting of the construction of a water storage tank and pumping station and the decontamination and dismantlement of the Maintenance/Tank Farm Complex. The D&D consists of structures 12A, 12D, 19A, 19C, 19D, and 19E. FDF may exercise unilateral options to have the Contractor perform D&D of additional structures: 12B, 12C, 24B, 38A, 38B, 20H, 64, 65, Locomotive and Pipe Racks. **Submit qualifications by Feb. 26, 1998, to Fluor Daniel Fernald, P.O. Box 538704, Cincinnati, OH 45253-8704. Contact: Randy Ector, 513-648-5170. CITE: (W-027 SN162101) (CBD, 1/27/98) ◀**