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FRIDAY MAILING

4/24/98

INCLUDED IN THIS FRIDAY MAILING:

- Newsclippings

CAB MEETINGS:

- ON-SITE COMMITTEE MEETING:** The On-Site Committee of the Fernald Citizens Advisory Board will meet on Monday, May 11, 1998, at 6:00 p.m. in the Jamtek Building, 10845 Hamilton-Cleves Highway.
- OFF-SITE COMMITTEE MEETING:** The next meeting of the Off-Site Committee of the Fernald Citizens Advisory Board will be on Monday, May 11, 1998, at 7:30 p.m. in the Jamtek Building.
- EFFICIENCY COMMITTEE MEETING:** The Efficiency Committee of the Fernald Citizens Advisory Board will meet on Thursday, May 14, 1998, at 6:30 p.m. in the Jamtek Building.
- FERNALD CITIZENS ADVISORY BOARD MEETING:** The CAB will meet on Saturday, May 16, 1998, at 8:30 a.m. in the Alpha Building, 10967 Hamilton-Cleves Highway.

OTHER MEETINGS:

- THE FIRST ANNUAL DOE FIELD OFFICE BUSINESS FORUM:** Members of the Fernald Citizens Advisory Board have been invited to the Evening Session of this forum on Wednesday, May 13, 1998, at 7:00 p.m. The session will focus on state and local views, and speakers will include Lisa Crawford and Jim Bierer. The session will be followed by a cookout at 8:15 p.m. The forum is being held at the Kings Island Inn and Conference Center. There is no cost to attend, but please RSVP to the Advisory Board Office by May 1st.
- COMMUNITY REUSE ORGANIZATION MEETING:** The CRO will meet on Tuesday, May 5, 1998, at 6:30 p.m. in the Jamtek Building, 10845 Hamilton-Cleves Highway.
- MAY MONTHLY PROGRESS BRIEFING:** The May Monthly Progress Briefing will be held on Tuesday, May 12, 1998, at 6:30 p.m. in the Alpha Building, 10967 Hamilton-Cleves Highway.

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.applegate@law.uc.edu

Doug Fax: 648-3629

E-Mail: [REDACTED]

PANEL MULLS LARGER CORPS ROLE IN CLEANUP

An Ohio congressman whose district includes DOE's Mound Plant last week tried to discourage any attempt in Congress to transfer authority for cleaning up the Fernald, Ohio, facility and two other former nuclear weapons plants from the department to the Army Corps of Engineers.

Democrat Tony Hall told Energy Secretary Federico Peña in an April 6 letter that such a move might delay DOE's plans to close Mound, the Rocky Flats Environmental Technology Site and the Fernald Environmental Management Project by 2006. The three so-called "closure projects" are included in DOE plan to accelerate its environmental management program.

Some lawmakers, including Rep. Joseph Knollenberg, R-Mich., are considering the possibility of treating the projects the same way as Congress did 46 sites in the Formerly Utilized Sites Remedial Action Program (FUSRAP), which were transferred from DOE to the Corps last year. Twenty-two of those 46 sites remain to be cleaned.

"While I am a strong supporter of the Corps' good work, I believe that it is premature to reach a conclusion on the success of the FUSRAP program transfer," Hall said. "Moreover, the sites in the Closure program are substantially

different than the sites in the FUSRAP program. The result of the transfer could upset the progress of the cleanup so far. Therefore, Congress must be very careful before transferring additional work to the Corps." To press his case further, Hall asked Peña for comments on the potential for delays arising from such a transfer and how such a move would affect "special nuclear materials" stored at Mound, Rocky Flats and Fernald. "Since Congress may act soon on this proposal, I would appreciate your response as soon as possible," Hall said.

Aides to Rep. Rob Portman, R-Ohio, whose district includes Fernald, and to Rep. David Staggs, whose district includes Rocky Flats, could not be reached for comment.

Hall's letter came as DOE sent to Congress a legal analysis by its Office of General Counsel detailing the department's earlier claims that it cannot transfer to the Corps the department's authority to self-regulate cleanups under its jurisdiction. Peña told House appropriators last month that that situation left it unclear what regulations will govern the FUSRAP cleanups now that the Corps is conducting them (E/FL, 30 March 1).

The OGC report disputes assertions by the Corps that Congress merely transferred to the Army agency responsibility for the cleanup work itself, leaving overall program administration and responsibility to DOE. It also rejects suggestions by the Corps that DOE could continue to extend its self-regulatory authority under the Atomic Energy Act and the Occupational Safety and Health Act to the FUSRAP sites even though the department no longer will conduct their cleanup.

"The Department's regulatory authorities, which it holds as a successor to the Atomic Energy Commission, apply only to the regulation of the Department's contractors, pursuant to the terms of the relevant contracts," OGC said. "This is true both with regard to nuclear safety and occupational safety and health."

OGC referred to the FY-98 energy and water development appropriations act, which ordered the FUSRAP transfer and assigned all of the program's \$140 million in funding to the Corps, as clear evidence that Congress intended to remove the department from the activity entirely. "The legislative history repeatedly stresses Congress's intent to make FUSRAP 'a program of the Army Corps of Engineers' and to sever DOE's connection with the program at the conclusion of a cooperative effort to achieve a smooth transition," the legal analyses said.

The analysis appears to contradict impressions of Sen. Pete Domenici, R-N.M., and Rep. Joseph McDade, R-Pa., who chair Appropriations subcommittees on energy and water. In a letter to Peña and Defense Secretary William Cohen Nov. 6, the lawmakers emphasized that "the basic underlying authorities for the [FUSRAP] remain unaltered and the responsibility of the DOE."

Domenici and McDade, whose letter prompted the OGC analysis, said they expected DOE and the Corps to sign a memorandum of understanding regarding which "underlying program authorities" would be extended by DOE to the Corps for its execution of the program. No such MOU has been negotiated yet. According to a spokeswoman for the Corps, "we have the authority to do whatever we need to do to clean up the [FUSRAP] sites." She added that the Corps hopes discussions it plans to hold with DOE and the Office of Management and Budget will resolve confusion over FUSRAP's transfer. — Bill Lowless

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"At Richland.....DOE Tells Fluor Daniel to Keep DE&S on K-Basin Job"

AT RICHLAND DOE TELLS FLUOR DANIEL TO KEEP DE&S ON K-BASIN JOB

In an incongruous follow-up to a recent letter castigating Fluor Daniel officials for their work on the troubled K-Basin project, Richland Operations Office Assistant Manager for Waste Management Charles Hansen last week maintained Fluor Daniel should stick with its subcontractor for the project. Hansen, in his March 22 letter to Fluor Daniel Hanford President Hank Hatch, said the project Hanford Management Contract team's work on the K-basin is "obviously strained," and suggested Fluor Daniel inject a sense of urgency into the project (*WC Monitor*, Vol. 9 No. 14). But on April 2, Hansen told the Hanford Advisory Board that the subcontractor shouldn't be replaced, if only because bringing in a new company would likely do more harm than good. The Hanford learning curve, he explained, is long, and the department does not want to deal with a

new company starting at the bottom of that curve. "We've seen sufficient action to believe [Fluor and subcontractor DE&S] are going up the learning curve," he said.

Hansen also pointed out that DE&S was brought into the project in late 1996 and forced to move quickly while reevaluating. The company, he mentioned, also is bringing in a new K-basin project director, Charlie Aycock, who has more than 30 years of experience with DE&S' parent company, Duke Energy. And DE&S has established a special group to deal quickly with new technical problems as they arise. Hanford Advisory Board members, meanwhile, remain skeptical of DE&S' ability to complete the K-basin work and have demanded copies of the companies' planned corrective actions.

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"At Richland.....DOE Wants Security Contract Recompeted"

AT RICHLAND DOE WANTS SECURITY CONTRACT RECOMPETED

The Department of Energy has told Fluor Daniel Hanford to recompetes the site's security contract and to fold the subcontractor back into the core Project Hanford Management Contract team. That direction came in a memo from DOE Hanford Manager John Wagoner to Fluor Daniel Hanford President Hank Hatch in which he rejected a proposal that the existing, two-year security subcontract with B&W Protec, which expires Sept. 30, be extended for an additional two years. B&W Protec is an "enterprise" company spun off from Hanford in late 1996 as part of an economic development plan. While the company's main contract is with Fluor Daniel, B&W

Protec is supposed to find other clients away from Hanford to spur job creation and economic growth in the region.

But Wagoner maintained in his memo that "safeguards and security performance on the Hanford site can be enhanced by recompeting the contract for those services." B&W Protec officials stated they have not been formally notified by Fluor about Wagoner's letter or of Fluor Daniel's intentions for their contract. A company statement related B&W Protec officials are aware of the Wagoner memo.

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The Harrison Press

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"Crosby firm fined by OEPA for hazardous waste violation"

Crosby firm fined by OEPA for hazardous waste violation

Ohio EPA has found that Albright & Wilson Americas, Inc., was in violation of hazardous waste requirements regarding liability insurance, closure cost estimates and financial assurance.

Albright & Wilson Americas, Inc. has brought all matters into compliance

and has agreed to pay Ohio EPA a settlement of \$5,000 for claims of civil penalties.

Albright & Wilson Americas, Inc. owns and operates a manufacturing facility located at 10818 Paddys Run Road in Fernald.

From 1985 until 1990, operations at the facility included the treatment and storage of drums containing arsenic sulfide filter cakes which had been neutralized by soda ash. All facilities which handle hazardous waste are required to maintain liability coverage, a closure cost estimate and financial assurance for closure. Ohio EPA found

the company in violation of the requirements.

The company has ceased the hazardous waste treatment and storage operations described. Ohio EPA has certified that closure was properly completed and that Albright & Wilson Americas, Inc. is no longer required to maintain liability or closure assurance documents.

The \$5,000 fine will be deposited into the hazardous waste cleanup fund established under the Ohio Revised Code.