



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FILE
100 B-0863
MAR 5 10 17 AM '01
FERNALD

3537

FEB 28 2001

REPLY TO THE ATTENTION OF

Mr. Johnny W. Reising
United States Department of Energy
Feed Materials Production Center
P.O. Box 398705
Cincinnati, Ohio 45239-8705

SRF-5J

RE: FDF Rebaseline of
the Fernald Project

Dear Mr. Reising:

In the last two months representatives of the United States Environmental Protection Agency (U.S. EPA), the United States Department of Energy's (U.S. DOE), the Ohio Environmental Protection Agency (OEPA), and Fluor Daniel Fernald (FDF) have been involved in discussions regarding the re-baselining of the cleanup at the U.S. DOE Fernald, Ohio site. The discussions have been a result of the newly awarded contract by U.S. DOE to FDF at the Fernald site for oversight of cleanup activities. As part of the new rebaseline effort, U.S. DOE has required FDF to assume flat line funding at \$290M for the performance period ending December 31, 2010. U.S. EPA is concerned that the reduced funding levels being proposed for the duration of the cleanup jeopardize the environmental progress at the site.

U.S. EPA has several concerns regarding the rebaselining effort. The approach to developing the baseline, a result of U.S. DOE's existing contract mechanism, is inconsistent with past approaches for reaching alignment and consensus among all stakeholders. U.S. DOE's past commitment to accelerate the cleanup and to dispose the silo and waste pit materials off-site was essential in obtaining stakeholder support for the On-Site Disposal Facility (OSDF). U.S. DOE characterized the OSDF as being necessary for implementation of a safe, cost effective, and prompt cleanup. Extending the duration of the cleanup breaches U.S. DOE's promise and may erode the public's confidence in U.S. DOE's commitment to the Fernald cleanup.

U.S. DOE has informed FDF, U.S. EPA and OEPA that the \$290M annual budget is what they have been required to assume for the outyears when rebaselining the cleanup, yet U.S. EPA has not received any such documentation regarding a U.S. DOE directive toward cleanup funding at the Fernald site. Based on the re-baselining scenarios

described by U.S. DOE and FDF, U.S. EPA believes that U.S. DOE will likely fail to maintain compliance with the schedule commitments as required by the 1991 Administrative Consent Agreement (ACA). The ACA requires U.S. DOE to request funding from Congress for all cleanup activities required under the agreement. Yet under the re-baselining scenarios U.S. DOE assumes a flat-line budget amount which is clearly inadequate to fund ACA required activities. U.S. EPA intends to hold U.S. DOE to the ACA enforceable workplans and schedules.

One of the re-baselining scenarios advanced by U.S. DOE and FDF proposes to "suspend" certain cleanup activities for a number of years. Under this scenario, U.S. DOE would suspend Decontamination and Decommissioning (D&D) activities in the Production Area for two years, and shutdown soil excavation and waste placement in the OSDF for four years. U.S. EPA believes that suspending such major components of the Fernald cleanup would not be consistent with the Section 120(e)(2) of CERCLA requirement that remedial action be both substantial and continuous. If the cleanup duration is extended, U.S. EPA believes that U.S. DOE must implement an option that assures substantial and continuous implementation of each of the remedial actions selected in the five Records of Decision for the Fernald site.

Beyond concerns about substantial and continuous remedial action, U.S. EPA questions whether the proposed interim cap on the OSDF would be protective of the Great Miami Aquifer, especially if further budget reductions resulted in the OSDF being closed for an even greater period of time. Also, U.S. EPA is concerned that the amount of work estimated to be completed in the later years of the FDF contract period is unrealistic. The pace of D&D, soil excavation, and waste placement activities projected for the later years exceeds any rate achieved to date by U.S. DOE, even with trained and experienced staff and the benefits of excellent weather and extended field seasons. The uncertainty about completing these deferred activities calls into question whether the projected cost and time savings associated with the suspension scenario are realistic. With this uncertainty, U.S. EPA believes that large-scale suspension of remedial projects, many of which have been success stories for the site, is unwarranted. Finally, despite shutting down major remedial projects there is still concerns that further technical difficulties with the silos project could impact available resources for other projects and result in almost no remediation occurring at the site.

In the last decade, notwithstanding a few set backs, U.S. DOE has managed to transform the Fernald Site from an environmental disaster into a model clean up. However, the Fernald site is still

a work in progress. The \$290M flat line funding approach allows little room for error over the remaining life of the technically complex project. Further, the proposed funding reductions and re-baselining of the Project threaten to negate U.S. DOE's efforts at the Fernald site. Therefore, U.S. EPA urges U.S. DOE to adequately fund the Fernald site in order to maintain continuous remedial action, to meet U.S. DOE's obligations under the 1991 ACA, and to meet stakeholder expectations.

Please contact me at (312) 886-0992 if you have any questions regarding this matter.

Sincerely,



James A. Saric
Remedial Project Manager
Federal Facilities Section
SFD Remedial Response Branch #2

cc: Tom Schneider, OEPA-SWDO
Kim Chaney, U.S. DOE-HDQ
John Bradburne, Fluor Fernald
Terry Hagen, Fluor Fernald
Tim Poff, Fluor Fernald
Steve McCracken, U.S. DOE-Fernald
Susan Brechbill, U.S. DOE-OFO
Graham Mitchell, OEPA-SWDO
Jim Woolford, U.S. EPA-FFRRO
Craig Hooks, U.S. EPA-FFEO
Jim Fiore, U.S. DOE-HDQ

bcc:

Frances Hodge, Tetra Tech
Gene Jablonowski, SRF-5J
Brian Barwick, ORC
Bill Munro, SRF-6J
David Ullrich, ORA
Ken Tindall, SRF-5J
Lance Elson, FFEO
Brandon Carter, FFRRO