



Department of Energy

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APR 16 2001

Mr. Gene Jablonowski, Remedial Project Manager
U.S. Environmental Protection Agency
Region V, SRF-5J
77 West Jackson Boulevard
Chicago, IL 60604-3590

DOE-0394-01

Mr. Tom Schneider, Project Manager
Ohio Environmental Protection Agency
401 East 5th Street
Dayton, Ohio 45402-2911

Dear Mr. Jablonowski and Mr. Schneider:

REQUEST FOR EXTENSION OF SILO 3 AMENDED CONSENT AGREEMENT MILESTONE

Reference: Letter from J. Saric to J. Reising, "Approval of Silo 3 Project Remedial Design Deliverables Schedule," dated April 13, 1999

The purpose of this letter is to request an extension for the Remedial Action Work Plan (RAWP) milestone for the Operable Unit 4 (OU4) Silo 3 Project consistent with Section XVIII of the Consent Agreement as Amended under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Sections 120 and 106(a).

The above referenced letter established a milestone of May 1, 2001 for the submittal of the Silo 3 Project RAWP to the United States Environmental Protection Agency (USEPA). In December 1998, a subcontract was awarded by the Prime Contractor, Fluor Fernald, Inc. to implement the Remedial Design and Remedial Action consistent with the OU4 Silo 3 Explanation of Significant Differences (ESD) that was approved on March 27, 1998. Performance of the subcontract was not successful. Issues as outlined below arose during the performance of the subcontract that ultimately resulted in a termination of the subcontract.

In September 1999, the Department of Energy (DOE) was notified by Fluor Fernald, Inc. of significant performance issues related to schedule slippage and the completeness and quality of the submittals by the subcontractor. Fluor Fernald, Inc. conducted an assessment of the subcontractor's project management and noted significant issues in the

APR 16 2001

3619

Mr. Gene Jablonowski
Mr. Tom Schneider

-2-

engineering and quality programs. In February 2000, Fluor Fernald, Inc. notified the subcontractor of conditions that it believed were endangering performance on the Silo 3 Project. Fluor Fernald, Inc. also required the subcontractor to provide a corrective action plan to address identified concerns. Although performance began improving as a result of the corrective action plan, schedule recovery was never fully attained by the subcontractor.

In August 2000, Fluor Fernald, Inc. notified DOE that the subcontractor had instituted a partial project shutdown. This caused numerous procurement and design activities to be placed on hold, and resulted in further project schedule delay. DOE requested a recovery plan from Fluor Fernald, Inc. that was to address the shutdown and mitigate further schedule delay. The partial shutdown was lifted by the subcontractor on October 13, 2000. During this time, Fluor Fernald, Inc. and the subcontractor entered into extensive discussions to resolve technical and schedule issues regarding performance under the subcontract.

In November 2000, Fluor Fernald, Inc. attempted to pursue all available options to recover the schedule and performance under the subcontract. During this process the subcontractor made a termination settlement offer. As a result, it was decided by Fluor Fernald, Inc. that instead of pursuing remedies under the contract, including but not limited to the default process, a termination settlement agreement would be entered into by the parties. In late November 2000, Fluor Fernald, Inc. received a termination settlement offer and, subsequently, an Agreement in Principle was executed by Fluor Fernald, Inc. and the subcontractor.

In December 2000, after thorough consideration of the options available under the contract and extensive discussion with Fluor Fernald, Inc., DOE approved acceptance of the termination settlement offer. DOE and Fluor Fernald, Inc. retained specified rights to technical data/information and received cash payments which are to be utilized for, among other things, excess procurement cost.

DOE informed the USEPA and OEPA of the challenges experienced with the subcontractor during weekly conference calls and kept the Agencies notified of issues during evolution of technical and contractual discussion between Fluor Fernald, Inc. and the subcontractor. Based upon the above background and information, DOE believes "Good Cause" exists for the milestone extension pursuant to Section XVIII B-5 of the Amended Consent Agreement.

DOE is currently in the process of re-evaluating the options for the implementation of Silo 3 remediation and project schedule. DOE proposes to meet with both the USEPA and OEPA during the month of May, 2001 to discuss the technical approach and options for the remediation and the proposed path forward. As a result of the Prime contract award in November 2000, the Fernald site is undergoing a new baseline development effort pursuant to the Closure Contract requirements. The new baseline is scheduled to be submitted by Fluor Fernald, Inc. for DOE review in May 2001. DOE expects the baseline review and approval process to be completed no later than September 30, 2001.

APR 16 2001

Mr. Gene Jablonowski
Mr. Tom Schneider

-3-

8619

The DOE respectfully requests that the milestone date for the submittal of the RAWP to the USEPA and OEPA be established by July 15, 2001 (date for the date), which is approximately 45 days after the DOE receipt of the new baseline from Fluor Fernald, Inc.

If you have any questions regarding this matter, please contact me at (513) 648-3139 or Nina Akgündüz at (513) 648-3110.

Sincerely,



Johnny W. Reising
Fernald Remedial Action
Project Manager

FEMP:Reising

cc:

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S. Beckman, Fluor Fernald, Inc./MS52-4
D. Carr, Fluor Fernald, Inc./MS2
R. Fellman, Fluor Fernald, Inc./MS52-4
T. Hagen, Fluor Fernald, Inc./MS65-2
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D. Nixon, Fluor Fernald, Inc./MS52-4
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AR Coordinator, Fluor Fernald, Inc./MS78
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