



# FRIDAY MAILING

7/10/98

## INCLUDED IN THIS FRIDAY MAILING:

- Letter from James Owendoff to John Applegate (Re: Army Corps of Engineers)
- Draft Minutes from the May 16, 1998, Fernald Citizens Advisory Board Meeting. If you have any comments or changes to these minutes, please contact the Citizens Advisory Board Office by July 24, 1998.
- Newsclippings

## CAB MEETINGS:

- FERNALD CITIZENS ADVISORY BOARD:** The Fernald Citizens Advisory Board will meet on Wednesday, July 15, 1998, at 6:30 p.m. at Dante's Restaurant (I-74 and Rybolt Road). Please note this is a special dinner meeting in honor of John Applegate's service as Chair.

## OTHER MEETINGS:

- MONTHLY PROGRESS BRIEFING:** The July Monthly Progress Briefing will be held on Tuesday, July 14, 1998, at 6:00 p.m. on the Fernald site in the Services Building Conference Room.

## 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](mailto:john.applegate@law.uc.edu)  
Doug                      [REDACTED]

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PLEASE NOTE  
LOCATION



## Department of Energy

Washington, DC 20585

June 12, 1998

Mr. John S. Applegate  
Chair  
Fernald Citizens Advisory Board  
P.O. Box 544  
Ross, Ohio 45061

Dear Mr. Applegate:

This is in response to your letter concerning the proposal to transfer management of the Fernald Environmental Management Project to the U.S. Army Corps of Engineers. The Department of Energy opposes the transfer of Fernald or any other site to the Corps of Engineers. We agree with your assessment that the transfer of this project would likely result in an impact to cost and schedule and a resultant increase in community concern.

We believe that our work with communities and advisory groups like yours have helped the Department move into the cleanup of sites more expeditiously and vigorously and will result in accelerated cleanup. Our joint efforts have also aided the Department in the support of its budget requests, which although disappointing at times will continue to allow us to make progress at the sites.

Thank you and the Fernald Citizens Advisory Board for the continuing support and recognition of the accomplishments that the Department of Energy is making toward accelerated remediation of the Fernald site. If we can be of further assistance in this or any other matter, please let us know.

Sincerely,

A handwritten signature in cursive script that reads "James M. Owendoff".

James M. Owendoff  
Acting Assistant Secretary for  
Environmental Management

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### Draft Minutes from the May 16, 1998 Meeting

The Fernald Citizens Advisory Board met from 8:33 a.m. until 12:15 p.m. on Saturday, May 16, 1998, at the Alpha Building, 10967 Hamilton-Cleves Highway, Harrison, Ohio. The meeting was advertised in local papers and was open to the public.

*Chair*  
John S. Applegate

*Vice Chair*  
James C. Bierer

*Members*  
Marvin W. Clawson  
Lisa Crawford  
Pamela Dunn  
Constance Fox, M.D.  
Darryl D. Huff  
Dan McElroy  
Robert G. Tabor  
Dr. Thomas E. Wagner  
Dr. Gene E. Willeke

*Ex Officio*  
L. French Bell  
Jack Craig  
Gene Jablonowski  
Graham Mitchell

Members Present:

John Applegate  
French Bell  
Jim Bierer  
Marvin Clawson  
Lisa Crawford  
Pam Dunn  
Jane Harper  
Gene Jablonowski  
Graham Mitchell  
Robert Tabor  
Thomas Wagner  
Gene Willeke

Members Absent:

Jack Craig  
Darryl Huff  
Dan McElroy  
Ray Wurzelbacher

Designated Federal Official Present: Gary Stegner

Staff Present: Tereza Marks  
Crystal Sarno  
Douglas Sarno

Approximately 5 spectators also attended the meeting, including members of the public and representatives from DOE and Fluor Daniel Fernald.

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**1. Call to Order**

Chair John Applegate called the meeting to order at 8:33 a.m.

**2. Announcements and New Business**

Minutes from the March 14, 1998, meeting were noted as being approved.

Applegate announced that the Steering Committee recommends that Tom Wagner be appointed Vice Chair Elect. Jim Bierer made the motion and Marvin Clawson seconded it. The motion was unanimously approved.

Applegate then stated that each member was provided with a copy of the updated Closure Fund Management Plan, which is very similar to the previous version.

The technical support contract to the Fernald Citizens Advisory Board (FCAB) had previously been an annual contract. For a number of years, the FCAB has been trying to get a multi-year contract. A Request for Proposal (RFP) has been drafted for a new support contract, which is to be awarded this upcoming year. The FCAB will have the opportunity to review the RFP and make any comments. Any Board member interested in reviewing the RFP should attend the next Steering Committee meeting.

The Nevada CAB's low-level waste seminar is now scheduled for August 16<sup>th</sup>-19<sup>th</sup> in Las Vegas. The Fernald CAB should try to have a strong showing at this seminar.

There will be two separate meetings held for the National Dialogue, one in Chicago and one in San Diego. They will each be held in June. The Fernald CAB will attend the meeting in Chicago on June 25<sup>th</sup> to 27<sup>th</sup>. More details on this meeting will be provided at a later date.

The CAB is concerned about the possible change in management of Fernald from DOE to the Corps of Engineers. Graham Mitchell recommended that the CAB formally state their opinion on this issue. Gene Willeke stated that the Corps has an excellent cleanup reputation, but Fernald is more like a construction project than it is a cleanup project. Lisa Crawford suggested that the CAB send a letter not only to DOE outlining the CAB's position, but also send the letter to the Ohio Congressional Delegation. Willeke agreed with this idea. Applegate suggested that the letter go to Acting Assistant Secretary Owendoff, the head of Region 5-USEPA, the head of OEPA, and to the Ohio Congressional Delegation. Applegate also suggested sending the letter to other CAB's particularly Rocky Flats and Mound, since they are also Defense Closure Facilities. He felt that those CABs would also possibly support this position and send letters to DOE as well. The Fernald CAB's letter should include concerns about having to deal with a transition period, the necessity to resubmit contracts, the negating of previously made agreements, and the learning curve that would be needed for the Corps of Engineers, since they have no experience with nuclear materials. The DOE FUSRAP program has been dismantled and given to the Corps. The key DOE personnel were moved to other areas, so their experience was lost. Sarno said he would draft a letter to DOE for the CAB.

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3. Off-Site Disposal Issues

On Friday, May 15, 1998, the Fifth Circuit Court of Appeals dismissed Waste Control Specialist's (WCS) case against DOE. This was the most favorable decision that could be made for DOE. Before the case is truly over, the Fifth Circuit must issue a mandate to the district court within 53 days. During this time, WCS still has a chance to appeal. The contract for Operable Unit One (OU1) cannot be signed with Envirocare until the 53 days have passed. DOE is working to expedite the process and hopes to shorten the time to 30 days. Applegate asked Johnny Reising if this would affect the schedule for waste removal from OU1. Reising said they are working on the project and once they have the contract, they will be able to begin shipping wastes. Because the court's decision was so strong, it is a wise decision to move forward on the project in manner as if the disposal contact will be signed.

Bob Tabor asked if the CAB should write a letter stating that it is glad the case was overturned. He was still concerned that adequate planning had not been made for contingencies had the injunction not been overturned. Before the injunction was lifted, there were a number of concerns, particularly about the lack of other options for OU1. Applegate asked the rest of the CAB if this were something they were interested in doing.

Mitchell suggested that he fax Sarno a copy of the letter he had written on the potential new DOE off-site policy that was outlined in a Commerce Business Daily announcement. The deadline for comments on this policy is Monday, May 18, 1998. The CAB could possibly use his letter and make its own additions or changes. The CAB decided that, because they had limited information on the announcement, they should not submit any comments.

The White Metal Box Corrective Action Plan lists over 60 corrective actions that must be performed. Most of those actions are being corrected and are on schedule. When the plan was issued, it was hoped that Nevada Operations Office would be able to come to Fernald in late May or early June to examine the progress. However, the current schedule is for Nevada to come to Fernald in late July. Nevada has a new waste policy that needs to be implemented and this has caused some delay. Over the next month or so, Nevada will finish the waste profiles needed as part of the new policy and will be free to come to Fernald.

Pam Dunn wanted to ensure that the state of Nevada's concerns about the white metal box incident were addressed. The state has been invited to all of the DOE meetings on the subject.

Willeke wanted to know if Nevada Test Site would come for an interim review prior to July to ensure that everything was proceeding well. If they should find a problem at the end of July, additional time will be needed to make corrections. NTS is not able to come prior to July, since the waste profiles will not be complete. Mitchell suggested that the CAB readdress this issue at the July meeting.

Fernald was asked to prepare information addressing what was being done to handle aqueous waste on site for the Toxic Substances Control Act (TSCA) incinerator. Fernald prepared the response and had thought everything was in order. However, they recently learned that another letter is needed to explain how Fernald will deal with aqueous waste. The response will be mailed this week.

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Mitchell stated that Tennessee had faced significant budget cuts and could save additional money by closing down the incinerator. If the incinerator is closed, he fears that it will not be reopened. The TSCA incinerator is the only option available for Fernald. Mitchell explained that the TSCA incinerator can accept radiological waste while other incinerators cannot. Until the requested response is provided to Tennessee, Fernald will not be able to ship any aqueous wastes.

Fernald has traditionally shipped waste to the Nevada Test Site (NTS) by truck because no viable rail option exists. Sending the waste by truck is more expensive and dangerous than sending wastes by rail. Truck transport also involves going through Las Vegas. An intermodal option is being considered. The transfer from rail to truck could take place in Caliente, NV. There is a road near Caliente that cuts through Nellis Air Force Base and ends near NTS. The CAB could ask DOE and the Air Force to work together to open the road and allow the trucks from Caliente to NTS. A bill is currently before the House and Senate that makes mention of using Caliente as a transfer point for high-level waste. While the CAB does not want to take a stand on the high-level waste policy, they feel that it is good that the Senate and House are aware of the possibility of using Caliente as a transfer point. Members of the CAB were provided with letter to Jack Craig that supported the use of Caliente. The Board approved the letter without changes.

Yermo (CA) and Barstow (CA) are other options for the transfer facility. Nevada is holding conversations with each of these sites. Caliente does not have a transfer facility or adequate roads, while these other sites do. A public comment period on this issue should be held in early June. Use of any of these three sites would avoid truck transport through Las Vegas and over the Hoover Dam.

The Off-Site Committee is very concerned with the general lack of contingency planning at Fernald. Tom Wagner felt that the contingency studies were just surface studies and were not followed through. Fernald has not considered options for what could occur if something goes wrong. A decision tree that evaluates a variety of possible alternatives should be available. The problems have been identified, but the next steps to solve them have not. Reising said that studies have been done on this issue but have not been shared with the CAB.

#### **4. Budget Issues**

Fernald needs \$280.5 million for the FY2000 budget. For FY99, Fernald needed \$273.2 million but actually received \$275. In FY2000, there could be a reduction from what Fernald needs by as much as 30 million.

DOE Headquarters has just completed its midterm budget review. The request for funds that Fernald needs for FY2000 have been submitted to headquarters, but the funds have not been allocated. Once Fernald finds out exactly how much has been allocated, it will have a better idea of the possible schedule impact. Of all the activities at Fernald, 92.2% are on a critical path because of the accelerated cleanup schedule. Jim Bierer asked if being on the accelerated schedule would mean it would be easier to get the needed funds. Reising stated that he didn't know.

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Crawford and Dunn went to Washington, DC earlier in the month and met with DOE and Congress. Crawford told them that Fernald should not be sacrificed for the other four Ohio Field Office sites.

Sarno pointed out that Closure Fund status had not seemed to change operations at Fernald. The Efficiency Committee had discussed sending a letter to Senator Glenn asking about the intent of the Closure Fund. The letter should be copied to Leah Dever and Owendoff. The Board agreed that the letter should come from the full Board. Applegate said that the letter should state that the CAB had been in favor of the Closure Fund. He pointed out that removing money from Fernald would mean it would not meet the 2006 cleanup goal.

## **5. Special Nuclear Materials**

Many special nuclear materials still remain on site. Some enriched material has been sold; however, the rest remains on site because it cannot be sold. Sarno mentioned that the International Uranium Corporation was interested in removing uranium from waste and gave the name of a contact to DOE. Reising thought that DOE had already spoken with this group. Sarno agreed to send Willeke and Mitchell a copy of her paper on the process. Reising promised to send Sarno logs of his conversations with them.

There are currently approximately 6.3 million pounds of enriched uranium on site; one third of it will be off site by this summer. There are no plans for the rest. The Off-Site Committee feels that the remaining material should be removed from the site. A letter was sent to Dever and Craig in April asking that this material be declared waste and moved off site by next spring. There is talk of making Oak Ridge a storage facility for enriched uranium. The CAB should not interfere with the happenings at Oak Ridge, but should continue to push for the off-site shipment of this material. Headquarters needs to make a waste declaration for this material, but this is not proceeding.

## **6. Native American Reinterment**

Joe Shomaker made a presentation on Native Americans. The area around Fernald is a historical district because there are so many burial grounds. So far, they have uncovered 115 historical areas. Fernald is working with nine federal tribes and forty groups from the states.

He has found a Shawnee village by the road where it was previously believed there were no Shawnee. This had led him to think there could be as many as 3500 burials on the site. Willeke asked how these burial sites would affect the cleanup of the site. Shomaker said they might have to deal with some unexpected discoveries.

Sue Walpole added that Fernald has developed an education program dealing with Native American archaeology. Local teachers bring kids to the sites on field trips, and Shoemaker travels to local schools to explain the projects to the children.

The On-Site Committee has reviewed the Sitewide Excavation Plan and the Integrated Environmental Monitoring Plan. Bierer explained that a tentative settlement has been reached with EPA on the natural resources lawsuit. There will be public meetings on this in the future. The Committee will provide the Board with a list of the dates.

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July 1, 1998  
 The Harrison Press  
 Front Page  
 "Fernald Post-cleanup Plan Constructed"  
 By: Tina O'Connell

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## Fernald post-cleanup plan constructed

By Tina O'Connell  
 Staff Writer

The United States Department of Energy is composing a proposal for the eventual use of the Fernald Environ-

mental Management Project when site cleanup is completed.

The DOE has spent about three years working with Fluor Daniel Fernald exploring possibilities for the ecological restoration of the site, said DOE public affairs official Gary Stegner.

The Comprehensive Environmental Response Compensation and Liability Act, or CERCLA, went into effect in 1980 which established a priority list for cleanup of nuclear waste sites, said Eric Woods, a senior technical specialist in the strategic planning department of Fluor Daniel Fernald.

The State of Ohio filed a claim against the federal government for \$205 million claiming injury against its natural resources and the Fernald Environmental Management Project was placed on the list in 1986, said Woods.

CERCLA states that if a party damages a natural resource, it must restore

or make compensation for the damage, he said.

The DOE has an obligation to repair the damage it did to the environment, said Woods.

The Natural Resource Trustees recommend that all but 23 acres of the 1,050-acre site be remediated back to its natural state.

There were about 10 acres of wetlands destroyed during site cleanup. The proposal calls for restoration of 15 acres of wetlands to compensate for the loss, said Woods.

A 23-acre section is tentatively planned for economic development. The Citizens Reuse Organization (CRO) is conducting a study of possibilities to compensate for losses to the local economy when site cleanup is complete, he said.

Continued on Page 14A

## Fernald

Continued from Page 1A

About 2,000 Fluor Daniel Fernald employees will be unemployed when the site is restored, said Woods.

DOE has sought input from CRO, Fernald Residents for Environmental Safety and Health, citizen advisory boards, representatives from the United States Department of the Interior and trustees from Crosby, Morgan and Ross Townships. More than 80 percent of the Fernald site is in Crosby Township, said Woods.

The tentative proposal calls for DOE to maintain ownership of Fernald site.

This will allow the federal government to maintain and monitor the site indefinitely, he said.

Ecological restoration of the site will cost about \$275 million per year for the next seven or eight years, said Stegner.

DOE intends to hold a hearing to accept the proposal sometime in the fall, he said.

"Cleanup is projected to be complete in 2006," said Woods. "Fluor Daniel Fernald's contract runs for another two years. So far our government funding has been adequate but who knows what will happen in the future."

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July 4, 1998  
The Cincinnati Post  
Front Page  
"Chiquita vs. The Enquirer"  
By: Barry M. Horsman and Cliff Peale

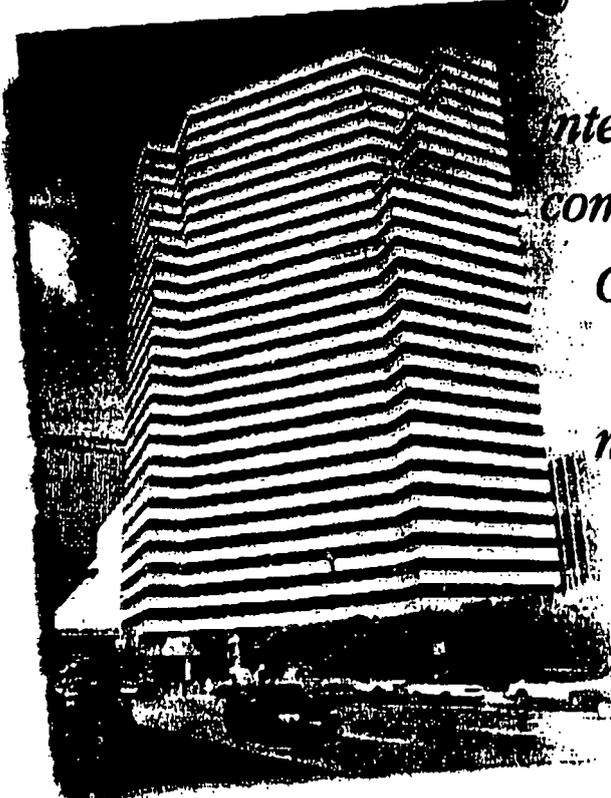
# CHIQUITA *VS* THE ENQUIRER

THE CINCINNATI ENQUIRER

An apology to Chiquita



By Barry M. Horsman and Cliff Peale  
The Cincinnati Enquirer  
July 4, 1998  
Page 1



*How the  
international banana  
company took on  
Cincinnati's  
morning  
newspaper —  
and  
won*



Above, the Cincinnati Enquirer building on Elm Street; at left, the Chiquita headquarters on Fifth Street.

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July 4, 1998

The Cincinnati Post

Front Page

"Chiquita vs. The Enquirer"

By: Barry M. Horstman and Cliff Peale

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By Barry M. Horstman and Cliff Peale  
Post staff reporters

The two offices are only six blocks apart in downtown Cincinnati. But judging by the moods found in each last Monday morning, they might as well have been at opposite ends of the universe.

On the 19th-floor newsroom of the Cincinnati Enquirer building on Elm street, staffers — still stunned over a front-page apology Sunday that essentially retracted a two-month-old expose on the Chiquita banana company — listened in anger and dismay as their bosses tried to explain how a special section clearly packaged to be a Pulitzer Prize contender had instead become one of the most embarrassing chapters in recent journalism history.

Over on Fifth Street in the 28th-floor cafeteria of Chiquita Brands International, nearly 400 employees loudly applauded, laughed and wiped away tears in an emotional celebration that one participant described as "a bit more restrained than a British soccer crowd."

Chiquita Vice Chairman Keith Lindner was overcome with emotion as he thanked his father, Chairman Carl Lindner — Cincinnati's most prominent business mogul — for his support. At their side was a large, poster-sized copy of the Enquirer's page one apology.

The Enquirer's May 3 special section accused Cincinnati-based Chiquita, the world's largest banana producer, of a wide range of questionable practices, including allegations that the company had destroyed a

village in Honduras to eliminate a union; bribed officials in Colombia; secretly controlled dozens of supposedly independent Latin American banana firms, and had harmed the health of workers and others through its use of pesticides. Chiquita vigorously disputes all of the charges.

"People felt like they'd been through hell — not just for the past two months, but for the last year," Chiquita President Steven Warshaw said in an interview. "But they'd never lost faith. There was a lot of relief and emotion in that room."

At the Enquirer, a kind of gallows hu-

mor has helped staffers cope with the debacle. An unsigned cartoon — apparently the work of Pulitzer Prize winner Jim Borgman — on a newsroom bulletin board shows a man standing amid apocalyptic rubble as several other men approach. "Welcome to the Enquirer," the caption says.

Although Enquirer editor Larry Beaupre has urged his staff not to talk to outside media, some find it difficult to stay quiet.

"They wanted this to really put the Enquirer on the map," said one veteran reporter. "Well, it did."

In the week since some 355,000 readers picked up their Sunday Enquirers, the apology has raised far more questions than it answered.

It and an accompanying story occupied nearly the top half of the front page, appearing under the kind of large bold headline usually reserved for world-altering events. And for the Enquirer — which also paid Chiquita more than \$10 million — this story was just that.

The apology's description of the payment as "in excess" of \$10 million has launched speculation that the actual figure might be as much as \$50 million. While the settlement agreement prohibits either side from discussing its details, Chiquita dismisses the higher estimate, insisting the payment is, in fact, much closer to \$10 million.

Please see CHIQUITA, 4/

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**Chiquita's voice-mail equipment includes an internal tracking device that operates like a caller-ID system, identifying where calls originate, Chiquita officials say. Those records helped officials trace many calls to numbers Chiquita says are linked to reporter Mike Gallagher.**

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July 4, 1998

The Cincinnati Post

Front Page

"Chiquita vs. The Enquirer"

By: Barry M. Horstman and Cliff Peale

# Chiquita

From Page 1A

Reprinted on Tuesday and Wednesday, the six-paragraph apology admitted that the newspaper's Chiquita report was based on stolen voice mail and "created a false and misleading impression of Chiquita's business practices" in Central America.

To date, the Enquirer has laid the blame for those transgressions solely on the series' lead investigative reporter, 40-year-old Mike Gallagher.

Gallagher, who has said that the Enquirer spent up to \$2 million on the series, was fired last Friday after his bosses concluded he had been involved in the theft of confidential Chiquita voice-mail messages.

Thursday, Chiquita filed a federal lawsuit against Gallagher, who was not a party to Chiquita's settlement with the Enquirer. The suit, which seeks unspecified damages, alleges that Gallagher "ignored facts favorable to Chiquita, exaggerated those adverse to the company, relied on discredited sources and presented the issues in a biased and distorted fashion."

Gallagher has not returned repeated calls seeking comment. His attorney, Patrick Hanley, would say only: "There's going to be a lot of information that comes out in the future, but at this time we're just not going to get into it with the media."

The Enquirer's apology says an internal investigation is continuing to determine "whether others involved in the Chiquita articles also engaged in similar misconduct." Because some Enquirer reporters believe that any thorough probe inevitably will point incriminating fingers at the paper's top brass, some cynically describe it as an "O.J. investigation" — comparing it to O.J. Simpson's claim to be searching for the killer of his wife and a friend.

Asked the status of the Enquirer investigation, publisher Harry Whipple said late Friday that the paper is "still evaluating . . . personnel matters."

"What do we see as the lessons learned in this? We'll know more once the investigation has been completed," he said.

investigation under way and the federal suit pending against Gallagher, few of the principals are willing to discuss it in detail.

But, from the lawsuit and from interviews with Chiquita, Enquirer and law enforcement sources, most of whom requested anonymity, these allegations emerge:

■ Gallagher, with the help of three current or former Chiquita employees, was able to personally dial into Chiquita's voice-mail system, listening to more than 2,000 password-protected messages over at least seven months, according to the lawsuit.

Chiquita's suit characterizes these "external intrusions" as illegal, unauthorized entries into its voice-mail system and say they occurred as often as 13 times daily. During a 10-day period just before the series ran on May 3, Chiquita records show more than 50 instances of unauthorized access to the voice mail, the suit said.

Chiquita's voice-mail equipment includes an internal tracking device that operates like a caller-ID system, identifying where calls originate, Chiquita officials say. Those records helped officials trace many calls to numbers Chiquita says are linked to Gallagher.

Many of the illegal voice-mail entries, Chiquita contends, occurred hours after Gallagher had posed questions to Chiquita representatives that logically would have generated phone discussions among company officials. In short, the company accuses him of asking questions, then eavesdropping on officials as they prepared their answers.

■ Even as the paper's editors continued to publicly express confidence in the series, officials of the Gannett Co., the Arlington, Va.-based owner of the Enquirer, were negotiating with Chiquita on a possible settlement.

Days after the Enquirer stories were published, Chiquita began preparing to file a multimillion-dollar libel suit against the newspaper. And as late as last week, Chiquita's board room had been set up to accommodate a press conference to unveil the suit.

But the talks turned, one key source said, when Gannett officials realized how much liability they could face from the series if the issue ever reached court.

"It had to do with a Gannett review of the facts," said one Chiquita representative involved.

Several final days of intense negotiations last week finally produced a settlement about 10:20 p.m. Saturday night. The Enquirer delayed its press

"Apology to Chiquita" onto Sunday's front page.

■ Many Enquirer reporters and editors, fearing that not only the paper's — but their own — reputations have been irreparably harmed, are furious that the Chiquita series bypassed the Enquirer's normal editing process.

An anonymous letter — purportedly from a newsroom editor — faults Beaupre for those shortcuts, attributing them to Beaupre's "zeal to win . . . a Pulitzer Prize" with Gallagher, a favored reporter whom he had brought to Cincinnati three years ago from Gannett Suburban Newspapers in Westchester, N.Y., where both had previously worked. Before the Chiquita series, Gallagher was best known locally for a series on problems with the cleanup of the Fernald uranium plant.

"Larry must accept responsibility for this, regardless of the level of (Gallagher's) deception," said the letter, which is cited in Chiquita's civil suit and was read over WLW radio by talk-show host Bill Cunningham. "In Japan, he would have fallen on his sword."

Whipple, however, said Friday that the episode has not shaken his confidence in Beaupre.

■ The Enquirer's apology was written primarily by Beaupre, according to a source close to Chiquita. Beaupre and Whipple signed the statement in the paper.

The statement said that the Enquirer renounced the Chiquita series, that the stories had been withdrawn from its Internet Web site and concedes that "an Enquirer employee was involved in the theft" of "privileged, confidential and proprietary information."

"We apologize to Chiquita . . . for this unethical and unlawful conduct and for the untrue conclusions in the Chiquita series of articles," the statement concludes.

■ Chiquita executives regard the apology as an unequivocal admission of wrongdoing by the paper, a blanket condemnation of both its news gathering and the stories' content. In one of numerous stories that have appeared nationally, the New York Times labeled the Enquirer's apology an "apparent abject surrender."

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July 4, 1998

The Cincinnati Post

Front Page

"Chiquita vs. The Enquirer"

By: Barry M. Horstman and Cliff Peale

But the apology's wording, combined with Enquirer executives' subsequent remarks, raises doubts about whether — at least in their minds — the statement focuses on the reporting methods, not the stories themselves.

Whipple has said in interviews that he regards the voice-mail messages as authentic, not fabrications — albeit, illegally obtained. In one private conversation, he expressed surprise that anyone would interpret the apology statement as going beyond the reportorial methods to discredit the stories themselves.

A handout from Whipple distributed to Enquirer staffers says: "The end product has been tainted by the unethical and illegal means employed... We are unable to stand behind information gathered in violation of our own basic principles."

A seminal question about the episode remains unanswered: How much of the original series still should be regarded as accurate and how much, if any, was wrong?

Chiquita would have readers wipe the entire 18-page special section from their memories, much as the Enquirer erased it from its Web site — though even Chiquita president Warshaw concedes a grudging admiration for a two-page graphic on the banana production process that he calls "probably the best I've ever seen."

The Enquirer, meanwhile, apparently is satisfied to allow each person to answer that question for himself. When pressed to define the limits or reach of the apology, Whipple said: "I would simply refer readers and you to the apology that we published... We published the apology. Read the apology."

Whipple also refused to go much beyond the statement in response to two dozen written questions from The Post. Beaupre and the handful of other Enquirer staffers involved with the Chiquita series did not return repeated calls seeking comment, deferring to Whipple.

Even after the Enquirer's apology, some Chiquita critics contend that the theft of the voice mail does not change the story's conclusions.

"Here you had an heroic journalistic moment... and the Enquirer pissed it all away," said Larry Birns, a Gallagher source and president of the Committee on Hemispheric Affairs, a Washington-based group that is a vocal Chiquita critic. "I think the story absolutely stands."

Birns said that Gallagher, since his dismissal, has told others that he continues to main-

tain he had a source inside Chiquita for the voice-mail tapes and did not admit that the stories reached a false conclusion.

Warshaw, though, detects "no wiggle room" in the Enquirer's apology and says he is satisfied with it.

"What we wanted was a statement that would restore our reputation," Warshaw said. "And we got that."

Moreover, Chiquita officials argue that the settlement itself — and its fallout — should eliminate any doubts about the breadth of the Enquirer's admissions of wrongdoing. A \$10 million-plus payment — before any lawsuit was even filed — three front-page apologies and the termination of a star reporter, they say, suggest much, much more than mere flawed reportage.

Some journalism ethics experts concur.

"That certainly suggests that the paper didn't see very much at all, in either its methods or the stories, it could defend — and feared losing much more in court," said George Kennedy, longtime managing editor of the Columbia Missourian, a daily newspaper used as a teaching tool for students at the University of Missouri.

Inside the Enquirer, reporters and editors say they are disturbed that their bosses have not been more forthcoming with them. In staff meetings, tough questions about precisely how the disaster occurred, they say, typically produce little more than reiterations of the claim that Gallagher thoroughly deceived his superiors. Reporters who press for more details have been cut off with abrupt suggestions that they reread the public statement.

What particularly infuriates many Enquirer staffers, according to the letter from the anonymous Enquirer editor, is that the Chiquita section bypassed the normal checks and balances that shape how stories appear in the paper — a multi-step process intended to prevent flawed stories from reaching print.

Normally, every Enquirer story goes through a series of editing steps, passing through at least an assistant news section editor, a copy editor and the copy desk chief, the letter says. The process is typical of most metropolitan daily newspapers.

At the Enquirer, page one stories or sensitive articles also are viewed by the page one editor, a department head and perhaps the managing editor or the editor-in-chief, Beaupre.

The anonymous letter, however, asserts that the contents of the Chiquita package were "kept secret until the presses were ready to roll."

The stories never went through the copy desk, were not scrutinized by assistant editors and were not passed by the news editor, the letter contends. Instead, Beaupre and local news editor David Wells "edited his boy Mike's copy," the letter says.

"Larry didn't want anyone to challenge Mike's work," the letter says. "He wanted that Pulitzer so bad that he lost perspec-

tive. He trusted Mike. He didn't ask questions. He didn't listen to the people whom he pays to ask those questions." The result, the letter concluded, was "ruined careers, (\$10 million in damages, a proud newspaper shamed for years to come."

Since the original apology on Sunday, the Enquirer's coverage of the unfolding story — including the local and federal investigations, the civil lawsuit and nationwide reaction — has been provided by the Associated Press. That has prompted some Enquirer staffers to question whether editors and reporters directly involved with the Chiquita series — including Beaupre himself — will keep their distance from any future stories about the company or the Lindners, or perhaps have been ordered by Gannett to do so.

Whipple refused to address the Enquirer's long-term plans for coverage of Chiquita, but explained that it was the paper's decision to remain on the sidelines this past week as the AP provided follow-up coverage on the apology story.

"Since the Enquirer is part of the story, we frankly felt it better to let an independent news organization cover it," he said.

Gannett officials, citing the continuing investigations, refused to discuss the settlement. In a statement, Gannett did back the Enquirer's decision to fire Gallagher over the allegations he stole voice-mail messages.

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Gannett does not support such reporting techniques and we agree with the Enquirer's decision to dismiss the reporter," Gannett said. "We further agree with the Enquirer statement that 'the newspaper wants to send a strong message that deception and unlawful conduct has no place in legitimate news reporting at the Enquirer.'"

ff Peal

The events that led to last Sunday's apology began months before the Chiquita series was published.

Although Chiquita executives became aware that Gallagher was looking into the company in early 1997, he first told Chiquita that he was working on the stories last August.

In October, Gallagher, fellow reporter Cameron McWhirter, Beaupre and Wells met with Chiquita officials at the Enquirer's offices. At that meeting, Chiquita officials said, Gallagher and Beaupre assured them that the stories would be fair and that Chiquita would have an opportunity to respond to any assertions about its operations prior to publication.

But according to Thursday's civil suit, Gallagher already had tapped into Chiquita's voice-mail system, with the help of three current or former Chiquita employees. Four other non-Chiquita parties helped Gallagher "illegally access, listen to and disseminate" the voice mail, the civil suit says. None of the seven is named.

During the Enquirer's year-long examination of Chiquita, the fruit company's officials spent hundreds of hours preparing thousands of pages of documents in response to the paper's questions.

From Chiquita's perspective, most, if not all, of that information was ignored by Gallagher "because it did not fit in with his preconceived intention to portray Chiquita as a renegade and criminal company that cares nothing for the nations in which it operates or the people who live there," the civil suit says.

In late April, as his reporters' research was concluding, Beaupre wrote to Warsaw requesting an interview. Warsaw declined; through the entire reporting of the special section, Warsaw never met with either Gallagher or Beaupre. Any official contact between Chiquita and the Enquirer was funneled through the banana company's

The Beaupre letter also asked Warsaw to verify that the volumes of documents that Chiquita had provided to dispute the Enquirer's allegations were genuine. Though incensed by the request, Warsaw — for a second time — attested to the materials' veracity in writing.

After publication of the special section May 3, Chiquita took its complaints about the stories directly to Gannett. "We'd been negotiating with the Enquirer for a year, so what good would that have done?" Warsaw said.

After Chiquita confronted Gannett with its evidence that Gallagher had tapped into the voice mail and ignored numerous documents favorable to the company, the two sides began working toward a settlement.

With Chiquita hinting that its patience was wearing thin, a deal quickly began to take shape last week. On Thursday, June 28, the Enquirer yanked the Chiquita package from its own Web site, and the following afternoon, Hamilton County officials delivered what one source called "a barrage of subpoenas" to the Enquirer offices.

Gallagher and Jeff Harrington, a former Enquirer reporter who covered Chiquita for the paper's business desk, were among those subpoenaed to appear before the grand jury. At least one Chiquita employee also was subpoenaed, a source said. The FBI and the grand jury are investigating whether the Enquirer or any of its employees broke federal and state laws concerning the theft of electronic communications.

Late last week, Enquirer officials had a showdown with Gallagher, demanding to know — apparently in more detail than at any earlier stage — who had given him the voice-mail tapes. According to the federal suit, Gallagher refused to answer and hired an attorney.

On Friday, Gallagher was fired. Select Enquirer editors and other employees were told about the apology late Saturday, with some getting calls as late as 3 a.m. telling them what to expect on Sunday's front page. Most reporters, however, did not find out until they read their Sunday paper. Later that day, many were summoned downtown to pick up a copy of a statement that Whipple had prepared for employees.

"Plain and simple, the reporter lied to us," Whipple said in the written explanation. "He lied to us repeatedly over a period of nearly a year. His deception was massive."

That alleged deception focuses primarily on the now-infamous

Warsaw recalled that as he read the stories in May, he was shocked to see the Enquirer place such emphasis on the 2,000 voice-mail messages as a source for the series — both because he questioned how the paper could have obtained them and because he knew that the messages typically included little of substance. "For the most part, they're just a lot of blah-blah-blah," he says.

Although based in its Cincinnati headquarters, Chiquita's voice-mail system is used by the firm's employees worldwide, receiving up to 12,500 new messages weekly.

Each employee had a minimum four-digit password (since increased to six) to which no other Chiquita official had access.

There was no centralized list of employee passwords, no systemwide access code that could be used to reach multiple voice mailboxes, and even the hardware that recorded calls listed only blanks when employees punched in their access codes. Special sources at Chiquita officials had their suspicions aroused when a number of executives began experiencing inexplicable voice-mail problems.

Later, the suit asserts, they learned the explanation: Because the system permits only one person at a time to access a voice mailbox, some Chiquita employees could not hear their own messages because Gallagher was listening to them at that moment.

Moreover, some Chiquita officials were increasingly beginning to find the timing and content of Gallagher's questions to be more than coincidental.

The civil suit alleges that Gallagher, guided by past or current Chiquita employees, "systematically raided" the voice mail, usually after posing questions to Chiquita representatives that he knew would be forwarded to company leaders for discussion in order to prepare answers.

"Gallagher timed his illegal entries into Chiquita voice mail boxes so that he could eavesdrop on the company's employees having such discussions," the suit says. "Based on the results of his illegal eavesdropping, Gallagher also generated new questions for Chiquita, revised old questions and withdrew certain questions."

Chiquita also claims that Gallagher played voice-mail tapes to some of its strongest critics, including COHA's Birns and Ernst Otto Stalinski, a former worker for a European banana rival who has sued Chiquita, charging that agents acting on its behalf tried to

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Birns and Robert Manley, Stallinski's Cincinnati attorney, conceded that Gallagher played them portions of the voice-mail tapes. Manley also said that a friend of Stallinski served as a driver for Gallagher and McWhirter during one of several trips to Honduras that they took in reporting the series.

While the alleged break-ins to Chiquita's voice mail are perhaps the episode's most sensational element, the company says it felt from the start that it also had a strong case against the newspaper on a more traditional press battlefield: libel.

"How can you have 18 pages of stories about a company and not find a single good thing to say about it?" Warshaw said. "Are you going to call that balance?"

Chiquita's civil lawsuit against Gallagher alleges that he demonstrated "acute and calculated malice toward his target" and that his stories were filled with "demonstrably false and defamatory assertions."

While even many critical of the Enquirer's handling of the section have applauded its unvarnished mea culpa, they question whether the outcome would have been the same had the complaints come from someone lacking the clout of Chiquita and Carl Lindner.

"I tend to worry not so much about big companies — they can take care of themselves," said Eddith Dashiell, an associate professor of journalism at Ohio University. "I do wonder what happens when someone without money or influence is in this same situation."

Perhaps a lesser adversary would have been brushed off and the paper would still be standing behind its stories, Chiquita leaders admit. But that, they say, is a question more for the Enquirer — and that should prompt more introspective soul-searching among the press — than for those who feel wronged by the news media.

"It would be unfortunate if that were the case," Warshaw said. "But I certainly make no apologies for doing everything possible to clear our name."

Despite having forced the Enquirer into making one of the most humbling — and costly — admissions of error ever by a U.S. newspaper, Chiquita officials concede that the episode revives the familiar question of whether any apology or correc-

"It's been an enormous distraction," Warshaw said. "We did not need to have that kind of havoc and devastation. I keep coming back to the belief that the facts are what count."

"But, would I be happier than I am now if May 3 had never happened? Absolutely."

Investigation

Power, money & control

# Chiquita

## SECRET

### Revealed

Hidden control crucial to overseas empire

BY MIKE GALLAGHER AND CAMERON MCWHIRTER

Chiquita Brands International Inc. through its subsidiaries, secretly controls dozens of supposedly independent companies in Latin America.

Chiquita does so through an international trust structure designed to avoid restrictions of land ownership and national security laws.

Records obtained by the Enquirer show that Chiquita's executives and lawyers created the trust structure in 1991 and 1992 so the company-controlled entities could:

- ▶ Acquire land in Latin American countries for expanded banana production even though those nations' laws prohibit and/or limit such sales from directly to foreign property.
- ▶ Buy land in Honduras within 40 kilometers of the border despite laws that, for national security reasons — prohibit non-Hondurans from owning such land.
- ▶ Eliminate labor unions from many company-controlled banana farms or hinder their activity by forming smaller, supposedly independent companies that appear to be controlled by citizens of the host countries.

Photos by CHIROTA, Page 2

Power, money & control  
Pages 1-4

Violence & drugs  
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Politics & money  
Pages 12-14

Post photo  
The Cincinnati Enquirer's investigation into Chiquita was published in a special section May 3.

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### 'Got you' journalism destroys lives, careers

I read with shock and horror the story "An apology to Chiquita" (June 28). It is appalling that newspapers in this country and the *Enquirer*, in particular, resort to such low tactics in order to sell newspapers and attempt to win awards. When will reporters and editors realize that this brand of "got you" journalism destroys people's lives, careers and businesses? When will reporters and editors realize that not every fact and quote needs to be cast in a sinister light?

The *Enquirer's* settlement of "in excess of \$10 million" is far too little to compensate Chiquita and the officers and employees of Chiquita for the treatment they received. It is a shame that you did not conduct the due diligence necessary before printing the story that you obviously did in the last two months.

Chiquita deserves more than your simple apology — it deserves a retraction.

MARY SULLIVAN  
 Western Hills

### Offer an apology to people of Cincinnati

How responsible of the *Enquirer* to publish the letter of apology to Chiquita. I am certain that you did so only because you had no other recourse, and the consequences of

not apologizing would have been greater.

Next on your plate should be a general apology to the people of Cincinnati for the irresponsible, metropolitan views you have been passing off as journalism. The *Enquirer* has embarrassed Cincinnati enough. Cincinnati deserves a newspaper that is responsible and responsive to its public readers. This would be novel for the *Enquirer*. Let the tabloids publish their garbage — they are in the business of selling newspapers.

A city newspaper is (should be) in business to find worthwhile news of public interest and need and report it accurately and fairly. You have failed the public trust too many times.

CYNTHIA SOLOMON  
 West Chester

### For moral guidance, look to one like Lindner

This is a supreme irony in the *Enquirer's* having to reveal a lack of ethics in its own reporting on an alleged lack of ethics inside the Chiquita organization. What right did you have to even go down that road?

Carl Lindner, on the other hand, shown great ethical and moral fortitude during his decades of doing business and doing good, not only in Greater Cincinnati, but also worldwide. He has brought jobs to our area and kept them here. He has supported countless organizations in ways both large and small. He and

his companies have been a model for many of us who also operate businesses here.

I hope that our community continues to look to a Carl Lindner for moral guidance, and that we continue to look at any similar guidance from the *Enquirer* with considerable skepticism.

GEORGE L. MEINHARDT  
 East Price Hill

### Look out — bananas might 'squeeze' back

Dear Editor Lawrence Beaupre and Publisher Harry Whipple:  
 Please don't squeeze the bananas. "They" tend to squeeze back.

ELIZABETH R. COOMBE  
 Mason

### Readers let down by blaming only one

I read your apology to Chiquita and I am sorry that you pursued this type of attack on the Lindner family. You have been on their case for quite some time and, frankly, I don't quite understand this action. Carl Lindner has always been very generous to the city of Cincinnati, to the universities and God only knows what other gifts of grandeur he has given.

You let the readers of your paper and the entire community down by saying that only one person was responsible. In no way do I believe

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this: too much was involved. I am not associated with printing a newspaper, but as in any other business, one person usually does not have the say so, other than a ranking executive. I believe that others knew of this, but the *Enquirer* ignored good judgment.

It will be hard to believe the *Enquirer* in other so-called scoops that it comes up with. You have boasted of your being the No. 1 newspaper in Ohio. Now you will be faced with a lot of deep soul searching. I hope that a lot is learned, and good changes are made, but the *Enquirer* will not make a believer of me for quite some time. You are going to have a tough, uphill battle to overcome this. You have a lot of good people and many good columnists; make this situation right and become the newspaper that you claim to be — the best in Ohio.

**WILLIAM H. MUELLER**  
Anderson Township

### Responsible reaction is community role model

I have no connection to Chiquita. I have a strong connection to the *Enquirer* as a loyal reader for many years. I am proud that you put your apology up front and in bold where it belonged.

We earthlings are not perfect. The closest we can come is to admit our mistakes, say I am sorry and move forward. I teach this every day in my customer service classes. Thanks for being a role model to the community.

I forgive you. I hope the head Banana will as well.

**ROBERT G. KRAMER**  
Fairfield

### Think twice about self-inflicted damages

Regarding the *Enquirer's* Chiquita expose, I hope the *Enquirer* always remembers that while attempting to expose the faults and deficiencies of others, it potentially damages itself.

This mistake had to hurt.

**CHRIS VEHR**  
Grove City, Ohio

### Newspaper should cover story, not wire service

Having treated big business as a sacred cow for far too long, the *Enquirer* was courageous in investigating a major corporate institution and incurring the wrath of Chiquita CEO Carl Lindner. But the series on Chiquita did not reveal transgressions serious enough to warrant the big expose treatment. How could the *Enquirer* take such a major gamble, yet violate the fundamentals of responsible journalism?

People are rightly questioning why only one reporter is getting the rap. Projects such as this routinely undergo microscopic review by editors and legal counsel. What do they have to say for themselves? How do *Enquirer* reporters and editors feel

about living under the gag order imposed by management?

With near-monopoly status in print media in the metro area, the *Enquirer* is obligated to thoroughly report this story, as you would any story involving the clash of two major business institutions. Be bold enough to assign a couple of your best reporters to the task, instead of burying short Associated Press stories in the Metro section, which is the best we can expect in the weeks ahead. As other respected daily newspapers have done, hire a regular ombudsman to review, scrutinize and criticize the newspapers' reporting and editing. Then the *Enquirer* may begin to regain some public trust and respect.

**GREG LOOMIS**  
Mount Washington

### Will made-up weather forecasts come next?

Regarding the *Enquirer's* Chiquita stories, what other stories have been created by your staff over the years? What news will be pulled out of thin air in the future? I have a pretty active imagination. Maybe you could hire me to, oh, I don't know, make up some weather reports or something. I will never trust another word printed in the *Enquirer* again (until I see the headline: "Enquirer goes out of business due to loss of credibility").

**SCOTT JACOBS**  
Fairview

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Journal-News  
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"Newspaper: Chiquita Satisfied With Settlement, Apology"  
By: Associated Press

# Newspaper: Chiquita satisfied with settlement, apology

The Associated Press  
CINCINNATI

The president of Chiquita is quoted as saying he is satisfied with the apologies that The Cincinnati Enquirer published after discovering flaws in its May 3 report that accused the fruit company of questionable operations.

"What we wanted was a statement that would restore our reputation," Chiquita President Steven Warshaw said in an interview with The Cincinnati Post. "And we got that."

The Post reported Saturday that after the first apology appeared in last Sunday's Enquirer, Chiquita employees gathered Monday at the company's Cincinnati headquarters for a celebration one participant described as "a bit more restrained than a British soccer crowd."

"People felt like they'd been through hell — not just for the past two months, but for the last year," Warshaw told the newspaper. "But they'd never lost faith. There was a lot of relief and emotion in that room."

Chiquita spokesman Joseph Hagin could not immediately be reached Saturday. A message seeking comment on the Post story was left at his office.

The newspaper's front-page apology was the first of three promised in its settlement with Chiquita. The newspaper renounced the series and announced it had fired lead reporter Michael Gallagher, saying he had illegally obtained Chiquita employees' voice-mails in pursuit of the story.

The announcement came in the midst of an investigation by a special prosecutor into whether any Enquirer employee broke the law in connection with

the story. The Hamilton County sheriff's office and the FBI also are investigating. At least two people — Gallagher and former Enquirer business reporter Jeff Harrington — have been subpoenaed to testify before a grand jury looking into the case.

Shortly after the 18-page series questioning Chiquita's business practices in Central America and elsewhere was published, Chiquita began preparing to file a libel suit, the Post said. Chiquita strongly denied the stories and accused the Enquirer of stealing voice mails but did not sue the newspaper.

On Thursday, however, Chiquita sued Gallagher in federal court, accusing him of defamation, and 11 other counts, including stealing thousands of voice-mails with the help of three current or former Chiquita employees. Gallagher was not a party in the settlement between Chiquita and the Enquirer.

Warshaw said that despite the apologies, he still believes damage has been done.

"It's been an enormous distraction," Warshaw said. "We did not need to have that kind of havoc and devastation. I keep coming back to the belief that the facts are what count."

"But, would I be happier than I am now if May 3 had never happened? Absolutely."

He also told the Post, "How can you have 18 pages of stories about a company and not find a single good thing to say about it? Are you going to call that balance?"

Enquirer Publisher and President Harry Whipple, reached at home Saturday, declined to comment on the Post story. Gallagher also has declined to comment. Whipple has said he will not discuss the case in the media.

Beyond the contents of the newspaper's published apology, Whipple will not comment on the controversy, although he told the Post the newspaper is "still evaluating ... personnel matters." Terms of the settlement preclude much discussion, since both sides agreed not to release details.

**How can you have 18 pages of stories about a company and not find a single good thing to say about it? Are you going to call that balance?**

Steven Warshaw  
Chiquita president

The newspaper apologized for "the untrue conclusions" in the series but did not comment in depth.

One Chiquita critic contends that the theft of the voice mail does not change the story's conclusions.

"I think the story absolutely stands," said Larry Birns, a Gallagher source and president of the Washington-based Committee on Hemispheric Affairs.

But George Kennedy, managing editor of the Columbian Missourian and a journalism ethics expert, disagreed.

The settlement "suggests that the paper didn't see very much at all, in either its methods or the stories, it could defend — and feared losing much more in court."

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 "Chiquita sues Former Enquirer Reporter Gallagher"  
 By: John Nolan, Associated Press

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# Chiquita sues former Enquirer reporter Gallagher

## Company alleges theft, defamation

BY JOHN NOLAN  
 The Associated Press

Chiquita Brands International Inc. on Thursday sued a former reporter for *The Cincinnati Enquirer*, claiming he stole confidential voice mail for a newspaper series that questioned the company's business practices.

Reporter Michael Gallagher was fired from his job at *The Enquirer* on June 26, two days before the newspaper renounced the series in a front-page apology to Chiquita, and

announced it would pay the company a settlement worth more than \$10 million. Chiquita had accused the paper of stealing the voice mails but had not sued.

The lawsuit filed Thursday in U.S. District Court in Cincinnati does not name the newspaper. It seeks unspecified damages from Mr. Gallagher, accusing him of defamation, trespass, conspiracy, fraud and violations of electronics communications privacy statutes.

It also seeks a court order preventing Mr. Gallagher from any similar conduct against Chiquita, and demands he re-



turn all proprietary materials and identify those to whom he gave the illegally obtained materials.

Chiquita's lawsuit alleges that M. Gallagher engaged in a systematic smear campaign, used past and present Chiquita employees to gain access to the voice mails and raided the password-protected boxes.

"The full extent of the defamation against Chiquita is expansive," the lawsuit said.

"There has seldom, if ever, been a defendant in a libel case who has exhibited such acute and calculated malice toward his target."

Neither Mr. Gallagher nor his attorney returned messages Thursday seeking comment.

Investigations into whether any laws were broken in pursuit of the 18-page series have been under way for a month.

The FBI is investigating possible wrongdoing in connection with the series. *The Cincinnati Post* reported Thursday that agents are focusing on whether anyone violated wiretapping laws in obtaining Chiquita employees'

voice-mail messages.

FBI spokeswoman Tracey Heinlein confirmed only that the FBI is investigating.

The Hamilton County sheriff has been investigating for about a month, and special prosecutor Perry L. Ancona was appointed to look into the matter June 1. He has been working with a grand jury, which heard testimony from at least one former *Enquirer* reporter this week.

*The Post* said the FBI is focusing on a federal wiretapping statute that outlaws intercepting private, electronic communications without a court order or permission

from the parties involved. Because Ohio law is so similar, the FBI and sheriff's investigators are coordinating their efforts, *The Post* said.

Harry M. Whipple, president and publisher of *The Enquirer*, declined to comment.

Chiquita spokesman Joseph Hagin said the newspaper wired the cash stipulated in the settlement Wednesday.

Mr. Gallagher has been called to testify before the grand jury, but Tuesday asked a judge to throw out the subpoena.

The grounds for his request are not public; court records in the case were sealed Tuesday at Mr. Ancona's request.

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### Trouble in the newsroom

Recent incidents involving inaccurate reports in the media:

- **CNN-NERVE GAS:** CNN on Thursday retracted its story that the U.S. military used nerve gas during a Vietnam-era mission to kill American defectors.
- **ENQUIRER-CHICUITA:** The Cincinnati Enquirer on Sunday ran a front-page apology to Chiquita Brands International Inc., saying stories questioning the company's business practices were untrue and based on stolen voice mail. The newspaper fired the lead reporter and paid more than \$10 million.
- **GLOBE COLUMNIST:** Boston Globe columnist Patricia Smith, a 1998 Pulitzer Prize finalist, was forced to resign last month after admitting she made up people and quotations in four columns this year.
- **FABRICATIONS:** Editors at the New Republic apologized last month after discovering that associate editor Stephen Glass — since fired — invented all or part of 27 articles.

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 "Trouble in the Newsroom"

# Chiquita sues

# ex-Enquirer reporter

By Cliff Peels  
Post staff reporter

Chiquita Brands International Inc. sued former Cincinnati Enquirer reporter Michael Gallagher on Thursday, charging that he illegally tapped into voice-mail messages to write a critical series on the company.

Cincinnati-based Chiquita already has collected more than \$10 million from the Enquirer to settle any claims against the newspaper, but the federal court suit filed Thursday names Gallagher as a defendant.

It also claims for the first time that Gallagher had help from current or former Chiquita employees who aided his efforts to tap into the company's internal voice-mail system.

The Enquirer filed Gallagher last Friday and apologized for the May 3 package of

stories titled "Chiquita Secrets Revealed." It also "renounced" the articles and removed them from its Web site.

The complaint charges that Gallagher and current or former employees dialed into Chiquita's voice-mail system as many as 13 times in one day. Despite promises from Gallagher and editors at the Enquirer, they also ignored information provided by Chiquita that was favorable to the company, the suit charges.

"Both the false and misleading nature of Gallagher's defamatory articles as well as the unlawful conduct against Chiquita have been confirmed by the Enquirer, the very newspaper upon which Gallagher tolerated his false and tainted 'journalism,'" the lawsuit claims.

"There has seldom, if ever, been a detention claim.

## Chiquita's accusations

Specific allegations of Chiquita Brands International's lawsuit against former Enquirer reporter Michael Gallagher:

- In one 10-day period (just before the May 3 publication of the articles, the voice-mail system was invaded more than 50 times, according to Chiquita's phone records.
- Gallagher never asked Chiquita whether there was any executive with authority over the voice-mail system, the confidential source he cited in the articles.
- Gallagher shared the voice-mail messages with Ernst Otto Stallinski, who has filed a suit against Chiquita, and Robert Manley, Stallinski's Cincinnati-based lawyer.
- Some Chiquita employees were denied access to their own voice-mail boxes as Gallagher invaded the system. The system only permits one user at a time, Chiquita said.

Chiquita does not ask for a specific amount of compensation or punitive damages, but charges Gallagher with violating federal and state wiretapping laws, fraud and other illegal acts.

A Hamilton County grand jury has subpoenaed Gallagher and other current and former Enquirer employees in connection with the wiretapping charges, and FBI officials are investigating possible federal violations.

Gallagher's attorney, Patrick Hanley, not return phone calls seeking comment. Chiquita officials declined to comment beyond the complaint.

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"Chiquita: 'They Didn't Care About Our Side' "

**CHIQUITA VS. THE ENQUIRER****Chiquita: 'They didn't care about our side'**

By Barry M. Horstman  
and Cliff Pease  
Post staff reporters

Even before he had time to start reading the Cincinnati Enquirer's special 18-page section about his company on May 3, Chiquita Brands International President Steven Warshaw found all that he needed to know — and feared — in the headlines.

"Bribe scheme covered up." "Village destroyed." "Villagers fear brutal guards." "Workers lead precarious lives in squalid camps." "Workers sprayed in the field." "Death on farm shows danger." "Contributions buy influence."

The year-long project would not make for pleasant breakfast reading for Warshaw and other Chiquita executives.

The section — subsequently repudiated by the Enquirer in a front-page apology — accused Chiquita, the world's largest banana producer, of a sweeping array of questionable practices. The charges included allegations that:

■ Chiquita secretly controls dozens of supposedly independent banana companies through business structures designed to avoid restrictions on land ownership and security laws in Central American countries.

■ Chiquita and its subsidiaries are engaged in pesticide use that threatens the health of workers

and nearby residents, despite an agreement with an environmental group to adhere to safe practices.

■ A worker on a Chiquita subsidiary farm died in November 1987 after exposure to toxic chemicals in a banana field, according to a local coroner's report.

■ Employees of Chiquita and a subsidiary were accused of involvement in a bribery scheme in Colombia that has come to the attention of the U.S. Securities and Exchange Commission. Two employees have been forced to resign.

Chiquita vigorously disputed all of the charges, arguing that they were distorted and unfairly presented and ignored reams of contrary evidence that reflected favorably on the company.

One example, and a charge that clearly enraged Chiquita officials, was the story headlined "Drugs found on Chiquita ships: lax company security in Colombia blamed for smuggling."

Chiquita had given the Enquirer a Dec. 17, 1987, letter from the U.S. Customs Service that called the company "a leader" in the prevention of drug smuggling. That letter is quoted in the story, but did not prevent the sensational headline, Chiquita officials said.

"They ignored or discounted everything — everything! — we gave them," Warshaw complained. "They didn't care about our side."

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*"Contract at Fernald extended"*

By Rachel Melcer

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# Contract at Fernald extended

**BY RACHEL MELCER**

The Cincinnati Enquirer

Closing a chapter in the cleanup of the former Fernald uranium processing plant, the Department of Energy (DOE) Tuesday announced the extension of site manager Fluor Daniel Fernald's contract through November 2000.

The one-year extension of a contract that had already assured Fluor Daniel's position through November 1999, is valued at \$305 million.

It represents a vote of confidence in the contractor that came under heavy fire two years ago for inefficiency, a poor safety record and failure to comply with cleanup procedures.

"If you took any one of these issues by themselves, they might not constitute an overriding concern. But

when they started popping up into a cluster, that was a little different," said Glenn Griffiths, DOE deputy director of the Fernald environmental management project. "It led DOE to the conclusion that we had to take a step back . . . and look at these safety issues."

In the fall of 1997, the DOE gave Fluor Daniel a two-year contract — rather than the expected three-year deal — and required the company to complete a nine-month assessment and improvement report on its cleanup procedures. Over the past 30 days, DOE officials have reviewed and verified the report.

Lisa Crawford, founder of Fernald Residents for Environmental Health and Safety (FRESH), said she is not surprised that Fluor Daniel won the extension. Her grass-roots organiza-

tion supported the contractor in 1996 because "it would have been really chaotic to just change contractors," she said.

"We were in their corner. At the same time, we were challenging them to do the right thing," she added.

John Bradburne, the company's president and chief operating officer, circulated a congratulatory memo to employees and they will celebrate with an on-site picnic Thursday.

Fluor Daniel will continue, however, without handling one of the most lucrative and important projects on site: the treatment and removal of dangerous radioactive materials from two storage silos.

DOE officials decided that project, which was abruptly halted after a meltdown in December 1996, will be handled by outside contractors.

000023

July 1998

Small Business News

Page 9

"A Common Interest...Clean Water"

By: staff writer

1 of 1

1500

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Advertisement

## A Common Interest...Clean Water

Clean water may be something most of us take for granted, but the employees at the Fernald Environmental Management Project take it very seriously. They recognize that cleaning up the water is one of the most important challenges facing the U.S. Department of Energy (DOE) and Fluor Daniel Fernald, the company managing the cleanup.

Their challenges include extracting uranium from both the Great Miami

Aquifer located beneath the site, and from rainwater runoff generated from other cleanup activities. In 1993, DOE and Fluor Daniel Fernald converted a building slated for uranium processing into a water treatment plant. New technologies in place at Fernald will clean the water much faster than previously expected. According to Cathy Glassmeyer, just one member of the talented team of Fluor Daniel Fernald chemical engineers, original estimates indicated it would take about 27 years to treat the water. "The new technologies we

are implementing at Fernald will now allow us to finish the project within the next 10 years," she said. "As a matter of fact, a new module being added to the water treatment facility this spring will more than double our capacity to treat water."

The process they use to treat the contaminated water surrounding the Fernald site is similar to the process found in home water softeners except this ion exchange removes uranium instead of water "hardness."

Glassmeyer and approximately 50 other employees work in Fernald's water treatment facility. "It's great to work with a group of talented, dedicated people who have a common goal - cleaning up the

water," Glassmeyer said. "I have been working on this project for almost four years and it's rewarding to see the progress that has been made." To date, they have treated more than 8 billion gallons of water and removed approximately two thousand pounds of uranium.

"I have worked at the site for more than thirteen years," added Glassmeyer. "It has truly been a rewarding experience. Not only have I earned a masters degree through Fernald's education program, but I now teach

environmental courses to college students. I have also had the pleasure of educating hundreds of elementary students about the Fernald cleanup. Fernald is a great place to work because I know my efforts are really making a difference."



"The new technologies we are implementing at Fernald will now allow us to finish the project within the next 10 years."

Cathy Glassmeyer  
Chemical Engineer

To find out more about Fluor Daniel Fernald, including current subcontracting opportunities available, visit our web site at <http://www.fernald.gov>

**FLUOR DANIEL  
FERNALD**

000024

July 7, 1998

Journal-News

Front Page

"Engineers Shore up Creek"

By: Nicholas G. Jonson

# Engineers shore up creek close to Fernald sites

By Nicholas G. Jonson  
Journal-News  
ROSS TOWNSHIP

Rushing, rain-swollen waters in Paddy's Run Creek have slowly eroded more than 350 feet of the embankment near the former Fernald uranium processing plant.

The erosion cuts dangerously close to what Fernald engineers call the "southern waste units," a section in the southwest corner of the site where former Fernald workers dumped ura-

anium-contaminated material.

To prevent further erosion, engineers are using a recently developed bioengineering method that utilizes coconut fiber matting and willow plants.

Engineers at the U.S. Department of Energy and Fluor Daniel Fernald have turned to this method as a potentially cheaper alternative than the more traditional method of bracing the stream bank with rocks and boulders.

"It's a good mixture of natural material to hold moisture in the soil and a good medium to allow plants to grow,"

said Eric Woods, Fluor Daniel water and soil project engineer.

To begin the project, construction crews first widened the stream by as much as 25 feet in some parts. That allowed the water to flow more easily through twists and turns in the stream. The banks were then graded into gradual slopes.

After replacing about 6 inches of topsoil, workers with Munro Ecological Services Inc. covered the bank with willow, sage, bulrush and tall grass seeds.

They then began the process of lay-

ing 6-foot-long horizontal mesh panels of coconut fiber. The first panel is placed at the base of the stream and secured by a 4-foot log, which workers secure with wooden stakes. Concentric layers of matting are then placed up the stream bank.

To secure the panels, 18-inch wooden stakes are driven into overlaid portions of matting followed by willow stakes at various intervals. A final thin layer of topsoil is then placed on the matting.

(Please see FERNALD, Page A2)

## Fernald

(Continued from Page A1)

As the seeds begin to take root, the coconut matting will gradually degrade and become part of the soil.

Though the method is not always a substitute for securing stream banks with rocks, or riprap, it is more environmentally friendly, engineers said.

"The (Ohio Environmental Protection Agency) is pushing for this," Fluor Daniel engineer Jyh-jung Chiou said. "They don't like to see much riprap."

# Erosion eradicators

Workers from  
Munro Ecological  
Services Inc. drive  
willow stakes  
through coconut  
matting recently to  
ease streambank  
erosion at Paddy's  
Run Creek near the  
former Fernald  
uranium processing  
plant.

Submitted photo

000026



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July 9, 1998

Hamilton Journal News

A3

*"Fernald cleanup takes longer"*

# Fernald cleanup takes longer

## Waste company gets one-year extension to rid radiation from processing plant

The Associated Press  
CINCINNATI

The company cleaning up thousands of tons of radioactive wastes from the government's closed uranium processing plant will get another year to do the job, a federal official said Wednesday.

The U.S. Department of Energy, which owns the 1,050-acre Fernald site, has extended the contract of Fluor Daniel Fernald Inc. through November 2000, said Jack Craig, the DOE's director at Fernald.

Last fall, the department extended the contract through 1999.

Fluor Daniel Fernald received the additional year

when it satisfied Energy Department requirements, including devising a plan for moving nuclear materials safely on site and ensuring that health and safety concerns were addressed, Craig said.

In 2000, the Energy Department will ask for bids to raze the site's contaminated buildings, treat hazardous wastes in ground pits and remove and treat radioactive sludge wastes stored in three concrete silos.

The silo project may take until 2008 to complete, but the other site cleanup could be finished in 2006, Craig said. That could be followed by up to 30 years of monitoring ground water and an on-site perma-

nent waste storage cell that could cost several million dollars each year, Craig said.

Congress has approved a \$262 million budget for cleanup work at Fernald through Sept. 30, the end of the current federal budget year. The Energy Department has requested \$275 million for the next fiscal year, but Congress could change that when it authorizes new spending.

Fluor Daniel Fernald could earn up to \$17.3 million this year based on how Energy Department managers rate the company's performance.

The company has run the Fernald cleanup project since December 1992. It is a subsidiary of Fluor Daniel Inc., the main operating unit of Fluor Corp., the engineering and construction company based in Irvine, Calif.

000027

July 9, 1998  
*Cincinnati Enquirer*  
 B1  
 "Ex-reporter tries to avoid testifying to grand jury"  
 By John Nolan

## Ex-reporter tries to avoid testifying to grand jury

**Court hearing is delayed and ordered closed**

**BY JOHN NOLAN**  
 The Associated Press

The former star reporter accused by *The Cincinnati Enquirer* of botching its report on Chiquita's business practices went to court Wednesday to tell a judge and the media that he didn't want to talk.

"No comment. No comment," Michael Gallagher repeated over and over, calmly at first in a courtroom seat, then some more when he tried



M. Gallagher lawyers appeared in Hamilton County Common Pleas Court to request that he not be compelled to testify before a grand jury about accusations he raided Chiquita Brands International Inc.'s voice mail system.

A judge postponed a hearing on that request until July

22 and ordered that it be held in private. Judge Norbert Nadel also sealed all records in the case, citing the secrecy normally accorded to a grand jury's work.

Mr. Gallagher and his

lawyers appeared in Hamilton County Common Pleas Court to request that he not be compelled to testify before a grand jury about accusations he raided Chiquita Brands International Inc.'s voice mail system.

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22 and ordered that it be held in private. Judge Norbert Nadel also sealed all records in the case, citing the secrecy normally accorded to a grand jury's work.

A special prosecutor is guiding the grand jury investigation into whether property, including confidential voice mail messages, was stolen from Cincinnati-based Chiquita. The company alleges that Mr. Gallagher used the voice-mail information to produce highly critical stories published by the *Enquirer* on May 3 and renounced by the newspaper in a front-page apology on June 28.

The newspaper has fired Mr. Gallagher, saying it believed he may have stolen proprietary information from Chiquita and lied to his editors about it. The *Enquirer* paid Chiquita more than \$10 million to settle the company's claims — even though Chiquita had not sued the *Enquirer*.

Mr. Gallagher was not party to the settlement and was sued by Chiquita last week, in addition to being subpoenaed by the special prosecutor.

His lawyers had asked another county judge, John O'Connor, to hear the request Wednesday to throw out the subpoena. Judge O'Connor said

Judge Nadel, as administrative presiding judge, asserted a right to take over the case.

Judge Nadel assigned himself another high profile case in May — Hamilton County's pending prosecution of *Hustler* magazine publisher Larry Flynt on charges Mr. Flynt violated obscenity laws by selling explicit sex videotapes. Mr. Flynt's lawyers objected and Judge Nadel reluctantly had that case randomly assigned to another judge.

Chiquita's lawsuit accused Mr. Gallagher of posing questions to company representatives, then eavesdropping on the voice mail of Chiquita law-

yers and executives as they prepared their responses. Mr. Gallagher, 40, has consistently declined to comment.

His lawyer, Patrick Hanley, and special prosecutor Perry Ancona also would not answer media questions Wednesday.

The lawsuit complained that Mr. Gallagher violated company executives' personal privacy and their lawyer-client confidentiality, obtaining more than 2,000 voice mail messages.

Chiquita also alleged that Mr. Gallagher passed confidential information on to the company's critics and damaged its business reputation.

000028

**July 2, 1998**  
**The Register**  
**Page A5**  
**"Fernald Meeting"**  
**By: Tina O'Connell**

1 of 1

1568

### **Fernald meeting**

The U.S. Department of Energy and Fluor Daniel Fernald will hold a Fernald cleanup progress briefing at 6:30 p.m. (DST, fast time) Tuesday, July 14, at the Fernald site in the Services Building conference room, 7400 Willey Road.

A presentation on the Soil Characterization and Excavation Project will follow. For more information, call Gary Stenger, DOE Public Affairs, at 1-513-648-3153.

000029

July 2, 1998  
 The Register  
 Page A6  
 "Fernald Post-cleanup Constructed"  
 By: Tina O'Connell

1 of 1

## Fernald post-cleanup constructed

By Tina O'Connell  
 Staff Writer

The United States Department of Energy is composing a proposal for the eventual use of the Fernald Environmental Management Project when site cleanup is completed.

The DOE has spent about three years working with Fluor Daniel Fernald exploring possibilities for the ecological restoration of the site, said DOE public affairs official Gary Stegner.

The Comprehensive Environmental Response Compensation and Liability Act, or CERCLA, went into effect in 1980 which established a priority list for cleanup of nuclear waste sites, said Eric Woods, a senior technical specialist in the strategic planning department of Fluor Daniel Fernald.

The State of Ohio filed a claim against the federal government for \$205 million claiming injury against its natural resources and the Fernald Environmental Management Project was placed on the list in 1986, said Woods.

CERCLA states that if a party damages a natural resource, it must restore or make compensation for the damage, he said.

The DOE has an obligation to repair the damage it did to the environment, said Woods.

The Natural Resource Trustees recommend that all but 23 acres of the 1,050-acre site be remediated back to its natural state.

There were about 10 acres of wetlands destroyed during site cleanup. The proposal calls for restoration of 15 acres of wetlands to compensate for the loss, said Woods.

A 23-acre section is tentatively planned for economic development. The Citizens Reuse Organization (CRO) is conducting a study of possibilities to compensate for losses to the local economy when site cleanup is complete, he said.

About 2,000 Fluor Daniel Fernald employees will be unemployed when the site is restored, said Woods.

DOE has sought input from CRO, Fernald Residents for Environmental Safety and Health, citizen advisory boards, representatives from the United States Department of the Interior and trustees from Crosby, Morgan and Ross Townships. More than 80 percent of the Fernald site is in Crosby Township, said Woods.

The tentative proposal calls for DOE to maintain ownership of Fernald site. This will allow the federal government to maintain and monitor the site indefinitely, he said.

Ecological restoration of the site will cost about \$275 million per year for the next seven or eight years, said Stegner.

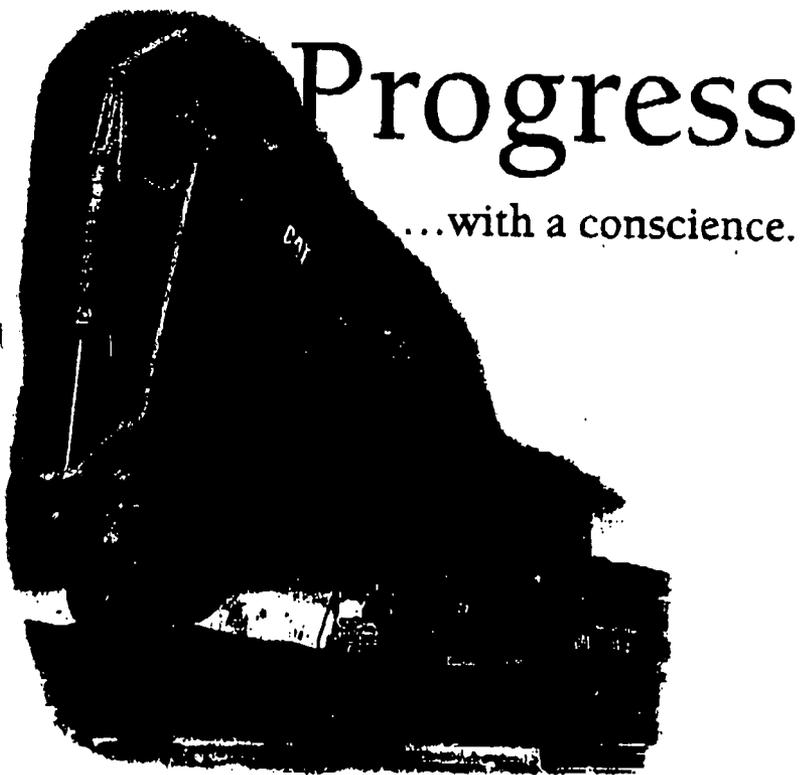
DOE intends to hold a hearing to accept the proposal sometime in the fall, he said.

"Cleanup is projected to be complete in 2006," said Woods. "Fluor Daniel Fernald's contract runs for another two years. So far our government funding has been adequate but who knows what will happen in the future."

000020

July 3, 1998  
Business Courier  
Page 27  
Petro Advertisement

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PROUD TO BE A MAJOR SUBCONTRACTOR FOR FLUOR DANIEL FERNALD

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000031

July 9, 1998  
Hamilton Journal News  
B12  
"Fired reporter gets two additional weeks to fight subpoena"  
By John Nolan

# Fired reporter gets two additional weeks to fight subpoena

By John Nolan  
The Associated Press  
CINCINNATI

The former star reporter accused by The Cincinnati Enquirer of botching its report



Gallagher

on Chiquita's business practices went to court Wednesday to tell a judge and the media that he didn't want to talk. "No comment," Michael Gallagher repeated over and over, calmly at first in a courtroom seat, then some more when he tried to brush past the pack of reporters and photographers dogging him down a courtroom hall.

Gallagher and his lawyers appeared in Hamilton County Common Pleas Court to request that he not be compelled to testify before a grand jury about

accusations he raided Chiquita Brands International Inc.'s voice mail system for stories about the banana company.

A judge postponed a hearing on that request until July 22 and ordered that it be held in private. Judge Norbert Nadel also sealed all records in the case, citing the secrecy normally accorded to a grand jury's work.

A special prosecutor is guiding the grand jury investigation into whether property, including contents of confidential voice mail messages, were stolen from Cincinnati-based Chiquita. The company alleges that Gallagher used the voice-mail information to produce highly critical stories published by the Enquirer on May 3 and renounced by the newspaper in a front-page apology on June 28.

The newspaper has fired Gallagher, saying it believed he may have stolen proprietary information from Chiquita and lied to his editors about it. The Enquirer paid Chiquita more than \$10 million to settle the company's claims — even

## STATE

though Chiquita had not sued the Enquirer.

Gallagher was not party to the settlement and was sued by Chiquita last week, in addition to being subpoenaed by the special prosecutor.

His lawyers had asked another county judge, John O'Connor, to hear the request Wednesday to throw out the subpoena. O'Connor said Nadel, as the court's administrative presiding judge, asserted a right to take over the case.

Nadel assigned himself another high profile case in May — Hamilton County's pending prosecution of Hustler magazine publisher Larry Flynt on charges Flynt violated obscenity laws by selling explicit sex videotapes. Flynt's lawyers objected and Nadel reluctantly had that case randomly assigned to another judge.

Chiquita's lawsuit accused Gallagher of posing questions to company representatives,

then eavesdropping on the voice mail of Chiquita lawyers and executives as they prepared their responses. Gallagher, 40, has consistently declined to comment about the lawsuit.

His lawyer Patrick Hanley and special prosecutor Perry Ancona also would not answer

any questions from the media on Wednesday.

The lawsuit complained that Gallagher violated company executives' personal privacy and their lawyer-client confidentiality, obtaining more than 2,000 voice mail messages. It said the intrusions were aided by current and former employ-

ees, went on for several months and violated state and federal laws banning unauthorized interception of electronic communications.

Chiquita also alleged that Gallagher passed confidential information on to the company's critics and damaged its business reputation.

July 10, 1998  
Cincinnati Enquirer  
Page D4  
"Enquirer case judge received Chiquita money"  
Associated Press

1568

# Enquirer case judge received Chiquita money

The Associated Press

CINCINNATI

A Hamilton County judge received campaign contributions from people connected to an investigation of whether private voice mail messages were stolen from the Chiquita banana company, The Cincinnati Post reported Thursday.

Common Pleas Judge Norbert Nadel on Wednesday assigned himself to the case. He has scheduled a hearing July 22 on whether to grant fired newspaper reporter Michael Gallagher's request to throw out a subpoena ordering Gallagher to testify on the matter before a grand jury.

Nadel received \$825 in campaign donations between 1990 and 1996 from Carl H. Lindner, Chiquita Brands International Inc.'s chairman and chief executive officer, and his family, county Board of Election records showed.

Nadel also received a \$125 campaign contribution from Perry L. Ancona, the special prosecutor working with the grand jury, according to election records the Post cited. Ancona issued the subpoena to Gallagher.

Gallagher wrote stories The Cincinnati Enquirer published May 3 questioning Chiquita's business practices. Chiquita denied the stories and said they were based on voice-mail messages stolen from the voice-mail system.

The Enquirer fired Gallagher on June 26 and agreed to pay Chiquita more than \$10 million to settle claims against it, although Chiquita had not sued the newspaper owned by Gannett Co. Inc. Gallagher was not party to the settlement and has been sued by Chiquita.

The Enquirer also renounced the stories June 28, saying it could no longer stand behind them because management believed Gallagher may have been involved in theft of the voice mail messages and had deceived his editors about it.

Chiquita spokesman Joseph W. Hagin said the company was not aware of Nadel handling the case until contacted by the Post.

"We're not ... involved in the criminal investigation. It's in the hands of law enforcement," he said.

000033

July 10, 1998  
Journal News  
Page D1

"Judge got contributions from Chiquita execs"  
Associated Press

# Judge got contributions from Chiquita execs

## Nadel also got donations from prosecutor

The Associated Press

The judge who assigned himself the case of a former *Enquirer* reporter received campaign contributions from both Chiquita executives and the special prosecutor investigating whether private voice mail messages were stolen from the banana company, a newspaper reported Thursday.

Common Pleas Judge Norbert Nadel on Wednesday assigned himself to the case. He

has scheduled a hearing July 22 on whether to grant fired *Cincinnati Enquirer* reporter Michael Gallagher's request to throw out a subpoena ordering Mr. Gallagher to testify on the matter before a grand jury.

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Norbert Nadel

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*The Enquirer* also renounced the stories June 28, saying it could no longer stand behind them because management believed Mr. Gallagher may have been involved in theft of the voice-mail messages and had de-

ceived his editors about it. Mr. Gallagher, 40, has repeatedly declined comment.

After Judge Nadel assigned himself to handle Mr. Gallagher's case, he said the hearing would be held privately because it is part of secret grand jury proceedings.

Judge Nadel did not return a call to his office Thursday.

Mr. Gallagher and his lawyer did not return calls. Mr. Ancona, reached by telephone, declined to comment.

The Lindner family and its companies have for years been big contributors to many local, state and national political

campaigns.

Sandra Heimann, a spokeswoman for Carl Lindner, confirmed his contributions to Judge Nadel. Ms. Heimann said Mr. Lindner has the same right as other Americans to make such contributions. She said they pale compared with the \$100 million she said Mr. Lindner has donated to various charities during the past decade.

Prosecutor Joseph Deters had a special prosecutor appointed to handle the Chiquita case in May because Mr. Deters had received campaign contributions from Mr. Lindner and his family.

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