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August 18, 2003

Mr. Bill Kurey
U.S. Fish & Wildlife Service
6950 American Parkway, Suite H
Reynoldsburg, OH 43068-4132

Mr. Tom Schneider
Ohio EPA
401 East Fifth Street
Dayton, OH 45402-2911

Mr. Pete Yerace
DOE Fernald
7400 Willey Road
Hamilton, OH 45013-9402

Dear Sirs:

On May 8, 2003, the Fernald Citizens Advisory Board hosted a roundtable discussion of the State of Ohio's Natural Resource Damages claim at Fernald and its potential settlement (Case No. C-1-86-0217). We appreciate the participation of each of the Natural Resource Trustees in this event and their willingness to discuss the issues with us. We gained a much greater insight into both the process and the status and have identified the major questions that must be resolved before settlement is possible. While we expected to identify such issues, we were quite surprised at the lack of a clear process or timeline for resolving these issues and reaching a settlement of the claim.

As a result of the workshop, the FCAB identified three major unresolved issues that present the greatest obstacles to reaching settlement. First, there is disagreement regarding the amount of time required to ensure that ecological restoration projects are established and how long DOE will be responsible for maintaining ecological conditions at the site. Second, it is unclear what is appropriate for DOE to pay as compensation for groundwater damages or how those dollars should be spent. Third, the Trustees have not determined the degree to which the construction or maintenance of educational and other public facilities (such as an education center, trails, or parking areas) could be supported by the settlement.

Each of these issues would have a profound impact on the Fernald community, because resolution of these issues will partly determine conditions of the site after remediation is completed. The Fernald community has repeatedly communicated its desire that the remediated site continue to serve as an integrated community resource and asset. This is an essential component of creating a legacy of community-based stewardship necessary for the long-term understanding and acceptance of the vast quantities of hazardous materials that the Department of Energy is leaving behind in our community. Therefore, the FCAB advocates that the following principles be used to guide the resolution of these issues:

- Public education remains the primary focus of the future of the Fernald site.
- Because cleanup levels at Fernald will require perpetual stewardship and federal ownership, any settlement of the Natural Resource Damages claim should ensure that resources are set aside to provide for the perpetual care for natural features of the site and any attendant public facilities to be constructed.

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- The FCAB fully supports the placement of any monetary payments into an interest-bearing trust, which can be used to maintain ecological restoration projects and public facilities over the long term.
- Although DOE bears the ultimate responsibility for ongoing stewardship of natural resources at the site, the FCAB supports the development of partnerships with nonprofit organizations, academic institutions, and local governments in order to conduct necessary maintenance and other beneficial activities.
- The amount of any monetary compensation for damages to groundwater should be based on reasonable cost estimates for long-term support of the programs or activities, including long-term maintenance, that those dollars will be expected to support.

The Fernald Citizens Advisory Board has a long history of constructive input to the Fernald site remediation. Our recommendations on cleanup levels and accelerated cleanup resulted in over \$2 billion of savings by DOE's own estimates. Not having to backfill excavated areas or bring in expensive topsoil is saving an estimated \$40 million more. We are concerned by DOE's recent shift in approach to its long-term responsibilities, which will leave the community with a site that, while presumably managing human health risks, serves no useful purpose. We believe such an approach will quickly lead to community backlash against the wastes that have been left behind, which is certainly not in anyone's interests.

The Fernald Citizens Advisory Board looks forward to a continued relationship with the Natural Resource Trustees and to providing input on any potential settlement of the Natural Resource Damages claim. If you have any questions regarding the issues discussed in this letter or if there is any way that the FCAB can be of assistance to you or your organization, please do not hesitate to contact me.

Sincerely,



Jim Bierer
Chair

cc:

The Honorable S. Arthur Spiegel
Senator Mike DeWine
Senator George Voinovich
Representative John Boehner
Representative Steve Chabot
Representative David Hobson
Representative Rob Portman
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Sandra Waisley
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