



February 9, 2004

Mr. William Taylor
Fernald Closure Project
7400 Willey Road
Hamilton, OH 45013-9402

Dear Mr. Taylor:

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Vice Chair

Lisa Crawford

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The Perspectives Group

The Fernald CAB has reviewed the November, 2003 draft of the Comprehensive Legacy Management and Institutional Controls Plan, Volume 2. We appreciate the opportunity to read this draft, discuss its contents with site personnel, and to provide the comments contained in this letter. Over the past several years, the Fernald CAB has focused extensively on how the site will be managed after closure and intends to remain engaged in this issue.

General Comments

Overall, this plan is a reasonable approach for delineating DOE's intent to meet current requirements for the surveillance and maintenance of institutional controls. The document is well organized and we appreciate the summative tables in each section. We also endorse the inclusion of detailed subject-specific documents as appendices to this Institutional Controls Plan, and we look forward to reviewing the updated versions of these documents.

We remain frustrated, however, with the failure of DOE leadership to push beyond current requirements to find mechanisms that would further ensure the integrity of the remedy at Fernald. In our 2002 report, *Telling the Story of Fernald*, the CAB explained the importance of continued community awareness of the controls needed to protect human health and the environment at the site. On page 27 of this report, we postulate, "Public awareness should, in itself, be considered an institutional control." Awareness is at the core of a management system for which the Fernald CAB coined the term Community-Based Stewardship. These positions were further explained in a November 19, 2003 letter to Assistant Secretary for Environmental Management, Jessie Roberson. More specific comments are provided below.

Specific Comments

Section 2.1.2

The Fernald CAB support for this Institutional Controls Plan is based on a presumption that DOE will implement it. Before DOE makes any commitments to lease the Fernald property or transfer its management, it should work closely with the community and other stakeholders to inform them fully on the potential impacts of this decision and integrate community values and input into the decision process.

Section 3.0

Section 3.0 provides a clear overview of the scope of monitoring and maintenance needed to prevent human and environmental exposure to contaminants at the Fernald site. However, it does not specify how area residents will be notified of potential exposure in the case of an unauthorized intrusion of the OSDF, a catastrophic event, or some other failure of institutional controls. It is critical that community members understand the level of exposure and any corrective actions required.

Section 3.2.1

This section states that, if appropriate or necessary, the CERCLA 5-year review will be used to revise the frequency of routine inspections. We have two concerns regarding this aspect of the plan. First, if there is a need for more frequent inspections, DOE should not wait until the 5-year review to revise inspection schedules. Second, we are concerned that DOE would use the 5-year review to decrease the frequency of inspections; we are skeptical that the performance of controls in years one through five provide an adequate indication of performance in, for example, year nine.

Section 4.0

Managing the information needed for successful long-term surveillance and monitoring is a critical component of managing institutional controls, and the Fernald CAB is glad to see a section devoted to these issues in the Institutional Controls Plan. We also appreciate the acknowledgement that site records produced after site closure should be accessible to the public. However, this section is inconsistent with the remainder of the document, in that it designates a specific steward for information management. We, in fact, are happy to see the steward named in a legally binding document, but we question why this section has been approached differently from the other sections of the plan.

Sections 4.1.2 and 4.2.3

These two sections are entitled "Public Access to Information" but focus exclusively on public access to site records. The Fernald CAB believes it is important that the public have access to site records, but has also endorsed a more comprehensive approach to providing information to the Fernald community. We suggest that these sections be renamed Public Access to Records.

Recommendation for a Section on Community-Based Stewardship

The integrity of institutional controls at the Fernald site will depend on the awareness and trust of people who live and work nearby. The Fernald CAB has coined the term Community-Based Stewardship to describe a system that acknowledges and accommodates the role of the community in management of a closed site. The advantages of Community-Based Stewardship are:

- Community members will be aware of what risks remain at the site and will be better able to manage their exposure to those risks.
- The community will provide continuous oversight of the integrity of engineered and institutional controls.
- Future generations will understand the risk-based process used to make cleanup decisions at Fernald and the crucial role that the public played in making those decisions. This will prevent future calls for additional, costly remediation of the site.

Telling the Story of Fernald recommends that DOE develop information resources that are specific to community needs and that it establish an outreach program to communicate to the community what information resources are available. The Fernald CAB recommends that the Institutional Controls Plan include a specific section for how DOE will provide for community

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information needs and ensure ongoing community awareness of risks at the Fernald site and the controls required to manage those risks. This section should include a commitment to produce easily understood information resources and provide the necessary mechanisms to get

this information to the community. In the past, the Fernald community has proposed the construction of an education center to serve these needs.

This section would also provide DOE commitments for public participation during long-term surveillance and maintenance of the Fernald site. This would include how DOE proposes to inform the public of legacy management issues and how DOE will solicit public input on maintenance decisions.

We look forward to reading and commenting on future versions of the Legacy Management and Institutional Controls Plan and other stewardship planning documents.

Sincerely,

A handwritten signature in cursive script that reads "James C. Bierer".

James C. Bierer
FCAB Chair

cc:
Gary Stegner