

**MOUND PLANT
OPERATION AND MAINTENANCE PLAN
FOR THE
IMPLEMENTATION OF INSTITUTIONAL
CONTROLS**

"STRAWMAN Rev 4" (8/13/99)

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PURPOSE: This Operations and Maintenance (O&M) Plan provides the details for the implementation of the institutional controls to support Record of Decisions issued for the phased disposition of the Mound Site. This is written to be a dynamic document which can be revised, as necessary, with approval of the Department of Energy (DOE), the U.S. Environmental Protection Agency (USEPA), and the Ohio Environmental Protection Agency (OEPA) or successor agencies. This document provides the implementation details to support the flowchart, Attachment 1, provided in the Record of Decision documents.

PROCEDURE DESCRIPTION: The following procedure provides additional details on the implementation of the periodic reviews to be conducted by the Department of Energy or its designee.

TIMING: An annual* assessment of effectiveness of the institutional controls applied to the former Mound Site property will be conducted annually culminating in a report to the U.S. and Ohio EPAs due on June 13 of each year beginning in calendar year 2000.

PERFORM VISUAL INSPECTION OF PROPERTY AND DISCUSS WITH LOCAL GOVERNMENT OFFICES AND PERFORM RECORDS REVIEW

The DOE, or its designated agent, will perform a visual inspection of the property to determine if new facilities have been constructed; if obvious improvements have been made to the property; and/or if property usage may have changed. This inspection shall be conducted by utilizing a site inspection supported with aerial photographs. The U.S. EPA, the OEPA and the ODH will be contacted thirty days in advance (or as otherwise agreed to) of the on-site inspection. The previous year's inspection will provide the basis for determining the nature and extent of property improvements. The findings will be documented in the report.

The DOE, or its designated agent, will contact the offices of the City of Miamisburg Engineer and Planner at 10 N. First Street, Miamisburg, Ohio, to obtain information regarding construction, building, and zoning permits issued for the former Mound Site.

Miamisburg City Engineer: (937) 847-6531

Miamisburg City Planner: (937) 847-6532

*The DOE may petition to change the frequency of this review period after the DOE's Environmental Management Program is complete at the site. The DOE may, at any time, conduct a review of the institutional controls if there is reason to believe a degradation of these controls has occurred.

IS THERE INDICATION OF A POTENTIAL VIOLATION OF INSTITUTIONAL CONTROLS?

After all the data is compiled, a review will be conducted by the DOE, or its designated agent, to determine if additional detailed information is required. If there is no indication of a potential violation of institutional controls, a report will be compiled and submitted to the Ohio and U.S. EPAs in accordance with the section entitled "Prepare Report and Submit to USEPA, OEPA, and Ohio Department of Health (ODH)"

DISCUSS WITH LAND OWNER

If there is an indication that a potential violation of the institutional controls may have occurred, or if additional information is required to ensure compliance with the deed restrictions, the U.S. DOE, or its designated agent, will contact the property owner (and local management staff-if owner located off-site) to obtain a better understanding of what improvements have been made and what activity is being conducted on the property. (Additionally, a determination as to if building/construction permits were obtained for this work will be made.) If permits were issued for this improvement, but not previously identified, copies will be obtained and reviewed. If soil has been relocated to another portion of the 1998 Mound Plant property, records associated with this relocation (if they exist) will be requested. These contacts and discussions will be documented in the report.

IS USE CONSISTENT WITH INSTITUTIONAL CONTROLS IN THE ROD?

After discussions with the landowner and reviews of available documentation, a decision will be made by the Department of Energy regarding the status of compliance with the institutional controls listed in the Record of Decision. Each parcel may have slightly different deed restrictions based on its location on the site. A list of deed restrictions for each parcel and a map indicating its location are provided as attachment 2 to this document. If it is determined that the landowner has failed to comply with the deed restrictions, the U.S. EPA, OEPA and ODH will be notified and the issue will be referred to the U.S. Department of Justice for enforcement.

WAS SOIL REMOVED FROM THE MOUND SITE?

If during the assessment of the status of the institutional controls, it is determined that soil was removed from the 1998 Mound Plant Property, the ODH Bureau of Radiation Protection, or its successor, will be contacted to determine if approval had been granted for the removal. If soil has been removed from the original boundaries of the Mound Site without ODH approval, ODH Bureau of Radiation Protection, U.S. EPA and OEPA will be contacted and the situation referred to the Department of Justice for enforcement.

NOTIFY DEPARTMENT OF JUSTICE AND REGULATORY AGENCIES

If referral to the Department of Justice is warranted (as discussed above), telephone contact will be initiated as soon as possible with the Dayton Office of the U.S. Attorney. This verbal contact will be followed up with a written request for review and action with copies provided to the U.S. EPA, the OEPA and the ODH. A referral will be made to the U.S. Attorney seeking initiation of any legal and/or equitable action against the violator.

PREPARE REPORT AND SUBMIT TO USEPA, OEPA AND ODH

After the review of the effectiveness of the implementation of the institutional controls has been completed, a short report will be generated and submitted to the USEPA, OEPA and ODH. This report must render a decision concerning the effectiveness of the institutional controls, as well as, contain a description of the actions taken, summary of Findings, a list of the personnel contacted and summary of discussion topics, copies of any permits reviewed, and photos of the site. An outline of this report is provided as Attachment 3. This report will be due by the 13th of June annually (unless a change of frequency is petitioned by the Department and accepted by the OEPA and U.S. EPA).

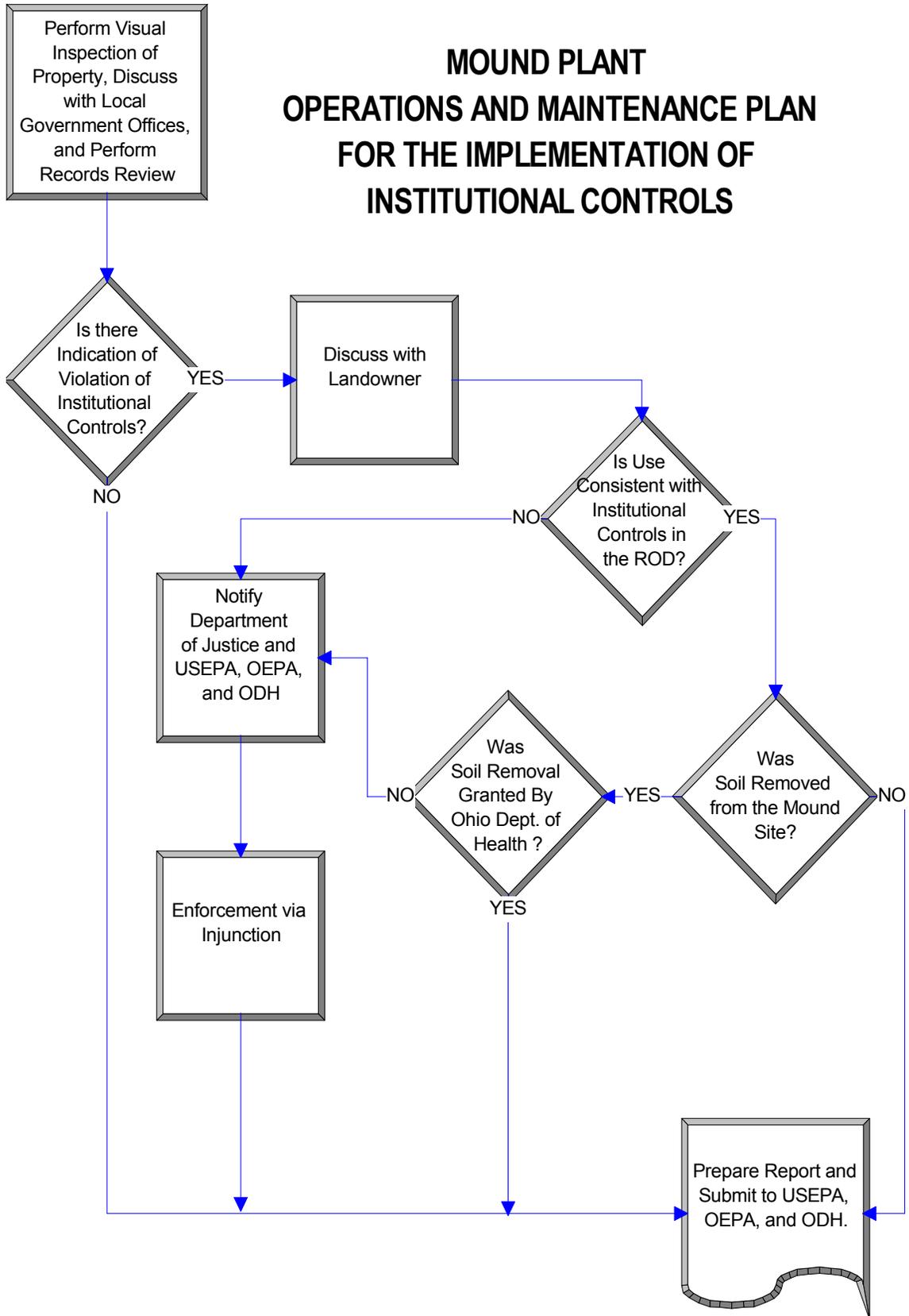
REVIEW AND MODIFICATION OF THIS O&M PLAN

As situation dictates any of the agencies may request in writing of all others that a modification to this plan be made. The other parties shall respond within 30 days of the written request. Resolution of any dispute as a result of the request will be made in accordance with the Dispute resolution section of this plan. The annual report will list any such requests and note any changes that occurred that year to this O&M plan as a result of those requests.

DISPUTE RESOLUTION

If a dispute arises between the U.S. EPA, or the State of Ohio and the U.S. DOE; section XXII, "Resolution of Disputes" of the July 15, 1993, Federal Facilities Agreement will be implemented. The OEPA will represent all state agencies during the dispute resolution process.

MOUND PLANT OPERATIONS AND MAINTENANCE PLAN FOR THE IMPLEMENTATION OF INSTITUTIONAL CONTROLS



**ATTACHMENT 2: RELEASE BLOCK DESCRIPTIONS
AND ASSOCIATED DEED RESTRICTIONS**

- 1. Release Block D: Transfer Date March 1999**
- 2. Release Block H: Transfer Date August 1999**

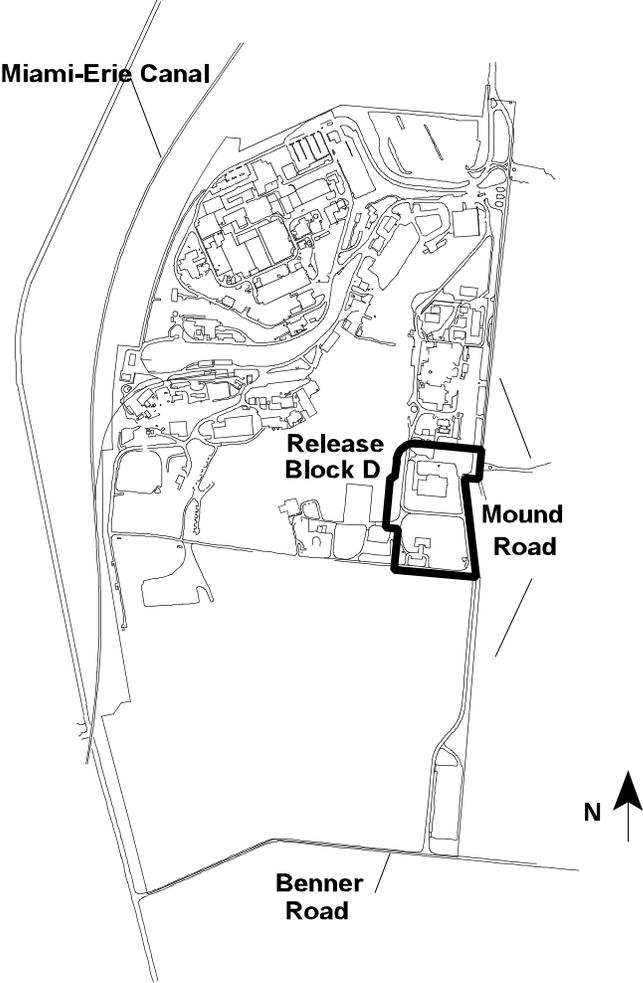
RELEASE BLOCK D DEED RESTRICTIONS

1. Grantee covenants that any soil from the Premises shall not be placed on any property outside the boundaries of that described in instruments recorded at Deed Book 1214, pages 10, 12, 15, 17 and 248; Deed Book 1215, page 347; Deed Book 1246, page 45; Deed Book 1258, pages 56 and 74; Deed Book 1256, page 179; Micro-Fiche 81-376A01; and Micro-Fiche 81-323A11 of the Deed Records of Montgomery County, Ohio (and as illustrated in the CERCLA 120(h) Summary, Notices of Hazardous Substances Release Block D, Mound Plant, Miamisburg, Ohio dated January, 1999) without prior written approval from the Ohio Department of Health (ODH), or a successor agency.

2. Grantee covenants not to use, or allow the use of, the Premises for any residential or farming activities, or any other activities which could result in the chronic exposure of children under eighteen years of age to soil or groundwater from the Premises without the prior written approval of the United States Environmental Protection Agency (Region V) and the Ohio Environmental Protection Agency. Restricted uses shall include, but not be limited to:
 - (1) single or multifamily dwellings or rental units;
 - (2) day care facilities;
 - (3) schools or other educational facilities for children under eighteen years of age; and
 - (4) community centers, playgrounds, or other recreational or religious facilities for children under eighteen years of age.

3. Grantee covenants not to extract, consume, expose, or use in any way the groundwater underlying the premises without the prior written approval of the United States Environmental Protection Agency (Region V) and the Ohio Environmental Protection Agency.

RELEASE BLOCK D



Release Block H Deed Restrictions

1. The parties hereto intend the following restrictions and covenants to run with the land and to be binding upon the Grantee and its successors, transferees, and assigns or any other person acquiring an interest in the Premises, for the benefit of Grantor, USEPA and the State of Ohio, acting by and through the Director of OEPA or ODH, their successors and assigns.

- 1.1 Excepting those soils **Commencing** at an iron pin found on the southerly projection of the centerline of Mound Road, said point also being the northeast corner of a 164.13 Acre tract of land as described in Deed Book 1246, Page 45 of the Deed Records of Montgomery County and being the **TRUE POINT OF BEGINNING**, thence South 06° 38' 48" West, 100.00 feet to an iron pin found; thence South 84° 42' 56" East, 193.40 feet to an iron pin found; thence South 05° 33' 53" West, 571.98 feet to a point on the centerline of Mound Road; thence due West, 72.93 feet to a point; thence South 51° 28' 10" West, 9.97 feet to a point on the proposed westerly right-of-way of Mound Road; thence along the proposed westerly right-of-way of Mound Road, North 06° 34' 20" West, 299.85 feet to a point; thence North 04° 05' 41" West, 185.03 feet to a point; thence along the proposed westerly right-of-way of Mound Road, North 06° 34' 20" West, 75.76 feet to a point; thence along the proposed westerly right-of-way of Mound Road, on a curve to the right for a distance of 130.93 feet with a radius of 923.62 feet and a central angle of 08° 07' 19" and a chord distance of 130.82 feet and a chord bearing of North 02° 30' 42" West to a point; thence along the existing westerly right-of-way of Mound Road, on a non-tangent curve to the right for a distance of 6.10 feet with a radius of 360.00 feet and a central angle of 00° 58' 18" and a chord distance of 6.10 feet and a chord bearing of North 12° 20' 00" West to a point; thence South 89° 52' 28" East, 18.27 feet to the **POINT OF BEGINNING**.

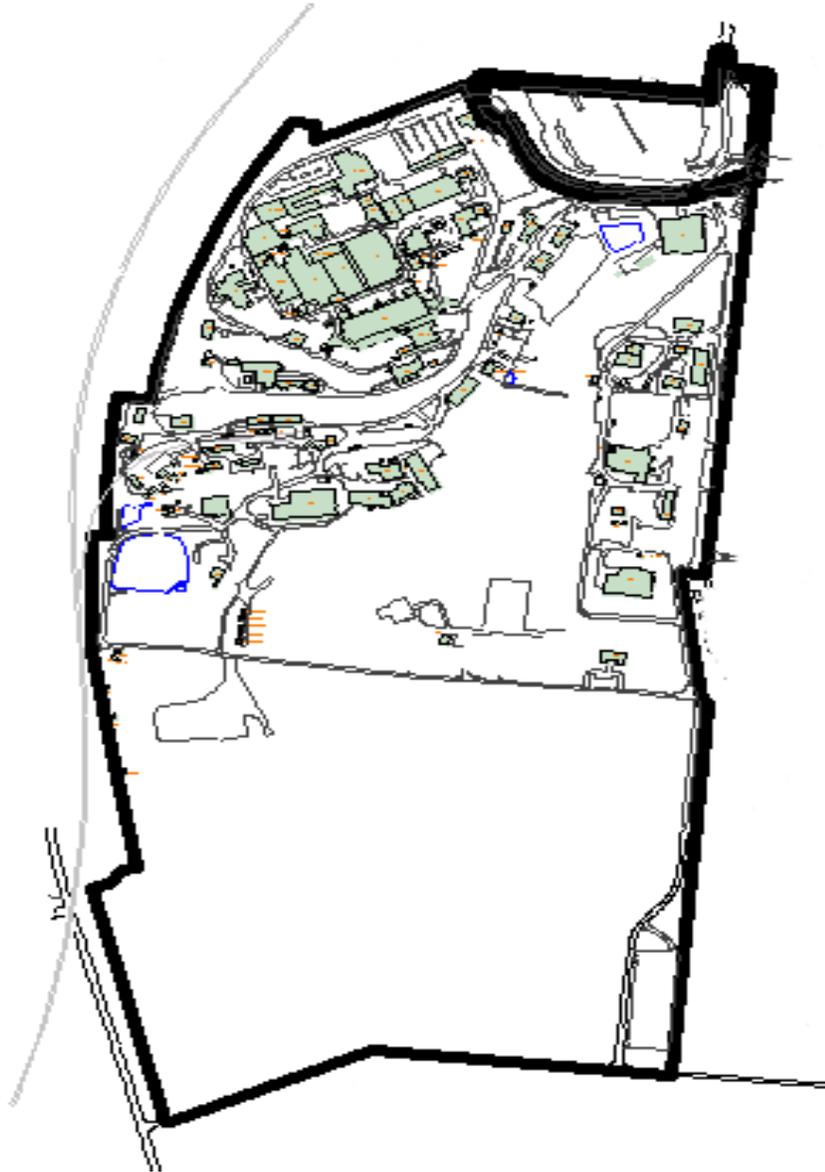
Containing 82,149.70 square feet, 1.886 acres more or less, and subject to all legal highways, easements, and agreements of record. Grantee covenants that any soil from the Premises shall not be placed on any property outside the boundaries of that described in instruments recorded at Deed Book (1214, pages 10, 12, 15, 17 and 248; Deed Book 1215, page 347; Deed Book 1246, page 45; Deed Book 1258, pages 56 and 74; Deed Book 1256, page 179; Micro-Fiche 81-376A01; and Micro-Fiche 81-323A11) of the Deed Records of Montgomery County, Ohio (and as illustrated in the CERCLA 120(h) Summary, Notices of Hazardous Substances Release Block H, Mound Plant, Miamisburg, Ohio dated _____, 1999) without prior written approval from ODH and OEPA, or successor agencies.

- 1.2 Grantee covenants not to use, or allow the use of, the Premises for any residential or farming activities, or any other activities which could result in the chronic exposure of children under eighteen years of age to soil or groundwater from the Premises. Restricted uses shall include, but not be limited to:
 - (1) single or multifamily dwellings or rental units;
 - (2) day care facilities;
 - (3) schools or other educational facilities for children under eighteen years of age; and
 - (4) community centers, playgrounds, or other recreational or religious facilities for children under eighteen years of age.

Grantor shall be contacted to resolve any questions which may arise as to whether a particular activity would be considered a restricted use.

- 1.3 Grantee covenants not to extract, consume, expose, or use in any way the groundwater underlying the premises without the prior written approval of the United States Environmental Protection Agency (Region V) and the OEPA.
2. The Grantor hereby grants to the State of Ohio and reserves and retains for itself, its successors and assigns an irrevocable, permanent, and continuing right to enforce the covenants of this Quitclaim Deed through proceedings at law or in equity, including resort to an action for specific performance, as against and at the expense of Grantee, its successors and assigns, including reasonable legal fees, and to prevent a violation of, or recover damages from a breach of, these covenants, or both. Any delay or forbearance in enforcement of said restrictions and covenants shall not be deemed to be a waiver thereof.
3. Pursuant to Section 120(h)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9620(h)(3)), the following is notice of hazardous substances, the description of any remedial action taken, and a covenant concerning the Premises.

Release Block H



Attachment 3: Report Table of Contents

1. Description and history of Site and selected remedy
2. Status of remedy, physical presence, hours of operation, any time when not operating
3. Effectiveness, achievement of objectives of remedy, any monitoring results, analysis of any monitoring results.
4. Conclusions
5. Recommendations
6. Persons performing review and credentials (e.g. was review done by individuals which would recognize anomalies)