

ATTACHMENT A
Variance Report
Fernald Closure Project

**ATTACHMENT A
VARIANCE REPORT
FERNALD CLOSURE PROJECT**

This report presents the differences between the current agreements end state and the risk-based end state (RBES) Vision for the Fernald Closure Project (FCP). The intent of this report is to communicate the individual Variances and provide management with enough data to evaluate the impact of the variances on current plans.

Table 1 provides a description of each proposed Variance along with the impacts of the Variance, barriers to implementation, and any recommendations that may be helpful in the evaluation of the variance. Two maps are provided to illustrate the variances: Figure 1 depicts the end state based on current agreements and Figure 2 depicts the end state based on RBES.

Table 1. Summary of FCP site variances.

ID No.	Description of Variance	Impacts (In Terms of Scope, Cost, Schedule, and Risk)	Barriers to Achieving RBES	Recommendations
V-1	<p>On-Site Disposal Facility:</p> <p>a) The OSDF was designed for a specific capacity and Waste Acceptance Criteria (WAC) that are applicable to the entire facility. Current practice is to accept only materials that are below the WAC without any consideration being given to average WAC resulting from mixing. Without the consideration of mixing/blending/averaging in calculating WAC, the OSDF is being underutilized and off-site shipment of material is greater than necessary. The RBES will change these practices to allow application of the OSDF WAC by averaging, which was the original intention and technical basis of the WAC.</p> <p>Additional changes in the application of the WAC would involve disposal of the Silos 1 & 2 debris in the OSDF and all other soils below WAC Resource Conservation and Recovery Act (RCRA) levels.</p> <p>b) OSDF leachate, at a rate of approximately 1 gallon/min (gpm), will be discharged to surface water bodies in the</p>	<p>Scope:</p> <p>a) There would no longer be a requirement to reject all material that exceeds the WAC. Most of the above WAC (AWAC) soil currently requiring shipment off-property could be disposed of in the OSDF. Baseline estimates show approximately 30,000 cubic yards of AWAC soil remaining to be excavated.</p> <p>Cost:</p> <p>a) The remaining 30,000 cubic yards of AWAC soil is estimated to cost approximately \$12 million for excavation and off-site disposal. Disposal in the OSDF is estimated to cost approximately \$900,000, resulting in a net cost savings of more than \$11 million. On-property disposal costs are approximately \$30 per cubic yard compared to off-property disposal costs at approximately \$400 per cubic yard.</p> <p>b) Surface water disposal of the leachate will eliminate the need for treatment in the Advanced Wastewater Treatment (AWWT) Facility or by passive treatment. The cost savings would occur in the post-closure</p>	<p>The OU5 Record of Decision (ROD) Response to Comment (RTC) document includes the good faith commitment that the WAC will be a "not-to-exceed" limit. The WAC "not-to-exceed" commitment is not contained in the ROD itself. At a minimum, clarification with Stakeholders and Regulators will be required to implement the change. The approved WAC Attainment Plan also contains the agreement that only soil that is below WAC can be disposed of in the OSDF (i.e., the WAC is a "not-to-exceed" limit). Agreement with Regulators and an approved revision to the WAC Attainment Plan is required to implement the new approach.</p> <p>A revision to the WAC Attainment Plan needs to be negotiated to allow for the disposal of the Silos 1 & 2 debris and the below WAC RCRA Soil.</p> <p>The OSDF Post Closure Care and Inspection Plan requires the treatment of leachate prior to discharge. Requirements related to leachate treatment are being transferred to Groundwater/ Leak Detection and Leachate Monitoring Plan (G/LD&LMP) that will be revised later in CY2003. The G/LD&LMP will need to be revised</p>	<p>Department of Energy (DOE) at the Field Office or Headquarters level needs to determine if it is appropriate to pursue changing WAC application through negotiation at the Field Office or Headquarters level. Currently, it does not appear that there will be support for changing WAC application, working with Agency Representatives at the Site Level. This change represents a large cost savings and is a high priority with the Site Office.</p> <p>Action:</p> <p>a) A change in the application of WAC will require clarification of the commitment made in the OU5 ROD RTC document with Stakeholders and Regulators at a minimum. A change in the application of the WAC anytime prior to Closure would have a positive impact on the ability to achieve timely Closure. The earlier the change is negotiated, the greater the benefit to the FCP.</p> <p>b) DOE Ohio Field Office or Headquarters representatives need to discuss the proposed variance to leachate treatment with Stakeholders and Regulators. Decisions</p>

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ID No.	Description of Variance	Impacts (In Terms of Scope, Cost, Schedule, and Risk)	Barriers to Achieving RBES	Recommendations
	<p>former production area without further treatment, as long as all surface water Final Remediation Levels (FRLs) are met.</p>	<p>period and do not result in a savings to current baseline remediation costs. However, the cost savings during the post-closure period is very significant.</p> <p>Schedule:</p> <p>a) Changing the approach to meeting WAC will eliminate some of the risk associated with meeting the 2006 Closure Date. The process for completing soil remediation will be significantly streamlined, but it is difficult to quantify the precise impact to the schedule.</p> <p>Risk:</p> <p>a) The OSDF was engineered and constructed to accept waste material that meets the WAC based on cell average concentration. Implementing the RBES Vision will continue to be fully protective of human health and the environment.</p> <p>b) The 1 gpm flow of leachate will not likely impact the overall ability of the surface water to meet FRLs. Implementing the RBES Vision will continue to be fully protective of human health and the environment.</p>	<p>to eliminate the requirement for treatment of all leachate, as long as all surface water FRLs are met.</p>	<p>regarding leachate treatment need to be in place by the end of FY04 to allow adequate time for planning and installation of a post-closure treatment system, if required.</p>

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ID No.	Description of Variance	Impacts (In Terms of Scope, Cost, Schedule, and Risk)	Barriers to Achieving RBES	Recommendations
V-2	<p>Subsurface Soils/Sediments:</p> <p>a) The use of sediment FRLs at the FCP is undefined in the OU5 ROD. Current informal agreements with the Agencies have centered on the use of soil FRLs (82 ppm uranium) for streams and ponds. The RBES would apply the sediment FRLs (210 ppm uranium) to streams and ponds and other excavations targeted for future ponds and open water.</p> <p>b) Segregation of clean soil during deep excavation of foundations and subsequent use as fill will decrease the amount of soil sent to the OSDF. Applying the Cross Media Preliminary Remediation Goals (CPRGs) will reduce excavation of subsurface soil that has no surface exposure pathways.</p>	<p>Scope:</p> <p>a) Approximately 4 miles of streams and drainage channels exist on the FCP that will remain in their current configuration after remediation. It is estimated that ponds and open water could cover an additional 60 acres of the site by the completion of remediation. It is estimated that the use of the sediment FRL could reduce the amount of soil requiring excavation and disposal by 8,500 cubic yards.</p> <p>Cost:</p> <p>a) The use of the sediment FRLs in Paddys Run and the Storm Sewer Outfall Ditch (SSOD) will result in savings of approximately \$255,000 in excavation and disposal costs in the OSDF, based on a reduction in 8,500 cubic yards, as discussed above.</p> <p>b) The cost impact of applying the CPRGs is more difficult to quantify. The use of the CPRGs will certainly eliminate the need to dispose of significant quantities of subsurface soil in the OSDF.</p>	<p>a) The OU5 ROD does discuss the use of sediment FRLs, but the exact areas of application are undefined. Informal discussions with the Agencies indicate their position that soil FRLs should be applied to streams and ponds. Agency agreement on the application of the sediment FRL would need to be secured.</p> <p>b) The approved Site-wide Excavation Plan (SEP) currently documents the agreement that all excavated soil is waste. An approved revision to the SEP will need to be secured to allow use of the CPRGs for subsurface soil.</p>	<p>Preliminary discussions have occurred between the DOE Site Office and the Ohio EPA on use of the sediment FRL. To date, there has been some resistance from Ohio EPA to the idea of using sediment FRLs in Paddys Run and site drainage channels. The primary concern is that individuals could access Paddys Run when it is dry and be exposed to concentrations at the sediment FRL that are higher because the inhalation pathway is not included. Controls on the FCP should prevent unauthorized use of Paddys Run and other drainage channels.</p> <p>Action: DOE at the Field Office or Headquarters level needs to meet with Regulators and Stakeholders and get concurrence on the proposed variance.</p> <p>a) There is no regulatory documentation that has to be changed to use the sediment FRL as the OU5 ROD discusses the use of Sediment FRLs.</p> <p>b) The use of CPRGs for subsurface soil will require a change in the OU5 ROD and an approved revision of the SEP.</p>

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ID No.	Description of Variance	Impacts (In Terms of Scope, Cost, Schedule, and Risk)	Barriers to Achieving RBES	Recommendations
		<p>Schedule: The use of the sediment FRLs and the CPRGs will reduce some of the risk associated with meeting the 2006 Closure date. The process of completing soil remediation will be streamlined as result of these changes in the FRL application.</p> <p>Risk:</p> <p>a) The soil FRL takes into account the inhalation pathway and is therefore lower than the sediment FRL that assumes no inhalation pathway. The ponds and open water will have permanent water coverage resulting in no change in risk due to use of the sediment FRLs. Paddys Run does dry up in the late summer months, but controls (i.e., fences, signs, barriers) will be in place to keep people from utilizing the streambed in unallowable ways (e.g., motorcycles, ATVs).</p> <p>b) The use of the CPRGs will continue to be fully protective to the Recreational User of the site. Any soil that meets CPRGs will be buried, thus eliminating the exposure pathway to any soil that is above surface soil FRLs.</p>		

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<u>ID No.</u>	<u>Description of Variance</u>	<u>Impacts (In Terms of Scope, Cost, Schedule, and Risk)</u>	<u>Barriers to Achieving RBES</u>	<u>Recommendations</u>
V-3	<p><u>Surface Water/ Groundwater:</u> <u>Current agreement requires pumping, treatment and re-injection of groundwater and treatment of storm water, remediation wastewater, and groundwater to meet uranium discharge limits to the Great Miami River.</u></p> <p><u>The RBES remedy would include full restoration of the aquifer to meet the uranium drinking water standard of 30 parts per billion (ppb), both on-site and off-site. The AWWT facility will be shut down, undergo D&D, and be disposed of in the OSDF, along with the underlying, impacted soil, by site Closure.</u></p> <p><u>The most cost-effective infrastructure to support groundwater remediation will be identified and installed to replace the AWWT. Treatment capacity may be provided in a smaller, modular facility to handle remediation wastewater streams and groundwater treatment after the AWWT would need to be shut down. This alternate treatment approach would not require formal changes to the OU 5 ROD or associated regulatory permits. Discharge limits would be accomplished primarily by adjusting</u></p>	<p><u>Scope:</u> <u>The current baseline groundwater remedy uses pump and treat technology with groundwater re-injection for the duration of the remedy, which is predicted to achieve cleanup levels in all impacted areas of the aquifer by 2023.</u></p> <p><u>The RBES remedy will include pump and treat and full restoration of the aquifer both on-site and off-site to meet the drinking water standard.</u></p> <p><u>Cost:</u> <u>The cost of the baseline remedy is estimated to be \$168 million. The RBES remedy cost has not been fully calculated to date. Installation of the replacement treatment system is assumed to be approximately \$5 million. This additional cost will be off-set by the ability to dispose of the AWWT and underlying impacted soil (around 70,000 cubic yards) in the OSDF rather than the AWWT requiring off-site disposal after site closure.</u></p> <p><u>Schedule:</u> <u>Groundwater modeling predicts the current groundwater remedy would achieve the cleanup levels by 2023 in all impacted areas of the aquifer</u></p>	<p><u>Stakeholder and regulatory concurrence must occur by March 30, 2004 in order for timely initiation and completion of the design, procurement and construction of an alternate treatment system.</u></p> <p><u>Although no formal ROD change is required, regulatory support relative to existing outfall criteria in the OUS ROD, will likely be necessary to make this objective achievable. This support would specifically provide operational flexibilities during the initial stabilization phase of the replacement system.</u></p>	<p><u>DOE Ohio Field Office and DOE-HQ, through evaluation of the RBES documents and the Groundwater Strategy Report will need to achieve Stakeholder and Regulator acceptance of the RBES remedy not later than March 31. Continued discussions with Stakeholders and Regulators through the ongoing FCAB process is required in order to agree upon the RBES remedy in time to initiate detailed design, procurement and construction.</u></p>

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<u>ID No.</u>	<u>Description of Variance</u>	<u>Impacts (In Terms of Scope, Cost, Schedule, and Risk)</u>	<u>Barriers to Achieving RBES</u>	<u>Recommendations</u>
	<p>groundwater pumping rates when necessary and terminating groundwater re-injection without significantly delaying the aquifer restoration time frame.</p>	<p>(on- and off-site). No significant change in the groundwater remediation schedule would occur under the RBES remedy.</p> <p>Risk: No change in human health and environmental risk.</p>		

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ID No.	Description of Variance	Impacts (In Terms of Scope, Cost, Schedule, and Risk)	Barriers to Achieving RBES	Recommendations
V-4	<p>Infrastructure: Current agreements require the removal of both outfall lines, cofferdam, and other structures at the Great Miami River. RBES is to abandon the outfall lines, cofferdam, and other structures in place.</p>	<p>Scope: The old outfall line would be grouted and left in place and the new outfall line would be cleaned and left in place.</p> <p>Cost: Leaving the infrastructure listed above would eliminate the need to dispose of approximately 32,189 cubic yards of soil and 45,939 cubic yards of debris in the OSDF. The savings associated with the soil would be approximately \$227,670 and the savings associated with the debris would be approximately \$918,780 for a total savings of approximately \$1,146,450.</p> <p>Schedule: Leaving the infrastructure listed above would result in approximately 90 days being eliminated from the current baseline schedule in the Soils and Disposal Facility Project.</p> <p>Risk: Leaving this infrastructure in place will continue to be fully protective of human health and the environment. The old outfall line is an iron pipe and can be grouted and left in place with no risk of contaminant leaching. The new outfall line is plastic and can be cleaned and left in place without</p>	<p>The OU3 ROD requires the removal of all man-made debris from the site. A clarification or potential change to the ROD will have to be negotiated to leave infrastructure after closure.</p> <p>Leaving the outfall lines in place and the associated Institutional Controls will be a significant issue.</p> <p>The grouting and abandonment plan for the monitoring wells would require compliance with OAC 3701-28-07 and 3745-9-10 governing private and public wells. In some cases, negotiation with individual landowners may be required for off-property wells.</p>	<p>The idea of leaving specific infrastructure (e.g., outfall lines, cofferdam) has not been discussed in detail with Agencies or Stakeholders. DOE at the Site Office level has issued conceptual public use plans for the FCP for public review and comment showing access roads and parking areas. Stakeholders and the Agencies generally supported some form of limited public access and use of the FCP. Discussions regarding monitoring and maintaining the OSDF requiring site access have been discussed in several public forums. The need for access roads and parking lots should not be controversial.</p> <p>Action: DOE Ohio Field Office or Headquarters representatives need to meet with Regulators and Stakeholders and get concurrence on the proposed variances. Once Regulator and Stakeholder concurrence is achieved, a clarification or change to the ROD will be required.</p>

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ID No.	Description of Variance	Impacts (In Terms of Scope, Cost, Schedule, and Risk)	Barriers to Achieving RBES	Recommendations
		risk of future contamination. Institutional controls to ensure the outfall lines are not excavated or removed will be required during LM.		

Fernald Closure Project

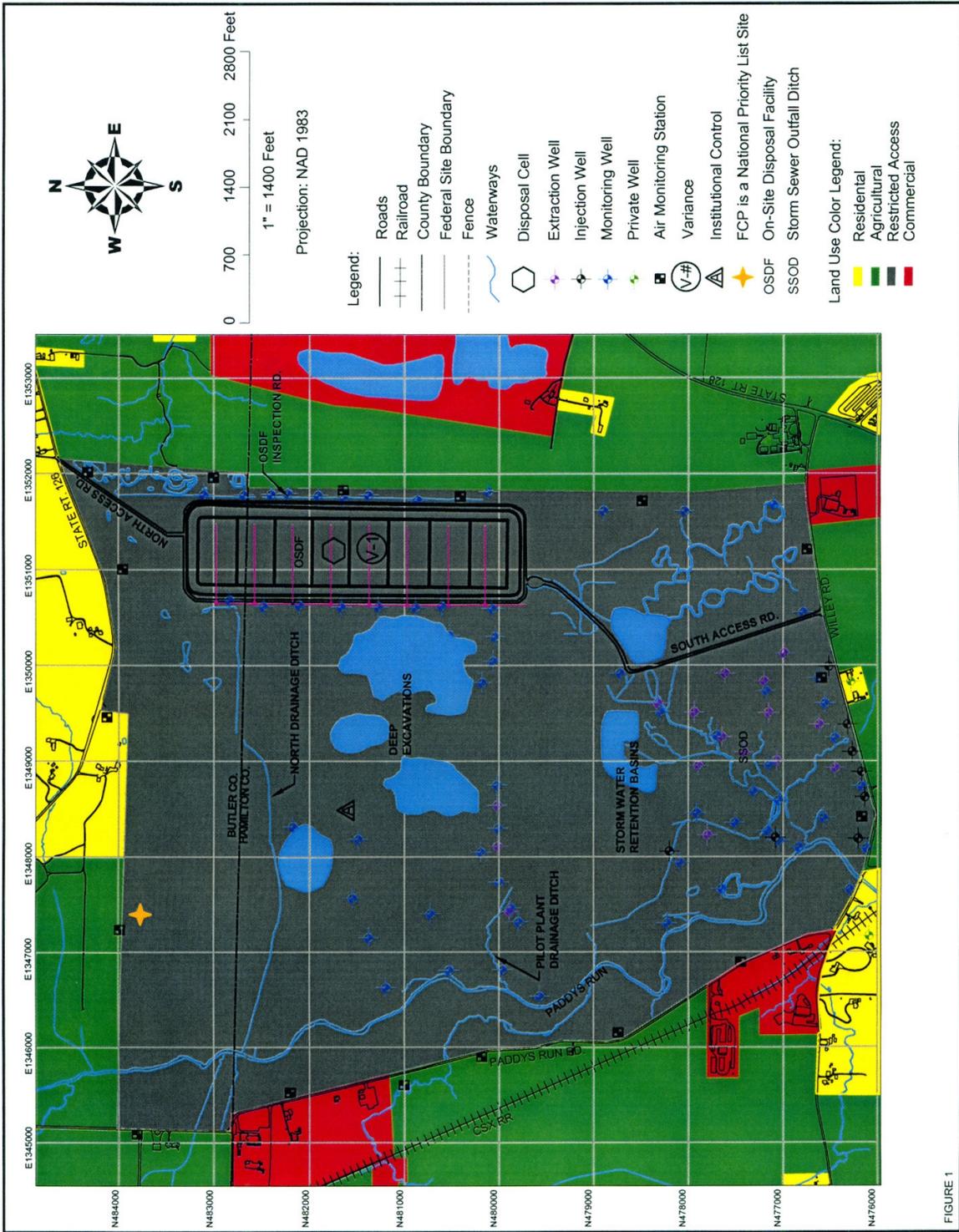


FIGURE 1

Figure 1. Site wide hazard map – current agreement end state.

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Fernald Closure Project

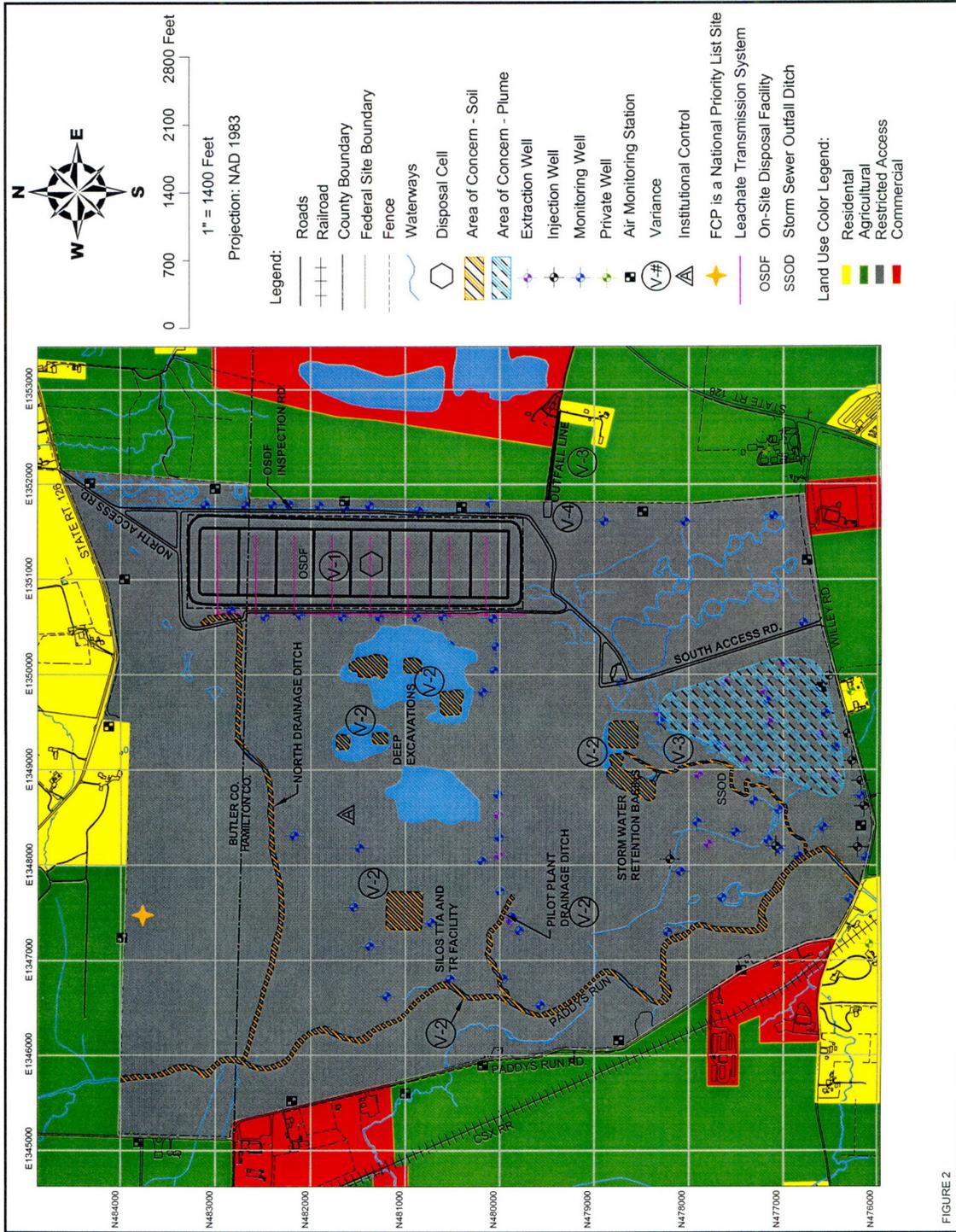


Figure 2. Site wide hazard map – RBES.

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ATTACHMENT B

Fernald RBES Press Articles [and Stakeholder Comments](#)

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"Fernald clean-up change proposed"

Fernald clean-up change proposed

Citizens leader promises fight

By Dan Klepal

The Cincinnati Enquirer

CROSBY TWP. - U.S. Department of Energy officials are considering a plan that would allow them to stop treating groundwater contaminated with uranium underneath the former Fernald uranium enrichment plant and, instead, dump it directly into the Great Miami River for more than 19 years, beginning in 2005.

The plan, which would save the federal government about \$80 million, would also eliminate the rule that limits to 600 pounds per year the allowable amount of uranium discharged into the river from the site.

Currently, there is a water treatment plant on the Fernald property that treats the tainted groundwater. After being cleaned to drinking water standards, that water is then re-injected into the aquifer so that contaminated groundwater is pushed more quickly toward extraction wells.

But that process is expensive - estimated to cost \$168 million before it is finished - and DOE officials recently estimated that the aquifer clean-up will take twice as long as originally thought, possibly lasting until 2021. That led to

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Fernald: Department of Energy wants to dump tainted water

From Page A1

the new study, which outlines six cheaper alternatives.

Of those alternatives, the DOE's "preferred option" is to tear down the water treatment facility and stop treating the tainted groundwater altogether, according to documents obtained by the *Enquirer*.

"We realize that some of the alternatives ... are different than what we agreed upon in the past," said Glenn Griffiths, the DOE's acting director at Fernald. "Some of the (discharge) levels in the past were set because we could do it. We have a world-class treatment facility on site. (Those levels) are more conservative than what we now feel we need to consider. The question is: Can we get to the same destination on a different road?"

The DOE's "preferred" road would increase the allowable uranium content in discharges into the river by 1,600 percent per discharge.

But before the new plan could take effect, the DOE would have to seek a change in the legally binding agreement it signed a decade ago that requires the aquifer water to be treated to drinking water standards. That won't be easy, because it appears such an effort would be fought - both by the 14,000 residents who live near the plant and are represented by the Fernald Citizen's Advisory Board, and by the Ohio Environmental Protection Agency.

"Hell no," Lisa Crawford, leader of the Fernald citizen's board, said when asked for her reaction to the proposal. "We're not gonna go there. And if they try to take us there, this community will raise 500

barrels of hell, and then we will sue."

Graham Mitchell, chief of OEPA's Office of Federal Facilities Oversight, said the state's top environmental agency also is against the proposal as it stands. Mitchell pointed out that there is major risk involved with the plan: Namely, there could be additional contamination discovered after the treatment plant is torn down in 2005, thus leaving the DOE incapable of dealing with it.

"It's just not consistent with the overall clean-up strategy developed at Fernald over the past 10 years," Mitchell said. "When we get to the end - and we're nowhere near that - there are a whole bunch of steps that need to occur, and they probably need to occur with a treatment system in place."

"Throwing these major changes in, at this point, does not seem productive."

The DOE's handling of this proposal has upset some. The report outlining the alternatives was produced June 30, but it still has not been shared with the public. A presentation for citizens and regulators is scheduled for Oct. 24.

"Any other time, we would have been handed a draft of the document and been asked our opinion," Crawford said. "They've been sitting on this since June."

Tom Schneider, a Fernald supervisor for the OEPA, agreed.

"The handling of this is completely inconsistent with the successes we've had at Fernald," Schneider said. "Those (successes) have been open processes. In this case, it's something DOE has done behind closed doors. We're getting it at the same time they're

going public with it, and they're asking us to buy into it. It's sort of baffling.

"And the issue falls apart before any significant technical discussion even takes place. If you have a treatment technique that's demonstrated to work, you don't just shut that off and decide one day that you don't need to do treatment anymore and start dumping in the river."

Griffiths said the process in deciding how best to treat the aquifer will be a public one. He said the process is just beginning.

"All we're saying is let's talk about it," Griffiths said. "And if those conversations lead us to a point where it doesn't make sense, we won't do it. It's a matter of perspective. We've concluded there could be significant cost savings, and we can still be protective to the environment, so we need to investigate the options."

"We're going to lay (the alternatives) out and say here are, from our perspective, the pros and cons of each and the public debate will take place at that point."

The aquifer cleanup is just one of six major projects on the \$4.4 billion, taxpayer-funded Fernald cleanup.

Others include tearing down buildings that were used in extraction of uranium from metal; removing the soil underneath; cleaning waste pits that were used to store radioactive waste; emptying three 50-year-old concrete silos that are housing radioactive waste from the first nuclear experiments; and building a disposal facility that will house low-level waste in perpetuity.

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Fernald | Groundwater Don't compromise cleanup

The idea that the U.S. Department of Energy would even consider unrestricted dumping of uranium-contaminated water from Fernald directly into the Great Miami River is outrageous, even if the cost of cleanup has risen far beyond the original estimates.

Now that it believes cleansing the groundwater at the former uranium enrichment plant could take twice as long as expected — until 2021 or later — DOE is going public with 12 possible alternatives. But the "preferred" option calls for treatment of contaminated groundwater to stop by 2005, then pumped-out water would be dumped directly into the Great Miami River for 19 years. That dubious departure from binding legal agreements signed 10 years ago would free DOE and contractor Fluor Fernald from limits now set at 600 pounds of uranium discharged into the river per year. The plan also calls for dismantling Fernald's advanced water treatment plant.

The new plan shifts the contamination problem from the Fernald site to the river. It cuts cost by substituting river dilution for water treatment.

Ohio EPA and Fernald's 14,000 neighbors are rightly incensed at this proposed change in long-standing cleanup strategy. If DOE tries to dump the agreement and dump much more tainted water into the Great Miami, Lisa Crawford, head of Fernald's Citizen's Advisory Board, warns, "this community will raise 500 barrels of hell, and then we will sue."

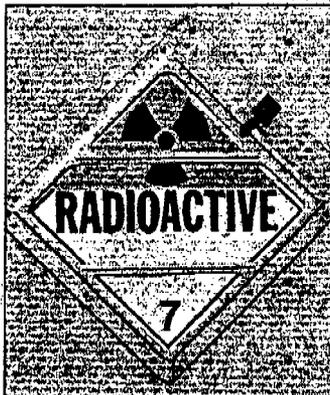
U.S. EPA should exercise rigorous oversight to make sure the existing agreements are not sacrificed to cost concerns or political timetables and

that no switch to alternatives is made until the effects on the river, fish and public health are fully studied. Dismantling Fernald's water treatment plant before groundwater cleanup is anywhere near done seems such a patently bad idea it must be suspected of being used as a bargaining chip that DOE could give up in any compromise deal.

It's been estimated Fernald groundwater remediation will cost at least \$168 million, and that is just one of six major projects in the \$4.4 billion cleanup. Congress faces many other sites with similar, costly cleanups. DOE estimates the alternative aquifer cleanup plan for Fernald could save as much as \$80 million. The current method of pumping out tainted ground-

water, treating it to remove uranium, then reinjecting it back into the aquifer is slow, expensive work. But nobody ever promised weapons plant cleanups would be quick or cheap. Congress should stay the course.

The history of cleaning up the former weapons plant northeast of Cincinnati has been riddled with unexpected setbacks. Even if all the necessary sign-offs could be obtained to change the agreements, critics warn that an alternative plan could hit unexpected complications during cleanup or even afterward. Cleanup of waste pits and silos can never be perfect. The aquifer could be recontaminated. That's one reason the cleanup contractor is obligated to follow up years after cleanup ends to see if the parts per billion uranium count in Fernald groundwater has rebounded. If so, the water treatment plant could still be needed. Proposed alternatives require a full public vetting.



A warning sign on a truck at the Fernald cleanup site.

"Ohioans in D.C. blast plan for Fernald water"

Ohioans in D.C. blast plan for Fernald water

By Dan Klepal
The Cincinnati Enquirer

Ohio congressmen sent a letter to the Department of Energy's top official involved in the Fernald nuclear cleanup, criticizing the agency for a plan that would allow it to stop treating contaminated groundwater next year. Instead, it would be dumped directly into the Great Miami River.

Reps. Steve Chabot of Cincinnati and Rob Portman of Terrace Park, along with Sens. Pat DeWine and George Voinovich, all Republicans, say in the letter they were unaware of the proposed change

until reading of it in the *Enquirer* Oct. 4.

The letter is also critical of the DOE for keeping the idea secret for more than three months. The DOE's project manager, Fluor Fernald, completed the proposal June 30. A public hearing is scheduled Oct. 21.

"We strongly believe that in a project as costly, environmentally sensitive, and expansive as the Fernald clean-up—that affects the safety of workers, the health of surrounding communities and the stewardship of taxpayer dollars—public participation is essential in determining the most prudent ap-

proach to closure," the letter says.

"We would like to clearly state that we have serious concerns regarding any attempt to alter this agreement," the letter says.

DOE Ohio Field Manager Bob Warther, to whom the letter was addressed, was not in the office Thursday and had not seen the letter, according to spokesman Gary Stegner.

"Until we review the letter, we can't say anything," Stegner said.

The Great Miami Aquifer was contaminated by decades of radioactive waste being dumped in open fields at Fernald. Rainwashed that waste into Paddy's Run creek, which drains into the aquifer and directly into the underground lake.

Fluor Fernald, the company handling the \$4.4 billion, taxpayer funded clean-up, prepared a report that outlines six alternatives to cleaning the groundwater in the treatment plant. Of the six alternatives, the DOE's preferred option is to tear down the treatment plant next year and stop treating the tainted groundwater altogether.

E-mail dklepal@enquirer.com

October 22, 2003
The Cincinnati Enquirer
"No plan 'preferred,' officials say"

No plan 'preferred,' officials say

Proposal to stop treating Fernald water protested

CROSBY TOWNSHIP - Officials with the Department of Energy Tuesday backed off a plan that would allow them to stop treating contaminated groundwater underneath the Fernald nuclear cleanup site, instead dumping it directly into the Great Miami River.

In a public meeting Tuesday to explain seven options for treating the groundwater, residents were angry and peppered officials with questions.

In June, energy officials commissioned a report for treating the groundwater.

A "talking points" document relating to the report said the government's "preferred alternative" is to tear down the treatment facility in 2005, begin dumping the tainted groundwater directly into the river, and remove all limits for the amount of uranium it is allowed to pump into the river from the site.

Currently the site can discharge a maximum of 600 pounds of uranium into the river annually.

Dumping the tainted groundwater would have saved about \$85 million, but dumped approximately 8,000 pounds of uranium into the Great Miami.

Glenn Griffiths, the energy department's acting director at Fernald, said the government doesn't really have a preference on how to treat the groundwater.

"That was a poor choice of words," Griffiths said of the term "preferred alternative."

"It implies the decision is already made and that efforts have been made to support it," he said. "All the alternatives are exactly equal at this point."

The seven options range from continuing the current treatment method to replacing the treatment plant with a less expensive mobile system or demolishing the on-site plant in 2011 so less uranium would be dumped into the river.

Griffiths said a lengthy public process will precede any decision made on the issue.

That was good news to the approximately 50 residents who came to Tuesday's meeting.

Lisa Crawford, a resident who lives near the plant and is head of the Fernald Residents for Environmental Safety and Health (FRESH), said her organization would sue if the government tries to change the deal now.

"We agreed to what we agreed to," Crawford said. "You can't stop in the middle of the road and just say 'We're not going to do this anymore.'"

A 179-acre plume of cancer-causing uranium sits in the groundwater underneath Fernald.

The energy department is required to clean that contamination so that it meets drinking water standards.

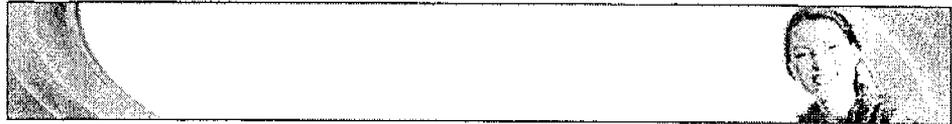
Currently, a world-class treatment facility treats that water before it is re-injected into the ground or pumped out to the river.



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Thursday, December 4, 2003

Easier radiation cleanup fought

By Dan Klepal
The Cincinnati Enquirer

CROSBY TOWNSHIP - The Department of Energy, which oversees the \$4.4 billion, cleanup at the former Fernald nuclear facility, wants to relax several standards it agreed to more than a decade ago so the job can be finished quicker and cheaper.

Department of Energy officials claim public health and the environment will still be protected.

But the proposed changes, made public two weeks ago, outraged nearby residents who say cleanup managers are now trying to wiggle out of important details agreed to in the early 1990s after months and, in some cases, years of hard-fought negotiations.

Last week, the federal Environmental Protection Agency joined the chorus in opposition to the DOE's proposed rule changes.

Gary Schafer, chief of EPA's Federal Facilities Section, said in a letter that the nation's top environmental watchdog doesn't support any of the proposed changes for Fernald. Schafer also criticized how the ideas were created, saying they were hatched in closed-door meetings with no public input.

That process, the letter says, is "inconsistent with how such issues were handled over the last 10 years."

Among the changes the Department of Energy is proposing:

- Determining if soil is sufficiently cleaned by taking an average of the uranium content over entire areas, rather than the current rule prohibiting high levels in any part of the area.
- Cleaning the Great Miami Aquifer, also contaminated by uranium, to drinking water standards only in areas outside the site's boundaries. The current rule requires the entire aquifer - both under the site and outside it - be cleaned to



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drinking water standards.

- Reducing the level of cleanup necessary for soil deeper than 3 feet.

None of those ideas sits well with Lisa Crawford, who heads up the Fernald Residents for Environmental Safety and Health, which successfully sued the government over environmental contamination at the site more than 20 years ago.

Crawford said the residents around Fernald have worked too hard securing stringent cleanup rules to let them go now.

"We are not willing to let DOE gut what we did 10 years ago, that's just not going to happen," Crawford said. "And it seems like the EPA is right in line with us. We're all pretty upset about this."

DOE officials defend the ideas and the process. They say the ideas were born in "brainstorming" sessions, and that none will be approved without full consent of the EPA and the public.

E-mail dklepa1@enquirer.com

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AT FERNALD RISK-BASED END STATE VISION CRITICIZED

The Dept. of Energy's draft "risk-based end state vision" for Fernald has Ohio regulators and the Environmental Protection Agency up in arms over proposed changes to the site's closure plan. All DOE cleanup sites have been working on completing "risk-based end-state visions" that Assistant Secretary Jessie Roberson and other top Environmental Management officials hope to use to define when cleanup will end at each site. While DOE Ohio officials say the document is simply a tool that evaluates cleanup remedies according to actual risk to the public and is not a "decision document," both the Ohio EPA and U.S. EPA are calling on the Department to abandon the risk-based end state planning process and follow the cleanup agreements already in place. In a letter to DOE Ohio Field Office Manager Robert Warther Dec. 1, Ohio EPA Southwest District Office Chief Thomas A. Winston asserted that "in comparison to the evaluation and discussion that resulted in current cleanup requirements, this evaluation is anemic in terms of its rigor and devoid of the meaningful regulator and public discussion that produces implementable decisions. The result is a list of potential changes that are all problematic in that they ignore the rich history of decisions at Fernald." In a similar letter sent to DOE Nov. 26, EPA Region 5 Federal Facilities Chief Gary Schafer declared that EPA "does not support any of

the activities" recommended in the risk-based end state document. Chief among the regulators' concerns are DOE proposals to:

- Change the waste acceptance criteria at the On-Site Disposal Facility to allow for blending of waste to meet the acceptance standards, which DOE asserts was the "original intention and technical basis" for the facility;
- Use the sediment final remediation level of 210 parts per million for streams and ponds rather than the more stringent soil final remediation level of 82 parts per million that is required by current agreements;
- Relax the uranium discharge requirements for the Great Miami River from the current 30 parts per billion to 530 parts per billion in order to meet groundwater cleanup milestones by 2017;
- Stop current "pump-and-treat" operations for ground and surface water; and
- Leave outfall lines and other structures in place along the Great Miami River instead of removing all structures as required by current agreements.

DOE Fernald spokesman Gary Stegner said the Department "recognizes" the concerns of the regulators, empha-

sizing that the end state vision is "not a decision document; it's just an exercise we're going through." Stegner said "it's very clear that the climate here in Fernald is not good for pursuing any changes to previous Records of Decision" and there are currently "no plans to do so." If regulatory changes are pursued, "that decision will come from headquarters," Stegner said.

Both the state and federal regulators criticized DOE for a lack of public involvement in preparing the end state document. "It is our understanding that no change to the document occurred following the public meeting, where adamant opposition was expressed, prior to submittal to DOE HQ," Winston wrote. "This leaves one to question what the point of the public meeting was other than to say

a meeting occurred." Ohio officials said they viewed the risk-based end state planning process as merely an internal DOE exercise with little or no regulatory significance. "I would suggest DOE not proceed to propose any changes based on this exercise," Winston wrote. "To the extent that you have satisfied an internal DOE screening process, you can report that you have completed that task. But, clearly, additional effort put into [risk-based end state vision] would not be prudent." Winston added that "further work on the [risk-based end state vision] will only further distract vital resources and staff from focusing on achieving DOE's 2006 cleanup goal. The process has already cost substantial dollars in personnel time and contractor effort as well as caused damage to the work relationships at the site."

Dirtier Site?'

Ohio, EPA Officials Rip DOE Proposals On Fernald Cleanup
BY GEORGE LOBSENZ (Energy Daily)

Federal and state regulators have fired off scathing attacks on Energy Department proposals for "risk-based" changes to cleanup of the Fernald facility in Ohio, saying the plan had "seriously damaged" DOE's relationships with regulators and the community and raised concerns that DOE was willing to leave a "dirtier site" in order to complete remediation efforts by 2006.

In unusually hostile terms, officials with the U.S. Environmental Protection Agency and the Ohio Environmental Protection Agency over the last week emphatically rejected all of DOE's proposals to relax certain groundwater, soil and other cleanup standards for the former uranium processing plant near Cincinnati.

The regulators said the proposed changes would violate past agreements with the local community on the amount of residual contamination that could remain at the site after cleanup work was done. And they said that in stark contrast to past productive collaboration with regulators and the community on Fernald cleanup strategy, DOE had developed its plan in near-total secrecy.

The secrecy was so notable, Ohio regulators said, that they only were able to obtain a full copy of DOE's plan at a November 18 public hearing on the department's proposed cleanup changes. Following the public hearing, the state officials said DOE apparently made no revisions to the plan-known as the draft Risk-Based End States (RBES) Vision document-despite an outpouring of public criticism at the meeting.

Further, the Ohio officials said the proposed cleanup changes were especially damaging to DOE's credibility because they followed another department proposal in October to greatly curtail groundwater cleanup operations at Fernald, resulting in sharply increased uranium discharges to a nearby river-at concentrations much higher than federal safe drinking water limits. That plan also was developed by DOE on its own and met with overwhelming public and regulator criticism.

"The lack of public and regulatory involvement in this document and its predecessor, the Comprehensive Groundwater Strategy Report, have seriously damaged the productive working relationships between DOE and the regulatory agencies and the public," said Thomas Winston, head of the Ohio EPA's southwest district office, in a December 1 letter to Thomas Warther, manager of DOE's Ohio Field Office.

"The past two months have seen numerous negative press articles and a growing distrust of DOE in the community. This, after the DOE Fernald site has been seen as a national leader over the past decade in successful stakeholder involvement and productive working relationships between DOE, regulators and the community."

Winston said DOE's proposals were "unacceptable" and all the more objectionable in that the department appeared to be brushing aside cleanup agreements reached after long negotiations with the public on what were appropriate levels of residual contamination to leave at the site. While DOE suggested its proposals were based on risk analyses showing that loosened cleanup standards would not endanger human health or the environment, Winston said Fernald stakeholders already had made such judgments in the existing cleanup agreements for the site.

"At the Fernald site, DOE, regulators and stakeholders employed a process to evaluate cleanup options based upon risk and community values long before the development of this plan," Winston said. "To expect the public or regulators to

consider changing these agreements based upon a few weeks of internal DOE document development and very limited public involvement is naïve, and seemingly ignores all the effort put in by the community, site personnel and regulators over the past 10 years."

Winston noted that the department's plan was put forward in response to a directive from DOE headquarters designed to advance the Bush administration's "accelerated cleanup" initiative for federal nuclear weapons sites. The administration has portrayed the program as a sensible effort to speed cleanup by better assessing residual contamination risks and making appropriate changes to cleanup strategies; environmentalists and some state officials see it as a naked attempt to cut cleanup costs by relaxing remediation standards. Fernald is a showcase site for the accelerated cleanup effort as one of the first DOE sites scheduled for completion, with the deadline being 2006. However, the directive from DOE headquarters to propose changes to the Fernald cleanup plan suggests the department and its contractor, Fluor Fernald, are facing difficulties in meeting that date.

Winston suggested DOE Fernald officials tell headquarters officials that they had "satisfied" the directive on possible changes to Fernald's cleanup plan and then promptly drop the matter.

Questioning DOE's commitment in that respect, Winston warned Warther: "Some of your strongest supporters have already begun to question DOE's commitment to truly remediate the site. We have heard a growing perception that DOE is willing to change remedies, leave behind a dirtier site and place additional burdens on the community in order to complete work in 2006. We hope and expect this is not the case."

An EPA official made many of the same points in a November 26 letter to Warther, in somewhat more subdued language. "U.S. EPA does not support any of [DOE's proposed changes]...and would not support a reduced list including any of the alternatives," said Gary Schafer, chief of the federal facilities section at EPA Region 5 headquarters in Chicago. "All of the alternatives presented in the RBES are inconsistent with earlier records of decisions for the site and agreements made with the stakeholders."

Schafer also said the public participation process for the RBES document had been "minimal" and that state regulators and the community already had shown great willingness to compromise on waste removal at the site where risk analysis showed it was appropriate. "As opposed to shipping all contaminated materials off-site and cleaning up to background levels, the stakeholders agreed to the construction of an on-site disposal cell over a sole-source aquifer, and limiting land use to an undeveloped park," he noted. "U.S. DOE agreed to ship the lower-volume, yet highest contaminated materials off-site. "This early vision developed by all the involved stakeholders allowed the cleanup to progress quickly and saved U.S. DOE billions in cleanup costs.... U.S. EPA recommends no further pursuit of the actions proposed in the RBES document."

Gary Stegner, a spokesman for DOE's Ohio Field Office, said the regulators' criticism was not surprising given the strong public opposition to DOE's proposed changes. "It was clear from comments we received from our stakeholders that they think cleanup is going very, very well.... They don't want to change anything; they seem to be in no mood to entertain any changes." Stegner said it was up to DOE headquarters to determine if the department would pursue the proposed changes any further.

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Public comments from the November 18 public meeting on Fernald Risk-Based End State Vision.

- Fernald is too far along in the cleanup process to go through ROD changes
- Didn't we already go through this exercise with the five Records of Decision?
- The RODs already reflect decisions based on risk
- We currently have legal binding agreements. I am angry as a community person that you are asking us to undo what has already been done
- We have negotiated and compromised as far as we are going to go
- Looks like you want permission for us to change our minds and the answer is "No"
- If DOE wants to revisit the end state, then let's look at the big picture and take out the On-Site Disposal Facility and remove soil from surrounding properties, etc.
- The Records of Decision represent social contracts with the community after we looked at every aspect of the cleanup. By the end of the decision --making all parties got to a place where they celebrated. However, lately, the social contract has been broken.
- We understand that the Risk-Based End State Vision is an exercise that hopefully won't go anywhere
- You are asking for more compromise without offering anything in return
- It doesn't look as though the savings as a result of this exercise would be significant
- If you mess with the RODs you will open Pandora's Box and divert valuable time and energy

The Fernald Citizens Advisory Board intends to write a letter opposing implementation of Risk-Based End State opportunities as stated in the document. This letter will be finalized at the December 2 meeting.

Fernald Residents for Environmental Safety and Health (FRESH) also intend to submit a letter with a similar sentiment.

Congress of the United States
Washington, DC 20515

October 9, 2003

Mr. Bob Warther
Ohio Field Manager
Department of Energy
175 Tri-County Parkway
Springdale, OH 45246

Dear Mr. Warther:

We are writing in regards to published reports indicating that the Department of Energy (DOE) is considering stopping the treatment of uranium contaminated groundwater at Fernald.

As you may know, the *Cincinnati Enquirer* reported the proposed change in its October 4 edition. We were unaware the DOE was contemplating making such a fundamental change to the agreement it signed a decade ago requiring that the aquifer water be treated to drinking water standards.

We strongly believe that in a project as costly, environmentally sensitive, and expansive as the Fernald clean-up – that affects the safety of workers, the health of surrounding communities, and the stewardship of taxpayer dollars – public participation is essential in determining the most prudent approach to closure. We are concerned that DOE bypassed the Fernald Citizen's Advisory Board, the Ohio EPA, and the community's congressional representatives when this proposal was being developed. As Graham Mitchell, chief of OEPA's Office of Federal Facilities Oversight, stated in the *Enquirer*, "It's (DOE's plan) just not consistent with the overall clean-up strategy developed at Fernald over the past 10 years."

We would like to clearly state that we have serious concerns regarding any attempt to alter this agreement. It is our understanding that the current water treatment process is effective, although it would require considerable time and resources to complete, and supported by local stakeholders.

While we appreciate DOE's sensitivities with respect to the cost of the treatment, several important questions need to be answered. Are the proposed changes based on sound scientific studies? What are the other alternatives the DOE is studying to ensure the discharged water is clean? If the DOE were to release contaminated groundwater into the Great Miami, how would that impact the surrounding communities and the

environment?

Please provide us with a response to this report and explain why timely public participation in this very important matter apparently was not sought. As you know, Fernald is on schedule to close in 2006. In recent years, the project's stakeholders cultivated a productive working relationship that was beneficial to everyone. It is unfortunate that the Fernald community learned of this major proposed change to the existing contract from local media. We encourage the DOE to continue to work in good faith with the Fernald stakeholders to complete this important clean-up.

We look forward to your response.

Sincerely,



Steve Chabot
Member of Congress



Rob Portman
Member of Congress



Mike DeWine
United States Senator



George V. Voinovich
United States Senator

cc: Rick Dearborn, Assistant Secretary, DOE Congressional and Intergovernmental Affairs

GW Strategy files



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

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The Honorable Rob Portman
House of Representatives
238 Cannon House Office Building
Washington, D.C. 20515

OH-0050-04

Dear Representative Portman:

Thank you for your letter of October 9, 2003. Let me start off by assuring you that the Department of Energy is committed to keeping the regulators, the public and the congressional delegation informed and involved as we evaluate the Fernald Comprehensive Groundwater Strategy and the Risk-Based End State alternatives. I had the opportunity to meet with your staff on October 23, 2003 and discussed these matters in person. I believe it was a very productive meeting.

The Department of Energy is nearing completion of the Fernald site cleanup. As a result, in March 2003, the Department requested that its contractor, Fluor Fernald, review the scientific basis for groundwater treatment and discharge at the site and project the remaining scope of restoration. Specifically, we requested that the contractor analyze groundwater samples and review groundwater models developed over a decade ago. The Department also requested Fluor Fernald to prepare an analysis that compared the current path with alternate paths to complete the groundwater restoration effort in a manner that protects public health and the environment and is cost-effective.

The Fluor Fernald analysis was provided to the Department in June 2003. Unfortunately, in this instance, the Department did not take a proactive approach to communicating in advance with the regulators, the public and the congressional delegation. For this, I apologize. In addition, the term "preferred alternative" was incorrectly used in the draft documentation. This understandably raised concerns.



Congressman Portman

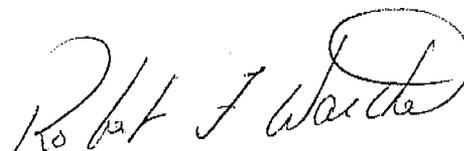
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NOV 14 2003

The Department met with the Federal and State regulators on October 17, 2003 and the Fernald Residents for Environment, Safety and Health (FRESH) on October 21, 2003. No changes to the alternatives document will be proposed until the Department has further, effective communication with the regulators, the community and the congressional delegation.

Thank you for the opportunity to address the concerns you raised in your letter.

Sincerely,



Robert F. Warther
Manager

cc:

Robert G. Card, Under Secretary
Rick A. Dearborn, Assistant Secretary,
Congressional and Intergovernmental Affairs
Jessie H. Roberson, Assistant Secretary for
Environmental Management
James A. Saric, USEPA, Chicago
Tom Winston, Ohio EPA, Dayton
Glenn Griffiths, Fernald Closure Project



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

NOV 14 2003

The Honorable George V. Voinovich
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

OH-0052-04

Dear Senator Voinovich:

Thank you for your letter of October 9, 2003. Let me start off by assuring you that the Department of Energy is committed to keeping the regulators, the public and the congressional delegation informed and involved as we evaluate the Fernald Comprehensive Groundwater Strategy and the Risk-Based End State alternatives. I had the opportunity to meet with your staff on October 7 and October 23, 2003 and discussed these matters in person. I believe it was a very productive meeting.

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Senator Voinovich

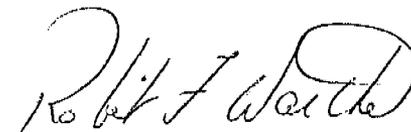
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Thank you for the opportunity to address the concerns you raised in your letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert F. Warther".

Robert F. Warther
Manager

cc: Robert G. Card, Under Secretary
Rick A. Dearborn, Assistant Secretary,
Congressional and Intergovernmental Affairs
Jessie H. Roberson, Assistant Secretary for
Environmental Management
James A. Saric, USEPA, Chicago
Tom Winston, Ohio EPA, Dayton
Glenn Griffiths, Fernald Closure Project



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

NOV 14 2003

The Honorable Mike DeWine
United States Senate
140 Russell Senate Office Building
Washington, D.C. 20510

OH-0051-04

Dear Senator DeWine:

Thank you for your letter of October 9, 2003. Let me start off by assuring you that the Department of Energy is committed to keeping the regulators, the public and the congressional delegation informed and involved as we evaluate the Fernald Comprehensive Groundwater Strategy and the Risk-Based End State alternatives. I had the opportunity to meet with your staff on October 7 and October 23, 2003 and discussed these matters in person. I believe it was a very productive meeting.

The Department of Energy is nearing completion of the Fernald site cleanup. As a result, in March 2003, the Department requested that its contractor, Fluor Fernald, review the scientific basis for groundwater treatment and discharge at the site and project the remaining scope of restoration. Specifically, we requested that the contractor analyze groundwater samples and review groundwater models developed over a decade ago. The Department also requested Fluor Fernald prepare an analysis that compared the current path with alternate paths to complete the groundwater restoration effort in a manner that protects public health and the environment and is cost-effective.

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Senator DeWine

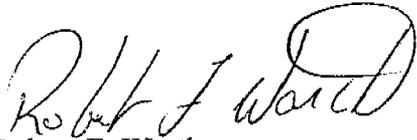
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Thank you for the opportunity to address the concerns you raised in your letter.

Sincerely,



Robert F. Warther
Manager

cc:

Robert G. Card, Under Secretary
Rick A. Dearborn, Assistant Secretary,
Congressional and Intergovernmental Affairs
Jessie H. Roberson, Assistant Secretary for
Environmental Management
James A. Saric, USEPA, Chicago
Tom Winston, Ohio EPA, Dayton
Glenn Griffiths, Fernald Closure Project



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

NOV 14 2003

The Honorable Steve Chabot
House of Representatives
129 Cannon House Office Building
Washington, D.C. 20515

OH-0049-04

Dear Representative Chabot:

Thank you for your letter of October 9, 2003. Let me start off by assuring you that the Department of Energy is committed to keeping the regulators, the public and the congressional delegation informed and involved as we evaluate the Fernald Comprehensive Groundwater Strategy and the Risk-Based End State alternatives. I had the opportunity to meet with your staff on October 23, 2003 and discussed these matters in person. I believe it was a very productive meeting.

The Department of Energy is nearing completion of the Fernald site cleanup. As a result, in March 2003, the Department requested that its contractor, Fluor Fernald, review the scientific basis for groundwater treatment and discharge at the site and project the remaining scope of restoration. Specifically, we requested that the contractor analyze groundwater samples and review groundwater models developed over a decade ago. The Department also requested Fluor Fernald to prepare an analysis that compared the current path with alternate paths to complete the groundwater restoration effort in a manner that protects public health and the environment and is cost-effective.

The Fluor Fernald analysis was provided to the Department in June 2003. Unfortunately, in this instance, the Department did not take a proactive approach to communicating in advance with the regulators, the public and the congressional delegation. For this, I apologize. In addition, the term "preferred alternative" was incorrectly used in the draft documentation. This understandably raised concerns.



Congressman Chabot

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NOV 14 2003

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Thank you for the opportunity to address the concerns you raised in your letter.

Sincerely,



Robert F. Warther
Manager

cc:

Robert G. Card, Under Secretary
Rick A. Dearborn, Assistant Secretary,
Congressional and Intergovernmental Affairs
Jessie H. Roberson, Assistant Secretary for
Environmental Management
James A. Saric, USEPA, Chicago
Tom Winston, Ohio EPA, Dayton
Glenn Griffiths, Fernald Closure Project



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 26 2003

REPLY TO THE ATTENTION OF

Mr. Robert Warther
United States Department of Energy
Ohio Field Office-Springdale
175 Tri-County Parkway
Cincinnati, Ohio 45246

SRF-6J

RE: RBES Fernald, OH Site

Dear Mr. Warther:

The United States Environmental Protection Agency has reviewed the United States Department of Energy (U.S. DOE) draft Risk-Based End State vision (RBES) document for the Fernald, OH site dated December 1, 2003. This document presents a master list of potential changes to the site cleanup. U.S. EPA is not supportive of any of the proposed items on the master list.

On November 21, 2003, a public meeting was held on this topic. However, the public participation process with the RBES has been minimal and there has been little coordination with the regulators on this issue. The RBES document and the list of recommendations were developed and presented in a manner inconsistent with how such issues were handled over the last ten years. This document was not developed with any regulatory input or public participation, but rather was developed internally by U.S. DOE and its contractor Fluor Fernald. The regulators and some members of the public were only given a few days to review the document before the public meeting.

It is U.S. EPA's position that in the mid-1990s the Fernald, OH site has used the RBES approach and vision to develop an end state using a balanced approach. As opposed to shipping all contaminated materials off-site and cleaning up to background levels, the stakeholders agreed to the construction of an On-Site Disposal Cell over a sole source aquifer, and limiting the land use to an undeveloped park. U.S. DOE agreed to ship the lower volume, yet highest contaminated materials off-site. This early vision developed by all of the involved stakeholders allowed the cleanup to progress quickly and saved U.S. DOE billions in cleanup costs.

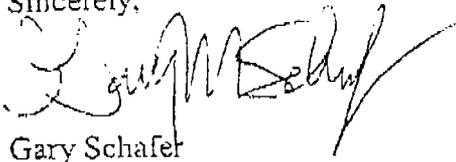
U.S. EPA does not support any of the activities provided in the "master list" for the site and would not support a reduced list including any of the alternatives. All of the alternatives presented in the RBES are inconsistent with earlier Records of Decision for the site and agreements made with the stakeholders.

The RBES policy allows for some sites to require no further action or changes from their existing

path forward. The U.S. DOE Fernald, OH site cleanup is approximately 70% complete, and there are defined cleanup goals and milestones established to achieve site closure in 2006. U.S. EPA recommends no further pursuit of the actions proposed in the RBES document. If U.S. DOE proposes future changes that may benefit the cleanup process, U.S. EPA recommends following the established process which includes full stakeholder and regulatory involvement.

If you have any questions regarding this matter, please contact James Saric of my staff at (312) 886-0992.

Sincerely,



Gary Schafer
Chief
Federal Facilities Section
SFD Remedial Response Branch #2

cc: Jim Woolford, U.S. EPA-FFRRO
Jessie Roberson, U.S. DOE
Johnny Reising, U.S. DOE-Fernald
Tom Schneider, OEPA-SWDO
Graham Mitchell, OEPA-SWDO



State of Ohio Environmental Protection Agency
Southwest District

401 East Fifth Street
Dayton, Ohio 45402-2911

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FAX: (937) 285-6249

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December 1, 2003

Mr. Robert Warther, Manager
US DOE Ohio Field Office
175 Tri-County Parkway
Springdale, OH 45246-3222

Dear Mr. Warther:

I am writing you concerning the USDOE Fernald site's Draft Risk-Based End State (RBES) Vision document, which was provided to Ohio EPA as an Executive Summary on November 13, 2003 and upon which a public meeting was held on November 18, 2003. At that public meeting, Ohio EPA was able to obtain a full copy of the document. Based upon our review of the document and the public meeting, Ohio EPA has significant concerns regarding the document and DOE's implementation of its Risk-Based End States policy.

DOE has failed to have any meaningful public or regulatory involvement in the development of the document. Providing the public and regulatory agencies a portion of the document just 2 working days prior to the public meeting does not constitute formulating the vision "...in cooperation with regulators and, in consultation with affected governments, Tribal nations and stakeholders..." as required by DOE Policy P 455.1. In fact, it is our understanding that no change to the document occurred following the public meeting, where adamant opposition was expressed, and prior to submittal to DOE HQ. This leaves one to question what the point of the public meeting was other than to say a meeting occurred. The lack of public and regulatory involvement in this document and its predecessor, the Comprehensive Groundwater Strategy Report, have seriously damaged the productive working relationships between DOE and the regulatory agencies and public. The past two months have seen numerous negative press articles and a growing distrust of DOE in the community. This, after the DOE Fernald site has been seen as a national leader over the past decade in successful stakeholder involvement and productive working relationships between DOE, regulators and the community.

Concerning the specific proposals outlined in the Draft Risk-Based End State Vision, Ohio EPA finds all of the proposals unacceptable. At the Fernald site, DOE, regulators and stakeholders employed a process to evaluate cleanup options based upon risk and community values long before the development of this policy. Additionally, these decisions were reached over years of education, discussion and compromise. To expect the public or regulators to consider changing these agreements based upon a few weeks of internal DOE document development and very limited public involvement is naive, and seemingly ignores all the effort put in by the community, site personnel and regulators over the past 10 years.



Mr. Robert Warther, Manager
US DOE Ohio Field Office
Page 2

It is important to note that your efforts on the RBES Vision were performed to meet a DOE policy directive and not to satisfy any regulatory requirement of USEPA or Ohio EPA. In that regard it can be viewed as an exercise to help DOE determine if there are any regulatory "opportunities" that should be pursued further. We have always felt that such an evaluation would not bear any significant fruit at Fernald. In comparison to the evaluation and discussion that resulted in current cleanup requirements, this evaluation is anemic in terms of its rigor and devoid of the meaningful regulator and public discussion that produces implementable decisions. The result is a list of potential changes that are all problematic in that they ignore the rich history of decisions at Fernald and fail to recognize the inter-related nature of these decisions. Put simply, it does not appear to be in DOE's best interest to reopen Records of Decisions (RODS) that included extraordinary compromises from the public and regulators.

For all of these reasons, I would suggest that DOE not proceed to propose any changes based on this exercise. To the extent that you have satisfied an internal DOE screening process, you can report that you have completed that task. But, clearly, additional effort put into RBES would not be prudent. Some of your strongest supporters have already begun to question DOE's commitment to truly remediate the site. We have heard a growing perception that DOE is willing to change remedies, leave behind a dirtier site and place additional burdens on the community in order to complete work in 2006. We hope and expect this is not the case.

This is not to say that we will not continue to discuss and act on proposals to improve the cleanup at Fernald. DOE, regulatory agencies and the local community have had a very productive relationship over the past several years. Indeed several Records of Decision have been revised recently to address technical difficulties, improve processes and provide clarification. However, these changes were implemented using the successful public participation and regulatory concurrence model developed and used at Fernald over the past 10 years. Ohio EPA remains committed to working within the bounds of this framework to address site issues as they arise.

Continued work on the RBES Vision will only further distract vital resources and staff from focusing on achieving DOE's 2006 cleanup goal. The process has already cost substantial dollars in personnel time and contractor effort as well as caused damage to the working relationships at the site. Ohio EPA believes it is time to move beyond the RBES Vision exercise and allow the site and community to return their focus to achieving the 2006 goal.

Sincerely,



Thomas A. Winston, P.E.
Chief, Southwest District Office

cc: Bill Taylor, DOE-FFO
Jim Bierer, FCAB
Jim Saric, USEPA Region V
Jim Woolford, USEPA



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

DEC 15 2003

FERNALD
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FILE: 2287.24

Tom Winston, Chief
Ohio Environmental Protection Agency
Southwest District Office
401 E. Fifth Street
Dayton, Ohio 45402

OH-0132-04

Dear Mr. Winston:

This letter is provided in response to your letter of December 1, 2003. In your letter, two key implications were made that, if not clarified, could perpetuate a misconception regarding the Department of Energy (DOE) efforts to achieve risk-based closure at sites under your jurisdiction. The referenced letter implies: (1) the Fernald Risk Based End State (RBES) document is final, and actions to implement the risk-based end state are well underway; and (2) the first exposure of the Ohio Environmental Protection Agency's (OEPA) to this process occurred two days before the November 18, 2003 Fernald public meeting.

As you know, the DOE remains in full compliance with the five Records of Decision (ROD) that govern environmental remediation at the Fernald site, and is legally required to continue to comply with those RODs. If you have concerns regarding DOE's compliance with a ROD, please notify me so that I may take appropriate action.

DOE also fully understands that it cannot unilaterally change any portion of the five RODs. If the public believes DOE can take unilateral action to change the current groundwater remedy at Fernald, then it is apparent that U.S. and Ohio EPA's authority over the DOE is not well understood. If that is the case, DOE and its regulators jointly should work to improve the public's understanding of the regulators' responsibility and authority, as well as the DOE's obligations regarding all RODs. Furthermore, it is important for all to recognize that there is a regulatory process for amending RODs and, where appropriate, the DOE has a fiduciary responsibility to pursue appropriate changes that could result in cost efficiencies without compromising protection of human health and the environment.

As you are aware, the final groundwater strategy at Fernald is a substantial component of the RBES. While it is true that the draft RBES Vision document was submitted in response to DOE Policy No. 455.1, this policy basically formalized work that was already underway at many DOE cleanup sites, including those located in Ohio. The DOE has always looked for methods to decrease cost to the taxpayers while maintaining full protectiveness. The DOE staff initiated discussions with members of your staff regarding risk-based end states at Fernald nearly one year ago. A detailed list of all the interactions between our staffs is included as an attachment to this letter. The list shows more than two dozen contacts with your staff on this subject going back as far as December 2002. I am profoundly troubled that you were not fully aware of the RBES initiative at Fernald following this number of communications with you and your staff.



Mr. Tom Winston

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DEC 15 2003

I find your comment that DOE has not received meaningful public input misleading, in part, because the context in which this statement is made is incorrect. Your letter states that I can "report that {I} have completed that task {of submitting a RBES Vision document to DOE Headquarters}." Unfortunately, the letter's language has created the misperception that the opportunity for the public and the regulator to comment has been missed. As a member of the DOE Environmental Management Advisory Board, as well as a regulator for the State of Ohio who has commented on the draft RBES Policy and Guidance, you are well aware DOE drafted the Ohio RBES document for the express purpose of receiving public and regulator comment. Per the Policy, "sites should provide the draft RBES Vision document to regulators and stakeholders for review and comment at the same time the draft Vision document is submitted to HQ." The Ohio Field Office *exceeded* this requirement because we solicited and received comments from the public *prior* to submitting the draft RBES document to DOE-HQ. However, the Assistant Secretary for Environmental Management has granted the field an extension for submission of the final RBES vision until March 30, 2004 to allow additional time over the next three months for public input.

Your letter further states that all of the RBES vision recommendations are unacceptable, and implementation would lead to a "dirtier cleanup". All Ohio RBES recommendations are compliant with Federal and State regulations. To the extent that Federal and State regulatory limits are adequate, implementation of these recommendations would result in adequate protection of the public and environment, commensurate with anticipated land use. I cannot emphasize enough that under no circumstances would implementation of our RBES recommendations result in a cleanup that is less than fully adequate to protect the public and environment.

Your letter also states that the RBES document cannot be implemented. I agree with this statement, the draft document never was intended to be implemented. The DOE is still in the process of developing and examining alternatives, and is not yet ready to pursue any of those alternatives. Further analysis will be required, and several steps must be taken before any changes at the Fernald site could occur. More specifically, pursuant to DOE Policy 455.1, the following steps must be completed:

1. Incorporate or attach public and regulator comments into the DRAFT document, including the variance report.
2. Submit the final RBES document to DOE Headquarters.
3. Develop a site risk-based end state implementation strategy that includes an assessment of current cleanup strategies and baselines to align them with the end state vision. This is the document that would assess the ability to implement the RBES recommendations. The implementation strategy is anticipated to be complete in the spring of 2004.

Mr. Tom Winston

-3-

DEC 15 2003

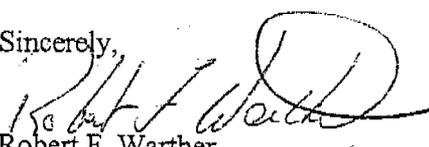
4. Implement changes, as agreed to with the public and regulators. There is no firm date for such action, but under the regulatory process, this cannot be completed until the summer of 2004 at the earliest, and only after detailed discussions with your staff and the public, and completion of any changes to RODs , if required.

Each of the above steps remaining in this process provides an opportunity for public and regulator input. To date, we have not received technical comments on the Fernald RBES regarding risks to human health and environment from the regulator(s) or the public. We have received several comments related to the process used to develop the DRAFT document, and we are fully aware of the history behind the development of each ROD. We will continue to contact OEPA staff directly to ensure that all RBES technical recommendations are fully compliant with Federal and State regulations.

Finally, it is important that our two organizations ensure communications are effective. My staff assures me they are communicating with your designated Site Representative. However, based upon your December 1, 2003 letter and recent comments by your senior staff to the press, it is clear that the issues DOE believes it is communicating are not being received at your level. Therefore, I propose that you and I establish a bi-weekly conference call to discuss topics of importance to the successful completion of the Fernald site. I further propose that we conduct a quarterly walk down of the site.

As we approach closure, it is clear that the frequency and significance of decision-making will increase. I look forward to receiving a favorable response to these two suggestions. Taken together, I am confident that we can achieve a greater mutual understanding of the important issues facing each of our agencies, while providing a vehicle for communicating important matters and positions in a professional and timely atmosphere.

Sincerely,


Robert F. Warther
Manager

Attachment

cc:

Jessie H. Roberson, EM-1
Michael Owen, LM-1
William Muno, USEPA
James Woolford, USEPA
Graham Mitchell, OEPA
James C. Bierer, FCAB

FERNALD GROUNDWATER STRATEGY/ RISK BASED END STATE TIMELINE:

DATE	EVENT	TOPIC/RESULT
January 2002	Secretary Abraham visits Fernald Site	Discussed top to bottom review of which Risk Based End State (RBES) Vision was part of Master Plan.
December 2002	DOE-HQ rolls out discussion on RBES process	DOE-HQ initiated a complex wide discussion with State Regulators, USEPA, local and tribal governments.
December 18, 2002	Email from DOE-FCP to US and Ohio EPA's	Email to US & Ohio EPA transmitting the RBES policy, guidance, example and questions from Corporate Team #7.
January 2, 2003	Email from DOE-FCP to OEPA	Email informing OEPA that DOE-FCP was responding to a questionnaire from HQ Corporate Team #7 related to RBES and offering to share with OEPA when finalized.
January 2, 2003	Email from OEPA to DOE-FCP	Email requesting to see completed questionnaire and informing DOE-FCP that OEPA would be reviewing the RBES policy for ITRC.
January 3, 2003	Email from OEPA to DOE-FCP	Email from OEPA to DOE-FC transmitting letter from EM-1 to the ITRC asking for review and comments on the RBES guidance.
January 7, 2003	Email from Fluor Fernald to OEPA	Email transmitting completed Corporate Team #7 questionnaire.
January 22, 2003	Full FCP-CAB Mtg	FCP-CAB briefed on RBES policy and guidance. Comments requested on documents by January 31, 2003.
March 29, 2003	Contract Mod. 38 signed	Includes requirement for Fluor to submit Comprehensive Groundwater Strategy (CGS) within 60 days of contract award
April 10, 2003	Meeting with OEPA	Representatives of DOE-FCP and Fluor Fernald briefed OEPA staff on Mod. 38, including CGS.
May 2003	Conference Call with USEPA	Representatives of DOE-FCP and Fluor Fernald briefed USEPA on Mod. 38, including CGS.
June 4, 2003	Meeting between DOE and Fluor	Fluor briefs DOE on status of CGS contract deliverable. DOE agrees to extension of time for submittal of document to June 30 th .
June 10, 2003	Fernald Weekly Report	First use of term "preferred alternative". Used in CGS context that DOE's general preference was to D&D the Advanced

		Waste Water Treatment Plant (AWWT) on a schedule that allowed disposing of it in the On Site Disposal Facility (OSDF). Protocol is for Fernald to fax copies of weekly reports to the Fernald Citizens Advisory Board (FCAB) members, which includes US and Ohio EPA.
June 11, 2003	Weekly Report fax'd to FCAB members	
June 19, 2003	Email from OEPA to FCP-CAB	Advises that OEPA does not support DOE CGS proposal, and states OEPA was not aware of this action.
June 19, 2003	Telecon between DOE-FN and USEPA	DOE informs USEPA we do not have a CGS preferred alternative, all options were being evaluated, and the report was due June 30 th .
June 30, 2003	Comprehensive Groundwater Strategy submitted to DOE	Contractual deliverable met.
July 15, 2003	DOE Policy 455.1 approved	DOE Policy on "Use of Risk-Based End States" approved by the Deputy Secretary of DOE.
July 21, 2003	Meeting between DOE and Fluor on CGS	Discussion of DOE comments on June 30 th CGS document.
August 8, 2003	Meeting between DOE and USEPA Region V in Chicago	Discussion included DOE groundwater optimization initiative
August 14, 2003	Full FCP-CAB Mtg.	
August 22, 2003	DOE letter to Fluor pertaining to CGS	CAB members received updated RBES Policy Guide and Implementation Plan.
August 28, 2003	Meeting between DOE and Fluor related to CGS	Transmitted comments on June 30 th CGS document, and requested additional information on selected alternatives identified in CGS.
September 8, 2003	Letter to FCP-CAB from DOE-FCP	DOE clarified its 8/22 request for additional information related to CGS.
September 10, 2003	Meeting between DOE, Fluor and OEPA in Dayton, OH related to CGS.	Letter to CAB from DOE-FCP Acting Director transmitting FY 2004 Priorities. Included was the statement "Facilitate a public discussion on DOE's RBES policy and provide input to DOE on incorporating the RBES policy at Fernald". Various topics discussed. OEPA expressed lack of support for any alternative that would raise discharge limits contained in Record of Decision for Operable Unit 5 at Fernald.

September 11, 2003	Fluor letter to DOE related to CGS.	Responded to 8/22 request for additional information on CGS.
September 13, 2003	FCAB Annual Retreat	Groundwater Strategy initiative discussed. DOE commits to briefing for the FCAB in October on this subject. At the Annual FCP-CAB Retreat the DOE-FCP Acting Director discussed and reiterated the request for the CAB to facilitate public input on the RBES Policy at FCP.
Week of Sept. 14, 2003	Copy of the CGS Report provided to Lisa Crawford (at her request)	First external distribution of initial CGS report. Report still considered internal working draft.
September 16, 2003	Meeting between Fluor representatives and USEPA in Chicago	Various topics discussed, including need for regulatory "summit meeting" for DOE presentation on groundwater initiatives and informal regulator reactions prior to development or submittal of any formal proposal by DOE to alter current groundwater remedy. Wanted information on "preferred alternative" for CGS.
September 22, 2003	Lisa Crawford calls DOE and Fluor public information contacts	
September 24, 2003	Fluor meets with Lisa Crawford at her request (lunch meeting)	Provided copy of talking points related to RBES and CGS which included the term "preferred alternative"
September 25, 2003	Telecon between DOE, OEPA, and USEPA	DOE told regulators that the document had been provided to Lisa Crawford, and that a copy of the document and talking points would be provided to them.
September 25, 2003	Telecon between Fluor and FCAB Facilitator	Informed Facilitator of meeting held with Lisa Crawford. Provided him a copy of the talking points via e-mail.
September 26, 2003	Comprehensive Groundwater Strategy Report and the Risk-Based End State Overview talking Points sent to US and Ohio EPA.	The talking points used to brief Lisa Crawford related to the RBES process and initiatives/opportunities were sent to both US and Ohio EPA along with the Comprehensive Groundwater Strategy Report. This brings regulators, FCAB, and key stakeholders to a consistent level of documentation on this subject.
September 26, 2003	Cincinnati Enquirer reporter called Fluor public affairs office	Inquired about Silos Project safety stand down. Also requested information on Groundwater Strategy Report and preferred alternative. Fluor informed the reporter that there was no preferred alternative---only an internal report that identified options.

September 29, 2003	Enquirer reporter calls DOE-Fernald.	DOE informed him that a range of options was being considered; there was no CGS preferred alternative; and we would use a public process to evaluate options and develop a path forward.
October 8, 2003	Meeting at stakeholder residence between DOE, Fluor, and key stakeholders	Briefed key stakeholders on background of groundwater strategy report, and discussed options and path forward. Emphasized there was no "preferred alternative", and committed to a public meeting to discuss the entire matter.
October 9, 2003	Meeting between DOE and three OEPA representatives in Miamisburg, Ohio	OEPA firmly states the groundwater initiative is "dead on arrival". No support for concept—particularly changing of discharge limits.
October 17, 2003	Meeting between DOE, Fluor, USEPA and OEPA in Dayton, OH	Regulatory Summit held. Both USEPA and OEPA stated they would not agree to any changes in discharge limits. However, they were amenable to discussions on timing of appropriate disposition of the AWWT and ultimate groundwater certification approach to declaring completion of remedy. Brief discussion on RBES vision document (averaging Waste Acceptance Criteria in OSDF).
October 21, 2003	Public Meeting held at Fernald Site on CGS.	Attended by 54 people, including USEPA, OEPA, FCAB, Ohio Dept. of Health, media representatives, area residents, and other key stakeholders. DOE asked for an opportunity to start the process over, and more effectively involve the public in the entire matter. Fluor presented information on history of the issue and the alternatives contained in the June 30 th report.
October 21, 2003	FCAB meeting held immediately following public meeting	Path forward agreed to, whereby DOE would use the FCAB as the primary conduit to frame the issue for the public, and facilitate an open process to discuss alternatives related to the CGS and decide upon appropriate path forward----including any potential concerns regarding any proposals emerging from DOE implementation of Risk Based End State Policy (DOE 455.1)
November 14, 2003	Email sent to FCP-CAB mailing list related to RBES	Email sent to the CAB transmitting the Executive Summary of the RBES Vision Document.
November 18, 2003	Public Meeting pertaining to RBES Vision Document	Public Meeting held at FCP to present the Draft RBES Vision Document. Full copy of RBES Vision document distributed to

November 21, 2003	FCP RBES Vision Document transmitted to EM-1	attendees. Draft FCP RBES Vision document transmitted to EM-1. Summary of Comments received at Public Meeting and newspaper articles attached.
November 25, 2003	Email from DOE-FCP to US and Ohio EPA	Email sent to US and Ohio EPA informing them that the RBES Vision Document had been posted on the WEB Site. Provided site name and password for access.
November 25, 2003	Email from CAB facilitator to FCP-CAB	Email sent from CAB facilitator to CAB transmitting draft letter to EM-1 from FCP-CAB relating to RBES vision document.
November 25, 2003	Meeting with OEPA at Dayton Office	Representative from Fluor Fernald, Inc. and DOE-FCP met with OEPA to discuss the RBES HQ review process and path forward.
December 2, 2003	Full FCP-CAB Meeting	Full CAB meeting held, topics discussed included RBES vision document, comments and path forward. The Comprehensive Groundwater Strategy path forward was discussed. In was agreed that the CAB would review and evaluate various alternatives primarily related to the dispositioning of the AWWT.



State of Ohio Environmental Protection Agency
Southwest District

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TELE: (937) 285-6357
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January 6, 2004

Robert Warther, Manager
U.S. DOE Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

Dear Mr. Warther:

This is in response to your letter dated December 15. My purpose is to briefly restate Ohio's position on DOE's Risk Based End State (RBES) approach at Fernald and also provide clarification on a couple of points in your letter. Since we seemingly have different perspectives on what has transpired on this project, my primary focus is on where we go from here.

In terms of our position, let me offer the following background. When I toured the Fernald site in August, 2003, I was amazed at the progress that was occurring on the cleanup. After being involved with this site since the late 1980's, it was a pleasure seeing the significant cleanup efforts that were underway. To date almost 70% of the site is cleaned up! My staff informs me that even more progress has occurred since my August tour. These successful results are the product of DOE building successful working relationships with contractors, regulators, and stakeholders over at least the past ten years. During this process all parties were educated in the technical, economic and political issues associated with the cleanup challenges at Fernald and all parties have made compromises in developing the cleanup plans that are currently being implemented.

I see Ohio's position as relatively straightforward. At this late point in the cleanup, it just does not make sense for DOE, the regulators and stakeholders to spend valuable time and resources to do additional studies on alternatives for the Fernald cleanup that, in reality, have no time to be implemented. The time for studies has passed and now is the time to focus on meeting DOE's stated 2006 goal to safely complete the cleanup.

I did want to address a couple of points in your letter. One was your perspective that I was not fully aware of the RBES initiative. Let me assure you, Ohio EPA staff involved with the Fernald cleanup has kept me fully informed on this issue. While we were aware that work was ongoing on this project, our concerns about the level of consultation, cooperation and deliberation still stand. You do correctly point out that I am very familiar with the RBES policy and guidance development through my national involvement with the Environmental Management Advisory Board (EMAB), the State and Tribal Government Working Group (STGWG), and the National Governors Association (NGA). In that capacity I have



Robert Warther, Manager
U.S. DOE Ohio Field Office
January 6, 2004
Page 2

provided input on numerous occasions on many related issues, including how difficult it would be to superimpose the RBES process on sites like Rocky Flats, Fernald and Mound which are nearing cleanup completion.

Further, I have pushed hard at the national level for DOE to work collaboratively with regulators, local governments and the public and to exercise leadership in determining which cleanup plan changes to actually put forth. I even provided a list of factors which DOE should consider in making that decision. To DOE's credit, that list was made a part of the Draft RBES Implementation Plan. While I understand the goal of the RBES exercise, I have repeatedly voiced concerns about the potential damage that this process could have on working relationships at the site level and on the forward progress that DOE, the Congress, the regulators and the public have been successfully striving to achieve. I believe this is especially true at sites like Fernald where we are nearing the finish line.

I appreciate your comments that the document is just a draft, and even when final, does not constitute a change in clean-up requirements. We certainly concur. However, in that the proposals have received a negative response from US EPA, Ohio EPA and the public, implementation within the 2006 time frame is unrealistic. I hope there is an appreciation within DOE that the RBES "opportunities" presented are significant departures from the decisions that were made through a robust and collaborative process and that any change could only come out of a similar process. As stated in your RBES report, a step that you will need to take is to "arrive at the shortlist of implementable ideas." Given timing, reaction of the regulators and the public and the daunting task of revisiting hard-fought compromises, we believe that none of the RBES opportunities should be carried forward to the "shortlist". Since we strongly believe this to be the case, we do not intend to offer detailed comments on the proposals, and feel that to do so would only distract all parties from our 2006 challenge.

I did want to restate that we continue to be willing to engage in discussions and act on proposals to improve the cleanup at Fernald through inter-agency technical discussions and collaboration with stakeholders. For example, the Fernald Citizens Advisory Board has agreed to consider the question about what is the appropriate long term infrastructure to leave in place to treat contaminated ground water and leachate. While we have stated that not providing treatment is unacceptable, there may be infrastructure changes that would be acceptable. We see discussions on this issue as a worthwhile investment that could again yield a significant improvement to the Fernald cleanup. I do need to mention that the continuing backdrop of RBES proposals, especially those related to ground water treatment, could hamper these discussions. However, this type of collaborative approach between DOE, regulators and stakeholders is the way we have discussed potential changes to the Fernald cleanup in the past and this approach has served everyone well.

I am open to working toward improved communication and am agreeable to your idea of a bi-weekly conference call. In those discussions, I will continue to underscore the long history of successful, collaborative decision-making that has occurred at Fernald. With the

Robert Warther, Manager
U.S. DOE Ohio Field Office
January 6, 2004
Page 3

perspective of over 15 years of involvement at this site, I know only too well the challenge of reaching implementable decisions and the level of trust and communication that is needed for such achievement. Our goal will be to continue to work within such a framework.

Sincerely,



Thomas A. Winston, P.E.
Chief, Southwest District Office

TAW/bjc

cc: Jessie H. Roberson, EM-1
Michael Owen, LM-1
William Muno, USEPA
James Woolford, USEPA
James C. Bierer, FCAB
Graham Mitchell, OEPA
Tom Schneider, OFFO



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

JAN 23 2004

Tom Winston, Chief
Ohio Environmental Protection Agency
Southwest District Office
401 E. Fifth Street
Dayton, Ohio 45402

OH-0184-04

Dear Mr. Winston:

I very much appreciate your January 6th response to my letter concerning the cleanup at the Fernald site, and your comments regarding the progress that has taken place at Fernald. I believe Fluor Fernald deserves a large part of the credit for the progress being demonstrated. Since your last site visit in August 2003, Fluor has performed very well. They finished the year on track or ahead of all waste disposal goals, and safety performance has improved markedly since your visit. The injury rate as measured by the OSHA recordable case rate is about one-half what it was two years ago, and nearly an order of magnitude better than industry standards. The Silos project continues to be on the critical path for closure and, while not as far along as we would like, good progress continues. Fluor is in the process of completing systems testing for Silo 3 prior to startup of those operations.

I appreciate the willingness of you, and others, to engage in discussions concerning potential infrastructure changes regarding Fernald groundwater treatment. As discussed in our recent phone conversation, there may be an avenue to remove this topic from the backdrop of the Risk Based End State (RBES) process. I look forward to working collaboratively with your agency, Federal regulators, the Fernald Citizens Advisory Board (FCAB), and other interested stakeholders to further refine that concept into yet another step toward significant improvement to the Fernald cleanup.

Toward that end, I believe you and I should lead an effort to re-establish communications on a variety of important topics at Fernald. In so doing, I am not proposing to circumvent any other organizations with interests in the Fernald mission. Rather, I envision such collaborative discussions as being an important initial effort toward identifying an agreed upon framework for moving forward and addressing these topics.

As a first step, I propose we mutually develop a topical agenda, convene a "summit" meeting of key personnel from appropriate organizations, and outline a path forward for achievement of implementable decisions for both the Fernald and Mound Closure Projects. In short, I want to reach clear agreement on the specific process to be used in addressing these issues, and I want this process to be inclusive, participatory and public. Once that process is agreed upon, our staffs will have a clear roadmap to utilize, and can then focus on technical issues and their ultimate resolution. You and I, and others as appropriate, would act as a "steering committee" to remove any obstacles to progress and keep the focus on issue resolution.



Tom Winston

-2-

JAN 23 2004

I look forward to your views on this proposal, and trust that it meets with your approval.
I welcome any other suggestions you may have to make this effort more successful.
Please call me at your earliest convenience to discuss this matter further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert F. Warther".

Robert F. Warther
Manager

cc:
See Attached

cc:

Jessie H. Roberson, EM-1

Rick Dearborn, CI

Steve Chabot, House of Representatives (Local)

David Hobson, House of Representatives (Local)

Rob Portman, House of Representatives (Local)

Michael Turner, House of Representatives (Local)

James Bierer, FCAB

Mayor Dick Church, City of Miamisburg

Sharon Cowdrey, MESH

Lisa Crawford, FRESH

Mike Grauwelman, MMCIC

John Weithofer, City of Miamisburg

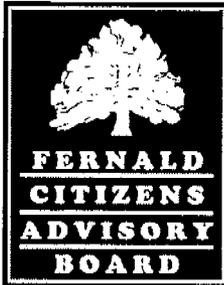
Margaret Marks, OH/MCP

Bill Taylor, OH/FCP

Dewain Eckman, OH/MCP

Johnny Reising, OH/FCP

Gary Stegner, OH/FCP



December 3, 2003

The Honorable Jessie Hill Roberson
Assistant Secretary for Environment Management
Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-0104

Dear Ms. Roberson:

We are writing to ask that you relieve Fernald of the obligation to continue with Risk Based End States (RBES) activities at the Fernald site. The RBES policy recognizes that it might not apply to all sites, and we strongly believe that it should not apply to Fernald. Our decisions at Fernald have been based on a risk-based end state and we are so far along in implementing these decisions that we believe that the most prudent course is to allow us to return our full focus to a responsible and safe cleanup.

In general, the FCAB supports the idea of risk-based end use planning. In fact, we embraced this planning ten years ago when we provided the DOE with recommendations regarding the future use and specific cleanup levels for the site. Our July 1995 recommendations were based on detailed and exhaustive deliberation of land uses and risk levels. We ultimately decided that it was in the best interests of the country that Fernald take a balanced approach to cleanup based on specific land uses, risk levels, and disposal locations. This was a far cry from the cleanup to background that most of the community had been insisting upon up to that time. Our recommendations, which were adopted in full by DOE and its regulators and resulted in the following:

- Selecting on-site disposal for 77 percent of Fernald's waste volume, and recommending the construction of an on-site disposal facility, greatly reducing costs of disposal and the risk of waste transport
- Basing on-site soil cleanup levels on an undeveloped park end state and what was necessary to protect the Great Miami Aquifer, a sole source drinking water aquifer
- Setting off-site risk levels at 10^{-5} , which eliminated all off-site excavation of the 11 square miles of land that had been contaminated by the Fernald site and saving over \$4 billion
- Allowing extensive on-site excavation of contaminated soils and cell liner material without backfilling or the importation of expensive topsoil
- Recommending that all cleanup be accelerated to achieve completion within 10 years, saving over \$2 billion from the existing estimates.

As can be seen from this list, the Fernald community not only understands risk-based end use planning, we did it before any of the other sites in the DOE complex were even getting started. Our five final RODs are almost a decade old, and implementation of Fernald cleanup is about 70 percent complete. These RODs were the result of comprehensive dialogue and debate and are based on the FCAB's 1995 recommendations. Every decision was carefully considered. While most require DOE to do far less than return the site to its pre-Cold War condition, some clearly go beyond the legal minimum. This was seen as a reasonable tradeoff to the billions of dollars of savings and the siting of a 100-acre radioactive waste disposal

Chair
James C. Bierer

Vice Chair
Lisa Crawford

Members
M. Kathryn Brown
Sandy Butterfield
Marvin W. Clawson
Lisa Crawford
Stephen P. Depoe
Louis Doll
Pamela Dunn
Jane Harper
Robert G. Tabor
Gene E. Willeke

Ex Officio Members
L. French Bell
Gene Jablonowski
William Taylor
Graham Mitchell

Support Staff
The Perspectives Group

Ms. Jessie Hill Roberson
December 3, 2003

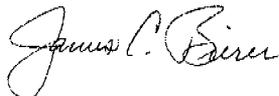
facility in the middle of a residential community and on top of a sole source drinking water aquifer. To suggest now, as the current RBES document does, that the community and regulators should provide DOE with additional concessions and accept a higher risk without any compensation does not make sense.

To ask the site to revisit these decisions at this time is not only harmful to the careful balance of interests represented by the site's cleanup decisions, it is causing a serious waste of resources and diverting important attention from our cleanup mission. The site has already spent hundreds of senior manhours and \$70,000 in subcontractor costs on the RBES exercise. Thus far, implementation of the RBES policy at Fernald has further strained already damaged relationships with the public and regulators. As was clearly demonstrated in the public meeting of November 18, any of the RBES recommendations that return to Fernald from this process will be soundly rejected by both the public and regulators and result in even greater use of time and resources. In addition, the time it would take to approve and implement any of these decisions does not appear to make sense within the confines of the target closure date of December 2006.

For the past ten years, the Fernald site has been recognized as a model of stakeholder participation and collaborative decision-making. We gained this reputation because a lot of people worked extremely hard to do things the right way. This approach has worked for a long time and has resulted in a site that is very near completion with strong stakeholder and regulator support. As part of that process, we have dealt with many changes that were brought about through need and innovation. We did this with foresight, detailed technical evaluation and full participation. The RBES process has not followed this pattern.

The RBES policy recognizes that it might not apply to all sites, and certainly it is not applicable to Fernald. In the best interests of the site and its stakeholders, we are requesting at this time that you relieve Fernald of the obligation to continue with RBES and allow us to return our full focus to a responsible and safe cleanup. We urge that you act quickly before additional expenses are incurred.

Sincerely,



James C. Bierer
FCAB Chair



Lisa Crawford
FCAB Vice-Chair

cc:

Senator Mike DeWine
Senator George Voinovich
Representative John Boehner
Representative Steve Chabot
Representative David Hobson
Representative Rob Portman
SSAB Chairs
Bob Warther



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

Copy to
Don L
John S
Dono
12/30/03
513
de

DEC 15 2003

Mr. Todd Portune
Board of Commissioners
County Administration Building
138 E. Court Street, Room 603
Cincinnati, Ohio 45202

OH-0129-04

FILE: *085124*
2003 DEC 17 A 10:14
FERNALD
OG *1-085124*

Dear Mr. Portune.

This letter is in response to your telephone call to me last Friday, December 5, 2003. It is my understanding that your concern centers on the local press coverage that implied the Department of Energy (DOE) was unilaterally modifying existing Records of Decision (ROD) relating to the clean up of the Fernald Closure Project (FCP).

As I stated during that call, DOE has initiated a complex-wide initiative to prepare Risk Based End State (RBES) Vision documents that ensure each closure project's cleanup effort is driven by clearly defined, risk-based end states. This initiative is, in fact, a more formal implementation of an initiative started by the DOE in December 2002. As we discussed, the Fernald Closure Project has prepared a draft document that defines all technically supportable, risk-based opportunities for consideration. All recommendations fully comply with federal and state regulations. This document represents the beginning of a process that has, and will continue to involve the public and the regulators. The DOE RBES initiative (which includes the comprehensive ground water strategy) cannot unilaterally impose changes to the Fernald cleanup waste acceptance criteria. Should any changes be proposed that would modify the Fernald cleanup, DOE must follow the nation's environmental laws and regulations and the due process defined by those laws.

As we assess the miscommunication surrounding the RBES initiative, we are once again preparing focused, intense communication plans to reach all involved in the Fernald cleanup. To that end, I would like to schedule a briefing for you and the other commissioners to clearly define the approach we are using.



Mr. Todd Portune

-2-

DEC 15 2003

I have assigned a new Director to the Fernald Closure Project, William J. Taylor, who will call you in the next few days to arrange a time and place for the informational briefing. Should you have any further questions, please feel free to call me at (513) 246-0018 or Mr. Taylor at (513) 648-3101.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert F. Warther". The signature is written in dark ink and is positioned above the printed name.

Robert F. Warther
Manager

cc:

Jessie H. Roberson, EM-1
William Muno, USEPA
Tom Winston, OEPA
J. S. Dowlin, Hamilton County,
Board of Commissioners
P. Heimlich, Hamilton County,
Board of Commissioners



Department of Energy
Ohio Field Office
Fernald Environmental Management Project
P. O. Box 538705
Cincinnati, Ohio 45253-8705
(513) 648-3155



January 9, 2004

DOE-0098-04

Distribution:

RISK BASED END STATE VISION

Since December 2002, the Department of Energy (DOE) has undertaken a complex-wide discussion and interaction with Federal and State regulators and other interested stakeholders pertaining to the Risk Based End States (RBES) process. DOE Policy 455.1, "Use of Risk Based End States", was issued in July 2003. For Fernald, within the jurisdiction of the Ohio Field Office (OH), seven formal and various informal interactions, including public meetings, have been held in an attempt to obtain public input on site Draft RBES Vision process. We have received initial written comments from the U. S. Environmental Protection Agency (U. S. EPA), the Ohio Environmental Project Agency (OEPA), and the Fernald Citizen Advisory Board (FCAB). Informal verbal comments have been received from the Fernald Residents for Environment, Safety and Health (FRESH), and the Public. Congressional interest has also been demonstrated. All such interactions are integral to the rigor and intent of the RBES process. We are particularly interested in receiving technical comments related to regulatory compliance and risk aspects of the proposed RBES alternatives contained in these draft documents.

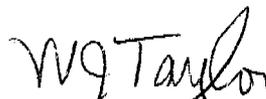
The RBES is not a decision document, and DOE recognizes that many of the alternatives being evaluated would require changes to existing regulatory agreements. If DOE ultimately decides to seek changes to current compliance agreements, decisions or requirements, such changes must be made in accordance with applicable requirements and procedures.

The Assistant Secretary for Environmental Management (EM-1) has provided an extension of the submittal date for draft RBES Vision documents until February 1, 2004, and final RBES Vision documents until March 30, 2004. In order to allow the Fernald Closure Project (FCP) to appropriately consider all public comments in their submittals, I am once again soliciting your input on these documents. Accordingly, please provide any major specific comments no later than January 20, 2004, and any detailed technical comments no later than March 15, 2004. Our intent is to attach all comments received as part of the FCP RBES Vision document submittals to DOE HQ. We will address these comments, as appropriate, including the potential modification or elimination of alternatives included in the documents, and attempt to resolve all comments received.

In order to provide maximum availability for review and comment, the OH webpage (www.ohio.doe.gov/RBES.asp) contains links to the current versions of the OH sites Draft RBES Vision documents including the FCP. In addition, a photocopy of the current version of the FCP Draft RBES Vision document is enclosed. We anticipate submitting a revised FCP Draft RBES Vision document by February 1, 2004 and the final by March 30, 2004. These updated versions will be placed on the OH webpage.

If you have any questions regarding this matter, please contact me at 513-648-3101.

Sincerely,


William J. Taylor
Director

Enclosure: As Stated

cc w/o enclosure:

R. Warther, DOE-OH
J. Craig, DOE-OH
G. Griffiths, DOE-OH
S. Smiley, DOE-OH
D. White, DOE-OH
B. Taylor, DOE-FCP
D. Kozlowski, DOE-FCP
J. Reising, DOE-FCP
G. Stegner, DOE-FCP

DISTRIBUTION LIST:

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Remedial Project Manager
U. S. Environmental Protection Agency
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Ohio Environmental Protection Agency
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Harrison, Ohio 45030

Sandy Butterfield
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Lou Doll
6595 Bridgetown Road
Cincinnati, Ohio 45248

Dr. Gene Willeke
Miami University
Institute of Environmental Sciences
102 Boyd Hal
Oxford, Ohio 45056

Mr. Doug Sarno, Technical Support
1055 N. Fairfax, Suite 204
Alexandria, VA 22314

January 12, 2004

Mr. Gary Stegner Public Affairs
U.S. Department of Energy
Fernald Facility
P.O Box 5387055
Cincinnati, OH 445253-8705

Subject: Comments to the Risk Based End States of Fernald facility.

Dear Mr. Gary Stegner,

NO changes in groundwater discharge requirements.

NO to ROD amendments

This RBES is a cost driven technical vision with selected alternatives that will impact ground water remedial strategy alternatives. Having results of minimal protection of the Human health, environment and an economic risk to the community. The economic risk is caused by a real or perceived risk to human health and environment. The economic value of the river to the surrounding communities would be limited.

DOE is turning its back on the second important part of the cleanup project the Aquifer, and groundwater. People living near the contaminated south plume still use private wells.

The Great Miami Aquifer is part of the life blood of the earth. The aquifer must be cleaned to the standard 30 ppb. DOE must continue treating contaminated water before released into the Great Miami River. NO reason to change discharge requirements.

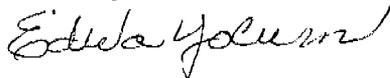
I suggest that DOE look into constructing a smaller groundwater treatment plant that will meet the current discharge requirements. I believe this alternative would not call for a ROD amendment.

The leachate from the OSDF cells with temporary caps must be treated.

The community sees risk as reality and will live with the assumptions and uncertainties of the technology used. Risk is also trust. In 1990 involved stakeholders worked towards an END STATE using a balance approach resulting in an OSDF over the Great Miami Aquifer and saving U.S. DOE billion in clean up costs.

In 1996 the stakeholders, Contractor and DOE spent many hour attending meetings developing the "end state" of the site. Therefore I believe the recent RBES activities should be discontinued at the Fernald facility.

Sincerely,



Edwa Yocum
9860 Hamilton Cleves Pk.
Crosby Townshp.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 20 2004

REPLY TO THE ATTENTION OF.

SR-6J

Mr. Robert Warther
United States Department of Energy
Ohio Field Office-Springdale
175 Tri-County Parkway
Cincinnati, Ohio 45246

RE: RBES: Fernald and Mound

Dear Mr. Warther:

The United States Environmental Protection Agency has reviewed the United States Department of Energy (U.S. DOE) January 9, 2004, letters requesting comments on the Risk-Based End State vision (RBES) document for the Mound site and the RBES vision document for the Fernald site. U.S. EPA understands the need for the Sites to proceed with the RBES process, as it is required by a U.S. DOE policy issued in July 2003.

On November 26, 2003, I submitted a letter to you expressing U.S. EPA's position on the RBES for the Fernald site. Since that time there have been several discussions between U.S. DOE and U.S. EPA regarding the RBES document and process for the Fernald site. However, U.S. EPA's position has not changed, as U.S. EPA does not support any of the proposed items in the RBES vision document. Tremendous progress has been made at the Fernald site, and the path forward to closure of this site is clear. 2004 represents the largest and most complicated construction season, to date, for the Fernald site. U.S. EPA would like to continue to assist U.S. DOE in meeting the 2006 site closure date, and believes it is best that all resources are focused on achieving that goal rather than the RBES process.

The U.S. DOE Mound site is in a similar position as that of Fernald in that much progress has been made at the site, and it is also on track for a 2006 closure. Also, the city of Miamisburg is involved in acquiring much of the property, which impacts future land use decisions. Although no remedy decisions or changes can be made without U.S. EPA approval, there is a concern that the RBES document for the Mound site may be pre-judging remedies and indirectly circumventing the CERCLA process. The recommendations, particularly for groundwater, suggest Monitored Natural Attenuation (MNA) as a preferred path forward. We believe that these recommendations are premature at this point. U.S. EPA can not support MNA at the Mound site without further analysis pursuant to the CERCLA process. Further, in regards to Operable Unit 1, U.S. EPA wants the technical team to complete its analysis before any future decisions are made. The RBES appears to be presenting remedy decisions before work is

completed. Therefore, U.S. EPA does not support the recommendations presented in the RBES document for Mound. U.S. EPA requests that all efforts be focused on jointly achieving the 2006 closure date and following the CERCLA process.

If you have any questions regarding this matter, please contact James Saric of my staff at (312) 886-0992.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary M. Schafer". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

Gary Schafer
Chief
Federal Facilities Section
SFD Remedial Response Branch #2

cc: Jim Woolford, U.S. EPA-FFRRO
Jessie Roberson, U.S. DOE
Johnny Reising, U.S. DOE-Fernald
Tom Schneider, OEPA-SWDO
Graham Mitchell, OEPA-SWDO
Brian Nickel, OEPA-SWDO
Margaret L. Marks, U.S. DOE-Mound
William J. Taylor, U.S. DOE-Fernald



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

JAN 23 2004

Mr. Gary Shafer
Chief, Federal Facilities Section
SFD Remedial Response Branch #2
USEPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

OH-0183-04

Thank you for your letter of January 20, 2004, concerning the Draft RBES Vision Documents for the Mound and Fernald Closure Projects. The Department will continue to involve USEPA, Ohio EPA and the public as RBES alternatives are investigated and evaluated.

As you are aware, the Ohio Field Office is required to continue to proceed with the RBES process. A final RBES document is scheduled for submittal to HQ by 3/31/04. I am committed to continue to work with regulators and stakeholders from both Mound and Fernald in evaluating reasonable risk-based alternatives and finalizing the document. As outlined in our letter of January 9, 2004 we would like any technical comments USEPA may have concerning the RBES alternatives by March 15, 2004. You have made your program position very clear. However, we have not received any technical comments, and we believe that each of the proposed RBES alternatives are technically sound and defensible in addition to being environmentally protective. If USEPA wishes not to provide any additional technical comments we will continue to include you on the distribution for all applicable RBES documents and information.

Also, as I have stated to the regulators and to the public, the RBES documents are not decision-making documents. Any change to a Record of Decision, or other approved regulatory document would require the department to follow the applicable regulatory process and obtain the necessary regulatory approvals. At this time in the RBES process, the Department has not proposed any changes, pre-judged any of the remedies, nor developed a preferred path forward.

I'll continue to work with you and your staff as we accelerate cleanup and reduce risk, and we work toward closure in 2006.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F. Warther", enclosed within a circular stamp or seal.

Robert F. Warther
Manager

cc:
See Attached



cc:

Jessie H. Roberson, EM-1
Rick Dearborn, CI
Steve Chabot, House of Representatives (Local)
David Hobson, House of Representatives (Local)
Rob Portman, House of Representatives (Local)
Michael Turner, House of Representatives (Local)
James Bierer, FCAB
Mayor Dick Church, City of Miamisburg
Sharon Cowdrey, MESH
Lisa Crawford, FRESH
Mike Grauwelman, MMCIC
John Weithofer, City of Miamisburg
Margaret Marks, OH/MCP
Bill Taylor, OH/FCP
Dewain Eckman, OH/MCP
Johnny Reising, OH/FCP
Gary Stegner, OH/FCP

F.R.E.S.H., Inc.

Fernald Residents for Environmental Safety and Health

January 23, 2004

Gary Stegner, Public Affairs
USDOE, Fernald Office
P.O. Box 538704
Cincinnati, Ohio 45253

Sent Via Fax

Dear Mr. Stegner:

Below are FRESH Inc.'s comments on the FCP - RBES Vision document. As you are aware, many FRESH members have followed the RBES process through these last few months. It is our opinion that there has been minimal stakeholder participation and the comment periods have been short and have fallen over three major holidays - Thanksgiving, Christmas & New Year's! In addition there was only one public meeting regarding RBES.

FRESH believes that the Fernald Site is too far along in the cleanup process to go through any changes at this time. Our Records of Decision already reflect what "we" have all agreed to. If at any time DOE wants to change anything, then we believe the ROD or ESD process is the appropriate avenue to go through.

We do not want to change anything. We expect DOE to honor its legally binding agreements. If DOE chooses to alter these agreements, we will explore other options.

SPECIFIC COMMENTS:

Executive Summary Section

Page 1 - Paragraph 7 - RBES was not congressionally mandated. This is an untrue statement.

Page 2 - Paragraphs 4 & 6 - Both of these paragraphs inaccurately portrays the reality of the situation. They should be removed from the document

Hazard Area 1 - NO!!! - The WAC is it - no averaging will be done!!
- All leachate will be tested & treated as agreed upon.
- Remains as is per signed ROD & Agreements

Hazard Area 2 - NO!!! - All must remain as is per signed ROD & Agreements
- FRL's will remain the same
- No CPRG's

Hazard Area 3 - NO!!! - All must remain as is per signed ROD & Agreements

- Groundwater Treatment remains the same
- No changes in discharge numbers

Hazard Area 4 - NO!!! - All must remain as is per signed ROD & Agreements

- New and old outfall lines, dams & structures must be removed as per the ROD

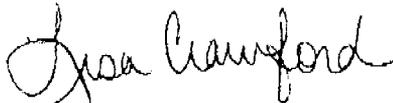
We believe there is no benefit to us or the Fernald Site with regard to any of these RBES changes. Cost should not be the driving factor. These changes would result in a dirtier clean up!!! Re-opening anything at this point in time would be like opening "Pandora's box". DOE should live up to the agreements which were made with extensive public participation.

We have worked long and hard to come to agree on the FCP Clean Up decisions. We should not have to change that now. We do not accept the RBES and will not agree to it. We stand behind our Records of Decisions (ROD's) and the legally binding clean up agreement made with our regulators.

We are in agreement with the comments that have been provided by the U.S.EPA, the Ohio EPA, and the Fernald Citizen's Advisory Board these past few weeks.

Please feel free to contact me at (513)738-1688 if you have questions.

Sincerely,



Lisa Crawford
President
F.R.E.S.H., Inc.

LC:eac

cc's: files

Jim Saric, USEPA
Tom Winston, OEPA
Senator George Voinovich's Office
Senator Mike Dewine's Office
Rep. Rob Portman's Office
Rep. Steve Chabot's Office
Jessie Roberson, DOE/HDQ
Robert Warther, DOE/OFO



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

JAN 30 2004

Mr. James A. Saric, Remedial Project Manager
United States Environmental Protection Agency
Region V, SR-6J
77 West Jackson Boulevard
Chicago, IL 60604-3590

OH-0191-04

Dear Mr. Saric:

This letter is in reference to our January 13, 2004, telephone conversation.

As we discussed, there may be an opportunity to remove the Monitored Natural Attenuation and other groundwater related initiatives from consideration as alternatives in the final Fernald Risk Based End State (RBES) document. Removal of these initiatives would better focus both of our resources on discussions concerning necessary site infrastructure changes that will result in the most efficient Groundwater Treatment at Fernald.

I look forward to working collaboratively with your agency, Ohio EPA, the Fernald Citizens Advisory Board and other interested stakeholders to further refine that concept into yet another step toward significant improvement to the Fernald Cleanup.

If you have any questions, please feel free to contact me at 513-246-0018.

Sincerely,

A handwritten signature in cursive script that reads "Robert F. Warther".

Robert F. Warther
Manager

cc:

Gary Schafer, USEPA
Tom Winston, OEPA
Graham Mitchell, OEPA
James Bierer, FCAB
Bill Taylor, OH/FCP





Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

JAN 30 2004

Mr. John Dowlin, President
Hamilton County Commissioners
138 E. Court Street, Room 603
Cincinnati, OH 45202

OH-0193-04

Dear Mr. Dowlin:

I would like to extend an invitation to the Hamilton County Commissioners to visit the Fernald Closure Project (FCP). This year promises to be the most significant ever in the remediation of the Fernald site. We will begin extraction and treatment of waste from Fernald's silos, complete the demolition of our former production buildings, and complete treatment and shipment of material from the Waste Pits.

The visit to Fernald will give you a first hand look at the progress being made toward our 2006 cleanup completion goal, and provide you and the other Commissioners with the opportunity to meet site managers who can answer any questions you might have on Fernald's cleanup and post closure plans.

We will contact your staff in the near future to arrange a date for your visit. I look forward to seeing you at Fernald.

Sincerely,

A handwritten signature in cursive script that reads "Robert F. Warther".

Robert F. Warther
Manager

cc:
Bill Taylor, OH/FCP





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

2004 JAN 23 2004

REPLY TO THE ATTENTION OF

Mr. Robert Warther
United States Department of Energy
Ohio Field Office-Springdale
175 Tri-County Parkway
Cincinnati, Ohio 45246

SR-6J

RE: RBES and Site Infrastructure

Dear Mr. Warther:

Thank you for your January 30, 2004, letter regarding our January 13, 2004, telephone conversation. You are correct in that removal of the Monitored Natural Attenuation and other groundwater related initiatives from consideration as alternatives in the Fernald Risk Based End State (RBES) document would facilitate the initiation of discussions on the necessary site infrastructure changes that will result in the most efficient groundwater treatment at the Fernald site.

I look forward to working collaboratively, with the United States Department of Energy; the Ohio Environmental Protection Agency, the Fernald Citizen's Advisory Board and other interested stakeholders on this issue.

Please contact me at (312) 886-0992, if you have any questions regarding this matter.

Sincerely,

James A. Saric
Remedial Project Manager
Federal Facilities Section
SFD Remedial Response Branch #2

cc: Jim Woolford, U.S. EPA-FFRRO
Jessie Roberson, U.S. DOE
Johnny Reising, U.S. DOE-Fernald
Tom Schneider, OEPA-SWDO
Graham Mitchell, OEPA-SWDO

memorandum

Ohio Field Office

DATE: FEB 9 2004

REPLY TO: FCP:Reising
ATTN OF:

OH-0208-04

SUBJECT: **FERNALD CLOSURE PROJECT DRAFT RISK-BASED END STATE VISION**

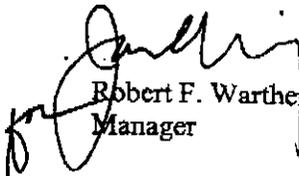
TO: Jessie Hill Roberson, Assistant Secretary for Environmental Management, EM-1

On November 22, 2003, the Fernald Closure Project (FCP) submitted an initial version of the FCP Draft Risk-Based End State (RBES) Vision. A revised version of this document was due to you by February 1, 2004. In order to accommodate the changes we recently discussed and to incorporate document revisions and reproduction, it has been necessary to delay this re-submittal until February 20, 2004.

Based upon further review, evaluation and stakeholders and regulator interaction, the RBES Vision being pursued at the FCP for groundwater has been modified. The most cost-effective infrastructure to support groundwater remediation Post 2006 Closure will be identified and installed to replace the Advanced Waste Water Treatment Facility. This alternate infrastructure would not require formal changes to the Operable Unit 5 Record of Decision or associated regulatory permits.

The FCP RBES Vision is being modified to reflect this initiative. We anticipate obtaining stakeholder and regulatory consensus pertaining to this action by March 31, 2004.

If you have any questions, please contact me at (513) 246-0018.



Robert F. Warther
Manager

cc:
J. Lehr, EM-34
J. Kang, EM-51
J. Craig, OH/OOM
S. Smiley, OH-PA
W. Taylor, OH/FCP



ATTACHMENT C

Groundwater Toolbox Information Excerpts



GROUNDWATER “TOOLBOX” MEETING OBJECTIVES

JANUARY 2004

1. To provide the technical and regulatory background needed to frame a future Fernald Citizens Advisory Board (FCAB) Recommendation.
 - In essence, what do we need to know about the treatment system -
- how it works, what the regulatory framework is, and what its discharge impacts to the environment are -- to make an informed decision?
2. To gain an understanding of the present course we are on (e.g., “status quo” remedy under the Operable Unit 5 ROD).
3. Walk through the decision framework, and the approaches to consider, leading to a new course of action as desired.
4. Answer questions.
5. Outline remaining steps and future meetings leading to a draft FCAB Recommendation.

Suggestions for next meeting:

- Hear from FCAB as to what is important to them.
- Begin to look at dollar tradeoffs.

DOE'S GROUNDWATER OBJECTIVE

DOE's Objective:

1. Dismantle the Advanced Wastewater Treatment (AWWT) facility and place it in the On-Site Disposal Facility (OSDF) prior to 2006.