

General



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

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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**  
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**Bob Warther**