

TRANSCRIPT

U.S. EPA FEDERAL FACILITY AGREEMENT

WITH

U.S. DEPARTMENT OF ENERGY

ON THE

MOUND PLANT

MIAMISBURG, OHIO

AUGUST 28, 1990, 7:00 P.M.

MIAMISBURG CIVIC CENTER

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APPEARANCES:

Gina Weber, U.S. EPA

Tim Thurlow, U.S. EPA

Diana Mally, U.S. EPA

George Gartrell, U.S. DOE

Martha Hatcher, Ohio EPA

Dick Neff, E.G.&G.

Howard Charbeneau, E.G.&G

John Lyons, U.S. DOE

Jose Mora

Kathy Fox

Tom Schneider

SUZANNE DENSLOW COURT REPORTING

3340 SHEFFIELD ROAD

DAYTON, OHIO 45449

1 MS. WEBER: Good evening and welcome
2 to the U.S. Environmental Protection Agency's
3 facility agreement with the U.S. Department of
4 Energy, on the Mound Plant located in Miamisburg,
5 Ohio. My name is Gina Weber and I'm community
6 relations coordinator with the U.S. Environmental
7 Protection Agency in the region out of Chicago. And
8 I'll be your moderator tonight.

9 With us tonight are over here at the
10 front, Diana Mally. She's project manager with the
11 U.S. EPA; Tim Thurlow, attorney with the U.S. EPA;
12 George Gartrell, with the Department of Energy and
13 he is chief of Environmental Safety, Health and
14 Compliance, U.S. DOE.

15 And also with us tonight are Martha
16 Hatcher, project coordinator with the Ohio EPA, Dick
17 Neff, Environmental Restoration Manager with
18 E.G.&G., Howard Charbeneau, public relations manager
19 with E.G.&G., he's in the back; John Lyons, project
20 manager with U.S. Department of Energy, DOE. He's
21 right over there.

22 Also with us tonight is Jose More,
23 he's an attorney with Albuquerque, New Mexico,
24 Department of Energy; Kathy Fox and Tom Schneider
25 with Ohio EPA.

1 And hopefully, everybody received a
2 copy of the agenda as they entered and we have more
3 if you'd like to get another. Tonight's meeting is
4 to present to you the federal facilities agreement
5 between EPA and DOE relative to clean up activities
6 to be conducted at the Mound Plant and to receive
7 your oral comments on the agreement.

8 After Mr. Gartrell's presentation
9 which would be the last presentation on the agenda,
10 we will open the floor to questions. At that time I
11 would like you to stand up and speak clear since we
12 have a court reporter transcribing tonight's
13 meeting.

14 After your questions we will open up
15 the floor for your comments on the agreement. At
16 that time I will ask you to get up again, speak
17 clearly and state your name for the record. I would
18 also like to remind you that you can send written
19 comments to us postmarked no later than September
20 13, 1990.

21 So if you don't have a comment at
22 this time you can certainly mail it to us and you
23 can send it to Diana Mally at the address on the
24 agenda. Copies of the agreement and related
25 documents can be found at the Miamisburg Public

1 Library which is at 35 South 5th street.

2 After the public comments period we
3 will be glad to stay around and answer your
4 individual questions if you still have more
5 questions. And now Tim Thurlow will talk about the
6 agreement. Mr. Thurlow.

7 MR. THURLOW: Thank you, Gina. I'm
8 Tim Thurlow and as Gina said I'm an attorney with
9 Region 5 with the U.S. EPA in Chicago. And I'm one
10 of the people who negotiated this agreement with the
11 Department of Energy.

12 This evening the main purpose of this
13 meeting is to invite you to provide comments to us
14 on the agreement that we've negotiated. The
15 agreement is a kind of contract that EPA negotiated
16 with the Department of Energy in a series of
17 meetings over the last couple of years. And we
18 believe we have a very good document under which the
19 Department of Energy will address problems, clean up
20 the Mound site.

21 But let me say that this is not a
22 document that is written in stone. It is very
23 important that the public take a look at the
24 document and provide comments, enough comments. So
25 be aware of the fact that there are multiple copies

1 of this agreement at the Miamisburg Public Library
2 and you have until September the 13th to take a look
3 at it and send in your comments if you have any.

4 As I said, the agreement is not
5 written in stone. It's possible that EPA could
6 propose changes to the agreement if comments warrant
7 that. So, at the risk of repeating myself, I urge
8 everybody who is interested in environmental
9 conditions in the community to go and take a look at
10 the agreement. If you have any comments on it, send
11 them in to us.

12 I'd like to mention a couple things
13 by way of background to this agreement. In 1986
14 Congress reauthorized the Superfund Law and in so
15 doing it emphasized clean up of federal facilities.
16 Congress told EPA to evaluate all of the federal
17 facilities in the country and if appropriate to put
18 federal facilities on the National Priorities List
19 which is a list -- a federal list of all of the
20 hazardous waste sites in the country that are going
21 to be cleaned up under the Superfund program.
22 And in November of 1989, not quite a year ago, U.S.
23 EPA put the Mound facility on that list. Now, there
24 are a number of things that follow from putting a
25 site on the National Priorities List.

1 For one thing within six months of
2 the time that site was put on the list the federal
3 facility was required to begin what's called
4 remedial investigation which is investigation to
5 determine what kinds of environmental problems exist
6 at the site. That's followed by a feasibility study
7 which is a study to evaluate different, continuing
8 energy solutions to any problems which may be
9 detected at the site.

10 Finally within a year and a half of
11 the conclusion of that feasibility study, it is the
12 engineer's evaluation that is the law requires that
13 federal facility negotiate an interagency agreement
14 with U.S. EPA. And that's what this document is
15 we're talking about tonight, an interagency
16 agreement. And you may have noted that we are
17 significantly ahead of the schedule, that is, there
18 is not a feasibility study that has been completed
19 for the Mound site.

20 Nevertheless, we have gotten a good
21 agency agreement that we have presented, that is,
22 both the DOE and U.S. EPA decided to move up the
23 schedules. Both agencies recognize the benefit of
24 having a blueprint for work at the site in which the
25 roles and responsibilities of various agencies would

1 be clearly defined and that's what we believe we
2 have in this agreement.

3 Now, the negotiation on this
4 agreement began in earnest in January of 1989. And
5 it was our initial aim to have it be a three-party
6 agreement in which the signatories would have been
7 the U.S. EPA, the Department of Energy and the State
8 of Ohio. Unfortunately we weren't able to achieve
9 that. We have an agreement between U.S. EPA and the
10 Department of Energy but not the State of Ohio.
11 That's because there was a key difference between
12 U.S. EPA and Ohio over the Ohio legal authorities.

13 But having said that, I'd like to
14 note that we have excellent relations between the
15 technical staffs of the State of Ohio, the
16 Department of Energy, and the U.S. EPA. So as a
17 practical matter there is very little difference if
18 any between the situation that would exist if we had
19 a three-party agreement in which Ohio is a
20 signatory.

21 And what we have today which is a
22 prognostical tort two-party agreement between the
23 Department of Energy and the U.S. EPA. We reached
24 agreement in May of this year. The agreement was
25 signed by a regional administrator in Chicago, I

1 know I should emphasize by an official of the
2 Department of Albuquerque Allocations office.

3 Having said that though I want to
4 remind you once again that although the document has
5 been signed by officials from both the Department of
6 Energy and the EPA, it's not effective until the
7 public has an opportunity to look at it and comment
8 upon it. It's only at the end of the public
9 comments period that U.S. EPA will deem the
10 agreement effective. So don't let that stop you
11 from going ahead and looking at the agreement. If
12 you have any comments send them in to us.

13 Now, I'd like to mention briefly some
14 of the characteristics of the agreement. There is a
15 model agreement which U.S. EPA's headquarters
16 negotiated with the headquarters of the Department
17 of Energy. And it provides many of the provisions
18 which will apply to every Department of Energy site
19 through the country whenever they have negotiated
20 one of these agreements. So we had that model to
21 work with and it provided most of the nonsite
22 specific problems related provisions to the
23 agreement so that there is some kind of uniformity
24 in the way that those sites are going to be
25 addressed around the country.

1 Now, the parties to this agreement
2 are the Department of Energy, and the United States
3 Enviromental Protection Agency. But as I mentioned,
4 the State of Ohio is not a party to the agreement.
5 Nevertheless Ohio is heavily involved in the process
6 and Ohio is reviewing documents, Ohio is attending
7 meetings between U.S. EPA and the Department of
8 Energy technical staffs.

9 Another important employer here which
10 is not a signatory to the agreement is the
11 Department of Energy contractor, E.G.&G. But the
12 agreement specifically states that it's binding on
13 DOE contractors.

14 Now, what are the requirements of the
15 agreements? Well, the real guts of the requirement
16 -- of the agreement is the requirement for the
17 Department of Energy to submit a schedule for the
18 work that's going to be done at the site and a work
19 plan which will document or which lists the various
20 tasks which the Department of Energy proposes doing
21 at the Mound site.

22 This schedule in the work plan will
23 be submitted relatively soon and I would urge you
24 all to become familiar with the process. And when
25 the work plan hits the public repository in the

1 library, take a look at that because the work plan
2 is really the guts of the agreement. It will lay
3 out what the Department of Energy proposes to do at
4 the site.

5 The document we're looking at tonight
6 is really just the legal framework under which the
7 work will be carried out. But what the Department
8 of Energy actually proposes to do with the site will
9 appear in their work plan that is something that
10 U.S. EPA will review when it comes in. And once
11 U.S. EPA approves it will become part of the
12 agreement, it will become the enforceable part of
13 this agreement.

14 So as I say all of these key
15 documents, once they are final, will be placed in
16 the repository in the public library in Miamisburg
17 and they will be available to you. And you can go
18 and take a look at them.

19 Now, I must say that this particular
20 public meeting that we're having is not the end to
21 all public meetings on the site. It is probably the
22 first of what will be several that will be held at
23 various times to inform the public what's going on
24 at the site.

25 This is a special one however, in

1 that this agreement is not final as I said and that
2 agencies are explicitly submitting comments. The
3 next time that that will happen at the site is when
4 a remedy is proposed for whatever problems are
5 detected at the site. Then once again you will have
6 a chance to submit comments.

7 Now, let me say one thing about
8 enforcement of this hearing. There are many people
9 that had interagency agreements between the
10 Department of Energy and U.S. EPA and any other
11 federal facility would say isn't this a case of the
12 government trying to police itself? How confident
13 can we be that the government will be looking after
14 our interests in a case like this?

15 Well, there are a couple of answers
16 to that question. One is that EPA takes its role
17 very seriously. There are penalties -- provisions
18 that are built into the agreement which EPA can
19 impose if for example various schedules are not met
20 and conditions call for that. Beyond that there is
21 a citizen provision in the Superfund law. And what
22 that enables citizens to do including the State of
23 Ohio is that if the terms of the agreement are not
24 being lived up to and it looks like EPA is not
25 enforcing the agreement a citizen can go into court

1 and ask the court to enforce the agreement. So
2 there is this enforceability under the citizen
3 provision. Hopefully we're not going to have
4 differences between the Department of Energy and
5 U.S. EPA and various players here. We fully intend
6 to work out the needs informally. There is a formal
7 dispute resolution procedure within the agreement.

8 In conclusion, let me in conclusion
9 just say once again that this is an opportunity for
10 you to get involved in the process. U.S. EPA is
11 very serious about public accountability. The
12 environmental laws that have been enacted over the
13 last few laws are rather, I think, interesting in
14 that they have emphasized the role of the public in
15 them. They specifically require the government to
16 go out and present to the public what it is the
17 government proposes doing and attempt to enable the
18 public to become an active player in making
19 government decisions.

20 And this is your opportunity to do
21 that. So between now and September 13, please, we
22 invite you to go and take a look at the agreement.
23 Send us your comments. And later on in this session
24 I'd be glad to answer any questions anybody might
25 have.

1 I guess I'm going to turn over the
2 microphone now to Diana Mally who is the media
3 project manager at the site.

4 MS. MALLY: Thank you all for coming
5 tonight. And expressing your interest in the Mound
6 Plant and also for giving us an opportunity to meet
7 you and you to meet us.

8 EPA has a primary role -- the clean
9 up of waste sites across the country. My role as
10 U.S. project manager at the Mount Plant is to
11 maintain communication between Ohio EPA and
12 Department of Energy and the U.S. EPA; to give
13 guidance to the Department of Energy and how to
14 conduct their study and report the results of the
15 study; to review documents they deal with to make
16 sure they comply with EPA guidelines that content,
17 format, technical soundness of documents and also to
18 enforce schedules.

19 So basically my job at the Mound
20 Plant is to make sure that the waste clean up is
21 going to be done right. Supervision. To take the
22 lead on the investigation, to do the investigation
23 of waste area at their sites and also the proposed
24 clean up alternatives. But they have to do that in
25 consultation with U.S. EPA and Ohio EPA.

1 As Tim mentioned EPA and the DOE are
2 not actually required to enter into an agreement
3 until a clean up action has been specifically
4 proposed for the site. What we've accomplished by
5 signing this agreement now is to formalize a
6 consultation role that EPA is going to play in the
7 investigation and also in developing clean up
8 alternatives. Basically I just want to reiterate
9 that agreement represents a commitment on our part
10 and U.S. EPA and DOE to the problems at the Mound
11 Plant.

12 Now, some of you may question the
13 process that allows the party that has created the
14 waste problems to investigate the problems and also
15 to suggest clean up actions. Well, my job is to
16 oversee the investigation. And after that
17 investigation the review of the clean up
18 alternatives and also the selection of the clean up
19 remedy is made between EPA, DOE, also in
20 consultation with the State.

21 Now, for some reason DOE and EPA
22 aren't able to agree on what the clean up remedy
23 should be. EPA, after consulting the State, gets
24 to select the remedy and you all also get to comment
25 on the clean up alternatives. DOE has done a lot of

1 investigative work at some of the areas at the
2 sites. They have been working under their own
3 environmental restoration program for some time and
4 some of the aspects of this program are being
5 brought into the Superfund process.

6 Consequently investigation in some
7 areas has moved pretty far along. And what EPA's
8 role will be in these areas is to review the work
9 that DOE has done in the past to make sure if it
10 fits our guideline and also to require additional
11 opportunities that will confirm their past results.

12 Now, there are also other areas of
13 the site that have only been so far identified as
14 potential areas of concern and EPA and the state are
15 working to develop the investigation for these areas
16 and to also conduct the investigation. So as you
17 can see the investigation work is in all different
18 phases and we're going to be meeting with you later
19 on in the year to specifically talk about the work
20 that's going on at the site and the progress of the
21 work.

22 And Tim said that this work plan is
23 going to be out shortly. Well, I forget what he
24 said, relatively soon. I guess relative is a
25 relative word. I'm not sure if your expectations of

1 soon is our expectation of soon.

2 I don't anticipate that we'll probably
3 be out here with the work plan til probably towards
4 the end of the year. The schedules should be
5 effective sooner than that but I think it's going to
6 take a little bit longer to get back out here, talk
7 about the work, whatever. I didn't want to have you
8 disappointed if you thought you were going to get
9 some work done pretty quickly.

10 I'd like to add at that time waste
11 problems that have been identified already at the
12 site do not pose an immediate threat to human health
13 or the environment. There is more a long term
14 problem that we're dealing with here. So I have to
15 be honest were you, the site is a fairly large
16 complex and it's going it take effort on your part
17 to become familiar with the site and the problems of
18 the site to be able to allow you to participate in
19 the process of checking clean up actions.

20 And our goal is to try to make it as
21 easy for you as possible. I want to be able out
22 here to let you know what we're doing. We'd like to
23 know what your needs and your concerns are, be
24 responsive to that because you are the people in the
25 community and you personally face the waste problem

1 that are at the plants. So we really encourage you
2 in participating in development of the clean-up for
3 sites so it meets everyone's satisfaction. So
4 that's part of the reason we're out here.

5 We want to let you know the agreement
6 is out there. We encourage you to review the
7 agreement. Send your comments in to me. We'd like
8 to meet you. We'd like you to meet us.

9 Clean up and investigation. And I
10 want to say that EPA is charged with managing the
11 clean up of the site. I do want to make sure that
12 it's done right. But I'd like to remind you that
13 the whole clean-up process will require everyone's
14 effort. It's going to be an effort on all of the
15 government's parts, state, local, private industry,
16 citizens. We're all going to have to work together
17 to make the clean up successful. So thank you. And
18 we'll turn it over to George Gartrell. Who has a
19 long time.

20 GEORGE GARTRELL: I wanted to take a
21 minute to give the DOE perspective. We, too, as
22 Diana said are very concerned about our relationship
23 with Miamisburg. We've continued throughout the
24 years to have an open relationship with the people
25 around the plant. We know that we are a key part of

1 Miamisburg. But the Miamisburg people are also a
2 key part to the plant so we definitely want to keep
3 that relationship open.

4 We've been working on this agreement
5 since about February of '88. In '84 we started
6 looking at coming up with an agreement -- not coming
7 up with an agreement til '88. But we started
8 looking at a plan back in '84. So it's something
9 that we've had in the work for a long period of
10 time. We're glad we finally got it clarified and in
11 this direction and filled out in legal terms any
12 plans, actual requirements that the DOE has to do to
13 get the site remediated.

14 I want to assure you that as the EPA
15 people have said, the DOE, and the E.G.&G. Mound
16 people are committed to this plan. And we're
17 planning to go into the budget, we're planning on
18 all of the resources, all of the things that are
19 going to show in the work plan. We've been working
20 with the Ohio EPA and the U.S. EPA. The Ohio EPA
21 has not signed the agreement yet but we still have
22 force at that level coming back. We have tried to
23 relay to the public all the past work and all of the
24 present work that we intend to do that in the
25 future.

1 As the EPA people have told you this
2 is the first public meeting. There will be many
3 more coming. It will be in the newspaper. It will
4 be pointed out to you probably in the Miamisburg
5 paper as well as in the Dayton Daily News, so we'll
6 have plenty of notification. We want to make sure
7 that the public has their input so we can get to
8 that input. I think that Tim and Diane will express
9 that it's a community program, it's not just us.

10 The key point of the process that we'll
11 hold in the next meeting, I think it's been pointed
12 out to you, is to submit the work plan. Once again
13 you will be notified of that. We have several ways
14 that we can do that. All the paperwork is in the
15 Miamisburg library. You can get the Superfund
16 update document. We have an application out in the
17 lobby any time you would like to have those or be
18 put on our mailing list. There are a few key things
19 in there that you need to know. One is the public
20 relations department and E.G.&G. map. The ones that
21 are handling most of the communication, that's
22 865-3001. That's the number to get Howard
23 Charbonet's office. Two other key players are John
24 Lyons, of course, is of DOE. It is a program for
25 the DOE, and Dick Neff who is the E.G.&G. Mound

1 program manager. So those three people are always
2 ready, willing, and able to help you. If you can't
3 get ahold of them my name and number is on the
4 program tonight. I would be more than happy to
5 answer things, any questions, take care of anything
6 you have a concern about. With that I'll turn it
7 back over to Gina. We'll go into the questions.

8 MS. WEBER: Thank you. I think
9 we'll open up for questions that you
10 have.

11 THE AUDIENCE: I have a lot of
12 questions. I'm not sure where to start. First of
13 all, in this agreement, why is there an agreement?
14 I'm not sure I understand that. I'm looking at it,
15 I'm a water treatment plant operator certified by
16 the EPA. And I'm looking at it from the Clean Water
17 Act point of view. There are certain guidelines set
18 down by the EPA that I must follow that if I didn't
19 I'm in trouble. Doesn't the EPA have standards and
20 guidelines and everything for the Department of
21 Energy to follow also? Then why is there an
22 agreement between this? Can't you just say, clean
23 it up, that's it. There is no agreement. You
24 messed it up, you clean it up. I'm not sure I
25 understand why there is an agreement negotiated.

1 I guess I'd like to say two things.
2 Yeah, they do have to comply with EPA regulations
3 and things that we do in the past don't necessarily
4 meet today's standards. So things that we're
5 addressing now is due to negligence on their part or
6 an unwillingness or not meeting EPA standards. But
7 things change, standards change and we come up with
8 better technology. We're basically dealing with
9 DOE's waste problems and we currently have to follow
10 all water, air, hazardous waste regulations now.
11 The agreement just gives us some kind of format, a
12 guideline to have a process where we can interact
13 with each other and also to follow the Superfund
14 process. It's kind of complicated. We have lots of
15 different documents that go into the decision-making
16 process so it's basically an agreement saying these
17 are the documents you have to produce. This is one
18 you have to produce and this is how EPA is to have
19 input. And then you have to respond back to us. So
20 it's just a format for the work. And I think in
21 order to make the work efficient you need that. If
22 you didn't have some rules to follow, I'm not sure
23 if it would get done.

24 THE AUDIENCE: That's what I'm
25 saying. The EPA doesn't have rules? Do you know?

1 MS. MALLY: We do have. They're
2 generating out there now for their air pollution.
3 They're following the rules they're following for
4 the past waste and how to investigate past waste
5 sites. There aren't any rules.

6 THE AUDIENCE: Has anybody taken any
7 to --

8 MS. MALLY: To prevent the waste
9 problems from happening?

10 THE AUDIENCE: Well, clean up issue.
11 So you don't have to sit down and say, well, are you
12 going to do this like we want you to?

13 MS. MALLY: I think that is what the
14 law is. When you were asking if anybody could
15 legislate this, this is what the result of that was,
16 how they came up with the Superfund law, and they
17 said in the law you have to have an agreement
18 between the EPA and any other federal agency if
19 you're doing clean up. And the agreement has to
20 follow the guidelines of the Superfund. So it was
21 bureaucratic.

22 THE AUDIENCE: I'm not sure I
23 understand that.

24 MS. MALLY: Maybe I'm not answering
25 your question very well.

1 THE AUDIENCE: I'd probably have to
2 read it first.

3 MR. THURLOW: Let me just put my two
4 cents in there. You've got a situation where you've
5 got a hazardous waste problem that's of long
6 standing that's sitting out there in the ground.
7 You've got some questions that are probably going to
8 be specific to that particular site that are not
9 going to apply to every other site in the country.
10 So that for any specific site how you're going to
11 deal with that waste problem, what are you going to
12 do with the wastes that you've got there? Are you
13 going to put them in a holding cell? Are you going
14 to pump stuff out of the ground? Are you going to
15 incinerate something? How are are you going to deal
16 it? All of those things are things that are not in
17 regulation and really can't be. Those are things
18 that have to be evaluated site by site.

19 Really one of the things that this
20 agreement does is to make sure that those kinds of
21 evaluations are going to take place in a timely
22 manner and in a professional way. And EPA is going
23 to look over DOE's shoulder shall we say when making
24 those decisions. And that is the way every
25 Superfund is in the country. Every Superfund site

1 is a site where you've got a problem and you get a
2 bunch of engineers together to tell you how bad is
3 the problem and what's the best engineering solution
4 to it?

5 So what Diana was trying to do was
6 sort of draw a distinction between those old
7 problems that we have all over the country where we
8 have to come up with these site specific solutions
9 and the kind of standard regulations that we have to
10 control day-to-day productions and waste.

11 Hopefully we're not going to have any
12 new Superfund sites in the United States being
13 created right now. And the way we're going to avoid
14 that is we've got laws which regulate how you can
15 dispose of waste.

16 But for the problems that are
17 historical problems that have been for years and
18 years and years, really the question is there's the
19 problem, how bad is it? What do you do about it?
20 And there isn't any regulation that's going to tell
21 you exactly what the thing is that you're going to
22 do about that site. Rather you're going to have to
23 have some discussion between knowledgeable people
24 about what ought to happen. And to be sure there
25 are some guidelines that you nevertheless are going

1 to have to follow that is going to have to go clean
2 up to federal standards. You're going to have to
3 keep that site as clean as the federal laws and the
4 Ohio laws require.

5 But in terms of, you know, what we're
6 actually going to do, that's the site specific
7 matter. And so in order to make sure that process
8 is going to go forward without a lot of lolly
9 gagging and making sure that EPA is guaranteeing
10 shall we say that work that DOE is doing is correct,
11 we have to have this kind of agreement.

12 THE AUDIENCE: Sounds kind of wishy
13 washy. Present an agreement that negotiates just
14 doesn't sound stringent enough to me. Sounds like
15 plea bargaining, if you will. If someone commits
16 murder are we going to get an agreement with him or
17 are we going to prosecute him and put him in jail?

18 MR. THURLOW: Got a problem. What
19 are you going to do if your presumption is, well,
20 that wouldn't require any agreement. You just say
21 go in there and clean it up. But the thing is how
22 fast and what remedy would you choose because all of
23 these sites are different and you have to look at
24 them one by one. So, really what this agreement
25 does is make sure that we're doing that.

1 Now, when you say it's wishy-washy
2 and what are the standards, the thing that is --
3 ultimately the Department of Energy is going to have
4 to select a remedy for this site and when they
5 select a remedy for this site they're going to come
6 back to the public and they're going to tell the
7 public what this is that they're proposing to do and
8 the standards that they're going to meet. So the
9 State of Ohio is going to be sitting out there and
10 looking with a great deal of interest -- looking at
11 the standards which are going to be prepared. And
12 if this particular clean up does not meet the
13 standards that are set in the State of Ohio, the
14 State of Ohio has the ability to sue the federal
15 government.

16 So there are lots and lots of
17 safeguards that are built into the system to make
18 sure that the standards of this community, the
19 standards of the State of Ohio are going to be
20 upheld in any clean up that the Department of Energy
21 undertakes.

22 THE AUDIENCE: Okay, I understand
23 what you're saying about this agreement. But what
24 provision is there for the citizens of this town not
25 to be lied to like there was in the last spill? And

1 what happened, they had a public meeting, we was
2 told peanut butter sandwiches but within 30 to 45
3 days later the update was a whole lot worse. Now,
4 this agreement -- and everybody wants it cleaned up.
5 But to make a statement like that how can we trust
6 anybody up on the hill?

7 MR. THURLOW: I can't really comment
8 on what the situation was in the prior circumstance
9 you're talking about there. But I can tell you
10 about what's going to happen with this one. Now, in
11 this one the Department of Energy is going to have
12 to do a remedial investigation and what that is they
13 go out there and they do an evaluation of what the
14 site problems are. And the question that you're
15 raising is one that Diana talked about is well, how
16 do you know that they're going to find everything?
17 How do you know that they're going to report things
18 back accurately because everybody is human. I mean
19 it's not beyond the realm of possibility to think
20 about it might be an advantage of an agency shall we
21 say to minimize problems rather than to maximize
22 them, shall we say?

23 Well, there are two safeguards, I
24 guess, that are available. Actually, there are
25 three. One is that the U.S. EPA has the obligation

1 to look at that remedial investigation and apply our
2 own standard to it. Diana Mally is a professional
3 U.S. EPA remedial project manager. She has looked
4 at lots and lots of remedial investigations and
5 she's out here all the time. And her job is to make
6 sure that that does not happen.

7 Other safeguards that is the EPA --
8 EPA people that are sitting right here. They are
9 out there all the time. They have no interest
10 whatsoever in seeing that the problem is minimized
11 at this facility because it's really no skin off the
12 Ohio EPA's nose to say it's worse than it is. The
13 Department of Energy says it is so, that's that.
14 And third if there are, I mean that problem for you,
15 for example as a citizen is that how do you know?
16 You're not -- you may not be an engineer. There
17 will be data and reports and so forth available in
18 the public repository and if you are capable of
19 evaluating that information it's there. So you can
20 form your own impression as to whether or not things
21 have been looked at.

22 So, I would say within those three
23 kinds of sites in this process that the U.S. EPA's
24 got to look at it and approve it. The State of Ohio
25 is out there with the ability to sue if Ohio

1 standards are not being met and also all of this
2 information is going to be publically available. So
3 it's not anybody that's got any right to look at it
4 that's going to look to me that when all is said and
5 done the product ought to be a good one in which the
6 wool should not be pulled over anyone's eyes.

7 THE AUDIENCE: Again, will Ms. Mally
8 be on site the whole time while this is going on or
9 a representative of her office?

10 MS. MALLY: Yeah. I won't be on site
11 the entire time but EPA has an oversight contractor
12 that we hire. And part of their contract is to
13 oversee all of the work that is being done.

14 THE AUDIENCE: So one of those people
15 from a contractor will be on site all the time that
16 they're doing investigative clean-up work? You said
17 earlier that some of the sites have just been found,
18 haven't been investigated very far yet. I'm
19 assuming there will be water and soil air samples
20 taken around these sites. Who will conduct that
21 analysis?

22 MS. MALLY: The Department of Energy
23 conducts analysis. First of all the investigation
24 is planned out in advance and that's where our input
25 comes in. Well, if the U.S. EPA and the Ohio EPA,

1 they have to say to us this is the area and this is
2 what we want to do. We want to look at soil, water
3 and air samples. We'll say that's good. We have to
4 agree number one on what the investigation is and
5 then when they're out there doing it we're going to
6 have somebody out overlooking.

7 THE AUDIENCE: Somebody will be in
8 the lab with them?

9 MS. MALLY: Not the lab.

10 THE AUDIENCE: So what's the point
11 if you're not there to see that it's done correctly
12 and report it correctly?

13 MS. MALLY: The oversight contractor
14 typically number one will sometimes in a certain
15 percentage take some samples. They will take the
16 sample. Tell that DOE has --

17 THE AUDIENCE: I would feel better if
18 the EPA or the Ohio EPA was there.

19 MS. WEBER: Let her finish her
20 question because she said a contractor --

21 MS. MALLY: I guess, well, the labs
22 are usually approved by the EPA and so the lab that
23 they intend to use is a certified lab, certified
24 contract laboratory program, and they get audited by
25 the EPA. And then we either certificate these labs

1 that yeah, they're capable of doing an analysis or
2 no, you're not. They're using a certified lab.

3 THE AUDIENCE: Not the lab on site?

4 MS. MALLY: No, no. The lab has an
5 interest because they're working for themselves.
6 Also they don't want to misrepresent their lab or
7 they're not going to get any more work.

8 THE AUDIENCE: I was under the
9 assumption that analysis would take place.

10 MS. MALLY: No, no. They do have a
11 lab on site. They're not going to be doing
12 analysis.

13 MS. MALLY: I guess I was reminded
14 here that part of this whole process DOE and the lab
15 has to submit to us a quality control plan and it's
16 their plan to take samples and to do analysis. And
17 we have to approve that so we have to look at what
18 they're proposing to do, how they're going to
19 analyze their samples, what kind of control they're
20 going to use in the lab, what kind of control
21 they're going to use in the field. We have to
22 approve that so they're doing all of that work under
23 our approval also.

24 THE AUDIENCE: That makes me feel a
25 lot better. I know how that works because I'm also

1 certified by the EPA.

2 MS. WEBER: Any more questions?

3 THE AUDIENCE: No, just a comment.

4 The majority of the people in the City of Miamisburg
5 are mistrustful of the ones up on the hill because
6 this has been going on since 1946 and '47 when they
7 started building the places. And if they hadn't
8 started, then all of the problems wouldn't be there
9 today. And the only ones they told about was the
10 last one that they told about here a few months
11 back. And they didn't tell it right when that
12 happened. They said, aw, it's just a bunch of
13 peanut butter sandwiches, I have to eat them. But
14 then they came out later and said we made a mistake.
15 You oughtn't make too many of them kind of mistakes.
16 So, I think there is a lot of doubt in this town
17 about what's going to be done and how well it will
18 be done. That's it.

19 MR. WEBER: I just wanted to mention
20 that if you don't think of all the questions you
21 have tonight, I mean we have all of the phone
22 numbers of all of the members here listed on the
23 agenda and you can also call Ron. I think Mr.
24 Gartrell mentioned that DOE community relations
25 people are also -- he gave that number and you don't

1 have to think of everything you might want to be
2 made known tonight. But you can certainly call us
3 in our office.

4 THE AUDIENCE: Taking the last
5 incident into consideration, who did the sampling
6 analysis then? Why was it so slow to begin with and
7 then all of a sudden it was a lot worse than we
8 thought?

9 MR. NEFF: I'm Dick Neff of E.G.&G.
10 I was going to -- I was responding to a comment
11 heard earlier. That's outside of the scope of what
12 we're going to do here. We're here to talk about
13 the legal agreement and how to get along with the
14 process. But you've referred to this several times.

15 Let me tell you that neither myself
16 or anybody from my side as far as I know, nobody
17 lied to anybody. We tried to get information out as
18 quick as we could. And if you had seen how we get
19 the information out you would see that very first
20 estimate that we had very little information. So
21 we'll assume worse case conditions. But as we got
22 -- more information came down after the public
23 meeting, we collected still further information.

24 But when you say you were lied to,
25 Ohio EPA management agency and U.S. EPA all were

1 aware of the rules and agreed with the conclusion
2 that there was no significant health risk from that
3 incident. We were trying to put it -- the radiation
4 -- and it's compared to peanut butter sandwiches.
5 There were never any lies passed on to the public.
6 At the point in time we talked to the public. We
7 gave you the best information we had. As we
8 collected more samples off site, we refined that.
9 In that case we selected those samples but the Ohio
10 Department of Health also collected samples on site.
11 If you look at their report they agreed with our
12 conclusion.

13 Ohio Rules of Management Agency, they
14 evaluated our data and the other data so it wasn't a
15 matter of delaying in our effort to try and get that
16 word out as quickly as we can. We don't always have
17 the latest piece of data. I'm sure you know what
18 that's like from your data.

19 Whenever we've tried to estimate on
20 the conservative side and tell you something, that's
21 it's the worst case scenario and that's what we
22 tried to do in that case. So your question, who
23 took the data? We took the data in that case but it
24 was confirmed by the regulatory agency.

25 THE AUDIENCE: The part that I've

1 seen --

2 MR. NEFF: That is, we saw results
3 that analyze the samples and they have a wide range
4 of variability. If you look at the statistic
5 results they did not have good statistical --

6 THE AUDIENCE: You're saying you are
7 better than the EPA?

8 MR. NEFF: We had better analytic
9 technique because we landfill it all the time. They
10 see it very seldom. We tried to show them the
11 methods we use. In fact, when public health had
12 some input down to view the lab to try and set up
13 something similar. It's a much more sensitive
14 technique.

15 THE AUDIENCE: Drinking water is --

16 MR. NEFF: Standard is pirocuries per
17 liter.

18 THE AUDIENCE: But we recorded to the
19 EPA it's supposed to be in pirocuries which is
20 20,000, well, 20 sounds a whole lot better than
21 20,000 when you're telling the public. I ran into
22 this problem so I know what I'm talking about. In
23 fact, I called the EPA to figure out what your
24 result was because I wasn't sure how to take it.

25 MR. NEFF: Clean, safe drinking water

1 and specifically the stream is 20 diakyls per liter
2 specified in nanocuries per liter. Normally you're
3 right. EPA requires pirocuries but the safe
4 drinking water has -- that's why we refer to 20.

5 THE AUDIENCE: That is Ohio, 20?

6 MR. NEFF: Ohio has adopted the same
7 standards for drinking, 20 nanocuries per liters,
8 20,000 pirocuries. It's the same thing, but when
9 you put it in the newspaper, say well, I found 20.
10 It sounds a lot better than 20,000. That's the
11 reason we also try and compare it to the standard.
12 It doesn't matter if I say the 20,000 or more, I say
13 the standard.

14 THE AUDIENCE: Sort of accepted is
15 what I'm trying to say. You know?

16 MR. NEFF: I understand your concern.
17 We're not trying to be deceptive. We've all tried
18 to be put in the standard time. In fact that was
19 the whole idea of the peanut butter sandwich. I
20 feel we have to differentiate. I have something to
21 put in perspective. I have to compare that to
22 something standard and something that maybe you can
23 deal with. There is no intent to deceive anybody
24 but to try to put it in perspective.

25 THE AUDIENCE: I realize my tax money

1 is paying for this, right? So where does Monsanto
2 fall?

3 MR. NEFF: You mean E.G.&G.?

4 THE AUDIENCE: No, Monsanto. E.G.&G.
5 bought into that. That's their problem. Anyway
6 what about Monsanto? They're the ones that created
7 the problem.

8 MR. NEFF: Maybe Tim should answer
9 that from a legal standpoint. We're committed to
10 fixing it.

11 MR. THURLOW: EPA role is to make
12 sure that federal facility cleans up the site and
13 that money for cleaning up the site is going to come
14 out of the budget of that federal agency. So the
15 Department of Energy, if you will, asks for funds to
16 clean up the Mound site.

17 Now, the various departments of
18 federal government can, if it's warranted, attempt
19 to recover funds from contractors. If there are not
20 contractual reasons for not wishing to pursue them,
21 there may be contractual reasons why but really I'm
22 not in a position to answer or in any -- I'm just
23 telling what the general sort of situation is. That
24 is usually what EPA is interested in is getting an
25 agreement from a medial agency. The federal agency

1 then is responsible for coming up with the funding.
2 That funding can either come through its own budget
3 appropriation or the federal agency. If it is aware
4 that there are private response parties can
5 theoretically look for some kind of contribution
6 from private response parties. Now, what the
7 history of the Mound site is and whether there is a
8 situation like that here I can't say. I don't know
9 whether or not anybody from DOE --

10 THE AUDIENCE: May be some. Are they
11 going to pursue it -- some of that money back from
12 Monsanto?

13 MR. MORA: My name is Jose Mora. I'm
14 the attorney for the operation office of DOE. When
15 our contract with Monsanto expired, E.G.&G. took
16 over the responsibility to plan the future. Now the
17 contract that we have with Monsanto in the past had
18 certain provisions whereby the Department of Energy
19 would indemnify Monsanto, or any other contractor
20 for any problems that may have been caused or that
21 contract to operate the facility. So the bottom
22 line really is the Department of Energy of the
23 United States government is ultimately responsible
24 for the payment of the cost. And you're right, your
25 tax dollar including my tax dollar will all go into

1 that. But ultimately with anybody that we contract,
2 the Department of Energy in their contractual
3 arrangement is ultimately responsible for paying the
4 cost of any clean up in the past or present.

5 THE AUDIENCE: I wish they'd change
6 that. That is -- that isn't over with yet.

7 MS. WEBER: Any more questions?

8 MS. MALLY: I want to add something
9 because I'm not sure if some things are getting
10 fuzzy. And I believe you all have valid concerns
11 about what's happening now at the plants. But what
12 this agreement does and what my role is here is to
13 deal with the past waste problems. And as far as
14 any kind of on-going operation and present releases,
15 if they create a problem on the site that we have to
16 investigate the clean up that's where I'm going to
17 come in. And there are other laws to regulate their
18 on-going operation. They're regulated under the
19 Clean Water Act, under the Air Pollution Standard,
20 under research and conservation.

21 So I think it's good for everyone to
22 keep in their mind that what we're dealing with here
23 in the agreement is past waste problems and not
24 difficulty with the current operation of the Mound
25 Plant. Not that your concerns aren't valid but it's

1 going to be out of our realm to handle those here
2 although we can certainly listen to your concerns.
3 So I want to make that a little clearer.

4 MS. WEBER: As I mentioned before
5 we'll open up the meeting for comments and then
6 we'll still stay around and answer more questions.

7 At this time those of you who would
8 like to make your comments on the agreement may do
9 so. These are your opinions and thoughts on the
10 agreement. Again please stand up, speak clearly,
11 and state your name. As I mentioned before, we have
12 a court reporter and well, we would like to get
13 those comments in the record.

14 Tonight's comments will be addressed
15 in a document we called responsive summary. A copy
16 of the document and the transcript will also be at
17 the Miamisburg Library shortly after the comment
18 period is completed and those comments can be
19 answered. Again, your comments may be accepted
20 until September 13.

21 As Tim Thurlow mentioned, your
22 comments are helpful to us in order to determine if
23 any modifications are needed to the agreement. And
24 I'd like to phrase your comments as comments, not a
25 question. But you may ask the same question again

1 if you'd like as a comment for us to take down into
2 the record. Anybody wishing to make any comment may
3 do so.

4 THE AUDIENCE: You want my name.
5 Todd Moyer. I'm not sure I can say anything about
6 this agreement having not seen it, not having a copy
7 and just to look at. But I am glad to see that
8 something is finally being done. And I find some
9 comfort in noting that U.S. EPA will be involved.
10 And I hope you dog them to death and don't let them
11 up. Make them clean every bit of it up. That's all
12 I got to say.

13 MS. WEBER: Thank you. Any other
14 comments? Okay. I'd like to officially close the
15 comments period on this meeting and if you like, I
16 will be here to answer any more of your questions.
17 And like I mentioned before, I did pass out our
18 phone numbers. So if you have any questions in the
19 future, please give us a call. Thank you.

20 (The time is now 8:05 p.m.)

21 (Meeting concluded.)

22

23

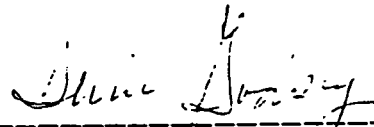
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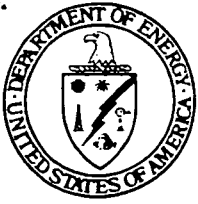
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C E R T I F I C A T E

I, Terrie Godsey, Registered Professional Court Reporter, hereby certify the foregoing testimony, evidence and proceedings were stenographically recorded by me and thereafter reduced to typewriting and constitute a true transcript of the proceedings had and the evidence introduced on the date set forth herein, in the within case.

In witness whereof I have hereunto set my hand this 28th day of January, 1991.


TERRIE GODSEY, REGISTERED
PROFESSIONAL REPORTER,
STATE OF OHIO.



Department of Energy

Field Office, Albuquerque

Dayton Area Office

P.O. Box 66

Miamisburg, Ohio 45343-0066

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cc 4.5.6 + 9
for WP7

001 01 1221

Ms. Diana Mally
U.S. Environmental Protection Agency
5-HS-11
230 S. Dearborn
Chicago, IL 60604

Dear Ms. Mally:

As described in Attachment II to the Mound Plant Federal Facility Agreement (FFA), the U.S. Department of Energy is submitting to U.S. EPA for approval an overall schedule for all activities at the Mound Plant including RI/FS, other studies, Proposed Plan and Record of Decision Preparation. This submittal updates the previously approved schedule contained in your letters, dated January 15, 1991 and March 18, 1991. The DOE has incorporated U.S. EPA and Ohio EPA comments on draft schedules. This submittal includes three (3) enclosures that are described below:

1. The annual update to the schedule shows the current year (FY 1992) on a monthly basis, the next year (FY 1993) on a quarterly basis, and additional years on a yearly basis as specified in Attachment II to the FFA. This schedule is presented in a similar format as was used last year, rather than the Gantt chart format of the draft schedule. To help the regulatory agencies to better schedule reviews, the current year has actually been shown on a daily basis rather than on a monthly basis.
2. Response to US EPA and OEPA comments on the draft schedules include the comments, which were dated August 19, 1991 and August 13, 1991, respectively. Note that the schedule update (Enclosure 1) reflects changes in the draft schedules made in response to comments.
3. The detailed DOE schedule is the basis for the annual update (Enclosure 1), and incorporates revisions in response to US EPA and OEPA comments on the draft schedule. The detailed schedule and corresponding fiscal plan is in the process of being internally reviewed and validated by DOE Albuquerque Operations, and is the basis for the Environmental Restoration and Waste Management Plan (5-year plan). As discussed in FFA Section XXXVII, there is consistency between the detailed schedule (Enclosure 3), the annual update (Enclosure 1), and the provisions of the FFA.

Ms. Diana Mally

-2-

If you have any questions, please contact Art Kleinrath of my staff on (513) 865-3597.

Sincerely,

for David J. Lewis
George R. Gartrell
Chief, ESH&C Branch

Enclosures: a/s (3)



Department of Energy
Field Office, Albuquerque
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45343-0066

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OCT 01 1991

Ms. Martha Hatcher
Ohio Environmental Protection Agency
Southwest District Office
40 South Main Street
Dayton, Ohio 45402-2086

Dear Ms. Hatcher:

As described in Attachment II to the Mound Plant Federal Facility Agreement (FFA), the U.S. Department of Energy is submitting to U.S. EPA for approval an overall schedule for all activities at the Mound Plant including RI/FS, other studies, Proposed Plan and Record of Decision Preparation. This submittal updates the previously approved schedule contained in your letters, dated January 15, 1991 and March 18, 1991. The DOE has incorporated U.S. EPA and Ohio EPA comments on draft schedules. This submittal includes three (3) enclosures that are described below:

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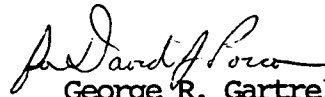
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Ms. Martha Hatcher

-2-

If you have any questions, please contact Art Kleinrath of my staff on (513) 865-3597.

Sincerely,


George R. Gartrell
Chief, ESH&C Branch

Enclosures: a/s (3)