



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

SEP 28 2006

Thomas Pauling
U.S. Department of Energy
2597 B ¾ Road
Grand Junction, CO 81503

Larry Erickson
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Dear Mr. Pauling and Mr. Erickson:

Re: Federal Facility Agreement for the Weldon Spring Site
Docket No. CERCLA-07-2006-0161

Pursuant to Section XXVII of the new Federal Facility Agreement (FFA) for the Weldon Spring Site, following signature by each of the parties, the Environmental Protection Agency (EPA) published a public notice and distributed a fact sheet in April 2006 giving the public the opportunity to comment on the FFA. The public was given a period of thirty (30) days, beginning April 19 and ending May 19, to review the FFA and submit comments. During this period we received comments from the Weldon Spring Citizens Commission and from Daniel McKeel who has been an active citizen participant on the Weldon Spring Site. Shortly after receiving the comments we provided copies to the U.S. Department of Energy (DOE) and the Missouri Department of Natural Resources (MDNR). After reviewing the comments, no party proposed any modification to the FFA or indicated a desire to withdraw from it. EPA prepared the enclosed responsiveness summary to the public comments that were received. Both DOE and MDNR have agreed with the responses provided in the responsiveness summary. The MDNR did make a suggestion that the DOE post documents scheduled for destruction on its web site and this suggestion has been passed along to DOE for consideration. EPA is publishing notice of the comments and the responsiveness summary in accordance with the procedures in CERCLA Section 117. Pursuant to Section XXXIV of the FFA, this letter provides notice to DOE and MDNR that the FFA is now effective.

Thank you and the others within your respective agencies for all the hard work and determination necessary to see this document through to completion. Please call if there are any questions.

Sincerely,

A handwritten signature in black ink that reads "Daniel R. Wall".

Daniel R. Wall

Enclosure



The U.S. Environmental Protection Agency (EPA) Region 7, the U.S. Department of Energy (DOE), and the Missouri Department of Natural Resources (MDNR) entered into a new Federal Facility Agreement (FFA) for the DOE's Weldon Spring Site near St. Charles, Missouri.

EPA made the FFA available for public comment for a period of thirty (30) days beginning April 19, 2006 and ending May 19, 2006. Comments were received from the Weldon Spring Citizens Commission and from Daniel McKeel, Jr., MD who has been an active citizen participant on the Weldon Spring Site. EPA provided copies of these comments to DOE and MDNR. The parties to the FFA have considered the comments and have determined that the FFA should be made effective in its present form. EPA, in consultation with DOE and MDNR, has prepared the following responses to the comments received:

Response to comments from the Weldon Spring Citizens Commission

Comment:

“We believe that this agreement will strengthen the relationship between all parties and will facilitate the protection of the Weldon Spring Site. The agreement though can be further strengthened by the inclusion of stakeholder participation in the area of public comment and permit or agreement change.”

Response:

The primary focus of the public participation provision in the FFA, Section XXVIII Public Comment on this Agreement, is the procedure to involve the public in the decision as to whether to make the FFA effective as proposed. Once the FFA is effective, public participation activities with respect to the work required under the FFA would be handled in accordance with DOE's Long-Term Surveillance & Maintenance Plan (LTS&M Plan), Attachment A to the FFA. The LTS&M Plan provides for extensive participation by the public in the activities at the Site. See Section 2.2 of the LTS&M Plan, beginning on page 2-3, which states that “...one of the goals of the surveillance and maintenance program is to promote and facilitate public involvement.” The LTS&M Plan goes on to identify specific activities, including public review and comment on documents and holding public meetings, which are designed to involve the public in Site related activities.

With regard to public comment on permits, if any permits are necessary (see response to the related comment, below), public participation would be conducted in accordance with the applicable permit requirements. Permit programs managed by EPA and comparable programs managed by MDNR all require public involvement activities before a permit can be issued or a major change to the permit can be made final.

With regard to public comment in connection with amendments to the FFA itself, EPA believes that major changes to the FFA would largely be made as the result of changes in the underlying work requirements, which would be subject to the public participation requirements spelled out in the LTS&M Plan. Generally, major changes in the LTS&M Plan would involve public review and comments.

Comment:

“In the area of permits the agreement states that ‘No permits are required for actions on the DOE property, but actions must satisfy requirements that might be included in a permit. DOE must notify EPA and MDNR of their intent to modify a permit.’ If no permits are required, will there be permits to modify?”

Response:

The first paragraph (§ 105) in Section XXVII covers the intent of Section 121(e)(1) of CERCLA which is that response actions *conducted entirely onsite* must meet the substantive requirements which would be included in a permit without subjecting the cleanup action to potentially long time delays associated with the administrative requirements of securing a permit. Because this permit exemption only applies to onsite cleanup activities, permits would be necessary for any off-site cleanup activities, so it could be possible for a situation to arise where a permit would be necessary for Site related activities. Paragraphs 106 through 108 address the situation if a permit were to be required, *i.e.*, actions that are not conducted entirely onsite.

Response to comments from Dr. McKeel

Comment:

“Section 16.3, pages 6-7. The 1996 EE/CA report has been identified to me as the best available report and maps on current radioactive contamination “hot spots” remaining in the SED. The map contained therein is inadequate to locate these contamination areas. In addition, due to changing stream flow conditions, it is highly likely that the contaminated sedimentary deposits have shifted, perhaps by many yards, so the 1996 data would not be relevant to current conditions. Since that area is not signed and has complete unfettered access by the general public, the FFA should address in section IX how that deficiency will be addressed. MDNR made a series of unimplemented recommendations that signage be placed at the junction of the SED and Katy Trail. ATSDR in 1995 said there would/should be “contamination maps” at Busch headquarters (to identify high uranium levels in Burgermeister Spring, for example) but this was not done, either. There is no adequate means whereby any agency can accurately monitor radioactive contamination from within the confines of the SED because the “hot spots” are not defined spatially. Hikers have direct access to Springs located along the SED.”

Response:

This comment appears to be addressed more at the substance of the institutional controls selected in the February 2005 Explanation of Significant Differences (2005 ESD) than a comment on the FFA. The purpose of the 2005 ESD was to identify specific use restrictions necessary for all site areas affected by response actions, including those actions conducted in the Southeast Drainage Area pursuant to the Southeast Drainage Engineering Evaluation/Cost Analysis (SED EE/CA) referenced in paragraph 16.3 of the FFA. The SED EE/CA is included as part of a list of the response action decision documents under which cleanup action have been taken at the Site. The FFA requires DOE to implement the institutional controls which were already selected in the 2005 ESD. The FFA is not the decision document in which the actual institutional controls are selected.

The FFA does provide a process for the Parties to the FFA to revise documents in the event the selected remedies are determined not to be protective. However, the Parties believe the cleanup actions conducted in the Southeast Drainage Area (SED), in conjunction with the institutional controls selected in the 2005 ESD, are protective for current recreational land use. The objective of the remedy for the SED was to remove contaminated soils and sediments to levels that are safe for the current recreational use. Based on conservative risk assessment using post-cleanup data, the public may now use the entirety of the SED for hiking, hunting or similar activities without being exposed to unacceptable risks. As part of the remedy, use restrictions will be maintained throughout the length and width of the SED prohibiting uses inconsistent with the remedy, e.g., residential use. The use restrictions are the same throughout the SED and are not dependent on identifying the locations of any residual contaminants.

Comment:

“Section IX, Institutional Controls. This section does not provide adequate attention as to why none of the participating agencies in the FFA feel it is necessary to provide warning signage or physical access restriction such as fencing at the SED-Katy Trail crossing or Burgermeister Spring (DOE 6301). Both sites are located on heavily traveled areas (by hikers and bikers) within the MDOC Weldon Spring and Busch Memorial Conservation areas and land leased to MDNR for Katy Trail State Park. Neither the “historical signs” that are in place or the recently prepared MDOC brochure adequately warn the public of the real risks due to groundwater and sediment contamination by uranium, TCE, nitroaromatics and nitrosamines. The FFA needs to address this issue. At a minimum, it needs to state why the three partner agencies feel the present ICs in the Final LTS&M plan for Weldon Spring site are adequate in this regard.”

Response:

This comment, much like the prior comment, appears to be directed more at the particular institutional controls selected in the 2005 ESD, as they would be implemented in the

LTS&M Plan, than it does the terms of the FFA. The LTS&M Plan currently contains no requirements for access controls or “warning” signs because the remedies are protective of public health under current uses. Residual contaminant levels at the SED and Burgermeister Spring do not present significant exposure concerns to recreational visitors at these locations. There are no water wells or other mechanisms for ongoing human consumption of the contaminated groundwater under current conditions.

Comment:

“A second comment is that the language in section 30 on p.11 ignores the fact that leaving the engineered disposal cell totally open and unprotected by warning signs or physical barriers obviously does negate the first part, i.e., “DOE agrees to refrain from either using or allowing the use of all portions of the SITE, or such other property, under its jurisdiction, custody or control, in any manner...” by concluding that : “that would interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial measures.” Obviously this “openness” and “tourism friendly” policy exposes the site to vandalism, undue wear and tear, and possible terror attacks.”

Response:

This comment appears to be directed more at the remedy selected for the Site in the 1993 Chemical Plant Area ROD as supplemented by the institutional controls selected in the 2005 ESD than it does the terms of the FFA. Paragraph 30 of the FFA was included to insure that no uses inconsistent with the selected remedy would be conducted at the site, whether or not those uses are specifically prohibited in the LTS&M Plan. The remedy for the Site as selected in the 1993 Chemical Plant Area ROD and the institutional controls selected in the 2005 ESD specifically contemplated having the disposal cell be readily accessible to the public. Public access enhances the recreational and educational experience that is part of the strategy to foster community participation, institutional memory and the long-term commitment necessary to maintain the remedy. The Site has been designed to allow for public access and any additional wear and tear or vandalism that might occur is easily repaired and of negligible consequence to the performance of the remedy.

Comment:

“I would also comment that the ICs not being 100% completed almost 4 years after the engineered disposal cell was capped off in June 2004 is totally unacceptable.”

Response:

Final institutional controls were selected for the Site in the 2005 ESD. A plan for implementing these institutional controls was incorporated into the LTS&M Plan which was approved in July 2005. Implementation of the LTS&M Plan is one of the primary requirements of the FFA, so adopting the FFA should help insure prompt implementation

of any outstanding institutional controls. Even if all of the selected institutional controls may not have been implemented at this time, the Site should be protective of human health and the environment because the selected remedies were based upon current land use at the time of the decision and land use has not changed appreciably over time. The purpose of the additional institutional controls is to protect against potential future land use changes that are inconsistent with the remedies. Implementation of the additional ICs was undertaken following finalization of the LTS&M Plan in July 2005 and is expected to be complete in 2007. Negotiating easements, changing regulations and revising an inter-agency Memorandum of Understanding are all potentially lengthy processes and, because they involve other parties, the schedules are not entirely within the control of DOE, EPA and MDNR.

Comment:

“Section XV, Data/document availability. Sections 54 and 55 on page 20 do not provide a means for the sampling data to be brought to the attention of the general public. The stance of DOE that informing the WSCC is adequate conveyance is not acceptable for several reasons: (a) the members are appointed by the County Executive, who is the Principal Investigator of a grant from DOE that funds WSCC oversight activities, and (b) only St. Charles residents can be appointed to be commissioners. The impact of an FFA is regional. Hence WSCC is potentially conflicted in their oversight of DOE, who in turn funds their activities. It is likely that persons who might have opinions that are adverse to DOE will not be appointed to the WSCC.”

Response:

The primary purpose of paragraphs 54 and 55 of the FFA is to insure that DOE makes available to EPA and MDNR the necessary information for them to oversee DOE's response activities at the Site. Other provisions in the FFA address more directly access to information by the general public. See for example, paragraph 24.8, which requires DOE to ensure “public involvement, including education, outreach, notice, and informational systems are appropriate to sustaining the long-term effectiveness of the remedies.” The primary mechanism for DOE to share information with the public is the LTS&M Plan. Section 2.2 of the LTS&M Plan specifically addresses DOE's obligation to share information with the public and to keep the public informed as to developments at the Site. For example, copies of the CERCLA Administrative Record, other site-related documents, and analytical data are available in public repositories at the site (Weldon Spring Site Interpretive Center, 7295 Highway 94 South, St. Charles, MO 63304) and at a local public library (Middendorf-Kredell Library, 2750 Highway K, O'Fallon, MO 63366). Select documents are also available on-line at: <http://www.lm.doe.gov/land/sites/mo/weldon/weldon.htm>

Comment:

“Section XIX, Record preservation.

Comment #1. Section 66 on page 25 contains the following statement: “DOE shall provide EPA and MDNR with copies of any updates to the Weldon Spring Site inactive records inventory.” In all the years I have been dealing with this site I have never heard of the inactive records inventory. Where does this records inventory currently reside and how can the public gain access to these records?”

Response:

The normal life cycle of a record is creation, active use and maintenance, inactive storage, and either destruction of records no longer needed or long-term preservation for permanent records. Active records are located at the U.S. Department of Energy offices located in Weldon Spring, Missouri, and Grand Junction, Colorado. When records are no longer needed for daily activities, they are dispositioned to inactive storage. The majority of the Weldon Spring records are inactive and are stored at the Kansas City Federal Records Center in Kansas City, Missouri. However, as discussed in the preceding response, copies of many records relating to site investigation and cleanup activities are available at public repositories and on-line. In addition, requests for specific records may be submitted through a Freedom of Information Act (FOIA) request and can be submitted electronically at <http://www.mbe.doe.gov/execsec/foia.htm> or to the FOIA Officer, United States Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, phone (202) 586-5955.

Comment:

“Section XIX, Record preservation

Comment #2. Section 67 on page 26 contains the following statement which I find very confusing: “*The notice shall contain the following information: (1) the records data that the National Archives sends to DOE with respect to documents covered by the Notice of Eligibility for Disposal...*” The current records destruction policy for DOE is published. This section and the preceding one do not mention any specific records retention goals. Furthermore, the Groundwater ROD institutes natural attenuation and monitoring for 100 years. Therefore logically all DOE, EPA and MDNR records about the Weldon Spring site should be maintained *for at least 100 years*. The language in this section and the foregoing one do not fully protect the public interest in maintaining records even for the period of the GW ROD. The uranium waste in the cell has a half life of 4.5 billion years, a fact that further argues for much longer record retention periods than would otherwise be necessary in an ordinary business setting.”

Response:

This provision reflects the procedures and record retention schedules approved by the National Archives and Records Administration (NARA) that have been used in

determining retention periods for the various records types associated with the Weldon Spring site. These record retention schedules include various retention periods based on the type of record that is being retained. The schedules are intended to allow for the destruction of records that no longer serve a purpose, while requiring that useful records are maintained for long periods.

The parties recognize that the NARA approved retention periods may need to be adjusted to accommodate site specific needs. The FFA provides this flexibility by requiring that the parties work together to reach agreement as to how long particular records should be retained. It also addresses the situation in which the parties do not reach agreement. If an agreement is not reached, before any record is actually disposed of, DOE must notify EPA and MDNR that the specified storage period has elapsed. The notice is to contain information which identifies the record, i.e, the records data that the National Archives sends to DOE with respect to documents covered by the Notice of Eligibility for Disposal, and which tells EPA and MDNR who they should contact about the records.

Comment:

“Section XIX, Record preservation

Comment 3. The passage: *“If DOE decides not to retain any records that EPA or MDNR recommend be kept, DOE shall so notify EPA and MDNR at least ten (10) business days prior to authorizing the destruction of these records”* should be modified to extend the period of (10) days to at least (90) days for the reasons stated in comment 2 of this section. Ten days is a grossly inadequate period of time to consider and review documents that might be destroyed.”

Response:

As explained in the sentence that follows the quoted passage, EPA or MDNR may request additional time or take custody of the records. We believe this provision gives EPA and MDNR adequate recourse if the 10 day time period is inadequate.

Comment:

“Section XXX, Funding. The implementation of this section on funding is extremely disappointing after the long delay in having this 3-party FFA signed. The main reason the public and MDNR itself has stayed interested in MDNR being a partner in this FFA is to ensure adequate future funding by DOE for site maintenance, monitoring and enforcement of Institutional Controls. Several provisions of subsections 121-123 are both weak and do nothing to ensure long term funding by DOE. These provisions are so weak, in fact, that they negate promises made by DOE officials to the public at a number of public meetings to the effect that “DOE will always be there.” The following passages challenge that statement, and appear to ensure that just the opposite will be true. In effect, these statements are no more legally binding than if DOE said, “trust me, I will do my best.” The problematic passages are:

Subsection 121. “DOE shall use its best efforts and take all necessary steps to obtain timely funding to meet its obligations under this Agreement.”

Subsection 122. “DOE and U.S. EPA agree that any requirement for the payment or obligation of funds by DOE established by the terms of the AGREEMENT shall be subject to the availability funds.”

Subsection 123. “If funding is requested as described in this Section, and if appropriated funds are not available to fulfill DOE's obligations under this AGREEMENT, the PARTIES shall attempt to agree upon appropriate adjustments to the dates that require the payment or obligation of such funds. In any action by EPA or the MDNR to enforce any provision of this AGREEMENT, DOE may raise as a defense that its failure or delay was caused by the unavailability of appropriated funds.”

In short there is absolutely no guarantee DOE will meet its long-term (or even short term) financial obligations it incurred because the AEC caused the contamination that led to an almost billion dollar cleanup years later. It is difficult for this citizen to see how EPA and MDNR could be willing to sign off on such an inadequate document that totally fails to protect the financial interests of Missouri citizens.”

Response:

The funding provisions were drafted to balance DOE’s commitment to do the work with DOE’s need to comply with the federal government’s budgetary processes, including the Antideficiency Act, 31 U.S.C. 1341. The Antideficiency Act places limits on a federal agency’s ability to spend money. The two main restrictions of the Antideficiency Act addressed here are restrictions on:

1) making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of the amount available in the appropriation or fund unless authorized by law. 31 U.S.C. § 1341(a)(1)(A).

2) obligating the government to pay money before funds have been appropriated for that purpose, unless otherwise allowed by law. 31 U.S.C. § 1341(a)(1)(B).

Because of these restrictions DOE cannot make an unconditional commitment to do work under the FFA because Congress may not appropriate all the funding necessary for that work. The FFA requires DOE to take steps to seek the necessary funding, but if the funding is not provided, the Parties are to work together to adjust schedules to reflect the actual level of funding provided. DOE, EPA and MDNR have recognized the constraint that the work at the Weldon Spring Site, like similar work at other federal facilities, must be funded through annual appropriations.

**DANIEL MCKEEL, MD, COMMENTS ON THE
WELDON SPRING SITE
FEDERAL FACILITIES AGREEMENT
(Docket No. CERCLA-07-2006-0161)**

I am Daniel W. McKeel, MD, and have been an active stakeholder/citizen participant in the Weldon Spring site for the past five years. I reside at 5587-C Waterman Blvd., St. Louis, MO 63112 approximately 35 miles one-way from the site in St. Charles County.

The following are my comments on the new 50 page Federal Facilities Agreement (FFA) between US EPA, MDNR and US DOE. My main concerns are with the Institutional Controls provisions (p. 11), data/document availability (p. 20), the term of the records preservation (p. 25) and the weakness of the long-term funding commitments by DOE (p. 42).

Section 16.3, pages 6-7. The 1996 EE/CA report has been identified to me as the best available report and maps on current radioactive contamination “hot spots” remaining in the SED. The map contained therein is inadequate to locate these contamination areas. In addition, due to changing stream flow conditions, it is highly likely that the contaminated sedimentary deposits have shifted, perhaps by many yards, so the 1996 data would not be relevant to current conditions. Since that area is not signed and has complete unfettered access by the general public, the FFA should address in section IX how that deficiency will be addressed. MDNR made a series of unimplemented recommendations that signage be placed at the junction of the SED and Katy Trail. ATSDR in 1995 said there would/should be “contamination maps” at Busch headquarters (to identify high uranium levels in Burgermeister Spring, for example) but this was not done, either. There is no adequate means whereby any agency can accurately monitor radioactive contamination from within the confines of the SED because the “hot spots” are not defined spatially. Hikers have direct access to Springs located along the SED.

Section IX, Institutional Controls. This section does not provide adequate attention as to why none of the participating agencies in the FFA feel it is necessary to provide warning signage or physical access restriction such as fencing at the SED-Katy Trail crossing or Burgermeister Spring (DOE 6301). Both sites are located on heavily traveled areas (by hikers and bikers) within the MDOC Weldon Spring and Busch Memorial Conservation areas and land leased to MDNR for Katy Trail State Park. Neither the “historical signs” that are in place or the recently prepared MDOC brochure adequately warn the public of the real risks due to groundwater and sediment contamination by uranium, TCE, nitroaromatics and nitrosamines. The FFA needs to address this issue. At a minimum, it needs to state why the three partner agencies feel the present ICs in the Final LTS&M plan for Weldon Spring site are adequate in this regard.

A second comment is that the language in section 30 on p.11 ignores the fact that leaving the engineered disposal cell totally open and unprotected by warning signs or physical barriers obviously does negate the first part, i.e., “DOE agrees to refrain from either using or allowing the use of all portions of the SITE, or such other property, under its jurisdiction, custody or control, in any manner...” by concluding that : “that would interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial measures.” Obviously this “openness” and “tourism friendly” policy exposes the site to vandalism, undue wear and tear, and possible terror attacks.

I would also comment that the ICs not being 100% completed almost 4 years after the engineered disposal cell was capped off in June 2004 is totally unacceptable.

Section XV, Data/document availability. Sections 54 and 55 on page 20 do not provide a means for the sampling data to be brought to the attention of the general public. The stance of DOE that informing the WSCC is adequate conveyance is not acceptable for several reasons: (a) the members are appointed by the County Executive, who is the Principal Investigator of a grant from DOE that funds WSCC oversight activities, and (b) only St. Charles residents can be appointed to be commissioners. The impact of an FFA is regional. Hence WSCC is potentially conflicted in their oversight of DOE, who in turn funds their activities. It is likely that persons who might have opinions that are adverse to DOE will not be appointed to the WSCC.

Section XIX, Record preservation.

Comment #1. Section 66 on page 25 contains the following statement: “*DOE shall provide EPA and MDNR with copies of any updates to the Weldon Spring Site inactive records inventory.*” In all the years I have been dealing with this site I have never heard of the inactive records inventory. Where does this records inventory currently reside and how can the public gain access to these records?

Comment #2. Section 67 on page 26 contains the following statement which I find very confusing: “*The notice shall contain the following information: (1) the records data that the National Archives sends to DOE with respect to documents covered by the Notice of Eligibility for Disposal...*” The current records destruction policy for DOE is published. This section and the preceding one do not mention any specific records retention goals. Furthermore, the Groundwater ROD institutes natural attenuation and monitoring for 100 years. Therefore logically all DOE, EPA and MDNR records about the Weldon Spring site should be maintained *for at least 100 years*. The language in this section and the foregoing one do not fully protect the public interest in maintaining records even for the period of the GW ROD. The uranium waste in the cell has a half life of 4.5 billion years, a fact that further argues for much longer record retention periods than would otherwise be necessary in an ordinary business setting.

Comment 3. The passage: “*If DOE decides not to retain any records that EPA or MDNR recommend be kept, DOE shall so notify EPA and MDNR at least ten (10) business days prior to authorizing the destruction of these records*” should be modified to extend the period of (10) days to at least (90) days for the reasons stated in comment 2 of this section. Ten days is a grossly inadequate period of time to consider and review documents that might be destroyed.

Section XXX, Funding. The implementation of this section on funding is extremely disappointing after the long delay in having this 3-party FFA signed. The main reason the public and MDNR itself has stayed interested in MDNR being a partner in this FFA is to ensure adequate future funding by DOE for site maintenance, monitoring and enforcement of Institutional Controls. Several provisions of subsections 121-123 are both weak and do nothing to ensure long term funding by DOE. These provisions are so weak, in fact, that they negate promises made by DOE officials to the public at a number of public meetings to the effect that “DOE will always be there.” The following passages challenge that statement, and appear to ensure that just the opposite will be true. In effect, these statements are no more legally binding than if DOE said, “trust me, I will do my best.” The problematic passages are:

Subsection 121. “DOE shall use its best efforts and take all necessary steps to obtain timely funding to meet its obligations under this Agreement.”

Subsection 122. “DOE and U.S. EPA agree that any requirement for the payment or obligation of funds by DOE established by the terms of the AGREEMENT shall be subject to the availability funds.”

Subsection 123. “If funding is requested as described in this Section, and if appropriated funds are not available to fulfill DOE's obligations under this AGREEMENT, the PARTIES shall attempt to agree upon appropriate adjustments to the dates that require the payment or obligation of such funds. In any action by EPA or the MDNR to enforce any provision of this AGREEMENT, DOE may raise as a defense that its failure or delay was caused by the unavailability of appropriated funds.”

In short there is absolutely no guarantee DOE will meet its long-term (or even short term) financial obligations it incurred because the AEC caused the contamination that led to an almost billion dollar cleanup years later. It is difficult for this citizen to see how EPA and MDNR could be willing to sign off on such an inadequate document that totally fails to protect the financial interests of Missouri citizens.

Respectfully submitted,

_____signature on original_____
Daniel W. McKeel, Jr., MD (5/19/06)
Associate Professor of Pathology and Immunology (retired)
Washington University School of Medicine

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Weldon Spring Citizens Commission
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May 18, 2006

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Mr. Daniel R. Wall
Project Manager
U.S. EPA – Region 7
901 North 5th Street
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Dear Mr. Wall:

The Weldon Spring Citizens Commission (WSCC) has reviewed a summary of the new Federal Facilities Agreement (FFA) between the U.S. Environmental Protection Agency (EPA) Region 7, U.S. Department of Energy (DOE), and the Missouri Department of Natural Resources (MDNR) for the Weldon Spring Site near St. Charles. The summary was prepared by Nancy Dickens, the Weldon Spring Citizens Commission Technical Assistant.

We believe that this agreement will strengthen the relationship between all parties and will facilitate the protection of the Weldon Spring Site. The agreement though can be further strengthened by the inclusion of stakeholder participation in the area of public comment and permit or agreement change.

In the area of permits the agreement states that 'No permits are required for actions on DOE property, but actions must satisfy requirements that might be included in a permit. DOE must notify EPA and MDNR or their intent to modify a permit.' If no permits are required, will there be permits to modify?

Sincerely,

Weldon Spring Citizens Commission

Cc:

Yvonne Deyo, Weldon Spring Site Project Manager
Mike Duvall, Director, St. Charles County Division of Environmental Services
Mimi Garstang, Director and State Geologist, Missouri Department of Natural Resources
Joe Ortwerth, County Executive, St. Charles County
Tom Pauling, Project Manager, Office of Legacy Management, Department of Energy
St. Charles County Council

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