OhioEPA
State of Ohio Environmental Protection Agency

RECEIVED MAR 29 1999

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March 18, 1999

Re: Director's Final Findings & Orders
United States Department of Energy
Portsmouth Gaseous Diffusion Plant
Bechtel Jacobs Company LLC
US EPA ID No.: OH7 890 008 983
Piketon, Ohio

CERTIFIED MAIL

C. Ray Miskelley, Esq.
Office of the Chief Counsel
U.S. Department of Energy
200 Administration Road
Oak Ridge, Tennessee 37831

Patrick W. Willison, Esq.
Bechtel-Jacobs Company LLC
East Tennessee Technology Park
Building K-1225 Room 123
Oak Ridge, Tennessee 37831-7294

Dear Sirs:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

Sincerely yours,

Thomas E. Crepeau

Thomas E. Crepeau, Manager
Data Management Section
Division of Hazardous Waste Management

TEC/dhs

cc: Frances Kovac, Legal
Dave Sholtis, Asst. Chief, DHWM
Melody Stewart, DHWM, SEDO
Maria Galanti, DERR, SEDO
Steve Rine, DSIWM, SEDO
Kevin Johnson, PIC
Eugene Gillespie, US DOE
John Shoemaker, Bechtel-Jacobs

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

United States Department of Energy	:	Director's Final
Portsmouth Gaseous Diffusion Plant	:	Findings and Orders
P.O. Box 700	:	
Piketon, Ohio 45661-0700	:	

Bechtel Jacobs Company LLC
Portsmouth Gaseous Diffusion Plant
P.O. Box 900
Piketon, Ohio 45661-0628

Respondents

PREAMBLE

It is hereby agreed by and among the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the U.S. Department of Energy (" DOE") and Bechtel Jacobs Company LLC ("Bechtel Jacobs Company") pursuant to the authority vested in the Director of Environmental Protection ("Director") under chapters 3745 and 6111 of the Ohio Revised Code ("ORC") and the solid and hazardous waste laws in ORC chapter 3734, including ORC sections 3734.13, 3734.20, 3734.02(A) and 3734.02(G).

II. PURPOSE OF THESE ORDERS

The purpose of these Orders is:

1. To integrate the on-site work required for specific units under Section V of the Consent Decree and under the Ohio Administrative Code with the requirements of Section VII of the Consent Decree, and requirements of the Administrative Order by Consent in order to avoid duplication of effort, and efficiently perform sitewide ground water monitoring and surveillance and maintenance activities at PORTS;

2. To recognize that a substantial portion of the tasks required under existing approved

ENTERED DIRECTOR'S JOURNAL
MAR 18 1999
OHIO E.P.A.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency
By: _____ Date 3/18/99

closure plans for certain units have been completed in accordance with those closure plans and to provide for the incorporation of the remaining tasks into the Integrated Groundwater Monitoring Plan and the Surveillance & Maintenance Plans and to terminate any further obligation under the existing closure plans;

3. To provide exemptions from specific solid and hazardous waste requirements of the Ohio Administrative Code as necessary to accomplish Purpose 1, above.

III. PARTIES BOUND

These Orders shall apply to and be binding upon the Respondents, their assigns and successors in interest. With respect to DOE, no change in ownership or operation of the Site will in any way alter DOE's responsibilities under these Orders, except as provided by law. The obligations of Bechtel Jacobs Company under these Orders shall terminate when Bechtel Jacobs Company is no longer responsible pursuant to contract with DOE to perform work under these Orders; provided, however, that this Section of the Orders does not absolve Bechtel Jacobs Company from any liability for any violation which occurs prior to the termination of such contract. Except as otherwise expressly provided herein, Respondents' obligations under these Orders may be altered only by written approval of the Director.

IV. DEFINITIONS

Words used in these Orders shall have their ordinary meaning, except as defined in this Section or the relevant statute or regulation.

A. "Site" shall mean all areas within the property boundary of the Portsmouth Gaseous Diffusion Plant ("PORTS") and any other areas that received or potentially received or released "hazardous substances, pollutants, or contaminants" originating from PORTS as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. section 9601, et seq.

B. "Hazardous Waste Management Unit" ("HWMU") shall mean a contiguous area of land on or in which hazardous waste is placed or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area [40 CFR section 260.10; Ohio Administrative Code ("OAC") rule 3745-50-10].

C. "IGWMP" shall mean the Integrated Ground Water Monitoring Plan, as approved by Ohio EPA, and which is attached to these Orders as Attachment C.

D. "Party" shall mean DOE, Bechtel Jacobs Company or the Ohio Environmental Protection Agency ("Ohio EPA" or "OEPA"). "Parties" shall mean DOE, Bechtel Jacobs Company and Ohio EPA.

E. "Solid Waste Disposal Facility" ("SWDF") shall mean any site, location, tract of land, installation or building used for incineration, composing, sanitary landfilling, or other methods of disposal of solid wastes (OAC rule 3745-27-01(C)(11)).

F. "Consent Decree" shall mean the consent decree filed by DOE and the State of Ohio on September 1, 1989, in Civil Action Number C2-89-732, in United States District Court for the Southern District of Ohio, Eastern Division.

G. "Administrative Order by Consent" shall mean the administrative order by consent entered into by the DOE, Ohio EPA and U.S. EPA on August 12, 1997, for the purpose of defining oversight roles for Ohio EPA and U.S. EPA and certain performance obligations for DOE, and which replaced the earlier version of the ACO, as amended.

H. "Surveillance and Maintenance Plan" ("S&M Plan") shall mean the plan to be submitted and approved pursuant to Order number 16, below, which provides for post closure care and/or operation and maintenance of each of several units; following approval, the S&M Plan shall be incorporated by reference and attached to these Orders as Attachment D.

V. FINDINGS OF FACT

The Director of Environmental Protection hereby makes the following findings:

1. DOE owns PORTS, a uranium enrichment facility, located in Pike County, Ohio, approximately twenty (20) miles north of the City of Portsmouth. The current primary function of PORTS is the enrichment of uranium for use in fueling nuclear reactors. Pursuant to section 1403 (a) of the Energy Policy Act of 1992 (Public Law 102-486), DOE leases uranium enrichment facilities at PORTS to the United States Enrichment Corporation (USEC). Pursuant to the Energy Policy Act, including section 1403 (d), DOE has retained responsibility for certain cleanup activities with respect to conditions existing before July 1, 1993, the date that uranium enrichment operations at PORTS were assumed by USEC.

2. PORTS commenced operations in 1954. PORTS operations are located on a 15.1 square kilometer (3,714 acres) parcel of federally owned land. Several rural communities lie within a few kilometers of PORTS.

3. Bechtel Jacobs Company is a limited liability company, licensed to do business in the State of Ohio on December 24, 1997. Bechtel Jacobs Company has contracted with DOE to carry out certain day-to-day activities at PORTS, including certain cleanup activities.

4. The Respondents are each a "person" as defined in ORC section 3734.01(G) and Ohio Administrative Code ("OAC") rule 3745-50-10.

5. The Respondents generate or have generated "hazardous waste" as that term is defined in section 1003(5) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act ("RCRA") as amended, 42 U.S.C. section 6903 (5) and in ORC section 3734.01 (J) and OAC rules 3745-50-10 and 3745-51-03.

6. The Respondents generate or have generated "solid waste" as that term is defined in ORC section 3734.01 (E) and OAC rule 3745-27-01.

7. The principal radioactive elements present in waste materials handled at the facility are uranium and technetium. The principal non-radioactive hazardous wastes known to be generated at PORTS are those exhibiting characteristics of ignitability, toxicity (TCLP) for chromium, lead, and cadmium, and various listed wastes including: spent halogenated solvents such as TCE; spent non-halogenated solvents; as well as small quantities of laboratory chemicals such as vanadium pentoxide, aniline, formaldehyde, formic acid, and lead acetate.

8. On August 18, 1980, DOE submitted a notification of hazardous waste activity at the facility as required by section 3010 (a) of RCRA, 42 U.S.C. section 6930 (a), and on July 12, 1984, DOE filed a RCRA Part A permit application as required by section 3005(a) of RCRA, 42 U.S.C. section 6925(a), to treat, store, and dispose of hazardous waste at the Facility. Subsequently, DOE filed a RCRA Part A permit application revision on September 9, 1988. OEPA transmitted PORTS' RCRA Part B Permit Application to the Ohio Hazardous Waste Facility Board on March 18, 1993, and the Board issued a permit to DOE, effective on August 21, 1995; the permit authorizes DOE to store certain hazardous and mixed wastes in two storage facilities {X-326 and X-7725} at PORTS. The permit does not address ground water monitoring requirements.

9. On June 30, 1989, Ohio EPA received final authorization from U.S. EPA to administer the hazardous waste program in Ohio; such authorization includes the authority to regulate the hazardous waste component of mixed waste. See 54 Fed. Reg. 27173. Ohio EPA's hazardous waste program authorization has since been expanded to include authorization to implement corrective action requirements under RCRA.

10. On September 1, 1989, DOE and the State of Ohio filed a Consent Decree, Civil Action

Number C2-89-732, in United States District Court for the Southern District of Ohio, Eastern Division ("Consent Decree"), for the purpose of addressing certain hazardous waste compliance issues at PORTS. The Consent Decree requires the performance of corrective actions at PORTS, in addition to other requirements.

11. On September 27, 1989, U.S. EPA and DOE entered into an Administrative Consent Order, U.S. EPA Docket Number V-W-9OR-03, for the performance of response action/corrective actions at PORTS.

12. In August of 1994, the 1989 Administrative Consent Order ("ACO, as amended") was amended to, among other things, include Ohio as a party for the purpose of recovering its oversight costs from U.S. DOE.

13. On August 2, 1995, Ohio EPA issued a letter which referenced a meeting in which DOE and Ohio EPA agreed to the integration of closure and corrective action/response action for certain HWMUs.

14. On October 4, 1995, DOE and Ohio EPA entered into Director's Final Findings and Orders which approved DOE's site treatment plan for all land disposal restricted hazardous wastes in storage at PORTS.

15. On August 12, 1997, the DOE, Ohio EPA, and U.S. EPA entered into the Administrative Order by Consent for the purpose of defining oversight roles for Ohio EPA and U.S. EPA and certain performance obligations for DOE, which replaced the earlier version of the ACO, as amended. Pursuant to this Administrative Order by Consent, Ohio EPA assumed the lead oversight role from U.S. EPA for all remedial and corrective action activities at PORTS.

16. The corrective action/response action process being conducted at PORTS employs a Quadrant approach, in which PORTS is divided into four Quadrants for the purposes of organizing and facilitating the corrective action/response action process. The Quadrants are based approximately on the direction of groundwater flow at PORTS.

17. Consistent with Section VII of the Consent Decree and the Administrative Order by Consent, Respondents have agreed to implement the corrective actions/response actions selected in the Decision Documents for each Quadrant.

18. Pursuant to the requirements of Sections VII and VIII of the Consent Decree and provisions of the Administrative Order by Consent, DOE is responsible for conducting certain ground water monitoring requirements at PORTS. Pursuant to requirements of Section V of the Consent Decree

and provisions of the Administrative Order by Consent, DOE conducts closure and post closure care of certain HWMUs and solid waste disposal facilities ("SWDF") at PORTS.

19. Attachment A, incorporated by reference herein, identifies those SWDFs and those HWMUs which will be subject to one or more exemptions pursuant to this Order. The exemptions facilitate the integration process which consists of deferring the timing and procedural requirements applicable to certain units, and includes the unification of all site-wide groundwater monitoring requirements.

20. The SWDFs and HWMUs identified in Attachment A are subject to requirements for closure, investigation and/or remediation pursuant to Section V and/or Section VII of the Consent Decree. The SWDFs and HWMUs identified in Attachment A are all "Waste Units" pursuant to Section 2.16 of the Consent Decree and as used in Section VII. of the Consent Decree.

21. The SWDFs and HWMUs identified in Attachment A are subject to schedules for closure, investigation and/or remediation pursuant to the Consent Decree. These schedules are based upon discussions between the Respondent DOE and Ohio EPA, and are subject to change pursuant to the procedures required by the Consent Decree. Incorporated by reference herein as Attachment B is the agreed upon schedule for all remaining remedial activities as it exists as of the effective date of these Orders, which was submitted by Respondents to Ohio EPA on December 5, 1998 and approved by Ohio EPA on December 11, 1998. Pursuant to Section VII of the Consent Decree, this schedule is fully enforceable under the Consent Decree. Remedial actions proposed in accordance with the Consent Decree are subject to a public comment period.

22. On January 27, 1999, Ohio EPA approved the Integrated Ground Water Monitoring Plan, ("IGWMP"), which is designed to integrate site-wide ground water monitoring activities at PORTS by encompassing all ground water monitoring requirements and the goals of multiple regulatory programs in order to maximize resources to support corrective action and to minimize the potential for conflicts in requirements between regulatory programs.

23. SWDFs X-749A, X-735 Industrial Solid Waste Landfill, and X-749S (also known as the Low Level Disposal Unit) completed certification of closure on June 7, 1994, November 6, 1998, and February 9, 1993, respectively, at which times the 30 year post closure care period began, in accordance with OAC rules 3745-27-14 or 3745-29-14 for each unit. Ohio EPA accepted the certification of closure for the referenced units on November 12, 1996, December 28, 1998, and March 8, 1993, respectively. SWDFs X-749A, X-735 Industrial Solid Waste Landfill, and X-749S are subject to the requirements of post closure plans submitted in accordance with OAC rules 3745-27-11 or 3745-29-11 and approved on April 9, 1992, January 23, 1998, and July 17, 1991, respectively.

24. OAC rule 3745-29-01(B) defines an "industrial solid waste landfill facility" as a sanitary landfill facility which exclusively disposes one or any combination of industrial solid wastes as defined in OAC rule 3745-29-01(A). OAC rule 3745-29-01(A) defines "industrial solid waste" as a type of solid waste generated by manufacturing or industrial operations. SWDFs X-749A and X-749S are sanitary landfill facilities where industrial solid wastes were disposed and, currently, are subject to OAC Chapter 3745-27.

25. Pursuant to ORC section 3734.02 (G) and OAC rule 3745-50-31, the Director may by order exempt any person generating, storing, treating, disposing of or transporting hazardous waste in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a permit or license, comply with the manifest system or comply with other requirements of ORC chapter 3734.

26. The SWDFs listed in Attachment A are subject to the ground water monitoring requirements contained within OAC rules 3745-27-10 or 3745-29-10. Compliance with the ground water monitoring requirements outlined within the IGWMP, Attachment C, instead of with the requirements of OAC rules 3745-27-10(C)(10) or 3745-29-10(C)(10), for the SWDFs listed in Attachment A, is unlikely to adversely affect the public health or safety or the environment.

27. By letter dated January 26, 1999, Respondents submitted an application for the exemptions contained in these Orders.

28. If the Respondents conduct an RCRA/CERCLA integrated remediation process in accordance with the requirements and schedules contained in or referenced in these Orders, it is unlikely that public health or safety or the environment will be adversely affected within the meaning of ORC section 3734.02(G).

29. Where a variance to the rules promulgated under ORC Chapter 3734. is granted, the Director has determined that such an action is appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment, and that the construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment.

VI. ORDERS

1. The Respondents shall implement the IGWMP, Attachment C, except that, to the extent

that the IGWMP requires tasks specific to radiological contamination, and/or tasks specific to off-site residential monitoring, such tasks shall not be specifically enforceable under this Order. Where a task involves both radiological contamination and non-radiological contamination, only the portions of the task involving non-radiological contamination shall be specifically enforceable through this Order. Implementation shall occur pursuant to Order 17, below.

2. The Respondents are hereby exempted from complying with the rules contained in OAC chapters 3745-65 and 3745-66 for the HWMUs listed in Attachment A, *provided*, that the Respondents shall comply with the substantive requirements of the rules contained in OAC chapters 3745-54 and 3745-55 for the HWMUs listed in Attachment A, through the remedial processes of Section VII of the Consent Decree, except as provided below.

3. The Respondents are hereby exempted from complying with the rules contained in OAC chapter 3745-27, for the X-749S SWDF, and for the X-749A Classified Materials Disposal Facility, *provided* that the Respondents comply with the substantive requirements of OAC Chapter 3745-29 for those units, except as provided below.

4. The Respondents are hereby exempted from complying with OAC rule 3745-29-10(C)(10) for the X-735S Industrial Solid Waste Landfill, and for the X-749A Classified Materials Disposal Facility.

5. The Respondents are hereby granted a variance for the X-749S Industrial Solid Waste Landfill, the X-749A Classified Materials Disposal Facility, and X-735 SWDF, from complying with the requirement contained in OAC rule 3745-29-14(A)(3) to submit a written summary to the appropriate Ohio EPA district office not later than fifteen days after the date of the inspection required by this rule, *provided* that Respondents submit the written summary otherwise required by this rule within fifteen days following the end of the calendar year quarter in which the inspection occurred.

6. The Respondents are hereby exempted from complying with OAC rule 3745-29-10 for the X-749S Industrial Solid Waste Landfill. The X-749S Industrial Solid Waste Landfill will be monitored together with the X-749N HWMU as a single groundwater monitoring unit in accordance with OAC rule 3745-54-99, except as provided below.

7. The Respondents are hereby exempted from complying with OAC rule 3745-54-98 for the X-735N Hazardous Waste Landfill. The X-735N Hazardous Waste Landfill will be monitored together with the X-735S Industrial Solid Waste Landfill as a single groundwater monitoring unit pursuant to the exemption in paragraph 4, above.

8. The Respondents are hereby exempted from complying with OAC rule 3745-54-99(G) for the following HWMUs: X-231B, X-701C, X-740, X-701B, X-230J7, X-616, X-735N, and X-749.

9. The Respondents are hereby exempted from complying with OAC rule 3745-55-02(C) for the following HWMUs: X-231B, X-701B, X-701C, X-230J7, X-616, X-740, X-735N and X-749.

10. The Respondents are hereby exempted from complying with OAC rule 3745-55-12(A)(1) for the following HWMUs: X-230J7, X-701C, X-744Y, X-231B, and X-701B, *provided* that the CMS/CMIs necessary for the completion of remediation which are required by the Consent Decree, are submitted by Respondents in accordance with the schedule approved pursuant to the Consent Decree.

11. The Respondents are hereby exempted from complying with OAC rule 3745-55-13 for the following HWMUs: X-230J7, X-701C, X-744Y, X-231B, and X-701B, *provided* that the Respondents implement the Corrective Measures Implementation Work Plan in accordance with the schedule approved pursuant to the Consent Decree.

12. The Respondents are hereby exempted from complying with OAC rule 3745-55-15 for the following HWMUs: X-230J7, X-701C, X-744Y, X-231B, and X-701B, *provided* that the Respondents submit the Corrective Measures Implementation Final Report in accordance with the schedule approved pursuant to the Consent Decree, and the Certification Report, contained therein, meets the requirements of closure certification.

13. The Respondents are hereby exempted from complying with OAC rule 3745-55-20 for the following HWMUs: X-749, X-231B, X-701C, X-701B, X-230J7, X-616 and X-744Y, *provided* that the Respondents submit an Operation & Maintenance Monitoring Final Report which meets the requirements of a post-closure certification.

14. The Respondents are hereby exempted from complying with OAC rule 3745-55-18(A) for the following HWMUs: X-231B, X-701C, X-701B, X-230J7, and X-744Y, *provided* that the Respondents submit the Corrective Measures Implementation Workplan, which includes the Operation & Maintenance Plan, in accordance with the schedule approved pursuant to the Consent Decree and for the HWMUs X-231B, X-701C, X-701B, X-230J7 and X-744Y the Operation & Maintenance Plan must include the substantive requirements contained in OAC rule 3745-55-18 (B) through (D).

15. The Respondents are hereby exempted from complying with OAC rule 3745-55-18(A)

for the following HWMUs: X-616, X-749N and X-735N.

16. a. No later than twenty (20) days after the effective date of this Order, Respondents shall submit a Surveillance and Maintenance Plan ("the S&M Plan") providing for post closure care and/or operation and maintenance (excluding groundwater monitoring requirements, which are provided in the IGWMP) of each of the following units: SWDFs X-749A, X-735S Industrial Solid Waste Landfill and X-749S (also known as the Low Level Disposal Unit), and HWMUs X-616, X749N, and X-735N. The S&M Plan shall meet the following standards:

i. For the SWDFs X-749A, X-735S Industrial Solid Waste Landfill and X-749S (also known as the Low Level Disposal Unit), the S&M Plan must include all the requirements for post closure stated in the closure/post closure plans which were approved for those units on April 9, 1992, January 23, 1998, and July 17, 1991, respectively.

ii. For HWMUs X-616, X749N, and X-735N the S&M Plan must include all the requirements for post closure stated in the closure/post closure plans which were approved for those units on August 13, 1992, July 14, 1989, and September 13, 1993, respectively.

iii. For any other unit Respondents choose to incorporate into the S&M Plan, the S&M Plan shall incorporate all post closure and/or operation and maintenance requirements which exist at the time of submittal of the S&M Plan.

b. Respondents' S&M Plan shall be subject to review and approval by Ohio EPA. If Ohio EPA provides Respondents with a written statement of deficiencies in the S&M Plan, Respondents shall submit to Ohio EPA, within thirty (30) days of receipt of the statement of deficiencies, a revised S&M Plan that satisfactorily addresses the stated deficiencies.

c. Ohio EPA may either approve the S&M Plan as submitted or as revised, or approve it with modifications. If Ohio EPA modifies the S&M Plan as submitted or revised, the modified plan shall become the approved S&M Plan. Upon approval, the S&M Plan shall be incorporated by reference into this Order as Attachment D.

d. Upon implementation of the IGWMP and S&M Plan as described in Order 17, below, Respondents' obligations under the previously approved closure plans or post closure care plans for the units specified in Attachment A are satisfied, and the closure plan or post closure care plan terminates.

17. Respondents shall commence implementation of the IGWMP and the S&M Plan together on April 1, 1999. If, for any reason, approval of the S&M plan by Ohio EPA has not been obtained by April 1, 1999, these Orders and all exemptions contained herein will terminate, and Respondents shall have no further obligation under these Orders.

VII. AMENDMENT OF ATTACHMENTS

1. Amendment of the IGWMP (Attachment C) or the S&M Plan (Attachment D):

a. The IGWMP or the S&M Plan may be amended by mutual, written agreement of the parties, according to the procedures described below.

b. In the event that Respondents identify a need to amend the approved IGWMP or approved S&M Plan, Respondents shall submit an amended plan to Ohio EPA. Upon receipt of an amended plan, Ohio EPA may either approve the amended plan, as submitted, or disapprove and provide comments describing changes required before approval. Upon approval by Ohio EPA of the amended plan, Respondents shall implement the approved plan in accordance with the schedule approved pursuant to the Consent Decree.

c. In the event that Ohio EPA identifies a need to amend the approved plan, Respondents shall, within twenty (20) days of receipt of written notice from Ohio EPA of the need to amend the approved plan, submit an amended plan proposal. Upon receipt of an amended groundwater monitoring plan, Ohio EPA may either approve the amended plan, as submitted, or disapprove and provide comments describing changes required before approval. Upon approval of the amended plan by Ohio EPA, Respondents shall implement the approved plan in accordance with the schedule approved pursuant to the Consent Decree.

VIII. PROJECT MANAGERS

Ohio EPA's Project Manager is Maria Galanti of Ohio EPA's Southeast District Office. Respondent DOE's Project Manager is Melda Rafferty. Respondent Bechtel Jacobs Company's Project Manager is Don J. Wilkes. A Party may change its designated Project Manager by notifying the other Parties, in writing, ten (10) business days before the change, if possible.

Each Project Manager shall be the primary contact regarding the implementation of these Orders. The Project Managers shall meet periodically, as appropriate, to discuss progress and problems

regarding the implementation of these Orders.

IX. NOTICE

All documents to be submitted pursuant to these Orders shall be submitted to the following persons at the following addresses:

Ohio EPA:

Ohio Environmental Protection Agency
Southeast District Office
Division of Emergency & Remedial Response
Attn: Project Manager
2195 Front Street
Logan, Ohio 43138

and

Ohio Environmental Protection Agency
Division of Hazardous Waste Management
Attn: Manager, Compliance Assurance Section
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

Bechtel Jacobs Company:

Bechtel Jacobs Company LLC
Portsmouth Gaseous Diffusion Plant
P.O. Box 900
Piketon, Ohio 45661-0628
Attn: Don J. Wilkes, Bechtell Jacobs Company Project Manager for Environment Restoration

DOE:

U.S. DOE, Portsmouth Gaseous Diffusion Plant
Attn: Melda Rafferty
P.O. Box 700

Piketon, Ohio 45661-0700

or to such persons and addresses as may hereafter be otherwise specified in writing.

X. OTHER APPLICABLE LAWS

Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations' applicability to the Respondents' activities at the Site. Ohio EPA reserves all rights and privileges except as specified herein. Respondents reserve all defenses they may have.

XI. RESERVATION OF RIGHTS

Nothing contained in these Orders shall be construed as restricting any rights or obligations contained in the Administrative Order by Consent and/or the Consent Decree. Nothing contained herein shall be construed to prevent the Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action, as deemed appropriate and necessary, including the revocation of exemptions, as necessary, and including seeking penalties against Respondents for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the Respondents to perform additional activities at the Site, pursuant to ORC chapter 3734 or any other applicable law in the future. If any section or subsection of the IGWMP, performance of which is a condition of an exemption, is amended by mutual agreement pursuant to Section VII., the Director reserves the right to revoke the exemption, unless he determines that such amendment is unlikely to adversely affect the public health or safety or the environment.

Nothing herein shall restrict the right of Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of the Respondents. Nothing in these Orders shall be construed as a waiver of DOE's jurisdiction over source, by-product, or special nuclear materials under the Atomic Energy Act, 42 U.S.C. section 2201, et seq. Nothing in the preceding sentence alters Respondents' duty to comply with these Orders.

The Director reserves the right to revoke these Orders, or any portion hereof, upon a determination by Ohio EPA that such revocation is necessary to protect human health or safety or the environment. The Respondents reserve the right to seek administrative or judicial review of any such revocation.

It is Ohio EPA's position that the Anti-Deficiency Act, 31 U.S.C. section 1341, as amended, does not apply to any obligations set forth in these Orders, and that obligations herein are not affected by Respondent DOE's failure to obtain adequate funds or appropriations from Congress. It is Respondents' position that the obligations set forth in these Orders are subject to the provisions of the Anti-Deficiency Act and are subject to the availability of funding. The Parties agree that it is premature to raise and resolve the validity of such positions at this time.

XII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any persons, firm, partnership or Corporation, not a signatory to these Orders, for any liability arising out of or relating to the operation of the Respondent DOE's Site.

XIII. SIGNATORIES

Each undersigned representative of a Party signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such party to this document.

IT IS SO ORDERED:

Ohio Environmental Protection Agency

By: Christopher Jones, Director

3/17/99
Date

XV. WAIVER

The Respondents agree that these Orders are lawful and reasonable. The Respondents, by acceptance of these Orders, agree to comply with all conditions of these Orders and acknowledge the Respondents' failure to do so may result in further legal action by Ohio EPA.

The Respondents hereby waive the right to appeal or otherwise challenge the issuance of these Orders. Nothing in these Orders shall affect the Respondents' rights to seek administrative or judicial review of other final actions by the Director pursuant to ORC section 3745.04 or other applicable law.

Ohio EPA and the Respondents agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, the Respondents retain the right to intervene and participate in such appeal in support of these Orders. In such event, the Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

IT IS SO AGREED:

U.S. Department of Energy:

By: Peter K. Price Date: 2/23/99

Executive Director, Office of Environmental Management, ORO
Title

Bechtel Jacobs Company LLC:

By: Joseph F. Nemec Date: 2/5/99

Joseph F. Nemec
President
Title

Ohio Environmental Protection Agency:

Christopher Jones Date: 3/17/99

Christopher Jones, Director

ATTACHMENT A

Unit Name	Description	Quadrant	Unit Type for Groundwater Monitoring	Unit Type for S&M Activities
X-231B*	Oil Biodegradation Plot	Quadrant I	HWMU	Corrective Action
X-744Y*	Storage Yard	Quadrant II	HWMU	Corrective Action
X-230J7*	Holding Pond	Quadrant II	HWMU	Corrective Action
X-701B*	Holding Pond	Quadrant II	HWMU	Corrective Action
X-701C*	Neutralization Pit	Quadrant II	HWMU	Corrective Action
X-740**	Waste Oil Handling Facility	Quadrant III	HWMU\Corrective Action	HWMU (soils only)
X-616**	Chromium Sludge Lagoon	Quadrant III	HWMU	HWMU
X-749 N**	Landfill	Quadrant I	HWMU	HWMU
X-749 S***	Landfill	Quadrant I	HWMU	SWDF
735 N**	Landfill	Quadrant IV	SWDF	HWMU
X-735 S***	Landfill	Quadrant IV	SWDF	SWDF
X-749A***	Landfill	Quadrant I	SWDF	SWDF

* HWMUs to be addressed under the RCRA Corrective Action\CERCLA Process. These units are addressed under the schedule for completion of remedial activity at the site.

** HWMU closed in accordance with approved closure plan for soils only. Groundwater to be addressed under RCRA Corrective Action\CERCLA Process.

** HWMUs closed in accordance with approved closure plans and are considered to be in post closure groundwater monitoring. Continued groundwater monitoring to be conducted as part of the IGWMP.

*** SWDF closed in accordance with approved closure plans. Continued groundwater monitoring to be conducted as part of the IGWMP.