



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 N. Carson Street
Carson City, Nevada 89701-4717
Telephone (775) 684-1100
Fax (775) 684-1108
ag.state.nv.us
E-Mail: aginfo@ag.state.nv.us

BRIAN SANDOVAL
Attorney General

ANN WILKINSON
Assistant Attorney General

May 18, 2004

Ms. Lee Liberman Otis
General Counsel
U.S. Department of Energy
Room 6A-245
1000 Independence Ave. S.W.
Washington, D.C. 20585

Re: Planned Shipment of Wastes from Fernald to Nevada Test Site

Dear Ms. Otis:

We have heard from various Ohio sources that the U.S. Department of Energy (DOE) and Fluor are proposing to breach the wall of silo 3 to begin the process of collecting that silo's material for putative transport to the Nevada Test Site. We understand further from such sources that the forty-five day notice of a decision to transport is likely to be issued by your office in the very near term.

Until the serious legal concerns about the legitimacy of disposal of this material at the Nevada Test Site are resolved, such a precipitous action could only create a safety emergency in Ohio where none now exists. We are greatly concerned that, under current law, DOE lacks a legally clear pathway forward for disposal and should not, under the present circumstances, authorize any removal of the material until the legal issues are appropriately resolved. Our concerns are compounded by the huge bonuses DOE has offered Fluor, which should not be serving as an inducement for the company to cut corners on safety or the law.

We understand that the U.S. EPA and the Ohio EPA have each informed Fluor that removal of the material without a continuous process of packaging, transport, and disposal would violate the Record of Decision for the project. We also understand that if the material is removed and stored outside at Fernald containers may rust unacceptably in as little as one year. Moreover, NRC has not yet acted on Nevada's emergency petition to assert regulatory jurisdiction over the material. Thus, significant

06C002

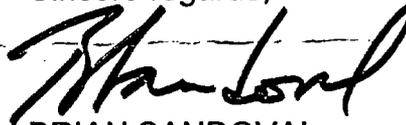
ERIDS 06C01

Ms. Lee Liberman Otis
May 18, 2004
Page 2

public health and safety issues, including excessive radon emissions, as well as critical public policy issues, will arise from removal and storage of the material at Fernald and should be addressed for the protection of the public in both Nevada and Ohio.

Because Fluor apparently may now act at any time, your immediate attention to this matter is of the utmost urgency and importance.

Sincere regards,



BRIAN SANDOVAL
Attorney General

By United States Mail and Facsimile (202-586-1499)

c: Jim Petro, Ohio Attorney General (By United States Mail and
Facsimile (614-466-5087))
✓ Karen D. Cyr, NRC General Counsel (By United States Mail and
Facsimile (301-415-3086))