



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

August 3, 2012

RE: PIKE COUNTY
PORTSMOUTH GASEOUS DIFFUSION PLANT
RCRA-LQG/TSD
OH7890008983/ 04-57-0680

William E. Murphie, USDOE
Portsmouth/Paducah Project Office
1017 Majestic Drive, Suite 200
Lexington, Kentucky 40513

Woodrow B. Jameson
Fluor-B&W Portsmouth, LLC
P.O. Box 700
Piketon, Ohio 45661

Dear Sirs:

On June 7, 2012, Ohio EPA received a written notification that USDOE had identified a need to amend the Depleted Uranium Hexafluoride (DUF6) Management Plan pursuant to Section V.4(a) of the March 28, 2011 Ohio EPA Director's Final Findings and Orders for DUF6. This notification letter stated that the X-745B and X-745F DUF6 cylinder storage yards were recently transitioned from the United States Enrichment Corporation to USDOE control. On June 19, 2012, Ohio EPA met with USDOE and Fluor-B&W Portsmouth, LLC (FBP) to discuss this notification letter and was informed that USDOE had actually taken management of approximately 334 cylinders of DUF6 on October 1, 2011. These DUF6 cylinders had been generated and managed by USEC and stored on these cylinder yards.

DUF6 is a mixed waste (D003 hazardous waste). USDOE and FBP was issued an Ohio Hazardous Waste Facility Installation and Operation Permit Renewal on March 25, 2011. This permit only allows storage of hazardous and mixed waste in specific types of containers in the X-326 permitted storage area as described in the permit application. Since USDOE and FBP began managing these DUF6 cylinders on October 1, 2011, violations of the following hazardous waste laws and permit have been identified:

- 1) **Ohio Revised Code 3734.02 (E) and (F), Prohibitions:** No person shall establish or operate a hazardous waste facility for the storage, treatment, or disposal of any hazardous waste, without obtaining a hazardous waste facility installation and operation permit. (F) No person shall store, treat, or dispose of hazardous waste

identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises except to a hazardous waste facility operating under a permit issued in accordance with this chapter.

USDOE and FBP have stored DUF6, a mixed waste, in 10 and 14-ton cylinders on-site since October 1, 2011 in violation of this law. USDOE and FBP's permit, dated March 25, 2011, does not authorize the storage of hazardous waste, including DUF6 cylinders, in the X-745B and X-745F DUF6 cylinder storage yards. USDOE and FBP must either immediately begin off-site shipment of the DUF6 cylinders for proper disposal or move the DUF6 cylinders to a permitted storage area and request a permit modification in accordance with Ohio Administrative Code 3745-50-51 to allow for the continued storage of the DUF6 cylinders. Also, as a result of this storage of hazardous waste without a permit, a closure plan must also be submitted as part of the permit modification.

- 2) **Effect of Permit, Condition A.1:** The Permittee is authorized to store hazardous and mixed waste in containers in the permitted X-326 storage area, in accordance with the terms and conditions of this permit, ORC Chapter 3734, all applicable Ohio hazardous waste rules, all applicable regulations promulgated under the Resource Conservation and Recovery Act (RCRA), as amended, and all other applicable administrative and judicial orders which the Permittee is subject to, and the approved hazardous waste facility installation and operation permit renewal application, as such application has been revised and supplemented and as such application may be modified pursuant to the hazardous waste rules.

See violation #1 above.

- 3) **Other Noncompliance, Condition A.22:** The Permittee shall report to the Director all other instances of noncompliance not provided for in Condition A.20. These reports shall be submitted within a month of the time at which the Permittee is aware of such noncompliance. Such reports shall contain all information within Condition A.20 of this permit.

See violation #1 above.

Within fourteen (14) days of receipt of this letter, please respond in writing to this Notice of Violation. Failure to address listed violations and respond within this timeframe may result in escalated enforcement against USDOE and FBP for violation of Chapter 3734. (or 3714.) of the Ohio Revised Code, which carries a civil penalty of up to \$10,000 per day for each violation. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted electronically to melody.stewart@epa.ohio.gov.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator, or others, from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants to the environment.

Please do not hesitate to contact me at (740) 380-5256 if you have any questions regarding this letter.

Sincerely,

A handwritten signature in black ink that reads "Melody Stewart". The signature is written in a cursive style with a large initial "M".

Melody Stewart
District Representative
Division of Materials and Waste Management

MS/jd

cc: Frances Kovac-Legal
Mitch Mathews-DMWM/CO
Bruce McCoy-DMWM/CO

NOTICE:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.