



**Resolution No. 5**  
**Fernald Preserve Natural Resource Trustees**

Re: Transfer of \$13,250,000 from the Court Registry account to a State of Ohio account established for these funds

WHEREAS, the Fernald Preserve Trustee Council was established pursuant to the July 2001 Memorandum of Understanding entered into by the Ohio Environmental Protection Agency (“Ohio EPA”), the United States Department of Energy (“DOE”), and the United States Department of the Interior (“DOI”) (collectively, the “Trustees”);

WHEREAS, the Natural Resource Damage Consent Decree for the Fernald Preserve, dated November 11, 2008, required DOE to deposit \$13,750,000 into an interest-bearing escrow account in the Registry of the United States District Court for the Southern District of Ohio (“Escrow Account”), and on February 17, 2009, the United States on behalf of DOE deposited \$13,750,000 into the Escrow Account;

WHEREAS, the Natural Resource Damage Consent Decree for the Fernald Preserve, further provides that the Trustees for the Fernald Preserve shall use the money in the Escrow Account to implement a plan to be developed by the Trustees pursuant to Paragraph 1.5 of the Natural Resource Restoration Plan (“NRRP”), and to reimburse the State for no less than \$275,000 and no more than \$500,000 of its Natural Resource Damage Assessment Costs

WHEREAS, the Natural Resource Damage Consent Decree for the Fernald Preserve, further provides that the money in the Escrow Account, including interest earned, may be transferred to an account designated by Ohio and acceptable to the United States, that any transferred funds (“Natural Resource Funds”) shall be applied toward the costs of restoration, replacement or acquisition of the equivalent of injured Natural Resources at and in the vicinity of the Fernald Preserve, as set forth in the NRRP, and to reimburse Ohio for its Natural Resource Damage Assessment Costs pursuant to paragraph 4.8 of the Consent Decree, and shall not be borrowed or used for any other purposes.

WHEREAS, On June 17, 2009, the Trustees published a draft Natural Resource Funds Use Plan (“draft Plan”) for the Fernald Preserve and accepted comments on the draft Plan until August 8, 2009. The Trustees also convened a public availability session on July 8, 2009 at the Fernald Preserve to discuss the draft Plan and accept comments and

suggestions from the public. On February 23, 2010, the Trustees issued the final Natural Resource Funds Use Plan (“NRFUP”).

WHEREAS, the Trustees are now prepared to implement the NRRP and the NRFUP. In order to do so, the Trustees will require ready access to the Natural Resource Funds, to contract with local non-profit organizations if necessary, to acquire restoration properties in the Paddys Run area, and to fund natural resource restoration projects selected pursuant to the NRRP and the NRFUP.

WHEREAS, Section 3734.282 of the Ohio Revised Code provides that “All moneys collected by the state for natural resource damages under the ‘Comprehensive Environmental Response, Compensation, and Liability Act of 1980,’ 94 Stat. 2767, as amended, 42 U.S.C. 9601, et seq., . . . shall be paid into the state treasury to the credit of the natural resource damages fund, which is hereby created. The director of environmental protection shall use the money in the fund only in accordance with the purposes of and limitations on natural resource damages set forth in the ‘Comprehensive Environmental Response, Compensation, and Liability Act of 1980,’ as amended, . . . In carrying out these responsibilities, the director may enter into contracts and grant agreements with federal, state or local government agencies, non-profit organizations, colleges and universities. All investment earnings or interest earned on the moneys in the fund shall be credited to the fund.”

WHEREAS, Transfer of \$13,250,000 from the Escrow Account to the Treasurer of the State of Ohio to the credit of the Natural Resource Damages Fund would enable the Trustees to efficiently access the Natural Resource Funds in order to implement the NRRP and the NRFUP in an effective and timely manner, and retention of \$500,000 in the Escrow Account will allow reimbursement to the State of Ohio for Natural Resource Damage Assessment Costs once the appropriate amount is determined.

NOW THEREFORE BE IT RESOLVED that the Trustee Council agrees, by unanimous consent, that a request be made to the Court to authorize the transfer of \$13,250,000 from the Escrow Account to the Treasurer of the State of Ohio to the credit of the Natural Resource Damages Fund, leaving the remainder of \$500,000 in the Escrow Account; and

FURTHER BE IT RESOLVED that, pursuant to the Funds Use Plan, an annual report including all transactions affecting the Natural Resource Damages Fund, as it relates to monies transferred into the Fund pursuant hereto, shall be prepared.

**Resolution No. 5**  
**Fernald Preserve Natural Resource Trustees**

DATED this 31st day of March, 2010.

United States Department of the Interior  
U. S. Fish and Wildlife Service

  
By: David De Vault, Columbus, Ohio Field Office

**Resolution No. 5**  
**Fernald Preserve Natural Resource Trustees**

DATED this 31st day of March, 2010.

Ohio Environmental Protection Agency

A handwritten signature in black ink, appearing to read "Thomas A. Schneider". The signature is written in a cursive style with a large initial 'T' and 'S'.

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By: Thomas A Schneider, Fernald Project Manager

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**Fernald Preserve Natural Resource Trustees**

DATED this 31st day of March, 2010.

United States Department of Energy

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By: Ray Plieness, Director of Site Operations, Office of Legacy Management