

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

FILED  
U.S. DISTRICT COURT  
INDIANAPOLIS DIVISION  
06 MAY 31 AM 9:02  
SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

UNITED STATES OF AMERICA, et al.,

Plaintiff,

v.

CBS CORPORATION, f/k/a VIACOM INC., f/k/a CBS  
CORPORATION, f/k/a WESTINGHOUSE ELECTRIC  
CORPORATION,

Defendant.

THE CITY OF BLOOMINGTON, INDIANA, et al.,

Plaintiffs,

v.

CBS CORPORATION, f/k/a VIACOM INC., f/k/a CBS  
CORPORATION, f/k/a WESTINGHOUSE ELECTRIC  
CORPORATION, et al.,

Defendants.

Civil Action  
No. IP 83-9-C Y/F

And

Civil Action  
No. IP 81-448-C Y/F

JUDGE RICHARD L. YOUNG

MAGISTRATE JUDGE  
KENNARD P. FOSTER

**CBS CORPORATION'S REPORT TO THE COURT  
AND REQUEST FOR STATUS CONFERENCE**

CBS Corporation ("CBS") hereby submits this report to apprise the Court of the status of settlement discussions among the parties and to request a status conference to consider next steps.

On January 13, 2005, CBS (then known as Viacom) joined with the other parties in the Joint Status Report submitted to this Court, which set forth an Anticipated Timetable for the parties to try to resolve outstanding issues among them without the Court's intervention. Two commitments were made to the Court in that Joint Status

Report. First, the U.S. Environmental Protection Agency (“EPA”) projected that it would issue proposed Record of Decision (“ROD”) Amendments for public comment with respect to additional remedies at each of the three remaining sites between January 30 and March 31, 2006. Status Report at 4-5. Second, all parties agreed to attempt to reach a negotiated resolution of all issues among them by May 31, 2006, and to report to the Court whether they had succeeded as of that date. *Id.* at 6.

Today is May 31, 2006. As of this date, EPA has only issued a proposed ROD Amendment for public comment with respect to one of the three sites, Bennett’s Dump, and the parties have been unable to reach a negotiated resolution of all issues.

For its part, CBS has endeavored in good faith to meet its commitment to try to resolve all issues on the timetable set forth in the Status Report. In the intervening 16 months, CBS has provided the governmental parties with extensive technical data and analysis to assist in the selection of additional remedies and has engaged in good faith settlement discussions about all issues, particularly with the federal government. In the last 30 days alone, CBS has submitted two different settlement proposals for the federal government’s consideration. But, at this point, direct negotiations among the parties have reached an impasse, based on the fundamentally different perspectives of the parties.

Accordingly, CBS requests a conference with the Court to consider next steps. It is CBS’s view that the current impasse among the parties will not be resolved without Court intervention. However, when CBS uses the phrase “Court intervention,” it does not necessarily mean litigation. While CBS is fully prepared to defend its position that the covenant not to sue in the 1985 Consent Decree precludes all of the federal government’s claims against it, both for money and for additional work, CBS continues

to believe that it is in the best interests of all parties and the public to explore alternative means of resolving these disputes before resorting to litigation.

Accordingly, CBS respectfully suggests that the Court re-employ the same approach which it used successfully in breaking an earlier impasse among the parties: mediation before Magistrate Judge Kennard P. Foster. In 1997, Judge Dillin appointed Judge Foster as Special Master with authority to oversee implementation of the Consent Decree and the resolution of disputes. Judge Foster was extremely effective in that role. His mediation efforts, culminating in his January 20, 1999 Report and Recommendations, provided a mechanism for implementing the final cleanups at two sites (Winston-Thomas and Neal's Dump), the excavation remedies of the three other sites,<sup>1</sup> as well as creating a framework for resolving remaining disputes among the parties, while preserving their rights and defenses.

In its February 1, 1999 Order approving Judge Foster's Report and Recommendation, the Court also "authorize[d] the Special Master to continue to oversee the implementation of the consent decree and the resolution of disputes among the parties until the work is completed, the Consent Decree, as amended, is fully implemented, and disputes among the parties are resolved." Order of 2/1/99 at 3. CBS respectfully suggests that the parties again need Judge Foster to serve this same function which he did so ably in the past.

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<sup>1</sup> The sixth site, the Anderson Road Landfill, had been cleaned up in the 1980's.

Accordingly, CBS requests a status conference before the Court to consider next steps, and particularly suggests to the Court that mediation sessions proceed before Judge Foster as Special Master as an initial step.

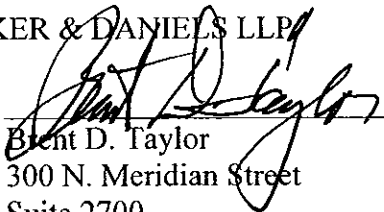
Respectfully submitted,

WEIL, GOTSHAL & MANGES LLP

David R. Berz (*admitted pro hac vice*)  
David B. Hird (*admitted pro hac vice*)  
1300 Eye Street, N.W.  
Suite 900  
Washington, D.C. 20005  
Phone: (202) 682-7000  
Facsimile: (202) 857-0940  
[david.berz@weil.com](mailto:david.berz@weil.com)  
[david.hird@weil.com](mailto:david.hird@weil.com)

BAKER & DANIELS LLP

By:

  
Brent D. Taylor  
300 N. Meridian Street  
Suite 2700  
Indianapolis, Indiana 46204  
Phone: (317) 237-1282  
Facsimile: (317) 237-1000  
[brent.taylor@bakerd.com](mailto:brent.taylor@bakerd.com)

Counsel for Defendant CBS  
Corporation

CERTIFICATE OF SERVICE

I hereby certify that, on this 31<sup>st</sup> day of May 2006, I caused to be served by first-class mail, postage prepaid, a copy of the foregoing CBS Corporation's Report to the Court and Request for Status Conference upon counsel for the parties at the following addresses:

Joseph Warren  
Environmental Enforcement Section  
United States Department of Justice/ENR  
P.O. Box 7611 - Ben Franklin Station  
Washington, D.C. 20044

Charles Goodloe  
Assistant United States Attorney  
U.S. Courthouse  
46 East Ohio Street - 5th Floor  
Indianapolis, Indiana 46204

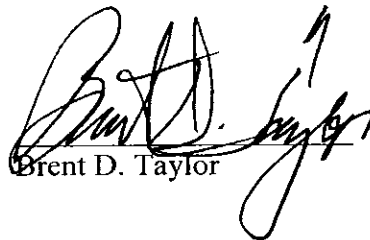
Jeffrey A. Cahn  
Associate Regional Counsel  
U.S. Environmental Protection Agency  
Region V  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Valerie Tachtiris  
Office of the Indiana Attorney General  
Indiana Government Center South  
Fifth Floor  
302 West Washington Street  
Indianapolis, Indiana 46202

Janice Lengel  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Mailcode 60-01, IGCN Room 1307  
Indianapolis, Indiana 46204-2251

Geoffrey M. Grodner  
Mallor, Clendening, Grodner & Bohrer  
511 Woodcrest Drive  
P.O. Box 5787  
Bloomington, Indiana 47407

William K. Steger  
County Attorney's Office  
Monroe County Courthouse - Rm. 220  
Bloomington, Indiana 47402



Brent D. Taylor