Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

16-AMRP-0084

JAN 2 1 2016

Mr. D. A. Faulk, Program Manager
Office of Environmental Cleanup
Hanford Project Office
U.S. Environmental Protection Agency
825 Jadwin Avenue, Suite 210
Richland, Washington 99352

Dear Mr. Faulk:

STATEMENT OF DISPUTE REGARDING DISAPPROVAL OF HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) CHANGE CONTROL FORM M-16-15-08

This letter transmits the Statement of Dispute (Attachment 1) on Change Control Form M-16-15-08 to the Interagency Management Integration Team (IAMIT), in accordance with Tri-Party Agreement Article XVI, Paragraph 59.A. The Statement of Dispute provides the U.S. Department of Energy Richland Operations Office (RL) good cause for modification to the subject Tri-Party Agreement milestone preparatory to dispute resolution. As agreed between RL and the U.S. Environmental Protection Agency (EPA), submission of the Statement of Dispute to the IAMIT has been extended to January 21, 2016. The IAMIT has 21 days (by close of business February 3, 2016) to resolve the dispute, extend it at the IAMIT level, or choose to elevate it to the Senior Executive Committee, as detailed in Tri-Party Agreement Article XVI, Paragraph 59.E.

On December 10, 2015, RL notified EPA that Tri-Party Agreement Milestone M-016-149 would be missed and submitted a signed change request for modification to this milestone, "Notification of Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Interim Milestone M-016-149, "Complete 100-IU-2/6 Interim Response Actions," due March 31, 2016, Will Be Missed," (Attachment 2). EPA responded on December 14, 2015, disapproving the change request indicating that a previous one year extension to the current due date of March 31, 2016, had been previously granted to allow RL to complete remaining milestone work scope.

On December 21, 2015, RL transmitted a letter to EPA initiating dispute resolution based on EPA's disapproval of the change request, "Initiation of Dispute Resolution Regarding Disapproval of Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Change Control Form M-16-15-08," (Attachment 3).

If you have any questions, please contact me, or your staff may contact Mark French of my staff, at (509) 373-9863.

Sincerely,

Ray J. Corey, Assistant Manager
for the River and Plateau

AMRP:JPN

Attachments (3)

cc w/attachs:
G. Bohnee, NPT
J. V. Borghese, CHPRC
R. Buck, Wanapum
C. J. Guzzetti, EPA
J. A. Hedges, Ecology
T. Q. Howell, CHPRC
S. Hudson, HAB
R. Jim, YN
J. A. Lerch, WCH
K. Niles, ODOE
C. P. Noonan, MSA
R. E. Piippo, MSA
D. L. Plung, WCH
J. B. Price, Ecology
D. Rowland, YN
R. Skeen, CTUIR
E. R. Skinnarland, Ecology
M. J. Turner, MSA
Administrative Record (M-016-149, OU 100-IU-2/6)
Environmental Portal

STATEMENT OF DISPUTE

THE U. S. ENVIRONMENTAL PROTECTION AGENCY (EPA) REJECTION OF CHANGE CONTROL FORM M-16-15-08, "REMOVE THE 600-349 WASTE SITE FROM TRI-PARTY AGREEMENT INTERIM MILESTONE M-016-149"

I. NATURE OF DISPUTE

The U. S. Department of Energy Richland Operations Office (DOE-RL) has experienced unavoidable and beyond its control delays associated with completing remediation of the 600-349 waste site, due to changes in the planned work scope at this waste site and its location within a culturally sensitive area. On December 10, 2015, DOE-RL transmitted to EPA for approval the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement [TPA]) Change Control Form M-16-15-08 (change request) and supporting documentation for a TPA Milestone modification. On December 14, 2015, EPA rejected the change request. On December 21, 2015, DOE-RL issued a letter invoking dispute resolution pursuant to TPA Article XVI Resolution of Disputes, Paragraph 59, and Article XL Good Cause for Extensions, Paragraph 124.

A. Background

The 600-349 waste site was added to the *Interim Action Record of Decision for the 100-BC-1, 100-BC-2, 100-DR-1, 100-DR-2, 100-FR-1, 100-FR-2, 100-HR-1, 100-HR-2, 100-KR-1, 100-KR-2, 100-IU-2, 100-IU-6, and 200-CW-3 Operable Units, Hanford Site* (Remaining Sites ROD) (EPA 1999) as a candidate site in the *Fact Sheet: 100 Area "Plug-In" and Candidate Waste Sites for Fiscal Year 2010* (DOE-RL 2011):

> The 600-349, Unexploded Ordnance (UXO) outside 600-149 (Firing Range), consists of an unexploded ordnance area bounding the entire perimeter of the Small Arms Range, Rifle Range, 661 Complex, and 600-55. The site includes a portion of the hill side of Gable Mountain. The waste site extends from the 600-149 perimeter as far as a rifle grenade could travel. The area with the highest potential to contain munitions and explosives of concern includes a portion of Gable Mountain south of Prid Canal.

The completion of interim response actions at the 600-349 waste site is tracked under TPA Milestone M-016-149, due March 31, 2016. This TPA Milestone states the following:

> Complete 100-IU-2/6 interim response actions for the following waste sites: 600-293, 600-294, 600-298, 600-299, 600-300, 600-301, 600-303, 600-305, 600-309, 600-310, 600-313, 600 316, 600-318, 600-319, 600-320, 600-321, 600-328, 600-329, 600-331, 600-332, 600 334, 600-326, **600-349**, 600-358, 600-368, 600-369, 600-370, 600-371, 600-372, 600-373, 600-374, 600-375, 600-376, 600-377, 600-378, 600-379.

The previous understanding with EPA was to characterize and remove UXO only, and this action was completed in September 2014.

However, subsequent discussions and Tribal comments raised questions related to presence of spent bullets in the area from previous firing range activities, which caused EPA and DOE-RL to

consider additional actions to characterize the potential for residual lead contamination in the soils on Gable Mountain. DOE-RL and EPA were both aware that this was additional work than originally planned at 600-349 and would require a cultural resource review. With this in mind, DOE-RL and EPA agreed in March 2015 to develop a characterization plan to determine lead concentration in soil to help inform future decisions.

In September 2015, EPA and DOE-RL approved the *Work Instruction for Characterization Sampling for Lead in the Area of the 600-349 Waste Site* (WCH 2015). Due to location of this site on and adjacent to the southeastern portion of Gable Mountain, any additional actions to characterize and/or remediate the site potentially impact the Gable Mountain district, a culturally sensitive area. This additional characterization scope represented a new Federal undertaking which is subject to a supporting National Historic Preservation Act of 1966 (NHPA) Section 106 cultural resource review.

A Federal undertaking is a project, activity, or program either funded, permitted, licensed, or approved by a Federal Agency. Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. In addition, Federal agencies are required to consult on the Section 106 process with State Historic Preservation Offices (SHPO), Tribal Historic Preservation Offices (THPO), and Native American tribes. Consultation with Native American tribes must respect tribal sovereignty and the government-to-government relationship between the Federal Government and Native American Tribes.

Continued discussions to work through the prerequisite consultation process for the additional characterization at 600-349 have caused unavoidable delays that impact completion of TPA Milestone M-016-149.

II. POSITION ON THE DISPUTE

A. DOE-RL's Position

1. Introduction

The scope to be addressed in interim TPA Milestone M-016-149 has been completed for all 36 waste sites with the exception of 600-349. Changes to the original scope of response actions at 600-349 have impacted the ability to meet TPA Milestone M-016-149 as currently defined. The changes in scope oblige DOE to develop new characterization/remediation plans and (as a new Federal undertaking) conduct new NHPA Section 106 cultural reviews that reflect the new scope. While DOE-RL has exercised reasonable diligence and continued good faith in working through the required Section 106 process for the additional characterization activity at 600-349, discussions continue with the consulting parties. It is DOE-RL's position that completion of the ongoing consultations is a required prerequisite to performing the follow-on characterization work that DOE-RL and EPA have agreed to.

2. Evolution of Work Scope at 600-349

A timeline depicting the agreement between DOE-RL and EPA for additional work scope at 600-349 and DOE-RL's efforts to achieve completion are provided below:

- The original scope for response actions at 600-349 was understood by parties to include UXO characterization and removal only. This scope was reflected in the waste site design and NHPA Section 106 cultural review conducted and completed to support the response actions.
- UXO characterization and removal at 600-349 was completed in September 2014; thereby completing the original work scope and satisfying the intent of the associated TPA Milestone for that site. The understood closure approach was to submit a Waste Site Reclassification Form with attached final UXO report; no verification sampling required. EPA identified no requirements for completion of the remedial action beyond the verification reports of completed UXO removal. This was similar to closure approach used by DOE-RL and EPA at waste site 600-149:1.
- Discussion of additional scope related to potential lead remediation and/or bullet removal was initiated in October 2014.
- DOE-RL and EPA agreed in March 2015 to develop a characterization plan to determine lead concentration in soil to help inform future decisions.
- A characterization plan was prepared and approved by DOE-RL and EPA in September 2015. To support implementation, a new NHPA Section 106 cultural review reflecting the scope of the characterization plan was required.
- The NHPA Section 106 cultural review to support characterization at 600-349 is underway and continues.
- Characterization outcomes that result in agreements for soil remediation at 600-349 will necessitate new remediation designs and NHPA Section 106 cultural reviews to reflect the scope of that work prior to implementation.

3. Implementation of NHPA Section 106 by DOE-RL

Due to the nature of the additional work scope, DOE-RL is required by Federal law to implement the NHPA Section 106 process for Federal undertakings. This direction is stated in DOE Policy 141.1, Management of Cultural Resources; DOE Order 144.1, Department of Energy American Indian Tribal Government Interactions and Policy; and 36 CFR 800, Protection of Historic Properties. The purpose of DOE policy 141.1 is to ensure that DOE programs and field elements integrate cultural resources management into their missions and activities, and raise the level of awareness and accountability among DOE-RL contractors concerning the importance of cultural resource-related legal and trust responsibilities. The policy states that DOE will uphold the Federal laws relating to cultural resources management.

DOE Order 144.1 communicates Departmental, programmatic, and field responsibilities for interacting with American Indian Governments and transmits the DOE American Indian and Alaska Native Tribal Government Policy including its guiding principles, and transmits the Framework for Implementation of the Policy.

DOE-RL is responsible to administer the NHPA Section 106 process for Hanford Site work under its jurisdiction. The Section 106 process for this undertaking involves the following steps:

- DOE-RL sends the Area of Potential Effect (APE) notification to the SHPO, Tribes and Interested parties for a 10 calendar-day review.

- DOE-RL prepares and transmits a Cultural Resource Review (CRR) report and any attachments to the SHPO, Tribes and any interested parties for a 30-day review and comment period.
- If cultural resource impacts cannot be avoided by project activities a Memorandum of Agreement (MOA) may be required following 30-day review of the CRR. The MOA is developed by DOE-RL with consulting parties to identify measures to minimize and mitigate for impacts to cultural resources. There are no pre-determined durations for consultation and resolution of consulting party concerns to complete an MOA.
- If an MOA is not required and the 30-day review period has ended, SHPO's written concurrence is received, and consulting party comments have been resolved, DOE-RL sends a notice to the contractor that the Section 106 process is complete.

While DOE-RL is responsible to administer the NHPA Section 106 process it has no control over the consulting parties including the Native American tribes, SHPO, and ACHP. DOE-RL recognizes the implementation of the NHPA Section 106 process has been protracted in many cases, especially in particularly sensitive cultural areas such as Gable Mountain. The EPA is also aware of the protracted durations to complete the review process for these areas of the Hanford Site and the associated impacts to project schedules. However, working through the process is a prerequisite to performing work and is consistent with DOE's policy and orders. Completing the consultations is also consistent with EPA's *Policy on Consultation and Coordination with Indian Tribes* and the U.S. Department of Justice's *Principles for Working with Federally Recognized Indian Tribes.* DOE, EPA, and DOJ have all committed to conduct meaningful consultation and satisfy cultural resource related legal and trust responsibilities.

4. Good Cause for Extension

The TPA has established procedures for the extension of timetables and deadlines. Delays caused by the additional characterization planned at 600-349 and associated requirements to complete the NHPA Section 106 process for the added scope fall under a Good Cause for Extension under Article XL of the TPA, Paragraph 120:

> 120. Good cause exists for an extension when sought in regard to:
>
> A. An event of force majeure as defined in Article XLVII (Force Majeure)

Force Majeure is defined in Article XLVII, Paragraph 145. The delays resulting from the required compliance with NHPA Section 106 are accounted for under subcomponent E of Paragraph 145:

> 145. A Force Majeure shall mean any event arising from causes beyond the control of a Party that causes a delay in or prevents the performance of any obligation under this Agreement, including, but not limited to:
>
> E. inability to obtain, at reasonable cost and after exercise of reasonable diligence, any necessary authorizations, approvals, permits or licenses due to action or inaction of any governmental agency or authority other than DOE;

The stipulation of Paragraph 145 subcomponent E is applicable for the delays related to additional characterization activities at 600-349 and the associated NHPA Section 106 process.

DOE-RL has exercised reasonable diligence to comply with the applicable regulations and DOE orders to complete the NHPA Section 106 process, as well as work with consulting parties for the additional characterization work at 600-349, but has not yet obtained the necessary authorization.

5. Conclusion on Delays Incurred to Waste Site 600-349

The remedial design and associated cultural review were issued to conduct UXO characterization and removal at waste site 600-349, which was subsequently completed in September 2014. In response to questions that followed associated with presence of bullets at the site and potential for contaminant migration into the surrounding soil, a plan was developed for additional soil characterization at 600-349 and approved by EPA and DOE-RL in September 2015. The planned additional characterization actions constitute a new undertaking and triggered a NHPA Section 106 review specific to the characterization actions.

DOE-RL initiated the NHPA Section 106 process for the additional characterization at 600-349 in September 2015. Between September and December 2015, DOE-RL met with Tribal representatives on four different occasions to provide information on the characterization plans, address questions, and solicit input for cultural resource review development as part of ongoing consultation activities. A cultural resource review and draft MOA were transmitted to the consulting parties for a 30-day review in December 2015. DOE-RL has continued to work with the consulting parties and has exercised reasonable diligence to complete the NHPA Section 106 process but the Washington State Historic Preservation Officer's authorization to begin characterization activities has not yet been obtained. Workshops with tribal representatives are anticipated in January 2016 to address comments from review of the cultural resource review and draft MOA.

B. EPA's Position

EPA and DOE agree that design and removal of UXO was the original remedial action planned at waste site 600-349, and that removal of UXO was reasonably executed in accordance with the approved design. Following the completion of actions to remove UXO, interest was raised to determine if the presence of bullets (and the associated potential for migration of contaminants to the soil) at 600-349 might present a risk based on remedial action objectives identified in the ROD and to identify what (if any) steps should be taken to address the risk. EPA agreed with DOE to characterize the waste site for residual lead concentrations as reflected in the approved work instruction for characterization sampling (WCH 2015). EPA also agrees that the characterization sampling is needed to enable a CERCLA determination on whether or not further action is needed at the site to meet remedial action objectives.

EPA understands that satisfying the NHPA Section 106 requirements for this culturally sensitive location on Gable Mountain is prerequisite to any actions taken at the site including initiating the field sampling activities. EPA approved TPA change number M-16-15-02 (signed February 2, 2015) to extend the original TPA Milestone M-016-149 due date by one year to its current date of March 31, 2016. EPA believes that was sufficient duration to allow the DOE to complete the NHPA and additional work scope that was considered needed to address the question of site protectiveness under the ROD.

III. HISTORY OF ATTEMPTED RESOLUTION

Account of Relevant Events and Interactions Related to 600-349 and Milestone M-016-149.	
August 2011	Evaluation of technical approach for UXO identification at 600-349
November 2011	UXO removal APE review by consulting parties to initiate the NHPA Section 106 process.
August 2012	30-day review of UXO removal CRR by consulting parties.
September 2012	SHPO concurrence with UXO removal CRR finding.
June 2013	NHPA Section 106 process for UXO characterization and removal complete; authorization to begin work on UXO removal.
February 2014	Consulting parties express concern regarding the UXO removal project field approach.
April 2014	Workshop to resolve concerns on UXO removal project.
May 2014	UXO characterization and removal project initiated.
September 2014	UXO characterization and removal from 600-349 completed.
October 2014	Archaeological survey within 600-349 completed.
October 2014	Discussion of additional characterization and potential lead-contaminated soil remediation or bullet removal at 600-349 initiated.
February 2015	TPA Milestone M-016-149 extended to March 31, 2016
March 2015	DOE-RL/EPA discuss status of M-16-149 at the TPA Milestone Quarterly Review (3/19/15). Statused "On Schedule" and noted that changed scope of 600-349 has caused delays.
March 2015	DOE-RL and EPA agree to develop plan to characterize and remove (as necessary) lead contaminated soil to meet cleanup levels in the 100-F Area ROD.
June 2015	DOE-RL/EPA discuss status of M-16-149 at the TPA Milestone Quarterly Review (6/18/15). Statused "On Schedule" and noted that changed scope of 600-349 may cause delays to Milestone completion.
September 2015	*Work Instruction for Characterization Sampling for Lead in the Area of 600-349 Waste Site* (600-349-1) approved by DOE-RL and EPA.
September 2015	Plans for additional characterization of soil at 600-349 to determine potential lead contamination introduced to Tribal Representatives at cultural resource monthly meeting.
September 2015	Lead characterization APE review by consulting parties to initiate NHPA Section 106 process.
September 2015	DOE-RL/EPA discuss status of M-16-149 at the TPA Milestone Quarterly Review (9/17/15). Statused "At Risk" and noted that changed scope of 600-349 may cause delays to Milestone completion.
October 2015	Update on soil characterization plans discussed with Tribal Representatives at cultural resource monthly meeting. Separate meeting suggested for November 2015 to specifically discuss 600-349 characterization plans.
November 2015	Specific briefing held with Tribal representatives to discuss 600-349 characterization plans, address questions and concerns, and provide opportunity for input to cultural resource review development.
December 2015	Update on soil characterization plans discussed with Tribal Representatives at cultural resource monthly meeting.
December 2015	Lead characterization CRR and draft MOA transmitted to consulting parties for 30-day review.
December 2015	DOE-RL/EPA discuss status of M-16-149 at the TPA Milestone Quarterly Review (12/17/15). Statused "At Risk" and noted that changed scope of 600-349 may cause delays to Milestone completion.
December 2015	DOE-RL letter to EPA declaring M-016-149 will be missed due to late emergent change in scope for 600-349 following completion of UXO. A signed Change Control Form M-16-15-08 requesting modification to the subject Milestone accompanied the letter (16-AMRP-0033, 12/10/15).
December 2015	Change Control Form M-16-15-08 disapproved by EPA (12/14/15)

December 2015	DOE-RL letter to EPA initiating dispute resolution per the TPA (16-AMRP-0060, 12/21/15)

IV. IMPACT TO OTHER TPA MILESTONES

The scope to be addressed in interim Milestone M-016-149 has been completed for all waste sites with the exception of 600-349. In addition to interim Milestone M-016-149, the current activities and possibility for characterization to yield additional scope at 600-349 are potential impacts to Milestone M-016-00A, which requires completion of all response actions for the 100 Area units (except groundwater actions which are covered by M-016-00 and 100-K Area response actions addressed in M-016-00C) by March 31, 2017. If the characterization outcomes at 600-349 result in agreements for soil remediation, this will necessitate new remediation designs and NHPA Section 106 cultural reviews to reflect the scope of that work prior to implementation, thereby impacting completion of M-016-00A.

V. RECOMMENDED RESOLUTION

DOE-RL believes that it has acted in good faith to complete the prerequisite steps to performing the additional characterization work at 600-349. Due to circumstances beyond its control (Force Majeure), the NHPA Section 106 consultation process has yet to be completed, thus preventing completion of Milestone M-016-149. This constitutes good cause modification to the Milestone.

DOE-RL proposes approval of a change request to remove waste site 600-349 from TPA Milestone M-016-149 and create a new Milestone to direct the additional characterization work at the site. In the interim, DOE-RL will continue to work closely with EPA and the consulting parties to complete the Section 106 process and planned characterization work at waste site 600-349.

VI. SUPPORTING INFORMATION

A. TPA Milestone M-016-149 History

The 600-349 waste site was added to the (interim action) Remaining Sites ROD (EPA 1999) as a candidate site (DOE-2011). The site is also included in the Record of Decision, Hanford 100 Area, Superfund Site, 100-FR-1, 100-FR-2, 100-FR-3, 100-IU-2, and 100-IU-6 Operable Units (EPA 2014).

TPA Change Control Form M-16-12-06 was signed on April 25, 2013, establishing several new TPA Milestones for 100 Area remedial actions including interim Milestone M-016-149 (due March 31, 2015). Waste site 600-349 was among the sites listed in the scope of M-016-149. The due date for Milestone M-016-149 was subsequently extended to March 31, 2016 through approved change number M-16-15-02 (signed February 2, 2015). A proposed change to removed waste site 600-349 from the scope of interim Milestone M-016-149 and defer its

completion to TPA Milestone M-016-00A (due March 31, 2017) was disapproved by EPA on December 14, 2015.

VII. REFERENCES

DOE-2011, *Fact Sheet: 100 Area "Plug-In" and Candidate Waste Sites for Fiscal Year 2010,* March 2011, U.S. Department of Energy, Richland Operations Office, Richland, Washington.

EPA, 1999, *Interim Action Record of Decision for the 100-BC-1, 100-BC-2, 100-DR-1, 100-DR-2, 100-FR-1, 100-FR-2, 100-HR-1, 100-HR-2, 100-KR-1, 100-KR-2, 100-IU-2, 100-IU-6, and 200-CW-3 Operable Units, Hanford Site, Benton County, Washington*, U.S. Environmental Protection Agency, Region 10, Seattle, Washington.

EPA, 2014, *Record of Decision, Hanford 100 Area Superfund Site, 100-FR-1, 100-FR-2, 100-FR-3, 100-IU-2, and 100-IU-6 Operable Units*, September 2014, U.S. Environmental Protection Agency, Region 10, Seattle, Washington.

WCH, 2015, *Work Instruction for Characterization Sampling for Lead in the Area of the 600-349 Waste Site*, 600-349-1, Rev. 0, Washington Closure Hanford, Richland, Washington.

Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

16-AMRP-0033

DEC 10 2015

Mr. D. A. Faulk, Program Manager
Office of Environmental Cleanup
Hanford Project Office
U.S. Environmental Protection Agency
825 Jadwin Avenue, Suite 210
Richland, Washington 99352

Dear Mr. Faulk:

NOTIFICATION OF HANFORD FEDERAL FACILITY AND CONSENT ORDER (TRI-PARTY AGREEMENT) INTERIM MILESTONE M-016-149, "COMPLETE 100-IU-2/6 INTERIM RESPONSE ACTIONS," DUE MARCH 31, 2016, WILL BE MISSED

The purpose of this letter is to notify the U.S. Environmental Protection Agency (EPA) that Tri-Party Agreement Interim Milestone M-016-149, "Complete 100-IU-2/6 Interim Response Actions," due March 31, 2016, will be missed for the late emergent change in scope for the 600-349 waste site following completion of the Unexploded Ordnance (UXO) removal. Because of the potential for contamination from the bullets remaining at the waste site, the U.S. Department of Energy Richland Operations Office (RL) agreed with EPA to perform additional characterization at the site to determine if further remediation is needed. RL continues to work closely with EPA, the Washington State Historical Preservation Office, and Tribes to establish an agreement pursuant 36 CRF 800, "Protection of Historic Properties," to enable this added work to be performed.

RL will continue to keep EPA informed of progress on the project and the Cultural Resource review process through quarterly milestone reviews and regulatory interface meetings. RL will also continue to work closely with EPA on the disposition of 600-349 to complete this waste site as soon as practicable. Attached is Change Control Form, M-16-15-08, to modify the scope of the Tri-Party Agreement Interim Milestone M-016-149 to exclude the 600-349 waste site. This waste site is proposed to be included in Tri-Party Agreement Milestone M-016-00A for completion by March 31, 2017.

If you have any questions, please contact me, or your staff may contact Mark French, of my staff, on (509) 373-9863.

Sincerely,

Ray J. Corey, Assistant Manager
for the River and Plateau

AMRP:JPN

Attachment

cc w/attach:
G. Bohnee, NPT
J. V. Borghese, CHPRC
R. Buck, Wanapum
C. J. Guzzetti, EPA
J. A. Hedges, Ecology
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D. L. Plung, WCH
J. Price, Ecology
D. Rowland, YN
R. Skeen, CTUIR
E. R. Skinnarland, Ecology
M. J. Turner, MSA
Administrative Record (M-016-149, M-016-00A, 100-IU-2/6)
Environmental Portal

Change Number	Federal Facility Agreement and Consent Order Change Control Form	Date
M-16-15-08	Do not use blue ink. Type or print using black ink.	11/4/2015

Originator
R. J. Corey

Phone
(509) 376-0108

Class of Change
[ ] I - Signatories [X] II - Executive Manager [ ] III - Project Manager

Change Title

Remove the 600-349 waste site from Tri-Party Agreement Interim Milestone M-016-149.

Description/Justification of Change

This change modifies Milestone M-016-149, "Complete 100-IU-2/6 interim response actions" by removing waste site 600-349 Unexploded Ordinance (UXO) due to the late emergent change in scope following completion of the UXO removal. Milestone M-016-149 includes completion of interim remedial actions for 36 waste sites in the 100 Area Remaining Sites Interim Action Record of Decision (1999) due March 31, 2016. DOE intends to perform additional characterization at the site to determine if further remediation is needed. DOE has worked closely with EPA, the Washington State Historical Preservation Office, and tribes to establish an agreement under 36 CFR 800 Protection of Historic Properties to enable this added work to be performed.

Description/Justification of Change continued on next page.

Impact of Change

The 600-349 waste site will be completed as required by TPA milestone M-016-00A, "Complete all response actions for the 100 Areas units by the specified due date as approved in a Remedial Design/Remedial Action Work Plan" due March 31, 2017.

Affected Documents

Hanford Federal Facility Agreement and Consent Order, Appendix D
Remedial Design Report/Remedial Action Work Plan for the 100 Area, DOE/RL-97-17, Rev. 6

Approvals

R. J. Corey DOE	12/10/15 Date	X Approved	Disapproved
D. A. Faulk EPA	Date	Approved	Disapproved
N/A Ecology	Date	Approved	Disapproved

Description/Justification of Change (continued):

Waste site 600-349 was created to address the unexploded ordinance (UXO) area that extends from the perimeter of the firing range as far as a rifle grenade could travel. Subsequent to remediation of the UXO, EPA and DOE agreed that a potential for lead contamination from the presence of bullets remaining at the waste site should be evaluated as a contaminant of concern. The waste site is located at the culturally sensitive Gable Mountain and, per the Remedial Design Report/Remedial Action Work Plan, actions at the waste site are subject to consultation with the tribes and the Washington SHPO to address the adverse effects to cultural resources of the CERLCA actions.

Hanford Federal Facility Agreement and Consent Order Interim Milestone is modified or created as shown below using ~~strikeout~~ to indicate text deletions and <u>underlined</u> to indicate text additions:

Number	Milestone	Due Date
M-016-149 Lead <u>Regulatory</u> Agency: EPA	Complete 100-IU-2/6 interim response actions for the following waste sites: 600-293, 600-294, 600-298, 600-299, 600-300, 600-301, 600-303, 600-305, 600-309, 600-310, 600-313, 600 316, 600-318, 600-319, 600-320, 600-321, 600-328, 600-329, 600-331, 600-332, 600-334, 600-326, ~~600-349,~~ 600-358, 600-368, 600-369, 600-370, 600-371, 600-372, 600-373, 600-374, 600-375, 600-376, 600-377, 600-378, 600-379.	03/31/2016

Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

16-AMRP-0060

DEC 2 1 2015

Mr. D. A. Faulk, Program Manager
Office of Environmental Cleanup
Hanford Project Office
U.S. Environmental Protection Agency
825 Jadwin Avenue, Suite 210
Richland, Washington 99352

Dear Mr. Faulk:

INITIATION OF DISPUTE RESOLUTION REGARDING DISAPPROVAL OF HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) CHANGE CONTROL FORM M-16-15-08

The purpose of this letter is to invoke dispute resolution pursuant to Tri-Party Agreement Article XVI Resolution of Disputes, Paragraph 59, and Article XL Good Cause for Extensions, Paragraph 124, regarding the U.S. Environmental Protection Agency's (EPA) December 15, 2015 disapproval of the subject Tri-Party Agreement Change Control Form requesting a revision to the scope for Tri-Party Agreement Milestone M-016-149, "Complete 100-IU-2/6 Interim Response Actions."

The U.S. Department of Energy Richland Operations Office will make a good faith effort to informally resolve this dispute with EPA at the Project Manager level.

If you have any questions, please contact me, or your staff may contact Mark French of my staff, at (509) 373-9863.

Sincerely,

Ray J. Corey, Assistant Manager
for the River and Plateau

AMRP:JPN

cc: See page 2

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C. J. Guzzetti, EPA
J. A. Hedges, Ecology
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Administrative Record (M-016-149, 100-IU-2, 100-IU-6)
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