

NEGOTIATIONS SENSITIVE

Change Number M-34-96-03	Federal Facility Agreement and Consent Order Change Control Form <small>Do not use blue ink. Type or print using black ink.</small>	Date October 25, 1996												
Originator Robert Holt/DOE Spent Nuclear Fuel Project		Phone 376-9989												
Class of Change <input checked="" type="checkbox"/> I - Signatories <input type="checkbox"/> II - Executive Manager <input type="checkbox"/> III - Project Manager														
Change Title Negotiation of Commitments for the Completion of K-Basins Facility Transition Activities and for transfer to the Environmental Restoration Program														
Description/Justification of Change In 1993 the Department of Energy Richland Operations Office (DOE) documented the loss of a substantial quantity of water from the 105 K East Basin where spent nuclear fuel is being stored. DOE operational monitoring data confirmed that the basin water was contaminated with concentrations of radionuclides which exceed public health and environmental protection standards established by the U.S. Environmental Protection Agency (EPA) for hazardous substances as defined by the Comprehensive Environmental Compensation and Liabilities Act (CERCLA). The DOE acknowledged through its internal reporting requirements and to EPA's National Response Center that CERCLA hazardous substances (radionuclides) had been released to the environment at the 105 K East Basin. Additional historical documentation also exists which further substantiates that releases from the K East Basin occurred prior to 1993. (Continued on page 2)														
Impact of Change These M-34-96-03 agreements are made in partial fulfillment of Land Disposal Restriction (LDR) treatment requirements of Agreement milestone M-26-00 (which constitutes an existing Agreement or Order for treatment of mixed waste for purposes of the Federal Facility Compliance Act of 1992 (FFCA)), and as companion documentation to LDR documents submitted by DOE pursuant to Agreement milestone M-26-00. Approval of this change request by the Parties establishes a new major milestone, and associated interim milestones and target dates governing the removal of spent fuel, debris and sludge and completion of Facility Transition Activities for transfer of the K Basins to the Environmental Restoration Program. The Parties recognize and agree to establishment of additional schedules and milestones for stabilization of K Basins as adequate information becomes available as determined by the lead regulatory agency or DOE. On approval, Hanford site planning and budget development documents (e.g., Project Management Plans (PMPs), Multi Year Work Plans (MYWPs)) will be modified accordingly.														
Affected Documents The Agreement, as amended by its Sixth Amendment, February 1996, and Hanford Site internal planning and budget documents (e.g., PMPs and MYWPs).														
Approvals <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%; border-bottom: 1px solid black;">DOE John D. Wagoner</td> <td style="width:15%; border-bottom: 1px solid black;">Date</td> <td style="width:15%; border-bottom: 1px solid black;">___ Approved</td> <td style="width:15%; border-bottom: 1px solid black;">___ Disapproved</td> </tr> <tr> <td style="border-bottom: 1px solid black;">EPA Chuck Clarke</td> <td style="border-bottom: 1px solid black;">Date</td> <td style="border-bottom: 1px solid black;">___ Approved</td> <td style="border-bottom: 1px solid black;">___ Disapproved</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Ecology Mary Riveland</td> <td style="border-bottom: 1px solid black;">Date</td> <td style="border-bottom: 1px solid black;">___ Approved</td> <td style="border-bottom: 1px solid black;">___ Disapproved</td> </tr> </table>		DOE John D. Wagoner	Date	___ Approved	___ Disapproved	EPA Chuck Clarke	Date	___ Approved	___ Disapproved	Ecology Mary Riveland	Date	___ Approved	___ Disapproved	
DOE John D. Wagoner	Date	___ Approved	___ Disapproved											
EPA Chuck Clarke	Date	___ Approved	___ Disapproved											
Ecology Mary Riveland	Date	___ Approved	___ Disapproved											

Description/Justification of Change (continued)

The acknowledgement by the DOE regarding the release of CERCLA hazardous substances to the environment at K East Basin resulted in a determination by the DOE, the EPA and the State of Washington Department of Ecology (Ecology) that the spent nuclear fuel, sludge and debris management and water removal/remediation activities at the K Basins should be conducted in accordance with CERCLA enforcement authority as provided for in the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement). In early 1993, the DOE, the EPA, and Ecology began negotiations to establish an agreed upon technical path forward that would minimize and/or eliminate the potential for continued endangerment of the public health and further contamination to the environment. The negotiations culminated in a series of milestones being established between the DOE, the EPA and Ecology to remediate the sources of the contamination that could potentially be released from the 105 K East Basin. The milestones focused on encapsulation of the K East Basin spent nuclear fuel and sludge with subsequent placement of the encapsulated fuel and sludge into the 105 K West spent nuclear fuel storage basin. Additionally, the three parties agreed to a milestone to reduce the concentration of the radionuclide tritium in the K East Basin. In establishing this milestone, the parties agreed that tritium constituted the principal hazardous substance of concern in the basin water which posed the greatest potential risk for further release to the environment and endangerment to the public health. Milestones to implement the technical path to resolve the public health and environmental contamination concerns at the K East Basin was agreed upon by the three parties in the Fourth Amendment to the Hanford Federal Facility Agreement and Consent Order. Amendment Four was approved by the three parties in January 1994.

Subsequent to the completion of Amendment Four to the Tri-Party Agreement, additional technical information was developed which proposed a new and safer technical path for removal and management of all spent nuclear fuel, sludge, debris, and water in both the K East and K West Basins. A technical analysis of the options associated with selection of the revised technical path was documented in a National Environmental Policy Act Environmental Impact Statement (EIS). In May of 1995, an EIS Record of Decision was issued documenting the new technical path as the preferred alternative for the management of the K Basins spent nuclear fuels management activities. As a result of the changes to the existing Tri-Party Agreement milestones dealing with the K Basins activities, the three parties agreed to renegotiate Milestone M-34-00 as contained in Amendment Four of the Tri-Party Agreement. The arrangement to renegotiate the Tri-Party Agreement by the three parties was documented through a Change Control Form (Change Number M-34-95-02) dated March 28, 1995.

Specific to the commitments established in the Change Control Form, Milestone M-34-02 required DOE to submit a signed change request by June 30, 1996, proposing dates for the agreed upon milestones for the removal of spent nuclear fuel and sludge and completion of stabilization (e.g. Facility Transition Activities) and for transfer of Hanford's K East and K West Basins (the K Basins¹) to the Environmental Restoration Program. This change request, per the requirements of interim milestone M-34-02, was also to serve as a basis to initiate negotiations on these commitments.

On June 26, 1996, DOE submitted a signed change request to Ecology (M-34-96-02) proposing milestones and associated commitments and requesting that the Parties initiate K Basin negotiations. On July 12, 1996, Ecology disapproved the submitted change request in its

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K-Basins is used throughout the new milestone and target dates to denote both K-East and K-West Basins. The milestone due date for "K-Basins" is defined as either the start of the first basin or completion of the last basin.

Description/Justification of Change (continued)

particulars, but accepted it as a basis from which to begin negotiations to develop mutually acceptable commitments for the K Basins. This change request is a result of those negotiations. The regulatory basis and strategy agreed to by the parties for the negotiation of this change package include:

1. An appropriate number of both enforceable and interim milestones and target dates will be established to cover each of the three phases of K Basin work, i.e., spent nuclear fuel, sludge and debris, and basin water.
2. The Parties will employ a removal action under CERCLA in order to address releases from the basins; An Environmental Evaluation\Cost Assessment (EE/CA) followed by an Action Memorandum will address the work to be completed at both K East and K West Basins.
3. The EE/CA will be developed by DOE in consultation with Ecology and EPA. All three agencies will approve the EE/CA prior to release for public comment.
4. The EE/CA Action Memorandum will be approved and issued by the DOE, the EPA and Ecology.
5. Ecology will not require State of Washington Hazardous Waste Management Act Part A or Part B permit submittals for management of basin sludges, including storage and/or processing facilities.

The new milestones and target dates (below) replace and delete: M-34-00-T02, M-34-00-T06, M-34-00-T07, M-34-00-T08, and M-34-01. The deleted milestones are:

<u>Milestone</u>	<u>Description</u>	<u>Due Date</u>
M-34-00-T02	Initiate K-East basin Fuel Encapsulation	TBD
M-34-00-T06	Initiate K-East Basin Sludge Encapsulation.	11/30/96
M-34-00-T07	Complete Encapsulation of the Fuel and Sludge within K-East basin	12/31/98
M-34-00-T08	Remove all fuel and sludge from both K-East and K-West Basins in an Encapsulated form.	12/31/02
M-34-01	Contaminated K-East basin water will be removed, replaced, or treated. The timing of this action must be coordinated with encapsulation and the cleaning of the residual contamination in the basin and (as noted below) the alternate selection is dependant on the feasibility of moving encapsulated K-East Basin fuel and sludge to the K-West Basin. The contaminated water will be dispositioned in accordance with reasonable available Hanford site treatment and/or disposal processes and methods, available at the time of this action. Unless a better option becomes available, the water will be transported to C-018 for disposal.	TBD

Description/Justification of Change (continued)

<u>Milestone</u>	<u>Description</u>	<u>Due Date</u>
M-34-01 (cont'd)	If the K-East fuel and sludge, once encapsulated, can be moved to the K-West Basin (determined through a September 1994 Engineering study target date) the removal and disposal of the contaminated water shall be completed by September 2000. This date is an eighteen month action starting in March 1999, three months after fuel and sludge encapsulation is completed. If the transfer of encapsulated K-East basin fuel and sludge to K-West Basin is infeasible, contaminated K-East basin water will be replaced by fresh water, starting in September, 1996 at a rate of two million gallons/year and will continue until such time that the tritium concentration in the basin is decreased and is maintained at or below 300,000 Pci/L (the goal is to reduce the tritium concentration in the basin such that resulting groundwater tritium concentration meet drinking water concentration standards, recognizing a lag between basin and groundwater concentrations.	TBD

The M-34 major milestone is changed to:

M-34-00	Complete all activities required by the following interim milestones, including removal of spent fuel, debris and sludge, and water as a CERCLA removal action, and all Facility Transition Activities up to and including transfer of K Basins to the Environmental Restoration Program.	December 2005
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Description/Justification of Change (continued)

The following new interim milestones and target dates are added:

<u>Milestone</u>	<u>Description</u>	<u>Due Date</u>
M-34-03	<p>Submit to EPA/Ecology a completed Engineering Evaluation/Cost Analysis (EE/CA) for removal of hazardous substances from the K Basins.</p> <p>Removal of spent fuel, debris and sludge, and water from the K-Basins shall be completed as a CERCLA removal action following the process as defined in the National Contingency Plan. An EE/CA will be developed following the standard format for such actions. The EE/CA will contain a detailed schedule identifying a completion date for each of the listed items based on the preferred alternative to be identified in the EE/CA. EPA/Ecology will issue the Action Memorandum which selects the appropriate alternative action from those presented in the EE/CA within 90 days of the submittal. The interim milestone dates presented under M-34-03 reflect the assumption that the current technical baseline for the Spent Nuclear Fuels, which is based on sludge disposal in the TWRS double shell tank system, is the selected removal action alternative. Significant technical and regulatory requirements have been identified and/or have evolved during the negotiation of these milestones, including safety issues regarding disposal of the sludge in the TWRS system and regulatory impact issues flowing from PCB contamination of the sludge. The EE/CA will provide for resolution of these issues and identification and discussion of alternative removal action pathways. If an alternative other than sludge disposal in TWRS is identified in the EE/CA as the preferred alternative, DOE will identify proposed new dates in the EE/CA for completion of the actions under M-34-03, which will then be negotiated with EPA and Ecology if the identified alternative is selected in the Action Memorandum.</p>	June 1997
M-34-03A	<p>Initiate sludge transfer from K-Basins.</p> <p>Initiation requires completion of definitive design, construction and readiness assessments for the selected alternative.</p>	March 2001
M-34-03A-T01	<p>Issue preliminary safety assessment for the transfer of K Basin sludge.</p>	April 1998

Description/Justification of Change (continued)

M-34-03A-T02	Complete final safety assessment for the transfer of K Basin sludge. Provide to Ecology and EPA the DOE approved SNF Safety Assessment authorizing the transfer of K Basins sludge.	June 2000
M-34-03B	Complete sludge transfer from K-Basins. Floor, pit, and canister sludge have been removed from the K Basins to meet transition criteria.	December 2001
M-34-03C	Complete K Basins debris removal. Debris has been removed from the K Basins to meet transition criteria.	October 2001
M-34-03C-T01	Submit to regulators an annual report on quantities of debris removed.	Annually beginning May 1997
M-34-03C-T02	Issue DOE K Basins Transition Turnover Criteria document.	June 1998

Spent Fuel

M-34-03D	Complete Removal of K Basins Spent Fuel. Spent fuel stored in canisters has been removed from both basins to meet transition criteria.	December 2000
M-34-03D-T01a	Complete Design of K Basins Spent Fuel Retrieval Systems (FRS). The FRS definitive design document has been issued.	November 1997
M-34-03D-T01b	K Basins Spent Fuel Retrieval Systems transferred to Operations. Both K Basins spent fuel retrieval systems have been constructed, installed and turned over to Operations for testing. (The existing technical baseline for initiation of operation of the fuel retrieval systems identifies fuel retrieval activities to begin in K West Basin. There is a three month schedule lag for the start of operations in K East Basin).	October 1998

Description/Justification of Change (continued)

M-34-03E	Begin Removal of K Basins Spent Fuel. Spent Fuel removal begins in the K West Basin. The Cold Vacuum Drying (CVD) Facility and Canister Storage Building (CSB) are ready to receive spent fuel, the spent fuel transport system is operable and the KW Basin spent fuel retrieval system begins removing spent fuel.	December 1998
M-34-03F-01a	Initiate replacement of K East Basin water to lower tritium concentrations. The implementation of this activity will be consistent with the analysis contained in the EE/CA as reflected in the Action Memorandum.	July 2001
M-34-03F-01b	Begin removal of water from K East Basin. The start date for the removal of water from the K East Basin will be six months following the approval by Ecology of the 105 K East End Point criteria document (see milestone M-34-07).	TBE
M-34-03G	Completion of removal of K Basins water (establishes due dates for M-34-09A and M-34-10A)	TBE
M-34-03H-T01	Complete transfer of K Basins to the Facility Transition Program in accordance with the K Basin transition criteria as identified in M-34-03c-T02.	December 2001

NEGOTIATIONS SENSITIVE

Description/Justification of Change (continued)

<u>Milestone</u>	<u>Description</u>	<u>Due Date</u>
K Basins Facility Transition Milestones		
M-34-04	Issue Draft Project Management Plan consistent with the "Key Facilities" criteria of Section 8, Table 8.1 of the Agreement Action plan. Following submittal of the PMP, completion dates will be negotiated for the M-34-08 through M-34-11 (except M-34-09a and M-34-10a) interim milestones and target dates.	June 2001
M-34-05-T01	Submit Preclosure Work Plan to Ecology for K West Basin for approval. The pre-closure work plan will include the proposed end point criteria and S&M plan pertaining to the K West Basin and will identify any hazardous substances/ dangerous wastes which will remain in place.	December 2001
M-34-05-T02	Submit Preclosure Work Plan to Ecology for K East Basin for approval. The pre-closure work plan will include the proposed end point criteria and S&M plan pertaining to the K East Basin and will identify any hazardous substances/ dangerous wastes which will remain in place.	December 2001
M-34-06	Submit End Point Criteria to Ecology for K West Basin. A document identifying end point criteria necessary to place the K West Basin in an environmentally sound, safe, and stable configuration will be submitted to Ecology for review. The end point criteria document will become part of the Preclosure Work Plan.	June 2001
M-34-07	Submit End Point Criteria to Ecology for K East Basin. A document identifying end point criteria necessary to place the K East Basin in an environmentally sound, safe, and stable configuration will be submitted to Ecology for review. The end point criteria document will become part of the Preclosure Work Plan.	June 2001
M-34-08	Submit K Basins Surveillance and Maintenance Plan	TBD
M-34-09	Complete deactivation of K West Basin.	TBD
M-34-09A	Complete removal of basin water from K West.	TBD
M-34-09-T01	Complete stabilization of K West.	TBD
M-34-10	Complete deactivation of K East Basin.	TBD
M-34-10A	Complete removal of basin water from K East.	TBD
M-34-10-T01	Complete stabilization of K East.	TBD
M-34-11	Transfer K Basins to the Environmental Restoration Program	December 2005

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Environmental Cleanup Office



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

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97-EAP-066

Ms. Mary Riveland, Director
State of Washington
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

Mr. Chuck Clarke
Regional Administrator
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Dear Ms. Riveland and Mr. Clarke:

U.S. DEPARTMENT OF ENERGY, RICHLAND OPERATIONS OFFICE (RL) REQUEST TO SUSPEND NEGOTIATIONS ON MILESTONE M-34 OF THE HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) THROUGH JANUARY 14, 1997

I am requesting your agreement to suspend negotiations currently underway on Milestone M-34 of the Tri-Party Agreement. As you may recall, we approved an Agreement In Principle (AIP) on August 16, 1996, to renegotiate the existing M-34 Tri-Party Agreement milestone series. Our objective was to appropriately reflect the preferred technical path forward for resolution of critical public health and safety concerns and to reduce risks to the environment and to public health, through the removal of the spent nuclear fuel, sludge and debris, and contaminated water from the 100 K East and West spent nuclear fuel storage basins. The AIP deferred the initiation of K East basin water replacement in September 1996 (See Interim Milestone M-34-01), and established November 1, 1996, for completion of negotiations.

Notwithstanding the importance of this commitment, our respective agencies have been unable to reach full closure on this matter. However, I have been advised that our negotiation teams have made substantial progress towards agreement on specific project commitments for a path forward which will be established as Tri-Party Agreement milestones. This inability to reach agreement has been brought about because RL does not feel that at present we have been able to commit to mutually agreeable dates as we continue to be constrained by a critical need for a reassessment of the spent nuclear fuels project technical baseline by our new integrating contractor Fluor Daniel Hanford Inc. (FDH). Additionally, there are a number of project technical issues having safety implications, e.g., potential pressurization of Multi Canister Overpacks which require resolution.

NOV 1 1996

Based on the recommendation of my negotiation team and RL senior management, I am requesting that we suspend these negotiations through January 14, 1997. At that time I propose that our (August 1996) AIP be reinstated with a new end date of no later than March 14, 1997, and that our negotiators be instructed to reinitiate negotiations using RL's October 25, 1996, draft change request (M-34-96-03) as the basis for proceeding. I am also requesting your approval that:

1. This proposed modification of our August 1996 AIP also serves to continue deferral of noted M-34-01 requirements until completion of negotiations, and
2. In the interim (prior to receipt of the FDH baseline reassessment) our staffs continue to meet on two specific negotiation related issues: (1) potential Toxic Substances Control Act (TSCA) implications associated with Polychlorinated Biphenyl (PCB) contaminated sludge in the K East Basin, and (2) the feasibility of utilizing a Comprehensive Environmental Response Compensation and Liabilities Act (CERCLA) removal action as a regulatory Tri-Party Agreement pathway.

Tri-Party Agreement negotiations under Milestone M-34 can be concluded by March 14, 1997, based on contractual performance agreements which we have established within the scope of the FDH contract. As a result of uncertainties in the existing spent nuclear fuels project baseline, FDH is to provide RL with an assessment of the achievability of the current project schedule. This assessment will be formally provided to RL by December 31, 1996. On February 1, 1997, RL will have completed its analysis of the FDH assessment and is committed to finalize with EPA and Ecology the necessary target and enforceable dates for the technical commitments which are being negotiated for Milestone M-34. I am confident that completion of this assessment and continued efforts to resolve outstanding project technical/safety issues will allow us to successfully complete negotiations on this project.

In response to a request by EPA and Ecology negotiation teams, I am providing via this letter an overview of other existing commitments which extend beyond the regulatory scope of the Tri-Party Agreement but which apply directly to the spent nuclear fuels project. Finally, per agreement between our negotiators, I am also providing a synopsis of RL's understanding of the regulatory strategy which has been used in constructing the Tri-Party Agreement change control form.

RL Commitments for Completion of the M-34 Negotiations

1. RL remains committed to the Secretary of Energy's Spent Nuclear Fuels Vulnerability Assessment issued in October 1994. This document issued by the National Spent Nuclear Fuels Program Office and signed by Secretary Hazel O'Leary places the highest priority for RL on removal of spent nuclear fuel stored in the 100 K East and West Basins away from the Columbia River and into safe interim storage pending final disposal in the National Geologic Repository.
2. RL is fully committed to meet the existing technical commitments and milestone dates made to the Defense Nuclear Facilities Safety Board (DNFSB) and documented in DNFSB Finding 94-1. The major commitments include a specified start and completion date for the removal of spent nuclear fuel from the K East and West Basins and the removal and disposal of sludge and debris which has accumulated in the K Basins as a result of the deterioration of the spent nuclear fuel. RL also remains committed to other technical and safety milestones which have been negotiated with the board.
3. RL is committed to minimize and where possible eliminate risks to the environment and the public health resulting from spent nuclear fuel, sludge and debris, and contaminated water contained within the 100 K East and West Basins. In recognition of these impacts, RL is committed to negotiate enforceable and target milestones in the Tri-Party Agreement: 1) covering each of these three phases (assuming the project is completed under CERCLA removal authority); and, 2) to complete Facility Transition in accordance with Section 8 of the Tri-Party Agreement.

Regulatory Strategy

It is RL's position that the most appropriate regulatory basis for revising Milestone M-34 of the Tri-Party Agreement is under the CERCLA. This conclusion is based upon the following:

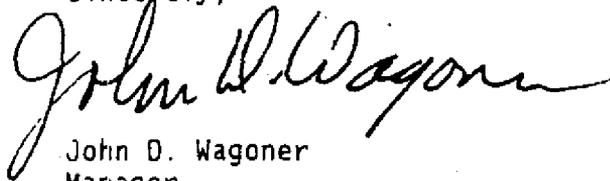
RL has documented loss of water from the 105 K East Basin where spent nuclear fuel is being stored. Operational monitoring data has confirmed that the basin water was and is contaminated with concentrations of radionuclides which exceed public health and environmental protection standards established by the EPA for hazardous substances as defined by CERCLA. RL has acknowledged through its internal reporting requirements and to EPA's National Response Center that CERCLA hazardous substances (radionuclides) have been released to the environment at the 105 K East Basin.

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RL, EPA, and Ecology are currently analyzing the feasibility of utilizing a CERCLA removal action as a regulatory vehicle under the Tri-Party Agreement for addressing spent nuclear fuel, sludge and debris, and water removal/remediation activities at Hanford K Basins. Should utilization of a removal action prove viable, RL agrees that the resulting Engineering Evaluation/Cost Analysis (EE/CA) will be reflective of and constrained by the parties' negotiated set of M-34 milestones.

I would appreciate your approval of the suspension and my specific request as documented at the top of page 2, items 1 and 2 by so indicating with your signature below. Should you have any questions on this matter, please contact me or your staff may contact Beth Sellers of the Spent Nuclear Fuels Project Division on (509) 376-7465.

Sincerely,



John D. Wagoner
Manager

EAP:FRM

Attachment

Approved:


Mary Riveland, Director
State of Washington
Department of Ecology

12/11/96
Date *


Chuck Clarke, Regional Administrator
U.S. Environmental Protection Agency
Region X

12-16-96
Date

cc: Larry Arnold, FDH
Mary Lou Blazek, ODOE
Bill Burke, CTUIR
Russell Jim, YIN
Kevin Oates, EPA
Donna Powaukee, Nez Perce
Marilyn Reeves, HAB
Dan Silver, Ecology
Randy Smith, EPA
Nancy Williams, FDH
Mike Wilson, Ecology

* See intervening agency correspondence on this matter, i.e., (1) letter, Mary Riveland and Chuck Clarke to John D. Wagoner, 11/12/96, and (2) Inter-Agency Management Integration Team (IAMIT) Dispute Resolution Agreement, 11/18/96.

DEPARTMENT OF ECOLOGY

*Mary - this does the
our loop, self up
K extension - out
basin negotiations
Dan, Mary - die discussed
w/ Mike w. - we are ok on
this one R.*

December 10, 1996

TO: Dan Silver / Mary Riveland
Office of the Director

FROM: Roger Stanley 
Nuclear Waste Program

SUBJECT: Signature of John Wagoner's November 1, 1996 Letter of Request

I am recommending that Mary sign and date the enclosed November 1 letter from John Wagoner requesting approval of the temporary suspension of Tri Party Agreement M-34 negotiations. Following signature please route this document to Tammie McClure for transmittal to Randy Smith of EPA Region 10 (EPA is expecting it).

Signature of this letter follows resolution of TPA dispute which was automatically initiated when Ecology, USDOE, and EPA failed to reach agreement at the close of our existing K basins (TPA milestone M-34) Agreement In Principle on November 1, 1996.

Signature will: (1) administratively suspend negotiations until their reinitiation on January 14, 1997, and (2) continue deferral of Tri Party Agreement interim milestone M-34-01 which otherwise would require initiation of removal of water from K basin fuel storage pools.

Please note that we have cited 2 pieces of pertinent intervening correspondence in this matter: (1) your November 12, 1996 letter initially responding to Mr. Wagoner, and (2) our November 18, 1996 TPA Inter-Agency Management Integration Team (IAMIT) dispute resolution agreement. Hanford stakeholders have been briefed on this suspension and have offered no objection.

46037



Tri-Party Agreement

November 18, 1996

INTER-AGENCY MANAGEMENT INTEGRATION TEAM
-RESOLUTION OF DISPUTE-

Hanford Federal Facility Agreement and Consent Order
Negotiation of Commitments for the Completion of Transition at Hanford's K East and K West Basins

On August 16, 1996, the U. S. Department of Energy (USDOE), the U. S. Environmental Protection Agency (EPA), and the Washington Department of Ecology (Ecology), hereinafter the Parties, approved their Agreement in Principle (AIP) to conduct negotiations for the purpose of establishing Hanford Federal Facility Agreement and Consent Order (Agreement) milestones governing cleanup at Hanford's K East and K West basins. Milestones to be established are to be sufficient to drive the removal of basin fuels, sludge and debris, and contaminated waters, and the completion of basin transition.

The Parties' AIP called for completion of these negotiations no later than November 1, 1996. As of November 2, 1996, negotiations had not been completed, and under the terms of the Parties' AIP, the Agreement Dispute Resolution process was automatically invoked at the "IAMJT" level pursuant to Article VIII. Since that time our staffs have worked with one another in order to develop an equitable resolution to this dispute. USDOE, EPA, and Ecology have subsequently agreed to temporarily suspend active negotiations. These negotiations will resume in accordance with the Parties' August 6, 1996 AIP on January 14, 1997. Negotiations will resume utilizing USDOE's October 25, 1996 draft change request (M-34-96-03) as a starting point, and will be completed no later than March 14, 1997.

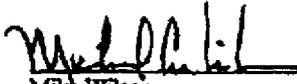
In recognition of these commitments USDOE, EPA, and Ecology's IAMJT representatives agree to the following additional commitments as conditions for the resolution of this dispute:

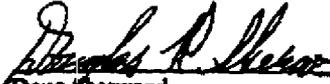
THAT AMONG ISSUES TO BE RESOLVED DURING THE PARTIES' (JANUARY 14, 1997 - MARCH 14, 1997) NEGOTIATIONS ARE THE FOLLOWING:

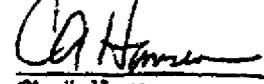
- Selection and documentation of regulatory pathway(s) necessary to meet Agreement and AIP terms, and
- That should the Parties utilize a "CERCLA" removal action as a regulatory driver of K basin fuels, sludge and debris, basin water, and other basin transition activities, they will identify Engineering Evaluation / Cost Analysis (EE/CA) scope and design elements, provided that such elements are reflective of and constrained by the Parties' negotiated milestones and agreements (See J. D. Wagooer letter of November 1, 1996).

In addition to the preceding, USDOE, EPA, and Ecology recognize that should a CERCLA removal action be undertaken, the resulting Action Memorandum will be consistent with options considered within the EE/CA, and shall give appropriate consideration to public comments received. Both EE/CA and Action Memorandum documents will be approved by USDOE, EPA, and Ecology prior to issuance.

In view of the above commitments, the members of the Parties' IAMJT agree that this dispute is resolved.


Mike Wilson
WA Department of Ecology


Doug Sherwood
Environmental Protection Agency


Charle Heston
U. S. Department of Energy



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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

November 12, 1996

Mr. John D. Wagoner, Manager
U. S. Department of Energy
Richland Operations Office
P. O. Box 550
Richland Washington 99352

Dear Mr. Wagoner:

RE: U. S. DEPARTMENT OF ENERGY, RICHLAND OPERATIONS OFFICE (RL)
REQUEST TO SUSPEND NEGOTIATIONS ON MILESTONE M-34 OF THE
HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-
PARTY AGREEMENT) THROUGH JANUARY 14, 1997

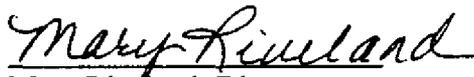
Please note that we have received your November 1, 1996 request to temporarily suspend negotiation of compliance schedules covering Hanford's K East and K West fuels storage basins. As you know, our staffs have made significant progress in addressing the wide variety of remediation issues presented by basin fuels, sludge and debris, and contaminated waters. Among the issues which remain are: (i) a determination of which regulatory driver will be most effective in moving the project forward and, (ii) the development of milestone initiation/completion dates, including schedules which assure timely remediation of environmental risk and releases to area groundwaters, and subsequent completion of basin transition activities.

While we recognize that DOE's new contractors must carefully evaluate project schedules, we trust that DOE, Fluor Daniels Hanford & Duke Engineering staff will not allow these initial assessments to negatively impact project work. From an environmental perspective our concerns that retrieval move forward rapidly have only increased as we have learned more about the poor condition of the basins and their contents (e.g., this past summer's full length visual examinations of basin fuels).

John D. Wagoner
November 12, 1996
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As to your request for suspension, we can not approve it at this time in that DOE has not met its commitment to agree to specific K basin cleanout schedules by November 1, 1996 (See our August 16, 1996 Agreement In Principle). We note that DOE is both: (i) asking for additional time on behalf of its new contractors, and (ii) assuming that should a ("CERCLA") removal action regulatory path be adopted, the resulting Action Memorandum (Summer, 1997) would not be constrained by our negotiated requirements. As you know, this matter is now in dispute pursuant to our AIP. We have asked our staffs to continue to work with DOE towards resolution.

Sincerely,


Mary Riveland, Director
State of Washington
Department of Ecology

11/12/96
Date


Chuck Clarke Regional Administrator
U. S. Environmental Protection Agency
Region X

11/14/96
Date

cc Larry Arnold, FDH
Mary Lou Blazek, ODOE
Bill Burke, CTUIR
Russell Jim, YIN
Kevin Oates, EPA
Donna Powaukee, Nez Perce
Marilyn Reeves, HAB
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Administrative Record