



**U. S. DEPARTMENT OF COMMERCE**  
National Oceanic and Atmospheric Administration  
Damage Assessment and Restoration Center Northwest  
7600 Sand Point Way NE, Bldg #1  
Seattle, WA 98115-0070

0076177

June 1, 2006

Mr. Keith Klein  
Manager  
Richland Operations Office  
Department of Energy  
P.O. Box 550  
Richland, WA 99352

**RECEIVED**  
FEB 15 2008  
**EDMC**

Re: Recommendation for the Natural Resource Trustees at the Hanford Facility

Dear Mr. Klein:

As I discussed at the Senior Trustee's Meeting on May 30<sup>th</sup>, I recommend that the natural resource trustees (Trustees) for the Hanford Facility (Hanford) significantly change the focus of our efforts. This recommendation comes after much thought regarding ways to achieve restoration of natural resources potentially affected by releases of hazardous substances at Hanford. After working with the Department of Energy (DOE) and the other Trustees at Hanford for nearly three years, observing the desire of the Trustees to achieve this end and their frustration in doing so, I believe a change of direction is warranted.

The Hanford Trustees should focus their efforts on the development of a comprehensive natural resource restoration plan for Hanford and the downstream aquatic resources in the Columbia River (the Site). This recommendation is predicated upon several observations regarding the state of Hanford cleanup and the work of the Trustees. First, sufficient information has been gathered to develop a reasonable worst case estimate of the injuries to natural resources at the Site. Second, to evaluate with greater precision the extent of those injuries is a costly and time consuming process. Third, time and money will be better spent restoring those resources. Finally, given the status of the Hanford remedial process, now is the time to develop and implement a natural resource restoration plan for integration into CERCLA remedial actions.

While implementing this recommendation will require focused technical work, I believe a few basic points about the process of developing a restoration plan will help to explain my proposal:

- Given the current lack of data and analysis sufficient to assess fully the impacts to natural resources at the Site, it will be necessary to estimate injury for many resources and geographic locations based on the data and analysis that is now or will soon be available. These estimates must be sufficiently conservative to provide reasonable assurances that the restoration plan is adequately accounting for injuries to natural resources.
- The process must recognize DOE's view that injuries to natural resources



should not be assumed to exist until data and analysis documents the existence of those injuries. While conservative assumptions may be used in the development of a restoration plan those assumptions should not be confused with a finding that a particular injury to natural resources has occurred.

- The process will require a free exchange of ideas to work and thus should be without prejudice to any party in court. For example, tentative agreements by DOE to restoration measures should not be considered an admission that injury to natural resources has occurred. Conversely, tentative agreement by the Trustees to particular restoration should not be taken as an admission that certain injuries to natural resources did not occur.
- The end-product of this process would be a consent decree. The most basic elements of the decree would be (1) to require that the restoration plan be implemented, and (2) provide DOE with resolution of its potential liability for any injuries to the natural resources addressed by the restoration plan.
- The work to develop and implement the restoration plan would be funded by DOE, although the work itself need not be done by DOE. Different pieces of the restoration plan could be implemented and/or overseen by trustees other than DOE.

I believe that the above approach will attain the shared goal of implementing a sound restoration plan in a timely and cost-efficient manner. To this end, I have enclosed an outline of the elements that a restoration plan process likely would include. I offer it as a focus for discussion.

Could your office please distribute this letter and the attachment to the other participants at the meeting? Thanks. I look forward to addressing this matter with you and other Trustees in the near future.

Sincerely,  
  
Craig R. O'Connor  
Special Counsel

Attachment

**RECEIVED**

JUN 06 2006

**DOE-RL/RLCC**

DRAFT (highly conceptual)

Restoration Plan  
Hanford Nuclear Reservation  
Outline  
May 30, 2006

1. Purpose of and Need for Restoration (framework)
  - a. CERCLA requirements
  - b. Role of natural resource trustees
  - c. NRDA goals and objectives
    - i. Protect natural resources from future harm (source control and cleanup)
    - ii. Compensate public for loss of services
    - iii. Provide a functioning and sustainable ecosystem
    - iv. Coordinate restoration with ongoing and other efforts
    - v. Involve the public
2. Affected Environment
  - a. Key Resources with potential injuries
    - i. Fish
    - ii. Groundwater
    - iii. Aquatic habitat
    - iv. Scrub/shrub habitat
    - v. Birds
    - vi. Mammals
    - vii. Other
  - b. Plans for cleanup and protection
  - c. Habitat Types and Functions that could benefit from restoration (describe services provided by habitat type)
    - i. Riverine
      1. nearshore
      2. islands
      3. channels
    - ii. Riparian habitat
    - iii. Scrub/shrub
  - d. General restoration options
    - i. Habitat acquisition
    - ii. Improvements to aquatic habitat
    - iii. Improvements to shrub/scrub/upland habitat
    - iv. Improvements to riparian habitats
3. Project Development/Selection
  - a. Planning (steps involved)
  - b. Screening and selection criteria
  - c. Initial inventory of potential restoration sites and projects

- d. Performance criteria
  - e. Coordination with other agencies, plans, and programs
4. Analysis of Restoration Alternatives (how projects meet selection criteria, impacts, and benefits of projects)
- a. Description of preferred projects
  - b. Other options considered
  - c. Restoration summary
5. Project Implementation
- a. Project management
  - b. Permitting and regulatory compliance
  - c. Property access/acquisition
  - d. Engineering design/cost analysis
  - e. Monitoring and documentation
  - f. Adaptive management and contingency planning
  - g. Long term stewardship
  - h. Outreach