



Department of Energy

9200837

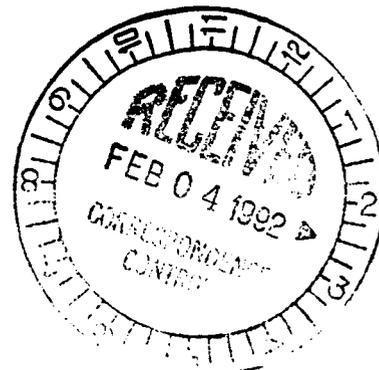
Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

JAN 30 1992

92-TDB-006

Mr. Chuck Clarke, Director  
State of Washington  
Department of Ecology  
Mail Stop PV-11  
Olympia, Washington

Ms. Dana Rasmussen  
Region 10 Administrator  
U.S. Environmental Protection Agency  
Sixth Avenue  
Seattle, Washington



Dear Mr. Clarke and Ms. Rasmussen:

DISPUTE RESOLUTION PROCESS FOR MILESTONE M-14-00

The Senior Executive Committee met on January 27, 1992, to continue the M-14 dispute resolution process. As a result of the meeting, I am forwarding the attached DOE position.

If you have any questions regarding this extension, please call me, or your staff may call R. D. Izatt of my staff on 509-376-5441.

Sincerely,

*John D. Wagoner*  
John D. Wagoner  
Manager

WMD:DMW

Attachment:

- cc w/ att:
- P. Day, EPA
- N. Pierce, Ecology
- T. B. Veneziano, WHC
- T. Nord, Ecology
- R. Smith, EPA



## ATTACHMENT

1/30/92

## DOE'S POSITION ON M-14-00 DISPUTE RESOLUTION

1. PENALTIES FOR LATE SAMPLES

DOE would define options under which a contract price schedule would be developed in the new commercial laboratory contract(s) which is scheduled for award in the fall of 1992 to penalize laboratory failure to meet analytical turnaround times for low-level mixed waste operable unit soil samples. For example, DOE would consider incorporating the liquidated damage clauses into the new contract(s). Any withheld payments would be used to support expedited response actions (ERA) for environmentally beneficial projects at the Hanford Site. These expedited response actions would be selected in consultation with the regulators. The Environmental Protection Agency (EPA) and DOE would agree on reasonable and achievable analytical turnaround times for low-level mixed waste soil samples based on national statistics prior to awarding the commercial laboratory contract(s).

2. PROVISIONS FOR REINSTITUTING ORIGINAL COMMITMENTS

Based on the national sample turn-around times developed under paragraph 1 and other factors, DOE and the regulators should reach agreement on what is "satisfactory" commercial laboratory performance. If commercial laboratory performance is not satisfactory within one year from the new commercial laboratory contract(s) award scheduled in the fall of 1992, the parties would jointly examine the causes and determine the appropriate way of addressing the problem, including the option of constructing the larger laboratory facility that was envisioned in the TPA milestone M-14-00 and in the original conceptual design report. If agreement is reached by all parties that the larger facility is required to meet the established turnaround times, the laboratory currently under construction would be expanded in accordance with the following schedule:

- o Project validation, project change control submittal, decision to build additional modules, and identify funding to support the construction 12/93
- o Laboratory capacity ready for occupancy 12/95

3. PENALTY ASSESSMENT

DOE agrees to accept a penalty assessment for violation of the TPA Change Process and provide written acknowledgement. Pursuant to Article XIX of the TPA, DOE would request \$35,000 in DOE's FY-94 budget to cover the penalty, and would pay that amount to the extent such funds are authorized and appropriated for that specific purpose. In addition to the penalty payment, DOE would propose expedited responses for environmentally beneficial projects in lieu of

additional penalties. These expedited responses would be selected in consultation with the regulators. DOE's candidate for the ERA would be 300-FF-1 Burial Grounds. This action would excavate and remove contents of Burial Grounds 618-4, 618-5, and the new "landfill" area. This removes a source term near the river. The cost would be \$5.2 M over a 1½-year period from the time of initiating action. Furthermore, DOE would fund an additional \$165K per year for FY-92, FY-93, and FY-94 in retraining of site personnel associated with programs being phased down in the areas necessary to support Hanford environmental cleanup program.

The written acknowledgement of the violation would state:

"DOE acknowledges that it did not follow the TPA procedures for seeking modification to the TPA or obtain approval from the regulators before placing the construction hold and taking steps to obtain commercially available laboratory services. DOE also acknowledges that without formal approval by the regulators, DOE is obligated under the TPA to continue working on the milestones. It is recognized, however, that there was some informal communication by DOE to the regulators on alternative approaches being considered."

#### 4. FUTURE PROCEDURES

DOE, Ecology, and EPA would develop a written protocol for informal communications that would supplement the TPA and establish the following specific procedures:

- (1) DOE submit a written request to review potential modifications to milestones;
- (2) Following approval of DOE's request, the regulators jointly review the potential modifications to TPA milestones, with an allowance provided by the regulators for any delay in DOE's progress towards meeting an established milestone while such reviews are being conducted;
- (3) If agreement is reached by the parties, submit a formal change package by any party, as appropriate, to reflect the results of such a review; and
- (4) If no agreement is reached, or if DOE's request to review potential modifications is denied, any party may submit a formal change package that would be subject to dispute resolution, as provided by the TPA.

# CORRESPONDENCE DISTRIBUTION COVERSHEET

Author	Addressee	Correspondence No.
J. D. Wagoner, RL	C. Clarke, Ecology D. Rasmussen, EPA	Incoming: 9200837

**Subject:** DISPUTE RESOLUTION PROCESS FOR MILESTONE M-14-00

## INTERNAL DISTRIBUTION

Approval	Date	Name	Location	w/att
		Correspondence Control	A3-01	X
		President's Office		X
		M. L. Bell		X
Level 1/Assignee . . . .		R. J. Bliss		X
		S. L. Bradley		X
		G. D. Forehand		X
		C. A. Jensen		X
		K. R. Jordan		X
		R. E. Lerch		X
		H. E. McGuire		X
		R. D. Morrison	B2-35	X
		T. B. Veneziano		X
		EDMC	H4-22	X
		J. C. Fulton	R3-56	X
		Program Support Center (2)	A3-84	X

