

+U.S. Department of Energy
Office of River Protection

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JUL 31 2000

00-ORP-072

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Addressees:

TRANSMITTAL OF THE SEMI-ANNUAL COMPLIANCE REPORT FOR THE WASTE TREATMENT PROGRAM TO FULFILL THE REQUIREMENTS OF THE HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) INTERIM MILESTONE M-62-01

- References:
1. Ecology Final Determination from T. Fitzsimmons and C. Clarke, USEPA to C. L. Huntoon, DOE-HQ, R. T. French, ORP, and K. A. Klein, RL, "Final Determination Pursuant to the Hanford Federal Facility Agreement and Consent Order (HFFACO) in the Matter of Hanford Site High-level Radioactive Tank Waste Treatment Capacity Acquisition, Tank Waste Treatment and Associated Tank Waste Work Requirements," dated March 29, 2000.
 2. Attorney General of Washington, Ecology Division letter from C. J. Wolfer to J. A. Tupper, U.S. Dept. of Energy v. Ecology, PCHB No. 00-051, dated July 12, 2000.

This letter transmits the attached U.S. Department of Energy, Office of River Protection's (ORP) first Semi-Annual Project Compliance Report of Milestone M-62-01, that is due July 31, 2000 (Reference 1). Specific language in this milestone is currently under appeal to the Pollution Control Hearings Board (Reference 2) and is stayed from execution by Tri-Party Agreement Provision 30-F until such time as the issue regarding submittals of Semi-Annual Compliance Reports is settled or adjudicated. This report provides information regarding progress to date during this period and planned future actions which are subject to change pending ongoing legal proceedings.

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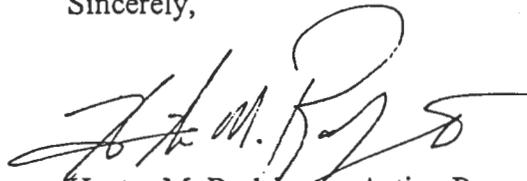
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JUL 31 2000

In addition to the work and progress noted within the report, ORP is submitting the latest copy of its Quarterly Milestone Review packet which was submitted to the Inter-Agency Management Integration Team meeting on May 23, 2000.

The point-of-contact for this is Bill Taylor, (509) 372-3864.

Sincerely,



Hector M. Rodriguez, Acting Program Manager
Office of Regulatory Liaison

ORP:HMR

Attachments (2)

1. Project Compliance Report
2. Quarterly Milestone Review

cc w/attach:

W. Burke, CTUIR
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R. Jim, YN
W. T. Dixon, CHG
C. C. Haass, CHG
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Administrative Record

Addressees
00-ORP-072

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Date >	7/31/00	7/31/00	7/31/00	7/5/00	7/31/00	7/31/00

(Please return Arlene Hanson 373-0068 fax 373-0628)

Document No. 21502

**Office of River Protection (ORP)
First Semi-Annual Project Compliance Report
For the Waste Treatment Program
1 February - 31 July 2000**

**Office of River Protection
2440 Stevens Drive
Richland Washington 99352
31 July 2000**

M-62-01 (Project Compliance Report/ Waste Treatment Program)

This first semi-annual Office of River Protection (ORP) *Project Compliance Report* covers the period 1 February 2000 through 31 July 2000. This report will address progress to date, progress during the period, and expected activities in the foreseeable future. Because this is the first report for this milestone, this report will benchmark the ORP project. This report addresses the M-62-00 series Milestones.

Progress to date: The Hanford Tank Waste Remediation System (TWRS) (subsequently renamed the River Protection Project) is at another critical juncture of this nearly eight - year program. The first critical juncture occurred in September 1996 when two contracts were awarded for Phase I of a "privatization" initiative for waste treatment services. The contracts were awarded to teams led by BNFL Inc. (BNFL), a United States subsidiary of British Nuclear Fuels plc, and Lockheed Martin Advanced Environmental Systems (LMAES). At the time of the Phase I awards, the contracts were structured into two parts: a 20-month Part A, scheduled to end in mid-1998; and an optional Part B, planned for approximately 14 years. The purpose of Part A was to establish the technical, operational, regulatory, business and financial elements required by privatized facilities for provision of tank waste treatment and immobilization services on a fixed-unit-price basis. If authorized to proceed to Part B, contractor(s) would then design, build, permit, operate, and deactivate privately financed, low-activity waste (LAW) and (optionally) high-level waste (HLW) treatment plants. They would be paid for treated waste when it was delivered back to the U.S. Department of Energy (DOE) for storage and disposal. Of the 20-month Part A period, 16 months were provided for the contractors to complete deliverables for submittal to DOE, and 4 months were provided for DOE to review and evaluate the deliverables and decide whether to authorize initiation of Part B by zero, one, or both contractors.

RPP Phase I was designed to treat and immobilize 10 percent of the waste and approximately 25 percent of the radioactivity of the 190 mega-curies and 53 million gallons contained in 177 underground storage tanks. This phase would serve as a demonstration of the elements that would be required in continuing this new contracting approach with the production-scale Phase II. In Phase II, DOE envisioned that the balance of the tank waste would be processed, the immobilized HLW sent to a geologic repository, the tanks closed, and the processing facilities decontaminated and decommissioned.

All milestones defined by the M-60-00 series were accomplished during the Part A portion of Phase I. The second critical juncture of the RPP occurred in August 1998 when DOE modified the BNFL contract to allow them to proceed into Part B-1. This newly negotiated phase was made necessary when neither Part A contractor could finish sufficient design to establish fixed unit prices. LMAES was eliminated from the competition in May 1998 because of high risks associated with its proposed solution. Part B-1 was defined by a contract modification to be a 24 month period of performance during which BNFL would finish sufficient design to allow them to proceed to financial

closure, establish firm fixed unit prices and position themselves to start construction in Part B-2. Attempts to renegotiate the TPA milestones to support the BNFL revised schedule for Part B-1 and beyond were not completed as scheduled and remain in dispute.

The third critical juncture of the RPP occurred on April 24, 2000 when BNFL Inc. submitted, as scheduled, their Part B-1 deliverables. Although there was an acceptable (but conservative) technical solution provided by BNFL, the decision to proceed into Part B-2 with BNFL was rejected by DOE and an alternative solution is being implemented.

The transition of the contracting approach for obtaining waste treatment and immobilization services, from a fixed price to an incentivized contract, has required the change in the funding approach where outlays occur on a yearly basis. (Privatization required annual budget authority (BA) but did not anticipate annual outlay of funds until acceptable product was delivered.) The privatization "set-aside account had accrued \$491 million through FY 2000). The Office of River Protection is in the process of rebaselining the RPP with an assumed \$1B/yr funding level through FY2010 (unescalated). This assumption provides ORP with a basis for planning the retrieval, waste feed delivery, treatment and immobilization, and disposal activities for the near term. A milestone that is embedded in the funding assumption is the start of Hot Commissioning on the waste treatment complex by December 2007.

Progress during this period: On 1 February 2000, ORP was finalizing Readiness to Proceed procedures in anticipation of receiving the BNFL Part B-1 deliverables. On 24 April 2000, BNFL delivered its final Part B-1 deliverables and a proposal for Part B-2 that was unacceptable to the Department of Energy (DOE). On 8 May 2000, Secretary of Energy Richardson announced DOE's intent to terminate the privatization contract. In a meeting with the Washington State Governor, the Secretary agreed to proceed forward with the vitrification facilities via a new design and construct contract to be put in place by 15 January 2001. On 29 June 2000, ORP terminated the privatization contract, transitioning continuation of design activities to CH2MHill Hanford Group, Inc (CHG) during the contract acquisition period.

Future actions: ORP announced plans to prepare a Request for Proposal (RFP) in the Commerce Business Daily in May, held a public comment meeting on June 7, 2000, and met with potential contractors in Washington DC the second week in June. ORP intends to release the draft RFP for comment July 31, 2000. This procurement can be found at www.hanford.gov/orp/procure/solicitations/index.html or see the ORP home page at www.hanford.gov/orp/whatsnew.html. The schedule for this acquisition is to issue a final RFP by August 31, 2000, receive proposals for contractor teams by the end of September, 2000, and select the new contractor by January 15, 2001. These dates are embodied in a revision to a Consent Decree now being negotiated by DOE and Ecology.

M-62-02 (Alternative Report)

DOE evaluated a set of alternatives to the privatization approach and published a report on this analysis in March 2000 . The intent of this report was to understand the budgetary, schedule, and other potential impacts of implementing a contingency alternative in the event that DOE was unable to proceed with BNFL. This report was mandated by a set of proposed changes to the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement or TPA) and was delivered on the proposed schedule date of March 1, 2000.

This report provided an initial assessment of the potential consequences of taking an alternate path. This assessment was conducted prior to receipt of the BNFL proposal and prior to indications of significant increases in project price. The final assessment of alternate paths was to have been completed through a "Best Value" assessment after receipt of the BNFL proposal and cost estimates. The Best Value assessment was not conducted, however, because DOE determined that the BNFL proposal was not viable.

DOE considered the following contracting alternatives in this report:

Reference: Privatization Approach with BNFL. The current privatization approach assumes that BNFL builds a privately owned waste treatment facility and delivers waste products for a fixed price, i.e., Contractor-Owned Contractor-Operated (COCO) approach. The privatization approach assumed that the privately owned facility is financed with 10% BNFL equity and 90% private debt financing. Two variations in the project financing approach are also available.

Finance Options A and B—The two variations of the reference approach allow for partial federal financing of the project (45% and 90%, respectively), and both retain 10% equity funding by BNFL.

Alternative 1, GOCO Approach with BNFL—This alternative would modify the BNFL contract to implement a GOCO approach that would use cost-reimbursement or fixed-price contract terms.

Alternative 2, GOCO Approach with a New Contractor—This alternative was similar to Alternative 1 except that a contractor other than BNFL would continue the project. There are two variations of this alternative: 2A) direct transfer to an existing Hanford Site contractor, and 2B) transfer to a new contractor through a competitive procurement.

Alternative 3, Privatization Approach with a New Contractor—This alternative would obtain a new privatization contractor through a competitive procurement.

All of these contracting alternatives assumed the same technical approach as the BNFL reference and would accomplish the same work on, or as near to, the current schedule as possible. These alternatives are also consistent with the Tank Waste Remediation System (TWRS) Environmental Impact Statement (EIS) Record of Decision (ROD). DOE

previously examined a broader set of technical alternatives to ensure that the BNFL approach was reasonable and based on sound technology.

M-62-03 (Submit DOE petition for RCRA delisting of vitrified HLW)

On April 18, 2000, BNFL Inc. submitted their Final Approach for IHLW delisting to DOE-ORP; comments on the document were provided to BNFL on May 19, 2000. As a result of the DOE Secretary's May 8 announcement terminating the BNFL contract, DOE is in the process of transferring workscope, including that related to the delisting petition, from BNFL Inc. to CH2M HILL Hanford Group (CHG). On June 8, 2000, DOE directed CHG to assume work associated with the Waste Treatment Plant operations (which included permits, regulatory documents, and safety basis documents) and interim design responsibilities.

M-62-04T (Readiness to Proceed)

The U.S. Department of Energy and its Hanford tank farms operations contractor, CH2M HILL Hanford Group, Inc. (CHG) are ready to proceed (RTP) to Part B-2, Phase 1 of the River Protection Project (RPP). On April 24, 2000, CHG formally certified their readiness to proceed with Phase I waste feed delivery, site infrastructure, and storage and disposal facilities necessary to manage the treated Phase I wastes. A team of federal staff reviewed CHG's basis for their certification and concluded that CHG is indeed ready to proceed with their portion of Phase I.

All actions were completed, and formal declaration of readiness to proceed for CHG formally occurred on June 15, 2000.

M-62-05 (Authorization to Proceed)

DOE had allowed two months to decide whether to authorize BNFL to proceed to Part B-2 after receipt of the deliverables on April 24, 2000. However, DOE-ORP and -HQ both determined that the BNFL proposal was seriously deficient in several areas. Accordingly, DOE Secretary Richardson announced termination of the BNFL contract on May 8, 2000. The Secretary's announcement stated that BNFL's proposal was found to be too expensive, and inadequate, with the following functional areas raising the most serious concerns:

- Cost and schedule
- Management
- Business approach
- Design was found to be over-conservative with risk shifting from the contractor back to the U.S. government

As a result of the Secretary's decision, the department is now conducting a streamlined bid process in a full and open competition in order to meet the Energy Department's waste treatment obligations under the Tri-Party Agreement. Under this streamlined process, the department plans to issue a draft Request for Proposal in July for review and comment, and a final Request for Proposal at the end of August. The Department expects to have a contractor selected by January 15, 2001.

The objectives for the Path Forward are:

- Maximize the chances of meeting our commitments to Washington State (e.g., hot start by 2007)
- Build on existing work. Make best use of the work that has been accomplished to date.
- Maintain some aspects of "contractor at risk" approach
- Reintroduce competitive forces
- Find an affordable, fundable way, and
- Maintain operations and process engineering capability.

M-62-06 (Start of Construction-Phase I Treatment Complex)

This particular milestone was to be changed once BNFL was given authorization to proceed into Part B-2. The schedule BNFL was on when their contract was terminated on June 29, 2000 was as follows: Mobilize their construction forces in June, 2001, commence site infrastructure work in July 2001, and start construction of the primary facilities in December 2001. With the decision to terminate BNFL, time may be lost during the transition period (June 2000 to January 2001). During the transition period, CHG will provide interim architect-engineer services to perform critical design activities to enhance the probability of maintaining this schedule.

M-62-07 (Construction progress milestones (2) -Phase I Treatment Complex)

These milestones will be established six months after the award of the new contract to design and build the Waste Treatment Plant.

M-62-08 (Submittal of Hanford Tank Waste Phase II Treatment Alternatives Report)

Current RPP Strategic Analysis activities are analyzing the current Phase I/II baseline and identifying methods for accelerated retrieval and processing, as well as risk reduction.

M-62-09 (Start (Hot Commissioning – Phase I Treatment Complex)

The new RFP for a design and construction contractor for the processing plant stipulates this milestone as one of the performance requirements.

M-62-10 (Start Commercial Operations –Phase I treatment complex)

The new RFP for a design and construction contractor for the processing plant stipulates this milestone as one of the performance requirements.

M-62-11 (Submittal of Hanford Tank Waste Treatment Phase II Plan)

Current RPP Strategic Analysis activities are analyzing the current Phase I/II baseline and identifying methods for accelerated retrieval and processing, as well as risk reduction.

M-62-12 (Issuance of DOE Authorization to Proceed –Phase II treatment complex)

Accordingly, DOE has begun work to identify the most efficient process for carrying out the balance of the tank was