

AGENDA
INTER AGENCY MANAGEMENT INTEGRATION TEAM (IAMIT)
MEETING

February 27, 2001
1:00 PM – 1:45 PM

EPA CONFERENCE ROOM
712 SWIFT BLVD., SUITE 5

CHAIRPERSON: M. A. Wilson

1:00pm REPRINTING OF THE TRI-PARTY AGREEMENT DISCUSSION
(W. Ballard, M. Wilson, D. Sherwood)

1:10 pm ENVIRONMENTAL ISSUES MANAGEMENT LIST STATUS DISCUSSION
(H. Rodriguez, M. Wilson, D. Sherwood)

1:25 pm M-91-12 DISPUTE RESOLUTION
(E. Bilson, W. Ballard, M. Wilson, D. Sherwood)

1:45 pm ADJOURN

BACKGROUND ON AN UPDATE AND REPRINT OF THE TRI-PARTY AGREEMENT

Update/printing requirements from the Tri-Party Agreement:

Action Plan Publication (from TPA Action Plan Summary)

An updated version of the Action Plan will be published periodically as agreed upon by the three parties.

11.3 WORK SCHEDULE UPDATES

The work schedule will be updated as necessary in order that printed copies of the Agreement remain reasonably current. Work schedule changes (see Section 12.0 for formal change control system) will be incorporated at this time. Each update will be performed as agreed by the three parties.

Background information:

The Tri-Party Agreement was last updated and reprinted in December 1998. Since the last reprinting there have been 44 approved change requests (including the March 29, 2000 Directors Determination).

Since the approval of the Tri-Party Agreement in 1989 there have been 5 updates and reprintings. With 333 total approved change requests this represents about 58 approved change requests between updates ($333 - 44 = 289 / 5 = 57.8$).

The Legal Agreement and Action Plan have undergone relatively little modification since the last update (89-10 Rev. 5).



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

RECEIVED

FEB 28 2001

Department of Ecology
NWP-Kennewick

FEB 26 2001

01-RCA-181

Mr. Michael A. Wilson, Program Manager
Nuclear Waste Program
State of Washington
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504

Dear Mr. Wilson:

TRANSMITTAL OF STATEMENT OF DISPUTE (SOD) FOR HANFORD FEDERAL
FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT)
MILESTONE M-091-12

Enclosed for your review and action is the U.S. Department of Energy, Richland Operations Office's SOD for Tri-Party Agreement Milestone M-091-12. This SOD effectively elevates the M-091-12 dispute to the Interagency Management Integration Team (IAMIT) level per Article VIII, Paragraph 30, Section A of the Tri-Party Agreement. If you have any questions regarding this SOD, please contact me on (509) 376-9333 or contact Helen E. Bilson, Assistant Manager for Environmental Restoration and Waste Management on (509) 376-6628.

Sincerely,

Clifford E. Clark, Acting Program Manger
Office of Regulatory Liaison

RCA:EBD

Enclosure

cc: See page 2

STATEMENT OF DISPUTE MILESTONE M-91-12

I. NATURE OF DISPUTE

This dispute concerns the January 12, 2001, determination of the Washington State Department of Ecology (Ecology) that the U.S. Department of Energy (DOE) "has failed to comply with Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Milestone M-91-12." Milestone M-91-12 requires DOE, by December 31, 2000, to "Initiate thermal treatment of currently stored and newly generated contact handled (CH) low level mixed waste (LLMW). At least 600 cubic meters will be provided for treatment by December 2005."

II. DOE'S POSITION ON THE DISPUTE

It is the position of DOE that DOE initiated thermal treatment of CH LLMW by December 31, 2000 and thus, fully complied with the first prong of the 2 prong Milestone M-91-12.

III. SUPPORTING INFORMATION

A. Milestone History

Milestone M-91-00 was created by Change Request Number M-91-96-01 in substitution for M-33-00-T02 dated January 25, 1994. M-33-00-T02 requires DOE to "Complete the draft of the *Site-Wide Systems Analysis (SWSA)* document including requirements for solid material and wastes processing and storage" by July 1994. Based on the submittal of the SWSA in July 1994, DOE, the U.S. Environmental Protection Agency (EPA), and Ecology finally negotiated new Major Milestone M-91-96-01 in June

1996. The parties did not approve the Change Control Forms for this new Major Milestone until December 1996. The Change Title on the Change Control Form was:

Creation of new Major Milestone M-91-96-01 and its sub-elements governing the acquisition of new facilities, modification of existing facilities, and/or modification of planned facilities necessary for the storage, processing and disposal of Hanford site Transuranic and Transuranic Mixed Waste (TRU/TRUM), Low Level Mixed Waste (LLMW) and Greater than Category 3 (GTC3) Low Level Waste (LLW) and LLMW.

M-91-12 contains a bifurcated milestone for initiation of thermal treatment of Hanford LLMW by December 31, 2000; and for providing 600 cubic meters of LLMW for treatment by December 2005.

B. DOE Path Forward to Meet Milestone

DOE chose to undertake a dual path in order to initiate thermal treatment of LLMW by December 31, 2000. The first path involved shipping LLMW to DOE's Waste Experimental Reduction Facility (WERF) at the Idaho National Engineering and Environmental Laboratory (INEEL). The second path involved authorizing its contractor, then Westinghouse Hanford Company (WHC), now Fluor Hanford, Inc., to enter into a contract with Allied Technology Group, Inc. (ATG) commensurate with the funding profile provided.

1. Waste Experimental Reduction Facility

The decision to incinerate Hanford LLMW at WERF was the result of a DOE strategy developed as part of the Environmental Management Integration (EMI) effort. The goal of the EMI effort was to develop methods that would enable the DOE Complex to "get the job done" at a lower cost and/or accelerated schedule than the existing baseline. Many of the ideas promoted by EMI involved sharing Site resources and capabilities, rather than developing duplicate capabilities at a number of Sites.

The incineration of Hanford waste at the INEEL WERF offered several advantages:

- Hanford and INEEL were of relative close proximity, limiting the distances for transportation.
- WERF was being underutilized for the treatment of mixed waste, incineration of Hanford waste would improve the utilization/efficiency of the facility.
- WERF was fully funded, and therefore Hanford waste could be accepted without charging Hanford for the treatment operations (incremental costs of transportation, etc. would have to be paid for by Hanford).
- WERF would provide backup capacity to the commercial contract in place with ATG.

For these reasons, Hanford actively pursued the use of the WERF facility to treat Hanford mixed low level waste (MLLW). Evaluation of an alternative for incineration of up to ~6,500 m³ of Hanford MLLW at WERF by fiscal year (FY) 2003 was initiated. A “trial” incineration campaign was planned with INEEL in order that the process for acceptance and transport of waste, sorting and incineration, and return of residuals could be tested and a cost basis established. If the process was successful and cost effective, Hanford fully planned to conduct follow-up campaigns at INEEL in parallel with the use of the Richland, Washington ATG thermal treatment facility.

The trial incineration campaign was a technical success. Not only were ~20 m³ of Hanford MLLW treated, but information on the “workability” of the process was obtained. However, the waste acceptance process at the INEEL WERF proved to be more cumbersome than anticipated and a considerable effort (and amount of time) was required to get the Hanford waste to the facility. Also, mechanical problems at WERF and prioritization issues at the facility (scheduling the Hanford waste in competition with

other campaigns) further delayed the Hanford campaign. As a result, plans for incineration of Hanford waste at WERF were downgraded. Nevertheless, continued campaigns of up to 50 m³ per year in FYs 1999 and 2000 (and up to ~1,300 m³ over five years) were planned and incorporated in the INEEL Site Treatment Plan. (These volumes were still carried in the INEEL Site Treatment Plan [STP] as recently as the October 31, 1999, issue of the INEEL STP).

The incineration of Hanford MLLW at the INEEL WERF was not intended to be a one-time occurrence. It was, in fact, part of a more comprehensive plan to incinerate large volumes of Hanford MLLW at WERF. This alternative was considered viable and was still being pursued until FY 2000 when a decision was made by DOE to terminate WERF operations.

In June 2000, DOE Idaho Operations Office (DOE-ID) announced its intent not to upgrade WERF to air pollutant standards (MACT) and to shut the facility down. In November 2000 operations of WERF were terminated. Up until this time, the alternative to treat Hanford waste at WERF was still viable.

2. Allied Technology Group, Inc.

The present thermal treatment contract with ATG was awarded to ATG in 1995 by Westinghouse Hanford Corporation (WHC). The award was made to ATG after WHC and DOE determined that the proposed technology and cost for treatment would provide DOE with a long-term capability in thermal treatment. Several potential bids were examined during this process and were not limited to off-site capability. Proposals were also considered from suppliers that would conduct treatment on the Hanford Site utilizing DOE facilities to house their processes and technologies.

Upon award, ATG commenced the permit development process through U.S. Environmental Protection Agency (EPA), Ecology, and the Washington Department of Health. In 1996, EPA and Ecology determined that the ATG permit needed to meet the proposed requirements for increased risk assessment evaluation, the proposed MACT rule, and that the Toxic Substances Control Act of 1976 (TSCA) and Resource Conservation and Recovery Act of 1976 (RCRA) permit applications should be combined into one permit. This forced ATG into delayed permit development actions and resulted in a delay in permit issuance of approximately 11 months.

ATG received its permit in June 1999 and immediately commenced construction of its non-thermal treatment facilities. Construction was conducted on an accelerated basis and non-thermal treatment commenced in December of 1999. Construction efforts by ATG then focused on the thermal processes and facilities starting in March 2000.

While ATG continued to start-up both the non-thermal and thermal treatment processes, DOE and its contractors explored other options for alternative thermal treatment capabilities starting in 1998, and continuing to the present. Chief among these alternatives was use of the DOE broad-spectrum contracts (<http://www.bechteljacobs.com/broadspectrum/bstihome.htm>). However, no other thermal treatment facilities are available for LLMW at this time under these contracts.

ATG has been confronted with several issues in attempting to complete demonstration testing. Such issues are typical of those encountered in the start-up and testing of any new, major process and facility. For example, ATG had anticipated being able to commence demonstration testing in September 2000, but encountered design problems with the main control systems that required several weeks of rework. Additionally, issues were encountered with operational problems involving two major

system components: the thermal chamber and the converter. As a result, demonstration tests were rescheduled to mid-December 2000. During the start-up of demonstration tests in December, continued technical problems were encountered with these two components, which forced ATG to cease test activities. Nevertheless, ATG worked with its regulators, including Ecology, and obtained authorization to conduct further shakedown runs *using actual Hanford mixed wastes* in accordance with its treatment permit. Thermal treatment, using the Hanford mixed wastes (granulated activated carbon [GAC]), was commenced by ATG on December 31, 2000.

After that time, ATG began working on resolving issues with the thermal chamber and converter. Additional refinements and improvements were made in control systems and operating parameters that should reduce system automated shutdowns. ATG completed these activities the week of January 22, 2001, and immediately undertook additional shakedown treatment using ethanol and GAC. As of February 13th, 2001, approximately 3500 pounds of *actual Hanford mixed waste* GAC had been introduced into the thermal chamber and treated. Continued treatment operations by ATG are ongoing and DOE, FH, and ATG are working jointly to provide a wide range of wastes for treatment that will maintain system operations and support final demonstration testing.

Under ATG's permit and radiation license constraints, ATG is allowed to initially thermally treat mixed waste as part of their shakedown process for a total 720 hours of operations in the chamber. Should ATG not obtain confidence in their ability to meet demonstration test requirements (nine days of continuous operations) within the 720 hours, the regulatory authorities can grant them an additional 720 hours of operation for a total of 1440 hours. According to the permit, once the 1440 hours has expired, the

demonstration test must occur or have occurred, otherwise operations must cease. The goal of the shakedown operations is to allow ATG to conduct actual treatment under permit conditions so that when the demonstration testing is completed, the regulatory authorities can grant unrestricted operation of the system within permit constraints. As a result of the shakedown and/or demonstration activities, treated waste meeting LDR will be produced and ready for disposal at the Hanford site (including that waste introduced into the treatment process on December 31, 2000). When ATG has successfully concluded demonstration testing, it will be allowed to increase treatment capacities for polychlorinated biphenyl's (PCB) and upper system design parameters.

ATG is reviewing its schedules for demonstration testing and working with the regulatory authorities, including Ecology, to ensure that the systems are adequately operated in the shakedown phase to support the demonstration tests.

C. Chronology

November 9, 1995 – Thermal treatment contract between Applied Technology Group, Inc. (ATG) and Westinghouse Hanford Company (WHC) signed.

June 14, 1996 – Milestone M-91-00 created by Change Request Number M-91-96-01 in substitution for M-33-00-T02 dated January 25, 1994.

July 1996 – U.S. Department of Energy (DOE) Assistant Secretary for Environmental Management (EM), Al Alm, charters a contractor-led effort to perform complex-wide integration in support of the ten-year plan process. The team (EM Integration [EMI]) is to develop a suite of technically defensible, integrated alternatives to meet the EM mission. The team is challenged to develop solutions that cross traditional site boundaries enabling programs to get the job done at a lower cost and/or at an accelerated schedule.

November 1996 – An integration meeting is held between the Waste Management Program Managers (and staff) from Idaho National Engineering and Environmental Laboratory (INEEL) and Hanford. At this meeting, opportunities are discussed for integration between the two sites. Discussions include the opportunity to incinerate Hanford mixed low level waste (MLLW) at INEEL, up to a total of ~6,500 m³. Included is an action to identify candidate Hanford waste streams for treatment at the Waste Experimental Reduction Facility (WERF). The

thought is to pilot the process, establish feasibility and cost, and then proceed with more “continuous” treatment if the pilots supported it.

December 1996 – First EMI report is issued, entitled “Integration of Transuranic and Mixed Low Level Waste Activities Across the Department of Energy Complex (Predecisional Draft).” This report includes a number of Breakthrough Actions, by site, which could result in lower costs and accelerated schedules if implemented. Included in this report (at page 28) is a Hanford Breakthrough Action relating to thermal treatment of MLLW as follows:

Treat 6,100 m³ at WERF/Toxic Substances Control Act of 1976 (TSCA) rather than contract (private contract will treat a minimum of 600 m³).

March 1997 – A revision to the EMI report is issued, entitled “Contractor Report to the Department of Energy on Opportunities for Integration of Environmental Management Activities Across the Complex (Predecisional Draft).” This report includes further analysis of the Breakthrough Actions (Pages 29-42), including a revision to the previous Hanford Breakthrough relating to thermal treatment of MLLW:

Treat 6,000 m³ at WERF/TSCA rather than contract (private contract will treat a minimum of 600 m³).

March 1997 – INEEL responds to the proposal to burn Hanford (and other site’s) waste at the WERF. INEEL issues a letter stating the WERF pricing policy. In this letter INEEL states, “The U.S. Department of Energy Idaho Operations Office (DOE-ID) has authorized return to a no-cost charging policy for treatment of wastes received from offsite customers at the Idaho National Engineering and Environmental Laboratory (INEEL) Waste Experimental Reduction Facility (WERF).” This letter reflects the support of DOE-ID for treatment of Hanford wastes at the WERF.

May 1997 – Another revision to the EMI report is issued, entitled “A Contractor Report to the Department of Energy on Environmental Management Baseline Programs and Integration Opportunities (Discussion Draft).” This report includes continued analysis of the Breakthrough Actions (Pages 10-13), as well as another revision to the previous Hanford Breakthrough relating to thermal treatment of MLLW:

Treat 1,451 m³ at WERF rather than contract (private contract will treat a minimum of 600 m³).

August 1998 – A letter is received from the DOE-ID Mixed Waste Program Manager stating that two campaigns (~25 m³ each) are “reserved” for Hanford waste in both FY 1999 and 2001. Although post-2001 campaign commitments are not formulated, it is confirmed that the INEEL Site Treatment Plan (STP)

includes allowances for incineration of up to 866 cubic meters of Hanford waste at WERF.

September 1998 – Hanford waste is shipped to INEEL WERF for incineration (96 drums of debris).

May 28, 1999 – Ecology issues Resource Conservation and Recovery Act of 1976 (RCRA) and TSCA Permit No. WAR000010355 for operation of the thermal treatment unit at ATG.

August - October 1999 – Hanford wastes are incinerated at WERF (16.65 m³).

October 1999 – INEEL STP revision still carries up to 1,300 m³ of Hanford waste for incineration at the WERF. Later copies of the INEEL STP include Hanford waste, including the 1997 STP and the 2000 STP

September 30, 1999 – EPA publishes the final standards for hazardous air pollutants released from waste incinerators and kilns, known as the Maximum Achievable Control Technologies (MACT) rule.

December 1999 – DOE Office of Inspector General conducts audits of DOE incinerators, issuing a report on WERF that recommends an accelerated closure schedule for WERF in order to save money.

May 11, 2000 – DOE-ID requests the Assistant Secretary to approve the decision not to modify WERF to comply with the MACT rule and to shut down the facility within the appropriate regulatory schedule. Assistant Secretary Huntoon's concurrence signature is on the letter.

June 2000 – DOE-ID submits notice that WERF would not comply with the MACT regulations.

June 2000 – DOE-ID submits notice to the Idaho Department of Environmental Quality (DEQ) of its intent not to upgrade the WERF to comply with the MACT regulations and its intent to cease operations on or before October 1, 2001.

July 2000 – The Idaho DEQ issues a public notice of its intent to deny a RCRA permit for WERF.

September 2000 – WERF is placed in cold standby.

September 18, 2000 – DOE/FH presents the first scorecard for M-91-12 showing 20 cubic meters of Hanford low level mixed waste (LLMW) treated at WERF.

October 3, 2000 – The Director of the State of Idaho Department of Environmental Quality issues a letter to DOE-ID notifying them of the decision to deny the Hazardous Waste Management Act Permit for the incinerator component of the WERF. This makes the impending shutdown of the WERF official.

October 18, 2000 – DOE-ID sends a memo to offsite generators asking for impacts to their Sites (particularly if Site agreements are impacted).

November 2, 2000 – DOE-Richland Operations Office (RL) sends a letter to FH indicating that there are no impacts from the WERF shutdown on Hanford and that it will communicate that message to DOE-ID. This indicates that the Hanford baseline had been changed to exclude the WERF option for thermal treatment of waste.

November 2000 – WERF incinerator operations cease.

December 14, 2000 – DOE letter to Ecology regarding “Notification of Potential to Miss Completion of Hanford Federal Facility Agreement and Consent Order (TPA) Milestone M-91-12 ‘Initiate Thermal Treatment of Mixed Waste’.”

December 20, 2000 – Ecology allows ATG to treat LLMW during the shakedown and demonstration periods provided for in the Permit.

December 26, 2000 – DOE letter to Ecology regarding “Recovery Plan for Meeting Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Milestone M-91-12.”

January 2001 – DOE, EM-20 Office of Integration and Disposition, issues report “Ensuring Viable Treatment Paths for DOE Incinerable Waste.” This report discusses the lack of DOE incineration capacity, the lack of on-line commercial incineration capacity, and the dependency of the DOE system on development of commercial incineration options.

January 12, 2001 – Ecology determination that DOE failed to comply with the Tri-Party Agreement Milestone M-91-12, “Initiate Thermal Treatment of Currently Stored and Newly Generated CH LLMW (12/31/00).”

January 24, 2001 – DOE-RL sends letter to Ecology notifying Ecology of DOE’s objection to Ecology’s determination and initiating the dispute resolution provisions of the Tri-Party Agreement.

IV. HISTORY OF ATTEMPTED RESOLUTION

Efforts to resolve the dispute at the project manager level in accordance with the dispute resolution procedures of the Tri-Party Agreement have been unsuccessful.

RL met with Ecology at their Kennewick Office on February 8th, 2001 to present a copy of "TPA Milestone M-91-12 Thermal Treatment of Hanford Waste at the Waste Experimental Reduction Facility (WERF) and Allied Technology, Inc.", a written summary of the facts; and to discuss resolution of the dispute at the Project Manager's Level.

RL offered to meet with Ecology further to discuss the information that DOE had provided. Ecology noted they would be sending the facts to their Attorney General (AG) and get back to us by February 23rd, 2001. Ecology also said that RL should be prepared to submit a Statement of Dispute at the February 27th IAMIT meeting and that such a submittal would be considered an extension of the dispute period at the project manager level by one day.