



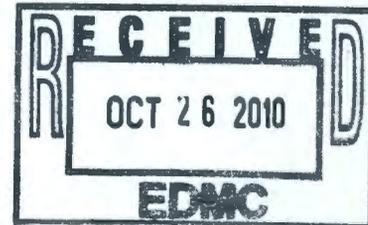
0091358

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

3100 Port of Benton Blvd • Richland, WA 99354 • (509) 372-7950

October 21, 2010

Mr. David A. Brockman, Manager
Office of River Protection
United States Department of Energy
P.O. Box 450, MSIN: H6-60
Richland, Washington 99352



Re: *State of Washington, Department of Ecology v. United States Department of Energy*,
Case No. CT-99-5076, Consent Decree, United States District Court, Eastern District of
Washington (September 30, 1999)

Dear Mr. Brockman:

In accordance with the Order Granting Third Amendment to Consent Decree (Third Amendment) filed September 9, 2003, the interim stabilization consent decree was amended. The amendment held interim stabilization requirements in abeyance for two tanks (S-102 and S-112) listed in Attachment A of the consent decree. The purpose was to allow the United States Department of Energy (USDOE) to accelerate retrieval of those tanks.¹

At the same time, the parties agreed to several milestones under the Hanford Federal Facility Agreement and Consent Order (HFFACO, also known as the Tri-Party Agreement).² Six of these milestones were specifically referenced in the Third Amendment:³

- S-102 Initial Retrieval Project Design per M-45-05B by 5/31/03.
- S-112 Saltcake Waste Retrieval Technology Demonstration Design per M-45-03D by 5/31/03.
- S-102 Initial Waste Retrieval Project Construction per M-45-05C by 3/31/04.
- S-112 Saltcake Waste Retrieval Technology Demonstration Construction per M-45-03E by 3/31/04.
- S-102 Initial Waste Retrieval per M-45-05A by 3/31/05.
- S-112 Full Scale Saltcake Waste Retrieval Technology Demonstration per M-45-03C by 3/31/05.

¹ These tanks were also removed from the calculation of the consent decree September 30, 2003, deadline regarding "percentage of pumpable liquid remaining to be removed" by that date.

² See HFFACO Change Number M-45-03-01 (September 11, 2003).

³ The dates for several of these milestones were subsequently amended. See HFFACO Change Numbers M-45-04-05 (January 10, 2005) and M-45-05-01 (August 1, 2005).



Mr. David A. Brockman
 October 21, 2010
 Page 2

All of the referenced milestones for Tank S-112 have been completed, satisfying USDOE's obligation to complete interim stabilization of this tank under the terms of the Third Amendment.⁴

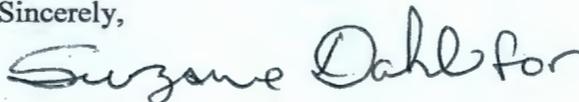
Two HFFACO milestones for Tank S-102 have been completed: M-45-05B (Initial Retrieval Project Design) and M-45-05C (Initial Waste Retrieval Project Construction).⁵ However, milestone M-45-05A (Retrieval of Tank S-102) was not completed by the milestone date of March 31, 2007. Consequently, Ecology has determined to exercise the authority provided by the following provision of the Third Amendment:

"In the event that DOE fails to complete one or more of the above HFFACO milestones by the required date, Ecology may not seek enforcement under this consent decree of the above HFFACO milestones. Rather, at Ecology's option, the requirement for interim stabilization of [tank] S-102 . . . will no longer be in abeyance, and DOE will be required by this Decree to complete interim stabilization of the subject tank(s) within 18 months of Ecology's written notification of its election."

USDOE failed to complete HFFACO milestone M-45-05A by the required date. This letter constitutes Ecology's written notification of its election under the Third Amendment to require USDOE to complete interim stabilization of Tank S-102 within 18 months of USDOE's receipt of this written notification.

We understand that you believe you have completed interim stabilization and invite you to submit your documentation for our review. If there are any questions regarding this letter, please contact Cheryl Whalen at 509-372-7972.

Sincerely,



Jane A. Hedges
 Program Manager
 Nuclear Waste Program

cc: Dennis Faulk, EPA
 Stacy Charboneau, USDOE
 Stuart Harris, CTUIR
 Gabriel Bohnee, NPT
 Russell Jim, YN
 Susan Leckband, HAB

Ken Niles, ODOE
 Cheryl Whalen, Ecology
 Administrative Record
 Environmental Portal
 USDOE-ORP Correspondence Control

⁴ The Office of River Protection (ORP) declared milestone M-45-03C completed on December 21, 2007, (07-TPD-066) and declared Tank S-112 interim stabilized on July 6, 2005 (05-TOD-050). ORP notified Ecology that milestone M-45-03D was completed by letter dated May 22, 2003, (03-TPD-048) and that milestone M-45-03E was completed by letter dated November 7, 2003 (03-TPD-112).

⁵ ORP notified Ecology that HFFACO milestone M-45-05B was completed by letter dated May 22, 2003, (03-TPD-048) and that M-45-05C was complete by letter dated March 5, 2005 (04-TPD-027).