



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

19-AMRP-0076

AUG 22 2019

Ms. Alexandra K. Smith, Program Manager
Nuclear Waste Program
Washington State Department of Ecology
3100 Port of Benton Boulevard
Richland, Washington 99354

Dear Ms. Smith:

HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) MILESTONE M-035-09K, DATA ACCESS NEEDS COMPLETION

References: (1) RL letter from W. F. Hamel, to A. K. Smith, Ecology, "Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Milestone M-035-09K, Data Access Needs Completion," 19-AMRP-0075, dated August 20, 2019.

(2) Ecology letter from A. K. Smith, to W. F. Hamel, RL, "Re: United States Department of Energy Missed Completion of Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Milestone M-035-09K and is Non-compliant with Action Plan Sections 9.6.2 and 9.6.5," 19-NWP-092, dated August 19, 2019.

In Reference (1), the U.S. Department of Energy Richland Operations Office (RL) has invoked the formal dispute resolution process. This letter documents additional information that may help expedite the dispute process to a mutually beneficial outcome to both the Washington State Department of Ecology (Ecology) and RL.

Draft Tri-Party Agreement Change Control Form M-35-19-01 was provided to Ecology by email (Hamel to Palomarez and Price) dated July 16, 2019. This change control form contained milestones that are designed to define Tri-Party Agreement and Tri-Party Agreement related documents, get Ecology and U.S. Environmental Protection Agency concurrence on this definition, and begin a process by which Ecology has electronic access to these documents. One of the challenges that RL has encountered is that Ecology has not provided an actionable definition or list of what constitutes Tri-Party Agreement and Tri-Party Agreement related data and documents. This challenge is evidenced by the structure of RL's proposed milestones. Additionally, the broad interpretation of the Tri-Party Agreement that Ecology has proposed, conflicts with federal law. RL must comply with federal law and therefore cannot adopt Ecology's interpretation.

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Receipt of the change control form was acknowledged by Ecology and a significant revision was provided back to RL by email (Price to Hamel) dated July 23, 2019. During a meeting on August 19, 2019, between Ecology and RL to discuss RL concerns with Ecology's revisions, Ecology representatives abruptly withdrew from conversations, provided a pre-signed and pre-dated copy of 19-NWP-092, dated August 19, 2019, Reference (2) and exited the meeting without further discussion.

RL requests that Ecology, in good faith, re-engage with RL in discussions concerning the establishment of interim milestones that will lead to electronic access to Tri-Party Agreement and Tri-Party Agreement related documents in accordance with the Tri-Party Agreement Action Plan Section 9.0.

If you have any questions, please contact me, or your staff may contact Kathy Higgins, of my staff on (509) 376-3658.

Sincerely,



William F. Hamel, Assistant Manager
for the River and Plateau

AMRP:WFH

cc: S. G. Austin, CHPRC
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A. L. Palomarez, Ecology
J. B. Price, Ecology
S. N. Schleif, Ecology
Administrative Record (M-035-09K)
Environmental Portal