

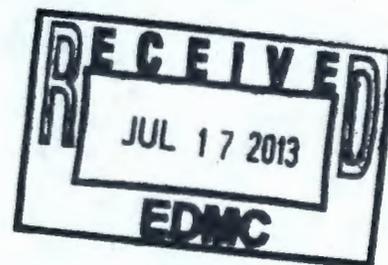
United States Government

Department of Energy

Richland Operations Office

memorandum

DATE: OCT 25 2002

REPLY TO
ATTN OF: RCA:JKY/03-RCA-0026SUBJECT: NOTIFICATION OF POTENTIAL TO MISS REGULATORY COMMITMENTS,
HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-
PARTY AGREEMENT) INTERIM MILESTONESTO: Jessie Hill Roberson, Assistant Secretary
for Environmental Management
EM-1, HQ

The following provides formal notification that the DOE Richland Operations Office (RL) has determined that Tri-Party Agreement Interim Milestones M-34-08 and M-34-18A will likely be missed. The status of these milestones was discussed with Paul Golan during his September Hanford visit.

Milestone M-34-08, "Initiate full scale K East Basin sludge removal," due December 31, 2002, is in jeopardy due to delays in the construction of the K East Basin sludge and water system. The schedule for completing the sludge and water system has slipped approximately two months due to problems associated with vendor fabrication of the system, including physical integration with suppliers, and uncertainty in the characteristics of the sludge. Fluor Hanford, Inc. (FHI) is projecting that sludge operations will begin by February 28, 2003. My Spent Nuclear Fuels Project Office has been integrally involved in the recovery action and will continue to provide stringent oversight.

M-34-18A, "Complete Removal of Spent Nuclear Fuel Equivalent to 957 Metric Tons Heavy Metal from the K West Basin," due December 31, 2002, is also in jeopardy. The removal of fuel from the K West Basin is behind schedule due to equipment problems encountered earlier this year. While we are currently predicting a delay in completing this milestone, FHI has significantly improved the response to problems and the implementation of corrective actions in the past few months. The project is currently 37 days behind the baseline schedule and a recovery schedule has been implemented. It should be noted that the project has recovered 25 days of baseline schedule over the past 12 weeks, and the project continues to pursue additional schedule improvement initiatives. If the project continues to execute to the aggressive recovery plan which requires shipping five or six multicanister overpacks per week, they may in fact meet the milestone due date.

m-034-08

m-034-18A

Jessie Hill Roberson
03-RCA-0026

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OCT 25 2002

FHI has recently replaced their Vice President for the SNF project with Norm Boyter, who has more direct project management experience. In the short time he has been on the project, my staff reports that Mr. Boyter has had a significant and positive impact on SNF operations, and he is clearly the driving force behind new process improvements being pursued by FHI. I am confident that the project is back on track and will continue to make progress on schedule recovery.

My senior staff and I continue to keep the U.S. Environmental Protection Agency (EPA) apprised of project status during regularly scheduled interagency meetings. A Tri-Party Agreement change request is not being submitted for these milestones because I believe that EPA is satisfied with actions taken to increase productivity on the project. Based on a review of leading indicators, it is clear that project performance is improving and therefore, I do not consider that EPA will pursue enforcement actions. EPA is clearly more focused on fuel removal progress and associated risk reduction than they are in pursuing enforcement actions.

If you have any questions, you may contact me, or your staff may contact Michael Schlender, Deputy Manager, on (509) 372-2849, or Steve Veitenheimer, RL Office of Spent Nuclear Fuels, on (509) 373-9725.



Keith A. Klein
Manager

cc: M. W. Frei, EM-40
J. E. Rhoderick, EM-43

M-34-08 Background/Timeline

- FH notified RL in a letter (FH-0203986) on August 28, 2002, that TPA Milestone M-034-12-T01; "*Complete Construction of K East Basin Sludge and Water System to Support Spent Nuclear Fuel Removal*", would be delayed from the September 30, 2002 due date. The significance of this is that this TPA target date activity is a predecessor activity to M-34-08, Initiate Full Scale K East Basin Sludge Removal.
- RL notified the EPA in a letter (02-RCA-0560) on September 18, 2002, that this milestone was at risk. (104 days before the due date.)
- FH notified RL in a letter (FH-0204202) on October 8, 2002, that milestone completion would be delayed. (84 days before the due date.)
- RL notified HQ (Jessie Roberson) on October 11, 2003 that RL expects this milestone to be missed.
- In the October 22, 2002, Quarterly TPA Milestone review meeting presentation materials reported that milestone M-34-08 completion would be delayed and that a new schedule would be provided by FH by 10/31/02. FH also reported in the "Issues and Concerns" section of the presentation there was a potential delay in meeting M-34-08 due to fabrication, construction, and testing.
- RL notified HQ (Jessie Roberson) on October 25, 2003 of the status of M-034-08.
- FH transmitted to RL in letter FH-0204202.1, dated October 31, 2002, a TPA Class II change request (M-34-02-05) for extending the initiation of sludge removal date from December 31, 2002, to May 28, 2003. RL did not submit this change request to the EPA.
- FH transmitted to RL in letter FH-0205994, dated December 26, 2002, the detailed completion schedule for the K East Basin SWS, supporting the May 28, 2003 date, as was explained in the November 26, 2002, biweekly DNFSB and EPA meeting;
- RL transmitted to EPA in letter 03-RCA-0092, dated December 30, 2002, a TPA change request (M-34-02-05) for extending the initiation of sludge removal date from December 31, 2002 to April 30, 2003.
- EPA transmitted to RL, a letter dated January 2, 2003 that denied TPA Change Request M-34-02-05 (Response to RL letter 03-RCA-0092.)
- The EPA and Ecology transmitted a letter to RL on January 6, 2003 stating that the EPA may invoke stipulated penalties for the failure to meet this milestone.

- RL transmitted to EPA a letter 03-RCA-0110, dated January 10, 2003 containing a notification for invoking the dispute resolution provisions of the TPA.
- RL notified HQ (Jessie Roberson) on January 10, 2003 that RL expects this milestone to be completed by the end of April 2003.
- RL failed to submit a Statement of Dispute as required by the TPA. (Dispute ended with RL accepting denial of the EPA's rejection of Change Request M-34-02-05)
- RL transmitted letter to FH (03-SFO-0020) on January 30, 2003 stating that the new completion date for M-34-08 should be April 11, 2003 and requests a FH submit a schedule to support this date.
- FH transmitted a letter (FH-0300620A R1) to RL on February 21, 2003 providing the requested schedule to support an April 11, 2003 startup.
- RL transmitted a letter (03-OOD-0104) on March 13, 2003 to FH stating that RLs intends to invoke the conditional payment of fee FH contract clause (CPOF I.20, DEAR 970.5204-86) for failure to complete this milestone on schedule and requested FH provide any mitigation factors for RL's consideration.
- RL transmitted a letter (03-RCA-0198) on April 3, 2003 to the EPA and Ecology stating that M-034-08 may experience further completion delays due to a WDOH inspection of T-Plant (Notice of Construction Approval Air 02-803 contains a requirement that WDOH perform an inspection of T-Plant facilities to ensure acceptability of the 291-T-1 stack for operation as a major emission unit and grant an approval prior to T-Plant's receipt of sludge.)
- The EPA transmitted a letter on April 3, 2003 stating that they will levy a fine of \$76,000 for DOE's failure to complete Milestone M-034-08.
- RL transmitted a letter to FH (03-SFO-0034) on April 11, 2003 to FH stating that RL has received a fine of \$76,000 for missing Milestone M-034-08 and it is RL's intent to deduct this amount from FH's earned fee.