



March 21, 2019

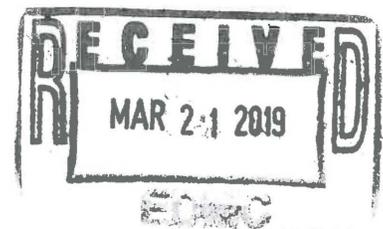
FORMAL SUBMITTAL OF WRITTEN STATEMENT OF DISPUTE: DENIAL OF THE UNITED STATES DEPARTMENT OF ENERGY – OFFICE OF RIVER PROTECTION REQUEST FOR WAIVER TO HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER WASTE RETRIEVAL CRITERIA FOR SINGLE-SHELL TANK 241-C-106

Attached is the United States Department of Energy-Office of River Protection's (DOE-ORP) written Statement of Dispute regarding the Washington State Department of Ecology's (Ecology) Denial of the DOE-ORP's request for waiver to Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement or TPA) Waste Retrieval Criteria for Single-Shell Tank 241-C-106. The DOE-ORP submits the attached written Statement of Dispute to the Interagency Management Integration Team (IAMIT), pursuant to TPA Article VIII Resolution of Disputes, Paragraph 30, A.

The DOE-ORP and Ecology have been in TPA Dispute at the Project Manager level since January 23, 2019, which was when the DOE-ORP formally initiated the subject dispute. TPA Project Managers originally had 30 days to resolve the dispute (February 22, 2019) at the Project Manager level. On February 7, 2019, the Parties signed a 30-day extension to resolve the dispute (though the initial 30 days had not expired), with a new deadline of March 25, 2019. The TPA Project Managers met on at least two occasions to attempt resolution, but were unable to achieve resolution.

Today, March 21, 2019, the DOE-ORP elevates the dispute to the IAMIT-level. The IAMIT now has 21 days to resolve the dispute, per TPA Article VIII "Resolution of Disputes" Paragraph 30, D.

Attachment: DOE-ORP STATEMENT OF DISPUTE DENIAL OF THE UNITED STATES DEPARTMENT OF ENERGY – OFFICE OF RIVER PROTECTION REQUEST FOR WAIVER TO HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER WASTE RETRIEVAL CRITERIA FOR SINGLE-SHELL TANK 241-C-106



1 **HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER**
2 **STATEMENT OF DISPUTE**

3 **DENIAL OF THE UNITED STATES DEPARTMENT OF ENERGY – OFFICE OF**
4 **RIVER PROTECTION REQUEST FOR WAIVER TO HANFORD FEDERAL**
5 **FACILITY AGREEMENT AND CONSENT ORDER WASTE RETRIEVAL CRITERIA**
6 **FOR SINGLE-SHELL TANK 241-C-106**

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9 **I. NATURE OF DISPUTE AND HISTORY OF THE ATTEMPTED RESOLUTION**

10 On June 3, 2004, the U.S. Department of Energy, Office of River Protection (DOE-ORP)
11 submitted letter 04-TPD-059, “Request for Exception to the Hanford Federal Facility Agreement
12 and Consent Order (HFFACO) Waste Retrieval Criteria, Retrieval Data Reports for Single-Shell
13 Tank (SST) 241-C-106; HFFACO Milestones M- 45-00 and M-45-05H, and Target Dates M-45-
14 05L-T01” to the Washington State Department of Ecology (Ecology). This letter was a waiver
15 request sent pursuant to Appendix H of the Hanford Federal Facility Agreement and Consent
16 Order (HFFACO; also Tri-Party Agreement or TPA) Action Plan (Appendix H), from the tank
17 waste retrieval requirements set forth in the TPA for SST 241-C-106. On August 10, 2004,
18 Ecology submitted letter, “Denial of waiver request” (Hanford Administrative Record No.
19 0062542) to the DOE-ORP. Subsequently, on October 6, 2004, the DOE-ORP also submitted
20 letter 04-TPD-094, the waiver request to the U.S. Environmental Protection Agency (EPA).

21 On August 15, 2018, the DOE-ORP submitted letter 18-ECD-0055, “Request for Waiver to
22 Hanford Federal Facility Agreement and Consent Order Waste Retrieval Criteria for Single-Shell
23 Tank 241-C-106” to Ecology and EPA. In that letter, the DOE-ORP petitioned Ecology for a
24 regulatory waiver [also herein exception request or waiver request] to the TPA, and notified
25 Ecology of the U.S. Nuclear Regulatory Commission (NRC) April 23, 2018 letter, in which NRC
26 agreed to close its review of the tank 241-C-106 exception request. The NRC’s April 23, 2018
27 letter indicated that it will evaluate post-retrieval waste volume estimates from all tanks at Waste
28 Management Area-C (WMA-C) as part of its formal consultative review of the draft WMA-C
29 waste incidental to reprocessing evaluation, WMA-C Performance Assessment and final risk
30 decision for WMA-C closure. EPA did not respond to the August 15, 2018 waiver request.

31 On January 16, 2019, Ecology submitted letter 19-NWP-012, “Re: Denial of United States
32 Department of Energy-Office of River Protection (USDOE-ORP) Request for Waiver to Hanford
33 Federal Facility Agreement and Consent Order Waste Retrieval Criteria for Single-Shell Tank
34 241-C-106” to the DOE-ORP. In that letter, Ecology again denied the DOE-ORP’s request for
35 regulatory waiver, and noted that the DOE-ORP “must complete the Appendix H SST Waste
36 Retrieval Criteria Procedure initiated in 2004”. While Ecology acknowledged that the DOE-
37 ORP had begun consulting with the NRC, Ecology claimed that the DOE-ORP had not
38 completed Step 2b of Appendix H.

40 Ecology's denial of the waiver request is inappropriate, unfounded, and inconsistent with the
41 plain language of the Appendix H processes. The DOE-ORP completed all nine steps set forth
42 in Appendix H that precede "Step 10: Waiver Acceptance" and, thus, should be granted the
43 waiver it seeks.

44 On January 23, 2019, the DOE-ORP submitted letter 19-ECD-0007, "Initiation of Dispute
45 Resolution Process for Denial of Request for Waiver to Hanford Federal Facility Agreement and
46 Consent Order Waste Retrieval Criteria for Single-Shell Tank 241-C-106" to Ecology. In that
47 letter, the DOE-ORP initiated dispute and stated that Ecology's denial of the waiver request was
48 inconsistent with the Appendix H, Figure H-1 process. The DOE-ORP also noted that Ecology's
49 letter was not received within 60 days of 18-ECD-0055, as required in Attachment 2 of
50 Appendix H.

51 Since the DOE-ORP invoked the dispute resolution process pursuant to TPA Article VIII,
52 Paragraph 30, the Parties had 30 days to resolve the dispute at the Project Manager level. On
53 February 7, 2019, the Parties signed an extension to the dispute on the Request for Waiver to
54 TPA Waste Retrieval Criteria for SST 241-C-106, which extended the dispute until March 25,
55 2019. On January 30, 2019 and on March 11, 2019, the DOE-ORP and Ecology met to discuss
56 the dispute. These meetings did not result in dispute resolution. On March 14, 2019, Ecology
57 indicated its belief that resolution cannot be achieved at the project manager level.

58 **SST 241-C-106 History**

59 The SST 241-C-106 is a 530,000-gallon tank that stored mixed radioactive waste since 1947.
60 The initial waste volume in 241-C-106 was approximately 230,000 gallons, and of that waste
61 volume approximately 197,000 gallons was sludge. The DOE-ORP began retrieval operations
62 for SST 241-C-106 in November 1998, and completed retrieval operations in December 2003.

63 First, between November 1998 and October 1999, the DOE-ORP deployed sluicing retrieval
64 technology to retrieve waste. The waste retrieval requirements that applied to this first campaign
65 were to (1) retrieve at least 95% of the estimated total sludge and (2) retrieve waste until the rate
66 of sludge is less than 7,500 gallons per 12-hour batch and until evidence of diminishing retrieval
67 effectiveness is documented for three (3) consecutive batches. In November 1999, Ecology
68 agreed that the DOE-ORP met waste retrieval criteria requirements for this retrieval campaign
69 (Hanford Administrative Record No. 0052318).

70 In August 2002, the DOE-ORP measured the volume of waste in SST 241-C-106 to be 9,056
71 gallons of solids and 26,930 gallons of liquid waste (total volume of 35,986 gallons).

72 Then, in April 2003, the DOE-ORP deployed modified sluicing with acid dissolution
73 demonstration. Acid dissolved the solids and reduced the waste into smaller particles to enable
74 waste transfer. Modified sluicing technology is sluicing with enhancements such as
75 combinations of pump and nozzle designs. The DOE-ORP determined additional waste could
76 not be retrieved using these methods due to declining performance data. In other words, the
77 DOE-ORP used three performance measures to determine whether modified sluicing and acid
78 dissolution had reached the limit of technology.

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II. THE DOE-ORP's POSITION ON THE DISPUTE

Ecology should grant the Appendix H, Step 9 regulatory waiver for SST 241-C-106 because the DOE-ORP completed all of the Appendix H steps that precede Ecology's Step 10 Waiver Acceptance since:

- a. The DOE-ORP completed its Appendix H, Step 2(b) evaluation of Appendix H, Step 1 tank retrieval goal against applicable high-level waste disposal rules, regulations and DOE Orders; and
- b. Appendix H tank waste residual retrieval process is separate and distinct from Appendix I requirements that apply to soil contamination and closure.

Ecology should grant the Appendix H, Step 9 regulatory waiver for SST 241-C-106 because:

- a. Ecology communicated to the public that retrieval was complete, and allowed the DOE-ORP to undertake subsequent steps in the stepwise Appendix H process; and
- b. There are significant time and cost impacts if SST 241-C-106 retrieval actions are deemed incomplete.

96 **III. BASIS FOR THE DOE-ORP'S POSITION ON THE DISPUTE**
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98 Ecology should grant the Appendix H, Step 9 regulatory waiver for SST 241-C-106 because the
99 DOE-ORP completed all of the Appendix H steps, including but not limited to Step 2(b), that
100 precede Ecology's Step 10 Waiver Acceptance.
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102 Appendix H, "Single Shell Tank Waste Retrieval Criteria Procedure" sets forth the process to
103 set, evaluate, and revise the criteria to determine the allowable residual waste in SSTs. In
104 contrast, note that Appendix I, "Single-Shell Tank System Waste Retrieval and Closure Process"
105 sets forth a process for the closure of the tanks and tank systems. Specifically, Appendix I states,
106 "Closure decisions for the SST system soils will be made through the RCRA corrective action
107 process..." (Appendix I, p. I-9, "WMA Corrective Actions").

108 Appendix H is clearly a step-by-step, sequential procedure, pursuant to the Parties' intent, as
109 demonstrated by its plain language. For instance, the Appendix H, "Introduction" section plainly
110 states that, "the format for this [Appendix H] procedure is to **progress through a series of**
111 **steps**". In other words, each step of the series must be completed before it is possible to progress
112 to the next step. In addition, the Appendix H, Step 2 section states, "once the [Step 1] goal has
113 been established, it is assessed against two major areas..." (Appendix H, p. H-1, Step 2 Evaluate
114 Major Assessment Areas). It is impossible to progress to Step 2 unless and until Step 1 is
115 complete, which is plainly stated by use of the conditional phrase "once the goal has been
116 established." These are just two examples that demonstrate how the plain language in Appendix
117 H captures the Parties' intent to create a sequential procedure. Since the output from each of the
118 steps that come before Step 9 form the basis of the DOE-ORP's waiver request, it follows that
119 the DOE-ORP must have completed all eight steps that preceded Step 9, including Step 2(b),
120 when it sought a Step 9 Regulatory Waiver. Even if the Appendix H procedure, which
121 comprises fourteen (14) steps, is not a step-by-step, sequential procedure (it is), the DOE-ORP
122 completed Steps 1 through 9. Appendix H provides that "each step is briefly outlined" and that
123 "each step includes elements that constitute completion of the step" (Appendix H, p. H-1,
124 "Introduction"). One way to satisfy step completion is to establish that the elements are
125 complete. However, the elements included with each step are not the exclusive means by which
126 to satisfy step completion. Said differently, it is not necessary to establish that each element is
127 complete in order to demonstrate step completion. If the Parties' intent was that each "element"
128 must be completed, then it follows that each element would be its own step.

129 On January 25, 1994, TPA Milestone M-045-00 established the Step 1 volume-based retrieval
130 goal of 360 cubic feet of residual waste or the limit of technology, whichever is lower (Appendix
131 H, p. H-1). Residual waste is narrowly defined as "**tank waste remaining in the tank after all**
132 **waste retrieval actions have been completed**. Some materials may be excluded from residual
133 waste volume calculations, subject to approval in the closure plan." (Appendix H, page H-1,
134 "Definitions of Terms Specific to Waste Retrieval Activities"). The output of both completed
135 Step 3 and completed Step 4 (which set the volume criteria) factored into the 360 cubic feet
136 "Allowable Average Residual per Tank" for the 100 Series tanks. The DOE-ORP used the
137 results of Steps 3 and 4 to complete Step 8 "Retrieval Compliance Evaluation." As its title
138 suggests, Step 8 is the process the DOE-ORP completed to determine whether to prepare a Step
139 9, "Petition for Regulatory Waiver."

140 The Step 1 retrieval goal applies to SST 241-C-106; however, the Appendix H, Step 9 and
141 Attachment 2 sets forth the process for the DOE-ORP to request an exception to the retrieval
142 goal.

143 At issue in this dispute is whether the DOE-ORP completed Step 2, “Evaluate Major Assessment
144 Areas” which requires the retrieval goal as established in Step 1 to be assessed against two major
145 areas (see above, it was established in TPA Milestone M-045-00). In order to complete Step 2,
146 the Step 1 retrieval goal must be evaluated against both major assessment areas, that is Step 2(a)
147 and Step 2(b). There must be a factual inquiry and a legal inquiry. The first of the two major
148 areas is SST Technology Demonstrations (Step 2(a)). This is a factual inquiry. The second of
149 the two major areas is Regulatory Requirements of High-Level Waste Disposal from **applicable**
150 rules, regulations, and DOE Orders (Step 2(b)). Unlike Step 2(a), **Step 2(b)** is a legal inquiry:

151
152 Evaluate regulatory requirements of high-level waste (HLW) disposal from
153 applicable rules, regulations and DOE Orders. Establish an interface with the
154 Nuclear Regulatory Commission (NRC), and reach formal agreement on the
155 retrieval and closure actions for single shell tanks with respect to allowable waste
156 residuals in the tank and soil column. Prepare input to the retrieval goal evaluation
157 (step 3) to accommodate the agreements on allowable residuals.
158

159 The Step 2(b) evaluation of regulatory requirements of high-level waste disposal only extends to
160 **applicable** rules, regulations and DOE Orders. There may be several regulatory requirements of
161 high-level waste disposal, but the Step 2(b) evaluation is limited to the sub-set of requirements
162 that are contained in **applicable** rules, regulations and DOE Orders, if any. It is therefore
163 necessary to determine the applicability of any rules, regulations and DOE Orders that contain
164 requirements of *high-level waste disposal*.

165 If there **are no** applicable rules, regulations and DOE Orders, then there are no requirements
166 against which to evaluate the Step 1 retrieval goal. If there are no applicable rules, regulations
167 and DOE Orders, then this step is complete.

168 Since there are no applicable rules, regulations and DOE Orders against which to evaluate the
169 Step 1 retrieval goal, Step 2(b) is complete. Chapter II of DOE M 435.1-1: High-Level Waste
170 Requirements discusses high-level waste disposal, stating that, “disposal of high-level waste
171 must be in accordance with the provisions of the AEA, as amended, the NWPA, as amended, or
172 any other applicable statutes.” As such, the DOE-ORP must consider applicability of Nuclear
173 Waste Policy Act 42. U.S.C. 10101 et seq. (NWPA), which has been completed.

174 The NRC has taken the position that while it has authority to license DOE **repositories for**
175 **disposal** of high-level waste, the repository must meet the NWPA definition to trigger its
176 jurisdiction. In its October 18, 2000 Federal Register Notice, NRC explained that at DOE’s
177 Savannah River site in South Carolina, high-level waste in tanks are not stored or disposed of,
178 nor intended to be stored or disposed of in a repository as that term is used in the NWPA,
179 therefore, NRC does not have jurisdiction. Similarly, neither the SSTs (including SST 241-C-
180 106), nor the soil column surrounding them are repositories, thus the NWPA is not an applicable
181 rule, regulation, or DOE Order.

182 The NWPA term **disposal** means the emplacement in a repository of high-level radioactive
183 waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of
184 recovery, whether or not such emplacement permits the recovery of such waste. The NWPA
185 term **repository** means any system licensed by the Commission [NRC] that is intended to be
186 used for, or may be used for, the permanent deep geologic disposal of high-level waste and
187 spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited
188 period during initial operation, of any materials placed in such system.

189 If there **are** applicable rules, regulations and DOE Orders against which to evaluate the Step 1
190 retrieval goal (there are not), then the DOE-ORP could complete Step 2(b) by completing the
191 elements that constitute step completion. Those elements are:

- 192 i. establish an interface with the Nuclear Regulatory Commission (NRC); and
- 193 ii. reach formal agreement on the retrieval and closure actions for single shell tanks with
194 respect to allowable waste residuals in the tank and soil column.

195
196 Ecology claims Step 2(b) is not complete because there is a lack of a required, formal agreement
197 between the DOE-ORP and NRC regarding the allowable waste residuals in the tank and the **soil**
198 **column**. Again, even if “formal agreement” was defined in Appendix H – it is not – the
199 requirement to reach one does not attach unless there are applicable rules. Additionally,
200 Appendix I sets forth the process to review the impact of releases to the **soil** (as noted, above).
201 The Appendix I procedure is detailed and robust whereas the Appendix H, Step 2(b) element that
202 merely mentions the soil column is general and cursory.

203 Ecology should grant the DOE-ORP’s Appendix H, Step 9 waiver request, since the Appendix H
204 process is sequential. The DOE-ORP completed all steps in the process that come before Step 9,
205 including Step 2(b). Even if the Appendix H process is not sequential, the DOE-ORP still
206 completed Step 2(b) for SST 241-C-106 since it satisfied the elements that constitute completion
207 of the step. To the extent that Ecology’s denial of the DOE-ORP’s Appendix H, Step 9 request
208 for waiver relies on Ecology’s erroneous belief that the DOE-ORP has not completed Step 2(b),
209 the denial must fail.

210 Ecology should grant the regulatory waiver since Appendix H is separate and distinct from
211 Appendix I.

212 Ecology inappropriately conditions Appendix H tank waste retrieval criteria waivers upon
213 Appendix I tank system soil cleanup efforts. As stated above, in contrast to the Appendix H
214 process to set, evaluate, and revise the criteria to determine the allowable residual waste in SSTs,
215 Appendix I “Single Shell Tank System Waste Retrieval and Closure Process” establishes a
216 procedure for coordinating cleanup of **contaminated soils** in tank farms. Appendix I requires a
217 performance assessment (IPA) for each WMA, which must then be approved by Ecology and the
218 DOE-ORP pursuant to their respective authorities (Appendix I, p. I-8, Section 2.5 Performance
219 Assessment). The IPA comprises four (4) volumes: DOE O 435.1 *Performance Assessment*,
220 *RCRA Closure Analysis*, *Baseline Risk Assessment and Analysis of Past Leaks*. Ecology insists
221 that DOE-ORP seek NRC review of the portions of the IPA that include radionuclides and
222 contamination in the soil, as a condition of an Appendix H waiver for SST 241-C-106. Although
223 NRC’s review of radionuclides, contamination in the soil is not required, any such review would
224 be better suited to discuss in the context of Appendix I and not Appendix H.

225 The DOE-ORP requested and NRC has agreed to provide consultation since 2003 pursuant to an
226 interagency agreement between the two agencies. NRC closed its review of the SST 241-C-106
227 waiver request via a letter to the DOE-ORP dated April 23, 2018. The DOE-ORP then submitted
228 a revised SST 241-C-106 waiver request to Ecology on August 15, 2018. NRC has been heavily
229 involved with its consultative review of the WMA-C waste determination evaluation, WMA-C
230 Performance Assessment, and final risk decision for WMA-C closure, as it noted in its letter,
231 which DOE-ORP provided to Ecology. The DOE-ORP also provided both Ecology and EPA
232 with documentation in support of its previous SST 241-C-106 waiver requests. The extent of
233 NRC involvement in the evaluation of the Appendix I context, specifically the IPA products,
234 dwarfs any consultation in suggested in Step 2(b) of Appendix H. To the extent that Ecology's
235 denial of the DOE-ORP's Appendix H, Step 9 request for waiver relies on Ecology's erroneous
236 belief that NRC must provide consultation with regard to soil under Appendix H, the denial must
237 fail.

238 Ecology should grant the regulatory waiver for SST 241-C-106 because Ecology communicated
239 to the public that the retrieval was complete and allowed DOE-ORP to undertake subsequent
240 steps in the stepwise Appendix H process.

241 Ecology has previously represented to the DOE-ORP and to the public that tank retrieval in
242 WMA-C, including SST 241-C-106, is complete. Nearly fifteen (15) years have passed since
243 December 2003, when the SST 241-C-106 retrieval was completed. The final volume of residual
244 waste after use of two (2) retrieval technologies was estimated to be 370 cubic feet, or ten (10)
245 cubic feet above the retrieval goal. Again, residual waste is defined as waste remaining in the
246 tank after all waste retrieval actions have been completed. The DOE-ORP reported SST 241-C-
247 106 retrieved during both the DOE-ORP TPA Milestone Review that occurred on August 24,
248 2004 and during the DOE-ORP TPA Milestone Review on August 20, 2009. The requirement to
249 submit either a "Retrieval Data Report or **Appendix H**" to Ecology/EPA was also reported
250 complete on August 20, 2009. The TPA Interagency Management Integration Team (IAMIT)
251 representatives approved meeting minutes for both milestone reviews. In March 2018,
252 Ecology's publication 18-05-007, "Hanford Tanks Status Update Newsletter" reported that
253 active retrieval of all SSTs in WMA-C was complete. If Ecology denies a waiver request for
254 SST 241-C-106 at this stage, then Ecology has misled the DOE-ORP and the public,
255 presumably in bad faith.

256 Ecology should grant the regulatory waiver for SST 241-C-106 because there are significant time
257 and cost impacts if SST 241-C-106 is deemed incomplete.

258 Appendix H sets forth consequences if a waiver request is not accepted. Specifically, Step 10
259 states "if the waiver is not accepted, additional retrieval operations are required" and Attachment
260 H-2 states "if the request is denied, the DOE-ORP must continue to attempt to retrieve the tank
261 waste until the criteria is met for the tank" or enter into dispute. The WMA-C demobilization
262 ended in September 2018, which means that any ongoing work in WMA-C is not operations
263 based, such that additional retrievals are not feasible. Between December 2003 and September
264 2018, ancillary retrieval equipment, infrastructure was removed. Ecology's position – that
265 Appendix H process is not complete – could result in additional SST 241-C-106 retrievals.
266 Additional SST 241-C-106 retrievals could substantially delay WMA-C closure. . A Rough
267 Order of Magnitude cost estimate to deploy additional retrieval technology at SST 241-C-106 is
268 nearly \$35 - \$50 million. Additional SST 241-C-106 retrievals could take between two and

269 three years to complete. The resulting schedule impacts and cost impacts to work planned at
270 other tank farms have not yet been estimated, but the cascading effects of performing additional
271 SST 241-C-106 retrievals could impact construction and retrieval operations at A/AX Farms,
272 Direct Feed Low Activity Waste staging between AP and AN Farms, 242-A Evaporator
273 campaigns and durations, and 222-S laboratory support for in-process and post-retrieval sample
274 analyses. Overall, cleanup of the central plateau could be delayed if Ecology denies the waiver
275 request.

276 In conclusion, Ecology should grant the DOE-ORP's Step 9 request for waiver for SST 241-C-
277 106. Since the DOE-ORP completed all of the steps of the Appendix H process that precede the
278 Step 9 request, including but not limited to Step 2(b), Ecology has no basis to justify a denial.
279 The DOE-ORP chose to consult with NRC in the context of Appendix I, even though the DOE-
280 ORP has no obligation to do so in the context of Appendix H. Ecology led both the DOE-ORP
281 and the public to believe that WMA-C and SST 241-C-106 tank waste retrievals were complete.
282 If Ecology refuses to grant the DOE-ORP the waiver it seeks, which could result in additional
283 tank retrievals, then Ecology has operated in bad faith for many years. If Ecology insists that
284 SST 241-C-106 retrievals are not complete, there are significant time and impact costs to other
285 critical Hanford projects.

286

IV. REFERENCES/SUPPORTING INFORMATION

- 287 DOE 1999, IAMIT Determination M.A. Wilson, Ecology, W.W. Ballard DOE, *Subject:*
288 *Completion of Hanford Federal Facility Agreement and Consent Order (Tri-Party*
289 *Agreement) Interim Milestone M-45-03B, Complete Sluicing Retrieval of Tank 241-C-*
290 *106 Sludge, Due December 31, 1999, 0052318, dated November 11, 1999.*
- 291 DOE 2002, Letter J.E. Rasmussen, ED, to M.A. Wilson, Ecology, subject: *Completion of*
292 *Hanford Federal Facility Agreement and Consent Order (HFFACO) Proposed Milestone*
293 *M-045-06A, "Submittal of Single Shell Tank System Closure Plan, Rev. 0", [02-ED-034](#),*
294 *dated December 17, 2002.*
- 295 DOE 2003, Letter R.J. Schepens, DOE-ORP, to M.A. Wilson, Ecology, subject: *State of*
296 *Washington Department of Ecology (Ecology) Expectations for Single Shell Tank (SST)*
297 *System Waste Retrieval Requirements, 03-TPD-092, dated, September 25, 2003.*
- 298 DOE 2004, Letter R.J. Schepens, DOE-ORP, to M.A. Wilson, Ecology, subject: *Completion of*
299 *Tank 241-C-106 Waste Retrieval, 04-TPD-030, dated, March 11, 2004.*
- 300 Ecology 2004, Consent Order, *Change Title: Hanford Federal Facility Agreement and Consent*
301 *Order (HFFACO or Agreement) Modifications pursuant to milestone M-45-00C*
302 *Including Appendix D work schedule modifications governing single-shell tank (SST)*
303 *system waste retrieval and closure, and the establishment of new Agreement Appendix I,*
304 *"Single-Shell Tank System Waste Retrieval and Closure Process." Change No. M-45-04-*
305 *01, dated March 30, 2004.*
- 306 Ecology 2004, Letter J.J. Lyon, NWP to R.J. Schepens, DOE-ORP, subject: *Single-Shell Tank*
307 *241-C-106, 0401068, dated April 5, 2004.*
- 308 DOE 2004, Data Report T.L. Sams, CH2M, subject: *Stage II Retrieval Data Report for Single-*
309 *Shell Tank 241-C-106, RPP-20577, dated May 24, 2004.*
- 310 DOE 2004, Letter R.J. Schepens, DOE-ORP, to M.A. Wilson, Ecology, subject: *Request for*
311 *Exception to the Hanford Federal Facility Agreement and Consent Order (HFFACO)*
312 *Waste Retrieval Criteria, Retrieval Data Reports for Single-Shell Tank (SST) 241-C-106;*
313 *HFFACO Milestones M- 45-00 and M-45-05H, and Target Dates M-45-05L-T01, 04-*
314 *TPD-059, dated June 03, 2004.*
- 315 DOE 2004, Report T.L. Sams, CH2M, *Re: Change Request for Stage I Retrieval Data Report*
316 *for Single-Shell Tank 241-C-106, RPP-20110 Rev. 1, dated June 23, 2004.*
- 317 DOE 2004, Report T.L. Sams, CH2M, *Re: Basis for Exception to the Hanford Federal Facility*
318 *Agreement and Consent Order Waste Retrieval Criteria for Single-Shell Tank 241-C-106,*
319 *RPP-20658 R.1, dated June 24, 2004.*
- 320 Ecology 2004, Letter M.A. Wilson, Ecology to R.J. Schepens, DOE-ORP, *Re: Denial of waiver*
321 *request, 0062542, dated August 10, 2004.*

322 DOE 2004, Meeting minutes E.J. Murphy-Fitch, Fluor, *Subject: Tri-Party Agreement Milestone*
323 *Review – Office of River Protection*, 0063140, dated August 24, 2004.

324 DOE 2004, Letter R.J. Schepens, DOE-ORP, to M.A. Wilson, Ecology, *Subject: Request for*
325 *Exception to the Hanford Federal Facility Agreement and Consent Order (HFFACO)*
326 *Waste Retrieval Criteria for Single-Shell Tank (SST) 241-C-106*, 04-TPD-086, dated
327 August 27, 2004.

328 DOE 2004, Letter R.J. Schepens, DOE-ORP, to N. Ceto, EPA, subject: *Request for Exception for*
329 *to Hanford Federal Facility Agreement and Consent Order (HFFACO) Waste Retrieval*
330 *Criteria, Retrieval Data Reports for Single-Shell Tank (SST) 241-C-106*, 04-TPD-094,
331 dated October 06, 2004.

332 Ecology 2005, Waiver request Ecology to DOE-ORP, subject: *Change Proposed to the Schedule*
333 *for Tank Waste Retrieval Negotiations (TPA Milestones M-45-00C, M-62-08, M-62-11)*,
334 0063316, dated January 04, 2005.

335 NRC 2005, Letter A.H. Bradford, ONMSS, to R.J. Schepens, DOE-ORP, *subject: Request for*
336 *Additional Information on the Office of River Protection’s Basis for Exception to the*
337 *Hanford Federal Facility Agreement and Consent Order Waste Retrieval Criteria for*
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V. DOE PATH FORWARD TO RESOLVE DISPUTE

398 Ecology should grant the DOE-ORP's Step 9 request for waiver for SST 241-C-106. For reasons
399 set forth above, the DOE-ORP proposes to resolve this SST 241-C-106 retrieval dispute so that
400 the Parties can proceed with discussions that relate to the Appendix I PA. To the extent that
401 Ecology believes it necessary for a third party to evaluate radionuclides in soil, DOE-ORP
402 asserts that those concerns will best be allayed by the eventual CERCLA decision for both
403 radionuclides and non-radionuclides in soil.

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