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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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July 13, 1995

Mr. James Rasmussen, Director  
Environmental Assurance, Permits and Policy Division  
United States Department of Energy  
P.O. Box 550  
Richland, WA 99352

**RECEIVED**  
JUN 25 2007  
**EDMC**

Dear Mr. Rasmussen:

This letter is provided to you pursuant to Article VII, paragraph 29 of the Hanford Federal Facility Agreement and Consent Order (Tri Party Agreement or TPA).

Be advised that the U.S. Department of Energy (DOE) has been found to be in violation of requirements of the TPA, and Washington's Hazardous Waste Management Act, Chapter 70.105 Revised Code of Washington (RCW). Violations noted have been documented by staff meetings, discussion, correspondence, and TPA dispute resolution proceedings regarding DOE compliance with work schedules under TPA milestone M-43-00 (tank farm upgrades). During these interactions it has been found that DOE is in violation of TPA requirements including the following:

- 1.) Subsequent to approval of tank farm upgrade work schedules (TPA Amendment Four, January 25, 1994) DOE failed to perform agreed upon work. Such failure is in violation of TPA requirements including those found at Article VII, paragraph 26.
- 2.) Subsequent to approval of tank farm upgrade work schedules DOE failed to undertake all actions required by the terms and conditions of the TPA, including all necessary measures to assure that its contractors, subcontractors and consultants performing work under the TPA act in a manner consistent with the terms of the TPA. As a specific example we note that DOE HQ "project validation", Energy System Acquisition Advisory Board (ESAAB), and "key decision" (KD) authorization processes are not coordinated with, or supportive of TPA requirements. Such failure constitutes a violation of TPA requirements (e.g., Article II, paragraphs 10 and 11).

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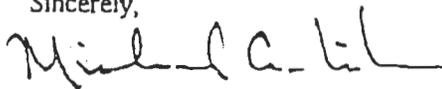
- 3). Subsequent to approval of tank farm upgrade work schedules DOE failed to comply with the terms of TPA Article XXX, paragraph 102 which require that: "Any additional work or modification to work determined to be necessary by DOE shall be proposed to the Lead Regulatory Agency by DOE and will be subject to review in accordance with the appropriate Dispute Resolution procedures of Part Two or Part Three of this Agreement, as appropriate, prior to initiation."
- 4). Despite receipt of a Final Determination pursuant to the TPA in the matter of the disapproval of the DOE's change control form M-43-95-01, DOE is continuing on a unilateral course of action which is inconsistent with requirements of the TPA. Such action(s) constitute a violation of both said Final Determination and the TPA (e.g., TPA Article VIII, paragraph 30(1)).
- 5.) Subsequent to approval of tank farm upgrade work schedules DOE failed to comply with TPA interim milestones M-43-02A and M-43-04A (Submittal of project W-314A and W-314B Conceptual Design Reports / 5/31/95).

The preceding violations also constitute violation of Washington's Hazardous Waste Management Act in that they violate requirements established pursuant to RCW 70.105.095, which have been recognized as reasonable and necessary actions required to achieve compliance with said Act.

Based on these findings Ecology is considering issuance of enforcement action(s), consistent with its responsibilities to ensure compliance with provisions of the TPA and Washington's Hazardous Waste Management Act, pending receipt of any response DOE may submit pursuant to TPA paragraph 29.

If you have any questions regarding this matter, please feel free to call me at (360) 407 7150.

Sincerely,



Mike Wilson, Manager  
Nuclear Waste Program

cc: Tanya Barnett, Office of the Attorney General  
Steve Cowan, DOE HQ  
Larry Arnold, WHC  
Administrative Record