



0056397

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

02-RCA-0165

JAN 31 2002

Mr. Michael A. Wilson, Program Manager
Nuclear Waste Program
State of Washington
Department of Ecology
1315 W. Fourth Avenue
Kennewick, Washington 99336

RECEIVED
FEB 20 2002

EDMC

Dear Mr. Wilson:

TRANSMITTAL OF STATEMENT OF DISPUTE (SOD) FOR HANFORD FEDERAL
FACILITY AGREEMENT AND CONSTENT ORDER (TRI-PARTY AGREEMENT)
MILESTONE M-091-03 AND COMMITMENT DATE FOR M-091-01

Enclosed for your review and action is the U.S. Department of Energy, Richland Operations Office's SOD for Tri-Party Agreement Milestone M-091-03 and commitment date for M-091-01. This SOD effectively elevates the M-091-03 and commitment date for M-091-01 dispute to the Inter Agency Management Integration Team level per Article VIII, Paragraph 30, Section A of the Tri-Party Agreement. If you have any questions regarding this SOD, please contact me on (509) 372-2400, or contact Pete M. Knollmeyer, Assistant Manager for the Central Plateau on (509) 376-7435.

Sincerely,

Joel Hebdon, Director
Regulatory Compliance and Analysis Division

RCA:EBD

Enclosure

cc: See page 2

**STATEMENT OF DISPUTE FOR
MILESTONE M-091-03 AND COMMITMENT DATE FOR M-091-01**

I. NATURE OF DISPUTE

This dispute is submitted by the U.S. Department of Energy (DOE) pursuant to Article XL of the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement). On October 31, 2001 the parties signed an agreement, pursuant to Article VIII, Resolution of Disputes, Paragraph 30 of the Tri-Party Agreement, extending formal negotiations at the Project Manager's Level from October 31, 2001, to January 31, 2002, concerning the Tri-Party Agreement Change Request 91-00-04 for M-091-03, "The Transuranic/Transuranic Mixed (TRU/TRUM) Waste Project Management Plan". The parties agreed that if the negotiations were not successful, and the U.S. Department of Energy, Richland Operations Office (RL) wished to extend the dispute, RL would submit a Statement of Dispute to the Interagency Management Integration Team by February 1, 2002. RL also submitted Change Request M-091-00-03 seeking to establish new dates for processing TRU/TRUM, a commitment for M-091-01 which is also part of this dispute.

On January 31, 2002, RL requested a 60 Day Extension of the dispute to incorporate results from the DOE Fiscal Year 2003 Budget, and the "Top to Bottom" review currently being conducted by DOE Headquarters. Ecology did not approve the Request for an Extension.

II. DOE'S POSITION ON THE DISPUTE

It is the position of RL that it should be granted the 60 day extension so that it can establish funding priorities and corresponding milestone activities consistent with the

"Top to Bottom" review and Fiscal Year 2003 budget currently being performed by DOE's Office of Environmental Management.

III. SUPPORTING INFORMATION

A. Milestone History

After the signing of the original Tri-Party Agreement in 1989 several significant issues arose which impacted the existing strategy for disposal of Hanford's high-level tank wastes. Among these issues were the emergence of several serious waste tank safety issues, questions regarding the ability of the existing B Plant to perform tank waste pretreatment functions, the decision to retrieve the contents of the Single-Shell Tanks, and performance questions surrounding the use of "grout" to immobilize low-level wastes among others. In late 1992 and in early 1993 the U. S. DOE proposed modifications to the Tri-Party Agreement schedules related to the treatment and disposal of tank wastes. An agreement in principle was ultimately approved on March 31, 1993 controlling the conduct of Tri-Party Agreement negotiations to take place between May and September of 1993. Subsequently, to clarify their expectations and the scope of the negotiations the U.S. EPA and Ecology, in an April 20, 1993 letter, laid out a series of 28 specific areas which the DOE would have to successfully address as part of the renegotiation of tank waste schedules in the Tri-Party Agreement.

One of the 28 specific areas required to be addressed as part of the negotiations was the development of commitments for providing facilities for the storage, treatment and/or disposal of a wide range of radioactive solid materials not yet covered by the Tri-Party Agreement. The resulting agreements reached in September of 1993 included the establishment of a new Tri-Party Agreement Major Milestone, M-33-00. This milestone required the completion of a Site-Wide Systems Analysis which would be the basis for additional milestones for acquisition of necessary facilities. These new milestones were to be developed and proposed to the U. S. EPA and Ecology by June 30, 1995.

A change request, proposing new milestones, was submitted to the U.S. EPA and Ecology in December 1995 in fulfillment of the M-33-00 milestone. The submittal of the change request initiated a series of negotiations which were successfully completed on June 14, 1996. The outcome of these negotiations was the establishment of three new major milestones including the M-90-00, M-91-00 and M-92-00 series with 32 supporting interim milestones. Within the M-91-00 major milestone there were 5 new interim milestones and 3 target dates established related to treatment and disposal of Transuranic and Transuranic mixed wastes on the Hanford Site.

B. TPA Document Chronology

June 28, 2000 – RL submitted the Project Management Plan for TRU/TRUM waste as part of the requirements for M-091-03, as well as change request M-91-00-04.

September 28, 2000 – RL submitted Change request M-91-00-03 seeking to establish new dates for the processing of TRU/TRUM, a commitment for M-091-01.

October 13, 2000 – Change requests M-91-00-03 and M-91-00-04 disapproved by Ecology and dispute resolution initiated for “deficiencies of the Project Management Plan for Transuranic and Transuranic Mixed waste per Tri-Party Agreement M-91-03”.

October 19 2000 – Dispute resolution procedures initiated by RL for disapproval of change request M-91-00-04.

March 29, 2001 –TRU/TRUM PMP resubmitted to Ecology by RL.

April 6, 2001 – Additional information and a new draft change request submitted by RL.

April 9, 2001 – Letter from Ecology acknowledging receipt of TRU/TRUM PMP, but asserting that there are not enough enforceable commitments. Letter further indicates that Ecology will recommend at April 24, 2001 IAMIT to extend dispute to May 22, 2001.

April 24, 2001 – Dispute extended by the parties to May 22, 2001.

May 22, 2001 – Dispute extended by the parties to June 26, 2001.

June 14, 2001 – Letter from Ecology agreeing to extend the dispute resolution to September 1, 2001, at which time the parties will enter into formal negotiations. The letter further states that if, by October 31, 2001, the parties have not resolved the dispute, RL can file a Statement of Dispute to elevate the dispute to the IAMIT.

June 26, 2001 – Dispute extended by the parties to June 29, 2001.

June 29, 2001 – Dispute extended by the parties to October 1, 2001 to begin formal negotiations at Project Manager’s level. Parties further agree to conclude formal negotiations by October 31, 2001 and, if agreement not reached by that date, to elevate the matter to the IAMIT by November 1, 2001.

October 31, 2001 – The DOE and Ecology agree to extend the dispute resolution deadline, at the Project Manager's level, to January 31, 2002. The parties agree that if there is no resolution, RL can elevate the dispute to the IAMIT level on by submitting a Statement of Dispute by February 1, 2002.

C. History of Attempted Resolution

Efforts to resolve the dispute at the Project Manager level in accordance with the dispute resolution procedures of the Tri-Party Agreement have been unsuccessful. See Section A "Milestone History" and Section B "TPA Document Chronology" above.

IV. STATEMENT OF ERRORS ALLEGED

Project Manager's are not considering new information from the Top-to-Bottom Review that would be issued by DOE at or near project manager deadlines for dispute resolution. This new information could impact existing TPA milestones and milestone proposals presently unacceptable to the parties. The impacts from the Review cannot be anticipated or fully appreciated until it is received, thus any commitments proposed or made at this time are purely speculative in nature. RL desires to be genuine in commitments it makes to regulatory agencies by assuring the commitments truly are achievable.

V. RELIEF SOUGHT

RL requests that the IAMIT Team meet to discuss the Top-to-Bottom Review impacts, new information, or redirection, if any, impacting milestones M-91-03 and commitment for a date for M-91-01. Upon understanding one another's interests and capabilities that

DOE be permitted to submit an acceptable TPA change package reflecting unanimous resolution of the dispute resulting from those discussions.

Mr. Michael A. Wilson
02-RCA-01

-2-

JAN 31 2002

cc w/encl:

R. Gay, CTUIR

J. S. Hertzell, FHI

R. Jim, YN

O. S. Kramer, FHI

T. M. Martin, HAB

E. J. Murphy-Fitch, FHI

K. Niles, Oregon Energy

D. R. Sherwood, EPA

P. Sobotta, NPT

R. F. Stanley, Ecology

Administrative Record