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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

7001 W. Clearwater, Suite 102 • Kennewick, Washington 99336 • (509) 546-2990

November 15, 1993

Mr. James Bauer  
Office of Environmental Assurance, Permits and Policy  
Department of Energy, Richland Field Office  
P.O. Box 550  
Richland, WA 99352

Dear Mr. Bauer:

Re: Letter, S. H. Wisness, RL, to D. B. Jansen, Ecology, "RE: Dispute Resolution M-20-30," dated December 10, 1992

26153

This letter is to notify you that the Washington State Department of Ecology (Ecology) has accepted the remedial disposition proposed in the Tri-Party Agreement Issue Analysis Worksheet dated November 1, 1993, for the 303-M Oxide Facility. Acceptance of this proposal by Ecology resolves the dispute resolution for M-20-30 (303-M Oxide Facility) initiated by the U.S. Department of Energy (USDOE) on December 10, 1992.

In accordance with the accepted proposal, Ecology will retain the 303-M Facility RCRA Part A, Form 3, Permit Application until Ecology is satisfied that appropriate remediation at the facility under CERCLA has occurred, after which withdrawal of the 303-M Oxide Facility Part A will be accepted.

The draft Change Control Form, M-20-92-05, dated November 9, 1993, reflects the accepted proposal and I anticipate that it will be signed by Mr. Roger Stanley during the November 1993 Project Managers meeting.

If you have any questions regarding this letter, please call me at (509) 736-3020.

Sincerely,

Handwritten signature of G. Thomas Tebb in black ink.

G. Thomas Tebb  
RCRA Unit Supervisor  
Nuclear and Mixed Waste Management Program

GTT:sr

- Enclosures:
1. TPA Issue Analysis Worksheet
  2. TPA Change Control Form dated 11/9/93



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bcc: Roger Stanley  
Dave Jansen  
Dave Nylander  
Darci Teel  
Moses Jaraysi  
Administrative Record

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Tri-Party Agreement Issue Analysis Worksheet

Issue Advocate: R. N. Krekel Date: November 1, 1993

Disputing parties: U.S. Department of Energy, Richland Operations Office (RL) and State of Washington, Department of Ecology (Ecology).

ISSUE DESCRIPTION:

Under the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Interim Milestone M-20-30, RL is required to submit a Part B permit application for the 303-M Oxide Facility (303-M) to Ecology.

The Part A permit application for this unit was submitted in anticipation of using the 303-M to support future fuel manufacturing and depleted uranium projectile fabrication activities. However, the 303-M ceased all operations on February 11, 1987, and RL has no plans to resume operations at this unit.

RL asserts that the 303-M did not treat, store, or dispose of mixed waste after November 23, 1987, the date the State of Washington received authorization to regulate mixed waste under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Therefore, RL believes it appropriate to withdraw the Part A permit application. This action will release RL from all further regulatory permitting and closure requirements under RCRA for the 303-M.

Ecology asserts that it had authority since June 1984 to regulate the mixed waste managed at the 303-M. Because Ecology believes that the unit continued to manage regulated dangerous waste after that time, Ecology believes the unit would be required to obtain a permit to operate or undergo RCRA closure.

BACKGROUND:

The 303-M was constructed in 1982 and early 1983. It is located in the north central portion of the 300 Area on the Hanford Facility. The 303-M is located directly above a solid waste burial site, the 618-1 Burial Ground.

The 303-M calcined the saw fines and lathe turnings of slightly enriched uranium and Zircaloy-2 to eliminate their pyrophoric nature. The pyrophoric nature of the Zircaloy-2 and the radioactive component would classify the fines as mixed regulated waste, if they had been processed after the effective date of the application of regulations to mixed waste.

The 303-M ceased operations on February 11, 1987. It was cleaned out a week later, removing all uranium and excess material from floor trenches, tanks, equipment and sumps in accordance with UNC Nuclear Industries' Fuels Operations, Operating Procedure D-424 (Oxide Facility Uranium Cleanout). No material was left in place.

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In addition, 303-M was placed on final standby status. To achieve final standby status, activities included, but were not limited to, the following: the building utilities were disconnected; the floors, walls, trenches and equipment were decontaminated; and a cover was placed on the outside High Efficiency Particulate Air (HEPA) filter exhaust stack.

The 618-1 Burial Ground is located in the 300-FF-2 Operable Unit, and will be remediated under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). The CERCLA remedial actions taken will directly affect the 303-M. It is expected that the building will be further decontaminated as necessary and decommissioned by RL and disposed of in accordance with the substantive portions of RCRA since RCRA would be an Applicable Relevant and Appropriate Requirement (ARAR) under the CERCLA activities. The current condition of the 303-M and the CERCLA remedial and cleanup actions of Burial Ground 618-1 negate the need for taking the RCRA administrative actions of writing and submitting a 303-M Oxide Facility RCRA Closure Plan. The 300-FF-2 Operable Unit Work Plan would incorporate all the substantive standards of RCRA as applicable ARARs for closure and disposal of the building during cleanup.

#### ALTERNATIVE CONSIDERED:

RL would be required to submit: 1) a Tri-Party Agreement Change Request Form requesting a change from submitting a Part B Permit Application to submitting a RCRA Closure Plan, and 2) a RCRA Closure Plan.

**DISADVANTAGES:** Because the 303-M does not pose an immediate threat to human health or the environment and because it has been cleaned out, closed, and placed in final standby status by RL, no immediate or expedited action is required that could justify the double remediation and expenditure of cleanup funds. Requiring a RCRA closure plan and subsequent RCRA remediation activity in addition to the CERCLA remedial activity already slated for an operable unit site in which the 303-M is located is a duplication of remedial effort, resources, and time, and an imprudent expenditure of taxpayer resources.

Little or no progress towards the cleanup of Hanford is demonstrated by this alternative since the final remediation of the 303-M would have to be scheduled for RCRA closure as well as wait for decontamination and removal under CERCLA.

**ADVANTAGES:** Satisfy the current administrative requirement of the Tri-Party Agreement by submitting a RCRA Closure Plan.

#### PROPOSED SOLUTION:

The proposed solution is to conduct final disposition of 303-M as part of, and during, the 618-1 Burial Ground remediation process under CERCLA in which the substantive portions of the Washington State Dangerous Waste Regulations among other things would apply as ARARs. RL will cleanup to the substantive standards of RCRA and the Washington State Dangerous Waste Regulations at the 303-M as determined under the CERCLA Work Plan for the 300-FF-2 Operable Unit. RL would not be required to submit either a Part B permit application or a RCRA Closure Plan for the 303-M to Ecology since these requirements are administrative in nature. This proposal requires RL to include remediation of the 303-M with the 618-1 Burial Ground in the final remediation strategy and work plan for the 300-FF-2 Operable Unit.

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Ecology retains the 303-M Oxide Facility RCRA Part A Permit Application, Form 3, until it is satisfied that an appropriate disposition of the unit will or has occurred under the CERCLA remediation, at which time it permits the withdrawal of the application. Since 303-M is no longer operational, no hazardous waste exists there and the unit is not an immediate threat to human health or the environment, Ecology agrees the 303-M is not required to comply with dangerous waste interim status requirements. Such requirements include, but would not be limited to, the following:

- o General Waste Analysis, WAC 173-303-300
- o Security, WAC 173-303-310 (\*)
- o General Inspection, WAC 173-303-320
- o Personal Training, WAC 173-303-330
- o Preparedness and Prevention, WAC 173-303-340
- o Contingency Plan and Emergency Procedure, WAC 173-303-350 (\*)
- o Emergencies, WAC 173-303-360 (\*)
- o Manifests (not applicable to on-site shipments), WAC 173-303-370
- o Facility Recordkeeping, WAC 173-303-380
- o Facility Reporting, WAC 173-303-390
- o Other General Requirements, WAC 173-303-395

However, due to DOE orders and Westinghouse Hanford policies, the interim requirements noted (\*) above are satisfied.

Although not discussed as part of this issue resolution, all parties reserve all their rights and defenses available under the law regarding the mixed waste authority issue underlying this dispute. By resolving this dispute, Ecology does not concede that it lacked regulatory authority over mixed waste prior to 1987. Likewise, by resolving this dispute, RL does not concede that Ecology had authority over mixed waste prior to 1987.

**DISADVANTAGES:** The Tri-Party Agreement Interim milestone for submittal of a Part B permit application will be postponed and eventually canceled, along with the withdrawal of the Part A permit application.

**ADVANTAGES:** The proposed resolution allows disposition of the 303-M to substantive RCRA standards without undue expenditure of taxpayer resources and duplication of the administrative processes, which includes costs for cleanup of the 303-M and the 618-1 Burial Ground sites.

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Change Number <b>M-20-92-05</b>	<b>Federal Facility Agreement and Consent Order                  Change Control Form</b> Do not use blue ink. Type or print using black ink.	Date
Originator <b>J. E. Mecca</b>		Phone <b>(509) 376-7471</b>
Class of Change <input type="checkbox"/> I - Signatories <input checked="" type="checkbox"/> II - Project Manager <input type="checkbox"/> III - Unit Manager		
Change Title <b>Delete 303-M Oxide Facility Milestone M-20-30, and Incorporate 303-M into the 300-FF-2 Operable Unit</b>		
Description/Justification of Change Delete Tri-Party Agreement Milestone M-20-30 (submission of a Part B permit application) in Appendix D (Table D-3 and Figure D-1). Add 303-M Oxide facility to Operable Unit 300-FF-2 in Appendix C. Change the planned action for the 303-M facility in Appendix B from a treatment permit to closure and add 300-FF-2 as the applicable Operable Unit. With the mission change at Hanford from production of nuclear fuels to environmental cleanup, the 303-M Oxide Facility will not be operated to store and calcine mixed waste as originally planned. The parties agree that investigation and any resultant cleanup activities resulting from prior operations of the 303-M facility will be conducted in conjunction with the past practice activities under milestones M-15 and M-16 respectively (see attached Issue Resolution Worksheet). The 303-M Facility is located within the boundary of the 300-FF-2 Operable Unit.		
Impact of Change <b>No significant impact.</b>		
Affected Documents <b>Hanford Federal Facility Agreement and Consent Order Action Plan, Appendix D, Table D-3 (Page D-17) and Figure D-1 (page 19 of 25), and Appendices B and C.</b>		
Approvals <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved  DOE _____ Date _____ EPA _____ Date _____ Ecology _____ Date _____		

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*Tom - Here is the latest version with minor edits. Randy 11/9/93*

Post-It™ brand fax transmittal memo 7871		# of pages > 1
To T. Tebb	From R. Krekel	
Co. Ecology	Co. USDOE	
Dept. RCRA	Phone # 376-4264	
Fax # 736-3036	Fax # 376-0306	

RESPONSIBLE MANAGERS: R. N. Krekel, RL; G. T. Tebb, Ecology

Step			Initial	Date
1	<input checked="" type="checkbox"/> Resolved	<input type="checkbox"/> Unresolved- To Project Managers	RLK J.P.P.	11/1/93 11/1/93
2	<input type="checkbox"/> Resolved	<input type="checkbox"/> Unresolved- To members of DRC	_____	_____
3	<input type="checkbox"/> Resolved	<input type="checkbox"/> Unresolved- To SEC	_____	_____
4	Resolved by SEC		_____	_____

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## CORRESPONDENCE DISTRIBUTION COVERSHEET

Author	Addressee	Correspondence No.
G. T. Tebb, Ecology	J. D. Bauer, RL	Incoming 9308802

Subject: RE: LETTER, S. H. WISNESS, RL, TO D. B. JANSEN, ECOLOGY, "RE: DISPUTE RESOLUTION M-20-30," DATED DECEMBER 10, 1992

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