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Heart of America Northwest

"Advancing our region's quality of life."

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JUL 13 1998

BY DIS

TO: Michael Graham, GW/VZ Project Manager;
Rich Holton, DOE-RL
Michael Thompson, DOE-RL
Dru Butler, BHI

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DOE-RL / DIS



FR: Gerald Pollet, Heart of America Northwest

Date: July 9, 1998

RE: Continuing Lack of Public Involvement and Contact for Planning Public Involvement in the Critical Groundwater/Vadose Zone Integration Project.

Today, I read a fax that arrived yesterday with minutes of the "GW/VZ Integration Project Weekly Meeting - July 6, 1998." I was appalled to discover that the Project has scheduled a "Public Involvement Workshop" on July 14th.

Scheduling a "Public Involvement Workshop" without first discussing in depth with stakeholders desired outcomes, agenda format, agenda items and necessary invitees for such a workshop is very bad public involvement. This point was made by me repeatedly at the Public Involvement Committee meeting of the Hanford Advisory Board and in short follow-up conversations with Dru Butler and Rich Holton. Do you really expect public interest representatives to participate in a public involvement workshop, which had its agenda and goals set without any discussion? Do you believe that it is good public involvement to have a draft "public consultation plan" which we have never seen, had no input into, and which you have not distributed prior to the meeting at which you are asking for comment? How could you develop this plan without prior discussions with citizen groups, including the region's largest Hanford Clean-Up citizens group, Heart of America Northwest? Are you aware of what our goals and values are for the project and have you incorporated them into either the plan or the design of the workshop?

Clearly, the answer to the last question is "no, you do not know what values we wish to have incorporated into either the overall Groundwater/Vadose Zone

Plan or the public involvement component of that plan". Saying that we could attend the workshop to provide that input is not going to be an acceptable answer, since you have planned the workshop agenda without any consideration of the basic values and issues we would wish to address. You have also failed to make it possible for us to attend, as discussed below.

Once again, I am learning about a planned "public involvement workshop", which is less than one week away, in the minutes of your weekly meeting. Had an effort been made to invite us by phone to talk about the agenda, you would have learned that **this date is unacceptable due to a previously scheduled Hanford Public Interest Group Network meeting with Ecology in Lacey that same day** (ironically covering public involvement).

You have failed to respond to our repeated discussions over the need to provide for travel reimbursement for regional public interest groups' participation in the development of the public involvement and other components of the GW/VZ plan. Do not claim to have opened the door for the involvement of the region's stakeholders, if you can not make a minimal commitment to provide the transportation reimbursement to make participation possible.

I must object in the strongest terms to the repeated false assertion in your minutes and mailings that there has been representation by regional stakeholders and the Hanford Advisory Board at your meetings. The Hanford Advisory Board has not authorized anyone to represent it at the GW/VZ meetings. The two attendees identified in your minutes as representing the HAB are local Tri-City residents. Neither one has, to the best of my recollection over the years of my involvement in calling for investigation of the leaks from High-Level Nuclear Waste Tanks and for remediation of groundwater, championed the investigation that has led to the creation of the integrated GW/VZ project. They do not represent the views of the Hanford Advisory Board, much less the views of the Hanford Public Interest Network groups. Indeed, one of them repeatedly questioned the need for any separate public involvement program for your program during a recent HAB meeting – a view that I fear you have welcomed.

It is very telling that there is still no public interest representation at these meetings – because you have not made attendance possible by providing basic transportation reimbursement, and you have not provided meaningful notice to a much broader range of public interest groups whose interest in the Columbia River is affected by the Project.

Furthermore, the HAB is never to be viewed as the sole public involvement mechanism, unless the region's stakeholders agree that no further outreach is needed. In this case, we have repeatedly urged (see Tom Carpenter's prior correspondence on behalf of the Hanford Public Interest Groups) expansion of outreach efforts because of the wide range of interest groups and public values impacted by current and long-term groundwater contamination of the Columbia River. Your fax distribution list fails to include such groups as Save Our Wild Salmon, the U.S. Fish and Wildlife Service, Columbia River Audobon, American Rivers, Washington Rivers Network, Sierra Club, etc...

Had we been contacted about a public involvement planning workshop, we would have insisted that meaningful notice go to the full range of public interest groups whose values and interests are potentially impacted by Hanford's groundwater contamination of the Columbia River. Meaningful notice would have explained to them how decisions under the GW/VZ Project could impact their interests and values. The agenda would have been structured to not only elicit those values from them, but also to design ongoing notice and involvement to insure that those values are incorporated into decisions throughout the life of the project.

This marks only the latest insult to public involvement relative to this project and reflective of DOE-RL's lack of commitment to meaningful public involvement.

Numerous citizens and public interest groups commented on the Groundwater/Vadose Zone investigation and the need to develop and get on with a plan for intercepting contamination during the public hearings on the DOE-RL Budget Priorities and Ten Year Plan (aka "Accelerating Cleanup: The Path Forward).

Those comments have been utterly ignored by both your team and DOE-RL. The so-called "summary of comments" document mailed last week with the final version of the Hanford Accelerating Cleanup Plan says that DOE-RL heard nothing from any of the public, Tribes, public interest groups or states worth changing the Accelerating Cleanup Plan. In fact, DOE-RL's list of public comments fails to even note that members of the public did comment on the interrelated issues of tank leaks, vadose zone investigation and the remediation of groundwater. At the Portland meeting, there was an extensive exchange about how your plan to develop the GW/VZ Plan foresaw ten years of investigation before development of any plan to intercept or remediate wastes from leaked tanks or other threats to the groundwater. This, the public commented, was unacceptable.

The document summarizing (inadequately and with much misrepresentation) public comments on the Hanford site Accelerating Cleanup Plan contains absolutely no response to comments. Instead, it says that comments were referred to unnamed "established procedures and processes" – none of which offer any reasonable prospect of generating responses to the public comments in the near future, or before you adopt a GW/VZ integration plan. For this one set of public concerns, then, it is incumbent upon your project to respond to the existing comments and develop ongoing mechanisms to ensure that public concerns are incorporated into decision making. Nothing in your proposed agenda even deals with this concern of my members.

The starting point for our input must be to review your goals and assumptions. These relate to both Accelerating Cleanup and the Hanford Strategic Plan and budgets. DOE-RL's failure to identify a goal of intercepting vadose zone contamination prior to allowing unacceptable levels of contamination to reach groundwater is already undermining public support for this process.

What is the goal for gathering data on the vadose zone and groundwater?

To stakeholders, it appears that the goal of your project is to spend a decade modeling the size of the barn door opening after the horses have bolted, instead of counting the horses and horse tracks and developing a rapid plan to corral them as quickly as possible.

Groundwater travel time from 200 East tank farms to the Columbia River may be less than 12 years. Since 1989, we have urged DOE-RL to acknowledge that tank leaks will reach groundwater and pose a threat to the Columbia River. Since 1989, USDOE has resisted this and clung to the discredited claim that tank leaks "pose no threat to human health or the environment" – even after the GAO said that this claim was without any factual basis.

Therefore, the second major goal for public involvement is to insure that the management of this program is under the direction of individuals who are committed not only to public participation, but to rounding up the horses instead of modeling the barn door. This is to say, we seek to insure that the integration plan proposes a management mechanism whereby the decisions will be made by individuals committed to insuring that remedial and preventive actions are taken to protect our state's groundwater resource and Columbia River from levels of contamination that are unacceptable.

What is an unacceptable level of contamination? This question is key to the data objective as well as the management philosophy. It is neither legal nor publicly acceptable to allow levels of contamination to reach groundwater that exceed our state's groundwater quality standards, exceed state "action levels" for cleanup under the Model Toxics Control Act, or which allow contamination to reach the Columbia River in excess of the action level, drinking water quality standards or standards protective of salmon and ecological values. The gathering of data should be managed so as to spend the minimum time investigating or modeling, as opposed to obtaining the data needed to design protective, interceptive or remedial actions. Level funding constraints in the "Accelerating Cleanup" plan must not be allowed to illegally preclude the necessary investigation and actions.

Again, the comments offered on the Accelerating Cleanup Plan – to which USDOE-RL has failed to respond – are directly relevant to the creation of the GW/VZ plan and the public involvement component of that plan. Any public involvement plan must start with responding to these concerns. Failure to demonstrate a commitment to fund all legal obligations to prevent the migration of contaminants to groundwater in concentrations above relevant standards or offsite migration will ensure that this GW/VZ program is viewed as a continuation of a ten year cover-up and delay.ⁱ

The independent expert panel must be comprised of people familiar with these obligations to proceed with cleanup under Superfund, RCRA and MTCA. We are concerned that proposed members do not include a significant number of panelists with such experience or outlook. Indeed, there seems to be a pattern of proposing panelists without a fresh perspective and with past or current work that poses a conflict of interest. In fact, one questions the reliance on "experts" from academia or other USDOE national labs (or with numerous DOE contracts), instead of ensuring that some representation of legal requirements for remediation, Remediation experience, and public values are represented (perhaps the panel should not be called an "expert panel", with some representation chosen by entities other than USDOE).

Likewise, if the managers in charge of this project – both from DOE and the contractors – are those who insist that state standards are not applicable (as Mr. Holton told the Dollars and Sense Committee in a very heated exchange with me, after which he has not been invited back), that action is not required, that modeling is preferable to actual data, and that public values will not shape this program, then there is no point in our participating in developing a sham public consultation plan. Thus, the issues of management and accountability must be part of any discussion

It is vital that any public involvement or "public consultation" plan start with a discussion of the goals for the entire project and whether they meet the public values that have led to the creation of this project. There must be a revisiting of the question as to who will guide this project: ensuring that the DOE and contractor managers are committed to protection of the state's groundwater resources; developing accountability measures to ensure that this is so; and, revisiting the DOE decision that DOE would name an "expert" panel for advice, instead of a panel that reflected broader expertise, public values and non-DOE appointments.

Your current agenda incredibly allows for just-15 minutes to discuss "Project Mission and Objectives". This is ludicrous, since there is clearly broad disagreement between the public which demanded action on the GW/VZ issues and project management's current direction (reflected in budget decisions already).ⁱⁱ Allowing for just one and a half hours for discussion of your "Draft Tribal and Public Consultation Plan" is obviously inadequate (and insensitive to the fact that the sovereign nations should not be treated like the public for input – whatever happened to the government to government relationship?).

I will not attend this sham meeting on July 14 and would not even if you had not scheduled it for a date that the Hanford Public Interest Network groups had a long scheduled meeting with Ecology. I do expect a response to these concerns, and a responsible plan for public input before you continue making decisions that make public input irrelevant to the goals of the GW/VZ Integration Project.

CC: Under Secretary Ernest Moniz

Assistant Deputy Secretary Robert Alvarez
Martha Crosland, DOE Office of Public Accountability
Dan Silver, WA Dept. of Ecology
Mike Wilson, Casey Ruud, WA Dept. of Ecology, Kennewick
Randy Smith, USEPA
Doug Sherwood, USEPA
Tom Woods, Yakama Indian Nation
Russell Jim, Yakama Indian Nation
Stu Harris, Confederate Tribes of the Umatilla
Donna Powauke, Nez Perce Nation
Meryllyn Reeves, chair, HAB
Mary Lou Blazek, Oregon Office of Energy
Hanford Public Interest Network groups

ⁱ When commenting on the 100-N Area cleanup and objecting to the agencies' failure to comply with MTCA standards for residual contamination, I was first told of your Project's meetings. While DOE managers apologized for failing to invite me to these meetings, at which it was represented that there was public interest participation, and an invitation for me to attend GW/VZ Project meetings was made at this hearing, it has continued to be a hollow invitation as no effort has been made to provide travel assistance for any representatives of the Hanford Public Interest Network groups or of the HAB.

. As with the tank leaks, DOE - ER program managers appear to be either uninformed as to the applicable and relevant standards of MTCA and other state laws, or hostile to their implementation. While many of the above comments focus on the issue of tank leaks reaching groundwater, we believe that there are scores of issues related to vadose zone contamination of groundwater and existing groundwater contamination that arise from the ER program, as we pointed out for 100-N.

An integration plan must include managers and guidance from advisors (i.e., on the "expert panel", which is a poor choice for accountability if limited to experts as now described) who understand the requirements for remediating groundwater under both MTCA and Superfund. This necessarily must involve revisiting decisions to allow residual contamination to reach the Columbia River or the reasonable maximum exposed persons in excess of ARARS, including Washington State's standards for carcinogens. Not only must the public involvement plan address this issue, it must be addressed through substantive compliance and revision of strategic plans, Accelerating Cleanup plans and budget plans.

It is ironic that one person who has never participated in discussions relating to the future site use working group and unrestricted land use recommendations has been proposed for the expert panel to provide expertise on "land use and planning for conservation", while no one familiar with our state's reasonable maximum exposed individual standard or the legal concept of unrestricted use under MTCA has been proposed. Obviously, this is unacceptable to us.

ⁱⁱ The Project has already chosen some goals which conflict with public values. While proclaiming that the Project has a goal of protecting the Columbia River, the Project and other site planning documents (i.e., Strategic plan and Accelerating Cleanup plan) fail to set a goal for protection of groundwater from contamination and remediation of groundwater to levels below relevant state standards. It is vital that the Project integrate with other site planning and incorporate this legally required and publicly demanded goal into all planning elements. One element, therefore, of any meaningful public involvement plan must address how public and regulatory concerns over the failure to have a goal protective of our state's groundwater resources will be remedied. The management of the Project includes individuals who told the public that tank leaks pose no threat to the River and participated in the DOE-RL 1997 decision to allow tank leaks to occur before acting to pump out the tanks. A deliberate decision to allow a leak to occur not only violates the TPA, but would be an unpermitted liquid waste discharge in violation of Washington State law. Again, prevention of tank leaks through the adoption of a pumpout schedule which recovers the TPA schedule is a vital element or goal from the public perspective. Thus, any public involvement plan must address how the public will be able to review and influence the tank pumpout recovery schedule and associated budgetary concerns.