



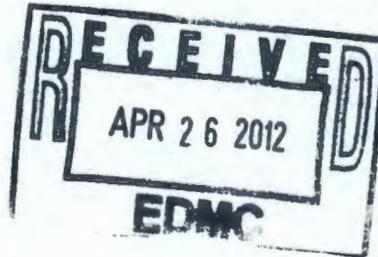
Department of Energy
 Richland Operations Office
 P.O. Box 550
 Richland, Washington 99352

12-AMRP-0012

APR 23 2012

Mr. D. A. Faulk, Program Manager
 Office of Environmental Cleanup
 Hanford Project Office
 U.S. Environmental Protection Agency
 309 Bradley Boulevard, Suite 115
 Richland, Washington 99352

Ms. J. A. Hedges, Program Manager
 Nuclear Waste Program
 State of Washington
 Department of Ecology
 3100 Port of Benton
 Richland, Washington 99354



Addressees:

AMPLIFYING COMMENTS FOR RL DISAPPROVAL OF HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY-AGREEMENT) CHANGE CONTROL FORMS M-15-12-01 "ESTABLISH A NEW MILESTONE TO DEVELOP A REMEDIAL INVESTIGATION/FEASIBILITY STUDY WORK PLAN TO EVALUATE THE 100-OL-1 OPERABLE UNIT" AND C-12-01 "ADDITION OF THE 100-OL-1 OPERABLE UNIT TO THE TRI-PARTY AGREEMENT APPENDIX C"

On April 4, 2012, the U.S Department of Energy Richland Operations Office (RL) was provided the two subject Tri-Party Agreement Change Control Forms signed and approved by the U.S. Environmental Protection Agency (EPA) and the State of Washington Department of Ecology (Ecology). The change control forms proposed an addition of an Operable Unit 100-OL-1 to Appendix C of the Tri-Party Agreement Action Plan, and created a new milestone for submittal of a Remedial Investigation/Feasibility Study (RI/FS) Work Plan for the 100-OL-1 Operable Unit to EPA and Ecology. RL is disapproving these change control forms (attached). The basis for the disapproval is stated below.

1. The language in the change control form is inconsistent with the Tri-Party Agreement, and proposes the addition of orchards using inappropriate terminology. The Tri-Party Agreement was intended to apply to waste disposals or unplanned releases related to Hanford operations. The Tri-Party Agreement Action Plan Appendix, Page A-19 defines an Unplanned Release as "an unintentional release, including a spill, of hazardous waste or hazardous substance into the environment." Lead arsenate in the soil was not a release of a waste, but rather was an application of a product to control pests. RL is willing to do this work under the Tri-Party Agreement despite the fact that the orchard sites were never part

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of the original releases evaluated in the Hazard Ranking System scoring, and would not be included with the Hanford Site because of the policy on Non-Contiguous Facilities (48 FR 40663). The orchards would likely not make the National Priority List evaluated alone, are not part of the same operation, do not have the same potentially responsible parties, and have completely different mechanisms of impact on the environment. Adding orchards to waste management units (i.e., WIDS sites in Appendix C) is inconsistent with the definitions in Section 3.1 because a Waste Management Unit is defined in the Tri-Party Agreement Article V Paragraph 22.BB to be "an individual location on the Hanford Site where waste has or may have been placed, either planned or unplanned, as identified in the Action Plan." This refers to wastes and waste disposal units. Lead arsenate was not a waste, and orchards were not waste disposal units. Rather, orchards were an area where lead arsenate was intentionally applied as a product to control pests before Hanford operations began. The product applied had nothing to do with nuclear operations. The residual is not the result of an unplanned release and is therefore substantially different from unplanned releases of products such as chromium that were used as part of Hanford operations on the site.

2. The assignment of dual lead regulatory agencies is inconsistent with both Tri-Party Agreement guidance and the assigned unit type in Appendix C of the change package. Appendix C in the change package indicates dual oversight by the regulators for the orchard land Operating Unit. Assignment of dual lead regulatory agencies, although not specifically prohibited in the Tri-Party Agreement, is not implicitly supported by the guidance of section 5.6 "Lead Regulatory Agency Concept" or consistent with the language in Article XXIV. Furthermore, it is not identified specifically as an "assigned lead regulatory agency" designation defined in Appendix C of the Tri-Party Agreement. This change also indicates the unit type assigned to be CERCLA Past Practice (CPP). Assignment of a CPP with lead agency split with the Washington State Department of Ecology is not consistent with precedence where CPP units are assigned to EPA as the Lead Regulatory Agency.
3. The risks related to orchard sites have not been adequately quantified to lend an obvious need for a feasibility study. The ability to evaluate the basis for a feasibility study after conducting a remedial investigation is the preferred path by RL. In order to address EPA's and Ecology's interest in addressing the potential need for a feasibility study following completion of the Remedial Investigation, RL is willing to add language to the change package stating that if the Remedial Investigation indicates a need for a remedial action RL will develop an Feasibility Study Work Plan and conduct the Feasibility Study upon Work Plan approval.

Addressees
12-AMRP-0012

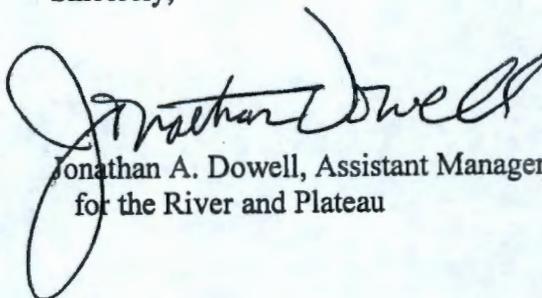
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APR 23 2012

RL continues to be willing to commit to preparation of a Remedial Investigation for those areas previously proposed by RL. We look forward to discussing these proposed changes further.

If you have any questions, please contact me, or your staff may contact Briant Charboneau, of my staff, on (509) 373-6137.

Sincerely,



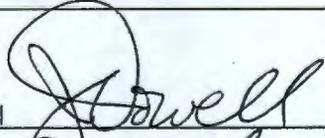
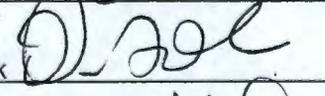
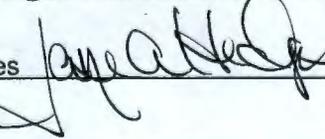
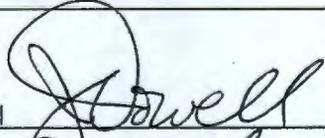
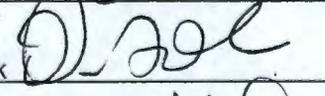
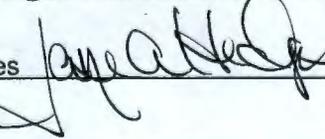
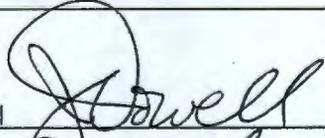
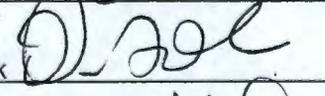
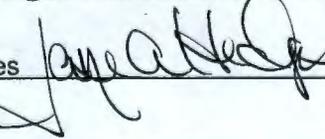
Jonathan A. Dowell, Assistant Manager
for the River and Plateau

AMRP:JAD

Attachments

cc w/attachs:

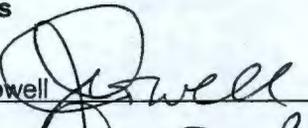
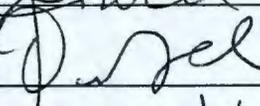
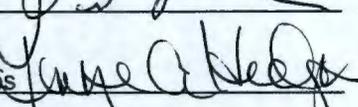
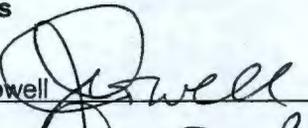
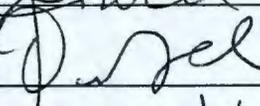
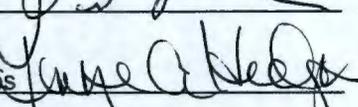
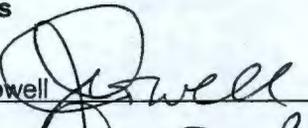
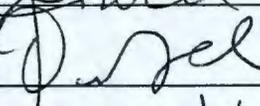
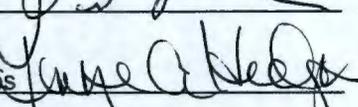
G. Bohnee, NPT
L. Buck, Wanapum
L. M. Dittmer, CHPRC
D. E. Dooley, CHPRC
B. H. Ford, CHPRC
C. J. Guzzetti, EPA
S. Harris, CTUIR
M. N. Jaraysi, CHPRC
R. Jim, YN
R. A. Kaldor, MSA
S. L. Leckband, HAB
D. E. McKenney, CHPRC
K. Niles, ODOE
T. W. Noland, MSA
R. E. Piippo, MSA
R. S. Popielarczyk, CHPRC
J. B. Price, Ecology
D. Rowland, YN
Administrative Record
Environmental Portal

Change Number M-15-12-01	Federal Facility Agreement and Consent Order Change Control Form <small>Do not use blue ink. Type or print using black ink.</small>	Date April 4, 2012												
Originator D. A. Faulk		Phone (509) 376-8631												
Class of Change <input type="checkbox"/> I - Signatories <input checked="" type="checkbox"/> II - Executive Manager <input type="checkbox"/> III - Project Manager														
Change Title Establish a new milestone to develop a remedial investigation/feasibility study work plan to evaluate the 100-OL-1 Operable Unit.														
Description/Justification of Change The 100-OL-1 Operable Unit (OU) was established in change package C-12-01. Lead arsenate was the predominant arsenic-based insecticide used in approximately 5,000 acres of non-contiguous historical orchard lands along the River Corridor of the Hanford Site. Lead arsenate use in Washington State effectively terminated in 1948 (<i>Re-establishing Apples Orchards in the Chelan-Manson Area</i> [Benson et al., 1969]); however, its persistence makes it a continuing concern that requires an assessment of the threat posed and an evaluation of any alternatives necessary to protect human health and the environment. <i>continued on page 2</i>														
Impact of Change This change package establishes a new interim milestone to develop a remedial investigation/feasibility study work plan to evaluate the 100-OL-1 OU.														
Affected Documents The Hanford Federal Facility Agreement and Consent Order, as amended, and Hanford Site internal planning management, and budget documents (e. g., USDOE and USDOE contractor Baseline Change Control documents; Project Management Plans).														
Approvals <table border="0" style="width: 100%;"> <tr> <td style="width: 30%;"> J. A. Dowell DOE </td> <td style="width: 20%; text-align: center;">  Date </td> <td style="width: 15%; text-align: center;"> 4.18.12 </td> <td style="width: 35%; text-align: center;"> <input type="checkbox"/> Approved <input checked="" type="checkbox"/> Disapproved </td> </tr> <tr> <td> D. A. Faulk EPA </td> <td style="text-align: center;">  Date </td> <td style="text-align: center;"> 4/4/12 </td> <td style="text-align: center;"> <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved </td> </tr> <tr> <td> J. A. Hedges Ecology </td> <td style="text-align: center;">  Date </td> <td style="text-align: center;"> 4/4/12 </td> <td style="text-align: center;"> <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved </td> </tr> </table>			J. A. Dowell DOE	 Date	4.18.12	<input type="checkbox"/> Approved <input checked="" type="checkbox"/> Disapproved	D. A. Faulk EPA	 Date	4/4/12	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved	J. A. Hedges Ecology	 Date	4/4/12	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved
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D. A. Faulk EPA	 Date	4/4/12	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved											
J. A. Hedges Ecology	 Date	4/4/12	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved											

Description/Justification of change, continued

Addition of an interim milestone to Appendix D denoted by the use of double underline to indicate text to be added.

<u>M-015-95</u> <u>Lead</u> <u>Agency:</u> <u>Dual Lead</u> <u>Ecology and</u> <u>EPA</u>	<u>Submit Remedial Investigation/Feasibility Study work plan for the</u> <u>100-OL-1 OU to EPA and Ecology.</u>	<u>4/30/2013</u>
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Change Number C-12-01	Federal Facility Agreement and Consent Order Change Control Form <small>Do not use blue ink. Type or print using black ink.</small>	Date April 4, 2012												
Originator D.A. Faulk		Phone (509) 376-8631												
Class of Change <input type="checkbox"/> I - Signatories <input checked="" type="checkbox"/> II - Executive Manager <input type="checkbox"/> III - Project Manager														
Change Title Addition of the 100-OL-1 Operable Unit to the Tri-Party Agreement (TPA) Appendix C.														
Description/Justification of Change Approval of this change package will add the 100-OL-1 Operable Unit (OU) containing the orchard lands identified below in Figure 1 to the Hanford Federal Facility Agreement and Consent Order (HFFACO or TPA or Tri-Party Agreement), Attachment 2, Appendix C. Approval of this change package will also add the new orchard lands waste management units (contained in the 100-OL-1 OU) to the Tri-Party Agreement Waste Information Data System (WIDS). Section 3.1 of the HFFACO Action Plan states that: "A waste management unit represents any location within the boundary of the Hanford Site that may require action to mitigate a potential environmental impact." <i>continued on page 2</i>														
Impact of Change This change package establishes new waste management units and an operable unit, 100-OL-1, containing the orchard lands identified in Figure 1 and modifies the existing Tri-Party Agreement WIDS and Appendix C. Associated milestone for submission of the Remedial Investigation/Feasibility Study Work Plan will be established under a separate change request.														
Affected Documents The Hanford Federal Facility Agreement and Consent Order, as amended, WIDS and Appendix C will be altered to include the new waste management units and the 100-OL-1 OU. The Hanford Site internal planning management, and budget documents (e. g., USDOE and USDOE contractor Baseline Change Control documents; Project Management Plans).														
Approvals <table border="0"> <tr> <td data-bbox="82 1523 267 1598"> J. A. Dowell DOE </td> <td data-bbox="267 1470 625 1598">  </td> <td data-bbox="625 1523 787 1598"> 4.18.12 Date </td> <td data-bbox="787 1523 1161 1598"> Approved <input checked="" type="checkbox"/> Disapproved <input type="checkbox"/> </td> </tr> <tr> <td data-bbox="82 1598 267 1672"> D. A. Faulk EPA </td> <td data-bbox="267 1566 625 1672">  </td> <td data-bbox="625 1598 787 1672"> 4/4/12 Date </td> <td data-bbox="787 1598 1161 1672"> Approved <input checked="" type="checkbox"/> Disapproved <input type="checkbox"/> </td> </tr> <tr> <td data-bbox="82 1672 267 1747"> J. A. Hedges Ecology </td> <td data-bbox="267 1640 625 1747">  </td> <td data-bbox="625 1672 787 1747"> 4/4/12 Date </td> <td data-bbox="787 1672 1161 1747"> Approved <input checked="" type="checkbox"/> Disapproved <input type="checkbox"/> </td> </tr> </table>			J. A. Dowell DOE		4.18.12 Date	Approved <input checked="" type="checkbox"/> Disapproved <input type="checkbox"/>	D. A. Faulk EPA		4/4/12 Date	Approved <input checked="" type="checkbox"/> Disapproved <input type="checkbox"/>	J. A. Hedges Ecology		4/4/12 Date	Approved <input checked="" type="checkbox"/> Disapproved <input type="checkbox"/>
J. A. Dowell DOE		4.18.12 Date	Approved <input checked="" type="checkbox"/> Disapproved <input type="checkbox"/>											
D. A. Faulk EPA		4/4/12 Date	Approved <input checked="" type="checkbox"/> Disapproved <input type="checkbox"/>											
J. A. Hedges Ecology		4/4/12 Date	Approved <input checked="" type="checkbox"/> Disapproved <input type="checkbox"/>											

Description/Justification of change, continued

The River Corridor of the Hanford Site includes approximately 8,300 acres of pre-1943 farmsteads, of which approximately 5,000 acres are orchard lands. Lead arsenate was a common insecticide used in orchard lands. Lead arsenate use in Washington State effectively terminated in 1948, when DDT became widely available to the public (*Re-establishing Apples Orchards in the Chelan-Manson Area* [Benson et al., 1969]); however, its persistence makes it a continuing concern. Limited sampling of the orchard land soils has indicated the presence of arsenic and lead concentrations above Hanford soil background levels. The addition of the 100-OL-1 OU is needed because orchard lands' contamination may require action to mitigate a potential environmental or human health impact. An assessment of the threat posed and an evaluation of any alternatives necessary to protect human health and the environment is needed.

This change package identifies a single, process-based OU, 100-OL-1, which includes non-contiguous orchard land areas as depicted in Figure 1. The 100-OL-1 OU contains areas only on the south side of the Columbia River as shown in Figure 1 below. Completion of the RI/FS process for the 100-OL-1 operable unit is not subject to TPA Milestone M-15-00D "DOE shall complete the RI/FS process through the submittal of a Proposed Plan for all 100 and 300 Area operable units" A milestone for submitting the RI/FS Work Plan for 100-OL-1 will be established under a separate change request.

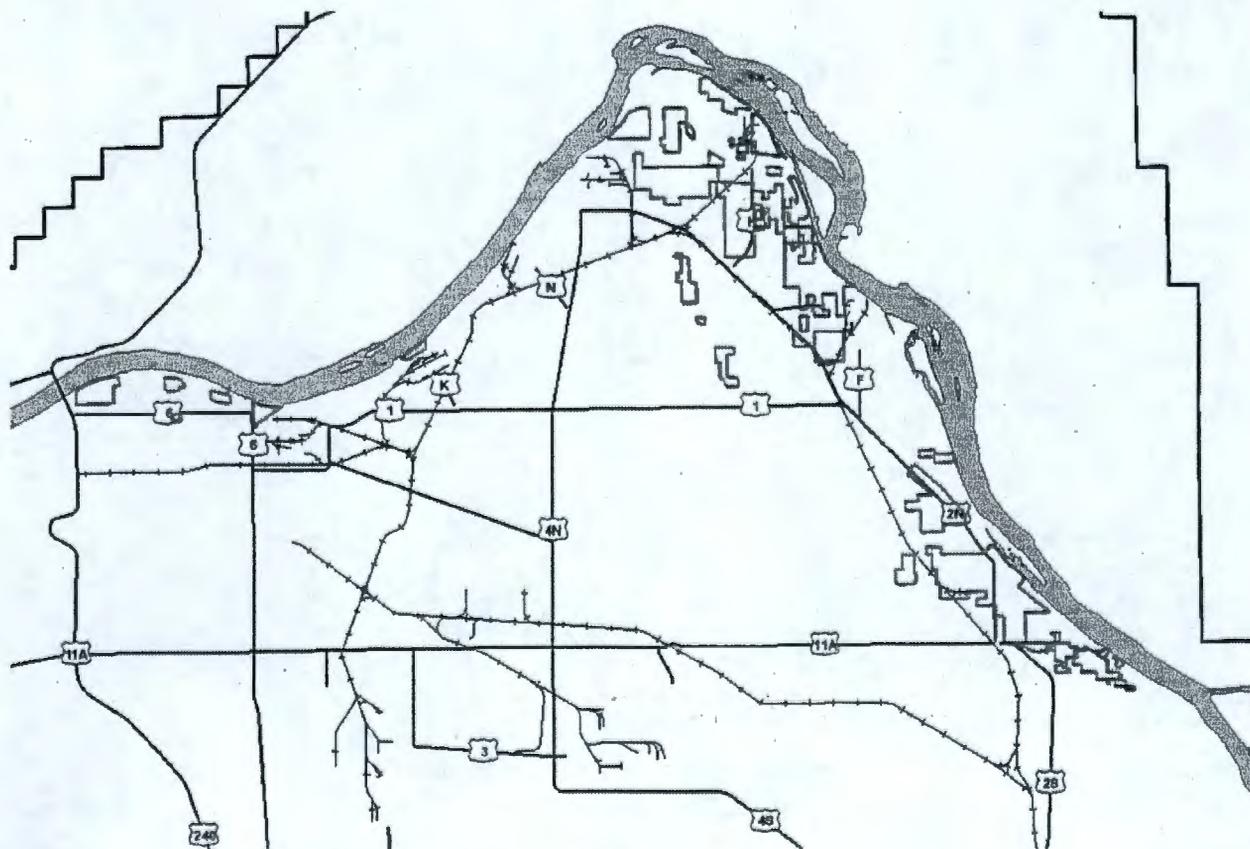


Figure 1: Map of Hanford 100 Areas depicting orchard lands boundaries in green

Modifications to TPA Appendix C are denoted by the use of ~~strikeout~~ to indicate text to be deleted and double underline to indicate text to be added.

Appendix C

Listing by Operable Unit. (Sheet x of xx)

OPERABLE UNIT Waste Unit Name	LEAD REGULATORY AGENCY Waste Unit Aliases	Unit Type	Status
<u>200-OL-1</u>	<u>EPA/ETS</u>	<u>CPP</u>	