



U.S. Department of Energy

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~~Office of River Protection~~

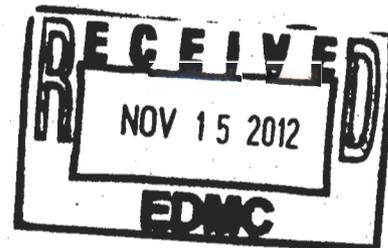
P.O. Box 450
Richland, Washington 99352

APR 23 2004

04-TPD-052

0400588

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



Dear Mr. Wilson:

SINGLE-SHELL TANK (SST) SYSTEM CLOSURE PLAN

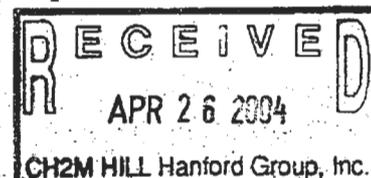
References: 1. Ecology letter from J. J. Lyon to R. J. Schepens, ORP, "Single-Shell Tank 241-C-106," dated April 5, 2004.

2. ORP letter from R. J. Schepens to M. A. Wilson, Ecology, "Submittal of Single-Shell Tank (SST) System Closure Plan Revision 2," 04-TPD-10, dated January 19, 2004. *0061342*

This letter responds to Mr. Lyon's April 5, 2004 letter (Reference 1). My comments and observations regarding the specifics of this letter are provided below:

(1) Based on interactions with your staff, the U.S. Department of Energy (DOE), Office of River Protection (ORP) was led to believe that the Revision 2 transmittal of the closure plan application (Reference 2) was in fact a complete document. Based on these interactions - which occurred prior to submittal of the application - it was our understanding that the outstanding issues remaining (i.e., the "parking lot" issues) would be addressed through permit conditions to be negotiated between our agencies. At no time prior to its submittal did the State of Washington Department of Ecology communicate to ORP that Revision 2 would be considered incomplete.

As requested in Reference 1, ORP and Ecology staff met on April 15, 2004 to clarify what actions and information were necessary to make the closure plan application complete. A list of documents Ecology will use to complete the application was developed. ORP committed to provide these documents to Ecology no later than April 22, 2004. Ecology committed to review the additional information and provide feedback on its completeness to ORP no later than April 29, 2004. Furthermore, ORP staff came away from that meeting with the understanding that the Notice of Deficiency process on the C-106 closure plan was complete. I believe that Ecology now has the responsibility to take the information we agreed to provide and move forward to approve the C-106 closure plan through a modification to the Hanford Site Permit, negotiating permit conditions with ORP as appropriate to address any unresolved issues. This is the path forward that we were advised would occur and we believe it important to stay on course.



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(2) ORP is not clear as to what Ecology intended in the request in Reference 1 for "Information required for final status permitting". Section 5.3 of the Hanford Federal Facility Agreement and Consent Order (HFFACO) provides as follows: "Prior to permitting or closure of TSD units, DOE shall achieve (in accordance with the work schedule contained in Appendix D) and maintain compliance with applicable interim status requirements. All TSD units that undergo closure, irrespective of permit status, shall be closed pursuant to the authorized *State Dangerous Waste* Program in accordance with Washington Administrative Code (WAC) 173-303-610." This chapter of the WAC does not establish any pre-closure operational standards or requirements for operation of SSTs prior to actual closure. Ecology should not be establishing new ground rules at this point unless it can be shown that it has a compelling reason to do so under its Resource Conservation and Recovery Act of 1976 (RCRA) authority that cannot be resolved using the approaches already agreed to by Ecology and ORP. If Ecology has such a compelling basis for change, then it should identify the alternative standards to ORP and put them in place through established processes, i.e., either a HFFACO amendment or through closure permit conditions.

(3) As stated in Reference 1, although Ecology may not believe it appropriate to incorporate the C-106 closure plan into the Hanford Site Permit until after the Tank Closure Environmental Impact Statement (TCEIS) is completed, I see no reason why Ecology cannot commit to: (a) make a formal determination that the application is complete no later than June 30, 2004; (b) prepare a complete draft permit modification, incorporating conditions Ecology wishes to include, at a reasonable date well in advance of TCEIS completion, and (c) share the draft permit with ORP at that point. I believe these actions on your part are necessary to demonstrate to the public that progress on SST closure continues while the EIS process runs its course.

However, notwithstanding the above, please note that ORP does not accept the assertion in Reference 1 that Ecology cannot comply with its State Environmental Policy Act requirements until the TCEIS is final. The C-106 demonstration project was adequately addressed in the Environmental Assessment and Finding of No Significant Impact ORP executed in June 2003. In short, I believe Ecology can and should issue this permit – with or without conditions addressing grout. For example, if Ecology has a basis for believing that a material other than grout should be used to treat and stabilize C-106 wastes, it should share that basis with ORP. If Ecology has performance requirements that grout should meet, then those requirements should be included within the permit conditions and expeditiously identified to ORP such that proper formulations can be engineered. It serves no public health purpose, however, to defer actions. We both must work towards resolution of any RCRA-based issues that Ecology has relative to residual waste treatment and tank closure.

(4) With respect to residual waste volume measurements, ORP believes that the residual waste volume goal cited in the HFFACO is a negotiated criteria, with the calculation approach based on a per-tank arithmetic mean ("xbar"), as noted in Appendix H, Attachment 1. Consequently, for future SST retrievals, ORP intends to work with your staff to revise the Data Quality Objectives to base the final volume estimate on the "expected value" derived from the measurements. At the same time, we are evaluating other volume measurement techniques for possible deployment on future SST retrievals in order to facilitate the process and add confidence to measurements.

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(5) Finally, I wish to advise you that ORP has determined that continued retrieval actions at Tank C-106 will not remove significant additional waste (if any). As a result, ORP is developing an Appendix H request for exception to the M-45 retrieval criteria.

Although I am encouraged by the recent interest your local section managers have shown in helping to resolve outstanding issues on closure of Tank C-106, I am disappointed with the almost 3-month delay in providing meaningful comment on our closure plan application as well as the introduction of new approaches that, if adopted, could add indeterminate time to schedules that were established on the existing basis set forth in the HFFACO and agreements between ORP and Ecology. As I am certain you know timely completion of the regulatory requirements and physical work necessary to close this tank is critical to planning closure of the entire SST system. As the DOE field manager responsible for HFFACO cleanup work, I remain personally committed to resolving outstanding issues regarding C-106 closure in an expeditious manner. I trust that Ecology senior management has the same serious interest, although the signature level of the recent Ecology letter suggests a lower level of commitment.

If you have any questions, please contact me, or your staff may contact John H. Swailes, Assistant Manager, for Tank Farms Project, (509) 376-0933.

Sincerely,


Roy J. Schepens
Manager

TPD: RAQ

cc: M. N. Jarayssi, CH2M HILL
T. L. Sams, CH2M HILL
K. S. Tollefson, CH2M HILL
CH2M Correspondence Control
J. J. Lyon, Ecology

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