



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

0071956

JAN 12 2007

07-KBC-0023

Mr. Nicholas Ceto, Program Manager
Office of Environmental Cleanup
Hanford Project Office
U.S. Environmental Protection Agency
309 Bradley Blvd., Suite 115
Richland, Washington 99352

Dear Mr. Ceto:

TRANSMITTAL OF STATEMENT OF DISPUTE (SOD) FOR HANFORD FEDERAL
FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) CHANGE
CONTROL FORMS M-34-06-02 AND M-16-06-04

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The purpose of this letter is to transmit the subject SOD to the U.S. Environmental Protection Agency. In accordance with Article XVI, Paragraph 59 of the Tri-Party Agreement, this SOD will elevate the dispute to the Interagency Management Integration Team (IAMIT) level for resolution. This SOD concerns the disapproval of the extension of the interim milestones on Change Packages M-34-06-02 and M-16-06-04. The U.S. Department of Energy looks forward to meeting at the IAMIT level to resolve this dispute.

If you have any questions, please contact me, or your staff may contact, David Brockman, Federal Project Director for K Basin Closure Project, on (509) 376-1366.

Sincerely,

Keith A. Klein
Manager

KBC:EBD

Attachment

cc: See Page 2

RECEIVED
JAN 15 2007

EDMC

Mr. Nicholas Ceto
07-KBC-0023

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JAN 12 2007

cc w/attach:

G. Bohnee, NPT
L. J. Cusack, Ecology
L. E. Gadbois, EPA
S. Harris, CTUIR
J. Hedges, Ecology
R. Jim, YN
T. M. Martin, HAB
K. Niles, ODOE
Admin Record (M-34 & M-16)
Environmental Portal

cc w/o attach:

H. E. Bilson, FFS
P. M. Knollmeyer, FHI
R. E. Piippo, FHI
J. G. Vance, FHI

January 9, 2007

**STATEMENT OF DISPUTE
MILESTONES M-034-32 M-016-57**

I. NATURE OF DISPUTE

This dispute is raised pursuant to Article XVI, paragraph 59, of the Hanford Federal Facility Agreement and Compliance Order (Tri-Party or TPA). It concerns the disapproval by the U.S. Environmental Protection Agency (EPA) of Tri-Party Agreement Change Control Forms M-034-06-02 and M-016-06-04 (Change Requests). The Change Requests were submitted on December 7, 2006, by the U.S. Department of Energy (DOE). On December 14, 2006, EPA provided DOE a letter stating it would not approve the Change Requests. DOE objects to the disapproval by EPA and seeks to re-negotiate the M-034-32 and M-016-57 interim milestones that were agreed to by the Tri-Parties in August 31, 2004. M-034-32 requires the complete removal of the K East Basin structure by *March 31, 2007*, and M-016-57 requires initiation of soil remediation from under the K East Basin structure within thirty days of structure removal. However, M-034-34 requires the complete removal of K East sludge by *May 31, 2007*. As a result, these milestones are out of sequence and require realignment.

II. DOE'S POSITION ON THE DISPUTE

It is DOE's position that EPA's disapproval of the Change Requests was inappropriate. The TPA anticipates adjusting milestones as a result of a delay caused, or likely to be caused, by the grant of an extension in regard to another timetable and deadline or schedule. (See Paragraph 120.D, HFFACO Article XL, Good Cause for

Extensions.) DOE believes that good cause exists to extend the subject milestones in order to facilitate the realignment of the sludge and basin removal activities, and to initiate soil remediation.

In its December 16, 2006, denial of the Change Requests, EPA requested that DOE develop and submit an integrated schedule for "K Basins and K Area" by March 9, 2007. DOE would not be able to develop and submit a draft integrated schedule within such an abbreviated timeframe. However, DOE does request an opportunity to discuss schedules with EPA.

III. SUPPORTING INFORMATION

A. Milestone History

The M-034-32 and M-016-57 interim milestones were established on August 31, 2004, per TPA change requests M-034-04-01 and M-016-04-04.

B. Chronology

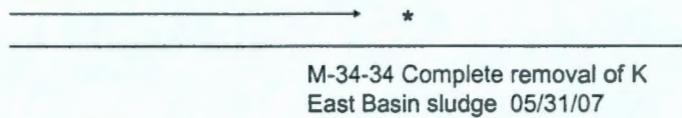
Since 1998, the project has provided milestone status at the Quarterly Milestone Reviews and project status at the bi-weekly project-regulator interface. On July 26, 2005, at the Quarterly Milestone Review, DOE self-identified that the M-034-34 complete removal of K-East sludge and the M-034-32 complete removal of the K-East Basin structure interim milestones were "at risk" from being completed on the TPA due dates. DOE began discussions with EPA during December 2005, to realign the project's TPA milestones. Those discussions resulted in the January 9, 2006, approval of Change Request M-034-05-04 to realign the sludge removal and treatment milestones. However, the approved change request did not address the removal of the K-East Basin or initiation of soil remediation from under the basin.

IV. HISTORY OF ATTEMPTED RESOLUTION

In December of 2005, DOE recognized that the TPA milestones were not going to be met and initiated discussions with EPA to re-align the milestones. In January 2006, DOE and EPA agreed to only reschedule the sludge removal and treatment milestones and not the basin removal and soil remediation milestones. That agreement was memorialized in TPA Change Control Form M-034-05-04, which was signed on January 10, 2006. The approved change request delayed the dates for four interim milestones related to the sludge project for the 100-K Basins, but did not delay other interim milestones in the 100-K Basins series that are predecessor activities to the K East sludge transfer project. For example, the K East Basin structure cannot be removed and soil sites under the basin remediated prior to transferring the sludge in the K East Basin to the K West Basin. However, the date for transferring K East sludge to K West Basin was delayed until May 31, 2007; but the date for removing the K East Basin (M-034-32) remains March of 2007. This means that the K East Basin must be removed prior to sludge being transferred out of the basin which is a physical impossibility. See Figure 1 below which illustrates how the milestones are currently out of sequence.

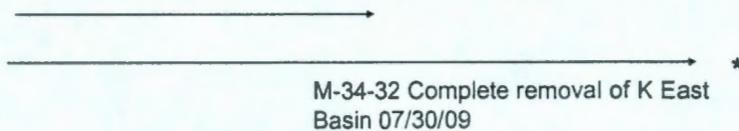
Current Milestone Configuration

M-34-32 Complete removal of K East Basin 03/31/07



Proposed Milestone Configuration

M-34-34 Complete removal of K East Basin sludge 05/31/07



*M-16-57 milestones follow the M-34-32 milestones by 30 days

Figure 1

V. RECOMMENDED RESOLUTION

DOE recommends extending the M-034-32 and M-016-57 interim milestone due dates to align with the sequence of M-034-34. Change Request M-034-06-02 extends the date for completing the removal of the K East Basin (TPA Milestone M-034-32) from March 31, 2006, to the contractor baseline date of July 30, 2009. Change Request, M-016-06-04 extends the date for initiating K East Basin soil remediation (TPA Milestone M-016-57) from April 30, 2007 until August 30, 2009, which is within 30 days of the contractor baseline for completing removal of the K East Basin, a predecessor task to initiating K East Basin soil remediation as stated in the M-016-57 text.

EPA has requested that DOE develop an integrated K Basins and K Area schedule. DOE will not be able to develop and submit a draft integrated schedule within

such an abbreviated timeframe. Therefore, DOE proposes that DOE and EPA meet as soon as possible to discuss K Basins and K Area schedules.