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U.S. Department of Energy
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EDMC

Via Email and U.S. Mail

RE: Public Comments on the Proposed Changes to the Tri-Party Agreement for Central Plateau Cleanup Actions and for Mixed Low-Level Waste and Transuranic Mixed Waste.

Dear Ms. Call:

On behalf of Columbia Riverkeeper, please accept the following public comments on the proposed changes to the Tri-Party Agreement (TPA) for the Central Plateau cleanup actions and for the Mixed Low-Level Waste (MLLW) and Transuranic Mixed Waste (TMW).

I. COLUMBIA RIVERKEEPER'S COMMITMENT TO PROMPT, EFFECTIVE CLEANUP AT HANFORD.

Columbia Riverkeeper is a membership-based 501(c)(3) nonprofit organization. CRK's mission is to protect and restore the Columbia River, from its headwaters to the Pacific Ocean. Since 1989, CRK has played an active role in monitoring and improving cleanup activities at the Hanford Nuclear Reservation (Hanford). A legacy of the Cold War, the Hanford site continues to leach radioactive pollution into the Columbia River. Hanford's legacy is not a local issue. Nuclear contamination from Hanford threatens the Pacific Northwest's people, a world renowned salmon fishery, as well as countless other cultural and natural resources.

CRK's staff and members are dedicated to a long-term solution for Hanford cleanup. Simply put, Hanford is one of the world's most contaminated sites. Despite this status, the public and CRK members continue to catch and consume fish from the Columbia River and recreate near and downstream of Hanford. For example, each summer CRK leads a series of kayak trips on the Hanford Reach of the Columbia River. The Hanford Reach is particularly unique because it is the last free-flowing stretch of the Columbia. On these outings, our members and staff pass the shores of the Hanford Nuclear Reservation and learn about the ESA-listed salmon and steelhead that spawn, rear, and migrate in the Hanford Reach. For these reasons, CRK is submitting comments on the Central Plateau cleanup actions and for the Mixed Low-Level Waste (MLLW) and Transuranic Mixed Waste (TMW).

II. COMMENTS ON PROPOSED TPA CHANGES.

As Hanford clean-up progresses, the TPA agencies are continually faced with important decisions on how to manage radioactive and hazardous wastes. The following comments address specific aspects of the most recent round of proposed TPA changes.

- **A Comprehensive Approach:** For the first time, the TPA will have milestones that take a comprehensive approach to Central Plateau soils, facilities, and groundwater. Columbia Riverkeeper commends the TPA agencies for taking this critical step in improved management of the Hanford cleanup process.
- **Changing a Federal Standard:** The TPA agencies are proposing a major change to how waste is categorized. Many of the contaminated Central Plateau soil sites are classified under Washington State and federal hazardous waste law—the Resource Conservation and Recovery Act (RCRA). Under the new proposal, the soil sites would be classified using the federal Superfund law (CERCLA). Columbia Riverkeeper opposes this change as the Superfund law requirements would be less stringent (*i.e.*, less rigorous monitoring and waste retrieval requirements).
- **EPA Involvement:** The federal Superfund law requires plans that guide cleanup at Hanford. EPA—the regulating agency—normally drafts the clean-up plans. Under the TPA agencies' proposal, the U.S. Department of Energy (USDOE)—the *regulated* agency—would draft the plans and EPA would “approve” these plans. This raises serious concerns about oversight and bias from the plans' inception. Columbia Riverkeeper opposes this approach to cleanup plans at Hanford.

Question #1: What is EPA's rationale for allowing USDOE to draft the clean-up plans? Please explain.

Question #2: What are examples of other cleanup sites where EPA consents to the responsible party (*i.e.*, the polluter) preparing the cleanup plans? Please explain.

Question #3: To the extent EPA identifies cleanup sites under Question #2, are these sites similar or different from Hanford, the world's most contaminated site? Please explain

- **Need for Enforceable Deadlines:** The availability of federal funding under the American Recovery and Reinvestment Act is impacting cleanup at Hanford. Nonetheless, the TPA-agencies are *not* proposing enforceable cleanup dates. Instead, the TPA-agencies want "target" dates for cleaning-up Mixed Low-Level and Transuranic Mixed Wastes. Under the agencies' proposal, the proposed TPA changes would delay enforceable milestones for about four years (from 2012 to 2016). The TPA changes proposal also includes a 2035 deadline to remove all legacy transuranic mixed waste from Hanford. Columbia Riverkeeper strongly supports enforceable deadlines, which encourage accountability and consequences if USDOE fails to meet deadlines. Given the public health and natural resource threats posed by radioactive and hazardous waste, enforceable clean-up deadlines are a critical component to achieving timely, effective cleanup at Hanford.

Question #4: How will USDOE be held accountable if it does not meet its unenforceable "target" deadlines? Please explain.

- **Storage in the Event of Missing Deadlines:** Columbia Riverkeeper is particularly concerned about how USDOE's plans to store Mixed Low Level and Transuranic Waste if the target deadlines are not met.

Question #5: If DOE misses a "target" deadline, how will storage activities impact human health and the Columbia River? Please explain.

- **Protecting Public Safety:** Columbia Riverkeeper concurs with the Hanford Advisory Board's (HAB) recommendations on aligning USDOE's baseline with the Waste Isolation Pilot Plant (WIPP) transuranic waste repository schedule. *See HAB Advice #234 (Adopted June 4, 2010).* Specifically, the current legally required WIPP closure date is 2030. Yet the TPA change package extends the final Hanford shipments of transuranic mixed waste to 2035.

Question #6: Do the TPA agencies intend to align the WIPP repository schedule with the TPA change package proposal? If not, what is the contingency plan?

Columbia Riverkeeper also concurs with the Hanford Advisory Board's recommendation that: (1) the TPA agencies require early shipment of available transuranic waste to minimize the risk of WIPP closing prior to all Hanford shipments; and (2) the TPA agencies continue to improve the safety of WIPP shipments, such as avoiding inclement conditions.

- **Systematic Approach to Vadose Zone Cleanup:** Columbia Riverkeeper concurs with the Hanford Advisory Board's recommendation to develop a systematic approach to vadose zone cleanup. To date, DOE lacks a comprehensive, integrated cleanup approach to the vadose zone. The TPA agencies should "develop a systematic approach to vadose zone cleanup that includes site-specific goals, schedules for additional characterization and a range of cleanup technologies (including those found outside of Hanford)." See HAB Advice #231 at 3.

Question #7: Are the TPA agencies considering the establishment of a separate vadose zone operable unit? See HAB Advice #231 at 3. If not, please explain why.

III. CONCLUSION.

Thank you in advance for considering Columbia Riverkeeper's comments on the TPA change package.

Sincerely,

/s/Lauren Goldberg

Lauren Goldberg
Staff Attorney, Columbia Riverkeeper