



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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August 25, 2011

11-NWP-099

Thomas W. Fletcher  
Acting Assistant Manager for Tank Farms  
Office of River Protection  
United States Department of Energy  
P.O. Box 450, MSIN H6-10  
Richland, Washington 99352

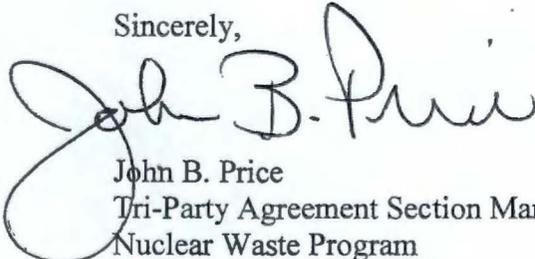
Re: Agreement in Principle – Milestone M-045-100 “Catch-Tank ‘Assumed Leak’  
Response Plan”

Dear Mr. Fletcher:

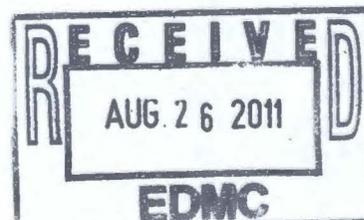
Enclosed is a copy of the Agreement in Principal regarding Tri-Party Agreement Milestone M-045-100, signed by you and by John Price for Jane Hedges. Chris Kemp picked up the original, signed agreement from our office on August 24, 2011.

If you have any questions, please call me at 372-7921.

Sincerely,



John B. Price  
Tri-Party Agreement Section Manager  
Nuclear Waste Program



lkd  
Enclosure

cc w/enc:

Dennis Faulk, EPA  
Chris Kemp, USDOE  
Stuart Harris, CTUIR  
Gabriel Bohnee, NPT  
Russell Jim, YN

Susan Leckband, HAB  
Ken Niles, ODOE  
Administrative Record: M-045-100  
Environmental Portal  
USDOE-ORP Correspondence Control

**AGREEMENT IN PRINCIPLE – MILESTONE M-045-100**  
**“CATCH TANK ‘ASSUMED LEAK’ RESPONSE PLAN”**

**Procedural Status:** On May 24, 2011, the Washington State Department of Ecology (Ecology) issued letter 11-NWP-038, “Notice of Violation – Failure to Comply with Hanford Federal Facility Agreement and Consent Order (HFFACO) Milestone M-045-100.” On June 1, 2011 by letter no. 11-TF-065, the United States Department of Energy, Office of River Protection (ORP) submitted a Notice of Dispute in accordance with Article VIII of the HFFACO; this dispute<sup>1</sup> was extended by agreement of the Project Managers on June 29, 2011 until August 31, 2011 and is further extended by this agreement to October 31, 2011. On June 23, 2011, ORP filed a Notice of Appeal in this matter to the Pollution Control Hearings Board (PCHB).<sup>2</sup>

**Matter at Issue:** The matter at issue involves the adequacy of the primary document that ORP submitted to Ecology on December 28, 2010 in accordance with HFFACO Milestone M-045-100. This document is entitled *Single-Shell Tank System Catch Tank Assumed Leak Response Plan*, and is denoted as RPP-PLAN-48438 (hereinafter “the Plan”). Milestone M-045-100 provides as follows:

*Submit to Ecology as an Agreement Primary Document a Catch Tank ‘assumed leak’ response plan. This Plan will include criteria for declaring a tank an assumed leaker, response actions that will be taken, and provisions to ensure initiation of liquid removal within 90 days.*

Ecology did not agree that the Plan satisfied its interpretation of the requirements of Milestone M-045-100 and issued letter 11-NWP-038 referred to above as a result.

**Discussions Between the Parties:** Ecology and ORP have discussed specific modifications to the Plan. Ecology anticipates that by making these modifications and resubmitting a revised Plan to Ecology, ORP’s resubmitted plan will be responsive to the concerns expressed by Ecology in the above-mentioned letter. Further, Ecology anticipates that ORP’s resubmitted Plan will fulfill the requirements of Milestone M-045-100. USDOE-ORP will resubmit the Plan formally to Ecology as a HFFACO primary document no later than August 31, 2011. Ecology will provide its review and comment of the resubmitted Plan in accordance with the HFFACO, Action Plan, Section 9.2.1 and Figure 9-1.

**Settlement Process:** As set forth above, there are parallel legal processes ongoing simultaneously that will remain in place until the resubmitted Plan is approved by Ecology in accordance with HFFACO Action Plan, Section 9. Consequently, Ecology and ORP agree to (1) extend the dispute initiated by ORP under Article VIII of the HFFACO at the Project Manager’s level until the resubmitted Plan is approved by Ecology and Milestone M-045-100 completed;<sup>3</sup> and, (2) jointly request the PCHB to stay the proceedings

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<sup>1</sup> Ecology has expressed its interpretation that this NOV is not subject to dispute under the HFFACO and reserved its rights regarding this issue in the dispute extension document dated June 29, 2011.

<sup>2</sup> DOE-ORP filed this Notice of Appeal as a protective filing in the event that the NOV was not subject to the dispute resolution process provided in Article VIII of the HFFACO.

<sup>3</sup> Ecology disagrees that the HFFACO Article VIII dispute resolution process applies to this matter, except as provided with respect to the to-be-resubmitted Plan. For the purposes of this Agreement, and without admission of applicability, Ecology is nevertheless amenable to extending a dispute resolution period that Energy believes is applicable and has been invoked.

in PCHB 11-092, *Department of Energy v. Ecology*, for the amount of time necessary for this settlement process to complete.

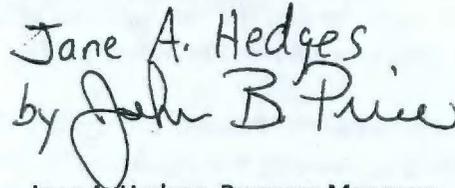
This settlement process will be completed by (1) receipt of a letter transmitted to ORP by Ecology stating that (a) the resubmitted Plan is approved; (b) that Milestone M-045-100 has been completed; and, (c) that because Ecology has approved the resubmitted Plan and that because the resubmitted Plan addresses the concerns raised in Ecology letter 11-NWP-038, the Notice of Violation is dismissed; (2) ORP dismisses its dispute under HFFACO Article VIII; and, (3) ORP dismisses its appeal in PCHB 11-092.

**Agreed-upon Requirements for Ecology Approval of the Resubmitted Plan:** Ecology and ORP have agreed that the resubmitted Plan shall: (1) describe the catch tank assumed leaker response process for monitored catch tanks that are listed in *Single-Shell Tank System Leak Detection and Monitoring Functions and Requirements Document, RPP-9937, Rev. 3* and *Hanford Facility Dangerous Waste Part A Permit Applications, Form 3, Rev. 12 for the Single-Shell Tank System [WRPS 2010] (SST System Part A)*; and, (2) establish the schedules for monitored catch tanks that are assumed leakers requiring immediate response (e.g., for catch tanks requiring initiation of liquid removal or other *in situ* techniques within 90 days of evaluation), or long-term response.

**Reservation of Rights:** In the event that Ecology and ORP are unable to complete the **Settlement Process** set forth above and the matter is not resolved in the manner anticipated by the parties on the date of their signatures below, the matter shall revert back to the **Procedural Status** set forth above and Ecology and ORP reserve any and all rights either may have with respect to the **Matter at Issue**.



Thomas W. Fletcher, Acting Assistant Manager  
For Tank Farms



Jane A. Hedges, Program Manager  
Nuclear Waste Program  
State of Washington,  
Department of Ecology