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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1315 W. 4th Avenue • Kennewick, Washington 99336-6018 • (509) 735-7581

June 27, 2000

Mr. George Sanders
U.S. Department of Energy
P.O. Box 550, MSIN: A5-15
Richland, Washington 99352

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Dear Mr. Sanders:

The Washington State Department of Ecology (Ecology) has received the U.S. Department of Energy's (USDOE's) letter, 00-ORL-065, dated June 20, 2000. The USDOE's June 20th letter makes general reference to alleged inaccuracies in the recitation of facts within the Notice of Penalty (NOP) # 00NWPKW-1249 issued to USDOE on June 13, 2000, and Administrative Order # 00NWPKW-1251 issued to USDOE and its contractor, CH2M Hill Hanford Group (CHG), on June 13, 2000. The USDOE's June 20th letter asserts that the subject matter of Ecology's NOP and Administrative Order are subject to dispute resolution per Article VIII within the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement [TPA]).

With regards to Ecology's NOP # 00NWPKW-1249:

This NOP Incurred and Due was issued solely to the USDOE per Article VII of the TPA for failure to complete major TPA milestone M-32. The penalty was issued in accordance with TPA Article IX, Stipulated Penalties. Therefore, Ecology concurs that this penalty is subject to dispute resolution as provided by Article VIII of the TPA.

Paragraph 30, Article VIII, describes the process for dispute resolution which is initiated at the project manager level. Therefore, Ecology advises that, immediately upon receipt of this letter, the appropriate USDOE representatives and Ecology's Tank Waste Storage Project Manager, Tony Valero, meet to attempt to resolve disputes related to Ecology's NOP # 00NWPKW-1249.

With regards to Administrative Order # 00NWPKW-1251:

This Administrative Order was issued to USDOE and its contractor, CHG. This action was taken by Ecology under the state's authority as provided in the Revised Code of Washington (RCW) Chapter 70.105. Paragraph 30, Article VIII, of the TPA states in part, "These Dispute Resolution provisions shall not apply to enforcement actions which are otherwise subject to administrative or judicial appeal, except that these Dispute Resolution provisions shall apply in the event of the

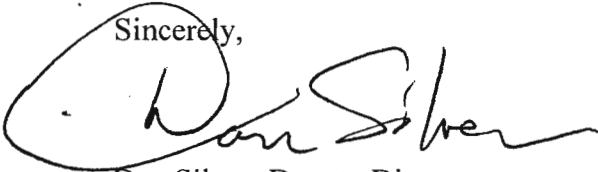
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assessment of stipulated penalties under Article IX." Administrative Orders are subject to judicial appeal to the Washington State Pollution Control Hearings Board.

Furthermore, in paragraph 136, Article XLVI of the TPA, Ecology has reserved its right to the direct exercise of any administrative or judicial remedies (other than stipulated penalties), without first employing TPA dispute resolution, "In the event or upon the discovery of a violation of, or noncompliance with this Agreement." Therefore, for the reasons stated above, Ecology's Administrative Order # 00NWPKW-1251 is not subject to dispute resolution within the TPA.

If you have any questions regarding this letter, please contact Tony Valero at (509) 736-5719 or Bob Wilson at (509) 736-3031.

Sincerely,

A handwritten signature in black ink that reads "Dan Silver". The signature is written in a cursive style and is enclosed within a hand-drawn oval.

Dan Silver, Deputy Director
Washington State Department of Ecology

DS:BW:sb

cc: Richard French, USDOE-ORP
Keith Klein, USDOE-RL
Mary Delozier, CHG
Mary Lou Blazek, OOE
Administrative Record: M-32