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

02-RCA-027

OCT 25 2001

Ms. Laura J. Cusack, Project Manager
Nuclear Waste Program
State of Washington
Department of Ecology
1315 W. Fourth Avenue
Kennewick, Washington 99336

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EDMC

Dear Ms. Cusack:

COMMENTS ON DRAFT PLUTONIUM FINISHING PLANT (PFP) HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) IN PRINCIPLE

Attached are the comments from the U.S. Department of Energy, Richland Operations Office (RL), regarding the draft Agreement In Principle (AIP) for Tri-Party Agreement, Section 8, Facility Transition negotiations for the PFP.

RL generally supports and agrees with most of the goals and values laid out in Ecology's AIP draft. However, it is our belief that the goal of an AIP should be focused primarily on the process and intent of the negotiations themselves. The goals and values are issues that the negotiation process needs to work through to ensure both agencies' interests are met with the definitions being applied to PFP.

RL would like to suggest that further discussion on the AIP be held until the initial Tri-Party Agreement negotiation session on October 31, 2001. It is our hope that we can quickly discuss and conclude the AIP and move to more substantive matters, including the goals and values both agencies support. If you have any questions, you may contact me on (509) 372-2400, or Jon Yerxa, of my staff, on (509) 376-9628.

Sincerely,

Joel Hebdon, Director
Regulatory Compliance and Analysis Division

RCA:JKY

Attachment

cc: See Page 2

HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (HFFACO)

AGREEMENT IN PRINCIPLE

NEGOTIATION OF REQUIREMENTS FOR THE COMPLETION OF TRANSITION¹, AND
SELECTED DISPOSITION² ACTIVITIES AT THE DEPARTMENT OF ENERGY'S
PLUTONIUM FINISHING PLANT (PFP).

OCTOBER ~~25~~¹², 2001

INTRODUCTION:

The U.S. Department of Energy (DOE) has determined that the ~~only~~ remaining activities ~~missions~~ at Hanford's Plutonium Finishing Plant are 1) the stabilization of plutonium-bearing materials and wastes (~~Some to remain in storage at PFP vaults; some to be transported to DOE's Hanford site Central Waste Complex (CWC) for storage and eventual disposal at WIPP~~), and 2) stabilization associated analytical laboratory support, 3) building operations support, and 4) safeguards and security operations.

PFP transition and disposition activities will focus on work necessary for compliance with applicable laws. PFP transition and final disposition will focus largely on unnecessary above ground structures (Other below ground facilities and land-based waste management units associated with PFP will be/addressed elsewhere within the HFFACO).

The Parties have entered into this Agreement In Principle (AIP) in order to define the negotiation process and establish the scope and schedule of the negotiations. ~~establish requirements for the conduct of these negotiations.~~

IN LIGHT OF THE PRECEDING, ECOLOGY, DOE, AND EPA AGREE TO THE FOLLOWING:

- A. To enter into negotiations, and to negotiate HFFACO Section 8 Transition milestones and target dates, using applicable HFFACO requirements to effectively govern transition of PFP Facilities. These negotiations will address repackaging of residues, disposition of certain wastes, and limited transition activities. Milestones for completing transition to slab-on-grade will be the subject of follow on negotiations after the agency decision documents (CERCLA), NEPA, etc.) covering these

¹ ~~Including but not limited to necessary stabilization and deactivation activities.~~

² Including necessary Surveillance and Maintenance period activities.

~~discussions have been finalized and other HFFACO requirements necessary to effectively govern PFP transition, and final disposition of PFP facilities.~~

~~B. That the Parties' negotiations will be conducted under the guidance of the following core principles:~~

~~(Item B has been deleted because the agencies will be jointly developing guiding core principles through the scheduled interests/values facilitations and Ecology has already provided their "Guiding principles for transition of PFP")~~

~~1. That PFP requirements will be established and implemented in a manner that does not limit or preclude future waste management options such as storage and treatment at receiving facilities (e.g., Central Waste Storage Complex (CWC) or the Waste Isolation Pilot Plant (WIPP)).~~

~~2. That the Parties' PFP negotiations will be based on the recognition that DOE is subject to the technical and procedural requirements of the Federal Resource, Conservation and Recovery Act (RCRA) and Washington's Hazardous Waste Management Act (HWMA). This includes permitting, where required for the storage and/or treatment of dangerous and mixed wastes, and for the construction and operation of regulated units.~~

~~Ecology recognizes that due to special nuclear materials concerns at PFP, alternate requirements may be warranted in some circumstances. Where DOE can demonstrate to Ecology's satisfaction that specific circumstances preclude full compliance with specific RCRA/HWMA requirements, Ecology may agree to the establishment of alternate requirements (e.g., HFFACO milestones) documenting agreed to necessary technical/schedule requirements.~~

~~3. That the Parties' PFP negotiations will be based on the recognition of the need for the establishment of requirements supporting the long term (life cycle) management of PFP wastes through their ultimate disposal. As such, the Parties PFP negotiations will, to the extent practicable, be coordinated with other, associated Hanford projects and activities including but not limited to DOE compliance with RCRA Land Disposal Restriction requirements, and HFFACO negotiations such as the Parties' "M-91" waste management negotiations.~~

B. To negotiate establish a revised HFFACO major milestone M-83-00 series governing the completion of PFP transition and the final disposition of selected PFP facilities.

C. To negotiate milestones ~~That the Parties negotiations will be conducted pursuant to HFFACO Action Plan Section 8.0 (Facility Decommissioning Process), e.g., submittal~~

of a PFP Project Management Plan, End Point Criteria Document, and Preclosure Work Plan.

- E. That Ecology, as the designated Lead Regulatory Agency for these negotiations, agrees to keep EPA, as the designated support regulatory agency, appropriately and currently informed regarding all pertinent aspects of the negotiations. DOE agrees to provide as appropriate, any assistance as requested to support Ecology in providing briefings or documentation to the EPA. The Parties further agree to cooperate in providing periodic briefings to the State of Oregon, affected Indian Nations, the Hanford Advisory Board, and other stakeholders as required by HFFACO Section 8.
- ~~E.D.~~ The Parties DOE agrees to take all necessary steps to ensure that DOE HQ staff are kept up to date on negotiation progress and issues, and to timely inform each other Ecology and EPA of any specific concerns that may impact negotiations. on the part of DOE HQ.
- ~~F.E.~~ To conclude negotiations no later than February 28, 2002 and to resolve any unresolved issues resulting from the Parties negotiations under HFFACO Article VIII (Resolution of Disputes).
- F. That successful conclusion of negotiations shall be followed by an appropriate public comment period in accordance with the Community Relations Plan.
- G. To align PFP transition commitments with River Corridor and Central Plateau strategies.
- ~~H.~~ That negotiations shall be concluded no later than February 28, 2002, and that any unresolved issues resulting from the Parties negotiations or subsequent public comment shall be referred for resolution under HFFACO Article VIII (Resolution of Disputes). Disputed issues shall be referred directly to the Parties Inter Agency Management Integration Team (IAMIT) level of the HFFACO dispute resolution process. (RL prefers to resolve disputes at the project managers level in accordance with the TPA dispute resolution process.

Agreed to this ____ day of October, 2001

Tom Fitzsimmons, Director
State of Washington
Department of Ecology

Keith Klein, Manager
U. S. Department of Energy
Richland Operations Office

Plutonium Finishing Plant
Agreement In Principle
October 12, 2001

L. John Iani, ~~Chuck Findley~~, Acting Administrator
U. S. Environmental Protection Agency
Region 10.

Ms. Laura J. Cusack
02-RCA-027

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OCT 25 2001

cc w/attach:

M. L. Blazek, Oregon Energy

L. J. Cusak, Ecology

R. Gay, CTUIR

J. S. Hertzell, FHI

R. Jim, YN

O. S. Kramer, FHI

T. M. Martin, HAB

E. S. Murphy-Fitch, FHI

D. R. Sherwood, EPA

P. Sobotta, NPT

R. F. Stanley, Ecology

Administrative Record