



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

JAN 28 2008

08-KBC-0017

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

RECEIVED
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EDMC

Dear Mr. Ceto:

HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) DISPUTE RESOLUTION SETTLEMENT AGREEMENT AND CHANGE PACKAGES M-34-07-02, M-34-07-03, AND M-16-07-07 FOR APPROVAL

The purpose of this letter is to transmit the Tri-Party Agreement Dispute Resolution Settlement Agreement [DRSA] (Attachment 1) and Change Packages M-34-07-02, M-34-07-03, and M-16-07-07 (Attachment 2) for your approval. The U.S. Department of Energy, Richland Operations Office (RL) and the U.S. Environmental Protection Agency (EPA) have agreed to resolve the Tri-Party Agreement Milestone M-34-32 "Complete Removal of the K East Basin Structure" and Tri-Party Agreement Milestone M-16-57 "Initiate K East Basin Soil Remediation," dispute through approval of the attached DRSA and change packages.

RL and EPA have agreed to extend the Tri-Party Agreement Milestone M-34-32 and Tri-Party Agreement Milestone M-16-57 Interim Milestone due dates and develop a detailed schedule with budget profile and a new Tri-Party Agreement change package with proposed adjustments to the 100 K Area milestones. Both agencies agree that the 100 K Area cleanup and closure planning activities that are agreed to in the DRSA will be instrumental in identifying the logical sequencing of necessary interfaces and interdependencies among the various scopes of work supporting the reduction of risk in accomplishing a safe and efficient 100 K Area cleanup.

Mr. N. Ceto
08-KBC-0017

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JAN 28 2008

If you have any questions, please contact me, or your staff may contact, Matt McCormick, Acting Federal Project Director for K Basin Closure, on (509) 373-9971.

Sincerely,


David A. Brockman
Manager

KBC:SNB

Attachments

cc w/attachs:

G. Bohnee, NPT
L. Buck, Wanapum
R. H. Engelmann, EFSH
S. Harris, CTUIR
J. A. Hedges, Ecology
R. Jim, YN
S. L. Leckband, HAB
K. Niles, ODOE
M. W. Peres, FFS
R. E. Piippo, FHI
J. G. Vance, FFS
R. E. Wilkinson, FFS
Administrative Record
Environmental Portal

m-16-07-07, m-16-57, m-034-07-02, m-34-07-03
m-34-32

DISPUTE RESOLUTION
SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made by and between the United States of America Department of Energy (DOE) and the United States of America Environmental Protection Agency (EPA).

Whereas on December 7, 2006, DOE submitted change requests to EPA, the lead regulatory agency, to extend the Hanford Federal Facility Agreement and Consent Order (HFFACO) milestone dates for M-34-32 and M-16-57;

Whereas EPA denied the request by letter, dated December 14, 2006, and DOE and EPA were unable to agree to informally resolve the dispute;

Whereas DOE submitted a notice of dispute to EPA on January 12, 2007, pursuant to Article XVI of the HFFACO and the time for resolution of the dispute has been extended by mutual agreement until January 31, 2008;

Whereas complete removal of the K East Basin Structure by March 31, 2007 has not been completed, as required by HFFACO milestone M-34-32;

Whereas soil remediation has not been initiated at the K East Basin by April 30, 2007, as required by HFFACO milestone M-16-57;

Whereas DOE and EPA wish to resolve and settle this matter as set forth below.

NOW, THEREFORE, IT IS AGREED THAT:

1. This Settlement Agreement shall apply and be binding upon EPA and DOE, and their officers, directors, employees, successors and assigns.

2. DOE stipulates that EPA has jurisdiction over the subject matter alleged and that civil stipulated penalties can be assessed. DOE waives any defenses to the civil stipulated penalties it might have as to jurisdiction and venue, and without admitting or denying the facts or that violations have occurred, DOE consents to the terms of this Settlement Agreement.

3. DOE hereby waives its rights to any judicial or administrative civil proceedings on any issues of law or fact related to the failure to complete work required by M-34-32 and M-16-67.

4. Pursuant to Section 109 of CERCLA and Article XX of the HFFACO, and in consideration of the nature of the alleged failures, and other relevant factors, EPA has determined that an appropriate civil stipulated penalty to settle this matter is in the amount of \$75,000.

5. DOE consents to this Settlement Agreement, and for the purposes of settlement, to the payment of the civil stipulated penalty cited in the foregoing paragraph.

6. Not more than thirty (30) days after the date of execution of this Settlement Agreement by EPA, DOE shall submit a check, payable to the order of the "Hazardous Substances Superfund," in the amount of \$75,000, to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000.

If by overnight mail to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101-1229;

Contact: Natalie Pearson
314-418-4087.

The letter transmitting the check shall indicate that the check is for the Hanford Site and include site identification No. 10-97. A copy of the transmittal letter shall be sent simultaneously to:

Nicholas Ceto
U.S. Environmental Protection Agency
309 Bradley Boulevard, Suite 115
Richland, Washington 99352.

Alternatively, payment may be made by wire transfer directed to the Federal Reserve Bank of New York as follows:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33 (only needed on international transfers)
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental Protection Agency "

A letter confirming that the wire transfer has been made shall be sent simultaneously to:

Nicholas Ceto
U.S. Environmental Protection Agency
309 Bradley Boulevard, Suite 115
Richland, Washington 99352

7. **Payment Provisions.** In the event that payment required by Paragraph 6 is not made as required, interest on the unpaid balance shall be paid at the rate established pursuant to section 107(a) of CERCLA, 42 U.S.C. § 9607(a), commencing on the date payment was due and accruing through the date of the payment.

8. DOE and EPA have agreed to extend the M-34-32 milestone to September 30, 2009, and the M-16-57 milestone to October 31, 2009, as provided in milestone change package M-34-07-02 and M-16-07-07.

9. DOE agrees to require its contractors to complete M-34-32 by July 31, 2009 and M-16-57 by August 31, 2009.

10. As provided in Milestone M-34-40-T01 in milestone change package M-34-07-03, DOE will submit to EPA by January 31, 2008, a detailed description of the overall work scope and identification of necessary interfaces among the scopes of work for completing all work necessary to cleanup and close the 100 K Area which addresses EPA concerns and priorities and includes:

- a. an evaluation of treatment process alternatives for sludge;
- b. sludge removal and treatment;
- c. demolition of the K Basins;
- d. K West and K East reactor interim safe storage;
- e. decontamination, decommissioning, and demolition of K Area ancillary facilities;
- f. cleanup of 100 K Area contaminated soil sites; and
- g. shipment of sludge to a disposal facility.

11. As provided in Milestone M-34-40-T02 in milestone change package M-34-07-03, DOE will submit to EPA by March 31, 2008, a detailed schedule and budget profile for completing all work necessary to cleanup and close the 100 K area, which addresses EPA concerns and priorities and includes:

- a. a resource-loaded schedule and draft budget profile for the scope included in the January 31, 2008, deliverable described above; and
- b. a schedule which will include identification and logical sequencing of necessary interfaces and interdependencies among the various scopes of work.

12. As provided in Milestone M-34-40 in milestone change package M-34-07-03, DOE will submit to EPA and Ecology by May 31, 2008, a new HFFACO change package with proposed adjustments to the existing K Area milestones based on the January 31, 2008 work

scope and the March 31, 2008 detailed schedule and budget profile. These revised milestones will be revisited and may be adjusted if necessary when the sludge treatment project reaches its final design. Until existing milestones are changed in accordance with the HFFACO, they remain in force and effect.

13. This Settlement Agreement constitutes a settlement by EPA of all claims for penalties pursuant to the HFFACO for violations of CERCLA, for failure to complete HFFACO milestone M-34-32 by March 31, 2007 and for failure to initiate soil remediation at K East Basin by April 30, 2007 as required by M-16- 57.

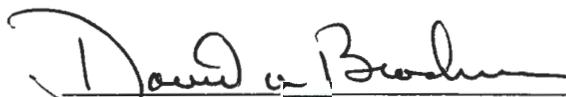
14. Nothing in this Settlement Agreement is intended to, nor shall be construed to operate in any way, to resolve any criminal liability of DOE. Compliance with this Settlement Agreement shall not be a defense to any actions subsequently commenced pursuant to the HFFACO and Federal laws and regulations administered by EPA. It is the responsibility of DOE to comply with the HFFACO and such laws and regulations, including M-34-32 and M-16-57 as revised by HFFACO change packages M-34-07-02 and M-16-07-07.

15. Each undersigned representative of the parties to this Settlement Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind that party to it.

16. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Settlement Agreement.

Daniel D. Opalski, Director
Office of Environmental Cleanup
U.S. Environmental Protection Agency,
Region 10

Date: _____



David Brockman, Manager
U.S. Department of Energy -
Richland Operations Office

Date: 1/20/08

Change Number M-34-07-02	Federal Facility Agreement and Consent Order Change Control Form Do not use blue ink. Type or print using black ink.	Date January 1, 2008																								
Originator Matthew S. McCormick		Phone (509) 373-9971																								
Class of Change <input type="checkbox"/> I - Signatories <input checked="" type="checkbox"/> II - Executive Manager <input type="checkbox"/> III - Project Manager																										
Change Title: Modification of the M-34-32 milestone completion date.																										
Description/Justification of Change: Approval of this change package updates the Hanford Federal Facility Agreement and Consent Order (HFFACO) by modifying the M-34-32 interim milestone completion date to September 30, 2009.																										
Impact of Change This change will provides additional time to complete removal of K East Basin Structure																										
Affected Documents The Hanford Federal Facility Agreement and Consent Order, as amended, and the Hanford Site internal planning management, and budget documents (e.g., USDOE and USDOE contractor Baseline Change Control documents; Multi-Year Work Plan; Sitewide Systems Engineering Control Documents and Project Management Plans).																										
Approvals <table border="0" style="width: 100%;"> <tr> <td style="width: 40%; border-bottom: 1px solid black;">  </td> <td style="width: 20%; border-bottom: 1px solid black;"> 1/23/08 </td> <td style="width: 10%; text-align: center;"> <input checked="" type="checkbox"/> </td> <td style="width: 15%;"> Approved </td> <td style="width: 10%; text-align: center;"> <input type="checkbox"/> </td> <td style="width: 15%;"> Disapproved </td> </tr> <tr> <td style="border-bottom: 1px solid black;"> DOE </td> <td style="border-bottom: 1px solid black;"> Date </td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="border-bottom: 1px solid black;"> EPA </td> <td style="border-bottom: 1px solid black;"> Date </td> <td style="text-align: center;"> <input type="checkbox"/> </td> <td> Approved </td> <td style="text-align: center;"> <input type="checkbox"/> </td> <td> Disapproved </td> </tr> <tr> <td style="border-bottom: 1px solid black;"> Ecology </td> <td style="border-bottom: 1px solid black;"> Date </td> <td style="text-align: center;"> <input type="checkbox"/> </td> <td> Approved </td> <td style="text-align: center;"> <input type="checkbox"/> </td> <td> Disapproved </td> </tr> </table>				1/23/08	<input checked="" type="checkbox"/>	Approved	<input type="checkbox"/>	Disapproved	DOE	Date					EPA	Date	<input type="checkbox"/>	Approved	<input type="checkbox"/>	Disapproved	Ecology	Date	<input type="checkbox"/>	Approved	<input type="checkbox"/>	Disapproved
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DOE	Date																									
EPA	Date	<input type="checkbox"/>	Approved	<input type="checkbox"/>	Disapproved																					
Ecology	Date	<input type="checkbox"/>	Approved	<input type="checkbox"/>	Disapproved																					

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<u>Milestone/Target</u>	<u>Description</u>	<u>Date</u>
M-34-32	COMPLETE REMOVAL OF THE K EAST BASIN STRUCTURE	03/31/07 09/30/09

Change Number M-34-07-03	Federal Facility Agreement and Consent Order Change Control Form Do not use blue ink. Type or print using black ink.	Date January 1, 2008
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Originator: Matthew S. McCormick **Phone** 373-9971

Class of Change
 I - Signatories II - Executive Manager III - Project Manager

Change Title:
Development of an Integrated 100 K Area Closure schedule

Description/Justification of Change:

Approval of this change package updates the *Hanford Federal Facility Agreement and Consent Order* (HFFACO) in accordance with the EPA, DOE Settlement Agreement resolving the dispute over change requests submitted by DOE on December 7, 2006 to extend HFFACO milestone dates for M-34-32 and M-16-57. The change package establishes two target dates and one interim milestone for the development of a detailed description of work scope document and an integrated schedule and budget profile for completing 100 K Area cleanup activities, as well as a HFFACO change package with proposed adjustments to the existing 100 K Area milestones based on work scope, integrated schedule and budget profile.

(continued)

Impact of Change

This change provides for the development of an integrated schedule for completing 100 Area K basin cleanup based on a detailed understanding of work scope which can be used to support a request to adjust existing milestones and schedules for completing the work. Existing milestones and schedules remain in force and effect until adjusted in accordance with the HFFACO.

Affected Documents

The *Hanford Federal Facility Agreement and Consent Order*, as amended, and the Hanford Site internal planning management, and budget documents (e.g., USDOE and USDOE contractor Baseline Change Control documents; Multi-Year Work Plan; Sitewide Systems Engineering Control Documents and Project Management Plans).

Approvals


1/23/08 X
Approved
 Disapproved
 DOE Date

_____ _____ Approved Disapproved
 EPA Date

_____ _____ Approved Disapproved
 Ecology Date

Description/Justification Continued.

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Milestone/Target	Description	Date
M-034-40-T01	<p>Submit a detailed description of overall work scope and interfaces for 100 K Area closure</p> <p>DOE will submit to EPA a detailed description of the overall work scope and identification of necessary interfaces among the scopes of work for completing all work necessary to cleanup and close the 100 K Area which addresses EPA concerns and priorities and includes:</p> <ul style="list-style-type: none"> a. an evaluation of treatment process alternatives for sludge; b. sludge removal and treatment; c. demolition of the K Basins; d. K West and K East reactor interim safe storage; e. decontamination, decommissioning, and demolition of K Area ancillary facilities; f. cleanup of 100 K Area contaminated soil sites; and shipment of sludge to a disposal facility. 	01/31/2008
M-34-40-T02	<p>Submit a detailed schedule and budget profile for 100 K Area closure</p> <p>DOE will submit to EPA a detailed schedule and budget profile for completing all work necessary to cleanup and close the 100 K Area, which addresses EPA concerns and priorities and includes:</p> <ul style="list-style-type: none"> a. resource-loaded schedule and draft budget profile for the scope included in the M-34-40-T01 January 31, 2008, deliverable; and b. schedule which will include identification and logical sequencing of necessary interfaces and interdependencies among the various scopes of work. 	03/31/2008

Milestone/Target	Description	Date
M-34-40	<p data-bbox="363 233 1257 304">Submit 100 K Area Change Package with proposed milestone changes</p> <p data-bbox="363 346 1257 535">DOE will submit to EPA and Ecology, a new HFFACO change package with proposed adjustments to the existing 100 K Area milestones based on the M-34-40-T01 January 31, 2008 work scope and the M-34-40-T02 March 31, 2008 detailed schedule and budget profile.</p> <p data-bbox="363 567 1257 632">These revised milestones will be revisited and may be adjusted if necessary when the sludge treatment project reaches its final design.</p>	05/31/2008

Change Number M-16-07-07	Federal Facility Agreement and Consent Order Change Control Form Do not use blue ink. Type or print using black ink.	Date January 2, 2008
Originator: Matthew S. McCormick		Phone 373-9971
Class of Change <input type="checkbox"/> I - Signatories <input checked="" type="checkbox"/> II - Executive Manager <input type="checkbox"/> III - Project Manager		
Change Title: Modification of the M-16-57 interim milestone due date		
Description/Justification of Change: Approval of this change package updates the <i>Hanford Federal Facility Agreement and Consent Order</i> (HFFACO) by modifying the M-16-57 interim milestone due date to October 31, 2009.		
Impact of Change This change provides additional time to initiate soil remediation at K East Basin.		
Affected Documents The <u>Hanford Federal Facility Agreement and Consent Order</u> , as amended, and the Hanford Site internal planning management, and budget documents (e.g., USDOE and USDOE contractor Baseline Change Control documents; Multi-Year Work Plan; Sitewide Systems Engineering Control Documents and Project Management Plans).		
Approvals <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 30%;">  _____ DOE </div> <div style="width: 30%;"> Date <u>1/23/08</u> <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved </div> <div style="width: 30%;"></div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="width: 30%;"> _____ EPA </div> <div style="width: 30%;"> Date _____ <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved </div> <div style="width: 30%;"></div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="width: 30%;"> _____ Ecology </div> <div style="width: 30%;"> Date _____ <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved </div> <div style="width: 30%;"></div> </div>		

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<u>Milestone/Target</u>	<u>Description</u>	<u>Date</u>
M-016-57	INITIATE KE BASIN SOIL REMEDIATION	04/30/07
	INITIATE FULL SCALE REMEDIAL ACTION OF THE 105 KE FUEL STORAGE BASIN SITE WITHIN ONE MONTH OF COMPLETING MILESTONE M-34-32	10/31/09