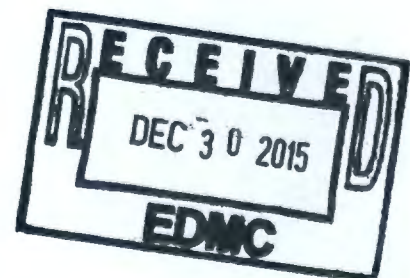


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Comments on the Tentative Agreement on Negotiations for the Realignment of Select M-091 Waste Management Milestones

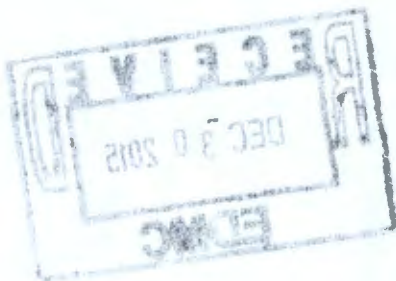
September 2015



Public Comments on the June 2015 Tentative Agreement on Negotiations for
the Realignment of Select M-091 Waste Management Milestones

In June 2015, the U.S. Department of Energy (DOE) Richland Operations Office (RL) and the State of Washington Department of Ecology (Ecology), hereinafter referred to as the agencies, completed negotiations on proposed changes to the *Hanford Federal Facility Agreement and Consent Order*—also referred to as the Tri-Party Agreement (TPA). The TPA identifies cleanup actions and schedules that are known as milestones. The M-091 milestone series is for the retrieval, storage, offsite shipment, and treatment/processing of mixed low-level waste (MLLW) and transuranic mixed (TRUM) waste. The proposed adjustments to the milestones will better align with the projected schedule for reopening the Waste Isolation Pilot Plant (WIPP) in New Mexico, and develop alternatives for retrieval, storage, and treatment of Hanford TRUM waste.

A formal comment period on the proposed changes was originally scheduled for July 6 through August 21, 2015, but in response to requests for extension, the comment period was extended to September 25, 2015. At that time, 21 individuals and groups provided comments on the proposed changes to the M-091 milestones. These public comments are provided below, and the agencies will issue a follow-up Comments and Responses document to address the comments.



Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Amanda Mosiniak

From: Amanda Mo [REDACTED]

Sent: Saturday, September 26, 2015 9:19 AM

To: Skopeck, Kristen P

Subject: TOXICITY FOR YOU AND ME

Set a firm deadline in these milestones for closure of each illegal storage area at CWC, with wastes to be treated or stored in legally compliant storage by Sept. 30, 2018

Thank you!

Amanda Mosiniak

Commenter: Mike Conlan

From: Mike [REDACTED]

Sent: Friday, September 25, 2015 5:35 PM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov; Office at Heart of America

Subject: USDOE's High Risk Waiting game

USDOE et al;

Over 8,000 "containers" of hazardous waste are stored illegally at Hanford's Central Waste Complex (CWC), and over 12,000 more are deteriorating in unlined soil ditches. The new proposed changes to the Tri-Party Agreement--the description of the responsibilities of the US Department of Energy, the EPA, and Washington State's Department of Ecology in the cleanup of Hanford--fail to establish deadlines for the treatment of these stored wastes and delay the retrieval of Plutonium wastes with chemicals (transuranic wastes) for another ten years.

A significant amount of the most dangerous illegally stored waste at Hanford was shipped there by USDOE between 2002 and 2004, with the state's approval. We warned then that there was no treatment capacity for this waste, and that it would sit indefinitely at Hanford. Sadly, our fears have been realized, and the proposed changes to the TPA could extend the potential for these wastes to remain at Hanford until 2030.

The proposed continued delays in treating illegally stored wastes, recognized as posing significant safety and environmental risks, are unacceptable. The changes to the retrieval milestones would require USDOE to treat only 280 cubic meters of waste this year and next year, and simply propose new quantities for following years. Additionally, these required quantities may be met by USDOE treating only the "easiest", low-risk wastes at the CWC.

- 1) remove all the nuclear waste
- 2) don't allow anymore waste to Hanford
- 3) keep the Columbia nuclear free!

Mike Conlan
[REDACTED]

Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Richard Heggen

From: Richard [REDACTED]

Sent: Friday, September 25, 2015 5:19 PM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov; Office at Heart of America

Subject: Public Comment on Washington State Dept. of Ecology-USDOE proposed changes to the Tri-Party-Agreement (TPA Milestone M-091)

To whom it may concern,

My comments are as follows:

- 1) TPA Milestones should require USDOE to treat more waste each year while on a schedule that ranks retrieval/treatment according to potential to leak, catch fire, form gas, or pose other safety hazards and environmental risks.
- 2) TPA Milestones should acknowledge that current waste storage of approx. 8,000 containers at Central Waste Complex (CWC) as well as the approx. 12,000 containers stored in unlined soil trenches is illegal and does not meet environmental regulation. The proposed schedule, or lack thereof, to properly treat/handle/characterize/stabilize/store this waste must be accelerated to meet all applicable environmental regulation.
- 3) TPA Milestones should consider waste treatment by commercial facilities according to existing and future available capacity of such facilities to properly treat the waste. Please revise the milestones to reflect all legal/compliant pathways to deal with the improperly stored waste.
- 4) TPA Milestones should include a firm deadline for closure of each illegal storage area at CWC, with wastes to be treated or stored in legally compliant storage by September 30, 2018.
- 5) Based on the fact that wastes continue to be illegally stored at CWC, I assume CWC still lacks a RCRA permit. If a permit existed, there would be an enforceable schedule for corrective action to correct the improper waste storage/characterization issues. When will a RCRA CWC permit be issued with an enforceable RCRA corrective action schedule to remedy the illegal non-compliant waste storage?
- 6) Please provide a schedule for completing remedial action on the approx. 8,000 illegally stored containers at CWC
- 7) Of the over 12,000 containers located in unlined outdoor soil trenches, how many have been retrieved? What is the current status (include physical status and regulatory status) of those retrieved containers?

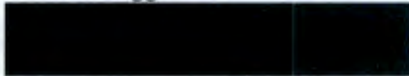
8) Please provide the year by year schedule for retrieval of the over 12,000 containers located in unlined trenches.

9) There appears to be a disconnect between the TPA schedule to retrieve/characterize/treat/package all the above noted waste to meet the operational schedule of existing permanent storage facilities such as the Waste Isolation Pilot Plant (WIPP) in New Mexico. Please explain how this schedule mis-match will be corrected.

10) As a concerned public citizen, and due to the complex nature of all cleanup issues at Hanford, I rely on and support input provided by public interest groups who have the resources and expertise to provide meaningful and detailed analysis of all Hanford cleanup issues. It has come to my attention that the Department of Ecology has decided not to fund a major public participation grant for Heart of America NW. This seems to conflict with the intent of public participation related to the Hanford cleanup. Hanford is the largest most complex cleanup in the United States. Why did the Dept. of Ecology effectively eliminate funding for public participation by Heart of America? Also please describe how the agencies expect individual citizens to provide meaningful input at Hanford without an organization like Heart of America?

Thanks for your consideration. I look forward to your response.

Richard Heggen



Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Ed Martiszus

From: ed martiszus [REDACTED]

Sent: Friday, September 25, 2015 4:55 PM

To: Skopect, Kristen P

Subject: Fw: CWC@Hanford.

Here I am to make another about the need to cleanup Hanford pronto. It's long over due to characterize the waste and start working on isolating the components and neutralizing the chemicals and quarantine the radioactive elements from further dissipation in the environment and exposing all species, making them sick and killing them. Hanford is and always has been a crime scene, war crimes, crimes against peace, crimes against humanity, crimes of genocide against the Yakama and other Native Nations of the Columbia Basin, crimes of terricide, crimes of omnicide. A place where low life government operatives can hide behind the US flag and commit major crimes, that in a civilized nation would land a person in prison, and a place for corporate creeps think they can hide behind limited liability corporations and commit crimes for major pay against all the living creatures in the Columbia Basin and beyond, far beyond. Ed Martiszus, BA,BS,RN

Commenter: Sharon Fasnacht

From: Fasnacht [REDACTED]

Sent: Wednesday, September 23, 2015 10:37 AM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov

Subject: TPA CHANGES COMMENT PERIOD

Dear ECY, DOE, EPA, & ATG,

My comments: As a citizen of WA State, of the Tri-cities for 2+ yrs., and of the USA for 71 yrs., **I AM ANGRY** that our State and National government organizations are again suggesting cleanup delays at Hanford. **WHERE ARE THE TARGET DATES?** And.... it is being proposed that some scheduled cleanup be delayed ANOTHER 10/20 YEARS? NO!!!

Re: **QUALITY OF CLEANUP DECLINING?** The changes to the retrieval milestones would require USDOE to treat only 280 cubic meters of waste this year and next year, and simply propose new quantities for following years. Additionally, these required quantities may be met by USDOE treating only the "easiest", low-risk wastes at the CWC. NO!!!


Re: **BENIGN NEGLECT OF CURRENT THREAT:** THEY HAVE DONE NOTHING ABOUT THE LEAKING TANKS along the Columbia River!

Re: **BROKEN PROMISES:** The Federal agencies/government promised to clean up the mess from WWII and Vietnam 30 plus years ago, and reneged. They failed to "manage/remove" what they dumped at Hanford between 2002 & 2004. They are now proposing they leave that poison at Hanford until 2030.

I AM SCARED! Does the USDOE (and others) know something they aren't telling – like this poison cannot be cleaned up or stored safely? Is that why so little is being done? **Why aren't we spending money on research?** Why have the Feds authorized the building of 23 more Nuclear Power Plants in our southern states? Where will the waste be stored – FOR 2,200 YEARS. But I digress.....

The proposed continued delays in treating nuclear wastes, recognized as posing significant safety and environmental risks, are unacceptable. Compared to the cost in human & animal life if the Columbia River, and then the Pacific Coast, is contaminated with nuclear waste, THE COST OF CLEANUP IS NOTHING.

Sharon Fasnacht, Mediator, Guardian Ad Litem



Commenter: Lisa Mann

From: Lisa Mann [REDACTED]

Sent: Tuesday, September 22, 2015 1:44 PM

To: Skopeck, Kristen P

Subject: Don't delay cleanup

Dear Ms Skopeck,

I am concerned about proposed delays in treatment and shipment of hazardous wastes from Hanford Nuclear Reservation. 8000 containers of hazardous wastes have been stored in a dubious fashion in unlined containers in the Central Waste Complex and are leaking liquid wastes. Delay would allow more time for these wastes to reach water tables. Also 12,000 containers are poorly stored in earthen trenches.

I understand that proposed Tri-Party Agreement changes would put off the deadline for removal of such dangerous wastes from 2018-2028. I understand also that underfunding from the federal government is at issue. But kicking this can down the road to a future time when costs for removal and disposal will be even higher is unwise.

Please set a firm deadline and stick to it, our water tables and environment are at stake,

Sincerely,

Lisa Markel

[REDACTED]

Lisa Mann

[REDACTED]

Commenter: Linda Jansen

From: Linda Jansen [REDACTED]

Sent: Tuesday, September 22, 2015 9:07 AM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov

Cc: Office at Heart of America

Subject: Hanford Clean-up FAIL!

With the proposed changes to the Hanford clean-up agreement, you are basically acknowledging your willingness to throw that whole corner of the State of Washington away. It is an extreme dereliction of duty.

As a citizen of Washington State, I ask that you:

- Hold USDOE responsible for treating more waste every year, and removing and treating waste based on potential to leak, catch fire, form gas, or pose other safety hazards and environmental risks.
- Require treatment as fast as commercial facilities have, or could expand to have, capacity available does not meet minimum legal requirements of hazardous waste laws, including EPA and state orders.
- Set a firm deadline in these milestones for closure of each illegal storage area at CWC, with wastes to be treated or stored in legally compliant storage by Sept. 30, 2018.

Otherwise, when the inevitable catastrophe happens as a result of the lax scheduling and outright malfeasance the suggested changes represent, what will you do?

I will tell you what I will do. I will do everything I can to hold you responsible.

Linda Jansen
[REDACTED]

Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Sheila Quinn

From: Sheila Quinn [REDACTED]

Sent: Tuesday, September 22, 2015 8:38 AM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov

Cc: Office at Heart of America

Subject: Supporting Heart of America letter of 8/21/15

I am writing in support of the letter sent August 21, 2015 by Heart of America Northwest's Executive Director Gerry Pollett concerning the USDoE Proposed Agreement on Hanford Cleanup Tri-Party Agreement (TPA) Changes. I urge you to consider carefully all the excellent arguments presented in this letter and to act with all the determination and vision at your command to protect Washington State citizens from the known safety and health risks that would only grow larger if this agreement is approved. It is not Washington State's job to fall in line with DoE policies when they contravene already established state positions and court decisions. It should be the job of the DoE to support and advance state policies that are designed to protect citizens, rather than bringing pressure to bear on the state to knuckle under and incur greater risks.

Sheila Quinn

[REDACTED]

Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Janice Catrell

From: Janice Catrell [REDACTED]

Sent: Thursday, September 17, 2015 4:06 PM

To: Skopeck, Kristen P

Subject: Public comment re M-091 Milestones

Hi Kristen,

Attached is a document containing comments regarding the M-091 change package.

Thanks,

Jan

Submitted by Janice Catrell, [REDACTED]
September 17, 2015

**Public Comment
M-091 Waste Management Milestones
Accession Number 1507060176**

The Department of Energy and the Washington State Department of Ecology, as principals in the Tri-Party Agencies, are seeking to revise milestones pertaining to the retrieval and storage of radioactive and mixed wastes that are currently on-site at the Hanford Nuclear Reservation in Richland, WA.

Impetus for realigning the milestones is due, in part, to the closure of the Waste Isolation Pilot Plant (WIPP) located in New Mexico after a radioactive spill at the facility in February 2014. As a result of the radioactive contamination, WIPP is currently closed and will not receive any waste shipments until at least 2017.

WIPP was constructed as a national repository for high level waste (HLW) and is licensed to accept such waste shipments until 2030. Its capacity was planned to be sufficient for storage of all HLW shipments identified in the United States. With the facility's anticipated to be lengthy, additional pressure will be on WIPP to complete its mission by 2030. Pressure also focuses on the domestic nuclear facilities to identify, characterize, package, and ship the HLW to WIPP within the existing time constraints.

The nuclear and mixed wastes addressed by this change package are divided into 2 major categories: 1) 8,000 containers of waste stored above ground since the year 2009; and 2) 12,000 containers of waste stored below ground.

The above-ground waste shipments (category 1) will be scheduled for shipment to WIPP by 2020 and delivery accomplished by 2030. The milestone appears reasonable within the specified time frame since characterization and packaging of the waste was completed several years ago.

The change package specifies that the below-ground waste (category 2) will have shipment scheduled to WIPP by 2020 and that delivery accomplished by 2028. The below ground waste has not yet been characterized or packaged—necessary preliminary steps toward the goal of shipping the waste to WIPP.

The concerns with the revised milestones are that only 15 years remain before the WIPP license is scheduled to expire and much work must be done to retrieve and characterize the below-ground waste to prepare and package it for shipment to WIPP. The fact that federal budget rounds extend 3 years into the future adds to the urgency. It is imperative that necessary funding be identified so work can commence in characterizing and packaging the underground waste. Any delays attributed to funding or technical issues may result in substantial amounts of nuclear and mixed wastes remaining at Hanford after the scheduled closure of the WIPP facility in 2030.

I am writing as a Public-at-large member of the Hanford Advisory Board.

Commenter: Hanford Advisory Board

HANFORD ADVISORY BOARD

A Site Specific Advisory Board, Chartered under the Federal Advisory Committee Act

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Ken Niles
Mecai Seppalaenen

Liaison
Representatives
Washington State
Department of Health

September 10, 2015

Stacy Charboneau
U.S. Department of Energy – Richland Operations Office
P.O. Box 550 (A7-75)
Richland, WA 99352

Jane Hedges, Manager
Washington State Department of Ecology
3100 Port of Benton Blvd.
Richland, WA 99354

Re: Tri-Party Agreement Milestone M-091 Changes

Dear Ms. Charboneau and Ms. Hedges

Background

Core tenets of the Hanford Advisory Board (Board) are to “protect the Columbia River” and “do no harm during cleanup.”¹ Over the years, the Board has been unequivocal in its quest for the Tri-Party Agreement (TPA) agencies (U.S. Department of Energy, DOE, Washington State Department of Ecology, Ecology, and U.S. Environmental Protection Agency, EPA) to establish a systematic, logical and TPA milestone-driven pathway for cleanup. The Board has always supported cleanup actions that are transparent to the public and achievable by the TPA agencies.

The Board has resisted prioritizing cleanup projects, because any cleanup that is done supports protection of the Columbia River, its ecosystems and resources, and the people and animals who depend on the river and the ecosystems it feeds. The Board is committed to protecting the environment for future generations.

As funding for further scope of cleanup at Hanford has fallen short over recent years, the TPA agencies have pressed the Board to consider prioritization of cleanup efforts. When looking at the proposed changes to the TPA milestone M-091 change package, we find we do not have all of the information necessary to tell the public with assurance that these milestones are achievable. The TPA agencies have informed the Board that they are negotiating other Central Plateau change packages (specifically the TPA M-15, M-16 and M-85 series). These undefined, but interconnected milestone changes, leave us without a comprehensive understanding from which to consider prioritizing the TPA milestone M-091 and related cleanup efforts.

¹ Hanford Values White Paper and Future Sites Working Group

EnviroIssues
Hanford Project Office
713 Jadwin, Suite 3
Richland, WA 99352
Phone: (509) 942-1906
Fax: (509) 942-1926

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HAB Consensus Advice # 285
Subject: M-091 Change Package
Adopted: September 10, 2015
Page 1

DOE announced on July 31, 2015 that the Waste Isolation Pilot Plant (WIPP) would not be able to meet the goal of resumption of activities in 2016, and the WIPP facility is not currently operating. Therefore, these proposed changes to TPA M-091, released on July 6, 2015, cannot be a complete picture of currently-known schedule delays that affect the resumption of shipments to WIPP.

The TPA agencies have signaled that they are not ready to enter into new negotiations for Remove, Treat, and Dispose (RTD) of Hanford transuranic (TRU) wastes that have not yet been characterized. These negotiations may be contingent on resumption of shipping currently stored waste to WIPP in order to make room for staging future Hanford TRU waste bound for WIPP.

There are uncertainties with the volume and treatment required to quantify future shipment of TRU and transuranic mixed (TRUM) waste to WIPP (both remote and contact handled). The operational permits that identify the WIPP site acceptance of waste materials expire in 2030. Given this information, the Board perceives a disconnect between the time necessary to negotiate for additional RTD and shipments, and the ability to achieve that goal by 2030.

EPA and Ecology, Hanford site regulators, have issued formal findings and notices that areas at the Central Waste Complex (CWC), where 8,000 containers of mixed radioactive hazardous wastes are stored, do not comply with safety and environmental standards.² The regulators have also found that many of the wastes are stored without characterization and treatment which are legally required. Orders have been issued to "close" these CWC storage areas.

The commencement of new negotiations for TRU cleanup should not be delayed by a position that the TPA must first send the already packaged wastes to WIPP before looking at other TRU retrieval. The full extent of funding and planning necessary to achieve successful cleanup of TRU material should not be postponed. The Board urges that the proposed milestone changes should reflect a faster pace of TRU retrieval and shipments in order to successfully reach the 2030 goal. Furthermore, the Board does not see the TPA negotiation of new TRU milestones as being aggressive enough.

It is important to the Board that the cost, potential technical issues and other problems that might derail meeting the 2030 milestone be understood. The Board supports the development of a credible schedule that defines achievable TPA milestones for the disposal of any remaining TRU waste. The Board believes a ten-year window (2020-2030) is not enough time to meet future designated cleanup obligations.

Advice

- The Board advises that the TPA agencies agree to TPA milestone M-091 (TRU) cleanup milestones that are achievable and reflect a "global continuity" with other unresolved TPA milestones, (specifically M-15, M-16, and M-85). With a transparent, comprehensive understanding of the interconnected relationships between the various change packages,

² Ecology docket number DE 10156 and EPA docket number RCRA-10-2013-0113

the Board and the public can understand the cleanup milestones. The Board cannot prioritize any specific milestone without a DOE commitment to full funding and a logical rationale that prescribes the importance of one milestone over another.

- The Board advises the TPA agencies to actively negotiate and support milestone schedules that actually reflect the limitations of time and the extent of the work necessary to accomplish shipment of Hanford TRU waste off-site by 2030, after which access to the WIPP facility may be severely curtailed or terminated.
- The Board advises the TPA agencies to agree that, in tandem with off-site removal of already repackaged TRU, DOE should be actively engaged in characterizing, determining remediation methods, and quantifying volumes and packaging needs of contact handled- and remote handled-TRU wastes which have not yet been exhumed at Hanford.
- The Board advises the TPA agencies remove the TRU and TRUM waste that is currently stored at the CWC in violation of the safety standards of Resource Conservation and Recovery Act and Washington State Hazardous Waste Management Act, in a quick and safe manner and to close those storage units. To accomplish this, waste should be treated or processed as fast as treatment capacity allows.
- The Board advises the TPA agencies to hold regional public meetings from which a common understanding of the interrelationships among TPA milestones M-091, M-15, M-16 and M-85 (Central Plateau change packages) can be built and shared.
- The Board requests an extension of the TPA milestone M-091 change package public comment period to allow time to promote better public understanding and facilitate more informed public comments on the change packages. Additionally, those milestones in the M-091 package that do not require funding before fiscal year 2019 should be included for discussion in the upcoming Central Plateau change package public comment period.

Sincerely,



Steve Hudson, Chair
Hanford Advisory Board

This advice represents Board consensus for this specific topic. It should not be taken out of context to extrapolate Board agreement on other subject matters.

cc: Monica Regalbuto, Assistant Secretary of Environmental Management, U.S.
Department of Energy, Headquarters
Kevin Smith, Manager, U.S. Department of Energy, Office of River Protection

HAB Consensus Advice # 285
Subject: M-091 Change Package
Adopted: September 10, 2015
Page 3

Jon Peschong, Co-Deputy Designated Federal Official, U.S. Department of Energy
Richland Operations Office
Joanne Grindstaff, Co-Deputy Designated Federal Official, U.S. Department of
Energy Office of River Protection
Dennis Faulk, U. S. Environmental Protection Agency
David Borak, U.S. Department of Energy, Headquarters
The Oregon and Washington Delegations

Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Pam Borso

From: [REDACTED]

Sent: Wednesday, September 16, 2015 1:56 PM

To: maia.bellon@ecy.wa.gov

Cc: Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov

Subject: Hazardous waste at Hanford

I am writing regarding the deplorable conditions at the Hanford Hazardous Waste Storage Facility.

This waste should be treated not just put off for another year. Please require treatment of this waste as fast as commercial facilities have the capacity to handle.

Set a firm deadline for closure of these facilities and milestones to reach to see that you are on target.

That you continue to allow non compliance with this dangerous material is unconscionable.

At the very least please see that this waste gets stored properly until it can be treated.

Thank you for your time and attention to this.

Sincerely,
Pam Borso

[REDACTED]

Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Forest Shomer

From: Forest Shomer [REDACTED]

Sent: Sunday, September 6, 2015 12:09 PM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov

Subject: clean up hanford

To Whom It May Concern:

- Hold USDOE responsible for treating more waste every year, and removing and treating waste based on potential to leak, catch fire, form gas, or pose other safety hazards and environmental risks.
- Require treatment as fast as commercial facilities have, or could expand to have, capacity available does not meet minimum legal requirements of hazardous waste laws, including EPA and state orders.
- Set a firm deadline in these milestones for closure of each illegal storage area at CWC, with wastes to be treated or stored in legally compliant storage by Sept. 30, 2018.

Thank you,

Forest Shomer
[REDACTED]

Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Peter and Darlene St. Martin

From: [REDACTED]

Sent: Thursday, September 3, 2015 10:18 AM

To: Skopeck, Kristen P

Cc: Office at Heart of America

Subject: Hanford

Please implement these actions suggested by Heart of America Northwest:

Hold USDOE responsible for treating more waste every year, and removing and treating waste based on potential to leak, catch fire, form gas, or pose other safety hazards and environmental risks.

Require treatment as fast as commercial facilities have, or could expand to have; capacity available does not meet minimum legal requirements of hazardous waste laws, including EPA and state orders.

Set a firm deadline in these milestones for closure of each illegal storage area at CWC, with wastes to be treated or stored in legally compliant storage by September 30, 2018.

Thank you.

Peter and Darlene St. Martin
[REDACTED]

Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Mike Conlan

From: Mike [REDACTED]

Sent: Tuesday, September 1, 2015 6:15 PM

To: Office at Heart of America; maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov

Subject: Hanford - Lagging further behind!!

TPA:

Hold USDOE responsible for treating more waste every year, and removing and treating waste based on potential to leak, catch fire, form gas, or pose other safety hazards and environmental risks.

Require treatment as fast as commercial facilities have, or could expand to have, capacity available does not meet minimum legal requirements of hazardous waste laws, including EPA and state orders.

Set a firm deadline in these milestones for closure of each illegal storage area at CWC, with wastes to be treated or stored in legally compliant storage by Sept. 30, 2018.

Mike Conlan

[REDACTED]

Commenter: Melvin Mackey

From: Melvin Mackey [REDACTED]

Sent: Tuesday, September 1, 2015 3:15 PM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov

Cc: Office at Heart of America

Subject: The USDOE's High-Risk Waiting Game

The USDOE's High-Risk Waiting Game:

Over 8,000 "containers" of hazardous waste are stored illegally at Hanford's Central Waste Complex (CWC), and over 12,000 more are deteriorating in unlined soil ditches. The new proposed changes to the Tri-Party Agreement--the description of the responsibilities of the US Department of Energy, the EPA, and Washington State's Department of Ecology in the cleanup of Hanford--fail to establish deadlines for the treatment of these stored wastes and delay the retrieval of Plutonium wastes with chemicals (transuranic wastes) for another ten years.

A significant amount of the most dangerous illegally stored waste at Hanford was shipped there by USDOE between 2002 and 2004, with the Washington State's approval. Heart of America Northwest warned then that there was no treatment capacity for this waste, and that it would sit indefinitely at Hanford. Sadly, their fears have been realized, and the proposed changes to the TPA could extend the potential for these wastes to remain at Hanford until 2030.

The proposed continued delays in treating illegally stored wastes, recognized as posing significant safety and environmental risks, are unacceptable. The changes to the retrieval milestones would require USDOE to treat only 280 cubic meters of waste this year and next year, and simply propose new quantities for following years. Additionally, these required quantities may be met by USDOE treating only the "easiest", low-risk wastes at the CWC.

I request that:

You hold USDOE responsible for treating more waste every year, and removing and treating waste based on potential to leak, catch fire, form gas, or pose other safety hazards and environmental risks.

You require treatment as fast as commercial facilities have, or could expand to have -- capacity available does not meet minimum legal requirements of hazardous waste laws, including EPA and state orders.

Most importantly, you set a firm deadline in these milestones for closure of each illegal storage area at CWC, with wastes to be treated or stored in legally compliant storage by Sept. 30, 2018.

Please respond.

Thank you,

Melvin Mackey



Commenter: Sharon Fasnacht

From: Fasnacht [REDACTED]

Sent: Tuesday, September 1, 2015 2:26 PM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov; Office at Heart of America

Subject: HANFORD & TRI-PARTY AGREEMENT CHANGES

I respectfully (sort of) ask to be heard! "Changes" to the Tri-Party Agreement are not acceptable because they defy common sense and morality. Why morality? American people trust, and pay, the Government entities, State & Federal, to make decisions that protect the people from danger. Not addressing the nuclear waste at Hanford, NOW – letting it leak into THE COLUMBIA RIVER SYSTEM, not replacing the tanks that have been leaking, not providing tanks for the poison being stored in ditches, etc., is not moral!

Of course, not keeping commitments made for the last 50 yrs. is not Moral either.

Over 8,000 "containers" of hazardous waste are stored illegally at Hanford's Central Waste Complex (CWC), and over 12,000 more are deteriorating in unlined soil ditches. The new proposed changes to the Tri-Party Agreement--the description of the responsibilities of the US Department of Energy, the EPA, and Washington State's Department of Ecology in the cleanup of Hanford--**fail to establish deadlines for the treatment of these stored wastes and delay the retrieval of Plutonium wastes with chemicals (transuranic wastes) for another ten years.**

Guess what? Our scientific community is predicting serious geologic activity under Hanford in the near future. ARE WE ALL NUTS? The focus needs to be on removal and storage – in NEW TANKS – of all poisonous waste, treated or untreated, **NOW!** No delays are acceptable because that alone might take too long!

Sharon Fasnacht (Former Tri-Cities resident).

[REDACTED]

PS And... Where is the money and the focus on research so that we can PERMANENTLY dispose of this waste, not just make it easier to store as glass?

Comments on the Tentative Agreement for M-091 Waste Management Milestones (June 2015)

Commenter: Janice T. Castle

From: Jan Castle [REDACTED]

Sent: Tuesday, September 1, 2015 11:57 AM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov

Cc: Office at Heart of America

Subject:

September 1, 2015

Maia Bellon, Washington State Department of Ecology

Kris Skopeck, USDOE

Dennis Faulk, EPA

Bob Ferguson, Attorney General, State of Washington

Dear regulators,

The proposed changes to the TPA regarding retrieval of stored low-level wastes at the Central Complex are unacceptably flawed. They should:

- Expand treatment capacity to at least meet minimum legal requirements, including EPA and state orders.
- Increase the speed of treatment to at least as fast as commercial facilities can manage.
- Prioritize treatment based on safety and environmental risk such as potential to leak, catch fire, or form gases.
- Set a firm deadline for legally compliant treatment and storage of wastes in all areas of CWC by Sept. 30, 2018.

A significant amount of the waste that is illegally stored in the CWC was brought there by USDOE with the state's approval between 2002-2004. You are responsible to the citizens of the Northwest for getting that waste treated and stored as fast as possible. The proposed changes do not measure up to this standard, and should be altered to provide much faster and more responsible action.

Sincerely,

Janice T. Castle

[REDACTED]

Commenter: Steven Gary and Elinor Graham

From: Steven Gary [REDACTED]

Sent: Tuesday, September 1, 2015 11:53 AM

To: maib461@ecy.wa.gov; Skopeck, Kristen P; Faulk, Dennis (EPA); bobf@atg.wa.gov

Cc: Office at Heart of America

Subject: Hanford Waste

• To Whom it May Concern,

As I understand it, over 8000 containers of hazardous waste are stored illegally at Hanford's Central Waste Complex(CWC), and over 12000 more are deteriorating in unlined soil ditches. The proposed changes to the Tri-Party Agreement do not establish deadlines for the treatment of these wastes and delay the retrieval of Plutonium wastes for another ten years.

USDOE should be responsible for treating more waste every year and removing and treating waste based on potential to leak, catch fire, form gas, or pose other safety hazards and environmental risks.

Treatment of waste should take place as fast as commercial facilities have or could expand to have. The proposed plan fails to address this possibility.

There should be a firm deadline in these milestones for closure of each illegal storage area at CWC, with wastes to be treated or stored in legally compliant storage by September 30, 2018.

Thank you.

Sincerely,

Steven Gary
Elinor Graham

[REDACTED]

Commenter: Russell Jim on behalf of the Confederated Tribes and Bands of the Yakima Nation ERWM



Confederated Tribes and Bands
of the Yakima Nation ERWM

Established by the
Treaty of June 9, 1855

August 19, 2015

Kristen Skopeck
U.S. Department of Energy
Richland Operations Office
P.O. Box 550, MSIN A7-75
Richland, WA 99352
Email: Kristen.Skopeck@rl.doe.go

Maia Bellon, Director,
Washington Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Bob Ferguson,
Washington Attorney General
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100

RE: Tentative Agreement on Negotiations for the Realignment of Select M-091 Waste
Management Milestones, June 2015

Dear Ms. Skopeck, Director Bellon and Attorney General Ferguson:

The Yakama Nation ERWM Program appreciates the opportunity to review and provide
comments on the proposed changes to the Hanford Federal Facility Agreement and
Consent Order (HFFACO) M-091 series milestones.

YN has consistently stated our objections to any Tri-Party Agency actions which would
or could potentially result in the long-term/permanent storage of transuranic or mixed
transuranic wastes on the Hanford site. We believe the changes in select M-091
Milestones unnecessarily postpones actions which would optimize the retrieval,
designation, and off-site shipment/disposal of TRUM/MLLW.

First, we believe these proposed changes are the result of a mistaken assumption that
USDOE must first send the wastes already packaged to WIPP before looking at other
TRU retrieval.

Secondly, these changes fail to reflect the federal court decision holding that mixed TRU wastes may not be stored for years at Hanford without treatment. Washington state won a hard fought legal decision recognizing that it has authority, indeed a duty, to require that these wastes not be stored without assay and identification of their chemical constituents and hazards. Therefore, any agreement which fails to require shipment or treatment as fast as is possible with expanded commercial treatment and firm enforceable deadlines for building other treatment capacity (just as Washington just won the right to require for tank waste treatment) is not acceptable.

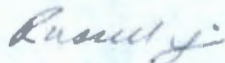
Proposed changes of Milestones M-091-49A151/52/53 will result in a 10 year delay (i.e., out to 9/30/2028) in the retrieval and designation of RH Mixed TRU (all the waste in quest in is mixed TRU, until proper characterization proves otherwise) and likewise the retrieval and designation of CH MTRU from burial grounds 218-W-4B, 218-W-3A, and 218-E-12B. These changes also relieve USDOE of the early requirement (9/30/2018) to have a **definitive design** for acquisition of capabilities and/or the acquisition of new facilities, modification of existing facilities and/or modification of planned facilities necessary to the tasks of retrieval, designation, storage, and treatment/processing prior to disposal of these wastes. Resulting in open-ended milestones filled with 'target-date/interim milestones' and no established completion date. It seems imprudent to word such flexibility into these milestones given the fact that completion of any modifications to existing facilities, or the construction of new facilities could realistically require 5-7 or more years depending upon the complexity of the tasks, and include major changes to the Hanford Facility RCRA Permit, potentially jeopardizing the 9/30/2028 date.

Recognizing the problematic delay of resumption of activities at the Waste Isolation Pilot Plant (WIPP), and understanding the need to establish new schedules, we still believe it imprudent to schedule only one milestone with a due date of 9/30/2030 for completion of all TRUM in above ground storage and in retrievable storage. There are serious uncertainties concerning the volume and treatment required to quantify future shipment of transuranic (TRU) and transuranic mixed (TRUM) waste (both remote and contact handled) to WIPP. Should WIPP's operational permit not be renewed beyond 2030, extraordinary pressure could be placed on DOE's resources.

Additionally, YN reiterates its position that transuranic elements buried prior to 1970 should be focused on a dedicated specific TPA milestone rather than included only as a component of other milestones. Given the importance of this waste category, aggressive milestones for characterization, retrieval, treatment, and disposal are important. Milestones for remote-handled transuranic waste, transuranic elements should be compliant with the 2024 milestone (M-016-00) for completion of cleanup of non-tank operable units of the Central Plateau.

YN ERWM Program recognizes the complexity of these changes and their potential impacts to other Hanford site cleanup milestones and has requested an extension to the public review period. Moreover, we believe these and other inter-related TPA change packages (M-15; M-16; and M-85) should be a part of the same comment period and regional meeting should be held.

Sincerely,



Russell Jim, YN,
ER/WM Manager

CC:

Jane Hedges, Program Manager, NWP, WA State Department of Ecology
Stacy Charboneau, Manager, Richland Operations Office, USDOE.
Dennis Faulk, Manager, U.S. Environmental Protection Agency, Region 10
Asa Washines, RHWC Chair, YN Tribal Council
Patrick Luke, RHWC, YN Tribal Council
Virgil Lewis, RHWC, YN Tribal Council
Vivian George, RHWC, YN Tribal Council
Philip Rigdon, YN DNR Superintendent

Administrative Record

Commenter: Gerry Pollet on behalf of Heart of America Northwest and Heart of America Northwest Research Center

**Heart of America Northwest's and Heart of America Northwest Research Center's
Comments on Washington State Ecology – USDOE Proposed Agreement on
Hanford Cleanup Tri-Party Agreement (TPA) Changes, Which Fail to Provide Firm
Treatment Deadlines for Illegally Stored Mixed Wastes and Would Delay Retrieval
of Transuranic Mixed Hazardous Wastes by 10 Years under TPA Milestone M-091**

August 21, 2015

Kristen Skopeck
U.S. Department of Energy
Richland Operations Office
Email: Kristen.Skopeck@rl.doe.gov

Maia Bellon, Director,
Washington Department of Ecology

Bob Ferguson,
Washington Attorney General

Dear Director Bellon, Ms. Skopeck, and Attorney General Ferguson:

In the past, Washington State has joined our organizations in objecting to USDOE plans based on illegal long-term storage of mixed transuranic and hazardous wastes on the Hanford site without the legally required characterization and treatment of those wastes – even if they are eventually, hoped for, and intended to be disposed in the USDOE's underground WIPP facility in New Mexico.

The proposed agreement appears to be based on plans which are at odds with Washington State's longstanding concerns and related positions.

It is possible to treat and retrieve waste at a much faster pace, instead of delaying the milestone for retrieving waste from unlined trenches by ten years; and, instead of allowing USDOE to propose when it will obtain or build treatment capacity for illegally stored wastes based on USDOE's internal budget and other priorities.

It is surprising that Washington State would agree to this latter approach for TRU wastes since: a) Washington already won a federal court decision requiring that "Mixed" hazardous and TRU wastes stored for any length of time at Hanford must be treated to avoid safety risks, even if the wastes would eventually be disposed at WIPP; and, b) Washington State just won a significant federal court decision rejecting USDOE's approach to allow USDOE to propose milestones for when it would build treatment facilities for tank wastes based on USDOE's internal budgeting and other priorities.

Therefore, the proposal should be replaced with milestones to require shipment or treatment as fast as is possible, utilizing expanded commercial treatment and firm enforceable deadlines for

building other treatment capacity (just as Washington just won the right to require for tank waste treatment).

1. The proposed continued delays in treating illegally stored wastes, recognized as posing significant safety and environmental risks, are unacceptable.
 - a. Over 8,000 "containers" are illegally stored at the Central Waste Complex (CWC). These include drums and shipping truck sized containers. See End Note for citation and information on Ecology and EPA ordering the closure of the units.¹
 - b. All of these wastes are considered "mixed waste" subject to federal hazardous waste law (RCRA) and Washington State's hazardous waste law (HWMMA).
 - c. *USDOE built and opened the Central Waste Complex without obtaining the hazardous waste permits required for any hazardous waste storage facility, which was a tremendous violation of hazardous waste laws. The storage facilities do not meet basic standards under those laws for safe storage of hazardous wastes. Indeed, wastes stored out of doors have leaked directly into the environment.*
 - d. Stored wastes include wastes with radiation levels allowing the containers to be managed and handled in existing treatment facilities ("Contact Handled", or "CH"); wastes whose radiation levels are so high that they must be "Remote-Handled" (RH); and very large containers of RH waste for which new facilities are needed to treat or repackage for shipment to WIPP.
 - e. The wastes have never been properly characterized and designated under federal and state hazardous waste laws. Wastes illegally designated by USDOE and its contractors as "debris" wastes (denoting solid with no liquid) have recently leaked large quantities of highly dangerous liquid wastes.² Designation of wastes without following rules for designation, or in deliberate violation of those rules, is not only dangerous because it could lead to exposure of people to deadly wastes or having ignitable or explosive wastes placed next to incompatible wastes, it may also be criminal.
 - f. A significant amount of the most dangerous of the illegally stored wastes, and those for which there is no treatment capacity, are wastes which USDOE shipped to Hanford in the 2002-2004 timeframe before being enjoined by a federal court at the request of our organization and Washington State. See *WA. v Abraham* and *WA v Bodman*. Sadly, Washington State had initially agreed to allow USDOE to send these Remote Handled TRU and large container wastes to Hanford. We warned then that there was no treatment capacity and that the wastes would sit indefinitely at Hanford. Our fears have been realized and the proposed milestones extend the potential for these wastes to remain at Hanford until 2030.
 - g. Over 12,000 containers are known to be deteriorating in unlined soil ditches (trenches) awaiting "retrieval". Retrieval is required to be followed by assay and characterization, with either: i) shipment of the wastes which designate as "Transuranic" (TRU) waste to the Waste Isolation Pilot Project underground repository in new Mexico for disposal; ii) treatment and disposal as "mixed radioactive and hazardous wastes" ("Mixed Waste") in licensed treatment and disposal facilities; or, iii) buried in lined landfills as radioactive solid waste.

The proposed TPA changes would delay the deadline for removing all wastes from these unlined ditches by ten years, from 2018 to 2028. This unacceptable delay is due solely to USDOE having unilaterally decided not to seek funding over the past five years for retrieval of wastes.

Therefore, we urge that the milestones for retrieval be set on the potential retrieval capacity and agreements by USDOE to increase throughput of existing commercial facilities for treating or repackaging wastes.

Unfortunately, the proposal is instead based on delaying retrieval until all stored wastes at CWC are treated and either sent to WIPP or otherwise disposed. The proposed approach rewards USDOE for failing to have requested funding to continue retrieving wastes and failing to treat stored wastes (in violation of the law). Further, the proposed approach would delay retrieval while USDOE dithers about when it will have additional treatment capacity for the stored wastes. **Instead, the TPA should include a requirement that the capacity expansions for treating CH, RH and large size wastes be based on meeting a much more aggressive schedule to treat both stored and newly retrieved wastes.**

- h. The WIPP facility suffered a major accident in which a chemical reaction led to an explosion of wastes underground. The facility remains shut and waste shipments suspended. The overall TPA milestone for shipping all TRU waste at Hanford to WIPP is 2030, reflecting our comments and that of many others in prior TPA negotiations that the deadline must remain firm because the WIPP facility is only licensed to take waste until 2030.

- 2. The failure to require treatment as fast as commercial facilities either have capacity available today, or could expand and have capacity available, does not meet minimum legal requirements of hazardous waste laws, including EPA and state orders pursuant to RCRA and HWMA to close illegal, unpermitted waste storage areas at the Central Waste Complex.

- a. Both the State and USDOE acknowledged (at the public meeting on this TPA change) that neither had any discussions with Perma-Fix Northwest regarding whether the company could treat greater quantities of the currently illegally stored CH-wastes than proposed in the annual milestones for CH TRU in the tentative agreement.

It is shocking that neither USDOE or Washington State sought to determine from the current provider of treatment whether the provider could increase treatment capacity, and on what schedule (or to determine if Perma-Fix could also make the appropriate operational or construction changes to accept large size wastes on a much faster schedule than allowing USDOE to propose for new facilities in the proposed M-091).

The milestone should be based on potential to increase treatment capacities as soon as possible.

- b. The tentative agreement continues to only require USDOE to treat or certify 280 cubic meters a year of Mixed TRU or Mixed LLW in the current and 2016 fiscal years. Proposed milestones M-091-47A and B.
 - c. Instead of aggressively requiring USDOE to either increase use of existing capacity for treatment or to work with Perma-Fix NW, the company which treats the mixed wastes at a nearby facility, to expand its treatment capacity, the proposed milestone allows USDOE to simply propose new annual quantities for treatment every year!

This is the very same unacceptable approach to treatment capacity which Washington State rejected for treatment capacity for tank wastes. The US District Court agreed that USDOE needs to be held accountable with enforceable deadlines for increasing treatment capacity for tank wastes – the same holds true for TRU!

- d. The treatment / characterization quantity could be met by USDOE choosing the easiest, lowest risk wastes at CWC.
- e. We urge that Ecology set clear requirements for:
 - i. greater quantities of wastes to be treated every year;
 - ii. the wastes to be characterized and treated be based on meeting a firm schedule to close every illegal outdoor storage unit by 2018 and to remove and treat wastes based on potential for leakage, gas formation, flammability and other safety criteria;
 - iii. requiring greater quantities of waste to be treated if the facilities contracted by USDOE (or, new USDOE facilities after 2020) have additional capacity in a given year, including not allowing USDOE to "roll-over" waste treated in one year towards meeting the requirement for the coming year (after all, the waste is illegally stored and has been for many years).;
 - iv. basing the treatment quantity on discussions with the available treatment operators regarding how much they could do with existing facilities and with practical expansions (e.g., if USDOE either contracted to ensure quantities enabling expansion, or if USDOE paid directly for expanding).
 - v. Base the milestones on the legal decision and position of the state in *Washington v Abraham*, including that storage without treatment is not allowed if treatment capacity is, or may be made, available.
 - vi. Setting discrete dates for design and operation or acquisition of new treatment capacity by 2021 for each type of waste (e.g., large container v. RH) based on the practicality that large container wastes may be easier to arrange for treatment at existing commercial, or USDOE, facilities than RH wastes.
3. The state's agreement to these proposed milestone changes is disturbing because the proposal fails to reflect the hard-won federal court decision that Washington State may, and, indeed has a legal duty to, require proper characterization and treatment for wastes stored for any significant length of time, e.g., more than two years, before being assayed, repackaged and sent to WIPP (if the waste is TRU). The State has previously voiced strong concern that USDOE's plans would allow these very wastes at the Central Waste Complex to continue to be stored illegally for up to fourteen years without treatment⁸ – and, without even knowing what the dangerous waste constituents are, e.g., if corrosive, ignitable, flammable, explosive, gas venting...
4. *The proposed agreement is at direct odds with the State's position in recent federal court proceedings over the Tank Waste Consent Decree. In that litigation, Washington properly insisted on having clear enforceable schedules (e.g., milestones) for constructing and operating new treatment facilities.* The U.S. District Court for Eastern Washington forcefully agreed that USDOE must be held

accountable with enforceable schedules for design, construction and operation of treatment facilities.

Yet, for M-91, the State has tentatively agreed to abandon that principle and allow the planning, construction and operation of facilities needed for treatment of mixed wastes which are Remote Handled or large size TRU wastes to be entirely subject to DOE's internal decision and budget prioritizations for when such facilities (if ever) will actually be operational.

These facilities are not technically challenging, which was USDOE's rationale for opposing firm enforceable deadlines for the High-Level Waste pre-treatment and vitrification plants.

The State's objections to allowing USDOE to develop proposed milestones for constructing treatment facilities all apply to the TRU facilities, e.g., under the proposal for M-91, USDOE would be able to propose a construction timeline based on internal budget and baselines. This could delay operational treatment capacity so long that it would not be possible to have the wastes removed from Hanford by 2030. Allowing USDO to take several years to propose schedules will lead to years of dispute over those schedules – delaying treatment.

For example, the proposal would replace M-90-01B, a firm deadline of September 30, 2018 for definitive design of new facilities, with nothing more than USDOE submitting a set of milestone proposals for the necessary facilities. Those proposals will be based on all of the internal USDOE prioritization considerations, such as budgeting and avoidance of treatment, which the State has previously objected to.

WE URGE: a firm deadline be set for acquisition and operation of the treatment capacities set by each unique waste form (RH-TRU, large size CH, large size RH, and existing CH containers capable of being treated at existing at existing commercial facilities operated by Perma-Fix, including schedules for expanding such capacity by agreement). The firm deadline for operational capacity for RH and large size container treatment should be no later than September 30, 2021.

5. **WE URGE:** a firm deadline be set in these milestones for closure of each illegal, unpermitted storage area at CWC, no later than September 30, 2018, with wastes to be stored in legally compliant storage by that date.
 - a. Three years is too long to allow continued use of illegal, unpermitted storage, particularly for outside areas, and especially in light of the fact that we have urged such deadlines be in place for actually closing the illegal storage areas since January, 2014.
 - b. Since USDOE has failed to provide any firm schedule for either removing or treating these wastes sooner than 2030, it is vital that the State order closure schedules pursuant to its duties under RCRA, and insist on TPA milestones which reflect such orders.
 - c. The TPA changes proposed fail to reflect the EPA order that Ecology adopt firm schedules for closing illegal storage areas.
6. **We Urge:** firm interim deadlines for retrieving TRU from unlined trenches, and to ensure that the capacity planned for treatment includes the potential that additional amounts of MW / MTRU will be removed from other burial grounds and require treatment

prior to 2030 for shipment to WIPP. It is inappropriate to propose only one milestone with a due date of 9/30/2030 for completion of all TRUM in above ground storage and in retrievable storage. There are serious uncertainties concerning the volume and treatment required to quantify future shipment of transuranic (TRU) and transuranic mixed (TRUM) waste (both remote and contact handled) to WIPP. The State should not agree to capacity plans based on USDOE's improper assertions that it can plan to leave TRU wastes in the soil at Hanford. The State should also include planning for capacity to retrieve and treat wastes from the US Ecology site, which is on Hanford and received USDOE wastes, which also may contain TRU and require disposal at WIPP prior to 2030.

7. **Public meetings are needed to provide the public with the opportunity for discussion and to take public comment on these proposed changes.** USDOE and Washington should extend the comment period in conjunction with other pending proposals for related milestones and wastes M-15, M-16 and M-85. It was shocking that only one public meeting was held on this proposed change package given the hundreds of people who have attended hearings and meetings on related topics such as burial ground retrieval, illegal storage at CWC and permit schedules for CWC, etc... Further, it was inappropriate that the agencies DID NOT TAKE PUBLIC COMMENT at the sole public meeting! Washington State should make available Public Participation Grant funds to enable the groups which have demonstrated that they will educate the public about TRU and CWC related proposals to do so again, plan public meetings with the agencies around the region, and ensure turnout. USDOE should be providing Ecology with funds for all public involvement related mixed waste regulatory costs, including those Public Participation Grants.

Today, August 21st, citing our organizations' requests and others' requests at advisory board committee meetings, the TPA agencies announced an extension of the comment period to September 25. This is inadequate and fails to take into account the reasons we have sought an extension: to allow time to plan and hold regional meetings and to do so in conjunction with the other related pending proposals. Failing to hold one comment period with one comprehensive set of meetings "piece-meals" public consideration of the proposals and does not allow for the public to view and comment on the cumulative impact of delays or wastes. Since the agencies and the TPA public involvement plan recognize that more than 30 days notice is required for meetings, it is clear that the agencies have failed to incorporate the need for meetings around the Northwest.

We urge that the agencies extend the comment period so that citizen groups, Tribal Nations and the HAB can plan informational and public comment meetings covering the inter-related TPA changes in addition to allowing the public to understand and comment on M-91.

Sincerely,

Gerry Pollet, J.D.,
Executive Director
Heart of America Northwest and Research Center
"The Public's Voice for Hanford Cleanup"
Gerry@hoanw.org and office@hoanw.org
www.hanfordcleanup.org
(206)382-1014

cc:

Jane Hedges, Program Manager, NWP, WA State Department of Ecology
Dennis Faulk, Manager, U.S. Environmental Protection Agency, Region 10

¹ Ecology's Determinations of Violations, issued January 24, 2014, detailed in Exhibit C to Agreed Order 14-NWP-023, include failure to designate wastes and conduct required waste analyses for wastes prior to storage, failure to label and maintain identification of containers.... See exhibit C to the Notice, pages 2, 6, 7 and 10. These violations have not been cured to bring all wastes into compliance. EPA's found that storage of wastes in outdoor areas was illegal and ordered them closed. USDOE has proposed taking decades to come into compliance with this order. Ecology's Determination of Violations included failure of the outdoor storage areas to meet RCRA / HWMA requirements. Exhibit C, pages 9 and 11. Again, the wastes remain stored illegally. Until removed and until physical conditions meet RCRA, the wastes remain illegally stored.

² E.g., see Notice of Violation, January 24, 2014, Id. Exh. C, Item 3.

³ See: Washington Department of Ecology letter of April 20, 2015 regarding USDOE's Hanford Cleanup budget plans for FY 2017, citing and repeating concerns from Ecology's letter from 2014 regarding the FY 2016 budget: "About 700 containers in above ground storage are already deteriorating.... USDOE Richland Operations Office (RL) plans to manage these wastes in deteriorating containers for up to fourteen more years (See M-91-44). " These comments pertain equally to Sodium bearing wastes, which are RCRA regulated, and which, USDOE plans to keep in storage without treatment for "an indeterminate (sic) time," as noted in Ecology's April 20, 2015 letter.

Commenter: Tom Carpenter on behalf of Hanford Challenge

Hanford Challenge | 219 1st Ave S, Ste. 310, Seattle, WA 98104 | 206-292-2850 | hanfordchallenge.org



SUBMITTED BY EMAIL

August 21, 2015

Kristen Skopect
U.S. Department of Energy Richland Operations Office
P.O. Box 550, MSIN A7-75
Richland, WA 99352

Dear Ms. Skopect:

I am writing to provide you with Hanford Challenge's comments on the *Tentative Agreement on Negotiations for the Realignment of Select M-091 Waste Management Milestones*. Hanford Challenge appreciates the opportunity to weigh in on these important changes, as well as to provide feedback about the public comment process.

First, we would like to encourage the DOE to extend the deadline for this public comment period. Several adjustments to Tri-Party Agreement (TPA) milestones are expected to enter public comment periods soon. Several stakeholder groups involved in the Hanford Advisory Board have pointed out the importance of understanding how different projects are being prioritized, and what trade-offs are being made in terms of funding and resources. DOE should also be aware that July and August tend to be periods in which many stakeholders and government officials are on vacation. We therefore recommend that comment periods for all of these milestone changes overlap to the degree possible, and that the public is given the maximum time possible to evaluate, compare, and comment upon these proposed changes.

We are also concerned that the proposed timeline for retrieving, treating, repackaging, and shipping waste to the Waste Isolation Pilot Plant (WIPP) leaves little room for error, accident, and delay. WIPP is currently scheduled to receive its last shipments in 2030, and there are no other permanent disposal facilities for transuranic waste (TRU) generated by the U.S. nuclear weapons complex. Under the proposed changes, TRU shipments and the retrieval of buried M-91 waste will probably not resume until the mid-2020s.¹

While this schedule might work if everything goes according to plan, budgetary issues, accidents, and unexpected technical difficulties at Hanford, WIPP, or other facilities involved in the treatment and packaging of M-91 wastes could lead to significant delays. Recent experience suggests that the possibility for delays is not insignificant. According to the current Project Management Plan (HNF-19169, REV. 14) all current M-91 series milestones are either in danger of being missed or will certainly be missed, but just four years ago the U.S. Department of Energy (DOE) was on or even ahead of schedule on many M-91 milestones (HNF-19169 REV. 9). In the intervening period a steep drop in funding as the

¹ In the current Project Management Plan (HNF-19169, REV. 14), the Department of Energy estimates that shipments to WIPP from Hanford will resume in 2024, and continue into 2030. It also estimates that retrieval operations will not resume until 2025, and continue until the end of 2028.

investment in Hanford from the American Recovery and Reinvestment Act of 2009 (ARRA) came to an end, as well as a major accident at WIPP, created major delays and uncertainties as to the timeline for the completion of M-91 projects.

DOE needs to assure that funding is available to meet the milestones agreed to in the Tri-Party Agreement.

Because the M-91 milestone series does not address all TRU waste at Hanford, we would also like the DOE to clarify its plans for retrieving, treating, and shipping non-M-91 TRU waste at Hanford. Because any TRU waste left at Hanford after 2030 might have to be stored on-site indefinitely, it is important that DOE creates a realistic timeline to dispose of all of Hanford's TRU waste. The M-91 milestone series should be altered to include these other waste streams. Given the tight schedule for completing this work, we are also concerned about the plan to set milestones for waste treatment and certification biennially. While budgetary concerns are always a factor in setting milestones, milestones should also drive budgetary prioritization. If the DOE is able to negotiate milestones every two years, then it is possible that short-term budgetary concerns will be the primary driver in the establishment of milestones.

We also want to point out that current state of M-91 series milestones is an indication that additional funding and resources are needed for the remediation of the Hanford site. While the projects addressed by M-91 are, probably correctly, given a low priority relative to some other projects at Hanford, this does not mean that delays are acceptable. The cause of these delays seemed, for the most part, to have been out of DOE's hands. The largest factor seemed to be the dearth of funding for M-91 after the Hanford's ARRA funding came to an end. The need for DOE to prioritize other projects given the lack of funding is understandable. Yet, the federal government as a whole has clearly failed to meet its obligations for a timely cleanup by putting DOE in the position where missing deadlines on lower-priority projects was inevitable. While Hanford Challenge believes that an adjustment to existing milestones is necessary at this point, we also want to make it clear that these adjustments represent a failure to fully fund federal commitments at the site.

We expect that each year that M-91 waste is left in the ground, the chance that waste containers will further deteriorate increases, which means the risks for Hanford workers, the environment, and future users of the site will also increase. However, we have seen no information or analysis about the magnitude of these additional risks. If practical, some accounting of the additional risk created by delays in retrieving M-91 waste should be undertaken, and the results communicated to DOE Headquarters, Congress, and the public. We also support the plan for an Engineering Study and Alternatives Analysis to identify and evaluate the capabilities and facilities needed to complete work on the M-91 series as safely, efficiently, and effectively as possible. Worker safety and environmental protection must be prioritized as this study is undertaken and as decisions are made about new capabilities and facilities.

We also want to stress the importance of context in the public comment factsheets and other documents addressed to the public. The factsheet for this public comment period, for example, described the proposed changes as a shift in "emphasis," rather than an adjustment of milestones that are now unreachable due to a lack of funding and a radiological incident at

WIPP. Neither the public comment factsheet nor the Tentative Agreement addressed the potential ecological, worker safety, or long-term public safety implications of delays. Even when potential ecological and safety risks are deemed negligible, proposed changes to TPA milestones should always at least state that this is the assumption of DOE or other TPA agencies.² While brevity is important for making these comment periods accessible to the public, those encountering the document do need to have at least some understanding of the rationale and potential consequences of the proposed changes. We know from experience that this is a very difficult balance to strike, and look forward to working with DOE to make future public comment opportunities as accessible as possible.

Finally, we were encouraged that the DOE allowed remote participation in the August 11th public meeting on this issue, and that it used seminar-style seating arrangements to promote a more freewheeling discussion. However, few if any participants were aware that this was an "informational" meeting, rather than a public hearing, until the event began. We suggest that a public hearing on the issue be held after the deadline for comments is extended and that it be rolled together with other pending milestone changes that have yet to be released for public comment so that all milestone changes are part of one package for public review.

Thank you again for your consideration of these comments. If you have any questions or concerns, I would be happy to discuss them with you.

Sincerely,



Tom Carpenter, Executive Director
Hanford Challenge

² In the *Federal Facility Agreement and Consent Order Change Control Form* attached to the *Tentative Agreement*, for example, the "Impact of Change" section merely summarizes the proposed changes. It does not mention whether the proposed changes could have consequences for safety or the environment.

Commenter: Ken Niles on behalf of Oregon Department of Energy



Oregon

Kate Brown, Governor



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July 13, 2015

Kristen Skopect
U.S. Department of Energy
Richland Operations Office
PO Box 550, MSIN A7-75
Richland, WA 99352

Dear Ms. Skopect:

Thank you for the opportunity to provide Oregon's comments on proposed changes to the M-091 Milestones (*Tentative Agreement on Negotiations for the Realignment of Select M-091 Waste Management Milestones, June 2015*).

It has been clear for some time that retrieval, packaging and transportation of transuranic waste from Hanford has not been a high priority and that changes would be necessary with the M-91 milestones. Oregon has had higher priorities at Hanford as well, and we've so far been willing to accept delays with the transuranic waste program.

We are concerned about providing comments on this change package without having a better feel for other change packages that are in the works, and how all of this work and these new milestones will fit together. The Tri-Party agencies have indicated to us that talks are ongoing or planned related to the M-15, M-16 and M-85 milestones. Without knowing the funding requirements to meet these new M-091 milestones, as well as funding requirements to meet potentially other new milestones that may come about from the other negotiations, we have no way to determine whether the new milestone dates are reasonable and achievable. We also are unable to determine whether this work would be done at the expense of some other projects which we would rank as a higher priority.

Our biggest concern is that it appears too much work related to transuranic waste retrieval, packaging and shipping is being deferred until after 2020. In the abstract, we are willing to accept some continued delays related to Hanford's transuranic waste. However, we are concerned that so much work will have been deferred to the 2020s that it will be impossible to achieve it all within the new timeframes. If the U.S. Department of Energy and the Washington Department of Ecology are assuming that all transuranic waste should be off site by 2030 in the event that the permit to operate the Waste Isolation Pilot Plant is not extended, then we have serious concerns about the ability to accomplish all the work that is being deferred until after 2020.

We expect shipments of transuranic waste to resume from Hanford prior to 2020 – either directly to WIPP or to the Idaho National Laboratory for repackaging. We do not believe that a 2030 milestone could possibly be met for shipping all transuranic waste out of Hanford if the resumption of shipments is delayed until after 2020. WIPP is expected to resume some waste emplacement in 2016. It seems likely that full operations could resume no later than 2018. It would be a mistake to assume DOE could meet an aggressive shipping schedule from Hanford over a reduced period of years, without allowing for bad

weather that may impact shipping schedules; a transportation accident that could stop shipping for an extended period; or another shutdown of WIPP for whatever reason.

We are also concerned that while the M-091 milestone series includes much of the transuranic waste on site, it does not encompass all of it. It does not appear that transuranic waste in the 618-10 and 618-11 burial grounds, other "newly generated waste," and CERCLA waste will be included in these milestones. We believe that this milestone series – especially when talking about an end date of shipping transuranic waste to WIPP – should capture all the waste streams at Hanford that would include transuranic waste. In addition, the proposed changes seem to exclude any waste in above ground storage after June 30, 2009. We don't know how much or what type of waste that includes, but again, it should be encompassed in these milestones.

Hanford has had few successes so far in readying remote-handled transuranic waste for shipment. As a result, plans for retrieval and packaging of remote-handled waste – for example from the 200 Area caissons – should be given a sufficient planning margin. As we've seen with so many projects at Hanford, the difficult ones take longer and cost more than anyone anticipated, and it is imperative to build additional time and funding within the schedule to allow for those likely delays.

We do not agree with limiting this agreement to certification and treatment of just 560 cubic meters of waste through the end of September 2016 (M-091-47A and M-091-47B). Similar interim milestones should be added for at least two additional years, rather than almost immediately going back into new negotiations.

Finally, we are pleased that there is a new milestone to require an engineering alternatives study by September of next year for "alternate capability" for handling remote-handled transuranic waste. Developing the capability to deal with remote-handled waste at Hanford has been deferred for more than a decade and it's long past time to move forward with this.

If you have questions about our comments, please contact me at 503-378-4906 or ken.niles@state.or.us.

Sincerely,



Ken Niles
Assistant Director

Cc Jane Hedges, Washington Department of Ecology
Dennis Faulk, U.S. Environmental Protection Agency
Doug Shoop, U.S. Department of Energy
Oregon Hanford Cleanup Board
Steve Hudson, Chair, Hanford Advisory Board

Commenter: Mecal Seppalainen and John Howieson on behalf of the Oregon Hanford Cleanup Board

OREGON HANFORD CLEANUP BOARD

August 5, 2015

Kristen Skopect
U.S. Department of Energy
Richland Operations Office
P.O. Box 550, MSIN A7-75
Richland, WA 99352

Dear Ms. Skopect:

The Oregon Hanford Cleanup Board (OHCBC) appreciates the opportunity to submit public comment on proposed changes to the M-091 milestones, which address retrieval, packaging, and transportation of some of the transuranic waste at Hanford.

The OHCBC would like to submit formal agreement with Oregon's letter sent on July 13, 2015 by Ken Niles, Assistant Director of the Oregon Department of Energy's Nuclear Safety Division.

To reiterate Oregon's main points:

- Since other Tri-Party Agreement milestones are in active negotiation, it is difficult to assess these proposed milestones without understanding the schedule and funding needs and impacts of other proposed milestone changes that may be revealed in the coming weeks or months.
- It may not be possible for all the M-091 transuranic waste to be off the Hanford Site by 2030, if much of the retrieval, packaging, and shipping is deferred until after 2020 (especially if shipping will not begin until after 2020).
- M-091 milestones should account for all transuranic waste at Hanford, including waste from burial grounds, "newly generated waste streams," and CERCLA waste.
- The M-091 schedule should incorporate additional time and funding so that unforeseen delays do not inhibit completion.

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Along with the Oregon Department of Energy, we are encouraged by the milestone which requires studying engineering alternatives for the capability to deal with Hanford's remote-handled transuranic waste.

Sincerely,



Mecal Seppalainen, Chair



John Howieson, MD, Vice Chair