



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

0051572

99-EAP-410

AUG 6 1999

Mr. Tom Fitzsimmons, Director
State of Washington
Department of Ecology
P. O. Box 47600
Olympia, Washington 98504

Mr. Charles C. Clarke, Regional Administrator
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101



Addressees:

HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) MILESTONE M-89-00

Please find enclosed a signed change request M-89-99-01 for Tri-Party Agreement Major Milestone M-89-00. This change request has been developed by the staffs of our respective agencies. A formal public comment period was held from April 26, 1999, to June 10, 1999. The comment response document is included with this change package.

The original milestone, M-89-00, did not specify a date. Another related milestone, M-20-55, required completion of a closure plan for the non-permitted waste units in the 324 Building. The M-20-55 milestone also required that upon regulatory approval of the closure plan, the U.S. Department of Energy, Richland Operations Office (RL) would submit a new major milestone which reflects the schedule of the final approved closure plan.

The State of Washington Department of Ecology sent a letter, dated September 1, 1998, approving the closure plan and requesting that RL prepare and submit a change request reflecting the closure plan schedule by October 15, 1998. A draft change request delay was agreed to by Ecology on October 14, 1998, and a copy of the draft change request was sent to Ecology on October 28, 1998.

The enclosed revision to M-89-00 represents another significant step forward in the cleanup of the Hanford Site.

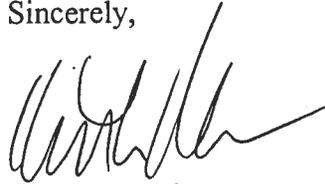
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If you have any questions, please contact me or your staff may contact Larry Romine, Director, Transition Program Division on (509) 376-4747, or James Rasmussen, Director, Environmental Assurance, Permits and Policy Division on (509) 376-5441.

Sincerely,



Keith A. Klein
Manager

EAP:JKY

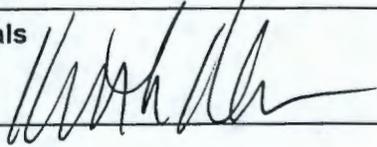
Enclosures

1. Change Request Form
2. Comment Response

cc w/encls:

R. M. Millikin, BWHC
D. E. Rasmussen, BWHC
J. R. Wilkinson, CTUIR
R. F. Stanley, Ecology
J. J. Wallace, Ecology
M. A. Wilson, Ecology
D. R. Sherwood, EPA
J. S. Hertzell, FDH
A. M. Hopkins, FDH
L. J. Olguin, FDH
M. B. Reeves, HAB
M. L. Blazek, OOE
P. Sobotta, NPT
R. Jim, YN

Administrative Record, H6-06

Change Number M-89-99-01	Hanford Federal Facility Agreement and Consent Order Change Control Form Do not use blue ink. Type or print using black ink.	Date August 6, 1999
Originator Keith A. Klein		Phone (509) 376-7395
Class of Change <input checked="" type="checkbox"/> I - Signatories <input type="checkbox"/> II - Executive Manager <input type="checkbox"/> III - Project Manager		
Change Title Complete closure of non-permitted mixed waste units in the 324 Building as described in the 324 Building REC/HLV Closure Plan, (DOE/RL-96-73). Due date for completion of closure activities may now be established as October 31, 2005, replacing the current "TBD" due date status of the major milestone M-89-00.		
Description/Justification of Change The Parties are required to agree on a date for this milestone following Ecology's approval of the "324 Building Radiochemical Engineering Cells, High-Level Vault, Low-Level Vault, and Associated Areas Closure Plan" (per Tri-Party Agreement Milestone 20-55). Ecology issued its approval of the closure plan in a letter dated September 1, 1998. (The approved project technical baseline currently indicates these activities will be completed October 2005.)		
Impact of Change No additional impacts are foreseen. This change merely fulfills the requirement of the existing milestone to establish a due date for completion of all closure activities noted above following approval of the closure plan referred to above.		
Affected Documents Hanford Federal Facility Agreement and Consent Order Amendment Seven.		
Approvals DOE  _____ EPA _____ Ecology _____		Date <u>8/6/99</u> <input checked="" type="checkbox"/> Approved _____ Disapproved _____ Date _____ Approved _____ Disapproved _____ Date _____ Approved _____ Disapproved _____

Comment on M-89-00 Milestone Change Request

COMMENT #1

I submit my personal comments on the Proposed Changes to the Tri-Party Agreement establishing the completion date for the 324 Building Radiochemical Engineering Cells Closure. In general, I support the proposed Milestone M-89-02 date of November 30, 2000, for completion of removal of all excess equipment and waste material from the 324 Building B-Cell and M-89-00 completion date of October 31, 2005.

However, I must comment that both proposed Milestones dates are another example of continuing problem based on the approach used in the Tri-Party Agreement of agreeing to enforceable milestone dates in the future without any way of assuring that Congressional budget appropriations and the U.S. Department of Energy-Headquarters allocations to the U.S. Department of Energy, Richland Operations Office (RL) will adequately fund all the legally required and enforceable Tri-Party Agreement Milestone work. In view of the overriding priority of the Tank Waste Treatment, Spent Nuclear Fuel and Plutonium Finishing Plant projects and the uncertainty of Congressional funding, I feel it is unwise to agree to such milestones. In my opinion there is a serious problem that needs resolving in the interest of reducing the continuing large expenditure of management and staff time on negotiating disputes over milestone dates that will not be met because of funding inadequacy.

My suggestion is that the only enforceable milestones are those agreed to by the parties for the current budget year and these are to be set after RL receives the current budget year allocation. All other milestones are to be planning milestones. I would appreciate receiving your and the State of Washington Department of Ecology (Ecology) response to this comment.

Response #1

In response to your letter to RL dated May 29, 1999; RL, Ecology, and the U.S. Environmental Protection Agency all appreciate your comment. While not perfect, the Tri-Party Agreement provides the basic framework for protection of the public and the environment. We must rely on the process in place as a means of managing the interests and responsibilities of the respective parties.

The Tri-Party Agreement reflects the technical risks, tasks, schedules, budget and funding considerations, and public values that are essential for planning and implementing successful accomplishment of the Hanford cleanup. We are committed to achievement of a technically sound and efficient cleanup; however, Tri-Party Agreement compliance is not optional. In particular, Ecology recognizes that RL is legally obligated to request adequate funding under Tri-Party Agreement Article XLVIII , Paragraph 148.

The (Tri-Party Agreement) language of Article XLVIII addresses funding requirements to ensure regulatory compliance schedules. The following Tri-Party Agreement Article

XLVIII language specifically addresses the cleanup funding issues: full funding requirement (Paragraph 148), Ecology participation in funding process (Paragraph 149), requirement to include Tri-Party Agreement cost estimates in "Annual Report to Congress" (Paragraph 150), EPA and Ecology reservation of rights (Paragraph 151), requirements subject to availability of funds (Paragraph 152), and agreements to adjust requirements if appropriated funds not available (Paragraph 153).

Ecology shares your concern regarding funding scenarios and commitments beyond the current year's Congressional budget appropriations (or "budget execution year"). For this reason, the only time Ecology will consider adjusting Tri-Party Agreement workscope or milestones due to lack of funding (as provided under Paragraph 153 of the Tri-Party Agreement) will be after RL has formally requested adequate funding to meet all its Tri-Party Agreement milestone obligations (as required under Paragraph 148) and Congress has denied RL's request.