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**Department of Energy**

9302454

Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

Action as Stated

93-ERB-074

MAR 15 1993



President  
Westinghouse Hanford Company  
Richland, Washington

Dear Sir:

**ENVIRONMENTAL RESTORATION PROGRAM DIRECTION: RESPONSE TO SETTLEMENT OF HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER MILESTONE M-14 DISPUTE**

The Westinghouse Hanford Company (WHC) is directed to take actions as needed to assist the U.S. Department of Energy, Richland Field Office in complying with Item #6 of the terms and conditions of the enclosed M-14 Dispute Settlement. Specifically, WHC is to proceed in continuing activities for conducting a non-time critical Expedited Response Action (ERA) at N-Springs in accordance with the provisions of the dispute settlement. This settlement requires that the ERA be developed to reduce the Strontium-90 contamination flux to the Columbia River through N-Springs. It also requires activities to be included in the ERA for evaluating commercially available treatment options for Strontium-90 and for providing data necessary to set demonstrable Strontium-90 cleanup standards. WHC is to support the establishment of milestones after regulatory approval of the Engineering Evaluation/Cost Analysis, as called out in the settlement.

FY 1993 funding for this effort is being provided by the Environmental Restoration Program, and we will provide further guidance regarding FY 1994 funding at a later date. If you have any questions about the required N-Springs ERA, please contact Mr. Eric Goller on 376-7326 of my staff.

Sincerely,

  
Roger D. Freeberg, Director  
Environmental Restoration Division

ERD:RKS

Enclosure

- cc w/encl:
- P. T. Day, EPA
- F. W. Gustafson, WHC
- R. P. Henckel, WHC
- W. L. Johnson, WHC
- J. K. Patterson, WHC
- D. D. Teel, EAP
- T. M. Wintczak, WHC



Change Number <b>M-14-92-01</b>	<b>Federal Facility Agreement and Consent Order          Change Control Form</b> <small>Do not use blue ink. Type or print using black ink.</small>	Date <b>January 8,          1993</b>						
Originator <b>D. M. Wanek</b>		Phone <b>376-5778</b>						
Class of Change <input checked="" type="checkbox"/> I - Signatories <input type="checkbox"/> II - Project Manager <input type="checkbox"/> III - Unit Manager								
Change Title <b>Provide Low-Level Mixed Waste Laboratory Services</b>								
Description/Justification of Change <p>The Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) milestone M-14-00 currently calls for completion of construction and initiation of operations of a low-level mixed waste laboratory by January 1992. The current milestone will be deleted and the following will be added:</p> <table border="0" data-bbox="276 1010 1315 1191"> <tr> <td>M-14-00</td> <td>DOE shall comply with Senior Executive Committee Agreement on Resolution of Milestone M-14-00 Change Request Dispute (dated 1/8/93)</td> <td></td> </tr> <tr> <td>M-14-01</td> <td>Complete definitive design (completed)</td> <td>11/90</td> </tr> </table> <p style="text-align: right;">Continued on Page 2.</p>			M-14-00	DOE shall comply with Senior Executive Committee Agreement on Resolution of Milestone M-14-00 Change Request Dispute (dated 1/8/93)		M-14-01	Complete definitive design (completed)	11/90
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M-14-01	Complete definitive design (completed)	11/90						
Impact of Change <b>See Page 2 for Impact of Change.</b>								
Affected Documents <b>Hanford Federal Facility Agreement and Consent Order Action Plan, Appendix D, Table D-2 and Figure D-1.</b>								
Approvals <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved <div style="display: flex; justify-content: space-between;"> <div data-bbox="165 1585 868 1713"> <i>[Signature]</i>  <small>DOE</small> </div> <div data-bbox="868 1585 1310 1713"> <u>1/11/93</u>  <small>Date</small> </div> </div> <div style="display: flex; justify-content: space-between;"> <div data-bbox="165 1713 868 1798"> <i>[Signature]</i>  <small>EPA</small> </div> <div data-bbox="868 1713 1310 1798"> <u>1/18/93</u>  <small>Date</small> </div> </div> <div style="display: flex; justify-content: space-between;"> <div data-bbox="165 1798 868 1883"> <i>[Signature]</i>  <small>Ecology</small> </div> <div data-bbox="868 1798 1310 1883"> <u>1/8/93</u>  <small>Date</small> </div> </div>								

Change Request # M-14-92-01

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- M-14-02 Complete construction of 27 module Waste Sampling and Characterization Facility (WSCF) 10/93  
(scope provides QA/QC to commercial services and process control support for liquid effluents)
- M-14-03 Initiate operations of 27 module WSCF 4/94
- M-14-04 DOE will proceed with procurement actions to provide low-level mixed waste commercial laboratory capacity sufficient to meet Tri-Party Agreement compliance requirements. Near-term laboratory capacity will not be specifically constrained to local services. However, to ensure compliance with the intent of the Tri-Party Agreement Milestone, RL will provide for procurement of locally-provided laboratory services for the long term designed to handle 80% or more of the low-level analytical requirements for the Environmental Restoration/Waste Management Programs at the Hanford Site. The date for commencement of local operations will be October, 1995.

The attached SEC agreement provides the narrative of the description and justification of the change.

#### Impact of Change

This milestone is intended to provide additional low-level and mixed waste analytical services, in the Tri-Cities area, for activities required by the Tri-Party Agreement. Delays in laboratory turnaround times are likely to delay cleanup of the Hanford Site. Approval of this change request and the attached SEC Agreement on Resolution will provide DOE an opportunity to demonstrate that it can meet its requirement to provide laboratory services through contract mechanisms at an overall lower cost than through a government owned laboratory.

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SEC AGREEMENT ON RESOLUTION OF  
MILESTONE M-14-00 CHANGE REQUEST DISPUTE  
January 8, 1993  
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Milestone M-14-00 of the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) requires the U.S. Department of Energy (DOE) to complete construction and initiate operations of a low level mixed waste laboratory on or before January 31, 1992. DOE has begun construction of a down-sized version of the laboratory capable of performing quality control of planned commercial laboratory capability. This does not meet the intent of M-14. The Milestone was included in the Agreement to ensure that analysis of Hanford samples would not be unduly delayed. The Agreement allows a seventy-five (75) day annual average for laboratory turnaround times for low level and mixed wastes (up to 10mR/hour), not to exceed 90 days. To date, DOE has repeatedly exceeded the 90-day limit.

On October 31, 1991, DOE submitted a request to change Milestone M-14-00. This request was denied by the U.S. Environmental Protection Agency (EPA) and the State of Washington Department of Ecology (Ecology) on November 8, 1991. DOE initiated the dispute resolution procedures of the Agreement on November 15, 1991. The parties engaged in extensive discussions and public interaction, and have subsequently agreed on a proposal to resolve this issue.

DOE acknowledges that it did not follow Tri-Party Agreement procedures for seeking modification to the Tri-Party Agreement or otherwise obtain approval from the regulators before placing a construction hold and taking steps to obtain commercially available laboratory services. DOE also acknowledges that without formal approval by the regulators, DOE is obligated under the Agreement to continue working on (remain in compliance with) the milestones. It is recognized, however, that there was informal communication by DOE to the regulators on an alternative approach being considered.

DOE agrees to the assessment of a penalty consistent with the terms of the Agreement. In exchange EPA and Ecology in accordance with the following terms will not seek additional penalties for violations to date of M-14-00 and the Tri-Party Agreement's analytical turnaround times.

DOE, EPA, and Ecology agree to the following specific terms and conditions:

1. DOE will exercise best efforts to award a contract(s) by July 1993, which provides sufficient low-level mixed waste commercial laboratory capacity to meet Tri-Party Agreement sampling and analysis requirements. TPA interim milestones will be established, leading to an October, 1995 commencement of operations, after award of the contract. Near-term laboratory capacity will not be specifically constrained to local services. However, to ensure compliance with the Tri-Party Agreement Milestone, DOE will provide for procurement of locally-provided laboratory services for the long term designed to handle 80% or more of the low-level analytical requirements for the Environmental Restoration/Waste Management Programs at the Hanford Site. The requirement for local services shall be satisfied by a facility located within a 25 mile radius from the Hanford Site Boundary.

## M-14 SEC AGREEMENT

January 8, 1993

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2. DOE shall provide a briefing to Ecology and EPA quarterly in the Tri-Party Agreement Project Manager Milestone Review Meetings which will provide the status of its progress in maintaining compliance with this SEC Agreement and the associated M-14 Milestones. If circumstances occur which may delay completion of any of the work required under this SEC Agreement or the M-14 Milestones, DOE shall promptly notify Ecology and EPA in writing. In any event, DOE is subject to enforcement action, including penalties, if it fails to comply with the requirements and schedules contained in this SEC Agreement and in the M-14 Milestones.

3. The down-sized onsite laboratory presently under construction by DOE will be used primarily for Quality Assurance and Quality control of DOE and commercial laboratories and low-level (less than 10 mR/hr) process-control analyses.

4. DOE remains bound by the laboratory turnaround times specified in the Tri-Party Agreement, unless specifically modified in accordance with the Tri-Party Agreement modification provisions, and remains subject to enforcement action, including penalties for future violations of Milestone M-14 and Tri-Party Agreement analytical turnaround time requirements. Turnaround times begin to run on the day the sample is taken and end when the data package is received from the laboratory by DOE or its contractors.

5. DOE acknowledges that it violated Milestone M-14-00 of the Agreement, and agree to the assessment of a \$100,000 penalty for this violation pursuant to Article XIX of the Agreement. DOE will request \$100,000 in accordance with Article XIX of the Tri-Party Agreement to cover the penalty, and will deposit that amount into the Hazardous Substances Response Trust Fund to the extent such funds are authorized and appropriated for the specific purpose.

M-14 SEC AGREEMENT  
 January 8, 1993  
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6. DOE commits to a response action at the Hanford Site as a result of this agreement. This response action at N-Springs will reduce the Strontium-90 contamination flux to the groundwater that feeds N-Springs, evaluate commercially available treatment options for Strontium-90, and provide data necessary to set demonstrable Strontium-90 groundwater clean-up standards. The approval mechanism for this response action will be the non-time-critical Expedited Response Action (ERA), defined in the Hanford Past Practice Strategy. Because this response action is a result of a noncompliance with TPA Milestone M-14, DOE commits to establish enforceable TPA milestones for this response action. Milestones will be established upon approval of the Engineering Evaluation/Cost Analysis (EE/CA). DOE further commits to seek funding in FY 1994 and in subsequent years, as required to complete existing (approved) ERAs and the N-Springs response action identified herein, in a manner so as not to impact required Tri-Party Agreement compliance activities.

Fred Olson

Fred Olson  
 Acting Director  
 State of Washington  
 Department of Ecology

1-8-93

Date

Dana A. Rasmussen

Dana A. Rasmussen  
 Regional Administrator  
 U.S. Environmental Protection Agency  
 Region 10

January 8, 1993

Date

John D. Wagoner

John D. Wagoner  
 Manager  
 U.S. Department of Energy  
 Richland Field Office

1/11/93

Date

95/3323.1031

### CORRESPONDENCE DISTRIBUTION COVERSHEET

Author: RD Freeberg/RL      Addressee: President/WHC      Correspondence No.: Incoming: 9302454  
 Action as Stated

Subject: ENVIRONMENTAL RESTORATION PROGRAM DIRECTION: RESPONSE TO SETTLEMENT OF HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER MILESTONE M-14 DISPUTE

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		AJ Fisher		X
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		WL Johnson	H6-04	X
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Distribution Corrections: Marian Cram, 6-4123 or Debbie Romine, 6-8111

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*JL-DA*

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