

0060559

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

AUG 08 2001

JAMES R. LARSEN, CLERK
DEPUTY
RICHLAND, WASHINGTON

RECEIVED
OCT 21 2003

EDMC UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
ENERGY,

Defendant.

NO. CT-99-5076-EFS

ORDER GRANTING JOINT MOTION
FOR ENTRY OF SECOND AMENDMENT
TO CONSENT DECREE

BEFORE THE COURT is the parties' Joint Motion for Entry of Second Amendment to Consent Decree, (Ct. Rec. 19), in which the parties seek to amend the Consent Decree, (Ct. Rec. 9), that was filed in this matter on September 30, 1999, and amended by the First Amendment to Consent Decree, (Ct. Rec. 18), on November 30, 2000. Specifically, the parties seek to amend Attachment A to the Consent Decree which provides that

[n]o later than December 30, 2000, DOE will determine whether the organic layer and pumpable liquids will be pumped from Tank C-103 together or separately, and will establish a deadline for initiating pumping of this tank. The parties will incorporate the initiation deadline into this schedule as provided in Section IV of the Decree.

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ORDER GRANTING JOINT MOTION FOR ENTRY OF SECOND AMENDMENT TO CONSENT DECREE * 1

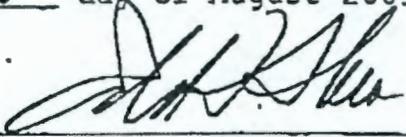
1 (Ct. Rec. 9 at 20 ll. 6-9.) The Proposed Second Amendment to Consent
2 Decree; (Ct. Rec. 20), states that on December 20, 2000, Defendant
3 United States Department of Energy made the determinations regarding
4 the organic layer and pumpable liquids. The proposed second amendment
5 also establishes April 30, 2003, as the deadline for initiating the
6 pumping of Tank C-103 and December 30, 2003, as the deadline to
7 complete the pumping. The proposed second amendment was not subjected
8 to public notice and comment because Plaintiff did not find it to be a
9 significant modification to the Consent Decree. (Ct. Rec. 9 at 5 ¶
10 VI.A.1.a.)

11 Pursuant to Local Rule 7.1(h)(6), the Court waives the time
12 requirements of Local Rule 7.1(h)(1), and grants an immediate hearing
13 on the parties' motion. The Court has reviewed the motion and the
14 proposed second amendment to the consent decree. For cause shown, the
15 Court grants the motion and separately enters the Second Amendment to
16 Consent Decree. Accordingly,

17 IT IS HEREBY ORDERED that the parties' Joint Motion for Entry of
18 Second Amendment to Consent Decree, (Ct. Rec. 19), is GRANTED.

19 IT IS SO ORDERED. The District Court Executive is directed to
20 enter this Order and provide copies to counsel.

21 DATED this 8th day of August 2001.



EDWARD F. SHEA
United States District Judge

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25 Q:\Civil\1999\CT-5076.ord.mtn expedite, amend decree 2.wpd

26

1 JOSEPH E. SHORIN, III, WSBA #19705
2 Assistant Attorney General
3 Attorney General of Washington
4 Ecology Division
5 P.O. Box 40117
6 Olympia, WA 98504-0117
7 (360) 586-6741

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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JAMES R. LARSEN, CLERK
DEPUTY
RICHLAND, WASHINGTON

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 STATE OF WASHINGTON,
11 DEPARTMENT OF ECOLOGY,

12 Plaintiff,

13 v.

14 UNITED STATES
15 DEPARTMENT OF ENERGY,

16 Defendant.

NO. CT-99-5076-EFS

SECOND AMENDMENT TO
CONSENT DECREE

17 WHEREAS, on September 29, 1999, the Court entered a Consent Decree
18 in which Plaintiff State of Washington, Department of Ecology ("State") and
19 Defendant United States Department of Energy ("DOE") agreed to resolve
20 potential litigation between the State and DOE regarding certain missed
21 milestones as well as other remaining milestones in the Hanford Federal
22 Facility Agreement and Consent Order ("HFFACO") (entered May 15, 1989) in
the interim stabilization series (M-41) and to establish a judicially enforceable

SECOND AMENDMENT TO -
CONSENT DECREE - 1

RECEIVED

JUL 27 2001

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (360) 586-6760
CLERK, U.S. DISTRICT COURT
SPOKANE, WASHINGTON

1 schedule for pumping liquid radioactive hazardous waste from single-shell
2 tanks as identified in the schedule in Section IV-A of the Consent Decree;

3 WHEREAS, on September 29, 2000, the Court entered the First
4 Amendment to the Consent Decree, adding certain additional provisions
5 pertaining to awarding a contract for design and construction of a waste
6 treatment and vitrification Complex;

7 WHEREAS, the schedule in Section IV-A of the Consent Decree is fully
8 set forth in Attachment A to the Consent Decree, and requires that "[n]o later
9 than December 30, 2000, DOE will determine whether the organic layer and
10 pumpable liquids will be pumped from Tank C-103 together or separately, and
11 will establish a deadline for initiating pumping of this tank"; and

12 WHEREAS, on December 20, 2000, DOE determined that the bulk of the
13 separable organic layer in Tank C-103 will be transferred separately from the
14 other pumpable liquids and established a deadline of April 30, 2003 for
15 initiating pumping of Tank C-103,

16 NOW THEREFORE, it is hereby ordered, adjudged, and decreed as
17 follows: The provisions of Attachment A to the Consent Decree pertaining to
18 Tank C-103 are hereby deleted and replaced with the following:

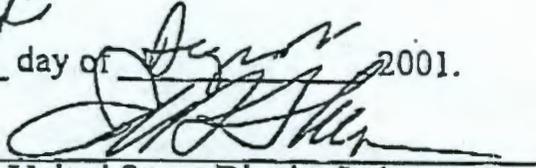
Tank Designation	Pumping Initiated	Projected Pumping Completion Date
29. C-103	April 30, 2003	December 30, 2003

21
22

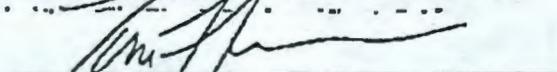
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This Second Amendment to Consent Decree shall be effective upon the date of its entry by the Court.

DATED this 8th day of August 2001.


United States District Judge

FOR THE WASHINGTON STATE
DEPARTMENT OF ECOLOGY

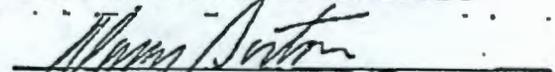

TOM FITZSIMMONS
Director
Washington Department of Ecology
300 Desmond Drive
Lacey, WA 98503

CHRISTINE O. GREGOIRE
Attorney General

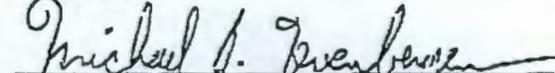

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WSBA #19705
Assistant Attorney General

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Attorney General of Washington
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(360) 586-6741

FOR THE UNITED STATES
DEPARTMENT OF ENERGY


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Acting Manager
Office of River Protection

JOHN CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources
Division


MICHAEL J. ZEVENBERGEN
WSBA #21292

Attorneys for Defendant
United States Department of Justice
Environmental Defense Section
c/o NOAA/Damage Assessment
7600 Sand Point Way, N.E.
Seattle, WA 98115-0070
(206) 526-6607



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Ecology Division

2425 Bristol Court SW 2nd Floor • Olympia WA 98502
Mailing Address: PO Box 40117 • Olympia WA 98504-0117
(360) 586-6770
July 26, 2001

Via Federal Express

James R. Larsen, Clerk
United States District Court
Eastern District of Washington
W 920 Riverside #840
Spokane, WA 99201

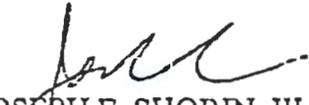
Re: *Hanford Interim Stabilization Consent Decree—Tank C-103*
USDC (ED) No. CT-99-5076-EFS

Dear Mr. Larsen:

Enclosed for filing please find the originals and two copies each of the Joint Notice of Hearing, Joint Motion for Entry of Second Amendment to Consent Decree, and Second Amendment to Consent Decree. Please process these as required and return one of the copies, file stamped, to me in the enclosed envelope.

Please feel free to call if you have questions. Thank you in advance for your assistance with this matter.

Very truly yours,


JOSEPH E. SHORIN, III
Assistant Attorney General
(360) 586-6751

JES:pah
Encl.
cc: Michael J. Zevenbergen (w/Encl.)

1 JOSEPH E. SHORIN
 2 Assistant Attorney General
 3 Attorney General of Washington
 4 Ecology Division
 5 P.O. Box 40117
 6 Olympia, WA 98504-0117
 7 (360) 586-6741

The Honorable Edward F. Shea

11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF WASHINGTON

13 STATE OF WASHINGTON,
 14 DEPARTMENT OF ECOLOGY,

Plaintiff,

NO. CT-99-5076-EFS

v.

JOINT NOTICE OF HEARING

17 UNITED STATES DEPARTMENT
 18 OF ENERGY,

Defendant.

19 TO: UNITED STATES DEPARTMENT OF ENERGY,
 20 by and through Michael J. Zevenbergen, Attorney for Defendant.

21 PLEASE TAKE NOTICE that a hearing regarding the Joint Motion for Second
 22 Amendment to Consent Decree in the above-captioned matter will be held by the assigned
 23 judge on:

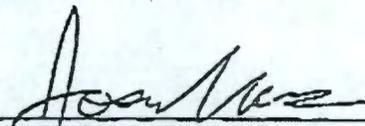
24 August 31, 2001.
25

1 The hearing will take place without oral argument.

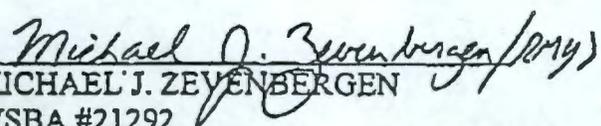
2 DATED this 25th day of July, 2001.

3 FOR THE WASHINGTON STATE
4 DEPARTMENT OF ECOLOGY

5 CHRISTINE O. GREGOIRE
6 Attorney General

7 
8 _____
9 JOSEPH E. SHORN, III
10 WSBA #19705
11 Assistant Attorney General
12 Attorneys for Plaintiff
13 State of Washington, Department of Ecology

14 FOR THE UNITED STATES
15 DEPARTMENT OF ENERGY

16 
17 _____
18 MICHAEL J. ZEVENBERGEN
19 WSBA #21292
20 Attorneys for Defendant
21 United States Department of Energy

1 JOSEPH E. SHORIN, III, WSBA #19705
2 Assistant Attorney General
3 Attorney General of Washington
4 Ecology Division
5 P.O. Box 40117
6 Olympia, WA 98504-0117
7 (360) 586-6741

The Honorable Edward F Shea

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 STATE OF WASHINGTON,
11 DEPARTMENT OF ECOLOGY,

12 Plaintiff,

13 v.

14 UNITED STATES DEPARTMENT
15 OF ENERGY,

16 Defendant.

NO. CT-99-5076-EFS

JOINT MOTION FOR ENTRY OF
SECOND AMENDMENT TO
CONSENT DECREE

Noted: August 31, 2001

17
18 On September 29, 1999, the Court entered a Consent Decree in the above-entitled
19 matter, establishing a judicially enforceable schedule for pumping liquid radioactive hazardous
20 waste from certain single-shell tanks located at Defendant's Hanford site. On September 29,
21 2000, the Court entered the First Amendment to the Consent Decree, adding certain additional
22 provisions pertaining to awarding a contract for design and construction of a waste treatment
23 and vitrification Complex. The schedule in Section IV-A of the Consent Decree is fully set
24 forth in Attachment A to the Consent Decree and required that "[n]o later than December 30,
25

JOINT MOTION FOR ENTRY OF
SECOND AMENDMENT TO
CONSENT DECREE

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (360) 438-7743

1 2000, DOE will determine whether the organic layer and pumpable liquids will be pumped
 2 from Tank C-103 together or separately, and will establish a deadline for initiating pumping of
 3 this tank.”

4
 5 On December 20, 2000, DOE made those determinations, including the establishment
 6 of a deadline of April 30, 2003, for initiating pumping of Tank C-103, as set forth in the
 7 attached proposed Second Amendment to the Consent Decree.

8 While the parties request that the Court approve the attached proposed Second
 9 Amendment, the parties note that DOE is exploring alternate technologies for separation of the
 10 organic layer in Tank C-103. DOE may in the future propose to the State an additional
 11 amendment to this provision of the Consent Decree, pursuant to the process set forth in Section
 12 VI-A of the Consent Decree, to extend the deadline to initiate pumping of Tank C-103. The
 13 State makes no representation as to whether such a proposal will be acceptable and expressly
 14 reserves its right pursuant to Section VI-A to oppose such a proposal. The parties hereby
 15 jointly move for entry of the attached Second Amendment to the Consent Decree in order to
 16 incorporate DOE's December 20, 2000, determinations into the existing schedule, which is set
 17

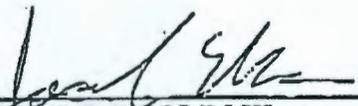
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1 forth in Attachment A to the Consent Decree. The Second Amendment to the Consent Decree
2 has been signed by the parties and is fair, reasonable, and in the public interest.

3 DATED this 25th day of July, 2001.

4 FOR THE WASHINGTON STATE DEPARTMENT OF ECOLOGY

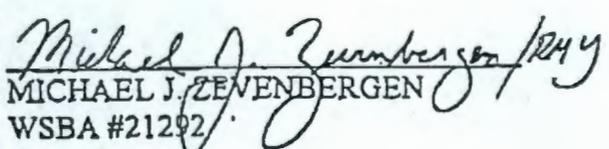
5 CHRISTINE O. GREGOIRE
6 Attorney General

7 

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9 JOSEPH E. SHORIN III
10 WSBA #19705
11 Assistant Attorney General

12 Attorneys for Plaintiff
13 Attorney General of Washington
14 Ecology Division
15 P.O. Box 40117
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17 (360) 586-6741

18 FOR THE UNITED STATES DEPARTMENT OF ENERGY

19 

20 MICHAEL J. ZEVENBERGEN
21 WSBA #21292
22 Attorney for Defendant
23 United States Department of Justice
24 Environmental Defense Section
25 c/o NOAA/Damage Assessment
7600 Sand Point Way NE
Seattle, WA 98115-0070
(206) 526-6607

1 JOSEPH E. SHORIN, III, WSBA #19705
2 Assistant Attorney General
3 Attorney General of Washington
4 Ecology Division
5 P.O. Box 40117
6 Olympia, WA 98504-0117
7 (360) 586-6741

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 STATE OF WASHINGTON,
11 DEPARTMENT OF ECOLOGY,
12
13 Plaintiff,

NO. CT-99-5076-EFS

SECOND AMENDMENT TO
CONSENT DECREE

11 v.

12 UNITED STATES
13 DEPARTMENT OF ENERGY,
14 Defendant.

15 WHEREAS, on September 29, 1999, the Court entered a Consent Decree
16 in which Plaintiff State of Washington, Department of Ecology ("State") and
17 Defendant United States Department of Energy ("DOE") agreed to resolve
18 potential litigation between the State and DOE regarding certain missed
19 milestones as well as other remaining milestones in the Hanford Federal
20 Facility Agreement and Consent Order ("HFFACO") (entered May 15, 1989) in
21 the interim stabilization series (M-41) and to establish a judicially enforceable
22

1 schedule for pumping liquid radioactive hazardous waste from single-shell
2 tanks as identified in the schedule in Section IV-A of the Consent Decree;

3 WHEREAS, on September 29, 2000, the Court entered the First
4 Amendment to the Consent Decree, adding certain additional provisions
5 pertaining to awarding a contract for design and construction of a waste
6 treatment and vitrification Complex;

7 WHEREAS, the schedule in Section IV-A of the Consent Decree is fully
8 set forth in Attachment A to the Consent Decree, and requires that "[n]o later
9 than December 30, 2000, DOE will determine whether the organic layer and
10 pumpable liquids will be pumped from Tank C-103 together or separately, and
11 will establish a deadline for initiating pumping of this tank"; and

12 WHEREAS, on December 20, 2000, DOE determined that the bulk of the
13 separable organic layer in Tank C-103 will be transferred separately from the
14 other pumpable liquids and established a deadline of April 30, 2003 for
15 initiating pumping of Tank C-103,

16 NOW THEREFORE, it is hereby ordered, adjudged, and decreed as
17 follows: The provisions of Attachment A to the Consent Decree pertaining to
18 Tank C-103 are hereby deleted and replaced with the following:

Tank Designation	Pumping Initiated	Projected Pumping Completion Date
29. C-103	April 30, 2003	December 30, 2003

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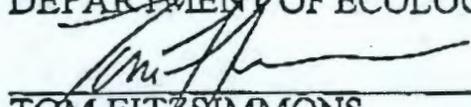
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This Second Amendment to Consent Decree shall be effective upon the date of its entry by the Court.

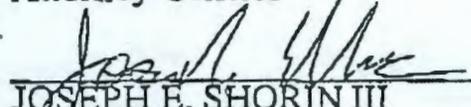
DATED this _____ day of _____, 2001.

United States District Judge

FOR THE WASHINGTON STATE DEPARTMENT OF ECOLOGY

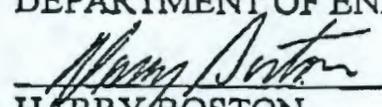

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Attorney General


JOSEPH E. SHORIN III
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FOR THE UNITED STATES DEPARTMENT OF ENERGY


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Acting Manager
Office of River Protection

JOHN CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources
Division


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