

HANFORD NATURAL RESOURCE TRUSTEE COUNCIL
FINDING 03-01

This finding is to approve the Hanford Natural Resource Trustee Council (Council) letter dated April 14, 2003, and to authorize the Chair's signature. The letter is addressed to Messrs. Keith Klein (U.S. Department of Energy), Nicholas Ceto (U.S. Environmental Protection Agency) and Michael Wilson (Washington State Department of Ecology). The subject line is: "100 B/C Ecological Risk Pilot Project."

In summation, this finding conveys:

- Objections to the Tri-Parties' failure to properly coordinate with the Council in the DQO process for the 100 B/C Risk Assessment Pilot Project
- Recommendation that the Tri-Parties reach a common understanding with the Trustees of the purpose, scope and biological principles for Ecological Risk Assessment in the river corridor
- Concern that there may be inadequate funding to support appropriate ecological risk evaluations
- Recommendation that ecological risk experts from EPA participate in the 100 B/C Pilot Project
- Recommendation that future DQO processes for ecological risk assessment, especially for the 200 Area, include early and continuing participation by the Council at regular intervals

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

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MAY 07 2003

Y/N Legal Counsel

03-CLO-0098

MAY 02 2003

Mr. Tom Zeilman
Hanford Natural Resource
Trustee Council Chairman
c/o: Confederated Tribes and Bands
of the Yakama Indian Nation
P. O. Box 151
Toppenish, Washington 98948

Dear Mr. Zeilman:

TRANSMITTAL OF FINDING 03-01: APPROVAL OF LETTER, "100 B/C ECOLOGICAL RISK PILOT PROJECT"

We received your e-mail dated April 17, 2003, requesting a vote for the proposed Finding 03-01 approving the letter entitled "100 B/C Ecological Risk Pilot Project." Attached please find the Signature Page.

The U.S. Department of Energy stands behind the purpose of the Hanford National Resource Trustee Council (HNRTC) being the forum to facilitate coordination and cooperation to achieve the common goals of the trustees and that all decisions made by the HNRTC shall be by consensus. We also view the HNRTC as a forum for open and honest discussion of trustee issues. As you may recall from the last quarterly HNRTC meeting, I was fully supportive of the HNRTC sending a letter to the Tri-Parties expressing concerns with the 100 B/C Pilot Project. However, it appears that the tenets of the HNRTC broke down during the process of preparing HNRTC advice on the 100 B/C Pilot. For the following reasons, the RL-Trustee's vote is an "objection" for both process and content.

The process described in the HNRTC By-laws for obtaining concurrence for HNRTC findings, which establish recommendations and advice, was not adhered to. The findings process was delayed until after transmittal of the letter and the letter did not receive the RL-Trustee's concurrence before being finalized. Secondly, as RL-Trustee, I do not agree with the content of the letter or the content of the finding. As such, the letter is not considered a valid HNRTC letter and should be retracted.

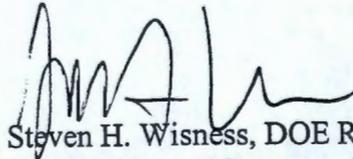
A suggested agenda topic for our next HNRTC meeting may be to discuss this issue in some detail from a content and process perspective to reach an agreed to path forward. In the meantime, a respected panel of scientists recently completed a peer review of the 100 B/C Pilot Project Data Quality Objectives. Their findings are anticipated to be received soon and will be forwarded to the HNRTC.

Mr. T. Zeilman
03-CLO-0098

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If you have questions or would like to discuss this letter, please contact me or you may contact Astrid P. Larsen, of my staff, on (509) 372-0477

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Wisness', with a stylized flourish at the end.

Steven H. Wisness, DOE Representative
Hanford Natural Resource Trustee Council

CLO:APL

Attachment

cc w/attach: See page 3 & 4

Mr. T. Zeilman
03-CLO-0098

-3-

Nicholas Ceto
Hanford Project Manager
U.S. Environmental Protection Agency
712 Swift Boulevard, Suite 5
Richland, Washington 99352

Susan Coburn Hughs
State of Oregon – Department of Energy
625 Marion Street NE
Salem, Oregon 97310

Larry Gadbois
U.S. Environmental Protection Agency
712 Swift Blvd., Suite 5
Richland, Washington 99352

Larry Goldstein
State of Washington – Department of Ecology
P. O. Box 47600
Olympia, Washington 98504

Dennis Faulk
U.S. Environmental Protection Agency
712 Swift Blvd., Suite 5
Richland, Washington 99352

Stuart Harris
Confederated Tribes of the
Umatilla Indian Reservation
P. O. Box 638
Pendleton, Oregon 97801

Helen Hillman
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
c/o EPA Region 10
1200-6th Avenue
Mail Stop ECL-117
Seattle, Washington 98101

Mr. T. Zeilman
03-CLO-0098

-4-

Nick Iadanza
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
National Marine Fisheries Service
525 NE Oregon Street
Portland, Oregon 97232-2737

Jake Jakabosky
Bureau of Land Management
Spokane District Office
1103 N. Fancher
Spokane, Washington 99212

Dan Landeen
Nez Perce Tribe
Main Street and Beaver Grade
P. O. Box 365
Lapwai, Idaho 83540

Todd Martin, Hanford Advisory Board

John Price
Washington Department of Ecology
1315 W. 4th
Kennewick, Washington 99336

Preston Sleeper
U.S. Department of the Interior
500 NE Multnomah Street, Suite 600
Portland, Oregon 97232-2036

Don Steffek
U.S. Fish and Wildlife Service
Portland Eastside Federal Complex
911 NE Avenue
Portland, Oregon 97232-4181

Lauri Vigue
State of Washington – Department of Ecology
Department of Fish & Wildlife
600 Capitol Way North
Olympia, Washington 98501-1091

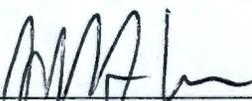
Mr. Michael Wilson
Washington State Department of Ecology
600 Desmond Dr.
Lacey, Washington 98504

HANFORD NATURAL RESOURCE TRUSTEE COUNCIL

SIGNATURE PAGE

Finding 03-01: Approval of letter, "100 B/C Ecological Risk Pilot Project."

- Support
 Object
 Abstain
 Support with separate opinion (below)

Signature: 

Name: Steven Wisness

Trustee Organization: DOE-RL

Date: 5/2/03

HANFORD NATURAL RESOURCE TRUSTEE COUNCIL

SIGNATURE PAGE

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Y/N Legal Counsel

Finding 03-01: Approval of letter, "100 B/C Ecological Risk Pilot Project."

- Support
- Object
- Abstain
- Support with separate opinion (below)

Signature: Susan C Hughes

Name: SUSAN C HUGHES

Trustee Organization: STATE of OREGON

Date: 4-18-03

HANFORD NATURAL RESOURCE TRUSTEE COUNCIL

SIGNATURE PAGE

Finding 03-01: Approval of letter, "100 B/C Ecological Risk Pilot Project."

- Support
- Object
- Abstain
- Support with separate opinion (below)

Signature: 
Name: Tom Zeilman
Trustee Organization: Yakama Nation
Date: 4/21/03

HANFORD NATURAL RESOURCE TRUSTEE COUNCIL

SIGNATURE PAGE

Finding 03-01: Approval of letter, "100 B/C Ecological Risk Pilot Project."

- Support
 Object
 Abstain
 Support with separate opinion (below)

Signature: Donald W. Steffek

Name: Donald W. Steffek

Trustee Organization: U.S. Fish and Wildlife Service

Date: April 30, 2003

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HANFORD NATURAL RESOURCE TRUSTEE COUNCIL

SIGNATURE PAGE

Finding 03-01: Approval of letter, "100 B/C Ecological Risk Pilot Project."

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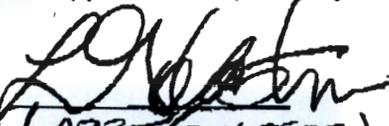
Signature: Dan Lundeen
 Name: Dan Lundeen
 Trustee Organization: Nez Perce Tribe
 Date: 5-7-03

HANFORD NATURAL RESOURCE TRUSTEE COUNCIL

SIGNATURE PAGE

Finding 03-01: Approval of letter, "100 B/C Ecological Risk Pilot Project."

- Support
- Object
- Abstain
- Support with separate opinion (below)

Signature: 
 Name: LARRA COLLETTE
 Trustee Organization: WASHINGTON DEPT. of Ecology
 Date: 4/17/03



April 14, 2003

Mr. Keith A. Klein, Manager
United States Department of Energy
Richland Operations Office
P.O. Box 550 – A7-50
Richland, Washington 99352

Mr. Nicholas Ceto
Hanford Project Manager
U.S. Environmental Protection Agency
712 Swift Boulevard, Suite 5
Richland, Washington 99352

Mr. Michael Wilson
Washington State Department of Ecology
600 Desmond Dr.
Lacey, Washington 98504

RE: 100 B/C Ecological Risk Pilot Project

Dear Messrs. Klein, Ceto and Wilson:

The Hanford Natural Resource Trustee Council is a multi-agency group representing federal, state and tribal natural resource trustees. The Council provides technical assistance to the Tri-Parties on cleanup issues related to the Hanford Site, and assesses potential injury to natural resources as authorized in § 107(f) of the Comprehensive Environmental Response, Liability and Compensation Act (CERCLA). It is in the Tri-Parties interests to maximize the effectiveness of cleanup actions at Hanford, in order to:

- 1) minimize life cycle costs,
- 2) avoid potential legal actions under the damage assessment process,
- 3) protect the environment, and
- 4) restore habitat damaged by past actions.

This letter relates our concerns and recommendations about the 100 B/C Area Ecological Risk Assessment Pilot Project.

The Tri-Parties encouraged the trustees to participate with them in a DQO Process for the B/C Pilot Project. After an initial interview process with some Council members, we understood that active trustee involvement in

CHAIR:
Tom Zeilman
509-865-7268

VICE-CHAIR:
Lauri Vigue
360-902-2425

**ADMINISTRATIVE
SECRETARY:**
Jill Spargur
509-376-6278

**COUNCIL MEMBERS &
REPRESENTATIVES:**

Confederated Tribes of
the Umatilla Indian
Reservation
Vacant

Nez Perce Tribe
Dan Landeen

State of Oregon
Office of Energy
-Susan Coburn Hughs

State of Washington
Department of Ecology
-Larry Goldstein
Department of Fish and Wildlife
-Lauri Vigue

U.S. Department of Energy
Steve Wisness

U.S. Department of the Interior
Preston Sleeper
Bureau of Land Management
-Jake Jakabcsky
U.S. Fish and Wildlife Service
-Don Steffek

Yakama Nation
Tom Zeilman

Messrs. Klein, Ceto, and Wilson

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April 14, 2003

the DQO process would continue on a regular basis. After many months we were disappointed to learn that the process had continued and reports were prepared without our knowledge or participation. We believe this action is in violation of the statutory requirement to coordinate with natural resource trustees (CERCLA § 104(b)(2), 42 U.S.C. § 9604(b)(2)). Moreover, virtually all of the initial trustee input was ignored. While we support the opportunistic collection of data this spring, we urge you to involve the Trustees in review and approval of a final Sampling and Analysis Plan (SAP) for additional sampling in this Pilot Project.

Our review of the 100-B/C Area Ecological Risk Assessment Data Quality Objectives Report (BHI-01673, Rev. 0) indicates the purpose of the ecological risk assessment (ERA) process needs to be clarified. An ERA is part of the CERCLA process; it identifies contaminants of concern, contaminant pathways, and affected natural resources. This information is then used to determine effect concentrations of contaminants to natural resources. These effect concentrations are used to establish appropriate cleanup levels. Conservation of natural resources can be addressed through supplemental remediation, mitigation, and/or natural resource restoration actions. We recommend that all parties come to a common understanding of the purpose of the ERA and then adjust the pilot B/C ERA final SAP as required.

We recommend that the basic premise for ecological risk be a perspective that is holistic and based on biological principles. For instance, the current geographic scope of the 100 B/C Area Pilot Project includes only remediated waste sites and a narrow band of riparian habitat. Contaminants released in the 100 B/C Area have potentially affected biota in the entire area and possibly nearby surrounding habitats. Since it is possible that natural resources in this larger area could be affected, they should be included in the geographic scope of the project. This example illustrates our concern that ecological risk assessment at Hanford will be fragmented.

Trustees commented last fall on the Remedial Design Report/Remedial Action Work Plan for the 100 Area (DOE/RL-96-17, Rev 4). We noted a lack of specificity regarding data collection for natural resources in the document. The Council is concerned that there may be inadequate funding to support appropriate ecological risk evaluations as evidenced in the recommended approach for the 100 B/C Area.

The collective expertise of the Council will be instrumental in providing the Tri-Parties information representing the knowledge, experience, and perspective of our agencies. It would be valuable as well to have ecological risk experts from EPA participating in the process.

Messrs. Klein, Ceto, and Wilson

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April 14, 2003

We look forward to working with you to address our common goals of comprehensive Hanford Site cleanup and the restoration of natural resources. By working together to identify contaminant sources, pathways, and effect levels to receptors, we'll be able to develop defensible remedial actions that are protective and have broad support of stakeholders. We recommend that future DQO processes for ecological risk, e.g., the 200 Area, include the Council early on and that communication and participation continue at regular intervals.

If you have questions or would like to discuss issues raised in this letter, please contact me at (509) 865-7268, Larry Goldstein at (360) 407-6573, or Don Steffek at (503) 231-6223.

Sincerely,



Tom Zeilman, Chair
Hanford Natural Resource Trustee Council

cc: Hanford Natural Resource Trustees
John Price, Dept. of Ecology
Todd Martin, Hanford Advisory Board

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DOE-RL/RLCC