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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

3100 Port of Benton Blvd • Richland, WA 99354 • (509) 372-7950  
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July 19, 2012

12-NWP-122  
CERTIFIED MAIL

Mr. Scott A. Samuelson, Manager  
Office of River Protection  
United States Department of Energy  
P.O. Box 550, MSIN: H6-60  
Richland, Washington 99352

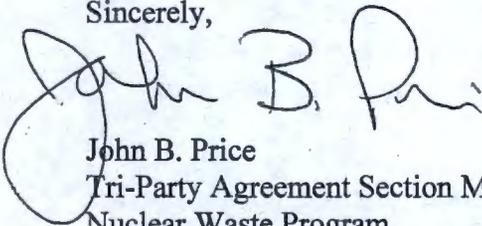
Re: Docket Number 9402, Stipulated Penalty Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Milestone M-047-06

Dear Mr. Samuelson:

Enclosed is notice of a Stipulated Penalty for Hanford Federal Facility Agreement and Consent Order M-047-06. A copy of this notice was hand-delivered to your office document control center on July 19, 2012.

If you have any questions, you may contact me at 509-372-7921 or [john.price@ecy.wa.gov](mailto:john.price@ecy.wa.gov).

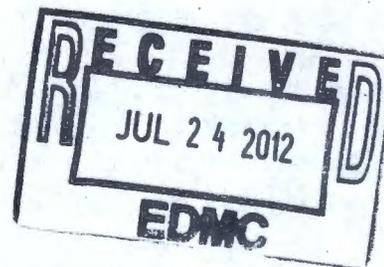
Sincerely,



John B. Price  
Tri-Party Agreement Section Manager  
Nuclear Waste Program

dbm  
Enclosure

cc: Dennis Faulk, EPA  
Lori Huffman, USDOE-ORP  
Stuart Harris, CTUIR  
Gabriel Bohnee, NPT  
Russell Jim, YN  
Susan Leckband, HAB



Ken Niles, ODOE  
Jane Hedges, Ecology  
Administrative Record: M-47-12  
Environmental Portal  
USDOE-ORP Correspondence Control

M-047-06



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF STIPULATED )  
ASSESSMENT AGAINST )  
Scott L Samuelson, Manager )  
Office of River Protection )  
United States Department of Energy )  
P.O. Box 550, MSIN: H6-60 )  
Richland, Washington 99352 )

NOTICE OF STIPULATED  
PENALTY INCURRED AND DUE  
No. 9402

To: Scott L Samuelson, Manager  
Office of River Protection  
United States Department of Energy  
P.O. Box 550, MSIN: H6-60  
Richland, Washington 99352

For the site located at:

The Hanford Site within Benton, Franklin, and Grant Counties of Washington,  
United States Environmental Protection Agency (EPA) ID#WA7890008967.

Notice is given that the Department of Ecology (Ecology) has assessed a stipulated penalty against you, the United States Department of Energy (USDOE) in the amount of \$5,000. This incurred penalty is pursuant to the *Hanford Agreement and Consent Order Federal Facility (HFFACO)*, Article IX ("stipulated Dangerous Waste Penalties"). The violation is described within this Notice of Stipulated Penalty. The penalty is based on the following findings:

USDOE is the owner of the Hanford site, located in southeast Washington. There are two regional USDOE offices at Hanford – the Office of River Protection (ORP) and the Richland Operations Office (RL). Each USDOE office contracts cleanup or waste management work to prime contractors. The prime contractor subcontracts major workloads to subcontractors. The contractors and subcontractors are the operators of the Hanford site.

Primary responsibilities of USDOE-ORP include the operation of the Hanford hazardous waste tank systems and construction of the Waste Treatment Plant (WTP) for treatment of the high-level mixed waste stored within the Hanford tank system. USDOE-ORP contracts construction of the WTP to Bechtel National Incorporated (BNI).

USDOE, the United States Environmental Protection Agency, and Ecology are the parties to the HFFACO. The general purposes of the HFFACO described in HFFACO Article III, paragraph 14.C include "Ensure compliance with RCRA and the Washington Hazardous Waste Management Act (HWMA) (Ch. 70.105 RCW) for TSD Units including requirements covering permitting, compliance, closure, and post-closure care." HFFACO Article VII. Paragraph 26

states that "DOE agrees to perform the work described in this Article VII in accordance with the [HFFACO] Action Plan."

### **Violation**

Milestone M-047-06 requires USDOE to "Complete negotiation of no more than two interim milestones governing work necessary to support completion of M-047-00. Such interim milestones shall be consistent with milestones established under M-062-45" by June 30, 2012. The Ecology representatives who attended the Project Manager Meetings (PMMs), held in accordance with HFFACO Action 4.1, began requesting in December 2011 that USDOE initiate the negotiations required under M-047-06. USDOE reported milestone M-047-06 as "on schedule" in signed meeting minutes for PMMs held October 25, 2011 and January 24, 2012. USDOE again reported milestone M-047-06 as "on schedule" in signed meeting minutes for a quarterly review of milestone status held February 16, 2012 in accordance with HFFACO Action Plan Section 4.2. The signed meeting minutes for the February 16, 2012 document that "ORP stated that negotiation discussions with Ecology on milestones M-090-11 and M-047-06 are planned for the late spring, early summer 2012 time frame." USDOE never contacted Ecology to schedule the start of negotiations. Because USDOE never attempted to initiate negotiations, USDOE is fully responsible for the failure to complete negotiations by the milestone due date.

USDOE submitted the signed HFFACO Change Number M-47-12-01 to Ecology on June 13, 2012. USDOE delivered a signed change package seventeen (17) days before the milestone due date, which does not meet the criteria in HFFACO Article VIII (Paragraph 30.F) to deliver a signed change request ninety (90) days in advance of when a milestone is due. Therefore in accordance with Article VIII, USDOE is still responsible for timely completion of the milestone regardless of whether it disputes Ecology's disapproval of the change request. Ecology rejected this change packet via letter dated June 25, 2012. Ecology rejected the change because it did not comply with two criteria for changes, listed in HFFACO Action Plan Section 12.3.3:

- i. The change request signed by DOE did not state "the length of the extension sought." USDOE proposed a date of "To Be Established" – which leaves the length of the extension sought indeterminate.
- ii. USDOE did not state "the good cause for the extension" in the change request.

Article VII requires that "USDOE shall bring its facility into compliance with RCRA requirements specified in the Action Plan according to the schedule set forth therein." USDOE has not completed milestone M-047-06 as of 2 July 2012, which is the first business day after the 30 June 2012 milestone due date. Therefore, USDOE has missed the milestone and is in violation of the terms of Article VII "Work."

HFFACO Article IX, Stipulated Dangerous Waste Penalties, states that Ecology may assess a stipulated penalty in the amount of "\$5,000 for the first week (or part thereof), and up to \$10,000 for each additional week (or part thereof)." Ecology is assessing a stipulated penalty in the amount of \$5,000 for the first week (or part thereof) that the milestone was missed.

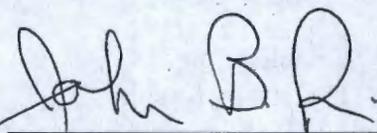
### **Dispute and Penalty Payment**

Under HFFACO Article VIII, Paragraph 30, and Article IX, Paragraph 31, USDOE has seven (7) days upon receipt of the assessment to invoke dispute resolution on the issue of whether the above-listed violations occurred. No assessment of the stipulated penalty shall be final until the conclusion of dispute resolution procedures on your failure to comply. In the event a final determination adverse to USDOE is issued, USDOE will have additional appeal rights pursuant to HFFACO Article VII, paragraph 30.D, and applicable law.

If USDOE does not invoke dispute resolution within seven (7) days upon receipt of the assessment, the stipulated penalty is immediately due and payable. Please send your penalty payment to:

Department of Ecology  
Cashiering Section  
P.O. Box 5128  
Lacey, Washington 98509-5128

DATED this *19th of July, 2012, at Richland, Washington*



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John B. Price  
Tri-Party Agreement Section Manager  
Nuclear Waste Program  
Washington State Department of Ecology