



**U.S. Department of Energy
Hanford Site**

January 26, 2021

21-ECD-000302

Mr. David Bowen, Program Manager
Nuclear Waste Program
Washington State Department of Ecology
3100 Port of Benton Boulevard
Richland, Washington 99354

Dear Mr. Bowen:

HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (ALSO KNOWN AS TRI-PARTY AGREEMENT) INTERIM MILESTONE M-062-01, JANUARY 2021 TRI-PARTY AGREEMENT SEMI-ANNUAL PROJECT COMPLIANCE REPORT FOR MAY 1, 2020, THROUGH OCTOBER 31, 2020

This letter transmits the U.S. Department of Energy January 2021 Semi-Annual Project Compliance Report (Attachment) required by Interim Milestone M-062-01 for the period of May 1, 2020, through October 31, 2020. As stipulated in the M-062-01 milestone, this report includes project summaries of accomplishments, issues, and actions being taken for the M-062-00 milestone series.

If you have any questions, please contact Thomas W. Fletcher, Assistant Manager, Waste Treatment and Immobilization Plant Project, on (509) 376-3434, or Delmar Noyes, Assistant Manager, Tank Farms Project, Office of River Protection, on (509) 376-5166.

Sincerely,

Brian T. Vance

Digitally signed by Brian T.

Vance

Date: 2021.01.26 16:18:41 -08'00'

Brian T. Vance
Manager

ECD:BRT

Attachment

cc: See page 2

Mr. David Bowen
21-ECD-000302

-2-

January 26, 2021

cc w/attach:

J. J. Lyon, Ecology
J. D. McDonald, Ecology
Administrative Record
BNI Correspondence
Environmental Portal
TPA Administrative Record

cc w/o attach:

J. Bell, NPT
R. Buck, Wanapum
J. Burrignt, Oregon Energy
L. Contreras, YN
S. L. Dahl, Ecology
D. Einan, EPA
S. E. Hudson, HAB
M. Murphy, CTUIR
J. B. Price, Ecology
M. J. Turner, HMIS

Attachment
21-ECD-000302

January 2021 Semiannual Project Compliance Report for May 1, 2020,
through October 31, 2020

(8 Pages Including Cover Sheet)

U.S. Department of Energy, Office of River Protection River Protection Project

January 2021 Semiannual Project Compliance Report Per
Hanford Federal Facility Agreement and Consent Order
Milestone M-062-01

May 1, 2020, through October 31, 2020

BENTON HARP

Digitally signed by BENTON
HARP

Date: 2021.01.26 14:26:08 -08'00'

Ben Harp, Deputy Manager
Office of River Protection

Date

Date Published
January 2021



P.O. Box 450
Richland, Washington 99352



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ABBREVIATIONS AND ACRONYMS

COVID-19	coronavirus disease 2019
DOE	U.S. Department of Energy
Ecology	Washington State Department of Ecology
FY	fiscal year
ORP	U.S. Department of Energy, Office of River Protection
System Plan	ORP-11242, <i>River Protection Project System Plan</i>
TPA	Tri-Party Agreement
WTP	Waste Treatment and Immobilization Plant

1.0 INTRODUCTION

The U.S. Department of Energy (DOE), Office of River Protection (ORP) is submitting this January 2021 semiannual project compliance report to satisfy the requirements of the *Hanford Federal Facility Agreement and Consent Order* (Ecology et al., 1989), commonly referred to as the Tri-Party Agreement (TPA), Milestone M-062-01. As detailed in Milestone M-062-01, this report documents ORP's compliance with the TPA Milestone M-062-00 series; provides updates, progress, and issues relative to those milestones; and identifies activities expected in the near future. This compliance report discusses M-062-00 milestone series activities during the reporting period and activities expected in the near future. The project progress, budget, and cost information in this report is based on the period of May 1, 2020, through October 31, 2020.

The M-062-00, "Complete Pretreatment Processing and Vitrification of Hanford High-Level (HLW) and Low-Activity (LAW) Tank Wastes," major milestone series was created through the TPA dispute resolution process leading to the March 29, 2000, Director of the Washington State Department of Ecology (Ecology) final determination ("Tank Waste Retrieval and Treatment Pathway at Hanford" [Ecology 2000]). These milestones were then modified and added to during the negotiations occurring from 2007 through 2009 and became effective under a series of TPA change packages¹ in conjunction with the Consent Decree in *State of Washington v. Dept. of Energy*, Case No. 08-5085-FVS², as entered in federal court on October 25, 2010. The 2010 Consent Decree was amended as a result of litigation, and many of the dates established by the 2010 Consent Decree were extended by the court (see Amended Consent Decree [March 11, 2016], Second Amended Consent Decree [April 12, 2016], and Third Amended Consent Decree [October 12, 2018], Case No. 2:08-CV-5085-RMP).

Since the milestone dates in the M-062-00 series and other TPA milestones were, to a large part, predicated on the milestones established in the 2010 Consent Decree, and those dates have been extended by the court, existing milestones in the M-062-00 series and other series are at risk or cannot be met. TPA milestones affected by the modified milestones in the Consent Decree, as amended, need to be adjusted accordingly. Many of the interim M-062-00 milestones are under discussion as part of the ongoing holistic negotiations. On December 10, 2020, the Court entered an order amending certain Consent Decree milestones on the basis that the COVID-19 pandemic constitutes a *force majeure* event justifying amendment of the Consent Decree pursuant to Section VII.E of the Consent Decree. The effects on TPA milestones, to the extent determinable, will be discussed in the next semiannual report.

Note: March 24, 2020, the Hanford Site moved to an essential mission-critical operations posture in recognition of increasing coronavirus disease 2019 (COVID-19) concerns. During this time, the majority of the Hanford Site workforce transitioned to telework, and a limited number of workers reported to the site to perform activities necessary to maintain the site in a safe condition, protective of the community, the region, and the environment. On May 20, 2020, DOE

¹ M-36-09-01, M-42-09-01, M-46-09-01, M-45-09-01, M-047-09-09, M-50-09-01, M-51-09-01, M-61-09-01, M-62-09-01, M-90-09-01, P-09-09-01, and I-09-01.

² This Consent Decree resulted from litigation filed by the state in 2008, alleging that the U.S. Department of Energy had missed or was certain to miss several Tri-Party Agreement milestones, including several in the M-045-00 and M-062-00 series.

authorized the Hanford Site to move to Phase 1. Hanford Site operations began Phase 1 on May 26, 2020. During Phase 1, essential mission-critical operations were continued and targeted mobilization and low-risk workscope, such as implementation of COVID-19 protocols to infrastructure and facilities, required training, medical evaluations, and limited construction activities were added. The Hanford Site transitioned to Phase 2 beginning August 31, 2020. In Phase 2, the workforce that has been performing portable work via telework will generally continue to telework. The majority of the workforce performing nonportable work will return to the site to progress work activities, leveraging established COVID-19 controls. DOE and its contractors are engaged in ongoing analysis of work schedule impacts. DOE is continuing to evaluate the information, COVID-19 potential impacts on the TPA, and if other actions may be necessary.

2.0 NEAR-TERM M-062-00 SERIES TRI-PARTY AGREEMENT MILESTONES

2.1 MILESTONE M-062-40

ORP and Ecology worked together to define scenarios as required by TPA Milestone M-062-40. The selected scenarios for ORP-11242, River Protection Project System Plan (System Plan), Rev. 9 were agreed upon by ORP and Ecology. ORP documented the agreement and transmitted letter 19-MIO-0020, "Request for Concurrence on Selected Scenarios for the River Protection Project System Plan, Revision 9," dated September 25, 2019, to Ecology for concurrence. Ecology concurred on October 2, 2019, via letter 19-NWP-158, "Transmittal of Signed Concurrence for Selected Scenarios for the River Protection Project System Plan, Revision 9, RPP-RPT-61707, Rev. 0." System Plan, Rev. 9 was due for submittal to Ecology on October 31, 2020. Ecology granted DOE an extension to November 13, 2020, and DOE submitted System Plan, Rev. 9 on November 13, 2020.

2.2 MILESTONE M-062-45

As previously reported, on January 30, 2015, ORP provided Ecology Change Control Form M-62-14-02, which proposed adding language under TPA Milestone M-062-45 to defer negotiations required under TPA Milestone M-062-45. Ecology did not respond within the 14-day review period ending on February 13, 2015, which is deemed as disapproval in accordance with the TPA. ORP initiated a dispute resolution via letter 15-TF-0014, "Initiation of Dispute Resolution Regarding Disapproval of Hanford Federal Facility Agreement and Consent Order Change Control Form M-62-14-02," dated February 20, 2015. Ecology provided a justification for disapproval on March 12, 2015, via letter 15-NWP-036, "Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Change Package, Change Number M-62-14-02." Ecology and ORP, at the TPA project manager level, signed an agreement extending the dispute resolution period until August 1, 2016. When that date passed, the dispute was elevated to the Interagency Management Integration Team for resolution. Decision document 2016-005 was signed by senior management representatives from DOE, the U.S. Environmental Protection Agency, and Ecology on August 22, 2016, stipulating that the dispute would be resolved by entering into negotiations regarding the M-062-45 Milestone (16-TF-0094, *Hanford Federal Facility Agreement and Consent Order Interagency Management Integration Team (IAMIT) Decision / Determination / Action Assignment Number 2016-005*). Negotiations related to the M-062-45 Milestone ended with Ecology submitting five TPA change

packages to ORP. ORP agreed to three of the packages and rejected two. One was carried into the dispute process relating to additional tank capacity. In May 2019, Maia Bellon, Ecology Director, started correspondence with DOE, Office of Environmental Management offering to engage in holistic negotiations to address challenges with the broader Hanford mission. ORP agreed to these negotiations on September, 11, 2019, via letter 19-ORP-0008, which summarizes the discussions at the Hanford Senior Executive Committee meeting held on August, 28, 2019, in Seattle, Washington and confirmed that DOE was willing to proceed with holistic negotiations. ORP and Ecology have also agreed to discuss the M-062-45 Milestone disputes during these ongoing, mediated holistic negotiations. The start of these negotiations was impacted by the restrictions due to COVID-19. The first mediated holistic negotiation session was held on June 25, 2020. Six mediation sessions were held during the reporting period.

2.3 MILESTONE M-062-50 SERIES

On July 25, 2019, ORP and Ecology agreed to and signed Change Control Form M-62-19-02 to establish a series of M-062-50 milestones for direct-feed low-activity waste support activities. These supporting actions include managing secondary waste and starting up the Integrated Disposal Facility to be used for disposal of treated low-activity waste. The majority of the M-062-50 series of milestones are due in the 2023 timeframe, but there is only one milestone with target dates or milestones due within the next year.

Milestone M-062-50 is due on January 30, 2021, and is for ORP to submit to Ecology, as a secondary document, a “Mass Balance Flow from Tank Farms to Low Activity Waste Pretreatment Capability to Low Activity Waste to Effluent Management Facility to Recycle to Tank Farms and to LERF/ETF.” Mass balance information was submitted to Ecology through the permit application process that took place from April 2017 through October 2020. These various permit applications are related to the Waste Treatment and Immobilization Plant (WTP) direct feed low-activity waste and Effluent Management Facility, the Tank Side Cesium Removal (TSCR) system, and the Liquid Effluent Retention Facility/Effluent Treatment Facility (LERF/ETF).

ORP contends that the intent of the requirement to submit mass balance information has been met based on its permit submittals. Based on the information presented above, and discussions with Ecology on November 2, 2020, ORP and Ecology agreed that TPA M-62-50 is complete. This agreement was captured in letter 20-ECD-0057, dated December 4, 2020, and transmitted from ORP to Ecology.

3.0 BUDGET/COST STATUS

3.1 WASTE TREATMENT AND IMMOBILIZATION PLANT PROJECT

Total funding available for the WTP Project during fiscal year (FY) 2020 was \$1.078 billion, which included \$816 million of new budget authority and \$262 million of FY 2019 carryover funds. To date, the WTP Project has received \$13.531 billion of funding. For FY 2020, the WTP Project spent \$688.7 million through the end of September. At the end of September 2020, the total amount spent on the WTP Project was \$13.140 billion.

3.2 TANK FARMS PROJECT

Total funding available for the Tank Farms Project during FY 2020 was \$1.031 billion, which included \$785 million of new budget authority and \$246 million of FY 2019 carryover funds. For FY 2020, the Tank Farms Project spent \$804 million through the end of September 2020.

4.0 SCHEDULE MITIGATION

No schedule mitigation has been necessary during the reporting period.

5.0 REFERENCES

- 15-NWP-036, 2015, “Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Change Package, Change Number M-62-14-02, dated 01/30/2015,” (external letter to T.W. Fletcher, U.S. Department of Energy, Office of River Protection), from J.A. Hedges, Washington State Department of Ecology, Richland, Washington, March 12.
- 15-TF-0014, 2015, “Initiation of Dispute Resolution Regarding Disapproval of Hanford Federal Facility Agreement and Consent Order Change Control Form M-62-14-02,” (external letter to J.A. Hedges, Washington State Department of Ecology), from K.W. Smith, U.S. Department of Energy, Office of River Protection, Richland, Washington, February 20.
- 16-TF-0094, 2016, *Hanford Federal Facility Agreement and Consent Order Interagency Management Integration Team (IAMIT) Decision / Determination / Action Assignment Number 2016-005*, U.S. Department of Energy, U.S. Environmental Protection Agency, and Washington State Department of Ecology, August 22.
- 19-MIO-0020, 2019, “Request for Concurrence on Selected Scenarios for the River Protection Project System Plan, Revision 9,” (external letter to A.K. Smith, Washington State Department of Ecology), from, from B.T. Vance, U.S. Department of Energy, Richland, Washington, September 25.
- 19-NWP-158, 2019, “Transmittal of Signed Concurrence for *Selected Scenarios for the River Protection Project System Plan, Revision 9*, RPP-RPT-61707, Rev. 0,” (external letter to B.T. Vance, U.S. Department of Energy), from A.K. Smith, Washington State Department of Ecology, Richland, Washington, October 2.
- 19-ORP-0008, 2019, Summary of discussions at the Hanford Senior Executive Committee meeting held on August, 28, 2019, in Seattle, Washington and DOE agreement to proceed with holistic negotiations for the Hanford tank waste mission, (external letter to M.D. Bellon, Washington State Department of Ecology), from B.T. Vance, U.S. Department of Energy, Richland, Washington, September 11.

20-ECD-0057, 2020, “Completion of Tri-Party Agreement Milestone M-062-50,” (external letter to S.N. Schleif, Washington State Department of Ecology), from G.D. Trenchard, U.S. Department of Energy, Richland, Washington, December 4.

Case No. 08-5085-FVS, 2010, *Washington vs. Steven Chu, Secretary of the United States Department of Energy, and the United States Department of Energy*, Consent Decree, United States District Court, Eastern District of Washington, October 25.

Case No. 2:08-CV-5085-RMP, 2016, *State of Washington and State of Oregon vs. Ernest Moniz, Secretary of the United States Department of Energy, and the United States Department of Energy*, Amended Consent Decree, United States District Court, Eastern District of Washington, March 11.

Case No. 2:08-CV-5085-RMP, 2016, *State of Washington and State of Oregon vs. Ernest Moniz, Secretary of the United States Department of Energy, and the United States Department of Energy*, Second Amended Consent Decree, United States District Court, Eastern District of Washington, April 12.

Case No. 2:08-CV-5085-RMP, 2018, *State of Washington and State of Oregon vs. Rick Perry, Secretary of the United States Department of Energy, and the United States Department of Energy*, Third Amended Consent Decree, United States District Court, Eastern District of Washington, October 12.

Case No. 2:08-cv-05085-RMP, 2020, *State of Washington and State of Oregon vs. United States Department of Energy; and Dan Brouillette, Secretary of the United States Department of Energy*, Order Modifying Amended Consent Decree, United States District Court, Eastern District of Washington, December 10.

Ecology 2019, “Tank Waste Retrieval and Treatment Pathway at Hanford,” (external letter to A. White, U.S. Department of Energy), from M.D. Bellon, Washington State Department of Ecology, Olympia, Washington, May 29.

Ecology, EPA, and DOE, 1989, *Hanford Federal Facility Agreement and Consent Order*, 2 vols., as amended, Washington State Department of Ecology, U.S. Environmental Protection Agency, and U.S. Department of Energy, Olympia, Washington.

ORP-11242, 2020, River Protection Project System Plan, Rev. 9, U.S. Department of Energy, Office River Protection, Richland, Washington, November 13.