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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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June 14, 2001

Mr. Clifford E. Clark  
Acting Program Manager  
Office of Regulatory Liaison  
United States Department of Energy  
P. O. Box 550, MSIN: A5-15  
Richland, Washington 99352

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EDMC

Dear Mr. Clark:

Re: Review of M-91-03 United States Department of Energy Waste Material/Stream Project Management (Work) Plan (PMP) for Transuranic/Transuranic Mixed (TRU/TRUM) Wastes and the associated Draft Agreement Change Request pursuant to the Hanford Federal Facility Agreement and Consent Order

The Washington State Department of Ecology (Ecology) is in receipt of the Project Management Plan (PMP), entitled *M-91 Transuranic Waste Project Management Plan*, dated May 2001, and the associated Draft Agreement Change Request submitted by the United States Department of Energy (USDOE) on May 22, 2001. This submittal was made in response to Ecology's letter, dated April 9, 2001, requesting additional information needed to complete Ecology's review. 54862

Ecology's April 9 letter clearly stated: "Further, initial review of the USDOE Change Request (Change Number Draft M-91-00-XX, dated April 4, 2001) reveals that it is lacking in enforceable commitments in several areas (e.g., for TRU/TRUM retrieval, for processing CH TRU/TRUM waste at WRAP and subsequent shipment to WIPP, etc.; and, in particular, the need to identify any waste description data gaps that must be filled pursuant to enforceable milestones) and will therefore require further discussion." By agreement, on April 24, 2001, the Interagency Management Integration Team (IAMIT) approved extending the current M-91-03 dispute resolution process at the Project Manager level to May 22, 2001, to allow time for further discussion and review. On May 10, 2001, and May 18, 2001, further discussions were held between representatives of USDOE and Ecology.

Section 11.5 of Hanford Federal Facility Agreement and Consent Order requires that a "Draft Agreement change request, proposed for approval will be referenced, and attached as an appendix to the PMP," pursuant Tri-Party Agreement (TPA) Milestone M-91-00. This makes the Change Request an integral part of the PMP. Further, Section 11.5 specifically states: "*Milestones shall be set in a manner which fits the requirements of the work to be accomplished,*

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*with at least one milestone every twelve months, unless otherwise agreed to by the project managers.*” In addition, Section 11.5 states: “The parties also agree that lead regulatory review and approval of PMP Schedule and Critical Path Analysis, and Change Management elements is required for the purpose of ensuring consistency with Agreement milestones.”

The USDOE Change Request (Change Number Draft M-91-03) fails to satisfy these and other specific requirements for the following reasons:

1. The proposed milestones do not embrace the full work scope set forth in the PMP by providing sufficient enforceable commitments to cause actual work (as opposed to only planning and/or decision making) on all elements of the PMP work plan. These include Retrieval, Treatment/Processing, Disposal/Shipment of Contact-Handled Transuranic (CH-TRU) and Remote-Handled Transuranic (RH-TRU) wastes, and M-91 Facility development.
2. In particular, proposed milestone change M-91-08-T01, as worded, appears to pre-emptively delete consideration of any new or an existing/modified M-91 Facility with the capability to process RH and Large Size TRU/TRUM. This is inconsistent with current TPA M-91-00 milestone requirements. “Deployment of waste stream specific technologies on an as needed basis” speaks only to a TRU/TRUM waste processing capability, not M-91 Facility need/operations, and, given its “as needed basis,” is only tentative at best.
3. There is not at least one milestone every twelve months. Further, the project managers have not agreed to this point to any other schedule other than what is required under Section 11.5, i.e., at least one milestone every twelve months.
4. Taken together, the proposed milestones, in extending dates, modify virtually all the current TPA commitments all parties agreed to, pursuant to M-91-00, without providing “good cause for the extension,” as required under Section 12.3.2 of the Hanford Federal Facility Agreement and Consent Order.
5. In particular, the description for proposed milestone change M-91-07 states: “The change in the description of the milestone is to reflect that the capital project will not be completed, as retrieval will be performed in the open trenches of the 200 Area Low-Level Burial Grounds.” While the PMP addresses retrieval activities, this is a change that differs from the current TPA milestone requirement substantially.

While the PMP submitted on May 22, 2001, provided most of the additional information requested by Ecology by letter dated April 9, 2001, and in further discussions as referenced above, the associated Change Request (Change Number Draft M-91-03) presents a number of problematic issues that are not consistent with the work scope of the PMP and/or do not meet specific requirements of various sections of the Hanford Federal Facility Agreement and Consent

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Order (TPA). Pursuant to Article VIII, Resolution of Disputes, paragraph 30 of the TPA and to provide USDOE with time needed to resolve these inconsistencies, Ecology proposes to recommend to the IAMIT on June 29, 2001, that the parties agree to begin formal negotiations by September 1, 2001. The negotiations are to be concluded by October 31, 2001. If these negotiations are not successful and USDOE wishes to extend the dispute, USDOE must submit a statement of the dispute to the IAMIT by November 1, 2001. If USDOE is not in agreement to extending the deadline or if the USDOE-Richland Operations Office is not authorized to enter into good faith negotiations, please contact Ecology within seven (7) days.

If you have any questions regarding this matter, please feel free to contact me at (509) 736-3022.

Sincerely



Fred C. Jamison  
Waste Management Project Manager  
Nuclear Waste Program

FCJ:lkd

cc: Dave Bartus, EPA  
Doug Sherwood, EPA  
Beth Bilson, USDOE  
Joel Hebdon, USDOE  
George Sanders, USDOE  
Roger Bowman, FH  
Mary Lou Blazek, OOE  
Administrative Record: M-91-03