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Tri-Party Agreement

SEP 11 1998

EXTENSION TO DISPUTE RESOLUTION FOR SINGLE-SHELL TANK (SST) CORRECTIVE ACTION REQUEST

On August 21, 1998, the dispute concerning the Single Shell Tank Corrective Action Request was elevated to the Inter Agency Management Integration Team (IAMIT). This dispute is hereby extended through September 18, 1998 at the IAMIT level.

James E. Rasmussen

James E. Rasmussen, Director
Environmental Assurance, Permits
and Policy Division
U.S. Department of Energy
Richland Operations Office

Stuart M. Dwyer

for
Michael A. Wilson, Manager
Nuclear Waste Program
State of Washington
Department of Ecology

- cc: L. D. Arnold, FDH
- L. J. Cusack, Ecology
- A. M. Umek, FDH
- M. L. Blazek, OOE
- D. Powaukee, Nez Perce
- R. Jim, YIN
- B. Burke, CTUIR
- Administrative Record





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

98-EAP-508

SEP 11 1998

Mr. Michael A. Wilson, Program Manager
Nuclear Waste Program
State of Washington
Department of Ecology
P. O. Box 47600
Olympia, Washington 98504-7600

RECEIVED
SEP 15 1998
DEPARTMENT OF ENERGY

Dear Mr. Wilson:

SUSPENSION OF DISPUTE RESOLUTION FOR SINGLE-SHELL TANK (SST) CORRECTIVE ACTION REQUEST

- References: 1) Ltr. M. A. Wilson, Ecology, to G. H. Sanders, RL, "Elevation of Dispute Resolution for Single-Shell Tank (SST) Corrective Action Request," dated September 4, 1998.
- 2) Ltr. G. H. Sanders, RL to M. A. Wilson, Ecology, "Response to SST Corrective Action Request," dated July 22, 1998.

Thank you for your letter dated September 4, 1998, (referenced above) which proposes suspension of Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) dispute resolution activities regarding Single Shell Tank (SST) corrective action. RL is also pleased by Ecology's offer to suspend its July 10, 1998 letter requesting a corrective action plan, and to enter a collaborative effort to create appropriate milestones to guide SST corrective action under the terms of the Tri-Party Agreement.

While RL is prepared to proceed as suggested in Ecology's September 4, 1998 letter, including accepting the majority of the conditions specified in that letter, it believes some clarification of the conditions contained within paragraph number 4 are necessary. RL understands it would retain its Tri-Party Agreement Paragraph 30 appeal rights from any final determination of Ecology. However, RL is concerned that the language of paragraph number 4 in Ecology's letter might be misconstrued to grant the Director of Ecology greater unilateral authority to initiate corrective actions independent of the terms agreed to by the Parties and memorialized in the Tri-Party Agreement. Recall that disagreement in this matter arose in part, as a result of Ecology's proposal to initiate SST corrective action independent of the terms of the Tri-Party Agreement when the Parties have not agreed to adopt that course of action (see reference 2). RL proposes to clarify the meaning of paragraph number 4 by modifying the last sentence to read:

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DOE-RL/RLCC

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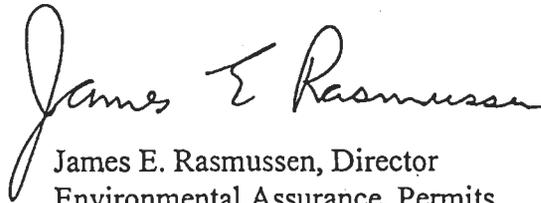
"Subject to the limitations set forth in Tri-Party Agreement paragraph 136, [i]f the Director's final determination is that corrective action requirements for SST's need not be specified in the TPA"

Other than the issue addressed above, the remainder of the conditions contained in paragraphs numbered 1-3 of Ecology's September 4, 1998, letter are acceptable. RL looks forward to working with Ecology to negotiate appropriate vadose zone/groundwater Tri-Party Agreement milestones that will ensure the protection of groundwater and the Columbia River. It is RL's desire to finalize near-term vadose zone characterization needs of applicable SST farm(s) through the negotiation process such that RL can initiate characterization expeditiously to address TWRS operational needs.

If Ecology is still in agreement to proceed under its proposal, as modified by the clarifying language contained herein, RL respectfully requests that you acknowledge by signing this letter in the space provided, and returning a copy to my office. If Ecology concurs with RL's clarification of the TPA process (item 4), RL would propose negotiations commence by September 28, 1998.

RL looks forward to receiving your response, and to working with you to achieve the objectives you have proposed. If there are any questions, please contact George H. Sanders, Administrator on (509) 376-6888 or Jim Poppiti, Acting TWRS Vadose Zone Program Manager on (509) 376-4550 .

Sincerely,



James E. Rasmussen, Director
Environmental Assurance, Permits
and Policy Division

EAP:FRM

Ecology agrees with adoption of the proposed course of action in the September 4, 1998, Ecology correspondence as modified by the language contained herein.



Michael A. Wilson, Program Manager
Nuclear Waste Program
State of Washington
Department of Ecology

cc: (see next page)

cc: J. Wilkinson, CTUIR
S. L. Dahl-Crumpler, Ecology
R. F. Stanley, Ecology
D. R. Sherwood, EPA
L. D. Arnold, FDH
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DEPARTMENT OF ECOLOGY

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September 4, 1998

Mr. George H. Sanders, Administrator
Hanford Tri-Party Agreement
U. S. Department of Energy
P. O. Box 550
Richland, Washington 99352

Dear Mr. Sanders

RE: Department of Energy letter of August 21, 1998, "ELEVATION OF DISPUTE RESOLUTION FOR SINGLE-SHELL TANK (SST) CORRECTIVE ACTION REQUEST"

Thank you for providing the above description of DOE concerns regarding corrective action at DOE's Single-Shell Tanks. As you know, Ecology is deeply concerned over continued SST leakage, recent reports documenting that tank wastes have begun to impact area groundwaters, and what we view as excessively slow progress in establishing a substantial and continuing program to understand the extent, mobility, and behavior of tank wastes in the vadose zone. These issues have and continue to generate substantial debate over how best to proceed.

I very much appreciate your commitment "...to negotiate with Ecology milestones and action plans for inclusion in the Tri-Party Agreement to address contamination of groundwater and soil beneath SST farms at Hanford."

I agree that the negotiation of necessary milestones and associated language under the Tri-Party Agreement (TPA) is the best course of action. However, because of the urgency of beginning to adequately address tank waste releases to the environment, we must act as rapidly as possible. Consequently, I suggest our agencies adopt the following course of action:

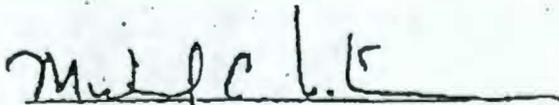
1. Regarding our agencies' current debate over DOE processing of a TPA dispute in this matter as opposed to Ecology taking action outside of the TPA. I propose that we agree to suspend both "the current dispute", and my July 10, 1998 request for submittal of a corrective action plan, in order to allow time for our respective negotiation teams to attempt to reach agreement on an appropriate SST TPA vadose zone / groundwater program.

George H. Sanders
September 4, 1998

2. That by our signatures here we commit: (i) to the negotiation of such a program, (ii) that these negotiations have as an objective the establishment of a definitive set of enforceable milestones (and associated language and target dates) as is necessary to effectively drive program work, (iii) that negotiations will encompass the work scope and elements detailed within table four (4) of DOE's recently released vadose zone program plan,¹ and (iv) that negotiations will have the objective of being compatible with the agencies' developing site-wide vadose zone /groundwater efforts.
3. That negotiations will be completed no later than December 4, 1998.
4. That should the parties fail to reach tentative agreement by December 4, 1998 Ecology and DOE agree that the dispute suspended by this letter will be reactivated at the IAMIT level, and processed as described here. By December 11, 1998, DOE shall submit to Ecology a revised Statement of Dispute, thereby reactivating dispute resolution at the IAMIT level. This dispute will thereafter be processed under the provisions of the TPA, paragraph 30. Should dispute processing result in issuance of a final determination by Ecology's Director, such final determination will address whether corrective action requirements for the single-shell tanks must be specified in the TPA. If the Director's final determination is that such requirements must be specified in the TPA, then the final determination will include appropriate TPA requirements (e.g., milestones) for such work. If the Director's final determination is that corrective action requirements for the SST's need not be specified in the TPA, then Ecology reserves the right to take any action it deems appropriate with respect to the corrective action requirements for the SSTs, and DOE reserves all its rights and defenses available under law.

If on behalf of the DOE you agree to the above, please indicate so by your signature here. I and my staff look forward to working with you on this important element of tank waste cleanup.

Sincerely,



Mike Wilson, Manager
Nuclear Waste Program

¹ Tank Waste Remediation System Vadose Zone Program Plan, DOE/RL-98-49, United States Department of Energy, July 1998.