

**Meeting Minutes**  
**U.S. Department of Energy and Oregon Office of Energy**  
**Bi-Monthly Forum**

July 29, 1998  
 2440 Stevens Center, Room 1200, Richland Washington

Distribution:

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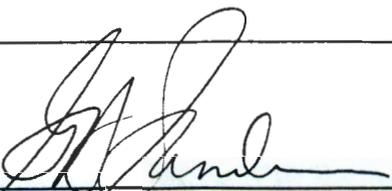
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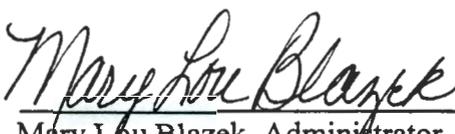
**EDMC**

**Meeting Minutes**  
**U.S. Department of Energy and Oregon Office of Energy**  
**Bi-Monthly Forum**

July 29, 1998  
2440 Stevens Center, Room 1200, Richland Washington

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Apprvl.:  Date: 10/19/98  
George H. Sanders, Administrator  
Tri-Party Agreement  
U.S. Department of Energy

Apprvl.:  Date: 9/25/98  
Mary Lou Blazek, Administrator  
Nuclear Safety Division  
Oregon Office of Energy

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Attendees:

M. Blazek	OOE
P. Bengtson	PNNL
K. Clarke	DOE-RL
R. Holten	DOE-RL
G. McClure	DOE-RL
F. Miera	DOE-RL
R. Morrison	FDH
N. Myers	BHI
K. Randolph	DOE-RL
J. Rasmussen	DOE-RL
D. Tano	DOE-RL
W. Taylor	DOE-RL

## **AGENDA**

### **DOE/OREGON BI-MONTHLY FORUM**

**JULY 29, 1998**

- I. Introductions**
- II. RL/Tribal Interactions – Kevin Clarke**
- III. Oregon Correspondence Portland Mtg. On Plutonium Disposition Environmental Impact Statement - Blazek**
- IV. Oregon Budget Request for FY 99 - Blazek**
- V. Ground Water/Vadose Zone Status Report – Rich Holten**
- VI. Privatization Update – Bill Taylor**
- VII. Public Involvement Activities – Randolph/Blazek**
- VIII. TPA Milestone Activities Update – Sanders/Miera**
- IX. Oregon Quarterly Report - Blazek**
- X. August 26 Meeting between Director OOE and RL Manager**
- XI. Other Items**
- XII. Follow-up on Action Items from May 28, 1998 Meeting - Morrison**
- XIII. Set Next Forum Meeting Date**
- XIV. Closing Remarks**

## **MEETING MINUTES, July 29, 1998 (Richland, Washington)**

Note: agenda items are presented in the order in which they were addressed during the Forum.

### **I. Introductions**

F. Miera introduced Kevin Clarke of the U. S. Department of Energy, Richland Operations Office (DOE) who works directly with the Tribal Nations affected by the Hanford Site.

### **II. RL/Tribal Interactions**

K. Clarke provided a discussion of the DOE relationship with the Tribal Nations.

It was pointed out that the Tribes have been at the Hanford Site for a very long time and that the relationship is very complex. Three documents (Attachments 1, 2, and 3) were provided containing DOE-RLs policy, goals and relationships with the Native American Tribal Governments. The key Tribes in the relationship are the Yakamas, the Nez Perce, the Umatillas and the Wanapum Band.

Several important documents drive and control the DOE's relationship with the Tribal Nations including:

The United States Constitution,  
The Treaty of 1855,  
Presidential letter dated April 29, 1994 (Attachment 3),  
DOE's policies on American Indians (Attachment 1 and 2).

M. Blazek asked if DOE/Tribal relationships are improving. K. Clarke responded that since at least 1986 we have greatly improved our relationship with the Tribal Nations in large part due to the DOE striving to meet our responsibilities to them.

M. Blazek stated that unfortunately comments to the contrary have come out but, the root of the commenters frustration is difficult to determine. K. Clarke responded that unfortunately the DOE finds themselves in a balancing act between our responsibilities to the Tribes and all the other responsibilities the Federal Government must address. K. Clarke closed with an invitation to the Oregon Office of Energy to continue this discussion of the DOE's Tribal relationships at a future date.

### **X. August 26 Meeting Between the Director of the Oregon Office of Energy and the DOE-RL Manager**

M. Blazek stated that John Savage is concerned about the current Hanford budget scenarios and he desires to meet with John Wagoner to offer Oregon's assistance in seeking sufficient funding.

Additionally, in the year 2000 budget, funding for State of Oregon oversight has been zeroed out. To date the State of Oregon has been meeting its yearly needs utilizing the carryover money from each previous year. These subjects, however, may best be addressed in the meeting between Mr. Savage and Mr. Wagoner.

J. Rasmussen stressed that in these times an important component is to clearly define the value added with respect to the budget needs of the State of Oregon.

#### **IX. State of Oregon Quarterly Report**

M. Blazek provided a copy of the Quarterly Progress Report for the Period of April 1998 through June 1998 (Attachment 4) and asked if the reports have been adequate. G. McClure responded that they may be more than is necessary.

#### **VI. Privatization Update**

W. Taylor, DOE-RL, provided a copy of a presentation on the Tank Waste Remediation System Privatization Contract (Attachment 5) and opened the meeting to questions.

M. Blazek pointed out that there didn't appear to be anything in the report, which went to Congress, describing public involvement activities and asked if there will be?

W. Taylor responded that there have been several public meetings conducted by the regulatory unit. However, there are no public involvement requirements currently included within the contract.

**Action:** W. Taylor to review the subject of public involvement and respond to M. Blazek.

M. Blazek asked if the aim of privatization is to save money, how will the process be competitive now that the competition (Lockheed Martin) has been removed?

W. Taylor responded that all related intellectual property of British Nuclear Fuels Ltd. is now available to the DOE and it can be provided to another contractor if they display better efficiency.

M. Blazek asked if the current contract meets Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) commitments and due dates.

W. Taylor responded that the hot start of low level treatment does not meet Tri-Party Agreement due dates however hot start of high level treatment will actually occur sooner than the Tri-Party Agreement due date. We will have to work closely with the regulatory agencies in order to reach an agreement. The State of Washington Department of Ecology and the State Attorney General's office have been briefed with more detailed briefings to follow.

F. Miera pointed out that the DOE has chosen to follow the "alternate path" contained within the Tri-Party Agreement which automatically deletes some of the previous commitments. However, there are still a number of commitments to be worked out.

M. Blazek stated that it has been said that the Nuclear Regulatory Commission (NRC) may not be able to ramp up to regulate this effort. Will the DOE continue to be the regulator?

W. Taylor responded that M. Blazek is correct in that the regulatory unit of the NRC is not ready to regulate this effort. However, we believe that they are planning to accept this program at some point in time. Transfer to the NRC was not considered to occur before approximately 2012. Per the original plan the DOE was to regulate Phase I and the NRC was to regulate Phase II. Currently there are 13 full time NRC employees working on the effort.

M. Blazek stated that it may be appropriate to have a discussion with an NRC representative on a future Forum agenda.

M. Blazek asked about the schedule on Page 7 of the Congressional Report where it states that 400,000 gallons of waste in 30 single-shell tanks that remain to be pumped, will be removed by 2005. Why so long to accomplish this?

W. Taylor responded that space within the double shell tanks is a critical impact. Waste within the double shell tanks must be first processed in order to make room for the treatment of single-shell tank waste.

M. Blazek asked how many high risk tanks are to be retrieved, it appears that 24 high risk tanks will still be unretrieved after the first 10 years.

W. Taylor responded that in the plan we will be including tanks from each of the four different types of waste. All high risk tanks will be moved to the double shell tanks.

F. Miera pointed out that it is planned to deal with 25 percent of the total curie load (10 percent of the waste by volume) during the time period.

M. Blazek stated that this issue needs to be addressed in future privatization meetings. Additionally, if you treat only 10 percent in the first 10 years how will you deal with the other 90 percent in the remaining timeframe.

W. Taylor stated that the privatization effort will have the capability to ramp up to process up to 100 tons per day.

M. Blazek pointed out that apparently problems were encountered at Sellafield England with the melter used there. How will this affect your plans?

P. Bengtson replied that Sellafield used an older French developed technology and had problems with melter life span. It represented a different technology than we intend to utilize.

W. Taylor added that we will be using liquid feed melters instead of dry calcined feed melters.

M. Blazek thanked W. Taylor for his responses and stated that Oregon would like to pass on additional questions at future privatization meetings.

P. Bengtson announced that there would be a public briefing on August 12, 1998 (location to be determined).

M. Blazek stressed that to be effective the DOE should carefully determine who the appropriate audience is and go to them. Also, when planning future meetings you need to go with a mindset of performing public involvement and not simply providing public information.

P. Bengtson acknowledged that under the strict contracting restrictions that the DOE has been faced with a public information/involvement problem.

### **III. Oregon Correspondence Portland Meeting on Plutonium Disposition Environmental Impact Statement**

F. Miera informed M. Blazek that DOE Headquarters is preparing a response to the State of Oregon's letter regarding Plutonium disposition.

### **XIII. Set Next Forum Meeting Date**

The next Forum meeting was proposed for September to coincide with the planned Inter Agency Management Integration Team meeting in Richland. Final date and time to be determined.

**Action:** G. McClure requested a copy of a report "Hanford Briefing Book on Issues that Concern the State of Oregon".

### **XII. Follow-up on Action Items from May 28, 1998 Meeting**

R. Morrison presented the list of completed and open action items for discussion. Items 17, 22, 27, 28, 29, and 30 have been completed. Items 21, 23, 24, 25 and 26 remain open. See Attachment 6 to these minutes for complete listing reflecting current status of action items including those generated in this forum.

### **VIII Tri-Party Agreement Milestone Activities Update**

#### **Spent Nuclear Fuel**

F. Miera stated that the DOE is expecting a letter from the U.S. Environmental Protection Agency (EPA) within a week regarding the unsuccessful completion of negotiations. The EPA is expected to invoke the dispute resolution provisions of the Tri-Party Agreement at the Senior

Executive Committee level on about August 12, 1998. The start date for fuel removal is a principle issue of contention. If the Senior Executive Committee does not reach agreement within 21 days there is a possibility that the EPA may issue an Administrative Order regarding Spent Nuclear Fuel activities.

#### **M-41-00 Single-Shell Tank Stabilization**

M. Blazek asked about the status of the State of Washington's notice of intent to sue the DOE over the single-shell tank stabilization program.

F. Miera responded that discussions have been held and it appears that the State of Washington may seek a consent order on the single-shell tank stabilization activities. This action would require a major policy decision. Discussions are continuing.

#### **Fast Flux Test Facility (FFTF)**

F. Miera discussed the current situation with the FFTF and Tri-Party Agreement requirements. The DOE is expecting final input to the response to comments document which must be mutually agreeable before changes to the FFTF milestones can be approved. This effort has been difficult for the State of Washington as they work with the stakeholders concerns and issues. Currently, the State of Washington has proposed placing the FFTF milestones "in abeyance" pending a Secretarial decision on the FFTF's mission. Funding language has also been an issue. The State of Washington desires language in the agreement that would require all money used for FFTF standby activities be provided by the office of NE and not EM.

#### **EPA Multi Media Inspections**

The EPA's multi media inspections at the Hanford Site are ongoing. Preliminary word is that we should expect significant enforcement actions as a result.

### **V. Groundwater/Vadose Zone Project Status Report**

R. Holten discussed the status of groundwater and vadose zone efforts. With regard to the vadose zone panel, people may be leaning toward an eight member panel with others desiring six members. We also anticipate other specialized panels forming such as a groundwater panel.

The next meetings are scheduled for August 10, 1998 at 1:30pm (location to be determined). The subject of the meetings will be work scope for 1999 and to review the scoping statements. Additionally, we will also review what is currently being done and conduct an important discussion on prioritization of work under a limited budget. On August 11, 1998 we want to bring in the programs to discuss progress. The Environmental Restoration program is planning to a \$137 million budget which is the same as last year.

R. Holten stated that if in fact retrieving leaking single-shell tanks is 10 years out it gives us the time we need to develop a good vadose and groundwater protection program. R. Holten also offered to bring information on the effort to the State of Oregon if it is deemed necessary.

**The Forum Was Adjourned.**



## U.S. DEPARTMENT OF ENERGY AMERICAN INDIAN POLICY

### PURPOSE

This policy outlines the principles to be followed by the Department of Energy (DOE) in its interaction with federally-recognized American Indian Tribes. It is based on Federal policy, treaties, Federal law and the DOE's responsibilities as a Federal agency to ensure that tribal rights and interests are identified and considered in pertinent decision-making. The policy provides general guidance to DOE personnel for management actions affecting American Indians and emphasizes implementation of such activities in a knowledgeable and sensitive manner. This policy does not affect DOE interactions with State-recognized Tribes with respect to matters provided for by statute or regulation.

### DEFINITION

**INDIAN COUNTRY** means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. (18USCS 1151)

### BACKGROUND

American Indian Tribal Governments have a special and unique legal and political relationship with the Government of the United States, defined by history, treaties, statutes, court decisions, and the U.S. Constitution. The United States has entered into more than 600 treaties and agreements with American Indian Tribes. These treaties and agreements create a variety of legal responsibilities by the United States toward American Indian Tribes and provide the basis for a government-to-government relationship. Other responsibilities toward American Indians are created by Congress through statutory enactments. Although the Department of the Interior, through the Bureau of Indian Affairs, has the principal responsibility for upholding obligations of the Federal Government to American Indians, this responsibility extends to all Federal agencies.

### POLICY

#### 1. **THE DEPARTMENT RECOGNIZES AND COMMITS TO A GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH AMERICAN INDIAN TRIBAL GOVERNMENTS.**

DOE recognizes Tribal governments as sovereign entities with, in most cases, primary authority and responsibility for Indian country. In keeping with the principle of American Indian self-government, the Department will view Tribal governments as the appropriate non-Federal parties for making decisions affecting Indian country, its energy resources and environments, and the health and welfare of its populace. The Department will recognize the right of each Tribe to set its own priorities and goals in developing and managing its energy resources. The Department recognizes that some Tribes have treaty-protected interests in resources outside reservation boundaries.

- 2. DOE RECOGNIZES THAT A TRUST RELATIONSHIP DERIVES FROM THE HISTORICAL RELATIONSHIP BETWEEN THE FEDERAL GOVERNMENT AND AMERICAN INDIAN TRIBES AS EXPRESSED IN CERTAIN TREATIES AND FEDERAL INDIAN LAW.**

In keeping with the trust responsibility, the DOE will consult with Tribal governments regarding the impact of DOE activities on the energy, environmental and natural resources of American Indian Tribes when carrying out its responsibilities.

- 3. THE DEPARTMENT WILL CONSULT WITH TRIBAL GOVERNMENTS TO ASSURE THAT TRIBAL RIGHTS AND CONCERNS ARE CONSIDERED PRIOR TO DOE TAKING ACTIONS, MAKING DECISIONS OR IMPLEMENTING PROGRAMS THAT MAY AFFECT TRIBES.**

The DOE will take a proactive approach to solicit input from Tribal governments on departmental policies and issues. The Department will encourage Tribal Governments and their members to participate fully in the national and regional dialogues concerning departmental programs and issues.

- 4. CONSISTENT WITH FEDERAL CULTURAL RESOURCE LAWS AND THE AMERICAN INDIAN RELIGIOUS FREEDOM ACT (P.L. 95-341), EACH FIELD OFFICE OR DOE INSTALLATION WITH AREAS OF CULTURAL OR RELIGIOUS CONCERN TO AMERICAN INDIANS WILL CONSULT WITH THEM ABOUT THE POTENTIAL IMPACTS OF PROPOSED DOE ACTIONS ON THOSE RESOURCES AND WILL AVOID UNNECESSARY INTERFERENCE WITH TRADITIONAL RELIGIOUS PRACTICES.**

DOE will comply with all cultural resource legislation and implementing regulations in the management and operation of its programs and facilities. Consultation with appropriate American Indian tribal governments is part of the compliance process involving Federal cultural resource laws and the American Indian Religious Freedom Act. Consultation may include, but is not limited to (1) the exchange of information concerning the location and management of cultural resources (2) repatriation or other disposition of objects and human remains (3) access to sacred areas and traditional resources located on DOE lands in accordance with safety, health and national security considerations, and (4) assessment of potential community impacts.

- 5. THE DEPARTMENT WILL IDENTIFY AND SEEK TO REMOVE IMPEDIMENTS TO WORKING DIRECTLY AND EFFECTIVELY WITH TRIBAL GOVERNMENTS ON DOE PROGRAMS.**

DOE recognizes that there may be regulatory, statutory and/or procedural impediments which limit or restrict our ability to work effectively and consistently with Tribes. In keeping with this policy, we will seek to remove any such impediments. Additionally, we will, to the maximum extent permitted by law, apply existing statutory, regulatory, and procedural requirements in a manner that furthers the goals of this policy.

- 6. THE DEPARTMENT WILL WORK WITH OTHER FEDERAL AND STATE AGENCIES THAT HAVE RELATED RESPONSIBILITIES TO CLARIFY THE ROLES, RESPONSIBILITIES AND RELATIONSHIPS OF OUR RESPECTIVE ORGANIZATIONS AS THEY RELATE TO TRIBAL MATTERS.**

DOE will seek and promote cooperation with other agencies that have related responsibilities. In many areas of concern to DOE, cooperation and mutual consideration among neighboring governments (Federal, State, Tribal and local) is essential. Accordingly, DOE will encourage early communication and cooperation among all governmental parties. This recognizes that the principle of comity among equals and neighbors often serves the best interests of all parties.

**7. THE DEPARTMENT WILL INCORPORATE THIS POLICY INTO ITS ONGOING AND LONG-TERM PLANNING AND MANAGEMENT PROCESSES.**

It is key to this effort to ensure that the principles of this policy are effectively institutionalized by incorporating them into the Department's ongoing and long-term planning and management processes. Department managers will include specific programmatic actions designed to facilitate tribal participation in Departmental program planning and activities.

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[Hanford Home Page] [Indian Nations]

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For questions or comments about this page, please send email to [Kevin\\_V\\_Clarke@rl.gov](mailto:Kevin_V_Clarke@rl.gov)

URL: <http://www.hanford.gov/doe/inp/netpolic.htm>

Last Updated:03/10/97 10:45:25



## Program Summary, Mission and Goals

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### PROGRAM SUMMARY

The U.S. Department of Energy Richland Operations Office (DOE-RL) manages the Department's Hanford Site, which is located near Richland, Washington in the Southeast portion of the State. The missions of the 1,465 square kilometer (560 square mile) site are to safely clean up and manage the site's legacy wastes, and to develop and deploy technology. Through these missions, the site contributes to the economic diversification of the region.

Hanford was established during the Second World War to produce plutonium for America's first nuclear weapons. Peak production years were reached in the 1960's when nine production reactors were in operation at the Site. All weapons production was halted in the late 1980's and the Site is now engaged in the world's largest environmental cleanup project. This cleanup project concerns many governments, interest groups, and private citizens. The State of Washington, the Environmental Protection Agency, Tribal Governments, and various public interest groups all are involved with DOE-RL and the Hanford Site.

DOE-RL's involvement with Native American Tribes at Hanford is guided by DOE's American Indian Policy and implemented by the DOE-RL Indian Nations Program in the Office of External Affairs. American Indian Tribal Governments have a special government-to-government relationship with the Federal Government of the United States, defined by history, treaties, statutes, court decisions, and the U.S. Constitution. In recognition of this government-to-government relationship, DOE-RL interacts and consults on a direct basis with three federally recognized tribes affected by Hanford operations. The Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, and the Yakama Indian Nation all have important rights recognized and guaranteed in the Treaties of 1855. In addition, the Wanapum who still live adjacent to the Site, are a non-federally recognized tribe who have strong cultural ties to the site and are consulted on cultural resource issues in accordance with DOE-RL policy and relevant legislation.

The DOE American Indian Policy states among other things that, *"The Department shall: Consult with Tribal governments to assure that Tribal rights and concerns are considered prior to DOE taking actions, making decisions, or implementing programs that may affect Tribes."* In addition to the American Indian Policy, laws such as the American Indian Religious Freedom Act, the Archaeological Resources Protection Act, the National Historic Preservation Act, the Native American Graves Protection and Repatriation Act and Executive Order 13007 (Indian Sacred Sites) require consultation with Tribal governments and/or religious leaders. The combination of the Treaties of 1855, Federal policy, laws and regulations provides the basis for Tribal participation in Hanford plans and activities.

The DOE Richland Field Office established the Indian Nations Program in 1991, to help facilitate appropriate government-to-government interactions on the many issues potentially affecting tribal interests at Hanford. The mission and goals of the Indian Nations Program are found below.

### MISSION STATEMENT

*To provide a proactive program that guides the implementation of the U.S. Department of Energy American Indian Policy in an honorable and consistent manner. To provide effective ombudsman services and anticipate and initiate opportunities for meaningful tribal participation in Hanford decision making processes.*

**GOALS:**

- Tribal staffs are regularly consulted at the earliest opportunity for recommendations and advice on DOE activities potentially affecting tribal rights and interests.
- The Yakama Indian Nation, Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce Tribe and the Wanapum work with the DOE to co-manage the cultural resources at the Hanford Site.
- Interactions among DOE, contractor and tribal staffs occur in a collegial atmosphere.
- Tribal people routinely access portions of the Site for traditional religious practices including the gathering of foods and medicines.
- The DOE and the Tribes view the interactions between the DOE-RL and individual tribes as an appropriate government-to-government relationship.

If you have any questions or would like more information about Tribal involvement at Hanford please contact:

Kevin Clarke, DOE-RL Indian Nations Program Manager  
(509) 376-6332  
E-mail: Kevin\_V\_Clarke@rl.gov

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[[Hanford Home Page](#)] [[Indian Nations](#)]

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For questions or comments about this page, please send email to [Kevin\\_V\\_Clarke@rl.gov](mailto:Kevin_V_Clarke@rl.gov)  
URL: <http://www.hanford.gov/doe/inp/progsum.htm>  
Last Updated:03/10/97 11:32:11

*The following memorandum was sent to all heads of executive departments and agencies and appeared in the May 4, 1994 issue of the Federal Register. It was signed and released in conjunction with the historic meeting between the President and representatives of Tribal Governments held at the White House on April 29, 1995.*

The White House  
Washington, DC  
April 29, 1994

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Government-to-Government Relations with Native American Tribal Governments

The United States government has a unique legal relationship with Native American tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. As executive departments and agencies undertake activities affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal sovereignty.

Today, as part of an historic meeting, I am outlining principles that executive departments and agencies, including every component bureau and office, are to follow in their interactions with Native American tribal governments. The purpose of these principles is to clarify our responsibility to ensure that the federal government operates within a government-to-government relationship with federally-recognized Native American tribes. I am strongly committed to building a more effective day-to-day working relationship reflecting respect for the rights of self-government due the sovereign tribal governments.

In order to ensure that the rights of sovereign tribal governments are fully respected, executive branch activities shall be guided by the following:

- a. The head of each executive department and agency shall be responsible for ensuring that the department or agency operates within a government-to-government relationship with federally-recognized tribal governments.
- b. Each executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments. All such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.
- c. Each executive department and agency shall assess the impact of federal government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during the development of such plans, projects, programs and activities.

- d. Each executive department and agency shall take appropriate steps to remove any procedural impediments to working directly and effectively with tribal governments on activities that affect the trust property and/or governmental rights of the tribes.
- e. Each executive department and agency shall work cooperatively with other federal departments and agencies to enlist their interest and support in cooperative efforts, where appropriate, to accomplish the goals of this memorandum.
- f. Each executive department and agency shall apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") and 12866 ("Regulatory Planning and Review") to design solutions and tailor federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities.

The head of each executive department and agency shall ensure that the department or agency's bureaus and components are fully aware of this memorandum, through publication or other means, and that they are in compliance with its requirements.

This memorandum is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

/s/ WILLIAM J. CLINTON



# Oregon

John A. Kitzhaber, M.D., Governor

Department of Consumer and Business Services

Office of Energy

625 Marion St. NE

Salem, OR 97310-0830

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July 29, 1998

Felix Miera  
USDOE-RL MS-A5-15  
625 Jadwin Avenue  
Richland, WA 99352

Dear Mr.  Miera:

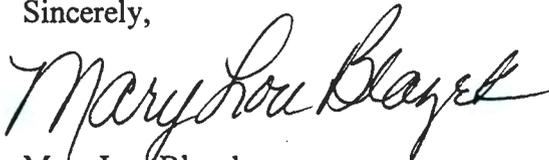
Our Memorandum of Understanding (MOU) signed in August 1997 calls for quarterly progress reports. As agreed, these reports will be made on the same schedule as the quarterly reports for the Oregon grant. This report covers the time period April - June, 1998.

In general, Oregon is pleased with the activities accomplished under the MOU. In this reporting period, a meetings was conducted May 20, 1998. The next meeting is scheduled for July 29, 1998.

These Forum meetings deal with substantive issues in a respectful environment. Our mutual commitment to address the problems and issues is apparent. I believe the attached "Sense of the Senate" Amendment 2097 to the Defense Appropriations bill is testimony to the our positive working relationship. The amendment is indicative of Congress's recognition of the collaborative relationship between Oregon and USDOE-RL.

Our quarterly report describing Oregon Office of Energy's products and activities is attached.

Sincerely,



Mary Lou Blazek  
Administrator  
Nuclear Safety Division  
Oregon Office of Energy



NOTE: The Quarterly Report in its entirety is attached to and is part of the minutes of record for the July 29, 1998 State of Oregon and U.S. Department of Energy Forum. Due to its volume it is not attached to this copy of the approved minutes. Copies of the Report may be requested from Felix Miera of the U.S. DOE (509) 373-7589 or Ron Morrison of FDH (509) 376-6574.

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# **Tank Waste Remediation System Privatization Contract**

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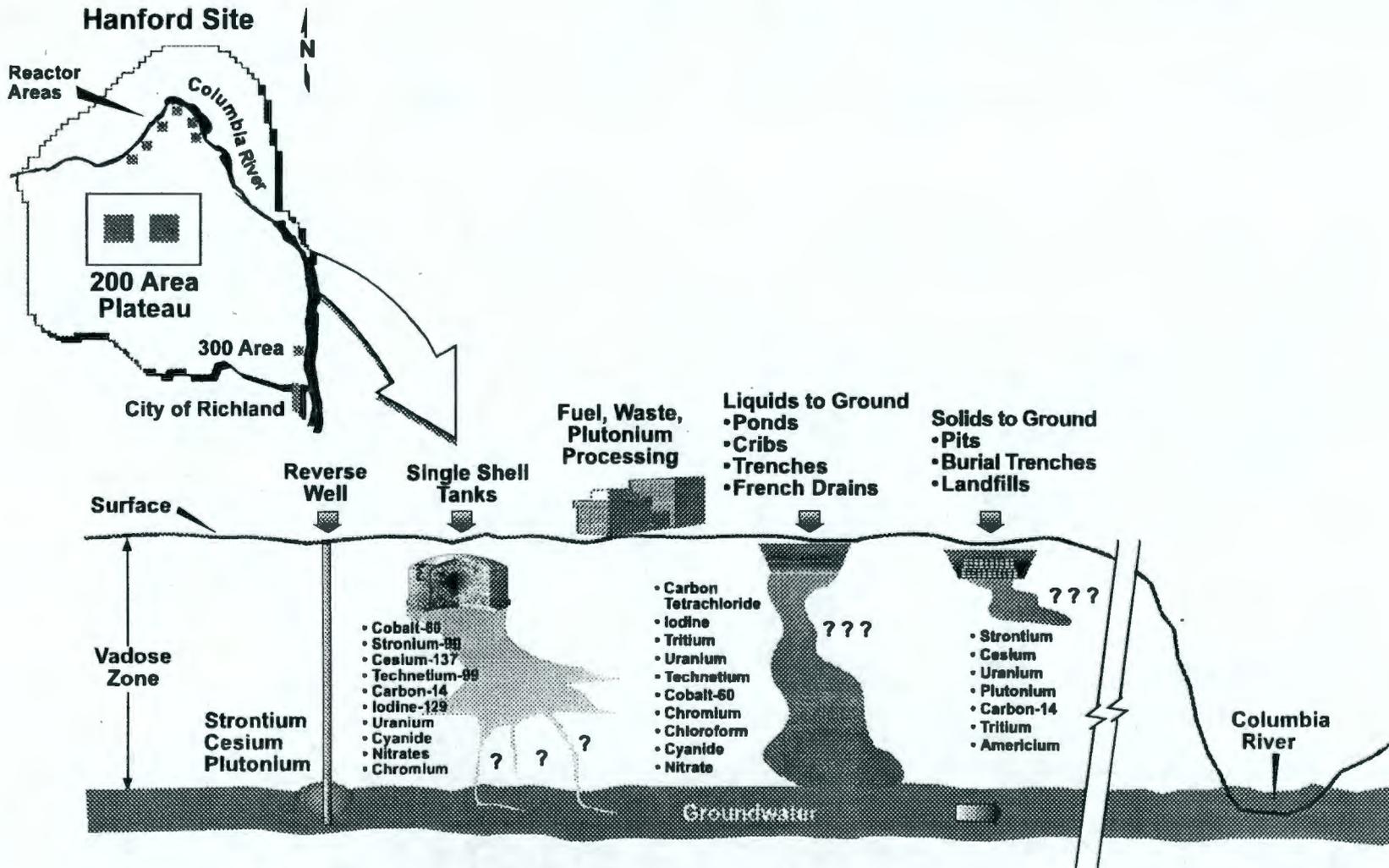
**July 1998**  
**U.S. Department of Energy**

# Topics

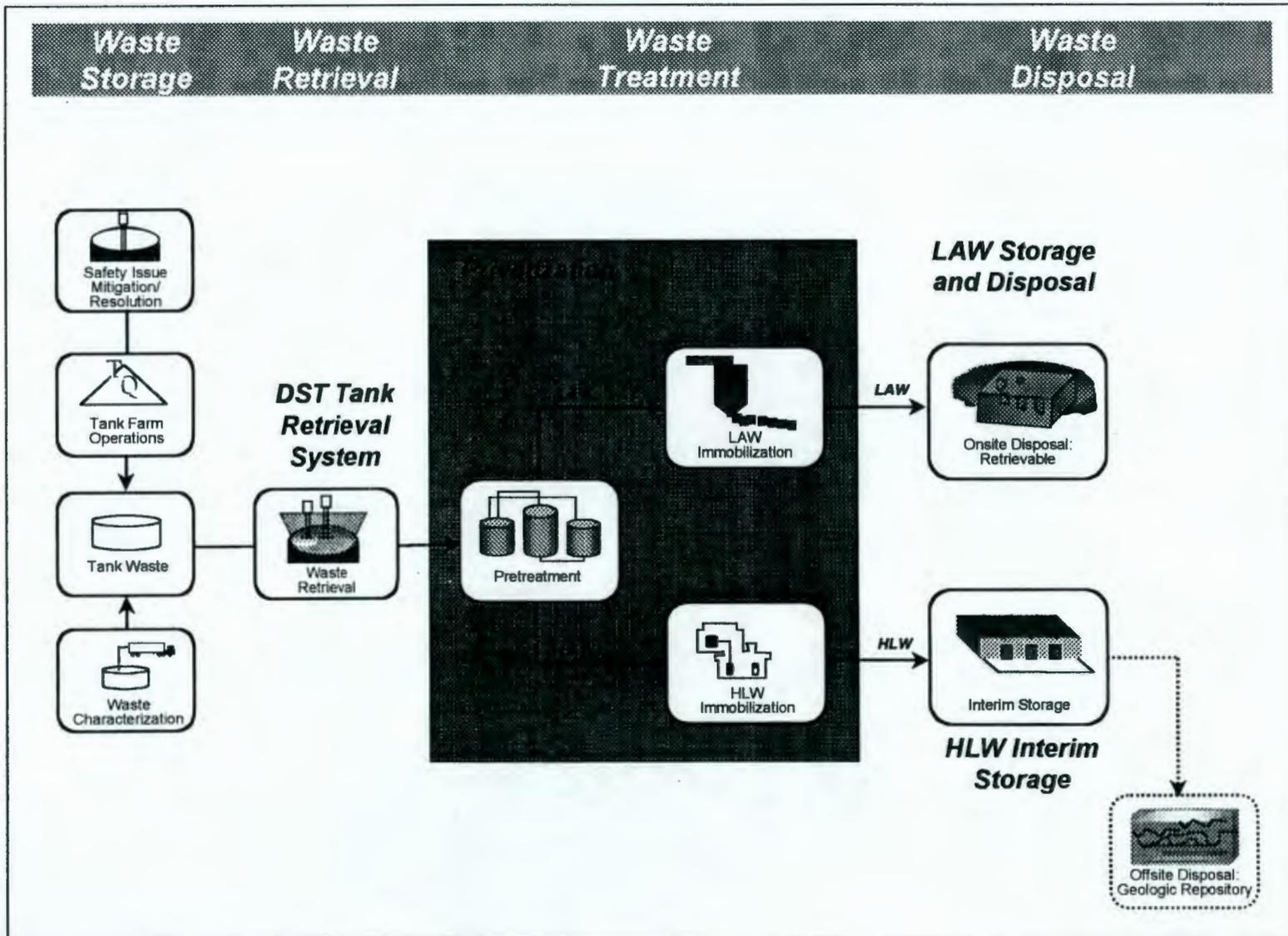
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- Problem and solution
- Evolution to current approach
- Contract description
  - Timeline
  - Products
  - Price structure
- Potential outcomes
- Closing

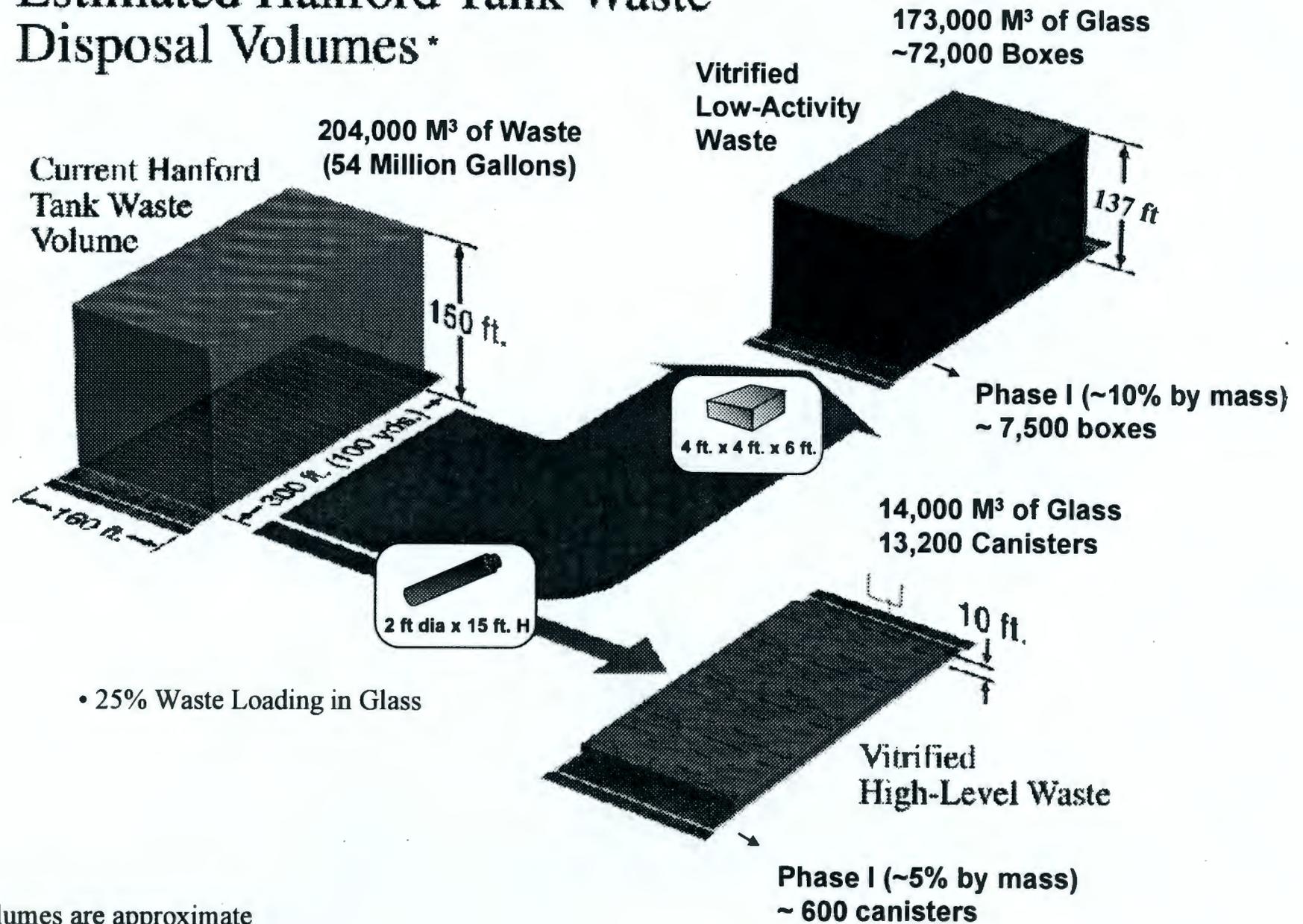
# The Legacy of 50 Years of Nuclear Defense Production



# TWRS Privatization Services



# Estimated Hanford Tank Waste Disposal Volumes \*



\*All volumes are approximate

# Historical Perspective

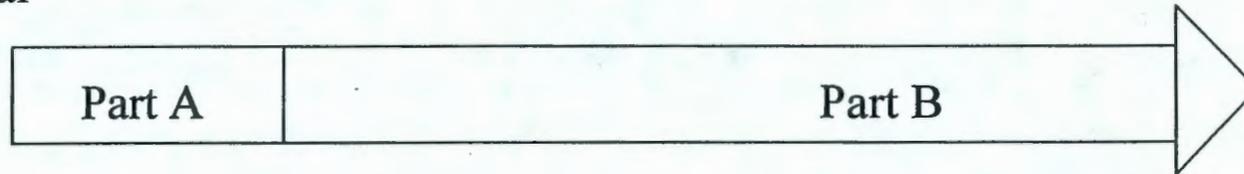
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- Original contract strategy was a three-step approach:
  - Perform Part A: Development period prior to major commitment
  - Downselect: Select proposal(s) with highest performance assurance
  - Perform Part B: Provide waste treatment services in privatized facilities
- Result of Part A downselect:
  - Developed high confidence in BNFL technical solution
  - Changed contract strategy to improve the 'business deal'
  - Eliminated technical solution with unacceptable risk (LMAES)

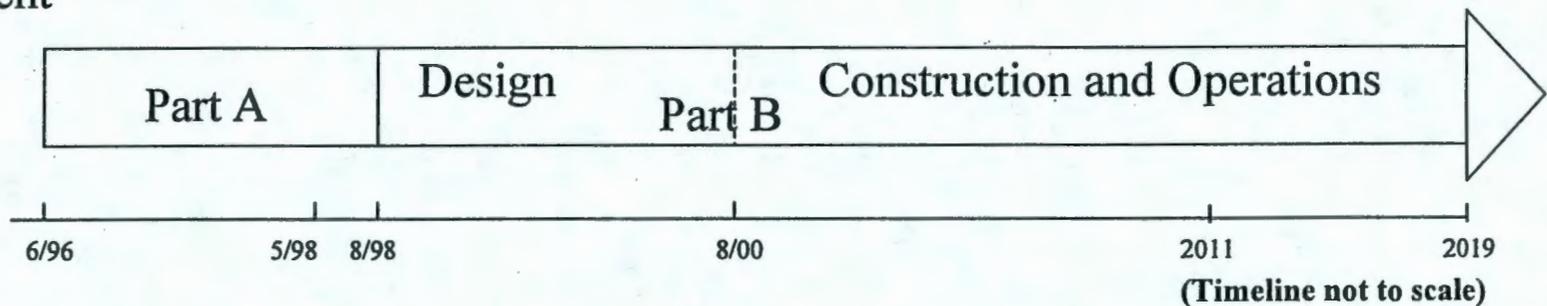
# Evolution in Privatization Concept

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Original



Current



Reasons for Change

- Optimize waste treatment and immobilization service
- Mitigate risk
- Reduce contingencies and fixed-unit prices for services
- Introduce new decision point after 30% design prior to major commitment
- Structure financing approach
- Incentivize reductions in contractors and operations cost

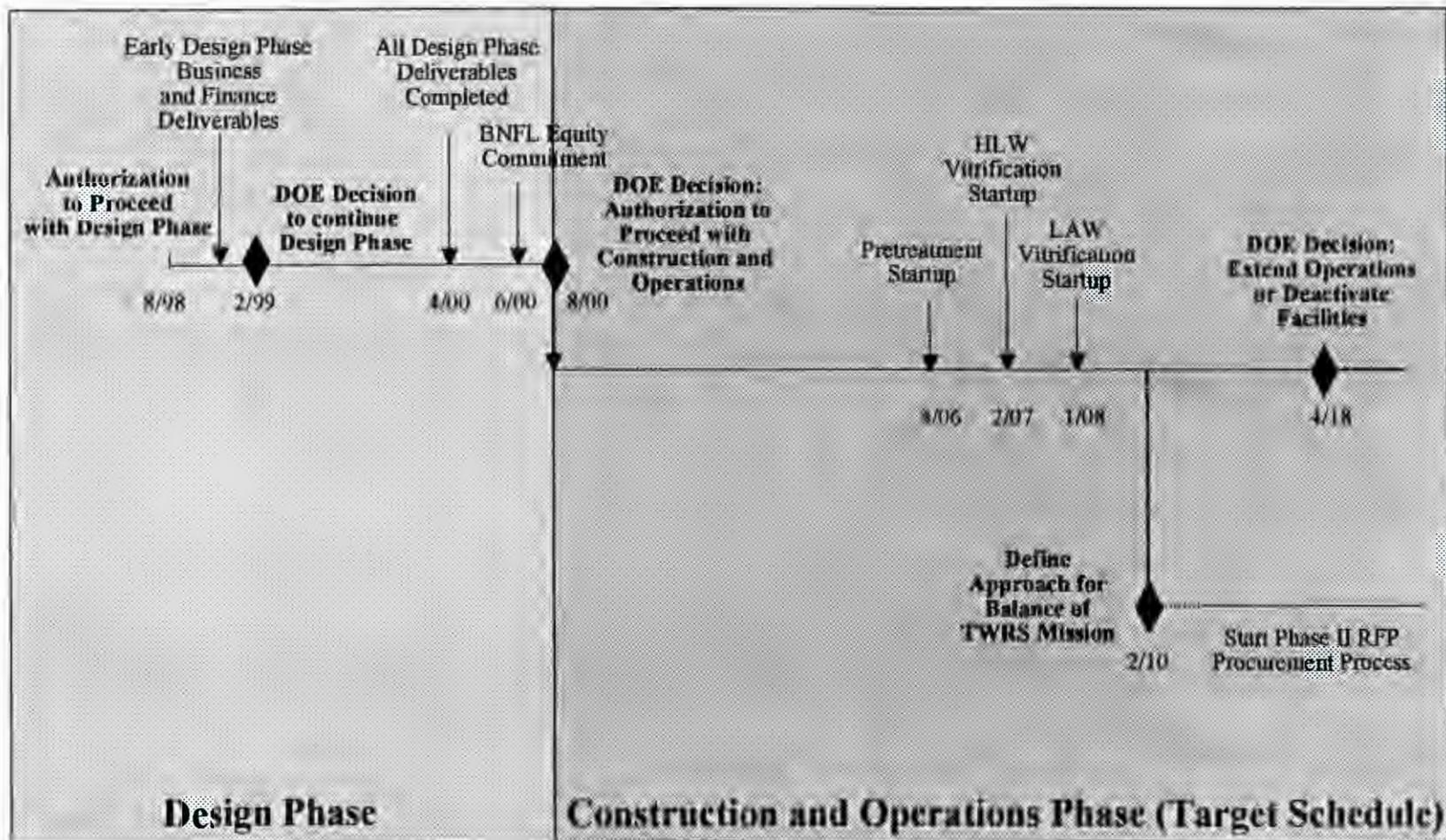
# TWRS Privatization -- What We Are Achieving in Phase I

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## In First 10 Years of Operations, BNFL Would:

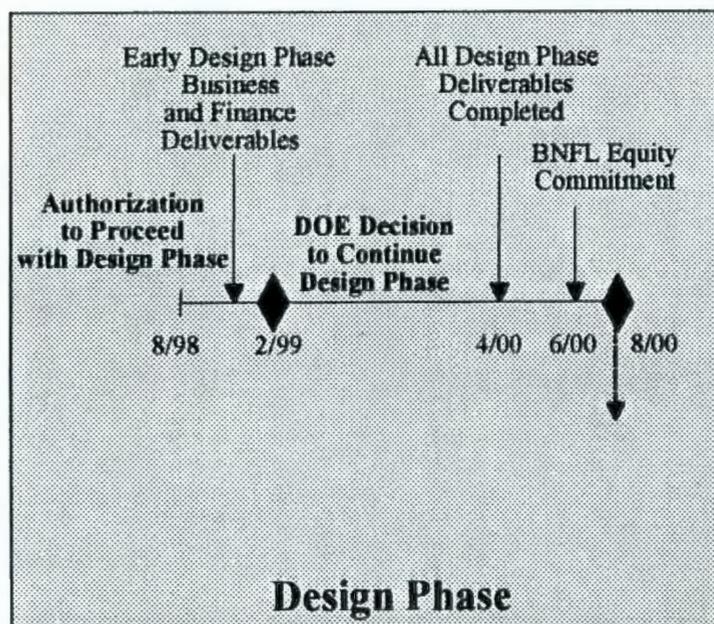
- Vitrify the waste from 11 tanks
  - 4 of the 6 DST watchlist tanks (hydrogen)
  - C106 -- Only SST requiring water additions due to high heat
  - AN102 & AN107 -- Tanks highest in complexants, soluble Sr and TRU
  - Approximately 10% of the tank waste by mass
  - 20% - 25% of the tank waste by radioactivity
- Pretreat the 2 tanks highest in activity (AZ101, AZ102)
- Provide tank space equivalent to 7 DSTs for SST retrieval
- Perform sludge washing -- Freeing up 1 DST, reduce feed delivery risk, provide enhanced separations compared to in-tank sludge washing

# Part B Timeline



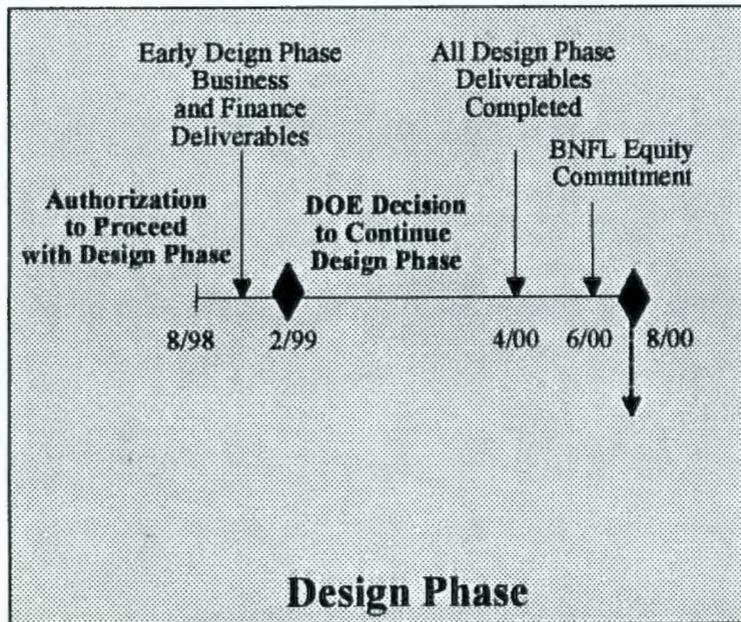
# Key Deliverables 4-6 Months into Design Phase

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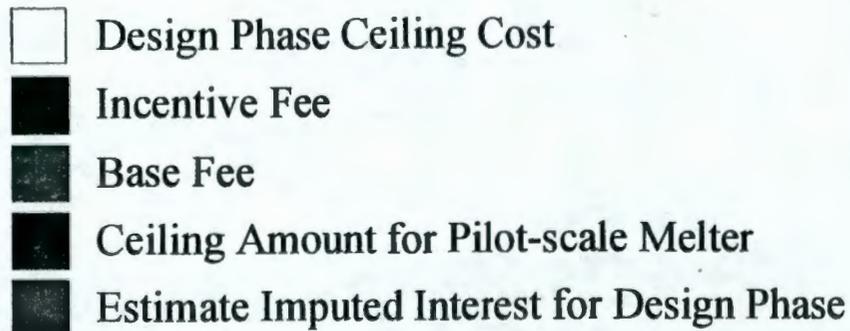
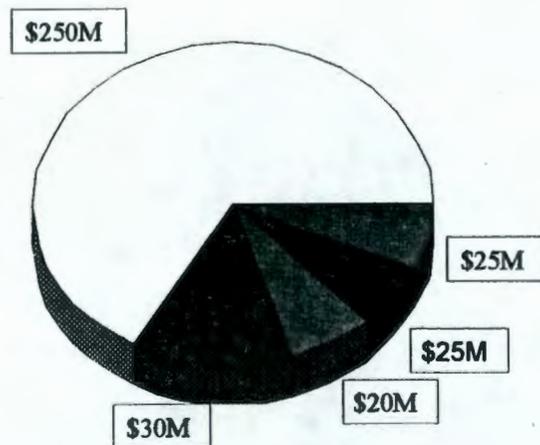
- **Develop methodologies for**
  - pricing and repricing (H.45)
  - equitable adjustment (H.5)
  - idle facilities payment (H.30)
  - contingency management (H.45)
  - sharing of cost savings (H.45, H.47)
- **Initial project schedule and cost estimate**
- **Financial system/certified cost or pricing data**

# Key Deliverables at End of Design Phase



- ~30 percent process and facility design (Standard 2)
- Final project schedule and cost estimate (Standard 1)
- Regulatory and permitting deliverables (Standard 4)
- Documentation required for project finance (Standard 6)
- Fixed unit prices for services (Standard 7)
- Structure of project company (Standard 6 & H.39)
- Equity commitment (Standard 6 & H.44)

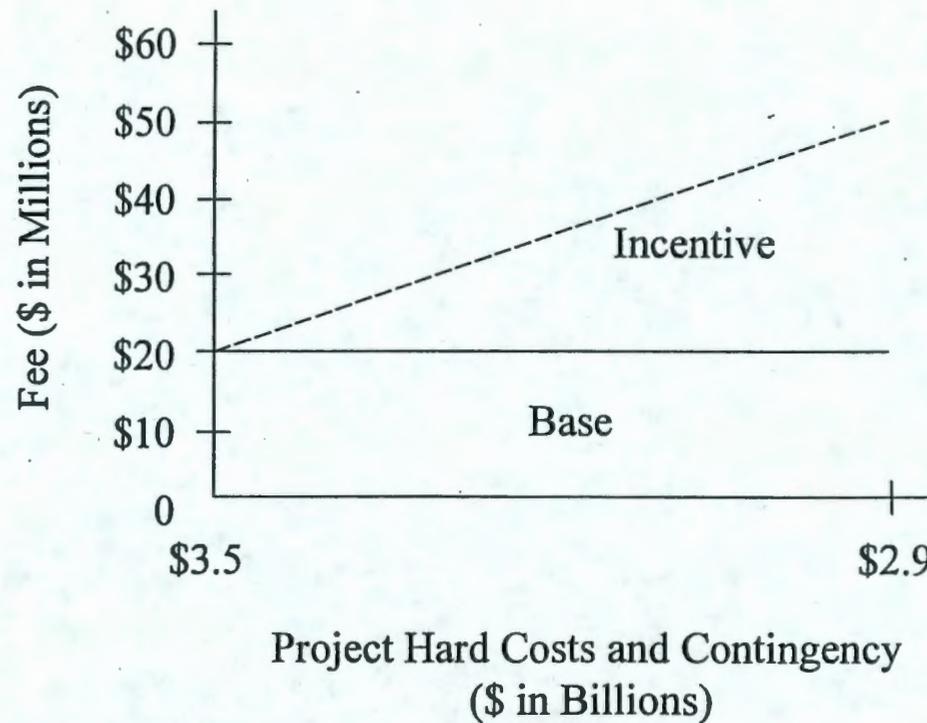
# Design Phase Contract Price Structure



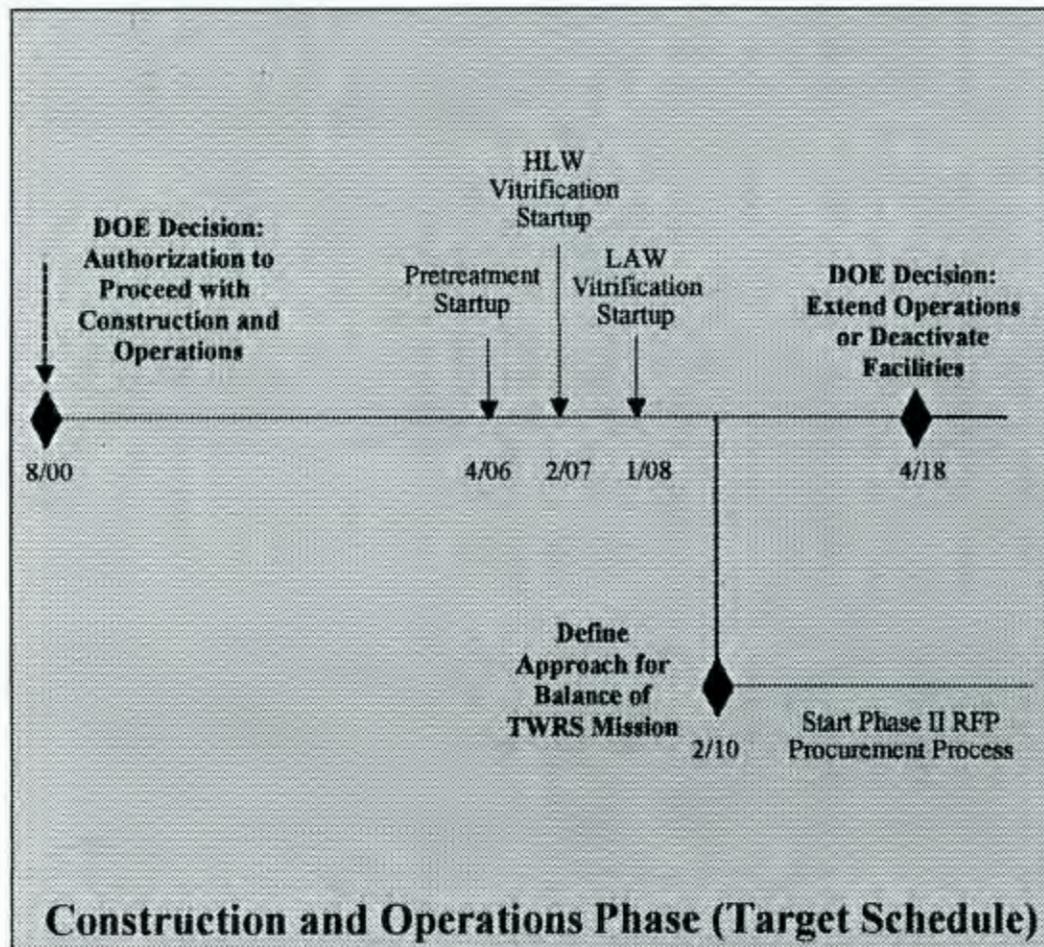
- Design Phase will be performed within ceiling price --total projected maximum cost of design phase is \$350M
- Base and incentive fees are earned based on performance and paid at end of design phase
  - \$20M base fee is earned for financial closure
  - up to \$30M in incentive fee is earned for cost reductions
- Payment to BNFL at the end of the design phase is only earned fees
- Reasonable, allowable, and allocable design phase costs within ceiling price limit move to construction and operations phase

# Fees for Successful Financial Closing

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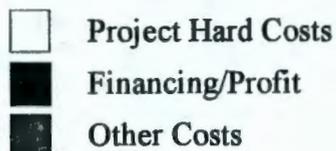
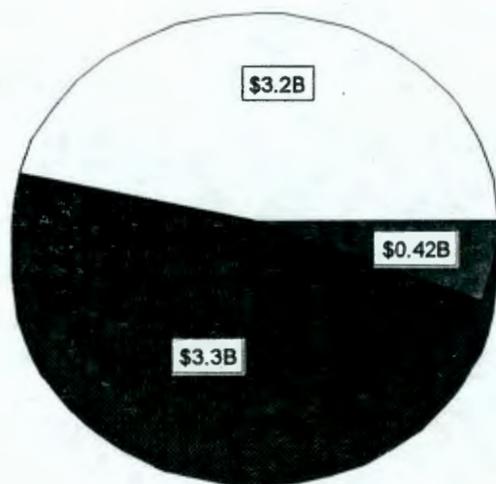
# Key Features of Construction and Operations Phase



- Privatized facilities
- Minimum order quantity:
  - 6000 units of LAW (~5600 MT sodium)
  - 600 canisters of HLW
- Mix of financing will include equity and recourse debt, and potentially non-recourse debt
- Fixed unit-prices for services
- Assignment of Contract to new single-purpose limited liability company
- Price adjustment mechanisms at work
  - Upward pressure:
    - Uncontrollable Circumstances
    - Idle Facilities
    - Economic price adjustment
  - Downward pressure:
    - Sharing of cost savings

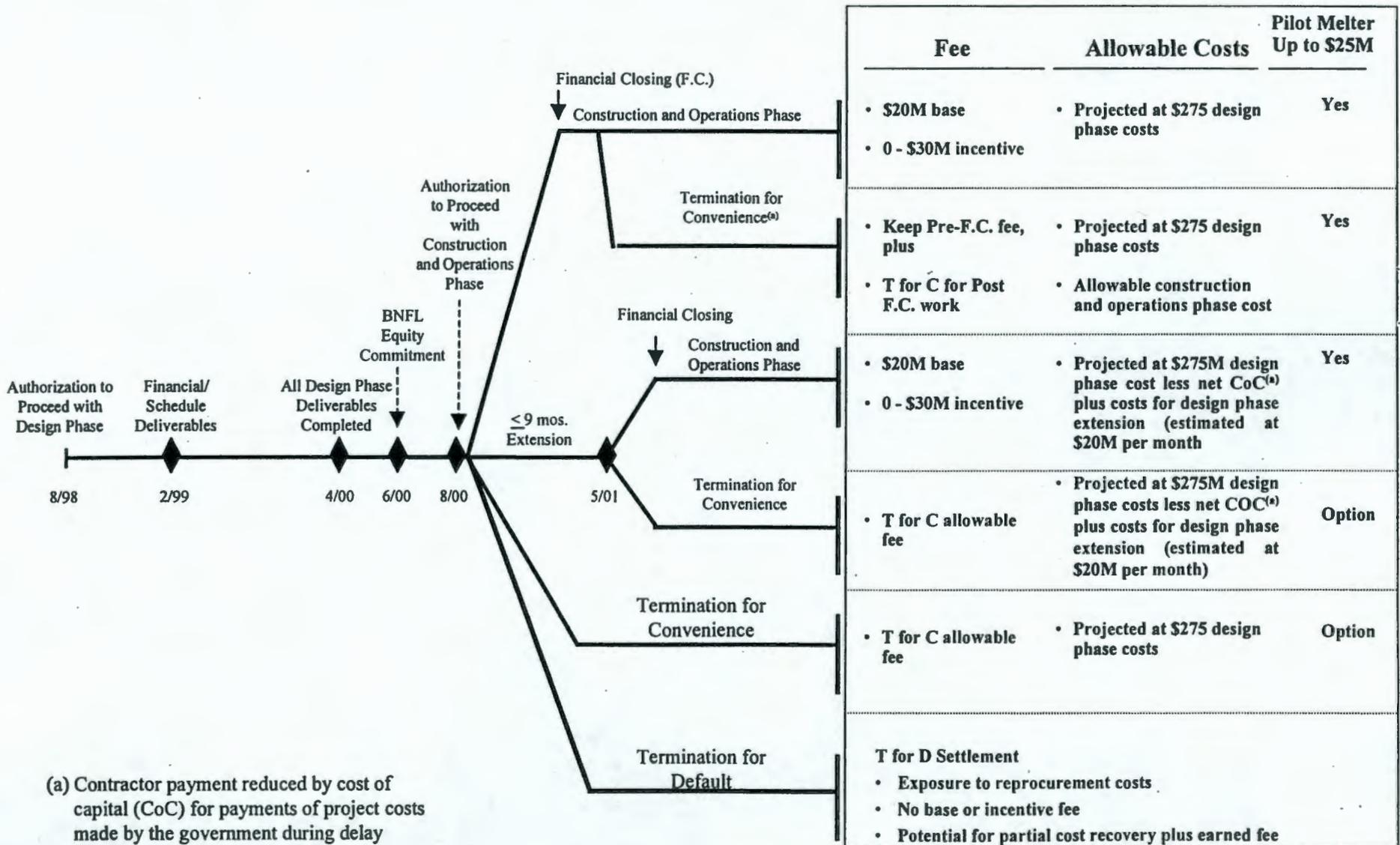
# Target Price Structure

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- \$6.9B construction and operations phase target price and assumptions established at start of design phase
- DOE has full access to information developed in design phase to provide basis to analyze risk and pricing throughout design phase
- Construction and operations target price does not establish contractual ceiling -- fixed unit prices that result from final pricing can move up and down
- Ceiling price could be established for construction and operations phase -- but would result in significant risk premium due to limited information and high uncertainty at the start of design phase

# Design Phase Outcomes



(a) Contractor payment reduced by cost of capital (CoC) for payments of project costs made by the government during delay period

# DOE's Management of Project

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- DOE Project Management Team with specialized expertise -- technical, financial, legal, and contract administration -- provides integrated management for BNFL and M&I Contractor
- Direct contract between DOE and BNFL
- Radiological, nuclear, and process safety regulated through DOE Office of Radiological, Nuclear, and Process Safety for TWRS Privatization (Regulatory Unit)
- Independent reviews at key project milestones and decisions

# DOE's Ability to Provide Feed and Services

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- M&I Contractor Readiness-To-Proceed (RTP) was reviewed and accepted by DOE and independent reviewers
- RTP assessment was conservative -- based on assumption of two contractors beginning processing in 2002 -- currently being updated
- Self-assessment and non-proponent review of DOE RTP were performed -- identified additional staffing needs
- Waste needed to feed BNFL has been characterized and has been or will be re-characterized to ensure it meets feed specifications

# Principal Areas of Risk to DOE

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- Management/staffing of the contract
- Integrated management - product delivery
- Congressional funding
- Interpretation of termination for convenience as “non-guarantee”
- Regulatory process (OSHA or Regulatory Unit)
- Contract Definitization
  - H.37, 28 Equitable Adjustment
  - H.30 Idle Facilities
  - H.5 Economic Price Adjustment
  - H.45 Pricing and Repricing
  - H.6 Price Adjustment for Waste Minimization
- Negotiations for construction and operations phase fixed-unit prices for services and required contract changes

# Closing

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- DOE believes that it has negotiated a contract that
  - Provides a viable, realistic path forward for Hanford tank waste treatment
  - Is likely to result in cost-effective waste treatment
  - Provides expansion capability for Phase II requirements

## Oregon/U.S. DOE Forum Action Items

#	Action Item	Responsible Person	Status
1.	Provide copy of Governor Kitzhaber's letter to DOE.	M. L. Blazek	COMPLETE
2.	Place the discussion of the ATSDR health assessment on the agenda for the November meeting.	F. R. Miera	COMPLETE
3.	Pursue placing the OOE on distribution for future press releases.	K. K. Randolph	COMPLETE
4.	Provide, on a quarterly basis, a written report that will highlight and status OOE activities for that time period.	M. L. Blazek	COMPLETE
5.	Inquire about Oregon's attendance at the Alice Murphy weekly briefings.	G. Sanders F. Miera	COMPLETE
6.	Develop a final name for future Bimonthly U.S. DOE and State of Oregon meetings.	M. Blazek	COMPLETE
7.	Seek DOE Headquarters representative's attendance at the January Bimonthly meeting.	F. Miera	COMPLETE
8.	Pursue the conduct of a Tri-Party Agreement training session for State of Oregon representatives at a future date to be determined.	G. Sanders	COMPLETE
9.	Investigate the possibility of one versus two meetings in Oregon with responsible DOE management and will provide a response to M. Blazek.	G. Sanders	COMPLETE
10.	Discuss these comments with Jay Augustenborg of the U.S. DOE.	G. Sanders	COMPLETE
11.	Assign a representative to the Oregon Waste Board.	The U.S. DOE	COMPLETE
12.	The State of Oregon requested that the Tri-Party Agreement status of issues be a routine agenda item for future Bi-monthly meetings.	R. Morrison	COMPLETE

13.	Brief DOE/RL management on Oregon concerns and issues.	G. Sanders, DOE/EAP	COMPLETE
14.	Set up a conference call with Mary Lou Blazek to discuss Ground Water Issues. Early notification of issues is greatly desired by Oregon.	F. Miera M. Thompson	COMPLETE
15.	Investigate the possibility of one versus two meetings in Oregon with responsible DOE management and will provide a response to M. Blazek.	G. Sanders	COMPLETE
16.	All future public meetings involving the State of Oregon should be coordinated in future bimonthly FORUM meetings.	G. McClure	COMPLETE
17.	RL management has directed that groundwater protection be addressed in an integrated program. M. Blazek requested that Oregon be included in this effort.	R. Holten	COMPLETE
18.	J. Rasmussen will request George Sanders of DOE to provide an update of Tri-Party Agreement activities to the OOE. The update will be verbal, e.g., via conference call or at the bi-monthly FORUM meeting between OOE and DOE.	G. Sanders	COMPLETE
19.	Pursue placing the OOE on distribution for future press releases.	K. Randolph	COMPLETE
20.	Provide copy of Governor Kitzhaber's letter to DOE.	M. Blazek	COMPLETE
21.	M. Blazek requested the DOE to please review the Quarterly Progress Report for adequacy.	F. Miera	OPEN Note: on 9-23-98 M. Blazek requested specific recommendations for changes.
22.	Provide a copy of the C-Span video tape of the congressional hearings on the Spent Nuclear Fuel Project.	K. Randolph	COMPLETE
23.	M. Blazek and M. Grainey will meet with K. Randolph and J. Rasmussen when the Oregon budget request is ready.	M. Blazek	COMPLETE
24.	M. Blazek asked F. Miera to check on status of outcome of the Glenn Podonski, Deputy Assistant Secretary for Oversight, visit the State of Oregon.	F. Miera	OPEN Note: as of 9-23-98 a ltr. Is forthcoming from DOE-

			HQ on this subject.
25.	Investigate opportunities for a meeting between Governor Kitzhaber and John Wagoner possibly to include visiting the Hanford Site or in conjunction with any future visits to the site by the Secretary of Energy.	F. Miera M. Grainey M. Blazek	OPEN Note: This item in abeyance until Spring of 1999.
26.	M. Blazek requested a one page summary of the TWRS Privatization Contract Announcement from the DOE prior to the announcement.	P. Bengtson	OPEN Oregon still not in receipt of this summary, request forwarded to P Bengtson.
27.	Confer and begin work on resolving the issues presented in the letters (attachments 2 and 3 to the March 30, 1998 meeting minutes concerning FFTF public meetings).	G. McClure M. Blazek	COMPLETE
28.	Provide background information to M. Blazek on the affected Indian Nations.	G. Sanders	COMPLETE
29.	Investigate providing access to status reporting on the Tri-Party Agreement milestones.	R. Morrison	COMPLETE
30.	Provide a hard copy of the latest version of the Tri-Party Agreement Milestone database at each subsequent Forum.	R. Morrison	COMPLETE
31.	W. Taylor to review public involvement plans for Privatization effort and discuss with M. Blazek.	W. Taylor	COMPLETE