

**Hanford Federal Facility Agreement and Consent Order
(Tri-Party Agreement)**

Proposed Tri-Party Agreement Modifications

related to:

Hanford Site High-Level Radioactive

Waste Tank Interim Stabilization Program

and

Interim Stabilization Consent Decree

Public Comment Period
March 3, 1999 to May 3, 1999

*Hanford Federal Facility Agreement and Consent Order
(Tri-Party Agreement)*

Proposed Tri-Party Agreement Modifications

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Draft Change Request M-41-99-01

Interim Stabilization Consent Decree

**Proposed Changes to the Hanford Site
High-Level Radioactive Waste Tank
Interim Stabilization Program**

Request for Public Comment

Your review and comment is requested on proposed changes to the U.S. Department of Energy (DOE) High-Level Radioactive Waste Tank Interim Stabilization Program. The proposed changes remove the single-shell-tank interim-stabilization program from the scope of the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement or TPA) and replace it with schedules and associated agreements to be filed as a court enforceable "consent decree." The proposed agreement will accelerate the removal of remaining pumpable liquids from DOE's single-shell high-level radioactive waste storage tanks and ensure that priority is given to removing pumpable liquids which pose the greatest environmental risk first. Under the proposed changes, a court enforceable legal document called a "consent decree" containing new work schedules and associated agreements will take the place of existing work schedules in the TPA. Outdated TPA work schedules will be deleted. Following consideration of public comment the consent decree will be submitted to a federal judge for approval and filing with the court. The court-ordered consent decree will then replace the language in the TPA pertaining to tank interim stabilization.

The Tri-Parties are seeking public comment on these proposed changes from March 3 through May 3, 1999. All public comments will be considered and responded to before final decisions are made. Because these proposed changes are consistent with DOE's current project schedule and expected funding, public meetings are not currently scheduled. Should substantial public interest indicate a need for meetings, the Tri-Parties will respond accordingly.

If you would like to review the proposed modifications and the consent decree, please visit the public information repository nearest you or review the documents at the Tri-Party Agreement homepage: <http://www.hanford.gov/tpa/tpahome.htm>.

To request a copy of the proposed modifications and consent decree, or to submit comments either written or electronically, contact:

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If you require additional information, call the Hanford Cleanup toll-free line at (800) 321-2008.

Background

In 1978, DOE initiated interim-stabilization activities at its 149 single-shell tanks located on the Hanford Site Central Plateau in the 200 Area. The purpose of interim stabilization is to remove remaining pumpable liquids in single-shell tanks to reduce the risk of leaks. During interim stabilization, single-shell tank liquids are pumped and transferred to double-shell tanks, which have no history of leakage. To date, 119 of the 149 single-shell tanks have been interim stabilized. One single-shell tank (C-106) is planned as a retrieval demonstration and will not be interim stabilized. Twenty-nine single-shell tanks remain to be interim stabilized and are the subject of these proposed changes.

Sixty-seven (67) of DOE's single-shell tanks have or are suspected to have leaked more than one million gallons of radioactive waste to area soils and groundwater. Of these, 65 have already been interim stabilized or are in process.

Single-shell-tank interim stabilization was included in the Tri-Party Agreement in 1989, and a significant amount of progress has been made in recent years. However, progress has been far from that expected by the agencies. A number of issues have contributed to increasing dissatisfaction and recognition of the need to accelerate the program. These include slow progress in resolving safety issues such as the potential for the presence of flammable gas; the need for safety equipment upgrades; the need for improvements in project management practices; cuts to the interim stabilization budget, and increasing concern over documented groundwater contamination at 8 of DOE's 12 single-shell tank farms.

By mid-1997, it became apparent that the existing TPA schedule for completing interim stabilization of the remaining single-shell tanks would not be met, and that project delays would continue. Changes DOE proposed to near-term Interim Milestones M-41-22 (which required initiating interim stabilization of six additional single-shell tanks by September 30, 1997) and M-41-23 (which required initiating interim stabilization of eight single-shell tanks by March 31, 1998) were disapproved by Ecology in February and March 1998, respectively. On June 8, 1998, Governor Gary Locke and Washington State Attorney General Christine Gregoire notified DOE that Washington State intended to file suit against DOE for failing to meet Interim Milestones M-41-22 and M-41-23. Subsequent to this notice, DOE, Ecology, U. S. Department of Justice and Washington Attorney General's Office staff began discussing the potential for accelerating the program and for filing revised schedules as a consent decree in an attempt to avoid further delay.

Principal Issues

Proposed milestone changes to the Tri-Party Agreement delete uncompleted interim stabilization milestones and targets. In an agreement among the Tri-Parties, a new and aggressive plan governing the pumping of high-level radioactive waste tanks has been developed as a consent decree to be filed with and enforceable by the courts.

One of the highest priorities in the new plan includes pumping tanks that contain complex organic wastes. Such wastes, if released to the environment, could mobilize radioisotopes, causing them to migrate faster through area soils to groundwater beneath the Hanford Site. Earlier pumping schedules focused on pumping tanks with the highest volume of liquid waste first. The new plan also changes the order in which the tanks will be pumped, shifting the near-term focus away from some tank farms and towards others. There are also emergency pumping plans in place to turn immediate attention to any tank should it begin to leak.

New Strategy

Washington State and the U.S. Department of Energy have approved a draft consent decree that will establish court-enforceable, technically sound schedules for pumping liquid nuclear waste out of DOE’s remaining 29 (unstabilized) single-shell tanks. The agreement comes eight months after the Governor and the state Attorney General threatened to sue DOE for failing to meet its commitment to stabilize the tanks. After negotiations became deadlocked, Secretary of Energy Bill Richardson met with Governor Locke and Attorney General Gregoire in October 1998 to reach agreement on legal provisions of the consent decree. Since then, a joint technical team representing Ecology, DOE, and DOE contractors have developed a schedule that will be included in the decree. In addition, changes are proposed to delete out of date single-shell-tank interim stabilization milestones from the Tri-Party Agreement.

Key elements of the proposed consent decree include:

- Pumping the tanks that pose the greatest environmental risk first, thus providing additional protection for the Columbia River and public health.
- Accelerating the schedule for pumping so that 98 percent of approximately 6.2 million gallons of remaining pumpable liquid is removed by September 30, 2003, with the final two percent scheduled to be removed by September 30, 2004.
- Increasing DOE funding to a level that will support successful execution of the new schedule for tank stabilization.

**Description of Proposed Consent Decree Schedules
for the Completion of Single-Shell Tank Interim Stabilization**

Tank Number	Description	
	Pumping to be Initiated by:	Projected Pumping Completion Date:
T-104	Already initiated	May 30, 1999
T-110	Already initiated	May 30, 1999
SX-104	Already initiated	December 30, 2000
SX-106	Already initiated	December 30, 2000
S-102	July 30, 1999	March 30, 2001
S-106	July 30, 1999	March 30, 2001

Description of Proposed Consent Decree Schedules (Cont.)

Tank No.	Pumping to be initiated by:	Projected Pumping Completion Date:
S-103	July 30, 1999	March 30, 2001
U-103	June 15, 2000	April 15, 2002
U-105	June 15, 2000	April 15, 2002
U-102	June 15, 2000	April 15, 2002
U-109	June 15, 2000	April 15, 2002
A-101	October 30, 2000	September 30, 2003
AX-101	October 30, 2000	September 30, 2003
SX-105	March 15, 2001	February 28, 2003
SX-103	March 15, 2001	February 28, 2003
SX-101	March 15, 2001	February 28, 2003
U-106	March 15, 2001	February 28, 2003
BY-106	July 15, 2001	June 30, 2003
BY-105	July 15, 2001	June 30, 2003
U-108	December 30, 2001	August 30, 2003
U-107	December 30, 2001	August 30, 2003
S-111	December 30, 2001	August 30, 2003
SX-102	December 30, 2001	August 30, 2003
U-111	November 30, 2002	September 30, 2003
S-109	November 30, 2002	September 30, 2003
S-112	November 30, 2002	September 30, 2003
S-101	November 30, 2002	September 30, 2003
S-107	November 30, 2002	September 30, 2003
Other Consent Decree Commitments include the Following:		
C-103	No later than December 30, 2000, DOE will determine whether the organic layer and pumpable liquids will be pumped from tank C-103 together or separately, and will establish a deadline for initiating pumping of this tank. The parties will incorporate the initiation deadline into this schedule as provided in Section VI of the decree.	
Percentage of Pumpable Liquids Remaining to be Removed:		
93% of Total Liquid	September 30, 1999	
38% of Organic Complexed Pumpable Liquids	September 30, 2000	
5% of Organic Complexed Pumpable Liquids	September 30, 2001	
18% of Total Liquid	September 30, 2002	
2% of Total Liquid	September 30, 2003	
Completion of Interim Stabilization. DOE will complete interim stabilization of all 29 remaining single shell tanks by September 30, 2004.		

Description of Proposed Milestone Change to the Tri-Party Agreement

(The following Tri-Party Agreement milestones will be deleted following public comment and approval of the consent decree by the court)

Milestone Number	Due Date	Description
M-41-00	9/30/00	<p>Complete single-shell tank interim stabilization</p> <p>Complete interim stabilization activities for all single-shell tanks except 241-C-106 (to be retrieved in accordance with milestone M-45-03). Complete intrusion prevention for all single-shell tanks except 241-C-106.</p> <p>This is dependent upon the following assumptions:</p> <ol style="list-style-type: none"> (1) Safety studies will be completed with the objective of allowing pumping in accordance with interim milestones. (2) Work commences in the tank farms on October 1, 1993, for interim stabilization preparations, as required by the milestone schedule. During the stand down in tank farms, schedules for the following interim milestones may be affected: M-41-01, M-41-02, M-41-10, M-41-15, and M-41-16. Every effort will be made to recover the original schedule as specified below. <p>Interim milestones for the start of pumping and target milestones for completion for each group of tanks will be reviewed and affirmed annually with Ecology and EPA. Upon start of pumping, efforts to continue pumping will be continuously supported so that pumping is conducted as expeditiously as practical. If pumping is interrupted to a degree that jeopardizes the target milestone, the Unit (Project) managers shall meet in an effort to agree on a recovery plan. If such an agreement cannot be made at the Unit (Project) Manager level, a formal recovery plan will be prepared and submitted to Ecology and EPA for approval that supports the major milestone date of September 2000, if technically achievable.</p>
M-41-22	9/30/97	Start interim stabilization of six single-shell tanks.
M-41-23	3/31/98	Start interim stabilization of eight single-shell tanks.
M-41-24	9/30/98	Start interim stabilization of nine single-shell tanks.
M-41-25	3/31/99	Start interim stabilization of three single-shell tanks.
M-41-26	9/30/99	Start interim stabilization of two single-shell tanks.
M-41-27	9/30/00	Complete salt well pumping of single-shell tanks.
M-41-27-T03	9/30/98	Complete salt well pumping of five single-shell tanks.
M-41-27-T04	9/30/99	Complete salt well pumping of eight single-shell tanks.
M-41-27-T05	9/30/00	Complete salt well pumping of 16 single-shell tanks.
M-40-07	6/30/95	<p>Commence Operation of a Vapor Treatment System in Tank 241-C-103.</p> <p>Provide a report documenting Operational Test Procedure Results and commence permitted operation of a vapor treatment system for tank 241-C-103, unless otherwise agreed to by the parties following submittal of the Engineering Evaluation of Alternatives (EEA) for treatment of tank 241-C-103 vapor space. The EEA will document the need and options for treatment of potentially hazardous/toxic vapors being discharged from the tank 241-C-103 vapor space. All pertinent characterization data will be considered,</p>

	<p>including: meteorological, area, source, personnel monitoring, aqueous/organic layer analysis, vapor characterization, estimates of the vapor characterization after removal of the organic layer, and the schedule for this removal. Once selected, design procurement, and permitting will be initiated.</p> <p>Operation of this vapor treatment system is anticipated to provide relief from worker restrictions at Tank 241-C-103 in regard to noxious vapor emissions (provided characterization of other C Farm Tanks does not identify other potential sources of noxious vapors.)</p>
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Hanford Public Information Repository Locations

Portland

Portland State University
 Branford Price Millar Library
 Tri-Party Information Repository
 651 SW Hall, 5th Floor
 (503) 725-3690
 Attn: Michael Bowman

Richland

U.S. Department of Energy
 Public Reading Room
 Washington State University, Tri-Cities
 Consolidated Information Center,
 Room 101L
 2770 University Drive
 (509) 376-8583
 Attn: Terri Traub

Seattle

University of Washington
 Suzzallo Library
 Government Publications Room
 (206) 543-4664
 Attn: Eleanor Chase

Spokane

Gonzaga University
 Tri-Party Information Repository
 Foley Center
 East 502 Boone
 (509) 323-3839
 Attn: Connie Scarpelli

For more information, please contact:

George Sanders

U.S. Department of Energy
P.O. Box 550 (A5-15)
Richland, WA 99352
(509) 376-6888

Roger Stanley

Washington State Dept. of Ecology
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Olympia, WA 98504-7600
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or call the Hanford Cleanup Toll-Free Line: (800)-321-2008

Hanford Federal Facility Agreement and Consent Order

Tentative Agreement on the

Removal of Hanford High Level Waste Tank Interim Stabilization

Requirements from the Scope of the

Hanford Federal Facility Agreement and Consent Order

**TENTATIVE AGREEMENT ON
THE REMOVAL OF HANFORD HIGH LEVEL WASTE TANK
INTERIM STABILIZATION REQUIREMENTS FROM THE SCOPE OF THE
HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER**

The Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement or TPA), as amended, includes requirements governing the removal of pumpable liquid waste (interim stabilization) from the U. S. Department of Energy's (DOE's) Single-Shell tanks (SSTs). These requirements are largely contained within the Tri-Party Agreement's Major milestone series M-41-00, and, in the case of SST C-103, at TPA interim milestone M-40-07.

Over this past year the Washington Department of Ecology (Ecology) and the DOE have worked with one another in an effort to reach agreement on revised interim stabilization program requirements designed to avoid further project delay, to effectively drive completion of the interim stabilization project, and to reduce risks sooner. To this end, Ecology, DOE, the Washington Attorney Generals' Office, and the U.S. Department of Justice have reached tentative agreement under which a revised schedule for the completion of SST interim stabilization will be implemented, not through the Tri-Party Agreement, but through a consent decree filed with the United States District Court for the Eastern District of Washington.

Once the interim stabilization consent decree is finalized, the U. S. Environmental Protection Agency (EPA), DOE, and Ecology have agreed to delete interim stabilization program requirements from the scope of the Tri-Party Agreement. A copy of a draft TPA change request deleting current TPA interim stabilization requirements is attached.

This change request will be submitted to the public for review and comment for a 60-day period at the same time as public comment on the State and DOE's proposed interim stabilization consent decree (i.e., There will be one unified public comment process).

Copies of these proposed agreements will be forwarded to the Tribes and Hanford stakeholders, and will be available for review at the Tri-Parties public information repositories. Specific public comment dates will be coordinated to ensure Hanford Advisory Board opportunity for review and comment. DOE, Ecology and EPA expect that final signatures will take place by May 28, 1999.

DOE, Ecology, and EPA further agree that this Tri-Party Agreement modification will become final unless DOE, Ecology, or EPA determines that changes are necessary as a result of public comment. Should DOE, Ecology, or EPA determine that changes to proposed modifications are necessary and unanimous agreement is not reached, the changes will be subject to dispute. In this event, DOE, Ecology and EPA will attempt to resolve the dispute, beginning at the Inter Agency Management Integration Team (IAMIT) level as provided for in Article VIII of the Tri-Party Agreement.

Signed this 24th day of February, 1999

Original Signed
Jackson Kinzer, Acting Manager
Office of River Protection
U. S. Department of Energy

Original Signed
James C. Hall, Acting Manager
U. S. Department of Energy
Richland Field Office

Original Signed
Tom Fitzsimmons, Director
State of Washington
Department of Ecology

Original Signed
Chuck Clarke, Regional Administrator
U. S. Environmental Protection Agency
Region 10

Hanford Federal Facility Agreement and Consent Order

Change Request

M-41-99-01

Change Number - DRAFT - M-41-99-01	Federal Facility Agreement and Consent Order Change Control Form Do not use blue ink. Type or print using black ink.	Date 02/23/99									
Originator Ecology		Phone									
Class of Change <input checked="" type="checkbox"/> I - Signatories <input type="checkbox"/> II – Executive Manager <input type="checkbox"/> III - Project Manager											
Change Title Deletion of uncompleted milestones and target dates from the Department of Energy’s high-level radioactive waste tank interim stabilization program (M-41-00) and interim milestone M-40-07 from the scope of the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement).											
Description/Justification of Change Following difficulties which have repeatedly delayed the completion of interim stabilization of the Department of Energy’s (DOE’s) high level radioactive waste (HLW) Single-Shell Tanks (SST), DOE and Ecology have agreed that requirements for completion should be filed as a consent decree with the United States District Court for the Eastern District of Washington (See Consent Decree # _____, ____date____). Consequently, DOE, Ecology, and EPA have agreed to delete the SST interim stabilization program from the scope of the Tri-Party Agreement. In doing so, the remaining milestones and target dates within TPA major milestone series M-41-00, and TPA interim milestone M-40-07, are hereby deleted. This deletion and other associated TPA modifications are as follows. This Change Request makes the following Tri-Party Agreement modifications (shown only as either shaded new text or deleted strikeout text): 1. Tri-Party Agreement Appendix A (Definition of Terms): Interim Stabilization (as pertains to Single-Shell Tanks): Is the removal of pumpable supernatant and interstitial liquid from SST systems into DST systems. As much liquid as practicable will be removed. Supernatant is free standing liquid. Interstitial liquid is that liquid in the waste matrix contained within the pore spaces of the salts and sludges, some of which is capable of gravity drainage while the rest is held by capillary forces.											
Impact of Change Deletion of uncompleted milestones and target dates within DOE’s SST interim stabilization program (M-41-00 series) and Interim Milestone M-40-07 from the scope of the Tri-Party Agreement											
Affected Documents The Hanford Federal Facility Agreement and Consent Order, as amended, and Hanford site internal planning, work authorization, and budget documents (e.g., Project Management Plans, Baseline Change Control Documents and Multi Year Work Plans).											
Approvals <table style="width: 100%; border: none;"> <tr> <td style="width: 40%; border-bottom: 1px solid black;">DOE</td> <td style="width: 15%; border-bottom: 1px solid black;">Date</td> <td style="width: 45%;">___Approved ___Disapproved</td> </tr> <tr> <td style="border-bottom: 1px solid black;">EPA</td> <td style="border-bottom: 1px solid black;">Date</td> <td>___Approved ___Disapproved</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Ecology</td> <td style="border-bottom: 1px solid black;">Date</td> <td>___Approved ___Disapproved</td> </tr> </table>			DOE	Date	___Approved ___Disapproved	EPA	Date	___Approved ___Disapproved	Ecology	Date	___Approved ___Disapproved
DOE	Date	___Approved ___Disapproved									
EPA	Date	___Approved ___Disapproved									
Ecology	Date	___Approved ___Disapproved									

Description/Justification of Change Cont.

Remaining uncompleted milestones and associated target dates for interim stabilization of DOE's Single-Shell Tanks are deleted from the scope of the Tri-Party Agreement. Specific milestones and target dates deleted are listed below in item 3 below, "Agreement Appendix D: Work Schedule." Regulatory requirements covering the interim stabilization program may be found within Consent Decree # _____ (DOE and Ecology ___ date ___).

2. Agreement Action Plan Section 11.8: TANK WASTE REMEDIATION SYSTEM CRITICAL PATH PROCESS

Tank waste remediation milestones will be established using a critical path process as described in this section. The tank waste remediation program will be established and managed as an integrated system and shall include all activities associated with waste characterization, retrieval/closure, tank stabilization, pretreatment, treatment of high-level and low-level tank waste, acquisition of new tanks, and the multi-purpose storage complex. The parties will develop detailed operating procedures and implement the critical path milestone system on a trial basis, in April 1994, with full implementation by September 30, 1994.

3. Agreement Appendix D: WORK SCHEDULE

M-41-00 COMPLETE SINGLE SHELL TANK INTERIM STABILIZATION. 9/30/2000

LEAD AGENCY: COMPLETE INTERIM STABILIZATION ACTIVITIES FOR ALL
ECOLOGY SINGLE SHELL TANKS EXCEPT 241 C 106 (TO BE RETRIEVED IN
 ACCORDANCE WITH MILESTONE M 45 03). COMPLETE
 INTRUSION PREVENTION FOR ALL SINGLE SHELL TANKS EXCEPT
 241 C 106.

~~THIS IS DEPENDENT UPON THE FOLLOWING ASSUMPTIONS:~~

~~(1) — SAFETY STUDIES WILL BE COMPLETED WITH THE
OBJECTIVE OF ALLOWING PUMPING IN ACCORDANCE WITH
INTERIM MILESTONES.~~

~~(2) — WORK COMMENCES IN THE TANK FARMS ON OCTOBER 1,
1993, FOR INTERIM STABILIZATION PREPARATIONS, AS
REQUIRED BY THE MILESTONE SCHEDULE. DURING THE STAND
DOWN IN TANK FARMS, SCHEDULES FOR THE FOLLOWING
INTERIM MILESTONES MAY BE AFFECTED: — M 41 01, M 41 02, M
41 10, M 41 15 AND M 41 16. EVERY EFFORT WILL BE MADE TO
RECOVER THE ORIGINAL SCHEDULE AS SPECIFIED BELOW.~~

~~INTERIM MILESTONES FOR START OF PUMPING AND TARGET
MILESTONES FOR COMPLETION FOR EACH GROUP OF TANKS
WILL BE REVIEWED AND AFFIRMED ANNUALLY WITH ECOLOGY
AND EPA. UPON START OF PUMPING, EFFORTS TO CONTINUE
PUMPING WILL BE CONTINUOUSLY SUPPORTED SO THAT
PUMPING IS CONDUCTED AS EXPEDITIOUSLY AS PRACTICAL. IF
PUMPING IS INTERRUPTED TO A DEGREE THAT JEOPARDIZES THE
TARGET MILESTONE, THE UNIT (PROJECT) MANAGERS SHALL
MEET IN AN EFFORT TO AGREE ON A RECOVERY PLAN. IF SUCH~~

Description/Justification of Change Cont.

~~AN AGREEMENT CANNOT BE MADE AT THE UNIT (PROJECT) MANAGER LEVEL, A FORMAL RECOVERY PLAN WILL BE PREPARED AND SUBMITTED TO ECOLOGY AND EPA FOR APPROVAL THAT SUPPORTS THE MAJOR MILESTONE DATE OF SEPTEMBER 2000, IF TECHNICALLY ACHIEVABLE.~~

M 41-22	START INTERIM STABILIZATION OF 6 SINGLE SHELL TANKS.	9/30/1997
M 41-23	START INTERIM STABILIZATION OF 8 SINGLE SHELL TANKS.	3/31/1998
M 41-24	START INTERIM STABILIZATION OF 9 SINGLE SHELL TANKS.	9/30/1998
M 41-25	START INTERIM STABILIZATION OF 3 SINGLE SHELL TANKS.	3/31/1999
M 41-26	START INTERIM STABILIZATION OF 2 SINGLE SHELL TANKS.	9/30/1999
M 41-27	COMPLETE SALT WELL PUMPING OF SINGLE SHELL TANKS.	9/30/2000
M 41-27 T03	COMPLETE SALT WELL PUMPING OF 5 SINGLE SHELL TANKS.	9/30/1998
M 41-27 T04	COMPLETE SALT WELL PUMPING OF 8 SINGLE SHELL TANKS	9/30/1999
M 41-27 T05	COMPLETE SALT WELL PUMPING OF 16 SINGLE SHELL TANKS.	9/30/2000
M 40-07	COMMENCE OPERATION OF A VAPOR TREATMENT SYSTEM IN TANK 241 C 103.	6/30/1995

~~PROVIDE A REPORT DOCUMENTING OPERATIONAL TEST PROCEDURE RESULTS AND COMMENCE PERMITTED OPERATION OF A VAPOR TREATMENT SYSTEM FOR TANK 241 C 103, UNLESS OTHERWISE AGREED TO BY THE PARTIES FOLLOWING SUBMITTAL OF THE ENGINEERING EVALUATION OF ALTERNATIVES (EEA) FOR TREATMENT OF TANK 241 C 103 VAPOR SPACE. THE EEA WILL DOCUMENT THE NEED AND OPTIONS FOR TREATMENT OF POTENTIALLY HAZARDOUS/TOXIC VAPORS BEING DISCHARGED FROM THE TANK 241 C 103 VAPOR SPACE. ALL PERTINENT CHARACTERIZATION DATA WILL BE CONSIDERED, INCLUDING: METEOROLOGICAL, AREA, SOURCE, PERSONNEL MONITORING, AQUEOUS/ORGANIC LAYER ANALYSIS, VAPOR CHARACTERIZATION, ESTIMATES OF THE VAPOR CHARACTERIZATION AFTER REMOVAL OF THE ORGANIC LAYER, AND THE SCHEDULE FOR THIS REMOVAL. ONCE SELECTED, DESIGN PROCUREMENT, AND PERMITTING WILL BE INITIATED.~~

~~OPERATION OF THIS VAPOR TREATMENT SYSTEM IS ANTICIPATED TO PROVIDE RELIEF FROM WORKER RESTRICTIONS AT TANK 241 C 103 IN REGARD TO NOXIOUS VAPOR EMISSIONS (PROVIDED CHARACTERIZATION OF OTHER C FARM TANKS DOES NOT IDENTIFY OTHER POTENTIAL SOURCES OF NOXIOUS VAPORS).~~

Hanford High-Level Radioactive Waste Tank

Interim Stabilization

Consent Decree

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF ENERGY,

Defendant.

NO.

CONSENT DECREE

I. INTRODUCTION

WHEREAS, Plaintiff State of Washington, Department of Ecology (“State”) has alleged violations of the Hanford Federal Facility Agreement and Consent Order by Defendant United States Department of Energy (“DOE”); and

WHEREAS, on May 15, 1989, DOE and the Washington Department of Ecology entered into the Hanford Federal Facility Agreement and Consent Order (“HFFACO”). One of the requirements of the HFFACO is that DOE remove liquid waste from several large underground single-shell storage tanks located at DOE’s Hanford site. Pumping high-level radioactive waste from single-shell tanks into double shell tanks poses many technical and safety challenges. A number of these

1 The State of Washington, Department of Ecology enters into this Decree
2 pursuant to Chapter 70.105 RCW and the Resource Conservation and Recovery
3 Act, 42 U.S.C. sec. 6901 et seq.

4 The United States Department of Energy enters into this Decree pursuant to
5 42 U.S.C. §§ 6901 et seq.

6 **III. PARTIES BOUND**

7 This Decree applies to and is binding upon the United States Department of
8 Energy, the State of Washington, Department of Ecology, and their successors.
9 DOE remains obligated by this Decree regardless of whether it carries out the terms
10 through agents, contractors, and/or consultants.
11

12 **IV. WORK TO BE PERFORMED AND SCHEDULE**

13 A. Liquid waste in Hanford's single-shell tanks shall be removed from the
14 single-shell tanks and stored in double-shell tanks according to the schedule set
15 forth in Attachment A to this Decree. The schedule in Attachment A is hereby
16 incorporated by reference into this Decree and is an integral and, with the exception
17 of the projected pumping completion dates, enforceable part of the Decree.

18 B. **Reporting:** DOE shall, on a quarterly basis, submit to Ecology a
19 written report documenting tank stabilization activities that occurred during the
20 period covered by the report. This written report shall provide the status of progress
21 made during the reporting period and shall include:

- 22 1. A brief description of project accomplishments and project
23 issues encountered during the reporting period and/or expected in the next six
24 months;
- 25 2. A definitive statement describing whether or not DOE remains in
26 compliance with the schedule set forth in Section IV-A;

1 **VI. AMENDMENT OF DECREE**

2 A. **Amendment Process.**

3 1. This Decree may be amended by mutual agreement of the State
4 and DOE upon approval by the Court. The party proposing the amendment
5 shall provide the proposal in writing to the other party, along with a
6 justification for the amendment. Proposals to amend the schedule shall be
7 submitted in accordance with, and shall be evaluated under the criteria
8 described in, paragraphs B through G, below. Within ten (10) working days
9 of receipt (except as provided in Section VI-F), the other party shall notify the
10 party proposing the amendment whether or not the amendment is acceptable.
11 If the amendment is acceptable, the parties shall submit the amendment to the
12 Court for its approval. If the amendment is not acceptable to the other party,
13 the other party shall explain in writing its reasons for disapproving the
14 amendment. In such an event, the party proposing the amendment may
15 invoke the dispute resolution procedures of this Decree.

16 2. The time periods in Section VI may be extended by mutual
17 agreement of the parties.

18 B. **Amendment of Schedule.** The schedule in Section IV-A shall be
19 amended only if (1) a request for amendment is timely, and (2) good cause exists for
20 the amendment.

21 C. **Timeliness.** To be timely, a request must be submitted to the other
22 party either (1) when it is DOE requesting the schedule amendment, within ten (10)
23 working days of a determination by DOE that it is unable to meet the deadline for
24 which the amendment is sought; and (2) when it is the State requesting the schedule
25 amendment, within ten (10) working days of a determination that an amendment is
26 necessary.

1 D. **Good Cause.** “Good cause” for schedule amendment exists when the
2 schedule cannot be met due to circumstances or events either (1) unanticipated in
3 the development of the schedule in Section IV-A of this Consent Decree, or (2)
4 anticipated in the development of the schedule, but which have a greater impact on
5 the schedule than was predicted at the time the schedule was developed (hereafter
6 referred to as “circumstances and events”). However, in any case, good cause does
7 not exist if DOE can nonetheless meet the existing schedule by responding with
8 reasonable diligence to such circumstances or events. Likewise, good cause does
9 not exist if DOE could have met the existing schedule if it had responded with
10 reasonable diligence to the circumstance(s) or event(s) when it occurred. Budget
11 requests, funding levels and efficient management practices are appropriate
12 considerations in determining whether reasonable diligence exists. The exercise of
13 reasonable diligence is not expected to normally require an expenditure of funds
14 beyond those set out in Attachment B to this Decree (Projected Fiscal Year Funding
15 Requirements for Work Required Under this Decree), unless additional
16 expenditures are necessitated by inefficient management practices.

17 1. a. Both parties to this Consent Decree understand that to
18 develop this schedule, assumptions had to be made in the Interim
19 Stabilization Project Plan about events or unforeseen circumstances
20 that might arise which could affect the schedule. As part of this
21 process, further assumptions had to be made about the likelihood of
22 such events or unforeseen circumstances occurring, and if they did
23 occur, what effect that might have on the schedule.

24 b. The schedule assumes that, to some extent, unforeseen
25 events will occur, or unforeseen circumstances will be discovered. A
26 certain amount of “allowance” is built into the interim stabilization

1 project plan underlying the schedule to allow DOE to respond to such
2 events and circumstances and still meet the schedule. However, it is
3 possible that unexpected events and/or circumstances will arise whose
4 effect on the schedule exceeds this allowance.

5 c. If events or circumstances occur that will delay the
6 completion of work beyond the deadlines in the schedule, and the delay
7 cannot be or could not have been avoided by DOE responding to the
8 event or circumstance with reasonable diligence, then “good cause”
9 exists for extending the schedule. Although such events or
10 circumstances cannot, by their nature, be fully anticipated and
11 controlled, the parties can identify in advance three general types of
12 such events and/or circumstances:

13 (1) *Safety concerns.* In the past, unforeseen safety
14 concerns have arisen that have required extending the schedule.
15 Depending on the nature of unforeseen safety concerns and the
16 time required to address those concerns, such safety concerns
17 may constitute “good cause.”

18 (2) *Unknown technical obstacles.* The wastes
19 contained within each tank or group of tanks have their own
20 unique characteristics. Sometimes, previously unknown waste
21 characteristics present technical obstacles to pumping the tanks.
22 Depending on the nature of the technical problem and the time
23 required to address the problem, such unknown obstacles may
24 constitute “good cause.”

25 (3) *Equipment failures.* The assumptions underlying
26 the schedule anticipate that some failures of certain kinds of

1 equipment will occur. DOE has built time into the schedule to
2 respond to some level of equipment failures. However, it is
3 possible that equipment failures will take place beyond what is
4 anticipated in the assumptions underlying the schedule.

5 Depending on the frequency and type of equipment failures, such
6 failures may constitute “good cause.”

7 2. In any request for amendment, DOE shall identify the good
8 cause that, in its view, justifies amendment. If the State agrees that good
9 cause exists, the parties shall agree to an appropriate amendment. If the State
10 does not agree that good cause exists, DOE may invoke the dispute resolution
11 process set forth in Section VIII of this Decree.

12 E. **Force Majeure.** The parties agree that some events are of such a
13 magnitude that they will be presumed to justify amendment. Extensions of the
14 schedule shall be equal to the number of days during which work is interrupted due
15 to *force majeure* events. These events include, but are not limited to:

- 16 1. Acts of God, fire, war, insurrection, civil disturbance, or
17 explosion;
- 18 2. Significant adverse weather conditions that could not have been
19 reasonably anticipated;
- 20 3. Restraint by court order;
- 21 4. Inability to obtain, at reasonable cost and after exercise of
22 reasonable diligence, any necessary authorizations, approvals, permits or
23 licenses due to action or inaction of any governmental agency or authority
24 other than DOE or its authorized contractors;
- 25 5. Any strike or similar work stoppage resulting from labor dispute;
26 and

1 6. Unavailability or insufficiency of funds due to a shut-down of
2 the federal government or to the absence of an approved budget for DOE by
3 the beginning of a fiscal year.

4 Any amendment requested on the grounds that one of the events listed above
5 has occurred will be granted unless the State does not agree that a *force majeure*
6 event has occurred. DOE may pursue dispute resolution regarding this
7 determination under Section VIII of this Decree. If the dispute is not resolved by
8 mutual agreement of the parties, DOE may seek court review, and if the Court
9 determines that, under the pertinent facts and circumstances, the event does
10 constitute a *force majeure* event, the Court shall approve the requested extension.

11 Whenever a *force majeure* event occurs, DOE shall exercise its best efforts to
12 complete the affected work in accordance with the original schedule.

13 F. **Unforeseen Safety Concerns**. If a previously unknown safety
14 concern raised as an unreviewed safety question arises that affects or will likely
15 affect the schedule in Section IV-A, DOE shall take the following steps:

16 1. Within three (3) working days of the declaration of an
17 unreviewed safety question, notify Ecology that an issue exists, the nature of
18 the issue, and any actions taken in accordance with the facility authorization
19 procedures.

20 2. No more than 45 days after the notification in Section VI-F-1,
21 DOE shall develop and submit to Ecology a Safety Issue Resolution Plan
22 (SIRP) that identifies the following:

23 a. the issue and its technical basis, its probability of
24 occurrence, consequences of occurrence, and any threat to human
25 health and the environment that would result if DOE adhered to the
26 schedule in Section IV-A in light of the safety issue;

1 b. the impacts that the safety issue will have on the schedule
2 in Section IV-A;

3 c. required administrative, procedural, technical, and
4 operational issues that must be resolved in order for work to continue;

5 d. a schedule and necessary resources to resolve the safety
6 issue in order to allow the resumption of work in the event that work
7 was stopped because of the safety issue;

8 e. the management process to be used to resolve the safety
9 issue;

10 f. any pertinent information not already provided to
11 Ecology; and

12 g. a request for a schedule amendment as set forth in Section
13 VI-G below. In the event that the impact on the schedule cannot be
14 adequately determined until the analysis of the unreviewed safety
15 question is completed, DOE will advise Ecology of its initial estimate
16 of schedule impact and a date by which it will submit the required
17 request for schedule amendment.

18 3. If Ecology agrees, based on the information provided in the
19 SIRP and any other information, whether oral or written, provided by DOE,
20 that good cause exists for a schedule amendment, the mutual agreement of the
21 parties to the amendment will be sent to the Court for approval. In the event
22 that Ecology does not agree that good cause exists, DOE may invoke the
23 dispute resolution procedures in Section VIII.

24 G. **Proposals to Amend**. Any proposal to amend the schedule shall be
25 submitted in writing to the other party and shall specify the following:

26 1. The particular deadline(s) for which the amendment is sought;

1 State agree and stipulate that it is premature at this time to raise and adjudicate the
2 existence of such a defense. This provision does not constitute a waiver by DOE
3 that its obligations under this Decree are subject to the provisions of the Anti-
4 Deficiency Act, 31 U.S.C. § 1341, nor does it constitute a waiver by the State that
5 DOE's obligations under this Decree are not subject to the Anti-Deficiency Act.

6 **B. Funding relating to milestones in the HFFACO.**

7 If DOE does not have adequate funding to comply with this Decree and all of
8 the requirements of the HFFACO, DOE will likely request extensions of some
9 current HFFACO milestones for work that it believes is of a lower priority than the
10 work to be performed under this Decree. The State will review such requests in
11 good faith and will grant such requests when it deems it appropriate to do so under
12 the terms of the HFFACO, and, when required, EPA concurs.

13 Nothing in the above paragraph shall be used to constrict in any way DOE's,
14 EPA's, or Ecology's rights under the HFFACO. In particular, nothing in the above
15 paragraph shall supercede or amend the procedures set forth in paragraphs 148 and
16 149 of the HFFACO.

17 **VIII. RESOLUTION OF DISPUTES**

18 A. The parties recognize that a dispute may arise regarding the proper
19 interpretation of this Decree or whether or how the Decree should be amended. If
20 such a dispute arises, the parties will endeavor to settle it by good faith negotiations
21 among themselves. If the parties cannot resolve the issue within a reasonable time,
22 not to exceed forty calendar days, then any party may seek appropriate relief from
23 the Court. Either party may request a meeting among technical and/or management
24 representatives from their respective organizations, including the Interagency
25 Management Integration Team at any time during the dispute resolution.
26

1 B. If the dispute is not resolved, either party may petition the Court for
2 relief. Motions seeking appropriate relief from the Court shall be filed within thirty
3 (30) calendar days of the end of the period provided for in Section VIII-A.

4 C. **Applicability Of Deadlines During Dispute Resolution.** Deadlines
5 established in the schedule in Section IV-A shall continue in force unless and until
6 changed by the Court. Notwithstanding the foregoing sentence, if DOE has
7 requested an extension of a deadline, DOE shall not be deemed to be in violation of
8 that deadline while DOE's request is being evaluated. This period shall run from
9 the time of DOE's notification in Section VI-A through the date on which the Court
10 acts on the request.

11 IX. COVENANT NOT TO SUE

12 A. The State hereby covenants not to bring any civil, judicial, or
13 administrative action against DOE, its officials or employees, or its contractors or
14 their subcontractors, their officials, or employees, with respect to matters covered
15 by this Decree. "Matters covered" by this Decree are requirements for interim
16 stabilizing, or removing pumpable liquid from, 29 single-shell tanks at the Hanford
17 Site. This covenant not to sue is conditioned upon DOE's complete performance of
18 its obligations under this Decree.

19 B. This Decree in no way affects or relieves DOE of responsibility to
20 comply with any other State, Federal, or local law or regulation. Both parties retain
21 all of their rights and defenses with respect to matters not covered in this Decree.
22 The State expressly reserves for further action or enforcement and its execution of
23 this Decree does not discharge, release, or in any way affect any right, demand,
24 claim, or cause of action that it has, or may have, regarding DOE's environmental
25 liabilities at the Hanford Site other than the interim stabilization program, including,
26

1 without limitation, any other alleged noncompliance with the HFFACO, and any
2 other environmental liability caused by or resulting from leaks, releases, or
3 discharges from the single-shell tanks at the Hanford Site.

4 C. Notwithstanding any other provision of this Decree, the State reserves
5 the right to seek amendment of this Decree, or to take action outside of this Decree,
6 if previously unknown information is received, or previously undetected conditions
7 are discovered, and these previously unknown conditions or information together
8 with any other relevant information indicates that the work to be performed and
9 schedule under this Decree are not protective of human health or the environment.

10 X. RETENTION OF JURISDICTION

11 This Court retains jurisdiction over both the subject matter of this Decree and
12 the parties for the duration of the performance of the terms and conditions of this
13 Decree for the purpose of enabling any of the parties to apply to the Court at any
14 time for such further order, direction, sanction or other relief as may be necessary or
15 appropriate for the construction or modification of this Decree, or to effectuate or
16 enforce compliance with its terms, or to resolve disputes in accordance with Section
17 VIII, Resolution of Disputes.

18 XI. CONSTRUCTION AND USE OF CONSENT DECREE

19 A. **Construction of Consent Decree.** This Consent Decree is the product
20 of negotiation by the parties. Both parties contributed to its drafting. In any dispute
21 over the meaning of any provision of this Consent Decree, the parties shall be
22 treated as having contributed equally to the drafting of that provision.

23 B. **Restrictions On Use In Other Proceedings.** It is DOE's position
24 that, until waiver or exhaustion of its appeal rights regarding a particular milestone
25 under the HFFACO, the State may not bring a judicial action regarding that
26

1 milestone. The State disagrees with this position. In order to reach agreement on
2 this Consent Decree with the State, without adjudicating this issue, DOE hereby
3 waives its appeal rights under the HFFACO to the Pollution Control Hearings Board
4 with respect to the remaining
5 M-41 milestones for interim stabilization of the single-shell tanks. Moreover, the
6 parties agree that neither this Consent Decree, nor any of its provisions, may be
7 used in any future proceeding by DOE, the State, or any other party to determine or
8 resolve this issue.

9 **XII. EFFECT OF DECREE ON HFFACO MILESTONES**

10 Upon entry of this Decree, the State covenants not to enforce the series M-41
11 Single-Shell Tank Interim Stabilization Milestones and Milestone M-40-07 in the
12 HFFACO. After entry of this Decree, the parties, with EPA's concurrence, will
13 amend the HFFACO to delete the M-41 milestones in their entirety and to delete
14 Milestone M-40-07.

15 Nothing in this Consent Decree shall give the Court jurisdiction over any of
16 the HFFACO milestones.

17 **XIII. EFFECTIVE AND TERMINATION DATES**

18 A. This Consent Decree shall be effective upon the date of its entry by the
19 Court.

20 B. This Consent Decree shall terminate when all work to be performed
21 under the Decree has been completed. The parties will notify the Court of this event
22 by a motion to terminate the Consent Decree.
23

24 DATED this _____ day of _____, 19 ____ .
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United States District Judge

1 FOR THE STATE OF
2 WASHINGTON
3 DEPARTMENT OF ECOLOGY

4 Original Signed
5 TOM FITZSIMMONS
6 Director

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9 Lacey, WA 98503

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13 TANYA BARNETT, WSBA #17491
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23 Olympia, WA 98504-0117
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25
26 \...\interim fed suit\consent decree final

FOR THE UNITED STATES
DEPARTMENT OF ENERGY

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Acting Manager
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Original Signed
JACKSON E. KINZER
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**CONSENT DECREE
ATTACHMENT A**

Following is the schedule for pumping liquid waste from the remaining twenty-nine (29) single-shell tanks. This schedule is enforceable pursuant to the terms of the Decree except for the "Projected Pumping Completion Dates" which are estimates only and not enforceable.

	Tank Designation	Pumping Initiated	Projected Pumping Completion Date
1.	T-104	Already initiated	May 30, 1999
2.	T-110	Already initiated	May 30, 1999
3.	SX-104	Already initiated	December 30, 2000
4.	SX-106	Already initiated	December 30, 2000
5.	S-102	July 30, 1999	March 30, 2001
6.	S-106	July 30, 1999	March 30, 2001
7.	S-103	July 30, 1999	March 30, 2001
8.	U-103*	June 15, 2000	April 15, 2002
9.	U-105*	June 15, 2000	April 15, 2002
10.	U-102*	June 15, 2000	April 15, 2002
11.	U-109*	June 15, 2000	April 15, 2002
12.	A-101	October 30, 2000	September 30, 2003
13.	AX-101	October 30, 2000	September 30, 2003
14.	SX-105	March 15, 2001	February 28, 2003
15.	SX-103	March 15, 2001	February 28, 2003
16.	SX-101	March 15, 2001	February 28, 2003
17.	U-106*	March 15, 2001	February 28, 2003
18.	BY-106	July 15, 2001	June 30, 2003
19.	BY-105	July 15, 2001	June 30, 2003
20.	U-108	December 30, 2001	August 30, 2003
21.	U-107	December 30, 2001	August 30, 2003

	Tank Designation	Pumping Initiated	Projected Pumping Completion Date
22.	S-111	December 30, 2001	August 30, 2003
23.	SX-102	December 30, 2001	August 30, 2003
24.	U-111	November 30, 2002	September 30, 2003
25.	S-109	November 30, 2002	September 30, 2003
26.	S-112	November 30, 2002	September 30, 2003
27.	S-101	November 30, 2002	September 30, 2003
28.	S-107	November 30, 2002	September 30, 2003
29.	C-103	No later than December 30, 2000, DOE will determine whether the organic layer and pumpable liquids will be pumped from Tank C-103 together or separately, and will establish a deadline for initiating pumping of this tank. The parties will incorporate the initiation deadline into this schedule as provided in Section VI of the Decree.	

*Tanks containing organic complexants.

Completion of Interim Stabilization. DOE will complete interim stabilization of all 29 single-shell tanks listed above by September 30, 2004.

Percentage of Pumpable Liquid Remaining to be Removed.

93% of Total Liquid	9/30/1999
38% of Organic Complexed Pumpable Liquids	9/30/2000
5% of Organic Complexed Pumpable Liquids	9/30/2001
18% of Total Liquid	9/30/2002
2% of Total Liquid	9/30/2003

The “percentage of pumpable liquid remaining to be removed” is calculated by dividing the volume of pumpable liquid remaining to be removed from tanks not yet interim stabilized by the sum of the total amount of liquid that has been pumped and the pumpable liquid that remains to be pumped from all tanks.

The parties to this Decree recognize that the “remaining pumpable liquids” volume is a best projection and may vary. By October 31, 1999 and each year thereafter until the work is completed, the DOE will include in its final quarterly report for the fiscal year the following information:

- The volume of pumpable liquid actually removed for the previous year;
- Cumulative volume to date.

This information will be utilized to assess compliance with the milestones above. Also included in this quarterly report will be an updated projection of the pumpable liquids remaining in the tanks addressed by this Decree. This updated projection will be used to assess future compliance with these milestones. The current projection is that the tanks contain approximately 6.2 million gallons of “remaining pumpable liquid.” The addition of dilution water to tanks shall not be counted towards the pumpable liquid volume or the liquid volume remaining to be removed.

DOE currently estimates approximately 900,000 gallons of organic complexed pumpable liquids are contained in tanks U-103, U-105, U-102, U-109, and U-106.

Definition of “Initiate.” For purposes of this Decree, tank pumping is “initiated” when actual pump operation has commenced, and the pumping achieves a 60% operating efficiency over a 72-hour consecutive period, and transfers a total of not less than 500 gallons.

Definition of “Interim Stabilized.” For purposes of this Decree, a single-shell tank has been “interim stabilized” and tank pumping may be discontinued when the tank contains less than 50,000 gallons of drainable interstitial liquid and less than 5,000 gallons of supernatant liquid. In addition, if jet pumping is used, the pump flow must be at 0.05 gpm or less before pumping may be discontinued. If a

major equipment failure occurs at a tank that contains less than 50,000 gallons of drainable interstitial liquid and less than 5,000 gallons of supernatant, then DOE may, after consulting with Ecology, consider the tank interim stabilized.

**CONSENT DECREE
ATTACHMENT B**

**PROJECTED FISCAL YEAR FUNDING REQUIREMENT
FOR WORK REQUIRED UNDER THIS DECREE**

FY99	\$29,471,000
FY00	35,052,000
FY01	32,841,000
FY02	30,176,000
FY03	23,254,000
FY04	9,372,000