



February 7, 1997

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Subject: Renegotiation of TPA Milestones to Address Budget Cuts

Dear Messrs. Clarke, Fitzsimmons and Wagoner:

Background

DOE-RL has identified a number of milestones from the Tri-Party Agreement (TPA) that may be impacted by FY97 budget allocations that are major shortfalls from those required to perform the necessary work scope. These shortfalls have arisen due to unanticipated changes, overruns in overhead and transition costs, failures to identify legal requirements, and shifts in funding between DOE Headquarters and DOE-RL. Even though Congress appropriated essentially all the Environmental Management funds requested, these shortfalls have created potential impacts on TPA milestone compliance. Among the potentially affected TPA milestones identified by DOE in HAB committee meetings in January 1997 are the following:

- M-19-00 (complete WRAP II construction and initiate operations for low-level radioactive waste and radioactive mixed waste treatment)
- M-33 (acquisition/modification of required solid waste and material facilities) - impact depends on level of funding in FY98 and FY99
- M-40 (resolve tank safety issues for high priority watch list tanks) - 1 year delay
- M-44 (issue tank characterization reports) - 1 to 1.5 year delay
- M-45-04A (complete conceptual design for initial shingle-shell tanks retrieval system) - 1 year delay

- M-45-08-T02 (establish criteria for determining allowable leakage volumes and acceptable leak monitoring/detection and mitigation measures to permit sluicing operations) - 1 year delay
- M-45-09B (submit annual progress reports on development of waste tank leak monitoring/detection and mitigation activities) - 1 year delay
- M-50-03 (complete evaluation of enhanced tank waste sludge washing) - 1 year delay
- M-61 (privatization alternate path to disposal)
- M-89-02 (complete removal of 324 Building REC B Cell mixed waste and equipment) - 8 months
- M-91-00 (new facilities for special wastes)
- MX-92-11T (nuclear energy legacy and 309 Building deactivation) - at least 1 year

These impacts on TPA milestones relate to a number of the values and principles adopted by the Hanford Advisory Board, including the following:

- Protect public and worker health and safety.
- Protect the Columbia River. Stop actual and potential contamination of the Columbia River and prevent migration of contamination off site.
- Avoid further harm. Minimize use of land for waste management, avoid contaminating uncontaminated land, and avoid further damage to critical resources, especially cultural resources, habitat, and groundwater.

Proposed Advice

The TPA is the blueprint and schedule for Hanford cleanup. The HAB has urged the Tri-Party agencies to aggressively defend the TPA's integrity in the face of budget pressures (e.g., Consensus Advice No. 11 (1/5/95), 17 (4/7/95), 26 (6/2/95), 41 (2/2/96), 44 (3/14/96), 48 (5/3/96), and 54 (11/8/96)).

The TPA is a legally enforceable agreement that guides the cleanup of legacy wastes from nuclear weapons production to mitigate and remediate the short-term and long-term environmental, safety and health risks to the workers, indigenous peoples and the public. The TPA has been a living agreement that has been amended several times to deal with legitimate, unforeseen technical and administrative issues. Through the negotiation process, TPA milestones have been modified in the past because of unanticipated technical challenges.

As a result of major budget shortfalls in FY97, legal obligations to meet current and out-year milestones are being missed or jeopardized. When DOE submits TPA change requests, it is incumbent on EPA and Ecology to allow only those changes that are in

accordance with the TPA. Failure by DOE to request adequate funding should not be the basis for making changes in the TPA milestones. DOE should request adequate budgets to cover known commitments, including compliance with TPA milestones, and a reasonable contingency to address unanticipated technical and safety issues.

If the regulators' refusal to defer milestones is unsuccessful in bringing DOE into compliance with the TPA, EPA and Ecology should fall back on financial, operational, administrative and legal sanctions to prod the U.S. Government into compliance with the agreement.

We look forward to your response and to periodic progress updates on this matter.

Very truly yours,

Merilyn B. Reeves, Chair
Hanford Advisory Board

cc: Alice Murphy, Designated Federal Official
The Oregon and Washington Congressional Delegations
Randy Smith, Environmental Protection Agency
Dan Silver, Washington Department of Ecology

This advice represents HAB consensus for this specific topic. It should not be taken out of context to extrapolate Board agreement on other subject matters.

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For questions or comments, please send [email](mailto:Hanford_Advisory_Board@rl.gov) to Hanford_Advisory_Board@rl.gov
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