



U.S. Department of Justice
Land and Natural Resources Division

ATTACHMENT 1

Office of the Assistant Attorney General

Washington, D.C. 20530

February 26, 1989

Ms. Christine Gregoire
Director, Washington State
Department of Ecology
MSPV-11
Olympia, Washington 98504

Dear Ms. Gregoire:

You have asked the Department of Justice to review certain provisions of the proposed agreement between the U.S. Department of Energy, U.S. Environmental Protection Agency, and the Washington State Department of Ecology with regard to the Hanford facility. We agree that DOE and EPA have the authority to enter into this agreement, and that the agreement is binding and enforceable, in accordance with Article I, paragraph 10 of Article II, Article IV, Article IX, Article XX, and Article XXVII of the agreement, by the State of Washington and any affected citizens. The CERCLA provisions of this agreement are enforceable pursuant to section 310 of CERCLA. The RCRA provisions of this agreement are enforceable pursuant to section 7002 of RCRA.

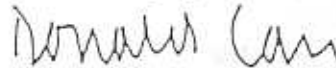
As with consent decrees, which establish a process for remedy selection but do not resolve all cleanup issues, the Hanford agreement establishes a process to address future cleanup issues. Also just like consent decrees, the Hanford agreement contains a dispute resolution mechanism as well as procedures for seeking judicial review of conflicts which may arise concerning future decisions.

Accordingly, we believe that resolution of remediation and compliance problems at Hanford through such an agreement should be encouraged. In fact, we believe that the agreement is a superior vehicle for resolving DOE's cleanup and compliance obligations and therefore should be favored over more time-consuming litigation. The agreement has the advantage of being enforceable by any "person", whereas a consent decree is generally enforceable only by the parties to the litigation. Furthermore, the agreement allows for a more comprehensive resolution than a consent decree, since the latter must be very

narrowly tailored to meet concerns over jurisdiction and precedent. Therefore, we support your efforts to resolve environmental concerns at Hanford through the use of such this agreement.

Recognizing the concerns that the state has raised with respect to the enforceability of this proposed agreement, I understand that this letter will be attached to the Hanford agreement.

Sincerely yours,



Donald A. Carr
Acting Assistant Attorney General
Land and Natural Resources Division

c: R. Russell
M. Lawrence