



## **Revised Comments on proposed settlement agreement at Hanford August 18, 2009**

A settlement agreement between the State of Washington and the U.S. Department of Energy was announced on August 11, 2009 that resolves a lawsuit filed by the State of Washington in November 2008. The lawsuit was filed after it became clear that the Tri-Party Agreement (TPA) deadlines were not going to be met by DOE. These include significant delays and budget overruns with the Waste Treatment Plant (the vitrification plant), delays in retrieving wastes from single-shell tank (to a budget of retrieving one tank per year), and violation of environmental laws and regulations.

Most of Hanford's 53 million gallons of high-level nuclear waste are slated for treatment at the Waste Treatment Plant (WTP). These wastes are currently stored in about 170 underground storage tanks that were built decades ago. One third of the tanks have already leaked, and they are all beyond their design life.

The settlement includes a proposed Consent Decree which contains milestones and dates for the construction and commissioning of the WTP and the continued retrieval of single-shell tanks at Hanford. The Consent Decree will be signed and officially submitted after a 45-day public comment period that ends of November 9, 2009. Details include:

- Milestones for the WTP which require DOE to hot-start the WTP by 2019 and achieve initial plant operations by 2022. Initial startup of WTP was to begin in 2009, with plant operations active by 2011.
- The milestones for tank waste retrieval include completing the retrieval of waste from all single-shell tanks by 2040, closing all of Hanford's single-shell tank farms by 2043, and the completion of tank waste treatment by 2047. A prior agreement required the completion of tank waste retrieval and treatment by 2028.
- The DOE agreed to extend the existing moratorium on the importation of offsite waste to Hanford for disposal at least until the WTP begins operations, projected to be in 2019. The importation and disposal ban does not include wastes that go to the commercial low-level rad waste facility at Hanford (the compact site known as US Ecology landfill), and naval nuclear wastes, i.e., the hulls from decommissioned nuclear subs. The DOE agreed to issue a Draft Environmental Impact Statement on Tank Closure and Waste Management by November that recommends as the preferred alternative that offsite waste will not be disposed of at Hanford, effectively making the importation/disposal ban permanent.
- The DOE will also prepare a report setting forth the lifecycle scope, schedule and cost for completion of the Hanford Site cleanup mission. "The report shall reflect all of those actions necessary for the DOE to fully meet all applicable environmental obligations, including those under the TPA. The first scope, schedule and cost report will be delivered no sooner than 9 months after the approval of the milestone, and the report will be submitted annually by January thereafter."

- New milestones were established concerning the remediation of groundwater on the Hanford Site. This package includes milestones to contain key contaminants adjacent to the Columbia River including chromium and strontium. In addition, the package contains milestones to increase groundwater treatment at the Hanford Site to remediate contaminated groundwater near the Columbia River and the central portion of the Hanford Site.

#### The Good:

This agreement gives more power to the State of Washington to enforce the Tri-Party Agreement in federal court, a key ingredient missing, in part, in the old agreement. Presumably, the ability to enforce provisions of the TPA in federal court will motivate future Administrations to provide sufficient funds to meet the cleanup milestones. There seems to be enough detail and breakdown in the agreement to provide meaningful milestones to assure a timely intervention whenever a delay is proposed.

The Agreement also provides for periodic technology reviews (every three years) that would examine whether cleanup at Hanford might be achieved faster or more effectively.

The extension of the off-site waste importation and disposal ban is great news. The importation ban that was in effect stays in effect by agreement, however there is now a provision that requires the DOE to issue the Tank Waste Closure and Waste Management EIS by November 2009, and within that EIS to identify the preferred alternative of not designating Hanford to receive offsite waste at least until the Waste Treatment Plant becomes operational. See language in endnote.<sup>1</sup>

The DOE continues to insist that it will “accelerate cleanup” and will shrink the Hanford Site to a 75-square mile area that includes the old reprocessing plants and the tank farms, by cleaning up the river corridor and other areas outside the 200 Area by 2015. Many remain skeptical that this can be accomplished to a meaningful degree in that time frame.

#### The Bad:

This Agreement blesses the long delays in starting a vit plant and retrieving and treating tank wastes. Many of these tanks have already failed. The integrity of all the single-shell tanks is suspect. Under this agreement, these tanks are expected to hold up for another 30 or 40 years. The tanks were designed to last for 20 years, and most of them were built in the 40’s and 50’s.

Little is being said or done about the real underlying problem at Hanford – poor management by DOE, lack of oversight and accountability for contractors who have substantially benefited from taxpayer handouts while making little progress in cleanup, and the ongoing lack of a safety culture that will protect workers, the public and the environment from the cleanup itself.

This new agreement is simply another set of promises. We’ve heard it before. In 2000, the State of Washington entered into a consent decree on single-shell tank retrieval to much fanfare. Here is Governor Gary Locke’s statement at the time:

"This agreement ensures the work will continue - on schedule - no matter who serves as governor of Washington or president of the United States," Locke said. "This a major change in the way the cleanup business is conducted at Hanford."

Locke continued, "[S]ecretary Richardson assures us that the vitrification plant will be up and running in 2007, and that must be our focus." - (May 10, 2000)

- Tom Carpenter

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<sup>i</sup> “Upon the satisfactory completion of this notice and comment process and publication of the Draft Environmental Impact Statement described below, the Parties will sign the proposed Consent Decree and modifications to the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement (TPA)) described below, and jointly request that the Court enter the proposed Consent Decree. Before making such a request, DOE will have published its Draft Tank Closure and Waste Management Environmental Impact Statement (Draft EIS) that includes, as an element of DOE's preferred alternative, limitations and exemptions on off-site waste importation at Hanford until at least the Waste Treatment Plant is operational, as those limitations and exemptions are defined in DOE's January 6, 2006 Settlement Agreement with the State (as amended on June 5, 2008) regarding *Washington v. Bodman*, No. 2:03-cv-05018-AAM.”