



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
3100 Port of Benton Blvd • Richland, WA 99354 • 509-372-7950
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

December 5, 2019

19-NWP-199

Brian T. Vance, Manager
Richland Operations Office
United States Department of Energy
PO Box 550, MSIN: H5-20
Richland, Washington 99352

Re: Director's Determination in the Matter of Milestone M-035-09K and Tri-Party Agreement
Action Plan Sections 9.6.2 and 9.6.5.

Dear Brian T. Vance:

Enclosed is a Director's Determination to resolve the Hanford Federal Facility Agreement and Consent Order (HFFACO) dispute regarding the Washington State Department of Ecology (Ecology) Nuclear Waste Program's decision set forth in Letter 19-NWP-092, dated August 19, 2019, that the Department of Energy - Richland Operations Office (USDOE) missed the completion of HFFACO milestone M-035-09K and has not complied with HFFACO Action Plan Sections 9.6.2 and 9.6.5.

This Director's Determination is appealable as provided in HFFACO Part Two, Article VIII, Paragraph 30(D).

Ecology's solemn mission is to protect, preserve, and enhance the environment for current and future generations. At Hanford, Ecology carries out this mission in part through permitting the treatment, storage, and disposal of hazardous waste; making cleanup and corrective action decisions; and conducting regular inspections to ensure the proper cleanup and management of hazardous waste.

Ecology's ability to carry out these important responsibilities depends upon in-depth access to relevant information and data. Without it, Ecology's permit writers, inspectors, scientists, and management cannot make sound, comprehensive, and timely regulatory decisions. Without it, Ecology is also unable to verify and validate USDOE's and its contractors' cleanup activities to ensure compliance with applicable laws.

For these reasons, Hanford site information and data is a critical resource, and USDOE's adherence to the HFFACO data access requirements is paramount to ensuring the proper cleanup, management, and regulatory oversight of hazardous waste at Hanford.

Transparency around the Hanford site and USDOE's environmental cleanup activities is critical to building trust in the community, with stakeholders, and with the regulatory agencies charged with oversight of those activities. This can be achieved in part by ensuring information and data is shared as agreed to and in an open manner.



In recognition of this, the Tri-Parties included the M-035 milestone series in the HFFACO to ensure that the United States Environmental Protection Agency and Ecology have appropriate access to data relevant to performing their regulatory and oversight roles. Through the M-035 milestone series, USDOE has specifically committed to provide Ecology with direct electronic access to Hanford information and data.

Ecology spent the last several years attempting to work cooperatively with USDOE to bring USDOE into compliance with these HFFACO data access requirements. On several occasions, our staff have reached tentative and conceptual agreement on mutually agreeable paths toward obtaining compliance. Yet each time, USDOE management has refused to sign off on those tentative agreements, preferring instead to pursue the HFFACO dispute process.

The enclosed Director's Determination resolves the dispute in a manner that sets forth a reasonable schedule to bring USDOE into compliance with HFFACO data access requirements. Carrying out this schedule will ensure the degree of data access required by HFFACO in a way that will ensure timely and tenable regulatory decisions without the need to resort to litigation. It also assures Ecology and the public that USDOE is carrying out a safe, efficient, and effective cleanup at Hanford.

If you have any questions, please do not hesitate to contact me at alex.smith@ecy.wa.gov or (509) 372-7905.

Sincerely,



Alexandra K. Smith
Program Manager
Nuclear Waste Program



Enclosure: Director's Determination

cc electronic:

Dave Einan, EPA
Ben Ellison, USDOE-RL
William Hamel, USDOE-RL
Kathy Higgins, USDOE-RL
Brian Stickney, USDOE-RL
ERWM Staff, YN
Ken Niles, ODOE
Maia D. Bellon, Ecology
Kathy Conaway, Ecology

Jared Mathey, Ecology
Adam Palomarez, Ecology
John Price, Ecology
Alex Smith, Ecology
Environmental Portal
Hanford Facility Operating Record
USDOE-RL Correspondence Control
USEPA Region 10 Hanford Field Office
Correspondence Control

cc: Mason Murphy, CTUIR
Jack Bell, NPT
Laurene Contreras, YN

Susan Leckband, HAB
TPA Administrative Record
NWP Central File