



Litigation update

Hanford tank waste treatment

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OREGON
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Hanford Tank Waste Litigation

- Litigation initiated in 2008 was settled by DOE and Washington in October 2010 related to schedules for tank waste retrieval and treatment
- Oregon a party as it relates to reporting requirements.
- The settlement includes new milestones and is filed in a Consent Decree.

Extent of Consent Decree

- Consent Decree covers:
 - Constructing and achieving initial operation of the Waste Treatment Plant (WTP)
 - Retrieving 19 single-shell tanks (SSTs)
 - Reporting requirements on DOE's progress or delays in achieving the first two objectives

Hanford Tank Waste Litigation

- October 2014 – Litigation revived – DOE and Washington file proposals with Federal Court to amend Consent Decree
- Have since had numerous filings and two oral arguments (February 2015 & July 2015) in U.S. Federal District Court for Eastern Washington
- DOE and Washington submit proposed Consent Decree modifications in December

Most recent contentions:

From December 14, 2015 Filing (Washington):

“The State is profoundly disappointed in Energy’s....Second Proposed Consent Modification. Rather than respond constructively to the Court’s August 31, 2015 Order, Energy has chosen instead to argue with the Court’s conclusions and ignore the Court’s directives.”

Most recent contentions:

From December 14, 2015 Filing (DOE):

“The State’s Second Revised Proposed Order is not a reasonable, suitably tailored modification to the Consent Decree. The State’s proposal would impermissibly intrude into areas of exclusive DOE expertise and authority, dramatically expand the scope of the Decree, and hinder timely progress towards achieving the original objectives of the Decree.”

WTP Construction & Startup

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WTP Construction & Startup

- Washington proposes 35 milestones to track progress towards initial full plant operations by September 30, 2034 (1st new milestone due 2016)
- DOE proposes 16 new milestones to get to initial full plant operations by December 31, 2039 (1st new milestone due 2030)

WTP Construction & Startup

- Washington proposes specific milestones for resolution of technical issues
 - LAW – December 31, 2017
 - HLW – September 30, 2018
 - PT – September 30, 2019

WTP Construction & Startup

- Washington proposes specific milestones for resolution of technical issues
 - LAW – December 31, 2017
 - HLW – September 30, 2018
 - PT – September 30, 2019
- DOE does not propose specific milestone dates for technical issue resolution, but indicates that if resolution is not complete by June 30, 2019, most milestones, including 2039 start-up date, will be pushed back

WTP Construction & Startup

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WTP Construction & Startup

- Washington proposes commissioning low-activity vitrification facility by December 31, 2022 (2021 for the Lab), to support a 2022 start-up of Direct-Feed LAW
- DOE proposes commissioning low-activity vitrification facility by December 31, 2036 – saying the Court ruled it will not amend the Consent Decree to include Direct-Feed LAW (though DOE says it will still go forward with DF-LAW in 2022).

WTP Construction & Startup

From Washington's Filing:

“Energy’s automatic extension provisions...remove any real incentive for Energy to meet the Decree’s schedule and reward Energy for missing dates.”

WTP Construction & Startup

From DOE's Filing:

“The State’s proposal continues to rely on unsupportable assumptions and ignores the significant implications of the unresolved technical issues...For example, the State continues to make unrealistic, arbitrary assumptions regarding the time necessary to complete redesign, re-baselining, and contracting.”

Tank Waste Retrievals

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- DOE proposes completion of remaining Consent Decree waste retrievals by March 31, 2024, with interim milestones in 2018, 2020 and 2023 for startup of a certain number of waste retrievals

Tank Waste Retrievals

From DOE's Filing:

“The State’s proposal would establish a prescriptive sequence of tank-by-tank completion milestones for retrieving each of the nine tanks, with an overall end date that DOE has already explained is not achievable.”

“The State’s prescriptive individual milestones are also an ineffective and inefficient approach to advancing retrievals.”

Evaporator Milestones

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Evaporator Milestones

- Washington proposes milestones to require evaporator use to create 8.77 million gallons of tank space by September 30, 2020, with 1.4 to 1.6 million gallons evaporated each year
- DOE proposes milestones to require evaporator use to create 5.9 million gallons of tank space by March 31, 2023, with .6 to 1.6 million gallons evaporated each year

DST Construction Milestones

- Washington proposes “triggers” to require constructing 2 million gallons of new storage space contingent upon DOE’s failure to meet retrieval or evaporator milestones.
- Washington also proposes milestones for submittal of a detailed project plan (for new tanks) in 2016, a RCRA/Dangerous Waste permit mod in 2018, and design completion in 2019

DST Construction Milestones

- DOE did not propose specific triggers related to DST construction, but instead proposes a series of conditions by which its obligations to build new DSTs would be suspended
- DOE proposes that if they became conditionally obligated to construct new DSTs, it would build only the necessary capacity to offset volume not removed by the evaporator

DST Construction Milestones

From Washington's Filing:

“Energy proposes conditions on contingent construction that virtually guarantee no new DSTs will ever be built. Energy’s convoluted Evaporator targets include caveats allowing Energy to readjust the targets, and avoid triggering new DST’s, by determining that it can still meet its overall goals through schedule adjustments or other mitigation measures.”

DST Construction Milestones

- DOE also objects to requirements to permit and design tanks before any obligation to build new tanks is triggered

From DOE's Filing:

“DOE estimates that the up-front work proposed by the State would cost approximately \$75-105 million for two tanks.”

DST Construction Milestones

From DOE's Filing:

“This expenditure would not only be an extraordinary waste of taxpayers funds, but could divert resources from other tank retrieval and WTP-related activities mandated under the Consent Decree.”

Technical Advisors to the Court

3 person panel to assist the Court has been selected