



Oregon

Kate Brown, Governor



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Alex Smith
Nuclear Waste Program Manager
Washington Department of Ecology
3100 Port of Benton Boulevard
Richland, WA 99354

Brian Vance
Manager, Office of River Protection
U.S. Department of Energy
PO Box 450, MSIN H6-60
Richland, WA 99352

Dear Ms. Smith and Mr. Vance:

Major Tri-Party Agreement (TPA) milestones related to Hanford tank waste retrieval and treatment have been in abeyance or have been clearly unachievable for a number of years now. The recent release of System Plan 8 provides a great deal of information, including clear indications that the tank waste treatment mission will be extended well beyond current planning.

System Plan 8 will help inform TPA negotiations between the U.S. Department of Energy's Office of River Protection (DOE-ORP) and the Washington Department of Ecology. We understand that an initial meeting has already occurred.

Due to the expectation that these negotiations will result in significant changes to the TPA, we believe it is incumbent upon both DOE-ORP and Ecology – prior to a final agreement being reached – to take a pause at some point in your negotiations to consult with Oregon, the tribes, the Hanford Advisory Board, and members of the public on areas of potential agreement and disagreement.

In recent conversations I have had with each of you, I have pointed out that such a strategy has been used before by the Tri-Party agencies. This occurred most notably in 1993, with the convening of the Tank Waste Task Force – specifically to provide informed values and principles to the Tri-Party agencies for their consideration during their negotiations. The agencies came back to the task force before the final milestones were decided, to describe how those values and principles had affected the negotiations and to discuss key issues that they were having difficulty resolving.

The Tri-Party agencies also paused TPA negotiations in 2007 to get input before milestones were finalized. At that time, the agencies were looking at significant delays in retrieval and treatment milestones. These eventually became the current milestones for the retrieval of all single-shell tanks by 2040 and the treatment of all tank waste by 2047. Though a framework of an agreement was reached during that time, issues related to enforceability could not be resolved, and the State of Washington

filed litigation the following year. That should not overshadow the point that the agencies did reach out for input before a final agreement was reached.

I request that a similar pause occur and a consultation process be undertaken before the completion of the current negotiations.

In addition, the November 7, 2017 letter from Ecology initiating the start of negotiations did not include specific mention of the 2040 and 2047 milestones. Given that the Waste Treatment Plant complex is not scheduled to be fully operational until 2036, these dates are clearly not achievable. Though I'm sure the public will be shocked at new extended dates, I believe the agencies must negotiate new, realistic milestones.

Consultation with the public ensures that your decisions are responsive to public values and principles and increases understanding of the risks and trade-offs that will undoubtedly be necessary.

I'm happy to discuss this issue further if you desire. I can be reached at 503-378-4906.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Niles". The signature is fluid and cursive, with the first name "Ken" being more prominent than the last name "Niles".

Ken Niles
Assistant Director for Nuclear Safety

Cc: Matt Johnson, Confederated Tribes of the Umatilla Indian Reservation
Rose Longoria, Yakama Nation
Jack Bell, Nez Perce Tribe
Oregon Hanford Cleanup Board
Susan Leckband, Hanford Advisory Board