

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of an Enforcement Action
against:

UNITED STATES DEPARTMENT
OF ENERGY and
CH2M HILL PLATEAU
REMEDICATION COMPANY

AGREED ORDER AND STIPULATED
PENALTY

No. DE 10156

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EXHIBIT A Required Actions Under Chapter 173-303
EXHIBIT B Dangerous Waste Management Units (DWMUs)
EXHIBIT C Dangerous Waste Violations

I. INTRODUCTION

1.1 In order to avoid the expense of litigation, and to settle any administrative or judicial claims or causes of action the Department of Ecology (Ecology) may have against them related to the violations described in Exhibit C, the United States Department of Energy (USDOE) and CH2M Hill Plateau Remediation Company (CHPRC), without admitting fault or liability, enter into the following Agreed Order and Stipulated Penalty (Order). The exhibit to this Order is an integral and enforceable part of the Order.

1.2 This Order and its exhibits fully resolve all issues arising from the conditions and events identified by, and pursuant to, the Ecology inspections conducted at the Central Waste Complex (CWC) on March 7, 8, 14, and 15, 2012, and at the Waste Receiving and Processing (WRAP) facility on May 20, July 27, and September 17, 2012, or referred to in Ecology reports on those inspections. In addition to addressing the CWC and WRAP dangerous waste Treatment, Storage or Disposal (TSD) unit groups, Exhibit A also includes actions for another TSD unit group within the Solid Waste Operation Complex (SWOC), the T-Plant TSD unit, in order for that TSD unit to implement actions similar to ones being taken at the WRAP and CWC TSD units. The TSD unit groups consist of the Dangerous Waste Management Units listed in Exhibit B.

1.3 This Order does not in any way limit Ecology's authority to pursue or issue other penalties or enforcement actions for violations of the Dangerous Waste regulations or for Dangerous Waste regulations that are not addressed herein. Furthermore, the entry into this Order will not constitute a defense or excuse for any Dangerous Waste violation not described herein or any subsequent violation of the Dangerous Waste regulations.

1.4 CHPRC has been under contract with USDOE to operate the WRAP, CWC, and T-Plant since October 1, 2008, and continues to do so at the time of execution of this Agreed

Order, with its contract reaching completion on September 30, 2018. CHPRC does not own the WRAP, CWC, or T-Plant TSD units, nor the dangerous waste located or managed at those TSD units. The obligations of CHPRC for operation of WRAP, CWC, T-Plant, and for performance of the corrective actions described in Exhibit A hereto, are pursuant to its contractual relationship with, and funding provided by, USDOE, and those obligations will devolve upon the successor(s) to CHPRC when the contract ends.

II. AUTHORITY

2.1 Ecology's Nuclear Waste Program has authority to enter into this Order under Chapter 70.105 RCW (Hazardous Waste Management Act) and Chapter 34.05 RCW (Administrative Procedure Act).

2.2 RCW 70.105.130 authorizes Ecology to implement the federal Resource Conservation and Recovery Act (RCRA), and establish a permit system for owners or operators of facilities that treat, store, or dispose of dangerous waste. The permit system is established in the Dangerous Waste Regulations, Chapter 173-303 Washington Administrative Code (WAC).

2.3 Ecology issued Permit No. WAD WA7890008967 (Permit) for USDOE's Hanford facility (Facility). The Permit became effective August 1994 and was not appealed. The Permit has undergone several revisions, the latest being Revision 8c.

2.4 Revision 8c of the Permit currently applies to the operation of and corrective actions taken, or to be taken, at this Facility. Pursuant to Part I.A of the Permit, Revision 8c, the standards used to evaluate compliance for this enforcement are the interim status facility standards in WAC 173-303-400 and the regulations incorporated into the interim status standards by reference. This only includes properly authorized units at the Hanford Facility. WAC 173-303-600 provides the authority to impose final facility standards for units that are outside of the scope of the Dangerous Waste Permit Revision 8c.

2.5 WAC 173-303-283 provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities. These general performance standards include, among others, standards for the prevention of the degradation of ground water, air, and surface water, and for the prevention of the endangerment of the health of employees or the public near a facility.

III. WAIVER

3.1 By entering into this Order, USDOE and CHPRC waive any right of administrative or judicial review or appeal on the underlying merits of the violations of the Dangerous Waste regulations and agree not to appeal this Order.

3.2 USDOE and CHPRC have entered into this Order to resolve Ecology's allegations asserted herein. Nothing in the Order, or in the execution and implementation of this Order, shall be taken as an admission of liability by USDOE or CHPRC and USDOE and CHPRC neither admits nor denies the specific factual allegations contained herein. For the purpose of avoiding litigation between the Parties, however, USDOE and CHPRC agree to the requirements identified in Exhibit A and section IV of the Order.

IV. PENALTY ASSESSMENT AND SETTLEMENT

4.1 Ecology is assessing a penalty of \$261,000.00 against USDOE and CHPRC for violations of Chapter 173-303 WAC and 40 CFR Part 265, as incorporated by reference in Chapter 173-303 WAC. Those violations are described in Exhibit C (Dangerous Waste Violations). USDOE and CHPRC do not agree with or admit to the violations, factual assertions, or any legal conclusions listed in Exhibit C.

4.2 The parties agree that USDOE will pay a penalty amount of \$15,000.00 and Ecology shall suspend \$246,000.00 on condition of completion of the actions set forth in the

schedule in section 4.6 of this Order. The suspended portion of the penalty shall be apportioned in accordance with the schedule in section 4.6 of this Order.

4.3 To suspend the penalty amount of \$246,000, USDOE and CHPRC must take the actions listed in the schedule in section 4.6 of this Order in accordance with RCW 70.105.095. USDOE and CHPRC are required to take these actions at the dangerous waste management units within the Solid Waste Operations Complex (SWOC) Unit Groups. The SWOC Unit Groups, for purposes of this Agreed Order, include the CWC Treatment, Storage, or Disposal (TSD) Unit Group, the WRAP TSD Unit Group, and the T-Plant Unit Group.

4.4 In accordance with section 4.6, USDOE will present to Ecology documentation of the implementation of each of the actions listed in section 4.6. Within 15 calendar days Ecology will determine whether each action has been implemented as required by the schedule in section 4.6 of this Order. For each action listed in section 4.6 which Ecology determines has been implemented, the allocated portion of the suspended penalty shall be revoked and will no longer be in effect. For each action which Ecology determines has not been implemented in accordance with the schedule in section 4.6 of this Order, the allocated portion of the suspended penalty shall be due and payable within 30 days after the determination has been received by USDOE.

4.5 USDOE or CHPRC must make and Ecology must receive USDOE's or CHPRC's payment of the reduced penalty amount of \$15,000.00 within 30 calendar days of the effective date of this Order. If the 30th day falls on a holiday or weekend, payment shall be due on the next business day. USDOE or CHPRC shall make the payment by check or money order directly payable to "Department of Ecology" and make reference to Agreed Order and Stipulated Penalty No. DE 10156, and shall send the payment to:

Department of Ecology
Attn: Cashiering Unit
P.O. Box 47611
Olympia, WA 98504-7611

Should USDOE or CHPRC fail to comply with this Order (including the requirements found in Exhibit A), Ecology may impose at its discretion either the remaining suspended penalty amount or a portion of the remaining suspended penalty to be due within 30 calendar days notice to USDOE and CHPRC that the terms of the Order have been violated.

4.6 The schedule for the reduction of the penalty will be as follows:

4.6.1 When the requirements of section 1.5.2 of Exhibit A are met, the suspended penalty amount of \$246,000.00 will be reduced by ten percent (10 %). Completion of this requirement requires the following: USDOE and CHPRC will train appropriate facility employees on the notification and reporting criteria set forth in section 1.2 of Exhibit A within 60 calendar days of the effective date of this Order; and USDOE will deliver to Ecology the training material provided to the appropriate facility employees (e.g., training notes, agendas and written training materials) and the training roster(s) (which will include the training attendees' job positions and names).

4.6.2 When the requirements of section 1.7.4 of Exhibit A are met, the suspended penalty amount of \$246,000.00 will be reduced by ten percent (10 %). Completion of this requirement requires the following actions to be taken within 60 calendar days of the effective date of this Order: USDOE and CHPRC personnel, who conduct designation sampling, will be trained on performing sampling procedures as required by the test method and SWOC Unit Group Waste Analysis Plan; and USDOE will deliver to Ecology the training material provided to the personnel required to conduct designation sampling (e.g., training notes, agendas and written training materials) and the training roster(s) (which will include the training attendees' job positions and names).

4.6.3 When the requirements of section 1.8.5.1 of Exhibit A are met, the suspended penalty amount of \$246,000.00 will be reduced by twenty percent (20 %). Completion of this requirement will be accomplished by USDOE, within one year of the effective date of this Order, meeting with Ecology and jointly reviewing with Ecology information previously used to develop the process knowledge documentation of the Retrievably Stored Waste (RSW) packages and delivering to Ecology the attendance roster for that joint review (which will include the attendees' job positions and names).

4.6.4 When the requirements of section 1.10.1 of Exhibit A are met, the suspended penalty amount of \$246,000.00 will be reduced by twenty percent (20 %). Completion of this requirement requires the following actions to be taken by USDOE and CHPRC within 30 calendar days of the effective date of this Order: conducting inspections at the SWOC in accordance with the requirements of WAC 173-303-320 and -630(6), taking the necessary steps to ensure that containers at the SWOC receive complete and thorough inspections; and delivering to Ecology four weeks of weekly inspection records.

4.6.5 When the requirements of section 1.11.1.1 of Exhibit A are met, the suspended penalty amount of \$246,000.00 will be reduced by twenty percent (20 %). Completion of this criteria will be accomplished by USDOE and CHPRC, within 30 calendar days of the effective date of this Order, instituting a process to label, and maintain labels in good condition for all dangerous waste containers or their protective covers in the CWC Outside Storage Area A; and delivering to Ecology a copy of the written process for labeling, and maintaining

labels in good conditions for all DW containers or their protective covers in the CWC Outside Storage Area A.

4.6.6 When the requirements of section 1.11.2 of Exhibit A are met, the suspended penalty amount of \$246,000.00 will be reduced by twenty percent (20 %). Completion of this requirement will be accomplished by USDOE and CHPRC, within 150 calendar days of the effective date of this Order, applying protective covers to Retrievably Stored Waste (RSW) containers stored outside at the CWC Outside Storage Area A that cannot be placed into a building(s) (pursuant to WAC 173-303-630(7)(d)); and delivering to Ecology a copy of photographic and other documentation that establishes that the protective covers are in place for those RSW containers that are stored at the CWC Outside Storage Area A that cannot be placed into a building(s).

V. REPORTING

5.1 No later than 180 calendar days and again one calendar year from the final signature date of this Order USDOE and CHPRC will submit progress reports on the status of compliance with this Order and show any remaining items not yet accomplished. For any remaining or uncompleted requirement in this Order or Exhibit A, USDOE and CHPRC will include a proposed schedule for completion.

5.2 The reports will be submitted to Ecology in accordance with section VI of this Order.

VI. EXTENSIONS AND SUBMITTALS

6.1 USDOE will submit any requests for extensions to deadlines in this Order in writing at least 10 calendar days prior to the due date. Such written requests shall include a detailed explanation for the extension request. The request must be delivered in writing to the

attention of Jane Hedges at (509) 372-7950, or a designated representative, via hardcopy, facsimile, or email.

6.2 All plans and reports submitted by USDOE and CHPRC to comply with this Order will be submitted to Jane Hedges, Washington Department of Ecology, Nuclear Waste Program, at Ecology's Richland office. An extension request shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to the schedule extension.

6.3 Submittals to Ecology required by this Order will include the following certification statement, and will be signed by a person authorized to commit resources on behalf of USDOE as owner and operator of the WRAP and CWC:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

6.4 The signature block underneath each certification statement will include signed as well as printed name, title, and organization.

VII. REMEDIES

7.1 In the event that USDOE or CHPRC violate the terms of this Order, Ecology may pursue all remedies available by law. However, USDOE and CHPRC do not waive the right to contest whether violations of this Order have occurred.

7.2 Ecology shall be entitled to recover its costs, including attorney fees, in any action brought in superior court to enforce this Order in which Ecology is a prevailing party.

VIII. VENUE

8.1 USDOE and CHPRC agree that the venue for any judicial action to enforce this Order shall be in Benton County Superior Court.

IX. RELEASE OF LIABILITY

9.1 USDOE and CHPRC and its assigns, or other successors in interest, agree to release and discharge Ecology and its officers, agents, employees, agencies and departments from any damages and causes of action of any nature arising out of the incidents that gave rise to this Order.

X. EFFECTIVE DATE

10.1 This Order shall become effective when signed by Ecology and USDOE and CHPRC.

XI. SIGNATURES AUTHORIZED

11.1 The undersigned representatives for Ecology and USDOE and CHPRC certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Order and to legally bind such party thereto.

XII. WITHDRAWAL OF ORDER REQUIREMENTS

12.1 The terms and requirements of this Order and Exhibit A are not a binding precedent for, and do not determine or limit, the terms, and conditions of Revision 9 of the Hanford Dangerous Waste Permit. The obligation of USDOE and CHPRC to implement each action prescribed in Exhibit A shall continue, until such action is incorporated and expressly superseded by, modifications to the Hanford Dangerous Waste Permit, or other superseding agreement or legal action. Ecology may withdraw requirements at any time by notifying USDOE and CHPRC at least two calendar weeks in advance of withdrawal. USDOE and CHPRC may submit a request in writing to Ecology for the withdrawal of a requirement of the

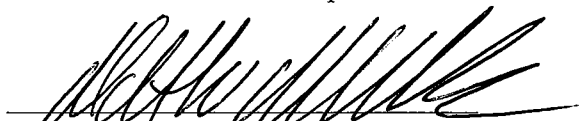
Order or Exhibit A. Such a request will be directed to the Ecology Division of the Attorney General's Office and Ecology's Nuclear Waste Program. A requirement from this Order or Exhibit A will be deemed withdrawn upon USDOE's and CHPRC's receipt of written notification from Ecology.

XIII. DURATION OF ORDER

13.1 The obligation of USDOE and CHPRC to implement each action prescribed in Exhibit A shall continue, until such action is incorporated and expressly superseded by, modifications to the Hanford Dangerous Waste Permit, or other superseding agreement or legal action. This Order shall remain in effect until USDOE and CHPRC have received written notification from Ecology that all of the requirements in this Order and Exhibit A either have been withdrawn by Ecology or have been expressly superseded by modifications to the Hanford Dangerous Waste Permit.

XIV. EXECUTION


14.1 This document may be executed in counterparts and may be executed by facsimile, and each executed counterpart shall have the same force and effect as the original instrument.


MATTHEW MCCORMICK
Manager, USDOE Richland Operations

Date: 1/24/14


JOHN FULTON
President, CHPRC

Date: 1/24/14


JANE HEDGES
Program Manager, Nuclear Waste Program
Washington Department of Ecology

Date: 1/24/14