

Hanford Advisory Board

DRAFT Advice: *Proposed Changes to Hanford Central Plateau Cleanup Work and Schedule*

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The Hanford Advisory Board (Board) consistently strives to provide the Tri-Party Agencies (TPA) with public policy advice that promotes systematic, aggressive and comprehensive cleanup of the environmental degradation caused by Manhattan Project and Cold War activities at the Hanford Nuclear Site. We see cleanup as a moral obligation of our country both specifically to the people of the Pacific Northwest and to the nation as a whole.

The changes proposed by the TPA are unprecedented. The Board previously provided consensus advice on at least 13 proposed Tri-Party Agreement Change Packages (Advice #53, 72, 73, 82, 125, 128, 154, 163, 216, 224, 231, 264 and 285). This is the first time in which the Board is being asked to weigh in on an extensive, negotiated change package to Tri-Party Agreement Milestones that delivers only “gives,” with no “gets.” There was nothing gained in the negotiations.

In negotiating deletion or deferment of a series of Milestones – M-15, M-16, M-37, M-85, and M-94, the Tri-Parties have fallen back on a clause in the TPA that refers to “Good Cause” - including “insufficient availability of appropriated funds” as a *Force Majeure*. This clause in the TPA was intended to apply only when wholly unanticipated technical issues or natural disasters occurred, or when Congress elected not to fund specified work. The clause was not intended to apply when Congress has not received the necessary funding request needed to support the cleanup.

Implementation of Force Majeure within the TPA serves as an abdication of TPA's principal obligation when it was originally established May 15, 1989. The implication is that meeting clean-up goals, as originally defined, is impossible or too costly to obtain. The Board and public stakeholders expect the TPA agencies charged with this work to “get on with it” and reduce risk through remediation. The Board cautions that the insertion of a Force Majeure clause in Milestones may set an unwanted precedent for inclusion in future governing documents. Further, it may hamper the ability of the Tri-Parties to sustain legally binding contracts.

There is nothing impossible nor impractical about the remediation plans already negotiated within the original TPA Milestones, utilizing technology that is currently available. There is a false assumption that materials contained in unlined trenches, in plumes of contaminated vadose zone soil and groundwater, both near-surface and deep, are static. This assumption adversely influences the budgetary process in support of the position by validating the falsehood that there is infinite time available to mitigate the problem. For over a decade, the many interests at Hanford, including the Tri-Parties, have talked about a coming “bow wave” of projects that will need to be funded, in the near-term, in order to avoid having this “bow wave” crash down on cleanup efforts. DOE has failed to plan or argue for adequate funding levels to avoid this budgetary crisis.

With 32 seats at the table, the Board is a collective voice ready to advocate for a stronger path forward but the Board does not yet understand the full picture of cleanup priorities. The success of the Board as a group representing and advocating for the varied interests of the public depends on having the latest information pertaining to the priorities, timelines and funding decisions that impact the completion of cleanup. The Board supports aggressive pursuit of M-016-250 Milestone (3/31/16) objectives as they will help facilitate a much needed, collective, understanding of FY 2017 budget requirements.

Specific to the process for soliciting public input on the proposed change package, the Board did not support moving ahead with public meetings by the Tri-Parties, on short notice. The Tri-Parties have established a pattern in this regard. The agencies hammer out a draft agreement among themselves, over months, or even years and then hurry to complete the process by giving citizen input short shrift. The Board has long argued for early access to information and for increased public participation. Public review and comment are an important and required part of the process that demands sufficient time to be gathered. In fact, the comment period for this change package was extended, but even so, the public meetings were scheduled abruptly, on short notice and offered inadequate materials for public review.

The failure by the Tri-Party Agencies, at these public meetings, to fully describe how Hanford cleanup will move forward with these significant delays leaves us collectively in a quandary on how best to advise the Agencies. Without knowing the logic of work changes and the potential of increased risk due to proposed deferment of cleanup actions, the Board and the public cannot provide informed or meaningful comment based on fact. The information provided by the change package needs to explain and map an in-depth, detailed vision for the Board and the public of what proposed activities are being recommended for elimination, deferment or moved from one milestone to another. We believe that a more comprehensive suite of information and planned public meetings are needed.

Considerable work is being delayed that the Board has indicated is a priority, i.e. completing the investigation of non-tank farm/non-canyon waste sites in the 200 Area. The Board cited this work and the follow-up remedial work to have higher priority than other projects such as the demolition of U Plant or closure of B Pond, S Pond or the Non-Radioactive Waste Disposal Landfill (NRDWL). PUREX tunnels, and remediation of the 324 plume also pose higher risks. Proposed milestone changes should be adjusted accordingly to better reflect these higher priorities.

Setting milestones for work described as “To Be Determined” (TBD) is of no value to the Board, nor as a vehicle for Agencies seeking funding for future cleanup. The Board heard, repeatedly, this one message at the public meetings.

The Board does support continuing the practice of setting some, limited target milestones. We have seen successful remediation and a reduction of risk to humans and the environment because of this practice.

Advice:

- The Board advises the Tri-Party Agencies to refrain from insertion of a Force Majeure clause in TPA milestones. The Force Majeure clause provides an unnecessary exemption to meeting legal obligations.
- The Board advises the TPA agencies to schedule further meetings to educate the Board and the public on expectations for cleanup based on year-by-year goals and activities for the next decade and beyond. The intent is for the Board and the public to better understand the overall impact of the delays proposed in the change package and to address how DOE intends to mitigate the “bow wave” of work that has accumulated.
- The Board Advises DOE expedite the M-016-250 milestone (3/31/2016) in order to support

efforts to influence the FY 2017 Federal budget planning process.”

- The Board advises the TPA agencies never to set “To Be Determined” (TBD) as the required action or as a place mark for a completion date for milestones or for describing undefined remediation endpoints. The establishment of specific, achievable milestones coupled with a workable process for changing milestones when needed, without resorting to controversial legal actions should be the goal.
- The Board advises the TPA Agencies to improve the public review and comment process on proposed changes to the TPA or other important cleanup actions. The Tri-Party Agencies should work closely with the HAB's Public Involvement and Communication Committee on development of explanatory handout materials and presentations describing the change packages and ensure advance notice for all public meetings.
- The Board advises the TPA agencies that plans to demolish U Canyon and close B Pond, S Pond, and NRDWL are a lower priority than other cleanup needs. While we advise DOE to seek adequate resources for all of the proposed cleanup activities, we also advise that with a constrained budget, funding for these projects could be applied to accelerating the investigation and remediation of non-tank farm/non-canyon waste sites located in the 200 Area. Proposed milestones should be adjusted accordingly.
- The Board advises DOE and the regulatory authorities to plan for earlier completion of the M-015-00 milestone series. A 9 ½ year delay in preparation of decision documents for the Central Plateau from 12/31/2016 to 6/30/2026 creates a window for further migration of radioactive and chemical material. The consequence of this delay is a rise in risk to human health and the environment as well as much higher cleanup cost.

Advice Specific to individual Milestones:

- The Board advises PUREX remediation – M-085-82 (12/31/17) and M-085-84 (9/30/2025) needs to have higher priority.
- The Board advises that cleanup of the 324 Building and underlying soil contamination should have earlier milestone due dates. Extremely high radiation levels and proximity to the Columbia River and people living within the boundary of the City of Richland morally obligates near-term action.
- The Board supports the new milestone M-016-086 (9/30/21) for cleanup of the 618-11 burial ground.