

Desk Instruction 2.5
“Dispute Resolution Process for the Tri-Party Agreement”

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Revision 0

Approved by: _____

Date: _____

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1.0 Introduction

This Desktop Instruction (DI) provides the process and required actions to enter into the Dispute Resolution Process as provided in the Hanford Federal Facility Agreement and Consent Order (HFFACO), also known as the “Tri-Party Agreement.” Dispute resolution is the process for resolving disputes under the TPA.

2.0 Expectations

The Tri-Party Agreement is a legally binding agreement covering the Hanford Site environmental compliance and cleanup activities. As such, it contains specified procedures in Article VIII of the TPA as well as Section 12 of its associated Action Plan for any change/modification to the Tri-Party Agreement. Changes are necessitated by changes in schedule, technical issues, and administrative needs. When changes cannot be agreed upon by the negotiating parties, the dispute resolution process is initiated.

3.0 Application

This DI applies to all dispute resolution actions taken by ORP staff. This DI applies to all ORP staff having management/coordination responsibility for negotiating disputes which may arise under the Tri-Party Agreement.

4.0 Procedure and Process

Upon discovery of any dispute between the regulatory agencies and ORP, action shall be taken following the below process.

The process flow for a graphical view of the required steps to Dispute Resolution is depicted in Exhibit I, page 5.

Step #	Description	Performer	Support
Step 1	Draft a Tri-Party Agreement change request using the Change Control Form in the Hanford Federal Facility Agreement and Consent Order and accordingly to DI-ED-01, <i>Change Control for the TPA</i> . Change Request submitted to ED Director for review and initial approval. Send Change Request to appropriate regulatory agency.	Mission Element	TPA SME

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Step 2	Within 14 days regulatory agency must approve or deny change request.	Regulatory Agency (e.g., Ecology or EPA)	N/A
Step 3	Upon receipt from regulatory agency of modified or denied change request, ORP must notify regulatory agency of its objections and initiate dispute resolution.	TPA SME	Mission Element Legal
Step 4	Within 30 days Project Mangers of ORP and regulatory agency must resolve dispute or submit written Statement of Dispute to the Interagency Management Integration Team.	TPA SME Regulatory Agency	Mission Element Legal
Step 5	Upon receipt IAMIT has 21 days to resolve dispute.	IAMIT	Mission Element Legal Services TPA SME
Step 6	Within 14 days, the appropriate regulatory agency director makes Final Determination. The Senior Executive Committee (SEC) meets as necessary to attempt resolution.	Regulatory Agency	N/A
Step 7	ORP either accepts Agency's Final Determination or appeals to Pollution Control Hearing Board or takes the dispute to federal court.	Legal	TPA SME Mission Element

5.0 Authorities

Interagency Management Integration Team (IAMIT) - A committee of the Executive Managers from each agency. Committee functions include negotiation of new milestones, adjustment of scope and schedule of existing interim milestones, and TPA Issue Resolution/Dispute Resolution. It also serves as an interface with the Hanford Advisory Board. The Ecology designated representative of the IAMIT is the Program Manager for Nuclear Waste. EPA's member is the Program Manager, Hanford Project Office of EPA Region 10. The ED Director represents ORP.

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Senior Executive Committee (SEC) – Senior members of the environmental regulators. Its members consist of the Assistant Director for Waste Management for Ecology. EPA is represented by the Director, Office of Environmental Cleanup for EPA Region 10. The ORP Deputy Manager meets with the SEC to assist in resolving disputes.

The Pollution Control Hearing Board – The administrative method of having a dispute heard by an “outside party.” If ORP disputes a final determination, it can take an administrative appeal to this Board or go directly to federal court for a judicial action.

Washington State Department of Ecology (Ecology) - Under federal law, enforcement authority for certain environmental laws and violations thereof has been delegated to Ecology. Additionally, the TPA is a negotiated, legally binding document under law. Article VIII states that if the IAMIT is unable to unanimously agree on a resolution of a dispute, Ecology shall make a final written decision or written determination no more than 35 days after submission of the written statement of the dispute to the IAMIT.

6.0 Additional Guidelines

Refer to the [Hanford Federal Facility Agreement and Consent Order](#), as amended, and the latest version of the Community Relations Plan for the Hanford Federal Facility Agreement and Consent Order. Additionally, refer to Headquarters guidance of June 16, 1997 "Review and Approval Guidance for Environmental Compliance and Cleanup Agreements for the Office of Environmental Management."

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Exhibit I – Flow Diagram
TPA Dispute Resolution Process

