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January 24th, 2013

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Submitted Via Email to: TPACH@rl.gov

RE: Comments on Proposed Tri-Party Agreement Changes

U.S. Department of Energy:

Columbia Riverkeeper (Riverkeeper) submits these comments regarding the Tri-Party Agencies' proposal to amend the Tri-Party Agreement (TPA). Riverkeeper remains concerned that the changes to the TPA will prompt delays in cleanup of the River Corridor and the canyon facilities in the Central Plateau, and that the Department of Energy (Energy) is failing to adequately fund necessary cleanup activities. Cleanup is not a discretionary obligation for the Tri-Party Agencies (TPA Agencies), particularly in areas where polluted soils and groundwater pose a risk to the Columbia River, its aquatic life, Hanford workers, and downstream communities. Delays in completion of decision documents, as proposed in the TPA changes, will result in a slower pace for cleanup.

I. Some Proposed Changes Reflect the Discovery of New Waste Sites

We support the TPA Agencies' efforts in identifying new waste sites and expanding cleanup in the River Corridor to encompass newly discovered waste sites. As the TPA Agencies approach cleanup and demolition of contaminated structures and the soils and groundwater beneath them, we urge the TPA Agencies to recognize that cleanup and demolition often creates more work than the TPA Agencies originally anticipated. By candidly acknowledging that its

work scope in the River Corridor has grown, the TPA Agencies have bolstered public confidence about their willingness to address all cleanup challenges.

For example, the discovery of high levels of radioactive contamination under the 324 Building has slowed and complicated the cleanup of that area. However, discovery of the high levels of contamination in the 324 area will allow cleanup to proceed with a more realistic assessment of the contamination problem. Additionally, hexavalent chromium plumes in the 100-B/C and 100-D Areas were larger, deeper, and more toxic than anticipated. Going forward, we urge Energy and other TPA Agencies to recognize the uncertainties of cleanup in the River Corridor: TPA Agencies should anticipate that cleanup, thorough monitoring, and characterization of polluted soils will generate more cleanup work.

II. Delays in Cleanup Will Exacerbate Contamination

As TPA Agencies acknowledge, they have not accomplished all of their goals for the “2015 Vision” – a plan to complete much of the surface work for the River Corridor cleanup and “shrink the footprint” of the Hanford site. For years, we have urged Energy to change its public messaging to reflect the reality of cleanup near the Columbia River. Clearly, the TPA has resulted in significant cleanup progress, but severe and persistent challenges remain. Unfortunately, the “2015 Vision” presents a confusing picture about cleanup progress in the River Corridor. The “2015 Vision” focused on resolving issues on the surface of the River Corridor. However, groundwater and deeper vadose zone contamination will persist regardless of the completion of all “2015 Vision” goals. In recent years, TPA Agencies made significant progress in soil and groundwater cleanup, but the contamination in groundwater and soils in the River Corridor will remain a threat for generations to come. The proposed changes to the TPA starkly demonstrate that work in the River Corridor and the Central Plateau will continue for decades, and proposed delays in cleanup will allow contamination to continue to percolate deeper into Hanford’s soils and enter Hanford’s groundwater.

a. TPA Agencies are proposing to significantly push back key decisions for the River Corridor, which allows contamination to migrate

TPA Agencies’ proposals to push back key decisions for cleanup in the River Corridor demonstrate that the task of remediating toxic chromium and radioactive pollution is more

difficult than originally anticipated. For example, the TPA Agencies now propose to monitor a larger-than-expected plume of hexavalent chromium in the 100 B/C Area rather than proposing a final cleanup plan for the area. The TPA Agencies justify the delay by arguing that additional years of groundwater monitoring data would aid in assessing contamination in the B/C Area. While we agree that additional groundwater monitoring is a good idea, we urge Energy to accelerate clean-up activities in the River Corridor wherever possible. The TPA Agencies should move as quickly as possible towards robust, thorough cleanup actions that prevent hexavalent chromium from reaching the Columbia River. Additionally, TPA Agencies should incorporate recent upwelling data to shape upcoming decisions about how to prevent chromium from polluting the Columbia River. TPA Agencies should engage with the National Marine Fisheries Service and U.S. Fish and Wildlife Service to gauge the risk from contamination in the 100 B/C Area and the 300 Area entering aquatic habitat.

The TPA Agencies propose to extend the completion date of three existing milestones where contamination was more extensive than expected and to establish nine new interim milestones to address remediation of 100 Area waste sites, including 154 newly discovered waste sites. The original milestone date was to complete all interim cleanup actions by December 31, 2012. Now, the TPA Agencies propose to extend it to March 31, 2017 for completion of final actions. The TPA Agencies should explain why such a long delay is warranted for reaching final cleanup decisions. Proposed changes in the TPA appear to allow arbitrarily long delays for cleanup of the River Corridor and the Central Plateau. The TPA Agencies should explain why five years of additional time is necessary to plan for cleanup of newly discovered waste sites. During the next five years, the TPA Agencies should also commit to monitoring soil and groundwater contamination that will continue to migrate towards the Columbia River.

In the K Area, the TPA change proposal involves a significant delay in placing the K East reactor into interim safe storage (ISS). Only two years ago, Energy was considering a possible plan to fully demolish the K East reactor in order to access the soil and groundwater beneath the reactor as well as to reduce the contamination risk from the reactor, itself. The TPA Agencies argue that their proposed changes will allow cleanup of the K West and K East reactors to proceed more efficiently. However, the TPA Agencies do not fully address how the delay in

cleanup and ISS may allow contamination to enter soils, groundwater, and the Columbia River in the K Area.

We urge Energy and other TPA Agencies to hasten cleanup efforts in the K Area rather than offering arbitrary justifications for delayed demolition or ISS. Additionally, while we strongly support expanded monitoring and characterization of soils and groundwater in the K Area, the need for additional study should not preclude the consideration of full demolition of the K East reactor – an approach which might provide the TPA Agencies more ability to access and remediate pollution below the K Area. Pollution in the K Area includes chromium, Sr-90, nitrate, trichloroethene, C-14, and Tritium – all pollutants that could harm aquatic life in and near the Columbia River. Ultimately, an interim cap for the K Area seems to be preferable to a no-action approach: however, the removal of the K East reactor should be pursued by the TPA, regardless of cost.

Soils and groundwater that interact with the Columbia River are the most imminent threat to the health of the Columbia River. Accordingly, Energy's delay of key milestones – M-15-12-03, M-16-12-06, M-89-12-02, M-94-12-04, M-93-12-02 – deserve sincere, detailed scrutiny from TPA Agencies to quantify how the delays will increase migration of pollutants into groundwater and the Columbia River. The TPA proposal lacks detailed data about the likely impact of delays in cleanup. The delays will allow radioactive and chemical pollution to move deeper into the soils in the River Corridor, potentially reaching groundwater and the Columbia River, itself.

b. Energy must proceed with cleanup of the 324 Building as soon as possible, seeking additional cleanup funds if necessary

Energy acknowledges that the 324 Building, a structure that was slated for demolition and removal as part of the “2015 Vision” for River Corridor cleanup, has significantly higher radioactive pollution than the agency originally anticipated. We support Energy's thorough investigation of the contamination under the 324 Building. According to Energy, “While preparing the 324 Building for demolition, a breach was identified in the stainless steel liner on the floor of the research room known as B-Cell. Subsequent characterization of the soil beneath the facility confirmed that contamination had leaked into the soil through the breached liner and

concrete floor during prior facility operations.” Indeed, contamination below the 324 area presents a unique cleanup challenge. The contamination under the 324 Building approaches 9000 Rad at the source of the leak – a radiation level that threatens worker health and potentially the public if contamination reaches groundwater and the Columbia River. Based on these risks, Riverkeeper supports a concerted effort to address contamination in the 324 Area. The proposed TPA changes would delay completion of cleanup work by several years. Because demolition and remediation of dangerous chemical and radioactive waste in the 300 Area are so important, we urge Energy to adhere to current milestones and to prioritize cleanup of the 324 building. At the very least, we urge TPA Agencies to explain why several years of delay are necessary to address the severe, potentially mobile contamination under the 324 building.

c. Energy must acknowledge and, if possible, avert delays in Central Plateau Cleanup

The current TPA change proposal fails to acknowledge that the newly discovered River Corridor cleanup tasks coupled with restricted funding will negatively impact the achievement of Central Plateau cleanup. Realistically, TPA Agencies are not poised to complete the goal of completing major cleanup activities in the Central Plateau by 2020. Indeed, under the current funding regime, it appears that Central Plateau work will not be completed prior to 2035. For example, the TPA Agencies propose to extend the milestone for canyon remediation by 10 years. Remediation of the U Plant Canyon, including barrier placement, is scheduled to be completed in 2021. The U.S. Environmental Protection Agency (EPA) has expressed skepticism that TPA milestones for Central Plateau cleanup will be met in the wake of the increased work scope for the River Corridor. We urge TPA Agencies to provide the public with a comprehensive, realistic view of the current cleanup schedule for the Central Plateau.

d. Energy must adequately fund cleanup activities

TPA Agency representatives have repeatedly cited funding concerns for justifying delays in Hanford cleanup. We urge TPA Agencies to honestly evaluate the cost of achieving a compliant cleanup effort. The proposed TPA changes retreat from an aggressive, comprehensive cleanup approach by leaving contamination in Hanford’s soils and groundwater for an extended period of time. Although TPA Agencies have clearly made progress in remediating some of Hanford’s chemical and radioactive waste problems (the “big dig” in the B/C area is a great

example of aggressive cleanup), the proposed TPA changes delay key decisions and cleanup actions for far too long to meet the goal of protecting the Columbia River.

According to a letter sent to federal managers by multiple Western Governors in late 2012, Chris Gregoire (WA), Brian Sandoval (NV), Butch Otter (ID), Susana Martinez (NM) and Jerry Brown (CA): "While much progress has been achieved, we are now concerned that the national fiscal environment will result in the progress virtually grinding to a halt, resulting in significant environmental risk." (<http://www.tri-cityherald.com/2012/12/22/2214263/western-governors-want-trend-of.html#storylink=cpy>) Delays in River Corridor and Central Plateau cleanup may only worsen Hanford's cleanup problem without a strong commitment to adequately fund remediation of Hanford's waste.

e. Energy's focus on reducing the footprint of cleanup fails to address underlying contamination problems and confuses the public

As Energy acknowledges, the agency has failed to accomplish all of its goals for the "2015 Vision" – a plan to complete most of the surficial cleanup of the River Corridor. Indeed, Energy representatives have stated that they intended to be "off the River" by 2015. Energy's promotion of the "2015 Vision" has led to public confusion, particularly because people realize that cleanup of the River Corridor must extend to deep soils and groundwater. The TPA Agencies have made significant progress in addressing deep vadose and groundwater issues, but the cleanup is not approaching completion for the River Corridor. While the "2015 Vision" may have been effective in promoting the cleanup effort, it has fundamentally understated the ongoing, difficult challenges that remain ahead for protecting the Columbia River from Hanford's chemical and radioactive contamination.

III. Energy may be required consult with National Marine Fisheries Service and U.S. Fish and Wildlife Service regarding impacts to Threatened and Endangered Species and designated Critical Habitat from proposed delays in cleanup.

Though TPA Agencies are soliciting comments regarding changes to the TPA, Riverkeeper encourages Energy, Ecology, and EPA to fulfill their consultation duties under the Endangered Species Act (ESA). *See* ESA § 7(a)(2). As a first step, the TPA Agencies should ask the National Marine Fisheries Service and the U.S. Fish and Wildlife Service whether

threatened or endangered species or designated critical habitat may be present in the action area, and whether delays in cleanup may result in increased contamination or exposure to threatened or endangered species. 50 C.F.R. §§ 402.12(c) & (d). The TPA Agencies should bear in mind that the action area for ESA purposes includes “all areas to be affected directly *or indirectly* by the Federal action and *not merely the immediate area involved in the action.*” 50 C.F.R. § 402.02 (emphasis added).

The Hanford Reach, adjacent to the areas that will be impacted by proposed delays in TPA cleanup milestones, contains ESA-listed salmonids and designated critical habitat. 70 Fed. Reg. 37160, 37163; 71 Fed. Reg. 834; 70 Fed. Reg. 52630, 52733, 52760. The Hanford Reach is within the action area for the TPA changes, which impact the 100 Area, 300 Area, Hanford’s groundwater, and the Central Plateau. Accordingly, Energy should begin the ESA § 7(a)(2) consultation process by asking NMFS and FWS if critical habitat or endangered species are present and will be impacted by the proposed TPA changes. 50 C.F.R. §§ 402.12(c) & (d).

IV. Conclusion

While Columbia Riverkeeper appreciates the TPA Agencies’ effort to incorporate new waste sites into cleanup plans, we object to arbitrary, budget-driven delays in the schedule for cleanup in the River Corridor and the Central Plateau. The current information available to the public does not justify long delays in cleanup activities, and it understates the long-term shortfall in resources available for simultaneous cleanup in the River Corridor and the Central Plateau. We urge the TPA Agencies to rethink the proposed long delays in cleanup deadlines.

Sincerely,

A handwritten signature in black ink, appearing to read "D. R. Serres", written in a cursive style.

Daniel R. Serres
Conservation Director, Columbia Riverkeeper