

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jul 30, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

JENNIFER GRANHOLM, Secretary
of the United States Department of
Energy, and the UNITED STATES
DEPARTMENT OF ENERGY,

Defendants.

NO: 2:08-CV-5085-RMP

ORDER GRANTING JOINT MOTION
TO ENTER CONSENT DECREE
MILESTONE EXTENSION AND
MODIFYING AMENDED CONSENT
DECREE BETWEEN U.S.
DEPARTMENT OF ENERGY AND
STATE OF WASHINGTON

BEFORE THE COURT is a Joint Motion to Amend Consent Decree, ECF
No. 263, by Plaintiff the State of Washington, Department of Ecology, and
Defendants Jennifer Granholm,¹ Secretary of the United States Department of
Energy, and the United States Department of Energy (collectively, “the Parties”).

¹ Secretary Granholm is substituted as a named Defendant in this matter. Fed. R.
Civ. P. 25(d).

ORDER GRANTING JOINT MOTION TO ENTER CONSENT DECREE
MILESTONE EXTENSION AND MODIFYING AMENDED CONSENT
DECREE BETWEEN U.S. DEPARTMENT OF ENERGY AND STATE OF
WASHINGTON ~ 1

1 The Parties stipulate to amendment of the Consent Decree, ECF No. 59, the
2 Amended Consent Decree, ECF No. 222, and its subsequent amendments, ECF Nos.
3 232, 242, 251, and 259, with respect to the deadline to start cold commissioning at
4 the Hanford Nuclear Reservation's Low-Activity Waste Facility. Having reviewed
5 the motion, the record, and relevant law, the Court is fully informed.

6 The Parties have agreed to an extension of one of the Consent Decree's
7 interim milestones due to ongoing technical challenges that have arisen during the
8 process of installing, testing, and integrating the necessary equipment and facilities
9 to being treating Hanford's low-activity waste. The Court finds good cause for
10 amendment based upon the Parties' agreement, as well as their showing, that the
11 criteria for amendment of the Consent Decree have been met. Accordingly, **IT IS**
12 **HEREBY ORDERED** that the Parties' Joint Motion to Amend Consent Decree,
13 **ECF No. 263**, is **GRANTED**. The Consent Decree, ECF No. 59, as modified by the
14 Amended Consent Decree, ECF No. 222, and its subsequent amendments, ECF Nos.
15 232, 242, 251, and 259, is further amended, by stipulation of the Parties, as follows:

16 **STIPULATION**

17 WHEREAS, on October 25, 2010, the Court entered a Consent Decree
18 between the United States Department of Energy ("DOE") and the State of
19 Washington, ECF No. 59;

20
21 **ORDER GRANTING JOINT MOTION TO ENTER CONSENT DECREE
MILESTONE EXTENSION AND MODIFYING AMENDED CONSENT
DECREE BETWEEN U.S. DEPARTMENT OF ENERGY AND STATE OF
WASHINGTON ~ 2**

1 WHEREAS, after contested proceedings regarding modification of certain
2 aspects of the Consent Decree, the Court on March 11, 2016, issued an Amended
3 Consent Decree, ECF No. 222, including amendments to the Decree's milestones for
4 tank waste retrievals and construction of the Hanford Waste Treatment and
5 Immobilization Plant;

6 WHEREAS, beginning in March 2020, DOE's Hanford Site experienced
7 various impacts from the coronavirus pandemic, a *force majeure* event that affected
8 DOE's ability to meet certain Amended Consent Decree milestones;

9 WHEREAS, on July 19, 2022, the Court entered the Parties' agreed request
10 for 579-day extensions of five milestones, including an extension of interim
11 milestone A-8 for DOE to start cold commissioning of the Low-Activity Waste
12 Facility, extended from December 31, 2022, to August 1, 2024;

13 WHEREAS, DOE has continued to make significant progress towards initial
14 operation of the Low-Activity Waste Facility over the past year, including the
15 successful heatup of two melters and pouring of the first nonradioactive test glass;

16 WHEREAS, DOE has encountered and successfully resolved numerous
17 technical challenges as part of its rigorous system integration and testing processes
18 in the leadup to the start of Low-Activity Waste Facility cold commissioning;

19 WHEREAS, notwithstanding such prompt problem-solving, DOE needs
20 additional time to address certain recently-encountered and ongoing technical

21 ORDER GRANTING JOINT MOTION TO ENTER CONSENT DECREE
MILESTONE EXTENSION AND MODIFYING AMENDED CONSENT
DECREE BETWEEN U.S. DEPARTMENT OF ENERGY AND STATE OF
WASHINGTON ~ 3

1 challenges, including working with its contractors to improve the functioning of the
2 Low-Activity Waste Facility's glass former system;

3 WHEREAS, in light of those ongoing technical challenges, and in accord with
4 Section IV.C.3.a of the Amended Consent Decree, DOE on June 20, 2024, provided
5 written notice to the State of Washington (with a copy to the State of Oregon) that a
6 "serious risk" had arisen that DOE would be unable to meet the August 1, 2024,
7 milestone for the start of cold commissioning at the Low-Activity Waste Facility;
8 and

9 WHEREAS, following that "serious risk" notice and through good faith
10 discussions in accord with Section VII of the Amended Consent Decree, the
11 Parties have agreed that there is good cause to extend the A-8 interim milestone
12 by four months due to the ongoing technical issues described more fully in the
13 Parties' joint motion to modify the milestone.

14 **THEREFORE, IT IS HEREBY STIPULATED AND ORDERED** that:

15 In Appendix A to the Consent Decree, ECF No. 59, between the U.S.
16 Department of Energy and the State of Washington, as amended by ECF Nos. 222,
17 232, 242, 251, and 259, the row for interim milestone A-8 ("Start LAW Facility
18 Cold Commissioning") in the table specifying Waste Treatment Plant construction
19 and startup milestones is hereby **VACATED** and **SUPERSEDED** by the following:

20
21 ORDER GRANTING JOINT MOTION TO ENTER CONSENT DECREE
MILESTONE EXTENSION AND MODIFYING AMENDED CONSENT
DECREE BETWEEN U.S. DEPARTMENT OF ENERGY AND STATE OF
WASHINGTON ~ 4

1 **1. WTP Construction and Startup**

2

Project	Description	Date
A-8 Interim	Start LAW Facility Cold Commissioning	11/29/2024

3

4 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
5 Order and provide copies to counsel.

6 **DATED** July 30, 2024.

7 *s/ Rosanna Malouf Peterson*
8 ROSANNA MALOUF PETERSON
9 Senior United States District Court Judge