

**2016 Memorandum of Agreement  
For the Natural Resource Trustee Council for the Hanford Site,  
Richland, Washington**

This Memorandum of Agreement (MOA or the "Agreement") is among the United States Department of Energy (DOE), United States Department of the Interior, Nez Perce Tribe (Nez Perce), State of Oregon, Confederated Tribes of the Umatilla Indian Reservation (CTUIR), State of Washington (including the Departments of Ecology and Fish and Wildlife), and the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation), (collectively referred to as the "Trustees"). The signatories to this MOA, or their designees, are authorized to act on behalf of the public as trustees for natural resources under applicable federal laws and regulations. Pursuant to federal law, the United States Department of Commerce, through the National Oceanic and Atmospheric Administration (NOAA), is a Trustee for natural resources at the Hanford Site. NOAA has elected to perform its trustee responsibilities by acting as an advisor to the signatory Trustees throughout the assessment and restoration process undertaken pursuant to this MOA.

**I. PURPOSE**

This MOA supersedes the 1996 Hanford Site Trustee MOA. This MOA provides a framework for coordination and cooperation of the Trustees in their efforts to restore, and minimize impacts to, natural resources injured as a result of, or during cleanup of, releases associated with the Hanford Site. Under this MOA, the Trustees intend to carry out the objectives and activities in section VI.

**II. AUTHORITIES**

The Trustees enter into this MOA as part of their respective efforts to implement their authorities as natural resource trustees under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA or Superfund), 42 U.S.C. §9601-9675, as amended, and its implementing regulations.

The Yakama Nation states that it enters into this MOA pursuant to its duties as a sovereign tribal government and under the Treaty with the Yakama of 1855 (12 Stat. 951) to protect both the individual and communal interests of the successors-in-interest of Indian signatories to the Treaty both in lands within the Hanford Site and other lands and resources adversely affected by Hanford releases.

The CTUIR states that it enters into this Agreement as the successor-in-interest to the Indian signatories to the Treaty of 1855 between the United States and the Cayuse, Umatilla and Walla

Walla Tribes (12 Stat. 945) and as a trustee for natural resources appertaining to the CTUIR within the Hanford Site or otherwise adversely affected by Hanford releases.

Nez Perce Tribe states that it enters into this Agreement as a sovereign nation, successor-in-interest to the Indian signatories of the *Treaty of June 9, 1855 with the Nez Percés*, 12 Stat. 957 (June 9, 1859), and under the authority of Article VIII, Section 1(a) of the Revised Constitution and Bylaws of the Nez Perce Tribe. The Tribe enters into this Agreement to protect its and its members' interest in the land and resources within the Hanford Site and those lands and resources otherwise adversely affected by Hanford releases.

### **III. SCOPE**

This MOA is intended to help coordinate decisions and actions made by the Trustees pursuant to their legal authority to address restoration of natural resources impacted by Hanford Site releases of hazardous substances.

The Hanford Site includes approximately 586 square miles of land in South Central Washington. The geographic area under consideration by the Trustee Council includes all of the Hanford Site, and offsite areas, as appropriate, such as areas impacted by aerial releases of hazardous materials, and portions of the Columbia River.

Within the meaning of CERCLA, and its implementing rules, all of the Trustees are trustees for natural resources that may have suffered injuries resulting from the release or threatened release of hazardous substances in and from the area of the Hanford Site. In addition to its role as a trustee, DOE is the lead response agency for cleanup under CERCLA, and is also a potentially responsible party. Nothing in this MOA should be interpreted in a manner that conflicts with, hinders, or delays the cleanup process.

### **IV. BACKGROUND**

- A. The Hanford Site was established in 1943, originally as part of the Manhattan Project, for the primary purpose of producing plutonium for America's national defense.
- B. From 1944 through 1987, plutonium was produced at nine (now decommissioned) reactors located along the Columbia River, and processed at facilities located on Hanford's Central Plateau. During Hanford operations, hazardous substances – including metals, acids, radionuclides, and organic compounds – were released to the environment at hundreds of locations across the Hanford Site, resulting in widespread contamination of soil, the vadose zone, groundwater, and the Columbia River.
- C. In the late 1980s, the mission of the Hanford Site shifted from production to environmental cleanup. Four Hanford units (100, 200, 300 and 1100 Areas) were added to the National Priorities List under the Superfund law in 1988. A year later, DOE, the US

Environmental Protection Agency, and the Washington Department of Ecology signed the Hanford Federal Facility Agreement and Consent Order (better known as the Tri-Party Agreement, or TPA). The TPA provides a framework, process and schedule for conducting cleanup of the Site and for regulatory oversight of that cleanup, under both CERCLA and the Resource Conservation and Recovery Act (RCRA).

- D. To facilitate cooperation and coordination, the Parties established the Hanford Natural Resources Trustee Council pursuant to the original MOA in 1996. Under the 1996 MOA, the primary focus of the Trustee Council was to provide technical guidance to DOE regarding cleanup without express consideration of natural resources damages assessment processes. In 2007, two Trustees (Yakama Nation and CTUIR) each individually issued a Pre-Assessment Screen (PAS). Each PAS determined that a damage assessment was warranted. In 2007, following an agreement among Federal Trustees that it was appropriate to proceed with a collaborative NRDA at the Hanford Site, the Council began a damage assessment process based substantially on DOI NRDA regulations.

## **V. DEFINITIONS**

Unless otherwise expressly provided in this Agreement, terms used in this MOA shall have the meanings assigned to them in CERCLA, as well as in applicable regulations issued under CERCLA. Whenever terms listed below are used in this MOA, the following definitions apply:

- A. "Trustees" means all of the Parties to this MOA.
- B. "Senior Trustee Member" means the representative for each Trustee that makes policy level decisions, oversees their Technical Trustee Member and resolves disagreements.
- C. "Technical Trustee Member" means the representative that develops technical approaches for injury assessment studies and restoration projects, makes policy level recommendations to the Senior Trustees Member and implements the decisions made by the Senior Trustee Members.

## **VI. OBJECTIVES AND ACTIVITIES**

The general objectives of the Trustee Council are as follows:

- A. To cooperatively perform a natural resource damages assessment and natural resource restoration process in such a manner as the Council shall decide in accordance with Section VII., Meetings and Decision Making;
- B. To provide cooperative and cost-effective solutions to common assessment and restoration issues;

- C. To the extent practicable, to integrate and coordinate the cleanup process and natural resource damage assessment and restoration processes consistent with regulatory guidance; and
- D. To develop annual budget recommendations necessary to fund consensus Council activities for consideration in DOE's budget process.

Additional objectives may be established by agreement of the Trustee Council.

## **VII. MEETINGS AND DECISION MAKING**

The Trustee Council comprises Senior Trustee Members and Technical Trustee Members. Senior Trustees and Technical Trustees may meet as often as each group respectively determines is necessary. Each Trustee will formally designate its Senior and Technical Trustee Members. Any changes to the Senior or Technical Trustee Members designation will be made in writing by the signatories to this MOA. DOE will maintain a list of the designated members.

The work of the Trustee Council is intended as a cooperative effort to achieve the common goals of the Trustees. Therefore, all formal decisions made by the Trustee Council shall be by consensus. Consensus agreement on a Trustee Council decision is reached if, as a matter of record, all voting members agree to or do not object to, the proposed decision. Any voting member may abstain from a particular decision as a matter of record. A voting member's abstention shall not preclude an effective consensus on the proposed decision. The Trustees have adopted by-laws. The Trustees may adopt, and amend from time to time, by-laws or similar agreements concerning Council operations, including specifying processes for arriving at a consensus agreement.

In the event consensus cannot be reached by the Technical Trustee Members, the matter in dispute will be presented to the Senior Trustee Members for resolution. Between meetings the Senior Trustee Members will coordinate with each other and with their leaders so decisions can be made at the meetings. The Senior Trustee Members will conduct good faith discussions directed toward obtaining consensus. If consensus cannot be reached by Senior Trustee Members, the issue may be presented to higher level officials of the Trustees for resolution. The Trustees may adopt further procedures for resolving disputed matters.

If consensus is not reached, no Trustee or Trustees will be precluded from taking individual positions or actions on its or their own behalf, but such individual positions or actions shall not be presented as the positions or actions of the Trustee Council.

## **VIII. MISCELLANEOUS PROVISIONS**

- A. Effective Date; Amendment and Termination. This agreement shall be effective when executed by all of the Trustees listed above and may not be amended except by written agreement of those Trustees. This Agreement shall continue in effect until termination by agreement of those Trustees. Any trustee may withdraw from the agreement with written notification to the other trustees. The withdrawal of any Trustee shall not affect the validity of the Agreement with respect to those remaining Trustees.
- B. Anti-Deficiency Act and Commitment of Resources. Nothing in the Agreement shall be construed as obligating the United States, the States, and the Tribes, their officers, agents or employees, to expend any funds in excess of appropriations authorized by law.
- C. Reservation of Rights. It is recognized that each Party to this agreement has and reserves all rights, powers and remedies now or hereafter existing at law or in equity, or by statute or otherwise, and that nothing in this Agreement waives or forecloses the exercise of any such rights, powers or remedies.
- D. This MOA is not intended to supersede or amend any agreement other than the original 1996 MOA.
- E. Subject to unanimous consent by the existing Parties, which consent shall not be withheld unreasonably, others who are trustees of natural resources that may have been injured by releases of hazardous substances may join the Trustee Council.

## **IX. SIGNATURES**

The U.S. Department of Energy hereby approves the Memorandum of Agreement among the Hanford Natural Resource Trustees.

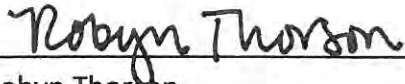
*Stacy Charboneau*

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Stacy Charboneau  
Manager, Richland Operations Office  
U.S. Department of Energy

*5/24/2016*

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Date Signed

The U.S. Department of the Interior hereby approves the Memorandum of Agreement among Hanford Natural Resource Trustees.

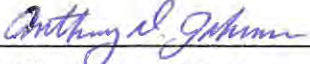


Robyn Thorson  
Authorized Official  
U.S. Department of the Interior

MAY 18 2016

Date Signed

The Nez Perce Tribe approves the Memorandum of Agreement among the Hanford Natural Resource Trustees.

  
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Anthony D. Johnson  
Chairman, Nez Perce Tribal Executive Committee  
Nez Perce Tribe

  
\_\_\_\_\_  
Date Signed



The State of Oregon hereby approves the Memorandum of Agreement among the Hanford Natural Resource Trustees.



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Michael Kaplan  
Director, Oregon Department of Energy  
State of Oregon

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Date Signed

The Confederated Tribes of the Umatilla Indian Reservation hereby approves the Memorandum of Agreement among the Hanford Natural Resource Trustees.

Gary Burke

Gary Burke

Chairman, Board of Trustees

Confederated Tribes of the Umatilla Indian Reservation

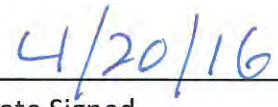
5-20-16

Date Signed

The State of Washington hereby approves the Memorandum of Agreement among the Hanford Natural Resource Trustees.



Maia Bellon  
Director, Department of Ecology  
State of Washington



Date Signed

The Confederated Tribes and Bands of the Yakama Nation hereby approve the Memorandum of Agreement among the Hanford Natural Resource Trustees.

  
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JoDe Goudy  
Chairman, Yakama Nation Tribal Council  
Confederated Tribes and Bands of the Yakama Nation

5/12/16  
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Date Signed

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