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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

HANFORD CHALLENGE, UNITED
ASSOCIATION OF PLUMBERS
AND STEAMFITTERS LOCAL
UNION 598, and THE STATE OF
WASHINGTON,

Plaintiffs,

v.

ERNEST MONIZ, in his official
capacity as Secretary, UNITED
STATES DEPARTMENT OF
ENERGY, and WASHINGTON
RIVER PROTECTIONS
SOLUTIONS, LLC.,

Defendants.

NO: 4:15-CV-5086-TOR

ORDER SETTING BRIEFING
SCHEDULE AND REGULATING
DEFENDANTS' ACTIONS IN THE
INTERIM

BEFORE THE COURT are the Defendants' Joint Motion to Establish
Briefing Schedule for Preliminary Injunction Motions (ECF No. 98) and Motion to
Expedite (ECF No. 99). A telephonic hearing was held on August 2, 2016.
Richard A. Smith, Blythe H. Chandler, and Meredith A. Crafton appeared on

1 behalf of Plaintiffs Hanford Challenge and United Association of Plumbers and
2 Steamfitters Local Union 598. John A. Level and Thomas J. Young appeared on
3 behalf of the State of Washington. Elizabeth B. Dawson and Sheila Baynes
4 appeared on behalf of the Department of Energy. J. Chad Mitchell appeared on
5 behalf of Defendant Washington River Protection Solutions, LLC. The Court has
6 reviewed the motions and the complete file, heard from counsel and finds that
7 good cause exists to grant, in part, the relief requested.

8 Accordingly, **IT IS HEREBY ORDERED:**

9 A. The Court establishes the following briefing schedule:

- 10 1. Defendants' Responses to Plaintiffs' Motions for Preliminary
11 Injunction are due on or before **September 23, 2016;**
- 12 2. Plaintiffs' Replies are due on or before **October 5, 2016;** and
- 13 3. A hearing on Motions for Preliminary Injunction is set for **October**
14 **12, 2016 at 9:00 a.m.** in Spokane, Washington.¹

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18 ¹ Defendants' anticipated motion for judgment on the pleadings shall be filed in
19 accordance with the Amended Bench Trial Scheduling Order and noted for hearing
20 according to the Local Rules.

1 B. In consideration for extended time to respond to the Motions for Preliminary
2 Injunction (ECF Nos. 48, 74), Defendants have proposed the imposition of the
3 following voluntary restraints. The Court accepts Defendants' offer. Until
4 November 24, 2016, or until this Court rules on Plaintiffs' Motions for Preliminary
5 Injunction, whichever is earlier, the Defendants shall do the following:

6 1. As a result of action taken on July 11, 2016, by the Hanford
7 Atomic Metal Trades Council ("HAMTC"), a labor organization composed
8 of various unions working at Hanford, including Plaintiff Local Union 598,
9 the current status quo includes mandatory use of supplied air within the
10 perimeter fence lines of both single- and double-shell tank farms, except
11 where the use of supplied air introduces a greater safety hazard than
12 potential exposure to chemical vapors. DOE and WRPS will maintain the
13 use of supplied air within the perimeter fence lines of all tank farms,
14 including double shell tank farms. The use of supplied air will be limited
15 within these areas only when such use introduces a greater safety hazard
16 than potential exposure to chemical vapors (e.g., work in an arc flash
17 boundary or elevated work on ladders), as determined and documented
18 pursuant to WRPS's Alternative Respiratory Protection Authorization
19 ("ARPA") process. Use of supplied air will be maintained on this basis until
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1 the Court rules on the preliminary injunction motions or until November 24,
2 2016, whichever is earlier.

3 2. Until the Court rules on the preliminary injunction motions or
4 until November 24, 2016, whichever is earlier, no waste-disturbing activities
5 will occur in tank farms except as strictly needed for nuclear safety, pursuant
6 to DOE's authority under the Atomic Energy Act, 42 U.S.C. §§ 2011-2259,
7 and its implementing regulations.² Defendants do not currently anticipate
8 conducting waste-disturbing activities under this exception, which if invoked
9 will be limited to time-critical situations necessary to ensure the safety of

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11 ²For purposes of this Order, "waste-disturbing activities" include activities that
12 materially alter the concentrations of the tank headspace gases and vapors, such as
13 the sluicing of waste in the tanks so that the waste can be pumped out, waste
14 retrieval activities (the pumping of waste from one tank to another tank) and
15 evaporator campaigns (which involve the transfer of waste between tanks and the
16 evaporator, in order to reduce the amount of liquid from the tanks). "Waste-
17 disturbing activities" do not include, for example, general maintenance of
18 monitoring and leak detection system equipment (e.g., ENRAFs), pump pulls or
19 equipment replacement, or chemical or water additions necessary to maintain
20 proper tank chemistry.

1 workers, the environment, and/or the facility. If this exception is invoked,
2 the R.J. Lee Group mobile lab will be deployed to areas where waste-
3 disturbing activities occur if the mobile lab is available and such deployment
4 is both safe and practical; in addition, DOE or WRPS will notify Plaintiffs
5 24 hours prior to conducting waste disturbing-activities and, where such
6 notification is not possible, DOE or WRPS will notify Plaintiffs no later than
7 24 hours following the conclusion of such waste-disturbing activities. Also
8 during this time, WRPS will test the extended reach sluicers (“ERSS”) in
9 tank 241-AY-102 using water. The ERSS testing is needed in order for
10 DOE to comply with a settlement agreement entered into with the State, and
11 is not a waste transfer or retrieval operation, but rather an operational
12 readiness testing required prior to commencing retrieval activities. During
13 the ERSS testing and in the event of any unplanned waste disturbing
14 activities needed for nuclear safety, WRPS, in consultation with DOE, will
15 take reasonable steps to allow only those personnel essential to address the
16 ERSS testing or the safety matter to access the area where the waste-
17 disturbing activities occur. For purposes of this agreement, “waste-
18 disturbing activities” do not include testing of ERSS referenced above, but
19 such activities are considered “waste-disturbing activities” in the context of
20 relief on the Preliminary Injunction motion; and

1 3. By August 15, 2016, the following vapor monitoring and
2 detection equipment will be deployed for ongoing pilot-scale testing in both
3 AP Farm and A Farm, although not every item listed below will be deployed
4 at both AP and A Farms. For such equipment that has alarm capability, that
5 capability will be activated during the testing process to sound remotely (and
6 the appropriate notification given to people on the ground or at risk):

- 7 a. Safer System (data collection, monitoring, dispersion-modeling),
8 b. Meteorological Station (weather station/meteorological data),
9 c. Auto Samplers (area/stack samplers),
10 d. Gastronics Fixed Instrument Skid (direct reading instrument),
11 e. AreaRAE (direct reading instrument),
12 f. RAE Meshguard (direct reading instrument),
13 g. OP-FTIR (spectrometry),
14 h. UV-FTIR (spectrometry),
15 i. UV-DOAS (spectrometry),
16 j. Fixed FLIR (optical gas imaging), and
17 k. Opportunistic Testing (personal direct reading instruments; GPS).

18 The District Court Executive is hereby directed to enter this Order and
19 furnish copies to counsel.

20 **DATED** August 3, 2016.



Thomas O. Rice
THOMAS O. RICE
Chief United States District Judge