

Questions and Issues Related to the Amendment to Order on Consent

DTSC recently posted on its website an “Amendment to Order on Consent” requiring removal of eight remaining DOE-owned buildings at SSFL, https://dtsc.ca.gov/wp-content/uploads/sites/31/SSFL/2020.10.30_Signed-EETEC-Amendment-to-Order.pdf and plans to hold a virtual meeting on November 19, 2020.

DTSC and DOE commit to dispose of all building debris from the remaining non-RMHF buildings to a licensed low-level radioactive waste (LLRW) disposal facility (potentially EnergySolutions in Clive, Utah).

Please plan on addressing the following questions/issues in your presentation.

1. Why is DTSC hosting this meeting? DOE owns these buildings. Why is DOE and its contractor, North Wind, who will be performing/subcontracting the demolition, not hosting this meeting, or at least present to answer questions? The same question goes for the RMHF demolition meeting on June 11 of this year.
2. Petitioners lost the 2013 Building Demolition lawsuit (Case No.: 34-2013-80001589) in 2018 (though the case is still under appeal). As part of DTSC’s defense, it correctly stated that Boeing did not require DTSC’s “approval” to demolish Boeing-owned buildings. Consequently, why does DOE need DTSC’s “Amendment to Order on Consent” or approval to demolish non-RCRA DOE-owned buildings?
3. The SNAP reactor buildings, 4024, was scheduled for imminent demolition commencing June 2007, thirteen years ago. Then, following DOE’s loss in the NRDC/CBG/LA lawsuit (Case No.: C-04-04448 SC), DTSC directed DOE to stop all D&D work, including demolition of 4024. A later determination was made by DTSC in 2011 that demolition could, in fact, proceed. Why has DTSC waited a further nine years for this Amended Order on Consent to permit demolition?
4. Notwithstanding inter-agency agreement (see below) that buildings 4019, 4029 and 4133 have met federal and State decommissioning/cleanup standards, the DTSC has apparently succeeded in persuading the DOE into agreeing to dispose of building debris from these released facilities (defined as decommissioned material) to a licensed low-level radioactive waste disposal facility.
 - a. 4029 was released for unrestricted use by DOE after surveys by Boeing, the California DHS (now DPH), and the Oak Ridge Institute for Science and Education (ORISE).
https://www.etec.energy.gov/Operations/Support_Ops/Rad_Measurement.php
 - b. 4019 was released for unrestricted use by DOE after surveys by Boeing, the California DHS (now DPH), and ORISE.
https://www.etec.energy.gov/Operations/Major_Operations/SNAP.php

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- c. Although 4133 was not a radiological facility, 4133 was surveyed by Boeing, the California DHS (now DPH), and ORISE. Both organizations determined that the facility met federal guidelines for release for unrestricted use.
<https://www.etec.energy.gov/Operations/Sodium/HWMF.php>
 - d. Subsequently, the USEPA surveyed 4029 and 4019 (among others) and agreed that both facilities were suitable for unrestricted use.
https://www.etec.energy.gov/Library/Cleanup_and_Characterization/EPA_Building_Survey_Letter.pdf
5. Furthermore, the Amendment to Order on Consent also commits to dispose of all material from the acknowledged non-radiological buildings, 4038, 4057, 4462 and 4463 to a licensed LLRW disposal facility. This is being done for quote, “out of an abundance of caution.” Can DTSC explain the scientific or regulatory basis for “abundance of caution?” DTSC and DOE state that debris from these non-radiological buildings will meet the LLRW disposal facility’s WAC (waste acceptance criteria). This may be problematic as LLRW facilities are permitted to accept only LLRW but not non-LLRW. Furthermore, the EnergySolutions LLRW disposal facility will require a completed “Radioactive Waste Profile” form, a radioactive waste certification, and NRC Form 540/541 “Uniform Low-Level Radioactive Waste Manifest.” These forms will be difficult to complete for non-radioactive waste. It is doubtful that EnergySolutions will accept large quantities of non-radioactive waste simply based on “an abundance of caution.”
6. The Amendment to Order on Consent has numerous major implications.
 - a. It undermines the federal process of decontamination/decommissioning (D&D), meeting cleanup standards and release from radiological controls ([https://www.etec.energy.gov/Library/Main/Doc. No. 29 Radiological Release of Land and Facilities Process prepared by Boeing.pdf](https://www.etec.energy.gov/Library/Main/Doc.No.29RadiologicalReleaseofLandandFacilitiesProcesspreparedbyBoeing.pdf)). If debris from released facilities is to be sent to LLRW disposal sites, why spend tax dollars in decontamination, surveying, and decommissioning? It is a wasted effort.
 - b. It tells the public that DTSC and DOE have no faith in the decommissioning process.
 - c. It tells the public that DOE is incapable of verifying the radiological cleanliness of materials.
 - d. It implements the 2002 California Senate Bill 1970 (Romero) that was vetoed by Governor Gray Davis. SB 1970 attempted to require decommissioned material to be disposed of to a licensed LLRW disposal facility. As a compromise, Governor Davis issued Executive Order D-62-02.

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- e. It is inconsistent with the 2002 California Executive Order D-62-02 which imposed an explicit moratorium on disposal of decommissioned material to Class III or unclassified waste disposal sites, yet implicitly permitted decommissioned material to be shipped to Class I hazardous waste facilities. The Executive Order did not require decommissioned material to be disposed of to a licensed LLRW disposal site.
- f. It violates DOE's waste minimization policy.
- g. It reduces EnergySolutions available space for real LLRW and violates its mission objectives.
- h. It is inconsistent with DOE's building demolition waste disposal options in its Final EIS (Chapter 2, Alternatives, Table 2-7, page 2-58). Specifically, footnotes (b and (c) state that debris from buildings 4038, 4057, 4662 and 4463 is non-LLRW, and debris from former radiological buildings that has been demonstrated to be suitable for free release (unrestricted use) is non-LLRW.
- i. It is inconsistent with the DTSC's waste disposal options in its own Draft Program EIR (Table 3-12, page 3-72) where it identifies 4019 debris as decommissioned material and not LLRW. Buildings 4038, 4057, 4462 and 4463 are identified as not destined for LLRW disposal facilities.
- j. It undermines DTSC's and Boeing's successful and cooperative Building Demolition Program of 2009-2013.
- k. It has played an end-run around the successful defeat of the 2013 Building Demolition lawsuit (Case No.: 34-2013-80001589).
- l. It sets a bad precedent for the numerous decommissioning activities that DOE is conducting across the US.