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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

JAN 09 1986

NOTE TO: The File

FROM: Alma Hale, Project Manager
State/Tribal Participation

SUBJECT: TRIP REPORT CONCERNING COUNCIL OF ENERGY RESOURCE TRIBES FALL CONFERENCE, NOVEMBER 17-19, 1986, DENVER, CO

The Council of Energy Resource Tribes (CERT) held their annual Fall Conference at the Doubletree Hotel in Denver, CO from Monday, November 17 through Wednesday, November 19, 1986. CERT is a non-profit corporation formed in 1975 when 25 Indian Tribes joined together to address the uses and development of Tribal land energy resources such as coal, oil, natural gas and uranium. With a full-time staff of 40 in Denver, CERT has a present membership of 42 Tribes, provides services to other non-member Tribes on a contractual basis, and is the primary contractor for the Nez Perce Tribe in Idaho.

Monday, November 17, 1986

Joe Bunting and I attended the Environmental Policy Forum conducted by representatives from the Environmental Protection Agency's (EPA) Region VIII office. EPA Headquarters staff were also present. Presentation topics included groundwater/mining waste, acid rain, solid and hazardous waste, drinking water and pesticides. Of particular interest was a discussion on the recent amendments to the Safe Drinking Water Act (SWDA) (June 19, 1986). Two new programs are to be administered under the SWDA: (1) Wellhead Protection, and (2) Sole Source Aquifer Demonstration Program.

Wellhead Protection Program: This program is to be run by the States (and possibly the Tribes) and they must submit a program application to EPA by June 1989. EPA is required to issue guidance indicating the radius of influence around the wellhead and other definitional issues. Thus, the program has a three-year development period and a two-year implementation period. According to the forum, Federal Agencies must comply with the State Wellhead protection program when thay are implemented, but the President can exempt a source if it is "in the national interest" to do so. The implementation of this program in Washington State could significantly affect DOE's consideration of Hanford as a repository.

Sole Source Aquifer Demonstration Program: Federal funds will be available to support a demonstration program to show how a critical sole source aquifer (SSA) can be protected. EPA expects to publish criteria for SSA designation in Summer 1987. Those states applying for Critical Aquifer Protection Area (CAPA) funds under SSA must have jurisdictional control over the aquifer.

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Tuesday, November 18, 1986

During the morning session, the Nuclear Waste Subcommittee held an informal meeting, chaired by Delco White, Nez Perce. Others attending were Ron Halfmoon (Nez Perce), Ken Hall (Umatilla), Wilfred Scott (Nez Perce), Russell Jim (Yakima), Priscilla Attean (Penobscot), Kevin Gover (Nez Perce attorney), Dan Hester (Umatilla attorney), Bill Burke (Umatilla) and Bob Siek (CERT). Various nuclear waste topics of interest were informally discussed. Kevin Gover mentioned that DOE was under pressure from Congress to pursue Consultation and Cooperation (C&C) Agreements with States and Tribes; approximately $79 million of DOE's budget request is contingent upon a good faith attempt on the part of DOE to attain C&C agreements. Ron Halfmoon discussed the strong possibility that the NWPA would be opened up for amendment this year and that the Tribes should be ready with a list of changes to the NWPA if and when it is reopened for amendment. Kevin Gover also pointed out that there is a significant potential legal problem concerning who actually owns the Nevada site, but he did not elaborate. He also said that Nevada is developing a list of approximately 40 statutes that DOE must comply with during site characterization.

The CERT Conference Opening General Session, which convened in the afternoon, was highlighted by addresses given by CERT Executive Director David Lester, Michael Callihan, Colorado Lt.Governor-elect, Ben Nighthorse Campbell, Congressman-elect from Colorado's Third Congressional District, and Ross Swimmer, Assistant Secretary for Indian Affairs, Department of Interior. Secretary Swimmer emphasized that, as the Indian tribes progress toward self-determination and governance as a result of Reagan's 1983 Indian Policy, the role of the BIA will become less and less intrusive as the Tribes assume more responsibility.

Following the Opening General Session were concurrent Roundtable Sessions, one of which dealt with "Environmental: The Reality for Indian Lands." Anne Miller of the Office of Federal Activities, EPA, discussed the status and progress of EPA's Indian Policy, which has three main goals: (1) to assist Tribes in directing environmental protection, (2) to develop an institutional framework for Tribes to control their own environmental programs on the reservations, and (3) to amend statutes to facilitate working with Tribes. Many Tribal leaders commented on the difficulty of obtaining federal/state funds for environmental clean-up programs on the reservations. This problem seems to stem from the fact that Tribes were scarcely if at all mentioned in previous environmental legislation. Ms. Miller emphasized the recent efforts in the Safe Water Drinking Act (SWDA) and the Clean Water Act of including specific references to Tribal participation.

Wednesday, November 19, 1986

In a continuation of the previous day's concurrent Roundtable Sessions, several diverse presentations were delivered for discussion. William Bettenberg, Director of Minerals Management Service (MMS) of the Department of Interior, discussed the role of the MMS in Indian Royalty Management, and Emerson Lomaquahu, Director of the Drinking Water Program of EPA Region VIII, discussed the implementation of the SWDA, which contains an Indian primacy amendment. He emphasized that when EPA delegates the SWDA program responsibility to the States and/or Tribes, EPA expects the S/T to be responsible for the enforcement of the program.

The afternoon session concerning "Federal/Tribal Relations: Toward Reconciliation" was highlighted by an address by Wilma Mankiller, Principal Chief of the Cherokee Nation of Oklahoma, and by Ross Swimmer, Secretary of the BIA. Addressing "The Changing Nature of the Trust Relationship", Ms. Mankiller emphasized that, in view of the Tribal goal of self-determination and self-government, the Indians must overcome the perception that the Tribes must be dependent on the federal government for Tribal survival. In his concluding remarks, Sec. Swimmer discussed how the Tribes historically became subservient to the U.S. Government through treaties and agreements, and now, as a result of Reagan's Indian Policy of Tribal self-determination, the Tribes must work together to become more independent from government oversight.

Alma Hale

Alma Hale, Project Manager
State/Tribal Participation
Policy and Program Control Branch

cc: R. Browning

NOTE TO: Those on Attached List

FROM: Alma Hale, Project Manager
STate/Tribal Participation

SUBJECT: BWIP-RELATED INFORMATION

The attached information is provided FYI.

Thanks,

Alma

Alma

Attachment
As stated

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