

October 22, 2003

The Honorable Joseph Saulque, Chairman
Benton Paiute Indian Tribe
567 Yellow Jacket Road
Benton, CA 93512

Dear Mr. Chairman:

At the Government-to-Government interaction in late September of 2001, I had the privilege of meeting with a number of Tribal leaders and community members with an interest in the possible siting of a high-level radioactive waste (HLW) geologic repository at Yucca Mountain. All of us who participated for the U.S. Nuclear Regulatory Commission (NRC) found the meeting productive and a valuable learning experience.

Besides being an important first step in a continuing dialogue with Tribal Governments, the meeting produced a list of Tribal issues and concerns and a list of specific Tribal requests for NRC to consider. I felt it was important that we keep you updated on our progress in this area. In furtherance of the commitments made at the September 2001 meeting, we have addressed or responded to a number of these items. I am enclosing, with this letter a summary of how NRC has addressed each item and its current status.

One of the requests made at the September 2001 meeting was for NRC to develop a high-level-waste concepts workshop for the Tribes. Such a workshop would explain, in plain language, the scientific and technical issues surrounding the consideration of Yucca Mountain as a location for a potential geologic repository for disposal of HLW. I am pleased that NRC is holding a workshop to discuss the scientific and technical issues, and has invited representatives of your Tribe to this workshop, which will take place on October 28-29, 2003. The workshop will be held at the Alexis Park Hotel in Las Vegas, Nevada. Information on this workshop has been sent to you under separate cover. We hope you or your representative will be able to attend.

If you have questions or information that you want to relay to us, the primary staff contacts for this workshop are Mr. Osiris Siurano-Perez (301-415-2307) in NRC's Office of State and Tribal Programs, and Ms. Tamara Bloomer, in the Division of Waste Management (301-415-6626). You can also reach them, as well, through NRC's toll-free number, at 1-800-368-5642.

The Honorable Joseph Saulque

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I want to express my continuing appreciation for your willingness to join us in discussion and for the thoughtful and considered suggestions that you provided on how NRC might more effectively carry out our responsibilities as an independent regulator. We look forward to continuing our dialogue with you and other Tribal leaders.

With best regards,

/RA/

Jeffrey S. Merrifield

Enclosure:

Summary of "Status of Tribal Requests from the September 26-27, 2001, Workshop"

The Honorable Joseph Saulque

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With best regards,

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Jeffrey S. Merrifield

Enclosure:

Summary of "Status of Tribal Requests from the September 26-27, 2001, Workshop"

See Attached: Identical Letters Sent To

This correspondence addresses policy issues previously resolved by the Commission, transmits factual information, or restates Commission policy.

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*See Previous Concurrence

OFC	HLWB	HLWB	HLWB	HLWB	OSTP	OGC	TECH ED
NAME	JKotra*:ijk	TBloomer*	NStablein*	JSchlueter*	PLohaus*	JMoore*	EKraus*
DATE	9/11/03	9/11/03	9/11/03	10/03/03	9/17/03	10/2/03	9/8/03

OFC	DWM	NMSS	DEDMRS	EDO	OCM	OCA
NAME	JGreeves*	MVirgilio*	CJPaperiello	WDTravers*	JMerrifield	
DATE	10/06/03	10/08/03	10/ /03	10/16/03	10/22/03	10/ /03

OFFICIAL RECORD COPY

Identical letters have been sent to the following:

<p>The Honorable Perline Thompson, Chairwoman Duckwater Shoshone Indian Tribe P.O. Box 140068 Duckwater, NV 89314</p>	<p>The Honorable Lora Tom, Chairwoman Paiute Indian Tribes of Utah 440 North Paiute Drive Cedar City, UT 84720</p>
<p>The Honorable Richard Arnold, Chairman Pahrump Paiute Tribe P.O. Box 3411 Pahrump, NV 89041</p>	<p>The Honorable Darryl Crawford, Chairman Inter-Tribal Council of Nevada P.O. Box 7440 Reno, NV 89510</p>
<p>The Honorable Doug Vega, Chairman Bishop Paiute Indian Tribe 50 Tusu Lane Bishop, CA 93514</p>	<p>Robert Holden, Director Nuclear Waste Program National Congress of American Indians 1301 Connecticut Avenue, NW Ste., 200 Washington, DC 20036</p>
<p>The Honorable Jessica Bacoeh, Chairwoman Big Pine Paiute Tribe of Owens Valley P.O. Box 700 Big Pine, CA 93513</p>	<p>The Honorable Edward (Tito) Smith, Chairman Chemehuevi Indian Tribe P.O. Box 1976 Havasu Lake, CA 92363</p>
<p>The Honorable Victoria Guzman, Chairwoman Walker River Paiute Indian Tribe P.O. Box 220 Schurz, NV 89427</p>	<p>The Honorable Carmen Bradley, Chairwoman Kaibab Band of Southern Paiutes JC 65, Box 2 Pipe Springs, AZ 86022</p>
<p>The Honorable Rachel Joseph, Chairwoman Lone Pine Paiute-Shoshone Tribe P.O. Box 848 Lone Pine, CA 89310</p>	<p>The Honorable Richard Wilder, Chairman Fort Independence Indian Tribe P.O. Box 67 Independence, CA 93545</p>
<p>The Honorable James W. Birchim, Chairman Yomba Shoshone Tribe HC 61, Box 6275 Austin, NV 89310</p>	<p>The Honorable Diana Buckner, Chairwoman Ely Shoshone Tribe 16 Shoshone Circle Ely, NV 89301</p>
<p>The Honorable Gloria Hernandez, Chairwoman Las Vegas Paiute Tribe One Paiute Drive Las Vegas, NV 89106</p>	<p>The Honorable Raymond Yowell, Chairman Western Shoshone National Council P.O. Box 210 Indian Springs, NV 89018</p>
<p>The Honorable Philbert Swain Moapa Paiute Indian Tribe P.O. Box 340 Moapa, NV 89025</p>	<p>The Honorable Jesse Leeds, Chairman Las Vegas Indian Center 2300 W Bonanza Road Las Vegas, NV 89106</p>
<p>The Honorable Daniel Eddy, Jr., Chairman Colorado River Indian Tribes Route 1 Box 23B Parker, AZ 85344</p>	<p>The Honorable Richard Boland, Chairman Timbisha Shoshone Tribe P.O. Box 206 Death Valley, CA 92328</p>

STATUS OF TRIBAL REQUESTS FROM THE SEPTEMBER 26-27, 2001, WORKSHOP

1. U.S. Nuclear Regulatory Commission (NRC) Staff should meet with (or write a letter to) the Department of Interior and inquire about the status of the petition, by Timbisha, on "affected tribe" (as defined under the Nuclear Waste Policy Act of 1982) status and what the process is to respond to the petitioners. **On December 11, 2001, Mr. C.W. (Bill) Reamer, then Chief of NRC's High-Level-Waste (HLW) Branch, and now Deputy Director of NRC's Division of Waste Management, met with Mr. Stephen Simpson, Department of Interior responsible for addressing the petition. Mr. Reamer inquired about the schedule for prompt resolution of this request. In May 2002, NRC staff called Mr. Simpson and learned that Mr. Simpson had been in contact with representatives of the Timbisha Shoshone with regard to the petition. To our knowledge, the U.S. Department of Interior has not acted on the petition.**
2. NRC should request U.S. Department of Energy (DOE) to extend its comment period on site suitability. **While NRC was considering the request, DOE extended the comment period.**
3. NRC should send a letter to DOE suggesting that they finalize the siting guidelines before site recommendation. **Final DOE siting guidelines were published in January 2002, before the DOE recommendation of the Yucca Mountain site for development as a geologic repository in February 2002.**
4. All the Tribes in attendance should be placed on the NRC HLW distribution lists. **Tribes were added to the lists as of October 5, 2001.**
5. NRC should establish a tribal contacts list for electronic distribution of NRC material including special issue information (licensing renewal, medical waste, etc.) **An electronic distribution Tribal contacts list server was established on October 10, 2001, is periodically updated, and is used to share information with Tribal representatives. Mr. Osiris Siurano is the NRC contact for the electronic distribution server.**
6. NRC should disseminate transportation information to all Tribes, not just the ones in attendance. **NRC's Office of State and Tribal Programs distributes information to other Tribal representatives through its Tribal contacts list server.**
7. NRC should add everyone to the distribution for the Private Fuel Storage Final Environmental Impact Statement (FEIS). **Tribes were added as of October 9, 2001.**
8. NRC needs to review and understand Tribal comments on DOE's draft and supplemental Environmental Impact Statement (EIS). **NRC reviewed Tribal comments and reexamined earlier NRC comments made to DOE in light of the Tribal concerns. DOE has indicated it will provide additional specificity with regard to transportation routes for waste to be disposed at Yucca Mountain.**

ENCLOSURE

9. NRC should make conservative judgments when deciding issues that directly impact Native Americans. **NRC's priorities are ensuring health and safety and protecting the environment. NRC's regulatory judgments and oversight programs, including those affecting a potential repository at Yucca Mountain, will continue to be guided by these priorities. No specific actions were taken in response to this request.**
10. NRC should urge DOE to provide specific transportation routes. **NRC's February 2002 comments on the DOE's FEIS noted that DOE indicated, and NRC expects, that DOE will provide more specific information on transportation routes, for waste to be disposed of at Yucca Mountain.**
11. A Government-to-Government meeting summary and action plan should be sent to everyone and be made public. **This action was taken October 31, 2001.**
12. NRC should provide a period for public comment on NRC's adoption of DOE's Environmental Impact Statement (EIS). **Under NRC regulations, members of the public who would like to participate in the adjudicatory proceeding on the DOE license application will be provided with a 30-day opportunity to file a petition to intervene, including contentions asserting that adoption is not practicable.**
13. NRC should assist the Native American Governments in acquiring newer computers to be used to access information related to HLW. **NRC's Office of Administration has provided direct assistance to the Office of State and Tribal Programs in responding to Tribal representative's requests for assistance in acquiring computers. On June 6, 2002, a communication was sent to Tribes with an offer to provide computers. Three Tribes responded to our offer. Two computers were shipped on August 12, 2002, and October 8, 2002 respectively. The third computer is being held (upon the Tribe's request) until internal Tribal issues are addressed.**
14. NRC should begin work on future meetings with Native Americans both individual Tribal Governments and Collective Tribal Governments. **Tribal leaders are notified of all public NRC meetings concerning Yucca Mountain. NRC staff has responded to specific requests from Tribal representatives for information on NRC's program and meetings with NRC officials. Also, Tribal representatives have been invited to participate in NRC-sponsored meetings, such as those held in Nevada and elsewhere, on NRC's Package Performance Study and the Licensing Support Network Advisory Review Panel.**
15. NRC should consider sponsoring (including travel funds) Tribal representatives to attend the National State Liaison Officers meeting. **NRC will consider funding Tribal attendance at the National State Liaison Officers meeting tentatively scheduled for early 2005.**
16. NRC should take action to ensure that DOE complies with, and provides access to, and protection of, cultural and religious sites. NRC needs to identify how this is done in relation to the potential license. **NRC's regulations at 10 CFR Part 63 require that DOE provide information to NRC on its plans, if any, for site access for activities, other than those directly related to waste disposal. DOE must also include an analysis of the effects, if any, on the disposal operations. Information on how NRC will review a potential license application, with respect to site access, appears in NRC's Draft**

Yucca Mountain Review Plan (NUREG-1804), copies of which were provided to all attendees at the September 2001 workshop. The Final Yucca Mountain Review Plan was issued in July 2003 and copies were distributed to the Tribes.

17. A consultation (or protocol) agreement between NRC and Native American Tribes should be explored. **The Commission does not believe that such an agreement is necessary at this time. NRC will continue to address Native American issues on a case-by-case basis, operating with Tribes on a Government-to-Government basis.**
18. NRC should seek Tribal assistance in understanding cultural resource implications. **The staff welcomes opportunities to understand cultural resource issues and looks forward to exploring these subjects further with the Tribes.**
19. NRC should explore developing a HLW concept workshop for Tribes. Such a workshop would explain, in plain language, the scientific and technical issues surrounding the consideration of Yucca Mountain as a location for a potential geologic repository for disposal of high-level radioactive wastes. **The NRC Staff developed and shared an annotated outline for a HLW workshop with Tribal representatives. Tribes generally agreed with the proposed content and expressed continued interest in attending such a workshop. The workshop will be held on October 28-29, 2003, in Las Vegas, Nevada. All participants in the September 2001 workshop are invited to send representatives.**