



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

MINNEAPOLIS AREA OFFICE
331 SOUTH 2ND AVENUE
MINNEAPOLIS, MINNESOTA 55401-2241



IN REPLY REFER TO:

Environmental Services

AUG 07 1996

James Taylor
Executive Director For Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20046-0001

Dear James Taylor:

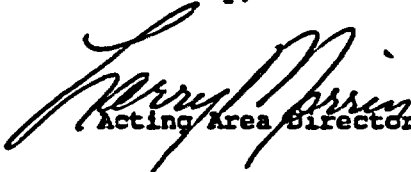
On May 23, 1996, the most recent meeting occurred of the parties involved with the Memorandum of Understanding (MOU) concerning the environmental health of the Prairie Island Dakota Community (Community). Minutes from the meeting are enclosed for your review and follow-up action.

The next MOU meeting that was originally scheduled for Thursday, August 22, 1996, has been postponed indefinitely. The Community Council has decided to seek as many of the signatures on the MOU as is possible before scheduling the next meeting. We will notify you in writing when the next meeting has been scheduled, probably within the next three months.

Also, be aware that for the involved agencies who have not yet signed the MOU, we are scheduling meetings with regional administrators to discuss their signature of the MOU.

If there are questions, the contact is Herb Nelson, Environmental Services, at telephone: 612-373-1143 and FAX: 612-373-1186 or Heather Westra from the Community Environmental Services, at 1-800-554-5473.

Sincerely,


Acting Area Director

Enclosures

ATTACHMENT 3

POSTPONED

AGENDA

Meeting For Memorandum of Understanding

August 22, 1996
at the Prairie Island Community Center

9:00 AM	Opening Prayer/Invocation - Curtis Campbell, Sr. President, Tribal Council
9:15 AM	Welcome and Introductions
9:30 AM	Purpose of Meeting - Robert Grey Eagle
9:45 AM	Signing Ceremony - Curtis Campbell, Sr.
10:00 AM	ATSDR - Linda Wright Health/Risk Assessments
11:00 AM	Break
11:15 AM	DOE - Compliance With Nuclear Waste Policy Act
12:00 AM	Lunch
1:00 PM	FEMA - Emergency Planning - Update on Tribal Interface Larry Bailey
1:45 PM	IHS - Wayne Potter IHS Work Plan Status
2:30 PM	Natural and Cultural Resources Archaeological Survey Richard Berg, BIA Area Archaeologist
3:00 PM	Break
3:15 PM	Summary and Wrap-Up Follow-Up Actions Next MOU Meeting
	Adjourn

**MOU MEETING
TRIBAL COUNCIL MINUTES
PRAIRIE ISLAND INDIAN COMMUNITY
COUNCIL CHAMBERS
MAY 23, 1996**

Council Members Present: Curtis Campbell, Sr., Darelynn Lehto, Byron White, Michael Childs, Sr., Alan Childs, Sr.

Council Members Absent: None

Others Present: Larry L. Bailey, Russ Bywater, Reta Childs, Tim Cowdery, Sue Ann Curtis, Mark Dellagatti, Eric Glatstein, Robert Grey Eagle, Don Hansen, Wendy Helgemo, Andrey Kohnen, Roland Lickus, Curt Meeder, Herb Nelson, Eric Pehle, Wayne Potter, Steven Ray, Lenor Scheffler, Heather Westra, Scott Yess and Charter School Teacher Jeanine Gregoire and students

I. Meeting Call to Order

Meeting called to order at 9:15 a.m.

II. Opening Prayer

Prayer led by Curtis Campbell, Sr.

III. Introduction - Robert Grey Eagle

Robert Grey Eagle stated that the federal agencies' representatives have been meeting semi-annually with the Prairie Island Indian Community. The budget cutting has handicapped some of the progress. Tribal Council is actively pursuing signatures on the MOU.

In response to visits to Senator Paul Wellstone's office, Senator Wellstone will be sending letters to the respective federal agencies. Darelynn Lehto and Alan Childs visited Vice President Al Gore and he was very impressed with the MOU and felt that the MOU could serve as a model for national reform.

The MOU is a model to resolve issues. If all agree on a common solution, we can come up with a better idea of what those trust obligations are. The issues are:

1. *The community's health, safety and financial well being due to NSP's proximity to Prairie Island.* Several mandates were issued by the state legislature that NSP had to put resources into wind and biomass energy development. Due to the legislative mandate to move the dry cask storage off of Prairie Island and somewhere else in Goodhue County we have third party standing. We did approach NSP and the state legislature with a win-win situation. Spent fuel storage is becoming a national and global phenomenon. Robert felt that we are the only tribe in such close proximity to nuclear storage. The federal government has a definite trust responsibility toward Indian tribes.
2. *Prairie Island wanting to relocate always brings up the idea that we have an ulterior motive.* Our community has to face the reality that they have to live next to nuclear storage. No one understood this until they were faced with the possibility of living next to nuclear storage in their community; we have lived with it twenty odd years. We have to think of a common goal and a common good. This Tribal Council has taken a lot of time and expense to try to deal with this issue. The whole island would not pick up and move, moving is a matter of choice. Prairie Island will always be here. This is the traditional home land of the Mdewakanton people. People will be given the choice to move if they would like. As we all know, Indian people have always been a communal people, a tribal people. The Tribal Council therefore decided that we would like a community established. There are expenses involved in relocating a portion of the community, so the expenses of obtaining land and relocating is sensible. Then everyone should contribute: NSP, state and federal agencies.

The MOU process is designed to cut across those barriers. Robert thanked everyone for being present and taking an interest based on their professional as well as their personal interest. He thanked Herb Nelson for spearheading the meeting. The BIA has been given a lot of the trust responsibility. This is the first time we have opened these meetings to the public and to the press.

IV. Herb Nelson

On behalf of the BIA, Herb Nelson verified Robert's statement that this is a federal trust responsibility. He stated that they want to try to work together. Herb requested that the agencies not wait until they have the original MOU, but to take the copy back and review it and then we can sign it in very short order. If anyone has any issues that they would like changed, we may be able to adjust some things, but we are not going to change the original intent.

V. Heather Westra - Video

Video of *Ally and Friends* was shown.

VI. Roland Lickus - Nuclear Regulatory Commission

Roland Lickus explained that the NRC has been cooperating with the tribe for the past one and one-half years and is fully committed to work with Prairie Island. He stated that they have declined the signing of the original MOU. The community asked if we would be willing to sign a more simplified version. These two issues are being pursued currently with staff in Washington, D.C.

VII. Mark Delligatti - Process for Licensing Independent Spent Fuel Storage Facility

The Spent Fuel Project Office was set up last year. Mark Delligatti stated that he had held a meeting for those who will be requesting licensing along with vendors for cask transportation. Prairie Island Nuclear Plant is one of the plants that he is responsible for. It is his agency's goal to have as much openness as possible and welcomed calls to his Washington, D.C. office. It is his job to protect the health and safety of our people.

The licensing process is new. Mark showed slides of existing dry cask storage sites and potential new sites. (Attachment A). Transportation casks will be licensed under 10 CFR Part 72. Thousands of shipments have gone across the country under these requirements. Mark discussed licensing requirements and procedures. The applicant would have to prove that there would be no harm to the surrounding community and that repairs could be made without incident.

Alan Childs, Sr., stated that there should be some preplanning for flooding, emergencies, etc.

Heather Westra asked about the difference between a site specific and a general license. Site specific license would be on site or away from reactor.

Herb Nelson commented how federal agencies are to work with the tribes. Tribes are not a member of the public, but separate government entities. A tribe can call a federal agency and request a private consultation. Mark stated he was very unfamiliar with the process and will work to change this.

Discussion was held on NSP requesting a second license and the fact that no other facility in the country has asked for a second license.

Heather asked if FEMA will have a role in reviewing this application. Darelynn Lehto questioned if any consideration has been done about a train derailment. Mark stated that they did not have an application from NSP yet. The commission does not consider dry cask storage a less safe storage of spent fuel. It still has to meet the requirements.

Byron asked that after all is said and done and an accident does happen what recourse would this tribe have against NSP, NRC and whomever? The recourse is the insurance that NSP would take out which would include any kind of act. The NRC could obtain figures of what the most serious accident would cost.

Darelynn Lehto asked about the safety of the dry casks and if they are sealed, how do they leak acceptable amounts of radiation and who determines the amount? They are sealed as far as gases, but gamma radiation can penetrate through metal.

The NRC will deal with regulatory issues, but for health issues the University of Minnesota should be contacted. Roland Lickus stated that they look at national and international standards.

VIII. Relocation update outcome of 1996 legislative session

The legislative session started out with a proposal between NSP and Prairie Island. Throughout the session, no one objected to Prairie Island receiving compensation and acquiring land. The governor wanted assurance that we would not expand gaming. Compensation amounts were debated: Should NSP contribute more or less than the state? It wasn't an outright no to the tribe. Issues came up as to acquiring the land. A case came out of South Dakota about Lower Brule trying to acquire land by Interstate 90, as to what ramifications there would be to the surrounding community. Before these lands were put in trust South Dakota sued the US government. They are currently contemplating an appeal to the United States Supreme Court. A number of theories have come out, some of the tribes don't want an appeal, as then it would affect all tribes. We are urging to appeal, otherwise we are stuck with a negative opinion. Indian tribes are tax exempt, but individual Indians may be taxed and are taxed. We believe there are remedies available, but will be discussing this with the Minneapolis office soon.

What are we going to do for the 1997 legislation? The legislative mandate to license an alternative dry cask storage site may not be followed. Frontenac sued on this basis, to prevent fuel being moved from Prairie Island. It was a premature issue, so the case was dismissed. If the actual steps were taken to move casks off Prairie Island then it would be considered a good case.

We want nuclear fuel off from Prairie Island. That is the whole basis of 1994 and 1996 but being realistic we had to play it safe. Land and compensation became an issue as some members feel that the spent rods may never be moved from Prairie Island. Apparently the Mescalero deal has failed and it is unknown if Yucca Mountain will ever become a reality. That leaves all nuclear plants using on site storage. The Minnesota Legislature has mandated that the spent fuel is to be moved. There should be safer sites than by a main waterway. There is no scientific or legal reason why the fuel cannot be moved. If we are stuck with it for one reason or another, we would expect that the land and compensation would become a reality. The debate was not rejected because they opposed compensation, but because of the question of who is to compensate and how. We believe it should be a shared responsibility.

The MOU is a blueprint plan for the future of our tribe. With Prairie Island being a treaty based tribe, there is a moral and federal responsibility. There is no apparent correlation between the 8th Circuit decision (on putting land into trust) and the tribe receiving land in this legislation. In other parts of the country, there has been a high degree of racism. We have overcome some of these by hiring lobbyists and creating good public relations to foster good relations. Other tribes should do the same. The unfortunate part about litigation is that what happens in one tribe, affects us all.

Emergency Operating procedures are in place to keep the core cool if generator tubes rupture. There are safety systems designed into the plant to make up for loss of power. Tubes are inspected regularly. If any problems, they end up either shutting down the plant or replacing the steam generators. We have technical specifications as to how many tubes can be plugged. They can carry both contaminated and clean water. The heat transfers from inside the tube to clean water on the outside of the tubes and the concern is then you have a path for the reactor water to get into the clean water. Heather Westra stated on the internet the regulatory commission showed the Prairie Island facility and never mentioned the Prairie Island Indian Community and requested that we be noted.

Lunch Break - 12:00 noon - 1:30 p.m.

IX. Litigation Support/Treaty Research

Herb Nelson stated that the tribe was awarded BIA treaty litigation funding to conduct historical and archival research to ascertain unlitigated claims under Mdewakanton treaties.

X. Project Update- Wendy Helgemo

Wendy Helgemo is conducting research and analyzing any claims under the Mdewakanton treaties of which we are a part; this will lead to a better understanding of unresolved treaty issues and what our boundaries are. Treaties are the superior of the land and violations of treaties are the same as federal law. At one time the Mdewakanton treaties and the resumption of fulfilling obligations under these treaties and lands were put into trust and that is how they were able to recoup some lands. She is continuing to research the abdication and resumption of these treaties and how to pursue regaining what we lost.

XI. Risk Assessment/Health ATSDR Health Assessment - Linda Wright

Heather spoke in Linda's place. Because of budget cuts Linda plans on coming later this summer to do health assessments and study environmental and health outcome data and community concerns about waste released into the environment, exposure through air, water, food, the harm or the toxicity and the proximity to a contaminated substance. She will be using radiological data that has already been collected. There will be a comparison of health issues as compared to the outside community.

We hope to have the Environmental Workshop before the end of the fiscal year. The Department of Energy thought they might be able to come up with some funding. The workshop would probably be for two days, geared to the lay person. Out of that we are hoping to develop some type of handbook for people to take with them for future reference. Roland Lickus would appreciate a letter on what they want him to cover and he would be happy to attend. All community members and students of Jeanine Gregoire would be able to attend and we hope to open it up to the Red Wing area. We hope to give information in an objective way so that they can form their own opinions.

Herb reported on the IHS Work Plan Sanitation Survey for water and sewer and environmental health and safety surveys to provide information to keep these facilities up to code. This will be on the agenda for the next meeting. Herb will bring copies.

XII. Radiological Monitoring

A basic background water quality assessment of ground water resources here is being done., concentrating on tritium in the water. Tritium is $3H$ Hydrogen with a half-life of 12.26 years. Water is composed of water and hydrogen (H_2O); water with tritium has one oxygen and one hydrogen and one tritium. Chemically, this can be taken into your body just like any other water. Radioactive means it is not a stable —tritium is a natural atom and in its natural form it is produced in the upper atmosphere when the cosmic rays hit a nitrogen atom; one part of the nitrogen atom becomes a natural atom. Half-life means that it naturally decays and half of what you have will be gone in 12.26 years. When tritium decays it turns into helium by gaining an electron and it gives off low-level radiation. If it is in the air, it can be stopped by clothing but it can get into the body through food or drinking water. We have been monitoring the tritium at 20 different ground water sites and seven surface water sites. Sample runs between the fall of 1994 and summer of 1995 range between 0 and 200 pic/L (picocuries per liter). If the tritium in the ground water is from water that fell in the 1960's, then you would have higher pic/L in the 1960's than now. There are ways to date water and it would be interesting to find out when this water fell as rain. No readings before 1994. The EPA drinking water standard for tritium is 20,000 picocuries/L. Levels here as much lower. We are trying to get a handle on how the ground water is flowing. If tritium is airborne, then it could also be in the food.

There have been no significant levels of tritium found in any of the fish that we have monitored. Fish were collected from Sturgeon Lake and around the plant. We will be doing this again in June and will do it for a number of years. The EPA gave an explanation: The 20,000 picocuries = 4 milligrams of tritium. You would get 4/250,000 of a dose if you drank 2 liters of water containing 20,000 picocuries. A radiation dose is a uniform way to describe biological responses to what people have in correspondence to their body. Any amount of radiation has a quantifying risk to it. The EPA sets a standard that they find is acceptable and 20,000 pic/L is considered an acceptable risk.

There are risks associated with everything. How can we measure if it is hurting us on the island? We find the aggregate total of all of these things: Tritium, alpha rays, beta rays, etc. These are normal standards and then you add living next to the plant to find the risk over a life time. If the total amount is over the set standard then we have a regulatory issue

If we had a catastrophic discharge then there would be an emergency response. Roland said that history has shown us that none of the plants have even come near the limit. If anyone would fudge the records they would be in trouble with the NRC. Water testing data from before the plant is available in the public document room at the Minneapolis Public Library. The last two years we have been doing the fish survey, mercury and PCB's are a bigger issue than tritium. Several of the popular fish species contain PCB's in tissue. It's safe to go fishing, but not to eat the fish. Heather will be sent hints on proper preparation when cooking to avoid as much of the contaminants as possible. Hydrologic events such as a flood could stir things up and could change the findings. Since the 1970's things have gotten better.

The human body does not accumulate tritium. If it is in water it gets rid of it in a matter of days, but if it is in food then the tritium could get into tissue. It was questioned if tritium levels are higher in other parts of the area. There could be a study done on turtles. There should be comparisons with other nuclear plants around the country.

Tritium has been used to distinguish age of water in the past 10 to 15 years. Low concentration came before the 1960's and high concentrations during the 1960's. Water before 1954 was 6 to 75 picocuries per liter. The water since 1960 is still around. The other phenomena is that we are upstream from the plant. Other types of media that might be sampled are vegetation sampling from gardens and possibly mother's milk if anyone is willing to supply samples.

Nick Owen stated, "I am a member of this community and I don't know how you can sit here and talk about this as it is not such a big thing when we can't eat our fish." The response was that they are trying to figure out what is acceptable, and the PCB's are caused by companies making things that we all use everyday.

Update on the Archaeologist Survey - Richard Berg will be here for the next meeting and will have some graphics and handouts. The trust acquisition is being held up because of the 8th Circuit decision. The tribe was awarded a grant to answer the question of how much land was lost, how many acres were lost, what resources were lost and if the tribe was compensated for this loss.

XIII. Heather - Wetlands Delineation and Assessment

Awarded \$14,500 in funds from BIA and will be matched by the U.S. Corps of Engineers. The Corps of Engineers will be starting work this summer and we will use information gathered in the environmental codes and ordinances.

Break

XIV. Emergency Planning

Offsite Emergency Planning - FEMA is responsible for emergency planning/coordination outside of the power plant boundaries. Because of 3 Mile Island we got involved in off-site emergency planning. Emergency Management is a 50-50 match program with the states. Federal dollars are also given to counties and larger cities on a 50-50 match. FEMA is starting performance partnership agreements, setting five year long term goals on emergency management. This is an attempt to sit down with state government to get a commitment on emergency management.

The MOU points out preparedness through training, periodic exercising, and evaluation of those activities. We have a response mechanism and a response plan. The whole federal community would come out and coordinate a response to the disaster. The recovery aspects are the long term follow up after the disaster. An active part of our agency it is to reduce damages in the future. This has been used mostly for flood plain ordinances. Funds available are block grants, land and conservation funds, FEMA funds and flood insurance claims. It would allow participation in the national flood insurance program with the understanding that all future construction would be out of the flood plain. This area is in the City of Red Wing and the last map did not have tribal areas identified but the new map will have the flood plain shown. Tribal Council could pass a resolution if you choose to join the flood insurance program. The rail corridor was mentioned in relation to the derailment in Wisconsin earlier in the year. There is an obvious need to promote hazardous materials emergency planning.

Some of the findings from the emergency preparedness exercise held last week were reviewed. There are 33 objectives to evaluate the offsite capabilities that surround a nuclear facility. There are periodic meetings with NSP and the counties to look at evacuation issues. There could be 4,000 to 5,000 people here on a busy night at the casino. This is a very serious issue and this was glossed over during the exercise. We will be willing to do anything we can do to help coordinate a realistic evacuation. For Goodhue County this was a planning issue and for Pierce County the bus drivers needed some training on evacuation issues.

XV. FEMA

We have entered into separate MOU's for Canada and for Mexico. It is not known whether FEMA will sign the MOU. If you wanted an emergency planner we could possibly share the cost with you. There is a structure in place at the state level and they are more than willing to assist you in the development of an emergency preparedness plan. We will continue to do whatever we can, including providing any more information on chemical stockpiling, emergency preparedness, flood insurance, etc.

It was brought up that FEMA seems reluctant to sign the MOU. Response was that maybe we would do a two party agreement or a performance partnership agreement like the states. A letter will be sent by Robert Grey Eagle to their office of general counsel, to review the MOU and to issue an opinion on this document. We could embark on signing the MOU with these other agencies.

Lylis suggested giving a little history of Prairie Island and why we can no longer eat the turtles, etc. Some individuals are new to this. Heather asked if we would have a chance to review the agreement and supply comments. FEMA stated that we haven't in the past. Heather stated that the other governmental units are reviewing this and it seems that Prairie Island government should be able to review also. There are meetings held by the plant but have never seen the county planning and would like the opportunity to review that. Counties and states do not have that same responsibility to consult with the tribe. Heather would like a copy of the county's plan.

Contaminated animals, people getting sick from the power plant and possibility of a rail disaster were discussed. It was brought up that there is only one exit from Prairie Island, that we would need some help getting out of here, that we may be statistically part of Red Wing, but we need our own plan. Our own security is one contact. Alan said our roads have been an issue forever. We get fire protection from Miesville, police from Red Wing, ambulance from Hastings or Red Wing. We need to be treated as an individual government.

Counties are leaving the tribes out. If FEMA would see that tribes are included would be helpful. The emergency preparedness plan was not in effect for us in 1993 when flooding occurred.

Robert Grey Eagle and Darelynn Lehto said it would be acceptable if we could do everything without signing the MOU.

We could draw something up that would be good for your community, direction, control, evacuation, etc. Evacuation on a busy night here does not happen in a few minutes. Jurisdiction seems to be an issue. We do want to see the evaluation of the exercise. We will get you a letter.

XVI. Wrap Up

The next MOU Meeting was scheduled for August 22, 1996 from 9:00 a.m. to 4:00 p.m.

Robert Grey Eagle stated that agency directors will receive some information.

Herb Nelson felt we accomplished a lot, discussed what trust is, the government to government concept. He thanked the other federal agencies for coming and participating. He stated that the agenda is not fixed in concrete and if someone sees something that should be addressed they should speak up so that it can get on the agenda for next time.

Darelynn Lehto thanked everyone for coming. The agencies that are responsible to us, you are here today because we take these issues seriously.

XVII. Adjournment

Meeting adjourned at 4:00 p.m.

Minutes respectfully submitted by
Eleanore Bartell, Executive Secretary
for the Tribal Council

MOU Meeting

1/14/93

<u>Name</u>	<u>Organization</u>	<u>Phone</u>
Herb Nelson	IBIA - Minneapolis	612-373-1431
LARRY L. Bailey	FELMA Region IV	312-408-5582
Eve Ann Curtis	Argonne / Reg II support	708-252-6927
Scott Yess	US Fish and Wildlife Ser.	608-783-8432
Eric Glatstein	U.S. Environ Prot Agency	312/846-5046
Curt Meeder	U.S. Army Corps of Engineers, St. Paul Bemidji Area Office	(612) 290-5400
Wayne Potter	Indian Health Service	(218) 759-3373
Don Hansen	U.S. Geological Survey	612-783-3250
TIM COWDERY	U.S. GEOLOGICAL SURVEY	612-783-3273
Curtis Campbell SR	Prairie Island Tribal Council	(612) 385-4100
DARELYNN LEHTO	VICE PRESIDENT - TRIBAL COUNCIL	(612) 385-4111
Nancy Helgen	PIIC	612 385 8133
Russ Bywater	USNRC - Prairie Island Plant	612/388-8209
Steven Ray	USNRC - Prairie Island Plant	612/388-8209
ROLAND LICKUS	USNRC, Region III	708-829-9660
MARK DELLIGATTI	USNRC, SFPO	312 415-8518
Heather Weston	PIIC.	612 385 4165

Egon White

Alan Childs

Lenor Scheffler

Audrey Kohner

Eric Pehle

Reta Childs

Jeanine & classroom

AGENDA

Meeting For Memorandum of Understanding May 23, 1996 at the Prairie Island Community Center

9:00 AM	Welcome and Introductions
9:15 AM	Opening Prayer/Invocation - Curtis Campbell, Sr. President, Tribal Council
9:30 AM	Purpose of Meeting - Robert Grey Eagle MOU Status - Who has signed or not Remaining Agency Issues With MOU
10:00 AM	Nuclear Regulatory Commission - Roland M. Lickus Process to License Nuclear Waste Storage Facilities Update on Two-Party MOU and Commission Paper
11:00 AM	Relocation Update Outcome of 1996 Legislative Session 8th Circuit Court of Appeals Update on Moratorium
11:15 AM	Break
11:30 AM	Litigation Support/Treaty Research Funding Update - Herb Nelson Project Update - Wendy Helgemo
12:00 PM	Lunch - Buffet at Treasure Island Casino
1:00 PM	Risk Assessment/Health ATSDR Health Assessment - Linda Wright Environmental Workshop IHS Work Plan
1:30 PM	Radiological Monitoring Update Tritium - Natural v. Increased Levels Don Hansen and Eric Glatstein
2:00 PM	Natural and Cultural Resources Archaeological Survey Richard Berg, BIA Area Archaeologist Wetlands Delineation & Assessment Heather Westra
2:30 PM	Emergency Planning Offsite Emergency Planning - FEMA Floodplain Regulations - FEMA Nuclear Plant Exercise - NRC and FEMA Tribal Projects - Heather Westra
3:00 PM	Break
3:15 PM	Summary and Wrap-Up Follow-Up Actions Next MOU Meeting
	Adjourn