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Department of Energy

Washington, DC 20585

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AUG 16 1985

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Mr. Robert E. Browning, Director  
Division of Waste Management  
Office of Nuclear Material Safety  
& Safeguards  
Nuclear Regulatory Commission  
Washington, D.C. 20555

WM Record File  
109

WM Project 1  
Docket No. \_\_\_\_\_  
PDR   
LPDR \_\_\_\_\_

Distribution:  
PFB MJB JOB | CFR HJM  
RDM DEM | GWKRR  
(Return to WM, 623-SS) Dkunihira, Page 2 of

Dear Mr. Browning:

Enclosed, for your information, is a copy of a letter that the Office of Civilian Radioactive Waste Management received from Mr. Elwood Patawa, Chairman of the Board of Trustees of the Confederated Tribes of Umatilla Indian Reservation. The letter provided comments on a number of aspects of the Preliminary Draft Project Decision Schedule and also on NRC-Indian Tribe Interactions that are outside of the scope of the Project Decision Schedule.

I am also enclosing a copy of our response to Mr. Patawa's letter.

Sincerely,

Robert A. Purple, Director  
Program Integration  
Office of Policy, Integration  
and Outreach

Enclosures (2)

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PDR WASTE PDR  
WM-1



GENERAL COUNCIL  
and  
BOARD of TRUSTEES

CONFEDERATED TRIBES  
of the  
*Umatilla Indian Reservation*

P.O. Box 638  
PENDLETON, OREGON 97801  
Area Code (503) Phone 276-3165

July 23, 1985

Mr. Charles R. Head, Acting Director  
Operations Division, Office Civilian  
Radioactive Waste Management  
U.S. Department of Energy, RW-13  
Forrestal Building  
1000 Independence Avenue  
Washington, D.C. 20585

RE: Comments Regarding Tribal Participation in Reviews of  
Major Documents under the Nuclear Waste Policy Act

Dear Mr. Head:

The following comments comprise the input of the Confederated Tribes of the Umatilla Indian Reservation on tribal participation in the review of major documents under the Nuclear Waste Policy Act.

These comments are applicable to key program-related documents and the preliminary draft project decision schedule (PDS) dated January 1985, as issued by DOE, as well as to the review procedures of the Nuclear Regulatory Commission (NRC).

General Comments on the Preliminary Draft Project Decision Schedule

1. The PDS should, to the extent possible, identify major subsidiary plans and schedules for such activities as:
  - a. Implementation plan for Environmental Impact Statement (EIS), including public hearings on the EIS "scoping" process.
  - b. Institutional plan for HLW transportation.
  - c. Defense waste comingling: schedule and effects on repository design and transportation.
  - d. Integrated Monitored Retrievable Storage: milestone dates for MRS facility design and transportation facilities, and effects on repository design and development.

Mr. Charles Head

Comments regarding Tribal participation in Reviews of Major Documents under the Nuclear Waste Policy Act

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2. Figure 1 of the preliminary draft PDS depicts "disapproval" and "no disapproval" decision steps for affected states and/or Indian tribes, while no mention is made of this procedure elsewhere in the document. This should be addressed in Table 6 on pp. 84-85 and other appropriate sections.
3. Inadequate review times are provided to affected Indian tribes at several critical steps as follows:

Site Characterization Plan - on page 37, no. 11, only three (3) months are allowed for tribal and state reviews and comments on the Site Characterization Plan (SCP). In our opinion, 4-6 months would be a more reasonable period for this review and response, especially for the first SCP. Subsequent SCP updates at approximately six month intervals following the first issuance of the SCP could probably be reviewed adequately within two months.

If the BWIP office could be persuaded to release a preliminary draft of the SCP for "early" review by the tribes, we could probably complete the analysis within the time period allowed for "public comments."

In view of the above comments, we believe that NRC reviews of the SCP and subsequent preparation of its "Site Characterization Analysis" (SCA) would probably require at least 8-10 months from date of issuance of the SCP. This would permit NRC to consider tribal and other comments as well as its own internal staff analysis.

It is unclear in the preliminary draft PDS whether DOE would be authorized to begin sinking the exploratory shaft until final adoption of its SCP was made by NRC. This should be addressed in the PDS.

Environmental Impact Statement (Table 1, Page 40, no. 19)

The preliminary draft PDS provides only two months for tribal and other comments. This is totally inadequate. We believe that at least 4-6 months are required for competent and comprehensive analysis of this important document. The PDS should be revised prior to its issuance in final form to reflect adequate time for reviews and response of the DEIS by NRC, affected tribes and states, and others.

Other Prelicensing Activities

On page 40, no. 20 of the preliminary draft PDS, provision is made for preliminary comments by NRC concerning the adequacy of information resulting from site characterization activities to support a license application. It is unclear whether NRC would be afforded a 7-month period to make such determination.

Mr. Charles Head

Comments regarding Tribal participation in Reviews of Major Documents under the Nuclear Waste Policy Act

July 23, 1985

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It is also unclear whether NRC would provide its "preliminary sufficiency comments" to the tribes and public, although the licensing procedures under the Atomic Energy Act normally provide for public release of this kind of information.

On page 53, no. 20, the preliminary draft PDS discusses notification to tribes and states of DCE's site selection decision and issuance of a Site Selection Report (SSR) within approximately eight months following such notification. Provisions should be made in the PDS for "disapproval" or "no disapproval" decisions by affected tribes or states at this step. A formal "disapproval" decision should be accompanied by notifications to Congress, DOE and NRC. No licensing actions should be docketed or scheduled nor decisions made by NRC while a "disapproval" procedure is in progress pursuant to the Nuclear Waste Policy Act.

The PDS discusses assistance for repository states (and tribes) on page 52, no. 22. Provision should be made for submittal of a tribal or state "impact description report" to NRC as well as to DOE in order that NRC might consider analysis of health, safety, and environmental impacts resulting from tribal or state sponsored impact studies during its licensing process. Moreover, the federal EIS process should provide for consideration of such independent impact reports.

#### NRC-Tribal Interactions During Licensing Renew

During the three year (or more) period for review by NRC of DOE's applications for construction permit and subsequent repository operating license, NRC should encourage active participation by affected Indian tribes through:

- Provision of licensing information from the applicant (DOE) and NRC staff analysis reports to the tribes.
- Representation of tribes in administrative and adjudicatory hearings (as formal intervenors or as "interested parties").
- Consideration of information submitted by the tribe.
- Informal and other formal consultations.

Thank you for your careful consideration of these important concerns.

Sincerely,

CONFEDERATED TRIBES OF THE  
UMATILLA INDIAN RESERVATION

*for William H. Burt*  
Elwood H. Patawa, Chairman  
Board of Trustees

cc: Wyatt M. Rogers, Jr., CERT  
Daniel Hester, Tribal Attorney  
Peter Ramatowski, NWP, Prog. Dir., Umatilla Tribe  
Mike Farrow, Director, DNR



## Department of Energy

Washington, DC 20585

AUG 7 1985

Mr. Elwood H. Patawa, Chairman  
Board of Trustees  
Confederated Tribes of the  
Umatilla Indian Reservation  
P.O. Box 638  
Pendelton, Oregon 97801

Dear Mr. Patawa:

Thank you for your letter dated July 23, 1985, to Mr. Charles Head which offered comments on the Preliminary Draft Radioactive Waste Management System Project Decision Schedule.

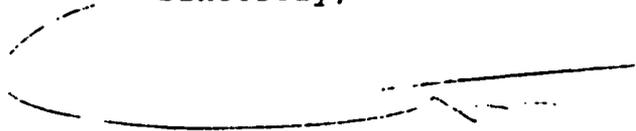
The Department of Energy issued, on July 11, 1985, a Draft Project Decision Schedule that incorporates comments from the affected Federal agencies and also reflects changes resulting from our continuing evaluation of the Civilian Radioactive Waste Management Program. This draft has been issued for Federal agency review and comment. A copy of the Draft Project Decision Schedule was transmitted to you for your information by letter dated July 18, 1985.

As I am sure that you will note, the Draft Project Decision Schedule has been changed considerably from the Preliminary Draft. I believe that you will find that many of your specific comments are resolved in the Draft Project Decision Schedule. Other comments, such as the NRC - Tribal interactions process, were not discussed in the Draft Project Decision Schedule. We are providing a copy of your letter to the NRC for their information and consideration.

Several of your comments were related to your concerns about the insufficiency of review times for various program documents. We believe that an effective mechanism for interaction with you on such issues are the periodic meetings that the Department holds with States and affected Indian Tribes. The Department believes that these forums will provide a good opportunity to surface and fully discuss with departmental program officials scheduling issues and processes for interactions related to the review of major program documents. For example, at the August 8-9 meeting with First Repository States and affected Indian Tribes in Denver, Colorado, a detailed briefing was provided regarding the schedule for the development of the Site Characterization plans and the Environmental Impact Statement. Included in this briefing were the specific points where States and affected Indian Tribes would have involvement in the process. The Department plans to continue to provide for this type of interaction as the program evolves.

I appreciate your continuing interest in the Radioactive Waste Management Program. I trust that the recently issued Draft Project Decision Schedule will be of assistance to you in furthering your understanding of the overall schedule and process related to the development and operation of the Radioactive Waste Management System.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roger W. Gale", is written over a faint, curved line that serves as a guide for the signature's placement.

Roger W. Gale, Director  
Office of Policy, Integration  
and Outreach  
Office of Civilian Radioactive  
Waste Management

R. E. Browning <i>H. [unclear]</i>		DATE OF DOCUMENT 8/18/85	DATE RECEIVED 8/21/85	NO WMPC-265
TO J. O. Bunting		LTR X	MEMO	REPORT
		ORIG.	CC	OTHER
CLASSIF		ACTION NECESSARY <input type="checkbox"/>	CONCURRENCE <input type="checkbox"/>	DATE ANSWERED 9/3/85
POST OFFICE		NO ACTION NECESSARY <input type="checkbox"/>	COMMENT <input type="checkbox"/>	BY
REG. NO.		FILE CODE: 109		
DESCRIPTION (Must Be Unclassified) Respond to Comments from Umatilla Indians		REFERRED TO	DATE	RECEIVED BY
		D. Mattson	8/23	<i>dm</i> 8/26
		C. Russell	8/26	
ENCLOSURES		ENCLOSURES		
REMARKS		are in the mail room		
Comments also mailed to NRC from Umatilla's. Discussed in trip/meeting report on PDS meetings.				
Closed per trip report and comments to DOE on the PDS. AR 8/29/85				