

Quarterly Meeting with Affected Indian Tribes  
and Potential Host States on the Implementation  
of the DOE High-Level Radioactive Waste Repository Program

Remarks by

Commissioner James K. Asselstine  
U.S. Nuclear Regulatory Commission

August 13, 1986

Good afternoon, ladies and gentlemen. It is a great pleasure to be here today to participate in this quarterly meeting with the affected Indian Tribes and potential host states on the nation's high-level radioactive waste repository program. I believe that this meeting is of particular significance in light of the Department of Energy's recent decision to recommend the Yucca Mountain, Nevada; Deaf Smith County, Texas; and Hanford, Washington, sites for site characterization for the first repository; the President's approval of that recommendation; and the Department's announcement that site-specific work for the second repository has been indefinitely postponed and that previously designated sites are no longer under active consideration for a second repository. As you know far better than I, these decisions have proven to be extremely controversial. They have spawned numerous lawsuits challenging the adequacy of DOE's analyses and determinations concerning the first round sites and the indefinite postponement of work on the second round sites. In addition, they have resulted in efforts in both the House of Representatives and the Senate to impose a moratorium on further site-specific work on the first round repository sites. In my view, these decisions and the ensuing controversy have brought us to a critical juncture in the high-level waste repository program. How we deal with these difficulties can have a

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significant bearing on the prospects for success or failure in developing a safe and environmentally acceptable solution to the waste disposal problem. I want to share with you some of my thoughts on what might be done to resolve this current controversy and to restore a credible, objective and technically sound repository program. But before I turn to that subject, I want to discuss some of the more significant challenges that we face as we move into the licensing process for the first repository, my perceptions of how well we are meeting these challenges, and what might be done to better improve our performance. To appreciate some of these challenges, one must understand the basic features of the repository licensing process. So I will begin with a few brief comments on the broader features of that process.

The first of these broad characteristics is that the repository licensing process will be very similar to the present licensing process for nuclear power plants in this country. Thus, we envision a two-stage licensing process, with the first stage preceding an authorization to construct the repository, and the second stage preceding repository operation. We also expect that this licensing process will employ on-the-record adjudications similar to the formal licensing hearings used in the reactor licensing process. Under this approach, DOE will bear the burden of demonstrating that its application meets the applicable legal requirements, including the Commission's regulations; that its proposed site is adequate; that it has adequately considered alternate sites, and that the repository can function safely and effectively for the long periods of time contemplated by the Commission's technical regulations. Given the long periods of time that a

repository must function effectively, the many technical uncertainties and unknowns in this area, and the first-of-a-kind nature of the repository, this is not an insignificant burden. DOE's key judgments, and the technical basis for those judgments, will be exposed to careful scrutiny, and the opinions of its scientific experts will be tested by cross-examination.

As we have emphasized repeatedly in the past several years, the outcome of the formal licensing proceeding will depend heavily upon the quality of DOE's license application, including especially the data and experimental results supporting the application. Assuming a complete, high quality and well supported license application from DOE, we anticipate that the license proceeding leading to the issuance of a construction authorization could be completed in three years. On the other hand, a flawed and poorly supported application could lead to a much more extended licensing proceeding, and could eventually lead to rejection of the application. I should also note one difference between the repository licensing process and our current licensing process for nuclear power plants. Unlike the reactor process, our procedural regulations for repository licensing do not contemplate the use of a limited work authorization. Thus, construction of the repository could not begin until the successful conclusion of the construction authorization hearing.

The second basic characteristic of the repository licensing process is the timing of the formal license proceeding. The Commission has divided the licensing process into two separate, but related parts. The formal

proceeding will not begin until DOE submits its application for a construction authorization. Under the current schedule, DOE anticipates that this would be in the early 1990's. Prior to this formal phase of the licensing process, the Commission has intentionally left the process very informal. During this informal phase, we will monitor, review and comment on the work being done by DOE in preparing its application. It is worth noting that during this informal phase, DOE will be doing most of the work, including site selection and characterization, choice of waste form and packaging, and technical research -- which will ultimately determine the success or failure of its license application.

This early, informal portion of the process is really a two-edged sword. On the one hand, it provides the broadest possible opportunity for the free exchange of comments, concerns and suggestions by our staff, DOE and interested parties such as the potential host states, affected Indian tribes and members of the public. If vigorously pursued, this informal approach can work effectively to identify most, if not all, of the key technical concerns which must be decided in the formal licensing phase. This can lead to a more complete, high quality application which anticipates and addresses the issues of greatest concern. On the other hand, the more informal approach limits our ability to require DOE to address the issues of real concern early on. If DOE fails to heed the early warnings, the consequences may not be readily apparent until it is too late.

With that introduction, I want to turn to a discussion of the potential pitfalls which face us in the repository licensing process. I see four potential pitfalls which could have a significant impact on the timing and outcome of the licensing proceeding for the repository. Not surprisingly, the first and foremost of these in my mind is the possibility that DOE will not submit an essentially complete, high quality application for a good site, which is supported by the information needed to address the key technical issues in the licensing hearing. I have already described the potential consequences should this occur, and I won't belabor the point. Suffice it to say that I view this as the single most important element in determining the success or failure of the repository program.

The second pitfall I see is the failure to resolve differences among the various federal agencies with responsibilities for the repository program. The most obvious example here is the complimentary, and to some extent overlapping responsibilities of NRC and EPA. Another example is the preparation of environmental impact statements (EIS) by the Department of Energy and the NRC for the proposed repository, including the difficult issue of NRC adoption of DOE's EIS.

The third pitfall I see is the possibility that there will be sharp divisions within the scientific community on the key technical issues in the repository licensing proceeding. Such divisions will make it very difficult to reach a timely licensing decision, and will very likely lead to a protracted hearing.

The final pitfall I see is the emergence of strong and concerted opposition to DOE's application by the potential host state, affected Indian tribes and the public. Even if the site proposed by DOE survives the Congressional review procedures established by the Nuclear Waste Policy Act, concerted state, tribal and public opposition to the project in the licensing process could well lead to a protracted and difficult hearing.

What can be done to avoid these pitfalls, or at least to minimize their potential impact on the repository licensing process? In my view, several things can and should be done now to address these potential problem areas.

With respect to the NRC and EPA regulatory responsibilities, I believe that problem is largely behind us. EPA issued its final environmental standards for high-level waste disposal last year, and the NRC has proposed amendments to our technical regulations to ensure that they conform to the EPA standards. These conforming changes include a set of performance and assurance criteria which are designed to ensure that the EPA standards are met. These performance criteria were agreed to by the NRC and EPA staffs, and have been issued for public comment. I believe that the public comment period will close within the next several days, and the Commission should be able to complete action on this item in the near future.

With respect to the DOE and NRC EIS responsibilities, Section 114(f) of the Nuclear Waste Policy Act provides that the NRC, for licensing purposes, shall adopt DOE's EIS for the repository application "to the extent practicable." The Commission is now considering a set of options

identified by the NRC staff which would define how and when the NRC would make its decision on adopting all or part of the DOE EIS, and which would describe the impact of that decision on the opportunity to litigate environmental issues in the repository licensing proceeding. The legislative history of this provision of the Act is somewhat limited, and the Commission's decision on this issue could have a significant impact on the opportunity to raise environmental issues in the licensing hearing. Apart from these two instances, we should look out for other potential trouble spots where the jurisdictions of two or more agencies may overlap.

As for reducing the potential for concerted state, tribal or public opposition during the license hearing, DOE simply has to learn to work more closely with the affected states and Indian tribes. I was troubled by the fact that DOE was unwilling or unable to do more to address the concerns of the potential host states and affected Indian tribes on the repository site selection guidelines. And I saw problems in the reactions of the affected states and tribes to DOE's draft environmental assessments for the first round repository sites. The state and tribe concerns do not appear to be satisfied by the final environmental assessments. What is disturbing is DOE's apparent inability to address at least some of the state concerns about the adequacy of DOE's site selection process and criteria, and the adequacy of the information on which those decisions were made. I view these concerns on the part of the states and affected Indian tribes as being of a quite different character than the more general view that "we don't want it here." DOE must find a formula for at least considering, and

hopefully addressing, these more technical and programmatic concerns by the affected states and tribes.

One approach that has proven helpful, in my view, is the use of more informal meetings to keep the states and tribes informed of what is going on and to solicit their views. Our staff did this before the NRC submitted its comments to DOE on the draft environment assessments for the first round sites, and we routinely open our technical discussions with DOE to outside participation. However, for such informal, preliminary exchanges of ideas to be truly beneficial, the states and tribes must be allowed to be active participants and not just observers. I have been concerned by reports that participation by state and tribe representatives may have been limited in some technical meetings, and I have raised this point with DOE. When I raised this issue, DOE agreed that state and tribe representatives should be active participants, and not just observers. Although DOE is expanding its use of this type of informal exchange, I believe there is considerable room for further improvement.

As for assuring a high quality application and avoiding sharp divisions within the scientific community, there are several steps that DOE should take. First, DOE must learn to take a critical and pessimistic approach to site investigation. A key element in this approach is to recognize that there are potential problem areas with each site, and to identify those problems early in the site investigation process. In the past, DOE has tended to view the sites under investigation very optimistically, and to ignore or discount potential problem areas. We cannot afford to repeat

that mistake. Once the potential problem areas have been identified, DOE must embark on an early program to do the testing, and to gather the data needed to understand the nature of the problem and to assess the acceptability or unacceptability of the site.

The NRC staff's comments to DOE on the draft environmental assessments for the first round repository sites indicated that DOE was still taking an overly optimistic view with respect to the problem areas at these sites. The staff found several instances in which DOE had not considered some available, but potentially negative, information about these sites, or in which DOE had not given recognition to the uncertainties involved in our present state of knowledge about the sites. In some instances, our staff reached much more pessimistic conclusions about the potential problem areas at these sites than did DOE, based upon the same information considered by DOE.

If it is to avoid potentially disastrous consequences down the road, DOE must increase its efforts to identify, understand and address the most significant technical issues for each site, and begin building a consensus within the technical community on each of these items. A key element in building a consensus is the ability by DOE to explain its methodology and to present the information needed to defend its analysis and conclusions. Here, again, the draft environment assessments for the first rounds showed the need for improvement in DOE's efforts. As our staff pointed out in its comments, DOE did little to explain its methodology for doing site comparisons in the draft environmental assessments. Moreover, the draft

assessments contained only limited identification of site-specific problem areas, and limited site-specific information. For example, a review of the post-closure guidelines portions of several of the draft environmental assessments gave the impression that much of DOE's analysis on the key issue or repository performance was little more than boilerplate language that would apply to every site under consideration. What DOE must be able to do to meet the requirements of the licensing process is to describe how that information, and its methodology for site comparisons, are used to reach reliable results. Without that, developing a consensus within the scientific community on the key technical issues will be difficult, if not impossible.

I should note that our staff is now in the process of reviewing DOE's final environmental assessments for the first round sites, and is scheduled to report to the Commission on the results of that review next month. How well DOE addressed our concerns, and those of the potential host states and affected Indian tribes, will be a good indicator of the prospects for the ultimate success of the repository program. Although our review is still ongoing, it appears to me, particularly given the strong reactions of the states and tribes, that there may still be some serious open questions regarding the adequacy of the final assessments, including their treatment of the site-specific problems, the level of available information on some of those problems, and the adequacy of DOE's site comparison and site selection methodology.

I should also emphasize that the need for a forward-looking program to identify and resolve the key technical issues in repository development and licensing is not the exclusive province of DOE. We must pursue the same goal in our pre-licensing review. Our staff has undertaken a number of initiatives to enable the NRC to identify and address key issues early on in order to make the litigation of issues in the formal licensing hearing go more smoothly and be meaningful. These initiatives include: the development of a licensing support system to manage the extensive information base that will be developed during the licensing process; the possible use of rulemaking to resolve generic issues early in the process; the use of partial initial decisions in the licensing hearings; and the development of an issue management and tracking system for key licensing issues. If these initiatives are to work, we will need the support and acceptance of the potential host states and affected Indian tribes. I believe that our staff is working with you to obtain your advice and suggestions on the usefulness and acceptability of these or other possible efforts to make the licensing process operate more effectively and efficiently.

DOE must also apply a rigorous and effective quality assurance program to its site investigation and research activities. This is crucial to DOE's ability to demonstrate the validity of its findings and analyses in the repository licensing hearing. As many of you probably know, quality assurance has become a major source of uncertainty in the licensing process for some nuclear power plants, and where quality assurance breakdowns have occurred, questions concerning the adequacy of plant design and

construction have proven very costly and difficult to resolve. Clearly, this is an area where we cannot afford to repeat past mistakes.

Certainly, the steps toward developing a repository, such as site characterization, are in some respects quite different than the steps for a reactor. Moreover, the greatest technical challenges in the repository area may well be in assuring quality information in the site investigation and repository design phases, rather than in the construction phase. However, there are also similarities. Just as in the reactor area, repository development will be subject to a high degree of public concern and scrutiny. Quality assurance will inevitably be a component in the Commission's licensing decision and could well be at issue in a formal licensing hearing. Moreover, the consequences of a significant quality assurance breakdown in the repository program would be disastrous. At the same time, the sound management practices that can lead to successful quality assurance in the case of a reactor are equally applicable to repository development.

An effective quality assurance program is an essential component of a successful repository program, in the areas of information acquisition, site investigation and design, and subsequently in repository construction and operation. Quality is a line management responsibility. It cannot be delegated to a separate group of quality control inspectors; nor can it be delegated to the NRC. A quality assurance organization is an essential monitoring tool, but it is not a substitute for day-to-day involvement by management in all phases of the project. It is not too soon to put these

lessons that we have recently learned in the reactor area to work in the repository program. I am pleased that in recent meetings with the Commission and the NRC staff, DOE has recognized the importance of quality assurance and has committed to having fully qualified QA programs in place before the issuance of site characterization plans. However, I believe that the recent stop work orders affecting work on the Nevada and Washington sites indicates that DOE is still experiencing difficulty in developing and implementing an acceptable QA program.

I now want to turn for a few moments to the current state of affairs in the repository program as a result of the recent decisions on the first and second round repository sites. Put simply, it seems to me that the repository program is in disarray and that the prospects for success are in serious jeopardy. I remain convinced that the Nuclear Waste Policy Act provided a workable framework for developing a safe and environmentally acceptable system of repositories, but I fear that these recent decisions, as well as the manner in which DOE has elected to implement certain features of the law, are undermining that framework and sowing the seeds for possible failure down the road.

The decision to postpone indefinitely site-specific work on a second repository threatens to upset the delicate regional balance that was struck in the 1982 Act. As a result, the debate in Congress is becoming increasingly polarized. Representatives of the western states are making repeated efforts to impose a moratorium, either for a specified period of time or indefinitely, on site-specific work on the first repository. This

east-west debate is fueled at least in part by concerns that political considerations may be prevailing over technical judgments in making siting decisions in the repository program.

DOE continues to adhere to a schedule for the first repository which is looking increasingly unrealistic and which raises legitimate concerns that DOE may be unable to do a thorough job of site characterization and to develop a complete and adequate license application. There appear to remain legitimate concerns about DOE's site comparison and selection methodology and the adequacy of information used to make its site selection decisions. Underlying these concerns is a continuing dissatisfaction with DOE's site selection guidelines. Finally, there are strong and legitimate concerns about DOE's working relationship with the potential host states and the affected Indian tribes.

All of this has resulted in a substantial number of lawsuits and an erosion of confidence in DOE's ability to make sound and objective technical decisions, and to ensure that the repository program is guided by conservative and prudent decisions on the technical merits. If left uncorrected, these difficulties can substantially delay the repository program and lead to bitter and extensive litigation both in the courts and eventually in NRC's licensing proceeding. Any sense of cooperation and mutual trust between the federal government, and the states, tribes and the public will likely be lost. Given the complexity of the repository development process and the role of the states and tribes as full participants in that process, this is a potentially disabling blow.

What can be done about this situation? In my view, a pause for some specified period for all site-specific work is warranted. That pause should be for the purpose of allowing a detailed review of several key issues, including:

1. The definition of a realistic, workable, and technically conservative schedule for developing the needed repositories;
2. The need for, and timing of, more than one repository, including consideration of the geographical distribution and repository capacity limitation questions.
3. The adequacy of DOE's site selection guidelines, its site comparison and selection methodology, and the level of site-specific information needed to make informed and reasonable site selection decisions; and
4. The availability and benefits of alternative methods for managing the repository development program.

The review of these issues should be conducted either by the Congress or by some independent group reporting to the Congress. If the review is conducted by an independent group, their recommendations and any resulting changes should be considered and acted upon by the Congress. In my judgment, such an approach provides one effective means for addressing the many serious concerns which now exist regarding the repository program.

There may be other alternative approaches, as well. But I believe the key point is that some effective means must be found, and found soon, for restoring the credibility and effectiveness of the program if we are to avoid still another failure in this country's efforts to achieve a safe and reliable solution to the high-level waste disposal problem. Thank you.

encl. to 10/17/87 memo to HR, from Hale

Handout  
at mtg.

109

MEMORANDUM

**DATE:** July 28, 1986

**TO:** Addresses Attached

**FROM:** Confederated Tribes of the Umatilla Indian Reservation  
Mr. Bill Burke, Manager, Nuclear Waste Study Program  
(503) 276-3018

Nez Perce Tribe of Idaho  
Mr. Ron Halfmoon, Manager, Nuclear Waste Program  
(208) 843-2253

Yakima Indian Nation  
Mr. Russell Jim, Manager, Nuclear Waste Program  
(509) 865-5121 Ext. 393

**SUBJECT:** QUARTERLY MEETING OF TRIBES AND STATES  
Portland, Oregon  
August 12-14, 1986

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Preparations are complete for the next quarterly meeting to be held at the Portland Marriott (503) 276-7600. Attached is the agenda for all of the meetings whether you are a participant or not. Also attached is a letter from Russell Jim as one of the host coordinators requesting DOE to provide packages mailed directly to you during the week of July 28, 1986. We are hoping they will respond to this request so that participants can be better prepared and thereby maximize the meeting effectiveness.

Alot of planning went into the SALMON FEED. We are looking forward to this gathering to allow everyone the chance to informally visit and to enjoy some salmon from the Northwest. The cost is \$7.50, commit upon registration.

The Wednesday luncheon with Mr. James Asselstine as the keynote speaker is being set up in the hotel and we will be taking reservations at the registration table at \$15.00 to cover all hotel charges.

Thursday is an optional tour of the Trojan Nuclear Power Plant. See details in attached letter. You may register for this trip along with the participation registration when you arrive.

The mailing list has been expanded as a result of several new names added, however none have been deleted as outdated. Please review this current listing not only for additions but for any deletions that should be made within your organization. At registration we will ask for any additional mailing list corrections.

Also attached solely for your information unrelated to this meeting is DOE's latest InfoLink Bulletin on upcoming meetings currently scheduled.

The registration table will be manned Tuesday from 7:30 to 9:00 a.m. and 4:30 to 5:30 p.m., and also 7:00 to 8:00 a.m. on Wednesday. Should you have any questions or suggestions as to the agenda, please contact the host tribal representatives listed or:

Hal Aronson (303) 794-7936  
John Hutchins (303) 832-6600

QUARTERLY MEETING OF THE STATES AND INDIAN TRIBES  
PORTLAND, OREGON  
AUGUST 12-14, 1986

AGENDA

TUESDAY, AUGUST 12TH

**I. LOCAL INDIAN AND STATE AGENCY COORDINATION**

8:45 - 9:00	Introduction	Bill Burke, Director, CTUIR Nuclear Waste Study Program
	Invocation	Yakima Indian Nation
9:00 - 9:30	Oregon Department of Energy	Mary Lou Blazek
9:30 - 10:00	Columbia River Inter-Tribal Fish Commission	Tim Wapato <i>508/238-0667</i>
10:00 - 10:30	Washington Department of Ecology	Terry Husseman, PV-11 HLNWM Office
10:30 - 10:45	BREAK	
10:45 - 11:15	Indian Health Service	Timothy Webster, Portland Area
11:15 - 11:45	Bureau of Indian Affairs	<del>Ben Brown</del> <del>(Will Bowkard, Alternative)</del> <del>Asst. Area Director, Portland District</del> <i>Bob Taylor</i> <i>Portland Environmental Coordinator</i>

TUESDAY AUGUST 12TH

**II. AFFECTED TRIBES AND AFFECTED STATES INTERNAL COORDINATION**

1:30 - 2:30	I.	May 28, 1986 Presidential/DOE Secretary Decisions A. Indefinite postponement of second repository B. Screening methodology C. Impacts of decisions D. Action required, if any
2:30 - 3:00	II.	C & C Agreements: Progress on negotiations A. Reports from states and affected Indian tribes B. DOE C & C Draft Guidelines: Comments C. Action required, if any
3:00 - 3:30	III.	Legal Actions Pending A. Overview of suits filed/pending, discuss issues, etc. (Dan Hester - CTUIR)



**WEDNESDAY, AUGUST 13TH (Cont.)**

**BREAK**

**Effect of Gramm-Rudman-  
Hollings Deficit Reduction  
Act of 1986 on the OCRWM  
Program**

**Bill Purcell**

**Status reports:**

**EAs**

**Bill Purcell, others**

**EISs**

**Jim Knight**

**SCPs**

**Ralph Stein**

**Purpose and scope of future  
Quarterly Meetings**

**Bill Purcell, others**

**Review Meeting Commitments  
Cumulative to date**

**Russell Jim**

**4:00**

**ADJOURN**

**THURSDAY, AUGUST 14TH**

**IV. PLANT TOUR - TROJAN (NUCLEAR) POWER GENERATING STATION**

**Time: 8:30 a.m. to leave hotel, back 1:30 - 2:00 p.m.**

**Transportation: Furnished, commit at time of registration**

**See letter attached for full details.**

**LIST OF ATTENDEES FOR THE QUARTERLY  
MEETING OF THE STATES AND TRIBES  
(08/01/86)**

**Mr. Harold Aronson  
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Littleton, CO 80123**

**Mr. Lake Barrett  
U.S. Department of Energy  
Forrestal Building  
1000 Independence Ave.  
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**Mr. Albert Barros  
Nez Perce Tribal  
Executive Committee  
Main Street  
Lapwai, ID 83540**

**Mr. Warren Bishop  
Department of Ecology  
Office of High-Level  
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**Mr. Hall Bohlinger  
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**Mr. William Burke  
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**Mr. Curtis Canard  
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Yakima Indian Nation  
Highway 97 and Fort Road  
Toppenish, WA 98948**

ESTABLISHED BY THE  
TREATY OF JUNE 9, 1855  
CENTENNIAL JUNE 9, 1955

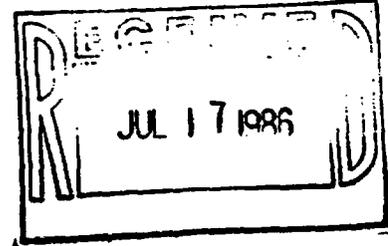
CONFEDERATED TRIBES AND BANDS

*Yakima Indian Nation*

GENERAL COUNCIL  
TRIBAL COUNCIL

POST OFFICE BOX 151  
TOPPENISH, WASHINGTON 98948

July 15, 1986



Mr. Barry Gale  
U.S. Department of Energy  
Forrestal Building  
1000 Independence Avenue  
Washington, D.C. 20585

Dear Mr. Gale:

We appreciate the assistance we have been receiving from Judy Leahy on the next Quarterly meeting.

It is our intent to put out a second letter within the next ten days outlining details of the meeting and logistics, and including our suggested agendas.

Since you have sent us your comments on the DOE portion of the agenda, we would request that you prepare and send out any advance material for the invitees by no later than August 1, 1986. This will enable everyone to do their homework far enough in advance to make the meeting itself worthwhile.

In the first letter to the invitees, we asked for any changes to the mailing list. By copy of this memo, I am requesting that John Hutchins furnish you with any changes he has received for your mailout.

Thank you for your timely assistance in this item.

Sincerely yours,

YAKIMA INDIAN NATION

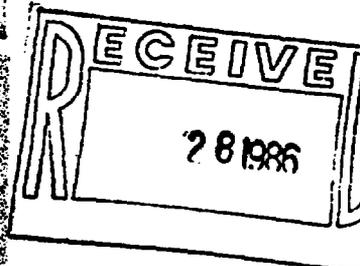
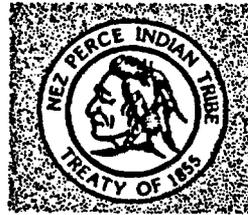
Russell Jim, Manager  
Nuclear Waste Program

RJ/d11

cc: H. Harold Aronson  
Ron Halfmoon, Nez Perce Tribe  
Bill Burke, Confederated Tribes of Umatilla  
John Hutchins, CERT

*Nez Perce*

NUCLEAR WASTE POLICY ACT PROGRAM



(208) 843-2253

July 24, 1986

Mr. John Hutchins  
Council of Energy Resource Tribes  
1580 Logan Street - Suite 400  
Denver, Colorado 80203

Dear John:

Attached is a list of tour requirements for the Trojan Nuclear Power Plant tour, scheduled for August 14, 1986. This is regarding identification, proper footwear, etc., but must be read by all participants for their own information. I've already routed this through the NPTEC and staff, but was uncertain how to distribute to the other people.

I've also enclosed a schedule for the bus departure, tour schedules and approximate time for return to the hotel.

I've set up for the transportation to depart at 8:30 a.m. from the Portland Marriott and return between 1:30 - 2:00 p.m. Lunches will be provided by the hotel for a cost of \$7.00 per person. We will need an exact number to attend the tour with their money for pre-payment on the lunches to be made. I spoke with Pam of the hotel catering and she said the first day of the meeting on the 12th would be sufficient time to provide her with this information and payment.

If you have any further questions, don't hesitate to call.

Best Regards,

*Michelle Henry*

Michelle Henry  
Data Technician

cc: file

Enclosures

## TROJAN NUCLEAR PLANT TOUR REQUIREMENTS

We welcome the opportunity to provide tours inside the Trojan Nuclear Power Plant for members of the public. Trojan is currently the only operating U.S. nuclear power plant that has a regular tour program. We can operate our tour program only if visitors meet the following requirements as set forth by the federal government for reasons of both industrial safety and plant security.

1. Your request for admittance to the plant is consent to follow all rules, directives, registration and personal search.
2. All visitors entering the protected area of a nuclear plant are required to be processed through a metal detector and must undergo a hands-on search to ensure that they do not have alcohol, drugs, weapons, explosives, incendiary devices or other unauthorized materials usable for sabotage.
3. Each individual entering the plant must provide information as requested by security including: name, citizenship, address, etc.
4. Each person 18 years or older is required to have valid personal identification. Parents, guardians or teachers may vouch for individuals in their group that are under 18 years of age. Picture driver's licenses or signed ID which physical description is considered valid.
5. Guests must be at least 5 years old for the plant tours.
6. No cameras, purses, knives, packages and related items can be taken on the tour. We cannot be responsible for your personal items--there is no checking service available.
7. Adults are required as chaperones for children.
8. Shirts, and shoes which are properly secured to the foot, are required (no thongs, clogs, sandals, or high narrow heel shoes). Individuals must wear hard hats as provided.
9. Tours will be provided only to those individuals holding tour tickets. Tickets are available at the Visitors Center lobby desk.
10. During the tour, directives given by the guide must be followed promptly. Touring privileges may be revoked before or during a tour.
11. During the tour all visitors must remain close and in the view of their guide(s) at all times.
12. Visitors must be physically capable of climbing and/or descending several flights of stairs, ride an elevator, and realize that fairly high noise levels exist within some areas of the plant on the tour route. No public restroom facilities exist within the

**Trojan Nuclear Plant Tour Requirements**  
**Page 2**

plant building. Individuals with heart pacers may not wish to tour the plant due to possible interference of their heart pacers from the metal detectors and magnetic fields that exist around the large generator. The magnetic field does not affect others.

13. Additional requirements may be imposed at any time without prior notification and tours may be cancelled or delayed without advance notice. Please understand that in order for us to be able to continue our public tour program of the plant we must impose and enforce the numerous requirements set forth herein.

Visitors to the Visitors Information Center, Recreation Park and other public areas of the Trojan project are not required to undergo registration, personal search, etc.

Your understanding and cooperation in assisting us to meet security and safety requirements is certainly appreciated.

### TROJAN PLANT TOUR SCHEDULE

8:30 a.m.	Depart Portland Marriott
10:00 a.m.	Arrive at Trojan Plant
10:30 a.m.	1st Tour
11:30 a.m.	2nd Tour
12:30-1:00 p.m.	Lunch
1:00 p.m.	Depart for Portland

Ms. Reetz of the Trojan Information Center requested all participants arrive by 10:00 a.m. for both tours. Tours are limited to 10-15 people per group, that is why there are two tours scheduled.

UPDATED 07/24/86

- July 23-24      Quality Assurance Coordinating Group Meeting,  
Denver, CO. Contact Carl Newton (202) 252-9300.
- July 31            NRC/DOE meeting to discuss NRC comments on DOE's  
Draft Waste Acceptance Preliminary Specs., DOE/HQ  
Forrestal Bldg., Washington, D.C.
- August 4           NRC/DOE BWIP Mgt. meeting to discuss 5 yr. plan,  
BWIP activities and milestones. DOE, Richland, Wa.
- August 4-8        NCSL Annual Meeting at New Orleans, La.  
Contact Cheryl Runyon (303) 623-7800.
- August 12-13      Quarterly Meeting of States and Tribes with DOE/  
NRC, Portland, Or., Contact: John Hutchins - (303)  
832-6600 or Harold Aronson - (303) 794-7936.
- September 14-17   AIF Uranium Seminar, Grand Teton Nat. Park,  
Jackson/Moran, Wy. Contact AIF (301) 654-9260
- September 14-18   Intl. Conference on Low-, Intermediate-, & High-Level  
Waste Management, Decon, & Decommiss. at  
Niagara Falls, NY. Contact John Knabenschuh (716)  
942-4295 or ANS Meetings (312) 352-6611.
- September 24      Western Legislative Conference HLW Subcomm. Mtg.  
Colorado Springs, Co. Contact Patty Spangler  
(415) 986-3760.
- October 5-8        Workshop on Radiation Issues, Boston, Mass.  
Contact AIF (301) 654-9260.
- October 19-22      The High-Level Waste Business: Transportation,  
Storage, & Disposal, Charleston, S.C. Contact:  
AIF (301) 654-8260.
- October 22-23      Quality Assurance Coordinating Group Meeting,  
Columbus, OH. Contact Carl Newton (202) 252-9300.
- November 16-19    AIF Annual Conference for 1986, Washington, D.C.  
Contact AIF (301) 654-9260.
- January 21-22,  
1987                Quality Assurance Coordinating Group Meeting,  
Albuquerque, NM. Contact Carl Newton (202) 252-9300.
- February 9,11,  
1987                2nd Annual Topical Conference on Nuclear Waste  
Mgt. Quality Assurance, Las Vegas, Nv. Contact:  
Judy Kail, (619) 455-2627.

**Draft Consultation and Cooperation (C&C) Guidelines**

**- DRAFT -**

**INTERNAL GENERAL GUIDELINES FOR IMPLEMENTING THE  
CONSULTATION AND COOPERATION AGREEMENT  
PROVISIONS OF SECTION 117 OF THE  
NUCLEAR WASTE POLICY ACT OF 1982  
(Revised Draft 8/5/85)**

**1.0 PURPOSE**

The purpose of this document is to assist the Department of Energy (DOE) headquarters and operations offices in developing workable Consultation and Cooperation (C&C) agreements as required by Section 117 of the Nuclear Waste Policy Act of 1982 (the Act). C&C agreements are an essential means of ensuring that States and affected Indian Tribes participate in all aspects of the planning and development of the national waste repository program in accordance with the Act. C&C agreements govern the procedures to be followed in relations between DOE and States or Tribes and form the foundation upon which such relations may be guided.

These C&C guidelines provide general guidance to DOE offices. The guidelines will be supplemented with frequent communications between the operations offices and headquarters with the aim of developing agreements that address the specific concerns of each State and affected Indian Tribe.

**2.0 BACKGROUND**

**2.1 The Nuclear Waste Policy Act of 1982**

The Act establishes comprehensive requirements for the siting, construction, operation, and closure of mined geologic repositories for disposal of high level radioactive waste and spent fuel. The Act contains a specific finding that State and public participation in the planning and development of repositories is necessary to promote public confidence in the Department's nuclear waste disposal program. To ensure that States and affected Indian Tribes are involved in the repository siting process, the Act requires the Federal Government to consult and cooperate with States and affected Indian Tribes on means of resolving their concerns about repository impacts. As part of this, the Act requires the Department to seek to enter into and negotiate binding written agreements for this purpose.

## **2.2 Consultation and Cooperation Agreements**

Section 117(c) of the Act establishes the requirement for written C&C agreements. The purpose of the agreement is to set forth procedures under which the Department will consult and cooperate with States and affected Indian Tribes, to resolve their concerns regarding the public health and safety, environmental, and economic impacts of characterization, siting and construction activities relating to the development of nuclear waste repositories.

C&C agreements offer several potential benefits to the Department, States, and affected Indian Tribes:

- o They lay a foundation and establish the mechanisms for the productive interaction and information exchange between the Department and the State or Tribe throughout all phases of repository development.
- o They define and demonstrate publicly that procedures are in place for ensuring proper review of the health, safety, environmental, and socioeconomic impacts of the project.
- o They provide a mechanism for State/Tribe review and evaluation, including independent monitoring and testing, of activities on the repository site.
- o They establish a means to resolve conflicts.

The Act specifies that the Secretary of Energy shall seek to enter into negotiations with States and affected Indian Tribes concerning C&C agreements within 60 days after the time (1) a site is approved by the President for site characterization under Section 112(c) of the Act, or (2) a written request for an agreement is received from a State or affected Indian Tribe which has been notified by the Department that it has identified within the State/Tribal area a "potentially acceptable" site(s) as defined in Section 116(a) of the Act, whichever occurs first. However, the Act does not exclude less formal agreements between the Department and States or Tribes even prior to notification of potentially acceptable sites.

### 3.0 CONTENTS OF THE AGREEMENTS

#### 3.1 General

C&C agreements set forth formal processes by which the Department and States or affected Indian Tribes may interact and come together on a series of issues of importance to both. Section 117(c) of the Act sets out 11 areas where it indicates procedures for C&C should be developed, though it also indicates that the agreements need not be limited to these.

The C&C agreement establishes procedures for addressing the substantive issues which will be encountered in three of the four main phases of the repository development process: (II) notification; (III) site characterization; (IV) site construction, operation and closure. (The first phase is prenotification, to which formal C&C agreements do not apply.) After the C&C agreement is signed, follow-up negotiations may be needed to help consummate additional agreements concerning issues affecting later phases of the repository development program. The C&C agreement establishes the ground rules for all subsequent negotiations.

#### 3.2 Specific

Each C&C agreement will be unique, depending on the process of negotiation and the needs of each State and affected Indian Tribe, but the following common elements ought to be considered for inclusion:

1. General and introductory provisions, including:
  - o Parties to the agreement.
  - o Scope and duration of the agreement.
  - o Purpose of the agreement.
  - o Identification of working level contact points.
  - o Definition of technical terms.

#### Guiding Principles

- Clarity is essential in defining parties, indicating signatory authority, and delegations of authority.

- Clear indication should be given that C&C agreements pertain to the entire process of repository development through Phase IV, subject, of course, to periodic review and modification. (See 3. below)
  - A definite time-frame for negotiation of the C&C agreements should be set. The Act provides guidance on this, requiring the agreement, to the maximum extent feasible, to be completed not later than 6 months after negotiations have begun.
2. State and Tribal participation procedures.
- o Procedures by which States and affected Tribes may study, determine, comment on, and make recommendations on possible public health, safety, environmental, social, and economic impacts of a repository.
  - o Procedures which the Department will use in considering and responding to comments and recommendations, including a time period for responding.

Guiding Principles

- DOE should be prepared to provide access to information needed and financial support to help States/Tribes prepare comments and recommendations.
  - Scheduling and timing should allow DOE adequate time for operations and headquarters review of material.
3. Procedures for periodic review/modification of C&C agreement.

Guiding Principles

- A clear need for modification should be indicated.
4. Procedures for review and evaluation of the overall project, including identification in the agreement of key events, critical path milestones, and decision points.

### Guiding Principles

- Every effort should be made to accommodate State/Tribe desires for periodic project review and evaluation. This can be accomplished by setting up regularly scheduled review meetings, as well as providing for unscheduled meetings, as required.

5. Procedures for the sharing, within applicable Federal and State laws, of technical and pre-licensing information, and utilization of available expertise for the purpose of:

- o Facilitating permit procedures.
- o Joint project review.
- o Joint surveillance and monitoring.

### Guiding Principles

- Technical information should be made available at the earliest possible time. With regard to certain data -- such as proprietary data or data relating to patent protection -- all applicable laws governing release must be adhered to.
- With regard to information of a policy nature, DOE should make every effort to release policy working papers or excerpts thereof, where appropriate.
- DOE should affirmatively invite State/Tribe consultation with regard to utilizing available expertise, as well as offering available DOE expertise to them.
- Because of the swift pace of events mandated by the Act, clear procedures should be set up for facilitating the process of permit approval, with a built-in appeal process leading up to and including Governor/Tribal council.
- Reasonable limits should be sought as to the areas for joint environmental surveillance and monitoring, as well as positive involvement by the State/Tribe in all such joint efforts.

6. Procedures for public notification of C&C agreements.

Guiding Principles

- Procedures should, to the extent practicable, go beyond the minimum requirements set by law.
- Procedures should apply only to the final signed agreement. (It should be emphasized, however, that the process is an iterative one that may begin before public notification of the final agreement.)

7. Procedures for conflict resolution (resolving the objections of States or affected Tribes).

Guiding Principles

- The process of conflict resolution should start at the level where conflict originated, with disagreements sent up the organizational ladder (both in DOE and at the State/Tribe level) when conflict persists.
- The various levels of possible conflict resolution and the individuals authorized to negotiate at those levels should be clearly indicated.
- A clear time-frame for resolving conflicts should be provided -- conflicts cannot be expected to go on forever without adversely affecting the repository development program.

8. Procedures regarding impacts reports and assistance.

- o Procedures by which a State or Tribe is to submit an impact report and request for impact assistance under Section 116(c)(2) or 118(b)(2).

Guiding Principles

- Consideration should be given to how impact assistance procedures can address local community concerns and problems.

*Tribal?*

9. Procedures for resolving offsite concerns at sites for which the Nuclear Regulatory Commission has authorized construction:

- o State/Federal liability arising from accidents.
- o Necessary road upgrading and access to the site.
- o Ongoing emergency preparedness and emergency response.
- o Monitoring of transportation of nuclear waste and spent fuel through the State/*reservation*.
- o ~~Conducting baseline health studies of persons living near the repository site~~ and reasonable periodic monitoring thereafter.
- o Monitoring of the repository site upon decommissioning and decontamination.

*and/or in "affected Tribes' territorial rights areas."*

Guiding Principles

- Full consideration should be given to the offsite concerns of communities in the immediate area, as well as those that are farther removed.

→

10. Notification of transportation of waste and spent fuel into the State *and through affected Tribes' reservations.*

Guiding Principles

- Notification should be made as early as possible and in as detailed a form as possible. Also, a characterization of the nature of the waste to be transported should be provided. Conformity with existing Federal regulations is required.

11. Procedures for independent testing and monitoring.

Guiding Principles

- DOE must recognize State/Tribe rights of site access for testing and monitoring purposes. These rights must not unreasonably interfere with or delay on-site activities, nor exceed existing funding limitations.

#### 4.0 ADDITIONAL GUIDANCE-

##### 4.1 Scope of C&C Agreements

Each C&C agreement negotiated with a State or affected Indian Tribe should prescribe mechanisms which are applicable during the entire repository development process -- from notification through repository construction, operation and closure. An agreement covering all phases of the program will ensure an orderly C&C process as envisioned in the Act by helping to avoid short term perturbations. Of course, it will not be possible to prescribe detailed mechanisms for the handling of all issues which may eventually become germane. Accordingly, the C&C agreement should address these issues by stipulating an "agreement to agree" when and if certain events, such as approval for site characterization or issuance of a construction authorization, occur.

##### 4.2 Relationship of C&C Agreements to Discontinuation of Funding [of Grants]

Most sites will drop out of the repository development process at some point, making future funding unnecessary. However, the potential for disruption exists if the Department decides to drop a particular site from further consideration near the end of the term of a grant and the State or Tribe has begun committing resources to what it believes will be the next phase of the project. Accordingly, the C&C agreement should provide for an orderly shut-down process for funding if the site is dropped from further consideration.

##### 4.3 C&C Negotiations for Prenotification States and Tribes

DOE operations offices should be responsive to State or Tribe requests for negotiations on C&C and should begin informal discussions in response to such requests. DOE should indicate, however, that such discussions are preliminary, and would not immediately lead to a signed formal agreement. Once potentially acceptable sites are named and a State or Tribe is designated under the Act, formal negotiations can proceed.

#### 4.4 Negotiation of C&C Agreements

The primary responsibility for negotiating C&C agreements resides with the DOE operations offices. The operations office manager shall appoint all members of the negotiating team, including the chief negotiator, except for the permanent headquarters representative. The chief negotiator shall initial all tentative agreements. However, final concurrence authority is vested in DOE headquarters. In addition, headquarters is responsible for ensuring consistency in negotiating positions among the various operation offices, as well as providing institutional memory of the overall process.

The permanent headquarters representative on the negotiating team shall be the Director of the Siting Division of the Office of Geologic Repositories. The Director of the Siting Division shall initial all tentative agreements, coordinate the attainment of headquarters concurrences, and appoint an alternate headquarters representative.

#### 4.5 Execution of C&C Agreements

Signatory authority to sign the C&C agreements on behalf of the Department, is vested in the Secretary of Energy. Under appropriate circumstances, the Secretary will sign completed agreements. In all other situations, the Secretary will delegate signatory authority to the OCRWM Director. Close coordination between the operations offices and headquarters on all aspects of the agreement will precede any formal signing.

#### 4.6 *Ancillary and Supplementary Agreements* (?)

- impact mitigation and financial aid
- monitoring programs
- other

**Draft Paper on Suggested Changes to the  
Draft Consultation and Cooperation Guidelines**

**— DRAFT —**  
**For Internal Use Only**

SUGGESTED REVISIONS TO THE  
"INTERNAL GENERAL GUIDELINES FOR IMPLEMENTING  
THE CONSULTATION AND COOPERATION  
AGREEMENT PROVISIONS OF SECTION 117  
OF THE NUCLEAR WASTE POLICY ACT OF 1982  
(REVISED DRAFT 8/5/85)"

The following is a preliminary list of suggestions for revising the C&C agreement guidelines:

<u>Current Section of Guidelines</u>	<u>Revision</u>
1) New Section (would be the new section 3.0)	Add a section that describes who the key participants are in the negotiations. <ul style="list-style-type: none"><li>o This would include a subsection that would identify and define the affected parties eligible to enter into C&amp;C agreements and the officials having the authority to sign the agreement. This subsection may also discuss local government involvement in negotiations.</li><li>o Another subsection would include a discussion of the DOE participants and their roles.</li></ul>
2) 3.1	Edit for clarity.
3) 3.2	Divide this section into two parts: <ul style="list-style-type: none"><li>o Provisions that are required to be included in the agreement (i.e., the 11 provisions outlined in section 117(c) of the NWPA).</li><li>o Provisions that should be considered for inclusion (e.g., introduction, local government involvement, and discontinuation of funding).</li></ul>
4) 3.2	Keep section 3.2's discussion of each provision divided into two parts: a description of the contents of the provision and DOE's policy regarding this content. For clarity, however, these parts should specifically be labeled "Description" and "DOE Policy." The current discussion of some of the provisions needs to be edited and updated.

Current Section of Guidelines

Revision

5) 4.0

Limit and retitle the current section 4.0 to "Timeframe and Scope of C&C Agreements."

- o Section 4.2 should be included as a suggested provision under what is currently section 3.2.
- o The current section 4.3 should be made into a separate section entitled "C&C Negotiations for Prenotification States and Indian Tribes."
- o The current section 4.4 should be folded into the new section discussing key participants.

6) General

- o The term "Tribe" should be replaced by "Indian Tribe" throughout the document.
- o The term "State/Tribe" should be replaced by "State or Indian Tribe."



Department of Energy  
Chicago Operations Office  
Salt Repository Project Office  
505 King Avenue  
Columbus, Ohio 43201-2693

December 18, 1985

W. Purcell, Associate Director, Geological Repository Deployment, DOE-HQ

SUBJECT: INTERNAL GENERAL GUIDELINES FOR IMPLEMENTING C&C AGREEMENTS

In response to an action item at the August 15, 1985, ISCG meeting, the following comments are offered in the above agreement.

- o Page 4, Second Bullet from top - "A definitive time-frame for negotiation...." This paragraph should also reference the requirement to report back to Congress if and why an agreement cannot be negotiated within 6 months.
- o Page 4, Number 3 - The Guiding Principles would be better stated as:  

The availability of modification should be indicated.

The process for initiating and effecting modification should be addressed.
- o Page 5, Guiding Principles, Fourth Bullet - Remove "swift pace of events", replace with "schedule". Because of the schedule mandated by the Act, clear procedures should be set up for facilitating the processing of necessary permits; where possible a built in appeal process leading up to and including Governor/Tribal council should be developed.
- o Page 6, Number 6, Bullet 1 - Requirements set by what law?
- o Page 6, Number 6 - Guiding Principles, Second Bullet - Why should procedure for public notification apply only to signed agreements? States/tribes and the public wish earlier notification to ensure public interests are represented. This is especially important given the statement at the bottom of this same page under Item 8; "consideration should be given to how impact assistance procedures can address local community concerns and problems."

**- DRAFT**  
For Internal Use

- o Page 6, Number 7 - Change title to "Procedures for resolution of State objections."

Section 117(c)(11) calls for means for resolving State objections, not creation of a forum for all dispute resolution between the States and DOE.

- o Page 7, Number 9 - This section limits the sites which may bring concerns forward to those "sites for which the NRC has authorized construction." States and local governments will want to discuss these issues before NRC has given authorization for construction. That should be addressed under "guiding principles"; that is, consideration should be given to the areas receiving assistance under 116(c) which may already address State and local concerns on these topics.
- o Page 7, Number 10 - Change heading to, "Procedures for notification of transportation of waste and spent fuel into the State for disposal at the repository."
- o Page 9, Section 4.4 - This section states the C&C agreement will be negotiated by the Operations Office, i.e., Chicago. Is this the intent or will SRPO upper management be the negotiator for a salt state agreement.

General Comment

Since Richland has been involved in negotiating two C&C agreements, we assume their comments on these Guidelines will be reflective of their experience. We would appreciate receiving a copy of their comments and any "lessons learned."

*J.O. Neff*  
for J.O. Neff  
Program Manager  
Salt Repository Project Office

SRPO:LKN:max:84968

cc: B. Gale, DOE-HQ  
R. Gale, DOE-HQ

INF 654-35

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Public Health Service  
Indian Health Service  
Health Resources and Services Administration  
Rockville, MD 20851

# INDIAN HEALTH SERVICE

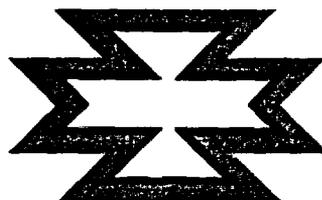
U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
Public Health Service • Health Resources and Services Administration



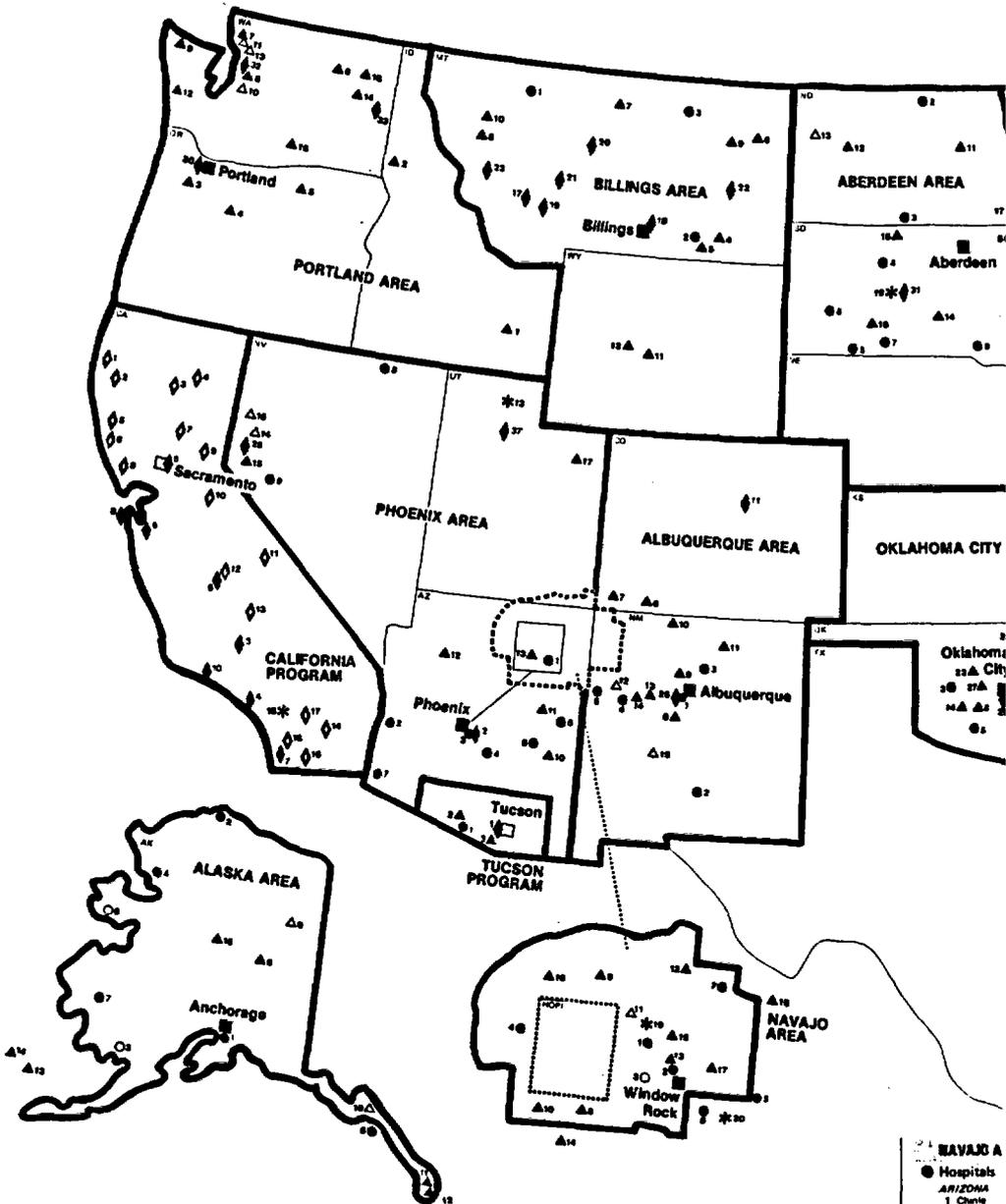
## **A Comprehensive Health Care Program 1955-1984**

### **The People**

*Once in decline, American Indians and Alaska Natives (Eskimos, Aleuts and Alaskan Indians) today are one of the fastest growing population groups in the nation. Most still live in rural areas, principally on or near Indian reservations and in traditional Indian country such as Oklahoma and Alaska. For reasons largely rooted in history, Indians lag behind the general society in income, education, health and other socioeconomic indicators.*



# MAJOR HEALTH FACILITIES FOR



- IHS AREA OFFICES**
- ABERDEEN AREA**  
Aberdeen, South Dakota
  - ALASKA AREA**  
Anchorage, Alaska
  - ALBUQUERQUE AREA**  
Albuquerque, New Mexico
  - BILLINGS AREA**  
Billings, Montana
  - NAVAJO AREA**  
Window Rock, Arizona
  - OKLAHOMA CITY AREA**  
Oklahoma City, Oklahoma
  - PHOENIX AREA**  
Phoenix, Arizona
  - PORTLAND AREA**  
Portland, Oregon
- IHS PROGRAM OFFICES**
- SEMINOL PROGRAM**  
Bemidji, Minnesota
  - CALIFORNIA PROGRAM**  
Sacramento, California
  - NASHVILLE PROGRAM**  
Nashville, Tennessee
  - TUCSON PROGRAM**  
Tucson, Arizona

- PORTLAND AREA**
- Health Centers**
  - IDAHO**
    - 1 Fort Hall
    - 2 Lewiston
  - OREGON**
    - 3 Salem
    - 4 Warm Springs
    - 5 Pendleton
  - WASHINGTON**
    - 6 Wenatchee
    - 7 Bellingham
    - 8 Auburn
    - 9 Hoop Bay
    - 10 Puyallup\*
    - 11 LaConner\*
    - 12 Taholah
    - 13 Wapinitia\*
    - 14 Wapinitia
    - 15 Toppenish
    - 16 Techtelum

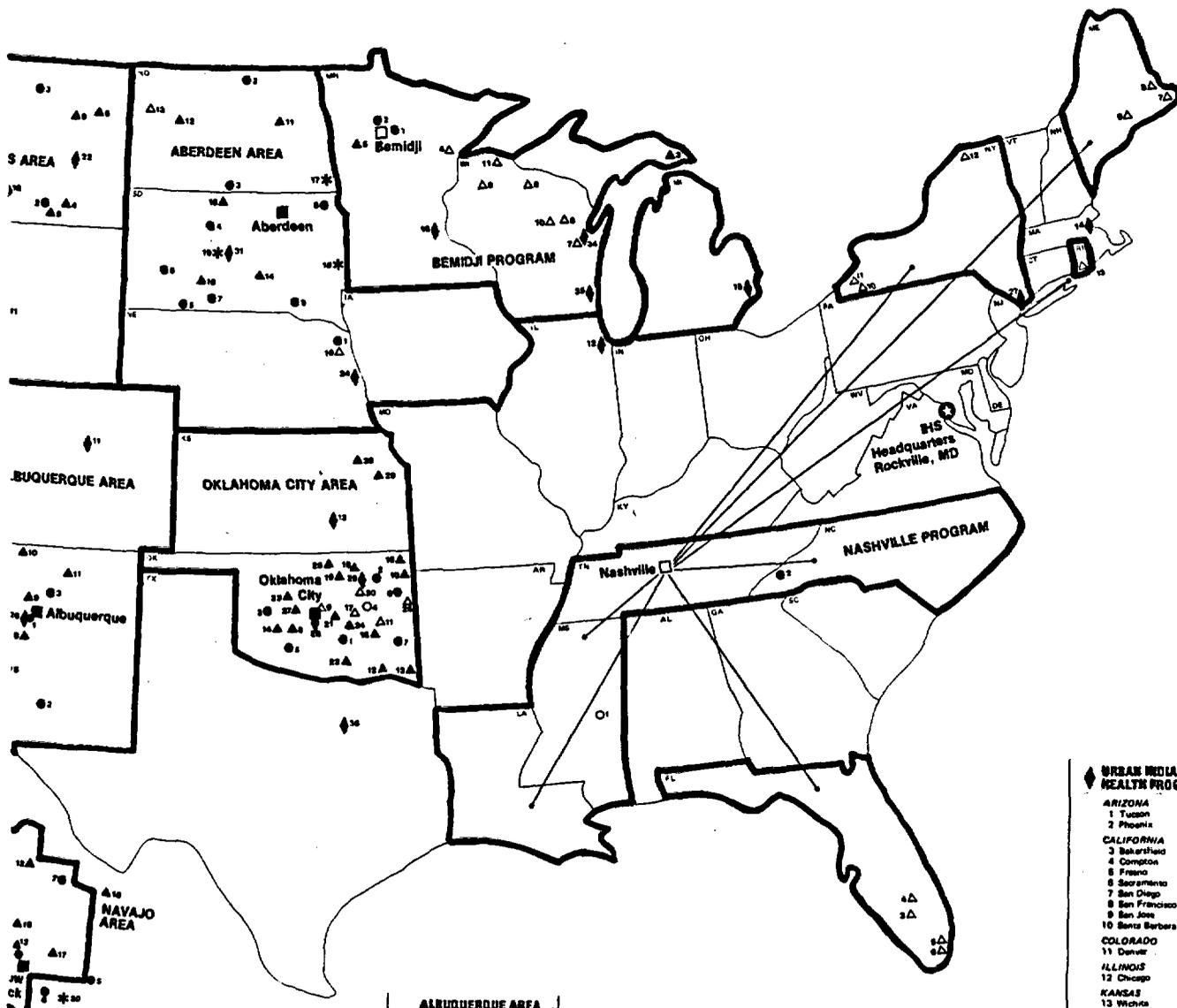
- CALIFORNIA PROGRAM**
- Rural-Tribal Health Program**
  - CALIFORNIA**
    - 1 Trinidad
    - 2 Hoopa
    - 3 Anderson
    - 4 Burney
    - 5 Covelo
    - 6 Ukiah
    - 7 Orville
    - 8 Santa Rosa
    - 9 Auburn
    - 10 Tulumne
    - 11 Shoop
    - 12 Clovis
    - 13 Porterville
    - 14 Banner
    - 15 Valley Center
    - 16 El Cajon
    - 17 San Bernardino

- ALASKA AREA**
- Hospitals**
  - ALASKA**
    - 1 Anchorage
    - 2 Barrow
    - 3 Dillingham\*
    - 4 Kotzebue
    - 5 Mt. Edgecumbe
    - 6 Nome\*
    - 7 Bethel
  - Health Centers**
  - ALASKA**
    - 8 Fairbanks
    - 9 Fort Yukon\*
    - 10 Juneau\*
    - 11 Ketchikan
    - 12 Metlakatla
    - 13 St. George
    - 14 St. Paul
    - 15 Tanana

- PHOENIX AREA**
- Hospitals**
  - ARIZONA**
    - 1 Kama Canyon
    - 2 Parker
    - 3 Phoenix
    - 4 Sacaton
    - 5 San Carlos
    - 6 Winstarver
    - 7 Yuma
  - NEVADA**
    - 8 Overton
    - 9 Schurz
  - Health Centers**
  - ARIZONA**
    - 10 Blye
    - 11 Cibola
    - 12 Peach Springs
    - 13 Second Mesa
  - NEVADA**
    - 14 Sparks\*
    - 15 Brewster
    - 16 Mesquite\*
  - UTAH**
    - 17 Roosevelt
  - School Health Center**
  - CALIFORNIA**
    - 18 Riverside

- NAVAJO AREA**
- Hospitals**
  - ARIZONA**
    - 1 Chinle
    - 2 Fort Defu
    - 3 Ganado\*
    - 4 Tuba City
  - NEW MEXICO**
    - 5 Owingo
    - 6 Gallup
    - 7 Shiprock
  - Health Centers**
  - ARIZONA**
    - 8 Dikou
    - 9 Kayenta
    - 10 Leupp
    - 11 Rough Mt.
    - 12 Tsee Nos
    - 13 Toiy
    - 14 Window
    - 15 Tsalie\*
    - 16 Inacristo
  - NEW MEXICO**
    - 17 Tokatchi
    - 18 Huerfano
  - School Health Centers**
  - ARIZONA**
    - 19 Many Farms
  - NEW MEXICO**
    - 20 Fort Wing
  - TUCSON PROGRAM**
  - Hospital**
  - ARIZONA**
    - 1 Salt
  - Health Centers**
  - ARIZONA**
    - 2 Santa Rita
    - 3 San Xavier

# FACILITIES FOR INDIANS AND ALASKA NATIVES



- PHOENIX AREA**
- Hospitals
    - ARIZONA
      - 1 Kaibab Canyon
      - 2 Parker
      - 3 Phoenix
      - 4 Scottsdale
      - 5 San Carlos
      - 6 White River
      - 7 Yuma
    - NEVADA
      - 8 Overton
      - 9 Schurz
  - ▲ Health Centers
    - ARIZONA
      - 10 Blythe
      - 11 Chaco
      - 12 Peach Springs
      - 13 Second Mesa
    - NEVADA
      - 14 Beatty
      - 15 Shoshone
      - 16 Wabuska
    - UTAH
      - 17 Roosevelt
  - \* School Health Center
    - CALIFORNIA
      - 18 Riverside

- NAVAJO AREA**
- Hospitals
    - ARIZONA
      - 1 Chinle
      - 2 Fort Defiance
      - 3 Ganado
      - 4 Tuba City
    - NEW MEXICO
      - 5 Crownpoint
      - 6 Gallup
      - 7 Shiprock
  - ▲ Health Centers
    - ARIZONA
      - 8 Dixon
      - 9 Kayenta
      - 10 Leupp
      - 11 Rough Rock
      - 12 Tropic Navajo
      - 13 Tropic
      - 14 Window
      - 15 Yucca
      - 16 Inscription House
    - NEW MEXICO
      - 17 Tropic
      - 18 Navajo
  - \* School Health Centers
    - ARIZONA
      - 19 Mary Farms
    - NEW MEXICO
      - 20 Fort Wingate

- ALBUQUERQUE AREA**
- Hospitals
    - NEW MEXICO
      - 1 Albuquerque
      - 2 Mesquite
      - 3 Santa Fe
      - 4 San Fidel
      - 5 Zuni
  - ▲ Health Centers
    - COLORADO
      - 6 Ignacio
      - 7 Towaoc
    - NEW MEXICO
      - 8 Towaoc
      - 9 James
      - 10 Dulce
      - 11 Towaoc
      - 12 Ramah
      - 13 Canoncito
      - 14 Laguna
      - 15 Magdalena
  - BILLINGS AREA**
  - Hospitals
    - MONTANA
      - 1 Browning
      - 2 Crow Agency
      - 3 Harlem
  - ▲ Health Centers
    - MONTANA
      - 4 Lame Deer
      - 5 Lodge Grass
      - 6 Poplar
      - 7 Box Elder
      - 8 St. Ignace
      - 9 Wolf Point
      - 10 Poison
    - WYOMING
      - 11 Arapahoe
      - 12 Fort Washackie
  - \* School Health Center
    - UTAH
      - 13 Brigham City

- ABERDEEN AREA**
- Hospitals
    - NEBRASKA
      - 1 Wymore
    - NORTH DAKOTA
      - 2 Belcourt
      - 3 Fort Yates
    - SOUTH DAKOTA
      - 4 Eagle Butte
      - 5 Pine Ridge
      - 6 Rapid City
      - 7 Rosbud
      - 8 Sisseton
      - 9 Wapar
  - ▲ Health Centers
    - NEBRASKA
      - 10 Macy
    - NORTH DAKOTA
      - 11 Fort Totten
      - 12 New Town
      - 13 Williston
    - SOUTH DAKOTA
      - 14 Fort Thompson
      - 15 McLaughlin
      - 16 Wanblee
  - \* School Health Centers
    - NORTH DAKOTA
      - 17 Weldon
    - SOUTH DAKOTA
      - 18 Flandreau
      - 19 Pierre

- OKLAHOMA CITY AREA**
- Hospitals
    - OKLAHOMA
      - 1 Ada
      - 2 Claremore
      - 3 Clinton
      - 4 Okmulgee
      - 5 Lawton
      - 6 Tahlequah
      - 7 Tahlequah
  - ▲ Health Centers
    - OKLAHOMA
      - 8 Andover
      - 9 Oklahoma City
      - 10 Jay
      - 11 Eufaula
      - 12 Hugo
      - 13 Broken Bow
      - 14 Carnegie
      - 15 McAlester
      - 16 Miami
      - 17 Okemah
      - 18 Pawhuska
      - 19 Pottawatomie
      - 20 Sapulpa
      - 21 Shawnee
      - 22 Tishomingo
      - 23 Wagoner
      - 24 Wagoner
      - 25 Ponca City
      - 26 Stillwell
      - 27 Concho
    - KANSAS
      - 28 Horton
      - 29 Lawrence

- BEMIDJI PROGRAM**
- Hospitals
    - MINNESOTA
      - 1 Coe Lake
      - 2 Red Lake
  - ▲ Health Centers
    - MICHIGAN
      - 3 Kitchell
    - MINNESOTA
      - 4 Cloquet
      - 5 White Earth
    - WISCONSIN
      - 6 Lac du Flambeau
      - 7 Onoda
      - 8 Kathlamet
      - 9 Hayward
      - 10 Boulder
      - 11 Duluth
- NASHVILLE PROGRAM**
- Hospitals
    - MISSISSIPPI
      - 1 Philadelphia
    - NORTH CAROLINA
      - 2 Cherokee
  - ▲ Health Centers
    - FLORIDA
      - 3 Clewiston
      - 4 Oklawaha
      - 5 Hollywood
      - 6 Miami
    - MAINE
      - 7 Perry
      - 8 Princeton
      - 9 Old Town
    - NEW YORK
      - 10 Salamanca
      - 11 Cortland
      - 12 Housatonic
    - RHODE ISLAND
      - 13 Kenyon

- URBAN INDIAN HEALTH PROGRAMS**
- ARIZONA
    - 1 Tucson
    - 2 Phoenix
  - CALIFORNIA
    - 3 Berkeley
    - 4 Compton
    - 5 Fresno
    - 6 Sacramento
    - 7 San Diego
    - 8 San Francisco
    - 9 San Jose
    - 10 Santa Barbara
  - COLORADO
    - 11 Denver
  - ILLINOIS
    - 12 Chicago
  - KANSAS
    - 13 Wichita
  - MASSACHUSETTS
    - 14 Boston
  - MICHIGAN
    - 15 Detroit
  - MINNESOTA
    - 16 Minneapolis
  - MONTANA
    - 17 Anaconda
    - 18 Billings
    - 19 Butte
    - 20 Great Falls
    - 21 Helena
    - 22 Miles City
    - 23 Missoula
  - NEBRASKA
    - 24 Omaha
  - NEVADA
    - 25 Reno
  - NEW MEXICO
    - 26 Albuquerque
    - 27 New York City
  - OKLAHOMA
    - 28 Oklahoma City
    - 29 Tulsa
  - OREGON
    - 30 Portland
  - SOUTH DAKOTA
    - 31 Pierre
  - WASHINGTON
    - 32 Seattle
    - 33 Spokane
  - WISCONSIN
    - 34 Green Bay
    - 35 Milwaukee
  - TEXAS
    - 36 Dallas
  - UTAH
    - 37 Salt Lake City
- As of 4/1/84  
\*Trially Operated

**A**  
**Comprehensive Health Care Program 1955-1984**



### History and Mission

The health care program for Indians, administered by the Indian Health Service (IHS), a bureau of the U.S. Public Health Service's Health Resources and Services Administration, traces its origins to the early 1800s when army physicians undertook to curb smallpox and other contagious diseases among Indian tribes living near military posts. The present-day program has grown out of negotiated treaties, which frequently included provisions for medical services. In 1849 the Bureau of Indian Affairs was transferred from the War Department to the new Department of the Interior. The Transfer Act of 1954 moved the health program to the Public Health Service.

The goal of the Indian Health Service is to raise the health status of the American Indians and Alaska Natives to the highest possible level. This mission is guided by three major objectives:

- Assure Indian people access to high quality, comprehensive health services appropriate for their needs.
- Assist Indian tribes and Alaska Native corporations to develop their capacity to staff and manage health programs and provide them with the opportunity to assume operational authority for IHS programs serving their communities.
- Act as the Indian people's advocate in health-related matters and help them gain access to other Federal, State and local programs, to which they are entitled.

### The IHS Program

The Indian Health Service is the primary Federal health resource for more than 900,000 Indians and Alaska Natives. The Federal Government has a historical and unique legal relationship with, and resulting responsibility to, Indian tribes and their members. The IHS program is community oriented and comprehensive in scope, offering preventive, curative and rehabilitative services. Included, in addition to general medical and dental care, are such services as maternal and child health, eye care, diabetes, otitis media, family planning, mental health, social services, alcoholism, nutrition, public health nursing, health education and environmental health and sanitation. The sanitation program is especially important because it seeks to improve conditions which contribute to infectious diseases.

Services are provided by clinical staff in IHS facilities—47 hospitals, 3 of them medical centers, 84 health centers, and several hundred smaller facilities—and by field health teams which work in the Indian communities. The Indian Health Service also contracts with tribal and Alaska Native health organizations to operate 4 hospitals and numerous health clinics, and with State and local health departments and private practitioners for services it cannot provide or for areas where it has no facilities.

### Consumer Participation

Indian participation is a major program objective. Early IHS efforts focused on helping tribes organize health advisory boards and on training Indian health workers. Within the last decade Indian participation has dramatically increased. This is principally because of the passage of two laws, the Indian Self-Determination and Education Assistance Act (P.L. 93-638) and the Indian Health Care Improvement Act (P.L. 94-437). The first provides tribes with the option of managing and staffing health programs in their communities. The second authorized higher resource levels in the IHS program and established new programs for health professions training for Indians and for the provision of health services for Indians living in urban areas.

The change is striking. As an example, 15 years ago IHS staff did almost all the planning and operation of services for Indian communities. Today, tribes and Native corporations play a leading role in planning their health services and in carrying out other health activities. These cover a broad range, and include emergency medical services, mental health activities, alcoholism treatment and control, environmental, other preventive activities, and ambulatory and hospital care.

### Progress Since 1955\*

In 1955, the year the Public Health Service became responsible for the health care of Indians, the control of infectious diseases was given high priority. Since then, many major strides have been made.

### Mortality (1954-56 through 1979-81)

- Infant death rate—down 78 percent.
- Death rate from certain conditions originating in the perinatal period—down 82 percent.
- Pneumonia and influenza death rate—down 80 percent.
- Gastrointestinal diseases death rate—down 91 percent.
- Tuberculosis death rate—down 95 percent.

### Environmental Health

- Running water and sanitary waste disposal facilities provided for over 119,000 Indian homes since legislation authorizing such construction was enacted in 1959. In addition, sanitation facilities provided for more than 63,000 new or improved housing units constructed under Federal/tribal programs.

### Services Utilization

- Outpatient visits more than 7 times higher—up from 455,000 to 3,653,000 a year.
- Hospital admissions more than doubled—from 50,000 to 104,000 a year.
- Percentage of babies born in hospitals rather than home—99.0 percent in 1981 compared to 88.2 percent in 1955.
- Dental services more than 9 times greater—from 180,000 to 1,907,000 a year.

### Health Facilities

- Twenty-seven hospitals have been built to replace outmoded facilities and two new additional hospitals have been constructed, one in Ada, Oklahoma and one for the Acomita-Canoncito-Laguna pueblos in New Mexico. Also 32 new health centers and 58 health stations and satellite clinics have been opened.

### Manpower and Training

- Physicians assigned to the IHS increased from 125 to 600; dentists from 40 to 250; and graduate nurses from 783 to 2,000.
- Residency training programs established for IHS physicians in obstetrics and gynecology and general surgery. Residencies also established for dentists and pharmacists.
- Scholarships awarded to more than 2,000 Indian students to help prepare them for postgraduate training in health professions.
- Grants made to 28 Indian organizations to stimulate Indian youth interest in health careers.
- More than 300 Indians graduated or currently supported in medicine, dentistry, nursing and other health professions.

In addition, the Indian Health Service has trained more than 6,000 Indians as community health medics (physician assistants), dental assistants, community health representatives, audiometric technicians, medical social workers, mental health workers, environmental health technicians and in other fields. Direct or supported training also has been provided to tribal staff in health planning, health administration and related areas.

### The Future

The scourges of yesterday such as tuberculosis and gastroenteritis have been replaced by other more challenging problems, ones which require new ideas and new approaches. The health priorities of Indians today—accidents, alcoholism, diabetes, mental health, suicides and homicide—stem more from changes in their traditional lifestyle and values and deprivation than organic causes. The new approach to these problems requires a partnership between the Federal Government and the Indian and Alaska Native peoples. To ensure the effectiveness of this partnership, the Indian Health Service will continue to utilize its resources to the fullest to provide quality health care, augment Indian health manpower for Indian needs, and improve tribes' ability to plan and manage health programs.

\*Based on latest available statistics.

United States Government

Department of Energy

# memorandum

*Pre-mtg. p/gy  
fm DOE*

DATE: AUG 04 1986

REPLY TO  
ATTN OF: RW-223

SUBJECT: Quarterly Meeting of States and Indian Tribes, August 13, 1986,  
Portland, Oregon

TO: Distribution

Attached is the reference package for the August 13, 1986, Quarterly Meeting of States and Indian Tribes in Portland, Oregon. The reference package contains the following materials:

- o Agenda for the Meeting
- o List of Meeting Participants
- o Highlights from the April 16, Albuquerque Quarterly Meeting
- o Summary of Waste Package Coordination Group Meeting held on June 11-12, 1986 (re: Albuquerque Commitment #1)
- o Letter from Lake Barrett to Robert Loux dated June 9, 1986 (re: Albuquerque Commitment #8)
- o Agenda for Waste Package Coordination Group Meeting held on June 11-12, 1986 (re: Albuquerque Commitment #12)
- o Preliminary Draft of OCRWM Financial Assistance Policy Guidelines
- o Draft Internal General Guidelines for Implementing Financial Assistance (Grants) for Repository Programs ... Revised August 1, 1986
- o Hard copies of viewgraphs re: Licensing Support System
- o OCRWM Organization Chart
- o Office of Geologic Repositories Organization Chart

This meeting will be held at the Marriott Hotel, 1401 Southwest Front Avenue, in Portland, Oregon, (503)226-7600. If you have any questions, please contact Barry Gale or Judy Leahy at (202)252-1116. I am looking forward to seeing you in Portland.

*William J. Purcell*  
William J. Purcell  
Associate Director for  
Geologic Repositories  
Office of Civilian Radioactive  
Waste Management

**Distribution:**

Harold Aronson  
Albert Barros  
Warren Bishop  
Hall Bohlinger  
William Burke  
Curtis Canard  
Jim Friloux  
Steve Frishman  
Barry Gale  
Roger Gale  
Kenneth Goodmiller  
John Green  
Gary Greene  
Ron Halfmoon  
Steve Hart  
Joe Holmes  
Terry Husseman  
John Hutchins  
Tom Isaacs  
Russell Jim  
Jim Knight  
Mike Later  
Judy Leahy  
Robert Loux, Jr.  
Jerry Martin  
Linda McClain  
Reine Moffett  
Bob Mussler  
Jeff Neff  
Lee Olson  
Jim Palmer  
Max Powell  
Don Provost  
William Purcell  
Cheryl Runyon  
D.T. Schueler  
Allen Slickpoo  
Jonathan Spell  
Lisa Spruill  
Patrick Spurgin  
Ralph Stein  
David Stevens  
Lisa Stevenson  
Ron Stouffer  
Don Vieth  
Mike Wisniewski  
Bill Yallup

QUARTERLY MEETING OF THE STATES AND INDIAN TRIBES  
 PORTLAND, OREGON - AUGUST 13, 1986

AGENDA

Time	Item	Responsibility	Outcome	Reference
8:00 a.m.	Welcome and Opening Remarks	Russell Jim		
	Review Commitments from Albuquerque Quarterly Meeting	All	Agreement	Albuquerque Meeting Highlights
	Financial Assistance Guidelines (General and OGR)	Roger Gale Barry Gale	Discussion	Guidelines
	DOE guidelines and procedures	All	Discussion	
	BREAK			
	Defense Waste	All	Discussion	
	Status and coordination of Licensing Support System with States and Indian Tribes	Ralph Stein	Discussion	Hard-copies of view graphs
Noon	LUNCH	James Asselstine Commissioner, Nuclear Regulatory Commission		
	Impact of gas exploration on resources at Hanford, Yucca Mountain, and Deaf Smith Sites	States, Indian Tribes, and Project Managers	Discussion	

QUARTERLY MEETING OF THE STATES AND INDIAN TRIBES  
PORTLAND, OREGON - AUGUST 13, 1986

DRAFT AGENDA (continued)

<u>Time</u>	<u>Item</u>	<u>Responsibility</u>	<u>Outcome</u>	<u>Reference</u>
	OCRWM Program Update	Bill Purcell	Discussion	Organiza- tion Charts
	BREAK			
	Effect of the Gramm-Rudman- Hollings Deficit Reduction Act of 1986 on the OCRWM Program	Bill Purcell	Discussion	
	Status reports:			
	EAs	All	Discussion	
	EIS	Jim Knight	Discussion	
	SCPs	Ralph Stein	Discussion	
	Purpose and scope of future Quarterly Meetings	All	Agreement	
	Review Meeting Commitments	Russell Jim	Agreement	
4:00 p.m.	ADJOURN			

ATTENDEES OF THE QUARTERLY  
MEETING OF THE STATES AND INDIAN TRIBES

Mr. Harold Aronson  
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Mr. Bill Yallup  
Yakima Indian Nation  
Highway 97 and Fort Road  
Toppenish, WA 98948

QUARTERLY MEETING OF STATES AND INDIAN TRIBES

Albuquerque, New Mexico

April 16, 1986

Meeting Highlights

CHAIRPERSON: John Green

PARTICIPANTS:

States and Indian Tribes

H. Harold Aronson, Yakima  
Albert Barros, Nez Perce  
Warren Bishop, WA  
Bill Burke, Umatilla  
Jim Friloux, LA  
Steve Frishman, TX  
Kevin Gover, NM  
John Green, MS  
Gary Greene, Nez Perce  
Ron Halfmoon, Nez Perce  
Steve Hart, CERT  
Daniel Hester, Umatilla  
Joe Holmes, LA  
Terry Husseman, WA  
John Hutchins, CERT  
Russell Jim, Yakima  
Mike Later, UT  
Bob Loux, NV  
Jerry Martin, MS  
Reine Moffett, Nez Perce  
Jim Palmer, MS  
Don Provost, WA  
Allen Slickpoo, Nez Perce  
Lisa Spruill, MS  
Pat Spurgin, UT

U.S. Department of Energy

Lake Barrett, HQ  
Ellison Burton, HQ  
Barry Gale, HQ  
Roger Gale, HQ  
Jim Knight, HQ  
Linda McClain, SRPO  
Bob Mussler, HQ  
Lee Olson, BWIP  
Max Powell, BWIP  
D. T. Schueler, NNWSI  
Ralph Stein, HQ  
Ron Stouffer, HQ, GAO  
Don Vieth, NNWSI  
Mike Wisniewski, HQ  
Judy Leahy, HQ

Organizations

Lokesh Chaturvedi, Environmental  
Evaluation Group  
John Gervers, Latir Energy  
Consultants  
Robert Neill, Environmental  
Evaluation Group

MEETING COMMITMENTS

1. U.S. Department of Energy (DOE) will send to all States and Indian Tribes new sets of technical coordination group minutes.
2. DOE will provide to States and Indian Tribes copies of its annual planning guidance letters, if pertinent to site characterization (continuation of Atlanta commitment #7).
3. DOE will provide States and Indian Tribes with design requirements and design reports for project-specific advanced conceptual designs. The original anticipated day of May 1986 may slip (continuation of Denver commitment #3, with modification of delivery date).

4. DOE's goal is to provide advance notice to States and Indian Tribes of DOE/NRC meetings at least 30 days in advance. If a change in date occurs, DOE will notify the States and Indian Tribes as soon as possible (continuation of Atlanta commitment #14, with modifications).
5. DOE will convey to the Secretary the State and Indian Tribe request that the Environmental Assessments (EA) not be released without a 30-day advance notice to States and Indian Tribes, specifying the exact release date. When the EA release date is announced, DOE will also provide States and Indian Tribes a description of all documents to be released with the EAs, and to the extent possible, with key decision dates in the process.
6. DOE will send to the first repository States and Indian Tribes and the Project Offices via Express Mail copies of the EA Congressional Briefing Book the day the final EAs are released.
7. In the next ISCG package, DOE will include a copy of the State and Indian Tribe mailing list for the States and Indian Tribes to review and update as needed.
8. DOE/Office of Storage and Transportation Systems (OSTS) will develop alternatives for including host State and Indian Tribal participation in Transportation Coordination Group activities. These alternatives will be sent by letter to R. Loux, with a copy sent to all other affected parties.
9. DOE will submit information to States and Indian Tribes regarding whether there are official appeals processes for decisions made on grants to States and Indian Tribes.
10. DOE will provide States and Indian Tribes with draft financial assistance guidelines for their review and comments.
11. DOE will provide to States and Indian Tribes an updated Site Characterization Plan (SCP) schedule when completed--approximately mid-May 1986 (continuation of Atlanta commitment #8, with modified delivery date).
12. DOE will provide States and Indian Tribes with agendas of the technical coordination group meetings in advance of the actual meeting dates. DOE will also provide States and Indian Tribes with one-page summaries of each technical coordination meeting (reiteration of Atlanta commitment #5).
13. The next meeting will be hosted by the Indian Tribes. A tentative time and date for this meeting is the first or second week of August, in Eugene or Portland, Oregon. Russell Jim of the Yakimas will work with Barry Gale on arrangements.

#### STATUS OF EAs

Headquarters distributed a preliminary schedule for releasing the EAs. States and Indian Tribes will be notified of the release date at least 2 weeks ahead of time, if possible. At this point, the best estimate of the EA release date is mid-May. States and Indian Tribes commented that 2 weeks' notice did not provide sufficient lead time, and requested that they be given 30 days notice instead. Headquarters agreed to convey these wishes to senior DOE management (see Commitment #5).

**INTERNAL GENERAL GUIDELINES FOR IMPLEMENTING THE  
CONSULTATION AND COOPERATION AGREEMENT  
PROVISIONS OF SECTION 117 OF THE  
NUCLEAR WASTE POLICY ACT OF 1982  
(Revised Draft 8/5/85)**

**1.0 PURPOSE**

The purpose of this document is to assist the Department of Energy (DOE) headquarters and operations offices in developing workable Consultation and Cooperation (C&C) agreements as required by Section 117 of the Nuclear Waste Policy Act of 1982 (the Act). C&C agreements are an essential means of ensuring that States and affected Indian Tribes participate in all aspects of the planning and development of the national waste repository program in accordance with the Act. C&C agreements govern the procedures to be followed in relations between DOE and States or Tribes and form the foundation upon which such relations may be guided.

These C&C guidelines provide general guidance to DOE offices. The guidelines will be supplemented with frequent communications between the operations offices and headquarters with the aim of developing agreements that address the specific concerns of each State and affected Indian Tribe.

**2.0 BACKGROUND**

**2.1 The Nuclear Waste Policy Act of 1982**

The Act establishes comprehensive requirements for the siting, construction, operation, and closure of mined geologic repositories for disposal of high level radioactive waste and spent fuel. The Act contains a specific finding that State and public participation in the planning and development of repositories is necessary to promote public confidence in the Department's nuclear waste disposal program. To ensure that States and affected Indian Tribes are involved in the repository siting process, the Act requires the Federal Government to consult and cooperate with States and affected Indian Tribes on means of resolving their concerns about repository impacts. As part of this, the Act requires the Department to seek to enter into and negotiate binding written agreements for this purpose.

## 2.2 Consultation and Cooperation Agreements

Section 117(c) of the Act establishes the requirement for written C&C agreements. The purpose of the agreement is to set forth procedures under which the Department will consult and cooperate with States and affected Indian Tribes, to resolve their concerns regarding the public health and safety, environmental, and economic impacts of characterization, siting and construction activities relating to the development of nuclear waste repositories.

C&C agreements offer several potential benefits to the Department, States, and affected Indian Tribes:

- o They lay a foundation and establish the mechanisms for the productive interaction and information exchange between the Department and the State or Tribe throughout all phases of repository development.
- o They define and demonstrate publicly that procedures are in place for ensuring proper review of the health, safety, environmental, and socioeconomic impacts of the project.
- o They provide a mechanism for State/Tribe review and evaluation, including independent monitoring and testing, of activities on the repository site.
- o They establish a means to resolve conflicts.

The Act specifies that the Secretary of Energy shall seek to enter into negotiations with States and affected Indian Tribes concerning C&C agreements within 60 days after the time (1) a site is approved by the President for site characterization under Section 112(c) of the Act, or (2) a written request for an agreement is received from a State or affected Indian Tribe which has been notified by the Department that it has identified within the State/Tribal area a "potentially acceptable" site(s) as defined in Section 116(a) of the Act, whichever occurs first. However, the Act does not exclude less formal agreements between the Department and States or Tribes even prior to notification of potentially acceptable sites.

### 3.0 CONTENTS OF THE AGREEMENTS

#### 3.1 General

C&C agreements set forth formal processes by which the Department and States or affected Indian Tribes may interact and come together on a series of issues of importance to both. Section 117(c) of the Act sets out 11 areas where it indicates procedures for C&C should be developed, though it also indicates that the agreements need not be limited to these.

The C&C agreement establishes procedures for addressing the substantive issues which will be encountered in three of the four main phases of the repository development process: (II) notification; (III) site characterization; (IV) site construction, operation and closure. (The first phase is prenotification, to which formal C&C agreements do not apply.) After the C&C agreement is signed, follow-up negotiations may be needed to help consummate additional agreements concerning issues affecting later phases of the repository development program. The C&C agreement establishes the ground rules for all subsequent negotiations.

#### 3.2 Specific

Each C&C agreement will be unique, depending on the process of negotiation and the needs of each State and affected Indian Tribe, but the following common elements ought to be considered for inclusion:

1. General and introductory provisions, including:
  - o Parties to the agreement.
  - o Scope and duration of the agreement.
  - o Purpose of the agreement.
  - o Identification of working level contact points.
  - o Definition of technical terms.

#### Guiding Principles

- Clarity is essential in defining parties, indicating signatory authority, and delegations of authority.

- Clear indication should be given that C&C agreements pertain to the entire process of repository development through Phase IV, subject, of course, to periodic review and modification. (See 3. below)
- A definite time-frame for negotiation of the C&C agreements should be set. The Act provides guidance on this, requiring the agreement, to the maximum extent feasible, to be completed not later than 6 months after negotiations have begun.

2. State and Tribal participation procedures.

- o Procedures by which States and affected Tribes may study, determine, comment on, and make recommendations on possible public health, safety, environmental, social, and economic impacts of a repository.
- o Procedures which the Department will use in considering and responding to comments and recommendations, including a time period for responding.

Guiding Principles

- DOE should be prepared to provide access to information needed and financial support to help States/Tribes prepare comments and recommendations.
- Scheduling and timing should allow DOE adequate time for operations and headquarters review of material.

3. Procedures for periodic review/modification of C&C agreement.

Guiding Principles

- A clear need for modification should be indicated.

4. Procedures for review and evaluation of the overall project, including identification in the agreement of key events, critical path milestones, and decision points.

Guiding Principles

- Every effort should be made to accommodate State/Tribe desires for periodic project review and evaluation. This can be accomplished by setting up regularly scheduled review meetings, as well as providing for unscheduled meetings, as required.

5. Procedures for the sharing, within applicable Federal and State laws, of technical and pre-licensing information, and utilization of available expertise for the purpose of:

- o Facilitating permit procedures.
- o Joint project review.
- o Joint surveillance and monitoring.

Guiding Principles

- Technical information should be made available at the earliest possible time. With regard to certain data -- such as proprietary data or data relating to patent protection -- all applicable laws governing release must be adhered to.
- With regard to information of a policy nature, DOE should make every effort to release policy working papers or excerpts thereof, where appropriate.
- DOE should affirmatively invite State/Tribe consultation with regard to utilizing available expertise, as well as offering available DOE expertise to them.
- Because of the swift pace of events mandated by the Act, clear procedures should be set up for facilitating the process of permit approval, with a built-in appeal process leading up to and including Governor/Tribal council.
- Reasonable limits should be sought as to the areas for joint environmental surveillance and monitoring, as well as positive involvement by the State/Tribe in all such joint efforts.

6. Procedures for public notification of C&C agreements.

Guiding Principles

- Procedures should, to the extent practicable, go beyond the minimum requirements set by law.
- Procedures should apply only to the final signed agreement. (It should be emphasized, however, that the process is an iterative one that may begin before public notification of the final agreement.)

7. Procedures for conflict resolution (resolving the objections of States or affected Tribes).

Guiding Principles

- The process of conflict resolution should start at the level where conflict originated, with disagreements sent up the organizational ladder (both in DOE and at the State/Tribe level) when conflict persists.
- The various levels of possible conflict resolution and the individuals authorized to negotiate at those levels should be clearly indicated.
- A clear time-frame for resolving conflicts should be provided -- conflicts cannot be expected to go on forever without adversely affecting the repository development program.

8. Procedures regarding impacts reports and assistance.

- o Procedures by which a State or Tribe is to submit an impact report and request for impact assistance under Section 116(c)(2) or 118(b)(2).

Guiding Principles

- Consideration should be given to how impact assistance procedures can address local community concerns and problems.

States and Indian Tribes asked what other documents would be released with the EAs, if any (e.g., summary documents of each EA). Headquarters replied that States and Indian Tribes will be informed of the number of documents to be released when they are notified of the EA release date. Headquarters will also send the States and Indian Tribes copies of the EA Congressional Briefing Book on the release date (see Commitment #6).

#### STATUS OF MRS

Headquarters distributed three handouts and gave a presentation describing the status of the MRS program.

#### STATE AND TRIBAL PARTICIPATION IN COORDINATION GROUPS

Headquarters announced that the next Environmental Coordination Group meeting will be held on May 7-9, in the DOE Forrestal Building. The next Institutional Socioeconomic Coordination Group (ISCG) meeting will be held May 20-22, in Crystal City, Virginia.

Headquarters presented an overview of the Quality Assurance Coordination Group's (QACG) charter, membership, and future meeting dates. States and Indian Tribes had requested that these meetings be opened to them. In response to this request, Headquarters proposed that the QACG meetings be comprised of two sessions: open and closed. In the closed sessions, DOE participants will discuss personnel matters, proprietary data, pre-award status of contracts, and other internal business items. The open portion of these meetings would be attended by the States and Indian Tribes. Any QA issues or concerns presented by States or Indian Tribes could be discussed at these open sessions. Several State and Tribe representatives commented that they prefer that all sessions of the QACG meetings be kept open.

States and Indian Tribes expressed some concerns about planning and follow-up activities for the coordination group meetings. Some States and Indian Tribes have not received notices or agendas for these meetings. Headquarters responded that States and Indian Tribes receive the same coordination group information packages that are sent to the DOE Project Offices. It was agreed that the State and Indian Tribe distribution list should be reviewed and updated as needed (see Commitment #7). Headquarters also reiterated its commitment to provide States and Indian Tribes with agendas and minutes of meetings in a timely fashion (see Commitment #12).

States and Indian Tribes requested that they be given notice 30 days in advance of all coordination group meetings. Headquarters replied that, to the extent possible, they would accommodate this request. However, coordination group meetings are not always scheduled 30 days ahead of time.

States and Indian Tribes had some general comments on the last ISCG meeting. They noted that no decisions were made at the meeting. Headquarters replied that ISCG was not a decision-making group. States and Indian Tribes requested that the minutes of all coordination group meetings be more detailed, and that the progress of Action Items or Commitment Items be tracked in the minutes.

## RISK ASSESSMENT

Headquarters presented a status report on risk assessment efforts. The risk assessment calculations will be a factor in determining what QA levels to use for repository siting, design, and construction. Three risk assessment reports are in progress. An interim report, consisting of a review of current risk assessment literature, is near completion. A second report consisting of an evaluation of current literature on risk should be available by the end of Summer 1986. An in-depth risk analysis report should be available by Summer 1987.

## LICENSING SUPPORT SYSTEM

Headquarters presented a status report on the Licensing Support System (LSS). The LSS will provide a vehicle for rapid discovery in the licensing process. Every document that has been generated through the program will be available on-line in the LSS. An interagency LSS coordinating group will meet on April 22, 1986, to discuss various options regarding creation of the LSS.

## TRANSPORTATION

Headquarters/OSTS noted that DOE will work with all interested parties to ensure that all transportation planning for the repository siting program is conducted in a sound institutional framework. DOE will also comply with all DOT regulations during this process. The OSTS noted that a Transportation Institutional Plan will be released shortly. The plan identifies a strategy of creating multi-State regional groups that will work towards a national consensus on transporting high-level nuclear waste. As a step in developing the final plan, OSTS held a national workshop in November 1985 to obtain input from States and Indian Tribes around the country on a draft plan. In the future OSTS may hold additional national workshops on specific issues, such as routing.

States and Indian Tribes had requested that they be allowed to participate in (or at least, attend as observers) Transportation Coordination Group meetings. The OSTS expressed two objections to this proposal. First, if DOE were to open the meetings to States and Indian Tribes, it would have to open them to other groups as well, including industry representatives. This expanded attendance would prove cumbersome, and reduce the chances of accomplishing any meaningful work at these meetings. A second objection to the State and Tribal proposal is that the expanded attendance would have a "chilling effect" on discussions at these meetings, again reducing the likelihood of accomplishing any work at these meetings. The OSTS added that the majority of the discussions during these meetings pertain to internal DOE matters, such as personnel problems or the status of contract awards.

As an alternative to the State and Indian Tribe request, OSTS offered to meet with States and Indian Tribes whenever they wanted to discuss transportation issues. State and Indian Tribal representatives reiterated their interest in participating in the actual Transportation Coordination Group meetings. The OSTS responded that, if it would be possible to limit the participation to first repository States and Tribes, they would be willing to open the meetings. The OSTS agreed to explore various options for incorporating State/Tribal participation into Transportation Coordination Group activities (see Commitment #8).

## REVISED GRANT GUIDELINES AND PROCEDURES

Headquarters distributed a handout delineating six items for discussion on grant guidelines and procedures, and asked for State and Indian Tribe comments on these items. States and Indian Tribes commented that the roles and responsibilities of Headquarters and the Project Offices should be better defined. Headquarters' standards for approving or disapproving grant requests should also be explicitly defined.

It was agreed that DOE would provide States and Indian Tribes with draft financial assistance guidelines for their review and comment (see Commitment #10). DOE will also send States and Indian Tribes information on whether there are official appeals processes to decisions made on grant requests (see Commitment #9).

Headquarters reported that they are considering discontinuing grants to national associations, providing instead contracts for association services. Headquarters will be contacting States and Indian Tribes to solicit their opinions on the utility of specific association services.

Headquarters commented that negotiated rulemaking may be undertaken later on, but will not be given high priority at this point.

### SITE CHARACTERIZATION: WIPP EXPERIENCE IN CONSULTATION AND COOPERATION (C&C)

Robert Neill reported on the experiences of the Environmental Evaluation Group (New Mexico) in reviewing the WIPP program. He offered several points of advice to States and Indian Tribes in their review of first repository sites:

- Focus heavily on technical evaluation of repository documents.
- Separate "C&C" issues from those of "technical competency."
- Convene a panel of experts to review geotechnical issues.
- When conducting your own analyses of technical issues, try to get them published for peer review.

When educating the public about repository activities, Mr. Neill advises the following:

- Do not use "relative risk" concepts when explaining risk.
- Do not depend solely on the NRC to provide technical evaluations of repository documents. To the extent possible, have local experts conduct these evaluations as well.
- When seeking legislative support on positions, have a clear focal point in the State Legislature.

Mr. Neill also commented that DOE should leave disclaimers off of contractor reports. Headquarters responded that, when these documents represent DOE policy, they have no disclaimers.

SITE CHARACTERIZATION: TIMING AND COORDINATION WITH STATES AND INDIAN TRIBES

Headquarters reiterated its commitment to provide States and Indian Tribes with an updated SCP schedule as soon as it is completed (see Commitment #11). A meeting between DOE and the NRC will be held on May 7 and 8, 1986, to discuss the SCP.

SITE CHARACTERIZATION: SHAFT LICENSURE

Headquarters distributed a handout on shaft licensability. The handout explicitly states that if the exploratory shaft is to be part of the repository, it must meet all repository requirements.

DOE AGREEMENTS WITH OTHER FEDERAL AGENCIES

Headquarters distributed a copy of a Memorandum of Understanding between DOE and the U.S. Geological Survey.

NEXT MEETING

The next meeting will be hosted by the Indian Tribes, and has tentatively been scheduled for the first or second week of August, in Eugene or Portland, Oregon. Russell Jim will be the lead contact. Barry Gale will be the DOE Headquarters contact.

REVIEW OF ATLANTA DECEMBER MEETING COMMITMENTS

The commitments that were made at the quarterly meeting in Atlanta, Georgia, on December 3, 1985, were reviewed. The following is their status:

<u>Atlanta Commitment</u>	<u>Responsibility</u>	<u>Date</u>	<u>Status</u>
1. DOE will examine the implications of the conflict of interest provision in the Crystalline Repository Project Office engineering services procurement and inform the States and Indian Tribes of this review.	Burton	TBD	Completed.
2. DOE will provide to all States and Indian Tribes, in writing, the revised EA Chapter 6 findings for all sites.	Burton	TBD	Completed.
3. States and Indian Tribes will meet with ISCG and Environmental Coordination Groups. DOE may then meet in separate executive sessions following the meeting, if they choose, to discuss the same agenda topics as in the previous day's meeting as well as other management-type items.	Burton	TBD	Ongoing.

<u>Atlanta Commitment</u>	<u>Responsibility</u>	<u>Date</u>	<u>Status</u>
4. DOE will provide to States and Indian Tribes summary minutes of technical coordination group meetings.	Stein	TBD	Ongoing.
5. DOE will look into the problem of States and Indian Tribes not receiving adequate advance notice of meetings.	Burton	TBD	Distribution list will be reviewed (see Albuquerque Commitment #7)
6. DOE will check to determine whether potential generic guidance for Project Offices regarding site characterization is being prepared.	Stein	TBD	Completed.
7. DOE will provide to States and Indian Tribes copies of its annual planning guidance letters, if pertinent to site characterization.	Burton	TBD	Carried over.
8. DOE will provide to States and Indian Tribes an updated SCP schedule when completed -- approximately January or February 1986.	Stein	TBD	Will provide in mid-May.
9. DOE will consider holding a technical briefing on the ranking methodology for the States and Indian Tribes in the January-February time period.	Burton	TBD	Completed.
10. DOE will revise the local and community guidelines to reflect the comments made at this meeting.	Burton	TBD	Completed.
11. The next meeting will be in March or early April, hosted by Mississippi, in Albuquerque.	B. Gale	TBD	Completed. Held on 4/16/86.
12. DOE will invite States and Indian Tribes to send representatives to a brain-storming meeting on longer-term public education.	R. Gale	TBD	Completed. Held on 3/12/86 in St. Louis.

<u>Atlanta Commitment</u>	<u>Responsibility</u>	<u>Date</u>	<u>Status</u>
13. DOE will provide the States and Indian Tribes with design requirements and design reports for project-specific advanced conceptual designs--anticipated date, May 1986 (continuation of Denver commitment #3).	Stein	TBD	Carried over.
14. DOE will provide advance notice to States and Indian Tribes of DOE/NRC meetings at least 30 days in advance. If a change in date occurs, DOE will notify the States and Indian Tribes as soon as possible.	Stein	TBD	Carried over.
15. DOE will provide a design status briefing to States and Indian Tribes on the Licensing Information System (now called the "Licensing Support System") at the next meeting.	Stein	At Albuquerque Meeting (4/16/86)	Completed.
16. DOE will hold workshops and training with States and Indian Tribes on the LSS Computer System, as part of pre-start-up activities (continuation of Denver commitment #9).	Stein	TBD	Dropped, because it is too early to consider this item.

**AGENDA**  
**Waste Package Coordination Group**

**June 11, 12, 1986**

**Battelle Memorial Institute**  
**505 King Avenue**  
**Columbus, Ohio 43201**

**June 11, 1986**

- 8:30 - 8:45** Opening Remarks **OGR, OSTIS**
- 8:45 - 9:00** Action Items - Status **WESTON**
- 9:00 - 11:00** Program Update:
- o EA's - CSSR
  - o SCP's - Plans and Status
  - o WAC/WAPS - Plans and Status
  - o Common Canister - Status
  - o ACD Planning
  - o MRS Status
  - o Ad-Hoc Corrosion Panel Reports - Status
  - o BNL Strategy Reviews - Status
- 11:00 - 12:00** Spent Fuel Acquisition Sub Group - Status and Plans
- 12:00 - 1:00** LUNCH
- 1:00 - 5:00** Repository Project Activity Reports
- CPO : Status of Current Activities, Plans,**
- NNWSI, SRP, BWIP:**
- o SCP-CD for WP - Description and Plans
  - o Post Closure Compliance Strategy and Performance Allocations for SCP's: Description, Document Status
  - o WP Subsystem Requirements Documents - Status
  - o WP Environment -Activities and Plans
  - o WP Materials Testing - Activity, Results and Plans
  - o WP Performance Assessment - Activity and Plans
  - o Other Significant Waste Package Activities

**ADJOURN**

**AGENDA (Cont'd)**

**Waste Package Coordination Group**

**June 11, 12, 1986**

**Battelle Memorial Institute  
505 King Avenue  
Columbus, Ohio 43201**

**June 12, 1986**

<b>8:30 - 10:00</b>	<b>Long Lifetime Waste Package Activities (Status, Plans, Concepts, and Preliminary Conclusions)</b>	<b>BNL</b>
<b>10:00 - 12:00</b>	<b>Licensing Topical Reports - WP</b>	<b>Group Discussion</b>
<b>12:00 - 1:00</b>	<b>LUNCH</b>	
<b>1:00 - 3:00</b>	<b>Licensing Topical Reports - WP (Cont'd)</b>	<b>Group Discussion</b>
<b>3:00 - 4:00</b>	<b>Action Items, Next Meeting</b>	
<b>4:00</b>	<b>ADJOURN</b>	

Summary of Waste Package Coordination Group Meeting  
Columbus, Ohio  
June 11-12, 1986

1. Program Update and Status

- a. Site Characterization Plans (SCPs) - OGR led a discussion of plans for preparing and reviewing SCPs for BWIP and NNWSI, indicating that headquarters had prepared an SCP review guidance package. Project representations presented status of effort which should be complete December 1986.
  - b. Post-Closure Strategy Document-Projects had reviewed OGR's guidance documents regarding definitions of substantially complete continent, EBS boundary and anticipated and unanticipated processes and events. Responses were in preparation, which will be followed-up by a strategy meeting at headquarters during August timeframe
  - c. WAC/WAPS - WAPS had been favorably reviewed by NE and DP management. A meeting with NRC is planned for July '86. A meeting of project and waste produce representatives to review planned responses to NRC comments will be held on the day before the NRC briefing.
  - d. Common Canister A weston draft report is in review at OGR. Project comments were in preparation.
  - e. ACD planning - OGR has issued a letter with preliminary guidance on planning for ACD's of waste package and repository. A follow-up letter giving additional detail on format and content of requirements documents and project data bases is in preparation.
2. Spent fuel Acquisition Subgroup - A revised draft of the SFWG Charter and Work Plan is under review. MIO representative indicated that a MCC management plan for acquisition and characterization of spent fuels would be provided to OGR by July 11, 1986. Next meeting of the SFWG would be scheduled during the summer.
3. Other topics discussed include: Projects' status reports; MRB Ad hoc Panel on Corrosion and BNL Report Revisions and follow-up meetings; MRS; Long Lifetime Waste Package; Miscellaneous waste and Spent Fuel data; and, the usefulness of topical reports to NRC.
4. The next meeting will be held in Chicago, Illinois; a tentative schedule of September 16 and 17, 1986 was established.



Department of Energy  
Washington, D.C. 20585

JUN 08 1986

Mr. Robert Loux  
Director  
State of Nevada  
Nuclear Waste Project Office  
Capitol Complex  
Carson City, NV 89710

Dear Mr. Loux:

This is in response to your letter of February 10, 1986, to Ben Rusche requesting permission for first and second round repository States to attend all future Transportation Coordination Group (TCG) meetings. (I assume you also would wish the affected Indian Tribes to attend). I have delayed answering your letter because I wanted to consider optional approaches and determine the most effective means of State and Tribal participation in our transportation activities. While I believe there may be more productive alternatives for participation, I have decided, as one element of our interaction, to open the TCG meeting to those who wish to participate. As recognized in your letter, however, there will be an executive session restricted to Department of Energy and contractor participation.

Your offer to help organize or facilitate State involvement in the TCG is welcome. We will contact you when planning begins for the next meeting of this group. I also encourage suggestions for additional opportunities for OCRWM interaction with the affected States and Tribes. I endorse a cooperative approach in seeking solutions to the national problem of radioactive waste disposal and look forward to working with you in establishing a safe and effective transportation system.

Sincerely,

Lake H. Barrett  
Director  
Transportation and Waste Systems  
Division  
Office of Civilian Radioactive  
Waste Management

cc: Steve Frishman  
Terry Husseman  
Peter Ramatowski  
Russell Jim  
Ronald Halfmoon

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

PRELIMINARY DRAFT

FINANCIAL ASSISTANCE POLICY GUIDELINES

July 1986

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

PRELIMINARY DRAFT

FINANCIAL ASSISTANCE POLICY GUIDELINES

	<u>Page</u>
I. Purpose and Scope	1
II. Policy	2
III. Authorities	4
IV. Definitions	5
V. Program Activities and Eligible Recipients	6
A. NWPA Authorized Grants and Payments	6
1.A. Geologic Repository Program	7
1.B. Federal Interim Storage	11
1.C. Test and Evaluation Facility	11
2. Monitored Retrievable Storage Program	12
B. Other Funding Mechanisms	14
VI. DOE Responsibilities	16
VII. Evaluation Criteria	19
VIII. Allowable and Unallowable Costs	21
IX. Review and Negotiation	22
X. Discontinuation of Funding	25

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

PRELIMINARY DRAFT

FINANCIAL ASSISTANCE POLICY GUIDELINES

I. PURPOSE AND SCOPE

The purpose of these financial assistance policy guidelines is to provide program wide general policies and procedures for the award and administration of grants and payments authorized by the grant and payment provisions of the Nuclear Waste Policy Act of 1982 (NWPA, Pub. L. 97-425) as implemented by the Office of Civilian Radioactive Waste Management (OCRWM), U.S. Department of Energy (DOE). These guidelines apply only to NWPA-related grants and payments and do not include procedures for other financial instruments, such as cooperative agreements or contracts.

*See 116/118*

The grant and payment provisions of the NWPA are particular to many of the components of the radioactive waste management program as established by Congress. In implementing the NWPA, OCRWM has proposed a waste management system composed of individual elements with separate, identifiable functions. The elements presently include a geologic repository and a transportation network. In addition, OCRWM has prepared a proposal for submission to Congress regarding monitored retrieval storage (MRS). The construction of an MRS facility must be approved by Congress. A test and evaluation facility and Federal interim storage are also authorized by the NWPA, but are not presently proposed for construction or implementation by OCRWM.

The NWPA provides for three distinct types of financial assistance:  
1) participation grants; 2) mitigation assistance; and 3)  
payments-equal-to-taxes.

As appropriate, such financial assistance may be provided to the  
following eligible recipients: 1) States; 2) Affected Indian Tribes;  
and 3) units of general local government.

These guidelines identify the types of recipients and program  
activities that are eligible for funding under the grant and payment  
provisions of the NWPA and describe the nature and purpose of grants  
and payments available to the different types of recipients.

These guidelines apply to: 1) new grants; 2) the renewal or  
continuation of existing grants; and 3) payments made pursuant to the  
NWPA.

## II. POLICY

The policy of OCRWM in providing financial assistance to eligible  
recipients is to:

- 1) Comply with the NWPA and other applicable law;
- 2) Ensure consistency in the application of the grant and payment  
provisions of the NWPA;

- 3) Fairly and equitably treat all eligible grant recipients during award, administration, and termination of such financial assistance instruments;
- 4) Fairly and equitably treat all eligible payment recipients consistent with applicable State, affected Indian Tribe, and local government statutes, regulations, treaties and ordinances;
- 5) Incorporate a high degree of fiscal responsibility in the payment, award, and administration of grants and payments to eligible recipients and ensure that accounting integrity is maintained;
- 6) Ensure that fiscal constraints and cost control in the award and administration of grants are fully considered;
- 7) Develop and maintain a system for the award of grants that balances the individual and collective needs of the recipients with the objectives of OCRWM;
- 8) Request, on an annual basis, that potential recipients identify their projected financial assistance requirements for three year periods to permit OCRWM to evaluate such requirements and identify recommended funding levels in its budget submissions to the Office of Management and Budget (OMB) and Congress; and

- 9) Process grant and payment requests as expeditiously as possible to facilitate participation in the radioactive waste management program by eligible recipients.

### III. AUTHORITIES

Nuclear Waste Policy Act of 1982, Pub. L. 97-425 (42 U.S.C. 10101 et. seq.)

Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224 (31 U.S.C. 6301-6308).

DOE Financial Assistance Rules (10 CFR Part 600).

DOE Financial Assistance Procedures Manual (DOE Order 4600.1).

DOE Uniform Reporting System for Federal Assistance (DOE Order 1332.2).

OMB Circular A-87: Cost Principles for State and Local Governments.

OMB Circular A-102: Uniform Requirements for Assistance to State and Local Governments.

OMB Implementation Guidance of the Federal Grant and Cooperative Agreement Act of 1977 (41 FR 36860).

OMB Circular A-128: Audits of State and Local Governments.

Other applicable Federal statutes, regulations, circulars, and orders.

#### IV. DEFINITIONS

##### A. For purposes of these guidelines:

1. The term "contract" means a legal instrument which defines the relationship between the Government and a contractor whenever the principal purpose of the instrument is acquisition by purchase, lease, or barter of property or services for the direct benefit or use of the Government.
2. The term "cooperative agreement" means a legal instrument which defines the relationship between the Government and a recipient for the transfer of money, property, services, or anything of value to the recipient for the accomplishment of a public purpose of support or stimulation authorized by law. A cooperative agreement presumes a significant amount of involvement by DOE in the performance by the recipient.
3. The term "grant" means a legal instrument which defines the relationship between the Government and a recipient for the transfer of money, property, services or anything of value to the recipient for the accomplishment of a public purpose of support or stimulation authorized by law. A grant presumes a

limited amount of involvement by DOE in the performance by the recipient.

4. The term "payment" means the transfer of funds from the Federal Government to a State, Indian Tribe, or unit of general local government to compensate the State, Indian Tribe, or unit of general local government for revenues not received as a result of the Federal Government's sovereign immunity.

## V. PROGRAM ACTIVITIES AND ELIGIBLE RECIPIENTS

### A. NWPA-Authorized Grants and Payments

The NWPA authorizes OCRWM to make grants and payments to States, Indian Tribes, or units of general local governments for a number of distinct purposes. As provided for by the NWPA, these grants and payments are to: 1) enable eligible recipients to participate in program activities (participation grants); 2) mitigate the impact to recipients resulting from development of a facility (mitigation assistance); and 3) compensate recipients for revenues not received due to the sovereign immunity of the Federal Government (payments-equal-to-taxes). The NWPA contains provisions for financial assistance to the above eligible recipients in two broad programmatic areas - the Geologic Repository Program (including Federal interim storage and the test and evaluation facility), and the Monitored Retrievable Storage Program.

Table 1 identifies the OCRWM Program (i.e., Geologic Repository or Monitored Retrieval Storage), the type of financial assistance and recipient, and the statutory authority for providing the financial assistance. The discussion that follows provides a brief description of the specific financial assistance that may be provided.

Essentially, for purposes of these Financial Assistance Policy Guidelines, the Geologic Repository Program can be divided into three basic phases. They are: 1) Notification/Nomination; 2) Characterization; and 3) Construction and Operation.

1.A. Geologic Repository Program

The NWPA, in sections 116 and 118, authorizes OCRWM to provide financial assistance to States and affected Indian Tribes involved in the repository program for participation, mitigation, and payments-equal-to-taxes (PETT) purposes.

Participation grants

These grants are authorized by sections 116(c)(1)(A) and (B) and 118(b)(1) and 118(b)(2) of the NWPA. Under section 116(c)(1)(A) and 118(b)(1), States and/or Indian Tribes identified as containing a potentially acceptable site are granted funds to engage in activities required by the NWPA in sections 116, 117 and/or 118 or

authorized by a written consultation and cooperation agreement. In general, these activities include the following activities associated with Consultation and Cooperation (C&C) Agreements; review and comment on program documents; attendance at program-related meetings; development and dissemination of public information; coordination with other government agencies; and conducting monitoring, analyses and studies.

Sections 116(c)(1)(B) and 118(b)(2), authorize financial assistance to States and affected Indian Tribes in which a candidate site for a repository is approved under section 112(c). Under sections 116(c)(1)(B) and 118(b)(2), States and affected Indian Tribes may receive funding to:

- a) review activities taken under subtitle A of the NWPA with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of a repository on the State or Reservation and its residents;
- b) develop a request for impact assistance under section 116(c)(2) or 118(b)(3);

c) engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site. All data collected during these activities shall be in accordance with an adequate quality assurance plan and all original analyses and reports (including any data and documentation determined to meet the basic requirements of the grantee and suitable for general use) produced or generated under the grant funding shall be made available to DOE.

d) provide information to its residents regarding any activities of such State or affected Indian Tribe, the Department of Energy, or the Nuclear Regulatory Commission with respect to such site; and

e) request information from, and make comments and recommendations to, the Department of Energy regarding any activities taken under subtitle A of the NWPA with respect to such site.

#### Mitigation Assistance

Mitigation Assistance is authorized by sections 116(c)(2)(A) and 118(b)(3)(A) of the NWPA to any State or affected Indian Tribe requesting such

assistance in which there is a site with respect to which the Nuclear Regulatory Commission has authorized construction of a repository. Under this section, OCRWM will provide financial and technical assistance to States and affected Indian Tribes to mitigate the impact of the development of a repository on a State or affected Indian Tribe. Guidelines for this assistance will be developed at a later date in consultation with the potentially affected parties.

Payments-Equal-To-Taxes (PETT)

Payments-Equal-to-Taxes are authorized by sections 116(c)(3) and 118(b)(4) of the NWPA. Under these provisions, OCRWM will provide funds to a State, affected Indian Tribe, or unit of general local government, in amounts equal to the amounts the State, Indian Tribe, or unit of general local government would receive were it authorized to tax the site characterization activities and the development and operation of the repository as it taxes other real property, industrial activities and/or commercial activities occurring within the State, on the reservation, or within the

jurisdiction of the unit of general local government, as specified in the appropriate section of the NWPA.

**1.B. Federal Interim Storage (FIS)**

If Federal Interim Storage capacity is established, the NWPA, in section 136(e), authorizes OCRWM to make payments to States and units of local government within whose jurisdictional boundaries Federal interim storage facilities will be developed and operated.

Impact assistance payments are authorized by section 136(e) of the NWPA. Under this provision, OCRWM will make annual assistance payments to States and appropriate units of local government to mitigate social or economic impacts caused by the FIS facility. Guidelines for these payments will be developed, if necessary, at a later date in consultation with the potentially affected parties.

**1.C. Test and Evaluation Facility**

The NWPA, in section 219(a), authorizes OCRWM to make payments to States and affected Indian Tribes that have entered into a consultation and cooperation agreement with respect to development of a test and evaluation facility for participation purposes.

Participation payments are authorized by section 219(a) of the NWPA. Under this provision, OCRWM will provide funds to States and affected Indian Tribes to participate in monitoring, testing, evaluation, or other consultation and cooperation activities. Guidelines for these payments will be developed, if necessary, at a later date in consultation with potentially affected parties.

2. Monitored Retrievable Storage Program (MRS)

If an MRS facility is approved by Congress, the NWPA, in section 141(h), authorizes OCRWM to make grants or payments to affected Indian Tribes involved in the MRS program for participation, mitigation, and payments-equal-to-taxes purposes. Section 141(f) also authorizes OCRWM to make mitigation assistance payments to units of general local government.

Participation grants

These grants are authorized by section 141(h) of the NWPA which incorporates by reference section 118. Guidelines for implementation of these grants will be developed, if necessary, at a later date.

Mitigation assistance

Mitigation assistance is authorized by section

141(h) of the NWPA which incorporates by reference section 118. Guidelines for implementation of these grants will be developed, if necessary, at a later date.

Payments-Equal-To-Taxes

Payments-Equal-To-Taxes are authorized by section 141(h) of the NWPA which incorporates by reference section 118. Guidelines for implementation of these payments will be developed, if necessary, at a later date.

OCRWM has also, in the December 1985 review copy of the Monitored Retrievable Storage proposal that was scheduled to be submitted to Congress in February 1986, in addition to the mitigation assistance provided for in section 141(h) of the NWPA, recognized that there may be additional impacts beyond those specified in the NWPA.

Financial assistance is proposed for two distinct phases of the MRS program. The first phase (preoperational phase) precedes actual MRS construction and operation. Financial assistance is to be applied during this phase, primarily for activities that must be undertaken by the State and units of local government prior to the operation of the MRS facility. Financial

assistance envisioned to be provided during the second phase (operational phase) of the MRS facility would be directed to the State and units of general local government consistent with the provisions of the NWPA for financial assistance related to the geologic repository program.

OCRWM has also proposed that the specific details associated with the financial assistance program be defined in consultation with, and administered through, the State and units of general local governments.

**B. Other Funding Mechanisms**

OCRWM has identified certain activities that may promote the objectives of the radioactive waste management program that may deserve funding, but do not fit within the scope of the grant and payment financial assistance mechanisms specifically provided for by the NWPA. In these circumstances, cooperative agreements and/or contracts are the appropriate funding mechanisms. OCRWM will employ those funding mechanisms whenever the principal purposes of the instruments are the acquisition of services for the direct benefit of OCRWM or the accomplishment of a public purpose of support or stimulation authorized by the NWPA.

This section describes participants and activities for which cooperative agreements and/or contracts may be appropriate.

1. Transportation Activities

The NWPA does not direct OCRWM to award grants to study transportation issues to those States, Indian Tribes, or local governments through which radioactive waste shipments will pass, and, in addition, are not expected to host a radioactive waste management facility. Potential host States and affected Indian Tribes, however, may use their grant funds to address transportation activities that are the direct result of hosting a radioactive waste management facility. Program participation by other transportation-affected parties will be facilitated by the use of regional and transportation-related organizations. Under cooperative agreements and/or contractual arrangements with OCRWM, these organizations can convene and financially support the interested parties in cooperatively studying and working toward the resolution of transportation issues.

2. National and Regional Organizations

OCRWM has determined that national and regional organizations that represent parties affected by the radioactive waste management program may provide support or stimulation that are of direct benefit to OCRWM and the implementation of the NWPA. In these instances, OCRWM will utilize cooperative agreements to obtain such services in accordance with financial assistance regulations.

## VI. DOE RESPONSIBILITIES

### A. OCRWM-Wide Responsibilities

Both OCRWM Headquarters and Project Offices have responsibilities in the management and administration of grants and payments. DOE Order 4600.1 outlines the responsibilities of DOE officials involved in the financial assistance process. The following is a list of these officials, along with a brief description of their duties. The appropriate OCRWM offices that hold such positions are also identified.

1. Senior Procurement Official (DOE Office of Procurement Policy): responsible for ensuring the overall quality and effectiveness of the procurement and financial assistance functions within DOE.
2. Contracting Officer (DOE Office of Procurement Policy and Field Offices): responsible for awarding and administering financial assistance.
3. Headquarters Program Official (Director, OCRWM): responsible for: 1) approving and directing the development of program guidelines; 2) development and implementation of regulations and program solicitations; and 3) determining other major facets of financial assistance efforts.

4. Program Manager (Associate Directors of OCRWM Program Offices): responsible for the oversight of: 1) development and implementation of guidelines and/or solicitation development; 2) supervising the evaluation of applications; 3) development of recommendations for ranking and selection; and 4) concurrence in all grant awards.
  
5. Project Officer (Project Managers of Project Offices): responsible for developing the programmatic aspects of a proposed solicitation and performing the technical review and evaluation of applications.
  
6. Associate Director of Office of Resource Management, OCRWM: responsible for ensuring compliance with appropriate financial regulations and procedures.

Other DOE Orders may describe various aspects of the financial assistance process and responsibilities of program officials. The OCRWM Office of Resource Management may develop guidance that includes the OCRWM Headquarters procurement process. This guidance and other applicable DOE Orders will apply to the OCRWM grants and payments program.

B. Program-Specific Responsibilities

Each OCRWM program will, as appropriate, issue a specific set of financial assistance procedures and responsibilities unique to that program. The Office of Geologic Repositories (OGR) has

developed such a set of procedures. The Monitored Retrievable Storage program, the Federal interim storage, the test and evaluation facility activity, and transportation program will outline their specific procedures as necessary.

1. Under the OGR program, OCRWM Headquarters has the following responsibilities:

- a. Develop policy and issue guidance;
- b. Review and concur on grant applications;
- c. Review Project Office monitoring activities;
- d. Maintain a Financial Assistance Clearinghouse Information System; and
- e. Assure involvement and concurrence of all OCRWM program elements.

2. The OCRWM Project Offices have the following responsibilities:

- a. Solicit, receive, and process grant applications;
- b. Award grants;
- c. Maintain grant documentation and administrative records;

and

d. Monitor grant activities.

## VII. EVALUATION CRITERIA

The following criteria describe the procedures and methodology that OCRWM will employ in evaluating applications for the grants covered by these guidelines. Grant applications should contain a detailed description of activities planned by the potential recipient for the term of the grant and a budget that details the costs of conducting those activities. To facilitate submittal and review of grant applications, OCRWM will suggest the use of standard grant formats.

- A. Department of Energy employees designated by OCRWM shall evaluate grant applications. OCRWM may supplement DOE review resources with personnel from other Federal agencies, and may use external reviews in addition to Federal evaluations, with the objective of having the evaluation conducted by the most qualified individuals available.
  
- B. If determined to be necessary, OCRWM shall select evaluators on the basis of their professional qualifications and expertise. Outside evaluators shall be required to comply with 10 CFR 600.16(c) and any other applicable DOE rules or directives concerning the use of outside evaluators.

C. Where appropriate, OCRWM shall evaluate new and renewal applications based on the following criteria:

1. The overall programmatic merit of the project;
2. The relevance of the stated objectives to the OCRWM program and intent of the NWPA;
3. The appropriateness and timeliness of the proposed method or approach;
4. The competence and experience and known past performance of the applicant, principal participant and/or key personnel;
5. The adequacy of the applicant's facilities and resources;
6. The appropriateness and adequacy of the proposed budgets;
7. The inclusion of an adequate quality assurance plan which defines the scope, responsibilities, and procedures for controlling, verifying, and documenting work activities affecting the reliability of data; and
8. Other appropriate factors, established and set forth by OCRWM in a notice of availability or in a specific solicitation.

9. Additional criteria as may be defined in guidelines for specific program areas.

D. Where appropriate, OCRWM shall consider other available advice or information as well as program policy factors such as ensuring an appropriate balance among the program areas.

E. In addition to the evaluation criteria set forth in paragraphs (C) and (D), OCRWM, where appropriate, shall consider the grantee's performance under the existing grant during the evaluation of a renewal or continuation application. As an example, OCRWM will consider the timeliness of submitting required reports as identified on the Federal Assistance Reporting Checklist in the award.

F. After evaluating an application, OCRWM may, if necessary, enter into negotiations with an applicant. Unless otherwise required by law, such negotiations are not a commitment that OCRWM will make an award.

G. A written record documenting the decision shall be prepared and made available.

#### VIII. ALLOWABLE AND UNALLOWABLE COSTS

In general, allowable costs under NWPA Financial Assistance Instruments shall be those costs that are allocable to an activity or

a purpose enumerated under the authorizing section or sections of the NWPA. In addition, the principles for determining the allowability of costs of programs administered by States, affected Indian Tribes, and units of general local governments under grants from the Federal Government are those specified in Office of Management and Budget (OMB) Circular No. A-87, Cost Principles for State and Local Governments.

In particular, in regard to legal expenses, the OMB Circular provides the following determination of the allowability of cost. "The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State, Indian Tribe, or local government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable."

## IX. REVIEW AND NEGOTIATION

### A. OCRWM Financial Assistance Review Board

The OCRWM Financial Assistance Review Board consists of the OCRWM Associate Directors and the Director of the Office of Policy and Outreach. Depending on the issues to be considered, representatives from other DOE offices may be asked to participate. These may include, but are not limited to, the Office of General Counsel, Management and Administration, and Congressional, Intergovernmental and Public Affairs. The

Financial Assistance Review Board is chaired by the Associate Director for Resource Management.

The functions of the Board are to:

1. Review grant applications and other financial assistance issues referred to it by the cognizant Associate Director in those instances where the terms of the proposed grant (recipient, scope, or dollar amount) represent a departure from these, or program specific, financial assistance guidelines or where new policy or legal issues are involved. The Board, in those instances, recommends appropriate action to the Director, OCRWM.
  
2. Perform an annual program review of the financial assistance process within OCRWM. The purpose of the review is to assess the performance of the OCRWM process, review the adequacy of these guidelines, and make recommendations to the Director, OCRWM for improvements, as appropriate.

B. Procedures for Grant Negotiations

1. Grant Awards

Whenever practicable, prior to award OCRWM shall attempt to resolve informally any dispute concerning the award of a grant. The initial contact for negotiating and resolving issues will typically be through a OCRWM Project Office. The responsible DOE Contracting Officer

and/or OCRWM Project Manager will attempt to reach a mutually acceptable resolution of any disagreements that may arise with the applicant. During these negotiations the OCRWM positions must be considered to be tentative pending internal review, concurrence, and approval.

If an acceptable resolution has not been reached on all issues the contracting officer, after obtaining headquarters concurrence, may award grants for those approved activities upon which resolution has been achieved. The grant recipient will be notified in writing by the cognizant OCRWM project office as to those issues still in dispute after the award of the grant and offer continued negotiations in an effort to resolve the issues identified.

The OCRWM Project Office will obtain OCRWM Headquarters review and concurrence on all grant applications. Subsequently, the DOE Contracting Officer will notify the applicant in writing of OCRWM's award of the grant. This notification of the award of the grant will provide, if relevant, the OCRWM rationale for not awarding the full amount of the requested grant. OCRWM will expeditiously take action on grant applications and will endeavor to complete action within 90 days of the receipt of the application.

## 2. Grant Administration

In accordance with DOE Financial Assistance Rules (10 CFR Part 600.26), a grantee may appeal disputes that arise during the

term of the grant to the DOE Financial Assistance Appeals Board in accordance with the procedures set forth in 10 CFR Part 1024.

#### X. DISCONTINUATION OF FUNDING

Sections 116(c)(3) and (4), 118(b)(4) and (5), 141(h), and 219(a) specify criteria for the termination of grants under certain conditions. These criteria relate primarily to the termination or completion of activities associated with the radioactive waste management facilities. End points, such as the termination of site characterization for a site no longer being considered to host a radioactive waste management facility, or the conclusion of development, construction and operation of such a facility, will initiate the phasing down or termination of grant funding.

Further guidance on the phase down and/or termination of funding for OCRWM programs will be provided in specific program guidance.

INTERNAL GENERAL GUIDELINES FOR IMPLEMENTING  
FINANCIAL ASSISTANCE (GRANTS) FOR REPOSITORY PROGRAMS  
UNDER SECTIONS 116 AND 118 OF  
THE NUCLEAR WASTE POLICY ACT OF 1982  
REVISED AUGUST 1, 1986

1.0 PURPOSE

The purpose of the financial assistance program under the Nuclear Waste Policy Act of 1982 (the Act) is to ensure that eligible States and Indian Tribes have sufficient financial resources to participate in the repository development process as mandated by the Act. DOE is fully committed to the objective of timely and effective State and Indian Tribal participation and will use the financial assistance provisions of the Act to assist States and Indian Tribes in meeting this goal.

These are general guidelines. Because the needs and plans of the States and Indian Tribes involved in the repository program may vary, DOE Project Offices will be required to respond to individual requests on a case-by-case basis. The purpose of the general guidance provided here is to assist DOE Project Offices by:

- o establishing a single framework within which DOE Project Offices can respond to grant applications and negotiate and award grants;

- o ensuring that all States and Indian Tribes involved in the repository program are treated equitably; and
- o ensuring that activities funded by the grants are consistent with the Act.

## 2.0 BACKGROUND

The key provisions of the Act relating to repository program grants are found in Sections 116 and 118. Section 116 contains provisions applicable to the States and Section 118 contains similar provisions applicable to affected Indian Tribes.

For purposes of this guidance, the repository development process has been divided into three phases: (I) prenotification; (II) notification/nomination; and (III) characterization. Additional phases, including construction, operation, and decommissioning, will be added at a later date.

Phase I States and Indian Tribes that have not been formally notified by DOE as having potentially acceptable sites, but in which exploratory/screening work is taking place. The Department has determined that grants may be awarded to these States and Indian Tribes prior to notification that they have potentially acceptable sites.

Phase II States and Indian Tribes that have been notified under Section 116(a) of the Act that they have a potentially acceptable site (or sites) for a repository. Sections 116(c)(1)(A) and 118(b)(1) of the Act provide for grants to States and Indian Tribes in this phase.

Phase III States and Indian Tribes with recommended candidate sites that have been approved for site characterization by the President. Sections 116(c)(1)(B) and 118(b)(2)(A) of the Act specify the activities for which affected States and Indian Tribes may receive grants from DOE in this phase.

This set of guidelines focuses on financial assistance available during Phases I, II, and III. There should be no lapse in funding as States and Indian Tribes progress from one phase to the next. Guidelines for phasing down and phasing out grants are provided later in this guideline.

### 3.0 RECIPIENTS OF GRANTS

#### 3.1 Indian Tribes

The Act identifies an "affected Indian Tribe" as the appropriate recipient of grants awarded under Section 118(b). "Affected Indian Tribe" is defined in Section 2(2) of the Act.

Phase I Indian Tribes, as defined in Section 2.0 of these guidelines, are also eligible for funding.

### 3.2 States

Groups within a State that are eligible for funding include:

1. The Governor's office or an office under the Governor designated as responsible for high-level nuclear waste disposal activities - either an existing department, an advisory board, or a new agency; and
2. An office, board, or committee of the State legislature.

It is the Department's intention to negotiate and award grants to a single entity within the State (as determined by the State) while recognizing the legitimate needs of various parties within the State for financial support.

Phase I states, as defined in Section 2.0 of these guidelines, are also eligible for funding.

## 4.0 ACTIVITIES FUNDED

### 4.1 General

The Act provides guidance on allowable project activities for which grants may be awarded. These allowable activities will vary

depending on the phase of the repository development process in which the States or Indian Tribes are involved. Activities funded will also vary with the level of participation desired by the State or Indian Tribe. In addition, a grant may be amended during the course of the project period to reflect additional work required by a change in DOE program activities.

Grant applications should contain a detailed description of activities planned by the State or Indian Tribe for the term of the grant and a budget that details the costs of conducting those activities.

#### 4.2 Phase I States and Indian Tribes

Although not required by the Act, the Department has determined that grants may be awarded to States and Indian Tribes, that may at some future date contain a potentially acceptable site for the second repository. The grants made during this Phase will cover a limited range of activities that may be eligible for funding.

Examples of activities that may be eligible for funding include:

- o Review and Comment - Activities in this category should focus on reviewing and providing comment, as appropriate, on DOE documents and plans, or portions thereof, related to

repository development activities within the State. Examples of such documents and plans include:

- Mission Plan;
  - Siting Guidelines and modifications thereto;
  - Region-to-Area Screening Methodology Document;
  - Area Recommendation Report;
  - Area Characterization Plans;
  - Transportation reports (those portions related only to the repository program);
  - Defense-waste reports (those portions related only to the repository program); and
  - Monitored Retrievable Storage (MRS) reports (those portions related only to the repository program).
- o Attendance at DOE-Sponsored Meetings and Workshops - related to the repository program.
- o Preparation for Consultation and Cooperation (C&C) Agreements - Funds may be provided to permit the State or Indian Tribe to prepare to negotiate a C&C Agreement. Activities may include information gathering, developing draft provisions, and training of staff in preparation for negotiations with DOE. (See DOE Internal General Guidelines

for Implementing the Consultation and Cooperation Agreement Provisions of Section 117 of the Nuclear Waste Policy Act of 1982.) Because C&C negotiations, pursuant to Section 117(c), may be initiated only after potentially acceptable sites have been identified, funding for this type of activity should be limited to those States or Indian Tribes, where DOE has made a preliminary identification of a potentially acceptable site (e.g., in a draft Area Recommendation Report).

o Public Information Programs and Provision of Information to Officials - Activities in this category should focus on:

- Dissemination of program information to various State and local officials and the public;
- Coordination with interested groups within the State, including the legislature, Indian Tribes, local governments, citizen groups, and other State agencies with an interest;
- Participation in public briefings and meetings, including preparation of briefing materials; and
- Participation in regional interstate information meetings.

Because of the preliminary nature of DOE's technical program at the Phase I stage, development of new public information materials should be kept to a minimum.

#### 4.3 Phase II States and Indian Tribes

Activities that may be funded by Phase II grants are specified in Sections 116(c)(1)(A) and 118(b)(1) of the Act. The grants shall be made for the purpose of participating in activities required by Sections 116, 117, 118 or authorized by written agreement entered into pursuant to Section 117(c). This provision covers a broad range of activities that may be eligible for funding. Activities funded should be designed to achieve the goal of maximizing State or Indian Tribe involvement in the overall repository development program and enabling States and Indian Tribes to participate effectively in the development of binding written C&C Agreements. Transportation, defense waste, and MRS activities that impact the repository program may also be funded. Examples of permissible activities include the following:

- o Activities Leading to C&C Agreements - DOE is required to begin negotiations on the C&C Agreements within 60 days after (1) a candidate site has been approved for characterization by the President, or (2) receipt of a written request by a State

or Indian Tribe notified under Section 116(a), whichever occurs first. A State or Indian Tribe may wish to gather information, develop draft provisions, orient and train staff for the negotiation of C&C Agreements, and conduct C&C negotiations.

- o Review and Comment - Activities in this category should focus on reviewing and providing comment to DOE on the plans, reports, proposed rules, etc., or portions thereof that are relevant to repository development activities within the State or Indian Tribal area. Examples of such items include review of documents prepared by or for DOE, the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), and other Federal agencies identified in the Act. These documents include but are not limited to:

- Siting guidelines and modifications thereto;
- Mission Plan;
- Environmental Assessments;
- Site Characterization Plan preparation material;
- Geologic/hydrologic evaluation reports;
- Repository engineering reports;
- Socioeconomic and environmental reports;
- Transportation reports (those portions related only to the repository program);

- Defense-waste reports (those portions related only to the repository program); and
  - MRS reports (those portions related only to the repository program).
- 
- o Attendance at DOE-Sponsored Meetings and Workshops - related to the repository program.
  - o Public Information - Activities in this category should focus on grantee programs to disseminate information to groups within the State or Indian Tribal area and respond to questions from individuals or groups within the State or Indian Tribal area. DOE may provide parallel services to the public and will coordinate public information activities with the grantee. Activities may include:
    - Development of publication materials;
    - Dissemination of program information;
    - Operation of public information offices; and
    - Conducting of public information meetings.
  - o Intergovernmental Coordination - These activities should enable grantees to coordinate with interested State agencies, the legislature, local government, Indian Tribes, and other appropriate Federal, State, and Indian Tribal government entities. The grantee should assume responsibility for soliciting views of such groups and keeping them informed of State and Indian Tribe activities. Activities may include:

- Provision of information to officials;
- Site visits;
- Participation in and attendance at interstate information meetings; and
- Attendance at project-related meetings.

o Monitoring, Analyses, and Studies - Activities in this category should focus on the analyses and studies necessary to provide appropriate monitoring and analysis of DOE activities. Examples of such monitoring may include:

- Independent analyses of DOE procedures, analyses, and programs;
- Participation in technical review of DOE programs; and
- Participation in development of DOE technical work plans.

Data collection and independent studies may be funded if the State or Indian Tribe justifies such studies as essential to the development by the State or Indian Tribe of an informed statement of reasons supporting their disapproval of a recommended site under Section 116(b) or 118(a) of the NWPA. A State or Indian Tribe must substantiate that the conclusions reached as a result of the proposed activities could contribute to a State or Indian Tribe conclusion that the site is unacceptable and that such demonstration is dependent upon

the data to be generated by the proposed activities. In addition, these activities must:

- be reasonable, i.e., scientifically justifiable (recognized study or test methods are to be employed and the methods are capable of yielding the expected data or results);
- be performed by demonstrably competent contractors (the proposed contractors have adequate experience in the field, including an adequate quality assurance program to ensure that the data are reliable;
- not unreasonably interfere with or delay the Department's own activities; and
- conducted as an oversight function (the grantee is aware of DOE's activities or plans for activities in the particular area of study and funding is to address concerns regarding those activities and plans).

The State or Indian Tribe must also demonstrate that the contribution of such studies to the informed statement of reasons depends on the studies being initiated prior to site characterization. The State or Indian Tribe must show that

unless the studies are initiated prior to site characterization, the results of those studies will not be available for consideration by the State or Indian Tribe at the time it must formulate its informed statement for reasons of disapproval.

#### 4.4 Phase III States and Indian Tribes

Activities that may be funded by Phase III grants are specified in Sections 116(c)(1)(B) and 118(b)(2) of the Act. Grants shall be made to States and Indian Tribes where "a candidate site for a repository is approved under Section 112(c)." The provisions of the Act pertaining to this phase include developing the capability to monitor, test, and evaluate DOE activities; understand the technical aspects of the program and its implications; and evaluate potential impacts of the repository program. Transportation, defense waste, and MRS activities related to the repository program may also be funded. Examples of permissible activities include the following:

- o Activities Leading to C&C Agreements - As mentioned in Section 4.3 of the Guidelines, within 60 days of approval of a candidate site for characterization, DOE is required to initiate negotiations toward a C&C Agreement. A State or Indian Tribe may use grant funds to gather information, develop draft provisions, orient and train staff for the negotiation of a C&C Agreement, and conduct C&C negotiations.

- o Review and Comment - Activities in this category should focus on reviewing any potential economic, social, public health and safety, and environmental impacts of such repository on the States, Indian Tribes, and their residents. In addition, States and Indian Tribes may provide comments to the Department on site characterization activities conducted by DOE, NRC, EPA, and other agencies. Examples of such items include:
  - Review of documents prepared by or for DOE, NRC, and EPA such as DOE Site Characterization Plans;
  - Review of Monitoring and Mitigation (M&M) Plans;
  - Testing of DOE computer models;
  - Review of Quality Assurance audits;
  - Review of defense waste reports (those portions related only to the repository program);
  - Review of MRS reports (those portions related only to the repository program); and
  - Review of transportation reports (those portions related only to the repository program).
  
- o Attendance at DOE-Sponsored Meetings and Workshops - related to the repository program.

- o Monitoring, Analyses, and Studies - Phase III activities in this category should focus on conducting relevant independent monitoring, testing, or evaluation of site characterization programs with regard to the particular site.

Examples of activities in this category include:

- Monitoring of field activities by on-site observers;
- Periodic inspections of DOE operations at the site;
- Monitoring and assessment of DOE air or water quality monitoring installations;
- Monitoring of cultural and environmental information gathering;
- Monitoring of effects of site characterization activities;
- Independent laboratory tests of DOE-provided samples; and
- Other relevant data collection activities.

*Revised  
8/1/86*

Data collection and independent studies may be funded if such studies are:

from  
9th Circuit  
Nevada

- reasonable, i.e., scientifically justifiable (recognized study or test methods are to be employed and the methods are capable of yielding the expected data or results);
- performed by demonstrably competent contractors (the proposed contractors have adequate experience in the field, including an adequate quality assurance program to ensure that the data are reliable);
- not likely to unreasonably interfere with or delay the Department's own activities.
- conducted as an oversight function (the grantee is aware of DOE's activities or plans for activities in the particular area of study and funding is to address concerns regarding those activities and plans).

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- o Impact Mitigation Request - Financial assistance for the development of a request for impact assistance under Phase IV of the financial assistance program is authorized under Sections 116(c)(2) and 118(b)(3).

Such impact assistance shall be designed to mitigate the impact of the development of a repository, following the initiation of construction activities. In order to receive

impact mitigation assistance in Phase IV, a State or Indian Tribe must prepare and submit "a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site...." This report must be submitted following completion of site characterization and before the Secretary's recommendation of a site to the President for the location of a repository. Examples of activities under this category include:

- Preparation of a draft impact report including evaluation of baseline and project-related activities and effects;
- Establishment of a framework for local government and public participation in the development of the impact mitigation report (e.g., establishment of working groups that would include local citizens, officials, and interest group representatives); and
- Training for negotiation of binding written agreements concerning impact mitigation.

- o Public Information Programs - Activities in this category should focus on grantee programs providing information to its residents regarding any activities of the State, Indian Tribe, DOE, or the Nuclear Regulatory Commission with respect to a site being characterized, including activities such as:

- Development of publication materials;
- Dissemination of program information;
- Operation of public information offices; and
- Conducting public information meetings.

o Intergovernmental Coordination - These activities should enable grantees to coordinate with interested State agencies, the legislature, local governments, Indian Tribes, and other appropriate Federal, State, and Indian Tribal government entities . The grantee should assume responsibility for soliciting views of such groups and keeping them informed of State and Indian Tribe activities. Activities may include:

- Provision of information to officials;
- Site visits;
- Participation in and attendance at interstate information meetings; and
- Attendance at project-related meetings.

#### 5.0 UNALLOWABLE COSTS

The Act specifies that "any salary or travel expense that would ordinarily be incurred" is not eligible for funding under Sections 116(c)(1)(A) or 118(b)(1). This means that DOE may finance only

extraordinary travel and salary expenses incurred by the grantee as a direct result of participation in repository program activities of the DOE under the Act. Salary and travel-related expenses of State or Indian Tribal employees working full- or part-time on waste disposal activities, consultants, and other providers of contract services are potentially fundable.

As stated in the Office of Management and Budget's Circular A-87, "Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally Recognized Indian Tribal Governments," grant funds may not be used for purposes of preparing for or engaging in litigation against the Federal Government.

## 6.0 DISCONTINUATION OF FINANCIAL ASSISTANCE

When a site does not progress from one phase to the next or is eliminated from the selection process, phase-down funding and eventual discontinuation of funding, as provided in the Act, will be initiated.

### 6.1 Phase-Down Funding

States and Indian Tribes that have been notified under Section 112 of the Act that they have been nominated but not recommended for site characterization should phase down their funding requests to a level commensurate with their appropriate continued participation

*Nom. but  
not  
recomm.*

in the program. Specific allowable activities that may be funded will be considered on a case by case basis. Allowable activities include:

*Ensures participation, but watches NWF spending*

- o Review and Comment - Activities in this category should focus on reviewing and providing comment on program-related documents and plans.
  
- o Attendance at DOE-Sponsored and Other Program-Related Meetings and Workshops - related to the Repository Program.
  
- o Public Information - Activities in this category should focus on disseminating program information to the public.
  
- o Intergovernmental Coordination - Activities in this category should focus on coordination with interested State agencies, the legislature, local governments, Indian Tribes, and other appropriate Federal, State, and Indian Tribal government entities.

The two sites nominated, but not recommended, for site characterization for the first repository cannot be considered for the second repository. However, they may still be considered for the first repository if the Department determines that an additional site needs to be characterized. Until it is determined

that it is unnecessary to characterize one or both of these sites, limited phase-down funding as described above will be provided. If such a site does undergo site characterization, Phase III funding will be provided.

## 6.2 Phase-Out Funding

Sections 116(c)(4) and 118(c)(5) of the Act specify criteria for termination of grants under certain circumstances. These criteria refer primarily to termination of site characterization activities by the Department, failure by Congress to override a notice of disapproval by a State or Indian Tribe, or inability to obtain necessary authorization from the NRC. However, a number of sites will be dropped from consideration for a repository long before the termination conditions provided in the Act are reached. When it is determined that a site is eliminated from any further consideration for selection for a repository, phasing-out of funding will be initiated. Each grant should contain terms that specify how funding will be terminated to ensure that grants are phased out on sites that are eliminated during Phase I, II, and III as set forth in applicable OMB circulars and DOE's Financial Assistance Rules.

## 7.0 REVIEW AND NEGOTIATION

The DOE Project Offices have the responsibility to review each grant application to determine whether it conforms to the DOE's Financial

Assistance Rules, 10 CFR Part 600 (47 FR 44076, October 5, 1982), which establish minimum requirements applicable to all grantees for reporting on progress and expenditures of grant funds. The grant application must also conform to the requirements regarding allowable and nonallowable costs of the Office of Management and Budget's Circular A-87 "Principles for Determining Costs Applicable to Grants and Contracts with State, Local, and Federally Recognized Indian Tribal Governments."

The Project Offices, working through their respective field operations offices, have the authority to negotiate with the grant applicant any changes required to make the grant application conform to the requirements referenced above and the funding available within the project. The Project Offices should discuss these requirements with potential grant applicants as early as possible (where possible, prior to receiving a formal application) to keep delays to a minimum in meeting State and Indian Tribal financial needs.

#### 8.0 CONCURRENCE AND FUNDING LEVELS

The funding levels for various grants should represent a balance between the varying needs of the different States and Indian Tribes and the need for equity among the States and Indian Tribes. Communication between Project Offices and Headquarters is essential in determining the optimum relationship between a grantee's proposed activities and the level of support requested. No grant shall be approved without Headquarters concurrence.

**Office of Geologic Repositories**  
**Licensing Support System**  
**Status**

## **Licensing Support System**

### **Current Activities:**

- 1. Contracting for LSS Design and Implementation**
- 2. Development of LSS Administrative Specifications and Procedures**

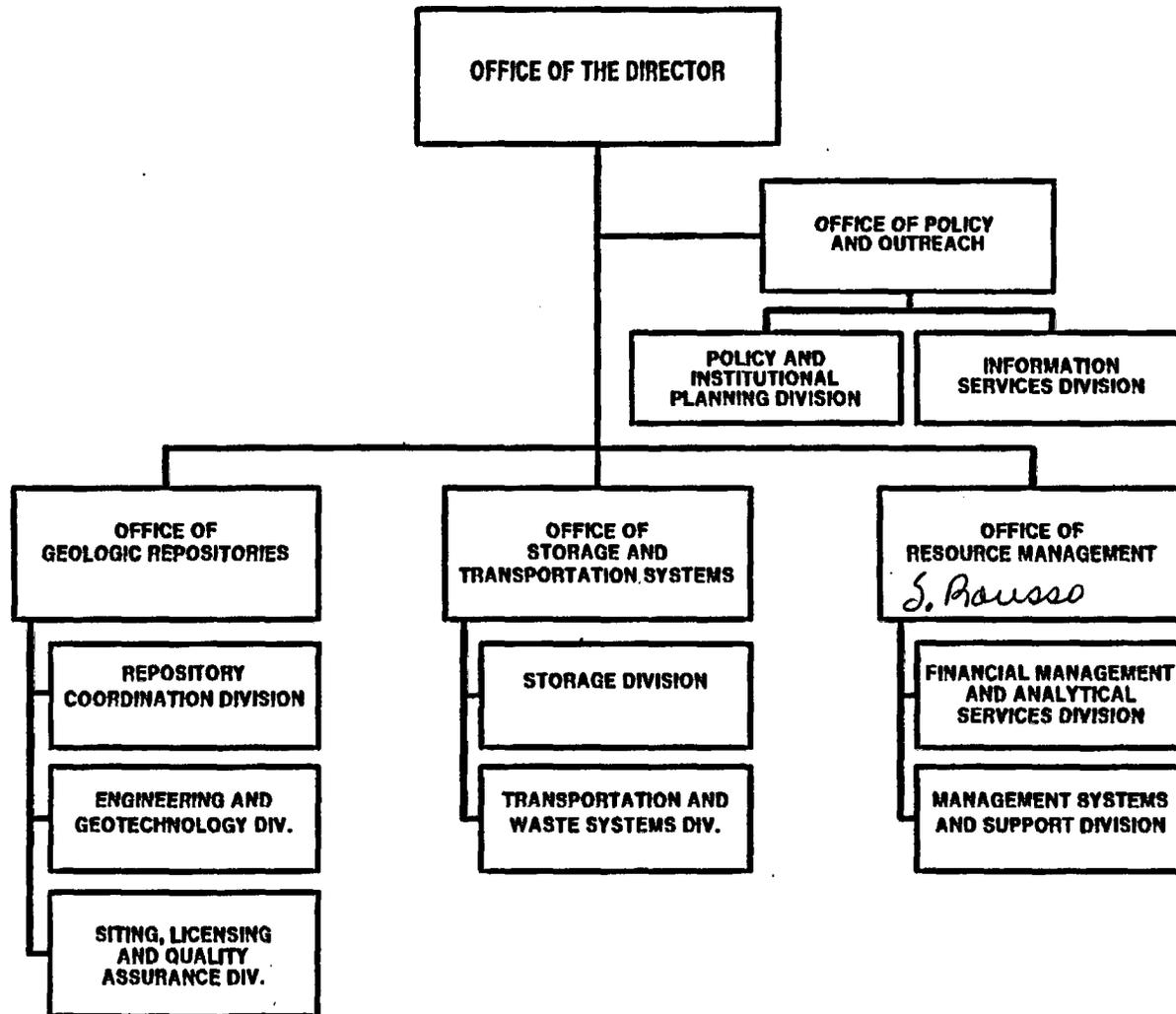
**Licensing Support System  
Contracting for Design and Implementation**

- Procurement package (i.e. Statement of Work, procurement forms, evaluation criteria, instructions to offerors) has been sent to procurement.
- Request for Proposals currently being prepared. This is a time consuming task due to the complexity of government procurement regulations.
- Expect RFP to be issued by about September 1986.
- Expect contract award in early 1987.

**Licensing Support System  
Preparation of Administrative Specifications and Procedures**

- o The following specification and procedures have been prepared by DOE and are currently in internal review:
  - Record Collection and Storage Specification
  - Record Collection Procedure for OGR/HQ
  - Record Storage & Retrieval Procedure for OGR/HQ
  - Issue Tracking Procedure
  - Commitment Tracking Procedure
  
- o Expect DOE internal review to be complete by around the end of August.
  
- o Plan is to issue the documents for review by the NRC, States and Indian Tribes in September, and hold an Interagency Coordinating Committee meeting about one month later to discuss comments received

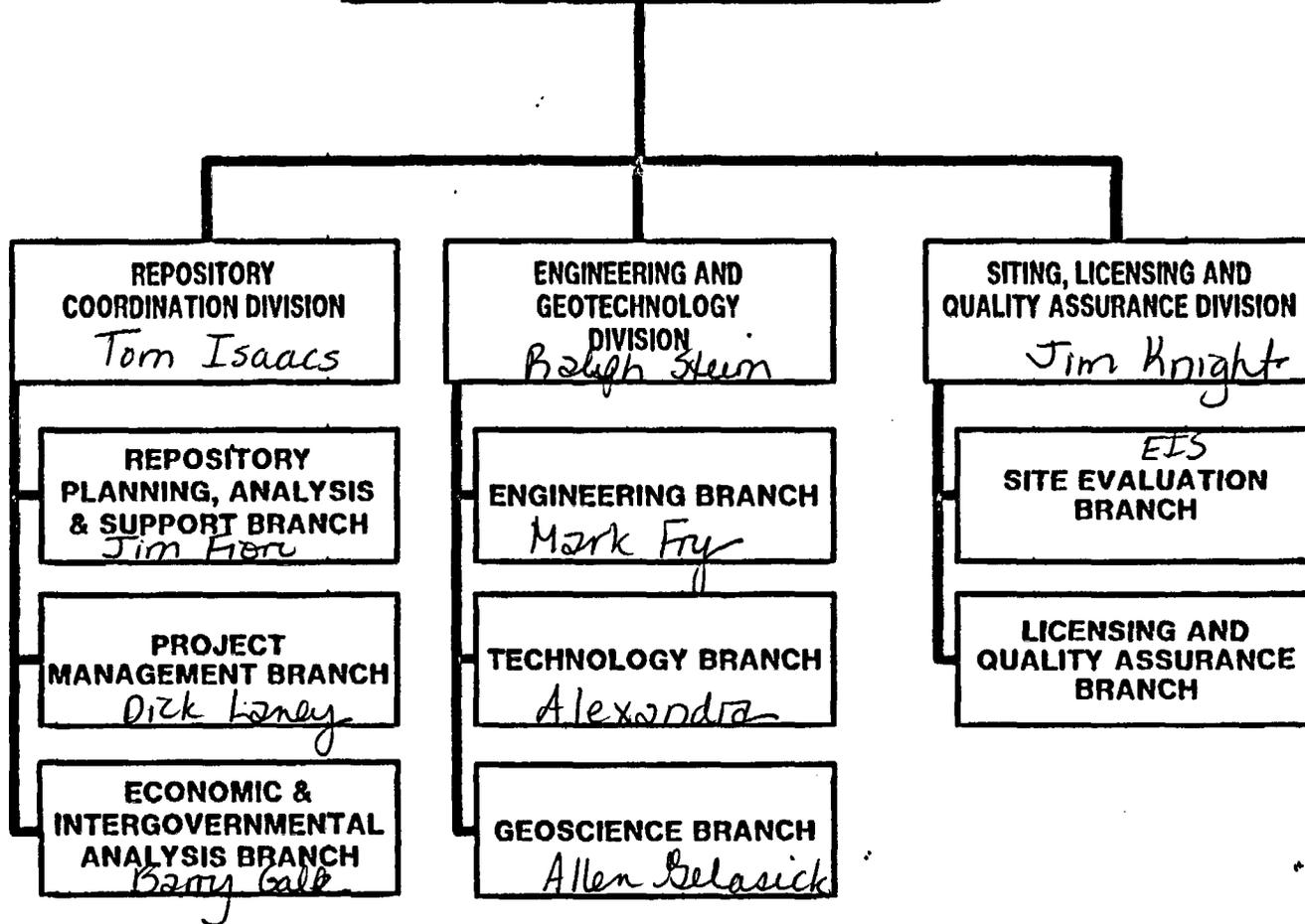
# OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT



May 1986

**OFFICE OF  
GEOLOGIC REPOSITORIES**

*Bill Purcele*



May 1986