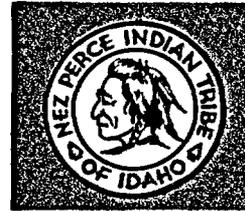


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TRIBAL EXECUTIVE COMMITTEE



(208) 843-2253

July 23, 1985

Joseph O. Bunting, Chief
Policy and Program Control Branch
Division of Waste Management
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

WM Record File

101.4

WM Project 10

Docket No. _____

PDR

LPDR

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Dear Mr. Bunting:

Thank you for your visit to our tribal headquarters on July 11th. Unfortunately the press of business on a water rights matter required my attendance elsewhere. But I understand that you were well received and that the Chairman of the Natural Resources Subcommittee participated in the entire discussion. The Nez Perce Tribe would like to respond formally and make the following comments. Should you have need for clarification do not hesitate to call.

General Comments on the Preliminary Draft Project:

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

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2. Figure 1 of the preliminary draft PDS depicts "disapproval" and "no disapproval" decision steps for affected states and/or Indian tribes, while no mention is made of the procedure elsewhere in the document. This should be addressed in Table 6 on pp. 84-85 and other appropriate sections.

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

The PDS discusses assistance for repository states (and tribes) on page 53, no. 22. Provision should be made for submittal of a tribal or state "impact description report" to NRC as well as to DOE in order that NRC might consider analysis of health, safety, and environmental impacts resulting from tribal or state sponsored impact studies during its licensing process. Moreover, the federal EIS process should provide for consideration of such independent impact reports.

NRC-Tribal Interactions During Licensing Review

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

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

3. Inadequate review times are provided to affected Indian tribes at several critical steps as follows:

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

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

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

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

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

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

Other Prelicensing Activities

On page 40, no. 20 of the preliminary draft PDS, provision is made for preliminary comments by NRC concerning the adequacy of information resulting from site characterization activities to support a license application. It is unclear whether NRC would be afforded a 7-month period to make such determination. It is also unclear whether NRC would provide its "preliminary sufficiency comments" to the tribes and public, although the licensing procedures under the Atomic Energy Act normally provide for public release of this kind of information.

These comments conclude the Tribe's views on the "preliminary draft" Project Decision Schedule and hope that these suggestions will be considered.

On the matter of your initiative to establish a revised procedure which enables Affected Tribes review and comment to NRC on DOE documents, the Nez Perce Tribe considers this a commendable objective and supports its implementation. It will require, however, a gearing up

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for our NP-NWPA staff to be able to deal with this increased document flow. Please keep us advised as the procedural requirements are developed.

On the subject of NRC Waste Management Division Policy #34, we again thank you for this affirmative effort to accord Tribes greater opportunity for participation under NWPA. Proper notification to Affected Tribes will enable better planning and preparation time for meetings. It is desirable but not always feasible to keep NPTEC, the governing body, advised and informed. Thus, a four week prior notice will enable increased policy review of substantive documents or issues.

We look forward to a continued good working relationship. Thank you for your attention to these matters.

Sincerely,

for: Harry D. Marsk
J Herman Reuben, Chairman
Nez Perce Tribal Executive Committee

JHR:RTH:mm

In Attest:

Allen P. Slickpoo
Allen P. Slickpoo, Contact Person
Nez Perce Tribal Executive Committee

Del T. White
Del T. White, Chairman
Natural Resources Subcommittee