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MEMO TO FILE

Distribution: \_\_\_\_\_  
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 (Return to WM, 623-SS) JAN 11 1985

MEMORANDUM FOR: Joseph O. Bunting, Chief  
 Policy and Program Control Branch  
 Division of Waste Management

FROM: Catherine F. Russell  
 Program Control and Analysis Section  
 Policy and Program Control Branch

SUBJECT: MINUTES FROM THE NOVEMBER 14, 1984 MEETING WITH THE YAKIMA INDIAN NATION

At the request of Dean Tousley, Associate Attorney for the Yakima Indian Nation, officials of the Nuclear Regulatory Commission met with members and representatives of the Yakima Indian Nation. Also present at the meeting were members of the Umatilla and Nez Perce Tribes. (A list of attendees is attached) All three tribes have been declared "affected" by the Bureau of Indian Affairs under the provisions of the Nuclear Waste Policy Act. The purpose of the meeting was to discuss NRC's views concerning the disposition of defense high-level waste at Hanford and impending consideration of changes to the definition of high-level waste.

Mel Sampson, Yakima Tribal Council member, began the meeting by saying that the tribe had been hearing some "disturbing rumors" about NRC revisions to the definition of high-level wastes, and these proposed revisions could affect the designation of the defense wastes at Hanford. Robert Browning, Director, NRC Division of Waste Management, explained that staff was currently working on an "Advanced Notice of Proposed Rulemaking (ANPRM)", which was the earliest stage of development of a rule and which allows early comment and input on the NRC staff thinking. Browning explained that, as it is now drafted the ANPRM would affect those low-level wastes above Class C of 10 CFR Part 61, that warrant disposal similar to high-level wastes. If material is classified as high-level waste at the present time, it would still be high-level waste under the ANPRM, said Browning.

William Olmstead, Regulations Division Director and Chief Counsel, Office of the Executive Legal Director, told the Tribes that under the provisions of the Energy Reorganization Act, the NRC would have to license the disposal of any high-level defense wastes at Hanford. James Hovis, attorney for the Yakimas, said he had read draft #4 of the EPA standard which proposed alternative standards for Hanford. He said this caused them great concern because they didn't want Hanford out from under EPA/NRC jurisdiction. Olmstead explained that EPA had no jurisdiction other than setting the general standards. He agreed that EPA could attempt to promulgate an alternative standard for Hanford but said it would not fit in with NRC's understanding of EPA's responsibilities

OFC : WMPC : WMPC : ELD : Harmon/Weiss:Yakima Ind. : :  
 : : : : & Jordan : Nation : :  
 NAME : CRussell:cp : DMattson : JWolf : DTousley : JHovis : :  
 DATE : 85/01/07 : : : : : : :  
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Tousley said DOE seems to be assuming that they will leave the defense wastes at Hanford. According to Tousley, DOE is not even considering the possibility that the wastes may have to be moved to a repository, or the impacts this could have on their program. Hovis said no one at DOE seems to be looking at the cumulative impact of all the wastes at Hanford. The proposed repository can not be viewed in a vacuum, but must be considered along with all other wastes currently on-site. Browning said NRC had not yet looked at cumulative impacts at any site but had been segmenting the program. Olmstead indicated that the NRC comments on the DOE's draft environmental assessments might be a good vehicle for looking at this issue.

Tousley asked under what circumstances, if any, would DOE not have to license its ultimate disposition of the defense waste at Hanford. If they measure the tank activity and it's Class A, replied Olmstead, DOE would come to NRC with a technical basis for the Commission to review the determination that the waste was low activity low-level waste. But, said Olmstead, NRC has no jurisdiction over DOE processing of waste. He explained that NRC does not license defense short-term storage or transportation unless there is a civilian connection. In response to a question, Olmstead said NRC can make safety determinations in the absence of EPA standards.

Tousley asked when the ANPRM would be released for public comment. Browning replied that he was unsure, it was currently at the management level of the staff and he hoped to get it down to the Commission by the end of the year. But, it was explained, the Commission was not on a fixed schedule to take action on the ANPRM so it would be very difficult to predict when it would be released to the public.

The final question of the meeting came from Mr. Tousley, who wanted to know what NRC would do with DOE's 50-page preamble to the Siting Guidelines. Browning said he did not know, the document would have to be reviewed to determine if it includes "interpretive requirements."

151

Catherine F. Russell  
 Policy and Program Control Branch  
 Division of Waste Management

Record Note - Changes made  
 by Browning have been  
 incorporated into this  
 version.

CF 1/10/85

per telecon w/ Wolf

per telecon w/ Tousley

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

JAN 11 1985

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under the Reorganization Plan #3. Olmstead said it probably didn't matter how high-level waste is defined under the NWPA because NRC's jurisdiction to license any storage facility for the defense high-level wastes at Hanford comes under the provisions of the Energy Reorganization Act.

Browning said in some DOE drafts of documents, DOE has indicated they will extract the "readily retrievable waste" from the Hanford tanks and just leave low-level waste residue. But that still leaves a very basic question, said Browning, which is at what point does the waste go from high-level to low-level. Olmstead said he wasn't sure what jurisdiction NRC would have over a determination of that sort by DOE. If the high-level waste portion is taken and removed elsewhere, NRC jurisdiction goes with it, explained Olmstead. But, he added, if you start with the assumption that the defense wastes at Hanford are high-level wastes, the burden of proof is on DOE to prove to everyone's satisfaction that what is left is now low-level waste.

Browning then explained the low-level waste classification system of Class A, B and C wastes, with Class A waste being the lowest hazard and Class C Waste having the highest hazard. The NRC Low-Level Waste Rule allows for a case-by-case determination of the proper disposal method for any low-level wastes which may exceed the Class C upper limits. Therefore, if the waste is hazardous enough, the Rule would require a more secure form of disposal. According to Browning, less than 3% of the total volume of low-level waste falls into this "questionable" category. The ANPRM would classify some of this questionable material as high-level waste.

Tousley asked what NRC rules would cover the licensing of the disposal of the high-level defense wastes in the Hanford tanks. Olmstead replied that licensing would be covered under Part 2 in its current form, together with such other parts as may apply.

Dean Tousley said many people were concerned that the ANPRM relaxes the concentration standards by a factor of 30. Browning told him that this was not the case. Since the word "hazardous" is somewhat difficult to define, NRC is looking at concentration levels as a means of measuring the hazard level. At this point, Browning said no concentration levels had been set, but that some suggested levels were being considered in the ANPRM. James Wolf, ELD, further explained that current case-by-case determinations are on transuranic waste with concentrations exceeding 100 nanocuries per gram. But, at some point, there should be a cap and a determination had to be made about where the cap should be set under the NWPA. It is also important, said Wolf, to determine what type of disposal would be best according to the level of hazard of the waste.

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*Catherine F. Russell*  
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Policy and Program Control Branch  
Division of Waste Management

Meeting at DOE  
Nov. 14, 1984

J. R. WOLF NRC/OELD 492-8694

Dean Lousley Yakima attorney 328-3500  
Mel Sampson Yakima Tribal Council 509-865-5121  
Jim Hovis (YIN) Box 487 Yakima 98907 509 575-1500

Russell Jim Yakima Indian Nation Nuclear Wst. Prog. Mgr. (509) 865-5121  
David C. HOCT Nez Perce Tribe Councilman 202-843-2253  
Elwood H. PATANA UMATILLA TRIBE P.O. Box 638 PENDELTON, OR. 97801 503-276-3165  
Catherine Russell NRC-Div. Waste Mgmt. 301-427-4020  
William Olmstead NRC-OELD (301) 492-7203  
Robert E. Browning NRC-DWM 301-427-4200  
~~Wanda De~~  
Catherine E. Wilson Umatilla Tribe (503) 276-3165  
Kevin Gover Nez Perce Atty 202 342-3331  
JOE BLUNTING NRC (301) 427-4590