



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

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IN REPLY REFER TO:

Environmental Services
Staff (Code 204)

DEC 24 1984

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Mr. David J. Matheson
Chairman, Coeur d'Alene Tribe
of Idaho
Coeur d'Alene Subagency
Plummer, Idaho 83851

WM Record File

101.4

Volume No. 10

Docket No. _____

PDR

LPDR

Sent to
Matheson
from
S. Weisberg
SP

Distribution:

REB/MSB/SOR #JM/KENNEDY
ROM/DRM/CFR WRIGHT

(Return to-WM, 623-SS) KUNINRO-V 23

Dear Mr. Matheson:

This responds to your letter of September 26 petitioning the Secretary of the Interior to certify the Coeur d'Alene Tribe as an "affected Indian tribe" within the meaning of Section 2(2)B of the Nuclear Waste Policy Act of 1982, Public Law 97-425 as a result of the Department of Energy's nomination of the Hanford site in south central Washington as a potentially acceptable site for a nuclear waste repository.

In order for the Secretary to certify the Coeur d'Alene Tribe as an "affected Indian tribe," the Tribe must have possessory or usage rights to lands outside its reservation boundaries which arise out of congressionally ratified treaties, and the Secretary must find that such rights may be both substantially and adversely affected by the locating of a nuclear waste repository at the Hanford site. Without deciding what rights, if any, the Coeur d'Alene Tribe retained in the areas it ceded by various agreements with the United States, we are of the view that such rights would not be substantially affected by the locating of a nuclear waste repository at the Hanford site. This is not to say that the transportation of nuclear waste, either by interstate highway or by rail, is not a legitimate concern; however, we believe that substantial harm to the Tribe's usage rights based upon a transportation accident is too remote a possibility and is thus an insufficient basis for certifying the Coeur d'Alene as an affected Indian tribe. Likewise, the possible harm to the Tribe's usage right caused by airborne radioactive dust, while not an impossibility, is simply too speculative given the distance of the ceded area from the Hanford site.

Accordingly, we must deny your petition. However, we will express your concerns to the Department of Energy and will continue to monitor associated actions to ensure protection of land and water contamination and proposed transportation routes. We will also ensure that you are kept informed on all phases of the selection process.

Sincerely,

/S/ John W. Fritz

Deputy Assistant Secretary -
Indian Affairs - (Operations)

Copy to Portland Area Director
Copy to Marie Monsen, DOE
Copy to Sue Weisberg, USNRC (AR-5037),
Office of State Programs
Washington, D.C. 20555

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