

*See Pocket for
Envelope*

101.4/CFR/83/03/08/0

- 1 -

APR 14 1983

WM Record File

101.4

WM Project 10

Docket No. _____

PDR

LPDR

Distribution: _____

(Return to WM, 623-SS) _____

15

Mr. Johnson Meninick, Chairman
Yakima Tribal Council
Confederated Tribes and Bands
Yakima Indian Nation
Post Office Box 151
Toppenish, WA 98948

Dear Mr. Meninick:

We have received your Tribal Council Resolution concerning the participation of the Yakima Indian Nation in various aspects of the Nuclear Regulatory Commission's (NRC) review of the Department of Energy's investigations regarding the Hanford Reservation as a potential candidate site for a high-level waste repository, also referred to as the Basalt Waste Isolation Project (BWIP). In our letter to you of November 15, 1982, transmitting the Department of Energy's Hanford Site Characterization Report (SCR), the NRC states that it believes the Yakimas, as a potentially affected Indian tribe, are entitled to consultation and participation in our reviews pursuant to Subpart C of 10 CFR Part 60. Thus far, in recognition of your status as a potentially affected Indian tribe, the NRC has provided you with two briefings, the first on November 15, 1982 on the NRC's site characterization review process, and the second one on March 24, 1983 on the NRC's Draft Site Characterization Analysis of the DOE's Hanford SCR. We have also provided you with copies of various information related to the Hanford site including DOE's BWIP SCR, NRC's 10 CFR Part 60 procedural rule, NRC's Draft Site Characterization Analysis of DOE's BWIP SCR, and SECY-82-427, an options paper to the Commission on developing final technical criteria. In the future, we intend to continue to provide you with relevant NRC informational material on the Hanford site as well as periodic briefings on our activities.

As you are aware, the Nuclear Waste Policy Act of 1982 (P.L. 97-425) was passed by Congress in late December 1982. The Act requires a sustained and systematic exchange of views and information between affected Indian tribes and DOE at each step of the site characterization process. With regard to Federal interaction with affected Indian tribes, there may be some areas of duplication and overlap between DOE activities under P.L. 97-425 and NRC activities under 10 CFR Part 60. We are assessing whether

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any modifications to 10 CFR Part 60 appear warranted consistent with the need for close interaction between affected Indian tribes and the NRC. However, we intend to preserve the relationship we've established with the Yakima Indian Nation to ensure your continued consultation and participation in the NRC's review of DOE activities at Hanford under 10 CFR Part 60. Members of my staff have already been in contact with members of your staff to arrange a meeting for the purposes of obtaining the Yakimas' views on appropriate changes to the 10 CFR Part 60 procedural rule involving NRC - tribal interactions; and, on how the Yakima Indian Nation would like to proceed in developing a proposal to participate in NRC's reviews.

We look forward to continuing our work with you.

Sincerely,

(Signed) John G. Davis
John G. Davis, Director
Office of Nuclear Material
Safety and Safeguards

DISTRIBUTION: WM-83163

- WM file
- NMSS r/f
- WMPI r/f
- CRussell
- JOBunting
- RMacDougall
- DMAusshardt
- JGDavis
- REBrowning
- JSurmeier
- DMattson
- MKearney
- W01mstead
- GWKerr
- HJMiller
- MJBell
- PDR

*See previous concurrence

OFC	: WMPI *	: WMPI <i>B</i>	: WM * <i>REB</i>	: ELD *	: OSP *	: NMSS	: NMSS
NAME	: CRussell:db	: JOBunting	: REBrowning	: W01mstead	: GWKerr	: DMAusshardt	: JGDavis
DATE	: 83/03/08	: 83/04/14	: 83/04/14	: 83/04/	: 83/04/	: 83/04/	: 83/04/14



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

April 13, 1983

NOTE TO: R. Browning
FROM: John G. Davis
SUBJECT: 10 CFR 60, SUBPART

In the proposed letters involving Subpart C, since our analysis of the impact of the NWPA on Subpart C is not complete, I would prefer to avoid statements that could be read as continuing Subpart C in its current form. At the same time, I would like to open discussions with the state and tribe to understand their proposals. I have enclosed suggested substitute wording.

The analysis of the impact of NWPA on Subpart C should receive the highest priority.

Let's discuss this.


John G. Davis

*Enclosure
4/14/83 memo
from Davis to
Merritt*

Enclosure:
Suggested Substitute Wording

cc: D. B. Mausshardt

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4. Conversation Record with Yakimas re: NRC position on sinking shaft (2/25/83)
5. Yakima Tribal Council Resolution (2/16/83)
6. Letter to DOE forwarding copy of 1st Yakima letter requesting information (1/14/83)
7. Response to Yakima letter requesting information on site characterization activities and copy of SECY-82-427 (1/10/83)
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14. Letter to Yakima's forwarding SCR and identifying them as a potentially affected tribe (11/15/82)

Wolf

~~Wolf~~

Mr. Russell Jim, Secretary
Land Committee
Yakima Tribal Council
P.O. Box 151
Toppenish, Washington 98948

Dear Mr. Jim:

We have received your Tribal Council Resolution to insure participation of the Yakima Indian Nation in various aspects of the NRC review of the Hanford Reservation as a candidate site for a high-level waste repository. As you are aware, the Nuclear Waste Policy Act of 1982 (P.L. 97-425) requires the Commission, among other things, to provide to the governing body of any affected Indian tribe "timely and complete information regarding determinations or plans made with respect to the site characterization" of a geologic repository. In addition, the Act establishes a consultation and participation procedure (including funding) for affected Indian tribes in the repository program through the Department of Energy. It would be helpful to us to have your views as to whether the Yakima Indian Nation is an "affected Indian tribe," as defined in the Act, and to have a statement of the basis for your position. If your interest is based upon possessory or usage rights to lands outside the reservation's boundaries please advise us whether the Secretary of the Interior has made a finding of substantial and adverse effects.

In our previous meeting with you, we indicated that the Yakima Indian Nation was entitled to the consultation and participation rights in NRC reviews set forth in 10 CFR Part 60 of our regulations. However, the procedures in 10 CFR Part 60 were adopted prior to the passage of the Waste Policy Act. The NRC staff is currently looking at the potential impact of the new legislation on the Part 60 procedures, particularly in light of the procedures now mandated in the Act for interaction with DOE. Until this review has been completed, we are unable to determine precisely the procedures that will govern participation by Indian tribes. In the meantime, we are taking steps to send you copies of documents prepared by NRC staff. In particular, we are forwarding, under separate cover, a copy of the staff's draft site characterization analysis, which was prepared in response to DOE's submission last November of a Site Characterization Report on the Hanford site.

I look forward to meeting with you next week.

Sincerely,

cc: J.B. Hovis

MAR 29 1983

Mr. Sidney Mills, Director
Office of Trust Responsibilities
Bureau of Indian Affairs
U.S. Department of the Interior
Washington, D.C. 20245

Dear Mr. Mills:

We appreciate your March 16, 1983 letter notifying us about the Bureau of Indian Affairs' work regarding the identification of Indian tribes affected by the provisions of the Nuclear Waste Policy Act of 1982, and identifying the appropriate contacts on your staff for coordination with NRC on technical and tribal matters. The Nuclear Regulatory Commission's contact point for these matters will be the Division of Waste Management's Licensing Process and Integration Branch. The Chief is Mr. Joseph O. Bunting and the staff members working on these matters are Mr. Robert D. MacDougall and Ms. Catherine Russell.

We have scheduled a meeting with Bureau of Indian Affairs representatives (Mr. George Ferris, Mr. Frank Khattat and Mr. Mike Cox) on April 4, 1983, to discuss what has been done by each of our Agencies thus far on tribal matters, and to assure that all future activities are properly coordinated.

We are looking forward to developing a mutually cooperative relationship to assure timely and constructive implementation of the Nuclear Waste Policy Act of 1982.

Sincerely,



Robert E. Browning, Acting Director
Division of Waste Management

DISTRIBUTION

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NMSS r/f	JBunting	MKearney	MBell
CRussell	RBrowning	Wolmstead	

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United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

IN REPLY REFER TO:
Environmental Services
Staff (204)

MAR 16 1983

WMA Record File	408...
WMA Dir.	
WMA Dep. Dir.	REX
WMA Job	WALL
WMAHT	HJM
WMAUR	Others
ROM, CRussell	

Rec'd 3/21/83

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

Dear Mr. Browning:

The Bureau of Indian Affairs is presently working on the identification of interested Indian tribes relevant to the Department of Energy's (DOE) potentially acceptable sites for nuclear waste repositories. We are also working on criteria for the Secretary to qualify a tribe as substantially and adversely affected by a proposed DOE site. The DOE potentially acceptable sites and corresponding interested Indian tribes are listed on page 2 of the enclosed letter dated February 25, 1983 addressed to the Bureau Area Directors concerned.

We would appreciate your coordination of technical and tribal matters with our Environmental Services Staff (Code 204), Attn: Mr. Frank Khattat. Legal matters should be coordinated with the Associate Solicitor, Indian Affairs, Attn: Mr. Mike Cox at the U.S. Department of Interior, Washington, D. C. These coordinations will aid the tribes and BIA area and field offices concerned in order that the notification and consultation process required under the Nuclear Waste Policy Act may take place in a timely manner.

Sincerely,

Director, Office of Trust
Responsibilities

Enclosure



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

IN REPLY REFER TO:

Environmental Services
Staff (204)

FEB 25 1983

Memorandum

To: Navajo, Portland, Phoenix and Eastern Area Directors

From: Deputy Assistant Secretary - Indian Affairs (Operations)

Subject: Notification of Interested Tribes of P.L. 97-425 "Nuclear Waste Policy Act of 1982"

Mr. Ralph Reeser, Director of Congressional and Legislative Affairs, in a memorandum dated January 13, 1983, sent you a copy of Public Law 97-425 "Nuclear Waste Policy Act." Section 2(2) of this Act defines "affected Indian tribe" as follows:

"The term 'affected Indian tribe' means any Indian tribe --

(A) within whose reservation boundaries a monitored retrievable storage facility, test and evaluation facility, or a repository for high-level radioactive waste or spent fuel is proposed to be located;

(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: Provided, That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe;"

Based on current information submitted by the Department of Energy, none of DOE's "potentially acceptable sites" are located within the boundaries of any Indian reservation. However, Section 2(2)(B) of the definition may be applicable to the Indian tribes listed below. At this time and until a final determination is made, these tribes are designated as "interested Indian tribes." For this reason, please review the list of potentially acceptable sites submitted by DOE, and after consultation with the Tribal Council of the designated "interested Indian tribes", as well as the Regional or Field Solicitor, we would appreciate receiving your recommendation not later than March 16, 1983, of which tribe(s) in your area should be considered an "affected Indian tribe." Based on

your recommendation, the Secretary will have to consider whether or not a tribe is substantially and adversely affected by a proposed site. When making your recommendation, please consider whether a site will adversely affect public health, safety, and the environment for the respective reservation. The DOE's potentially acceptable sites and corresponding interested Indian tribes are listed below.

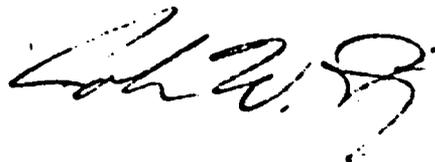
<u>DOE Potentially Acceptable Sites</u>	<u>Designated Interested Tribes</u>
Hanford, Washington	Yakima, Umatilla, Nez Perce, Coeur D'Alene
Salt Valley, Utah	Uintah & Ouray
Elk Ridge, Utah	Navajo
Gibson Dome, Utah	None Proposed
DOE Nevada Test Site	Las Vegas and Moapa River Indian Reservations
Gulf Interior Region (Richton Dome and Cypress Creek Dome Sites)	Choctaw
Permian Basin, Dalhart and Palo Duro Areas, Texas	None Proposed
Gulf Interior Region (Vacherie Dome Site)	None Proposed

In order for you to inform the tribes of the details involved, we have prepared an orientation package to be sent to each Tribal Council and Agency Superintendent. Each package contains the following items:

1. A copy of Public Law 97-425 and remarks of the President at the signing ceremony of the Law.
2. DOE proposed "General Guidelines for Recommendation of Sites for Nuclear Waste Repositories."
3. A set of maps of proposed DOE sites.
4. Bureau of Indian Affairs Fact Sheet on the Nuclear Waste Policy Act.
5. Notice of public hearings on the siting guidelines to be conducted throughout the country in March 1982.

Please mail a copy of this package as soon as possible in order that the interested tribes can be informed of planned hearings for item 2 of this package which are scheduled between March 2 through 14, 1983.

If you have any questions, please write or call the Central Office Environmental Services Staff (Code 204) on FTS 343-2257 or 343-4541.

A handwritten signature in black ink, appearing to be "L. W. J.", is located in the upper right quadrant of the page.

Attachments

R54

Bunting - pls see me

CONVERSATION RECORD

TIME
12:15 PM

DATE
2/25/83

TYPE

VISIT

CONFERENCE

TELEPHONE

INCOMING

OUTGOING

ROUTING

NAME/SYMBOL INT

RBrowning

MBell

HMiller

JBunting

WKerr

Location of Visit/Conference:

NAME OF PERSON(S) CONTACTED OR IN CONTACT WITH YOU

ORGANIZATION (Office, dept., bureau, etc.)

TELEPHONE NO. (509)

Erline Reber

Yakima Tribal Council

865-2800

SUBJECT

NRC's likely response to a DOE decision to proceed with sinking exploratory shaft at the BWIP

SUMMARY

I received a telephone call, Friday, February 25, from Ms. Erline Reber, staff to Yakima Tribal Councilman Russell Jim, asking about NRC's likely response to a DOE decision to proceed with sinking the exploratory shaft at the Basalt Waste Isolation Project (BWIP) before DOE repository siting guidelines are in final form. Ms. Reber said the Yakimas understand that DOE has postponed excavation only enough to permit DOE to hold hearings and publish an environmental assessment (EA) as required under the Nuclear Waste Policy Act of 1982. Since Section 112(b)(1)(F) of the Act requires the EA to include, among other things: "(i) an evaluation by the Secretary as to whether such site is suitable for site characterization under the guidelines ..." and "(ii) an evaluation by the Secretary as to whether such site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline." Ms. Reber said the Tribe does not understand how DOE can proceed to publish an EA until NRC has concurred in the guidelines under Section 112(a). She asked if NRC staff had addressed the question of how NRC would respond if DOE proceeds as reportedly planned to publish an EA and sink the shaft. She believes that if DOE is allowed to carry out its current plans, they would moot the purpose of NRC's review and concurrence in the guidelines, at least for BWIP. Worse, an eventual NRC concurrence in the guidelines would probably be perceived as implicit NRC approval of DOE's modus operandi, which has sought to render public participation in the BWIP siting process effectively meaningless.

I told Ms. Reber that to my knowledge, NRC staff had not yet begun to grapple with this question. Noting that DOE is now planning to begin shaft excavation immediately after the hearings scheduled for March 21, she asked to be informed of any new NRC policy in this area as soon as it is developed.

ACTION REQUIRED

*I assume this is quoting Mac Dougall
Reber not Mac Dougall*

yes!

NAME OF PERSON DOCUMENTING CONVERSATION

SIGNATURE

DATE

Robert D. MacDougall

Robert D. MacDougall

3/2/83

ACTION TAKEN

see to ELD reps ?

SIGNATURE

TITLE

DATE

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

February 16, 1983

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Director of Nuclear Material Safety
& Safeguards
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Sir:

Please find enclosed our Tribal Council Resolution to insure
our participation as an affected tribe under 10 CFR, Part 60.

Thank you.

Sincerely,

Johnson Meninick
Johnson Meninick, Chairman
Yakima Tribal Council

Enclosure

WM-10

WM Record File	101.4
WVA Dir.	
WM Dep. Dir.	REB
WMPI	JOB WMLL
WMHT	HJM WMHL MSB
WMUR	Others
(This is JOB'S cc)	

rec'd 2-23-83

nb

cc: Russell
ROM

00305

R E S O L U T I O N

T-45-83

WHEREAS, applicable legislation and 10 CFR part 60 provide that potentially affected Indian tribes shall be granted a right to participate in the site review and licensing of disposal of high level radioactive wastes in geologic repositories before the Nuclear Regulatory Commission (NRC), and

WHEREAS, the Nuclear Regulatory Commission has determined that the Confederated Tribes and Bands of the Yakima Indian Nation (YIN) is a potentially affected Indian Tribe as regards the disposal of high level radioactive wastes on the Hanford Reservation, and

WHEREAS, the Yakima Tribal Council wishes to make every effort to protect the health, safety, property and treaty rights of the Yakima Indian Nation and its members.

NOW, THEREFORE, BE IT RESOLVED by the Yakima Tribal Council which has recognized full authority as a governing body and tribal organization of an Indian tribe under PL 73-638, that

1. By this resolution the Yakima Indian Nation does inform the Nuclear Regulatory Commission's Office of Nuclear Material Safety and Safeguards that it is the wishes of the Yakima Indian Nation to fully participate and consult in all ways under federal law and 10 cfr part 60 in the selection and licensing of a disposal of high level radioactive wastes in geologic repositories with the Hanford Reservation.
2. Yakima Indian request that all information regarding said action, including but not limited to the Nuclear Regulatory Commission regulations, site selection and licensing, licensing procedures and potential schedules, be forwarded to the hereinafter authorized representative:

Russell Jim, Secretary
Land Committee
Yakima Tribal Council
P. O. Box 151
Toppenish, Washington 98948

with a copy of said materials forwarded to the office of tribal attorney:

Jame B. Hovis
Hovis, Cockrill, Weaver & Bjur
316 North Third Street
P. O. Box 487
Yakima, Washington

3. Tribal Council Secretary is directed to send a signed copy of this resolution by certified mail to the Director of Nuclear Material Safety & Safeguards, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555.

4. The Director of Nuclear Safety & Safeguards is informed, that:

A. The Yakima Indian Nation wishes to fully participate and consult in all matters by interpreting, reviewing all materials submitted by Nuclear Regulatory Commission staff, and states and applicant. The issues of interest to the Yakima Indian Nation are all matters, including but not limited to the following:

- (1) Site area
- (2) Criteria used in site selection
- (3) Method of selection
- (4) Alternatives to Hanford
- (5) Safety considerations and protections
- (6) Health considerations
- (7) Down-the-line effect on area
- (8) Environmental considerations
- (9) Environmental impacts
- (10) Environmental impacts of alternatives
- (11) Impacts on reserved treaty rights of Indian tribes
- (12) Impact on the property, health and safety of Yakima Indian Nation and its members
- (13) Effect of present waste disposal on the environment, health and safety, and history of accidents and leaks
- (14) Cumulative effect of present and proposed reactors, waste disposal, located on the Hanford Reservation on the health, safety and environment, together with their effect on the economic and place-to-live considerations of the neighboring communities including the Yakima Indian Reservation and its residents
- (15) Psychological health effects and community deterioration from location of present and proposed nuclear and radioactive activity on the Hanford Reservation
- (16) Consideration of archaeological and cultural impacts
- (17) Geological and seismological information regarding site area and "Columbia Plateau Tectonic Province"

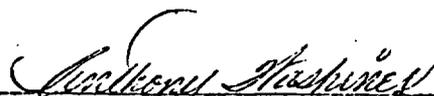
- (18) Review of applicable Nuclear Regulatory Commissions regulations, licensing procedures, potential schedules and the type and scope of tribal review permitted by law
- (19) Review and cost estimates of grants available for study and participation by Yakima Indian Nation under existing law
- (20) Assistance in and funding for participation by the residents of the Yakima Indian Reservation and members of the Yakima Indian Nation in informational services and comment meetings regarding the areas of interest delineated in this resolution
- (21) Assistance in preparation of and communication with appropriate federal authorities to provide Yakima Indian Nation with the full benefits of an affected Indian tribe under the provisions of P1 97-425.

B. Yakima Indian Nation after consultation, review and preparation with the Nuclear Regulatory Commission will wish to present any applicable information and consideration regarding the disposal of high level radioactive wastes on the Hanford Reservation.

DONE AND DATED on this 9th day of February, 1983, by the Yakima Tribal Council at the Governmental Offices of the Confederated Tribes and Bands of the Yakima Indian Nation, Toppenish, Washington, by a vote of 10 for and none against.


Johnson Meninick, Chairman
Yakima Tribal Council

ATTEST:


Anthony Washines, Secretary
Yakima Tribal Council

3101.4/RRB/83/01/11/0

- 1 -

JAN 14 1983

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RRBoyle & r/f
HJMiller
JOBunting
RJWright
PDR

WMHL: WM-10 101.2 +
3101.4

Mr. O. L. Olson, Project Manager
BWI Project Office
Richland Operations Office
U. S. Department of Energy
P. O. Box 550
Richland, WA 99352

Dear Mr. Olson

Attached is a copy of a letter (Enclosure 1) which the U. S. Nuclear Regulatory Commission (NRC) received from Mr. Russell Jim of the Yakima Indian Nation. In his letter, Mr. Jim requested information on the site characterization activities at the Hanford Reservation.

On January 10, 1983, the NRC provided a response to Mr. Jim's request. Enclosure 2 is a copy of our response.

We are forwarding this correspondence to you so that you can provide Mr. Jim with any additional information that you might have on this matter that you believe is appropriate.

Sincerely,

Robert J. Wright
Senior Technical Advisor
High-Level Waste Technical
Development Branch
Division of Waste Management

Enclosures:
As stated

cc: Russell Jim

End 1: 11-22-82 ltr to R. Jim
End 2: 1-10-83 ltr to "

OFC	: WMHL	: WMHL	: WMHT	: WMHT	: WMPI	:	:
NAME	: RRBoyle: lmc	: MJBell	: RJWright	: HJMiller	: JOBunting	:	:
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JAN 10 1983

Distribution: WM-82-781

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HJMiller
JOBunting
RJWright
JWolf
PDR

WMHL: WM-10
3101.4

Mr. Russell Jim
Yakima Tribal Council
Confederated Tribes and Bands
Yakima Indian Nation
P. O. Box 151
Toppenish, Washington 98948

Dear Mr. Jim:

This is in response to your letter dated November 23, 1982. In your letter you requested that the U. S. Nuclear Regulatory Commission (NRC) respond to several questions regarding the Hanford Reservation. It should be noted that the NRC has not concluded that the basalt underlying the Hanford Reservation is better than the basalts that lie elsewhere in the same formation. Our regulations governing the disposal of high-level radioactive wastes (10 CFR 60) require that the U. S. Department of Energy (DOE) submit to NRC a Site Characterization Report which includes, among other things, the method by which DOE selected a particular site for characterization.

As you are aware, the DOE submitted a Site Characterization Report to the NRC on November 12, 1982. DOE has stated that the Site Characterization Report provides documentation for the technical questions that have been identified at the site and the plans for resolving them through further site studies. They further note that the document describes the site to be characterized, provides information on the site screening and selection process, and describes the repository design, waste package research and development, and quality assurance efforts. Finally, the document summarizes the alternative geologic media and sites under investigation in the National Waste Terminal Storage Program. Chapter 2 of the Site Characterization Report discusses the site selection process that led DOE to the repository location at the Hanford Reservation.

The NRC staff is currently reviewing the content of the Site Characterization Report. Upon the completion of this staff review, the Director of NRC's Office of Nuclear Material Safety and Safeguards will

OFC	: WMHL	: WMHT	: ELD	: WMHL	: WMHT	: WMPI	:
NAME	: RRBoyle:lmc	: RJWright	: JWolf	: MJBell	: HJMiller	: JOBunting	:
DATE	: 12/ /82	: 12/ /82	: 12/ /82	: 12/ /82	: 12/ /82	: 12/ /82	:

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JAN 20 1983

I have forwarded a copy of your letter to the Department of Energy for their consideration. I have also enclosed a copy of SECY-82-427 which you requested in your letter. If you should need any further clarification on these matters, please do not hesitate to contact me.

Sincerely,

Original Signed By:

Joseph O. Bunting, Chief
Licensing Process and
Integration Branch
Division of Waste Management

Enclosures:
As stated

OSP

YOUNG FOR
KEXIL
7 JAN

PDR on delayed basis.

*See previous concurrence

OFC	: WMHL *	: WMHT *	: ELD *	: WMHL *	: WMHT *	: WMPI	:
NAME	: RRBoyle: lmc	: RJWright	: JWolf	: MJBell	: HJMiller	: JOBunting	:
DATE	: 12/ /82	: 12/ /82	: 12/ /82	: 12/ /82	: 12/ /82	: 12/ /82	:

11/10/83

I have forwarded a copy of your letter to the Department of Energy for their consideration. I have also enclosed a copy of SECY-82-427 which you requested in your letter. If you should need any further clarification on these matters, please do not hesitate to contact me.

Sincerely,

Joseph O. Bunting, Chief
Licensing Process and
Integration Branch
Division of Waste Management

Enclosures:
As stated

PDR on delayed basis

Telephone conference in RB

OFC	: WMHL <i>RB</i>	: WMHT	: ELD	: WMHL <i>RB for</i>	: WMHT <i>for</i>	: WMPI	:
NAME	: RRBoyle: lmc	: RJWright	: JWolf	: MJBell	: HJMiller	: JOBunting	:
DATE	: 12/15/82	: 12/15/82	: 12/15/82	: 12/15/82	: 12/16/82	: 12/ /82	:

FINAL

ENVIRONMENTAL IMPACT STATEMENT

**Management of
Commercially Generated
Radioactive Waste**

**Volume 2
Appendices**



October 1980

**U.S. Department of Energy
Assistant Secretary for Nuclear Energy
Office of Nuclear Waste Management
Washington, D.C. 20545**

B.6.4 Basalt Properties

Terrestrial basalt flows are considered here to be applicable to conventional geologic disposal. Basalt is a black to medium gray, extrusive volcanic mafic rock (high in magnesium rock silicates) with the major mineral component calcic plagioclase (usually as phenocrysts) olivine and accessory minerals of magnetite, chlorite, sericite, and hematite (Office of Waste Isolation 1978e, Holmes 1978). The texture of a basalt may be either glassy or granular. Generally, basalt flows have a large areal extent. The locations of potential basalt repository areas are illustrated in Figure B.6.4. The basalts of southeastern Idaho are not considered because of high permeability features such as the Lost River and known large open lava tubes.

Basalt is commonly a very dense, high-strength material. Consequently, porosity and permeability are favorably low, with negligible moisture content, although interflow sedimentary units may be more permeable. Basalts remain relatively strong under elevated temperatures but may exhibit expansion. An average chemical composition of basalt is included Table B.6.2. More data are needed about basalt-waste reactions under repository conditions.

Joints are generally platy or columnar. They may be filled with various secondary minerals, alteration or weathering products of basalt. Joints may be unopened or opened with wide spacing (~ 0.3 - 1.8 m) and be smooth to rough. Joints in basalt may be extensive. They are generally unfavorable because of their potential for high permeability and ground water flow.

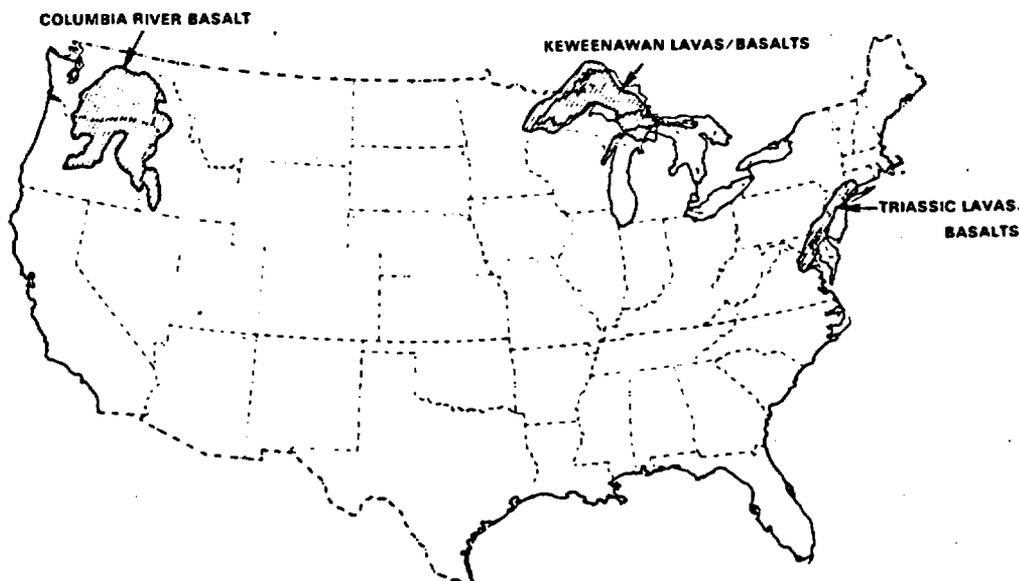


FIGURE B.6.4. Potential Repository Basalts in the United States (adapted from Office of Waste Isolation 1978a, Dott and Batten 1971)

Don Eagan EPA

October 21, 1982



SECY-82-427

RULEMAKING ISSUE
(Notation Vote)

For: The Commissioners

From: William J. Dircks
Executive Director for Operations

Subject: COMMISSION OPTIONS ON DEVELOPING FINAL TECHNICAL CRITERIA FOR DISPOSAL OF HIGH-LEVEL WASTE IN GEOLOGIC REPOSITORIES

Purpose: The purpose of this paper is to advise the Commission of an issue that has arisen in developing the final HLW rule as a result of the absence of an EPA standard, and to seek the Commission's guidance on how to proceed.

Discussion: The NRC staff has been developing its licensing criteria for geologic disposal of HLW for several years. An Advance Notice of Proposed Rulemaking was published for comment in May 1980, and a Proposed Rule was noticed for comment in July 1981. Throughout this period publication of a proposed EPA standard for HLW disposal was believed to be imminent. EPA was also expected to have taken the lead in preparing an Environmental Impact Statement on the environmental radiological effects of its proposed standard. Accordingly, to avoid duplication of effort, and at EPA's suggestion, the NRC environmental appraisal which accompanies Part 60 does not consider the radiological effects of the performance objectives. Neither the EPA standard nor the EIS have yet been published. The proposed standard has been under review by OMB for about nine months. No decision is yet available on a date for issuance of the EPA standard.

A number of commenters on the proposed rule questioned the numerical performance objectives NRC had proposed and how they related to the standard EPA was developing. The NRC

Contact:
M. J. Bell, NMSS
427-4612

staff attempted to address these issues in developing the final rule by adopting as an overall performance objective a working draft EPA standard that was referenced by several of the commenters on the proposed rule. The staff then analyzed the performance of model repositories in several geologic media of interest and demonstrated how the proposed NRC numerical criteria contributed to ensuring that the working draft EPA standard was met.

Because the final EPA standard might differ from the draft used for the analysis, the staff made provisions to allow for DOE to propose alternatives to the numerical performance objectives for the individual barriers, provided the final EPA standard were met.

While the staff considered this technical approach reasonable in light of the continued delay by EPA, we want to bring a policy question to the attention of the Commission.

Continuing to follow the course we are on to finalize Part 60 in the absence of an EPA standard is likely to subject the agency to considerable criticism, both from the public and the Congress. We would end up taking the blame for EPA's failure to perform. In fact, we would divert much of the attention away from where it belongs -- on EPA and OMB. When EPA finally does issue its standard, we would need to review the rule in any event, and revise it, if needed. There may be little to be gained from finalizing the numerical criteria in question and much to lose. Therefore, we are proposing several options for the Commission's consideration:

Option 1 - Finalize the rule except for the numerical subsystem performance objectives for the engineered barrier system. These two performance objectives, for the waste package containment time and the release rate from the engineered barrier system, are closely linked to providing confidence that the EPA standard would be met. They would be reserved until after EPA publishes an effective standard.

Option 2 - Finalize the rule except for the numerical performance objectives for the waste package containment time and the release rate from the engineered barrier system. These two numbers would be reserved as in Option 1, but we would request public comment on how to proceed in the absence of an EPA standard.

Option 3 - Finalize the rule including the two performance objectives for the engineered barrier system and state that we will review the performance objectives after the EPA standard is issued and revise them in a subsequent rulemaking, if necessary. This is the path we have been on.

Option 4 - Leave the entire rule in proposed form until the EPA standard is issued.

Option 5 - Re-notice the rule described under Option 3 and in SECY-82-288.

Analysis of Options

Option 1 - This option has the advantage of getting most of the rule in place so that it would be available to guide the National Program over the next several years while DOE is conducting site characterization. It also focuses attention on the absence of the EPA standard and avoids putting the NRC ahead of EPA in the eyes of Congress and the public. When the EPA finally promulgates its standard, we should be able to finalize the performance objectives relatively quickly. We expect this option would require the least staff resources.

Option 2 - This option is similar to Option 1 in that it allows the rule to be finalized except for the two numerical performance objectives for containment and controlled release, but it allows for public comment on where we are and how to proceed. It has the advantage of allowing public input to the decision-making process, and increasing public awareness of the implications of the absence of the EPA standard.

If the Commission selected this option, we would request public comment on the approach of reserving the two numerical performance objectives until the EPA standard is published versus the approach of finalizing the numerical performance objectives and relying on the flexibility provisions that have been included in the final rule to accommodate changes in the EPA standard.

Also, in the notice of proposed rulemaking for the technical criteria, we stated that additional criteria might be developed for regulating disposal in the unsaturated zone. The staff has now done so, and would need to request public comment on proposed criteria for disposal in the unsaturated zone, in any event. For efficiency, we would combine these requests for comment with the notice of publication of the final technical criteria.

Option 3 - Under this option, we would publish the final rule, including the numerical performance objectives for the engineered barrier system. While this approach would put the entire NRC regulatory framework in place, it has the disadvantages noted above.

Option 4 - Under this option the DOE program to select sites for characterization and to carry out site characterization would proceed without either the EPA standard or the NRC criteria in place to provide direction. This option could put considerable pressure on EPA to get its standard issued, but at the price of public perception that the federal government can't perform. DOE staff have informed the NRC staff that they need the rule in place to focus their program.

Option 5 - Under this option we would re-notice the technical criteria as revised in light of public comment received on the proposed technical criteria. This would allow the prominence of the technical criteria-- and, hence, their utility as guidance--to be preserved; and the relationship between the technical criteria and the draft EPA standard, referenced in public comment on the proposed rule, to be reviewed by the public. It would flag to Congress and the public the absence of and need for an EPA

standard. This approach would have the disadvantages of delaying issuance of final technical criteria, of requiring further expenditure of staff resources to finalize them, and of perhaps appearing to be ahead of EPA in the eyes of Congress and public.

Recommendation: That the Commission approve Option 2.



William J. Dircks
Executive Director
for Operations

Contact:
M. J. Bell, WMHL
427-4612

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Friday, November 5, 1982.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Friday, October 29, 1982, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for discussion at an Open Meeting during the Week of November 1, 1982. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

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DEC 17 1982

Mr. Johnson Meninick, Chairman
Yakima Tribal Council
P.O. Box 151
Toppenish, WA 98948

Dear Mr. Meninick,

We understand from a recent conversation with Mrs. Erline Reber, a staff member for Mr. Russell Jim, that you have not yet received our letter advising that the Department of Energy (DOE) has submitted for our review a Site Characterization Report for a candidate site for a high-level radioactive waste repository on the Hanford Reservation. This letter was to let you know that we believe the Yakima Tribe is entitled to consult with us during our reviews. Our rules require us to send such letters to the chief executive of the governmental body concerned, and on instructions from Mrs. Reber as to the appropriate address, we mailed the letter, a copy of the Report, and additional documents to you on November 16, in care of Mr. Jim. Mrs. Reber told us last week that she still had not yet seen our materials, so we are sending you another set directly by registered mail. We have not included another copy of the Site Characterization Report, however, because we understand from Mrs. Reber that she has received one independently from DOE. We are sorry for any inconvenience you and the Tribe may have incurred.

As promised in the enclosed letter of notification, we sent you on November 23 by the same address a copy of our notice of receipt of the

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NAME :	:	:	:	:	:	:
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Site Characterization Report as this notice appeared in the Federal Register. On the possibility that you and Mr. Jim have not received this either, we have enclosed it too.

Joseph O. Bunting, Chief
Licensing Process and
Integration Branch
Division of Waste Management

Enclosures:

- 1. Letter of Notification
- 2. Notice of Receipt of Site Characterization Report, as submitted to Federal Register
- 3. 10 CFR 60 High-Level Waste Geologic Disposal Licensing Procedures
- 4. Notice of SCR receipt as published in the Federal Register

cc: Mr. Russell Jim
Mrs. Erline Reber

Distribution

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NAME	: RDMacDougall:bs	: JSurmeier	: JOBunting	:	:	:	:
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IN REPLY REFER TO:
Land Services



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

PORTLAND AREA OFFICE
POST OFFICE BOX 3785
PORTLAND, OREGON 97208

DEC 9 1982

John B. Martin, Director
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards
United States Nuclear Regulatory Commission
Washington, D.C. 20555

WM Record File	u m - 10
WM Dir	10/4
WM Dep. Dir.	✓ w/ends
WM SPS	✓
WMNT	✓
WMUR	Others ✓
C. Russell, RDM	

Dear Mr. Martin:

In response to your letter of November 24, 1982, concerning 10 CFR 60 procedures, we are pleased to provide the following information.

We concur in the listing of six native American groups with an interest in the Hanford Site:

- Confederated Tribes of the Yakima Indian Reservation
- Confederated Tribes of the Colville Reservation
- Confederated Tribes of the Warm Springs Reservation
- Confederated Tribes of the Umatilla Indian Reservation
- Spokane Tribe of Indians
- Nez Perce Tribe of Idaho

The Columbia River Inter-Tribal Fish Commission represents the Yakima, Warm Springs, Nez Perce and Umatilla Tribes. This Commission should be recognized.

Mr. Tim Wapato, Executive Director
Columbia River Inter-Tribal Fish Commission
Suite 114
2705 E. Burnside
Portland, Oregon 97214

We are providing two documents pertaining to the Fish Commission and fishing rights. Thank you.

Sincerely,

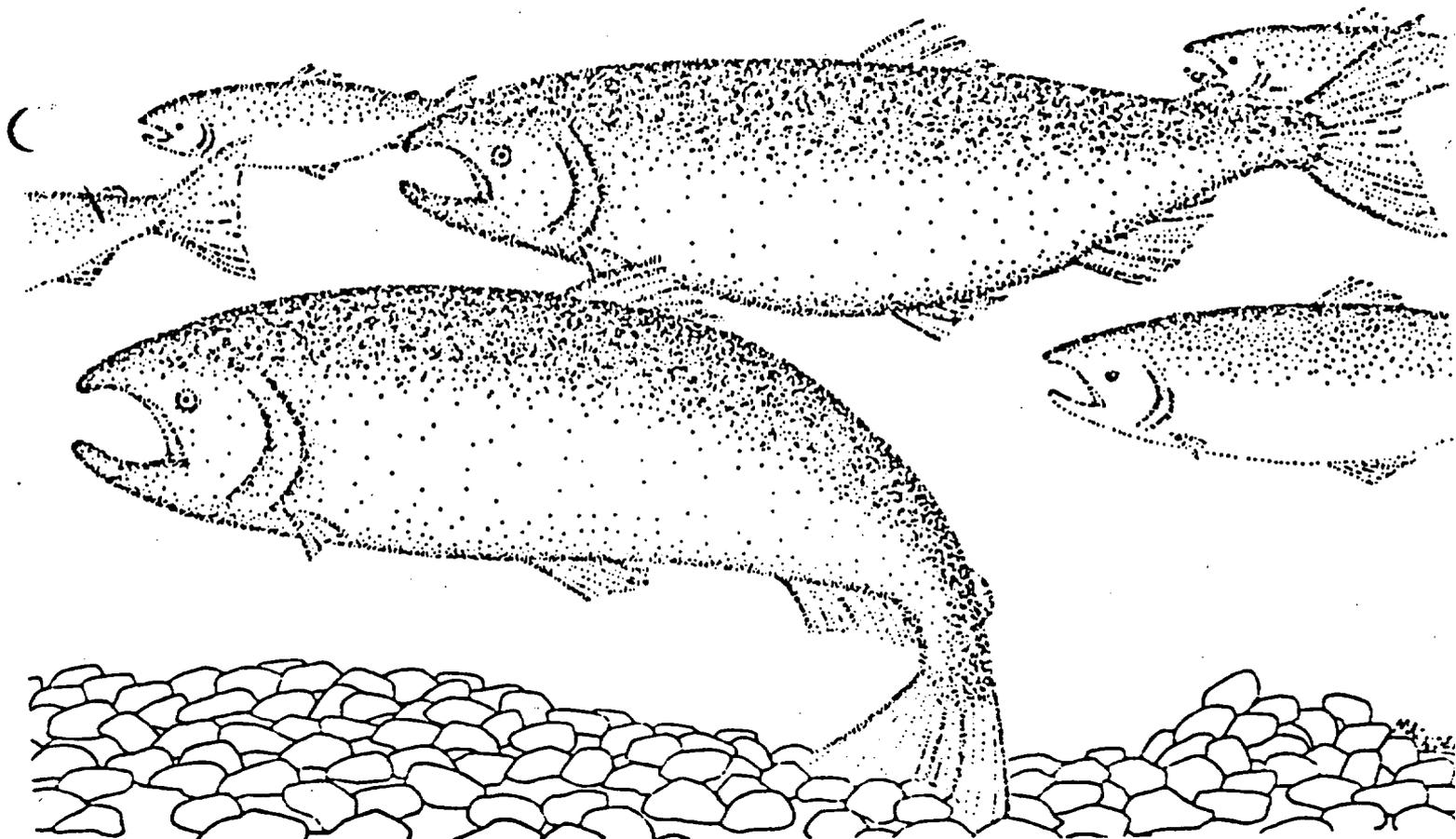
Wesley G. Bowler
Acting Area Director

Enclosure

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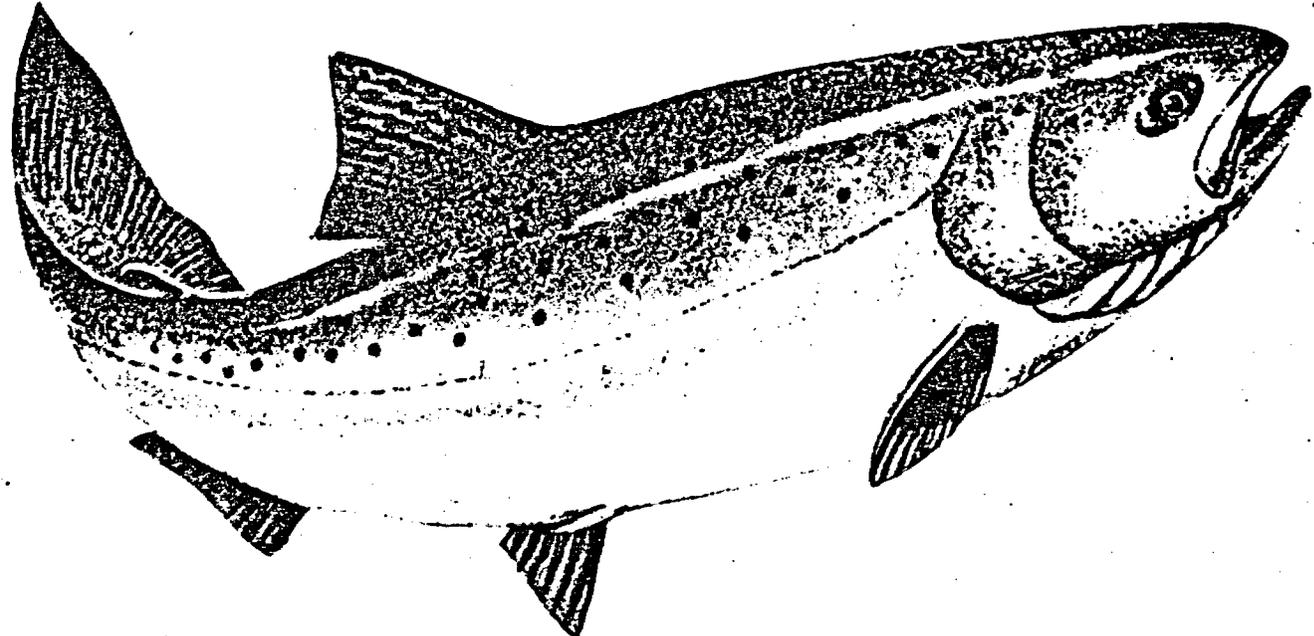


COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION



**BACKGROUND INFORMATION
ON**

**INDIAN
FISHING RIGHTS
IN THE
PACIFIC NORTHWEST**



**Prepared by the Bureau of Indian Affairs
In Cooperation with
U. S. Fish and Wildlife Service
U.S. Department of the Interior
Portland, Oregon
Revised March 1977**

11-24-82

MFT. PAMH .823271456.1.00001

Mr. Stanley Speaks
Area Director
Bureau of Indian Affairs
P.O. Box 3785
Portland, OR 97208

Dear Mr. Speaks:

The U.S. Nuclear Regulatory Commission (NRC) expects to begin shortly a comprehensive review of the U.S. Department of Energy's (DOE) plans and activities to characterize a site for a possible high-level waste repository on the Hanford Reservation near Richland, Washington. This review begins with DOE's submittal of a Site Characterization Report (SCR) describing its planned investigations for Hanford. Under our 10 CFR 60 repository licensing rule, NRC is notifying the public and certain State, local, and Indian tribal officials that NRC staff has received this document and has begun to review it. As you know, there are several Indian tribes in the general vicinity of Hanford, and we would like your advice on our initial plans for tribal liaison.

The 10 CFR 60 procedures contain provisions for participation by the potentially affected Indian tribes and States in certain aspects of our review. These procedures also require the NRC to make its staff available to consult with such tribes at their request to keep them informed of our views of the progress of site characterization and notify them of our meetings and consultations with DOE. NRC staff may also be made available upon request to cooperate with a potentially affected tribe in developing a proposal to participate. A copy of the procedural rule is enclosed for your reference.

From our conversations with the Bureau of Indian Affairs (BIA) staff and other sources, we are aware of six Indian tribes that may have an interest in the Hanford site review activities due to treaty or residual rights such as food and mineral gathering and fishing. These six tribes are the Yakimas, Colvilles, Umatillas, Spokanes, Nez Perce, and Warm Springs. We are notifying these tribes of our receipt of DOE's SCR, and offering to meet with them to explain the role of NRC in the site characterization process. We would appreciate you verifying this list and notifying us of any additional tribes in the area which you believe should be contacted.

*See previous concurrence page

OFC	:WMPI*	:WMPI*	:WMHT*	:Per telecon :OELD*	:Per Telecon :OSP*	:Per Telecon :OCA*	:WM
NAME	:CFRus/RMacD	:JOBunting	:HBMiller	:WJOImstead	:FYoung	:EFay	:JBMartin
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NOV 24 1982

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- 2 -

In addition, we would like to know if any inter-tribal commissions or other multi-tribal bodies are likely to be affected by or have an interest in the Hanford proceedings. If so, please provide us with any information you may have about such organizations.

We appreciate your cooperation in this matter and look forward to working with you in the future. If you have any further questions, please contact Rob MacDougall or Cathy Russell at (301) 427-4590. Thank you for your help.

Sincerely,

Original Signed by
Robert E. Browning

for John B. Martin, Director
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure:
10 CFR 60 procedural rule

cc w/o encl:
George Farris, BIA
Randy Scott, OIA

*See previous concurrence page

OFC	: WMPI*	: WMPI*	: WMHT*	: Per telecon : OELD*	: Per Telecon : OSP*	: Per Telecon : OCA*	: WM
NAME	: CFRus/RMacD	: JOBunting	: HBMiller	: WJ0lmstead	: FYoung	: EFay	: JBMartin
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In addition, we would like to know if any inter-tribal commissions or other multi-tribal bodies are likely to have an interest in the Hanford proceedings and could be used as a supplement to any individual tribal participation. If so, please provide us with any information you may have about such organizations.

We appreciate your cooperation in this matter and look forward to working with you in the future. If you have any further questions, please contact Rob MacDougall or Cathy Russell at (301) 427-4590. Thank you for your help.

Sincerely,

John B. Martin, Director
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure:
10 CFR 60 procedural rule

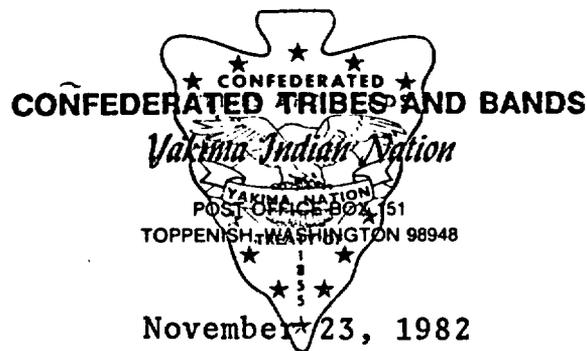
cc w/o encl:
George Farris, BIA
Randy Scott, OIA

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CENTENNIAL JUNE 9, 1955



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NRC

ATTENTION: JOE BUNTING

Mail Stop 623 S.S.
Washington, D.C. 20555

Dear Joe:

As an opening to our promised dialogue, we have five questions which are rooted in your presentation and your response to questions on November 16, 1982, in our Tribal Offices.

1. What information does NRC have that demonstrates that DOE has looked elsewhere to compare the relative advantages of the basalt at Hanford to the basalt off the Hanford Reservation?
2. Is NRC, or, has NRC, required DOE to look elsewhere? If not, why not? If not, then why is NRC and DOE focusing on the site on the Hanford Reservation?
3. Please give us a good map that outlines the basalt formations in the U.S.
4. Give us the thickness measurements of our local basalt in locations other than Pasco, WA.
5. Please supply us, and explain geologists' analyses that demonstrate why NRC and DOE believe that the basalt at Hanford is the best compared to elsewhere in the same formation. Please include raw geologic data.

We wish the above questions to be answered in two ways:

- so that the gist of the answers may be understood by a layman;
- so that the answers will have sufficient technical and scientific documentation so that scientists in the field will consider that your answers covered the situation completely.

Wherever there are lacunae in our present state of knowledge, be sure you indicate same.

00300

Mr. Joe Bunting
Page 2
November 23, 1982

You should understand that asking the above questions in no way implies that there will not be additional questions stemming from the November 16th meeting.

We also look forward to receiving the copy you promised of SECY-82-427.

Sincerely,

A handwritten signature in cursive script, appearing to read "Russell Jim".

Russell Jim
Yakima Tribal Council

RJ/is

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

CONFEDERATED TRIBES AND BANDS

Yakima Indian Nation

POST OFFICE BOX 151
TOPPENISH, WASHINGTON 98948

(44 FR 61372)
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Cornell
Rehm
Davis
Minogue
Denton
Cunning

January 8, 1982

Mr. Samuel Chilk, Secretary
Nuclear Regulatory Commission
Washington, D.C. 20555

Subject: Proposed Rulemaking on Storage and Disposal of
Nuclear Waste, PR - 50 and 51 (Waste Confidence
Rulemaking.)

Dear Mr. Chilk:

The Tribal Council of the Yakimas regrets that it was not possible for the Yakima Indian Nation to be invited to be present at the oral hearing on January 11, 1982. In spite of this failure we have hope that a beginning has been made toward a new relationship between Indian People and the NRC, in which the case of the Yakimas is but a present example. This letter is designed to further this process of communication.

Please understand that this letter is addressed to each of the five Commissioners because the central issue involves fundamental policy: That the NRC on the problems of nuclear waste storage or disposal has not properly acquitted itself of its responsibility toward Indians on their Reservations near present or potential sites for nuclear storage or disposal.

First let it be understood that:

1. The Yakima Indian Nation is dedicated to the safety health, security, and protection of the Yakimas. The Treaty of 1855 between the Yakimas and the Federal Government of the United States is a vital instrument in carrying out this responsibility.
2. The Yakima Indian Nation is neither for nor against nuclear. In pursuit of #1 above, the Yakimas are for safety in nuclear contamination matters for the Yakimas, and therefore also for their non-Indian neighbors.
3. The Yakima Indian Nation has a particular and unusual stake in nuclear waste safety at Hanford because:
 - a. The Yakima Indian Nation in the Treaty of 1855 ceded 9/10 of its Lands to the Federal Government, an area now 25% of the total area of the state of Washington, in return for Totally Reserved Lands and other Rights, and Retained Rights within the Ceded Lands.

00294

Mr. Samuel Chilk, Secretary
Page Two
January 8, 1982

- b. The Reservation of the Yakimas which lies only 13 miles from Hanford, is by far the largest single land holding in the Hanford area, in fact, 1 1/2 times the area of the state of Rhode Island.
- c. Hanford lies within the area of Yakima Indian Nation Ceded Land.
- d. For the Yakima Indian Nation the concept of evacuation because of nuclear is meaningless. There can be no substitute for our Sacred Homeland.

4. The Yakima Treaty preceded the founding of Washington State by many years, and the creation of the state has no bearing on the terms of the Treaty between the Yakimas and the Federal Government other than the "Enabling Act" in the Washington State Constitution which disallows state jurisdiction over Indians. Washington State has never, and cannot now, represent the Yakima Indian Nation. The policies of the NRC have failed, to date, to take cognizance of this fact.

5. The Yakima Indian Nation believes that Agencies of the Federal Government, of which the NRC is one, have the obligation to uphold the laws of the United States. The Yakima Indian Nation Treaty Rights have been upheld in the Courts of the United States as part of the Law of the Land.

6. Concerning the issue of storing or disposing of nuclear wastes at the Hanford Reservation, the Yakima Indian Nation asks that the NRC, find no confidence that Hanford can be safely used as a nuclear waste repository because:

- a. There is a lack of understanding of Yakima Indian Nation Rights.
- b. There is present conflicting and inconclusive scientific argument regarding the geologic media and technology for Hanford.
- c. There is strong managerial and scientific evidence that there is present contamination at Hanford which is not yet under control.
- d. There is a need to prevent further contamination to Yakima Indian Nation Lands and to the Columbia River over which we hold Treaty Rights.
- e. From the fact that Hanford is presently contaminated, it does not necessarily follow that a "land use policy" of adding to that contamination is sound.

Mr. Samuel Chilk, Secretary
Page Three
January 8, 1982

7. The Yakimas consider that the NRC practice of limiting announcements to entries in the Federal Register of NRC procedures on nuclear waste issues in an area involving the vital interests of the Yakima Indian Nation is not only inadequate but reveals a lack of understanding on the part of the NRC of the Guaranteed Rights of the Yakima Indian Nation. This is particularly true when the NRC not only had no evidence that the Yakimas were already alerted, but also had no policy or practice of addressing those Rights peculiar to Treaty Tribes. The Yakimas are accustomed to spending their limited resources and time on other areas, such as the ever-present need to protect their Fish or their Water Rights. The Yakimas believe that it is encumbant upon the NRC to assure that the Yakimas are not misjudged in the protection of their own Rights by errors of omission on the part of the NRC.

8. The Yakima Indian Nation has both the right and obligation to be an integral part of the discussions and planning concerning the use of the Hanford Reservation land when subjects such as nuclear waste disposal are at issue. It is part of the responsibility of the NRC to see to it that the Yakimas are invited and helped to take part in such discussions.

The Yakimas are aware that early in the history of nuclear the extent of danger from radiation was seriously underestimated. We know of failures to properly protect citizens from nuclear radiation. In recent years with nuclear danger better understood and the staggering problem of nuclear waste disposal apparent, areas far from urban centers have been looked to as the place to store and dispose of nuclear wastes. These are among the areas where Indians hold Treaty Rights from the Federal Government. These are among the areas where beliefs other than the Judeo-Christian hold sway among the People, beliefs that the NRC must equally consider and protect.

The Yakima Indian Nation asks each Commissioner of the NRC to:

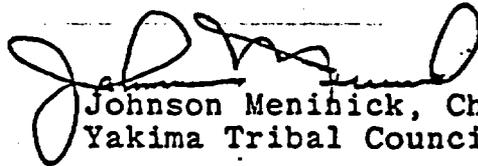
1. Examine the policies of the NRC which have ignored Yakima Indian Nation Rights and alter those policies by,
2. Inviting the Yakima Indian Nation to join with the NRC in proceedings covering the future of Hanford, and
3. Do so before making any binding decisions now concerning Hanford and nuclear waste storage or disposal.

Mr. Samuel Chilk, Secretary
Page Four
January 8, 1982

As was stated in our opening paragraph, the Tribal Council of the Yakimas has written this letter with the intent of developing productive communications with the NRC. As in all such efforts a constant ingredient must be goodwill. It is important for the Commission not to misread our efforts to maintain goodwill. The Commission should understand that unless the Commission takes immediate, aggressive steps in response to the reasonable approach of this document, the Yakima Indian Nation will seek other means to prevent any continuation of the past abuses of the Rights and respect owed to a Sovereign Nation.

Please include this letter as part of our statement submitted for the Nuclear Waste Confidence Procedure Records (Parts 50 and 51 Waste Confidence Rulemaking) dated January 6, 1982, and address your response to Mr. Russell Jim, Tribal Councilman at the above address (telephone (509) 865-5121).

Sincerely,



Johnson Menihick, Chairman
Yakima Tribal Council



Russell Jim, Councilman
Yakima Tribal Council

CONFEDERATED TRIBES AND BANDS

Yakima Indian Nation

POST OFFICE BOX 151
TOPPENISH, WASHINGTON 98948

PR-50,51

(44 FR 61372)

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January 6, 1982

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Mr. Samuel Chilk, Secretary
Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Marshall Miller

Dear Mr. Chilk and Commissioners:

Subject: Proposed Rulemaking on Storage and Disposal of Nuclear Waste, 10 CFR Parts 50 and 51 (Waste Confidence Rulemaking).

The Yakima Indian Nation requests that the Commissioners accept and consider as part of the Nuclear Waste Confidence Procedure Records the following words and ideas from the hearts of our People.

Please be advised that this Tribe was not conquered by war. In the Treaty of 1855 we agreed to cede to the Federal Government but did not give up all our Rights to more than 1/4 of the present state of Washington. Our Totally Reserved Lands (11 times the size of the state of Rhode Island) lie just 13 miles from Hanford and Hanford itself is on our Ceded Lands. Our paramount concern is for the health and safety of the future generations of our People and those who live amongst us.

There is apparent debate among experts on the safety of the geologic site at Hanford. We believe that the Commissioners should appreciate that the value system of the Yakima Indian Nation expresses a unique relationship with Nature:

1. The Religion of the Yakima Indian People is inextricably bound up in our Food Rights and our Mineral Rights. The salmon and the waters of the rivers and streams are both vital parts of our constitutionally protected right to practice our religion.
2. United States Legal Precedent includes reference to Nuisance Law which declares that a neighbor does not have the right to pollute or violate the area beyond his own borders with noxious and poisonous elements which do violence to the use and enjoyment by neighbors of their own lands. This is particularly true where the polluter is the more recent land holder in the area.

BY THE
JUNE 8, 1855
JUNE 8, 1855

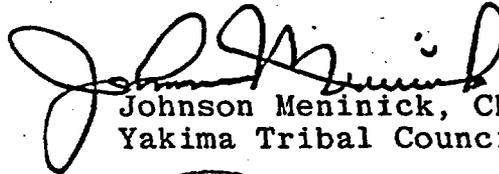
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Mr. Samuel Chilk, Secretary
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January 6, 1982

3. Environmental Impact Studies (which include Environmental Impact Statements, Safety Evaluation Reports, Socio-economic Impact Studies, and others) to date from both public and private organizations within the Columbia River Basin area have consistently failed to look beyond the Judeo-Christian socio-economic heritage when investigating potential nuisances to neighbors from a given undertaking. The result has been repeated Nuisance Trespass on the Sovereign Rights of the Yakima Indian Nation guaranteed by the Treaty of 1855.

Our Tribe possesses special knowledge and concerns that we believe are a valuable resource which the Commission should not overlook. We request therefore that the Commission grant us enough time to assure that your proposed rules are comprehensive enough to cover our concerns and values.

Sincerely,



Johnson Meninick, Chairman
Yakima Tribal Council



Russell Jim, Councilman
Yakima Indian Nation

Mr. Samuel Chilk, Secretary
Nuclear Regulatory Commission
Washington, D.C. 20545

Secretary of the Commission

NOV 15 1982

Mr. Johnson Meninick
Tribal Chairman
Yakima Indian Nation
P.O. Box 151
Toppenish, WA 98948

Dear Mr. Meninick:

The U.S. Department of Energy (DOE) is considering a site on the Hanford Reservation near Richland as a candidate site for a repository to dispose of high-level radioactive wastes. DOE will have to receive authorization from the U.S. Nuclear Regulatory Commission (NRC) to construct the repository, but before DOE submits an application for any site, it must conduct a program of site characterization at several sites to gather information needed for NRC licensing decisions on the ability of these sites to isolate wastes. As its formal notification that its site characterization program at Hanford is about to begin, DOE has submitted to NRC a Site Characterization Report (SCR) for the Hanford site, which DOE is calling the Basalt Waste Isolation Project (BWIP). The Report contains a description of DOE's plans and activities to characterize the ability of the site to isolate high-level wastes, and NRC staff will be reviewing it over the next several months.

Under our repository licensing rule, which is codified as Chapter 10, Part 60 of the Code of Federal Regulations (10 CFR 60), NRC is notifying the public and certain State, local and Indian tribal officials that the SCR has been received and NRC staff has begun to review it. A copy of the SCR is enclosed. We have submitted to the Federal Register a notice to the public that we have received the SCR, and a copy of this notice is also enclosed. We are awaiting its publication, and will also be sending a copy as it appears in the Federal Register as soon as it is published.

The 10 CFR 60 procedures contain provisions for participation by the potentially affected Indian tribes and States in certain aspects of our review. These procedures require the NRC to make its staff available to assist such tribes at their request to keep them informed of our views of the progress of site characterization and assist them upon request in developing any proposal to participate.

*See Previous page for concurrences.

OFC	:WMPI*	:WMPI*	:WMHT*	:OSP/ELD*	:WM*	:NMSS*	:NMSS
NAME	:RDMac/JJSur	:JOBunting	:HMiller	:Young/Dorian	JMartin	:DMausshardt	:JDavis
DATE	:82/11/15	:82/11/12	:82/11/09	:82/11/10	:82/11/09	:82/11/12	:82/11/

NOV 15 1982

The purpose of this letter is to bring these matters to your attention and offer you the opportunity to meet with NRC staff to have us explain our review process and respond to any questions you may have about the Yakima Tribe's possible role in it. We understand that the Yakima reservation is geographically the closest of all tribal reservations to the Hanford site. We are also aware that the Yakima Tribe has expressed concerns about the possible use of the site for a repository, both to NRC (in letters dated January 6 and 8, 1982) and to the Washington State Senate on October 20, 1982. We believe your Tribe is entitled to consultation in our reviews under Subpart C of 10 CFR 60, which sets forth the provisions for State and Tribal participation. A copy of the entire procedural portion of the 10 CFR 60 rule is enclosed.

From the 10 CFR 60 procedural rule and our notice of receipt of the SCR, you will note that while site characterization is an important step toward the selection of the first site for licensing, DOE's activities at Hanford will not necessarily result in either DOE's selection or NRC's licensing of that site. NRC's high-level waste procedural rule requires DOE to characterize at least three sites for possible licensing, and DOE has indicated that it also has ongoing studies of sites for possible characterization in Louisiana, Mississippi, Nevada, Texas, and Utah.

In conducting our reviews of DOE activities at the Hanford site, we will be working with Washington State government officials, and may be working with other officials designated by the Governors of the adjacent States of Idaho and Oregon. In Washington State, Governor Spellman has established by executive order a State High-Level Nuclear Waste Management Task Force to be responsible for coordination with NRC and other involved Federal agencies. At the request of the Task Force, NRC provided a briefing on its high-level waste program activities, and we would be pleased to provide a similar briefing to you should you request it. We would also be pleased to meet with you and any other Yakima Tribal representatives for further discussions of the Yakimas' interest in working with us during our reviews.

*See Previous page for concurrences.

OFC	: WMPI*	: WMPI*	: WMHT*	: OSP/ELD*	: WM*	: NMSS*	: NMSS
NAME	: RDMac/JJSur	: JOBunting	: HMiller	: Young/Dorian	: JMartin	: DMausshardt	: JDavis
DATE	: 82/11/15	: 82/11/12	: 82/11/09	: 82/11/10	: 82/11/09	: 82/11/12	: 82/11/

NOV 15 1982

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We hope that the attached material on NRC's review process and our correspondence with other States will be helpful. We look forward to a mutually productive relationship.

Sincerely,

(Signed) John G. Davis
 John G. Davis, Director
 Office of Nuclear Material
 Safety and Safeguards

Enclosures:

1. Site Characterization Report (SCR)
2. Notice of Receipt of SCR as sent to Federal Register
3. Procedural Portion of 10 CFR 60 Rule

*See Previous page for concurrences.

OFC	:WMPI*	:WMPI*	:WMHT*	:OSP/ELD*	:WM*	:NMSS*	:NMSS
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