

NEPA DISCLOSURE STATEMENT FOR PREPARATION OF THE
HANFORD SITE SOLID (RADIOACTIVE AND HAZARDOUS)
WASTE PROGRAM
ENVIRONMENTAL IMPACT STATEMENT

CEQ Regulations at 40 CFR 1506.5(c), which have been adopted by the DOE (10 CFR 1021), require contractor who will prepare an EIS to execute a disclosure specifying that they have no financial or other interest in the outcome of the project. The term "financial or other interest in the outcome of the project" for purposes of this disclosure, is defined in the March 23, 1981, guidance "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," 46 FR 18026-18038 at Questions 71a and b.

"Financial or other interest in the outcome of the project" includes "any financial benefit such as a promise of future construction or design work in the project, as well as indirect benefits the contractor is aware of (e.g., if the project would aid proposals sponsored by the firm's other clients)" 46 FR 18026-18038 at 18031.

In accordance with these requirements, Battelle Memorial Institute, Pacific Northwest Division hereby certifies as follows: check either (a) or (b).

- (a) X Battelle Memorial Institute, Pacific Northwest Division has no financial or other interest in the outcome of the referenced EIS projects.
- (b) _____ has the following financial or other interest in the outcome of the referenced EIS projects hereby agree to divest themselves of such interest prior to the start of the work.

Financial or Other Interest

- 1.
- 2.
- 3.

Certified by:

Nori Nichols
Signature

Nori Nichols
Name

Contracting Officer
Title

April 9, 2002
Date

NEPA DISCLOSURE STATEMENT FOR PREPARATION OF THE
HANFORD SITE SOLID (RADIOACTIVE AND HAZARDOUS)
WASTE PROGRAM
ENVIRONMENTAL IMPACT STATEMENT

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In accordance with these requirements, Jacobs Engineering Group Inc. hereby certifies as follows: check either (a) or (b).

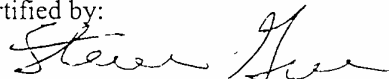
(a) Jacobs Engineering Group Inc. has no financial or other interest in the outcome of the reference EIS projects.

(b) _____ has the following financial or other interest in the outcome of the referenced EIS projects hereby agree to divest themselves of such interest prior to the start of the work.

Financial or Other Interest

- 1.
- 2.
- 3.

Certified by:



Signature

Steven Green

Name

Office Manager

Title

Date

2/18/2003

NEPA DISCLOSURE STATEMENT FOR PREPARATION OF THE
HANFORD SITE SOLID (RADIOACTIVE AND HAZARDOUS)
WASTE PROGRAM
ENVIRONMENTAL IMPACT STATEMENT

CEQ Regulations at 40 CFR 1506.5 (c), which have been adopted by the DOE (10 CFR 1021), require contractor who will prepare an EIS to execute a disclosure specifying that they have no financial or other interest in the outcome of the project. The term "financial or other interest in the outcome of the project" for purposes of this disclosure, is defined in the March 23, 1981, guidance "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," 46 FR 18026-18038 at Questions 71a and b.

"Financial or other interest in the outcome of the project" includes "any financial benefit such as a promise of future construction or design work in the project, as well as indirect benefits the contractor is aware of (e.g., if the project would aid proposals sponsored by the firm's other clients)" 46 FR 18026-18038 at 18031.

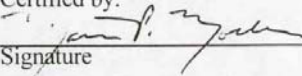
In accordance with these requirements, Dade Moeller & Associates, Inc. hereby certifies as follows: check either (a) or (b).

- (a) X Dade Moeller & Associates, Inc. has no financial or other interest in the outcome of the referenced EIS projects.
- (b) _____ has the following financial or other interest in the outcome of the referenced EIS projects hereby agree to divest themselves of such interest prior to the start of the work.

Financial or Other Interest

- 1.
- 2.
- 3.

Certified by:


Signature

Matthew P. Moeller

Name

President & Chief Operating Officer

Title

March 25, 2003

Date

1 **Consultations and Coordinations**

2
3 To ensure full compliance with National Environmental Policy Act (NEPA) of 1969 (42 USC 4321)
4 regulations and to help keep concerned Tribal Nations and agencies informed of DOE actions, DOE
5 conducted various consultations and coordinations as listed below. These interactions consisted of
6 written correspondence regarding the proposed action, alternatives, environmental impacts, regulatory
7 requirements, and issues of concern. Copies of formal consultation letters and responses are included in
8 Appendixes I and K of this EIS (Volume II).

- 9
10 • Confederated Tribes and Bands of the Yakama Nation
11 • Confederate Tribes of the Colville Reservation
12 • Confederated Tribes of the Umatilla Indian Reservation
13 • Hanford Communities (intergovernmental group for Benton and Franklin counties, Richland,
14 Kennewick, Pasco, West Richland, and the Port of Benton)
15 • Hanford Advisory Board
16 • Hanford Natural Resources Trustee Council
17 • National Marine Fisheries Service
18 • Nez Perce Tribe
19 • Oregon Office of Energy
20 • U.S. Environmental Protection Agency, Region 10
21 • U.S. Fish and Wildlife Service
22 • Wanapum
23 • Washington State Department of Ecology
24 • Washington State Department of Health
25 • Washington State Office of Archaeology and Historic Preservation

26
27
28 **Cooperating Agencies**

29
30 The early planning for the proposed ILAW SEIS included scope pertaining to the Waste Treatment
31 Plant (WTP) construction. At that time, the Hanford Communities requested to become a cooperating
32 agency (Attachment 1) with a primary interest in the socioeconomic impacts. In response, DOE
33 welcomed the Hanford Communities as a cooperating agency (Attachment 2). The Hanford Communities
34 commissioned Perteet Engineering, a company based in Everett, Washington to perform a socioeconomic
35 study. Later DOE decided to limit the scope of the SEIS to only ILAW disposal. Later when DOE
36 decided to combine the SEIS with the HSW EIS, DOE asked the Hanford Communities if they wished to
37 continue to participate as a cooperating agency (Attachment 3). No response has been received.

38
39 In addition, DOE asked Ecology to participate as a cooperating agency in the proposed ILAW SEIS
40 (Attachment 4). Ecology declined the offer (Attachment 5).

1 Soon after the Notice of Intent was issued, the Yakama Nation indicated that they wanted to be
2 involved in the preparation of the HSW-EIS (Attachment 6). DOE accepted the Yakama Nation's offer
3 (Attachment 7). For a time, a representative of the Yakama Nation participated in the preparation of the
4 first draft of the HSW EIS. However, the Yakama Nation later decided that they no longer wished to
5 participate (Attachment 8).

6
7

Hanford Communities

Richland • Kennewick • Pasco • West Richland • Benton County • Port of Benton

P.O. Box 190, Richland, WA 99352
Telephone (509) 942-7348 Fax (509) 942-7379

May 4, 2001

Dr. Harry Boston, Manager
Office of River Protection
P.O. Box 450, MSIN H6-60
Richland, WA 99352

Dear Dr. Boston:

The Hanford Communities are very interested in the Supplemental Environmental Impact Statement (EIS) that your office is undertaking associated with the tank waste vitrification project. Of particular interest is the socio-economic impact section of the EIS. The construction of the vitrification plant will draw to our region thousands of workers during the peak construction years. This influx of people will have a significant impact on all of our communities, and Richland in particular. The construction of the nuclear power plants by the Washington Public Power Supply System (WPPSS) some twenty years ago resulted in a similar influx of people to the community for a several-year period of time.

Based on our experience with the WPPSS construction projects, our communities believe it is essential that we plan for, and to the extent possible mitigate the impacts that will occur during the construction of the vitrification plant. We are presently considering a proposal to hire a consulting firm to do a socio-impact analysis for us. The company we have chosen did the socio-economic impact analysis under NEPA for the Everett Home Port, which was constructed by the U.S. Navy in the late 80s. We are presently working to define the Scope of Work of the contract. We anticipate the project will be completed in July. A copy of the draft Scope of Work has been shared with your staff and the contractors that are working on the Supplemental EIS.

*end date
for new date
in June.*

The cost of hiring Perteet Engineering to do the analysis is \$65,388. The Hanford Communities considered asking the Office of River Protection (ORP) to help us in covering this cost before proceeding with the project, but determined that such a request would result in a delay that was unacceptable. Since ORP will need to address socio-economic impacts in the EIS, and this study will provide the necessary information, we would appreciate it if you would consider providing funding to offsetting some of the consultant costs.

Because of our strong interest in developing sound information upon which we can rely for planning purposes, and the need for that analysis to be tied to accurate and complete information about your project, we would like to explore with you the option of the City of Richland serving as a cooperating agency during the preparation of the Supplemental EIS. This status would give Richland the opportunity to work with your staff to coordinate our efforts and to review draft documents for consistency as they are being developed.

*U.S.
Hanford
Communities*

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MAY 08 2001

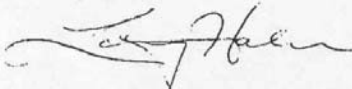
The cooperating agency status would be limited to the community, social and economic impact aspects of the EIS and we believe would best be defined in a Memorandum of Understanding.

←
action
MOU.

The staff of our respective organizations met on April 26 to have a preliminary discussion on this topic. It was a very positive and constructive meeting. It was determined that the next step would be for us to write this letter to you and to begin discussion about a Memorandum of Understanding that would be definitive and acceptable to the Department of Energy and the Hanford Communities.

We look forward to your response, and we look forward to working with you on this project which is of paramount importance to our region.

Sincerely,



Larry Haler, Chairman
Hanford Communities



U.S. Department of Energy



P.O. Box 450
Richland, Washington 99352
JUN 01 2001

01-EQD-047

Mr. Larry Haler, Chairman
Hanford Communities
P.O. Box 190
Richland, Washington 99352

Dear Mr. Haler:

REQUEST FOR COOPERATING AGENCY STATUS ON THE TANK WASTE
REMEDIATION SYSTEM (TWRS) SUPPLEMENTAL ENVIRONMENTAL IMPACT
STATEMENT (SEIS)

Reference: Hanford Communities letter from L. Haler to H. L. Boston, ORP, dated May 4,
2001.

The U.S. Department of Energy, Office of River Protection (ORP) has reviewed the above
Reference requesting cooperating agency status on the TWRS SEIS. ORP welcomes your
participation as a cooperating agency. ORP looks forward to working with you on drafting a
Memorandum of Understanding that defines your degree of involvement and your
responsibilities for specific issues.

In regards to offsetting any costs associated with developing information and preparing
environmental analyses for the SEIS, ORP regrets to inform you that federal funds are not
available.

If you have any questions, please contact Gae M. Neath, Environmental and Quality Division,
(509) 376-7828.

Sincerely,

Harry L. Boston
Manager

EQD:GMN

cc: P. F. X. Dunigan, Jr., RL
D. Nichols, Jacobs



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

03-WMD-0097

JAN 22 2003

Ms. Pam Brown
Hanford Communities
P.O. Box 190
Richland, Washington 99352

Dear Ms. Brown:

**HANFORD COMMUNITIES PARTICIPATION IN THE PREPARATION OF THE
HANFORD SITE SOLID (RADIOACTIVE AND HAZARDOUS) WASTE PROGRAM
ENVIRONMENTAL IMPACT STATEMENT (HSW EIS) (SECOND DRAFT)**

The U.S. Department of Energy has decided to evaluate the environmental impacts of several immobilized low activity waste (ILAW) disposal alternatives in the HSW EIS. Previous plans were to evaluate these alternatives as part of the Tank Waste Remediation System Supplemental Environmental Impact Statement (TWRS SEIS).

As you already know, the first draft of the HSW EIS was sent out to interested parties for review in May 2002. Comments received during that review were large, both in terms of numbers and significance. The U.S. Department of Energy decided to prepare a second draft in an effort to respond to comments on the first draft. Anticipated changes include:

- The addition of the same ILAW disposal alternatives that were to be addressed in the Tank Waste Remediation System Supplemental Environmental Impact Statement (TWRS SEIS) and the evaluation of those alternatives.
- The addition of alternatives for disposal of ILAW with low-level waste and mixed low-level waste and the evaluation of those alternatives.

Plans are to issue the second draft if the HSW EIS for review in March 2003.

The Hanford Communities had previously requested to be a cooperating agency for preparation of the TWRS SEIS, and had been accepted. Please advise us as soon as possible whether the Hanford Communities is interested in continuing to participate as a cooperating agency on this EIS and, if so, how you want to be involved.

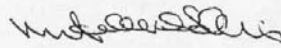
Ms. Pam Brown
03-WMD-0097

-2-

JAN 22 2003

If you would like to discuss this matter or have any questions, feel free to call me on
(509) 376-6536.

Sincerely,



Michael S. Collins
Document Manager

WMD:MSC

cc: C. Borgstrom, EH-42



U.S. Department of Energy
Office of River Protection

P.O. Box 450
Richland, Washington 99352

SEP 06 2002

02-EMD-147

Mr. Michael A. Wilson, Program Manager
Nuclear Waste Program
State of Washington
Department of Ecology
1315 W. Fourth Avenue
Kennewick, Washington 99336

Dear Mr. Wilson:

**INVITATION TO PARTICIPATE AS A COOPERATING AGENCY IN DEVELOPMENT OF
THE TANK WASTE REMEDIATION SYSTEM, HANFORD SITE, RICHLAND,
WASHINGTON, SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT (SEIS)**

The U.S. Department of Energy (DOE), Office of River Protection (ORP) is inviting you to participate in the development of the SEIS for Disposal of Immobilized Low-Activity Waste, consistent with the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR 1501.6. Consistent with the CEQ guidance, ORP will use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible, consistent with its responsibility as lead agency. ORP is requesting that the State of Washington Department of Ecology provide information and analysis for those portions of the supplemental environmental impact statement in which you, as a cooperating agency, have special expertise. The addition of your specialized knowledge will be of great value to the planning process and will be incorporated into the SEIS. ORP looks forward to your cooperation, involvement, and staff assistance in the planning and development of the SEIS for the future disposition of the vitrified low-activity waste at Hanford.

ORP is proposing modifications to the tank waste program. To address the proposed changes, DOE decided to issue a supplement to the Tank Waste Remediation System EIS issued in 1996. The proposed changes include vitrifying low-activity tank waste as monoliths rather than cullet and permanently disposing the monoliths in regulatory compliant trenches in the 200 Areas, versus long-term storage in concrete vaults in the 200 East Area.

Once again, we would appreciate your participation in the development of the SEIS. Please advise by return mail your acceptance of this invitation to participate, to identify your point-of-contact, and to make arrangements for consultation meetings.

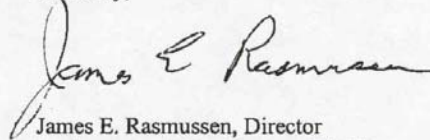
Mr. M. A. Wilson
02-EMD-147

-2-

SEP 06 2002

Should you have any questions, please feel free to contact me, (509) 376 2247, or your staff may contact Gae M. Neath, Environmental Management Division, (509) 376-7828.

Sincerely,



James E. Rasmussen, Director
Environmental Management Division

EMD:GMN

cc: M. Brown, Ecology
S. L. Dahl, Ecology
J. L. Hensley, Ecology
Environmental Portal, LMSI
P. F. X. Dunigan, RL



STATE OF WASHINGTON
 DEPARTMENT OF ECOLOGY
 P.O. Box 47600 • Olympia, Washington 98504-7600
 (360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

October 10, 2002

Mr. James E. Rasmussen
 Director of Environmental Management Division
 Office of River Protection
 United States Department of Energy
 P.O. Box 550, MSIN: H6-60
 Richland, Washington 99352

Dear Mr. Rasmussen,

Re: Letter, James Rasmussen to Michael Wilson, "Invitation to Participate as Cooperating Agency in Development of the Tank Waste Remediation System, Hanford Site, Richland, Washington, Supplemental Environmental Impact Statement (SEIS)", September 6, 2002

The Washington State Department of Ecology (Ecology) appreciates the offer that you made on behalf of the United States Department of Energy (USDOE), Office of River Protection (ORP) to allow our agency to participate as a cooperating agency as defined in Title 40 Code of Regulations (CFR) Section 1508.5. At this time, Ecology has chosen to decline your offer; however, Ecology will comment during the USDOE scoping process (40 CFR 1501.7(a)) and during the public comment period following the issue of the draft supplement (40 CFR Part 1503).

From our discussions to date, we understand that you are now developing a supplement to the existing Tank Waste Remediation System Environmental Impact Statement. The intent of the supplement is to evaluate permanent disposal of the vitrified low activity tank waste in large trenches on the Hanford Site. Ecology will require that these trenches be constructed and operated to the standards in Washington Administrative Code (WAC) Chapter 173-303, Dangerous Waste Regulations, Section 665. To support the issue of a permit for the construction and operation of the trenches, Ecology will undertake timely reviews of the SEIS per WAC 197-11-055(1). Under the provisions of WAC 173-802-060, Ecology will also allow the USDOE to forego submission of an environmental checklist to support the permit application because the SEIS will be prepared. Ecology may consider adopting the SEIS if the provisions of WAC 197-11-610(3) are met to our agency's satisfaction.

If you have any questions regarding this issue, please contact the Tank Waste Disposal Project Manager, Ms. Suzanne Dahl (509) 736-5705.

Sincerely,

Michael Wilson
 Program Manager
 Nuclear Waste Program

SD:sb

cc: (See next page)

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OCT 16 2002

DOE-ORP/ORPCC

Mr. James E. Rasmussen
October 10, 2002

cc: Todd Martin, HAB
Richard Gay, CTUIR
Pat Sobotta, NPT
Russell Jim, YN
Ken Niles, OOE
Administrative Record: TWRS ILAW & TWRS EIS



Confederated Tribes and Bands
of the Yakama Indian Nation

Established by the
Treaty of June 9, 1855

Mr. John D. Wagoner, Manager
U.S. Department of Energy
Richland Operations Office
P.O. Box 550, M/S A-750
Richland WA 99352

November 13, 1997

SOLID WASTE EIS - PREFERRED ROLE OF THE YAKAMA INDIAN NATION

Dear Mr. Wagoner,

We have received the Solid Waste EIS Notice of Intent, and wish to participate as a co-preparer of the EIS. We would like to participate as a regular working member of the technical workgroup that meets Monday mornings. We would like to help develop the scope and outline of the EIS. We would expect to perform some of the analysis and write some sections that pertain to tribal resources and risks, as well as part of the environmental justice section. We will make our staff time available so that DOE's schedule will not be delayed.

We would also like an initial work session with DOE and the contractor staff to begin working on scope (inclusions and exclusions), the principles of cumulative impact analysis, and a number of related issues. Because there are several critical issues raised by the NOI, we would request that we begin working on this very soon. We are aware of the intertribal meeting tentatively scheduled Thanksgiving week, and would like to ensure that this is an actual working meeting (rather than simply an informational briefing) where the issues of scope and analytical method are included and open for discussion and possible modification. At that meeting we would also like to establish our roles and technical responsibilities as well as ongoing work session schedules.

Sincerely,

Russell Jim, Manager
Environmental Restoration/Waste Management Program

cc: Allison Wright, DOE-RL
Kevin Clarke, DOE-RL
Donna Powaukee, NPT
Stuart Harris, CTUIR
Merilyn Reeves, HAB

Post Office Box 151, Fort Road, Toppenish, WA 98948 (509) 865-5121



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352
APR 13 1998

98-WPD-016

Mr. Russell Jim, Manager
Environmental Restoration/
Waste Management Program
Confederated Tribes and Bands
of the Yakama Indian Nation
2808 Main Street
Union Gap, Washington 98903

Dear Mr. Jim:

REQUEST FOR YAKAMA INDIAN NATION (YIN) TO BE A COOPERATING AGENCY IN PREPARATION OF THE HANFORD SITE SOLID (RADIOACTIVE AND HAZARDOUS) WASTE PROGRAM ENVIRONMENTAL IMPACT STATEMENT (EIS)

The U.S. Department of Energy, Richland Operations Office (RL), has considered the Yakama Indian Nation request to be a cooperating agency in the preparation of the Hanford Site Solid (Radioactive and Hazardous) Waste Program EIS. We appreciate the offer of assistance by the Yakama Indian Nation.

Following a meeting and telephone conversations with members of your staff, RL understands that your request for cooperating agency status is intended to provide the Yakama Indian Nation Environmental Restoration/Waste Management staff an opportunity to participate in the preparation of the subject EIS.

While we are unable to designate the Yakama Indian Nation as a "cooperating agency" in accordance with the Council on Environmental Quality Regulations, 40 CFR 1501.6, we are hopeful that we can accomplish the same ends by designating the Yakama Indian Nation a "consulting" agency in the same way as was offered to the Yakama Indian Nation in preparation of the Hanford Remedial Action EIS. As a "consulting" agency, the Yakama Indian Nation involvement would be similar to that of a cooperating agency in the preparation of the EIS that will lead to a U.S. Department of Energy Record of Decision. This involvement could include Yakama Indian Nation preparation or assistance in preparation of portions of the draft EIS, participation in EIS management meetings, and reviews of predecisional drafts. Such participation is consistent with your scope of work under the Cooperative Agreement (DE-FC06-90RL11979) and would be funded by your existing budget. Your specific involvement would be subject to our approval and mutual agreement, as well as an understanding of expectations for schedule and review processes.

Please contact Elizabeth M. Bowers on (509) 373-9276 or Paul F. X. Dunigan, Jr. on (509) 376-6667 to discuss the details of your involvement in the drafting of this EIS.

Sincerely,

John B. Wagoneer
Manager

WPD:GLS

cc: T. Woods, YIN

1

Mr. Russell Jim
98-WPD-016

APR 13 1998

bcc: WPD OFF FILE
WPD RDG FILE
CA Hansen, AME
PF Dunigan, EAP
EV Hiskes, OCC
KV Clarke, OEA
RF Guercia, WPD
GL Sinton, WPD w/background
AMW RDG FILE

RECORD NOTE: This letter closes out Action Numbers 9818663 and 9718488.
Background Information on the Participatory Role of the Yakama
Indian Nation in the NEPA Process for the Hanford Site Solid
(Radioactive and Hazardous) Waste Program EIS

Indian Tribe Participation as Defined in NEPA Regulations

Guidance on the role of Indian Nations in the EIS process is confusing and often conflicting. In *40 CFR Parts 1501.6* (NEPA Implementing Regulations), cooperating agencies status is determined on the following conditions:

- Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency.
- Any Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency.
- An agency may request the lead agency to designate it a cooperating agency.

If requested to be a cooperating agency, the agency must assume responsibility for developing information and preparing environmental analyses, including portions of the environmental impact statement which the cooperating agency has special expertise. It must make staff available and normally use its own funds for this activity. It also must participate in the NEPA Process as soon as possible including the public scoping periods. Thus, from these definitions, it seems as though Indian Nations would not qualify as cooperating agencies in that they are not "Federal" agencies.

However, in contrast to 40 CFR 1508.6, in part *1508.5 of 40 CFR* direct references to Indian Tribe participation in the NEPA process indicate that Indian Nations may in fact qualify for cooperating agencies when their reservations could be impacted by the actions:

APR 13 1998

Mr. Russell Jim
98-WPD-016

A cooperating agency is defined as any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact... An Indian Tribe, may on agreement with the lead agency, become a cooperating agency if the effects are on a reservation (40 CFR 1508.5).

Effects are defined by the regulation as ecological, aesthetic, historic, cultural, economic, social, or health, whether direct, indirect or cumulative (40 CFR 1508.8). Hence, the situation with the YIN does seem to fit within the parameters of a cooperating agency.

In the Council on Environmental Quality's (CEQ) Guidance on NEPA, "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," the CEQ states that Indian Tribes should be consulted when the proposal may affect an Indian reservation. 40 CFR Part 1508.5 is stated as the justification for this statement, however, when reading the statute it seems that Indian Nations can have a much larger participatory role in the NEPA Process.

In DOE Guidance for Implementing NEPA, (10 CFR 1021), DOE must provide the host tribe an opportunity to review and comment on any Environmental Assessment. (Note: The guidance doesn't specify that the same applies for an EIS). Other Indian Tribes can be given the opportunity to comment and review at DOE's discretion (10 CFR 1021.301).

YIN Jurisdiction By Law as defined in Agreements Between the YIN and RL

According to the Agreement-in-Principle between RL and YIN, YIN shall review and comment, as necessary, on NEPA documentation prepared by DOE to address DOE program activities conducted at the Hanford Site; such documentation will include draft environmental assessments and draft EIS. The YIN will also participate in the normal public participation process leading to the issuance of final NEPA documentation. The same role for the YIN in NEPA compliance is also reiterated in the Environmental Management Program Scope of Work for the YIN. The YIN is to review and provide comments on all relevant NEPA documentation.

As described above it seems that both CEQ and RL have interpreted 40 CFR parts 1501-1508 to indicate that the lead agency should make an extended effort to consult with the appropriate Indian Nations when conducting an EIS as opposed to granting cooperating agency status. The Indian Nations should be provided NEPA documents and their opinions and comments should be sought out by RL through briefings and consultations about the NEPA process.



Confederated Tribes and Bands
of the Yakama Indian Nation

Established by the
Treaty of June 9, 1855

27 February, 2003

Keith Klein, Manager
U.S. Department of Energy
Richland Operations Office
P.O. Box 550 MSIN: A7-50
Richland, WA 99352

RE: Participation in the Preparation of the *Second Draft Hanford Site Solid (Radioactive and Hazardous) Waste Program Environmental Impact Statement, April 2002, DOE/EIS-0286D*

Dear Mr. Klein:

The Yakama Nation recently received a letter, dated January 23, 2003, from Mr. Michael S. Collins, Document Manager, of your staff inquiring about our participation as a cooperating agency in the development of the second draft of the *Hanford Site Solid Waste Environmental Impact Statement (EIS)*. In that letter, U. S. Department of Energy (USDOE) indicates that it intends to release the second draft in March 2003. The Yakama Nation believes that USDOE's proposal to dispose of immobilized low activity waste at Hanford is inconsistent with requirements in the Nuclear Waste Policy Act. Because of this issue and others, the Yakama Nation respectfully declines to be a cooperating agency in the preparation of the EIS.

The USDOE has a fiduciary trust responsibility to consult the Yakama Nation prior to taking an action that will impact the Yakama people and retained treaty resources and rights. The proposed actions identified in the draft EIS and anticipated changes highlighted in the January 23, 2003 letter will have long-term impacts to the Yakama people and treaty resources and rights. I request that USDOE provide a briefing to the Yakama Nation Environmental Restoration/Waste Management Program on the scope and proposed alternatives in the second draft.

The Yakama Nation ERWM program found the initial draft EIS to be environmentally unsatisfactory (considering that off-site waste may be disposed at Hanford and threaten the Columbia River) and inadequate because of the lack of waste stream characterization and omission of pre-1970 transuranic waste in its scope. Mr. Collins in his January 23, 2003 letter did not mention pre-1970 waste as an issue to be analyzed in the second draft. How will this waste stream be handled? Please provide us with the framework and timeline for retrieving and disposing of this waste off-site.

The Yakama Nation has concerns regarding the importation of off-site waste for Hanford disposal given the proximity of the Columbia River and its importance to populations

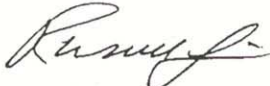
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downriver and to their health and the Yakama peoples'. Please let us know when consultation can begin on this matter. At issue is whether the Hanford Site should even be considered as a disposal site for any waste given that radiological and hazardous wastes located on the Central Plateau have reached the Columbia River via the ground water and threaten humans and aquatic receptors. To date, USDOE has been unsuccessful at preventing these contaminants from reaching the river. In August 2002, the EPA released the results of a fish study¹ that found the highest concentration of chemical contaminants in Columbia River fish to be in the Hanford Reach, posing up to a 1 in 50 cancer risk among tribal people. Based on this extraordinary risk, how can you assure us that additional waste disposed at the Site will not contribute to an increased risk to tribal members and aquatic organisms given the previously stated facts?

Consultation needs to be initiated with the Yakama Nation regarding what issues should be part of the National Environmental Policy Act analysis. Hopefully, our governments can reach a mutual agreement on the acceptability of actions consistent with federal and tribal laws and policies and the doctrine of Trust Responsibility. For the Yakama Nation decisions must protect the resources to which the Yakama Nation has specific aboriginal and Treaty reserved rights, protect the unique culture and worldview and enable continued practice of the tribal religion.

Given the significance of these issues, the Yakama Nation respectively declines the offer to be a cooperating agency on the Hanford Site Solid Waste Program EIS. Please contact me in the near future to arrange a meeting to discuss these concerns. I may be reached at 509/452-2502.

Sincerely,



Russell Jim, Manager
Environmental Restoration/Waste Management Program

Tom Fitzsimmons, Director, Washington Department of Ecology
John Iani, Region X Administrator, USEPA
Michael Collins, USDOE-RL

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¹ U.S. Environmental Protection Agency, Region X, Seattle, Washington, 98101, "Columbia River Basin Fish Contaminant Survey, 1996-1998, EPA 910-R-02-006, July 2002

YAKAMA NATION ERWM PROGRAM
Specific comments on the draft Solid Waste Program EIS

- 1). The purpose and need statement needs to include pre-1970 TRU waste because it was managed as LLW before the definition of TRU was developed in 1970 and since solid LLW is already part of the proposed action.
- 2). Existing conditions at the low-level burial grounds have been ignored in the analysis. Two prime examples of this are; leaks under the burial grounds, (USDOE) presentation material) and subsidence (collapse of the surface of the burial grounds).
- 3). The pre-1970 TRU waste is being ignored and moved into other DOE-EM categories through a process that violates the federal cleanup agreement currently in existence.
- 4). Previous studies conducted for the USDOE indicate that high-level waste has been disposed of in the low-level burial grounds, and this omission is of serious concern.
- 5). The total inventory buried in the low-level burial grounds needs to be defined and presented in order to establish a factual basis for any decision made in this NEPA Under the alternatives, neither a liner is mentioned in the construction of the new LLBG trenches nor an analysis of risk performed for the life of the contaminants that would be placed in the trenches beyond the year 2046.analysis.
- 6). Any new trenches must contain liners even if the law does not require one. This would assist in preventing the movement of waste to the vadose zone/ ground water during the period that these contaminants pose a threat to the environment and human health.
- 7). A borrow site has been identified south of highway 240 on the Arid Lands Ecology Reserve. Full use of this area would result in the destruction of 926 hectares (2287 acres) of shrub*steppe habitat. In addition, the proposed borrow site would impact cultural resources, aesthetic views, e.g. vision quests from sacred religious sites atop Rattlesnake and Gable Mountain, pose transportation hazards along highway 240and impact the Hanford Reach National Monument since the project abuts the National Monument boundary. USDOE anticipates only impacting 81 hectares (200 acres) for capping material. This appears to be the lower bounding limit since the soil/basalt volume calculations are based on construction of a modified RCRA C barrier, which requires less material than a Hanford barrier. It also does not include the cumulative needs from other projects that will require geological resources from this site.

The Yakama Nation has never been consulted by USDOE-RL on the location of this borrow site which will have significant adverse impacts on the resources mentioned in the previous paragraph. The Yakama Nation was not consulted on the *Use of Existing Borrow Areas*, DOE/EA-1403 (EA) October 2001 nor consulted on the development of the *Industrial Mineral Resources Management Plan and Aesthetic and Visual Resources Management Plan*, which requires a NEPA analysis. From a cursory review of DOE/EA-1403, we found major deficiencies in the NEPA analysis that should have led USDOE-

RL to a determination to prepare an environmental impact statement. In addition, the EA failed to fully bound the impacts for geologic materials needed for capping material as document on page 1.24 of this EIS where USDOE states, "Although the total quantities of material necessary for final closure of the 200 LLBGs were not included in this EA [referring to DOE/EA-1403, October 2001] the locations evaluated included likely sources for these materials for the foreseeable future". Therefore, USDOE needs to perform another NEPA analysis (preferably an EIS) for capping material and other uses. USDOE will need to consult the Yakama Nation closely on this issue so that our governments may reach a mutual agreement on geologic source sites for barrier construction and other needs.

8). The cumulative impacts analysis fails to consider past, present and future impacts to the environment including contaminant load and ground water.

Multiple past projects have had an impact on the shrub steppe habitat along with natural/human induced events, such as, the 2000 range fire which destroyed all mitigation for these past projects. No contingency plans have been initiated for the loss of these mitigation projects since the fire. Under USDOE's management, the quality of the Hanford Site's biological and cultural resources continues to degrade. USDOE has a fiduciary trust responsibility to ensure the protection of Treaty reserved resources such as foods and medicinal plants. Therefore, corrective actions are required for impacts from this proposed action.

9). USDOE-RL identified resources, i.e. 178 ha (440 acres) of land, that will be declared Irreversible and Irrecoverable because of this proposed action. USDOE-RL has a fiduciary responsibility to the Yakama Nation and as part of that responsibility, USDOE needs to fully mitigate for impacts prior to declaring the resources I&I. The mitigation hierarchy, as defined under 40 CFR § 1508.20, includes compensation. USDOE-RL will need to compensate the Yakama Nation for the loss of this land, if the waste cannot be disposed of off-site, because the action is occurring on Yakama ceded land. The Yakama Nation has not agreed to the creation of a sacrifice zone. USDOE-RL needs to consult the Yakama Nation on this matter and come to a mutual agreement before issuance of the final document and Record of Decision.

10). This proposed action could potentially impact up to 133 hectares (329 acres) of land in the 200 Areas plus an additional 81 hectare (200 acres) at the borrow site. These impacts will occur on Yakama Nation ceded land and impact reserved Treaty resources and rights. Therefore, USDOE must include mitigation measures (avoid, minimize, rectify, and compensate) in the final document and record of decision. USDOE-RL needs to consult the Yakama Nation to cooperatively develop a formal agreement on appropriate mitigation measures for this proposed action before issuance of the final document and Record of Decision.

11). Under section 4.7.1, language needs to be inserted that recognizes the Hanford Site as wintering grounds for the Yakama people and that they fished, hunted and gathered roots and medicinal plants in the area.

12). Under section 6.13 Treaties, Statutes, and Policies Relating to Native Americans, USDOE-RL asserts that they interact and consult regularly and directly with the three federally recognized tribes. No government-to-government consultation has occurred between the Yakama Nation and the Secretary of Energy on this proposed action.

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1 **7.1 References**

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3 42 USC 4321 et seq. National Environmental Policy Act (NEPA) of 1969, as amended. Online at:
4 <http://www4.law.cornell.edu>.

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6 DOE-RL. 2002. *Draft Hanford Site Solid (Radioactive and Hazardous) Waste Program Environmental*
7 *Impact Statement, Richland Washington*. DOE/EIS-0286 Draft, U.S. Department of Energy Richland
8 Operations Office, Richland, Washington.

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