



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

November 15, 2002

Mr. Roy Schepens, Manager
Office of River Protection
P.O. 550
Richland, WA 99352

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**Re: Proposals for the Closure of Single-Shell High-Level Radioactive Waste Tanks
at the DOE's Hanford Site**

Dear Mr. Schepens:

The Yakama Nation submits the attached comments and recommendations regarding:

- Proposed changes to the Tri-Party Agreement (TPA) issued on August 14, 2002 governing the disposition of Single-Shell Tanks (SST) containing High-Level Radioactive Wastes at the U.S. Department of Energy's (DOE) Hanford (M-45-02-03); and
- The Energy Department's announcement of October 9, 2002 of its plans to close 26 to 40 SSTs by the year 2006.

By all indications, DOE is aggressively taking steps to directly dispose of, or simply abandon, one of the world's largest inventories of high-level radioactive and toxic materials near the last free-flowing stretch of the Columbia River. By relying primarily on temporary barriers and "natural attenuation" of buried and subsurface contaminants, DOE seeks to effectively terminate its environmental protection mission in 30 years at the most contaminated zone in the Western Hemisphere. The National Academy of Sciences found in August 2000 that these wastes "can be expected to remain as risks to the public and the environment for thousands of years."

The proposed changes to the TPA, and the DOE's more radical plan, do not address the fact that these wastes are clearly defined under the Nuclear Waste Policy Act as high-level radioactive wastes that are to be removed and disposed in a permanent geological repository.

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Contaminant impacts of the proposed changes to the TPA, and DOE's proposed radical SST closure plan on subsurface soil, groundwater, and the Columbia River are not adequately addressed.

The risk from existing human-made contaminants in the Columbia River to the Yakama people is not an abstract issue. The Hanford Reach already stands threatened by a significant contaminant burden, which poses high risks to the Yakama people who currently depend on the river for their sustenance. In August 2002, the EPA released the results of an 8-year study (the Columbia River Basin Fish Contaminant Survey) which found the highest concentrations of chemical contaminants in the fish of the Hanford Reach, posing up to a 1 in 50 cancer risk among tribal people. Despite this disturbing new evidence, no follow up effort is being done to understand and address additional harm to the river as a result of DOE's "accelerated cleanup" plan.

Given these circumstances the Yakama Nation makes the following recommendations:

- The proposed change to the Hanford TPA should contain an explicit and unambiguous provision that will ensure that DOE complies with the definition of high-level radioactive waste contained in the Nuclear Waste Policy Act.
- The TPA should be modified to require full compliance with NEPA as a mandatory condition of the SST tank closure demonstration projects and significantly shortened closure schedule. Necessary NEPA compliance document should be specified for the appropriate change control actions, including proposed issue dates.
- Washington State Department of Ecology and the EPA must articulate clear anti-degradation policies and requirements with respect to soil, subsurface, groundwater and Columbia River contamination, which should be incorporated into the Hanford Tri-Party Agreement.
- The DOE should be required under the proposed change to the TPA to provide a full closure analysis, including a "clean" closure scenario.
- The DOE's proposed "modified RCRA barrier" should be subject to independent technical peer review and be able to demonstrate that its design takes into account Hanford's subsurface geology.

- All of the waste meeting the criteria for TRU must be retrieved and disposed in a licensed TRU repository. The proposed TPA change package must contain a clearly defined disposition path for transuranic wastes in SST's that conforms to DOE's disposal requirements in WIPP.
- There should be specific requirements under CERCLA, relative to tank closure. Potential remedies should be required to show that they will result in acceptable risks and to comply with Applicable or Relevant and Appropriate Requirements, prior to taking action on the basis of DOE's questionable cost estimates.
- DOE should be required to provide an integrated systems engineering document, which lays out a comprehensive flow-sheet that includes timelines for SST and Double-Shell tank waste retrieval, tank closure or removal, pretreatment, volume reduction, final waste forms, and disposition.
- Grouting of SST and other HLW should be ruled out.
- The disposition of SST ancillary piping and infrastructure should be subject to a separate permitting requirement under RCRA. A pre-condition for such permitting is an adequate characterization of the volumes and concentrations of radioactive and non-radioactive wastes contained in ancillary piping and related infrastructure.
- DOE's Radiation Dose Guideline for fish should be withdrawn. A more comprehensive guideline should be established in compliance with RCRA/CERCLA, and the Threatened and Endangered Species Act. Such guidelines should consider cumulative impacts. Most importantly, these guidelines must be integrated with tribal human risk scenarios, and developed in close cooperation with the Yakama and other tribal nations.
- The DOE should reverse its policy to exempt SSTs from formal consideration of SSTs as "Safety Class" structures under DOE's nuclear safety orders.

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Your response on these comments is appreciated, as this matter has a direct bearing on the Department's trust responsibility obligations to the Yakama Nation, and protection of trust natural resources. We would also like to arrange a meeting with you to discuss these issues as soon as possible.

Thank you, and I look forward to your reply.

Sincerely,


Carroll Palmer, Director
Department of Natural Resources

cc Keith Kline, DOE RL
Mathew Tomaskin, YN RHW
Russell Jim, YN ERWM
Tom Zeilman, YN OLC