



Department of Energy

Washington, DC 20585

April 6, 1993

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Mr. Randall P. Tulee
Policy Analyst
Yakima Nation
1933 Jadwin, Suite 110
Richland, Washington 99352

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Dear Mr. Tulee:

This correspondence is in response to your letter of October 27, 1992, to Mr. John Bascietto of my RCRA CERCLA Division, requesting information on the designation of Natural Resource Trustees, in general, and at the Hanford reservation, in particular. While Mr. Bascietto has informed me that you had previously requested and received a copy of our guidance document "Natural Resource Trusteeship and Ecological Evaluation for Environmental Restoration at Department of Energy Facilities" (DOE/EH-0192), I apologize for the delay in responding to your current request.

CERCLA section 107 (f) (2) (A) authorizes the President of the United States to designate Federal officials as trustees for natural resources. The President designated federal natural resources trustees through Executive Order 12580, "Superfund Implementation", on January 23, 1987. Federal trustees include the Secretaries of the Departments the Interior, Commerce, Agriculture, Defense, and Energy.

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR 300, section 300.600, identifies the federal trustees for specific natural resources, and further states that for resources located in the United States but not specifically described in the NCP, the federal trustees are the heads of the federal agency or agencies authorized to manage or protect those resources. In the case of Department of Energy properties, including the Hanford reservation, the Secretary of Energy is the federal trustee for resources not specifically described in the NCP.

CERCLA section 107 (f) (2) (B) authorizes the Governor of each state to designate state trustees for natural resources. NCP section 300.605 indicates that state trustees shall act on behalf of the public as trustees for natural resources within the boundary of a state or belonging to, managed by, controlled by or appertaining to such state.

A specific reference to Indian tribes as natural resource trustees is found in CERCLA §107 (f) (1) which states in part, that in the case of injury, destruction or loss of natural resources covered by CERCLA §107(a), subparagraph C, "...liability shall be to the United States Government, and to any State ... and to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held

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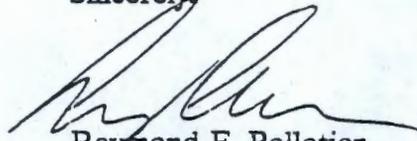
Richland Operations Office

in trust for the benefit of such tribe if such resources are subject to a trust restriction on alienation...".

NCP section 300.610 indicates that tribal chairs (or heads of the governing bodies) of Indian tribes, as defined in §300.5 of the NCP, or a person designated by the tribal officers, shall act on behalf of the Indian tribe as trustees for natural resources for purposes of CERCLA §107(f). The NCP further states that when the tribal chairs or heads of tribal governing bodies designate another person as trustee, the tribal chair or head of the tribal governing body shall notify the President of such designation.

I hope this information is helpful to you.

Sincerely,



Raymond F. Pelletier

Director

Office of Environmental Guidance

cc:

J. Wagoner, Richland Field Office

K. Clarke, Richland Field Office

J. Bauer, Richland Field Office

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