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Hanford Natural Resources Trustee /Tri-Party Representatives Meeting
Draft Record of Discussion
Department of Ecology
September 27, 1994

Attendees:

Cynthia Abrams, Pacific Northwest Laboratory
Mike Bauer, Yakama Indian Nation
Liz Block, U.S. Fish and Wildlife Department
Charlie Brandt, Pacific Northwest Laboratory
Chris Burford, Confederated Tribes of the Umatilla Indian Reservation
Kevin Clarke, U.S. Department of Energy - Richland Operations Office
Ted Clausing, Washington Department of Fish and Wildlife
David Conrad, Nez Perce Tribe
Rico Cruz, Nez Perce Tribe
Vern Dronen, Bechtel Hanford, Inc.
Jean Dunkirk, Bechtel Hanford, Inc.
Dirk Dunning, State of Oregon Department of Energy
Larry Gadbois, U.S. Environmental Protection Agency
John Hall, ASCI, Pacific Northwest Laboratory
Norm Hepner, Washington State Department of Ecology
Bob Holt, U.S. Department of Energy - Richland Operations Office
Andrea Hopkins, International Technologies Hanford
Pamela Innis, U.S. Environmental Protection Agency
Jake Jakabosky, U.S. Bureau of Land Management
Barbara Karnofski, Bechtel Hanford, Inc.
Kathy Leonard, Bechtel Hanford, Inc.
Tara Lucas, Pacific Northwest Laboratory
Dale McKenny, Westinghouse Hanford Company
Ashur R. Michael, Bechtel Hanford, Inc.
Nancy Myers, Bechtel Hanford, Inc.
Charles Pasternack, U.S. Department of Energy - Richland Operations Office
James Rasmussen, U.S. Department of Energy - Richland Operations Office
Owen Robertson, U.S. Department of Energy - Richland Operations Office
Fred Roech, International Technologies Hanford
William C. Shafer, International Technologies Hanford
Doug Sherwood, U.S. Environmental Protection Agency
Roger Stanley, Washington State Department of Ecology
Geoff Tallent, Washington State Department of Ecology
Dana Ward, U.S. Department of Energy - Richland Operations Office
Regan Weeks, International Technologies Hanford
Patrick Willison, U.S. Department of Energy - Richland Operations Office

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1.0 GENERAL USES

1.1 Opening Remarks

Bob Holt, DOE-RL, welcomed the Natural Resource Trustee Council (NRTC) and representatives of the Tri-Party Agreement (TPA) to the first joint meeting. Direct participants introduced themselves and an outline of discussion topics that had been put together by the NRTC Outreach Subcommittee, ~~as a starting point for conversation,~~ was passed out. ~~It was suggested that because of the extensive nature of the topic dealing with the consultation process and the need to address technical issues early in the meeting, due to conflicting commitments of some of the attendees, a time allotment of approximately 30 minutes would be placed on the opening discussion on the consultation process.~~

1.2 Consultation Process

The trustees presented several topics as a starting point for discussion. These included:

1. Trustee Council approval should be recognized as a critical path in all projects.
2. The earlier the consultation occurs, the less likely milestone delays will occur.
3. Consultation should occur throughout the scoping process/conceptual design/alternative development phases.
4. Trustees are working toward involvement in site-wide conceptual criteria development, however, due to ongoing deliverables the Council is also working at the individual project level.
5. The Hanford Natural Resource Trustee Council (NRTC) has regulatory advisory capacity compared to the Hanford Advisory Board (HAB).

~~The following~~
~~The following are excerpts, not direct quotes, from the conversation.~~

~~NRTC Comment.~~
* The trustees expressed an interest attaining a further understanding of the aspects of the work being done along the river. They are interested in looking at general staging solutions, not necessarily each specific site. They indicated that they very much want to see the cleanup continue, but they want it to occur in a sensible manner.

~~TPA Comment:~~ EPA expressed a commitment to start feeding the trustees more pertinent information on a real-time basis. They stated better communication paths need to be established. Right now, however, right now they felt like they were in a catch-up mode.

NRTC Comment: The trustees express a concern that precedents about how clean-up, restoration, and remediation are being set. For example, what is being done by DOE C-Reactor will be done again at other facilities. It used to be that engineers supplied the primary input into the decision-making process. The trustees, however, can supply valuable information and insights that will help to limit damages and provide for more efficiency and cost savings in the long run. For example, trenches and cribs, because of poor scheduling, the final process seemed inefficient. What action occurs first is important, so time and resources are not wasted. Otherwise you end up with poor staging. In the case of C-Reactor, and other removal actions, the trustees can provide a ~~fair amount~~ of input that ^{might} ~~would~~ be beneficial. Particularly regarding the ecosystem and habitat concerns.



TPA Comment: The Tri-Party representatives (TPA) stated that lines of communication were already in process with several of the trustees.

NRTC Response: It's true that some pathways for consultation already exist. But this type of meeting gives us a chance to all, both trustees and TPA representatives, meet in one room. The result is a better forum to receive and give input. All trustees need to be involved. The forum supports a wide range of discussion in an efficient and quick manner. Such a body has a useful role to play for all involved.

NRTC Response: This helps us to get the big picture. It also helps us identify where our input will be most helpful.

NRTC Response: It is particularly helpful for you (TPA) to highlight areas where you see upcoming problems.

TPA Response: The most immediate upcoming issue is the Columbia River pipe removal action.

- NRTC Response: The trustees stated that they also want to be involved in more long-term goals including the development of site-wide habitat plans.
- TPA Response: That's beyond us. We would make the same comment.
- TPA Comment: Gives us some guidance. We need to know what are the common trustee priorities. It would be good to have the trustees come out with a list of what your wishes are. We would like to know your sensitivities. For example, I don't know what your issues are for the 100 Area. Our (TPA) priorities are clearly in cleaning up contaminated soil.
- NRTC Response: As a council we have not yet gotten deeply into those discussion.
- NRTC Comment: What kind of contingency plans does DOE have in place. For example, what will be done if you are working along the river and you run into a burial ground. Is there any plan in place that would immediately kick in.
- TPA Response: I would have to turn to the trustees (in particular the effected Indian Tribe) and ask them what they think would be the appropriate approach.
- NRTC Comment: But what happens as soon as you hit something. Is there a plan in place. I acknowledge that this is not a trustee issue but rather more of a tribal issue. Actually it is both a trustee and a tribal issue.
- It was commented that even if cultural resources are damaged it is difficult to assess what "monetary value" can be placed on them.
- NRTC Comment: The trustees feel that DOE as potentially responsible party (PRP) ought to reestablish native genotypes or replace them. If not, they should explain the reason why. Yet you have a TPA milestone to meet. Would the parties be willing to extend the date of a TPA milestone to accomplish this?
- NRTC Comment: Is restoration to be included in remediation plans and decisions?

TPA Response: Yes. How do we write a milestone? We can talk about mitigation strategy. That is the kind of guidance from the trustees we want.

Open Discussion: When mitigation is required in an area, what level is sufficient? When does restoration need to be totally achieved? Can it be achieved? It seems that you might be able to agree by way of milestones as to what you define as the completion of remediation. What type of measures or programs should be put in place?

NRTC Comment: This is the bottom line of what we as trustees are trying to accomplish. You are all familiar with CERCLA step-by-step methodology, which extends to how the trustees are suppose to do thier role. What you have (through CERCLA) is a linear system. At the end, trustees using the formal NRDA process, determine if damage has been done. If so, they file a claim and come up with a restoration plan. We are looking to step out of that rigid process. It is easy to see the advantages. By doing as much restoration now and by careful planning, we avoid damaging resources. The idea is to minimize or reduce the claim. This is in everyone's best interest. More emphasis must be placed on coordination.

TPA Question: Is there any site precedence at other DOE facilities that we can learn from and gain knowledge, or are we learning by doing?

NRTC Response: There are other site activities, but basically we are learning by doing.

NRTC Comment: Would there be any objection if the department (TPA) distributed documents to the trustees at the same time they go to the regulators?

TPA Response: As long as there was some idea of what the trustee priorities are, there should be no problem in sending preliminary documents. The question is do the trustees want them all? This is a huge volume of paper and potential burden.

NRTC Response: Its valuable just knowing what is going on out there.

NRTC Response: I think face-to-face meetings are more valuable.

TPA Comment: Is the trustee council an effective, best way to do that. We can come each month and say, 'this is what is going to be hot on our plate.'

NRTC Response: Positive response from trustees. We would love to have someone come once a month. Incumbent for DOE to do the issues we are not involved with.

TPA Comment: It needs to be understood that DOE, as a trustee, has responsibility above and beyond its responsibility as a natural resource trustee.

It was decided that Larry Gadbois will act as the conduit.

NRTC Question: If Larry tells us about hot spots, how do we get that back to TPA. Do we call a meeting?

TPA Response: Through Larry. Are you going to be able to act as a council and write letters?

NRTC Response: You still need to interact with the trustees, even if we are not a unified council. The chances are fairly good that the trustees will agree; however, specific trustees may have different opinions. It is not required for us to have a unified approach to be useful. We will not sign a charter that says we have to have unanimity before we use this body. Disagreements does not prevent the use of the forum.

NRTC Response: Again, what the question becomes how do we get our opinions to the TPA. We don't want our responses to be another comment letter gathering dust.

TPA Response: At a minimum, we will give updates on a monthly basis, and expect periodically to get back together. Such information will allow you to give us better feed-back.

TPA Question: This will be a heavy work load and burden on DOE - is there some prioritization of issues.

NRTC Response : Yes, actions that have the potential to injure natural resources are a priority.

- TPA Comment: There needs to be some prioritization and limits as to what you want to consider. There needs to be some level of prioritization in your charter. Larry does only CERCLA.
- NRTC Comment: We want to know what natural resources are impacted and to what level.
- NRTC Comment: Each trustee has a variety of concerns, for example, Oregon's main concern is the river, tribes have broader interests. The council is interested in looking at the larger issue and not micro manage. It is important to realize that something that might not seem like a big deal to DOE, will be one when it comes to before the trustees. We are going to be interested in big issues like ERDF.

It was mentioned that there is a 90 day look ahead publication that might be useful for the trustees to receive as a source of additional information.

DOE also agreed to discuss the idea of monthly (or hot spot) presentations to the NRTC with its restoration folks; it is expected that they will be willing to provide information.

2.0 ERDF ISSUES

2.1 ERDF Site Selection Process/Criteria

The trustees requested information on several aspects of the Site Selection Process. The following list of potential topics was passed out:

1. What is the role of the site selection study?
2. To what degree were natural resource values considered in site selection?
3. What opportunity was given to trustees, stakeholders, and the public to comment and provide input to site selection?
4. Has any evaluation of the siting of a smaller site taken place?
5. What schedule impact would conducting an evaluation of a smaller site have?
6. What other delays are already built into the ERDF schedule?

TPA Comments: The point of the study is to set aside a piece of property so other activities earmarked for the future can not use it. The property chosen to be set was done so based on

specific criteria. Again the overall goal was to have a piece of property reserved.

NRTC Question: What was the criteria used?

TPA Response: 4-5 DOE orders and the WAC. Major factors included size and location (200 Area Plateau). The siting group initially started with a site-wide analysis. The group; however, focused its activities around the 200 Area, as requested by the Future Site Uses Working Group. Approximately 50 to 100 individual criteria were used (eg., seismic, flood plains). The initial study weighted the criteria (human health/environment) on a 60-40 scale. The weighing methodology was criticized for being arbitrary. The study ended up rating all criteria (subsurface, groundwater, river) equally. A lot of sites were equal. The plan shows the first cut. Many sites were rated essentially the same. The sites were also evaluated for compliance with CERCLA, as well as a cost efficiency. The site was selected because it was determined to be the best from an environmental protection and cost stand point.

NRTC Question: How many of that (50 to 100 criteria) were environmental?

TPA Response: It depends on how you look at and define environment (e.g., seismic, wetlands, potential natural disasters, buffer zones, cultural resources). What is considered to be important is also a moving target. For example, one site would have overlapped the original white bluffs road, an area of potential cultural significance. Eventually, people came back and said that the road may not be all that significant after all.

NRTC Question: What about wildlife and habitat criteria?

NRTC Response: The study handled it in a highly generic fashion saying something like all of the site has threatened and endangered species, it goes no father than that.

TPA Response: That was only the first cut. Those things (wildlife/habitat) were rated.

NRTC Question: Why was room for expansion a criteria?

TPA Response: Sites/facilities in the past have tended to grow. No one has a good handle on how much waste will be generated at Hanford. A standard trench design was chosen instead of a deeper trench, though this is still an alternative. We could not have identified a smaller site because it would have precluded several other options. We did receive and take into account comments during the scoping period when siting was being considered. Most of the responses asked that ERDF be put within the futures site uses management unit. The consensus was that this portion of the site will be set aside and used for waste management for the next 100 years. The emphasis by most stakeholders and the Site Uses Working Group was don't put waste management activities outside of this area. The feeling of our staff was that we had a mandate on where to put the site. It limited the options. The other part of the picture is environmental performance. The soils at Site 3 are by far the best for containment (for non-surface concerns, not natural resource surface habitat). That is what we were driven by. I understand that you feel that your (NRTC) comments were not considered as much as they should have been.

NRTC Comment: Siting decisions are a good place where we would like to be plugged in to the process in the future. There is a pattern, or an appearance of one, that decisions are being made before public outreach occurs (for example the EMSL siting). That particular practice is one where we, the trustees, would like to play a role.

DOE Comment: I am still struggling with the concept of the natural resource trustee council. You have values as natural resource trustees. DOE, however, has a wider variety of responsibilities, many beyond NRDA concerns. NR Trustees are only applicable in CERCLA activities as opposed to our (DOE's) multiple other responsibilities.

NRTC Comment: I work in a number of settings. A disturbing and inconsistent trend seems to exist that siting decisions are based mostly on engineering decisions and that those decisions are sacrosanct. The result is that public involvement is upon looked as trivial.

- DOE Comment: Are these issues really the purview on NRDA?
- NRTC Comment: The habitat and species do not care about regulatory purview or delineation of operable units as RCRA and CERCLA operations. They do not respect, function, or stay within your boundaries. Our concerns may not always be strictly within the purview.
- NRTC Comment: Our legal mandate is to assess damages and collect for such damages. The council is for the benefit of all going beyond that to provide input and hopefully reduce potential damages before they happen.
- DOE Comment: The focal point needs to be CERCLA.
- NRTC Comment: I would like to summarize for a moment. In the ERDF letter, the issue of ecosystem consideration was raised. The trustees took the analysis a level above what the DOE has used in its siting considerations. What the trustees have said is that DOE needs to take its evaluations, if it is not doing so, to that higher level which encompasses ecosystem considerations where that information is available. Instead of a strict engineering and human health resource analysis, perhaps the department should be considering incorporating a natural resource analysis. We need to take ecosystems more into consideration. This is critical to be consistent to DOE's taking on the emblem of "environmental excellence." Trustees would like to see the analysis taken a level higher as stated in the science analysis done by the U.S. Fish and Wildlife Service.
- NRTC Comment: At this point ecosystems are only 1 or 2 criteria out of 100 in determining site selection. Resource maps are not accurate, such as those on old growth shrub. They are inaccurate and need to be better for your use.
- The group then discussed the issue of selecting a second smaller site as an option.
- TPA Comment: We tossed out sites that were outside of the Future Site Uses (FSU) boundary.

NRTC Question: Did you look at other options for the placement of a smaller site within the FSU boundary.

TPA Response: Yes. In talking to solid waste management people, we could find only one other site, the BC Crib. Even that site did not fall completely within the FSU boundary. It is a contaminated area. The recommendation from Golder and Associates was that it (ERDF) not be placed there. The volume of space would not deal with the quantity of waste that we are looking at. The BC area is smaller than the 1.6 sq.mile requirement.

We have put together maps showing the proposed utilization of areas within the FSU boundary that are being used or are earmarked for use by other sources (e.g., HWVP). The map gives you a concept of what we are up against.

Overhead showed the proposed utilization of land within the FSU boundary. Uses included a potential TWRS site location for auxiliary facilities.

The overhead created a lot of discussion and questions including:

1. Is there a way to define all activities in this area, not just as ERDF or TWRS?
2. What are all the projects that are going on in this area? Is most of the space already reserved for other projects, if so what are they?
3. The trustees need a better picture of what is going on in this area, both short-term and long-term. (Action item was assigned to Vern Dronen)
4. Will waste or facilities be sited outside of the Future Site Uses Working Group boundary or designated for waste storage?

TPA Response: RAP2A within the 200W Boundary on central plateau - central waste storage complex block. FFAC group is planning a presentation for the next HAB meeting.

From a science stand point, we have done a cursory look and determined that, based on the size, there are no other potential siting options. The BC control site was not good due to safety concerns, monitoring needs, and possible delays. Another negative issue is the selection of a site where soils have been previously contaminated. Additional costs would be incurred, since as part of the

EDF we plan on reusing the soil. The current chosen ERDF site is self-contained and will cause no intrusion into other areas.

NRTC Comment: An area where the trustees can help DOE is in considering life-cycle costs. Included in this could be evaluating the costs of damages versus cost of resiting.

TPA Response: The BC site is much sandier, closer to groundwater, with potential significant environment issues not the least of which is you will have to go and dig up other sites. I doubt if there is a benefit to life-cycle costing and that the BC site would be been better.

NRTC Response: The point is that life-cycle costing incorporating NRDA is not considered annotatively in the regulatory package.

TPA Response: It is the administrative record that needs to be whole and complete. No single regulatory document can contain all the information. What counts is that the administrative record be complete.

NRTC Question: Clearly delay is a big issue. Keeping in mind that none of us are advocating moving ERDF, what would be the delays involved?

TPA Response: Site selection may take a short or long time. The design may take up to 1 1/2 to 2 years to complete after you select the site. The site selection process started before my time. We are still in the process of doing environmental baseline studies. They will not be complete until the initiation of construction or even through construction. If you did the same level of characterization that we have done in this process, already you would be looking in excess of 2 years.

The current schedule calls for a completed ROD by June 1995, 15 months after June 1995, substantive continuous remediation must occur. One of the reasons that this project got started is that we have a statutory commitment to start remediation by September 1996 in the area by the river.

On October 17, the proposed ERDF plan that identifies the alternatives will go out to the public for evaluation. The proposed plan is suppose to be a small 20 page, publicly readable document. A readers digest version of the administrative record.

NRTC Question: I am under the impression that some ERDF deadlines were being extended into next year because of delays in getting the plan out?

TPA Response: Originally, the plan was suppose to go to the September. Our up and working date of September 96 still stands.

TPA Comment: Mature shrub steppe covers the majority of the eastern portion of the proposed ERDF site. There is an already disturbed area on another part of the site where the facility is to be started. Capacity is going to be expanded only needed. This particular decision document covers only the first 2 cells.

We are doing far less than what we originally planned. It is hoped that the first two cells should take us though the year 2000.

NRTC Response: The trustees assume that wherever the work begins will be where the whole facility is put.

TPA Response: The wild card in this is how much volume will need to be removed from the 200 area. Until we get a couple of years of remediation under our belt we will be guessing.

NRTC Response: The trench might never actually be as big as it is planned.

TPA Response: We looked at what the worst case was. We are now going back to see if that was a reasonable first case. Until we do remediation that all we have. While there is a possibility that the size requirement has been overestimated, it is unlikely that it has been underestimated.

Doug Sherwood had to leave for another commitment. He asked that the Trustees give to TPA a list of priorities if at all possible. He committed to

getting back together and stated while Larry is a conduit, communication is not limited to only that pathway.

NRTC Question: Do you have in mind quarterly meetings?

TPA Response: We desire a rather large discussion on 100 Area and the Columbia River Pipe. Suggest a December time frame.

NRTC Response: This discussion has given you a good idea of what the trustees will be concerned with on upcoming issues, issues that we will be hopefully looking at prospectively rather than retrospectively.

2.2 The 200 Area Plateau-Wide Habitat Evaluation

NRTC committee outlined two major topic areas.

1. How is the high quality of the 200 Area Plateau shrub-steppe habitat going to be addressed?
2. That restoration must be included in both planning documents and the budget.

NRTC Question: In the ERDF letter the trustees list a variety of concerns including the quality and placement of critical habitat. Continuous habitat is of increased value as opposed to an isolated habitat located in the middle of a developed area. We need to look at cumulative issues, and cumulative impacts as well as immediate habitat health. Where do we want to avoid impact? Where would it be wise to site certain facilities? What are the cumulative impacts for the 200 area plateau? What mitigation is necessary? I suggest that a detail habitat evaluation be done so each siting can be done with minimal impact and we have a clear idea of how we go forward and mitigate on a cumulative basis.

NRTC Comment: From the overhead it looks like no space (or undisturbed habitat) will be left once the activities are done.

Comment: Won't it may make more sense to do a study based on mature shrub steep? Do we know the location of the mature shrub steep on-site?

Response PNL (Charlie Brandt)

The 1984 burn went to the edge of the 200 area plateau. Burned the coal creek valley with some fingers. The plateau north of highway 240 is unburned and undisturbed. We have mapped several plots. Work is in progress including the measurement of shrub height to help evaluate the health/quality of the system.

NRTC Question: What additional types of habitat evaluations have been done or are planned.

Response: Though I have only, limited knowledge on this, the environmental monitoring program (D. Hildebrandt) started to refocus on looking at resources on site as opposed to monitoring. He received some support from ER 40. In particular they were focusing on areas where there is a lack of information. This work however is being discontinued (funding issue). Most of the original work was done by PNL.

NRTC Question: Who do we talk with to get this work back on track?

TPA Response: DOE must weight its priorities - milestones, priorities, etc..

NRTC Question: Who do we write to asking for a detailed analysis of 200 plateau, Wagner?

TPA Response: Yes. It is difficult to get funding for habitat evaluations due to ER refocusing. We need to have a better handle what we've got. Habitat evaluations are not currently in the work scope for 95. No extensive habitat evaluation of the plateau has occurred. The trustees need to establish a charter and list the evaluation of habitat as a key value. Currently, there are limited resources available.

NRTC Response: This may be an action for the Trustees.

NRTC Response: This information would be very valuable in making informed decisions on future projects.

2.3 Mitigation

The conversation at this point turned to the issue of mitigation. Key to the conversation was the desire of the trustees to know what mitigation alternatives are being discussed, where in the planning process (hopefully in the beginning) is mitigation addressed, and is it included in the ERDF budget?

NRTC Questions: The Trustees have brought up some suggested mitigation options in past meetings in regards to ERDF. We would like to present some of our ideas. What mitigation options are there now and what mitigation language included in the ROD. It seems that currently there is only some general language. The Trustees would like to see something more specific and concrete. Only if the language is specific and concrete will it actually happen.

TPA Response: DOE-RL has charged PNL with the development of a site-wide mitigation plan (Charlie Brandt). The working draft will be out 9/30/94.

NRTC Question: Have you thought about a crediting system?

TPA Response: Yes

TPA Response: Another effort in the works is an initiative to develop a site-wide mitigation Memorandum of Agreement (MOA). The MOA can be more general than a site-wide mitigation plan.

What we have right now is in very general terms.

NRTC Comment: ERDF is going to have a significant impact. We need information to support activities and decisions regarding ERDF, (for example, mitigation). Right now, the information can be general; in the future, more specific information is needed to go into the RDRA. It should be noted that many species that are candidates for listing could be sent over the edge due to habitat destruction. Big sage transporting is a good example of an activity worth looking at now. Actions like this obviously cannot wait till remediation is complete.

NRTC Question: Have you looked at preserving the remaining habitat or setting aside areas on the plateau?

TPA Response: We have received guidance from our stakeholders. Shrub steppe habitat needs to be considered and protected.

NRTC Question: Is it possible for DOE RL to say (mandate) that if you are going to consider projects in this area (the plateau) you must take the following things (such the protection and mitigation of shrub steppe injury) into consideration? One way to protect habitat is to insure that the remaining area will be protected.

Should the trustees be interacting more with project management?

Response: Considerations of habitat were not given as high a priority as it should have been. We need to take steps to ensure that this does not occur again .

NRTC Response: If nothing is done the trustees must sue - by law.

We have the ability to protect it (habitat) now. We do not know what will happen in the long term future. Lets preserve what you've got and study it.

NRTC Comment: Mitigation needs to be considered in general when other future projects start, right at the beginning of the planning process. It should be right there with restoration. It needs to become part of the life-cycle costing, rather than creating this huge deficit that will be compensable under NRDA.

Comment We need to decide how are we going to go about doing business. Will we have a no net loss philosophy. This is an issue for DOE and all of us to determine when we start working on the mitigation plan. You can design the plan for it. Establishing a philosophy is a good place to start.

2.4 Operations

The discussion was focused on some day-to-day operation of ERDF. Trustee concerns include:

1. The treatment and dilution of wastes to be placed into ERDF

2. The monitoring of wastes
3. The establishment of waste acceptance criteria
4. The operation of the site under RCRA, corrective action management unit (CAMU) vs CERCLA and land disposal restrictions.

TPA Comment: ERDF is now strictly CERCLA, ERDF will operate with ARARs.

NRTC Response: The Trustees do not want it (ERDF) to be an unlicensed waste repository. What kind of a monitoring program will be in place.

TPA Response: A site characterization will be done for each OU. There will be a sampling plan, and a monitoring plan when the ERDF is closed. There will also be a waste acceptance criteria plan.

NRTC Question: What type of treatment will the waste receive?

TPA Response: It will be specific to the waste type. Dilution is not acceptable. Waste acceptance criteria is currently being worked out. We have nothing written up to show you at this point. We will share it as soon as it is made available to EPA and DOE. The ROD will indicate that this criteria is being developed, as well as an operations and monitoring program. It will be issued as a formal document. All of these will be available for stakeholder comment.

NRTC Question: Will the requirements be based on the average?

TPA Response: It will not be the average but rather each shovel full with the information that we have. (We will not literally test each shovel, but rather that is our general approach).

NRTC Comment: The Hanford site may already be over the limit for accepting additional contaminated waste. Disposal of existing waste on-site can put us over the top. We need plan for a complete Hanford site-wide approach. Not just unit by unit.

2.5 NEPA Compliance

- NRTC Comment: Concern was expressed about the generalized claim to irretrievable and irreversible resources.
- TPA Response: The second draft is more specific. It is difficult to go into detail not knowing which choice is going to be determined.
- NRTC Comment: The problem is the general claim. You need to do a reasonable effort at avoiding those impacts in order to claim an exemption. That exemption if not automatically invoked.
- The courts will though the exemption out if you have not done the study in such a way as to try and avoid those impacts.
- TPA Response: We are currently mostly focusing on human health issues, an approach which is appropriate for a facility of this scope. Taking this into account and using the constraints of the Site Future Use Working Group, there were not many options.
- NRTC Response: You need to look at the intent of the law. The intent is if you have a release of material and it causes harm compensation is needed. Just because you do an EIS with a generic exception, you are not excluded. The habitat needs to be protected in the first place or compensated for by improving other habitat. We (the Trustees) would just assume not have to file a NRDA suit.
- NRTC Comment: The currently level of mitigation in the ERDF plan is not at the level of a normal NEPA document.
- TPA Response: The integration of NEPA and CERCLA is a difficult process. We hope to have your input during that process.

2.6 Ecological Exposure Level

- NRTC Comment: The trustees express a concern with the acceptable exposure level being set at 1 Rad per day. It seems that kind of exposure will have a rather dramatic impact on

natural resources. IAEA is indicating that .1 is more appropriate.

TPA Response: We are unable to respond to this concern at this time. The comment/concern will forward to those people who have the information needed to respond. We recommend that this be included as a specific comment to the document.

The meeting was then brought to a close. The Trustees thanked the Tri-Party participants for their time and efforts.

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LTR



Confederated Tribes and Bands
of the Yakima Indian Nation

Established by the
Treaty of June 9, 1855

September 20, 1994

Mr. John Wagoner, Manager
Richland Field Office
Department of Energy
P.O. Box 550
Richland, WA 99352

Dear John:

I have just learned that DOE is dropping its funding support for the natural resources trustees' meetings. Unfortunately, this comes right at the point in time where the various trustees have coalesced into a group capable of working together to reach workable solutions. In fact, we have begun working so well together that there is no longer any need to retain a facilitator for the trustee group.

This unfortunate turn of events could undo a year's worth of growing trust and understanding among a disparate group that has learned to work together for the greater good of the natural resources at Hanford. The Yakama Nation, as a natural resources trustee, is statutorily required to ensure that those resources under its legal responsibility are restored at Hanford. DOE, as a trustee, has these same responsibilities for its resources. By working together, the trustees are attempting to avoid duplication of effort and to front-end the process of restoration, both of which will save a great deal of money in the long run.

If DOE funding support is lost, the trustees' federal mandate does not disappear. Each trustee will still be required to assess potential injuries to natural resources. However, without close DOE-trustee interaction, costs to DOE are more likely to be greater. This will not be simply a result of greater mistrust and misunderstanding, but a concrete loss of the ability to avert damage claims by including planned, cooperative restoration into site remediation.

I therefore urge you to continue funding the natural resources trustees' meetings. Not only will you make my job easier and less

contentious, but you will also be taking a step toward the eventual restoration of natural ecosystems at Hanford.

Sincerely,



Michael R. Bauer, Legal Counsel
Environmental Restoration/Waste Management Program
Yakama Nation

cc: Thomas Grumbly, DOE-HQ
Kevin Clarke, DOE-RL
Robert Holt, DOE-RL
Kathleen Leonard, Bechtel Hanford



Department of Energy

Richland Operations Office
P.O. Box 550
Richland, Washington 99352

94-TPA-171

OCT 06 1994

**YAKIMA INDIAN
NATION**

OCT 11 1994

**ENVIRONMENTAL RESTORATION/
WASTE MANAGEMENT**

Mr. Michael R. Bauer, Legal Counsel
Environmental Restoration/
Waste Management Program
Confederated Tribes and Bands
of the Yakama Indian Nation
P. O. Box 151, Fort Road
Toppenish, Washington 98948

Dear Mr. Bauer:

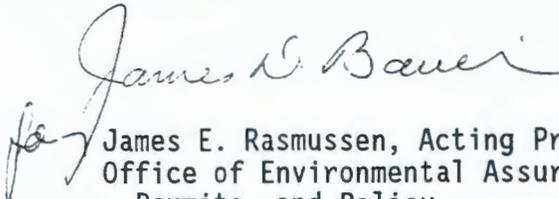
NATURAL RESOURCE TRUSTEE MEETING FUNDING

We are in receipt of your letter regarding the U.S. Department of Energy, Richland Operations Office (RL) lack of funding support for the natural resources trustees' meetings for Fiscal Year (FY) 1995. We are supportive of the trustees' meetings and have budgeted for technical and administrative support for these meetings. We can not afford to lose the trust and understanding that has developed between the participants over the past year. However, we also must face the reality of fiscal austerity for the coming FY.

Since the last trustees' meeting in September, RL is continuing to seek the funding for a facilitator for these meetings should the trustees determine that a facilitator is further needed. We think we have identified a source of partial funding. Although not yet definitive, we hope to have the remaining funds identified within the next few weeks. If a facilitator is not needed RL does not anticipate any funding shortfalls for support of the trustee meetings.

We concur with your sentiments and believe the trustees' meetings are a part of a continuous process. It is important that we reduce costs by front-end loading concerns over natural resources. This is consistent with the findings and recommendations generated during the DOE stand down this year. Therefore, we will continue support the natural resources trustees' meetings. If you have any questions or are in need of additional information, please contact Mr. Charles Pasternak, of my staff, at (509) 376-6354.

Sincerely,


James E. Rasmussen, Acting Program Manager
Office of Environmental Assurance,
Permits, and Policy

EAP:CRP