



**Confederated Tribes and Bands
of the Yakama Nation**

1222651

Established by the
Treaty of June 9, 1855

July 9, 2013

Matt McCormick
Department of Energy
Richland Operations Office
P. O. Box 550
Richland, WA 99352

RE: 100-K Area Sampling Project

Dear Mr. McCormick,

Yakama Nation (YN) understands the 100-K sampling project ground disturbing activities began July 8, 2013. YN Radioactive Hazardous Waste Committee (RHWC) has been informed the ERWM Cultural staff does not concur on the Field Methodology plan inserted in the cultural review as an appendix. The RHWC was also informed the State Historic Preservation Office (SHPO) has not concurred with the project.

According to the 36 CFR 800 if SHPO does not concur with the determination of effect the Agency would seek resolution by inviting the participation of the Advisory Council on Historic Preservation (ACHP). DOE has not informed YN that the ACHP has been invited to participate in reviewing this project. If this process has not taken place DOE is not in compliance with the National Historic Preservations Act (NHPA) and the implementing CFRs.

Since January of 2012 YN has been in consultation with DOE on this very sensitive project. The Federal process as described in the 36 CFR 800, would entail the development of an MOA to mitigate any adverse effects to the known cultural resources located in the project area. However, YN agreed to the development of a detailed work plan to avoid adverse effects, in lieu of the MOA. It was the understanding of YN a plan would be developed that would fully outline the field procedure. The plan is to reflect Tribal preference on all procedures and methodology to ensure protection and lessen any potential adverse effects to the cultural resources within the project area.

ERWM cultural staff was detailed to work with DOE to develop a work plan. The final plan **does not reflect** YN concerns and preferences. The ERWM cultural staff has discussed the issues with Mona Wright and Elwood Glossbrenner, however, ERWM has been informed the Field Methodology Plan would not be updated to fully address YN concerns and preferences. At the beginning of the consultation process for this project DOE assured Tribal leadership, Tribal preference would prevail, yet now DOE refuses to put in writing within the field methodology plan, YN preferences.

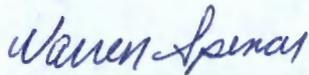
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YN cannot concur to the no adverse effects determination to cultural resources by project activities, and request DOE make the requested changes to the written field methodology plan. Until these changes can be written into the plan, and issues resolved, YN strongly recommend all ground disturbing activities be postponed, as they may adversely affect sensitive cultural resources.

YN looks forward to continued consultation on this project. It is imperative DOE understand the sensitive nature of the project and respect YN preferences, by ensuring they are incorporated into the written documents. If you have any questions please contact Dana Miller and Rose Ferri at 509-452-2502.

Thank you



Warren Spencer, Chairman
Radioactive Hazardous Waste Committee

Cc

Harry Smiskin
Sam Jim Sr.
Ruth Jim
Tom McCulloch ACHP
Phil Rigdon
Russell Jim

Vivian Babs George
Stella Washines
Rob Whitlam, SHPO
John Fowler, ACHP
Kate Valdez
Administrative record