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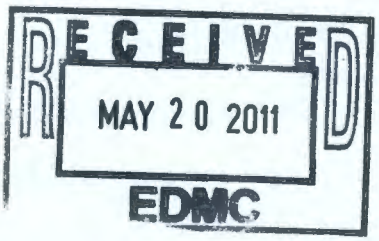
Confederated Tribes and Bands of the Yakama Nation

Established by the Treaty of June 9, 1855

May 10, 2011

Mr. Matt McCormick
Richalnds Operations Office
PO Box 550
Richland, WA 99352



RE: NPCE Projects

Dear Mr. McCormick;
We are contacting you with regards to the use No Potential to Cause Effect (NPCE) classification for projects on the Hanford site from 2003 to present. Due to this classification these projects did not undergo a complete National Historic Preservation Act (NHPA) Section 106 review and its implementing regulations 36CFR 800.

The adverse effect to the unanticipated discovery at the 100-K-63 waste site initiated the need for investigation into the NPCE classification and process. Since December of 2010 the Yakama Nation Environmental Restoration/Waste Management (YN ER/WM) cultural staff has been participating in meetings with your staff, Rob Whitlam (SHPO), Tom McCulloch (ACHP), the Confederated Tribes of the Umatilla, the Nez Perce Tribe and the Wanapum (Consulting Tribes).

YN ER/WM appreciates the efforts of DOE staff in recognizing the NPCE process as previously implemented was not in compliance with NHPA Section 106 process and the Hanford Cultural Resource Management Plan (HCRMP), per NPCE criteria as stated in Section 5 pages 4 and 5. The result being current projects are being evaluated to the findings of No Historic Properties Effected, which allows for a complete cultural review as outlined in Section 106 of the NHPA and the 36CFR 800, as recommended by Tom McCulloch of the ACHP.

Up until now the focus of these meetings has been on current NPCE projects, with little discussion about the Legacy (past) NPCE projects. Data for these projects have been requested by the YN ER/WM cultural staff during several meetings and by formal letter. We recognize this is a large data set and appreciate that it is being compiled by your staff.

During the May 4th Conference meeting the subject of the Legacy NPCEs was the main topic of discussion. Following the recommendation of Tom McCulloch we are sending this letter as a joint effort with SHPO and the other Consulting Tribes to convey the YN ER/WM concerns about the number, scope, and impact of the Legacy NPCEs .

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YN ER/WM concurs with SHPO and the ACHP that the Department of Energy needs to robustly address the issue of Legacy NPCEs and that an Agreement document be prepared to stipulate the information requirements for evaluating Legacy NPCEs..We also agree an external peer review to oversee the development of the Agreement and implementation of the Agreement is necessary to objectively review the process and the projects of concern.

We propose a systematic approach to the evaluation process, with one of the most important components being the ability to look at the spatial distribution of the Legacy NPCE projects. A map needs to be prepared for the entire area or it could be broken into smaller areas. The documentation and reports could then be used in conjunction with the spatial distribution for initial evaluation. It is crucial to the review process to determine proximity of the Legacy NPCEs to the river and known/recorded eligible archaeological and historic sites. Understanding this is a large task and we agree with SHPO that a dedicated DOE staff may be needed to compile the reports and spatial data needed to create the spatial distribution map/s.

YN ER/WM looks forward to working with your staff in developing a positive path forward with the development of an Agreement document and the establishment of an outside peer review to facilitate the evaluation of Legacy NPCEs. If you have any question please contact the YN ER/WM cultural staff (Leah Aleck, Dana Miller or Rose Ferri) at 509-452-2502.

Sincerely,
Russell Jim

cc:
Jill Conrad, DOE
Philip Rigdon, YN DNR
Donald Isadore, RHWC
Sam Jim Sr., RHWC
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