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WM: 409.53

MEMORANDUM FOR: Joseph O. Bunting, Jr., Chief
Licensing Process and Integration Branch

THRU: John J. Surmeier, Section Leader
Policy Analysis Section

FROM: Rob MacDougall
Policy Analysis Section

Catherine F. Russell,
Licensing Process Unit

SUBJECT: MEETING WITH DOE OFFICIALS RE: NRC EXPERIENCES WITH
YAKIMA INDIANS

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(Return to WM, 623-SS)

On Tuesday, July 11, we met with Messrs. Ellison Burton, Barry Gale, and Lisa Posner of DOE. They requested the meeting to gather information about our experiences with the Yakima Indians to prepare for an upcoming meeting with tribal representatives to begin negotiations for a written consultation and cooperation (C&C) agreement required under the Nuclear Waste Policy Act. Mr. Burton said he is the official at DOE headquarters responsible for coordinating C&C agreements with DOE field offices, which will have operational responsibilities for negotiating and carrying out the agreements with States and affected Indian tribes.

We did not attempt nor were we asked to advise DOE on how to negotiate an agreement with the Yakima nation. We described how we were organized, how we came to establish a relationship with tribal representatives, and how we view our relationship. We told them that we decided to contact the Yakimas last fall at the time DOE submitted its Site Characterization Report on Hanford under our 10 CFR Part 60 licensing procedures. Our rationale for doing so was that these procedures were designed to enable NRC to work with interested States and tribes to identify potential licensing concerns before the onset of formal licensing proceedings. On the basis of the tribe's submittals to the Commission's Waste Confidence proceeding and its petition to intervene in the Skagit reactor licensing case, we considered the tribe to be "potentially affected" and eligible for consultation under our Part 60 rules. From our dealings with tribal representatives so far, we said we consider the tribe to be very serious

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about protecting its interests, very capable of defending these interests, and likely to pursue them through the site characterization process and any NRC licensing proceeding thereafter. Mr. Burton, who had read the tribe's comments on the draft DOE siting guidelines, agreed with this view, as did Mr. Gale. Burton had also had Ms. Posner complete a history of Yakima relations with the federal government dating from the Treaty of 1855, which he will provide to us.

Mr. Burton said he expected that the DOE field offices would take the lead in any C&C negotiations with interested States and tribes. He said he and his staff had recently completed internal general guidelines for field office use in such negotiations, and agreed to provide us a copy. He also said that DOE would like to establish a uniform approach to C&C negotiations.

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