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January 8, 1982

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Mr. Samuel Chilk, Secretary
Nuclear Regulatory Commission
Washington, D.C. 20555

Subject: Proposed Rulemaking on Storage and Disposal of
Nuclear Waste, PR - 50 and 51 (Waste Confidence
Rulemaking.)

Dear Mr. Chilk:

The Tribal Council of the Yakimas regrets that it was not possible for the Yakima Indian Nation to be invited to be present at the oral hearing on January 11, 1982. In spite of this failure we have hope that a beginning has been made toward a new relationship between Indian People and the NRC, in which the case of the Yakimas is but a present example. This letter is designed to further this process of communication.

Please understand that this letter is addressed to each of the five Commissioners because the central issue involves fundamental policy: That the NRC on the problems of nuclear waste storage or disposal has not properly acquitted itself of its responsibility toward Indians on their Reservations near present or potential sites for nuclear storage or disposal.

First let it be understood that:

1. The Yakima Indian Nation is dedicated to the safety health, security, and protection of the Yakimas. The Treaty of 1855 between the Yakimas and the Federal Government of the United States is a vital instrument in carrying out this responsibility.

2. The Yakima Indian Nation is neither for nor against nuclear. In pursuit of #1 above, the Yakimas are for safety in nuclear contamination matters for the Yakimas, and therefore also for their non-Indian neighbors.

3. The Yakima Indian Nation has a particular and unusual stake in nuclear waste safety at Hanford because:

- a. The Yakima Indian Nation in the Treaty of 1855 ceded 9/10 of its Lands to the Federal Government, an area now 25% of the total area of the state of Washington, in return for Totally Reserved Lands and other Rights, and Retained Rights within the Ceded Lands.

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- b. The Reservation of the Yakimas which lies only 13 miles from Hanford, is by far the largest single land holding in the Hanford area, in fact, 1 1/2 times the area of the state of Rhode Island.
- c. Hanford lies within the area of Yakima Indian Nation Ceded Land.
- d. For the Yakima Indian Nation the concept of evacuation because of nuclear is meaningless. There can be no substitute for our Sacred Homeland.

4. The Yakima Treaty preceded the founding of Washington State by many years, and the creation of the state has no bearing on the terms of the Treaty between the Yakimas and the Federal Government other than the "Enabling Act" in the Washington State Constitution which disallows state jurisdiction over Indians. Washington State has never, and cannot now, represent the Yakima Indian Nation.. The policies of the NRC have failed, to date, to take cognizance of this fact.

5. The Yakima Indian Nation believes that Agencies of the Federal Government, of which the NRC is one, have the obligation to uphold the laws of the United States. The Yakima Indian Nation Treaty Rights have been upheld in the Courts of the United States as part of the Law of the Land.

6. Concerning the issue of storing or disposing of nuclear wastes at the Hanford Reservation, the Yakima Indian Nation asks that the NRC, find no confidence that Hanford can be safely used as a nuclear waste repository because:

- a. There is a lack of understanding of Yakima Indian Nation Rights.
- b. There is present conflicting and inconclusive scientific argument regarding the geologic media and technology for Hanford.
- c. There is strong managerial and scientific evidence that there is present contamination at Hanford which is not yet under control.
- d. There is a need to prevent further contamination to Yakima Indian Nation Lands and to the Columbia River over which we hold Treaty Rights.
- e. From the fact that Hanford is presently contaminated, it does not necessarily follow that a "land use policy" of adding to that contamination is sound.

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7. The Yakimas consider that the NRC practice of limiting announcements to entries in the Federal Register of NRC procedures on nuclear waste issues in an area involving the vital interests of the Yakima Indian Nation is not only inadequate but reveals a lack of understanding on the part of the NRC of the Guaranteed Rights of the Yakima Indian Nation. This is particularly true when the NRC not only had no evidence that the Yakimas were already alerted, but also had no policy or practice of addressing those Rights peculiar to Treaty Tribes. The Yakimas are accustomed to spending their limited resources and time on other areas, such as the ever-present need to protect their Fish or their Water Rights. The Yakimas believe that it is encumbant upon the NRC to assure that the Yakimas are not misjudged in the protection of their own Rights by errors of omission on the part of the NRC.

8. The Yakima Indian Nation has both the right and obligation to be an integral part of the discussions and planning concerning the use of the Hanford Reservation land when subjects such as nuclear waste disposal are at issue. It is part of the responsibility of the NRC to see to it that the Yakimas are invited and helped to take part in such discussions.

The Yakimas are aware that early in the history of nuclear the extent of danger from radiation was seriously underestimated. We know of failures to properly protect citizens from nuclear radiation. In recent years with nuclear danger better understood and the staggering problem of nuclear waste disposal apparent, areas far from urban centers have been looked to as the place to store and dispose of nuclear wastes. These are among the areas where Indians hold Treaty Rights from the Federal Government. These are among the areas where beliefs other than the Judeo-Christian hold sway among the People, beliefs that the NRC must equally consider and protect.

The Yakima Indian Nation asks each Commissioner of the NRC to:

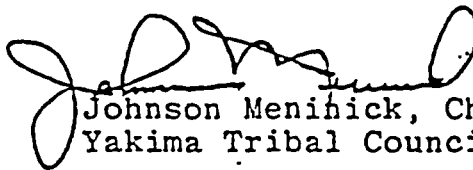
1. Examine the policies of the NRC which have ignored Yakima Indian Nation Rights and alter those policies by,
2. Inviting the Yakima Indian Nation to join with the NRC in proceedings covering the future of Hanford, and
3. Do so before making any binding decisions now concerning Hanford and nuclear waste storage or disposal.

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As was stated in our opening paragraph, the Tribal Council of the Yakimas has written this letter with the intent of developing productive communications with the NRC. As in all such efforts a constant ingredient must be goodwill. It is important for the Commission not to misread our efforts to maintain goodwill. The Commission should understand that unless the Commission takes immediate, aggressive steps in response to the reasonable approach of this document, the Yakima Indian Nation will seek other means to prevent any continuation of the past abuses of the Rights and respect owed to a Sovereign Nation.

Please include this letter as part of our statement submitted for the Nuclear Waste Confidence Procedure Records (Parts 50 and 51 Waste Confidence Rulemaking) dated January 6, 1982, and address your response to Mr. Russell Jim, Tribal Councilman at the above address (telephone (509) 865-5121).

Sincerely,



Johnson Menihick, Chairman
Yakima Tribal Council



Russell Jim, Councilman
Yakima Tribal Council