

ORIGINAL

PUBLIC HEARING

DEPARTMENT OF THE NAVY
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE CONTAINER SYSTEM FOR THE MANAGEMENT OF
NAVAL SPENT NUCLEAR FUEL
AT FORT HALL, IDAHO
JUNE 3, 1996
EVENING SESSION

MODERATOR: Lieutenant Timothy Sullivan, USN

SPEAKERS: Mr. Elmer Naples
Mr. William Knoll

REPORTED BY:
LISA K. ERSTAD, C.S.R. No. 279
Notary Public
(and)
KATHY McCOY, C.S.R. No. T163
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1 STATEMENT GIVEN IN PRIVATE

2
3
4 MR. PERRY: My name is Robert W.
5 Perry, Jr. I am an enrolled member of the
6 Shoshone-Bannock tribes. I am 36 years old and
7 have lived on this reservation all my life.

8 To date I haven't witnessed or observed A
9 any sort of a nuclear agreement between the Navy
10 and the Shoshone-Bannock tribes nor Westinghouse
11 and the Shoshone-Bannock tribes, of which I know
12 Westinghouse has been hauling nuclear waste
13 across the reservation for the last four years
14 and the tribes haven't been given anything for
15 the waste moving across the reservation.

16 I am appalled that the State of Idaho B
17 receives \$30 million and the Shoshone-Bannock
18 tribes, the people of the Shoshone-Bannock
19 tribes, are yet to receive any monetary funding
20 from the Navy, DOE or DOD for the individual
21 tribal members due to the fact that if there is a
22 nuclear spill, the people will be the ones to
23 suffer, not just the tribal government.

24 No one from the tribe has given us an
25 alternative to this agreement, which I know under

1 CFR rules and regulations we do have an
2 alternative. No one has exposed or related to
3 the tribes that within the last three months
4 there has been canister leakage at the INEL that
5 has caused damage or is leaching towards the
6 groundwater. No one has made public comment on
7 it of which I am appalled that the Navy, DOE,
8 Lockheed are all covering up this disaster.

9 I have had contact with sources in
10 Washington, D.C. that have affirmed what I have
11 said about the leakage. As of last Monday
12 Lockheed was to lay off a bunch of their
13 employees that clean up spills. Instead, they
14 kept the employees on full-time and hired more.
15 The Army has been brought in to help.

16 I am appalled that the nuclear waste
17 that has been coming across the reservation
18 Westinghouse feels that they have really got
19 something over on someone due to the fact that
20 the Navy now is having to pay "X" amount of
21 dollars to bring nuclear waste across the
22 reservation by train. The Navy feels appalled
23 that Westinghouse has to pay nothing or very
24 little.

25 The Westinghouse agreement at one time

1 was signed by Kesley Edmo of which is not a
2 chairman now. The agreement was for five years.
3 If the agreement is to be renegotiated, all
4 tribal members should have knowledge of the
5 renegotiation and what the tribe shall receive
6 because it is a tribe as a whole that will
7 suffer.

8 I am appalled that as of this date I
9 believe the Shoshone-Bannock tribes have already
10 signed an agreement with the Navy. The reason
11 being is the Shoshone-Bannock tribes are already
12 receiving surplus goods from the Navy. It is
13 common knowledge. You don't start paying for
14 something unless an agreement is came to.

15 I am in question as to why in the
16 agreement that the chairman sent out to each
17 tribal member why the Navy agreed to give the
18 tribe \$400,000 for railroad upgrades due to the
19 fact that the railroad is not our responsibility,
20 it is Union Pacific's.

21 And in doing my research I found out
22 that Union Pacific Railroad right-of-way across
23 the Shoshone-Bannock Indian Reservation is
24 illegal, null and void. In 1856, a train came to
25 the reservation boundary, could not find anyone

1 to sign a right-of-way agreement. Union Pacific
2 pushed the agreement through of which it was
3 Oregon Shortline at that time.

4 Washington, D.C. offered to pay \$6,000
5 for the tribe to permit Oregon Shortline to come
6 across the reservation. \$6,000 hasn't been paid
7 to the State because it is an illegal
8 right-of-way of which I think the Navy knows.
9 This is why they have given the tribe \$400,000
10 for upgrades instead of giving it directly to
11 Union Pacific Railroad.

12 The canisters we are talking about
13 today are for the rail. I would like to know
14 what type of canisters are used in the trucks
15 that Westinghouse brings through the
16 reservation. If they are as safe as the ones on
17 the rail or supposably, and I would like to know
18 since this reservation is within malitia country,
19 what the United States Navy plans on doing if a
20 malitia destroys our railroad track and we have a
21 pile up in the middle of Fort Hall.

22 Under the EIS system, I was told and I
23 read that there would be an emergency response
24 system set up in the Fort Hall area before any
25 shipments went through this location. It is a

1 boldface lie and it libels the United States H
2 Navy. There is no system in place and there is
3 no funding for any type of a system right now in
4 Fort Hall, Idaho or the Shoshone-Bannock Indian
5 Reservation.

6 I believe that the negotiations on the
7 nuclear waste for transferring nuclear waste
8 across the reservation are already done. I am
9 appalled that tribal attorney Janette Woofley
10 negotiated with the Navy on the nuclear shipments
11 and as of May 6, resigned from the Shoshone-
12 Bannock tribes and went to work for the DOE,
13 which is a direct conflict of interest, DOE
14 conflict of interest, Litco conflict of interest,
15 and, of course, the United States Navy.

16 I am appalled that in 1992 Marvin
17 Osbourne, chairman of Shoshone-Bannock tribes,
18 signed the transatlantic agreement, Westinghouse
19 let nuclear waste come across our reservation by
20 truck and that Mr. Marvin Osbourne has a
21 petroleum company called American Shoshone
22 Petroleum and has been hauling petroleum to
23 Westinghouse ever since he signed the agreement
24 in '93.

25 I feel there is a lot of underhanded,

1 corrupt negotiations going on at the present
2 time. I do have a letter to William Perry,
3 Secretary of Defense, along with other tribal
4 members in response to the nuclear waste coming
5 across the reservation.

6 We believe that since the nuclear waste
7 has already come across the reservation, we
8 cannot stop it, but we believe we are equal to
9 the people of the State of Idaho and should be
10 given the same respect and the same amount of
11 money that State of Idaho was given so that if
12 our people want to move off this reservation,
13 they will have the money to do so.

14 We believe that if Mr. William Perry
15 does not answer our response within two weeks,
16 that we will file in United States District of
17 Columbia a class-action against the Department of
18 Navy and the Bureau of Indian Affairs who holds
19 the trust fiduciary responsibility of protecting
20 Native American tribes within trust status. That
21 they are in violation of their fiduciary
22 responsibility.

23 Also, a defendant in the case would be
24 the president of the United States, Bill
25 Clinton. Under sovereign immunity and the

1 treaties that establish the Shoshone-Bannock
2 tribes and all tribes within the United States,
3 we are to have a government-to-government
4 relationship and not let the State of Idaho
5 negotiate nuclear waste shipments through our
6 reservation.

7 I have sat in 15 minutes of your public
8 hearing and all I have heard Mr. Knoll speak
9 about is the State of Idaho, the State of Idaho
10 agreement, we have agreed with the State of
11 Idaho. He fails to realize that the
12 Shoshone-Bannock tribes is a sovereign nation
13 within a nation, and that the Shoshone-Bannock
14 tribes should be dealt with just as the State of
15 Idaho and be given equal respect. That is all I
16 guess.

17 I would like to know if there is any
18 way I can get a copy of my testimony.

19 In reference to pesticides on the
20 reservation, President William Clinton sent a
21 delegation of people from Washington, D.C. to the
22 Fort Hall Indian Reservation to investigate
23 pesticides and toxic effects of pesticides on the
24 Indian Reservation.

25 At that time we requested that

1 everything that we put on record would be sent
2 back to our addresses so we would have proof that
3 the United States Government utilized our
4 testimony instead of throwing it in the trash
5 can.

6 To this date we have yet to receive any
7 documentation that our testimony made it into
8 Congress or the legislature. To this date I have
9 called different people from that delegation and
10 requested assistance and requested them to send
11 our testimony, a copy of our testimony, to us and
12 we have yet to receive anything or phone calls
13 back.

14 If this public hearing is like the
15 last, I would think it is a smoke screen to
16 pacify and appease the people of the
17 Shoshone-Bannock tribes and the United States
18 Navy and DOE have already made up their mind as
19 to what they are going to do and this testimony
20 is worthless.

21 In 1980 there was a pesticide fire, a
22 chemical company burned up on this reservation.
23 I find out to this date that it was one of the
24 United States' most dangerous chemical fires and
25 had been studied by Atlanta, Georgia for quite

1 sometime, for ten years, 1980 to 1990. It is one
2 of the worse chemical fires in the United
3 States.

4 But it was downplayed by a smoke
5 screen. Investigators said that they researched
6 this case and the 26 firefighters for ten years
7 and studied health affects and what it did to
8 them. They spent hundreds of thousands of
9 dollars on this research.

10 To this date, 1996, I, Robert W. Perry,
11 my father, Robert W. Perry, Sr., two of the
12 initial attack firefighters on that chemical
13 fire, to this date we have never been questioned,
14 interviewed, or anything from Atlanta, Georgia. N
15 We believe the study was a waste of money and one
16 of the biggest cover-ups the United States
17 Government has ever had.

18 Out of the 26 initial attack
19 firefighters that were on the scene, many of us
20 have gotten really sick, respiratory problems,
21 heart failure and some have died. The team from
22 Atlanta, Georgia that studied this chemical fire
23 failed to study two of the worst causes of heart
24 disease, respiratory problems on this
25 reservation, which was pointed out to be the FMC

1 Corporation, J.R. Simplot Corporation and the
2 pesticides used on this reservation.

3 We would like an epidemiology study
4 done on the Fort Hall Indian Reservation that is
5 true and correct. It will expose the groundwater
6 contamination that we have had for the past two
7 years that constituted a national disaster. We
8 had to have water shipped in here. But nothing
9 has been done to this date to clean up the
10 water. Our people are drinking cancer-causing
11 carcinogens, ethylene dybromide, methosodium,
12 DDT, strychnine, which have all been found in our
13 water table. And to this date nothing has been
14 done for our people.

15 The United States Government has a
16 fiduciary responsibility to act to save the
17 Shoshone-Bannock Indian Reservation because the
18 Shoshone-Bannock tribes were not the ones who
19 contaminate the water.

20 But as I said earlier, if I don't
21 receive a copy of this and a response from
22 Mr. Knoll, I will know for a fact that this is
23 just another smoke screen by the United States
24 Government to pacify and appease members of the
25 Shoshone-Bannock tribes.

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Thank you. Robert W. Perry, Jr.,
P.O. Box 5537, Chubbuck, C-H-U-B-B-U-C-K, Idaho,
83202.

(Whereupon, the statement was
concluded.)



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
2531 JEFFERSON DAVIS HWY
ARLINGTON, VA 22242-5160

IN REPLY REFER TO

June 24, 1996

Mr. Robert W. Perry
P.O. Box 5537
Chubbuck, ID 83202

Dear Mr. Perry:

This letter is in response to your request, made at the Fort Hall Public Hearing on June 3, 1996, to receive a copy of the transcript of the comments you provided during the public hearing on the Department of the Navy's Draft Environmental Impact Statement (EIS) for a Container System for the Management of Naval Spent Nuclear Fuel.

The complete transcripts of the public hearings, including the public comments, slides and pictures used for the presentation, will be placed in the public reading rooms identified in the draft EIS (see section J.10.). The locations in the vicinity of Fort Hall include the Department of Energy Reading Room in Idaho Falls, ID; the Idaho Falls Public Library in Idaho Falls, ID; the Pocatello Public Library in Pocatello, ID; and the Shoshone-Bannock Library in Fort Hall, ID. It is expected that the proceedings from the public hearings will be available in these libraries by July 8, 1996.

Thank you for your interest in the draft EIS.

Sincerely,

A handwritten signature in black ink, appearing to read "W. S. Knoll".

William S. Knoll
Nuclear Propulsion Directorate

Commenter: Robert Perry - Shoshone-Bannock Tribe member, Idaho

Response to Comment:

- A.B. & E. The Navy is currently negotiating an agreement with the tribes covering transportation of naval spent fuel across the Fort Hall reservation to the Idaho National Engineering Laboratory. The Navy has also participated in other meetings and briefings for all members of the Tribes or the Tribal Business Council related to naval spent nuclear fuel. Specific issues related to the ongoing negotiations between the Navy or Department of Energy and the tribes are outside the scope of this EIS.
- C. This comment is incorrect. On May 7, 1996, Department of Energy issued a press release describing the discovery of 317, 55-gallon containers of transuranic waste which were found to have pin-sized holes. This press release stated that "No contamination has been detected on the external surfaces of any containers with the rust spots nor has any radioactive material been released to the environment." These canisters did not contain and are not related to management of naval spent nuclear fuel.
- D. As a show of good faith during the negotiations with the Shoshone-Bannock Tribes, the Navy has provided some excess items in support of the Tribe's emergency planning and training effort; however, an agreement has not yet been reached.
- E. See the response to comment A above.
- F. The shipping containers that the commenter mentioned are used for transporting irradiated test specimens (fuel and non-fuel) between the Expanded Core Facility and off-site laboratories and test facilities. The details concerning the use and design of these containers are provided in the Programmatic Spent Nuclear Fuel and Idaho National Engineering Laboratory EIS (Volume 1, Appendix D, Sections A.4.4 and A.4.5). The environmental impacts due to transporting these test specimens were covered in that EIS. These shipments are beyond the scope of this EIS.
- G. The analysis provided in the EIS indicates that, in all likelihood, there will be no impact. In most accidents involving naval spent nuclear fuel on railcars, it is very likely that no radioactive material would be released from the container because of their robust design. As discussed in Appendix B, Section B.2.2, these containers meet 10 CFR 71 regulations which require the container to meet specific criteria under normal transport and accident conditions. Tests are conducted to demonstrate that the containers meet the criteria, including a 30-foot drop test onto an unyielding surface (equivalent to 60 foot onto a reinforced concrete surface) and a puncture test which produce forces greater than those expected during a derailment.
- As indicated in Chapter 3, Table 3.3 of the EIS, for the Multi-Purpose Canister Alternative, there is an increase of about 1.1 ten millionths in the usual risk of a latent cancer per year due to hypothetical transportation accidents. This is about one latent cancer fatality in the entire population if the operation were continued for about 9 million years.
- H. The Department of Energy has provided both resources and training to the Shoshone-Bannock Tribes to ensure that local response to a transportation accident is handled properly. If an accident did occur, federal, state, local, and tribal authorities are trained in emergency response. The Shoshone-Bannock Tribes have been actively participating in comprehensive, cooperative transportation accident exercises held in Idaho.
- I. The employment status of private citizens and the competitive bid process involving placements of contracts at the Idaho National Engineering Laboratory are beyond the scope of this EIS, since neither is associated with naval spent nuclear fuel.

Commenter: Robert Perry - Shoshone-Bannock Tribe member, Idaho

J.&K. The Navy is currently involved in negotiating an agreement with the tribes covering transportation of naval spent fuel across the Fort Hall reservation to the Idaho National Engineering Laboratory. Five federal laws prompt consultation between federal agencies and Indian tribes: The National Environmental Policy Act, the National Historic Preservation Act, the American Indian Religious Freedom Act, the Archeological Resources Protection Act, and the Native American Graves Protection and Repatriation Act (NAGPRA).

In accordance with these directives and in consideration of its native American Policy, the Department of Energy is developing procedures at the Idaho National Engineering Laboratory for consultation and coordination with the Shoshone-Bannock Tribes of the Fort Hall Reservation. Department of Energy has committed to additional interaction and exchange of information with the Shoshone-Bannock Tribes, and has outlined this relationship in a formal Working Agreement with these tribes. In addition, the Cultural Resources Management Plan for the Idaho National Engineering Laboratory and curation agreement for permanent storage of archeological materials is expected to be completed shortly. The Cultural Resources Management Plan will define procedures for involving the tribes during the planning stages of project development and the curation agreement will provide for the repatriation of burial goods in accordance with NAGPRA.

- L. Mr. Perry was informed by letter dated June 24, 1996 that a copy of his testimony can be found with all of the public hearing transcripts in the library on the Fort Hall Reservation.
- M. In accordance with the National Environmental Policy Act, no decision on the alternative to be implemented has been made or will be made until after the Final EIS is issued and no actions are being taken which would prejudice that decision. The final decision and the basis for it will be documented in the Record of Decision which will be published in the Federal Register in December 1996.
- N. While the Navy appreciates concern about health effects to firefighters during the 1980 pesticide fire on the reservation, this comment is outside the scope of this EIS. It is unrelated to activities associated with naval spent nuclear fuel.
- O. Recent groundwater contamination involving cancer-causing carcinogens on the Fort Hall Indian Reservation is outside the scope of this EIS because it is unrelated to activities associated with naval spent nuclear fuel. The impacts on water resources due to the alternatives evaluated in this EIS are presented in Chapter 5, Section 5.6.2.

The Programmatic SNF and INEL EIS contains detailed information concerning detected contaminant concentrations within the Idaho National Engineering Laboratory site and at the site boundary (Volume 2, Section 4.8 and Appendix F). Trends in ground water quality are also reported in that EIS (Volume 2, Section 5.8).