



Nez Perce

ENVIRONMENTAL RESTORATION & WASTE MANAGEMENT  
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Re: Comments on the *Revised Draft Hanford Site Solid (Radioactive and Hazardous) Waste Program Environmental Impact Statement - Richland, Washington - DOE/EIS-0286D2*

Dear Messrs. Klein, Schepens, and Collins:

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The staff of the Environmental Restoration and Waste Management Program (ERWM) at the Nez Perce Tribe (NPT) appreciates this opportunity to review and comment upon the revised draft of the Hanford Site Solid (Radioactive and Hazardous) Waste Environmental Impact Statement (HSW/EIS).

The Nez Perce Tribe retains reserved treaty rights in the Mid-Columbia region under the 1855 and 1863 treaties with the United States Government. These rights have been recognized and reaffirmed through subsequent Federal and State actions. These actions protect Nez Perce rights to utilize our usual and accustomed resources and resource areas, including those in the Hanford Reach of the Columbia River. Accordingly, ERWM has support from the U.S. Department of Energy (DOE) to participate in and monitor relevant

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DOE activities. We believe that most of what occurs at Hanford is relevant to reserved treaty rights, and we maintain involvement in part through the tribal consultation process.

We recognize the monumental effort that has gone into producing this comprehensive EIS, and we commend you. We also recognize that the driver for this EIS is purely regulatory through the National Environmental Policy Act (NEPA). NEPA was designed to protect the environment from further damage, in the present and the future, but probably never envisioned an effort as large, complex and challenging as the Hanford Site. The ERWM sees this document as an appropriate starting point, not an end point, for dealing with the complexity of solid waste treatment, storage, and disposal at the Hanford Site.

The HSW EIS in its current state, though very informational, is insufficient and lacking of assurances that the Hanford Site will be effectively cleaned up in both the short and long term.

Our comments and concerns are as follows.

**Process**

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This is a huge undertaking by the federal government, on a scale similar to that of the complex-wide Waste Management Programmatic EIS. Too much is at stake to move rapidly through this process for the sake of acceleration. The NEPA process anticipates sequential steps. We need clearer statements about what decisions need to be made, not statements of decisions being made when there remains a significant lack of appropriate tools to make those decisions. Because of the complexity of this huge clean-up effort, there are many short terms decisions and actions to be taken prior to long-term decisions being made. It is vital to the health of the tribal nations and the United States that closure of any clean-up activity occur only when we have the capability to effectively isolate or remediate the contaminated resource.

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**Long-term Stewardship (LTS)**

The mission of LTS is to manage post-cleanup residual risks. The goal as stated in the Hanford LTS Site Plan is to ensure that the "... interactive system of human cultures, ecology, and natural resources are protected now, and in the future, from the risks associated with the residual contamination." As it is clear from the HSW-EIS that residual contamination will exist, and that LTS will be activated, the ERWM reviewed the EIS intensely for effective LTS plans.

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The Nez Perce Tribe considers the protection, preservation and perpetuation of cultural resources at Hanford for future generations in a spirit of stewardship to be of the utmost priority. It should be noted that biological resources and other natural resources are considered cultural resources by the Nez Perce Tribe.

DOE recognizes there is a disproportionate impact of the alternatives in this EIS on the natural and cultural resources of the tribal nations (as stated in Section 5.13, Volume I). The NPT recognizes an inherent right to those resources, and understands DOE has the

obligation to honor and protect those resources. How does DOE intend to mitigate the inequities caused by these impacts? Furthermore, can we truly expect LTS measures to last 8,000 to 10,000 years?

3

The ERWM is concerned about the future of the LTS and Institutional Control (IC) decisions made by DOE Office of Environmental Management, when this responsibility will be deferred to the DOE Office of Legacy Management (OLM) beginning in FY 2004. The HSW-EIS makes no mention of how the LTS functions will transition into the new OLM. Where is the infrastructure for LTS, and what insures its viability? The 2004 budget for the OLM is not sufficient to give the ERWM confidence that long-term stewardship issues will be adequately addressed regarding the waste being discussed in this EIS

Because of these long-term stewardship concerns, the HSW-EIS in its current configuration is insufficient to persuade the NPT and the ERWM to support the activities proposed in any of the alternatives. The decisions determined within these alternatives will not protect the resources, including water, which are sacred to the NPT. ERWM does not feel that the level of awareness of LTS as expressed by DOE in this EIS is adequate.

#### Technical Issues

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Cumulative Affects - It is difficult for ERWM to get a relatively clear view from this document of the totality of the potential threats to treaty resources (in particular, water). We read and hear about many sources of contamination such as waste management waste; environmental restoration waste; on-site and off-site waste volumes which vary; transuranic (TRU) waste; addition of immobilized low activity waste (ILAW); the existing contamination plumes in the vadose zone and groundwater; the canyons; the remains of the tanks and tank residue; and pre-1970 waste burials with inadequate records for proper characterization, to name a few. It remains unclear how truly comprehensive these analyses of cumulative affects are, in spite of the monumental effort by DOE to deal with impacts across the site.

5

There appear to be no plans to retrieve or mitigate impacts from pre-1970 TRU. We submit that the level of risk associated with these burials remains significantly uncertain. DOE may be confident that contamination from alternative actions presented in this EIS will not compound already existing contamination because the existing plumes should have moved by the time new contamination would reach those areas. However, we contend that the overall uncertainties of inventory and its status already in the vadose zone and/or groundwater at Hanford do not leave room for such sweeping confidence the zones will be relatively clean when new contaminants enter them.

6

Groundwater – Water is a sacred resource for the Nez Perce Tribe, and the ERWM can assure you the Tribe is not interested in sacrificing such a resource, as is suggested by Section 5.15, Volume 1, *Irreversible and Irrecoverable Commitment of Resources*. That section states, "...after a few hundred years following disposal, the vadose zone surrounding disposal areas and groundwater beneath the Hanford Site to which

6 | contaminants travel would be irretrievably committed.” Table 5.146, Volume 1, does  
 7 | not even indicate the anticipated volume and extent of irreversible and irretrievable (I &  
 7 | I) commitment of groundwater. In addition, the ERWM does not feel confident that  
 7 | current modeling efforts, which simplify the exposure pathway as vertical, with no lateral  
 7 | spreading or preferred pathways, provide a solid basis from which to make firm decisions  
 7 | regarding groundwater contamination. To the ERWM it appears DOE is proposing  
 7 | alternatives which allow not only highly toxic levels of radioactivity in the groundwater  
 7 | far in the future with no long-term stewardship structure in place to ensure safety (Figure  
 7 | 3.16, Volume 1), but it appears willing to sacrifice the groundwater in the short term as  
 7 | well.

8 | The ERWM believes that the reasonable benchmark for the health of the water resource  
 8 | is the current drinking water standard. Recognizing the enormity of the contamination as  
 8 | it already exists, the ERWM contends that DOE has the responsibility to reclaim or  
 8 | remediate groundwater to the greatest degree technically practicable and prevent its  
 8 | further contamination. In essence, do no further harm to the resource.

9 | Ecological Evaluation - The ERWM has a concern about potential impacts from 200  
 9 | Area contaminants entering the groundwater and eventually entering the Columbia River.  
 9 | Assuming that this is a possibility, should this EIS address this issue and talk about  
 9 | potential impacts to the riparian zone, river, and impacts on endangered species such as  
 9 | salmon? We realize that some risk models such as SAC do not predict major impacts to  
 10 | the river from the 200 Area, but we are also aware that SAC currently does not have an  
 10 | ecological risk module in the composite analysis. Also, the scientific community has not  
 10 | wholeheartedly endorsed the SAC and as we all know, models should be only be used as  
 10 | one of the tools to assist with decision-making.

11 | Transportation - The ERWM recognizes the risk to tribal members exercising treaty  
 11 | resource rights in usual and accustomed places, and the risk to those resources by  
 11 | radioactive and hazardous waste being transported to and from the Hanford Site. The  
 11 | ERWM requests a concentrated effort by DOE to insure the ERWM is included in the  
 11 | transportation information loop, so that we can serve as a source of information for any  
 11 | tribal members who would be in the neighborhood of wastes in transport. We are  
 11 | currently taking steps to encourage that effort.

12 | Addition of ILAW - Adding ILAW to this draft EIS is a highly significant change from the  
 12 | prior version. We are aware that the analyses in this EIS assume all ILAW will be  
 12 | vitrified, but that Tc-99 is not removed. As supplemental technologies are currently  
 12 | being tested, we have concerns about the form the ILAW will take, and how this EIS will  
 13 | be revisited if ILAW is not vitrified. As such, we have concerns about how this EIS will  
 13 | interact with the tank closure EIS to be reviewed in the fall. These concerns illustrate one  
 13 | example of how this document should be a starting point, not an end point (or a closure),  
 13 | in the decision process of dealing with the solid waste at Hanford.

14 | TRU Waste - We remain very uncomfortable with the plans (or lack of them) for  
 14 | retrieving or mitigating impacts from pre-1970s TRU. DOE indicates the associated

14 | dangers have fed into the risk modeling process. However, the level of uncertainty in inventory of those wastes alone brings those model results into question.

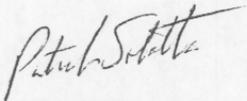
The ERWM is aware there is currently no way at Hanford to deal with RH-TRU other than to store it. This includes K-basin sludge, likely some of the contents of 618-10/11 burial grounds, and whatever Hanford receives from off-site.

15 | Much of this EIS is relying on the premise that TRU waste and High Level Waste will be shipped to repository sites in New Mexico and Nevada. The ERWM staff recently toured both of those sites and after hearing the various presentations we are under the impression that there is still a large degree of uncertainty associated with licensing and whether or not these sites will be accepted for their intended purposes. It would be prudent to inform people about this situation in the EIS. This document continues to assume that TRU wastes will be exported. As a result, the document contains no analysis for risk to groundwater and other resources from TRU. The ERWM finds this unacceptable.

In addition, as there are no guarantees that all TRU will leave the site, and as Hanford currently is not prepared to disposal of TRU on-site, the ERWM does not support bringing in additional TRU from other sites.

The ERWM appreciates the opportunity to comment on the revised Hanford Solid Waste Environmental Impact Statement. Overall, the ERWM feels this document is insufficient and does not meet the expectations and obligations of the DOE to the Nez Perce Tribe and the vast resources of the Hanford Site. If you have further questions, please contact Sandra Lilligren ([sandral@nezperce.org](mailto:sandral@nezperce.org)) or Gabriel Bohnee ([gabeb@nezperce.org](mailto:gabeb@nezperce.org)) at 208-843-7375.

Sincerely,



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Director

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Mike Wilson, WA Ecology  
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