**Recommendation 5:** The Executive Summary should be rewritten to actually summarize the report it is based upon.

This is a fine document in terms of readability and presentation. I am sure it will set a new standard for DOE Environmental Impact Statements once its technical flaws are corrected.

Sincerely,

Jim Willison

Jim Willison, Certified Health Physicist





EIS PROJECT - (AR)/PF
HLW & FD
Control # DC-62

# The SHOSHONE-BANNOCK TRIBES

FORT HALL INDIAN RESERVATION
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FORT HALL BUSINESS COUNCIL
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RECEIVED APR 24 2000

April 19, 2000

T.L. Wichmann, Document Manager
U.S. Department of Energy
Idaho Operations Office
850 Energy Drive, MS 1108
Idaho Falls, ID 83401-1563

**ATTN: Idaho HLW & FD EIS**

Dear Mr. Wichmann:

62-1 VII.E(2) The Shoshone-Bannock Tribes have reviewed the draft EIS for High-Level Waste and Facilities Disposition dated December 1999. We have some technical questions and comments on this matter which are attached to this letter. We would like to have these questions and comments addressed at a meeting with the Fort Hall Business Council as the governing body of the Shoshone-Bannock Tribes and appropriate staff at a time to be set. In addition to the technical comments and questions we do have policy related comments and concerns as well. I will address these concerns in this letter.

The members of the Shoshone-Bannock Tribes (Tribes) had made their permanent home on the Fort Hall Indian Reservation located in southeastern Idaho pursuant to the 1868 Fort Bridger Treaty 15 Stat. 673. The membership of the Tribes includes almost 4000 members, many of whom live on the Fort Hall Indian Reservation and in the surrounding communities. There are two major interstates (I-15 and I-86) that go through the Fort Hall Indian Reservation. In addition, the Blackfoot River and Snake River make up the borders of the Fort Hall Indian Reservation. In addition certain Bands of the Shoshone and Bannock people have lived in this area since time immemorial. The INEEL site is included in the traditional and aboriginal areas frequented by the Shoshone and Bannock people. The Fort Bridger Treaty in Article 4 contemplates that tribal members will be allowed to continue their hunting, fishing and gathering activities off of the Reservation, including that area in and around the INEEL. Because of the location of INEEL less than fifty miles from the Fort Hall Indian Reservation, the Shoshone-Bannock Tribes are greatly concerned about the activities which occur on that site including the issues involving the high level waste and disposition of such waste which is the subject of the EIS. The Tribes are concerned that the air, land and water may be affected by the activities

62-2 VII.E(3)

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occurring at the INEEL. This is the permanent homeland of the Shoshone and Bannock people. If this areas becomes contaminated, companies, towns and non-Indians can move from this area. This is not so for the Shoshone and Bannock people. They have lived in this area for hundred of years and will continue to live in this area long after the INEEL is shut down and operations have ceased. The Tribes are concerned about the legacy such activity leaves for the future generations of the Shoshone and Bannock people and the resources of the area and the Fort Hall Indian Reservation.

62-3 VII.E(2) In light of the concerns of the Shoshone-Bannock Tribes and the trust responsibility of the U.S. Department of Energy to the Shoshone-Bannock Tribes, it is imperative that the EIS address the special needs of the Tribes. While DOE staff has met with tribal staff on this matter, there has not been any official consultation between the Secretary of Energy and the Fort Hall Business Council to assure complete discussion and resolution of issues with regard to this matter. This should occur as soon as possible. The tribal lands and resources which are trust assets held by the United States may potentially be affected by the actions which are the subject matter of the EIS.

62-4 VII.E(2) In order to provide for proper consultation on this matter, it may be necessary for the Department of Energy to fund an additional position for the Tribes to work on this matter along with sufficient funds to allow the Tribes the ability to hire the expertise needed for them to properly participate in the EIS process and the follow up implementation. This is something that can be discussed further in a consultation or perhaps in discussions about the Agreement in Principle.

62-5 VII.E(1) It is our understanding that while DOE has made the State of Idaho a cooperating agency in this EIS, they have not done so for the Shoshone-Bannock Tribes. In light of that, the Department of Energy should assure that any other federal agencies with trust responsibilities to the Tribes, such as the U.S. Department of the Interior, Bureau of Indian Affairs and U.S. Department of Health and Welfare, Indian Health Services are also involved in the EIS process at the INEEL. It may be appropriate to establish a Memorandum of Understanding of some sort between the federal agencies to ensure that the land, resources and people of the Fort Hall Indian Reservation are protected in the EIS.

62-6 VII.A(5) As there is no preferred alternative set forth in the EIS, it is difficult to ascertain which alternatives DOE is seriously considering. The DOE could have assisted stakeholders, including the Tribes, considerably by describing in detail, those alternatives which yield the best chance for the final waste form to be accepted at the federal repositories. The DOE has a responsibility to indicate which alternative treatment method would meet the RCRA de-listing requirements at Yucca Mountain and WIPP. Similarly the DOE should have detailed in the final EIS documents the capacity limits at both the WIPP and Yucca Mountain sites, and which alternative(s) provide for greater assurance that the treated waste would receive highest priority for acceptance at these repositories.

62-7 III.F.2(2)

62-8 III.E(1)



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62-9 II.B(1) The Tribes are very concerned about several of the proposed alternatives because of their inherent adverse risks to Tribal populations and natural resources. The Tribes adamantly oppose the *No Action Alternative*, which stipulates the storage, for an indefinite period of time, of High-Level Waste at the INEEL.

62-10 II.C(1) For similar reasons, the Tribes oppose the *Continued Operations Alternative,* because of significant uncertainties associated with the operation of the calciner, and the inability under this option, to make HLW, road-ready for shipments by the year 2035.

62-11 III.F.2(2) There appears to be a significant risk in future use of the calciner, even after upgrading, that the calcine product would not meet the waste acceptance criteria at the High-Level Waste Repository. The EIS document reports that calcine products would not be acceptable at Yucca Mountain, for example, because they contain RCRA waste. Therefore, since RCRA-bearing waste would have to be further treated before it would meet the waste acceptance criteria, and because of the uncertainties of successfully permitting the calciner pursuant to RCRA and Air Quality requirements, the Tribes oppose all calciner-based alternatives in the EIS.

62-12 III.C(4)

62-13 V(9) The Tribes are very concerned about the apparent change in the definition of High-Level Waste, by DOE, associated with this draft EIS. In the description of the *Transuranic Separation Option*, the HLW is separated into TRU and LLW. This proposed change in classification is in contradiction to DOE's own definition of HLW. With the information available at this time, the Tribes oppose plans which would include permanent storage of Low-Level Class C waste at the INEEL.

The Shoshone-Bannock Tribes have more detailed comments attached in support of our position.

62-14 IX.C(4) The Tribes wish to thank the DOE for their presentations at Fort Hall regarding this important EIS, and appreciate the opportunity to submit these written comments.

Sincerely yours,

Claudeo Broncho

Claudeo Broncho, Vice Chairman
Fort Hall Indian Reservation

attachments

cc: Fort Hall Business Council (7)
Bill Richardson, Secretary of DOE
Bob Pence, DOE- Tribal Coordinator
Ann Dold, Manager, Idaho INEEL Oversight Office
Candy Jackson, Tribal Attorney
Robert Bobo, Tribal DOE Manager

**SHOSHONE-BANNOCK TRIBES AIR QUALITY DEPARTMENT's High Level Waste — EIS Comments**

62-15 II.B(1) • *No Action Alternative* - This alternative presents a higher level of risk to Snake River Plain Aquifer with storage of liquid waste. Also no treatment would occur to enable High-Level Waste (HLW) to be shipped out. The Tribes vehemently oppose the *No Action Alternative*, or any alternative which calls for indefinitely storing HLW at INEEL.

62-16 II.C(1) • Because of the inability to make HLW ready for shipment out of Idaho by 2035, and because of significant uncertainties associated with the operation of the calciner, including emissions violations, permitting issues, the Tribes oppose the *Continued Operations Alternative*.

62-17 III.D.2.b(6) • The *Hot Isostatic Pressed Waste Alternative*, in its treatment of Mixed waste, may yield a waste that cannot be accepted at the HLW repository - a demonstration to EPA would have to be done that ensures that it meets the standards of acceptance by EPA. This adds an additional uncertainty to this method. (See Summary pg.S-19), compared to vitrification treatment which has already been approved by EPA as a method to de-list RCRA wastes.(pg. 6-33). Note that Yucca Mountain does not plan on accepting RCRA waste, so all waste must be tested through treatability tests, on arrival at repository. Not only EPA, but the State has authority over waste acceptance, and States may have more stringent requirements, adding to the uncertainty of which treatment method has the best chance to meet the standard. It can be very difficult to get the waste sticker off. In terms of successfully getting the HLW out of Idaho, the most important question to DOE may be: Which alternative has the best chance to meet the de-listing or RCRA requirements?

62-18 III.F.2(2)

62-19 III.C (4) • *Oppose all Calciner-based Alternatives* - There appears to be a significant risk in future use of the calciner, even after upgrading, that the calcine product would not meet the waste acceptance criteria at the High-Level Waste Repository. The EIS document reports that calcine products would not be acceptable at Yucca Mountain, for example, because they contain RCRA waste. Therefore, since RCRA-bearing waste would have to be further treated before it would meet the waste acceptance criteria, and because of the uncertainties of successfully permitting the calciner pursuant to RCRA and Air Quality requirements, the Tribes oppose all calciner-based alternatives in the EIS.

62-20 III.F.3 (1) • The *Transuranic Separations Alternative* has advantages in that all the High-level waste goes away, is converted to either Transuranic waste which could go to WIPP, or Low-level waste for on-site or off-site landfill. (However, WIPP cannot receive all of DOE's inventory of TRU waste, so there is a risk that TRU waste generated by this treatment method will ultimately remain at INEEL.) How can DOE justify the disposal of HLW by reclassifying and managing it as LLW? Since the HLW fission compounds, including Cesium-137, and Strontium-90, cannot to our knowledge, be destroyed in the treatment process, the Tribes oppose the disposal of this highly radioactive material as Low-Level waste, especially in sub-surface burial over the Snake River Plain Aquifer.

62-21 V (9)





62-22 V(9) However, if DOE intends on storing at INEEL what would have been defined as High-Level Waste, but which is now defined as Low-Level - Class C (containing short-lived fission Cesium-137, and Strontium-90) the Shoshone-Bannock Tribes oppose the new classification. Through this classification process High-Level Waste may end up being permanently stored at INEEL. In general, the DOE fails to adequately describe the classification system, on-site and off-site storage plans, for the various sub-classifications of "Low-level waste". With the information available at this time, the Tribes oppose plans which would include the permanent storage of Low-Level Class C waste at the INEEL.

62-23 III.F.4(2)

62-24 III.D.3(1)

62-25 III.E(1) • The EIS documents do not adequately investigate the capacity problems at the WIPP facility, in relation to the EIS alternatives that yield TRU waste (such as the *Transuranic Separations Option*). The question needs to be answered: How much TRU waste generated by INEEL in the future, will be accepted at WIPP? The DOE should have more adequately described the specific alternatives that creates additional TRU waste, which is unlikely to be accepted at WIPP, either because of capacity problems or because the waste would not meet the waste acceptance criteria. The EIS documents fail to adequately describe which alternatives would best result in the successful removal of HLW to federal repositories. The EIS should have more adequately addressed the capacity issue at Yucca Mountain, and waste acceptance criteria of each of the alternatives. For example, unless there is a significant change in the way that DOE calculates the metric tonnage of High-Level Waste, Yucca Mtn. has a capacity to receive only half of DOE's inventory of HLW.

62-26 III.F.2 (1) + 62-27 III.D.2.c (4)

The Tribes reserve the right to change their position on any of these proposed alternatives upon receipt of new or more detailed information.

COMMENTS ON HIGH-LEVEL WASTE EIS
Shoshone-Bannock Tribes

62-28 VII.D(4) pg. S-5, box - What is the status of negotiations with the State regarding a plan and schedule for treatment for calcined waste?

62-29 VII.D(4) pg. S-7, bottom left column - It is unclear if the deadline of October 1, 2001, refers to the time when a public announcement must be made regarding DOE's intention to upgrade the calciner, or if the deadline is October 2, 2000.

62-30 VII.D(6) pg. S-7, top right column, 2nd para. - what "activities envisioned in the Idaho Settlement Agreement/Consent Order might need to be changed"?

62-31 IX.A(8) 62-32 VII.D(6) pg. S-10, separations alternative - The transuranic separations option "does not result in a HLW faction"(however, the chart in Figure S-18, pg. S-49, shows that there *is* a HLW faction in the transuranic separations option.) Regardless of what DOE calls it, all the waste currently stored in high-level waste tanks and calcine-bin sets should be processed and removed from the INEEL.

62-33 II.E(6) pg. S-10, minimum INEEL processing - *If* DOE transports calcine to Hanford for treatment, why go to the expense and health risks to workers and public to ship it back to INEEL?

62-34 III.F.2(1) pg. S-21, sect. 5.2 - Why would DOE handicap itself by calculating MTHM equivalency in HLW in such a way that the proposed repository could only accept 50% of HLW, whereas there are two other methods for calculating MTHM equivalency that would put DOE within the current allocation of DOE HLW for the repository" What possible advantage would the former calculation hold over the latter?

62-35 III.D.3(1) pg. S-29, light column - To calcine SBW, store it in the bin sets, then retrieve the calcine and process it seems, at the best, highly inefficient.

62-36 VIII.H(2) 62-37 VIII.H(2) pg. S-36, right column - Has the form in which the calcine would be packaged been determined? Any idea on the configuration of shipping containers? If this alternative was picked, would another environmental assessment or ELS be performed? 62-38 VII.A(2)

62-39 V(2) pg. S-49, left column - The second paragraph states that "Construction activities produce relatively little radioactive and hazardous waste", but goes on to say that the construction impacts for the Full Separations Option would produce over 2000 cubic meters of hazardous, low-level and mixed waste. That value does not seem like an insignificant amount. Second, why is radioactive waste counted as construction-related waste? How is radioactive waste generated during the construction process?

62-40 IV.A(1) pg. S-55, left column - 2400 recordable injuries and 290 lost workdays!? That seems excessively high. Please explain how these data were derived.



62-41 VIII.C(7) pg. S-55, left column, long-term impacts - In determining the maximum individual dose, where is the hypothetical well drilled in relation to the tank farm. What is the proximity of one to the other?

62-42 VIII.C(6) pg. S-56, right column - Please explain how the concentration of plutonium can go from a current value of 0.1 picocurie per liter to 36 picocuries per liter in the year 3585.

62-43 III.A(2) pg. S-57, left column - The design life of storage tanks is either "500 years" or "well in excess of 500 years". The former value is "assumed"- and the latter value is "estimated". So which is which? What is the basis for your assumptions and estimates? Please be more precise.

62-44 V(1) pg. S-58, right column - The inventory of existing waste stored at INEEL fails to include HLW.