



Confederated Tribes and Bands
of the Yakama Nation



February 26, 2021

Hon. Secretary Jennifer Granholm
U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC 20585

RE: Request to Rescind High-Level Radioactive Waste Interpretive Rule

Dear Secretary Granholm:

The State of Washington Department of Ecology, Washington Attorney General's Office, Confederated Tribes and Bands of the Yakama Nation, Natural Resources Defense Council, Hanford Challenge, and Columbia Riverkeeper offer our sincere congratulations on your recent confirmation. We look forward to working with you on the Department's cleanup of legacy nuclear waste at sites such as the Hanford Nuclear Reservation located near Tri-Cities, Washington. Washington houses 60 percent of the nation's High-Level Radioactive Waste with 56 million gallons stored in 177 underground storage tanks at Hanford.

We write today on a matter of extraordinary concern. During the previous administration, the Department adopted a High-Level Radioactive Waste interpretive rule, published in the Federal Register on June 10, 2019. 84 Fed. Reg. 26,835 (June 10, 2019). We believe this rule lays the groundwork for the Department to abandon significant amounts of radioactive waste in Washington State precipitously close to the Columbia River, which is the lifeblood of the Pacific Northwest, creating a long-term risk of harm to the residents of the Pacific Northwest and the natural resources critical to the region.

We ask that you immediately rescind the High-Level Radioactive Waste interpretive rule. And, because the Department incorporated the interpretive rule into DOE Order 435.1-1, *Radioactive Waste Management*, and DOE Manual 435.1-1, *Radioactive Waste Management Manual*, on

January 19, 2021, we urge Energy similarly to rescind those changes. 86 Fed. Reg. 5173 (Jan. 19, 2021).¹

In addition to helping prevent the harms noted above, such a rescission also aligns with the policy objectives of the new administration. On January 20, 2021, President Biden issued an Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. As you know, that Executive Order requires the heads of all agencies immediately to review agency actions over the last four years that “are or may be inconsistent with, or present obstacles to, the polic[ies] set forth” in the Order. For any such actions, the Executive Order directs the agency head to “consider suspending, revising, or rescinding the agency actions.”

The Department’s new interpretation of the definition of High-Level Radioactive Waste contained in the Nuclear Waste Policy Act of 1982, 42 U.S.C. § 10101, et seq., and its subsequent changes to DOE Order 435.1-1 and DOE Manual 435.1-1, are agency actions that conflict with the policies of the Biden Administration, as set forth in the Executive Order. Specific examples include “to listen to the science; to improve public health and protect our environment; to ensure access to clear air and water; to limit exposure to dangerous chemicals . . . ; [and] to hold polluters accountable, including those who disproportionately harm communities of color and low-income communities.”

The State of Washington Department of Ecology, Washington Attorney General’s Office, the Confederated Tribes and Bands of the Yakama Nation, Natural Resources Defense Council, Hanford Challenge, and Columbia Riverkeeper believe that the Department’s new interpretation of the term High-Level Radioactive Waste ignores the science and policy that underpins the Nuclear Waste Policy Act. The new interpretation gives the Department unilateral authority to redefine High-Level Radioactive Waste as something else, with no opportunity for input, oversight, or consent by state regulators or the public. It eliminates the important safeguards established by Congress through the Nuclear Waste Policy Act in a way that will be harmful to human health and the environment. And it fails to hold the Department and the federal government accountable for adequately cleaning up the legacy waste that is left over from the establishment of the United States’ nuclear arsenal.

Each of the signatories to this letter, and the organizations and individuals they represent, have a strong interest in ensuring the safe and effective cleanup of the Hanford Site. While we represent a wide range of perspectives, we all agree that the Department must prioritize rescinding the High-Level Radioactive Waste interpretative rule and associated changes to DOE Order 435.1-1 and DOE Manual 435.1-1. Hanford, and the adjacent Columbia River, are too important not to.

¹ We note that limiting our request to rescinding the Department’s High-Level Radioactive Waste interpretive rule and associated changes to DOE Order 435.1-1 and DOE Manual 435.1-1 is not an endorsement of DOE Order 435.1-1, DOE Manual 435.1-1, existing waste incidental to reprocessing evaluations, or any other existing Department policy or plan. Indeed, in the interest of achieving greater certainty with respect to the processes and standards that will apply to closing Hanford’s tank farms, as well as reducing the potential for future litigation, we encourage further conversation with respect to the substance of those policies.

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We would be happy to meet with you to discuss our urgent request to rescind the High-Level Radioactive Waste interpretive rule. Thank you for your consideration and we look forward to your response.

Sincerely,



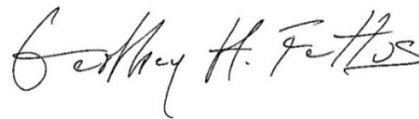
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