



Sent via U.S. mail and e-mail

March 10, 2022

Hon. Secretary Jennifer Granholm  
U.S. Department of Energy  
1000 Independence Avenue SW  
Washington, DC 20585  
E-mail: [The.Secretary@hq.doe.gov](mailto:The.Secretary@hq.doe.gov)

**RE: Request for Meeting on High-Level Radioactive Waste Interpretive Rule**

Dear Secretary Granholm:

The Natural Resources Defense Council, Hanford Challenge, and Columbia Riverkeeper write to request a meeting specifically with you and your staff in the very near future regarding the Department of Energy's (DOE) recent affirming of the Trump era High-Level Radioactive Waste interpretive rule (HLW Interpretive Rule), originally published in the Federal Register on June 10, 2019, 84 Fed. Reg. 26,835, and affirmed by the Biden Administration on December 21, 2021. 86 Fed. Reg. 72,220.

We originally wrote to you on this matter on February 26, 2021. There, we stated that "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." See February 26, 2021 letter, attached). After expressing our understanding and concerns, we were specific that "[w]e would be happy to meet with you to discuss our urgent request to rescind the High-Level Radioactive Waste interpretive rule."

Approximately three months later, some of the undersigned received a letter from Mr. Brian Vance, Manager of the Office of River Protection at the Hanford Nuclear Reservation. Mr. Vance stated that "[t]he Secretary is committed to implementing the Department's environmental cleanup programs in a manner that is consistent with the law and that makes evidence-based decisions guided by the best available science and data. The Department will review the HLW interpretation, in light of this commitment. This review will carefully consider your views, as well as those of other stakeholders and the scientific community." (See May 20, 2021 letter, attached).

Mr. Vance made no mention nor offer of meeting with the affected states, the sovereign tribal nation, or the national or regional environmental groups. The next we heard from the Department was its affirming the Trump-era rule, ostensibly supported in the Notice by either groundless or elliptical assertions that sidestep the chief matter— that the HLW Interpretive Rule gives the Department unilateral authority to redefine High-Level Radioactive Waste as something else, with no meaningful opportunity for input, oversight, or consent by state regulators or the public.

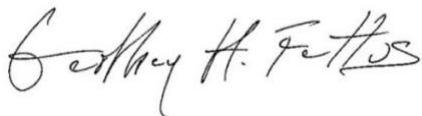
Rather than escalate matters in a flurry of letters between counsel, technical, and congressional staff, we again invite you to join us on the path we first offered over a year ago. Please, you yourself meet with us, with the affected states, and the sovereign tribal nation, and listen to the concerns of these groups that have long worked on these matters with only one concern in mind—that is, comprehensively cleaning up the extraordinarily dangerous and legacy waste that remains from the establishment of the United States' nuclear arsenal and once and for all protecting the Columbia River and the home lands of the Yakama Nation.

Thank you for your consideration and we look forward to your response.

Sincerely,



Tom Carpenter, Executive Director  
Hanford Challenge  
P.O. Box 28989  
Seattle, WA 98112  
(206) 292-2850  
[tomc@hanfordchallenge.org](mailto:tomc@hanfordchallenge.org)



Geoffrey H. Fettus, Senior Attorney  
Natural Resources Defense Council  
1152 15<sup>th</sup> St. NW, Suite 300  
Washington D.C., 20005  
(202) 271-4037  
[gfettus@nrdc.org](mailto:gfettus@nrdc.org)



Simone Anter, Staff Attorney  
Columbia Riverkeeper  
407 Portway Avenue, Suite 301  
Hood River, OR 97031  
[simone@columbiariverkeeper.org](mailto:simone@columbiariverkeeper.org)



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).<sup>1</sup>

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.

---

<sup>1</sup> 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.

Hon. Secretary Jennifer Granholm

February 26, 2021

Page 3

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,



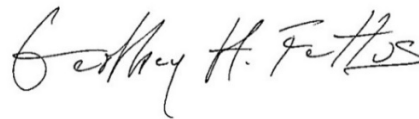
Laura Watson, Director  
Washington State Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503



Bob Ferguson, Washington State Attorney General  
Washington State Office of the Attorney General  
1125 Washington Street SE  
Olympia, WA 98504



Phil Rigdon, Superintendent  
Yakima Nation Dept. of Natural Resources  
401 Fort Road  
P.O. Box 151  
Toppenish, WA 98908  
(509) 865-5121 Ext. 4655  
[Phil\\_rigdon@yakima.com](mailto:Phil_rigdon@yakima.com)



Geoffrey H. Fettus, Senior Attorney  
Natural Resources Defense Council  
1152 15<sup>th</sup> St. NW, Suite 300  
Washington D.C., 20005  
(202) 271-4037  
[gfettus@nrdc.org](mailto:gfettus@nrdc.org)



Tom Carpenter, Executive Director  
Hanford Challenge  
2719 E. Madison Street, Suite 304  
Seattle, WA 98118  
(206) 419-5829  
[tomc@hanfordchallenge.org](mailto:tomc@hanfordchallenge.org)



Simone Anter, Staff Attorney  
Columbia Riverkeeper  
407 Portway Avenue, Suite 301  
Hood River, OR 97031  
[simone@columbiariverkeeper.org](mailto:simone@columbiariverkeeper.org)

By email and first-class mail



## U.S. Department of Energy Hanford Site

May 20, 2021

Mr. Tom Carpenter  
Executive Director  
Hanford Challenge  
2719 E. Madison Street, Suite 304  
Seattle, Washington 98118

Dear Mr. Carpenter:

Thank you for your February 26, 2021, letter to Secretary Granholm regarding the Department of Energy's high-level radioactive waste (HLW) interpretation. I know we share a strong commitment for the safe, effective, and cost-efficient cleanup of the Hanford Site.

The Secretary is committed to implementing the Department's environmental cleanup programs in a manner that is consistent with the law and that makes evidence-based decisions guided by the best available science and data. The Department will review the HLW interpretation, in light of this commitment. This review will carefully consider your views, as well as those of other stakeholders and the scientific community.

The Department reaffirms its long-standing practice to consult with state and local government officials, Tribal Nations, regulators, and other stakeholders on matters relating to its environmental cleanup programs. In addition, the Department recognizes that the National Defense Authorization Act for fiscal year 2021 prohibits it from implementing the HLW interpretation in the state of Washington during this fiscal year. Therefore, the Department has no plans to implement the HLW interpretation at Hanford at this time.

The Department looks forward to continued engagement with you on this important topic. If you have any questions, please contact me, or you may contact Mr. Robert Cowin, Deputy Assistant Secretary for Public Engagement, Office of Congressional and Intergovernmental Affairs, on (202) 586-5450.

Sincerely,

Brian T. Vance  
Manager