

Biden Push of Trump Nuke Waste Plan Irks Tribe, Washington State

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Deep Dive
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- Agency wants to expedite \$640 billion Hanford cleanup
- Yakama tribal official says move is ‘slap in the face’

The Biden administration’s backing of a Trump-era move to expedite cleanup of the country’s biggest nuclear waste site has run into staunch opposition from Washington state and tribal officials.

The Energy Department and its supporters, which include some communities near the sites, say changes in cleanup strategy are needed to make progress amid decades of political gridlock and mounting costs surrounding waste sites.

Opponents fear the agency is looking for a legal avenue to eventually seal some radioactive waste tanks at the Hanford Site near Richland, Wash.—the ancestral land of the Confederated Tribes and Bands of the Yakama Nation.

The Energy Department and others are trying to find a resolution—but threats of litigation already are being made.

The department’s recent interpretation of a 40-year-old waste disposal law is a “slap in the face,” Tom Zeilman, counsel for the Yakama, said in an interview. “We expected the Biden administration to take a different tack.”

About 56 million gallons of liquid waste fill 177 underground storage tanks at Hanford, where reactors produced plutonium during the Cold War. At 586 square miles, Hanford is about half the size of Rhode Island.

The U.S. could spend between \$300 billion and \$640 billion over the next 57 years at Hanford, according to recent estimates. The department is currently spending \$2.7 billion annually for the operation, which employs about 8,000 workers.

High-Level Debate

The debate is centered on the agency’s interpretation of the Nuclear Waste Policy Act of 1982 that established the disposal program for radioactive waste and spent nuclear fuel.

The law required “high-level radioactive waste” to be vitrified—a process that stabilizes and crystallizes waste into a solid glass product—and placed in a deep geologic repository. Efforts to establish such a repository at Nevada’s Yucca Mountain have stalled for years.

In 2019, the Energy Department, under the Trump administration, announced it would remove the “high-level” designation from automatically applying to all waste stored at Hanford. The agency’s interpretation classified waste based on its radiological qualities instead of its source—like defense weapons production—with the agency arguing some of the waste could be safely sealed in place or transported to other disposal sites.

In December, the Biden administration [affirmed](#) that interpretation “after extensive policy and legal assessment,” finding the action was “consistent with the law, informed by the best available science and data, and was guided by the views of members of the public and the scientific community,” an Energy Department spokesperson said in a statement.

Local Reaction

The agency’s supporters include local officials from the metro region surrounding the site that argue a good-faith discussion is necessary to spur remediation.

“If we just maintain the status quo, and we insist on the plan as it currently exists, we just don’t think we’ll be on the path to success,” said David Reeploeg, vice president for federal programs for the Tri-City Development Council and executive director of Hanford Communities, a organization of local government officials near the site.

“We are very optimistic about the potential” of the Energy Department’s cleanup approach, Reeploeg said.

Environmentalists disagree.

Without a blanket designation on all the waste, “there are other places you could put it faster, sooner, safer, and you’re reducing risks,” said Kara Colton, director of nuclear policy at the Energy Communities Alliance, a Washington, D.C. group advocating for residents living closest to waste sites.

The Energy Department could potentially save as much as \$26 billion and reduce some risks if it grouted waste—immobilizing it in a concrete-like mixture—instead of vitrifying it, the Government Accountability Office [estimated](#) in December 2021.

But the agency faces legal trouble should it pursue that avenue without Congress first clarifying the waste disposal law, the accountability office warned.

Sparking Lawsuits

Legal battles over Hanford waste classification have been brewing for two decades.

The Hanford site was built in the 1940s on the Columbia River Plateau, a region historically populated with Yakama and other tribes that depended on the river and its tributaries for food and spiritual guidance. Today's Yakama reservation is about an hour's drive west of the site.

In 2002, the Yakama and the Natural Resources Defense Council sued the Energy Department after the agency moved to designate some high-level waste as "incidental" to the weapons production process. A district court sided with the petitioners, but the Ninth Circuit reversed it, deciding the designation must be applied to Hanford before a court could consider it.

Congress in 2004 authorized the waste reclassification at sites in South Carolina and Idaho, but Washington lawmakers refused to allow it.

Opponents, including Democrats in Washington state, viewed the Energy Department's high-level waste interpretation as a way to take aim at Hanford—removing waste while having the option to seal other hard-to-remove tanks in the ground.

The department's interpretation could amount to "putting grout on the most dangerous waste in the country and walking away," the Washington State Department of Ecology said in comments on the 2019 change.

"We continue to maintain the position that DOE does not have the authority to reinterpret the meaning of high level waste, much less to reclassify waste on its own," Mike Faulk, press secretary for Gov. Jay Inslee (D), told Bloomberg Law.

Negotiations are ongoing between the Energy Department, state officials, and local communities—with the department pledging to hold off on applying the waste designation.

"What has been made clear to them, that if they do that, if they attempt to apply that rule, then they will be met with legal challenges," said Tom Carpenter, executive director of Hanford Challenge, a nonprofit that opposes grouting the waste in place.

Seeking Assurances

In 2020, lawmakers blocked the Energy Department from using defense funding to reclassify Hanford waste. But that language was taken out of the annual defense appropriations bill in December after securing promises the department wouldn't do so, a spokesperson for Sen. Patty Murray (D-Wash.) said.

"DOE gave our office assurances they would not reclassify waste, would not do so without the state, and would work to repair their relationship" with the state ecology department, the Murray spokesperson said.

The department has pledged to work with state and tribal officials. Energy Secretary Jennifer Granholm was scheduled to visit Hanford and meet with Yakama officials last month, but postponed the trip to deal with Russia's invasion of Ukraine.

“We do not feel that the government at this point is really looking at the long-term consequences of giving the DOE this unlimited discretion to leave waste on Yakama homeland,” Weilman, the Yakama counsel, said.

“They are looking to dispose of waste in place for potentially millions of years,” he said.