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Lu Taylor-Jacobson
Assistant Secretary/Treasurer

August 7, 1998

Corrine Macaluso
US Department of Energy
c/o Lois Smith
TRW Environmental Safety Systems, Inc.
600 Maryland Avenue, SW, Suite 695
Washington, DC 20024

Attn: Section 180(c) Comments

Dear Ms. Macaluso:

In response to the Federal Register notice of April 30, 1998, the Prairie Island Indian Community submits the following comments on the Department of Energy's revised proposed plan to implement Section 180 (c) of the Nuclear Waste Policy Act.

The Prairie Island Indian Community is a federally recognized Indian tribe organized under 25 U.S.C. Section 476 and is governed under the terms of the Constitution and By-Laws adopted by tribal members on May 23, 1936 and approved by the Secretary of the Interior on June 20, 1936. Its members are Mdewakanton and Wahpekute descent of the Dakota Sioux. There are approximately 500 enrolled tribal members; one hundred and sixty (160) members live on the reservation. The Prairie Island Indian Community is located on Prairie Island, which is formed at the confluence of the Vermillion and Mississippi rivers in southeastern Minnesota, approximately 40 miles southeast of Minneapolis.

Our community's interest in nuclear waste issues, including transportation and storage, arises from the establishment of a nuclear power generating plant next to our reservation (the power plant has been operational since 1973). To date, we know of no one in the United States who lives so close to a nuclear facility. Currently, our neighbor, Northern States Power, has begun to store spent nuclear fuel in dry casks on a concrete pad just three blocks from our homes, our church, our community center, and our business. We have been monitoring the Department of Energy's (DOE) efforts to develop a national solution for nuclear waste storage and Congress's recent efforts to identify an interim storage facility.

The United States government has a Trust relationship with the Prairie Island Indian Community, and all tribes, and a responsibility to protect the environment, human health, natural and cultural resources, and property interests in Indian Country. Protecting our people from harmful impacts demands that the federal government safely remove nuclear waste from Prairie Island. As nuclear



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waste from Northern States Power will be transported through and adjacent to our reservation to a federal storage facility, the DOE, in implementing Section 180 (c), has an obligation to ensure that we are adequately prepared for any type of radiological emergency related to such shipments. We had no part in the generation and storage of this highly radioactive waste and fully expect that it be safely moved through our territory without incident.

As noted in the Federal Register, "state and tribal governments have a primary responsibility to respond to and protect the public health and safety in their jurisdiction." The DOE has a Trust responsibility to tribes and an obligation to ensure that the tribes are ready to respond to the shipments. It should be noted that there is a wide disparity in emergency preparedness between states and tribes. While there may be a few tribes that have full emergency preparedness capabilities and will have no difficulty in adding a radiological component to their programs, most tribes have not achieved this level. Our own experience in developing an emergency preparedness program has taught us that it takes many years, adequate funding, and competent and dedicated staff. Tribes simply have not had the resources to develop technical capabilities and infrastructure necessary to respond to a radiological accident.

The Federal Register notice stated that it is OCRWM's position that Section 180(c) program should only provide the increment of assistance needed to respond to an OCRWM shipment and should not provide basic emergency response capabilities. The notice further states that states, tribes, and local governments are aided by other Federal agencies in "attaining more comprehensive emergency response and safe routine transportation capabilities." The Prairie Island Indian Community has sought funding from the US Environmental Protection Agency (EPA), the Federal Emergency Management Agency (FEMA), and the US Department of Transportation (DOT) to develop a comprehensive, emergency preparedness program for the reservation to no avail. As an example, FEMA Region 5 had a total of \$5,000 available this year for all 34 tribes in the region. Both the DOT and the EPA have some funds, but not enough for a sustained preparedness program. The DOE must be aware that there is very little funding available to tribes for the development of basic emergency response programs. States, however, have enjoyed years of Federal funding and already have full-scale "all-hazards" emergency response programs in place; it will take only a minimal level of technical and financial assistance to enable them to prepare for these shipments.

While we support the funding program that was outlined in the Federal Register, individual tribes and states must determine for themselves the level of preparedness, equipment, training, and infrastructure they desire in order to respond to the shipments. By increasing technical capabilities and level of preparedness, tribes will be more confident that the shipments are safe and that they can adequately respond in the event of an accident.

The Federal Register notice stated that the DOE is only authorized to implement the Section 180 (c) program for shipments to a repository or MRS constructed under the NWPA. As well, the notice also stated that several commenters "urged that Section 180(c) assistance apply to all spent nuclear fuel or defense high-level radioactive shipments ultimately destined for an NWPA facility, whether or not those shipments are transported to and stored on an interim basis at a private facility."


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It should be noted that it is only because of the unavailability of a federal repository or MRS, that the utilities are finding it necessary to develop a private storage facility. As the DOE may be aware, Private Fuel Storage Inc., a consortium of seven utilities, including our neighbor, Northern States Power, has submitted a license application to the Nuclear Regulatory Commission (NRC) for a nuclear waste storage facility on the Skull Valley Goshute Indian Reservation in Skull Valley, Utah. If licensed, this facility could store up to 40,000 tons of spent nuclear fuel. The spent fuel destined for this facility will pass through and adjacent to our reservation. Our land, people, and resources will be impacted by these shipments, yet no one appears to be responsible for ensuring that we are involved and prepared. The Prairie Island Indian Community demands to know who is responsible for ensuring that we are prepared for these shipments and that there are no accidents associated with these shipments.


Again, thank you for the opportunity to provide comments on this most important policy. We are hopeful that our comments will assist the DOE in developing an equitable policy for providing Indian tribes with technical and financial assistance to develop adequate emergency response plans in advance of spent fuel and nuclear waste shipments.

If you have any questions regarding our comments, please feel free to contact Heather Westra, Environmental Coordinator, at (800) 554-5473.


Respectfully,



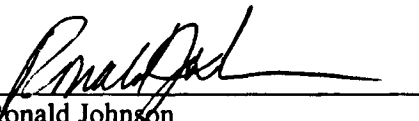
Audrey Kohnen
Tribal Council President



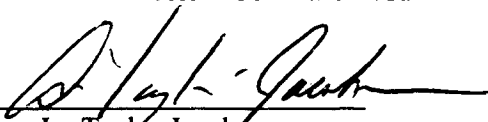
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