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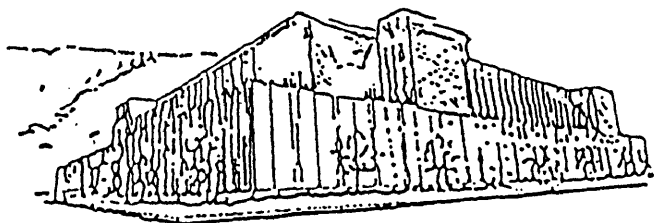
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LAND USE PLANNING AND NATIVE AMERICAN INTERESTS  
AT THE HANFORD NUCLEAR SITE

by

Richard Hilton Densley

B.A., The University of Washington, 1992

presented in partial fulfillment of the requirements

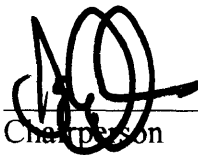
for the degree of

Master of Science

The University of Montana


1996

Approved by:



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Chairperson



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Dean, Graduate School

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## **ACKNOWLEDGMENTS**

This paper is dedicated to Virginia Wyena of the Wanapum Indian Band, to the memory of Click Relander, to the committee members who are conspicuous among their peers for choosing to donate their considerable talents to the values that endure most, to the host of bureaucrats and officials who tolerated my curiosity, to the warriors from the mists of time who left this arena as their legacy, but most of all, to my mom.

## TABLE OF CONTENTS

ACKNOWLEDGMENTS .....	i
LIST OF TABLES AND CHARTS.....	iv
LIST OF MAPS .....	v
LIST OF ILLUSTRATIONS .....	vi

CHAPTER	PAGE
1 INTRODUCTION .....	1
Goals of the study .....	6
PART ONE OVERVIEW	
2 THE PROBLEM .....	9
3 METHODOLOGY, RESEARCH PARADIGMS, AND THE ANALYTIC FRAMEWORKS GOVERNING BASIC ASSUMPTIONS .....	12
4 LITERATURE REVIEW.....	15
5 MATERIALS USED AND GROUPS STUDIED .....	18
6 HISTORY .....	20
General .....	20

	Native American .....	21
	White Settlement .....	23
	Nuclear Site .....	23
7	MAJOR PARTICIPANTS .....	29

PART TWO  
THE DATA

Chapter		Page
8	DOE Land Use Plans, Goals and Constraints .....	36
9	Yakama Land Use Plans, Goals and Constraints .....	65
10	Considerations of Other Tribes .....	74
11	Conflict and Resolution --- Politics .....	90
	Bibliography .....	94
	Appendix .....	97



## **LIST OF CHARTS AND TABLES**

<b>CHART</b>	<b>PAGE</b>
<b>Federal Laws of Importance to Land Use Planning at Hanford</b>	<b>54</b>
<b>Hanford Advisory Board Membership 1996</b>	<b>57</b>
<b>Comparison of U.S. Department of Energy Planning Efforts for Future Land Uses at the Hanford Site</b>	<b>88</b>
<b>Relationship Between the Hanford Future Site Uses Working Group Land-Use Options, Cleanup Scenarios, and Environmental Impact Statement Future Land-Use Alternatives</b>	<b>89</b>

## **LIST OF MAPS**

<b>MAP</b>	<b>PAGE</b>
Hanford Site Location in United States	7
Perspective Map of Hanford Area	8
Ceded Tribal Lands and Reservations	27
Yakama Ceded Area of Washington	28
Geographical Study Areas	56
Hanford Site Land Ownership	57
Hanford Site Existing Land Use Map - 1996	58
Hanford Site Proposed Comprehensive Land Use Plan Map - 1997	59
Distribution of Hazardous Chemicals in Groundwater Within the Hanford Site	60
Distribution of Radionuclides in Groundwater Within the Hanford Site	61
Hanford Site Waste Sites and Potential or Actual Vadose Zone Contamination	62
Waste Site Minor, Moderate, and Major Constraints Map	63
Cultural Minor, Moderate and Major Constraints Map	64
Land Claims by Tribe	70
Hanford Site Historic Areas	71
Hanford Site Projected Land Use Map - 2046	86
Potential Economic Development Map	87

## **LIST OF ILLUSTRATIONS**

<b>ILLUSTRATION</b>	<b>PAGE</b>
<b>Photo of Original Reactor as seen from Gable Mountain Indian Sacred Site</b>	<b>72</b>
<b>Photo of Col. Franklin Matthias and Wanapum leaders at agreement to ban tribal members from visiting traditional sites during the war effort at Hanford</b>	<b>73</b>
<b>B Reactor, 1945</b>	<b>93</b>

## CHAPTER 1

### INTRODUCTION

The geography of the Hanford Nuclear Site consists of 560 square miles of scabland in the south-central portion of the State of Washington. Fifty-one miles of the Columbia River, known as the Hanford Reach, runs through it. It is the last free-flowing section of the river between the Canadian boarder and the Pacific Ocean. During WW II much of the outer perimeter of the site was a security buffer. The buffer area has become a focus of interest and heated discussion among a variety of stakeholders ever since the rumor began that the federal government may declare portions of the site excess. Much of the value of the buffer area is a result of its restricted use since the site was activated in 1943. Portions of the buffer areas are unique for their near-pristine condition and as places for native vegetation, wildlife, and scenery. These same areas are in demand as fertile irrigable farm land, industrial and residential development sites, and recreation areas. Local governments look to them as potential sources of revenue, environmentalists see them as worth preserving in their existing condition, tribal groups yearn to see them again made accessible for traditional Indian uses. Developers see them as money-making opportunities. Federal caretakers are charged with working with all these interests in making many land-use decisions. There are conflicting interests, in the government's view, in the releasing of any of the property for any non-federal uses not already in place. There is a great deal of jockeying for position in a game that has not been made official.

The Hanford Nuclear Site was established in 1943 as part of the Manhattan Project. The Manhattan Project was the code name for America's super-secret effort to develop an atomic bomb to be used as a weapon of war. (Some critics have suggested racism was a factor in deciding to drop the bombs on Japan. Others feel the decision was influenced by the fear that Germany was so close to developing its own bomb, that if ours was a dud, they had the technology to use it against us. In any event, the bomb wasn't used until three months after Germany surrendered.) The Hanford project was first named Manhattan Engineering Department (MED), and the mission was to produce the material needed for atomic bombs. The weapons-grade plutonium needed for the Los Alamos test and the bomb dropped on Nagasaki was produced at Hanford. Hanford continued to produce plutonium and other radioactive materials until the end of the Cold War. Additional research and development missions involving hazardous material continue to this day. Hanford has become a major repository for hazardous nuclear waste. Electric power is also produced commercially from a nuclear reactor owned and operated by the Washington Public Power Supply System. However, the federal government and the Department of Energy (DOE) have also taken very seriously the mission of cultural and natural-resource management of assets located within the site boundaries.

The changing site's names and missions listed below were taken from **Legend and Legacy: Fifty Years of Defense Production at the Hanford Site**, prepared for the USDOE Office of Environmental Restoration and Waste Management (Revision 2).

“The original name given by the War Department in early 1943 was the Gable Project. It soon became the Hanford Project, and then the Army Corps of Engineers and prime contractor E. I. duPont de Nemours & Co. officially named it Hanford Engineer Works (HEW). HEW was renamed the Hanford Works (HW) when the Atomic Energy Commission (AEC) assumed control of the Site on January 1, 1947. Prime Contractor General Electric Co. (GE) termed the Site the Hanford Atomic Products Operation (HAPO) as an internal corporate division in 1953, but the overall name Hanford Works stayed until the coming of the Energy Research and Development Administration (ERDA) in 1975. For two years beginning at that time, the Site was known as the Hanford Reservation. Since 1977, under the DOE, it has been officially named the Hanford Site.”

The Hanford Site was originally administered by the United States Army. General Leslie Groves was the commander of the Manhattan Project. He appointed Colonel Franklin T. Matthias to run the Hanford Site. Col. Matthias selected the South-Central Washington as the best site from a number of possible locations.

Research shows that despite carefully orchestrated public relations efforts suggesting the opposite, there are many secrets still kept about the past and present nuclear events related to Hanford. In time, history may well rank the significance of its war-time achievements beside the construction of the Panama Canal and landing a man on the moon. For example, within a few months after the selection of the Hanford Site, more than 56,000 men were employed building a massive nuclear reactor to refine the plutonium needed for a bomb that had never before been built. The only previous

successful nuclear reaction was a miniature affair mid-wifed by a select group of scientists at a laboratory built under the bleachers at The University of Chicago. Using this as a model, the scientists directing the work at Hanford knew that, given their deadline and the massiveness of the construction, it had to be done right the first time. There would be no opportunity to correct any mistake.

At the end of World War II, the federal Atomic Energy Commission (AEC) assumed administration of the site. With the change of federal policy and priorities, the AEC was abolished and the Department of Energy (DOE) took its place in 1977. DOE has been the hand on the helm at Hanford ever since. It has also become common practice for the federal government to hire civilian contractors for specialized short- and long-term programs and projects. General Electric was the first contractor hired at Hanford. That corporation is no longer at the site, and has been replaced by Westinghouse and other high-profile names, including the Batelle and Bechtel corporations. It should be noted that DOE, Richland Operations Office (RL), has its own missions at Hanford besides coordinating the activities of contractors, and the missions of those contractors are not necessarily the responsibility or business of the Department of Energy. For example, Batelle has historically been engaged by the Department of Defense to develop chemical, biological, and radiological weapons.

Also, in the middle of the site, the State of Washington owns and operates a nuclear reactor through the administration of the Washington Public Power Supply System. This reactor supplies electrical power for regional consumption.

The many missions at Hanford keep it a busy place. The threats posed by the hazardous materials used in the operations there have caused both local and national concern. An organization of governmental agencies has been formed to oversee and advise the administrators of the Hanford Site as to their collective concerns. This organization is called the Tri-Party Agreement. It is composed of the U.S. Environmental Protection Agency, the Washington Department of Ecology, and the U.S. Department of Energy.

Not all the interests of everyone concerned with the existence of the site and the hazardous business conducted there are completely addressed by the Tri-Party Agreement. A number of organizations seek to give voice to their special interests relating to the site in a variety of ways. They support their claims to influence by being stakeholders, and they utilize several avenues of lobbying. The cumulative effect of the lobbying by the stakeholders has, after half a century, prompted the Department of Energy to create a public document addressing the concerns of stakeholders. This document, to be released in the summer of 1996, is the Comprehensive Land Use Plan for the Hanford Site, and Appendix M, of the *Hanford Remedial Action Environmental Impact Statement (HRA-EIS)*. It will address future land uses for the Hanford Site and evaluate the potential environmental impacts associated with the on-going cleanup of the site.

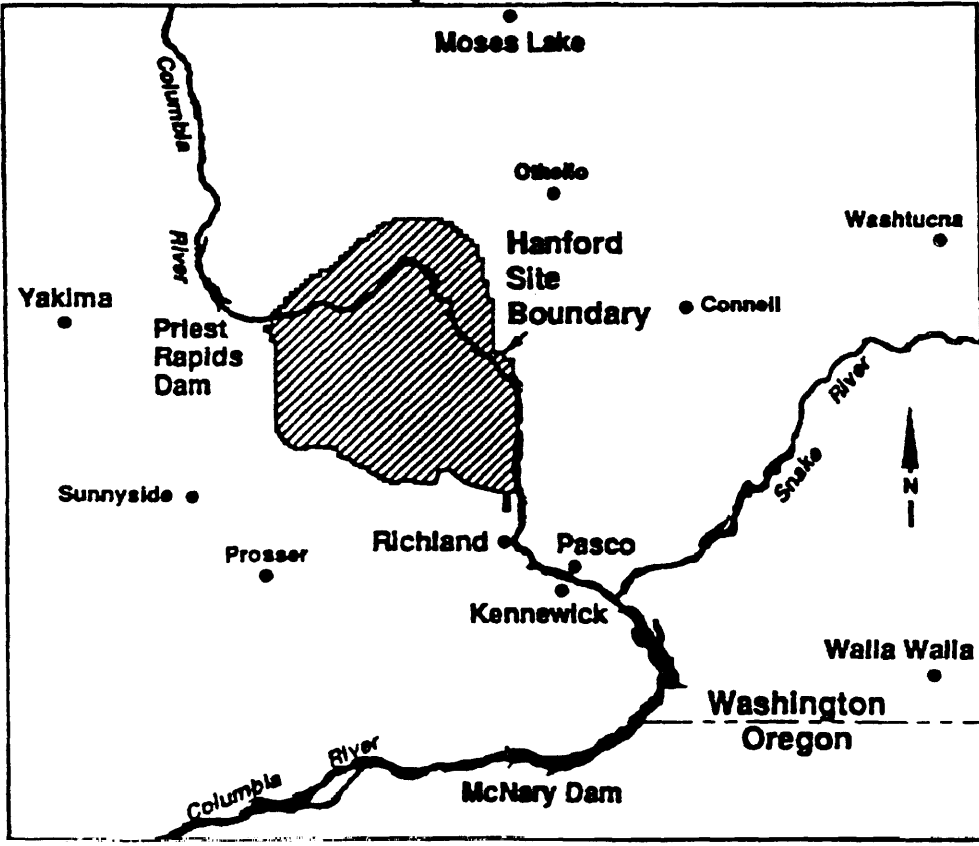
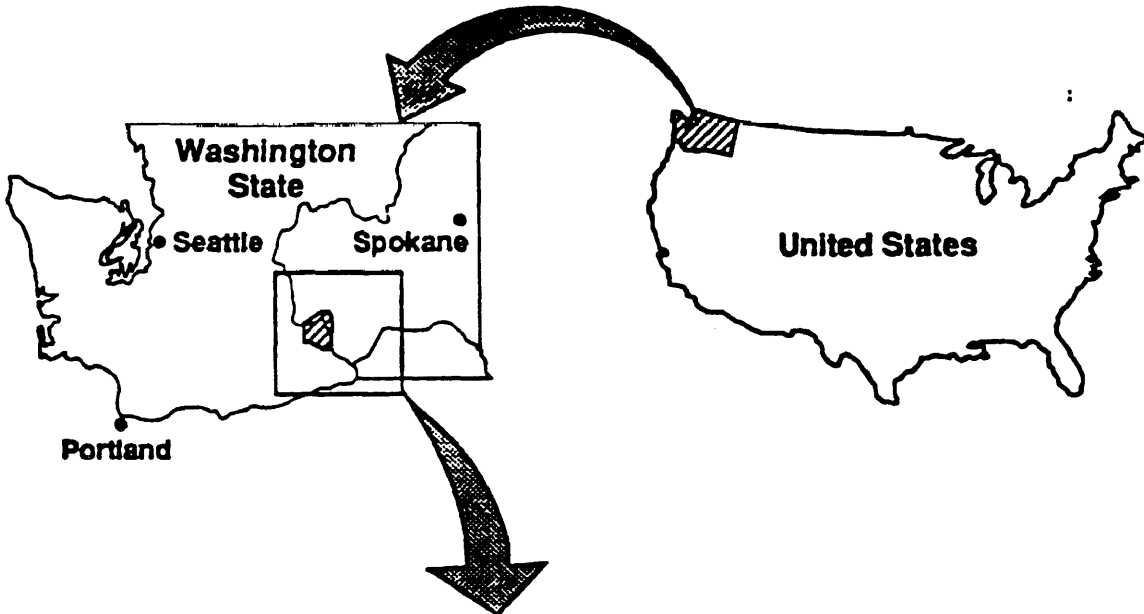
The strict security precautions of the war years have been relaxed, somewhat, in the peripheral areas of the site. Visitors are occasionally allowed on officially conducted tours and there is nearly unrestricted civilian boating on the river as it flows through the

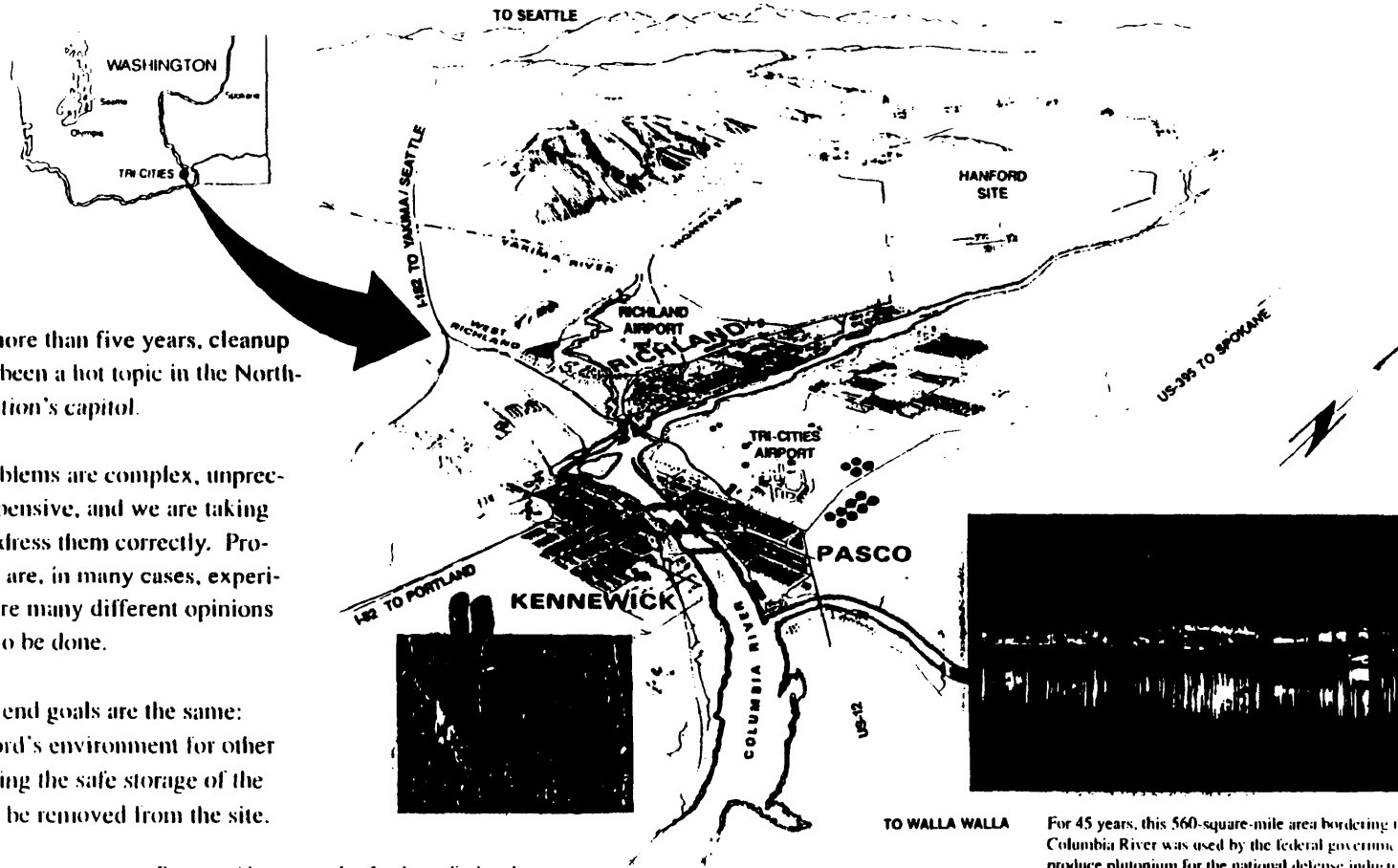


reservation. Actual trespassing on the grounds is still severely controlled. Besides the government's secrets, the radiation hazards lurking in the nine shut-down reactors remain genuine threats to human health. Also, some of the most toxic waste is stored in leaky, water cooled-concrete containers just 1,000 feet from the river. It is no place for recreation and exploration.

## GOALS OF THE STUDY

We have seen a summary of the physical geography and history of the study area. We have been introduced to some of the special interest groups and main players involved with the area. A spectrum of land-use considerations has been presented. By studying these factors in greater detail, with special attention to the unpredictable influence of political policy, we will see the unfolding of events that effect the relationship between the Hanford Site and the Yakama Nation and other special interest groups. Special attention will be given to the specific land-use proposals and recommendations offered by the Yakama Nation and the DOE administrators of the Hanford Site. Proposals and considerations of other parties will also be examined.





**F**or more than five years, cleanup at Hanford has been a hot topic in the Northwest and the nation's capitol.

The problems are complex, unprecedented and expensive, and we are taking great care to address them correctly. Proposed solutions are, in many cases, experimental. There are many different opinions on what needs to be done.

But our end goals are the same: restoring Hanford's environment for other uses, and ensuring the safe storage of the waste that can't be removed from the site.

**Major Accomplishments**

*Ferrocyanide waste tank safety issue disclosed*



1989

1990

*Cleanup officially begins with the signing of the Tri-Party Agreement*

*Hanford's last operating production reactor, known as N Reactor, placed in standby*

*Tank 101-SY safety issue identified*

*Decision to place the plutonium producing PUREX plant in standby*



TO WALLA WALLA

For 45 years, this 560-square-mile area bordering the Columbia River was used by the federal government to produce plutonium for the national defense industry.

## PART ONE

### OVERVIEW

#### CHAPTER 2

#### THE PROBLEM

The Hanford Site is isolated. It was selected as a secret atomic energy facility in part because of its geographic isolation. It has remained isolated, perhaps even more than before, precisely because of the federal nuclear presence. Visitors have been discouraged, and the imagined or real threats of nuclear exposure have not been inviting. It is an area from which news was generally bad. People beyond the immediate community felt the less heard about this ominous place the better.

News of a possible land disposal at the Hanford Nuclear Site first became public with a December 21, 1994 press release from Secretary of Energy Hazel O'Leary, expressing her desire to see a 125-square mile portion of the Hanford reservation turned over to the administration of the Yakama Nation. For most stakeholders, this was the first indication that something big was shaping up at the venerable nuclear site.

However, Secretary O'Leary's almost off-hand comments created a wide-spread stir. Seemingly overnight, an entire region's economic and social future was upset. What had been taken for granted for more than fifty years was now a matter of conjecture. First, the suggestion, and to some the threat, of local economic collapse due to the down-sizing and possible closure of the federal facility suddenly loomed as a real possibility. Local governments scrambled to find in the sands of the installation the

seeds of future economic enterprise that would replace the federal presence. Secretary O'Leary's announcement of a preference to start giving away at least one large chunk of the property to a bunch of Indians was more outrageous than learning the whole area may be so contaminated that normal human use may be impossible until the end of time.

Turning to Washington, D.C. for explanations, answers and relief was barren of satisfaction. There was a smell of behind the scenes politics. The citizens of this rural community grappled with the historic bane of their lot...isolation, ignorance and impotence. The three communities known as the Tri-Cities, are clustered at the south end of the federal facility upon which they rely for economic survival. The Tri-City Herald, the area's leading daily newspaper ran an editorial in its April 8, 1995 edition. The gist of the article was to encourage the Washington State Attorney General to do battle to protect the region from the politics of the Other Washington. The catalyst in this confrontation was a 1995 government document, **Train Wreck Along the River of Money; An Evaluation of the Hanford Cleanup**, known as the Blush Report, named for one of its co-authors Steven Blush. This report was the basis of an attack led by Sen. J. Bennett Johnston of Louisiana to save tax-payers money. To save this money, the leader of this congressional movement urged the scrapping of the Tri-Party Agreement because under its guidance, hundreds of millions of dollars had been spent in an attempt to clean up the site's infamous nuclear wastes, with no observable result. In fact, the projected clean-up program has been costing \$5 million per day, and has been projected to last well into the next century at a total cost of between \$60 billion and more than \$100 billion. In actuality, the region's economy had begun to rely heavily on the flow of federal dollars

spent on the clean-up. The fruit of the clean-up, in their view, was not necessarily the end, but rather the means.

The editorial vilified the Blush Report, and its consequent economic threat, to as a vindictive, opinion rather than fact based effort of a revenge seeking former subordinate of Secretary O'Leary. The editorial called on the federal government to face up to its responsibility to clean up the nation's largest nuclear waste problem. It further claims that if federal enemies of the Tri-Party Agreement say they can save money, no contract is worth the paper it is written on. The editorial says this moves the problem from one of accounting to one of character. Politics. Even Secretary O'Leary's personal accounting and character have been called into question in recent months. This example is one of many that will plague land use planners and special interest groups concerned with the Hanford question for some time to come.

In sum, the problem of land use planning for the Hanford site requires consideration of the potential uses as restricted by the presence of nuclear waste, cultural and historic aspects of Native Americans and Euro-centric inhabitants, economic development versus environmental preservationists and the political clout each party can bring to the negotiating table. Certain formal niceties must also be observed.

## CHAPTER 3

### METHODOLOGY, RESEARCH PARADIGMS, AND THE ANALYTIC FRAMEWORKS GOVERNING BASIS ASSUMPTIONS

The academic and professional disciplines which are employed in the decision making process are perhaps the least important or influential forces that actually determine the courses of future events.

In the real world, the currency, the values of the social system are amazingly detached from scientific logic and common sense. This is not to say that real world values lack rationality or validity. Rather, it is to declare that a realistic discourse treating a real problem at a specific location and time can not rely solely on academic and professional conclusions and recommendations. Therefore, the methodology required to realistically research the problem presented in this paper must rely on both the scientific and professional processes traditionally employed in a land use study, and the subjective social, cultural and economic influences that make use of or reject the formal process in arriving at a political course of action aimed at resolving a local problem.

The research paradigms employed in composing this paper will include a significant review of the official documents prepared by various political and bureaucratic entities. There are as many views, opinions and value systems as there are groups. Plainly, if consensus ruled, there would be not need for spokesmen of different

interest groups. Also, just as much attention will be paid to those social influences which determine which suggested professional solutions will be adopted and to what degree.

When determining public action, social, political and professional stakeholders are obliged to observe the rule of law. In extreme cases, law is made to accommodate desired solutions. The perpetual sessions of legislatures, courts and other bodies which create, interpret and enforce the law bear witness to the respect and obedience the law demands in our culture.

In this particular study, the laws of nature may be paramount in determining land use. In fact, the law of physics as expressed by nuclear hazardous waste have led to the creation of categories of potential human activity on portions of the Hanford Site over increments of time measured in five hundred years and thousands of years.

Certain protocols of law look to the past, to traditional human use, to determine legal precedent for determining future land use. Along the continuum of time, the dominant paradigm of values determines the emphasis that elevates one legal value over another. This may be called political expedience. For example, it has become politically expedient over the last few decades for federal laws and policies to reflect the increased public concern for the environment, for natural and cultural resources. The public has become much more aware of the natural and cultural resources they have entrusted to the administration of the federal government. The public has achieved a modern perspective



that these resources belong to the people and the people may demand greater accountability from the administrators. This has caused a considerable paradigm shift in the way the government perceives the way it would wisely conduct its business in these areas. Recent policies, such as the National Environmental Protection Act, have become seriously counter-productive to the way government agencies attempt to accomplish their missions. The enactment of subjective values into objective laws is almost always a recipe for friction if not chaos. It is understandable then that there is a high rate of burnout among tunnel-visioned technical wonks. It is also understandable why there has been a proliferation of dependence on legal council at every level of the decision making process.

It has been a consuming and interesting challenge in this study to track the decision making process, seeing decisions and policies evolve as the often awkward unions of the subjective and objective values presented by opposing interest groups. The basic assumptions arrived at in this study were reached by analyzing the subjective and objective forces which have survived to become manifest as public policy, in particular the policy which will ultimately decide the questions of future land use of the Hanford Nuclear Site.

## CHAPTER 4

### LITERATURE REVIEW

Varieties of literature converge on the Hanford Site study like roads to Rome. They are nearly as disparate in medium as they are in message. This study was begun with pursuit of specific topical contemporary literature, widened to general literature from modern discussions of prehistoric topics to accounts written nearly two hundred years ago about events of those days.

Up to the minute information has been obtained by subscribing to the Tri-City Herald, by instantaneous electronic communication -- telephone, fax and internet -- personal letters and interviews, and physical site inspection. Periodicals and journals published in the last fifty-three years have been gleaned for insight to specifics relating to the study. There has been an ongoing campaign since January 1994, soliciting background documents explaining and justifying ongoing policies from the President of the United States, Secretary of Energy, Bureau of Land Management, Bureau of Indian Affairs, Department of the Army, the Army Corps of Engineers, the manager of the Hanford Site, Tribal Councils, Grant County Public Utility Department, tribal spokesmen, Washington Department of Indian Affairs, Benton County Commissioners and planners, the Hanford Site tribal liaison officer, the Hanford Site Land Use Planning Project Officer and a Yakama Nation planning advisor.

The documents made available through these contacts have resulted in newspaper clippings, Presidential statements of U.S. policy towards Native Americans, files of letters and memos sent between government and tribal agencies, transcriptions of interviews, maps and photos, and official documents ranging from land use plans to environmental impact statements. Extraneous documents have included treaties, federal Indian Law citations, transcripts of Supreme Court Cases, diaries, government funded archaeological studies, and books addressing historical events related to the Hanford Site. Also, respectful attention has been paid to the General Services Administration's published regulations regarding the official disposition of excess federal property. Several books written about the historical events effecting the Hanford Site have been especially helpful in providing a landscape against which current events may be viewed with a clearer perspective. Several thesis and dissertations have been valuable in illuminating specific studies relevant to the current situation at the Hanford Site.

Considerable reliance has been put on the academic study of land use planning as presented at the University of Montana. Applicable disciplines also worthy of note include Native American Studies, natural and cultural resource management, environmental studies, land use law, rural community development, policy analysis and, research methods.

From this panorama of study and literature has evolved a concept of a comprehensive discussion of the theory of land use planning and the political processes that must be honored before a plan becomes a policy. Previous studies have apparently neglected to give more than token recognition that there is many a slip between cup and lip when it comes to adopting a logical plan in a rational political arena.

The extremes of physical, political and cultural considerations embodied at the Hanford Site make the events unfolding there quite probably the cutting edge that will define how the multitude of land use planning situations involving the federal government, tribes, the regional and national public interests will be treated in the foreseeable future.

## CHAPTER 5

### MATERIALS USED AND GROUPS STUDIED

This study has relied primarily on official documents and personal interviews to provide the raw data upon which valid conclusions may be reached. Questions of immediate public interest have been illustrated by newspaper articles and news letters. Starting from them further study reached into the historic, cultural, physical, legal and political foundations for positions taken by stakeholders in the discussions leading to ultimate land use decisions.

Published and unpublished documents have been surveyed to provide profiles of the groups studied. The primary object of study is the 560 square mile site itself. Prehistoric to contemporary studies have described the geological evolution of the area. Further studies of past and present natural and cultural resources have provided insights as to the present and future values they may possess.

The history of human habitation and use of the region has been chronicled, beginning with the first people, who still claim a kinship with the land, and with the Euro-centric exploration and occupation since Lewis and Clark.

The names of the first people have been lost in the mists of time. Their progeny, now called The Confederated Tribes of the Yakama Nation, the Umatilla Confederation and the Nez Perce Tribe have been officially recognized by the United States Government as sovereign nations having traditional interests and certain rights to the area known as the Hanford Nuclear Site. The tiny and unrecognized Wanapum Band, as the oldest known occupiers of the reach of the Columbia River that runs through the site, still wield significant influence among the other tribes, local white inhabitants, the various layers of state and federal government and economic interests of the region.

The Euro-centric presence in the region is treated from its historic roots of transient explorers and traders to permanent settlers and tradesmen, to the dominating manifest presence of the federal government in the persona of the Department of Energy and its associated minions. This presence has had the profoundest effect on every segment of the societies and economies of the region since 1943. National and global political changes are challenging the status quo of those who live and work around the site. This paper will study those stakeholders.

## CHAPTER 6

### HISTORY

#### GENERAL

Today, the tracks and artifacts of those who lived in the Central Columbia River Basin before the last glacial flood, about 10,000 years ago, are so rare as to be almost rumor. A basalt knife blade is said to be the only substantive proof yet recovered that gives testimony to those ancient days. It was approximately ten thousand years ago that Glacial Lake Missoula last broke through retreating ice dams and released a deluge of water four hundred feet deep, sweeping in tidal waves miles across, strewing boulders weight tons, cascading into valleys previously carved into the scabrous basalt by earlier floods, expunging all signs of life from the land.

In the folklore of the Indians who have traditionally occupied the region, radiating roughly one hundred miles in all directions from the Hanford Site, they are the third inhabitants. Before them were the animals and the 'Old Ones,' who disappointed the great creator and were replaced with the responsibility of caring for 'Mother Earth.'

Their prophet, Smohalla, foretold of the coming of the white men.

## NATIVE AMERICAN

### History and Culture

The tribes and bands associated with the Hanford region belong to the Sahaptan language tree. Ancestors of the Yakama, Nez Perce, Umatilla and Wanapum greeted Lewis and Clark when their journey from the east brought them to the great Columbia.

The hunting, fishing and gathering life-style of the Indians made them semi-nomadic, but their traditional lands were well defined. The most sacred and generous source of subsistence were the six runs of salmon that blessed the river every year. The Indians' traditional lands joined each other at the river. The birthplace of their Washat religion was a sacred mountain located in the center of what is now the Hanford Site. The Wanapum prophet Smohalla refined the religion and even though it spread widely, those who still practice it make pilgrimages to the holy places from Priest Rapids Dam to the White Bluffs and the lower portion of the Columbia Reach near Richland.

### Contact with Whites

The first whites to seek commerce in the area were fur trappers and traders. Prospectors followed and eventually the merchants who served and profited from them, even created a thriving riverboat trade. Friction between the whites and Indians became critical when missionaries and farmers forced their ways on the previously accommodating Indians.



In the 1840's a military presence was in place to 'protect' the settlers.

Skirmishes, battles and wars between alarmed tribes and determined soldiers were finally settled with the treaties of 1854 and 1855.

### Treaties

The treaties greatly reduced the lands the Indians were allowed to call their own, however, certain activities were guaranteed them on their traditional lands. Legal arguments rage today, particularly between the tribes and the states, concerning the limits of those guaranteed activities, particularly fishing and the practice of Native American religion.

Concerning relations between the sovereign recognized tribes and other governments, federal law is supreme as enacted by Congress, and treaties are considered the highest laws of the land. The legal and practical relationship between the tribes and their white neighbors are frequently modified, clarified and redefined. Tribal sovereignty is gaining more respect. Tribes are becoming more sophisticated in stating their positions and defending them in court. Changing federal policy statements concerning tribal relations are constantly demonstrated through frequent official notices and Executive Orders. State and local governments and populations are occasionally startled with newly announced federal Indian policy interpretations. This seemed to be the case with the Boldt Decision concerning fishing, and again when the white residents of south-central Washington learned they would be competing with tribes as stakeholders in influencing land use policy at the Hanford Site.

## WHITE SETTLEMENT

Permanent white settlement dedicated to agriculture began to appear on the landscape in the 1830's. Success and survival, it soon became apparent, depended on a reliable source of water. Irrigation was gradually introduced through canals and re-routing smaller rivers and streams. Just after the turn of the century, the federal government assisted in more ambitious irrigation efforts. A relic of those times is the old Hanford Irrigation Project pump house dated 1904.

The federal government further encouraged white settlement and development of the area by giving land grants to veterans of WW I. Electrification and irrigation were given a boost during the 1930's when the first Columbia River dams were constructed. The electrical power they provided became one of the factors influencing the selection of the Hanford area for the enormous undertaking of producing the material necessary for the atomic bomb during WW II.

## NUCLEAR SITE

General Leslie Groves was the mastermind of the Manhattan Project. Colonel Franklin Matthias was the guiding force behind the Hanford Site portion of that project. Hanford was selected because it was remote, isolated, adjacent to an adequate source of water and plenty of electricity.

Hundreds of square miles of non-federal lands were purchased or condemned for the Hanford Site. The small town of Richland became a federal installation. Traditional uses of the area by local Indians was terminated by agreement between Col. Matthias and patriotic tribal leaders for the duration of the federal project.

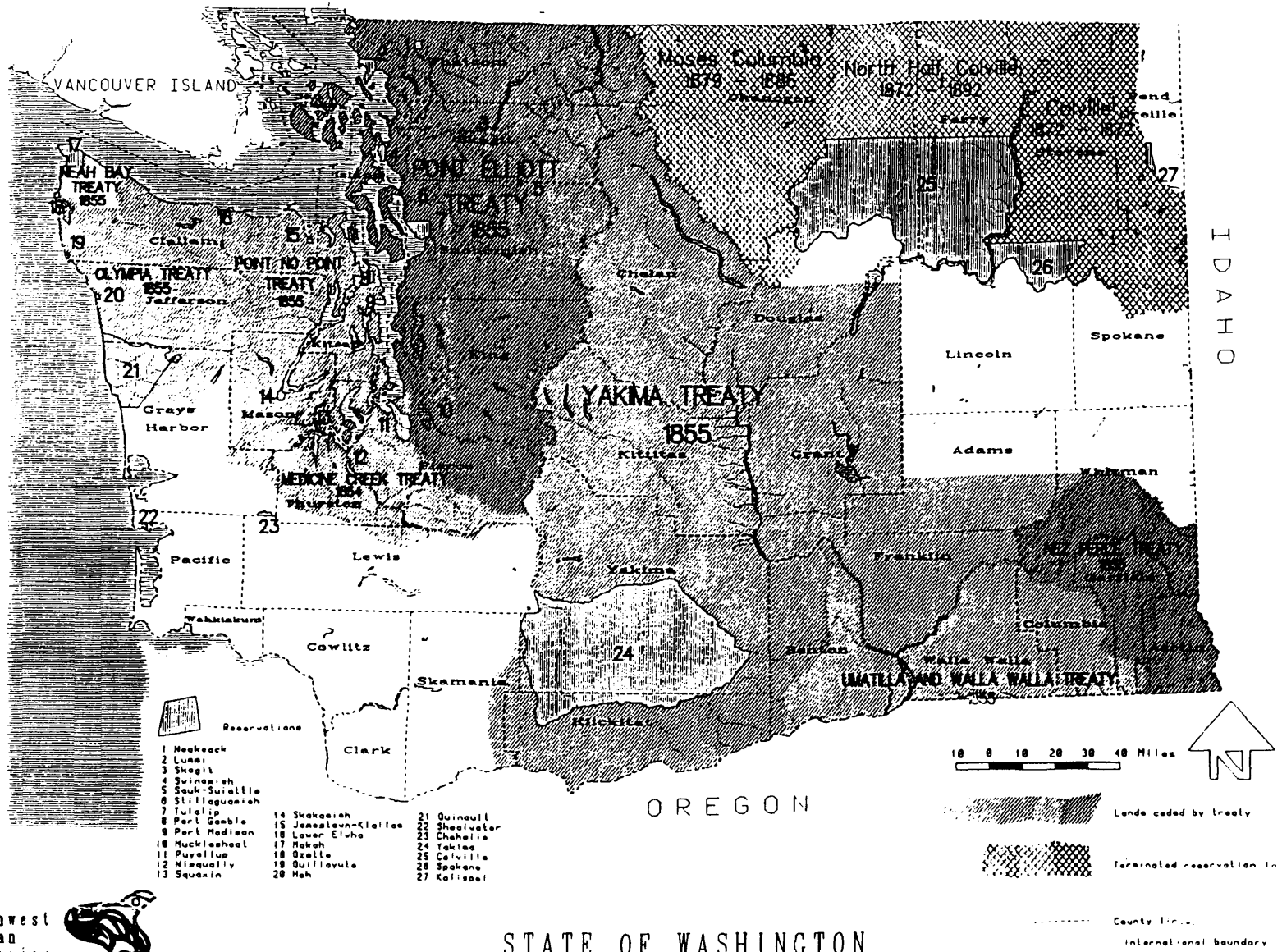
At its peak, the construction of the site employed more than 56,000 workers who lived in bleak and primitive conditions. They were daily trucked to the construction sites from wind and dust blown tar paper and plywood quarters.

Their labors succeeded with the surrender of Japan, but were prolonged by advances in nuclear weaponry after the war by the Soviets. After the war, instead of being dismantled, the Hanford Site actually grew in size and scope of mission. Only in the last few years has the lessening of the pressure of the cold war begun to relax the activity of the site.

However, as many workers on defense projects have been let go, even more have been hired to work on the remaining missions and the seemingly endless endeavor to remediate the growing inventory of hazardous and radio active waste that is finding a home at the Hanford Site. Despite the fact that the residue of the nine reactors and experiments have been unsatisfactorily disposed of on the reservation, even more is being regularly trucked in. Not least among these new arrivals are the core reactors of decommissioned nuclear powered naval ships and boats.

The nature of some of the past and on-going missions at the site demand they remain secret. However, public outcry for accountability from the federal government concerning the unresolved disposition of hazardous waste at the site has focused federal, state and regional attention. The cost and time table for remedial action are staggering. At last count, the worst case scenario suggests an effort costing well over \$100 billion and going into the first quarter of the next century is not unrealistic.

The glare of public scrutiny and demand for accountability has stimulated the federal government and its agencies to create formal plans for land use, cultural and natural resource management. Orders and policy directives instruct installation managers to engage 'stakeholders' for their in-put in creating these plans. The legitimacy of tribes as stakeholders has become formalized. The growing recognition and prominence of tribal sovereignty and the campaign for accountability of federal installations have dovetailed in time and place at the Hanford Site.



Reservations

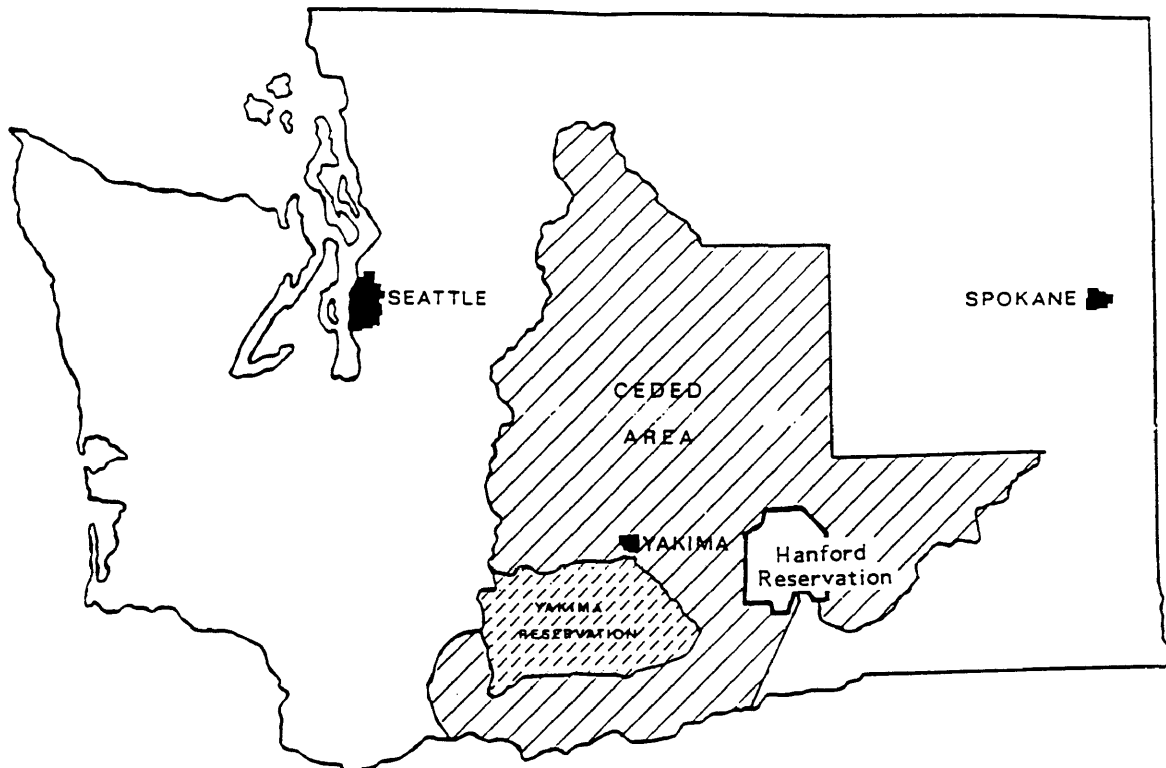
- |                 |                      |               |
|-----------------|----------------------|---------------|
| 1 Neaksoch      | 14 Skokasiah         | 21 Quinault   |
| 2 Lumas         | 15 Jasealgen-Klallam | 22 Shoalwater |
| 3 Skagit        | 16 Lower Elaho       | 23 Chehalis   |
| 4 Swinawieh     | 17 Makah             | 24 Takla      |
| 5 Sauk-Suiattle | 18 Ozelle            | 25 Colville   |
| 6 Stillaguonieh | 19 Quillayute        | 26 Spokane    |
| 7 Tulalip       | 20 Hoh               | 27 Kalispel   |

0 10 20 30 40 Miles

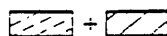


Lands ceded by Treaty  
 Terminated reservation lands  
 County lines  
 International boundary



STATE OF WASHINGTON  
Ceded Tribal Lands and Reservations

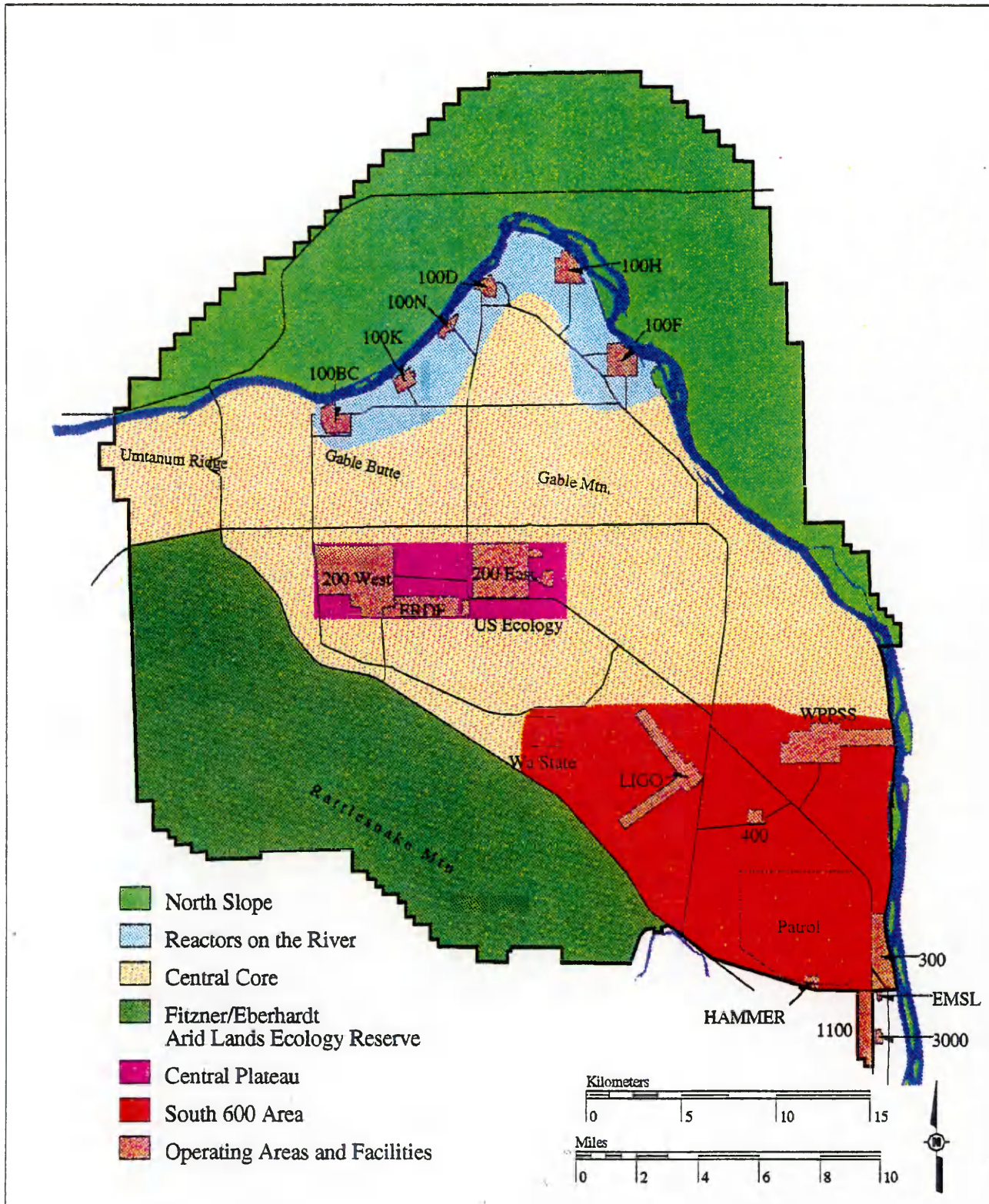


## STATE OF WASHINGTON

 Original Territory     Ceded Area     Yakima Reservation

**That part of the original territory of the Yakimas which they ceded away to the Federal Government by Treaty in 1855, now constitutes 25.4% of the State of Washington.**

1  
2  
3  
**Figure 3-1. Geographical Study Areas.**



## CHAPTER 7

### MAJOR PARTICIPANTS

#### TRI-PARTY AGREEMENT, ET AL.

When the Hanford Site was created in 1943 it occupied both Public Domain lands, administered by the Bureau of Land Management, and acquired lands, purchased from private owners. For the most part, sections of land were checker-boarded, with BLM lands on alternating sections. BLM relinquished administration of these lands to DOE for the duration of the Hanford project that began in 1943. It was understood that when the project's mission permitted, any BLM lands which become excess were to revert to the administration of the BLM, the remaining acquired lands to be disposed of through the normal, albeit complicated, federal General Services Administration process.

Put very briefly, and in a context meaningful to the Hanford Site, the GSA property disposal process begins with a federal agency declaring the property excess. Then, the GSA makes the property available to any other federal agency who can demonstrate a need. If there are no federal takers, other offers are considered. These may include appeals from public interest groups to create a public recreation area or wildlife habitat. State and local governments may also present proposals for specific uses of excess federal property. Finally, any excess federal property that remains undisposed of in any of the above manners, may be offered for sale to the general public, providing certain use limitations are observed. From rudimentary to sophisticated, land use constraints are always in place, dominated by federal laws relating to natural and cultural resource preservation, ecology and environmental protection.



Paradoxically, since 1943, much of the Hanford Site has changed, and much has remained the same. Two universals are recognized; one, the entire site has been contaminated in one way or another, and two, the entire site retains high cultural significance. This has complicated the original agreement between BLM and DOE. Among a variety of reasons, BLM has suggested a consolidation of former BLM and DOE acquired land and a swap of property that will leave DOE in charge of the more contaminated properties and give BLM administration of the relatively uncontaminated ALE. The ALE has been left nearly pristine for more than fifty years. It has been used for scientific study of the unique plant forms that grow there. It has also been used as an assembly site for CRUSE missiles. The Army Corps of Engineers has recently demolished the majority of the buildings at that site and completed decontamination activities that have earned the area the category of 'unrestricted use.' BLM has suggested a comprehensive, sensitive and rational plan to administer the ALE in continuation of its current mission as a scientific and cultural resource. (See BLM Proposal, appendix ).

The Secretary of the Department of Energy, however, evidently enthused with the spirit of recent federal and agency policy statements concerning Tribal interests (See Executive Order, Federal Policy, DOE Policy re Indians, appendix ), made the awkward and indefensible announcement that she, personally, would like to see the ALE turned over to the administration of the Yakama Indian Nation. (See newspaper article, 12-94, appendix ). Simultaneously, the Secretary issued a memorandum to all DOE secretarial officers and operations office managers concerning agency land and facility use policy

(see DOE Memo, Dec. 21, 1994, appendix ). The policy statement itself is cleanly written, concise and comprehensive:

“It is Department of the Energy policy to manage all of its land and facilities as valuable national resources. Our stewardship will be based on the principles of ecosystem management and sustainable development. We will integrate mission, economic, ecologic, social and cultural factors in a comprehensive plan for each site that will guide land and facility use decisions. Each comprehensive plan will consider the site’s larger regional context and be developed with stakeholder participation. This policy will result in land and facility uses which support the Department’s critical missions, stimulate the economy, and protect the environment.”

The accompanying dicta, however, suggests *two* policies. The one not mentioned in the official statement declares the Secretary’s policy includes encouraging “the return of some of these national resources (DOE lands and facilities) to their rightful owners -- the American Public.” Since this policy suggests DOE has the authority to unilaterally decide who may receive its excess property, it is at odds with GSA policy. The DOE team which created the Hanford Site Comprehensive Land Use Plan has wisely avoided any mention of such unilateral action.

This idiosyncrasy has not gone unnoticed by those who have concerns or interests in the future uses of the Hanford Site, whether it remains in part or in all, in the hands of the DOE.

Perhaps stimulated by the example offered by BLM, other interest groups have reacted with the assumption that the Hanford Site will be broken up, when the intention is quite possibly the opposite. The official policy simply declares an intention of exploring multiple uses for DOE property and facilities. The CLUP follows this policy.

The confusion of this interpretation of the Secretary's policy statement is exacerbated by accompanying statements of policy towards Tribes in general and the Yakama Indian Nation, the Nez Perce and Umatilla Confederations and the Wanapum Band in particular.

Interested parties in the region of the Hanford Site are primarily concerned with the economic opportunities that may come with new land use policies. There is little economic interest in the Arid Land Ecology Reserve, precisely because it is arid and steep. The two groups who are seriously vying for the administrative authority over that 125-square mile expanse are the Yakama Indian Nation and the Bureau of Land Management.

The BLM position is endorsed by conservancy advocates. The YIN position is supported by the other regional Tribal governments.

Local non-Indian interest groups are alarmed and bewildered by the attention and consideration lavished on the Tribes by the DOE (see DOE American Indian Policy, appendix ). This is their first local exposure to the building wave of state and federal recognition being given to the concept of Tribal Sovereignty. The full parameters of the concept and policy of Tribal Sovereignty are not nearly yet defined, but they are immense and growing.

Land use decisions at the Hanford Site have in a way become a line in the sand between tribal and non-tribal regional interests. Unfortunately, a feeling of confrontation has grown between the two, centering ultimately on the question "Who owns the Land?"

Nationwide, the vagaries of antique federal policy toward Indians has recently come under an onslaught of legal tests to determine the limits of Tribal Sovereignty. One thing is clear, under federal law, Tribal relations supersede state and local laws. The extent and awareness of Tribal rights is growing. Among the stakeholders participating in guiding federal land use policy at the Hanford Site, none are superior to the Tribes. There is truly a government-to-government relationship (see Executive Memo, appendix).

Another formalized government-to-government relationship concerned with the future uses of the Hanford Site is the Tri-Party Agreement, consisting of representatives from the DOE, US Environmental Protection Agency and the Washington State Department of Ecology. The primary concern of the TPA is the threat of hazardous material located on the site. Cleanup is the key, in their opinion, to the region's future. This is a two-pronged concept. First, the inherent danger of the materials to humans and the ecology is undeniable. Second, the cleanup program promises to be the economic redemption for the region in the face of DOE's downsized missions in the future. Estimates vary as to the duration and cost of the cleanup program, from twenty to fifty years and \$50 billion to \$200 billion.

In 1993, Ecology released a report on the Hanford land transfer. This had been the single most comprehensive document yet encountered concerning the future uses of the site. Unfortunately, it seems to have received little attention. It cites for example the following key policy issues facing the State of Washington concerning Hanford land transfers:

- Economic Development
- Protection of Natural, Cultural, and Recreation Values
- Agriculture
- Hazardous Waste Management
- Native American Treaty Rights and Interests
- Liabilities Associated with Contamination
- Public Involvement

The report is gratifying to planners because of its exhaustive listings of the natures of the past and present Hanford missions and the lands potentially available for transfer. These topics are augmented with the pertinent legal procedures and constraints to transfer, including the liability and responsibility for cleanup. Other legal constraints discussed in the report are water rights, pre-existing ownership claims, Indian treaty rights, Archeological, cultural, and historic preservation, and Land use authority.

Other interested parties of significance are the Future Site Uses Working Group, the Hanford Advisory Board, and the several city and county governments. The state of Oregon is also an influential stakeholder, for several good reasons. First, the Columbia River delineates a large portion of the border between Washington and Oregon just below Richland; second, they share a regional economy; third, Oregon is seriously threatened by the hazardous waste stored at Hanford; and fourth, much of the waste trucked to Hanford enters through Oregon.

By treaty and right of traditional use, the Tribes of the area have vested interests in the future of the Hanford Site. These interests will be discussed thoroughly in chapters nine and ten.

## PART TWO

### THE DATA

#### CHAPTER 8

##### DOE LAND USE PLANS, GOALS AND CONSTRAINTS

According to the draft CLUP, pursuant to a directive from the Secretary of Energy, a special land use planning team, headed by Paul J. Krupin, began work on the Comprehensive Land Use Plan for the Hanford Site in May of 1995. A draft copy of the plan was made available in June 1996. This chapter will be devoted to selected extracts from that draft which apply to the future uses of the site particularly as they relate to tribal interests.

#### INTRODUCTION

According to the DOE's draft of the Comprehensive Land-Use Plan, (CLUP), "The HRA-EIS is being developed to evaluate the potential of environmental impacts associated with remediation, create a remedial baseline for the Environmental Restoration Program, and to provide a framework for future uses at the Hanford Site. This Comprehensive Plan identifies current assets and resources related to land-use planning, and provides the analysis and recommendations for future land uses and accompanying restrictions at the Hanford Site over a fifty-year period. The Comprehensive Plan relies upon the analysis of environmental impacts in the HRA-EIS. The *National Environmental Policy Act of 1969* (NEPA) Record of Decision (ROD) issued for the HRA-EIS will be the decision process for finalization and adoption of this

Comprehensive Plan. The HRA-EIS and this Comprehensive Plan will provide a basis for remediation decisions to be identified and contained in the site- and area- specific *Comprehensive Environmental Response, Compensation and Liability Act of 1980* ROD.

“...The function of the EIS is to obtain input from the public and stockholders, document the process of developing future land-use objectives, and determine the costs and benefits associated with remediating the Site to achieve the land-use objectives. Ultimately, the HRA-EIS makes irreversible and irretrievable commitments of public resources to the DOE’s congressionally mandated missions.

“...Additional guidance regarding land-use planning was received, when on December 21, 1994, the Secretary of Energy issued a land- and facility-use policy for the DOE, which contains the following statement:”

It is department of Energy policy to manage all of its land and facilities as valuable national resources. Our stewardship will be based on the principles of ecosystem management and sustainable development. We will integrate mission, economic, ecologic, social, and cultural factors in a comprehensive plan for each site that will guide land and facility use decisions. Each comprehensive plan will consider the site’s larger regional context and be developed with stakeholder participation. This policy will result in land and facility uses which support the Department’s critical missions, stimulate the economy, and protect the environment.

Purpose of this Comprehensive Plan:

- Guide onsite land- and facility-use decisions through the integration of natural, cultural, and socioeconomic factors.
- Designate existing and future land uses that are appropriate for the Hanford Site based on an analysis of land use suitability, with appropriate consideration of the following:

The DOE’s responsibilities, authorities, and constraint dictated by



legislation and applicable laws; Land use values expressed by other federal agencies, state, Tribal and local governments, and the public; Business, labor, environmental, and other groups and organizations concerned with or affected by the Hanford Site and participating in the future land-use planning process; Specific characteristics of the natural and built landscape within the Hanford Site.

## Planning Process

External coordination and public involvement is an important element in developing this Comprehensive Plan. In addition to the NEPA process for public involvement, the DOE requested active participation, discussion, and early input from several government entities. External involvement is being integrated through the following:

- A series of voluntary and cooperative land use meetings with key governmental bodies and interested parties.
- Public involvement through Benton County and City of Richland independent planning processes that are underway, which address portions of the Hanford Site.
- Participation and interaction with the Hanford Advisory Board (HAB).
- Meetings and consultation sessions with Tribal governments.
- NEPA formal public involvement activity.
- Extensive correspondence and a variety of reports and documents show that the Hanford Site is very important to several different parties. These values have been formally communicated to the DOE.

## Methods for Evaluating Land Use Suitability.

The method used to perform the land-use suitability evaluation was adapted from a graphical and analytical method using a graphic representation to organize a large amount of information on a diverse range of features into a manageable form. The method depicts land-use opportunities and constraints according to their ability to accommodate each other.

The information gathered by DOE's land-use was compiled and incorporated into a single, integrated land-use planning database in the Hanford Geographical Information System (HGIS). The integrated HGIS database information is shared with tribal governments, Benton County, the City of Richland, and other interested government agencies and parties.

#### Future Land Use Assumptions

The DOE's land-use team developed a list of land-use assumptions which were defined by evaluating information regarding the Hanford Site's Mission, the Strategic Plan, the Working Group's Report, the Hanford Advisory Board's (HAB) advisory opinions, the evaluation of constraints and opportunities, the HRA-EIS and its Implementation Plan, and other planning documents and reports.

#### Key Recommendations From the HAB's May 2-3, 1996 Meeting

After reading the recommendations, the first impression is surprise that so much has not already been undertaken by DOE, Steward of the Site.

Example one: HAB does not trust institutional controls currently in place in strategic planning. They recommend more planning input from Tri-Party members especially in the area of controlling the circumstances and time period of long-term cleanup of most of the site.

Example two: Tri-Party Agreement demands a superior role to DOE in blueprinting cleanup schedule.

Example three: They recommends more emphasis upon removal of contamination found in the vadose zone, the area between the surface and the ground water, and the ground water.

Example four: They recommend decreasing institutional controls of cleanup of reactors, reaffirming the Working Group's policy of addressing the most urgent risks first; recognize the need to attend to "unrestricted use" condition of ground water in the future; and ensure a policy of safety standards for workers and the public in the area, into the future, despite changing administrations.

Example five: Strategic planning should ensure access to the Columbia River and its quarter mile corridor on either side, not be limited because of surface contamination. Abutting areas of contamination must be remediated to unrestricted surface access.

Example six: (Areas of the Site are given numerical designations depending on their use.) Waste in the contaminated 200 area of the central plateau must not be allowed to migrate.

Example seven: A defensible Strategic plan must have consistency of data and assumptions, through modeling; including common terminology; the HAB should work with Tri-Party members on a better description of the circumstances and time periods in which some form of controls or restrictions might be necessary.

#### Existing Conditions

This Comprehensive Plan contains thirty-eight maps that describe the existing conditions at the Hanford Site. The detailed descriptions of each resource or attribute are contained in Chapter 4.0 and the appendices of the HRA-EIS."

## Land-Use Suitability Analysis

“A *constraint* is defined as a feature, attribute, or issue associated with the natural or built environment that must be addressed if a proposed land-use activity is to occur.

Conversely, an opportunity is defined as a feature, attribute, or issue associated with the natural or built environment that presents some benefit if utilized. Constraint maps are useful for regional planning because they identify the type and relative severity of the problems that need to be addressed if the land-use activity is to be allowed.

“A series of seven constraint tables and seven GIS maps were prepared over a base map of the Hanford Site. The constraint tables identify a specific environmental feature or attribute and evaluate the legal drivers (e.g., the statutes, laws, regulations, Executive Orders, treaties, and DOE orders) associated with management of the particular factor at issue.

### Analysis of Future Site Uses Working Group’s Plausible Future Use Options

“The DOE’s land-use team prepared a GIS map identifying the geographic study areas of the Hanford Site. The GIS map was created using the Working Group’s six geographic areas as an initial base map. The GIS map was then used to overlay the potential economic development zone and create a final geographic study area map that identifies a South 600 Area and Central Core. Although technically part of the 600 Area, the ALE Reserve, the North Slope, the South 600 Areas, and Central Core were evaluated individually during the analysis.

For each plausible future use option, the DOE’s land-use team identified the presence (or absence) of identified constraints in the key geographical areas of the

Hanford Site. This was accomplished by a visual evaluation of the GIS constraint maps and documentation of the identified constraints for each geographical area in the tables.

#### Analysis of Plausible Future-Use Options

- Agriculture
- Industrial and commercial
- Wildlife and habitat management
- Environmental restoration
- Waste management
- Public access and recreation

#### Analysis of Anticipated Changes in Existing Environment Over 50 Years

The DOE's land-use team reviewed the original GIS data to identify the reasonably predicted changes to natural resources and attributes of the natural or built environment that are likely to occur over the next fifty years. These changes were identified and documented in the constraint tables.

#### Comprehensive Land Use Plan

The DOE's land-use team reviewed and evaluated the GIS maps along with the constraint tables in Chapter 7.0 and the tables evaluating plausible future-use options in Appendix A of this Comprehensive Plan to develop existing (Figure S-1), proposed (Figure S-2), and projected (Figure S-3) land-use maps for the Hanford Site. The development proposed and projected land-use maps included the evaluation of the identified values important to land-use planning. The land-use team developed nine land-use designations for the Hanford Site. These designations were used in the existing, proposed and projected land-use maps. The proposed land-use map and designations

serve as the basis for the land-use decisions to be made in accordance with the Final HRA-EIS and the NEPA ROD.

### **Anticipated Changes to the Existing Environment Over the Next Fifty Years**

**Biological Resources:** In the absence of a major wildfire, no changes of significance identified--post burn shrub-steppe continues to mature.

**Surface Water:** No changes of significance identified.

**Ground water Contamination:** Major shift in location of ground water contamination plumes as a result of ground water migration and remediation actions taken.

**Waste Sites:** Waste sites will be remediated pursuant to the Tri-Party Agreement.

**Protective Safety Buffer Zones:** Facilities will be decommissioned and certain SAR (Safety Analysis Report) requirements will be reduced or eliminated. The buffer zones will continue to be based upon SAR requirements for those facilities that require protective safety buffer zones.

**Geological Resources:** No changes of significance identified.

**Cultural Resources:** No major changes identified. Additional surveys will result in the identification of new sites that need to be protected and preserved. Documentation of historic structures will proceed.

### **Proposed Land-Use Designations and Definitions**

- **Waste Management (WM):** Areas used primarily for treatment, storage, and disposal of hazardous, radioactive, and non-radioactive wastes. Included environmental restoration, industrial and commercial, and business land-use activities.
- **Environmental Restoration (ER):** Areas used primarily for characterization and remediation of reactor operation sites, land, facilities, and groundwater. Includes industrial and commercial land-use activities.
- **Industrial and Commercial (IC):** Areas used primarily for a wide range of industrial and commercial activities. Includes environmental restoration and business land-use activities.
- **Business (B):** Areas used for a wide range of administration and office activities.
- **Wildlife and Habitat Management (WHM):** Areas used primarily for protection and management of diverse biological resources, including both plant and animal communities. May include areas for special use or controlled public access and recreation land-use activities, and environmental restoration activities.
- **Open Space Restricted (PSR):** Areas restricted from access to support existing missions. Includes areas identified for potential compatible development to meet future projects and mission needs. Includes use of area for wildlife and habitat management.

- **Special Use Areas (SUA):** Areas identified as unique and limited resources that require protection for a specific use or uses.
- **Potential Economic Development Zone (PEDZ):** Identifies a geographic zone north and west of the 300 Area where a significant number of potentially compatible economic development activities or proposals have been identified. This is not an industrial or commercial land-use designation, but rather an identification of a contiguous geographic area in which the majority of potentially viable economic development proposals received, by the DOE to date, tend to be located.
- **Controlled Public Access and Recreation (CPAR):** Potential range of uses to areas identified for tourism, visitor, fishing, boating, hiking, wildlife viewing, and biking activities, based on constraints and implementation requirements. Controlled access, at a minimum, entails approved Tribal usage, and escorted day trips.

### Comprehensive Plan Implementation and Revision

Future land-use management at the Hanford Site will be accomplished through an implementation strategy that tiers off the hierarchy of policies, management directives, and integrated program documents. These documents include the Strategic Plan, the HRA-EIS and this Comprehensive Plan.

It is anticipated that this Comprehensive Plan will be revised and updated every five years with ongoing stakeholder involvement. Proposals that require a redesignation of the land use on the Hanford Site will be reviewed and discussed with stakeholders, as appropriate, prior to redesignation.

### Change in Mission from Defense Production to Environmental Restoration

By 1971 eight of the nine reactors had been shut down. The PUREX Plant continued to operate into the later 1980s, and the N reactor continued to produce electrical power and plutonium until 1987. Resources and capabilities were refocused toward development of non-military applications of nuclear energy, according to the CLUP Draft. Facilities were constructed to support programs in waste management and

biological and environmental sciences. Research on alternate forms of energy, including programs in:

- solar
- geothermal
- advanced reactor systems
- fossil energy
- national security
- conservation
- energy policy analysis
- resource assessment.

The DOE no longer produces for defense at the Hanford Site, according to the draft CLUP.

“The HRA-EIS has adopted levels of access to geographic areas depending on the level of hazardous contamination after cleanup. The are, restricted use, unrestricted use, and exclusive use. The ALE and the North Slope have been remidiated, and are not within the scope of the HRA-EIS, but are discussed.”

## THE PLANNING PROCESS

Describing the process, values and methods used in developing the CLUP.

- Integration of identified and existing land uses and their accompanying restrictions, and integration of the CLUP with the Strategic Plan and the HRA-EIS NEPA process in a manner consistent with the analysis of the environmental impacts in the HRA-EIS.
- [Hanford Strategic Plan] Expectations of the DOE, regulators, Native American tribes, and stakeholders are reflected in a comprehensive Strategic Plan that defines the desired end-state of the site over the next fifty years, and the necessary steps to get there. Emphasis on greater efficiency and reduced budgets.



- “Workers, the general public, and the environment are at potential risk from Hanford Site waste.” Universal concern of stakeholders.

Common values by consensus, 1992:

1. Protect the River
2. Deal realistically and forcefully with groundwater contamination
3. Use the Central Plateau wisely for waste management
4. Do no harm during cleanup or with new development
5. Cleanup of areas of high future use value is important
6. Cleanup to the level necessary to enable the future use options
7. Transport waste safely and be prepared for emergencies
8. Capture economic development opportunities locally
9. Involve the public in future decisions about the Hanford Site

1993:

1. Get on with cleanup!
2. protect the environment
3. Protect public and worker health and safety
4. Use a systems-design approach that keeps end points in mind while intermediate decisions are made
5. Establish management practices that ensure accountability, efficiency, and allocation of funds to high priority issues.

1994:

1. Historic and cultural resources have value; they should not be degraded or destroyed. Appropriate access to those resources is part of their value.
2. Workforce stability, and reasonable stability in the demand for public services, are important in the affected communities. In decisions on projects and contractors, consideration should be given to affected workforce and population shifts.
3. Cleanup and waste management decisions should be coordinated, with the efforts of the affected communities, to shift toward more private business activity and away from dependence on federal projects that have adverse environmental impact.
4. The importance of ecological diversity and recreational opportunities should be recognized; those resources should be enhanced as a result of cleanup and waste management decisions.
5. These concerns should be considered while promoting the most effective and efficient means that will protect environmental quality and public health and safety now and for future generations.
6. Cleanup activities should protect, to the maximum degrees possible, the integrity of all biological resources, with specific attention to rare, threatened, and endangered species and their related habitat.

## STEPS IN PLANNING

1. Identify and Analyze Site Characteristics
2. Identify and Analyze Mission Needs
3. Identify and Analyze Regional Development Characteristics
4. Perform Analysis of Constraints

### Future Site Uses Working Group's Plausible Future Use Options

- Agricultural
- Waste management
- Industrial and commercial development
- Environmental restoration
- Wildlife and habitat management
- Public access and recreation

(Cultural resources were not evaluated as an independent land-use option, meaning not exclusive use by Native People, but rather were evaluated as a factor, which must be deemed consistent and acceptable to all land-use designations adopted in the final land-use plan through the formal consultation process with the Tribal governments.)

### DOE-PL MISSION, ETC.

“Hanford’s missions are to safely clean up and manage the site’s legacy wastes and develop and deploy science and technology. Throughout these missions we contribute to economic diversification of the region (DOE-RL 1995a).

“We protect health and safety of the public, workers and the environment; control hazardous materials; and utilize the assets (people, infrastructure, site) for other missions (DOE-RL 1995a),” according to Chapter Three of the CLUP.

### **DOE Energy Programs and Policies**

“Waste disposal facilities require ongoing management and monitoring, which pose constraints on land uses.”

Science and technology R&D activities occur throughout the Hanford Site. The Pacific Northwest National Laboratory (PNNL), a multi-program energy research laboratory, is the lead organization for science and technology development at the Hanford Site.

**Economic Diversification; Biological Resource Management; Cultural Resource Management.** (The following quote from the CLUP is shown in BF because it is considered especially important to this paper.)

“The site is...rich in traditional and cultural properties. Cultural resource protection is provided through the *Hanford Cultural Resources Management Plan* (Chatters 1989), and implemented by the Hanford Cultural Resources Laboratory of the PNNL and specialists with other contractors. In compliance with the *National Historic Preservation Act of 1966* (NHPA), federal agencies are required to identify, evaluate, and nominate districts, sites, buildings, structures, and objects with significant national historic value (NHPA 1966). Many land-use activities that potentially could occur at the Hanford Site probably will have significant effects on known and as-yet undiscovered cultural resources that have been preserved largely

**as a result of restricted public access. Management of cultural or heritage resources has been a primary concern in developing this Comprehensive Plan.”**

## **LEGAL RESPONSIBILITIES**

### **Treaty Obligations**

**“Under separate treaties signed in 1855, the Confederated Tribes and Bands of the Yakama Indian Nation and the Confederated Tribes of the Umatilla Indian Reservation ceded lands to the United States that include the present Hanford Site. Under the treaties, the tribes reserved the right to fish at usual and accustomed places in common with the citizens of the territory, and retained the privilege of hunting, gathering roots and berries, and pasturing horses and cattle on open unclaimed land. The Treaty of 1855 with the Nez Perce Tribe includes similar reservations of rights. The Wanapum People are not signatory to any treaty with the United States and are not a federally recognized tribe, however, the Wanapum People were historical residents of the Hanford Site, and their interests in the area have been given recognition. The DOE, as a federal agency has a trust responsibility to avoid actions that would detrimentally affect tribal rights.”**

### **Laws, Regulations, and Executive Orders**

Operations at the Hanford Site are governed by numerous federal and state statutes and regulations. Table 4-2 provides a summary of the principal federal laws of importance to land-use planning at the Hanford Site.

## U.S. DEPARTMENT OF ENERGY RELATIONSHIPS WITH OTHER GOVERNMENTS, AGENCIES, AND INTERESTED PARTIES

### Tribal Governments

On May 18, 1994, The Secretary of Energy issued a memorandum that outlines the principles that define the DOE's responsibility to ensure that the agency operates within a government-to-government relationship with all federally recognized tribal governments. These principles are consistent with guidance received from President Clinton on April 29, 1994. In keeping with the principle of Native American self-government, the DOE recognizes that certain tribes have treaty-protected interests in resources on the Hanford Site.

### Department of Interior

"The 51-mile Hanford Reach is a free-flowing segment of the Columbia River, stretching from just below the Priest Rapids Dam downstream to the McNary Pool at Richland, just north of the 300 Area. The National Parks Service EIS (NPS 1994) examined alternatives for preservation of the resources and features of the Hanford Reach, including addition of the Hanford Reach to the National Wild and Scenic Rivers System, and evaluated impacts that could result from various uses of the river. The Proposed Action recommends that the Congress designate federally-owned and privately-owned lands within 0.25 miles of the Columbia River, on both banks of the Reach a Recreational River under the Wild and Scenic Rivers System; the portion of the Hanford Site that lies north and east of the river as a National Wildlife Refuge to be managed by the U.S. Fish and Wildlife Service. Responsibility for the remediation of lands contaminated by DOE operations would remain with the DOE. Congress must take action by November 1996, or the No-Action Alternative is assumed by default.

U.S. Senator Patty Murray, (D) WA., in 1995 proposed a bill to Congress to protect the Hanford Reach, implementing the preferred alternative of the EIS and contains some refinements and protections. For example, the bill explicitly allows current activities, such as agriculture, electrical power generation and transmission, and water withdrawals along the river corridor to continue. It excludes private property from the recreational river designation, and guarantees that Tribal governments, local governments, and other interests have a formal role in the management of the river

corridor, which will come under the jurisdiction of the U.S. Fish and Wildlife Service. The Secretary of the Interior and relevant federal agencies are directed to work with local and state sponsors in developing a program of education and interpretation related to the Hanford Reach, and to coordinate with local sponsors on demonstration projects to restore the rivershore.

#### BLM and BoR

The Hanford Site land holdings consist of three different real property classifications: (1) lands acquired in fee, (2) lands withdrawn from the public domain as part of the Hanford Site, and (3) lands withdrawn from the public domain or acquired by the US Bureau of Reclamation (BoR) as part of the Columbia Basin Project. These lands are currently administered by the DOE under a superseding public land withdrawal. These withdrawn lands are to revert back to the BLM when the DOE no longer needs them.

#### Washington State *Growth Management Act of 1990* (GMA).

The GMA required the largest and fastest growing counties and cities within those counties to develop new comprehensive plans. Benton, Franklin and Grant counties have elected to plan under the GMA requirements, regardless of their growth rates.

The State of Washington's **Dangerous Waste Regulations** include consideration of sites used as dangerous waste-management facilities, posing constraints on the siting of waste treatment, storage, and/or disposal facilities that must be considered during the land-use suitability analysis stage of creating comprehensive plans. This illustrates the close and dependent nature of the relationship between the counties and the Hanford Site, particularly in land-use planning.

**The Hanford Federal Facility Agreement and Consent Order** is a DOE relationship with the State of Washington and the EPA through the Tri-Party Agreement. In May, 1989 in anticipation that the Hanford Site would be listed on the National Priorities List the Tri-Party agreement was entered into to organize responsibilities for remediation of the Hanford Site and to establish milestones by which the remediation would be accomplished. The main objectives are to guide the investigation of hazardous and radioactive contamination at the Site, to develop and implement appropriate response actions to remedy contamination problems, and to coordinate agency actions under state and federal environmental laws and regulations.

### **Local Governments**

Portions of the Hanford Site lie within Benton, Franklin, Adams, and Grant counties. The City of Richland abuts the southern boundary of the Site, and considerable development within the city limits and adjacent to the Site has already occurred. Future land use at Hanford has the potential to affect the economic development or decline of Richland. The city has proposed annexing nearly four square miles of the Site, including the 1100 and 300 Areas and adjacent lands. Benton County is preparing a comprehensive land-use plan that covers the entire county, including the primary portion of the Hanford Site.

### **The Hanford Advisory Board**

The HAB was created in 1994 to monitor progress and help Tri-Party Agreement agencies get on with safe, credible, cost-effective, and environmentally sound

remediation. The board represents a broad cross-section of interests in the states of Washington and Oregon.

## **FUTURE LAND USE ASSUMPTIONS**

Multiple Use of U.S. Department of Energy, Richland Operations Office

The CLUP states, “There is a wide range of opinion regarding whether the non-DOE use of RL property for multiple uses is appropriate. Grazing, ecological research, agricultural research, wildlife management, recreation, mineral extraction, historic preservation uses, and typically non-DOE type uses may not be appropriate and it is not clear how such uses might be effectively integrated into long-term planning. The land-use team did not evaluate the extent to which non-DOE uses should be encouraged, given the existing planned RL operational requirements.”

Transfer of surplus property from the DOE to other federal agencies, or to non-federal entities, could result in a long-term loss of land resources for federal missions. Such loss of lands is counter to the present management of the land as a national asset and national resource. Such loss of land also could hinder the DOE’s ability to develop a new facility area or maintain suitable protective safety buffer zones.



Attachment 1

*Federal Laws of Importance to Land Use Planning at Hanford.*

National Environmental Policy Act of 1969

Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Resource Conservation and Recovery Act of 1976

Federal Property and Administrative Services Act of 1949

Federal Land Policy and Management Act of 1976

National Defense Authorization Act of 1994

Atomic Energy Act of 1954

National Historic Preservation Act of 1966

American Indian Religious Freedom Act of 1978

Native American Graves Protection and Repatriation Act of 1990

Endangered Species Act of 1973

Wild and Scenic Rivers Act of 1968

Columbia Basin Project Act of 1943

Safe Drinking Water Act of 1974, as amended

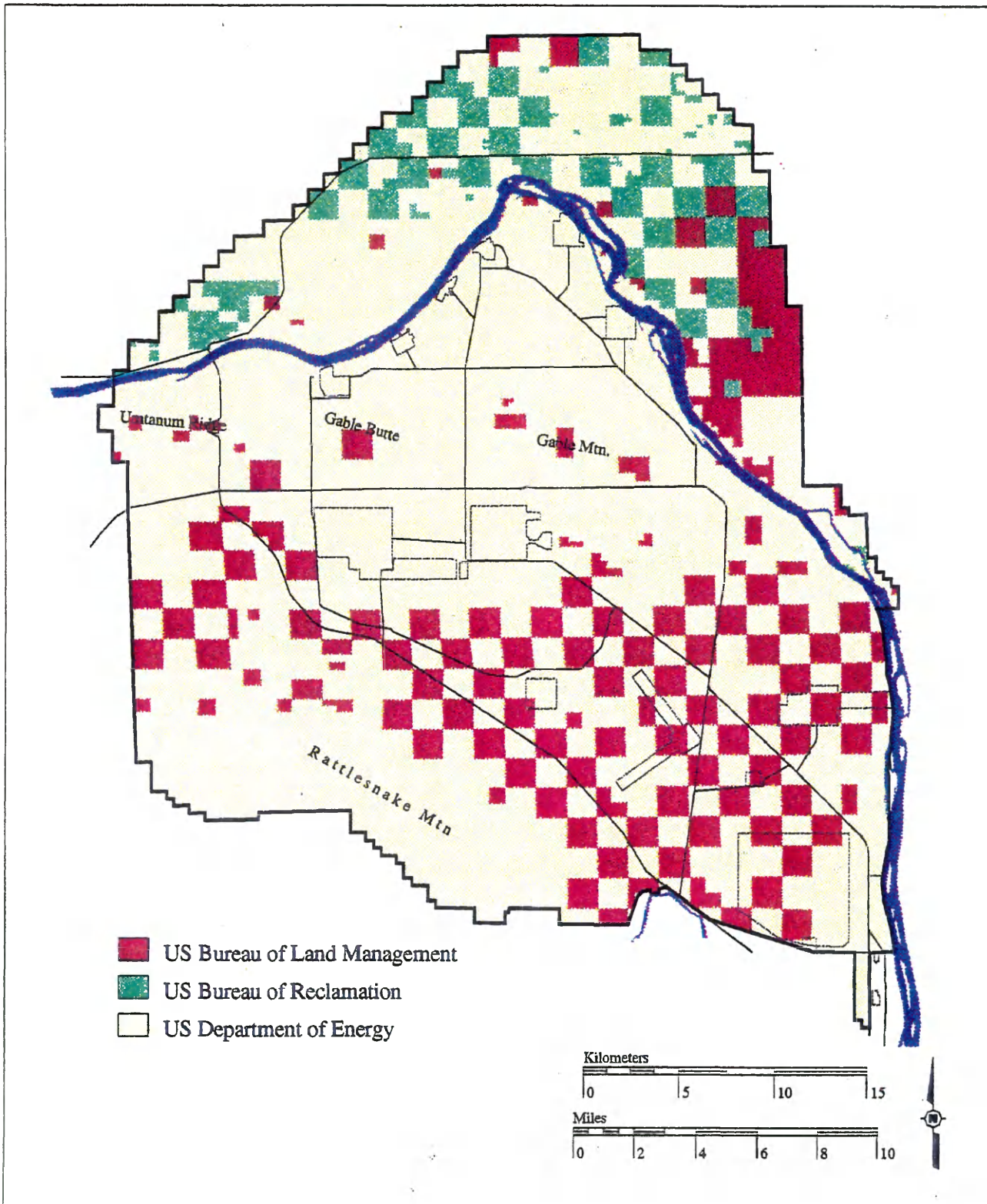
Clean Water Act of 1977, as amended

Executive Order 11593, National Historic Preservation

Executive Order 11988, Floodplain Management

Executive Order 11990, Protection of Wetlands

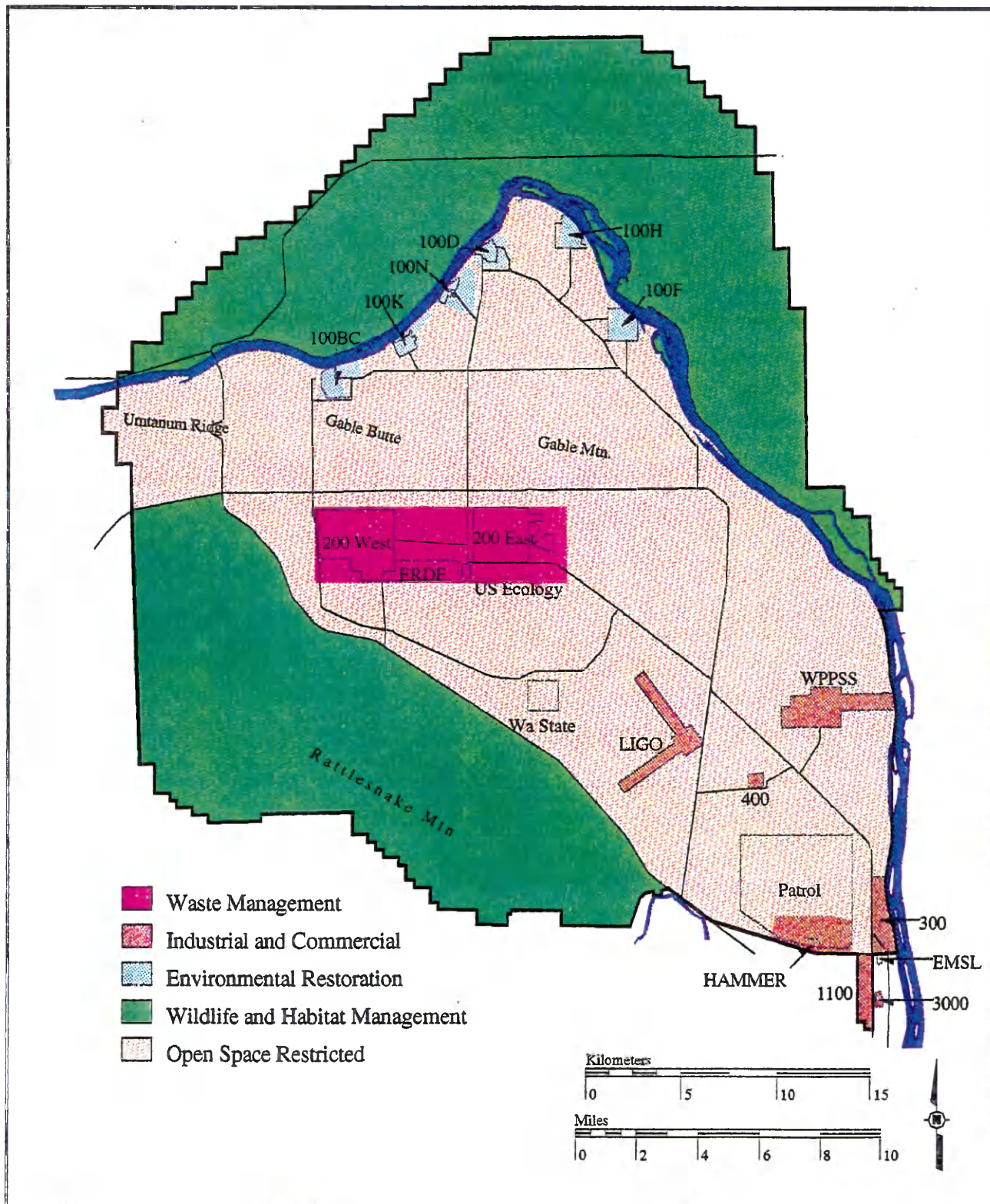
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**Figure 4-1. Hanford Site Land Ownership.**



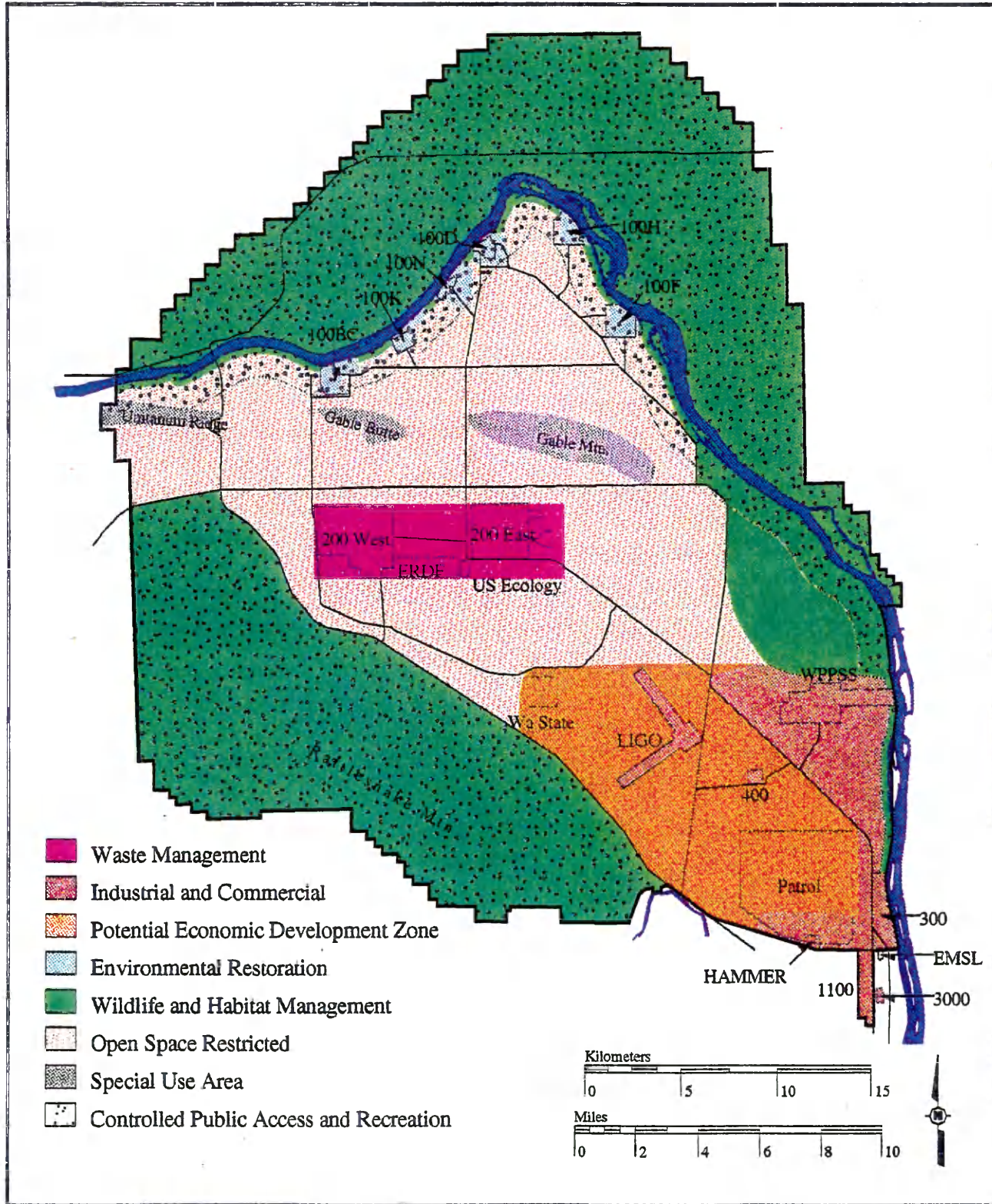
ATTACHMENT 2  
Hanford Advisory Board Membership 1996

<b>REGIONAL INTEREST GROUPS</b>
<p>Central Washington Building Trades Council          Columbia River United          Government Accountability Project          Heart of America Northwest          Oregon Hanford Waste Board          Oregon League of Women Voters          Physicians for Social Responsibility          Washington State University</p>
<b>TRIBES</b>
<p>Confederated Tribes and Bands of the Umatilla Indian Reservation          Nez Perce Tribe          Yakama Indian Nation</p>
<b>LOCAL GOVERNMENTS</b>
<p>City of Benton City          Benton County, Commissioner          Franklin County          Grant County, Commissioner          Kennewick City Council          Pasco City Council          City of Richland, Mayor</p>
<b>LOCAL INTEREST GROUPS</b>
<p>Battelle          Columbia Basin Minority Economic Development Association          Hanford Atomic Metal Trades Council          Hanford Environmental Action League          Hanford Watch          League of Women Voters          Lower Columbia Basin Audubon Society and Columbia River Conservation League          Tri-Cities Technical Council          Tri-City Industrial Development Council          Westinghouse Hanford Company</p>
<b>AGENCIES</b>
<p>Oregon Department of Energy          Washington State Department of Health</p>

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**Figure S-1. Hanford Site Existing Land Use Map - 1996.**

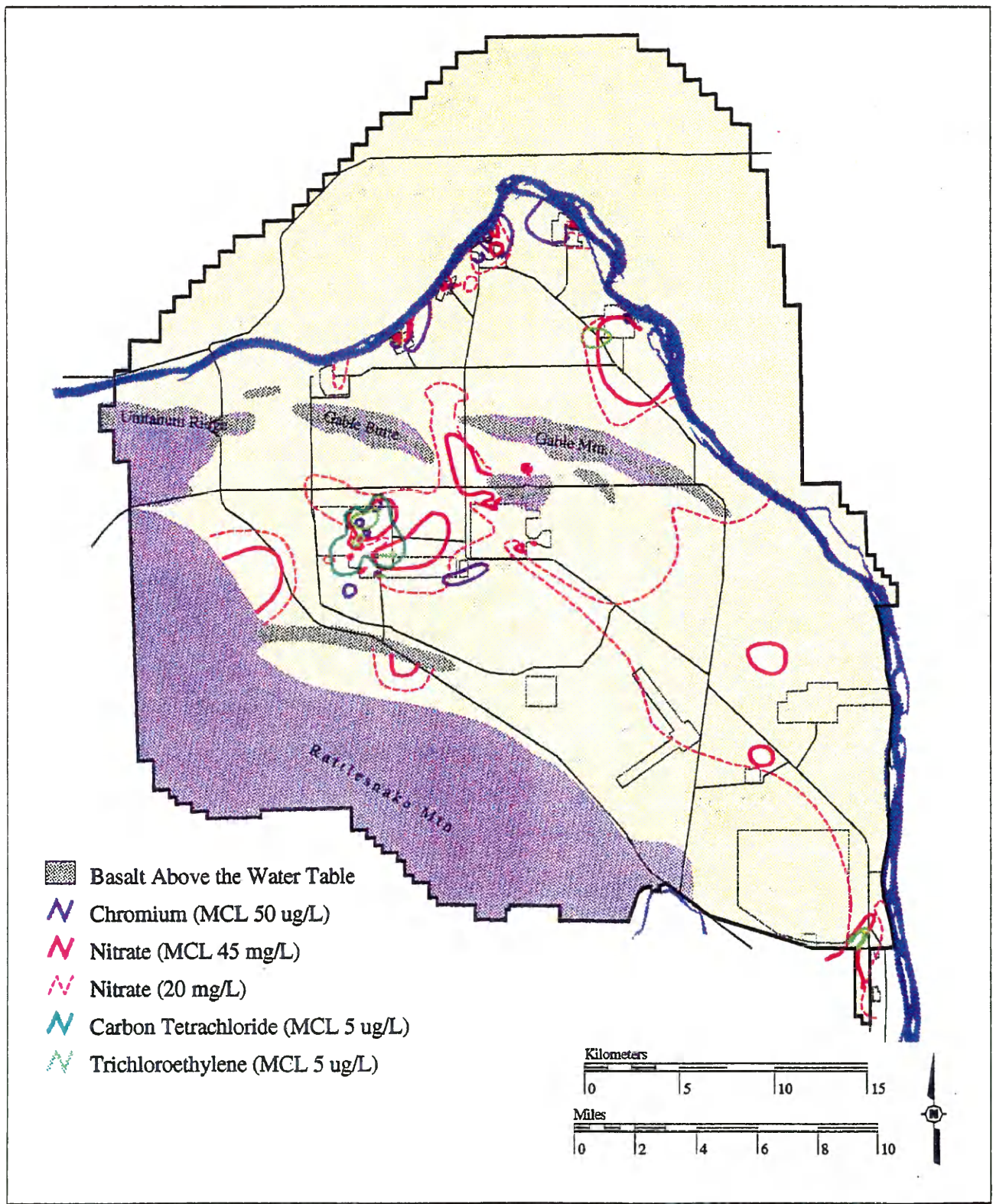


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**Figure S-2. Hanford Site Proposed Comprehensive Land Use Plan Map - 1997.**

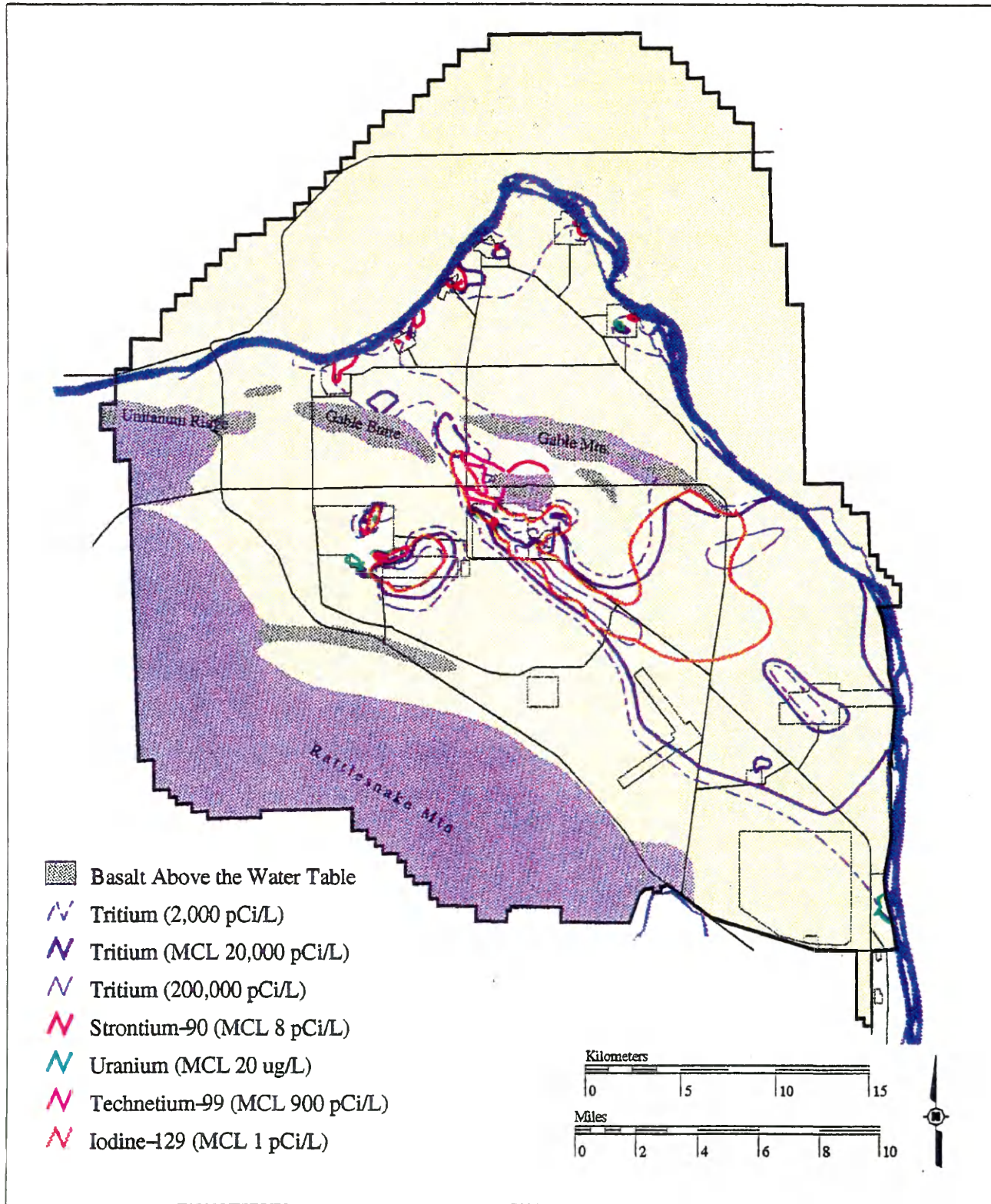


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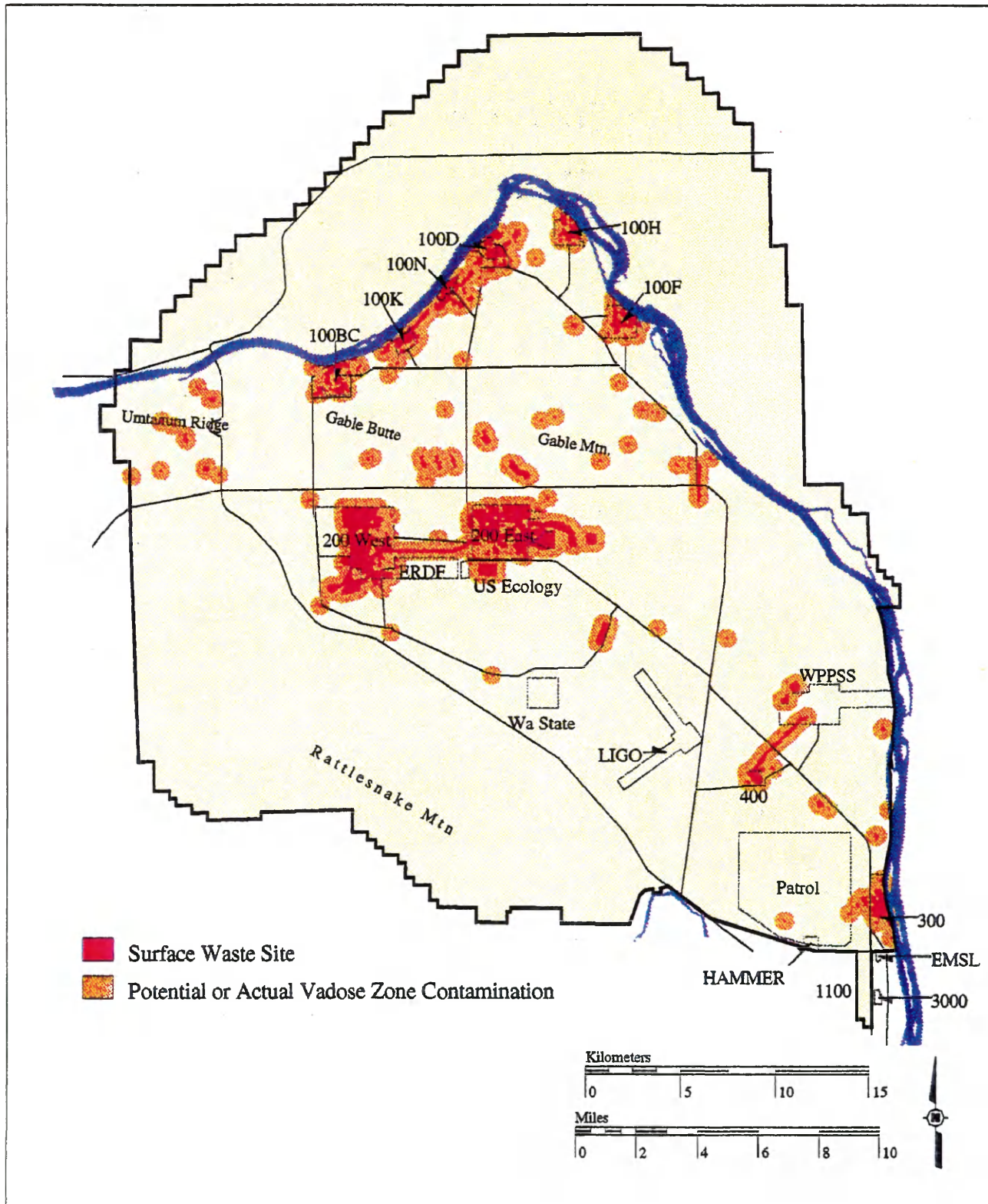
**Figure 6-17. Distribution of Hazardous Chemicals in Groundwater Within the Hanford Site.**



1 **Figure 6-18. Distribution of Radionuclides in Groundwater Within**  
 3 **the Hanford Site.**  
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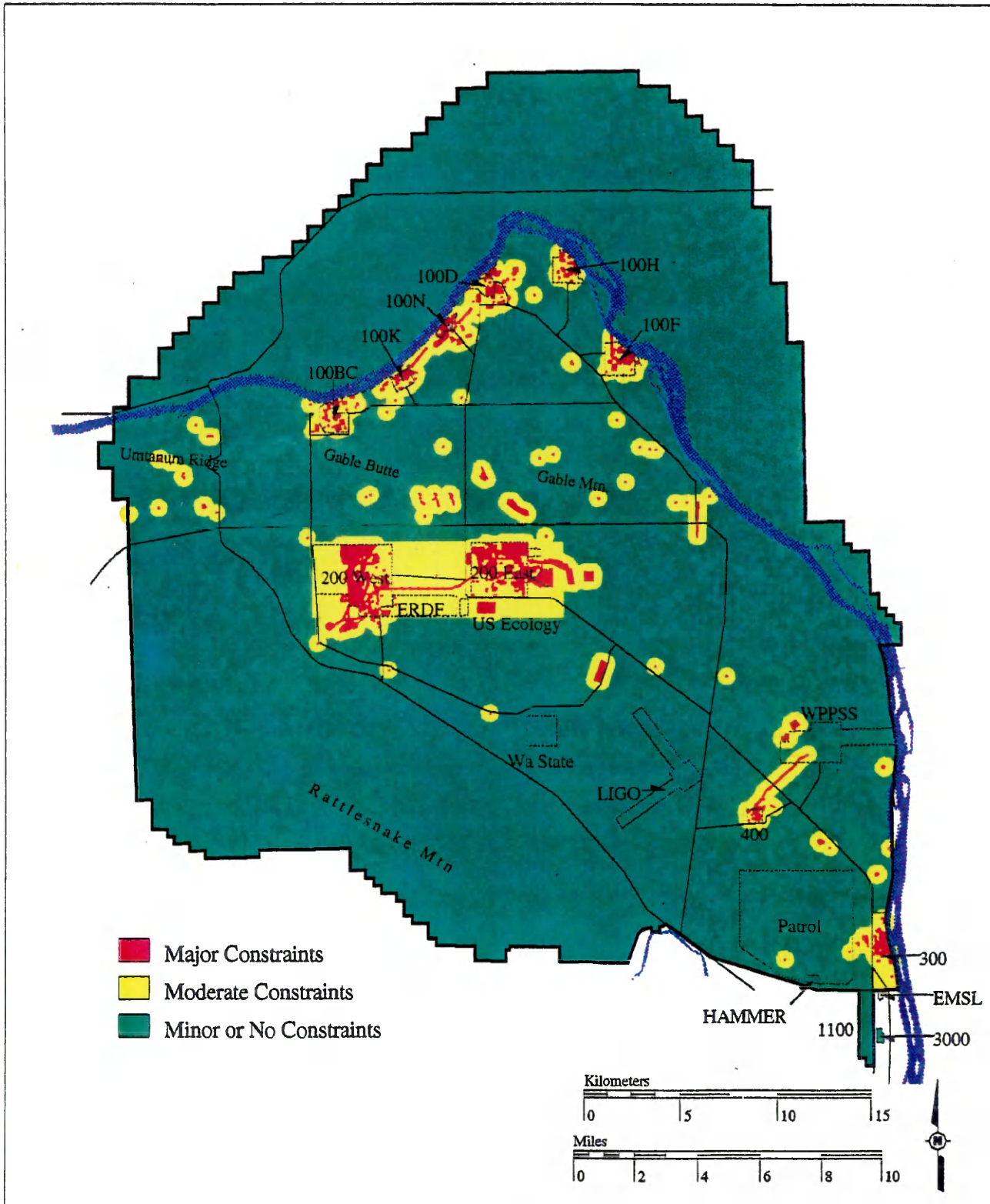


1 *Figure 6-22. Hanford Site Waste Sites and Potential or Actual*  
 3 *Vadose Zone Contamination.*

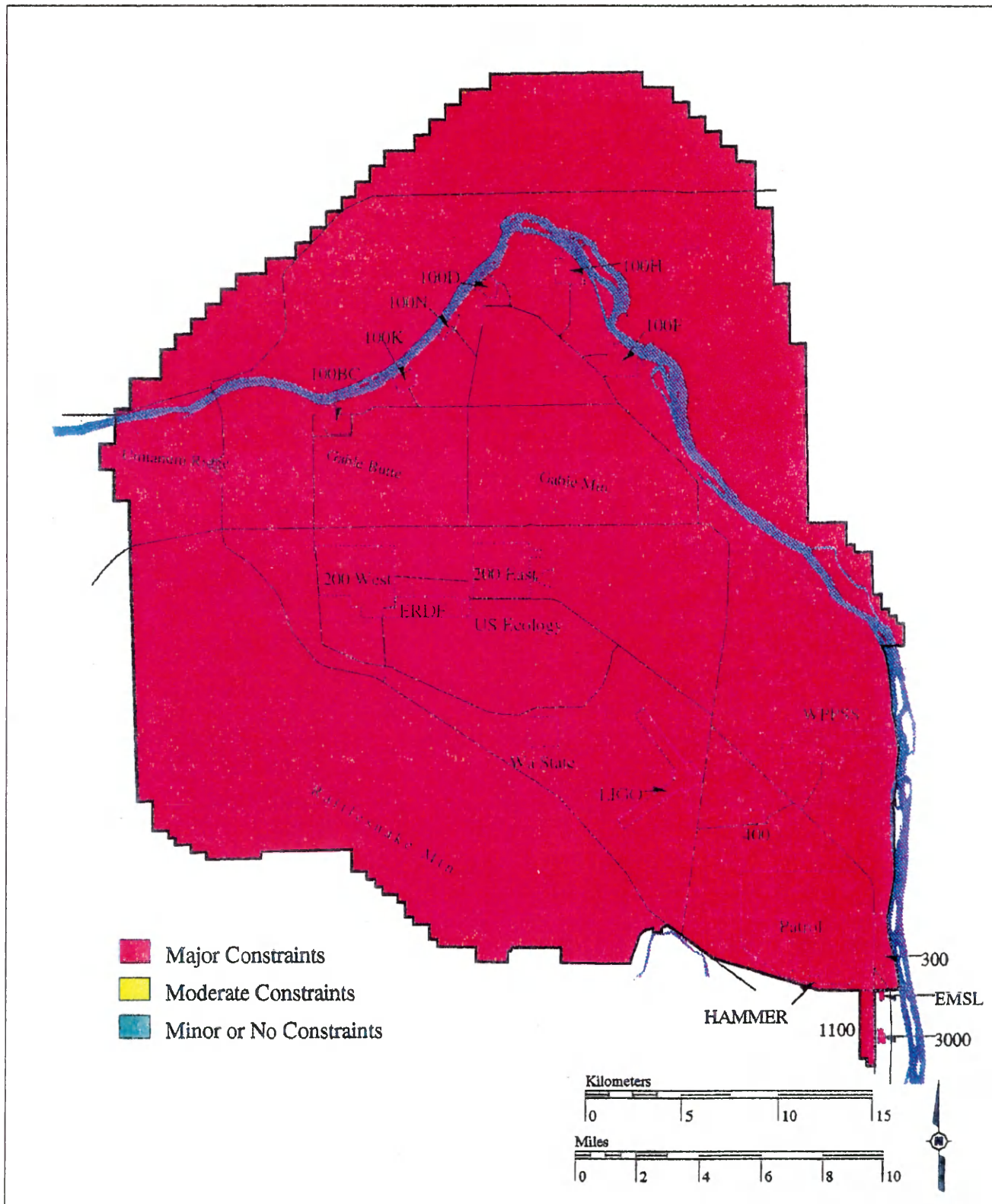




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**Figure 7-4. Waste Site Minor, Moderate, and Major Constraints Map.**



**Figure 7-7. Cultural Minor, Moderate and Major Constraints Map.**



## CHAPTER 9

### YAKAMA LAND USE PLANS, GOALS AND CONSTRAINTS

In a letter dated January 19, 1994, Cecil Sanchey, Chairman of the Yakama Indian Nation's Radioactive/Hazardous Waste Committee, submitted a draft Land Management Plan for the Arid Lands Ecology Reserve (ALE) to DOE Secretary O'Leary. Sanchey suggests that in conjunction with the DOE "downsizing," the ALE be placed "under authority" of the Yakima Indian Nation. He also advised that the Nation was "drafting Congressional legislation which will authorize this placement, and we seek your help in getting it passed."

The letter further states "The Yakima Nation wants these (ceded) lands returned so that our people can resume traditional and cultural practices. The return of these uninhabited lands...would be an impressive gesture indicating the current Administration's commitment to, and concern for, the original Americans....As you can see from the attached plan, the Yakima Nation intends to manage the area as a cultural preserve and wildlife refuge."

#### DRAFT LAND MANAGEMENT PLAN

The introductory pages of the plan describe the specific location of the ALE and its history since it was taken over by the AEC and its successor, the DOE. Included is an account of the changing DOE missions of security and research as related to this piece of land.

"The ALE is dominated by Rattlesnake Ridge...This ridge has provided the indigenous peoples with lithic materials, wild game, seasonal roots and berries, grazing

land, and burial grounds. Rattlesnake Mountain is a sacred site and holds special significance to the Yakima people. Some of the people believe that it was there that Smowhalla was initially given a vision that enhanced the Washat Religion which is still adhered to today.”

The plan observes that the rights to traditional lifestyle uses retained by the Yakima people in the 1855 Treaty were disrupted by the government in 1943. “At the time of the Treaty signing, the Yakima people’s leaders negotiated long and hard with the United States, eventually securing many rights on lands outside the boundaries of the reservation. The leaders knew it would take a much larger area to support future generations than was retained in the reservation land base...ALE is one of the few such remaining areas. Under the terms of the Treaty and the doctrine of trust responsibility established through many U.S. Supreme Court decisions over the last 200 years, the ALE Reserve is a legally protected place to exercise the rights guaranteed the Yakima Nation by the United States.”

The body of the plan is divided into three parts: The Cultural Reserve; The Wildlife Refuge; and Security.

In part one it is noted, “That indigenous people used the area extensively in the past cannot be disputed. There are at least 49 prehistoric and 12 historic archaeological sites currently of record within the ALE Reserve. However, surveys have only been made near spring sites or along the ridge top; there have been no systematic surveys of the entire area.” Artifact evidence suggests an indigenous people’s settlement where subsistence and use patterns existed continuously for over 10,000 years. Archaeological

evidence proves that prior to Euro-American influence, the area was extensively used for hunting, fishing, camps, villages, burial locations and significant religious sites.

Reference is made to the importance to the Washat religion of the experiences there of the great religious leader, Smowhalla.

“Under Yakima Nation management, Tribal members would be able to use this area for traditional and cultural purposes, as their ancestors did,” the plan states.

“However, information (lore) has disappeared with the passing of elders and restrictions in use. With the denial of access to ALE for 50 years, few elders are left who have the knowledge of the Reserve and utilized it for traditional purposes...Knowledge that has been lost could potentially be recovered through careful examination of locations that were used by the ancestors.”

Management goals would restrict entry to the area to people pursuing traditional use activities and those with permits who would conduct scientific studies. “By managing ALE as a cultural preserve, its continued protection would be assured,” part one concludes.

Part three of the plan discusses the use of the ALE as a wildlife refuge. It begins “In recognition of ALE’s unique biotic character, DOE officially designated a reserve in 1967 via an administrative order...and in 1977 ALE was selected as one of several National Environmental Research Parks identified throughout the US.....Since 1968 the predominant use of ALE Reserve lands has been for ecological research and monitoring by DOE and its contractors, and by universities under special arrangement with the Energy Department.”

Because of its management history, the ALE still retains a significant component of native plant communities, many of which are no longer found outside the ALE boundaries. A rich assemblage of birds, mammals, and reptiles are also found there.

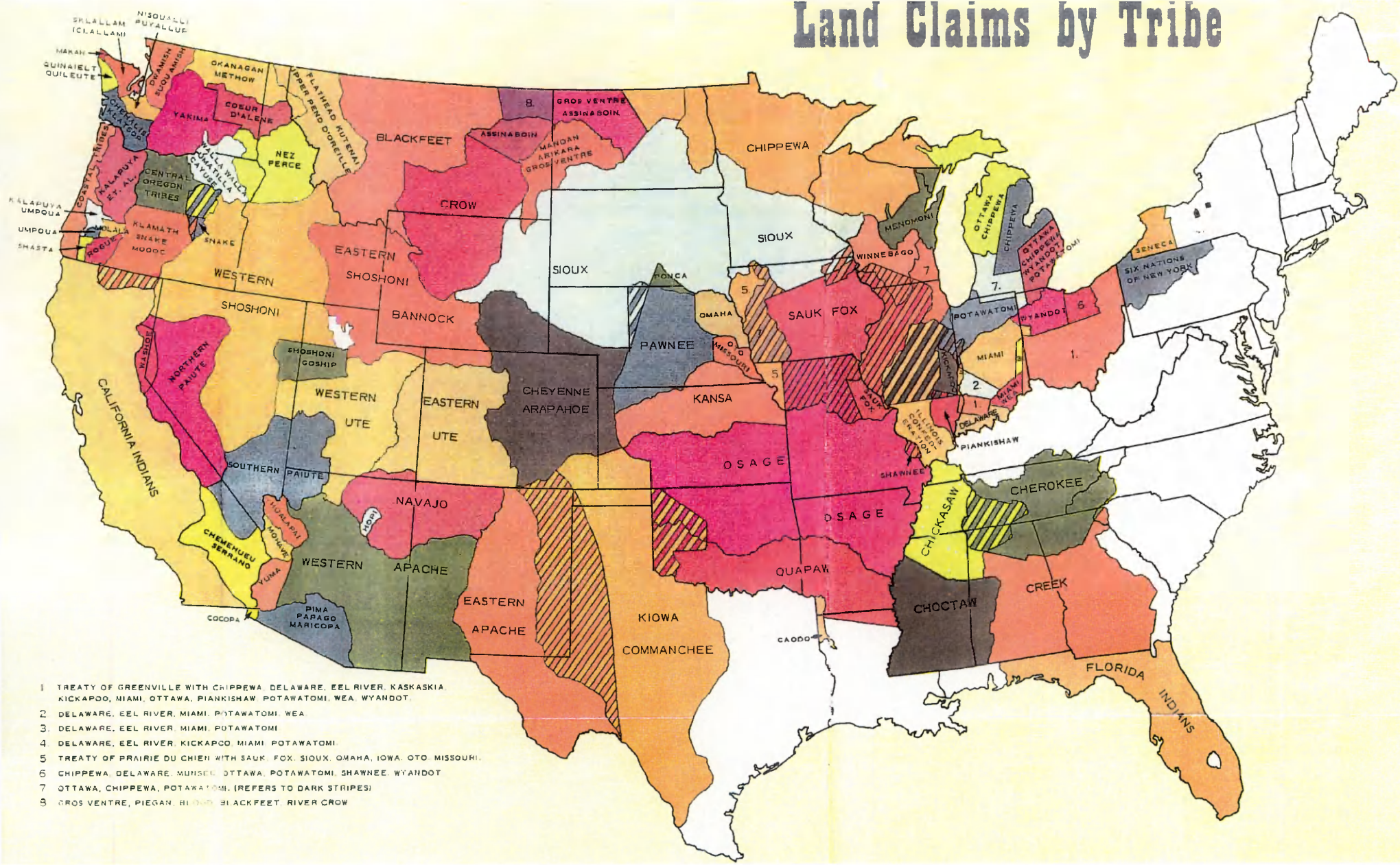
The overall management philosophy of the Yakama Nation reflects the unique historical relationship between its people and the natural landscape which has sustained them for thousands of years. A major goal, then is the conservation and maintenance of the areas unique natural and cultural resources for generations to come.

The remainder of part two of the plan treats specific management functions in detail. They include; **access**, both by the public and Nation members, limited to protect resources and solitude; **vehicle use**, will be strictly regulated to reduce negative impact on natural and cultural resources; **grazing**, recognized as being responsible for considerable regional ecological damage, livestock grazing on the ALE will not be permitted; **harvesting of traditional plants**, will be managed to assure the conservation and perpetuation of the people's foods and medicines on ALE lands; **big game hunting**, on the ALE Reserve will not be open to general subsistence hunting by tribal members... "A big game research and monitoring program will be implemented by the Yakama Nation Wildlife Resources Program;" **non-game wildlife management**, will emphasize protection and enhancement of existing animals, including possible re-establishment of extirpated native wildlife; **educational and research use**, will be actively be promoted by the Nation for the benefit of both tribal members and non-Indians, including federal agencies, colleges, and universities.

The final section of the plan, part three, deals with security for the ALE. “It is the intent of the Yakima Nation to have an on-site residential ranger/manager at ALE to handle day-to-day regulation and supervision.” This person would have dual authority to enforce tribal, federal and state laws, and work in cooperation with other local law enforcement agencies. The Reserve will remain fenced and patrolled by security personnel. The goal of Security is to make sure ALE retains its ability to function as a cultural preserve and a wildlife refuge. “...use of the area by non-Indians will necessarily be very limited in nature.”

The nature of Secretary O’Leary’s response to this draft management proposal, if any, is not known at this time.

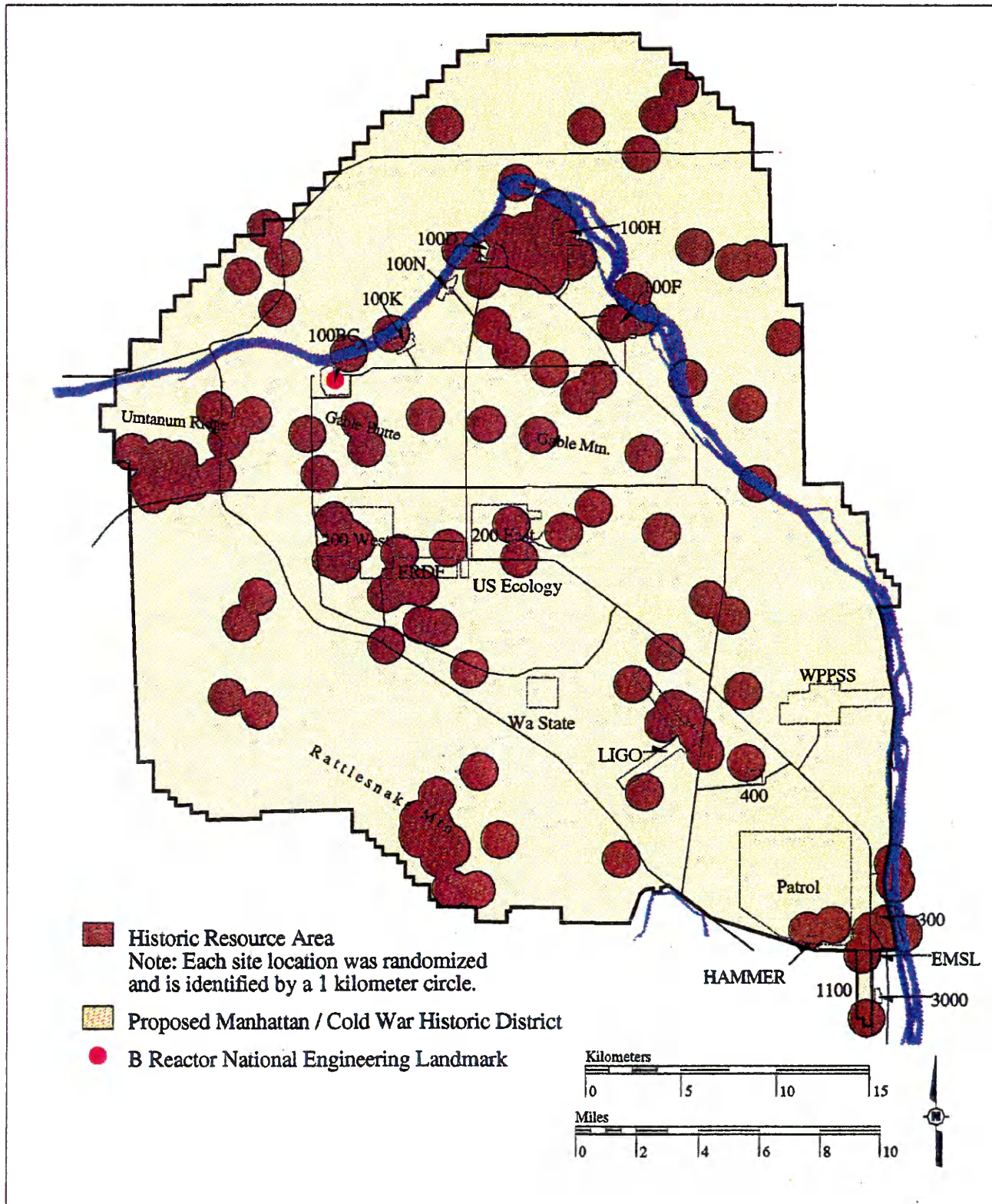
# Land Claims by Tribe

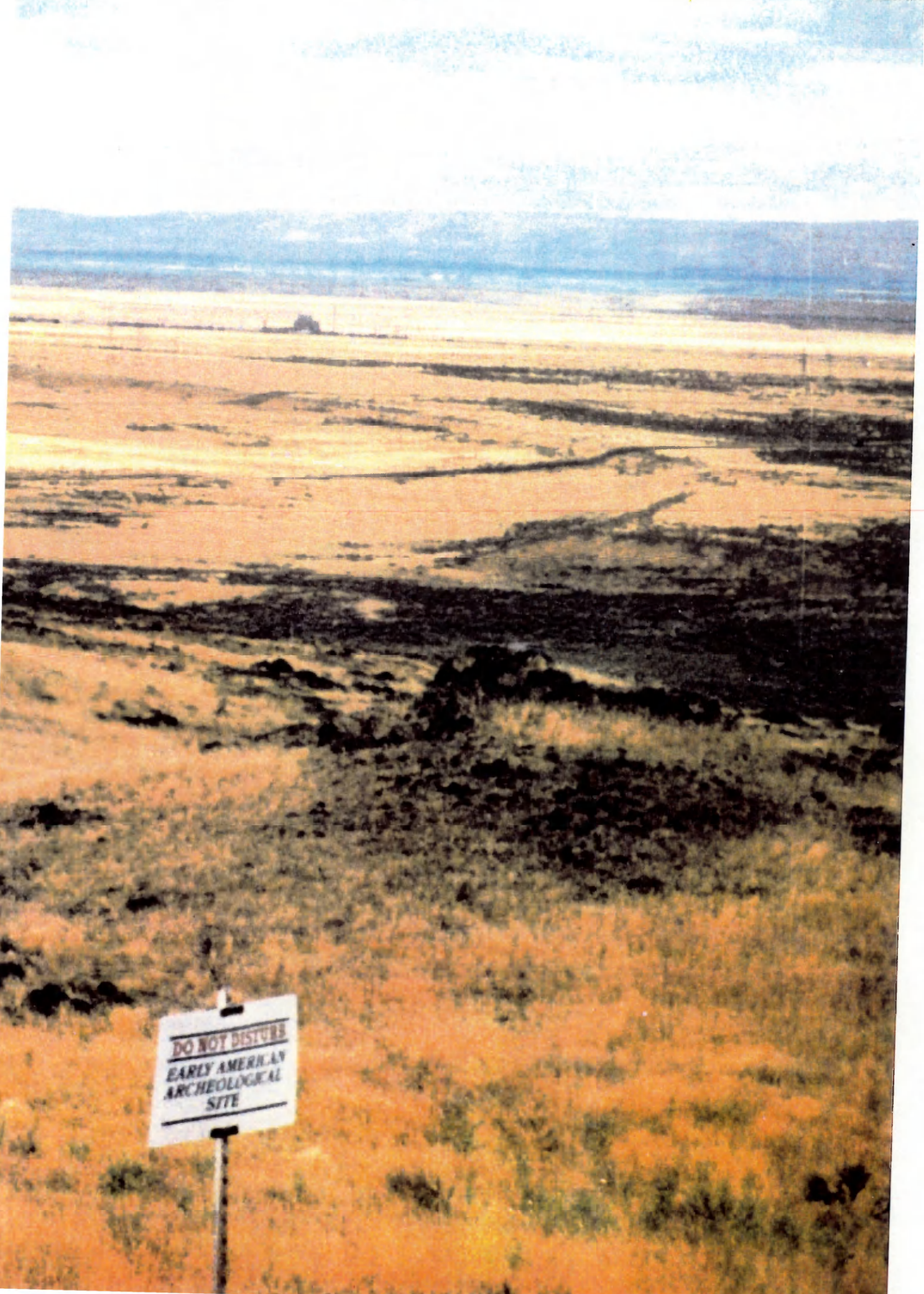




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Figure 6-29. Hanford Site Historic Areas.





**DO NOT DISTURB**  
**EARLY AMERICAN**  
**ARCHEOLOGICAL**  
**SITE**



## CHAPTER 10

### CONSIDERATIONS OF TRIBES AND OTHERS

A small selection of some of the land-use proposal considerations from a few of the interested tribes and parties are offered below:

#### O'LEARY AND LOWRY

On April 10, 1995, Secretary O'Leary and Washington Governor Michael Lowry wrote a letter to Secretary of the Interior Bruce Babbitt advising him that the cooperative efforts between them and the Environmental Protection Agency (Tri-Party Agreement members) had completed the cleanup efforts for the ALE and noted that the 120-square mile site may be deemed "excess" to the DOE's mission in the near future. In that event, transfer of ownership and management will be an elaborate effort involving a variety of federal laws and regulations. The letter advised that: "Disposal through existing legal process may not appropriately recognize the interests of local governments, Indian tribes, science educators, conservation groups, and wildlife management agencies. Such disposal could produce multiple ownership and uses deemed detrimental by most interested parties... The Hanford Future Site Uses Working Group proposed five general options for the ALE Reserve, none of which could be assured under the normal land disposal process.

The letter suggests that one or more of these proposals may be preferable, and to gain a better understanding of the positions of interested parties, a forum was recommended for May 10, 1995, in Richland, Washington. It was hoped that the forum

would provide information to take actions that may result in a specific outcome. Copies of this letter were sent to interested parties, encouraging their participation.

#### YAKAMA INDIAN NATION

The Yakama Indian Nation responded to the invitation to participate in the Richland forum with a letter to Secretary O'Leary, dated April 25, 1995. The letter first expressed appreciation for the Secretary's public statements supporting the return of ALE to the Yakama Nation. It goes on, however, to state that a public forum for discussion of the transfer of the ALE would be counter-productive, in their opinion. The fear is that other interested groups would create enough discord that the proposed transfer of the ALE to the YIN would fall through.

"Further, we are very troubled that the DOE is opening the federal land transfer process to public participation. We understand DOE's primary obligation under the key federal land transfer statute, the Federal Property and Administrative Services Act of 1949 (FPASA) and its implementing regulations (FPMR), to be to determine whether or not the ALE lands are no longer required for the needs and the discharge of the DOE's responsibilities, and thus can be declared 'excess.' Is such a determination of 'excess' an internal DOE question and perhaps not subject to requirements of public participation and debate?"

The Yakama Nation's letter notes their awareness that there are those against the transfer of Hanford federal lands until a comprehensive land use-plan for Hanford has been developed, and they agree upon the need for such a plan, but hope that will not hold

transfer of the ALE “hostage” to such a requirement. The Nation believes the ALE lands transfer should proceed on its own merits because it is considered to be a separate and special parcel of land, now free from contamination and by consensus best left undeveloped.

For these reasons, it is not considered to be in the best interest of the Nation to participate in the May meeting, but “look forward to an active involvement in any future Hanford comprehensive land use plan to be developed after resolution of the ALE transfer.”

A copy of this letter was sent to the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), among others.

#### UMATILLA

In a May 5, 1995 letter to Secretary O’Leary, the Chairman of the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation, Donald G. Sampson, declined an invitation to attend or participate in a proposed public meeting concerning the disposal of the DOE’s ALE, sponsored by the Governor Lowery of Washington, and The Secretary of Energy, O’Leary.

The reason given was: “To date, there have been two proposals for the management of ALE, one by the Yakama Nation and one by the U.S. Department of the Interior’s Bureau of Land Management (BLM). In an October 31, 1994, letter, to you, the CTUIR formally endorsed the Yakama Indian Nation’s proposal for the future management of ALE. As I stated in that letter, the CTUIR feels the Yakama proposal is

the most reasonable, practical and just proposal, as well as being the proposal that is most protective of ALE's valuable resources."

The Chairman's letter went on to say: "If we are all going to find a mutually advantageous resolution of ALE's future, we must begin with discussions between the tribes, BLM and DOE. Such government-to-government discussions are the natural starting place for crafting a resolution of this matter that meets the interests of all of these entities. This foundation-laying work must be done before public meetings are held. Otherwise, there is little hope that common ground will be found at a much more contentious public forum where all sorts of interests are represented."

Sampson goes on to complain that the DOE's RL is also initiating public discussion of its proposed CLUP. "At this point, these discussions only serve to further confuse an already sensitive process....Likewise, we should attempt to resolve any questions about the Wild and Scenic designation for the Hanford Reach, and about the transfer of the "North Slope" to the U.S. Fish and Wildlife Service, before embarking on the proposed land use planning process. Like the ALE proposals, these two proposals are already on the table. The CTUIR is optimistic that the tribes, DOE, the National Park Service, and the U.S. Fish and Wildlife Service can work together to advance common goals for the future of the Hanford Reach and the "North Slope." Such discussions must begin, however, in private government-to-government negotiation, and not in public forums."

Secretary O'Leary's letter of response provided a summary of the meeting and a response to Sampson's concerns about land-use planning in general at Hanford.

“Initially, the Yakama Nation also declined to participate in the meeting.

Discussions with policy makers within the Yakama Nation resulted in ground rules being established for the public meeting, which addressed the main concerns of the Yakama Nation. These ground rules which were enforced by the facilitation, included no discussion or interpretation of treaty rights, no potential disposition of the Arid Lands Ecology Reserve and not the overall land use planning concept. With these assurances, the YIN agreed to participate and were represented by three people who presented a video and answered questions regarding the Yakama management philosophy. I believe the meeting was a success. I have enclosed the summary report which was prepared by Triangle Associates Inc. who facilitated the meeting.

“In your May 5, 1995 letter, you also expressed the opinion that it would be in the best interest of all parties to delay any discussions about a comprehensive land use plan until the ALE issue is resolved. Although I believe we must deal with the issue of the Arid Lands Ecology Reserve without waiting for a land use planning process to be defined at Hanford, I do not believe it would be in the best interests of all parties to delay discussions about a comprehensive land use plan.” The Secretary closes with the hopes the CTUIR will participate in future planning efforts.

BLM

Since the land on which the Hanford Site is located was ceded from the Yakama Nation in the treaty of 1855, subsequent ownership was either public lands or homesteads. When the Nuclear Site was established, the land was either public land or homestead land which was purchased by the federal government.



The BLM proposal for the ALE recognizes that the land comprising the Hanford Site was part public domain land, and part was purchased in fee, giving title of that land directly to DOE by way of the AEC. BLM expects when the lands are no longer needed by DOE for the Hanford project, the original federal lands would be returned to the Bureau of Land Management for management and the acquired lands would be disposed of by DOE through normal processes.

In 1993, BLM proposed that the withdrawn public-domain lands be consolidated with the ALE through an interchange of withdrawn public-domain lands outside the ALE for acquired lands within, as was done in 1964. Noting that in 1971 the DOE, recognizing the importance of the area for scientific study, research, and educational purposes, designated the area as a Research Natural Area.

BLM proposes to interchange withdrawn public-domain lands throughout the remainder of Hanford for acquired lands within ALE, preserving it in its entirety. By doing so it BLM would simplify the existing land pattern for both agencies as well as facilitating the DOE environmental remediation program. It would also preserve the ecological and cultural integrity of ALE and continue to make it available to DOE to support the applied research needs to support the environmental restoration of the Hanford Site. (DOE uses the relatively uncontaminated ecology of the ALE as a baseline for testing for changes in contamination on the rest of the site.)

BLM adds “The Bureau of Land Management would provide law enforcement and resource management personnel in the area to facilitate the protection of the natural resources of ALE, implementation and enforcement of the provisions of the management

plan. Cooperative agreements and Memoranda of Understandings with Federal agencies, Tribal, state and local governments and/or private groups may be pursued to compliment BLM's management staff capabilities.”

BLM would also seek Congressional designation of the ALE as a National Conservation Area (NCA), and encourage provisions of the legislation to include withdrawing the ALE lands from all forms of appropriation under the public laws, including the mining and mineral leasing laws; provide for Native American cultural and religious practices; restricting grazing and hunting; restrict motor vehicles to designated roads, except for administrative and emergency purposes; limit visitation; enter into agreements with other federal agencies, tribal, state and local governments, and private groups and associations that would enhance management and protection of ALE; limit development and maintenance facilities; and other management provisions.

## COUNTIES

Counties represented in the Hanford Site, and certain agricultural-interest groups in those counties, felt that forming a unified front and proposing their own land-use plan was preferable to plans submitted by others.

In late February of 1996, Adams, Benton, Franklin, and Grant Counties distributed draft legislation to transfer clean Hanford lands back to the counties. The lands considered are the Wahluke Slope and the Riverland Site (excluding ALE lands), recently declared clean in a Record of Decision from the U.S. Environmental Protection Agency, the U.S. Department of Energy, and the Washington State Department of

Ecology (Tri-Party Agreement). “The lands would be transferred for a variety of purposes including: recreation; conservation of natural, historical, cultural, and scenic values; and economic development,” according to the distribution cover letter.

Among other things, this legislation proposes to establish the “White Bluffs Historic and Natural Recreation Area,” defined as the 1/4 mile corridor of lands on both sides of the Columbia River for forty-five miles as an alternative to a proposed federal wild and scenic river designation of the Hanford Reach. This public property would be used for the enjoyment and conservation of recreational, natural, historical, cultural and scenic values. It would also “Allow local governments to plan for, protect, and manage lands along the Reach within federally established boundaries, guidelines, and restrictions.”

Further, the counties suggest “at their options, shall be entitled before anyone else, including other Federal agencies, to take without payment any lands within each county’s respective boundaries within the Hanford Site certified suitable for conveyance...”

Paragraph four of the draft legislation also declares that “Limited economic activities along the public lands of the Hanford Reach of the Columbia River, such as power production and transmission, and water withdrawal and outfalls, are compatible with this Act.” This would favor the expressed desires of certain interest groups, particularly in Grant County, which wish to revert much of what is now a wildlife refuge to agricultural pursuits.

In the spring of 1995, the Benton County Planner provided a copy of a one-page **Agreement in Principle for A Cooperative Land-Use Planning Process for the Hanford Site**. It was intended to develop a memorandum of understanding between the parties of the Agreement. The memorandum will define a process to jointly develop and lead to the adoption of a comprehensive land-use plan for the Hanford Site.

The memorandum put off onto DOE the responsibility of participating and consulting with the tribes to assure that tribal rights and concerns are considered prior to making decisions that may affect tribes.

Principles of the Agreement include public participation, using planning processes and products consistent with all applicable state and federal laws, and reflect a balanced approach based upon the principles of ecosystem management and sustainable development.

Concepts include working cooperatively, including with the tribes, to define a comprehensive planning and land-use management process for the (entire) Hanford Site, and developing a memorandum outlining the process, products, roles and responsibilities for each of the parties involved. Also to structure the planning process to incorporate, in advisory roles for specified issues, Hanford advisory bodies, such as the Hanford Advisory Board and Community Reuse Organization.

The land management plan for the ALE proposed by the Yakama Nation is examined in detail in Chapter 9 of this paper.

## **HANFORD LAND TRANSFER**

(A Report prepared by the Washington Department of Ecology, March 1993)

This document was created to help frame significant policy issues relating to the control of areas of the Hanford Site for the Governor and Legislature of the State of Washington.

According to the report, the primary mission of the site has shifted from the production of weapons' grade plutonium and uranium to the cleanup of the extensive quantities of hazardous and radioactive wastes that have accumulated there. This brings the prospect that over the next several decades the DOE will relinquish control over large areas of the site. DOE has already advised the state that it is willing to discuss the possible permanent transfer of 1000 acres of the site to the state, which the state currently has under a 99-year lease. That land is currently a dump for hazardous waste and adjacent to extensively contaminated areas. Other areas indicated as candidates for transfer from DOE control are the North Slope and the Arid Lands Ecology Reserve.

Key state policy questions include:

- **Who should coordinate planning for land transfers?** There is a high potential for conflict among parties interested in land transfers. What role should the state play and how should land transfers be integrated with local land-use planning?
- **What role should the state play as a land owner or manager on the Hanford Site?**

In addition to 1000 acres leased from DOE, the state also owns a 640 acre parcel on the site for the treatment and disposal of extremely hazardous waste. Also, the Washington State Department of Wildlife manages, under permit from DOE, the North Slope.

Should the state continue its current landlord role? Are there public purposes which would be furthered by additional state-land acquisition? Would continued federal ownership achieve the same results?

- **What action should the state take to ensure that land transfers do not impede cleanup efforts or jeopardize public health and safety?** Discovery of contamination on transferred lands previously thought to be uncontaminated or fully remediated, also raises questions as to who would be liable for any additional cleanup efforts needed. What action should the state take to ensure that land transfers do not relieve DOE in any way from its obligation to fully cleanup the site?

The remainder of the **Hanford Land Transfer** report consists of six chapters dealing with the background of the Hanford Site; potential future uses; the legal and procedural framework within which transfer would take place; clean-up requirements and issues of liability for contamination, comparing previous experiences with transfer of closed military bases; legal constraints that may affect future Hanford landowners, including water rights, Indian treaty rights, pre-existing claims, and cultural and historical preservation; and finally, specific policy issues that will face state government, including kinds of proposed uses, protection from harm and liability resulting from previous contamination, and finally, basic planning issues, such as economic development, protection of natural and cultural resources, recreational values, and involvement of the public and Indian tribes in land-transfer and land-use decisions.

Chapter 3 cites five key statutes that will govern the transfer of most land at Hanford, excluding treaty provisions. They are: the **Federal Property and**

**Administrative Services Act of 1949, the Federal Land Policy and Management Act of 1976, the Atomic Energy Act (AEA), the Atomic Energy Communities Act (AECA), and the Columbia Basin Irrigation Act.**

Native American Interests are discussed in Chapter 6 of the **Hanford Land Transfer** report. “The tribes have strongly supported the cleanup of USDOE wastes on the Hanford reservation. This support stems largely from their desire to regain access to the site and to again exercise their treaty rights. It is uncertain what specific actions with regard to land transfers the tribes might take to protect their rights. Continued Federal ownership in some form may afford the tribes the greatest level of protection for their cultural and religious sites, and the best opportunity for the access needed to exercise their treaty rights.”

## CHAPTER 11

### CONFLICT AND RESOLUTION -- POLITICS

As has been discussed in the preceding chapters, competition for resources is a serious matter. There are legally mandated formalities interested parties must adhere to in order to successfully lay claim to these resources, or at least have some influence upon their future uses. Legislative acts, judicial decisions, traditional use, treaties, policy, and standard procedures must be given due respect. It is ultimately how political policy is determined that dictates final decisions. There is a history of side-stepping certain formal procedures to arrive at politically satisfactory solutions to questions like those raised in this discussion. All solutions are liable for judicial challenge, but that still is a form of political interpretation.

Assuming, for the purposes of this paper, that the federal government, through its agency, the Department of Energy, does make the decision to declare certain lands and facilities of the Hanford Site excess, the first nominal requirement that must be met to assume authority over any of those lands is to present a proposal compatible with the Hanford Site Comprehensive Land Use Plan. In Chapter Nine of this paper we studied proposals submitted by the Bureau of Land Management, the Yakama Indian Nation, and the counties whose boundaries include portions of the Hanford Site. We studied the Comprehensive Land Use Plan which, by virtue of exhaustive studies and public participation, has presented land-use recommendations based upon widest and best use and the constraints of hazardous waste as well as the on-going missions at the site. We



have studied various land-use proposals and cleanup scenarios submitted by the Tri-Party Agreement and the Hanford Advisory Board, as well as other interested stakeholders.

This paper has shown that the federal government has established standard procedures for the disposal of excess property. We have also learned that when convenient, the government has regularly negated standard procedures of acquisition and disposal of property. It has become clear through the studies entailed in this paper that federal and state policies involving government-to-government relations with Native Americans is an on-going dynamic...that the presence and influence of tribal sovereignty is a slowly awakening giant. The rules of engagement seem to change on a daily basis, despite the prior existence of tribal sovereignty over the lands.

This paper has shown that during times of national emergency, policies take drastic turns; that when national missions change, money takes on greater or lesser significance. Pressures on the federal budget can become fiery catalysts for change. Even the role of the federal government endures regular revolutionary alterations. The concept of public property and public responsibility becomes magnified during these times of change. The priorities defining the best use of public resources wax and wane under the glare of renewed public interest and scrutiny.

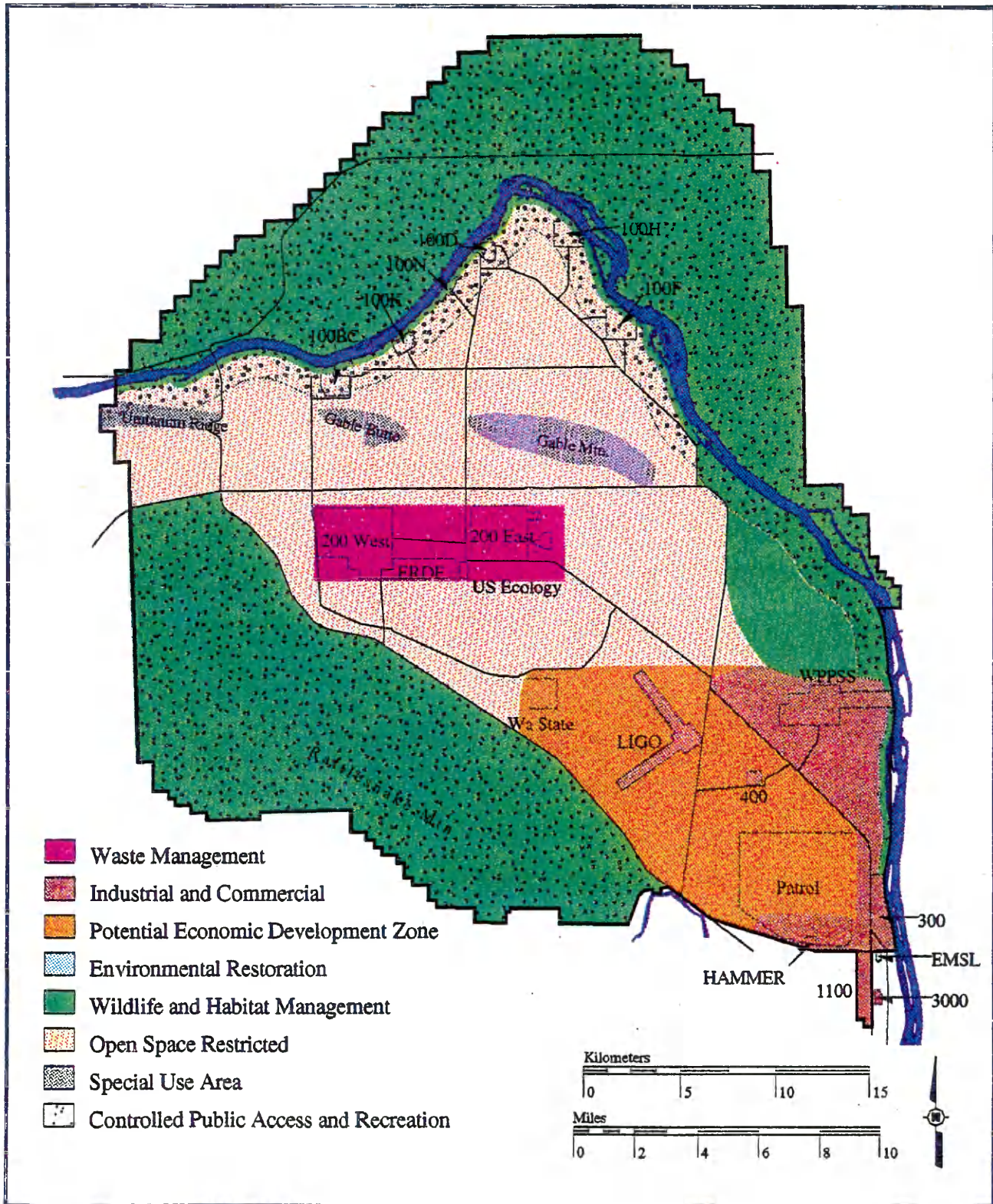
Policy, simply defined, is what governments do, and policy is formulated through political processes. Who influences those processes to create policy is the eternal question. Involvement seems to be the most obvious step in the process.

## CONCLUSION

As of this writing, both the DOE's Hanford Site Comprehensive Land Use Plan and the Yakama Indian Nation's management plan for the Arid Lands Ecology Reserve are still in the draft stage. Congress has still to act on a number of bills relating to the Hanford Site, including the nature and extent of the clean-up project, and giving the Hanford Reach a Wild and Scenic River designation. It appears that any change of administration for any of the properties on the Hanford Site will require congressional action. Land-use planners have been and will continue to be working very hard to create feasible proposals compatible with the site mission, national legal constraints, and policies of protecting the cultural, historical, and natural resources of the region while respecting the economic interests of dependent communities.

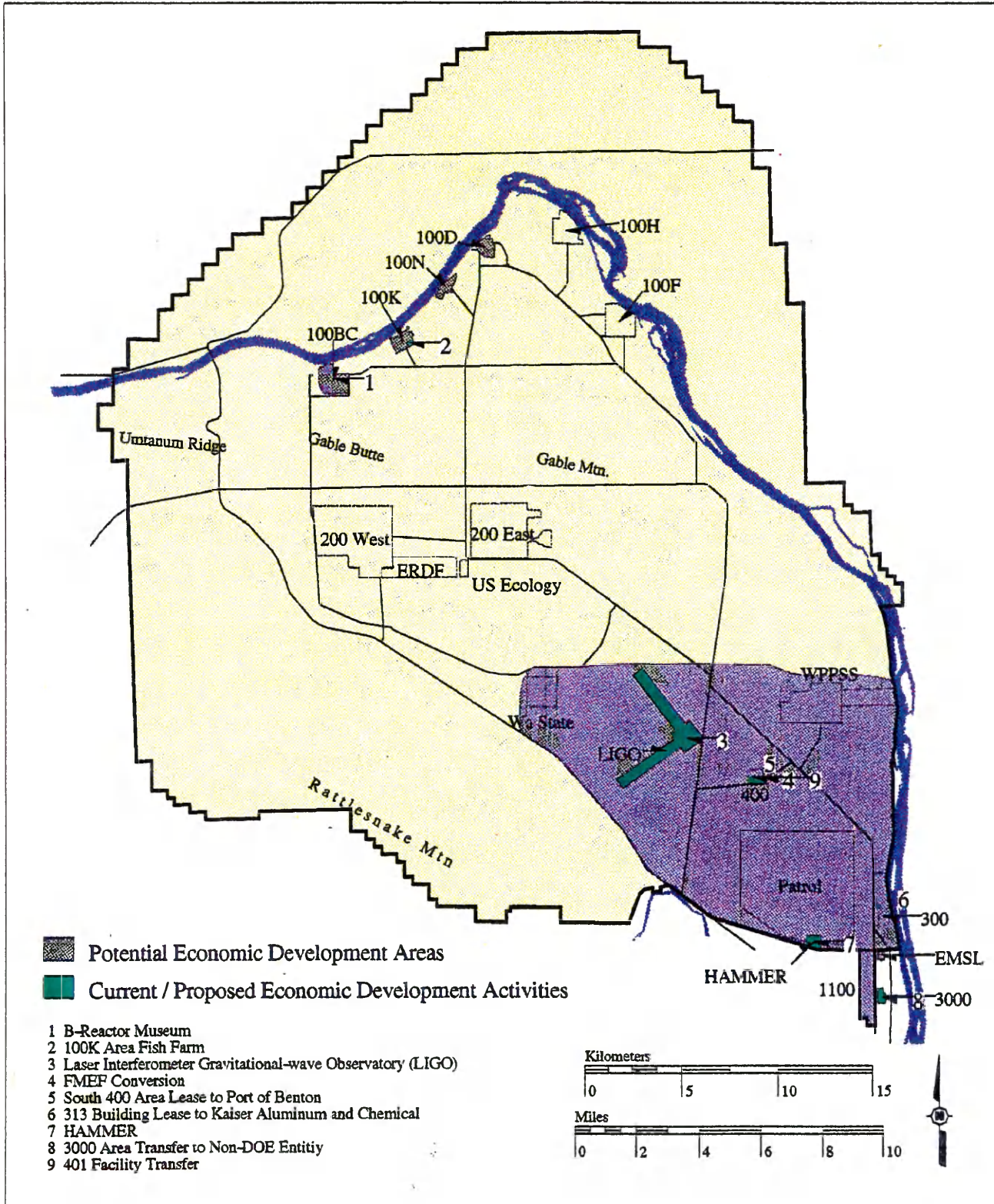
Every level of government, tribes, special interest groups, and the public in general are wrestling with the challenges of planning for the future.

Figure S-3. Hanford Site Projected Land Use Map - 2046.



1  
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**Figure 6-38. Potential Economic Development Map.**



1 **Table 3-1. Comparison of U.S. Department of Energy Planning Efforts for Future Land Uses at the Hanford Site.**

2	3	Geographic Areas	Baseline Environmental Management Report Future Use Assumptions	Strategic Thinking Preliminary Goals	EIS Future Land-Use Alternatives	Comprehensive Plan Land-Use Designations
4		Columbia River	Recreational	Pending Congressional action on the Wild and Scenic River designation, use would continue to be restricted; sensitive ecological, cultural, and Native American resources would be protected.	Unrestricted Use Restricted Use No Action	Wildlife Habitat and Management  Controlled Public Access and Recreation  Special Use Areas
5	6	Reactors on the River	Open Space Wildlife Management	Remove and/or stabilize spent fuel, surplus facilities, and waste sites to eliminate the potential for future contamination of groundwater and the Columbia River and to ensure protection of people, the environment, and natural/cultural resources. The DOE would retain control of this land throughout the remediation mission and would protect archaeological, cultural, and environmental resources.	Unrestricted Use Restricted Use No Action	Environmental Restoration  Open Space Restricted  Controlled Public Access and Recreation  Special Use Areas
7		Central Plateau	Industrial Commercial	The 200 Area and the Central Plateau would be used for management of nuclear materials, collection and disposal of waste materials that remain onsite, and other related and compatible uses. Remediation levels and disposal standards that are consistent with these long-term uses would be established.	Exclusive Use  No Action	Waste Management
8	9	All Other Areas - Central Core	Open Space Wildlife Management	This area would remain in federal ownership, which is consistent with safety analysis boundaries and continued waste management operations in the 200 Area. These areas would be available for other federal programs or leased for nonfederal uses, consistent with appropriate recognition of cultural and ecosystem values.	Restricted Use  No Action	Open Space Restricted  Special Use Zone
10	11	12	All Other Areas - South 600 Area	Industrial Commercial	The 300 Area waste sites, materials, and facilities would be remediated to allow industrial and economic transition opportunities. The Federal Government would retain ownership of land in and adjacent to the 300 Area, but would lease land for private and public uses to support regional industrial and economic development. Excess land within the 1100 and 3000 Areas would be targeted for transition to nonfederal ownership.	Potential Economic Development Zone  Industrial

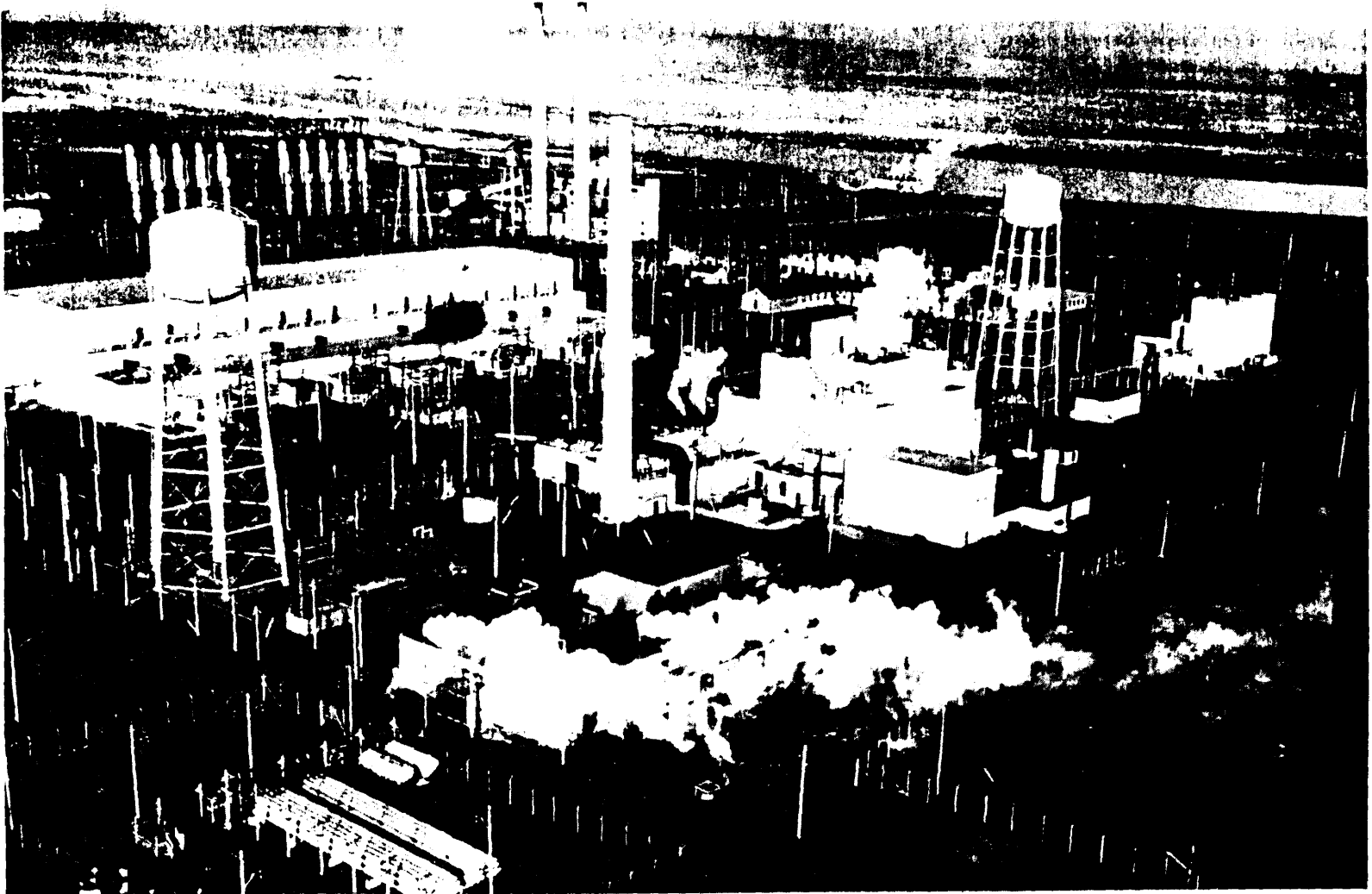
13  
14

1 **Table 4-1. Relationship Between the Hanford Future Site Uses Working Group Land-Use Options, Cleanup Scenarios,**  
 2 **and Environmental Impact Statement Future Land-Use Alternatives.**

WORKING GROUP LAND-USE OPTIONS	WORKING GROUP CLEANUP SCENARIOS	ENVIRONMENTAL IMPACT STATEMENT FUTURE LAND-USE ALTERNATIVES
<b>COLUMBIA RIVER</b>		
Wildlife and Recreation Recreational and Related Commercial, Scenic and Economic Uses Native American Uses	Unrestricted (All Options)	Unrestricted (Agricultural)*
		Restricted (Recreational, Industrial, or Residential)*
<b>REACTORS ON THE RIVER</b>		
Native American Uses Wildlife and Recreation Limited Recreation, Recreation-Related Commercial Uses, and Wildlife B Reactor as a Museum/Visitor Center	All Unrestricted	Unrestricted (Agricultural)*
	Clean Enough for Land Use Option 3 (Option 3)  Unrestricted; B Reactor Restricted (Option 4)	Restricted (Residential, Industrial, or Recreational)*
<b>CENTRAL PLATEAU</b>		
Onsite Waste and Existing Obligations for Disposal Option 1 plus Offsite DOE Waste for Treatment Only Option 2 plus Offsite Commercial Waste for Treatment Only Option 3 plus Offsite DOE Waste: long-term storage of TRU and HLW, and Disposal of LLW Option 4 plus Commercial SNF for long-term MRS Option 5 plus Compatible Commercial or Industrial Activity	Exclusive Use with Buffer (All Options)	Exclusive (Industrial)* (within the squared-off area between and including the 200 West Areas and the industrial region located east of the 200 East Area)
<b>ALL OTHER AREAS</b>		
Focus on Economic Development Focus on Wildlife Native American Uses Agricultural Use	Cleanup for Economic Development Wildlife (Options 1, 2, and 3)  Cleanup for Agricultural and Native American uses outside the 300 Area (Options 3 and 4)	Restricted (Recreational, Residential, or Industrial)*

26 \* Exposure scenarios from the *Hanford Site's Risk Assessment Methodology* associated with the HRA-EIS future land-use alternatives

- 27 HLW = high-level waste
- 28 LLW = low-level waste
- 29 MRS = monitored retrievable storage
- 30 SNF = spent nuclear fuel
- 31 TRU = transuranic



*The 100-B Area, containing B Reactor, the most historic structure on the Hanford Site, as it stood in 1945. The reactor itself (the wedding cake-type structure near the photo center) was the world's first large-scale nuclear reactor, achieving initial criticality in September 1944. It has been nominated by the DOE to the National Register of Historic Places. The smaller structure to the far right in the photo is the 108-B Building, now torn down, which housed the first tritium separation processing conducted in the DOE (then AEC) complex. Tritium produced here between 1949 and 1952 was used in the first hydrogen weapons test explosions conducted at the Pacific Proving Grounds in late 1952.*

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## APPENDIX

Document	Page
Acronyms and Initialisms.....	98
Tacoma News Tribune Article, December 21, 1994 .....	101
O’Leary Memo .....	102
DOE Indian Policy .....	103
Presidential Indian Policy Memo .....	104
Acquisition and Disposal of Hanford Real Estate .....	105
Letter to RL Site Manager .....	109
Letter from RL Site Manager .....	110
Countys’ Agreement in Principle .....	114
Post Script, <b>Missoulian</b> , September 7, 1996 .....	115

## ACRONYMS AND INITIALISMS

(This list is taken in its entirety from the draft of the Comprehensive Land Use Plan prepared by the DOE team. The citations are not exclusive to the CLUP, but are commonly used by the government and the public when discussing the Hanford Site in particular and government business in general.)

AEC	U.S. Atomic Energy Commission
ALE	Fitzner/Eberhardt Arid Lands Ecology (Reserve)
BEMR	<i>Baseline Environmental Management Report</i>
BLM	U.S. Bureau of Land Management
BoR	Bureau of Reclamation
BPA	Bonneville Power Administration
CEQ	Council on Environmental Quality
CERCLA	<i>Comprehensive Environmental Response, Compensation, and Liability Act of 1980</i>
Comprehensive Plan	<i>Hanford Site Comprehensive Land Use Plan</i>
CPAR	Controlled Public Access and Recreation
CTUIR	Confederated Tribes of the Umitilla Indian Reservation
DOE	U.S. Department of Energy
DOI	U.S. Department of Interior
Ecology	Washington State Department of Ecology
EMSL	Environmental Molecular Science Laboratory
EPA	U.S. Environmental Protection Agency
EPZ	Emergency Planning Zone

ER	Environmental Restoration
EUZ	Exclusive Use Zone
GIS	geographic information system
GMA	<i>Growth Management Act of 1990 (WA)</i>
HAB	Hanford Advisory Board
Hanford Reach	Hanford Reach of the Columbia River
HGIS	Hanford Geographic Information System
HRA-EIS	<i>Hanford Remedial Action Environmental Impact Statement and Comprehensive Land Use Plan</i>
IC	Industrial and Commercial
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
N Reactor	105-N Reactor
NEPA	<i>National Environmental Protection Act of 1969</i>
NHPA	<i>National Historic Preservation Act of 1969</i>
North Slope	North of the River
OSR	Open Space Restricted
PEDZ	Potential Economic Development Zone
PUREX	Plutonium-Uranium Extraction (Plant)
R&D	research and development
RCRA	<i>Resource Conservation and Recovery Act of 1976</i>
RL	U.S. Department of Energy, Richland Operations Office

<b>ROD</b>	<b>Record of Decision</b>
<b>SEPA</b>	<i>State Environmental Policy Act of 1971</i>
<b>Stratigic Plan</b>	<i>Hanford Strategic Plan</i>
<b>Tri-Cities</b>	<b>Cities of Richland, Kennewick, and Pasco</b>
<b>TRIDEC</b>	<b>Tri-Cities Industrial Development Council</b>
<b>TRU</b>	<b>transuranic</b>
<b>Tri-Party Agreement</b>	<i>Hanford Federal Facility Agreement and Consent Order</i>
<b>USACE</b>	<b>U.S. Army Corps of Engineer</b>
<b>USFWS</b>	<b>U.S. Fish and Wildlife Service</b>
<b>WHM</b>	<b>Wildlife and Habitat Management</b>
<b>WM</b>	<b>Waste Management</b>
<b>Working Group</b>	<b>Hanford Future Site Uses Working Group</b>
<b>WSRA</b>	<i>Wild and Scenic Rivers Act of 1988</i>

December 21,  
1994

# U.S. may give Hanford land to Yakamas

By Les Blumenthal

News Tribune Washington (D.C.) Bureau

Secretary of Energy Hazel O'Leary said Wednesday she would prefer Hanford's 120-square mile Arid Lands Ecology Reserve be turned over to the Yakama Indians.

"My personal preference is that rather than turning it over to another government agency, we should turn it over to real, live people," O'Leary said.

The Yakama Tribe and the Bureau of Land Management have submitted proposals to manage the reserve along the western side of the Hanford Nuclear Reservation.

The reserve was established to protect a pristine area of sagebrush desert and its sensitive species. The area also has religious significance for Indian tribes.

O'Leary announced a new Department of Energy land-use policy to turn over some areas to the public and allow greater public participation in the process.

She said she wanted to take into account the desires of people living near DOE sites, and the arid lands reserve was an example of what she had in mind.

An official decision from the department is pending.

O'Leary also endorsed designating the Hanford Reach of the Columbia River as a "wild and scenic river." That is the preferred option in the Department of the Interior's environmental impact statement on the 50-mile Hanford Reach, the last free-flowing section of the Columbia.

O'Leary offered no indication what she thought might happen with Wahluke Slope, which the Interior Department would like to see turned into a federal wildlife refuge and agricultural interests would like to see, in part, used for farming.

In a memo to field managers, O'Leary said the department's stewardship of its lands will be based on the "principles of ecosystem management and sustainable development."

"We will integrate mission, economic, ecologic, social and cultural factors in a comprehensive plan for each site that will guide land and facility use decisions."



The Secretary of Energy  
Washington, DC 20585

December 21, 1994

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MEMORANDUM FOR SECRETARIAL OFFICERS  
AND OPERATIONS OFFICE MANAGERS

FROM: HAZEL R. O'LEARY

SUBJECT: Land and Facility Use Policy

Today, I issued an innovative Departmental policy that strengthens the stewardship of our vast lands and facilities and encourages the return of some of these national resources to their rightful owners -- the American public. The policy will stimulate local economies, cut costs and redtape, and ensure public participation in our planning processes. The new policy states:

It is Department of Energy policy to manage all of its land and facilities as valuable national resources. Our stewardship will be based on the principles of ecosystem management and sustainable development. We will integrate mission, economic, ecologic, social and cultural factors in a comprehensive plan for each site that will guide land and facility use decisions. Each comprehensive plan will consider the site's larger regional context and be developed with stakeholder participation. This policy will result in land and facility uses which support the Department's critical missions, stimulate the economy, and protect the environment.

The new policy is highlighted in the attached book, *DEPARTMENT OF ENERGY - STEWARDS OF A NATIONAL RESOURCE*. The book describes how we are changing the way we manage our lands and facilities. It also describes some of our recent successes in finding new uses for our surplus land and facilities. These successes range from new leases at the former Mound facility and the use of an idle reactor for brain cancer treatment at the Idaho National Engineering Laboratory to the creation of an urban park adjacent to our headquarters and the development of the National Wind Technology Center at the Rocky Flats plant. The book provides information about our major sites and contact numbers for each public affairs office. It encourages businesspeople, public officials, citizen organizations, and our site neighbors to provide their ideas for new site and facility uses.

This new policy has already undergone the initial directives review process and will be incorporated in the Department's broader Corporate Facilities Management Directive initiative that I have commissioned to respond to the National Performance Review.

I know you share my excitement about the opportunities we have in finding new uses for our lands and facilities. I look forward to working with you to fulfill the responsibility entrusted to us by the citizens of the United States for managing these valuable national resources.

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U. S. DEPARTMENT OF ENERGY  
AMERICAN INDIAN POLICY

BACKGROUND

American Indian Tribal Governments have a special government-to-government relationship with the Federal Government of the United States, defined by history, treaties, statutes, court decisions, and the U.S. Constitution. Although the Department of the Interior, through the Bureau of Indian Affairs, has the principal responsibility for upholding obligations of the Federal Government to American Indians, this responsibility extends to all federal agencies.

This policy outlines the principles to be followed by the Department of Energy (DOE) in its interactions with American Indian Tribes. The policy provides general guidance to DOE personnel for management actions affecting American Indians, and emphasizes implementation of such activities in a knowledgeable and sensitive manner.

POLICY

The Department shall:

- (1) Recognize and commit to the government-to-government relationship with American Indian Tribal governments.
- (2) Recognize that a trust responsibility derives from the historical relationship between the Federal government and American Indian Tribes, as expressed in certain treaties and Federal Indian law.
- (3) Consult with Tribal governments to assure that Tribal rights and concerns are considered prior to DOE taking actions, making decisions, or implementing programs that may affect Tribes.
- (4) Consistent with Federal cultural resource laws and the American Indian Religious Freedom Act (Public Law 95-341), each field office or DOE installation with areas of cultural or religious concern to American Indians will consult with them about the potential impacts of proposed DOE actions on those resources, and will avoid unnecessary interference with traditional religious practices.
- (5) Identify and seek to remove impediments to working directly and effectively with Tribal governments on DOE programs.
- (6) Work with other Federal and State agencies that have related responsibilities to clarify the roles, responsibilities, and relationships of our respective organizations as they relate to Tribal matters.
- (7) Incorporate this Policy into its ongoing and long-term planning and management processes.

# Government-to-Government Relations With Native American Tribal Governments

## *Memorandum for the Heads of Executive Departments and Agencies*

The United States Government has a unique legal relationship with Native American tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. As executive departments and agencies undertake activities affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal sovereignty. Today, as part of an historic meeting, I am outlining principles that executive departments and agencies, including every component bureau and office, are to follow in their interactions with Native American tribal governments. The purpose of these principles is to clarify our responsibility to ensure that the Federal Government operates within a government-to-government relationship with federally recognized Native American tribes. I am strongly committed to building a more effective day-to-day working relationship reflecting respect for the rights of self-government due the sovereign tribal governments.

In order to ensure that the rights of sovereign tribal governments are fully respected, executive branch activities shall be guided by the following:

(a) The head of each executive department and agency shall be responsible for ensuring that the department or agency operates within a government-to-government relationship with federally recognized tribal governments.

(b) Each executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments. All such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.

(c) Each executive department and agency shall assess the impact of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during the development of such plans, projects, programs, and activities.

(d) Each executive department and agency shall take appropriate steps to remove any procedural impediments to working directly and effectively with tribal governments on activities that affect the trust property and/or governmental rights of the tribes.

(e) Each executive department and agency shall work cooperatively with other Federal departments and agencies to enlist their interest and support in cooperative efforts, where appropriate, to accomplish the goals of this memorandum.

(f) Each executive department and agency shall apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") and 12866 ("Regulatory Planning and Review") to design solutions and tailor Federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities.

The head of each executive department and agency shall ensure that the department or agency's bureaus and components are fully aware of this memorandum, through publication or other means, and that they are in compliance with its requirements.

This memorandum is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the **Federal Register**.

*William Clinton*

### Legislative Transfer

Notwithstanding the provisions of the above statutes, Congress can authorize specific land transfers by legislative action.

Congress could direct the transfer of specific sections or categories of land for specific purposes. Transfer authority can be provided by enacting new laws or amending existing laws or statutes. For example, AECA amended the AEA to allow the City of Richland to be transferred from Federal to private control.

Congress could also conceivably grant a specific exemption to existing laws to effect a land transfer or to ease the transfer process. An example of this can be seen in the **Base Realignment and Closure Acts (BRACA)**, which facilitated Department of Defense closure of certain military installations, and their transfer to civilian control.

### History of Hanford Land Acquisitions and Transfers

The appendix to this Chapter contains a USDOE summary of major land acquisitions and disposal actions since the Hanford reservation was assembled in 1943. The acquisition of the Hanford site involved thousands of individual title transactions and land withdrawals. Initial acquisition took place under authority of the **Second War Powers Act of 1943**. Most subsequent acquisitions and disposal actions took place under the key legislative Acts listed above.

APPENDIX

ACQUISITION AND DISPOSAL OF HANFORD REAL ESTATE

(BASED ON MATERIALS PRESENTED TO  
FUTURE SITE USES WORKING GROUP)<sup>53</sup>

- 5/41 Government issues Proclamation #2487 (55 Stat. 1647) placing country on an unlimited national emergency (approx. 6.5 months before Pearl Harbor).
- 2/43 Under the unlimited national emergency, War Department establishes Gable Project, Pasco, Washington, authorizing the acquisition of approx. 447,870 acres (approx. 700 sq. miles) of land for a "military necessity". Most land was to be purchased. Unimproved lands in the Yakima Horn, the Wahluke Slopes, and the Franklin County side of the Columbia was to be leased. Slightly over 50 percent of the site was not on the tax roles, being owned by either the Federal, State, or county governments.
- 9/43 Public Land Order (PLO) 1654 is issued which withdrew 12,033 acres of land in the Public Domain for the use of the War Department for military purposes related to the unlimited national emergency. This PLO was subsequently followed by PLO's 191, 202, 204, and 261.
- 4/48 City of Richland officially dissolved by court order.
- 12/48 Approximately 88,000 acres on the Wahluke Slope, about half of which had been leased, is obtained and declared a central control zone. The previous leasehold portion was purchased outright. The remaining portion consisted of public domain and fee title lands, the control of which was provided to AEC by memorandum of agreement with Reclamation. An additional 173,000 acres, located on either side of the central zone, are

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<sup>53</sup>C. Pasternak, op. cit., as amended.

leased as a secondary zone.

Prior to the above action, during this same year, lands previously leased in area "C" were either purchased or released. Lands in the Horn Rapids Triangle were included in this release and land use restrictions were also removed on the Franklin County side of the river. However, land previously leased east of the Yakima River, in the twin bridges area, was purchased. These lands were already in the original Hanford boundaries.

1/53 The east and west portions of the Wahluke Slope secondary zones acquired in 1948 were released, reducing the size of the Hanford Site by approximately 80,000 acres.

PLO's are also revised and re-issued converting lands from military control to the Atomic Energy Commission (AEC).

1/53-1/58 A small number of land parcels located around the perimeter of the site were released to GSA to be excessed.

12/58 The balance of the secondary Wahluke Slope zone acquired in 1948 was released reducing the northern site boundaries to approximately where they are today.

1959 The City of Richland is released from AEC control and 2,054 acres of land are transferred under PL 221.

10/62 280 acres, excessed through GSA, were acquired by the FAA and subsequently transferred to the Port of Benton for the Richland airport.

8/64 10,000 acres of Public Domain lands within the boundary of the Hanford Site were transferred by the Interior Department to AEC in exchange for 7,000 acres of fee lands. These 7,000 acres were then transferred to BLM as Public Domain lands and were reserved for use by the AEC. (PL 88-557)

In this same year, 394 acres in North Richland were excessed through GSA; 276 acres to Battelle and 118 acres to Douglas Aircraft. An additional 291 acres were disposed of to the Corps of Engineers (COE).

1965            840 acres were excessed to the State of Washington on the south slope of Rattlesnake Mountain in exchange for State's mineral rights on approximately 39,000 acres of land. In addition, 5,361 housing units along with walks, fences, recreational facilities, utilities, etc. were sold.

In addition, 152 acres of land were released through GSA.

1966-1971    11,331 acres were released around the perimeter of site to GSA for sale and to BLM.

11/30/71      Permit issued to what is now Washington State Department of Wildlife and U.S. Fish & Wildlife for Wahluke Slope area.

1971-pres.    1,671 acres released through GSA at various times.

Site currently consists of approximately 359,680 acres (562 sq. miles) approximately 18%, or 64,743 acres (101 sq. miles), of which are public domain lands.

Richard H. Densley  
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406 243-4302  
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Feb. 16, 1996

Mr. John Wagoner, Manager  
U.S. Department of Energy  
Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

Dear Mr. Wagoner,

For the past two years I have been gathering data for a professional paper dealing with the land use planning relevant to the Hanford Site after the Department of Energy ceases operations there. I hope you can provide me with a few simple specifics, or guide me to people who can.

First, is there a timetable for the closings of the various DOE operations?  
Second, are there any specific or planned uses for different areas of the installation?  
Third, how are the interests of the area Native Americans being addressed in regards to the use and distribution of Hanford property?  
Fourth, which agencies will actually determine the disposition of the surplus properties?  
Fifth, can you cite any specific laws or policies that are being used to determine future disposition and use of the land?  
Finally, are any civilian contractors being employed to provide guidance for future land use planning of the Hanford Site?

Thank you in advance for your assistance.

Sincerely,

Richard H. Densley

cc: file



**Department of Energy**  
Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

**MAY 31 1996**

96-RPT-006

Mr. Richard H. Densley  
Department of Geography  
University of Montana  
Missoula, Montana 59812

Dear Mr. Densley:

#### COMPREHENSIVE LAND USE PLANNING AT HANFORD

This letter responds to your February 16, 1996, inquiry to John D. Wagoner, Manager, U.S. Department of Energy Richland, Operations Office (RL), regarding the status of Comprehensive Land Use Planning at Hanford. The information provided below and the identified attachments cover the points you asked about in your letter.

#### Background

The Hanford Site is a large geographic area (560 square miles) in eastern Washington State that is operated by RL. Developed by the Federal Government in 1943, Hanford's primary mission for 45 years was to produce plutonium for national defense.

Events of the past several years have had a profound effect on the U.S. Department of Energy (DOE) and the region. Land use development at the Hanford Site is the result of more than fifty years of nuclear production, chemical processing, waste management, and research and development (R&D) activities. As a consequence of these activities, the DOE developed infrastructure and facility complexes to produce fissionable materials (primarily plutonium) for nuclear weapons, manage wastes, and conduct a wide variety of R&D activities. These facilities required the establishment of large tracts of land as protective buffer zones for safety and security purposes. These buffer zones preserved a biological and cultural setting unique in the Columbia Basin region.

Today the Hanford Site has a diverse set of mission elements associated with site remediation, science and technology, and economic diversification. Several recent developments have resulted in the growing need for a comprehensive long-term approach to site planning and development. In response to these developments, RL established a Comprehensive Land Use Planning Program. The comprehensive land use planning process considers the role of the Hanford Site within the regional context, and integrates mission requirements and other factors as directed by the Secretary of Energy.



MAY 31 1996

Is There a Timetable For Closing DOE Operations?

There is no timetable for closing of the various DOE operations per se. The Hanford Facility Agreement and Consent Order (Tri-Party Agreement) contains a blueprint for remediation activities and uses enforceable milestones and schedules. Remedial action activities undertaken in accordance with the Tri-Party Agreement are related to future land use objectives, as levels of residual contamination may preclude certain land uses at any particular site. Remedial action objectives will be determined on the basis of future land use, and will establish remediation levels (and allowable risk) through the process established by the Tri-Party Agreement.

Are There Any Specific or Planned Uses for the Different Areas of the Installation?

As noted above, RL has initiated a comprehensive land use planning process to evaluate specific and potential use of the different areas of the Hanford Site. RL is in the process of developing a Comprehensive Land Use Plan which will be released to the public as a draft for review and comment during the summer of 1996. The purpose of this Plan is to:

- Guide onsite land- and facility-use decisions through the integration of natural, cultural, and socio-economic factors.
- Designate existing and future land uses that are appropriate for the Hanford Site based on an analysis of land use suitability, with appropriate consideration of the following:
  - The DOE's responsibilities, authorities, and constraints dictated by organic legislation and applicable laws.

Land use values of other federal agencies, Tribes, and state and local governments.

Business, labor, environmental, and other groups and organizations concerned with or affected by the Hanford Site and participating in the future land use planning process.

Specific characteristics of the natural and built landscape within the Hanford Site.

How Are the Native American Interests Being Addressed With Regards to the Use and Distribution of Hanford Property?

On May 18, 1994, the Secretary of Energy issued a memorandum outlining the principles that define DOE's responsibility to ensure that the agency operates within a government-to-government relationship with all federally

**MAY 31 1996**

recognized Tribal governments. These principles are consistent with guidance received from President Clinton on April 29, 1994. In keeping with the principle of Native American self-government, the DOE recognizes that certain Tribes have treaty-protected interests in resources which affect the Hanford Site.

In accordance with DOE Order 1230.2, the DOE recognizes that a trust relationship exists between federally recognized Tribes and the DOE. The DOE will consult with Tribal governments to ensure that Tribal rights and concerns are considered prior to the DOE taking actions, making decisions, or implementing programs that may affect the Tribes.

#### Laws or Policies Being Used to Determine Future Disposition and Use of the Land

On December 21, 1994, the Secretary of Energy issued a new land- and facility-use policy for the DOE, which makes the following statement:

"It is DOE policy to manage all of its land and facilities as valuable national resources. Our stewardship will be based on the principles of ecosystem management and sustainable development. We will integrate mission, economic, ecologic, social, and cultural factors in a comprehensive plan for each site that will guide land and facility use decisions. Each comprehensive plan will consider the site's larger regional context and be developed with stakeholder participation. This policy will result in land and facility uses which support the DOE's critical missions, stimulate the economy, and protect the environment."

In 1995, this policy was incorporated into DOE Order 430.1, "Life-Cycle Asset Management," which requires DOE elements to undertake a comprehensive land use planning process with stakeholder involvement. This land use planning process is used in asset management and acquisition of assets. In response to these mandates, the DOE will involve regional stakeholders during the preparation of the Comprehensive Land Use Plan for the Hanford Site.

Operations at the Hanford Site are governed by numerous federal and state statutes and regulations. Attachment 1 provides a summary of the principal federal laws of importance to land use planning at Hanford.

#### Are Any Civilian Contractors Being Employed to Provide Guidance for Future Land Use Planning?

Civilian contractors are not being employed to provide guidance for future land use planning. They are being employed through subcontracts with DOE to develop the Comprehensive Land Use Plan and the Hanford Remedial Action Environmental Impact Statement. The Hanford Advisory Board (HAB) was created in 1994 to monitor progress and help Tri-Party Agreement agencies get on with safe, credible, cost-effective, and environmentally sound remediation. Attachment 2 presents the membership of the HAB. Values to which the HAB

MAY 31 1996

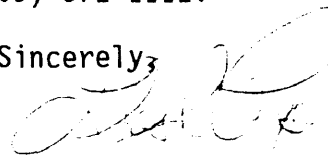
subscribers represent a broad cross-section of interests in the states of Washington and Oregon. Consistent with those values, the HAB strives to be independent and fair minded in advising DOE on aspects of Hanford Site programs, activities, and remediation. RL is committed to working with the HAB to provide timely responses and briefings when requested.

In general these diverse groups share a common concern about Hanford issues, but each stakeholder group has a specific and distinct interest that reflects the policies or goals of the constituency. The interests of one group of stakeholders may sometimes conflict with the interests of other groups.

Through intensive and innovative consensus building during the past three years, the diverse interest groups have agreed on a common set of values that provide clear guidance to Congress, the State of Washington, DOE, Ecology, and the EPA. The final step in the process to develop the Comprehensive Land Use Plan is to evaluate proposed and projected land uses against the values developed by the HAB.

If you have any further questions, please feel free to contact Paul J. Krupin, Land Use Planning Project Manager, at (509) 372-1112.

Sincerely,



Lloyd Piper, Assistant Manager  
for Facility Transition

SID:PJK

Attachments (2)

**AGREEMENT IN PRINCIPLE**  
**FOR**  
**A COOPERATIVE COMPREHENSIVE LAND USE**  
**PLANNING PROCESS FOR THE HANFORD SITE**

It is the intent of the parties to this Agreement in Principle to develop a Memorandum of Understanding between responsible government entities for signing and implementation on or before June 1, 1995. The MOU will define a process to jointly develop and lead to the adoption of a comprehensive land use plan for the Hanford Site.

The Department of Energy, in recognition of the trust responsibility, and pursuant to its American Indian Policy, will encourage the participation of the affected tribes in the planning process, and will consult with Tribal governments to assure that Tribal rights and concerns are considered prior to making decisions that may affect Tribes.

**PRINCIPLES:**

**MAINTAIN COMMITMENTS** - The MOU will strive to assure that Federal, State, Local and Tribal commitments are not adversely affected.

**PUBLIC PARTICIPATION** - The MOU will ensure that the planning process is accomplished with full and broad public participation.

**LEGAL STABILITY** - The MOU will ensure that the planning process and products will be fully consistent with all applicable state and federal laws.

**BALANCED APPROACH** - The MOU will ensure that the planning process and products reflect a balanced approach based upon the principles of ecosystem management and sustainable development.

**BENEFITS:**

- A vision for Hanford's future will be identified and adopted.
- The plan will provide a framework and context for decision making.
- The plan will enable more efficient implementation of site cleanup and remediation.
- The plan will facilitate the transition of federal land and assets to future uses and apply some foresight to the disposition of existing facilities and resources.
- The process and plan will integrate the diverse interests and increase public understanding about future use and activities at Hanford.

**CONCEPT:**

- Work cooperatively to define a comprehensive planning and land use management process for the Hanford Site.
- Develop a process, in cooperation with Tribal governments, for appropriate Tribal involvement in the comprehensive land use planning efforts for the Hanford Site.
- Develop and sign a Memorandum of Understanding outlining the process, products, roles and responsibilities for each of the parties involved.
- Direct a staff development team to compile and create a draft comprehensive plan.
- Appoint a citizens planning body responsible for facilitating the public process, reviewing draft products and recommending a draft comprehensive land use plan to the planning authorities.
- Structure the planning process to incorporate, in advisory roles for specific issues, Hanford advisory bodies, such as the Hanford Advisory Board and Community Reuse Organization.

## POST SCRIPT

Article taken from the Missoula, Montana **Missoulian**, September, 7, 1996:

# Council: Hanford plan too narrow

MISSOULIAN 9-7-96

WASHINGTON (AP)—Narrowly focused cleanup plans at a nuclear site in Washington state eliminate too many options given the government's lack of knowledge about new technologies and health and environmental risks, a scientific report said Friday.

"Not enough information is currently available for choosing the best long-term cleanup" option for the Hanford nuclear reservation, the Energy Department's most contaminated site, the National Research Council said.

The council, an arm of the National Academy of Sciences, said

an environmental impact statement outlining cleanup plans at Hanford is too narrow and lacks the flexibility needed to respond to changing environmental and regulatory climates.

The final environmental impact statement the Energy Department released last month calls on private companies to build two demonstration plants to treat 56 million gallons of highly radioactive and chemically toxic defense wastes at the 560-square-mile reservation near Richland, Wash.

But the council report said that plan addresses only the waste in

Hanford's storage tanks, "not what should be done with the tanks themselves or waste that has leaked into the surrounding environment."

It also does not take into account connections between the tanks and other contamination sources at the site, such as nuclear reactors and low-level radioactive disposal areas, the report said.

Given those uncertainties, a strategy that considers multiple alternatives is needed, rather than a single alternative as DOE and the state propose, it said.