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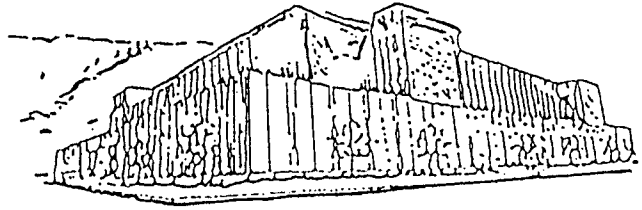
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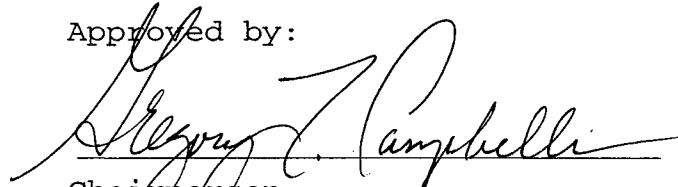
THE EFFECTS OF URANIUM DEVELOPMENT
ON TRIBAL SOVEREIGNTY:
WITH AN EMPHASIS ON THE SPOKANE TRIBE
OF WASHINGTON STATE.

by

Scott M. Herron

B.A. The University of Mississippi, 1994
presented in partial fulfillment of the requirements
for the degree of
Master of Arts
The University of Montana
1997

Approved by:


Chairperson


Dean, Graduate School

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The Effects of Uranium Development On Tribal Sovereignty:
With An Emphasis On the Spokane Tribe of Washington State.
(109 pp.)

Director: Gregory Campbell 

In the 1950's, the United States was involved in the Cold War and was actively searching for uranium ore to use as an alternative energy source and to increase its nuclear arsenal. The government realized that roughly one third of the domestic uranium reserves lie beneath Indian reservations. If Indian land claims are considered, that number grows to two thirds. Beginning with the Navajo Nation in 1957, the Bureau of Indian Affairs (BIA) began negotiating with corporations to lease reservation lands for uranium development.

Most tribes, during the 1950's, depended on federal agents to make beneficial and safe decisions for them. With the highest rates of unemployment and lowest per capita income in the country, tribes were easily influenced by federal and corporate promises of significant tribal revenues. Furthermore, the federal government promised tribes that uranium development would help extend what is most important to tribal nations, their sovereignty.

The Spokane Tribe in Washington State is one such tribe. However, after only six years of mining, the tribe found its sovereignty expropriated rather than strengthened. In 1997, thirty four years after the mine closed, the Blue Creek site remains virtually untouched. Tailings piles, left by Western Nuclear Corporation, sit on top of steep slopes above Franklin D. Roosevelt Lake, a vital source of subsistence, recreation, revenue and irrigation. Initially, the BIA only negotiated a \$15,000 bond for reclamation, which is now estimated to cost over \$10 million to complete. When the Department of the Interior tried to force Dawn Mining Company to increase its bond, Dawn sued in 1982 and has since threatened bankruptcy. Since then, the tribe has been forced into having to prove federal and corporate responsibility for the reclamation of the sites.

Sovereignty is a complex, abstract concept. It comprises a combination of political, economic, social and cultural factors. Land, though, is the most fundamental and vital aspect of sovereignty. Without a land base, no group can fully exercise its sovereignty. The purpose of this paper is to show that by contaminating the environment, rendering land useless and requiring federal funding, regulation and assistance, uranium development has failed to extend tribal sovereignty. It has, instead, maintained a tribal dependence on the federal government, and for many tribes, increased it.

ACKNOWLEDGMENTS

I would like to especially thank Shannon Work, Dave Wynecoop and Donna Bruce for their help on this project. Without their contributions, this could not have been possible. I would also like to express my admiration for the work that all three have done and are doing for the Spokane tribe, specifically, and for all resource tribes, in general.

I am deeply indebted to my chair and friend, Dr. Gregory Campbell, for his continued guidance, support and patience. He consistently showed confidence in me and my work even when I did not. It has been a privilege to work with and know Greg for these three years. I would also like to express my appreciation to Dr. Thomas Foor and Dr. Bill Chaloupka for their editorial advice and assistance throughout my research.

Most of all I would like to thank my family and friends for their love, support and prayers. My journey to this point has not been an easy one. I would like to sincerely thank my parents, Herb and Barbara Sadler and Don and Allison Herron, for always standing behind me and giving me guidance all of these years. Thanks goes to my sister and her family for always being there for me and for their love. Finally, I am deeply indebted to two close friends for their help and support, Adelle Graham and Christopher Wahlfeld. Adelle always showed faith in me, always stood by me and was extremely patient with all of my stress over this project. Chris was a fellow graduate student who's friendship has meant a lot to me and who's advice was always appreciated. For these things, I can not thank either of them enough.

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CHAPTER 1

MINING AND TRIBAL SOVEREIGNTY IN THE AMERICAN WEST

As competition for natural resources, space, and waste dumps grows, those people who have supported themselves with small-scale farming, fishing, and other resource-based livelihoods find those resources being expropriated to serve the few while they are left to fend for themselves.

-David C. Korten (1995: 19)

Federal Policy and Resource Control

The purpose of this chapter is to give a brief, but comprehensive, history of resource development on reservations and the treaties and acts that have shaped it. Though these acts affect all reservations, the history of resource development is focused primarily in the West. By West, I am referring to the entire area west of the Mississippi River. This, then, includes the several tribes in Oklahoma that are currently embroiled in oil development.

A complete understanding of uranium mining requires research into the history of resource development and how it has affected Indian tribes. That is precisely the goal of this chapter: to provide a historical foundation for

contemporary resource issues among Indian Nations.

It is difficult to choose one pivotal point in history to begin the discussion of resource development. However, in discussing the contemporary development of resource legislation I begin with the Allotment Act of 1887, which replaced tribal ownership of land with private ownership. Though there are important events before it, the Allotment Act, or Dawe's Act, is arguably the most crucial turning point in Indian land and mineral ownership.

The difference between the perceptions of land ownership was, from the very beginning, a barrier to the humanitarian idea that to save the Indian they must assimilate. Private land ownership was believed to be a fundamental concept that tribes must adopt. This theory was embraced by political parties, religious groups and humanitarians. When these groups combined their efforts, the result was the Dawes Act. The four primary parts of the act were:

(1) a grant of 160 acres to each family head, of eighty acres to each single person over eighteen years of age and to each orphan under eighteen, and of forty acres to each other single person under eighteen; (2) a patent in fee to be issued to every allottee but to be held in trust by the Government for twenty-five years... (3) a period of four years to be allowed the Indians in which they should make their selections after allotment should be applied to any tribe... (4) citizenship to be conferred upon allottees and upon other Indians who had abandoned their tribe and adopted "the habits of civilized life" (Otis 1934: 6-7).

All of these conditions had a tremendous effect on allotted

tribes. The most disastrous consequence of the Allotment Act, however, was the distribution of excess land to non-Indian farmers, miners and squatters. The Allotment Act was created through the joint efforts of the federal government and various corporations (e.g. railroad companies) working together towards a common goal. There is strong evidence that the desire for Indian reservation land was more at the root of allotment than any humanitarian concern. Section 10 of the Allotment Act, itself, is a good example for such an argument. It states:

That nothing in this act contained shall be so construed as to affect the right and power of Congress to grant the right-of-way through any lands granted to an Indian, or a tribe of Indians, for railroads or other highways, or telegraph lines, for the public use, or to condemn such lands to public uses, upon making just compensation (Prucha 1975: 174).

This section was tested 16 years later in the *Lone Wolf vs. Hitchcock* case. In 1903, Congress decided to sell 2.4 million acres of land owned by the Kiowa, Comanche, and Apache tribes without the 75 percent adult male vote for approval--a requirement signed by the federal government in an 1867 Treaty. Congress was then sued by a Kiowa leader named Lone Wolf (Prucha 1990: 202-203). The courts ruled in favor of Congress, stating that it held plenary power over tribes and could rule over land ownership as long as it provided just compensation. This decision crippled tribal sovereignty not only for the tribes directly involved, but for all tribes. It became a precedent that still affects

resource tribes and their control over their land and minerals.

Allotment had two devastating effects on tribes in general and especially on contemporary energy tribes. First, it transferred a large portion of Indian land to non-Indian control. "The Bureau of the Census estimated in 1980 that 50.8 percent of the people living on Indian reservations were non-Indians" (Ambler 1990: 15). Second, allotment fragmented tribal landbases making them individually rather than tribally owned. This division of ownership has created tribal factions rather than unity and has become a leading source of frustration and confusion in contemporary resource ownership and control.

Beginning in the 1920s, there was a shift in the political economy of the United States which resulted in a change in the treatment of Indian tribes as well. Following a period of overproduction, the demand for tribal land and resources decreased. In 1927 oil leasing on Indian reservations was discontinued. In 1929 mineral prospecting permits for public domain and Indian lands were suspended. As the desire for tribal resources weakened, the political grip around tribes loosened (Ambler 1990; Prucha 1990).

In 1934, the Indian Reorganization Act, created by John Collier, halted federal allotment of tribal lands and attempted to create tribal governments that were modeled on the federal bureaucratic structure. However, several

tribes, including the Spokane, did not reorganize under the IRA. Many of those that refused were resource tribes. Whether tribes reorganized or not, many still re-acquired the lands that were considered excess after allotment, including the mineral rights under the settled land (Deloria Jr. 1984: 141-142).

The history of the tribal-federal relationship has continuously fluctuated back and forth with public sentiment, political agendas, and the prevailing economic conditions. These conditions, once again, began to change in the late 1940s. During this time, the country's attention was focused on development. Dependence on fossil fuels was greater than ever, and now, due to the Cold War and the use of nuclear energy, uranium was in high demand. This era, which lasted through the 1950s, is referred to as the Termination Period, named for the Termination Act of 1953. The purpose of the act was to sever the trust relationship between tribes and the federal government by eliminating tribes' political recognition and federal funding, thereby opening up reservation land to energy developers. It was designed to do this only when the federal government believed a tribe was financially able to become independent. Because of their natural resources, energy tribes, once again, were targeted first. Federal officials believed there existed a potential for adequate tribal income from timber sales, oil drilling, and other

extractable resources. When one looks at other events happening during this period, however, an inherent contradiction appears. Resource tribes were picked to be terminated because of their lands and minerals, but those same lands and minerals were being expropriated simultaneously by Congress.

In 1948 the Secretary of Interior lifted constraints on selling allotments to non-Indians that had been imposed during the 1930's. Restrictions on leasing and mortgaging trust lands were also relaxed...In the next ten years, 2.6 million acres of allotments were removed from trust status, mostly in the Northern Plains and Oklahoma-areas of the country that contained considerable oil and gas resources (Brophy and Aberle 1966: 73).

It was not until the early 1960s that political agendas once again began to shift, creating an era of limited self-determination for tribes. This era saw the abolition of termination as well as an increased awareness of the environmental degradation caused by resource exploitation. On reservations, tribal members were seeking a strengthening of sovereignty over tribal lands.

As a result of growing public awareness and increasing protests regarding issues of environmental degradation and tribal sovereignty, Congress, after discontinuing termination, began creating policies that addressed these issues. It was clear from the beginning that to increase tribal sovereignty itself was not enough. Tribal economies would have to be strengthened simultaneously in order to make tribal control feasible.

John F. Kennedy's and Lyndon B. Johnson's administrations addressed the issue of reservation economy. Johnson's strategy culminated in the "War on Poverty." "With unemployment rates as high as 80 percent and health problems worse than anywhere else in the nation, the reservations were logical targets for LBJ's war" (Ambler 1990: 23).

The goal behind increasing funding was to promote job training and create new opportunities on reservations. Students who had gone away to college could come back to their reservation, find employment, continue their role in the tribal community, and help take care of family responsibilities. The appropriation of funds would also make tribal governments better able to deal with health care, homelessness, and environmental degradation resulting from resource exploitation. The policy of increasing tribal control was continued under the Nixon administration. In a message to Congress in 1970 President Nixon declared:

This...must be the goal of any new national policy toward the Indian People: to strengthen the Indian's sense of autonomy without threatening his sense of community. We must assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group. And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support (quoted from Ambler 1990: 23).

Before this policy change, tribes struggled for control of the leasing of their lands as well as control over their minerals, oil and gas. It was a battle being fought from

two sides.

During earlier leasing, it was the Bureau of Indian Affairs (BIA) that decided which lands would be leased and how much they would be leased for. Four years after the Dawes Act was passed, an amendment was made, stipulating that a tribal government may lease reservation lands under the supervision of the BIA agent and subject to the approval of the Secretary of the Interior (Ortiz 1979; Prucha 1990). There was nothing to force the BIA to negotiate for competitive prices. It was in 1975, following Nixon's policies of Indian self-government, that the Self Determination and Educational Assistance Act was signed. This act took some control away from the BIA and gave it to the tribes. However, there was one important difference between tribal and federal land and mineral leases. While federal leases came up for reevaluation every twenty years, tribal leases did not. This made it difficult to keep up with market values and safety standards (Ambler 1990: 55). Therefore, while tribal economies continued to lag behind, pollution, destruction of wildlife, and increasing contamination of waterways and soil made a healthy economy even more necessary. Therefore, along with issues of tribal control over reservation affairs, issues of environmental degradation began to be addressed.

Both the Mineral Leasing Act of 1891 and the Omnibus Tribal Leasing Act of 1938 authorized the leasing of tribal

lands. However, neither required any land use planning (Ortiz 1979: 69). Beginning in the 1960s, though, government officials and the general public became increasingly aware of the environmental degradation caused by resource development. This was especially true on reservations and other racial minority communities in the United States. There followed, then, a string of new acts and policies that tried to moderate the effects of resource development on the land. Congress passed the Clean Air Act in 1963, the National Environmental Policy Act (NEPA) in 1969, which required public involvement in the drafting of environmental impact statements for federal and corporate projects, the Clean Water Act in 1972, the Safe Drinking Water Act in 1974, and hazardous waste laws in 1976 and 1978 (Ambler 1990: 54). Though many of these acts were not adequately enforced by the federal government, they were a radical departure from previous policies which concentrated only on making the most land available in the shortest amount of time.

Though a good portion of the minerals that western tribes own remain unobtainable, energy tribes still represent the third largest mineral owners in the country after the federal government and railroad companies (Ambler 1990: 74). The emphasis on individual resources has changed over time due to the fluctuating national need for them, but the demand for resources in general still continues. In

fact, the decrease in other fossil fuels and advances in nuclear technology, such as fusion reactors, could again increase the demand for uranium.

Many tribes have taken advantage of the federal demand for resources. Others have remained reluctant. In *Breaking the Iron Bonds*, Ambler states:

Tribes that delayed development...had four principal reasons: They lacked the data they needed; they were sometimes torn by internal tribal dissent; they were intimidated by the nation's demand for their resources; or they did not want to repeat the mistakes tribes had made in past resource decisions and therefore they felt inhibited. Economic pressures forced other tribes to proceed with development, ready or not (1990: 72).

Contemporary policy making is a direct reflection of what has and what has not been addressed in the past. This becomes obvious when one observes present EPA laws and policies regarding reclamation of old mine sites and standards regulating proposed mining. These trends previously discussed set the stage for a more detailed discussion of uranium mining on western reservations and the economic, political, and environmental factors surrounding it.

History of Uranium Mining on Western Reservations

Compared to other natural resources such as coal, oil, and gas, the extraction of uranium and its use is a relatively recent development. Though scientists were aware of the existence of uranium in the first half of the twentieth century, the mining of it did not begin until the early 1950s. The estimate of the amount of uranium that is owned by tribes varies quite a bit according to the document one reads. The federal government has estimated that 37 percent of domestic uranium lies underneath reservations (Ambler 1990: 29). Still others, like Ward Churchill in *Struggle For the Land*, claim that nearly 67 percent of United States domestic uranium is owned by tribes (1993: 264). This number becomes even more obscure given the fact that not all of the uranium that lies beneath reservations is usable or obtainable because of its extremely high grade and its risk to the workers. Furthermore, most estimates do not take into account land still under Indian claim. "If Indian treaty land were counted, it is estimated that Native Americans would own approximately 80 percent of the uranium in North America" (Talbot 1981: 168). Whichever estimate proves most accurate, the fact remains that tribes are the largest private owners of uranium in this country. This also is true of tribes over the border in Canada (i.e. the Dene and Métis).

The mining of uranium in the United States began during the early 1950s. The demand for uranium ore as an alternate energy source exploded almost immediately. Coincidentally or not, nearly all the tribes owning uranium beds were targeted for termination by the federal government. These tribes consisted of "the mineral tribes of Osage, the Arapahoe and Shoshone of the Wind River Reservation, Northern Ute of the Uintah and Ouray Reservation, and Spokane" (Wilson 1985: 183-184). Except for the Navajo and Laguna tribes, these represent the entire list of energy tribes that have ownership of uranium beds. In the end, all but one of the tribal nations were spared termination. Each, though, was forced to pay a large sum of money to remain under federal recognition.

As in previous periods, the demand for uranium came from several different directions. Though the public need for alternative energy sources certainly played its part, corporations were by far the leading catalysts of mining proposals on tribal land. Corporations make a profit by producing, distributing, or in this case mining a product the cheapest and most efficient way possible. This means removing or avoiding as many obstacles as possible. James O'Connor in an article entitled "Uneven and Combined

Development and Ecological Crisis" states that "Capital seeks to combine social and economic forms in the most profitable way, for example, twenty-first-century first world technology with nineteenth-century third world labour/politics" (1989: 8).

However, tribes have a special relationship with the federal government, and their lands, minerals, and rights are protected under a trust relationship. Therefore, corporations needed the federal government's aid in setting up negotiations with tribes. Federal agencies and corporations began to review previous treaties trying to find loop holes that would allow mining to proceed without any legal obstacles. One example of this is evident in an argument used by the Secretary of Interior, Albert B. Fall, in 1922 regarding executive order reservations. "He believed that because the Indians did not really own them, such reservations could be developed under public land laws" (Ambler, 1990; 40). When these types of loop holes could not be found, the federal government often resorted to its claim of "plenary power," as in the case of the Lone Wolf court decision mentioned previously.

The first contract to mine uranium on reservation lands was signed in 1952 between the Bureau of Indian Affairs and Kerr-McGee Corporation, and was agreed upon by the Navajo tribal council. The Navajo reservation is situated on the western section of the Grants Uranium Belt, one of the

largest uranium beds in the country. The Grant's belt, about one hundred miles long and twenty miles wide, is located under the Four Corners region (Reno 1981: 133). This area is home to many tribes: the Southern Ute, Ute Mountain, Hopi, Zuni, Jicarilla Apache, and several other Pueblo nations (Waldman, 1985; 196). The mine was called the Shiprock mine because of its location near Shiprock, New Mexico. It continued in operation for eighteen years, finally closing in 1970. Many of the acts and federal-corporate policies that now regulate the mining and milling of uranium stem directly from the mishaps and disregard for human health and the environment by the Kerr-McGee Corporation during this period. It was the unguarded mounds of radioactive tailings the company left that led to the Uranium Mine Tailings Radiation Control Act in 1978 (Churchill, 1993; 270).

Later in the same year that the Navajo/Kerr McGee contract was signed, the Laguna Pueblo signed an agreement proposed by the BIA and the Anaconda Copper Company to mine uranium on their lands. Like other tribes during the early years of mining, the Laguna had very little knowledge of the procedures and risks involved in the extraction of uranium. "When the Anaconda agreements were first signed, the Laguna Pueblo had no tribal government office; all the contract papers were kept in a trunk. And most of the tribal council members were illiterate" (U.S. Department of Interior 1986:

2). This lack of a strong tribal government left the Laguna people reliant on decisions made by the BIA.

The Jackpile-Paguate mine had been in operation for thirty years when it closed in 1982; thirteen years longer than the Shiprock mine. When the mine closed, the Laguna people were left with an open pit requiring approximately 400 million tons of earth to fill it, a 260 acre tailings pile, the main source of water, the Río Paguate, and ground water contaminated with Radium-226 and other heavy metals, and many other ill-effects (Churchill, 1993; 271-273). As with the Shiprock mine, the BIA had required no post-mining cleanup from Anaconda. Together with the Shiprock and Jackpile-Paguate, other mines on neighboring reservations and near their borders have contaminated the lands so severely that the proposal has been made to make them "National Sacrifice Zones, in the interests of U.S. economic stability and energy consumption" (Churchill, 1993; 275).

The Black Hills region has faced issues similar to those in the Four Corners area. However, because of the decrease in the demand for uranium, most sites have remained undeveloped. The only uranium mine that became operational in the region began mining in 1954 on an abandoned army ordnance depot twenty miles west of the Pine Ridge Reservation in South Dakota (Churchill, 1993; 278). As in the Navajo's and Laguna's situation, the tailings pile from the mine contaminated the main water source, the Cheyenne

River, and increased birth defects and other related health problems significantly. The federal government has concentrated most of its attention on Black Hill's gold production and coal beds, but further investigations have revealed a number of uranium beds as well. Talbot, in 1981 writes:

Nearly one million acres are currently under exploration in the Black Hills by Exxon, Union Carbide, and United Nuclear Homestake....In fact, the Department of Energy estimates that 31 percent of our domestic uranium reserves lie in nearby Wyoming (1981: 169).

It is important to note that energy development for the "Black Hills region" far exceeds the Black Hills themselves, effecting the Northern Cheyenne and Crow reservations of Montana, every reservation in South Dakota, the Fort Berthold and Standing Rock Reservations in southwestern North Dakota and the Arapahoe and Shoshone of the Wind River Reservation in Wyoming.

These examples in the United States can be closely paralleled to other cases in areas of Canada. In fact, it was largely due to the rich uranium beds discovered in Canada that uranium mining declined in the United States in the 1970s and 1980s. One of the richest beds was discovered in northern Saskatchewan. Uranium mining in Saskatchewan, as in the United States, began in 1952, but in later years its development increased exponentially with mining plans and proposals extending into the year 2000 and totaling roughly 25,074,000 metric tonnes of solid mill waste

(Churchill, 1993; 290). As in the previous examples, the people in these mining areas have learned of corporations cutting costs by dumping waste directly into rivers and lakes, disregarding many of the cleanup regulations, and even constructing streets and buildings out of the radioactive tailings. "In 1977, for instance, it was discovered that classrooms in the local CANDU High School...showed radon levels 60 times higher than the allowable limit" (Churchill, 1993; 292). Though the areas being mined do not focus around such dense populations of native peoples as do those in the Four Corners and Black Hills regions, the area is dispersed with populations of native Dene and Métis. Ward Churchill estimates the number at 20,000 out of the 30,000 residents (1993: 296). If these numbers are correct, then northern Saskatchewan together with the Four Corners and Black Hills areas are the three most highly populated areas of native peoples on the North American continent; each one is so contaminated as to warrant a proposal to make them sacrifice zones.

Most of the acts discussed in this chapter regarding mineral ownership were federally created and were broad and inclusive to all tribes. This cannot be said for many of the acts and policies regarding uranium mining. Its history is like a ladder, its steps being made of trials and errors. Most of the acts regarding reclamation and safety regulations stem from individual cases, like those discussed

regarding the Navajo, and then being revised later due to problems arising from other sites. This type of situational response has led to such a great number of smaller bills and acts that their enforcement has proven too difficult or absent altogether, and their funding, inadequate.

The Four Corners, Black Hills, and northern Saskatchewan cases are all perfect examples of the failure of the federal government to control corporate misconduct and to enforce its own regulations. In fact, it has often been government officials, themselves, who have stifled any effort to do so. The history of uranium mining has made it clear that corporate priority is on profit rather than safety or regard for those directly involved.

CHAPTER 2

THE SPOKANE: FROM HUNTING TO MINING

"It is as hard and unnatural for them to lead a settled life as it would be for a New England farmer to change and lead a wandering life."

-Reverend Elkanah Walker

(quoted from Ruby and Brown 1970)

"I want to know if you thought the President was God Almighty that he should make a Reservation for us?"

-San Poils Spokesman (1872)

(quoted from Ruby and Brown 1970)

The Land and the People

Geologists estimate that the region now known as Washington State began to surface from the ocean around 35 million years ago; the peaks of the Cascades appeared only as islands (Becher 1974: 1). Between 75 million and 10 million years ago, volcanic activity began tearing large seams in the ocean floor. Layer upon layer of magma poured from these seams and successively covered and dried upon each other. The volcanic activity continued to effect the shape of the land even after it rose above sea level. The area referred to as the "Inland Empire," located in Washington and parts of Idaho, still shows unmistakable

geologic scars from these catastrophic events. Many of the valley-floors are remarkably level due to the spreading of the lava. There are also abrupt bends in the land where the lava flow ran into the mountains. This initial geologic episode was then succeeded by a climatic period of ice (Becher 1974).

Around a million years ago, giant ice sheets began to move down onto the Colorado Plateau from the North. These sheets gradually advanced and retreated in cycles of about a hundred thousand years. In their advance, entire mountain ranges were leveled. In their retreat, valleys of silt, gravel and soil enriching minerals were left. Giant lakes also were formed by these retreating glaciers. Eventually, the ice reached its southern most extreme, and the heat caused the glaciers to melt, creating catastrophic floods. The melting glaciers were the creators of many present-day lakes (i.e. Lake Pend Oreille) and rivers (Becher 1974; Fargo 1950; Ruby and Brown 1970).

Three climatic episodes of volcanic activity, glaciation and flooding shaped the Inland Empire landscape. These climatic changes also set the foundation upon which the relationship between the land and its future inhabitants would be built. Volcanic activity created the mountains which, in turn, helped create a climate in which the deciduous and coniferous forests of the region flourished. When people moved into the Columbia Plateau from the North,

wildlife was abundant, and the rivers were already filled with trout and salmon.

Archaeologists are confident that people lived on the Columbia Plateau between thirteen thousand and eight thousand years ago (Ruby and Brown 1970: 5). However, it is extremely difficult, if not impossible, to ancestrally trace the historic tribal nations back to the early hunter/gatherers who moved into the area. Some scholars do, in fact, claim that Spokane ancestry originates with these prehistoric hunter/gatherers. This hypothesis is given greater validity through recorded conversations with many Spokane people in the nineteenth century in which they told of their arrival from the far North. Still, other anthropologists claim that the Spokane, along with many other groups, crossed over the Rocky Mountains from the Great Plains during the Historic Period and settled along the numerous river valleys (Ruby and Brown 1970).

Whichever theory one chooses to accept, it is clear that the area the Spokane settled was extremely abundant in fish and big game. By conducting pollen analysis, archaeologists know that the Columbia Plateau was once covered with conifers, a main staple for a wide variety of wildlife. In time, however, the forests thinned considerably. Antelope and bison also migrated out of the area. Therefore, people living in the plateau region became more dependent on deer, roots, berries and, especially, fish. The Columbia

River, running to the Pacific, was full of salmon and trout (Ruby and Brown 1970).

Like other groups living in the Columbia Plateau region, the Spokane diet centered around salmon. Due to their location along the Columbia River, the Spokane became adept at catching the fish.

So well known were the Spokanes as salmon eaters, and their river as a salmon stream, that when they met others whose language was unfamiliar, the Spokanes identified themselves by moving their hands to suggest the movement of the tail of a salmon in the act of spawning. They also put their hands to their mouths, then complacently patted their stomachs to indicate what they did with the fish (Ruby and Brown 1970: 15-16).

Though fishing for salmon was most important in the more permanent winter villages, the fisheries on the river were used all year long. Salmon was caught primarily in two ways. The first method required building wooden weirs that could be closed. The trapped fish were then easily speared. The second way was to build baskets above areas where there were falls. The salmon, migrating up the falls, would land in these large baskets. It was reported that an excellent day could see up to two thousand salmon caught (Ruby and Brown 1970: 19; Garbarino 1985; Payette 1962).

During the spring, summer and early fall the Spokane left their winter villages to hunt deer, elk and mountain goats and gather camas roots, nuts and seeds. Fall was also an important time for many young men who travelled over the Rockies to the Great Plains to hunt buffalo or trade dried

salmon with the Blackfeet for buffalo robes. Doing either proved to be very unpredictable and dangerous (Gabarino 1985; Palladino 1922).

Besides game and fish, the camas root also was an important part of the Spokane diet. During the summer, the people would move closer to the camas fields, which they shared with other neighboring groups. Nuts and berries filled the rest of the gathering requirements. Sometimes, though, due to late rains, drought, or a prolonged winter, coupled with the depletion of stored foods, the Spokane were forced to rely on Black Moss, which they boiled until it became a type of cake that could be stored (Gabarino 1985; Ruby and Brown 1970).

Fishing, hunting and gathering had been the traditional lifestyle of the Spokane for thousands of years. There were good years and bad ones, but the Spokane had adapted to the environment and its climatic extremes. However, a new people were coming. They would bring with them new tools, new weapons, new ways to hunt and grow food, even a new religion. They would also bring with them something far more devastating to the Spokane people and their culture, new diseases.

European Contact

There is an oral tradition among the Spokane of a man named Yureerachen who lived a long time ago. When a strange sickness had taken his son's life, he grew very angry and began to doubt his beliefs. His brother, a chieftain, sympathized with him and told him to go to the mountain for four days. If Yureerachen saw no evidence of the Creator, then the tribe would disband and live again as animals. So Yureerachen went to the mountain where he fasted, prayed and sang. On the fourth day, in a burst of light, the Creator spoke to him. Yureerachen was shown the future of his people. He saw a new kind of man, a white man, coming. This white man carried a book with him that would change the lives of the Spokane. Yureerachen told all that he had seen to his people. He then told them that after all of this had happened, the world would fall to pieces (Ruby and Brown 1970: 31-33).

To the Spokane, it must have seemed as though their world was already crumbling. European diseases preceded direct contact and resulted in epidemics that devastated the tribe. Smallpox was the first to arrive, and "when it passed, Spokane population, estimated by anthropologist James Mooney to have been fourteen hundred in 1780, was reduced by half" (Ruby and Brown 1970: 29).

The first European to arrive carried skins, not a book as was foretold. Le Blanc and La Gasse were traders who worked for the Northwest Fur Company's Rocky Mountain House, established in 1788 (Ruby and Brown 1970: 34). These traders did not stay long among the Spokane, but others continued to arrive in greater numbers and increasing frequency. These men were driven by the European demand for pelts, as others would be later for gold, land, and, in the 1950's, uranium. From the first European contact to the present, there has been a persistent demand for Spokane resources.

A Rifle For Your Bow

The eventual subjugation of the Spokane people came in four waves. Trade was the first of these. The Spokane House, run by the Scot, Finan McDonald, was by far the most renowned trading post on the Columbia Plateau. At first, the Spokane only visited Spokane House on occasion. However, before long, many began to settle around the post.

With their furs and services the Spokanes could buy other coveted articles from the white man's store--calicoes and woolens, eye-catching ornaments of glass and brass, knives and other cutting tools, imported tobacco, and strange new things to eat. Such treasure in hand, they bartered favorably for buffalo robes with tribes further east and for horses from their neighbors, the Néz Pèrce (Fargo 1950: 20).

Tools and food were not the only items the Spokane traded

for. Guns and ammunition, were among the most desired items. The young men needed these new weapons to protect themselves from the Blackfeet when the Spokane travelled to the Great Plains to hunt buffalo in the spring and fall.

Besides the earlier arrival of the horse, the acquiring of the gun was the greatest catalyst for change during the trading years. Neighboring tribes to the east and south had already acquired rifles. Guns, in the hands of Blackfeet warriors, had killed Spokane for years. The world around them was changing. The Spokane knew this very well, and knew that changes in their lifestyle, culture and even, perhaps, their beliefs were inevitable.

In only a few decades, the beaver population on the Columbia Plateau had been decimated. What was once a flood of pelts had become a trickle and, as so often happens in trade, so had the demand from Europe. Whereas wealthy European women had once worn their beaver wraps and hats, now they modeled silk. As both the supply and demand decreased, the traders began to move out of the Columbia Plateau. The Spokane were left dependent on a trade that no longer existed. Illim-Spokanee, the Spokane chief, pleaded with the traders saying, "the white men made us love tobacco almost as much as we love our children," and that his men "in their dependence on the traders, had 'broken their arrows,' and had almost forgotten how to use them" (Ruby and Brown 1970: 47). What the Spokane did not realize was that

before the traders left they would bring one more thing to the Spokane people from the East, missionaries.

A Plough For Your Rifle

The trade houses opened lines of communication between Europeans living in the Columbia Plateau and those in the East. The traders described the area as rich in resources and having land for the taking. Missionaries, who saw possible converts as the most valuable resource, also set their sights on the Columbia Plateau. Many of these missionaries, after experiences in the East had proven, knew that the Indians had little choice but to adopt European lifestyles as well as religious beliefs.

The relationship between traders and missionaries was tense, but each party's goals complimented the other's. The traders believed that the conversion of the tribes in the area would help civilize them and therefore increase trade by decreasing the amount of tension between warring tribes. On the other hand, the missionaries believed that the acquisition of modern tools and other items would aid in teaching the Spokane to work hard and speed up their conversion to Christianity (Ruby and Brown 1970; Palladino 1922).

Cushing Eells and Elkanah Walker, with their families, were the first missionaries to settle among the Spokane in

1838 (Ruby and Brown 1970: 62). They were well received. Spokane Gary, the son of Illim-Spokanee, had been taken as a child to the Red River school and taught about the Bible. At eighteen he had returned to his people and began to teach them about European ways and about the Christian concept of God. Spokane Gary's teachings had laid the foundation for Eells and Walker. The Spokane welcomed them, cared for them, and eventually even defended them in time of war (Ruby and Brown 1970).

Walker, especially, realized the urgency of the Spokane dilemma. There had been a steadily increasing stream of European settlers into Spokane territory for years, and Walker realized that it was only a matter of time before that stream became a flood. The Spokane, he believed, must adopt the ways of "civilization" or be drowned in it. Besides Christianity, both he and Eells believed agriculture to be the most important skill for the Spokane to learn. However, both men soon learned that the Spokane would become Christians before they would farm.

Nine years after the two missionaries settled with the Spokane, there was still very little agricultural progress. In 1847, an artist named Paul Kane visited the Spokane and reported that "no influence seems to be able to make agriculturists of them, as they still pursue their hunting and fishing" (quoted from Ruby and Brown 1970; 76). Relations between tribes were peaceful, the game was still abundant,

and seasons had been mild. To the Spokane, there seemed to be no reason to settle down and farm.

As trade opened up avenues of communication and good relations between Europeans and the tribes of the Columbia Plateau, missionaries taught the Christian doctrine, agriculture, and helped deter warfare and raiding between tribes. In doing so, they paved the way for miners, the third wave to reach the Spokane from the East.

Gold In the Columbia Plateau

In the early nineteenth century, the Plateau area was still, very much, the frontier. "Steamboats plowed the Mississippi when only log rafts and Indian canoes rode the rapids of the Columbia" (Neuberger 1939: 17). The Columbia Plateau appeared to Europeans as having boundless potential for expansion, farming, ranching and settlement. Then in 1848, the announcement was made that gold was found in the Columbia Plateau, bringing miners and their families to the West in search of quick fortunes (Ruby and Brown 1970: 83). The dam finally burst. Most barriers to westward movement had already been eliminated. Now, miners poured into the region.

It had been the decrease in the supply and demand for pelts that had forced the traders to leave. For the missionaries, it was the threat of war. More so than their

neighbors, the Spokane had welcomed the missionaries and their teachings. Many had given up hunting for farming. Many had even given up their traditional belief in spirits and medicine men for a Christian God. None, however, were willing to give up their land.

The Spokane had seen Europeans come and go for different reasons, but they had always left. The miners and their families, though, seemed content to settle. Major Granville O. Haller, one of the participants in the Yakima War explained white immigration as:

that aggressive, irritating policy[,] that ever present concomitant of American settlement in new or Indian country--not content with unauthorized and uncompensated seizure and appropriation of Indian lands, [which] finds its satisfaction only in the retirement of the aboriginal owner or occupant from his possessions, from his home, his country (Ruby and Brown 1970: 92).

Though the Spokane were reluctant to talk of the gold in their country, they were nonetheless cordial, initially, to miners. One early miner reportedly told Eells that "if he dropped a twenty-dollar gold piece in a worshipping congregation of Spokane Indians, he would more likely have got it back than had he dropped it in a congregation of whites" (Ruby and Brown 1970: 81-82).

Spokane attitudes began to change, however, as more miners passed through and began settling in their territory. The Yakima and Cayuse were spreading talk of war through Spokane camps. Many Spokane elders were also alarmed at the lack of game and salmon.

The Indians were definitely alarmed and resentful about white immigration. With superior weapons the newcomers were depleting the land of game. They settled here, there, and everywhere, without so much as a "by your leave" (Fargo 1950: 43).

The tension between settlers and Indians continued to build until it finally broke in 1847 when a group of Cayuses killed Dr. Marcus Whitman and his family (Ruby and Brown 1970).

The Spokane immediately promised to protect Walker's and Eells's families, but the missionaries knew that the chiefs could not control all the young men. Some had already left the village to help their neighbors in the war against the Europeans. Eventually, against the pleading of the Spokane people, the Walker and Eells families packed their things and left.

The Spokane became fragmented in the following years. Many of the young men refused to listen to their chief and joined their neighbors in the Yakima War. The Spokane, from then on, were viewed by the federal government as a hostile tribe. Such a reputation did not help the Spokane in the following years when the final wave of westward expansion arrived. This wave, too, came from the East, but this time on two silver rails (Fargo 1950; Ruby and Brown 1970).

The Arrival of the Locomotive

The Spokane could not understand why the locomotive, on two narrow tracks, needed so much land. The Northern Pacific Railroad came across the country as though it was parting a great sea. Indians and settlers alike were pushed away from its sides. Settlers, however, could simply move into the city or elsewhere in the country. For the Spokane, moving was not so easy. Many had already been placed on the Colville and Coeur d'Alene reservations. Others had decided to homestead under the Indian Homesteading Act of 1875, which stated that an Indian could homestead a tract of land by severing his tribal relations and "improving" the land (Ruby and Brown 1970: 165). The railroad, though, saw no difference. Both had to be moved.

At first, many Spokane believed that the railroad would benefit their people just as it had Europeans. It would be able to bring more farm equipment as well as other modern conveniences. However, what the railroad brought the most of was people. Cities such as Walla Walla and Spokane (called Spokane Falls at the time) grew exponentially. "Walla Walla, way station for covered wagons and the mining stampede into Idaho and Montana in the sixties, became a thriving city, largest in the interior between the Rockies and the Cascades," and Spokane Falls followed suit in the seventies (Fargo 1950: 69).

The railroad and the flood of Europeans it brought with it seemed overwhelming to the Spokane. Roads were built and fences fragmented the land everywhere. Now, the railroad was demanding the final bit of land that had already been given to the Spokane by law. A North Pacific Railroad worker summed up the situation in the following quote:

The North Pacific Railroad has done what General Sherman predicted it would do--it has settled the Indian question in all the States and Territories it traverses. When the locomotive came the red man knew his fight against civilization was at an end (Ruby and Brown 1970: 180).

The traders were gone, along with much of the game and salmon. The missionaries had left and not come back. Miners had invaded Spokane land, polluted the rivers and harrassed the people. Now the railroad wanted what little land was left only to bring in more people. The Spokane who had not already done so now asked to be given land on a reservation. The outside world no longer seemed to offer them anything. Times were bad, but the North Pacific Railroad worker was wrong. Civilization did not stop taking from the Spokane, and the Spokane fight was not over.

A Reservation?

The Spokane were one of the last nontreaty tribes in the Northwest. When the wars for the land finally ended, most groups around them signed treaties agreeing to give up their lands and move to reservations. Spokane Gary realized that Europeans would keep coming and had asked to either be given a reservation for his people or for them to be allowed to move onto one of a neighboring group. Finally, in 1872 Gary got his wish. The Colville Reservation, east of the Columbia River, was set aside for the Spokane and other nontreaty tribes. Many of the Upper and Middle Spokane had relatives there. Other Spokane preferred to move to the Coeur d'Alene or the Flathead Reservation in Montana. Finally, about half of the Upper and Middle Spokane relocated from the Coeur d'Alene to the Lower Spokane Reservation. Others trickled in later as well. Ironically, the Lower Spokane who had lived for so long in dire poverty refusing any government aid were given their own reservation by President Rutherford B. Hayes (Fargo 1950; Ruby and Brown 1970).

In the following years, the Spokane living on the Spokane Reservation faced the same issues and struggles as other tribes around the country at that time. In 1902, Congress authorized the allotment of the Spokane Reservation and for the remaining land to be offered for sale to miners

and Homesteaders (Ruby and Brown 1970: 221-222; Hodges 1897)

Sixteen sections of Spokane Reservation land, comprising 5,781 acres of agricultural land would be opened. With 82,647 acres of timber land reserved for the tribe, one hundred homesteads would be permitted on the reservation (Ruby and Brown 1970: 241).

In the 1930s, the political treatment of and attitude towards tribes changed drastically, culminating in the Wheeler Howard Act, also called the Indian Reorganization Act. Under this act the federal government ceased to recognize tribal chiefs. Instead it tried to organize tribes into councils, led by elected officials. Most importantly, it also called a halt to the allotment of tribal land. Many tribes were pleased with an apparent willingness by the government to listen to issues regarding poverty, health care and tribal land-claims. However, the Spokane were reluctant to change their traditional organization. So in February 1934, the tribe officially voted against a reorganization of the tribal government. They did so again in 1949. Not until 1951 did the Spokane finally agree to reorganize under a constitution and bylaws. The change came just in time. The political pendulum swung once again towards the opposite extreme of its treatment of tribes (Fargo 1950; Prucha 1990; Ruby and Brown 1970).

Uranium: A Mixed Blessing

In the spring of 1954, in the middle of the night, two Spokane brothers, the Lebrets, and a friend of theirs gathered on the top of Look Out Mountain. Carrying a Geiger counter, their goal was to find any evidence of uranium in the surrounding area. None of them could have predicted that they would find one of the richest uranium beds in the country. Their counter revealed a site, which they appropriately named the Midnite Mine (Churchill 1993; Ruby and Brown 1970).

The men immediately reported their find to the Secretary of the Interior and to their congressman, Walt Horan. Almost as immediately, the Atomic Energy Commission drilled holes to test the quality and quantity of the ore beds. The conclusions proved encouraging and the commission guaranteed the six man corporation, "Midnite Mine Incorporated," a purchase contract through 1956 (Ruby and Brown 1970: 282). Interested corporations flooded the Spokane tribe with contract proposals and lease requests. The tribe then realized that their reservation sat upon a great potential of wealth.

The Secretary of the Interior, Fred Seaton, approved negotiations between the Spokane and outside interests. In 1955, an agreement was finally signed between Midnite and Newmont Mining Corporation, a New York based company, in

which Newmont bought 51 percent of Midnite (Churchill 1993; Ruby and Brown 1970: 283). The resulting corporation was called Dawn Mining Company.

After bidding on and finally buying land adjacent to the Midnite property, Dawn began to mine uranium in 1957.

The mill had a daily volume of from 440 to 500 tons and a payroll of forty-five men; half of them were Spokanes. With the closure of the mine in October, 1963, Dawn had sold 2.85 million pounds of uranium oxide to the Atomic Energy Commission at \$8 per pound, totaling \$22.8 million (Ruby and Brown 1970: 286).

When all parties had taken their share, the tribe's cut was a small one. The tribal royalty ranged from 10 to 20 percent, depending on the grade, or quality, of the ore. "By 1961, tribal payments had totalled more than \$275,000" (Ruby and Brown 1970: 287; Churchill 1993).

When compared to incomes from ranching, farming, and small scale timber companies, the uranium business brought in a greater and more immediate income to the tribe. However, this apparent blessing turned out to be a mixed one. The contract that Dawn signed with the tribe took responsibility away from the corporation in the case of an accident. Furthermore, the bond that Dawn was required to give the tribe for post-mining reclamation turned out to be equally insufficient. "Dawn was required to post only a \$15,000 bond to insure cleanup whenever it completed its business on Spokane land" (Churchill 1993: 283). When Dawn finally closed the mine and left the reservation, many

Spokane began to have second thoughts about what they had agreed to sign.

Like any other people, the Spokane wanted security for themselves and their families. They wanted a chance to break the chains of poverty and to make their own decisions about their future as a people and as a culture. Uranium mining seemed like a viable way to achieve all of these things. The Department of the Interior and several public officials exploited these desires to promote the leasing of Spokane land to mining companies. In the end, the Spokane tribe found itself in the same boat as other tribes who had chosen to mine the uranium beneath their land.

The federal government was often unwilling to let tribal councils make final decisions regarding the leasing of lands. Politicians had a lack of trust in tribal politics and in its decision making. The tribe received only a fraction of what the uranium was worth, and much of what it did receive was spent on court fees and reclamation costs after the mine had closed and left the land contaminated and unusable. While the government and Dawn Mining Corporation shirked responsibility, the Spokane tribe found itself more in need of aid than before the mining began.

CHAPTER 3

ENVIRONMENTAL RACISM: A REALITY

No society will distribute social benefits in a perfectly equitable way. Any nation that permits race to affect the distribution of benefits from social policies is racist.

*-Lewis L. Knowles and Kenneth Prewitt
(1969)*

There lies at the heart of any diversified and stratified social system the tempting possibility that economic, sexual, political, and status gains may result from a deliberate (and even from unconscious) exploitation of minorities.

-Gordon W. Allport (1958)

Environmental Racism Defined

Environmental racism is a type of institutionalized racism. Rather than being committed by an individual, institutional racism stems from policies and/or standards that are imbedded in and that guide the actions of corporations, government agencies, courts and other social institutions. However, to fully understand environmental racism, one must first break it down into its key elements and define each. The most important term to understand is, of course, "racism" itself.

Currently, there is widespread agreement on the basic definition of racism. The *Webster's New Collegiate*

Dictionary defines it as "a belief that race is the primary determinant of human traits and capacities and that racial differences produce an inherent superiority of a particular race" (Webster 1973: 950). Robert Bullard, in *Confronting Environmental Racism*, takes the definition further by addressing the social implications:

Racism is racial prejudice plus power. Racism confers certain privileges on and defends the dominant group, which in turn sustains and perpetuates racism. Both consciously and unconsciously, racism is enforced and maintained by the legal, cultural, religious, educational, economic, political, environmental and military institutions of societies. Racism is more than just a personal attitude; it is the institutionalized form of that attitude (Bullard 1993: 41).

It is important to understand that the terms "racism" and "discrimination" have distinct meanings, even though they usually exist together in society. Each may exist without the other. Discrimination may be directed toward gender, class, age and other groups without involving race. On the other hand, racism can exist without representation. However, the purpose of this chapter is to show that the disproportionate siting of hazardous waste facilities in racial minority communities, including reservations, is, in fact, racist.

The term "racism" is an abstract noun. As such, it, by itself, lacks any action. Discrimination, however, is an act that originates from a racist ideology. It gives racism form. "Discrimination refers to actions or practices

carried out by members of dominant groups, or their representatives, which have a differential and negative impact on members of subordinate groups" (Feagin and Feagin 1978: 20).

Once there is an understanding of the difference between racism and discrimination, one must then realize that both usually occur simultaneously and at different levels and degrees within society. There is the obvious racism and discrimination that is committed by one individual against another or against a group. This type of racism is usually passed on generationally through familial influence and attitudes. However, when individual racism survives generationally, it is transferred from personal, individual ideology into institutional standards and policies, education, government regulations, law and other institutions. Louis L. Knowles and Kenneth Prewitt, in *Institutional Racism In America*, define institutions as "fairly stable social arrangements and practices through which collective actions are taken" (1969: 5). This is a broad definition that includes a wide range of social organizations.

Finally, the term "environmental racism" is a culmination of race, discrimination, and institutions. It is a type of institutionalized racism that incorporates direct and/or indirect discrimination through the application of corporate, governmental and other

institutional policies. Though not a concise definition, Robert Bullard gives a thorough description of environmental racism.

Environmental racism is racial discrimination in environmental policymaking. It is racial discrimination in the enforcement of regulations and laws. It is racial discrimination in the deliberate targeting of communities of color for toxic waste disposal and the siting of polluting industries.... And it is racial discrimination in the history of excluding people of color from the mainstream environmental groups, decisionmaking boards, commissions, and regulatory bodies (Bullard 1993: 3).

While the term is easily defined, its existence has been difficult to prove. Environmental racism has become a focus of the media, books and journals, environmental groups and the federal government. Still, there are detractors who use a variety of arguments to deny the very existence of environmental racism. To fully understand and address these arguments, it is important to identify the origin of the term "environmental racism" and summarize the data that support its presumptions.

Early Research and Results

Environmental racism is a relatively recent concept. It originated from public protests and demonstrations against a proposed landfill in Warren County, North Carolina in 1982. "The rural, poor, and mostly African American county was selected for a PCB landfill not because it was an

environmentally sound choice, but because it seemed powerless to resist" (Bullard 1993: 3). The Warren County case sparked research into federal and corporate racism and how marginalized communities were affected disproportionately by hazardous waste facility siting. The research into environmental racism and the reaction to it has been termed "environmental justice."

Since the Environmental Justice Movement began, research has revealed a wide gap between wealthy, non-minority communities and poor, minority ones regarding environmental degradation. This fact becomes evident in the history of Indian reservations and their disproportionate share of uranium development.

In 1975, 100 percent of all federally produced uranium in the United States came from Indigenous lands. Eleven of fourteen county, state, and tribal governments under review for storing nuclear waste in Monitored Retrievable Storage (MRS) facilities are Indigenous communities.... America's energy policy, which is the cornerstone of its industrial policy, is based upon Indigenous resources (Bryant 1995: 143).

One of the earliest attempts at documenting this type of environmental racism was conducted by the United Church of Christ Commission for Racial Justice in 1987. The results were published in a report titled "Toxic Waste and Race" (Bullard 1993: 43). This initial study, which supported the theory that racial minorities were disproportionately affected by industrial development, was conclusive enough to prompt further research.

One of the most comprehensive studies was published in the *National Law Journal* in 1992. The research included information from census data, civil court dockets, and the EPA's own record of its performance at 1,177 Superfund toxic waste sites (Wenz and Westra 1995: 5). The survey included nearly every issue of environmental discrimination, from disproportionate waste facility siting to disparities in the length of time corporations are forced to clean up sites. The results of the study are startling:

- * Penalties applied under hazardous waste laws at sites having the greatest white population were 500 percent higher than penalties at sites with the greatest minority population.
- * For all the federal environmental laws aimed at protecting citizens from air, water, and waste pollution, penalties for noncompliance were 46 percent higher in white communities than in minority communities.
- * Under the Superfund cleanup program, abandoned hazardous waste sites in minority areas take 20 percent longer to be placed on the National Priority List than do those in white areas.
- * cleanup at Superfund sites begins from 12 to 42 percent later at minority sites than at white sites.
- * For minority sites, EPA chooses "containment," the capping or walling off of a hazardous waste dump site, 7 percent more frequently than the cleanup method preferred under the law: permanent "treatment" to eliminate the waste or rid it of its toxins. For white sites, EPA orders permanent treatment 22 percent more often than containment (Wenz and Westra 1995: 5).

These results, along with data from other studies, finally put on record what minority communities already knew. The *National Law Journal's* research is important because it gives evidence, not just of discrimination, but of racial discrimination. When these results were published, federal

agencies were forced to address the issue.

Environmental racism was brought to the public's attention and became a political topic during the 1980's and has remained entrenched in both. Though the existence of environmental discrimination has been accepted by both major political parties, they have not been able to agree that it is racially based.

Conservative politicians agree that there is a disproportionate burden forced upon underrepresented communities. Rather than being due to race or ethnicity, though, many argue that it is based in economics and class. Conservatives, therefore, have proposed to simply give more money, as compensation, to communities that agree to host hazardous waste facilities. This approach attempts to make the benefits of accepting such facilities outweigh the apparent risks. However, this proposal does not attempt to eliminate environmental racism. Instead, it allows discriminatory siting of hazardous waste, but at a higher cost to the industry. To advance such an approach with the notion that discriminatory siting is based on class alone, leaves room for racial discrimination and exploitation (Bullard 1993: 44).

Environmental racism is a product of corporate policy and federal priority. To stop it, then, change must come from at least one of these two areas. Conservatives have admitted that corporate discrimination exists, but this

acceptance has done little to change its priorities. One can only assume that this will remain the case as long as conservative politicians are supported by a strong corporate lobby. In *Cultural Politics and Social Movements*, the authors even question conservatives' intention of changing. "The right's strong defense of 'traditional values,' of individualism, and of mainstream culture, its discourse about family, nation, and our 'proud heritage of freedom,' betoken intense resistance to the very idea of a polyvalent racial culture" (Darnovsky, Epstein, and Flacks 1995: 178).

Liberal parties have taken a more proactive role than conservatives in redressing victims of environmental discrimination. The Clinton administration has not only recognized the existence of environmental racism, but has also addressed it as a separate issue than class discrimination. Backing up his claim to strengthen equal opportunity, President Clinton, during his first term, ordered a rearrangement in the priorities of several federal agencies.

Order 12898 established environmental justice as a national priority. The order directs all federal agencies with a public health and environmental mission to make environmental justice an integral part of their missions....federal officials must determine the extent to which environmental racism is a national problem (Wenz and Westra 1995: 33).

Order 12898 has not been in affect long enough to determine how successful it will be at achieving equal environmental protection for racial minorities. It is, however, an

initial step that, at the very least, acknowledges the reality of the problem. This acknowledgement has also succeeded in bringing the Clinton administration controversy from those who, for different reasons, deny the existence of institutional and environmental racism.

Critics of Environmental Racism

Race and class have distinct definitions. However, in the United States, people have continued to use economic conditions to support racial stereotypes. Conservative politicians consistently add to this misconception by disguising class issues in racial terms. What is true, is that due to a history of racial discrimination and segregation, the majority of impoverished communities also have the greatest populations of racial minorities. Many critics of environmental racism use this fact to argue that "because affected minorities are considerably poorer than average Americans, minorities experience disproportionate burdens due not to racism, but to poverty alone;" thus class inequities mask the existence of racism (Wenz and Westra 1995: xv).

Those who argue that class is at the root of environmental discrimination, do so against a great deal of contrary evidence. For example, in 1994 the *National Wildlife Federation* reviewed sixty-four studies of

environmental disparities and ran significance tests based on both income and race. In all but one case, disparities were found by either race or income. When race and income were compared for significance, race proved more significant twenty-two out of thirty tests (Goldman 1994: 8). Minority communities, then, face greater toxic exposure levels even when social class variables, such as income and education, are held constant.

Race has been found to be an independent factor, not reducible to class, in predicting the distribution of 1) air pollution in our society; 2) contaminated fish consumption; 3) the location of municipal landfills and incinerators; 4) the location of abandoned toxic waste dumps; and 5) lead poisoning in children (Bullard 1993: 21).

There are critics of environmental racism, though, that have accepted its supporting evidence, but still deny that the discrimination is rooted in racism.

The second common argument against the existence of environmental racism is connected directly to the "class vs. race" debate. Many critics agree that race is a factor in the siting of hazardous waste facilities, but only indirectly. Their point is that corporations, by design, seek to make the greatest amount of profit by using the most efficient means possible. "While siting a facility usually involves generating criteria for identifying the 'best' sites, the most 'feasible' sites are actually chosen. Thus, patterns in hazardous-facility siting are likely to reflect the general power dynamics of the society" (Edelstein 1988:

186). Therefore, the decisions and actions of the corporation or government agency involved is not intentionally racist. Without intent, critics argue, racism does not exist.

This theory, however, is indefensible on several different fronts. First, the previously mentioned evidence that race is a more consistent determiner for hazardous waste siting than class has already considerably weakened this argument. Second, the belief that intent must be present for there to be racism is based on a common misconception. In defining the terms "environmental racism" and "institutional racism," the definition of racism, itself, has changed. Analysts have realized that racism, as an ideology, can not be localized. It exists diachronically and takes on different forms. One form, certainly, comes from an intentional prejudice against one or more different groups of people. Another, however, is an unintentional continuation of past prejudices and intentional discrimination.¹ This is what is referred to as the institutionalization of racism:

The intent to harm (or to differentiate) lying behind discriminatory acts may have no relation to prejudice, but rather can be tied to protection of one's own political and economic interests. This is particularly relevant to institutionalized discrimination, since the conscious intent behind the patterns of discrimination there often has less to do with hostility toward minorities than with protecting the privileges of the white (or white male) group (Feagin and Feagin 1978: 26).

Any discrimination, though, that recognizes and reacts to

racial categories is inherently racist.

Finally, there is the argument that a corporation, because of its bureaucratic organization, cannot, itself, be racist. Critics that hold to this theory, believe that a corporation is an entity greater than the individuals within it. Therefore, according to this argument, a corporation lacks the ability to be racially biased. These critics assume that individuals within corporations are unthinking robots that simply follow out their orders. Furthermore, though institutional racism often exists unintentionally, there are also instances of intentional, corporate racism. The "corporate entity" theory fails to address such instances.

From the top to the bottom, corporations are made up of individuals that are active members in a larger social and cultural environment. "Whatever the scale of the organizational context," argues Feagin and Feagin, "all discrimination involves individual actors. The 'bottom line' in all types of discrimination is someone actually doing something to someone else" (1978: 25). Mainstream economic theories disregard this fact and, therefore, fail to explain cases of blatant, corporate racism.

An example of such a case occurred in 1996 when Texaco management personnel were recorded making racially derogative comments and talking about keeping the company's African American employees from management positions. By

denying individual initiative within corporations, the corporate entity theory eliminates any corporate responsibility for discriminatory acts. However, this theory fails to explain statements like the following, made in 1991 by Lawrence Summers, chief economist of the World Bank: "I think the economic logic behind dumping a load of toxic waste in the lowest-wage country is impeccable and we should face up to that" (Wenz and Westra 1995: xvi).

The majority of arguments against environmental racism are founded in the above three points of view. All three, though, arise either out of a misconception about the structure and nature of Capitalist corporations or a denial of the complete definition of racism, which includes unintentional and even unconscious institutional racism within institutional policies and standards. These arguments run contrary to the evidence that race, above class, is a more accurate determiner of hazardous waste facility siting. Only when these three barriers are removed can there be a full understanding of the social and cultural causes and impacts of environmental racism.

Not In My Back Yard

To perceive corporations and the federal government as being solely responsible for environmental racism fails to understand how a society operates. While there are powerful individuals within politics and business whose personal decisions and agendas affect the general public, those decisions are often more of a reflection of society's attitudes and beliefs. Since the 1970s, the media's attention on pollution and the dangers of hazardous waste has made a significant impact on the public's perception of toxic waste facilities.

An ABC News/Harris poll found that 93 percent of the public favored making federal disposal standards 'much more strict,' 86 percent favored making 'toxic chemical dumps and spills a very high priority for federal action....A third poll, commissioned by the Chemical Manufacturers Association, found that 93 percent of politically active individuals felt either 'very' or 'extremely' concerned about chemical industry waste disposal practices (Darnovsky, Epstein, and Flacks 1995: 208).

The growing concern over toxic waste has grown into a proactive, even aggressive, stance against hazardous waste siting that has been appropriately referred to as the "Not In My Backyard" (NIMBY) Movement.

There seems to be an increasing lack of trust in the federal government's ability or willingness to protect communities from toxic exposure. When the government issues a permit for a hazardous waste site, it is in essence

selecting certain communities to be the victims of any adverse effects. People often perceive the government as an intruder and doubt its concern for their community. There is even less trust in large corporations and the quality of their risk assessments.

When combined, this fear of toxic exposure and mistrust leads to anger. People organize to oppose any siting of hazardous waste in or near their community. This reveals an inherent contradiction in the "NIMBY" Movement. Without significant changes in societal lifestyles, the same amount of waste is being generated, making storage and treatment facilities necessary. Therefore, public pressure forces the government and corporations to either ignore community sentiment or simply find an alternative site that will present less obstacles. In the majority of cases, the latter is the result.

There are three main resources that a community must have or acquire to successfully oppose hazardous waste siting: 1) media attention; 2) capital; and 3) political power. These factors become the main obstacles that corporations try to avoid when making site proposals. Reservations, because they lack strength in all three areas, have consistently been targets for hazardous and toxic waste facilities.

For communities with high poverty rates, the media is often the only way of voicing opposition to industrial

proposals. "As the controversy becomes highly publicized, the community acquires an increasing stake in successfully stopping the facility" (Edelstein 1988: 180). In the majority of cases, however, rural news remains in small scale, local newspapers and television stations. Rarely does a small town's or rural community's dilemma make national headlines or attract federal attention. This is especially true for reservations. The Spokane struggle against Dawn Mining Corporation is one case in point.

In a 1996 interview, Dave Wynecoop, a Spokane Tribal Council Member, describes the lack of media involvement from the original siting of the uranium mine through the tribe's legal struggle for site reclamation. "The only media that's ever commented on the site is the *Spokesman Review*. I've never seen the local T.V. stations up there taking shots of (the site)....It's just been the little papers from the surrounding communities" (Herron 1996b). Without any support from the media, the Spokane and other tribes have had to rely on the courts to win their cases. With numerous appeals and cases often often dragging on for years, this process becomes extremely costly and is impossible for tribes without a sufficient amount of capital.

For wealthy communities, there is rarely a lack of media attention. Capital attracts the media. Subsequently, both have become the source of strength behind the "NIMBY" Movement. Reservations, on the other hand, rank highest,

annually, in unemployment and lowest in per capita income. "Tribes generally lack physical infrastructure, institutions, trained personnel, and resources necessary to protect their members" (Wenz and Westra 1995: 32). For affected tribes like the Spokane, who have been involved in uranium mining and milling, the lack of tribal capital is a detriment before and after the operation of a mine. Tribes are offered only a fraction of what corporations offer middle or upper class communities for mine sites, and with such high unemployment and so few resources, the pressure to accept such a large and immediate sum of money is difficult to refuse. Furthermore, when mines finally close, tribes find a good portion of their revenue tied up in court costs while trying to force corporations to complete or even conduct reclamations of the site.

Finally, the amount of political power a community has determines, in part, how successful it will be in having its grievances recognized. Certainly, media and capital are two essential ingredients in acquiring political power. Population is another.

Corporations try to avoid largely populated areas when siting hazardous waste facilities because of the possible political ramifications. Again, this obstacle is one that corporations have avoided successfully by targeting reservation communities. When choosing between siting a toxic waste facility in an area with a population like that

of the Spokane Reservation or near a major metropolitan area like Spokane, Tacoma, or Seattle, corporations choose the former. A small population base, then, is not only the reason an area is targeted, but also becomes a disadvantage when opposing the corporation or the government thereafter. However, due to increasing media attention surrounding hazardous waste sites, corporations have had to alter their strategy when dealing with Indian tribes.

The NIMBY Movement has had a significant impact on the way the federal government and toxic waste companies make site proposals. Because of the increasing concern about environmental racism, there is more media attention given to hazardous waste siting on reservations. Companies are finding it more difficult to pass siting proposals by tribal governments and the surrounding communities. Corporations, in general, have responded by implementing other strategies.

The first way is to implement what analysts refer to as "hegemonic" strategies in proposing toxic waste sites. Using this strategy, a corporation creates factions in the tribe by making minor compromises. "Hegemony....involves a splitting or doubling of opposition, which simultaneously wins and loses, gains entrance into the halls of power and is co-opted, crosses over into mainstream culture and is deprived of its critical content" (Darnovsky, Epstein, and Flacks 1995: 180). Uranium mining proposals, for example, cause large factions within tribes. Each faction argues for

what it sees as important and vital for the tribe's survival and well-being and against what it sees as harmful to it. Mining corporations listen to the concerns of each party and either play them against each other or promises a compromise between them. Either way, the corporation will profit. It is rarely ever vice-versa.

Another strategy that corporations used was to provide biased or false risk assessments to tribes or to simply leave out pertinent information altogether.

People do inflict harm on one another directly, so there is no wonder they may do so indirectly by withholding information about probable dangers, especially those not likely to manifest themselves until much later. Whether the motives are financial gain, political power, or personal envy, they can hardly be countenanced. Being hidden from the victims, the dangers are undertaken involuntarily and may even be irreversible (Douglas and Wildavsky 1982: 26).

This is an example of an institution being intentionally discriminatory. Energy tribes, like the Spokane, are promised improvements in community infrastructure: new roads, new schools, government offices, economic independence and increased sovereignty. Often, though, the real risks to tribal health and land go unaddressed. Even when such biases and lies are discovered, tribes are still held to their end of the bargain and must try to find justice in the court system.

1. Refer, in the beginning of the chapter, to Bullard's definition of racism, which expands previous definitions by including social implications.

CHAPTER 4

TRIBAL SOVEREIGNTY: THE EFFECTS OF URANIUM DEVELOPMENT AND ENVIRONMENTAL DEGRADATION

Real sovereignty means not only complete ownership of mineral wealth, but also equitable compensation, Indian employment and training, diversification of the economy, protection of the environment, and the preservation of Indian culture.

Steve Talbot, (1981: 167)

A tribe that compromises its resources, whether it be its people or whether it be its land and minerals, compromises its tribal authority.

*-Wendell Chino, President,
Mescalero Apache Tribe
(quoted from Swagerty 1979)*

Sovereignty as an Abstract Concept

The term "sovereignty" has no concrete meaning. In fact, as it is defined in the *Webster's New Collegiate Dictionary* as "freedom from external control," complete sovereignty does not exist (1973: 1112). The United States, itself, is not totally sovereign. As the world's largest debtor nation, the United States depends on trade and foreign capital. However, sovereignty, as it applies to political self-determination and economic self-sufficiency, does exist at various degrees.² Rather than having a concise definition, though, the concept of sovereignty has

become increasingly complex. It is commonly described as including two essential aspects, self-sufficiency and self-determination. However, this description is an oversimplification and does not adequately emphasize the fact that both aspects are dependent upon a land base and the sustainability of resources.

Nations have interpreted sovereignty in different ways. While some concentrate on the political aspects of it, others focus on the economic. Still, others interpret sovereignty as a combination of powers that enable people to determine their own future and preserve a distinct identity. Legally, sovereignty has been accepted as an inherent right. The United Nations has stated that this right belongs to all colonized peoples and that "no successor colonial regime can extinguish that right by unilateral claims to sovereignty over the same territory" (Engelstad and Bird 1992: 47). This declaration, though, has not deterred colonizing nations from taking rights away from those being colonized. Furthermore, it does little to redress the victims of past colonization.

Though sovereignty may be inherent, it is not necessarily permanent. Like other rights, sovereignty can be taken away from a nation by the power of another. There is a difference between having the means to be self-sufficient and having the power to determine one's own future. Therefore, sovereignty is double-faced. "It turns

one face to powers outside the nation and forbids them to cross the national boundary. The other face is turned toward the land and people within the nation to command their obedience" (Swagerty 1979: 7). For instance, many Indian tribes possess the resources that other sovereign nations have, but without political power, they can not free themselves from federal authority and become completely sovereign. The federal government, for its part, has done little to clarify its definition of sovereignty. Throughout its history, the federal government has been ambiguous, if not contradictory, in its policies regarding tribal sovereignty. The United States Constitution contains a contradiction that has consistently plagued the federal government's relationship with Indian nations. On one hand, the federal government recognizes itself as the supreme law of the land, referred to as plenary power. On the other hand, it also recognizes tribes as semi-sovereign nations. "These claims - one to jurisdictional monopoly, the other to jurisdictional multiplicity - are irreconcilable. Two hundred years have produced no resolution of the contradiction except at the expense of the tribe" (DeLaCruz 1989: 163).

Over time, this contradiction in policy has created a unique paradox. History has shown that the safest way for tribes to continue to be recognized as sovereign entities is to conform to society's norms. However, complete

assimilation would eliminate the cultural distinctness that is crucial to the preservation of sovereignty. As Fred Ragsdale, Professor of Law at the University of New Mexico, puts it, "Tribes are in the difficult position of having a unique right, self-government, that is safest when it is not used" (Ragsdale 1989: 146). Tribes have responded to this by taking an active role in redefining sovereignty in their own terms.

Tribal Goals Toward Sovereignty

Sovereignty, as a legal construct, grew out of centuries of European history. The contemporary understanding of it, in the United States, is the amalgamation of countless lawyers' and judges' interpretations of law, power and political authority. Many government officials treat Indian tribes as temporary sovereigns, whose goal should be to gain social and economic equality with non-Indians and terminate their tribal sovereignty. Tribes, on the other hand, view sovereignty as the perpetual existence of Indian nations and Indian cultures. The difference between a tribal government's and federal or state government's concept of sovereignty lies not just in their histories, but also in their contemporary priorities. The tribal government's greatest responsibility is to see that the tribe, as a political entity, continues. Tribal sovereignty

is being constantly defended from increasing state and federal jurisdiction. "Tribal life is not only deeply intertwined with the idea of tribal sovereignty, but also with the political, economic, and social means of fighting for it" (Harring 1989: 108). Therefore, the tribal government's job is a complex one that must take into account everything from the tribe's political economic status to the vitalization of cultural traditions.

Since their creation, tribal governments and their policies have been influenced by the surrounding United States political economy. Federal and corporate demand for natural resources has been simultaneously beneficial and detrimental to today's energy tribes. The political pressure that is placed on tribes to exploit their resources and the high rate of poverty on reservations makes it difficult for tribes to make objective, long-term decisions. Economically, tribes strive to be self-sufficient. For energy tribes, this can be possible through tribal labor, job training and the sustainable use of resources.

Economic theories for development on reservations should reflect the view of promoting 'self-sustaining economy which provides jobs for tribal members, reinforces local custom and social organization, and enriches the culture without damaging the natural resources of Indian culture or Indian culture values' (Kinley 1988: 219).

Tribes can only strengthen their self-sufficiency, though, when tribal economies cease to be viewed in terms of the United States economy. Not until that point can there be

progressive development toward complete tribal self-determination.

There is a common misconception that a sovereign nation must be completely independent. As stated previously, no nation is totally devoid of foreign influence.³ Nevertheless, the goal of tribes is not to completely terminate communication with the federal government. On the contrary, tribes seek to continue negotiations with the United States when dealing with external affairs. This point is stated clearly by Joseph DeLaCruz, the president of the Quinault Indian Nation, in a 1989 conference on political autonomy:

Each Indian nation should be politically autonomous, but with a formal agreement of political association with the United States. This means that each nation ought to exercise full internal control over economic, social, political and cultural activities within established territorial boundaries (DeLaCruz 1989: 163).

Though the political and economic goals set by tribes are crucial to the development of sovereignty, they are not the most important. At the foundation of all tribal government acts and policies is the preservation of the distinct tribal culture.

Sovereignty is the right and power to choose to be different. In the case of Indian tribes, this is, instead, the freedom to preserve their different cultural traditions and beliefs. Diane Engelstad and John Bird, in *Nation to Nation*, state that the goal of tribal sovereignty "should

create room for First Nations communities to live out of a set of beliefs different from those that govern the mainstream" (1992: 14). Even if tribal political economic systems became exact mirrors of those of the United States, their sovereignty could continue to be recognized through their distinct cultural identities and beliefs. However, at the root of tribal sovereignty is the fundamental question: If tribes become so culturally assimilated that they cease to show any discernible difference from the mainstream American culture, why should tribal governments exist at all (Ragsdale 1989: 155).

Equally as important as the right to be culturally distinct is the right of the members to identify themselves as a tribe.

At the heart of aboriginal claims lies the recognition that the identity and well-being of aboriginal nations and their members are inextricably bound together. Consequently, members of aboriginal nations identify themselves in terms of their membership in the nation and gauge their well-being in relation to the well-being of the nation (Engelstad and Bird 1992: 18).

What is good for the tribe is good for the individual and vice-versa. There is a bond that exists between the individual and the tribe that is critical to the existence of tribal sovereignty.

The difference between the roles, responsibilities and priorities of tribal governments from those of the state and federal government has led to misunderstandings and different stereotypes of tribal governments by non-Indian

communities. "The charges against tribes and tribal governments range from depicting them as socialist preserves that intentionally keep Indians in poverty to fascist regimes that ignore the most basic and fundamental individual civil rights" (Ragsdale 1989: 146). These stereotypes come from a general lack of effort by non-Indian communities to understand the roles and responsibilities of living within a tribal community. Tribes and their governments are still viewed through a biased lens that judges them by the majority's beliefs and standards. Because of this, tribes are forced to place the preservation of an already limited sovereignty as their first priority. "For without sovereignty, which entails the right to be different, even if being different is in a tin-roofed shack, a dirt-floored hogan or an overpriced trailer, all is lost" (Ragsdale 1989: 146).

Land and Resource Sustainability

Land is the most fundamental aspect of sovereignty. This is especially true for American Indian tribes. As previously mentioned, even if tribal political economies completely assimilated to that of the United States, their sovereignty might be preserved through their cultural distinctness. Although unlikely, tribes might also be able to maintain a degree of self-determination if cultural

assimilation occurred by emphasizing their historical existence as politically sovereign nations. However, without a land base, sovereignty can not be exercised to its full extent. "In terms of fully exercising sovereignty... (tribes) are probably going to have to identify an area over which they can exercise their power. If you don't have that, then your ability to exercise your sovereignty is very limited" (Herron 1996a). There may exist social organizations, such as religious groups, that claim a degree of sovereignty over their members. Without a land base and its resources, though, the ability to assert their will is limited. Indian people in the United States who are struggling for tribal recognition from the federal government have been made fully aware of how the lack of a central land base is an impediment to sovereignty.

If land is essential in recognizing, exercising and preserving sovereignty, then the maintenance of the land and the sustainability of its resources is equally fundamental. For tribes situated on small, permanent reservations, this fact becomes increasingly apparent.

Land degradation can affect, presumably adversely, the options of people living in the afflicted area, and future generations. However, if these future generations have the option of migrating elsewhere the issue becomes hypothetical. If, on the other hand, they do not have this option...then the impact of degradation of a region on the present population becomes a very real question for analysis (Blaikie 1987: 14).

The risks are obvious. By contaminating vital ecosystems,

tribes risk their existence as sovereign nations. The Spokane tribe understands this risk. After only six years of operation, uranium mining has left the Blue Creek site barren and the surrounding soil, ground water, wildlife, fish and vegetation contaminated. Dave Wynecoop refers to how uranium mining affected Spokane sovereignty:

They inundated lands that we, more or less, can't use anymore....(The federal government) put us on a piece of property they thought was not valuable and threw us in a corner and said, 'here's where you live for the duration of your tribe.' Sure it takes away sovereignty when you rip a piece of property all apart and expose it" (Herron 1996b).

After decades of resource exploitation, energy tribes are reevaluating the risk of environmental degradation on tribal culture as well as on their political economy.

Land degradation affects tribes and their sovereignty in another unique way. Tribal traditions and cultural beliefs are linked directly to the land. Besides restricting recreational use, resource development often encroaches on tribal burial grounds, sacred sites and ceremonial use of the land. To many Indian people, the consequences of contemporary resource extraction run counter to traditional beliefs and practices.

The contamination of reservations and the removal of tribal members from polluted areas restricts aspects of tribal life and traditions. As discussed previously, the elimination of a distinct tribal culture could precipitate a loss of tribal sovereignty. A cycle has been created, in

which sovereignty helps protect tradition, and, in turn, the preservation of tradition helps insure the existence of sovereignty. Though this cycle is, in some ways, advantageous, it is also constraining. Tribes are trapped in a "no win" situation, between development and tradition. To choose either one only results in further loss of tribal sovereignty.

Uranium Development: The Appropriation of Tribal Sovereignty

Sovereignty is maintained through the application of long-term goals and sustainable use of resources. It can not be achieved or preserved by applying short-sighted strategies. In the 1950s, though, uranium mining appeared to be a fast and efficient means of achieving tribal sovereignty. The federal government and corporations, directly and indirectly, helped reinforce the idea that uranium development would provide tribes with self-sufficiency and strengthen tribal sovereignty.

Corporations responded to tribal concerns with assurances that uranium mining involved little risk to human and ecological health. Furthermore, tribes were given large sums of money upfront and promised significant tribal revenues in the future. As discussed in chapter three, both the initial sums of money and future tribal revenues were only a fraction of what non-Indian communities were offered

or given. To tribal communities, who suffer from extreme poverty, these proposals were a sign of relief.

Dangling that carrot, those dollars, out there in front of them sometimes blinds (tribes), particularly if they don't have the ability to fully analyze and take a look at the ups and downs of taking an action like (uranium mining). They might not make the kinds of informed decisions that a government would make if it had access to the typical tools a government has (Herron 1996a).

Now that demand for uranium has decreased and most of the mines have closed, affected tribes are discovering that the mining and exporting of uranium has had the opposite effect on sovereignty than they, initially, were led to believe. In several ways, uranium development has resulted in an appropriation of tribal sovereignty. Adverse effects have included: increased dependence on an unreliable, nonrenewable resource and federal aid, increased federal jurisdiction over tribal land, the contamination of vital reservation ecosystems and human health and the forced removal of people from mine sites and contaminated areas.

To maintain self-determination, an essential aspect of sovereignty, a nation must be largely independent. Uranium exploitation was believed to be an avenue for exercising and gaining tribal independence. However, uranium development, from its beginning, has produced just the opposite effect. Besides being initiated through a dependence on federal counsel, uranium development has created a dangerous dependence on a nonrenewable resource and on federal aid to reclaim contaminated sites.

In the 1950s, many tribes lacked strong, organized governments. As a result, tribes depended on their trustees and government agents to make decisions for them. This was the case for the Spokane tribe in 1956.

In the 1950s, the Spokane government was not well developed. The council only consisted of three people at that time. They didn't have regular meetings. They didn't have legal advise. They didn't have the ability to really, as a government of full force, do the kinds of things that a government would do to insure that its constituents were being protected (Herron 1996a).

In essence, what the federal government calls sovereign acts by tribes to mine and export uranium was, in reality, a dependence on federal agents to make beneficial decisions for the tribe. As Donna Bruce, Spokane Tribal Geologist, stated in a 1996 interview: "We just did what they told us to do" (Herron 1996c).

The goal for any nation is to maintain economic stability. Nations that utilize a diversity of resources are best able to achieve this. It is unhealthy for a community, state or nation to become dependent on any one resource, particularly nonrenewable, natural resources. The federal government, with its pressure on tribes to develop uranium, has helped create a dangerous dependence. "The traditional export led model with its stress on natural resource based activity has some real difficulties to contend with. Its cyclical nature makes it unreliable" (Vinje 1988: 41). Although, with so few resources and other options often being barred by federal restrictions, many

tribes have little choice.

Uranium development has also prolonged tribal dependence on federal aid and, in many cases, increased it. After mines and mills closed, tribes often found that their contracts only held the corporations liable for a small percentage of reclamation costs for mine sites and areas contaminated by uranium leakage. Tribes were forced to seek justice in the federal courts and aid from government and state agencies. Thirty-four years after Dawn Mining Corporation closed its uranium mine on the Spokane Reservation, the tribe continues to seek complete reclamation of the site. Bruce discusses the continued reliance on the federal government to help the Spokane tribe reclaim the site: "It's still (the federal government's) responsibility to make (the site) safe....to keep us safe. We don't have the technical expertise, and (the tribe) is still trusting the government to get them out of the mess" (Herron 1996c). The federal government has responded to corporate carelessness by instituting acts that require more stringent mining standards and by increasing the Environmental Protection Agency's jurisdiction over reservations. In effect, tribes have received help to reclaim hazardous waste sites, but, in the process, have lost more control over their land.

Due to decades of corporate carelessness and disregard for environmental and human health, the federal government

began enacting numerous acts and laws in order to thoroughly regulate the mining industry on and off Indian reservations. The result has been a limiting of tribal power to regulate corporate activity on reservations.

The Environmental Protection Act has been held applicable to Indian reservations. The Surface Mining Reclamation Act has been...made applicable to Indian reservations. Almost all of the federal laws relating to the environment or conservation have an impact on Indian reservations (Swagerty 1979: 49).

Though many of the immediate results of these Acts have been beneficial to reservation environments, the final outcome has been the replacement of tribal with federal control. Tribes must continue to operate in accordance with federal rule. Shannon Work, Spokane tribal attorney, states how federal regulation affects the tribe's authority:

If the Spokane tribe of Indians were to enact a uranium mine reclamation code, it would be O.K. as long as it doesn't conflict with the federal law. The way we would interpret that would mean that we would not conflict with federal law if we were more stringent. We would conflict with it if we were less stringent than federal law. The United States has so thoroughly regulated the area of reclamation of sites where hazardous substances are found, that that would preempt any tribal statute (Herron 1996a).

Today, even with such thorough regulation, mining accidents occur and federal aid is often inadequate and too late. Though risks have decreased, they have not been eliminated. On reservations, any contamination is detrimental to the sovereignty of the affected tribe.

The importance of resource sustainability was discussed

previously in this chapter. However, it is necessary to reemphasize the danger of environmental contamination on reservations to tribal sovereignty. In 1984, the EPA reported that uncontrolled hazardous waste sites could represent the most serious environmental and human health problems the United States has ever faced (Bullard 1993: 45). If hazardous waste sites are dangerous to the health of the entire United States, it is evident how detrimental they could be to the very existence of affected tribes. Reservations were set apart by the federal government as permanent homes. Therefore, any possibility of contaminating reservation land is, equally, a potential for limiting tribal sovereignty.

Obviously, if limiting access to and control of land is a violation of sovereignty, then displacement from an area is a direct expropriation of it. If uranium contamination is so extreme and irreversible that residents must be removed from the area, as may be the case for communities on the Navajo reservation and in Northern Saskatchewan, then tribes could stand to lose their sovereignty entirely.

When uranium mining began in the 1950s, risk assessments were inadequate and often misguided. Little thought was given to the possible cultural effects from uranium development or contamination. Furthermore, the corporate and federal emphasis was on efficiency rather than safety.

The Gilded Age atmosphere of rapid and radical change put a premium on efficiency of action rather than quality of evaluation, and therefore tended...to place power in the hands of irresponsible individuals or small groups, not representative of the best, but only the fastest or the loudest of their type (Miner 1976: 212).

Tribal governments were often unprepared to make the difficult decisions that rapid resource development required. In dealing with issues such as leasing vs. selling, tribal vs. federal regulation and individual vs. tribal ownership it was hard to determine the best long-term strategy. Over the years, technological advances, increased media attention and more stringent federal regulations have decreased the risk of uranium mining toward environmental and human health. However, the appropriation of tribal sovereignty and its correlation with the federal demand for tribal resources continues to be a prominent issue.

2. Engelstad and Bird in *Nation To Nation* define political self-sufficiency, or what I prefer to call self-determination, as "having the ability to set goals and to act on them without seeking permission from others" (1992: 50).

Joseph B. DeLaCruz, President of the Quinault Indian Nation, at a conference titled *The Struggle For Political Autonomy*, defined self-sufficiency as "the means to ensure the perpetual existence of a nation as a distinct social, economic and political society."

3. These are sovereign nations that are economically stable, no welfare, and recognized by powers such as the United States. Andorra, 180 square miles which means it's 1/2 the size of New York City, 20,000 population. Their economy is tourism and sheep grazing. Monaco, 30,000 people, 600 acres....Economy: tourism and gambling. Liechtenstein, 20,000 people, 61 square miles, the size of Washington, D.C. Their economy is precision instruments that are exported and textiles. Nauru, 8 square miles, 7,000 people and their economy is the exportation of electrical production. San Marino, right in the heart of Italy, 20,000 people, 23 1/2 square miles; their economy is postage stamps, tourism, woolen goods, paper, cement (Newberry Conference #2 *Indian Sovereignty* 1979: 121).

CHAPTER 5

URANIUM MINING AND SPOKANE SOVEREIGNTY

Ranking dangers (which is what risk assessment requires) so as to know which ones to address and in what order, demands agreement on criteria. Because no one knows it all, there can be no guarantee that the very dangers people seek to avoid are those that actually will harm them the most.

-Douglas and Wildavsky (1982)

Description of Mine and Mill Sites

There are two uranium mine sites currently situated on the Spokane Reservation. The one adjacent to Blue Creek was leased in 1964 by Dawn Mining Company, a subsidiary of the larger Newmont Mining Corporation. The mine was in operation from 1957 until 1963. Western Nuclear Corporation leased the other site and built the Sherwood mine and mill, which operated from 1978 to 1982. It is situated on a high bluff overlooking the Spokane River Arm of Franklin D. Roosevelt Lake. In 1989, Western Nuclear signed over the ownership of the mine and mill to the tribe (Chleborad and Schuster 1985: 1; Ambler 1990: 180-181).

Since the Dawn mine closed, the site has changed very little. The tribe has been trying to force Dawn to pay for complete reclamation of the site. As of 1997, the only

precaution that has been taken has been to cover the site with a thin layer of top soil. This has not eliminated any of the risks that the site presents. Levels of radiation and radon are still present and threaten waterways, wildlife, and human health (Churchill 1993: 284; Herron 1996b,c).

Not far from the Dawn mine site is Western Nuclear's Sherwood mine and mill site. It is situated on a sloping bluff only 600 feet above Franklin D. Roosevelt Lake. When the mine closed in 1982, it left spoil, or tailings, piles approximately 90 feet high that extend for over a mile along the ridge. In 1985, the United States Department of the Interior conducted a slope stability test. The survey measured slopes as steep as 30 degrees. Furthermore, the surveyers could not determine the precise geologic composition of the slope underneath the tailings pile. It is, therefore, difficult to conduct accurate risk assessments or calculate the exact cost of reclamation (Chleborad and Schuster 1985: 1,4).

When the Bureau of Indian Affairs negotiated the contract between the Spokane Tribe and Dawn Mining Corporation, federal regulation of uranium development was extremely limited, if not neglectful. The leases were signed before the passage of the National Environmental Policy Act and before the BIA added environmental protection regulations, both in 1969 (Ambler 1990: 180). By the time

Western Nuclear Corporation began negotiations, though, federal regulations had become more stringent, requiring detailed risk assessments and higher bonds to be paid to affected communities. The difference between the contracts becomes clear when one compares the present condition of the two sites. While the Blue Creek site remains contaminated thirty-four years after the closing of the mine, the Sherwood mine and mill are nearly completely reclaimed. However, both sites continue to attract concern from many Spokane tribal members.

Effects and Risks of Uranium Development

When uranium mining began on the Spokane Reservation, as on other reservations in the United States, the federal government and corporations were not aware of all of the dangers associated with uranium and especially its by-products. Tailings piles, which are essentially mine waste, were thought to be harmless. Mounds, often miles long, were left unattended and unprotected from wind and erosion. Only after most of the mines and mills had been in operation for years did scientists finally discover how dangerous uranium tailings are to human health and the environment. "Among 85 percent of the total radioactivity originally in uranium ore remains in the tailings after removal of the uranium because radium and thorium--the principal contributors to

radioactive emissions--were not normally removed from the uranium ore during milling" (Canfield 1978: 5).

Of these two contributors, radium is the most significant radioactive element present in uranium tailings. It takes thousands of years to decay and, in the process, produces two distinct hazards, gamma radiation and radon gas. A sufficient amount of gamma radiation absorbed into the body can cause cancer, such as leukemia. Radon increases the chances of lung cancer by attaching itself to particles in the air and lodging in the lungs (Canfield 1978: 5; Talbot 1981: 168).

The danger from tailings piles on the Spokane Reservation, though, goes beyond human health risks. By endangering precious wildlife habitats, the Dawn and Sherwood sites also threaten people's livelihoods. This includes anything from tribal jobs to traditional religious practices. When the Dawn mine was still operational, the Spokane Tribe experienced immediate threats to their health and their livelihoods.

Blue Creek had been a favorite picnic spot for Spokane tribal members before uranium mining had begun, as well as an important habitat for rainbow trout. In 1977, BIA geologist and Spokane tribal member Jim LeBret with his father and uncle, who had first discovered uranium on the reservation, observed toxic waste leaking from the mine into Blue Creek (Churchill 1993: 283). The BIA responded to the

situation by ordering Dawn to build a dam to contain the leak until the corporation stopped mining. However, the dam failed to stop the leak, which continued to increase in volume.

Even more serious contamination occurred late after mining had stopped and the trickle had grown to a 75 to 400 gallons per minute stream of wastes. The Indian Health Service said in 1983 that the heavy metal and acid contamination was "appalling" and recommended the BIA "prevent livestock and humans from consuming the water in question by whatever means necessary." When the EPA tested the "seepage" [in 1984], the radiological chemist in Las Vegas said he had never seen such radioactive mine waste water before [Uranium 238 levels were 4,000 times the area's natural level, 40 times the EPA's maximum "safe" limit] (Ambler 1990: 176-177).

The EPA, itself, admitted that if the incident had not occurred on Indian land, it would probably have been recognized sooner (Churchill 1993: 284).

The rainbow trout population in Blue Creek was almost entirely eliminated. While the creek once provided habitat for approximately thirteen thousand trout, a 1988 survey reported only five or six adults returning to spawn. For the Spokane Tribe, which hoped at that time to establish its own fish hatchery, the contamination was devastating. The incident also convinced the tribe to begin developing its own water quality standards (Ambler 1990: 177).

As of 1997, the Blue Creek site still has not been reclaimed. The thin layer of top soil that has been placed over the site is only a temporary solution and has done little to minimize the dangers. Dave Wynecoop describes

what has been affected by the site and the general concerns associated with it:

There's nothing growing on it. Nothing will...Air quality: radon, alpha, beta, floating in the air, the deer that migrate through there, the elk that migrate through there, us as hunters. There were trees on that property. They're gone. You don't know what your walking in. It scares me because I've worked in it. Every time it rains, you're moving all those chemicals, acid, radiation. It's just crumbling underneath itself (Herron 1996).

While there is significant risk to Blue Creek and the surrounding wildlife and vegetation, another concern is that the chemicals and toxic metals freed from the tailings during decay could contaminate the aquifers that supply the tribe with its irrigation and drinking water (Herron 1996c).

Western Nuclear's mine was only in operation for four years. Due to the short operating time and more stringent federal regulations, the Sherwood mine has had far less of a negative impact on the Spokane Tribe and its land than Dawn's mine. Western Nuclear gave \$4.4 million to the tribe for reclamation, compared to Dawn's \$15,000. Furthermore, ownership of the mine and mill was signed over to the tribe. Despite a greater effort to reclaim the tailings piles on the site, though, there are concerns about its location above Franklin D. Roosevelt Lake (Ambler 1990: 180).

There is still fear among Spokane members that a slope failure or a massive landslide would send the tailings piles into the lake, contaminating waters used for drinking, irrigation and recreation with radionuclides and toxic

metals (Chleborad and Schuster 1985: 1). A landslide, itself, could cause valuable property damage by blocking the flow of the Spokane River.

The Department of the Interior (DOI), in response to tribal concerns, conducted a slope stability test in 1985. The results showed safety factors below the recommended safe minimum value of 1.5. Furthermore, the surveyers were unable to determine whether clay layers found in nearby outcrops were continuous across the slope. The DOI, therefore, recommended that plans to add to the existing tailings piles be abandoned or postponed. The report stated that "additional spoil-pile loading downslope of the existing piles, and above the trial failure surfaces considered, would add to the shearing stresses and could reduce factors of safety" (Chleborad and Schuster 1985: 4,8).

While plans for further spoil-pile loading have been averted, there remains the possibility of a slope failure and contamination from the Sherwood Mine site. Any contamination would be detrimental to tribal agriculture and economy. Donna Bruce addresses the importance of Franklin D. Roosevelt Lake to the tribe: "Right now the tribe's future, I think, is based on recreational use of Lake Roosevelt" (Herron 1996c). If the lake even becomes publicly stigmatized as being contaminated, it could negatively affect tribal revenues from its seasonal use.

One of the barriers to reclamation of the Dawn and Sherwood sites is the fact that they are low on the list of national priorities. One major reason for this is that the sites are located in a rural area. Furthermore, there are several bias assumptions made by the DOI in its assessments of possible land-use. The following statement made in a report by the United States General Accounting Office (GAO) regarding twenty-two western mine sites is an example of such blatant biases: "While most of the sites are in very rural areas and limited use of them is expected, a few of the sites could clearly be used for other, more productive purposes. A good example is a site in Salt Lake City, Utah" (Canfield 1978: 7). The report goes on to state that by reclaiming the Salt Lake City site, the price of the land would increase from \$13,000 to \$25,000 an acre (Canfield 1978: 7).

If population and monetary value of land are the main factors that determine a site's placement on the National Priority List, then reservations, including the Spokane Reservation, are at an extreme disadvantage. Furthermore, because it is not addressed in the GAO's report, one can only assume that the immediate danger of the mine site is either not a factor or, at least, not a top priority in the decision to reclaim one site over another. The inherent biases in the GAO's criteria for site reclamation leaves a great deal of room for racial discrimination within its

policies. Bruce recognizes this bias in the following statement:

They always stuck reservations out in nowhere land, and it just so happens that there's some resources that they find out here that they never had any idea that was there. I think they figure, "they've got the smaller population, the little minority, the low income....They're away from the main population so why deal with them" (Herron 1996c).

Another barrier to reclamation lies in figuring out who is legally and morally responsible for it.

Legal and Moral Responsibility for Reclamation

The Spokane Tribe, as of 1997, is seeking complete reclamation of the Dawn mine site and the Sherwood mine and mill site. Complete reclamation to the tribe means permanent treatment, or elimination, of the toxic chemicals rather than isolation or containment of them. "Ideally, complete stabilization of radioactive tailings would eliminate the possibilities of (1) wind and water erosion, (2) leaching of radioactive materials and other chemicals, (3) radon emanation from the tailings piles, and (4) gamma radiation being emitted from the tailings" (Canfield 1978: 9).

Members of the Spokane Tribal Council are aware that any plans for the tribe's future must address reclamation of the two sites. Wynecoop states: "I want permanent dam reclamation....so fifty years down the road we don't have to

worry about the tribe having to be responsible for something that's not done right" (Herron 1996b). However, the tribe has been put in the position of having to prove Dawn's and the federal government's legal and moral responsibility in reclaiming the sites.

To date, no party has a clear legal, contractual responsibility to reclaim the Blue Creek mine site. Dawn Mining Company's contract with the Spokane Tribe was signed prior to the creation of strict federal regulations regarding uranium mining and milling. When the Interior Department tried to force Dawn to increase its payment to the tribe for reclamation, Dawn refused and sued the department in 1982. Today, the bond is estimated at a little over \$10 million to fully reclaim the site. The Spokane Tribe has received none of it. Marcel DeGuire, Dawn Mining Company President, despite making nearly \$45 million in profit from the mine, claims poverty. DeGuire also claims that the company has already spent over \$4 million on restoring the environment, but as of yet, has not shown any proof of such expenditures (Herron 1996c; Churchill 1993: 284).

The Interior Department, in attempting to prove Dawn's responsibility for reclamation, denies its own accountability for the tribe's current situation. While the federal government may not be legally obligated to pay for reclamation, there is a strong argument that it is morally

responsible to do so. The GAO, in a 1978 report titled "The Uranium Mill Tailings Cleanup: Federal Leadership At Last?," points to four reasons that the federal government is responsible for site reclamation:

- The Federal Government was the principal purchaser of the uranium from these mills for its Manhattan Engineering District and Atomic Energy Commission programs.
- The possible adverse health effects of low level radiation from mill tailings was not generally recognized until very recently when most, if not all, of the mills were shut down.
- Requirements for cleaning up the tailings were not included in the Government's uranium procurement contracts.
- Neither the Atomic Energy Commission nor its regulatory successor, NRC, exercised regulatory jurisdiction over these tailings (Canfield 1978: 8).

As stated previously in Chapter 4, the Spokane Tribe, in the 1950s, depended heavily on the BIA to make advantageous and safe decisions for it. As Shannon Work states:

There was undo influence by the United States to have the Spokane Council, this relatively unsophisticated council, go along with the program...The analysis was probably very superficial with major promises being held out to the Spokane people that "This is gonna save your reservation. This is gonna make you all rich." (The Spokane Tribe) essentially relied on their trustees of the United States to make the right decision for them (Herron 1996a).

Federal pressure on the Spokane Tribe to mine its uranium, the reliance by the tribe on the advice of federal trustees, the neglect of the federal government in addressing environmental and human health risks and its failure to regulate the mining and milling are all factors that point

to a federal responsibility toward the reclamation of the mine and mill sites on the Spokane Reservation. Monte Canfield Jr., Director of the Energy and Mineral Division of the GAO in 1978 states that the GAO, itself, "believes that the Federal Government has a strong moral responsibility to at least assist in cleaning up the abandoned tailings" (Canfield 1978: 6). The Spokane tribe is cautious, though, in asking for federal aid. Government assistance in the past has often resulted in the decrease of tribal authority over its land and members.

Federal Legislation and Spokane Sovereignty

The issue of jurisdiction over the Blue Creek and Sherwood sites is as complicated as determining who is responsible for reclaiming them. Federal agencies, such as the BIA, EPA, and DOE create and enforce the majority of mine site regulations. However, the federal government has also given Washington State some jurisdiction on the Spokane Reservation (Herron 1996c). One fact, though, remains constant. The Spokane Tribe has steadily lost its authority over the sites and the surrounding area, and has, therefore, experienced a decrease in its sovereignty.

When the Spokane Tribe signed the contracts with Dawn Mining Company and Western Nuclear Corporation, it temporarily signed away its use of and authority over the

affected sites. Since there has been no complete reclamation of the Sherwood site and almost no reclamation of the Blue Creek site, the tribe is unable to regain its control over these lands. Not only are the sites unusable, but the tribe also remains dependent on federal aid, regulation, and funding for the reclamation of both sites.

Even if the Spokane Tribe regained complete ownership of the sites, its authority over them would be limited. The federal government has given the EPA full authority in prescribing standards and criteria necessary in protecting public health and the environment. All tribal authority is subordinate to these federal standards.

Both the mining itself and federal/state regulation of post-mining conditions have taken sovereignty away from the Spokane Tribe. From the initial stages of mining to site reclamation, tribal authority and self-determination have been subordinated by federal standards and regulations. The tribe has lost the use and control of sites which sit dangerously close to water used for drinking, irrigation, fish hatcheries and recreation. Even the health and safety of the tribal members are regulated by federal and state officials. Uranium mining and milling was proposed to the Spokane people as a means of strengthening tribal sovereignty by increasing the tribe's self-sufficiency. However, the Spokane Tribe has been forced into a position of continued dependence on the federal government because of

the federal government's failure to carefully regulate what it started.

CHAPTER 6

CONCLUSION

The legal fiction of sovereignty can be dealt with in a variety of ways. It can be divided in theory in any number of ways, and it has been. It can be preserved in theory and ignored in practice, and it has been. What will be done finally depends not on theory but on resources, determination, intelligence, and perseverance.

-Dr. Francis Jennings

(quoted from Swagerty 1979)

Research Conclusions

Since the creation of reservations and tribal governments, the federal government has had the most significant influence on economic development over Indian tribes. It has exercised its legal, political, economic and military power over energy tribes in order to exploit their natural resources. Furthermore, throughout the last century, the federal government has promoted such development as a quick, efficient and safe way for tribes to strengthen their self-sufficiency and, therefore, their sovereignty.

Prior to World War II, the government encouraged commercial agriculture and grazing on reservations to increase tribal revenue and employment. The objective of

self-sufficiency, though, was never realized. After the war, then, attention switched to natural resources, such as oil, coal, natural gas, timber and, especially, uranium. The mining of uranium did not begin on reservations until the mid 1950s. The federal government proclaimed the same objective as before the war: to strengthen tribal self-sufficiency. Now, after approximately forty years of uranium development, affected tribes show little, if any, improvement in living standards, per-capita income or self-sufficiency (Vinje 1988: 38-39).

The Navajo tribe was the first to negotiate a contract for uranium extraction. Kerr-McGee began mining in 1957. Since that time, the Navajo people have experienced some of the most severe effects associated with uranium mining with little to show for it.

The Navajo Tribe has received crumbs and local residents have acquired only a few jobs while paying all of the environmental and psychological costs. Although more than \$1 billion has already been invested in plant facilities in the Navajo Nation, only \$17 million a year is realized in personal and tribal income from energy development. The Navajos estimate that it will take \$380 million per year for 10 years to bring their standard of living up to the national average (Talbot 1981: 164).

These numbers are startling due to the fact that the Navajo Nation is the largest private owner of uranium in the country.

The Spokane Tribe in Washington state also owns one of the most significant uranium beds in the United States.

Beginning in 1957, mining and milling continued until 1982. While the mines and mills were in operation, federal and corporate neglect of human health and the environment resulted in accidents that caused severe contamination of vital waterways, wildlife, vegetation and people. In the mining contract, the BIA only required Dawn Mining Company to pay a \$15,000 bond to the tribe for reclamation, which is now estimated at over \$10 million to complete. The Spokane Tribe has been left with very little revenue from mining, extremely contaminated sites that endanger the surrounding areas and the problem of proving federal and corporate responsibility for reclamation (Herron 1996c).

The specifics of the Spokane case are different than those of the Navajo's, but the general course of events and their outcome are the same. Both tribes, logistically, should have gained substantial revenue from the mines and mills. Both tribes should have something to show for the billions of dollars the government generated from the tribes' uranium development. However, neither tribe has gained a substantial increase in living standards or self-sufficiency. In 1979 Raymond B. Pratt asked the fundamental question regarding tribal resource development when he asked, "How do we explain this disparity between apparent resource holdings (and income potential) and the grim realities" (quoted from Talbot 1981: 166).

My hypothesis in this paper is that uranium development

on reservations has not only failed to strengthen tribal sovereignty, but has also in many cases weakened it. I have used the following formula to reach this conclusion: If A::B and B::C, then A::C. If sovereignty is directly proportionate to control of land and resource sustainability and control of land and resource sustainability is inversely proportionate to uranium mining, then sovereignty is also inversely proportionate to uranium mining. This being accepted, it is not difficult to prove a causal relationship between uranium development and the weakening of tribal sovereignty given the definition of such a relationship.

The 18th century philosopher David Hume determined three conditions necessary for identifying one incident as the cause of another. These are as follows: that the events resulting in a cause-and-effect relationship are "contiguous" in some manner; that the causal incident must be a precursor of the effect incident; and that a "necessary connection" exists between the two events (Bryant 1995: 48).

What is more difficult to explain is how uranium development has decreased tribal sovereignty and maintained tribal dependence on the federal government when it was meant to do just the opposite.

The most important factor behind the failure of tribes to profit from uranium development is the racial discrimination and segregation that continues to effect the treatment of Indian tribes and other minority groups in the United States. "Contested meanings and identities, conflicts over political and economic resources, rivalries

over territory and systems of cultural expression: these are the processes that continue to frame the complex problem of race in the United States" (Darnovsky, Epstein and Flacks 1995: 182). Critics of environmental racism state that poverty and rural living are the causes of environmental discrimination rather than race. However, these critics fail to explain blatant and intentional racial discrimination that exists in the federal government and other institutions. Furthermore, research shows that racial minority communities are disproportionately affected by industrial development regardless of class. "Whatever the intent, the system benefits all strata of the white population, at least in the short run - the lower and working classes as well as the middle and upper classes" (Blauner 1972: 22).

Another reason that tribes have profited so little from uranium development is due to the lack of tribal control over reservation resources. Ownership does not necessarily equate to control. "Native Americans own their lands only in the technical sense due to the federal "trust" status of reservation lands" (Talbot 1981: 166). Tribes have the ability to lease lands, but only under the supervision of the BIA. Furthermore, decisions regarding land use are often made by the BIA rather than tribes. As long as the federal government maintains plenary power over Indian tribes and gives the BIA the authority to negotiate with

corporations for tribal welfare, it will be able to pressure tribes to exploit their natural resources.

For a tribe to actually extend its sovereignty by exploiting uranium, all of the parties involved must have a common interpretation of sovereignty and place it as their priority. Corporations and the federal government have failed to do either. By focusing solely on capital, corporations try to cut costs and corners to increase their profit margin. In uranium development this practice has led to severe environmental contamination and increased risk to worker and community health and the environment. Though stating its concern for tribal economies, the federal government also places capital as its priority. This is made apparent in federal risk assessments and land-use evaluations. In risk assessments, federal agencies often leave social and cultural risks completely out of the evaluation.

Every new technology has side effects, of course, and one of the main purposes of model-building is to anticipate those effects....The model does not indicate, at this stage, the *social* side-effects of new technologies. These effects are often the most important in terms of the influence of a technology on people's lives (Meadows 1972: 146).

As stated in Chapter 5, land value is also one of the primary factors in deciding the position of a site on the federal government's National Priority List.

At a Newberry Library conference in 1979, John Redhouse stated that, "Indian sovereignty as a preservation of our

culture will never be realized until this country's corporate powers and the federal government quit trying to ruin us in their pursuit for profits....Their lands and the right to govern them is about all that the Indian people have left to build a future on" (Swagerty 1979: 107). This statement represents the feelings of many Indian people in the United States. Why, though, do people criticize the federal government for taking power away from tribes, when it professes to be trying to accomplish just the opposite?

Another way to explain the disparity between tribal resource ownership and continued tribal dependence and poverty is to question the federal government's actual intent behind tribal resource development. After more than a century of federal exploitation of reservation resources, tribal independence and sovereignty have been unrealized. If we are to judge the federal government by the results, its actions and by studies that support the existence of environmental racism, then we must logically question its intent.

Finally, the reliance by the federal government, corporations and the affected tribes on short-term rather than long-term assessments and strategies is a major cause of continued tribal dependence on the federal government. The goal of tribal sovereignty is a long-term one. When a tribe uses short-term planning to increase its sovereignty, the tribe may achieve just the opposite.

A tribal government has a moral obligation to ensure that the tribe continues. It must not only manage the assets that exist for the immediate term, but the tribe must also consider the future as real time. This is 180 degrees from the considerations that face most private individuals, where the future usually is no farther ahead than the economic survival of the spouse and the education of the children (Ragsdale 1989: 149).

This is not true just for tribal governments, but for any governing body. To reach long-term goals, a group must implement long-term strategies. Uranium mining, as it has operated to date, is not a long-term strategy. However, energy tribes are not fully to blame for failing to realize this. The federal government and corporations misled tribal communities as to the safety of mining and milling and to the amount of tribal revenue that would come from uranium development. Douglas and Wildavsky refer to these types of uninformed decisions as "involuntary" activities.

...."involuntary" activities differ in that the criteria and options are determined not by the individuals affected but by a controlling body. Such control may be in the hands of a government agency, a political entity, a leadership group, an assembly of authorities or "opinion makers," or a combination of such bodies. Because of the complexity of large societies, only the control group is likely to be fully aware of all the criteria and options involved in their decision process (Douglas and Wildavsky 1982: 19).

Tribes also could not have known the extent that corporations and the federal government would neglect safety standards and regulations and deny responsibility for reclamation.

All of these factors: 1) environmental racism, 2) the lack of tribal control over reservation resources, 3) the failure of risk assessments to include social and cultural consequences of uranium mining, 4) the lack of federal intent to increase tribal sovereignty and 5) the implementation of short-term rather than long-term strategies are all reasons why uranium development has failed to create tribal self-sufficiency and extend tribal sovereignty. These factors have forced many energy tribes into even greater dependence on federal, corporate and state funding and regulation. Today, instead of extending their sovereignty, tribes like the Spokane, who relied on uranium development, find themselves backpeddling and struggling to keep the already limited sovereignty they have.

Tribal Sovereignty In the Present

Forty years of developing and exporting uranium has done nothing to strengthen tribal sovereignty. Today, tribes are as dependent on the federal government as they were when reservations were created. Some tribes are even more so. The dependence may be on different factors, but it exists nonetheless. Tribal sovereignty is a conditional sovereignty. Tribes do not have the political, economic or military power to protect and insure it. Instead, tribal sovereignty exists at the will of the federal government.

Any political right or authority that a tribe has is given to it by the federal government. Ragsdale describes the current condition of tribal sovereignty in the following statement:

Tribes can never get up from the table and walk away a winner. The status is never frozen in time so the tribe is always gambling just to keep what it has. The tribe's stake is residual sovereignty. Therefore, when a tribe wins a case it means that the tribe continues to exercise that sovereignty. When it loses, it loses some of that sovereignty....The tribe may win some of its rights back on occasion, but that is simply recognizing the status quo (Ragsdale 1989: 156).

When corporations and the federal government began negotiating with tribes over uranium development, there were many assumptions made by all of the parties involved. Risk assessments measured only the economic costs of development and reclamation and failed to evaluate political, social and cultural factors. Other assumptions included the idea that what is true for the past will be true for the future, that all of the parties involved had sufficient knowledge to make safe, long-term decisions and that existing social and economic arrangements are set at standards that will be the same for future decisions (Douglas and Wildavsky 1982: 19). Wynecoop explains how pressure continues to be placed on the Spokane Tribe to make immediate decisions about the future use of mill and mine sites:

We're being pressured by BLM and Dawn Mining to give them a definite land use. It had plants that our people use for medicine. It had hunting, timber, fish, and recreation. Who are we to tell them what land use their gonna use it for twenty years down the road? How do we know (Herron 1996b)?

Furthermore, as mentioned previously in the chapter, the circumstances were complicated by the differing goals of each party involved. Tribes were ultimately trying to strengthen their sovereignty by increasing their revenue. The federal government was trying to supply the country with a new, efficient source of energy and weapons during the Cold War. Finally, corporations were simply making a profit off of the other parties' situations.

With every decision, especially those involving long-term goals, there are assumptions made and risks taken. However, throughout the history of tribal uranium development, most of the assumptions were made for the tribe rather than by the tribe, and many of the risks could have been minimized or eliminated altogether. Presently, steps are being taken by tribes and the federal government to recognize and address environmental racism and to give some regulation authority back to tribes.

....the Indian Office has been recently established to be headed by a Native American. This office will be responsible for coordinating establishment of the regulatory programs needed to provide equal protection for Indian lands....the environmental justice movement has received unprecedented recognition and support by the Clinton administration and has generated a heightened awareness and willingness on the part of agency managers to listen to previously disenfranchised communities such as Native American....agency leaders may now act to establish much-needed regulatory programs for Indian lands (Wenz and Westra 1995: 37).

There is no question that Indian nations will continue to develop their resources. As long as maintaining and increasing tribal sovereignty is a priority and there is outside pressure to export their resources, tribes have few other options. "It is never a matter of growth vs. no growth. What is crucial is what is growing, what is declining, and what must be maintained" (Bullard 1993: 63). For tribes today, as it has been since the creation of reservations, sovereignty is the most important aspect that must be maintained. However, the way to maintain and increase sovereignty is as complex as the definition of the word itself. The Spokane Tribe and others who have developed uranium have learned this the hard way. Douglas and Wildavsky describe the difficult position that tribes find themselves in regarding resource development:

Where does the path of virtue and good sense lie - in announcing every possible risk as soon as it arises, or in waiting until there is more conclusive evidence or safer alternatives? One side says, "Do not start unless you're sure it's safe." The other side says, "Do not stop until you've got something better."....Some sort of risk has to be taken (Douglas and Wildavsky 1982: 27).

Energy tribes are forced constantly to decide which path, if any, will lead to sovereignty, that of action or of inaction.

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