

Department of Energy

Richland Operations Office
 P.O. Box 550
 Richland, Washington 99352



91-248-128

JUN 10 1991

Mr. Daniel L. Duncan
 Hanford/RCRA Program Manager
 U.S. Environmental Protection
 Agency, Region 10
 Hazardous Waste Division
 1200 Sixth Avenue
 Seattle, Washington 98101



Dear Mr. Duncan:

GEOGRAPHIC COVERAGE OF CORRECTIVE ACTION REQUIREMENTS IN HANFORD PART B PERMIT

The purpose of this letter is to set forth the position of the U.S. Department of Energy, Richland Operations Office (DOE-RL) on the question of including corrective action requirements pursuant to RCRA Section 3004(u) for the above-referenced areas in the DOE-RL Hanford Part B permit. It is the position of DOE-RL that neither the Bonneville Power Administration (BPA) Midway Site nor the DOE lands northeast of the Columbia River should be included in the Part B permit. We also believe that the U.S. Environmental Protection Agency (EPA) should seriously consider implementing a policy that excludes land leased to others from 3004(u) requirements. EPA indicated it would address this issue in 52 Fed. Reg. p. 7723 (March 5, 1986).

With regard to the BPA Midway Site, our position is premised upon the lack of any DOE-RL ownership or control over the Midway Site. As we have previously advised you, the BPA is an independent power marketing agency which was in existence long before the DOE activities at Hanford. BPA is a rate-payer funded entity which derives its income from wholesaling electricity and it would be inappropriate to place upon the nuclear activities division of DOE the responsibility to assure corrective action of this separate organization's Midway Site. It should be noted that BPA apparently set up the Midway substation in 1940, which is prior to establishment of the Hanford Site. BPA has maintained ownership of the Midway Site. A copy of a recent Tri-City Herald article is attached which explains that BPA established the Midway Site in 1940 and the term Midway was given to the site to identify its location "midway" between the Grand Coulee and Bonneville Dams.

We have previously provided you with copies of land withdrawal orders which shows the Midway Site was not in that land withdrawn from the public domain for use by the Atomic Energy Commission for the Hanford Site.

EPA has published a statement of statutory interpretation in 52 Fed. Reg. p. 7723 (March 5, 1986) which indicates the EPA position that in some cases "ownership" should refer to major departmental subdivisions that exercise independent management authorities, as the National Park Service and Bureau of Land Management in the Department of Interior, rather than to an entire executive department of the United States. The Federal Register Notice goes on to state:

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EPA believes that recognition of these subdivisions is consistent with Congressional intent. EPA will propose a rule to clarify this position and explain more fully the rationale for recognizing specific subdivisions. In the interim, EPA intends to recognize principal subdivisions as a matter of statutory interpretation on a case-by-case basis in individual permit proceedings. (Emphasis Added)

It is the position of DOE-RL that the independent nature of the BPA and DOE-RL precisely fit the situation envisioned by EPA's statutory interpretation. BPA is an independent power marketing agency managed by a separate administrator and operates on funds generated by wholesaling electricity. Only since 1977 has the BPA been a reporting component of the Department of Energy. Prior to that time it reported to the Department of Interior. In both cases it has been an independent subdivision. DOE-RL, on the other hand, is a field office component of the nuclear and R&D function of the Department of Energy and is operated on taxpayer funds. As such, the operations of the two organizations are far more distinct than the U.S. Department of Defense examples provided in the Federal Register Notice and it would be clearly inappropriate to hold DOE-RL responsible for corrective action at a BPA-owned facility.

DOE-RL also believes it is inappropriate to include corrective action requirements in the Hanford Part B permit for those buffer zone lands located on the north and east sides of the Columbia River. EPA has taken the position that for purposes of corrective action, the term "facility" means all contiguous property under the control of the owner/operator. EPA has said that property that is owned by the owner/operator but which is separated by land owned by others from the land where the permitted facility is located will not be considered "contiguous," 45 Fed. Reg. 30808 (July 27, 1990). In the case of the Hanford Site, the DOE-RL permitted facility is located on the southwest side of the Columbia River. The riverbed of the Columbia River beyond the point of navigation is not owned by DOE but rather by the State of Washington. While EPA, in the above-cited Federal Register Notice, indicated that property that is separated only by a public right-of-way (such as a roadway or a power transmission right-of-way) would be considered contiguous, the Columbia River does not fit that situation. It is not a mere right-of-way or easement but rather a full property interest. Its size and the degree of separation it creates between the two properties is unlike a public right-of-way that may intersect what is otherwise one consolidated operation. The properties on the opposite sides of the river are separate in a true sense and these areas should not be considered contiguous by EPA in accordance with policy guidance which has been promulgated by the agency. The width of the Columbia River is a major physical barrier between contiguous use of the two parcels of land and is totally unlike a road or powerline right-of-way. Furthermore, there is no reason for EPA to creatively interpret the definition of the term "contiguous" in order to impose corrective action requirements. Any remedial actions which are necessary in the area northeast of the river will be carried out in accordance with DOE's obligations under CERCLA and the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement).

Therefore, DOE-RL believes that neither the BPA Midway Site nor the DOE-owned land northeast of the Columbia River should be included in the corrective action provisions of the Hanford Part B permit.

Finally, DOE-RL requests that EPA give serious consideration to excluding from the permit corrective action requirements those lands which are leased under long term, minimal rental cost, leases to the State of Washington and the Washington Public Power Supply System (Supply System). The 1000 acres leased to the State of Washington is subject to a 99-year lease administered for the state by the Washington State Department of Ecology (Ecology). The Supply System leases land for the Hanford Generating Plant and also for its commercial reactor complex under multi-decade length leases. Under these leases it is the state and the Supply System which are for all practical purposes the site owners. EPA recognized the need to consider the realities of such a situation in its March 5, 1986, Federal Register Notice when it stated:

EPA intends to propose a rule that limits federal agency responsibility for facilities operated by private parties with legal ownership interests by identifying a "principal owner" for the purpose of defining the "facility" boundary under section 3004(u). The "principal owner" probably would be the person most directly associated with operation of the hazardous waste facility. Only property within the scope of the "principal owner's" legal interest would be considered the "facility" for corrective action purposes. The federal agency that administers the same land for the United States would not be responsible for complying with section 3004(u) within the principal owner's "facility."

If these areas are included in the DOE Hanford Site Part B permit, it will be necessary to include the Supply System and Ecology in our permit negotiations. This will create an additional and unnecessary complicating factor to issuance of the initial Hanford Site Part B permit.

Should you have any questions on this matter please contact Mr. C. E. Clark of my staff at (509) 375-9333.

Sincerely,
~~ORIGINAL SIGNED BY~~
E. A. Bracken, Director
Environmental Restoration Division

OCC:RMC

Attachment

cc w/att:

T I Nord. Ecology

MOVING MIDWAY

Abandoned Mid-Columbia town waits to be sold

By JOHN STANG
PHOTO BY STAFF WRITER

MIDWAY — This ghost town is going to vanish.

Midway, just upriver from the Vernita bridge, consists of 20 empty ranch houses lining three nameless streets. A few broken windows ruin its otherwise neat appearance.

The town's last resident left 3 1/2 years ago.

Automation replaced the 20 workers needed to run the Bonneville Power Administration substation at Midway.

Rattlesnakes moved in when the townspeople — once numbering about 75 — moved out.

And now the houses will disappear as well.

The federal government — which owns the site — is auctioning off the houses and a dormitory in one group. The new owner will be required to move the buildings.

The sealed bids will be opened April 11. Health and environmental problems haunt the site, said Russ Holm, the federal General Services Administration official in charge of selling the buildings.

The substation is a massive collection of transformers and power lines — all radiating a vast amount of electromagnetic waves too close to the houses to be healthy for permanent residents, Holm said.

And before the streets were paved decades ago, substation workers controlled the dust by pouring oil on the roads, Holm said. That oil seeped into the ground.

When the houses are gone, state officials will study the extent of the environmental damage.

But the houses are in good shape, and the government should save at least \$5,000 a house by selling them instead of demolishing them, Holm said.

Midway got its name from being the substation halfway between the Grand Coulee and Bonneville dams.

Construction on the substation began in 1940 on the site of a farming community called Vernita.

Because of the substation's isolation, BPA



Boards cover the windows of a building that once was a dormitory and school at Midway.

built a village next to the facility.

When work began on Hanford in 1943, the Vernita farmers were relocated. Midway began furnishing power to Hanford in 1944. Bob Van Cleef's parents moved to Midway in 1943, when Van Cleef was 6. He remembers tagging along with the Army sentries walking around the substation. Sometimes, anti-aircraft guns would fire practice rounds from the overlooking Umpanium Ridge.

Although the names Vernita and Midway are used interchangeably, the town's official name is Midway, said Don Dahlman, who was the substation's camp supervisor from 1979 to 1987. That post also made him Midway's mayor.

Dahlman was the last man to leave Midway — in October 1987.

Midway is 37 miles from Richland, 30 miles from Sunnyside and 23 miles from Mattawa. The BPA required substation workers to live at Midway.

People either loved the isolation and stayed. Or they hated it and left.

"You just had to have a certain type of personality to live out there," said Merle Haerberlin. She lived with her husband, retired BPA electrician Art Haerberlin, at Midway from 1969 to 1987.

"It always felt like home," said Van Cleef, who left at 13 before returning in 1963 with his wife, Rosemary. BPA transferred him

out in 1986 before settling him there from 1969 to 1987.

Dahlman loved the isolation.

"Solitude. No busy traffic. You could walk down the middle of the street without worrying about being run over. Dogs and pets ran free," Dahlman said. "You don't have the hustle and bustle."

Midway was a town with two stop signs, a 15 mph speed limit, no stores, no doctors, a one-room school and a tiny library that doubled as a nondenominational church. The only commercial venture was a pop machine.

Shopping trips were major expeditions. "When I shopped, I bought six gallons of milk," Merle Haerberlin said. "You learned to be self-sufficient."

The Hanford Patrol provided police protection. The townspeople took first aid and cardiopulmonary resuscitation courses to handle medical emergencies. The BPA provided a fire truck, and all substation workers were volunteer firemen.

Only one building burned down in Midway — the fire truck's garage in the early 1980s.

Van Cleef said a heater apparently caused the fire. The fire hoses leaked, which handicapped dousing the blaze. The hoses were checked regularly after that.

The women pushed the BPA for years to train them as firefighters as well. Midway was a district headquarters, and the em-

ployees traveled to an increasing number of outlying facilities.

"At times, there was no one here except for the women and one operator," Merle Haerberlin said. Finally, the BPA was convinced to train the women.

The firefighters handled an occasional brush fire.

The BPA tested energy conservation measures at Midway.

Each house was insulated differently, and many homes have solar panels on walls or roofs to pre-heat water going into the main water heaters. Each house has a network of five meters on the outside that measured how efficiently each house used electricity.

People generally got along well with each other.

"No one locked their doors," Van Cleef said.

"We all looked after each other," Art Haerberlin said.

"Everybody knew everybody else's business," his wife added. But spats and disputes popped up, and the camp supervisor found himself mediating problems between neighbors.

Dahlman did not want to talk about handling neighborhood disputes — other than saying he did not enjoy the experience.

Art Haerberlin remembers one camp supervisor — prior to Dahlman — who raced his motorcycle along the town's streets, a then wrote himself a reprimand for doing so. The residents worked hard to amuse themselves.

"This far out, you had to make your own entertainment," Dahlman said.

Horseback riding and fishing were popular. Card games, dances, baseball games, hayrides and block parties were organized. The village is at the bottom of the Umpanium Ridge, and kids rode sleds down the ridge when it snowed.

The Midway workers set up their own cable television system by installing an antenna on top of the ridge and running a line downhill to connect with all the houses. Midway received all three Tri-City network television stations.

The one-room school — which handled up to 23 first-graders through sixth-graders — was a source of pride to Midway.

Sometimes, it had to struggle to be noticed by the Richland School District. Merle Haerberlin remembers the town summoning school officials in the 1970s to successfully protest their children being taught with 19-textbooks.

Please see MIDWAY, Page C3

Town's for sale, but you gotta move

JOHN STANG
staff writer

MIDWAY — Where do you put a town after you've bought it?

Someone has to answer that question after sealed bids are opened on April 11 to buy Midway's buildings from the federal government.

That someone will own 14 three-bedroom houses, six two-bedroom houses, 15 garages, 18 sheds, a tiny city office, a fire engine garage and a community building.

The buildings are being sold as a ploy to weed out semi-serious buyers who may not do their homework in moving them, said Russ Holm, an official in charge of the sale.

A half dozen house-moving company representatives checked out Midway on March 29 and said moving the one-story buildings would be easy. "This is gravy moving," said Dennis Morris of Okanogan.

But the movers noted that state law and geography have put up roadblocks.

Washington law puts a five-mile limit on the distance a house can be moved along a state highway.

That eliminates Yakima and Othello as destinations.

Highway 240 goes through the federal Hanford reservation, which negates the five-mile traveling limit, said federal and state officials.

Consequently, Richland appears to be the most practical — maybe the only feasible — destination.

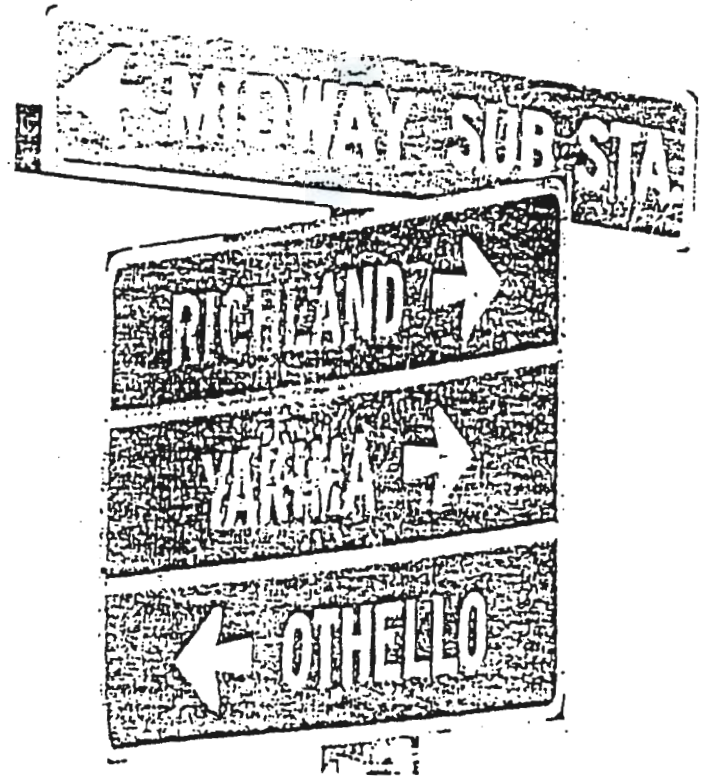
If house movers could get the buildings across the Columbia River, they could use county roads to get the structures to Desert Aire or Mattawa, the movers said.

But many houses won't fit through the framework of the Vernita Bridge crossing the Columbia River without being partially dismantled, they noted.

Yakima housemover Dennis Heron is thinking about using barges to get the houses across the Columbia River. But he said the costs of renting a barge and moving it up the Columbia River might be too high to be practical.

The movers speculated that the homes may end up being demolished by bulldozer.

These are beautiful houses. It'd be a shame for them to go under a caterpillar," Morris said.



Herald/Boo Baker

Midway is off Highway 240 about 37 miles from Richland.

Midway

Continued from Page C1

The school was a money-maker for the Richland district. The state paid \$126,000 in aid for remote schools to the Richland district in 1986 — the last year the school was open.

At that time, the school had one student left — 5-year-old Rachel Heezen, the daughter of teacher Laura Heezen.

Midway's demise was slow, but steady.

The equipment became more sophisticated and required fewer people to operate and maintain it. Meanwhile, newer and younger workers began to balk at moving to the middle of the desert.

Midway's population shrank.

"It was the natural evolution of things," Art Haeblerlin said. "We knew it was coming, although we didn't want to go."

The station needed only four workers in 1987, and then it needed no one permanently there.

It took Dahlman a while to line up a house in

Richland, and he spent a few months alone at Midway.

The rattlesnakes sensed that the people had gone, Dahlman noted.

Rattlesnakes were always a fact of life at Midway, checking for them being second nature to the people. Townsfolk used to spot an average of two or three snakes inside city limits each year, Dahlman said.

While he was alone, Dahlman spotted and killed six rattlesnakes in his backyard.

He was sorry to go.

"If they kept it running, I would've stayed here," he said.