



HANFORD NATURAL RESOURCE TRUSTEE COUNCIL



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**Confederated Tribes of
the Umatilla Indian
Reservation**
Barbara Harper

**U.S. Department of
Interior**
Tammy Ash, Project
Coordinator

October 20, 2011

Matthew McCormick, Manager
Richland Operations
U.S. Department of Energy
P.O. Box 550, MS-A7-50
Richland, WA 99352

Dear Mr. McCormick:

As you are aware, the Hanford the Hanford Natural Resource Trustee Council (HNRTC) is conducting a natural resource damage assessment (NRDA) for the Hanford Site. The HNRTC has recently adopted a statement of guiding principles for protection of natural resources to assist in this effort. This document states, in broad terms, Trustee expectations for cleanup and future uses of the Hanford Site as they relate to natural resource restoration and goals for restoration. Enclosed is a copy of these principles and we ask you share them with your project managers and staff.

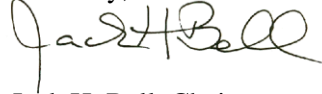
Hanford is characterized by a large shrub-steppe ecosystem. Critical Chinook salmon spawning habitat is found in the longest free-flowing stretch of the Columbia River above Bonneville Dam. These landscapes have unique and irreplaceable historic tribal, cultural, and scientific heritage. The HNRTC has a legal and ethical interest to ensure these resources are protected during and subsequent to Hanford cleanup, and that injured resources are fully restored through the NRDA process. Accordingly, we want to work together with DOE to achieve three broad goals as articulated in the principles document:

1. Achieve a cleanup of the site sufficient to avoid or minimize residual injury to natural resources and the services they provide to the public.
2. Have a cost-effective remediation of the site through coordination with NRDA restoration, such as post-cleanup revegetation and mitigation activities.
3. Post-cleanup land use decisions that do not constrain or preclude effective NRDA restoration.

We ask you to encourage your project managers and appropriate staff to have frequent contact with the HNRTC to facilitate effective cleanup and restoration. We believe this will have the effect of minimizing potential NRDA liabilities.

The HNRTC has authorized me to meet with you and your project managers to explore how we can more closely work together to integrate NRDA into the Hanford cleanup effort. Contact me at your convenience by email at jackb@nezperce.org or by phone at (208) 621-4710. Please feel free to contact me or any of the other Trustees listed on the letterhead with any questions on the guiding principles. We appreciate your past support of the HNRTC's efforts and look forward to working with you and your staff to accomplish this major effort. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack H. Bell". The signature is fluid and cursive, with the first name "Jack" being the most prominent.

Jack H. Bell, Chairman

Hanford Natural Resource Trustee Council

Cc: Scott Samuelson, Office of River Protection
Dennis Faulk, Environmental Protection Agency
Jane Hedges, Washington Department of Ecology
Matthew Duschene, DOE NRDA Coordinator
Senior HNRTC Trustees

Hanford Natural Resource Trustee Council

Guiding Principles for Protection of Natural Resources

Introduction

The Hanford Site is important for natural resources. It features a large contiguous shrub-steppe ecosystem, critical chinook salmon spawning habitat in the longest free-flowing stretch of the Columbia River above Bonneville Dam, as well as landscapes and sites with unique and irreplaceable historic, tribal, cultural, and scientific heritage. Hanford is considered a critical reservoir of biodiversity in the Pacific Northwest. The site is home to thirty-eight species of birds and fifteen species of small mammals considered Species of Conservation Concern. More than 1500 species of terrestrial insects have been found, including several found nowhere else in the world.¹ Twenty-eight rare plant taxa on Hanford are listed as endangered, threatened, or sensitive.

As cleanup nears completion on large areas of Hanford, attention is focusing again on future uses of the site, including protection of Hanford's special ecological and cultural heritage. Within this setting and context, the Hanford Natural Resource Trustees will play a crucial role in restoring natural resources that may have been injured as a result of hazardous substances released from the Hanford facility.

The Hanford Natural Resource Trustee Council

The Hanford Natural Resource Trustee Council (HNRTC) includes two state governments (Oregon and Washington), three tribal governments (the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, and the Yakama Nation), and three departments of the federal government (U.S. Department of Energy, U.S. Department of Commerce (NOAA), and the U.S. Department of the Interior (Fish and Wildlife Service)). The HNRTC organized under a Memorandum of Agreement (MOA) in 1993 to provide technical review of cleanup plans and results, but is now primarily focused on conducting a formal natural resource injury assessment, one of the steps defined by the Natural Resource Damage Assessment and Restoration (NRDA) provisions of CERCLA and associated regulations.¹ Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), natural resource trustees are assigned a non-discretionary responsibility to protect the public interest - to make the public whole - for injuries to natural resources and the services they provide, caused directly or indirectly by releases of hazardous substances. Accordingly, Hanford trustees have both the responsibility and the authority to implement restoration that ensures the long-term ecological integrity of the Hanford site. The assessment area under consideration by the Trustee Council includes all of the Hanford site, and offsite areas where Hanford hazardous substances were released or have come to be located, such as lands impacted by aerial releases of hazardous materials and portions of the Columbia River.¹

Under CERCLA, trustees are charged with identifying, quantifying, and gaining compensation for injuries² to natural resources and the services they provide, through restoration, replacement of habitat, or acquisition of the equivalent resources, including restoration for interim service losses. Examples of service losses might be the inability to use groundwater (e.g., for consumption or irrigation), the loss of a subsistence or recreational fishery because of contamination, or establishment of an institutional control to protect human health, thereby limiting access to the resource. Under NRDA, injury is measured in relation to the "baseline" condition of the site or resource or service, or the condition that would have

¹ <http://www.hanford.gov/?page=651&>

² Injury is defined as a measureable adverse change in the resource that is not remedied by cleanup activities.

existed “but for” the release of hazardous substances. Restoration is often required to return resources and services to baseline conditions.

Principles and Trustee expectations for protection of Hanford natural resources

As the NRTC looks at plans for closure and some of the proposed long-term uses of the site, we have significant concerns. Broadly stated, trustees want good cleanup of Hanford:

- We believe that cleanup must be to levels that will end existing injury to natural resources and the services they provide, and avoid future injury.
- We urge DOE to avoid decisions or actions that might constrain future site restoration or be incompatible with restoration principles, and to consult with trustees if such decisions are under consideration.
- We urge DOE to avoid further disturbance and/or loss of natural resources, habitats, or services. We also discourage any disturbance that results in fragmentation of habitats on and/or adjacent to the Hanford site.

Although DOE has authority for land management decisions for those parts of the site not currently placed in the Hanford Reach National Monument, a June 2000 presidential memo³ directed DOE to permanently manage central Hanford to protect valued habitats and areas of scientific and historic interest similar to those of the Hanford Reach National Monument. The HNRTC stands ready to support DOE in fulfilling that mission. Hanford trustees are currently drafting a Hanford Facility Restoration Plan as part of the NRDA process. The draft plan articulates a number of procedural and ecological goals and values for restoration. The NRTC believes that restoration must:

- Fully make the public whole for natural resources injured as the result of releases of hazardous substances or as part of the response actions;
 - Protect, restore, and/or re-establish native species and the habitats needed to support them;
 - Repair habitat fragmentation; protect or restore habitat corridors and connectivity between habitats on and off-site;
 - Protect, restore, and manage sustainable habitats and landscapes to support multiple ecological niches, ecosystem services, and native species;
 - Include early restoration where feasible and appropriate to reduce interim service losses to resources and to accelerate site recovery;
- Comply with federal, state, and tribal treaties, laws, and policies;
- Fulfill the needs and interests of trust governments and their constituents in terms of restoration of ecosystem services such as unrestricted use of the land, preservation, education, recreation, traditional cultural uses, and health and well-being expectations (e.g., solitude, clean air and water);
- Provide opportunities for the public to participate in the restoration planning process;
- Provide for sufficient monitoring and maintenance to ensure and to document successful long-term restoration of resources.

³ <http://www.fws.gov/hanfordreach/management.html> (Appendix C, page C-5). June 13, 2000.