Yakama Nation Comments
on the
U.S. Department of Energy Hanford End State Process

Submitted to
United States Department of Energy
June 23, 2005

Definition of Hanford End State:

> **The condition, when the U.S. Department of Energy (DOE) terminates its cleanup and environmental restoration mission, of all resources affected by Hanford operations. These resources include water, soil, air, biota, and cultural resources, and include affected resources located outside the Hanford site boundary.**

Alternatives proposed for the Hanford End State (HES) must comply with the terms of the Treaty of 1855 (12 Stat. 951) between the Yakama Nation (YN) and the United States. The final HES must comply with the Treaty of 1855. The YN has agreed to cooperate with and assist DOE in achieving an end state which complies with 12 Stat. 951.

The Treaty of 1855 is legally superior to other Federal statutes which govern cleanup and restoration of the Hanford Site. The HES may not result in any diminution or restriction to the terms of 12 Stat. 951. The HES cannot restrict access to Treaty resources, or permit continuing or future injury to such resources. Treaty resources must be safe for consumption by Tribal members within Federal regulatory limits at the HES (1×10^{-4} to 1×10^{-6} lifetime risk, currently.)

To achieve a compliant HES, a formal process must be established between the DOE and the YN. YN proposes the following terms for an agreement regarding the HES:

1. DOE and YN agree that compliance with the terms of 12 Stat. 951 is mandatory for the HES.
2. DOE and YN agree that 12 Stat. 951 takes precedence in matters of Federal discretion during cleanup and restoration if 12 Stat. 951 applies to the subject action.
3. DOE and YN agree that compliance with the CERCLA natural resource damage (NRD) statute provides data essential for establishing the HES. DOE will provide funds to YN to begin assessment of potential natural resource injuries in FY 2006.

4. DOE and YN agree that YN Treaty protected activities expose Tribal members to hazardous substances in unique ways, which must be fully accounted for in the HES risk assessment.
5. DOE and the YN agree that human risk and NRD data will be integrated into cleanup and restoration actions as it becomes available.

Yakama Tribal members are documented to be the highest risk population affected by Hanford contaminants. The following reports should be referenced in HES analysis as documentation of significant exposure pathways and risk factors for YN Tribal members:

- Columbia River Basin Fish Contaminant Survey, 1996-1998, United States Environmental Protection Agency, Office of Environmental Assessment, EPA 910/R-02-006, July 2002
- A Risk-based Screening Analysis for Radionuclides to the Columbia River from Pat Activities at the U.S. Department of Energy Nuclear Weapons Site in Hanford, Washington, Department of Health and Human Services, Centers for Disease Control and Prevention, RAC Report No. 3-CDC – Task Order 7 – Final, John E. Till, November, 2002.

A defensible HES requires a credible Yakama Tribal risk scenario. To date, no risk scenario which can be applied to YN Tribal members has been developed. Development of such a scenario is a complex undertaking, as evidenced by the risk studies cited, each of which were multi-million dollar, multi-year efforts conducted by specialists in the appropriate disciplines.

The Yakama Nation proposes a cooperative approach with DOE to arrive at the HES which complies with Treaty rights and protects Tribal members at risk levels no greater than those established for other populations (1×10^{-4} to 1×10^{-6} lifetime risk, currently.)