

6.5 Treaties, Statutes, and Policies Relating to Indian Tribes of the Hanford Region

DOE's relationship with American Indians is based on treaties, statutes, Executive Orders, and DOE policy statements. Representatives of the United States negotiated treaties with leaders of various Columbia Plateau American Tribes and Bands in June 1855 at Camp Stevens in the Walla Walla Valley. The negotiations resulted in three treaties, one with the 14 tribes and bands of the group that would become the Confederated Tribes and Bands of the Yakama Nation, one with the three tribes that would become the Confederated Tribes of the Umatilla Reservation, and one with the Nez Perce Tribe of Idaho. The U.S. Senate ratified the treaties in 1859. The three treaties are included in Appendix A of the *Final Hanford Comprehensive Land-Use Plan EIS* (DOE 1999). The negotiated treaties are as follows:

1. Treaty with the Walla Walla, Cayuse, etc. (June 9, 1855; 12 Stats. 945)
2. Treaty with the Yakama (June 9, 1855; 12 Stats. 951)
3. Treaty with the Nez Perce (June 11, 1855; 12 Stats. 957).

The Confederated Tribes and Bands of the Yakama Nation, Washington; the Confederated Tribes of the Umatilla Reservation, Oregon; and the Nez Perce Tribe of Idaho are federally recognized tribes that are eligible for funding and services from the U.S. Bureau of Indian Affairs by virtue of their status as Indian tribes (68 FR 68180, December 5, 2003).

The terms of the three preceding treaties are similar. Each of the three tribal organizations agreed to cede large blocks of land to the United States. The Hanford Site is within the ceded lands of the Confederated Tribes and Bands of the Yakama Nation and the Confederated Tribes of the Umatilla Reservation. The treaties reserved to the Tribes certain lands for their exclusive use (the three reservations). The treaties also secured to the Tribes certain rights and privileges to continue traditional activities outside the reservations. These included 1) the right to fish at usual and accustomed places in common with citizens of the United States, and 2) the privileges of hunting, gathering roots and berries, and pasturing horses and cattle on open and unclaimed lands.

The *U.S. Department of Energy American Indian and Alaska Native Tribal Government Policy* (DOE 2000) states, in part, that DOE

- Recognizes the federal trust relationship with American Indians and Alaska Native Nations and will fulfill its trust responsibilities to them
- Recognizes and commits to a government-to-government relationship and will institute appropriate protocols and procedures for program and policy implementation
- Complies with applicable federal cultural resource protection and other laws and executive orders will assist in preservation and protection of historic and cultural sites and traditional religious practices.

The American Indian Religious Freedom Act (42 USC 1996) establishes that U.S. policy is to protect and preserve for American Indians their inherent rights of freedom to believe, express, and exercise their

traditional religions, including access to sites, use and possession of sacred objects, and the freedom to worship through ceremonies and traditional rites.

The Native American Graves Protection and Repatriation Act establishes the right of lineal descendants, Indian Tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony discovered on federal lands after November 16, 1990 (25 USC 3002). When discovered during an activity on federal lands, the activity is to cease and appropriate tribal governments are to be notified. Work on the activity may resume, if the activity is otherwise lawful, 30 days after the receipt of certification that tribal governments have received the notice.

Executive Order 13007 “Indian Sacred Sites,” (61 FR 26771, May 29, 1996) directs federal agencies, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, to 1) accommodate access to and ceremonial use of American Indian sacred sites by their religious practitioners, and 2) avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies are to maintain the confidentiality of sacred sites.

DOE/RL interacts and consults regularly and directly with the three federally recognized tribes affected by Hanford operations; that is, the Nez Perce Tribe of Idaho; the Confederated Tribes of the Umatilla Reservation, Oregon; and the Confederated Tribes and Bands of the Yakama Nation, Washington. In addition, the Wanapum, who still live adjacent to the Hanford Site, are a non-federally recognized tribe that has strong cultural ties to the Site. The Hanford area was also used by groups whose descendants are now enrolled members of the Confederated Tribes of the Colville Reservation. The Wanapum and the Confederated Tribes of the Colville Reservation are also consulted on cultural resource issues in accordance with DOE policy and relevant legislation.