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Learning Objective: Describe Hanford's opposition,
downwinders, and the legacy of nuclear testing.

Hanford's Legacy of Contamination and Military Secrecy Complicates Efforts of Multiple Parties Seeking Restitution and Cleanup

Abstract: The Hanford Nuclear Reservation's pivotal role in nuclear weapons and energy production led to well-documented radioactive material contamination of a multistate area and significant onsite pollution. Decades of U.S. government denials that adverse human health impacts were linked to its nuclear programs activities have created a culture of mistrust that pervades today. Groups challenging the U.S. Department of Energy's cleanup and management have multiple goals and frequently have required litigation to advance compensation claims and force action for the site's cleanup. Washington state's two U.S. senators, while calling for and steering funding to cleanup work, can be considered arm's-length allies of opponents. Both actively support the lucrative business of Hanford's environmental remediation.

Introduction: At any given time since the 1980s, the Hanford Nuclear Reservation, and its manager, the U.S. Department of Energy (DOE), have faced many opponents. Given its status as the nation's most contaminated nuclear reservation,² critics and litigants are inevitable. Distrust has been fueled by a tragic legacy of U.S. nuclear weapons production and testing from 1945 to 1992, especially weapons tests in Nevada. During the 1950s and 1960s, the U.S. Atomic Energy Commission ran a successful, national public relations campaign to conceal the human health impacts of radioactive waste exposure from such testing, claiming there was "no reason to believe that weapons testing programs of the United States have resulted in any serious public hazard."³ Today, 7 billion pages of government documents about Hanford's operations have not been shared, 25 years after public records requests forced the disclosure of information on the facility's health and safety risks.⁴

Parties concerned over Hanford's toxic legacy and current management already have members on the Hanford Advisory Board (HAB), which advises the DOE and the two other members of the Tri-Party Agreement, the U.S. Environmental Protection Agency (EPA) and Washington Department of Ecology, on policy issues related to Hanford's cleanup. The HAB's new policy analyst in our case will be catching up to speed with the disparate interests represented in the entities monitoring, suing, lobbying, and criticizing aspects of the DOE's management of the site. The concerns and are critics are many. The legacy for mistrust is profound and well-founded.

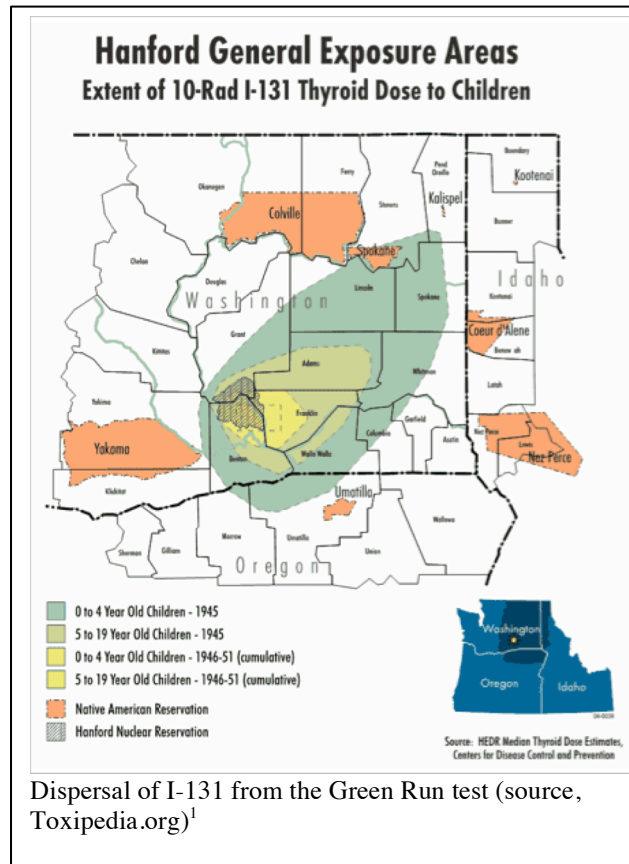
The Critics and their Cases: Opponents can be separated according to goals, methods, status and power, and personal impacts from Hanford. Hanford foes include tribal groups worried about human health impacts from the release of radioactive iodine 131 (I-131) during World War II and the Cold War and the contamination of food and natural resources.⁵ Citizen-led groups have mounted campaigns and filed suits to prevent the shipment of additional low-level nuclear waste and hazardous materials to Hanford from out of state and to prevent the restart of the fast flux test facility (FFTF), now on cold standby status.⁶ That FFTF itself has been at times opposed and supported by legislatures and elected state and federal officials from Washington and Oregon. Those two states also have filed friends of court briefs opposing the DOE's plans to leave radioactive waste in underground storage.⁵ Still other opponents, known as the "downwinders," claim they were exposed to I-131 during Hanford's operations through the Cold War and who attribute incidence of thyroid diseases and cancer to I-131 exposure.⁷

National anti-nuclear advocacy groups, like Physicians for Social Responsibility, through its Washington Physicians for Social Responsibility Hanford Task Force, have advocated for federal funds to study the effects of past and ongoing contamination and opposed using federal cleanup dollars to subsidize the disposal of additional waste from other sites.⁸ They have a seat on the HAB. They lend their scientific credibility to policy-driven public advocacy. They are joined by smaller bodies like Heart of America Northwest, a self-described watchdog group based in Seattle also on the HAB. The group uses litigation and advocacy. Its goals include cleaning up the site and not allowing additional waste storage to occur at Hanford, remediation of the soil and groundwater, and the safe operation of the unfinished \$12 billion Hanford Vitrification Plant to turn the radioactive waste into "stable" glass logs.⁶

Congress has identified 3 Northwest tribes—the Nez Perce, the Confederated Tribes of the Umatilla Indian Reservation, the Yakima Indian Nation—as having been impacted by Hanford's operations. The latter 2 sit on the HAB. Tribal members accessed portions of Hanford for traditional practices, such as the gathering of foods, and were exposed to I-131 released from Hanford.⁵ Hanford also likely disproportionately impacted Native Americans in the region because their traditional fish diets may have exposed them to higher levels of contamination from Columbia River fish. They have been involved as parties to cleanup discussions and in litigation against the DOE for failing to clean up the Hanford site.⁵

Downwinders and Green Run: One of the prominent groups challenging the DOE and its contractors are downwinders. The name refers to people who were exposed to I-131, as a result of nuclear weapons tests in Nevada in the 1950s and 1960s and exposure to fallout from nuclear power and weapons production at Hanford from World War II through the Cold War.⁴ More than 100 tests in Nevada led to a fallout of I-131 over parts of 5 Western states and then over much of the country.⁹ I-131, when concentrated in cow milk, can further concentrate in the human thyroid.⁹ However, its impact on human health is debated, which is at the heart of legal action by some downwinders for compensation for possible cases of thyroid cancer.^{9,10} Waste also was released from Hanford's atomic weapons production plants from 1944 to 1957, impacting Washington, Oregon, and Idaho.⁹ The most egregious intentional release from Hanford was a secret U.S. Air Force test known as Green Run on Dec. 2-3, 1949, in which 7,000-12,000 curies of I-131 were released in the air to help the Air Force develop systems to monitor Soviet weapons testing (Three Mile Island released 15-24 curies).

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Nearly 2,000 people initiated class-action litigation against Hanford contractors in 1990 because of their exposure to I-131 releases by Hanford during World War II and the Cold War. The first trials only began in 2005. At issue was a Fred Hutchison Cancer Research Center study from 1999 that found no link between Hanford's radiation releases and excess thyroid deaths and disease among people downwind. The finding was challenged by lawyers for the plaintiffs.¹⁰ All the cases were later consolidated. By 2008, only 10 claims had been settled in a process that was costing nearly \$60 million in U.S. tax dollars for the defense of the contractors—the multinational firms General Electric and DuPont.^{4,12} Of the 2,100 claims of the downwinders, 300 were for persons with thyroid cancer, and more than 1,000 for noncancerous thyroid

disease.¹² In July 2001, 139 people with thyroid disease believed linked to exposure from Hanford settled their claims with the DOE. The amounts were small; each plaintiff received \$5,683. The U.S. government admitted no wrongdoing. Today, nearly 1,400 plaintiffs remain in the still active case.⁷

Pork Purveyors or Hanford Critics: At the federal and state level, the states of Washington and Oregon and their federal elected officials have demanded that the DOE and the various administrations occupying the White House—Democratic and Republican—adequately fund cleanup activities.^{13,14} These are supposed to address the 177 steel storage tanks at the site that contain 53 million gallons of heavy metals and radioactive elements. A third of these tanks are leaking and all are beyond their expected lifespan.² This paper will only focus on 2 of the most senior elected officials, and sometimes critics, from the Northwest who have shaped Hanford's cleanup in the last decade: Washington state Sens. Maria Cantwell and Patty Murray.

As Washington's 2 most powerful members of Congress, Murray and Cantwell take nuanced positions advocating federal funding for long-term cleanup and accountability, while embracing the time-honored congressional imperative of pork delivery to local contractors and to multinational firms such as Bechtel Corp. and CH2M Hill, who are working on the cleanup. Both senators rightly can be called opponents of expanding Hanford's role as a nuclear waste site. The pair has perhaps the biggest role of any elected officials in Washington in influencing federal funding and policy at Hanford, also making them primary audiences for Hanford advocates.

Clear positions opposing nuclear energy production cannot be found in either senator's statements, nor can either be called advocates who back legal claims of downwinders for federal compensation. Sen. Cantwell supported a clean energy measure in 2009 that called for using nuclear energy in the nation's energy portfolio, and voted in 2008 to support nuclear cooperation with India. She and Murray also supported that the 2009 stimulus bill that provided \$2 billion in funds for the Hanford cleanup.^{13,14} Murray backed bipartisan legislation to reinstate \$200 million in funding for a Yucca Mountain waste repository in Nevada, which was removed by the Obama administration from consideration as a nuclear waste site.¹⁵

Pointing to a long voting record, Murray argues she has fought to ensure the federal government is “meeting its moral and legal obligation to clean up Hanford” Her office says she supports worker security and safety, protecting natural resources like the Columbia River

from contamination, and the Tri-Party Agreement. Though her web site says she has “encouraged” the federal government to compensate Hanford workers for work-related illness, it cites no remedy how to do that.¹³

Cantwell supports cleanup efforts and has voted to secure hundreds of millions in funding to build the vitrification plant (managed by the contracting colossus Bechtel Corp.). She too says the federal government has “a moral and legal obligation to clean up America’s nuclear legacy at Hanford.”¹⁴ Cantwell also has a proven track record criticizing the DOE’s handling of its cleanup obligations under the Tri-Party Agreement. In March 2003 she supported the state’s lawsuit against the DOE over its plans to ship radioactive waste to Hanford.¹⁴ She also took a carefully worded policy position in 2007 concerning the need for mechanisms to review worker's compensation for Hanford reservation workers covering the 1942-1990 period, without suggesting a compensatory formula.¹⁴

Back to the Case: The legal battle by the downwinders, against-DOE funded corporations, points the power that the DOE can wield against opponents and how limited their successes may be. The legacy of U.S. federal actions at Hanford and dishonesty concerning nuclear contamination for strategic national interests creates barriers for consensus on the HAB. Our new policy analyst may find institutional imperatives of the DOE to safeguard its interests outweigh “moral obligations” for cleaning up Hanford, as cited by Murray and Cantwell. Cleaning up, in fact, may be more about economics and pork politics than morality. Using the courts to force the DOE to cleanup Hanford, as Washington Governor Chris Gregoire found, may be the best negotiating tool. As Yakima Herald noted in a 2008 editorial, “It appears Governor Chris Gregoire is rapidly nearing the stage where she has no other viable option left to get the federal government’s attention on cleaning up the Hanford [n]uclear [r]eservation. And to that we say: ‘Sue their socks off, Governor, if that’s what it takes.’”⁵

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