

**Air & Waste Management  
Association  
Pacific Northwest International  
Section**

**44th Annual Conference  
"Lewis and Clark, The Corps of  
Discovery"**

**November 3-5, 2004  
Portland, Oregon**



**Native American Issues:  
The Upper Columbia River/Lake  
Roosevelt Environment**

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# A Toxic Legacy Requiring NPL Remediation



# Cause for Tribal Council Concern

- Over the past 100 years, Cominco's lead-zinc smelter in Trail, B.C., 10 miles from the U.S. border, has released over ten million tons of slag and massive quantities of mercury directly into the Columbia River.
- Studies (USGS and others) have confirmed the presence of high levels of metals and other hazardous substances in sediments.

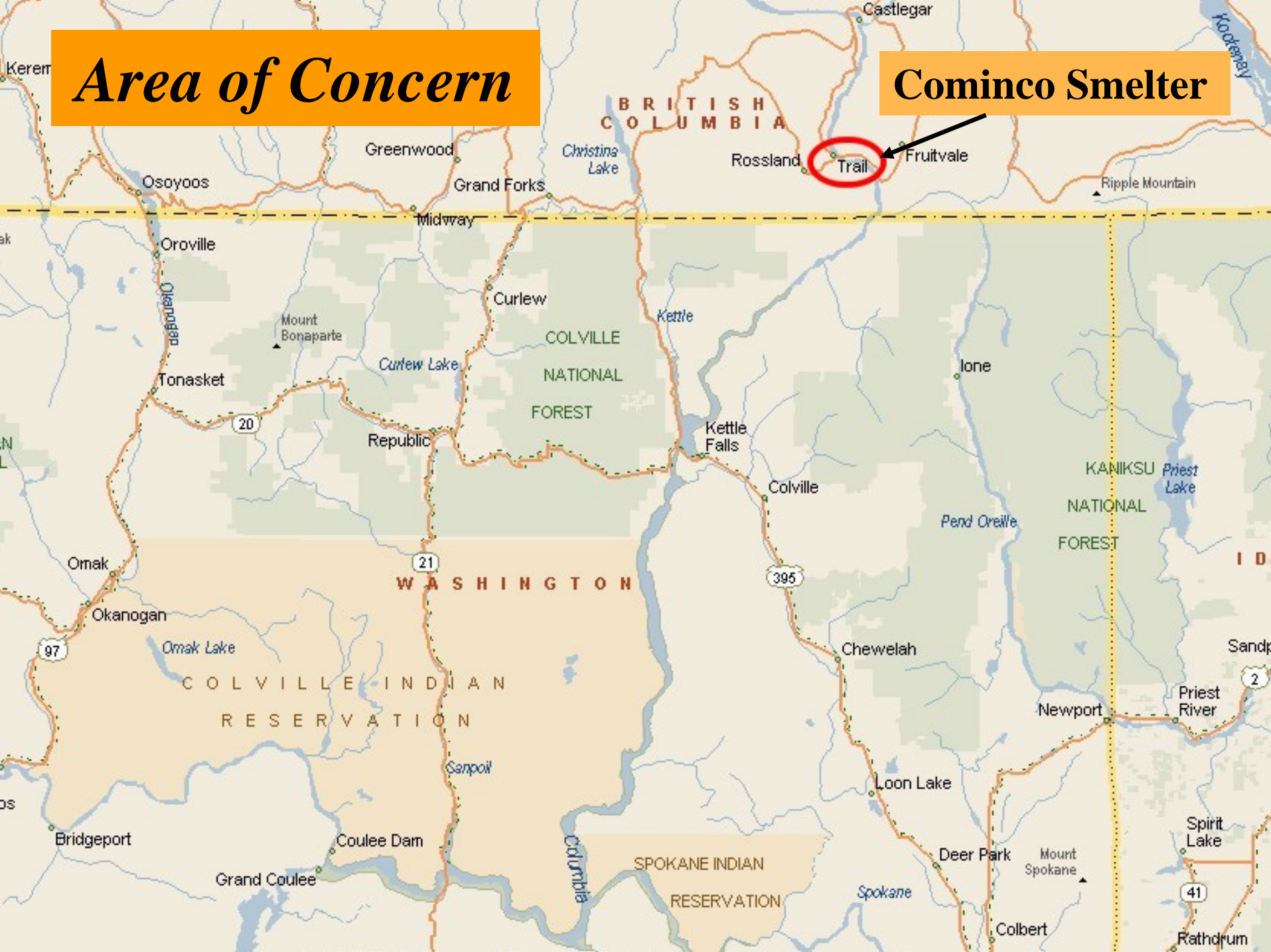
# Cause for Tribal Council Concern

- Fish have been contaminated by mercury and other contaminants, precipitating health advisories.
- Fish, including sturgeon, are in serious decline.
- People are concerned about their health and welfare.

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*Area of Concern*

**Cominco Smelter**

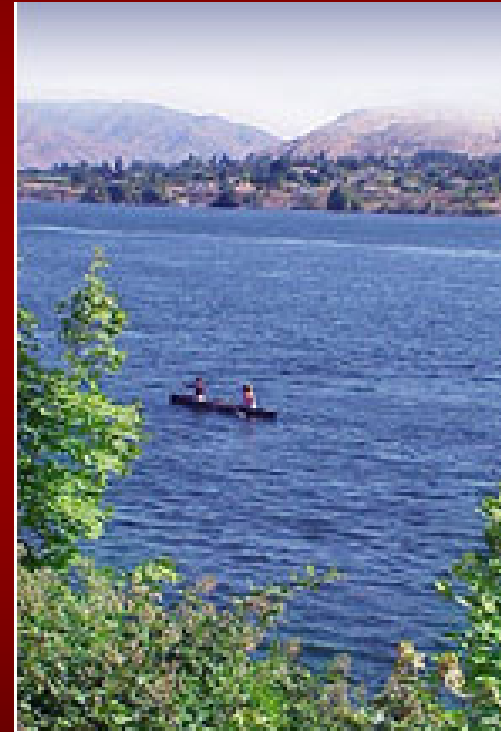


# Tribal-EPA Interaction Leading to Potential Superfund Listing

- Early 90's CCT and Lake Roosevelt Water Quality Council conduct baseline studies
- 1997-98 Tribes meet with State and Federal Agencies to coordinate a comprehensive approach
- In 1999 Tribes petition EPA under CERCLA/Superfund to investigate sediment contamination

# EPA Activities

- ❖ EPA completed a preliminary assessment (PA) in 2000 and
- ❖ EPA performed a site inspection (SI) in 2001
- ❖ Samples were collected from near Inchelium (on the Reservation) to the Canadian border.
- ❖ EPA was denied access by Canada to collect background samples in British Columbia.
- ❖ Draft ESI Report, 2003



# EPA's Site Inspection

EPA samples from the Upper Columbia River showed significant contamination for a variety of metals including:

- Arsenic
- Mercury
- Cadmium
- Copper
- Lead
- Zinc



*EPA did not sample for dioxins and furans.*

# Technical Conclusions

- Extensive contamination is present throughout the site.
- Contamination poses serious threats to human health and the environment



# Technical Conclusions

- Contaminants exceed the Tribe's fresh water sediment quality standards for protection of human health
- Upper Columbia River qualifies for the National Priorities List (NPL).



# Conclusion

## Recommend by EPA Consultant

“Further detailed investigation of the Upper Columbia River under CERCLA is recommended, including consideration of the site for proposal to the NPL”

--*Upper Columbia River Expanded Site Inspection Report, Northeast Washington - March 2003*

# Federal Action is a Necessity

The Upper Columbia River transboundary contamination involves -

- Canada and the United States
- Four federal management agencies: BOR, NPS, BLM, USFS
- waters of the State and Tribes
- Spokane and Colville Tribes have management authority and relevant water quality standards (WQS).
- Five counties have an interest.

# The Responsible Party

- Cominco operates the large lead and zinc smelter in the world at Trail, B.C.
- Teck Cominco's net earnings have averaged over \$35 million/year over the last ten years.



# Cominco's Pattern

- Cominco operations at Trail and elsewhere have evidenced non-compliance and disregard with applicable environmental laws.
- Evidence shows that profits have been at the expense of the United States, the Colville Tribes, Alaskan Natives and First Nations in Canada.



# Cominco Operations at Trail, B.C.

- 4/90 -- 300-400 gallons of concentrated Sulphuric acid
- 8/90 -- 30 tons of concentrated Sulfuric Acid to Columbia River through “Human Error”
- 11/92 -- 434 kg of concentrated Sulphuric Acid
- 3/93 and 3/94 -- 84 kg of Arsenic through negligence -- employees did not respond to alarms
- 12/98 -- Cominco spills cadmium to river for 5 hours, no one responds to alarms

Some contamination is visible.



“Black sand” (slag) beach near Boundary, USA

Some contamination is visible.



*Slag floating near Northport*

# EPA Enforcement Actions

- EPA negotiates with Cominco for about a year
- No substantial progress made with AOC
- Cominco public relations machine creates COG
- EPA issues UAO to Teck Cominco and Teck Cominco refuses to comply
- Tribes have filed notice of CERCLA citizen suit to enforce UAO

# Diplomatic Relations

- CA government sends US State Department Dip Note in January
- Requests EPA withdraw enforcement order
- Discussions between two countries – “not negotiations”
- State Department, DOJ and EPA discussing a CA proposal without involvement of CCT or State of Washington

# A Clean Columbia

- ❖ A national treasure -- includes a National Recreation Area
- ❖ Key to regional sustainable development through tourism and recreation
  - Counties rank at bottom in WA for personal per capita income
- ❖ U.S. taxpayers should not be forced to pay for the cleanup of waste generated by Teck Cominco



# A Clean Columbia Furthers the Best Interests of the United States

It's important to the *health and economic well-being* of Tribal and local non-Tribal users as many

- ❖ depend on a healthy river and fishery for their income
- ❖ single largest employer, Tribes, have businesses dependent on safe fish and a healthy river attractive to tourists



(Tourism expenditures were nearly \$300 million in 1994.)



The Tribes look to the Department of Justice and EPA to honor the trust obligations owed by the United States to the Tribes.

The Columbia River is the home and traditional territory of the Tribes that reside within the Reservation.

Tribal subsistence users still depend on the fish from the River and game watering in it.

The River remains a spiritual and cultural center.

# Federal Trust Obligation

- Executive owes duties to:
  - Act with care and loyalty
  - Make trust property income productive
  - Enforce reasonable claims on behalf of Indians
  - Take affirmative actions to preserve trust property

# Summary

- Upper Columbia River is seriously contaminated causing risk to health and environment.
- Major source – Cominco's lead-zinc Smelter in Trail, BC – just across the border
- Cominco has a history of non-compliance and culture of disregard for health and the environment.
- These practices have left a legacy of risk and injury in Washington and on the Colville Reservation.
- Cominco has profited at the expense of the United States and the Colville Tribes.
- The site qualifies for the NPL.
- An RI/FS or a Superfund equivalent is required.

The Earth and myself are of one  
mind. The measure of the land  
and the measure of our bodies  
are the same.

Himmaton Yalatkit (Joseph)  
Nez Perce Chief