



# *Unintended Outcomes from the Moratorium on Prescribed Fires?*

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# Disclaimer

*This presentation represents the author's opinion and thoughts only. Information in this presentation does not represent any official position(s) by the U.S. Department of Energy or any other Agencies.*



A scene from  
the Cerro  
Grande  
Wildfire

## *Additionally....*

*It's not the purpose of this presentation to be skeptical of the 2000 moratorium on prescribed fires. Rather, the purpose is to stimulate a questioning attitude which contemplates different outcomes than the ones intended*

You will never **reach**  
**your destination**  
if you stop and throw stones  
at **every dog that barks.**

– Winston Churchill



# A Prescribed Burn at Hanford



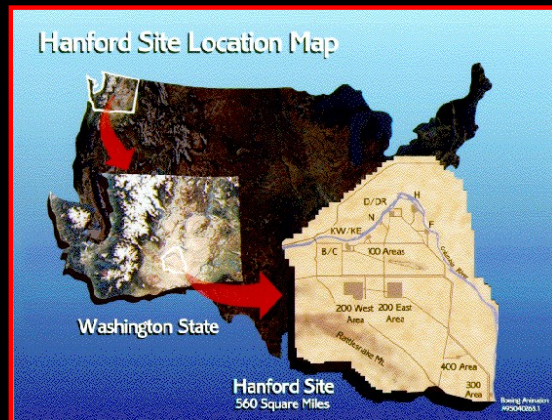


# Background

- **May 4-19, 2000 Cerro Grande wildfire (LANL).**
- **Before the end of May 2000, the DOE Secretary suspended all prescribed fires on DOE sites due to the LANL fire.**
- **This ‘moratorium’ was extended until DOE HQ conducted a review of policies, practices, and LANL lessons learned. It also allowed for a ‘waiver’ at DOE HQ Senior Level approval.**
- **A draft moratorium letter was shared with some site offices to obtain their input. 1 months and 3 days later, the wildfire near Hanford started.**

## *Are these unintended Outcomes from the Moratorium on Prescribed Fires?*

- A June 27-July 1, 2000 wildfire, which started near Hanford, involved fire on 300 square miles of both public and private lands, including loss of properties in nearby community of Benton City
- A \$108 Million Civil Lawsuit



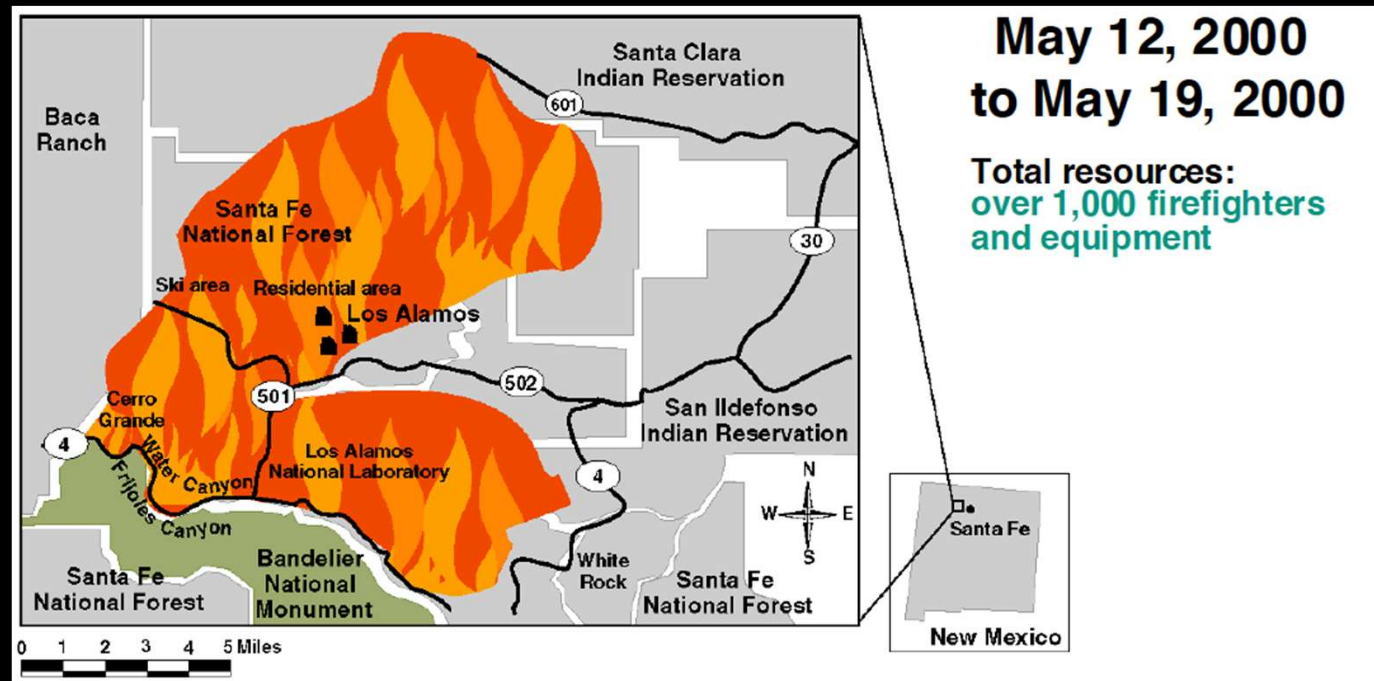




## **Year of the Moratorium & Large Wildfires at DOE Sites**

- **May 4-19, 2000 Cerro Grande wildfire burned ~ 43,000-acres including community homes and LANL structures.**
- **June 27-July 1 Hanford Wildfire burned ~164,000 acres of land both on and off the Hanford Site –light property damage at Hanford (e.g. trailer, storage shed, pickup truck). Damage occurred to some homes, structures, and vehicles offsite.**
- **Idaho National Engineering and Environmental Laboratory – Three wildfires in July, August, and September 2000 burning total of ~ 62,000 acres. No property damage.**

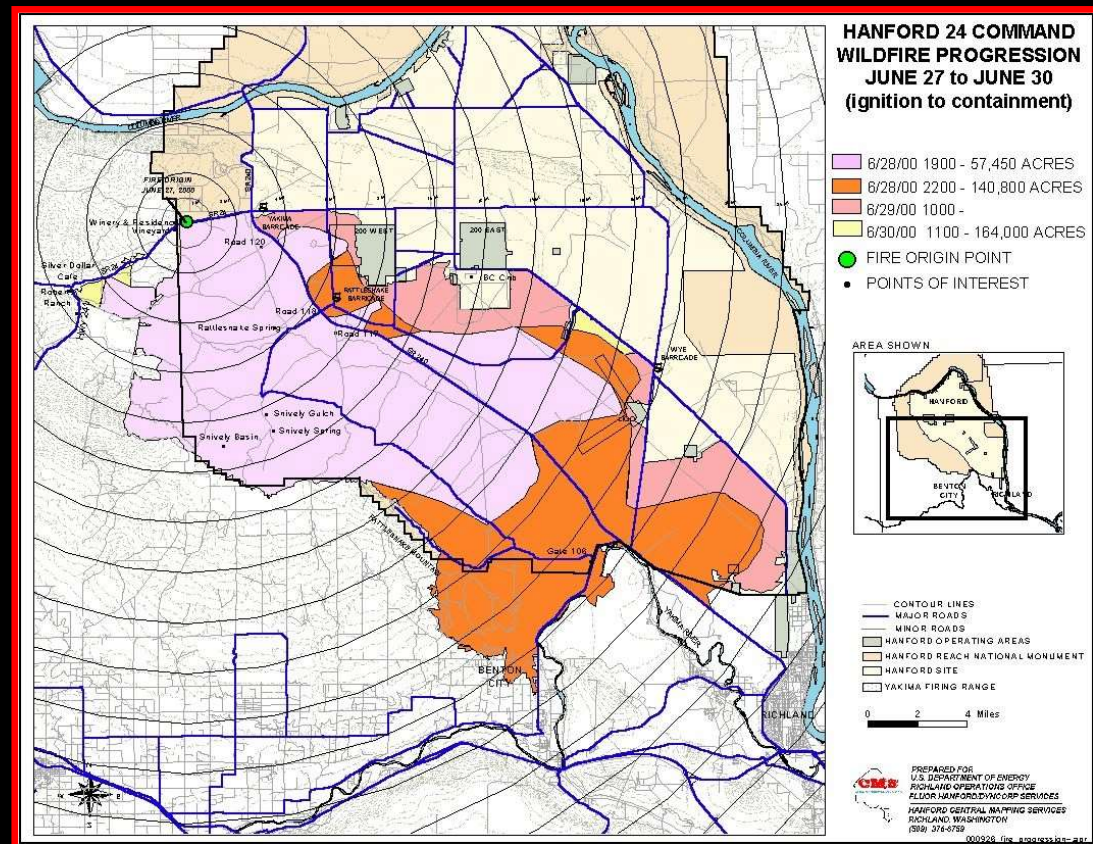
# Cerro Grande





# Hanford with Off-Site





# INEEL

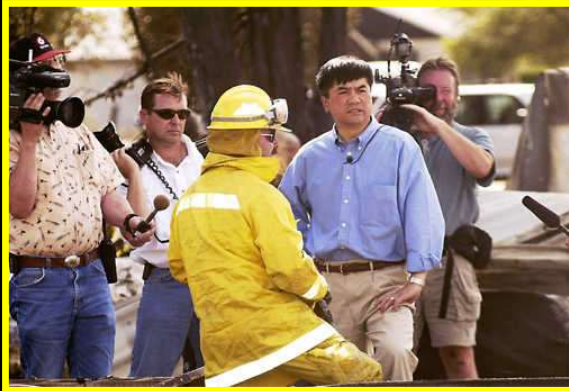







# The Hanford Wildfire

- Named the *Command 24 Wildfire*
- The fire started when a passenger vehicle and semi tractor-trailer collided on Washington State Route (SR) 24 near Hanford. The passenger in the vehicle was a fatality.
- The vehicle fire resulted from the accident quickly igniting a semitrailer hauling hay, with fuel and vegetation on both sides of the highway. This highway runs through the west side of the Hanford site.
- An abundance of natural fuels and adverse weather conditions, including high winds, allowed the fire to move off the highway rapidly consuming an average of 2,000 acres per hour. During one 90-minute period, the fire traveled 20 miles.
- Over a 4 day period, the Hanford Fire Department, local, state and National fire resources were used to fight fire.

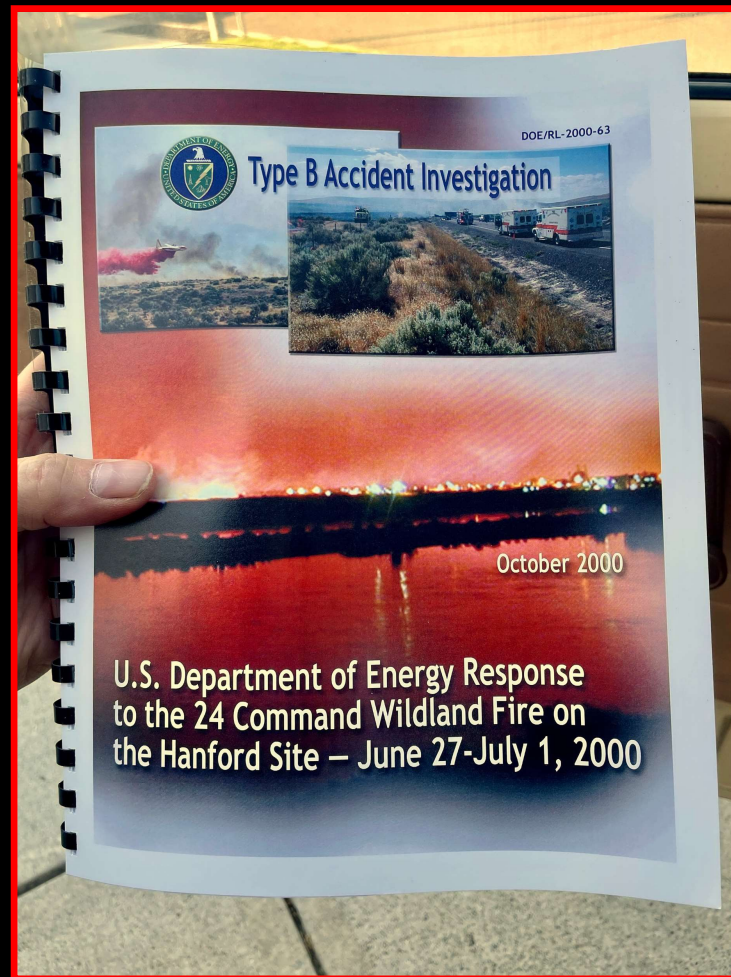




## DOE completed a Type B Investigation to evaluate the planning and response to the Hanford fire

- **The DOE Board concluded (October 2000) that the Hanford Fire Department response to the initial event was proactive and timely.**
- **The fire was an immediate and spontaneous result of the vehicle accident.**
- **The lack of maintenance of defensible firebreaks along state highways running through the Hanford Site allowed the fire to spread quickly to natural vegetation, burning onto the Hanford site.**







## Additional DOE Type B Investigation Conclusions

- The Board also concluded that the maintenance of defensible firebreaks around facilities and storage areas and having roofing systems for facilities that meet UL Class A and FM Class I roofing requirements provided the highest degree of protection against wildland fire. No major structures at Hanford were ever threatened.
- The Type B investigation did not not evaluate the spread of fire to Benton City properties but comparable conditions could be interpreted from the areas touched at Hanford verses why off site properties burned up.

# Old Lab Facilities on ALE





## Closer View



# 200 West Area





# Benton City







## Firebreak Obstacles:

- **‘Widening’ adjoining highways on and adjacent to the site were used for many previous years to prevent offsite fires gaining access to site.**
- **Soil discing practices were previously ceased due to local country clean air authority responses/orders to fugitive dust complaints.**
- **Other competing issues occurred (concerns for natural and cultural resource damage in making fire breaks).**
- **Herbicide methods were deployed around power poles and railroad track crossings but limited effects for long highway stretches and poor results with large tumbleweeds.**
- **Prescribed burns were done in small sections at a time but ceased during moratorium.**




## The \$108 Million Civil Suit

- **More than 100 homeowners, landowners, public agencies and insurers sued the U.S. Government stating DOE was responsible for their property loss and two wrong full deaths\* from the Command 24 wildfire which eventually burned into Benton City.**
- **The Plaintiffs included many individuals, some insurance companies with subrogated claims, a neighboring ranch, as well as Benton County.**

\* In addition to property loss, the suit claimed that the fire was also responsible for two deaths. 1) A man who suffered burns when his home was surrounded by fire, died several months later of heart failure, and 2) a baby born, shortly after her mother survived/evacuated the fire, died within hours due to complications.





## Lawsuit filed in U.S. District Court, Eastern District Washington Autery v. U.S.

- Plaintiffs claimed the Federal Government did not prevent the fire from spreading from the Hanford Reservation and increased the fire danger through negligence.
- Plaintiffs claimed that DOE knew they would have this fire, based on email from **DOE FPE** to a **DOE EM HQ FPE** in response to the draft moratorium memo which was being developed before the fire.



# DOE official warned of fire

■ *District court judge to decide if Feds liable for '00 Hanford blaze*

**By Annette Cary**  
Herald staff writer

A Department of Energy official warned of the possibility of a "mother of all fires" because of a lack of fire prevention work just a month and three days before the Hanford fire of 2000.

"I predict we will ultimately have a very large wildland fire in the near term future similar in size to the 1984 Hanford Range Fire," Craig Christenson, DOE's program monitor for the

Hanford Fire Department in 2000, said in an e-mail sent from DOE's Richland office to DOE headquarters.

The prediction turned out to be right. The 2000 fire started with a car and truck crash on Highway 24 and spread across 256 square miles, destroying 10 homes.

On Jan. 7, a Federal District Court judge in Richland is scheduled to consider whether the federal government may be held liable for the fire, which quickly spread across what used to be a wide firebreak along the road and south across the

See **Fire**, Page A2

*A DOE official warned of the possibility of a "mother of all fires" because of a lack of fire prevention work just a month and three days before the Hanford fire of 2000*

*I predict we will ultimately have a very large wildland fire in the near term future....*

*The prediction turned out to be right*





# Lawsuit Basis

- **DOE knew of the fire hazard.**
- **When an entity creates a hazard on their property which endangers a neighbor's property, the entity is potentially liable for resulting damages.**
- **The Federal Tort\* Claims Act creates a limited waiver of sovereign immunity by the United States, providing that the United States may be liable to the same extent as a private party.**


\* Tort is a wrongful act or an infringement of a right leading to civil legal liability





# Lawsuit and Appeal Results

- After many disclosures, several depositions and several years, judgment was entered in favor of United States.
- Subsequent appeal failed to overturn judgment - Federal Government/Taxpayers were not liable for any claims.
- DOE/contractors did not start fire.
- DOE/contractors were not managing the fire response at the time fire made it to Benton City. DOE resources were used to protect the site. Other agencies were managing off site fire during that period.
- DOE/contractors did not create the hazard. Hazard was created from naturally occurring fuels.
- There was no statute, duty, or requirement to widen the highways to make wider firebreaks.



So if there wasn't a moratorium,  
and the fire breaks had been put in  
place, would there have been the  
300 square miles burned and a \$108  
Million Suit?



# Debate

- **The DOE AI Report concluded** “The lack of maintenance of defensible firebreaks along state highways running through the Hanford Site allowed the fire to spread quickly to natural vegetation, burning onto the Hanford site.”
- **However, HFD Chief Don Good deposition stated it was speculation:** “...there's no way to tell whether that fire would have been stopped by that firebreak being maintained or not being maintained. I've seen fire jump the [Columbia] River, I've seen fire jump the Yakima River, I've seen fire jump four-lane highways.”

# Lessons Learned

**What are some things  
DOE could have done  
better pre and post of the  
Cerro Grande wildfire?**



A Report to the Secretary of Energy

## Initial Joint Review of Wildland Fire Safety at DOE Sites

*December 2000*





# Initial Joint Review

- **Conduct a complex wide initial joint review of the adequacy of fire safety programs and related emergency management capabilities.**
- **Appointed a commission of nationally recognized experts and chartered it to provide an independent perspective on the adequacy of DOE's fire safety programs**
- **Develop and execute a memorandum of understanding with the Departments of Agriculture and Interior to initiate and formalize cooperative efforts in the areas of wildland fire planning, preparation, prevention, and response.**



# Lessons Learned

- What are some things DOE could have done better pre and post of the Cerro Grande wildfire?
- Be careful what's put into an email in the heat of the battle while defending fire safety. Good intentions can result in unintended outcomes.
- Strive to present the truth, stick to the facts, and don't take things personal.
- Provide management with what they **need to hear, not what you think they want to hear**. Correctly characterize your issue. Provide/document your professional opinions, but in the end it's going to be their call.





# Additional Lessons Learned

- **Many organizations of DOE strive to be transparent, however there are many moving parts in DOE. Recognize that, for many reasons, Accident Investigation final reports may not always fully accurate and most likely will not answer all questions.**
- **There will be different public and personal views of the events and causes which are not consistent with the facts. These are often difficult to straighten out.**
- **Civil lawsuits don't necessarily seek the truth or the facts. Often they just seek awards and facts may not actually matter.**

# Questions

