

PUBLIC PARTICIPATION IN NRC REGULATORY DECISION- MAKING

January 31, 2013

Philip R. Mahowald
General Counsel
Prairie Island Indian Community

PINGP & PIIC Aerial View



Photo By: Mark Fredrickson

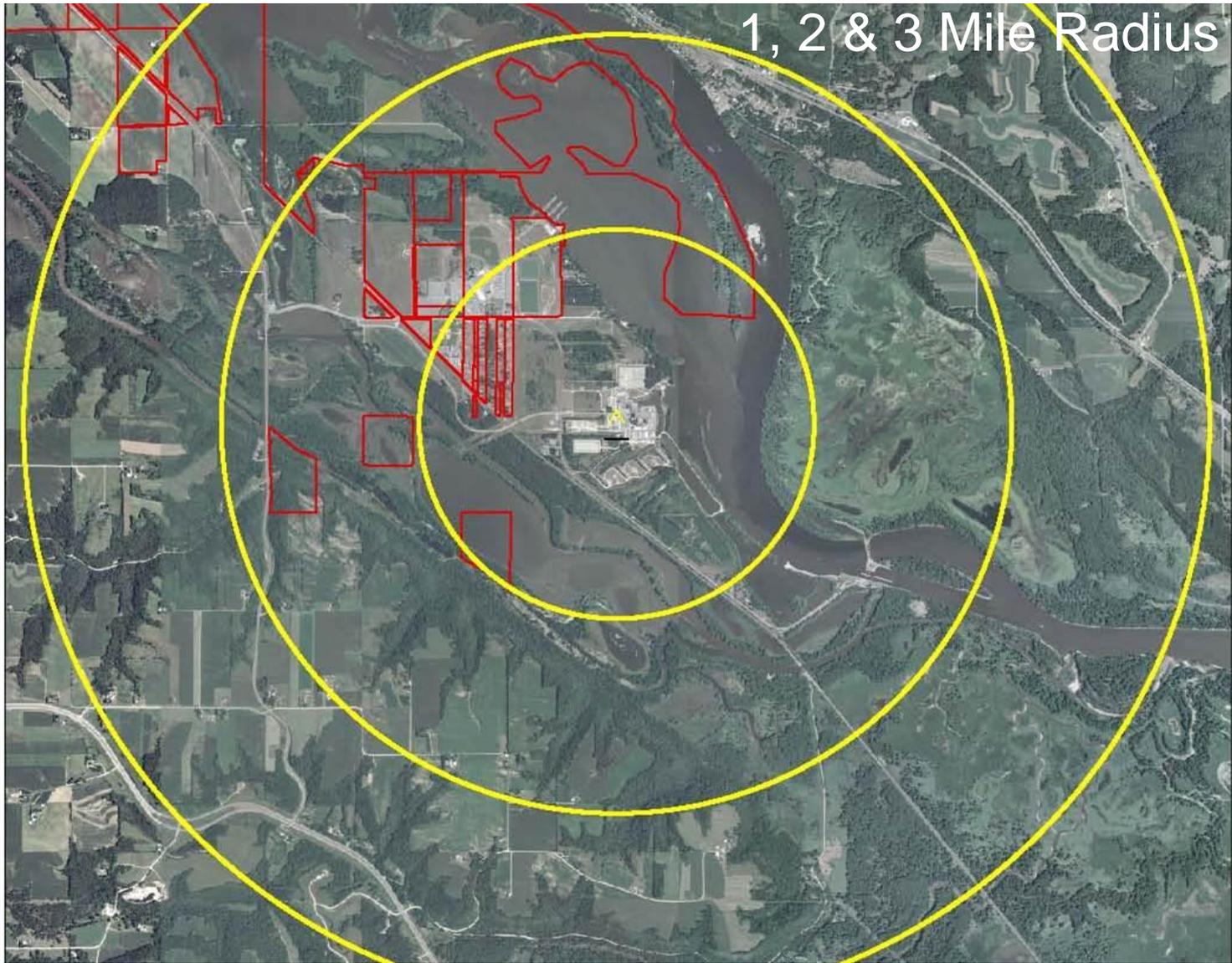
PIIC & PINGP Aerial View

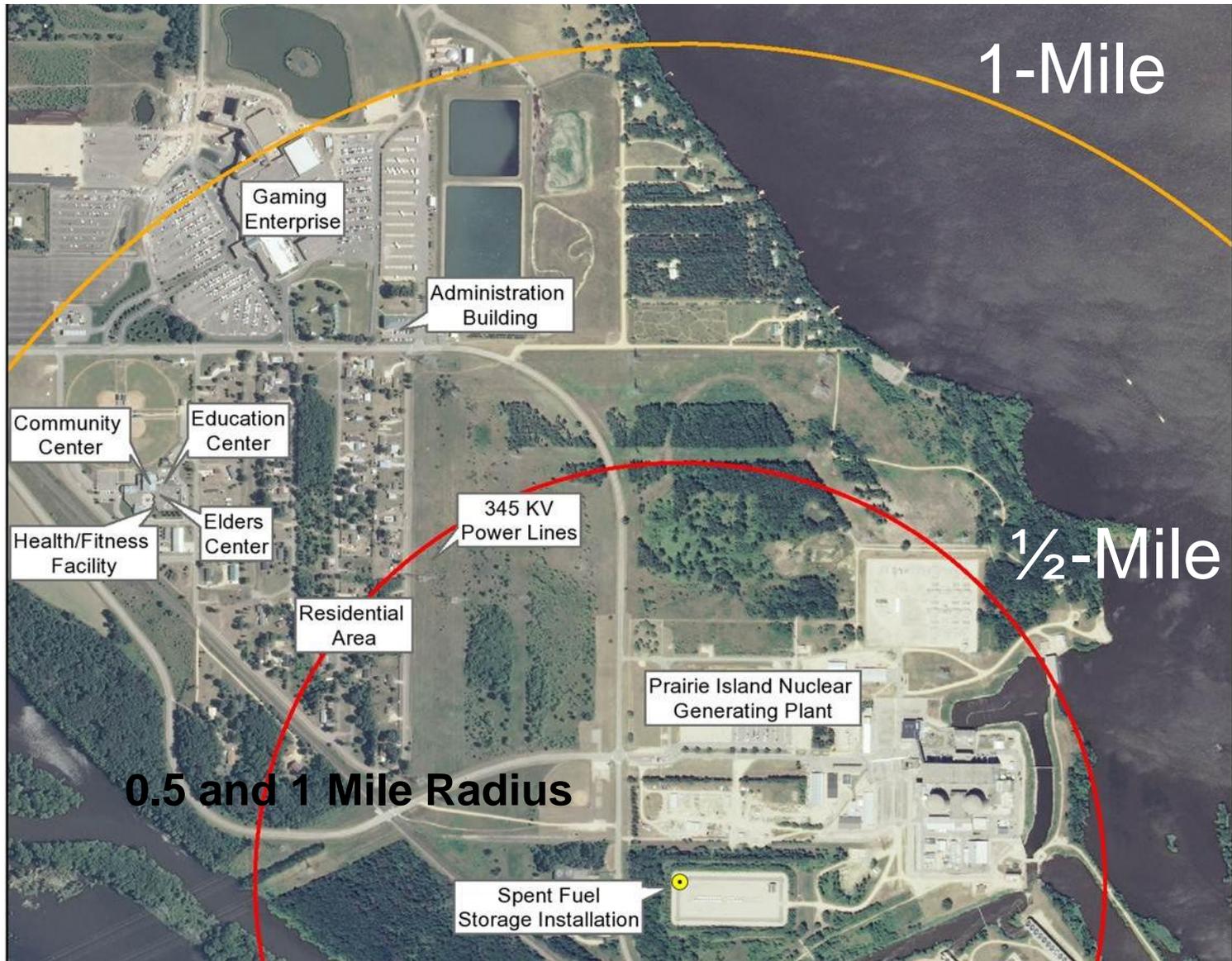


Photo By: Mark Fredrickson

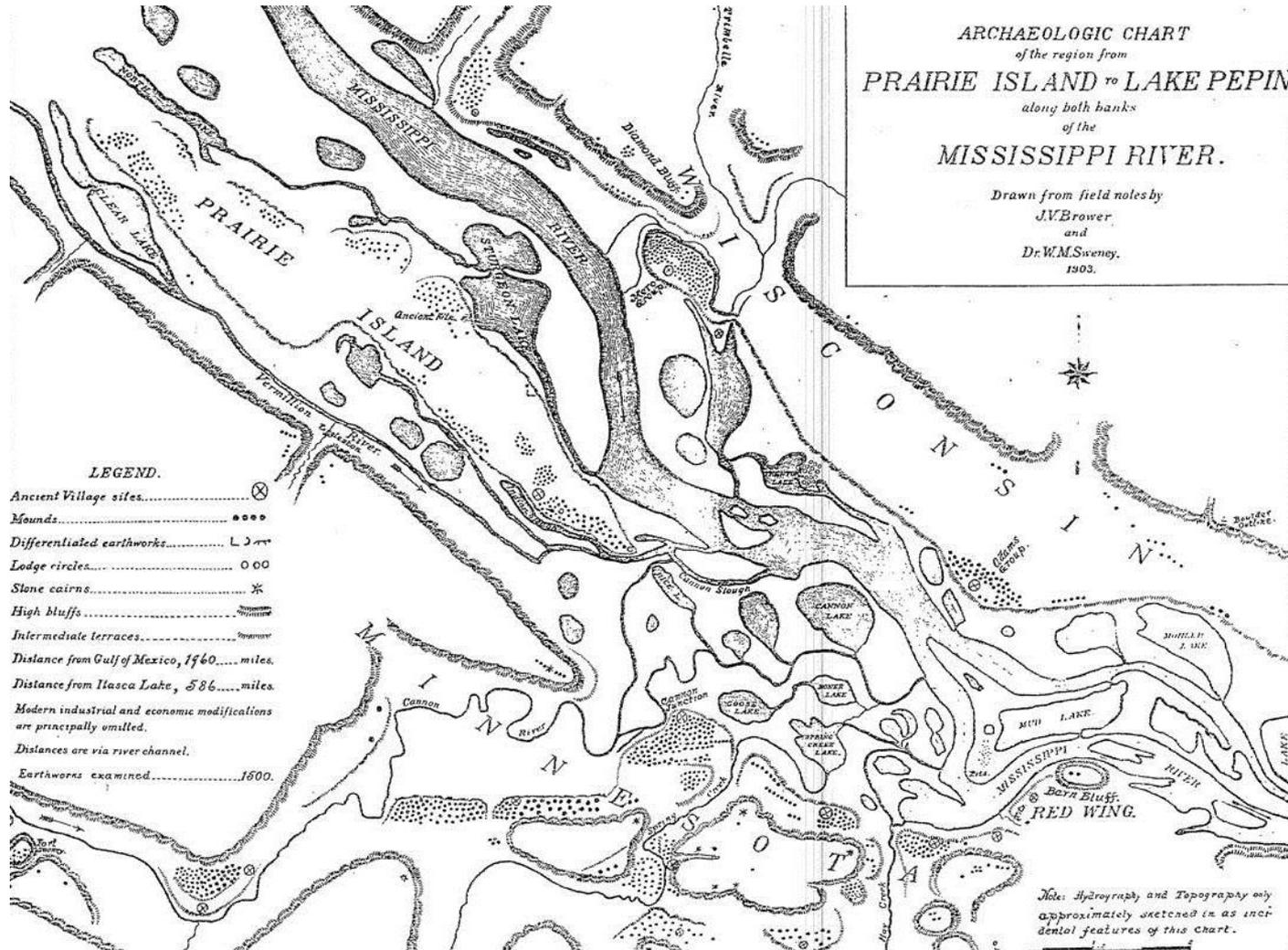
NUREG-1350, Appendix U - 50-Mile Radius



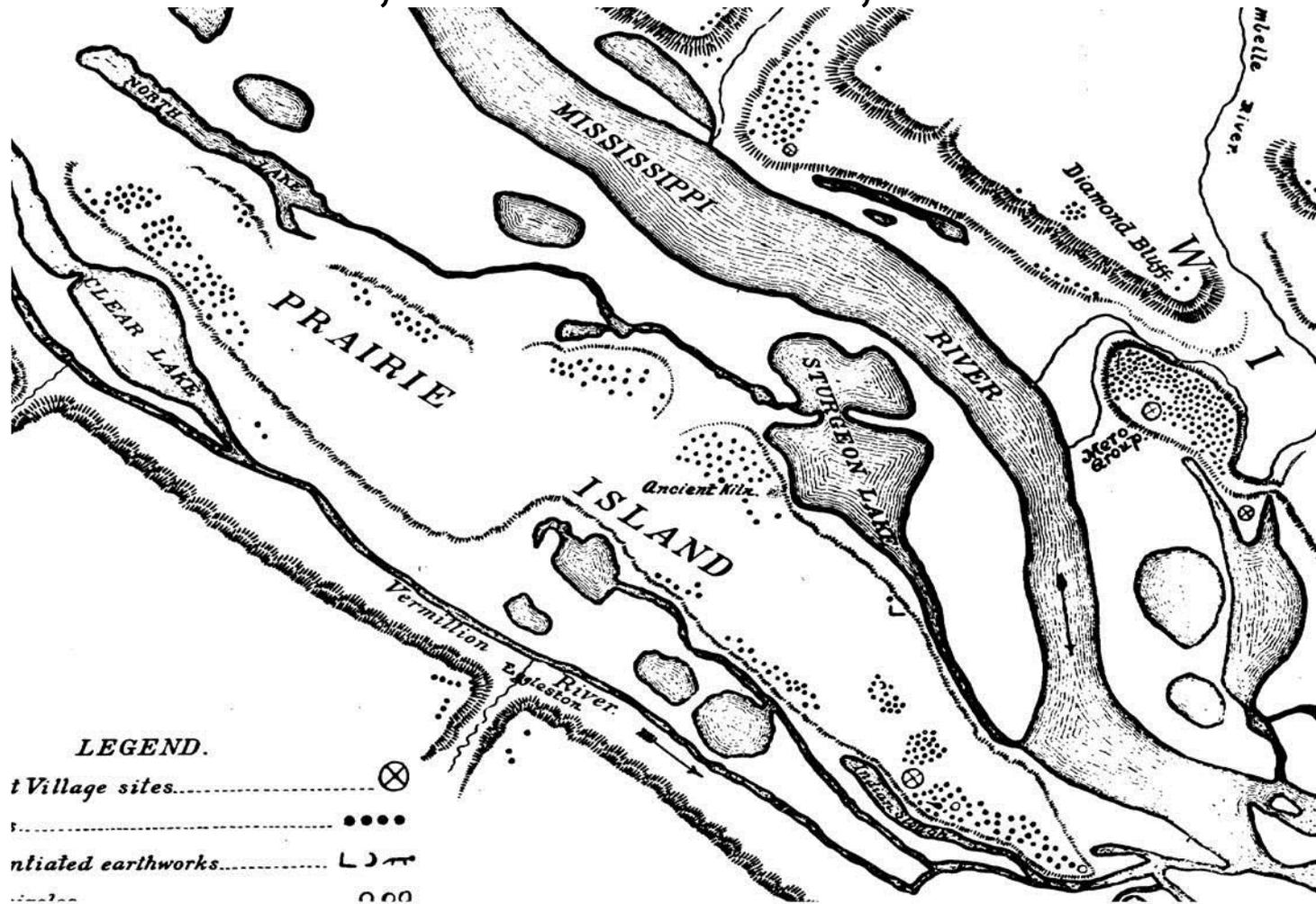




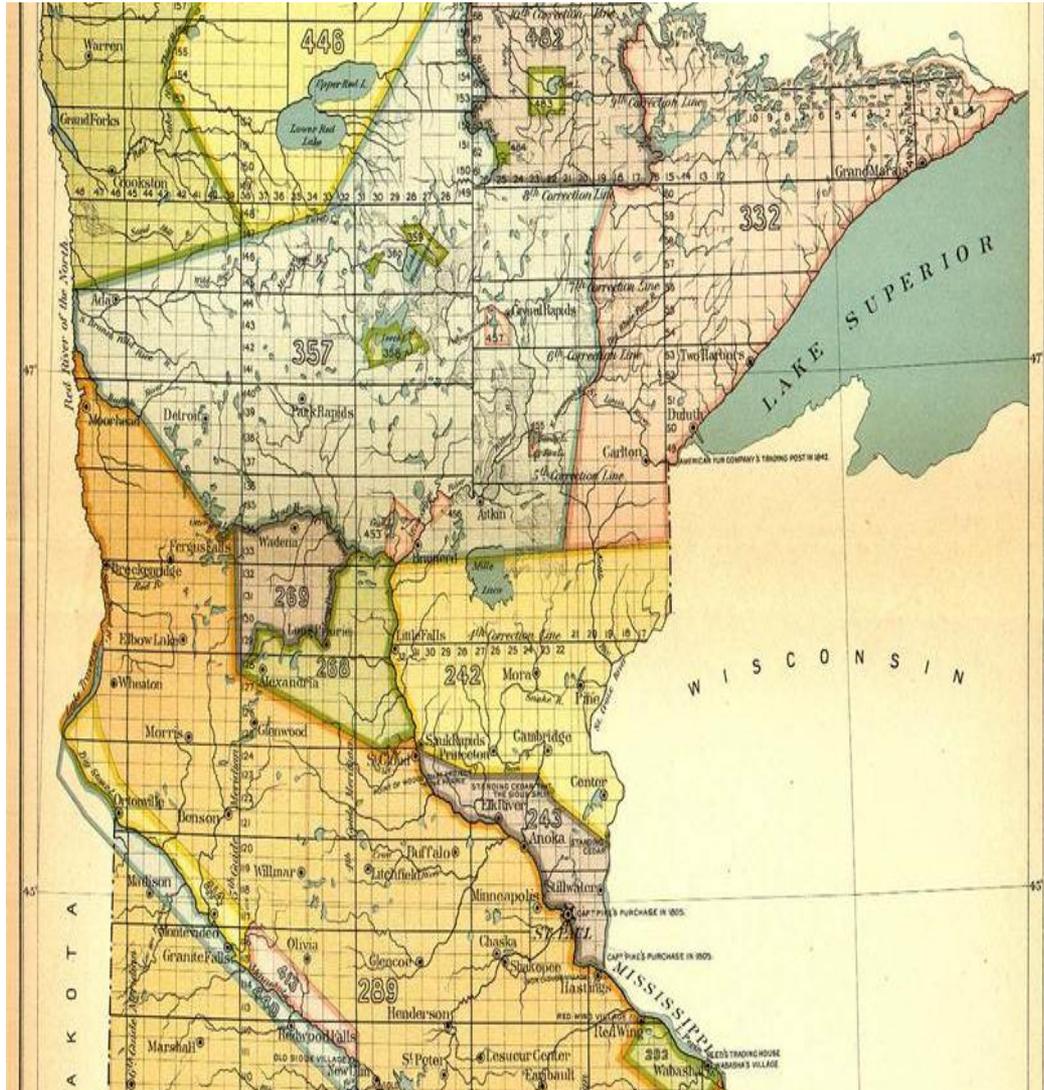
Archaeological and Cultural Resources



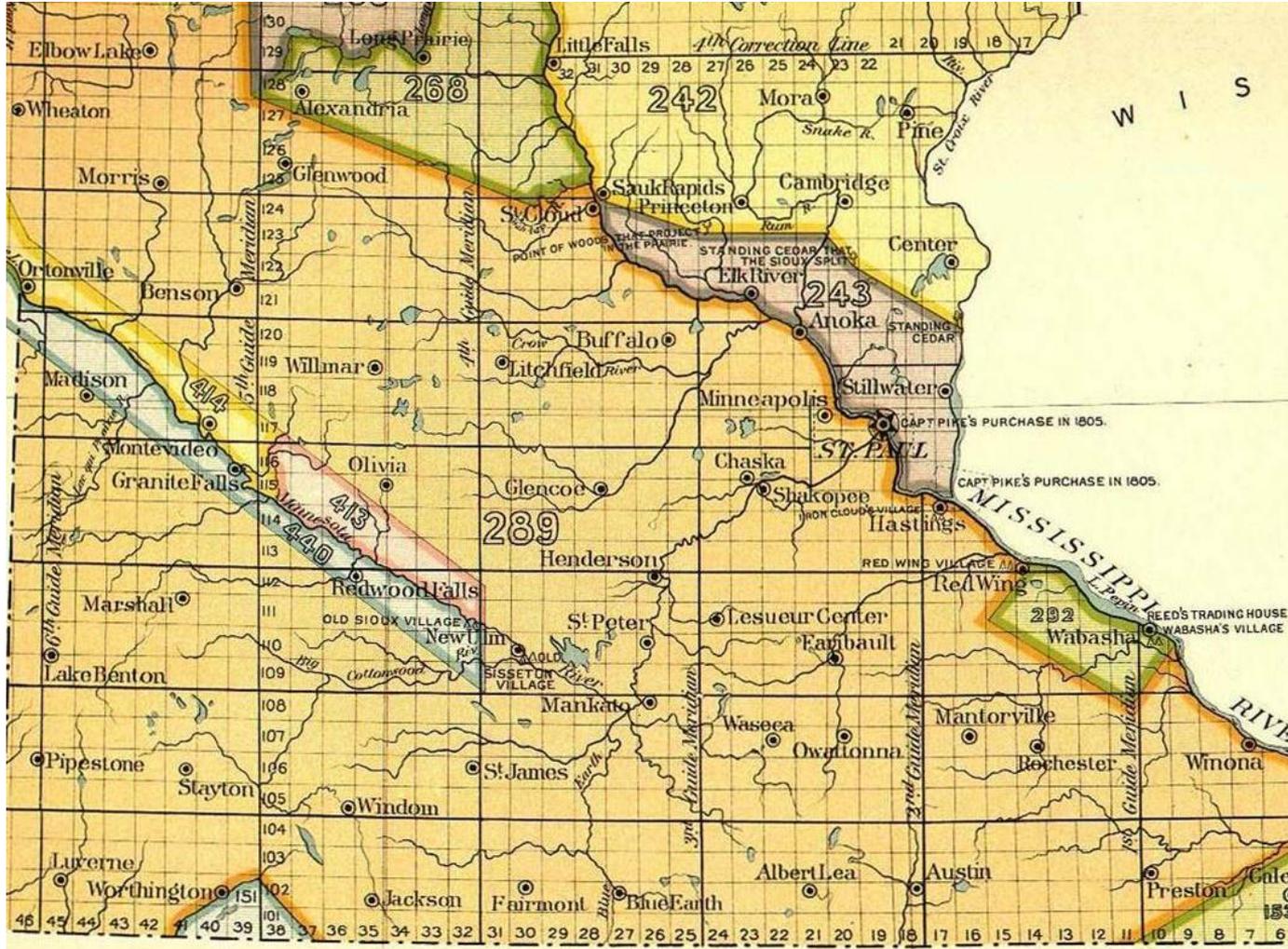
Burial Mounds, Sacred Sites, Ancient Villages



Ancestral Lands and Ceded Territory



Usufructuary Rights



Evolving Tribal Standing Analysis

- Compare *Northern States Power Co.* (Independent Spent Fuel Storage Installation), LBP-96-22, 44 NRC 138 (1996) with *Northern States Power Co.* (PINGP Units 1 and 2), LBP-08-26, 68 NRC 905 (2008) and *Northern States Power Co.* (PINGP ISFSI), LBP-12-24 (December 20, 2012).

Agency Tribal Relationships - the Environmental Context (1)

- The Indian Trust doctrine
- Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
 - The United States has a unique legal relationship with Indian Tribal governments
 - Recognizes the right of Indian Tribes to self-government and tribal sovereignty
 - Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies which affect the Tribe

Agency Tribal Relationships - the Environmental Context (2)

- Environmental justice analysis
- Agency Tribal Policies
- Cooperating agencies in the development of EIS

NRC Policies and Protocols

- MOU with the Prairie Island Indian Community of the preparation of the EIS on the license renewal of the Prairie Island Nuclear Generating Plant and the EA for the PINGP ISFSI.
- No overall Native American Policy but recently issued Native American Tribal Protocols
- NRC organizational structure specifically includes Native American considerations

Consultation

- Government-to-Government
 - Tribal Protocols
 - Tribal Councils
 - Tribal staff
- Early in the NEPA process
 - Not at the “public” meeting stage
- Meaningful involvement

Tribal Participation in NRC Regulatory Decision-Making

- Depends on the Tribe
- Competing interests
- Resources may be an issue
 - Financial
 - Human
 - Technical

Tribal View of NEPA

- Mitakuye oyasin (All things are related)
- Integrated and cumulative impacts
- Holistic view
 - Power plant complex is one entity

Tribal Expectations

- Meaningful involvement in process
- More than “consideration” of concerns
- Fullest protection of human health, the environment, natural and cultural resources

Questions?

- Phil Mahowald
- pmahowald@piic.org
- (651) 267-4006