

Nez Perce Tribe's Summary of Recommendations to the Blue Ribbon Commission on America's Nuclear Future

The Nez Perce Tribe is a federally recognized sovereign government whose aboriginal territory encompasses over 13 million acres in what are now Idaho, Washington, Oregon, and parts of Montana. By virtue of the Treaty of 1855 with the United States, 12 Stat. 957, the Tribe reserved, among other guarantees, reserved rights to take fish at all usual and accustomed places, as well as hunt, gather and pasture animals on open and unclaimed lands. These reserved rights extend to the areas known as the Hanford Reservation, as well as the Hanford Reach of the Columbia River (collectively Hanford). In addition to the Nez Perce Tribe's treaty-reserved rights, the Tribe has also identified since time immemorial various lands within Hanford as sacred or culturally significant. Tribal access to these lands for ceremonial purposes also remains a vital component of Nez Perce culture and identity.

As a fiduciary, the United States and all its agencies have a trust responsibility to the Nez Perce Tribe and other federally-recognized tribes. The trust obligation includes a substantive duty to consult with a tribe in decision-making to avoid adverse impacts on treaty resources and a duty to protect tribal treaty reserved rights. Agency action seeking to change or reinterpret existing law shall not abrogate the treaty rights of the Nez Perce Tribe.

The Nez Perce Tribe believes that the ultimate goal of any nuclear waste disposal plan must be to protect the air, soil, groundwater, and surface water in such a manner that allows unrestricted tribal access to affected areas. Tribal members, ecological resources, and cultural resources should not be exposed to any potential adverse risk above that which has always existed prior to the establishment of federal projects or facilities designed to store or dispose of nuclear waste.

The Nez Perce Tribe opposes storage, processing, and disposal at Hanford of civilian and defense waste, used nuclear fuel, high-level waste, and materials derived from nuclear activities. Recognizing that cleanup or disposal technology for some contaminants may not be currently available, the Nez Perce Tribe will work with the United States to further reduce the levels of any residual contamination until such technology becomes available. Interim actions must provide the greatest degree of human and ecological health protection. If physical or institutional controls are selected as options for safe storage, the recovery curves must be calculated so that negative impacts to treaty rights can be avoided.

It is the recommendation of the Nez Perce Tribe to the Blue Ribbon Commission on America's Nuclear Future that all High Level radioactive waste be disposed in a deep geologic repository, in a tectonically stable portion of the North American Craton. The decision should be made in a scientifically sound manner taking into account known risk factors and acknowledging that we do not know future population dynamics, future technologies for potential access to buried material, or future needs for the material.