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# Hanford Tribal Stewardship

Nez Perce Tribe

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# FINAL REPORT

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Prepared for:

Nez Perce Tribe

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*"I think one of the most important issues about the Hanford Reservation are the human remains that are still there and the artifacts and the problems that the Reach is experiencing with the nuclear waste and pollution that will remain. I think the tribes should be allowed to commemorate, honor and memorialize anything that is found there and whatever is found there needs to be left there. We need to get away from that mentality that says, "it's an archeological find or a dig and therefore we need to take everything and put them in a museum somewhere." Those artifacts do not belong in a museum, they belong in the earth where they were placed and where they are supposed to remain. When you start doing things like that, you're breaking that circle and that cycle that is so important for future generations."*

*Carla HighEagle (Nez Perce)*

**Background**

The Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes and Bands of the Yakama Indian Nation, and the Wanapum Band have significant cultural, traditional and religious interests in protecting the Columbia River ecosystem of the Hanford site.

The health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the Nez Perce Tribe as well as all affected tribes of the Nuclear Waste Policy Act. The Hanford Reservation and Columbia Basin area has been used since time immemorial and is a prehistoric and historic traditional use area for many tribes and their members. This area has been used as a burial area, village and camp habitation area, and traditional and medicinal resource gathering/use area.

Since time immemorial, the first Americans have been a part of the natural ecosystem of Hanford. Following the coming of Euro Americans, use of the Hanford site by indigenous peoples was severely curtailed, but not extinguished. The Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes and Bands of the Yakama Indian Nation all have important rights recognized and guaranteed in the Treaties of 1855. In addition, the Confederated Tribes and Bands of the Yakama Indian Nation and the Confederated Tribes of the Umatilla Indian Reservation, in the Treaties of 1855, ceded the land on which Hanford is located to the United States. The tribes never ceded the right to practice their traditional and ancient spirituality throughout their ancestral lands. The area that encompasses the Hanford reserve continued, up through 1943, to provide the tribes with traditional foods and medicines that were harvested throughout the year. Deer and elk augmented the salmon, and supplied meat, clothes, and tools. In 1943, with the establishment of Hanford, the government restricted the ability of the Tribes to exercise the rights guaranteed them under the treaties. The Tribes continue to view all of Hanford as a cultural reserve with

abundant natural resources and critical habitats as well as many sites of significant historical and spiritual importance to the Yakama, Umatilla, Wanapum, and Nez Perce peoples.

Like the legacy of Chernobyl lives on, so does every site on U.S. grounds that were sacrificed in the name of the Manhattan project, more specifically the Hanford Reservation. These battle wound scars are spread throughout the United States ranging from the Atlantic to the Pacific coast, like nuclear landmines.

The U.S. faces a dilemma of dealing with these residual radioactive wastes for hundreds to thousands of years. Whether it is cocooned monolith reactor cores along the Columbia River, Low-Level radioactive landfills (ERDF), or wastes transported for storage from one site to another traveling through various state boundaries and tribal reservations.

The DOE Hanford legacy liabilities stem from weapons development, nuclear energy and industrial processes, resulting in contamination that will last thousands of years. It is clear that residual contamination will remain on site and will preclude unrestricted future access to cultural resource sites and traditional land use activities creating long-term responsibilities.

The development of a Long-Term Stewardship program is a monumental task, affecting Tribes, States, local communities and future generations. All entities affected must focus on how to safeguard current and future generations from contaminated soil, ground and surface waters, contaminated buildings, cultural resources, and the human remains of tribal descendents.

It is uncertain what the roles and responsibilities of Indian Tribes are under DOE's Office of Legacy Management and more specifically on the Hanford Reservation. It is the Nez Perce Tribe's responsibility to protect, preserve and perpetuate tribal treaty rights, cultural and natural resources, and the health of the Nez Perce people and future generations. With this in mind, the Nez Perce Tribe is dedicated to minimize the future impacts and environmental burden upon our children.

**Nez Perce Tribal Participation on the Hanford Reservation**

The United States has long recognized the dependent sovereign status of Indian tribes. Principles outlined in the United States Constitution and treaties, as well as those established by Federal laws, regulations, and executive orders, continue to guide the nation's policy toward Indian nations.

The Department of Energy (DOE) conducts its government-to-government relationships with Federally recognized Indian tribes as a part of its obligations, just as it does with states, counties, and local governments. The relationship the Federal

government maintains with tribes is unique and necessarily involves consultation with tribal governments. The DOE is responsible for assessing the impacts of agency activities, considering tribal interests, and assuring that tribal interests are considered in conjunction with Federal activities and undertakings.

The DOE recognizes that tribal governments are sovereigns located within and dependent upon the United States. Yet tribes have rights to set their own priorities, to develop and manage tribal resources, and to be consulted in Federal decisions and activities having the potential to affect tribal rights. The DOE has a responsibility to help fulfill the United States government's responsibilities toward tribes when considering actions that may affect tribal rights, resources, and assets.

To assure the protection of resources important to the Nez Perce Tribe throughout its ceded lands (13.5 million acres in Idaho, Oregon and Washington), and to more efficiently utilize its limited resources for environmental protection and management, the tribe monitors Department of Energy clean up activities on the Hanford reservation located in Eastern Washington.

The Nez Perce Tribe, Environmental Restoration and Waste Management (ERWM) Department's main purpose is the oversight and participation in the clean-up and restoration at Hanford Nuclear Reservation, Washington. The basis for the Tribe's involvement is the Treaty of 1855, in which the Federal Government acknowledged and committed to protecting our retained Columbia River rights. Resource Areas in the Hanford Reach and elsewhere are protected by treaties and provide the basis for the relationship between the U.S. Department of Energy (DOE) and the Tribe.

In addition to the oversight and participation in the Hanford environmental restoration, the department's areas of concern include treaty rights, policy issues, health issues, environmental regulations, cultural resources, public information, and tribal human resource development.

The Hanford Cultural Resource Management Team ensures the unique cultural resources that exist throughout the Hanford area are preserved. The Nez Perce Tribe considers cultural resources to include archeological resources as well as natural resources, since culture and nature are inseparable. The program consists of a Program Coordinator, Cultural Resource Specialist, and Technician/Monitor. The program performs cultural resource reviews of Hanford environmental restoration and construction projects and consults with the Confederated Tribes and Bands of the Yakama Indian Nation, Confederated Tribes of the Umatilla Indian Reservation, and the Wanapum Band.

Currently, the Department of Energy (DOE), Washington State Department of Ecology (Ecology), the Environmental Protection Agency (EPA), the affected tribes, the State of Oregon, and citizens through the Hanford Advisory Board continue to work towards the clean-up of the Hanford Site. The Nez Perce Tribe has participated in this process since 1992. The Environmental Restoration and Waste Management (ERWM)

program was established through a co-operative agreement with the Department of Energy for the purpose of technical consultation and as a vehicle through which the Tribe could make known its cultural and common sense values for use in cleaning up the site. For the past several years, the ERWM has participated on a technical level in the acquisition of data and information that can be used in the decision making process. At this time, much of that data gathering has occurred and critical decisions are being made. The time now has now come for the Department of Energy, Ecology and the EPA to start making decisions as to the final disposition of the Hanford site as it is cleaned. It now becomes critical that the Tribe establish and issue their official policies stating what the Tribe expects as a Hanford end-state and how the Tribe would plan to utilize the site during restoration and upon completion of the DOE cleanup mission.

The Nez Perce Tribe has advocated for long-term stewardship because the Hanford site is located within its ceded territory, defined by the Treaty of 1855. Long Term Stewardship is a priority issue for the Nez Perce Tribe and will continue to provide guidance on this process as it evolves, incorporating fundamental tribal social and cultural protective measures. We must preface our history, future generations, cultural practice and beliefs as we assess the implications of this plan on our usual and accustomed treaty rights.

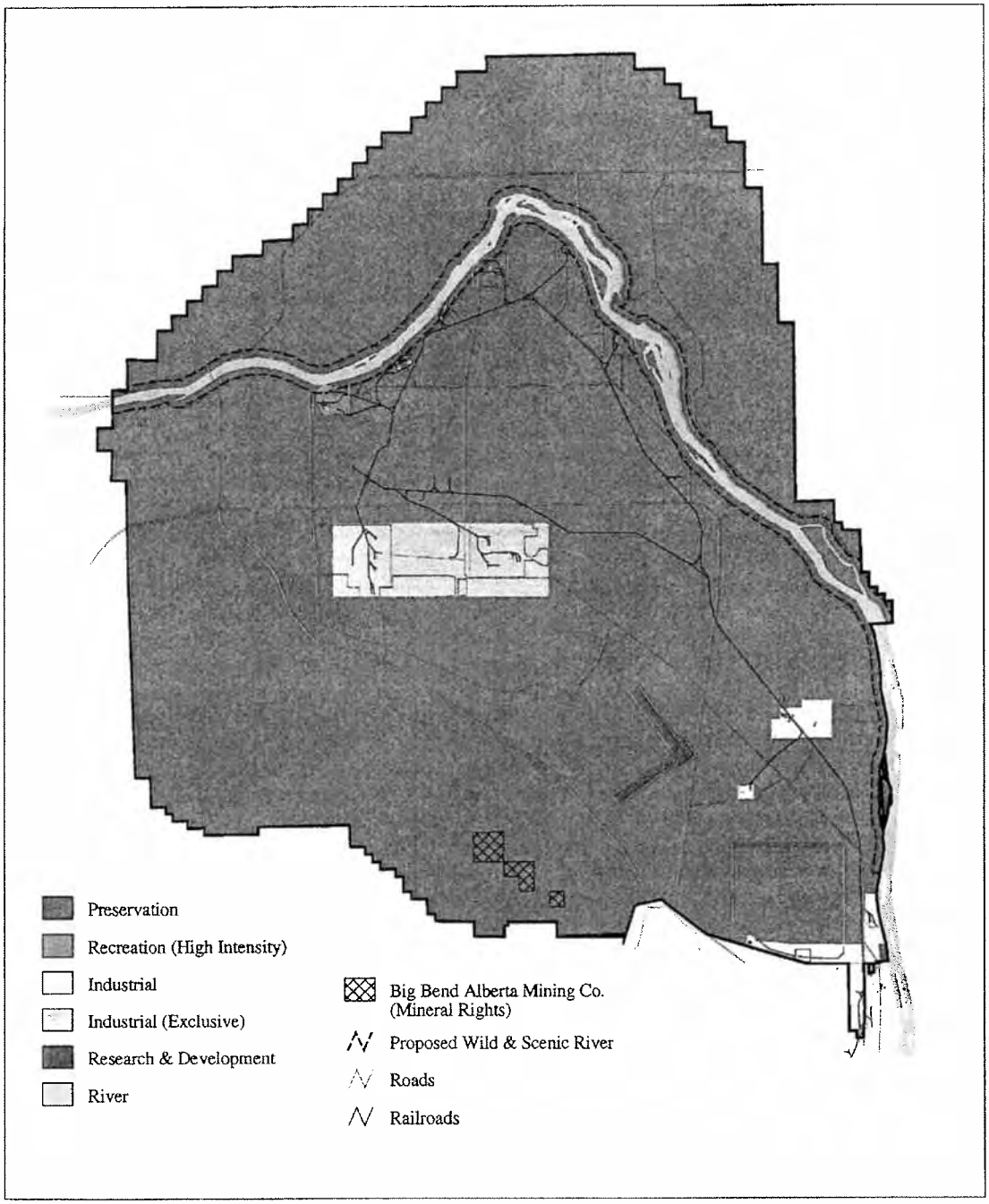
**Hanford Stewardship Initiatives**

What is stewardship? Every land user of Hanford site has their competing concept and definition of stewardship. Currently, it is defined in the Hanford Long-Term Stewardship (LTS) Program Plan as, "*Long-term stewardship at Hanford Site is the management of residual risks (human health, ecological, and cultural) associated with any remaining residual contamination; protection of the Site's cultural, biological, and natural resources; and the reuse of the Site's assets to encourage a healthy regional economy. It begins at clean up completion.*"

One of the basic principles in defining Long-Term Stewardship is based upon the future land uses. Determining the future land use was initiated by the Hanford Comprehensive Land-Use Plan (CLUP), Environmental Impact Statement (EIS) (Sept. 1999). This document was created to evaluate the potential environmental impacts associated with implementing a comprehensive land use plan for the Hanford site spanning the next 50 years. Six alternatives, along with the No-Action alternative, where presented and represented Tribal, Federal, State, and local agency Preferred Alternative.

The Treaty of 1855, is the baseline for environmental and health standards; and land use plan for the Nez Perce Tribe. The Nez Perce Tribe, ERWM, submitted specific comments regarding the EIS along with an alternative that is protective of treaty rights.

## *Figure 3-5. Alternative Two.*




BHI:rpp 04/23/98 clup/alternative2.aml Database: 26-MAR-1999

**Land Use**

***Alternative Two (Nez Perce Tribe, Environmental Restoration and Waste Management Department)***. This Nez Perce alternative calls for preservation of natural and cultural resources and traditional Tribal use at the Site. Future DOE missions would be constrained to the Central Plateau, 300 Area, and 400 Area. Both this alternative and Alternative Four (developed by the CTUIR) reflect Tribal visions and views of Tribal members' treaty rights and traditional Tribal uses of Hanford lands. The Tribes and DOE have "agreed to disagree" on the interpretation of treaty rights on Hanford lands in the interest of moving the EIS process forward. Each party reserves the right to assert its respective interpretation of treaty rights at Hanford.

**The Final Hanford CLUP states the following concerning Treaty Reserved Rights Final EIS Summary**

***Tribal Rights***

Tribal governments and DOE agree that the Tribal governments' treaty-reserved right of taking fish at all "usual and accustomed" places applies to the Hanford Reach of the Columbia River where it passes through Hanford. Tribal governments and DOE, however, disagree over the applicability of Tribal members' treaty-reserved rights to hunt, gather plants, and pasture livestock on the Hanford Site. The Tribal governments and DOE have decided not to delay completion and implementation of a comprehensive land-use plan for the Hanford Site. Instead, the Tribes and DOE have gone ahead with the land-use planning process while reserving all rights to assert their respective positions regarding treaty rights. Neither the existence of this EIS nor any portion of its contents is intended to have any influence over the resolution of the tribal members' treaty rights dispute.

The CLUP was published a few years ago, yet it is not a document that embodies treaty obligations at Hanford. The CLUP was merely a document that allowed the tribes to submit their proposed vision of the Hanford Site for the next 50 years. This document does not go into detailed discussions of how tribal treaty rights would be protected during this time frame. The Nez Perce Tribe's Alternative provides additional testimony protecting tribal treaty rights and gives a vision to work towards.

**Hanford Long-Term Stewardship Program and Transition: Preparing for Environmental Management Cleanup Completion**

A post-review of the document, reveals a stalled transition into long term-stewardship, just as so many efforts have previously witnessed. The Hanford transition Long-Term Stewardship (LTS) plan is another testimony to the failed attempts to proactively address Long-Term Stewardship. The Hanford site cleanup has been impacted by hegemony of politics, models based upon models of scientific uncertainty,

technological alternatives yet undiscovered, and a budget bill increase in astrological measurements.

As for completion of cleanup, currently estimated for completion by 2035, it is based upon a monopoly of DOE complex wide milestones that are inextricably linked to the unsuccessful approach of integrated cleanup. Hanford cleanup and DOE EM missions are not absolutes. Cleanup is a nuance of nuclear complexity and technical shades of gray and failed management initiatives.

*This document was created in order to "identify the initial transition preparation activities that must begin now in order to create a successful future program. This document also describes when LTS ends."*

*"Beginning with the end in mind," the Hanford Long-Term Stewardship Program and Transition is built on a vision that describes a broadly agreed-upon picture so the reader may understand and believe in a valued, mutual destination. The LTS vision at the Hanford Site is that the vitality of human, biological, natural, and cultural resources be sustained over multiple generations. The LTS program's purpose is defined in its mission statement: "to provide for continuous human and environmental protection, and the conservation and consideration of use of the biological, natural, and cultural resources following the completion of the cleanup mission."*

**Hanford Long Term Stewardship Transition**

The mission of LTS is to manage post-clean up residual risks. The goal as stated in the Hanford LTS Site Plan is to ensure that the "...interactive system of human cultures, ecology, and natural resources are protected now, and in the future, from risks associated with residual contamination."

The ERWM is concerned about the future of the LTS and Institutional Control (IC) decisions made by DOE Office of Environmental Management, when this responsibility will be deferred to the DOE Office of Legacy Management (OLM) beginning 2004. In the Hanford Solid Waste, Environmental Impact Statement (HSW-EIS) there is no mention of how LTS functions will transition into the new OLM program. The infrastructure for LTS needs to be clarified and insurances of its viability. The future budget for the OLM is not sufficient to give ERWM confidence that long-term stewardship issues will be adequately addressed regarding the waste being discussed in the EIS.

Another issue of concern, on cross boundary programs, is the Hanford Site Groundwater Strategy. It is not actively linked with the Long-Term Stewardship program for the site. Because LTS is due to transfer to OLM, the tribe is concerned that the link to the Groundwater Strategy Plan may be difficult to maintain and further develop across agency boundaries. Through this, Groundwater Strategy Plan, the ERWM and Nez Perce Tribe would like to see the Hanford Groundwater and the Columbia River protected. It is recommended that any long-term strategies and plan that are developed

be effective towards remediation of these resources, and protection of these resources from further harm. It is understood that the Long Term Stewardship Plan was approved as a "living document," and that the team is working to integrate LTS into the cleanup process. The Tribe urges the groundwater strategy group to develop an active communication link with the personnel at Hanford Site who administer the Hanford Long Term Stewardship Program.

***General Comments:***

The Hanford LTS Program Draft in general provides a clearer and more focused description of vision, mission goals and functions. It seems this document can be considered as the model for all other LTS programs around the country.

Several overarching issues must be addressed and incorporated into this plan as further revisions are made. First, "End States" of the Hanford site must be decided. Second, funding will need to be institutionalized for the entirety of the LTS program. Lastly, as long as there is an elevated risk to the biological and ecological resources, DOE or its federal successor must retain responsibility of the hazardous waste.

Following are some more specific comments:

- The LTS plan must have the ability to trigger additional cleanup efforts if it is found that LTS is not adequate to prevent elevated risk.
- An interface must be developed between LTS and waste management.
- Communication protocols must be established.
- Risk analysis must include a model that recognizes that all institutional controls are expected to fail and the accompanying consequences listed.

It should be noted that for the Nez Perce Tribe and other affected Tribes, biological resources and natural resources are cultural resources. Hence, any requirements and laws for cultural resources are also applicable to biological and natural resources, as defined in this document *(Figure 2-5. Summary of Hanford Resources.)* All these resources must be preserved, perpetuated, protected and enhanced at the site. There is no mention of how to manage Traditional Cultural Places (TCP) at Hanford. Some of these resources are sacred (e.g., Gable Butte and Gable Mountain). We would like that any of the unnatural structures in such areas (e.g. power lines, towers, and communication towers) gradually be removed, that no further upgrades occur on these structures during cleanup operation, and that a cultural management plan should be emplaced for the TCP's at the site.

The tribe fears that upon completion of cleanup, 89% of the current area will be excessed or transferred to other agencies, and there will no longer be compliance or honoring of the stipulations in the LTS program. How can this document assure us that it will not happen? The Nez Perce Tribe considers the protection, preservation and perpetuation of cultural resources at Hanford for future generations in a spirit of stewardship to be of the utmost priority.

There are areas, especially near the river, which are considered very highly sensitive culturally, such as cemeteries and burial sites. Most of these sites are in the area designated for conservation (Hanford Reach National Monument) under the CLUP ROD. The 100-Area in particular has radioactive and chemical contamination, and it is likely that contaminated human remains will be inadvertently discovered during remedial actions. If these discoveries or adjacent sites cannot be removed in compliance with cultural resource laws, will these sites remain under DOE administrative controls? These sites are within the quarter mile river corridor, which will be under the Hanford Reach National Monument.

By integrating tribal social and cultural institutions into the technical and regulatory programs, we insure that all approaches to stewardship, including scientific and regulatory approaches, reflect cultural and social values. This approach acknowledges and works with values and transmits knowledge rather than information.

**Site-Wide Institutional Controls Plan for Hanford, CERCLA Response Actions General Cultural Resource Issues:**

Institutional controls, which are institutional and legal mechanisms, are employed to reduce the risk of human exposure to hazards. Examples of institutional controls include signs, deed restrictions, zoning, and easements.

Institutional controls are utilized in a long-term stewardship program to reduce the likelihood of human exposure to remaining weapons complex hazards, but they are most likely to fail over time. When used with other measures and in a redundant manner, institutional controls could contribute to the realization of long-term stewardship goals.

The *Plan* fails to consider and comply with the Federal Trust Responsibility of DOE to the Nez Perce Tribe, as well as the required government-to-government relationship by excluding the Nez Perce involvement to provide pre-decisional inputs in developing the *Plan* and the selection of remedial actions of the waste sites. The implementation of the *Plan* will surely impact the cultural resources embodied in the reserved treaty rights of the Nez Perce Tribe. Although there are on-going physical/procedural restrictions for access to the sites, there is lack of maintenance of these physical restrictions, and the enforcement of penalties to violators of these procedural restrictions is unheard of. Sites along the Hanford Reach, which are sensitive and sacred to the affected Tribes, have been chronically vandalized or looted, and some islands may disappear due to wind erosion and river flow dynamics (e.g., Locke Island)

The *Plan* does not mention how it will implement the American Indian and Alaska Native Tribal Government Policy.

The *Plan* fails to elaborate how DOE will continue to implement institutional controls on sites, which are now under USFWS management (e.g., Hanford Reach National Monument). Several sites along the river are susceptible to vandalism, looting,

erosion and intrusions. Current institutional controls on the sensitive and sacred areas are inadequate and ineffective.

The *Plan* fails to consider Tribal-specific risks (such as cultural impacts) in setting clean-up levels, as demonstrated in deleting the 1100 Area in the National Priorities List (NPL) at Hanford. How many more sites will be delisted without consideration of risks unique to each of the affected Tribes at Hanford? USEPA has deleted two areas (1100 Area and Wahluke Slope) from the NPL. The Nez Perce Tribe has concerns of such deletion due to the fact that clean-up at 1100 Area is inadequate which have impacts on the Tribe's usual and accustomed practice of utilizing the cultural resources of the area. A thorough survey of cultural resources and impacts at 1100 Area should have been conducted first prior to delisting. In addition, the sloughing at Wahluke due to rive flow dynamics will obliterate Lock Island. Locke Island contains very sensitive cultural resources for the affected Tribes, and some parts of the island have disappeared (up to 40 feet due to erosion). In addition, instances of recreational users have vandalized the island, mostly using the northeastern beach as a good camping ground and fishing hole. Other parts of Wahluke Slope have been vandalized by artifact hunters, which indicate that institutional controls are inadequate.

**Horse Shoe Landfill DDT Issue**

In December of 2000, the Nez Perce Tribe issued a Performance Screen Determination (PAD) relative to the Horse Shoe Landfill, which is contained in the 1100 Area Operable Unit at Hanford. Information in a PAD is what determines if a Natural Resource Damage Assessment is called for per the CERCLA regulations. Horse Shoe Landfill was used by the Army to dispose of DDT in the 1950's and was cleaned up in 1994 under the direction of DOE and the EPA. Several samples of soil and biota had been collected at this site since 1994 by DOE, USFWS and Ecology that indicated low levels of DDT contamination still existed at the site. The Tribe's position that was documented in the PAD was that the site was not adequately cleaned and still poses a potential hazard.

On this particular issue a Nez Perce Elder posed a question to an ERWM technical staff that was familiar with situation. She asked, " ...if he (technical staff) could recommend without reservation that Nez Perce elders be allowed to go to that area and conduct recreational or plant gathering activities?" This elder wanted to know if he thought the area was clean enough to use the land for traditional purposes.

In her own way this elder had answered the question of, "how clean is clean?" Her answer didn't include a major discussion on future land use scenarios and toxicological effects of contaminants. To this Nez Perce Tribal member and elder, the land is only clean enough when you have enough confidence to take yourself and your family and use that land for gathering or recreation.

**Institutional Cultural Failures at Hanford**

The Nez Perce Tribe considers the protection, preservation and perpetuation of cultural resources at Hanford to be of the utmost priority at the present and for future generations of the Tribe. The NPT views this lack of Consultation, government-to-government, as a failure of DOE's Trust Responsibility to the NPT, in addition a failure to adhere to the spirit of DOE's American Indian Policy.

Since the Nez Perce Tribal involvement with DOE, the Tribe has informed DOE officials of the sacred importance of sacred sites such as Gable Mt. and the EMSL cemetery. DOE has failed to adequately protect encroachment upon these sites. The institutional memory of the Department of Energy to protect these sites and to convey responsibility on to DOE employees, contractors, and future land managers has failed. Tribal Resolutions, Tribal leaders, and Elders continue mitigate these destructive impacts upon cultural resources.

For seventy years, tribal people have been exiled from the 586 square mile area by gunpoint at times. The site contains the last resting places of ancestors that have passed on long before the treaties were signed. It contains villages, hunting and fishing camps that are remnants of native people's life long ago. For seventy years, the Nez Perce people have not traveled to the Hanford Nuclear reservation to exercise their treaty rights because of a fear of what the government has done to land. It is difficult to convey and maintain stories of places that you cannot access or even see and as a result has diminished a part of the Nez Perce way of life.

Currently, there are efforts being made to protect and preserve these areas. However, a factor of cleanup levels and the risk of future use are still obstacles the tribe needs to push the federal government to do a better job for the sake of future generations of the Nez Perce people.

**CERCLA 5-Year Review**

The NPT will utilize the CERCLA Five-Year Review process as a tool to determine to what degree the sites are being or have been remediated so as to be usable for tribal Usual and Accustomed rights by treaty and stewardship. It would appear general that Lessons Learned for DOE since the first Five-Year Review should include the recognition of the inadequacy of their knowledge of extent of contamination and how to deal with it. The NPT remains concerned about remediation efforts, which rely heavily on attenuation and dilution concepts.

The NPT recognizes that by regulation the Five-Year Review is limited to operable units described in the Tri-Party Agreement as past practice units, remediated under CERCLA. By regulation, the review is to ensure the long-term effectiveness of engineered or

institutional measures placed to protect human health and the environment; and it is to serve to optimize the effectiveness and implementation of remedy requirements.

However, the CERCLA Five-Year Review process is the only site-wide view of the status of efforts towards cleanup that currently exists of which the NPT is aware. In order to encompass the problems in an integrated manner, the NPT recommends that the Five Year Review process at Hanford be expanded beyond its currently limited regulatory scope. It is otherwise difficult to maintain an overview of the status of the site as a whole.

In addition, referencing the NPT end-state vision stated above, the NPT will also utilize the CERCLA Five-Year Review process as a tool to determine to what degree the sites are being or have been remediated so as to be usable for tribal Usual and Accustomed rights by treaty.

**Future Issue**

One of the main concerns is how does one evaluate a site in the Five-Year Review process and make assertions about protectiveness to the environment when in most cases there is no biological data to back that assertion up. At the last Five-Year Review the ERWM had some concerns with how these statements were made regarding the persistent low levels of DDT that existed at the Horse Shoe Landfill. The resolution to that situation was that Horse Shoe Landfill was added to PNNL's annual surveillance and monitoring program. The results of that effort would then determine if any future action was warranted. Based on that effort, more contaminated soil was removed from that site. The concern is that there could be other sites similar to Horse Shoe Landfill that might have levels of contamination that may be incorporated into the food chain. The only way to assure the public in a Five-Year Review that this is not the case is to actually have some biological sampling results that show levels of protectiveness.

**Resolution**

**We** are not advocating that all the sites that are included in the Five-Year Review need to be samples, but we think sampling at selected sites would be appropriate. We suggest DOE select 3-5 sites per year and have PNNL, as part of their annual program, do some biological sampling (burrows, insects, plants etc) for one year at these sites. Each year pick 3-5 new sites. At the next Five-Year Review DOE would be able to report that over the past 5 years biological monitoring was done at 15-25 sites. Results could then be shared which would hopefully show that there is not a problem and that indeed the remedy is protective of the environment.

From our perspective this would be cost effective and would go a long ways in developing some positive public relations and credibility. We have talked this over with EPA staff and the response has been positive. This is actually an action item that could be put into the current Five-Year Review. For example, "Action Item: DOE plans on

doing some biological monitoring at selective sites to address concerns raised by stakeholders and tribes for the next Five-Year Review."

**Tribal Institutional Memory and Resiliency**

For millennia the Nez Perce Tribe have utilized oral history to sustain the cultural vitality of its past. From generation to generation these stories are linkages to Nez Perce descendents, tying the people to the land of which they came. The following is a coyote story that will forever link the Nez Perce to the Columbia River and traditional cultural properties that lie within the story.

*On the Columbia River some distance from Wallula is a mountain called le-leek-pa. This name was given by Coyote. There are three or four smaller mountains, and then the Yakima River. There used to be a great lake, called E-way-tah, there, which was always icy, and it was never warm. This lake was a person called You-ne-yi-ya, because [he was] always cold. This was before the present people were hereabouts. Not far from the lake there was a place called Yoke-ye-yah, which is always warm. Yoke-ye-nah is the name of the green-necked duck. When this duck goes about in the water it shows that spring is at hand. Yoke-ye-nah, the warm place, was also a man. Both these men, You-ne-yi-yah, had wives, and each had five children. These children grew up, and were always fighting. Each had a large wooden vessel. The cold ones had their vessel filled with icy water; the warm ones had theirs filled with oil from a large fish called kei-lakh. The ice was like glass. The warm ones poured oil on the ice, the cold ones threw on icy water, and the place became impassable. The children of the warm man, Yoke-ye-yah, could not work there. In the effort of these children to get to their home and parents they were all killed – not one was left of the warm family but the old man and his wife. Their eldest son had married, and his wife was with child. She said to her father- and mother-in-law: "My husband is killed, I have no one left, and I am going away." She took her basket-hat off of her head and hung it up in one place, and hung a deerskin, white and soft, beside it. Then she said to the old people: "If the basket-hat falls. You will know that my child is born and is a girl; if the white skin falls, then the child is a boy. Should the child be a boy, when he is grown if you see a red cloud, then you may know that he is coming to see you." Having told the old folks these things, she started off alone, and went toward the south.*

*In course of time, the white skin fell. The old women turned to her husband, and said: "Did you make that skin fall?" "No," he answered; but the wife was not satisfied. She picked up the skin and hung it up in its former place, but it at once fell down again. Then both exclaimed: "Ah! It is true."*

*The boy grew, well proportioned in body and wise in mind. His mother told him the story of how the cold man, You-ne-yi-yah, had killed all his relatives except his old grandfather and grandmother. When the time came she sent him alone to the mountains to get his wy-a-kin. He was gone two or three nights. When he came back he said to his mother: "What shall I do further?" "Plunge into the cold water to make yourself strong," she*

*said, "and you must work, work, and never be idle." Again she said: "You must make a sweathouse. You must put slender sticks down your throat and the bad blood will flow out. Afterward go again into the sweathouse, and then plunge into the cold water." He did as his mother told him, and grew stronger and stronger, so strong that he could break a great log and pull up a tree by its roots. He kept on with his training until at last he said: "I have done all, I am strong, and I shall start for my grandfather." As he set forth on his journey the red clouds spread themselves over the heavens. The old grandmother caught sight of them, and remembered the saying of her daughter-in-law. She cried to her husband: "Look! Look! See the red cloud!" The sight was strange, for it had been cold, cold winter ever since their children had been killed.*

*The young man traveled on until he came in sight of the great mountain, Le-leek-pa. He sat down on one of the smaller mountains and looked about him. All was ice except one little place where his grandparents sat. Just then the old folks looked up and saw, toward the east, a yellow cloud, and soon a warm wind began to blow. (The Nez Perces' say, when it is yellow in the east up to the zenith it will be warm for a long period.) As the young man, who was named Look-ye-you-me-tats, sat there on the small mountain looking at where his grandfather and grandmother were confined, tears filled his eyes and fell in such profusion that they formed the cascades [Cascade Range]. The young man cried out to his grandfather: "Go to where a canoe is hid for you," and he led them down the Yakima River to the Columbia. The cold man, You-ne-yi-yah, said to his wife and five children, as he saw the old couple start out: "Look! They are going after fish!" The whole family became very angry and they ran and caught hold of the canoe. But the grandson held the canoe while the old people hauled in a great load of fish. Suddenly, the young man rose and stepped on the ice. Ku-ku-tu-ku-tu went the ice, cracking in every direction under the gigantic proportions of the young man. "Ah! That is the grandson," shouted You-ne-yi-yah, the cold man, and all his family fled in terror, for the ice was fast breaking. The grandfather, grandmother, and grandson went home and made much oil out of the fish, and filled the five vessels belonging to the dead sons. They rested. After a while the grandson said: "We will go again." So they started for the Columbia River, where they met their old enemy, the cold man, his wife, and their five children. There the grandson wrestled with them, swaying back and forth. The grandfather threw on oil and the ice broke into cracks, ku-ku-tu-ku-tu, and all of it was going. The grandson killed the cold man and his wife, and all but his youngest son, who fled.*

*Then the warm wind blew and blew, and the grandson said: "Henceforth there shall be no more perpetual winter; for a short time only shall cold prevail, the warmth will come again. So when ta-la-leekh (yellow broken clouds) are seen after the cold, then shall the people know warm weather is coming. If very early before the sun rises red clouds are seen, the cold will come quickly, like the winking of an eye." The "youngest son" of the cold man escaped to the north, and when the cold wind blows, they say it comes from You-me-yi-yah-min-me-ots –the place where You-me-yi-yah's son went. The grandson went back to the forest, and the warm wind is called yoke-yi-hay-min-me-ots – the place where the grandson went. The teaching of the son by his mother is considered as the authority for the practices observed among the people to gain strength – plunging*

*into the river, going to the sweathouse, and thrusting sticks down the throat. So too the signs of the ancient struggle are still seen: little red clouds in the east are the sign of cold, as are also the northern lights, and these are connected with you youngest son of the cold man. Little red clouds in the west are the sign of warm weather and are connected with the grandson.*

This classic Coyote story recounts the epic journey of a family, strong in spirit and power, which traverses the West. As he follows the destined path, he effects the change in weather, establishes customs, defines features of the physical world and illustrates practical wisdom. The tale was recounted in Nez Perce language by Missionary Alice Fletcher and translated into English.

Within a coyote tale, one can identify and analyze its cultural context and the storyteller (people). An analysis of the tale, would provide information about the Nez Perce people, the storytelling tradition, translation of the title, the use of the language in the stories, and culturally based responses to the story. In a detailed analysis of the story one would find other tribal versions of the story in other native cultures, characters, situations, and the role of time and place of stories.

Storytelling is a powerful means of providing children and adults with life enhancing visions. Passed on from one generation to another, the stories will continue on into the next generation. The motive of storytelling will always be the same, to educate the people. If we could force our ways in which stories might be used to support the stewardship of Hanford, many more millennia will know the story of the Manhattan project.

**Risk Based End-States**

**Nez Perce Tribe Hanford End State Policy Development**

"Begin with the end in mind," that's the approach Department of Energy (DOE) had in mind as they set forth on preparing an "End State Vision" document for the Hanford site. The document was a culmination of future uses and current clean up plans based on land use plans, site maps, and conceptual models. "The purpose of Risk Based End States (RBES) was to focus DOE on conducting cleanup that is protective of human health and the environment for future use of each defined cleanup area (100, 200, & 300) site," as stated in the Risk Based End States fact sheet. This initiative began with DOE order 455.1: Risk Based End States, the order was designed to develop a clearer picture of what Hanford Nuclear Complex will look like when clean up is complete. DOE Hanford is currently developing a conceptual three-dimensional model of the physical and institutional state of the site.

DOE sponsored three workshops to solicit comments from the public, the Nez Perce Tribe, Environmental Restoration and Waste Management (ERWM) department staff participated in each workshop. After each workshop the tribe walked away feeling

that their comments went unheard. In effect, the tribe decided to develop a "Nez Perce Hanford End State Vision," policy. Through a series of tribal public outreach efforts, that included the youth (Cultural camp participants), Fish & Wildlife commission, and Lapwai community members, ERWM staff developed a vision statement from those comments.

The Nez Perce Tribe, as indigenous people of the Columbia River system, holds the balancing of the natural resources throughout the entire landscape in the highest regard. The tribe will face a legacy of contamination that will impact an infinite number of tribal generations to come. Therefore, the tribe must have a long-term commitment towards stewardship. At a point in time when natural and cultural resource availability has affected tribal utilization, tribal resiliency must adjust and diversify in order to retain treaty resources in Usual and Accustomed lands. Subsistence and consumption ways of life make environmental clean up progress imperative in order to adequately protect and preserve the inherent rights of the Nez Perce Tribe. With respect to the significance of this issue, The Nez Perce Tribe has developed this Hanford End State Vision policy statement. The execution of this vision will require, adherence to environmental laws, regulations and policy, with respect to treaty rights, sovereignty, natural and cultural resource protection, preservation and perpetuation.

Through these efforts the tribe produced the "Nez Perce End State Vision," and Resolution NP 05-411. These documents set the baseline from which the tribe will strive to make the best technical and cultural decisions that protect Usual and Accustomed treaty rights on the Columbia River.

## Nez Perce Hanford End-State Vision

### Policy Statement and Conditions

*The Nez Perce Tribe believes that the End-State Vision of the Hanford Site should allow for Nez Perce Tribal members to utilize the area in compliance with the Usual and Accustomed treaty rights reserved and guaranteed in the 1855 treaty between the United State Government and the Nez Perce Tribe.*

*The Nez Perce Tribe believes that the ultimate goal of the Hanford cleanup should be to restore the land to uncontaminated pre-Hanford conditions for unrestricted use. This includes air, soil, groundwater, and surface water. Tribal members, ecological resources, and cultural resources within Usual and Accustomed areas should not be exposed to any potential adverse risk above that which has always existed for the tribe prior to the establishment of the federal government projects and facilities at Hanford in 1942.*

To accomplish this long term cleanup goal the Nez Perce Tribe recognizes the following:

1. The Nez Perce Tribe will continue to work with DOE via its cooperative agreement on cleanup issues to ensure that treaty rights and cultural and natural resources are being protected and that interim cleanup decisions are protective of human health and the environment.
2. This goal will require the responsibility of future generations until it is finally completed.
3. Technology to cleanup or dispose of some contaminants may not be currently available, but as it becomes available the Nez Perce Tribe will work with the Federal government to further reduce the levels of any residual contamination.
4. Based on the history of man, we do not believe that institutional controls are necessarily a viable option to be used until land and water can be cleaned up.

**The Tribal Vision for the Future of the Columbia River Basin & How to Achieve It. Columbia River Inter-Tribal Fish Commission (CRITFC)**

The tribal vision for the future of the Columbia River Basin is one in which people return to a more balanced and harmonious relationship with the environment. It is a vision for the future based both on past tribal teachings and practices and on current science. It is a vision where science serves our teachings and practices, but does not overshadow them.

The tribal vision for the future is one where all watersheds-from the smallest individual tributary to the Basin as a whole-are once again regarded with respect and reverence for what they truly and inescapably are-home. It is a vision in which we once again return to the notion that we must nurture and sustain our home as it nurtures and sustains us.

The tribal vision for the future is one where people, fish, wildlife, plants and other natural and cultural resources are once again biologically healthy and self-sustaining. It is a vision of a healthy Columbia River Basin ecosystem also characterized by clean air and clean water. It not only supports viable and genetically diverse fish and wildlife resources that provide direct benefits to society, through harvest and improved physical health of tribal and non-tribal members, but also nourished the spirit. It is a vision in which tribal sovereignty, treaty rights and the trust responsibility are honored, respected and fulfilled. In achieving this vision, both Indian and non-Indian people, and our shared home, will all ultimately benefit.

The Tribal Vision for the future of the Columbia River Basin has specific, measurable short-term and long-term goals and objectives. It is a vision achieved by clearly defined strategies and actions. Together, their collective aim is to maintain, protect and enhance currently health, natural ecosystems and habitat, and all their human and non-human resources. They will seek to restore, rebuild and reclaim those areas and resources suffering from past misuse and abuse, and halt any such ongoing occurrences.

**Summary**

Tribal responsibilities for management of natural and cultural resources through treaties are key to the long-term survival of Native Americans. Executive Orders, pending policies, and Department directives all point to the need for recognition of Tribal rights and diversity in solving issues surrounding stewardship. The right direction for proper development of the Hanford Long-Term Stewardship plan would be the inclusion of Tribal governments from the start and by enhancing communication, coordination, and collaboration among tribal governments and the Department of Energy, Hanford Long-Term Stewardship and Legacy Management programs. The unique legal status of Tribes and presence of tribally reserved rights and cultural interests creates a special relationship between Tribes, States, and Federal governments, and agencies responsible for managing and protecting the natural resources. Tribes and tribal members possess property and self-government rights that predate the formation of the United States and are guaranteed under Treaties and federal law.

The Department of Energy at times has ignored tribal treaty rights. DOE Headquarters and site facilities must reverse their commitments to the American Indian Policy and draft Implementation plan. DOE must respectfully listen to tribal governments on a proactive course with workable solutions to eventually bring clean air, water and land to our future generations.

Treaty rights require more protection, not less, for those who are most affected by pollution. DOE has disregarded the active participation of Tribes in the clean up process and decision-making. DOE needs to move forward, following through with the American Indian Policy and finalize the Implementation Plan document to effectively pursue true consultation efforts.

Finally, the Nez Perce value wisdom, knowledge, respect, patience, kindness, honesty, generosity, and the courage to make difficult decisions and stand by them. Tribal decision-making results in a person possessing a strong knowledge of the tribal past and having an equally strong vision of the future. Always looking back so that one can look forward to revitalizing communities that have strong cultural foundations and recognizing the need to nurture the most precious resources we have as a people – our future generations – the children.

*"Sometimes there are no solutions to a problem, just a choice between options, all of which lead to further complications. We don't have a problem with reality, just a new reality, an unavoidable reality." Author unknown.*

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NP 05-411

# RESOLUTION

WHEREAS, the Nez Perce Tribal Executive Committee has been empowered to act for and on behalf of the Nez Perce Tribe, pursuant to the Revised Constitution and By-Laws, adopted by the General Council of the Nez Perce Tribe, on May 6, 1961 and approved by the Acting Commissioner of Indian Affairs on June 27,1961; and

WHEREAS, the Nez Perce Tribe, is committed to natural and cultural resource protection at all Usual and Accustomed locations reserved in the Treaty of 1855, and

WHEREAS, the Department of Energy (DOE) implemented DOE 455.1 policy, to develop a Risk Based End State Vision for the Hanford Nuclear Reservation; and

WHEREAS, the End State Vision document will represent site conditions and associated information that reflect the planned future use of the property and are appropriately protective of human health and the environment consistent with that use; and

WHEREAS, the Nez Perce Tribe has developed a End State Vision that is protective of human health and environment of its tribal members.

NOW, THEREFORE, BE IT RESOLVED, that the Nez Perce Tribal Executive Committee (NPTEC) hereby approves the Nez Perce Tribal End State Vision for the Hanford Reservation; and

BE IT FURTHER RESOLVED, that the NPTEC Chairman and Secretary are hereby authorize the Environmental Restoration and Waste Management Program to implement the Nez Perce Tribe End State Vision.

# CERTIFICATION

The foregoing resolution was duly adopted by the Nez Perce Tribal Executive Committee meeting in Special Session, September 27, 2005, at the Wa A'Yas Community Building, in Kamiah, Idaho, a quorum of its Members being present and voting.

BY: _____
Gary E. Greene, Secretary

ATTEST:

_____
for Rebecca A. Miles, Chairman