

# Blue Ridge Environmental Defense League

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October 31, 2011

Timothy A. Frazier, *Designated Federal Officer*  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585  
E-mail: [brc@nuclear.energy.gov](mailto:brc@nuclear.energy.gov)

## **RE: Blue Ribbon Commission on America's Nuclear Future Draft Report to the Secretary of Energy, July 29, 2011**

Dear Mr. Frazier:

On behalf of the Blue Ridge Environmental Defense League, I write to comment on the draft report of the Blue Ribbon Commission. I have read the draft report, the legal analysis provided by Van Ness Feldman and other documents made available by the Commission. However, I can find no reference for or commitment to the principles of environmental justice by the Blue Ribbon Commission. I respectfully suggest that the BRC correct this oversight before making a report to the Secretary of Energy.

The draft report refers to the encouragement of volunteer communities to host a new nuclear waste facility. In the executive summary "Getting Started" list, the Commission states four items: 1) develop initial siting criteria, 2) develop generic standards, 3) encourage interest from volunteer communities, and 4) establish milestones. Environmental justice principles should be reflected in these criteria.

The Blue Ribbon Commission must not overlook important issues of environmental justice with respect to both President Clinton's Executive Order No. 12898: "Federal Actions to Address Environmental Justice in Minority Populations and Low-income populations" and President Obama's August 4, 2011 Memorandum of Understanding "To declare the continued importance of identifying and addressing environmental justice considerations in agency programs, policies, and activities as provided in President Clinton's Executive Order 12898, including as to agencies not already covered by the Order."<sup>1</sup>

As you know, Executive Order 12898 states: To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.<sup>2</sup>

<sup>1</sup> "Memorandum of Understanding on Environmental Justice and Executive Order 12898," August 4, 2011

<sup>2</sup> Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations, February 11, 1994

Further, the August 4<sup>th</sup> Memorandum of Understanding advances federal agency responsibilities first outlined in Executive Order 12898. The Executive Order makes environmental justice integral to the mission of each agency. The MOU broadens the reach of the Interagency Working Group on Environmental Justice and strengthens environmental justice efforts under the National Environmental Policy Act and Title VI of the Civil Rights Act of 1964. At present, the White House Council on Environmental Quality, the General Services Administration, the Small Business Administration and thirteen cabinet departments<sup>3</sup> have signed the MOU, including the Department of Energy. As it was founded by the Secretary of Energy and operates under the authority of the DOE, the Blue Ribbon Commission cannot avoid its specific responsibility to address the adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

The ongoing struggle for environmental justice is part of the great change which seeks to alter society to become more humane, towards respect for all living things.

Environmental justice is about social transformation directed towards meeting basic human needs and enhancing our quality of life— economic quality, health care, housing, human rights, environmental protection, and democracy. In linking environmental and social justice issues the environmental justice approach seeks to challenge the abuse of power which results in poor people having to suffer the effects of environmental damage caused by the greed of others.<sup>4</sup>

The principle of Environmental Justice incorporates 1) the equitable distribution of environmental risks and benefits; 2) the meaningful participation in environmental decision-making; 3) the recognition of community life, local knowledge, and cultural difference; and 4) the capability of communities and individuals to function in society.<sup>5</sup> It means avoiding disproportionate adverse environmental impacts on low income populations and minority communities.

The Executive Order was put to the test in rural Louisiana during the site selection process for a uranium enrichment plant which failing to address the provisions of Executive Order 12898; the decision was upheld on appeal.<sup>6</sup>

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<sup>3</sup> Department of Health and Human Services; Department of Justice; Department of Agriculture; Department of Commerce; Department of Defense; Department of Education; Department of Energy; Department of Homeland Security; Department of Housing and Urban Development; Department of Interior; Department of Labor; Department of Transportation; Department of Veterans Affairs

<sup>4</sup> Definition of environmental justice from the quarterly newsletter of the South African Environmental Justice Networking Forum: McDonald, David A. Environmental Justice in South Africa. Cape Town: Ohio UP, 2002.

<sup>5</sup> *Defining Environmental Justice: Theories, Movements, and Nature*, Schlosberg, David (2007) Oxford University Press.

<sup>6</sup> "Environmental Justice: Grassroots Activism and its Impact on Public Policy Decision Making," Bullard and Johnson, *Journal of Social Issues*, Vol. 56, No. 3 (2000) pp.555-578.

Faced with an initiative to bury high-level nuclear waste from commercial nuclear power plants on Native American land, Grace Thorpe bristled at a federal agency's attempt to co-opt tribal traditions. "It is wrong to say that it is natural that we, as Native Americans, should accept radioactive waste on our lands, as the U.S. Department of Energy has said." Grace leapt over the discussion of siting criteria, milestones and millirems to pose the question:

What kind of society permits the manufacture of products that cannot be safely disposed of? Shouldn't we have a basic law of the land that prohibits the production of anything we cannot safely dispose?<sup>7</sup>

The Blue Ribbon Commission must include steps to avoid disproportionate, adverse environmental impacts on low income and minority populations and impacts on important religious, subsistence, or social practices. Finally, it should address the question of ending the production of dangerous materials which cannot safely be disposed.

Thank you for the opportunity to present these remarks.

Respectfully,

A handwritten signature in black ink that reads "Louis A. Zeller". The signature is written in a cursive style and is followed by a horizontal line.

Louis A. Zeller

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<sup>7</sup> Statement of Grace F. Thorpe to the National Congress of American Indians, December 1, 1993, Sparks, Nevada