Rights Along the River

Sovereignty, treaty fishing rights, and trust land in Idaho

9-12.GOV.44 "Analyze and discuss sovereignty and the federal responsibility the United States has with federally recognized American Indian tribes with emphasis on Idaho, such as hunting and fishing rights, and land leasing."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline one treaty fishing right and one tribal leasing decision, circle two federal roles, and number two conditions that complicate claims about who controls the river or land.

A River, a Right, and a Lease

1 On an Idaho river, a Nez Perce fisher casts a line at a place outside the reservation. The location matters: treaties reserved the Nez Perce Tribe's right to fish at its usual and accustomed places, including places beyond reservation boundaries. The right was not a gift from the federal government. The tribe kept it when it agreed to cede land. That does not mean every stretch of river is a treaty fishing place or that conservation rules never apply. It means an off-reservation boundary alone cannot erase a treaty right. Federal courts can enforce that right when disputes arise.

2 On nearby tribal trust land, the Nez Perce Tribe considers leasing a parcel for a small river access center. Trust land is held by the United States for a tribe's benefit, not owned by the federal government for any business to use. The tribe can weigh jobs, access, and protection of the river before agreeing to a lease. For many leases of tribal trust land, federal approval is required. Under federally approved tribal leasing rules, a tribe may approve certain leases itself. Either way, a company cannot bypass the tribe by asking only a federal official for permission.

3 These two decisions show different sides of sovereignty, a tribe's power to govern itself. The Nez Perce Tribe is one of five federally recognized tribes in Idaho. Federal recognition acknowledges a government-to-government relationship; it does not create the tribe's sovereignty. The United States also has responsibilities to protect treaty rights and administer trust land under federal law. A state can have conservation interests, and a federal agency may have a role in a lease, but neither fact makes the tribe's rights disappear. To settle a conflict, ask which treaty right, land status, and federal rules apply before assuming a boundary or a permit decides everything.

2 ANSWER WITH EVIDENCE

Use the passage

1. An officer says the fisher has no treaty right because the site is outside the reservation. What challenges that claim, and what limit still matters?

2. Why can't a company get permission for the proposed trust-land lease from a federal official alone? Explain the tribe's role and one possible federal role.

3. How does federal recognition differ from the federal government's responsibilities in these situations?

4. Compare how tribal sovereignty matters in the fishing and leasing situations. Why does federal law still matter in both?

3 YOUR TURN

Your own words

Write a six- to eight-sentence advisory note for a fictional Idaho tribe considering a lease of tribal trust land for a river access center near an off-reservation treaty fishing site. Explain how tribal decisions, federal responsibilities, and fishing rights affect the plan, then recommend one step before signing.

ANSWER KEY

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HIGH SCHOOL · 9-12.GOV.44

PART 1 · READ AND MARK

Underline one treaty fishing right and one tribal leasing decision, circle two federal roles, and number two conditions that complicate claims about who controls the river or land. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	An officer says the fisher has no treaty right because the site is outside the reservation. What challenges that claim, and what limit still matters?	**The treaty reserves fishing rights at usual and accustomed places beyond the reservation. Not every river location qualifies, and conservation rules may apply.**
2	Why can't a company get permission for the proposed trust-land lease from a federal official alone? Explain the tribe's role and one possible federal role.	**The tribe must agree to the lease and can weigh its benefits and effects. Many trust-land leases need federal approval, though a tribe may approve certain leases under federally approved leasing rules.**
3	How does federal recognition differ from the federal government's responsibilities in these situations?	**Recognition acknowledges the tribe's government-to-government relationship with the United States; it does not create tribal sovereignty. Federal responsibilities include protecting treaty rights and administering trust land under federal law.**
4	Compare how tribal sovereignty matters in the fishing and leasing situations. Why does federal law still matter in both?	**The tribe retains a treaty fishing right and decides whether to agree to a lease of its trust land. Federal law matters because the United States must protect treaty rights and has a role in administering trust land and approving many leases.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

The tribe should decide whether the river access center serves its goals and protects the fishing site. Its leaders can ask members how the project might affect fishing and river access. Because the parcel is tribal trust land, the company cannot lease it without the tribe's agreement. The tribe should check whether the lease needs federal approval or can be approved under federally approved tribal leasing rules. A site outside the reservation does not automatically lose treaty fishing protections if it is a usual and accustomed place. The United States has a responsibility to protect treaty rights. Before signing, the tribe should review the lease terms and plans for fishing access.

Accept answers that distinguish the tribe's retained rights and decisions from federal duties. Students should not claim that all off-reservation fishing is protected or that every trust-land lease requires federal approval.