

**STATEMENT FOR THE RECORD
RICHARD SHERWOOD
CHAIRMAN
SPOKANE TRIBE OF INDIANS**

BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS

ON

S. 2494 THE SPOKANE TRIBE OF INDIANS OF THE SPOKANE INDIAN RESERVATION
GRAND COULEE DAM EQUITABLE COMPENSATION SETTLEMENT ACT

May 15, 2008

Thank you Mr. Chairman and members of the Committee. My name is Richard Sherwood. I am Chairman of the Spokane Tribe of Indians. I very much appreciate the opportunity to appear before the Senate Committee on Indian Affairs to testify on S. 2494. Accompanying me are Gregory Abrahamson, Vice Chairman of the Tribe, and Howard Funke, our attorney. They are available for questions.

SUMMARY

I am here today on behalf of the Spokane Tribe to ask for your help as representatives of the United States of America. I ask that you act on behalf of the United States to finally treat the Spokane Tribe fairly and honorably for the injury to our Tribe and Reservation caused by the Grand Coulee Project.

My testimony today summarizes my written statement for the record and the critical need for this important legislation. We are also providing photographs for the record which illustrate some of the annual effects Grand Coulee Dam operations have on our Reservation. The Spokane Tribe has been struggling to protect our Reservation since an agreement with the United States in 1877. To understand this settlement it must be viewed in an historic context. As is fitting and proper for that struggle spanning one hundred and thirty (130) years, we have submitted a very lengthy and detailed statement herein.

Grand Coulee's waters flooded the lands of two adjoining Indian reservations that held great economic, cultural and spiritual significance. Ours is one of those reservations. The other is the Colville Tribes Reservation.

Our life, culture, economy and religion centered around the rivers. We were river people. We were fishing people. We depended heavily on the rivers and the historic salmon runs they brought to us. We were known by our neighboring tribes as the Salmon Eaters. The Spokane River — which was named after our people — was and is the center of our world. We called it the "Path of Life." President Rutherford B. Hayes in 1881 recognized the importance and significance of the rivers by expressly including the entire adjacent riverbeds of the Spokane and Columbia Rivers within our

Reservation. But the Spokane and Columbia Rivers are now beneath Grand Coulee's waters. Today our best lands and fishing sites lie at the bottom of Lake Roosevelt.

The proposed Legislation is designed to end a lengthy chapter in American history, in which the United States and American citizens reaped tremendous rewards at the expense of the Spokane Tribe and the Colville Confederated Tribes. The severe devastation wrought upon both tribes was unprecedented. And though the effected land areas held by the Spokane Tribe were roughly only 40% of that held by the Colville Tribes, a portion of the Colville's salmon fishery continues to reach their Reservation, while the Spokane's was lost entirely. Additionally, the Spokanes lost forever a prime site on the Spokane River that it could have developed for hydropower. Ultimately, both Tribes suffered severely. We are greatly impacted by the operation of Grand Coulee Dam each and every year.

At the Grand Coulee Dam's infancy, the United States acknowledged and supported its need to fairly and honorably address the related losses to be suffered by both the Spokane Tribe as well as the Colville Tribes. Yet the Colvilles, in 1994, secured a settlement with the United States, while the Spokane claims are still unresolved. The United States has all but ignored its trust obligation to the Spokane Tribe. The legislation represents a final settlement of the Spokane Tribe's claims, and the following briefly describes the need for the United States to finally treat the Spokane people fairly and honorably in resolving this matter.

HISTORICAL CONTEXT

From time immemorial, the Spokane River has been at the heart of the Spokane territory.

In 1877, an agreement was negotiated between the United States and the Spokane to reserve for the Tribe a portion of its aboriginal lands approximating the boundaries of the present Spokane Indian Reservation.

On January 18, 1881, President Rutherford B. Hayes issued the relevant Executive Order, and with exacting language, expressly included the Spokane and Columbia Rivers within the Spokane Indian Reservation

Under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)), when licenses are issued involving tribal land within an Indian reservation, a reasonable annual charge shall be fixed for the use of the land, subject to the approval of the Indian tribe having jurisdiction over the land. Had a state or a private entity developed the site, the Spokane Tribe would have been entitled to a reasonable annual charge for the use of its land. The Federal Government is not subject to licensing under the Federal Power Act.

Numerous statements made by federal officials acknowledged the need for the Spokane Tribe to receive fair compensation. In one example, William Zimmerman, Assistant Commissioner of Indian Affairs, wrote:

"the matter of protecting these valuable Indian rights will receive active attention in connection with applications filed by the interested parties before the Federal Power Commission for the power development." Letter from William Zimmerman to Harvey Meyer, Colville Agency Superintendent, dated September 5, 1933.

A letter approved by Secretary Ickes, from Assistant Commissioner Zimmerman to Dr. Elwood Mead, Commissioner of Reclamation, stated in connection with the "rights of the Spokane Indians," that the Grand Coulee project, as proposed:

"shows the cost of installed horsepower to be reasonable and one that could bear a reasonable annual rental in addition thereto for the Indians' land and water rights involved." Letter from William Zimmerman to Elwood Mead, dated Dec. 5, 1933.

The United States Department of Justice has recognized these promises as an undertaking of a federal obligation, which promises were made to both the Colville and Spokane Tribes.

"The government began building the dam in the mid-1930's. A letter dated December 3, 1933, to the Supervising Engineer regarding the Grand Coulee and the power interests of the Tribes, with the approval signature of Secretary of the Interior Ickes states:

This report should take into consideration the most valuable purpose to which the Indians' interests could be placed, including the development of hydro-electric power.

We cannot too strongly impress upon you the importance of this matter to the Indians and therefore to request that it be given careful and prompt attention so as to avoid any unnecessary delay.

Also, a letter dated December 5, 1933, to the Commissioner of the Bureau of Reclamation and endorsed by Interior Secretary Ickes, stated that 'it is necessary to secure additional data before we can advise you what would constitute a reasonable revenue to the Indians for the use of their lands within the [Grand Coulee] power and reservoir site areas.' And a letter dated June 4, 1935 from the Commissioner of the Bureau of Reclamation requested that additional data be secured to determine 'a reasonable revenue to the Indians for the use of their lands within the power and reservoir site areas.'"

Statement of Peter R. Steenland, Appellate Section Chief, Environment and Natural Resources Div., Dept. of Justice (Joint Hearing on S.2259 before the Subcomm. on Water and Power of the Comm. on Energy and Natural Resources and the Comm. on Indian Affairs, S. Hrg. 103-943, Aug. 4, 1994, at 16).

As stated in the testimony of the Assistant Secretary for Indian Affairs, concerning the 1994 Colville Settlement legislation, approved in P.L. 103-436: "Over the next several years the Federal

Government moved ahead with the construction of the Grand Coulee Dam, but somehow the promise that the Tribe would share in the benefits produced by it was not fulfilled.”

Pursuant to the Act of June 29, 1940 (16 U.S.C. 835d et seq.), the Secretary paid to the Spokane Tribe, \$4,700. That is the total compensation paid by the United States to the Spokane Tribe for the use of our tribal lands for the past seventy-three years.

When the waters behind the Grand Coulee Dam began to rise, the Spokane people were among the most isolated Indian tribes in the country. The Tribe’s complete reliance on the Spokane and Columbia River system had remained largely intact since contact with non-Indians. That, however, would be completely and irreversibly changed forever. The backwater of the dam, Lake Roosevelt, floods significant areas of the Tribe’s Reservation, including the Columbia and Spokane boundary rivers within the Reservation. A 1980 Task Force Report to Congress explains the historical context of the Tribe in relation to the Grand Coulee Dam.

“The project was first authorized by the Rivers and Harbors Act of 1935 (49 Stat. 1028, 1039). In spite of the fact that the Act authorized the project for the purpose, among others, of ‘reclamation of public lands and Indian reservations . . . ,’ no hydroelectric or reclamation benefits flow to the Indians. Hardly any were employed at the project site. Indeed, the Tribes have presented evidence that even unskilled workers were recruited from non-Indian towns far away. The irrigation benefits of the project all flowed south.....

Furthermore, the 1935 enactment made no provision for the compensation of the [Spokane and Colville] Tribes. It was not until the Act of June 29, 1940 (54 Stat. 703) – seven years after construction had begun – that Congress authorized the taking of any Colville and Spokane lands Section 2 [of that Act] required the Secretary to determine the amount to be paid to the Indians as just and equitable compensation. Pursuant to this authorization the Secretary condemned thousands of acres of Indian lands, primarily for purposes of inundation by the planned reservoir.

Apart from the compensation for those lands, which the Tribes claim was inadequate, no further benefits or compensation were paid to the Indians. Nothing was provided for relocation of those Indians living on the condemned lands; and tribal lands on the bed of the original Columbia River were not condemned at all. Worst of all, Grand Coulee Dam destroyed the salmon fishery from which the Tribes had sustained themselves for centuries. The salmon run played a central role in the social, religious and cultural lives of the Tribes. The great majority of the population of the Tribes lived near the Columbia and its tributaries, and many were driven from their homes when the area was flooded. While Interior Department officials were aware that the fishery would be destroyed, the technology of the time did not permit construction of a fish ladder of sufficient height to allow the salmon to bypass towering Grand Coulee Dam.

The project also resulted in the influx of thousands of non-Indian workers into the area. Prior to contemplation of the project very few non-Indians lived in the region. Indeed, anthropologist Verne F. Ray, who began his field studies in 1928, reports that there were no more than a handful of white families in the vicinity of the future site of the Grand Coulee Dam, and that in 1930 the Colville and Spokane were among the most isolated Indian groups in the United States. Their aboriginal culture and economy were largely intact up to that time, little reliance having been placed on white trading posts. The subsistence economy of the Indians had continued to focus on the salmon.

Another principal aboriginal pursuit of the Colville and Spokane Indians involved the gathering of roots and berries on lands south of the rivers. That activity was largely curtailed after the construction of the project because of the influx of non-Indians on to those southern lands and because the river was widened to such an extent that crossing it became very difficult. Before the reservoir there were many places where the river could be forded. Similarly, hunting south of the river was also curtailed. Thus, the Grand Coulee project had a devastating effect on their economy and their culture.” Final Report, Colville/Spokane Task Force, Directed by the Senate Committee on Appropriations in its 1976 Report on the Water and Power Public Works Appropriations Bill, S.Rep.94-505. (September, 1980).

The salmon runs were entirely and forever lost to the upstream Spokane Tribe. Further more, there existed on the Spokane River – within the Spokane Reservation – two prime dam sites the Spokane Tribe could have used for generating hydro electric power. Like the Spokanes’ salmon runs, these sites were lost forever to Grand Coulee.

In the 1940 Act, Congress also directed the Secretary of the Interior to “set aside approximately one-quarter of the entire reservoir area for the paramount use of the Indians of the Spokane and Colville Reservations for hunting, fishing, and boating purposes, which rights shall be subject only to such reasonable regulations as the Secretary may prescribe for the protection and conservation of fish and wildlife.” 16 U.S.C. § 835(d).

In an extraordinary move, the Tribe in December, 1941, sent a delegation cross-country to meet on the issues with Commissioner John Collier. Unfortunately, the meeting took place on December 10 — just three days following the bombing of Pearl Harbor. The Commissioner and his representatives committed to the Tribal delegation that they would do all they could in aid of the Tribe, but that the national priorities of war meant that redress would have to wait until its conclusion.

In 1946, the Interior Secretary designated areas within Lake Roosevelt as “Indian Zones” to fulfill the requirements of the 1940 Act’s “paramount use” provisions in recognition of tribal lands inundated by Lake Roosevelt. The “Spokane Indian Zone” and the “Colville Indian Zone” were located generally within the reservations of those Tribes. The Spokane Zone also extended up the inundated Spokane River, within the Spokane Reservation, which today is known as the “Spokane Arm” of Lake Roosevelt.

INDIAN CLAIMS COMMISSION FILINGS

In 1946, Congress enacted the Indian Claims Commission Act. Act of August 13, 1946 (60 Stat. 1049). Pursuant to that Act, there was a five-year statute of limitations to file claims before the Commission which expired August 13, 1951. It was under the Indian Claims Commission Act that the Colvilles were able to settle their claims in 1994. And it was due to a quirk of circumstances that the Spokanes were not.

In 1951, both the Spokane Tribe and the Colville Tribes filed land claims with the Indian Claims Commission prior to the August 13, 1951 Statute of Limitations deadline. Neither tribe filed claims before the deadline seeking compensation for the use of their lands for the production of hydropower at Grand Coulee. Neither tribe understood, nor were advised that there would be a need to even file such claims. After all, beginning in the 1930s and then resuming through the 1970s, the historical and legal record is replete with high level agency correspondence, Solicitor's Opinions, inter-agency proposals/memoranda, Congressional findings and directives and on-going negotiations with the affected Tribes to come to agreements upon the share of revenue generated by Grand Coulee which should go to the Tribes for the use of their respective lands. The Tribes had every reason to believe that its Trustee, the United States, was, although belatedly, going to act in good faith to provide fair and honorable compensation to the Tribes for the United States' proportionate use of our Tribal resources for revenue generated by the Grand Coulee Dam.

The ICC Act imposed a duty on the Bureau of Indian Affairs to apprise the various tribes of the provisions of the Act and the need to file claims before the Commission. While the BIA was well aware of the potential claims of the Spokane Tribe to a portion of the hydropower revenues generated by Grand Coulee, there is no evidence that the BIA ever advised the Tribe of such claims. As the Tribe's long-time attorney explained in 1981:

"The writer was employed in 1955 as the Tribe's first General Counsel. The tribal leaders of 1951 were still in office. When asked why they had not filed claims for the building of Grand Coulee, the destruction of their fishery and loss of their lands, they were thunderstruck. They had no knowledge at all that they might have filed such claims. They told the writer that no one had alerted them to the possibility of such claims. They did not know that these potential claims might be governed by the Claims Commission Act. They assumed that their rights were still alive, and well they may be. The Superintendent had approached them in about 1949 with the Tripartite agreement between the BIA, Bureau of Reclamation, and the National Parks Service for the establishment of and administration of the Indian Zones pursuant to the Act of 1940. While he got them to sign pre-written resolutions approving this agreement [so] vital to their river and lake rights, not a word was spoken of the possibility of the tribe filing claims. The deadline of August 13, 1951 was therefore allowed to pass without the claims having been filed." Memorandum of January 12, 1981 with Final Report, Colville/Spokane Task Force (September 1980).

Thus, the Spokane Tribe in 1967 settled its ICCA claims, while the expectation of fair treatment for Grand Coulee's impacts continued. Ironically, the Spokane Tribe's willingness to resolve its differences with the United States would later be used as justification for the United States' refusal to deal fairly and honorably with the Tribe.

Meanwhile, the Colvilles, who had not settled their ICCA claim, continued that litigation against the United States. In 1975, the Indian Claims Commission ruled for the first time ever that it had jurisdiction over ongoing claims as long as they were part of a continuing wrong which began before the ICCA's enactment and continued thereafter. *Navajo Tribe v. United States*, 36 Ind. Cl. Comm. 433, 434-35 (1975). Over objections by the United States, the Colvilles sought, and in 1976 obtained, permission from the Commission to amend their complaint to include for the first time their Grand Coulee claims. With new life breathed into their claims, the Colvilles pursued litigation of their amended claims to the Federal Circuit Court of Appeals, which held that the ICCA's "fair and honorable dealings" standard may serve to defeat the United States' "navigational servitude" defense. *Colville Confederated Tribes v. United States*, 964 F.2d 1102 (Fed. Cir. 1992). In light of this ruling, the United States negotiated with the Colvilles to resolve that Tribe's Grand Coulee-related claims. Unfortunately, however, because the Spokane Tribe in 1967 had acted in cooperation with the United States to settle its ICCA case, it lacked the legal leverage to force settlement.

In 1967, the Spokane Tribe settled its ICCA claims case. That was the very same year that construction of the Grand Coulee Dam third power plant containing six new generating units began. The next thirteen years witnessed a flurry of activity by the United States to address the claims of the tribes to a share of the benefits of the Grand Coulee Project.

SUBSEQUENT NEGOTIATIONS – BOTH TRIBES

In 1972, the Secretary of the Interior's Task Force began negotiation with the tribes through multiple policy, legal and technical committees to address the tribal claims. The "Secretaries Task Force" engaged the tribes on a full range of issues, including compensation, riverbed ownership and tribal jurisdiction over the inundated Indian Zones.

In 1974 the Solicitor of the Department of the Interior issued an Opinion which concluded, among other things, that the Spokane and Colville Tribes each retained ownership of the lands underlying the Columbia River and, in the case of the Spokane Tribe, the lands underlying the Spokane River. The Solicitor found the United States intent to reserve those riverbeds in the Spokane Tribe clear. The Opinion suggested that the resource interests of the Tribes were being utilized in the production of hydroelectric power at Grand Coulee.

In December 1975, the Congress directed the Secretaries of Interior and the Army to establish a Task Force and to open discussions with the tribes:

"to determine what, if any, interests the Tribe have in such production of power at Chief Joseph and Grand Coulee Dams, and to explore ways in which the Tribe might benefit from any interest so determined." S. Rep, 94-505, Dec. 4, 1975, at 79.

While these high-level negotiations were taking place, construction of the third power plant at Grand Coulee continued. The first generating unit of six came into service in 1974.

In May of 1979, following two years of negotiations among federal agencies and the tribes, the Solicitor for Interior proposed to the Secretary of Interior a legislative settlement of the claims of the Colville Tribe and the Spokane Tribe, stating

“I firmly believe that a settlement in this range is a realistic and fair way of resolving this controversy. The representatives of the Departments of Energy and Army who participated on the Federal Negotiating Task Force concur. It adequately reflects the relatively weak legal position of the tribes. (If the tribes could get around the Government’s defenses they conceivably could establish a case for from 15% to 25% of the power of the Grand Coulee and Chief Joseph dams.) In addition to the threat of legal liability to the federal government, there is the undeniable fact that the Colville and Spokane people have been treated shabbily throughout the 40-year history of this dispute. To this day they have received little benefit from these projects on their lands which totally destroyed their fishery (no fish ladders were included) and inalterably changed their way of life. It has been the non-Indian communities and irrigation districts who have benefited from these projects. Much reservation land remains desert, while across the river irrigated non-Indian lands bloom.

I am also hopeful that this is one “pro-Indian” bill that the Washington State congressional delegation will support as a fair resolution of a sorry chapter of our history. The tribes have tried recently to cultivate support for such a settlement proposal among key members of the delegation. My understanding is that the delegation’s concerns have focused on the size of a settlement award (tribal demands have referred to hundreds of millions of dollars) and a tribal proposal for allocation of a firm power supply in the 1980’s an allocation which might be seen as a threat to domestic users in times of shortage.” Legislative Proposal on Settlement of the Claims of the Colville and Spokane Tribes, Memorandum of Leo M. Krulitz to Eliot Cutler, May 7, 1979.

We do not know what happened to this Interior Solicitor proposal to settle the claims of both tribes. We do know that the sixth and final unit of the third power plant was completed in 1980. In that same year, the congressional Task Force completed its work. In spite of Congresses’ direction, rather than determine the tribal interests involved in Grand Coulee and the benefits they might derive from those interests, for the first time in nearly 50 years of promises and negotiations with both tribes, the Task Force asserted legal arguments which the United States might use to defend against or forestall any tribal claims for a share of the hydropower generated by or the revenues derived from the Grand Coulee Project. The report concluded the United States may not be required by law to provide compensation at the same time that the Project’s ability to provide benefits to the United States and the region was taking a quantum leap.

The third powerhouse alone provides enough electricity to meet the combined power of the cities of Portland, Oregon and Seattle, Washington. However, its contribution to the Federal Columbia River Power System and the inter-connected electric systems serving the western United States goes far beyond the amount of hydropower that is generated.

With completion of the third powerhouse, the Grand Coulee Project was positioned to play a pivotal role in the creation of downstream hydro power benefits from releases from large Canadian storage reservoirs. Grand Coulee became the critical link between water storage facilities in the upper reaches of the Columbia River Basin and downstream generating assets. Rated at 6,809,000 kilowatts capacity, the power generating complex at Grand Coulee became the largest electric plant in the United States, third largest in the world. It now produces about 21 billion kilowatt hours annually, four times more electricity than Hoover Dam on the Colorado River, and is the least-cost power source in the region's resource stack.

In addition to power production, Grand Coulee is the key to maintaining operating flexibility and, most important, the reliability of the Federal Columbia River Power System and inter-connected systems.

Without the third power plant in particular, and the Grand Coulee Project in general, the configuration and operation of the Federal Columbia River Power System would be very different. The electric systems serving the Pacific Northwest (and western United States) would be less efficient, have much higher average system costs and be far less reliable.

In a sad twist of historical events, two tribes — each feeling the irreversible pain of Grand Coulee's devastation — found themselves on separate paths. The Colville Tribes were able to continue their legal battles with the United States through settlement in the mid-1990s, while the Spokane Tribe's willingness to settle in the 1960's cost it substantial legal and political leverage in future dealings with the United States.

CONTINUING RECOGNITION OF THE TRIBE'S INTERESTS

In 1990, the federal government and the Tribes entered into the Lake Roosevelt Cooperative Management Agreement, which states that “[t]he Spokane Tribe shall manage, plan and regulate all activities, development, and uses that take place within that portion of the Reservation Zone within the Spokane Reservation in accordance with applicable provisions of federal and tribal law, and subject to the statutory authorities of Reclamation . . . to carry out the purposes of the Columbia Basin Project.”

Litigation over the ownership of the original Spokane Riverbed resulted in a separate federal court opinion (*Washington Water Power v. F.E.R.C.*, 775 F.2d 305, 312 n. 5 (D.C. Cir. 1985)), a court order (*Spokane Tribe of Indians v. State of Washington, Washington Water Power Company and United States of America*, No. C-82-753-AAM, Judgment and Decree Confirming Disclosure and Quieting Title to Property (U.D. Dist. Ct., E.D. Wash., September 14, 1990)). Separate settlement agreement (*Spokane Tribe of Indians v. Washington Water Power Company*, No. C-82-AAM,

Judgment (U.S. Dist. Ct. E.D. Wash., March 3, 1995)) all of which provide and affirm that the Spokane Tribe holds full equitable title to the original Spokane Riverbed.

In 1994 Congress passed the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (P.L. 103-436; 108 Stat. 4577, 103d Congress, November 2, 1994) to provide compensation to the Colville Tribes for the past and future use of reservation land in the generation of electric power at Grand Coulee Dam.

- A. For past use of the Colville Tribes' land, a payment of \$53,000,000.
- B. For continued use of the Colville Tribes' land, annual payments of \$15,250,000, adjusted annually based on revenues from the sale of electric power from the Grand Coulee Dam project and transmission of that power by the Bonneville Power Administration.

In 1994 Congress also directed the Bonneville Power Administration, Department of Interior and the relevant federal agencies, under the "fair and honorable dealings" standard, to enter into negotiation with the Spokane Tribe to address the Tribe's comparable and equitable claims for the construction and operation of Grand Coulee Dam.

During the hearing on the Colville Settlement bill, the Spokane Tribe sought an amendment that would have waived the Indian Claims Commission Act's statute of limitations to enable the Spokane to pursue its Grand Coulee claims through litigation. In the words of then Tribal Chairman Warren Seyler, "We believe it would be unprecedented for Congress to only provide relief to one tribe and not the other when both tribes were similarly impacted." Hearing Record, Colville Tribes Grand Coulee Settlement, H.R. 4757, pp. 56-61 (August 2, 1994).

Colville Tribal leaders and the bill's Congressional sponsors asked the Spokane to withdraw the request for an amendment to waive the statute of limitations. The Spokane complied, with the understanding that good faith negotiations to reach a fair and honorable settlement with the United States would be imminent. As a result, the following statements were made in a colloquy accompanying the Colville Tribes' Grand Coulee Settlement legislation. Colloquy to Accompany S. 2259, A Bill Providing for the Settlement of the Claims of the Confederated Tribes of the Colville Reservation Concerning Their Contribution to the Production of Hydropower by the Grand Coulee Dam, and for Other Purposes.

Senator Bradley stated:

"S. 2259 settles the claims of the Confederated Tribes of the Colville Reservation, yet the claims of the Spokane Tribe which are nearly identical in their substance, remain unsettled. The historic fishing sites and the lands of the two tribes were inundated by the Grand Coulee Project. It is clear that hydropower production and water development associated with the Project were made possible by the contributions of both tribes. Thus, I believe it is incumbent that the United States address its obligations under the Federal Power Act to both Tribes."

Senator Murray stated:

“The settlement of the claims of the Colville Tribes is long overdue. The claim, first filed by the Colville Tribes over forty years ago, is based upon the authority the Congress vested in the Indian Claims Commission, which provided a five-year period during which Indian tribes could bring their claims against the United States.

Unfortunately, the Spokane Tribe did not organize its government in time to participate in the claims process.

The fair and honorable dealings standard established in the Indian Claims Commission Act should clearly apply to the United States’ conduct and relationship with both the Colville and Spokane Tribes. I would urge, in the strongest possible terms, that the Department of the Interior and other relevant federal agencies enter into negotiations with the Spokane Tribe that might lead to a fair and equitable settlement of the tribe’s claims.”

Senator Inouye stated:

“I fully support the notion that the United States has a moral obligation to address the claims of the Spokane Tribe, and I would be pleased to join you in a letter to Interior Department Secretary Babbitt urging that negotiations be undertaken by the Department.”

Senator Bradley added:

“Under the Federal Water Power Act, which is now referred to as the Federal Power Act, where an Indian Tribe’s land contributes to power production, the licensee must pay an annual fee to the Indian Tribe which represents the tribe’s contribution to power production. I too, would be pleased to join Senator Murray and Chairman Inouye in urging the Interior Department and the Bonneville Power Administration to enter into negotiations with the Spokane Tribe to address the tribe’s claims.”

Senator McCain stated:

I also want to join my colleagues in urging the Department of the Interior to seize this opportunity to address the Spokane Tribe’s comparable and equitable claims for damages arising out of the inundation of their lands for the construction and operation of Grand Coulee Dam.”

Thus, as the Colville Tribes’ claims were being addressed, the United States Congress made clear its intent that the Spokane Tribe be treated fairly and honorably in connection with its claims for Grand Coulee damages through prompt, good faith negotiations with the Administration.

The Spokane Tribe adhered to the spirit of good faith negotiations over the next several years. While the Administration in general continued its refusal to take Congress' direction to negotiate fully a fair and honorable settlement with the Spokane Tribe, the Administration lead shifted from the Department of the Interior to the Bonneville Power Administration.

For the next six years, from 1998 to 2004, the Tribe engaged in very difficult negotiations with BPA. Finally, in 2004, the provisions of a settlement bill were arrived at in which BPA had no objections. Those provisions are contained in S. 2494.

LEGISLATIVE HISTORY

Spokane Tribal acreage taken by the United States for the construction of Grand Coulee Dam equaled approximately 39 percent of Colville acreage taken for construction of the dam. The Spokane settlement is based on 39 percent of the Colville settlement. At the request of members of Congress, the payment provisions for the Spokane settlement bill were reduced to 29 percent of Colville in exchange for return of the Tribe's lands taken for the Grand Coulee Project.

Spokane Tribe settlement legislation has been introduced in the 106th, 107th, 108th, 109th and this the 110th Congress. In the 108th Congress, hearings on H.R. 1797 were held before the House Resources Subcommittee on Water and Power on October 2, 2003.

Hearings were also held on the Senate bill S. 1438, on October 2, 2003, before the Indian Affairs Committee. The bill was approved by the United States Senate on November 19, 2004. The House of Representatives adjourned late on November 20, 2004 without time to consider the Senate-passed bill.

A Spokane Settlement Bill was introduced in the 109th Congress. The House bill, H.R. 1797, was approved by the House of Representatives on July 25, 2005. In the second session of 109th Congress, in 2006, subsequent objections to S. 1438 by the State of Washington Department of Fish and Wildlife, as well as the Lincoln County Commissioners, stalled consideration of the settlement in the Senate. The Senate adjourned without vote on the settlement bill.

AMENDMENTS AND SUPPORT

The Spokane Tribe has agreed to modify the proposed legislation to address various concerns. In 2007, the Spokane Tribe met with the State of Washington Department of Fish and Wildlife and the Washington Office of the Governor to address their concerns with the settlement bill. The Tribe and State entered into an Agreement In Principle on May 1, 2007 to resolve those concerns. See Attachment A.1. Government-to-Government Agreement In Principle.

The Governor of the State of Washington, Christine Gregoire, also voices strong support for this settlement legislation, stating that it is "clearly appropriate" and "long overdue". See Attachment A.2.

The Tribe and the Lincoln County Commissioners held meetings to address the concerns of the Commissioners with provisions of the bill affecting the Spokane River. The Tribe agreed to amend the bill to address these concerns. Section 9(a)(2) was removed, thereby excluding transfer to the Tribe of the south bank of the Spokane River, which is located outside Reservation boundaries. Section 9.(a) now confines the land to be restored to the Tribe to “land acquired by the United States. . . that is located within the exterior boundaries of the Spokane Indian Reservation.” On June 4, 2007, the Commissioners endorsed by letter, “strong support” for the settlement legislation as amended. See Attachment A.4.

The Stevens County Commissioners in letters of December 18, 2007, request “renewed support” of the Tribe and for the settlement. “Please continue in your efforts to get legislation passed which finally settles this debt owed to the Spokane Tribe.” See Attachment A.5. The tribe also met with landowners concerned about this provision in the bill. The above amendment regarding Section 9(a)(2) resolved their stated concerns.

The Eastern Washington Council of Governments, pursuant to letters of January 23, 2008, by Chairman Ken Oliver provides, “We urge your strongest support and consideration for this issue.” See Attachment A.6.

The Spokane Tribe has reached an agreement with the Colville Tribe dated June 17, 2007 providing for a disclaimer provision in the bill regarding adjoining Reservation boundaries. See Section 9©.

Section 9(d)(1) was added to provide the United States, Bureau of Reclamation full protection for carrying out Columbia Basin Project purposes. Section 9(d)(3) was added to fully protect the authority and interests of the National Park Service in the National Recreation Area within the Reservation. Section 9(d)(4) was added to provide for an MOU between the Department of the Interior and the Tribe to provide for coordination on the land transfer. The Tribe is on record with the Committee agreeing that the MOU be completed prior to the transfer of lands back to the Tribe.

The Spokane Tribe has made numerous and significant concessions over the course of negotiations on the provisions of the settlement bill. The Tribe has reached agreement with federal agencies, the State and county governments, the Colville Tribe, as well as private individuals, to resolve their concerns or objections to the bill.

ADMINISTRATION OBJECTIONS

On June 28, 2005, John Keys, the Commissioner of the U.S. Bureau of Reclamation sent a letter to Congressman Richard Pombo, Chairman of the House Committee on Resources, raising Administration concerns and issues with H.R. 1797, Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act. Subsequently, the Spokane settlement legislation was approved by the House on July 25, 2005, during the 109th Congress. The Commission’s letter raised three main concerns. These concerns and the Tribe’s perspective on them and the actions the tribe took to address them are discussed below.

“First, the Spokane Tribe has not brought forward a legal claim that would warrant this type of settlement and there is no legal claim pending.”

This legislation is not a settlement of legal claims, it is “to provide for equitable compensation. . . for the use of tribal lands for the production of hydropower by the Grand Coulee Dam. . .”

The Colville settlement was also not a settlement of legal claims. The Department of Justice took the express position before Congress that the Colville also had no legal claim; only a “moral claim”. The settlement was based on the history and record of dealings with the Tribe. This history and record includes the repeated promises made by the U.S. to provide compensation to both tribes.

“While plaintiff had no legal and equitable claim based on the navigational servitude, they did have a viable moral claim based on the “fair and honorable dealings” provision of the Indian Claims Commission Act of 1946.

The resolution reached in the proposed settlement does not constitute an admission of liability. . . . But, we are prepared to recognize that the record, in this timely filed claim, can be read to reflect an undertaking by the United States with respect to power values. Because of that we think it is fair and just to fashion a complete resolution of this longstanding claim.”

State of Peter R. Steenland, Appellate Section Chief, Environment and Natural Resources Div., Dept. of Justice (Joint Hearing on S. 2259 before the Subcomm. on Water and Power of the Comm. on Energy and Natural Resources and the Comm. on Indian Affairs, S. Hrg. 103-943, Aug. 4, 1994. at 17).

Congress has enacted many equitable settlements and jurisdictional legislation on behalf of Indian tribes for the flooding of tribal lands for the use of hydropower and other purposes in the interest of justice and fairness.

In the 1994 Colville settlement Hearings and Colloquy, senators McCain, Bradley, Inouye and Murray instructed the U.S. to negotiate a similar settlement with the Spokane Tribe - along the lines of the Colville settlement. The Senate Committee and the Colloquy expressly noted that both tribes suffered virtually identical harm and yet the settlement legislation compensated only the Colville Tribe. Specific quotes from that colloquy are contained in this statement under CONTINUING RECOGNITION OF THE TRIBE’S INTERESTS at pp. 9-12.

The U.S. made express promises to compensate both tribes with a share of the power revenues for the use of tribal lands in 1933 and 1935. See HISTORICAL CONTEXT at pp. 2-3.

The DOI Associate Solicitor Memorandum of 1976 states that the U.S. behavior toward both tribes amounted to an "act of confiscation", where the trustee converts the property of the beneficiary to his own use.

“The Department has not only failed to give the Tribes a share of the benefits of

developing tribal property, but in the development has largely destroyed what other economic bases, fishing, farming and timbering, the Tribes may have had in their remaining property. The blatant lack of care taken by the Department to protect its own fiduciaries is confirmed by the letters and background activity described previously in the Statement of Fact. In the case of Grand Coulee, the Department knew precisely what destruction was being caused and what types of compensation of tribal property were appropriate. . . . Finally, given the knowledge the Department had of the Indian rights and needs at stake, it appears to have been derelict in not informing Congress of these, so that congress could take informed and specific action. . . . No case law grants executive agencies authority to unilaterally abrogate Indian rights. Certainly throughout the construction of these two projects, the posture of the Department can be described not as ". . . an exercise of guardianship, but an act of confiscation."

Memorandum from Lawrence A. Aschenbrenner, Acting Associate Solicitor, Division of Indian Affairs, to Solicitor, p. 13 (1976) (emphasis added).

In 1975, Congress authorized the Grand Coulee Task Force "to determine what, if any, interests the Tribes have in such production of power at Chief Joseph and Grand Coulee Dams, and to explore ways in which the Tribes might benefit from any interest so determined." S. Rep. 94-505, Dec. 4, 1975, at 79.

In the interim, in 1979, the Solicitor for Interior proposed to the Secretary of the Interior a Congressional settlement of the claims of the Colville and Spokane Tribes, stating,

"I firmly believe that a settlement in this range is a realistic and fair way of resolving this controversy. The representatives of the Departments of Energy and Army who participated on the Federal Negotiating Task Force concur.

Legislative Proposal on Settlement of the Claims of the Colville and Spokane Tribes, Memorandum of Leo M. Krulitz to Eliot Cutler, May 7, 1979.

In the 1980 Task Force Report, the U.S. instead, for the first time, asserted legal defenses against the Tribes' claims and denied compensation.

"[I]n 1975, the Senate Committee on Appropriations directed the Secretaries of the Interior and Army to open discussions with the Tribes to assess a resolution of this dispute. S. Rep. 94-505, p. 79. Pursuant to that directive, a task force, consisting of the Departments of the Interior and Army, and the Bonneville Power Administration, issued a final report in September 1980.

The report was approved by the Secretary of the Interior. It concluded among other things that there was "no question but that the Tribes would be entitled to compensation had the projects been built and operated by the Federal Power Act licensees," and that the Tribes would have received a reasonable benefit as fixed by that Commission pursuant to Section 10(e) of the Federal Power Act. The report

further suggested that the legal defenses of the United States be exhausted with respect to navigational servitude before further action be taken regarding the Tribes' power claims."

Statement of Peter R. Steenland, Appellate Section Chief, Environment and Natural Resources Div., Dept. of Justice (Joint Hearing on S.2259 before the Subcomm. on Water and Power of the Comm. on Energy and Natural Resources and the Comm. on Indian Affairs, S. Hrg. 103-943, Aug. 4, 1994, at 16).

Following the 1994 Colville Settlement, the Spokane Tribe attempted to carry out the negotiation of a settlement with DOJ and DOI. The Tribe consistently, over several years, got nothing but bounced back and forth between the run-a-round from both agencies and no actual negotiations occurred.

"The hearing records show that Committee members in both the House and Senate were sensitive to the need to provide a settlement for the Spokane Tribe. The report of the House Natural Resource Committee directs the Departments of the Interior and Justice to negotiate with the Tribe to settle its claims. In the Senate, a colloquy between Senators Murray, Inouye, Bradley and McCain stressed that appropriate federal agencies should negotiate with the Spokane Tribe.

Based on the foregoing, we are requesting that the Department proceed as soon as possible to negotiate with the tribe on its power value and fishing claims as previously directed by Congress."

Letter from Sen. Patty Murray, Sen. John McCain, Sen. Daniel Inouye, Sen. Bill Bradley, and Rep. George Nethercutt to Bruce Babbitt, Secretary of the Interior, dated July 9, 1996.

"The claims of the Spokane Tribe of Indians are virtually identical in substance to those of the Colville Tribes related to construction and operation of the Dam: loss of religious, fishing, burial, power and irrigation sites. While the region received significant benefits, the Tribe suffered devastating impacts on their culture, lifestyle and economy which have not yet been addressed. Because of the Administration opposition, the Congress did not settle the Spokane claims when the Colville Settlement Act was passed, nor did the Settlement Act waive the ICCA statute of limitations to open the door for the Spokane Tribe's equitable claim.

The Congress did, however, recognize this Nation's need to resolve the Spokane Tribe's claims regarding Grand Coulee Dam. In fact, the House Committee Report on the Colville bill directs the Departments of Interior and Justice to work with the Spokane Tribe to address the Spokane Tribe's claims on their own merits. A colloquy among Senators Bradley, McCain, and ourselves in November 1994 expressed the same direction to the agencies as the House Report.

We are therefore frustrated that three years after enactment of the Colville Tribes's Settlement Act, the Departments, while conducting numerous meetings with the Tribe, have still failed to enter into negotiations.

We continue to believe it is grossly unjust for one Tribe to be compensated while a similarly affected neighboring Tribe is left with no remedy. Therefore, in the strongest possible terms, we urge the Departments to enter into negotiations with the Spokane Tribe immediately so that a fair and equitable settlement of the Tribe's claims can be reached. A resolution of the Spokane claims, of course, must involve payment for past damages, as well as payment for future power revenues."

Letter from Sen. Patty Murray and Sen. Daniel Inouye to Bruce Babbitt, Secretary of the Interior and Janet Reno, Attorney General, dated March 2, 1998.

The Spokane Tribe finally sought legislative help from Senator Murray and Congressman Nethercutt, and asked for a jurisdictional bill to allow the Tribe to file a legal claim and have it's day in court with the U.S.. The DOJ strongly opposed this effort.

That is why there is no legal claim. The Colville did not have one either. Both Tribes did not file Coulee claims in 1951. Both Tribes did not have legal claims. Both Tribes have equitable moral claims. Only one Tribe is being compensated. The U.S. misled both Tribes with promises and negotiations and then reversed position by asserting legal defenses 40 years after the fact when the compensation stakes got too high. Words were much cheaper than fair compensation. Since the Spokane Tribe had settled their claims case with the U.S. in 1967, they had no claims case to amend to later add Grand Coulee claims.

“The Administration therefore believes it would be premature to assume that future budget proposals will recommend . . . appropriations at the levels proposed in the bill.”

The impact on BPA ratepayers would be approximately 9 cents per megawatt hour (\$0.09). That represents a 0.14 to 0.31 percent increase in BPA rates. This is about as close to a zero impact as one could calculate. BPA clearly should be able to reduce costs by one or two tenths of one percent to cover the cost of the annual payment proved for in Section 6 of the bill.

The Senate Committee and the House Report instructed the U.S. to negotiate a settlement with the Spokane along the lines of the Colville settlement.

The Spokane lost the equivalent of 39% of the lands the Colville lost to Grand Coulee. The Spokane bill provides the equivalent of 29% of the Colville settlement payments adjusted for inflation from the date of the Colville Settlement Act, in addition to the return and transfer of lands in Section 9.

The Spokane also lost all salmon runs and two of their valuable hydropower sites on the Reservation.

“Second, the Department is concerned with transferring land and jurisdiction . . . absent

a prior written agreement to fully address future management responsibilities.”

Following release of the Administration/Keys letter on June 28, 2005, the Tribe met with U.S. DOI/BOR officials, including the Commissioner of BOR, on July 12, 2005 and came to an agreement that the land transfer would not take place until the MOU between the U.S. and the Tribe called for in Section 9(c)(4) was completed. This agreement was communicated to the Committee via a July 21, 2005 e-mail message from Tribal Attorney, Howard Funke to Majority and Minority Counsel, Senate Committee on Indian Affairs (proposing Senate report language evidencing this agreement).

“Third, what specific duties are required of the Secretary. . . with respect to trust lands?”

The bill was amended to add current Section 9.(b)(2) FEDERAL TRUST RESPONSIBILITY. The Federal trust for all lands transferred under this section shall be the same as the responsibility for other tribal land held in Trust within the . . .Reservation.

The Department of the Interior is well versed in its trust responsibility for Indian Reservation lands. These Spokane Reservation lands returned to the Tribe are no different.

The Tribe understands that the Department of the Interior, despite these modifications to the legislation and the historical context for such a settlement, continues to have virtually the same three issues with the Spokane settlement legislation. The House, in the 109th Congress approved the Spokane settlement legislation, with knowledge of these issues.

CONCLUSION

The Tribe has exerted significant efforts to retain its homelands, to receive the benefit of the promises made by the United States to reserve our lands, and to fairly compensate us for the use of our lands for the production of hydropower. Our people have endured enormous past and present impacts to their resources, their way of life and their culture due to operation of the Project. Grand Coulee delivers enormous benefits to the United States and the region. The Colville Tribes, similarly situated directly across the Columbia River, share in the benefits of the Project. The Spokane deserve fair and honorable treatment by its trustee, and the region, in a settlement due them for the use of their lands for the production of hydropower and many other Project purposes.

ATTACHMENT A

Letters – Agreements - Resolution

In Support Of

The Spokane Tribe of Indians of the Spokane Reservation
Grand Coulee Dam Equitable Compensation Settlement Act

S. 2494

May 15, 2008

1. Government-to-Government Agreement in Principle Between the State of Washington Department of Fish and Wildlife and The Spokane Tribe of Indians for the Spokane River Arm of Lake Roosevelt
2. State of Washington Governor Christine Gregoire letter December 14, 2007, “Today I write in support. . .”; “. . . clearly appropriate that this settlement be approved. . .”; and “. . . long overdue. . .”
3. Spokane, Washington Mayor Mary Verner letter of December 11, 2007, “. . . voice strong support. . .”; and “. . . I endorse this bill and settlement. . .”
4. Lincoln County Commissioners letter of June 4, 2007, “. . . strongly supports the legislation being proposed to settle the tribe’s long standing claim. . .”
5. Stevens County Commissioners letters of December 18, 2007, “. . . we are honored to call them our neighbors and friends. . .”; and “Please continue in your efforts to get legislation passed. . .”
6. Eastern Washington Council of Governments, Chairman, Ken Oliver letters of January 23, 2008, “We urge your strongest support and consideration. . .”
7. National Congress of American Indians Resolution #DEN-07-027, November 11-16, 2007; “. . . grossly unjust and dishonorable for one Tribe to be compensated while a similarly affected neighboring Tribe is not. . .”
8. Colville-Spokane Reservation Boundary disclaimer agreement of June 17, 2007

**Government-to-Government Agreement in Principle
Between the State of Washington Department of Fish and Wildlife
and The Spokane Tribe of Indians**

For the Spokane River Arm of Lake Roosevelt

PARTIES: This Agreement in Principle is by and between the Spokane Tribe of Indians (Tribe) and the State of Washington Department of Fish and Wildlife (WDFW), acting through duly authorized representatives.

WHEREAS, the Tribe and WDFW have developed a cooperative and beneficial working relationship on important issues affecting Lake Roosevelt, including but not limited to the use of water supplies for agriculture, hydropower, protection of water quality, enhancement of fisheries and recreation and other beneficial uses, while providing “seamless” fishing opportunities for anglers, and

WHEREAS, the congress of the United States has pending before it “The Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act” (Act); and

WHEREAS, the Tribe and WDFW intend to develop a cooperative agreement with other affected governments to provide for coordination and cooperative-management of resources and interests within Lake Roosevelt; and

WHEREAS, representatives of WDFW and the Tribe have discussed and cooperatively worked together to develop an agreement in principle, which respects each party’s sovereignty;

NOW THEREFORE, the undersigned parties, understanding their mutual intent to develop a joint Cooperative Assistance Agreement, agree in principle to the following terms for management of law enforcement activities under the Act by their respective agencies on the Spokane River Arm of the Roosevelt.

1. Open Waters and South Shore of the Spokane River Arm of Lake Roosevelt.

The Tribe and the WDFW shall enforce their respective laws, rules and regulations regarding fish and wildlife on the open waters and south shore of the Spokane River Arm of Lake Roosevelt, emphasizing joint enforcement patrols as a practical approach for avoiding conflicts during enforcement contacts.

2. North Shore of the Spokane Arm of Lake Roosevelt and Adjacent Secondary Shorelands of the Spokane Indian Reservation.

The Tribe shall enforce its applicable laws, rules and regulations regarding fish and wildlife on the north shore of the Spokane Arm of Lake Roosevelt on the Spokane Indian Reservation.

3. "Seamless" Fishing Opportunities For Anglers

To avoid confusion and provide seamless fishing opportunities, the Tribe and WDFW agree that, from the perspective of the "average" angler, the parties' fishing regulations must be aligned ("match" if possible). Therefore, under the Act:

- a. A valid State or Tribal (for enrolled Spokane tribal members) fishing license shall authorize fishing on the open waters and south shore of the Spokane River Arm of Lake Roosevelt.
- b. A valid Tribal fishing license or permit shall authorize fishing from the north shore of the Spokane River Arm of Lake Roosevelt on the Spokane Indian Reservation for non-members. The Tribal fishing license or permit for non-members will include a requirement for a valid State fishing license.

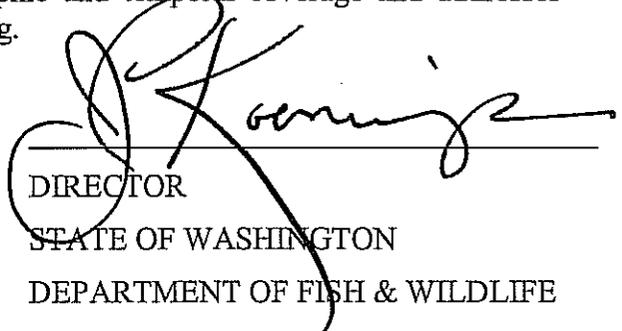
4. Cooperative Assistance Agreement

Consistent with applicable laws, the Tribe and WDFW shall assist one another cooperatively in their respective enforcement responsibilities and activities, emphasizing coordinated joint enforcement strategies as provided above, and develop a specific agreement, which provides for broad geographic and temporal coverage and addresses elements such as logistics, tools, and scheduling.



CHAIRMAN
SPOKANE TRIBE OF INDIANS

Dated: 2/22, 2007



DIRECTOR
STATE OF WASHINGTON
DEPARTMENT OF FISH & WILDLIFE

Dated: 5/1, 2007

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6780 • www.governor.wa.gov

December 14, 2007

The Honorable Maria Cantwell
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Norm Dicks
U.S. House of Representatives
2467 Rayburn House Office Bldg.
Washington, D.C. 20515

Dear Senator Cantwell and Congressman Dicks:

Today I write in support of the Spokane Tribe of Indians Grand Coulee Dam Equitable Compensation Settlement Act, a bill to provide monetary compensation and return of the lands to the people of the Spokane Tribe that were taken, damaged, or used for the construction and operation of the Grand Coulee Dam. I also offer the full assistance of my office in your efforts to pass this legislation as it is clearly appropriate that this settlement be approved and compensation paid.

For many years, the people of the Spokane Tribe were joined with the Columbia and Spokane Rivers in a relationship that defined the Tribe's culture, economy, and way of life. The rivers were their primary source of food, trade and spirituality, and played a central role in shaping tribal identity. To be a Spokane tribal member was to believe in and rely upon the abundance and permanence of the river's bounty. The Spokane People referred to the Spokane River as the "Path of Life." It is difficult for most people living in Washington to comprehend the profound and devastating impacts and effects forced upon tribal members during construction and subsequent operation of the dam.

As a result of your efforts in Congress, the people of the United States now have an opportunity to redress, in part, the damage inflicted on the Tribe. I am committed to work with you to secure some measure of fair and equitable compensation for the past and continued use of Spokane Tribal land for the production of hydropower at Grand Coulee Dam.

The state of Washington, the Pacific Northwest, and the United States receive enormous benefits from the low-cost power, flood protection, water supply, and other value provided by the Grand Coulee Dam. Indeed, the very competitiveness of the regional economy is founded in large measure upon these benefits. The Spokane Tribe has long waited to receive fair and honorable compensation for the use of their lands by Grand Coulee. It should be obvious to all that fulfillment of that obligation is long overdue.

I look forward to working with you to enact this important legislation.

Sincerely,

A handwritten signature in black ink that reads "Christine O. Gregoire".

Christine O. Gregoire
Governor

The Honorable Maria Cantwell
The Honorable Norm Dicks
December 14, 2007
Page 2

cc: The Honorable Rick Sherwood, Chairman, Spokane Tribal Business Council
The Honorable Patty Murray, United States Senate
The Honorable Cathy McMorris Rodgers, U.S. House of Representatives
The Honorable Jay Inslee, U.S. House of Representatives
Mark Rupp, Director, Governor Gregoire's Washington, D.C., Office



City of Spokane

December 11, 2007

The Honorable Marie Cantwell
Member, United States Senate
SD-511 Dirksen Senate Office Building
Washington, DC 20515

The Honorable Norman Dicks
Member, United States House of Representatives
2467 Rayburn House Office Building
Washington, DC 20515-4706

Dear Senator and Congressman:

I appreciate this opportunity to voice strong support for the Spokane Tribe of Indians' Grand Coulee Dam Equitable Compensation Settlement Act. I am familiar with the relevant history of the Tribe and the proposed legislation and I endorse this bill and settlement. The Grand Coulee Dam has brought tremendous benefits to our region, to the West, indeed to the entire country. Regrettably, those rewards came at the expense of the Spokane Tribe and the Colville Confederated Tribes. Both Tribes have suffered devastating impacts to their culture, economy and way of life. Yet the Colvilles secured a settlement with the United States in 1994, while the annual impacts to the Spokane continue unmitigated and their historic claims are still unresolved. The proposed legislation represents a final settlement of the Spokane Tribe's claims.

Similar Spokane settlement bills were approved by the United States Senate in 2004 and the House of Representatives in 2005. I also note that the annual compensation payments provided for in the bill are not to be paid by the region's ratepayers, but are to be recovered from cost reductions in expenditures by BPA on an annual basis.

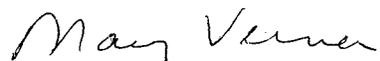
The Spokane Tribe is our good neighbor. The Tribe has fought long and hard in numerous regional forums to protect and enhance the values and interests associated with the Spokane and Columbia Rivers and Lake Roosevelt. I applaud the Tribe in their successful and generous efforts to address in this bill the previously stated concerns of affected State and local governments, Indian Tribes and individual landowners as well as federal agencies. Congressional approval of this proposed settlement legislation will right a longstanding wrong imposed on the Spokane Tribe, foster positive intergovernmental relations, as well as provide numerous other benefits to our region.

"Spokane – Near Nature, Near Perfect"

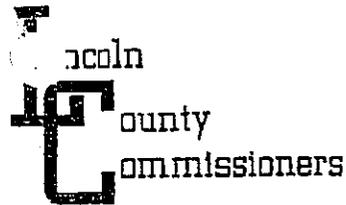
The Honorable Marie Cantwell
Member, United States Senate
The Honorable Norman Dicks
Member, United States House of Representatives
December 11, 2007
Page 2

A fair and honorable settlement with the Spokane Tribe, for the past and continued use of their lands for the production of hydropower, is long overdue. I urge Congress to enact this important legislation.

Sincerely,

A handwritten signature in cursive script that reads "Mary Verner".

Mary Verner
Mayor



June 4, 2007

Richard L. Sherwood, Chairman
Spokane Tribe of Indians
P.O. Box 100
Wellpinit, WA 99040

RE: Settlement Bill

Dear Chairman Sherwood,

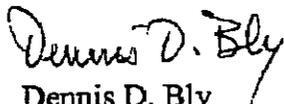
Thank you for providing Lincoln County an advance copy of the proposed federal legislation for the Spokane Tribe of Indians. As you are aware, last year we took exception to the proposed legislation because it included a provision which would transfer the south shore of the Spokane River, up to the 1290 elevation, to the tribe. We greatly appreciate that in the current legislation you have eliminated that provision and that the South shore of the Spokane River will remain as it has since the inception of the Coulee Dam Project.

The Board of Commissioners has a very minor concern with the agreement that was entered into with the Washington State Department of Fish and Wildlife. However, the concern is of such a minor nature that we would not wish to hold up your settlement bill over an issue that we feel certain can be worked out between ourselves.

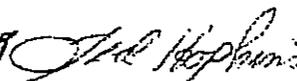
Based on our understanding that the legislation proposed by the Spokane Tribe of Indians would officially transfer administrative jurisdiction of that portion of land that includes the south bank of the Spokane River as it existed before Grand Coulee Dam was constructed; and understanding that the exact location of the original south bank cannot be accurately determined; but further understanding that it does not reach to the south bank of the current body of water, the Board of Lincoln County Commissioners fully and strongly supports the legislation being proposed to settle the tribe's long standing claim against the federal government. Our support is based on the proposed legislation that has been provided by the tribe and if that legislation changes during the legislative process, we would reserve the right to re-evaluate the impact on our citizens and our support for the bill.

We want to thank the Council of the Spokane Tribe of Indians for their efforts to reach out to Lincoln County in a positive manner to resolve an issue that was potentially divisive to the region.

Respectfully,



Dennis D. Bly
Chairman



Deral D. Boleneus
District #2

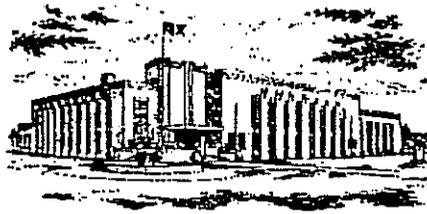
Ted Hopkins
District #3

cc: Senator Patty Murray
Senator Maria Cantwell
Representative Cathy McMorris Rodgers
Senator Bob Morton
Prosecuting Attorney

Tony Delgado
District No. 1

Merrill J. Ott
District No. 2

Malcolm Friedman
District No. 3



Polly Coleman
Clerk of the Board

Nettie Winders
Assistant Clerk

Stevens County Commissioners

215 South Oak St, Room #214, Colville, WA 99114-2861
Phone: 509-684-3751 Fax: 509-684-8310 TTY: 800-833-6388
Email: Commissioners@co.stevens.wa.us

December 18, 2007

Senator Maria Cantwell
U.S. Senate Rm 717
Hart Building
Washington, D.C., 20510

Dear Senator Cantwell,

We are writing to request renewed support for authorizing reparation payments to the Spokane Tribe of Indians. The Grand Coulee Dam's reservoir, Lake Roosevelt inundated their traditional lands many decades ago, and through a series of false starts and circumstances, the Spokane Tribe has yet to receive reparation payments.

Ironically, the Eastern Washington Council of Governments, of which Stevens County is a member, met recently. It was on December 7 – the 66th anniversary of Pearl Harbor – and it was then, in 1941, in Washington, D.C. that a bill was being considered to grant the reparation payments to the tribe. In a most gracious and patriotic fashion, the Spokane Tribe did not pursue the passage of the bill granting reparations, but instead, stood aside to stand side by side with all the Americans to engage in the WWII conflict.

They continue to lead by example, and we are honored to call them our neighbors and friends. Please continue in your efforts to get legislation passed which finally settles this debt owed to the Spokane Tribe.

Sincerely,


Malcolm Friedman
Chairman of the Board
Commissioner


Merrill J. Ott
Commissioner

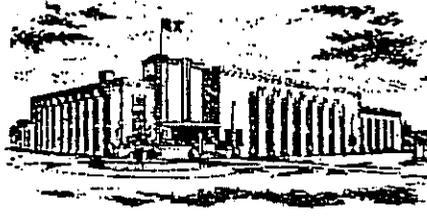

Tony Delgado
Commissioner

Cc: Chairman Rick Sherwood, Spokane Tribe of Indians
Representative Cathy McMorris-Rodgers

Tony Delgado
District No. 1

Merrill J. Ott
District No. 2

Malcolm Friedman
District No. 3



Polly Coleman
Clerk of the Board

Nettie Winders
Assistant Clerk

Stevens County Commissioners

215 South Oak St, Room #214, Colville, WA 99114-2861
Phone: 509-684-3751 Fax: 509-684-8310 TTY: 800-833-6388
Email: Commissioners@co.stevens.wa.us

December 18, 2007

Senator Patty Murray
B-34 Dirksen Senate Building
Washington, D.C. 20510

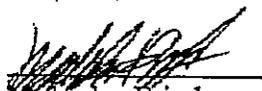
Dear Senator Murray,

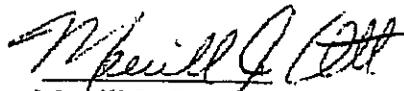
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They continue to lead by example, and we are honored to call them our neighbors and friends. Please continue in your efforts to get legislation passed which finally settles this debt owed to the Spokane Tribe.

Sincerely,


Malcolm Friedman
Chairman of the Board
Commissioner


Merrill J. Ott
Commissioner


Tony Delgado
Commissioner

Cc: Chairman Rick Sherwood, Spokane Tribe of Indians
Senator Maria Cantwell
Representative Cathy McMorris-Rodgers

Eastern Washington
Council of Governments

215 S. Oak St, Colville, WA 99114
509-684-3751

Chairman Ken Oliver, Pend Oreille County
Vice Chairman Rudy Plager, Adams County
Secretary Merrill Ott, Stevens County
Treasurer Ted Hopkins, Lincoln County

Jan 23, 2008

Representative Cathy McMorris-Rodgers
1708 Longworth House Office Building
Washington, D.C., 20515

Dear Representative McMorris-Rodgers,

The Eastern Washington Council of Governments (EWCOG) continues to fully support efforts by the Spokane Tribe of Indians to gain reparation payments for the Columbia River's inundation of their lands when the Grand Coulee Dam was constructed many decades ago. To this date, the United States has yet to fulfill their promise of reparation payments, and though legislation was introduced last year, the authorization has yet to materialize.

The county commissioners of the EWCOG continue to meet on various issues of concern here in the northeast portion of this great state. Our concerns for developing a healthy economy, protecting our resources, and engaging our state and federal representatives remain strong. Your visits to our region have been encouraging to us all.

We urge your strongest support and consideration for this issue. As we move ahead in our regional issues, our friends and neighbors in the Spokane Tribe have and continue to be an integral force helping us all.

Thank you for your service to our great state of Washington.

Sincerely,



Ken Oliver
Pend Oreille County Commissioners
Chairman, Eastern Washington Council of Governments
commissioners@pendoreille.org
commissioners@co.stevens.wa.us

Eastern Washington
Council of Governments

215 S. Oak St, Colville, WA 99114
509-684-3751

Chairman Ken Oliver, Pend Oreille County
Vice Chairman Rudy Plager, Adams County
Secretary Merrill Ott, Stevens County
Treasurer Ted Hopkins, Lincoln County

Jan 23, 2008

Senator Maria Cantwell,
511 Dirksen Senate Office Building
Washington, D.C., 20510

Dear Senator Cantwell,

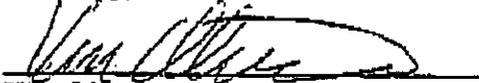
The Eastern Washington Council of Governments (EWCOG) continues to fully support efforts by the Spokane Tribe of Indians to gain reparation payments for the Columbia River's inundation of their lands when the Grand Coulee Dam was constructed many decades ago. To this date, the United States has yet to fulfill their promise of reparation payments, and though legislation was introduced last year, the authorization has yet to materialize.

The county commissioners of the EWCOG continue to meet on various issues of concern here in the northeast portion of this great state. Our concerns for developing a healthy economy, protecting our resources, and engaging our state and federal representatives remain strong. Your visits to our region have been encouraging to us all.

We urge your strongest support and consideration for this issue. As we move ahead in our regional issues, our friends and neighbors in the Spokane Tribe have and continue to be an integral force helping us all.

Thank you for your service to our great state of Washington.

Sincerely,



Ken Oliver
Pend Oreille County Commissioners
Chairman, Eastern Washington Council of Governments
commissioners@pendoreille.org
commissioners@co.stevens.wa.us

Eastern Washington
Council of Governments

215 S. Oak St, Colville, WA 99114
509-684-3751

Chairman Ken Oliver, Pend Oreille County
Vice Chairman Rudy Plager, Adams County
Secretary Merrill Ott, Stevens County
Treasurer Ted Hopkins, Lincoln County

Jan 23, 2008

Senator Patty Murray
173 Russell Senate Office Building
Washington, D.C., 20510

Dear Senator Murray,

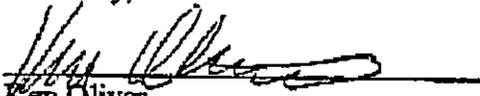
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Sincerely,



Ken Oliver

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Chairman, Eastern Washington Council of Governments
commissioners@pendoreille.org
commissioners@co.stevens.wa.us



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #DEN-07-027

TITLE: Support of Congressional Settlement of Grand Coulee Dam Claims

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the construction and operation of Grand Coulee Dam on the Columbia River destroyed and continues to injure scarce Tribal resources without payment of fair compensation to the Spokane Tribe for its losses; and

WHEREAS, the Spokane Reservation boundaries expressly include the entire adjacent riverbeds of the Columbia and Spokane Rivers; and

WHEREAS, construction of the Grand Coulee Dam flooded 40 miles of the Reservation and its river boundaries, inundated valuable power sites available to the Spokane Tribe and cut off fish migration to the Spokane territory; and

WHEREAS, while the nation and the region received enormous benefits from the construction and operation of Grand Coulee Dam, the Spokane Tribe suffered devastating impacts on their culture, lands, resources, and economy; and

WHEREAS, Grand Coulee generates approximately one billion annually, the Spokane Tribe has received only \$4,700 in compensation for its losses, despite repeated promises by the United States to fairly compensate the Spokane Tribe; and

WHEREAS, Grand Coulee makes a critical contribution to the operational flexibility and reliability of the Federal Columbia River Power System; and

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*Ohkay Owingeh
(Pueblo of San Juan)*

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Chickasaw Nation

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Fallon Paiute Shoshone Tribe

EXECUTIVE DIRECTOR
Jacqueline Johnson
Tlingit

NCAI HEADQUARTERS
1301 Connecticut Avenue, NW
Suite 200
Washington, DC 20036
202.466.7767
202.466.7797 fax

WHEREAS, in 1992, the U.S. Court of Claims ruled that the United States was liable to the neighboring Colville Confederated tribes for failing to deal “fairly and honorably” with the Colville tribes by keeping the power value of the river and Grand Coulee Dam to itself, which resulted in Congress enacting the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (P.L. 103-436; 108 Stat. 4577, 103rd Congress, November 2, 1994) to provide \$53 million lump sum payment and \$15 million in annual payments in perpetuity to the Colville tribe in settlement of their claims; and

WHEREAS, the Colville and Spokane Tribes suffered from identical dishonorable and unfair dealings at the hands of the United States, but because the Spokane Tribe in 1967 had acted in cooperation with the United States to settle its Indian Claims Commission Act case, unaware the United States would later use that settlement as a defense against payment of fair compensation to the Tribe and in reliance on continued negotiations with the United States, the tribe did not file a claim; and

WHEREAS, when the Colville Settlement Act was passed by Congress, there was opposition by the Administration to settlement of the Spokane Tribes claims and the Spokane Tribe honored a request by the Colville Tribe to defer Spokane Tribe’s claims so as not to jeopardize the Colville settlement; and

WHEREAS, Congress in passing the 1994 Colville Settlement Act, included language in the House Report and Senate colloquy, directing the Departments of the Interior and Justice to negotiate with the Spokane Tribe to settle the Tribe’s claims on its own merits; and

WHEREAS, in the thirteen years following enactment of the Colville Settlement Act and approval of the settlement in the Senate in 2004, approval by the House of Representatives in 2005, the United States has still failed to fairly and honorably address and settle the claims of the Spokane Tribe; and

WHEREAS, there is ample precedent for a Congressional settlement of the Tribe’s claims in these circumstances.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby believe it is grossly unjust and dishonorable for one tribe to be compensated while a similarly affected neighboring tribe is not, the federal government breached its trust obligations to the Spokane tribe. In the strongest possible terms, we urge the United States Congress to pass a Spokane Tribe Settlement Act so that a fair and equitable settlement of the Tribe’s claims can be reached. Any such settlement must involve payment for past and future power revenues and a return of lands taken from the Tribe by the United States for the project; and

BE IT FURTHER RESOLVED that this resolution shall be a policy of NCAI until it is withdrawn or modified by subsequent resolution.

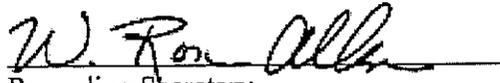
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2007 Annual Session of the National Congress of American Indians, held at the Hyatt Regency Denver at the Colorado Convention Center in Denver, Colorado on November 11-16, 2007, with a quorum present.



President

ATTEST:



Recording Secretary



OFFICE OF THE RESERVATION ATTORNEY

Confederated Tribes of the Colville Reservation

P. O. Box 150

Nespelem, WA 99155

Telephone: (509) 634-2381

Fax: (509) 634-2387

RECEIVED

JUN 19 2007

Via Telecopier to 208-667-4695,
Followed by First-Class U.S. Mail

June 17, 2007

Howard Funke, Attorney At Law
Howard Funke & Associates, P.C.
424 Sherman Ave., Suite 308
P.O. Box 969
Coeur d'Alene, ID 83816-0969

Re: Disclaimer language for Colville-Spokane Reservation boundary in
Spokane Tribe Coulee Dam Settlement Bill

Dear Mr. Funke:

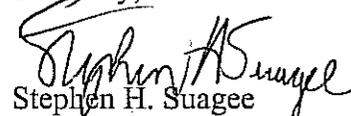
In a letter dated March 21, 2007, I proposed draft disclaimer language for Section 9 of the Spokane Tribe Grand Coulee Dam Settlement bill, re the boundary between the Colville and Spokane Reservations. We subsequently discussed this and on April 25, 2007, at a meeting in Spokane, you provided me with modifications to my proposed language. This letter is to advise that your modifications are acceptable to the Colville Tribes. The language in question, including your modifications, is as follows:

Nothing in this section shall be construed as establishing or affecting the precise location of the boundary between the Spokane Indian Reservation and the Colville Reservation along the Columbia River.

This language is found at Section 9 (c) of the full draft bill as you provided it to me an email on May 10, 2007. You have indicated that the bill may be introduced soon. Please advise me in the event Section 9 is modified in any way. Please note, too, that the Colville Tribes' acceptance of this boundary disclaimer language is not intended to indicate any position on the merits of the bill or whether it should be enacted.

I have appreciated your courtesy and professionalism in working with me to produce language that is acceptable to both the Spokane and Colville Tribes. Please do not hesitate to contact me if you have any further questions or concerns.

Sincerely,


Stephen H. Suagee
Reservation Attorney

cc: Colville Business Council