

Testimony on H.R. 3534
Before the House Interior and Insular Affairs
Committee

June 24, 1986

Presented by William D. Northover, Member of the Board of Directors of the Lineal Descendants of the Cowlitz Indians, Route 1, Box 1061, Toppenish, Washington 98948.

Mr. Chairman and members of this Committee, my name is Bill Northover, I am a lineal descendant of the Cowlitz Indians. I live on the Yakima Indian Reservation. My great grandmother is buried at an Indian cemetery by the Catholic church in Toledo, Washington.

My grandmother, Frances Northover, was a leader in the effort to bring about a settlement for the Cowlitz Indians dating back to the 1920's. Since her passing, her daughter, Mrs. Emma Mesplie has continued in this long trying pursuit for justice. Mrs. Mesplie is one of very few that can speak the Cowlitz language. Mrs. Mesplie is presently our chair person and at 95 she is still active. Many of our older Cowlitz people have passed on. If this bill passes, we will lose our inheritance.

I address this distinguished committee today on behalf of the lineal descendants of the Cowlitz Indians to present our opposition on H.R. 3534.

This Bill, does not include as beneficiaries all of the Cowlitz Indian descendants, nor even the very people that originated this claim.

Mr. Chairman we must oppose H.R. 3534 as presently drafted because it would specifically ensure that the entire intent of the Indian claims commission in its ruling in Docket 218 and the intent of Congress in appropriating funds in 1973 pursuant to Docket 218 are both not just frustrated, but ignored. The funds as appropriated, and the interest that has been earned on them since 1973, are supposed to be compensation to the descendents of those people who had Cowlitz land that was illegally taken from them without adequate compensation in 1863.

The Bureau of Indian Affairs has stated to this Committee and to the Senate Select Committee on Indian Affairs that 55 to 60 percent of the lineal descendants of the aboriginal Cowlitz of 1863 presently reside on the Yakima Indian Reservation, many of whom are enrolled in the Yakima Tribe. Previous Congresses have specifically recognized that there are large number of Cowlitz descendants on the Yakima Reservation when the Committees with jurisdiction over the issue recommended the enactment of legislation specifically identifying the Cowlitz descendants enrolled at, or living on, the Yakima Reservation, (See Sec. 2(c) of H.R. 3612 and S.2931, 97th Congress, both of which were reported out of Committee.)

Yet in spite of this clear indication of Congressional intent both in 1973 and more recently in late 1982, and in spite of the intent of the Indian Claims Commission that descendants be compensated, H.R. 3534 would ensure that those Cowlitz descendants living on the Yakima Reservation not get any compensation whatsoever. Mr. Chairman, we have waited for many years for these funds and we view them as an ~~inheritance and as compensation~~
~~on the part of the United States that our parents and grandparents were~~

inheritance and as an admission on the part of the United States that our parents and grandparents were illegally forced from our ancestral grounds. There are even some Cowlitz descendants who live on other reservations and they too would be cut off from compensation under H.R. 3534. This would, quite simply, be unfair.

Mr. Chairman, I would be shirking my responsibilities if I did not ask this committee to seriously consider who it is that constitutes the group pushing H.R. 3534. This group calls itself the "Cowlitz Tribe" or sometimes the "Cowlitz Tribe of Western Washington" and at one point there was a splinter group calling itself the "Sovereign Cowlitz", the later group apparently no longer exists independent of the "Cowlitz Tribe".

It is unfortunate that the federal government took our grandparents lands and forced us to be scattered around the northwest but that is indeed the history and there is little that can be done to change it.

Many of the Cowlitz descendants at Yakima were active in pushing our claim before the Indian Claims Commission and we used to attend meetings that were irregularly held near Toledo, Washington at the Cowlitz Prairie Grange Hill. I can remember attending these meetings prior to the Indian Claims Commission ruling and there would be maybe 30 people in attendance all of whom were clearly Indian and were without question of Cowlitz descent. Some of our leaders included

Sam Williams, Frances Northover who was my grandmother, and there were representatives of some of the large Cowlitz families such as the Umtuch family. I also attended a meeting/hearing in 1974 after the Indian Claims Commission had rendered its finding and was amazed to see a room filled with 200 or more people all claiming to be members of the tribe, most of who did not appear to be even remotely Indian (i.e. blue eyes, blond hair) not to mention of Cowlitz descent. I think this committee should ask the BIA to share with you any material supplied by the "Cowlitz Tribe" showing how their present membership was determined and from which Cowlitz Indian they descend.

The federal government does not recognize the so called "Cowlitz Tribe" as represented by those witnesses before me and has stated repeatedly that they cannot give money to a group of Indians for the purchase of lands that one day might be placed in trust to be potentially turned into a reservation, if the group is acknowledged by the Interior Department as federally recognized tribe.

The Committee should also be aware that on June 15, 1983 the Deputy Assistant Secretary for Indian Affairs corresponded to the leadership of the "Cowlitz Tribe" in which he was responding to a petition for federal recognition as submitted by that group. This correspondence, referred to as a letter of "obvious deficiency," asked the group to supplement its petition with additional material before the Department could give it a realistic appraisal. It is now three years later and the petitioning group has yet to respond to the June 15, 1983 letter. Nonetheless, legislation is now pending before this Committee to eliminate compensation to the majority of the descendants

and to give it exclusively to one group on the basis that they may someday be recognized.

Equally ironic is the fact that after a number of us at Yakima began questioning the so called "Cowlitz Tribal leaders" on their membership criteria we were removed from the present day rolls and told we would not be allowed to vote or speak at any of their meetings. So if this group was given the money appropriated by Congress they would not allow any of it to come to Cowlitz descendants living on the Yakima Reservation.

There is no question that there is sound historical precedent for those of us are enrolled with the Yakima Tribe be able to share in per capita distributions from the original Cowlitz Tribe. To quote from the Interior Department's testimony on this in 1982:

It is not unusual for persons who are enrolled members of one tribe to share in a per capita distribution as descendants of a different aboriginal entity. The distribution of awards to the Kiowa, Comanche and Apache Tribes under the Act of September 21, 1959 and the Act of September 28, 1968, permitted payment of per capita shares to persons who were eligible as descendants of one entity but were enrolled members of different tribes. A similar situation occurred with the Mississippi Sioux Tribes under the Act of October 25, 1972, and the Otoe-Missouria under the Act of October 14, 1966.

I am enclosing alternative draft legislation that would allow 100 per cent of the judgment funds to be distributed on a per capita and equal basis to lineal descendants of the original Cowlitz people whose lands were taken from them. This would include those people, such as Mr. John Barnette, who consider themselves members of the "Cowlitz Tribe" and who

clearly are descendants of the original Cowlitz people. The original rolls can be determined by a number of factors including the rolls prepared by Indian agent John Roblin in 1919, census rolls, church records and other material deemed appropriate by the BIA, etc.

In no way, do my people want to deny any living Cowlitz descendant his or her rightful inheritance. If 100 percent of the funds held in trust were to be distributed on a per capita basis, nothing would prevent those people who presently consider themselves to be members of the Cowlitz Tribe from carrying forth the exact intent of H.R. 3534. All of these people could take their per capita distribution and collectively pool it and purchase a block of land. I am quite certain that the Secretary of the Interior would then be willing to have the land placed in trust once the group was federally recognized and reservation would be created for these people.

We find ourselves to be in general agreement with the position of the BIA on this legislation (or at least with their position on this issue as of the 97th Congress) and we hope the Committee will enact legislation promptly that will benefit all the descendants in an equitable manner.

I am also submitting for the record, testimony of Emma Mesplie and Katherine Merritt.

We stand ready to discuss any questions you may have. We ask that the hearing record be kept open for two weeks so that we may supply additional material. Thank you.

Enclosures

TO PROVIDE FOR THE DISPOSITION OF FUNDS APPROPRIATED
TO PAY A JUDGEMENT IN FAVOR OF THE COWLITZ TRIBE OF INDIANS
IN INDIAN CLAIMS COMMISSION DOCKET NUMBERED
218 AND FOR OTHER PURPOSES.

A BILL

To provide for the disposition of funds appropriated to pay
a judgment in favor of the Cowlitz Tribe of Indians in Indian
Claims Commission docket numbered 218 and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,
That the funds appropriated by the Act of July 11, 1973 (87
Stat. 99), to pay a judgment to the Cowlitz Tribe of Indians
in Indian Claims Commission docket numbered 218, together
with the interest thereon, shall be distributed as provided
herein.

SEC. 2.(a) The Secretary of the Interior shall prepare
a roll of all persons---

(1) who were born on or prior to and living on the
date of this Act:

(2) who are lineal descendants of the Cowlitz Tribe of
Indians as it existed in 1863; and

(3) whose name or the name of a lineal ancestor appears
as a Cowlitz Indian through records or evidence acceptable
to the Secretary of the Interior.

(b) Applications for enrollment must be filed in the manner and within the time limits prescribed by the Secretary for that purpose of determining the lineal descendants of the Cowlitz Tribe, in consultation with the Secretary regarding the utilization of available rolls and records and eligibility for enrollment of an application shall be final.

SEC. 3. The funds authorized to be distributed herein shall be distributed as follows.--

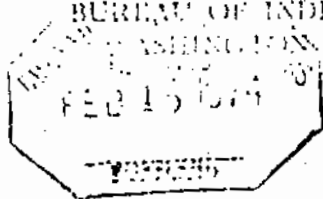
(a) The Secretary shall disperse a one-hundred percent (100%) Per-Capita payment to applicants found eligible by the rolls as approved of by the Secretary of Interior.

(b) The minors' funds shall be retained by the Secretary of the Interior in a Interest-bearing Trust Account. These funds to be distributed when these minors reach age 18. Sums payable to living enrollees who are minors or under legal disabilities shall be paid in accordance with such procedures as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

SEC. 4. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes or inheritance tax and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under Social Security Act, in accordance with section 7 of the Act of October 19, 1983 (87 Stat. 466).

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C. 20547



FEB 13 1974
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PORTLAND AREA

TRIBAL GOVERNMENT SERVICES
Tribal Government Services

MEMORANDUM

To: Director, Portland Area Office

From: Chief, Division of Tribal Government Services

Subject: Results of research on Cowlitz Judgment in ICC docket 207.

The subject material is herewith submitted to you in compliance with the Act of October 19, 1973 (87 Stat 466), as implemented by final regulations published on January 15, 1974, in the Federal Register. Copies of the Act and regulations are enclosed.

I. Docket Number 218

On April 12, 1973, the Indian Claims Commission, in docket number 218 awarded \$1,550,000 to the Cowlitz tribe as compensation for loans taken on March 20, 1863, without benefit of treaty or compensation. Funds to cover this award were appropriated by the Act of July 1, 1973 (86 Stat. 99).

II. Background of Cowlitz

The Cowlitz are a division of the Salishan speaking peoples of Western Washington and inhabited the area around the Cowlitz River in southwestern Washington. At the time of the Lewis and Clark expedition the Cowlitz were one of the more powerful tribes on the Lower Columbia River basin. The population was greatly reduced by a series of disastrous epidemics in the 1820's and 30's.

Throughout the 1850's and 60's a concentrated effort was made by the Government of the United States to conclude a treaty with the Cowlitz for the cession of their lands. Despite these efforts, however, no treaty was ever executed with the Cowlitz. Nevertheless, beginning March 3, 1855, the United States dealt with the lands of these Indians as public lands. On March 20, 1863, a Presidential proclamation directed that these lands be sold, thereby depriving the Cowlitz of their original Indian title without their consent and without compensation.

A large portion of the Cowlitz have maintained continued residence in the area of their original homeland. Some moved to the Puyallup and Yakima Indian Reservations, where, because of intermarriage, their descendants lost their Cowlitz identity. An indeterminate number of the Cowlitz have never affiliated with any recognized group and are now widely scattered. It is believed that a majority of them live throughout the Pacific Northwest.

There is a group of Cowlitz which identifies itself "The Tribe of Cowlitz Indians of the State of Washington." This organization is not recognized by the Federal Government as a tribal entity. It has however, been recognized for the purpose of prosecuting the Cowlitz Claim against the United States.

III. Disposition of the Judgment Funds

Individual members of "The Tribe of Cowlitz Indians of the State of Washington" are considered descendants of the Cowlitz tribe as it existed in 1863, rather than present day members of a successor tribe. The present organization has membership requirements based upon Cowlitz descendancy, but such matters as degree of blood and proof of ancestry have not been verified. Moreover, "The Tribe of Cowlitz Indians of the State of Washington" does not represent the only descendants of the 1863 Cowlitz Tribe. We believe that many Cowlitz descendants are members of other tribes and organizations throughout the Northwest, as well as some who are unaffiliated with any Indian organizations.

The only official Government-sponsored roll to mention the Cowlitz is the "Schedule of Unenrolled Indians" compiled by Special Indian Agent Charles Roblin dated January 1, 1919. This roll names approximately 900 people with varying degrees of Cowlitz blood. The Western Washington Agency estimates that today there are about 5000 people who are lineal descendants of members of the Cowlitz tribe as it existed in 1863.

Many Indians of the Northwest have blood connection with more than one tribe. They therefore can claim the right to share, solely on the

basis of their descent on more than one award unless limited by legislation. With the exception of the Snohomish Distribution Act of 1971 (85 Stat. 83), judgment distribution acts distributing funds on a descendancy basis to the Western Washington tribes contain no restrictions limiting persons of mixed ancestry to participation in only one award. Eligibility was based solely on descent and included both reservation and non-reservation affiliated Indians, provided they met the requirements of the Authorization Act.

We believe that persons who prove to be lineal descendants of the Cowlitz tribe as it existed in 1863 are the beneficiaries of the award in docket 218. The Secretary of the Interior should prepare a roll, based on the 1919 Roblin roll and any other records which are acceptable to him, of all of the lineal descendants of the Cowlitz Tribe as it existed in 1863. The judgment award in docket 218 should be distributed per capita to those descendants. This distribution is subject to the provisions of the Act of October 19, 1973 (87 Stat. 466).

Jul B. White
Chief, Division of Tribal
Government Services

Enclosures