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SPECIAL REPORT

ON

INDIAN FISHERY PROBLEM
THE DALLES DAM
COLUMBIA RIVER, WASHINGTON - OREGON

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Prepared by
Portland District, Corps of Engineers
Dated 10 March 1952

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1. Tabulation of divergent views (follows page 64)
2. Indian Reservation and Ceded Areas appended
3. Indian Fishing Grounds and Villages do
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6. Letter of February 21, 1952 do
7. "The Indian Dip Net Fishery" - Contribution No. 17 do 63 9 966 c#17
8. "Report on Source, Nature and Extent of the Fishing, do
Hunting and Miscellaneous Rights of Certain
Indian Tribes in Washington and Oregon."
(Swindell Report) Limitedly reprinted - see copy in Legal Dept.

CORPS OF ENGINEERS, U. S. ARMY
Office of the District Engineer
Portland, Oregon District
628 Pittock Block
Portland 5, Oregon

NPPVN-2

10 March 1952.

Subject: Special Report - Indian Fishery Problems, The Dalles Dam,
Columbia River, Washington and Oregon.

To: Division Engineer, North Pacific Division, Corps of Engineers,
500 Pittock Block, PORTLAND 5, OREGON.

SECTION I - INTRODUCTION

1. Authority. - Authority for this report is contained in 2nd Indorsement by the Office, Chief of Engineers, dated 30 January 1952, to basic letter from this office dated 26 November 1951, subject: "Action on Indian Fishery at The Dalles Dam," fourth paragraph of which reads as follows:

"4. In order that data may be available for answering Congressional inquiry and for discussions with other interested agencies on the Washington level, it is requested that a special report be prepared and submitted to this office about 20 March 1952. The report should contain the views of the Indians and of other interested Governmental agencies. Any divergent views, including those of the Corps of Engineers, should be clearly set forth in a form that will permit ready comparison. If possible, divergent views should be reconciled during the discussions."

2. Scope. - This report reviews and summarizes the efforts of this office to date in dealing with the Indian fishery problem incident to the construction of The Dalles Dam and will record the views and desires of the several tribes and interested Federal and State agencies to the extent that they are now known. Except for the views and desires that have been expressed and recorded in public hearings, the views of the Indians and other official organizations cannot for the most part be stated with definiteness at this time. In the case of the Indians, their official views can be expressed only in the form of an official action of the tribal governing body and counsel,

which may, in some cases, be the entire tribal membership. Contacts by this office with tribal officials and their attorneys have given a rather clear understanding of their unofficial views and desires which are believed to be a good indication of their present thinking. No official minutes of tribal meetings are available to this office, and any known official actions taken by the tribes are based on hearsay information only. In the case of the U. S. Fish and Wildlife Service and the Office of Indian Affairs, the views expressed in this report are for the most part the oral views of representatives of the local and area offices rather than official views of the respective agencies. These views are likewise considered current thinking of the two departments at field level. The views of the Oregon Fish Commission and the Washington Department of Fisheries, included in this report, are those of the staff members of the bodies.

3. Description. - The pool of The Dalles Dam will inundate and completely destroy several "usual and accustomed fishing places" held by the several Indian tribes or members since time immemorial. The use of these fishing places was expressly reserved to the Indian tribes by individual treaties with the United States Government, executed in 1855. The fishing places in the vicinity of Celilo are the last and most valuable of the many fishing places reserved by the Indians in their treaties and their destruction will cause real damage to the Indians now using them. These fishing rights are acknowledged, and the problem under consideration is to determine fair and proper compensation to the Indians for their losses.

4. Prior reports. - In the planning of developments to use the water resources of the Columbia River Basin to the greatest benefit of all users, a multiple-purpose dam on the Columbia River in the vicinity of The Dalles, Oreg., has been proposed in three published reports. Under the authority of

House Document 308, Sixty-ninth Congress, first session, the first comprehensive plan for water use development was prepared by the Corps of Engineers, and the resulting plan was published as House Document 103, Seventy-third Congress, first session. This original plan, as it pertained to Columbia and Snake Rivers between The Dalles and Lewiston, Idaho, was reviewed in the report published as House Document 704, Seventy-fifth Congress, third session. The primary purpose of the review was to determine the feasibility of providing slack-water navigation from the head of the Bonneville pool to Lewiston, although all other multiple-purpose uses of the water resource were also considered. By 1943, changed conditions, principally brought about by the unprecedented growth of the Pacific Northwest, resulted in Congress directing the Corps of Engineers to restudy previous plans for developing the water resources of Columbia River Basin. The results of this study, containing a comprehensive water resource development for present and foreseeable uses, were presented in a report to be published as House Document 531, Eighty-first Congress, second session. Two unpublished reports have also been submitted to the Office, Chief of Engineers; namely, "Interim Report No. 1, The Dalles Dam, Oregon and Washington," dated 21 March 1946, and "Letter Report on The Dalles Dam, Columbia River, Oregon - Washington," dated 15 March 1951.

5. Of the previous reports, House Document 531, commonly called the "308" Report, contains the greatest volume of data relative to the Indians fishery at The Dalles and to the problems that were expected to arise in connection with the construction of the project. Views of the Indians in connection with The Dalles Dam were obtained at public hearings and submitted with Interim Report No. 1, dated 21 March 1946. The letter report on The Dalles Dam, dated 15 March 1951, summarizes previous recommendations of the Corps of Engineers and outlines additional data secured since the "308" report on

Columbia River was prepared.

6. Indian Fishery Problem from "308" Report. -- During preparation of the "308" Review Report, it was recognized that construction of the dams contemplated on the Columbia River, between Bonneville Dam and McNary Dam, would create many difficult and vexatious problems in connection with the Indian fishery on the Columbia River. This was especially true of The Dalles Dam which would inundate Celilo Falls, the most important and widely known fishing station used by the Indians on the Columbia River. Accordingly, for the report, considerable research and study of the various aspects of the problem were made in order to present definite recommendations.

7. First, a determination of the legal background underlying the fishing rights was made. This showed that by virtue of treaties negotiated with the United States, the Yakima Nation of Indians, the Umatilla Tribes, and the Warm Spring Indians, reserved forever, in common with the citizens of the territory, the right to take fish at all usual and accustomed places outside of the reservations.

8. At the time of the "308" Report, approximately 5,000 Indians were estimated to claim rights to fish at the accustomed sites and take fish for both subsistence and commercial purposes. The Indians were estimated to take from all sources for their own consumption about 1,300,000 pounds annually. The size of the commercial catch was estimated by fishery agencies of the States of Washington and Oregon to amount to an annual average of about 2,150,000 pounds for the preceding 10-year period. The extent of the subsistence catch affected by The Dalles Dam was not well known at the time.

9. The report proposed that all inundated lands and properties which could not be replaced be purchased; a new Indian village constructed; if possible, suitable natural or artificial alternative fishing sites be provided

below the dams; and, that restitution and dispensation be made of the entire Columbia River Indian fishery problem as deemed fitting and proper by Congress. Considerable investigation and study was known to be essential for a final solution to the problem.

10. Public and Congressional hearings and references. - Public expressions of opinion concerning The Dalles Dam, both favorable and unfavorable, have been obtained at numerous public hearings held by the Corps of Engineers and before Congressional Committees. A tabulation of the known hearings from 1945 to date follows:

Date of hearing	Held before	Place	Purpose
Apr. 25, 1945	Corps of Engrs.	The Dalles, Oreg.	Meeting with Indians regarding The Dalles Dam for inclusion in "308" Report.
Sep. 22, 1945	Corps of Engrs.	do	Secure general expressions of views of local people regarding The Dalles Dam for inclusion in plan of development for "308" Rpt
Mar. 26, 1947	Board of Engrs for Rivers and Harbors	Gravelly Point, Va.	Obtain views of persons regarding The Dalles Dam.
Jan. 31, 1949	do	Spokane, Wash.	Obtain local views re comprehensive plan for development of Col. Basin as formulated for "308" Report.
Feb. 1, 1949	do	Seattle, Wash.	do
Feb. 2, 1949	do	Portland, Oreg.	do
Feb. 4, 1949	do	Boise, Idaho	do
Beg. Apr. 26, 1949	Comm. on Public Works, House of Representatives	Washington, D. C.	Hearing on Rivers and Harbors Authorizations, 1949, H.R. 5472.

Date of hearing	Held before	Place	Purpose
Beg. May 16, 1949	Comm. on Public Works, House of Representatives	Washington, D.C.	Hearings on Flood Control Authorizations, 1949, H.R. 5472.
Beg. Jul. 12, 1949	Subcomm. of Comm. on Public Works U. S. Senate	do	Hearings on Rivers and Harbors and Flood Control, 1949, H.R. 5472.
Beg. May 1, 1951	Subcomm. of the Comm. on Approp. House of Representatives	do	Hearings on appropriations for Fiscal Year 1952
Beg. Jun. 28, 1951	Subcomm. of the Comm. on Approp., U. S. Senate	do	do

11., Further, the tenth regular meeting of the Columbia Basin Inter-Agency Committee was devoted to a hearing in the matter of the effect of the Department of Interior's suggestion to defer construction of dams on the main stem of the Columbia River below the Okanogan River, and on the Snake River below the mouth of the Salmon River. Arguments, pro and con, on deferring of construction are contained in the minutes of the meeting held at Walla Walla, Washington, June 25-26, 1947.

12. Much data concerning the practice, volume, and locations of the Indian fishery on Columbia River are contained in the following two reports which are attached as Exhibits 7 and 8:

(a) "Report on Source, Nature and Extent of the Fishing, Hunting and Miscellaneous Rights of Certain Indian Tribes in Washington and Oregon," by the Office of Indian Affairs, Department of Interior under date of July 1942. (Commonly called the Swindell Report.)

(b) "The Indian Dip Net Fishery at Celilo Falls on Columbia River," Contribution No. 17 of the Oregon Fish Commission under date of November 1951.

The Area Office of Indian Affairs, Department of the Interior, advises in regard to the "Swindell Report,"

"----- that in the use of the report it should be understood that the conclusion of law are those of the compiler and the report has not been approved or disapproved by the Bureau of Indian Affairs or the Department of the Interior. It has not been edited since it was submitted August 26, 1942, consequently some of the laws quoted may have been amended or repealed. The material contained in the affidavits, of course, is factual insofar as the affiants are concerned."

As these reports contain large quantities of material pertinent to the Indian fishery, they are included for general information.

13. The Pacific Northwest Coordination Committee of the Department of the Interior on January 3, 1947, proposed, in an unpublished report, that construction of dams on lower Snake River and on Columbia River below the mouth of Yakima River be delayed for at least 10 years to permit time for additional study of fishery and Indian problems. Views on proposals of various agencies of the Department of the Interior at field level are contained in that report.

14. Additional data have been obtained from "Compilation of Material Relating to the Indians of the United States and the Territory of Alaska, Including Certain Laws and Treaties affecting such Indians," Serial No. 30, pursuant to H. Res. 66 (81st Cong., 2nd sess.).

SECTION II - INDIAN FISHERY AND PROBLEMS

15. History of Indian Fishing in the Dalles Dam Area. - The earliest explorers of the Columbia River made particular note of the abundance of salmon present in the river and its tributaries, and of the fact that the native population of this area subsisted mainly upon salmon. What the situation was prior to the coming of the white man can only be surmised. However, from Indian legends and history passed down from generation to generation by the Indian people, it can be assumed that the Columbia River salmon was the principal source of food of the native population of this area for countless generations prior to the time any written records were made.

16. Celilo Falls in particular was a favored fishery. The structure of the river bed made conditions favorable for the taking of salmon, and climatic and atmospheric conditions were favorable for drying and curing fish. The Indians, living regularly at Celilo, dried large quantities of salmon for trade with tribes from upper river points, from the interior regions, and with various tribes of the lower Columbia River. From historical records it would appear that these Indians developed a very sizeable commercial trade, acting as both buyers and sellers of articles and goods of tribes from the east and the west. Cured salmon was the principal commodity used in this traffic. Celilo Falls also became a favored gathering place for Indians who came here from near and far for sports and social events.

17. The first salmon-canning operation was established by William Hume at Eagle Cliff in what is now Wahkiakum County, Wash., in 1866, since which time, the industry has developed to its present state.

Indian commercial fishing, since the development of canning and other commercial uses, has varied considerably with the usual ups and downs of the industry, depending upon available markets, price, and other conditions.

18. The attached Swindell report deals more extensively with the early fishing activities of the Indians of this area.

19. Current use of fishery. - The Celilo fishery is primarily used by the Yakima, Umatilla, Warm Springs and Nez Perce Indian tribes, and by an unorganized group living at Celilo known as the Lower Mid-Columbia River Indians, sometimes called the Wyams. The number of Indians fishing at Celilo has increased steadily in recent years because of depletion of runs and inundation of other fishing places, and also because of increased price of fish received from canneries. A considerable number of Indians who fish here have no preferential treaty rights, and some of them come from as far away as Montana and California. The number of Indians using this fishery is variously estimated from a few hundred to a peak of 2,000.

20. The major fishing activity coincides with the two distinct seasonal runs, the spring run and the fall run. The spring run, which is much the smaller of the two, begins in March and continues until the high water season in late May. The larger catch is taken during the fall run, mostly during September and October. Periods for commercial catches (open commercial season) are set by State authorities during both runs, but the subsistence catch is not restricted. Fishing is best during the spring season in the vicinity of The Dalles dam site and in the swift water two to three miles upstream. Fall fishing is most abundant at Celilo Falls.

21. The Indian fish catch can be divided into three categories, (1) the larger commercial catch, which is mostly sold to canneries, (2) the subsistence catch which is eaten or dried by the Indians, and (3) a minor catch consisting of sales to tourists. The commercial catch is taken entirely during the open commercial season; the subsistence catch is taken largely outside of the commercial season, although, a significant subsistence catch is taken during the open commercial season. The tourist sales are made during both open and closed seasons. A large percentage of commercial sales are made to Seufert Brothers Cannery, located near the dam site, but a considerable quantity is shipped to canneries at Astoria, Olympia and Seattle.

22. The principal restriction placed on the Indians by the states is the stipulation that they cannot sell fish during the closed commercial season, but they can fish for their own use. Policing of the fishery otherwise is strictly in the hands of what is known as the Celilo Fish Committee which consists of three members from each of the three main tribes; namely, the Yakima, Umatilla and Warm Springs, and three members representing the Celilo group. This fish committee does a fair job in regulating the use of the various fishing stations, enforcing safety practices, and other regulatory necessities. It has no legal authority, but its decisions are in general adopted as an Indian custom. It is claimed that the Yakima Tribe dominates the fish committee, by reason of the fact that some of the members of the Celilo group are actually enrolled in the Yakima Tribe.

23. The individual fishing sites or stations are family-inherited and are passed down from father to son. They are considered by the

Indians to be the personal and private property of the owner, who installs his own platforms and scaffolding and who, according to the Indians, claims exclusive fishing rights at the station. Through inheritance and exchanges, some sites are now used by several fishermen, some by as many as 16. The owners sometimes permit other Indians to fish from their stations and will exact whatever toll appears appropriate, sometimes taking as much as half the fish caught.

24. The Celilo fishery has some religious significance to the Indian and each fall during the heavy fishing season they hold ceremonies and general celebrations, a custom passed down for many generations.

25. The actual fishing, described at length in both the Swindell and the Oregon Fish Commission's reports, is done by the dip net method, almost identical to that used by the Indians in ancient times. During recent years, however, modern facilities have been installed, and, at the present time seven cableways, some hand-operated and some power-operated, are in use to convey the Indians as well as their fish between the mainland and the islands. These cableways, in some instances, have been provided by and are the property of large canneries who buy fish from the Indians.

26. The best current estimates of the average catch within the area to be flooded by The Dalles Dam varies from about 2,300,000 pounds to about 2,600,000 pounds annually. Additional details concerning this estimate appear in Section VII relating to economics.

27. Recent development. - Since appropriation of construction funds, (Act, 24 October 1951, Appropriation for Civil Works) more intensive studies have been undertaken and various methods of compensating the Indians have been considered. Recognized grounds for participation, and Indian property ownership, have been largely established. Meetings and consultations have been had with tribal officials and their attorneys, and many of the problems were discussed informally. No verbal commitments have been made nor has any effort been made to negotiate a settlement. As a result of the employment of Mr. Jasper W. Elliott, former Superintendent of the Warm Springs Indian Reservation, a friendly feeling has been built up with the Indians, and most of the more prominent Indians are now personally known to members of the District staff. Two letters outlining the position of this office and method of approaching settlement have been sent to the Indians. Copies of these letters, Exhibits 5 and 6, dated 22 October 1951, and 21 February 1952, are attached.

28. It is known that the Columbia River fish run has been greatly diminished in the last few decades and Indians blame this diminution on action of the Federal Government. Suits have been filed with the Indian Claims Commission seeking compensation for these fishing losses. These claims have been examined in connection with current studies and consideration has been given to the desirability of attempting to settle all Indian Claim and Treaty problems effecting the entire Columbia River fishery coincident with and as a part of The Dalles Dam settlement. Consideration has been given to necessity or desirability of special

legislation providing for negotiation of contracts with the affected Indian tribes to compensate them for their losses. Attempts have been made with some success to evaluate the fishery in the vicinity of Celilo. The Oregon Fish Commission's report, Contribution No. 17, contains valuable information as to the extent of the total fishery, and when supplemented by information collected by U. S. Fish and Wildlife Service, and information yet to be obtained, is expected to provide basic information on which to evaluate the recent catches. Audits of cannery purchase records will be made by this office and are expected to provide valuable information to be used as an acceptable basis for allocation of the total loss accruing to each tribe. These cannery records have been studied by a prominent fish biologist for the Yakima Tribe, and both the Warm Springs and Umatilla Tribes are expected to make similar studies for the purpose of determining the actual fish sales made by members of their respective tribes.

29. Status of Indian Fishing Rights. - From time immemorial native Indians were accustomed to hunting, fishing, and acquiring other articles of food for subsistence and for trading purposes without limitation. Journals of several explorers, including those of Lewis and Clark, clearly show that the present Celilo fishing grounds were used extensively by the Indians in the early days. With the coming of the white settler in large numbers, it became evident that the Indians and the whites could not live peaceably together in the vast Northwest area. Treaties were negotiated between certain Indian tribes and the Federal Government in an attempt to set up regulatory conditions and procedures. Separate treaties which affect the construction of The Dalles Dam are as follows:

(1) Umatilla Treaty June 9, 1855; (2) Yakima Treaty, June 9, 1855; (3) Nez Perce Treaty, June 11, 1855; (4) Warm Springs Treaty, June 25, 1855.

(The tribes named above are those presently known and official names of the various tribes with Statute reference will be given in later paragraphs). These treaties sought as their main purpose the setting up of designated limited reservations for the exclusive use of the particular Indian tribes. The Indians ceded to the Federal Government all of the remaining lands under their control. Analysis of the treaties shows, for the most part, that they generally have the same objectives, and each of the above treaties concerned herein specifically reserved to the Indians as follows:

"The exclusive right of taking fish in all the streams where running through or bordering said reservation is further secured to said Indians; as also the right of taking fish at all usual and accustomed places in common with citizens of the Territory; and of erecting temporary buildings for curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land."

It will be noted that the Indians did not cede their fishing rights either on the reservation or at their "usual and accustomed fishing places," but reserved these rights for their use in common with the white settlers. These rights are still claimed by the Indians, and have not been seriously questioned, nor has their validity been found lacking in many legal contests. By subsequent treaty dated November 15, 1865, the Warm Springs group relinquished their rights to fish at "usual and accustomed places." This tribe strongly and probably rightfully, contended that the 1865 Treaty, which was signed by only a few of the original signers of the 1855 Treaty, was fraudulently negotiated. No serious attempt has been made by the Federal

Government or State authorities to enforce this relinquishment. The Warm Springs Indians have continued to fish in the Celilo vicinity without objection and are fishing there at the present time.

30. It was clearly the intent of the treaties to reserve fishing rights to the Indians only within the reservation and at their own "usual and accustomed fishing places," and no special privilege was given Indians to fish at "usual and accustomed fishing places" of other Indians. In weighing damages to the tribes having treaty rights, it is important to consider whether or not the Celilo area was at the time of the treaty a "usual and accustomed fishing place" of the particular tribes. In the case of the Nez Perce Indians, there may be some question as to whether or not they fished extensively at Celilo at the time of the treaty, since it is known that their principal fishery was farther up the Columbia River. Establishment of the facts in this case may be difficult, but will have an important bearing on the settlement with the Nez Perce Tribe. There is also some question as to whether or not their fishing rights were relinquished by subsequent treaty of the Nez Perce Tribe dated June 9, 1863, and by agreement of May 1, 1893.

31. The legal rights to the fishery are complex, but the practices of the Indians have been established by long usages and must be given more than ordinary consideration in all negotiations.

32. Affect of construction of The Dalles Dam. - The primary adverse affect on the Indian fishing, that will result from the construction of The Dalles Dam, will be the flooding and complete destruction of the

"usual and accustomed fishing places" in the vicinity of Celilo Falls. Secondary losses will result from flooding of real property and improvements owned by individual Indians, and the flooding and destruction of the Indian Village of Spearfish. Indian cemeteries and shrines are also located in the pool area. Relocation of Union Pacific Railroad will not damage the new Indian Village at Celilo, which is above the pool, but several shacks and drying sheds owned by the Indians and located on both privately-owned and government-owned property will be destroyed. Claim is made by the Indians, but not admitted by this office, that the operation of The Dalles Dam will further deplete the allegedly declining fish runs in the Columbia River.

33. Destruction of fishing sites and eliminating the unrestricted Indian fishery will have an important effect on conservation measures being carried on by the States. Except for the loss to the Indians, this conservation benefit will be shared not only by the commercial fishery on the lower Columbia, but by sports fishermen and the general population of the adjoining States.

34. The natural remaining fishing sites adaptable to dip net fishing are not sufficient in number or suitability to provide an adequate substitute for the fishery that will be inundated, and no practicable means can be found to provide alternative fishing sites. Consideration has been given to allowing the Indians to fish from special platforms in the area below the dam and from the fish ladders, where the Indians could catch as many fish as they formerly did. Since this practice would be objectionable from a dam operation standpoint and would be further objectionable to all conservation interests, the proposal has been rejected.

35. Alternate fish sites might, to some extent, be developed on tributary rivers such as the Klickitat, Clearwater, Umatilla, and others. Development work on the Klickitat is now being done as a cooperative venture by the State of Washington and the Yakima Tribe and in conjunction with the U. S. Fish and Wildlife Service's Lower Columbia River Basin Fish Plan. Other rivers may be developed on the same basis at a later time. These tributary rivers, however, could not be expected to supply the same quantity of fish as has previously been taken from Celilo Fishery.

36. Trend toward assimilation of the Indians. - It is the expressed purpose and objective of the U. S. Office of Indian Affairs to so administer the resources held in trust by the United States for Indian Tribes and individuals, that through the development of these resources for effective use by the Indians, it may remove itself as trustee and withdraw the public service which it now provides the Indian population. A measure of success on this objective has been obtained, but the ultimate goal may normally require many years for completion. The Indians by a Congressional Act of 1924 were made American Citizens, and the States of Washington and Oregon have given them most comparable rights enjoyed by other citizens. About the only restriction now imposed on the Indians are those imposed under the guidance of the Office of Indian Affairs and the right to buy liquor. Currently the young Indians in the Northwest are given high school education. Health and sanitation aid as well as assistance and advice on land and timber management is also given.

37. Within recent months a Commissioner of Indian Affairs indicated a desire to withdraw completely his supervision over the Siletz and Grand

Konde Indians residing along the Oregon coast and the Klamath Falls Indians have requested similar action. The State of Oregon is now considering means of taking over police and political jurisdiction of all Oregon Indians except those residing on the Warm Springs reservation.

38. Several bills have been introduced in Congress which will affect the Indian Service, some of which advocate its complete abolishment. Tribes affected by the 1855 Treaties, the Yakima Tribe, in particular, are opposed to this legislation and have gone on record in this regard and are now actively opposing it through a tribal delegation appearing before Congressional Committees in Washington. The wealth of the Indian tribes through land and timber holdings and other resources makes it desirable, from the point of view of the Indians, to continue under the trusteeship of the Federal Government, and, should this trusteeship be withdrawn, it is probable that some sort of corporation or other legal organization would be set up by the Indians to control and supervise their existing tribal holding.

39. There is some tendency on the part of the younger Indians to leave the reservation, but past experience indicates that they may return in later years. There is not a definite trend toward intermarriage with the whites, in fact, it appears that this trend is decreasing. Indians, do however, to a very large extent, intermarry with Indians from other tribes and many cases are found where Indians are enrolled in one tribe and actually reside on some other tribal reservation. Some intermarriage with mixed racial strains such as those of Mexican and Filipino extraction, particularly in the laboring class, has been noted and some of these mixed racial strains now reside on the reservations.

40. It is the belief of this office, based upon the complexities involved, that considerable time will elapse before the Federal control now exercised on the four tribes herein considered will be withdrawn.

41. Desires of the Indians. - Aside from evidence presented at public hearings and before Congressional Committees, the only desires of the Indians known to this office are those which have been obtained from informal conferences with prominent Indians, their attorneys, and from the Indian Service officials and employees. These views of the Indians can be summarized in general as follows:

(a) All tribes oppose the construction of The Dalles Dam.

(b) If the dam is to be built (the Indians are still hopeful that construction will be delayed or stopped), they desire full compensation for their losses and damages.

(c) They prefer that compensation be given in perpetuity in the form of alternate fishing sites or that they be furnished with fish in preference to a lump sum monetary settlement.

(d) Indians prefer, if alternate fishery cannot be provided, a negotiated settlement rather than one obtained by court action. Long delays incident to settlement by court action would result in hardship to many Indians who will be deprived of the fishery with the flooding of Celilo Falls.

(e) All Indians would have preferred a settlement before construction work was started but now desire compensation before construction is completed and the pool formed.

(f) The Indians are not generally inclined to relinquish their treaty guaranteed fishery rights in consideration for compensation for the losses due to The Dalles Dam construction, on the theory that in

later years the dam might be removed or destroyed and the fishing places would be restored.

42. There is almost complete agreement among the tribal members of each tribe as to their own fishery rights, but each tribe seems to have an entirely different opinion as to the other tribes' rights. For instance, the Yakima tribe claims sole and exclusive ownership of the Celilo fishery while other tribes contend that they did not fish at this place to any extent during and for a long period after signing of the treaties. The desires of the Indians, as stated above are those considered common to all tribes and special desires of individual tribes will be mentioned under section pertaining to that particular tribe.

43. The desires of the attorneys for the Indians are influenced by the desires of the Indians themselves, but views of the attorneys in some cases may vary from those of the Indians. Indian counsel views, as understood by this office are that special legislation authorizing negotiations, and stipulating certain items to be considered therein, is desirable if not indeed necessary. This legislation should be so drawn as to commit the Congress to pay a settlement agreed upon and to provide a channel for legal proceedings in the event of failure of negotiations. Although present authority of the Corps of Engineers to negotiate an agreement to cover settlement is not seriously questioned, concern is felt that Congress may not, without previously and clearly committing itself, appropriate the necessary fund to accomplish the payments. They have indicated a reluctance to reveal their hand during the negotiation period, without the full assurance that would be given by Congressional sanction, preferring instead to withhold their trump cards for court consideration should negotiations fail. It is probable that they will

recede from this stand should negotiations, within a month, indicate reasonable possibility of success.

44. The attorneys realize that substitution of the fishery is impracticable and are therefore inclined to concentrate their efforts to secure monetary settlement. They apparently favor a lump sum settlement in favor of one that provides for payments in perpetuity.

45. Attorneys are unanimous in their opinions that it would be desirable to combine the compensation of The Dalles Dam losses, along with claims now pending before the Indian Claims Commission, and thereby settle the Indian treaty fishery problem once and for all. They fully realize that this would result in a complicated, long-time study and negotiation, involving special legislation, and are therefore, not inclined to pursue this approach even though the pending claims complicate the problems arising from the construction of The Dalles Dam.

46. The attorneys and a considerable number of the prominent Indians desire a negotiated settlement rather than resorting to court action, but intend to attempt to stop the construction work if negotiations are long delayed or seem impossible of agreement. This action apparently would be attempted by bringing an injunction against the contractor who will actually destroy several fishing sites during the first phases of the construction work.

47. Depletion of Columbia River fishery and pending Indian claims. - It is a well known fact that salmon runs in Columbia River have diminished since the coming of the white settlers. It is also known that the larger runs existing in the early days on the headwaters of Columbia River and several of its tributaries including Clearwater, Yakima, Umatilla and other rivers are

almost extinct. Many conditions prevailing under modern civilization contribute to the diminution of the fish runs. Among these are, over-fishing, stream pollution, irrigation practices, logging practices, and to some extent the construction of dams. The Indians know all of these reasons, but minimize all of them except the large Federal and private dams such as Bonneville, Grand Coulee, Rock Island, and other dams on the Clearwater, Umatilla and Yakima Rivers. All evidence to the contrary, they still hold to the idea that the Federal dams are the major cause of the reduction of Columbia River fish runs. They also contend that the Federal Government has the responsibility of maintaining the large fish runs in perpetuity, and, by permitting the construction of privately-owned dams, the Government has violated its responsibility, therefore should be accountable for the fishery depletion which has resulted in losses to the Indians.

48. Pursuant to these contentions some of the tribes have claims pending before the Indian Claims Commission. These claims seek, among other things, compensation for fishery losses alleged to have occurred prior to August 13, 1946. Claims for losses subsequent to that date, and, others that may yet occur, attributable to McNary and possibly to The Dalles Dam, are not eligible for consideration by the Indian Claims Commission, since such losses, if any, will occur after the cut-off date. The pending claims before the Commission involving fishing losses are listed below and are covered in more detail in later sections of this report.

Yakima Tribe	Claim No. 147	\$19,400,000
Umatilla Tribe		3,000,000
Warm Springs Tribe	" " 198	6,000,000
Colville Tribe		Value not stipulated
Nez Perce Tribe		<u>None</u>
	Total	\$28,400,000

49. These claims should be considered in connection with The Dalles Dam fishery problem, because it might be advantageous to combine all of these claims with The Dalles Dam losses, and by special legislation settle the Indian fishery problem for the entire Columbia River once and for all. The principal merits of this proposition lie in the fact that The Dalles Dam settlement will go far toward buying out all remaining Indian treaty requirements, and the further fact that the construction of each future dam will create new and additional conflicts with their attendant costs.

50. Public opinion. - In considering the Indian problems arising out of the construction of The Dalles Dam, it is essential to take note of public opinion and its relation thereto. It is generally believed by persons well informed on Indian matters, and history, that the Indians in the Northwest have not received proper consideration either from early settlers or from the Federal Government in later years. Many cases can be cited where they have not been dealt with adequately or promptly. Cases in point include, flooding out of the Cascade fishery by the Bonneville Dam, and the Kettle Falls fishery by Grand Coulee Dam. Satisfactory settlement of the Indian losses has not been made even though the Bonneville problem is nearing completion. Indians and their white friends, especially, including those interested in helping under-privileged and minority groups, publicize such situations as these and others, and have built up in some quarters sympathetic attitude on the part of the general public toward the Indians. Celilo Falls is one of the many spectacular sites on the famous Upper Columbia River scenic highway and is especially attractive to tourists during the fall fishing season. It is widely known, also, from its historic background, and its destruction is

opposed by many from a sentimental standpoint. Public sentiment is especially favorable to the small group of Indians residing permanently in Celilo Falls area, who have not in the past had all of the benefits enjoyed by the Indians residing on established reservations. The effect on the Indians has generated and is continuing to generate adverse public sentiment in some quarters against the construction of The Dalles Dam. On the other hand, large numbers of businessmen and others interested in full development of the Northwest water resources feel that normal progress and industrial development warrants the dam construction even though it will adversely effect the Indians. All known public sentiment favors early and adequate compensation to the Indians.

SECTION III - TRIBAL DATA
YAKIMA TRIBE

51. Descriptive Information. - The Yakima Indian Reservation was established by the Treaty of June 9, 1855, (12 Stat. 1951) between the United States and the Yakima, Palouse, Pisquous, Wenatshapam, Klickitat, Klinquit, Kow-was-say-ee, Li-ay-was, Skin-pak, Wish-kam, Shyiks, Oche-chotes, Kah-milt-pak, and Se-ap-cat tribes or bands of Indians, otherwise known as the Yakima Nation. Under the terms of this treaty, the Yakimas ceded to the United States a large area in central and south central Washington, and retained for their exclusive use, a reservation located in what is now Yakima and Klickitat Counties. At the present time this reservation contains a total area of restricted land amounting to 1,149,362 acres. Of this total, 391,581 acres are in individual restricted allotments, and 757,781 acres are held in tribal ownership. There are a number of sizeable towns within the reservation area in which Indians reside, including Toppenish, Wapato, Alfalfa, White Swan, Zillah, Granger, Mabton and Sunnyside.

52. The agricultural portions of the reservation are located in the Yakima Valley, recognized as being one of the most fertile and productive agricultural districts in the United States. Originally, a large percentage of the Yakima Valley was in possession of the Yakima Indians. However, during the past fifty years, many Indian allotments have passed into white ownership. At the present time, the Indians own but approximately 75,000 acres classed as crop land. Of this crop land, the Indians themselves operate only about 7,500 acres, the remainder being leased to whites, principally on a cash rental basis. Lease rentals, accruing to the Indian land owners, amount to approximately \$600,000 annually.

Other reservation lands classed as grazing lands are leased, and bring an income to the Indians of approximately \$58,000 annually. The grazing areas contain both tribal and allotted lands.

53. The higher elevations of the reservation support a good stand of virgin timber, much of which is mature and should be harvested. Ponderosa pine is the predominant species. The major part of the timbered areas is in tribal ownership, although it is understood that a comparatively small percentage of it is in individual allotments. In 1951, the income from the sale of timber brought the tribe revenue of approximately \$700,000. This income will increase substantially during the next several years from additional sales negotiated recently. The annual sustained yield cutting capacity of the reservation is estimated to be 33 million board feet.

54. A large percentage of the agricultural lands on the reservation, both Indian and white owned, are irrigated from an Indian Service project developed many years ago known as the Napato Irrigation Project. This project is maintained and operated by the Indian Service, but it is understood to be self-supporting by per acre fees collected from the water users.

55. The enrolled population of Yakima Indians as of January 15, 1950 was 3,598. However, the tribal roll is in the process of revision and correction at the present time in accordance with an Act of Congress dated August 9, 1946, and the final roll may contain additional or fewer names. Data released by the Indian Service on January 15, 1950, indicate that among those enrolled in the Yakima Tribe there are 12 college

graduates, 300 high school graduates, and 740 others who have had elementary schooling. There were 720 adults who were unable to read or write English, and 525 adults unable to speak English. Of the total population 1,602 are classed as full-bloods. Twenty-five hundred of the total enrollment are reported to reside on the reservation.

56. For the most part, these Indians are self-supporting, the principal sources of income being from employment in nearby agricultural, lumber and other industries, commercial and subsistence fishing, farming and livestock enterprises, and lease rentals. A few of the people farm their own lands, while others are engaged in the livestock business. This number is increasing and is being encouraged and implemented by a tribal loan program of considerable proportion. While this tribe has extensive resources, the ownership and distribution of resources and income are such that many of the people are comparatively poor and living on a sub-standard level. The average annual income per family was reported in January 1951 to be \$1,250.

57. Headquarters for the Yakima Indian agency are located in an abandoned Indian Service Tuberculosis Hospital on the outskirts of the town of Toppenish, Wash. This building is spacious, and is ample to house the rather large operations of the Indian Service and Yakima Tribes.

The Indian Service, with a small administrative and accounting staff, is in charge of the operation of the agency which carries on a number of activities including forestry and range management, soil and moisture conservation, road development and maintenance. The large land and leasing business, the loan program, and individual Indian money accounting is carried on by the tribes under the supervision of the Superintendent. The agency operates no schools or hospitals, but the Indian children attend public schools on the same basis as whites except that the school districts are subsidized by the Indian Service to some extent. Health needs are cared for by private physicians and hospitals on the same basis as for whites, the Federal Government paying for the medical care of indigents only. The Indian Service employs a field nurse who is in general charge of the health program. The cost of operating this agency during the fiscal year 1951 amounted to approximately \$277,000 of appropriated funds and \$114,000 of tribal funds, or a total of \$391,000.

58. Headquarters for the Wapato Irrigation Project are at Wapato, Wash., approximately ten miles north of Toppenish, where the Indian Service maintains a considerable staff of engineers and other technicians engaged in the maintenance and operation, and expansion of this project. This organization is in charge of a project engineer, although under the jurisdiction of the Portland Area Office, and operates independently of the agency office at Toppenish. A large expansion project, that of the Status District, is now under way by this organization.

59. Organizational set-up. - The Yakima Indians did not accept the Indian Reorganization Act of June 18, 1934, and therefore are not organized under this act. In fact, the present tribal organization follows closely the tribal government existing prior to the coming of the white man to this area. The highest order of authority is the General Council which in reality

is all of the members of the tribe. Next in authority is the Tribal Council composed of fourteen members, each one a descendant of a chief of the original fourteen tribes making up the nation. The Tribal Council, elected by the General Council, has authority within certain limits to transact the business of the tribe, but more important matters are referred to the General Council. Under the Tribal Council are various committees, such as the Forestry Committee Fish Committee, Health Committee, and several others. These committees generally consist of three members, and have limited authority to transact official business within the scope of their assignment. It appears that final decision on settlement of The Dalles Dam fishery problem will be subject to approval by the Yakima General Council. At the present time the Tribal Council is made up of the following individuals:

Alex Saluskin	Chairman	James Alexander
Eagle Seelatsee	Vice-Chairman	Watson Totus
Joe Meninick	Secretary	David Eneas
Casey Watlamett	Assistant Secretary	Wilson Charley
William Winnier		Martin Hannigan
Antoine Skahan		Henry Beaveret (Wataslyma)
Thomas K. Yallup		George Umtuch

The officers of the General Council are as follows:

George Umtuch	Chairman
Alba Showaway	Vice-Chairman
Joe Meninick	Secretary

60. Recognized grounds for participation. - The legal rights of the Yakima Tribe to fish at the Celilo Fishery and vicinity is established by the Yakima Treaty of June 9, 1855. The fishing rights of these Indians have been tested in the courts a number of times and have been confirmed by decisions of the Supreme Court of the United States. Citations are believed unnecessary here. So far as is known, the legal rights of the Yakima Indians to participate in the fisheries in The Dalles Dam area are not questioned but the extent thereof is yet to be determined.

61. Attorneys for the Tribes. - Kenneth R. L. Simmons, Esq., of Billings, Mont., is general attorney for the Yakimas and is paid an annual retainer fee for his services in this capacity. Under this contract, Mr. Simmons handles all general legal work for the tribes. He was formerly regional counsellor for the Indian Service. Paul Neibell, Esq., of Washington, D. C., has a Claims Contract with these Indians, and has assigned a 50-percent interest in this contract to Mr. Simmons. It is also understood that Mr. Simmons is associated with a number of other attorneys and tribes, has fourteen claims pending before the Indian Claims Commission and is doing most of the groundwork on these claims. Mr. Simmons has requested Gonzaga University of Spokane, Wash., to obtain historical background information to support all of these claims. It is not known whether The Dalles Dam problem is to be handled under the general contract or under the claims contract, but in the event of the latter, the compensation must be approved by the Commissioner of Indian Affairs, subject to his established rules and policies.

62. Pending claims. - By an act of Congress, approved August 13, 1946 (60 Stat., 959; 25 U.S.C.70), the Yakima Indians have claims pending before the Indian Claims Commission. In these claims the Indians allege that they were guaranteed perpetual fishing rights at "usual and accustomed fishing locations" by the Treaty of June 9, 1855, and that the treaty gave them right of ingress and egress to the fishing locations. It is further alleged that since the year 1900 the United States violated its fiduciary duty by not protecting the property right of the Indians, through constructing and allowing the construction of dams on the Columbia River and tributaries. This construction diminished fish runs by 20 percent which resulted in damages amounting to \$4,000,000 by 1933, and, from 1933 to 1946, additional losses amounting to \$700,000 have resulted. In addition, dams and unscreened

diversion on the Yakima, Naches, Tieton and Klickitat Rivers have completely destroyed all usual and accustomed fishing locations on these streams for which the Indians ask \$10,000,000 in damage. Destruction of fish runs on these same streams has resulted in a loss of \$100,000 annually, or an amount totalling \$4,700,000 over a 47-year period since 1900.

63. Total damages in the amount of \$19,400,000 are claimed, after allowance for all legal credits and offsets, together with interest thereon at a reasonable rate from 1933 to date of payment.

Summary of damages claimed - Yakima Tribes:

(1) Construction of power and irrigation dams on Columbia River resulting in depletion of property rights	\$ 4,000,000
(2) For loss of income and value of salmon 1933-1946	700,000
(3) Construction of dams in specified tribu- taries, lack of fish screens and pollution; completely destroyed fishing places in these tributaries	10,000,000
(4) Destruction of salmon runs in specified tributaries destroyed property rights	<u>4,700,000</u>
	\$19,400,000

64. Desires of the Indians. - The first desire of the Yakima Indians is to retain the Celilo Fishery, and they have done, and are still doing everything within their power to prevent or forestall construction of The Dalles Dam. A committee representing these Indians is now in Washington to appear before Congress and other governmental agencies in opposition to the appropriation of additional funds for The Dalles Dam project. This

committee was instructed by the General Council to "stop or delay" construction of this dam.

65. Failing in efforts to block construction of the dam, these Indians desire that they be provided with substitute fishing sites, or that payment for damages be in perpetuity from power revenues.

66. This tribe feels that it has exclusive fishing rights in The Dalles Dam area, and, on May 22, 1951, the Tribal Council adopted a resolution stating that the Yakima Tribe does not recognize the claim of any other Indian tribe or band of people to any compensation arising by reason of construction of The Dalles Dam.

67. The Yakima tribes are desirous of developing other fishing sites, and, in cooperation with the U. S. Fish and Wildlife Service and the Washington State Department of Fisheries, is meeting with considerable success in developing the Klickitat River. Impassable waterfalls are being provided with fishways to permit passage of the salmon. It is also understood that a fish hatchery is being considered on this stream to develop artificial fish runs on the upper reaches of the river.

68. This tribe is on record as opposing the removal of Government supervision over their properties and affairs.

WARM SPRINGS INDIANS

69. Descriptive information. - The Confederated Tribes of the Warm Springs Reservation of Oregon are composed of those tribes and bands of Indians of middle Oregon covered by the Treaty of June 25, 1855 (12 Stat. 963), ratified March 8, 1859, and proclaimed on April 18, 1859, and include the Ta-ih or Upper Deschutes band of Walla Walla; the Wyam or Lower Deschutes band of Walla Walla; the Tenino band of Walla Walla; the John Day's River band of Walla Walla; The Dalles band of Wascoes; the Ki-gal-twal-la band of Wascoes and the Dog River band of Wascoes.

70. There are approximately 1,050 enrolled members of the Warm Springs Tribes at the present time, most of whom are descendants of the original treaty tribes. Except for those members who are incapacitated by age or ill health, these people are self-supporting, either from farming and livestock operations, from employment in the woods and sawmill operations within the reservation, or from employment elsewhere. Of the total population, some 700 (67 percent) are full-blood Indians. Residency on the reservation approximates 800, with some 250 enrollees living elsewhere.

71. Under the terms of the treaty, the Indians ceded to the United States an area of approximately 11,000 square miles of territory in central and north central Oregon, reserving for their exclusive use what is now known as the Warm Springs Indian Reservation, located in Jefferson and Wasco Counties, and covering approximately 570,000 acres. Of the total area of the reservation, approximately 135,000 acres were allotted

to individual members of the Tribes in the year 1896. Nearly all of this allotted area is in heirship status at this time. The remaining 435,000 acres are tribally owned. The tribe has adopted a long range policy whereby it acquires private holdings within the reservation which become available for sale. The reservation area was increased some 70,000 acres by Act of Congress, July 3, 1948, (62 Stat. 1237), in settling boundary disputes. Revenues from timber sales in this area accrue to the tribe, but administration is in the hands of the U. S. Forest Service.

72. The Warm Springs Reservation lies on the eastern slopes of the Cascade Mountains, and for the most part is broken foothill country. On the higher elevations there are good stands of ponderosa pine timber, but very limited areas of desirable agricultural land. The reservation, however, has some very good grazing areas and the Indians derive considerable income from their individually-owned herds of cattle. Some dry-farming is practiced by these Indians, and it is estimated that their income last year from livestock sales and farming amounted to approximately \$350,000. The stand of ponderosa pine timber, estimated to be from $2\frac{1}{2}$ to 3 billion board feet, is one of the most valuable resources these Indians possess. Much of this timber is mature or over-mature, and all should be harvested. The timber resource is administered by the U. S. Indian Service which employs at present a force of nine technically-trained men to administer the reservation timber management program. All timber is sold on a competitive bid basis and is harvested on a sustained yield basis. Present timber program provides for a combined annual cut of approximately 40 million board feet, with an income to the Indians of

\$600,000 at present stumpage rates. Except for a minor amount of timber taken from allotted lands, this revenue goes into the tribal treasury, and is subject to use by the Tribal Council for the benefit of the enrolled members of the tribes. However, a 10 percent deduction is made by the Indian Service to cover the cost of administering the sales and the reservation forestry program.

73. Other resources of this reservation include an undeveloped recreational potential of very sizeable proportions, and an undeveloped hydro-electric potential on the Deschutes River, which is a well-known trout stream and forms the eastern boundary line of the reservation. There are a number of fine mountain lakes on the reservation, crossed from west to east by numerous beautiful mountain streams which abound with game fish. This area might be profitably developed for recreation by permitting public fishing and by keeping the lakes and streams well stocked. At this time the Portland General Electric Company is negotiating with the Warm Springs Indians for two dam sites on the Deschutes River, which, if successful, and the dams completed, should bring these Indians very substantial annual revenues.

74. The headquarters of the Warm Springs Reservation is located at Warm Springs, Oregon, on Highway No. 26, approximately 100 miles Southeast of Portland, Oregon. Here, the United States Indian Service maintains an Indian agency, which, in addition to a small administrative force, includes a boarding and day school accommodating approximately 180 children; a 23-bed hospital which is in charge of a physician; a forestry and grazing-management force of nine persons; a small irrigation development organization; a small soil and moisture

conservation force; two trained agricultural extension men; a road organization which is in charge of an engineer, and a plant maintenance organization. The Agency Superintendent coordinates the various activities and is in charge of the reservation and the Indians. Personnel employed in all activities totals approximately 70, and the costs are supported by appropriated Federal funds.

75. The tribes also employ a number of persons, including a full-time Secretary-Treasurer; a Land Clerk, and an Assistant Clerk, who assists the Secretary-Treasurer. This organization works closely in cooperation with the administrative and clerical personnel employed by the Indian Service, ^{and} ~~who~~ handle most of the clerical and financial work of the tribes, plus the land and statistical work. The tribe also employs its own law-enforcement personnel including three police officers and four judges. A Law and Order Code, approved by the Secretary of the Interior on November 23, 1947, governs conduct of members of the tribes within the boundaries of the reservation.

76. A number of programs beneficial to the Indians and the reservation are in progress. Housing conditions have been tremendously improved during recent years by means of long-term tribal loans for building new homes. Under this program, in excess of 100 new houses have been completed, many of them modern with water and bathroom facilities and electricity. These Indians at the present time are probably better housed than any other Indian group in this area. This tribe also finances, through loans and tribal grants, a soil and moisture conservation program whereby soil erosion is being controlled; grazing areas are being improved, and newly-developed irrigated farms are being leveled

and prepared for irrigation. Tribal funds also are used in financing the tribal loan and credit activities of the Indians. Nearly a quarter of a million dollars of tribal funds are required to cover the credit needs of the members. This program is administered by a committee of the Tribal Council, and it might be said that the repayment record of the borrowers is excellent.

77. The total administrative, operating and maintenance expense for 1951 amounted to some \$476,000 of which approximately \$51,000 was contributed by the tribe. Revenues accruing to the Federal Government from tribal timber sales amounted to some \$60,000, leaving a net Federal expense for providing agency service, of about \$365,000.

78. Organizational set-up. - The Confederated Tribes of the Warm Springs Reservation are organized under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), which act permits Indian Tribes considerable freedom in administering their own affairs. These Indians voted to accept this act, and adopted a constitution and by-laws on December 18, 1937, which was approved by the Secretary of the Interior on February 14, 1938. They also were granted a charter as a Federal Corporation on March 31, 1938. This is the only tribe affected by The Dalles Dam negotiations which is organized and chartered under the Indian Reorganization Act.

79. As a corporation, the tribes have considerable control over tribal property. Among other things they may "purchase, take by gift, bequest, or otherwise own, hold, manage, operate, and dispose of property of every description, real and personal," although, they may not sell tribal land within the reservation. They may also sue or be sued in courts of

competent jurisdiction. This tribe under the circumstances is able to conduct much of its business without regard to Federal control. The business of the tribes conducted by the Tribal Council consisting of eleven members. The chiefs of three tribes have automatic memberships on the council and the remaining eight members are elected by ballot for three-year terms. At present the council which selects its own officers is composed of the following members:

Avex Miller	Chairman	(Agency District)
Charles Jackson	Vice-Chairman	(" ")
John Simtustus	Chief of Simnasho	(Simnasho District)
Frank Suppah	Member, Simnasho District	
Alex Tahet	" " "	
Olney Patt	" " "	
James Palmer	" Agency	"
Sam Vewa	" Seekseequa	"
Orin Johnson	" "	"

Powers granted by the Constitution and Charter, are believed sufficient to permit the Tribal Council to negotiate a settlement for damages resulting from construction of The Dalles Dam.

80. Recognized grounds for participation. - From time immemorial, the Confederated Tribes of the Warm Springs Reservation occupied and used the fisheries on the south bank of the Columbia River from the mouth of the John Day River to the Cascades at the site of Bonneville Dam. The Celilo Fishery is located within the area ceded by the Warm Springs Indians, and they claim that from time immemorial this together with the fishery at Cascade Falls, was their principal "usual and accustomed fishing place."

81. The Warm Springs Treaty of June 25, 1855, contained the usual clause reserving to these Indians the right to return to their usual and accustomed fishing sites to fish. However, by a subsequent treaty,

dated November 15, 1865 (14 Stat. 751), these tribes relinquished this right. This treaty was proclaimed by the President on March 28, 1867, and must be considered legal and effective until abrogated by Congress. The Indians claim that the Treaty of 1865 was secured by fraud and misrepresentation, mainly because it was signed by only a few of the signators of the 1855 Treaty, and, for the further reason that the Indians did not understand that they were signing away their valuable fishery. The fact that consideration amounted to only \$3,500 for these valuable fishing rights, an amount considered to be wholly inadequate, is good grounds for the belief that this treaty was obtained by misrepresentation or fraud. This contention is substantiated by practically every Indian Agent or Superintendent who has been stationed at this reservation since this treaty was negotiated, several of whom have protested the apparent injustice of the treaty, and recommended its repeal. In spite of the restrictive provisions of this treaty, however, the Warm Springs Indians have continued to fish at this usual and accustomed site to the present date, with the sanction of the Federal Government and the State of Oregon as well as without objection from the other Indian tribes. Within recent years during which the taking of salmon at the Celilo Fishery has become highly commercialized, the Warm Springs Indians have been crowded out of many of their original fishing places by the more numerous and more aggressive tribes.

82. Attorneys for tribes. - T. Leland Brown, Esq., The Dalles, Oreg., is the general attorney for the Warm Springs Indians and, together with Frank Nash, Esq., and Sam Van Vactor, Esq., has a contract with this tribe to represent them in connection with any claims they may

have against the United States. This Claims Contract was approved by the Commissioner of Indian Affairs and carries the usual compensation provision which shall in no event include an aggregate fee in excess of 10 percent of any or all sums recovered. The Claims Contract specifically includes the handling of The Dalles Dam legal matters and, if agreement is reached without a law suit, fees will be established by the Commissioner of Indian Affairs, based on the efforts devoted to the negotiation.

83. Pending claims. - The Confederated Tribes of the Warm Springs Reservation, through their attorney, have filed a claim Docket No. 198, with the Indian Claims Commission in accordance with an Act of Congress approved August 13, 1946 (60 Stat. 959). This claim is in two parts. First, by Treaty of June 25, 1855, the Indians ceded to the United States an area of approximately 10,000,000 acres for which the cash consideration was not to exceed \$200,000. The alleged fair value of such lands was not less than \$10,000,000, and the Indians ask \$9,800,000 for the fair value of these lands.

84. The second part of the claim is based on the contention that the fishing rights retained by the Treaty of 1855 were relinquished through fraud and misrepresentation by the Treaty of November 15, 1865. Further, since time immemorial, the usual and accustomed fishing sites of the Indians were on the shores and islands of the Columbia River from Cascade Falls easterly to the mouth of Willow Creek and on the Deschutes and John Day Rivers. The Indians alleged that in 1915 the Federal Government, by constructing a ship lock and canal around

Celilo Falls, destroyed and rendered useless certain usual and accustomed fisheries, fishing sites, and fishing camps and villages. They further allege that the construction of Bonneville Dam, started in 1933 by the Federal Government, inundated and destroyed, commencing in 1937, their fisheries on the island and along the shores of the Columbia River from Cascade Falls to a point approximately 15 miles east of The Dalles. Because the fishing rights were relinquished by fraud and misrepresentation, the Indians still claim the rights secured to them by the Treaty of 1855, and, by the action of the government, damage has resulted to fishing locations in the amount of \$6,000,000.

85. Under these claims a total damage of \$15,800,000 has been sustained. Of this amount, \$9,800,000 is claimed for the fair and reasonable value for lands ceded, and \$6,000,000 is claimed for damages to the fishery.

86. Desires of the Indians. - The general desires of the Indians interested in the Celilo Fishery have been previously stated. The fishing rights of the Warm Springs Indians, however, are clouded by the Treaty of November 15, 1865, and their desires are influenced by this fact. Specifically, these Indians desire a negotiated settlement rather than resorting to court action. They oppose the taking of fish counts, as a basis of determining the extent of each tribe's participation, as that would reflect the present numerical strength of the tribes rather than each tribe's interest in the fishery. The early day ownership and usage of the fishery is believed to be an important factor to be used in determining the interest of each tribe.

87. The Warm Springs Indians believe that special legislation by Congress is needed to authorize negotiations and settlement of the fishery problems at The Dalles Dam. However, they have not indicated a desire to stop construction of the dam. The Warm Springs and Umatilla Indians are working closely in attempting to find a satisfactory settlement of the groups' fishing interest at the Celilo fishery.

UMATILLA TRIBES

88. Descriptive information. - The Confederated Tribes of the Umatilla Indian Reservation of Oregon consist of those tribes and bands of Indians who occupied land in the States of Oregon and Washington, and were covered by the Treaty of June 9, 1855 (12 Stats., 945), ratified March 8, 1859, and proclaimed April 11, 1859. Tribes and bands of Indians included the Walla Wallas, Cayuses, and Umatillas. The reservation lies in Northwestern Oregon near the city of Pendleton and covers an area of 107,300 acres. In 1950, 1,158 persons were enrolled as tribal members of which 384 were Cayuse, 121 were Umatilla, 623 were Walla Walla, and 30 were of other tribes of Indians. Approximately 800 enrollees reside on the reservation.

89. By the Treaty of 1855, approximately 10,000 square miles of land was ceded to the United States, and the Indians retained for their exclusive use the present reservation in Umatilla County, Oreg. The Indians claim that, in addition to the lands ceded to the United States, certain tracts of land located in Morrow, Grant, Baker, and Malheur Counties, Oreg., totaling about 9,000 square miles, belonged to the tribes on the reservation by virtue of what is known as "Original Indian Title" and that this tract was not ceded by the above treaty. The members of the tribes have been allotted 93,168 acres of the original 107,300 acres within the reservation and 14,132 acres remain in tribal lands. Some of the allotted lands have been sold to white people and most of the remainder is leased to them. These leases are handled by the Board of Trustees for the tribes, and in 1951 a total of approximately \$100,000 was derived by the individual Indians from lands leased on a share basis. Principal crops are wheat and peas which are grown on 30,000 acres. The reservation covers about 34,000 acres of crop land, but only five Indians are actively engaged in farming.

90. Another valuable resource of the tribe is timber from which timber-cuttings grossed individual allottees approximately \$9,000 in 1951. Contracts for timber-cuttings in 1952 are expected to return \$70,000 to individual allottees and \$105,000 to tribal funds. Current available tribal funds amount to \$23,000.

91 Most of the Indians depend upon seasonal work on the farms within the area and upon commercial fishing for their livelihood. Some also work in the timber industry of the Blue Mountain area. Generally, living conditions are substandard and a significant percent of the members are on Oregon relief roles or receive old age assistance.

92. The headquarters of the Umatilla Indian Reservation is located at Mission, Oregon - Post Office address is Pendleton, Oregon, about six miles to the East. A large office, living quarters for some of the employees of the agency, and a maintenance shop are established at the location. Contract physician is available but a hospital is not maintained by the reservation. Administrative operation costs of Umatilla Indian Reservation in 1951 were about \$124,000 Federal, and \$9,000 tribal. The Indian Service does not maintain schools for the children of the reservation, but schools are provided by school districts of Umatilla County. The districts receive a subsidy which is paid by the Indian Service for educating the Indian children.

93. Organizational set-up. - The Indians of the Umatilla Reservation are not organized under the Indian Reorganization Act, but operate under a constitution adopted November 4, 1949. The official name is the Confederated Tribes of the Umatilla Indian Reservation, and membership consists of those officially enrolled as tribal members. All tribal members over 18 years of age constitute the General Council and are eligible to vote for governing officers. Officers of the General Council consist of a chairman, 1955-

vice-chairman, secretary, and interpreter, and each has prescribed duties. The governing body of the Confederated Tribes is the Board of Trustees which is elected by members of the General Council. Membership includes the chairman of the General Council as ex-officio member and eight members elected from the General Council. All members must be residents of the reservation. Officers of the Board of Trustees are a chairman, vice-chairman, secretary, and treasurer. The Board of Trustees has the power to represent the Tribes and negotiate with Federal, State, and local governments, manage all affairs of the tribes, appoint and delegate authority to necessary committees, promulgate and enforce ordinances, and exercise any rights and powers formerly vested in the Confederate Tribes. Present officers of the General Council and Board of Trustees follow:

Arnold Lavadour, Chairman
Elias J. Quaemts, Vice-Chairman
Donald S. Hall, Secretary-Treasurer
Louis McFarland
Anna Wannassay
Edgar L. Forrest, Jr.
David Liberty
(Two vacancies)

Officers of the General Council:

Louis McFarland, Chairman
Agnes Sparkman, Secretary
Gilbert Conner, Interpreter

94. Recognized Grounds for Participation. - The treaty with the Walla Walla, Cayuses, and Umatilla tribes and bands covered the general reservation of fishing and hunting rights. Thus the Indians' right to fish was established not only on the reservation but at other usual and accustomed places. A determination of these usual and accustomed places is difficult but the "Swindell Report" contains affidavits from older members of all three tribes in which the affiants state that the area of Celilo Falls was

one of the usual places. Also, from the earliest memory of these old Indians and from words of their forefathers, fishing and trading was practiced at Celilo Falls. Early travelers and explorers describe in their journals the Indian practice of fishing and trading near the present village of Spearfish. While the tribes usually are unnamed, the general accounts of the Indians participating indicate that the tribes of the Umatilla Reservation were included.

95. Since moving to the reservations and since the salmon runs on the Umatilla River have become depleted, these tribes of Indians depended to an increasing extent upon the Columbia River fishery centering around Celilo Falls. Many present day members of the reservation depend to some extent upon salmon for food and for a cash income. From studies to date, the tribes of the Umatilla Reservation have a recognized right to participate in compensation which may be received for the Indian fishery because of the construction of The Dalles Dam.

96. Attorneys for the tribes. - The Confederated Tribes of the Umatilla Indian Reservation have retained Charles F. Luce, Esq., 206 Denny Building, Walla Walla, Wash., as their attorney in tribal matters. In addition, Mr. Luce and Eugene Gressman, 1830 Jefferson Place, N.W., Washington 18, D. C. have an approved contract to represent the tribes in claims before the Indian Claims Commission. The contract of Mr. Luce and Mr. Gressman with the Indians will run for 10 years unless the claims are completed before that time. It specifically includes legal work incident to The Dalles Dam problems. Fees are fixed by the court or are approved by the Commissioner of Indian Affairs.

97. Pending claims. - Action was brought by the Confederated Tribes of the Umatilla Indian Reservation through their attorneys against the United States under provisions of the Indian Claims Commission Act, (60 Stat. 1049). The first claim states that of the 10,000 square miles ceded to the United States by Treaty of June 9, 1855, insufficient consideration was paid by the Government. Also, it is alleged that the Indians did not voluntarily sign the treaty, but were forced to sign by threat of reprisal by the United States. The Indians ask for \$8,000,000 with interest from the date of cession as reimbursement for a fair value of the lands ceded.

98. The second claim alleges that the fish runs have been depleted in the Umatilla River system because of the construction by the United States of dams for irrigation purposes. Loss of these fish has resulted in a damage to the Indians amounting to \$3,000,000.

99. In the third claim, the Indians allege that the reserved lands when surveyed decreased the reservation area from the commonly understood boundaries as described in a general way in the treaty. As a result, the area of the reservation was decreased by 85 square miles for which \$2,000,000 in damages is asked.

100. The fourth claim is based on aboriginal possession of tracts of land in Morrow, Grant, Baker, and Malheur Counties totaling 9,000 acres that were not ceded by the treaty, but which the Indians claim was forcibly taken by the United States. As a fair value for these lands, \$7,200,000 is asked by the Indians.

101. Summary of the above claims is as follows:

Inadequate consideration for original ceded area	\$8,000,000
Destruction of Umatilla River fish runs	3,000,000
Boundary dispute	2,000,000
Area taken, but not ceded	7,200,000
Total	<hr/> \$20,200,000

102. Desires of Indians. - The general desires of the Confederated Tribes of the Umatilla Indian Reservation have been described in a previous section of this report. These tribes claim a legal right to participate in the fishery at Celilo Falls by reason of ancient tribal customs, and because of such an interest claim the right to participate in any settlement. Further, these Indians desire the restoration of fish runs on the Umatilla River system as an alternative fishery. The Indians of the Umatilla Reservation will work closely with the Indians of the Warm Springs Reservation. At the time of the treaty and for sometime, thereafter, these Indians contend that the Yakima Indians fished on the north side of Columbia River near Wishram, Wash. It is

claimed that the Yakimas sold their fishing rights to Spokane, Portland, and Seattle Railroad, but the railroad records do not substantiate this contention. The Umatillas also contend that the Nez Perce Indians did not actively participate in fishing at Celilo Falls.

103. The Umatilla Indians oppose the use of present day fish counts as the principal basis for determining the extent of each tribe's participation in the Celilo Falls fishery, contending that early day catches should be given major consideration. This is for the reason that their present day fisheries are proportionately less than in earlier days. The Umatilla Indians have expressed no desire to stop construction of The Dalles Dam.

NEZ PERCE TRIBE

104. Descriptive information. - The Nez Perce Indian Reservation lies in west central Idaho in Nez Perce, Lewis, and Clearwater Counties. The reservation, as originally established by a treaty entered into with the United States on June 11, 1855, covered a large area of land in Idaho, Washington, and Oregon. However, by a treaty entered into on June 9, 1863, these Indians relinquished most of the land previously reserved to them, but reserved to themselves a portion of the original reservation lying wholly within the State of Idaho covering approximately 756,968 acres.

105. The President, under date of October 31, 1892, by provisions of an Act of Congress entitled, "An Act to Provide for the Allotment in Severalty to Indians on Various Reservations, etc.," approved

February 8, 1887, authorized negotiations with the Nez Perce Indians in Idaho for cession of their surplus land. An agreement was concluded on May 1, 1893, whereby the Indians agreed to cede, sell, and convey to the United States, all of their claim, right, title, and interest in and to all unallotted land of the reservation, excepting various tracts totaling 32,020 acres reserved for tribal use. In accordance with this agreement, the United States paid the Nez Perce Indians \$1,626,222, and the ceded lands were opened to homestead entry by a Presidential proclamation dated November 18, 1905.

106. Prior to the sale of surplus lands to the government, 2,009 individual allotments of land were made to members of the tribes, totaling 175,026 acres. On December 31, 1950, only 888 allotments, totaling 81,130 acres remained in trust status. Other lands owned by the Indians at this time include 31,661 acres of tribal lands, and 1,357 acres of agency headquarters, making a total of 114,148 acres remaining in the possession of the Nez Perce Indians. The tendency on the part of these Indians to dispose of their lands is continuing, and last year some 6,000 acres were fee patented and disposed of. Of the lands remaining to these Indians about 55,000 acres are classed as valuable agricultural land, 25,000 acres as pasture and grazing, and the remainder, or 33,000 acres are timber lands with a stand of small and scattered timber. The agricultural lands for the most part are leased to whites, and the annual income to the Indians from lease rentals amounts to approximately \$1,000,000. There is a valuable

quartz and limestone mine located on tribal lands which brings in considerable revenue to the tribe. The tribe presently has a trust fund in excess of \$100,000, and a substantial amount of additional capital on loan to various members.

107. The Nez Perce population reported on January 16, 1950, numbered 1,530. These Indians for the most part are self-supporting from employment in local agricultural, lumbering, and other industries, and income from lease rentals. This is what is known as an "open reservation," or one in which many whites have secured lands on which they reside, and these Indians have for many years been thrown in close contact with the whites. As a result, the Indians have adopted the mode of living and customs of the white man to a greater degree than any of the other groups with which we are dealing herein. In fact they have intermarried with whites to the extent that at present there are only about 600 of the total population of 1,530 who are classed as full-bloods. Approximately 1,200 reside on the reservation. As of January 1950 the adult population included 58 college graduates, 516 high school graduates, and 626 having had elementary schooling. Of the adults, there are but 33 who cannot read and write English, and but 15 who cannot speak English. From observations, it would appear that this tribe is approaching a state where they might well be released from Federal guardianship in the not too distant future.

108. The agency headquarters are located near the small town of Lapwai, Idaho, some 8 miles east of Lewiston. The agency office is located in an abandoned tuberculosis sanitarium, which provides ample

and satisfactory office space. In addition to the Nez Perce Indians, the Northern Idaho Agency administers the affairs of the Kootenai, Kalispel, and Coeur d'Alene Indians, the Nez Perce Tribes comprising about 65 percent of the total Indian population under the supervision of this agency. A number of activities with a small administrative and accounting force are carried on by the agency, including forestry and grazing, soil and moisture conservation, and extension work. No schools or hospitals are operated, Indian children attend public schools on the same basis as white children, except that the school districts are subsidized to some extent by the Indian Service. Health and medical needs of the Indians are administered by a part-time contract physician, and by local hospitals on the same basis as white patients. The Federal Government pays the cost of medical and hospital care in the case of indigent Indians. Administrative operating and maintenance costs of the Nez Perce Indian Reservation in 1951 amounted to approximately \$178,000 Federal, and \$21,000 tribal.

109. Organizational set-up. - The Nez Perce Indians did not accept the Indian Reorganization Act of June 18, 1934, and therefore, are not organized in accordance with that act. However, they have a written constitution and by-laws, which was adopted on April 30, 1948, and has the approval of the Commissioner of Indian Affairs. This instrument outlines the requirements for membership and enrollment in the tribes and establishes a Tribal Executive Committee as a governing body, to be made up of nine members elected by the General Tribal Council. The officers of the Tribal Executive Committee are selected

from its own membership and include a chairman, vice-chairman, secretary, treasurer, an assistant-secretary and a chaplain. The present Tribal Executive Committee is made up of the following members:

Harrison Lott	Chairman, Lapwai, Idaho
Joseph Blackeagle	Secretary, " "
Austin Corbet	Sweetwater, Idaho
William Stevens	Lapwai, Idaho
John Ramsey	I " "
Sam Slickpoo	" "
Louis Holt	Orofino, Idaho
David Arthur	Kamiah, Idaho
Gene Ellenwood	Kooskia, Idaho

110. Among the powers granted the Tribal Executive Committee under this constitution, are the following:

(a) "To represent the tribe, and to negotiate with Federal, State and local governments, and to advise with representatives of the Interior Department on appropriations, projects and legislation that effect the tribe."

(b) "To manage all affairs of the Nez Perce Tribe including the administration of tribal lands, funds, timber and other resources, under appropriate contracts, leases, permits, and loan or sale agreements."

It is believed that the Tribal Executive Committee has sufficient authority to negotiate with the Government for a settlement of any interest this tribe may have in the fisheries in The Dalles Dam area.

111. Recognized grounds for participation. - Efforts by this office to determine the rights and interests of the Nez Perce Indians in the fisheries in The Dalles Dam area have not been conclusive. Present information indicates that these Indians fished extensively in the upper Columbia, and the Celilo area may not have been one of their "usual and accustomed fishing places." The Swindell report,

page 114, discusses this matter. Further doubt as to their eligibility to participate in The Dalles Dam compensation can be found in testimony of Mr. Harrison Lott before the House Appropriations Committee considering 1952 Civil Works funds (page 683 of part 2), where he explains that the Nez Perce Tribe does not have as many rights as the lower Columbia River Indians.

112. This office expects to make an exhaustive study of all possible historical documents which may be found bearing on this subject, and to require these Indians to present conclusive evidence of their rights to compensation due to construction of The Dalles Dam. Members of this tribe now, and for some years past, have fished extensively at Celilo, and their fish take is being evaluated along with those of the other tribes. Pending more conclusive proof of compensable interest in this fishery, no agreement will be consummated nor will definite commitments be made. It is planned to submit a supplement to this report which will record further findings.

113. Attorneys for tribes. - The Nez Perce Tribe has a General Council Contract, and a Claims Contract with Kenneth R. L. Simmons, Esq., Fratt Building, Billings, Mont. Under the terms of the General Council Contract, Mr. Simmons represents the tribe in all matters of a general nature affecting the tribes, and is paid an annual retainer fee, plus certain expenses. It is understood that Mr. Simmons has assigned an interest in his Claims Contract to the firm of attorneys, Wilkinson, Boyden and Cragun of Washington. This contract covers any claims these Indians may have against the United States, and the fees of the attorneys are based on a percentage of any recovery to the Indians subject to approval of the Court or Commissioner of Indian Affairs.

114. It is understood that Mr. Simons is also attorney for the Yakima Tribe, and it is understood that he will not represent the Nez Perce Tribe where claims or other legal matters, particularly, in connection with fishing rights on the main Columbia River, conflict with those of the Yakima Tribe.

115. Pending claims. - These Indians have no claims pending before the Indian Claims Commission.

116. Desires of the Indians. - The desires of the Nez Perce Indians in general have been previously outlined. This group contends that it has a compensable interest in the settlement of the fisheries in The Dalles Dam area and expects to submit proof to support this contention.

CELILLO INDIANS

117. Descriptive information. - Several Indian families residing in the vicinity of Celilo, present special problems with respect to the construction of The Dalles Dam. Some are descendants of original Wyam or lower Dechutes band of Walla Walla Indians who did not move to the Warm Springs Reservation at the time of the 1855 Treaty, but remained at their fishing grounds at Celilo. They have no special treaty rights, but contend that they are the original owners of this fishing place and did not relinquish their ownership by any treaty provision. Some of the families and their forefathers have lived there since the treaty days. They are not organized in the sense as other tribes under consideration here, and are not considered as an organization, under the direct supervision of the Indian Service. Supervision is given through other tribes

and the fishery is supervised by the area office. Their leadership is under the direction of Chief Tommy Thompson (living at Celilo) a colorful Indian now in his nineties. He is highly respected by the Indian inhabitants and has many loyal friends among the white citizens in the Northwest. These Indians depend almost entirely on the fishery for their livelihood, and, except for those living in what is known as the New Celilo Village, their living standard is low. Some, including Chief Tommy Thompson, are on relief from time to time, especially during the season when there is no fishing. Lacking funds and organization, they have no legal representative.

118. Recent preliminary census taken by this office reveals that there are some 37 families with a total population of 141 Indians who have resided here for several years. Most of them have a high percentage of Indian blood. Of the total population of 141, 77 are adults, 24 are unmarried children over 10 years of age living at home, and 40 are children under 10 years of age. Thirteen families reside in 10 houses in the New Celilo Village that was constructed in 1949 and which is owned by the Indian Service. The remaining 24 families reside in very inferior living quarters in the vicinity.

119. Due to intermarriage the original Wyams are now almost extinct. A high percentage of the group are enrolled in one or another existing organized tribe. Below is shown the best present information on the tribal membership of this group:

Tribes	Enrollments	
	Family heads	Total residents
Yakima	15	47
Warm Springs	2	24
Umatilla	3	7
Nez Perce	6	14
Colville	0	5
Ft. Hall	1	3
Unknown by Indian	4	21
Not enrolled	*6	20
	37	141

* Includes Chief Tommy Thompson.

It will be seen from the above that most of the inhabitants are actually enrolled in organized tribes which have compensable interest in the fishery, each of whom will share in the payment to the tribe.

120. Compensation for any damages suffered by non-enrolled residents present problems difficult of solution, and more study and facts must be obtained before intelligent solution can be found. In justice and equity there appears to be a special obligation toward the people, and public interest and sentiment indicated the need for special consideration of them. Moreover, those families residing at Celilo, even though enrolled in organized tribes, may be entitled to special compensation. No definite program has been set up for solving these problems, but consideration is being given to some compensation based on severance damages, compensatory or exemplary damages, if legal means can be found.

121. Due to the fact that these Indians are totally lacking in organization, it is impossible to secure a group expression from them as to their desires. However, prominent Indians residing permanently at Celilo have urged that substitute fishing sites be provided for this small group below the dam facility. This request is made on the grounds that these Indians are dependent almost entirely upon the fishery for a livelihood.

SECTION IV - VIEWS OF FEDERAL, STATE AND OTHER INTERESTS

122. Views of the Area Office of Indian Affairs. - The Area Office of Indian Affairs which supervises all tribes in the Columbia River Basin has in the past strongly opposed the construction of large dams on the Columbia River and its tributaries, especially The Dalles Dam. The Area Office is on record in the Interior Department's Pacific Northwest Coordinating Committee's Report of January 1947, as opposing the Columbia River Development Program to protect and conserve the Indian subsistence and commercial fishery. It also indorsed the position of the U. S. Fish and Wildlife Service with respect to deferment of Congressional authorization of The Dalles Dam and deferment of construction of other dams on the Mid-Columbia and Snake Rivers.

123. Since approval of construction and appropriation of funds for The Dalles Dam, the Area Office of the Indian Service has been very cooperative with this office and has indicated its position in the negotiations by letter of October 23, 1951, part of which is quoted below.

"The Bureau of Indian Affairs is in a somewhat anomalous position in this matter in that under existing law and regulations and in certain respects concerning "restricted" property or rights under treaties the Federal Government is charged with the duties of a guardian over Indians and Indian Tribes and on the other hand in the event of litigation will be a defendant in suits which may be brought by the tribes against the United States to recover damages by losses occasioned by reasons of operations of the Government.

Our position in this matter, as pointed out above, is more or less anomalous, but I wish to express my assurance to you that this office will do everything possible to act as a liaison agency in connection with the determination of the nature, extent

and value of the Indian fishery. Mr. Swindell advises me that yesterday the question was raised as to whether (a) settlement or negotiations should be conducted on the basis of an overall and final settlement of the damage to the Indians' fishery by reason of the entire contemplated development in the Columbia River Basin, or (b) on the basis of actual damages as and when they accrue by reason of the various dams contemplated in the proposed development of the Columbia River Basin; also whether settlement should be on the basis of negotiations with the individual interested tribes or on the basis of the value of the entire Indian fishery with apportionment between the tribes to be a matter for subsequent determination so as to avoid resort to court action.

We do not feel that we are in a position to express any opinion with regard to these points at this time but we do feel that these particular questions can be resolved by meetings between the interested attorneys subject, of course, to approval of the interested tribal governing bodies, at which meetings I will be very pleased to have Mr. Swindell attend.

As we see it the primary role of the Bureau of Indian Affairs in this matter is to act as liaison agent between the tribes claiming rights which will be affected by the development of the Columbia River Basin for the purposes of hydroelectric development, flood control, navigation, etc. The problem of the liquidation of the claims of the Indians is paramount, timing is important and you may be assured that this office will do everything possible to assist in the settlement of this matter."

124. The policy expressed above, to the effect that the Indian Service's primary role will be to act as liaison agent, is altered to some extent by Area Director's circular letter to reservation superintendents of January 23, 1952. This letter expresses some rather definite views on the settlement matters and is quoted below:

"It is understood the Corps of Engineers, U. S. Army, received bids this week under which construction work will begin immediately on The Dalles Dam. This brings to the fore the urgent problem of settlement by the Government through the Corps of Engineers for the loss of Indian fishing rights on the Columbia River, guaranteed them by treaty rights. In the absence of sufficiently accurate figures as to the total Indians catch of fish on the Columbia for subsistence and for sale, it is desirable to develop a formula for determining total losses or to negotiate agreement with the interested Indians as to their losses that will result from the construction of dams on the Columbia River and its tributaries.

It is not clear whether the Corps of Engineers presently has authority to negotiate a settlement for Indian fishery losses on the Columbia, and if so whether the Corps can enter into a binding agreement with the several tribes in regard thereto. An early settlement of this problem is of great concern to the Bureau of Indian Affairs and the Indians. The Indian expresses the fear that if a settlement is not made at an early date the problem will be much more difficult after The Dalles Dam is well under construction. In that connection the Indians point out that promises made to them for settlement for loss of ancient fishing sites flooded by the Bonneville Dam have not to this day been resolved. There are no other fishing sites that could be given the Indian in lieu of those that will be lost to the tribes for all time through construction of the dams, other proposals such as giving the Indian the fish carcasses at fish hatcheries cannot be considered as compensation.

The problem of compensation to the individual tribes after an award has been made for the total Indian fishery losses is secondary and should in my opinion be a matter for separate determination by a fact finding board established either by (1) an administrative order, (2) a Congressional act or (3) court order.

In lieu of seeking a direct Congressional appropriation for a lump sum payment for these fishing losses during these times of financial difficulties, I suggest exploration of the practicability as well as the desirability of paying the Indian Tribes an annual sum over a period of years from the net earnings derived from operating The Dalles Dam. Economically as well as from a welfare standpoint, a yearly revenue to the Indians is more desirable considering that the present Indian generation is really not entitled to all the benefits of the capitalization of these Indian fishing losses because future generations of Indians also have a stake in these resources was recognized by the U. S. Government in its treaty with these tribes."

This office is working closely with the Area Office and with various superintendents, and has found them most helpful in arranging conferences and assisting in dealing directly with the Indians.

125. Views of the U. S. Fish and Wildlife Service. - This service has in the past consistently advocated delay in The Dalles Dam development. Since its authorization in 1950, no serious opposition has been noted and in fact, Secretary of the Interior, Mr. Chapman, supported

early construction in testimony before the Senate Appropriation Committee during consideration of 1952 Civil function appropriation. Specific views with respect to settlement with the Indians are not well known except, they feel that appropriate compensation for losses must be provided. Their recent views on the conservation aspects have not been recorded, but it is believed that they consider curtailing of Indian fishery will benefit the country as a whole.

126. The Service has been helpful in determining the 1951 Indian fish catch (with funds provided by this office) and are expected to continue this work as long as necessary.

127. Views of Washington and Oregon State Authorities. - Except for the attitude of the Oregon Fish Commission and the Washington Department of Fisheries, it is known that State officials generally advocate the early construction of The Dalles Dam. Both fishery agencies, however, have passively opposed The Dalles Dam construction, but not to the extent that they have opposed the Lower Snake River Program. It is believed that they consider the conservation aspects as beneficial and in the public interest not only as an important part of the Lower Columbia Fishery Program, but also to enhance the salmon runs for the benefit of all citizens of both states and the nation.

128. Officials of both fishery organizations found objections to the U. S. Fish and Wildlife Service taking over the task of surveying and recording the 1951 Indian fish catch, a duty they had performed for several years past. They have not cooperated in any way with this office or with the U. S. Fish and Wildlife Service in connection with

this 1951 census, but have given the fullest possible cooperation with respect to supplying information on their previous poundage figures. The Oregon Fish Commission's Contribution No. 17 (copy attached) while not specifically compiled for the use of this office, its early completion was accomplished for its benefit.

129. Both departments take a hands-off attitude toward negotiation and settlement of the Indian losses, feeling that it is entirely a Federal problem. They take a strong stand against allowing Indians to fish from the fish ladders or in the immediate vicinity of the dam. Oregon Fish Commission will not allow Indians to take salmon carcasses from State owned hatcheries, but salvage them for use as hatchery fish food. Both States have long recognized the rights of the Indians to fish at Celilo, but have, with the cooperation of the Indians, limited their commercial fishery to the period of open commercial seasons. They have not collected any tax from the Indians on their commercial sales. It is highly probable that once the Indian fishery at Celilo is extinguished that State laws will, as a conservation measure, be revised to prohibit commercial fishing above the Bonneville Dam.

130. View of commercial and sports fishery interests. - These interests have consistently opposed many of the dams proposed in the Columbia River development program, especially Hells Canyon and the lower Snake River Dams. Commercial interests are on record favoring construction of The Dalles ~~and~~ first, if any dams are to be built on lower Columbia or Snake Rivers, for the reason that "certain losses

occur to the fish in passing that point at the present time. Little is known of their attitude toward settlement with the Indians, but it can be fairly assumed that they favor reasonable compensation to the Indians. Testimony before the House Appropriation Sub-committee considering Civil functions appropriation for 1952 (page 592, part 2) is quoted:

"The attitude of the fisheries to The Dalles Dam is this: We feel that eight dams proposed in this Federal Plan will interfere with the salmon fishery. You cannot economically construct the four lower Snake River dams without constructing Hells Canyon Dam and visa versa. Our position on The Dalles Dam is this: If any of the eight dams have to be built, if Congress feels it has to construct any of them, we would prefer to have The Dalles Dam built first, in other words, that is the least objectionable from the view of the fishery. That is because certain losses occur to the fish in passing that point at the present time."

131. Divergent views. - Paragraph 41 through 46, of Section II covering the desires of the Indians, together with the special desires of the individual tribes as recorded in sections dealing with the particular tribe, indicate the obvious divergent views. These are shown in the accompanying tabulation in a form that permits ready comparison. Until negotiations are actually undertaken the divergent views can not be reconciled. It is believed, however, that they are not final and definite, and can be reconciled by diligent negotiations.

	<u>U.S. Indian Service</u>	<u>States</u>	<u>This Office</u>
1. Should The Dalles Da	F ¹	U.F.	F.
2. Should substitute fi	U.F.	U.F.	U.F.
3. Should settlement be	UNK.	UNK.	U.F.
4. Should settlement cc	UNK.	UNK.	F.
5. Should settlement be	F.	UNK.	F. <u>3</u>
6. Should settlement be individually?	U.F.	UNK.	F. <u>2</u>
7. Should settlement be	F.	UNK.	F.
8. Should settlement be	U.F.	UNK.	U.F.
9. How should fishery b On basis of pre	UNK.	UNK.	F. <u>4</u>
On basis of usa	UNK.	UNK.	F. <u>4</u>
10. How should payment b In lump sum, or	U.F.	UNK.	F.
In perpetuity f	F.	UNK.	U.F.
11. Is special legislati	F.	UNK.	U.F. <u>5</u>
12. Should Yakima claim	U.F.	UNK.	U.F.
13. Should Warm Springs 1865 treaty?	U.F.	UNK.	U.F. <u>6</u>
14. Should Nez Perce Tri	UNK.	UNK.	Not determined.
15. Should Indians be pe	U.F.	U.F.	U.F.
16. Will The Dalles Dam	F.	F.	U.F.
17. Should settlement be started?	UNK.	UNK.	U.F.
18. Does U.S. Gov't have maintaining fish run	UNK.	UNK.	U.F.
19. Should Indians relin in The Dalles Dam an	UNK.	UNK.	F.
20. Should work be stopp	UNK.	UNK.	U.F.
21. Will The Dalles Dam	UNK.	F.	F.

- 1 U.S. Fish & Wildlifers.
- 2 Attorneys feel basin
- 2 Agreement with all t
- 4 This office consider
- 5 Need for special leg
- 6 Rights by usage are
- 7 Yakima & Umatilla tr

Abbreviations:

F : Favorable opinion.
U.F.: Unfavorable opinion.
UNK.: Opinion unknown.

SECTION V-- REAL ESTATE

132. Indian lands (Allotment). - The Real Estate Division will acquire Indian (Allotment) lands, and buildings or improvements located on private lands within The Dalles Dam project. Following is a list of the Indian lands within the tentative taking lines of the project, showing allotment numbers, the name of the allottees, and the approximate area of each parcel:

<u>TRACT NO.</u>	<u>ALLOTMENT NO.</u>	<u>ALLOTTEE</u>	<u>ACREAGE</u>
B-208	V-60	Klilockum, et al	40
B-209	V-43	Charley, et al	40
B-210	V-45	Charley, et al	40
B-211	V-64	Klilockum, et al	40
B-220	V-38	Charley, et al	118.30
B-221	V-75	Skamowia	19.20
B-222	VAN-TC-1375	Seelatsee, et al	11.90
B-223	HSTD-852	Silotsi, et al	93.70
B-224	V-185	Charley, et al	160
B-226	V-29	Seelatsee, et al	0.01
B-225	None	Public Domain	168
		Interest of Yakima Indians	
		undetermined	
C-303	V-76	Klilockum, et al	est. 34
C-310	V-179	Yock	est. 82
D-402	V-189	Telaset	est. 78
D-403	V-159	Johnson, et al	est. 60
D-404	V-35	Shaarmut, et al	est. 20
E-500	V-49	Taheenmy	est. 80
None	V-194	Squimhim, et al	est. 155
assigned			
None	V-34	Calapoo, et al	est. 30
assigned			
None	V-188	Ada Telaset	est. 78
assigned		Allotment cancelled	
		5/17/34	
None	VH-03998	Sam Emmet	80
assigned		Allotment cancelled	
		10/26/22	
M-1304	T.D. 9	Wesley, et al	est. 78
M-1305	T.D. 12	Wesley, et al	est. 40
P-1601	T.D. 17	Queahpama	est. 5
P-1600	T.D. 37	Calapoo, et al	est. 15

There are twenty-one parcels of Indian lands within the project, containing a total of 1,428.11 acres, more or less. Allotments on two of such tracts have been cancelled and the present Indian status is undetermined. There are no known tribal lands within the project. One tract, however, appears to be public domain in which the Yakima Tribe has some undetermined interest. The appraisal or estimated fair market value of such lands for the Government has not been completed to date.

133. Title ownership data. - Title to Indian allotment lands is vested in the United States of America in trust for the allottees of the lands or their heirs, but for all practical purposes such land is owned by the Indians. Instruments affecting title to such lands are generally not recorded in the county in which such lands are situated. All records in respect to ownership of such land in this area are contained in the files of the Yakima Indian Agency at Toppenish, Wash., which information is readily available upon request. All probate or guardianship proceedings affecting such lands are administered by or through the Portland Area Office of Indian Affairs. Conveyances or instruments affecting Indian lands, such as easements, leases, etc., are occasionally recorded in the county records, which may require some title curative action.

134. Certificates of title. - Contract No. DA 35-026-eng-4547 with the Washington Title Insurance Company provides for furnishing and delivery of tract ownership data and certificates of title covering lands in Klickitat County, Wash. Contract No. DA35-026-eng-4550 with Commonwealth, Inc., covers the procurement of such instruments in Wasco, Gilliam and Sherman Counties, Oreg. The title search provided by Washington Title

Insurance Company includes the real estate records of the Yakima Indian Agency, while a search made by Commonwealth, Inc., is limited to the records of the counties in which the land is located. All certificates of title furnished by Commonwealth, Inc., will be supplemented by a certificate by the Superintendent of the Yakima Indian Agency or a qualified attorney of the Real Estate Division of the Office, District Engineer, Portland District, covering the land records of the Department of the Interior, Office of Indian Affairs.

135. Acquisition procedure. - It is proposed to acquire title to all Indian allotment lands within the taking lines of the project and above the lines of ordinary high water from the Indians through the Office of Indian Affairs, subject to the approval of the Secretary of the Interior or his authorized representative, by direct purchase under existing Department of Army orders and regulations. Where circumstances require, and it is impossible to negotiate options with the Indians prior to requirements for possession of the land, or title defects preclude acquisition by direct purchase, acquisition of the land or interest therein will be accomplished by the filing of condemnation proceedings in the District Court of the United States for the district in which the land is situated. All lands within the project will be acquired subject to existing easements for public roads, highways, public utilities, railroads and pipe lines and subject to the rights of Indians reserved in treaties by the United States and the Indian tribes.

136. Appraisal procedure. - Appraisals of all Indian lands, and buildings or improvements on private land will be made jointly with a representative of the Office of Indian Affairs and/or the amount of the

estimate fair market value will be submitted to such office for review and approval prior to negotiations with the Indians. No negotiations will be conducted with the Indians without prior approval of the Office of Indian Affairs.

137. Acquisition of structures on private lands. - A number of the Indians claim ownership of various buildings and structures, such as drying sheds, living quarters, shacks, etc., constructed on privately-owned land with the consent of or without objection by the owners. The ownership of such Indian buildings and improvements will be determined, and same will be appraised with the underlying fee. Thereafter, such buildings will be acquired by direct purchase, either through the owner of the fee, or by negotiations with the Indians. In the event ownership of the buildings cannot be satisfactorily determined, or options cannot be negotiated with all of the owners of the improvements on the tracts involved, acquisition will be accomplished by condemnation proceedings, jointly with the land, or by separate proceedings if the conditions warrant. Provision will be made for the owners of the buildings to remain in possession of the buildings until physical possession is required in connection with the project.

138. Acquisition of structures on Government lands. - There are also a number of buildings and fishing structures located on public domain, U. S. Indian Service (Department of Interior) lands, land below the line of ordinary high water, and on the railroad and highway rights-of-way, ownership of which is claimed by the Indians. If a compensable interest can be established by the Indians in such buildings and structures, same will be relocated, or acquired by direct purchase or condemnation

proceedings, whichever action is in the best interest of the Government. At present there are no known procedure or regulations for acquisition of buildings on Government-owned land by direct purchase. In the event a compensable interest cannot be established in such buildings, a study will be made to determine the action to be taken in respect thereto. In addition to other matters, a determination must be made as to whether the Indian fishing rights are superior or not to the Government's paramount right of navigation.

139. Relocation of residential areas. - Preliminary studies are being made with respect to relocation of living quarters or residential areas, such as those on Government-owned land at Celilo and on privately-owned land at Spearfish. It has been the established procedure in connection with other projects in this area to acquire buildings or improvements for the estimated fair market value thereof, and to allow the owners to reserve such buildings or to purchase the same for the salvage value. In such instances the owner is obligated to make his own provisions for relocation of his buildings.

140. Fishing stations. - Ownership of various fishing stations or rocks are claimed by individual Indians as a family inheritance. The alleged individual rights to such stations have not been challenged in our State or Federal courts. Any individual rights in fishing stations, and easements for ingress or egress to usual and accustomed fishing grounds or stations, are appurtenant to the Indian treaty and fishing rights held by the Indians. The value of these rights, if any, will

not be included in the estimated fair market value of the privately-owned lands concerned, and such rights will not be acquired therewith.

141. Relocation of burial grounds. - Where it is determined that an Indian burial ground or isolated graves will interfere with the proposed use of the project, such burial grounds or graves will be relocated upon request in accordance with established Orders and Regulations of the Department of the Army. Due consideration will be given to the views and recommendations of relatives and next of kin. In the event no request for relocation is received, a Federal court order authorizing the flooding of such graves will be requested.

SECTION VI - INDIAN VILLAGES

142. Celilo Villages. - Villages to be considered in connection with the construction of The Dalles Dam, are those at Celilo Falls on the Oregon side, and Spearfish, on the Washington side of the river. The village at Celilo Falls is in two parts, one, known as the "New Celilo Village," constructed at a cost of \$125,000 by the Indian Service with funds appropriated by Congress in connection with the Interior Department Appropriation Act for the fiscal year 1949. This project includes ten family dwelling units, five bathhouses, about sixty concrete platforms for tent floors, a permanent water supply and sewage disposal system, and four dormitory-type buildings designed for use as fish drying sheds. These dormitory-type buildings are divided into nine compartments, each having running water and a sink, and drainboard for use in cleaning the fish. Originally these four buildings were not intended for use as living quarters, but Indian families, reluctant to being separated from their drying fish, have occupied the buildings as temporary living quarters during the fall fishing season. The "New Celilo Village" was completed in December, 1949, and soon was occupied by local Indians. These ten houses were intended to house the Indian families living regularly at Celilo, and the original plan contemplated the destruction of the unsightly buildings and shacks in the original Celilo Village formerly occupied by them. However, the ten houses provided, were insufficient in number to house all of the families residing there regularly, and a number of them continue to reside in the old shacks. In some instances, families living in the old village refused to move to the new quarters. The "New Celilo Village" will not be disturbed by backwater from The Dalles

Dam, and it is understood that a number of the families living there will remain after the dam is completed and the fishery flooded, although their principal source of livelihood will have been destroyed.

143. The other part of the Indian settlement at Celilo, sometimes called "Original Celilo Village," is made up of a large number of houses, crude shacks and drying sheds, concentrated in several areas in the vicinity of Celilo Falls and the Oregon Trunk Railway Bridge below the falls. The "Original Celilo Village" is made up of approximately 222 houses and shacks, most of which will be destroyed by The Dalles Dam project, either by flooding or relocation of the Union Pacific Railway. Nearly all of the buildings and shacks are used by the Indian owners as temporary quarters during fishing seasons, and remain empty the major part of the time. However, there are twenty-four families who reside in this village the year around. There are no permanent water or sewage facilities in this village. Most of the buildings and shacks are located on private property and are occupied with the land-owner's consent. However, some eleven houses used as year-around living quarters and thirty-four shacks and drying sheds, are located on Federal land, the control of which was transferred by the Secretary of War to the Secretary of the Interior, for the use and benefit of certain Indians who have occupied it for many years. The transfer was made pursuant to Public Law 713, 70th Congress (S. 4036). Compensation for the Indians' interest in these buildings is complicated and is discussed in Section V.

144. Except for those houses located in the area to be affected by the railroad relocation, it is anticipated that the houses and shacks in the old village will remain available to the Indian owners until the area is cleared prior to flooding. However, those buildings located in the railroad relocation area, numbering sixty odd buildings, must be removed prior to the flooding, probably in 1955, and provision must be made for substitute facilities. Of the sixty buildings affected by the railroad relocation, twelve are occupied by fourteen families (mostly enrolled in the Yakima Tribe), who reside here the year around. Determination of necessity for providing substitute permanent living quarters for these fourteen families has not been made and is subject to further study. Acquisition of all buildings in the "Original Village" will be handled as a real estate transaction, and is discussed in Section V of this report.

145. Spearfish Village. - The fishing village of Spearfish is located on the Washington side of the Columbia River in the vicinity of Big Eddy. This is an ancient Indian fishing village, dating back to the time of, and prior to, the coming of the early white explorers to this area. At the present time this village is made up of about fifty temporary buildings and shacks, which are largely occupied only during the fall fishing season by Indian fishermen who come from the reservations. Less than ten families reside at this village permanently. This village will be inundated by back-waters of The Dalles Dam, and studies are being made to determine necessity for relocating it. Acquisition of existing buildings will be handled as a real estate transaction.

SECTION VII - ECONOMICS

146. Basis for evaluation of the Indian fishery. - Since the Indian fishing places that will be affected by The Dalles Dam have negligible value for any other purpose, it is considered that the price paid to the fishermen or the first level wholesale value of the poundage of fish taken for commercial sales and the first level market value of whole fish for the poundage taken for subsistence purposes are the most reasonable and equitable bases upon which the worth or value of the Indian fishing rights may be determined. The Indians expend some monies and considerable labor on platforms, cableways, and gear in actually catching the fish which would be deductible from their commercial sales to determine the net return. However, no attempt is made herein to estimate costs of equipment, operation, and maintenance, but such costs may be considered as an offset for any intrinsic value of the fishing sites. Therefore, gross returns from the commercial sales and the cost values of the subsistence catches are used as a basis for evaluation of the Indian fishery instead of the net returns and net values.

147. Basic data available on the Indian catch. - Complete information as to the total Indian catch of all species of fish is not available. Published data on the Indians' commercial landings are available from 1928 to 1951, inclusive. No subsistence catch records have been found prior to 1947. Data compiled by the Oregon Fish Commission and the Washington Department of Fisheries in a report dated February 15, 1950, and a publication by the Oregon Fish Commission, entitled, "The Indian Dip Net Fishery," Contribution No. 17, dated November 1951, show commercial "dip net" landings from 1928 to 1950, inclusive, with breakdown of species. However, for 1928 to 1937, inclusive, the record shows yearly catch of chinook salmon, only,

without breakdown for spring and fall chinook which have considerable difference in price. This record shows that the total "dip net" or Indian landings of chinook salmon took a decided jump in 1935 to over 1,400,000 pounds from previous years which ranged from a minimum of about 81,000 pounds in 1928 to a maximum of 729,000 pounds in 1933. The record for 1928 is reported to be fragmentary and probably does not include all of the Indian chinook landings. The increase in the Indian catch in 1935 and subsequent years was due primarily to increased intensity of buying from the Indians following final outlawing of the use of fish wheels and to provision of better refrigeration pickup facilities. A survey of the subsistence catch taken by the Indians during the closed commercial fishing period was made in 1947 to 1950, inclusive, by the Fish Commission of Oregon and the Washington Department of Fisheries and that record is also shown in the publication "Contribution No. 17." Beginning in 1951, the U. S. Fish and Wildlife Service, by agreement with the Corps of Engineers, engaged in a fish-count census of the Indian fishery at Celilo and vicinity and 1951 estimates on numbers of fish and poundage, by species, are available. The information obtained from these combined sources is considered to be reliable and is used as a basis for the determination of the average annual poundages of the Indian catch of the salmonidae species of fish. It is known that sturgeon and other miscellaneous species which are caught by the Indians are sold commercially and to tourists and utilized for subsistence. The basic sources of information cited above show only very few years of fragmentary records on these miscellaneous fish.

148. Estimated annual poundage. - The 14-year period, 1938 to 1951, inclusive, was selected for studies of the annual poundage of the Indian catch for the reason that prior to 1938 the Indian fishing was not confined

to Celilo and vicinity. The known basic data are complete with respect to the open season commercial landings for each year from 1938 to 1951, inclusive, thus readily providing annual poundage over the past 14 years for spring and fall chinook, blueback, steelhead, and silvers. Information of record on the subsistence catch during the closed season covers only the years 1949, 1950, and 1951 for spring chinook and bluebacks and the years 1947 to 1951, inclusive, for fall chinook, steelhead, and silvers. The subsistence fish catch during the open season was not recorded until the 1951 census count by the U. S. Fish and Wildlife Service, thus providing only 1 year of record. Recorded data on the sales of fish to tourists covers the years 1947 to 1951, inclusive, for fall chinook, steelhead, and silvers, but spring chinook and blueback have been recorded only in the 1951 census.

149. The total poundage by years and average annual poundages are compiled or derived for each component of the catch for each of the species in table 1, page 88a, from these record data, as cited above, as follows:

(a) The reported commercial catch poundage of landings in Oregon and Washington for each year for all species from 1938 to 1951, inclusive, was used to determine the total and average annual poundage for the 14-year period.

(b) For other components of the catch where only a short record of from 1 to 5 years is available, so many other factors are involved that there appears to be no correlation for these components with the known poundage of commercial sales of any year. For this tentative estimate, in the absence of other data, it was assumed that the poundages during the previous unknown period were equivalent at least to the average poundage in the years of record. These estimates include the following components:

- (1) Tourist sales of spring chinook and blueback and the subsistence catch for all species during the open season for which only a 1-year record is available.
- (2) Subsistence catch of spring chinook and blueback during the closed season where only a 3-year record exists.
- (3) Sales to tourists and the subsistence catch during the closed season for fall chinook, steelheads, and silvers for which a 5-year record is available.

150. The total poundage of all salmonidae species for the 14-year period of 1938 to 1951, inclusive, obtained by the foregoing method of computation amounts to about 36,128,300 pounds. In this derivation, 85 percent is from known or published records and 15 percent is estimated from known partial data for the unknown portions of each component of the catch. A summary of the total salmonidae catch for each species and component with percentage relationships is shown on table 2, page 88b.

151. In addition to the above total poundage of salmonidae, the total poundage of the miscellaneous species, including sturgeon, is estimated from partial record data as amounting to 190,400 pounds, making a grand total for the catch of all fish of about 36,318,700 pounds for the entire 14-year period, 1938 to 1951, inclusive.

152. The average annual poundages by species derived from these total poundages, obtained by the above method of computation for fish sold commercially, fish sold to tourists, and for fish caught for subsistence over the entire 14-year period are summarized in the following tabulation:

Average annual poundage
14-year period - 1938 to 1951, inclusive

Species	Commercial sales	Sold to tourists	Subsistence catch	Total
Spring chinook	272,680	5,230	15,100	293,010
Fall chinook	1,402,300	46,540	407,810	1,856,650
Blueback	55,740	950	7,640	64,330
Steelhead	261,450	10,510	79,400	351,360
Silvers	5,640	330	9,260	15,230
Miscellaneous	<u>1,000</u>	<u>11,700</u>	<u>900</u>	<u>13,600</u>
Total	1,998,810	75,260	520,110	2,594,180

153. The total poundage of the catch of all salmonidae and miscellaneous species for the recent 5-year period, 1947 to 1951, inclusive, amounts to about 12,622,300 pounds, of which 97.6 percent is from known or published records and 2.4 percent is estimated from known partial data. The average annual poundages by species and for each component of the catch over this 5-year period are summarized in the following tabulation:

Average annual poundage
5-year period - 1947 to 1951, inclusive

Species	Commercial sales	Sold to tourists	Subsistence catch	Total
Spring chinook	185,240	3,140	9,050	197,430
Fall chinook	1,296,440	46,540	407,810	1,750,790
Blueback	14,220	570	4,580	19,370
Steelhead	221,910	10,510	79,400	311,820
Silvers	9,600	330	9,260	19,190
Miscellaneous	<u>1,000</u>	<u>11,700</u>	<u>900</u>	<u>13,600</u>
Total	1,728,410	72,790	511,000	2,312,200

154. Estimated prices per pound. - From inquiries of some fish buyers purchasing fish from Indians in the Celilo vicinity, information has been obtained on the prices paid to the Indians for each species of fish caught and the market prices of whole fish over the 14-year period 1938 to 1951, inclusive. Although the basic data utilized in arriving at these prices are not as complete as could be obtained by more extensive research, it is believed to be fairly reliable and the best available at this time. The data on prices paid to commercial fishermen and to the Indians for the fish they sell commercially are the most reliable. The prices per pound of whole fish when purchased wholesale have been estimated based on a standard mark-up formula used by fish dealers in order to arrive at the value of the subsistence catch. The Indians also sell fish to tourists during both the closed and open season fishing periods. The prices paid to the Indians by tourists are known in some instances, but are difficult to determine over a long period. These prices, therefore, have been estimated from present information.

155. Although the actual or estimated prices paid in each year are used to determine average annual values, the average prices per pound are indicative of the price trends. The weighted average price per pound paid to the Indians for all fish sold commercially and to tourists and the average price per pound that the Indians would have had to pay for whole fish if purchased wholesale for subsistence, by species for the 14-year and the last 5-year periods are summarized as follows.

Summary of average annual prices

Species	Commercial sales	Sold to tourists	Subsistence catch
<u>14-year period - 1938 to 1951, inclusive</u>			
Spring chinook	\$0.20	\$0.28	\$0.38
Fall chinook	0.12	0.19 $\frac{1}{2}$	0.31
Blueback	0.17	0.28	0.39
Steelhead	0.10 $\frac{1}{2}$	0.21	0.30
Silvers	0.16	0.22	0.29
Miscellaneous	0.08	0.26	0.26
<u>5-year period - 1947 to 1951, inclusive</u>			
Spring chinook	\$0.27 $\frac{1}{2}$	\$0.35	\$0.48
Fall chinook	0.21	0.31	0.43 $\frac{1}{2}$
Blueback	0.25	0.37	0.50 $\frac{1}{2}$
Steelhead	0.18	0.30	0.40
Silvers	0.21 $\frac{1}{2}$	0.33	0.39 $\frac{1}{2}$
Miscellaneous	0.14	0.31	0.32
<u>1-year period - 1951</u>			
Spring chinook	\$0.36	\$0.45	\$0.60
Fall chinook	0.20	0.30	0.43
Blueback	0.36	0.36	0.62
Steelhead	0.18 $\frac{1}{2}$	0.30	0.43
Silvers	0.20	0.30	0.40
Miscellaneous	0.12	0.30	0.30

156. Estimated average annual value based on past prices. - The annual values of the commercial sales, sales to tourists, and subsistence catch, by species, have been computed based on historical poundages and prices as available for each year of the entire 14-year period, 1938 to 1951, inclusive, and are shown in table 3, sheets 1, 2 and 3, with the average annual values by species and components of the catch for the 14-year and the last 5-year periods.

157. The total average estimated annual value of the total Indian catch during the 14-year period, 1938 to 1951, inclusive, amounts to \$434,400, and for the last 5-year period, 1947 to 1951, inclusive, amounts to \$663,900. The estimated value of the catch for the year 1951 was \$602,500. The estimated average annual values at these three catch and price levels for each component of the catch are summarized as follows:

Summary Average annual values				
Price levels	Commercial sales	Sales to tourists	Subsistence catch	Total
14-year average annual	\$260,320	\$ 16,860	\$157,200	\$434,400
5-year average annual	423,330	23,460	217,140	663,900
1951 annual	342,930	29,650	229,920	602,500

158. Future annual value. - The determination of a future annual value of the Indian fishery requires that some forecast be made of the price level of fish that might be expected to prevail in the future. Examination of the record of unit prices received for the Indian commercial catch reveals that there have been great changes over both short and long periods of time. No long-range projections of future price levels of Columbia River salmon are known to this office.

ECONOMIC TABLE 3

Estimated Annual Values of Indian Fishery Showing
14-year Average Annual Values and 5-year Average Annual Values

Commercial Sales

Sheet 1 of 3

Year	Spring chinook	Fall chinook	Blue- back	Steel- head	Silvers	Miscel- laneous	Total
1938	\$ 13,000	\$ 42,110	\$ 10,380	\$ 11,830	\$ 10	\$ 30	\$ 77,360
1939	26,220	28,890	7,160	7,470	10	30	69,780
1940	30,110	55,030	19,420	15,340	30	30	119,960
1941	64,640	179,160	14,330	19,230	1,550	50	278,960
1942	44,590	152,380	7,410	13,700	90	50	218,220
1943	28,310	124,360	4,670	22,550	60	60	180,010
1944	36,210	111,340	2,780	31,870	350	80	182,630
1945	22,770	84,840	610	31,720	130	80	140,150
1946	28,530	184,720	4,120	43,160	130	80	260,740
1947	47,210	440,520	31,100	46,660	2,920	200	568,610
1948	163,000	355,150	11,870	35,780	120	170	566,090
1949	42,610	127,750	2,520	30,680	120	100	203,780
1950	55,230	334,530	10,890	32,780	1,710	100	435,240
1951	<u>173,880</u>	<u>101,760</u>	<u>4,730</u>	<u>56,980</u>	<u>5,460</u>	<u>120</u>	<u>342,930</u>
14-yr total	\$776,310	\$2,322,540	\$131,990	\$399,750	\$12,690	\$1,180	\$3,644,460
14-yr period- average annual	55,450	165,900	9,430	28,550	910	80	260,320
5-yr total	481,930	1,359,710	61,110	202,880	10,330	680	2,116,650
5-yr period- average annual	\$ 96,390	\$ 271,940	\$ 12,220	\$ 40,580	\$ 2,060	\$ 140	\$ 423,330

ECONOMIC TABLE 3

Estimated Annual Values of Indian Fishery Showing
14-year Average Annual Values and 5-year Average Annual Values

Sales to Tourists

Sheet 2 of 3

Year	Spring chinook	Fall chinook	Blue- back	Steel- head	Silvers	Miscel- laneous	Total
1938	\$ 1,050	\$ 4,650	\$ 190	\$ 1,260	\$ 30	\$ 2,340	\$ 9,520
1939	940	4,650	170	1,260	30	2,340	9,390
1940	1,150	4,650	210	1,260	40	2,340	9,650
1941	1,200	6,980	220	1,580	50	2,570	12,600
1942	1,310	6,980	240	1,580	50	2,570	12,730
1943	1,360	8,380	250	2,100	60	3,690	15,840
1944	1,360	9,310	250	2,100	70	3,040	16,130
1945	1,360	9,310	240	2,100	60	3,040	16,110
1946	1,360	9,310	250	2,630	70	3,040	16,660
1947	1,670	19,800	330	2,700	260	4,680	29,440
1948	1,830	17,360	300	1,620	0	4,100	25,210
1949	1,570	5,200	290	1,400	0	2,930	11,390
1950	1,730	14,400	310	2,080	140	2,930	21,590
1951	<u>2,350</u>	<u>15,210</u>	<u>520</u>	<u>7,930</u>	<u>130</u>	<u>3,510</u>	<u>29,650</u>
14-year total	\$20,240	\$136,190	\$3,770	\$31,600	\$990	\$43,120	\$235,910
14-year period- average annual	1,450	9,730	270	2,260	70	3,080	16,860
5-year total	9,150	71,970	1,750	15,730	530	18,150	117,280
5-year period- average annual	\$ 1,830	\$ 14,390	\$ 350	\$ 3,150	\$110	\$ 3,630	\$ 23,460

ECONOMIC TABLE 3

Estimated Annual Values of Indian Fishery Showing
14-year Average Annual Values and 5-year Average Annual Values

Subsistence Catch

Sheet 3 of 3

Year	Spring chinook	Fall chinook	Blue- back	Steel- head	Silvers	Miscel- laneous	Total
1938	\$ 4,530	\$ 80,240	\$ 2,290	\$ 17,470	\$ 10	\$ 180	\$ 104,720
1939	4,080	80,240	2,060	16,670	10	180	103,240
1940	4,530	84,250	2,370	17,470	10	180	108,810
1941	4,680	96,280	2,440	18,260	10	200	121,870
1942	5,130	96,280	2,600	17,470	10	200	121,690
1943	5,280	108,320	2,670	21,440	20	21	137,940
1944	5,280	108,320	2,670	21,440	20	230	137,960
1945	5,280	108,320	2,600	21,440	20	230	137,890
1946	5,280	108,320	2,750	23,820	20	230	140,420
1947	7,100	203,040	3,590	18,800	30	350	232,910
1948	7,100	123,120	3,440	29,720	20	320	163,720
1949	6,450	181,740	3,080	21,520	20	240	213,050
1950	6,600	214,200	220	25,320	20	240	246,600
1951	9,160	148,730	8,970	62,760	30	270	229,920
14-year total	\$80,480	\$1,741,400	\$41,750	\$333,600	\$250	\$3,260	\$2,200,740
14-year period- average annual	5,750	124,390	2,980	23,830	20	230	157,200
5-year total	36,410	870,830	19,300	158,120	120	1,420	1,086,200
5-year period- average annual	\$ 7,280	\$ 174,170	\$ 3,860	\$ 31,630	\$ 20	\$ 180	\$ 217,140

159. Examination of the relation of the price paid for cattle at the Portland, Oregon, stockyards, obtained from local representatives of the Department of Agriculture, to the price paid for the Indian commercial salmon catch at Celilo Falls since 1938 show that there is a very close correlation between the unit prices of fish and beef cattle at these points, over a magnitude of price range of each of about 5 to 1. Study of the relation of the trend of the average price of beef cattle in Oregon to the trend of the total cost of one unit of each of 8 selected alternative high protein foods; namely, hogs, beef cattle, lambs, milk, chicken, eggs, peanuts, and dry beans; in Oregon shows that the percentage increase in the price of cattle from the average for the period 1939-1944 to the average for the period 1946 to 1950 has been 103 percent which follows the increase for the selected foods. 93 percent, very closely. Data on commodity prices used in these studies were obtained from pamphlet on agricultural price data published by the Department of Agriculture in November 1951. In the absence of unit prices for Oregon, Washington prices were used where available and in the absence of both Oregon and Washington prices on one commodity, national prices were used and together these were considered applicable to Oregon.

160. The above studies indicate that the use of the trend in the average price of the eight selected high protein foods in Oregon as an index to the trend of the prices paid for the Indian commercial salmon catch at Celilo Falls is justified and that any future projection of prices on such a basis, in all probability, would be

conservative since the fish and beef cattle price variations exaggerate the trend of prices for the alternative foods.

161. The Oregon 5-year average price, 1947 to 1951, inclusive, for each of the commodities considered, based on data obtained from the Department of Agriculture and the projected long-term price, taken from the pamphlet previously mentioned and their percentage relation is shown in the following tabulation.

Commodity	Unit	Unit prices, Oregon		
		1947-1951 5-year average	1951	Projected long-term
Hogs	cwt.	\$22.84	\$22.60	\$17.70
Beef cattle	cwt.	21.39	29.75	16.10
Lambs	cwt.	23.12	29.60	18.10
Milk, wholesale	cwt.	4.95	5.30	4.40
Chicken	lb.	0.28	0.30	0.27
Eggs	doz.	0.52	0.51	0.46
Peanuts	lb.	0.105	0.105	0.07
Dry beans (edible)	cwt.	8.48	7.60	6.00
Index		81.685	95.765	63.100
Percentage relationship to 1951 prices				65.9%
Percentage relationship to 5-year average				77.2%

162. It is reasonable to expect that the value of the Indian fishery in relation to the general level of economic activity will remain substantially constant, but that the dollar value will vary in general as does the index for the eight alternate high protein foods shown above.

163. On that basis, the future annual dollar value of the Indian fishery would be the 5-year average annual value of \$663,900 multiplied by the projected long-range index of 80 percent, or \$531,100; the index of 77.2 percent being rounded off to 80 percent in the interest of a conservative estimate.

164. Comparison with other published evaluations. - There are numerous historical publications beginning with the Lewis and Clark journal of 1805-06 that cite the magnitude of the Indian fishery at Celilo Falls and vicinity, however, it was not until 1938, when Bonneville Dam was completed, that the Indian fishing was confined to the vicinity of Celilo. Therefore, any published estimates based on conditions prior to 1938 are not considered to be applicable in reflecting the present conditions.

165. Data contained in a report by the Research Division of the Oregon Fish Commission and the Washington Department of Fisheries on commercial landings above Bonneville estimates the total Indian catch to be about 2,144,832 pounds annually over the period of 1938 to 1948, inclusive. Monetary evaluation was not considered in this factual report on poundages.

166. Data on the Indian fishery prepared by the U. S. Fish and Wildlife Service and contained in the Review Report on Columbia River and Tributaries, Appendix P, Fish and Wildlife, in report by Corps of Engineers, North Pacific Division, dated October 1, 1948, estimated that the annual consumption of subsistence fish amounted to 1,281,000 pounds. This estimate was based on a Bureau of Indian Affairs' survey of 55 out of 795 families. The value of this catch, based on an average price of \$0.19 per pound paid to Columbia River fishermen in 1947, was estimated to be about \$243,390 annually. The fish caught by the Indians and sold commercially were not segregated in this

report from the entire commercial catch on the Columbia River. However, it was estimated that the commercial catch at Celilo constituted roughly 10 percent of the entire river-caught commercial catch.

167. The recent Contribution No. 17, cited herein, prepared by the Oregon Fish Commission in collaboration with the Washington Department of Fisheries, under the heading of Basic Data, contains an evaluation of the Indian fishery at Celilo, based on the 4-year average catch, 1947 to 1950, inclusive. Summary data in the evaluation shows the total average annual Indian catch to be 2,600,000 pounds of fish caught by dip nets. Of this amount an average of about 500,000 pounds was shown as the subsistence catch and about 50,000 pounds was for fish sold to tourists annually. Average annual values were estimated at \$500,000 for all fish sold commercially and \$200,000 for all fish taken for subsistence during the closed season. The total estimated average annual value of \$692,074 which appears as a grand total in a tabulation was rounded to \$700,000 elsewhere in the publication.

168. In the foregoing evaluation by the Oregon Fish Commission, the current 1951 prices were used as a base price level and were applied to the average annual poundage of the 4-year period, 1947 to 1950, inclusive, in arriving at the \$700,000 annual value.

169. This evaluation considered that the elimination of the Indian fishery would require the payment of reparations sufficient to supply the Indians with \$700,000 annually and that if this were in the form of Government bonds, at 3 percent annual interest, a total amount of \$23,000,000 would be necessary to compensate the Indians for the loss of the Celilo fishery.

170. Capital value of the fishery. - In determination of a capital or total dollar value of the fishery affected by The Dalles Dam, it is necessary to consider an interest rate which would yield a compensatory annual return. A capitalized value of the annual value of the fishery would set up a principal sum whereby at the annual rate of interest the annual value would be returned in perpetuity without diminishing the original principal. The present worth is the principal sum or capital value which would be required at the annual rate of interest compounded to pay out a series of annual payments over a future 100-year period, which for present use is considered as payment in perpetuity. The annual values estimated heretofore with corresponding capitalized and present worth values at 3 and $3\frac{1}{2}$ percent interest rates for three average catch levels and at four price levels are summarized as follows:

3 percent rate

Catch and price levels	Annual value	Capitalized value at 3 percent rate	Present worth at 3 percent rate
14-year - 1938-1951	\$434,400	\$ 14,480,000	\$ 13,727,000
5-year - 1947-1951	663,900	22,130,000	20,979,000
1951 only	602,500	20,083,000	19,039,000
5-year average catch and prices projected to future price levels	531,100	17,703,000	16,783,000

$3\frac{1}{2}$ percent rate

Catch and price levels	Annual value	Capitalized value at $3\frac{1}{2}$ percent rate	Present worth at $3\frac{1}{2}$ percent rate
14-year - 1938-1951	\$434,400	\$12,411,000	\$12,016,000
5-year - 1947-1951	663,900	18,969,000	18,363,000
1951 only	602,500	17,214,000	16,665,000
5-year average catch and prices projected to future price levels	\$531,100	15,174,000	14,690,000

171. Summary discussion. - Computations on estimates of the poundage of the fish catch by the Indians made heretofore by various agencies either omitted unknown portions of the components of the catch or included estimates which had relatively little basis on facts. In the computations used in this report an attempt is made to fill in all of the unknown portions of each component of the catch by some estimate which is based on known, even though meager, data. The recent 5-year record 1947 to 1951, inclusive, supplies substantially complete data on poundage of the catch, and it is necessary to estimate less than 3 percent of the poundage over that period. Using the 14-year period, with present data, requires an estimate of about 15 percent of the poundage. These computations indicate that the average annual catch in the 5-year period amounts to about 282,000 pounds less than the 14-year period. However, such excess average annual poundage for the 14-year period with at least 15 percent estimated may be more or less than indicated.

172. Further research of various sources of past data on poundage of the fish catch and the prices paid to the Indians and a census of

the 1952 catch and possibly for subsequent years would provide more accurate factual data and would materially improve the basis for estimating data which are lacking. Whether the over-all average poundage and prices would be lowered or increased and the effect on the estimated value of the fishery cannot be predicated at this time.

	1938	1949	1950	1951	Total- 3/5 years	Total- 14 years ⁴	Average annual
Spring chinook:							
Commercial sale	108,31	213,047	230,122	483,010	928,179	3,817,568	272,683
Sale to tourists	--	5,230 ¹	5,230 ¹	5,230	15,690	73,270	5,234
Subsistence catch, closed season	--	6,800	6,800	7,077	20,677	96,577	6,898
Subsistence catch, open season	--	8,200 ¹	8,200 ¹	8,185	24,585	114,785	8,199
Total subsistence catch (pounds)	--	15,000	15,000	15,262	45,262	211,362	15,097
Fall chinook:							
Commercial sale	1,203,1	798,431	1,286,640	508,808	6,482,201	19,632,151	1,402,296
Sold to tourists	--	20,000	40,000	50,684	232,684	651,514	46,537
Subsistence catch, closed season	--	466,000	420,000	345,896	2,005,896	5,616,516	401,180
Subsistence catch, open season	--	6,630 ¹	6,630 ¹	6,634	33,154	92,824	6,630
Total subsistence catch (pounds)	--	472,630	426,630	352,530	2,039,050	5,709,340	407,810
Blueback:							
Commercial sale	86,4	12,579 ¹	45,394 ¹	13,127	71,100	780,341	55,739
Sold to tourists	--	950 ¹	950 ¹	955	2,855	13,305	950
Subsistence catch, closed season	--	7,800	400	14,365	22,565	105,285	7,520
Subsistence catch, open season	--	110 ¹	110 ¹	108	328	1,628	116
Total subsistence catch (pounds)	--	7,910	510	14,473	22,893	106,913	7,637
Steelhead:							
Commercial sale	262,9	211,590	156,099	307,998	1,109,551	3,660,353	261,454
Sold to tourists	--	5,400	6,300	26,445	52,545	147,125	10,509
Subsistence catch, closed season	--	60,100	62,100	142,771	381,071	1,067,001	76,214
Subsistence catch, open season	--	3,190 ¹	3,190 ¹	3,190	15,950	44,660	3,190
Total subsistence catch (pounds)	--	63,290	65,290	145,961	397,021	1,111,661	79,404
Silvers:							
Commercial sale	2	731	6,575	27,315	48,013	79,012	5,644
Sold to tourists	--	0	400	423	1,623	4,553	325
Subsistence catch, closed season	--	800	30,400	4,456	46,056	128,956	9,211
Subsistence catch, open season	--	60 ¹	60 ¹	63	303	853	61
Total subsistence catch (pounds)	--	860	30,460	4,519	46,359	129,799	9,271

¹ Estimated on basis of 1-year tre

² Estimated on basis of 3-year ave

³ Estimated on basis of 5-year ave

⁴ Based on known or published recd -88a-

ECONOMIC TABLE 2

Summary of Fish Catch by Indians at Celilo Falls and Vicinity
Poundage for Years 1938-1951 Inclusive¹

	Commercial sales	Sales to tourists	Subsistence catch, closed season	Subsistence catch, open season	Total subsistence catch (pounds)	Total catch ² (pounds)
Spring chinook:						
Total 11 years	2,891,389	57,580	75,900	90,200	166,100	3,115,069
Total 1949 to 1951--3 years	926,179	15,690	20,677	24,585	45,262	987,131
Percentage relationship	93.8	1.6	2.1	2.5	4.6	100
Total 14 years	3,817,568	73,270	96,577	114,785	211,362	4,102,200
Average annual	272,683	5,234	6,898	8,199	15,097	293,014
Fall chinook:						
Total 9 years	13,149,950	418,830	3,610,620	59,670	3,670,290	17,239,070
Total 1946 to 1951--5 years	6,482,201	232,684	2,005,896	33,154	2,039,050	8,753,935
Percentage relationship	74.0	2.7	22.9	0.4	23.3	100
Total 14 years	19,632,151	651,514	5,616,516	92,824	5,709,340	25,993,005
Average annual	1,402,296	46,537	401,180	6,630	407,810	1,856,643
Blueback						
Total 11 years	709,241	10,450	82,720	1,300	84,020	803,711
Total 1949 to 1951--3 years	71,100	2,855	22,565	328	22,893	96,848
Percentage relationship	73.4	3.0	23.3	0.3	23.6	100
Total 14 years	780,341	13,305	105,285	1,628	106,913	900,559
Average annual	55,739	950	7,520	116	7,637	64,326
Steelhead:						
Total 9 years	2,550,796	94,580	685,930	28,710	714,640	3,360,016
Total 1946 to 1951--5 years	1,109,557	52,545	381,071	15,950	397,021	1,559,123
Percentage relationship	71.2	3.4	24.4	1.0	25.4	100
Total 14 years	3,660,353	147,125	1,067,001	44,660	1,111,661	4,919,139
Average annual	261,454	10,509	76,214	3,190	79,404	351,367
Silvers:						
Total 9 years	30,999	2,930	82,900	550	82,440	117,379
Total 1946 to 1951--5 years	48,013	1,623	46,056	303	46,359	95,995
Percentage relationship	50.0	1.7	48.0	0.3	48.3	100
Total 14 years	79,012	4,553	128,956	853	129,799	213,374
Average annual	5,644	325	9,211	61	9,272	15,241
Total average annual average - 14 years	1,997,816	63,555			519,220	2,580,591

¹ Based on compilation of known or published records of poundage and estimated poundage where catch is unknown.
Poundage estimated amounts to 15 percent of total.

² Total catch of salmonidae species.

SECTION VIII - DISCUSSION

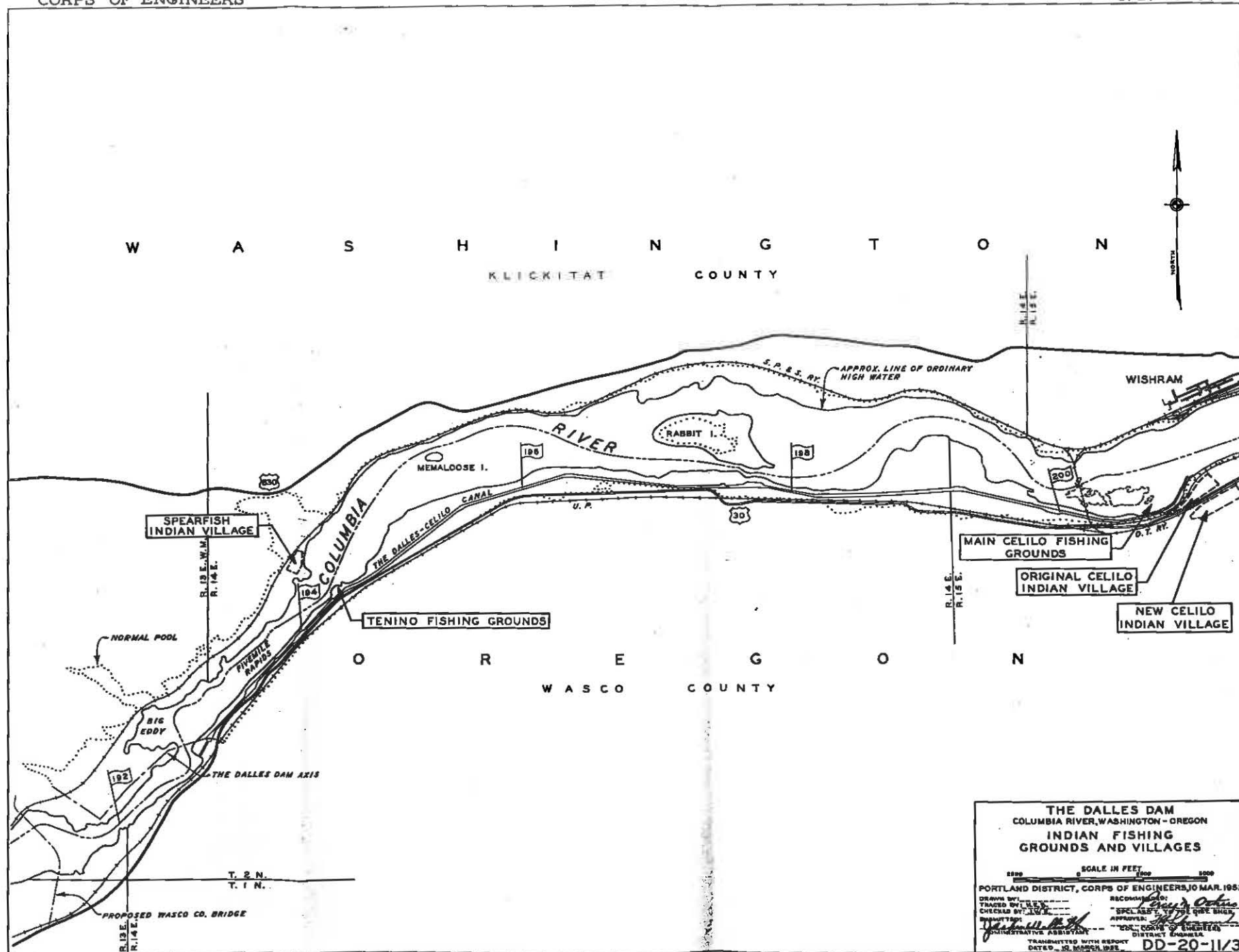
173. Discussion. - The main objective of this report is to accumulate all known data on the Indian problems involved in connection with construction of The Dalles Dam and to record the known divergent views of those interested. The basic problems are recorded in the various sections and in some cases solutions are suggested. Since the broad policy and principal criteria to be used in approaching this program are established by the Office, Chief of Engineers, in 2nd Indorsement of January 30, 1952, to basic letter from this office of November 20, 1951, subject: "Action on the Indian Fishery at The Dalles Dam," no special effort is made in this report to develop the reasoning back of the program and no further recommendations are made.

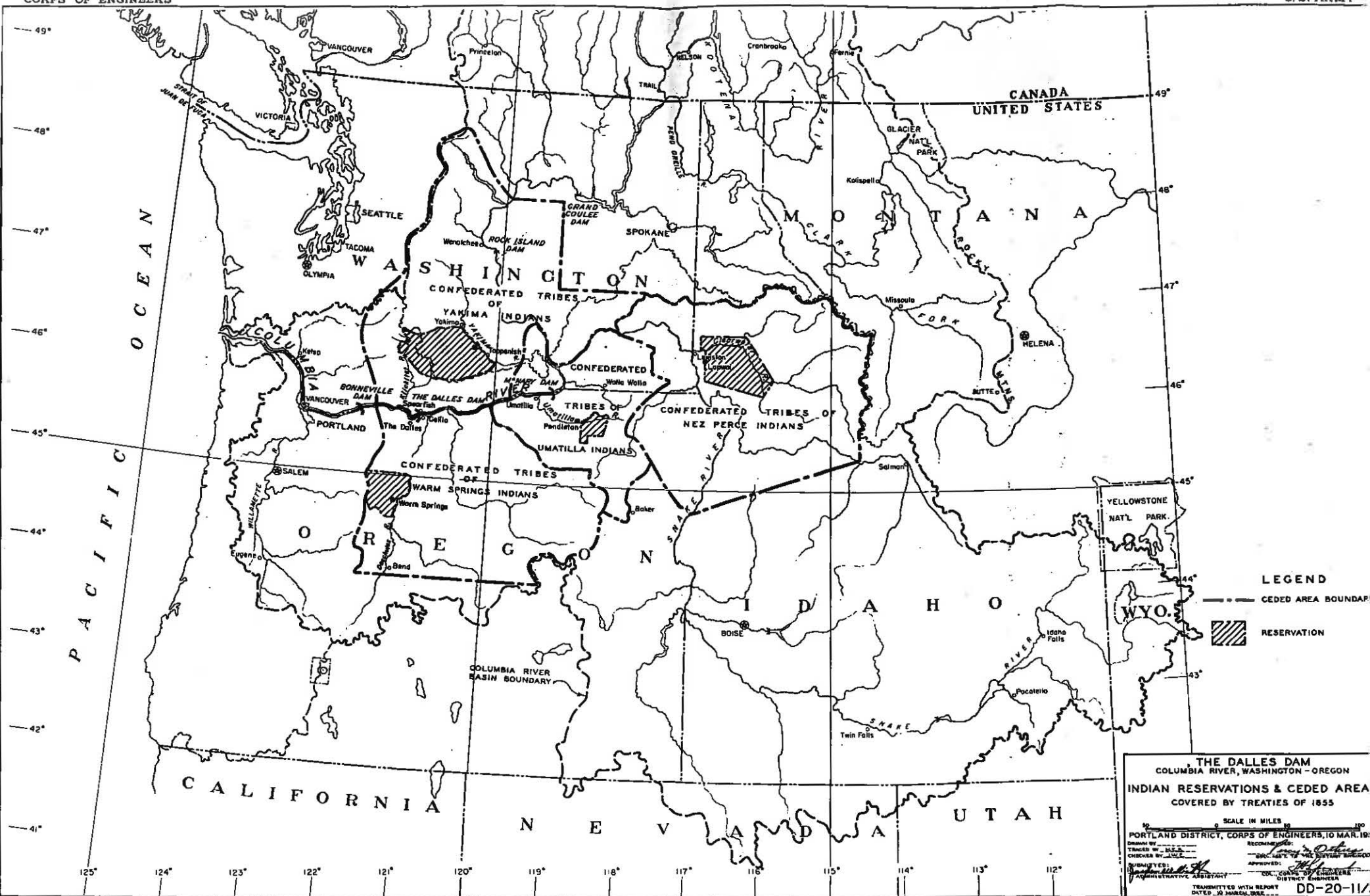
174. The report contains a large amount of descriptive information concerning the fishery and, being supported by tables, maps and photographs, needs no further discussion. Included also in more than ordinary detail is background information for each tribe affected by The Dalles Dam. This information includes in addition to descriptive matter information on organizational set-up, living, financial and economic conditions, and other pertinent data, some of which do not apply directly to The Dalles Dam fishery problem. These data are included to enable interested parties in this phase of the problem to take note of the many factors affecting the Indians' social and economic life.

148. From progress to date, there appear to be good possibilities of arriving at negotiated settlements with each tribe.



T. H. Lipscomb,
Colonel, Corps of Engineers,
District Engineer.





COPY

CORPS OF ENGINEERS, U. S. ARMY
Office of the District Engineer
Portland, Oregon District
628 Pittock Block
Portland 5, Oregon

NPPVG

October 22, 1951.

Chairman, Umatilla Indian Council,
Pendleton, Oregon,

Chief Tommy Thompson,
Wyams Indian Tribe,
Celilo Falls, Oregon.

Chairman, Yakima Indian Council,
Toppenish, Washington.

Chairman, Nez Perce Indian Council,
Ft. Lapwai, Idaho.

Chairman, Warm Springs Indian Council,
Madras, Oregon.

Through: Area Director, Bureau of Indian Affairs,
Swan Island, Portland, Oregon.

Gentlemen:

The Chief of Engineers, Corps of Engineers, United States Army, has advised this office that the Congress has passed the Civil Function Bill for 1951, appropriating \$4,000,000 as the first funds for the construction of The Dalles Dam, Columbia River, Washington and Oregon. Construction of this dam was authorized by the United States Congress, under Public Law 516, 81st Congress, 2nd Session approved 17 May 1950. The authorizing law specifically provides, among other things, that "projects authorized herein shall be initiated as expeditiously and prosecuted as vigorously as may be consistent with budgetary requirements". With this authority and funds now available, my present intention is to initiate construction on this important power and navigation dam at the earliest possible date, and I fully expect that the first construction work will be started in April of next year. It will consist principally of rock excavation on the Washington side of the damsite just below Big Eddy. The plan is to complete the installation of the first power units in November 1957, and the lake behind the dam will be created by blocking the river by January 1956. Normal river functions will prevail until that time.

Chairman, (All Indian Tribes)

October 22, 1951.

This office recognizes that the dam construction will in time submerge the traditional Indian fishing grounds at Celilo Falls with attendant loss to Indian tribes and individuals. This office is further aware of the obligations on the part of the Federal Government arising out of treaties with the various Indian tribes, and declares its intentions to negotiate with the effected Indians in the spirit of good faith to make them whole for actual losses suffered. Negotiations will be initiated and extended on the basis that considerations to the Indians will be founded on factors which will lead to a fair settlement with the Indians.

In accomplishing these negotiations I intend to give the matter my personal attention to a very large extent and have assigned my special assistant, Mr. Percy M. Othus, to head up the negotiations and devote his entire time on this very important problem. In addition, we expect to add to our staff, a man with long and distinguished experience and broad knowledge in dealing with Indian problems. This man will be of the caliber, training and integrity similar to that of a Superintendent of an Indian Reservation. We will have the help and cooperation of the U. S. Indian Service, the U. S. Fish and Wildlife Service and other interested Federal agencies as well as the Fish Commissions of both Oregon and Washington.

This office is presently gathering necessary information and expects, as time goes on, to be in touch with the various interested Indian officials and their representatives. We expect, with the cooperation of the Northwest Director of Indian Affairs, to arrange a general meeting in the not too distant future. In the meantime, I want to assure your Honorable Council and all other individuals of the tribe, of my desire and intention to bringing the negotiations to a mutually satisfactory conclusion as soon as can be intelligently done.

Very truly yours,

T. H. Lipscomb,
Colonel, Corps of Engineers,
District Engineer.

COPY

CORPS OF ENGINEERS, U. S. ARMY
Office of the District Engineer
Portland, Oregon District
628 Pittock Block
Portland 5, Oregon

NPPVN-2

February 21, 1952.

Chairman, Nez Perce Indian Council,
Ft. Lapwai, Idaho.

Chairman, Umatilla Indian Council,
Pendleton, Oregon.

Chairman, Yakima Indian Council,
Toppenish, Washington.

Chairman, Warm Springs Indian Council,
Madras, Oregon.

Gentlemen:

Reference is made to my letter of October 22, 1951, wherein this office advised of its intention to proceed with the construction of The Dalles Dam and indicated a recognition of foreseeable losses to Indian tribes and individuals which will result therefrom. This office also declared its intention to negotiate promptly with the affected Indians to compensate them for losses or damages they would suffer.

Since writing this letter considerable study has been given to the proper approach to an equitable settlement, and conferences were held with tribal officials, the Indian Service, U. S. Fish and Wildlife Service and others interested in these studies and discussions. Consideration has been given to many suggested means of settlement.

From these studies and consultations this office concludes that the best approach is now to negotiate separate agreements with each tribe entitled to compensation for fishery losses which will occur when their usual and accustomed fishing places are inundated, probably in 1957, as a result of the construction of The Dalles Dam. To this end we expect to start negotiations in the early future. We desire to limit our negotiations solely to damages which will arise from the construction of The Dalles Dam and to making payments agreed upon from money appropriated for construction of the dam. It is believed that arrangements can be made for paying the entire agreed sum during the construction period and prior to the time that the

Chairman, (All Indian Tribes)

February 21, 1952.

fishing sites within the reservoir area will be inundated. It is anticipated that in consideration of the payments to be made to a tribe, it will relinquish all further claims against the Federal Government for damages arising out of the infringement of the rights of the tribe through custom and usage or under the Treaty of 1855, due to inundation of the usual and accustomed tribal fishing places by the waters of the Columbia River backed up by The Dalles Dam.

Since the Treaties of 1855 are agreements with certain tribes rather than with individuals, it is intended to confine the proposed agreement to matters affecting the rights of the tribe as a whole. Any taking of individual real estate holdings and real property will be handled with the individual Indian owners the same as in any other real estate transaction, reserving to the individual owner any fishing rights held as a member of the tribe. It is recognized that a number of the Indian tribes have claims pending before the Indian Claims Commission and perhaps other agencies for alleged infringement of their treaty rights arising out of reduction of the Columbia River fishery resource due to construction of dams, river pollution, and perhaps other causes. The negotiation of settlements, of such claims is not within the authority of this office, and we will not attempt to recognize any such basis for compensation in these negotiations.

We hope to begin active negotiations in the next month or two with each of the tribes which believes it will be entitled to damages under its tribal treaty rights due to the inundation of usual and accustomed fishing places by construction of The Dalles Dam. To accomplish the first phase of the negotiations, it is requested that an authorized committee of two or three members be appointed to represent the tribe and that their names be furnished to this office within the next two weeks. This committee should be prepared to meet with my Special Assistant, Mr. Percy M. Othus in his office within the next two months at which time they should be prepared to discuss the legal and equitable grounds upon which the tribe relies in claiming a compensable interest in the fishery. They should also be prepared to discuss poundage, and other factors to be used as a reasonable basis for determining the value of the tribal fishery.

You are requested to advise your preference as to the most convenient week which should be set aside for this discussion.

Very truly yours,

cc -

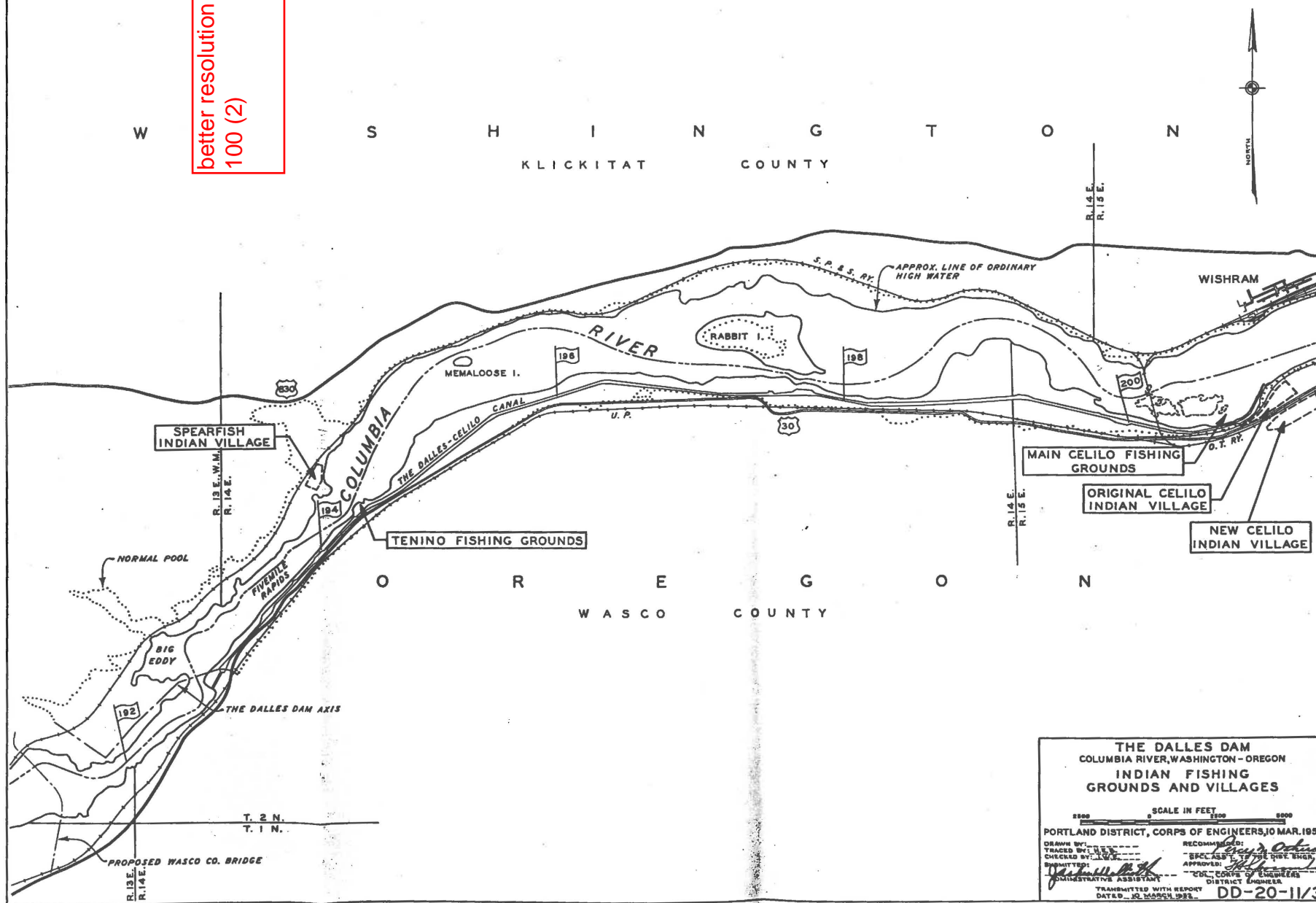
E. Morgan Pryse, US Ind Ser
Nicholas Welter, Sup., Warm Spr Ind
T. Leland Brown, Esq., The Dalles Ore
Perry E. Skarra, Sup., Yak Ind Res
Kenneth R.L. Simons, Esq., Billings Mont
Richard D. Butts, Sup., Uma Ind Res Pen Ore
Charles F. Luce, Esq., Walla Walla Wash
Melvin Robertson, Sup., Nez Perce Res

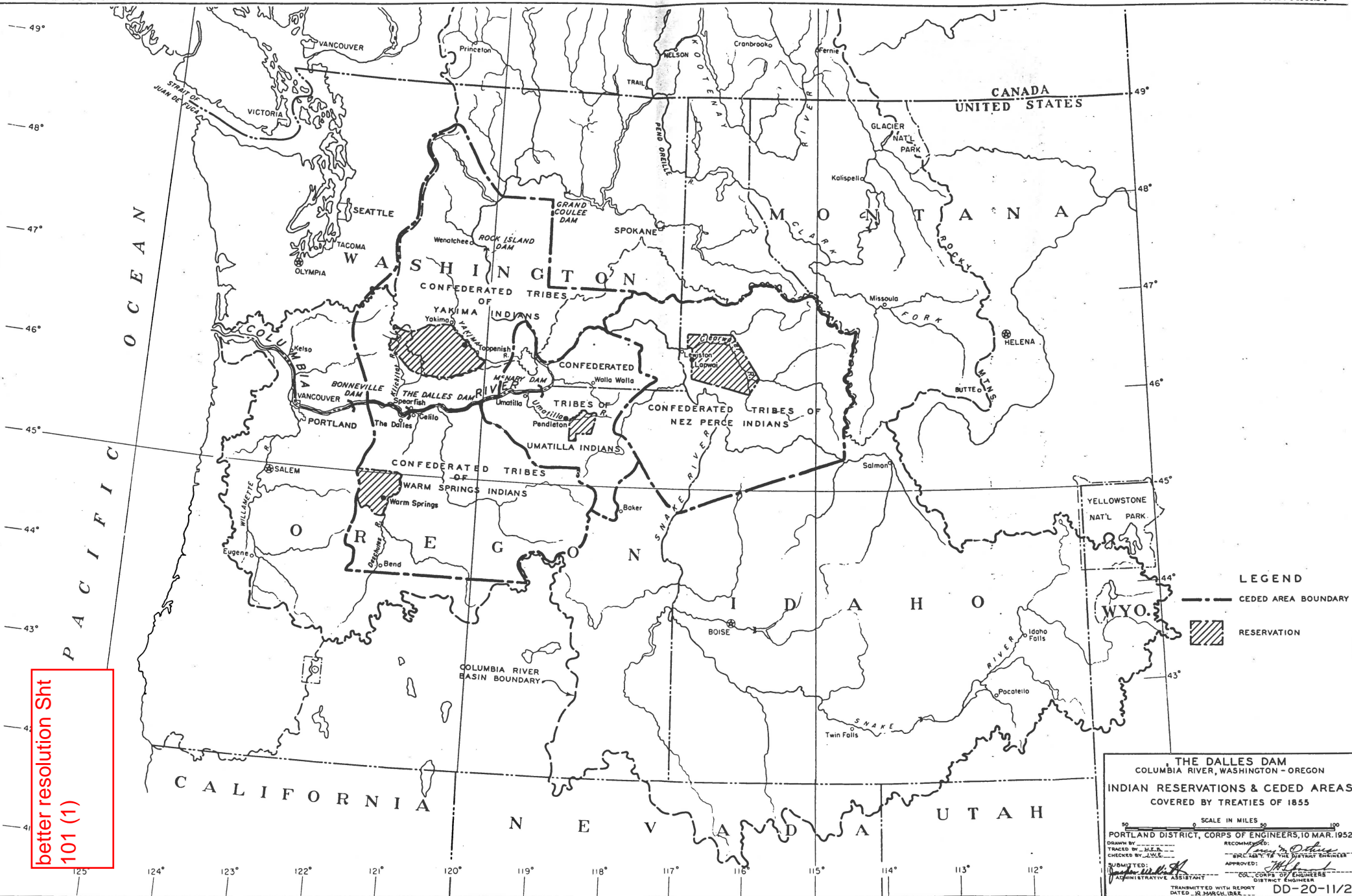
T. H. Lipscomb,
Colonel, Corps of Engineers,
District Engineer.

EXHIBIT 6-2

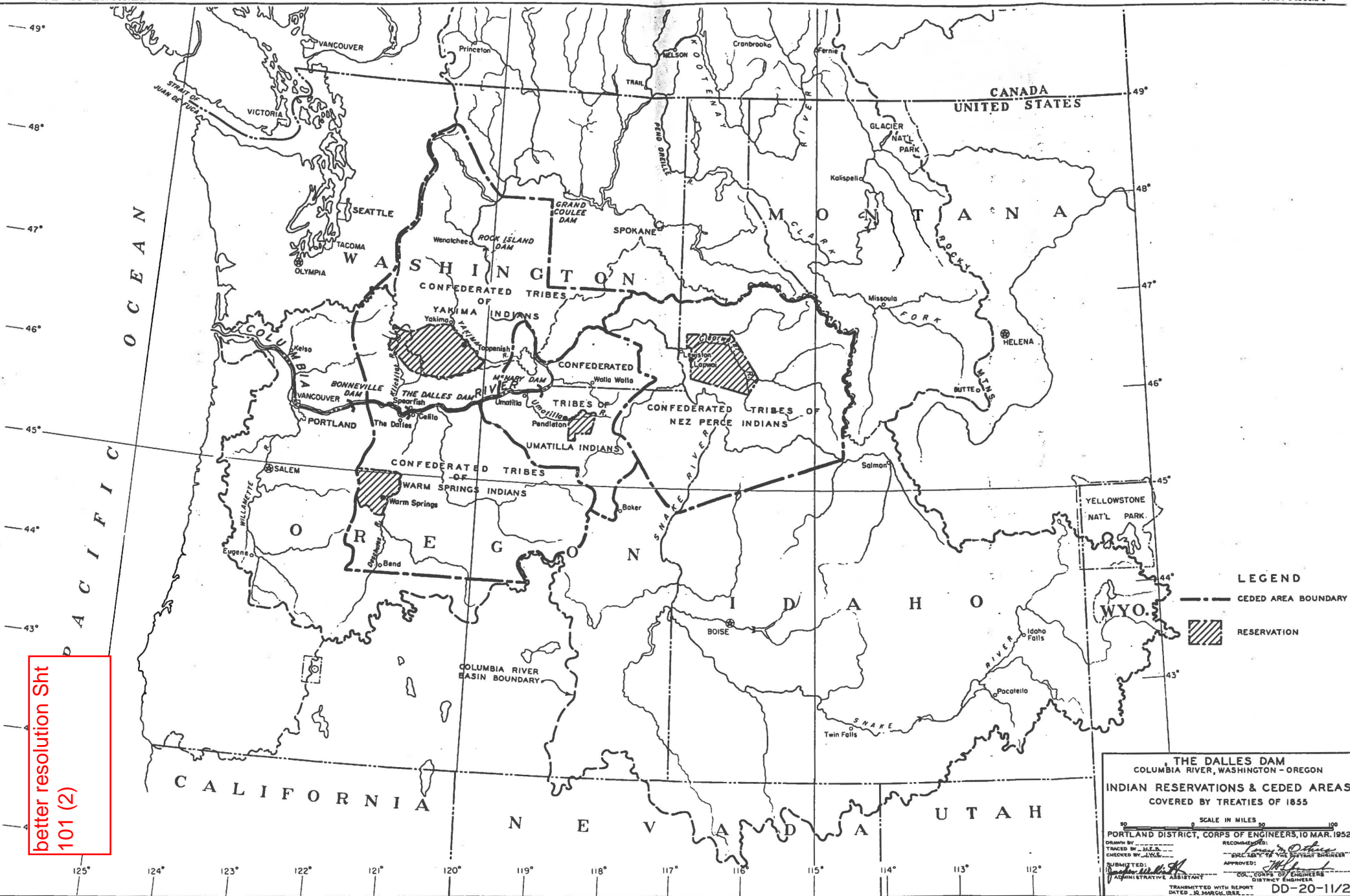


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