

AN OPEN LETTER TO SPORT AND RECREATIONAL USERS OF LAKE ROOSEVELT:

THE SPOKANE TRIBE SETTLEMENT BILL WILL NOT DENY ACCESS TO FISHING, HUNTING AND BOATING IN THE WATERS OF LAKE ROOSEVELT

An August 27, 2009 article by Rich Landers in the Spokesman Review (Outdoors section) contains misconceptions about the jurisdictional implications of legislation now pending in Congress to compensate the Spokane Tribe for the devastating impacts caused by creation of Grand Coulee Dam.

The goal of this article seems to be to arouse alarm about the public's continued access to and use of Lake Roosevelt and its shores if the federal legislation becomes law.

Without talking to the Tribe or Washington Department of Fish and Wildlife (WDFW), Mr. Landers elected to shoot from the hip. Now, the Spokane Tribe wishes to set the record straight for the sporting and recreational users of Lake Roosevelt.

Background of Spokane Tribe Settlement Legislation

Some history is in order as background to the Tribe's settlement bill. In 1877 the Tribe entered an Agreement with the United States to reserve a portion of their aboriginal homeland, including the Spokane and Columbia Rivers. In exchange the Tribe granted large areas outside the Reservation to the United States. In 1881, the President issued an Executive Order affirming the boundaries of the Reservation. The boundaries were ratified by Congressional action in 1892. Based on this agreement the Tribe surrendered its homelands and moved onto the Spokane Reservation.

In the 1930's, the federal government, without just compensation, confiscated Spokane Tribal lands and lands of the adjacent Colville Tribes for the Grand Coulee Dam and Lake Roosevelt as part of President Franklin Roosevelt's "New Deal."

The Coulee Project delivers enormous benefits to the region and to America. These rewards come at the expense of the Spokane and Colville Tribes. The devastation wrought upon both Tribes is unprecedented and it continues to this day. The Spokane life, culture and economy centered around the rivers and the salmon runs.

The Spokane Tribe lost everything to Grand Coulee. Our salmon runs have been cut off, our homelands, rivers, communities, schools, roads, orchards, farms and cemeteries have been flooded. Pothunters dig the bones of our ancestors and their funeral objects and other tribal cultural resources.

Coulee is operated in an annual pattern to deliver enormous benefits to the region. Those benefits include low cost power to ratepayers, subsidized irrigation for agriculture, flood control for downstream cities, water flows for Snake River salmon, commercial river transportation, and so on. To provide these benefits, Lake Roosevelt is ramped up and down every year on our Reservation as much as seventy feet. Those operations vacuum our resident fish downstream, impair our marina, use of our campgrounds and other economic interests, cause repeated loss of our lands to slides and erosion, and generally interfere with the use of our Reservation and the rivers.

The extreme disparity between the losses suffered by the Spokane Tribe, in contrast to the pervasive benefits Coulee provides to the nation and the region, is striking. There is no way the United States can even make up for such damage.

Since the construction of Coulee Dam in the 1930's the federal government has repeatedly promised to share the benefits of Coulee and compensate both the Spokane and Colville Tribes for the use of tribal lands. These promises became the basis for the 1994 Congressional settlement to compensate the Colville Tribes for virtually the same damage. The Spokane settlement bill is based on the Colville Settlement Act. Yet, the Spokane Tribe remains without a settlement or compensation. Indeed, a settlement is long overdue.

The Spokane Tribe understands the interests and concerns of the community regarding the restoration of tribal lands taken for the Coulee Project. The Tribe has made extraordinary efforts to address those concerns.

The rivers were not taken for the Coulee Project, so they are not being transferred back to the Tribe in the settlement legislation.

Title to the returned Reservation lands will be held by the United States, not the Tribe. Administrative jurisdiction will be transferred from Reclamation to the Bureau of Indian Affairs, not the Tribe. The authority of the National Park Service to administer the National Recreation Area will remain the same. Reclamation will retain "a perpetual right, power, privilege and easement over the land transferred" for Coulee Project purposes and generation. Under the settlement legislation: no state or county lands will be transferred; no private landowners will be affected; no one will be denied access to the waters of Lake Roosevelt; no fishing will be barred; and the Cassidy case mentioned by Mr. Landers will not be overturned.

Sporting and Recreational Users Will Not be Denied Access to Lake Roosevelt

Mr. Landers' August 27 article states that the legislation if enacted "would give the tribe jurisdiction over the water in much of the Spokane Arm and a portion of the Columbia River bordering the [Spokane] reservation." He also states that "[t]he scary part is in Section 9, which calls for the transfer of administrative jurisdiction and restoration of the Tribe's ownership 'over all land acquired by the United States ... that is located within the exterior boundaries of the Spokane Indian Reservation."

The Federal Government did not take the river beds and banks of either the Spokane River or the Columbia River for the Coulee Project. The legislation, therefore, does not return ownership of the rivers back to the Tribe.

The transfer of administrative jurisdiction referred to by Mr. Landers will be transferred from the Bureau of Reclamation to the Bureau of Indian Affairs – not to the Tribe as he implies. The proposed legislation does not "give" the Tribe jurisdiction over non-members on the water.

WDFW-Tribe Agreement

Mr. Landers failed to explain that the Tribe and WDFW reached a government-to-government "Agreement in Principle" in 2007, following nearly a year of negotiation. That document sets forth the following terms for cooperative "management of law enforcement activities under the [Settlement] Act" by the Tribe and WDFW on the Spokane Arm of Lake Roosevelt.

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

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

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

"a. A valid State or Tribal (for enrolled Spokane tribal members) fishing license shall authorize fishing on the open waters and south shore of the Spokane River Arm of Lake Roosevelt."

"b. A valid Tribal fishing license or permit shall authorize fishing from the north shore of the Spokane River Arm of Lake Roosevelt on the Spokane Indian Reservation for non-members. The Tribal fishing license or permit for non-members will include a requirement for a valid State fishing license."

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

Mr. Landers' article also poses four questions to which the Tribe responds below:

1. "If the tribe assumes jurisdiction, who will define where an angler is legal to fish or where a waterfowler is allowed to hunt or a water skier allowed [to] cut turns?"

SPOKANE TRIBE RESPONSE: The Tribe will reassume jurisdiction over the uplands within the Reservation returned to Tribal ownership by the pending legislation which does not grant Tribal jurisdiction over non-members on the water. The basic principles for cooperative enforcement of applicable State and Tribal laws with respect to fishing, hunting and boating on the water and the uplands are set forth in the 2007 WDFW-Tribe Agreement.

2. "Can the tribe require its own fishing or recreation licenses?"

SPOKANE TRIBE RESPONSE: The 2007 Agreement states that with respect to fishing on the open waters and south shore of the Spokane Arm of Lake Roosevelt, a valid State or Tribal (for enrolled Spokane Tribal members) fishing license shall be required.

That 2007 Agreement also states that with respect to fishing from the north shore of the Spokane Arm on the Reservation, a valid Tribal fishing license or permit shall be required.

Other recreational uses of those north shore uplands will be subject to Tribal regulation consistent with existing National Park Service authorities preserved by the pending legislation.

3. "Can the tribe ban fishing by non-Indians?"

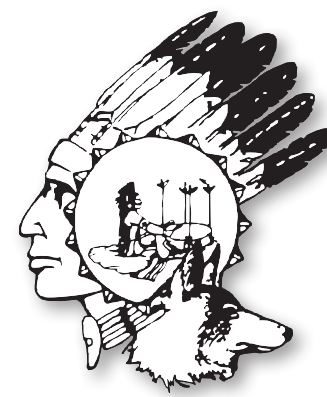
SPOKANE TRIBE RESPONSE: The pending legislation does not give the Tribe any jurisdiction to ban or regulate fishing by non-members on the water. The 2007 Agreement provides that: "The Tribe and State shall enforce their respective laws, rules and regulations regarding fish and wildlife on the open waters and south shore of the Spokane Arm." The Tribe will regulate fishing from the north shore, on the Reservation, consistent with the 2007 Agreement in Principle.

4. "Will tribal enforcement officers be out flexing their muscles on honest sportsmen?"

SPOKANE TRIBE RESPONSE: This question, like the tone of Mr. Landers' article, reflects his bias. After the legislation becomes law, State as well as Tribal officers will be implementing cooperatively the 2007 WDFW-Tribe Agreement in Principle. The Agreement also calls for the development of a more detailed Cooperative Assistance Agreement based on those mutual principles.

CONCLUSION

The Spokane Tribe has worked to address all legitimate concerns in this settlement bill. The Tribe has been forced to exert significant effort to retain its homelands since the original Agreement with the United States in 1877. The Tribe has strived to secure the benefit of the promises made by the United States to fairly compensate for the use of our lands and resources. The Tribe continues to endure enormous impacts to its interests, way of life and culture due to construction and operation of Grand Coulee. Grand Coulee delivers enormous benefits to the region. The Colville Tribes, directly across the river, share in the benefits generated by Coulee. The Spokane Tribe deserves fair and honorable treatment by its federal trustee, and the region, in this settlement of compensation due to the use of our lands for the production of hydropower and many other purposes.



**Spokane Tribe
of Indians**

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