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# Lake Roosevelt Forum

# NEWSletter

SUMMER 2005

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## Spokane Tribe Nears Historic Settlement

GRAND COULEE DAM STANDS AS AN ICON OF GOVERNMENT INVESTMENT. CONSTRUCTION BEGAN IN THE 1930s WHEN JOBS WERE SCARCE AND LARGE SCALE ECONOMIC DEVELOPMENT BEYOND THE MEANS OF STATES, CITIES AND PRIVATE INVESTORS.

The results of this investment are breathtaking: thousands of acres of land are irrigated to produce fruit and vegetables, renewable power is generated and distributed throughout the Northwest, and flood control relieves potentially huge property losses as far south as Portland.

Grand Coulee, however, left another legacy. For the Spokane and Colville tribes, the dam and creation of Lake Roosevelt placed lands and cultural resources under water, forced schools, homes and businesses to relocate, and cut off salmon fisheries that were the backbone of their economic and cultural ways of being.

In 1940, the Colville and Spokane Tribes received \$63,000 and \$4,700 respectively for tribal lands used for the land and reservoir.

### SETTLING CLAIMS

In 1994, the Colville Tribe reached a settlement with the federal government for their lost fisheries and "water power values." In short, a lump sum payment of fifty three million dollars was provided. Additionally, BPA uses a formula to provide an annual payment (usually between fourteen and twenty one million dollars) that represents the Colville's participating in the benefits of power sales at Grand Coulee. The Spokane Tribe was not included in this settlement.

At the urging of Congressman George Nethercutt, the Spokane Tribe entered settlement negotiations rather than focusing on litigation to pursue their claims. Nine years later, legislation has passed the house of representatives and is expected to pass the senate that meet the needs of the Spokane Tribe.

Says Greg Abrahamson, Spokane Tribal chairman, "This issue has been out there since Pearl Harbor. Its resolution will be a big boost to the tribe as a whole."

### THE SPOKANE TRIBAL SETTLEMENT

Negotiations began with an understanding that Spokane tribal claims could be calcu-

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### Inside this issue...

#### Learn about the Upper Columbia White Sturgeon Initiative

How America and Canada are Working  
Together to Help These Ancients of the Deep



# GETTING TO KNOW KEITH GREEN

Keith Green grew up in Davenport, a town where everybody knew your name. You played together, worked together and competed together.

When Keith sees Lincoln County Commissioner Deral Boleneus, he remembers “a terrific high school athlete.” And when he sees Jack Silzel, legislative director for Congresswoman Cathy McMorris, he remembers “baling hay with him for nine summers on their family ranch.”

“There’s an understanding among those of us who have been around awhile that you can’t quite understand unless you’re a part of it,” says Keith.

Keith, Deral and others from that generation remember the Boy Scout camp built near Porcupine Bay after World War II. “It wasn’t much, but it was fun to camp. Of course you didn’t go in the water. It was a moving cesspool coming from Spokane, which in those days was dumping raw sewage into it.”

“Signs?” says Keith. “No. Your parents told you not to go in and you just knew.”

In the 50s the Park Service built Porcupine Bay campground. As Spokane started treating its sewage, the area became more popular. Comments Keith, “By the 60s you could swim in the lower Spokane River. My parents bought a lot on the river at that time and so did others. It started a slow, steady growth pattern of building seasonal places in the area that’s still going on.”

“No one managed the area the way you think of it today. There weren’t a bunch of rules posted and public meetings about what could or couldn’t be done on the lands or in the water. We did it by common sense.”

In the late eighties, management responsibilities became more formalized as the National Park Service, Bureau of Reclamation, Bureau of Indian Affairs, Spokane Tribe of Indians and Colville Confederated Tribes negotiated and signed the Five Party Agreement.

Says Keith, “We felt a little left out, so we created the Lake Roosevelt Property Owners Association. We didn’t and don’t want specific management control, but we do want to have our say.”

There are several hundred people in the association, and Keith has been president for over ten years. “We want to be



*Keith Green is President of Lake Roosevelt Property Owners Association.*

neighborly,” says Keith. “We want to work with the Spokane Tribe and Park Service to manage our adjoining properties for everyone’s benefit. We’re ready to volunteer our time and labor.”

“Forty years ago, you could cut down weeds on park service property to help stop them spreading. The ranger knew about it and

would say thank you. Now, I could get arrested for doing it. So we all need to work a little harder to get common sense things done on the ground.”

Keith sees nurturing relations across agencies and property owners as critical to meeting future challenges. “Aquatic weeds are getting worse and so are noxious weeds on our properties. We’ve got to work together to control them. Same thing with fire prevention. The Park Service did some limited clearing a year ago, but we need to keep it up.

“If you look at the area, the steady growth continues. Retirees and others are buying five and twenty acre lots and living there year round. The area attracts people who want a quiet place to go, open space, and a beautiful body of water. That puts a premium on preserving the beauty of the area. We agreed with the Park Service to not expand Porcupine Campground. And we appreciate the Spokane Tribe developing Two Rivers Casino to fit with the natural setting.

“And if the Spokane Tribe’s settlement with the government goes through, we look forward to working with them on maybe permitting some docks or moorings, and making sure people can easily get the right fishing or game license. I’m old school. We want to be good neighbors by talking common sense with each other.”

Keith’s wife, two children and grandchildren consider their place along the river as priceless. “This whole area,” notes Keith “has been good to my family.” Keith’s dad worked in insurance and with farmers for the Federal Land Bank of Spokane. And Keith has been in and out of appraising residential properties for years, was in the mortgage banking business and was the eastern Washington Manager for the Federal Housing Authority for ten years.

“I’ve had a good run,” says Keith. “I know it’s time for the next generation to lead. But I’ve still got a few things to do and talk to people about.” For Keith, that’s just common sense. ✨

# Canadian First Nations Request International Joint Commission to Enforce 1941 Conditions of Approval of Grand Coulee Dam



IN THE SPRING OF 2003 THE CANADIAN COLUMBIA RIVER INTER-TRIBAL FISHERIES COMMISSION (CCRIFC) ASKED THE INTERNATIONAL JOINT COMMISSION (IJC) TO ENFORCE CONDITIONS OF THEIR 1941 ORDER OF APPROVAL FOR OPERATING GRAND COULEE DAM. Specifically, CCRIFC wants the IJC to initiate assessment and feasibility studies for restoring anadromous salmon populations within the Columbia River from Grand Coulee dam into Canada.

When the gates of Grand Coulee closed in 1942, waters of the Columbia River behind the dam rose 380 feet. A reservoir (Lake Roosevelt) extending 150 miles north and providing over 630 miles of shoreline formed.

Passage for sockeye, Chinook and steelhead salmon that once migrated into Canada was blocked at the base of Grand Coulee. Passage for these fisheries was blocked again when Chief Joseph dam was constructed a few miles downstream in 1961.

## INTERNATIONAL JOINT COMMISSION JURISDICTION

The IJC is an independent, transboundary (Canadian and American) organization that was established under terms of the Boundary Waters Treaty of 1909. As noted on their web page, "Its purpose is to help prevent and resolve disputes relating to the use and quality of boundary waters and to advise Canada and the United States on related questions."

**THE IJC INVITES INTERESTED PARTIES TO SUBMIT THEIR VIEWS OF THE CANADIAN COLUMBIA RIVER INTER-TRIBAL FISHERY COMMISSION CONCERNING REQUEST FOR INTERVENTION**

Comments can be submitted via the web by going to:

[http://www.ijc.org/rel/boards/ccrffc/ccrffc-views\\_28062005\\_e.htm](http://www.ijc.org/rel/boards/ccrffc/ccrffc-views_28062005_e.htm)

The deadline for submitting comments is October 15th.

In 1940, the United States asked the IJC to approve operation of Grand Coulee Dam. Terms of the Boundary Waters Treaty triggered IJC action because certain operational conditions at Grand Coulee would affect the natural water level at the international border by as much as 2.5 feet.

The IJC gave its approval in December, 1941. Conditions set forth by the IJC included:

- "That the Applicant make suitable and adequate provision, to the satisfaction of the Commission, for the protection and indemnification of all interests in British Columbia by reason of damage resulting from the construction and operation of the Grand Coulee dam and reservoir.
- That the Commission expressly reserves and safeguards its right under the aforesaid Treaty further to exercise jurisdiction over such effects on the natural levels or stages of the Columbia River at and above the international boundary as might actually result from the operation of the said Grand Coulee dam and reservoir ...."

## FIRST NATION APPLICATION FOR IJC INTERVENTION

CCRIFC represents eleven aboriginal (first nation) tribes in Canada. Part of their mission is to assure "The stewardship of the land and resources of Canadian Columbia River Basin flows to First Nations from the Creator. The Canadian Columbia River Inter-Tribal Fisheries Commission will ensure that the aboriginal rights of First Nations to fisheries resources are protected."

CCRIFC believes that provisions of the 1941 order give the IJC the ability to take actions necessary to restore and/or mitigate damages to fisheries. CCRIFC Director Bill Green said that "We think the language of the IJC's conditions is clear, and have therefore asked the IJC to

# Spokane Tribe Nears Historic Settlement CONTINUED FROM PAGE 1

lated at thirty nine percent of what was provided to the Colville tribe. When calculated this way, the cost to the federal government was considered too high by Congress. The tribe was asked to consider other alternatives.

Through use of land transfers not included in the Colville settlement, lump sum payments and annual payments were reduced to twenty nine percent of what the Colville's received. Calculated this way, the Spokane's would receive 69 million dollars by receipt of 17.8 million dollars in 2006, and \$12.8 million dollars in each of the four years thereafter. And for twenty five years, they will receive an annual payment of three to five million dollars. This payment will be calculated at twenty nine percent of the Colville annual payment for power sales. One distinction between the settlements is that the Colville's receive their annual payment in perpetuity.

The land transfer portion of the settlement impacts both sides of the river. On the Spokane Reservation lands owned by the Bureau of Reclamation will be transferred to the Bureau of Indian Affairs, who will hold these lands in trust for the Spokane Tribe. This places all lands on the Spokane Reservation under tribal jurisdiction.

An 1881 Executive Order also gives the Spokane Tribe ownership of the bed and banks of the lower Spokane River. When the reservoir was created, lands above the original Spokane River banks up to elevation 1310 were brought under ownership of the Bureau of Reclamation. Federal and tribal jurisdiction and administration of the river and these lands has operated under a management agreement, with the National Park Service performing federal management functions as part of administering the Lake Roosevelt National Recreation Area.

On the Lincoln County side of the river, the Bureau of Reclamation will transfer lands up to the 1290 mark to the Bureau of Indian Affairs, who will hold these lands in trust for the Spokane Tribe. 1290 is the current high water mark of the river, whose elevation is regulated via operation of Grand Coulee Dam. Further, lands transferred will be considered part of the Spokane Indian Reservation. Lands from 1290 to 1310 will still be owned by the Bureau of Reclamation. Above elevation 1310 are, in general, privately owned lands in Lincoln County.

## LOCAL CONCERNS

At the Lincoln County courthouse, Lincoln County commissioners hosted a public meeting to review the pro-

posed settlement. Greg Abrahamson, chair of Spokane Tribal Council and representatives from Congresswoman Cathy McMorris' staff explained the settlement and responded to questions.

Several questions and comments concerned jurisdictional and administrative authority over land transfers on the Lincoln County side. The Lincoln County attorney noted that when lands move into trust, jurisdiction for crimes committed on those lands may pass to tribal authorities.

Others wanted to know how the land transfer would affect issues such as fishing licenses, private docks and property values. Debbie Bird, superintendent with the National Park Service, noted her expectation was that lands transferred would still be "managed as a unit of the National Park Service." The Spokane tribal attorney, Howard Funke, responded that under trust the tribe would expect significant input into these types of lake management decisions.

Jack Silzel, legislative director for Cathy McMorris, said that these issues would be worked out as part of a Memorandum of Understanding (MOU). So while the legislation may pass, no land transfer will actually take place until an MOU is signed by the Bureau of Reclamation, the Bureau of Indian Affairs, and the National Park Service.

Participants at the meeting repeatedly stated their frustration at feeling "left out" or "uninformed." Said commissioner Deral Boleneus, "We've been down this road before with not being consulted. How these lands are handled does affect Lincoln County, but there isn't a place at the table for us when negotiations take place. We find out late or afterwards. The same thing can happen with the MOU. There's no way to know for sure if or when we'll be consulted."

Boleneus and others also repeatedly stressed that they appreciate their good neighbor relations with the Spokane Tribe of Indians. And Abrahamson commented "We're not trying to go behind anybody. We want to be good neighbors. We want to enhance."

## NEXT STEPS

Expectations are high that Congress will complete passage of this legislation and the President will sign it. Efforts will then begin to complete the necessary MOU. All participants agreed to work hard to insure that commissioners and other local stakeholders will be consulted during negotiation of the MOU. ✱



*Lincoln County Commissioners listen to comments about proposed settlement.*

## UPDATE

# EPA Remedial Investigation and Feasibility Study

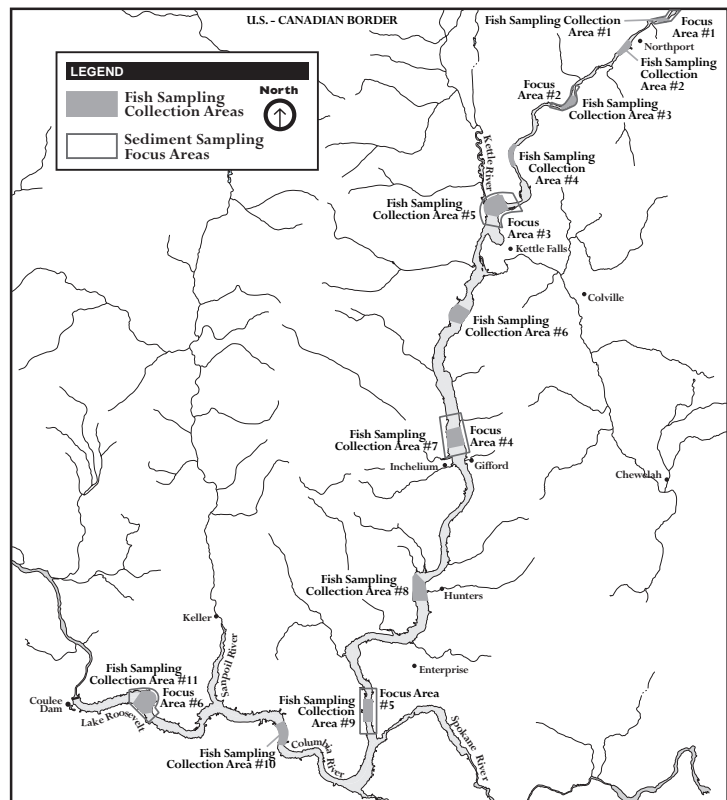
THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) BEGAN A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY (RI/FS) OF LAKE ROOSEVELT IN 2005.

EPA is investigating possible human health and environmental risks of sediment contamination. This contamination is the legacy of upstream smelting and pulp operations that released heavy metals and dioxins, furans and PCBs into the upper Columbia River (Lake Roosevelt).

This spring, EPA collected about 400 sediment samples from numerous locations representing the full reach and each bank of Lake Roosevelt. When Congress approves EPA's 2006 fiscal year appropriation, analysis of sediment samples can begin.

In September and October, EPA began fish tissue sampling. About 1,000 fish are being collected, including walleye, rainbow trout, sucker, burbot and whitefish. As with sediment sampling, next year's budget is expected to support fish tissue analysis.

These tasks represent the beginning of a multi-year effort to assess possible human health and environmental risks from sediment contamination. For more



*Lake Roosevelt 2005 Remedial Investigation & Study Areas*

information about EPA and other investigations regarding Lake Roosevelt sediment contamination, visit the Forum web site at <http://www.lrf.org/Env/Env-Sediment.html>. \*

## Canadian First Nations Request CONTINUED FROM PAGE 3

enforce these orders, and specifically to require a comprehensive assessment of the benefits and feasibility of restoring salmon runs to the upper Columbia. Our elders continually remind us that salmon restoration is the most important and compelling fisheries need in the upper Columbia.”

### NEXT STEPS AND CONSIDERATIONS

The IJC is taking comments from interested organization and the public on the CCRIFC request until October 15th.

Based on written correspondence between the IJC and CCRIFC, it appears that a significant part of the IJC's decision relates to interpretation of the conditions of

approval provided in the 1941 and noted above. One interpretation holds that the IJC conditioned its approval on the effects of raising natural water levels. These levels continue to be monitored by the International Columbia River Board of Control, which provides an annual report to the IJC regarding effects of Grand Coulee operations on natural water levels. As such, there is not a basis for intervention.

A second interpretation is that once raising natural water levels triggered IJC action, its jurisdiction is no longer limited to the direct effects of raised water levels. Indeed, CCRIFC contends that the conditions above show the IJC intended to reserve for itself broader discretion.

The IJC is expected to respond to CCRIFC's request for intervention in 2006. \*

# Lake Roosevelt Forum

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