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## Exhibit 6 Part 3 from R. Hart

Richard Hart

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the priests worried he might encounter Whites on the river who would confront him.<sup>386</sup>

In 1887 the Tribe had finally achieved their goal of negotiating an agreement to obtain payment for their aboriginal lands, an agreement which also provided them with a promise that their reservation would never be taken from them. During 1886 and 1887 officials of the United States government at the very highest levels had again concluded that the reservation included Coeur d'Alene Lake, the Coeur d'Alene River and the St. Joe River, that those bodies of water were subject to Indian laws and regulations. However, pressures on the resources, particularly in the northern portion of the reservation, became so great that there was a growing effort to force Congress to take some action that would result in the opening of all or a portion of the reservation. Officials in the War Department believed that the United States should negotiate to obtain a portion of the reservation so that Whites could travel over the lake and rivers for business and pleasure.

#### Congress Authorizes Railroad Right of Way in 1888

By 1886, development of the Coeur d'Alene Mining District required the development of a railway system in order to transport supplies in to the miners and large amounts of galena ore out from the mines. The Washington and Idaho Railroad Company, which was formed in that year, asked Congress for an easement to lay tracks through the Coeur d'Alene Reservation in order to reach the mining district. In February, 1887, the Committee on Indian Affairs reported on the matter to the House of Representatives, pointing out the Coeur d'Alene Reservation was set apart

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<sup>386</sup> Rossi, Jeremiah. "Rocky Mountains." *Woodstock Letters*, Vol. 17 No. 1 (1887): pp. 73-81. [654]

for the Coeur d'Alenes by Executive Order in 1873, and asserting that the tribe would benefit from the railroad as a result of being able to better market their grain crop. Later that year Andrew Seltice, Chief of the Coeur d'Alene Tribe, wrote to the Commissioner of Indian Affairs, explaining the tribe was in full support of the railroad. "We need a railroad and all my people want one," he said, explaining they would be able to market their wheat more easily if the railroad was reconstructed. The letter was reported to Congress in a report issued April 17, 1888, after which the bill to authorize the easement was quickly brought up and passed.<sup>387</sup>

The Act, which was passed in 1888, two years prior to Idaho statehood, granted the railroad right of way across the reservation, subject to approval by the Coeur d'Alene Tribe. In the Act, Congress acknowledged that the Coeur d'Alene Reservation was set aside by executive order of the President, and expressly conditioned the grant of the right of way upon consent of the Tribe and payment of compensation. The right of way established by Congress included a section crossing both the St. Joe River and Coeur d'Alene Lake, and also included a point that was positioned directly "on the Coeur d'Alene Lake." Thus, in an act expressly dealing with a railroad

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<sup>387</sup> United States. Congress. House. *Washington and Idaho Railroad Company*. Report No. 4133. 49<sup>th</sup> Congress 2<sup>nd</sup> Session. Washington, D. C. : Government Printing Office, 1887. [201]

United States. Congress. House. *Washington and Idaho Railroad Company*. Report No. 1713. 50<sup>th</sup> Congress 1<sup>st</sup> Session. Washington, D. C. : Government Printing Office, 1888. [204]

United States. *Congressional Record*. 50<sup>th</sup> Congress, 1<sup>st</sup> Session. Washington: Government Printing Office, 1887-1888; p. 4165. [187]

in the Territory of Idaho, Congress explicitly acknowledged tribal ownership of the lake and rivers within the Coeur d'Alene Reservation.<sup>388</sup> (See Appendix)

Idaho territorial officials were also fully aware that the lake and river had been conveyed to the Coeur d'Alene Tribe with the 1873 Executive Order Reservation.<sup>389</sup> The United States had made it clear to the states that it had the right to reserve public lands for the benefit of Indians. Congress required a disclaimer in statehood acts, like the one located in Article XXI, Section 19 of the July 3, 1890 Idaho Constitution, "Religious freedom guaranteed--Disclaimer of title to Indian lands":

And the people of the state of Idaho do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indians or Indian tribes; and until the title thereto shall have been extinguished by the United States, the same shall be subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States...<sup>390</sup>

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<sup>388</sup> Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*, 3 vols. Washington, D. C.: Government Printing Office, 1904; Vol. I, pp. 272-273. [99]

Rassier, Phillip J. *Indian Water Rights: a Compilation of Federal Treaties, Agreements, Executive Orders and Statutes Relating to Indian Water Rights in Idaho*. Boise: State of Idaho, 1978, pp. 10-11. [689]

<sup>389</sup> Governor Bennett's Letter," *Idaho Signal*, Vol. 1, October 4, 1873 (the governor's letter was dated September 18, 1873), underline added. [665]

Bennett, T. W. "Gov. Bennett's Letter," *Idaho Signal*, Vol. 1, May 16, 1874 (the governor's letter was dated April 15, 1874). [664]

<sup>390</sup> Colson, Dennis C. *Idaho's Constitution: The Tie That Binds*. University of Idaho Press:

Another Cession Agreement, 1888-1889

Problems with trespass, railroads and timber increased in 1888. A blizzard of paper was generated as the railroads (now some showing Coeur d'Alene support) attempted to obtain easements across the reservation to the mining district, and the mineral deposits which were now thought to be "practically inexhaustible."<sup>391</sup> The Tribe believed access to the railroad would help

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Moscow, 1991, p. 280. [666]

Hart, I. W. (ed.) *Proceedings and Debates of the Constitutional Convention of Idaho, 1889*, Volume II. Caxton Printers, Ltd.: Caldwell, Idaho; 1912; pp. 2014-2016, 2022-2024, and 2085-2089. [687]

<sup>391</sup> Upshaw to Gwydir, June 9, 1888, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [503]

Upshaw to Gwydir, July 25, 1888, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [504]

Secretary to Gwydir, October 1, 1888, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [505]

Commissioner to Gwydir, December 8, 1888, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [506]

United States. Department of the Interior. Commissioners of Indian Affairs. "Annual Report," 1888. Washington, D. C.: Government Printing Office, pp. 223 and 323-324. [249]

United States. Congress. House. *Washington and Idaho Railroad Company*. Report No. 1713. 50th Congress, 1st Session. Washington, D. C.: Government Printing Office, 1888. [204]

Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*, Vol. 1. Washington, D. C.: Government Printing Office, 1904, p. 272. [99]

United States. Department of the Interior. General Land Office. "Report of the Commissioner of the General Land-Office for the Year 1888," 1888. Washington, D. C.: Government Printing Office, p. 446. [271]

them to market their products to non-Indians in the region. Settlers continued to pester officials, trying to determine some way to wrest Indian lands from the Tribe.<sup>392</sup> Again in 1888 the Commissioner of Indian Affairs wired the Coeur d'Alene Agent to order the eviction of trespassers on the reserve.<sup>393</sup> In August, the Resident Farmer, F. Holmes, reported to Gwydir on the work he had done over the past two years in evicting trespassers. Holmes told Gwydir on August 14, 1888, that during the months of June, July and August, 1888, he had "removed from the Coeur d'Alene Lake & its tributary waters one hundred and fourteen (114) persons."

These persons were engaged in camping & fishing & as someone unknown had used Giant Powder to kill fish I removed all I found.

He also removed people coming on the reservation to cut timber. In the past two years he reported he had removed three hundred trespassers, "engaged in mining, haycutting, timber stealing, sheep herding, & fishing" (see Map 14). He had been testifying against these people and attempting to have indictments brought against the trespassers and punishment meted out to them, as well.<sup>394</sup> Within a week Agent Gwydir was informed that funds to pay for the Resident Farmer were being

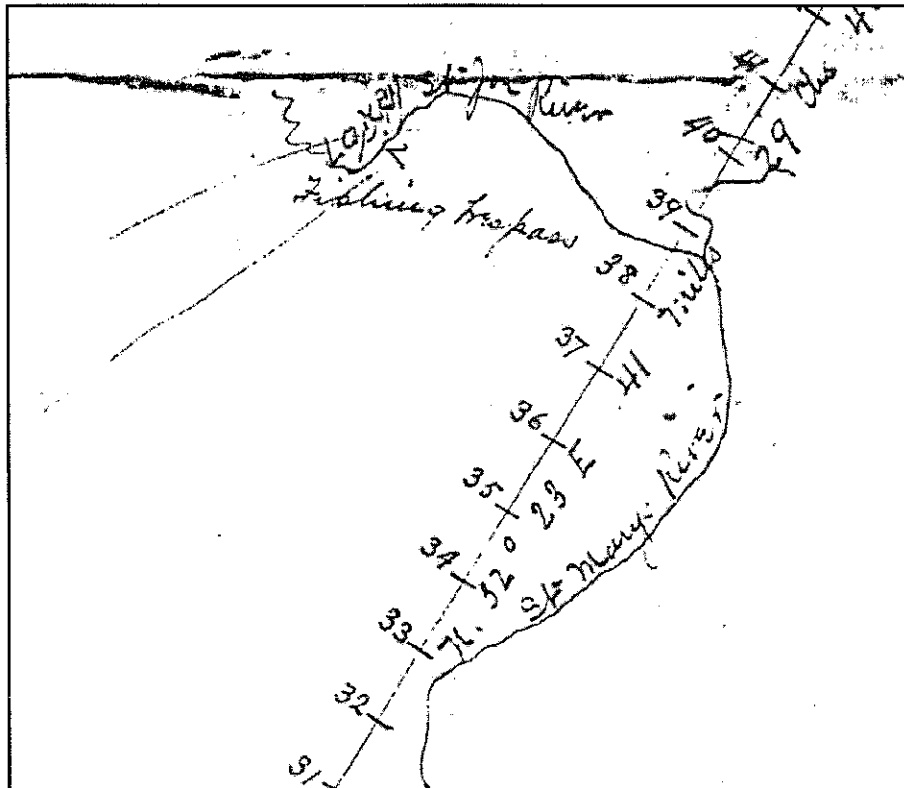
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<sup>392</sup> Palmer to Atkins, January 16, 1888, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [507]

Atkins to Gwydir, March 26, 1888, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [508]

<sup>393</sup> Commissioner to Gwydir, April 19, 1888, telegram, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [509]

<sup>394</sup> F. Holmes, Resident Farmer to Gwydir, August 14, 1888, Letters Received, Record Group 75, National Archives. [510]



Map 14: This 1888 map includes documentation of "fishing trespass" on the St. Joe River within the Coeur d'Alene Reservation [728]

withdrawn. Gwydir responded that the presence of the farmer there was of the utmost importance. He said “the whites in the country about the Reserve are continually encroaching upon the Indians and committing depredations,” and that the Tribe needed the white farmer there to support their efforts to keep trespassers off the reservation and to help them improve their farming practices.<sup>395</sup>

As a result of mining-related pollution, the Coeur d’Alenes’ ability to fish their native streams was eliminated in much of the Coeur d’Alene River drainage by 1888. A local newspaper reported in 1888 that the mining operations had significantly damaged the fisheries.<sup>396</sup>

By the fall of 1888, both the Tiger and Poorman mills were operating sufficiently to have colored Canyon Creek to its mouth, and no more trout were ever caught there.

Another author, May Arkwright Hutton, who witnessed the gold rush and its impacts on the environment, recalled the changes.<sup>397</sup>

Its rivers formerly abounded in fish and its forests were stocked with deer, bear and a variety of small fur-bearing animals, but the advent of the white man and the march of civilization has changed all this....

No more the wild-eyed antelope graze on the mountain slopes. The streams are no longer a sparkling crystal--the concentrates from the mills of the great silver and lead mines of the Coeur d’Alenes have changed them so they resemble the Chicago River, and the beautiful

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<sup>395</sup> Gwydir to Commissioner, August 28, 1888, Letters Received, Record Group 75, National Archives. [511]

<sup>396</sup> Livingston-Little, D. E. *An Economic History of North Idaho, 1800-1900*. Journal of the West: Lorrin L. Morrison and Carroll Spear Morrison Publishers, 1965 p. 90. [108]

<sup>397</sup> Hutton, May Arkwright. “The Coeur d’Alenes: a Tale of the Modern Inquisition in Idaho.” in *Liberated Woman: a Life of May Arkwright Hutton*. Montgomery, James W. (ed.), Fairfield, Washington: Ye Galleon Press, 1974 (originally published 1900), p. 156. [89]



speckled trout live no more therein.

There was some movement in Congress to ratify the 1887 Agreement,<sup>398</sup> but by the end of 1888 it was clear the agreement would not be ratified until additional negotiations were carried out with the Tribe. A House Report concluded that the 1887 Agreement was not ratified by the 50th Congress, for “sundry reasons, among which was a desire on the part of the United States to acquire an additional area, to wit, a certain valuable portion of the reservation specially dedicated to the exclusive use of said Indians under an Executive order of 1873...”<sup>399</sup>

It contains a magnificent sheet of water, the Coeur d’Alene Lake, and its chief tributary, to wit, the Coeur d’Alene River, over the waters of which steamers now ply daily from the city of Coeur d’Alene to the old Coeur d’Alene Mission, there connecting with a railway system penetrating into the very heart of said Coeur d’Alene mineral belt. It also controls the outlet of said lake, to wit, the Spokane River.

Whites in the region were frustrated that the Coeur d’Alenes had good title to their reservation, and to Coeur d’Alene Lake and the rivers, thereon. Senator Mitchell of Oregon, no doubt responding to the clamoring calls by Whites to open the reserve, submitted a resolution to the Senate, asking for information on the reservation. Senator Dawes of the Indian Committee

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<sup>398</sup> Atkins to Gwydir, January 10, 1888, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives.[512]

United States. Congress. *Congressional Record*. 50th Congress, 1st Session, pp. 7153, 8643, 8754,-8755, 8892. Washington, D. C.: Government Printing Office, 1888. [188]

<sup>399</sup> United States. Congress. House. *Ratification of Coeur d’Alene Indian Treaties in Idaho*. Report No. 1109. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1890. [206]

responded, on the floor, that all the required information was currently available, but Mitchell persisted and the Senate backed him when it passed a Senate Resolution (see Appendix).<sup>400</sup>

Whereas it is alleged that the present area of the Coeur d'Alene Indian Reservation, in the Territory of Idaho, embraces 480,000 acres of land; that there are, according to the statistics in the Indian Bureau, only about 476 Indians in the Tribe now occupying such reservation, or more than 1,000 acres to each man, woman, and child; that Lake Coeur d'Alene, all the navigable waters of Coeur d'Alene River, and about 20 miles of the navigable part of Saint Joseph River, and part of Saint Mary's, a navigable tributary of the Saint Joseph, are embraced within this reservation, except a short-line of about 3½ miles at the north end of the lake, it being alleged that this lake and its rivers tributary constitute the most important highways of commerce in the Territory of Idaho, and are in fact the only navigable waters, except Snake River, now used for steam-boat; navigation in the Territory; that all boats now entering such waters are subject to the laws governing the Indian country and all persons going on such lake or waters within the reservation lines are trespassers; and

Whereas it is further alleged that the Indians now on such reservation are located in the extreme southwest corner of the same around De Smedt [sic] Mission, near the town of Farmington, in Washington Territory, where the land is good for agriculture; and it being further alleged that all that part of such reservation lying between Lake Coeur d'Alene and Coeur d'Alene River and that part between the Coeur d'Alene River and Saint Joseph River is a territory rich in the precious metals and at the same time being of no real use or benefit to the Indians: Therefore,

*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to inform the Senate as to the extent of the present area and boundaries of the Coeur d'Alene Indian Reservation in the

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<sup>400</sup> United States. Congress. *Congressional Record*. 50th Congress, 1st Session, pp. 19, 618, 693, 894, 1131, 2290, 2370, 3053, 4165, 4308, 4330, 4910. Washington, D. C.: Government Printing Office, 1887-1888. [187]

United States. Congress. Senate. *Resolution*. Misc. Doc. No. 36. 50th Congress, 1st Session. Washington, D. C.: Government Printing Office, 1888. [214]

Territory of Idaho; whether such area includes any portion, and if so, about how much of the navigable waters of Lake Coeur d'Alene, and of Coeur d'Alene and St. Joseph Rivers; about what proportion of said reservation is agricultural, grazing, and mineral land respectively; also the number of Indians occupying such reservation; also on what portion of such reservation the Indians now thereon are located; also whether, in the opinion of the Secretary, it is advisable to throw any portion of such reservation open to occupation and settlement under the mineral laws of the United States, and, if so, precisely what portion; and also whether it is advisable to release any of the navigable waters aforesaid from the limits of such reservation.

The resolution stated what the Senate believed to be true about the situation, and asked that the Secretary to confirm or deny the relationship of the Tribe and the United States to the rivers and lake within the reservation. This resolution of inquiry from the Senate of the United States to the Secretary of the Interior, and the subsequent reply from the Secretary, established beyond any doubt the ownership of Coeur d'Alene Lake, the St. Joe River, and the Coeur d'Alene River (and the importance of these waters to the Tribe). The Senate indicated that all boats that enter upon the waters of the lake and rivers inside the exterior boundaries of the reservation are subject to "the laws governing the Indian country" and that "all persons going on such lake or waters within the reservation lines are trespassers." The Senate asked the Secretary "whether it is advisable to release any of the navigable waters aforesaid from the limits of such reservation," further establishing that the United States regarded those waters within the reservation's exterior boundaries to be a part of the reservation.

A short while later the Secretary of the Interior made his formal response.<sup>401</sup> The Secretary

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<sup>401</sup> United States. Congress. Senate. *Letter from the Secretary of the Interior..about the Coeur*

of the Interior referred the resolution of inquiry to the Commissioner of Indian Affairs, J. D. C. Atkins, who provided the formal response. The Secretary, in his introduction to the report, indicated that Coeur d'Alene Lake and a portion of both the Coeur d'Alene River and the St. Joe River were within the reservation (although it was unclear how much of the St. Joe River was navigable).

The Commissioner further states that, in his opinion, the reservation might be materially diminished without detriment to the Indians, and that changes could be made in the boundaries for the release of some or all of the navigable waters therefrom which would be of very great benefit to the public; but this should be done, if done at all, with the full and free consent of the Indians, and they should, of course, receive proper compensation for any lands so taken.

The Secretary also referred to the recent agreement with the Tribe, in which the Tribe officially ceded their former lands outside the current reservation. The Secretary noted that the Commissioner said in his report that this agreement should be ratified before negotiating with the Coeur d'Alenes for "the cession of such portions of their reservation as they do not need..."

Commissioner Atkins began his letter to the President Pro Tempore of the Senate by quoting the entire resolution of January 25. In his comments to the Senate he made it abundantly clear the United States considered Coeur d'Alene Lake, and those portions of the Coeur d'Alene River and the St. Joe River that were within the exterior boundaries of the Coeur d'Alene Reservation to be a part of the Coeur d'Alene Tribe's holdings, and that the Tribe held "all the original Indian rights in the soil they occupy." He expressly indicated the United States' official

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*d'Alene Indian Reservation*. Ex. Doc. No. 76. 50th Congress, 1st Session. Washington, D. C.: Government Printing Office, 1888. [213]

determination that the navigable waters within the reservation were held by the Tribe and the Tribe's consent was necessary to obtain access to part or all of them. He concluded that if the 1887 Agreement was ratified, a cession of all of the reservation surrounding these waters could be arranged, so long as it was fair and included reasonable terms (see Map 13).

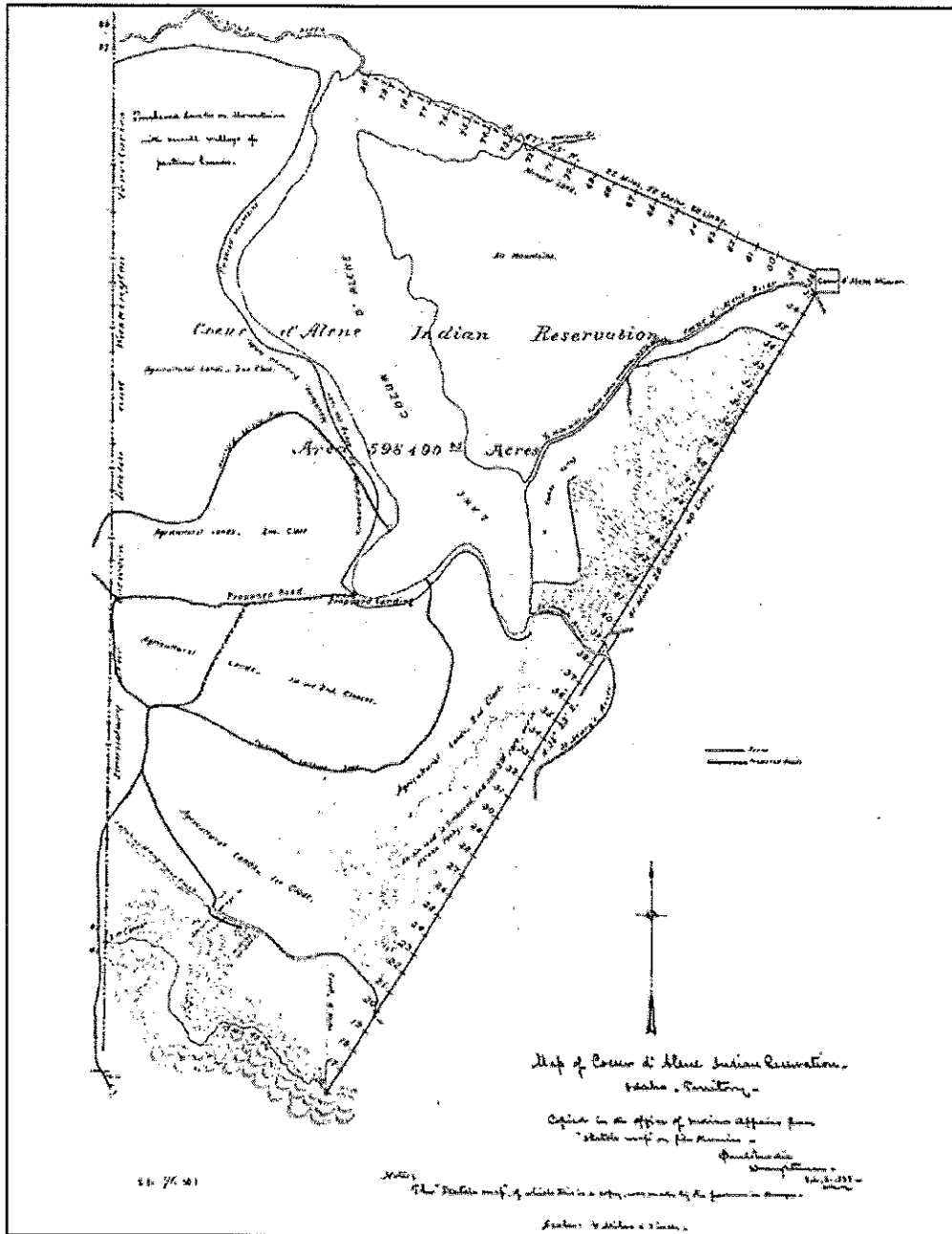
The content of the Senate Resolution, the Secretary of the Interior's response, and the Commissioner of Indian Affairs' response leave no doubt as to the rights of the Coeur d'Alenes to Coeur d'Alene Lake, and the portions of the St. Joe River and the Coeur d'Alene River within their 1873 Executive Order Reservation, nor to the United States' understanding that these waters were necessary to the Tribe's survival.

The Commissioner reported that the reservation contained almost 600,000 acres and described the landscape there.

From the official map of Idaho (1883) and sundry others examined, the reservation appears to embrace all the navigable waters of Lake Coeur d'Alene, except a very small fragment cut off by the north boundary of the reservation which runs "in a direct line" from the Coeur d'Alene Mission to the head of Spokane River.

He described the shape and size of the lake and noted the lake was navigable over its entire length, the Coeur d'Alene River was navigable over the entire portion within the reservation, and that although he lacked sufficient information to make the conclusion, the St. Joe appeared to be large enough to be navigable. He provided a summary of agricultural, grazing and timber portions of the reservation, and said he enclosed a map with this report, which clearly described river channel valleys.

A strip one-half mile wide on both sides of the Coeur d'Alene River along its entire length is described as "fertile valley, overflowed every spring."



Map 13: This map accompanied the Secretary of the Interior's response to the Senate Resolution of 1888. The caption of the Coeur d'Alene River reads: "½ mile wide fertile valley overflows every spring." [213]

He referred to the map made in 1886 by the officer who investigated “the sale of liquor upon the steamer *Coeur d’Alene* within the navigable waters of the reservation...,” and said this was submitted also.

The question which remains to be answered is, whether it is advisable to throw any portion of the said reservation open to occupation and settlement under the mineral laws of the United States and, if so, precisely what portion, and whether it is desirable to release any of the navigable waters mentioned in the resolution from the limits of said reservation.

In approaching the question, the Commissioner described the “virtues, habits of industry, loyalty, and ambition” of the Coeur d’Alenes. He quoted the Northwest Indian Commission’s report and referred to the Tribe’s help during the Nez Perce War, then noted the mining rush to the area and the manner in which it threatened their lands. He quoted from recent agents’ reports, which indicated the Tribe’s great concerns about losing their reservation lands to Whites, and about the Whites’ efforts to have the reservation thrown open. The Commissioner concluded some sort of cession could be arranged if the Indians agreed. The Commissioner then quoted from two reports suggesting that Whites wanted the northeastern side of the reserve, known as the Wolf Lodge District. The Commissioner also noted that the Indians were against allotment, having much more land under cultivation already, than they would be allowed to select under the Dawes Act. The Indians had, in fact, voted unanimously to reject taking lands in severalty.

In conclusion I will state that in my opinion these Indians have all the original Indian rights in the soil they occupy. They claimed the country long before the lines of the reservation were defined by the executive order of 1873, and the present reservation embraces only a portion of the lands to which they laid claim. This claim has been recognized in various ways and at sundry times...

The Commissioner then cited the 1887 Agreement, and noted the pending removal of 350 to 400

Spokanes to the Coeur d'Alene Reservation.

I think that when the present agreement shall have been ratified it will be an easy matter to negotiate with them for the cession of such portions of their reservation as they do not need, including all or a portion of the navigable waters, upon fair and very reasonable terms.

On July 13, 1888, Senator Mitchell introduced a bill (S. 3326) which would authorize the Secretary of the Interior to "negotiate with the Coeur d'Alene Tribe of Indians for the purchase and release of a portion of their reservation."<sup>402</sup> Although Mitchell's bill did not pass in 1888, wheels had now begun to turn, and momentum now was building to enable legislation that would allow United States negotiations with the Coeur d'Alenes for the purchase of a portion of the reservation surrounding Coeur d'Alene Lake and the Coeur d'Alene River. On the reservation, in 1888, the Tribe suffered from an epidemic of scarlet fever and measles, but a physician there segregated the sick and the Coeur d'Alene did not suffer results as bad as those suffered by other neighboring Tribes.<sup>403</sup> Although there had been complaints about school cleanliness, the Jesuit schools were reported to be highly successful. It was reported that by the year 1888 more than half of the Coeur d'Alenes could understand English and one hundred twenty-five could read.<sup>404</sup> By 1889 nearly all of the essential means of transportation and communication had been established

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<sup>402</sup> United States. Congress. *Congressional Record*. 50th Congress, 1st Session, p. 6227. Washington, D. C.: Government Printing Office, 1887-1888. [187]

<sup>403</sup> Peltier, Jerome. *A Brief History of the Coeur d'Alene Indians, 1806-1909*. Fairfield, Washington: Ye Galleon Press, 1981, pp. 58-59. [132]

<sup>404</sup> Peltier, Jerome. *A Brief History of the Coeur d'Alene Indians, 1806-1909*. Fairfield, Washington: Ye Galleon Press, 1981, pp. 59 and 62, who later says thirty-six spoke English, in any case a large number of the Tribe could converse in English at the time. [132]



in the Coeur d'Alene area (see Map 15).<sup>405</sup>

Railroads reached into every producing nook, roads were rough but wagons were strong and horses plentiful, telephone and telegraph lines tied together the remote settlements and linked all with the world at large.

Steamers had the capability of hauling more than 1,300 tons a week by the beginning of 1889.<sup>406</sup>

Congress had failed again in 1888 to ratify the 1887 Agreement, and the only excuse ever "tendered was that the United States wanted to acquire a certain valuable portion of land in the northern reaches of the reservation."<sup>407</sup>

On March 2, 1889, Congress passed the annual Indian Appropriations Act, which included a provision to create a new Coeur d'Alene Commission.<sup>408</sup>

That the Secretary of the Interior be, and he is hereby, authorized and directed to negotiate with the Coeur d'Alene Tribe of Indians for the purchase and release by said Tribe of such portions of its reservation not agricultural, and valuable chiefly for minerals and timber, as such Tribe shall consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said Tribe of Indians, which purchase shall not be complete until ratified by Congress, and for the purpose of such negotiation the sum of \$2,000, or so much thereof as may be

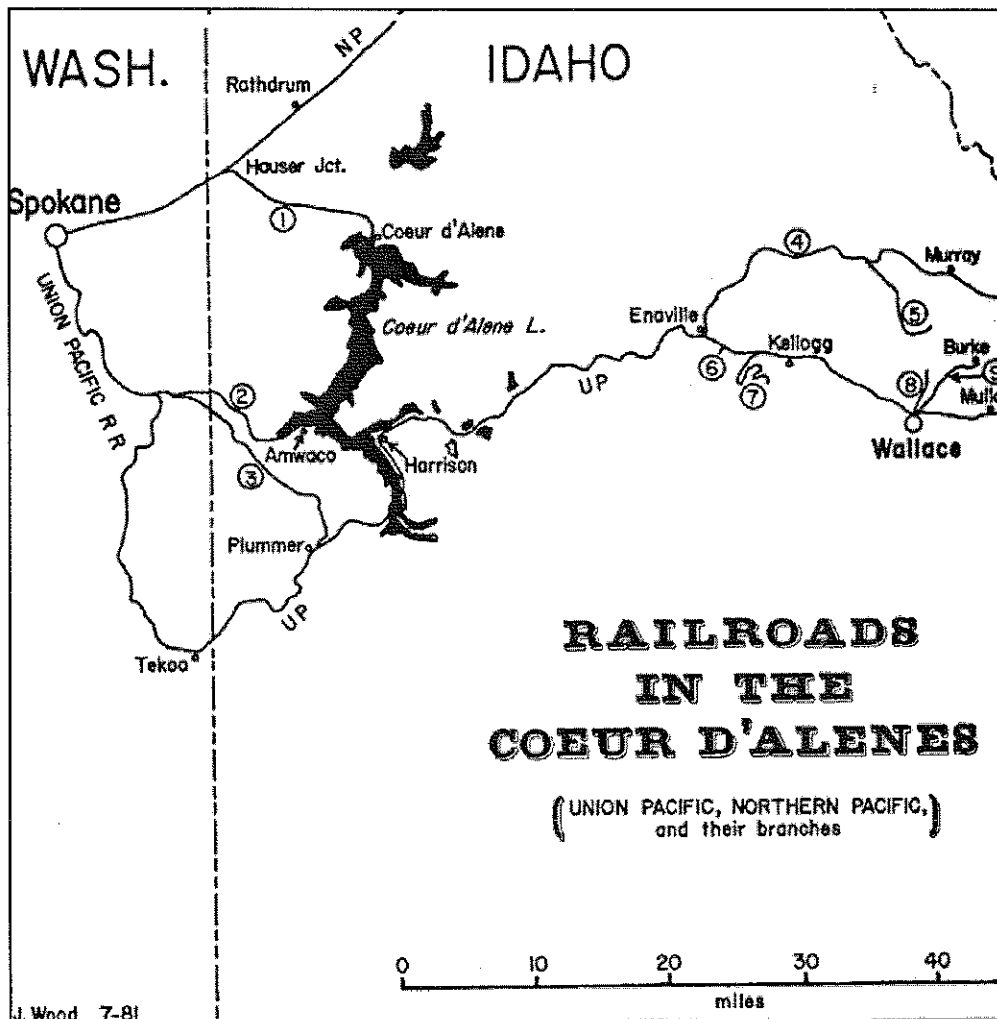
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<sup>405</sup> Bischoff, William N. "The Coeur d'Alene Country, 1805-1892." In *Interior Salish and Eastern Washington Indians I*. New York: Garland Publishing Inc., 1974, p. 257. [16]

<sup>406</sup> Magnuson, Richard G. *Coeur d'Alene Diary; the First Ten Years of Hardrock Mining in North Idaho*, 1968, p. 59. [109]

<sup>407</sup> Dozier, Jack. "Coeur d'Alene Country: the Creation of the Coeur d'Alene Indian Reservation in North Idaho." *Idaho Yesterdays* (1962), p. 5. [63]

<sup>408</sup> United States. Congress. Senate. *A Letter of the Secretary of the Interior Relative to the Purchase of a Part of the Coeur d'Alene Reservation*. Ex. Doc. No. 14. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1889. [215]



Map 15: Railroads crossed the Coeur d'Alene Reservation in several locations in order to provide access to the mining district on the Coeur d'Alene River. [290]

necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated; the action of the Secretary of the Interior hereunder to be reported to Congress as the earliest practicable time.

The Commission, composed of Benjamin Simpson of Selma, Alabama; John H. Shupe of Oakland, Oregon; and Napoleon B. Humphrey of Albany, Oregon, was appointed in May, 1889. In the meantime, during the early months of 1889 friction at Coeur d'Alene continued to build and violence was again feared. Both the Spokanes and the Coeur d'Alenes were upset that Congress had failed to ratify the 1887 Agreement.<sup>409</sup> Seltice, Regis and Peter Wildshoe, witnessed by Father Cataldo, petitioned newly elected President Harrison on April 30, 1889. They pointed out that they were on good terms with their neighbors and had protected Whites from the Nez Perce during the war of 1877, but still needed to retain a portion of their homeland. They said that some Whites coveted their "small, little reservation left to us," and asked President Harrison to see to it that their 1887 Agreement was ratified.

...It seems to us very strange that the great government of Washington should covet a few hundred thousand acres of our land left to us after our giving to said government nearly four millions of acres of very rich and valuable lands and minerals....

We hear that you have appointed some Commissioners to come and treat with us for the purpose of curtailing our reservations, though we have no objection to give up some of our mountains, yet we do not see how we can make an agreement before the ratification of the first agreement. Our people will surely say "Washington does not

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<sup>409</sup> Seltice, *et. al.*, to President Harrison, April 30, 1889, Letters Received, Record Group 75, National Archives. [513]

Acting Commissioner to Gwydir, April 24, 1889, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [514]

keep his word, and it is useless to treat with him.”

Father Cataldo forwarded this letter to John Mullan, who personally delivered this petition to President Harrison on May 28, 1889. The President, in turn, referred the letter to the Secretary of the Interior.<sup>410</sup>

During the same year, settlers continued to complain they were being denied the rights to minerals they had discovered on the reservation, and that the reservation lines were not drawn correctly.<sup>411</sup> Trespass continued and in that year included illegal homestead entries on the reservation.<sup>412</sup> Controversy built in 1889 over the improvements of Frederick Post, at Post Falls,

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<sup>410</sup> Seltice, *et. al.*, to President Harrison, April 30, 1889, Letters Received, Record Group 75, National Archives. [513]

Cataldo to Mullan, May 10, 1889, Letters Received, Record Group 75, National Archives. [515]

Note to File, Executive Mansion, The President, 1889, Letters Received, Record Group 75, National Archives. [516]

<sup>411</sup> Charles Hoffman to Secretary of the Interior, May 4, 1889, Letters Received, Record Group 75, National Archives. [517]

Hobbs to Secretary of the Interior, July 3, 1889, Letters Received, Record Group 75, National Archives. [518]

Hon. J. N. Dolph to Secretary of the Interior, August 11, 1889, Letters Received, Record Group 75, National Archives. [519]

Manderson to Secretary of the Interior, December 4, 1889, Letters Received, Record Group 75, National Archives. [520]

<sup>412</sup> James Ballard, homestead entry, September 17, 1889, Letters Received, Record Group 75, National Archives. [521]

Cole to Commissioner, October 5, 1889, Letters Received, Record Group 75, National

which were apparently inside the reservation boundaries.<sup>413</sup> Finally, violence did break out. Resident Farmer Holmes reported on March 20, 1889, that there had been trouble between the Coeur d'Alenes and Whites on about January 25th. Whites entered the reservation to obtain wood, but a Coeur d'Alene man, following the directions that the Indian Office had given him, refused to give the Whites permission. The Whites then severely beat the man. His son arrived with a rifle and fired several shots after the men. The following Saturday the Whites went to Farmington looking for Indians. Two of the white men, Joseph Nixon and Lee Stewart, attacked a group of Coeur d'Alenes who were eating in a restaurant. Using chairs as weapons they badly beat the Coeur d'Alenes. The Whites then followed the Indians to a store where they beat them again with the butts of revolvers, one of which had been borrowed specifically for the occasion of the attack. Holmes said he found the inhabitants of the town of Farmington so prejudiced towards the Coeur d'Alenes that he didn't even try to bring charges against them, for he believed the Whites would only be acquitted, and he said he feared such an acquittal would "only embolden others to repeat

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Archives. [522]

<sup>413</sup> Note to File, May 31, 1889, Letters Received, Record Group 75, National Archives. [523]

Gwydir to Indian Office, April 5, 1889, Letters Received, Record Group 75, National Archives. [524]

Frederick Post to Indian Office, September 28, 1889, Letters Received, Record Group 75, National Archives. [525]

Acting Commissioner to Cole, September 19, 1889, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [526]

the offence.” Holmes hoped that friendly Whites should help him seek prosecution of the offenders, but after this incident, Holmes was afraid that “serious trouble was likely to follow from this fight.”<sup>414</sup>

Against this backdrop the Coeur d’Alene Commissioners arrived on the Coeur d’Alene Reservation, under very considerable official and unofficial pressure to negotiate a quick cession of a portion of the Coeur d’Alene Reservation. The Acting Commissioner sent the Commission its instructions on June 18, 1889.<sup>415</sup> A month later the Colville Agent was informed of the Commission’s proposed task and asked to render them assistance.<sup>416</sup> The commission arrived at Coeur d’Alene on August 5, obviously on an accelerated schedule. They reported holding frequent councils with the Tribe and examining the reservation in detail before reaching an agreement with the Tribe. But their work was not easy.

In the official report describing the 1889 negotiations, the Commissioner of Indian Affairs gave a short history of the Tribe’s claim to its territory, “based upon original possession and occupancy,” and of the 1887 Agreement. He said:<sup>417</sup>

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<sup>414</sup> Gwydir to Commissioner, May 4, 1889, enclosing Holmes to Gwydir, March 20, 1889, Letters Received, Record Group 75, National Archives. [527]

<sup>415</sup> Acting Commissioner to Simpson, Shupe and Humphrey. June 18, 1889. Indian Claims Commission Exhibit No. 111, Docket No. 81. [731] Interestingly, the Commissioners were told to consult the agreement made with Indians the previous year in Montana. Eventually, in 1908, the Supreme Court would proclaim the Winters Doctrine on the basis of that agreement.

<sup>416</sup> Morgan to Cole, July 8, 1889, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [528]

<sup>417</sup> United States. Congress. Senate. *A Letter of the Secretary of the Interior Relative to the Purchase of a Part of the Coeur d’Alene Reservation*. Ex. Doc. No. 14. 51st Congress, 1st Session.

When the Commissioners whose work is now under consideration approached the Indians upon the subject of relinquishment of some of their reservation lands, they absolutely refused to entertain any proposition of that kind until the old agreement was ratified.

In the report Commissioner of Indian Affairs T. J. Morgan described the commission's negotiations with the Tribe, pointing out that the Tribe was not only disturbed that their 1887 Agreement had not been ratified, but that the Washington and Idaho Railroad had not paid money that was due the Tribe for a right-of-way. The Coeur d'Alenes, said the commission, "displayed surprising business sagacity, coupled with an exalted idea of the fulfillment of promises." Commissioner Morgan had received the railroad money due the Tribe in January, but had not forwarded it the agent for per capita distribution. He then immediately did so.<sup>418</sup>

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Washington, D. C.: Government Printing Office, 1889, which includes complete transcripts of the following documents. [215]

Commissioner Morgan to Secretary of the Interior, December 7, 1889, Letters Received, Record Group 75, National Archives. [529]

Report of the Coeur d'Alene Indian Commission, September, 1889, Letters Received, Record Group 75, National Archives. [530]

Transcript of Coeur d'Alene Indian Commission Councils with the Tribe, 1889, Letters Received, Record Group 75, National Archives. [531]

<sup>418</sup> Report of the Coeur d'Alene Indian Commission, September, 1889, Letters Received, Record Group 75, National Archives, provides quote on "sagacity." [530]

Receipt, January 25, 1889, Letters Received, Record Group 75, National Archives. [532]

Morgan to Cole, August 5, 1889, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [533]

Morgan to Cole, August 6, 1889, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [534]

The commissioners had only been in De Smet four days before they were forced to wire the Indian Office. Ben Simpson, Chairman of the Coeur d'Alene Commission telegraphed the Commissioner of Indian Affairs on August 8, 1889, reporting that the Coeur d'Alenes objected to making another agreement until the former agreement was ratified. Simpson asked for authority to insert a clause in the proposed agreement making it invalid until the former agreement was also ratified. With that clause inserted, he said, he thought they could successfully make a new agreement.<sup>419</sup> The Coeur d'Alenes and their leaders were rightly concerned with protecting the portion of their homeland that they still retained and with having the United States Congress ratify the agreement they had made in order to protect that homeland.

The Commissioner of Indian Affairs approved the clause, and pointed out later, in the official report, that a bill to ratify the 1887 Agreement had passed the Senate, but failed to reach the floor of the House. He also provided an explanation for a proposed provision of per capita payments, noting the advances of the Tribe and saying "it would not be unreasonable to assume that they would make just as good use of their money..." He then quoted extensively from the annual report for 1888, which included this statement from the Agent in 1888:

I have said this much in order to show that the Coeur d'Alene Indians are quite intelligent and fully capable of understanding their relations to their white neighbors, and that they would be likely to take a sensible view of any proposition for a change of the boundaries of their reservation which public necessity or convenience would seem to require, and at the same time to show that they are deserving of fair and honest treatment from the whites.

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<sup>419</sup> Simpson to Commissioner, August 8, 1889, telegram, Letters Received, Record Group 75, National Archives. [535]



The commissioners themselves filed an extensive report and transcript of proceedings at De Smet. The Agent, Hal J. Cole met the Commission at De Smet, where they had arrived on August 5, for the first council meeting on August 14. From the transcripts of councils and correspondence of the commission, it is clear there were additional meetings for which no transcripts were made.

The first council was held on August 14, 1889. General Simpson began by reading the commission's instructions from the Secretary of the Interior, stating that the agreement of 1887 would be ratified, that a clause of the current agreement would reflect a requirement to that effect, that money due them from the railroad would arrive at once, and explained that "you [the Coeur d'Alene Tribe] are not compelled to sell."

Seltice spoke next, comparing the 1887 Agreement to the construction of a fence:

We built a strong, high fence with the Government; we built it round so the end nearly met. We done our part, but the gap that was left has never been finished by the Government at Washington.

Simpson responded that the President and Secretary of the Interior had endorsed ratification of the 1887 Agreement and he was sure it would pass. Seltice was conciliatory and said though his people didn't understand these things as the Whites did, and though they could not read and write, they wanted the proper paper to be made--that is, they wanted an accurate transcript of the proceedings and the proposed agreement. Seltice asked the commissioners to be patient, granted them permission to look at reservation lands, and provided them with two guides. On the 16th the commission traveled to the mouth of the St. Joe, with an eye to putting a price on the land they wanted to purchase from the Tribe.

From the St. Joseph River the Commission proceeded by boat to the

Old Mission, the extreme northeastern point of the reserve, traversing in their course some eight miles of Coeur d'Alene Lake and thirty miles of Coeur d'Alene River.

The commission toured the mining and timber country, from Coeur d'Alene City to Wolf Lodge country. They concluded that the land around the head of the Spokane River would prove most valuable to Whites.

The timber is good and is easy of access, the Spokane River furnishing good facilities for conveying the logs to points along its course, where the opening of a new and rapidly settling country causes a great demand for lumber.

Then they returned to De Smet and called a meeting for August 27.

The Commission told the Tribe at this second meeting that they had been told to look for land that the Tribe would not need, including that which was mainly good for timber and minerals. The commission said it had done so, and now had a proposal to make. Simpson said the normal price for lands was \$1.25 an acre, with timber land going for \$2.50. Seltice responded that if the price wasn't right they wouldn't sell. Again, the Commission agreed with Seltice, and made the current negotiations contingent on passage of the previous agreement. Seltice provided another excellent metaphor:

What was done by the last commission is like cooking a dinner, then setting it to one side to wait; you do not cook a dinner and lay it aside, then cook another dinner before you have eaten the first; it is that way with these treaties.

Then in talking about the proposed cession line and how it would impact travel and making it clear that the boundaries did not include the St. Joe River. General Simpson said:

We fixed a line, as was shown you on the map; it is just as Mr. Liberty [the interpreter] explained it to you. You understand that the lake belongs to you as well as to the whites--to all, every one who wants to travel on it.

SALTISE. That is your idea about the boundary. You know we do not understand papers; in taking it that way we will not know the boundaries.

General SIMPSON. You all know where the St. Joseph River is. We do not want any of that.

General Simpson then read a description of the proposed cession boundaries. Seltice said he did not like the boundaries, and his people were “bent” and didn’t want to discuss a new agreement until the old one was confirmed. But, he said, if the two sides talked more maybe his people would consent.

Four days later, on August 31, 1889, the group met again. Seltice told the commissioners that as an Indian he had no interest in money. What he was interested in was his land. He reviewed the history of Whites that had visited him over the previous forty years and noted that they had also promised him his land would always remain his.

We are willing to let some go now--that which lays along the northern boundary of our reservation, and from eastern boundary of Coeur d’Alene River, and western boundary of Coeur d’Alene Lake, and south to mouth of Coeur d’Alene River.

His description at this point indicated that he did not know that lands to the west of the lake and north of the river’s mouth were to be included in the cession. He went on:

We are willing to relinquish this regardless of the three other commissioners [previous commissions]. Here you have plenty of timber, plenty of mineral, and plenty of grass; am willing to relinquish all this. I understand well this takes in all of the Wolf Lodge country.

Simpson said, “We want to buy that which you want to sell.” Seltice said there were five or six Coeur d’Alenes who had claims in that area and the United States needed to settle with them, but Simpson and Shupe told Seltice that the Tribe had to make any such settlement as the Coeur

d'Alenes had to be treated as a Tribe. Simpson again repeated his instructions to buy "lands for their timber and mineral." He added, "Of course the more land you let us have the more money you will get." To which Seltice responded, "My dear friends, if our object was money you would be correct, but money is no object; our land we wish to keep." They responded to each other several times and recessed. When they came back Simpson started anew, this time concerning water.

Well, gentlemen, we have talked the matter over as commissioners, and we would like to know, now more particularly about the boundaries on the water lines; it is not what we expected to get, but still we will take this with the understanding: There are some who have claims on these lands and you will settle with them.

Then the discussion turned back to the Indians who had claims near the Old Mission. The commissioners refused to pay them, and said the Tribe had to deal with them. The discussion next turned to the question of price. Seltice asked for \$5.00 an acre, to which the commission responded it was willing to pay \$2.50 an acre. Seltice interjected a comment that indicated he now knew lands on the west of the lake were to be a part of the cession, for he said:

You know it is against our wishes to sell any land, but you wanted to buy. We did not care for the land on the west by Spokane. I think it is worth what we ask. We offered that and you think it is too much. When you make your report to Washington let them say whether it is too much.

Seltice evidenced very shrewd bargaining power and exercised his patience to good effect. He knew there was mineral value to the land and wanted a just payment for the land.<sup>420</sup>

At the close of the session on August 31, the commission was unsure it could complete a

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<sup>420</sup> United States. Congress. Senate. *A Letter of the Secretary of the Interior Relative to the Purchase of a Part of the Coeur d'Alene Reservation*. Ex. Doc. No. 14. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1889. [215]

successful agreement. Commissioner Shupe wrote to Congressman Mitchell of Oregon saying they did not think they could complete the negotiations within the allotted time, and asking for an extension of both time and money. Mitchell responded by telegram that he could give no assurances, and suggested they contact the Commissioner of Indian Affairs, at the same time himself asking the Commissioner to facilitate their work. But by the time the Commissioner of Indian Affairs had actually received all the correspondence the Coeur d'Alene Commission had achieved its agreement.<sup>421</sup>

Eight days later, on September 8, 1889, the Commissioners again met in Council, this time with the male adults of the Tribe. Clearly many discussions had gone on behind the scenes. Coeur d'Alene leader Pierre Wildshoe indicated he would not refuse to sell the land, and observed that about half of the reservation land was being disposed of.

The young Indians want to make the Coeur d'Alene River the line, and from Spokane bridge down to Rockford, giving the two big mountains. I tell you this to make your hearts good and the Indians' hearts good.

Simpson said he understood the following to be the proposed arrangement:

We understand you to mean on the west side--this side of the lake,

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<sup>421</sup> Shupe to Mitchell, August 31, 1889, Letters Received, Record Group 75, National Archives. [536]

Mitchell to Simpson, September 4, 1889, telegram, Letters Received, Record Group 75, National Archives. [537]

Mitchell to Commissioner, September 4, 1889, Letters Received, Record Group 75, National Archives. [538]

Simpson, Shoup and Humphrey to Commissioner, September 11, 1889, telegram, Letters Received, Record Group 75, National Archives. [539]

down to Rockford from Spokane bridge, and along the northern boundary. I want you to extend this line from the mouth of the Coeur d'Alene River due east to the boundary of the reservation. You can speak now among yourselves and understand the line, and if satisfactory I think we can make an arrangement.

Presumably the Coeur d'Alenes did speak among themselves. Pierre Wildshoe observed correctly that the Tribe had offered them somewhat more land, but "since you wish to make the line where you have proposed this last time it will give us a little more land." He also said that the Tribe wanted extra pay for the improvements of the two old men still living at the Old Mission, for the improvements of four men living near Spokane Bridge, for improvements on the Coeur d'Alene Rivers, and for a hay farm that was being operated by Coeur d'Alenes near Fort Sherman.<sup>422</sup> Simpson responded by providing the description of the entire parcel the government was buying and by commenting on the \$650,000.00 in total payment from both the 1887 and 1889 agreements, but noting that the Tribe must take care of people who had individual improvements.

The Coeur d'Alenes argued rather vehemently that the government said it did not want to buy Indian farms and that it should not be buying those farms, thus, logically, it should pay separately for these improvements. But the Commission was adamant. Seltice explained that he had been sick during the discussion the previous day (the Commission provided no record of that meeting) and he felt very bad about it because he had not been able to talk. Now he believed the negotiations were finished.

SALTISE: Five hundred thousand dollars is a little sum; the ground

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<sup>422</sup> George, Oswald. "Historical MSS." Library and Archives. Cheney-Cowles Museum, Spokane, Washington, 1968, pp. 1-6, also mentions a Coeur d'Alene village located where Ft. Sherman was constructed. [71]

is full of gold that is worth millions.

We are in a hurry to get through thrashing; can you come tomorrow...

On September 9, 1889, the agreement [see Appendix] was signed by Seltice, other leaders, and over one hundred Coeur d'Alene men, at least one of whom was known to speak English. After the agreement was signed the commissioners thanked the priest, Father Cornano, Stephen E. Liberty (United States interpreter), and the chiefs and headmen of the Tribe. Seltice, in turn, thanked the commission for their "detainment" [patience]. Seltice selected Peter Moctelme, Regis, Pierre Wildshoe, and Stephen Liberty to go to Washington as part of a Coeur d'Alene delegation. Liberty was one of the white men adopted by Seltice. Authorities later concluded that the four Whites and the members of their families should each receive per capita shares of the payment to the Coeur d'Alene Tribe for the ceded territory. The United States believed it had succeeded in obtaining, through this cession, access to large portion of Coeur d'Alene Lake, including that which was most valuable for navigation to the mines. The United States clearly wanted to obtain access to the complete steamer route from Coeur d'Alene City to the Old Mission. The official report to Congress also included the entire text of the official reports on the 1887 Agreement.<sup>423</sup>

The commissioners telegraphed the Indian Office on September 11, 1889, reporting that they had concluded a treaty with the Coeur d'Alenes, providing a description of the boundaries

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<sup>423</sup> United States. Congress. Senate. *A Letter of the Secretary of the Interior Relative to the Purchase of a Part of the Coeur d'Alene Reservation*. Ex. Doc. No. 14. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1889. [215]

and the cost to the government.<sup>424</sup> On the same day, the Coeur d'Alene Commission sent a letter to Indian Commissioner Morgan, which was also signed by "General" Andrew Seltice, Interpreter Steven Liberty, Agent Cole and three other Coeur d'Alene leaders, saying that an agreement had been reached. The commissioners said that they had pledged themselves to recommend that the Department send the Agent and the Head Chiefs of the Tribe to Washington along with their interpreter, "in order that they--the representatives of the Indians--might satisfy themselves as to the good faith of the Government in this matter." Former commissioners and the railroad had done this in the past, they said, and in view of the Tribe's efforts to become civilized, the commissioners recommend approving this request.<sup>425</sup>

Suggestions have been made that there was inadequate interpretation during these negotiations. Reichard published a Coeur d'Alene story in 1934 dealing with White encroachment on Coeur d'Alene land, and in which "the false coyotes are the interpreters who are blamed for misrepresenting the Indian's cause in the talks with Government officials."<sup>426</sup> Steven Liberty seems to have greatly benefited personally from his position as interpreter for the Tribe, but there is no evidence that he was in any collusive arrangement with authorities.<sup>427</sup> Father Joset spoke

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<sup>424</sup> Simpson, Shoup and Humphrey to Commissioner, September 11, 1889, telegram, Letters Received, Record Group 75, National Archives. [539]

<sup>425</sup> Simpson, *et. al.*, to Commissioner Morgan, September 11, 1889, Letters Received, Record Group 75, National Archives. [540]

<sup>426</sup> Reichard, Gladys A. "The Style of Coeur d'Alene Mythology." In *Verhandlungen Des XXIV. Internationalen Amerikanisten-Kongresses Hamburg*, edited by R. Grossmann and G. Antze, pp. 243-253. Hamburg: Friederichsen, De Gruyter & Co., 1934, p. 252. [149]

<sup>427</sup> Murray, Alberta. *These My Children*. Fairfield, Washington: Ye Galleon Press, 1976, p. 61.



Coeur d'Alene and many of the Coeur d'Alenes spoke English. The records of the meetings held with the commissioners suggest that negotiations were understood on both sides of the table. Certainly the United States pressured the Tribe to cede the lands, but did not force them to sell lands. Coeur d'Alene tribal leadership (especially Chief Seltice) was in close contact with the Jesuit priests, and certainly consulted with them on all important political matters. Likewise, Coeur d'Alene leaders consulted with other white confidants, like Steven Liberty. Priests and other Whites certainly had personal, religious, and professional agendas which colored their advice. Seltice, himself, may have been an imperfect leader. However, none of this suggests the Tribe had abandoned sovereign decision-making. On the contrary, the record suggests these contacts helped Seltice to achieve his people's own objectives—mainly to preserve the heart of their tribal homeland. The commissioners later praised Seltice's and the Coeur d'Alenes' business acumen, while at the same time saying they had made a bargain purchase.<sup>428</sup>

Within a week Frederick Post purportedly concluded a supplemental transaction with Chief Seltice, this one to the great benefit of Post. On September 16, 1889 an agreement was notarized in the office of the Kootenai County Recorder [see Appendix]. This purported agreement, in Post's handwriting, with an "x" mark representing Seltice' signature, said that Frederick Post had purchased what is now known as Post Falls from the Coeur d'Alene Tribe for a "valuable consideration" in 1871 and that this property should be deeded to him and exempted from the 1889

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<sup>428</sup> Dozier, Jack. "Coeur d'Alene Country: the Creation of the Coeur d'Alene Indian Reservation in North Idaho." *Idaho Yesterdays* (1962), p. 7. [63]

cession. No other parties signed this document. The document was submitted to authorities in Washington. Although the Post cession was not mentioned in the official reports on the 1887 and 1889 agreements, it was examined and declared valid by the Interior Department and Congress. It was later ratified and made law by Congress, along with the 1887 and 1889 agreements. There is no indication this was actually a tribal agreement, and Seltice later explained this action by saying Post had purchased rights to the property from his father for \$500.00.<sup>429</sup> Whether or not the agreement was a valid tribal agreement, its congressional ratification is important because it indicates that both the United States and Seltice were firmly aware of the value and importance of river channels for hydropower purposes.

The historical evidence shows that the main 1889 Agreement included a cession of the land surrounding the lake north of the line. It allowed the United States to gain access to the Lake and Coeur d'Alene River and allowed non-Indian navigation to the mines in the Silver Valley. However, in so doing, the record clearly shows representatives of the United States, including the Commissioner of Indian Affairs, the Senate, as well as the negotiation commission were interested in acquiring only those lands the Tribe was willing to sell. For its part, the Tribe was willing to sell some lands to allow for access to the Lake but made clear that it would retain all its original

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<sup>429</sup> Kowrach, Edward J., and Thomas E. Connolly (eds.) *Saga of the Coeur d'Alene Indians: An Account of Chief Joseph Seltice*. Fairfield, Washington: Ye Galleon Press, 1990, pp. 215, 233, 315-316, and 358. [101]

*The Statutes at Large of the United States of America, from December, 1889, to March 1891...*, Vol. XXVI, Washington, Government Printing Office, 1891, p. 1031 (26 Stat. 1031). [221]

rights in the portion not ceded and the Tribe required \$5 per acre for the lands sold. Ultimately the Commissioner of Indian Affairs reported to Congress that the United States had been able to obtain a portion of the reservation surrounding (“embracing”) Coeur d’Alene Lake.<sup>430</sup>

#### Ratification, 1890-1891

Late in 1889 the Secretary of the Interior formally reported on the 1889 “...purchase of a part of the Coeur d’Alene Reservation” in a letter to the Senate.<sup>431</sup> In January, 1890, Senator J. H. Mitchell transmitted a draft of a bill to ratify the agreements made with the Coeur d’Alenes.<sup>432</sup> Controversy over Post’s holdings on the Spokane River had continued, and the Indian Office referred the matter to the Senate Committee on Indian Affairs. The Senate Committee on Indian Affairs had reviewed the 1887 and 1889 Agreements and submitted draft legislation to the Secretary of Interior for review. The Secretary referred the draft to the Commissioner of Indian Affairs who responded to the Senate providing details on how the appropriations act should be worded, with instructions on funding the required grist/saw mill, the hiring and payment of a

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<sup>430</sup> United States. Department of the Interior. Commissioner of Indian Affairs. “Annual Report,” 1889. Washington, D. C.: Government Printing Office, pp. 21-22. [250]

Peltier, Jerome. *A Brief History of the Coeur d’Alene Indians, 1806-1909*. Fairfield, Washington: Ye Galleon Press, 1981, pp. 60-66. [132]

<sup>431</sup> United States. Congress. Senate. *A Letter of the Secretary of the Interior Relative to the Purchase of a Part of the Coeur d’Alene Reservation*. Ex. Doc. No. 14. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1889. [215]

<sup>432</sup> Mitchell to Indian Office (note to file), January 28, 1890, Letters Received, Record Group 75, National Archives. [541]

blacksmith, per capita payments to tribal members, the survey of the reservation, and the disposal of lands opened to settlement. The Commissioner determined that only one and not two mills would satisfy the agreement language. As evidence of the purported Seltice Agreement, the Indian Office provided Post's copy of said agreement and pointed out that Post had also begun developing the river channel for the purpose of water-power, as required under the agreement. The Indian Office said it hoped the Committee could make the purported Post Agreement a part of the legislation.<sup>433</sup>

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<sup>433</sup> Morgan to Cole, May 6, 1890, Letters Received, Colville Agency, RG 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [542]

Morgan to Cole, June 28, 1890, Letters Received, Colville Agency, RG 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [543]

United States. Congress. Senate. *Letter of the Secretary of the Interior Transmitting Correspondence in Relation to the Ratification and Confirmation of Certain Agreements Between the United States and the Coeur d'Alene Indians in Idaho Territory*. Misc. Doc. No. 95. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1890. [216]

United States. Congress. House. *Ratification of Coeur d'Alene Indian Treaties in Idaho*. Report No. 1109. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1890. [206]

United States. Congress. House. *Ratification of Coeur d'Alene Indian Treaties in Idaho*. Report No. 2988. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1890. [205]

Mitchell to Indian Office (note to file), January 28, 1890, Letters Received, Record Group 75, National Archives. [541]

Parker to Ingalls, March 16, 1890, Letters Received, Record Group 75, National Archives. [544]

Lee to President Harrison, May 9, 1890, Letters Received, Record Group 75, National

Pressure to actually open the northern portion of reservation land now increased dramatically as Whites realized the 1889 Agreement was now officially before Congress. Hundreds, if not thousands of miners and prospectors flooded into the northern portion of the reserve. Many more individuals queried officials about when they could legally enter the reservation. Some Spokanes were also becoming impatient about relocating on the Coeur d'Alene Reservation. And of course the Coeur d'Alenes, who had effectively already lost the use of the northern portion of the reservation, were impatient themselves to be paid for their ceded territory, both aboriginal and reservation.<sup>434</sup> Despite the pressures on Congress to ratify the two

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Archives. [545]

Lee, Eleanor to Commissioner of Indian Affairs, March 16, 1891, Letters Received, Record Group 75, National Archives. [546]

<sup>434</sup> Gildea to Cole, April 21, 1890, Letters Received, Record Group 75, National Archives. [547]

Notes to file, 1890, Letters Received, Record Group 75, National Archives. [548]

Conner to Commissioner of General Land Office, June 20, 1890, Letters Received, Record Group 75, National Archives. [549]

Conner to Commissioner of Indian Affairs, June 20, 1890, Letters Received, Record Group 75, National Archives.[550]

Thom to Secretary of the Interior, July 18, 1890, Letters Received, Record Group 75, National Archives. [551]

Thompson to Post Adjutant, August 22, 1890, Letters Received, Record Group 75, National Archives. [552]

Morgan to Cole, July 5, 1890, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [553]

Acting Commissioner to Cole, November 15, 1890, Letters Received, Colville Agency,

agreements, the Coeur d'Alenes were still uneasy about whether Congress would ratify the agreements. They entered into a contract (approved by the Indian Office) with their old associate John Mullan to lobby in Congress for ratification of the two agreements.<sup>435</sup>

In March, 1890, the House Committee on Indian Affairs joined the Senate in officially calling for ratification of the two agreements. The House report reprinted the resolution sent to the President in 1885, in which the Coeur d'Alenes stressed the fact that the negotiations were focused on a business agreement, and the report also said the 1889 Agreement was a good one, which included acquisition of important property for the United States, which included land providing access to Coeur d'Alene Lake.<sup>436</sup>

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Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [554]

Acting Commissioner to Cole, October 1, 1890, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [555]

<sup>435</sup> Secretary of the Interior John W. Noble to Commissioner of Indian Affairs, June 27, 1890, Letters Received, Record Group 75, National Archives. [556]

Belt to McCammon, May 10, 1890, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [557]

Mullan to Gildea, May 15, 1890, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [558]

Acting Commissioner to Cole, October 11, 1890, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [559]

Magnuson, Richard G. *Coeur d'Alene Diary; the First Ten Years of Hardrock Mining in North Idaho*, 1968, p. 79. [109]

<sup>436</sup> United States. Congress. House. *Ratification of Coeur d'Alene Indian Treaties in Idaho*.

On July 3, 1890, “An act to provide for the admission of the State of Idaho into the Union” became law and Idaho entered the Union.<sup>437</sup> The Idaho State Constitution had been written at a convention held in the summer of 1889<sup>438</sup> and was passed by the Idaho voters in November of 1889. The July 3, 1890 Act making Idaho a state included a section (Article XXI, Section 19) disclaiming ownership of Indian lands:<sup>439</sup>

And the people of the state of Idaho do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indians or Indian tribes; and until the title thereto shall have been extinguished by the United States, the same shall be subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States...

By late 1890, Indians and non-Indians in the region believed that the agreements would be ratified. It had become practically impossible to prevent settlers and prospectors from entering the reservation. “Boomers” had begun gathering in neighboring towns throughout the winter in

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Report No. 1109. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1890. [206]

<sup>437</sup> United States. Congress. *The Statutes at Large of the United States of America from December 1889, to March, 1891*, Washington, D. C.: Government Printing Office, 1891, pp. 215-219. [221]

<sup>438</sup> Hart, I. W. (ed) *Proceedings and Debates of the Constitutional Convention of Idaho, 1889*. Caldwell, Idaho: Caxton Printers, 1912.[687]

<sup>439</sup> Schwantes, Carlos A. *The Pacific Northwest: An Interpretive History*. Lincoln and London: University of Nebraska Press, 1989, pp. 212-215. [160]

Idaho State. *Idaho Code*. Charlottesville, Virginia: The Michie Company, 1993, Section 19, p. 415. [92]

anticipation of the land rush. Despite the fact that the Coeur d'Alenes favored the agreements and had even hired a lobbyist to ensure congressional ratification, some New England religious groups expressed opposition to the agreements because the Tribe would be losing some of its land base. Some land speculators in Spokane opposed ratification because of the purported special agreement with Frederick Post. But as winter passed, large numbers of settlers waited on the borders of the reservation for their opportunity to make entries on the newly opened territory. Early in 1891 Idaho citizens petitioned Congress to approve the Coeur d'Alene agreements and yet another measure was introduced to ratify both agreements.<sup>440</sup>

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<sup>440</sup> United States. Congress. *Congressional Record*. 51st Congress, 2nd Session, pp. 966, 1525. Washington, D. C.: Government Printing Office, 1891. [190]

Magnuson, Richard G. *Coeur d'Alene Diary; the First Ten Years of Hardrock Mining in North Idaho*, 1968, pp. 79-80, 95, 124-126. [109]

Acting Commissioner to Cole, December 24, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [560]

Acting Commissioner to Cole, August 28, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [561]

Acting Commissioner to Cole, August 6, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [562]

Acting Commissioner to Cole, May 27, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [563]

Acting Commissioner to Cole, June 8, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [564]

Acting Commissioner to Cole, March 28, 1891, Letters Received, Colville Agency, Record



Finally, on March 3, 1891, Congress ratified both the 1887 and the 1889 Agreements, including the Post amendment. A provision providing that ratification was included in the Indian Appropriations Act for the year.<sup>441</sup> “Boomers,” who had anticipated the Presidential signature, were waiting in large numbers to enter the reservation. Non-Indians were well-aware that the Indians were also receiving \$500,000.00 and they looked on the “money and the opening of the Reservation...as the first blessings of statehood.”<sup>442</sup> Troops had to evict boomers who trespassed on the reserve early, but in April, 1891, the reservation lands were opened and boomers quickly filed entries, large numbers of them having no intention of staying, but only selling their entries. In addition, some problems were encountered when Indians attempted to collect for improvements in the ceded lands.

The Indians endeavored to make some trouble with the new settlers,

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Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [565]

<sup>441</sup> United States. Congress. *The Statutes at Large of the United States of America from December 1889, to March, 1891*, Washington, D. C.: Government Printing Office, 1891, pp. 989-991, 1027-1032. [221]

United States. Department of the Interior. General Land Office. “Report of the Commissioner of the General Land-Office for the Fiscal Year Ended June 30, 1891,” 1891. Washington, D. C.: Government Printing Office, p. 352. Post lost no time in obtaining a survey of his holdings, a contract for which was let by July, 1891. [272]

United States. Department of the Interior. General Land Office. “Report of the Commissioner of the General Land-Office for the Fiscal Year Ending June 30, 1893,” 1893. Washington, D. C.: Government Printing Office, p. 333, reported that both the survey of the ceded lands and Post’s lands were completed by July, 1893. [274]

<sup>442</sup> Magnuson, Richard G. *Coeur d’Alene Diary; the First Ten Years of Hardrock Mining in North Idaho*, 1968, p. 124. [109]

but no serious difficulties were anticipated.

Indians tried to collect for improvements they had been forced to abandon, but eventually the settlers were allowed to refuse payment for those improvements. Indians set fire to grass along the river and made threats, but other than that no real trouble developed.<sup>443</sup>

The Commissioner of Indian Affairs instructed the Agent to complete a tribal census roll which would be used in order to make per capita payments to tribal members.<sup>444</sup> A small controversy developed when a Coeur d'Alene who did not live on the reservation (evidently having rejected Catholic conversion) was left off the census roll. He hired John Mullan to represent him and eventually Seltice and other tribal leaders allowed his name to be reinstated on the roll.<sup>445</sup> In

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<sup>443</sup> Magnuson, Richard G. *Coeur d'Alene Diary; the First Ten Years of Hardrock Mining in North Idaho*, 1968, pp. 130-131.[109]

United States. Department of the Interior. General Land Office. "Report of the Commissioner of the General Land-Office for the Year 1892," 1892. Washington, D. C.: Government Printing Office, p. 188. [273]

<sup>444</sup> Acting Commissioner to Cole, March 17, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [566]

Morgan to Cole, June 26, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [567]

Morgan to Cole, June 30, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [568]

<sup>445</sup> Commissioner Morgan to Secretary of the Interior, November 4, 1891, Letters Received, Record Group 75, National Archives. [569]

Cole to Commissioner, October 24, 1891, enclosing certificate approving the census roll, Letters Received, Record Group 75, National Archives. [570]

Seltice *et. al.*, October 21, 1891, Letters Received, Record Group 75, National Archives.

April, 1892, four hundred twenty-six members of the Tribe reportedly received about \$1,137.00 each.

In late April, the Coeur d'Alene Indians flocked to the surrounding area to cash the checks they received from Uncle Sam for their land. They averaged about \$1,200 each and totalled about \$600,000. Money was flowing like water near the reservation.

Many inquiries about these per capita payments came into the Indian Office prior to the day the money was distributed.<sup>446</sup>

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Mullan to Indian Office, October 6, 1891, with enclosures, Letters Received, Record Group 75, National Archives. [572]

Commissioner to Quin a mo sey, August 27, 1891, Letters Received, Record Group 75, National Archives. [573]

Morgan to Cole, October 10, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [574]

Morgan to Cole, November 7, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [575]

Acting Commissioner to Cole, December 14, 1891, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives.[576]

<sup>446</sup> Wells to Secretary of the Interior, June 17, 1891, Letters Received, Record Group 75, National Archives. [577]

Morgan to Cole, February 9, 1892, Letters Received, Record Group 75, National Archives. [578]

## VI Attempts to Erode Tribal Lands, 1892-1915

### The Harrison Townsite Cession, 1892-1894

As 1891 came to a close the Coeur d'Alenes believed they had finally secured permanent title to a reservation which would be their homeland "forever." Forty years earlier they had held 4,000,000 acres. Now their reservation totaled 345,000 acres. To the east of the reservation, in the Coeur d'Alene mining district, there were 7,306 mining claims by 1891 and \$15,000,000.00 in ore had already been taken out of the ground. Fish, however, were dying in the Coeur d'Alene River and the forests were being cut over as a result of the mining district. By 1891 transportation problems had been solved and the mining industry boomed.<sup>447</sup>

The railroads and the mines used huge amounts of lumber and timber companies and lumbermen thrived in the area, constantly looking for new sources of lumber. It quickly became clear that the point of land just south of the mouth of the Coeur d'Alene River would make an excellent location for a town, with opportunities for lumber and transportation and access to the railroad, river and lake.<sup>448</sup> However, the reservation line now ran to the mouth of the Coeur d'Alene River and this point of land was inside the reservation boundaries. The point, which was

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<sup>447</sup> Jones, Fred O. "A Valuation Study of the Mineral Resources of the Lands Ceded by the Coeur d'Alene Tribe of Indians on March 3, 1891." Expert Testimony submitted in behalf of the Coeur d'Alene Tribe, *Coeur d'Alene Tribe v. United States of America*, Indian Claims Commission, Docket 81. Spokane, Washington, May, 1956, p. 184. [95]

Wood, John V. *Railroads Through the Coeur d'Alenes*. Caldwell, Idaho: The Caxton Printers, Ltd., 1984, pp. 27-41. [290]

<sup>448</sup> Peacock, Eldred G. "Early Idaho Panhandle Doctor Reached Patients on Horseback, Boats and Rails, *The Pacific Northwestern*, Vol. 23, No. 1 (Winter, 1979), pp. 1-15. [650]

to become the site of the white town of Harrison, was also the location of a traditional fishing village of the Coeur d'Alene.<sup>449</sup>

Before the settlement of Harrison by the white men, it was a popular fishing and camping spot for the Coeur d'Alene Indians. Several large springs on the hillside provided cold, clear water and willows grew abundantly.

In 1891, shortly after ratification of the Coeur d'Alene agreements, a white man requested permission from the Coeur d'Alene to establish a temporary fishing camp at the location. The temporary fishing camp grew into a town almost overnight. Clearly, the first settlers on this land knew that the location was on reservation land, though they later argued otherwise.

A. A. Crane, a prominent citizen in the new town wrote to President Benjamin Harrison on September 4, 1891, claiming that the 1889 Commission had told Whites they could settle on this point of land. Crane, enclosing a map with his letter to the President, implied that Coeur d'Alene City (an alternate port location) was involved in the appointment of a surveyor who surveyed the line in a manner to intentionally leave Harrison in the reserve. President Harrison referred the letter to the Secretary of the Interior, who, in turn referred it to the Commissioner of Indian Affairs.<sup>450</sup>

The First Assistant Secretary of the Interior investigated the matter of the Harrison claim

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<sup>449</sup> De Luca-Waide, Delores. *Historical Essays of the Harrison Area*. Harrison, Idaho: privately printed, n.d., p. 78. [54]

<sup>450</sup> A. A. Crane for the People of Harrison to President Harrison, September 4, 1891, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. The local historical society in Harrison is named for Crane. [583]

Secretary to Commissioner, Sept. 21, 1891, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [584]

and reported the survey was correct and that Crane's claims were baseless.<sup>451</sup>

Despite the Assistant Secretary's determination, the Commissioner of Indian Affairs instructed Agent Hal J. Cole to travel to the reservation and the Harrison townsite and determine if the settlement was made knowing it was inside the reservation and to provide a report on the inhabitants of the town and their activities.<sup>452</sup> Thus began the full investigation of the history of the townsite. Voluminous correspondence was produced during the next three years on the subject and many reports were filed. By late 1891, the population of the town was reported at one hundred twenty-five.<sup>453</sup>

Early in 1892 more support for the claims of the Harrison settlers reached government officials, coming from those who would benefit with the legal establishment of the town.<sup>454</sup> This time there was quick action on the part of Congress. In March, the Secretary of the Interior

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<sup>451</sup> First Assistant Secretary to Secretary, September 18, 1891, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. Emphasis in original. [585]

<sup>452</sup> Morgan to Cole, October 15, 1891, Letters Received, Colville Agency, RG 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [586]

<sup>453</sup> Cole to Commissioner, October 9, 1891, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [587]

Note to File, Cole, November, 12, 1891, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [588]

Cole to Commissioner, November 12, 1891, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [589]

<sup>454</sup> Latham to Secretary of the Interior, February 26, 1892, Letters Received, Record Group 75, National Archives. [590]

instructed the Commissioner to delay any eviction of the Harrison settlers, because the next Indian Appropriation Act would contain a provision to negotiate with the Tribe for cession of the lands in question.<sup>455</sup> In May Agent Cole reported that he was confident he could obtain a signed agreement with the Coeur d'Alenes saying the line should have run south of the town, and that they wanted the matter settled.<sup>456</sup>

When the Indian Appropriation Act of July 13, 1892 was passed, it provided authority for the United States to negotiate with the Coeur d'Alene Tribe to obtain 320 acres of land for the Harrison townsite. The Coeur d'Alenes were to receive \$5.00 an acre for the acreage which was described in the act as follows:<sup>457</sup>

...commencing at a point on the boundary line between the reservation and the ceded lands on the east bank where it crosses the Coeur d'Alene River, and running thence east on said boundary line one-half mile, thence south at right angles to said boundary line one-half mile, thence west at right angles to said south line to the east shore of the Coeur d'Alene Lake, thence north with the shore of said

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<sup>455</sup> Secretary of the Interior to Commissioner, March 18, 1892, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [596]

Secretary to Commissioner, March 19, 1892, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [591]

<sup>456</sup> Cole to Commissioner, May 7, 1892, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [592]

<sup>457</sup> Secretary to Commissioner, July 26, 1892, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [593]

Morgan to Cole, July 30, 1892, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [594]

lake to the place of beginning...

Unbeknownst to the authorities, these boundaries did not include the townsite of Harrison. Nevertheless, the Secretary informed the Commissioner of the provision in the act and the Commissioner instructed the Agent to seek consent from the Tribe, making sure that they understood the purpose of the cession.

A businessman from Harrison named D. H. Budlong wrote to Agent Cole on August 26, 1892, pointing out that the metes and bounds in the Appropriation Act provided for 160 acres of area which was largely inside Coeur d'Alene Lake.<sup>458</sup> Agent Cole received the letter in De Smet and promptly traveled to Harrison. He said the language of the Appropriations Act improperly described that area needed, "half of it is situated in Lake Coeur d'Alene, the remaining portion covers a low marsh thickly covered with swamp grass and an abundance of drift wood." He said that in high water each year the entire area would be covered with water. Thus, he decided not to try and get the Indians to cede this area, as any such agreement would just have to be undone later.<sup>459</sup> The Commissioner agreed and suggested that a survey establish exactly what lands should be included in the Harrison townsite proposed cession.<sup>460</sup>

It was mid-1893 before funds were again made available again (in the Appropriation Act

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<sup>458</sup> Budlong to Cole, August 26, 1892, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. He also asks for some construction funds to support his business. [595]

<sup>459</sup> Cole to Commissioner, September 24, 1892, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [597]

<sup>460</sup> Commissioner to Secretary, December 15, 1892, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [598]



for Fulfilling Treaty Obligations with Indians) to negotiate with the Coeur d'Alene for the cession of the Harrison townsite. The Commissioner appointed Thomas P. Smith, Special Indian Agent, and new Colville Agent, Captain John W. Bubb, to negotiate with the Coeur d'Alenes. Smith was told of the earlier mistakes and provided with instructions for carrying out the needed negotiations with the Coeur d'Alene to obtain the Harrison townsite cession. He was directed to go to Coeur d'Alene and complete the necessary negotiations. Smith was to carefully explain the proposition and make a full report, but there was no provision to pay the Indians, as the Senators from Idaho had said that the Indians didn't expect payment for the three or four hundred acres. The Colville Agent, John W. Bubb, was to accompany Smith to carry out the negotiations.<sup>461</sup>

Their trip to Coeur d'Alene in October, 1893, proved to be a complete fiasco. Montgomery Hartman replaced Smith as Special Agent, and traveled with Bubb to De Smet. The pair were not properly prepared and evidently did not win the respect of Chief Seltice and the Coeur d'Alene.

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<sup>461</sup> Commissioner to Smith, July 20, 1893, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [599]

Commissioner to Smith, August 11, 1893, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [601]

Commissioner to Bubb, August 11, 1893, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [600]

Secretary to Commissioner, July 21, 1893, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [602]

Notes to File, July 14, 1893, Letters Received, Record Group 75, National Archives. [603]

Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*, 3 vols. Washington, D. C.: Government Printing Office, 1913, Vol. III, p. 616 (27 Stat. 616). [99]

Bubb opened the discussion with the Coeur d'Alene by stating that Washington had been very liberal with the Coeur d'Alenes and that the Tribe should cede the land in question. Seltice responded that Washington had not consulted properly with him, implied that Bubb and Hartman were not high enough officials to meet on the subject, and indicated if the United States wanted the land it would have to pay for it. Bubb said it wouldn't be much land and the settlers had settled there honestly. Seltice responded:

We know about this Harrison Town all of us, there was a fellow come here and he asked permission to go there and fish for two months. He said he would build a little house there and that was the start of Harrison.

Bubb and Hartman claimed that the settlers were within their rights and the Indians had told Cole the Whites could have the land. But Seltice responded, "I told him we would not have anything more to do with it, us people, you whites and us indians." Peter Moctelme added:

The man that first built on the Harrison Town, he ain't there at all now, he has sold the things he had there and left, and then the fellow that bought him out--as soon as he found out it was on reservation, he sold out and left, that is the way they have been doing right along.

Bubb asked if the Indians had told Cole he could have more land and they all answered no. They said further that they would not consent to any cession without payment. The Coeur d'Alene leaders said Washington had promised to take care of trespassers, so they had not worried. The Indians were obviously perturbed and indignant and losing their patience, as indicated when Peter Wildshoe said the white people "can move off," but the Coeur d'Alenes did say that if Washington would write formally and ask for what it wants, they would consider it. Finally Seltice said he would cede a strip of land one mile wide. The description of the one mile wide strip came from Seltice, who said they would give it without compensation. In his report, Bubb indicated that

Seltice believed that he should have been asked by letter from Washington, not by lowly agents.

Seltice had made an offer. However, overnight the Coeur d'Alenes talked among themselves and it became apparent that the other tribal leaders did not agree with him. When they returned the following morning, Seltice said that after all the people had been consulted, they had determined that they would not give the townsite up without payment. All the other Coeur d'Alenes wanted payment. Bubb said if they had known the Indians would change their minds they wouldn't have waited to meet with them overnight, and continued that he believed other parties (Whites) were influencing the Tribe. The two sides met again in two days and the Tribe told the officials that they wanted \$25 an acre for the townsite and \$5 an acre for the remaining acreage in the one mile strip. Bubb was outraged and said that would be \$70,400.00 and that Washington would be very unhappy to hear how the Coeur d'Alenes had acted. He then gave a long speech suggesting that some white people were a bad influence on the Coeur d'Alenes, to which Seltice said, "if you don't want to make papers according to our plan, we will not give that strip." Seltice said that the white people were bothersome and that the matter should be turned back over to Washington, and closed the council. Bubb concluded his report saying he realized the Indians did not believe he and Hartman were fully vested in the necessary power.<sup>462</sup>

Seltice and the Coeur d'Alenes were not confident that Bubb would correctly report the results of their councils, so they wrote to the Commissioner themselves. Seltice, the Head Chiefs, and nearly fifty others signed a letter to the Commissioner in early November describing the

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<sup>462</sup> Bubb and Hartman to Commissioner, October 28, 1893, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [604]

meeting with Bubb. They very much objected to Bubb not giving them a copy of his letter of instructions, so that they would know what Washington wanted, and that he would not describe accurately how long the strip of land to be ceded would be. They believed that Washington should also send them a copy of the instructions, that they might negotiate on a more equal footing. They complained that Bubb did not want to pay for ceded lands and pointed out that "According to the last treaty with us, there was to be a stone wall built around our Reservation." They further alleged that Bubb was rude, and did not keep the appointments that were made. They reiterated the price they had asked, and said it was in Washington's hands, and they did not want to meet with Bubb and Hartman again. "All of us...are amazed and surprised, to have been treated in the way that Capt. Bubb has treated us here. We never have been treated so before by any agent of our Great Father in Washington and we send this letter to explain our position."<sup>463</sup>

Bubb told the Commissioner that there was still a chance of gaining the cession if Seltice and the other leaders were properly consulted. He said that he knew he did not have the Indians' confidence, and blamed the situation on the prior agents, who he claimed had animosity towards him because of their removal from office, and because of the Catholics, who also didn't like him.<sup>464</sup> On December 18, 1893, Seltice, four other Chiefs, and twenty-four other Head Men petitioned the

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<sup>463</sup> Seltice *et. al.* to Commissioner of Indian Affairs, November, 1893, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [605]

<sup>464</sup> Bubb to Commissioner, November 3, 1893, enclosing his drafted, but unsigned cession agreement, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [606]

Commissioner to appoint Major Sidney D. Waters and George F. Steele as agents to negotiate with the Tribe for the Harrison townsite, saying they were friends, and that if they were appointed the Tribe would deal justly with them and with the people of Harrison.<sup>465</sup> Before the Commissioner received the petition, however, he had already appointed John Lane as Special Agent to negotiate the new cession, giving him instructions to proceed to the reservation, with or without Captain Bubb.<sup>466</sup>

Despite the 1893 national economic depression,<sup>467</sup> the attraction to the Harrison townsite had increased rather than decreased, and the settlers were confident their title would prevail, for the country was rich.<sup>468</sup>

The mountains bordering the St. Joe were thick with huckleberry brush--big patches standing horse-high. The Indians came up the river each summer on huckleberrying trips. Indians, incidentally, rode the boats free (since the reservation stretched for miles along the river), and it was not unusual for one of the big steamboats, chugging up the St. Joe, to stop and lower its gangplank to let an

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<sup>465</sup> Seltice *et. al.*, to Commissioner, December 18, 1893, "Harrison Townsite on Coeur d'Alene Reservation," Special Case No. 200, Record Group 75, National Archives. [607]

<sup>466</sup> Secretary to Commissioner, December 15, 1893, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [608]

Browning to Lane, December 21, 1893, with enclosure, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [609]

<sup>467</sup> Wood, John V. *Railroads Through the Coeur d'Alenes*. Caldwell, Idaho: The Caxton Printers, Ltd., 1984, p. 41. [290]

<sup>468</sup> Hult, Ruby El. *Steamboats in the Timber*. Caldwell, Idaho: The Caxton Printers, Ltd., 1953, p. 73. [88]

Indian ride his cayuse up onto the boat deck.

And the economic potential of the Harrison area was also great.<sup>469</sup>

In 1893 the Coeur d'Alene *Press* said wistfully, "Mill men, why don't you come and take a look over this country? You are letting a good opportunity slip through your fingers. There are millions and millions of feet of timber in close proximity to this place, and this is a most advantageous location for a good mill."

At last the millmen came, and when they did, logging history was made in the St. Joe Valley.

There were 15 billion feet of merchantable timber on the Coeur d'Alene, St. Joe and St. Maries Rivers and in the St. Maries Valley was said to be the "*largest single stand of white pine in the world.*" The Harrison townsite was seen as the mill site and shipping site for much of this lumber.

Agent Lane's negotiation instructions provided a history of the reservation. The Commissioner described all that had transpired up to this point. The Commissioner reported on the 1867 and 1873 Executive Orders, as well as the 1887 and the 1889 Agreements and said that when the reservation was reserved subject to the 1889 Agreement, the line was drawn just as it was described in the 1889 Agreement, following the exact language or wording of article 1 of said agreement.<sup>470</sup>

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<sup>469</sup> Hult, Ruby El. *Steamboats in the Timber*. Caldwell, Idaho: The Caxton Printers, Ltd., 1953, p. 79.[88] Italics in original.

<sup>470</sup> United States. House. *Agreement with Coeur d'Alene Indians*. Ex. Doc. No. 158. 53d Congress, 2nd Session. Washington, D. C.: Government Printing Office, 1894, pp. 3-9. [207]

Browning to Lane, December 21, 1893, Letters Received, Colville Agency, Record Group 75, National Archives. [609]

In his report, Commissioner Browning went on to point out that, between the time of the ratification of the agreement (March 3, 1891) and the first survey of the new line (July, 1891) a number of white men moved into and settled the lands near the present-day town of Harrison. Browning detailed all that had happened regarding the Harrison townsite up to that point in time.<sup>471</sup>

Lane acknowledged receiving his instructions and started for Coeur d'Alene, saying, "my experience has taught me that Indians look with suspicion upon their Agent trying to negotiate a sale of a portion of their reservation, and with this fact before me," but in light of Browning's instructions, said "I am present of the opinion it would be better for me to do without the cooperation of Capt. Bubb."<sup>472</sup> Lane arrived at De Smet on February 2, 1894, and immediately met with Seltice, Moctelme and Wildshoe. A council was arranged for the 6th day after Ash Wednesday, which would mean that most tribal members would be at De Smet for the church services. Father Ward from the mission agreed to take shorthand minutes of the meeting. A Coeur d'Alene, Paul Polotkin, was chosen as interpreter, and Lane reported that the Coeur d'Alenes agreed to have both of these men act in that capacity.

At the Council the Coeur d'Alenes again refused to cede the strip of land without compensation, despite Lane's attempt to convince them that it was their "duty." The meeting

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<sup>471</sup> United States. House. *Agreement with Coeur d'Alene Indians*. Ex. Doc. No. 158. 53d Congress, 2nd Session. Washington, D. C.: Government Printing Office, 1894, pp. 3-9. [207]

Browning to Lane, December 21, 1893, Letters Received, Colville Agency, Record Group 75, National Archives. [609]

<sup>472</sup> Lane to Commissioner, January 1, 1894, "Harrison Townsite on Coeur d'Alene Reservation," February 2, 1894, Special Case No. 200, Record Group 75, National Archives. [610]

adjourned and the Indians talked among themselves. When they met again the following morning, the Tribe's leaders offered to sell a strip of their reservation one mile wide for \$15,000.00 (see Map 16). Lane concluded that it was best to accept this offer. The matter had been a high profile issue as a result of articles in the Spokane papers. The Whites in the area were very excited about the outcome of the negotiations. Lane understood there were 141 male adult Indians on the reservation, of whom 112 signed the agreement.

In his report Lane provided a transcript of the proceedings, from the notes taken by the priest. Lane reported the statement of Wildshoe during those proceedings.<sup>473</sup>

The white people settled not only at Harrison, but also on our land above Harrison, and we Indians all know that. We have known this for a long time, but we felt sure that Washington would soon see about it. Where Harrison now stands was the place where the Indians used to fish. But we will let it go. We have come to this conclusion: that we will let them have one mile across the boundary of the Reservation. We Indians, all of us, cannot let our land go for nothing....We will let that piece of land go for fifteen-thousand Dollars.

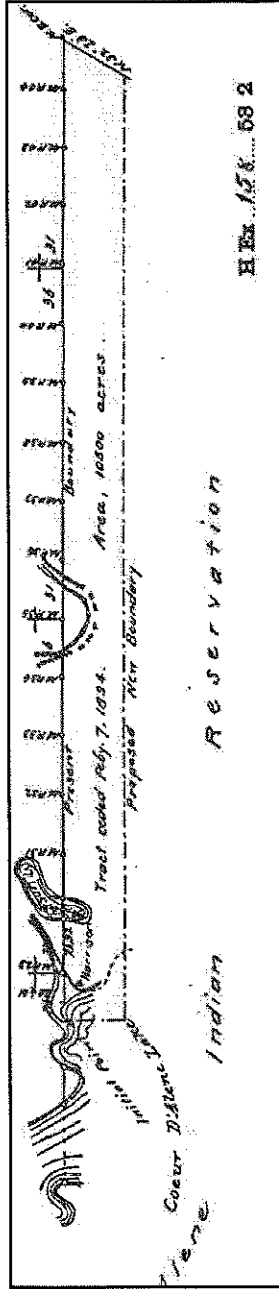
Lane reported that he had immediately accepted the offer and said he would have the papers drawn up, and again praised the Tribe's general good character. Polatkin, the interpreter, stated on the agreement that it was accurate and had been translated correctly (see Appendix).

It is clear the United States recognized the sovereign rights of the Tribe in the agreement, and that the Tribe's fishing rights were discussed and taken into consideration. The report also

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<sup>473</sup> Transcript of proceedings, February 6, 1894, De Smet, Idaho, Special Case No. 200, Record Group 75, National Archives. [611]





Map 16: 1894 cession line. [207]

included draft legislation providing for adequate funds to carry out the agreement. The Secretary of the Interior forwarded the report to Congress, recommending ratification of the agreement (see Appendix).<sup>474</sup> That legislation was approved by Congress later in the year and signed by the President.<sup>475</sup> The new reservation boundary line was formally surveyed in 1901 by Harold A. Rands.<sup>476</sup>

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<sup>474</sup> Transcript of proceedings, February 6, 1894, De Smet, Idaho, Special Case No. 200, Record Group 75, National Archives. [611]

Lane to Commissioner, February 10, 1894, "Harrison Townsite on Coeur d'Alene Reservation," Special Case No. 200, Record Group 75, National Archives. [612]

"Agreement concluded on the 7th day of February, 1894 between John Lane, Special United States Indian Agent, on the part of the United States, and the Indians of the Coeur d'Alene Reservation in the State of Idaho," Special Case No. 200, Record Group 75, National Archives. [613]

United States. House. *Agreement with Coeur d'Alene Indians*. Ex. Doc. No. 158. 53d Congress, 2nd Session. Washington, D. C.: Government Printing Office, 1894. [207]

Lane to Commissioner, February 12, 1894, telegram, Special Case No. 200, Record Group 75, National Archives. [614]

Royce, Charles C. "Indian Land Cessions in the United States." In *Eighteenth Annual Report of the Bureau of American Ethnology*, Washington, D. C.: Government Printing Office, 1899, pp. 942-949, Plate CXXIII. [151]

<sup>475</sup> United States. Congress. *The Statutes at Large of the United States of America from August, 1893, to March 1895*. Washington, D. C.: Government Printing Office, 1895, pp. 322-323. (28 Stat. 322.) [223]

<sup>476</sup> Rands, Harold A. "Township No. 47 North, Range No. 4 West of the Boise Meridian, Idaho" (Map). Surveyor General's Office, Boise, July 22, 1901. [140]

Rands, Harold A. "Township No. 47 North, Range No. 4 West of the Boise Meridian, Idaho" (survey notes). Surveyor General's Office, Boise, July 22, 1901, copies from archives of

Within ten years of its establishment, the mill town of Harrison had a population of 1,000, with nine sawmills cutting half a million board feet of lumber a day. Logs and other supplies were fed to the mines in Kellogg and Wallace from Harrison by rail.<sup>477</sup>

#### Allotment, 1895-1910

Between 1895 and 1900 Seltice and the Coeur d'Alene struggled with the Bureau of Indian Affairs to see that the payments promised in the 1887 and 1889 agreements reached them. Eventually they did receive all payments that were due them. The per capita payments for the 1889 Agreement, amounting to \$500,000.00 were made in 1892.<sup>478</sup> The per capita payments due the

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General Land Office, Bureau of Land Management, Boise, Idaho. [141]

Gradon, Kerman D. and Harold A. Rands. "Coeur d'Alene Indian Reservation. Township No. 47 North, Range No. 4 West of the Boise Meridian, Idaho" (Map). Surveyor General's Office, Boise, August 17, 1907.[75]

Hilder, Frazer C. "Map of the Coeur d'Alene Indian Reservation, Idaho." Office of Indian Affairs, Department of the Interior: Washington, D. C., ca. 1910. [70]

White, C. Albert. *A History of the Rectangular Survey System*. Bureau of Land Management: Washington, D. C., 1983, especially pp. 119, 508, and 595-681. True lines were only surveyed on navigable waters when they represented township, meridian, or boundary lines. [284]

<sup>477</sup> Russell, Lloyd, and Dorothy Clanton. *Harrison Mills*. Harrison, Idaho: privately printed, 1990. [154]

<sup>478</sup>Wells to Secretary of the Interior, June 17, 1891, Letters Received, Record Group 75, National Archives. [577]

Morgan to Cole, February 9, 1892, Letters Received, Record Group 75, National Archives. [578]

Tribe from the 1887 agreement were to be paid in installments over a period of fifteen years. During ensuing years there were many complaints from the Tribe that the United States had not made the payments and thus had failed to complete the agreement.<sup>479</sup> Complaints by the Tribe that the United States had not fulfilled its obligations continued into the 20th century. During the valuation phase of the Coeur d'Alenes' claim against the United States before the Indian Claims Commission (Docket 81), however, the General Accounting Office filed a report with the Attorney General of the United States saying it had accounted for the full \$150,000.00 in payments to the Tribe.<sup>480</sup>

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<sup>479</sup> Seltice *et. al.* to Commissioner of Indian Affairs, May 14, 1894, Letters Received, Record Group 75, National Archives. [615]

Seltice *et. al.* to President Cleveland, May 14, 1894, Letters Received, Record Group 75, National Archives. [616]

Bubb to Commissioner, June 14, 1894, Letters Received, Record Group 75, National Archives. [617]

Bubb to Commissioner, August 23, 1894, Letters Received, Record Group 75, National Archives. [618]

Seltice *et. al.* to Commissioner, June 11, 1894, Letters Received, Record Group 75, National Archives. [619]

Bubb to Commissioner, July 27, 1895, with enclosure, Letters Received, Record Group 75, National Archives. [620]

Smith to Newman, April 19, 1897, Letters Received, Record Group 75, National Archives. [621]

<sup>480</sup> United States. General Accounting Office. "Report Re: Petition of the Coeur d'Alene Tribe of Indians, Indian Claims Commission, No. 81," n. d., Records of the Indian Claims Commission, Record Group 279, National Archives. [661]

Trespass continued on the Coeur d'Alene Reservation, and the Tribe continued to have problems with the Whites adopted by Seltice. Troops were eventually called in to evict the family and relatives of one man.<sup>481</sup> But in general, by the turn of the century, reports on the Coeur d'Alene described a prosperous and thriving community, with large, productive farms, nice houses and good schools.<sup>482</sup>

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Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*, Vol. 3, Washington, D. C.: Government Printing Office, 1913, p. 190 (34 Stats. 335; see also, for instance, 27 Stat. 616 and 33 Stat. 196). [99]

<sup>481</sup> Secretary of War to Secretary of the Interior, June 26, 1899, telegram, with attachments, Letters Received, Record Group 75, National Archives. [622]

Anderson to Commissioner, November 16, 1899, with enclosure, Letters Received, Record Group 75, National Archives. [623]

Anderson to Commissioner, December 17, 1898, Letters Received, Record Group 75, National Archives. [624]

<sup>482</sup> United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1892, Washington, D. C.: Government Printing Office. [253]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1893, Washington, D. C.: Government Printing Office. [254]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1894, Washington, D. C.: Government Printing Office. [255]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1895, Washington, D. C.: Government Printing Office. [256]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1896, Washington, D. C.: Government Printing Office. [257]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1897, Washington, D. C.: Government Printing Office. [258]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual

Logging and other interests continued to affect the reservation. In 1902 the St. Joe Boom Company applied for permission to construct a logging boom in the southern portion of Coeur d'Alene Lake and on the St. Joe River and an agreement was eventually reached under which the company made a \$500.00 annual rental payment for their use of the lake on the reservation.<sup>483</sup>

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Report," 1898, Washington, D. C.: Government Printing Office. [259]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1899, Washington, D. C.: Government Printing Office. [260]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1900, Washington, D. C.: Government Printing Office. [261]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1901, Washington, D. C.: Government Printing Office. [262]

United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report," 1902, Washington, D. C.: Government Printing Office. [263]

<sup>483</sup> Curtis, William. Curtis to Commissioner of Indian Affairs, April 7, 1902, Letters Received, Record Group 75, National Archives. [625]

Tonner to Colville, October 2, 1902. Letters Received from the Commissioner of Indian Affairs, Colville Agency, RG 75, Box 14, Pacific Northwest Regional Repository, National Archives. [626]

Tonner to Anderson, from August 8, 1902. Letters Received from the Commissioner of Indian Affairs, Colville Agency, Pacific Northwest Regional Repository, RG 75, Box 18A, National Archives. [627]

Anderson to the Secretary, St. Joe Boom Co., May 28, 1903, Letters Received from the Commissioner of Indian Affairs, Colville Agency, Pacific Northwest Regional Repository, RG 75, Box 18A, National Archives. [628]

Anderson to the St. Joe Boom Co., June 4, 1903, Letters Received from the Commissioner of Indian Affairs, Colville Agency, Pacific Northwest Regional Repository, RG 75, Box 18A, National Archives. [629]

Another railroad company paid for a right-of-way through the reservation early in the century.<sup>484</sup>

With the deaths of Father Joset in 1900 and Chief Seltice in 1902,<sup>485</sup> the Coeur d'Alene entered a new era in the twentieth century. Although the Coeur d'Alenes had long expressed a nearly universal opposition to the entire allotment policy and process,<sup>486</sup> during the first decade of the century, against their wishes, the Tribe was allotted and lost virtually all of the land that was left to them after the 1889 Agreement. Soon after Seltice's death, the Commissioner indicated that the Bureau of Indian Affairs was interested in allotting the Coeur d'Alenes, no doubt encouraged by the recent *Lone Wolf* decision that confirmed the United States' right to allot tribes without the tribes' permission.<sup>487</sup> The office worked behind the scenes, and then in 1904 Congress appropriated funds to carry out a survey and subdivide the Coeur d'Alene Indian Reservation in order to allot the Tribe.<sup>488</sup> The funds became available in 1905 and the survey to subdivide the

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<sup>484</sup> Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*, Vol. 3, Washington, D. C.: Government Printing Office, 1913, p. 326. (35 Stat. 78) [99]

<sup>485</sup> Burns, Robert Ignatius. "Pere Joset's Account of the Indian War of 1858." *The Pacific Northwest Quarterly* Vol. 38 (1947): p. 286. [27]

Kowrach, Edward J., and Thomas E. Connolly (eds.) *Saga of the Coeur d'Alene Indians: An Account of Chief Joseph Seltice*. Fairfield, Washington: Ye Galleon Press, 1990, p. 321. [101]

<sup>486</sup> Dorchester, Daniel. "De Smet Ind. Bd. & School," 1890, Letters Received, Record Group 75, National Archives. [630]

<sup>487</sup> Debo, Angie. *A History of the Indians of the United States*. Norman, Oklahoma: University of Oklahoma Press, 1970, pp. 301-302. [53]

<sup>488</sup> Jones to Anderson, December 5, 1903, Letters Received from the Commissioner of Indian Affairs, Colville Agency, Pacific Northwest Regional Repository, RG 75, Box 18A, National Archives. [631]

reservation began. The Coeur d'Alene were appalled. Their leadership had voted unanimously against allotment, and looked upon the allotment process as "nothing short of open thievery."<sup>489</sup>

The surveyors were greeted with hostility.<sup>490</sup>

William B. Sams soon appeared on the reservation in his capacity as Special Allotting Agent responsible for surveying the reservation and marking out the individual allotments. He was hardly welcomed. Some Indians refused to allow Sam's surveyors onto their lands, and under the cover of darkness someone pulled up a number of surveying stakes so that much work had to be done over. But Sams persevered. To the complaints of Moctelme and others, he had a ready answer: I am merely doing a job and following the law; if you want information consult the government.

Peter Moctelme, one of the Sub-Chiefs, who would soon become Head Chief, and who had begun to rise to prominence since Seltice's death, called a general meeting.<sup>491</sup> From the records of this meeting it is clear the Coeur d'Alene firmly believed that the United States had promised never to take any of their lands, "that the reservation was never even to be surveyed, or sold without our consent."

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Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*, 3 vols. Washington, D. C.: Government Printing Office, 19; Vol. III, p. 56. [99] (33 Stat. 211)

<sup>489</sup> Cotroneo, Ross R. and Jack Dozier. "A Time of Disintegration: the Coeur d'Alene and the Dawes Act." *Western Historical Quarterly* Vol. V, No. 4 (October 1974): pp. 409-410. [42]

Cox, Thomas R. "Tribal Leadership in Transition: Chief Peter Moctelme of the Coeur d'Alenes." *Idaho Yesterdays* Vol. 23, No. 1 (Spring 1979): p. 7. [47]

<sup>490</sup> Cox, Thomas R. "Tribal Leadership in Transition: Chief Peter Moctelme of the Coeur d'Alenes." *Idaho Yesterdays* Vol. 23, No. 1 (Spring 1979): p. 8. [47]

<sup>491</sup> Coeur d'Alene Indians, Petition, February 12, 1902, Letters Received, Record Group 75, National Archives. [632]



They [the United States] broke their promises and bought the northern part of our Reservation when valuable and rich gold mines were discovered there, and this against our will. The Indian did not want to sell. They were almost forced to sell, and now at the present time, today, the whites have decided to allot our Reservation. They already have started surveying it without consulting us, without even asking our consent, without any offer of compensation.

A delegation was sent to Washington. Commissioner of Indian Affairs Leupp told the delegation that Congress had power over them, and that they should feel fortunate, as some tribes were only getting 40 or 80 acres a person, but Coeur d'Alenes were to get 160, and that they would get about \$3,000 each from the revenue that came in as a result of the opening the remainder of their lands.<sup>492</sup>

To Chief Moctelme's complaint that the Coeur d'Alene had been promised their lands in perpetuity only nineteen years earlier, the commissioner informed the delegation that since Congress had originally awarded them their lands by passing a law, it could also take the land from them simply by enacting another law.

Senator Weldon B. Heyburn told them they had no hope. Moctelme counseled resisting allotment "by force," but the Indian Office told the agent that if "individual Indians refused to cooperate in making [allotment] selections, Sams and Worley should make them in the recalcitrants' behalf." Further, if Moctelme became a problem, he could be removed from the reservation. Moctelme,

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<sup>492</sup> Cox, Thomas R. "Tribal Leadership in Transition: Chief Peter Moctelme of the Coeur d'Alenes." *Idaho Yesterdays* Vol. 23, No. 1 (Spring 1979): p. 9. [47]

Cotroneo, Ross R. and Jack Dozier. "A Time of Disintegration: the Coeur d'Alene and the Dawes Act." *Western Historical Quarterly* Vol. V, No. 4 (October 1974): p. 410. [42]

Harms, Su, ed. *The Coeur d'Alene Teepee* Vols. I-III (1937-1940) (July 1980). Plummer, Idaho: Serento Press, p. 134. [79]

himself, had a farm that included far more land than 160 acres.<sup>493</sup>

In 1906 Congress passed an act with a provision formally authorizing the actual allotment.

The provision read:<sup>494</sup>

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell or dispose of unallotted lands in the Coeur d'Alene Indian Reservation, in the State of Idaho.

That as soon as the lands embraced within the Coeur d'Alene Indian Reservation shall have been surveyed, the Secretary of the Interior shall cause allotments of the same to be made to all persons belonging to or having tribal relations on said Coeur d'Alene Indian Reservation, to each man, woman, and child one hundred and sixty acres, and upon the approval of such allotments by the Secretary of the Interior, he shall cause patents to issue therefor under the provisions of the general allotment law of the United States.

That upon the completion of said allotments to said Indians the residue or surplus lands—that is, lands not allotted or reserved for Indian school, agency, or other purposes—of the said Coeur d'Alene Indian Reservation shall be classified under the direction of the Secretary of the Interior as agricultural lands, grazing lands, or timber lands, and shall be appraised under their appropriate classes by legal subdivisions, and, upon completion of the classification and appraisal, such surplus lands shall be opened to settlement and entry, under the provisions of the homestead laws, at not less than their appraised value, in addition to the fees and commissions now prescribed by law for the disposition of lands of the value of one dollar and twenty-five cents per acre, by proclamation of the President, which proclamation shall prescribe the manner in which these lands shall be settled upon, occupied, and entered by persons entitled to make entry thereof...

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<sup>493</sup> Cox, Thomas R. "Tribal Leadership in Transition: Chief Peter Moctelme of the Coeur d'Alenes." *Idaho Yesterdays* Vol. 23, No. 1 (Spring 1979): p. 9. [47]

<sup>494</sup> Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*, Vol. 3, Washington, D. C.: Government Printing Office, 1913, p. 203 (34 Stat. 335-336). [99]

Claims by non-Indians made on reservation land after the allotment process was completed were to be subject to the regulations provided at that time for homestead entries. Mineral laws and mineral entries were also provided for under this 1906 statute. The year 1906 also happened to be the year of the last of the \$8,000.00 payments promised to the Tribe under the 1889 Agreement and begun in 1891. The *Coeur d'Alene Evening Press*, on November 17, 1906, correctly anticipated that Coeur d'Alene Lake would become an important resort area for the region once the reservation was opened.<sup>495</sup> During the same year a new dam at Post Falls was completed. The site had passed from Frederick Post to Coeur d'Alene mine owners, who wanted electricity delivered to their mining district. Then Washington Power Company acquired the site from the owners and constructed a hydroelectric facility, which was completed in 1906, and which eventually allowed the company to maintain the level of the lake from elevation 2120 to 2128 feet above sea level.<sup>496</sup>

In 1908 The United States Supreme Court issued a ruling important to all tribes with reservations that had been reserved for them by the United States. In *Winters v. United States* (207 U.S. 564; 1908) the court held that "Tribal water rights are reserved to carry out the purposes

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<sup>495</sup> Cotroneo, Ross R. and Jack Dozier. "A Time of Disintegration: the Coeur d'Alene and the Dawes Act." *Western Historical Quarterly* Vol. V, No. 4 (October 1974): p. 409. [42]

<sup>496</sup> Crosby, Edward J. *The Story of the Washington Water Power Company and its part in the History of Electric Service in the Inland Empire, 1889-1930 Inclusive*, n.p., n.d., pp. 19-20. [48]

Cross, Alden. "Indians Claim Ownership to Site of Post Falls Dam," *Spokesman Review*, July 3, 1973, p. 1, reported that in 1973 the Coeur d'Alene Tribe claimed ownership of the Post Falls site, saying through their attorney that the agreement with Frederick Post has been spurious. [49]

for which particular reservations were established.”<sup>497</sup>

Between 1907 and 1909 the process of allotment was carried out. Newspapers had announced that the reservation would soon be opened to white use. Eventually six hundred thirty-eight Indian allotments were issued, ninety-seven listed as Spokane and five hundred forty-one as Coeur d’Alene.<sup>498</sup> As a result of the allotment process Coeur d’Alene ownership of reservation lands was reduced from 345,000 acres to 58,000 acres.<sup>499</sup> In 1907 the Commissioner of Indian Affairs reported that the Coeur d’Alenes had 15,000 acres under cultivation.<sup>500</sup> Many of the Coeur d’Alenes were unable to even keep the farms they had established, improved and worked. People who lived near the lake and river shores were forced to take allotments away from the shores, so that as a result of the process eventually the Tribe lost all lakefront and riverfront property.<sup>501</sup> As Connolly and Palmer described it:<sup>502</sup>

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<sup>497</sup> Newton, Jessup (Editor-in-Chief). *Cohen’s Handbook of Federal Indian Law: 2005 Edition*. Newark, NJ: LexisNexis, 2005 (originally published in 1941), §19.03[4]. [721]

<sup>498</sup> Murray, Alberta. *These My Children*. Fairfield, Washington: Ye Galleon Press, 1976, p. 53. [119]

Cotroneo, Ross R. and Jack Dozier. “A Time of Disintegration: the Coeur d’Alene and the Dawes Act.” *Western Historical Quarterly* Vol. V, No. 4 (October 1974): p. 411. [42]

<sup>499</sup> Rassier, Phillip J.. *Indian Water Rights: a Study of the Historical and Legal Factors Affecting the Water Rights of the Indians of the State of Idaho*. Boise: State of Idaho, 1978, p. 76. [143]

<sup>500</sup> United States. Department of the Interior. Commissioners of Indian Affairs. “Annual Report,” 1906. Washington, D. C.: Government Printing Office, pp. 213-214. [266]

<sup>501</sup> Palmer, Gary B. “The Farm of Peter Vincent (Pierre Basa),” Sacred Heart Mission Archives, pp. 2-3. [124]

<sup>502</sup> Connolly, Thomas E., and Gary B. Palmer. “Making Traditional Values Work in the 20th

In 1909 three fourths of the solemnly guaranteed reservation was given away, and in the next 50 years nearly half of the individual Indian allotments were allowed to pass out of the tribal patrimony through short sighted sales and the squandering of resources.

Prior to allotment, "the Coeur d'Alenes were widely acclaimed as the most successful of all the tribes in the Northwest." After allotment the Coeur d'Alenes became fully aware of the net results of that program.<sup>503</sup>

It was then that the basic ulterior motive of the allotment program became apparent to the Coeur d'Alenes--not to further their own progress, but to open up the rest of their reservation to non-Indian settlers.

Over one hundred thousand non-Indians had registered for the lottery to make entries on the 285,000 acres that were to be opened to white use. Thirteen hundred and fifty lucky persons were winners in the lottery and were to be allowed to make entries. On May 22, 1909, President William H. Taft issued a proclamation opening the remaining Coeur d'Alene lands. The drawing was held in August, 1909, to determine who could enter the land. In early 1910 actual applications were presented for entry, and then on September 1, 1910, people took possession of their entries.<sup>504</sup>

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Century." In *Wealth and Trust: a Lesson from the American Indian*, edited by E. Richard Hart, pp. 8-10. Sun Valley, Idaho: Institute of the North American West, 1982. [40]

<sup>503</sup> Connolly, Thomas E., and Gary B. Palmer. "Making Traditional Values Work in the 20th Century." In *Wealth and Trust: a Lesson from the American Indian*, edited by E. Richard Hart, pp. 8-10. Sun Valley, Idaho: Institute of the North American West, 1982. [40]

<sup>504</sup> United States. Statutes at Large. 36 Stat. 2494.

Cotroneo, Ross R. and Jack Dozier. "A Time of Disintegration: the Coeur d'Alene and the Dawes Act." *Western Historical Quarterly* Vol. V, No. 4 (October 1974): pp. 412-415. [42]

Rassier, Phillip J.. *Indian Water Rights: a Study of the Historical and Legal Factors*

Within twenty-five years nearly 75% of the remaining Coeur d'Alene lands had been leased to non-Indians. Within fifty years nearly 50% of the allotments had passed out of tribal ownership.<sup>505</sup> As a direct result of the allotment process the Coeur d'Alene Tribe went, virtually overnight, from being wealthy and vibrant to poor and oppressed. Under the process government officials attempted to move the tribal people away from their primary water resources and removed them from agricultural lands upon which they had settled, improved and worked for decades. Throughout the remainder of the 20<sup>th</sup> century and into the 21<sup>st</sup> century the Tribe has worked to undo much of that harm and to achieve in the process, a much greater degree of self-determination.

#### Heyburn State Park, 1908-1911

Prior to the conclusion of the allotment process, the United States conveyed the land around the Lake Chatcolet area to the State of Idaho for the purpose of establishing a state park. In 1907 Senator Weldon B. Heyburn of Idaho attempted to have the lands withdrawn from the allotment

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*Affecting the Water Rights of the Indians of the State of Idaho*. Boise: State of Idaho, 1978, p. 79. [143]

Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*, Vol. 3, Washington, D. C.: Government Printing Office, 1913, pp. 118-120 (34 Stat. 335). [99]

United States. Statutes at Large. 36 Stat. 2494. [652]

<sup>505</sup> Cotroneo, Ross R. and Jack Dozier. "A Time of Disintegration: the Coeur d'Alene and the Dawes Act." *Western Historical Quarterly* Vol. V, No. 4 (October 1974):pp. 417-418. [42]

Connolly, Thomas E., and Gary B. Palmer. "Making Traditional Values Work in the 20th Century." In *Wealth and Trust: a Lesson from the American Indian*, edited by E. Richard Hart, pp. 8-10. Sun Valley, Idaho: Institute of the North American West, 1982. [40]

process, and set aside as a national park. Heyburn and the Tribe knew once the Coeur d'Alenes had completed the allotment process, the beautiful park-like lands surrounding Lake Chatcolet, Hidden Lake, and Benewah Lake could be opened to non-Indian use. Heyburn said he feared that commercial timber interests would obtain the lands and destroy or reduce their value for public recreation. Heyburn's legislation was designed to withdraw those lands around the lakes from the allotment process and establish a national park which included land around Lake Chatcolet and two other small lakes.

The Tribe supported the idea of a national park which would prevent non-Indians from acquiring title to the lands around Lake Chatcolet. The Superintendent of the Coeur d'Alene Reservation, Charles O. Worley, had been directed to meet with the Coeur d'Alenes and determine their feelings relative to the proposed park. Worley reported to the Commissioner of Indian Affairs that the "Indians in their council meeting...unanimously voted in favor of the establishment of this park, as it is a favorite camping and fishing place for them, as well as for the white people in this vicinity."<sup>506</sup> But the Tribe believed it would be a federal park and not a state park and did not

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<sup>506</sup> Cox, Thomas R. "Tribal Leadership in Transition: Chief Peter Moctelme of the Coeur d'Alenes." *Idaho Yesterdays* Vol. 23, No. 1 (Spring 1979): p. 28. [47]

Cotroneo, Ross R. and Jack Dozier. "A Time of Disintegration: the Coeur d'Alene and the Dawes Act." *Western Historical Quarterly* Vol. V, No. 4 (October 1974): pp. 408-409. [42]

United States. Senate. *To Establish a Park on the Coeur d'Alene Indian Reservation*. Report No. 251. 60th Congress, 1st Session. Washington, D. C.: Government Printing Office, 1908. [217]

Worley and Sams to Commissioner, January 11, 1909, Letters Received, RG 75, National Archives; exhibit copy from *United States v. Idaho*, Civ. Nos. 1-76-231, 77-2058. [633]

understand the actual implications of the act until after it was implemented.

The measure proposed by Heyburn passed the Senate, but met with opposition in the House based on the anticipated cost of running the park.<sup>507</sup> In 1908 measures were again introduced in Congress to establish the park. Again the Idaho delegation was not able to obtain congressional consent for a national park, but was able to gain support from the Bureau of Indian Affairs and the Senate Committee on Indian Affairs for an alternative act that made possible an Idaho state park.<sup>508</sup> The Coeur d'Alene Tribe did not express support for creating a state park around Lake Chatcolet.

On April 30, 1908, Congress passed the annual Indian Appropriations Act, which contained a provision creating a state park of approximately 7,800 acres within the Coeur d'Alene Reservation. The act had the effect of withdrawing the land from the pending allotment and authorizing the State of Idaho to purchase that land for the purpose of establishing a state park. The park was to include the land around Lake Chatcolet, Hidden Lake and Benewah Lake. By establishing the boundaries in that manner, the St. Joe River and what would become Round Lake were left out of the park.<sup>509</sup>

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<sup>507</sup> United States. *Congressional Record*. 59th Congress, 2nd Session. Washington, D. C.: Government Printing Office, 1907, pp. 2265, 3715, 3831, 3972, 4590-4592. [193]

<sup>508</sup> United States. *Congressional Record*. 60th Congress, 1st Session, pp. 137, 2111, 2531, 2627, 2658, 3253, 3378. Washington, D. C.: Government Printing Office, 1907-1908. [194]

<sup>509</sup> United States. *Statutes at Large*. 35 Stat., 78-79. [653]

Rassier, Phillip J. *Indian Water Rights: a Compilation of Federal Treaties, Agreements, Executive Orders and Statutes Relating to Indian Water Rights in Idaho*. Boise: State of Idaho,



Peter Moctelme, a prominent member of the Soldiers of the Sacred Heart, had become Head Chief of the Coeur d'Alene in 1907, and led the council of leaders that Superintendent Worley referred to in 1908. Moctelme was favored by the priests over another leader who advocated returning to tribal traditions. Although Moctelme approved of the plan to establish the public park, he had a home there and had intended to make his allotment on the lake.<sup>510</sup>

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1978, p. 123. [142]

Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*, Vol. 3, Washington, D. C.: Government Printing Office, 1904, p. 326. [99]

Worley and Sams to Commissioner, January 11, 1909, Letters Received, RG 75, National Archives; exhibit copy from *United States v. Idaho*, Civ. Nos. 1-76-231, 77-2058. [633]

Worley, Sams and Wallace to Commissioner, January 16, 1909, Letters Received, RG 75, National Archives; exhibit copy from *United States v. Idaho*, Civ. Nos. 1-76-231, 77-2058. [634]

Acting Commissioner to Secretary of the Interior, January 29, 1909, Letters Received, RG 75, National Archives; exhibit copy from *United States v. Idaho*, Civ. Nos. 1-76-231, 77-2058. [635]

Hauke to Commissioner of the General Land Office, March 23, 1910, Letters Received, RG 75, National Archives; exhibit copy from *United States v. Idaho*, Civ. Nos. 1-76-231, 77-2058. [636]

Secretary to Governor of Idaho, n.d., Letters Received, RG 75, National Archives; exhibit copy from *United States v. Idaho*, Civ. Nos. 1-76-231, 77-2058. [637]

Heyburn to Garfield, January 6, 1909, telegram, Letters Received, RG 75, National Archives; exhibit copy from *United States v. Idaho*, Civ. Nos. 1-76-231, 77-2058. [638]

Worley and Sams to Commissioner, January 11, 1909, Letters Received, RG 75, National Archives; exhibit copy from *United States v. Idaho*, Civ. Nos. 1-76-231, 77-2058. [633]

Hilder, Frazer C. "Map of Coeur d'Alene Indian Reservation, Idaho." Washington, D. C.: Department of the Interior, Office of Indian Affairs, 1910; RG 75, National Archives. [70]

<sup>510</sup> Cox, Thomas R. "Tribal Leadership in Transition: Chief Peter Moctelme of the Coeur

Moctelme maintained a seasonal home there and had built up a small business catering to summer visitors. He had a number of rowboats that he rented and a small dance pavilion, operated a ferry across the lake and St. Joe River, and on occasion arranged horseback tours of the reservation for vacationers.

However, as a result of the 1908 act, he was not allowed to make his allotment on the shore of Lake Chatcolet. Moctelme protested, but he was prevented from allotting and keeping his own home, though later he was paid \$500.00 for his improvements.<sup>511</sup>

In 1909 the Idaho State Legislature authorized purchase of the area for the purpose of establishing the park. The title to the park was conveyed to the State of Idaho on June 29, 1911, for which the State deposited \$11,379.17 (the amount established by the appraisal) in the United States Treasury, for the benefit of the Coeur d'Alene Tribe. However, though the funds were supposed to be used for the benefit of the Coeur d'Alene Indians, an Interior Department report later alleged that the funds were spent on general departmental administration.<sup>512</sup>

In 1911 a patent was issued to the State of Idaho [see Appendix]. Since the lands were being withdrawn from the tribal allotment process, the patent included provisions under which the State was required to deposit the funds paying for the park for the benefit of the Coeur d'Alene Tribe. The patent also contained a provision that required the State to hold all of the lands for

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d'Alenes." *Idaho Yesterdays* Vol. 23, No. 1 (Spring 1979): pp. 28 and 30. [47]

<sup>511</sup> United States. *Congressional Record*. 61st Congress, 3rd Session, p. 477. Washington, D. C.: Government Printing Office, 1910. [195]

<sup>512</sup> United States. Department of the Interior. Bureau of Indian Affairs. *Coeur d'Alene Indian Reservation: Human and Natural Resource Supportive Data*. Billings, Montana: Planning Support Group, Bureau of Indian Affairs, 1976, p. 2. [226]

public purposes. Should the State alienate any of the lands, the patent decreed, title was to revert to the United States (see Map 17).<sup>513</sup>

Despite the fact that the 1911 patent stipulated that the park was intended solely for public use, the State of Idaho issued at least one hundred sixty-two home site leases and allowed at least thirty-three float houses on the lakeshore. It has been reported that over the ensuing years, the cabins' septic tank filter field effluent polluted and degraded Chatcolet and Benewah Lakes.<sup>514</sup> The Coeur d'Alene Tribe reported that it was not until 1972 that it learned of violations of the patent.<sup>515</sup> In 1976 the Department of the Interior officially advised the state and Tribe that the leases were in violation of the patent.<sup>516</sup>

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<sup>513</sup> United States. *Congressional Record*. 96th Congress, 1st Session, pp. 11292 and 11304-11305 (reprinting patent). Washington, D. C.: Government Printing Office, 1979. [196]

United States, Senate. *Miscellaneous Public Lands, National Forest and Park Related Proposals*. Hearing on 1152 (and others). 96th Congress, 1st Session. Washington, D. C.: Government Printing Office, 1980, pp. 37-40, 64, and 72-78. [218]

<sup>514</sup> United States. Department of the Interior. Bureau of Indian Affairs. *Coeur d'Alene Indian Reservation: Human and Natural Resource Supportive Data*. Billings, Montana: Planning Support Group, Bureau of Indian Affairs, 1976, pp. 2 and 77. [226]

Coeur d'Alene Tribal Council. "Origins of Heyburn State Park: Fact Sheet," Plummer, Idaho, [1981], says there were two hundred fifty private cottage and floathome leases. [639]

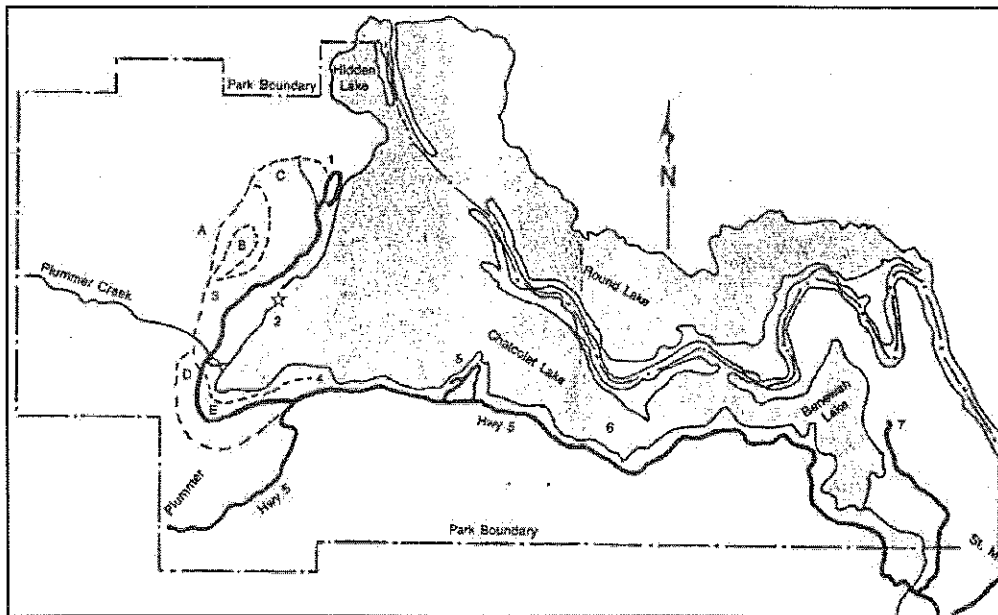
<sup>515</sup> Coeur d'Alene Tribal Council. "Origins of Heyburn State Park: Fact Sheet," Plummer, Idaho, [1981]. [639]

<sup>516</sup> United States. Department of the Interior. Bureau of Indian Affairs. *Coeur d'Alene Indian Reservation: Human and Natural Resource Supportive Data*. Billings, Montana: Planning Support Group, Bureau of Indian Affairs, 1976. [226]

"Decision Pleases Tribe," newspaper clipping, March 6, 1976, "Chr," Library and



Map 17: 1910 Interior Department map of what would become exterior boundaries of Heyburn State Park (originally proposed as a National Park). [70]



Map 18: Today, as a result of Post Falls Dam, Lake Chatcolet, Hidden Lake and Benewah Lake have joined to become one body of water. [730]

Though Idaho's Attorney General objected strenuously, claiming the leases were permissible under the patent, the Idaho State Land Board announced that people who owned cabins inside the park would have their leases terminated under "threat from the federal government that if the leases don't end, the land might be reclaimed and held in trust for the Coeur d'Alene tribe." The State also announced it would fight the matter in federal court.<sup>517</sup>

In 1976 the Solicitor for the Interior Department informed the State of Idaho that it believed the leases were in violation of the patent to Heyburn State Park. In response, the State filed a declaratory judgment action against the Secretary of the Interior. In 1977 the Department of Justice sued the State of Idaho and the leaseholders in a quiet title action. Both cases were later consolidated and the Tribe was allowed to intervene. In 1979, after a federal district court granted summary judgment to the State and then the United States withdrew from the case, the Ninth Circuit issued a ruling that the Tribe held a beneficial interest in the park lands. The Department of Justice initially filed notice of appeal, but later withdrew that appeal. The Tribe

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Archives. Cheney-Cowles Museum, Spokane, Washington. [640]

"Tribe Considers Changes in Park, *Spokesman Review*, March 6, 1976, Library and Archives. Cheney-Cowles Museum, Spokane, Washington. [641]

"Tribe Wants it Back," newspaper clipping, June 18, 1975, "Chr," Library and Archives. Cheney-Cowles Museum, Spokane, Washington. [642]

"\$14 Million Park. Heyburn future unclear," *Spokesman Review*, September 5, 1975, Library and Archives. Cheney-Cowles Museum, Spokane, Washington. [643]

<sup>517</sup> "Heyburn Cabins to Lose Leases," newspaper clipping, March 9, 1976, "Chr," Library and Archives. Cheney-Cowles Museum, Spokane, Washington. [644]

also appealed, claiming a beneficial interest in the patent and citing the reversionary clause. The Ninth Circuit ultimately found that the State had not violated terms of the patent in that case.<sup>518</sup>

Heyburn State Park (named in honor of Senator W. B. Heyburn) is today the oldest state park in the Pacific Northwest. At 2,128 feet above sea level the lake has many fish and water birds: bass, northern pike, bull trout, westslope cutthroat trout, perch and crappie fish; great blue heron, loon, whistling swan, ruffed grouse, wild turkey, Canada goose, wood duck mallard, and western grebe. Animal life includes beaver, muskrat, otter, salamander and bullfrog, whitetail deer, black bear, snowshoe hare, mountain lion, bobcat, raccoon, and skunk. It is only a short distance from the Mullan Military Road between Walla Walla and Fort Benton, Montana.<sup>519</sup> The park was also a very important use area for the Coeur d'Alene Tribe. Village sites were located within the designated park, including an important village on Lake Chatcolet that also served as the main canoe landing for travel on that part of the lake system. Tribal fishing and hunting were common in the area (see Map 17).

In recent years the Tribe and State reached an agreement on the establishment of a tribal interpretive center on park land. In 1993 the Coeur d'Alene Tribe opened an interpretive center in

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<sup>518</sup> *State of Idaho v. Andrus*, 566 F. Supp. 15, 1982. [655]

*State of Idaho v. Hodel* (814F 2<sup>nd</sup> 1288). [722]

Callister, Marion J. "Order" and "Memorandum," *State of Idaho v. Andrus*, Civ. No. 77-2058, August 10, 1982. [723]

<sup>519</sup> Idaho State. Chatq'ele' Interpretive Center at Rocky Point, Heyburn State Park (brochure), Idaho State Parks and Recreation, Boise, Idaho, n. d. [1993]. [91]

the park on the banks of Lake Chatcolet. Today, the State and the Tribe share joint ownership of the waterfront in the park.<sup>520</sup>

#### Washington Water Power Company, 1906-1915

A voluminous transcript of sworn testimony taken at hearings held in early 1910 provides conclusive evidence of Coeur d'Alene tribal use of, and dependence on the water, as well as the beds and banks of Coeur d'Alene Lake and other navigable bodies of water within the reservation's exterior boundaries during the period between 1870 and 1910, and of non-Indian recognition of Indian use and ownership of that water, beds and banks.<sup>521</sup> The banks of rivers and lakes (the area between the high and low water marks) are commonly referred to as "bottomlands" and are very often fertile, with agricultural potential.

The hearings centered on a controversy related to the construction of Post Falls Dam and resulting changes in elevation of Coeur d'Alene Lake. Construction on Post Falls Dam by the Washington Water Power Company (WWPC) had been completed in 1906. During the summer of the following year impounded water behind the dam caused Coeur d'Alene Lake to remain six and

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<sup>520</sup> Idaho State. Chatq'ele' Interpretive Center at Rocky Point, Heyburn State Park, Idaho State Parks and Recreation, Boise, [1993]. [91]

<sup>521</sup> Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. [671-673, 677 and 679-682]

Washington Water Power Company Records. Permit Hearing, 1910, Eastern Washington University Archives. [674-676, 678 and 683-684]



one half feet above its natural level during the summer months, extending the period of inundation on overflow lands. Initially, the Department of the Interior granted a permit to WWPC allowing the company overflow rights on only the St. Joe Valley portion of the reservation.

The Secretary of the Interior had granted the company the right to flood land along the St. Joe River, but was using that permit to flood land around Lake Coeur d'Alene. A number of the farmers and ranchers living around the perimeter of the reservation believed the permit issued by the Secretary should not extend to lands around the lake and had signed petitions asking the Secretary of the Interior to revoke the license he had given WWPC which allowed the company to flood some reservation bottomlands.<sup>522</sup>

WWPC claimed that the settlers were attempting to force the United States to fight a lawsuit in their behalf to prevent the flooding of not only the reservation lands, but the settlers' lands.<sup>523</sup> There was some indication that local Indian Agent Charles O. Worley's judgment had been in question in recommending in favor of the permit.<sup>524</sup> After many protests against this

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<sup>522</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 2;, p. 815. [672]

<sup>523</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 2;, pp. 817-818. [672]

<sup>524</sup> United States. Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 11;

permit, the Department of Interior ordered WWPC to show cause why the department should not revoke the permit.

Hearings were held between December, 1909, and April, 1910. Shortly after the conclusion of the hearings WWPC's permit was revoked. The company appealed, and following the completion of the allotment process on the reservation, in 1912, the Department of the Interior reinstated the permit.<sup>525</sup>

The purpose of the hearings was to examine potential damage to the banks of the lake and rivers. The high water mark was established and testimony was to focus on lands below the high water mark (2128 ft. above sea level).<sup>526</sup> The high water mark previously had been reached only in spring floods, the highest in memory being on May 16, 1894.<sup>527</sup> After the construction of Post

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p. 5020. Worley's friends testifying for WWPC suggested the agent favored WWPC's permit, and recommended a per acre payment to the Tribe for damage to overflow lands at a value not beneficial to the Indians. [679]

<sup>525</sup> Watkins, Marilyn P. "Washington Water Power Company and the Post Falls Dam: Report and Source Materials, Prepared for the United States Department of Justice (United States v. Idaho, Civil #92-35703); July, 1996; Institute of the North American West, pp. 33-41. [724]

<sup>526</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 5, pp. 2128-2129. [675]

<sup>527</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 6; pp. 2387-2388. [676]

United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 7; p. 2962. [677]

Falls Dam in 1906, water impounded by the dam covered much of the high water banks either permanently or for a much longer portion of the year.<sup>528</sup> The attorney for WWPC, Frank Truman Post, explained that the Secretary of the Interior was interested in knowing “whether or not we have impeded nature...”

"In other words if we had not done the things that we are charged with doing, would the land be more valuable than it is now?"<sup>529</sup>

The attorneys for both the Government and for Washington Water Power Company stipulated in the proceedings to the fact that 1,100 acres of public land along the Coeur d’Alene River had been made valueless as a result of the dam.<sup>530</sup>

During the marathon hearings, scores of witnesses testified with great specificity about the lands between the low and high water marks surrounding Coeur d’Alene Lake, and the Coeur d’Alene and St. Joe Rivers. The transcript of the hearings filled eighteen volumes, with more than 8,000 pages of testimony. Witnesses included those called by the United States, those called by WWPC, and witnesses called to support positions of local non-Indian land owners outside the

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<sup>528</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 6; pp. 2495-2496, 2638, and 2650. [676]

<sup>529</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 6; p. 2290. [676]

<sup>530</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 7; p. 2822. [677]

boundaries of the reservation, who had been allowed by the court to intervene. Among those witnesses, many gave direct testimony about tribal use and ownership of the water, beds and banks of Coeur d'Alene Lake and the other the navigable bodies of water within the reservation.<sup>531</sup>

Forty-eight witnesses testified to one hundred twenty-nine instances of tribal use of water, beds and banks within the reservation between the years 1872 and 1910, for the purposes of farming and cutting hay, grazing stock, camping, recreation, fishing, hunting, and transportation. Testimony documenting tribal dependence on this water and the beds and banks was evenly divided between witnesses called by the government and witnesses called by WWPC. Twenty-three witnesses called by the United States testified to tribal use of the waters, beds and banks, while twenty-four witnesses called by WWPC testified to tribal use of the waters, beds and banks.

Witnesses' testimony showed tribal dependence on these waters and the beds and banks throughout the period from 1872 to 1910, the period during which the Coeur d'Alene Tribe underwent what were probably the most dramatic changes in tribal history, which Table 1 summarizes.

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<sup>531</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 2; pp. 671-673, 677 and 679-682. [672]

United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 2; pp. 674-676, 678 and 683-684. [672]

During this relatively short period of only forty years, the Coeur d'Alene Tribe ceded the bulk of its aboriginal homeland to the United States, had a reservation set aside for its use by the United States, then ceded back to the United States the northern third of that reservation. Non-Indians poured into the area during the period, and before the period's close, the United States had forced the Tribe to allot, by which action the Tribe lost most of the lands which had formerly been under its control. However, testimony taken at these hearings demonstrates that throughout this entire period, Coeur d'Alene tribal members continued to use and depend on the water and the beds and banks of Coeur d'Alene Lake and the other navigable bodies of water within their reservation's exterior boundaries.

Although testimony centered on only the years from 1872 to 1910 and only on those lands still retained by the Tribe after the 1889 cession, the testimony is an indication of the extent of tribal use of lakefront and riverfront land around the entire lake and rivers as the reservation existed prior to 1889.

#### Witnesses for the United States

Testimony from witnesses indicated a variety of tribal uses of the beds and banks. Some of these uses were traditional and dated from aboriginal times, while some were related to the Tribe's increasing agricultural capabilities. After the spring high water level subsided, an area of grass was left along the banks that was good for grazing. At the time the executive order reservation was established, in the 1870s, these bank areas were used to good advantage by tribal members to

pasture their horses, and later, their hogs and cattle.<sup>532</sup> Coeur d'Alene dug-out canoes were prevalent on Coeur d'Alene Lake in the early 1870s and were obtained and used by Whites for transportation and hunting purposes.<sup>533</sup>

Many witnesses testified about the Coeur d'Alene fishing and about the fish traps that were located in Section 2, T. 46 N., R. 3 W. The Fish Traps area is north of the bend in the St. Joe River in that section. J. S. Pence, who lived on the reservation between 1897 and 1902, testified that these traps were made by sinking sticks and branches into the high ground of the bottomlands, so that when fish had gone into these areas during high water, they could be caught in the weirs as they tried to get out. Fishing activities were not limited to the summer months. Several witnesses described ice fishing in the winter.<sup>534</sup>

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<sup>532</sup> United States. Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 11; pp. 5224-5226 and 5247. [679]

<sup>533</sup> United States. Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 11; p. 5243. [679]

United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 10; p. 4869. [678]

<sup>534</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 3; pp. 1247, 1250, 1261, 1270, 1297-1298. [673]

Kowrach, Edward J., and Thomas E. Connolly (eds.) *Saga of the Coeur d'Alene Indians*:

Witnesses also explained that tribal members leased the bottomlands to non-Indians.<sup>535</sup> Government witness George F. Steele was the Resident Carpenter for the government on the Coeur d'Alene Reservation from October, 1893 to August 1901, and during those years "had charge of the Coeur d'Alene Indian Reservation." He later moved to the city of Coeur d'Alene and was engaged in the real estate and insurance business. Headquartered in De Smet, he was in charge of all government/tribal work that was necessary during those years.<sup>536</sup> He said the Coeur d'Alenes had "jurisdiction of the disposing of their own products," grown in the bottomlands, including Timothy hay and wild hay.<sup>537</sup> The Coeur d'Alenes let Whites cut the hay in the bottomlands along

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*An Account of Chief Joseph Seltice.* Fairfield, Washington: Ye Galleon Press, 1990, pp. 139-156. [101]

De Luca-Waide, Delores. *Historical Essays of the Harrison Area.* Harrison, Idaho: privately printed, n.d., pp. 2-5. [54]

For more information about Coeur d'Alene fish traps and ice fishing see Section II of this report.

<sup>535</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 3; p. 1388. Farms were traded and sold among the Indians and adoptees, though no title could be obtained. [673]

<sup>536</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 1; pp. 335-336. [671]

<sup>537</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified

the lake and river and took a percentage of the hay in payment. The crop was divided in shares, with the Indian use-right owner determining the contract with the Whites.<sup>538</sup> Steele would write up the contracts for the Indians, and said, "to the best of my knowledge the amount [received by the Coeur d'Alenes] was quite a good deal."<sup>539</sup> Also, forty or fifty families each had farms on the reservation of up to 500 fenced acres each. There were a total of 1,500 cultivated acres.<sup>540</sup> Four witnesses testified to Coeur d'Alenes leasing bottomlands to non-Indians in the 1880s, 1890s, and 1900s (see Tables 2-5). Lessees demonstrated their recognition of Coeur d'Alene ownership and control of the bottomlands.

Individual witnesses provided a wealth of information concerning tribal use of the beds and banks. For instance, government witness A. J. L. Bredwald, who had moved to the St. Maries area in 1884, and settled a little over two miles from the reservation boundary, reported that he had

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Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 1; p. 337. [671]

<sup>538</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 1; p. 339. [671]

<sup>539</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 1; p. 340. [671]

<sup>540</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 1; p. 241 and 350. [671]



traveled down the St. Joe and through the reservation many times in the ensuing years, and that in the 1880s Coeur d'Alene Indians camped on the banks of the St. Joe River in order to look after their cattle and horses that were grazing on the banks, and to cut hay on the banks for their stock. "In all the years that I passed up and down on the river," he said, "I saw Indians camped every place on that bank, I guess, up and down that river, from the lake to the [reservation] line."<sup>541</sup> They camped along the banks mostly in the summer months (July through October).<sup>542</sup>

Witnesses called by the United States testified to tribal use of the bottomlands within the reservation for farming. Witnesses explained that hay was cultivated and harvested in the bottomlands. Horses, cattle and hogs grazed on the bottomland grass, and tribal members used bottomlands for recreation, fishing, and hunting. Table 2 summarizes all of the testimony by government-called witnesses.

#### Witnesses for WWPC

Witnesses for WWPC agreed with most of the uses described by government witnesses.

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<sup>541</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 2; pp. 803, 814, and 817. [672]

<sup>542</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 2; pp. 819-820. [672]

WWPC witnesses described tribal use of the land along the lake and rivers for the purposes of cutting hay, grazing cattle and horses, fishing and hunting, and they also agreed that tribal members leased bottomlands to non-Indians for commercial gain. Table 3 summarizes the testimony by witnesses for WWPC.

WWPC did not admit the cultivation of hay in the bottomlands, but did present witnesses who concurred with the government witnesses that wild hay was harvested from the bottomlands. There was no disputing the fact that the Tribe used and depended on the bottomlands. As can be seen by examining Table 4, witnesses for WWPC and the United States provided extensive testimony on a wide range of uses by Coeur d'Alene tribal members for the lands along Coeur d'Alene Lake, the Coeur d'Alene River and the St. Joe River. Tribal members were reported to be using the banks for cutting hay, grazing livestock, camping, hunting, fishing and travel, throughout the period in question. Tribal members also leased banks for non-Indian use.

Table 5 includes all references to tribal use of the beds and banks by all witnesses. There were at least one hundred twenty-nine separate references to tribal use of the bottomlands within the transcript of the sworn testimony, coming from nearly fifty different witnesses. This table also provides the citation documenting each reference, and the source of the witness (that is, whether the witness was called by the United States, WWPC, or by the intervenors.)

### Conclusions Relating to Hearings

There was universal recognition by all parties participating in the hearings that the Tribe owned the bottomlands adjacent to the lake and rivers on the reservation.<sup>543</sup> The bottomlands on the reservation belonged to the Indians and could not be permanently settled upon by anyone else.<sup>544</sup> Non-Indian recognition of tribal ownership of the beds and banks was demonstrated by the extensive leasing by the Tribe to non-Indians for agricultural purposes. Conversely, bottomlands off the reservation could be owned by non-Indians, and were used for all of the same purposes as those employed by the Indians, including extensive commercial use of wild hay (see Map 24).<sup>545</sup> The WWPC did not dispute the fact that hay was grown on the banks, but claimed

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<sup>543</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 1; p. 50. [671]

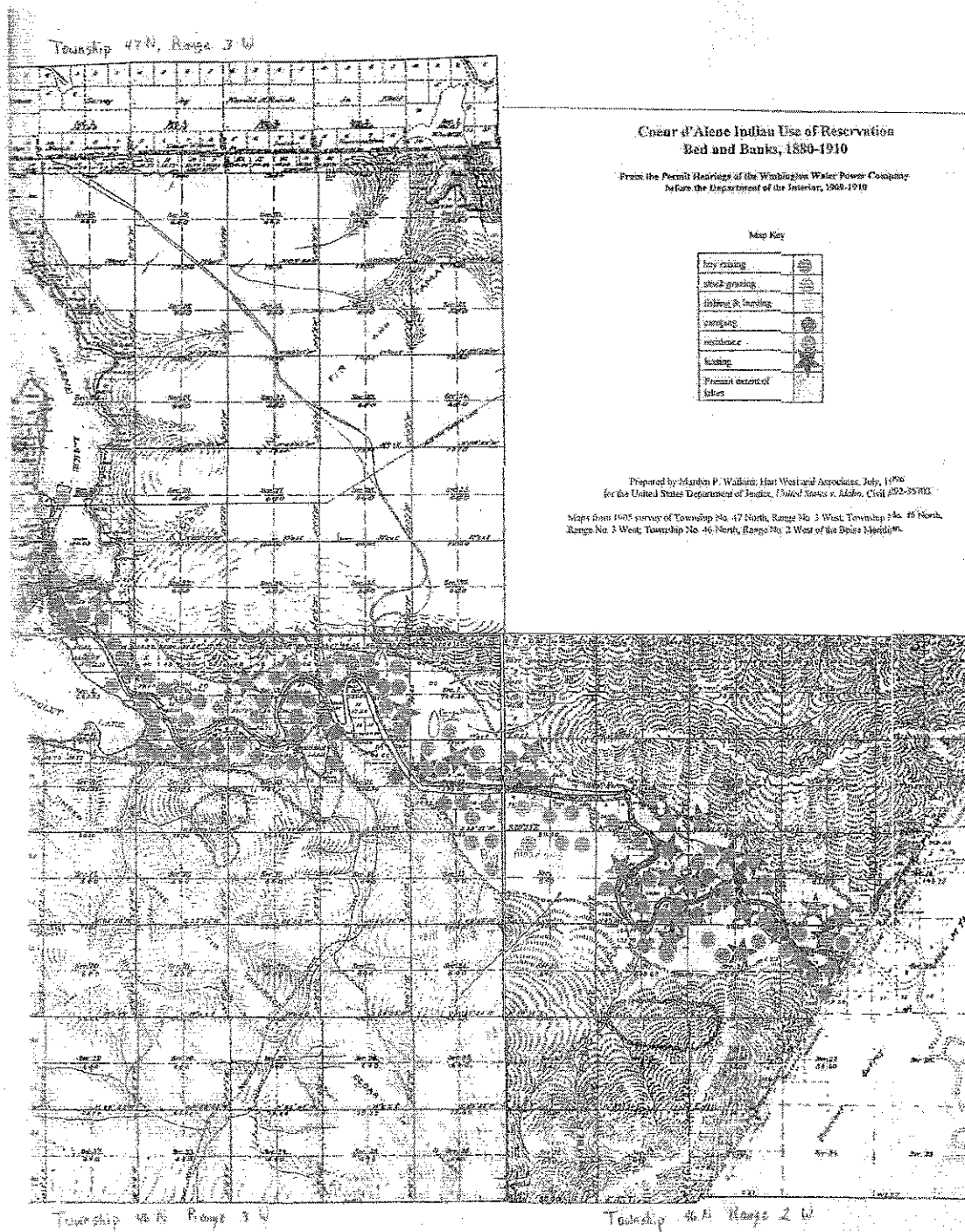
<sup>544</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 1; pp. 213. [671]

<sup>545</sup> Watkins, Marilyn P. "Coeur d'Alene Indian Use of Reservation Bed and Banks, 1880-1910," Table and Map. [688]

United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 5; pp. 2172, 2188, 2212-2215 and 2221-2223. [675]

United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 6; pp. 2377-2378 and 2387-2388. [676]

United States. Department of the Interior. Records Relating to Legal Action Taken by the Department of the Interior Against the Washington Water Power Company, 1909-10. Record



**Clear Lake Indian Use of Reservation  
Bed and Banks, 1880-1910**

From the Permit Hearings of the Washington Water Power Company  
before the Department of the Interior, 1908-1910

Map Key

hay raising	
orchard growing	
grazing & farming	
canning	
residence	
school	
Premier account of sites	

Prepared by Marston P. Walker, Hart Westland Associates, July, 1976  
for the United States Department of Justice, *United States v. Adair*, Civil 89-25703  
Maps from 1905 survey of Township No. 47 North, Range No. 3 West, Township No. 46 North,  
Range No. 3 West, Township No. 46 North, Range No. 2 West of the Boise Meridian.

**Map 23**

there was no market for it. Although ranchers above the reservation were paying property taxes to the state for bottomlands in property they owned, the state apparently made no effort to claim rights to the banks within the reservation.<sup>546</sup> A law enforcement officer for the state's game department testified that he had spent time there since 1892, camping and fishing on the banks.<sup>547</sup> Residents clearly understood that bottomlands within the reservation belonged to the Tribe and use rights could only be leased.<sup>548</sup> The State of Idaho was well aware of the hearings and litigation,

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Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 7; pp. 2962 and 2799-2800. [677]

United States. Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 13; pp. 5865, 6236-6240 and 6253-6254. [681]

United States. Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 14; pp. 6626-6628. [682]

<sup>546</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 5; pp. 2254-2257. [675]

United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 5; p. 2241 and 2254-2257. [675]

<sup>547</sup> United States. Department of the Interior. Records Relating to Legal Action Taken by the Washington Water Power Company Records. Permit Hearing, 1910; Eastern Washington University Archives. Volume 5; p. 2113. [675]

<sup>548</sup> United States. Department of the Interior Against the Washington Water Power Company, 1909-10. Record Group 49, Records of the Bureau of Land Management, General Land Office, Unidentified Divisions, Entry 1028, Boxes 1-7. National Archives, Washington, D.C. Volume 11;

yet made no effort to intervene in the case or hearings in order to make any claim to ownership of those beds and banks.<sup>549</sup> Though the Governor of Idaho proclaimed that he had made “an exhaustive study of the conditions at Coeur d’Alene” relative to the WWPC overflow case, and had discussed the entire matter in detail with the state’s attorney general,<sup>550</sup> the state failed to make any claim to tax, manage, or control beds and banks within the reservation, even though it was fully aware of the beneficial use to which the banks were being put.

Between 1870 and 1910 the Coeur d’Alene Tribe used the water, beds and banks of the

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pp. 5033 and 5058. [679]

<sup>549</sup> Johnson to Huntington, March 14, 1910, Washington Water Power Company Records, Box 13, Folder 1910, Washington State University Archives; Pullman, Washington. [725]

Huntington to Johnson, March 21, 1910, Washington Water Power Company Records, Box 13, Folder 1910, Washington State University Archives; Pullman, Washington. [667]

Huntington to White, July 26, 1910, Washington Water Power Company Records, Box 35, Folder July-September, Washington State University Archives; Pullman, Washington. [668]

Huntington to White, September 9, 1910, Washington Water Power Company Records, Box 35, Folder July-September, Washington State University Archives; Pullman, Washington. [669]

White to Huntington, April 28, 1911, Washington Water Power Company Records, Box 36, Folder April 1911, Washington State University Archives; Pullman, Washington. [685]

Huntington to White, April 29, 1911, Washington Water Power Company Records, Box 36, Folder April 1911, Washington State University Archives; Pullman, Washington. [670]

United States. Department of the Interior. “Motion for Rehearing In re Departmental Decision.” WWPC, April 22, 1912, Washington Water Power Company Records, Box 37, Folder April 1912, Washington State University Archives; Pullman, Washington. [684]

St. Maries Gazette, May 6, 1910. [686]

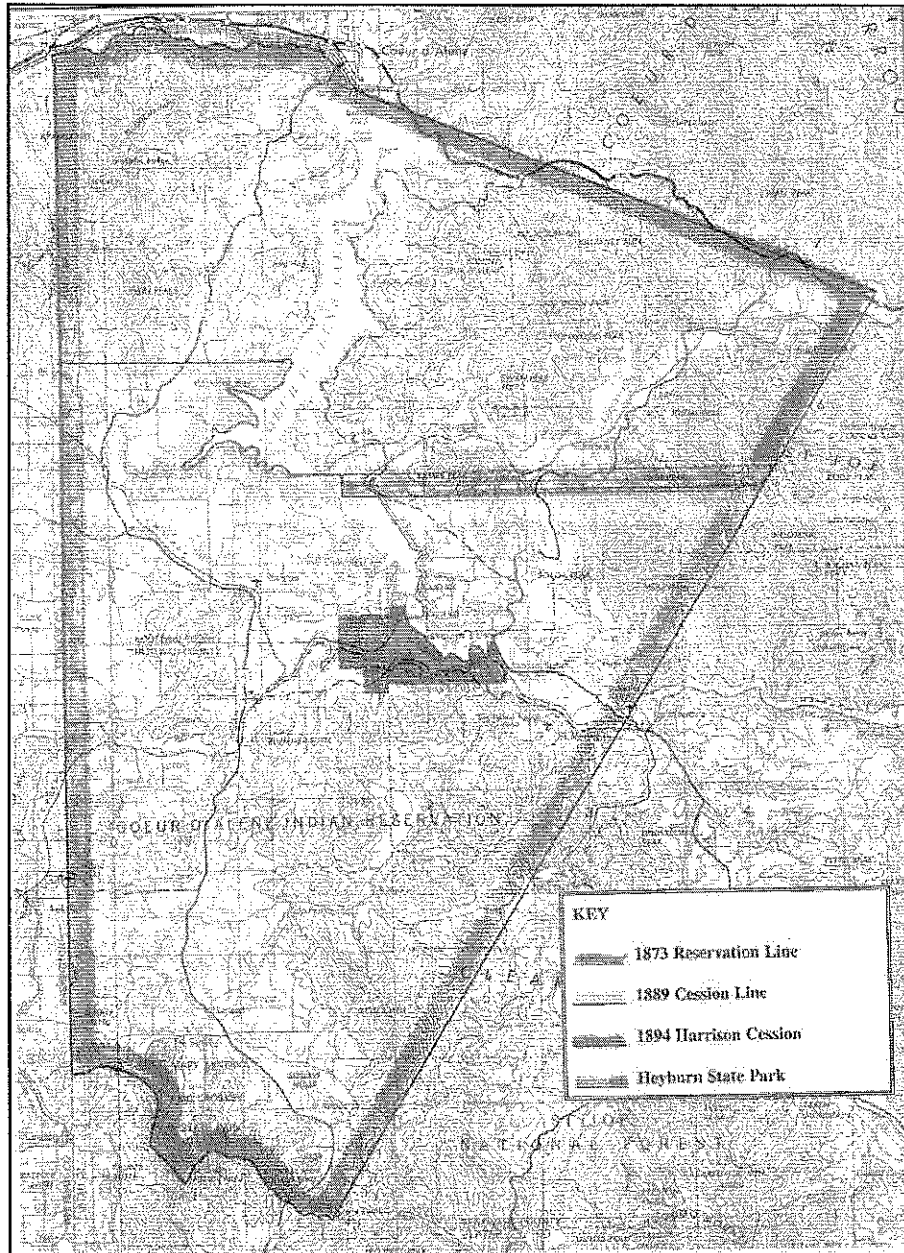
<sup>550</sup> St. Maries Gazette, May 6, 1910. [686]

Coeur d'Alene River, the St. Joe River and Coeur d'Alene Lake for grazing, cutting hay, recreation, hunting, and fishing. Tribal members also leased some of those lands to non-Indians in return for sizeable payments. The Tribe depended on the beds and banks during this period and all parties in the region were well aware of this use and dependence, including the State of Idaho.

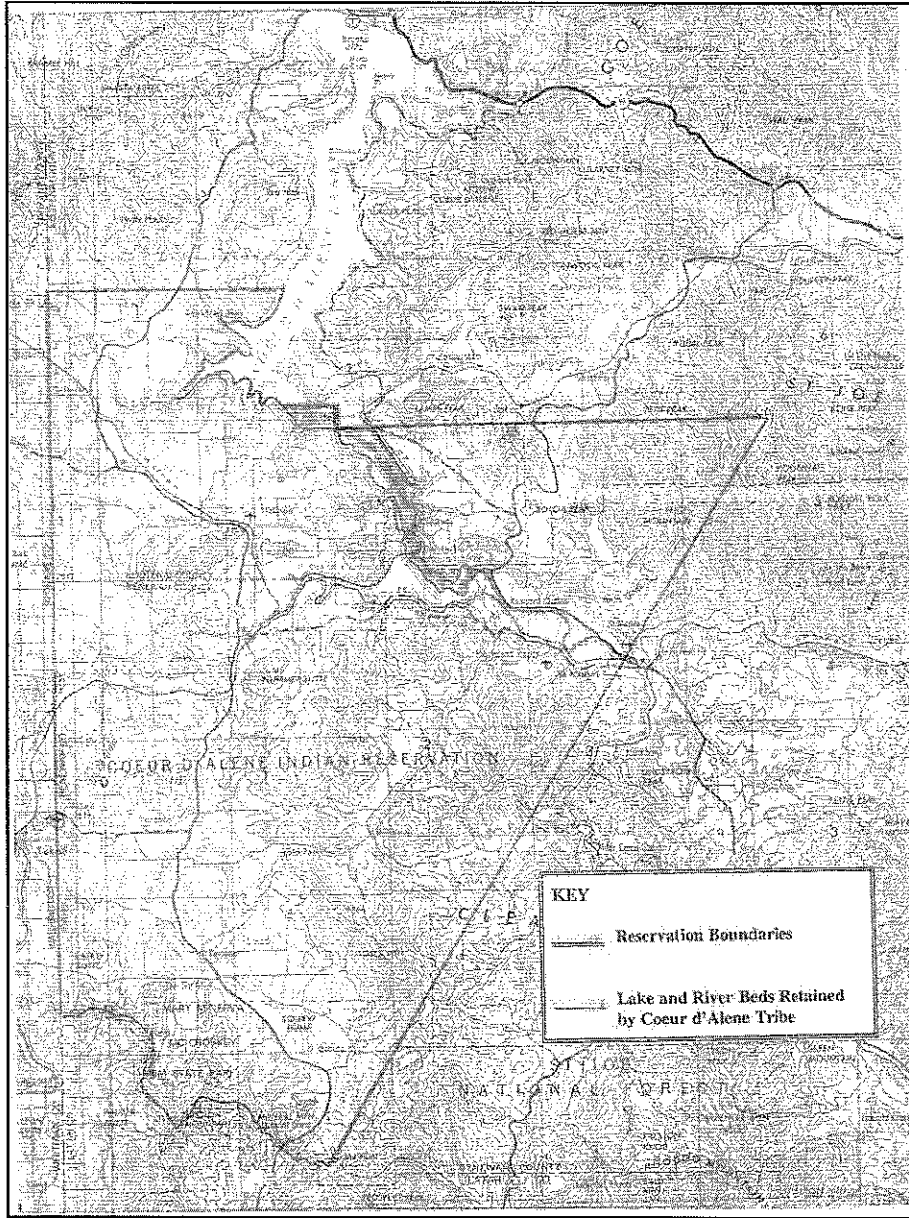
**Table 1: Events Important to the Coeur d'Alene Tribe**

<b>Date</b>	<b>Historical Event</b>
1858	Battles with Steptoe and Wright
1867	Creation of original Reservation
1871	Purported cession of portion of Spokane River and riverbed to Frederick Post
1873	Agreement between U.S. and Tribe
1873	Executive Order - Establishing CDA Reservation
1883	First survey of the reservation
1887	Cession of aboriginal territory
1888	Congress authorizes railway right of way across reservation waterways subject to tribal approval
1889	Cession of northern portion of reservation
1890	Idaho achieves statehood
1891	Ratification of 1887, 1889 and Post [purported] cessions; survey of new boundaries
1894	Harrison townsite cession
1902	WWP Constructs Power Transmission Lines Across Reservation
1902	Survey of reservation new north boundary
1906	Construction of Post Falls Dam
1906	WWP Floods submerged lands within Reservation
1906	Allotment of reservation begins
1908	Reservation allotted
1910	WWPC Hearings
2001	U.S. Supreme Court affirms decision of Federal District Court quieting title to southern third of Lake Coeur d'Alene in favor of U.S. in trust for Tribe





Map 21: This map shows Coeur d'Alene Reservation boundary changes. Map from USGS 1:250,000 Spokane quad.



Map 22: This map locates the portion of lakebeds recognized as owned by the Coeur d'Alene Tribe as a result of adjudication. Map from USGS 1:250,000 Spokane quad.

**Table 2: Summary of Testimony by Government Witnesses on Coeur d'Alene Tribe's Use of Bed and Banks on the St. Joe and Coeur d'Alene Rivers and Coeur d'Alene Lake, 1872-1910**

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe Rivers</b>	<b>Number of Witnesses</b>	<b>Range of Date of Use</b>	<b>Comment</b>
Farming (cultivation of crops) on bottom lands	Four	1891-1908	
Cutting hay from bottomlands	Twenty-three	1884-1910	
Grazing stock in bottomlands	Seventeen	1882-1908	Horses, cattle and hogs
Camping	One	1884-1890	
Racetrack	One	Before 1890	
Fish traps	Five	1890-1893, 1897-1907	
Hunting, fishing and transportation	Five	1884-1910	
Allotment partially on banks	One	1906	
Sale or lease of use rights	One	1905	

**Table 3: Summary of WWPC Witnesses on Coeur d'Alene Tribal Use of Bed and Banks on the St. Joe and Coeur d'Alene Rivers and Coeur d'Alene Lake, 1872-1910**

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe Rivers</b>	<b>Number of Witnesses</b>	<b>Range of Date of Use</b>	<b>Comment</b>
Cutting hay	Five	1878-1905	
Grazing stock	Ten	1878-1908	Horses and cattle
Camping	One	1889-1890	
Fish traps	Fourteen	1883-1910	and nearby "Indian Crossing"
Hunting, fishing and transportation	Two	1872-1877, 1884	In Chatcolet Lake area. Also use of canoe.
Sale or lease of use rights	Three	1882-1883, 1890-1892, 1902-1906	

**Table 4: Summary of all witnesses on Coeur d'Alene Tribal Use of Bed and Banks on the St. Joe and Coeur d'Alene Rivers and Coeur d'Alene Lake, 1872-1910**

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe Rivers</b>	<b>Number of Witnesses</b>	<b>Range of Date of Use</b>	<b>Comment</b>
Farming (cultivation of crops)	Four	1891-1908	
Cutting hay	Twenty-eight	1878-1910	
Grazing stock	Twenty-seven	1878-1908	Cattle, horses and hogs
Camping	Two	1884-1890	
Race track	One	Before 1884	
Fish traps	Nineteen	1883-1910	
Hunting, fishing and transportation	Seven	1872-1877, 1884-1910	
Allotment partially on banks	One	1906	
Sale or lease of use rights	Four	1882-1883, 1890-1892, 1902-1906	

**Table 5: Coeur d'Alene Tribal Use of Bed and Banks on the St. Joe and Coeur d'Alene Rivers and Coeur d'Alene Lake 1880-1910**

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Farming	Fred J. Russell	1901-1910	Farmed on reservation (evidently working for Indians)	Vol. 1, 27	G
Cutting hay	Fred J. Russell	1905-1906		Vol. 1, 32-33	G
Cattle grazing in bottomlands	William Truman	1906-1907		Vol. 1, 201	G
Cutting hay	Alfred Lindstrom	1898-1906	every year during the period	Vol. 1, 204-208	G
Cutting hay	M. H. Daggett	1888-1908		Vol. 1, 233, 241, 288	G
Cutting hay	M. H. Daggett	1900-1906	up to 250 tons of hay a year cut on reservation bottomlands	Vol. 1, 257-258	G
Cutting Coeur d'Alene hay	George F. Steele	1893-1901	was government agent during the years and visited bottomlands 5-6 times a year	Vol. 1, 337-340	G
Grazing of horses and cattle	George F. Steele	1893-1901	was government agent during the years and visited bottomlands 5-6 times a year; 300 head	Vol. 1, 352	G

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Grazing cattle, and cutting hay	George A. Mutch	1902-1908	paid Agent Worley \$1.00 a ton for hay he cut, and \$1.50 per cow per year for grazing	Vol. 2, 438	G
Cattle grazing in fenced bottomlands	George A. Mutch	1902-1908		Vol. 2, 463-464	G
Cattle grazing on land leased from Coeur d'Alene Indian	John Bolton	1906		Vol. 2, 518	G
Cattle grazing	Thomas P. Campbell	1889-1895		Vol. 2, 571	G
Cutting hay	Thomas P. Campbell	1889-1895		Vol. 2, 571, 595	G
Cutting hay	Jerry McCarthy	1904		Vol. 2, 673	G
Cutting hay	Perley Martin	1892-1893	worked for the Butler brothers	Vol. 2, 734	G
Grazing horses and cattle	A. J. L. Bredwald	1884-1910		Vol. 2, 803, 811-812	G
Indians camping on banks of river to look after horses and cattle grazing on banks	A. J. L. Bredwald	1884-1890	mentions old trail	Vol. 2, 813-814, 818-819	G
Cutting hay on banks	A. J. L. Bredwald	1884-1890		Vol. 2, 814	G
Race Track on banks	A. J. L. Bredwald	prior to 1883		Vol. 2, 814-815, 818	G

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Coeur d'Alenes hunting and fishing while camped on banks	A. J. L. Bredwald	1884-1910	Summer and winter seasons. Through the ice and south end of Coeur d'Alene Lake near St. Joe River mouth	Vol. 2, 820	G
Coeur d'Alenes fishing through the ice on Coeur d'Alene Lake	A. J. L. Bredwald	1884-1910		Vol. 2, 820-821	G
Fish traps	R. B. Dickerson	1892-1893	Described, but not in use at that time.	Vol. 3, 959-962, 974	G
Baling wild hay	Harry Miller	1906-1908	Baled 60 tons at Indian Pete's place, 40 tons at the Chamberlain place, and 60 at Butler place. It was shipped to St. Maries	Vol. 3, 995	G
Coeur d'Alene using canoe for transportation	Thomas R. Dunson	1907	With Indian Pete, who complained WWPC was trying to "drown me out."	Vol. 3, 1009-1010, 1054-1056	G
Fish trap	Thomas R. Dunson	1907	From bank to bank, on high ground, "obliterated" by this date	Vol. 3, 1055-1057, 1092	G



<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Indian ponies and cattle grazing	Thomas R. Dunson	1901-1907	50 head	Vol. 3, 1064-1065, 1092	G
Cutting hay	Thomas R. Dunson	1901-1907	stacked along the river where it was cut	Vol. 3, 1065, 1092	G
Raising cattle and cutting hay	J. S. Pence	1897-1902		Vol. 3, 1247, 1250, 1261, 1270, 1297-1298	G
Fish traps	J. S. Pence	1897-1902	"...to catch the fish coming out of these bottoms when they have gone in there in the high water..."	Vol. 3, 1298	G
Raised cattle and cut hay	Adolphus (Dolph) Butler	1890-1907	adoptee	Vol. 3, 1369	G
Grazing cattle on pasture in the bottomlands	Adolphus Butler	1888-1907	From June through late fall, sometimes through the winter; 200 head/year	Vol. 3, 1375, 1377	G
Cutting hay in bottomland	Adolphus Butler	1889	speaking of S. C. Liberty	Vol. 3, 1376-1377	G

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Cutting hay	Adolphus Butler	1890-1901	He sold nearly all the high bottomland hay he could grow	Vol. 3, 1384, 1389, 1399	G
Hunting	Adolphus Butler	1890-1901	adoptee	Vol. 3, 1419	G
Coeur d'Alenes fishing through the ice	Adolphus Butler	1890-1901		Vol. 3, 1419-1420	G
Fish traps	Adolphus Butler	1890-1901	saw them from a distance, but never examined them	Vol. 3, 1420	G
Planted and cut clover	Dolph (Adolph) Butler (Boutelier)	1891-1908	by him, an adoptee	Vol. 4, . 1442-1445	G
Fish traps	Dolph Butler	1903?	fish traps looked like willows stuck in the ground, a 1/4 mile from the St. Joe river (1488)	Vol. 4, . 1488 (desc.)	G
Coeur d'Alene Ranch	Arthur F. Swisher	1901		Vol. 4, 1499-1500	G
"Indian" Pete Barsaw's Ranch	Arthur F. Swisher	1904		Vol. 4, 1503, 1506,	G
Barsaw's cultivation of hay	Arthur F. Swisher	1908	bought hay from Barsaw	Vol. 4, 1508, 1527	G

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Cultivation of hay	Arthur F. Swisher	1901-1905	cut and stacked each year, principally wild hay	Vol. 4, 1509-1511	G
Cattle grazing	Arthur F. Swisher	1901-1906	"couple of hundred head"	Vol. 4, 1510, 1516	G
Horses grazing	Arthur F. Swisher	1901-1906	"one to two hundred"	Vol. 4, 1511, 1516	G
Hunting	Clarence Boutelier	1893	by Boutelier, an adoptee family	Vol. 4, 1628, 1637	G
Hay-cutting	Clarence Boutelier	1898		Vol. 4, 1637	G
Hunting and fishing	Clarence Boutelier	1900-1902	by Boutelier, an adoptee	Vol. 4, 1638, 1645, 1690-1691	G
Farmed and cut hay, raised garden	Clarence Boutelier	1905-1906	by Boutelier, an adoptee	Vol. 4, 1641-1645, 1723, 1731-1736	G
Hay raised and cut	Clarence Boutelier	1905	Indian Pete's place	Vol. 4, 1644-1645, 1700-1701	G

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Fish traps	Clarence Boutelier	1905		Vol. 4, 1645	G
Stock grazing	Clarence Boutelier	1893-1906	500-600 cattle and horses between 1893-1905, 1400-1500 in 1906, and hogs	Vol. 4, 1647, 1649	G
Hogs grazing	Clarence Boutelier	1893-1906	up to 100 head	Vol. 4, 1650, 1710	G
Allotment on St. Joe River banks	Clarence Boutelier	ca. 1906	whole family was adopted into the tribe	Vol. 4, 1656-1660	G
Indians leasing farming land	Clarence Boutelier	1905	Brother Dolph purchased use rights to piece of bottomland	Vol. 4, 1669	G
Fish traps	Clarence Boutelier	1893-1905	The Indians "would catch them most all times of the year...they used to have a little screen fence made, out of willows..."	Vol. 4, 1700	G
Whites grazing cattle on res.	Clarence Boutelier	1893-1906	apparently some authorized and some not	Vol. 4, 1708	G
Peter Moctelme's fenced pasture	Sol Walters	1889-1910	at some point during period he fenced the pasture	Vol. 4, 1751	G

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Mowing hay	J. A. Walters	1882-1906		Vol. 4, 1784	G
Stock grazing, fishing	J. A. Walters	1882-1906	horses, cattle, hogs (to eat the fish refuse and camas)	Vol. 4, 1784-1787, 1801	G
Hay raised and cut	George F. Steele	1893-1901	valued bottom lands at \$125/acre	Vol. 4, 1811-1812, 1831-1833	G
Cutting hay	Arthur A. Darknell	1897-1898	60-80 tons/year, which was baled and shipped for sale	Vol. 5, 1852-1858	G
Shipping hay from the bank	Arthur A. Darknell	1897-1898	he farmed on the reservation and later was a steamboat captain	Vol. 5, 1855	G
Cattle, horses and hogs grazing	Arthur A. Darknell	1897-1898		Vol. 5, 1858-1860, 1863-1864, 1900	G
Cutting hay	Arthur A. Darknell	1902-1910		Vol. 5, 1862	G
Fish traps	Arthur A. Darknell	1898		Vol. 5, 1864	G

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Cutting hay	Eli Laiard	1897	ranching, then steamboat captain; cut 250-300 tons of hay that year	Vol. 5, 1915-1916, 1933-1936	G
Grazing of horses, cattle and hogs	Eli Laiard	1897	on "island" between Lake Chatcolet and Benewah Lake	Vol. 5, 1922	G
Cutting hay	Eli Laiard	1906		Vol. 5, 1941	G
Grazing of horses, cattle and hogs	Eli Laiard	1897-1906		Vol. 5, 1941-1943	G
Fish traps	Eli Laiard	1897-1906		Vol. 5, 1942	G
Grazing of cattle	Eli Laiard	1907-1909		Vol. 5, 1951	G
Cutting hay	Eli Laiard	1898		Vol. 5, 1980-1982	G
Cattle grazing on banks	Lawrence F. Connelly	1903-1904		Vol. 5, 2081	G
Cutting hay	Lawrence F. Connelly	1906	1,000 tons cut	Vol. 5, 2082-2083	G
Purchase of hay from the mission	William Byers	1908-1909	1908--five tons of oat hay 1909--25 tons of wild hay	Vol. 7, 3276-3277	I

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Indians fishing	J. B. Gilbert	1884	Between Chatcolet and Benewah lakes	Vol. 10, 4517-4519	D
Indian horses grazing	John W. Dimmick	1878-1896	Between Chatcolet and Benewah lakes	Vol. 10, 4539, 4540-4541, 4554-4555, 4561	D
Cutting hay	John W. Dimmick	1885		Vol. 10, 4560	D
Cattle grazing	John W. Dimmick	1878-1896		Vol. 10, 4561	D
Cattle grazing	E. M. Durfee	1906		Vol. 10, 4605	D
Fish traps	E. M. Durfee	1906		Vol. 10, 4605	D
Cattle grazing	C. T. Rounds	1878-1905		Vol. 10, 4630-4637	D
Cutting hay	C. T. Rounds	1878-1905	at some point between 1878 and 1905	Vol. 10, 4635	D
Indian horses and cattle grazing; fish traps	L. R. Brockman	1882-1908		Vol. 10, 4680-4681, 4701, 4706-4707, 4712-4713	D

Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River	Name Of Witness	Date of Use	Comment	Citation	Witness Source
Tribal sale of use rights to banks	Charles P. Coey	1891-1892		Vol. 10, 4753, 4757-4764, 4769	D
Tribal lease of use rights to banks	J. F. Davidson	1902-1903		Vol. 10, 4782,	D
Grazing cattle	H. S. Young	1902-1905	\$1/per head per year feeding charge to Indian agent	Vol. 10, 4843-4846, 4859, 4914-4916	D
Cutting hay	H. S. Young	1902-1904		Vol. 10, 4859	D
Travel via Indian canoe	H. S. Young	1873		Vol. 10, 4869	D
Fenced Indian grazing land	H. S. Young	1902-1905		Vol. 10, 4914	D
Fish traps	H. S. Young	1902-1905		Vol. 10, 4927	D
Prospective leasing of bottomlands for hay production	Henry W. Collins	1890		Vol. 11, 5033, 5071-5072	D
Coeur d'Alenes camping at the fish traps	Henry W. Collins	ca. 1890	camped in February	Vol. 11, 4038-5040, 5044, 5076-5077	D



<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Peter Moctelme camped with boat at Chatcolet	Henry W. Collins	1889		Vol. 11, 5077	D
Fish traps	C. L. Clark	1901-1907		Vol. 11, 5096	D
Hay cut at fish traps	C. L. Clark	1901-1907		Vol. 11, 5120	D
Fish traps	G. F. Gilbert	1901-1907	knows where they are	Vol. 11, 5121-5124	D
"Indian Crossing"	Peter Frost	1906	place name one mile above Chatcolet	Vol. 11, 5193, 5217	D
Indian horses grazing on an area of banks between Chatcolet and Benewah Lake, where the banks were enclosed and the horses couldn't escape.	B. F. Coplen	ca. 1872-1877	In August or September at one point during those years.	Vol. 11, 5225	D
Cattle grazing	B. F. Coplen	1886-1906		Vol. 11, 5247	D
Use of Coeur d'Alene canoe to hunt ducks	B. F. Coplen	ca. 1872-1877	Coplen obtained an Indian canoe to use for hunting ducks	Vol. 11, 5243	D
"Indian Crossing"	T. R. Manning	1896	SW 1/4 of Sec. 4, T. 46 N., R. 3 W.	Vol. 11, 5368	D
Fish traps	William Fisher	1891	Drove cattle across river there	Vol. 12, 5466-5467	D

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Indian Benewah home	C. R. Botham	1884	"where the mountain comes right down there to the river"	Vol. 12, 5496-5499, 5512-5513	D
Indian ponies and cattle grazing on banks	C. R. Botham	1885-1895	August to November	Vol. 12, 5526	D
Indian camp near Benewah Lake	Oscar Wallace	1886-1906	"..there is an Indian camp there for years." SW 1/4 of Sec. 2, T. 46 N., R. 3 W.	Vol. 12, 5567, 5573-5574	D
Fish traps	W. H. Cowles	1884		Vol. 12, 5655-5656	D
Fish traps	Ralph Howard	1891	"a lot of stakes setting up there" directly opposite the old mission site	Vol. 12, 5703	D
Indians at Chatcolet Lake	Ralph Howard	1891	caught Howard's horses for him	Vol. 12, 5704-5705	D
Hunting ducks along river	Edward E. Manchester	1882-1883	Himself hunting on reservation	Vol. 13, 5865, 5870-5871	D
Attempted purchase of hay	Edward E. Manchester	1885	went to purchase hay but bottomlands were all submerged	Vol. 13, 5866	D

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Horses grazing in meadows	Edward E. Manchester	ca. 1885	horses were allegedly stolen	Vol. 13, 5890	D
Fish traps	N. A. Doty	1883-1910		Vol. 13, 5908-5909, 5916-5917, 5932	D
Grazing cattle on reservation	W. H. Gatward	1902	On land belonging to Timothy and Crosby	Vol. 13, 5962-5964	D
Cutting wild hay along Coeur d'Alene River	Charles Smith	1884	Near Cataldo Mission	Vol. 13, 5974	D
Fish traps	Charles Smith	1884		Vol. 13, 5976	D
Indian "rancheree" (ranch and ranch house)	J. W. Edwards	1885-1886	Near Chatcolet	Vol. 13, 6035	D
Fish traps	J. W. Edwards	1885-1886		Vol. 13, 6036	D
Cattle and ponies grazing	J. W. Edwards	1885-1886	Chatcolet to Fish Traps	Vol. 13, 6041	D
Fish traps	Andrew Bloom	1902-1910		Vol. 13, 6119-6121, 6132	D
Cutting hay	T. E. Williamson	1888-1910	At some point during those years	Vol. 13, 6174	G

<b>Tribal Use of Bottomlands (Banks) on Coeur d'Alene and St. Joe River</b>	<b>Name Of Witness</b>	<b>Date of Use</b>	<b>Comment</b>	<b>Citation</b>	<b>Witness Source</b>
Cutting hay	Peter Smith	1906	3-4 tons from Chatcolet area	Vol. 13, 6378-6381	G
Feeding bottomland hay to cattle	Sol Walters	1904-1905		Vol. 14, 6426-6427	G
Feeding bottomland hay to cattle	Charles Warren	1906	Fish Traps to longstretch area	Vol. 14, 6455-6458	G
Cattle feeding on bottomlands	Charles Warren	1891-1906	Fish Traps to Chatcolet area	Vol. 14, 6585	G
Cattle feeding on bottomlands	Albert Ewert	1906	Near the railroad trestle	Vol. 14, 6508	G
Stacked hay in bottomlands	Albert Ewert	1906	Chatcolet area	Vol. 14, 6515	G
Cattle fed with hay from bottomlands	M. H. Daggett	1892-1894	75 tons feeding 25 cows near St. Maries	Vol. 14, 6571	G
Hay cut from bottomlands	Eli Laiard	1898		Vol. 14, 6671	G

## VII Epilogue

The experience of the Coeur d'Alene with the United States between 1850 and 1910 did not encourage tribal confidence in U. S. promises. As Chief Moctelme said, "I don't see where the Government of the United States has ever helped me. The white people have broken all their promises and all my prosperity." As a result of that lack of trust, the Tribe initially rejected the Indian Reorganization Act in the early 1930s, although later the Tribal Council reversed itself and today the Tribe is governed by an IRA constitution. By the 1950s the Council was the governmental body and "Chief" had become a largely ceremonial position.<sup>551</sup> In 1958 an act was passed by Congress that restored all vacant lands inside the reservation boundaries to tribal ownership. A total of 12,878 acres of "vacant and undisposed-of ceded lands" were restored to the Coeur d'Alene Tribe.<sup>552</sup> In 1959 the Tribe received approximately \$4,000,000.00 in settlement for their claim against the United States before the Indian Claims Commission.<sup>553</sup> These funds were used by the Tribe to build tribal enterprises. Two years later the Tribe adopted a revised

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<sup>551</sup> Cox, Thomas R. "Tribal Leadership in Transition: Chief Peter Moctelme of the Coeur d'Alenes." *Idaho Yesterdays* Vol. 23, No. 1 (Spring 1979): p. 31. [47]

<sup>552</sup> Rassier, Phillip J.. *Indian Water Rights: a Study of the Historical and Legal Factors Affecting the Water Rights of the Indians of the State of Idaho*. Boise: State of Idaho, 1978, p. 80. [143]

United States. Statutes at Large. 72 Stat., 121. [656]

<sup>553</sup> "Coeur d'Alene Indians to Share Big Cash Grant," *Spokesman Review*, August 16, 1959 (copy from Cheney Cowles Museum). [657]

Constitution and By-laws, which provide for an elected Tribal Council of seven members, including the Chairman, Vice-Chairman, and Secretary-Treasurer. In 1972 a land consolidation act contained provisions allowing allotments to be sold or exchanged for tribal purposes.<sup>554</sup> By the early 1980s the tribal farm had a total of 6,400 acres.<sup>555</sup> In 1990 tribal holdings totalled 68,000 acres, about two percent of the Tribe's aboriginal holdings (see Maps 19 and 20).

### **VIII Conclusions**

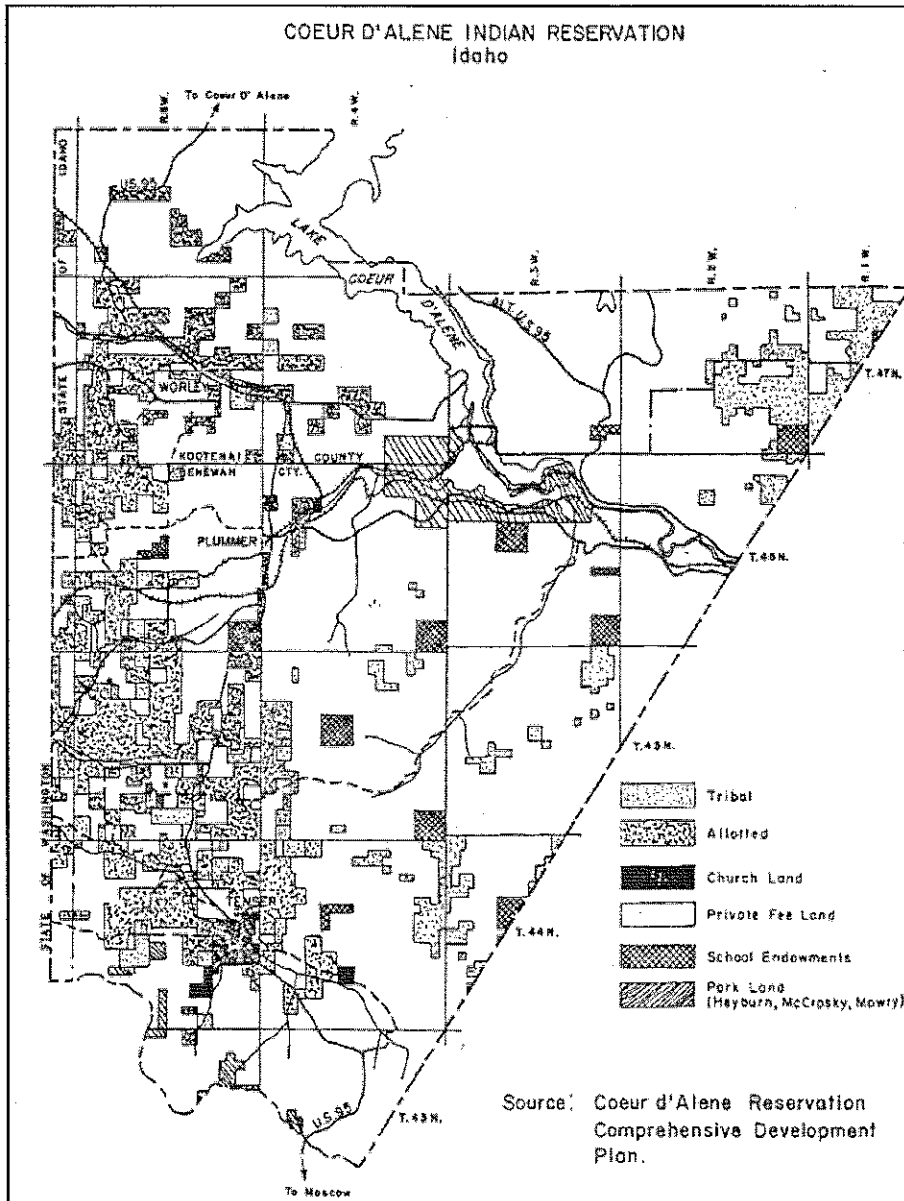
Since time immemorial, the Coeur d'Alene Tribe has lived on Coeur d'Alene Lake and its tributaries, including the St. Joe River, the Coeur d'Alene River, and the Spokane River. The Tribe's village locations demonstrate the Tribe's dependence on the water resource. The Tribe used the waterways for hunting, fishing, gathering, transportation, and recreation. These waters were indispensable to the Tribe and they were dependent on the resources provided by the waters for their material and spiritual survival.

As the Tribe began encountering non-Indians it made clear that while it was willing to engage in trade, it would not tolerate non-Indian settlement in Coeur d'Alene territory. As non-Indian pressure began to increase, the Tribe demonstrated it was willing to fight and die to protect its territory, rights, and resources. The Steptoe Battle was a decisive victory for the Coeur

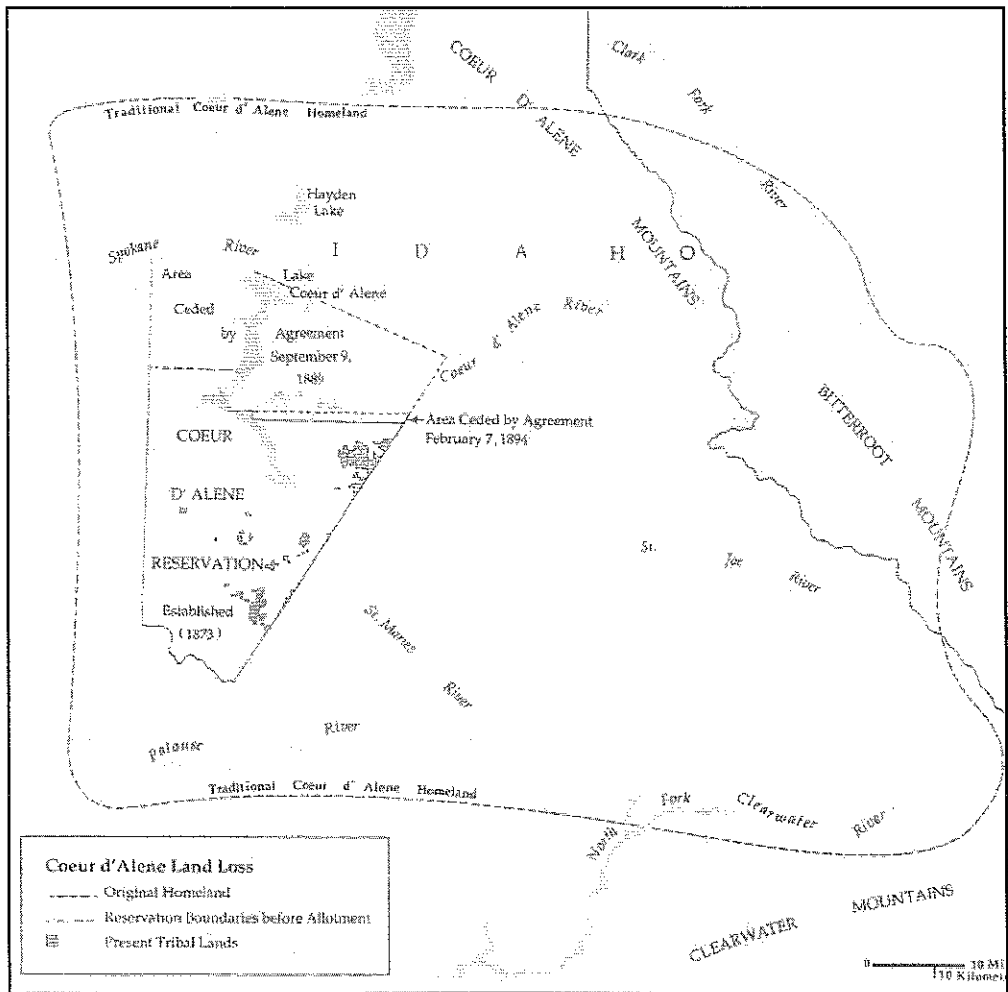
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<sup>554</sup> United States. Statutes at Large. 86 Stat. 788. [658]

<sup>555</sup> Connolly, Thomas E., and Gary B. Palmer. "Making Traditional Values Work in the 20th Century." In *Wealth and Trust: a Lesson from the American Indian*, edited by E. Richard Hart, pp. 8-10. Sun Valley, Idaho: Institute of the North American West, 1982. [40]



Map 19: After allotment, the Coeur d'Alene Tribe owned only a fraction of the lands within their reservation boundaries (1978 map). [143]



Map 20: Jacqueline Peterson's 1993 map illustrates the Coeur d'Alenes' dramatically reduced land base under the United States. [135]



d'Alenes and the Wright campaign was more of a stalemate than a victory for the United States. After these battles the United States was painfully aware that the only way it could peacefully acquire Coeur d'Alene territory was through negotiation and the Tribe's consent.

The United States was intent on acquiring Coeur d'Alene aboriginal territory without war. Its goal was to open the region to non-Indians and ensure continued peace with the Coeur d'Alenes. The United States was keenly aware of the Tribe's willingness to fight and understood that the only way to achieve its goals was to agree to the Tribe's demands.

The Tribe continued to be reliant on the water resource in 1873 for traditional hunting, fishing, and gathering and the United States was aware of that reliance. While the Tribe was engaged in some agriculture by 1873, it amounted to small garden plots and was not sufficient to maintain the Tribe's members. The only way the Tribe could survive in 1873 was through continued traditional hunting, fishing, and gathering practices, all of which revolved around the Lakes, rivers, and other water sources within the Coeur d'Alene's territory.

From initial contact onward, the United States was made aware of the Tribe's dependence on the water resource within Coeur d'Alene territory and in particular the Lake and its major tributaries. Almost without exception, all early federal accounts recognized the Coeur d'Alene's connection to Coeur d'Alene Lake and the major streams of the region. The United States was made explicitly aware of this dependence when the Tribe rejected the 1867 Executive Order Reservation because it did not include the lakes and rivers. In its petition to the United States to negotiate an agreement with the Coeur d'Alenes, the Tribe made clear that its reservation must include the lakes and rivers. While little remains regarding the actual negotiation sessions, Governor Bennett made clear "[w]e found that the Indians demanded an extension of the

reservation so as to include the Catholic Mission and fishing and mill privileges on the Spokane River." As a result, the 1873 Agreement contained an express reservation of water "that the waters running into said reservation shall not be turned from their natural channel where they enter said Reservation."

The 1873 Agreement was not effective until ratified by Congress. However, there was growing concern that non-Indians would encroach on the tribal lands, rights, and resources that were to be set aside in the 1873 Agreement before Congress was able to act. Accordingly, the Commissioner of Indian Affairs arranged for an executive order to set aside the same reservation outlined in the 1873 Agreement. The 1873 Executive Order created the Coeur d'Alene Reservation and was intended to mirror the 1873 Agreement.

Subsequent agreements with the Tribe provided for the cession of land but did not abrogate any other rights. The 1887 Agreement confirmed that the Coeur d'Alene Reservation set aside in the 1873 Agreement and Executive Order would continue to "be held forever as Indian land and as homes for the Coeur d'Alene Indians . . ." and provided for payment to the Tribe for the cession of its aboriginal territory. That agreement also provided that "no part of the reservation shall ever be sold or occupied, open to white settlement, or otherwise disposed of without the consent of the Indians." The 1889 Agreement provided for the cession of the northern portion of the 1873 Reservation in order to provide non-Indian access to the Lake and Coeur d'Alene River. Once again, the United States made clear that it was only interested in obtaining tribal land through Coeur d'Alene consent. This *modus operandi* continued through the Harrison cession but abruptly and tragically ended with the Coeur d'Alene Allotment Act despite unanimous and vehement opposition from the Tribe's members.

The purpose of the Coeur d'Alene Reservation was and continues to be the creation of a permanent homeland for the Coeur d'Alene people. Central to that homeland, and of critical importance to the Coeur d'Alene Tribe at all times in its history is the reservation and protection of Lake Coeur d'Alene and its tributaries as they had been since aboriginal times. As evidenced by the federal and tribal historic record the central purpose of the Coeur d'Alene Reservation was to set aside the submerged lands underlying the navigable waters within the Reservation for the exclusive benefit of the Tribe. It was the intent of the Tribe and the United States that the Coeur d'Alene homeland would provide for the Tribe's continued right to use the water resource to engage in traditional activities including but not limited to hunting, fishing, gathering, recreation, transportation, domestic, cultural and spiritual uses. Their waters and related uses continue to be a critical part of the Coeur d'Alene Reservation. The Coeur d'Alene Reservation also provided for the future economic development of the Coeur d'Alene Tribe and people. In particular, the Tribe and the United States intended the Tribe to continue to develop its agricultural resources, hydropower, milling, and other commercial resources.

It was the mutual intent of the United States and the Coeur d'Alene Tribe that the Coeur d'Alene homeland would protect and continue to provide all the resources and uses necessary for the Tribe and its people to subsist and engage in its unique customs and traditions while also providing new economic opportunities that would allow the Tribe to thrive into perpetuity.

### **Executive Summary**

#### Coeur d'Alene Tribal Subsistence: Dependence on Lakes, Rivers and Waters

The Coeur d'Alene Tribe, known as "Schee-chu-umsh" in their own Interior Salish

language, had an aboriginal territory of about 4,000,000 acres, which included in its heartland the Coeur d'Alene Lake, the Coeur d'Alene River and the St. Joe River. The lakes, rivers and other water resources within tribal territory were integral to the Tribe's cultural survival. Throughout their history, tribal members depended on their lakes, rivers and other waters for physical and spiritual well-being. Coeur d'Alene Lake, the Coeur d'Alene River and the St. Joe River formed the heart of the Tribe's homeland and tribal cultural life revolved around, and had a fundamental dependence on these water resources.

The Coeur d'Alene Tribe depended on the water resources of the Coeur d'Alene River, St. Joe River and Coeur d'Alene Lake in the location, establishment and occupation of their villages. The three divisions of the Tribe occupied at least thirty-three villages on the banks of, or near to these bodies of water, and upon which the Tribe depended for survival. Eye-witness observers have provided detailed descriptions of Coeur d'Alene villages on the banks of the rivers and lake for over one hundred fifty years. Important first-hand accounts of Coeur d'Alene villages and their relationship to the waterways include Point in 1842,<sup>556</sup> De Smet in the 1840s (who mapped the

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<sup>556</sup> Point, Nicholas. *Wilderness Kingdom: Indian Life in the Rocky Mountains, 1840-1847. the Journals and Paintings of Nicholas Point, S. J.* Edited and translated by Joseph P. Donnelly. New York: Holt, Rinehart and Winston, 1967, especially p. 50. [137]

villages),<sup>557</sup> Teit at the turn of the century,<sup>558</sup> Ray writing in 1936,<sup>559</sup> Peone, whose narrative was recorded in 1938,<sup>560</sup> and Palmer, working with Nicodemus, Felsman and Connolly in the 1980s.<sup>561</sup> Miller's archaeological work corroborated many of the village sites.<sup>562</sup> Many others, including

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<sup>557</sup> Peterson, Jacqueline. *Sacred Encounters: Father De Smet and the Indians of the Rocky Mountain West*. Washington State University: Norman, 1993, pp. 118-119. [135]

Jesuit Archives, Missouri Province, St. Louis; De Smetiana Nos. IX C8, #13, #27, #28, #34 (sides one and two), and #37. [647]

<sup>558</sup> Teit, James A., "The Salishan Tribes of the Western Plateaus," pp. 38-40. [171]

<sup>559</sup> Ray, Verne F. "Native Villages and Groupings of the Columbia Basin." *Pacific Northwest Quarterly* Vol. XXVII, No. 2 (April 1936), pp. 116, 130-133. [145]

Spier, Leslie. "Tribal Distribution in Washington." *General Series Anthropology*. George Banta Publishing Company Agent: Menasha, Wisconsin. No. 3 (1936), pp. 5-43. [164]

Stevens, Harold D. "An Analysis of Coeur d'Alene Indian-White Interrelations." M.A. Thesis, University of Idaho, 1955, p. 15 and Fig. 1. [166]

<sup>560</sup> Harms, Su, ed. *The Coeur d'Alene Teepee* Vols. I-III (1937-1940) (July 1980). Plummer, Idaho: Serento Press, p. 35. [79]

<sup>561</sup> Palmer, Gary B., Lawrence Nicodemus, and Lavinia Felsman. *Khwi' Khwe Hntmikhw'lumkhw: "This is My Land."* Plummer, Idaho: Coeur d'Alene Tribe, 1987, pp. 1-119. [129]

Palmer, Gary B., Thomas Connolly, and Lawrence Nicodemus. *Khwi' Khwe Gu Schitsu'umsh: "These Are the Coeur d'Alene People"*. Plummer, Idaho: Coeur d'Alene Tribe, 1987, pp. 5-97. [128]

<sup>562</sup> Miller, Tom O., Jr. "Archaeological Survey of Kootenai County, Northern Idaho." *Tebiwa: The Journal of the Idaho State College Museum*. Pocatello, Idaho; Vol. 2, No. 2 (Autumn, 1959): pp. 38-54. [115]

Peltier,<sup>563</sup> Dozier,<sup>564</sup> Chalfant,<sup>565</sup> Swanton,<sup>566</sup> and Kowrach and Connolly<sup>567</sup> have provided extensive evidence of the relationship of Coeur d'Alene village sites to water resources. Villages were situated near the lakes and rivers not only because of the ready and abundant supply of fish, but because travel through the dense undergrowth and thick forests was difficult, while travel by

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<sup>563</sup> Peltier, Jerome. *A Brief History of the Coeur d'Alene Indians, 1805-1909*. Fairfield, Washington: Ye Galleon Press, 1981, pp. 17-18. [132]

<sup>564</sup> Dozier, Jack. "History of the Coeur d'Alene Indians to 1900." M.A. Thesis, University of Idaho 1961, p. 7. [64]

<sup>565</sup> Chalfant, Stuart A. "Historical Material Relative to Coeur d'Alene Indian Aboriginal Distribution." In *Interior Salish and the Eastern Washington Indians I: the Coeur d'Alenes*. New York: Garland Publishing, Inc., 1974, pp. 117-141. [33]

<sup>566</sup> Swanton, John R. *The Indian Tribes of North America*, Washington, D. C.: Smithsonian Institution Press, 1952, pp. 411-412. [170]

<sup>567</sup> Kowrach, Edward J., and Thomas E. Connolly (eds.) *Saga of the Coeur d'Alene Indians: An Account of Chief Joseph Seltice*. Fairfield, Washington: Ye Galleon Press, 1990, provides much evidence, including that on pp. 25, 36, 70, and 178-179. [101]

Cox, Thomas R. "Tribal Leadership in Transition: Chief Peter Moctelme of the Coeur d'Alenes." *Idaho Yesterdays* Vol. 23, No. 1 (Spring 1979): pp. 2-9, 25-31. [47]

Hudson, L., S. Boswell, C. D. Carley, W. Choquette, C. Miss, D. H. Chance, and M. A. Stamper. *A Cultural Resource Overview for the Colville and Idaho Panhandle National Forests and the Bureau of Land Management--Spokane and Coeur d'Alene Districts*. Sandpoint, Idaho: Cultural Resource Consultants, 1981, p. 38. [87]

Walker, Deward E., Jr. *American Indians of Idaho*. Anthropological Monographs of the University of Idaho, Vol. 1, No. 2 (1973), Moscow, Idaho: University of Idaho, p. 100-104. [280]

Lewis, William S. (ed.). "The Sinclair Party--An Emigration Overland Along the Old Hudson Bay Company Route from Manitoba to the Spokane Country in 1854." *Washington Historical Quarterly* Vol. VII, No. 3 (July, 1916): p. 195. [104]

canoe on the lakes and rivers was much easier. The Coeur d'Alene Tribe depended on the water resources of the Coeur d'Alene River, St. Joe River, and Coeur d'Alene Lake in the location, establishment and occupation of their villages, for the purposes of transportation, subsistence, and maintenance of village life. These water resources provided the reason for the location of the core of the Tribe's homeland.

Fishing was crucial to the survival of the Coeur d'Alene Tribe. Using an extensive and complex system, involving weirs, basket traps, various types of nets, lines, spears, and hooks, the Tribe harvested large numbers of fish through all seasons of the year for purposes of subsistence, especially relying on the fisheries of the Coeur d'Alene River, St. Joe River (and rivers' tributaries), and Coeur d'Alene Lake. Primary accounts providing evidence of tribal fishing activities include Teit,<sup>568</sup> Peltier,<sup>569</sup> Kowrach and Connolly,<sup>570</sup> and Chalfant,<sup>571</sup> and many others provide extensive supporting documentation.<sup>572</sup> Fishing provided essential food resources to the

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<sup>568</sup> Teit, James A. "The Coeur d'Alene." In *Forty-Fifth Annual Report of the Bureau of American Ethnology, 1927-1928*, edited by Franz Boas. Washington, D. C.: Government Printing Office, 1930, pp. 105-107, 162-163. [171]

<sup>569</sup> Peltier, Jerome. *Manners and Customs of the Coeur d'Alene Indians*. Moscow, Idaho: Peltier Publications, 1975, pp. 9, 21 and 36-38. [133]

<sup>570</sup> Kowrach, Edward J., and Thomas E. Connolly (eds.) *Saga of the Coeur d'Alene Indians: An Account of Chief Joseph Seltice*. Fairfield, Washington: Ye Galleon Press, 1990, p. 84. [101]

<sup>571</sup> Chalfant, Stuart A. "Historical Material Relative to Coeur d'Alene Indian Aboriginal Distribution." In *Interior Salish and the Eastern Washington Indians I: the Coeur d'Alenes*. New York: Garland Publishing, Inc., 1974, pp. 110-156. [33]

<sup>572</sup> Ackerman, Lillian. "The Effect of Missionary Ideals on Family Structure and Women's Roles in Plateau Indian Culture." *Idaho Yesterdays* Vol. 31, Numbers 1-2 (Spring/Summer 1987): p. 65.

Coeur d'Alene Tribe. The fisheries in the Coeur d'Alene River, Coeur d'Alene Lake and the St. Joe River were indispensable to the Tribe and they were dependent on these resources for their material survival.

Tribal reliance on the lakes and waterways extended to hunting practices. Tribal hunting

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Ray, Verne F. *Cultural Relations in the Plateau of Northwestern America*. Los Angeles, 1939, p. 66. [146]

Dozier, Jack. "History of the Coeur d'Alene Indians to 1900." M.A. Thesis, University of Idaho 1961, for instance, p. 8. [64]

Butler, B. Robert "A Report on Excavations in the Palouse and Craig Mountain Sections." *Occasional Papers of the Idaho State College Museum, Number 9* (1962). Pocatello, Idaho, pp. 56-60. [30]

George, Oswald. "Historical MSS." Library and Archives. Cheney-Cowles Museum, Spokane, Washington, 1968, pp. 1-4. [71]

De Smet, Pierre-Jean. *New Indian Sketches*. Fairfield, Washington: Ye Galleon Press, 1985 (first published 1863), p. 34. [56]

Walker, Deward E., Jr. *American Indians of Idaho*. Anthropological Monographs of the University of Idaho, Vol. 1, No. 2 (1973), Moscow, Idaho: University of Idaho, pp. 46-53. [280]

Feathers, Joseph J. S. *These Are the Coeur d'Alene Tribe*. Lewiston, Idaho: Lewis-Clark State College Press, 1971, p. 1. [68]

Hudson, L., S. Boswell, C. D. Carley, W. Choquette, C. Miss, D. H. Chance, and M. A. Stamper. *A Cultural Resource Overview for the Colville and Idaho Panhandle National Forests and the Bureau of Land Management--Spokane and Coeur d'Alene Districts*. Sandpoint, Idaho: Cultural Resource Consultants, 1981, pp. 37-38 and 53. [87]

Butler, B. Robert. *A Guide to Understanding Idaho Archaeology*. Pocatello: Idaho State University Museum, 1968, pp. 56-57. [29]



techniques were integrally tied to the rivers and lakes. Teit,<sup>573</sup> Peltier,<sup>574</sup> Liljeblad,<sup>575</sup> and Chalfant<sup>576</sup> provided details of the Coeur d'Alene hunting practices that required the use of their lakes and rivers. Nicolas Point described Coeur d'Alene hunting practices using Coeur d'Alene Lake in the 1840s and depicted the practices in paintings drawn from first-hand observation.<sup>577</sup> The Tribe depended on the rivers, lakes and other waters (particularly the Coeur d'Alene and St. Joseph Rivers, and Coeur d'Alene Lake) for strategic hunting practices, as well as for more general transportation uses during hunting expeditions. The dependence of the Tribe on the rivers and lake for hunting is another indication of the central importance of those waters to the survival and identity of the Coeur d'Alenes.

Other traditional Coeur d'Alene activities associated with waterways provide additional evidence of tribal dependence on their water resources. Coeur d'Alenes traditionally traveled over

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<sup>573</sup> Teit, James A. "The Coeur d'Alene." In *Forty-Fifth Annual Report of the Bureau of American Ethnology, 1927-1928*, edited by Franz Boas. Washington, D. C.: Government Printing Office, 1930, pp. 101-102. [171]

<sup>574</sup> Peltier, Jerome. *Manners and Customs of the Coeur d'Alene Indians*. Moscow, Idaho: Peltier Publications, 1975, pp. 39-40. [133]

<sup>575</sup> Liljeblad, Sven. "Indian Peoples in Idaho." MSS., Idaho State College. University of Washington Archives, 1957. [105]

<sup>576</sup> Chalfant, Stuart A. "Historical Material Relative to Coeur d'Alene Indian Aboriginal Distribution." In *Interior Salish and the Eastern Washington Indians I: the Coeur d'Alenes*. New York: Garland Publishing, Inc., 1974, p. 188. [33]

<sup>577</sup> Point, Nicholas. *Wilderness Kingdom: Indian Life in the Rocky Mountains, 1840-1847. the Journals and Paintings of Nicholas Point, S. J.* Edited and translated by Joseph P. Donnelly. New York: Holt, Rinehart and Winston, 1967, pp. 77, 80, 83 and 178-181. [137]

Coeur d'Alene Lake, the St. Joe and the Coeur d'Alene River by canoe, for purposes of trade, communication, hunting, and to reach gathering locations. Descriptions of traditional Coeur d'Alene canoes and canoeing activities have been provided in numerous accounts over the past one and a half centuries, and include descriptions by Ray,<sup>578</sup> Seltice,<sup>579</sup> Teit,<sup>580</sup> Hudson *et. al.*,<sup>581</sup> Peltier<sup>582</sup> and Curtis.<sup>583</sup> Joseph Seltice, whose account was edited by Kowrach and Connolly, provided details of swimming and fish-catching contests.<sup>584</sup> Many other traditional activities,

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<sup>578</sup> Ray, Verne F. *Cultural Relations in the Plateau of Northwestern America*. Los Angeles, 1939, pp. 140-143. [146]

<sup>579</sup> Kowrach, Edward J., and Thomas E. Connolly (eds.) *Saga of the Coeur d'Alene Indians: An Account of Chief Joseph Seltice*. Fairfield, Washington: Ye Galleon Press, 1990, pp. 71 and 224-228. [101]

<sup>580</sup> Teit, James A. "The Coeur d'Alene." In *Forty-Fifth Annual Report of the Bureau of American Ethnology, 1927-1928*, edited by Franz Boas. Washington, D. C.: Government Printing Office, 1930, pp. 108, 179. [171]

<sup>581</sup> Hudson, L., S. Boswell, C. D. Carley, W. Choquette, C. Miss, D. H. Chance, and M. A. Stamper. *A Cultural Resource Overview for the Colville and Idaho Panhandle National Forests and the Bureau of Land Management--Spokane and Coeur d'Alene Districts*. Sandpoint, Idaho: Cultural Resource Consultants, 1981, pp. 43 and 54. [87]

<sup>582</sup> Peltier, Jerome. *Manners and Customs of the Coeur d'Alene Indians*. Moscow, Idaho: Peltier Publications, 1975, pp. 40-41. [133]

<sup>583</sup> Curtis, Edward S. *The North American Indian*, Vol. 7, New York: Johnson Reprint Company, 1911 (Johnson Reprint), pp. 53-62, 69, 71-72, 79-102 and 165. [50]

<sup>584</sup> Kowrach, Edward J., and Thomas E. Connolly (eds.) *Saga of the Coeur d'Alene Indians: An Account of Chief Joseph Seltice*. Fairfield, Washington: Ye Galleon Press, 1990, pp. 56 and 198. [101]

including gathering, tool-making,<sup>585</sup> and especially the harvest of “water potatoes”<sup>586</sup> also took place using Coeur d’Alene Lake resources. Burial practices were closely associated with the lake

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<sup>585</sup> Hudson, L., S. Boswell, C. D. Carley, W. Choquette, C. Miss, D. H. Chance, and M. A. Stamper. *A Cultural Resource Overview for the Colville and Idaho Panhandle National Forests and the Bureau of Land Management--Spokane and Coeur d’Alene Districts*. Sandpoint, Idaho: Cultural Resource Consultants, 1981, p. 40. [87]

Teit, James A. "The Coeur d'Alene." In *Forty-Fifth Annual Report of the Bureau of American Ethnology, 1927-1928*, edited by Franz Boas. Washington, D. C.: Government Printing Office, 1930, pp." 40-43, 46-48, 82, 134. [171]

Harms, Su, ed. *The Coeur d’Alene Teepee Vols. I-III (1937-1940)* (July 1980). Plummer, Idaho: Serento Press, pp. 101 and 170. [79]

Peltier, Jerome. *Manners and Customs of the Coeur d’Alene Indians*. Moscow, Idaho: Peltier Publications, 1975, pp. 27 and 77. [133]

<sup>586</sup> Kowrach, Edward J., and Thomas E. Connolly (eds.) *Saga of the Coeur d’Alene Indians: An Account of Chief Joseph Seltice*. Fairfield, Washington: Ye Galleon Press, 1990, pp. 229 and 274. [101]

Diomedi, Alexander. *Sketches of Indian Life in the Pacific Northwest*. Fairfield, Washington: Ye Galleon Press, 1978 (originally published 1902), p. 72. [60]

Peltier, Jerome. *Manners and Customs of the Coeur d’Alene Indians*. Moscow, Idaho: Peltier Publications, 1975, p. 77. [133]

Palmer, Gary B., Lawrence Nicodemus, and Lavinia Felsman. *Khwi’ Khwe Hntmikhw’lumkhw: “This is My Land.”* Plummer, Idaho: Coeur d’Alene Tribe, 1987, p. 7. [129]

Palmer, Gary B. “The Farm of Peter Vincent (Pierre Basa),” Sacred Heart Mission Archives, pp. 2-3. [124]

Matheson-Curtis, Donna. “Water Potato Day more than just another day off,” *Coeur d’Alene Council Fires*. Series II, Volume IX, Issue X (November 5, 1993), p. 5. [111]

and rivers,<sup>587</sup> as were other religious and cultural activities.<sup>588</sup> In their use of Coeur d'Alene Lake, the Coeur d'Alene River and the St. Joe River for transportation, communication, gathering of food and utilitarian necessities, locating their burial grounds, and in their religious and day to day cultural activities, the Tribe demonstrated its integral connection to and dependence on these water resources.

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<sup>587</sup> Peltier, Jerome. *Manners and Customs of the Coeur d'Alene Indians*. Moscow, Idaho: Peltier Publications, 1975, pp. 71-74. [133]

Teit, James A., "The Salishan Tribes of the Western Plateaus," pp. 172-174. [171]

Hudson, L., S. Boswell, C. D. Carley, W. Choquette, C. Miss, D. H. Chance, and M. A. Stamper. *A Cultural Resource Overview for the Colville and Idaho Panhandle National Forests and the Bureau of Land Management--Spokane and Coeur d'Alene Districts*. Sandpoint, Idaho: Cultural Resource Consultants, 1981, p. 51. [87]

Ray, Verne F. *Cultural Relations in the Plateau of Northwestern America*. Los Angeles, 1939, pp. 61-63. [146]

Miller, Tom O., Jr. "Four Burials from the Coeur d'Alene Region, Idaho." *American Antiquity* Vol. XIX, No. 4 (April 1954): pp. 389-390. [114]

Curtis, Edward S. *The North American Indian*, Vol. 7, pp. 53-62, 76, 79-102. New York: Johnson Reprint Company, 1911 (Johnson Reprint), [50]

Shane, Alfred E., and Betty J. Shane. "Coeur d'Alene Indian Cemeteries & Burial Grounds, 1844-1987, Benewah & Kootenai Counties, Idaho." MSS. Library of Congress, 1987. [163]

<sup>588</sup> Peltier, Jerome. *Manners and Customs of the Coeur d'Alene Indians*. Moscow, Idaho: Peltier Publications, 1975, p. 38. [133]

Haskell, Susan H. to T. J. Ferguson, August 31, 1993, enclosing accession information from Peabody Museum of Archaeology and Ethnology. [84]

Hutton, May Arkwright. "The Coeur d'Alenes: a Tale of the Modern Inquisition in Idaho." in *Liberated Woman: a Life of May Arkwright Hutton*. Montgomery, James W. (ed.), Fairfield, Washington: Ye Galleon Press, 1974 (originally published 1900), p. 173. [89]

Study, analysis and synthesis of Coeur d'Alene language and traditional narrative provide further evidence of the extent to which the Coeur d'Alene people relied upon their water resources, both for material needs and for cultural and spiritual support. Principal studies of the traditional narratives of the Coeur d'Alene have been carried out over more than a century by Mengarini,<sup>589</sup>

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<sup>589</sup> Mengarini, G., and George Gibbs. "Vocabulary." In *Contributions to North American Ethnology*, Washington, D. C.: Government Printing Office, 1877, pp. 267-282. [113]

Reichard,<sup>590</sup> Nicodemus,<sup>591</sup> Palmer,<sup>592</sup> Teit,<sup>593</sup> Walker,<sup>594</sup> and McCarl.<sup>595</sup> Language, stories,

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<sup>590</sup> Reichard, Gladys A. "Imagery in an Indian Vocabulary." *American Speech* Vol. XVIII, Number 2 (April 1943): pp. 96-102. [148]

Reichard, Gladys A.. *An Analysis of Coeur d'Alene Indian Myths*. Philadelphia: American Folklore Society, 1947, pp. 1-6, 36, 38, 119-122, 177-181, and 203-207. [147]

Reichard, Gladys A. "The Style of Coeur d'Alene Mythology." In *Verhandlungen Des XXIV. Internationalen Amerikanisten-Kongresses Hamburg*, edited by R. Grossmann and G. Antze. Hamburg: Friederichsen, De Gruyter & Co., 1934, pp. 243-253. [149]

<sup>591</sup> Nicodemus, Lawrence G. *Snichitsu'umshtsm: the Coeur d'Alene Language. Volume II: English-Coeur d'Alene Dictionary*. Spokane, Washington: Coeur d'Alene Tribal Council, 1975. [121]

Nicodemus, Lawrence G. *Snichitsu'umshtsn: the Coeur d'Alene Language. Volume I: the Grammar*. Spokane: Coeur d'Alene Tribal Council, 1975. [122]

<sup>592</sup> Palmer, Gary B. "'Where There Are Muskrats': the Semantic Structure of Coeur d'Alene Place Names." *Anthropological Linguistics* Vol. 32, . Nos. 3-4 (1990): pp. 263-294. [127]

Palmer, Gary B. "The Language and Culture Approach in the Coeur d'Alene Language Preservation Project." *Human Organization*, Vol. 47, No. 4 (Winter, 1988): p. 307. [125]

Palmer, Gary B., Lawrence Nicodemus, and Lavinia Felsman. *Khwi' Khwe Hntmikhw'lumkhw: "This is My Land."* Plummer, Idaho: Coeur d'Alene Tribe, 1987. [129]

<sup>593</sup> Teit, James A. "Coeur d'Alene Tales." In *Folk-Tales of Salishan and Sahaptin Tribes*, edited by Franz Boas, New York: American Folk-Lore Society, 1917, pp. 96-97, 119, 121-122, and 126-127, 129, 181-183. [172]

Teit, James A. "The Coeur d'Alene." In *Forty-Fifth Annual Report of the Bureau of American Ethnology, 1927-1928*, edited by Franz Boas. Washington, D. C.: Government Printing Office, 1930, pp. 135-138. [171]

<sup>594</sup> Walker, Deward E., Jr. *American Indians of Idaho*. Anthropological Monographs of the University of Idaho, Vol. 1, . No. 2 (1973), Moscow, Idaho: University of Idaho, pp. 177-206. [280]

Walker, Deward E., Jr. *Myths of Idaho Indians*. Moscow, Idaho: University of Idaho Press,

myths, and other traditional narratives all provide evidence of the Coeur d'Alene's integral relationship with Coeur d'Alene Lake, the Coeur d'Alene River and the St. Joe River, with its tributary the St. Maries. Traditional narratives provide details of lifestyle as it related and relates to waterways within tribal territory. Studies of these materials also indicate societal and religious beliefs toward the waterways. The Tribe's dependence on these aquatic resources has been not only for physical well-being, but for the maintenance of their cultural and spiritual identity.

Voluminous materials documenting Coeur d'Alene culture, including materials relating to traditional villages, fishing, hunting, gathering, religion, traditional narrative and cultural identity, demonstrate the fundamental dependence the Tribe has had on its waterways and water sources, especially the Coeur d'Alene River, the St. Joe River and Coeur d'Alene Lake at the heart of their homeland.

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1980, pp. 61-102. [281]

<sup>595</sup> McCarl, Robert. "A Spatial Analysis of Coeur d'Alene Traditional Literature: Aquatic Culture and Cultural Survival Through Narrative." Institute of the North American West, August 20, 1993, p. 107 [112]

For some more recent work with Coeur d'Alene oral history and traditions, see:

Frey, Rodney (compiled and edited by). *Me-Y-Mi-Ym: "he or she is going to tell stories," Oral Literature of the Coeur d'Alene Indian People*. Lewis-Clark State College, 1993. [696]

De Lisle, Sonya R. "Listening to the Voices of Veterans: Oral Histories of Three Coeur d'Alene Veterans," MA thesis in Anthropology, University of Idaho, 2006. [697]

Aripa, Lawrence. "The Coyote and the Rock," *Idaho Heritage*, 1977, pp. 38-39. [698]

A Tribal Homeland: Purposes of the 1873 Reservation

*From the first encounters with the Coeur d'Alene Tribe until the establishment of the 1873 Reservation, representatives of the United States were fully aware of the importance of the tribal homeland of the Coeur d'Alene Tribe.*

The first comments on the Coeur d'Alene Tribe by official representatives of the United States came from Meriwether Lewis and William Clark, who met three Coeur d'Alenes while on their historic transcontinental expedition. Lewis and Clark noted the Tribe in their journals and on their map, in both cases emphasizing the Tribe's close relationship to Coeur d'Alene Lake and the Spokane River.<sup>596</sup>

There were few published reports mentioning the Coeur d'Alenes during the next forty years, and no official United States contact with the Tribe. Catholics established a mission among the disease-decimated Tribe in 1842, and four years later the United States ratified a treaty with Great Britain that established the Forty-Ninth Parallel, to the north of Coeur d'alene, as the international boundary (it would be over twenty years before the boundary was actually surveyed). Early Catholic missionaries published reports of the Tribe, describing the Tribe's fishing and

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<sup>596</sup> Biddle, Nicholas (ed.). *The Journals of the Expedition Under the Command of Capts. Lewis and Clark*. New York: The Heritage Press, 1962, Vol. I, end map; Vol. II, p. 450. [14]

Thwaites, Reuben Gold. *Original Journals of the Lewis and Clark Expedition*. New York: Dodd, Mead & Company, 1905, Vol. 4, Part II, pp. 363-365; Vol. 5, Part I, pp. 93-94; and Vol. 6, Part I, p. 119. [179]

Chalfant, Stuart A. "Historical Material Relative to Coeur d'Alene Indian Aboriginal Distribution." In *Interior Salish and the Eastern Washington Indians I: the Coeur d'Alenes*. New York: Garland Publishing, Inc., 1974, pp. 51-52. [33]



waterways-hunting practices,<sup>597</sup> but it was not until 1853 that an emissary of the United States was officially directed to deal with the Coeur d'Alene. Washington Territorial Governor and Superintendent of Indian Affairs Isaac I. Stevens was authorized to negotiate tribal treaties of cession within the newly created Washington Territory in 1853 in order to make possible and facilitate non-Indian immigration. Stevens met with the Coeur d'Alene Tribe a number of times during the following two years, and on several occasions described the Tribe's fisheries and the people's reliance on fishing. He visited their villages on the Coeur d'Alene River and Coeur d'Alene Lake and described a village on the St. Joe River. Coeur d'Alenes took him by canoe across the lake to the newly constructed mission, where he held councils. He made records of the councils he held with tribal leaders and reported the Tribe seemed anxious to avoid violence, although they were upset that the United States attempted to restrict the sale of ammunition to them. Governor Stevens noted that the Coeur d'Alenes' aboriginal homeland was "well adapted for settlement" and discussed purchasing a portion of the land from the Tribe. Interrupted by warfare to the west, however, he did not conclude a formal treaty with the Tribe.<sup>598</sup>

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<sup>597</sup> De Smet, Father Pierre Jean. "Missions of the Rocky Mountains." *Annals of the Propagation of the Faith* Vol. 7 (1846): pp. 363, 368-369, and 372-375. [55]

<sup>598</sup> Stevens, Isaac I. *Narrative and Final Report of Explorations for a Route for a Pacific Railroad*, "Reports of Explorations and Surveys, to Ascertain the Most Practicable and Economical Route for a Railroad from the Mississippi River to the Pacific Ocean," Vol. XII, Book I. Washington: Thomas H. Ford, Printer, 1860, pp. 109, 130-135, 175, 179, 196, and 200-202, 224, 254 and 344. [168]

Peltier, Jerome. *Antoine Plante: Mountain Man, Rancher, Miner, Guide, Hostler and Ferryman*. Fairfield, Washington: Ye Galleon Press, 1983, pp. 16-21. [131]

"The Catholic Mission Among the Coeur d'Alene Indians. Memoranda." De Smet, Idaho,

The failure of Stevens to conclude a treaty with the Coeur d'Alene contributed to a violent conflict in 1858-1859. Lieutenant Colonel Edward J. Steptoe led a column of troops into Coeur d'Alene Territory in 1858, in an action that the Tribe took to be an invasion. Steptoe's command was soundly defeated and national publications reported that it was a major defeat of United States troops.<sup>599</sup> Later in the year, seeking retribution, Colonel George Wright led a campaign against the Tribe. Wright's troops prevailed in several battles as they approached Coeur d'Alene heartland, then traveled on to Coeur d'Alene Lake, where he threatened to restrict the Tribe from their fishing grounds if they did not agree to his proposed treaty. The Tribe agreed and signed a treaty of peace and friendship (unratified) under which terms the United States again promised to negotiate a formal treaty with the Tribe to settle their aboriginal claims. After the council the Tribe provided canoe transportation for the troops as they crossed the Coeur d'Alene and St. Joe Rivers to the south. Wright reported the necessity of traveling by water in the thickly wooded country, and relied

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July 23, 1925, Gonzaga University. Oregon Province Archives of the Society of Jesus, Spokane, Washington. [293]

Stevens, Gov. Isaac Ingalls. *Journal of Operations of Governor Isaac Ingalls Stevens of Washington Territory in 1855* (Edward J. Kowrach, ed.). Fairfield, Washington: Ye Galleon Press, 1978, pp. 23-38 and 41-44. [167]

Dunbar, Seymour. *The Journals and Letters of Major John Owen: Pioneer of the Northwest, 1850-1871*. New York: Edward Eberstadt, 1927, pp. 61-62. [65]

<sup>599</sup> "Colonel Steptoe's Battle with the Indians. Letters from Col. Steptoe and Lieut. Mullan," *New York Times*, July 21, 1858, enclosing a letter from Lieut. [John] Mullan to James G. Swan, June 1, 1858. [715]

*Harper's Weekly*, June 10, 1858, "Domestic Intelligence." [716]

on the Tribe for canoes to do so (see Appendix).<sup>600</sup> One historian, Judge William Compton Brown, who interviewed Indian witnesses to events during that period, concluded that Wright actually was the loser in the negotiations and that the Coeur d'Alene never surrendered.<sup>601</sup> Under the terms of the unratified Wright Treaty, the United States again promised to negotiate a formal treaty with

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<sup>600</sup> United States. Congress. Senate. "Department of the Pacific," *Report of the Secretary of War*. Senate Executive Document. 35th Congress, 2nd Session. Washington, D. C.: William A. Harris, 1859, especially pp. 346-349, 354-363, 396-399, and 407-410. [208]

Kip, Lawrence. *Army Life on the Pacific: a Journal of the Expedition Against the Northern Indians, the Tribes of the Coeur d'Alenes, Spokans, and Pelouzes, in the Summer of 1858*. New York: Redfield, 1859, pp. 84-85. [100]

Manring, Benjamin Franklin. *Conquest of the Coeur d'Alene, Spokanes and Palouses: the Expeditions of Colonels E. J. Steptoe and George Wright Against the "Northern Indians" in 1858*. Spokane, Washington: Inland Printing Company, 1912. [110]

Dozier, Jack. "The Coeur d'Alene Indians in the War of 1858." *Idaho Yesterdays* Vol. V, no. No. 3 (Fall 1961): pp. 22-32. [62]

Burns, Robert Ignatius. "Pere Joset's Account of the Indian War of 1858." *The Pacific Northwest Quarterly* Vol. 38 (1947): pp. 285-315. [27]

Brown, Wm. Compton. *The Indian Side of the Story*. Spokane, Washington: C. W. Hill Printing Co., n.d., pp. 260-261, 417. [23]

Bischoff, William N., and Charles M. Gates. "The Jesuits and the Coeur d'Alene Treaty of 1858." *Pacific Northwest Quarterly* Vol. 34 (1943): pp. 169-181. [15]

Peltier, Jerome. *A Brief History of the Coeur d'Alene Indians, 1805-1909*. Fairfield, Washington: Ye Galleon Press, 1981, pp. 30-51. [132]

Kowrach, Edward J., and Thomas E. Connolly (eds.) *Saga of the Coeur d'Alene Indians: An Account of Chief Joseph Seltice*. Fairfield, Washington: Ye Galleon Press, 1990, pp. 72-75, 86-97, 99-156. [101]

<sup>601</sup> Brown, William Compton. *The Indian Side of the Story*. Spokane, Washington: C. W. Hill Printing Co., 1961, pp. 260-261.[23]

the Tribe to settle aboriginal claims. (see Appendix).

During the 1860s there were continuing published reports from the Catholic missionaries among the Coeur d'Alene, especially Pierre-Jean De Smet, who described in detail the central position Coeur d'Alene Lake, the Coeur d'Alene River and the St. Joe River had in Coeur d'Alene Territory.<sup>602</sup> But it was Captain John Mullan's published reports on his road-building enterprise that provided the United States with official information on the Tribe and tribal territory. The Mullan Road was completed between 1859 and 1862 and Mullan's reports were published in 1861, 1863 and 1865. They provided the United States, and the public, with its first in-depth view of the Coeur d'Alene Tribe and their territory. Mullan reported that the Coeur d'Alenes' villages were along the banks of Coeur d'Alene Lake, the Coeur d'Alene River and the St. Joe River and mentioned their canoes and fishing practices. He appreciated the importance of Coeur d'Alene Lake for the purpose of navigation and suggested the future use of steamboats to travel over its waters. Mullan, at that time, believed that the Tribe should be removed from its territory in order to allow white expansion.<sup>603</sup>

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<sup>602</sup> De Smet, Pierre-Jean. *New Indian Sketches*. Fairfield, Washington: Ye Galleon Press, 1985 (first published 1863), p. 130-133. [56]

<sup>603</sup> Mullan, Captain John. *Miners and Travelers' Guide to Oregon, Washington, Idaho, Montana, Wyoming, and Colorado, Via the Missouri and Columbia Rivers*. New York: Arno Press, 1973 (originally published 1865), pp. 5, 11, 18, 23-24, ;27, 33, 43-44, 50-51, 58-63, 80, and 83-84. [118]

United States. Congress. Senate. *Report and Map of Capt. John Mullan, United States Army, of his Operations While Engaged in the Construction of a Military Road from Fort Walla Walla, on the Columbia River, to Fort Benton, on the Missouri River*. Sen. Ex. Doc. No. 43. 37th Congress, 3rd Session. Washington, D. C.: Government Printing Office, 1863. [209]

United States. Congress. House. *Military Road from Fort Benton to Fort Walla-Walla*. Ex.

The Mullan Road made much of the Northwest, including Coeur d'Alene country, available to a rapid influx of miners and prospectors. In September, 1864, the new governor of the Territory of Idaho, Caleb Lyon, visited the Tribe and reported that the Tribe held unextinguished title to their territory and suggested that the United States extinguish that title and establish a reserve for the Tribe, thus opening tribal territory to white settlers.<sup>604</sup> By 1865 gold-seekers were rushing into Coeur d'Alene country. In response to the Governor's request, in September, 1865, the Commissioner of Indian Affairs instructed the Governor to negotiate a treaty with the Tribe in order to obtain the cession of most of their aboriginal territory, and at the same time create a reservation for them out of a portion of their lands.<sup>605</sup>

No action had been taken by September, 1866, when a new governor, D. W. Ballard, took office. Ballard reported that Nez Perce Agent James O'Neill had visited with the Tribe and reported they refused to move from their lands, but would agree to a reservation within their territory. O'Neill suggested a reserve in the vicinity of today's De Smet. Further, O'Neill asserted to authorities the Coeur d'Alenes were on the verge of joining the Nez Perce in war against the United States. Based on a description provided by Governor Ballard, on June 14, 1867, President Andrew

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Doc. No. 44. 36th Congress, 2d Session. Washington, D. C.: Government Printing Office, 1861. [197]

<sup>604</sup> United States. Department of the Interior. Annual Report of the Commissioner of Indian Affairs. Washington: Government Printing Office, 1867, pp. 417-418. [228]

<sup>605</sup> United States. Department of the Interior. Annual Report of the Commissioner of Indian Affairs. Washington: Government Printing Office, 1867, pp. 419-420. [228]

Johnson signed an executive order to establish a Coeur d'Alene Reservation (Appendix).<sup>606</sup>

Although this reservation encompassed 250,000 acres, it only included a sliver of Coeur d'Alene Lake, none of the Coeur d'Alene River and only the mouth of the St. Joe River. The Tribe was probably not even notified of the 1867 Executive Order until four years later, in 1871. At that time, tribal officials said they would not accept any reservation that did not include their mission, the St. Joe River and all of Coeur d'Alene Lake. When the Commissioner of Indian Affairs learned

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<sup>606</sup> United States. Department of the Interior. Annual Report of the Commissioner of Indian Affairs for 1866-67. Washington: Government Printing Office, 1866-67, pp. 190-192. [227]

United States. Department of the Interior. "Annual Report on Indian Affairs by the Acting Commissioner." 49th Congress, 1st Session, Senate Executive Document 1, Part II, 1867, pp. 246-248. [732]

"Report of the Commissioner of Indian Affairs, 1878-79," *Report of the Secretary of the Interior*, Washington, D. C., Government Printing Office, 1879, pp. 745-746. [239]

Kappler, Charles Joseph. *Indian Affairs, Laws and Treaties*. Washington, D. C.: Government Printing Office, 1904, Vol. I, p. 835. [99]

Downer to Commissioner, May 9, 1866, Microfilm, M 234, Roll 337, Letters Received, Idaho Superintendency, RG 75, National Archives. [295]

Ballard to Hough, September 18, 1866, Microfilm, M 234, Roll 337, Letters Received, Idaho Superintendency, RG 75, National Archives. [296]

Ballard to Cooley, November 20, 1866, Microfilm, M 234, Roll 337, Letters Received, Idaho Superintendency, RG 75, National Archives. [297]

Commissioner of General Land Office to Commissioner of Indian Affairs, July 18, 1867, Microfilm, M 234, Roll 337, Letters Received, Idaho Superintendency, RG 75, National Archives. [298]

Ballard to Taylor, October 9, 1867, with attachments, Microfilm, M 234, Roll 337, Letters Received, Idaho Superintendency, RG 75, National Archives. [299]

of their objections to the reservation, he ordered the postponement of the survey of the reservation boundaries, until the Indians were consulted, as he stated in his annual report.<sup>607</sup>

In 1871 the United States formally ended the policy of treaty-making with American Indian tribes, and officials in the Indian Office indicated that even agreements should be limited.<sup>608</sup> Despite this national policy change, it was increasingly evident to United States officials that it would be necessary to reach a formal agreement with the Coeur d'Alene Tribe, not only to obtain a cession of a large portion of their aboriginal territory, but also to restrict them to a reservation. The Commissioner of Indian Affairs reported that the Tribe continued to claim, use and occupy their aboriginal territory.<sup>609</sup> The Tribe, itself, growing ever more sophisticated as it consulted with

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<sup>607</sup> United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report for 1873," Washington, D. C.: Government Printing Office, pp. 385 and 392. [234]

Dozier, Jack. "History of the Coeur d'Alene Indians to 1900." M.A. Thesis, University of Idaho 1961, pp. 87-88. [64]

Dozier, Jack. "Coeur d'Alene Country: the Creation of the Coeur d'Alene Indian Reservation in North Idaho." *Idaho Yesterdays* (1962), p. 3. [63]

Murray, Alberta. *These My Children*. Fairfield, Washington: Ye Galleon Press, 1976, p. 22. [119]

Royce, Charles C. "Indian Land Cessions in the United States." In *Eighteenth Annual Report of the Bureau of American Ethnology*, Washington, D. C.: Government Printing Office, 1899, pp. 866-869. [151]

<sup>608</sup> Tyler, S. Lyman. *A History of Indian Policy*. Washington, D. C.: United States Department of the Interior, 1973, pp. 84-85 and 91. [182]

Josephy, Alvin M., Jr. *The Indian Heritage of America*. New York: Alfred A. Knopf, 1974, p. 339. [96]

<sup>609</sup> United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report

and sometimes allied with local Catholic missionaries, petitioned the United States twice in 1872, indicating that they required the inclusion of the St. Joe and Coeur d'Alene River valleys in any reservation, saying that they needed the lands and the waterways for fishing and hunting.<sup>610</sup> Coeur d'Alene leaders told United States officials that they were ready to adopt the ways of the Whites, as national policy directed, but that "for a while yet we must have some hunting and fishing."<sup>611</sup> They also stated they were unwilling to give up any of their lands until they had reached a proper settlement with the United States.<sup>612</sup>

Whites continued to exert pressures on United States officials to force the Coeur d'Alenes to move within the 1867 Executive Order Reservation, but when funds were appropriated to survey that reserve, the surveyor reported there would be trouble with the Tribe if any attempt was made to move them there.<sup>613</sup> In 1873, Surveyor D. P. Thompson told the Surveyor General of the United

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for 1873," Washington, D. C.: Government Printing Office, pp. 385 and 392. [234]

<sup>610</sup> Chiefs of the Coeur d'Alene Nation to [Commissioner of Indian Affairs], November 18, 1872, Letters Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [300]

<sup>611</sup> Chiefs of the Coeur d'Alene Nation to [Commissioner of Indian Affairs], November 18, 1872, Letters Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [300]

<sup>612</sup> Supt. of Indian Affairs, Washington Territory, to Commissioner of Indian Affairs, December 15, 1872, Letters Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [302]

Chiefs of the Coeur d'Alene Nation to [Commissioner of Indian Affairs], November 18, 1872, Letters Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [300]

<sup>613</sup> Thompson to Hon. H. W. Corbett, January 23, 1873, Letters Received, Washington



States that in order to avoid trouble, the reservation would have to include the major fishing grounds of the Tribe, and he included a sketch of a proposed reservation that included most of Coeur d'Alene Lake, the Coeur d'Alene River from the Old Mission to the lake, and a portion of the St. Joe River. This letter was forwarded to the Commissioner of Indian Affairs.<sup>614</sup>

During the same year, Charles Ewing, Catholic Commissioner of Indian Missions, also wrote a strong letter to the Secretary of the Interior, explaining that the Coeur d'Alenes had rejected the 1867 Reservation, and being devoted subjects of the republic, desired and should be entitled to a larger reservation that would suit their needs.<sup>615</sup>

The Secretary of the Interior complied in mid-1873 and appointed a commission to negotiate an agreement with the Coeur d'Alene Tribe in order to obtain a cession of their aboriginal territory and for their removal to a small reservation. The Commission included the Territorial Governor of Idaho, as well as representatives of the Indian Office.<sup>616</sup> By late July the Commission

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Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [303]

Thompson, D. P. to Surveyor General, May 6, 1873, Letters Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [305]

<sup>614</sup> Thompson, D. P. to Surveyor General, May 6, 1873, Letters Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [305]

Acting Commissioner of the General Land Office to Commissioner of Indian Affairs E. P. Smith, May 31, 1873, Letters Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [306]

<sup>615</sup> Catholic Commissioner of Indian Missions Charles Ewing to Secretary of the Interior, June 5, 1873, Letters Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [307]

<sup>616</sup> Acting Secretary of the Interior to Commissioner of Indian Affairs, June 30, 1873, Letters

had forwarded a copy of an agreement they had reached with the Tribe and requested the suspension of the survey of the 1867 Reservation, because the reservation they had agreed upon was much larger.<sup>617</sup>

The agreement (see Appendix), which required Congressional ratification to be binding, called for setting aside a reservation “for the exclusive use of the Coeur d’Alene Indians” that would enclose all of Coeur d’Alene Lake, the Catholic Mission and all of the Coeur d’Alene River from the mission to the lake, and a stretch of the St. Joe River from near the location of the first mission to where it entered the lake, along with “all and singular the lands and privileges lying” within the proposed boundaries. The agreement specifically placed Coeur d’Alene Lake within the

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Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [308]

Smith to Shanks, July 1, 1873, Letters Sent by the Commissioner of Indian Affairs, RG 75, Microfilm, M21, Roll 112, RG 75, National Archives. [309]

United States. Department of the Interior. Commissioner of Indian Affairs. “Annual Report for 1873,” Washington, D. C.: Government Printing Office, pp. 385 and 392. [234]

Bennett to Secretary of the Interior, April 10, 1873, Letters Received, Idaho Superintendency, Microfilm, M 234, Roll 341, RG 75, National Archives. [310]

<sup>617</sup> Shanks to Sec. of the Interior, enclosing agreement with Coeur d’Alene, August 1, 1873, Letters Received, Idaho Superintendency, Microfilm, M 234, Roll 341, RG 75, National Archives. [313]

United States. Department of the Interior. Commissioner of Indian Affairs. “Annual Report for 1873,” Washington, D. C.: Government Printing Office, pp. 385 and 392. [234]

Ewing to Commissioner, June 5, 1873, Letters Received, Washington Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [307]

proposed reservation, and indicated that lakebeds and riverbeds were to be a part of the reservation. The agreement also stated that the United States and the Coeur d'Alene Tribe were not only considering traditional tribal use of the water resources such as domestic, hunting, fishing, and gathering, but also future economic development of those resources such as agriculture, hydropower, milling, and other commercial uses. Specifically, the agreement provided that "waters running into said Reservation shall not be turned from their natural channel where they enter said Reservation."<sup>618</sup>

The Commissioner of Indian Affairs reviewed the proposed agreement, recommended ratification of the document, and then quickly arranged for a Presidential Executive Order to create the necessary reservation and protect the lands, rights, and resources set aside in the 1873 Agreement from white settlement and use. In response to the agreement, on November 8, 1873, by Executive Order, President U. S. Grant expressly established a Coeur d'Alene Reservation that included Coeur d'Alene Lake, and much of the Coeur d'Alene River and St. Joe River, the core of the Coeur d'Alene's tribal homeland (Appendix).<sup>619</sup>

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<sup>618</sup> Shanks to Sec. of the Interior, enclosing agreement with Coeur d'Alene, August 1, 1873, Letters Received, Idaho Superintendency, Microfilm, M 234, Roll 341, National Archives. [313]

*The Statutes at Large of the United States of America, from December, 1889, to March 1891...*, Vol. XXVI, Washington, Government Printing Office, 1891, p. 1031 (26 Stat. 1031). [221]

<sup>619</sup> United States. Department of the Interior. Commissioner of Indian Affairs. "Annual Report for 1873," Washington, D. C.: Government Printing Office, pp. 385, 392. [234]

United States. *Executive Orders Relating to Indian Reservations, From May 14, 1855 to July 1, 1912*, Washington, D. C., Government Printing Office, 1912, p. 72. [275]

Dept. of Interior file notice, November 8, 1873, Letters Received, Washington

The 1873 Executive Order Reservation protected for the Coeur d'Alene Tribe its central homeland and all the waters required by the Tribe within that homeland reservation.

#### Confirmation of the Coeur d'Alene Reservation

After the establishment of the reservation, which was based on the agreement reached by the commission with the Coeur d'Alene Tribe, the commissioners dreamed up a proposal to create another unwieldy reservation which it wanted to remove the Coeur d'Alene Tribe to share with nine other tribes. This unlikely idea found no support in Congress. The lack of support by the commission was enough to prevent congressional ratification. However, the United States had, in effect, recognized Coeur d'Alene aboriginal territory, as well as establishing a 590,000 acre reservation that included nearly all of the Coeur d'Alenes' village sites, all of Coeur d'Alene Lake, a large section of the Coeur d'Alene River, the most important section of the St. Joe River and the Tribe's Camas Prairie. The United States was well aware that the Tribe used and depended on the water resources within the new reservation, and intended, with the signing of the executive order, to convey these waterways to the Tribe.<sup>620</sup>

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Superintendency, Microfilm, M 234, Roll 912, RG 75, National Archives. [316]

Royce, Charles C. "Indian Land Cessions in the United States." In *Eighteenth Annual Report of the Bureau of American Ethnology*, Washington, D. C.: Government Printing Office, 1899, pp. 866-869, Plate CXXIII. [151]

<sup>620</sup> Shanks to Sec. of the Interior, enclosing agreement with Coeur d'Alene, August 1, 1873, Letters Received, Idaho Superintendency, Microfilm, M 234, Roll 341, National Archives. [313]

*The Statutes at Large of the United States of America, from December, 1889, to March*

The establishment of the reservation stabilized relations with the Coeur d'Alene throughout most of the rest of the 1870s. When the Nez Perce War threatened to spread to Coeur d'Alene territory, Chief Seltice and the Coeur d'Alenes acted aggressively to protect Whites and their property. Both the Whites and United States authorities expressed great appreciation for the Coeur d'Alenes' assistance during the Nez Perce difficulties.<sup>621</sup>

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1891..., Vol. XXVI, Washington, Government Printing Office, 1891, p. 1031 (26 Stat. 1031). [221]

United States. Indian Claims Commission. "Findings of Fact." Docket No. 81, *The Coeur d'Alene Tribe of Indians v. The United States of America*, 1955, National Archives, pp. 4--6 and 4--10. [276]

United States. Indian Claims Commission. "Opinion." Docket No. 81, *The Coeur d'Alene Tribe of Indians v. The United States of America*, 1955, pp. 4--15 and 4--28. [277]

United States, Indian Claims Commission. "Commission Findings." In *Interior Salish and the Eastern Washington Indians I: the Coeur d'Alenes*. New York: Garland Publishing, Inc., 1974, pp. 304, 308, 313, 326 and 328. [648]

United States. *Executive Orders Relating to Indian Reservations, From May 14, 1855 to July 1, 1912*, Washington, D. C., Government Printing Office, 1912, p. 72. [275]

Royce, Charles C. "Indian Land Cessions in the United States." In *Eighteenth Annual Report of the Bureau of American Ethnology*, Washington, D. C.: Government Printing Office, 1899, pp. 866-869, Plate CXXIII. [151]

<sup>621</sup> United States. Senate. *Letter from the Acting Secretary of the Interior*. Ex. Doc. No. 122. 49th Congress, 1st Session. Washington, D. C.: Government Printing Office, 1886, pp. 11-12. [212]

Johnson, *et. al.*, August 25, 1877, Record Group 75, Letters Received, National Archives. [353]

Price *et. al.* to the Priests, Chief & Coeur d'Alene Indians, June 19, 1877, Record Group 75, Letters Received, National Archives. [354]

Waters to Price, November 24, 1883, Record Group 75, Letters Received, National Archives. [355]

When more and more immigrant prospectors and settlers poured across the Mullan Road and created a new white presence in tribal territory, that, combined with the destruction of the buffalo herds on the plains, prompted the Coeur d'Alenes to move their mission and central village to a new location near their digging grounds on their Camas Prairie. Gold was discovered in their country as the decade of the 1870s came to a close, and Fort Coeur d'Alene was built to prevent hostilities between the miners and the Coeur d'Alenes.<sup>622</sup> Although the fort was built atop the site of the Tribe's main traditional village, the troops helped protect tribal rights to the reservation, and the Coeur d'Alene people quickly built up lines of trade with the post. Agents marveled at tribal industry and United States relations with the Tribe remained good through the end of the 1870s.<sup>623</sup>

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Burns, Robert Ignatius. "Coeur d'Alene Diplomacy in the Nez Perce War of 1877." *Records of the American Catholic Historical Society of Philadelphia* Vol. LXIII, No. 1 (March 1952), pp. 44-45. [24]

Burns, R. Ignatius. "The Jesuits, the Northern Indians, and the Nez Perce War of 1877." *Pacific Northwest Quarterly* Vol. 42 (1951): pp. 40-76. [25]

Dozier, Jack. "History of the Coeur d'Alene Indians to 1900." M.A. Thesis, University of Idaho 1961, pp. 77-80. [64]

<sup>622</sup> Bischoff, William N. "The Coeur d'Alene Country, 1805-1892." In *Interior Salish and Eastern Washington Indians I*. New York: Garland Publishing Inc., 1974, p. 210. [16]

Magnuson, Richard G. *Coeur d'Alene Diary; the First Ten Years of Hardrock Mining in North Idaho*, 1968, p. 8. [109]

<sup>623</sup> United States. Congress. Senate. *Letter from the Secretary of War. for a Permanent Military Post in Northern Washington Territory*. Ex. Doc. No. 1. 47th Congress, 1st Session. Washington, D. C.: Government Printing Office, 1881. [211]

United States. Congress. Senate. *A Letter of the Secretary of the Interior Relative to the Purchase of a Part of the Coeur d'Alene Reservation*. Ex. Doc. No. 14. 51st Congress, 1st Session.

As the 1880s opened, a gold rush into Coeur d'Alene territory generated an influx of thousands of new miners and prospectors, which resulted in friction between Whites and Coeur d'Alenes, and as a result of increasing trespass and depredations, reports suggesting trouble were filed in 1881.<sup>624</sup> In 1882 it was reported that trouble would occur if the reservation was not surveyed and protected from white incursions.<sup>625</sup> On the one hand in 1883 officials were

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Washington, D. C.: Government Printing Office, 1889, p. 11. [215]

United States. Department of the Interior. Commissioners of Indian Affairs. "Annual Reports," 1878-79. Washington, D. C.: Government Printing Office, pp. 625-626, 744-747. [239]

United States. Department of the Interior. Commissioners of Indian Affairs. "Annual Reports," 1879, Washington, D. C.: Government Printing Office, p. 250. [240]

<sup>624</sup> United States. Department of the Interior. Annual Report of the Commissioner of Indian Affairs, 1881. Washington, D.C.: Government Printing Office, p. 219. [242]

Price to Simms, September 9, 1882, Record Group 75, Letters Received, Colville Agency, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [339]

Brooks to Simms, July 9, 1880, Record Group 75, Letters Received, Colville Agency, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [340]

Brouillet to Price, August 20, 1881, Record Group 75, Letters Received, National Archives. [341]

Commissioner to Simms, May 22, 1880, Record Group 75, Letters Received, Colville Agency, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [342]

Simms, John A. "Notice!" July 26, 1881, Record Group 75, Letters Received, Colville Agency, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [343]

<sup>625</sup> United States. Department of the Interior. Annual Report of the Commissioner of Indian Affairs, 1882. Washington, D. C.: Government Printing Office, pp. 213-214. [243]

Simms to Commissioner, July 31, 1882, Record Group 75, Letters Received, National Archives. [344]

encouraged at the number of Coeur d'Alenes who could read and write English, but it was discouraging that the thousands of miners intruding on the reservation again threatened to precipitate violence.<sup>626</sup> In 1884 with problems continuing to increase, and more Whites asking that the Coeur d'Alene Reservation be opened to non-Indian use, the agent again feared violence and warned that the Coeur d'Alenes were "cruel when once aroused."<sup>627</sup> Numerous complaints of trespass and depredations continued to come into the Indian Office in 1885, and the agent again ominously referred to the Coeur d'Alenes as potentially "cruel."<sup>628</sup> By the end of 1885 United States officials had long been aware that the huge gold rush into Coeur d'Alene country was regularly causing numerous serious incidents and that there was a continuing threat of violence. Officials were constantly told to protect tribal rights, while trying to allow non-Indian prospecting,

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<sup>626</sup> Waters to Price, November 10, 1883, Letters Received, Record Group 75, National Archives. [352]

Waters to Price, June 26, 1884, Letters Received, Record Group 75, National Archives. [373]

Price to Waters, March 20, 1884, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [363]

<sup>627</sup> Price to Waters, May 21, 1884, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [370]

Singisen, T. F., Delegate from the Territory of Idaho, to Secretary Teller, April 25, 1884, Letters Received, Record Group 75, National Archives. [371]

Waters to Price, September 6, 1884, Letters Received, Record Group 75, National Archives. [377]

<sup>628</sup> Waters to Price, March 26, 1885, Letters Received, Record Group 75, National Archives. [402]



mining and development in the area.

It had become increasingly obvious to United States officials that Coeur d'Alene rights in the area could not be ignored, both on the reservation, and outside the reservation in Coeur d'Alene aboriginal territory. In 1885 the Jesuit missionaries hired John Mullan to assist them in their efforts to support tribal rights by lobbying to obtain an agreement of cession for Coeur d'Alene aboriginal lands. Mullan and the Jesuits allied with the Coeur d'Alenes, who drafted a petition (Appendix) to the President of the United States, describing their territory and pointing out that they desired to stay at peace with the Whites, but that a treaty of cession was necessary for both parties. They also emphasized the central position of Coeur d'Alene Lake and their two rivers in their remaining territory.<sup>629</sup> The Agent forwarded the petition to the Commissioner of Indian Affairs, reminding him of the Tribe's beneficial role during the Nez Perce War, and earnestly imploring the United States to accede to the Tribe's wishes.<sup>630</sup> In May, 1885, the Commissioner informed the Secretary

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<sup>629</sup> Harms, Su, ed. *The Coeur d'Alene Teepee* Vols. I-III (1937-1940) (July 1980). Plummer, Idaho: Serento Press, p. 237. [79]

Peltier, Jerome. *A Brief History of the Coeur d'Alene Indians, 1805-1909*. Fairfield, Washington: Ye Galleon Press, 1981, p. 53. [132]

Dozier, Jack. "History of the Coeur d'Alene Indians to 1900." M.A. Thesis, University of Idaho 1961, pp. 93-94. [64]

Dozier, Jack. "Coeur d'Alene Country: the Creation of the Coeur d'Alene Indian Reservation in North Idaho." *Idaho Yesterdays* (1962), p. 4. [63]

O'Neill to Waters, March 20, 1885, and enclosure, Letters Received, Record Group 75, National Archives. [401]

<sup>630</sup> Waters to Price, March 26, 1885, Letters Received, Record Group 75, National Archives.

of the Interior that there was sufficient cause to ask Congress to establish another commission to negotiate with the Tribe, and asked the Secretary to establish such a commission.<sup>631</sup>

The following year, 1886, an investigation by United States officials provided very strong and explicit evidence that demonstrated Coeur d'Alene Lake, the Coeur d'Alene River and the St. Joe River were a part of the Coeur d'Alene Reservation. The Department of Interior received complaints and affidavits saying that steamboats navigating on the waters of Coeur d'Alene Lake and the Coeur d'Alene River were engaged in the sale of liquor<sup>632</sup> The matter was considered so

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<sup>631</sup> Commissioner to Waters, May 14, 1885, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [403]

Price to Waters, February 26, 1885, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [404]

Price to Secretary of the Interior, February 4, 1885, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [405]

<sup>632</sup> Sec. of War to Sec. of Interior, July 3, 1886, Letters Received, Record Group 75, National Archives. [418]

McFarland to Sec. Atkins, June 28, 1886, submitting various affidavits, Letters Received, Record Group 75, National Archives. [419]

Affidavit of George McCabe, June 24, 1886, Letters Received, Record Group 75, National Archives. [420]

Affidavit of Robert E. McFarland, June 28, 1886, Letters Received, Record Group 75, National Archives. [421]

Affidavit of Charles Smith, December 19, 1886, Letters Received, Record Group 75, National Archives. [422]

grave that the Acting Inspector General of the Army was dispatched to investigate.<sup>633</sup> The Inspector General reported that Coeur d'Alene Lake and the Coeur d'Alene River were a part of the Coeur d'Alene Reservation and subject to federal Indian law. The report so impressed the Secretary of War that he arranged with the Secretary of the Interior to discuss the matter at a Cabinet meeting, after which the Secretary of the Interior informed the Commissioner of Indian Affairs to take the necessary action to prohibit violation of federal Indian law on the lake and river.<sup>634</sup> Subsequently, United States officials acted to eject Whites found using the lake and its tributaries within reservation boundaries.<sup>635</sup> At the highest levels of government, the United States had been made completely aware of the fact that the lake and rivers were a part of the reserve. Officials of the military, the Interior Department, the Indian Office and the General Land Office

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Affidavit of Silas Greestable, June 22, 1886, Letters Received, Record Group 75, National Archives. [423]

Upshaw to Moore, May 24, 1886, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [424]

Moore to Atkins, March, 1886, Letters Received, Colville Agency, Record Group 75, Pacific Northwest Regional Archives; Seattle, Washington; National Archives. [425]

<sup>633</sup> Lazelle to Adjutant General, July 27, 1886, Letters Received, Record Group 75, National Archives. [426]

<sup>634</sup> Secretary of War to Secretary of Interior, August 9, 1886, Letters Received, Record Group 75, National Archives. [427]

1st Asst. Secretary of the Interior, Note to File, August 11, 1886, Letters Received, Record Group 75, National Archives. [428]

<sup>635</sup> Holmes, F., Resident Farmer to Gwydir, August 14, 1888, Letters Received, Record Group 75, National Archives. [429]

were informed that the lake was a part of the Coeur d'Alene Reservation, and that laws governing Indian territory had to be enforced on the lake.

Responding to Mullan's lobbying, the Coeur d'Alenes' petition, and United States official reports, in 1886 Congress created a new commission and authorized it to negotiate with the Coeur d'Alene for a cession of the aboriginal territory.<sup>636</sup> The Northwest Commission traveled to De Smet in 1887 and met with the Tribe in order to obtain an agreement of cession for tribal aboriginal territory outside Coeur d'Alene Reservation boundaries. During the negotiations with the Tribe in the latter part of March, the Commissioners completely relied upon the 1873 Agreement in order to determine the extent of Coeur d'Alene holdings and the amount of compensation that should be fixed for a cession of those holdings. From Commission reports it was apparent that the Tribe was sophisticated, understood the negotiation process (many spoke English, though an interpreter was necessary) and had excellent plans for economic development using the proposed cession payment. The Tribe and the commissioners reached an agreement, and the agreement (Appendix) was

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<sup>636</sup> United States. Congress. House. *Ratification of Coeur d'Alene Indian Treaties in Idaho*. Report No. 1109. 51st Congress, 1st Session. Washington, D. C.: Government Printing Office, 1890. [206]

United States. Congress, Senate. *Letter from the Acting Secretary of the Interior*. Ex. Doc. No. 122. 49th Congress, 1st Session. Washington, D. C.: Government Printing Office, 1886. [212]

United States. Congress. House. *Reduction of Indian Reservations*. House Executive Document No. 63. 50th Congress, 1st Session. Washington, D. C.: Government Printing Office, 1888. [203]

United States. Statutes at Large. 49th Congress, 1st Session, Chas. 333, p. 44. (24 Stat., 44.) [649]