

WILKINSON, CRAGUN & BARKER

LAW OFFICES

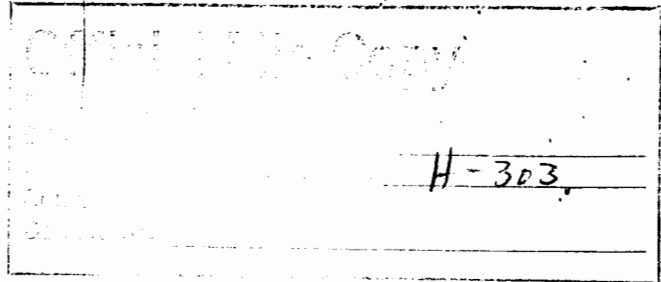
ERNEST L. WILKINSON
JOHN W. CRAGUN (1906-1969)
GLEN A. WILKINSON
ROBERT W. BARKER
CHARLES A. HOBBS
ANGELO A. IADAROLA
PAUL S. QUINN
LEON T. KNAUER
RICHARD A. BAENEN
JERRY C. STRAUS
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FRANCES L. HORN
PIERRE J. LAFORCE
RICHARD A. ZIMMERMAN
HUGH J. YARRINGTON
KENNETH F. TWOROGER
DOUGLAS W. MORRISON

1616 H STREET, N. W.
WASHINGTON, D. C. 20006

NATIONAL 8-4400

CABLE ADDRESS
"WILCBAR"

January 9, 1970



Mrs. Helen Mitchell, Chairman
Quinault Allottees Committee
Route 1, Box 189
Oakville, Washington

Re: Report to the Quinault Allottees

Dear Chairman Mitchell:

This is our report on legal activities during 1969 on behalf of the Quinault Allottees, and our plans for 1970.

1. Attorney Contract. As you will recall, the basic attorney contract was signed by the first group of allottees on March 29, 1968. It was approved by the Secretary of the Interior on August 12, 1969. An amendment was added to the basic contract on August 23, 1969, and this amendment was approved by the Secretary on November 25, 1969. So the contract situation is now completely in order.

However, the signature situation is not very good yet. At present about 70 allottees have signed the contract and the amendment. About 100 more allottees have signed the basic contract but have not yet signed the amendment. Assuming that all of them eventually sign the amendment, that means that about 170 allottees have signed up, out of 1200 allottees. This is not very many, and we hope that eventually most of the 1200 allottees will sign up, so that the Allottees Committee can say that it represents most of the allottees, and therefore can speak for all of them.

We note that when allottees owning the equivalent of 400 allotments in full have been signed up, the contributions to the Allottees Fund drop down to 2%, and the attorney fee on claims matters drops from 20% to 15%. The legal arrangement was set up on the assumption that the equivalent of at least 400 allotments would be signed up.

Mrs. Helen Mitchell
January 9, 1970
Page Two

2. Allottees Fund. So far no money has been paid into the Fund. We are able to proceed on the Ten Percent claim because expenses are small and we can advance them from our own pockets. And we have been working on the Aloha case knowing we could not be paid until some money came into the Fund. But certain other work cannot even be started without money in advance. This is true of one of the largest and most promising cases, wherein we will seek additional stumpage payments on prior stumpage sales. If this case is successful, the award could involve millions of dollars. Yet, the case cannot be filed in court until certain analyses and investigations are completed by independent timber experts, who must be paid in advance.

As we understand it, a few of the allottees are going to put up \$10,000 to pay timber experts. Now that Amendment No. 1 has been approved, the allottees who contribute the \$10,000 can get all of it back eventually out of the Allottees Fund. We hope this money will be available soon, so that we can begin negotiating contracts with timber experts.

3. Ten Percent Claim. This claim challenges the administrative charges deducted by the Bureau of Indian Affairs from stumpage proceeds, going back to 1910. If this claim is fully successful, every restricted Indian allottee who ever had to pay these charges will get a refund. If the allottee is deceased, his heirs would get it. On December 24, 1969, we filed a test case in the Court of Claims for Horton Capoeman. A copy of the complaint is attached. The ruling in this case should govern the outcome in all other similar cases. We hope for a ruling by late 1970 or early 1971.

The legal expenses in this case should be very small, and the attorneys will advance them until the Allottees Fund is able to pay them. There will be no attorney fee unless the case is successful.

4. Inadequate Stumpage Claim. In this claim we hope to prove that the Secretary's stumpage determinations over the years have been too low, and that the allottees should receive additional proceeds from past stumpage sales.

Initial indications are that this claim is a good one. The next step is to hire two timber experts to collect and analyze the facts in detail, and give us a final opinion as to whether the claim is a good one, which we think it is. The cost of this investigation might run as high as \$10,000 or higher, and the experts will have to be paid at least part of their fees in advance. The attorneys will be involved too,

Mrs. Helen Mitchell
January 9, 1969
Page Three

but they will only be entitled to payment of their expenses, which will consist mostly of travel expenses (but no fees-- their contingent fee is payable only if and when the claim is successful).

5. Aloha Lumber Corp. v. Udall. In this case, the Aloha Lumber Corporation is challenging a stumpage determination made by the Secretary of the Interior several years ago, which established newer and higher stumpage rates for timber cut and removed from the Taholah logging unit of the Quinault Indian Reservation. On October 6, 1969, the federal District Court in Tacoma ruled partly in Aloha's favor and partly in the Secretary's favor, and sent the case back to the Secretary for further proceedings. Aloha appealed, on the ground the District Court should have ruled more in Aloha's favor. An appeal may also be brought by the Secretary of the Interior and the allottees of the Reservation.

After the appeal is finished, the case will go back to the Secretary of the Interior for a new decision on the question of stumpage rates. When that happens, we will attempt to establish that the stumpage rates determined by the Secretary are too low and should be increased. We could not urge this position earlier, when the case was before the Secretary for the first time, because the allottees were not organized to say what their position was, and had no attorneys.

It is significant to note that the Aloha case directly affects those owners of timber allotments located in the Crane Creek unit as well as those in the Taholah unit. In 1969, the Secretary established revised rates for stumpage for both the Taholah and Crane Creek units, and we are advised that both Aloha and Rayonier have filed appeals from these determinations. If it is ultimately determined that the Secretary's stumpage rates on the Taholah unit are too high, as Aloha argues, this is bound to adversely affect the pending appeal by Rayonier with respect to the Crane Creek unit and Aloha's appeal on the Taholah unit and will probably lead to lower stumpage rates in the future on the Crane Creek as well as on the Taholah units.

Strong legal representation of the allottees is very important in this case. Since there will be no award out of which we could collect an attorney fee, we have agreed to work on a straight time fee basis. On this basis we are entitled to be paid currently, but since the Allottees Fund has no money yet, we have agreed to defer our bills for a while. We have devoted a great deal of time to the Aloha matter so far, and expect to continue to do so.

Mrs. Helen Mitchell
January 9, 1970
Page Four

6. Renegotiation Matter. After the Aloha case is finished, and perhaps earlier, it will be time to take a close look at the entire cutting contract situation, to see if there are any provisions in the contracts which are so unfair or unreasonable that they ought to be renegotiated. Also, we will take a close look at the way the Bureau of Indian Affairs has been administering the contracts, and if their procedures fall short in any way, we will take steps to correct them.

These services will probably not directly lead to any award, and so we have agreed to work on a straight time fee basis, with monthly or quarterly payment of our bills. Until the Allottees Fund has a surplus beyond other requirements, the Renegotiation matter will have to wait.

7. General Services. The Quinault forests are worth tens of millions of dollars, and the annual income to the allottees from the cutting contracts exceeds \$1,000,000 a year. Any commercial activity of this size needs a permanent General Counsel to handle day to day legal problems. In the past the Bureau of Indian Affairs attorneys have performed this service, but many allottees have reached the stage where they want their own attorneys at least for the major problems.

The Allottees Committee has the power, under the approved attorney contract, to retain us as General Counsel. This question has not come up yet, because the Allottees Fund cannot pay for it, but we have been providing a few minor services which fit under the heading of General Counsel. We see no need to do anything further for the time being.

Summary of Plans for 1970

1. In 1970 we hope to complete the briefing in the Ten Percent case, which we expect to be decided on summary judgment, without a trial. If so, the court's decision might come down in late 1970 or early 1971.

2. We expect to be heavily engaged in briefing the appeal in Aloha Corp. v. Udall, and after the appeal, we expect to be heavily engaged in the new trial before the Secretary of the Interior.

Mrs. Helen Mitchell
January 9, 1970
Page Five

3. As soon as \$10,000 becomes available, we will hire timber experts to begin working up the Inadequate Stumpage case.

Respectfully submitted,

WILKINSON, CRAGUN & BARKER



By: Charles A. Hobbs

Encl: Complaint in Ten Percent
case

cc: Members, Allottees Committee
Mr. Joseph De La Cruz

Official File Copy	
Enclosure No.	
907 50	
Doc. No.	H-304
Count	
Doclet No.	

Mrs. Helen Mitchell
P.O. Box 66
Oakville, Washington
January 19, 1970

Handwritten notes:
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TO: All Persons Owning Allotments on the Quinault Reservation

Dear Fellow Allottee:

For many years we allottees on the Quinault Reservation have felt that we were not receiving fair stumpage prices, that 10% charges were illegally deducted from our stumpage sales, that our timber was not being managed as efficiently as it should, and that the Bureau of Indian Affairs and the logging companies were not paying enough attention to our interests. We have not done anything about these matters because we were not organized.

At last we are organized, and we are doing something. We have formed the Quinault Allottees association to protect our interests. This is an informal association which every allottee on the Quinault Reservation is eligible to join. The allottees elect a Committee each year to handle business. This year the meeting will be on March 27, see the last paragraph of this letter. The Committee is recognized by the Department of Interior as a spokesman for the allottees. It consists of a chairman, six other members, and four alternate members. The members this year are: Helen Mitchell (chairman), Anna Koontz, Herbert Capoeman, Clark Reed, Daisy Slade, Johnny McCrory, and Jim Jackson. The alternates are: Edna Ebling, Phil Martin, Julian Taylor and Karen Riley.

The association is run strictly by the members; there are no non-allottees telling us what to do. We work in cooperation with the Quinault Tribe, and many allottees of course are also members of the Tribe.

Enclosed is a report of what our attorneys have done so far. As you can see, there has been a lot of action and there will be a lot more. How do we pay for this? Some of the claims can be prosecuted without financing; the attorneys will work on any claim for nothing until the end of the case. But the best claim (the claim for recovery of inadequate stumpage prices) requires financing to pay for investigation and expert witnesses. And there are also some non-claims matters, like the Aloha case, where we urgently need attorneys to represent us, but where there will be no award to pay them. In these cases we have to pay them as we go along.

Since the association charges no dues, we had to find another way to handle the financing. What we did was set up a fund which is contributed to by each allottee whenever the Bureau of Indian Affairs makes a timber payment to him. During the start-up stages, the contribution will be 4% until allottees representing the equivalent of 200 allotments are signed up, 3%

until allottees representing the equivalent of 400 allotments are signed up, then 2% from then on. Anyone who pays more than 2% in the early stages will get a refund of everything over 2% after allottees representing the equivalent of 400 allotments are signed up. The intent is that everyone will share equally, that no one will pay a greater percent than anyone else.

Enclosed is the attorney contract and Amendment No. 1 to it, for you to keep. You will see how it arranges for the Allottees Committee to be set up, and instructs the attorneys to proceed with claims and other legal work. As you see, Amendment No. 1 sets up the 2% deduction fund.

Also enclosed is our attorneys' status report to date, together with a copy of our lawsuit in the Ten Percent case, which our attorneys filed December 24, 1969.

Please look over these papers. We hope you will agree that you should join our organization to fight for our interests. We each have a duty to all of our fellow allottees to stick together and speak as one. United we are powerful; individually we are powerless.

If you are going to join us, please sign one of the blue signature forms and return it to me. If you know the information on your allotment, put it down. If you do not know, send in the blue form anyway, and we will get the data from the Bureau of Indian Affairs. Use the enclosed stamped envelope.

Feel free to ask any questions you want. I, or any other member of the Allottees Committee, will be glad to answer them. Or, if you have a question relating to the legal aspects, you can write our attorneys directly--Charlie Hobbs or Jerry Straus, Wilkinson, Cragun & Barker, 1616 H Street, N.W., Washington, D.C.

There will be a meeting of all allottees on Friday night, March 27, 1970, at 8:00 p.m., at the school in Taholah. All allottees are urged to attend, for education, discussion and voting. There will also be a special meeting Thursday night, March 26, in Portland for allottees in the Portland area, and another in Seattle, also on Thursday night, for allottees in the Seattle area who cannot make it to the Taholah meeting on March 27. A reminder of these meetings will be sent to you later. You might also take note of the date of the annual Quinault General Council meeting, March 28.

Very truly yours,

Helen Mitchell

Helen Mitchell
Chairman, Allottees Committee

Encl: Attorney Report
Basic Contract
Amendment No. 1
Blue Signature Form (2)



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20242

IN REPLY REFER TO:

Forestry

FEB 9 1970

Handwritten notes:
Kwif
hr
RO
P
M
BY
XK

Memorandum

To: Associate Solicitor, Indian Affairs
From: Commissioner of Indian Affairs
Subject: Litigation report giving background to Capoceman v. United States, Docket No. 524-69, filed in the United States Court of Claims on December 24, 1969

We have reviewed the copy of a petition filed with the United States Court of Claims on December 24, 1969, by Attorney Charles A. Hobbs, on behalf of Horton Capoceman, Docket No. 524-69.

The facts alleged in the plaintiff's petition are true, based upon records available to us. The following copies of documents pertaining to the facts are enclosed:

1. General Timber Contract No. I-101-IND-1473, N. P. Trail Unit, Quinault Reservation.
2. Proposal for purchase of timber submitted by Aloha Lumber Company.
3. Notice of advertisement of sale.
4. Extension of Contract, N. P. Trail Unit.
5. Individual Allotment Contract covering the Horton Capoceman Allotment No. 10.
6. Power of Attorney executed by Horton Capoceman.
7. General Timber Sale Regulations, which were attached and made a part of the contract.
8. Certificate of Completion of Timber Contract covering Horton Capoceman Allotment No. 10.

Official File Copy

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20242

H-505

Court of Claims
Docket No.

9. Letter to Horton Capoeman from Western Washington Agency Superintendent, dated January 6, 1956, furnishing information pertaining to sale of timber from Mr. Capoeman's allotment, which was included as part of the N. P. Trail Unit.
10. Letter to the law firm of Wilkinson, Cragun & Barker, from Agency Superintendent, dated December 15, 1969, furnishing information regarding the sale of Mr. Capoeman's timber in the N. P. Trail Unit. The symbols used in the "Items" column refer to transaction documents: TS is Transfer Schedule; SR is Scale Report. These individual documents are on file in the Agency Office at Everett, Washington.

(Sgd) William J. Benham
Commissioner

Enclosures

Acting Associate

cc: Area Director, Portland

Just L. Williams 2/22/70

UNITED STATES GOVERNMENT

Memorandum

Progress

TO : The Files

DATE: June 2, 1970

FROM : Ray Lowder

SUBJECT: Combining Progress and Down Timber Reports

The monthly Progress Report and Down Timber Reports, as you know, have been made as separate reports in the past. It appears to me that some time can be saved and the chance of errors reduced by combining the reports into one and eliminating species breakdown for down timber.

Time can be saved and errors reduced because blocks and allotment will be written, checked, typed, and again checked only one time instead of two. Further time can be saved by the discontinuance of estimating species composition for each allotment, which is a questionable practice since composition varies from one acre to the next in any given portion of an allotment included in the block. Even if we had an intensive cruise for all of these allotment portions, the fact that they are normally in various stages of felling and logging indicates good estimation of species composition is unlikely. The stumpage rate for cedar can be used on the Taholah Unit and perhaps a compromise between cedar and hemlock for the Crane Creek Unit. This practice, had it been followed over the past eight months since August when the new stumpage rate went into effect, would have resulted in an error of 6.5 % from the weighted average rate for one month (December). The other seven months there would have been errors less than 5 %.

This procedure would also provide a cross-check, since any allotment showing % felled greater than % logged must show down timber or an error has occurred.

The following format is suggested which includes all the columns in the Progress Report and adds one for the total volume for Down Timber:

Block &	Acres	% Completed		Dn. Tmbr.		
<u>All. #</u>	<u>Location</u>	<u>in Block</u>	<u>Brand</u>	<u>Felling</u>	<u>Logging</u>	<u>MBM</u>
						<u>Remarks</u>

Seven columns from the Down Timber Report will be eliminated. Computations for the amount to bill the company can be included in the narrative portion of the "Progress and Down Timber Report."

One report has the additional advantage of turning to one report instead of two for answering questions from allottees and others.

Ray Lowder
Ray Lowder

Concur: [Signature] 6/2/70

WILKINSON, CRAGUN & BARKER
LAW OFFICES

ERNEST L. WILKINSON
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HERBERT E. MARKS
FRANCES L. HORN
PIERRE J. LAFORCE
GORDON C. COFFMAN
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CHARLES H. GIBBS, JR.

1616 H STREET, N.W.
WASHINGTON, D. C. 20006
NATIONAL 8-4400
CABLE ADDRESS
"WILCBAR"
ROSEL H. HYDE
DONALD C. GORMLEY
Counsel

July 6, 1970

Copy
H-306
Docket

Mr. George H. Felshaw
Superintendent
Western Washington Indian
Agency
3006 Colby Avenue
Everett, Washington 98201

Re: Quinault Allottees - Tribal
Endorsement

Dear George:

Thank you for your letter of June 26, advising us that until the Tribe is a party to the contract you have no authority to make deductions from timber payments to the Tribe.

As of July 2 the Tribe became a party, because its endorsement was neither approved nor disapproved within 90 days after our application of April 3, 1970, as provided by 25 U.S.C. §1331.

We concede the approval is only for a 10% fee in claims cases, as the Central Office ruled on June 25, 1970, but the rest of the contract, having been submitted and not having been disapproved, now stands approved. This includes Amendment No. 1, which authorizes the deductions. It would have been formally approved anyway, but the effective date is July 2 (the 90th day), not whatever later date the BIA final approval may bear.

Therefore, effective July 2, 1970, you were authorized to make deductions from payments to the Tribe and pay them into the Allottees Fund. Furthermore, Amendment No. 1 was signed by the Tribe on August 23, 1969, so as we said in our letter of June 9 to you, the Allottees Fund is entitled to tribal contributions of 4% from August 23, 1969, to June 3, 1970, and at 3% thereafter.

C
O
P
Y

Handwritten notes:
2103 - Beck, Dec. (1969) (H. Adams)
3. Forestry
Tribal Report

Mr. George M. Felshaw
July 6, 1970
Page Two

please advise us the amount of any timber payments to the Tribe between August 23, 1969, and July 2, 1970, and the Allottees Committee will ask the Tribe to contribute the proper amounts, which we think the Tribe will voluntarily do.

Incidentally, although we accept the 10% claims fee limitation so that the contract with the Tribe is now in effect with that provision, we will continue our efforts to reverse the Secretary's policy never to allow more than a 10% fee on tribal claims, and if we are successful we will ask that the 20% fee (subject to reduction to 15%) be reinstated in the contract. The Tribe is entirely in accord with this.

Sincerely,

WILKINSON, CRAGUN & BARKER

By: Charles A. Hobbs

cc: Mr. James Jackson
Mr. Joseph De La Cruz
Mrs. Helen Mitchell
Portland Area Office
Central Office, Attn:
Duard Barnes



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Western Washington Agency
 3006 Colby Avenue, Federal Building
 Everett, WA 98201

QUINULT NEWSLETTER NO. 48

In an effort to keep you informed about stumpage changes on the Taholah and Crane Creek Logging Units, Quinault Reservation, we provide you with information received recently.

TAHOLAH LOGGING UNIT: A telegram endorsed by the Deputy Commissioner of the Bureau of Indian Affairs, August 25, 1971, states that after reviewing current stumpage rates under the Taholah Unit contract and consulting with representatives of the Aloha Lumber Corporation, and the arbitrators' decision of July 27, the trends of economic conditions in the West Coast logging and lumber industry warrants the following rates per thousand board feet to be paid by log grades and linear feet rates to be paid for cedar poles effective August 1, 1971:

Western Red Cedar	#1	\$ 84.05
	2	44.00
	3	8.88
Sitka Spruce (Select)		122.08
Special Mill		67.05
	#1	108.64
	2	53.52
	3	34.94
Douglas Fir, Peeler	#1	98.78
	2	76.46
	3	63.74
Special Mill		48.56
Saw Mill	#1	62.85
	2	46.88
	3	15.25
Amabilis Fir, Peeler		62.52
Special Mill		45.94
	#1	51.92
	2	33.10
	3	18.65
Western White Pine, Peeler		35.26
Special Mill		27.12
	#1	25.90
	2	8.68
	3	3.50
Western Hemlock, Peeler		72.89
Special Mill		59.02
	#1	68.73
	2	42.80
	3	23.11
Cedar Poles		.12

SEE LAST ITEM PAGE 2

REFORESTATION

Rates to be paid for stumpage reported prior to August 1st will be calculated from log grade prices in effect prior to that date, using individual single-month grade recovery data.

CRANE CREEK LOGGING UNIT: A telegram from the Acting Deputy Commissioner, Bureau of Indian Affairs, on August 20, 1971, stated, quote: After reviewing current stumpage rates under the Crane Creek Timber Sale Contract and consultation with representatives of the Company and the sellers, it is found that trends of economic conditions in the West Coast logging and lumber industry warrant the following rates per thousand board feet for sawlogs and per linear foot for cedar poles to be paid effective August 1, 1971:

Western redcedar	\$47.19	
Sitka spruce	61.70	
Douglas fir	54.43	
Amabilis fir	33.59	
Western white pine	12.49	
Western hemlock & other species	36.86	
Cedar poles	.12	End quote.

Timber owners who are interested in further information regarding the stumpage rates as established should consult with the Agency Forest Manager in the Hoquiam Field Station located in the post office Building in Hoquiam. The telephone number is 332 - 7212, Extension 5.

REFORESTATION:

FOREST DEVELOPMENT: Allottees interested in planting trees or thinning the timber stands on their allotments should contact the Hoquiam Forestry Office and get details on the "Rural Environmental Assistance Program (REAP)". The program is administered by the U. S. Department of Agriculture through the County Agricultural Stabilization and Conservation Service (ASCA). The program pays up to 80% of the cost of planting or thinning and enables the individual to do the work himself and get paid for it. In our opinion, thinning and planting are the most practical and economical manner of improving your land. Applications are now being taken for consideration of the County ASC Committee.

Superintendent

August 30, 1971
Date

RECEIVED
WESTERN WASH. INDIAN AGENCY
HOQUIAM, WASH.

SEP 20 1971

Forestry - 339
Crane Creek #1605

18 Sept, 1971
8815 SW Garden Home Rd
Portland, Ore 97223

Attn: _____

Forest Manager
Bureau of Indian Affairs
Western Washington Agency
Hoquiam Field Station
Hoquiam, Wash. 98550

Dear Mr. Jackson:

Referring to your letter of July 31, 1970, you indicated that logging was planned for my allotment during 1972.

On your advice, we did participate in the Grays Harbor County Conservation Program and received partial reimbursement for the planting of 5,150 D.F. on the 18 acres logged in 1968. We found that at least one year advance notice is required to order seedlings from the State nursery at Olympia. Fortunately Mr. Joe DeLaCruz accomplished the plantings through the Quinault Teen Council. Competing brush may present a problem, however, with this planting.

It is our desire to replant future logged areas as soon as possible after logging operations have been completed in order to get ahead of the brush problem.

It is sincerely hoped that the balance, or the major portion of the remaining timber on my allotment can be logged in the near future.

Your estimate of the date and acreage of next logging operations would be very helpful in planning and ordering trees for replanting.

We wish to thank you for your advice and assistance in accomplishing the previous replanting and for the establishment of planting boundaries by your field personnel.

Sincerely yours,

Lois Armstrong Cooper
Lois Armstrong Cooper

Next call to be made to Mr. Jackson to get estimate of date of next logging operations. (11)

?



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20242

IN REPLY REFER TO:

Forestry
IM-1773
2000-7276

OCT 12 1971

Honorable Julia Butler Hansen
House of Representatives
Washington, D.C. 20515

Dear Mrs. Hansen:

Thank you for your inquiry of September 21, which requests our views on the comments made in a letter to you from Mr. Charles H. Clemens of Montana, Washington. Mr. Clemens expressed concern about the timber harvesting policy on the Quinault Reservation.

As you are aware, virtually all forest lands on the reservation were divided into small individually owned allotments. These allotments consist mostly of 80-acre tracts. Such fragmentation of the forest property has generated some of the most complex management problems that confront any land management organization, public or private.

During the latter part of the 1940's, consideration was given to the establishment of an even-flow, or sustained-yield, rate of cutting on the Quinault forest lands. In 1947, a proposal was initiated for the sale of all of the remaining virgin timber in one large unit under a very long-term contract, with elaborate provisions for sustained-yield management. Although this plan had the backing of the Tribal Council, it met with substantial criticism from many of the owners of uncut allotments.

After long consideration, it was determined that it would be better to divide the remaining uncut timber into three large units, which would be sold under timber sale contracts ranging from 29 to 34 years in duration. Two of these units, the Grane Creek and Taholah Logging Units, were subsequently sold.

Following the execution of the contracts for the Grane Creek and Taholah Logging Units, all efforts to sell the third unit, the Quasts Unit, under a single general contract were unsuccessful. Instead, the development of a supervised land sale program, together with issuance of fee patents for individually-owned

allowments, has resulted in the piecemeal removal of Bureau control over a substantial portion of that unit. The removal of restrictive-licenses in the Queen's Unit has resulted in large contiguous areas of land being stripped of their old-growth timber. A casual view of these tracts encourages the opinion that logging was performed indiscriminately, with almost no consideration of the environment. However, a number of the present logging company owners have made efforts to reforest their lands following cutting.

In all probability, the cutting to which Mr. Elamons refers is that along the Olympic Highway in the Queen's Unit of the Quinault Reservation. Most of these lands are in private ownership, and not under Bureau control. The wholesale destruction of roadside esthetics in this area is in strong contrast with roadside views in the more conservatively developed stands where the highway crosses the northern portion of the Grans Creek Logging Unit. In the latter unit, the staggered-setting type cutting has been used. This is considered the most acceptable method for harvesting west coast stands of timber.

We appreciate the concern that Mr. Elamons has shown. We, too, are concerned and will continue our efforts to improve the logging operations on the Quinault Reservation. Our objective is to obtain a fair return to the Indian owners for the timber being harvested, while providing maximum protection of other natural resource values.

Sincerely yours,

(Sgd.) John O. Crow

Commissioner

Dan/htv

Enclosure

UNITED STATES GOVERNMENT

Memorandum

DATE: October 12, 1971

TO : Forest Manager

FROM : Carl Johnson, Forester

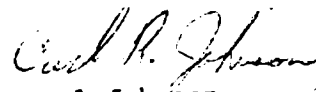
SUBJECT: Taholah Unit - extensive reproduction survey

During the spring of 1971 an extensive reproduction survey was accomplished on the Taholah Unit. Roadside ocular observation was used as the primary method of survey because of the large land area and the limited manpower available.

It is generally accepted that 40% stocking is adequate to reforest a stand of timber. With this in mind it has also been determined that one tree every 20 feet constitutes 40% stocking, based on 4-mileacre square plots. Using this method results in limiting observations to large seedlings.

Therefore only older cutting blocks could be surveyed at this time which resulted in a conservative answer as to reproduction on the unit. The results of this survey follow:

<u>Year</u>	<u>Total Acres Logged</u>	<u>% Restocked</u>
Prior to 1960	5,380	90
1960	601	70
1961	721	80
1962	594	70
1963	813	70
1964	822	20
1965	1,318	10



Carl Johnson
Forester



Procedure used to determine spacing for 40% Stocking:

- 100% Stocked = 250 trees/acre based on 4-acre plots (quadrats) - 13.2 ft spacing
- 40% Stocked = $250 \times 40\% = 100$ trees/acre
- Sq. Ft./tree = $\frac{43,560 \text{ ft}^2}{\text{acre}} \div \frac{100 \text{ trees}}{\text{acre}} = 436 \text{ ft}^2/\text{tree}$
- Spacing @ 40% Stocking = $\sqrt{436 \text{ ft}^2} = \underline{\underline{20^+ \text{ ft.}}}$

Sample of Material Enclosed--

8. Regeneration.

- 9/25/50 - 1. Memo from Earle R. Wilcox, Forester, to John W. Libby, For. Mgr., subject, Method and Order of Cutting the Taholah Unit.
- 4/27/59 - 2. Quinault Newsletter No. 7.
- 10/29/59 - 3. Quinault Newsletter No. 9.
- 6/19/61 - 4. Letter from Perry Skarra, Act. Area Director, to Commissioner, BIA, pertaining to and including a "Report of Reproduction Survey on Taholah Logging Unit."
- 6/18/62 - 5. Letter from Geo. M. Felshaw, Supt., to Mr. R. D. Holtz, Area Director, with attachments pertaining to a reproduction survey of the Crane Creek Unit.
- 12/7/71 - 6. Memo from A. W. Galbraith, Asst. Area Director, to Emmet E. Willard, Field Representative, Office of the Secretary, subject, Residues Present After Logging on Cedar Areas of Crane Creek and Taholah Units.

JULIA BUTLER HANSEN
3D DISTRICT, WASHINGTON

COMMITTEE ON
APPROPRIATIONS
SUBCOMMITTEES:
CHAIRMAN—INTERIOR
AND RELATED AGENCIES
MILITARY CONSTRUCTION

Congress of the United States
House of Representatives
Washington, D.C. 20515

October 29, 1971

Mr. Charles H. Clemons
P. O. Box 748
Montesano, Washington 98563

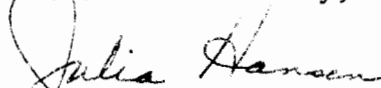
Dear Mr. Clemons:

In further reference to my letter of September 21, I am attaching a copy of a self-explanatory letter just received from the Bureau of Indian Affairs, relative to your concern about the timber harvesting policy on the Quinault Reservation.

I am glad to note that they are concerned also and will continue their efforts to improve the logging operations on the Quinault Reservation. If I may be of any further assistance, please do not hesitate to write.

With my cordial personal regards, I am

Yours most sincerely,



Julia Butler Hansen, M. C.

JBH:Ds

Enclosure

Ralph D. Gustavson, Forester

11/01/71

Joseph Jackson, Forest Manager

Reproduction - Surveys

Please prepare an outline describing our procedures in making a reproduction survey.

Adequate stocking level criteria and its implied application should be indicated, and also the source of guidelines.

Spell out survey plans for the Taholah and Crane Creek Units. Indicate progress to date.

Review Carl Johnson's map of reproduction survey based on ocular observations for adequacy.

Degree of stocking will be an important issue in the approaching lawsuit against the Bureau. The information above is of a rather high priority.

Sgd. Wilbur H. Carey

Act. Joseph Jackson,
Forest Manager

cc:

Adm. - Evt.

Adm. - Hoq.

Subject - Hoq.

Chrony

JJackson:lr 11/01/71

Amick

[Handwritten signature]

Forestry
71-6-3 - 339.5
Crane Creek
60-11-7 - 339.5
Taholah

cc: Supt., Western Washington Agency
Hoquiam Field Station, Attn. Forestry

RECEIVED
WESTERN WASH. INDIAN AGENCY
HOQUIAM, WASH.

DEC 14 1971

DEC 10 1971

Memorandum

Attn: _____

To: Superintendent, Western Washington Agency

From: Assistant Area Director (Economic Development)

Subject: Regeneration Planning, Crane Creek and Taholah Logging Units

The harvest of sawlogs through clearcutting in blocks is the established practice under the subject contracts. Further material removal is possible under the salvage provisions of the contracts. Regeneration has been dependent upon the seed from the stands being cut or uncut timber adjacent to the cutover blocks. The blocks have been designed in a staggered order of cutting to maximize the natural regeneration prospects. Various factors operate to make the natural regeneration an inadequate system.

1. As the block cutting system progresses over the units, the point is reached where reliance on seeding from adjacent uncut timber is a diminishing prospect.

2. On some areas, the large accumulation of slash and other residues may be an actual blockage to natural reseeding, and to planting.

3. Conditions necessary to the natural regeneration are at times in conflict with the prospects of salvage operations and/or potential use of logging residues.

It is apparent that cutting on the Taholah Unit has progressed to the point that natural reseeding sources are deficient as new areas are cut over. Eventually, this condition will arise on the Crane Creek Unit. Some areas may derive improved regeneration prospects due to residue removal in salvage operations while at times salvage operations would appear to expand the bulk of the residues. Where natural reseeding has failed, is improbable or definitely not a prospect, both planting and site preparation may be required.

*Copies to
Dennis
John L.
Ray*

A deadline on salvage activity may need to be set so regeneration plans can be advanced. We are therefore requesting that logging plans provide for the following information intensity as to regeneration.

1. A large scale map of each cutting block.
2. Designation on the map and in complementing report, as conditions are known, the regenerative aspects of management to be applied or that need to be implemented.
3. Recommendations as to implementing the timber stand regeneration and/or alternatives to plan for attainment of regeneration within prescribed time limits.

The map should also be used to designate other management actions that are concerned.

Kenneth W. Hadley

ACTING Assistant Area Director
(Economic Development)

VKMeeker:du - 12/10/71

Forestry
71-6-3 - 339.5
Crane Creek
69-9-13 - 339.5
Taholah

DEC 14 1971

RECEIVED
WESTERN WASHINGTON AGENCY

DEC 14 1971

Memorandum

To: Emmat E. Willard, ^{Acting} Field Representative, Pacific Northwest Region
Office of the Secretary, Department of the Interior
Portland, Oregon 97208

From: Assistant Area Director (Economic Development)

Subject: Residues Present After Logging on Cedar Areas ~~Crane Creek~~
and Taholah Units, Quinault Reservation

The subject residues derive from material that is not merchantable and removable under the timber sale contracts, and debris from dead and down timber present prior to logging. The following estimates have been made by Western Washington Agency Forestry staff.

1. An average of 3,500 cubic feet of potential Kraft chips are present per acre. This material has a potential present value of about \$595 per acre. The current chip value is indicated to be \$17 per cunit* FOB Cosmopolis, Washington.

2. The estimated product cost of the 3,500 cubic feet of chips is estimated to be \$735 per acre. The cost of chip production is indicated to be \$21 per cunit.

The above indicates it would be necessary to subsidize such an operation to the extent of \$140 per acre. The volume of such chips produced which could be absorbed by the present market would require further study. At the present time, mills are experiencing difficulty in disposing of residues developed in the milling operations.

3. Presently, there are 7,500 acres of cedar slash that has not attained restock status. This area increases 1,500 acres each year, but is offset by the degree of natural regeneration occurring at the other end of the order.

4. The regeneration lag to 40 percent stocking (adequate stocking level required) appears to be five years.

(*) Cunit = 100 cubic feet

5. Cost items to remove residues and to reforest promptly:
 - a. Planting--\$45 per acre (\$55 if extra site preparation required).
 - b. Slash disposal by burning--\$100/acre.
 - c. Residue removal of unmerchantable material (chips) by subsidy--\$140/acre.
6. Added value due to residue removal and/or prompt reforestation.
 - a. Growth (over a 60-year rotation, ignoring interest) \$225/acre (@ 1,000 BF/year @ value \$45/M and 5-year gain).
 - b. Reduced residue on ground at next logging act--unknown.
 - c. Esthetic appearance for approximately 15 years--unknown.
 - d. Economic (job) value (assuming residues as taken do not replace other materials available to industry)--unknown.
 - e. Fire suppression cost reduction--\$1/acre/year.

To this point, the regeneration by natural means appears to have generally provided restocking at a 5-year lag period. However, the natural regeneration will be a diminishing effect as the logging units approach complete cutover, since the adjacent stand seed sources will eventually disappear. Had the period of cutover been approximately the rotation period, this diminished effect would have been filled by seed source from the older regenerated stands. Restocking by planting is thus a requirement in the latter part of the cutover period.

Within the cost estimates shown, subsidy to remove residues is an uneconomic expense and a high-risk expense since we may be close to the conditions where the material is merchantable. Where natural regeneration is occurring within the 5-year lag period, the gain of planting does not equal the cost of planting; and, planting should probably be aimed at small area planting to supplement natural regeneration. As the seed sources decline in the latter years of the cutting period, planting should be practiced routinely on the new cutover areas as it is determined natural regeneration prospects are deficient.

A. W. GALBRAITH

Assistant Area Director
(Economic Development)

IN REPLY REFER TO:

Forestry
71-6-3 - 339.5
Crane Creek
69-6-13 - 339.5
Taholah

United States Department of the Interior

INTERIOR DEPARTMENT BUREAU OF INDIAN AFFAIRS

PORTLAND AREA OFFICE

POST OFFICE BOX 3725

PORTLAND, OREGON 97208

MAY 2 1972

AIRMAIL SOLICITOR

APR 28 1972

Memorandum

To: Commissioner of Indian Affairs

From: Area Director, Portland Area

Subject: Contract Compliance under Timber Contracts I-101-Ind-1766
and I-101-Ind-1902 (Aloha Lumber Company and LIT Rayonier)

We are forwarding the factual report which you requested by your memorandum of April 7, 1972, concerning the administration and enforcement of the above timber contracts on the Quinault Indian Reservation. We have assembled and are sending under separate cover letters, memorandums, and reports in the Hoquiam and Area Offices which pertain to the administration of the contracts, excluding those matters relating to stumpage adjustment. The bulk of the material which has been included consists of copies of letters to the purchasers pertaining to the administration and enforcement of logging practices within the contract areas. This material was taken for the most part from the chronological files of the Hoquiam Agency commencing with 1970 to the present date. The same material exists for prior years; however, it has not been copied and submitted because of its large volume and, secondly, it would not be of real assistance without explanation and interpretation. This is required because the letters contain instructions to the company regarding actions to be taken on the units and, in most cases, the company does not respond by letter. Rather, when the requested action is accomplished by the companies, it is noted by the forester on the unit but no written record is made that it has been completed. You will note from the material submitted that the foresters for the units have made some notation on the agency letters of the action taken by the companies in response to the request. Such notations were made by the foresters from their memories and field notes.

In addition to the material from the 1970-1972 chronological files, we have included other significant letters, reports, and memorandums pertaining to the administration of the contracts from their inception to the present date.

The following report provides a general summary and orientation concerning the administration of the contracts on the Taholah and Crane Creek Units of the Quinault Indian Reservation. The report is divided into nine subtopics which have been the subject of controversy and the requirements of the purchasers under the contracts and regulations are discussed in relation to each topic. The factual material submitted has been sorted into the same categories. The administration of the contract will be discussed under the following topics:

1. Historical Background
2. The Contracts for the Crane Creek and Taholah Logging Units
3. General Logging Administration
4. Logging Plans
5. Salvage Utilization and Residues (Treatment of Slash)
6. Stream Treatment
7. Road Construction and Maintenance
8. Regeneration of Logged-Over Areas
9. Reports of Timber Cut

1. Historical Background

The portion of the Quinault Indian Reservation which is north of the Quinault River, of which approximately two-thirds of the area includes the Crane Creek and Taholah Units, was actually advertised for sale as early as 1929. The bids received at that time were rejected. In the early 1940s interest was renewed in logging the area, and the Taholah Logging Unit was proposed for sale in 1946. There were objections to the sale and various alternatives to selling were discussed, such as the formation of a cooperative association or an Indian enterprise to utilize the timber. The allottees also proposed a larger unit so as to provide more Indian people with income from their allotments.

Subsequently, a proposal was made by interested allottees which encompassed all of the area north of the Quinault River called the North Quinault Logging Unit. This proposal was made to satisfy the main objection to the Taholah proposal, which was that only a portion of the allotted owners would realize any stumpage return in the immediate future.

The Bureau of Indian Affairs was reluctant to undertake a sale of the timber in one large unit. Consequently, a decision was made to divide the area into four units, the Taholah, Crane Creek, Queets, and Boulder Creek Units which would be advertised for sale at the same time.

During the time the sale proposals were being prepared, meetings were held with the allotment owners and land ownership records were researched to determine the ownerships of the various allotments included within the four tracts. It was determined that 1,380 allotments with over 2,500 interests were involved; and in order to facilitate the contracting of the units, the Superintendent proceeded to obtain powers of attorney or consents to the sale from the individual allotment owners which authorized the Superintendent to enter into the actual contract for sale of the timber from the allotments. By the time the Taholah, Crane Creek, and Queets proposal was presented in 1948, approximately 60 percent of the allotted interests had executed consents to the sales. Information regarding such sales was presented to the allottees in meetings and individual inquiries, both in person and by letter. Because of the high level of interest among the owners, there was a great deal of discussion and dissemination of information. It was determined by the BIA that a substantial majority of the owners favored a prompt sale of the timber.

The Crane Creek, Taholah, Queets, and Boulder Units were advertised for sale in 1949. The Boulder Creek Unit was sold to the Wagar Lumber Company, the Taholah Unit was sold to the Aloha Lumber Company, and one bid for the Crane Creek Unit was received from Rayonier Incorporated; however, they refused to execute the contract and forfeited their bid bond. In 1952 the Crane Creek Unit was again advertised for sale and Rayonier Incorporated submitted the only bid, and a contract for sale of the unit was approved by the Under Secretary of the Interior on June 30, 1952. An acceptable bid was not received for the Queets Unit and it was never readvertised.

2. Contracts

Copies of the contracts for the Taholah Unit with the Aloha Lumber Company and its subsequent modification, as well as the contract for the Crane Creek Unit with Rayonier and its subsequent modification, are enclosed. The General Timber Sales Regulations approved for use April 10, 1920, must be read with the contracts and a copy is included for your convenience.

We are also including copies of the powers of attorney executed by the individual allotment owners authorizing the Superintendent to sell their respective tracts or interests under the proposed timber

sales. Pursuant to said authorization, the Superintendent executed a contract for each allotment or interest therein, sample copies of which are also enclosed.

The timber was sold pursuant to the Act of June 25, 1910, 25 U.S.C. § 406, which does not authorize a sale of the timber by the Secretary of the Interior. His responsibility rests only with the approval or disapproval of such sales. General contracts were executed by the purchasers and the Secretary of the Interior and, with the General Timber Sale Regulations of 1920, became the conditions by which the purchasers were permitted to purchase the timber from the individual allotments. This practice was provided for by the regulations as formerly contained in 25 CFR 141.20. The regulation provided in part:

" . . . Contracts covering individual allotments executed under authority of an approved general contract will be approved by the Superintendent on Form 5-489 with such provisions incorporated therein as the approving officer or officers of the general contract shall stipulate."

The procedure was subsequently affirmed by the Ninth Circuit Court of Appeals in United States v. Eastman, 118 F.2d 421 (9th Cir. 1941).

The contract was modified to provide better utilization of the resource within the units. As the logging progressed, it was evident that the products as defined in the contract did not cover the smaller sized material encountered on the units. All parties were interested in salvaging this material that would otherwise be wasted. A modification was completed to provide for the taking of such materials for pulpwood production, shake boards, and shingle bolts. The modification of the Taholah contract also provided for a change in scaling from the BIA to a commercial Scaling Bureau, the Grays Harbor Log Scaling and Grading Bureau. The change had considerable effect upon the definition as to what shall be taken as a merchantable log.

The contracts, including the General Timber Sale Regulations, provide general guidelines for the administration of the sales; however, because they are general, considerable discretion is left with the Secretary of the Interior, or the Officer in Charge as the Secretary's representative, to use his judgment in the administration of the contracts. This has permitted the Forest Officer to utilize and require new and improved logging practices which would otherwise not be possible. In some instances, written guidelines have been developed and utilized by the foresters; however, it must be kept in mind that

in the administration of the contracts the forester must call upon his education, experience, and knowledge of recognized forest management and logging practices, as well as such practices generally used in the locality. He is a professional person, exercising his expert judgment in the harvesting of the timber and the management of the resources. There is no concise or complex set of rules for the administration of the timber sales. The process requires the day-by-day attention of supervisory and field foresters, technicians, scalers, and timber clerks. There must be a continual exchange on the logging units between the BIA Forestry personnel and the purchaser's representative supervising the extensive range of the company's logging activity. This has been possible because of the general nature of the contracts.

3. General Logging Administration.

a. Logging Operations

The method of logging is not specified in the contract or the regulations. The acceptability of the logging is left to the discretion of the Officer in Charge. He exercises such discretion in accordance with sound silvicultural practices and in accordance with prudent logging methods. This permits changes in logging practices so that new methods of logging may be employed and the benefits of greater productivity and efficiency realized.

Section 10 of the regulations defines selective logging to mean, ". . . or the logging of areas in such manner as to preserve a part of the merchantable timber . . ." This was interpreted to permit the use of clear cutting by staggered blocks so as to provide for a seed source for the regeneration of the cut-over area. Clear cutting by blocks is an accepted and recognized Forestry practice in the West Coast timber type. At the time the sales were planned, it was envisioned that logging would be by tractor and highlead and both were used on the units. Eventually, highlead logging dominated as tractor logging was determined to be damaging under the wet conditions generally prevailing. The purchasers have generally used the equipment to allow efficient logging operations. The companies cannot afford to use outmoded logging practices because stumpage adjustments are based upon the Forest Service cost guides which are based upon information accumulated from logging operations in the western part of Oregon and Washington. In adjusting stumpage rates, the Approving Officer will only allow the company as expenses those which are average within the logging industry as adjusted to Quinalt timberstand characteristics. No allowance has been made for specific items not actually being practiced by the purchaser in the logging of the unit. For example, no cost allowance is given for slash disposal. Any

additional requirement of the purchasers beyond the average criteria reflected in the USFS cost guides would require an additional cost allowance which would reduce stumpage payments to the Indian owners.

b. Utilization of the Timber

Sections 14, 15, 16, and 17 of the General Timber Sale Regulations relate to the utilization of logs and what is termed waste and the scaling of waste material. The material that is waste scaled comes from two basic causes: the material was merchantable by piece standard and should have been taken, or the material resulted from mistreatment of a felled tree. The waste scaler looks at the material left on the ground in relation to the circumstances that prevailed in the uncut stand, and reasonably allows for problems faced by the logger. Generally speaking, merchantable material is required to be removed and excessive waste even though scaled and paid for by the purchaser is not an acceptable condition. Attention must also be given to the bucking of the log as this has a direct affect on the log grade which is important in the determination of stumpage rates under the contracts.

With the adoption of scaling by the Scaling Bureau, the Scaling Bureau's rule respecting scaling, grading, and merchantability became the applicable rules as to material to be taken as a merchantable log.

This resulted in certain changes as the Scaling Bureau rules differed substantially from those practiced by the DIA and stated in the contract and general provisions. The most obvious of these include:

- (1) Scale on the basis recognizing 40 feet as the maximum length of a single log.
- (2) Utilization to a diameter of 6 inches in the tops.
- (3) Minimum trim allowance of 8 inches.
- (4) Rules as to calculation of defect and measurement of diameter.
- (5) Designation of the log grade as scaled.

There have been differences with the purchaser concerning material scaled as waste by the Scaling Bureau rules. The effect in this instance has been that more material is considered merchantable (the utilization to a 6-inch top diameter). In general, the amount of waste encountered in the waste scaling was acceptable. In specific areas where it was

excessive, the purchaser has been notified and has shown a continuing willingness to relog the area and give the needed attention where improved practices are required.

4. Logging Plans

Section 22 of the Crane Creek Contract specifically provides that the purchaser shall submit a plan of his logging operations for each contract logging year commencing April 1. This provision is not contained in the Taholah Contract; however, Section 9 of the General Timber Sale Regulations has been interpreted to require that a plan be completed. This interpretation has been accepted by the purchaser since the inception of the contract. Both Aloha and ITT Rayonier submit annual logging plans which are reviewed by the Officer in Charge. The Taholah plan is subject to approval by the Superintendent. The Crane Creek is subject to approval by the Area Director. The development and detail of the plans have varied; however, initial guidelines for the preparation of logging plans were developed from the inception of the contracts. A copy of these guidelines is enclosed. The plans have been flexible so as to allow changes in areas of logging to meet market conditions, income needs of individual allottees, and the salvage of timber damaged by blowdown or fire. Representative copies of logging plans and their subsequent approvals are included in the material submitted. In addition to a review of the plans submitted by the companies, the foresters made field examinations so as to be familiar with the topography, timber characteristics, stream conditions, and other matters relating to the logging of the area. Attention was also given to the availability of seed source for regeneration purposes. Currently, the logging plan has become an intensive document giving many specific details as to the treatment of each cutting block. The development of the logging plan and its review extends over several months, involving actions by the allottee representatives, the Quinault Tribe, the purchaser, and the Bureau of Indian Affairs. A copy of the Taholah logging plan for 1972 is enclosed; however, this plan has not been approved as of this date and it should not be released as changes may result before its final approval. The plan is enclosed so that you may visualize the extent of preparation and factual data that is now going into the logging plan.

5. Salvage Utilization and Residues (Treatment of Slash)

The contracts provided for the sale of all merchantable dead timber, standing or fallen, and all the merchantable live timber, marked or otherwise designated by the Officer in Charge for selective logging, comprising trees approximately 14 inches and larger at a point 4-1/2 feet from the ground, and the contract further provided that the

purchaser pay for logs of a minimum length of 12 feet with a diameter of 10 inches at the top. Such provisions of the contract did not provide for adequate utilization of the timber resource, and the parties modified the contracts so as to utilize smaller materials which were present in the timberstands and also to provide for the removal and payment of the large amount of salvageable material such as cordwood for pulp, shingle bolts, and shake boards. The salvage activities were optional with the purchasers and the success in reducing the residues accruing on cedar cut-over areas has had limited success. The high costs of removal, together with the lack of a substantial market for the residue materials, makes it uneconomical to carry on an extensive salvage operation. The areas have been left open to possible salvage activity with the hope that demands for the material would arise. In some of the cedar areas, intensive salvage for cedar shakes has occurred. The salvaging of such materials has provided additional income for allotment owners, as well as employment for Indian salvage operations.

At the present time, the Officer in Charge is requiring that such salvage operations be completed within two years following the completion of the logging operation on the allotment. This requirement has been instituted so as to free the remaining residue on the allotment for disposal either by burning or chipping, should either method be adopted. There is some question as to whether the owner may be required to complete his salvage operation within such time or abandon his rights to salvage the material on his allotment. Another element to be considered in the salvage decision is whether the reproduction has advanced to a point where salvage activity may cause excessive damage to the reproduction. However, the Officer in Charge is attempting to obtain compliance and there has been no current burning or other disposal of the residue on the allotments at this time.

The volume of the residues and their utilization have been the subject of considerable publicity, much of which utilizes material out of context and creates error-laden but spectacular newspaper articles. All cedar stands are characterized by high residue volume because of the large amount of dead and decaying trees as well as deadfall present in the area. Cedar is also characteristically brittle and its falling results in far greater debris and slash than other species. Cedar is the predominant species on the Taholah Unit and, consequently, a greater problem than on the Crane Creek Unit. Hemlock and fir are more abundant on the Crane Creek Unit and ITT Rayonier is a white pulp user which increases the economic opportunity for salvage on the unit. As a consequence there is less residue present on the Crane Creek Unit than on the Taholah. A similar salvage operation by Aloha of cedar (a brown wood) would require a demand for kraft pulp and a favorable

production cost relationship to the market for the material. There are no kraft mills in the Grays Harbor area and there is only a limited export outlet for brown wood pulp.

The burning of slash may be required under the contract and General Timber Sale Regulations. Factors which contributed to the decision not to burn slash on the Quinault Indian Reservation were: (1) the residues contained large amounts of materials currently salvageable or with prospects of salvage attention, (2) burning of slash areas would require planting to regenerate the timberstand and the prospect of reforestation funds was not present at that time, (3) the cost of burning, aside from high risk and the planting, was not economically sound when natural regeneration could be obtained, (4) a study of the U.S. Forest Service indicated hemlock regeneration chances are more favorable when the area is not burned, (5) the fire risk of the untreated slash did not appear excessive if reasonable caution was exercised, (6) residues left on the ground following clear cutting serve a useful purpose in controlling the surface movement of soil in the high-rainfall area.

Sections 25 and 26 of the General Timber Sale Regulations provide for slash treatment and burning; however, the contracts provided for relief entirely or in part from the General Timber Sale Regulations. A written record relieving the companies of such obligation apparently does not exist, or at least it cannot be found. Administratively, no slash treatment has been required of the companies beyond directions to clear slash in specific hazardous areas.

A decision could be made at this time to require the companies to burn the slash resulting from their logging operations. However, it has been demonstrated that burned areas will not regenerate without planting. Therefore, a decision to burn the slash on the Quinault Reservation must be accompanied by a commitment to provide sufficient funds to reforest the areas. While we may require the companies to burn, there is no provision in the contracts or General Timber Sale Regulations which would require them to reforest. Secondly, a legal determination must be made as to whether the approving officer has the authority to direct the burning of slash materials which may be salvageable by the allotment owner.

6. Stream Treatment

Section 10 of the General Timber Sale Regulations provides in part as follows:

". . .In the discretion of the Officer in Charge, a strip not exceeding 300 feet in width on each side of streams, roads, and trails, and in the vicinity of camping places and recreation grounds may be reserved, in which little or no cutting may be allowed."

Section 35 of the same regulations also provide:

"Streams will not be obstructed by felled trees or otherwise except by the improvements herein before provided for, nor will they be polluted by sawdust, manure, or any other refuse from a camp or mill."

The buffer strips mentioned in Section 10 were viewed primarily for aesthetic purposes. In early Quinault logging efforts were made to leave such strips along streams and roadways. Such practices resulted in extensive blowdown of the reserved timber and subsequent minimal use of the practice. It has only been since 1963 that reserved strips or buffer strips have been advocated in relation to the fisheries program and received consideration along with other logging practices having effect upon the streams. Buffer strips are now being left along the streams at the discretion of the Officer in Charge; however, overmature and decadent trees are removed from the strips, leaving young evergreen and broadleaf species intact. The high volumes per acre which are present upon the units within the Quinault Reservation result in a very high stumpage loss to individuals if the buffer strip is left entirely undisturbed. The foresters consult with the individual owners to determine their desires regarding buffer strips.

Until recent years, a stream requiring protection under Section 35 of the General Timber Sale Regulations was regarded as a substantial stream flowing throughout the year. However, recent interpretations by fisheries people include intermittent streams as within those which should receive protection and treatment because of their capability of supporting small fish before the migration to larger streams.

Considerable attention has been given to stream clearance since 1963 and the purchasers have responded to instructions for better treatment and to the requirement of cleaning streams obstructed from prior logging. By 1966 and 1967, fisheries people were reporting favorable impression regarding such efforts. Much of the debris in the streams had resulted from natural causes prior to logging but has been included in the clearing operations. The current logging plans state in detail the stream treatment required and the method to be used. Forestry personnel have obtained guidance from fish biologists in the Bureau of Sport

Fisheries and Wildlife. In February of 1971 the Bureau of Sport Fisheries and Wildlife provided the BIA with guidelines and a map delineating the important streams from a fishery standpoint within the logging units which the Officer in Charge has used as a guide in the preparation of the logging plans.

Stream cleaning on the Crane Creek Unit is relatively current. Hand-cleaning is indicated as a desirable followup in many locations. Streams not previously designated for clearance, principally intermittent streams, are being studied for possible designation for clearing operations.

On the Taholah Unit, stream cleaning has progressed slower, and the purchaser has not attacked the backlog with the same energy as the purchaser on the Crane Creek Unit. The Taholah area, however, is complicated by the large number of small intermittent streams and the topography of the area. There is little record as to the stream conditions existing prior to the logging under the contracts; however, it is clear that the conditions presently being requested by some fisheries technicians did not exist within the area prior to the logging.

7. Road Construction and Maintenance

The Taholah and Crane Creek timber contracts do not elaborate on roads to any degree, mentioning only that existing roads may be used and must be maintained to the purchaser's use, and additional roads necessary to the purchaser's execution of the contract may be constructed and maintained subject to regulations by the Commissioner of Indian Affairs. (Sec. 37, 39, 41 General Timber Sale Regulations.)

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Area Director

Enclosures 6

Separate cover:
File Assemblies (8 subjects)

Forestry
71-6-3 - 339.5
Crane Creek
69-6-13 - 339.5
Taholah

AIRMAIL

APR 28 1972

Memorandum

To: Commissioner of Indian Affairs

From: Area Director, Portland Area

Subject: Contract Compliance under Timber Contracts I-101-Ind-1706
and I-101-Ind-1802 (Alona Lumber Company and ITT Rayonier)

We are forwarding the factual report which you requested by your memorandum of April 7, 1972, concerning the administration and enforcement of the above timber contracts on the Quinalt Indian Reservation. We have assembled and are sending under separate cover letters, memorandums, and reports in the Nequiam and Area Offices which pertain to the administration of the contracts, excluding those matters relating to stumpage adjustment. The bulk of the material which has been included consists of copies of letters to the purchasers pertaining to the administration and enforcement of logging practices within the contract areas. This material was taken for the most part from the chronological files of the Nequiam Agency commencing with 1970 to the present date. The same material exists for prior years; however, it has not been copied and submitted because of its large volume and, secondly, it would not be of real assistance without explanation and interpretation. This is required because the letters contain instructions to the company regarding actions to be taken on the units and, in most cases, the company does not respond by letter. Rather, when the requested action is accomplished by the companies, it is noted by the forester on the unit but no written record is made that it has been completed. You will note from the material submitted that the foresters for the units have made some notation on the agency letters of the action taken by the companies in response to the request. Such notations were made by the foresters from their memories and field notes.

In addition to the material from the 1970-1972 chronological files, we have included other significant letters, reports, and memorandums pertaining to the administration of the contracts from their inception to the present date.

The following report provides a general summary and orientation concerning the administration of the contracts on the Taholah and Crane Creek Units of the Quinault Indian Reservation. The report is divided into nine subtopics which have been the subject of controversy and the requirements of the purchasers under the contracts and regulations are discussed in relation to each topic. The factual material submitted has been sorted into the same categories. The administration of the contract will be discussed under the following topics:

1. Historical Background
2. The Contracts for the Crane Creek and Taholah Logging Units
3. General Logging Administration
4. Logging Plans
5. Salvage Utilization and Residues (Treatment of Slash)
6. Stream Treatment
7. Road Construction and Maintenance
8. Regeneration of Logged-Over Areas
9. Reports of Timber Cut

1. Historical Background

The portion of the Quinault Indian Reservation which is north of the Quinault River, of which approximately two-thirds of the area includes the Crane Creek and Taholah Units, was actually advertised for sale as early as 1929. The bids received at that time were rejected. In the early 1940s interest was renewed in logging the area, and the Taholah Logging Unit was proposed for sale in 1946. There were objections to the sale and various alternatives to selling were discussed, such as the formation of a cooperative association or an Indian enterprise to utilize the timber. The allottees also proposed a larger unit so as to provide more Indian people with income from their allotments.

Subsequently, a proposal was made by interested allottees which encompassed all of the area north of the Quinault River called the North Quinault Logging Unit. This proposal was made to satisfy the main objection to the Taholah proposal, which was that only a portion of the allotted owners would realize any stumpage return in the immediate future.

The Bureau of Indian Affairs was reluctant to undertake a sale of the timber in one large unit. Consequently, a decision was made to divide the area into four units, the Taholah, Crane Creek, Queets, and Boulder Creek Units which would be advertised for sale at the same time.

During the time the sale proposals were being prepared, meetings were held with the allotment owners and land ownership records were researched to determine the ownerships of the various allotments included within the four tracts. It was determined that 1,380 allotments with over 2,500 interests were involved; and in order to facilitate the contracting of the units, the Superintendent proceeded to obtain powers of attorney or consents to the sale from the individual allotment owners which authorized the Superintendent to enter into the actual contract for sale of the timber from the allotments. By the time the Taholah, Crane Creek, and Queets proposal was presented in 1948, approximately 60 percent of the allotted interests had executed consents to the sales. Information regarding such sales was presented to the allottees in meetings and individual inquiries, both in person and by letter. Because of the high level of interest among the owners, there was a great deal of discussion and dissemination of information. It was determined by the BIA that a substantial majority of the owners favored a prompt sale of the timber.

The Crane Creek, Taholah, Queets, and Boulder Units were advertised for sale in 1949. The Boulder Creek Unit was sold to the Wagar Lumber Company, the Taholah Unit was sold to the Aloha Lumber Company, and one bid for the Crane Creek Unit was received from Rayonier Incorporated; however, they refused to execute the contract and forfeited their bid bond. In 1952, the Crane Creek Unit was again advertised for sale and Rayonier Incorporated submitted the only bid, and a contract for sale of the unit was approved by the Under Secretary of the Interior on June 30, 1952. An acceptable bid was not received for the Queets Unit and it was never readvertised.

2. Contracts

Copies of the contracts for the Taholah Unit with the Aloha Lumber Company and its subsequent modification, as well as the contract for the Crane Creek Unit with Rayonier and its subsequent modification, are enclosed. The General Timber Sales Regulations approved for use April 10, 1920, must be read with the contracts and a copy is included for your convenience.

We are also including copies of the powers of attorney executed by the individual allotment owners authorizing the Superintendent to sell their respective tracts or interests under the proposed timber

sales. Pursuant to said authorization, the Superintendent executed a contract for each allotment or interest therein, sample copies of which are also enclosed.

The timber was sold pursuant to the Act of June 25, 1910, 25 U.S.C. § 406, which does not authorize a sale of the timber by the Secretary of the Interior. His responsibility rests only with the approval or disapproval of such sales. General contracts were executed by the purchasers and the Secretary of the Interior and, with the General Timber Sale Regulations of 1920, became the conditions by which the purchasers were permitted to purchase the timber from the individual allotments. This practice was provided for by the regulations as formerly contained in 25 CFR 141.20. The regulation provided in part:

" . . . Contracts covering individual allotments executed under authority of an approved general contract will be approved by the Superintendent on Form 5-489 with such provisions incorporated therein as the approving officer or officers of the general contract shall stipulate."

The procedure was subsequently affirmed by the Ninth Circuit Court of Appeals in United States v. Eastman, 118 F.2d 421 (9th Cir. 1941).

The contract was modified to provide better utilization of the resource within the units. As the logging progressed, it was evident that the products as defined in the contract did not cover the smaller sized material encountered on the units. All parties were interested in salvaging this material that would otherwise be wasted. A modification was completed to provide for the taking of such materials for pulpwood production, shake boards, and shingle bolts. The modification of the Taholah contract also provided for a change in scaling from the BIA to a commercial Scaling Bureau, the Grays Harbor Log Scaling and Grading Bureau. The change had considerable effect upon the definition as to what shall be taken as a merchantable log.

The contracts, including the General Timber Sale Regulations, provide general guidelines for the administration of the sales; however, because they are general, considerable discretion is left with the Secretary of the Interior, or the Officer in Charge as the Secretary's representative, to use his judgment in the administration of the contracts. This has permitted the Forest Officer to utilize and require new and improved logging practices which would otherwise not be possible. In some instances, written guidelines have been developed and utilized by the foresters; however, it must be kept in mind that

in the administration of the contracts the forester must call upon his education, experience, and knowledge of recognized forest management and logging practices, as well as such practices generally used in the locality. He is a professional person, exercising his expert judgment in the harvesting of the timber and the management of the resources. There is no concise or complex set of rules for the administration of the timber sales. The process requires the day-by-day attention of supervisory and field foresters, technicians, scalers, and timber clerks. There must be a continual exchange on the logging units between the BIA Forestry personnel and the purchaser's representative supervising the extensive range of the company's logging activity. This has been possible because of the general nature of the contracts.

3. General Logging Administration.

a. Logging Operations

The method of logging is not specified in the contract or the regulations. The acceptability of the logging is left to the discretion of the Officer in Charge. He exercises such discretion in accordance with sound silvicultural practices and in accordance with prudent logging methods. This permits changes in logging practices so that new methods of logging may be employed and the benefits of greater productivity and efficiency realized.

Section 10 of the regulations defines selective logging to mean, ". . . or the logging of areas in such manner as to preserve a part of the merchantable timber . . ." This was interpreted to permit the use of clear cutting by staggered blocks so as to provide for a seed source for the regeneration of the cut-over area. Clear cutting by blocks is an accepted and recognized Forestry practice in the West Coast timber type. At the time the sales were planned, it was envisioned that logging would be by tractor and highlead and both were used on the units. Eventually, highlead logging dominated as tractor logging was determined to be damaging under the wet conditions generally prevailing. The purchasers have generally used the equipment to allow efficient logging operations. The companies cannot afford to use outmoded logging practices because stumpage adjustments are based upon the Forest Service cost guides which are based upon information accumulated from logging operations in the western part of Oregon and Washington. In adjusting stumpage rates, the Approving Officer will only allow the company as expenses those which are average within the logging industry as adjusted to Quinalt timberstand characteristics. No allowance has been made for specific items not actually being practiced by the purchaser in the logging of the unit. For example, no cost allowance is given for slash disposal. Any

additional requirement of the purchasers beyond the average criteria reflected in the USFS cost guides would require an additional cost allowance which would reduce stumpage payments to the Indian owners.

b. Utilization of the Timber

Sections 14, 15, 16, and 17 of the General Timber Sale Regulations relate to the utilization of logs and what is termed waste and the scaling of waste material. The material that is waste scaled comes from two basic causes: the material was merchantable by piece standard and should have been taken, or the material resulted from mistreatment of a felled tree. The waste scaler looks at the material left on the ground in relation to the circumstances that prevailed in the uncut stand, and reasonably allows for problems faced by the logger. Generally speaking, merchantable material is required to be removed and excessive waste even though scaled and paid for by the purchaser is not an acceptable condition. Attention must also be given to the bucking of the log as this has a direct affect on the log grade which is important in the determination of stumpage rates under the contracts.

With the adoption of scaling by the Scaling Bureau, the Scaling Bureau's rule respecting scaling, grading, and merchantability became the applicable rules as to material to be taken as a merchantable log.

This resulted in certain changes as the Scaling Bureau rules differed substantially from those practiced by the BIA and stated in the contract and general provisions. The most obvious of these include:

- (1) Scale on the basis recognizing 40 feet as the maximum length of a single log.
- (2) Utilization to a diameter of 6 inches in the tops.
- (3) Minimum trim allowance of 8 inches.
- (4) Rules as to calculation of defect and measurement of diameter.
- (5) Designation of the log grade as scaled.

There have been differences with the purchaser concerning material scaled as waste by the Scaling Bureau rules. The effect in this instance has been that more material is considered merchantable (the utilization to a 6-inch top diameter). In general, the amount of waste encountered in the waste scaling was acceptable. In specific areas where it was

excessive, the purchaser has been notified and has shown a continuing willingness to relog the area and give the needed attention where improved practices are required.

4. Logging Plans

Section 22 of the Crane Creek Contract specifically provides that the purchaser shall submit a plan of his logging operations for each contract logging year commencing April 1. This provision is not contained in the Taholah Contract; however, Section 9 of the General Timber Sale Regulations has been interpreted to require that a plan be completed. This interpretation has been accepted by the purchaser since the inception of the contract. Both Aloha and ITT Rayonier submit annual logging plans which are reviewed by the Officer in Charge. The Taholah plan is subject to approval by the Superintendent. The Crane Creek is subject to approval by the Area Director. The development and detail of the plans have varied; however, initial guidelines for the preparation of logging plans were developed from the inception of the contracts. A copy of these guidelines is enclosed. The plans have been flexible so as to allow changes in areas of logging to meet market conditions, income needs of individual allottees, and the salvage of timber damaged by blowdown or fire. Representative copies of logging plans and their subsequent approvals are included in the material submitted. In addition to a review of the plans submitted by the companies, the foresters made field examinations so as to be familiar with the topography, timber characteristics, stream conditions, and other matters relating to the logging of the area. Attention was also given to the availability of seed source for regeneration purposes. Currently, the logging plan has become an intensive document giving many specific details as to the treatment of each cutting block. The development of the logging plan and its review extends over several months, involving actions by the allottee representatives, the Quinault Tribe, the purchaser, and the Bureau of Indian Affairs. A copy of the Taholah logging plan for 1972 is enclosed; however, this plan has not been approved as of this date and it should not be released as changes may result before its final approval. The plan is enclosed so that you may visualize the extent of preparation and factual data that is now going into the logging plan.

5. Salvage Utilization and Residues (Treatment of Slash)

The contracts provided for the sale of all merchantable dead timber, standing or fallen, and all the merchantable live timber, marked or otherwise designated by the Officer in Charge for selective logging, comprising trees approximately 14 inches and larger at a point 4-1/2 feet from the ground, and the contract further provided that the

purchaser pay for logs of a minimum length of 12 feet with a diameter of 10 inches at the top. Such provisions of the contract did not provide for adequate utilization of the timber resource, and the parties modified the contracts so as to utilize smaller materials which were present in the timberstands and also to provide for the removal and payment of the large amount of salvageable material such as cordwood for pulp, shingle bolts, and shake boards. The salvage activities were optional with the purchasers and the success in reducing the residues accruing on cedar cut-over areas has had limited success. The high costs of removal, together with the lack of a substantial market for the residue materials, makes it uneconomical to carry on an extensive salvage operation. The areas have been left open to possible salvage activity with the hope that demands for the material would arise. In some of the cedar areas, intensive salvage for cedar shakes has occurred. The salvaging of such materials has provided additional income for allotment owners, as well as employment for Indian salvage operations.

At the present time, the Officer in Charge is requiring that such salvage operations be completed within two years following the completion of the logging operation on the allotment. This requirement has been instituted so as to free the remaining residue on the allotment for disposal either by burning or chipping, should either method be adopted. There is some question as to whether the owner may be required to complete his salvage operation within such time or abandon his rights to salvage the material on his allotment. Another element to be considered in the salvage decision is whether the reproduction has advanced to a point where salvage activity may cause excessive damage to the reproduction. However, the Officer in Charge is attempting to obtain compliance and there has been no current burning or other disposal of the residue on the allotments at this time.

The volume of the residues and their utilization have been the subject of considerable publicity, much of which utilizes material out of context and creates error-laden but spectacular newspaper articles. All cedar stands are characterized by high residue volume because of the large amount of dead and decaying trees as well as deadfall present in the area. Cedar is also characteristically brittle and its falling results in far greater debris and slash than other species. Cedar is the predominant species on the Taholah Unit and, consequently, a greater problem than on the Crane Creek Unit. Hemlock and fir are more abundant on the Crane Creek Unit and ITT Rayonier is a white pulp user which increases the economic opportunity for salvage on the unit. As a consequence there is less residue present on the Crane Creek Unit than on the Taholah. A similar salvage operation by Aloha of cedar (a brown wood) would require a demand for kraft pulp and a favorable

production cost relationship to the market for the material. There are no kraft mills in the Grays Harbor area and there is only a limited export outlet for brown wood pulp.

The burning of slash may be required under the contract and General Timber Sale Regulations. Factors which contributed to the decision not to burn slash on the Quinault Indian Reservation were: (1) the residues contained large amounts of materials currently salvageable or with prospects of salvage attention, (2) burning of slash areas would require planting to regenerate the timberstand and the prospect of reforestation funds was not present at that time, (3) the cost of burning, aside from high risk and the planting, was not economically sound when natural regeneration could be obtained, (4) a study of the U.S. Forest Service indicated hemlock regeneration chances are more favorable when the area is not burned, (5) the fire risk of the untreated slash did not appear excessive if reasonable caution was exercised, (6) residues left on the ground following clear cutting serve a useful purpose in controlling the surface movement of soil in the high-rainfall area.

Sections 25 and 26 of the General Timber Sale Regulations provide for slash treatment and burning; however, the contracts provided for relief entirely or in part from the General Timber Sale Regulations. A written record relieving the companies of such obligation apparently does not exist, or at least it cannot be found. Administratively, no slash treatment has been required of the companies beyond directions to clear slash in specific hazardous areas.

A decision could be made at this time to require the companies to burn the slash resulting from their logging operations. However, it has been demonstrated that burned areas will not regenerate without planting. Therefore, a decision to burn the slash on the Quinault Reservation must be accompanied by a commitment to provide sufficient funds to reforest the areas. While we may require the companies to burn, there is no provision in the contracts or General Timber Sale Regulations which would require them to reforest. Secondly, a legal determination must be made as to whether the approving officer has the authority to direct the burning of slash materials which may be salvageable by the allotment owner.

6. Stream Treatment

Section 10 of the General Timber Sale Regulations provides in part as follows:

". . .In the discretion of the Officer in Charge, a strip not exceeding 300 feet in width on each side of streams, roads, and trails, and in the vicinity of camping places and recreation grounds may be reserved, in which little or no cutting may be allowed."

Section 35 of the same regulations also provide:

"Streams will not be obstructed by felled trees or otherwise except by the improvements herein before provided for, nor will they be polluted by sawdust, manure, or any other refuse from a camp or mill."

The buffer strips mentioned in Section 10 were viewed primarily for aesthetic purposes. In early Quinault logging efforts were made to leave such strips along streams and roadways. Such practices resulted in extensive blowdown of the reserved timber and subsequent minimal use of the practice. It has only been since 1963 that reserved strips or buffer strips have been advocated in relation to the fisheries program and received consideration along with other logging practices having effect upon the streams. Buffer strips are now being left along the streams at the discretion of the Officer in Charge; however, overmature and decadent trees are removed from the strips, leaving young evergreen and broadleaf species intact. The high volumes per acre which are present upon the units within the Quinault Reservation result in a very high stumpage loss to individuals if the buffer strip is left entirely undisturbed. The foresters consult with the individual owners to determine their desires regarding buffer strips.

Until recent years, a stream requiring protection under Section 35 of the General Timber Sale Regulations was regarded as a substantial stream flowing throughout the year. However, recent interpretations by fisheries people include intermittent streams as within those which should receive protection and treatment because of their capability of supporting small fish before the migration to larger streams.

Considerable attention has been given to stream clearance since 1963 and the purchasers have responded to instructions for better treatment and to the requirement of cleaning streams obstructed from prior logging. By 1966 and 1967, fisheries people were reporting favorable impression regarding such efforts. Much of the debris in the streams had resulted from natural causes prior to logging but has been included in the clearing operations. The current logging plans state in detail the stream treatment required and the method to be used. Forestry personnel have obtained guidance from fish biologists in the Bureau of Sport

Fisheries and Wildlife. In February of 1971 the Bureau of Sport Fisheries and Wildlife provided the BIA with guidelines and a map delineating the important streams from a fishery standpoint within the logging units which the Officer in Charge has used as a guide in the preparation of the logging plans.

Stream cleaning on the Crane Creek Unit is relatively current. Hand-cleaning is indicated as a desirable followup in many locations. Streams not previously designated for clearance, principally intermittent streams, are being studied for possible designation for clearing operations.

On the Taholah Unit, stream cleaning has progressed slower, and the purchaser has not attacked the backlog with the same energy as the purchaser on the Crane Creek Unit. The Taholah area, however, is complicated by the large number of small intermittent streams and the topography of the area. There is little record as to the stream conditions existing prior to the logging under the contracts; however, it is clear that the conditions presently being requested by some fisheries technicians did not exist within the area prior to the logging.

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Area Director

Enclosures 6

Separate cover:
File Assemblies (8 subjects)

CRNeely/VKMeeker:du - 4/23/72

cc:
Forestry Program, Wash. Office
Supt., Western Washington Agency
Hoquiam Field Station, Attn. Forestry

Western Washington Agency
Federal Building, 3006 Colby Avenue
Everett, Washington 98201

Forestry-450
For: Access Roads

RECEIVED
WESTERN WASH. INDIAN AGENCY
HOQUIAM, WASH.
JUL 27 1972
Attn: _____
JUL 26 1972

Memorandum

To : Area Director, Portland Area

From : Superintendent, Western Washington Agency

Subject: Agency Forester's Comments - Wayne Chapman Report
of Quinault Logging Road Situation

Mr. Jackson, Agency Forest Manager, has made an in-depth review of Mr. Chapman's Report of alleged deficiencies concerning logging roads on the Quinault Reservation. It is unfortunate that Mr. Chapman did not exhibit the courtesy of visiting the Superintendent, Agency Forester, or Roads Engineer. This oversight erodes the integrity of management, and threatens employee morale.

Furthermore, to have conducted the field examination with Mr. Guy McMinds, Tribal Fisheries Representative, nullifies Mr. Chapman's contention his report is independent and impartial. Inasmuch as no request for comments was made by your office, the report is volunteered for information purposes.

(Sgd.) George M. Felshaw

Superintendent

Enclosures

Hoquiam Forestry ✓
Chrony
Everett Forestry
Everett Mailroom
Hoquiam Mailroom

JMJackson:kf 7/25/72

Review of Quinault Logging Road Situation - Wayne Chapman Report 3/24/72

Mr. Chapman's impartial and independent review conducted with Mr. Guy McMinds, Tribal Fisheries Representative, took place during the height of the rainy season, and pointed out several deficiencies. These deficiencies will be reviewed in the light of more relevant facts.

The goal of logging road construction is to harvest timber, and minimum concern is given to the general motoring public. By so doing, road costs are minimized and stumpage values enhanced.

On the first page, third paragraph, Mr. Chapman reports a complete lack of adequate drainage structures. If this were fact, all of the nearly 400 miles of roads would be washed out annually. Actually washouts are infrequent. The Quinault Reservation has an annual rainfall of 150 inches, with occasional daily rains of three to six inches. Had Mr. Chapman inspected the Bureau's Cook Creek Road he would have found two plugged culverts with water ponded on the upstream side. Many of the culverts on the Taholah and Crane Creek Units are over 15 years old. Several of these have been replaced in the past four months with many more scheduled for resetting during the summer months. Culverts will be removed from abandoned spurs and the road put to bed. The Quinault Tribe has requested we do minimum culvert resetting during the rainy season because of the siltation hazard to spawning beds. We are complying with this request.

Second page, first paragraph, Mr. Chapman mentions improper road alignment, steep grades, indiscriminately located, and road system not adequate for modern day logging traffic. In most cases the logging roads are comparable to those built by other prudent operators both on and off the reservation who are land owners and timber operators. For instance, Morrison Logging Company who owns 5,000 acres on the reservation has like roads, as do Esses and Mayr Bros. Off the reservation other land owners and timber operators have similar type roads such as Weyerhaeuser in the Elk Creek area, Rayonier in Palix and Forks areas, Crown Zellerbach in the Clallam area, Merrill & Ring in the Forks area, Scott Paper Company in the Skagit area, Olympic Hardwoods in the Raymond area etc. Logging roads constructed since the inception of the contract are very adequate for modern day logging traffic. No problems have occurred over the years removing the timber from either contract.

A prudent operator is sure that his road system is one of the most economical that would serve the timber, and that construction and maintenance cost would not be excessive. These roads are adequate for modern day logging traffic when you consider that they carry loads of 150,000 pounds for twelve months of the year, where the rainfall is over 100 inches per year!

During the winter of 1971-72, County and many other public roads were closed to busses, trucks and other heavy equipment for several days because of soft road beds. However, during these same periods log hauling continued as usual on the Quinault Reservation, attesting to the quality and durability of the logging roads.

Second page, third paragraph, Mr. Chapman says that road constructions are being paid for through reduced stumpage rates. It is true that road costs are an allowed expense, but according to the contractors these expenses are too low. On all public timber sales, road costs are allowed as an expense from the stumpage.

Mr. Chapman says that the Bureau of Indian Affairs has no construction specifications or standards. This is not entirely true. An examination of BIA logging road specifications indicates that the roads on the Taholah and Crane Creek Units are by necessity of higher quality to handle wide bunks, heavy duty tractors and load weights in excess of 150,000 pounds. Road specs in use today relate more toward environmental protection and are concerned more with road location, gradients within ten percent, culverts of adequate size and placed to facilitate migrating fish movement where necessary. In this instance, we are talking about a forest management point of view. Forestry specifications have been interjected into the contracts for the purpose of road construction.

It should be noted there are approximately 400 miles of road on the two large logging units under contract. A detailed study of accurate planimetric maps of a scale 1"=400' identified road locations near streams. These locations were examined in the field and measured. From this measurement it was determined that six miles of road was within 200' of a stream bed. This represents 1.5%, which appears tolerable by any standard, and most of this six miles was constructed ten or fifteen years ago.

Mr. Chapman is a Public Roads Engineer who has a different viewpoint from that of the logging industry. He does not recognize the fact that the logging roads on the reservation compare favorably in alignment, grades, locations, etc. with those of other prudent logging companies. Improvements are being made, and problems are being resolved. If higher standards of roads are to be required, the end result would be higher logging costs and lower stumpage payments. The Indian population does not desire these logging roads to become public; consequently they are built to serve the modern day logging traffic.

Mr. Chapman states that one problem that will emerge will be the absence of road rights-of-way easements. This might be true, but presently the Indian people object to having rights-of-way become public roads.

Mr. Chapman states that the Bureau should face up to the problem and take the necessary action to prevent the logging contractors from raping the land and reaping the easy dollar. Such statements are generally made by persons not possessing all the facts. Logging roads represent a small fraction of the over-all Forestry problems and would be of minor concern to a Public Roads Engineer. We do not conceive that the land is being raped but rather an orderly process of timber harvest is being carried on under the terms of the contract.

It would be difficult to modify the existing long-term contracts because it may require a consent of all allottees. We are now incorporating standard specifications for road construction on the two contract units. Intensive surveillance of work is also being performed.


Forest Manager

Enclosures

UNITED STATES GOVERNMENT

Memorandum

TO : THE FILES

DATE: 5/10/72

FROM : John W. Palmer, Forester

SUBJECT: Logging Roads, Quinault Reservation (Comments on Memo from Road Engineer Chapman)

This was a bad time of year to inspect drainage. With the rainfall we've had so far, most culverts and bridges would look inadequate. If all the culverts are like items 1 & 2, why didn't the roads wash out? I have observed this situation on the Cook Creek road since its completion. Item 5 could have been the result of abnormal water flow this winter.

Most of the grades on the reservation do not exceed 12, or Class B road, and most of these are under 10%. There are a few short stretches that exceed 12%, but are under 18%, a Class C road. On the Queets Unit there are a few very short stretches of Class D road, exceeding 18% but under 22%. These are about 20% grade.

A straight road is cheaper, safer and faster. A wider road would cost more, thereby reducing stumpage, take more land out of production and accomplish ????? The Standard Timber Contract Provisions contain the same paragraph concerning the leaving of bridges etc. intact.

Spur roads are set up to remove a certain volume of timber then not used. These feed into roads designed for several years use. These spur roads are not maintained as such. The roads they serve are maintained while in use. These intermediate roads feed into mainline roads that are used constantly for the life of the contract and converge on a central point. These roads are maintained constantly. Shortly after logging the spur roads will grow into alder. At the contract completion the intermediate and mainline roads will grow in with no maintenance. To provide a two lane road and keep it free of brush etc. so an occasional hunter can pass over a few times a year seems incomprehensible. The best constructed and drained road then would end up like those south of the Quinault River, grown up, extreme weather conditions plugging culverts and roads washing out.

Road right-of-ways are a problem for administration and other Branches to consider. It has been recognized for a number of years.

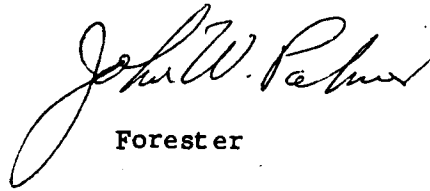


5010-108

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Stream clearance funds should be used for the purpose intended, or nothing will be done.

Recommendation 1 & 2 should be expanded to south of Quinault River. Roads used for salvage, logging second growth and hunting don't have to be freeways.

A handwritten signature in cursive script, appearing to read "John W. Palmer".

Forester

UNITED STATES GOVERNMENT

Memorandum

TO : THE FILES

DATE: 5/10/72

FROM : Onnie E. Paakkonen, Supv. Forester

SUBJECT: Information on weight of loads hauled over Quinault Reservation logging roads

Some weight information which may be helpful in assessing quality of logging roads in the Crane Creek and Taholah Logging Units:

1. Many of the spur type (loggers choice, to one landing only) roads are constructed during seasons of tremendous heavy rainfall with great difficulty in obtaining the most desirable ballast material and surfacing material, especially on the Taholah Logging Unit. In many instances these roads are used immediately after completion and loads weighing in excess of 160,000 pounds are hauled over them on the wide bunk, off-highway trucks. How often does one hear of a load getting stuck or the road breaking down? I have heard of no cases. In instances where the road is allowed to set and settle for a certain period of time it is difficult to imagine the road breaking down under even greater weights.
2. The enclosed Vehicle Loading Chart, Washington State Highway Commission, shows the Class 8 diagram as being representative of the average log truck in this locality. The maximum gross weight limit is indicated as 68,000 pounds. On the two logging units in question, log loads almost two and one-half times that weight are hauled over the roads with a minimum of maintenance on the roads used for only short periods of time. All loads hauled over these roads during all seasons weigh at least 30 percent more than the 68,000 pounds allowed on State Highways. A small sampling of weight tickets at the Crane Creek reload shows that pulpwood loads vary in weight from over 90,000 to almost 106,000 pounds. Sawlog loads as stated before may easily exceed 160,000 pounds at times.
3. Information from a local trucking company indicates a low-boy with a D-9 cat with dozer blade may have a gross weight of approximately 145,000 to 150,000 pounds. This type of equipment moves over the Taholah and Crane Creek Units on a continuing basis, over all the various types of logging roads, with no apparent difficulty nor damage to the roads.



5010-108

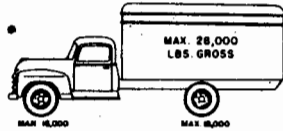
Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

4. Over 2,000,000,000 board feet of timber has been removed from the two units to date, over roads (some of which were constructed during the early 1950's) such as are in existence today, which indicates considerable adequacy since no major and very few minor accidents, if any, have been reported.
5. ITT Rayonier Inc. reports that their slack line machine, recently acquired, weighs 165,520 pounds, and is hauled from one location to another, when moving distances are not short, on a truck which weighs 40,800 pounds, for a total weight of 206,320 pounds. This is three times that allowed on State highways with special permits.
6. One example of a western redcedar log load recently hauled on the Taholah Unit logging roads grossed a volume of 16,270 board feet. According to conversion factors for Pacific Northwest Forest Products, Institute of Forest Products, green western redcedar weighs 8,415 pounds per thousand feet, board measure. Therefore, the load weighed 136,912 pounds. The weight of off-highway truck and wide bunks will exceed 30,000 pounds.

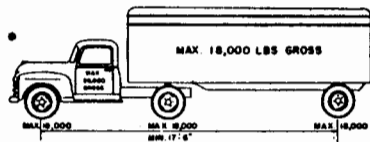


Supv. Forester

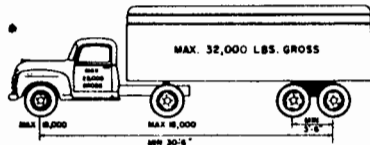
Truck maximum gross weight shall be limited to 18,000 lbs. for rear axle plus ability to carry up to 10,000 lbs. on front axle.



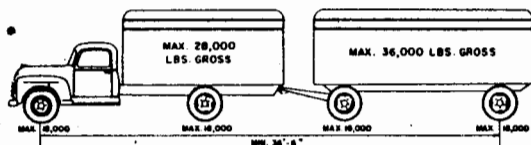
CLASS 1 MAXIMUM GROSS WEIGHT, INCLUDING LOAD, 28,000 LBS.



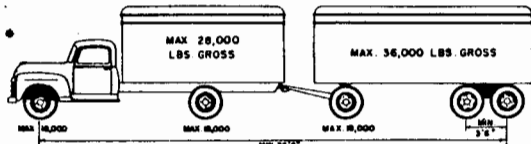
CLASS 2 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 18,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY LEGAL GROSS WEIGHT TABLE.



CLASS 3 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 32,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY LEGAL GROSS WEIGHT TABLE.



CLASS 4 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 54,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY LEGAL GROSS WEIGHT TABLE.



CLASS 5 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 64,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY LEGAL GROSS WEIGHT TABLE.

WASHINGTON STATE HIGHWAY COMMISSION
DEPARTMENT OF HIGHWAYS

VEHICLE LOADING CHART

DRAWN IN ACCORDANCE WITH CHAPTER 189, SESSION LAWS OF 1937—
AS LAST AMENDED BY CHAPTER 46.44 SESSION LAWS OF 1963

July 1963

LEGAL GROSS WEIGHT TABLE

Wheelbase of any group of axles of a vehicle or combination of vehicles (feet)	Allowed load in pounds on group of axles.		
		22	50,000
		23	51,340
		24	52,670
		25	54,000
		26	55,100
		27	56,200
		28	57,400
		29	58,500
		30	59,500
		31	60,300
		32	61,140
		33	61,710
		34	62,280
		35	62,860
		36	63,430
		37	64,000
		38	64,500
		39	65,000
		40	65,500
		41	66,000
		42	66,500
		43	67,000
		44	67,500
		45	68,000
		46	68,500
		47	69,000
		48	69,500
		49	70,000
		50	70,500
		51	71,000
		52	71,500
		53 or over	72,000

Where the wheelbase of any vehicle or combination of vehicles is eighteen feet or more, the gross weight including load of the vehicle or combination of vehicles must not exceed that given for the respective distances in the following table.

Wheelbase of vehicle or combination of vehicles in feet	Allowed load in pounds
18	46,000
19	47,000
20	48,000
21	49,000

Continued above

When inches are involved: Under six inches take lower. Six inches or over take higher

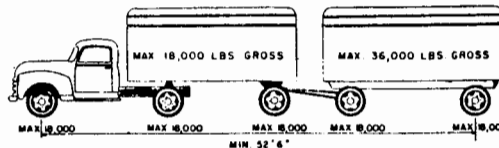
THREE (3) AXLE TRUCK TRACTORS AND TWO (2) AXLE POLE TRAILERS ENGAGED IN THE OPERATION OF HAULING LOGS, SHALL HAVE AN ALLOWABLE VARIATION IN WHEELBASE LENGTH OF SIX (6) FEET FOR THE DISTANCE BETWEEN THE FIRST AND LAST AXLE OF THE VEHICLE IN COMBINATION WHICH HAS A WHEELBASE OVERALL LENGTH OF THIRTY-SEVEN (37) FEET OR MORE FOR THE WEIGHT LIMITATIONS SHOWN IN THE ABOVE TABLE.

THE GROSS WEIGHT OF VEHICLE AND LOAD SHALL NOT EXCEED 550 LBS. PER INCH WIDTH OF TIRE

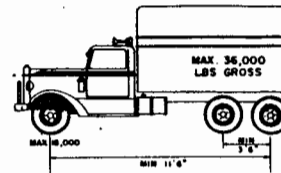
THE OVERALL WIDTH OF VEHICLE AND LOAD SHALL NOT EXCEED 8 FEET

THE OVERALL HEIGHT OF VEHICLE AND LOAD SHALL NOT EXCEED 13 FEET 6 INCHES.

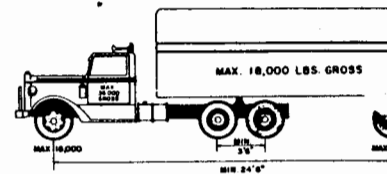
THE OVERALL LENGTH OF ANY SINGLE VEHICLE SHALL NOT EXCEED 35 FT. WITH OR WITHOUT LOAD. THE OVERALL LENGTH OF ANY COMBINATION OF VEHICLE, WITH LOAD, SHALL NOT EXCEED 65 FT. SEMI-TRAILERS SHALL NOT EXCEED 40 FEET.



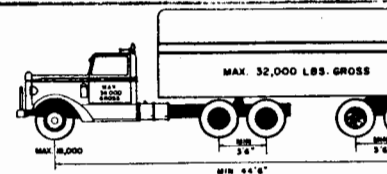
CLASS 11 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 72,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY LEGAL GROSS WEIGHT TABLE. Operation subject to regulations adopted by Highway Commission.



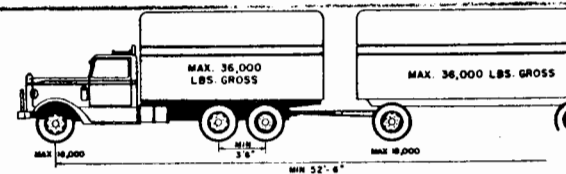
CLASS 6 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 36,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY LEGAL GROSS WEIGHT TABLE.



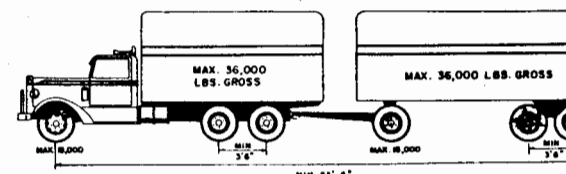
CLASS 7 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 36,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY LEGAL GROSS WEIGHT TABLE.



CLASS 8 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 32,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY GROSS WEIGHT TABLE.



CLASS 9 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 72,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY LEGAL GROSS WEIGHT TABLE.



CLASS 10 MAXIMUM GROSS WEIGHT INCLUDING LOAD, WITH MINIMUM WHEELBASE AS SHOWN, 72,000 LBS. THE MAXIMUM GROSS WEIGHT FOR SHORTER WHEELBASE & AXLE GROUPING IS GOVERNED BY LEGAL GROSS WEIGHT TABLE.

UNITED STATES GOVERNMENT

Memorandum

TO : Joseph Jackson, Forest Manager
WWA - HFS

FROM : Rainer B. Heikel,
Forester

SUBJECT: Comments on Chapman Report

DATE: 5/10/72

The following comments are in regards to a logging road review submitted March 24, 1972, by E. Wayne Chapman, Area Road Engineer, Sacramento Area Office.

- 1 - Mr. Chapman is a public roads engineer, not a logging road engineer. Consequently, his aspects of logging road goals are different from those of public road goals. While the intent of the logging roads is to serve the harvesting of the timber crop, it cannot be compared to the function of a public road.
- 2 - First page, second paragraph, Mr. Chapman said that his report was independent and impartial. How could he be? He was bias from the day his superior requested him to make the said inspection and report. He knew how his superior felt. He certainly is not going to say anything different. Also, he was accompanied by Mr. Guy McMinds, who surely used his influence on him; Mr. Chapman did not even contact anyone from the Hoquiam Office to make things even.
- 3 - First page third paragraph, Mr. Chapman said, "...complete lack of adequate drainage structure..." If this were true, all of the roads would be washed out annually or per annum. He pointed out five defects regarding culverts. In most cases, steps are being taken to rectify these deficiencies.
- 4 - Second page, first paragraph, Mr. Chapman mentions improper road alinement, steep grades, indiscriminately located, and road system not adequate for modern day logging traffic.

In most cases, the logging roads are comparable to those built by other prudent operators both on and off the reservation who are land owners and timber operators. For instance, Morrison Logging Co. who owns 5,000 acres on the reservation has like roads, as do Esses, & Mayr. Off the reservation other land owners and timber operators have similar type roads such as Weyerhaeuser in the Elk Creek area, Rayonier in Palix and Forks area, Crown-Z in the Clallam area, Merrill & Ring in the Forks area, Scott Paper in the Skagit area, Olympic Hardwoods in the Raymond area, etc.

A prudent operator is sure that his road system is one of the most economical that would serve the timber and that construction and maintenance cost would not be excessive. These roads are adequate for modern day logging traffic when you consider that they carry loads of 150,000 pounds for twelve months of the year, where the rainfall is over 100 inches per year!

- 5 - Second page, third paragraph, Mr. Chapman says that road constructions are being paid for through reduced stumpage rates. It is true that road costs are an allowed expense, but according to the contractors this expense is too low. On all public timber sales road costs are allowed as an expense from the stumpage.

Mr. Chapman says that the Bureau of Indian Affairs has no construction specifications or standards. This is being corrected and is being enforced.

Mr. Chapman states in the last sentence that at the end of the contract, "The roads will be more of a deterrent than a benefit to the Indians using this land." Any road is better than no road. The land now has accessibility, before it didn't. If it was not for a gravel road, a vehicle could not go more than a foot in this type of terrain or earth. Gravel is scarce here. Therefore, it becomes quite a problem to resolve a suitable and economical road for logging.

- 6 - Pages 3 and 4: Contains policy statements on which I do not wish to comment.
- 7 - The report is bias from the beginning to the end. Mr. Chapman is a public roads engineer who has a different viewpoint from that of the logging industry: He does not recognize the fact that the logging roads on the reservation compare favorably in alinement, grades, locations, etc., with those of other prudent logging companies. Improvements are being made, and problems are being resolved. If higher standards of roads are to be required, the end result would be higher logging costs and lower stumpages. The Indian population does not desire these logging roads to become public; consequently, they are built to serve the modern day logging traffic.

Rainer Heikel

Rainer B. Heikel,
Forester

Forestry-339.7
Quin. Mgmt.-
Briegleb Report

Western Washington Agency
3006 Colby Avenue, Federal Building
Everett, Washington 98201

AUG 31 1973

RECEIVED
WESTERN WASH. INDIAN AGENCY
HOQUIEM, WASH.

SEP 5 1973

Memorandum

To : Area Director, Portland

From : Superintendent

Attn: _____

Subject: Briegleb Report - Quinault Reservation

The following comments on the Briegleb Report were prepared by the Branch of Forestry in response to your memo of July 3, 1973. The comments reveal that substantial corrective action has taken place in areas where recent environmental issues have received greater emphasis. The comments are arranged in relation to pages that contained material which seemed to require a response.

Pages 7 & 12 - Granting relief from the provisions of Sections 25 and 26 of the General Timber Sale Regulations should be made subject to regulations by the Forest Officer in Charge. It is possible that some slash burning may be required after cedar salvage is completed. In the hemlock type, it is entirely possible that residual mistletoe infected areas will be burned as a control measure. The decision to burn slash is hazardous and fraught with liabilities involving such elements as millions of board feet of down timber and hundreds of acres of salvable cedar. Spall piles and landings are targeted for controlled burning.

Page 9 - Damage to the land would be that caused by road construction on the two units or deposition of debris in the streams or erosion due to logging. The statement on roads, page 42 of the report, confirms the belief of Forest Officers that no appreciable damage is done by road construction in reference to standards. Roads which will remain and be maintained in the units after logging will be an asset to the properties which they traverse. A study is in progress to determine which roads will be maintained by the BIA after logging.

[Handwritten signature]

In respect to streams, the emphasis has been greatly increased in the last several years to prevent debris from being deposited in them. Plans developed prior to logging in any area are made to prevent or decrease damage to streams. Procedures used to do this are the leaving of buffer strips, better tree falling and yarding practices, yarding away from streams and using streams as boundaries of cutting blocks. Participants in the development of the procedures are Tribal representatives, Bureau of Sports Fisheries & Wildlife assisting the Tribe, purchaser's representatives, and the BIA. The above procedures generally prevents the avoidable damage. The unavoidable is that which happens regardless of attempts to eliminate damage. With greater emphasis on these items, and with the assistance from Tribal representatives and Fisheries Specialists, the outlook for proper stream habitat management is encouraging.

Page 10 - Removal of non-merchantable material presents a decision making problem because the Scaling Bureau rules define merchantable limits for reporting volumes, but the contract stipulates that material removed from the woods would be charged for. The practice in force is to charge cordwood rates for logs too small to meet minimum volume specifications and \$4/MBM, gross scale, for logs considered cull for defect. The companies object to the charge for defective logs because the cedar chip market is extremely poor or non-existent.

Page 16 - Land management objectives on Indian trust lands are difficult to explicitly define because of the considerable variability of land use patterns and the involvement of several land management offices within the BIA. However, the forest management policies and objectives are fairly well guidelineed in CFR 141.3(a) for Tribal lands and CFR 141.3(b) for allotted lands, and in 53 LAM 1.2 Policy. On the Quinault Reservation, the present and future financial needs of the owners and his heirs are of paramount significance when developing timber harvest schedules. Although it is a general policy to secure the allottees permission to perform forestry activities on his land, there are extenuating circumstances when exceptions are granted by the Secretary.

Management objectives on the Crane Creek and Taholah Logging Units provide for an orderly removal of timber from the many allotments. Provisions were made to adjust stumpage rates in accordance with price indices or economic conditions. Both contracts were modified to assure that all the timber would be removed within the contract period. Scheduling of logging is heavily influenced by the financial needs of Indians certified as genuine hardship cases.

In recent years the written logging plans have become more complex due to the stress on environmental protection, and especially protection of fish habitats. Assistance from other Government agencies provide the special expertise concerning fisheries and soils; however, efforts now being exerted will add this type of personnel to the Forestry staff in order to better expedite the work output.

Preparing logging plans several years in advance has merit except that Indians in dire need may suffer needlessly while awaiting income from the pre-arranged timber harvest. Road plans enjoy more flexibility; however, it is now estimated that all mainline roads have been constructed, leaving construction only to access spurs to new cutting blocks.

Road locations are approved by the Forester in Charge after a reasonable inspection is made of the on-the-ground centerlining. The Bureau Forest Engineer will examine the construction while in progress to assure compliance with prior instructions which relate to gradients, grubbing, ballasting, drainage and location. Approximately 500 miles of logging road has been constructed on the two large active units. Much of this mileage is still under some form of usage system because of the staggered block system of cutting, and the many salvage operations going on throughout the entire year.

It is obvious that more manpower is needed to administer the two large units. This is presently being met by diverting a substantial amount of manpower from other Forestry operations to timber sale administration. An alternative is to reduce the annual cut, which would not be very acceptable to the Indian people. The Branch of Forestry is submitting a request for four additional timber sales personnel.

Page 20 - Fire protection on the Quinault is performed by the Washington State Department of Natural Resources under a Cooperative Agreement in effect since 1959. This action gave some workload relief to an already overburdened Forestry staff. Mr. Briegleb suggested some speculation was deserving when one notes that the area burned was five to ten times greater on the reservation than on adjacent jurisdictions. A review of the fire history (1951-71) on the reservation reveals that about 90 fires occurred, with a reported total acreage burned of approximately 4,864 acres. During this period, about 20 fires were caused by logging, 4 by lightning, and the rest by campers, smokers and miscellaneous.

The Raft River fire of 1967, which was started by logging equipment, accounts for 3,836 acres of slash burned and 673 acres of standing timber. Indian owned land totalling 1,615 acres (composed of all slash) was burned and was promptly replanted. Loss to the Indians affected by the burn would predominately be in terms of cedar salvage and growth, although some salvage had already taken place, and growth loss of two to three years was largely offset by planting. Some down timber was damaged but salvaged. The remaining 19 years indicate 17 acres of slash burned, no standing timber burned and 239 acres of non-timberland burned. Damage was negligible.

Fire occurrence on the Olympic Peninsula is mainly attributed to human activity, and this is very obviously true on the Quinault Reservation. The degree of activity on the reservation can be appreciated when one considers that over 2,480,000,000 board feet of timber has been removed from Indian lands alone over the 20 year period (1951-71), and it can be safely assumed that over 1,000,000,000 board feet has been removed from the non-Indian lands in the Queets area during that time. Approximately 20,000 acres of non-trust land in the Queets is logged.

The combined amount of annual harvest activity would require a tremendous number of persons and equipment units to produce approximately 170,000,000 board feet yearly. In addition to the logging personnel, there is the heavy influx of cedar salvage operators, local Indian traffic, as well as incidental tourists and travellers.

The measured mileage of roadway on the Crane Creek and Taholah Units amounts to 490 miles, and leads one to estimate that over the entire reservation there must be over 800 miles of road.

Considering the above, it may be appropriate to commend these people and the fire protection organizations for holding the fire occurrence and acreage burned to that reported for the cited 20 year period.

There are continuing efforts to promote schemes to reduce the amount of cedar slash through better utilization during initial logging, closer utilization by shake and shingle cutters, and finally by encouraging any small business cedar utilizer to examine the residue for possible manufacture into products such as rails, stakes, posts, cut-up stock and decorative material. It is encouraging to note that today the spall waste material is being purchased under permit, and occasionally stolen.

FIRE HISTORY - QUINAULT INDIAN RESERVATION

Year	Number	Area Burned (Acres)			Cause *	Damage
		Cut-Over	Uncut	Other		
1951	4	1	3		C,S,Lo	0
1952	0	0	0		---	0
1953	5	0	0	127	S,Li	0
1954	2	0	0	2	S,C	0
1955	0	0	0	0	---	0
1956	1	0	0	3	S	0
1957	2	0	0	1	C	0
1958	3	0	0	1	C,Li	0
1959	5	0	0	37	S,C	0
1960	4	0	0	26	Lo	0
1961	5	0	0	1	S,C	0
1962	1	0	0	0	M	0
1963	4	0	0	0	C,E,Li	0
1964	3	0	0	0	C,M	0
1965	7	0	0	10	E,C,M	16
1966	8	0	0	20	E,S,Li	0
1967	6	3,836	673	0	E,C,Lo	600,000
1968	2	1	0	0	S	0
1969	7	0	0	3	C,M	0
1970	16	15	0	8	E,S,M	75
1971	4	0	0	0	Lo,M	0
	89	3,852	673	239		\$600,091

* C - Campers = 11
 S - Smokers = 9
 Li - Lightning = 4
 E/Lo - Logging/Equipment = 9
 M - Miscellaneous = 6

Volume harvest comparison between Quinault Ranger District, State Department of Natural Resources and Quinault Indian Reservation between 1950-71 (volumes in MBM):

Year	QIR	USFS	
1950	51,471	80,546	
1951	68,149	55,744	
1952	73,875	69,371	
1953	96,924	64,676	
1954	97,398	71,667	
1955	141,329	82,921	
1956	109,528	49,194	
1957	66,970) Lumped Together	
1958	76,495) No Work	
1959	113,928) Sheets	
1960	99,669	61,524	
1961	112,969	73,422	
1962	102,828	67,739	47,027
1963	112,483	97,703	69,809
1964	130,654	106,086	111,390
1965	147,996	88,185	100,631
1966	135,895	61,737	99,107
1967	142,454	57,986	138,819
1968	170,909	127,019	172,346
1969	139,796	33,982	175,781
1970	127,197	81,430	153,275
1971	90,989	49,248	188,824
1972	127,500	54,039	329,854

The above figures for the Olympic National Forest represent the Quinault Lake District, and the State sales represent those in Jefferson County Forks District only, since it borders on the reservation. Export restrictions are imposed on USFS timber, but not on the timber sold from reservation or State lands.

Page 22 - It is probable the Bureau will continue to rely on the USFS Regional Branch of Insect and Disease Control for overall forest pest detection and control. To augment this service, our Foresters are constantly alert to outbreaks of disease and the presence of destructive insects. If warranted, a report would be prepared and more intensive inspection requested by the USFS. There is presently a dwarf mistletoe project in operation on the Quinault Reservation.

Page 24 - Timber appraisal objectives by the Bureau may not be spelled out in a single statement; however, the objectives are reasonably outlined in 53 IAM 1.2.1, Timber Sales Policy, and 53 IAM 4.3.2, Forest Officer's Reports. Virtually no advertised sales have been let on the Quinault in recent years. Most of the non-contracted timber remaining on the reservation is located in the Queets area, and has been sold under the Special Allotment Timber Cutting Permit system. The standard appraisal system is applied to these permits. The timber owner is supplied with this information and is thus able to bargain with prospective buyers. The Quinault Allottees Association has voiced strenuous opposition to advertised timber sales, supposedly because of right-of-way problems; however, they have rendered approval to the Special Permits which encounter the same right-of-way issues.

Page 27 - Log price data for Western Washington appraisals usually include water, export and inland prices supplied by the Industrial Forestry Association. The published reports indicate about 30 percent of cedar production is exported. This information was secured by tabulating the IFA reports for calendar year 1972 and computing the export volume percentage for western redcedar. Occasionally local price data is used in appraising small sales for alder, cottonwood and young growth conifer. USFS average cost allowances are adjusted in accordance with local conditions as mentioned by Mr. Briegleb.

Page 29 - Boom, raft and local tow cannot be considered inappropriate costs in appraisals relating to the Crane Creek Unit because ITT Rayonier Inc. transports its logs by truck to a reload yard, then by rail to a point seven miles outside the city of Hoquiam where they are unloaded in the river, rafted and towed to their mill. This is a legitimate cost. It is not used in the Taholah Contract because all transporting of logs is carried on by trucks, since there are no navigable waters used.

Page 41 - Our objective in appraising Indian timber is to obtain the best realistic value of the timber for the Indian people. In order to obtain this value, it doesn't seem necessary that a concise policy statement is needed, since the most current log value and collected cost data are used. Policy statements in CFR 141 and 53 IAM, mentioned above, adequately spell out objectives to be achieved in timber sales management. The complexity of ownership and management entities on Indian lands present a vastly greater scope for consideration than that on lands administered by single entities as the USFS and SDNR. Bureau Foresters are confronted with the needs of individual Indians, group ownerships, Tribal goals, public concerns, and various Government interests when developing timber sales. However, a handbook is in the process of development, and no doubt an attempt will be made to present a statement of objectives sought in the appraisal process.

Page 46 - Road Maintenance. The very broad and general contract provision (Section 39 Timber Sale Regulations) has provided the basis for request for road location and requests for maintenance and repair. Upon request, the response has been good from both companies. Modification of the contracts appears impossible to require the purchasers to go to a more elaborate road plan and construction program. The roads, as stated by the writer of the report, apparently are well maintained and he observed none in disrepair. The operators have upgraded the roads by more concentrated efforts in blading, roadside brush control, culvert replacement and repair, and reditching. The continuation of this action appears promising, since our requests for improvements have been followed by the purchasers. We will continue in an effort to maintain this level of performance or improve upon it.

Page 47 - Road Right-of-Way Acquisition Practices. The Branch of Forestry is preparing a map of roads on the reservation from those roads which are now in existence and which would serve as resource management roads after the Taholah and Crane Creek Unit contracts are terminated. The program will be in conjunction with input from the Quinault Tribe and the Branch of Roads who will obtain the necessary rights-of-way. Roads to be selected will be those which will require the least number of miles to provide the fastest access

to all parts of the reservation. These roads will be used for resources management purposes in all of its phases, plus access to other users and especially the Indian people to reach their own allotments and for whatever use they wish. This will most likely become a costly project in considering the large amount of right-of-way payments to be made and possible construction of some new connecting roads. It may not become very difficult in phases but terrifically time consuming. Roads will be classified in several categories depending on use and area to be covered, and will be maintained in condition good enough for continuous small vehicle traffic. The State, under the fire protection contract, also maintains some roads so they are useable in fire season.

Page 52 - Timber Sale Supervision. Statement - Similar written guidelines for Forest Officer's engaged in sale supervision for BIA and State were not found. Response - A rough draft of "Timber Sale Administration Handbook" has been written but not edited. It consists of guidelines to timber sale officers, which, if utilized, will lead to better management and cooperation between purchasers of timber and BIA personnel. Attached to it will be documents entitled "General Operating Procedures" and another entitled "Utilization Standards for the Crane Creek and Taholah Units". These documents attempt to clarify and standardize activities on the two units, and can also be a help to administrators of other smaller sales.

Page 54 - Pickup Scale. Since the investigation upon which the report was written, the pickup scale picture is much more gratifying. With the assistance of timber inventory personnel and the institution of sample pickup scale procedures, the area of backlog has been decreased considerably. Additional part-time assistance has been contemplated to do pickup scale on the two units. Prospective employees would most likely have to be retired log scalers or those layed off recently by the Scaling Bureau.

The comment that headquarters for timber sale officers on or near the reservation rather than at Hoquiam would be another efficiency is well taken and is factual. Driving time currently takes three hours per round trip and longer when road conditions are bad (ice or snow). Headquarters for at least some of the field personnel

nearer or on the reservation would be welcomed. Two timber sales personnel have been assigned to quarters at Lake Quinsault. This will provide some savings in travel time. The workload created by cedar salvage is nearly as great as the regular logging operations, with generally 20 salvage operators needing surveillance.

A job-load analysis has been made by Forestry personnel and concluded that two field men can satisfactorily supervise four logging sides only. A study was made in 1970 by the Forestry Branch which compared the number of men assigned to timber sale administration on the USFS Quinsault Ranger District, SDNR Forks District and BIA Hoquiam Field Station. Figures indicated that if the State and Forest Service were in the realm of adequate staffing, the BIA was grossly understaffed. Here again the solution appears to be that the allowable timber cut should be reduced drastically on both units, or the staff at least doubled on each unit. A temporary solution was affected by diverting more staff time from other sections to sales administration. Obviously this is hurting other programs.

Page 57 - Answered under Page 54.

Page 69 - Sustained Yield Timber Management. In reference to this subject or management practice, the current staff would be inadequate to provide the time to develop a sustained yield program, especially in light of the fact that the major part of the mature and over-mature merchantable timber is under contract. Consolidation of all the timberland base must first be accomplished, and studies and various measurements of timber growth rate etc. must be made.

Page 58 - The Bureau recognizes the disadvantages of natural regeneration and has taken steps to alter the policy toward this all important management responsibility. Recent regeneration surveys have revealed those areas deserving of artificial regeneration and has resulted in thousands of acres of poorly stocked stands being planted. This effort has been going on since 1969, and the program will continue in the old cut-over areas such as Point Grenville and Cook Creek. On the two active large units, planting is proposed for those cutting blocks that have no natural seed source available. Planting provisions are also made in the Special Timber Cutting Permits. Seedlings are now

ordered two years in advance, and with assurances of continued funding, the problem of adequate plants and species is minimized greatly.

The report mentions that the State DNR and USFS burn their cutting blocks and schedule planting the winter following logging and site preparation. The State and USFS do not engage in the intensive cedar salvage operation such as the Bureau must do in order to maximize receipts and utilization. Furthermore, a run-away slash fire on the Quinault Reservation would be serious indeed for the allotted landowners, the purchasers, salvage operators and Bureau. Individual Indians would demand reimbursement for their losses, the purchasers generally have 20 to 40 million board feet of down timber on the ground, and millions of dollars worth of equipment are located at 15-20 operating sides. It is hoped that better utilization of cedar by-products will become a reality in the not-too-distant future, and through this means provide a better seed bed and planting site.

Page 87 - The report recommends the two large contracts be modified and proposes several suggested changes. It is the consensus of the Bureau that approval of the allottees is necessary to modify the contract. This would be a formidable task. Reducing the annual cut can be accomplished without modification; however, this develops a problem of contract extensions which does require a modification. The report suggests a regularly scheduled stumpage rate adjustment. This is being attempted now on a quarterly basis and experience shows that it is cumbersome. Relief from slash burning requirements may be granted on a limited basis, and may be administered by reference to specific areas or conditions.

Page 89 - The Bureau is providing assistance to the Indian people in achieving their objectives of land ownership. The Quinault Tribal Council has repeatedly sought means of securing the ownership of allotments and fee patented tracts on the reservation. The Council's goal is to eventually own the entire reservation in Tribal status. Current efforts point toward FHA financing. However, the allottees goals must be an element of consideration as long as there are allotments.

The idea of preparing the logging and road plans for the entire contract period may be an excellent idea, especially when dealing with one owner. This concept is in general use throughout the Bureau for short-term contracts, although an annual log plan may be required. A long range plan of logging may require frequent modification if individual Indian hardship cases are to receive consideration.

It is noted that logging practices have changed drastically since 1951 when the Taholah Contract was executed. A logging plan for the 30 year period, based on the old system of high-lead logging, would be inappropriate today. Furthermore, road requirements for today's logging systems are not the same as that experienced 20 years ago.

Page 91 - Regarding timber sale supervision, it can be said that a Handbook is being designed; however, the Forestry Branch has prepared in 1970 a set of general instructions to timber sales administrators which provide a basis for decision making in the field. A formal workload analysis will be requested of the Branch of Personnel in PAO in view of the apparent overload indicated when comparing the Hoquiam staff with adjacent land management entities. A sample waste scaling technique is now in practice and will go a long way toward relieving the backlog of pickup scale. Automation of the scale on Crane Creek Unit has contributed to the more rapid and greater accuracy in auditing of scale volumes from individual allotments. It is hoped that this can be extended to the Taholah Unit.

Page 92. Efforts have been made to improve communications with both the Tribe and Quinault Allottees Association through frequent discussions, telephone conversations with Tribal leaders and routinely supplying copies of correspondence relating to Tribal interest in forest management affairs. Communication problems between staff and line supervisors may exist at times; however, it usually takes a developing crisis to bring the matter into focus and efforts are then made to alleviate the particular communication problem.

Page 92 - Under investment in timber growing, the contractor recommends a level of timber harvest be developed jointly. Securing a consensus of opinion from the many individual land-owners appears remote. It seems that individual Indians should be afforded the privilege of participating in a management decision affecting their land similar to that exercised by non-Indians on fee lands. It has been suggested that allottees enter into some form of management agreement with the Tribe. Furthermore, such an agreement would go a long way toward solving the right-of-way problem that threatens to become a major concern when the two large unit contracts have expired.

The Bureau is attempting to invest allottees funds in intensive forest management practices through the contributory funds in lieu of administrative fees approach. The Quinault Allottees Association, through their attorneys, have resisted this method of financing because they believe the allottees are entitled to free services of this nature. This will probably be resolved in the Courts.

Tree planting is being currently financed from BIA funds and this results in about 1,000 acres being planted yearly. Non-stocked burns have been receiving priority, with newer logged areas being considered as second priority. The feasibility of a Quinault Nursery was the subject of a recent conference with the Tribal representatives; however, they had other priorities.

Page 94. The Bureau is cognizant of the fisheries value to the Indian people and have made significant improvements within this field. Logging plans for individual cutting blocks will contain stipulations relative to stream protection and rehabilitation during and following logging. A stream rehabilitation contract with the Quinault Tribe was let in FY 1973 on the Queets Unit, and indications are that this contract will be a continuing item if deemed essential. It was anticipated that contributory funds would have financed this program, but it now appears that the BIA will have to provide the necessary financing from appropriated funds.

Page 94 - Expertise from other agencies will be sought in the development of a Wildlife Habitat Management Program. It may be essential the Tribe purchase those particular areas that could be considered sensitive such as elk calving grounds. A program of beaver control is going to be important if hazard to standing timber is to be minimized from this rodent's dams.

Page 96 - Every effort will be made to solve land management problems, and input from the Tribal Council and allottees will be encouraged in every phase of research and action. The heirship and ownership problems have been recognized for years; however, the laws governing this situation are prescribed by Congress, and past legislative efforts by the Bureau have failed to effect a solution. However, the effort will be continued, and possibly with increased Tribal pressures Congress may enact legislation that will alleviate this perplexing problem.

In summary it can be noted that the Branch of Forestry has made significant improvement in management practices, and that these improvements were motivated by public pressures from concerned environmentalists, Tribal leaders, fisheries management people and allottees, and acknowledgment of many deficiencies by BIA Foresters who needed some moral support to put into effect those controls and stipulations they felt essential to meet the newly demanded standards. Bureau Foresters are endeavoring to involve the Indian people in the management decision processes, and at the same time are trying to minimize the spectre of termination. Every effort is being made to improve timber sale administration of the Taholah and Crane Creek Contracts without jeopardizing the well being of the individual Indian timber owners.

This Agency's response to the listed recommendations can be summarized as follows:

BREACH OF CONTRACT FINDINGS:

1. Modification of Contracts. A legal opinion concerning & the approval of all allottees to a Modification should
2. be secured before any significant time is spent on this aspect.
 - a. The two units can be administered under the General Timber Sale Regulations, although the Standard Provisions would be an improvement.
 - b. Reduction in cut would bring with it the necessity for extending the contract period, which would require a Modification of Contract. The Taholah Unit has but six years remaining, and the timber quality is such that it may be the purchaser's decision to forego extension.
 - c. A Modification action required.
 - d. Stumpage rate adjustments are now on a regular interval basis, using IFA quarterly reports.
 - e. The Forest Officer in Charge is providing substantial input into the logging plans wherein timber is designated for cutting. The term selective logging is primarily an academic issue now. Cutting boundaries are approved by the Forest Officer in Charge after examining the location on type maps, aerial photos, logging block map, and finally on the ground. Bureau layout of lines would be welcomed; however, this would increase the workload immensely.
3. Annual cut restrictions can be effected by letter; however, the extensions of time created by this action require Modification of Contract.

4. Slash disposal by burning appears to be the prerogative of the Officer in Charge. Relief from the slash requirements in Articles 25 & 26 of the General Timber Sale Regulations may be given in writing, but should be specific so as not to preclude the use of fire if such use is deemed necessary by the Officer in Charge.

RESOURCE MANAGEMENT:

Objectives - A concise statement may be appropriate; however, the CFR and IAM guidelines do spell out objectives and policy. The objectives must include some recognition that allotments do exist, and that they will be managed with recognition of the owner's needs.

Multiple Use of Resources

Individual Indian needs receive substantial priority in designing logging plans and much of this need cannot be foreseen with any degree of dependability to allow more than one year's lead time in developing the plan. Multi-discipline input is now being received, although in a limited amount because of the other agencies workloads. Additional staffing to alleviate this bottleneck in production is being requested.

Forest Residues

This is receiving study and attention.

Timber Appraisal

1. A statement of objectives will be a part of the new Handbook which is being designed for appraisers.
2. IFA prices and techniques of assembling the data have been the subject of discussions within the BIA, and no doubt will be examined.

3. Section 11 of the contracts refers to stumpage revisions when the PNLA indices become unavailable. The contractor recommends a complete reappraisal be instituted when economic conditions warrant; however, in another section of his report he recommends that appraisals be conducted at regular intervals. A complete reappraisal entails considerably more data research and collection than a stumpage revision based on comparative changes in economic features. For example, inventories of remaining timber would be essential, and road amortization schedules would need to be developed as periods of time elapsed since the last appraisal.

ROADS

Securing of easements in all probability would be extremely costly. If purchased from Government funds, the roads could be construed as open to public access. The Quinault Tribe has exhibited the attitude that they want complete control of access to Indian lands. However, this issue will be pursued further.

TIMBER SALE SUPERVISION

1. Written guidelines have been in existence since 1970.
2. Workload is excessive under present staffing. Ceiling limitations and budget constraints have limited the personnel actions. Staff members from the Inventory Section have been detailed to timber sales administration in an effort to relieve the workload.
3. The Lake Quinault Station has been returned to the BIA, and two men are now stationed at this location. It is planned to convert the Station to an Intensive Forest Management headquarters.
4. Pickup scale is now being performed by sampling.

5. Communications with Tribal leaders and Indians has improved significantly. Much routine correspondence is routed to the Tribal Office. Decisions affecting resources management are discussed with Tribal and Indian representatives before implemented, and generally before formulation.
6. Top management action concerning Forestry activities may be appropriate; however, specific areas should be pointed out by the contractor.

TIMBER SUPPLY - INVESTMENT IN TIMBER GROWING

1. Allowable cut levels can only be determined after the essential forest inventories and research have been performed. Individual Indian needs have to be recognized. Some form of land consolidation, either through outright purchase or management agreement, should be attempted. On the surface, ownerships appear to be stabilizing; however, the fact that non-Indians are inheriting more and more land each year seems to have been overlooked, as well as the ever-enlarging complexity of ownership generated through probates where no Will was executed. Some allotments have as many as 150 owners, with several unprobated estates existing, and compounded by the fact that before the unprobated estates are probated, more deaths will occur.
2. Investments in timberland are encouraged by the Bureau, and assistance is rendered to secure funding and development of supporting detail to justify actions.
3. Nursery management is a highly technical operation, and in a recent discussion with the Quinault Tribe, it was a general consensus that this phase of management would take a lower priority.
4. Pre-commercial thinning is a positive program already outlined for execution provided funds are available. It was hoped that the contributory fund in lieu of administrative fee deduction would provide the money

needed to do this important work; however, the Quinault Allottees Association, through their Attorneys, has discouraged this system.

5. Forest fertilization is planned for the forests administered by the Bureau, and other agencies engaged in forest nutritional research will be contacted. It has already been proposed that the reservation be soil type mapped and soils analysis be conducted before fertilization is attempted. A thick impervious hardpan is prevalent throughout the western half of the reservation, creating many swampland conditions and restricting forest regeneration.
6. Cooperation with experts in tree improvement programs can be expected. Also, seed collection has been discussed with the Quinault Tribe under some contract arrangement.

WATERSHED PROTECTION AND FISHERIES

1. This important resource is receiving much more consideration than it did in the past, and efforts are currently in effect to protect streams and even to rehabilitate those streams that received adverse treatment from past logging practices. This is a monumental task; however, it is the intention of the Bureau to pursue this action to a satisfactory conclusion. There is a stream rehabilitation project going on under Bureau auspices in the Queets area.

WILDLIFE MANAGEMENT

1. Wildlife management has received nowhere the attention afforded fisheries, and probably because the Indian people do very little hunting compared to fishing for a livelihood.
2. It may be well to identify specific areas which need special treatment, such as elk calving grounds. The Tribe may want to purchase these areas. Coordination with other Government agencies will be encouraged; however, the Indian people are suspicious about cooperative deals concerning their resources.

AESTHETICS AND RECREATION

1. The Tribe is aware of its potential in the field of natural areas along the Pacific Ocean, Quinault River and Quinault Lake. The Bureau has encouraged cooperation between the Park Service and the Tribe to develop plans for managing the Ocean and Quinault Lake frontage. This will be pursued further as the Tribe indicates this is their desire.

FOLLOW-UP ACTION

Federal regulations specify that individual Indian needs be one criteria to consider in management decisions which can complicate the decision making process when long range Forestry action is contemplated. Solutions to the ownership problem have been studied, but legislative proposals by the Bureau have been unsuccessful to date. However, attempts will be continued, and with Tribal input, may eventually be successful.

(Sgd.) George M. Felshaw

Superintendent

Enclosures

Hoquiam Forestry ✓
Everett Forestry
Everett Mailroom
Chrony

OEPaakkonen/WHCarey/JMJackson:kf
8/29/73

RECEIVED
INDIAN CLAIMS *Mr. Marshall*
U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF THE REGIONAL SOLICITOR

JUN 19 2 1975
P.O. Box 3621
PORTLAND, OREGON 97208

DEPT. OF JUSTICE

Date 6/11/75

To: Mr. Marshall

From: Dick Neely

Subject: Document summaries - Quinault
claims cases

2004 2-17-75
U. E.

Draft - Roger - 5/8/75

REFORESTATION - DOCUMENT SUMMARIES

IA29.25 - Letter from Supt. W. B. Sams to Polson Logging Co., 2/20/29.

- Advises that cutover lands are not being offered for sale because it is the policy of the Indian Office to hold the lands for reforestation.

- States that steps will soon be taken to plant the proper seed in the cutover lands.

IA29.27 - Letter from Supt. W. B. Sams to Commissioner of Indian Affairs, 3/23/29.

- States that several Agency employees, including McKeever, planted 3500 spruce trees on a tract of about 30 acres of cutover and burned over land.

- Attached articles from Hoquiam and Aberdeen newspapers which covered the experimental planting. The area planted was on tribal land included within the Moclips unit which was logged in 1923 and had been very severely burned over.

- States that this is the first planting of a tract of that size with young trees ever done in Grays Harbor County. The area planted is specifically described as portions of the NWNW of section 1; the NENE of section 2, T 20 N R 12 W; and the SESW and the SWSE of section 31, T 21 N R 11 W. States intention to check up on the area frequently and keep records showing the growth of the trees.

IA29.14 - Letter from Henry B. Steer to Chief Supervisor of Forests,
J. P. Kinney, 5/11/29.

- States that the thousand acres of cutover land in the east end of the Moclips unit which is still tribal land is ideal for the establishment of a forest experiment station.
- States that the employees are greatly interested in this work and want to be in on the planting next spring.
- States belief that this work is worthwhile and would very much like to continue it, except that he does not think they should spend all this time and effort on reforesting land that may be allotted at any time.
- Asks whether it would be possible to have a part or all of this tribal land set aside and reserved from allotment.
- States that fully 95 percent of the trees planted last spring show new growth.

IB29.1 - Letter from Supervisor of Forests Henry B. Steer to Commissioner of Indian Affairs, 6/14/29.

- Essentially the same as IA29.14, with some elaboration.
- Recommends that 1,780 acres be set aside as the Quinault Forest Experiment Station, specifically described as: the S 1/2 NE 1/4, and the SE 1/4 of section 31; all of section 32, lot 7 of section 33 (all in Twp 21 N R11W); the NE 1/4 of section 2; all of section 1 (all in Twp 20N R12W); lots 8, 9, and 10 of section 6 T20N R11W.

IA29.22 - Letter from Supt. W. B. Sams to Commissioner of Indian Affairs, 12/2/29.

- Refers to Office letter of 6/26/29, approved by the Department on July 11 and cleared by the General Land Office on July 3, which reserved lands in Quinault Reservation for the Quinault Forest Experiment Station.

- Advises that 5,000 Douglas fir trees and 2,000 young Idaho white pine have been obtained from the U.S. Forest Service.

- States they had broadcast seeded a limited area with spruce seed and have obtained a thousand acorns from the School of Forestry at Cornell University which will be planted. An almost unlimited quantity of young spruce, hemlock and cedar trees can be obtained locally. Arrangements have also been made to purchase a small number of big tree, redwood, and Port Orford cedar transplants.

- Requests an additional 200 acres to be reserved and included in the Quinault Forest Experiment Station.

IA29.19 -

(a) Letter from Supervisor of Forests Henry Steer to the Crown Willamette Paper Company, 12/26/29.

- States they will be unable to purchase additional nursery stock this year because of limited amount of funds available for reforestation.

(b) Letter from Supt. W. B. Sams to the Pacific Lumber Company, 11/14/29.

- Same as above.

IIA30.1 -

(a) Letter from Supt. W. B. Sams to Commissioner of Indian Affairs, 3/12/30.

- Transmits enclosed report of Henry B. Steer.
- States belief that reforestation will result in great benefit to the Indians in the future, and that no other method will bring in an equal amount of value for the Indians as a tribe.

(b) Report by Supervisor of Forests Henry B. Steer to Commissioner of Indian Affairs, 3/12/30.

- Reports on the work done to establish the Quinault Forest Experiment Station.
- Reminds the Office that this is the first reforestation work of its kind ever attempted in Grays Harbor County.
- Gives details of the construction of the ranger station, the preparation of the maps, the construction of fire lanes and the tree planting.

IIA30.2 - Report of Reforestation Committee, Grays Harbor Forestry Board, Frank H. Lamb, Chairman, 4/2/30.

- States the Grays Harbor District is blessed by the fact that on a majority of its lands natural reproduction can be relied upon to reseed fully such lands when cut over if properly handled during logging and given fire protection. Annual growth of 1,000 feet B.M. or 2 cords of pulpwood per acre may be expected. This is 2 to 10 times that of other timber producing sections.
- States that under present methods of clean logging by high lead and other systems, a large part of the mineral soil is properly exposed

for reseedling. One source of seed is that already stored in the soil. The other is from standing seed trees, either left in logging or from adjacent areas of standing timber. To leave a small group of seed trees in the midst of cutover lands is practically impossible due to the difficulty of protecting them during logging and preventing them from being overturned later by winds.

- States that burning of slash is detrimental to prompt and full reproduction.

- Recommends that operators plan to leave a belt of green timber between adjacent operations for as long a period as possible.

- Recommends the prevention of burning of cutover lands and that all laws relating to the compulsory burning of logging slash be repealed.

- Reports on difficulty by private owners of reforesting their lands due to the tax burden.

- Recommends that the legislature tax lands devoted to reforestation by a yield tax rather than a general property tax.

- In regard to the National Forest Service, the observation is made that in the 8 years from 1921 to 1927 only 11,313 acres have been planted, and a considerable portion of this area has only been spot planted or broadcast seeded with very indifferent results.

VIA31.3 - Report by Forest Supervisor James H. Howarth to Commissioner of Indian Affairs, 3/11/31.

- Reports on planting at the Quinault Forest Experiment Station. BIA personnel were available for the planting because of the shutdown of

two of the operators on the reservation, Ozette Railway Company and M. R. Smith Lumber and Shingle Company, Nearly all of the planting was done in the month of January, and the weather was perfect for planting.

- Gives details on how the seedlings were gathered and the planting done. The total cost for planting, including pulling and transportation and supervision, was \$8.04 per acre. Total acres planted for the 3 years from 1929 to 1931 was 294. The total seedlings: 93,770, which is 319 per acre. Hemlock has suffered most by failure from drought or frost with a possible loss of 15 percent. Spruce has survived best of all with probably over 95 percent.

-VJ36.1 - Report of a conference between Quinault Indian Delegation and Forestry Division in Washington by the Director of Forestry, 1/24/36.

- The views of the Forestry Division concerning what should be done to make the Polson sale possible included the anticipation that it should take 10 to 12 years to go over the unit the first time in order to give ample opportunity for the spots to seed in and grow a stand of timber large enough to eliminate the severe fire hazard which comes on freshly cutover areas.

- States that if cutting is done in the way suggested [selective block cutting], there should be a good chance for most of the land cutover not to burn but to remain productive and be ready for a second cutting for pulp in 40 or 50 years, or for saw timber in about 60 years.

The office is unwilling to see a continuation of the present method of clearcutting everything.

IID37.1 - Report by Forest Supervisor James A. Howarth, Jr., 3/12/37.

- This regards the 3-year extension of the Upper Wreck Creek unit and selective logging. On page 15, states that although the contracts provided for selective logging, it was the belief of those in charge of timber sale administration that selective logging was impracticable and so the provision was never enforced. The contractors knew of that belief and relied upon it. To change now to caterpillar logging would cost the Smith company approximately an extra \$22,000. The main objectives of selective logging would be to establish a fire break between clearcut areas, to ensure better reproduction, and to permit added growth to the timber left standing.

- States that in the present case the Bakers Prairie and the strip of unmerchantable cedar swamp constitute a very effective fire barrier.

- States there would be better seed scattering from a general thinning or selective logging by caterpillar of the area left now to log on the unit, but there is also the added danger of windthrow to consider.

ID37.3 - Letter from Supt. N. O. Nicholson to Commissioner of Indian Affairs, 4/15/37.

- States that he agrees with Howarth that logging operations on Upper Wreck Creek unit and others under contract with Aloha could be conducted to encourage reforestation and reduce fire hazards without necessitating any complete change of logging methods. This can be accomplished by

logging selected spot areas consisting of a setting each and distributed as to ultimate logged tract and green timber. This will make possible reseeding on the logged areas and prevent large continuous areas of slash, with resultant heavy fire danger.

IA37.12 - Letter from Supt. N. O. Nicholson to Commissioner of Indian Affairs, 9/10/37.

- Refers to letter of 8/24/37 from the Commissioner.

- States that he had discussed the matter of selective logging with the Quinault Business Committee and they were agreed that the authorization to continue the development of the Upper Wreck Creek unit under the same policy as pursued in the past was entirely agreeable to them.

- Their assumption is that this means permission to clearcut merchantable timber on an area selection basis in such a manner as to ensure reproduction and promote a reasonable degree of protection from fire.

IA38.19 - Letter from Supt. N. O. Nicholson to Commissioner of Indian Affairs, 1/11/38.

- Refers to letters of 1/23/37 and 3/1/37 regarding reforestation project under the Emergency Conservation Work Program. States that there are on the reservation areas which had been so extensively burned that it will take a long time before they can become stocked with timber through natural reproduction.

- States that no elaborate attempt will be made herein to justify the fact that much of the land area on the Quinault Reservation that is

primarily adapted to the growth of timber crops is not now covered with reproduction.

- States that we have previously suggested the possibility of planting parts of these areas under an ECW program, which was found to be impossible because of the fact that these areas are allotted.

- States that it is believed that certain areas on the reservation in need of planting can be made available by having the individual owners

- deed their cutover land to the tribe. Since in most cases this land has not much value, the individual owners can appreciate that it would

- be advisable for them as a group to have steps taken to ensure reforestation on the badly burned areas.

- Encloses a deed from Ferrill Johnson covering a transfer of his allotment to the United States in trust for the Quinault Tribe.

- Urges approval of the deed and requests instructions as to whether this procedure is proper.

IIA38.1 - Report by Logging Engineer Patrick Gray, 4/2/38.

- States that the area around the Milwaukie Trail unit suffered very severely during the 1921 blowdown, but is now covered by an excellent stand of young hemlock from 2 to 6 inches in diameter and 6 to 15 feet in height.

- States that this area affords a very good illustration of what may be expected in the way of reproduction in cutover areas in the coast belt, provided all fires are kept out.

IA38.18 - Letter from Supt. N. O. Nicholson to Allottee Lizzie Johnson, 7/21/38.

- Encloses deed for her cutover allotment to the United States for the Quinault Tribe for reforestation purposes.
- Expresses appreciation for the kind cooperation shown towards the success of the new reforestation project.

IVA38.1 - Magazine article in Outdoor America (published by Isaac Walton League), by Henry B. Steer, 1938.

- Relates experience of planting the Quinault Forest Experiment Station.
- Shows a before and after photograph.

IA39.12 - Letter from Supt. N. O. Nicholson to Messrs. Lenzie, Patrie and Gray, 5/23/39.

- Acknowledges receipt of report of 3/5/39.
- States that as he gives more thought to the matter he fails to see how the interests of the Indians can be reconciled with indicated Office policies. In particular, he mentions the matter of planting on logged over and heavily burned allotted areas on the Quinault Reservation.
- States that some of these burned areas are frankly "bad", and certainly afford justification for criticism of the past logging methods. The planting of these areas could be readily accomplished because of our Makah nursery and would make a splendid CCC-ID project. This has apparently been turned down because of the fact that it would constitute an improvement to individually owned property rather than to tribal property.

states that in view of improvements made elsewhere, it would appear the distinction made here is more apparent than real.

states that failing to get Office approval of an out and out planting plan, he attempted to get approval of a plan whereby they could scattered plots which in later years would serve as points from which seed could be scattered over the surrounding unproductive areas. This plan was also rejected.

1 - Letter from Supt. Phillips to Commissioner of Indian Affairs, 5/23/42. This letter states that seven deeds conveyed by allottees to the U.S. in trust for the Quinault Tribe in order that they may be used in reforestation projects.

4 - Letter from Supt. Phillips to Regional Forester Frank Lenzie, 8/8/42.

states that in view of the fact that funds are not available for planting projects on either the Makah or Quinault Reservations, a surplus of seedling stock will be available for transfer to other Government agencies.

5 - Letter from Asst. to the Commissioner Walter Washiko to Supt. Phillips, 9/23/42.

states that the Office will be glad to receive recommendations as to the continued operation of the nursery in order that suitable stock may be available for planting purposes on the Quinault.

for advice whether the tribe and the allottees would be willing to contribute a part of their timber income to have the clearcut areas reseeded.

(b) Letter from Quinault Tribal Council to Supt. Floyd Phillips,
7/28/42.

- Expresses approval of a plan to establish a civilian public service camp of conscientious objectors near the Quinault Reservation who will prosecute projects of forest management including tree planting.

IA42.1 - Letter from Supt. Phillips to Commissioner of Indian Affairs,
10/1/42.

- Refers to letter of 9/23/42.
- States that the desire to dispose of the nursery stock was not for lack of funds to continue operation of the nursery, but rather a lack of funds and labor for planting projects. Even if funds would be made available, it would be impossible to secure men for the work at this time, as all employable men are engaged in war work.
- States that as to the possibility of the tribe or allottees contributing part of their income from stumpage, this he is sure would not be considered by the allottees or the tribe since no employable Indians are now available for the work.
- States that a request in a letter of 7/29 that every effort be made to obtain a conscientious objector camp to provide labor for fire suppression and other forest maintenance work has not yet received a reply.
- States belief that if vigorous action was initiated by the Office at this time, a 100 to 200 man camp could be secured.
- Urgently requests that the Office follow up the matter with the Planning and Development Branch.

IA43.2 - Letter from Forester Carthon Patrie to Supt. Phillips, 2/10/43.

- Regards the selective logging of a limited area of the Hall logging unit.

- States that experience with clearcutting on the Quinault Reservation has been a sad one from the standpoint of sustained yield. Fire has repeatedly gone over the cutover areas, and the majority of the lands have been burned at least once, destroying all reproduction that has come in after logging. Therefore, it is a very worthy endeavor to log on a sounder forestry basis than heretofore where it is possible to do so.

IA43.1 - Letter from Arnold Polson of the Ozette Railway Company to Supt. LaVatta, 9/10/43.

- States that the company, up to the present time, has been successful, through the cooperation of the Indian Service, in being able to reforest most of their logged-off lands without burning, which has resulted in placing these lands in reproduction 10 or more years before it would have been possible to do so if the slash had been burned.

- States that he would like to explore with the Superintendent the possibility of doing something with the logged-off lands on the reservation in the way of reforestation.

IIS44.1 - Report by Forest Supervisor A. G. Hauge, 7/17/44.

- Regards sample plot on the William Butler allotment, No. 992.
- States that except for the area on which the soil was exposed in roadways or skidding trails, the ground is covered by a vegetative growth the density of which has prevented the satisfactory establishment of reproduction. The ground cover includes salal, huckleberry, ferns, salmon berry, blackberry, and carix and other plants. The small percentage of reproduction which has occurred is hemlock and cedar. The slash on this allotment was not burned, and no forest fire has burned over the area.

IIS44.2 - Report by Forest Supervisor A. G. Hauge, 7/20/44.

- Regards sample plot of selection cutting on Salakike allotment no. 1345.
- States there is a fair representation of reproduction consisting principally of cedar and hemlock. Vegetative ground cover is fairly open, leaving an opportunity for the establishment of reproduction. Slash was not burned and no forest fires have occurred on the area.

IIS44.3 - Report by Forest Supervisor A. G. Hauge, 7/21/44.

- Regards sample plot of tree selection cutting on the Annia and Lada Clark allotments, nos. 177 and 178.
- States that due to a dense covering of vegetative growth, principally salal, little reproduction has been started the logging. On the outer fringes where it is open to sunlight and where the ground cover is less dense, new reproduction is becoming established, principally hemlock. Slash was not burned and the area has not been burned by forest fire.

There is a very low fire hazard at the present time on these allotments.

IIS44.4 - Report by Forest Supervisor A. G. Hauge, 7/21/44.

- Regards sample plot of tree selection cutting on the Scott Clark allotment, no. 180.

- Logging on this allotment occurred in 1937. States there is established a fair stocking, chiefly hemlock, with scattered Douglas fir. Ground cover is fairly open, which leaves an opportunity for the establishment of reproduction. Slash was not burned and no forest fire has occurred.

IIS44.5 - Report by Forest Supervisor A. G. Hauge, 7/24/44.

- Regards sample plot of tree selection cutting on the Henry Cultee allotment, no. 496.

- All these sample plots were logged in 1937, and are located in the Quinault Lake logging unit.

- States that the dense vegetative cover, predominantly salal, has prevented the satisfactory establishment of reproduction. Slash was not burned and no forest fires have occurred.

IIS44.6 - Report by Forest Supervisor A. G. Hauge, 11/6/44.

- Regards sample plot of selection cutting on the Glen Capoeman allotment, no. 138, on the NP Trail unit logged in 1943.

- States there was no established reproduction on the area. Previous to logging, the area was covered with a dense growth of the vine maple and salmon berry. After logging, the top layer of soil has been

exposed and it is expected that reproduction will become established. It is likely, however, that alder will take over most of the ground. Slash in the area was not burned and no forest fire has occurred.

IIA46.1 - Report by Forest Supervisor A. G. Hauge, 2/27/46.

- The report regards the proposed tree planting projects on burned over logged areas.
- States that the vicinity of the Quinault Reservation is one of the most favorable forest growth areas of the United States. Of the cutover area on the reservation, 27,681 acres are green and 20,692 acres have been burned. The stocking on the green acreage is generally satisfactory to fully stocked, and no planting of this acreage is contemplated at this time. As to the burned acreage, while there are limited areas of satisfactory stocking, the major portions are entirely or nearly barren of stocking. Much of the area has experienced repeated burns, and the only extensive burned area with satisfactory stocking was in the Cook Creek unit. To date, two planting projects have been undertaken--the area designated as the U.S. Forest Experiment Station which had been reserved in tribal ownership and the Red Creek reforestation area which consisted of seven allotments deeded to the United States in trust for the tribe for the purpose of reforestation. The planting in the first area was begun in 1929 by the forestry organization and completed in 1934 as a CCC-ID project. The planting has been very successful. The second area was planted in 1940 as a CCC-ID project. These plantings were burned over in the 1941 fire and destroyed. Other

proposed planting areas are the Elk Creek area which was burned over in the 1941 fire, as well as 1933. The Moclips planting area, which is located west of the forest experiment station, has been subject to repeated burns since 1925. This is the final area suggested for planting.

- States that there is a question which will arise as to whether authorization will be secured to plant allotment ownership acreages.

Past experience indicates that consent to transfer allotments to a tribal status will not be obtained and thus it will be impossible to plant all lands within the prescribed boundaries. Estimates planting cost of approximately \$10 per acre.

- States that these solicited areas form only a minor portion of the extensive burned acreage barren of reproduction and in need of planting.

- Attaches pictures taken of the proposed planting sites.

IIJ46.1 - Forest Officer's report by Carthon Patrie and L. C. McKeever,

8/31/46.

- Regards proposed sale of timber on the Taholah unit. On page 16, states that the cutover land south of the Quinault River is at the present time only 40 percent stocked. So much of this cutover land has been burned over that seeding in by natural means is now an extremely slow and uncertain process and many years may be required before reasonably complete stocking can be obtained. The overall picture of cutover areas, however, shows extensive areas that are fair to well stocked with reproduction. Cutover lands north of the Quinault River have been surprisingly good in establishing reproduction.

Generally, the situation has proved to be better than originally anticipated. Of the 60,000 acres which are cutover, 24,000 acres which have been burned are not stocked. 6,000 acres are from one to 40 percent stocked; 16,000 from 41 to 70 percent stocked; and 14,000 from 71 to 100 percent stocked. The occurrence of burns since cutting has delayed the inception of reproduction, and so although the cutting was heaviest between 1922 and 1930, reproduction will average about 10. Hemlock has been found to be the predominant species on the cutover areas, and represents more than 80 percent of the new stand.

IJ46.2 - Letter from District Director E. Morgan Pryse to Commissioner of Indian Affairs, 11/18/46.

- States that a large part of the cutover lands are now in idle and unproductive condition because federal funds cannot be used for tree planting or seeding projects.
- Relates efforts of Supt. Nicholson in the past to acquire cutover lands for the tribe.
- Relates discussion with Nicholson, now employed by the O&C Administration, in which the latter explained that he had no particular trouble in securing the consents to transfer cutover lands to tribal ownership. His principal difficulty was that rumors of oil possibilities dissuaded some of the allotment owners from relinquishing all of their rights in their lands. As he understood it, the Government refuses to approve conditional land transfers, and he did not, therefore, consider any acceptances of this kind.

- Relates discussions with Phillips and LaVatta, who were somewhat pessimistic as to whether a majority of the allottees would consent. They also spoke of the immense amount of work that will be required to contact the widely scattered allotment owners.

- States there is no immediate concern over the lands on the proposed Taholah unit, because there is very little danger of the area ever becoming seriously devastated and unproductive as long as it is cut by selective cutting by blocks as planned. There is much concern, however, over the condition of the cutover land south of the Quinault River, particularly that area burned over during the 1941 fire. This area, which includes some 24,000 acres and some of the best site qualities on the reservation, is not only largely unproductive now after 5 years, but promises to remain so for some years to come if reliance is placed on natural means of restocking since available seed sources are distant and sadly inadequate. Since the area constitutes about 16 percent of the total commercial forest area, and an even larger proportion of its total productive capacity, it is obvious that the Quinault Indians will suffer a serious loss of income and volume of production as long as these lands remain in their present condition. The only way to restore these lands is by planting or artificial seeding. The first step necessary is to arrange the transfer of the allotted lands to tribal ownership, for, as we understand it, federal funds cannot be available for planting on private lands. This activity should be given a top priority rating for any time which can be spared from regular administrative work.

- Requests an opinion on the acceptance of conditional transfers.

IJ47.3 - Letter from Supt. Melvin Helander to Commissioner of Indian Affairs, 1/17/47.

- Refers to IJ46.2 .

- States the Agency is in accord with such a program, but doubts its success at this time because of the widely publicized oil surveys.

- States belief that the program would meet a higher degree of success if funds could be set up to purchase the cutover lands for about \$1 per acre.

- Advises to concentrate efforts at present to two blocks of areas which have been burned over repeatedly and show little or no reproduction.

- At present wage rate, the cost of planting is prohibitive, as it costs about \$15 per acre.

- Recommends that as to allotments in the proposed Taholah unit, the owners not be contacted to transfer their lands back to tribal status until after logging has been completed on their lands.

IIA46.2 - Report from Chief Clerk Vincent J. Keeler to District Director, 10/3/46.

- Reports on status of cutover lands. To date, only about 20 percent of the cutover land has been covered by reproduction survey. Where fires have been kept out of an area, the class of stocking of reproduction has been satisfactory to excellent. On burned areas, 20 percent has been satisfactory, 40 percent is unsatisfactory, and 40 percent is unstocked. It should be remembered that this is only an initial study which is part of a more intensive survey to be completed.

IIA47.2 - Budget report by Supt. Melvin Helander to District Director,
3/10/47.

- States that one fire in the logged off area in this district sets reproduction back at least 5 years. Because of the extreme heat of fires, the duff in which seeds are stored is burned, therefore, eliminating chances for an immediate restocking.

IIA47.1 - Report by Earl Wilcox, 1/1947.

- States the first survey work was carried on under the direction of former Forest Supervisor A. G. Hauge. No written plan for the procedure of that survey has been found, and it seems apparent from examination of field notes that no definite procedure was followed in execution of the work. In September 1946 the work of completing the reproduction survey, interrupted by Mr. Hauge's departure, was started. First, a preliminary light survey was made in such a way that the whole area was covered. At present with only the initial part of the survey completed, we do not claim that the statistics are sufficient to enable us to point to any certain forty and state with any degree of certainty what stocking of reproduction is. However, we have a very good idea concerning which general areas are in need of artificial restocking. In grouping the statistics into classes, they used those recommended by the West Coast Forestry Procedures Committee in which Class I equals 70 to 100 percent stocked, which is considered good stocking; Class II equalling 40 to 70 percent stocked, which is considered medium stocking; Class III equals 10 to 40 percent stocked,

which is considered poor stocking; Class IV is considered to be more than 0 percent but less than 10 percent; and Class V, which is considered 0 percent or barren. Both classes IV and V are considered nonstocked. The statistics in the report are for lands of Indian ownership only. However, a rough approximation of their restocking from adjacent areas of Indian-owned land can be made. Uncut area: 700 acres; class I reproduction: 1400 acres; class II reproduction: 1100 acres; class III reproduction: 800 acres; classes IV and V reproduction: 1700 acres. Total: 5700 acres.

The natural condition of restocking has been altered drastically by the many fires which have occurred. Even in areas where an adequate number of seed trees remained to reestablish reproduction for a second time, the fire retarded the growth on these areas for upwards of two decades. No effort has been made in the report to evaluate the condition of cutover lands for presence of snags or condition of brush. However, it should be noted that a program of snag falling and brush clearance by burning should precede any large expenditures for planting. The results of our survey show that only about 13 percent of the cutover land classed as nonstocked and about 18 percent as poorly stocked. Of this latter area, perhaps one-half will require planting to insure an adequate stand of timber during the second rotation.

IJ47.8 - Letter from Supt. Melvin Helander to Allottee Cleve Jackson,

5/22/47.

- Acknowledges that Jackson's idea of assessing each allottee 2 or 3 percent to create a fund for reforestation and fire protection is good.

IIA48.1 - Forest Officers report by Forester Carthon Patrie and Forest Manager Perry Skarra, 11/15/48.

- States on page 4 that when the existing cutover burned areas become more properly aligned in stocking and age classes to contribute their full share to production, and when the present nongrowing stagnant stands develop to a growing state, a sustained annual cut of some 80 to 90,000,000 board feet should be realized. On page 10, states that it is planned to conduct the logging in such a way as to avoid the creation of large unbroken cutover areas, as this is the only way to provide an effective fire break. The second part of the plan is to direct the cutting with respect to widths and direction in relation to the seed sources as to assure prompt and complete restocking as soon as an area has been cut. On pages 18 and 19, states that there is a considerable variation in the status of cutover lands in the degree of stocking and distribution of age classes. It will take quite a few years and extensive planting projects on the Class IV and V areas before all the cutover lands will be adequately stocked and in full production. Also, the distribution of age classes by areas is unbalanced in that there is a serious shortage of areas in the older age classes and a substantial surplus in the 1938 to 1942 age group. Thus, in effect the second cutting cycle has been delayed by 5 to 10 years beyond the point where it would normally have started. Hemlock is found to be the dominant species in the cutover

areas, averaging nearly 60 percent, while cedar averages 30 percent, spruce 7 percent, and Douglas fir and white pine 2 and 3 percent respectively.

On page 21, states making due allowance for degree of stocking, variation in stand composition, and an exceptional mortality because of windthrow, from the normal fully stocked stand of site index 140, we estimate that the partially to fully stocked cutover lands will produce an average of 525 board feet per acre per annum and 154 cubic feet of wood during the next 50 years. This estimate is on the basis that the reproduction on cutover areas will average about 10 years of age and a rotation age of 60 years.

IIR50.2 - Forest Officers report by Forest Manager Libby and Forester Wilcox, 11/9/50.

- Regards proposed sale of Crane Creek and Queets logging units.
- Contains essentially the same information as IIA48.1. In addition, contains a table of expected volumes available for cutting at the beginning of the second rotation.
- States on page 19 that the serious delays in the establishment of a satisfactory reproduction by the recurring fires had delayed the start of reproduction on some areas by as much as 15 to 19 years. It is quite probable that some planting funds will be required to restore the currently barren and seriously understocked stand to thrifty growing condition.

IR53.2 - Letter from Forest Manager John Libby to Supt. Raymond
Bitney, 11/13/53.

- Regards proceedings of congressional hearings by the Committee
of Interior and Insular Affairs in Everett, Washington, on 9/25/53.

- Refers to letter to Bitney from Libby of 8/11/53 concerning the
sale of the Queets unit.

- Quotes from that letter an excerpt explaining one of the primary
objections to selling the Queets unit in small blocks, as from the
standpoint of fire protection and reestablishment of the timber crop.

- Cites the nonproducing land in the southwest part of the Quinault
Reservation as an example of what happens when too large an area of
contiguous cutover land is allowed to develop.

- States that it requires about 10 years following logging in this
coastal area for reproduction to become well establishing and for
the logging slash to deteriorate sufficiently to offer reasonable
assurance that fire can be controlled if started. This is the principal
reason that the practice has been adopted of requiring operators to
stagger settings and leave strips of standing timber as fire breaks
and seed sources. Thus, sale units should be large enough to provide
that the cut be reasonably extended over a period of at least 20 years.

VIIIA54.1 - Management plan by Forester Ken Hadley, 3/26/54.

- Incorporates material on reproduction from IIR50.2, IIA48.1, and
IIA47.1 .

IR54.1 - Letter from Supt. Melvin Robertson to Area Director Don Foster, 6/11/54.

- Refers to Area Officer letter of 6/2/54, regarding complaints by allottee Claude Wain by letter of 5/11/54.
- States that adherence to the plan on Crane Creek of cutting by selected blocks should result in adequate restocking of the cutover lands so that it will not be necessary to resort to the laborious and costly hand-planting of trees contemplated by allottee Wain.

IA55.1 - Letter from Supt. Melvin Robertson to Area Director Don Foster, 5/10/55.

- Refers to complaint by allottee Mrs. Barichio concerning a promise to restore her allotment to her after reforestation had been completed. On 7/15/38 Mrs. Barichio conveyed her allotment to the United States in trust for the Quinault Tribe of Indians for the purpose of reforestation. States that the idea behind these deeds was to make it possible to reforest the lands under the CCC program. These lands were reforested by planting, but the 1941 fire destroyed the plantings. The burned over portion has not been replanted. There is an area of approximately 15 acres on the allotment which is well stocked with a young stand, but the remainder bears little tree growth. There is no evidence to indicate that it was contemplated that the lands would be returned to the original allottees after the reforestation program was completed. Such a conveyance at this time appears to be contingent upon consent of the tribe and Congress.

IIA58.2 -

(a) Report by Forest Manager John Libby, 8/15/58.

- Regards logging by alternate clearcut blocks in 1950 to 1958.
- States that there is an understanding with operators that no cutting block shall exceed 160 acres without special authority, and that the reserve stands shall not be less than 1,000 feet in width at their narrowest point. A more important consideration, however, is the distance from the most remote portion of the clearcutting to available seed sources, and the wind firmness of the cutting edges.
- States that experiments on the Cascade Head Experimental Forest near Otis, Oregon, where conditions are similar to those on the Quinault, tend to support this opinion. Where no seed source is on the eastern edge of the clearcut area, little regeneration is secured. Apparently seed is disseminated by warm easterly winds in the Fall and early Winter. There is apparently very little seed spread by moisture laden westerly winds that predominate during most of the year. Wind patterns on the Quinault are much the same as on the Oregon Coast. The width of the clearcut blocks from west to east should therefore appear to be a major factor in location of cutting blocks.
- States it is their intention to examine the blocks cut to date on the Taholah and Crane Creek units to assess the results. Quotes from research paper number 7, published by the Pacific Northwest Forest and Range Experiment Station of the U.S. Forest Service in July 1953, which lists points to be considered in locating cutting block boundaries in order to minimize wind damage.

- States that not all of the points are applicable to the Quinault Reservation, but that even so a number of cutting blocks on Crane Creek do not meet the points which are applicable. Exceptions were made to permit larger volumes to be harvested for allottees who were badly in need of financial relief and some leeway was allowed operators in the early stages of development until road systems could be developed. There is also the problem of fee patented land since we have taken the position that we have no authority to regulate the cut on these fee patented allotments. The general pattern of cutting blocks, however, is good, but the principal obstacle to develop an increasingly sound silvicultural cutting pattern is the fee patent allotment under contract. A legal ruling on responsibilities and authority in connection with these fee patents is urgently needed.

(b) Memorandum to Forest Manager Libby from Forester Onnie Paakkonen, 8/6/58.

- Shows average size of cutting blocks on the Quinault District of the Olympic National Forest and the criteria considered in the establishment of the blocks.

IA58.4 - Letter from Asst. Commissioner E. J. Utz to Area Director Don Foster, 9/9/58.

- Refers to letter from Foster of August 22, 1958, concerning the size of cutting blocks on the Crane Creek unit. Also refers to IIA58.2.

- States that from the map in Libby's memo, it appears that portions of clearcut areas are at least a quarter mile from available seed sources.

- Refers to another statement that no cutting block shall exceed 160 acres, and asks whether cutting blocks of such size allow a reasonable distance from the most remote portion of the clearcutting to available seed sources.

- Questions whether exceptions should be made for allottees badly in need of financial relief in view of the fact that every allottee has received not less than 50 percent of the estimated value of his timber within the past 6 years and that such exceptions can have an adverse effect upon other allottees.

- States that because the Agency personnel have not received an answer to the question of their legal authority to regulate the cut on fee patent allotments, they have apparently followed a middle-of-the-road policy in which they continue to carry on all features of timber sale administration except the designation of areas to be cut. In other words, for fee patent land, they are still establishing the prices to be paid, scaling the timber, receiving and disbursing payments for the timber, insuring compliance with utilization standards, etc.

- Requests to be informed more specifically with respect to the administration of these contracts on fee patented lands.

IIA58.3 - Supplement to Annual Forestry Report by Forest Manager

John Libby, 1/23/59.

- States that most of the cutover lands bear stands of young trees up to 30 years old with varying degrees of stocking. A 30-year-old stand of hemlock is merchantable, although under proper forest management

it should not be logged until it is from 50 to 70 years old. The average allottee, however, will not be willing to wait 30 years for his timber to reach rotation age if he knows he can harvest it now for a substantial sum. It follows, therefore, that unless we forego our management program, many allottees will apply for fee patents or supervised sales, and since a large majority of Quinalts are fully competent, there will be no reason why most requests will not be granted. Therefore, we are uncertain as to how far we should go in any survey of the cutover lands.

IIA59.2 -

(a) Report from Chief of the Branch of Forestry, George S. Kephart, to Commissioner, 3/24/59.

- Regards inspection of logging operations on Sophia Watchman allotment,

No. 444. On page 16 states that burning and planting yield the two-fold benefit of fire hazard reduction and prompt return of land to a productive status. The clearcut areas will ordinarily be regenerated by seed from the surrounding uncut forest, but it may be delayed several years until there is the right combination of a good seed year and favorable weather. Furthermore, the planting insures that new stands of timber will include the more desirable species.

- States that no funds are available for planting.

- States they are informed that planting on the adjacent national forest lands is generally done under contract at a cost of \$26 per acre.

Questions whether allottees would be willing to plow back the \$2,000 or more cost of replanting into their land.

- States that the number of tree species suitable for planting in swamp areas of the reservation is limited and growth of some is not rapid.
- States it is questionable, therefore, whether it should be recommended to do such planting at the expense of allottees, particularly since the logging operations are designed to encourage natural regeneration.
- States there are areas of the Quinault Reservation logged many years ago and burned repeatedly thereafter. They are now covered with dense stands of brush and their return to a productive condition will be a very slow process. Other areas, however, have reseeded to merchantable tree species. The prompt regeneration of a portion of the Quinault Lake unit logged in 1954 was impressive. Attached photographs show that natural reseeded has produced a dense stand of hemlock already more than a head high. The problem here can very well become the problem of stagnation in an over-dense stand.

(b) Letter from Area Forester Harold Weaver to Area Director, 3/12/59.

- Regards field trip to Quinault Reservation on March 2-5, 1959.
- Relates discussion with Forest Service personnel, Mr. Richard Tetham.
- States the Forest Service plants Douglas fir for the purpose of assuring that this valuable species will be a component of a mixed stand. Wild seedlings of hemlock, Sitka spruce and Western red cedar usually fill in between the planted stock. In event of a series of poor seed years, the planted Douglas fir stock assures prompt regeneration and prevents capture of the site by red alder, salal, and salmonberry. The Forest Service is experimenting with helicopter direct seeding,

which can be conducted at a total cost of about \$8 per acre, which is a big saving over the present hand planting. Torheim indicated that planted stock made excellent growth during 1958. On better sites, particularly in the Hump Tulips River drainage, terminal leader growth of 72 inches was common.

- States we hope to burn more of the slash, and although it would be an advantage to plant on certain sites, we have no funds for such purpose and no statutory authority to withhold a portion of timber sales receipts.

(c) Letter from Area Forester Harold Weaver to Area Director, 3/6/59.

- Regards field trip on February 17-20, 1959, to the Quinault Reservation.

- States that both the National Forest and State Foresters are anxious that reproduction be promptly established and that there be no delay in returning logged areas to production. Slash is burned the first Fall following logging, and planting is conducted during the following Winter months.

- States that on national forest where cuts range from 50,000 to 100,000 board feet per acre, a KV charge of 50¢ per M will be adequate for the planting. According to my thinking, it is very properly an expense that can be charged against the logging. Prompt planting tends to prevent the possibility of the site's being taken over by salmonberry, brush or by low value red alder. This sometimes happens when entire dependence for restocking is on natural reproduction. The principal planting stock is Douglas fir, which is used because

it can be readily transplanted. Hemlock seedlings are delicate and will not stand transplanting from a nursery. He had been told that the National Forest has been successful recently in direct seeding of hemlock and spruce from helicopters. At the Quinault Ranger Station, Robert Persky informed him that annual growth leaders on the planted Douglas fir had been found in excess of 6 feet in length.

(d) Letter from Supt. Ringey to Area Director Don Foster, 2/20/59.

- States they are concerned with the delay in getting reproduction established on the cutover cedar lands. It is essential that the debris on the ground be substantially reduced to expose mineral soil in which windblown seeds will have a chance to germinate and take root. This could be accomplished by burning, but we do not want to burn until usable material can be salvaged.

IIA59.1 - Report from Forest Manager John W. Libby to Supt. C. W.

Ringey, 8/31/59.

- Regards forestry program for 1959 and 1960 fiscal years.

- States in addendum that several allottees on the Quinault have expressed interest in having money withheld from timber sale proceeds for the purpose of reforesting their allotments. Since inquiries have indicated that trust Indian allotments are not considered eligible for FMA payments from the USDA Conservation Program, withholding from timber sales receipts would provide an alternative means for the allottees who wish to replant their allotments following logging. We need to establish procedures for handling such a program.

IA59.5 - Letter from Acting Commissioner H. Rex Lee to U.S. Senator Thomas Kuchel, 10/1/59.

- States that natural restocking with young trees ordinarily takes place within about 5 years. After these trees reach about 10 years of age, they cover the logged areas so profusely that it is almost impossible to detect the results of previous logging.

IR59.3 - Letter from Supt. C. W. Ringey to Manager W. L. Vincent of Rayonier, 10/12/59.

- Regards problem stated in letter of 10/8/59 concerning the inclusion of the Shirley Bumgarner allotment and the Gene Bumgarner allotment to cutting block.

- States that if suitable arrangements can be made for assuring reforestation after the timber is removed, they would be in a position to consider a proposal for early logging of these allotments. Without such arrangements, they could not recommend such action to the Area Director.

IA59.1 - Letter from Area Forester Harold Weaver to Area Director, 10/10/59.

- Regards field trip to Quinault Reservation August 18-21, 1959.

- States that while the reservation has great expanses of excellent natural reproduction, stocking tends to be spotty over other considerable areas because of brush or red alder. Stocking is particularly poor on the heavy cedar cuttings. Planting is impossible because of the ownership pattern. Recommends, however, to burn slash on the heavy cedar cutting.

IR59.9 - Letter from Forest Manager John Libby to Allottee Claude Wain,
12/2/59.

- Suggests that Wain consider reinstating his power of attorney covering his allotment in order that the BIA could clean it up and put it in shape for reforestation. He would then be in a position to take advantage of the Agricultural Conservation Assistance Program to replant the cutover land.

- States that he could take advantage of the program in any event but that they believed they could get his land in shape for replanting more readily than he could do so with his own resources.

IIA61.3 - Report by Forester Wayne D. Turner, 3/28/61.

- Regards reproduction survey on the Taholah unit.

- Survey found that 40 percent of the cutover lands on the Taholah unit were nonstocked; 39 percent were between 10 and 40 percent stocked; and 21 percent were between 40 and 70 percent stocked. 2,600 acres were surveyed. The majority of the nonstocked area lies in the Quinault River bottom. Due to the deep, rich soil and plentiful moisture, the site was immediately occupied by hardwoods and brush after logging, leaving little or no chance for establishment of coniferous species. Logging blocks which had a high percentage of cedar are other critical nonstocked areas. Here, the large quantities of durable cedar residue prevented desirable stocking, particularly around landings. Another factor is distance from the landings to a seed source. The main factor observed which contributed to the under- and nonstocked condition was

*Turner
basic survey
in Turner report*

the density of ground cover. In many instances brush will occupy the site within 2 or 3 years after logging and prevent the establishment of conifers. A program of seeding and/or planting immediately following logging would insure good establishment of reproduction before competition becomes excessive.

IIA61.4 -

(a) Letter from Acting Area Director Perry Skarra to Commissioner of Indian Affairs, 6/16/61.

- States that Turner's report (IIA61.3) clearly illustrates the need for further action if adequate reproduction is to be acquired on cutover lands.

(b) Letter from Acting Supt. Schwartz to Area Director R. D. Holtz, 6/7/61.

- Refers to Turner's report.

- States that we have long recognized the problem of securing reproduction by natural seeding on spruce bottoms and on cutover cedar lands.

However, unless gratuity funds can be provided for reforestation of allotted lands, there is little more we can do than is now being done to improve the situation. We have inaugurated salvage operations on both Taholah and Crane Creek to secure better utilization of the timber cut as an aid to natural reseeding. Following salvage operations, landings and heavy slash accumulations are burned. Experimental plantings have been made and allottees have been urged to take advantage of the benefits offered by the Agricultural Conservation Program. Results are not encouraging. None of the allottees has yet taken any action

to accomplish reforestation of his allotment under the conservation program, although a few have expressed interest.

(c) Letter from Asst. Forest Manager Don Clark to Forest Manager John Libby, 6/6/61.

- Refers to Turner's report.

- States that most all of the nonstocked areas contain heavy accumulations of cedar slash, and on many of these areas we have attempted to alleviate the situation by burning the slash on landings and in some instances on entire settings. Even so, if reproduction does not become established in 2 years' time, the brush becomes so well established that reproduction has little or no chance of taking hold. Because of this, private companies, as well as the State of Washington and the Forest Service, plant all of their cutover lands as soon as possible after logging with Douglas fir stock. Experimental planting by our Forestry personnel show that Douglas fir does remarkably well, even on areas which were previously cedar types. States that satisfactory restocking has been achieved for high lead operations on steep topography, especially where the original stands were hemlock and silver fir or a mixture of those with cedar. These areas are returning predominantly to hemlock and silver fir. In pure cedar types, especially where the ground is level, planting will be necessary in order to assure establishment of a new tree crop with minimum loss of site to brush competition.

IIA62.4 -

(a) Memo from Asst. Forest Manager Don Clark to Forest Manager John Libby, 5/4/62.

- Encloses report of reproduction survey by foresters Collins and Turner.

- Survey was taken of 1,498 acres of lands logged prior to 1957 on the Crane Creek unit. It was found that 6 percent of the cutover lands were nonstocked; 81 percent were from 10 to 40 percent stocked; 12 percent were from 40 to 70 percent stocked; and 1 percent was from 70 to 100 percent stocked. One reason for the difference between the Crane Creek and Taholah units is that Crane Creek does not have as much of the spruce bottom land. Practically all of the blocks found to be nonstocked or understocked contained predominantly cedar timber and were located in areas where the topography is flat. All of the blocks contained heavy accumulations of cedar slash. Salvage operations are now being concentrated in these areas. It is a consensus of opinion by foresters that 40 to 70 percent stocking in the younger age classes is adequate for management purposes. Practically all of the natural reproduction noted was hemlock, with a lesser amount of silver fir. We have not yet attempted to burn landings or settings in the Crane Creek unit. It would be difficult to control burning because of the flat topography in much of the area. Unless a program of planting could be followed, it is not felt that controlled burning is the entire answer to aiding natural seedling establishment, especially where the surrounding or adjacent stands are predominantly cedar.

(b) Report by Foresters Wayne Turner and Donald Collins, 4/26/62.

- A stocked quadrant reproduction survey was initiated on the Crane Creek unit in March 1961. Non-trust lands were excluded from the survey. Blocks with the best stocking were located in areas where the surrounding types contained hemlock as the primary species. Most of the

blocks are located in predominantly cedar types on level land and are poorly stocked. This tends to indicate that natural reproduction is slow to become established in cedar areas. The only block found to be nonstocked was the one most recently logged. One of the primary reasons for employing the mil-acre as a basis for determining stocking is that 6.6 feet is favorable spacing for small seedlings. It is planned to resurvey these cutover areas at 5-year intervals. Encloses photograph.

IA52.5 - Letter from Supt. George M. Felshaw to Area Director R. D.

Holtz, 6/18/62.

- Regards various methods of reproduction survey.
 - Refers to a number of publications which were reviewed and analyzed.
 - Compares the 1/250th acre and the mil-acre plots methods. As a result of the consultations with foresters in the industry and the State and National Forest Services, and review of the literature of the methods and procedures being utilized in examining reproduction areas, it is our opinion that the mil-acre plots give the better indication of desired stocking for small, young seedlings, while the 1/250th acre plot seems preferable for older reproduction within stand-size class I (0-5 inches d.b.h.).
- Preliminary budget estimates for fiscal years 1964 through 1967 included costs for recently land planting of 2-3 Douglas fir stock spaced about 12' x 12'. The estimated cost is \$20 per acre. Aerial seeding is being contemplated for recently logged lands of 1/2 lb. Douglas fir seed per acre. The cost is estimated at \$10 per acre. A test chart shows the stocking

representation on cutover lands using a 1/250th acre plot as a basis would find that 34 percent of the cutover land was from 10 to 40 percent stocked; 50 percent would be from 40 to 70 percent stocked; 10 percent would be between 70 and 100 percent stocked; and 6 percent would be nonstocked. Under the mil-acre plot method, 81 percent would be between 10 and 40 percent stocked; 12 percent would be considered between 40 and 70 percent stocked; 1 percent would be considered 70 to 100 percent stocked; and 6 percent would be considered nonstocked.

IIA62.5 - Report by Kenneth Hadley, 6/21/62.

- Regards reproduction survey methods on the Quinault.

- Outlines the general differences in survey procedures between the BIA, U.S. Forest Service, and the Bureau of Land Management.

- States belief that in using the mil-acre plot method in the Crane Creek study by the BIA, the conclusions reached may exaggerate understocked and nonstocked conditions on the unit. These procedures have been long accepted, but recent realization that optimum stocking is considerably less than "normal stocking".

IIA62. 1 -

(a) Letter from Deputy Commissioner John O. Crow to Area Director R. D. Hales, 12/14/62.

- Refers to (b). States that the question of administering timber sales on unrestricted lands included under the Crane Creek and Taholah units has been before the Solicitor since July 1957. Legislation has been introduced in both the 86th and 87th Congresses to amend the 1910 Act.

The bill passed the House in the last session, but there was no committee hearing on it in the Senate. It is planned to submit this proposed legislation to the incoming Congress.

- We agree that artificial reforestation is needed on the Quinault Reservation, as it is on many reservations. When submitting a budget request for forest planting, you should indicate its priority in relation to other items.

(b) Report from Area Forester Earl Wilcox to Area Director, 10/15/62.

- Covers a field trip made by Skarra, Libby and Wilcox on Sept. 23-27.
- States that the most recent information from the Washington office on the subject of the responsibility for administering unrestricted lands in the Crane Creek and Taholah units was a letter of 10/8/58 in which the Agency was informed that a decision would be made soon.
- States there are large areas which are nonstocked and which will require many decades to become restocked through natural processes. Artificial reforestation of these lands is necessary if they are to become productive during the foreseeable future.

IIA63.1 - Report by Asst. Forest Manager Don Clark, Aug. 1963.

- Regards the accelerated public works program on the Quinault Reservation during fiscal year 1963. The reforestation work under this program included scarification or site preparation and hand planting. Low bid for the site preparation was by E. J. Hermann Logging Co. at Hoquiam and low bid for the planting was by Elmer Beier of Eagle Point, Oregon. All the reforestation was confined to tribal land. Approximately 50 percent

of the area is to be scarified. 2-0 Douglas fir seedlings will be used on most areas. On poor drainage areas, Sitka spruce seedlings will be planted. Approximately 400 trees per acre, spaced about 10' x 10', will be planted. Site preparation costs will be \$42 per acre and planting costs will be about \$17.93 per acre. 780 acres will be planted.

LJ63.1 - Letter from Asst. Forest Manager Don Clark to Allottee John Shepherd, 12/2/63.

- Refers to his receipt of approval from the Agricultural Stabilization Program to plant trees on the Caroline Peterson Shepherd allotment.

Asks whether his intent is to plant only the amount allowed by the stabilization program.

- Informs him that there is a contractor planting tribal lands and that perhaps something could be worked out whereby he could plant his area at the same time.

IA66.3 - Letter from Asst. Area Director A. W. Galbraith to Allottee Mrs. Tonnia C. Hartung, 12/15/66.

- Refers to letters concerning her sister's cutover allotments which were deeded by her to the Quinault Tribe on 2/24/40.

- States the tribe has seriously considered returning the allotments as well as 6 others similarly acquired to the original owners. However, we are advised that under present laws the tribe is without authority to convey or allot tribal lands as it is prohibited by the Indian Reorganization Act of 1934.

IA66.2 - Letter from Supt. George N. Felshaw to Area Director Dale Baldwin, 12/12/66.

- Contains essentially the same information as IA66.3.

LJ66.7 -

(a) Letter from Asst. Area Director A. W. Galbraith to Mr. J. A. Hebert of the Sheridan Branch of the U.S. National Bank of Oregon, 3/8/67.

- Refers to his letter dated 2/14/67, addressed to Mr. Wilcox, regarding information on the reseeded of his wife's allotment.

- States that the staggered setting system of logging will provide for natural reseeded. In the Quinault area, most natural reproduction

establishment results from seeds disseminated primarily by east winds

- during the Fall. A check of the cutover portion of his wife's allotment reveals that natural reproduction is becoming established satisfactorily with hemlock, cedar and silver fir.

(b) Letter from Acting Supt. Benedetto to Area Director Dale Baldwin, 3/3/67.

- States that because of the stands of mature seed-bearing trees reserved from cutting to the northeast and southeast of Mrs. Hebert's allotment, there is every reason to believe a new crop of trees will become established.

(c) Letter from Supt. George Felshaw to Area Director Dale Baldwin, 9/1/66.

- States that a check of the cutover area on Mrs. Hebert's allotment revealed that natural reproduction is becoming established with 40 to 50 percent stocked with hemlock, cedar and silver fir. It does not appear necessary or advisable to consider planting.

(d) Letter from J. A. Hebert to Supt. John B. Benedetto.

- States that since the contract terms for his wife's allotment have provisions to insure reseeding of this tract, it would seem that the allottee could depend upon a suitable and competent reforestation program after logging. To date this has not been done on the 40 acres that were logged in 1960. Although they are aware of provisions of the A.S.C. office relative to replanting and seeding of forest lands, they see no reason to resort to this cost-sharing program since they were assured of the same service by the BIA free of cost.

IA67.2 - Letter from Chief of Branch of Forestry Perry Skarra to Commissioner of Indian Affairs, 7/3/67.

- Regards a proposal to use emergency fire suppression funds to rehabilitate by seeding and planting severely burned forest land.

- Recommends broadening the language of an item in the resources management budget to authorize performance of emergency rehabilitation work on Indian lands following fires.

- States that we have rehabilitated some burned areas in the past using regular forestry and other resource management funds, but this is mostly

S & M (when available) and special public works program funds such as APW. These sources have not proven dependable and too often the needed emergency rehabilitation has not been done. This has resulted in serious wind and water erosion and the subsequent vegetative growth is frequently undesirable annual weeds and grasses of the slash fuel type which aggravate the fire hazard. Rehabilitating such areas is much more difficult and costly than if properly seeded or planted promptly following

the burn. Also, severely burned over forest areas that are not promptly stocked with commercial tree species adversely affect production from the forest property. Also, prevention of soil erosion with its attendant sludge, siltation and pollution of downstream courses, cover and habitat for game and fish, landscape beauty and other aspects are all matters important in the broader public interest. For these reasons, we believe it to be in the Indians' and public interest to have budgetary authorization and appropriation for the emergency rehabilitation of Indian lands damaged by wildfires.

IVA67.1 - Letter from Supt. George Felshaw to Area Director Dale

Baldwin, 8/10/67.

- Encloses several color photographs and maps of the Cook Creek areas and Raft River areas previously denuded by wildfires where rehabilitation work has been delayed because of lack of available funds.

VA67.1 - Memo of a meeting by Forester Robert D. Hickman, 9/29/67.

- A conference of BIA officials to discuss slash disposal problems on the Quinault held on Sept. 13, 1967.

- Stated that opinions vary between agencies and companies as to the effect of burning on regeneration of the stand. Also, opinions are divided as to the method of reforestation, whether by hand planting or by aerial seeding. Survival chances appear better by hand planting, but the costs are substantially greater than seeding by helicopter. A decision on the authority of the BIA to plant on allotments is needed.

Skarra mentioned there should be no trouble with justification where the good that is derived is for the benefit of others as well as the landowner. The APW program was on this basis. The Washington office has been trying with no success to date to obtain funds for emergency rehabilitation in the same manner as funds for fire suppression. Other Government agencies, such as the BLM, have done this.

IA67.3 - Letter from Asst. Area Director A. W. Galbraith to Commissioner of Indian Affairs, 10/3/67.

- Regards request for background material supporting emergency funds for rehabilitating forest areas denuded by fire. Estimates cost of \$45 per acre for planting and \$15 per acre for seeding.

- States most devastated area is the Raft River fire area on the Quinault, where approximately 1,600 acres of Indian trust land were burned. This area should be reforested immediately if it is to remain productive.

Washington State law requires owners of private land within the burn to reforest their forest land, and it would be a most serious loss to the Indian owners if comparable action cannot be taken on the Indian trust lands.

- Estimates there are about 10,000 to 15,000 acres of productive forest land lying idle on reservations in the Portland area, much of which has resulted from fires. Urgently requests consideration of making funds available to reforest Indian trust lands in the Raft River fire area.

IA67.4 -

(a) Letter from Asst. Area Director A. W. Galbraith to Supt. George Felshaw, 10/3/67.

- States that the Washington State Dept. of Natural Resources is reviewing the status of burned areas to determine where reforestation is necessary due to the lack of an adequate seed source. A similar study of the Indian trust lands involved is being made by your staff.

(b) Letter from Supervisor Donald R. Hopkins of the Washington State Dept. of Natural Resources to Area Forester Kenneth Hadley, 9/28/67.

- States that reforestation of the burned areas should be accomplished this winter if possible.

- Recommends seeding with Douglas fir prior to February 1st where mineral soil is exposed and drainage adequate. On other areas, recommends planting with Douglas fir where they would not be subject to flooding.

(c) Letter from Forester David L. Hintz of the Soil Conservation Service of the U.S. Dept. of Agriculture, to Area Forester Ken Hadley, 9/29/67.

-Strongly recommends that the burned area be seeded or planted to Douglas fir before next Spring. If this is not done, serious regeneration problems could occur. Does not recommend direct seeding of the soils located on the nearly level terraces with high water tables. These soils are suited to cedar, hemlock and Sitka spruce. However, these types of planting stock are not available from the DNR nursery, and so suggests planting Douglas fir on the higher mounds above the water table. The only other alternative is to let the area return to brush.

IA68.10 - Letter from Acting Supt. John Benedetto to Area Director

Dale Baldwin, 5/28/68.

- States desire to rehabilitate remaining acres in Raft River burn that have not been reforested. Also, it will be necessary to hand plant small areas to fill in where direct seeding from helicopters failed.

There is approximately 1,000 acres in need of rehabilitation. Results from the aerial seeding in January 1968 appear to be fair to good.

The cost of seeding is about \$10 per acre; cost of planting 500 trees per acre is approximately \$25 per acre. Steve Lewis from the DNR favors planting over seeding since their projects in the past were unsuccessful and required interplanting or precommercial thinning.

Adolph Dednarier, U.S. Forest Service forester at Quinault Lake, also recommended planting. The 80 to 100 percent success of planting makes additional cost justified.

- Recommends hand planting of the remaining 1,000 acres in need of rehabilitation.

IIA63.1 - Report from Forest Manager Don Clark to Assistant Supt. John F. Gordon, 9/10/68.

- Regards slash disposal on the Quinault Reservation.

- States the logical method of slash disposal is through burning, but all such areas must be planted or seeded since brush comes in very rapidly on the Olympic Peninsula. Planting costs vary from \$25 to \$35 per acre depending upon the topography and number of trees planted per acre. Direct seeding costs vary from \$8 to \$10 per acre, depending upon rate of application. Under state forest practice laws, all the timber

on the private tracts within the Queets area can be logged provided a bond is posted with DNR to guarantee planting. All of the logging companies have planted the areas they have logged each year. U.S. Forest Service plants only Douglas fir on a 14' x 14' spacing with approximately 222 trees per acre. In 6 years' time they expect volunteer hemlock up to 8,000 trees per acre. Mr. Selmer, associated with Pacific Reforestation Company of Portland, Oregon, does most of the planting work at a cost of \$25 per acre. Estimates an assessment of \$1.30 to \$1.60 per MBM would be needed to cover slash burning and planting. In lieu of the assessment, an appropriation of about \$120,000 annually would be necessary.

IIA68.8 - Report by Earl R. Wilcox, 9/18/68.

- This is entitled "Analysis of Indian Contribution toward Paying Cost of Forest Management."

- States that on a broad basis the federal government contributes huge sums each year toward developing and stabilizing communities and cites several examples in this country as well as around the world. More specific examples in the field of forest management where the federal government policies favor stabilization of communities and the price of timber is stabilized, etc. are cited. States that the failure of the federal government to at least share in the cost of more intensive management on Indian lands would in effect negate a large part of the benefits of the tax exemption guaranteed to Indian people. Cites recognition by President Johnson's message to Congress on

March 6, 1968, that benefits flow to non-Indian people and communities from the wise development of Indian resources. The record shows that at least two-thirds of the jobs created in the logging and manufacturing of Indian timber are occupied by non-Indians. Three-fourths of the Indian timber sold during 1967 was purchased by non-Indian firms and people. There are also indirect benefits from the sustained yield management of Indian forests. States that available data show that Indian lands are not receiving the same intensive management treatment provided for federally owned lands. The ratio of \$381 spent on reforestation and stand improvement on national forests per each dollar spent on Indian lands for such activities compares to a ratio of about 12:1 in the volumes cut and 10:1 in stumpage receipts, and 18:1 in acres of commercial forest lands. This disproportionately low expenditure for timber stand improvement and reforestation has resulted in a staggering backlog of underdeveloped young timber and understocked forest lands on Indian reservations throughout the country. The annual expense of about \$2.3 million, in addition to the present funding, which would be required to maintain the same intensity of reforestation and timber stand improvement as is being practiced on national forest land would be about 60 percent of the entire annual appropriation for the BIA forestry program and about 13 percent of the gross receipts from sale of Indian timber. It does not appear reasonable to expect the Indian people to bear this expense. Any dilution in the total income received by Indian people from stumpage aggravates the economic distress of the community and furthers the need for federal funds to offset such distress. It would appear more reasonable

to invest the presently charged 10 percent timber sale fee in the intensive development of Indian timber and retain the fund in the local communities where it could be used to provide Indian employment and increased income from Indian-owned timber lands and a firmer resource base to both Indians and non-Indians in the area, rather than depositing the funds in the Federal Treasury.

IIA68.9 - Report by Supt. George M. Felshaw to Area Director Dale Baldwin, 9/23/68.

- This reports on the reseeding study on an area within the Raft River fire in the Queets unit during Oct. 1967. The BIA had seeded the area with various grasses to determine which would provide the best cover - to prevent erosion.
- States that during the Winter the seeded areas were included in an aerial seeding of Douglas fir. In June 1968 a reproduction survey on a basis of a series of mil-acre plots then showed the area to be 73 percent stocked with Douglas fir. Observes that the Douglas fir seeds germinated as well under the grass cover as they did in the open. Studies will be made to check the effect of grass competition.

IIA68.2 -

(a) Letter from Asst. Area Director A. W. Galbraith to Commissioner of Indian Affairs, 9/24/68.

- Submits a proposed 10-year rehabilitation planting program. The project calls for the reforestation of 9,000 acres of land which is capable of producing 9 million board feet per year and which is now producing no significant timber growth. This non-productive status

was primarily caused by a series of devastating fires in the 30's and 40's. Total cost of the program is estimated at \$445,380. The returns annually are estimated at \$360,000 of stumpage value through annual growth and about \$378,000 in payroll.

- States that at present the 10 percent administrative fees greatly exceed the federal appropriated funds expended on the forestry program on the Quinault.

- States that as long as these lands in need of reforestation remain idle, the economy of the reservation will be adversely affected in the amount of \$360,000 per year in the loss of stumpage receipts alone.

- Requests additional funds for the 1970 budget.

(b) Report from Supt. George Felshaw to Area Dir. Dale Baldwin, 9/12/68.

- This is a 10-year rehabilitation planting program for the logged-over lands south of the Quinault River.

- States that approximately 9,000 acres, lying mainly in the old Pt.

Grenville, Moclips, Hatch and Cook Creek units are supporting little or

no advance reproduction. The 10-year planting program is designed to

reforest the area with Douglas fir seedlings 2-0 stock at the rate of

200 trees per acre. 900 acres would be planted per year. Where the

competition would be too great for seedlings, Douglas fir transplants,

2-1 stock, will be used. Cost is estimated at \$45 per acre, which

includes site preparation. It is planned to contract this project to

a firm specializing in reforestation or to members of the Quinault Tribe.

Aerial seeding is not contemplated because of the existing vegetative

cover of Bracken fern and salal brush.

- States that in the past submissions of budget estimates, the Branch of Forestry has asked for funds for areas mainly in the Cook Creek unit, but now the main area is located in the Moclips unit. This is due to the fact that much of the area in the Cook Creek unit is now alienated and therefore not subject to receiving funds. Gives a conservative estimate of a loss in stumpage value per year of having these lands in a nonproductive status at \$360,000. The cost benefit analysis in the appendix concludes that a \$50 per acre investment has the ability to generate \$4,828 worth of benefits over a 60-year period.

VA68.2 - Memo by Greg Stevens of a meeting with Carey, Gustavson, Winner and himself, 10/16/68.

- Concerned the rehabilitation of Raft River burn. Winner advised Carey that McCreedy called to say he will be ready to start planting soon. Gustavson stated that they were planting in all three administrative areas because the crusted condition of the topsoil and swampy areas in certain places were not receptive to tree seed. 25 percent of the stock would be spruce and be planted in the swampy areas.

IA68.12 - Letter from Asst. Area Dir. A. W. Galbraith to Commissioner of Indian Affairs, 10/16/68.

- States that the reforestation program already in progress includes aerial seeding of 920 acres supplemented with planting of 1,000 acres. Plots have been established to observe germination and survival of the aerial seeding and reports on the program will be transmitted when completed. The survey will start in the Spring of 1969.

IIA68.5 - Memo by Forest Manager Don Clark to Supt. George Felshaw,

12/5/68.

- Comments on the Task Force Report on Land and Timber Sales.
- Refers to page 7 of the report, and recommends that since the 10 percent fee now assessed is not returned to the Agency for use in forest management, that this fee be abolished and that legislation be enacted to make the 10 percent available specifically for artificial reforestation and timber stand improvement projects.
- States belief that GAO and the Bureau of the Budget would strongly oppose such legislation.
- Refers to page 9 and recommends that the special deposit requirements of the special allotment timber cutting permits be waived and in lieu thereof that the landowner be required to post a cash bond sufficient to artificially restock the area. This would normally amount to about \$3,000 per 80-acre tract. Since no provisions have been made for Indian owners to be required to reforest logged-over land, most of the cutover trust land is being restocked naturally. This is an extremely slow process and results in quite a time lapse after the timber is logged until new trees become established. For every year, approximately 1,000 to 1,500 board feet per acre of growth is lost.

IIA68.7 - Report from Supt. George Felshaw to Area Dir. Dale Baldwin, 12/11/68

- The Agency recommends that the administrative fees collected on the cutting contracts and the special timber cutting permits be eliminated with regulations established to require the landowner to deposit an amount accessible to the Superintendent to be used only for reforestation purposes.

- States that the reforestation procedure has been one of letting nature assume the responsibility. Consequently, the land is not reproducing to its maximum ability. Private timber interests throughout the country have, for many years, adopted the artificial reseeding principle and are receiving second growth results much faster than when relying on natural reproduction. These comments and recommendations are made in response to the special task force report of 9/19/68.

IIA68.10 - Summary tables for special study of Indian forestry program, 1968.

(Considering the fact that this document is undated, unsigned and unexplained, its value is questionable.)

- On page 38, indicates in a table that the backlog at the end of 1967 for thinning and release for the Quinault Reservation was 11 units (presumably acres). Backlog for pruning was 11 units; for planting in 1967, accomplished 12 units; and a backlog of 33; and under seeding, indicated a backlog of 1,636 units.

IA69.2 - Memo from Chief of Forest Programs, Perry Sharra, to Commissioner of Indian Affairs, 5/19/69.

- Encloses item clipped from the newspaper on remarks made by Representative Julia Butler Hansen during testimony taken 4/23 before the House Appropriations Subcommittee in which she accused the BIA of being 20 years late in its request for money to reforest Indian lands.

- States that the study of the Indian forestry program during Oct. 1968 also identified reforestation as one distinct area within the management

program that has been inadequate because of insufficient funds to support the activity. Bureau foresters have consistently over the years requested budget increases for reforestation.

- Encloses record of the funding increases requested by Forestry for each of the past 10 years. Of a total of nearly \$11 million proposed, only \$2.4 million was cleared for final presentation to the Congress. The attached table shows that the actual increase authorized (presumably by Congress) over the 10 years was approximately \$1.4 million. It should be noted that this table reflects the requests for increased funding and does not show the total funds expended on reforestation. It may also be noted that the Bureau seemed to be particularly unresponsive to the forestry requests for increased funds from 1965 through 1969.

IA69.5 - Letter from Asst. Area Dir. (Economic Development) to Supt.,
Western Washington Agency, 12/19/69.

- States intent to request a reduction in the administrative fee to 8 percent. States there has been no action on the 10-year rehabilitation plan sent to the Commissioner by letter dated 9/24/68, and appropriations for the near future do not look promising. Failing receipt of the required level of appropriation to do the reforestation on timber contract areas, a contract provision for planting by the purchaser with the cost allowed for in the stumpage rates may be required. The allotment owner could be compensated for the loss in stumpage receipts by receiving the 2 percent fee reduction. A similar procedure is being contemplated for the special allotment timber cutting permits.

IA70.3 - Letter from Asst. Area Dir. A. W. Galbraith to Commissioner of Indian Affairs, 3/10/70.

- Table shows the amount of fees earned from timber sales and the amount of expenditures during the period ending 6/30/69. On the Quinault Reservation, the surplus generated was \$196,000, approximately.

- States that the long-neglected rehabilitation planting projects and general intensification of forest management practices on most of the timbered reservations in the Portland area are urgently needed. Funding to accomplish this has been an annual request for many years, but no such funds have been available on a regular programmed basis.

- States that they are hopeful that appropriated funds can be made available for the requested reforestation program, but that an alternative which has been recommended by this office and received support from the tribes involved is to return the administrative fees to the forests from which they were derived to accomplish the necessary intensive management.

IJ70.5 -

(a) Letter from Allottee John Shepard to Western Wash. Agency, 3/10/70.

- States that he had an agreement with Don Clark that there would be no shakebolt cutting on his claim after he planted it with Douglas fir in 1964. He was concerned by the fact that he noticed a shakebolt cutter in the area. Requests that they notify the shakebolt cutter not to work on his claim.

(b) Letter from Acting Forest Mgr. Oney Paakkonen to Allottee John Shepard, 3/23/70.

- Accedes to his request.

IA70.2 - Letter from Forest Manager Joseph Jackson to Asst. Supt., 5/25/70.

- Refers to chip project with the Weyerhaeuser Timber Company.
- States that due to the allotment heirship problem, he recommends subcontracting the project from Aloha or Rayonier to the Quinault Tribe. If this failed, he recommends the Secretary to exercise his prerogative of salvage without the allottees' permission on the ground that it is a serious fire hazard and curtails the ability of the land to produce a future timber crop within a reasonable time. A reasonable time for regeneration is 2 to 5 years.

IJ70.11 -

(a) Letter from Forest Manager Joseph Jackson to Harold Stilson, of Evans Products Company, 7/21/70.

- States concern about the volume of slash and desire to put cutover land into active timber production.
- States these volumes of slash almost preclude any regeneration by any technique, whether natural or artificial. Discusses proposed salvage operation for chip material by Weyerhaeuser.

(b) Letter from H. M. Stilson of Evans Products Company to Forest Manager Jackson, 8/12/70.

- Agrees that failure to remove the cedar slash makes reforestation nearly impossible.

(c) Letter from Acting Supt. John Bushman to Area Dir., 9/30/70.

- States objective in removing logging slash is that reforestation could be accomplished within a reasonable time after the block is logged.
- States that the present condition virtually precludes any forest

regeneration, either naturally or by artificial means. Instead of burning, an attempt will be made to dispose of the slash by chipping.

IIA71.2 - Memo from Acting Supt. John Benedetto to Area Dir., 1/15/71.

- States that during calendar year 1970, 1,093 acres were planted on the Quinault at a cost per acre of \$32.29.

IIA71.4 - Letter from Acting Area Dir. A. W. Galbraith to Commissioner of Indian Affairs, 11/5/70.

- Refers to inquiry from Congresswoman Julia Butler Hansen concerning the discontinuation of the reforestation program on the Quinault Reservation.

- States that the reason tree planting and other intensive forest management practices cannot be conducted on the Quinault or other Indian forests on a continuing basis is due to a lack of appropriated funds for such purposes. The forestry program sustained a substantial budget reduction between the fiscal years 1970 and 1971. There have been numerous recommendations from the Portland Area Office and the Commissioner's Office to the Secretary that administrative fees collected from timber sales be made available for such forest management practices and that if such funds could be made available for contracting the tribes, a permanent program could be developed.

IR71.6 - (a) Letter from Forester John Schneff to Forest Mgr., 10/22/71.

- Regards instructions to tractor operators on the Crane Creek unit that logging be voluntarily stopped when conditions are too wet, since this

causes soil compaction with detrimental effects on the establishment of new reproduction.

(b) Letter from Supt. George Felshaw to Wilton Vincent of Rayonier, 11/10/71.

- Regarding instructions to tractor loggers on Crane Creek.
- States that any deviations from the guidelines will result in a shutdown of the tractor operation.

IA71.20 - Letter from Acting Regional Administrator of the EPA, Douglas C. Hansen, to Area Dir. Dale Baldwin, 11/4/71.

- States that on 10/8/71 they received a request from the Business Council of the Quinault Tribe for assistance, and in response to the request, EPA representatives visited the reservation on 10/29/71.
- States that present conditions are serious. Large clearcut areas were so totally covered with slash and debris that natural reforestation was not occurring, even after 8 to 10 years, and in one case over 30 years.

IA71.12 - Letter from Supt. George Felshaw to Area Director, 11/12/71.

- States that within limited areas of the Crane Creek and Taholah units, forest regeneration is excessively retarded. These areas will be identified, and if cedar slash is responsible for the nonstocked condition, a burning plan will be developed.
- Recommends that Forester Gardner Ferry be assigned to Quinault to conduct preliminary studies.

IA71.4 - Memo from Supervisory Forester Victor K. Meeker to Area Forester, 12/6/71.

- States that presently there are 7,500 acres of cedar slash that have not attained restock status. The regeneration lag to 40 percent stocking appears to be 5 years. Costs to remove residues and to reforest promptly are: planting--\$45 per acre (\$55 if extra site preparation required); slash disposal by burning--\$100 per acre; residue removal of unmerchantable material, chips, by subsidy--\$140 per acre. The added value in growth over a 60-year rotation, disregarding interest, is \$225 per acre; fire suppression cost reduction of \$1 per acre per year; and unknown values for reduced cost of the next logging act, the aesthetic appearance, and job values.

- States that natural regeneration will be a diminishing effect as logging units approach complete cutover. Had the period of cutover been approximately the rotation period, this diminished effect would have been filled by seed source from the older regenerated stands. Restocking by planting is thus a requirement in the latter part of the cutover period.

Where natural regeneration is occurring within the 5-year lag period, the gains of planting would not equal the cost of planting, and therefore planting should probably be aimed at small area planting to supplement natural regeneration. As the seed sources decline in the latter years of the cutting period, planting should be practiced routinely on the cutover areas as it is determined natural regeneration prospects are deficient.

IJ71.22 - Letter from Acting Asst. Area Dir. Kenneth Hadley to Supt.,
Western Washington Agency, 12/10/71.

- States regeneration has been dependent upon the seed from the stands being cut or uncut timber adjacent to the cutover blocks. Various factors operate to make the natural regeneration an incomplete system.

1) As the block cutting system progresses, a point is reached where seeding from adjacent stands is a diminishing prospect. 2) Slash may be an actual blockage to natural reseeding. 3) Conflict with the prospects of salvage operations. On the Taholah unit, natural reseeding sources are deficient as new areas are cutover. Where natural reseeding has failed, both planting and site preparation may be required. A deadline on salvage activity may need to be set so that regeneration plans can be advanced. Therefore, requests logging plans to provide for information regarding the regenerative aspects on each cutting block that need be implemented.

IIA71.5 - Report by Forester Ralph D. Gustavson, 1971.

- This is a report on the Crane Creek and Taholah unit reproduction surveys. The stocked quadrat method of sampling was used in the surveys. Adequate stocking is described as a minimum of 100 well-distributed trees per acre. The theory behind this system is described in manual of the State of Washington, Dept. of Natural Resources, paragraph .100 of Chapter .07, Section .01. The plots used in the survey were 1/250th-acre circular plots (7.45' radius). To obtain species composition and total number of trees per acre, this data was recorded for each plot. A plot was considered stocked if it had one seedling at least 2 years old, or

if there were 3 seedlings which had survived the first growing season. The computations in the report limit stocking on a single plot to 15 trees.

- States that as work progressed on the survey, it became apparent that adequate stocking was being attained prior to 5 years following logging. This was due to the advance regeneration resulting from the seeding of the harvested trees. This is very obvious when the survey cards are studied, since non-stocked plots are usually not clustered but are distributed over the block with high counts found in the center of the blocks and not just adjacent to the seed source. It appears desirable to find a measure of the amount of advance regeneration and what effect the various logging operations have on their survival. The stocking percentages and species composition on both units are nearly identical and clearly show that adequate stocking is attained immediately following logging, with additional stems rapidly being added. The stands at 10 to 20 years of age are similar to the overstocked stands typically found in the area. Western hemlock is the predominant species, with a good amount of western red cedar and minor percentages of other species.

- Observed that using natural regeneration as the sole means of restocking, the results of the survey indicate that stocking exceeds the minimum standards on all of the logged over areas of Crane Creek and Taholah. The initial stocking is present on the ground at the time of logging, and seed in the slash augments this stocking. The burning of western hemlock-western red cedar types makes planting necessary and converts the type to Douglas fir-white fir or spruce. This burning is done at the expense of established trees several years old and profits in making planting easier.

perhaps improving the aesthetic appeal, easing the fire danger for a short period of time, and controlling the dwarf mistletoe.

- States that hemlock and cedar, unlike Douglas fir, need a certain amount of protection from temperature extremes. In conducting the survey, they found that slash accumulations on landings in small piles greatly delayed the establishment of reproduction, but only very high concentrations of slash in the general area of logging would delay establishment. The type of logging method has a marked effect on the survival of the advance regeneration. The skid trails are very slow in becoming established because of the soil compaction. The more the logging method comes to raising the logs completely off the ground, the less damage to the advance regeneration. Thus, the "skyloc" appears to have the least adverse effect while tractor logging is the most destructive. Shake cutting has a very adverse effect because it is generally done by tractors and also causes concentration of spalls. Excessive time lag between logging and shake cutting is especially detrimental to the establishment of regeneration.

- Site topography and weather all have their effects on reproduction. Low site cedar stands poorly drained by nature are the slowest to regenerate. There is more salal and huckleberry on these sites, and consequently, following logging, are quick to respond and thus shorten the time during which the site is favorable to natural seeding. Better stocking is found on the steeper, northerly aspects of the topography. This is because in logging steep land the logs are lifted rather than dragged. Also, the steep hills are more well drained and make a better seed bed. A long dry period in the weather during the growing season also adversely

affects the regeneration.

- In summary, the results of the survey show that adequate natural regeneration is occurring on the logged over lands on the Crane Creek and Taholah units. Because natural reproduction tends to be uneven in distribution and occurs over a period of time, it would be advantageous to plant or seed the logged areas to assure immediate full stocking. Planting also has the advantage of producing a mixed stand and introducing trees of high generic stock. Unless it is decided to convert the site to another type, burning should be confined to cleanup of landings, rights-of-way, etc. Because of the over-abundance of stems that occur with time, a plan for thinning will have to be developed if maximum growth is to be obtained.

IIA72.6 - Report by Pierovich Study Group, 1/24/72.

- On page 15, comments on the disagreement on the criteria for adequate restocking. Refers to a report dated 10/31/71 by N. Dee Terry, which found good-to-medium reforestation of only 17.67 percent on Crane Creek and 25.1 percent on Taholah. His statistics were based on an adequate spacing criteria of 8' x 8', or 680 trees to the acre.

- States that the general industrial objective is 400 trees to the acre, and the 12' x 12' spacing reportedly being used by the BIA results in 310 trees to the acre.

- Comments that the Forest Service Practice on the adjoining Olympic National Forest has been to burn slash and plant Douglas fir on 14' x 14' spacing, which results in approximately 222 trees per acre, with the expectation that hemlock will naturally seed the remainder.

- States that without an opportunity to review the conditions on the ground, it is impossible to conclude whether valid restocking criteria

are being used.

- States the belief in leaving seed sources to the east of clearcut units in the coastal forests seems to be well substantiated in the literature.

- Refers to a USDA Forest Service Pacific Northwest Forest and Range Experiment Station research paper, PNW-12, written by Ruth, Robert H. and Carl M. Berntsen in 1955. It is a report of a 4-year record of Sitka spruce and western hemlock seed fall on the Cascade Head Experimental Forest.

- States they were told by BIA foresters that volunteer seedlings on burned areas had been observed to die in the first year due to damping-off which is a fungus disease commonly encountered throughout the Pacific Northwest. The study group discounts damping-off of volunteers as a reason for not burning slash, and recommends that slash be disposed by burning, and to plant desirable species if means can be found to pay for these costs.

IIA72.8 - Report by Forester Ralph Gustavson to Forest Mgr. Joe Jackson, 2/4/7

- Refers to reproduction survey report of 3/26/61 (IIA61.3). Also refers to an excerpt from Chapter VII of the "Reforestation Surveys" of the West Coast Forestry Procedures Committee Report, 1950, of the Western Forest and Conservation Association, Portland, Oregon. The author of the 1961 reproduction survey stated that he used the mil-acre computation and indicated that the stocking rating should be 10 percent for 1 bar of stocking, 40 percent for 2 bar of stocking, and 70 percent for 3-bar stock. These percentages are the ones used for the 1/250th acre plots and are in

error unless converted as shown in the 1950 report. Thus converting the figures to the correct ratings, the stocking levels are raised by approximately one class. Also, with the increasing use and value of red alder, it is questionable that alder types should be called nonstocked. With the mil-acre computation, zero to 4 percent is considered nonstocked; 5 to 19 percent poor stocking; 20 to 49 percent medium stocking; and 50 percent or over good stocking.

IR72.1 - Letter from Forest Mgr. Joseph Jackson to Allottee Richard Lomsdalen, 2/10/72.

- States his allotment has been chosen part of the 1972 Crane Creek logging plan and there is a proposal to leave a buffer strip of standing timber in his allotment along the Quinault River. Jackson states that it is his opinion that the timber will blow down and sees no benefit in leaving the timber.

- States that it would be logical to invest the value of this timber toward planting of his allotment and thereby provide streamside bank stabilization and a valuable tree crop in future years. Under a federal forestry program, he may be reimbursed for up to 80 percent of his planting costs.

IIA72.4 - Report by Forest Mgr. Joe Jackson, 2/17/72.

- Submitted to the Commissioner of Indian Affairs by letter dated 2/29/72, by Asst. Area Dir. A. W. Galbraith.

- Comments on the Pierovich report (IIA72.6).

- States that the BIA has continued to pressure the budget office to return the administrative fees for rehabilitation work.
- States the Forestry Branch has submitted a study and estimated cost to rehabilitate the Raft River system, and has recommended a contract to be entered into with the Quinault Tribe. A recent reproduction survey on the Taholah unit reveals that it may be unwise to burn slash and thus destroy advanced reproduction. Instead, the Bureau will burn landings, rights-of-way and spalls accumulations.
- States that a regeneration survey in the area south of the Quinault River has led to a continuing planting effort. Approximately 1,000 acres is being planted each year through a Buy-Indian Act contract with the Quinault Tribe. It will take 3 to 4 years to wipe out the backlog in this area.

LJ72.7 - Letter by Asst. Area Dir. for Economic Development to Commissioner of Indian Affairs, 2/29/72.

- Encloses a copy of the reproduction survey report by Ralph Gustavson, and states their intention to have the study reviewed by the U.S. Forest Service to obtain their comments as to the criteria used in determining adequacy of stocking.

IA72.2 - (a) Letter from Supt. signed by Forest Mgr. Joe Jackson, to Commissioner of Indian Affairs, 3/30/72.

- Summarizes recommendations in response to the meeting on 3/15/72 with Commissioner Bruce and others.
- Recommends, among other projects to be performed by the Quinault Indian

people, that \$20,000 be made available for reforestation during fiscal year 1973.

(b) Letter from Acting Area Dir. A. W. Galbraith to Commissioner of Indian Affairs, 3/21/72.

- States that prior attempts to obtain funding necessary for management have rarely been successful.

- Recommends following action, among others: supplemental and continuing budgeting of funds to reforest by planting 4,000 acres of land over a period of 5 years at a total cost of \$200,000, or an annual program of 800 acres and \$40,000. In the alternative to budgeting of funds, make available the excess currently in the amount of \$525,000 between deductions for administrative expenses and the accumulative expenditures by the federal government. If the excess of deductions cannot be made available, consideration should be given to reducing the administrative fee deduction to 6 percent from the current 8 percent.

IIA72.3 - Report by Area Dir. Dale Baldwin to Commissioner of Indian Affairs, 4/28/72.

- This is a factual report requested by memo of Commissioner on 4/7/72 concerning administration and enforcement of the Crane Creek and Taholah timber contracts. The bulk of material consisting of letters and reports was sent under separate cover, and the following report provides a general summary concerning the administration of the contracts. On page 12, states that the development of the logging plans for both units took into consideration the direction of the prevailing winds during the seed-throwing portion of the year. In 1959, allotment owners were advised they could

reforest their cutover allotments under the agricultural conservation program with part of the cost reimbursed by the government. Very few allotment owners expressed interest. A similar program is now called "Rural Environmental Assistance Program" and is being recommended to allottees. In 1960, a regeneration survey was conducted, indicating that the cutover portions of the units were adequately restocking.

A similar study was done on Crane Creek 2 years later. Recent studies indicate seed on the site at the time of logging may in most areas be sufficient to provide adequate regeneration. This may limit the general salvage prospects to a period of 2 years after logging.

Purchasers are not required under the contract to regenerate the cutover areas. Their responsibility is limited to avoiding damaging areas where regeneration has been established.

IIA72.7 - Report by Preston Guthrie, submitted by letter of Acting Supt.

John Benedetto to Area Dir. 8/23/72.

- Refers to contract between Quinault Company and the BIA which provided \$50,000 for labor and materials necessary to prepare the site and secure suitable planting stock and plant areas on the Quinault Reservation.

Scarification of designated areas south of the Quinault River began in March 1971 by James Jackson. 159 acres were scarified at this time.

The planting began on November 29 and continued through April 27, 1972.

Approximately 1,224 acres were planted with 235,640 Douglas fir seedlings.

Also, 1,675 cottonwood whips were planted for stream protection.

- Recommends that the position of reforestation forester be filled so that

one man may dedicate 100 percent of his time to the task in order to control these programs to obtain the necessary efficiency. A full scale training program should be conducted at the beginning of every planting season, with monthly reminder sessions so that the planting crew would be repeatedly made aware of the effects of proper planting. Planting should be done in systematic straight lines and the planting crew should make an effort to cover 100 percent of the designated areas. An accurate planting report should be filed weekly with the reforestation forester.

IR73.1 - Memo by Forestry Technician Michael Escalante to the files,
2/13/73.

- Regards salvage on the Floyd Hudson allotment. The allottee requested a permit for salvage purposes and was told that the allotment had been planted with Douglas fir and that it would be against his own best interests to disturb the reproduction. A permit was issued since Mr. Hudson agreed to carry the shake blocks out by hand.

VIIA73.1 - General operating procedures for timber sales administration
by Forest Mgr. Jackson, 8/30/73.

- On regeneration, states that when designing the logging plan, the availability of natural seed source will be examined. If lacking, notify inventory and management section so they can plan on artificial reforestation. Trees most compatible with the site will be planted whenever available.

IIA73.1 - Report by Vernon S. Halbert, submitted by letter of Acting Supt. Irene Doy, to Area Director, 9/14/73.

- Reports on the reforestation work by the Quinault Business Committee. A total of \$47,500 was expended for the planting project. Scarification of the designated areas south of the Quinault River began in July 1972 by Justeen James. A total of 206 acres was scarified. Scarification was terminated in February 1973 due to lack of funds. Planting began mid-November 1972 with 4,379 cottonwood whips planted along Duck Creek and Camp Creek. 1,000 bald cypress seedlings were planed to test survival qualities in swamplands. Remaining 940 acres were planted with 235,205 Douglas fir seedlings.

- Stated that planting bars were secured in Tribe but with little success, the major complaint being that they were too heavy. Concurs with the first two recommendations in last year's report (IIA72.7).

Logging & Forestry Claims

Alec Jackson, President
Greenacres Consulting Corp.
Box 386
Kenmore, Washington 98208

(206) 486-9313

Specifically, the Contractor shall perform an economic and forestry practices study of the management of the forests on the Quinault Indian Reservation, Washington, as performed by the Bureau of Indian Affairs' Forest Service. The required study shall encompass the following:

1. Determine whether the creation of large timber units on the northern portion of the reservation; i.e., Taholah, Crane Creek and Queets units, limited the number of bidders and depressed the bid price.
2. Determine whether the contracts entered into by the United States on behalf of the Indian owners of the land on the Taholah and Crane Creek unit provided for an inherently inadequate formula for determining fair stumpage prices which the Indian owners would receive.
3. Determine whether the Bureau of Indian Affairs improperly applied the stumpage formula contained in the contracts entered into on the Taholah and Crane Creek units by using inadequate or erroneous data, so as to deny the Indian owners fair value for the marketed timber.

4. Determine whether the Bureau of Indian Affairs permitted the logging contractors to engage in wasteful, damaging and potentially damaging logging practices. The areas to be investigated include but are not limited to the following:
 - a. improper scaling
 - b. failure to salvage other useable materials other than logs at adequate prices
 - c. clear cutting
 - d. inadequate slash disposal
 - e. possible highgrading in early years of contract
 - f. fire hazard damage and prevention
 - g. disease damage and prevention
 - h. adequacy of advance payments
 - i. road systems and tolls
 - j. permitting the siltation of streams and not clearing streams of obstructions
5. Determine whether the Bureau of Indian Affairs failed to arrange for the proper logging of the Queets timber unit on the reservation.
6. Determine whether the Bureau of Indian Affairs failed to insure a sound road system prior to allowing most of the land in the Queets timber unit to go out of Indian ownership.
7. Determine whether the Bureau of Indian Affairs failed to arrange for proper rehabilitation and reforestation of cutover timber land and for proper care of growing timber.
8. Determine whether the Bureau of Indian Affairs managed the forests on the Quinault Reservation on a sustained yield basis.
9. The standard to be applied to the above investigation is that of the average logger, a reasonably prudent but not infallible individual. The standard to be applied is also to be that of the current industry practice or state of the art at the particular time the practice in question was being done.

The study from which the report will evolve is prompted by plaintiffs' claim that the United States failed to construct a sawmill to enable the plaintiff Indians to reap maximum profits from the sale of their timber and to gain valuable knowledge of timber management. Accordingly, the study and report will cover:

- (a) the economic feasibility of establishing, operating and maintaining a sawmill in terms of costs, risks in marketing the finished products, and chances for profit;
- (b) whether the Quinault Indians residing on the reservation had the expertise to operate a sawmill, or could reasonably acquire such expertise without unduly jeopardizing the investment in a sawmill;
- (c) whether the experience, if any, of tribal sawmills on other reservations in the Pacific Northwest with similar timber and comparable marketing outlets was such as to justify the investment essential to explore the possible potential for a sawmill on the Quinault Reservation.

The contractor on the basis of such study and examination of the reservation will determine whether a sawmill investment would have been justified under the circumstances. The time period covered will be from 1920 to the present.

The report will contain all pertinent data collected in the course of this consultant's investigation and study which are necessary to substantiate conclusions. All factual statements will be adequately documented. Supporting documents be legibly reproduced in triplicate and marked by identifying numbers as defendant's exhibits. Each exhibit will be keyed to the text by an appropriate footnote or footnotes citing exhibit number and page references.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Western Washington Agency
3006 Colby Avenue, Federal Building
Everett, Washington 98201

IN REPLY REFER TO:

Forestry - 060
Quin. Newsletter

QUINULT NEWSLETTER NO. 20

STUMPAGE RATE REVISION:

Under delegation of authority from the Commissioner of Indian Affairs, the Area Director revises stumpage rates to be effective August 1, 1976 as provided by the Crane Creek and Taholah Logging Unit Contracts, No. I-101-IND-1902 and No. I-101-IND-1766 respectively. The new rates are as follows:

Crane Creek Unit:

<u>Species</u>	<u>Stumpage Rate</u>
Western white pine	\$ 84.99
Amabilis fir	143.74
Western redcedar	180.32
Sitka spruce	193.56
Douglas-fir	153.58
Western hemlock and other species	112.01

Taholah Unit:

<u>Species</u>	<u>Log Grade</u>	<u>Log Grade Stumpage Rate</u>
<u>Western White pine</u>	Peeler	\$236.32
	Special Mill	133.05
	No. 1	147.13
	No. 2	48.28
	No. 3	26.33
Amabilis fir	Peeler	\$229.99
	Special Mill	166.79
	No. 1	186.64
	No. 2	124.92
	No. 3	93.50



Western Redcedar	No. 1	\$276.76
	No. 2	190.28
	No. 3	86.81
Sitka spruce	Select	\$423.23
	Special Mill	201.93
	No. 1	324.23
	No. 2	125.41
	No. 3	83.73
Douglas-fir	Peeler No. 1	\$355.47
	Peeler No. 2	237.03
	Peeler No. 3	204.00
	Special Mill	131.71
	Sawmill No. 1	166.90
	Sawmill No. 2	108.99
	Sawmill No. 2	78.01
Western hemlock & other species	Peeler	\$233.80
	Special Mill	164.65
	No. 1	186.82
	No. 2	105.74
	No. 3	81.57

Allottees Fund Credit:

Total amount credited to the Quinault Allottees Fund Accounts as of July 19, 1976, is \$520,199.35.

Timber Harvesting Methods:

Clearcutting is the silvicultural method most used on the Quinault Reservation for harvesting timber. This method and other methods were analyzed in a research paper titled, "Effects of Wood Products Harvest on Forest Soil and Water Resources, with Emphasis on Clearcutting in Moist Climates." by James H. Patrie with conclusions as follows:

1. There is little evidence that conventional wood products harvest--including clearcutting--will deplete nutrient levels in most forest soils. Depletion following greater wood utilization on shorter rotations is possible and must be guarded against carefully. It was noted that forest residues after logging contribute nutrients to the soil as they decay.

2. Soil erosion rates can be accelerated unacceptably during poorly regulated logging, regardless of the silvicultural system used. Logging residues absorb kinetic energy of rainfalls thus helping to prevent erosion. Erosion usually can be held to acceptable levels by intelligent regulation of logging practices.

3. A number of forest cutting practices are known that increase the low flows and local basis typical of forest streams in late summer. Prudent logging usually has little adverse effect on water quality, or on regional flooding. Flow increases tend to be least in dry climates, however, the adverse effects on water quality may be greater than those characteristic of the moist climate forests.

According to this analysis clearcutting does no more harm to streams and soils than does any other conventional harvesting method.


Superintendent

August 27, 1976



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:

Trust Services
Forestry
104

*Pete,
Please return
this
letter + list
(do you think I should
go look in DC?)*

DEC 1 1976

Mr. Elmo Richardson
7868 Greenlake Drive, N.
Seattle, WA 98103

Dear Mr. Richardson:

You have asked that we grant you permission to examine the Quinault or Taholah timber - general files for the period after 1939. We have no objection to granting your request; however, we would appreciate receiving more specific information concerning the file name and year of interest. Many of our files are not specific as to the reservation, but are incorporated with others. When we receive your specific request, we will authorize your use of the files by notifying the Federal Records Center at Suitland, MD, of the specific date you will be there and the file number.

In checking our records, we find that our records located at Suitland go back to 1943. This differs from the 1939 date as quoted from your National Archives source. It may be however that the chronological gap may be non-existent upon your examination. We will not know until you complete your study.

To help you in your discussion, we have picked from our records reference to files peculiar to the Quinault. This list is enclosed as part of our letter.

We will expect to hear from you directly.

Sincerely yours,

Director, Office
Trust Responsibilities

Enclosure



List excerpted from forestry files, November 17, 1976 - GJS

October 1966 - Transfer to Alexandria Federal Records Center
 1959 - File No. 718-59-339 Fire Presuppression & Control
 April 18, 1958 - To files
 Boulder Creek Logging Unit (9/1/50 - 12/31/55)
 July 30, 1958 - To files
 Lake Quinault Logging Unit (1/1/50 - 11/30/55)

August 26, 1960	<u>Unit</u>	<u>Contract No.</u>	<u>Date</u>
	Irene Secena Black	14-20-510-117	(12/1/57 - 2/28/58)
	Allot. No. 107	" " " -134	(11/1/57 - 11/30/58)
	" " 106	" " " -135	(11/1/57 - 11/30/58)
	" " 105	" " " -136	(11/1/57 - 11/30/58)
	" " 356	" " " -137	(4/1/58 - 11/30/58)
	" " 108	" " " -138	(4/1/58 - 11/30/58)
	" " 2191	" " " -139	(11/1/57 - 11/30/58)
	" " 113	" " " -175	(3/1/59 - 9/30/59)
	" " 249	" " " -176	(4/1/59 - 9/30/59)
	" " 276	" " " -177	(9/1/58 - 9/30/59)
	" " 20	" " " -175	(9/1/59 - 9/30/59)
	" " 1847	" " " -179	(10/1/58 - 12/31/58)
	" " 1964	" " " -180	(10/1/58 - 12/31/58)
	" " 393	" " " -193	(5/31/59 - 10/31/59)
	" " 395	" " " -194	(4/20/59 - 10/31/59)
	" " 394	" " " -195	(5/31/59 - 9/30/59)
	" " 398	" " " -196	(4/1/59 - 11/30/59)

September 16, 1960	<u>Logging Unit</u>	<u>Purchaser</u>
	Boulder Creek	Wager Lumber Company
	Earnest Pete	Hugo Daniels
	Maurice Garfield	West Coast Plywood Company
	Quileute Tribal	Bert Cole Logging Company
	William Jack	Clark Hulet

1960-61- Files not to be returned to forestry
 No. 1644-60-013 Transfer to State of Washington,
 Certain Quinault Property (H.R. 9942)
 No. 9156-60-339 Special Allotment Timber Cutting Permits
 No. 3585-62-339 Crane Creek Logging Unit
 No. 3882-62-339 Taholah Logging Unit
 No. 9014-62-339 Quinault News Letter
 No. 66-62-339 Quinault (Miscellaneous)

October 1969 - Retired files
 No. 9606-63 Helen S. Mitchell

November 15, 1963 - Inactive files

<u>File</u>	<u>No.</u>
Boulder Creek Unit	27455-48-339
Bertrand, Gladys, allot. sale (Cedar Shakes)	8431-57-339
Eastman, Harvey, Case of	19096-39
Harlow Tbr. Sale	10689-57-339
Legislation - Quinault	41920-39-013 37034-39
Logging Practices	2052-38
Logging, Selective	16524-42
Moses Tbr. Sale	3407-57-339
Newsletter	17823-57 9014-62
North Quinault Unit	22442-47-339
N.P. Trail Tbr. Contract	3866-43-339
N.P. Trail (Capoeman Allot.)	23490-43-339
Queets No. 2 Unit	10812-61-339
Quileute, Requests for sales	18398-48
Quinault Lake Salvage sales	15837-57-339
Quinault Lake Unit	56777-22-339 4198-43-339 4763-53-339 5519-58-339
River Bend Allotment No.2	6498-61-339
Sam Timber Sale Unit	16912-58-339
Secena, Irene (Geo. Black)	6394-56-339
Scenic Strip-Reserve	78216-36
Shale, Harry Jr. Allotment	7156-59-339

November 15, 1963 - Inactive Files (continued)

<u>File</u>	<u>No.</u>
Special Allotment Timber Cutting Permits	9156-60
Sustained Yield-Indian Co-op	20651-46-339
Taholah, Crane Creek, and Queets	20758-48-339 1899-55-399
Timber Management	1750-68
Timber Mgm't Plan	1553-55
Tribal Woodlot Sale	11890-54
Timber Harvesting Feasibility Study	11156-62

November 1975 - Files from forestry to files & records section, BIA

Box #1

File No. 9074	Timber Sale - Taholah L.U.	1950
File No. 877	Timber Sale - Crane Cr. L.U. Contract & Agreement for Scaling	1952

Box #2

File No. 961	Forest Officer's Report covering the Taholah, Queets and Crane Creek L.U. dated November 15, 1948 by Patrie and Skarra	1948
File No. 946	A study of Management Policies and Practices of the BIA on lands held in federal trust on the Quinault by Nicholas Popoff	1971

Box #5

File No. 238	Special Allotment Timber Cutting Permits	1973
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Box #7

File No. 442	Parts 1 & 2 Crane Cr. L.U.	1972
File No. 443	Parts 1, 2 & 3 Taholah L.U.	1972

NOTE: Ordinarily our file numbers are tri-part.

e.g. 1899-55-339

1899 - File identification

55 - Year of identification issue (1955)

339 - Forestry (sometimes omitted)



Forest History Society, Inc.

Post Office Box 1581, Santa Cruz, California 95061 | Telephone: (408) 426-3770

November 1, 1977

Memo to: Pete Steen

From: Woody Maunder

Here enclosed are a couple of items on Quinalt research matters which have come to me from Charles H. Clemons, one of our members in Montesano, Washington. I think these may be of some use to you and to the project you are overseeing.

ERM

3-9-77

Dear Dr. Steen:

Rather than wait for the Def. Exs. in the H series, I am returning the draft you sent to me.

Please note my marks on the draft.

Also enclosed are xerox copies of:

1. Morrison v. Work, 266 U.S. 481 (1925)-excerpts. Please note p. 488. This pertains to pages 141, 162, and Footnote 22 on the draft.
2. Squire v. Capoeman, 351 U.S. 1 (1956) concerns p. 141 and footnote 22.
3. Horton Capoeman v. U.S., 194 Ct. Cl. 664 concerns p. 141 & Footnote 22.
4. Quinault Allottees Association v. U.S., 202 Ct. Cl. 625 (1973). This concerns footnote 22. No court has yet held the administrative fee unlawful.

David M. Marshall

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Forest Policy Section

Conclude p. 141
Footnote 22

Syllabus

Considering the facts as a whole, we find that in 1961 Hanna Cosman had no right to the increment in the cash surrender value of the policy that was provided by the plaintiff's payment of the premium for that year. She could not alienate her interest in the trust, and it was not subject to her testamentary disposition, because the trust terminates on her death. She could not borrow on the policy. She was not the beneficiary of the policy and had no power to change the beneficiary. At best, she had a potential income interest of indeterminate value, which was dependent upon her survival and marital status. The possibility of her receiving any income or benefit from the proceeds of the policy in 1961 was in the realm of conjecture. Therefore, we conclude that the payment of the 1961 premium on the policy by plaintiff did not confer on Hanna Cosman an ascertainable economic benefit.

It follows that plaintiff's claim for refund is denied. Defendant's motion for summary judgment is granted, and plaintiff's cross-motion is denied. Plaintiff's petition is dismissed.

440 F. 2d 1002

HORTON CAPOEMAN v. THE UNITED STATES

[No. 524-69. Decided April 16, 1971]

ON PLAINTIFF'S AND DEFENDANT'S MOTIONS FOR
SUMMARY JUDGMENT

Indian claims; limitation of actions; restricted or noncompetent Indians.—Plaintiff Indian was allotted in 1907 a trust patent covering certain acreage in an Indian Reservation, defendant holding title to the land as trustee pursuant to the General Allotment Act of 1887, 25 U.S.C. §§ 331 et seq., as amended. In the 1940's defendant sold timber standing on the allotment and from the proceeds of the sale deducted administrative expenses, under purported authority of 25 U.S.C. § 413, and credited the balance to plaintiff's trust account. Plaintiff contends, in this action filed in 1969, that defendant in making the deduction assessed a charge on plaintiff's trust allotment in violation of his vested rights under 25 U.S.C. § 348, which provides that the land upon the expiration of the trust will be free of all charge or incumbrance whatsoever. Plaintiff further contends that his claim comes under the disability exceptions to the limitations period of the Tucker Act, 28 U.S.C. § 2501, by reason of his

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Syllabus

status as a "noncompetent" Indian, because he has never been issued a patent in fee simple as to the allotted land. It is held that under the facts of this case plaintiff is not an "incompetent" Indian, either in fact or in law. It is further held that plaintiff's claim is barred by the limitations period of the Tucker Act, since it accrued more than 6 years prior to bringing suit. Plaintiff's motion for summary judgment is denied, defendant's cross-motion is granted, and the petition is dismissed.

Court of Claims jurisdiction; Indian claims; individual claimants.

[1] Under 28 U.S.C. § 1491 the Court of Claims has jurisdiction to hear the claims of individual citizen Indians.

Courts ⇌ 449 (4)

Limitation of actions; Indian claims; fees covering cost of work performed for Indians; action to recover.

[2] The rule that where the Government holds property in trust for another the statute of limitations in the Tucker Act does not preclude a beneficiary from suit against the Government until the trust is terminated, applies to liquidated claims for which money had been appropriated and the validity of which was uncontested, as where money which the Government acknowledged owing to the beneficiary remains in the Treasury unclaimed. In such case the statute commences to run when there is a demand and a refusal to pay. The rule does not apply, however, to funds in Government possession to which the Government contends the claimant never had a right, for instance, a sum deducted for administrative expenses under purported authority of 25 U.S.C. § 413 upon sale by the Government trustee of standing timber on plaintiff Indian's allotted trust lands, as to which sum the Government has been holding adversely to plaintiff since the deduction was made.

Courts ⇌ 461

Limitation of actions; tolling of statute; disability.

[3] "Disability" as used in 28 U.S.C. § 2501 is a disability that impairs a plaintiff from bringing a timely action in the Court of Claims against the Government.

Courts ⇌ 461

Indian claims; status of Indians; restricted status; noncompetency.

[4] The classification "noncompetent" or "incompetent" as applied to an Indian is usually in reference to his incapability of alienating some or all of his real property. Where an Indian is an allottee of a trust patent issued pursuant to the General Allotment Act of 1887, 25 U.S.C. §§ 331 et seq., which provides that any such allottee shall be incapable of alienating his allotment during the period of the trust, and the Secretary of the Interior has never issued to him a patent in fee simple, as to the allotted land he remains to that extent "noncompetent."

Indians ⇌ 15 (1)

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Opinion of the Court

Statutes; construction and operation; literal interpretation.

[5] The rule that where the statute contains no ambiguity, it must be taken literally and given effect according to its language is a sound one not to be put aside to avoid hardships that may sometimes result from giving effect to the legislative purpose. *Helvering v. New York Trust Co.*, 292 U.S. 455, 464 (1934).

Statutes ⇨ 189

Indian claims; limitation of actions; restricted status of Indians; effect of; congressional intent.

[6] Where an Indian allottee of a trust patent is not permitted to alienate his allotment during the period of the trust, such federal restriction does not preclude the necessity for the Indian to file within the limitations period of the Tucker Act, 28 U.S.C. § 2501, an action in the Court of Claims to recover certain alleged illegal charges made by the Government incident to the sale by it, as trustee, of the timber standing on the Indian plaintiff's trust allotment. Where Congress made no exception to the Tucker Act respecting the application of the period of limitations to Indians, the court cannot by judicial fiat expand its jurisdiction beyond the statutory limits established by the Congress.

Courts ⇨ 461

Charles A. Hobbs, attorney of record for plaintiff. *Wilkinson, Cragun & Barker*, and *Charles H. Gibbs, Jr.*, of counsel. *Herbert Pittle*, with whom was *Assistant Attorney General Shiro Kashiwa*, for defendant.

Before COWEN, *Chief Judge*, LARAMORE, DURFEE, DAVIS, COLLINS, SKELTON and NICHOLS, *Judges*.

NICHOLS, *Judge*, delivered the opinion of the court:

This case is before us on cross motions for summary judgment. The plaintiff is a so-called "noncompetent" Quinault Indian who is suing for recovery of certain charges made by the Government incident to the sale by it, as trustee, of the timber standing on plaintiff's trust allotment. This court presently has jurisdiction under 28 U.S.C. § 1491, to hear the claims of individual citizen Indians. *Fields v. United States*, 191 Ct. Cl. 191, 423 F. 2d 380 (1970).

Defendant holds title to plaintiff's land as trustee pursuant to the General Allotment Act of 1887, 25 U.S.C. §§ 331, et seq., under which plaintiff was allotted in October, 1907, a

Opinion of the Court

"trust patent" for 93.25 acres situated on the Quinault Indian Reservation in the State of Washington. Between June 30, 1943, and August 10, 1946, defendant sold timber standing on plaintiff's allotment to the Aloha Lumber Company, for \$15,080.80, from which it retained \$1,238.87, as administrative expenses, under purported authority of 25 U.S.C. § 413, and credited only \$13,841.93 to plaintiff's trust account.

Plaintiff says that defendant had no right to make any deductions from the proceeds of the sale and that by so doing there has been assessed a "charge" on plaintiff's trust allotment in violation of the rights vested in plaintiff by 25 U.S.C. § 348. That act provides, inter alia, that:

Upon the approval of the allotments provided for in sections 331-334 of this title, by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharged of said trust and *free of all charge or incumbrance whatsoever: * * ** (Emphasis supplied.)

The trust period has been extended. See 25 U.S.C. § 391 and 25 U.S.C. § 462.

Defendant, in its cross-motion for summary judgment, has raised the threshold question of whether plaintiff's claim is barred by the six year period of limitations provided in the Tucker Act, 28 U.S.C. § 2501:

Every claim of which the Court of Claims has jurisdiction shall be barred unless the petition thereon is filed within six years after such claim first accrues.

The contested deduction was made and notice given to plaintiff in 1946. Plaintiff filed his claim in this court on December 24, 1969. He does not contend that he is within the six year

Opinion of the Court

period but he asserts that the statute of limitations should not be applied to bar his claim. In support of this contention, he advances three related theories which we will consider one at a time.

First, he cites as a rule that where the Government holds property in trust for another, "the statute does not run against a beneficiary until the trust is terminated or repudiated." As authority he refers us to *United States v. Taylor*, 104 U.S. 216 (1881); *Wayne v. United States*, 26 Ct. Cl. 274 (1891); and *Russell v. United States*, 37 Ct. Cl. 113 (1902). But those cases all involved liquidated claims for which money had been appropriated and the validity of which was uncontested. That is, money which the Government acknowledged owing to the plaintiffs was allowed by the plaintiffs to sit unclaimed in the Treasury for many years. The court in each case held that the statute of limitations did not begin to run until demand for payment had been made. The refusal to pay on demand was held to be a "repudiation" of the trust. In *United States v. Taylor, supra*, the Supreme Court said at 221:

This section limits no time within which application must be made for the proceeds of the sale. The Secretary of the Treasury was not authorized to fix such a limit. It was his duty, whenever the owner of the land or his legal representatives should apply for the money, to draw a warrant therefor without regard to the period which had elapsed since the sale. The fact that six or any other number of years had passed did not authorize him to refuse payment. The person entitled to the money could allow it to remain in the treasury for an indefinite period without losing his right to demand and receive it. It follows that if he was not required to demand it within six years, he was not required to sue for it within that time.

The case at bar is easily distinguishable because here, the Government contends that plaintiff *never* had a right to the fund in suit, and it has been holding adversely to him ever since the deduction was first made. In the cited cases the only barrier imposed by the defendant against plaintiff's recovery was the passage of time.

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Opinion of the Court

Plaintiff next contends that his claim comes under the exception to the limitations period of § 2501, which provides:

A petition on the claim of a person under legal disability or beyond the seas at the time the claim accrues may be filed within three years after the disability ceases.

"Disability" is of course a term of many meanings. A person whose driver's license has been revoked might be deemed to be under a "disability", but we suppose it would not toll the running of limitations under § 2501 as to any claim against the Government he might have. Logically, one would look for a "disability" that impaired his access to the Court of Claims in some manner. Plaintiff's counsel cheerfully concedes that whatever of such access he has today, he had in 1946 when the claim accrued, and has had at all times in between. While the "disability" proviso speaks of all citizens without discrimination, plaintiff seeks to invoke it by some mystique peculiar to Indian law. We do not reject that idea without examining it with care and solicitude, as befits the modern attitude towards that much wronged race.

Plaintiff asserts that his status as a "noncompetent" Indian is indistinguishable from the disability of infancy or mental incapacity. We reject that view. The classification as "noncompetent" is in reference to plaintiff's being an allottee of a trust patent issued pursuant to the General Allotment Act, which provides that any such allottee shall be incapable of alienating his allotment during the period of the trust. The Act of May 8, 1906, 25 U.S.C. § 349, amended the General Allotment Act to provide that:

* * * the Secretary of the Interior may, in his discretion, and he is authorized, whenever he shall be satisfied that any Indian allottee is competent and capable of managing his or her affairs at any time to cause to be issued to such allottee a patent in fee simple, and thereafter all restrictions as to sale, incumbrance, or taxation of said land shall be removed and said land shall not be liable to the satisfaction of any debt contracted prior to the issuing of such patent: * * *

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In the plaintiff's case, the Secretary has never issued to him a patent in fee simple, and therefore as to this allotted land he remains to that extent "noncompetent". That, however, does not mean plaintiff is not otherwise capable of managing his affairs and dealing with any other property he might own in any manner he wishes. This "noncompetency" in relation to his trust allotment would not prevent him from making a will, or entering a contract which did not involve the allotted land. There may be other reasons, apart from his being a holder of a patent on restricted land, why plaintiff could be adjudged legally incompetent, but he has alleged none in this proceeding. Indeed, if such were the case, this action would have to be prosecuted by his duly appointed representative under Rule 61(c), and his suing in his own name confesses that such "disability" does not exist. The Supreme Court said in *Poafpybitty v. Skelly Oil Co.*, 390 U.S. 365, 368-69 (1968):

* * *. In our view, these restrictions on the Indian's control of his land are mere incidents of the promises made by the United States in various treaties to protect Indian land and have no effect on the Indian's capacity to institute the court action necessary to protect his property. * * *

We might infer as a corollary to that statement that the "have no effect" language cuts both ways—that is, the Indian, while not handicapped by his restricted status, is not thereby given a crutch with which to avoid a clear mandate of Congress, *i.e.*, the statute of limitations.

The most authoritative treatise on the subject of Indian law is the handbook, *Federal Indian Law*, written by the late Felix Cohen, and published by the Department of the Interior. We refer to Cohen on Indians as we would to Wigmore on Evidence. *United States v. The Native Village of Unalakleet*, 188 Ct. Cl. 1, 12, 411 F. 2d 1255, 1259-60 (1969). Mr. Cohen devoted an entire section of his book to the meanings of "incompetency". In the 1958 edition at page 553, under the heading *Restricted Meanings*, is the following:

* * *. Perhaps the most frequent special use of the term "incompetency" is to describe the status of an Indian

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incapable of alienating some or all of his real property. Such an Indian may be competent in the ordinary legal sense. An outstanding example is Charles Curtis, who, though he became Senator and Vice President of the United States, remained all his life an incompetent Indian, incapable of disposing of his trust property by deed or devise, without securing the approval of the Secretary of the Interior.

Plaintiff's reliance on *Chisholm v. House*, 183 F. 2d 698 (10th Cir. 1950), is clearly misplaced. That was a suit by the heirs of a deceased Creek Indian to recover from trustees of the deceased, certain fees and loans which were alleged to be "exorbitant, unconscionable and fraudulently obtained". The defendant-trustees were private parties, the statute of limitations involved was prescribed by state law, not the Tucker Act, and the corpus of the trust did not include any "restricted" property. In ruling that the action was not barred the court said, at 706 :

* * * neither the statute of limitations nor laches operate to bar a claim based upon undiscovered fraud or fraud of which the plaintiff was justifiably ignorant. * * *

That observation would apply to other claimants than Indians. The court found justifiable ignorance because the *cestui que trust*, the deceased Indian, although legally competent,

* * * could neither read nor speak the English language, he knew and understood only what was explained to him through an interpreter, and even then it is manifest on this record that he had little or no knowledge or understanding of his affairs, or the manner in which they were being administered. * * *

In *Chisholm*, the plaintiff was not a "noncompetent" Indian. In this case, so far as the record shows, the plaintiff is not an "incompetent" Indian, either in fact or in law.

Plaintiff has not alleged his factual incompetency, nor has he alleged that any official of the Government was guilty of fraud or unconscionable actions or of withholding information upon which to base this action. Indeed, in 1956, plaintiff sued in the Supreme Court for recovery of capital gains taxes

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levied on the same transaction under scrutiny here. *Squire v. Capoeman*, 351 U.S. 1 (1956). He was represented there by a member of the same capable law firm of which his present counsel is another member. Plaintiff's present counsel concedes that all of the information necessary to prosecute the instant claim was known to plaintiff and his counsel at the time of the former suit. Thus we have every reason to believe that nothing prevented plaintiff from pressing the instant claim at least by the time he brought the former action, in 1956.

Plaintiff's final contention is that the statute of limitations is not applicable to bar "a restricted Indian's claim against the United States for misappropriation of his trust funds". He refers us to several tax cases which, he says, have held that the status of being a restricted Indian is sufficient to toll the running of a statute on a claim against the Government.

It will be noted that this branch of the argument does not turn on the "disability" or any other express exception to 28 U.S.C. § 2501, as the cases to be cited construe statutes of limitations having no pertinent express exception. *Nash v. Wiseman*, 227 F. Supp. 552 (W.D. Okla. 1963), involved a Federal estate tax which had been erroneously paid by the Area Director of the Bureau of Indian Affairs when he filed a return on behalf of the estate of a deceased Indian. Upon refusal of the Area Director to claim a refund, the heirs brought an action for a refund in the District Court. Even though the three year limitation period provided for claims for refund in the Internal Revenue Code of 1939, § 910, had run with no claim filed, the court allowed the action, holding that "a restricted Indian is a ward of the Government and a refund claim can be filed for such a one at any time". Similar issues were involved in *Daney v. United States*, 247 F. Supp. 533 (D. Kansas 1965), *aff'd*, 370 F. 2d 791 (10th Cir., 1966), where the Indian Office prepared the tax return and paid the liability out of plaintiff's restricted funds. The court there said at 535 "the noncompetency of an Indian tolls the applicability of the statute of limitations".

In *Dodge v. United States*, 176 Ct. Cl. 476, 362 F. 2d 810 (1966), the Superintendent of the Osage Indian Agency had

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Opinion of the Court

filed income tax returns on behalf of the noncompetent Indians involved, and had paid tax on their "headright" income, following a General Counsel's Memorandum, G.C.M. 26399—1950—2 Cum. Bull. 8. Some ten years later, this court in *Hayes Big Eagle v. United States*, 156 Ct. Cl. 665, 300 F. 2d 765 (1962), had held that "headright" and other trust income of noncompetent Osage Indians was not subject to Federal income tax. The Superintendent thereupon filed refund claims which the IRS disallowed because of § 322(b) (1) of the 1939 Code, which provides that no refund shall be allowed unless the claim was filed within three years of filing of the return or two years of payment of the tax. This court cited *Nash* and *Daney* with approval and found an "equitable exception" to the above limitations period in the case of non-competent Indians with trust income. Chief Commissioner Bennett, in a succinct and scholarly opinion adopted by the court, relied, in part, on an opinion of Attorney General Harlan F. Stone, 34 Op. Att'y Gen. 302, 305 (1924):

* * *. In fact, so far as the actual payment is concerned, it was in many cases a matter of bookkeeping and so perfunctory that the Indians accepted it as a matter of course and as an unquestionable expenditure of their funds by their conservator and guardian acting for the paternalistic Federal Government. The *superintendent acted for them* because of their recognized incompetency to act for themselves. The governmentally appointed agent—I refer to the superintendent—having paid this money over, failed to discover the irregularity of his action within the five-year period provided by the income-tax statutes as the limitation period for making claims for recovery. The Indian is not to blame for this, and, if the Government could take advantage of the mistake of its own agent in this regard, it could go just one step farther and in the interests of its revenue instruct the superintendent to allow such claims to lapse. It is needless to remark that such a practice would be repugnant to our conception of a just and fair government's policy toward this dependent people. Having appropriated the funds of its wards under a misapprehension, it should have no hesitancy in returning them. * * *. (Emphasis supplied).

ly here. *Squire v.* presented there by a which his present sent counsel con- to prosecute the his counsel at the reason to believe assing the instant former action, in

ute of limitations an's claim against his trust funds". e says, have held is sufficient to toll the Government. argument does not ess exception to 28 nstrue statutes of eption. *Nash v.* 1963), involved a ously paid by the airs when he filed sed Indian. Upon refund, the heirs strict Court. Even rovided for claims of 1939, § 910, had he action, holding Government and a ny time". Similar *ates*, 247 F. Supp. (10th Cir., 1966), sturn and paid the s. The court there dian tolls the ap-

476, 362 F. 2d 810 ndian Agency had

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Chief Commissioner Bennett also found some evidence of an intent on the part of Congress to exempt the Indians from the limitations period of the Internal Revenue Code. He noted the following, 176 Ct. Cl. at 483, 362 F. 2d at 814:

* * *. In the context of the Internal Revenue Service's prior reluctance to establish a more flexible policy toward the Indians, legislation was proposed in 1957 to waive the statute of limitations on refund claims for taxes paid on income from restricted lands. S. 1839, 85th Congress. In opposing the 1957 legislation, the Treasury Department's enunciation of policy was to the effect that the statute of limitations did not apply in a situation where a government official erroneously paid a tax on nontaxable income and therefore the legislation was unnecessary. * * *. The congressional committee could easily have interpreted the Treasury letter to mean that the Internal Revenue Service was not going to use the statute of limitations as a bar to refund *where the Indians had relied on a government official to file the tax return and compute the tax liability*, * * *. (Emphasis supplied).

We think that this line of cases is most readily stated as establishing an implied exception to the three-year requirement for claiming tax refunds, when an official of the taxing Government has prepared the return and should have filed the claim, for an Indian ward. Occasionally, as in that situation, courts will read exceptions into tax laws that seemingly provide for none. *Select Tire Salvage Co. v. United States*, 181 Ct. Cl. 695, 703, 386 F. 2d 1008, 1012 (1967), and cases cited. An ordinary taxpayer, preparing his own return or having it done by an independent accountant or lawyer, would consider a G.C.M. and not follow it if he thought its conclusions debatable. This is the case Congress contemplated and it reasonably required that this taxpayer assert his claim promptly. On the other hand, an official of the United States Government could not set up his judgment about the meaning of the Internal Revenue Code in opposition to that of the General Counsel of the Treasury. Thus the mechanisms that Congress devised, to protect taxpayers against erroneous Treasury rulings, would not be set in motion. As to this In-

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disabled or not. This involves a preference of one litigant against another, on mere racial grounds, that would if intended by Congress be repugnant to the Constitution. See, *United States v. The Native Village of Unalakleet*, *supra*, at 13, 411 F. 2d at 1260-61. Cohen says, *op. cit.*, *supra*, at 543:

In the absence of statute, Indian litigants are subject to the same defenses as other people. Except with respect to restricted property, they may lose their rights because of laches, and the running of statutes of limitations."

The footnote, omitted here, shows that the exception as to "restricted property" relates primarily to suits in which an Indian contests title to land presently or formerly restricted, as against another claimant: limitations and laches also do not run while the Indian is denied citizenship and access to the courts, unlike the case here. Compare *Schrimpscher v. Stockton*, 183 U.S. 290 (1902), with *Felix v. Patrick*, 145 U.S. 317 (1892). Cohen continues:

They are also subject to the restrictions against suing sovereigns without their consent.

Congress has made specific provision for modifying or waiving the statute of limitations for Indians in several instances. In § 70a of the Indian Claims Commission Act, 60 Stat. 1049, 25 U.S.C. § 70 (1946), the Commission is authorized to hear claims accruing before August 13, 1946, "on behalf of any Indian tribe, band or other identifiable group of American Indians * * * notwithstanding any statute of limitations or laches". In 25 U.S.C. § 347, provision is made for the application of state statutes of limitations in certain suits involving lands patented in severalty under treaties. This is some evidence to the effect that where Congress wants to make exceptions for Indians, it will so provide. There is no such exception in the Tucker Act, and we cannot by judicial fiat expand our jurisdiction beyond the statutory limits established by the Congress. *Graf v. United States*, 87 Ct. Cl. 495, 24 F. Supp. 54 (1938).

It is true that the cases speak of the "special relationship" of the Indians vis-a-vis the Government, variously referred

to as a "Commission" therein; a Indians the tion", *Cf.* that "Ge unless so include th it is equa confine su used. *Cf.* 259 (1914 treaties a understo the natur the India Indian N ence to th

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to as a "wardship" or a "guardianship", see *Blackbird v. Commissioner*, 38 F. 2d 976 (10th Cir. 1930), and cases cited therein; and in the interpretation of statutes relating to the Indians the courts have mentioned "a rule of liberal construction", *Choate v. Trapp*, 224 U.S. 665 (1912); and have said that "General Acts of Congress did not apply to Indians unless so expressed as to clearly manifest an intention to include them", *Elk v. Wilkins*, 112 U.S. 94, 100 (1884). But it is equally true that the Supreme Court has been quick to confine such broad language to the context in which it was used. Cf. *United States v. First National Bank*, 234 U.S. 245, 259 (1914), where the Court held that the rule that words in treaties and statutes must be interpreted as the Indians understood them is not applicable where the statute is not in the nature of a contract and does not require the consent of the Indians to make it effectual. In *F.P.C. v. Tuscarora Indian Nation*, 362 U.S. 99, 116 (1960), the Court, in reference to the *Elk v. Wilkins* rule, *supra*, said:

* * *. However that may have been, it is now well settled by many decisions of this Court that a general statute in terms applying to all persons includes Indians and their property interests. * * *

In *Mann v. United States*, 399 F. 2d 672 (9th Cir. 1968) the court held that the two-year limitation of the Federal Tort Claims Act, 28 U.S.C. § 2401(b), bars the untimely suit of an Indian claimant. He attempted without avail to show that the nature of his life as an Indian kept him from knowing that he could sue.

We hold on reason and authority that plaintiff's claim is barred by the statute of limitations in 28 U.S.C. § 2501.

In view of this, we find it unnecessary to pass on the merits of plaintiff's claim.

Accordingly, plaintiff's claim is barred because it accrued more than six years prior to bringing this suit. His motion for summary judgment is denied and his petition is dismissed. Defendant's motion for summary judgment is granted.

Official File Copy

Enclosures Files

90-2-20

DEFENDANT'S EXHIBIT NO. H-23

Memorandum of DEFENDANT'S EXHIBIT NO. H-23
Court of Claims, Section in the State of Washington
Docket No. 90-2-20

I have noted that one of your first inquiries upon arrival in Seattle was, "What about Washington's timber?" In answer, the following statement may be of interest.

Timber is the State of Washington's greatest natural resource. Timber is the foundation upon which the industrial life of the state has been built. Timber today pays approximately 65% of the state's industrial payroll, and a like percentage of the taxes. In many counties of western Washington, it is practically the only source of taxable wealth.

Today we are cutting three trees where we should be cutting but one, and twenty years will see the end of this great industry insofar as the stands of virgin timber are concerned. The timber we are now cutting is hundreds, even thousands, of years old; hence the futility of ever attempting to replace these great stands of timber by any method of reforestation, is apparent. The seriousness of the situation cannot be over-estimated.

Our greatest natural resource is being whittled away at an appalling rate, without adequate recompense to the state and its people. Timber owners and mill operators are engaged in the competitive orgy of cutting, slashing and waste, which, if continued, not only spells ruin to those so engaged, but means disaster to the economic life of the state. In the end, those who will suffer most are not the so-called timber interests, but the general public, the common people, the men and women who labor, live and pay taxes in the State of Washington. Thus the problem is primarily the public's problem.

In studying this question, we are led naturally to a consideration of the extent to which existing laws dealing with taxation, with the tariff, the conservation of natural resources, and the regulation of trade and commerce, have been contributing factors to the present alarming situation.

We talk conservation on the one hand, and on the other hand we are maintaining a system of taxation which is taxing the timber off the earth and rendering conservation impossible.

Owners of great stands of timber are going forward at break-neck speed in an effort to salvage an investment which is rapidly and surely being confiscated by the tax collector. Modification of our tax laws, so that owners may be enabled to hold their timber without serious impairment of their investment, is one of the big problems confronting the state, but there are other contributing

factors over which the state has no control.

I am of the opinion that in our zeal to safeguard the public interest, we have defeated our purpose, and in fact under-mined the very interest we sought to preserve. In an effort to restrain and control the operators, we have, by regulatory laws, turned them loose, unrestrained and uncontrolled, and then sit about a condition far worse than the one we sought to correct.

The lack of adequate tariff protection and the workings of the Sherman Anti-Trust Law, to my mind, are, in a large measure, responsible for the present situation. Our loggers and lumbermen are forced to compete against the lower wages and general cheaper production costs of Canada; while the anti-trust law has catapulted our operators into a mad scramble of the survival of the fittest, with the result that our forests are being needlessly and woefully sacrificed.

I believe the Sherman Anti-Trust Law and low tariffs alone have cost the State of Washington millions upon millions of dollars and billions upon billions of feet of timber, and will continue to cost us millions in dollars and billions in timber. Today there is being left upon the ground, to be fed to the flames, enough timber to supply the present consumptive demand of the trade, for the simple reason that the operator cannot place the choker upon the lower grades and survive.

The situation is truly alarming, and if this great industry is to be preserved, no time must be lost in formulating a constructive plan for lifting the tax burden from standing timber, curtailing the log cut, stabilizing production, and putting the industry on a soundly economic basis. If the importation of cheap forest products from Canada and the prohibiting of combinations of logging and mill operators, had resulted in the bringing of cheaper lumber to the consumer, there might be justification for the regulations and inhibitions that have been placed upon the industry, but I believe that a careful analysis of the facts will reveal that there have been no gains to the consumer in any way commensurate to the losses sustained by the nation, the state and the producer, in the dissipation of a great natural resource.



Suggested Form Letter to be
addressed to Quinault Allottees
whose allotments have been
logged, salvage re-logged and
slash-burned. I. single owner
II. Multiple owners

I.

Western Washington Indian Agency
Hoquiam Sub-Agency
Hoquiam, Washington

Dear _____:

Our records show you to be the owner of Quinault Allotment
No. _____, described as _____

II.

Western Washington Indian Agency
Hoquiam Sub-Agency
Hoquiam, Washington

Dear _____:

Our records show you to be the owner of an undivided _____
interest in the Quinault Allotment No. _____ of _____,
deceased, which is described as _____.

(I & II) This allotment is under Timber Sale Contract No. _____

_____ as a part of the _____ Unit. Approximately

_____ acres has been recently logged and this cut-over portion

has been covered by salvage re-logging operations to harvest as much as
possible of the material left on the ground following logging. The

worst of the remaining debris and slash has been burned and the land is

in condition for the establishment of a new crop of trees.

(i) It can be expected that some re-seeding of the area will result from seed blown in from standing timber which has been temporarily left as a seed reserve along the boundary of the clear-cut area. In hemlock areas, natural seeding from the reserved seed blocks usually results in the establishment of good stands of reproduction. In cedar areas, results are not always entirely satisfactory.

(?) It is good forestry practice to get the new crop of trees started as soon as possible to keep it ahead of the brush growth that is certain to develop on cut-over lands in this area. Since Allotment No. _____ is in ^{an} area that will probably not re-seed rapidly from natural seeding, it is suggested that you consider reforesting the cut-over land, either by transplanting nursery-grown seedlings or by direct sowing of tree seeds. Our Forestry Staff at Hoquiam is prepared to assist you in making the necessary arrangements to do the job.

(u) Under the Agricultural Conservation Program, you can recover up to 70% of planting costs on your cut-over land, not to exceed 20 acres in any one calendar year. The procedure for securing this financial assistance is outlined on the attached sheet.

(c) If you are interested in taking advantage of this opportunity, please let us know and we will do all we can to help you. If convenient, call at our Hoquiam Office on the second floor of the Post Office Building and ^a member of our staff will be happy to discuss this program with you.

Sincerely yours,

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Tribal Operations

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AIRMAIL

Commissioner of Indian Affairs

Washington, D. C. 20242

Attention: Tribal Operations

Sir:

We are enclosing for your review and action a proposed contract between certain trust landholders on the Quinault Reservation and the law firm of Wilkinson, Cragun & Barker.

Under the contract proposal the attorneys would investigate and prosecute all claims against the United States and other parties arising from the management and sale of all lands and timbers as well as the management of funds held in trust by the United States for the benefit of the allottees.

We have reviewed the contract extensively with Mr. Jerry Strauss of the Wilkinson firm and discussed it by telephone with Charles Hobbs, who has signed the contract on behalf of the Wilkinson firm. You will note that paragraph 2 contemplates action on the part of the attorneys to refund all or part of the 10% charges on stumpage sale as well as to review all other actions of the United States in the setting of stumpage prices under various timber cutting contracts.

The contract provides for a \$10,000 retainer fee which would be applied against legal expenses. We know of no way that such a fee could be secured by a pro rata assessment of the voluntary signers to the contract. We understand that a few allottees propose to put up the funds required under Section 4(a) as an advance to the attorneys. We presume that some form of agreement would be worked out between the attorneys and the persons advancing the funds so that they could be reimbursed should any award be secured by the attorneys. The fees payable under the contract would be on a quantum meruit basis or 20%, with the tentative understanding that 20% would be considered quantum meruit if agreed to by the Court.

The agreement also provides in Section 4(a) that proceeds which might become due to any allottee as a result of actions by the attorneys would be paid directly to the Superintendent, Western Washington Agency, who would deduct from each allottee's share their pro rata portion of fees and unreimbursed expenses due the attorneys. Any actions on the attorneys benefitting the allottees but not giving rise to money awards, would be compensated on the basis of standard time rates normally charged by the attorneys.

The contract as drawn would appear to apply not only to those individuals who voluntarily bind themselves to the contract but to all other present or former holders of trust land on the Quinault Reservation. In our review and analysis of the contract we find several items that are of concern to us, as follows:

1. The contract is an all-inclusive contract involving timber operations on the Quinault Reservation. There is currently pending in the Federal District Court at Tacoma a case involving the Aloha Lumber Company. On June 1, 1967 this office approved a contract between the Quinault Tribe of Indians and the Wilkinson firm known as the Aloha Tribal Contract which should be specifically excluded from the provisions of this contract.
2. We do not believe that the Secretary can commit those trust land-holders who have not voluntarily authorized the Wilkinson firm to serve as their representative. If the contract is approved, it should be applicable only to those persons who specifically authorize the Wilkinson firm to serve as their representative.
3. The Bureau is already in the process of reviewing the 10% administrative fees charged on timber stumpage payments, with a view to either abolishing or reducing those charges. Should the present proposals result in a modification of the 10% fees, we do not believe that the law firm should be compensated as a result of any modification of those fees which does not result from actual services being performed by the firm as legal counsel to the Quinault allottees.
4. Paragraph 4 (e) sets forth the provision that the Superintendent, Western Washington Agency, would serve as a collector for the attorneys on fees that may accrue in the future. We anticipate that a provision of this nature would be very difficult to administer and cause the Superintendent a substantial workload for an indefinite period of time, which may result in increased staffing. We believe that should the firm secure a court judgment it would be much simpler to provide that attorneys fees and expenses be paid directly to the attorneys pursuant to court action before the funds are placed with the Superintendent.

In our review, question has been raised as to whether this contract actually requires approval by the Secretary of the Interior. This contract would

in effect commit standing timber for payment of attorneys fees. Since timber is considered a capital asset, we believe that approval is required under 25 USC 85.

We strongly feel that individual Indians should be given the opportunity to hire legal counsel of their own choosing when they feel that there is a possible cause of action against the United States for mismanagement, as they are contending in this instance. We believe, too, that the tribe should have the right to sue the United States if they feel things are not in order. While the contract does not so state, we believe that the possible causes of action the attorneys might have, could relate only to actions of the United States which have occurred. Since the establishment of the Indian Claims Commission, that Act, itself, would bar possible causes of action which might have occurred prior to the establishment of the Commission. Under normal circumstances this office would approve the contract as it relates to the tribe and to individuals. We believe, however, since this contract relates to claims against the United States, and it involves the payment of trust funds which may accrue to allottees in the future, that we are without authority to approve the contract with respect to individuals, since delegations of authority preclude our approval of a commitment of future income except for loan purposes. It should be pointed out that this contract was delivered to this office by a representative of the Wilkinson firm on March 31, 1969. Since the tribe is a party to the agreement it would appear that action is required within the 90-day period established by the Civil Rights Act of 1968.

In addition to the contract which has been executed by the allottee committee and Mr. James Jackson on behalf of the Quinault Tribe, we are also forwarding 120 signed endorsements to the agreement of March 29, 1968 with the allottees of the Quinault Reservation. The Wilkinson firm has indicated that they will forward additional endorsements as they are received.

We recommend that the attached contract be approved consistent with the above recommendations.

Sincerely yours,

Assistant Area Director
(Community Services)

Enclosures

cc: Superintendent, Western Washington Agency Attn: Tribal Operations

✓ Forestry, etc.

8. REGENERATION OF LOGGED OVER AREAS