EMMONS: Folks, I am pleased to have a few moments to talk with you. I have
done my talking, and I wish you folks would use up a few minutes to tell me
your problems.

JACKSON: We are not going into any personal problems, Mr. Emmons, we don't
have that time; but we will talk about something that is probably a problem
nationally. Our number one problem is the heirship problem. We feel that
the Bureau through the years got it into this mess, and it should be up to
them to get it out to balance it out. We don't want anything like the Tulalip
heirship bill or something similar. We could probably go to Congress and
get some kind of a piecemeal, but we believe that anything like that should
be national and universal.

EMMONS: We have to have something on that because we have the same problem
everywhere.

JACKSON: Of the 200,000 acres approximately about 98 per cent of it is
allotted and is what made our problem so great. I know that your office
sponsored an heirship bill. A lot of them bucked it—they wanted a Christmas
tree type. We are not interested in that.
EMMONS: Do you have any ideas on an heirship bill?

JACKSON: First, of course, there would have to be appraisals. That is where you would have to start. The majority of the group feels that many of them have an interest—in as many as a dozen allotments in one family. If something could be worked out whereby the owners in this thing would have preference to buy the others, or in some cases maybe treat some of their interests where there would be enough to consolidate in one ownership. That is possible up there, and it is probably possible in many cases.

EMMONS: Homer (Jenkins), do you have anything to say on this?

JENKINS: That was to a great extent the heart of the heirship bill proposed two years ago. There are two factors that have to be considered: one is that it is the present Acts that we are operating under—we must have the consent of all participating owners—interest holders—before we can take any action one way or the other for partitionment or disposition. That is only true with Indian law. All other law permits any one holder to bring an action to take care of this sort of a situation anywhere you go in any other country. It seems to me that with the terrific fractionalization you have up there, it is going to be impossible for you to pick up all the interests in every case. Some are gone and you have no idea where they are. If we could do it and have your support on a bill that would put it in the same category as everyone else, we could write into it so far as that is concerned a preference on partitionment or a preference on acquisition.

JACKSON: There would be parties of 1,000 interest in it, and I think it should be something like your leasing 51 per cent. That wouldn't be hard to get.

JENKINS: Frankly, across the board, there are places where it would be. We have some cases where we can't get 51 per cent.
EMMONS: On this reservation, could 51 per cent--in this particular tribe--would that be possible?

RINGEY: There is a peculiarity there. There are 2400 allotments on the Quinault, and I think there are less than 3 per cent on the reservation.

JACKSON: I think at one time there were 1700 off and 370 on the reservation. That was about three years ago.

RINGEY: 1700 were allottees and the residents were all men, women, and children.

EMMONS: It is something we have to get our teeth into to get resolved.

FOSTER: What is it Cleve is recommending here?

JACKSON: Some kind of an heirship bill to relieve the realty situation.

EMMONS: What type of an heirship bill could be feasible for this group?

FOSTER: I think they know their own group better than any of us. And what do you think, Cleve?

JACKSON: As I said before, the first thing would be appraisement. The Bureau got us into this mess, and they should bail us out. Take the Tulalip bill, anyone regardless of how small the interest would be--and there would be more small interests--they go to the State Court--some of the small interests won't get anything. They won't have enough to pay their attorney's fees. If they would do that and give the heirs the preference--whoever could--and if there are none able to put it up for sale--any of them able to buy and want to and the rest agree--he should be permitted to purchase.

FOSTER: What he is actually saying, instead of the Indian going to the State Court and paying all the costs involved, you would have the law amended to where you could petition the examiner . . . or whatever authority may be setup for it.
JENKINS: It would be exactly as our heirship bill offered two years ago with the exception of having any one participating petition holder . . . they would require 51 per cent of the interest holders. We would do it in the normal course of business.

JACKSON: Or anyone who has a majority interest.

JENKINS: It would work either way. The only problem we are trying to break down is an administrative one. When you put a requirement of 51 per cent--that means the area and the superintendent has the administrative load of going around and rounding up these 51 per cent.

FOSTER: What he is saying now is they are willing to consider something else now.

JACKSON: The thing I am trying to get away from is these people with one hundred of one per cent coming in--supposing he had some money and the majority owner didn't have any--his three-fourths would be practically condemned.

JENKINS: Except for this--you always have the option of partitionment. That must be done first. If you have a case where a man holds half of the interest; it would be susceptible to partitionment and he would get his in full.

JACKSON: Wasn't that the general run of the Bureau proposed bill seven years ago?

JENKINS: Except that it was on the application of anyone interested. You would be protected by anyone having a major part by the partitionment feature.

REID: We had one case with 108 heirs and the common denominator 186 millions.

JACKSON: The thing is laying there dormant.

FOSTER: This is the largest single problem they have.
JENKINS: If the Tribe as a whole got strongly behind this type of a bill and it was tailored for your unit, it could be put through and we could go into business doggone fast.

EMMONS: I think there is some plan that might cover several other reservations--maybe the Lummi situation would cover lots of others.

JACKSON: I think a plan like that would cover most of the reservations that have a number of allotments.

FOSTER: The Lummis have the same problem there. Why couldn't the Quinault and the Tulalips who want to go together, get behind it? The Quileutes have the same problem.

JACKSON: I think they have the same problem in Coeur d'Alene.

FOSTER: You could approach them, Cleve.

JENKINS: You have 700 little allotments and they are in a mess. That is the Makah--you have yours--the Quileutes, Lummis--who could well fit into the same pattern.

FOSTER: You fellows get together on a common agreement, and if you got behind it and the Bureau got behind it--

EMMONS: I would sure like to see something worked out because we have to get our teeth into this thing, and in my opinion this is one of the most troublesome problems we have.

FOSTER: Here is a mighty fine man to carry the ball.

EMMONS: I would appreciate if you folks--in line with our policy--we would like to have the tribes work out their programs themselves.

JACKSON: Why don't we work out something and have our attorneys draft it and bring it to the Bureau. They will present it, and we will go back for the hearings.
EMMONS: I would be happy to see what you folks come up with.

JENKINS: To assist you—we can give you two or three drafts which would assist you and save you a lot of time.

EMMONS: Sometimes heirship bills suggested are impractical but I say this—that the individual Indians on their own reservations are the ones who could come up with a suggestion "How can we resolve this thing?" They are the people we want to satisfy. Let's get together and get our teeth in this thing and see what we can work out.

FOSTER: I think the suggestion these folks made here that they have their own attorney bring out their rough draft is a sensible one. It is psychologically sound because it stems the fears of some other people that the Bureau is trying to slip something over on them.

EMMONS: I will appreciate if you will get busy on that as quickly as possible.

JACKSON: We will get together with our attorney and get you drafts.

EMMONS: If we can get as many problems recorded—this will be sent to me in Washington. If you will proceed.

JACKSON: There is only one other thing we have got. That is roads. Mr. Emmons was speaking this morning—he said, "If we get industries along the edge of the reservation, you can't bring them in—you must have some decent roads to travel on to go to the job." Up there I go 40 miles—10 miles of that is on Indian service road. It takes more than half of my time to go the ten miles than the other thirty.

EMMONS: Where do you work?

JACKSON: I work in Idaho, Montana, Washington, and California—I am a timber estimator.
EMMONS: You are a housewife?

MRS. BOWEOHOP: Yes.

EMMONS: And you?

CAPOEMAN: I am on my own--a fisherman.

EMMONS: I am impressed with you folks in this part of the country.

FOSTER: That ten miles on the reservation--you think should be blacktopped?

JACKSON: Yes.

RINGEY: The State road association is the one that is holding that up now. They don't want a road that close to the ocean. They want one closer in. That is why we can't justify blacktopping that one.

EMMONS: How far is that away from this present road?

RINGEY: Right adjacent to it.

FOSTER: Why don't we find out where we are. Send one of our road boys up there, either Mr. Sluyter or Mr. Lehlbach, and you go with him. You go to the State Highway Department and see where we stand. The Superintendent should go along too.

JACKSON: The general idea is the Indian service will put it in such condition and the State will take it over.

FOSTER: I don't think we ever raised that point.

RINGEY: They don't want the present location.

FOSTER: If you can get worked out with the State, Cleve, a location satisfactory with the State on the Reservation and we can go along with it without costing us a fortune, then we can get something done. I am hazy on it. I agree with you it is a terror.

JENKINS: I think this is involved in the coastal highway system.

RINGEY: That is right.
FOSTER: Isn't our problem, Cleve, getting from the present road alignment up to where the State wants to go?

JACKSON: What is the name of the road man in Portland?

RINGEY: Sluyter--it used to be Conway.

FOSTER: He is retired.

EMMONS: I wish you would look into this with the State and see what can be worked out there.

RINGEY: We are in a negotiating state with them all the time. This is too near the ocean--the bridges are in danger all of the time.

JACKSON: Even if the State now would start working on a highway which they have been talking about for years to extend 101 and go through the Queets Reservation, it would be ten or fifteen years before they would ever get it in shape and if it was just in--especially a hard mix--if we could get a plain mix black top--in the winter time it is mud. The expense of even keeping up the blacktop would pay it off. In the summertime, you can't see 20 feet for dust.

RINGEY: The Bureau of Public Roads won't permit us to surface that kind of a road.

FOSTER: Before we can put in a strip of roads, it has to be cleared with the Bureau of Public Roads. If we can get them to setup that alignment--we have had this thing--no road plan--for some time.

JACKSON: It is our only outlet.

FOSTER: What we will do--since we have a new man in our Roads Department--he has been very good--his duty is to get something done. When you get the chance where you can go to the State Highway Department with us, let us know--let Clarence (Ringey) know.
RINGEY: The Lummi succeeded in doing what they wanted to do by dealing with
the County and State. They are giving up all their roads and requested that
the County and State take over their entire road system.

JACKSON: It would not be wasted with the construction they would have to do
to get away from that road ten or fifteen years before it will be in.

FOSTER: You do that and let Clarence (Ringey) know.

JACKSON: Many of our boys drive that road to work morning and night.

RINGEY: We keep a patrol on there continuously.

EMMONS: I hope you can work that out on a local basis.

FOSTER: If we can get the State to say the alignment will be right up there,
and we can get up to it; it will take care of your problem.

JACKSON: Before they even go up there, what is holding up from much of the
State's standpoint is there is going to be a $6 million bridge across the
Quinault River. They won't put up anything until they are sure of that
appropriation. Just the road to the village is not what they are after. It
is 25 miles to connect two sections of 101.

FOSTER: All right, sir, the ball is yours.

JACKSON: I'll keep going up there and getting in your hair.

FOSTER: You make an appointment with the State Department, and we will be
there.

JACKSON: I'll get our state representative up there. He is on the bridges
and roads committee--get him to have an appointment with the Highway Director
and give you a ring.

FOSTER: Be sure to contact Mr. Ringey. These folks are capable of carrying
the ball on the heirship thing, and there is possibility of bringing in other
groups who wouldn't fit in otherwise.
EMMONS: I think we can get support from other tribes to work out their problems too.

RINGEY: Many problems are on a family level.

EMMONS: How about our children up there. Are they pretty well in school?
JACKSON: We have a fine school system. We are having trouble getting more money than was budgeted from levees and state funds. We haven't got quite enough for a new school plan.

EMMONS: You don't have much trouble with absenteeism?

JACKSON: Our high school children go out over this same road. At one time the school director pulled the school bus off. It was pulling it to pieces.

CAPOEMAN: We blame the State in a way because our road has been a public road. We feel the road had been put in by the Department and we did our part as far as the road situation. But we have any number of tourists come in there. We have a wide-open policy to the public on our roads. Naturally our people today are taxpayers. They support the State in every way on taxes. We have representatives and where Mr. Foster comes in I imagine he and Mr. Mack could come together on something and bring the figures out as to what the actual value of taxation that comes off from this reservation. Up in the Quinault as I recall a few years back, the Area--where a school was discussed--it was a matter of a short time that through the taxes on that timber that the school was erected. We have been five years trying to get a grammar school. The one we originally had is falling to pieces, and we have never made any headway. If we can get some assistance there, we would be grateful in every way.

FOSTER: We will try to give you that help. Are you going to get the right of way on this road?

JACKSON: You mean on the one we are talking about?
FOSTER: Yes. The new alignment where the State would run the road later on. We can't go in and blacktop the present alignment. We would have a fight with everybody but you. What we want to do is to get the State to indicate where the alignment will be for the permanent road. Can you get the right of way?

JACKSON: Yes. Where 101 is now—it was tribal timber from the edge of Quinault Lake to the Quents—and we gave it to them.

FOSTER: Then the right of way won't be a problem?

JACKSON: No.

EMMONS: I am interested in knowing what the ladies have to say.

MRS. BOWECHOP: I think the gentlemen are saying what I had in mind.

JACKSON: The general public uses it more than the residents. The upkeep wouldn't be half as much if it was just the residents who used it.

RINGEY: We tried to cut the speed and thought that would help.

MRS. BOWECHOP: Most of us make our living by fishing. They have a terrible time getting the fish out through that road—and so with the vegetables, milk, and other things. They have their troubles going through that bad road and we need those things.

FOSTER: It looks to me like we are building a lot of support that we can take to the State Highway Department.

MRS. BOWECHOP: We pay taxes for the cars we buy and the gas we buy. They should allow us a little for the many years we have been paying taxes through cars and gas.

JACKSON: Last week one of the liberty freighters came ashore right in front of the village and that thing drew more people than the county fair did over that road.
CAPOEMAN: One thing I would like to mention is our water system on the reservation. We realize and know that water is something very important to our life and the health of our people. Some years back the department built a water system at Taholah. At that time there weren't so many homes and the water system was built to accommodate only what homes were there at the time. In other words, the supply of water was sufficient but the construction wasn't built to handle any more than what ordinarily had been there at the time, and we feel that this system is obsolete at this time as far as supplying the majority of the tribe with water—water that would be suitable. We feel that maybe if there was any available way that we could improve our system—

JACKSON: That is local—we can take care of that through the agency.

EMMONS: I think the U. S. Public Health are very much concerned with that.

JACKSON: They have taken samples of the water and they recommended it very highly. The only thing is we need a bigger main.

CAPOEMAN: The supply will take construction to do it. The point is management and structure will have to be there to rebuild that system to accommodate the majority of homes being built.

FOSTER: You are concerned about plans for that. The Public Health Service has the people who can do that, and you should request the assistance from them. Their head office is in Portland. I think you have a worker in your area. Those folks are equipped and they have the money, the help, and the personnel.

RINGEY: Ray Sheldon is our man.

FOSTER: They know how to get the money, and they have the personnel. You get after them; they are in a position to give you that assistance.

JACKSON: They took samples and said they would send an engineer down.
JENKINS: You start writing them.

EMMONS: I want to congratulate the Tribe for sending you folks up here. With your leadership, I think your Tribe will have a very bright future.

Concluded at 2:45 p.m.
IN THE

UNITED STATES COURT OF CLAIMS

HELEN MITCHELL, et al.,

Plaintiffs,

VS.

UNITED STATES OF AMERICA,

Defendant,

Case Nos: 772-71, 773-71

774-71, 775-71

Deposition Upon Oral Examination Of

JOHN W. LIBBY

Taken at 3006 Colby Avenue, Everett, Washington.

APPEARANCES:

For the Plaintiffs: CHARLES A. ROBES, ESQ. and JERRY R. GOLDSMITH, ESQ.

Wilkinson, Street & Barker
The Octagon Building
1735 New York Avenue S.W.
Washington, D.C. 20006

For the Defendant:
EVERETT, WASHINGTON; TUESDAY, JUNE 3, 1975

9:00 A.M.

--o0o--

MR. MARSHALL: This is the third in a series of discovery depositions initiated at the plaintiffs' request which began yesterday.

These depositions are being taken pursuant to mutual informal arrangement between counsel for both plaintiffs and defendant.

JOHN W. LIBBY, witness herein, being first duly sworn on oath, was examined and testified as follows:

EXAMINATION

BY MR. HOBBS:

Q Would you state your name and address for the record, please.

John W. Libby, 5117 Rose St.
Everett, WA
(By Mr. Hobbs)

A Well, we wanted to see him get the best value he could, yes.
Q Sure you would, but would that be an independent basis for trying to switch him?
A The only reason I would recommend that is because I didn't figure he was competent to make a good deal for himself, and I know a couple of instances where I knew there were a couple of vultures waiting to pounce on the guy the minute he got the fee patent, and he didn't get the fee patent.
Q In those cases, he would come in at the behest of those vultures?
A I think so. I thought so at the time. I'm not mentioning names; they are both dead now anyway.
Q The vultures?
A Yes.
Q When an allottee sells through supervised sale, a lot of money is generated all at once. Is that money paid over to him without restrictions?
A It used to be. I don't know if it still is.
Q Referring to your tenure --
A Yes.
A -- were there occasions when an allottee was so damaged by alcoholism or squandering disposition that the Bureau did not pay over all his money at once.
To Secretary
AUG 25 1950

For Signature

MY DEAR SENATOR GALE:

Reference is made to your letter of July 21 concerning Mr. David Baker's desire to purchase timber at the Quinault Indian Reservation in Washington.

There is attached a statement by the Commissioner of Indian Affairs which is based in part upon a report from the field. The statement reveals that Mr. Baker's wishes have been carefully considered and that he may not have understood fully the conditions to which he has complained.

I believe you are aware of the technical and administrative problems confronting us in the management of the Quinault Reservation Forest. The problems are being solved in a manner that appears to be most advantageous to the greatest number of Indians concerned.

At your request Mr. Baker's letter of July 21 is returned herewith.

Sincerely yours,

            (sgd) Dale E. Doty,
            Assistant Secretary of the Interior

Res. Harry P. Gali
United States Senate
Washington 25, D. C.

Copy to: Secretary's Reading File
          Portland 2
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Office of Land Utilization
AUG 29 1950
## Average Stumpage Rates Paid

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<td>39.54</td>
<td>54.65</td>
</tr>
<tr>
<td>1971</td>
<td>41.69</td>
<td>43.50</td>
<td>54.74</td>
</tr>
<tr>
<td>1972</td>
<td>44.49</td>
<td>48.63</td>
<td>54.90</td>
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<tr>
<td>1973</td>
<td>129.21</td>
<td>42.36</td>
<td>83.04</td>
</tr>
<tr>
<td>1974</td>
<td>134.93</td>
<td>53.37</td>
<td>120.26</td>
</tr>
<tr>
<td>ONE TO ALLOTTEES</td>
<td>WHY BIA LIABLE</td>
<td>KNOWLEDGE REQUIRED BEFORE ALLOTTEES COULD HAVE BEEN AWARE OF CLAIM</td>
<td>APPLICABLE AREA</td>
</tr>
<tr>
<td>------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Nah and Crane Creek acts:</td>
<td>-Trustee who sells custodiam's property is liable if he sells for less than fair market value.</td>
<td>That they were not getting enough money. To know this, the allottees had to know the BIA’s very complicated pricing methodology, the timber data for their own allotments, and how to compare what they were receiving with what was being paid for comparable timber outside the reservation, adjusting for differences in grade, cost, and time.</td>
<td>Taholah and Crane Creek contract areas only</td>
</tr>
<tr>
<td>Impeach (BIA did not charge loggers pay fair market value for timber logged)</td>
<td>-Negligent inspection of logging sites; negligent failure to report merchantable timber left on ground contrary to contract.</td>
<td>That merchantable logs were not being scaled. To know this, the allottees had to see what was left behind, know whether it was merchantable under the contract, and know whether the BIA had scaled it.</td>
<td>ditto</td>
</tr>
<tr>
<td>Mileage error</td>
<td>-Negligent failure to check distance between mill and point representing geographical midpoint of unit.</td>
<td>To know this, the allottees would have had to know that he was paying a road mileage cost, how much it was, and how it was computed.</td>
<td>ditto</td>
</tr>
<tr>
<td>Administrative Fees</td>
<td>-Under 25 U.S.C. § 413, the BIA may not collect more than enough “to cover the cost”.</td>
<td>To know this, the allottees would have had to know how much was being collected, how much being spent, what it was being spent on, and what constituted allowable items.</td>
<td>ditto</td>
</tr>
<tr>
<td>Advance Deposits (BIA did not receive advance deposits for timber cut not scaled, and not credit the allottees)</td>
<td>-The money equitably belonged to the allottees, and so they owned the income from it.</td>
<td>To know this, the allottees would have had to know that the advance deposits were being invested, that the allottees were not receiving the interest, and how much was being earned.</td>
<td>ditto</td>
</tr>
<tr>
<td>Replantation (BIA did to ensure that trees were growing back after fires and logging)</td>
<td>-Negligent failure to plant trees where (a) obviously there could be no proper natural reforestation or (b) where natural reforestation could have occurred but in fact failed to. Proper reforestation means: a. Right species b. Right density c. Planted soon after logging</td>
<td>To know this, the allottees would have had to see their allotments, know whether there was any regrowth, whether it was the proper species, whether it was the proper density, when each logging activity took place on their allotment, and how long after logging regrowth began.</td>
<td>Entire Reservation</td>
</tr>
<tr>
<td>Reappraised sales (BIA did to determine fair market value for land it sold for the allottees)</td>
<td>-Negligent appraisals. Also, negligent failure to reserve easements when adjacent land sold earlier.</td>
<td>To know this, the allottees would have had to know how to appraise timberland. Also, they would have had to know the depressing effect of earlier failure to reserve easements.</td>
<td>Almost entirely in Queets Unit</td>
</tr>
</tbody>
</table>
AMENDMENT OF CONTRACT

BACALLI LOGGING UNIT - QUINault RESERVATION

Contract No. 1-101-Ind-1781

WHEREAS the Aloha Lumber Company, with principal place of business, Aloha, Oregon, was purchaser of the timber on the Tulalip Logging Unit, Quinault Indian Reservation, Washington, under contract approved by the Assistant Secretary of the Interior on May 12, 1958, which contract provides for the purchase of all merchantable timber on said unit on or before April 1, 1959, and

WHEREAS the Aloha Lumber Company subsequently did enter into an agreement of merger with the Aloha Lumber Corporation whereby the Aloha Lumber Company has merged into the Aloha Lumber Corporation, with said merger being approved by the Secretary of State of the State of Washington on December 23, 1958, and

WHEREAS the Aloha Lumber Corporation with principal place of business, Aloha, Washington, is now the purchaser under the aforesaid contract, and

WHEREAS said contract provides for the sale to the purchaser of all merchantable timber on the sale area designated for cutting, comprising trees approximately fourteen inches and larger at a point four and one-half feet from the ground, and

WHEREAS the contract further provides that the purchaser pay for, as merchantable timber, pieces twelve feet and longer, utilized to a diameter of ten inches in the trees where straight and sound, and pay for all timber of the basis of a scale recognizing 32 feet as the maximum length of a single log, and

WHEREAS there is an unestimated volume of usable timber within the timber sale area covered by contract with a diameter of less than 16 inches at breast height in standing trees subject to windthrow and trees already winnowed or blown up in logs and pieces of less than the designated merchantable size as defined in the contract, and

WHEREAS it is in the interest of the Quinault Tribe of Indians and the individual members thereof owning the allotments within the unit and the purchaser that such timber be acquired by the purchaser and removed from the sale area in order, (c) to insure the greatest possible
utilization of the forest materials on the land; (b) provide thereby increased 
revenue to the Federal government; (c) reduce the fire hazard thereof and 
(d) provide a better seed床 for establishment of forest reproduction on the 
area, and

therefore there is also in the contract area a volume of timber in 
small trees, in which with trees of large diameters and, with standard 
logging methods, much of the value in those small trees would be lost by 
leaving and action of such large trees can be prevented by pre-logging operations 
to remove such trees prior to high-field and/or other standard 
logging methods; and

The reproduction tree salvage areas are from small timber in 
frequently non-productive in the form of stumps, or other units, and

until the accomplishment of the contemplated salvage and pre-logging 
operations will require the approval of the Bureau of Indian Affairs 
administration, and such work cannot be done except in time in supervision 
of such operations or in a manner or manner that other than further, and

utilizing the services of competent and impartial log scaling and 
garding bureaus are available for securing the scale of logs produced in 
the said area.

For the ICHF, it is mutually agreed between the Alaska timber Corpora 
tion and the Secretary of the Interior that the terms of the contract No. 
1-136-16-176 are hereby modified by adding the following provisions:

1. The basic measurement for all timber produced on the sale area, excepting 
cut for poles, shall continue to be the Berliner Decimal C. Log Scale, the 
product other than any logs or cut for poles will be scaled or measured 
by the method or method 167. forth in Section 2 of this modification in 
accordance with the following conversion table:

| One cord equals 128 cubic ft. of stacked wood cut in pieces 8 ft 
or shorter. |
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Ninety cubic feet, Sorensen scale equals one cord.</td>
</tr>
<tr>
<td>One cord equals 500 board feet, Berliner Decimal C.</td>
</tr>
<tr>
<td>500 board feet equals one thousand board feet, Berliner Decimal C.</td>
</tr>
</tbody>
</table>

2. Products produced under this modification will be scaled, measured or 
tallied in accordance with the following procedures:

a. Commercial, including lumber, timber poles and other products, 
may be scaled prior to cutting, using Sorensen's Berliner Decimal 
Scale Rule, and in the judgment of the officer in charge it will 
not be practicable or possible, when cut, to be transported to 
central check points. Therefore, all commercial will be scaled in 
cords at check points designated by the officer in charge. For the 
purpose of this provision, timber cut in lengths of eight feet or 
shorter will be considered as excess and selection or grading is 
select or poorer grade as defined under the rules of the
Item larger than 10 ft. in fact may also be sealed as occurred 
if any area of less than replaceable can log disaster and are 
produced as a part of the salvage operation.

b. This process will be tallied and recorded by thousands of 

3. Salvage re-logging operations will not be commenced in any area until 
logging of replaceable timber as defined in the original contract has 
been completed and timber sealed out, after which the purchaser and 
the Forest Officer in Charge shall designate the areas which are to be 
excluded from the provisions of this modification of the contract. In 
the event of disagreement between those representatives of the respective 
parties covering the evaluation of such areas, the salvage operations 
provided for under this provision of the modified contract shall not be 
applicable. In all such excluded areas of the salvage operation the 
Forest Officer shall not seal the salvage material, and no obligations 
shall exist under this agreement to the contract for the purchasers 
to take an offer for the salvage material within such excluded areas. The 
said purchaser hereby agrees to purchase and remove such timber and 
material as may be so designated or otherwise marked by the Forest 
Officer in Charge and to pay for such material at the rate of 9.00 per 
cord for pulpwood, 44.00 per cord for stringbolts, and other sawed 
cutouts, over 16 inches, and 14.00 per 100 board feet for smaller cutouts, 
which rates shall apply during the quarterly period during which this 
modification is approved.

4. The officer approving this modification of contract or his duly 
authorized representative, hereinafter called the Approving Officer, 
may review the salvage values of forest products produced upon these 
salvage operations, either on his own initiative or upon submission by 
the purchaser of evidence satisfactory to the Approving Officer that 
such a review should be made. If, as a result of such review, the 
Approving Officer finds the established rates for such forest products 
no longer represent their true value, he shall give 10 days notice to 
the purchaser of his intention to establish new salvage rates, during 
which time the purchaser may consult with the Approving Officer; 
FACIET, that the requirements of notice shall be satisfied when the 
new rates established under this authority are made effective upon the 
first day of any month which is not less than 30 days following notice 
by the Approving Officer to the purchaser that he intends to propose 
under the authority of this section to change such rates; FACITATIA, that there shall be no change in such salvage rates until 
six months subsequent to the date of approval of this modification of 
contract; and FACITATIA, that such salvage rates shall not be 
changed oftener than once in any calendar year.

5. It is further agreed that in the event the purchaser does not concur with 
the Forest Officer in Charge as to re-logging of any particular cut-over 
area, the Superintendent of the Western Washington Indian Agency may 
proceed to make salvage sales on such areas to other purchasers under 
authority of section 3 of the General Timber Sale Regulations.
6. It is further agreed that the purchaser and the Forest Officer in Charge shall estimate the cost to be paid to effect the removal of small trees prior to logging of the remainder of the stand with high-value other standing timber species. Timber removed in such pre-logging operations may be purchased in the form of cordwood from standing or down timber of the sizes and will be paid for at the contract rate per a board foot established for similar firewood species. If two or more species are cut together in such a way that it is not practicable to determine the grade in advance, the price of the highest grade species in the lot of pile will be paid. It is further agreed that, at the request of the purchaser, entire blocks of timber may be designated for sale and the proceeds from the sale of such blocks shall be paid to the owner.

7. It is further agreed that in lieu of the sealing procedure stipulated in the General Order rules, the Commissioneer of Indian Affairs, hereinafter called the Commissioner, in his discretion and for each period as he may elect, may require that logs cut under this contract shall be sealed by the Chief Sealer for sealing at the Sealing Bureau. Hereinafter called the Sealing Bureau. Sealing by the Sealing Bureau shall not be exclusive so as to prevent sealing by sealers employed by the Bureau of Indian Affairs or of naturalists that are not delivered to the point of Bureau sealing. Should the Commissioner elect to change from one sealing procedure to the other, he shall notify the purchaser in writing not less than thirty days prior to the effective date of such change. The following general conditions shall apply to Bureau sealing. The purchaser shall furnish the Superintendent with a list of names registered for brands which shall be reserved for exclusive use on logs cut under this contract during the entire period the contract is in force, including all extensions thereof, and for six months after its termination. Such names shall be reserved to provide a separate brand for every allotment from which logs may be taken simultaneously during any period of operations.

Upon notification by the Commissioner that the services of the Sealing Bureau are required, the purchaser shall enter into an appropriate agreement with said Bureau for the performance of all necessary scaling and reporting services, and shall promptly submit to the Commissioner certified copies of such agreement in triplicate.

The agreement shall provide for the prompt scaling of all material upon delivery to the place of sealing. It shall also provide for prompt submission to the Superintendent of certified copies of each and every scale report, showing the species, volume, grade, and brand of each log sealed; with such safeguards being included in the agreement as the Commissioner may deem necessary to insure an accurate accounting to the Superintendent of all logs that are presented to the Sealing Bureau for sealing.

The Sealing Bureau's rules respecting scaling, grading and merchantability shall apply.
The purchaser shall pay the Sealing Bureau for all services rendered by it under the agreement.

No logs shall be moved from the place of sealing until they have been sealed.

Customary methods employed by the Sealing Bureau for indicating completion of the sealing shall be utilized in lieu of the numbering and stamping of logs stipulated in Section 22 of the General Timber Sale Regulations.

8. It is further agreed that because of basic differences in scaling practices of the Sealing Bureau and the Bureau of Indian Affairs, adoption of Sealing Bureau sealing practices may result in a difference in volume of saw timber scales. Therefore, it is agreed that the Bureau of Indian Affairs will conduct a study to determine whether a difference in volume will result from adoption of Sealing Bureau practices and if it is found that an appreciable difference will result, the percentage relationship between the saw log price rates for any timber bear to weighted average log price, as set forth in Section 8 of the original contract, shall be revised to compensate for such difference in volume before Sealing Bureau services will be required.

9. It is further agreed that if ratios are revised as a result of studies made as provided in Section 6 of this modification of contract, the revised ratios shall be in effect after Bureau scale is accepted except as otherwise provided in Section 10 of the original contract and all saw timber cut under this contract after adoption of said Bureau scale shall be scaled in accordance with Sealing Bureau practices unless scaled by the Sealing Bureau or by the Bureau of Indian Affairs.

10. It is further agreed that the definition of terms appended hereto is a part of this modification of contract.

11. It is mutually understood and agreed between the parties hereto, except as herein expressly modified and extended, the above original contract shall be in full force and effect and binding upon the parties hereto as though no modification of the contract had been made.
SIGNED AND SEALED in sextuplet this 18th day of November, 1955.

WITH: 

H. C. Thompson 
Catherine Logan 
E. A. Darrard 
Harold C. Cobb 
Josephine Kusierow 
T. V. W. Arne

ALCHI LUMBER CORPORATION

By 
Paul Renton 
President

By 
M. L. Ketchum, Lucy

WESTERN WASHINGTON INDIAN AGENCY

By 
Alf. Young

C. A. Ringey, Supervisor

APPROVED MAR. 21, 1955, 1955

Wesley A. Duvall

Secretary of the Interior
Definitions of Terms as Used in this
Modification of Contract.

1. "HI-LOADING" or "HI-LOAD LOGGING" -
   These terms are used synonymously. Hi-Logging is a clean-up operation
   following original logging operations to salvage residual material that
   is merchantable in some form of forest product but which was not suit-
   able for harvest as defined in the original contract.

2. "HI-LOAD" - is the term applied to the harvesting of specified
   stands or classes of timber from a cutting block prior to regular
   logging operations.

3. "HI-LADDER" is the type of logging commonly used for harvesting timber
   in west coast logging operations. It consists of skidding logs to a
   central landing by means of cable, threaded through a block that is
   suspended near the top of a spar tree. The spar tree is supported by
   guy lines. As used in this report, hi-lad may also include skyline
   or skidder logging which also use "hi-lad" at the landing.

4. "AIR RAKE" - is a rake, with pertinent Federal 6 or 8 rule, of
   material left in the ground after original logging operations have
   been completed. This rake is used by Bureau of Indian Affairs
   Forestry personnel and includes all material left that, in the Forest
   Service's judgment, should have been logged as saw timber in accordance
   with the terms of the contract.

5. "PULP" as used in this report, is a term applied to material pro-
   duced in the form of cordwood that is intended for manufacture into
   pulp. The primary species involved is western hemlock, but any species
   may be included.

6. "SHINGLE PINE" are blocks of cedar, cut 4 feet x inches (4" x 8") in
   length, which are intended for manufacture into sawed shingles. Practi-
   cally, shingle bolts are four-foot, cedar cordwood.

7. "MARKED BOARDS" are split cedar boards, 2" thick, 6" wide and 26" long.
   Width of boards may vary but 6 inches is the accepted standard.
GENERAL TIMBER SALE REGULATIONS
General Timber Sale Regulations:

Sections:

§ 9 - Officers in Charge - designate areas to log in a season
10 - " " " - control cutting
12 - " " " - firebreak, etc.
13 - " " " - protect young growth
14 - " " " - control stump height
21 - " " " - check cutting
22 - " " " - designate brands
26 - " " " - control slash burning
27 - " " " - suspend operations if slash unsatisfactory
28 - " " " - (forest) call for fire suppression
30 - " " " - approve equipment
31 - " " " - require witnesses for fire control
32 - " " " - approve rigging
33 - " " " - approve logging railroad N/W clearing
35 - " " " - Appraise damage

Commissions:

29 - permit dokey logging
39 - regulate improvements
41 - " "
42 - prescribe terms for improvements remaining
53 - receive complaints

Officer in Charge:

37. - repair damages and charge purchasers
33 - telephone
42 - consent to leave improvements
51 - examine records
52 - suspend operations

Appraising Officer:

43 - grant extension of time
45 - approve assignment
46 - refund overpayments
54 - change contract - modify
55 - require satisfactory lead
56 - may declare contract forfeit
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

GENERAL TIMBER SALE REGULATIONS

1. The word superintendent as used in these regulations signifies the Superintendent of the Indian Agency or School within the jurisdiction of which the land covered by any contract is included.

2. The term officer in charge, wherever used in these regulations, signifies the forest officer of highest rank assigned to the supervision of timberwork on the reservation within which the sale area is situated or such other officer as may be designated by the Commissioner of Indian Affairs to supervise a sale.

3. Log scalers will be appointed by the Commissioner of Indian Affairs and receive their instructions from the officer in charge.

4. No timber other than that sold may be cut by the purchaser on the sale area without a separate contract of sale therefor, and timber on allotments within a general sale area held under trust or restricted patents cannot be logged without a contract with the owners of the allotment approved by the proper officer.

5. Other sales within a sale area may be made of products and kinds of timber not sold under a previous sale, provided such sales will not, in the judgment of the officer having authority to make such sale, interfere with the operations of the previous purchaser. Rights-of-way may be granted through portions of the sale area during the contract period, provided they do not interfere with the operations of the previous purchaser.

6. Title to the forest products covered by any contract will not pass to the purchaser until such products are paid for.

7. Cash deposits in advance of cutting will be required. If at any time the stumpage value of the timber cut and unpaid for shall exceed the total amount then on deposit with the Indian Service, an additional deposit shall be required. At the close of each month a statement of all timber cut during the month will be rendered to the purchaser as a demand for payment of the full stumpage value of the timber covered by such statement. As soon as payment is made of the amount covered by such statement, the full amount previously deposited will become available as an advance deposit on timber cut subsequent to the period covered by such statement. At any time that the stumpage value of the timber cut shall exceed the amount of advance deposit cutting operations shall be suspended.

8. The general advance deposits required by a contract which includes both allotted and unallotted land will be credited so far as necessary on allotments cut during the period covered. The fact that special advance payments have been made on allotments which are about to be cut will not operate to reduce the size of the required general advance deposit, but rather will postpone the necessity of making demand for it until the advance payments on the particular allotments being cut have also been exhausted. The deposit made with the bid for the timber will be applied as a general advance deposit.

9. The areas to be logged in any season may be designated by the officer in charge when in his judgment this is necessary to prevent deterioration from fire, worms, or other cause or
to insure the logging of the sale unit in such manner as to fully protect the interests of the United States and the Indians. When logging is begun on an allotment or natural logging unit, it will not be discontinued and started elsewhere without the written consent of the officer in charge.

10. Selective logging, or the logging of areas in such manner as to preserve a part of the merchantable timber, promote the growth of young trees, or preserve the forest cover, will be practiced on all lands chiefly suitable for the production of timber crops. Live trees of diameters below those named in the contract may be designated for cutting, and larger trees may be reserved from cutting in the discretion of the officer in charge. If live trees which are not designated for cutting are cut, or are seriously injured through lack of care, they will be double scaled and so charged and paid for. 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 will be allowed.

11. All dead trees standing or fallen which contain one merchantable log or more will be logged for their merchantable contents, and wherever selective logging is required by the contract the purchaser will fell all other dry trees before the slash is burned.

12. Firewood and improvements will be made as far as possible from unmerchantable material, and material so used will not be charged to the purchaser. The use of such material from allotments may be restricted in the discretion of the officer in charge. Wood and improvements taken from merchantable material will be scaled or measured, charged, and paid for at its maximum value.

13. Young growth will be protected as far as possible in every branch of the logging operations, and its use in the construction of improvements may be restricted by the officer in charge.

14. Stumps will be cut low so as to avoid waste, and the mean height of any stump will not exceed one-half its diameter, except where because of defect or deformity this height is considered impracticable by the officer in charge, provided that the minimum height required will be 12 inches.

15. Waste in high stumps, butts, tops, breaks, skids, and partially sound logs and all trees designated for logging which are not logged and all trees which are left felled or lodged or badly damaged by the logging operations will be scaled for their merchantable contents and charged against the purchaser. All cutting shall be done with a saw when possible.

16. Carelessness on the part of fellers or other employees of the purchaser that results in unnecessary breaking of trees will be penalized by scaling such trees full as if they had not been broken.

17. The log lengths and products taken from each tree will be such as to completely utilize the merchantable material in the tree and to yield the maximum stumpage value. Trees improperly cut into lengths or products of a lesser value shall be scaled, counted, or measured as if cut so as to yield the maximum value.

18. The Scribner Decimal C log rule will be used in scaling logs. The rule will be read to the nearest inch on the average top diameter inside bark. Logs exceeding the maximum length allowed by a contract will be scaled as two or more logs, with proper allowance for the increase in diameter at the points of division.

19. The overlength allowed on logs for trimming will not exceed 1 inch to each 4 feet of length. Logs which overrun this allowance will be scaled as if cut 2 feet longer. Logs longer than the maximum scaling length named in the contract will be scaled as if bucked into two or more shorter logs and with the top diameters they would actually have if so cut.
20. Proper deductions will be made for rot, shake, hollow, and other defects which make a log partially unmerchantable, including sweep exceeding 1 inch in each 4 feet of log length, but deductions will not be made for any defect or damage due to the act or neglect of the purchaser or his employees.

21. A check scaler employed by the purchaser may at hours convenient to the scaler and with the consent of the officer in charge compare his scale of logs with that of the scaler. A copy of the regular scale reports will be furnished to the purchaser through the officer in charge.

22. For convenience in scaling the logs or other products will be bunched as the scaler may direct on the land where cut or at the landing or point of shipment and will not be moved therefrom until he has scaled, numbered, and stamped them. Logs that are moved contrary to the scaler's instructions will be double scaled. Where a separate record of the scale of timber from an allotment or other area is necessary, the logs cut from such area will be marked by the purchaser with a distinctive brand as prescribed by the officer in charge.

23. A merchantable log is any log that will manufacture one-third or more of its total contents into sound lumber 8 feet and longer, except as special provision is made in a particular contract. More defective logs and logs smaller than the merchantable size set in the contract will be culled if left in the woods, but any such logs that are taken for manufacture or sale will be scaled for their actual sound contents of lumber of any length. Any logs taken by the purchaser which are smaller than the minimum scaling length or diameter given on the log-scale rule will be scaled for their merchantable contents.

24. Railroad ties taken by the purchaser under a contract in which tie prices and specifications are not fixed will be scaled or counted as follows:

Eight-foot ties made from logs 9 to 12 inches top diameter will be counted as 30 to the thousand feet board measure and 60-foot ties as 58 to the thousand. Ties made from logs over 12 inches top diameter and long ties will be scaled. Ties made from logs less than 9 inches top diameter will be counted 60 ties 8 feet long and 75 ties 6½ feet long to the thousand feet.

25. The slash resulting from the logging operations, including all branches up to 4 inches in thickness lopped from tops and logs, will at the time of skidding be piled compactly and away from reserved trees on the whole area to be selectively logged and on a strip at least 10 rods wide around all other logging areas in units not larger than quarter sections, unless some other method of slash disposal is provided in the contract.

26. Burning of the slash by the purchaser will be done at such times and in such manner as may be required by the officer in charge, who may at that time assume direct charge of the crew of the purchaser engaged at the work of burning. Slash will not be burned during any period of fire danger. Whenever fire runs through a slashing, except in compliance with the instructions of the officer in charge, the purchaser may be required to lop or to pile and reburn the slash.

27. Unsatisfactory disposal of the slash will cause the officer in charge to suspend all operations of the purchaser until the unsatisfactory condition is corrected.

28. Forest fires on the sale area or adjacent lands during the contract period will be prevented or suppressed by the purchaser, his employees, and subcontractors whenever possible. When called upon by an authorized forest officer, they will work under his directions to suppress fires. If the purchaser or his employees or subcontractors were not directly or indirectly responsible by act or neglect for the origin or the spread of the fire, reimbursement will be made, except that such reimbursement shall not exceed one-half the cost of suppression within the sale area or within one-half mile of the same.
29. Donkey logging may be permitted in the discretion of the Commissioner of Indian Affairs. The ground around the donkey engine will at each setting be cleared of dry trees for a distance of 10 rods and of all other combustible material for a distance of 50 feet in all directions during the season from May 1 to September 30 and any other season of fire danger.

30. All steam engines not burning oil for fuel during the period from May 1 to October 15 and all other seasons of fire danger will be equipped with spark arresters acceptable to the officer in charge, and, excepting locomotives, will have a steam force pump with not less than 1-inch discharge, 100 feet of serviceable 1-inch hose, 6 12-quart pails, 6 shovels, and a constant supply of not less than the equivalent of 12 barrels of water. This equipment will be suitable for firefighting purposes and kept in serviceable condition and used when necessary for fighting fires.

31. A watchman employed by the purchaser and kept on duty during the noon hour at each engine in actual use and not burning oil, and during the night if fires are kept up, may be required by the officer in charge during the period from May 1 to October 15 and any other period of fire danger.

32. Rigging will not be slung on trees reserved from cutting without the use of bushing, and only in a manner satisfactory to the officer in charge.

33. Clearing the right-of-way of the logging railroad and its spurs and the careful burning of all combustible material for a distance of 50 feet on each side of the track is required of the purchaser unless the officer in charge shall, in writing, prescribe a lesser width. And the purchaser shall for such periods as may be required by the said forest officer in charge patrol all railroad tracks after the passage of each locomotive.

34. The vicinity of logging camps and stables will be kept in a clean and sanitary condition, and rubbish will be removed and properly burned or buried during the occupancy and upon the removal of the camps and stables.

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

36. Damage to land or other property of the Indians or the Government resulting from rights-of-way, dams, and other improvements or operations of the purchaser will be appraised by the officer in charge, and if not offset by the value of the permanent improvements made by the purchaser will be charged against the purchaser.

37. Existing telephone lines, fences, roads, trails, and other improvements will be protected as far as possible in the logging operations, and whenever they are broken or obstructed the purchaser will promptly repair the damage. If he fails to make the repairs promptly, the officer in charge may make the repairs and purchaser may be charged with double the expense thereof.

38. Telephone lines constructed by the purchaser within the Indian reservation will be open to the free use of all Indian Service officers for official business, and the purchaser may for their construction and repair cut and use free of charge all necessary poles which are not otherwise merchantable and subject to regulation by the officer in charge.

39. Improvements necessary to execute his contracts, such as camps, sawmills, railroad, roads, telephone lines, chutes, bridges, sluices, and dams, may be constructed and maintained by the purchaser on and across the contracted area and other tribal lands, subject to regulation by the Commissioner of Indian Affairs.

40. Free transportation of Indian Service employees engaged in official business will be allowed over all such railroads, and such employees may, at their own risk, operate hand cars or speeders over the track in such manner as not to interfere with the use of the railroad by the purchaser.
41. Improvements already on the area or on other lands of the reservation and which are necessary for logging purposes may be used by the purchaser subject to regulation by the Commissioner of Indian Affairs.

42. The time limit for the removal of the improvements and other property of the purchaser is 1 year after the expiration of the contract. After that time the title to improvements, including camps, will attach to the land, and no personal property of the purchaser will thereafter be removed except with the written consent of the officer in charge: Provided, That improvements necessary for the logging of other Indian timber may be left for such time and on such terms as may be prescribed by the Commissioner of Indian Affairs.

43. Extension of time for the performance of any contract may be granted the purchaser by the officer approving the contract, in his discretion and subject to such conditions as he may impose.

44. If extension of time to cut and remove the timber is not granted by the officer approving a contract, the purchaser can cut no timber after the expiration of the contract, but he may remove the timber, previously cut and paid for, within 1 year of the expiration of the contract. If not removed within the time allowed, the title will revert to the vendor notwithstanding the purchaser may have paid for the timber.

45. Assignment of any contract in whole or in part by the purchaser will not relieve him of his contract obligations unless the assignment is approved by the officer approving the contract nor until the bond is satisfactorily renewed.

46. Refunds of overpayments will be made to the purchaser by the approving officer provided all terms of the contract have been fulfilled, and the approving officer may also, in his discretion, reduce the amount of timber that is required by the contract to be paid for and removed in any one year.

47. Indian labor will be employed by the purchaser at the same wages as other labor and in preference to other labor not already in his employ whenever the Indian labor seeks employment and is competent.

48. All regulations relative to the maintenance of order on Indian reservations and the introduction of intoxicating liquors will be complied with by the purchaser.

49. In compliance with law and Executive order, no Member of Congress or any Delegate thereto shall have any interest, direct or indirect, in the contract of which these regulations are a part (sec. 3741, R. S., and secs. 111-119, act of Mar. 4, 1899, 33 Stat. L. 1109), and no person undergoing a sentence of imprisonment at hard labor shall be employed in carrying out any contract (Executive order, May 18, 1865). The cutting or removal of timber from Indian lands in breach of the terms of any contract and without other lawful authority, or the leaving of fires unextinguished, will render the offenders liable to the penalties prescribed by section 6 of the act of June 25, 1910 (36 Stat. L. 837). Section corners, quarter section corners, or meander posts on any Government line of survey shall not be destroyed, defaced, changed, or removed to any other place, nor shall any witness trees or any tree blazed to mark the line of a Government survey be cut down in the carrying out the provisions of this agreement. (See sec. 37, act of Mar. 4, 1899, 33 Stat. L. 1109.)

50. The expenses of examining, advertising, marking, sealing, and protecting the timber and of general supervision of the sale will be paid out of a timber expense fund, for which purpose not over 10 percent of the gross proceeds of the sale will be set aside.

51. All the records of the purchaser and his subcontractors pertaining to the logging operation and the manufacture and sale of the products thereof will be open to inspection at any reasonable time by the officer in charge or other officer designated by the Commissioner of Indian Affairs, and the information so obtained will be regarded as confidential. The purchaser will
furnish the officer in charge, at such times as he may request, the amount of lumber sold and the average grade prices received f. o. b. the mill during certain periods; also the amount of box lumber sold, with average price per M; the amount of ties and timber sold, with average price per M; and the amount of byproducts sold and the total receipts for same.

52. Suspension of the purchaser's operations may be made by the officer in charge if any requirements of the contract and of these regulations are disregarded and until there is satisfactory compliance. Persistent failure to comply with any one of the requirements of the contract or regulations after written notice addressed to the purchaser by the superintendent or the officer in charge will be ground for revocation by the officer approving the contract of all rights of the purchaser under this and other contracts and the forfeiture of his bond and of all moneys paid, and the purchaser will be liable for all damage resulting from his breach of contract.

53. Complaints by the purchaser arising from any action taken by the forest officer in charge under the terms of any contract will not be considered unless made in writing to the Commissioner of Indian Affairs within 30 days of the alleged unsatisfactory action.

54. The decision of the officer approving any contract will be final in the interpretation of the contract and of the regulations, and the terms of the contract or regulations cannot be varied in any detail without the written approval of the officer approving the sale.

55. Whenever any bond furnished to guarantee obligations under a sale shall be unsatisfactory to the officer approving the sale he may require a new bond which shall be satisfactory to him.

56. Failure of the purchaser to complete his contract or to log promptly an area damaged by fire, wind, insects, or other causes, or the commission by him of any act for which the officer approving his contract shall declare the contract forfeited, will render the purchaser and his bondsmen liable for the depreciation in the value of the remaining timber on an estimate of value and quantity to be made under the direction of the officer approving this contract.

The above General Timber Sale Regulations are hereby prescribed for use in all contracts for the sale of timber from Indian lands except as special provision shall be made by the Commissioner of Indian Affairs or the Secretary of the Interior in particular cases.
SAMPLE OF
ALLOTMENT TIMBER CONTRACTS
AND
POWER OF ATTORNEY
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Taboloh Logging Unit

Contract No. 1-101-Ind-1169-(234)

TIMBER CONTRACT

THIS AGREEMENT, made and entered into at the Taboloh Indian Agency, Hoquiam, State of Washington, this __________, under authority of the act of Congress of June 24, 1910 (36 Stat. L., 557), and General Timber Contract No. 1-101-Ind-1169-(234), covering the Taboloh Logging Unit, between the Superintendent, Taboloh Indian Agency, for and in behalf of the Secretary of the Interior, an Indian under the jurisdiction of the Superintendent of the Taboloh Indian Agency, party of the first part, and the party of the second part.

WITNESSETH, That the party of the first part agrees to sell to the party of the second part, upon the terms and conditions hereinafter stated, all the dead timber standing or fallen and all the living timber marked or otherwise designated by the Officer in charge for selective logging estimated to be ___________ feet B. M. of western red cedar, ___________ feet B. M. of Sitka spruce, ___________ feet B. M. of Douglas fir, ___________ feet B. M. of amabilis fir, ___________ feet B. M. of western white pine, ___________ feet B. M. of western hemlock and other species, and ___________ linear feet of western red cedar poles, more or less, on the following-described lands, to wit:

Lying in the County of ___________, State of Washington, within the limits of the Quinault Indian Reservation, situated in the County of ____________, State of Washington, the same being lands which have been allotted to ___________, under the provisions of the act of February 8, 1887 (24 Stat. L., 535, 541).

FOR AND IN CONSIDERATION of the foregoing the party of the second part agrees to pay to the Superintendent of the Taboloh Indian Agency, Hoquiam, State of Washington, the sum of ___________ dollars ($_________), more or less, as shall be determined by the actual scale, measurement, or count for the said timber at the rate of ___________ dollars ($_________) per M feet B. M. of Sitka spruce; ___________ per M feet B. M. for Douglas fir; ___________ per M feet B. M. for amabilis fir; ___________ per M feet B. M. for western white pine; ___________ per M feet B. M. for western hemlock and other species; and ___________ per linear foot for western red cedar poles, until such rates are revised as provided by the general contract covering the Taboloh Logging Unit, in trust for said party of the first part.

The party of the second part further agrees to pay twenty-five percent (25%) of the estimated value, at the stumpage rates stipulated in section 24, of the general contract, of the timber sold within thirty (30) days from the date of the approval of this contract by the Superintendent, Taboloh Indian Agency; to pay fifteen percent (15%) additional within three (3) years from the date of approval of the contract and to pay an additional ten percent (10%) within six (6) years from the date of approval of the contract, and to make advance deposits as shall be necessary to cover all timber prior to cutting as required by the attached Indian Service General Timber Sale Regulations, which are made a part of this contract, and as provided in the general contract covering the Taboloh Logging Unit.

The party of the second part further undertakes and agrees that ___________, will cut and remove the said timber in strict accordance with the following specifications and the attached Indian Service General Timber Sale Regulations which are prescribed by the Department of the Interior as to the sale of timber from Indian lands:

APPROVED: ____________________________

Quinault Reservation
1. THE APPROXIMATE MINIMUM DIAMETER LIMIT at a point 4½ feet from the ground to which living trees are to be cut is 14 inches.

2. THE MAXIMUM SCALING LENGTH of all logs will be 52 feet. Timber will be considered MERCHANTABLE as provided in the attached regulations except that western hemlock and amabilis fir must be one-half or more sound.

3. Unless extension of time is granted by the officer approving this contract, all timber will be cut and removed on or before April 1, 19...

4. The cost of examination, advertisement, marking, and scaling of timber, and the expenses of general supervision and protection of the sale and adjacent areas from fires by United States officers shall be paid from the proceeds of the sale of timber.

It is further understood and agreed that this contract shall be void and of no effect until approved by the Superintendent, Tulalip Indian Agency.

Signed and sealed in sextuplet this ________________________, 1852

[SEAL]

By ...........................................

(President if Purchaser is a corporation)

[SEAL]

(Purchaser—Not a corporation)

SUPERINTENDENT, as authorized by attached power-of-attorney, ...........................................

Purchaser—(P. O. Address)

WHEREVER

IT IS UNDERSTOOD AND AGREED THAT SUCH AGENCY IS NOW A PART OF THE

WESTERN WASHINGTON AGENT, under authority of an Order of the Secretary of the Interior dated July 7, 1950.

The above contract is approved this ________________________, 1852, under the conditions stated therein.

[SEAL]

SUPERINTENDENT.
POWER OF ATTORNEY FOR SALE OF ALLOTMENT TIMBER

CUTLINE                        INDIAN RESERVATION,                        TECHNOLOGY

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, hereby request, authorize, and empower the Superintendent of the Tcholok Indian Agency to enter into contract for the sale of the timber upon the following described lands;

(Description of land)

the same being the allotment of

Quincent allottee No. 145 and authorize him to perform every act necessary and requisite to the consummation of such sale with the same validity as if I were personally present. Provided that no such contract shall be made hereunder at stumpage rates per thousand feet board measure of less than the following:

<table>
<thead>
<tr>
<th>SPREAD</th>
<th>DOUGLAS FIR</th>
<th>HEMLOCK</th>
<th>WHITE PINE</th>
<th>WHITE FIR</th>
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<tr>
<td>$1.00</td>
<td>$4.25</td>
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<td>$3.60</td>
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</table>

Stumpage is to be paid for on Scribner's Decimal C. Log scale. Sale of timber is authorized on a selective cutting plan, and I also agree to grant any contractor holding any contract hereunder and in conformity herewith, reasonable right-of-way over the above-described lands, or any other lands in which I hold any interest, provided I shall receive reasonable compensation for any damage done or incurred through such right-of-way. The Commissioner of Indian Affairs or his representative shall definitely determine that shall be considered reasonable damages.

I furthermore agree that the proceeds arising from the sale of this timber may be disposed of in accordance with the regulations of the Department of the Interior, including those providing for the payment of the cost of administration.

Place: [ ] [ ] [ ]
(City or Town)
(State)

WITNESSES:

1. [ ] [ ] [ ] [ ]
2. [ ] [ ] [ ] [ ]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]
THIS AGREEMENT, made and entered into at the Taholah Indian Agency, Quequal, State of Washington, under authority of the Act of Congress of June 29, 1879, (16 Stat. L. 425, 537), and General Timber Contract No. I-101-Ind-M.4.7, covering the Logging Unit, between the Superintendent, Taholah Indian Agency, for and in behalf of the Indian under the direction of the Superintendent of the Taholah Indian Agency, party of the first part, and

WITNESSETH, That the party of the first part agrees to sell to the party of the second part, upon the terms and conditions hereinafter stated, all the dead timber standing or fallen and all the living timber marked or otherwise designated by the officer in charge for selective logging, estimated to be 2,140 acres (1,350 acres), covered by contract No. I-101-Ind-M.4.7, Logging Unit, between the limits of the Quinault Indian Reservation, situated in the County of Jefferson, State of Washington, under the provisions of the Act of February 3, 1877 (24 Stat. L. 335, 501),

FOR AND IN CONSIDERATION of the foregoing, the party of the first part doth agree to pay to the party of the second part the sum of $2.14 per acre ($2.14 per acre) as determined by the actual scale, measurement, or count for the said timber at the rates of $2.14 per B. M. for western red cedar; $2.14 per B. M. for Sitka spruce; $2.14 per B. M. for Douglas fir; $2.14 per B. M. for western hemlock and other species, and $2.14 per B. M. for western red cedar poles, more or less, on the following measured lines, to wit: 1,350 acres (1,350 acres) within the limits of the Quinault Indian Reservation, situated in the County of Jefferson, State of Washington, under the provisions of the Act of February 3, 1877 (24 Stat. L. 335, 501),

The party of the second part further agree to pay twenty-five percent (25%) of the estimated value, at the stumpage rates stipulated in section 5 of the general contract of the timber sold within thirty (30) days from the date of the approval of this contract by the Superintendent, Taholah Indian Agency; to pay fifteen percent (15%) additional within three (3) years from the date of approval of the contract and to pay an additional ten percent (10%) within six (6) years from the date of approval of the contract, and to make advance deposits as shall be necessary to cover all timber prior to cutting as required by the attached Indian Service General Timber Sale Regulations which are made a part of this contract, and as provided in the general contract covering the Logging Unit, in trust for said party of the first part.

The party of the second part further undertake and agree that all will cut and remove the said timber in strict accordance with the following specifications and the attached Indian Service General Timber Sale Regulations which are prescribed by the Department of the Interior as to the sale of timber from Indian lands.
1. THE APPROXIMATE MINIMUM DIAMETER LIMIT at a point 4 1/2 feet from the ground to which living trees are to be cut is 11 inches.

2. THE MAXIMUM SCALED LENGTH of all logs will be 32 feet. Timber will be considered MERCHANTABLE as provided in the attached regulations except that western hemlock and amabilis fir must be one-half or more sound.

3. Unless extension of time is granted by the official approving this contract, all timber will be cut and removed on or before April 1, 19__.

4. The cost of examination, advertisement, marking, and scaling of timber, and the expenses of general supervision and protection of the sale and adjacent areas from fire by United States officers shall be paid from the proceeds of the sale of timber.

It is further understood and agreed that this contract shall be void and of no effect until approved by the Superintendent, Tishio Indian Agency.

Signed and sealed in duplicate this AUG 7, 19__.

[CORPORATE SEAL]

[SEAL]

Attest:

[SEAL]

WITNESSES:

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POWER OF ATTORNEY FOR SALE OF ALLOTMENT TIMBER

CUTLINE

INDIAN RESERVATION, WASHINGTON

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, hereby request, authorize, and empower the Superintendent of the Taholah Indian Agency to enter into contract for the sale of the timber upon the following described lands:

(Description of land)

the same being the allotment of ____________________________

Quincent allottee No. ____________________________ and authorize him to perform every act necessary and requisite to the consummation of such sale with the same validity as if were personally present. Provided that no such contract shall be made hereunder at stumpage rates per thousand feet board measure of less than the following:

<table>
<thead>
<tr>
<th>Species</th>
<th>Stumpage Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spruce</td>
<td>$6.00</td>
</tr>
<tr>
<td>Douglas Fir</td>
<td>$4.25</td>
</tr>
<tr>
<td>Hemlock</td>
<td>$1.00</td>
</tr>
<tr>
<td>Cedar</td>
<td>$3.50</td>
</tr>
<tr>
<td>White Fir</td>
<td>$1.00</td>
</tr>
</tbody>
</table>

Stumpage is to be paid for on Scribner's D-buck C, Log scale. Sale of timber is authorized on a selective cutting plan. And do also agree to grant any contractor holding any contract hereunder and in conformity herewith, reasonable right-of-way over the above-described lands, or any other lands in which hold any interest, provided shall receive reasonable compensation for any damage done or incurred through such right-of-way. The Commissioner of Indian Affairs or his representative shall definitely determine what shall be considered reasonable damages.

I furthermore agree that the proceeds arising from the sale of this timber may be disposed of in accordance with the regulations of the Department of the Interior, including those providing for the payment of the cost of administration.

Place: ________________

(City of Town) ________________

(State) ________________

Date: June 29, 1951

Witnesses:

John D. Smith

Cleveland Jackson

__________________________  ____________________________

__________________________  ____________________________
I HEREBY AUTHORIZE AND INSTRUCT the undersigned, hereby request, authorize, and empower the Superintendent of the Tulalip Indian Agency to enter into contract for the sale of the timber upon the following described lands:

_Description of land_

the same being the allotment of _Quinault allottee No._ and authorize him to perform every act necessary and requisite to the consummation of such sale with the same validity as if were personally present. Provided that no such contract shall be made hereunder at stumpage rates per thousand feet board measure of less than the following:

<table>
<thead>
<tr>
<th>Species</th>
<th>Stumpage Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spruce</td>
<td>$4.00</td>
</tr>
<tr>
<td>Douglas Fir</td>
<td>$4.25</td>
</tr>
<tr>
<td>Hemlock</td>
<td>$4.00</td>
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<td>Cedar</td>
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<td>White Fir</td>
<td>$4.50</td>
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<tr>
<td>White Fir</td>
<td>$4.50</td>
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</tbody>
</table>

Stumpage is to be paid for on Scribner's Decimal C. Log scale. Sale of timber is authorized on a selective cutting plan. I also agree to grant a permanent holding on contract hereunder and in conformity herewith, reasonable right-of-way over the above-described lands, or any other lands it may hold any interest, provided shall receive reasonable compensation for property damage done or incurred through such right-of-way. The Commission of Tulalip affairs or his representative shall definitely determine what shall be treated reasonable damage.

I furthermore agree that the proceeds arising from the sale of this timber may be disposed of in accordance with the regulations of the Department of the Interior, including those providing for the payment of the cost of administration.

_Site_  
_City or Town_  
(State)  
_Date_

_Authorized_  
_Elson Williams, Cabinet Clerk_

_Signatures_
TIMBER CONTRACT

THIS AGREEMENT, made and entered into at the Western Washington Indian Agency, Hoquiam Sub-Station, Hoquiam, State of Washington, this ___________ , under authority of the act of Congress of June 25, 1910 (36 Stat. L., 955,551), and General Timber Contract No. I-101-Ind. __________, covering the __________, Logging Unit, between the Superintendent, Western Washington Indian Agency, for and in behalf of, __________, an Indian under the jurisdiction of the Superintendent of the Western Washington Indian Agency, party of the first part, and __________, party of the second part.

WITNESSETH, That the party of the first part agrees to sell to the part __________ of the second part, upon the terms and conditions hereinafter stated, all the dead timber standing or fallen and all the living timber marked or otherwise designated by the Officer in charge for selective logging estimated to be __________ feet B. M. of western red cedar, __________ feet B. M. of Sitka spruce, __________ feet B. M. of Douglas fir, __________ feet B. M. of amabilis fir, __________ feet B. M. of western white pine, __________ feet B. M. of western hemlock and other species, and __________ linear feet of western red cedar poles, more or less, on the following-described lands, to wit: __________, within the limits of the Quinault Indian Reservation, situated in the County of __________, State of Washington, the same being lands which have been allotted to __________, under the provisions of the act of February 8, 1891 (24 Stat. L., 563,591).

FOR AND IN CONSIDERATION of the foregoing the part __________ of the second part agree __________ to pay to the Superintendent of the Western Washington Indian Agency, Hoquiam, State of Washington, the sum of __________ dollars ($___.________), more or less, as shall be determined by the actual scale, measurement, or count for the said timber at the rate of __________ dollars ($___.________) per M feet B. M. Scribner Decimal C log scale for western red cedar; __________ per M feet B. M. for Sitka spruce; __________ per M feet B. M. for Douglas fir; __________ per M feet B. M. for amabilis fir; __________ per M feet B. M. for western white pine; __________ per M feet B. M. for western hemlock and other species; and __________ per linear foot for western red cedar poles, until such rates are revised as provided by the general contract covering the __________ Logging Unit, in trust for said party of the first part.

The part __________ of the second part further agree __________ to pay twenty-five percent (25%) of the estimated value, at the stumpage rates stipulated in section __________ of the general contract, of the timber sold within thirty (30) days from the date of the approval of this contract by the Superintendent, Western Washington Indian Agency; to pay fifteen percent (15%) additional within three (3) years from the date of approval of the contract and to pay an additional ten percent (10%) within six (6) years from the date of approval of the contract, and to make advance deposits as shall be necessary to cover all timber prior to cutting as required by the attached Indian Service General Timber Sale Regulations which are made a part of this contract, and as provided in the general contract covering the __________ Logging Unit.

The part __________ of the second part further undertake __________ and agree __________ that __________ will cut and remove the said timber in strict accordance with the following specifications and the attached Indian Service General Timber Sale Regulations which are prescribed by the Department of the Interior as to the sale of timber from Indian lands:
1. **The approximate minimum diameter limit** at a point 4½ feet from the ground to which living trees are to be cut is 14 inches.

2. **The maximum scaling length** of all logs will be 92 feet. Timber will be considered merchantable as provided in the attached regulations except that western hemlock and amabilis fir must be one-half or more sound.

3. Unless extension of time is granted by the officer approving this contract, all timber will be cut and removed on or before April 1, 19...]

4. The cost of examination, advertisement, marking, and scaling of timber, and the expenses of general supervision and protection of the sale and adjacent areas from fires by United States officers shall be paid from the proceeds of the sale of timber.

It is further understood and agreed that this contract shall be void and of no effect until approved by the Superintendent, Western Washington Indian Agency.

Signed and sealed in sextuplicate this __________, 19...]

[CORPORATE SEAL]

**Caughee Incorporated**

By

Manager 1st and Division

Attest:

Secretary.

WITNESSES:

(F.O. Address)

(F.O. Address)

(F.O. Address)

(F.O. Address)

(F.O. Address)

The above contract is approved this stated therein.
POWER OF ATTORNEY FOR SALE OF ALLOTMENT TIMBER

QUINAULT INDIAN RESERVATION, WASHINGTON

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, hereby request, authorize, and empower the Superintendent of the Western Washington Indian Agency to enter into contract for the sale of the timber upon the following described lands:

the same being the allotment of
Quinault Allottee No. and authorize him to perform every act necessary and requisite to the consummation of such sale with the same validity as if were personally present. Provided that no such contract shall be made hereunder at stumpage rates per thousand feet board measure of less than the following:

<table>
<thead>
<tr>
<th>Wood Type</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>SYPHUS</td>
<td>$4.00</td>
</tr>
<tr>
<td>DOUGLAS</td>
<td>$4.25</td>
</tr>
<tr>
<td>HEMLOCK</td>
<td>$1.00</td>
</tr>
<tr>
<td>CEDAR</td>
<td>$3.50</td>
</tr>
<tr>
<td>WHITE PINE</td>
<td>$3.50</td>
</tr>
<tr>
<td>WHITE FIR</td>
<td>$1.00</td>
</tr>
</tbody>
</table>

Stumpage is to be paid for on Seifert's Decimal 0 Log scale. Sale of timber is authorized on a selective cutting plan. And also agree to grant any contractor holding any contract hereunder and in conformity herewith, reasonable right-of-way over the above-described lands, or any other lands in which hold any interest, provided shall receive reasonable compensation for any damage done or incurred through such right-of-way. The Commissioner of Indian Affairs or his representative shall definitely determine what shall be considered reasonable damages.

Furthermore agree that the proceeds arising from the sale of this timber may be disposed of in accordance with the regulations of the Department of the Interior, including those providing for the payment of the cost of administration.

Place ___________________________ Date ___________________________
(City or Town State)

WITNESSES: ____________________________

__________________________

__________________________
ALLOTMENT NO. ________________

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Logging Unit

Contract No. I-101-Ind-______-

TIMBER CONTRACT

THIS AGREEMENT, made and entered into at the Taholah Indian Agency, Hoquiam, State of Washington, this ______ day of ______, 19__, under authority of the act of Congress of June 25, 1910 (36 Stat. L. 853, 857), and General Timber Contract No. I-101-Ind., between the Superintendent, Taholah Indian Agency, for and in behalf of ___________________________, an Indian under the jurisdiction of the Superintendent of the Taholah Indian Agency, party of the first part, and ___________________________, party of the second part.

WITNESSETH, That the party of the first part agrees to sell to the party of the second part, upon the terms and conditions hereinafter stated, all the dead timber standing or fallen and all the living timber marked or otherwise designated by the Officer in charge for selective logging estimated to be ______ feet B. M. of western red cedar, ______ feet B. M. of Sitka spruce, ______ feet B. M. of Douglas fir, ______ feet B. M. of amabilis fir, ______ feet B. M. of western white pine, ______ feet B. M. of western hemlock and other species, and ______ linear feet of western red cedar poles, more or less, on the following-described lands, to wit:

__________________________
__________________________
__________________________
__________________________
__________________________
__________________________
__________________________
__________________________

within the limits of the Quinault Indian Reservation, situated in the County of ____________ , State of Washington, the same being lands which have been allotted to __________________________, under the provisions of the act of February 8, 1915 (38 Stat. L. 1055).

FOR AND IN CONSIDERATION of the foregoing part of the second part agrees to pay to the Superintendent of the Taholah Indian Agency, Hoquiam, State of Washington, the sum of ____________________________ dollars ($______-____-). more or less, as shall be determined by the natural scale, measurement, or count for the said timber at the rate of ____________________________ dollars (__________________________) per M foot B. M. Sitka spruce Douglas fir; ____________________________ per M foot B. M. for Douglas fir; ____________________________ per M foot B. M. for amabilis fir; ____________________________ per M foot B. M. for western white pine; ____________________________ per M foot B. M. for western hemlock and other species; and ____________________________ per linear foot for western red cedar poles, until such rates are revised as provided by the general contract covering the Logging Unit, in trust for said party of the first part.

The part of the second part further agrees to pay twenty-five percent (25%) of the estimated value, at the stumpage rates stipulated in section ______ of the general contract, of the timber sold within thirty (30) days from the date of the approval of this contract by the Superintendent, Taholah Indian Agency, to pay fifteen percent (15%) additional within three (3) years from the date of approval of the contract and to pay an additional ten percent (10%) additional within six (6) years from the date of approval of the contract, and to make advance deposits as shall be necessary to cover all timber prior to cutting as required by the attached Indian Service General Timber Sale Regulations, which are made a part of this contract, and as provided in the general contract covering the Logging Unit.

The part of the second part further undertakes and agrees that he will cut and remove the said timber in strict accordance with the following specifications and the attached Indian Service General Timber Sale Regulations which are prescribed by the Department of the Interior as to the sale of timber from Indian lands:

[Further content not visible due to cropping]
1. THE APPROXIMATE MINIMUM DIAMETER LIMIT at a point 4½ feet from the ground to which living trees are to be cut is 14 inches.

2. THE MAXIMUM SCALED LENGTH of all logs will be 32 feet. Timber will be considered MERCHANTABLE as provided in the attached regulations except that western hemlock and amabilis fir must be one-half or more sound.

3. Unless extension of the date granted by the officer approving this contract, all timber will be cut and removed on or before April 1, 19...

4. The cost of examination, advertisement, marking, and scaling of timber, and the expenses of general supervision and protection of the sale and adjacent areas from injury by United States officers shall be paid from the proceeds of the sale of timber.

It is further understood and agreed that this contract shall be void and of no effect until approved by the Superintendent, Tulalip Indian Agency.

Signed and sealed in sextuplicate this _____________________________________________, 19...
POWER OF ATTORNEY FOR SALE OF ALLOTMENT TIMBER

I, __________, ____________ INDIAN RESERVATION, ____________ RESIDENCE,

DODE, by these presents, that I, the undersigned, hereby request, authorize, and empower the Superintendent of the Taholah Indian Agency to enter into contract for the sale of the timber upon the following described land:

(Description of land)

the same being the allotment of ____________.

Quinnielot allotted No. ____________ and authorize him to perform every act necessary and requisite to the consummation of such sale with the same validity as if ____________ were personally present. Provided that no such contract shall be made hereunder at stumpage rates per thousand feet board measure of less than the following:

<table>
<thead>
<tr>
<th>Species</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Douglas Fir</td>
<td>$4.25</td>
</tr>
<tr>
<td>Hemlock</td>
<td>$1.00</td>
</tr>
<tr>
<td>Cedar</td>
<td>$3.50</td>
</tr>
<tr>
<td>White Fir</td>
<td>$3.50</td>
</tr>
</tbody>
</table>

Stumpage is to be paid for on Scribner's Decimal C Log scale. Sale of timber is authorized on a selective cutting plan. And ____________ do also agree to grant any contractor holding any cut of hereunder and in conformity herewith, reasonable right-of-way over the above-described land, or any other lands in which ____________ hold any interest, provided ____________ shall receive reasonable compensation for any damage done or incurred through such right-of-way. The Commissioner of Indian Affairs or his representative shall definitely determine what shall be considered reasonable damages.

I, ____________, furthermore agree that the proceeds arising from the sale of this timber may be disposed of in accordance with the regulations of the Department of the Interior, including those providing for the payment of the cost of administration.

Place: ____________
(City or Town)
(State)

Date: ____________

THESE:

__________________
__________________
1950 LOGGING PLAN GUIDELINES

PRESENT LOGGING PLAN GUIDELINES
September 1, 1950

Mr. F. A. Gross
Acting Superintendent
Western Washington Agency
Hoquiam Sub-Station
Hoquiam, Washington

Dear Mr. Gross:

During the course of an official visit of Mr. Earle R. Wilcox, Forester, to this Area Office last week he left a preliminary draft of a proposed "Plan of Logging Operations" with the request for our review and comments before issuance in final form. This plan consisted of instructions to a timber contractor concerning the contractual requirement for preparation and submission of logging plans in advance of operations.

We have carefully reviewed the plan and are in general agreement with it and its purposes. However, in view of past experience we question the advisability of issuing any sort of formal plan of this kind which might conceivably be interpreted as supplemental to or a modification of the contract. If in the event of a lawsuit the Court would uphold such an interpretation the surety might thereby obtain relief on the grounds that surety had not consented to the modifying of the contract terms.

To avoid such a contingency we suggest that the desires with respect to the submission of an annual operation plan and the manner in which it is to be presented be submitted in the form of a letter to the contractor over the signature of the Superintendent. Such letter should be so written as to avoid any suggestion that it modifies or supplements the contractual agreement, and should be presented rather as an interpretation indicating standards of performance and what will constitute compliance with the contract terms.

It is entirely within the authority of the officer in charge to designate the area for cutting within a logging unit, and such designation could be made within reasonable limits without reference to the operator's plan. However, in order to make collective logging by blocks successful it should be done with the cooperation of the operator. This of necessity will require the preparation
of advance logging plans, which though not necessarily specific beyond a year in advance should foresee subsequent operations several years ahead. There is some question in our minds whether the operator can make his complete logging plans a year in advance without the collaboration of the forest officer in charge. We would suggest, therefore, that the letter make some provision for joint work on the plan particularly during its initial phases.

Except for these suggestions we find no disagreement with the plan and believe the tentative standards are satisfactory as a starting point. Subsequent experience may, of course, develop the need for smaller cutting blocks or wider reserve strips.

Sincerely yours,

FLOYD H. PHILLIPS
Area Forester

cc: Western Washington Agency
Tulalip, Washington

P. S. We are enclosing Mr. Wilcox's "Plan of Logging Operations" in order that he may have the benefit of the pencil corrections which have been made thereon. We shall appreciate a copy of the suggested letter to the contractor when it has been prepared in final form.

F.H.P.

Enclosure
In order to comply with Section 2 of the General Contract covering the sale of timber from the Logging Unit, the following procedure will be asked of the operator to facilitate the designation by the Forest Officer of the timber to be cut, and yet to allow the operator a minimum of leeway in the choice and order of areas to be cut.

(1) A detailed plan of operations for a full calendar year will be submitted to the Forest Manager of the Western Washington Agency before December 1 of the year preceding the year covered by the plan.

(2) The Forest Manager will review the plan, and if it meets with the requirements designated hereinafter will approve the plan, or will suggest changes or modifications as needed.

(3) Such approval of the plan of operations by the Forest Manager will be given to the operator in written form. Such approval will constitute the designation of those areas as set forth in the approved plan as the areas to be cut during the year for which planned, and in the order in which they are indicated in said plan.

(4) No deviation from the approved plan of operations shall be made during the course of a calendar year without the prior approval of the Forest Manager. It is intended that the administrative control of the operations shall be made as adjustable as possible to meet the desires of the operator. Accordingly, immediate attention will be given to supplemental plans submitted during the course of a given year in order to expedite desirable changes in the plan.

The following suggestions concerning the plan of operations and the requirements in methods of logging are set forth as a guide to the operator in the preparation of plans which will be acceptable:

(1) Two copies of the plan should be submitted in map form in scale of four inches to the mile or larger.

(2) The map should show allotment lines, allotment names and numbers, the outline of settings to be logged, the approximate area of each setting, the location of roads and other improvements, and the method and sequence of logging each setting.
(3) Written explanations or justifications for methods of logging should be entered on the map as notes or should be shown on separate pages to be made a part of the plan.

(4) The method of logging this unit is specified as clear cutting in blocks unless it is deemed advisable to cut otherwise by the Forest Manager after consultation with the operator. The clear cut blocks will be staggered, with intervening strips or blocks of timber reserved until the cutover blocks are adequately reseeded with reproduction and have become relatively fire-resistant.

(5) The cutting shall be so planned that no single area of clear cutting shall exceed 120 acres in size until a minimum of ten years has elapsed between the cutting of one block and the cutting of a second contiguous block which will extend the clear cut area beyond 120 acres in size. (Except that such clear cut blocks up to 100 acres in size may be considered for approval where conditions of terrain, other factors, make the cutting of such larger blocks the only economical way it can be logged.)

(6) Tractor logging will be employed wherever it is possible to do so economically.

(7) Special attention should be given to planning the immediate logging of areas of blowdown, fire-killed timber, or other timber subject to deterioration whenever such timber is economically accessible.

(8) Reserve areas of timber between blocks will normally be of size sufficiently large to provide economical logging settings when the operation returns to that portion of the unit in a second cycle of cutting, then such a reserve stand is considered non-merchantable, the width of such reserve strips or blocks must be sufficiently large to safeguard against complete destruction from windthrow or fire. The minimum width of such non-merchantable reserve strips will be 500 feet.

(9) Deviations from the standards prescribed herein may be considered. However, in order to eliminate delays in approval of plans it is advisable to discuss such deviations with the Forest Manager before making them a part of the plan.

The foregoing instructions are subject to change or modification by the Forest Manager on written notice to the operator.
CRANE CREEK TIMBER CONTRACT

AND

MODIFICATION
Secretary:

Appointing Officer: 6/20/52

Contract Sections:

610 = Review Rates, change ratios
611 = Review Rates, Tread
619 = Fire damage rate
627 = Approve Contract

Commissioner:

615 = May relieve cut
617 = Relief from minimum
621 = Designate Scaling Bureau
628 = Approve form of financial statement

Modif. 6 = Approving Officer of Modif. 10/14/59
Review Salvage Rates

Area Director:

6 7 = Schedule of Guide Price Calculations FAA
6 9 = Calculate Average Log Prices FAA
613 = May reduce cash deposit at end of season
614 = May revise volume estimate on allotment
616 = Consent to exceed yearly cut
622 = Logging Plan - approve
626 = Fire protection requirements
625 = Relieve Sec. 25 & 26 - Slash and Snip
626 = Set date and receive financial statement

Superintendent:

621 = Receive Scale Reports (tickets)

Modif. 6 7 = Supt. may make other salvage sales

Officer in Charge:

620 = Prescribe log brands

Modif. 6 4 = Be continued scaling and chokes
6 5 = Designate excluded salvage areas
6 8 = Designate Prelog areas
UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF INDIAN AFFAIRS

Contract No. I-X02-Ind. 1912

GRAND CREEK LOGGING UNIT

1. THIS AGREEMENT, made and entered into at the Western Washington Indian Agency, Everett, Washington under authority of the Act of June 25, 1910 (36 Stat. 657; 25 U.S.C. 458, 457) between the Superintendent of the Western Washington Indian Agency, hereinafter called the Superintendent, for and in behalf of the Indian owners, party of the first part; and

hereinafter called the Purchaser, party of the second part.

2. WITNESSETH, that the Superintendent in consideration of the agreements by the Purchaser, agrees to sell to the Purchaser, and the Purchaser agrees to buy upon the terms and conditions herein stated, the Indian Bureau General Timber Sale Regulations, approved April 20, 1910, by the Assistant Secretary of the Interior, which are attached to and made a part of this contract, all the merchantable dead timber, standing or fallen, and all the merchantable live timber, marked or otherwise designated by the officer in charge for selective logging, as required by said General Timber Sale Regulations, located on unallotted land, and on trust allotments covered by contracts entered into pursuant to the terms hereof, within a tract designated as the Grand Creek Logging Unit on the Quinault Indian Reservation. The boundaries of the unit, which shall be marked on the ground, are shown approximately on the attached map which is made a part hereof, and are described approximately as follows:

Starting at a point on the northern boundary of the Quinault Indian Reservation where the range line between Range 10 West and Range 11 West intersects said boundary, thence south along this range line to the North bank of the Quinault River, thence southwesterly along the Quinault River to a point 1/2 mile south of the center of Section 22, T. 22 N., R. 11 W., thence west along the south line of Indian Allotment No. 261 to the southwest 1/16 corner of said Section 22, thence North 1/2 mile to the quarter corner between Sections 21 and 22, thence west to the Quinault River, thence westerly along the north bank of the river to the approximate quarter corner between Sections 20 and 21, thence west to a point 1/4 mile east of the center of Section 19, thence north 1/4 mile, thence west to the range line between Ranges 11 and 12 West, thence north along the range line to the Township Corner common to T. 22 N., R. 12 W., T. 23 N., R. 12 W., T. 22 N., R. 11 W., and T. 23 N., R. 11 W., thence West one mile, thence north to the North boundary of the Quinault Reservation, thence easterly along said boundary to the point of beginning.

3. THE SUPERINTENDENT AUTHORIZES THE PURCHASER, and the Purchaser obligates himself to enter into separate contracts on an approved form with such Indians holding trust patented allotments within the logging unit as desire to sell their timber, subject to the terms of this contract. THE PURCHASER FURTHER AGREES to enter into said allotment contracts within thirty days from the date of submission of such contracts to him by the Superintendent.
4. THE AFFECTED AREA of the logging unit, exclusive of alienated land, is:

<table>
<thead>
<tr>
<th>Species</th>
<th>Unallotted</th>
<th>Allotted</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western red cedar</td>
<td>2,400,000</td>
<td>271,000</td>
<td>2,671,000</td>
</tr>
<tr>
<td>Sitka spruce</td>
<td></td>
<td>16,000</td>
<td>16,000</td>
</tr>
<tr>
<td>Douglas fir</td>
<td>100,000</td>
<td>9,000</td>
<td>109,000</td>
</tr>
<tr>
<td>Amenities fir</td>
<td>300,000</td>
<td></td>
<td>300,000</td>
</tr>
<tr>
<td>Western white pine</td>
<td></td>
<td>7,000</td>
<td>7,000</td>
</tr>
<tr>
<td>Western hemlock and other species</td>
<td>600,000</td>
<td></td>
<td>600,000</td>
</tr>
<tr>
<td>Total</td>
<td>3,200,000</td>
<td>447,000</td>
<td>3,647,000</td>
</tr>
<tr>
<td>Cedar poles</td>
<td>13,000</td>
<td>1,207,000</td>
<td>1,220,000</td>
</tr>
</tbody>
</table>

The purchaser acquires no rights or interest whatsoever in and to approximately 140 acres of alienated land lying within the boundaries of this logging unit.

5. THE ESTIMATED VOLUME OF TIMBER TO BE CUT IS:

<table>
<thead>
<tr>
<th>Species</th>
<th>Unallotted</th>
<th>Allotted</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Cedar poles</td>
<td>13,000</td>
<td>1,207,000</td>
<td>1,220,000</td>
</tr>
</tbody>
</table>

It is mutually agreed that the foregoing are estimates only, and they shall not be construed as guarantees or limitations of the volumes of the several species of timber to be marked or otherwise designated for cutting under the terms of this contract. The actual volume of timber marked or otherwise designated for cutting shall be controlling, regardless of whether it is less or more than the above estimates.

6. FOR AND IN CONSIDERATION of the agreements by the Superintendent, the Purchaser agrees that prior to April 1, 1934 he will cut all timber covered by this contract, and will pay to the Indian Bureau Special Disbursing Agent for the Western Washington Indian Agency, hereinafter called the Special Disbursing Agent, for the use and benefit of the Indians entitled thereto, the full value of said timber as shall be determined on the basis of an actual log scale, at fixed rates per thousand feet, board measure, Scribner Decimal 3 Log Scale for saw timber which rates shall be established for each quarterly period beginning January 1, April 1, July 1, and October 1, PROVIDED, that the rates for the remainder of the quarterly period in which this contract is approved shall be the bid rates, as follows:

- For western red cedar: Thirteen dollars and 70 cents
- For Sitka spruce: Thirteen dollars and 70 cents
- For Douglas fir: Thirteen dollars and 70 cents
- For amenities fir: Thirteen dollars and 70 cents
- For western white pine: Thirteen dollars and 70 cents
- For western hemlock and other species: Thirteen dollars and 70 cents
- For cedar poles with butt diameter not greater than 9" top diameter and no more than 12" butt diameter: the initial rate shall be the bid rate of 70 cents per linear foot.

1,220,000 linear ft.
7. FOR THE PURPOSE of determining the stumpage rates to be paid for raw logs in each succeeding quarterly period of this contract it is understood and agreed that the Bureau of Indian Affairs has calculated, for each species, from information published by the Pacific Northwest Loggers Association, the grade percentages of logs sold in the combined Grays Harbor-Forest Sound-Columbia River log markets during the five calendar years of 1946 to 1950 inclusive, excepting cedar which is calculated on a three-year average for the years 1948 to 1950 inclusive. It is further agreed that the Bureau of Indian Affairs has calculated, for each species, the average log grade prices in the same combined markets for the months of July, August, and September, 1951 from information published by the Pacific Northwest Loggers Association; and from the aforesaid calculations has determined the weighted average prices of logs for the months of July, August, and September, 1951 to be:

Western red cedar $56.71 per M ft. EM
Sitka spruce $51.05 per M ft. EM
Douglas fir $65.45 per M ft. EM
Amsablis fir $41.47 per M ft. EM
Western white pine $53.69 per M ft. EM
Western hemlock $39.61 per M ft. EM

A schedule of the aforesaid calculations and determination is on file at the Portland Area Office of the Bureau of Indian Affairs.

8. IT IS FURTHER AGREED that the stumpage rates for sawtimber appearing in Section 6 of this contract bear the following percentage relationships to the weighted average log prices appearing in Section 7 hereof:

Western red cedar stumpage to western red cedar log price 110% Sitka spruce stumpage to Sitka spruce log price 110% Douglas fir stumpage to Douglas fir log price 110% Amsablis fir stumpage to Amsablis fir log price 110% Western white pine stumpage to Western white pine log price 110% Western hemlock stumpage to Western hemlock log price 110% Other species stumpage to western hemlock log price 110%

9. THE PORTLAND AREA DIRECTOR of the Bureau of Indian Affairs or his duly authorized representative, hereinafter called the Area Director, shall obtain from the Pacific Northwest Loggers Association, through its published reports or otherwise, the average sales prices of logs in the Grays Harbor, Forest Sound, and Columbia River log markets for each quarterly period during the life of this contract or any extension thereof, and shall calculate the average log prices of each species on the same basis of log grade percentages as those used in determining the weighted average log prices stipulated in Section 7. In determining the stumpage rates for saw logs to be effective for any given quarterly period, the percentages stipulated in Section 8, or the percentages which may be subsequently established under the provisions of Section 10, shall be applied to the calculated Grays Harbor-Forest Sound-Columbia River average log prices for the preceding quarterly period, and the saw timber stumpage rates for each species so determined shall be the rates to be paid for timber actually scaled during such given quarterly period.
10. The Officer handling this Contract or his duly authorized representative, hereafter called the Approving Officer, may review, the stumpage rates established by the procedure set forth in Sections 6 to 9 inclusive, either on his own initiative or upon submission by the Purchaser of evidence satisfactory to the Approving Officer that such a review should be made. If, as a result of said review, the Approving Officer finds that the character of the operation, changes in market conditions, or other factors have altered the situation to such an extent that, in his opinion, a change in the existing ratios between stumpage rates and the Craya Harbor-Jougt Sound-Columbia River weighted average log prices is warranted, he shall give thirty days notice to the Purchaser and the Indians in General Council or their authorized representatives of his intention to establish new ratios between stumpage rates and the Craya Harbor-Jougt Sound-Columbia River weighted average log prices, during which time the Purchaser and the Indians may consult with the Approving Officer. PROVIDED, That the requirements of notice of this section shall be satisfied when the new ratios established under this authority are made effective upon the first day of a quarterly adjustment period which is not less than thirty days following notice by the Approving Officer to the Purchaser and the Indians that he intends to proceed under the authority of this section to change such ratios; PROVIDED FURTHER, that there shall be no change in the ratio of any species until two years subsequent to the date of approval of this contract; and PROVIDED FURTHER, that the said ratio for any species shall not be changed oftener than once in any calendar year. The stumpage rate for cedar poles may be adjusted by the Approving Officer, at any time in accordance with the trend of the cedar pole market in the general locality of Craya Harbor. Notice of the new cedar pole stumpage rate will be furnished the Purchaser and the Indians at least thirty days prior to the date on which it will become effective.

11. NOTWITHSTANDING any other provisions of this contract it is mutually agreed that, in the event the said Pacific Northwest Loggers Association's Composite Sales Analyses are unavailable during any periods of this contract for use in connection with these stumpage adjustments, or in the opinion of the Approving Officer they do not properly reflect the true market value of the stumpage, the Approving Officer shall at any time, after giving thirty days notice to the Purchaser and to the Indians in General Council or their authorized representatives, during which time they may consult with the Approving Officer, proceed to revise stumpage rates in this contract as the trend of economic conditions in the West Coast forest products industries warrant; PROVIDED, that the requirements of notice in this section shall be satisfied when the new rates established under this authority are made effective thirty days after notice by the Approving Officer to the Purchaser and the Indians that he intends to proceed under the authority of this section to revise stumpage rates; PROVIDED FURTHER, that the requirements of quarterly adjustment of stumpage rates shall not apply to the procedure authorized by this section.

12. It is further understood and agreed that stumpage rates will never, in any event, be reduced below the following:

- $3.50 per M feet, EM for western red cedar
- $4.00 per M feet, EM for Sitka spruce
- $4.25 per M feet, EM for Douglas fir
- $1.00 per M feet, EM for western hemlock
- $3.50 per M feet, EM for Western white pine
- $1.00 per M feet, EM for Western hemlock and other species
- $0.02 per linear foot for cedar poles
13. The Purchaser further agrees that prior to the time when the stumpage value of the timber cut from both allotted and unallotted lands shall exceed the cash deposit of $190,000.00 submitted with his proposal to purchase timber, he will make another cash deposit of $35,000.00 and subsequent deposits of $25,000.00 at such times as may be necessary to insure that the stumpage value of the timber cut and not paid for at any time shall not exceed the cash deposit then in the hands of the Special Disturbing Agent, PROVIDED, that in the discretion of the Area Director, the last cash deposit in any logging season may be in the sum of not less than $10,000.00.

14. The Purchaser further agrees that within thirty days from the date of approval of the contract on each allotment he will pay twenty-five per cent of the estimated value of the timber therein as an advance payment, and further, that within three years from the approval of each contract he will pay an additional fifteen per cent of the estimated value of the timber as an advance payment, and an additional ten per cent as an advance payment within six years of approval of the allotment contract; PROVIDED, that with respect to each allotment contract, no advance payment will be required in an amount that will make the sum of that payment, plus all previous advance payments, plus all advance deposits previously applied against timber cut from the allotment, exceed fifty per cent of the estimated value of the timber; PROVIDED FURTHER, that the estimated value of the timber shall be determined by multiplying the volumes of each species estimated to be cut by the following corresponding rates:

- Western red cedar $13.20 per M ft. BM
- Sitka spruce $10.20 " " "
- Douglas fir $15.00 " " "
- Amabilis fir $6.05 " " "
- Western white pine $8.80 " " "
- Western hemlock and other species $6.40 " " "
- Western red cedar poles $0.055 per linear foot

Provided further, that the stumpage rates governing at the time the timber is sold will be the rates charged for the timber actually cut. It is mutually understood and agreed, that the Area Director, on his own initiative or upon submission by the Purchaser of evidence satisfactory to the Area Director, in his discretion may revise the estimated volume of timber on any allotment because of errors in estimate, or because of fire or other losses not due to any act or neglect of the Purchaser, but not because of depletion through cutting under authority of the allotment contract; PROVIDED, that in case the advance payments made on any allotment contract exceed the total value of timber cut and removed from the allotment by the Purchaser, it is mutually agreed that such advance payments are declared to be the value of such timber so cut and removed.

15. The Purchaser further agrees that he will, unless relieved by the Commissioner of Indian Affairs, cut and pay for from some portion of the sale area, including allotments, at least 20,000,000 feet, board measure, Southern Deciduous 2" Log Scale, prior to April 1, 1954 and not less than 23,000,000 feet board measure in any twelve months ending March 31 thereafter during the life of this contract; PROVIDED, that all timber on this unit must be cut and paid for prior to the contract expiration date; that he will pay for, as merchantable timber, pieces twelve feet and longer, will utilize the trees to a diameter of ten inches in the tops where
straight and sound, and will pay for all timber, except cedar poles, on the basis of a scale recognizing 40 feet as the maximum length of a single log; and that all logs will be considered merchantable as provided in the attached General Timber Sale Regulations or as otherwise provided in Section 21 of this contract.

16. THE CUT in any contract logging year ending March 31, not including cutting deficiencies from any previous year or years, shall not exceed 35,000,000 foot board measure, Southern Pacific C log scale, without the written consent of the Area Director. Logging performance in any contract logging year beyond the minimum required therefor shall not be credited against the cutting requirements of subsequent years without the written consent of the Area Director.

17. IT IS UNDERSTOOD AND AGREED, that the volume of timber cut under this contract in any contract logging year ending March 31 shall not be credited against the existing unexcused deficiencies in cutting requirements of the preceding year or years; PROVIDED, that all timber cut during the quarter-annual period or periods in which there remains an unexcused deficiency in cutting requirements of a previous year, shall be paid for at the stumpage rates in effect at the time of cutting said timber or at the rates that were in effect on March 31 of the year in which the deficiency in cutting occurred, whichever are the higher. PROVIDED FURTHER, that the Commissioner of Indian Affairs may relieve the Purchaser in whole or in part from the minimum cutting and paying requirements because of adverse operating or market conditions, fire damage to the Purchaser's manufacturing plant, acts of God or Government control, or for other cause deemed sufficient by him.

18. THE PURCHASER FURTHER AGREES that if fire, for the starting or spread of which he, or any of his employees, his sub-contractors, or their employees, are responsible by act or neglect, shall destroy young growth under ten inches in diameter on any portion of the reservation, he will pay liquidated damages of twenty dollars ($20.00) per acre for the area thus burned over unless a lesser rate of damages shall be approved by the Approving Officer; and he agrees that in addition to these liquidated damages, he will pay the damage that shall be caused to all timber ten inches and larger in diameter at four and one-half feet from the ground or to any other property of the Indians or the Government, should merchantable timber be injured by a fire for the origin or spread of which the Purchaser, his agents, employees, sub-contractors or their employees, are in any way responsible, said Purchaser shall be accountable for the loss sustained only to the extent that such loss shall be due to his failure to cut and remove the injured timber as expeditiously as shall be possible under the existing circumstances and the terms of this contract.

19. IT IS UNDERSTOOD AND AGREED, that in addition to the provisions of Section 5 of the attached General Timber Sale Regulations, this contract is subject to any existing rights of way.

20. THE PURCHASER AGREES that he will re-establish individual allotment boundaries and corners, and will keep them clearly marked while logging is in progress. The re-established boundaries and corners shall be verified by the Officer in Charge before logging on an allotment is begun. THE PURCHASER ALSO AGREES to brand all logs and other forest products on each allotment, as prescribed by the Officer in Charge, in order to permit ready identification at the point of scaling, and for
this purpose he shall register with the State of Washington a sufficient number of brands to provide a corporate brand for each allotment on which operations may be in progress at any one time, such brands to be designated for exclusive use on logs and other forest products cut under this contract.

21. IN executing THE SCALING REGULATIONS stipulated in the General Timber Sale Regulations, it is mutually agreed that the Commissioner of Indian Affairs, hereinafter called the Commissioner, in his discretion and for such periods as he may elect, may require that logs cut under this contract shall be scaled by a log scaling organization, hereinafter referred to as the scaling bureau, to be designated by the Commissioner. The designated scaling bureau shall be one that is recognized as competent by the lumber industry. Scaling by a log scaling bureau shall not be exclusive so as to prevent scaling, in the manner stipulated in the General Timber Sale Regulations, of material that is not delivered to the point of bureau scaling. Should the Commissioner intend to change from one scaling procedure to the other he shall notify the Purchaser in writing not less than thirty days prior to the effective date of such change. The following general conditions shall apply to bureau scaling:

Upon notification by the Commissioner that the services of a log scaling bureau are required, the Purchaser shall enter into an appropriate agreement with the designated scaling bureau for the performance of all necessary scaling and reporting services, and shall promptly submit to the Commissioner certified copies of such agreement in triplicate.

The agreement shall provide for the prompt scaling of all material upon delivery to the place of scaling. It shall also provide for prompt submission to the superintendent of certified copies of each and every scale report, showing the species, volume, grade, and brand of each log scaled; with such safeguards being included in the agreement as the Commissioner may deem necessary to insure an accurate accounting to the Superintendent of all logs that are presented to the scaling bureau for scaling.

The scaling bureau shall respect scaling, grading, and merchantability shall apply.

The Purchaser shall pay the scaling bureau for all services rendered by it under the agreement.

No logs shall be moved from the place of scaling until they have been scaled. Customary methods employed by the scaling bureau for indicating completion of the scaling shall be accepted in lieu of the numbering and stamping of logs stipulated in Section 22 of the General Timber Sale Regulations.

22. IT IS MUTUALLY AGREED that the Purchaser shall have all reasonable latitude in his logging operations consistent with the requirements of selective logging and the other requirements of this agreement. In order to assist in meeting these requirements, and in addition to Section 9 of the General Timber Sale Regulations, the Purchaser agrees to submit a plan of his logging operations for each contract logging year beginning April 1, said plan to be of a form satisfactory to the Area Director. The Purchaser further agrees that he will undertake no logging
operations in any contract logging year until the Area Director shall have approved, in writing, the plan of operations for such logging year; PROVIDED, that there shall be no departure from the approved plan of operations without the consent, in writing, of the Area Director.

23. THE PURCHASER FURTHER AGREES THAT on all roads constructed or improved by him in connection with the logging of timber under this contract, and all bridges, trestles, drainage structures and like improvements will be left intact at the completion of logging operations and will become the property of the United States for the use and benefit of the Quinault Indian when the contract is completed. The Purchaser further agrees that, in the event he shall use existing Indian Service roads in connection with the logging of the timber under this contract, he will properly maintain such roads.

24. THE PURCHASER shall furnish and maintain in good and serviceable condition such fire fighting tools and equipment, and provide such fire protection personnel as may be required by the Area Director to meet the fire protection requirements of the contract, the General Timber Sale Regulations, and the existing fire danger hazards or risks. The requirements shall not be less than are required under laws of the State of Washington.

25. THE PURCHASER FURTHER AGREES that within one year from completion of logging on any spur or main logging road he will cause all snags more than fourteen inches in diameter at four and one-half feet from the ground and more than sixteen feet in height from the ground to be felled unless relieved by the Area Director. The Area Director may relieve the Purchaser in whole or in part of the requirements of Sections 25 and 26 of the General Timber Sale Regulations. Waivers of felling requirements or the requirements of Sections 25 and 26 of the General Timber Sale Regulations shall always be specific with respect to areas involved, and will not be considered valid unless made in writing.

26. IT IS UNDERSTOOD AND AGREED, that after the close of each calendar year, and in any event not later than the date specified by the Area Director, the Purchaser will submit to the Commissioner of Indian Affairs, through the Area Director, a financial statement of operations and sales in triplicate for the calendar year just closed. Such statement shall be of a form satisfactory to the Commissioner of Indian Affairs, and shall be certified by a certified public accountant and the Purchaser.

27. IT IS FURTHER UNDERSTOOD AND AGREED that this contract shall be null and void and of no effect until approved by the Secretary of the Interior and until the latter shall approve a bond in the penal sum of $100,000.00 conditioned on the faithful performance of all the terms of this contract and the General Timber Sale Regulations attached hereto:
Grays Creek Logging Unit

Signed and sealed in accordance this 12th day of _____________, 1952.

[Signature]

ATTEST:

(Secretary) [Name]

Witness:

[Signature]

Signed this 24th day of June, 1952, for the Quinault Tribal Council pursuant to the action of the council in a meeting held at the Quinault, Washington, on the 3rd day of June, 1952.

[Signature]

ATTEST:

(Secretary) [Name]

Approved __________________________, 19__

[Signature]

[Title] Secretary of the Interior
WASHINGTON DC, 11/16/1932

The Assistant Secretary of War for the Washington Region submitted that the Department of War was interested in the Washington region, and that the Assistant Secretary of War for the Washington region, has submitted his report to the Department of War, which he, therefore, called the "Washington Region."
6. The contractor shall not be relieved of any of the obligations hereunder in the event of general strike, lockout, or other condition beyond the control of the contractor and the Government of the United States, or in the event of any act of God or any other emergency beyond the control of the contractor, unless such failure or delay as a result of such event, is the result of the negligence or willful misconduct of the contractor.

7. The contractor shall not be relieved of any of the obligations hereunder in the event of general strike, lockout, or other condition beyond the control of the contractor and the Government of the United States, or in the event of any act of God or any other emergency beyond the control of the contractor, unless such failure or delay as a result of such event, is the result of the negligence or willful misconduct of the contractor.

8. The contractor shall not be relieved of any of the obligations hereunder in the event of general strike, lockout, or other condition beyond the control of the contractor and the Government of the United States, or in the event of any act of God or any other emergency beyond the control of the contractor, unless such failure or delay as a result of such event, is the result of the negligence or willful misconduct of the contractor.

9. The contractor shall not be relieved of any of the obligations hereunder in the event of general strike, lockout, or other condition beyond the control of the contractor and the Government of the United States, or in the event of any act of God or any other emergency beyond the control of the contractor, unless such failure or delay as a result of such event, is the result of the negligence or willful misconduct of the contractor.

10. The contractor shall not be relieved of any of the obligations hereunder in the event of general strike, lockout, or other condition beyond the control of the contractor and the Government of the United States, or in the event of any act of God or any other emergency beyond the control of the contractor, unless such failure or delay as a result of such event, is the result of the negligence or willful misconduct of the contractor.
Paying: Provided that there shall be no change in such charges made until the next following to the date of approval of this
amendment of existing and future contracts. But such charges
which shall not be changed therein can exist in any calendar year.

Therefore agreed that in the event the respondent does not expire
with the Board having in effect on the expiration of any particular
cable, for the purposes of the first written in this
Agreement any interest or other obligations under the
agreement made under section 6 of the General Order for
Preliminary.

It is to further agree that the contractor and the current officers in
design shall endeavor to be bound not to exceed the extend
of such terms or by any of the officers of the Board with
in advance or prior to the time being
This agreement is that
progressive amendment shall be printed in the form of contract
and in this manner that made for the purpose the
parties at hand not established for any other the condition.
If
the condition which are made therein to each a copy and is not
possible to execute the order by reason the date of the highest
pace period in the kind of the will be until. It in further
reason that all the parties in the contract of the Board, unless broken of order
may be contract to the agreement of ability to contract under the same
provisions as for the transfer or otherwise as described in this section is,
in the Board in the Board issued in each, such provision will
make in new complete uniformity and perfect reference to the
Board.

It is further agreed that the definition of terms to which is
a part of this extension of contract,

It is to hereby agree that sections 2 to 9 inclusive of this
amendment shall not as to any previous different contract
cause and which activities of the Board, inclusive of all, prior
the condition of this amendments, the terms of which named
the Board shall to ensure the contract has been revised or a
extend in the to each and every has been issued.

It is hereby agreed that all provisions and conditions stipulated
in the contract not herein expressly modified shall continue in force
and effect.

This amendment shall become effective on the date of approval by
the Superintendent of Union Affairs.
EXTR 47 OX 3492 1101110 20th 7th August 1887

FATHER, PRECEDING

MR. J. SHAY
Joint Vice-Principal

S. J. SHAY

FORM IDENTITY VERIFIED

Respectfully,

A. S. SHAY
Sept. 57

J. B. SHAY

S. J. SHAY

Annex

APPROVED

ANNA, SISTER, E. HANSON

Approved by

G. H. HANSON

N. J.

Signature
Definitions of Terms as Used in This
Verification of Contract

1. "DRILLER" or "DRILLING MACHINERY" -
These terms are used synonymously. Relegating is a clean-up operation
following original logging operations to remove residual material that
is unsuitable in form from forest products but which was not
suitable for any fiber or refined in the original contract.

2. "NATURAL" - is the term applied to the harvesting of specified
trans or classes of timber from a cutting which prior to regular
logging operations.

3. "HIGHELITER" - is the type of logging currently used for harvesting
timber in West Coast logging operations. It consists of cutting
logs to a central header by means of cable, through a
block that is suspended from the top of a spar tree. The spar
tree is supported by rip lines. As used in this report, high-
loads may also include ripping or sideling loggers which also use
a "high-clear" at the header.

4. "CHIEF SUN" - is a steel, with wooden handles on the end, of
material left on the ground after original logging operations have
been completed. This code is made by Forest or Indian Service
forestry personnel and includes all material left in the
forest officials judgment, should have been harde against that tree
in accordance with the terms of the contract.

5. "SNAG" - as used in this report, is a term applied to potential
products in the form of cordage that is intended for manufacture
into pulp. The primary species involved in western hemlock, but
any species may be included.

6. "LOGS" - are blocks of cedar, red & fir, 6 inches (3")
in length, which are intended for manufacture into cordage.
Practically, single culms are four-inch cedar cordwood.

7. "DIAM" - is the unit used to grade, i.e., 2", 6" and 8",
which of boards may vary but 5 inches in the accepted
standard.
When the Columbia is incorporated in the purchase of timber on the
pass of Cascades, 6th, Cowlitz Indian Reservation under contracts
No. 2209 of the date of May 17, and passed on June 29, 1927, and

shall be an approved commercial and contracts to provide:

1. A increase in the required annual annual cut

2. An increase in the maximum allowable annual cut

3. Being authorized of sustainable annual cut

on the ground valley as per the clause in the deed of purchase

Finally, this contract of 1939 has the approval of

President, Cowlitz Indian Reservation.

Signed this __ day of __________ 1929.

[Signature]
TAHOLAH TIMBER CONTRACT

AND

MODIFICATION
SANDIA

Secretary:

Approving Officer-- 5/12/59

Contract Section:

6 9 - Adjust cedar pole rates
10 - Review spray pole rates
11 - Review cedar clearance to trend
27 - Approve land and contract

Modif. 6 - Review rates of salvage
Modif. approval - 5/21/59

Commissioner:

6 9 - Calculate HLA log prices
14 - Review volume estimates on logs
15 - Clear relief minimum cut
16 - Contract as agreed minimum
17 - Palmetto minimum cut and pay
19 - Approve pine stumpage rates
20 - Approve pine equipment
22 - Palmetto purchaser of Sec. 25 & 36
25 - Receive financial statements
33 - Approve logging in protected areas

Modif. 7 - Determination of salvage by bureaus

Area Director - Not Limited in Tcholch Contract

Superintendent:

6 3 - Approves allowance contracts
6 - Receives payment for others

Modif. 5 - Make other salvage sales

Office in Chief:

22 - Remove any falling
23 - Territorial log: trends

Modif. 2 - Remaining treatment of cordwood and shakes
5 - 3 - Excludes salvage areas
6 - Designate prelog areas
Departamento del Interior
Puebro de Indianos

CONTRACT NO. I-101-Ind-1766

TIEPER CONTRACT

LOGGING UNIT

1. THIS AGREEMENT made and entered into at the Saltash Indian Agency, Reservation, Washington, under authority of the Act of June 25, 1910 (35 Stat. 257), between the Superintendent of the Shoal River Indian Agency, hereinafter called the Superintendent, for and in behalf of the Indian owners, party of the first part, and

2. THE PURCHASER, that the Superintendent in consideration of the agreements by the Purchaser, agrees to sell to the Purchaser, and the Purchaser agrees to buy upon the terms and conditions herein stated and the General Timber Sale Regulations, approved April 10, 1920, by the Assistant Secretary of the Interior, which are hereinafter referred to as a part of this contract, all the merchantable dead timber, standing or fallen, and all the merchantable live timber, standing or otherwise designated by the officer in charge for selective logging, as required by the General Timber Sale Regulations, comprising trees approximately fourteen inches and larger at a point four and one-half feet from the ground, located on allotted lands covered by contracts entered into pursuant to the terms hereof, and on unalotted lands provided the Quinault Tribe or its representative consent to the sale, within a tract designated as the __________ Logging Unit on the Quinault Indian Reservation, as shown on the attached map which is made a part hereof.

3. THE PURCHASER, and the Purchaser obligates

4. The approximate area of the logging unit exclusive of alienated land, is:

<table>
<thead>
<tr>
<th>Tribal Land</th>
<th>237 acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allotted Land</td>
<td>50,634 acres</td>
</tr>
<tr>
<td>Total Indian Land</td>
<td>50,871 acres</td>
</tr>
</tbody>
</table>

The Purchaser acquires no rights or interests whatsoever in and to approximately __________ acres of alienated land lying within the boundaries of this logging unit.
5. THE ESTIMATED VOLUME OF TIMBER TO BE CUT, which estimate is not guaranteed
is:

| Western red cedar | 250,000,000 feet, B.M. |
| Sitka spruce       | 43,000,000 feet, B.M.  |
| Douglas fir        | 3,000,000 feet, B.M.   |
| Ambilis fir        | 42,000,000 feet, B.M.  |
| Western white pine | 7,000,000 feet, B.M.   |
| Western hemlock and other species | 50,000,000 feet, B.M. |
| **TOTAL**          | **$463,000,000 feet, B.M.** |

Cedar Poles: 5,000,000 Linear feet.

6. FOR AND IN CONSIDERATION of the agreements by the Superintendent, the Purchaser agrees that prior to April 1, 1967, he will cut all timber covered by this contract, and will pay to the Superintendent for the use and benefit of the Indians' timber tracts, the full value of said timber which shall be determined on the basis of an actual scale at fixed rates per thousand feet board measure, Sartain Basic 6 log scale for sawtimber, which rates shall be established for each quarterly period beginning January 1, April 1, July 1, and October 1; PROVIDED, that the rates for the contract logging year ending March 31, 1968, shall be as follows:

| For Western red cedar | 9 dollars and 75 cents |
| For Sitka spruce      | 6 dollars and 75 cents  |
| For Douglas fir        | 10 dollars and 50 cents |
| For Ambilis fir        | 3 dollars and 50 cents  |
| For Western white pine | 5 dollars and 75 cents  |
| For Western hemlock and other species | 3 dollars and 50 cents |
| and for cedar poles, with not greater than 9" top diameter and no more than 15" butt diameter, three cents per linear foot. |

7. FOR THE PURPOSE of determining the stumpage rates to be paid in the succeeding quarterly periods of the contract beginning April 1, 1967, it is agreed that the weighted average prices of logs on the combined Grays Harbor-Fraction Sound log markets for the fourth quarter of 1946, as published by the Pacific Northwest Loggers Association in its "Composite Sales Analysis - Grays Harbor Logging Companies - October, November, and December 1946" and its "Composite Sales Analysis-Fraction Sound Logging Companies - October, November, and December 1946" were as follows:

| Western red cedar | $43.62 | Per M feet, B.M. |
| Sitka spruce      | $47.80 | Per M feet, B.M. |
| Douglas fir       | $56.64 | Per M feet, B.M. |
| Ambilis fir       | $38.12 | Per M feet, B.M. |
| Western white pine| $45.61 | Per M feet, B.M. |
| Western hemlock   | $38.33 | Per M feet, B.M. |

8. IT IS FURTHER AGREED that the stumpage rates for sawtimber appearing in Section six of this contract bear the following percentage relationships to the weighted average log prices for the fourth quarter of 1946 as shown in Section 7 hereof:

Western red cedar stumpage to Western red cedar log prices = 20.09 %
Sitka spruce stumpage to Sitka spruce log prices = 16.27 %
Douglas fir stumpage to Douglas fir log prices

Arbilla fir stumpage to arbilla log prices

Western white pine stumpage to Western white pine log prices

Western hemlock and other species stumpage to Western hemlock log prices

9. THE COMMISSIONER OF INTERIOR or his duly authorized representative shall obtain from the Pacific Northwest Lumber Association, through its published reports or otherwise, the average sales prices of logs in the Grays Harbor and Puget Sound log markets for each quarterly period during the life of this contract or any extensions thereof, and shall calculate the average log price of each species on the same basis and using the same price percentages on which the average log prices for the fourth quarter of 1942, as shown in Section 7 were determined. In determining the stumpage rates to be effective for any given quarterly period, the percentages stipulated in Section 8, or the percentages which may be subsequently established under the provisions of Section 10, shall be applied to the calculated average Grays Harbor-Puget Sound log prices for the preceding quarterly period, and the stumpage rates for each species so determined shall be the rates to be paid for timber actually sold during such quarterly period. The stumpage rates for cedar poles shall be adjusted by the Secretary or his duly authorized representative at any time in accordance with the trend of the cedar pole market in the general locality of Grays Harbor. Notice of the new schedule of cedar pole stumpage rates will be furnished the Purchaser at least 30 days prior to the date on which they shall become effective.

10. THE SECRETARY OF THE INTERIOR or his duly authorized representative may, upon his own initiative, or upon submission by the Purchaser of evidence satisfactory to the Secretary or such representative, review the stumpage rates established by the procedure set forth in Sections 6 to 9 inclusive. If, as a result of such review, the Secretary or such representative finds that the character of the operation, changes in marketing conditions, or technological developments, have altered the situation to such an extent that a change in the existing ratios between stumpage rates and the Grays Harbor-Puget Sound log prices appears warranted, he shall give thirty days notice to the Purchaser of his intention to establish new percentage ratios between stumpage rates and the Grays Harbor-Puget Sound log prices during which time the Purchaser may consult with the Secretary or such representative; PROVIDED the requirements of notice in this Section shall be satisfied when the new ratios established under its authority are made effective upon the first day of the quarterly period which is not less than thirty days following notice by the Secretary or such representative to the Purchaser that he intends to proceed under the authority of this Section to change such ratios. The ratio, however, for any species of smutlumber shall not be changed oftener than once in any calendar year.

11. NOTWITHSTANDING any other provisions of this contract, it is mutually agreed that, in the event the said Pacific Northwest Lumber Association's Composite Sales Analyses become unavailable for use in connection with those stumpage adjustments, or in the opinion of the Secretary or his duly authorized representative do not properly reflect the true market value of the forest products, the Secretary or such...
representative shall at any time, after giving thirty days notice to the Purchaser, during which time the Purchaser may consult with the Secretary or such representative, proceed to revise stumpage rates in accordance with the trend of economic conditions in the west coast logging and lumbering industry, provided that the requirements of notice in this section shall be satisfied when the new rates established under its authority are made effective thirty days after notice by the Secretary or such representative to the Purchaser that he intends to proceed under the authority of this section to adjust such stumpage rates.

12. IT IS FURTHER UNDERSTOOD AND AGREED that stumpage rates will never, in any event, by reduced below the following:

- $3.50 per M. feet, P.M. for western red cedar
- $4.00 per M. feet, P.M. for Sitka spruce
- $4.25 per M. feet, P.M. for Douglas fir
- $1.00 per M. feet, P.M. for amabilis fir
- $3.50 per M. feet, P.M. for western white pine
- $1.00 per M. feet, P.M. for western hemlock and other species
- $0.02 per linear foot for cedar poles

13. THE PURCHASER FURTHER AGREES that prior to the time when the stumpage value of the timber cut shall exceed the cash deposit of $10,000 submitted with his proposal to purchase timber, he will make another cash deposit of $25,000 and subsequent deposits of $25,000 at such time as may be necessary to ensure that the stumpage value of timber cut and not paid for at any time shall not exceed the cash deposit then in the hands of the Superintendent. PROVIDED, that the last cash deposit in any logging season may be in the sum of not less than $10,000.

14. THE PURCHASER FURTHER AGREES that within thirty days from the date of approval of the contract on each allocation he will pay twenty-five per cent of the estimated value of the timber thereon as an advance payment, and further, that within three years from the approval of such contract he will pay an additional fifteen per cent of the estimated value of the timber as an advance payment, and an additional ten per cent as an advance payment within six years of approval of the allotment contract; PROVIDED, that with respect to each allotment contract, no advance payment will be required in an amount that will raise the sum of that payment, plus all previous advance payments, plus all advance deposits previously applied against timber cut from the allotment, exceed fifty per cent of the estimated value of the timber; PROVIDED FURTHER, that the estimated value of the timber shall be determined by multiplying the volume originally estimated to be cut by the following rates:

- $0.473 per M. feet, P.M. for western red cedar
- $0.450 per M. feet, P.M. for Sitka spruce
- $0.400 per M. feet, P.M. for Douglas fir
- $0.400 per M. feet, P.M. for amabilis fir
- $0.400 per M. feet, P.M. for western white pine
- $0.400 per M. feet, P.M. for western hemlock and other species
- $0.020 per linear foot for cedar poles

PROVIDED FURTHER, that the stumpage rates governing at the time the timber is scaled shall be the rates charged for the timber actually cut. IT IS FURTHER UNDERSTOOD AND AGREED, that the Commissioner of Indian Affairs, on his own initiative
5. The Purchaser further agrees that he will, unless relieved by the Commissioner of Indian Affairs, cut and pay for, from some portion of the sale area, at least 10,000,000 feet, board measure, Scribon Decimal 3 log scale, prior to April 1, 1889, and not less than 20,000,000 feet, board measure, in any twelve months ending March 31 thereafter during the life of this contract. Provided, that all timber on this unit must be cut and paid for prior to the contract expiration date; that he will pay for, as merchantable timber, pieces twelve feet and longer, will utilize the trees to a diameter of ten inches in the tops where straight and sound, and will pay for all timber except cedar poles on the basis of a scale recognizing 33 feet as a maximum length of a single log; and that all logs will be considered merchantable as provided in the attached General Timber Sale Regulations, except that hemlock and amabilis fir must be one-half or more sound.

16. The Minimum Allowable Cut of soft lumber in each three-year period of this contract beginning with April 1, 1900, shall not exceed 100,000,000 feet board measure, Scribon Decimal 2 log scale without the written consent of the Commissioner of Indian Affairs.

17. The Purchaser further agrees that, if he fails to cut and make available for scaling in the customary manner the minimum of timber required by this contract to be cut in any contract logging year ending March 31, he shall make a special advance deposit to the Superintendent on or before the end of such contract logging year to cover such deficiency in cutting; this deposit to be calculated at the cedar sawmill stumpage price that is in effect on March 31 of that contract logging year. Such advance deposits so made shall be applicable to timber cut in a subsequent year only after the Purchaser in such subsequent year has cut and paid for the minimum timber required to be cut that year under this contract. Provided, that this special advance deposit shall be applied against timber cut in such subsequent year at the rates in effect during the subsequent year; and provided further, that the Commissioner of Indian Affairs may relieve the Purchaser in whole or in part from the minimum cutting and paying requirements because of adverse operating or market conditions, fire damage to the Purchaser's manufacturing plant, acts of God or Government control, or for other cause deemed sufficient by the Commissioner of Indian Affairs.

18. It is further understood and agreed that, in addition to the provisions of Section 5 of the attached General Timber Sale Regulations, this contract is subject to any existing rights of way.

19. The Purchaser further agrees that if fires, for the starting or spread of which he, or any of his employees, his subcontractors, or their employees, are responsible by act or neglect, shall destroy young growth under ten inches in diameter on any portion of the reservation, he will pay liquidated damages of twenty...
dollar per acre for the area thus burned over unless a lesser rate of damages shall be approved by the Commissioner of Indian Affairs; and he agrees that, in addition to these liquidated damages, he will pay the damage that shall be caused to all timber ten inches and larger in diameter at four and one-half feet from the ground or to any other property of the Indians or the Government. Should merchantable timber be injured by a forest fire for the origin or spread of which the Purchaser, his agents, employees, subcontractors, or their employees, are in no way responsible, said Purchaser shall be accountable for the loss sustained only to the extent that such loss shall be due to his failure to cut and remove the injured timber as expeditiously as shall be possible under the existing circumstances and the terms of this contract.

20. THE PURCHASER will furnish and maintain in good and serviceable condition such fire fighting tools and equipment, and provide such fire protection personnel as may be required by the Commissioner of Indian Affairs or his duly authorized representative to meet the fire protection requirements of the contract, the General Timber Sale Regulations, and the existing fire danger hazards or risks. The requirements shall not be less than are required under laws of the State of Washington.

21. THE PURCHASER FURTHER AGREES that all bridges, trestles, and drainage structures will be left intact at the completion of logging operations and will become the property of the United States for the use and benefit of the Quinault Indians when the contract is completed.

22. THE PURCHASER FURTHER AGREES that within one year from completion of logging on any setting or landing or any spur or main logging road he will cause all snags more than fourteen inches in diameter at four and one-half feet from the ground and more than sixteen feet in height from the ground to be felled unless relieved in writing by the Forest Officer in charge. It is further understood that the Commissioner of Indian Affairs may in his discretion relieve the Purchaser entirely or in part of the provisions of Sections 25 and 26 of the General Timber Sale Regulations.

23. THE PURCHASER FURTHER AGREES that he will conduct the logging operations in such a manner as to permit sealing to be done economically, that he will keep the allotment boundaries clearly marked while logging is in progress, and that all logs from each separate allotment will be branded as prescribed by the officer in charge of the sale in order to be readily identified if the logs from different allotments are mixed at the point of sealing.

24. THE PURCHASER FURTHER AGREES that he and his subcontractors will fully comply at all times with the provisions of section 47 of the General Timber Sale Regulations dealing with the employment of Indian labor.

25. THE PURCHASER FURTHER AGREES that as soon as possible after the close of each calendar year, and in any event not later than April 15 following, he will submit to the Commissioner of Indian Affairs, through the Superintendent, a financial statement of operations and sales in triplicate for the calendar year just ended, such statements to be in a form satisfactory to the Commissioner of Indian Affairs, and to be certified to by a certified public accountant and the purchaser.

26. THE PURCHASER FURTHER AGREES that recreational, scenic, aesthetic, and Indian ceremonial values will be protected and that the logging operations, when permitted in areas in which such values exist, will proceed only under authority of the Commissioner of Indian Affairs.
27. IT IS FURTHER UNDERSTOOD AND AGREED that this contract shall be null and void and of no effect until approved by the Secretary of the Interior and until the latter shall approve a bond in the penal sum of $75,000 conditioned on the faithful performance of all the terms of this contract and the General Timber Sale Regulations attached hereto.

Signed and sealed in sextuplicate this 26th day of April, 1950.

WITNESSES:

[Signatures]

ALOHA LUMBER CO.

[Signature]

Purchaser

By [Signature]

President

[Signature]

Secretary

[Signature]

ACTING SUPERINTENDENT

MAY 12 1950

Approved: $75,000 subject to the prompt furnishing of a bond satisfactory to the Secretary of the Interior in the amount of $75,000 in accordance with Section 27 of the contract. Aloha Lumber Company also to furnish certified copy of its corporate charter and current bylaws.

[Signature]

Assistant Secretary of the Interior
STAND IMPROVEMENT - DOCUMENT SUMMARIES

- This is a memo of an examination of logging on allotments within the Quinault Lake unit. On the trust patents, the timber was being marked and thinned, leaving a sufficient stand for growth and, hopefully, wind protection. This work was being done on allotment #496, part of which, at least, lay within the quarter mile limit against the Olympic Highway.

- Discusses logging of the Lizzy Howeattle allotment, #277, and states from a silvicultural standpoint the timber is not crowded and there is no need of thinning.

- (This is the 2d attached letter).
- Concerns logging which will be done by Mr. Yerkes on the Toby Saux allotment. States the cedar on this 40 acres is over-mature and the stand will be improved by removal of all the over-mature timber and so giving the younger timber with good growing tops a chance to make better growth.
States that removal of 50 percent of the stand would improve the forest because of the over-maturity of the timber to be logged. The stand left will be over 7 M per acre.

- Concerns a tree selection cutting - sample plot on the William Butler allotment, #992. The area was tractor logged and done on a tree selection cutting plan in 1937. In August 1938 a sample plot was established as a basis of study of the residual stand as to growth, mortality, tree diseases, insect infestation, wind throw, etc.

- States that to date most of the trees show no indication of pickup or accelerated growth because of relief by cutting. Many of the cedar that were left were mature or spiked topped with sparse crowns, which will very likely show little in the way of increased annual increment.

- Concludes that the advisability of establishing a reserve stand containing a high percentage of mature or spiked top cedar trees and of trees damaged in logging is questionable.

- Concerns tree selection cutting sample plot on the Salakike allotment #1345.

- Makes basically the same finding as in IIS44.1.
IIS44.5 - Report by Forest Supervisor A. G. Hauge, 7/24/44.
- Concerns tree selection cutting sample plot on the Henry Cultee allotment #496.
- States that the reserve stand has a very thrifty appearance at the present time, and that in trees released by cutting new branches are forming which are increasing the crowns, indicating future increase in growth rate. This stand was made of second-growth Douglas fir with uniform coverage on the entire area.

- Concerns a sample plot of the removal of piling and logs in second growth Douglas fir stand on the Henry Cultee allotment #496. Formerly the growth rate 10 years previous to cutting was 1.34 inches and the growth rate 7 years since cutting is 1.09 inches, which is equivalent to 1.56 inches for a 10-year period. At the present time the crowns of the released trees are extending their width and length, indicating increased growth rate. Attaches table showing data on individual trees.

IIA63.1 - Report by Don Clark, 8/63.
- Concerns the accelerated Public Works program on the Quinault during FY 1963. The thinning and pruning activity under the program was confined to second growth stands on tribal lands in the south portion of the reservation near the southeast boundary. 85 acres were thinned and pruned at a total cost of $16,361, or a cost per unit of $192.48. Pruning accounted for approximately 75 percent of the total cost. The
objective was to release potential crop trees in the crown canopy and to produce a clear bole 16 feet above stump height. Thinning was performed by girdling the trees with axes, pruning with pruning saws fixed to 12' extension poles. All removed trees were spotmarked with paint by BIA forestry personnel. The average basal area of the stand before thinning was 250 sq. ft., after thinning, 150 sq. ft. (Assume this is per acre.) Approximately 100-120 trees per acre were thinned. Growth plots will be established.

IIA68.8 - Report by Earl Wilcox, 9/18/68.
- This is an analysis of Indian contribution toward paying cost of forest management. On page 6, states that the disproportionately low expenditures (see summary of this document under Reforestation) for timber stand improvement has resulted in a staggering backlog of underdeveloped young timber.
- States it does not appear reasonable to expect the Indian people to bear the annual expense which would be required to maintain the same intensity of timber stand improvement activities as is being practiced on national forest lands.

IIA68.10 - Summary tables for special study of the Indian Forestry Program; 1968.
- (see summary of this document under Reforestation).
- On page 38, indicates that no thinning or pruning was accomplished on the Quinault Reservation during 1967, and there is a backlog of 11 units. (presumably acres)
VIIA69.1 - Proposed policy by USDA Regional Forester Charles A. Connaughton, 3/27/69.
- States the beneficial effect of cleaning up slash on both precommercial and commercial thinning of young stands.

IIA71.2 -

(a) Report by Acting Supt. John Benedetto to Area Dir., 1/15/71.
- States that the timber stand improvement program during calendar year 1970 included chemically thinning 230 acres at a cost per acre of $44.73.

(b) Report from Supt. George Felshaw to Area Dir., 6/24/70.
- Reports on a timber stand improvement project.
- States thinning will be carried out using mechanical and chemical means. Herbicides, silvisar 550, or Glowon will be used because of their extremely low toxicity and virtually nil translocation capabilities.

Jackson's report states that several thousand acres of cutover lands are covered with reproduction stands that will respond to a release cutting. The project will consider thinning of overstocked stands of hemlock, spruce and fir to a level of 160 sq. ft. of basal area. Precommercial thinning will take place where the mean diameter is below 8" DBH. Thinning will be accomplished as outlined in the letter from Felshaw. There are approximately 6,400 acres in the area, and 3,400 acres that can be treated. The proposed allocation of $10,000 for the project will cover approximately 373 acres.
(a) Letter from Commissioner Lewis Bruce to Representative Julia Butler Hansen, 11/25/70.
- Advises her as to why the reforestation program has been discontinued on the Quinault Reservation.
- States that during the current fiscal year, only $5,000 has been made available from forest pest control funds to remove mistletoe-infested trees.
- States there is a $50,000,000 backlog in projects to develop Indian forests, such as reforestation and timber stand improvement.

(b) Letter from Acting Area Dir. A. W. Galbraith to Commissioner of Indian Affairs, 11/5/70.
- Contains essentially the same information as above.

VA71.2 - Report to the files by Foresters Ray Lowder and John Schnuff, 12/7/71.
- A memo of the investigating committee tour of Taholah and Crane Creek units on December 1, 1971. In Block W, 25-22-13, the observation was made that it was overstocked and in need of thinning. Block was logged in 1956. In Block 15, 26-22-12, which was logged in 1962, it was observed that the restocking by commercial species is spotty, with brush patches evident to an undesirable extent.

IA72.2 -
(a) Letter from Supt. signed by Forest Mgr. Joseph Jackson, to Commissioner of Indian Affairs, 3/20/72.
- Recommends that $10,000 be made available in FY 1973 for a timber stand improvement project. The project was to thin the remainder of the
tribally owned spruce orchard before a commercial thinning is attempted.

There is no (b) for this topic.

IA73.4 - Letter from Acting Sept. John Benedetto to Quinault Business Committee President Joseph DeLaCruz, 7/25/73.

- Requests a full report of the activities of his staff in conducting forest fertilization on the Quinault Reservation.

- States that timber stand improvement projects, as well as the use of chemicals on lands, must be approved by the Area Director.

- States one problem resulting from improper fertilization application is called fertilizer burn.

- Asks that future forest management projects conducted by his staff be brought to the attention of the Agency forest manager before implementation.
DISEASE AND INSECT DAMAGE - DOCUMENT COUNTER

IIA31.1 - Report by Forest Supervisor James A. North, Jr., to Assistant Director of Forestry, Lee Post, 2/28/34.
- On page 23, states that like all virgin stands, a large percentage of mature and hypermature timber is dying from age and fungus attack. Insect damage is mostly confined to inferior limy spruce stands near the ocean.

IA34.7 - Letter from Supt. N. O. Nicholson to District Forester of the U.S. Forest Service, 1/10/34.
- Requests report of a survey by the Forest Service of damage by the spruce bud worm in the Grays Harbor area.

IA36.33 - Letter from Forest Supervisor James A. North, Jr., to Commissioner of Indian Affairs, 6/30/36.
- Regards Indian logging contract for spruce on the John Shale Allotment, §63. Spruce involved had been killed by spruce bud worm and overturned by the changing channel of the Chehalis River some years back.

VIIA54.1 - Management plan by Forester Kenneth Hadley, 3/26/54.
- On page 20, lists diseases and insects damaging timber on reservation.
  1) Blister rust by rust fungi of the genus Cronartium is very destructive to white pine. White pine comprises less than 2 percent of the stand.
2) Ribles bracteosum is principal beetle host occurring in abundance over much of the area. Because of the dense brush in the streams and swampy areas, the eradication would be extremely difficult and expensive.

3) Red ring rot, ring scale, red heart or pecky heart rot, caused by the ring scale fungus forms high losses more than any other decay. It affects all conifers, particularly and growth timber.

4) Infestation of the fir engraver beetle, Pseudophyliusinus app., has been detected one mile from northeastern side of reservation, but has not been encountered on the reservation yet. The most serious damage of this infestation occurs in larch stands when a high percentage of over-mature and decadent timber. Close logging is the only practical method of control. Close control should be kept with its spread. In the event the area is seriously infected, cutting can be quickly initiated since logging operations at the present time are in the silver fir stands at the north end of the Clear Creek unit.

5) The black headed bud virus inclement weather became prevalent in 1944. It attacks all conifers, progressing hemlock and then silver fir. Infestation of hemlock was noted in 1943 near the village of Queets.

6) Infestations of hemlock looper (Lepidoptera) occurred during 1937 and some damage noted near the village of Queets.

7) Damage of the Sitka spruce wood (diasodes sitheansis) has been noted in increasing abundance since 1930. Principally on spruce in the reproduction of poorly stocked stands. Trees between 5 and 30 years are principally affected.
8) Black bear have been very destructive to young pole-skin stands of Douglas fir. Damage has been particularly severe on poorly stocked areas. Bear damage is greatly retarding restocking of the areas and rotation period. In the fall of 1951, the rest wastage regulation was waived concerning bear, and in 1952 bear was declared a predator in the general area of the Olympic Peninsula.


- Reports the infestation of mountain pine beetle is downward. Damage is located on the north fork Moclips River and Upper East River drainages. Prevalence of white pine blister make control of beetle impractical. Recommends reducing beetle population and to log all infested white pine trees.

- Reports bear damage in immature stands of Douglas fir and hemlock is slightly higher than in 1963. All the damage is located along the southeast reservation boundary.


- Reports infestation of mountain pine beetle. Trend is slightly upward. Location of damage and recommendation is the same as in IIA64.1.

- Reports trend of bear damage slightly downward. One area of damage was southeast of Chow Chow Prairie in an already understocked stand.
- Reports intensity of infestation of mountain pine beetle is light
to very heavy, reflecting an upward trend.
- States patches of tree killing are common throughout the reservation.
- Makes same recommendation as IIA55.1.
- Reports intensity of bear damage as light, with the trend being static.
Damage located in the same area as reported in IIA55.1.

IA68.8 - Report by Asst. Regional Forester C. G. Jorgensen, signed
by Benton Howard, to Director of Bureau of Indian Affairs, 8/6/68.
- Reports on review of forest insect and disease problems on reserva-
tions on the Olympic Peninsula.
- States the major disease problem on all areas is hemlock dwarf
mistletoe, which infects hemlock, true firs, and shore pine. Several
stands are badly infested and growth loss is occurring.
- States it is difficult to do anything about mistletoe in an existing
stand. Much can be done, however, at the time of harvest by making
sure that all infected trees are killed. This should be done during
or immediately following logging. If residuals are needed for regenera-
tion, they should be destroyed as soon as reproduction is established,
preferably before it reaches out into such light. In many old clearcut
areas, this was not done, and there are infected residual over-story
and whips. Destroying these would help reduce mistletoe in the new
stand.
- Recommends giving priority to the most recent clearcuts and those
stands in which hemlock is of major importance. Because increased
light rainfall decreases and increased tree vigor strengthen mistletoe, they do not require flooding an infected stand.

- Enclosed a paper by Lloyd Shaw entitled "Dwarf Mistletoe of Coastal Western Hemlock: Principles and Practices for Control."

Another problem in thinning stands of hemlock is the root disease known as Helm, when the root enters freshly cut stumps and rots the roots.

It can move from tree to tree and cause mortality or butt rot in leave traps.

- States they do not have its full potential as a pathogen in thin stands. Encloses copies of Forest Pest leaflet No. 76 on this disease.

- States no area epidemic infestations were seen during their inspection.

There are several potential insect infestations which may reach epidemic status in the future. Mention the hemlock looper, the black headed bud worm, and the hemlock moth, all of which are easily controlled with insecticides. Also mentions silver fir beetles and other bark beetles which can be minimized by salvage logging. Also mentions the balsam woolly aphid which may invade the peninsula in the future and infest Pacific silver fir, which would make it unmanageable as a commercial species.


George Felteson, 8/9/65.

- Refers to IA65.9 and directs him to prepare a justification and project proposal through Don Clark to carry out the recommendation of using funds from the Forest Pest Act to control the mistletoe infection.
- Reports on an insect infestation recently discovered on Douglas fir seedlings planted on the Raft River fire area. The insect is believed to be chermes cooleyi.
- Requests more information on this insect and control of its infestation.

IIA71.4 - Letter from Commissioner Louis Bruce to Representative Julia Butler Hansen, 11/25/70.
- States that during the current fiscal year, $5,000 has been made available from Forest Pest Control funds to remove mistletoe infected trees.

IA73.6 - Part of a letter from Region VI of the U.S. Forest Service to Greg Stevens of the EIA, 1/24/73.
- States that pathologists at the University of Washington have reported losses in westside Douglas fir to rhizina root rot. This disease is most commonly found on recently burned clearcut units.
Slash Disposal Issue

Plaintiff's Allegation

"Defendant permitted the logging contractors to engage in wasteful, damaging and potentially damaging logging practices, such as ... not clearing away slash, thereby causing and increasing the risk of fire in valuable timber stands." Plaintiff's More Definite Statement 3(h), Dec. 30, 1971.

Overview of Record

Contracts on the Quinault Reservation before 1926 provided for the burning of slash and presumably this was done and the slash was cleared. See III E30.1 p 4, III L22.1 p 7, III L22.1 p 6, and IA35.1. In 1926 BIA foresters suggested to the Commissioner that burning slash retarded reforestation and did not pose that much of a greater fire risk if the slash areas were protected long enough for area to "green-up." See IA26.3-4. In response to this advice the Commissioner directed the policy to leave slash unburned pending further study and to improve fire protection. See IA26.2. It is widely conceded that slash has not been disposed of by burning since that though there is some indication that there have been exceptions to this. See IR59.9. In 1970 it appears that the burning of slash
was being considered again. See VR70.1 p 7. That idea appears to have been rejected in favor of better utilization by using the slash for chip production. See IJ70.11 and IJ70.16. The economics of such salvage were not good and burning was again considered. See IJ71.18. Burning plans have not been carried into effect because of continuing efforts to salvage it instead. See VR71.7, IJ71.21, WJ71.1.

Reasons for not burning slash:

1) better chance and cheaper reproduction.

IA26.3-4, IIA37.1 pp 4-5, IIA38.1 p5

contra: IJ70.11(a), IJ71.21

2) fire risk may not be as great as if it were burned.

IIA32.1, IIA37.1 pp 4-5, IIA38.1 p5

Contra: IA26.3, IJ70.11(a)

3) burns are seldom "clean"

IIA38.1 p 5

4) problem of air and stream pollution.

IJ70.11(c)

Contra: VR70.1 p7

Problems with salvaging slash:

1) getting cooperation between tribe and purchaser.

IJ70.11, IJ71.16, VR71.7

2) costs exceeding value

IJ70.11, IJ71.16, IJ71.18, IJ71.21

C-2
Areas for further research:

1) Copy of article and literature mentioned in EA26.1.
2) Results of burning fire early contracts.
3) Discussions on Tulalip Reservation mentioned in EA26.4.
4) What happened to study Steen was supposed to make? EA26.4.
5) How much more was expended for fire protection after 1928? EA26.2-3.
6) Did second-growth forest and fire weed make better fires? EA32.1.
7) How many fires are deliberately set? Do they burn any more than the slash? EA32.1.
8) Were any studies made to show delay in reproduction? IJ437.1.
9) How "clean" are slash burnings? IM438.1 and TVA74.1.
10) Are there any pollution studies? Who objects? IJ70.11(c).
11) What were results of pilot projects on chip production? IJ71.21;
    IJ70.11(a), (c).
12) Why wasn't salvage sale expedited under 25 CFR 141.7(6)?
13) What happened to cooperation? IJ70.11(a)(b)
14) What is House Bill 1034? IJ71.16.
15) What were recommendations of Public Land Law Review Commission?
    IJ71.16.
16) What was discussed which halted burning plans in 1972? IJ71.16.
17) Where did Calbraith get his data? IJ71.21.
18) What is present policy? And why?

C-3
Slash Disposal

Summary of information contained in documents referred to in the index.

IIIIB20.1 p 4 - Moclips K. directed slash to be burned. Directed the times and manner in which it should be burned. General Timber Sale Regs. attached p 9 Nos. 25-27 directed slash to be piled and burned. Burning directed by forestry officer. Unsatisfactory disposal of slash could suspend all operations of purchase until corrected.

IIIIB22.1 p 7 - Quinault Lake K. directed slash to be burned. See above.

IIIIB22.1 p 6 - Pt. Grenville K. directed slash to be burned. See above.

IA26.4 - Letter from Commissioner Chas. H. Burke to Supervisor of Forests Henry B. Steer, Aug. 7, 1926.

Refers to article in July, '25 "Timberman" by Frank H. Lamb concerning burning of slash in West. Wash. and Oregon.

Comments - that dependence upon young growth for fire protection has been discussed for 2 or 3 decades; that Indian Services have always in regs. and K's provided large discretion as to method of disposal but that any method other than that generally approved by Fed. and State forest agencies be used only with express approval of Commissioner; that problem was discussed ten years before on the Tulalip Reservation and decided that burning was only safe method.
Authorizes that Steer make a study of slash disposal.

IA26.3 - Letter from J. P. Kinney and Lee Muck to Commissioner, Oct. 9, 1926.

Refers to IA26.4.

Report visit to logging operations on Quinault Reservation.

Observe that an unexpected amount of reproduction exists on logged off areas and that if fires can be kept out of slash areas in a few years the fire risk will be no greater than if burned over; that there is greater fire risk in an unburned slash area but that the probabilities of reforestation are greater if unburned and Indian Services should expend four times as much as in the past on fire protection.

Recommend that Superintendent of Taholah jurisdiction be instructed that policy is to leave slash unburned unless written permit from forest officer is given.


Refers to IA26.3 and letter from Steers June 28, 1926.

Instructs Superintendent that the policy will be as recommended in IA26.3, to leave slash unburned and to improve fire protection.

Comments that it has not been policy to run fire over logged areas because of belief that this causes ferns and fire weeds to grow which provide fuel for second and hotter fires.

States that Forest Service officials believe it necessary to run one fire over and try to keep second out.

Observes that there is a large area of slash unburned which contains considerable young growth, and that this presents a chance for incendiaryism which was shown by number of fires set on July 1.

Reports that Supervisor Howarth's and Superintendent Nicholson's decision not to hire anyone to fight one of these fires took nerve as it burned for three days, but apparently worked since no more fires were set during the season.


Informs that provisions for burning slash are found in identical language in the Quinault Lake, Mounts, Pt. Grenville, Moclips, Cook Creek, Hall, and Hatch Units. The same provision with the addition "if the Commissioner of Indian Affairs shall require it" appears in Upper Wreck Creek Unit K approved 9/17/27.

Quotes IA26.2

IIA27.1 p 4-5 - Report from Logging Engineer Patrick Gray, concurred by
Superintendent Nicholson to Commissioner, Oct. 21, 1937.

Observes that burning slash does not remove fire hazard and delays the start of new reproduction or makes planting necessary.

Recommends that no burning be permitted and to make further study.

IIA38.1 p 5 - Report from Logging Engineer Patrick Gray to Commissioner, April 2, 1938.

Comments that question of burning slash is an open one but his opinion is that it should not be permitted.

Observes that due to the amount of debris on the ground and the unusual amount of rainfall the burn is seldom clean and renders the fire hazard greater; that fire runs over slashing areas makes planting necessary; that the cheapest way of reforesting the land is to prevent all fires.


Informs that James Ross would show Wain areas where salvage has been completed and the heavy debris has been burned.


Discussed slash disposal and plan to bring in a fire control
specialist to study slash areas; the BIA's reliance on certificates of Abatement to cover liability for uncontrolled slash fires; handling slash disposal as technical phase of operations under BIA supervision and responsibility; problem of environmental pollution not being great.

Informed that Hayonier does very little slash disposal by burning on their own lands.

I70.11


Comments that huge volumes of slash on Taholah Unit almost preclude regeneration by any method; that the fire hazard is a major problem.

Suggests that there is a possibility that slash may be utilized in chip production.

Informs that the Quinault Tribe is willing to attempt the salvage operation; that Mr. Guyon of Weyerhauser said his company could do a pilot logging project.

Requests that Evans Products look into possibility with the Quinalsnts; that they set up a meeting with him.


Agrees to cooperate to find solution to slash problem as mentioned in Letter (a) (I70.11).
c) Memo from Acting Superintendent Bushman to Area Director,

Reports that burning will be a last resort because of objections
to air and stream pollution; that attempt will be made to dispose of
slash by chipping; that slash residue is marginal or sub-marginal in
value; that a study is being made by Weyerhauser of value of slash for
pulp production; that entity purchasing residue would be encumbered to
reforest the land.

Suggests that sale could be expedited under 25 CFR 141.7(b).

I]71.16 - Letter from Alaska Timber Manager Elmer Parker to Joe Jackson
of the BIA, June 18, 1971.

Expresses opinion that reduction of slash and not immediate money
is in the best interest of Indians.

Refers to passage of House Bill 1034 and expresses belief that best
disposal method is salvage.

Suggests that stumpage be set on a reasonable lump sum basis and
that this is in accord with recommendation of Public Land Law Review
Commission.

I]71.18

a) Memo from Joe Jackson to Supv. Forester Onnie Paakkonen, Sept.
Reports that chances for selling slash are dim and that plans for burning slash in 1972 are being made.

Notation on bottom of letter indicates that "later discussions by OER superseded these plans."


Inform that plans for burning slash are being made.

I71.7 - Letter from Forest Manager Joe Jackson to Wilton Vincent of MT Rayonier, Nov. 27, 1971.

Requests that Rayonier allow Mr. Drumfield to resume salvage operations and no longer prevent him from doing so, since his operations would reduce slash residue.

I71.21 - Memo from Asst. Area Director Galbraith to Emmet E. Willard, Acting Field Representative, Office of the Secretary, Dept. of the Interior, Dec. 7, 1971.

Reports estimates of values and costs of chip production of slash residue; acreage of slash areas not restocked; regeneration lag; cost of slash disposal by burning; other costs.

V71.1 - Meeting with Aloha, Tribe, and BIA Forestry. Memo from Asst.
Forrest Manager Wil Carey to the Files, Dec. 28, 1971.

Reports that Allen Gould of Aloha said they are willing to build fire trails around logging block and burn if no other way is found to lessen slash.

IV.74.1 - Memo from Forest Manager Jackson to the Files, July 15, 1974.

Contains photos of slash area that was burned by DNR.
SLASH DISPOSAL ISSUE

Plaintiffs' Allegations

"Defendant permitted the logging contractors to engage in wasteful, damaging and potentially damaging logging practices, such as ... not clearing away slash, thereby causing and increasing the risk of fire in valuable timber stands."

Plaintiffs' more definite statement 3(h), Dec. 30, 1971.

Overview of Record

Timber sale contracts on the Quinault Reservation before 1926 provided for burning of slash. See IIIIB20.1, page 4, IIIIM22.1, page 7, IIIIL22.1, page 6, and IA35.1. Slash was indeed burned before 1926. See IA18.2, IA24.6, IA24.15, and IA26.6. In 1926 BIA foresters suggested to the Commissioner that burning slash retarded regeneration and did not pose that much of a greater fire risk than if the slash areas were protected long enough for the area to "green-up". See IA26.3-4. In response to this advice, the Commissioner directed the policy to leave slash unburned pending further study, and in the meantime improve fire protection over the slash areas. See IA26.2 and IA26.7. Fire protection plans were made pursuant to this policy. IIA28.1. Timber sale contracts made after 1926 waived paragraph 25 of General Timber Sale Regulations. See IA29.9, IIA43.3, IA60.1, and IJ71.27. Contra: IIA72.3. The opinion that slash burning retarded regeneration was based on studies by the Forest Service and others. See IA26.4, IIA30.2, IIA37.1, pp. 4-5, and IIA38.1, p. 5. This opinion has been questioned by BIA officials several times in the last 40 years. See IIR58.1, IIA59.2, IA59.1, IIA62.4, and IJ71.21. In fact, in the late 1950's,
slash burning was resumed experimentally, and as spot burning on the Taholah Unit. See IIR58.1, IIA59.2, and VIII62.1. At this and other times various BIA officials have recommended burning the slash. However, burning the slash is usually recognized to be a last resort or in certain very limited circumstances. See IIA59.2, IIA59.1, IJ70.11, IJ71.18, IIA71.7, IA71.12, VI71.1, IA72.2.

Since it is generally conceded that because of lack of exposure of mineral soil the large slash accumulations do retard regeneration, it is recognized that disposal of the slash in some manner is desirable. See IIJ57.2, IJ70.11, IA71.7, IJ71.12, and IA71.9. The ideal method for all concerned would be removal of the slash as salvageable material. This method has had the support of Government officials so long as it is economically feasible. See IIJ57.2, IIR58.1, IIA59.2, IIA69.1, IA70.2, IJ70.11, IJ71.16, VJ71.1, IIA72.4, and IJ72.6. However, efforts to salvage the slash have been frustrated by economic realities which have often made it an unprofitable operation. See IJ71.18, IIA72.3, IJ72.6, IJ72.21, and IA69.1. It is likely that the controversy over the satisfactory disposal of the slash will center around the economic feasibility of salvage of the slash for chips.

In summary, it is well known that in cedar areas of the type found on the Quinault Reservation, a great amount of defective material will be found even before logging, and will result from logging itself. EIA
officials were not convinced, however, that controlled burning of slash was the solution to the fire protection problem and has sought alternatives, mainly by greater effort in keeping fire out of slash areas and the suppression of fires when they do occur, and reduction of slash by salvage. See also the analysis of the record on fire protection.

Reasons for Not Burning Slash

1. Better chance and cheaper reproduction.

IA26.3-4, IIA30.2, IIA37.1, pp. 4-5, IIA38.1, p. 5.

Contra: IJ70.11 (a), IJ71.21, IIR58.1, IIA59.2.

2. Fire risk may not be as great as if it were burned.

IIA32.1, IIA37.1, pp. 4-5, IIA38.1, p. 5, IIA72.3.

Contra: IA26.3, IIR58.1, IA68.1, IIA68.1, IJ70.11(a).

3. Burns are seldom "clean."

IIA38.1, p. 5, IA68.1.

4. Problem of air and stream pollution.

IIA68.1, IJ70.11(c), IJ72.6.

Contra: VR70.1, p. 7.

5. Burning would require planting and no funds were available.

VA71.2, IIA72.3, see also Analysis of Reforestation.

Contra: IIA72.4.

6. Leaving slash helped erosion control.

IIA68.1, IIA72.3.
7. Large amounts of salvageable material in slash areas.
   IIR58.1, IIA59.2, IA68.1, IIA72.3-4, IJA72.6.

8. Too much slash to burn all of it.
   VQ68.1.

9. Ownership pattern and uncontrolled cutting in Queets area.
   IA68.1, VA67.1, IIA68.1.

Problems With Salvaging Slash

1. Getting cooperation between tribe and purchaser.
   IA69.1, IJ70.11, IJ71.16, IR71.7, IJ72.6.

2. Costs exceed value.
   IJ70.11, IJ71.16, IJ71.18, IJ71.21, IA71.2.
   Contra: IJJ57.2, VA71.2, IA71.4, IIA72.6, IJ72.6.

3. Lack of market.
   VA71.2, IIA72.3.

Areas for Further Research

1. Copy of article by Frank H. Lamb in July 1925 Timberman
   and other literature mentioned in IA26.4.

2. The results of burning slash under contracts made prior to
   1926.

3. The nature of the discussions concerning the Tulalip
   Reservation which were mentioned in IA26.4.

4. What happened to study that Steer was supposed to make?
   IA26.4.

5. How much more was expended for fire protection after 1926
   than before?
   IA26.2-3.
6. Did second-growth ferns and fireweed make better fires?
   IIA32.1.

7. Were any studies made to show the delay in reproduction
   caused by burning the slash?
   IIA37.1.

8. How "clean" are slash burnings?
   IIA38.1 and IVA74.1.

9. Have there been any studies on the effect of burning slash
   on air and water pollution? Who has made objections?
   See IJ70.11(c).

10. What were the results of pilot projects on chip production?
    IJ71.21, IJ70.11.

11. Why wasn't salvage sale expedited under 25 CFR 141.7(b)?

12. What happened to the cooperation mentioned in IJ70.11?

13. What is House Bill 1034?
    IJ71.16.

14. What were the recommendations of the Public Land Law Review
    Commission?
    IJ71.16.

15. What was discussed which halted burning plans in 1972?
    IJ71.18.

16. Where did Meeker get his data?
    IA71.4 and IJ71.21.

17. What were the studies referred to by the Reforestation
    Committee of Grays Harbor Forestry Board?
    IIA30.2.
18. What percentage of slash accumulation is reduced by burning or other methods? Which are more effective? What are the factors involved?


20. Was the policy against slash burning in the State of Washington total, or did it permit operators to burn off accumulations around landings, buildings, etc.?

21. What has been the result on similar forest lands where the state burning laws made burning compulsory? Is the damage to valuable timber by fire significantly less than on the Quinault Reservation where no controlled burning is done?

22. What are the state standards for declaring a slashing area a hazard under their laws? How would this have been applied to the Quinault Reservation if the state had jurisdiction? IIA37.10.

23. Were any studies done to support Ozette's contention that they were successful in reforesting without burning and thereby placing their lands in production 10 years earlier than if they had burned? IIA43.7.

24. What has been the slash policy of the right-of-ways? IIA43.3.
25. Was controlled spot burning in heavy cedar slash areas ever carried out as recommended by Clark?

26. How much must debris be reduced in order to sufficiently expose soil? Can this be done by other methods than burning?

27. What were the results of burning on Taholah in 1959?

28. Why are poor sites with shallow soils not burned? How much would this apply to the Quinault Reservation?

29. How much must natural regeneration be established before the Forest Service decides not to burn?

30. Is there any way to determine how much slash is from logging, and how much is already on the ground? Does it make a difference?

31. What are proper weather, moisture, etc., conditions under which slash may be burned? How often during a year is it possible to burn on the Quinault Reservation?

32. What are the results from the United States Forest Service's burning on the Olympia National Forest?
33. Where are the areas mentioned in IR59.9 by Libby in which the heavy debris has been burned?

34. Why was burning slash on the Taholah Unit discontinued?

35. What recommendations, if any, were made to the Washington office following meeting on disposal practices reported in VA67.1?

36. Why doesn't Crown Zellerbach burn in hemlock stands?

37. What is U.S. Forest Service and Weyerhaeuser experience in burning in hemlock stands?

38. Is it true that the state would assume 100% of cost of suppression if fire occurs? Is that after the slash burning, or does it cover slash burning itself?

39. How much fire hazard risk is reduced by burning the slash?

40. What is the financial liability of the slash burning getting out of control? Is it insurable? How much would the premiums be?

41. What is loss due to erosion following a slash burning? How could it be controlled and at what cost?
42. What is the effect of receiving a slash clearance from the State Department of Natural Resources? Where are copies of clearances issued for the Quinault Reservation? IIA68.1.

43. Is it true that most slash within Queets area is on private land? Does this justify BIA in doing nothing to reduce slash or plant on trust lands in the Queets area? IIA68.1.

44. Has a plan ever been developed to provide firebreaks in the Queets area as suggested by the State Department of Natural Resources Field Supervisor Gockerell? VQ68.1, VA68.1.

45. How much reforestation is required before shading effect will significantly reduce fire risk? VQ68.1.

46. What became of Queets Forest Protection Association's effort to coordinate such a plan? VQ68.1, VA68.1.

47. What were U.S. Department of Agriculture's past practices? How did they hinder fire protection. VIIA69.1.

48. Was a fire control specialist ever brought in to study slash areas with Rayonier? VR70.1.
49. Is it true that BIA relies upon Certificates of Abatement to cover liability? What are they, how do they cover liability, and why does BIA rely on them?  
VR70.1.

50. What was the basis for Forest Manager Jackson's conclusion that slash on the Taholah Unit precludes regeneration by any method?  
IJ70.11(a).

51. What were the letters marked Exhibit B-9 from which Judge Goodwin concluded that the BIA forest manager was performing his trust duty?  
VJ71.2.

52. Was any emergency action taken in response to warning by Superintendent Benedetto that hazard from slash was becoming extremely critical?  
IA71.7.

53. Was a comparison ever made between Quinault and State lands as mentioned in IA71.2(a)?  

54. Did the Environmental Protection Agency have any concrete basis for conclusion that the contracts were not being complied with? Was a meeting ever set up?  
IA71.20.

55. Is it possible to get research note PNW-163 by James Howard and research paper PNW-115 by Dell Ward from Pacific Northwest Forest and Range Experiment Station?  
IA71.18.
56. Was one of the reasons for the lack of funds for planting the expectation that the land would pass into private ownership under fee patents?

IIA72.4.

57. Why was no provision requiring purchaser to reforest land put in contract?

IIA72.3.

58. Why were purchasers given 2 years under the contract to complete salvage operations? Doesn't this create a problem in disposing of slash, since 4 to 5 years may elapse before purchaser and owner have exhausted rights to salvage and by then some reforestation has been established which BIA would be reluctant to destroy by any disposal of slash?

IIA72.3

59. Where is the U.S. Forest Service study indicating regeneration of hemlock stands is more favorable if area is not burned?

IIA72.3.

60. Was disposal of slash by salvage for chips, etc., seriously considered before the 1970's? If not, why not? What changed in 1970? If so, were any studies done?
LOGGING PLANS ISSUE

Plaintiffs' Allegation:

"Defendant failed to develop comprehensive logging plans for the reservation allowing the contractors to initiate such plans."  Plaintiffs' Contention of Fact and Law No. 18, 4/15/74.

Overview of Record

The concern of the plaintiffs here is probably in their opinion that if the purchasers have too much control over areas selected for logging, there is a resultant effect on average stumpage prices. See VA68.3

A memorandum by Forest Manager Joe Jackson in 1970 admits that Rayonier enjoyed excessive latitude in the cutting design on the Crane Creek Unit which came about mainly by omission on the part of the Bureau. VR70.1 Wilton Vincent of Rayonier seemed to accept this as true but argued that the contracts gave the operators this latitude. VR70.1

Apparently from that time on the BIA became a more active participant in the development of the plans and the tribe was also included in the effort. VR70.1, VJ71.1 and VIIA73.1 Also the plans became more comprehensive and included written specifications covering such things as stream treatment, roads, logging methods, erosion control, etc. IIA72.3, VIIA73.1 It appears there may also have been more joint effort
in developing plans during the initial phases of logging under the contracts in order to establish the selective block cutting method.

VII J50.1, J50.5 However, it also appears there were some problems with the contractors being too independent in their cutting plans.

LJ53.1 Much of the input from the BIA over the years has been to request the companies to adjust their logging plans to accommodate allottees with special needs and hardships. IR58.4, J60.4, J60.5, IR62.7, IR67.3, IR73.4 A report to the Commissioner of Indian Affairs in 1972 is a more comprehensive analysis of this issue than we have here. See IIA72.3

Areas for Further Research

1. Obtain copies of all logging plans which have been submitted since the inception of the Crane Creek and Taholah contracts. See IIA72.3

2. Is there any record of the field examinations or other procedures which were followed to show the thoroughness of the BIA's examination of the logging plans submitted by the contractors?

3. Get expert opinion on what effect, if any, the plans of logging have had on stumpage prices or reforestation, etc.

4. Is there any evidence that even though not included in the written plans there were informal understandings as to how the logging blocks were to be logged, etc.?

5. Is there any other evidence or testimony as to the extent the contractors consulted the BIA in the process of developing the logging plans?
6. Obtain further documentary evidence of demands by allottees to include their allotments in the logging plans and the extent to which the BIA or the contractors made such adjustments.
LOGGING PLANS - DOCUMENT SUMMARIES

ID.37.2 - Letter from Superintendent N. O. Nicholson to Commissioner of Indian Affairs, 4/14/37.

Proposes that the three Aloha units be logged by the system proposed for the Quinault Lake Unit, that is, by selective spot area of 100 acres more or less. States the system Aloha has followed in the past has been to lay out new logging areas for summer cutting with a stand of green timber left between the new and older cuttings for protection against fire of the new cutting area and later after fire season cutting out the intervening areas. States the Hall Unit is a spotted timber stand and lends itself well to the new plan. The Mounts Unit is different and spot logging would leave much good timber standing. Pending reply they will prepare forms for the bonding company and make plans for the selective areas.

IM38.1 - Letter from Superintendent N. O. Nicholson to Regional Forester, 12/22/38.

Enclosed map of the Quinault Lake Unit showing tentative plans for logging about two-thirds of the remaining area. States plans are still in the conversation stage between Arnold Polson and the agency as to the areas shown on the map. States opinion that a representative of the Regional Office should sit in on the discussions.
IIA43.3 - Report by Regional Forester Frank Lenzie, signed by Acting
Forester Carthon Patrie to Commissioner of Indian Affairs,
12/13/43.

This is a report on suggested revisions of the general timber sale
regulations. Regulation 9 entitled "The Areas to be Logged".

"The areas to be logged in any season may be designated
by the officer in charge when in his judgment this is
necessary to prevent deterioration or serious losses from
fire, insects, wind throw, stain, worms or other cause or
to insure the sale unit in such a manner as to fully pro-
tect the interests of the Indians and the United States.
When logging is begun on a natural logging unit it will
not be discontinued and started elsewhere except as made
necessary because of unfavorable weather or ground con-
ditions without the written consent of the officer in
charge."

Explains that in the last sentence the words "on an allotment" were
deleted because often it is not practicable for an operator to complete
an allotment before proceeding elsewhere on a sale unit due to the
topography.

IIJ46.1 - Report by Forester Carthon Patrie and Senior Forest Ranger
L. C. McKeever, 8/31/46.

This forest officer's report on the proposed sale of the Taholah Unit.
The proposed form of a general contract paragraph 21 provides that in
order to conform with the requirements of selective logging, all road
construction and logging programs will be planned at least one year in
advance and be approved by the forest officer in charge in writing and
that no departure from the approved program will be permitted without
written consent of the forest officer in charge.

VIIIJ50.1 - (a) Letter from Area Forester Floyd H. Phillips to Acting
Superintendent F. A. Gross of the Western Washington Agency,
9/1/50.

Refers to (b). States they are in general agreement with it but in view
of past experience question advisability of issuing any sort of formal
plan which might conceivably be interpreted as a modification of the
contract. To avoid such contingency suggest that the desires with
respect to the submission of an annual operation plan and the manner
in which it is to be presented be submitted in the form of a letter to
the contractor so written as to avoid any suggestion that it modifies
the contractual agreement. States it is entirely within the authority
of an officer in charge to designate the areas for cutting within a
logging unit and these could be made within reasonable limits without
reference to the operators' plan. However, to make selective logging
by blocks successful it should be done with the cooperation of the
operator. This necessity requires preparation of advance logging plans.
There is some question whether the operator can make his complete
logging plans a year in advance without cooperation of the forest
officer in charge. Suggest therefore that some provision be made for
joint work on the plan during its initial phases.
(b) Preliminary Draft of a Proposed "Plan of Logging Operations" by Earl Wilcox.

Provides the following:

1. Detailed plan of operations for a full calendar year be submitted to Forest Manager before December 1 of the year preceding.

2. Forest Manager will review the plan.

3. Such approval by the Forest Manager be given in writing.

4. No deviation from approved plan will be made during the course of a calendar year without prior approval of the Forest Manager.

5. The plan submitted shall contain a map showing the outline of settings to be logged, location of roads and the method and sequence of logging of each setting. Setting shall be planned so that no single area of clear cutting shall exceed 120 acres in size until a minimum of ten years has elapsed between the cutting of contiguous blocks.

Contains further details as well.

IJS0.3 - Letter from Acting Superintendent Fred Gross to Dave Kurtz of the Aloha Lumber Co., 9/11/50.

Refers to their request that a plan of logging operations be submitted to the agency before start of each year to cover logging to be done during the following year. The purpose of such a plan is to facilitate compliance with section 2 of the general contract providing for the purchase of all the merchantable timber and at the same time allow the company freedom and choice of areas to be cut, etc. Note this appears to be the "letter" form of Wilcox' plan of logging operations in VIIIJS0.1
IIM50.1 - Stipulation for Extension of Contract for the Quinault Lake Unit Signed by President L. J. Forrest of the Ozette Railway Co., 8/15/50.

Provides that the company will submit in writing a plan of logging operations one year in advance for consideration of forest officer in charge and that no departure from approved plans will be made without written consent of the forest officer in charge.

IJ50.5 - Memorandum from Forester Earl Wilcox to Forest Manager John Libby, 9/25/50.

States that Dave Kurtz of Aloha requested to meet with members of the forestry staff to discuss what the submission of a plan for the logging of the Taholah Unit. Discussion at the meeting was confined mainly to specifications which the company wishes to have changed as to the method of logging in selective block cutting. States it appears there is much merit to the arguments the company has advanced as to the large expenses which are being incurred in the interior part of the unit where there are no unmerchantable areas or natural boundaries to rely on. States it appears necessary that much of the unit would have to be cut in a series of four cutting cycles to comply with methods of logging originally set forth in the letter of September 11. Since contract terminates in 29 years there could be a lapse of only seven years between cutting of one block and the cutting of a contiguous block in the following cycle. This would entail the enormous task of developing a road system to blanket the entire unit within a period of seven years. Encloses several diagrams illustrating alternatives in the cutting
cycles. Suggest modification to allow either staggering of cuttings as indicated in diagram 2 or the cutting of area in strips as in diagrams 3 and 4. Both methods would permit logging of the units in two cycles. The staggered setting plan would allow touching of blocks at points or permit their connection by narrowed strips of cutting. The last method however is considered more desirable by the company and BIA agency foresters, at least from an operational viewpoint. States should the modification recommended be acceptable to the area office request them to notify the company as quickly as possible as under even the best of conditions it will be impossible to make our desires for submission of plan fully effective during the first logging year because of the lack of basic engineering and forest stand information necessary for the company to prepare a plan covering the whole calendar year 1951.

IM53.1 - Letter from Superintendent Raymond Bitney to Area Director E. Morgan Pryse, 2/11/53.

States members of forestry staff met with officials of Rainier and Ozette Railway Co. regarding operational plans on Quinault Lake and Crane Creek Units. States plans for developing Crane Creek Unit so far present appear to be excellent from both forest management and administrative viewpoints. States plans for Quinault Lake present many administrative problems. States during the 30 years of logging operations on the unit no particular sequence of logging was followed. Rather logging shifted according to market conditions. Illustrates this on attached map. States officials of Rainier or Ozette have pointed out they must conduct their operations to produce a balanced proportion of the different species to meet their manufacturing requirements. For this reason they are unwilling to defer operations in the Crane Creek Unit.
I. Letter from Superintendent Raymond Bitney to President Paul Smith of Aloha Lumber Corp., 8/3/53.

Complains that changes from the plan as submitted occasionally have been made without prior approval. Cites a specific example and states this setting was not included in the operation plans for 1953 and the agency was not notified of the addition until after the setting was laid out and much of the timber felled. States they must insist that future cutting plans be approved in advance. States during initial years of contract they have approved establishment of settings have been too close together. In many places reserve strips are much too narrow. States now that the road system is well extended and should be feasible to develop cuttings to provide for reserve blocks of sufficient size to assure that they will remain intact until scheduled for cutting ten or more years hence. Request that their engineers and logging superintendents work more closely with BIA forest officers. States it is their policy to allow the maximum possible freedom to the company in developing their own logging plans but must insist that such plans be submitted for review and approval well in advance of each year's operation and that any later change of plans be approved in advance and that no cutting be commenced on a setting until the plans for that setting have been approved.

IR58.4 - Letter from Acting Superintendent John Libby to Area Director Don Foster, 10/3/58.

Regards operations on Mary Petit allotment. States they have been
reluctant to bring pressure on the contractor earlier to complete logging because of the particular circumstances involved. It is their understanding that the allotments of Norris Ellis and Mary Petit were included in Rainier's plans as a special accommodation to the allottees. The allottees had secured fee patents with the understanding that Rainier would purchase them, which turned out to be a misunderstanding but that Rainier would agree to include the allotments in logging plans. After the timber was felled the cedar market dropped and Rainier curtailed logging on those allotments.

IR60.5 - (a) Letter from Acting Chief of the Branch of Forestry Henry Wershing to Area Director Don Foster, 5/13/60. Refers to the logging plans submitted for the year 1951 in the Crane Creek Unit. States they are pleased by the proposed road construction which will extend operations into the west central portion. Refers to studies of the results on regeneration by the selective block cutting system.

(b) Letter from Acting Superintendent DeCelle to Area Director Don Foster, 4/21/60. Enclosed request for modification of Rainier's logging plans for 1960. States they have been informed that Rainier has secured commitments for a large volume of cedar on Grays Harbor for the year 1960. Since cedar represents 60% of the volume in the unit believes that Rainier should be allowed to take advantage of their opportunities to dispose of a large volume of cedar. Notes that the roads to be constructed in
1961 are designed to develop the west portion of the unit which will provide access to considerable areas of marginal cedar. Recommends approval of the cutting plans as modified.

(c) Letter from Manager L. J. Forrest of Rainier, Inc., to Superintendent C. W. Ringe, 4/12/60.

Requests approval for an increase in the maximum allowable cut and the approval of additional cutting areas on their logging plan.

IJ60.4 - Letter from Forest Manager John Libby to Allottee Thomas Mason, 8/3/60.

 Replies to letter concerning his allotment but regrets they are unable to give him a favorable report. Note at the bottom to "Jim" makes a suggestion that perhaps Blocks 24 and 18 could be stretched to give Mason a little stumpage in excess of his advance payments.

IJ60.5 - Letter from Forest Manager John Libby to Allottee Thomas Mason, 8/12/60.

Gives him a fuller account of the advance payments to him than were in IJ60.4. States in view of his circumstances they will explore the possibility of revising the boundary of the cutting block to include a larger portion of his allotment. However, they give him no assurance that this can be done. Note at the bottom to "Don" states "this man is really in tough shape. Have Jim check this out with the law and see if either Block 18 or Block 24 can be stretched to include enough volume to liquidate the advance payments and leave a few thousand over." Signed JWL
IR 62.7 - Memorandum from Forester Manager John Libby to Superintendent, 5/14/62.

Regards situation of Allottee George Sanders. Because his allotment fell in a reserve area no logging on his allotment will be scheduled before 1970. The matter was discussed with Rainier officials but they were reluctant to revise established approved cutting plans. They pointed out their cost would be increased appreciably if they had to move into log only a relatively small volume. Also the revision would upset the already established cutting pattern in the southwest. Points out Block 17 is already too large a slash area due in part to pressure from one of the allottees who gave assurance that if her entire allotment was included in the cutting block she would arrange to have it replaced under the agricultural conservation program. The allotment was logged but no planning has been done. States considering all the circumstances they do not feel justified in bringing pressure on Rainier to require it to log a part of this allottee's timber at this time. States he is only one of hundreds of other allottees in like circumstances. Also his case is not as critical as many. States we give priority to real hardship cases when we can. States the files are full of letters from allottees wanting to have their timber cut to provide them with income in their old age. To illustrate this they have listed ten representative cases on an attached exhibit. States the situation cannot be resolved on the basis of individual needs. They cannot expect the contractor to revise his operating plans to meet the needs of each allottee.
IR67.3 - Letter from Forest Manager Don Clark to Superintendent George Felshaw, 9/25/67.

Regards situation of Allottee Floyd Hudson. States they discussed the matter with Rainier and as a result a logging road has been constructed into the portion of the tract that lies south of Highway 101. Also a logging block has been tentatively established which includes a large portion of his allotment. States they are hopeful this block will be submitted for approval along with others for 1968 logging. States they will continue to work with personnel from Rainier and stress the need for logging some of Hudson's timber during 1968.

VA68.3 - Memorandum from Area Forester Kenneth Hadley to Assistant Area Director for Economics Development, 11/18/68.

Refers to consultation with representatives from the Quinault Tribe. Among the views they expressed was that the purchasers have too much control over areas selected for logging with a resultant effect on average stumpage prices.

VR70.1 - Memorandum from Forest Manager Joe Jackson to Superintendent, 2/3/70.

Concerns forestry conference with ITT Rainier, Inc. On logging plans Jackson explained that historically BIA prepared cutting guidelines and block layout. Purchaser then selects his cutting blocks and those prepared by the BIA. This selection could be influenced by anticipated markets and road programs. Final approval rests with the approving officer. States Rainier enjoyed excessive latitude in the cutting design on the Crane Creek Unit. This came about mainly by omission
on the part of the Bureau. Wilton Vincent from Rainier said his interpretation of the contract gave this latitude. Jackson insisted this was an error by omission on the BIA's part that final approval rests on the BIA anyway and he intended to exercise his prerogative to its fullest extent. States the cutting design is an integral part of forest management and the BIA is in no position to abrogate this responsibility by turning it over to a private company that stands to gain therefrom. Jackson stated he was for equal participation by the BIA and Rayonier in developing the cut for the remaining period of the contract. Vincent was agreeable to this but wished that it would be delayed for the 1972 logging plan since so much time and manpower had been invested in 1971 plan. Jackson insisted that this year would be the starting period. Vincent was reluctant to include Indians on the planning phase but Jackson insisted. They then discussed a number of elements of the logging program with which they were concerned.
VJ71.1 - Memorandum by Assistant Forest Manager Wilbur Carey, 12/28/71.

Regards meeting with representatives from Aloha Lumber Corp. Also present were representatives from the Tribe. They discussed stream clearance and protection, slash disposal, road maintenance, buffer strips and also discussed that the logging plan should contain areas of marginal timber along with areas of merchantable timber so that at the end of the contract all areas would be logged.

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

(Note: this report apparently the joint efforts of Neely and Meeker.)

Explains the difference in logging plan requirements between Crane Creek and Taholah. Encloses a copy of the guidelines for the preparation of logging plans which were developed from the inception of the contracts. Explains the flexibility of the plans. Encloses representative copies of plans and subsequent approvals. Explains foresters make field examinations of the proposed logging areas. Expresses the comprehensiveness of the current logging plans.

VIIA73.1 - Timber Sale Administration General Operating Procedures Revised by Forest Manager Joe Jackson, 8/30/73.

Provides that the annual logging plan be a joint BIA-Tribal purchaser endeavor containing written specifications for each cutting block. The specifications will cover stream treatment, roads, yarding and falling, erosion control, fire lines, special problems, etc. Also includes land owners' special requests.
IR73.4 - Letter from Forest Manager Joe Jackson to Allottee Ken Payne, 12/13/73.

Informs him they are including his allotment in the 1974 Crane Creek logging plan as a hardship case. Attached is letter from the allottee explaining his hardship.
REFORESTATION ISSUE

PLAINTIFFS' ALLEGATION

"Defendant ... has not provided adequately for reforestation ... ." Plaintiffs' Memorandum of Contentions of Fact and Law, No. 9, 4/15/74.

"The defendant's management of the plaintiffs' land, to the extent it failed to arrange for proper rehabilitation and reforestation of cut-over land, ... was in breach of its fiduciary duty to the allottees and the tribe. As a result, the volume of timber owned by the allottees and the tribe failed to increase from year to year at the rate it should; they suffered loss of property without just compensation, and were otherwise damaged." Plaintiffs' Petition (3rd Claim), No. 20.

The validity of the plaintiffs' claim on this issue first depends upon resolving the question of what is considered adequate stocking and how it is to be measured. There has been considerable controversy on this subject. If it is found that reforestation on the reservation is not adequate, it must also be determined whether this is a result of a breach of the fiduciary duty by the defendant. This will involve such questions as the reasonableness of the policies in light of the state of the science at the time, and under the conditions over which the government had no control. Finally, if it has been found that stocking is inadequate and that it is due to a breach of a duty by the defendant, then what would be the damages? This would be determined by the resolution of such questions as the rate of growth of the timber and the delay caused by the failure to adequately reforest the land.

OVERVIEW OF THE RECORD -- ADEQUACY OF REFORESTATION

The first surveys of reproduction we find in the records are those done by Forest Supervisor A. G. Haugie in 1944. 11/24/35 - 6/15/35. They were taken of sample plots on allotments located in the Quinault Lake
logging unit which were logged in 1937 by tree selection cutting. They
found that the dense vegetative cover, predominantly salal, which
followed logging had caused serious problems in the establishment of
reproduction. On plots where the ground cover was fairly open, they
found a fair representation of reproduction consisting primarily of
cedar and hemlock. By 1946, only about 20 percent of the cutover land
had been surveyed. Thus far, their finding had been, where fires had
been kept out, reproduction has been satisfactory to excellent. On
burned areas, however, only 20 percent has been satisfactory and 80
percent unsatisfactory or unstocked. IIA46.2. This survey work was
criticized in 1947 by Earl Wilcox. He found from examination of field
notes that no definite procedure had been followed in executing the
work. The procedure Wilcox used was more orderly and consistent.
They began with a light survey of the whole area by laying strips 1/2
mile apart in burned areas and 1 mile apart in unburned areas. In
classifying their statistics, they used those recommended by the West
Coast Forestry Procedures Committee. Their conclusion was that only
about 13 percent of the cutover Indian land was nonstocked and about
18 percent poorly stocked. IIA47.1. A survey was taken of the cutover
lands on the Taholah unit in 1961 by Forester Wayne Turner, which
found that 40 percent were nonstocked and 39 percent were poorly
stocked. It was observed that the main factor contributing to this
was the density of ground cover. The report recommended a program of
seeding or planting immediately following logging. IIA61.3. A similar
survey was taken of the Crane Creek unit in 1962, which found that
6 percent of the cutover lands were nonstocked and 81 percent were poorly stocked. Both these surveys employed the mil-acre as a basis for determining stocking, because it was considered that 6.6 feet is favorable spacing for small seedlings. In arriving at this method, they compared the 1/250th acre and the mil-acre plots methods and consulted with foresters in the industry, the state and national forest services, and reviewed the literature. They concluded that while the 1/250th acre plot method is preferable for older reproduction, the mil-acre plots gave a better indication of desired stocking for small, young seedlings. Using a 1/250th acre plot, they found that 34 percent of the cutover land was poorly stocked, and 6 percent nonstocked, whereas under the mil-acre plot, 6 percent would be nonstocked and 81 percent would be poorly stocked. However, a report by Ken Hadley in 1962 disagreed with the use of the mil-acre plot method in light of the recent realization that optimum stocking is considerably less than normal stocking. The next major survey taken was of Crane Creek and Taholah in 1971 by Forester Ralph Gustavson. The stocked quadrat method of sampling was used, as well as 1/250th acre plots. The results of this survey showed that adequate natural regeneration was occurring on the logged over lands and, in fact, stands 10 to 20 years of age may be overstocked. The Pierovich study group report commented on the disagreement of the criteria for adequate restocking. A report in 1971 by Dee Terry found a low percentage of good to medium stocking on Crane Creek and Taholah. He used a criteria of 8\' x 8\' spacing. The Pierovich
report states the general industrial objective is 400 trees per acre, whereas the 12' x 12' spacing used by the BIA results in 310 trees to the acre. Also points out that the Forest Service plants on a basis of 14' x 14' spacing. 

Gustavson later pointed out an error in the 1961 surveys in using the wrong percentage figures for determining the stocking classification. He cites as his authority the 1950 West Coast Forestry Procedures Committee report of the Western Forest and Conservation Association in Portland. He also brings into question whether alder should be considered nonstocked. 

It is apparent that there has been a considerable controversy over the methods used to evaluate the degree of reproduction, and that the results obtained will vary greatly depending upon which of these methods is used.

If there is any problem of reforestation on the Quinault Reservation, it is clear that the most serious problem area is the cutover lands south of the Quinault River which were logged in the days prior to selective block cutting. These lands have been burned several times over, destroying reproduction and seed sources. 

It is conceded now that artificial reforestation will be necessary to become fully stocked. 

The first planting on the reservation, and in fact the first planting of a sizable tract of land in Grays Harbor County, took place in 1929 on tribal land in the southeast corner which later became the Quinault Forest Experiment Station.
VIA31.3, and IVA38.1. This project, however, was limited to tribal land and had limited funds. IA29.19. The planting in this area was completed as a CCC-ID program. IIA46.1. The question of the authority of the BIA to use funds to benefit individual lands and the limited funding available have been the major obstacles to artificial reforestation projects on the reservation. On the question of authority to plant on allotments, see IA39.12, VA67.1, and IIA68.8.

On the lack of funds, see IA42.4, IJ46.2, IIA59.2(b), IIA61.4, IVA67.1, VA68.8, IIA68.2, IA69.2, IA70.3, IIA71.4, and IIA72.2.

Through the years various methods have been employed to obtain funding for reforestation projects, since funding did not seem to be forthcoming from regular channels. See, for example, IA69.2, IA70.3, and IIA72.2. Included in the alternatives considered over the years have been a plan to use conscientious objectors to plant (see IA42.5 and IA42.1), the agricultural conservation program (see IR59.9, IIA61.4), the accelerated public works program (IIA63.1), the agricultural stabilization program (IIJ63.1), the emergency conservation work program (IJA30.15 and IJA39.12), the Civilian Conservation Corps program (IJA39.11), the use of fire suppression funds (IA67.2), buy-Indian contracts (IIA72.4, IIA72.7, IIJ63.1), providing in contracts for planting by the purchaser (IJA9.5), and finally the use of the administrative fee (IA68.12, IIA68.7, IIA68.5, IIA71.4, IIA72.4, IA72.2). Another method has been to encourage the allottees to use their own funds to plant. IR72.1, IIA72.3. To get around the question of the authority to plant on allotments, the BIA made an unsuccessful attempt to get allottees to deed over their cutover allotments to the United States.
Seven allottees did transfer such seeds, and their allotments were planted in 1940. However, a fire destroyed the reproduction in 1941 and the lands were never replanted. As late as 1966, these allotments had neither been planted nor returned to the allottees. IA38.18, IA40.21, LJ46.2-3, IA55.1, IA66.2-3.

Absent the regular funding for planting or seeding projects, reforestation was encouraged in other ways. The primary one was to log by selective block cutting, which reserved blocks of seed sources enough until reproduction was well established on the adjacent cutover land to allow the reserved stand to be cut. The Tribe was in accord with this practice. See VJ36.1, ID37.3, IID37.1, IA37.12, IA43.2, IR54.1, IIA58.2, IJ66.7, LJ71.22, IIA71.5, IIA72.5, VIIA73.1. Another policy designed to encourage reforestation was the prevention of fire, either by accident or by deliberate burning of slash on the cutover lands. IA43.1, IIA68.1, IIA71.5. However, it has been proposed by some that the heavy accumulation of slash has retarded the reforestation and it is necessary to dispose of it in some manner, the most common of which is burning. On this problem, see LJ70.11, IA71.20, IA71.12, IA71.4, LJ71.22, IIA71.5, and IIA72.4. This has generated a great deal of controversy over whether to burn slash or not. Some consider that burning slash would destroy reproduction already getting. On the other hand, some contend that slash needs to be removed in order to expose the soil for seeding. On this controversy, see Slash Disposal Issue and IA59.1, IIA59.2, IIA61.4, IIA62.4, VA67.1, IIA71.5, IIA72.4, and IIA72.6. The reliance on natural regeneration has been
justified by the fact that conditions on the Olympic Peninsula are so favorable to forest growth. See IIA30.2.

Certain logging practices have also recently been regulated as destructive to reproduction. This includes tractor logging under conditions which tend to compact the soil. See IJ70.5, IR71.6, IIA71.5, and IR73.1.

There has also been some question whether the costs of planting justify the benefits. Besides the obvious items, such things as loss during preparation of the site of reproduction already on the ground should be included as a cost, and control over the species should be included as a benefit. See IIA59.2, IIA68.2. For estimates of planting costs, see IIA46.1, IJ46.2, IIA59.2, IA62.5, IIA63.1, IA67.3, IA68.10, IIA68.1-2, IA71.4, and IIA71.2.

The primary damage caused by a breach of duty to reforest the land would be the resulting delay in timber growth. Some documents in the records suggest that reproduction has been delayed by as much as 20 years or so, on some portions of the reservation. See IJ46.1, IIA48.1, IIR50.2, IR53.2, IIA59.2, IIA62.4, IIA68.2, IA68.12, IIA68.5, IA71.20, IA71.12, IA71.4.
AREAS FOR FURTHER RESEARCH

1. What has been the record on sales of cutover land? Has the policy continued to hold these lands for reforestation, as indicated in IA29.25?

2. Is data available showing the growth of the trees on the Quinault Forest Experiment Station? See IA29.27.

3. When did planting or seeding projects begin on other timberlands on the Olympic Peninsula outside of Quinault?

4. Have any studies been done to determine the source of the reproduction found on the ground immediately after the logging? See IIA30.2.

5. Has there been more recent surveys taken of the burned over areas south of the Quinault River? See IA38.19.

6. What is the source of the ruling which made it impossible to plant areas which are allotted? See IA38.19.

7. Why were the allotments which were deeded to the United States in trust for the Quinault Tribe not replanted after the 1941 fire?

8. To which past logging methods does Superintendent Nicholson point as the cause of the bad reforestation on burned areas mentioned in IA39.12?

9. What other improvements have been made by the Government on allotments? See IA39.12?

10. Was any action initiated by the office to secure the conscientious objector camp? See IA42.1.
11. Is there any data to support Polson's contention that lands are placed in reproduction earlier if the slash is not burned? See IIA43.1.

12. Why is the Cook Creek unit the only extensive burned area with satisfactory stocking in 1946? See IIA46.1.

13. Where have federal funds been allowed to be used for tree planting or seeding projects? Are any of these a primary benefit to an individual? See IJ46.2.

14. What has been done with the area burned over by the 1941 fire? See IJ46.2.

15. Is there data to support Superintendent Hellander's contention that fires in cutover lands in this district set reproduction back 5 years? See IIA47.2.

16. Is there a report by the West Coast Forestry Procedures Committee which sets out the criteria for measuring stocking? See IIA47.1.

17. What is the distribution of age classes by areas, and does it still show an imbalance? See IIA48.1.

18. What is the normal length of time to wait before the second cutting cycle can begin? See IIA48.1.

19. Could the delays in the establishment of a satisfactory reproduction by reason of the recurring fires have been prevented or reduced by the actions of the Government? IIR50.2.

20. What has been the record of restocking of cutover lands since the selective block cutting practice began as compared to the clearcutting practiced before? See IIA58.2.
21. Were the blocks cut to date on the Taholah and Crane Creek units ever examined to assess the results of the size and location of the blocks' boundaries? See IIA58.2.

22. Has the question of the legal authority of the BIA to regulate the cut on fee patented allotments within the contract areas ever been answered? If so, why did it take so long to answer? See IIA58.4.

23. What are the probabilities of having the right combination of a good seed year and favorable weather? See IIA59.2.

24. Do the Forest Service or BLM charge planting costs against the logging? See IIA59.2(c).

25. What, if any, is the stumpage value of red alder?

26. How many allottees have expressed a wish to have their allotments planted following logging? See IIA59.1.

27. Is Harold Weaver still convinced that slash should be burned on heavy cedar cuttings? See IA59.1.

28. Were allottees eligible for the Agricultural Conservation Assistance Program and how many took advantage of such programs? See IR59.9, IIA61.4(b).

29. Have there been any surveys done of the fee patent and allotment lands?

30. What were the publications which were reviewed and analyzed in determining the method of surveying in 1961 and 1962? IA62.5.

32. Are allottees eligible for the Agricultural Stabilization Program, and how many have taken advantage of it? See IJ63.1.

33. What happened to the suggestion that fire suppression funds be made available for reforestation projects? See IA67.3.

34. What is the record of reforestation on the private tracts within the reservation?

35. Was there ever any official policy established as to use of the administrative fund for reforestation? See IIA68.8.

36. Were reports on the germination and survival of the aerial seeding program ever completed? See IA68.12.

37. Is there data to support Don Clark's contention that for every year of delay approximately 1,000 to 1,500 board feet per acre of growth is lost? See IIA68.5.

38. What happened to the recommendation that regulations be established to require the landowner to deposit an amount to be used for reforestation? See IIA68.7.

39. Why have the requests by BIA forestry for funds to reforest been consistently turned down over the years? See L169.2.

40. Why was there no action taken on the 10-year rehabilitation plan submitted to the Commissioner? See IIIA16.2 and IIA68.5.

41. What was the reason for the substantial budget reduction between 1970 and 1971? See IIA71.4.

42. Have logging plans provided information regarding the regenerative aspects on each cutting block? See IJ71.22.

43. Have there been any studies as to the extent and effect of the damping-off fungus disease? See IIA72.6.
44. Obtain the 1950 West Coast Forestry Procedures Committee Report mentioned in IIA72.8.

45. Has the U.S. Forest Service made any comment as to the criteria used in the 1971 reproduction survey report? See IJ72.7.

46. What are the benefits and eligibility requirements for the Rural Environmental Assistance Program, and how many allottees have taken advantage of it? See IIA72.3.
Plaintiffs' Allegation

"Defendant . . . has not . . . properly cared for growing timber."

Plaintiffs' Memo of Contentions of Fact and Law, No. 9 (4/15/74).

"The defendant's management of the plaintiffs' land, to the extent it failed to arrange for . . . proper care of growing timber, was in breach of its fiduciary duty to the allottees and the tribe. As a result, the volume of timber owned by the allottees and the tribe failed to increase from year to year at the rate it should; they suffered loss of property without just compensation, and were otherwise damaged."

Plaintiffs' Petition (3d claim), No. 20.

Excerpt of Record

By the time cutting began on the Quinault Reservation, the stand of timber had reached a stage of over-maturity. Apparently some thinning of the over-mature timber was done on the Quinault Lake unit and individual allotments in the 1930's. ID36.9, IA39.19, and IA39.24.

However, studies on sample plots in the Quinault Lake unit in 1944 showed that there was no indication of accelerated growth in the residual stand because of relief by tree selection cutting. It concluded that the advisability of reserving a stand containing a high percentage of mature trees is questionable. IIS44.1-2.

On the other hand, the 1944 study showed that in second-growth Douglas fir stands, the growth rate does increase as a result of relief by cutting. IIS45.1.
At least by 1959, BIA foresters were aware of the potential stagnation problem caused by the density of the second-growth stand. IIA69.2(a). There was very little funding for timber stand improvement activities in Indian forests, and so a staggering backlog of underdeveloped young timber resulted. IIA68.8. Forest Manager Joe Jackson reported in 1970 that several thousand acres of cutover land would respond to a release cutting. IIA71.2(b).

Some thinning and pruning activities took place in the stands on tribal land on the south portions of the reservation during the 1960's under the Accelerated Public Works Program. IIA63.1. Some chemical thinning took place on 230 acres in 1970. IIA71.2(a). In the early 1970's, funds have been requested and some have been appropriated and expended for stand improvement projects to be performed by the Quinault Company (see IIA72.2 and IIA72.7). The problem here, as well as in Reforestation, is the lack of funding. IIA71.4.

The protection of the growing timber from disease, pests and other infestations has included the attempt to detect any infection or damage from pests, the salvage logging of infected trees, and the attempt to control mistletoe. See Disease and Insect Damage - Document Summaries. Some of the problems in the past have been the spruce budworm, the mountain pine beetle, and bears. IIA31.1, VIIIIA34.1, and IIA66.1. In 1968 a report identified the major disease problem on the reservation as being hemlock dwarf mistletoe. IA68.8. The most effective time to control mistletoe is at the time of cutting by making sure all infected trees are killed. Because increased light reaching
mistletoe and increased tree vigor strengthen mistletoe, it was not recommended to thin infected stands. IA68.8. Trials were requested in order to carry out the recommendations of this report. IA68.9. Apparently funds were obtained. XIA71.4.

Areas for Further Research

1. Documentation on this subject in the files which were reviewed seems to be overly sparse. Perhaps there are other files which have more material on this subject?

2. Has there been any greater incidence of mistletoe infection among stands which have been thinned? IIA68.8

3. What is the intensity of timber stand improvement activities on national forest land or on state or private lands? IIA68.8

4. Were growth plots established on the lands thinned under the AFA programs? IIA63.1

5. Are there studies which show optimum time to thin and to what extent? See IIA71.2

6. There is some indication that the Quinault Business Committee has been doing some stand improvement activities on its own. What have they been doing? IA73.4

7. Has the BIA done any spraying of insecticides or any other eradication efforts other than salvage logging of the damaged timber? See Disease and Insect Damage - Document Summaries.

8. Can we get a copy of Keith Shea's paper on dwarf mistletoe? IA68.8
9. Has rhizome root rot been a problem on burned over areas?

Would this be another reason not to burn slash? 1473.6
The Quinault Reservation was established following a treaty negotiation in 1855 between Territorial Governor Stevens and the leaders of several bands and tribes of the Quinault and Quileute Indians.

Allotment of land to individual Indians was initiated about 1907, under provisions of the General Allotment Act of February 8, 1887 (24 STAT 388) and other subsequent acts.

Allotting was stopped in 1914 because the Commissioner of Indian Affairs became convinced that the land was suitable principally for continued production of timber, not for agriculture. A timber cruise was conducted during 1915-1917, in contemplation of a plan for management of the reservation as an integral forest property.

Tommy Payne (in common with other Indians) brought suit in the United States District Court to compel the Secretary of the Interior to allot him in severalty the land that he had selected as an allotment. The United States appealed the decision of this court to the Circuit Court of Appeals, and finally to the Supreme Court of the United States. On April 7, 1924 (264 US 446) the Supreme Court affirmed the decision of the lower courts, that Tommy Payne should be granted his allotment. The court noted that references to "agricultural lands" and to "grazing lands" in the General Allotment and in subsequent
acts were "... meant not to preclude an allotment of timbered lands capable of being cleared and cultivated..." (Underlining supplied.)

With the above decision, allotting of the Quinault timber lands was resumed and plans for management of the forest as a single unit were abandoned.

Recipients of allotments on the Quinault Reservation received greatly disparate shares, for value of these properties has attached almost solely to volume and value of standing timber, and to subsequent timber producing potentialities.

The Indian Reorganization Act of June 18, 1934 (48 STAT 984) stopped all further allotting on Indian reservations. On September 30, 1933, preceding, however, the last of the Quinault allotments had been granted, with the notation that "... The allotments exhaust all available land on the Quinault Reservation..."

In the meantime, during the period 1920-1923, several large timber units had been advertised and sold to highest bidders, and large scale timber harvesting operations were initiated south of the Quinault River. Subsequent allotting of these tracts severely complicated timber sales administration, as it did the administration of subsequent units that were sold.

These operations resulted in accumulation of large, contiguous logging slash areas. Uncontrollable fires destroyed subsequent forest tree
reproduction over extensive areas. Thousands of acres are still unstocked. It has been considered in the past that the Bureau has no authority for expenditure of public funds in replanting of these individually-owned trust properties.

By the mid-1940's about one-half of the reservation had been logged. It was estimated that approximately two billion board feet of timber remained to be cut. Practically all of this timber was located north of the Quinault River. The allottees or their heirs, whose allotments were uncut, had now waited some 20 years or more without receiving any income. They were demanding that their timber be sold as soon as possible to secure some financial return from their property. They showed no sympathy for any further delay. For such reasons, their leaders urged the immediate sale of all remaining timber on the reservation and its cutting within a 10-15 year period so that the owners would receive their timber receipts within a comparatively short time.

Proposals for Solving the Problem

Many proposals were considered by the Department, Bureau, and tribal officials in an effort to reach a satisfactory compromise that would bring to the allottees an immediate income without violating the legal requirements of sustained yield. Among these, legislation which would permit the Government to purchase the reservation at an appraised value with immediate cash payment to all allottees was proposed. This
met with so much opposition from the Indian residents on the reservation that it was dropped. Another proposal was for the allottees to form a corporation, pool their allotment interest, and receive shares based upon the cruised value of their timber. They would then receive an annual income from timber cutting operations based on their proportionate shares regardless of whether their timber was cut immediately or 40 years hence. This plan required approval of a majority of the allottees in order to work successfully and was abandoned when the allottees, as a group, expressed their unwillingness to participate.

A number of other possible solutions were also considered. There was the proposal to establish a tribal sawmill enterprise, pay a substantial advance payment to all allottees with financing borrowed from the Reconstruction Finance Corporation. Unfortunately, the large amount of the loan, the extended term of 40 years or more, the ultimate total of the interest payments, even at very low rates, and the lack of Indian interest and support of a tribal business, were all reported to have combined to discourage the plan. There was also a proposal by a prominent Grays Harbor logging operator to purchase all the remaining timber and to pay the owners a proportion of the log sales price after the timber was cut and sold. The plan had some tribal leader support and was considered as a possible combination with the corporation of allottees referred to above. The proposal was eventually rejected by the allottees when the operator refused to make advance payments, even
of a small proportion of the estimated value on the ground that he could not afford to tie up funds for so long a period.

After long deliberation, the decision was made in Washington to divide the remaining timber into not more than four units under timber contracts. To guarantee that the owners would receive some immediate income, advance payments amounting to 25 percent of the estimated value were to be paid within 30 days of approval of each individual allotment contract with additional payments of 15 and 10 percent to be paid at 3- and 6-year intervals, respectively. Thus, each owner would receive within 6 years a minimum of 50 percent of the estimated value of timber on his allotment. Four timber sale units were advertised for sale at different dates during the Summer of 1949. These sales included the Boulder Creek, Queets, Taholah, and Crane Creek Units. No bids were received in response to the advertisements except for a single bid by Rayonier Incorporated for the Crane Creek timber. Rayonier failed to execute the contract for this unit, and the $163,000 submitted as a deposit with bid was retained as liquidated damages and distributed to the allottees.

Regulations permit the acceptance of bid proposals within a 1-year period following the date of an advertised timber sale. Subsequently, contracts covering the Boulder Creek and Taholah Logging Units were executed in April and May of 1950.
The Crane Creek and Queets sales were readvertised and a contract finally executed on the Crane Creek Unit in June 1952. No acceptable bid was ever submitted for the Queets Unit offerings.

The Boulder Creek Unit was a relatively small sale with the contract completed in 1957. As indicated, the Queets area was never sold as a unit; however, numerous small sales and special allotment timber cutting permits have been completed over the years. The most significant development within the Queets area, however, has been the loss of trust status of the land. As of January 1, 1968, records indicate 214 allotment fee patents and 137 supervised land sales have resulted in about 25,000 acres going out of Indian trust ownership.

The history of Quinault logging in the last two decades has been largely that of the Crane Creek and Taholah Units. The following departs from the historical form to the description of the major factors which assumed importance.

1. **REVISION OF STUMPAGE RATES.**

Both of the long-term contracts had quarterly stumpage adjustment features related to log prices reported by the Pacific Northwest Loggers Association (PNLA). The base stumpage rates were established by a stumpage-to-log price ratio method which was subject to periodic review and change.

In 1964 the PNLA log price report was no longer available and the 1964 stumpage revision and the subsequent revisions used Section 11
of the contracts wherein stumpage rates are revised in accordance with the trend of economic conditions in the West Coast forest industry.

PNLA Period

The stumpage-to-log price ratios were adjusted for effective dates of October 1, 1955, April 1, 1957, April 1, 1958, July 1, 1960, and April 1, 1961. Requests for ratio adjustment by the purchasers for effective date of January 1, 1969, were denied by the Commissioner. Rayonier Incorporated appealed this decision and the appeal was denied by the Secretary of the Interior. The July 1, 1960, ratio adjustments were also appealed by both purchasers. These appeals were also denied and the decision of the Commissioner affirmed.

The period was one of continuing contention and controversy as to the processes used, conclusions reached, and changes made; but a usable procedure for adjustment of stumpage rates was hammered out of the many exchanges. The contracts were also modified to provide for salvage operations aimed at increasing the utilization of the timber stands.

The following are individual matters generating contention:

(a) Allowance of an interest cost on advance payments in the logging costs and a one dollar ($1.00) error in the cost calculations. These became the issue of Civil Cases 3168 and 3169 which were settled out of court in 1970.

(b) Use of the bid profit ratio to determine the profit ratio used in stumpage rate calculations.
(c) Initially, the Bureau of Indian Affairs scaled the logs and change was made to provide for scaling by the Grays Harbor Scaling Bureau.

(d) Withholding of stumpage rate increase increment was initiated in the 1960 appeal.

(e) Use of and accumulation of actual grade recovery.

(f) Modifications of timber contracts under authority of the power of attorney obtained prior to contracting.

In 1955 and 1957, Congressional Committees held hearings on Federal and Quinault timber sale policies. These recommendations had subsequent effect on the administration of the long-term contracts and the timber sale program. Because of the many criticisms, the Bureau of Indian Affairs dropped all plans to sell timber on the Queets area as one unit. A small sales program was embarked upon and the restrictions pertaining to fee patenting or supervised sale of forested allotments was considerably relaxed.

Suggested References:

* 1. Timber Contracts, Modifications, and Stumpage Rates
    Crane Creek and Taholah
    General Timber Sale Regulations

2. Stumpage Adjustment Files Numbered 1 - 5, Portland Area Office.

3. Indian Forest & Range - J. P. Kinney, p. 171-176

4. Federal Timber Sale Policies
    Joint Hearings Legislative - 1955
    Oversight Functions - 84th Congress
    Part 2, p. 1289 - 1330
    p. 1556 - 1603

(*) Copies attached
Section 11 Period

With the dissolution of the PNLA, Section 11 of the timber contracts became the authority for the revision of stumpage rates. Fortunately, log market prices published by the Industrial Forestry Association became available to carry forward the established stumpage rate calculations based on log prices. Under Section 11, stumpage rates have been revised for effective dates of December 1, 1964, January 1, 1966, January 1, 1968, January 1, 1969, July 1, 1969, and August 1, 1971. The stumpage rate calculations had incorporated U.S. Forest Service cost guides into the method early in the ratio adjustment process and became more firmly established in each succeeding stumpage revision. The 1964 revision was accepted by both purchasers, not without contention, and became a precedent for subsequent revisions. The 1966 revision was appealed by Aloha Lumber Corporation (Evans Products Company, the parent organization). A Secretarial decision of March 10, 1967, generally upheld the Commissioner's action; however, Aloha proceeded to the courts with an appeal which culminated in a Memorandum Order dated September 2, 1969. This did not settle the matter and settlement was made in an agreement between Aloha and Quinault representatives dated May 28, 1970. The settlement was accepted by the Secretary with amplification of two features of the agreement. Aloha
also appealed all the revisions made while their initial appeal was unsettled. ITT Rayonier Incorporated (successor to Rayonier Incorporated) appealed the rates for effective date July 1, 1969, and the appeal was denied by the Secretary. In these appeals large amounts of withheld timber monies were involved, along with interest accrued, and became another point of controversy until paid out upon disposal of the appeals.

Rates have currently been revised for effective date of August 1, 1971. As opposed to other revisions under Section 11, the stumpage rates were reduced. The reduction triggered the current appeal by the Quinault representatives which encompasses the entire timber sale administration process. Until this appeal, the contentions on stumpage rates had revolved around the specific items of cost allowance and the derivation of log prices used to calculate the revised stumpage rates. The Quinault representatives have introduced the precept of using comparative sales.

Suggested References:

1. Stumpage Revision Files Numbered 6-11, Portland Area Office.


   Secretary's Memorandum of Acceptance, August 7, 1970.
   Arbitration Board Decision, August 2, 1971.


(*) Copies attached
2. **SLASH TREATMENT**

Slash is currently being treated much as it always has been since logging commenced in the early 1920s with one basic exception. This exception is that immediately after primary logging, salvage of cedar shake material commences either by the purchaser or allotment owner. This salvage is provided for under the modifications of the Taholah and Crane Creek Contracts. Stumpage rates are adjustable similar to rates for sawlogs.

South of the Quinault River wildfire consumed much of the slash left by the earlier logging operations. However, these same fires also destroyed the reproduction that existed or that had become established after logging. Bracken fern immediately takes over an area burned and makes it difficult for natural seeding of conifers. Furthermore, the fern is highly flammable when it dries out each year and subsequent fires in fern patches have wiped out tree seedlings on a large scale. The Bureau is planting these poorly stocked areas.

The detrimental effects of slash are considered to be threefold. The most obvious one is the fire hazard liability; secondly, cedar slash retards regeneration; and, thirdly, there is some consensus that decaying slash adversely affects fisheries habitat.

The volume of slash left on the ground after logging in the Coastal rain forest is immense compared to that experienced in other forests.
Standing timber volumes per acre range from 25,000 to 150,000 board feet on the Quinault Reservation. Very few forests outside the Redwood Regions of California can begin to compare with this wood fiber volume. Slash residue develops almost in direct proportion to the volume of timber logged. Nearly 40 percent of the standing cedar on the Quinault is dead. When these dead trees are felled, they are prone to shatter into many pieces, most of which are considered unmerchantable. Only logs and large slabs are then removed. Live trees do not present as great a slash residue. The purchaser pays the same stumpage rate for dead cedar as for live cedar when it is removed in the main logging operation.

The modification of contract mentioned above was developed in an effort to encourage salvage of cedar shakes and shingles from the slash, thus reducing slash volume, providing additional income and jobs, and possibly encourage regeneration of a new forest. No time limit had been imposed until recently on completion of salvage.

The liability associated with burning such high volumes of fuel consists of destroying adjacent timber, igniting slash in areas where yarding of down timber was not completed, danger to cold decks of logs, possible ignition of old slash in areas where reproduction was fairly advanced, and a possible runaway fire covering adjacent non-Indian lands. Immediate burning would preclude salvage of cedar and pulpwood. Planting
would have to follow the burning; otherwise, brush and fern would take over the area. The cost, exceeding two million dollars, would have been paid by timber owners by reduction of stumpage rates, as well as the cost of burning.

The decision not to burn was also influenced by the fact that the Quinault Reservation had not had a serious fire problem for many years. High humidities and abundant rainfall contribute to low fire hazard and rapid decomposition of logging slash, except cedar. As a rule of thumb, hemlock, fir, and spruce slash reach advanced decomposition in three years. Cedar slash takes from 7 to 10 years to reach a condition where fire hazard has abated to a fairly safe stage. This is usually augmented by the advanced greening up of the area. Finally, burning removes only the small fuels, leaving a residue of ash and large, charred chunks and logs; however, the fire hazard has been reduced. On steep slopes, erosion may occur.

**Suggested References on Slash:**

*1. Raft River Fire Conference, Sept. 18, 1967 - Summary by R. Hickman, Forester

*2. Slash Problems - Don Clark, Forester, Sept. 16, 1968


*4. Agency File on Slash Disposal since 1969

*5. Allot. No. 444 (Claude Wain) Reports - 1959
   Gockerell Report
   Chief Forester Kephart Report

(*) Copies attached
3. Reforestation.

The problem of regeneration of cutover lands on the Quinault Reservation is complicated by the ownership problem and by the dense slash remaining on the ground after logging. In the thirties, an attempt was made to have cutover allotments deeded to the tribe so that the areas could be planted. It was generally held at that time, and for many years after, that Federal funds could not be expended on private land, including allotments, for reforestation. The area known as the "Spruce Orchard," or Quinault Experimental Forest resulted and was successfully reforested.

Under the Crane Creek and Taholah Contracts, natural regeneration is provided for by location of cutting blocks to provide an adjacent seed source. This was controlled by review of annual logging plans and revision, when necessary, to provide consideration for successful regeneration. In 1961, a Reproduction Survey of the Taholah Unit revealed that 40 percent of the area sampled was nonstocked. A recent survey by the Forestry Branch indicates that much of the logged area in the Crane Creek and Taholah Units is satisfactorily stocked. The unstocked is mainly areas of recent logging. The major emphasis to be made in reforestation is thus - certain old cutover areas, south of the Quinault River and some miles west of the reservation.

Planting has been accomplished under the early-day Emergency Conservation Work Program, as mentioned above, and under the Accelerated Public Works
Program in 1963-64 when 780 acres were reforested. About 9,000 acres of land in need of planting were reported by the agency in a Reforestation Report, Quinault Indian Reservation, 1969-1971.

The regeneration-reforestation problem and the funding required has been the object of innumerable observations, discussions, and memorandums. An illustration of these is a 1968 letter to the Commissioner of Indian Affairs requesting $455,380 for a 10-year rehabilitation program. In 1969, $90,000 was allocated to reforestation, and $20,000 was made available in 1971. The work was accomplished by means of a Buy-Indian Contract with the Quinault Company. Some planting was on the two large units.

Suggested References:

1. Reforestation Report, Quinault Indian Reservation, 1969-1971, By Forester Myron C. Hall.


4. **FISHERIES MANAGEMENT.**

Beginning in about mid-1963, a considerable amount of attention began to be focused on the effect of logging activity on the capacity of Quinault streams to produce fish. This attention very soon found itself directed toward a relatively few basic facts:

(1) Most of the Reservation was allotted with the Indian owners and their heirs desirous of securing the maximum dollar return from their timber holding.

(2) A considerable number of fee patent "areas" existed within the Reservation boundaries and were situated astride fishery water courses. The logging activities on these lands were apparently outside the purview of the Bureau of Indian Affairs. Indeed, this factor is still awaiting a solution through legal interpretation.

(3) About 89 percent of the allottees and/or allotment heirs live away from the Reservation; consequently, their only return from the land holding seems to be in timber and residual land value. They do not actively share in the Quinault fishery and cannot be required by the Bureau to contribute a portion of the value of their holdings to the fishery.

(4) If problems (1), (2), and (3), above, did not exist, or were considered irrelevant; even then, Foresters and loggers had no clear guidelines toward which to direct their efforts in fisheries protection. Indeed, neither did Fish Biologists within the Federal Government or the State of Washington have anything to offer—other
than the broad rules of thumb and a series of "after-the-fact inspections."

Mid-1963 saw a considerable concern develop within the Bureau of Indian Affairs over fisheries. While this may have existed previously, this is where our file record begins, and it does show a great flurry of activity surrounding the above four problems. (See chronological extraction from file documents attached.) Finally, after several meetings with Fish Biologists, loggers, and Forestry personnel, Forest Manager Libby found himself under criticism by tribal representatives and SFWS representatives for a stream cleanup, which they considered inadequate. As a result of this criticism, a conference was called for all interested parties to meet and to establish mutually agreed upon standards for performance. To this point in time all parties had on occasion indicated a willingness to cooperate in whatever way possible toward achieving the goal of preserving the elements of the fishery.

On August 16-17 of 1965, a conference was held with BIA Area and Agency personnel, U.S. Forest Service representative, Bureau of Sports Fisheries and Wildlife Fish Biologist, Washington State Game Department, Makah Tribal Council Members, Rayonier Incorporated, Aloha Lumber Corporation, Anderson and Middleton Logging Company, Taylor Bros. Logging Company, Esses Bros. Logging Company, and Womer Bros. Logging Company in attendance. Altogether, 34 interested people whose stated purpose was to resolve problems common to land and timber managers and determine how best to protect all natural
resources. Emphasis was upon protection of the Quinault fisheries through cooperative efforts between Fisheries Specialists, Foresters, and loggers. This conference resulted in a gradual but rapid erosion of Item (4) above as a contributing problem factor, as evidenced by a letter from Fishery Management Biologist Heckman to the now Forest Manager Don Clark. This was altogether complimentary to BIA Forestry on the condition of several logged areas on the Taholah Unit and to the cooperative spirit exhibited by Rayonier loggers on the Crane Creek Unit. This conference established a "working together" approach before the fact of stream damage, rather than criticism afterward.

Much mention is made of trying to resolve the problems of Item (1) above. One of the stated hopes of Fisheries Biologists was to have established the principle of 50- or 100-foot buffer strip set-asides on each side of a waterway in order to protect water courses and stream banks. While this plan met with considerable enthusiasm on the part of Biologists, it defied implementation. While Forestry was concerned about the prospect of massive stream-clogging blowdown occurring in these narrow strips (which might very well only serve to aggravate the problem), the allottees could not, by BIA administrative edict, be deprived of the value of this timber without some means of reimbursement. These same problems apply directly to
Item (3) above. However, Forestry did agree to try leaving trees 10-inch DBH and less as a possible solution (letter of 5/11/65 from Forest Manager John Libby to Superintendent Felshaw). Toward this goal of buffer strips (assuming blowdown problems to be minimal), there still is no satisfactory solution.

In May of 1971, the Bureau of Sport Fisheries and Wildlife prepared a report entitled "Special Report of Preliminary Investigations of the Raft River System," authored by Charles E. Osborn, approved by Richard J. Navarre, and reviewed by James L. Heckman. Once more, the subject of fisheries management was attacked. Here again, the breakdown seems to be in the areas of Points (1), (2), and (3) above. This generated the June 17, 1971, reply from Assistant Area Director Galbraith to Superintendent Felshaw, in which these complications were reiterated. Mr. Galbraith suggested that the Superintendent review these matters with the tribe and determine their desires for a program goal. Then, with the assistance of legal advice from the Solicitor's Office, determine what can be done to accomplish them. He also indicates the possibility of attempting to secure necessary funding to achieve these goals.

Suggested Reference:

* Review of file "Fish and Stream Problems, Western Washington Agency" with attention to Quinault Indian Reservation.

(*) Copies attached
MITCHELL v. UNITED STATES

Docket Nos. 772-71---775-71

Court of Claims

Defendant's List of Cases on the Jurisdictional Statute of Limitations Issue
I. The six-year statute of limitations of the Court of Claims, 28 U.S.C. Sec. 2501, is a jurisdictional statute of limitations.

The jurisdiction of the Court of Claims is only by consent of Congress and it is dependent on compliance with the conditions specified by Congress. The six-year limitation is in derogation of the sovereign immunity of the United States. Therefore, it must be strictly construed. Sec. 2501 is not a mere statute of limitations. Nor are suits in the Court of Claims ordinary suits. They are distinctive in that the United States is the defendant. The Court of Claims does not have general jurisdiction over claims against the United States. It can hear only those committed to it by an Act of Congress. Accordingly, the six-year statute of limitations as a condition of the Government's consent to be sued is strictly interpreted. Because of the Government's sovereign immunity from suit, the Court of Claims jurisdiction is not to be expanded beyond the letter of the precise limits set by Congress. The six-year statute of limitations is to be observed. Exceptions are not to be implied. The jurisdictional requirement of Sec. 2501 is a condition precedent to the maintenance of claims in the Court of Claims. It cannot be waived by the United States.


Blackfeather v. United States, 190 U.S. 368, 376 (1903).


*Simon v. United States, 244 F.2d 703 (C.A. 5, 1957).


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1/ Citations marked with an asterisk have a xerox copy attached. The compilation of cases will be arranged in alphabetical sequence and the pages of the compilation will be numbered in numerical sequence. The alphabetical list will precede the compilation. That alphabetical list will indicate the page in the compilation on which that case begins.
*Roberts v. United States, 498 F.2d 520, 526 (C.A. 9, 1974).


Eastman v. United States, 118 F.2d 421, 423 (C.A. 9, 1941), cert. den. 314 U.S. 635.


*Jessie Short, et al. v. United States, 209 Ct.Cl. 777 (1976); earlier phases are reported in 202 Ct.Cl. 873, 486 F.2d 561 (1973), and 207 Ct.Cl. 964 (1975).

II. The jurisdictional statute of limitations issue is a fundamental issue which may be raised at any time.

The threshold question of jurisdiction is so vital that it is to be treated as a separate issue. It may be raised at any point in the litigation by either the parties or the Court. Once raised, the Court should proceed no further until the issue is resolved. *Matson Navigation Company v. United States, 284 U.S. 352, 359 (1932), aff'g 72 Ct. Cl., 210 (1931).


III. The basic purpose of the statutes of limitations is to assure uniformity as an indispensable prerequisite to impartially.

IV. Indians are subject to general laws applicable to litigants generally.


V. The burden of proof is on the plaintiffs to establish jurisdiction throughout the course of the litigation.

A. The burden rests on the plaintiffs to prove that their alleged causes of action must have accrued by, or did not exist before, October 18, 1965, which is six years before October 18, 1971 when the first petitions were filed herein.
In respect to plaintiffs who became such after suit was filed, the 6 year period would begin 6 years before they became plaintiffs. *Watson Navigation Company v. United States, 284 U.S. 352, 359 (1932), aff'g 72 Ct.Cl. 210 (1931).


B. The plaintiffs must sustain their burden of proof by a preponderance of the evidence.

This was not accomplished by the plaintiffs. See the transcript of the jurisdictional trial in Seattle on January 20 through February 3, 1977, and the exhibits referred to in that transcript.


C. The status of plaintiffs as allottees does not relieve them from the burden of proving jurisdiction.


VI. Jurisdictional requirements must be met by each plaintiff allottee individually.


VII. Neither possible hardship nor the merits of the litigation have any bearing in determining jurisdiction. Hardship is irrelevant to the issue of jurisdiction.


*Roberts v. United States, 498 F.2d 520, 526 (C.A. 9, 1974).


The merits are irrelevant to the issue of jurisdiction.


VIII. The blameless ignorance theory is a minority view which is not so applicable to the instant litigation as to except plaintiffs from the bar of the statute of limitations as to claims before October 18, 1965.


B. Plaintiffs' blameless ignorance theory is the minority view.

51 Am Jur 2d, Limitation of Actions, Sec. 146.
C. Ignorance, lack of knowledge, mistake do not toll the six-year Court of Claims statute of limitations. (25 U.S.C. sec. 2501).

*Talmadge v. United States Shipping Board, 54 F.2d 240, 243-244 (C.A. 2, 1931). Justice Learned Hand stated, "a man may not let time slip by while he learns whether his wrongs are to be measured by tens, or hundreds, or thousands."


D. Leisurely discovery does not toll the six-year statute of limitations.

The fact that the plaintiffs refrained from doing what it was within their power to do does not toll the statute of limitations.


E. Even the conventional, or real, disabilities, much less the so-called Indian status of noncompetency, or incompetency, do not toll the six-year statute of limitations. The cases listed for the most part focus on either minority or mental impairment.


(This case holds that the Court of Claims cannot add to or expand upon the disabilities enumerated in its jurisdictional statute of limitations.)


*Roberts v. United States, 498 F.2d 520, 526 (C.A. 9, 1974).


F. The malpractice cases.

In citing malpractice cases dealing with statutes of limitation, the defendant does not concede merit to plaintiffs' argument as based on the malpractice cases listed by plaintiffs. The intimate, confidential, and privileged relationship of doctor and patient is unique. It is so radically different from the relationship between the plaintiffs and the Bureau of Indian Affairs as to be irrelevant. Lindquist v. Mullen, 45 Wash.2d 675, 277 P.2d 724 (1954).


G. Patent Cases.


This case has far more relevancy than does the case
upon which the plaintiffs relied, Spevack v. United States, 182 Ct.Cl. 884, 889-890, 390 F.2d 977 (1968). The factual situation in the instant litigation is nothing like that in Spevack.

H. Stockbrokerage cases.

Silence is not such an act of concealment as to toll the six-year statute of limitations. In order to toll there must be "* * the use of a trick or artifice designed to prevent inquiry, investigation and discovery or mislead or hinder the plaintiffs sufficiently to explain the prolonged ignorance."


IX. For fraud to toll the six-year statute of limitations, plaintiffs must allege and prove affirmative acts of fraudulent character which frustrated the plaintiffs in diligently trying to discover their cause of action. Fraud of such a kind is not alleged in the petitions filed October 18, 1971 herein and was not proved at the January 20 - February 3, 1977 Seattle trial herein.

A. Mere nondisclosure is not fraud or deceit.


B. Mistake is not fraud.

*Soukaras v. United States, 135 Ct.Cl. 88, 92 (1956).

C. Fraud of such a nature as to toll a statute of limitations would convert plaintiffs' claims into an action in tort.

Sec. 1491 under which the 1374 individual plaintiffs sue does not confer jurisdiction on the Court of Claims as to torts. This Court has only limited appellate jurisdiction over torts under 28 U.S.C. Sec. 2504. Were the plaintiffs to bring their tort action in a United States District Court under the Federal Tort Claims Act, 28 U.S.C. Sec. 2680, they would confront a two year statute of limitations. Plaintiffs by basing on fraud their attempt to avoid the six-year statute of limitations thereby cause their claims to sound in tort and, therefore, outside the jurisdiction vested in this Court by Sec. 1491.


1/ This was the number as of February 23, 1976.
Williams v. United States, 166 Ct.Cl. 239, 244-245 (1964).

X. A fiduciary relationship is insufficient to toll a statute of limitations.

XI. The relationship between the plaintiffs and the United States is neither an express trust nor a type of relationship which would except the plaintiffs from the six-year statute of limitations.


XII. Plaintiffs' derivative sovereign immunity theory.

Plaintiffs have so expanded their derivative sovereign immunity theory as to nullify the jurisdictional six-year statute of limitations. Plaintiffs' effort to enlarge the jurisdiction of the Court of Claims is in direct conflict with the congressional consent. That consent specifically made the Court of Claims jurisdiction dependent on the condition precedent of the claims sued on having arisen within six years of the filing of the petition.

A. Plaintiffs use El Capitan Grande Band of Mission Indians v. Helix Irrigation District, 514 F.2d 465 (C.A. 9, 1975), and Narragansett Tribe v. Southern Rhode Island Land Development Corporation, 418 F.Supp. 798, 804-806 (D.R.I. 1976), to hypothesize that because the United States as plaintiff is not subject to a statute of limitations, then Indians as plaintiffs in suits against the United States are likewise not subject to a statute of limitations. Both cases are distinguishable in that (a) state, not federal, statutes of limitation were in issue, (b) in neither was the United States
a defendant, and (c) an Indian tribe was the plaintiff, not 1374 individual allottee plaintiffs as in the instant litigation.

B. Assuming arguendo that plaintiffs' derivative sovereign immunity theory might have some trace of validity in respect to the six-year statute of limitations, it would at the most be applied solely to the Quinault tribe as plaintiff. The tribe's interest in the instant litigation is small in comparison to that of the 1374 plaintiffs.

C. The United States has been said to hold the public lands as guardian for all the people. Were plaintiffs' theory to be applied to its logical conclusion, the absurd result would be that any citizen could sue the United States for mismanagement of the public lands regardless of any statute of limitations.

Light v. United States, 220 U.S. 523, 537 (1911).

D. Exemption of the sovereign from statutory bars does not extend to any citizen in litigation between himself and the sovereign. An individual citizen, Indian or otherwise, cannot be soundly regarded under any circumstances as entitled to exclude himself from the impact of the six-year statute of limitations by purporting to wrap himself in the cloak of sovereign immunity. The 1374 private litigants herein simply cannot walk in the shoes of the sovereign.

The Supreme Court there held (p. 517):

It is obvious that the ground of the exemption of governments from statutory bars or the consequences of laches has no existence in the instance of individuals, and we think the proposition cannot be maintained that because a government is not bound by statutes of limitation therefore the citizen cannot be bound as between himself and the government.

*Am Jur 2d, Limitation of Actions, Sec. 397.

E. Had Congress intended to extend to Indian plaintiffs the prerogatives of sovereign immunity, it would have specified that in suits in which Indians were plaintiffs and United States were the defendant, the six-year limitation of Sec. 2501 would be waived.


XIII. Any claim by each individual allottee plaintiff under either of the two long term contracts became subject to the six-year jurisdictional statute of limitations when payments were disbursed to, or credited to the Individual Indian Money account of, such plaintiff.

The Taholah unit contract is dated April 26, 1950 and runs for about 29 years until April 1, 1979. It covers 30,321 acres of which 30,034 acres are allotted and only 287 acres are tribal land. The Crane Creek unit contract of June 18, 1952 terminates on April 1, 1986, just 2 1/2 months short of 34 years. Within that contract are 35,382
acres comprising 35,216 acres in allotments and 166 acres tribally owned. A copy of the two contracts is in the accompanying compilation of cases. The Taholah contract is marked Exhibit "A". The Crane Creek contract is Exhibit "B".

Each contract is between the Superintendent of the Western Washington Indian Agency for and in behalf of the allottees and the purchaser of the timber. The purchaser was to cut and pay for the timber at rates to be established for each quarterly period beginning January 1, April 1, July 1, and October 1. Payment was to the Bureau of Indian Affairs for the use and benefit of the allottees whose timber was cut in the quarter preceding the payment. The BIA in turn promptly disbursed the payments to each allottee or credited such to that allottee's IIM account.

The jurisdictional six-year statute of limitations began to run as to each plaintiff allottee as to his allotment, or as to the part thereof from which timber was cut during the quarter, when the BIA disbursed to him, or credited his IIM account with, the timber proceeds for the quarter. This is in accord with decisions that compensation payable periodically involves multiple causes of action. Each successive failure to pay adequate compensation creates a new cause of action. Because the purchaser's obligations under each of the two long term contracts in respect to each plaintiff allottee pertain only to the specific allotment in
which the particular allottee owns an interest, the claims can be appropriately divided on a time basis. It is plaintiffs' burden to prove by a preponderance of the evidence which plaintiff, which allotment, and which claim of that plaintiff fell within either six years before filing of the petitions on October 18, 1971 or six years before a particular plaintiff became such plaintiff in the suit after filing.

Friedman v. United States, 159 Ct.Cl. 1 (1962), cert. den. 373 U.S. 932.
XIV. Litigation Minded Plaintiffs

Awareness by Plaintiffs Generally of the Advantages of Seeking Redress through Access to the Courts is Shown by the Following Cases:


Quinault Tribe of Indians v. United States, 102 Ct.Cl. 822 (1945), and 118 Ct.Cl. 220 (1951).
Litigation Minded Plaintiffs (continued)


Taylor v. United States, 44 F.2d 531 (C.A. 9, 1930).


Litigation Minded Plaintiffs (continued)


Neah Bay Fish Co. v. Krummel, 3 Wash.2d 570, 101 P.2d 600 (1940).


Makah Indian Tribe v. Clallam County, 73 Wash.2d 677, 440 P.2d 442 (1968).


April 8, 1977

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