

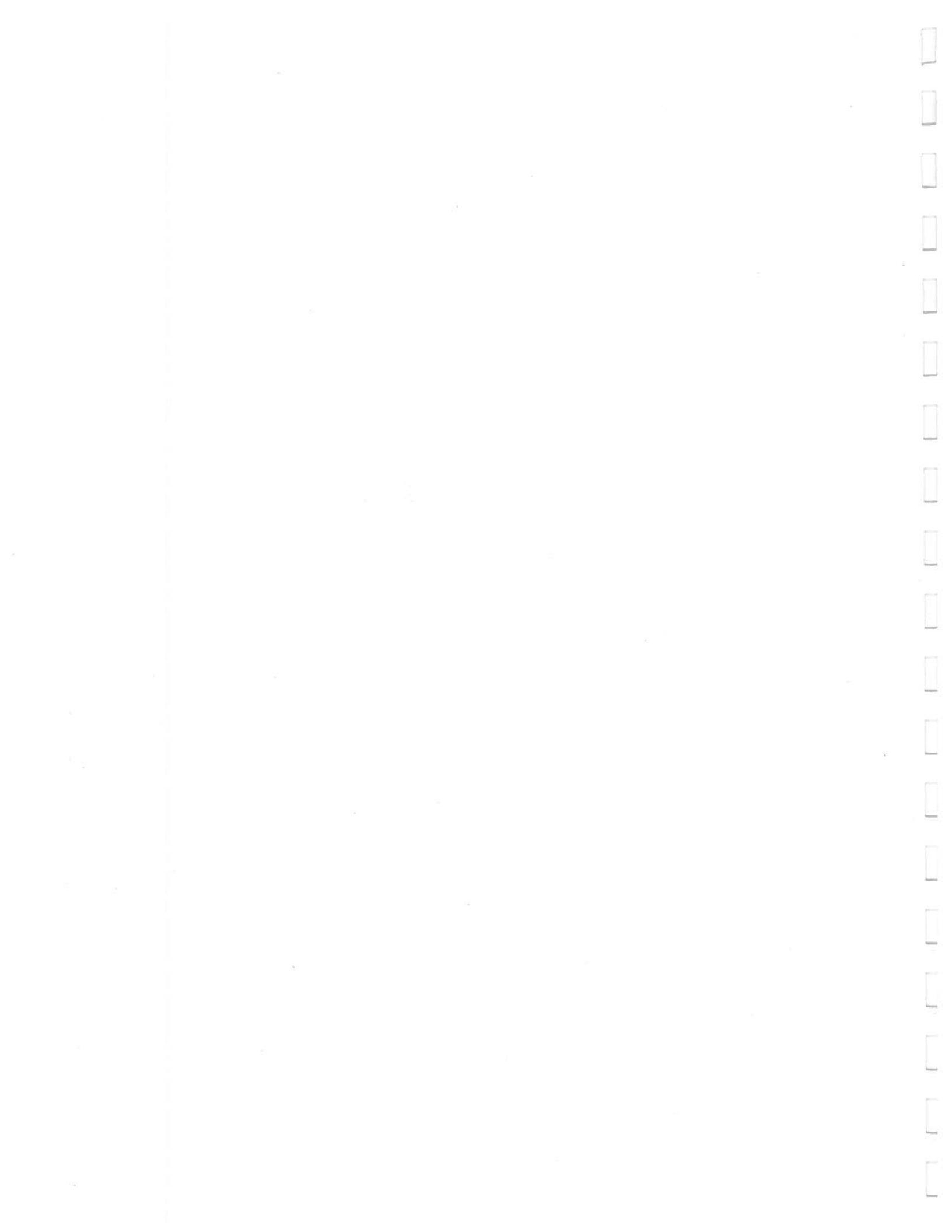
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**A History of the Puyallup Indian
Land and Jurisdictional Claims Settlement:**

**Resolving Past Conflicts
By
Creating Future Opportunities**

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Tacoma, Washington**

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CONTENTS

I.	INTRODUCTION	1
II.	EVENTS LEADING TO THE PUYALLUP SETTLEMENT NEGOTIATIONS	3
	Commercial Development of Reservation Lands; Clarification of Boundaries.....	5
	Federal Indian Policies Shifting Direction	7
	Allotment Policy	7
	The Tribe Seeks Judicial Remedies.....	7
	Tribal Actions Bring Parties to the Negotiating Table.....	10
III.	FINDING OUR WAY	12
	Port of Tacoma	13
	City of Tacoma	14
	City of Fife	14
	City of Puyallup.....	15
	Pierce County	15
	Affected Private Landowners and the Business Community	16
	Labor Unions	16
	Federal Government.....	17
	Washington Congressional Delegation, Congressman Dicks and Senators Evans and Gorton	17
	State of Washington	18
	Puyallup Indian Tribe.....	19
	Getting Started	19
	Getting Organized.....	21
	Legal Research.....	23
	Consolidated Reservation.....	25
	Managing Expectations	26

IV.	HARD BARGAINING	28
	Title Company Participation	31
	State Participation	32
	Private Sector Participation	34
	I'm from the Federal Government - I'm here to help.....	35
	Negotiations with the Tribe.....	36
	Local Government's Position	39
	Elements of a Settlement Package	40
V.	TIME FOR A DECISION: UP OR DOWN -- THE PALISADES	44
VI.	CAN YOU KEEP THE AGREEMENT ONCE YOU HAVE IT? DRAFTING, FILLING THE GAPS, RATIFYING THE AGREEMENT, THE TRIBAL VOTE	48
VII.	INTO THE VALLEY OF DESPAIR: A TRIBE IN TURMOIL	50
	Keeping the Proposed Agreement on the Table	50
VIII.	WAR OR PEACE -- LITIGATION OR SETTLEMENT.....	54
	Court Actions	54
	Efforts to Negotiate	54
IX.	REACHING AGREEMENT: THE MEETING AT ALDERBROOK	60
	Summary of Settlement Provisions.....	63
X.	SEEKING STATE ACTION.....	67
XI.	SEEKING FEDERAL ACTION	73
	Laying the Groundwork	74
XII.	PRIVATE PARTIES PAY THEIR SHARE	81
XIII.	FINALIZING THE SETTLEMENT	85
	The Day of Closure.....	89
XIV.	MANAGEMENT AND EXECUTION OF THE PROCESS FROM A LOCAL PERSPECTIVE	91
	Motivation.....	92
	Leadership.....	93

Public Officials	93
Staff and Consultants	94
The "Honor Roll"	94
Managing the Negotiations	96
Managing Differences	96
"Miss Manners was Right"	97
Politics	97
Providing and Sustaining Momentum.....	98
Finding and Using Resources.....	99
Communications	99
Lessons for the Future	100
APPENDIX A	101
Treaty of Medicine Creek.....	101
APPENDIX B	102
Executive Order of 1857 and Map of Reservation Boundary	102
APPENDIX C	103
Executive Order of 1873	103
APPENDIX D	104
Chronology of the Puyallup Settlement Negotiations1981-1990	104
APPENDIX E.....	126
Puyallup Settlement: Key Participants.....	126

I. INTRODUCTION

On March 24, 1990 representatives of the United States Government, the State of Washington, the Port of Tacoma, the cities of Tacoma, Fife and Puyallup, private landowners in Pierce County, and the Puyallup Indian Tribe met to sign the Puyallup Indian Settlement closing documents. It was a Saturday morning event, and one that had been anticipated for nearly seven years.

This was the second largest negotiated settlement of Indian land and jurisdictional claims in the history of the United States, valued at \$161,844,000. It was achieved through five years of complex, arduous and exhaustive negotiations, and an additional one and a half years of seeking federal, State, and local ratification and appropriations, and completing the necessary implementing activities. In all, hundreds of elected officials, their staff and private sector representatives participated in achieving the negotiated Settlement.

To the non-Indian community and Tribal members, the events of closing, which included filing settlement documents with the court, a public commemorative event and a smaller dinner gathering, represented the final step in putting aside years of conflict and legal battles between the Tribe and local governments. For the first time in decades, the parties had worked together cooperatively in a government-to-government relationship. The door was now open to a new era of opportunity for partnership, progress and economic growth for the entire community -- for Indians and non-Indians alike.

As Jim Waldo, Lead Negotiator for the non-Indians, expressed:

"What we have accomplished together is something quite extraordinary. At the beginning of this effort we were confronted with a history of conflicts -- legal conflicts, economic conflicts and racial conflicts -- stretching back over a century...We found that enlightened self-interest -- not charity, not guilt, not trust -- enlightened self-interest with an eye to long-term fundamental interests proved to be a solid foundation for overcoming historical differences and current obstacles...Perhaps the most extraordinary thing we accomplished was to close the quarrel between the past and the present and to prove that together we can make our own future for ourselves and our children."

What was this Settlement all about and why was it necessary? In June of 1991, the local governments of Pierce County and private sector parties to the Agreement requested that a history of the negotiations be prepared for the benefit of those members of the community who will be called upon to implement and maintain the provisions of the Settlement. The history that follows is written from the perspective of the non-Indians who participated in the negotiations that resulted in an August 27, 1988 Agreement between the Puyallup Tribe of Indians, local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners.

In 1853, Washington became a Territory, and on December 26, 1854 the Treaty of Medicine Creek was signed creating the Squaxin, Nisqually and Puyallup reservations. Conflicts arose almost immediately, and continued well into the 20th century, culminating in a series of court decisions which clearly delineated Indian fishing rights and which strengthened the legal authority of the Puyallup Indian Nation. It was against this background that affected local governments in Pierce County determined in mid-1984 that a negotiated settlement with the Puyallup Tribe rather than protracted legal actions would be in the best interest of all concerned.

This history is intended to provide a glimpse into how the negotiations were commenced, expanded, and eventually culminated in an Agreement. It is dedicated to those public and private sector leaders who gave their time, energy, blood, tears, and above all, a commitment beyond measure to see this effort through -- those who would only accept "success" as an outcome. It is also intended:

- to create an understanding of why the Settlement is critical to the non-Indian community, as well as the Puyallup Tribe,
- to serve as a guide for those who will implement the Settlement provisions,
- to share some of the lessons learned from this effort, and
- to record a significant event in the history of the Pierce County community.

II. EVENTS LEADING TO THE PUYALLUP SETTLEMENT NEGOTIATIONS

The people known today as the Puyallup Indians lived along the Puyallup River and around Commencement Bay long before the early explorers came to the Northwest. They fished for salmon and steelhead, hunted deer, elk, and other game animals, and gathered berries and wild plants for food and medicinal purposes. Their culture was rich in tradition, and they lived typically in small villages or bands, along creeks and tributaries of the Puyallup River.

In 1787, the United States enacted the Northwest Ordinance of 1787 (1 Stat. 50) which stated as a policy:

The utmost good faith shall always be observed towards the Indian; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they shall never be disturbed, unless in just and lawful wars authorized by Congress . . . Article 111.

In the early 1800's, trading posts and missions were established in the Puget Sound area by Great Britain, Spain and the United States. By 1846, the United States had extinguished by treaty the conflicting claims of other nations. Congress created the Oregon Territory by Act on August 14, 1848 (9 Stat. 323) and provided that nothing contained in the act:

shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, as long as the rights remain unextinguished by treaty between the United States and such Indians

In 1853, Congress carved the Washington Territory out of the Oregon Territory. Isaac I. Stevens was appointed the territorial Governor and Superintendent of Indian Affairs. During this period, settlers were steadily increasing in numbers, encouraged by the Donation Land Claim Act of 1850, which promised large acreages of land to people who settled in the Oregon and Washington territories. The concept of private land ownership was completely foreign to the Indians, who generally viewed land, water, air, fish, plants, trees, and animals as spiritual gifts to be used for sustenance of the people and protected for the benefit of future generations. The cultural clashes between the Indians and settlers who came to clear the land, establish homes and communities, and develop trade, were inevitable. Sporadic attacks between Indians and settlers reinforced the territorial government's objective to make treaties with the Indians so as to establish clear boundaries for land claims and to set aside Indian reservations.

Governor Stevens set out on a treaty mission in December, 1854 with the goal of obtaining treaties with all of the Washington tribes as soon as possible. The Treaty of Medicine Creek, the first of Stevens' Indian treaties for the Washington Territory, was consummated in two days, December 25-26, 1854.

In summary, the Treaty of Medicine Creek (which is attached as Appendix A) provided:

1. The Indians ceded their land to the U.S., comprising present counties of Thurston, Pierce and parts of Mason and King;

2. Three reservations were established -- Squaxin Island for the Squaxin Tribe, 1280 acres westerly of Nisqually Reach for the Nisqually Tribe, and 1280 acres on the south side of Commencement Bay for the Puyallup Tribe;
3. The Indians retained fishing rights at all usual and accustomed grounds and stations and, those shellfish beds not staked, in common with all citizens of Territory, and the privilege of hunting, gathering berries and roots, and pasturing herds on open and unclaimed lands;
4. \$32,500 payable in annuities of goods, clothing and useful articles during the next 20 years;
5. \$3,250 for aiding Indians to settle on reservations;
6. The President was empowered to remove Indians to other reservations, when the interests of the Territory required it, by remunerating them for their improvements;
7. The use of annuities were prohibited to pay individual debts;
8. War or depredations were prohibited; Indians agreed to submit all grievances to the government for settlement;
9. Ardent spirits were excluded from the reservations;
10. Provided for a central or general Indian agency, a free school, a blacksmith, a carpenter, a farmer, and teachers, all to give instructions for 20 years;
11. Freed all tribal slaves and abolished slavery;
12. Prohibited the Indians from trading outside the dominions of the U.S. and forbade foreign Indians from residing on the reservations without permission of the superintendent or agent;
13. The treaty was to go into effect when ratified by the President and Senate.

The Medicine Creek Treaty included the Squaxin, Nisqually, and Puyallup Tribes and bands. Sixty-two Indians signed the treaty. The original treaty reservation for the Puyallup Indians was a 1280 acre parcel named Choche-out-luts, "the place of the maple trees," in the area known today as Old Town in Tacoma.

The circumstances of the treaty negotiations and the explanation of the treaty terms in Chinook, a 300 word trading jargon, have led many to question whether the groups of Indians assembled at Medicine Creek understood the exact meaning and significance of the

treaty being proposed to them. The Tribes relinquished claim to approximately 2,240,000 acres in return for the Treaty provisions.

The Indians' dissatisfaction with the proposed reservations was clearly evident by the hostilities that broke out in the fall of 1855. Skirmishes, massacres, and battles occurred in what is often called the "Leschi War," named after the Indian leader of the hostile forces. Non-hostile Puyallup and Nisqually Indians were removed to camps on Fox Island for their protection and to discourage recruits from joining the hostile forces. Non-Indian settlers moved to forts and towns for protection.

The war continued for several months into 1856. Stevens recruited Indian auxiliary forces to strengthen his Volunteer Army. In March and April, Stevens' forces waged a major effort against the Indians, which included killing many Nisqually Indians in the Mashal Prairie Village. Indian opposition was generally over by April, but martial law continued through the spring and summer. On August 4, Stevens met with the Indians on Fox Island to discuss new and expanded reservations. Stevens agreed to a new reservation for the Nisqually Indians and an enlarged reservation for the Puyallup Indians in recognition of their "homelands," the places where they were accustomed to living. Surveys were made, maps were drawn, and by January 20, 1857 the President signed the Executive Order of 1857 creating the Puyallup Indian Reservation. (Appendix B)

Commercial Development of Reservation Lands; Clarification of Boundaries

The boundaries of the 1857 reservation are generally shown in Appendix C, an area which included roughly 18,000 acres. Settlers, however, encroached upon the land set aside for the reservation, requiring vigilance and action by the Indian agents and the Commissioner of Indian Affairs to prevent settlement on Tribal lands.

The tidelands were a major focus of dispute concerning the reservation boundaries. In 1873, the Acting Commissioner of Indian Affairs pointed out in a letter to the Secretary of Interior a probable survey error in the straight line from the south side of Commencement Bay to Browns' Point which left several upland acres outside of the reservation. A number of individuals attempted to file claims on this land. In addition, the Indians believed and Superintendent Milroy, the local Indian agent, concurred that the reservation was intended to follow the low water line, thus providing the Indians with access to the water and ability to harvest shellfish. The Commissioner generally accepted the Superintendent's position on the survey error, but he advised that part of this land had already been granted to the Northern Pacific Railroad Co. He therefore recommended to the Secretary of Interior that the President expand the reservation to include:

"...all that portion of Section 34, Township 21 North, Range 3 East, not already included within the limits of the reservation. This would give them a mile of water frontage directly north of the Puyallup River and free access to the waters of Commencement Bay at that point."

The President signed an Executive Order on September 6, 1873 to that effect (which is attached as Appendix C).

The value of the reservation land was very clear to certain Tacoma businessmen who could see the potential of a deep water port on Commencement Bay and a railroad terminus connecting the Puget Sound region to the transcontinental railroad. Persistent lobbying efforts were undertaken to persuade Congress to allot the reservation land to individual

Indians and to remove restrictions on alienation from the lands, so that the area could be developed.

Between 1874 and 1886, all of the reservation land, except for an approximate 600 acre agency tract, was allotted to individual Indians. The patents restricted sales of these lands until the legislature of the future State with the consent of Congress, removed the restrictions. Washington became a State in 1889 and promptly acted to remove any restrictions on alienation of Puyallup Indian lands.

The railroads commanded great influence in Tacoma during these years. The Northern Pacific Railroad selected Tacoma as the terminus of their transcontinental railroad in 1873. By 1875, the railroad began planning for a Puyallup branch line through the Puyallup reservation to reach the coal fields at the foothills of the Cascades. During this period, some Puyallup Indians were persuaded that it was in their best interest to own their land without restrictions. These Indians participated in the lobbying efforts to persuade Congress to remove the land restrictions. In 1876, the Puyallup Tribal Council approved a right-of-way through the reservation, which was not approved by Congress until 1893. In 1887, Congress passed the General Allotment Act (24 Stat. 338) which established the national policy of breaking up tribal reservations by allotting parcels of land to individual Indians and selling any remaining reservation land to non-Indians. In 1889, Washington became a State and therefore took title to all tidelands, except for the Commencement Bay tidelands. Because of the ownership dispute, the State did not take title to these tidelands until 1895.

In response to requests from the Commissioner of Indian Affairs and Tacoma citizens, Congress created a three member Puyallup Commission in 1890 to determine the Indians' interest in the land, to recommend whether the restrictions on selling the land should be removed, and to determine whether the tidelands in dispute were included in the reservation. The Commission reported in 1891 that the reservation did not include the tidelands between high and low water. Generally, the Commission recommended that restrictions on allotted homestead tracts (40 acres) be continued for another ten years, but that unused or unoccupied lands should be sold.

Opinions on the tidelands issue and the removal of restrictions on Indian land differed sharply among the Puyallup Commission, the Commissioner of Indian Affairs, the Indian agent, and the Secretary of Interior. The Assistant Attorney General for Interior wrote an opinion concluding that the tidelands were not included in the reservation. There was general agreement among non-Indians, however, that two-thirds of the reservation land was not being fully utilized by the Indians and that it should be sold. The Secretary of Interior recommended to the President that such "excess" Puyallup reservation land be platted and sold, but that Congress establish a method of sale to prevent fraud. Congress passed the Puyallup Allotment Act in 1893 (27 Stat. 633) establishing a new commission to supervise the sale of the Puyallup reservation lands.

The land sales were plagued by poor economic conditions, uncertainty among the Indians concerning the sale procedure and payment for their lands, and illegal speculation activities. In 1897, the Commission was reduced to one individual, a local Tacoma businessman, who was directed to supervise the sale of remaining allotted lands and the Agency tract. By 1904, almost all of the original reservation lands were in private ownership.

The State of Washington then platted and sold the Commencement Bay tidelands to James Ashton and other private individuals. The Puyallup Tribe did not acquiesce to the federal government's determination that the tidelands were not included in the reservation or that the State had a right to sell them. Seven Puyallup Indians filed a suit in the United States Circuit Court to claim title to the disputed tidelands. The defendants included James

Ashton, other private landowners claiming title, and the State of Washington. The United States was a nominal party, but did not actively participate in the case. The judge dismissed the case on the defendants' motion, on the basis that the President and Congress through the Executive Orders and Puyallup Commission had determined conclusively that the tidelands were not included in the reservation. United States v. Ashton, 170 Fed. 509 (1909). The Indian plaintiffs appealed the case to the Supreme Court of the United States, where the Washington Court's dismissal was upheld on the basis that the United States had a duty to hold the tidelands in trust for the future State. Although non-Indians considered United States v. Ashton as determinative of the tidelands issue, the Puyallup Tribe never accepted the decision. In later years, the Tribe claimed that the judge in the Ashton case was a business partner of Ashton and the plaintiffs were Puyallup Indians who were considered to be influenced by local business interests; therefore the legal precedent was not binding on the Tribe.

Federal Indian Policies Shifting Direction

Federal Indian policy from 1853 to 1934 generally emphasized assimilation of the Indians and diminishment or termination of reservations. The Treaty of Medicine Creek illustrates this policy by concentrating Indians of the South Sound into reservations but providing for the future allotment of land to Indians who would settle and cultivate the land. By 1871, all treaty making with the Indians was abolished by Congress.

Allotment Policy

The Indian Reorganization Act of 1934 represented a turning point in Federal Indian policy as tribal governments were strengthened and existing reservations were preserved. The Puyallup Tribal Constitution was approved by the Department of Interior in 1936. Between 1950 and the mid-1960s, assimilation was again a key focus of federal policy, including the termination of reservations. Federal Indian policy shifted back to strengthening tribal governments in 1960 and has continued in that general direction to the present.

The Tribe Seeks Judicial Remedies

It was during the late '60s and early 1970s that the Puyallup Tribe began to emerge as a challenging force in Tacoma. Tribal leaders began to assert claims to former reservation lands and to claim Tribal fishing rights by active challenges to State regulation and enforcement.

Several Puyallup cases during this period established significant legal precedents with respect to fishing rights, the continued existence of the reservation, and land claims. In the Department of Game v. Puyallup Tribe cases, the Tribe's rights to a commercial steelhead fishery were challenged. In 1963, the Washington Departments of Game and Fisheries jointly brought a declaratory judgment action to determine whether the State had authority to restrict the Puyallup gillnet fishery for steelhead. The trial court ruled in favor of the Departments. On appeal, the Washington Supreme Court held that the Puyallup Tribe still existed, and that its members still had protected treaty fishing rights. However, the Supreme Court also ruled that the Tribe would be subject to conservation regulations which are reasonable and necessary to preserve the fishery. The State then appealed to the United States Supreme Court, which held:

The Treaty of Medicine Creek, the right of taking fish at all usual and accustomed grounds and stations [which] is ... secured to said Indians in common with all citizens of the Territory extends to off-reservation fishing, but that the

manner of fishing, the size of the take, the restriction of commercial fishing, and the like, may be regulated by the State in the interest of conservation, provided the regulation meets appropriate standards and does not discriminate against the Indians.

391 U.S. 392, 20 L.Ed.2d 689, 88 S. Ct. 1725.

In Puyallup II, the Department of Game enacted regulations that continued to restrict all Indian net fishing, which were held to be discriminatory on appeal to the United States Supreme Court. In Puyallup III, decided in 1977, the United State Supreme Court upheld State Department of Game regulations limiting the Indians' share of steelhead to 45% of the annual natural steelhead run. The Supreme Court did not decide whether the Tribe had a right to share in the take of hatchery fish returning to spawn. These fourteen years of litigation provided significant gains to the Puyallup Tribe in establishing the Tribe's continued existence under federal law, reaffirming their treaty fishing rights, and affirming the Tribe's sovereign immunity.

During this same period, the landmark federal decisions of U.S. v. Washington further strengthened treaty fishing rights. The United States and seven Indian tribes, including the Puyallup Tribe, commenced an action against the State of Washington concerning off-reservation treaty fishing. For many years, tribal members had been convicted on criminal charges for failing to adhere to State fishing regulations. Dramatic protests and violent confrontations between tribal fishermen and enforcement officers led the State and tribes to argue that a federal judicial determination of treaty fishing rights would be a better way to address the conflicts. In 1974, Federal District Judge George Boldt of the Western District of Washington ruled that the Indians' treaty rights "in common with all citizens of the Territory" meant that the Tribe had a right to up to 50% of the harvestable fishery. This decision was affirmed by the Ninth Circuit in 1975, and the United States Supreme Court denied certiorari.

In a separate federal court case, Judge Goodwin ruled that the Puyallup Indian Reservation no longer existed and that Puyallup Indians were no longer entitled to fish free from State interference. The Ninth Circuit promptly reversed Judge Goodwin's decision and held that the Puyallup Indian Reservation continues to exist. United States v. Washington, 496 F.2d 620 (9th Cir. 1974). This decision reinforced the Tribe's efforts to strengthen tribal self-governance.

During this period, the Tribe began a series of land transfers to the United States to be held in trust for the Tribe, which among other things, immunized the property from the State and the City of Tacoma's municipal authority. One of the properties transferred was a five-acre parcel on which the Kwatee Group Home for troubled Puyallup children was located. Another was a two-acre parcel with an Indian store. There had been a number of heated exchanges in neighborhoods and between residents on the issue of smoke shops and other incompatible land uses in the zoned residential areas of the City. The City was without recourse except to try to address the issue since the Tribe itself was not willing at the time to pursue a solution through litigation against the United States Department of Interior. Consequently, the City of Tacoma challenged the United States' authority to accept the property in trust under the Indian Reorganization Act of 1934. In ruling in favor of the Tribe, the Court stated:

The actors in these transactions are not wealthy individuals
conniving ways to cheat the local government of a tax dollar.
They are not irresponsible illiterates creating disturbances and

nonconforming structures in a downtown or industrial sector. They are self-respecting, and for that matter self-denying, people trying to preserve their Tribe as a viable entity and to maintain themselves with a modicum of dignity and self-support The Indian Reorganization Act was designed to assist Tribes and enrolled members in just the circumstances here portrayed.

City of Tacoma v. Andrus, 457 F. Supp. 342, 345 (1978).

On the evening of October 23, 1976, approximately thirty armed Puyallup Tribal members took control of the Cascadia Juvenile Testing and Diagnostic Center, a five-story State youth correctional facility located on former reservation property. That property was on the original Puyallup agency tract, which at one time included the Cushman Indian School, store, and Puyallup burial grounds. The Tribe claimed rights to the property which had been sold to the federal government and used as an Indian Hospital from 1939 to 1959. When the hospital was closed, the federal government declared the property surplus, and it was acquired by the State in 1961 for use as a correctional facility. The Tribe asserted that the property should have reverted to the Tribe when the hospital was closed.

The situation at Cascadia could have easily escalated into a violent confrontation between the Tribe and law enforcement officials similar to what happened at Wounded Knee. Instead, the residents were evacuated with the cooperation of the Tribe, and within a week, the Tribe had negotiated an agreement in which they were given property on the Cascadia grounds to locate a Tribal headquarters and medical clinic. The Tribe and State also agreed to quiet title to Cascadia through the Courts. In State of Washington v. Puyallup Tribe of Washington, the Western District Court of Washington ruled that title had reverted to the Tribe. With this victory strengthening the Tribe's re-emergence as a Tribal government, the Puyallup Indians turned their attention to the former tidelands.

In Puyallup Tribe v. Alexander, the Tribe obtained a temporary restraining order against the Army Corps of Engineers for permitting a Port of Tacoma marina development project on the Hylebos Waterway. The Port had commenced construction operations to build the recreational boat marina when Puyallup Tribal policemen purported to arrest construction workers at gunpoint. A violent confrontation was avoided when City of Tacoma police arrived on the scene. The Port of Tacoma intervened in the lawsuit and the case was later expanded to include land ownership claims by the Tribe. The temporary restraining order was extended for many years by agreement of the parties, until the Army Corps of Engineers' permit finally expired in the late 1980's.

As a result of these actions by the Tribe, the Port of Tacoma filed an action for declaratory judgment against its title insurance company asserting coverage under its title policy. After preliminary proceedings, the title companies became concerned regarding Tribal claims and subsequently defended land claim suits brought by the Tribe. The title companies also began to put cautionary exceptions in new policies in the area of former tidelands for such Tribal claims.

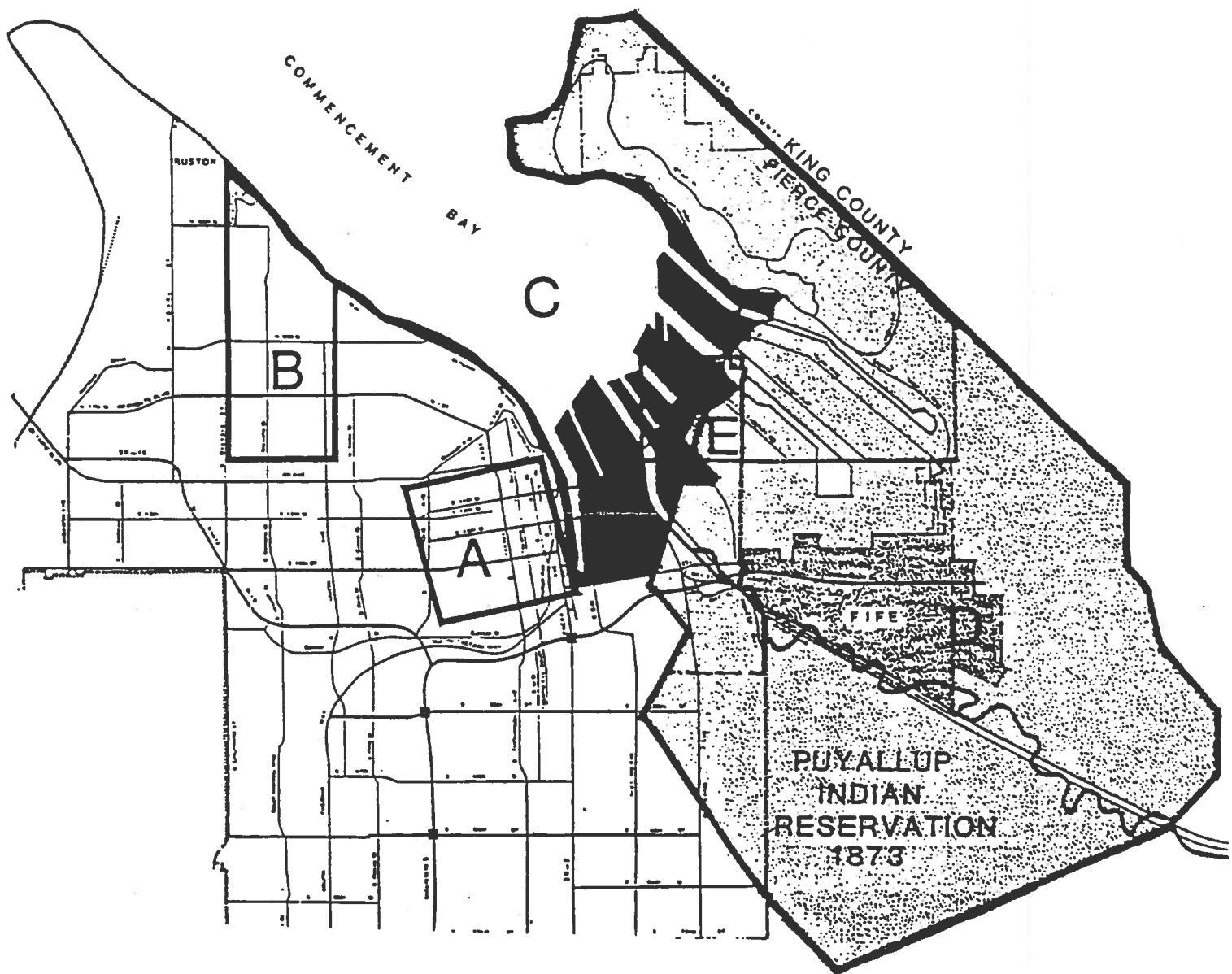
The Port of Tacoma and the private industries that developed the tidelands held title through the State of Washington or the United States. In the late 1940s, the Army Corps of Engineers had relocated the Puyallup River from its channel and straightened it into an artificial channel, leaving the former riverbed as uplands which the Port of Tacoma claimed. In 1980, the Puyallup Tribe filed an action against the Port of Tacoma to quiet title to approximately 12.5 acres of former riverbed lands in favor of the Tribe. In July, 1981, Judge Jack Tanner of the United States District Court for the Western District of

Washington held that title to the former riverbed lands belonged to the Tribe. The Ninth Circuit Court of Appeals upheld the lower court's decision in August, 1983, affirming that the Puyallup riverbed was included in the reservation under the Executive Order of 1857. The Court also found that the Corps' rechannelization project was an evulsive change, thereby leaving title in the Tribe as the owner of the property prior to the channelization. This controversial decision was appealed to the United State Supreme Court by the Port of Tacoma, but the Court denied certiorari on February 21, 1984. In November of 1983, the Port Commission was expanded from three to five members and Joe Faker and John McCarthy were elected as new Commissioners. Commissioner McCarthy was amazed at the animosity towards the Tribe and towards negotiating with the Tribe.

During the appeal of the riverbed case, the Port of Tacoma entered into serious negotiations with Sea-Land Services, Inc., a major shipping line, to relocate its northwestern base of operations from the Port of Seattle to the Port of Tacoma. Sea-Land officials were concerned about the uncertainty caused by Judge Tanner's decision in the riverbed case and other potential claims by the Puyallup Tribe. The importance of the Sea-Land terminal to the Port caused the Port Commissioners to direct staff to commence negotiation of a settlement with the Puyallup Tribe to resolve the uncertainty related to the proposed Sea-Land terminal. Negotiations between the Port and the Tribe were conducted for several months during the fall of 1982. In April, 1983, the Port and Tribe executed an Agreement, wherein the Port agreed to pay the Tribe \$1.4 million dollars in exchange for the Tribe not opposing certain projects, including the lease of certain property to Sea-Land for a terminal. In addition, the Agreement provided for mitigation for the projects and enhancement of the fisheries resource. Although the Agreement left open the issue of the Tribe's claims to the land, it provided that if ownership were determined in favor of the Tribe, the Tribe would lease the land to the Port under terms that were outlined in the Agreement. The Port undertook \$40 million in new terminal construction, and Sea-Land started operating in Tacoma in May, 1985.

Tribal Actions Bring Parties to the Negotiating Table

In April, 1984, the Tribe sent a letter to Congressman Norm Dicks, Tacoma Mayor Sutherland, and others proposing negotiations to resolve the dispute over title to other former riverbed lands with the same status as the 12.5 acres, and to prevent possible eviction of the private property owners impacted by the Court's decision on the 12.5 acres. The dispute over this former riverbed land actually involved more than 270 acres, many different landowners, and private as well as public entities. Notwithstanding a favorable response by letter from the cities and Port to the Tribe regarding negotiations, the Tribe then filed a quiet title action on June 13, 1984 against the Port of Tacoma and Union Pacific Railroad asserting Tribal ownership to 170 acres of former tidelands abutting Section 34. The Tribe's claims to the former tidelands abutting Section 34 were derived from the Executive Order of 1873, discussed earlier. Although the Port of Tacoma had purchased the Section 34 property from private landowners who appeared to have clear title and the Port held title insurance to the property; the significance, uncertainty and magnitude of the Tribe's claims led many government officials and the Port of Tacoma to conclude that negotiations with the Tribe should be given serious attention.



LAND CLAIMS

The PUYALLUP TRIBE of Indians has ownership claims against the following lands:

A. INTENDED TREATY RESERVE 1854

Two square miles of land in downtown Tacoma intended as the Puyallup Indian Reservation under the Treaty of Medicine Creek.

B. INITIAL SURVEYED TREATY RESERVE 1855

Two square miles of land in the Northend of Tacoma surveyed as the first Puyallup Indian Reservation.

C. TIDELANDS

The tidelands abutting the Intended and Initial Treaty Reserves and the Puyallup Indian Reservation established by Executive Order in 1857.

D. RIVERBED LANDS

Lands within the 1857 Reservation which were part of the Puyallup Riverbed at the time of the Reservation Survey of 1873.

E. SECTION 34 TIDELANDS

The Tidelands which abutted Section 34 at the time of the Executive Order of 1873.

JURISDICTION CLAIMS

The PUYALLUP TRIBE of Indians claims certain rights of governmental jurisdiction over the 28+ square miles of lands which lie within the 1873 surveyed reservation from the King County border to the City of Puyallup, including rights to impose property taxes, land use and zoning regulations, business regulations and taxes, traffic and environmental regulations, and other rights.

III. FINDING OUR WAY

As a result of the conflicts, litigation and title company actions, it had become clear that these issues of land title and governmental jurisdiction were not going away. It also became evident that they were going to have an increasingly significant impact on everyone involved. In addition, the Sea-Land Agreement between the Port of Tacoma and the Puyallup Tribe clearly demonstrated the potential advantages of resolving some of these differences through negotiation rather than the historical pattern of litigation.

In the beginning, only a few elected officials and community leaders recognized the dimensions of these claims and the importance of addressing them in a comprehensive fashion. The complexity of these issues, and the potential for resolving them, however, was not totally evident. For example, a six-month schedule was developed originally to complete the negotiations, while noting it might take longer given the City of Tacoma's interest in considering jurisdictional issues. Early on there were varying levels of understanding regarding these claims and the nature of their potential impacts on participating local governments, the Tribe, various parts of the community, the State of Washington, and the federal government. Perhaps this misunderstanding was best described by Karl Anderson, Secretary of the Commencement Bay Tideland Owners Committee, when he described his early involvement in the negotiations:

"On behalf of my company, Concrete Technology Corporation, I had been working with the Puyallup Tribe to get an agreement on our application for a permit to build a graving dock for large offshore concrete platforms. Mayor Doug Sutherland invited me to a meeting and showed me a letter from the Puyallup Tribe suggesting a settlement of the riverbed claims. He then asked me if I thought the Puyallup Tribe was in the mood to negotiate a settlement to all of their other claims. I said 'what other claims?' I didn't believe him!!

"I had been working with Robert Wallar, a consultant on land issues, in our quest to get Indian support for our graving dock permit. I asked him about all the Indian claims and he gave me some background information showing their nature and extent, and justification. I then met with John Roberts, attorney representing the Port of Tacoma's title insurance. He assured me that the claims were serious and he urged me to get the private landowners involved. I met with Jim Waldo on July 12, 1984, and he convinced me that this was indeed a very serious matter. I sent a letter to all of the private property owners I could identify in the Port of Tacoma area. I told them we had a very serious problem, and asked them to come to a meeting at my office on August 6, 1984. At that meeting, we agreed to formally organize as the Commencement Bay Tideland Owners Committee. The group elected Corry McFarland from McFarland Cascade as president and me as Secretary/Treasurer, and they appointed Corry and me as their representatives to the non-Indian Land Claims Committee.

"Initially, I felt that these claims had no real merit, that this couldn't really happen to us in the United States of America in 1984, and that the Federal Government would fix it quickly...

"In the end, I finally realized that the land claims were not the real problem --- governmental jurisdiction was the claim we couldn't 'win' without a settlement out of court."

What follows is a brief description of some of the institutions and individuals that played a key role in the settlement effort, together with their perspectives and needs.

Port of Tacoma

The Port is a public entity whose principal mission is to provide for economic development in Pierce County by developing trade, commerce and shipping opportunities. The Port, at the time settlement efforts began, had developed an aggressive plan for attracting new shipping lines to Tacoma. In addition to large amounts of undeveloped land and deep water berthing locations, the Port had a very effective labor force and was in the process of pioneering the use of intermodal transfer yards where containers would be transferred directly between ships and rail.

Shipping lines in the Pacific were beginning to switch to fewer ports of call (load centers) and to consolidation of their operations. But for its conflict with the Puyallup Tribe, the Port was in an excellent position to take advantage of these trends. In order for the Port to capture these opportunities and thereby provide the jobs and investment in the community that would result from a successful expansion of Port operations, the five elected Port Commissioners, John McCarthy, Pat O'Malley, Joe Faker, Jack Fabulich and Robert Earley and the executive director, Larry Killeen (who came to the Port in 1984), realized that the Port needed to find a way to resolve its conflicts with the Tribe. The alternative of a protracted legal battle had no assurance of a successful outcome.

This decision marked a significant change of position by the Port. In early 1984, newly elected Port Commissioner McCarthy found copies of proposed Initiative 456 challenging treaty fishing rights placed strategically throughout Port offices, with the blessing of Dick Smith, the former Port Director. The Port's legal position had been that the Puyallup Tribe did not legally exist and should not be recognized.

In June of 1984, Dick Smith retired as Port Director and was replaced by Larry Killeen. Even with a new approach by the Commissioners and new executive director, it would still require significant leadership to shift attitudes within the Port.

To a large degree the community's economic future was tied to the success of the Port, and thus the Port and the community had the most to gain or lose through this effort. As Port Commissioner Jack Fabulich said: "My role as an elected official was to protect the assets of the Port and help execute a settlement. I felt very strongly that a settlement must be obtained as it affected so many people in our State."

As a result of the long history of conflict between the Port and the Puyallup Tribe when settlement efforts began, there existed deep mutual feelings of dislike, distrust and antipathy. The only exception to this otherwise completely negative history was the Sea-Land agreement which resulted from the extraordinary efforts of several Port Commissioners and Tribal Councilmembers who had managed to overcome this mountain of mistrust on

that one occasion. This was truly a case of the Hatfields and McCoys where bad feelings, anger, and stories of misdeeds were passed on from one generation to the next.

City of Tacoma

In 1984, the City of Tacoma had a population of 162,100. It is the third largest city in the State of Washington. The City is governed by a nine-member City Council and a directly-elected Mayor. The administration of the City is directed by a city manager responsible to the Council. It also has the second largest municipal utility in the State with a Utility Board that is appointed by the City Council.

Most of the marine activities of the Port of Tacoma are located within the Tacoma city limits and therefore the Tribal land claims to a portion of the downtown area and the Port's former tidelands would have profoundly affected the City and its residents. Tacoma and the Tribe had a history of conflicts over governmental jurisdiction and activities on trust lands. As described earlier, one of these legal disputes had been appealed all the way to the United States Supreme Court. The City's two principal concerns were resolving the land claims and addressing the governmental jurisdictional issues. However, during Mayor Doug Sutherland's terms, relations between the City and Tribe had improved significantly.

In meeting with the full Tacoma City Council, both Mayor Sutherland and City Manager Erling Mork were supportive of pursuing the negotiations. The Council supported their recommendation and asked Councilman John Ladenburg to participate in this effort on the Steering Committee. John was selected because he was a lawyer, came from a different group on the Council and was cool under pressure. As the years went by, John played an increasingly greater role in this effort.

At the time the negotiations began, the City was represented primarily by Mayor Sutherland and Ray Corpuz, Director of Intergovernmental Affairs. Mayor Sutherland became the chair of the non-Indian Steering Committee, and Ray Corpuz served as the local government representative on the non-Indian Negotiating Team. Even prior to this negotiation effort, Ray was "charged with opening communications and working with the Tribal government on behalf of the City of Tacoma. Ray's challenge arose from the strained past relationship between the Tribe and the City, particularly the Andrus Trust Land case." In retrospect Ray commented: "My initial reactions were both positive and enthusiastic. However, my experience with the Tribe tempered my outlook. This effort would be arduous, complex, political and require extreme patience."

City of Fife

In 1984, the City of Fife had a population of 2,960. It is governed by a five-member Council and a Mayor elected city-wide. All of Fife is located within the area set aside as the Puyallup Indian Reservation by the Executive Order of 1857. As a small city with very limited resources, Fife was concerned about the potential erosion of the City's tax base if significant amounts of property were placed in trust by the Tribe or its members. The City was also concerned about what activities could be conducted on trust lands within its boundaries, and whether the Tribe or its members would pay for services provided by the City. Finally, much of the economic development in Fife centered around indirect jobs and services derived from the economic success of the Port area.

Many of the Tribal families lived within the Fife city limits and attended school with many of the other long-time residents of Fife. When settlement discussions began, the Mayor, Bob Mizukami, was well regarded by many Tribal leaders and members. As he said: "Many of

the Tribal members were and are constituents of the city. I went to school at Fife High with them and have known some for 50 years."

City of Puyallup

In 1984, the City of Puyallup had a population of 21,290. It is governed by a seven-member City Council, one of whom is elected as Mayor by the Council. It is administered by a City Manager. During the settlement process, both Mayors, Ron Crowe and his successor Sam Peach, as well as the City Manager, Gary Holt, represented the City in negotiations.

The City largely abuts the 1857 Puyallup Indian Reservation, and had the least potential impact of the affected local governments in terms of claims on its existing land base. At risk was a small corner, approximately 0.02 square miles which fell within the 1873 reservation boundaries. Of concern was the fact that the City's sewer plant was located on the affected parcel.

Additionally, the City had received requests by landowners to annex adjacent lands north of the Puyallup River. These lands also fell within the 1873 reservation boundaries. Consequently, the City enacted a moratorium on annexation pending the results of these negotiations. Also, the City was concerned with environmental and jurisdictional issues, such as fisheries, air and water quality including dechlorination of sewer treatment waste water, and law enforcement and land use issues within both current and future City limits and the neighboring county communities.

Because of these direct and regional issues, Puyallup representatives became strong supporters of a comprehensive settlement. Their assessment was that the City's exposure was minimal, but that the City should be an active participant in the negotiations due to the critical importance to the region that settlement be reached. At the time of the negotiations, the City had a good relationship with the Tribe, and its leadership had confidence that these issues could be resolved. Mayor Ron Crowe viewed the effort as "pretty much a very 'long shot' opportunity, but certainly worth pursuing." From his perspective, "merely perceiving this monumental task could be reached in settlement was one of the greatest challenges. Over time, the Puyallup community learned that all levels of government could work cooperatively and meaningfully with Indian and business leaders to solve a major complex issue of permanent importance to [their] area."

Pierce County

In 1984, the County had a population of 586,203. It is governed by an Executive elected county-wide and a seven-member County Council. The County also has a separately elected Prosecutor. The County and the Puyallup Tribe had clashed over fisheries habitat issues such as streamside vegetation management, authorization of development near streams, and other issues of governmental jurisdiction. The County experienced relatively fewer direct impacts than the cities and the Port, and was less involved in the early stages of the process. As it grew to understand the potential benefits of a settlement, it became a much stronger participant, through the leadership of several County Councilmembers and John Ladenburg, the new County Prosecutor.

The Pierce County Council had nominated Councilmember Chuck Gorden as its representative in the negotiations. His initial view of the effort was that it was "neverending." However, over time he "became convinced that it would be done, and the right people were at the table." As Councilmember Barbara Skinner said: "Initially I viewed the effort with interest knowing only what I had read in the papers. I had little (or no) hope

for an agreement. Over time I realized there seemed to be a 'good faith' effort on all sides. I also became educated as to the status of the Tribe - as a separate and recognized nation -- and the importance of that issue. We (Non-Tribal members) had to understand the legal status of the Tribe. My steelhead-fisherman father hadn't taught me about that. And neither did our schools."

Affected Private Landowners and the Business Community

The private landowners affected by the Tribe's former tidelands claims formed an organization, the Commencement Bay Tideland Owners Committee (CBTOC) in 1984. In 1985 a separate organization, the Former Riverbed Owners Association (FROA), was formed in response to a letter from the Tribe to the private landowners of property along the Puyallup River claiming title to their lands.

In addition to these two groups, the Tacoma-Pierce County Chamber of Commerce and other business and economic development organizations supported the negotiation effort.

Karl Anderson and Corry McFarland from CBTOC and Dick Carkner from the FROA provided exceptional and critically important leadership on behalf of the property owners and business community throughout the negotiation process.

Seven companies -- Simpson Investment, Burlington Northern Railroad, Union Pacific Railroad, Weyerhaeuser Company, Puget Sound Bank, McFarland Cascade and Concrete Technology formed the key corporate support group for the negotiation effort and the private sector fundraising necessary to implement the settlement.

The last segment of the private sector involved in this effort was the title companies. Over the course of the settlement negotiations, the changing relationships between the title companies and the other private and public participants varied from extremely tense to very cooperative. Fortunately, the cooperative stage occurred at the end of the process, and the title companies were significant contributors to the settlement. TICOR Title and Chicago Title deserve special recognition for working through all the ups and downs, and for providing the able services of John Roberts, Eric Richter and Don Anderson to this effort.

John Roberts' perspective was that: "The issues most important to us were the probable outcomes of the Tribe's property and jurisdictional claims (if no settlement were reached), the effect of the pendency of the litigation on our claims and on the prosperity of the region in the short term, and the effect of possible outcomes and of the settlement on the long term prosperity of the region."

Labor Unions

The Longshore Union (ILWU local 23) had been involved with the Port/Tribal issues beginning with the Sea-Land Agreement. To varying degrees they would be involved throughout the process. The Teamsters and the Pierce County AFL-CIO became involved later in the process and played a significant role in securing support for the settlement from the various local governments, the Legislature, and Congress.

Daryl Hedman and Phil Lelli from the ILWU, Bob Pavolka from the Teamsters, and Clyde Hupp from the Pierce County AFL-CIO, all made significant contributions of time and effort to help ensure that the settlement became a reality.

Federal Government

The actions and inactions of the federal government over the preceding 130 years created or helped to create most of the controversies, conflicts and confusions which led to the need for a settlement effort.

As described earlier, the federal government through Congress and the Bureau of Indian Affairs has the preeminent role in establishing Indian reservations, and directing policies and tribal interactions with other governments and private citizens. Over the years, these policies have ranged from assimilation, to property allotment to individual tribal members, and termination of reservations; to strengthening the roles for Tribes and their powers within reservations. At the time the settlement effort began, the federal government was increasingly recognizing and expanding the roles of tribal governments.

On January 24, 1983, President Reagan announced a government-to-government approach between the federal government and federally recognized Tribes. This policy was directed at expanding the role of tribal governments and diminishing their dependence on the federal government. Most federal officials envisioned large Tribes and Indian reservations when developing these policies and did not consider the implications for a situation such as Puyallup, where the disputed reservation boundaries fell within a highly developed urban environment, where the Tribe had a very limited land base, and where the Tribe's membership was a very small percentage of the people living in the area. In November of 1984 the Environmental Protection Agency (EPA) announced a policy implementing this approach, with Tribes assuming environmental regulatory and management responsibilities for reservations and Indian lands. Depending on where one thought the Puyallup Reservation boundaries lay, that potentially meant that less than 1 percent of the population with less than 1 percent of the land ownership would set environmental policy and regulations for all of the local jurisdictions, people and businesses listed above. This approach by the federal government further heightened the importance to the local community of resolution of governmental jurisdiction issues.

Secretary Clark, who was Secretary of the Department of the Interior in 1984, had initiated a strong effort to pursue settlement of major tribal claims throughout the Western United States. However, the Federal Office of Management and Budget (OMB) did not necessarily share this approach and was generally opposed to federal payment for settlements. The Department of Justice reinforced this view by reviewing settlements on a case-by-case basis looking almost exclusively at the direct financial exposure of the federal government to judge their merits. Congressman Dicks met with Secretary Clark early in this effort and secured his interest and support for this effort.

The Congressional Committees, particularly the Senate Select Committee on Indian Affairs and the House Interior Committee, were supportive of settlements, provided the Tribe involved supported the agreement and utilized the negotiation process to resolve issues.

In addition to the Departments of Interior, Justice and OMB, the settlement process ultimately involved the Coast Guard on shipping navigation, the Corps of Engineers on flood control and the Blair Navigation Waterway project; and the EPA on environmental cleanup of certain settlement lands.

Washington Congressional Delegation, Congressman Dicks and Senators Evans and Gorton

At one time or another, the entire Washington State Congressional delegation played a role in the settlement process.

Two members, Senators Gorton and Evans, were instrumental in helping achieve the settlement. When Evans was Governor of Washington, he had advocated working with the Tribes to fashion settlements of conflicts. Senator Evans used his national stature and credibility with the Tribe to help keep the negotiations going during several critical periods. Senator Gorton, a former Attorney General for Washington, had been involved in extensive litigation over tribal/State issues, and recognized the potential value of non-litigation alternatives. Senator Gorton took a personal interest in helping to achieve this settlement. His efforts included helping to start the effort, working for the local governments and private parties after his first Senate term while in private practice, and implementing the settlement during his second term in the Senate.

Senator Inouye of Hawaii assumed the chairmanship of the Senate Select Committee on Indian Affairs in January of 1987. The Senator took a personal interest in this effort, travelled to the State ten times and was the most active federal official from outside Washington State in achieving and implementing the settlement. His leadership was essential to achieving a settlement with the Puyallup Tribe, and his efforts will be described later.

Over the six-year effort, Congressman Norm Dicks was the most important elected official responsible for achieving a settlement. The Congressman seized the opportunity to initiate the effort, helped recruit the people to make it happen, often intervened to get the negotiations on track when the efforts stalled, mediated the negotiations at each critical juncture, involved Senator Inouye, helped obtain State participation, and refereed disputes between the local governments. He also helped raise private sector contributions and masterminded federal legislative strategy to authorize and appropriate the federal share of Settlement funding.

His dedication, perseverance and willingness to repeatedly "put it all on the line" was often the only impetus which kept the negotiations going, or which made the parties reach agreement when the odds against such an agreement appeared overwhelming. His position as a senior member of the House Interior Committee, his reputation for effectiveness, and his political clout in his district were all necessary for this effort to succeed. He used them all many times on this project.

State of Washington

The State of Washington separately elects a Governor, Lieutenant Governor, Attorney General and Commissioner of Public Lands, all of whom would be involved in this settlement effort. The State has a bicameral legislature. During this period the Senate was controlled by the Republicans and the House of Representatives by the Democrats. There were two Governors during this process, Governor John Spellman and Governor Booth Gardner.

The State of Washington and the 26 federally recognized Tribes within the State had clashed for almost one hundred years since Washington became a State in 1889. This conflict was evidenced usually in various federal and State court actions which covered almost every major subject where differences could arise.

In the early 1980's, Governor Spellman had greatly expanded the State's efforts to develop more productive relationships with the Tribes in fisheries management and other natural resource issues, as well as certain social service issues. He was an early supporter of the Puyallup negotiations, committing funding and State staff to the effort.

Puyallup Indian Tribe

The non-Indian perspective of the Puyallup Tribe was shaped by the Tribe's recent focus on reestablishing itself as a functioning governmental entity, and aggressively pursuing its interests through litigation in Federal Court. The Tribe had been held together by a combination of several factors. Extended family ties formed the core of the Tribal community. Anger towards the non-Indian community was another common bond. This anger resulted from the Tribal members' view that they had been dispossessed of what was rightfully theirs; the negative impacts of commercial and industrial development on their fisheries resource and way of life; and their exclusion from the decision-making processes and economic opportunities over the preceding 100 years. Other common threads which held the Tribe together were the commitment by the Tribal leaders and many of the Tribal members to validate the Tribe's treaty fishing rights, and to rebuild the Tribe's land base. In retrospect, the commitment to the fisheries resource and the concern within the extended families of the Tribe for the future of their children worked for the successful outcome of a settlement. The deep and palpable anger of the Puyallup Tribal members toward the outside community worked against achieving a settlement, not only because it made it more difficult to analyze issues and consider alternatives objectively, but also because this anger had been a common bond and many members did not want to give it up.

The Puyallup Tribe was governed by a five-member council. The Tribal Constitution provided a relatively easy way to recall sitting Tribal Councilmembers. Such recall efforts occurred a number of times during the course of these negotiations.

At the time the negotiations began, there were approximately 1,200 Puyallup Tribal members, of whom approximately 900 lived in this local area. In the 1980 census, the median age of the Tribe's members was 19 years. Approximately half of the members 25 years and older had graduated from high school and approximately 35 had completed four or more years of college. In 1980 the Tribe claimed a 22 percent unemployment rate. As these statistics demonstrate, the Puyallup Tribe had a large number of young members whose futures would depend upon obtaining education, employment and economic opportunities beyond what could be provided by the fisheries resource or the Tribe directly. Meeting these needs, together with the Tribe's commitment to reestablishing their land base, addressing the fisheries issues, and becoming a significant participant in the future decisions shaping the area, formed the core of what the Tribe looked for in a settlement.

Getting Started

Bringing these diverse interests together to resolve the largest land claim in the history of the State of Washington and the second largest land and jurisdictional claims settlement in the United States was indeed a challenge. No institution, government, entity or group existed to carry out such an effort. On the non-Indian side there was no single governmental body with sufficient authority and determination to direct all of the governments, no staffing arrangement, and little readily available historical or legal information.

The critical focus was on pulling together the local governments, the Port, and private landowners known to be at risk. Jim Waldo, a partner of the Tacoma Law firm of Gordon, Thomas, Honeywell, Malanca, Peterson and Daheim, initially hired by the Port of Tacoma to resolve Port/Tribal issues, was hired in 1984, as the Lead Negotiator on behalf of all of the non-Indian local governments and private parties. The non-Indians then created internal staffing arrangements, with a high priority placed on getting the State and federal governments involved. Initially, several staff were pulled from the various governmental

bodies to provide expertise and assistance. In summary, an organized group was formed and staffed.

At the same time, the non-Indian negotiators began working with the Tribe to identify the issues. There was a critical need to assess what the claims were and determine how big, how extensive the issues were. The negotiation sessions with the Tribal representatives led to a sorting-out process. As the issues evolved, so did the non-Indian staffing requirements, and the need for determining how all the local public and private parties were to be informed, represented and to reach decisions. The evolution of staffing responsibilities and decision-making continued throughout the negotiation process.

By early August of 1984, the non-Indian Negotiating Team had developed with the Tribal representatives a negotiation structure to achieve a non-judicial settlement. The issues were divided into four categories: land claims, fisheries restoration, business and economic development, and jurisdictional issues. Joint Tribal/non-Indian technical teams were established to develop each issue area.

On the non-Indian side, the Technical Team members reported their progress to the Steering Committee. This Committee was responsible for setting policy and direction for the Technical Teams and the non-Indian Negotiating Team. Chaired by the Mayor of Tacoma, Doug Sutherland, the Committee included mayors, councilmembers and commissioners from the Cities of Fife, Puyallup and Tacoma; Pierce County; Port of Tacoma; and private sector representatives from CBTOC and Weyerhaeuser Company, Commonwealth Title, Concrete Technology and McFarland Cascade.

Additionally, a three-member non-Indian Negotiating Team was established by the Steering Committee to negotiate directly with the Tribe. Members of the team included Jim Waldo as the lead negotiator, Ray Corpuz from the City of Tacoma, and Karl Anderson and Corry McFarland alternated as representatives.

The Steering Committee also had intermittent participation by individuals who assisted as resource experts. They included staff from the Congressional delegation, the Governor's office and State legislators. These participants were called upon from time to time throughout the process to provide assistance.

At the State level, Patrick Dunn, Director of the Department of Community Development, was asked by Governor Spellman to convene a meeting of several State agencies to discuss the scope and timing of the effort and the general support the State might provide. The State agencies included the Departments of Transportation, Natural Resources, Employment Security; Gambling Commission; Commerce and Economic Development and Fisheries. Eventually numerous staff from the State agencies provided assistance, including the State Department of Game which reported to a commission rather than to the Governor.

The Joint Land Claims Technical Committee addressed issues relating to former and current tidelands, former riverbed land, the Reservation and intended reservation, railroad and other rights-of-way, allotted lands, and historical and cultural sites preservation, both on and off the reservation.

The Joint Fisheries Technical Team was co-chaired by Curt Smitch of the State Fisheries Department and Joe Miyamoto of the Puyallup Tribe. Issues addressed included a Tribal marina, pen rearing facilities, upstream hatcheries, clean water for fish, habitat improvements, mitigation processes, navigation routes in Commencement Bay, Port related projects and a comprehensive review of the Puyallup River Basin and Commencement Bay.

The Joint Economic Development Technical Team was co-chaired by Bill Schaff of the Puyallup Tribe and Ron Nelson of the City of Tacoma. This group considered issues relating to employment opportunities for the Tribal members; Tribal enterprises/business activities; increased economic self-sufficiency of the Tribe; permanent income sources for the Tribe; State jurisdictional issues affecting Tribal commerce and trade; building the capacity and skills of the Tribe in investment, financing and management skills; programs to address Tribal housing needs; and cooperative possibilities/joint ventures for the Tribe.

Finally, the Joint Jurisdictional Technical Team was co-chaired by Annette Klapstein, the tribal attorney, and Rod Kerslake of the City of Tacoma. This committee was to develop recommendations relating to land use, zoning and building codes; taxation; law enforcement; business regulation and navigation.

In September 1984 each of these Technical Teams began meeting weekly to identify issues and develop recommendations on how to resolve the issues.

By early September, it was apparent that each time an issue was opened that appeared to be narrow in scope, it became more like a funnel involving an increasing array of technical and legal details. The information needed to make informed decisions was almost never readily available for use. Yet the cloud on property title and the pending lawsuit created a strong impetus to keep moving. It was critical to get the right people involved and to demonstrate progress as soon as possible from both sides.

Getting Organized

From the non-Indian perspective, the increase in understanding of the breadth of the scope and activities had left very little time to step back and prepare a new comprehensive organizational plan. Because the demands on time and human resources were great, the Negotiating Team stopped at various junctures to determine how we could best deal with the ever-increasing complexity of the issues. The effort required organizing and reorganizing as issues and demands evolved.

Clearly, more staff were needed. In addition to the local governmental staff, the non-Indians brought in outside consultants. For example, consultants were hired to coordinate the much-needed historical research and to research technical data. Other consultants helped develop a fisheries restoration plan working with the joint Fisheries Technical Team and provided economic development expertise in putting together a land package. This effort required evaluation of the properties and improvements subject to Tribal claims and real estate counsel. Even with this additional assistance, the pace of the negotiations and research efforts were often overwhelming.

In order to provide the necessary human resources, the local governments entered into an interlocal agreement to provide funds for the process. By October, the City of Tacoma, Port of Tacoma, Private Sector and Pierce County had each contributed money and dedicated staff to the process. Mayor Sutherland and Port Commissioner Jack Fabulich were successful in seeking a State contribution for the costs of negotiation as well.

A major aspect of organizing the non-Indian team was building bridges within the Tacoma-Pierce County community. Again, no single governmental body was in charge, and no local government could tell another one what to do. With the various degrees of exposure and the lack of a hierarchy or command structure, it was critical to facilitate the discussions and decision process among the local governments. Each of them came to the table with different needs and different perspectives on how to best resolve the issues. This was also

true among the private companies and landowners. There were a range of views within each entity as well as among them.

All of the non-Indian parties were free to choose to participate, to go, or to decide to change the degree of their participation in the process at any given time. There were also political alliances and feuds which lay just beneath the surface. Consequently, it was just as important to build bridges among the local government and business representatives to ensure there was a cohesive group at the local level, as it was to build bridges between them and the Tribe.

While the non-Indian staff was struggling to understand the depth of the issues and organize themselves, the Tribe was also having difficulty. Although the Tribe had conducted a significant amount of its legal and historical research, the long and extensive negotiation process was potentially overwhelming. The Tribe needed additional funding for staff and experts in order to participate effectively in comprehensive negotiations of this magnitude.

The non-Indian Steering Committee agreed to support the Tribe's obtaining significant federal funding for the negotiations. At the time this was a controversial decision with some non-Indian members viewing this as funding the opposition. Through the efforts of Congressman Dicks and our Senators, the Tribe obtained significant funding. These funds provided through the Department of Interior enabled the Tribe to hire experts and staff for this effort. Vern Huser was hired to serve as the facilitator between the parties.

John Bell, the Puyallup Tribal Attorney, served as the Tribe's lead negotiator. John had litigated successfully several past cases on behalf of the Tribe, including the former riverbed case described earlier. He was well respected by the Tribal Council and membership both for his successful litigation efforts and his ability to work effectively within the political arena of the Tribe. John was a strong advocate on behalf of the Tribe and a key figure in reaching agreement at the negotiating table.

When negotiations began, the Puyallup Tribal Councilmembers included Chairman Frank Wright, Jr., Bill Sterud, Connie McCloud, Lena Landry and Stan Sicade. In addition to the Councilmembers, the Tribe was supported in negotiations by Annette Klapstein, Tribal Attorney; Bill Schaff, Tribal Staff and co-chair of the Economic Development Technical Committee; and Joe Anderson, Tom Deming and Joe Miyamoto of the Tribal Fisheries Office. The Tribe's outside consultants included John Maillet, an economic development consultant, and Dan Thayer, a fisheries biologist.

Throughout the negotiations, the effort was impacted by external problems and immediate issues. By November of 1984, several external factors were causing concern among the non-Indian communities and the Tribal membership. Some of these included Pierce County's Streamside Vegetation Agreement, community objections to Tribal shellfish harvesting in Echo Bay (Fox Island), and implications of elections involving the Governor, the State Attorney General, and the Pierce County Executive. In addition, a statewide initiative was on the ballot, Initiative 456, which challenged tribal treaty fishing rights that had been upheld by the Boldt decision.

As the Joint Jurisdictional Technical Committee was working to address law enforcement issues, an issue arose involving officers of the Tacoma Police Department. The allegations were that the officers assaulted a Fife resident, who was a member of the Seminole Nation of Oklahoma, "and made derogatory references to his American Indian ancestry." These

allegations led the U.S. Department of Justice to "conduct an assessment of the situation."¹

Other immediate disputes involved provisions of the Sea-Land Agreement for a Puyallup Tribal boat ramp, several fishing sites and longshore jobs for the Tribal members. Each of these incidents and issues had serious implications leading to additional stress at the negotiation table. At a time when we were striving to build trust among the parties, such conflicts made it very difficult on both sides to build trust and resolve the larger issues. In order to actually move on to the major issues, we often had to take time to address the more immediate problems facing the Tribe and the local governments.

Another aspect of organizing the negotiations involved reviewing other settlements. The non-Indian legal staff reviewed the Federally authorized major settlements in the States of Alaska and Maine. This review was of only limited utility for a number of reasons. Neither of the claims in the other two States were based on treaty rights. Both agreements were built around the concept of the native groups as communities, and the settlement provisions focused on creating native corporations. The Puyallup Tribe made it clear they had spent years establishing the recognition of the Tribe's governmental status. While the exact scope of the Tribe's governmental authority was open for discussion, their status as a real government with real authority was non-negotiable.

Review of these settlements did provide some important information, however, for example, in Alaska, the native claims settlement had provided very significant assets to the native corporations without enough attention focused on the social, educational and training requirements necessary for effective use of those assets. In Maine, the failure to resolve tribal claims, combined with the tribal right of sovereign immunity, led to negative economic and social impacts which not only brought no benefit to the tribes, but also inflicted significant harm to others in the State. In addition, this research showed that investments in tribal economic opportunities could be crafted to benefit both tribal members and non-Indians living in the area.

Although these lessons provided no model to use, they did begin to shape both the non-Indian and the Tribe's thoughts as to how to approach the settlement process and the potential benefits of succeeding.

Legal Research

At the beginning, the Tribal representatives knew far more about the history surrounding the reservation and the legal issues related to land claims and jurisdictional disputes than the non-Indian participants. However, several title companies had begun conducting significant research activities on the history of the reservation, the treaty, the Executive Orders and other subjects related to these claims.

The non-Indian staff and title companies undertook independent efforts to research and assess the legal aspects of various claims and issues. In addition Tribal representatives provided information which supported the Tribe's claims in order that the non-Indians could better understand the potential risks in litigation. The major research by the title companies alone cost somewhere in the neighborhood of \$250,000 to \$300,000, which was in addition to the non-Indian Steering Committee's staff research.

¹ The Tacoma News Tribune, Wednesday, November 7, 1984.

Even after all of these efforts, there were still a number of key issues open for interpretation if these matters went to Court. For example, no copy of the initial survey of the reservation established by the 1857 Executive Order was found by any of the parties. Apparently the local copy disappeared, the copy in the State archives was lost in a fire, no copy has been found in the federal records, and the Tribe does not have a copy. The survey would have addressed one of the principal Tribal claims, but it could not be found.

Both the Puyallup and Nisqually Tribes waged the "Leschi War" in 1855 because neither Tribe was satisfied with its initial reservation, created in 1854. In the Executive Order of 1857 the federal government provided for a "new reservation for the Nisquallys and an expanded reservation for the Puyallups". During the intervening years, the federal government did not recognize the existence of any tribal claims to the initial reservation. However, the Tribe maintained such a claim based on the "expanded" language in the Executive Order, and some early acreage estimates of the reservation were in excess of what we now know to be the acreage of the 1857 reservation.

We believed that this claim had little probability of success. However, the property at issue included the commercial center and several neighborhoods of the City of Tacoma, and given the high cost if the Tribe were to prevail, the claim received careful attention.

Yet another significant claim arose as a result of President Grant's Executive Order of 1873, which reads:

"The President.

Executive Mansion, September 6, 1873

Agreeable to the recommendation of the Acting Secretary of the Interior, it is hereby ordered that the Puyallup Reservation in Washington Territory be so extended as to include within its limits all that portion of section 34, township 21 north, range 3 east, not already included within the reservation.

U. S. GRANT"

The issue between the Tribe and the non-Indians was whether this Order included any or all of the former tidelands that abutted section 34 at the time of the Executive Order. This particular property, at the time of the negotiations, included some of the most important commercial and marine related property in the Tacoma harbor.

When evaluating such issues it is also prudent to assess who will be deciding them. In this case, we were not sure that the land claims could be tried to a jury. The initial case, involving a portion of former tidelands abutting section 34 described above, had been assigned to Judge Jack Tanner who as a private attorney had represented many individual Puyallup Tribal members, and as a judge had decided the "Former Riverbed" case in favor of the Puyallup Tribe. At that time the only way to remove a federal judge from a case was to ask him to recuse himself. We assumed that Judge Tanner would not choose to do so and later events proved us correct in this assessment.

On the other side, the Tribe's attorneys knew that they faced significant legal hurdles in successfully pursuing their claims. Each side developed a probability assessment on each of the claims. While we disagreed on the validity of each claim, we did reach agreement on the relative probabilities of success of each of the claims. For example, the non-Indians agreed the probabilities of success were higher for the Tribe's claims in Section 34 than in

the initial reservation. We also agreed that the consequences of guessing wrong would be enormous to the losing party.

This realization, coupled with the piecemeal nature of litigation, served to sustain the efforts to reach a settlement. As Judge Coughenour said later in finalizing the settlement:

"You and the other lawyers involved in this should be proud of what you have done, and the community should recognize the role that lawyers play in dispute resolution... I have been in awe of the fact that you have brought reason to bear upon this problem, and frankly I was beginning to despair that I would be asked to decide these issues. And there is one thing that comes to me very clearly, and that is that this kind of resolution is so superior to what an individual judge can do that can only see parts of the controversy... (I)t exemplifies parties and attorneys, lawyers, who are willing to work together as men and women of reason and good spirit to create a solution in which everyone can come out a winner."

While Judge Coughenour's words applauded the vision shown in the final agreement, we had a real problem communicating this vision in the beginning.

Consolidated Reservation

In January and February of 1985, as the non-Indian Steering Committee began to grapple with the initial offer to be made to the Tribal representatives, the difficulties inherent in the area of governmental jurisdiction became much more apparent, as well as the differences in the interests of the local parties who were members of the Steering Committee.

We knew the Tribal representatives would not entertain relinquishment of all governmental jurisdiction. We knew that federal policies were aimed at expanding tribal governmental jurisdiction. And we knew that sweeping and ill-defined tribal jurisdiction over non-Indians and non-Indian lands was not an acceptable outcome from our perspective.

We explored numerous alternatives only to discover that each of them presented significant problems to one or more of the local governments or the private sector.

In order to come to closure on these issues, the non-Indian Steering Committee scheduled an all-day meeting to focus exclusively on the subject of governmental jurisdiction. The staff of the Steering Committee was instructed to prepare a number of alternatives which ranged from the status quo to creating a new smaller consolidated reservation within which the Tribe would have primary jurisdiction. Because each of the more radical proposals had a disproportionate impact on one or more participants, the non-Indians proposed the following jurisdictional elements:

1. Tribal jurisdiction over restricted lands would continue, as described in the Puyallup Indian Tribal Constitution, in perpetuity unless modified by agreement of the parties or later out of Congress.
2. The status of lands currently in trust would not be altered.
3. The Tribe and its members could put lands in trust within the 1873 Reservation boundaries, provided that such trust lands would be governed by the current existing land use, zoning and health and safety regulations of the non-Indian local government having jurisdiction until the Tribe adopted a comprehensive plan and regulatory mechanism.

4. The Tribe would provide governmental services to existing trust lands or contract with other non-Indian governmental units for those services.
5. The non-Indian jurisdictions would provide all governmental services within the Reservation to non-trust land.
6. All settlement lands would be served by inter-governmental agreements except as otherwise specified in the agreement.
7. Written material and agreements would be developed to address law enforcement.
8. A Navigational Memorandum Agreement would be developed to prevent or reduce potential conflicts between Tribal fishing and commercial shipping in Commencement Bay.

Managing Expectations

By this time it had become clear that the non-Indians would need to specifically address the Tribe's view of its legal situation if a negotiated settlement wasn't possible, and the benefits to them if a settlement could be achieved. In a similar vein it was important for the non-Indian Steering Committee to carefully assess the impacts of no settlement, what was needed in a settlement, and to reach consensus on what members were willing to pay for such a settlement.

The Tribal representatives had an oral history of how their lands had been taken from them and how they had been excluded from the opportunities and prosperity of the surrounding community. In addition, the Puyallup Tribe and other Tribes in the region had a long series of successful federal court cases upholding treaty fishing rights. The Puyallup Tribe had been successful in several court cases, including securing its claim to former riverbed land. In the minds of many, if not most of the Tribal members, a claim by the Tribe was equated with a successful outcome in federal court. This perception of their legal strength, coupled with their anger and sense of past injustices, gave the Tribe less incentive to be willing to negotiate.

In order to address these expectations, the non-Indian Negotiating Team agreed with the Tribal Negotiating Team to exchange legal position papers on the key legal issues and to have each side prepare responses. We also agreed that following these exchanges, our Steering Committee would hear an oral presentation from John Bell, the tribal attorney, and the Tribal Council would hear oral presentations from attorneys on our Legal Committee. This effort had some benefit to each side, because it conveyed what the future legal conflicts and costs would be without a settlement. However, we quickly determined that this effort alone was not sufficient.

On March 1, 1985 the negotiation teams exchanged initial offers to be discussed between the parties to determine whether agreement could be reached. The non-Indian Negotiating Team's offer to the Tribe was valued at \$51.3 million. This offer included \$10 million for fisheries enhancement and a mitigation bank; \$22.5 million in land which included deep water port lands on the Hylebos, Fife property, a marina, and 400 acres of timberland; \$18.8 million for a membership trust fund, a Tribal Trust Fund and an employment program; and other economic opportunities which included a Tribal Enterprise Program, a jobs pledge program, and a financing program.

The Tribe, on the other hand, presented an initial offer to the non-Indians which was valued at \$350 million. This valuation was based on known values of various elements in their proposal and could have reached \$760 million due to unspecified costs to the non-Indians such as taxation of non-Indians. Clearly, the non-Indians had not succeeded in reducing the Tribal representatives' assessment of the strength of the Tribe's legal claims. Further, while exchanging offers it became clear the Tribal representatives perceived that the federal government was willing and able to pay a high price for settlement of these claims. Our Negotiating Team did not think the federal government would be so responsive.

IV. HARD BARGAINING

After taking one day to recover from the all-consuming effort to prepare our initial offer, the non-Indian team left for Washington D.C. on March 3, 1985. Our group included local elected officials, private landowner representatives and staff.

The Tribal representatives were not pleased that we were going to Washington D.C. at this time. Because of the negative reaction to the Tribe's proposal by many individuals representing the local governments and community, and given the Tribal reaction to our proposed trip, our side considered not going. However, we decided that the involvement and encouragement of certain key federal executive and congressional officials was essential to our success and that we could not proceed further without a good assessment of the possibilities of funding and support at the federal level.

From the non-Indian perspective, we faced several important challenges. First, we needed to more seriously engage the Department of Interior and the Executive Branch in this effort. Our second challenge was to begin to deal with the issue of the federal/non-federal match. The third purpose was to brief our senators, and with the assistance and advice from our congressional delegation, brief the key House and Senate committee chairs and staff. Finally, we needed to determine whether any particular aspects of a proposed settlement would make it more or less attractive to any of these key federal officials in either the executive or legislative branches. In addition to these tasks, we now had the additional requirement to communicate the wide divergence between the non-Indian and Tribal offers.

Our delegation first met with Senators Gorton and Evans, and the congressmen from Western Washington. Our local delegation, together with Congressman Dicks and Senate staffers, met with Secretary Hodel and Undersecretary Gjelde of the Department of Interior (DOI) to impress upon them the need for a settlement and the significant negative impacts of not reaching a settlement. During this meeting, we made our case for an 80/20 percent split in federal/non-federal cost sharing, due to the long history of federal acts of omission and commission which were largely responsible for creating the current conflicts and controversies over land claims and jurisdiction.

The Secretary and Undersecretary responded that they were impressed with the need for a fair settlement and that they would assign the Assistant Secretary for Indian Affairs and a senior member of the Solicitor's staff to work on this issue for the Department. They also informed us that the final decision within the Executive Branch would be made by the White House with input from the Department of Interior, Department of Justice, and OMB. They advised that the White House would give significant weight to the recommendations of our two Senators and Senator Andrews, who then chaired the Senate Select Committee on Indian Affairs.

According to Hodel and Gjelde, OMB and the White House were pushing for a policy of a 50/50 federal/non-federal matching requirement. Although this matching concept was not contained in federal legislation or regulations, they predicted that we would encounter great difficulty in obtaining support from the White House or OMB for any federal contribution in excess of 50 percent.

In general, they supported of the comprehensive approach, both as to the number of issues being resolved and the wide variety of potential benefits to the Tribe and its members; however, they indicated a strong aversion to settlements based on per capita payments because of the bad experiences with such settlements elsewhere in the country.

Following our meeting with the Department of Interior officials, our local delegation split into smaller groups to meet with the White House, Department of Justice and key congressional committee members and staffs. We learned that a settlement with the active support of the Tribe, the local community and the Washington Congressional delegation would be likely to receive a very favorable response by both the House and Senate committees. The committee representatives were more flexible on the federal share of settlement funding, but indicated it would be very difficult to obtain federal funds in any amount over the opposition of the White House and OMB. If anything, they indicated a stronger distaste for per capita settlements than had been expressed by the Department of Interior officials.

Senator Melcher, ranking minority member on the Select Committee on Indian Affairs, and Congressman Udall, Chairman of the House Interior Committee, both stated that the active support of the Tribe for a settlement was more important to them than any specific provision or percentage of federal contributions.

As was true of many of the issues we faced throughout the negotiating process, these federal issues were revisited on numerous occasions. Matching the federal constraints and preferences with local and Tribal requirements continued to be one of the most demanding aspects of achieving and implementing the settlement.

We then met with John Fritz, Assistant Secretary for Indian Affairs, and Tim Vollman from the Solicitor's office, and scheduled a trip for them to meet with the Tribe's representatives and the non-Indian local Steering Committee. They would also hold a joint meeting with negotiators from both sides. These meetings were to occur within the next 10-14 days (late March 1985).

As we left these meetings and headed back to our Congressmen's offices, we found a memo addressed to the lead negotiator from certain non-Indian Steering Committee staff.

The memo asserted that there were two views of the negotiations within our group: 1) a \$50 million package was equitable even though there were substantial problems with the Tribe's accepting the offer; and 2) the Tribe had a significant set of claims and that "the settlement should be as large as Providence (and the Feds) will provide." The memo then inferred that the elected officials and private sector participants had not fully debated those alternatives. It described 11 alternatives which included continuing the process with a new negotiator; stopping the negotiations and going to court; negotiating on one portion of claims for a partial settlement, including a provision for a substantial portion of the settlement to go directly to Tribal members (per capita payments); increasing the amount of the settlement; going public with our offer and the Tribe's offer in order to focus community pressure for a reasonable settlement; spending a concentrated period of time reducing the Tribal members' expectations; and assuming that the Tribe was holding out for benefits not yet discussed in the negotiations, e.g., cigarette tax, liquor and gambling opportunities, and perhaps release of Bob Satiacum who was a former Chairman of the Puyallup Tribe. He had been convicted on racketeering charges in the Seattle Federal Court; had left the United States while his conviction was under appeal; and was in prison in Barnaby, B.C. at the time claiming refugee status.

These kinds of strategic decisions emerged periodically throughout the negotiations. They required careful thought, not only as to their impact on the parties directly involved, but also on other parties such as the State and federal governments. These were not easy decisions to make. One is never comfortable that there is enough information to make the best decision. Therefore, in efforts such as this, there will always be disagreements concerning both the timing of such decisions and the merits of any particular tactical or substantive decision.

In this instance, some non-Indian staff members were raising serious questions regarding the group's overall strategy and tactics, and the merits of continuing the effort with the same approach and same staff leadership. These differences would continue throughout the spring and summer of 1985. In fact, several staff members left during this period due to disagreements over these issues.

Except for the fact that the non-Indians did not get a new negotiator, nor did we try the last alternative, release of Bob Satiacum, all of the other strategies proposed in the memo were utilized, either separately or in some combination, before we completed the final settlement.

While the trip to Washington D.C. had been very productive, the non-Indian team was returning to chaos at home. The Tribal representatives were still upset about the non-Indian trip. It was unclear what strategy was to be pursued, and there were significant questions about the willingness of the State, certain private landowners, and the title companies to contribute to any large settlement package, including the one recently proposed to the Tribal representatives.

The first order of business was to meet immediately with the non-Indian negotiating staff in order to refocus their efforts on key assignments and to prepare options for consideration by the non-Indian Steering Committee a few days later.

The effort for March and April required seven days a week, 12-14 hours a day commitment and often resembled a five-ring circus. During this period of time, the Staff Group consistently had 30-45 distinct tasks to be accomplished each week. The local elected officials and landowner representatives who participated in the negotiations and meetings were required to devote on the average 30-40 hours a week to this effort.

Various members of the Steering Committee and staff were split as to whether or not we would be able to reach agreement with the Tribe on a settlement that we could afford and that could be implemented if approved. This disagreement threatened to paralyze the entire effort. Since these opinions were based on value judgments rather than objective standards, we had to develop some creative way to resolve these differences. The Steering Committee agreed to continue negotiations with the Tribe on one track, while preparing a "final offer" which could be communicated to the Tribe at such a point that the Steering Committee determined that future negotiations would not be productive. At this time, the Steering Committee set a goal of the end of March 1985 for the negotiation effort.

One of the most important steps was to develop a common view by the Steering Committee of the outcomes to be obtained in a settlement with the Tribe, the direct and indirect benefits of such a settlement, and the costs and impacts of no settlement. This effort required the preparation and analysis of the value of the property potentially affected by the Tribal claims, the analysis of the legal issues involved with the claims, and the economic opportunity costs to the area of no settlement. In addition, we evaluated the benefits of a settlement to the region, the benefits to the Tribe resulting from particular settlement provisions, and the general benefits to be derived from State and federal funds and investments proposed to be made as contributions to the settlement.

Those efforts consumed a considerable amount of staff time and expense, but were essential to the ultimate success of the effort. For example, we would never have reached agreement with the Tribe if agreement had required a common view of the legal merits and probability of success by the Tribe in court on its various land and jurisdictional claims. The Tribal members also believed that they were owed a significant amount for lost opportunities and past damages. This was not the non-Indian view. However, the Tribe still retained sovereign immunity, which meant that the non-Indians could not take the Tribe to court on

any claim or issue without its agreement. Thus, the Tribe could inflict significant economic damage on the outside community with little or no cost or risk to the Tribe.

In conducting this analysis, the non-Indian staff determined the approximate current value of the land and improvements for all of the parcels affected by known Tribal land claims. This included assessing values of over 2,000 acres. At the same time, the Port of Tacoma prepared an economic impact analysis of no settlement, in terms of lost investments, lost jobs and the resulting loss of tax revenues. It revealed that over a 10-year period the estimated potential permanent job loss ranged from 10,000-15,000 jobs, and that the lost potential capital investment on Port lands alone could be \$300-400 million.

This led the decision-makers on the non-Indian side to recognize that a settlement was worth more than an amount based solely on the analysis of the merits of the Tribe's legal claims. In effect, this met the Tribe's goal of obtaining a settlement which exceeded the value of the current claims.

The second major set of tasks addressed the need to secure the participation, funding for the negotiations, and any necessary commitments for a settlement from the title companies, State government, the federal government and certain major private landowners and utilities. At this point, all of the local governments and a number of the local landowners were committed to a settlement of the magnitude we had proposed to the Tribal representatives in early March 1985.

Title Company Participation

The title companies presented an interesting challenge in the negotiations. Defense attorneys retained by Chicago Title and TICOR to defend their insureds were active participants in this effort from its inception. These companies, which had by far the greatest coverage in the area, expended a significant effort in researching the factual history and legal basis for the Tribal claims. They also contributed some funds towards the operation of the non-Indian Steering Committee process. Other title companies paid little attention until the very end of the process.

In most situations involving claims by Indian Tribes, the title companies litigated the claims. In fact, Chicago Title and TICOR Title were involved in litigation with the Suquamish Tribe on behalf of their insureds at the same time as this settlement effort. The elected officials and many property owners had the view that the title companies had the most significant legal exposure and should therefore be significant contributors to any settlement. These issues were further complicated by the lack of information regarding the extent of current and past title insurance which had been issued without exceptions for Tribal claims. In addition, we lacked complete delineation of Tribal claims which would give rise to policy coverage.

In researching these issues, we found the analysis complicated by the less than complete Pierce County property records and the fact that many local title companies had been merged or acquired by successor companies over time. In checking with current property owners, it became clear that many of them had misplaced their title insurance policies. Further, the title companies were not anxious to provide us with information on the extent of their exposure.

During March 1985 we met with some of the title company officers in order to begin dealing with them directly. This served to remove their local counsel from the awkward position of being in the middle. It also allowed community leaders to address what they considered to be the significant exposure of the title companies and their view that the title companies had

a responsibility to participate, and to communicate the political necessity for significant contributions from the title companies as a necessary condition to obtaining local and State funding.

In order to raise the intensity of the issue with the title companies, a legal research paper was prepared on their potential liability if they failed to participate in a bona fide settlement. In addition, a number of demand letters from their insureds were sent to the companies following an informal survey of many of the large property owners affected by the claims.

In summary, the title companies were concerned about becoming the "out-of-town" deep pockets, and the local public and private leaders were concerned that the title companies would contribute little or nothing to a settlement. The relationships between the title companies and the other participants were guarded and difficult until the very end of the process. This would be the first of a number of occasions on which we would work to improve their participation.

State Participation

In addition to the title companies, there was a significant question as to the nature and extent of participation by the State of Washington. Governor Gardner had continued Governor Spellman's support of the process. But we now needed to move from support of the process to some determination about contributions to the settlement itself.

The Speaker of the House, the Senate Majority Leader and other State officials had been briefed in January and February. After the exchange of offers in early March and the trip to Washington D.C., there were additional meetings and briefings of State executive and legislative officials.

In addition to determining what the level of the State's contribution would be, a heated controversy also arose surrounding the potential transfer of the Washington State Game Department's Clark's Creek Hatchery to the Tribe. Built in 1948, the hatchery had a very good source of water, but the facility had not been fully utilized due to Game Department financial limitations. In addition, many of the steelhead raised in the hatchery were released in other rivers in western Washington rather than in the Puyallup River. Therefore, some Tribal members saw the opportunity to more fully utilize the available water to increase production at the site, and increase the number of releases into the Puyallup system itself.

At this time, the Department of Game did not report directly to the Governor, but instead was subject to the direction of the Washington State Game Commission. While the Game Department had a staff member participating in the State Staff Work Group, apparently the potential transfer of the hatchery did not become known to the top agency officials or Game Commissioners until March 1985. Suddenly this neglected facility was seen as one of the most valuable fish rearing locations in western Washington. Legislators representing the area where the hatchery was located began criticizing the negotiations and the potential transfer of the hatchery. One legislator said, "giving up the hatchery, operated in a neighborhood setting, might cause some 'concern and commotion' in Puyallup."²

Meetings were held with the affected legislators, top level Game Department officials and Game Commission members. On April 1, 1985, the Game Commission instructed its staff

² Pierce County Herald; March 7, 1985.

to "drive a hard bargain for its Puyallup Hatchery... but the Department would participate in good faith in the talks."³ The good news was that after considerable effort, the hatchery was potentially available. The bad news was that the Game Department staff now wanted a replacement facility estimated to cost \$4.4 million which was approximately \$1.2 million more than the total State General Fund cash contribution under discussion for the \$50 million settlement. In short, we had an opportunity we could not afford.

To further complicate the issues at the State level, some members of the Tribe sent various private messages during this time that many members would consider settling in the \$40-\$50 million range if the settlement also provided the ability for the Tribe or its members to sell liquor, cigarettes and other items without the requirement to pay State taxes, and if the Tribe gained the authority to conduct gambling operations without State interference. We knew this would be extremely controversial both at the State and local levels, but agreed to pursue it as at least one possible way of bridging the gap between our offer and the Tribe's offer. While we had told the Tribal representatives that even raising these issues at the State level might damage our effort, we hoped that we could use it to demonstrate to key State officials both the difficulty of the issues we were dealing with and the need for State financial participation if they were unwilling to make any of the tax or regulatory changes desired by the Tribe.

On April 11, the Governor appointed Dick Thompson, Director of the Department of Community Development, to be his representative to the negotiations. At the same time, State Representative Dan Grimm of Puyallup was criticizing the non-Indian negotiators for not involving legislators in the negotiations. The taxation issue and the State's refusal to discuss it had jeopardized the negotiations from the Tribal perspective. The State's position was that the taxation issue had already been resolved by the Courts. "Grimm said he wonders how the legislature can be accused of breaking up talks when non-Indian negotiators had kept legislators only superficially apprised of them," and Grimm further said that he had to look out for his constituency which did not want the Puyallup Trout Hatchery transferred to the Tribe.⁴

The perception of the Negotiating Team and staff was that extensive efforts had been made to inform and work with State staff and elected officials. However, it was clear that additional efforts would be required. This led to a series of meetings by the non-Indian Negotiating Team, staff, and Congressman Dicks with various legislative leaders from Pierce County.

In an unexpectedly strange way, our efforts were somewhat hampered at the State level by the fact that the Governor, Speaker of the House, Senate Majority Leader, Chairman of the House Transportation Committee and Chairman of the House Ways and Means Committee all came from Pierce County. On the surface this would appear to have been an advantage in pursuing State participation in a settlement. However, this was not the case in part because the State was going through some financial difficulties and the leadership from Pierce County did not want to be accused of favoring their area while cutting other programs. Nor did they want to fail on something of importance to their community during these difficult budget times. In addition, certain controversial aspects of a potential settlement raised constituent conflicts in their home districts, while issues of taxation raised

³ News Tribune; April 2, 1985.

⁴ Pierce County Herald; April 11, 1985.

controversies within the Legislature in Olympia. Finally, election year politics in Pierce County were quite intense, and the fact that certain elected officials were prominent in this effort caused some other elected officials to be less than helpful.

Perhaps the intensity and tension at this point are best conveyed by what occurred at a meeting between the Speaker of the House, Congressman Dicks, Jim Waldo and various staff members. After a briefing on the status of the effort and the issues, the Speaker was strongly pressed to be of active assistance in securing State participation. There followed an extended period of what diplomats describe as "open and candid conversation." Dan Grimm sat in a chair throwing a pen up in the air and catching it while saying, "let them (the Tribe) litigate." The Speaker then terminated the meeting and literally threw the book, his briefing book on the negotiations, at Waldo while saying it was time for them to leave his office. Fortunately, Representative Joe King became Speaker during our second effort and was of significant help in our final efforts. While communication between the local community and the State elected officials gradually improved from this low point, the State did not participate in the proposed settlement reached in September 1985.

Private Sector Participation

Affected property owners and businesses were the other major source of contributions to the proposed settlement. This sector included not only property owners directly affected by the Tribal claims, but also utilities with facilities which were potentially affected, and businesses which were dependent upon the economic vitality of the area.

During this time period, major efforts were made to brief business groups, owners of former tidelands, and utilities. This was the first time that many of them realized the potential impact of the Tribal claims on both the larger community and on their operations in particular.

The most common response was that these issues should get resolved and that the federal and State government should pay for a settlement since all real estate titles to the properties in question began with either a federal grant or State sale of property. Next in line would be the title companies, and then the Port and other local governments. Their perspective was that they had purchased their property and developed their businesses without any knowledge of Tribal claims to the land or to a continuing reservation subjecting them to Tribal jurisdiction.

For those few companies or individuals who perceived a need for or benefit from their contributing to a settlement, there were a wide variety of views on how that should be accomplished in a fair, equitable manner. For example, should the standard be the number of acres of land affected by the claims? Should contributions be based on the current improved value of the property, or based on the size and financial resources of the company or property owner? These questions of how to allocate contributions equitably continued throughout this effort and would all come into play when it was finally time to raise the private sector contributions in late 1989 and early 1990.

The non-Indian negotiators had the unenviable job of convincing them that the federal government would probably contribute no more than half of the settlement; that the State of Washington might not participate at all; and that the title companies would probably participate, but only to a limited degree. The Port and other local governments would carry their fair share and perhaps a little more. But without contributions from property owners, utilities and local businesses, the local governments did not see where they could find sufficient resources to implement a settlement with the Tribe.

During this period, while we were delivering these rather unpopular assessments, we were told that we had not pushed the State, the federal government and the title companies hard enough.

By late spring of '85, all of the potential contributors believed that a settlement was desirable, but felt that others should be paying most if not all of the costs for such a settlement. Because we were pushing each group of potential contributors as hard as we could, they each believed that we were unfairly pressing them and not doing enough to obtain commitments from others.

In addition, all of those groups were beginning to question whether the Tribe would ever agree to a reasonable settlement which had any chance of being funded.

It became imperative to secure an agreement with the Tribe while at the same time making educated probability judgments on what the potential sources of contributions would be, without having specific commitments at the time of finalizing a proposed settlement.

I'm from the Federal Government - I'm here to help

As a result of our negotiations in Washington D.C., the Acting Assistant Secretary for Indian Affairs, John Fritz, and two Assistant Solicitors, Michael Cox and Tim Vollman, came to Tacoma in the third week of March 1985 to meet separately with State officials, the Tribal representatives, and representatives of the local governments and private landowners. They were also scheduled to meet jointly with the two negotiating teams.

Prior to their arrival we informed them that it was of crucial importance for them to address not only what the Department of Interior (DOI) was prepared to do, but also to address what a fair and reasonable settlement should be from their perspective. If they believed we should do more, then we needed to hear that. If the Tribe needed to understand that they would get less than they wanted, then the Tribe needed to hear that. If participation by the State was essential from the federal perspective, then the Governor needed to hear that. In summary, we needed someone from the outside to move all of the parties closer together.

Mr. Fritz first met with the non-Indian Steering Committee on a Sunday evening and informed them that we had put forward a very good offer of settlement, that many of the Tribe's claims were of a questionable nature, and that the Department of Interior would urge the State to be a participant because the DOI could not envision a settlement without the State's participation.

Mr. Fritz then met with the Governor and certain other State officials and suggested that State participation would be desirable if the State decided that this was a worthwhile activity. The meeting was such a "non-event" with such a wishy-washy message that the Governor's staff called after the meeting to find out why Mr. Fritz had wanted to meet with the Governor, since there was apparently nothing of significance to talk about at this time.

Mr. Fritz then met with the Tribal Council and staff. Based on what he had said to the Steering Committee on Sunday, we expected that he would communicate to the Tribe the DOI's assessment of the limited value of the Tribal land claims, and the limited resources available to fund Indian claims settlements.

The next morning we were scheduled for a joint meeting of the two negotiating teams and the federal representatives. Just prior to the meeting, John Bell and Jim Waldo compared notes on what had occurred over the past two days. Imagine our surprise when we learned

that Fritz had told the Tribal Council what a strong position they had and that they should not "sell out cheap."

Both lead negotiators immediately recognized the significant damage that Fritz had caused. The State felt no urgency or requirement to participate. The Tribal Councilmembers felt fully justified in holding their position. The Steering Committee believed that the Tribe's claims lacked merit, and that we had already made a very generous offer.

In the joint meeting that followed between the Tribal Negotiator, the non-Indian Negotiating Team and Interior, the parties expressed their concerns about Interior's assessment and communication of the value and validity of the legal claims to each side. The federal representatives suggested there may have been some statements regarding preliminary DOI assessments. However, they had not had ample time to review the claims and would be prepared to make an assessment within the next week or two. Fritz explained that the federal government had not agreed to come to the table, but rather that they were prepared to assist with the negotiations and facilitate between the principals and the Tribe.

The Tribal representatives were anxious to hear DOI's assessment of their legal claims and the non-Indians were anxious to know what the federal dollar match would be in order to complete a settlement package. Clearly DOI was not prepared to make those assessments and we were not anxious to utilize their "facilitation services" in the future. Although we didn't fully realize it at the time, these actions by the Assistant Secretary would set us back at least six months and make it extremely difficult for either side to move.

Following DOI's visit, we concluded we need to proceed without Interior's assessment in order to get the job done in a timely fashion.

Negotiations with the Tribe

Intensified negotiations with the Tribal representatives consumed most of April, May and June of '85. Joint work groups pursued particular issues such as fisheries enhancement, Tribal employment, shipping and navigation, law enforcement, etc. The more contentious issues were addressed by the two principal negotiating teams in what were long, difficult meetings often stretching late into the evening. During this time two pivotal concepts emerged. The first was the provision of an income stream to the Tribe which would allow the Tribe to relinquish any potential right to tax the property of non-Tribal members or the activities thereon.

The second concept was the linking of the funding for the Blair Navigation Improvement Project with the Puyallup Settlement. This project had been authorized by Congress but no funding had been appropriated. The Tribal representatives had insisted from the beginning that the settlement had to include a deep-water port site on the Blair Waterway. The Port Commissioners were equally adamant that they would not transfer any of the Port's Blair property to the Tribe. This linkage of the Blair Waterway Navigation Project with the Tribal settlement was one of the key changes that made an agreement possible. The idea came up at a negotiation session with the Tribe. The next day, Jim Waldo tried the idea out on John McCarthy, then Chairman of the Port Commission, and Larry Killeen, Executive Director of the Port. They immediately saw the opportunity and agreed to take the issue to the full Commission. By including the funding for the Blair project as part of a package, the Commissioners were now prepared to increase the Port's contribution of land and cash to a settlement and most importantly to include property for a deep-water shipping terminal on the Blair. For the first time we were out of a zero sum game.

By the end of March and through early April the non-Indian Steering Committee began to contemplate either a negotiated settlement or a final offer to the Tribe in the range of \$95-100 million. We also assumed that the State might contribute in the range of \$5-10 million and that the local governments, private property owners and title companies would contribute approximately \$40 million. The significant increase in the local category largely reflected the increased contributions of property by the Port of Tacoma.

While this significant change in scope was primarily prompted by the two concepts described above, it also reflected the response of the Steering Committee to a series of questions presented to them by the Committee staff on April 1 regarding the value to be placed on different aspects of a proposed settlement, or value of the claims if unresolved.

April 1, 1985

QUESTIONS FOR STRATEGY COMMITTEE

1. What value do you place on the immediate and permanent relinquishment of the Tribe's jurisdictional claims over non-Indians and non-Indians' land?
2. What value do you place on a system which will constrain the Tribe's future use of trust or quasi-trust lands?
3. What value do you place on the land claims at issue?
4. What value do you place on resolving the Tribe's land claims now, rather than three to ten years later?
 - a. Economic impacts
 - b. Certainty
 - c. Time and expense of litigation
5. What value do you place on the Tribe's acceptance of a value base rather than an area base for fisheries mitigation, and the establishment of a binding arbitration process to resolve disputes?
6. What is the value of a comprehensive fisheries enhancement program to the non-Indian community?
7. What is the value to the non-Indian community of \$50-60 million capital investment by the Federal government?
8. What is the economic impact of having the Blair bridge project built now, rather than five to fifteen years later?
 - a. Jobs
 - b. Land values
 - c. Tax base
 - d. Investments
9. What is it worth to the title companies to participate in a comprehensive, unique settlement, versus the risk of \$10 to 12 million exposure in Sec. 34 Non-Ashton tidelands; riverbed; litigation costs; marginal exposure in other claims; litigation expenses?

By the end of April, 1985 it appeared that the State of Washington would not be a participant in the settlement and that, while the Tribal representatives and the local community had each moved a long way from their initial positions, it did not seem that we were going to reach agreement. Consequently, on May 3, the non-Indian Steering Committee directed the staff to prepare a "final offer" of \$103.8 million, including the Blair Waterway Navigation project, for consideration by the Steering Committee within two weeks. We were also instructed to communicate this fact to the Tribal representatives to see if they would respond on some of the outstanding issues while we prepared our "final offer".

The Tribal Negotiating Team did respond with a memorandum on May 16, the same day as the non-Indian Steering Committee meeting. This communication from the Tribal representatives set forth substantial areas of agreement on the economic aspects of the proposed settlement. The focus of the non-Indian Steering Committee then shifted from a final best offer to a discussion of how an offer potentially acceptable to the Tribe could be funded. While there was substantial agreement on the overall size and composition of a proposed settlement, there were several major issues remaining. These included composition of a portion of the lands package, the proposed filling of the Port's Milwaukee Waterway, and some aspects of the jurisdictional package.

During the rest of May, our efforts continued to focus on reaching closure with the Tribal representatives on the remaining issues and to pin down the necessary financial commitments to fund the settlement. There was considerable communication between the local governments and private property owners on one side and the title companies on the other side. The time, expense and stress of this effort was beginning to wear on the non-Indian Steering Committee members, the Negotiating Team and staff, and on many of the local elected officials.

Local Government's Position

At the end of May, the local governments (three cities, County and Port) asked to have a separate series of meetings to help them further assess what each of them would contribute to a settlement, what arrangements would be necessary to finance their share of the settlement; and to determine how they would respond to the title companies, other private parties and the State of Washington. They also wanted to arrange briefings for each of their Councils and the Port Commission.

Some of the local governments also had difficulty internally in obtaining and allocating their financial support and other assistance. For example, the City of Tacoma's Light Division, Water Division and Municipal Belt Line arguably had no involvement in the litigation or claims dispute. However, they were all requested to relocate their facilities and provide some financial contribution.

A local government group was organized and met the first week in June. At this time, the local governments decided to shift gears and focus primarily on preparing a formal offer to the Tribe while working with private, State and federal representatives on the nature of the offer and the sources of contributions. A schedule was adopted which would complete all the necessary steps by the middle to the end of July.

Elements of a Settlement Package

On June 11, 1985, the non-Indian Negotiating Team presented the Tribal Negotiating Team with a detailed memorandum which summarized our position on the major elements of a settlement package.

In addition to presenting the major elements of a settlement, the memorandum asked the Tribal Negotiating Team, and/or the Tribal Council, to communicate whether this was a package they would recommend to Tribal members. If not, then we offered to discuss the elements of the proposed package with the Tribal Negotiating Team. If it appeared agreement was not possible, then we committed to preparing an offer to be conveyed to the Tribe in mid-July. Finally, the memorandum informed the Tribal representatives that we did not then have the necessary commitments to fund the fifty percent non-federal share and therefore such an offer would be conditioned on the participation of the federal government and other potential contributors. We believed the resources could not be assembled until we could demonstrate that we had an agreement with the Tribe.

In the next week, after several long sessions with the Tribal representatives, we developed a very specific assessment of the Tribal response to our proposal which categorized the issues by their importance to the Tribe and the degree of difficulty in addressing Tribal concerns.

The principal areas of disagreement included: issues of governmental jurisdiction; what portions of the Milwaukee Waterway would be filled, and the mitigation for such an action; the amount of the Tribal Trust Fund, certain future fisheries mitigation requirements; the Tribe's demand for mitigation at Puget Power's Electron Dam; and a number of important but less controversial issues. The other major issue we struggled with was whether or not the settlement would address all former riverbed claims or all except properties of certain large landowners, utilities and the State of Washington if they were not significant contributors to the settlement. The Tribal representatives wanted to leave them out for later legal action and as a way to decrease what the Tribe was giving up. There were mixed views on the non-Indian Steering Committee regarding this issue. Many felt that if these entities did not make significant contributions to a settlement, then they should not benefit from one. Other Steering Committee members felt that these roads and utilities provided vital services to local residents and businesses, and therefore needed to be part of the package. Another consideration was the potential impact on the level of federal funding if too many claims were left unresolved.

During the same period we continued to work with the title companies, the State and other private parties to obtain commitments for a settlement.

On a parallel track, the non-Indian group established task groups utilizing local government staffs and attorneys to address particular issues involving affected private and public entities and a wide variety of the remaining technical issues. Through the latter part of June we were back into 18 hour work days. During this period, the Steering Committee continued to provide direction and communication to the work teams and to various State and federal officials.

On June 28, negotiations with the Tribal representatives became deadlocked over the jurisdictional issues and the filling of the Milwaukee Waterway.

The local governments had proposed that the Tribe would make land use decisions on trust lands and that non-Indians would make land use decisions on non-trust lands. Further, an arbitration process would be set up to allow an appeal on land use decisions by one party that adversely impacted the other side. The Tribe viewed this proposal as a blanket waiver

of its jurisdiction over non-Indian activities within "its" reservation. Further, because Tribal members owned very little land they believed that allowing only limited activities on those lands would disproportionately impact the Tribe and its members. They did not want their potential developments on lands obtained in a settlement constrained by non-Indian oversight.

In a letter from John Bell, Puyallup Tribal Attorney, the Tribe offered a counter proposal.

"The Tribe would agree not to exercise jurisdiction over non-Indians on non-Indian land in the following subject areas: taxation; criminal prosecution; business licensing; motor vehicles and traffic laws; health and safety laws (except where an activity has an effect on Indian property); building codes; fire codes; agricultural regulation; judicial jurisdiction in cases where none of the parties are Indian....The Tribe would retain its authority in subject areas not included on the list. In the area of land use, the Tribe would, if the non-Indian side desired, formalize the procedure for the Tribe's participation in non-Indian land use decisions...Their would be no additional non-Indian control over Tribal land use decisions other than mechanisms which now exist."

The need for certainty was one of the prime benefits of the participating cities and the County in reaching a settlement with the Tribe. The local governments did not agree with the Tribe's interpretation of recent case law relating to other Indian reservations, and in fact, did not agree with the reservation boundaries claimed by the Tribe. The non-Indians primary disagreement with the Tribe was the Tribe's proposed scope and range of Tribal jurisdiction and control of non-Indian activities. Environmental jurisdiction such as air and waste quality were major concerns.

While efforts to resolve these issues continued, the non-Indian Steering Committee directed the staff to complete a proposed settlement agreement by July 17, which would then be reviewed by the Steering Committee and communicated to the Tribal representatives after Steering Committee approval. On July 17, the Steering Committee reviewed the draft agreement and directed the staff to make certain changes.

The non-Indian Negotiating Team communicated two drafts of the jurisdictional section to the Tribal representatives during the last week of July. On August 2, the Tribal Council responded that our jurisdictional proposals were unacceptable, that they were still willing to talk further, that if an offer came with these provisions they would recommend a "no" vote to members, and that they were evaluating various options "for protection and enforcement of the Tribe's rights."⁵ On August 6, the Steering Committee met to consider the Tribal response and proposed alternatives to the jurisdictional issues. This was one of our most difficult and divided meetings, with strong proponents for very restrictive jurisdictional language and equally strong proponents for providing future flexibility in jurisdiction. The

⁵ Memorandum from Puyallup Tribal Council to non-Indian Steering Committee August 2, 1985.

non-Indian Steering Committee was unable to agree on how to proceed and decided to meet again in two days, with staff preparing some additional language for consideration.

On August 8, the non-Indian Steering Committee finalized the jurisdictional decisions, boundary issues and fisheries mitigation issues. On the following day, the Tribe's lead negotiator, John Bell, was briefed on the elements of our offer and the schedule. His assessment was that the Tribe would not accept the offer, primarily because of the jurisdictional issues and our position on filling the Milwaukee Waterway. Further, he indicated that the Tribe would be sending letters to all former Puyallup riverbed landowners informing them that the Tribe owned the former riverbed and that the Tribe would be prepared to consider settlement before proceeding to litigation.

On August 14, the non-Indian offer of settlement was formally communicated to the Tribal representatives. The same day, the Puyallup Tribal Council sent the letter to the former riverbed landowners explaining the Tribe owned their land. On August 16, the non-Indian offer became public. On August 21, the Tribe communicated its rejection of the offer and described the areas of agreement and disagreement. In addition, the Tribal representatives proposed that one final effort be made to reach agreement, first on the critical areas of difference and, if that could be achieved, then agreement on a number of technical details. The general tone of the Tribal response was constructive and specific. On August 21, Frank Wright, Chairman of the Puyallup Tribal Council, asked Congressman Dicks to bring the two parties together and act as a "referee".

On August 23, the non-Indian Steering Committee met to consider the Tribe's response. After extensive and heated discussion, the decision was made to make one last attempt to reach a negotiated agreement. In the following week there were work sessions on jurisdictional issues and with the Port Commissioners and staff on a number of Port-related issues.

As a result of the Tribal letter of August 14, homeowners, farmers and small business owners who received the letters were concerned, angry and upset about their personal situations. Our side organized an informational meeting at Fife High School on August 28, which approximately 300 landowners attended. We prepared an information sheet and suggested they form an association to participate in our final efforts. They did take such action, and thereafter were represented by Dick Carkner, President of the Puyallup Riverbed Owners' Association. Additionally, as a result of the letter, the State legislators from the affected area now wanted a meeting and briefing on the status of the negotiations.

To reach an overall settlement, Congressman Dicks set up a two-day meeting on September 3 and 4 as the final effort. He urged both sides to dispose of as many issues as possible prior to this session. Dicks also met with each side to better understand the issues and to push them to develop acceptable alternatives. At this point, we had nearly exhausted everyone's patience and willingness to move. However, the efforts by Congressman Dicks to have both sides reflect on what they had obtained and upon the consequences of no settlement began to have an effect. Clearly, none of the participants wanted to tell the Congressman "no" or to be responsible for having stopped this effort if an acceptable settlement was still possible.

Due to the critical nature of the upcoming negotiations and the differences and divisions within the non-Indian Steering Committee, we decided to expand the non-Indian Negotiating Team and to have most of the Steering Committee members available for consultation during these negotiations.

In the remaining few days prior to the negotiations, there were continuous meetings, both formal and informal, where participants argued for their view of what should or should not happen in the negotiations. The jockeying for positions was intense as everyone realized the magnitude of the stakes involved in this last effort. The stage was now set for the final negotiations which were to take place at the Palisades Retreat Center located north of the City of Tacoma.

V. TIME FOR A DECISION: UP OR DOWN -- THE PALISADES

As a result of the efforts in the preceding two weeks, the number of key outstanding issues had been narrowed substantially. After caucuses in the morning, the negotiations began in the afternoon. The Tribal Council made it clear that they were serious about reaching an agreement, but could not afford to make mistakes because the Tribe's whole future was riding on these negotiations.

The non-Indian Negotiating Team also communicated a serious commitment to reaching a settlement, but made it clear that they were not prepared to reach agreement if the price were too high. The negotiators then agreed there would be two stages of agreement: an Agreement-in-Principle, and a final settlement with more detailed provisions. The goal of the Palisades effort was to successfully conclude an Agreement-in-Principle.

The negotiators then plunged into the first key issue: the proposal by the Port to fill the Milwaukee Waterway. This man-made waterway lay in the middle of the Sea-Land Terminal. Sea-Land, one of the world's largest container shipping lines, leases the terminal from the Port. The Port had promised Sea-Land that the waterway would be filled to create a larger, more useable terminal area, using dredge material from the proposed Blair Waterway project. For both these reasons, the Port placed a high priority on this issue. The Tribe placed a high priority on the fisheries value of the Milwaukee, due to the limited inter-tidal habitat available in Commencement Bay and the waterway's proximity to the mouth of the Puyallup River.

The Port's plan called for filling the entire waterway, with an additional fill in front of the waterway. The Tribal representatives' initial position was no change or fill in the waterway should be allowed. During the first session, the Port moved to proposing an 80 percent fill and the Tribal representatives moved to proposing a 50 percent fill with mitigation and enhancement. While no agreement was reached at this time on the issue, both sides had made significant movement.

The negotiations then shifted to the issues of governmental jurisdiction. The Tribal representatives communicated their opposition to the application of State and local laws on trust lands. However, they indicated a willingness to address the concern about "sham transactions" which could place land in trust with the primary purpose of non-Indian businesses avoiding State and local regulations.

The Tribal representatives then addressed potential Tribal jurisdiction over non-Indian land and communicated their priority concerns:

1. Indian preference in employment, Tribal Employment Rights Ordinance (TERO),
2. Ability to protect the environment through federal laws,
3. Protection of the provisions of the Indian Child Welfare Act,
4. Impact of non-Indian activities on Indian owned land, particularly residential property.

The Tribal representatives also brought up the issue of the geographic area to be used for jurisdictional boundaries. They proposed using the 1873 survey with modifications.

The non-Indian Negotiating Team responded by agreeing that the issue of "sham transactions" could be a way to address a number of local concerns. They also indicated that developing a system to address impacts on property and encouraging compatibility of uses was a good concept. This could be accomplished through developing a procedure for Tribal involvement and input in the local government decision-making process regarding non-trust lands, and local government participation in the Tribal decision-making process regarding trust lands. After considerable discussion it became clear that these two concepts would serve to address two of the key jurisdictional issues facing the parties.

The negotiators then moved to property-related issues. The Port had proposed including some of its property at Frederickson, an industrial park 13 miles south of the Port, with an estimated value of \$2.3 million. The Tribal representatives did not want the property. Instead, they proposed that the Port sell the property within an 18-month period and that the Tribe be guaranteed the \$2.3 million as a result of the sale. The Port agreed to take this proposal under consideration.

The Tribal representatives then raised a number of infrastructure concerns regarding other parcels of property. These included the relocation of power lines, road and rail access, availability and location of water and sewer utilities and the cost of filling a graving dock on one of the Port properties. These issues involved costs of several million dollars. In addition, they raised the issue of switching fees to be charged by the Tacoma-owned Beltline railroad.

After covering a number of other property-related issues, the negotiations shifted to the amount and structure of the permanent Tribal Trust Fund, and the nature and duration of contracting and purchasing goals which the local governments would implement to help start new Tribal businesses. It quickly became clear that while there were significant differences on these two issues, they could be resolved if some of the other more contentious issues were taken care of.

Two other major stumbling blocks were the Tribal negotiators' insistence on excluding the State of Washington and the major utilities crossing the former riverbed from the settlement of Tribal land claims, the Tribe wanted to retain these claims for future negotiation. In addition, the resolution of the fisheries issues relating to the operation of the Puget Sound Power and Light Company's Electron Dam remained a difficult issue throughout the negotiations.

The negotiations continued intensively until the early morning hours with alternating negotiating sessions and caucuses, leaving little time for meals, breaks or sleep. During these first four rounds of negotiations, the parties began to find potential areas of accommodation on many issues. However, there were still very significant differences on a number of critical issues.

On the morning of September 4, the parties first caucused separately and then met to exchange views on the entire range of issues. From the initial exchange it became clear that a number of issues such as the switching fees, certain navigational issues, the relocation of some of the utilities, the trust fund and some of the financial issues were resolved. The parties then broke for another caucus regarding some issues that appeared near resolution, but needed some additional work. During this caucus there were extensive negotiations between the non-Indian local governments regarding the various property and utility cost-share issues.

Following these caucuses, some of the remaining issues were resolved and the list of outstanding unresolved issues was substantially narrowed. The principal remaining issues

were those related to the Milwaukee Waterway, the standards for land use review, the TERO jobs issue, Puget's dam and the remaining property and utility issues.

It would take three additional rounds of negotiation, significant additional negotiations between the local governments and skillful shuttle diplomacy by Congressman Dicks during the various sessions to reach agreement. Finally it happened. An agreement was finalized late on the evening of September 4 and early morning of September 5. The agreement contained difficult concessions by both sides and creative resolution of a number of issues that had appeared irresolvable only a few days earlier.

The agreement did not resolve the issues between the Puyallup Tribe and the State of Washington. The State was not willing to participate at this time, the non-State parties were unwilling to provide the State's share of a settlement, and the Tribe was unwilling to release its claims against the State without receiving something for them. The Puget Power Electron Dam issue was also left unresolved. A number of important but less significant implementation issues were left to be refined or addressed during the preparation of the Agreement-in-Principle document and the proposed final settlement documents.

This agreement was the culmination of 15 months of intense effort and, notwithstanding some of the problems left unresolved, represented a historic achievement. When viewed in the context of the previous years of litigation and conflict between the Tribe and the other participants to the negotiations, it is even more remarkable.

Highlights of Agreement-In-Principle

September 1985

\$34 million in land to the Puyallup Tribe for commercial, industrial, housing and cultural/recreational purposes.

\$6 million to the Puyallup Tribe for fisheries enhancement programs.

\$4 million for a tribal economic development loan fund.

\$3 million for tribal economic planning and technical assistance grants.

\$60 million in Federal loan guarantees for tribal businesses.

\$18 million for a Puyallup Tribal Trust Fund to provide revenue to the Tribe and its members.

Jobs for tribal members in the private sector.

A three-year, \$840,000 Tribal Training and Job Placement Program.

\$27 million for a new Blair Bridge.

The Puyallup Tribe would relinquish all land claims except former Puyallup Riverbed claims against the State of Washington.

The Puyallup Tribe would agree not to assert governmental control over non-Indian lands, businesses, and homeowners, such as tribal taxes, business regulation, etc. The Tribe would retain its authority in the fisheries and environmental areas.

Provision for the Tribe and its members to place lands in trust status in the future.

A system which would provide for future development and protection of the fisheries resource.

Provisions for developing agreements on navigational conflicts between commercial vessel traffic and tribal fishing boats; law enforcement; and future flood control programs compatible with fisheries needs.

A system for consultation and dispute resolution as to future land use conflicts.

A commitment by the City of Tacoma, Port of Tacoma and Pierce County to provide contracting goals for purchases of goods and services from new tribal businesses over a seven year period.

Agreement between the Tribe and the local governments on provision of future governmental services to the area.

Agreements as to specific future Port and marine-related developments and the fisheries mitigation and enhancement measures to be undertaken to ensure no harm to the fisheries resource.

**VI. CAN YOU KEEP THE AGREEMENT ONCE YOU HAVE IT?
DRAFTING, FILLING THE GAPS, RATIFYING
THE AGREEMENT, THE TRIBAL VOTE**

On September 10, there was a joint announcement of the major elements contained in the agreement reached by the negotiators at Palisades. The following month was devoted to finalizing the Agreement-in-Principle which went through more than nine complete drafts.

Task groups were organized to address specific issues needing further definition. Due to the importance of the decisions, the technical nature of many of the issues, and the lack of trust resulting from the long history of conflict between the parties, the Tribal Council felt that any loose ends could jeopardize the agreement. Between October 1 and November 1, briefings and informational meetings were held by all the participating local governments, the private sector and the Puyallup Tribe. At the same time, the non-Indian local governments were concerned about their authority to legally enter into an agreement with the Tribe, given the State was not participating. Consequently, the local governments worked with State Representative Art Wang in developing legislation to authorize their participation in the settlement. Action on this legislative effort was later delayed by the local government parties pending the results of the Tribal membership vote. During this period, the Agreement-in-Principle was approved by all the participating local governments, the Tribal Council and the Commencement Bay Tideland Owners Committee.

Following approval of the Agreement-in-Principle, the final settlement document and technical documents were drafted utilizing task groups and joint drafting teams during November and December. The Tribal Council wanted all these documents completed before a vote of the Members. During this same period of time, representatives of the Tribe and the local community met with Department of Interior attorneys to begin drafting federal legislation necessary to implement the proposed settlement. We were at risk of facing a year of inaction in Congress if we did not get moving. On January 9, 1986, the Proposed Agreement and Technical Documents were forwarded to Tribal members prior to a vote scheduled for February 8.

During the fall and early winter, the proposed settlement was criticized by some in the local community due to the inclusion of certain pieces of residential property, the unresolved State and tribal issues, and because the settlement provided too much to the Puyallup Indians. Members of the East Side Improvement Group, a neighborhood organization, were particularly opposed to the inclusion of 40 acres of Swan Creek Park in the Settlement, proposed as a residential development for Tribal members.

On the Tribal side, the proposed settlement was attacked by Russell Means a co-founder of the American Indian Movement (AIM). Vernon Bellecourt, AIM leader, said: "Puyallup Indians will compromise their Tribal Sovereignty if they ratify a tentative agreement with non-Indian property holders..."⁶ It was also opposed by Bob Satiacum, a former Tribal Chairman who still had significant influence with groups within the Tribe. In a January 23, 1986 article written by Jack Pyle of The Tacoma News Tribune, Jack quoted portions of a letter sent to the Puyallup Tribal Council from Bob Satiacum stating: "...the proposed

⁶ TNT, Tuesday, October 15, 1985, Puyallup land settlement criticized by AIM leader, by Nancy Butterfield

agreement is a total sellout of the birthright of our people, present and future generations alike... If our Tribal Council accepts these preposterous proposals, they will be judged as co-conspirators in the extinction of our people by future generations." Finally, a well-organized and well-financed opposition was conducted by some of the small business owners within the Tribe. In addition, opposition developed from Puyallup members living outside the greater Tacoma area because the proposed settlement did not provide them with any direct benefits, and in some cases they were skeptical about any future benefits. In fact, some Puyallup members said they were going to vote against the package in order to send a message to the Tribal Council that it could not ignore or take for granted their needs and their votes. The Puyallup Tribe had a history of internal political conflicts, volatile council elections and frequent recall efforts directed towards Tribal Councilmembers. As Puyallup Councilwoman Connie McCloud said in an article written by Nancy Butterfield of The News Tribune the day before the Tribal vote: "Major decisions affecting the tribe in the past have always been made by the Bureau (of Indian Affairs), or a federal judge, or Congress, but this time, it's in our hands."

From the outside, it was clear that the proposed settlement was becoming interwoven with various internal political forces, but it was unclear exactly how these interactions would affect the Tribal vote. Many of these questions were answered February 8, 1986, when Tribal members rejected the agreement by a vote of 236-158.

We concluded there were four major reasons for the "no" vote: (1) The complexity of the proposed settlement; (2) the relatively limited amount of time available for its consideration by the Tribal members; (3) the absence of any direct benefit for members outside Pierce County; and (4) members residing in the area but not actively involved with the Tribe. These were all significant factors.

The opposition by Satiacum and others also focused on the absence of the State and the distrust and antipathy of many Tribal members towards the local governments and business of the area, in effect saying "if all these folks are for this settlement, then it must be a bad deal for the Tribe." The opposition played to the years of pent-up Tribal anger and played on the doubts of the Tribal members to the point where many members said -- "I don't know, therefore, I will vote NO."

VII. INTO THE VALLEY OF DESPAIR: A TRIBE IN TURMOIL

Keeping the Proposed Agreement on the Table

Our first reaction was one of disbelief. It was hard for anyone outside of the Puyallup Tribe to understand how the Tribal members could turn down such an offer, particularly by a margin of 236-158. It was hard to believe that all of the hard work, pain and suffering on both sides of the table appeared to be for naught. It was, however, a day of vindication for those who believed and had argued that it would be impossible to reach an agreement with the Puyallup Tribe.

On Sunday and Monday following the vote, there were conversations among various Tribal Council members, local officials and the lead negotiators. On Tuesday February 10, the non-Indian Steering Committee decided to keep the settlement offer open while the Tribal leaders polled a cross-section of Tribal members regarding the reasons for the no vote. Ten days later attorneys for the Port, the title companies and potential private property-owner interveners were instructed to begin preparing contingency plans for legal action utilizing the pending Tribal lawsuit on the former tidelands. A week later, a petition was circulated by Tribal members directing the Tribal Council to work with interested members of the Tribe to make changes in the proposed agreement and resubmit a new package for a referendum vote.

On April 2, the non-Indian Steering Committee decided that discovery on the litigation should begin if the Tribe did not respond to the January 9 settlement proposal by April 30. In mid-April the Tribal Council was presented with a referendum petition directing the Council to make changes in the proposed settlement and submit it to the Tribal membership for a vote. The referendum was certified as having the necessary 222 valid signatures. In the primary election held April 26 for a Tribal Council position, Connie McCloud, an incumbent Councilmember and member of the Tribal Negotiating Team, was defeated.

The Steering Committee met on April 30 and decided to give the Tribe more time before pursuing litigation. The elected officials from Pierce County raised a number of issues in the proposed settlement which they wished to see changed if the Tribe was going to ask for changes.

A recall petition was filed against Tribal Council Chairman Frank Wright, Jr. On June 22, Chairman Wright was recalled. The status of the agreement remained unchanged through August. In mid-August John Bell, lead attorney for the Tribe and a key figure in reaching agreement at the negotiating table, resigned to take another position. (Bell later resumed the position as Tribal Attorney in mid-1989.) On August 23 Frank Wright was defeated by Bertha Turnipseed in his bid to return to the Tribal Council. The Tribe elected a new Council Chair, Bill Sterud. It was clear that the new Tribal Council and Chair needed some time to decide how to proceed. With the defeat of Connie McCloud and Frank Wright, Jr., both of whom had played leadership roles in the settlement effort, it had become clear that while the settlement effort was of major political importance within the Tribe, there was a high level of dissatisfaction with the product and process of negotiations.

In mid-September, the Tribal Council announced that it wished to deal with individual issues and entities separately. The Tribe also announced it had formed a Tribal "Port Negotiation Committee" with 25 Tribal members to settle the land claims disputes with the Port of Tacoma.

On October 1, Jim Waldo sent a letter to the non-Indian Negotiating Team and Steering Committee recommending that the team be disbanded and trial preparation begin. A copy of this letter was sent to the Tribal Council. After a number of discussions between various Tribal representatives and non-Indian Steering Committee members, the Steering Committee met on November 5 to discuss litigation and negotiation alternatives. These strategy discussions continued until a Steering Committee meeting on November 26. The decisions reached included:

1. lifting the stay on current litigation on Section 34 and proceeding with intervention actions,
2. seeking State legislation for reinsurance,
3. seeking federal legislation to limit sovereign immunity defense,
4. seeking State and federal indemnification policy for Indian land claims, and
5. negotiating a limited settlement for clearing claims on Section 34 tidelands, riverbed, and Port development and other immediate development projects.

In addition, it was agreed that separate, limited negotiations could occur on fisheries issues and jurisdictional issues such as law enforcement and navigation.

In November of 1986, Councilman John Ladenburg was elected Pierce County Prosecutor. This was a very fortunate decision by the voters. The previous prosecutor had been neutral to hostile to the Puyallup Settlement negotiations. With this change, the County Council became much more supportive and active in the process.

In December 1986 and January 1987, work proceeded on preparation for litigation and coordination of motions for intervention in the Section 34 litigation by various governments and private parties. In addition, two bills dealing with the land claims issue were drafted for submittal to the State legislature. One related to State reinsurance of tidelands and riverbeds; the other related to the State affirming title to former tidelands and former riverbed deeds.

Finally, representatives of the Port met with the Tribal Council and agreed to open interim discussions on specific Port development projects, with the understanding that any agreement would be consistent with the Agreement-in-Principle reached in 1985.

This three-pronged strategy of litigation, legislation and targeted negotiations was designed to address the most immediate impacts of no settlement and to build a framework which would accommodate the various needs of the local governments and private property owners.

In February of 1987, Senator Inouye, Chairman of the U.S. Senate Select Committee on Indian Affairs (Senate Select Committee) met separately with representatives of the Puyallup Tribe and the non-Indian Steering Committee. The Senator's visit to Tacoma was part of a tour of the West in order for him to speak with a number of Indian and non-Indian leaders about legislation likely to come before the Senate Select Committee. The Senator was informed by Steering Committee members that the banks wouldn't lend money, people had their life savings tied up in property they couldn't sell and their level of anger was increasing. Jim Waldo, the lead negotiator for the non-Indians was quoted as saying, "governments and property owners still hope the Puyallup's 19th century land claims can be

resolved. But the community is starting to believe we can't work anything out with the Tribe, and we need to go to the federal courts. We're running out of time."⁷

During the 1987 Washington State Legislative Session, significant effort was expended pursuing State legislation. Specifically, legislation was drafted to establish a State reinsurance program to allow title insurance for lands at risk of a land claim by a federally recognized Indian Tribe or one of its members. It was designed to provide title insurance on former riverbed lands, tidelands and submerged lands, including those now filled in, where title insurance companies were refusing coverage due to the Tribal claims.

Again, the State assumed title to these lands at statehood and could be held liable for deeding land to public and private parties it had no right to deed. As mentioned earlier, two recent cases held that former riverbed lands within original Indian reservations were vested in a Tribe rather than the State (Muckleshoot Indian Tribe's claim to the former White Riverbed and the Puyallup's claim to the former Puyallup Riverbed). In addition to the Puyallup claim, three other Indian land claim cases were pending in federal courts in Washington, including the Suquamish Tribe, the Swinomish Tribe and the Kalispel Tribe.

The Pierce County legislators were very supportive of this legislative effort as were other senators and representatives who faced similar claims in their districts. Ray Corpuz of the City of Tacoma and representatives of the private sector, such as Karl Anderson and Dick Carkner, were instrumental in working with the legislators to achieve a successful outcome of this effort. The proposed legislation was modified four times during the session. Ultimately the Legislature appropriated \$4 million which was to be used to either settle the former riverbed claims with the Tribe or to provide a reinsurance fund for the homeowners and farmers affected by the claims.

On March 27, the Port of Tacoma and the Puyallup Tribal Council issued a news release describing their joint effort to resolve several fisheries enhancement and development needs. This effort was designed to address both some immediate needs of the Tribe and the Port and to lay the foundation for further, more comprehensive agreements. The other local governments and private sector participants were very apprehensive about this piecemeal approach, but recognized the Port's need to address certain key development decisions.

Intensive negotiations between the Tribe and Port continued from March through July. By mid-July it appeared that this effort would fail also. At a critical meeting in the Tacoma Dome Hotel, both negotiating teams concluded that they were too far apart to reach agreement on a Port/Tribal package. Just by chance, Randy Harrison, the Tribal Attorney, and Jim Waldo, the lead negotiator for the Port, were the last two members left in the hotel. Their discussions turned to whether anything could be salvaged from this effort. As it turned out, the answer was "yes" and an agreement was reached on July 23, 1987. It allowed development of Terminal 3, extension of the Sea-Land pier, and extension of Pier 7 in exchange for land, cash, fisheries enhancement and other considerations.

In addition, the Tribe and the Port agreed to continue negotiations on the proposed fill of the Milwaukee Waterway and other issues. These negotiations continued through August and culminated in a meeting with Tribal and Port negotiating representatives on September 3. The Tribal representatives proposed resolving the Milwaukee Waterway issue and certain land claims in exchange for approximately 130 acres of land, cash payments, and other

⁷ TNT, February 12, 1987 Tensions rise in Indian Land Use, by Caroline Young.

programs with an estimated value of approximately \$100 million. The Port representatives responded that the proposal was considered "beyond the realm of possibility" and that they saw no productive way to continue trying to solve the Milwaukee Waterway fill issue in isolation.

On September 4, Larry Killeen, Executive Director of the Port, Jim Waldo and Harry Sachse, Washington, D.C. Council for the Tribe, met to explore other options. None of these proved fruitful. In addition, Port Commissioner McCarthy and a number of others, were uneasy about separate Port negotiations with the Tribe. Therefore, in a letter dated September 16, 1987 to Bertha Turnipseed, Chair of the Puyallup Tribal Council, Larry Killeen said,

"We believe it is now time to return to efforts to develop a comprehensive settlement since that seems to be the only way to resolve the issues facing the Puyallup Tribe, the Port of Tacoma and the rest of the Pierce County Community. I propose that we try to accomplish this in the next nine months.

"We have not yet suggested this option to representatives of the public and private entities involved in past negotiations with the Tribe, although we plan to do so early next week. You should be aware that many of the people on our side of the bargaining table have given up hope for the negotiation process and are preparing to go back to court. I do not know if they will agree to the comprehensive settlement option. In addition, there are many who believe the Suquamish decision has significantly improved our legal position since our last settlement offer. We have communicated that time was running out for well over a year, and we may have reached or already passed that point."

On September 18, Ms. Turnipseed responded on behalf of the Tribal Council that the non-Indian Steering Committee should make a proposal to the Tribe.

During this period in August the U.S. District Court ruled against the Suquamish Tribe in a case involving the Tribe's claim of ownership of tidelands. On September 25, the non-Indian Steering Committee sent a letter to the Tribal Council which reiterated a continuing preference for a comprehensive settlement, referenced the recent Suquamish decision, and the mounting frustration with the lack of serious negotiations. On October 8, the Tribal Council indicated a willingness to make one more attempt to negotiate a "broad-based settlement".

VIII. WAR OR PEACE -- LITIGATION OR SETTLEMENT

Court Actions

On September 28, Judge Tanner was asked to act on motions for intervention and a motion to delay the trial date on the Section 34 Tidelands case which was set for February 22, 1988. On September 30, defendants filed a motion with the Chief Judge of the Western District of Washington requesting Judge Tanner's removal from the case.

On October 1, Chief Judge Barbara Rothstein granted the defense request. On October 2, Judge Tanner lifted the stay order, denied motions to intervene and denied the motion to continue the trial date. On October 13, defendants, joined by applicants for intervention, moved to vacate Tanner's October 2 order.

On October 16, Judge Tanner ordered a hearing convened in the case during which he announced that he, not Chief Judge Rothstein, would decide who would hear the case. In effect, Judge Tanner was challenging the new rule adopted by the federal judges for the Western District of Washington. Following this announcement, the defendants filed an appeal by way of a Writ of Mandamus with the 9th Circuit Court of Appeals seeking an order that Judge Tanner be required to obey Judge Rothstein's order. On November 20, two days before the appeal was to be heard by the Ninth Circuit, Judge Tanner decided to remove himself from the case. On January 23, 1988, Judge Rothstein assigned Federal District Court Judge John Coughenour to hear the case.

On February 10, 1988, the defense filed a motion for summary judgment asking that the Puyallup Tribe's claims be dismissed with prejudice.

Obviously the pace and intensity of the litigation had picked up. Because Judge Tanner was viewed to have a bias in this case, the change from Judge Tanner to Judge Coughenour, widely considered to be a fair minded judge, was viewed to be a favorable development to the defendants and an unfavorable development for the Tribe. Even as this litigation was proceeding, Congressman Dicks and Senators Evans and Inouye were in the process of reenergizing the settlement efforts.

Efforts to Negotiate

While in Tacoma for the Puyallup Tribal Trade Conference, Senator Inouye and Congressman Dicks met with the Governor and certain key democratic legislative leaders to urge their support and active participation in achieving a settlement. These meetings began the process of increased State involvement which would be one of the keys to achieving the settlement.

On October 19, the Puyallup Tribe hosted a conference on new trading partnerships in international trade. Puyallup Tribal International Trade Conference speakers included Senator Daniel Inouye, Senator Daniel Evans, Congressman Norm Dicks, BIA Assistant Secretary Ross Swimmer and Governor Booth Gardner. All of these speakers pointed out that this area was in a perfect position to benefit from increased trade in the Pacific Rim, but would lose these opportunities without a settlement. Their message was not lost on the tribal community and business leaders who attended the conference. Senator Inouye pointed out that "an agreement was reached. I would not throw it away." Inouye concluded his remarks by saying that he would return in three weeks to check on the status of negotiations.

Following that Conference, Mayor Sutherland established a Negotiation Management Group to work with the Tribe on a settlement, to coordinate those activities with attorneys in the litigation, and to pursue additional State legislative alternatives. The decision was made to continue the litigation effort at this time.

This decision on continuing the litigation appeared even more necessary when recall petitions for three Tribal Councilmembers (Turnipseed, Landry and Hargrove) were certified as having a sufficient number of signatures on December 3 to merit a Tribal recall vote. As a result of these recalls everything except the litigation was once again in chaos. (These three Tribal Councilmembers were recalled on January 16, 1988.)

In January 1988, the focus shifted back to State and federal legislation related to the problems created by the Tribe's land claims. The litigation effort received additional attention and resources. The signals from the Tribe were that they were largely paralyzed because of the recalls, but would consider a package of \$140 million for settling the land claims with no jurisdictional resolution and no Blair Waterway project activities. There was initially no one on our side who believed that a settlement was possible in the near future.

In early February, Tribal Councilmembers and attorneys met with the non-Indian Negotiation Management Group and informed us that the Tribe would present a proposed settlement within several weeks after the Tribal elections scheduled for February 27. Several days later, on February 4, Councilmembers Henry John and Bill Sterud (the only two remaining Tribal Councilmembers) issued a statement to the media that negotiations on a settlement package were mandated by a Tribal referendum in April of 1986 and these negotiations would begin as soon as the new Tribal Councilmembers were elected.

In the same timeframe, Judge Coughenour set January 9, 1989 as the trial date for the Puvallup Tribe v. Port of Tacoma and Union Pacific Railroad case. The Judge also agreed to a request by the Tribe for a three month stay to permit a final attempt to negotiate a resolution to the claims. The Judge set June 10, 1988 for hearings on motions to intervene and summary judgment.

On February 27, Roleen Hargrove, Judy Conway Wright and Nancy Shippentower were elected to the Tribal Council. Wright and Shippentower would face election again in June of 1988.

In early March, the Washington State House Ways and Means Committee held a hearing on a proposal by Chairman Dan Grimm to establish State participation in land claims settlements with Indian Tribes within the State. Senator Inouye testified at the hearing as did representatives of the Governor's office, private property owners and public officials from the local governments of Pierce County.

Oddly enough, in 1985, and 1986 we had a Tribal Council that was ready to negotiate a comprehensive settlement and the State and federal governments were reluctant to participate. In March of 1988, we had the active interest of key State and federal officials and a Tribal Council that was reluctant to come to grips with a comprehensive settlement. In addition, the Tribal Council was deferring to a Tribal Membership Committee on the key elements of the Tribe's proposal.

In fact, the Tribe and the local community were further apart in March of 1988 than in 1984. The Tribal Membership Committee had much higher expectations, and the non-Indians were willing to contribute less as a result of the change in judges, the decision in the Suquamish tidelands case, and the merits of the motion for summary judgment. These differences were compounded by the political volatility of this issue within the Tribe and the

political instability caused by the frequent recalls and special elections in addition to the normal Tribal elections.

At this time, a majority of the non-Indian Steering Committee and staff had lost hope of reaching agreement with the Tribal Council. Our side concluded that there was no chance of reaching agreement with the Tribe before June due to the Tribal elections and the June 10 hearing on the defense motions for intervention and summary judgment in the section 34 litigation. Subsequently, the June 10 date was continued to July 29.

During March, the possibilities for significant involvement by the State became a new factor in the equation. By State Representatives Wang, Grimm, Madsen, Ebersole, Fisher, Walk, Gallagher and May, legislation was introduced to create a joint underwriting association for title insurance for Indian claims. House Bill 1105 required the State's Insurance Commission to approve a plan for the establishment of a nonprofit, joint underwriting association for title insurance by July 1, 1987. The association was to include all title insurers within the State. The legislation also established a maximum rate for the association to charge for the insurance and required a report to the Legislature by December 1, 1988. With or without a settlement, the non-Indians determined that State action was required to help alleviate the impacts of the Tribal claims. Therefore, significant attention and additional staff were devoted to legislative efforts and coordination with the Governor and his key cabinet members.

Senator Inouye had scheduled another trip to Tacoma for April 8 to meet with the Tribe and the non-Indians. This trip set in motion a series of events which would lead to a settlement.

On April 8, the Tribal representatives presented a proposed settlement package for consideration by the other parties. The value assigned by the Tribe to the proposal was \$188 million. The proposal included: reserving all claims (known and unknown) which were not listed in the Tribe's proposal; a 20-year moratorium on Tribal taxes on non-Indian owned lands, \$45 million in per capita funds for Tribal members, including a total of \$104 million in Revenues and Funds; all federal repossessed housing within the reservation boundaries would go to the Tribe; title to portions of the former riverbed; public school properties not needed for schools, and the Browns Point Lighthouse and adjacent land would go to the Tribe; 50 percent ownership in the Port's Sea-Land terminal and Milwaukee expansion, and 50 percent ownership in existing leases; St. Regis and Simpson properties; portions of Dash Point Park; McNeil Island and other lands identified in earlier proposals; and a \$35.5 million fisheries package. The Tribe's proposal did not include resolution of jurisdictional or Blair project issues. Our staff estimated the value to be substantially more than \$188 million.

At a joint meeting of the parties with Congressman Dicks and Senator Inouye, agreement was reached on a settlement schedule which would provide for a vote by the Tribal membership on a settlement package on July 16, 1988. One of the conditions for setting the schedule was that it would not interfere with the trial date set by Judge Coughenour. On April 20, Senator Inouye and Congressman Dicks sent a letter to Mayor Sutherland, as chair of the non-Indian Steering Committee and Bill Sterud, Chair of the Tribal Council, informing them of the schedule and the Tribal membership vote. By the end of April the Governor and certain key legislators decided to have the State participate in the negotiations and contribute to a settlement.

The parties were now committed to make one last try at a comprehensive settlement while proceeding to prepare for court action in the event this effort failed. Notwithstanding those commitments, there was a strong sense of frustration and skepticism that this effort would succeed. The mood on all sides was much more negative than in our first round of

negotiations. The years of effort and disappointments were clearly taking a toll on the non-Indian Steering Committee and staff.

During the last part of April and the first half of May, we pursued a dual track in the negotiations. The first track involved a number of extensive meetings with the Tribal Council and staff regarding a discussion of their proposal. The first reaction to their proposal was that an agreement looked impossible due both to the cost of the proposed settlement and the absence of certain key elements such as resolution of the jurisdictional issues and funding for the Blair project. However, our side found the structure of the Tribe's offer and the priorities it reflected to be very useful as a context for realigning our previous proposals.

In order to meet the schedule set out by Congressman Dicks and Senator Inouye, we determined that we needed to begin preparing immediately a settlement package that we could support, that we thought could be funded and implemented, and that addressed the priorities of the Tribe to the extent possible. This second track required extensive efforts by the non-Indian Steering Committee members and staff.

As one of the participants said: "It's show time!" The non-Indians needed the best package they could assemble that would be acceptable to the Tribe and its members, the State and federal governments and the local community. We also needed specific commitments from the participating local governments on what they were prepared to commit to in a settlement. There were periods in April and early May where the Steering Committee met every three or four days to shape the offer. In between these meetings, there were briefings of State and local officials on various issues and the package as a whole. We were back into six-day work weeks, and 10-16 hour days, but we thought the end was in sight.

On May 9, 1988, we communicated our offer to the Tribal representatives. On May 16, we had a "Principals' Meeting" with our entire delegation and the full Tribal Council. The meeting almost led to the end of the effort over the opposing views on the jurisdictional issues. In addition to our disagreements with the Tribe, there were significant internal disagreements among the non-Indians concerning jurisdiction particularly from the representatives of the City of Fife. The Fife representatives were concerned about the possibility that the Tribe could put a large amount of land within the City of Fife into trust status in the future, which would significantly diminish the City's tax base. The Fife representatives were also concerned about zoning, adjacent uses and future compatibility of land use plans. On May 26, we communicated a revised proposed agreement to the Tribal representatives.

During this period, the non-Indians' instructions to the staff were not to negotiate with the Tribe, but rather to keep refining our proposal to make it as acceptable to the Tribal Council and Tribal members as possible, while still achieving the outcomes set out by the non-Indian Steering Committee.

By the first week in June, the tensions over jurisdiction were close to the breaking point. However, both sides knew that they would be meeting with Senator Inouye and Congressman Dicks on June 6 for a progress report. On that day, the Senator and Congressman Dicks first met with the Tribal Council and then met with our Steering Committee. Senator Inouye reported on his meeting with the Tribe and quickly moved to frame the situation we faced and his views on the key issue of jurisdiction:

"I'm personally convinced the Tribe will give your proposal very serious consideration. When we began, many were

disposed to ignore it. While the economic proposals are generous and tempting, vocal leaders are more concerned with jurisdiction. Some said 'we have nothing to lose.' I said: 1) you can never go back to day one, you have to recognize today's reality, 2) if the situation continues to fester, it could result in violence and negative laws. I transmitted the sense of urgency, as shown by my being here instead of voting on the budget. I sense that you are close; I am here to urge one last push. You and the Tribe may believe you've gone the last mile; I have convinced them to try one last time and hope you will do the same. This is the moment of opportunity and the moment of potential disaster. The Tribe is ready to continue discussions - I hope you are, too. Some members wanted to continue until January; I want finality now. If this Agreement would introduce new jurisdictional elements which are not applicable to other Tribes, it might set precedent. The Secretary of Interior would have to review and consider them. Congress will have to look at them. You would need to develop a strong special justification that would make this situation truly unique or all those other Tribes would descend on me and the Congress and there would be no settlement."

The non-Indian Steering Committee members realized that this recommendation came from the Chairman of the Senate Select Committee who was missing a vote on the Federal Budget in order to be in Tacoma working for a settlement. It was also clear that the Senator's request had the support of Congressman Dicks. The Committee decided to give it one more try.

The next evening, June 7, the Fife City Council voted to not go ahead with the proposed settlement agreement as written. They felt that a number of Fife's concerns had not been adequately addressed in the proposal. This action set off a minor explosion in the local community. Representatives of the Tribe and the City of Fife began a separate series of meetings. The other local governments decided to prepare and deliver an offer to the Tribe on June 13 without Fife's participation. Several businesses and homeowners located within the City of Fife were so angry at the City's action and the potential to be left out of the settlement, that they investigated the legal requirements necessary to unincorporate the City of Fife.

By mid-June the non-Indian Negotiating Team was understandably concerned that the prospects of a settlement were unraveling. When asked about the process, the lead negotiator, Jim Waldo, turned to quoting a philosopher in order to say anything positive at all about the negotiations. As reported by Jeff Weathersby in a June 18 Tacoma News Tribune article:

"Explained Waldo, a famous French philosopher once said, 'when I view the events of the world, I can make an equal case to be an optimist or a pessimist, so I choose to be an optimist.' I choose to be an optimist," Waldo added.

On June 22, Tribal Chairman Bill Sterud informed Mayor Sutherland by letter that the Tribe had rescheduled the Tribal membership vote for August 27.

By June 27, the non-Indian Steering Committee directed that letters be sent to the Mayor of Fife and the Tribal Chairman making it explicit that there would be a comprehensive settlement or no settlement; there would be no change in the Court schedule; and that if certain other conditions were met, there could be an extension of the date for the Tribal vote to August 27.

In the meantime, delegations from the Tribe and Fife traveled to Washington D.C. to meet with Congressman Dicks, the Washington Senators and Senator Inouye. They were informed that there would either be a comprehensive settlement or no settlement. The meetings with Congressman Dicks and Senator Inouye were later described as, to use diplomatic parlance, "candid and frank discussions" during which the consequences of no comprehensive agreement were fully and carefully explored.

The impact and interplay of these events were captured in a June 30, 1988 Tacoma News Tribune story by Jeff Weathersby:

"The talks appeared near collapse Monday when tribal and City of Fife officials flew to Washington, D.C. to discuss with federal officials their efforts to reach a separate agreement. After a chaotic meeting of the non-Indian Steering Committee, those negotiators sent the tribe and Fife a letter containing tough ultimatums.

"The gloom seemed to lift Wednesday when the Tribal and Fife officials returned.

"An upbeat Dicks said, 'It is my opinion that we have a better than 50-50 chance to bring Fife back into this process and to deal with the remaining issues between the tribe (and non-Indians) in order to bring this process to closure. I feel a lot better about this than I did a few days ago.

"It is always darkest before the dawn. We've been through a dark, difficult period over the last few weeks, when the process was on the verge of unraveling,' he added.

"Fife's Conduff said, "Dicks was a real inspiration to us."

On July 1, in what turned out to be a pivotal strategy meeting with Congressman Norm Dicks and representatives of the City of Fife, the non-Indians agreed after a long emotional and often heated exchange of views to have one last session with the Tribe, the City of Fife and the other non-Indian Steering Committee members. Congressman Dicks called Senator Inouye in Hawaii to once again enlist his counsel and assistance. It was further agreed that the City of Fife would make a decision no later than July 8 on whether to support the settlement. We then had a meeting with the Tribe and agreed to begin meeting the evening of July 5 on full-scale negotiations and conclude this effort by July 7. We were able to secure the Alderbrook Inn, in Union, Washington, as a meeting place for this final two-day effort.

IX. REACHING AGREEMENT: THE MEETING AT ALDERBROOK

On July 5, 1988, approximately 40 people arrived at Alderbrook to begin work. Each side took approximately four hours to brief its participants on the latest information and to review the issues.

The first joint session began in the late afternoon. Prior to the meeting, the Tribe had identified five key areas requiring resolution:

- 1) The requirements for placing land in trust.
- 2) Ownership of the Puyallup riverbed.
- 3) The Tribe's future role in environmental regulation.
- 4) Jurisdiction over right-of-way across Indian lands.
- 5) No development of the "pre-agreed" Port projects until the settlement was fully effective.

The issues were covered in an opening statement by Harry Sachse, Attorney for the Tribe. He then added that in their final review of our draft, the Tribal representatives had discovered a number of other technical issues that needed to be addressed. It turned out that many of these "technical" issues were, in fact, far more than technical. Instead of five issues from the Tribe and three issues from the local governments, we now had 105 issues, plus additional proposed changes to the Technical Documents covering another ten pages. These ranged from truly minor issues to major revisions in the substance and cost of the settlement.

Jim Waldo, the lead non-Indian negotiator, then responded that our side had come to the meeting with the impression that both sides were focusing on a short-list of issues; and the non-Indians wanted to ask the Tribal representatives some questions about their list and then have time to caucus. After a discussion of the Tribe's list, the meeting broke for dinner and an opportunity for caucus.

During the non-Indian caucus, approximately half of the non-Indian Steering Committee members felt they were there under false expectations and wanted to leave that evening. Finally, Congressman Dicks, Mayor Sutherland and other Steering Committee members convinced the group that whether it was five issues or 100 issues, we were going to complete this by July 7, and we should get to work. John Ladenburg argued strongly for staying but holding firm on the issues of governmental jurisdiction over non-Indians or non-Indian property. Probably at no point in the process was the attitude of the Port leadership more important than at this juncture and throughout the next few days.

The "hero of the hour" (or more precisely, the next 24 hours) was Congressman Dicks. In an atmosphere of exhaustion and mutual distrust, he provided the energy, determination and focus to keep the group moving forward, and to put us back "on the track" when we derailed. The participants had spent hours, and days, and years across the table, in an effort to determine no less than their future -- their culture, their governmental programs, their businesses and homes. It was Dicks who was able to create the picture of a post-Settlement community, and to redirect the efforts when the fear of taking the last steps to closure seriously threatened to negate all our previous efforts.

At 10:15 p.m. the negotiations resumed and we proceeded through 100 issues. When we finished that session, about 3 1/2 hours later, we had cleared away all of the minor issues and made some progress on the substantive issues.

The next day the parties spent 19 hours in separate meetings, joint work groups and negotiating sessions. By dinner time a context was emerging for resolving several of the major issues. After dinner and separate caucuses, the parties resumed negotiations. By this time, Congressman Dicks had gained a good feel for the remaining substantive issues that were not on either party's critical list, but in the right combination could help complete the package. Working with the lead negotiators for each side and some of the key participants most directly affected by certain issues, he began to fashion proposals for resolving groups of issues. By the end of the evening, most of the issues had been resolved or were moving toward resolution. The Port Commissioners, Executive Director and staff were instrumental in resolving many of these issues with flexibility and dispatch. However, we were still far apart on the early implementation of Port projects, the Puget Power Electron Dam and the potential financial impact of land being withdrawn from the City of Fife's tax rolls when placed in trust by the Tribe or its members.

The staff and lead negotiators were given assignments to draft language to reflect the potential areas of agreement and to develop options on the outstanding major issues. This assignment was given around 1:30 a.m. and the language was to be ready by the next morning.

On July 7, the parties had early caucuses and began their negotiations again at 8:45 a.m. By noon there was agreement on: placing land in trust, riverbed ownership, environmental jurisdiction, jurisdiction over rights-of-way, and early implementation of Port projects. There remained two major issues: the financial impact on the City of Fife of placing lands in trust, and the Puget Power facility. In addition, there remained a number of other issues where we had not yet agreed on the language.

That afternoon the language issues were resolved, the potential financial impacts on the City of Fife were resolved, and a decision was made to exclude the Puget Power project from the Settlement; the amount of the Settlement was reduced accordingly.

Following the Alderbrook meeting, the attorneys and staff were given the assignment to finalize certain issues and complete a draft of the Agreement by July 15. On July 15, Congressman Dicks and representatives of the local governments, the Governor and the private landowners publicly announced the details of the offer to be voted on by the Tribal members on August 27.

The major changes in the proposed settlement from the previous non-Indian proposal were: (See page 47 for summary of full Agreement.)

1. The Tribe's ownership of the current Puyallup Riverbed within the 1873 boundaries was recognized as having trust status.
2. The non-Indian parties agreed to support all presently pending residential fee-to-trust applications with the BIA.
3. The existing BIA procedures for putting lands into trust would be applied to the Puyallup Indian Tribe the same as with other Tribes.
4. The Tribe retained, in trust, ownership of lands under railroad rights-of-way.

5. After a 30-year moratorium, the Tribe could tax property and activities on the railroad rights-of-way at rates not greater than that imposed by the non-Indian jurisdictions.
6. If the Tribe approved the settlement, no action would be taken on the Blair and Milwaukee Port projects until the settlement was fully effective.
7. The Electron Dam issue would not be resolved.
8. The Tribe could receive EPA funds and delegations of authority for environmental programs on trust lands and the non-Indian governments were barred from ever receiving such funds or delegations for trust lands.
9. The Tribe could stop discharges into the Puyallup River within the 1873 boundaries if such discharges did not comply with federal law or if they impacted the Tribe's fishery.
10. The language of the fisheries dispute resolution provision was strengthened to achieve better mitigation and enhancement.

On July 22, the proposed Agreement, valued at \$161,844,000, was mailed to Tribal members. The Settlement Agreement and Technical Documents had a total of 137 pages and are summarized at the end of this chapter. In addition to the proposed Agreement, the packet included a cover letter from Congressman Dicks, a letter from the Tribal Council, and a summary of the Settlement provisions. The Tribal Council followed this mailing with an extensive information and education program for their members. This program included hiring ten Tribal members as information facilitators, providing several mailings to the Tribal membership, producing a videotape program, and conducting two meetings of the general Tribal membership.

Attorneys for the Tribe, the defendants and the interveners jointly requested that Judge Coughenour continue the date of oral arguments on motions from July 29 to September 16 in order to allow time for the August 27 Tribal vote.

On August 20, Senator Inouye and Congressman Dicks attended a Tribal membership meeting and answered questions regarding the agreement and the steps necessary to implement the agreement. On August 27, 1988, members of the Puyallup Tribe voted to approve the Settlement by a vote of 319 to 162.

Clearly the years of frustration and hard work had paid off both for the Tribal Council and its staff, and for the non-Indians. As described in The Seattle Times on August 31:

"When by a 319-162 vote, Puyallup Indian tribal members approved one of the biggest-ever land claims settlements in history, they also created the biggest, brightest economic development opportunity of the year for themselves and the State of Washington."

The editorial went on to say that:

"Even during its recent years of growth, the Port of Tacoma was like a young giant in a straitjacket, unable to stretch to its full potential because of the uncertainty of land ownership around the water."

"After the first tribal vote and turndown two years ago, everything could have remained in legal limbo for decades. But remarkable leadership arose to provide the energy and skill to try again at negotiating a settlement.

"Representative Norm Dicks rolled up his sleeves and worked with all parties through marathon sessions in the final hours. It's rare to see a congressman devote so much personal effort to solving a tough, but crucial, home-district issue.

"By their vote, Puyallup tribal members have foregone some historic claims that are, for many, emotional and spiritual in nature. In return, there can be an array of new services, including social services to tribal members and their offspring, fisheries enhancement and the opportunity for the tribe to become a partner in economic growth.

"Port Executive Director Larry Killeen notes that easing of the legal straitjacket means 'unlimited opportunity' for Tacoma's port to develop.

"With the Port of Seattle lacking readily available acreage for expansion, that new terminal space now gives Tacoma's port the opportunity to compete with Los Angeles/Long Beach -- or any other port -- for the megatonnage Pacific commerce of the future. That's good news for all of Puget Sound and the entire State."

It is difficult to describe the complexity of the issues we had faced and the level of detail at which these issues were discussed and rehashed over the years. However, we were now armed to jointly seek the federal, State and local governmental approval and funding necessary to reach closure.

A short joint celebration was held at the Tacoma Sheraton where it was clear that many new bonds of respect and even friendship had been formed between the Tribal and non-Indian negotiators and staffs.

Summary of Settlement Provisions

A Settlement summary was prepared for the Tribal membership prior to their vote on August 27, 1988. It included the information listed below.

The proposed settlement package provides approximately \$111 million in direct benefits to the Puyallup Tribe and its members. Benefits for the Puyallup Tribe and its Members if the Agreement is Ratified:

- The Tribe will get approximately 900 acres of land, including forest, fisheries enhancement and open space lands, and valuable commercial properties to produce future income for the Tribe and its members (approximately \$37 million value).
- The Tribe will get approximately \$11.5 million to buy land, and to pursue economic opportunities for steady future income.

- Tribal trust ownership of the current bed of the Puyallup River within the 1873 boundaries is acknowledged and preserved.
- A \$24 million fund will be created and will provide a one-time payment of approximately \$20,000 to each adult member of the Tribe. These payments will go to each 21-year-old member currently enrolled in the Tribe, and to each younger member upon reaching that age.
- The Tribe will get a \$22 million permanent fund to meet the needs of the Tribe's members:
 - Tribal elders care.
 - Health care.
 - Burial and cemetery maintenance.
 - Money for members' housing.
 - Education scholarships and loans.
 - Day care for the Tribe's children.
 - Cultural preservation.

Depending on interest rates, this fund will pay out millions of dollars over the next 50 years and will continue to produce income permanently as the principal cannot be touched. This fund will not be managed by the Tribal Council, but by a Board, some members of which will be elected by the Tribal membership.

- In addition to money for services to Tribal members, the Tribe will get funds to build:
 - Elder-care center.
 - Youth substance abuse center.
 - Day-care center.
- 265 tribal members will be eligible to participate in a four-year job training program, and 115 tribal members will be provided jobs in private businesses in Pierce County.
- \$2 million will be available to provide tribal members with funds to start or expand small business enterprises.
- Fishing opportunities for the Tribe and its members will be increased:
 - Over \$10 million for fisheries enhancement.
 - Port and other development will have to comply with agreed standards of mitigation and enhancement. Before any construction begins, tribal concerns must be met or arbitrated.

- Ocean shipping will be restricted to certain lanes during tribal fishing season.
- The Tribe will continue to have Tribal jurisdiction over existing and future trust lands, and retains its ability to participate in federal environmental programs, and receive EPA funds. The non-Indian governments are barred from receiving EPA funds or delegations of authority for trust lands.
- The Tribe retains its ability to place additional lands in trust in the future, under applicable federal law.
- The Tribe retains its taxation authority on Burlington Northern and Union Pacific Railroad's rights-of-way, after a 30-year moratorium.
- The Tribe retains its treaty rights, including all hunting, fishing, gathering and water rights.

The non-Indian participants in the Agreement (including the State of Washington, City of Tacoma, City of Fife, City of Puyallup, Pierce County, Port of Tacoma and certain private property owners) will benefit from the Agreement through the following provisions:

- The Tribe will release its claims to tidelands, former riverbeds, initial reservation, and other land claims, except for certain reversionary rights to railroad rights-of-way.
- The Tribe agrees not to assert governmental control over non-Indian lands, businesses on non-Indian lands, and non-Indian homeowners.
- A cooperative approach will be established for governmental authority and responsibility, including: a system for consultation and dispute resolution for land use matters and environmental concerns, an agreement which resolves navigational conflicts, an agreement on how future governmental services are to be provided, and the establishment of future programs related to fisheries and flood control.
- Future specific port and marine-related development projects are provided for, along with accompanying fisheries mitigation and enhancement.

Other Elements:

- The Tribe and State and local governments will work together to increase fish production through: watershed action plans, shoreline master programs, land use and resource plans and regulations, and environmental regulations.
- The Tribe and local governments will use a government-to-government consultation process for land use matters.
- The Tribe and local governments will use a cooperative system for law enforcement.

- The Agreement provides the Tribe with property suitable for a marine terminal on the Blair Waterway, and approximately \$51 million to fund the Blair Navigation Project, which would dredge the waterway and build a bypass road or a new bridge which will benefit both the Tribe and the non-Indian community.

X. SEEKING STATE ACTION

Following the Tribe's affirmative vote, the parties recognized that many tasks lay ahead of them in order to make the Settlement a reality. Beginning in September 1988, a series of meetings were held to develop a strategy to finalize and implement the Settlement.

The strategy addressed authorization and funding at the federal (\$77,250,000), State (\$32,000,000), and local (\$52,134,000) governmental levels; private sector funding (\$11,460,000); and the establishment of one or more escrow accounts for deposit of all funds necessary to close the Settlement. It was also necessary to obtain a stay in the litigation proceedings, providing for semi-annual or annual status conferences until the Settlement was implemented.

The goal was to secure federal and State approval and funding in 1989. Consequently our strategy required simultaneous activity in the State Capital and in Congress. The time requirements and the geographical constraints were going to be difficult to manage. However, we had a Settlement and could not afford to lose the momentum that had carried us so far.

To begin addressing the implementation tasks we had to reorganize the parties. Bill Sterud, Puyallup Tribal Chairman, and the Tribal Attorney Randy Harrison joined the newly constituted Implementation Committee. Private sector representation was expanded as well, to include representatives of the Longshore Union, AFL-CIO, Teamsters, Sea-Land, and the Tacoma-Pierce County Chamber of Commerce.

A smaller Administrative Committee was set up to develop policy recommendations for the Steering Committee. This committee was made up of Mayor Doug Sutherland and Councilmember Ruth McElliott of the City of Tacoma; Pierce County Intergovernmental Relations Director Ray Corpuz and County Prosecutor John Ladenburg from Pierce County; Executive Director Larry Killeen, Commissioner John McCarthy, and Governmental Affairs Manager Lynn Claudon Anderson of the Port of Tacoma; State Representative Art Wang and Paul Roberts, consultant with the Department of Community Development (DCD) from the State; Tim Thompson from Congressman Norm Dicks' office; Karl Anderson and Corry McFarland from the private sector; and Jim Waldo and Chris Towne from the non-Indian Negotiating Team. And finally a Joint Tribal/non-Indian Staff Committee was established to provide assistance and coordination to the Administrative and Steering committees.

At the State level a concerted effort was needed to gain support to secure the State's \$21 million share to implement the Settlement. It was recognized that securing federal approval and appropriations would be much more difficult without first demonstrating that the State of Washington as well as the local governments were supportive of the Settlement. Ray Corpuz was the lead coordinator in securing State approval and appropriations on behalf of the parties.

The State strategy included bill drafting, meeting with editorial boards around the State, securing strong support and leadership from the Pierce County legislators, briefing and securing support from the other legislative leaders, preparing information materials and a video as part of the broad public relations strategy, and establishing a lobbyists' support group from among the private sector participants.

In late September of 1988, discussions began with Governor Gardner, his Chief of Staff Dick Thompson, and Paul Roberts of the Department of Community Development (DCD) to determine the best approach to bill drafting. It was preferable to have the bill submitted as

part of the Governor's 1989 Executive Request package. Appropriations would be necessary from the State's General Fund, Capital Budget and the Transportation Budget. Because the Department of Transportation was not an Executive agency, it was necessary to undertake a separate effort for the support of the Transportation Commission and the Secretary of Transportation, Duane Berentson. Prior to filing the bill, review and sign-off would be necessary from the State Attorney General, the non-Indian parties and the Tribe.

In October, meetings were held with the Pierce County Legislative Team regarding the legislative strategy and status of bill drafting. The Pierce County legislators had agreed to a bipartisan team from the House and Senate to help guide the effort through the Legislature. The team included Senators Gaspard, von Reichbauer and Johnson; and Representatives Ebersole, Wang, Brough and Walker.

At the same time work continued on developing briefing documents, briefing and mobilizing the private sector lobbyists, and briefing key staff from legislative committees and affected State agencies. On January 3, 1989, Governor Booth Gardner submitted executive request legislation to adopt and fund the August 27, 1988 Puyallup Settlement. The purpose of the legislation was to approve and adopt the Settlement agreement and authorize the State to carry out all acts necessary to implement it, to appropriate \$21 million to implement the Settlement, to authorize the Governor to execute the necessary documents to settle the claims to the current Puyallup riverbed, to authorize the non-Indians to establish Local Improvement Districts (LIDs) as the mechanism for private property owners to help fund the Settlement, and to consent to federal court jurisdiction to settle any disputes arising from the agreement.

This legislation required \$21 million in appropriations from three budget sources. The General Fund budget was to provide \$4,925,000 for operation and maintenance costs for the fisheries element, jobs training and placement, Department of Social and Health Services training for Tribal members, and partial funding of the Tribal Trust Fund. The Capital budget was to provide \$9,417,000 for fisheries facilities (including the Clark's Creek Hatchery improvements), and social and health facilities. Finally, the Transportation budget was to provide \$6,658,000 for the Blair Bridge project.

In January an intensive coordinated program of briefing each of the Legislative Committee members was initiated. In order to be successful, it was necessary to gain the support of members of the House and Senate Transportation Committees, the Senate Ways and Means Committee, the House Revenue and Appropriations Committees, and members from the Local Government, State government, and Commerce and Labor Committees in each house. It was also necessary to brief the leadership in both houses. In all, this involved individual briefings for approximately 40 legislators in both the Senate and the House of Representatives. Ray Corpuz was in charge of developing the strategy and coordinating this effort on behalf of the local governments and the Tribe. Fortunately, he is a master of the legislative process.

During this time, Dick Thompson and Paul Roberts, both active supporters of the Settlement, accepted new positions. They were replaced by Kaleen Cottingham in the Governor's office who was responsible for managing the executive agencies and legislative action on the Settlement package and personally represented Governor Gardner, and Mike McCormick of the State DCD as the lead State agency coordinator. DCD was responsible for preparing and distributing the legislative briefing brochure. The brochure included a description of the Settlement from the State's point of view, the economic benefits to the State, a letter from Governor Gardner supporting the Settlement, questions and answers, and a letter from the State's Chief Deputy Attorney General explaining why the State was participating in the Settlement. The brochure was accompanied by a letter from Puyallup

Tribal Chairman Bill Sterud confirming non-Indian fishers could continue sports fishing on the Puyallup River; and a letter from Congressmen Dicks, Chandler and McDermott and Senators Inouye, Gorton and Adams supporting the Settlement.

Shortly after the Governor submitted legislation to adopt and appropriate funds for the Settlement, a group of private landowners approached legislators regarding protection of their property rights under the Settlement. Their concern was that individual citizens and property owners were not protected from claims by individual Tribal members. In a letter from Governor Gardner dated January 24, 1989 to Senator Rasmussen, the Governor pointed out that:

"Should such a claim arise, the individual Indian asserting the claim is not shielded by sovereign immunity, and thus the claim can be litigated in State court. Such a claim by an individual Indian is also subject to the Statute of Limitations. In addition, individual Indians do not enjoy other protections held by the Tribe. Thus, it would be very costly, and probably futile, for an individual Indian to bring such a claim against an individual land owner.

"Finally, the concept of the settlement came to the forefront based on a hesitancy of title companies to insure lands with potential land claims. Currently, title companies do not include exclusions in title policies based on the potential of individual tribal member claims, nor do they intend to do so in the future."

As former Representative George Walk, Chairman of the House Transportation Committee recalls, the attorneys for the Department of Transportation were never very concerned about the liability, but the Department wanted to be a team player with the Governor, Congressman Dicks and the Pierce County Legislative leaders.

On February 10, a joint hearing of the Senate Ways and Means and House Appropriations Committees was held to receive testimony on Senate Bill 5734. United States Senators Inouye and Gorton and Congressmen Chandler and Dicks testified at the hearing. Seven days later, the House Appropriations Committee held a hearing on House Bill 1788 which was identical to Senate Bill 5734. The goal was to ensure there was full appropriation of the \$21 million in the Fiscal Year 89-91 State budget. We had support for this from Governor Gardner, House Appropriations Committee Chair Gary Locke, and Senate Ways and Means Committee Chair Dan McDonald.

The Governor had also requested that \$6.658 million of the State's share of the Settlement costs come from the Transportation budget. This was due in part to the inclusion of the improvements to the Blair Bridge in the Settlement, as well as the benefit that would be realized by extinguishment of potential claims on rights-of-way for Interstate 5 and State Routes 99, 167 and 509. All of these are major thoroughfares. Consequently, communications and briefings were conducted with staff of the Transportation Committees as well.

On February 20, the House Appropriations Committee unanimously approved Substitute House Bill 1788. On March 1, the Senate Ways and Means Committee considered Senate Bill 5734 in Executive Session and amended the bill to provide credit for prior contributions in assessing LID costs. An additional amendment to the legislation was offered by Senator Rasmussen to have the Attorney General represent individual homeowners in claims made

by individual Tribal members. This amendment failed. Substitute Senate Bill 5734 was voted out of Committee by a unanimous vote. Senator Rasmussen then contacted State Attorney General Ken Eikenberry, asking whether or not the proposed amendment to Substitute Senate Bill 5734 would be valid. The Attorney General's office responded that it could be challenged as a gift of public funds to be used solely for private purposes. Eventually, the amendment did pass although it was later vetoed by the Governor based on its unconstitutionality.

On the first day of the Special Legislative Session, Substitute House Bill 1788 was passed from the House to the Senate after considerable internal legislative maneuvering. It was agreed that this bill would be the sole State legislative vehicle for adopting the Settlement provisions.

The remaining task was to ensure full appropriation through budget negotiations. Of primary concern was the \$6,658,000 in the Transportation budget. It is important to note the \$6,658,000 in the Transportation Budget was from existing budget authority. No revenue was approved. This is significant because the Department of Transportation and legislators were not totally comfortable with this proposal. The transportation funding would be difficult. The proposal came at a time when major transportation projects were being postponed or denied because of insufficient funding. There was a need for a gas tax increase but votes were hard to find. Therefore, the sponsors were looking for projects which could be tied to an increase in the gas tax.

The proposed funding also came from outside the normal transportation priority process for allocating funding. The Puyallup proposal was an unusual fiscal item.

There was another unusual fiscal item in the proposed DOT budget: a proposed appropriation for the Navy Homeport in Everett. At first we were concerned that this would be a problem. But it turned out to be an advantage. Looking back on the events, George Walk, former Chair of the House Transportation Committee commented:

"In the end, the existence of the Everett Home Port became an advantage for the supporters of the Puyallup Settlement request. The Home Port project was so controversial that it diverted attention from the Settlement request. In the House, it also brought together the Transportation Committee leadership from both parties."

Some legislators would only support the appropriation if the expected gas tax increase was passed. The second alternative was to secure a DOT appropriation without any new revenues. The final alternative was to prepare language that would provide a loan from the General Fund to cover the costs of appropriation.

April and early May were extremely hectic as all three appropriation measures were under consideration and moving through various stages of the legislative process in both chambers. Representative Art Wang described this period as "the equivalent of managing two three-ring circuses." Ray Corpuz marvelled at the intensity and commitment of our legislators and lobbyists as we beat off attempts to delay or modify the legislation and appropriations.

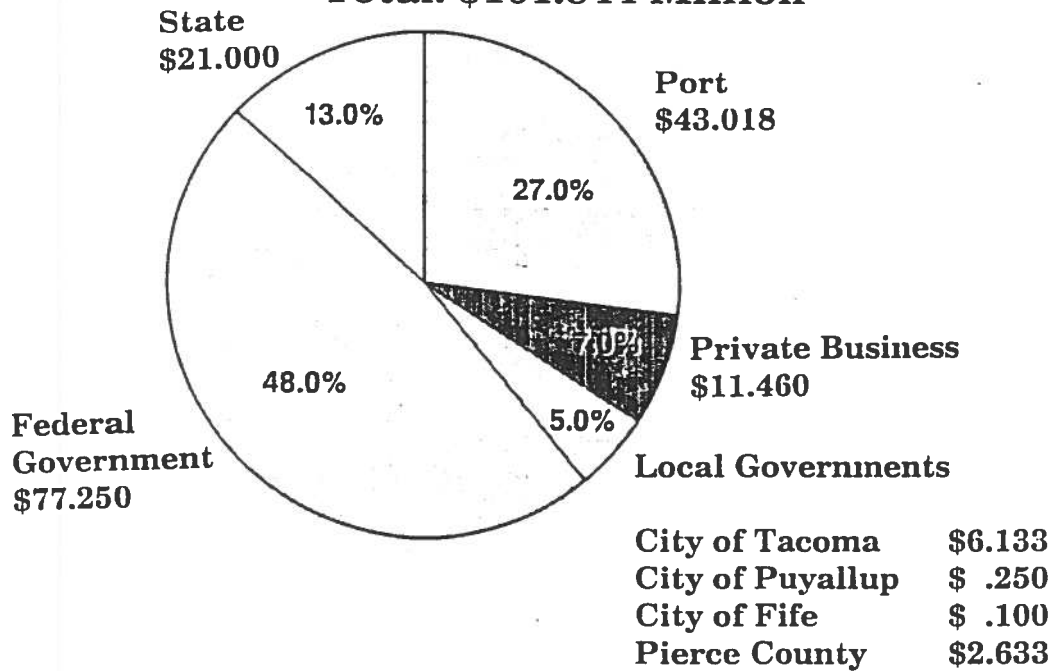
On April 5, the Transportation Appropriations Bill, SSB5373, passed out of Committee. It passed the full Senate on April 21. On May 10, following numerous Conference Committee meetings, SSB5373 passed the House and was sent to the Governor with the Puyallup settlement funding. On May 13, 1989, Governor Booth Gardner signed into law Substitute

House Bill 1788, completing the State's approval for the Settlement. On May 20, the Governor signed the Transportation budget, SSB5373, thus completing all three appropriation measures.

We were then able to focus attention on securing federal approval and appropriations for the Settlement, as well as to lay the groundwork for raising the \$11.4 million private sector share.

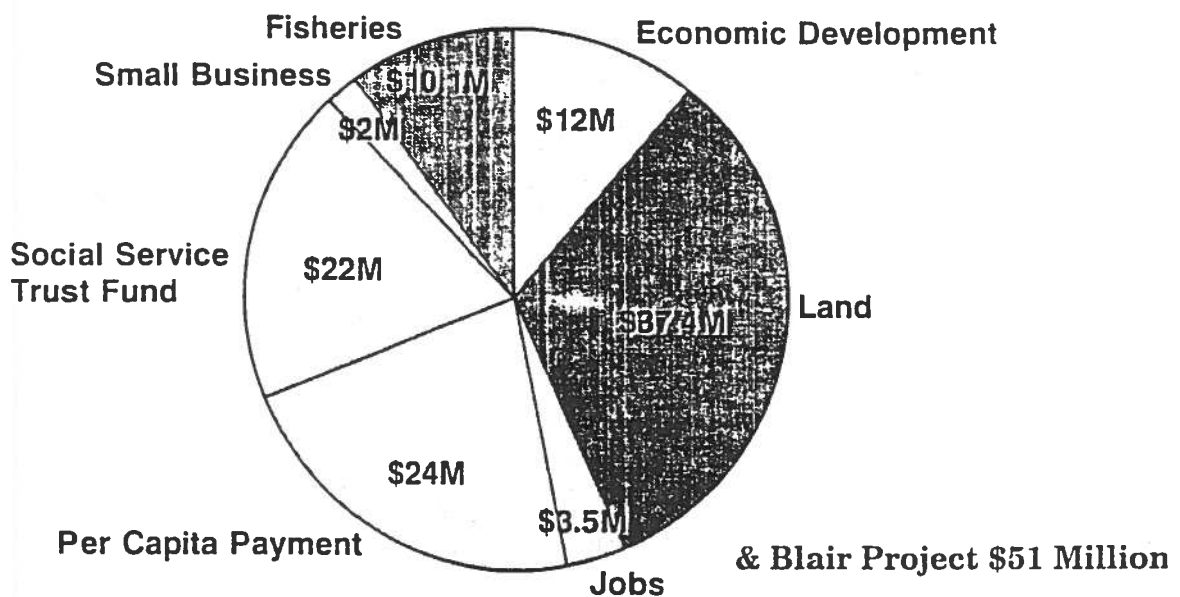
Settlement Contributions

Total: \$161.844 Million



Settlement Agreement

Total Value: \$161.844 Million



XI. SEEKING FEDERAL ACTION

The implementation efforts required simultaneous activities at both the State and federal level. Planning for the federal effort began on September 6, 1988, when Congressman Dicks, Tim Thompson, Chris Towne, Jim Waldo and Ray Corpuz met for the first serious strategy discussion of federal legislation since the August 27 vote.

The Congressman reported that Interior Secretary Hodel was not encouraging in his assessment of the chance of federal authorization and funding, because the Office of Management and Budget (OMB) was negative towards federal participation. The decision was made to not attempt any congressional action that fall, but to lay the ground work for authorization early in 1989. Senator Evans and Slade Gorton, who was running for another term in the Senate, needed to help with the Administration. We also decided to seek the endorsement and support for the Settlement from Vice President Bush, the Republican candidate for President, and the Democratic candidate, Governor Dukakis, during the fall campaign. We agreed on a coordinated effort with the Tribe to prepare the federal legislation and to coordinate the lobbying. We targeted having the first draft of the bill within ten days to two weeks, and one early trip to Washington D.C. to begin our informational efforts.

It was also decided that the federal effort would be greatly aided by early action approving the Settlement and appropriating the necessary funds by the local governments in the fall of 1988, and the State government in the 1989 legislative session. The State effort, which was completed in May of 1989, was described in the previous chapter.

By September 21 we had our first draft of the legislation and began the review and redrafting process which would continue through mid-January and five drafts until the bill was introduced for consideration. Bill drafting is both an art and science. It is critical to determine both what should be included in a bill and what should be left out. These decisions had to reflect the substantive concerns of the parties, the perception of the bill by other members of Congress, and whether the bill would be authorized only by the House Interior Committee and Senate Select Committee or whether other committees could claim subject matter jurisdiction. Since the Tribal Settlement was comprehensive involving jurisdictional, social, taxation and resource issues, several committees could claim jurisdiction and significantly delay the adoption of the bill. Our goal was to draft a bill with all the necessary provisions but which required action only by a single committee in each chamber. Congressman Dicks personally visited other committee chairpersons to explain the legislation and persuade them to allow the bill to stay under the single House Interior Committee jurisdiction. In late September we made a trip to Washington D.C. to brief the members of the Washington Congressional delegation, committee staff and other federal officials.

During a campaign swing to Tacoma, and after a briefing from Congressman Dicks, Governor Dukakis indicated his support for the Settlement. At the same time extensive efforts were made to secure the endorsement of Vice President Bush. This effort involved working with the Bush/Quayle campaign at both the national and State levels. It also involved providing information to the Vice President's Office. This effort was organized by Senator Evans and Slade Gorton, Mayor Sutherland, and Jim Waldo as the lead staff person. In October we gained two valuable allies when the Bush Washington State co-chairs, Della Newman and Mike McKay, became convinced of the Settlement's importance and its political value to the Vice President.

On November 3, Slade Gorton and Della Newman released a statement on behalf of Vice President Bush, and on November 7, Senator Evans sent a confirming letter to James Baker thanking him for his assistance in obtaining this decision. These efforts proved to be of invaluable assistance in our running battle with OMB during the next year.

In the fall of 1988 we also began drafting the justification and background information for the Settlement in its entirety and for the federal share of \$77.5 million in particular.

On December 15, the non-Indians held a Steering Committee meeting to finalize our approach to the federal and State legislative efforts. At this meeting we discussed two options of running either a high profile effort with substantial media attention, or a low profile effort which would be highly organized but less visible. At the State level we decided to run a high profile effort. However, at the federal level we decided to do just the opposite and run a low profile effort. As Congressman Dicks said, "We are going to run silent, run deep." We also decided to not only seek authorization for the Settlement in 1989 but to also secure at least partial if not full appropriation of the federal share at the same time. Congressman Dicks is generally regarded as an expert in the legislative process and the decision to assume a low profile, but exert substantial effort, was both insightful and effective. Many of us did not fully appreciate the importance of this decision at the time. Later we would come to understand its importance.

We made this decision despite our research which showed that it often took several years to obtain authorization of other Indian settlements and then additional years to obtain the appropriations. No other settlement had been authorized and federal dollars appropriated in the same year.

Laying the Groundwork

In early January, 1989 a staff team briefed all of the Washington delegation and their staffs about the Settlement and our intentions to seek both authorization and appropriation in 1989. We received commitments from Senator Adams and newly elected Senator Gorton, and the eight House members to be of assistance when we needed their help. One of Senator Gorton's committee assignments was on the Senate Select Committee on Indian Affairs. Congressman McDermott, who was also elected in November of 1988, was assigned to the House Interior Committee. Rumors persist that these Committee assignments were not unrelated to the upcoming consideration of the Puyallup Settlement. At the same time Congressman Foley was the House Majority Leader. Congressmen Chandler and Morrison were well regarded by their Republican colleagues and were to play an important role in the House consideration of the Settlement.

We formed a legislative drafting review team with staff from the two offices of the Senators and Congressmen McDermott and Dicks. Washington, D.C. lobbyists Denny Miller and Pat Griffin were retained by the Steering Committee and the Tribe respectively. Jim Waldo, Chris Towne, Ray Corpuz and Harry Sachse also participated in this effort. This group worked closely with Pat Zell, Chief Counsel to the Senate Select Committee, and Frank Ducheneaux, Chief Counsel to the House Interior Committee.

During January we also began contacts with the new Bush administration staff. By late January, the House and Senate Committees had set hearings for February 23 and 24.

Bills authorizing the Puyallup Settlement, H.R. 932 and S.402, were introduced in the House and Senate on February 9th. In preparation for hearings, we began finalizing the testimony and background documents to be submitted to the Committees. We also made the determination to present individual testimony representing a broad range of perspectives.

We spent an enormous amount of time preparing and reviewing testimony in preparation for the pending hearing on the Settlement. We actually practiced our presentations and responses to anticipated questions. Supporting testimony was given by Congressman Norm Dicks, Jim Waldo, Puyallup Tribal Counsel Harry Sachse, Tribal Chairman Bill Sterud, Tacoma Mayor Doug Sutherland, Representative Art Wang, Governor Gardner's representative Kaleen Cottingham, Mike McCormick of DCD, Pierce County Prosecutor John Ladenburg, Port Commissioner John McCarthy, Puyallup Mayor Ron Crowe, and Corry McFarland and Karl Anderson of the CBTOC. In addition all these individuals were given assignments to brief certain Committee members or staff while in Washington, D.C. The hearings went off without a glitch and as usual Congressman Dicks had laid the groundwork for a successful outcome by talking to the members of the House Interior Committee and the Senate Select Committee well in advance. Hearings on legislation can either get you off to a good start or a bad start. In this instance, the hearings gave us a real sense of momentum to face the tough issues ahead.

The Administration had not yet taken a position on the legislation. With its concurrence, we worked out an arrangement with the Committee chairs and ranking minority members that the Administration's views would be communicated to the Committees at a later date. The testimony and written presentation were well received by both Committees.

During February and March we continued to meet with staff from the Departments of Interior, Justice, and OMB. It became clear that we were having significant problems at the staff level. OMB did not want to support the Settlement because of the cost. The Department of Justice took the view that because the United States had not been sued, it had no liability, and should not be contributing to a Settlement. Interior was negative about the payments to individual Tribal members, the inclusion of funding for the Blair Bridge Project, the potential that action on the Puyallup Settlement would preempt funding for other earlier or pending settlements, and the risk that the funding of the Settlement would reduce funding for other Interior programs. None of the agencies had made a final decision and each of them told us the other agencies were the primary problem that we faced. In addition, Interior communicated its concerns privately to the staff of the House Interior Committee and Senate Select Committee and therefore required us to address another set of issues in the legislative process much earlier than we had expected.

In response to these Administration concerns, Senator Gorton asked that we prepare a "white paper" on the federal policies and issues which were addressed by the Settlement. This paper was delivered to the Administration in mid-March. We then had further meetings in March with Interior, Justice, OMB, and House and Senate Committee staffs. During this time we also continued to revise the authorizing legislation.

In mid-March, Senator Gorton, Congressman Dicks and representatives of the Tribe, State and local governments and private property owners met with Secretary of Interior Lujan to discuss their and our concerns. We became even more concerned when we walked in the room and discovered that he had included 12 Interior staff in the meeting. Our experience had shown there was an inverse ratio between the number of staff attending and the positive outcome of a meeting. Secretary Lujan stated that the federal Executive Branch had not participated in this settlement effort; that the Department of Justice had advised him that the United States had little or no liability and, in short, "I don't have a dog in this fight." Just before he got to the point of saying that he would not support the Settlement, he appeared to remember that he was talking to the second ranking member of the House Interior Appropriations Committee, as well as to a senator who was a member of both the Senate Select Committee and the Appropriations Committee. He then offered to have his staff work with us to review the situation before reaching a final decision.

Following our meetings with Secretary Lujan and other federal officials, we decided to pursue a joint strategy with the Tribe to address the specific issues that had been raised during our meetings. We agreed that the Tribe would take the lead in addressing the need for payments to members because of their dispersed membership, and the Tribe would also prepare a summary of the involvement of Interior throughout the negotiations. We took the lead on preparing a paper on the Blair Navigation Project and a supplemental paper on Interior's involvement as well. Finally, it was agreed that Jim Waldo and Harry Sachse would jointly pursue further efforts with the Department of Justice. The Puyallup Tribe also pursued and obtained support for the Settlement from the Northwest Affiliated Tribes and the National Congress of American Indians.

By early April, the documents described above were completed and transmitted to the federal agencies. Through Mayor Sutherland, we contacted Bill Canary who was in charge of White House relations with local governments. After this meeting, we determined that there were a number of individuals in the White House with responsibilities for local, State and Tribal governmental relations who did not know about the Settlement. We would learn later that the White House Office of Congressional Relations had also been excluded from the decision-making process by OMB.

In mid-April we had another extensive round of meetings with the House and Senate Committee staffs regarding amendments to the legislation authorizing the Settlement. By this time the general shape of the legislation was clear but there were a number of important technical issues regarding such issues as the definition of "on-reservation," tax treatment of Settlement proceeds, budget accounting for federal budget purposes, and the "effective date" of the Settlement including terms and conditions for payment of the federal share.

Senator Gorton arranged meetings with Assistant Secretary or Assistant Director-level individuals from OMB, Interior and Justice to further discuss the Administration's position on the Settlement following our most recent briefing papers. We learned from Justice that they had some added concerns regarding the environmental cleanup of certain properties to be transferred to the Tribe. We agreed to prepare an additional paper on that subject. During this time we had also requested Della Newman's assistance in reminding the Administration of its campaign statements regarding the Settlement.

While these meetings and contacts were somewhat inconclusive, the tenor of the meetings was much more positive and we had some hope that the Administration might at least be neutral on the Settlement.

As if the process wasn't complicated enough, we now encountered a major initiative by the Western Governors' Association, the Western Regional Council and a number of individuals in both the Executive and Legislative branches to establish a new federal budget line item for Tribal natural resources and water. This measure was currently before the House Budget Committee with a FY 90 proposed total of \$85 million, the amount required to implement four previously authorized settlements. The Puyallup Settlement was not included because it had not yet been authorized. While we felt the concept had merit, we were concerned that its implementation might have the effect of precluding our efforts to obtain federal appropriation for the Puyallup Settlement in FY 90. Because this effort had the backing of a number of influential Senators and House members from California and the Southwest, we had to proceed very carefully. On the other hand, Senator Gorton and Congressman Dicks were viewed to be very important to the potential success of this new budget initiative.

Fortunately for us, almost no one in Washington D.C. believed that we would obtain authorization on our first attempt at Congressional action. No one outside of our group believed that we could authorize and appropriate in the same year. Therefore, Congressman

Dicks and Senator Gorton were able to work out an agreement with their colleagues that, as long as our efforts did not interfere with this broader initiative, then we could proceed.

At the same time, Congressman Dicks met with Congressmen Udall and Rhodes to assure them of his support for previously authorized settlements in the FY 90 appropriation process.

In order to address these other concerns, we had to develop an appropriations strategy or at least accept constraints on our ability to seek appropriations before we had secured Congressional authorization for the Settlement. This same strategy was pursued on the Senate side with Senator Inouye's staff.

By late April the House Interior Committee and Senate Select Committee had scheduled consideration of the authorizing legislation for May 10 in the House and May 16 in the Senate. Therefore, we concentrated our attention on finalizing language for an amended bill that would be acceptable to both Committees, the Tribe, the State of Washington and the local community. Congressman Dicks called both the members and their staff of the House and Senate Committee in order to assure a favorable outcome. Congressmen McDermott, Chandler, Morrison and Miller were also of great assistance. Senator Gorton did the same in the Senate. Once we knew we had sufficient votes in each Committee we shifted gears to the Administration, where we were still having problems, and worked to convince them not to comment on or oppose the bill until we worked with them further.

By mid-May the bill had been reported out of both Committees. On May 15, we delivered our response to the Department of Justice regarding the Superfund cleanup issues.

At this time Congressman Dicks made the decision to move the Puyallup Settlement through the House on the Consent Calendar. A bill can only stay on the Consent Calendar if there is no objection from any House member. Congressman Dicks then began contacting House members, as did other members of the Washington delegation. Congressman Dicks personally contacted over 300 House members, both Democrats and Republicans, in addition to legislative assistants or the members' chiefs of staff. All together the Washington Congressional delegation and those of us supporting this effort contacted almost all of the 435 House members personally. More members of the United States Congress knew about the Puyallup Indian Land Claims Settlement than we ever thought was possible.

Everything looked good until two days before the vote. At that point we learned that Congressman Rostenkowski, Chairman of the House Ways and Means Committee, was considering asserting Committee jurisdiction over the bill. This would have removed the bill from the Consent Calendar and sent it to his Committee. Congressmen Dicks and Foley were able to persuade him that the tax implications of our Settlement were so minor that they did not merit taking up the time of such an important Committee.

The next day we learned that despite our previous efforts, the Administration had advised the Republican members of the House that they had serious reservations and did not support the passage of the Settlement. We had no prior knowledge of this decision before the communication was sent.

"Statement of Administration Policy:

May 18, 1989

H.R. 932 - Puyallup Indian Land Claims Settlement

(Dicks (D) Washington)

The Administration opposes enactment of H.R. 932, which would require an unwarranted Federal cash payment of \$77 million to implement one of the largest Indian land claim settlements in this century. This bill, which would largely benefit the Tacoma, Washington area, is objectionable because:

- there is little risk of Federal liability with regard to any claims related to the settlement; and
- the final settlement was negotiated without Executive Branch participation.

H.R. 932 would establish a seriously adverse and costly precedent for Indian land and water claim settlements in the future.

* * * * *

Congressman Chandler and the other delegation Republicans immediately went to work to convince their leadership that they should not oppose the Settlement. Senator Gorton called the White House to express his strongly held view that they had breached an agreement to resolve these issues directly with him prior to taking a public position, and that they would further compound their problems with him if the Administration had their lobbyists actively working against the bill in the House. Although we had done everything possible, we were skeptical that we could keep a major Indian settlement bill on the Consent Calendar given the Administration's opposition. However, Congressman Dicks made the critical decision to stay with his strategy. Tim Thompson, Mike Bagley and Jim Waldo had stayed up most of the night preparing fact sheets and responses to the Administration's claims.

The next day the bill was taken up late in the afternoon as part of the Consent Calendar. All of the Washington House members were present and spoke in favor of the legislation. Tim Thompson and Mike Bagley were on the House Floor awaiting a signal from Congressman Dicks to distribute our response to the Administration's concerns. Things were looking good, when Congressman Frenzel of Minnesota arrived on the floor. He had a reputation for voting against almost all spending measures of any type, of often voting to delete items from the Consent Calendar, and of supporting the Administration's objections to proposed legislation. Congressmen Chandler and Morrison immediately went over to talk with him about the concerns raised by the Administration. They were followed by Congressman Dicks who also had a long talk with him about the importance of this Settlement to the economic future of Tacoma and of the impact that the Indian claims were having on homeowners and small businesses. Congressman Frenzel said that he appreciated the information, but that he would still speak against the legislation -- which he did. However,

he then left the Chamber and did not call for a roll call vote which would have required a full vote of the House on the bill.

While Congressman Frenzel was gone and floor discussion was continuing, Majority Leader Foley sought out Tim Thompson and eloquently described the cooking of a chicken. The ending is what Thompson remembers the most: "This chicken has cooked long enough. Let's take it out of the oven before it overcooks." Thompson motioned to Congressman Dicks and Foley, and Dicks spoke briefly and shortly. Thereafter debate was cut off and the Settlement bill passed the House by consent.

In late May former Senator Magnuson passed away. Senators Inouye, Gorton and Adams, and Congressman Dicks all came to Seattle for the memorial services. Following the services, they discussed having the Senate concur in the House legislation. Because we had worked extensively on the bill with the Senate staff and members, the House language was acceptable to them. During the trip back to Washington, D.C. they decided it would be a fitting tribute to Senator Magnuson and his legislative prowess if they could pull this off.

The first problem we encountered was that the Senate Select Committee had not yet published a Committee report on the legislation. However, there was only a limited period of time for the Senate to act on a bill coming from the House. After discussions with the House and Senate parliamentarians, it was determined that the House could send over a copy of the House Committee report, together with the legislation. The Senate would then adopt the House Committee report and concur in the House legislation.

Senators Adams and Inouye obtained the agreement of Senate Majority Leader Mitchell for this effort. Senator Gorton similarly obtained the agreement of Senate Minority Leader Dole.

Shortly after the Senate leadership decisions were made, the Legislation and Committee report arrived from the House and were acted on affirmatively by the Senate. Thus by June we had authorizing legislation which had passed both the House and the Senate, and was on its way to the President's desk.

We knew that OMB would recommend a presidential veto and that the Departments of Interior and Justice were at best slightly favorable or neutral. At this point we sought out anyone we could find who was willing to contact the White House and urge the President to sign the legislation. We also actively worked to involve other parts of the White House decision-making process in addition to OMB.

To this day we do not know what would have happened if we had not been able to turn events to our advantage. The first of these involved an OMB official directly questioning the nature of the commitments made during the Presidential campaign, and specifically Della Newman's ability to speak for the President. In the interim, the President had nominated Newman, a close personal as well as political friend, to be the Ambassador to New Zealand. Prior to this time Newman had contacted the White House and OMB staffs regarding the Settlement. After these comments were reported to her, she decided to speak to the President directly. Their conversation took place late one evening in June at the home of Denny and Sandra Miller, who were actively working their contacts with the Administration.

The following day, Congressman Foley was sworn in as the new Speaker of the House. Just prior to his first meetings with the President in his new position, he happened to talk to Congressman Dicks. Foley mentioned to Dicks he was on his way to the White House to meet with the President, and Dicks reminded the Speaker that the Puyallup Settlement was before the President and asked him to urge the President to sign it. The Speaker agreed to

do so. Dicks and Denny Miller then got word to the White House staff about the Speaker's intentions to raise the Puyallup Settlement with the President.

In their discussion of the Settlement, the President told the Speaker that he had just been discussing the Settlement the previous evening, and is reported as saying, "I can't pronounce it, but if you say it's good for Washington and good for you, I'll sign it" (and he did). On June 21 President George Bush signed into law H.R. 932 authorizing the Puyallup Settlement.

We now needed to secure appropriations, which in many ways can be even more difficult than securing the authorization. As referred to earlier, we had been required to start planning for the appropriation in March and April. One key element of this strategy was to obtain action by the local and State governments in order that their inaction could not be used as a reason to defer federal appropriations as had occurred in other settlements. As described earlier, by mid-May the State had passed the necessary appropriations and State authorizing legislation.

With the State and local government actions completed and with an authorization bill signed by the President in June, Congressman Dicks was able to obtain the full \$77.5 million in federal funding. Only Congressman Dicks, two of his staff people (Tim Thompson and Mike Bagley), and Denny Miller know how he managed to accomplish this feat and they have never offered the details.

Through some exceptional efforts in the Senate by Senators Gorton and Adams; with the very influential backing of Senator Inouye; and with assistance from Pat Griffin, the Tribe's lobbyist, who had a close professional and personal relationship with Senator Byrd, Chair of the Senate Appropriations Committee, we were able to obtain appropriation of the entire \$77.5 million. In late October the Interior Appropriations FY 90 bill passed with full funding for the Puyallup Settlement. With formal action commencing in January, the Puyallup Settlement was authorized and the full funding appropriated in October, 1989.

In the next few weeks we learned that the Gramm-Rudman Act would cause a reduction in the federal appropriations for FY 90. This would have had the effect of delaying the Settlement for at least a year. We then began an effort which resulted in an administrative determination that the reductions would not apply to one-time expenditures for Indian settlements as well as a decision by Interior to immediately transfer all of the federal settlement funds from Washington, D.C. to the region and to notify the other parties that the funds were available to close the Settlement. Our motto for this phase was "Let's get the check out of town (D.C.)." It worked so well that on November 3 the Tribe received a call from the Bureau of Indian Affairs stating they had a check for the Tribe in the amount of \$18.8 million. With great difficulty, the Tribal Attorney John Bell informed the BIA the check could not be delivered to the Tribe until the day of Settlement closure.

Veteran White House, Senate and House observers have all said they were amazed that we could receive an authorization and an appropriation in just one year, especially in the climate that existed at that time. Pat Zell, Counsel to the Senate Select Committee of Indian Affairs commented to Congressman Dicks: "I have never seen anything like it. I am amazed, just amazed."

Credit goes to a number of people. However, Congressman Dicks led the effort. He was an expert at knowing precisely when to push hard and when to use a light touch in working with his colleagues. We were always impressed with the respect that other Congressional members had for Norm.

XII. PRIVATE PARTIES PAY THEIR SHARE

In July of 1989 we had secured State funding for the Settlement, and were cautiously optimistic that federal appropriation would be forthcoming in the current Congressional session. In order to comply with the Settlement Agreement, the specified lands and money were to be transferred to the Tribe within one month following the latter of federal and State authorization and appropriation. To meet this deadline, the Steering Committee began focusing on the remaining activities that were required for closure, assuming that federal approval was received in the fall. One major element remaining was to seek the rest of the \$11.4 million private sector share of the Settlement costs.

The private sector contribution was to be used to help pay for various Settlement elements such as land acquisition; economic development; job training, coordination and placement; the Blair project; and payments to members. Earlier, we had secured commitments from Union Pacific Railroad, Burlington Northern Railroad, PIC and the Commencement Bay Tideland Owners Committee (CBTOC) totalling \$6,960,000. There remained \$4.5 million that was uncommitted.

Our strategy to raise the remaining private sector contributions included negotiations with the various title companies; identification and negotiations with the affected private entities in the riverbed, mis-survey, and tidelands areas; and development of a Local Improvement District (LID) proposal.

As described earlier, many if not most of the private businesses and landowners believed the title companies should fund the remaining private sector share of the Settlement. To date, the title insurers had not committed cash to the Settlement, and we could only estimate their potential risk in terms of acreage and policy amounts. We were also undecided about the appropriate role for riverbed owners.

To address these issues, the staff began developing an assessment procedure for non-residential lands that would be benefitted by the Settlement, based on acreage, assessed valuation for land and improvements, degree of risk from Tribal claims, and the benefits to be derived from the Blair Bridge improvement project. The goal was to form a LID that would encompass the territory necessary to achieve affirmative support and yield the \$4.5 million required for the Settlement, after crediting for prior private commitments (land, jobs, etc.), likely title company participation, and availability of funding from riverbed owners.

In September of 1989 the staff identified the key private sector areas to be targeted in an LID, including the riverbed, Section 34, the mis-survey area, and other tidelands. Because these areas fell within the boundaries of the City of Tacoma, the City agreed to serve as lead on formation of the LID. [If the LID process were not used, private landowners in the 1873 reservation boundary would be assessed as well.]

The level of individual assessments was to be based on several key factors:

- The number of acres, improvements, assessed valuation, and the location of the ownership.
- The potential impacts due to reversion of land title; imposition of Tribal land use and environmental regulations and standards; the cost of potential litigation; and impediments to future improvements of facilities.

- The potential impact on development activities from Tribal authority over required permits; reductions in values and inability to secure title insurance during real estate transactions; use of the property for collateral in obtaining financing.
- Superfund cleanup status of the property; cost of relocation and compensation to the Tribe for past damages.
- Potential benefits from increased economic activity in the Port and City.
- The owner's financial status.

The benefits of the Settlement to the property owners might include: clearing of the cloud on their title arising from land claims, or jurisdictional claims such as Tribal assertion of land use, police, taxation, and environmental jurisdiction; resolution of development conflicts through the land use and fisheries consultation process; and economic benefits derived from the Blair Bridge project.

By the end of September the Staff Committee determined that the preferred method for raising the remaining \$4.5 million of the private share was through voluntary contributions from property owners, businesses and the title companies, as opposed to formation of an LID. The Steering Committee agreed with this approach. However, an LID Task Team was established, with representatives from the City of Tacoma and Pierce County, and charged with preparing to proceed with the formation of an LID by the end of October, in the event the voluntary approach was not successful in ensuring that the full \$4.5 million would be available for closure.

The initial steps to securing voluntary contributions involved a major title search in the disputed area to identify the private property owners at risk. The research involved conducting an inventory of parcels in the disputed area through the Pierce County Assessor's Office, the County Treasurer's office, and the title companies. We also identified numerous easements and rights-of-way within the 1873 Reservation boundary, and particularly those crossing the Puyallup Riverbed, that would potentially be impacted if there were no settlement. The risk to easements and rights-of-way primarily involved utilities, pipelines and telephone lines. We also identified non-property owners such as banks, shipping companies and lessees that would stand to benefit from a Settlement. With this data in hand, we were then able to identify the landowners as well as the key businesses and lessees that would be asked to contribute towards the \$4.5 million.

At the same time that we were developing an inventory of the landowners and businesses, we refined and updated an inventory prepared earlier in the process by the CBTOC of the title insurers and the amounts of policy coverage they had at risk within the disputed area. This was information the title companies had not provided.

By October, a private sector contribution solicitation package was developed which included a brochure outlining the benefits of a settlement and entitled, "Private Sector Contributions: A Final Step"; a list of factors used in determining the level of recommended contributions; an "invoice" with a recommended contribution, and a sample commitment letter. On October 23, George Weyerhaeuser, President of the Weyerhaeuser Company, and Bill Philip, President of Puget Sound Bank, hosted a private sector luncheon at Weyerhaeuser Headquarters. Of the 55 companies invited, 35 were represented at the lunch, along with Congressman Dicks, House Majority Leader Brian Ebersole, Tacoma Mayor Doug Sutherland and Port Executive Director John Terpstra. The purpose of the lunch was to explain to the business community their exposure due to the land and jurisdictional claims, what the

Settlement would accomplish, and the economic benefits that these businesses would enjoy if such a Settlement were enacted. This initial effort resulted in pledges of over \$1 million toward the Settlement.

Following this lunch, letters and packets were mailed to the invitees who were unable to attend. Although the Weyerhaeuser Company, Puget Sound Bank and Simpson Tacoma Craft Co. had made early commitments to contribute to the Settlement, the title companies, major utilities and other businesses had not yet agreed to participate. Consequently the pace picked up to complete the title/property search and to contact the numerous private parties in the disputed area by mail and phone. The goal was to have commitments to fund the \$4.5 million by November 30, 1989.

The title companies to be contacted included Chicago Title Insurance Co., Commonwealth Title Insurance Co., First American Title Insurance Co., Lawyer's Title Company of Washington, Inc., Pioneer National Title, Puget Sound Title Co., Rainier Title Company, TICOR Title Insurance and Transamerica Title Insurance Co. The first order of business was to clarify the chain of the company responsibility, as many firms had merged or been bought out over many decades. We enlisted the support of Congressman Dicks, Senators Gorton and Adams, Bill Philip, and Jim Waldo to help secure title company contributions. On October 31, TICOR Title Insurance announced it was contributing \$450,000 to the private sector share of the Settlement, bringing the total contributions and/or commitments to \$8.5 million. The check was presented to Mayor Doug Sutherland.

On November 15, Corry McFarland and Karl Anderson of the CBTOC convened a meeting of Pierce County business leaders at the Tacoma Sheraton to encourage additional commitments from the private sector. Speakers included Mayor Sutherland, Port Commissioner Jack Fabulich, Pierce County Councilman Chuck Gorden, Jim Waldo, Tim Thompson on behalf of the United States government, Mike McCormick on behalf of the State of Washington, Corry McFarland and Karl Anderson on behalf of CBTOC, and Don Anderson and Dave Graybill who discussed why they made commitments. A total of 25 business leaders attended. By this time we had raised \$1.75 million of the \$4.5 million uncommitted private sector share.

In late November the parties were hoping to reach final Settlement closure by December of 1989 or, at the latest, early February 1990. However, delays in meeting other Settlement implementation provisions such as land exchanges, plus the time-consuming private sector fundraising effort, made it apparent that late February was more realistic. February 28, 1990 became the goal for closure.

By the end of November, we had received commitments from 26 business totalling approximately \$2.1 million. This included commitments from four title companies. Their contributions, though substantial, represented only a fraction of their potential liabilities if there were no Settlement. Still another \$2.4 million was necessary. Again discussions arose regarding the formation of a LID to ensure a timely closure, and again this effort was put on hold while a final effort was made to secure voluntary contributions.

To raise the remaining funds an extensive letter writing and phone campaign was initiated. We assigned responsibility for contacting the numerous businesses to a small core from the Implementation Committee and Staff Committees. Corry McFarland and Karl Anderson were key to this initiative and focused their attention primarily on businesses within the tidelands. Congressman Dicks and Tim Thompson concentrated their efforts on the banks, utilities, businesses and others who might be willing to make a contribution for the good of the community. Jim Waldo and Chris Towne coordinated the effort, maintaining a record of

contributions and commitments to date, as well as contacting numerous businesses, landowners, and lessees to secure the remaining \$2.4 million.

In early February, the parties again decided to delay closure due to the need for additional private sector funds, as well as some unresolved technical issues related to property transactions, utility relocations and preparation of the necessary court closing documents. The date for final closure was extended to March 24, 1990. The clock was ticking and for every day lost, the interest due to the Tribe was steadily increasing. By mid-February we were within \$400,000 to \$500,000 of our goal. Although we were close to having the necessary commitments by mid-March, we did not have money in hand to carry out our obligation to the Tribe at closure. Some businesses had not yet responded, while a few others either reduced their commitment, withdrew their commitment based on the opinion that their title company had contributed on their behalf, or simply had not remitted a promised payment. Congressman Norm Dicks and Senator Slade Gorton personally contacted over 100 landowners and businesses through letters, phone calls and telegrams to remedy this deficiency.

At the same time, the Staff Group was making phone calls to and corresponding with most of the individual businesses sometimes two, three or even more times. Contacts were made not only at the local and State management level, but also at the national level. With some companies, such as those in the petroleum industry, we were working with the King or Pierce County-based representatives and their out-of-state corporate officers at the same time. Interestingly, with some companies we were in a position where we were not only explaining the extent of their exposure, but we were also asked what their competition was contributing. We were literally down to: "If they contribute '\$ x' then we'll contribute '\$ y'."

Reaching the private sector goal proved to be as tense as waiting for word on the Tribal vote over a year earlier. The stage was set, the closure events were in place, and we were out of time. Within days of the March 24 date set for final closure, the private sector share of the Puyallup Settlement was secured. In fact, many of the checks arrived on March 23. Over 100 private businesses and individuals contributed between \$500 to \$750,000 to make final closure possible. Although the individual amounts contributed cannot be disclosed, the voluntary contributions by the private sector were critical to reaching closure on one of the largest Tribal land claims settlements in the history of the United States.

XIII. FINALIZING THE SETTLEMENT

By June, 1989 the Implementation Committee had secured State legislation and funding, the President had signed the federal legislation authorizing the Puyallup Settlement and the federal appropriations process was moving forward in a generally positive direction. Therefore, in addition to pursuing the private sector fundraising described in the previous chapter, we began to focus on the tasks necessary to effectuate the Settlement.

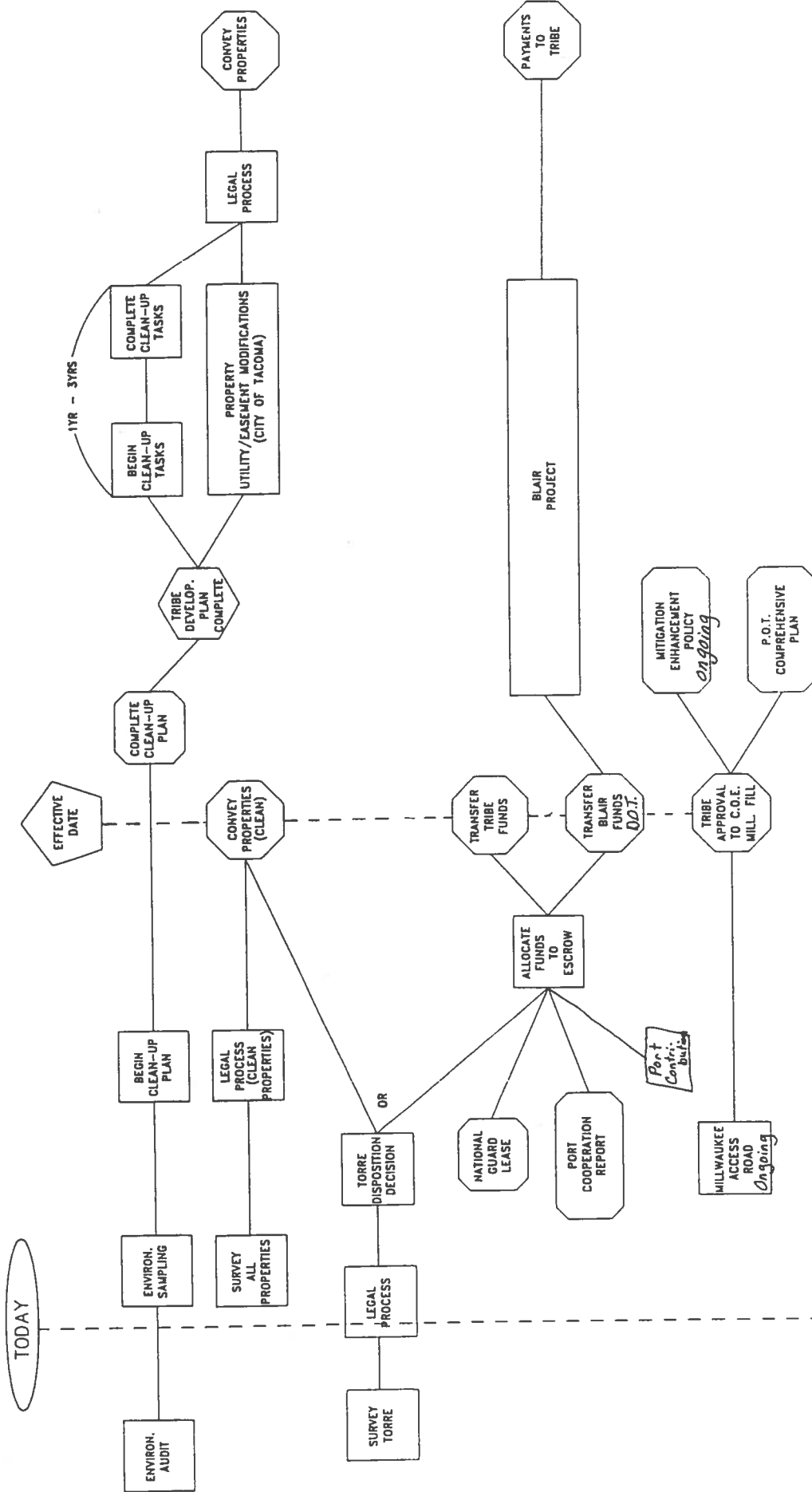
After a month of pursuing these tasks on a fairly informal basis, we concluded that this approach would not work, for three reasons. First, there were too many issues. Second, many of the issues were interconnected to varying degrees, and third, there were an increasing number of individuals or entities that needed to be informed and organized in order to complete the pre-settlement tasks within any reasonable timeframe. For example, there were 11 State agencies involved in various aspects of the Settlement, many of which needed to coordinate with each other, the Tribe, and the local governments or federal agencies.

In July, we adopted a Task Control System and implemented a joint Tribal, State and local Staff Coordinating Group which met on a regular basis. We identified 60 major tasks and several hundred sub-tasks which needed to be completed prior to the Settlement's taking effect. Individuals were then assigned lead responsibility for each of the tasks and deadlines were established for completion of each task or a status report on the progress of that task.

The tasks were keyed into the Settlement Agreement and Technical Documents. As an example, one task related to the Blair Waterway property which the Port of Tacoma would convey to the Tribe. The sub-tasks initially included an environmental audit and cleanup plan; a title search; easements which needed to be modified, vacated and extinguished; restrictions on future use; creation of Foreign Trade Zone status; provision to fill a marine graving dock on the site; a survey of the property; and provisions for the future crossing of a city street by product handling equipment. The lead agency was the Port of Tacoma and other agencies included the Tribe, Bureau of Indian Affairs, EPA, State DOE, City of Tacoma Utilities and City of Tacoma general government. Each of these sub-tasks contained numerous steps for completion. Many of them required the hiring of contractors to perform tasks such as the environmental sampling and analysis. In fact, these audits would cost the Port of Tacoma in excess of \$3 million.

In addition, pursuit of these tasks often uncovered additional issues or unexpected problems. For example, we discovered a number of problems with easements as well as a set of multi-million dollar utility issues which were not anticipated by the Settlement documents. This same level of detail was required not only as to the other properties involved but also to issues ranging from fisheries enhancement and habitat to law enforcement and the jobs program.

SETTLEMENT AGREEMENT IMPLEMENTATION PORT OF TACOMA - TASK FLOW CHART



By the end of July it became apparent that the coordination of this effort would require concentrated and skillful attention. Fortunately, Laura Newsham, Ray Corpuz' Assistant who had helped with organizational efforts from the beginning of the negotiations in 1984, agreed to take on this responsibility. We targeted completion of this effort for December 31, 1989.

We continued to utilize this task approach through the next few months. As tasks were completed, they were shifted from an active to a completed status.

We also needed to establish a series of escrow accounts for each governmental entity and the private sector contributions. Each of these accounts required differing provisions to meet the fiscal and audit requirements of the various governments. In addition, when it became evident that we would not close the Settlement within 30 days of the passage of the federal and State legislation we decided to deposit all of the available funds in interest bearing accounts. The Tribal and local participants had differing views on whether interest was owed the Tribe, and, if so, for what period of time? We eventually worked our way through these issues, and agreed that the Tribe was to be paid interest from the date set forth in the Agreement through the closing date of the Settlement, regardless of when the funds were deposited in the accounts.

As other tasks were completed they led to the need to begin preparing all the necessary legal documents for the transfer of lands to the Tribe, a master escrow closing account, and preparation of legal checklists and certifications that the necessary actions had been completed. We also began preparing the documents that would be filed in the Federal Court case, Puyallup Tribe v. Port of Tacoma and Union Pacific Railroad, as one step in completing the Settlement and legally extinguishing the Tribal claims. The Tribe was unwilling to extinguish any of its claims until it received the benefits as provided in the Settlement. The other parties were unwilling to provide the benefits until the claims were extinguished. Therefore, we established a process which would simultaneously confirm that the benefits promised at the time of the Settlement had been accomplished; that the Tribe therefore would relinquish its claims as provided in the Settlement; that the funds would be transferred at that time, and that all of the above arrangements would be final upon acceptance by the Federal Court of the Settlement and the actions described above.

As described earlier, it became clear by late November that the Settlement could not be accomplished by December 31, 1989. We then targeted completion of the Settlement effort by the end of February 1990. We continued to work through December and early January 1990.

In early January we identified five remaining issues which could affect the timing of the closing; the first four involved lands to be conveyed to the Tribe.

- 1) A condition imposed by the State Legislature regarding the existing National Guard lease of a parcel of Port of Tacoma property.
- 2) Utility easements issues on the Port's Blair property.
- 3) The environmental audits and issues relating to Port lands.
- 4) A property owner adjacent to one of the Port Settlement properties needed easements on the latter property for the purpose of monitoring environmental cleanup results. This situation threatened to turn into an impasse among the Port, the Tribe, the neighboring property owner and EPA. Each of these

parties knew that this issue could delay the implementation of the Settlement and believed that this gave them some opportunity to improve their situation regarding the terms and conditions of such environmentally required actions.

5) Completion of private sector fundraising.

This period of preparing to close the Settlement was a very trying time for the Tribal Council, staff and attorneys. They were involved in most of the tasks with local, State and federal governments and needed to accomplish a number of internal tasks as well. For example, the Tribe needed to establish a Board of Trustees to manage the funds for both the permanent Tribal Trust and the trust for payments to members.

In addition, there were numerous issues with the BIA regarding the investment of three funds prior to Settlement; the identification and approval of the Tribal membership roll; and, whether the payments to members would be counted as income for the purpose of determining eligibility for certain State and federal benefit programs. The Tribe also felt it was important to provide educational programs for its members on how to effectively use and invest the payments that the members would receive as a result of the Settlement. Another area which consumed a significant amount of Tribal time and attention related to the identification of lands currently held in trust by the United States, lands that were to be transferred into trust status, and pending individual Tribal members' applications for lands to be taken into trust. In retrospect, everyone involved underestimated the workload and complexity of the tasks at this time which put a particular burden on the Tribe due to the limited resources.

Just when we felt that we were getting close to final closure, the Blair property utility issues nearly stopped the Settlement process. During our technical work following the Settlement, we discovered that the Port engineers and the engineers for the City of Tacoma had measured distances from the top of the Blair waterway to buried city sewer and water transmission lines from different points on the surface. As a result, the dredging anticipated by the Port in the Blair channel dredging project would expose these City utility pipes at the location where the Tribe intended to build a new shipping terminal on Settlement property. The Port's view was that this was a Tribal and City problem; the City believed this was an issue between the Port and the Tribe; and the Tribe believed that this was an issue between the City and the Port. Because the potential costs of future liability were so large, the parties were unwilling to leave these issues for later resolution. These difficulties were further compounded by the belief on all sides that each had already compromised and accommodated one other to a much greater extent than they had ever anticipated. The City Water Division perceived that it received no substantial benefit from the settlement.

After several weeks of positioning and complaints, Congressman Dicks called a meeting. Mayor Vialle, who had been a strong proponent of the settlement while on the Tacoma City Council, opened the meeting with an eloquent plea that everyone needed to give a little more to finish the settlement effort. The Tribal chair Henry John, and Port Director John Terpstra agreed. The Tribe, the Port and the City of Tacoma committed to work out a three-party agreement on these issues. This effort required the rapid development of reliable cost estimates of various alternatives, and then some creative and very detailed combinations of solutions and the financing of those solutions.

These negotiations began in mid-February of 1990 and were concluded after 10 drafts in the first week of March. The agreement provided for the relocation of the City's major transmission water line, the deepening of the location of the City's main sewer line, additional dredging in the Blair Waterway, and the allocation of \$3.5 million in costs among

the three parties. The implementing agreements were executed just prior to the March 24 completion of the Settlement.

The Day of Closure

By March 24, 1990, it was two weeks shy of six years since the Tribe had sent the initial letter to Mayor Sutherland, Congressman Dicks and other local officials proposing settlement discussions regarding ownership of the former Puyallup riverbed. The participants had decided that the finalizing of the Settlement should include both taking the final legal steps that were required, having a public ceremony and reception, and culminating in a private dinner for those who had been most involved in making this Settlement a reality.

On the morning of March 24, 1990, 35 people gathered in the conference room of Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim to sign the necessary documents. After lunch the participants moved to the Federal District Court in Tacoma with Judge Coughenour presiding. John Bell, Annette Klapstein, Harry Sachse and Randy Harrison represented the Tribe; and John Roberts, Pierce County Prosecutor John Ladenburg and Tacoma's City Attorney Bill Barker represented the local governments and private parties. They presented the necessary documents and motions to the Court. Judge Coughenour then called on Senator Inouye, Congressman Dicks and Jim Waldo to speak about the Settlement. As noted earlier, before signing the documents, Judge Coughenour spoke to the importance and benefits of the Settlement:

"You and the other lawyers involved in this should be proud of what you have done, and the community should recognize the role that lawyers play in dispute resolution... I have been in awe of the fact that you have brought reason to bear upon this problem, and frankly I was beginning to despair that I would be asked to decide these issues. And there is one thing that comes to me very clearly, and that is that this kind of resolution is so superior to what an individual judge can do that can only see parts of the controversy... (I)t exemplifies parties and attorneys, lawyers, who are willing to work together as men and women of reason and good spirit to create a solution in which everyone can come out a winner."

Following the judicial proceedings, there was a public reception and signing ceremony which was attended by approximately 500 people. The audience included the Tribal Council and Tribal members; officials and staff, landowners; small business owners; local officials; State legislators and statewide elected officials; and staff members from local, State and federal agencies. It was a remarkable event with participation by a wide cross-section of the community including most of the hundreds of individuals who had participated in making this day a reality.

That evening 120 people who had "given the most blood" to this effort gathered at the Tacoma Art Museum to share a meal, exchange some gifts, savor what had been accomplished, and talk about future opportunities. For many, the celebrating continued long into the evening.

XIV. MANAGEMENT AND EXECUTION OF THE PROCESS FROM A LOCAL PERSPECTIVE

As lead negotiator of the non-Indian participants in the Puyallup Settlement process, Jim Waldo, together with Chris Towne and Barbara Mirk, were charged with the responsibility to coordinate the efforts of the local community. From our personal experience, and reflecting community participants' responses to a September, 1991 questionnaire, the Puyallup Settlement process demonstrates that a number of factors were critical to the success of the effort.

- There needs to be a compelling problem (or problems) clearly requiring resolution in the near term, such as the threat and uncertainty felt here as a result of the Tribe's long-standing and intensifying land and jurisdictional claims.
- There must be real benefits which can be achieved through negotiations, and no party can have a clear path to victory using other avenues in other arenas. The benefits may include avoiding the potential for a significant loss; obtaining a timely decision or the probability that the passage of time will diminish the potential benefits of a decision in an adversarial proceeding; the need to obtain certainty; achieving benefits that are not obtainable by other means; or avoiding another alternative with some chance of success but where the costs, in both financial and human resources, are unacceptably high in comparison to the gain.
- Developing a good grasp of the history and the perspectives of the participants on both sides of the table, as individuals as well as representatives of institutions, was important to the eventual success of this effort. The ability to view particular issues, statements, or proposals in such dual contexts was an important ingredient in the success of this effort.
- The most important factor in initiating, sustaining and achieving a successful outcome from this process, over a span of six years, was leadership. Specifically, leadership in this effort required the ability to persevere through many trying situations; the ability to communicate effectively; the creativity to devise acceptable outcomes; and the credibility to sustain both the process and the Settlement Agreement itself. The leaders of the participating entities also needed to have a good sense of their community and its political sentiments, in order to judge what combination of costs and benefits would make a final settlement package acceptable.
- Establishing and building good working relationships - - among the local parties as well as with the Tribe - - was a key to success. This requires an early recognition that with good relationships, even the "near impossible" can be achieved, and in their absence, almost nothing can be achieved.
- Momentum is another critical factor in the success of any difficult and controversial endeavor. When participants feel a sense of movement toward a successful outcome, they are willing to devote the necessary time, energy and resources. They are also more willing to make those final hard decisions associated with any complex negotiation.

- An effort of this complexity and duration requires a very substantial commitment of always-limited resources. It takes a lot of money, a great deal of individual energy and talent, and specifically the commitment of time by key elected officials and community leaders.
- Finally, to be successful, any effort such as the Puyallup Settlement requires a certain amount of good fortune - - and we make our own good fortune. Good luck is a gift; good fortune is composed of a measure of luck combined with the ability to recognize and act on fortuitous opportunities.

After the fact, it is possible to describe the chronology of events and the factors which contributed to a successful effort in a concise and orderly manner. But that is not the way it usually appears to those who are living the events, and certainly was not the case in these negotiations.

In retrospect, it is clear that the underpinnings of such a process were learning, understanding, educating, and communicating - - not once, but continuously throughout the process. The first steps were characterized by confusion and chaos. There was inadequate information. Essential relationships were non-existent or negative. Participants knew what they did not want to see happen, as distinguished from what they knew they needed to have happen in order to meet their objectives. There was a strong tendency to focus on what divided people and interests in the community, instead of their common interests. Therefore, many approached the effort with active skepticism, and were present primarily to "play defense" - - to ensure that their interests were not impaired by the effort.

At the same time, there was a sense that such an effort should be and could be accomplished quickly. This sentiment stemmed both from the need to obtain results to resolve the compelling problems that brought the party to the table, and the tendency for local government officials to think in fiscal year or term-of-office time increments. As well, the traditional American attitude is that we can do anything in a short period of time if we just apply ourselves diligently enough.

Motivation

First, why had the initial participants been motivated to come together to seek a resolution? The Tribe had successfully asserted its ownership of a twelve-acre portion of the former Puyallup Riverbed in federal Court, and threatened to take action to gain title to more than one hundred additional acres. This was a compelling negative trigger, eliciting a strong emotional response. At the same time, title insurance companies had begun to attach exceptions to policies in the port area, disavowing responsibility where the Tribe laid claim to land ownership. As the process got underway, it became clear that local government jurisdictional issues, such as police and land use jurisdiction, were equally deserving of prompt resolution.

At the same time, we began to understand that we could achieve benefits through a comprehensive settlement not attainable by other means, especially through litigation. We needed both negative and affirmative motivations to initiate and sustain the process. For instance, the Port of Tacoma had recently received Federal authorization for a major redevelopment and expansion of the Blair Waterway, but could not reasonably expect funding for construction in the foreseeable future. In addition, the Tribe had indicated its opposition to further impacts of development on the fisheries resource in that area of Commencement Bay. The Port Commission saw the possibility of including project permitting and funding in a settlement with the Tribe as a significant affirmative rationale for participation in negotiations.

Over the life of the process, as we expanded our knowledge and understanding, and communicated with the Tribe, the list of compelling reasons for a settlement, both negative and affirmative, grew and changed. In the Port area, conflicts between cargo ships and Tribal fishing boats and difficulties in obtaining development permits for Port expansion to accommodate new cargo-handling methods needed to be resolved. At the same time, the Tribe saw the opportunity not only to assert its land and jurisdictional claims, but also to protect the fisheries resource throughout the Puyallup Basin and in Commencement Bay, to provide expanded economic opportunities for its members, and to redefine its role in the community. The result was a continuous redefinition of what would constitute success in a settlement package.

Leadership

We established and maintained a pool of human resources; we built an environment of mutual trust; we utilized those resources to the limits of everyone's endurance. Developing good relationships takes time; they are strengthened through action, as we come to know the abilities and strengths of each. We asked them to do what they could do well. We affirmatively communicated credit, internally and externally. Where there were differences of opinion about the proper course of action, we worked to accommodate each opinion, and to resolve the disputes. This happened at every level - between individual participants, among and between staffs, and interjurisdictionally. On occasion, there were disruptive influences motivated by power, the desire to harm other participants for reasons external to the negotiations, or even attempts to derail the process. Such problems merited and received our full attention until they were resolved.

How did the leaders lead? They spent the time necessary to develop, communicate and pursue a comprehensive strategy. They paid attention to all the direct and indirect factors which had the potential to further or impede the settlement effort, utilizing an ad hoc but remarkably efficient intelligence-gathering system, and responded promptly to overcome, deflect, accommodate or take advantage of those factors. They were tactically efficient, modifying strategy or redeploying resources as circumstances required. They defined and constantly redefined what was possible. At all times, they shared credit, affirmatively seeking ways to give positive reinforcement to each of the participants.

Throughout the process, there developed a symbiotic relationship among the leaders, staff and consultants; There was a careful delineation of roles - staff and consultants respected the boundaries. We didn't do what political and community leaders could and should do, and they explicitly delegated responsibilities to us where appropriate. Through attentiveness to careful execution of tasks, and respect for their positions and perspectives, we earned and maintained their trust.

While it would be fair to say that each participant over the six-year process was indispensable to success, a nucleus of leadership evolved. Though remaining committed to their own interests, they developed a common interest in achieving the larger goal of a comprehensive, mutually beneficial settlement.

Public Officials

Members of any leadership group provide different kinds of leadership, based on their institutional role, personal style, and experience. In this process, key public officials and community leaders served an enabling function - they provided the effort with standing in the community, and they legitimized the process and goal to the extent that governments and organizations were willing to commit resources.

They could be active participants at key junctures; internally, to clarify and validate our purpose; externally, to develop and sustain relationships with other parties. Others were not involved in day-to-day work, and did not play a major public role; instead, they could be relied upon for intervention in the all-too-frequent crises, where their good judgment and credibility with their peers could be instrumental in defusing conflicts.

They were providers of clout on demand; to sustain energy and participation in a prolonged effort such as this, everyone must believe it can happen. U. S. Senator Daniel Inouye, at key points, said: "This is important; this can happen; I'm going to see that it happens." Della Newman, in the process of being appointed as Ambassador to New Zealand, and relinquishing her leadership of the Bush presidential campaign in Washington State, had access to the President and urged his Administration's support for the settlement when the authorization bill was to be considered in Congress. At the same time that the authorization bill was on President Bush's desk, Representative Tom Foley was elected Speaker of the House. When he paid his courtesy visit to the White House in his new capacity, he asked the President to sign the bill. As noted earlier, while the President wasn't sure he could pronounce the Tribe's name, he was going to sign the Settlement.

Staff and Consultants

Over the six-year period of negotiations, more than one hundred staff and consultants were involved. Each was indispensable to achieving success. Among that group were key individuals with a single-minded, intense focus on making the effort work, going far beyond their stated responsibilities, over and over again for six years, finding ways to overcome each obstacle.

In addition, at key junctures in the negotiations there were officials of participating entities who provided leadership on specific issues, who for limited periods of time went beyond their job descriptions to devise creative solutions and get them accepted.

The "Honor Roll"

In an effort of the magnitude and duration of the Puyallup Settlement, it is perilous indeed to cite certain individuals for their contributions to the process, when so many not recognized are equally deserving. The list below is intended to provide examples of the many ways that the participants provided their talents and energies to the cause, and to recognize those who provided leadership during most if not all of the "Long March" to success.

First among equals was Congressman Norm Dicks, who convened, intervened, exhorted, cajoled, and, on occasion, threatened. He knew the people and politics of his Sixth District, and led the battle to secure federal authorization and funding for the settlement.

Tacoma Mayor Doug Sutherland was the convenor of the first discussions in mid-1984, and chaired the Strategy Committee until his retirement from office at the end of 1989. Sutherland's unflagging energy and good humor, and his unwavering commitment to a mutually beneficial outcome, were a mainstay of the leadership group.

John Ladenburg served first in his capacity as a Tacoma City Councilman, and later as Pierce County Prosecutor. Throughout the process he was relied upon for his knowledge of municipal law, his understanding of the politics of the community and network of relationships, and his unfailing good judgment.

John McCarthy and Jack Fabulich, Port of Tacoma Commissioners, represented the institution with potentially the most to lose, the most to gain, and the largest share of the

costs of settlement. They had the difficult tasks of shuttle diplomacy between the Strategy Committee and the Port, and of conveying to their fellow Commissioners and Port management the substantive and political intricacies of the negotiations and necessity for significant Port funding for the process itself.

Corry McFarland and Karl Anderson created the Commencement Bay Tideland Owners Committee to mobilize the private property owners potentially impacted by the Tribe's claims, and for six years they served as their representatives on the negotiating team. They provided the connecting link between property owners and the larger group. They committed their time to internal operations; they helped to personalize issues for the Tribe; they provided feedback to the private property owners about the Tribe's views, and the difficulty and cost of resolving the issues on the table. They legitimized the process and product when we sought the Legislature's help and when we raised private sector funds. They made significant intellectual contributions, such as the design of a jobs program, and the concept of payments to members. Above all, they were problem solvers - bringing to the table the skills that made them successful in business.

Jim Waldo, lead negotiator and coordinator for the non-Indian parties, kept the process on course and moving ahead with unflagging energy and determination. As a "talent scout", he identified the participants' skills, and artfully mobilized their use. He drew the picture of a successful resolution, not once but many times, and kept everyone focused on the outcome.

As executive director of the Port of Tacoma for most of the duration of the negotiations, Larry Killeen carried the responsibility for the agency with the most at risk, the most to gain from a settlement, and the largest share of resources contributed to the Agreement. He was an essential party in almost every phase, and was called upon to help resolve the most contentious issues. When Killeen left the Port to take a private sector position, he was replaced by John Terpstra, who had been involved in almost every major issue in the negotiations in his capacity as Senior Director of Facilities manager for the Port. That continuity of leadership and effectiveness was essential to our ultimate success.

Ray Corpuz, was the invaluable "insider" - - equally versed in the intricacies of municipal finance and Pierce County politics. Time and again, he provided the creative alternatives to overcome seemingly intractable problems. He represented all the cities during the negotiations and was, in effect, the other lead negotiator.

Paul Roberts and Tim Thompson each served a term as Norm Dicks' Administrative Assistant during the negotiations. Together with Mike Bagley in Dicks' Washington, D.C. office, they created an environment of receptivity to Federal participation in the settlement, working the Department of Interior, the Justice Department, Corps of Engineers, and Congressional committees. Each of them in turn took on the settlement as a second full-time job, in addition to managing a Congressional office.

In the last days before closure of the Agreement, when issues involving properties to be conveyed to the Tribe erupted, Ted Coates and Ken Olson of the Tacoma Public Utility stepped in to devise creative solutions to tough intergovernmental problems.

From the State Legislature, Representative Art Wang instructed us in the limits of State authority and the intricacies of State finances. Once an issue involving State law, policy or funding was defined, he laid out the alternatives and provided the "reality check" as we decided on a course of action.

Pierce County Councilman Chuck Gorden was direct, focused and disciplined; when discussions wandered, he could be relied upon to remind us why we were there, and to suggest the logical next step.

In addition to the people who played high-visibility roles, success in this undertaking was dependent on people who provided leadership in coming up with ideas, refining ideas, and making them real - - one of the toughest leadership roles, because while in retrospect their function was recognized as essential, at the time little credit was given. Chief among them were Lynn Claudon Anderson, in her capacity as governmental affairs manager for the Port, and Chris Smith Towne, a consultant to the negotiating team.

Managing the Negotiations

Hard work is a prerequisite to success, but does not assure success. The normal aspects of management, such as preparing budgets and securing financial resources, hiring consultants, drafting documents, arranging meetings, organizing and informing participants, preparing proposals, gathering information, and controlling work flow, must all be performed and performed well. In addition, managing an effort of this magnitude and complexity requires as a first order of business the establishment of an historical context. The Tribe didn't understand our political, community and private sector institutions; their opportunities and constraints, and how to use them to achieve their purposes. The Tribe saw the non-Indians as a unified "You" - monolithic in purpose and practice. The local governments and private parties were ignorant of the Tribe's culture and politics. Neither really understood the other. Until this effort, none of the participants had taken the time and effort to increase their understanding.

On a task level, we learned, in the first round of negotiations, that it is not enough to define a problem; you must take a step back, to determine how and why the problem arose, and its consequences.

For example, our initial response to the Tribe's identification of the need for jobs for Tribal members was not just to say "Let's form a joint Tribal/Community Committee to find some jobs." We did that, but we also tried to answer the question "Why do Tribal members have a disproportionately high rate of unemployment?" We began by asking the Tribe for its views, researched federal studies and interviewed BIA staff, and gathered anecdotal information from local governments and private employers.

Managing Differences

As we were working for a large group of people and institutions with multiple interests, overlapping but different, with related but differing sets of priorities about the desired outcome and thus different priorities and willingness to contribute to the Settlement, we had to find ways to acknowledge the differences and their legitimacy, and find ways to deal with them expressly, through use of some or, on occasion, all of the techniques described below:

Joint reasoning sessions: Participants work with one another to resolve a substantive issue or an issue of allocation of financial responsibility.

Separate meetings with contending parties: The negotiator explores opportunities to determine where each party might move toward the other.

Joint meetings: If a joint meeting is determined to be the most effective strategy, arrange the meeting, set the agenda in consultation with the parties, and facilitate or participate in the meeting as circumstances warrant.

After getting a sense of what's needed, develop a skeleton proposal to resolve the dispute, convene a subset of the participants to refine the proposal, and, finally, convene the parties to move to closure.

For instance, the Tribe's top priority was increased protection and enhancement of the fisheries resource in the Puyallup Basin and Commencement Bay; it was identified in the first days of negotiations, and declared to be a non-negotiable priority. We could identify broad if undefined community support for the goal, but at the same time heard the demands for economic development, jobs, and Port expansion. How could each of these be accommodated? Our answer was to convene biologists and other technical experts from the Tribe, the University of Washington, resource agencies and consulting firms, to determine the existing conditions and consider alternative strategies including technical and cost parameters. The result was an agreed-upon initial strategy for protection and enhancement that formed the basis for the next five years' negotiations. While determining the "ripeness" of an issue for resolution is more art than science, the appropriate timing for using any of the techniques is as important as the selection of the approach.

When accused that "you don't have a solution", you must take the blame, but sometimes it is necessary to remind the parties: "I'll help you fix your problem." The responsibility cannot be transferred. It must remain with the parties with the authority and resources to resolve the problem. The principals must help to invent the solution, not just accept it.

The preferred outcome, in terms of non-participants' response, is "I'll help." Where that cannot be achieved, "I'll acquiesce." Failing that, "I won't oppose." What we usually achieved was: "I may not agree with all parts, but I know they've given it careful consideration, spent years. I trust the process and the participants; therefore I'll accept the product."

"Miss Manners was Right"

Even under the most trying circumstances, it is essential to maintain civility, to be respectful of others' opinions while reserving the right to disagree. It pays to keep in mind that after the current skirmish, it will be necessary to regroup for the next issue or next round, and damaged relationships can make that task extremely difficult if not next to impossible.

Politics

"We ought to take politics out of this process." "We ought to get this issue out of the political arena." Often-heard sentiments, but are they in fact defensible? We define politics as doing the public's business. The issues that gave rise to the negotiations, and the solutions we devised, were inherently political issues and choices requiring decisions by governments headed by elected officials. These governments and officials derive their authority from the people. Regardless of the specific subject matter at issue, the questions are always: What is in the community's best interest? What is my institution's responsibility to solve the problem? Those decisions (or the failure to decide) can have significant positive and negative impacts on individuals and communities.

The political aspects within local, State, and federal governments, and the Tribe, are just as real as substantive issues. They must be taken into account as seriously as the others.

A political solution (a solution which takes political factors into account and uses political processes to achieve it) isn't taking a poll and doing whatever garners the most support or least opposition. The question is what can garner the necessary support to become real. The factors used by the participants to answer that question include:

- Does the proposed solution equitably distribute responsibility?
- Is the proposed settlement well grounded in research, analysis and sound judgment? Will it stand the test of time?
- Were we kept fully informed? Were we afforded the opportunity to participate in devising and selecting the solution?
- Is the solution credible? How will non-participants evaluate the participants, the process and the product?
- Ultimately, is the solution politically sustainable?

As an example, the Port realized that the shipping companies were moving to a load centering strategy for their future expansion. The public lacked sufficient information to form an opinion on its merits. It was the task of the political participants to decide that if the people were fully informed, they would support the Port's providing public resources in the Settlement to enable development projects to proceed without Tribal interference in order to capture these opportunities.

Providing and Sustaining Momentum

When the negotiations began in summer, 1984, Karl Anderson was convinced that "we'll be done by Thanksgiving." Barbara Bedell Mirk and Chris Smith Towne were hired in January 1985 for what was intended to be a three-month project. How was the effort sustained as months turned into years?

First, keep the compelling problems and benefits at the forefront. It is all too easy to become bogged down in the task of the moment, and to lose sight of the larger goal. At regular intervals, we reassessed the process: is it still worth doing? Frequently, it was necessary to shift gears; in an effort of this complexity and duration, we couldn't just "do it again, harder" - we needed to identify obstacles, and fix them. For instance, while the first round of negotiations did not include the State of Washington, a reexamination at the commencement of the second round led us to conclude that the State's participation was needed to achieve a comprehensive settlement. We recognized that sometimes we couldn't solve all the problems on the table. At some points we found it necessary or advisable to abandon an issue, in the interests of the larger objective.

At times, participants felt that a comprehensive settlement couldn't be done, but the group as a whole was unwilling to abandon the effort completely. On these occasions, the solution was to refocus our short-term efforts on targeted, narrowly circumscribed issues, such as the Port's efforts to obtain permits for its Terminal 3 development, obtaining legislative relief for Riverbed property owners who could not find title insurance, or, as a last resort, resume preparations for litigation.

Second, maintain a schedule and time frame - - we worked towards it, even if we failed to meet our targets the first time, or the second or third. Drift is the enemy. We revised and delayed the larger program when we had to, but we tried to identify readily achievable individual tasks, under the theory that success breeds success.

Third, plan on change. In an effort of long duration, people come and go. Deal with it - - don't let it derail the effort. During our six-year marathon:

City of Tacoma Director of Intergovernmental Relations Ray Corpuz, a key member of the staff group, moved to a similar position at Pierce County; still later, he replaced Erling Mork as Tacoma City Manager.

Tacoma Mayor Doug Sutherland, who had served as Chair of the Strategy Committee, left office because of a term limitation, and was replaced by Karen Vialle, who had previously served on the City Council.

Pierce County Executive Booth Gardner defeated Governor John Spellman, and was replaced by Joe Stortini, who had served on the Pierce County Council.

Tacoma City Councilman John Ladenburg was elected Pierce County Prosecutor.

Congressman Norm Dicks' Administrative Assistant Paul Roberts was replaced by Tim Thompson, and Paul moved to Olympia to coordinate the State's participation in the negotiations.

Port Executive Director Larry Killeen accepted a position in the private sector and was replaced by John Terpstra, who had directed the Port's facilities development for several years.

In each of the cases cited above, they took their commitment to a settlement with them, and resumed participation almost immediately. Though their perspective shifted, their commitment did not.

And it happened in the Tribe, too. Throughout the process, and inevitably at crucial points, Tribal Council members and Chairs were defeated in regular elections, or recalled. Lead Tribal Attorney John Bell resigned, and was replaced by Randy Harrison, a member of his staff.

Throughout the process, regardless of the crisis of the moment, we always kept the door open for resuming negotiations. We maintained respectful relations with and among the Tribe, governments, and property owners, notwithstanding the level of frustration (and that required a high level of discipline).

Finding and Using Resources

Resources are easier to obtain when the potential contributors make the cause their own, and believe that the goal can be achieved. The contributing entities must be a part of establishing and maintaining an equitable allocation of responsibility (time and money.) The less obvious rule in managing an operation of this magnitude is to be open to opportunities. We learned to identify and motivate the application of the talents of the members of the group; no one is more likely to make an extra effort than the person who is already committed and involved. We were open to opportunities; sought funding wherever we could; found experts to solve specific problems within the participating institutions. We tried to avoid "reinventing the wheel": find out who knows what you need to know, and borrow the information, or better yet, the source.

Communications

Who needs to know? Who wants to know? Who do we want to know? What do we want them to know? Our continuous communications with business, labor, the community at large, elected officials, the news media, were essential to our success. Effective communications are formal and informal; managed and random; and employ all available

modes. Telephone calls and "Let's get together for a cup of coffee" meetings are as useful as formally convened briefing sessions. There is never enough time to cover all the bases. We learned to prioritize, and not to despair when we couldn't do it all. Craft your tools with as much precision as time permits - - Speeches, brochures, "Op Ed" pieces, flyers, briefing notebooks, letters to the Editor. Deliver them in a timely manner; a perfect document delivered a day after the decision deadline is an opportunity lost.

Lessons for the Future

Regardless of the subject matter of a negotiation, or the parties to the dispute, certain elements are common to approaching an issue of this complexity and magnitude:

What are the motivating factors (problems and preferred outcomes)?

Who is the leadership group?

Can the parties be convinced of the value of a non-litigative resolution to the extent that they are willing to provide the human and financial resources necessary to sustain the process?

Once these questions are answered affirmatively, the rest is "how to."

The Puyallup claims dispute was an immense set of compelling problems, requiring an commensurately sized reservoir of resources and the devising of a myriad of creative solutions. However, the same fundamental principles and approach would apply to almost any set of complex problems:

- The undertaking must be big enough to be worth doing, and to command the time, attention, and resources needed, and small enough to be managed.
- Seek to understand and be sensitive to the motivations and priorities of each jurisdiction and individual participant.
- Look ahead to the ultimate outcome, without getting bogged down in the "daily-ness" of the process, or you will lose sight of why you're involved.
- Constantly remind the participants that respectful relationships are a condition precedent to solving problems. Only superficially is it a matter of institution versus institution - - it's people, and the relationships existing or developed during the process, with opposite numbers as well as their confederates, that determine whether a mutually satisfactory outcome can be achieved.
- Institutions don't craft or reach agreements - - people do. People create new realities or new opportunities. Institutions may perpetuate old realities, or accept and organize new realities.
- As the process unfolds, be prepared to redefine success. The agreed-upon elements of the first round may need to be sacrificed at a later stage to accommodate a greater good; new technical information, new regulatory constraints, new funding sources may make a change of course necessary or desirable.
- And last but not least, a sense of humor is indispensable.

TREATY WITH THE NISQUALLI, PUYALLUP, ETC., 1854.
(Treaty of Medicine Creek)

Articles of agreement and convention made and concluded on the She-nah-nam, or Medicine Creek, in the Territory of Washington, this twenty-sixth day of December, in the year one thousand eight hundred and fifty-four, by Isaac I. Stevens, governor and superintendent of Indian affairs of the said Territory, on the part of the United States, and the undersigned chiefs, head-men, and delegates of the Nisqually, Puyallup, Steilacoom, Squawskin, S' Homamish, Stehchass, T' Peek-sin, Squi-aitl, and Sa-heh-wamish tribes and bands of Indians, occupying the lands lying round the head of Puget's Sound and the adjacent inlets, who, for the purpose of this treaty, are to be regarded as one nation, on behalf of said tribes and bands, and duly authorized by them.

ARTICLE 1. The said tribes and bands of Indians hereby cede, relinquish, and convey to the United States, all their right, title, and interest in and to the lands and country occupied by them, bounded and described as follows, to wit: Commencing at the point on the eastern side of Admiralty Inlet, known as Point Pully, about midway between Commencement and Elliott Bays; thence running in a southeasterly direction, following the divide between the waters of the Puyallup and Dwamish, or White Rivers, to the summit of the Cascade Mountains; thence southerly, along the summit of said range, to a point opposite the main source of the Skookum Chuck Creek; thence to and down said creek, to the coal mine; thence northwesterly, to the summit of the Black Hills; thence northerly, to the upper forks of the Satsop River; thence northeasterly, through the portage known as Wilkes's Portage, to Point Southworth, on the western side of Admiralty Inlet; thence around the foot of Vashon's Island, easterly and southeasterly, to the place of beginning.

ARTICLE 2. There is, however, reserved for the present use and occupation of the said tribes and bands, the following tracts of land, viz: The small island called Klah-che-min, situated opposite the mouths of Hammersley's and Totten's Inlets, and separated from Hartstene Island by Peale's Passage, containing about two sections of land by estimation; a square tract containing two sections, or twelve hundred and eighty acres, on Puget's Sound, near the mouth of the She-nah-nam Creek, one mile west of the meridian line of the United States land survey, and a square tract containing two sections, or twelve hundred and eighty acres, lying on the south side of Commencement Bay; all which tracts shall be set apart, and, so far as necessary, surveyed and marked out for their exclusive use; nor shall any white man be permitted to reside upon the same without permission of the tribe and the superintendent or agent. And the said tribes and bands agree to remove to and settle upon the same within one year after the ratification of this treaty, or sooner if the means are furnished them. In the mean time, it shall be lawful for them to reside upon any ground not in the actual claim and occupation of citizens of the United States, and upon any ground claimed or occupied, if with the permission of the owner or claimant. If necessary for the public convenience, roads may be run through their reserves, and, on the other hand, the right of way with free access from the same to the nearest public highway is secured to them.

ARTICLE 3. The right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses on open and unclaimed lands: *Provided, however,* That they shall not take shell-fish from any beds staked or cultivated by citizens, and that they shall alter all stallions not intended for breeding-horses, and shall keep up and confine the latter.

ARTICLE 4. In consideration of the above session, the United States agree to pay to the said tribes and bands the sum of thirty-two thousand five hundred dollars, in the following manner, that is to say: For the first year after the ratification hereof, three thousand two hundred and fifty dollars; for the next two years, three thousand dollars each year; for the next three years, two thousand dollars each year; for the next four years fifteen hundred dollars each year; for the next five years twelve hundred dollars each year; and for the next five years one thousand dollars each year; all which said sums of money shall be applied to the use and benefit of the said Indians, under the direction of the President of the United States, who may from time to time determine, at his discretion, upon what beneficial objects to expend the same. And the superintendent of Indian affairs, or other proper officer, shall each year inform the President of the wishes of said Indians in respect thereto.

ARTICLE 5. To enable the said Indians to remove to and settle upon their aforesaid reservations, and to clear, fence, and break up a sufficient quantity of land for cultivation, the United States further agree to pay the sum of three thousand two hundred and fifty dollars, to be laid out and expended under the direction of the President, and in such manner as he shall approve.

ARTICLE 6. The President may hereafter, when in his opinion the interests of the Territory may require, and the welfare of the said Indians be promoted, remove them from either or all of said reservations to such other suitable place or places within said Territory as he may deem fit, on remunerating them for their improvements and the expenses of their removal, or may consolidate them with other friendly tribes or bands. And he may further, at his discretion, cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable. Any substantial improvements heretofore made by any Indian, and which he shall be compelled to abandon in consequence of this treaty, shall be valued under the direction of the President, and payment be made accordingly therefor.

ARTICLE 7. The annuities of the aforesaid tribes and bands shall not be taken to pay the debts of individuals.

ARTICLE 8. The aforesaid tribes and bands acknowledge their dependence on the Government of the United States, and promise to be friendly with all citizens thereof, and pledge themselves to commit no depredations on the property of such citizens. And should any one or more of them violate this pledge, and the fact be satisfactorily proved before the agent, the property taken shall be returned, or in default thereof, or if injured or destroyed, compensation may be made by the Government out of their annuities. Nor will they make war on any other tribe except in self-defence, but will submit all matters of difference between them and other Indians to the Government of the United States, or its agent, for decision, and abide thereby. And if any of the said Indians commit any depredations on any other Indians within the Territory, the same rule shall prevail as that prescribed in this article, in cases of depredations against citizens. And the said tribes agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial.

ARTICLE 9. The above tribes and bands are desirous to exclude from their reservations the use of ardent spirits, and to prevent their people from drinking the same; and therefore it is provided, that any Indian belonging to said tribes, who is guilty of bringing liquor into said reservations, or who drinks liquor, may have his or her proportion of the annuities withheld from him or her for such time as the President may determine.

ARTICLE 10. The United States further agree to establish at the general agency for the district of Puget's Sound, within one year from the ratification hereof, and to support, for a period of twenty years, an agricultural and industrial school, to be free to children of the said

tribes and bands, in common with those of the other tribes of said district, and to provide the said school with a suitable instructor or instructors, and also to provide a smithy and carpenter's shop, and furnish them with the necessary tools, and employ a blacksmith, carpenter, and farmer, for the term of twenty years, to instruct the Indians in their respective occupations. And the United States further agree to employ a physician to reside at the said central agency, who shall furnish medicine and advice to their sick, and shall vaccinate them; the expenses of the said school, shops, employées, and medical attendance, to be defrayed by the United States, and not deducted from the annuities.

ARTICLE 11. The said tribes and bands agree to free all slaves now held by them, and not to purchase or acquire others hereafter.

ARTICLE 12. The said tribes and bands finally agree not to trade at Vancouver's Island, or elsewhere out of the dominions of the United States; nor shall foreign Indians be permitted to reside in their reservations without consent of the superintendent or agent.

ARTICLE 13. This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the President and Senate of the United States.

In testimony whereof, the said Isaac I. Stevens, governor and superintendent of Indian Affairs, and the undersigned chiefs, headmen, and delegates of the aforesaid tribes and bands, have hereunto set their hands and seals at the place and on the day and year hereinbefore written.

Isaac I. Stevens, [L. s.]

Governor and Superintendent Territory of Washington.

Qui-ee-metl, his x mark.	[L. s.]	Klo-out, his x mark.	[L. s.]
Sno-ho-dumset, his x mark.	[L. s.]	Se-uch-ka-nam, his x mark.	[L. s.]
Lesh-high, his x mark.	[L. s.]	Ske-mah-han, his x mark.	[L. s.]
Slip-o-elm, his x mark.	[L. s.]	Wuts-un-a-pum, his x mark.	[L. s.]
Kwi-ats, his x mark.	[L. s.]	Quuts-a-tadm, his x mark.	[L. s.]
Stee-high, his x mark.	[L. s.]	Quut-a-heh-mtsn, his x mark.	[L. s.]
Di-a-keh, his x mark.	[L. s.]	Yah-leh-chn, his x mark.	[L. s.]
Hi-ten, his x mark.	[L. s.]	To-lahl-kut, his x mark.	[L. s.]
Squa-ta-hun, his x mark.	[L. s.]	Yul-lout, his x mark.	[L. s.]
Kahk-tse-min, his x mark.	[L. s.]	See-ahts-oot-soot, his x mark.	[L. s.]
Sonan-o-yutl, his x mark.	[L. s.]	Ye-takho, his x mark.	[L. s.]
Kl-tehp, his x mark.	[L. s.]	We-po-it-ee, his x mark.	[L. s.]
Sahl-ko-min, his x mark.	[L. s.]	Kah-sld, his x mark.	[L. s.]
T'bet-ste-heh-bit, his x mark.	[L. s.]	La'h-hom-kan, his x mark.	[L. s.]
Tcha-hoos-tan, his x mark.	[L. s.]	Pah-how-at-ish, his x mark.	[L. s.]
Ke-cha-hat, his x mark.	[L. s.]	Swe-yehin, his x mark.	[L. s.]
Spee-peh, his x mark.	[L. s.]	Sah-hwill, his x mark.	[L. s.]
Swe-yah-tum, his x mark.	[L. s.]	Se-kwaht, his x mark.	[L. s.]
Cha-achsh, his x mark.	[L. s.]	Kah-hum-klt, his x mark.	[L. s.]
Pich-kehhd, his x mark.	[L. s.]	Yah-kwo-bah, his x mark.	[L. s.]
S'Klah-o-sum, his x mark.	[L. s.]	Wut-sah-le-wun, his x mark.	[L. s.]
Sah-le-tatl, his x mark.	[L. s.]	Sah-ba-hat, his x mark.	[L. s.]
See-lup, his x mark.	[L. s.]	Tel-e-kish, his x mark.	[L. s.]
E-la-kah-ka, his x mark.	[L. s.]	Swe-keh-nam, his x mark.	[L. s.]
Slug-yeh, his x mark.	[L. s.]	Sit-oo-ah, his x mark.	[L. s.]
Hi-nuk, his x mark.	[L. s.]	Ko-quel-a-cut, his x mark.	[L. s.]
Ma-mo-nish, his x mark.	[L. s.]	Jack, his x mark.	[L. s.]
Cheels, his x mark.	[L. s.]	Keh-kise-bel-lo, his x mark.	[L. s.]
Knutcanu, his x mark.	[L. s.]	Go-yeh-hn, his x mark.	[L. s.]
Bats-ta-kobe, his x mark.	[L. s.]	Sah-putsh, his x mark.	[L. s.]
Win-ne-ya, his x mark.	[L. s.]	William, his x mark.	[L. s.]

Executed in the presence of us—

M. T. Simmons, Indian agent.
James Doty, secretary of the commission.
C. H. Mason, secretary Washington Territory.
W. A. Slaughter, first lieutenant, Fourth Infantry.
James McAlister,
E. Giddings, jr.
George Shazer,
Henry D. Cock,

S. S. Ford, jr.,
John W. McAlister,
Clovington Cushman,
Peter Anderson,
Samuel Klady,
W. H. Pullen,
P. O. Hough,
E. R. Tyerall,
George Gibbs,
Benj. F. Shaw, interpreter,
Hazard Stevens.



(The Puyallup Agency; occupied by Muckleshoot, Nisqually, Puyallup, Skwawksnomish, Sunklakoom, and five other tribes; treaty of December 26, 1854)

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs, January 19, 1857.
Sir: The treaty negotiated on the 29th of December, 1854, with certain bands of Nisqually, Puyallup, and other Indians of Puget's Sound, Washington Territory (article 2), provided for the establishment of reservations for the colonization of Indians, as follows: (1) The small island called Klah-ehem-in. (2) A square tract containing two sections near the mouth of the She-nah-mum Creek. (3) Two sections on the south side of Commencement Bay.

The sixth article of the treaty gives the President authority to remove the Indians from those locations to other suitable places within Washington Territory, or to consolidate them with friendly bands.

So far as this office is advised a permanent settlement of the Indians has not yet been effected under the treaty. Governor Stevens has formed the opinion that the locations named in the first article of the treaty were not altogether suitable for the purpose of establishing Indian colonies. One objection was that they are not sufficiently extensive. He reported that 750 Indians had been collected from the various bands for settlement.

I have the honor now to submit for your consideration and action of the President, should you deem it necessary and proper, a report recently received from Governor Stevens, dated December 5, 1856, with the reports and maps therewith, and as therein stated, from which it will be observed that he has arranged a plan of colonization which involves the assignment of a much greater quantity of land to the Indians, under the sixth article of the treaty, than was named in the first article. He proposes the enlargement of the Puyallup Reserve at the south end of Commencement Bay to accommodate 500 Indians; the change in the location, and the enlargement of the Nisqually Reserve, and the establishment of a new location, Muckleshoot Prairie, where there is a military station that is about to be abandoned.

The quantity of land he proposes to assign is not, in my opinion, too great for the settlement of the number of Indians he reports for colonization; and as the governor recommends the approval of these locations and reports that the Indians assent thereto, I would respectfully suggest that they be approved by the President, my opinion being that, should it be found practicable hereafter to consolidate the bands for whom these reserves are intended or to unite other bands of Indians on the same reserves, the authority to effect such objects will still remain with the President under the sixth article of the treaty.

Within the Puyallup Reserve there have been private locations, and the value of the claims and improvements has been appraised by a board appointed for that purpose at an aggregate of \$4,917.

In the same connection I submit the governor's report of August 28, 1856, which he refers to, promising that the proceedings of his conference with the Indians therein mentioned were not received here with the report.

Very respectfully, your obedient servant,
GEO. W. MARYPENNY, *Commissioner.*

Hon. R. McCLELLAND,
Secretary of the Interior.

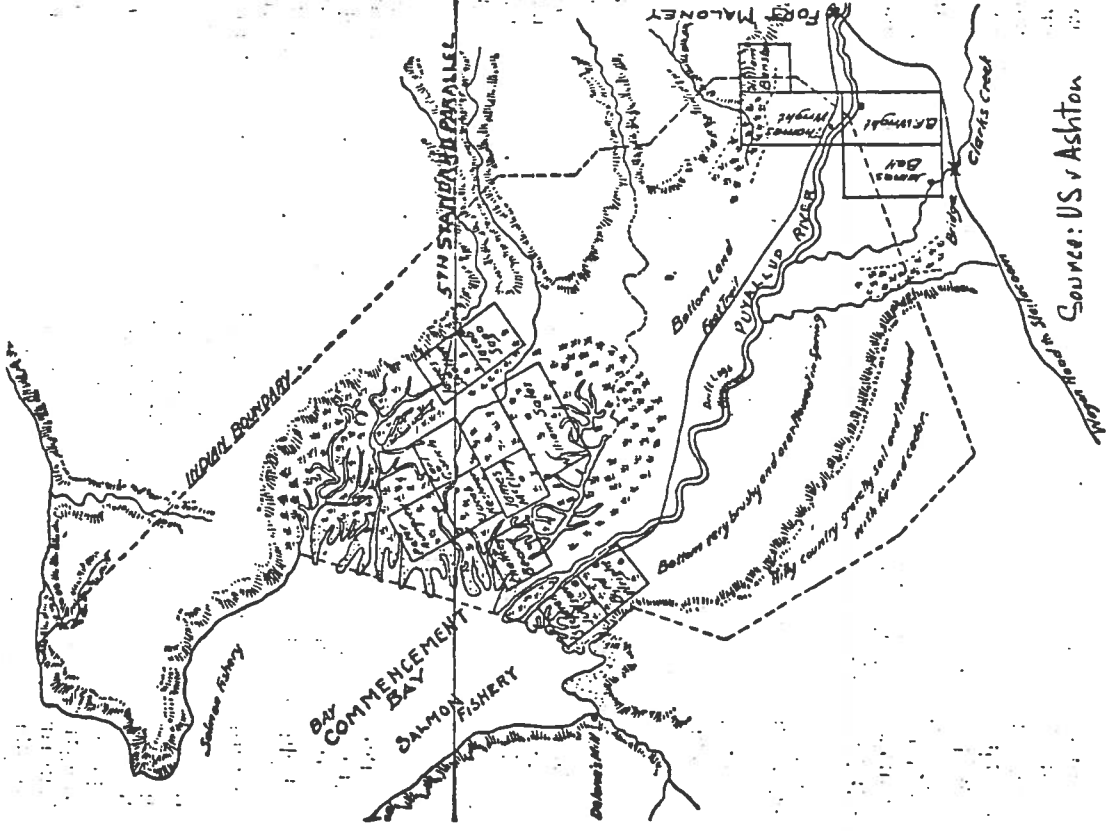
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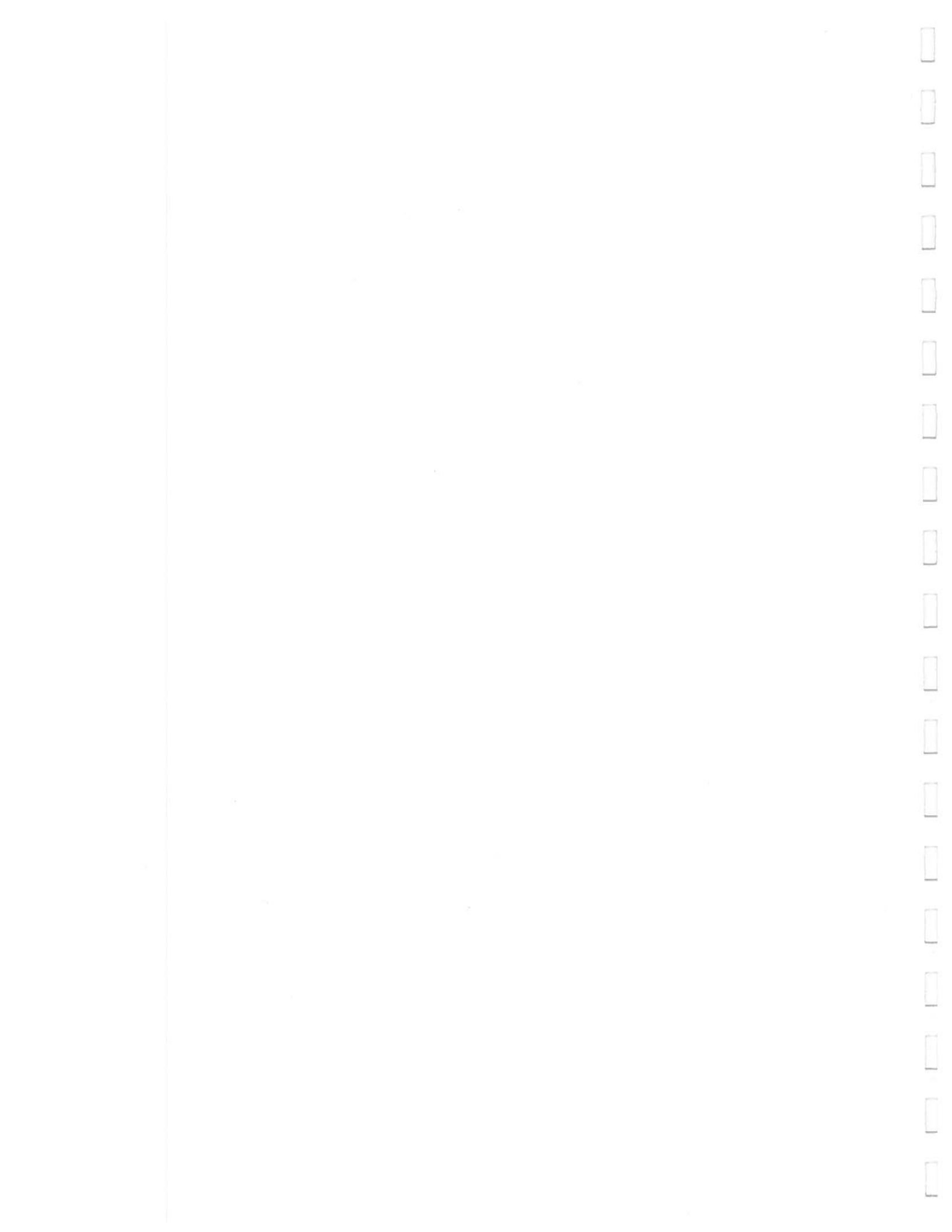
DEPARTMENT OF THE INTERIOR,
Washington, January 24, 1857.
Sir: I have the honor to transmit a communication of the 19th instant, from the Commissioner of Indian Affairs to this Department, indicating the reservations selected for the Nisqually, Puyallup, and other bands of Indians in Washington Territory, and to request your approval of the same.

With great respect, your obedient servant,
R. McCLELLAND, *Secretary.*

The President.
Approved.

JANUARY 20, 1857.
FRANKLIN PIERCE.





[Area, 1 square mile; occupied by Muckleshoot, Nisqually, Puyallup, Skwawkumish, Stoilakoom and five other tribes; treaty December 22, 1854.]

(For Executive order of January 20, 1857, see "Nisqually Reserve.")

DEPARTMENT OF THE INTERIOR,

Office Indian Affairs, August 26, 1873.

Sir: By the second article of the treaty concluded with the Nisqually and other Indians December 26, 1854 (Stat. at Large, vol. 10, p. 1132), "a square tract containing two sections, or 1,280 acres, lying on the south side of Commencement Bay," was set apart as a reservation for said Indians, and is known as the Puyallup Reserve.

It appears from the records of this office that Governor Stevens, finding the Indians dissatisfied with the size and location of the reserve, as indicated by said treaty, agreed, at a conference held with them August, 1856, to a readjustment of said reservation, the exterior boundaries of which were surveyed and established by his order. This was done prior to the extension of the lines of the public surveys over the surrounding and adjacent lands. A map of the survey was transmitted by Governor Stevens to this office, under date of December 5, 1856, giving a description of the courses and distances of said exterior boundaries of the reserve, as taken from the field-notes of the survey on file in the office of superintendent Indian affairs, Washington Territory.

This reservation, as readjusted and indicated on said map, was set apart for these Indians by Executive order dated January 20, 1857. It was intended to have this reservation bounded on its western side by the waters of Commencement Bay, from the southeasterly extremity of said bay, around northwardly to the northwest corner of the reservation on the southerly shore of Admiralty Inlet. The survey was thought to be made so as to give to the Indians this frontage upon the bay, with free access to the waters thereof. More recent surveys, however, develop the fact that there is land along this shore, and outside the reservation, arising from an error of the surveyor in leaving the line of low-water mark, along the shore of said bay, and running a direct line to the place of beginning.

In a report dated March 20 last, Superintendent Milroy calls attention to this inadvertence; and for the adjustment of the western boundary of said reservation, so that it may conform to the intentions of those agreeing to the same, as well as for the comfort and wants of the Indians, he recommends the following change, viz: Instead of the direct line to the place of beginning, to follow the shore line, at low-water mark, to the place of beginning.

Inasmuch as the lands proposed to be covered by this change are in part already covered by the grant to the Northern Pacific Railroad Company and by donation claims, I would respectfully recommend that the President be requested to make an order setting apart for the use of these Indians an addition to said Puyallup Reservation, as follows, viz: All that portion of section 34, township 21 north, range 3 east, in Washington Territory, not already included within the limits of the reservation. This would give them a mile of water frontage directly north of Puyallup River, and free access to the waters of Commencement Bay at that point.

Very respectfully, your obedient servant,

H. R. LUM,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., August 28, 1873.

Sir: I have the honor to transmit herewith a copy of a communication addressed to this Department on the 26th instant, by the Acting Commissioner of Indian Affairs, relative to the extension by Executive order of the reservation in Washington Territory known as the Puyallup Reservation, described as follows, to wit: All that portion of section 34, township 21 north, range 3 east, in Washington Territory, not already included within the limits of the reservation.

I agree with the Acting Commissioner in his views, and respectfully request that in accordance with his recommendation an Executive order be issued setting apart the tract of land described for the purpose indicated.

I have the honor to be, etc.,

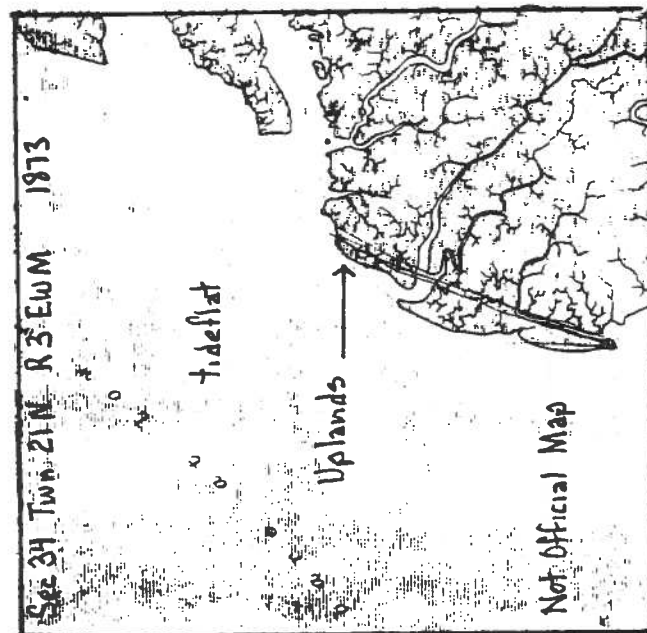
W. H. SMITH, *Acting Secretary.*

The President.

EXECUTIVE MANSION, *September 6, 1873.*

Agreeable to the recommendation of the Acting Secretary of the Interior, it is hereby ordered that the Puyallup Reservation in Washington Territory be so extended as to include within its limits all that portion of section 34, township 21 north, range 3 east, not already included within the reservation.

U. S. GRANT.



APPENDIX D

Chronology of the Puyallup Settlement Negotiations 1981-1990

CHRONOLOGY OF NEGOTIATIONS TO DEVELOP PUYALLUP AGREEMENT

July 24, 1981	Judge Tanner decides Puyallup Tribe has title to 12.5 acres of former riverbed land exposed by a channelization project. <u>Puyallup Tribe v. Port of Tacoma</u> , U.S. District Court.
August 16, 1983	The Ninth U.S. Circuit Court of Appeals upholds Judge Tanner's decision on Puyallup Tribe's title to 12.5 acres of bottomland north of the Old Highway 99 bridge over the Puyallup River.
February 21, 1984	The U.S. Supreme Court denies <u>cert.</u> on the Port of Tacoma's appeal of the Ninth Circuit Court decision.
April 4, 1984	A letter is sent from the Puyallup Tribal Chairman Frank Wright to Congressman Dicks, Tacoma Mayor Sutherland and others proposing negotiations to resolve the dispute over title to other former riverbed lands in the same status as the 12.5 acres and to prevent possible eviction of those private property owners impacted by the court's ruling on the 12.5 acres.
May 4, 1984	A letter is sent from Tacoma Mayor Sutherland, Pierce County Executive Booth Gardner, Port Commissioner Jack Fabulich, Puyallup City Manager Richard Thompson and Title Company Defense Attorney John Roberts to the Puyallup Tribal Council expressing favorable response to negotiations.
June 13, 1984	The Puyallup Tribe files a quiet title action in U.S. District Court against the Port of Tacoma and United Pacific Railroad asserting Tribal ownership of 170 acres of former tidelands (Section 34). <u>Puyallup Tribe v. Port of Tacoma and Union Pacific Railroad, et al.</u> (insured of TICOR Title and Chicago Title who retained John Roberts to defend the suit).

July 3, 1984

The Port of Tacoma hires Jim Waldo, an attorney with Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, to represent the Port in negotiations with the Tribe over disputed land claims. The Port also hires Larry Killeen as its new Executive Director. A letter is sent from the Tacoma Port Commission to Frank Wright, Puyallup Tribal Chairman, indicating the Port would like to resolve all matters of mutual interest between the Port and the Tribe.

August 1984

Jim Waldo and the Port of Tacoma staff begin researching potential lands that could be offered to the Tribe in settlement of claims.

Commencement Bay Tideland Owners Committee, a group of private property owners potentially impacted by the Tribe's claim, files a motion to intervene in the Puyallup Tribe's lawsuit.

August 17, 1984

The non-Indian Negotiating Team is formed for the purpose of developing a comprehensive land and jurisdictional claims settlement with the Tribe. Congressman Norm Dicks and Tacoma Mayor Doug Sutherland are instrumental in bringing the group together.

Jim Waldo becomes the lead negotiator for the non-Indian Negotiating Team.

Original members of the non-Indian negotiating group are Mayor Doug Sutherland, Tacoma; Mayor Bob Mizukami, Fife; Mayor Ron Crowe, Puyallup; Booth Gardner, Pierce County Executive; Larry Killeen, Director, Port of Tacoma; Karl Anderson, Secretary/Treasurer, Commencement Bay Tideland Owners' Committee; Corry McFarland, President, Commencement Bay Tideland Owners' Committee; and Jim Waldo, lead negotiator.

The lawsuit is stayed at the request of the Tribe and the defendants.

September 6, 1984

The scope of the negotiations is divided into four major categories: land claims, fishing issues, economic development, and jurisdictional issues. Technical subcommittees are formed to begin addressing each major category. These subcommittees are comprised of Indian and non-Indian members.

September 24, 1984

Vern Huser is hired to facilitate the negotiations.

October 1984	The non-Indian representatives begin legal assessments of the validity of the land claims; examining historical diminishment; location of tidelands; jurisdiction; and title company, federal and State government responsibility.
November 1984	<p>The non-Indian representatives begin putting together a settlement package which includes a jurisdictional agreement, fisheries enhancement plan, fisheries mitigation bank, marina, museum, Tribal housing, economic development concepts, a new Tribal administrative center, employment opportunities, Sea-Land joint venture possibilities, a local, federal and State land package, a purchase pool for Puyallup bonds, and a pilot jobs program.</p> <p>Tim Vollman and Michael Cox of the U. S. Solicitor's office attend negotiation sessions.</p>
December 12, 1984	Non-Indian Negotiating Team sends a response to the Tribe regarding the Tribal Economic Development Concept Paper.
December 19, 1984	Fisheries Technical Team completes the <u>Fisheries Enhancement and Management Program for the Puyallup River Drainage and Estuary</u> report for the Port of Tacoma, Puyallup Tribe and Negotiating Team.
January 1985	<p>Development of a consolidated reservation is considered internally by the non-Indians as one alternative to resolving the jurisdictional issues. This proposal was never presented to the Tribal representatives.</p> <p>A Legal Committee is set up to conduct a legal evaluation and to exchange information with the Tribal negotiators. Legal issues include diminishment, riverbed, tidelands and jurisdiction.</p> <p>The Tribal negotiators are looking for a deep water site in the heart of the Port of Tacoma. The non-Indian team begins developing a land package. Options under consideration include Blair, Hylebos or Middle Waterway property for a marina, and land parcels including the Frederickson site, Weyerhaeuser timber lands, Tacoma Boat Naval Reserve property, USFS lands on Puyallup River, Fife school property (Davis), Johnson/Kawasaki site, the Port's World Trade Center, St. Regis/Champion property, and Clark's Creek Hatchery.</p>

This land package also includes other options for economic development cash items, housing, a museum, commercial development sites, a Tribal administrative center, jobs, bonds and loan guarantees, and a Fisheries enhancement plan and mitigation bank.

The State and Burlington Northern and Union Pacific Railroads are not yet part of the negotiations.

January 31, 1985

Negotiations with Tribe.

A letter is sent to the Secretary of Interior Donald Hodel from the non-Indian Steering Committee regarding apportionment of federal funds in any proposed settlement. non-Indians suggest 80% federal share and 20% local share.

January-February
1985

All Day meeting of full non-Indian Steering Committee to:

- 1) decide on scope of offer,
- 2) decide whether to propose consolidated reservation,
- 3) discuss per capita payments, lands to be conveyed to Tribe, and jurisdiction.

February 1985

Negotiations and Joint Technical Team meetings continue. Information is exchanged on various selected properties.

February 1985

The non-Indian staff continues development of a Consolidated Reservation package; the tradeoff is land v. jurisdiction. Discussions incorporate potential of per capita payments combined with trust and revolving funds (50-50 split). There is a high degree of interest by Tribal members in housing, education, per capita payments and permanent income. Fisheries mitigation bank concept is developed. Ongoing discussions on formula for contributions by non-Indian participants to the settlement package, and State and title company responsibilities.

February 8, 1985

Negotiations with Tribal representatives. Tribe's information list on "trespasses" on former riverbed is presented to the non-Indian Steering Committee. It includes utilities, gas companies, railroads, State and local governments.

February 15, 1985

Tribal representatives' presentation to non-Indian representatives of the Tribal legal claims, presentation of non-Indian legal positions to Tribal Council, and exchange of legal papers.

March 1985	The Tribal perspective appears to be that money is not as important as jurisdiction. The Tribal Council appears to want control over its lands, gambling, liquor and cigarette sales, and freedom to put land in trust.
March 1, 1985	<p>The non-Indian Negotiating Team presents its initial offer to the Tribal negotiators valued at \$50 million.</p> <p>The Tribal Negotiating Team presents an initial offer to the non-Indians at a value estimated by the non-Indians to be approximately \$360 million. Each side rejects the other's proposal (up all night).</p>
March 4-7, 1985	The non-Indian Negotiating Team travels to Washington D.C. to meet with and brief Congressional members and staff, White House staff, the U.S. Interior Department and the U.S. Department of Justice officials on the initial offer presented to the Tribal representatives and federal responsibility for resolving land claims. There is no support for per capita payments to the Tribal members.
March 14-16, 1985	Negotiations continue between the Tribe and the non-Indians with assistance from Tim Vollman.
March 19, 1985	Non-Indian Negotiating Team meets with John Fritz and Michael Cox , Department of Interior. Interior is in the process of assessing the claims and is participating as "facilitators".
March 25 - April 19, 1985	<p>The non-Indian Negotiating Team presents a revised offer to the Tribal representatives (\$95,694,000 includes payment in lieu of taxes).</p> <p>Intense negotiations with the Tribal negotiators continue. Problem area continues to be taxation. The Tribal representatives are interested in an income stream in place of ability to tax, with limitation; e.g. no taxation for 20 years. Tribal representatives also suggest a land swap for concentrated housing and accept arbitration by a Fisheries Commission for land development disputes.</p> <p>Governor Gardner designates Dick Thompson, Director of the State Department of Community Development, to work with State agencies and the Legislature in putting together a settlement package.</p>

March 27, 1985	The non-Indian team develops a concept to add the Blair Bridge project to the settlement package. Other proposed land transfers include: 30-40 acres on Blair Waterway, cultural sites on Mt. Henry, Salishan Housing, Union Pacific property, Torre or Davis site, timberlands, marina and a Tribal administrative center.
April 16, 1985	Russell Means tells Tribal members not to negotiate but to push hard for self-rule.
May 1985	<p>Rainier Title Company refuses to issue any new title insurance policies until the Tribal land claims are settled.</p> <p>Non-Indian parties' discussions on potential contributors to the settlement; Tribal negotiators do not want large private entities included in package.</p>
May 16, 1985	Tribal Negotiating Team forwards a proposed settlement package to the non-Indian Negotiating Team.
May 16, 1985	Non-Indian Negotiating Team briefs Steering Committee on concept of "Final Best Offer" to be presented to the Tribal negotiators.
May 31, 1985	Non-Indian Steering Committee agrees to pursue a settlement but warns of intent to sue title companies for damages if they do not contribute significantly to a settlement.
June 1985	Tribal negotiators reject Puget Power's offer to resolve Electron Dam issues.
June 11, 1985	<p>Non-Indian Negotiating Team responds to May 16 offer from Tribal negotiators.</p> <p>Negotiations continue between representatives of the Tribe and the non-Indians.</p>
June-July 1985	Final Best Offer is refined as negotiations continue. Some of the remaining unresolved issues include proposed filling of the Milwaukee Waterway, jurisdictional issues (exchange of letters - June 11, July 2, July 11), and future ownership of the Beltline Railroad.

Champion is involved in a potential sale to Simpson Timber. However, the land claim is an obstacle. Puget Power is striving to resolve Electron Dam issues within the overall settlement. Pierce County and the City of Puyallup begin participating actively.

Non-Indians intend to present an offer to the Tribal Council the week of July 15-19.

August 1985

The non-Indians face internal disagreements over status of putting lands into trust on and off reservation. Discussions center around whether or not the settlement should define "the" reservation boundary and the impact of that decision on jurisdictional issues. The primary concern is abuse of lands in trust status by Indians and non-Indians.

August 14, 1985

The Puyallup Tribal Council sends a letter to non-Indian owners of former Puyallup riverbed lands announcing they should make arrangements to settle with the Tribe or be evicted.

Final Best Offer: A proposed Agreement-in-Principle dated August 12, 1985 is presented to the Tribal Council by the non-Indian Negotiating Team. The State of Washington is not a party to this offer. The Final Best Offer includes 284.7 acres of land -- Blair Waterway, Blair Back-Up property, Hylebos Waterway, Inner Hylebos, the Frederickson site, Salishan and fishing sites; an \$18 million Tribal Trust Fund; an \$8 million fisheries package; \$60 million in loan guarantees, a revolving loan fund, a job training center, 70 full-time private sector jobs, and a 2% contracting goal for five years with a value of \$16.84 million in economic development; and \$27 million for the Blair Bridge Project. The value is estimated at \$102 million.

August 16, 1985

The non-Indians publicly release the August 12, 1985 proposed agreement.

August 21, 1985

The August 12, 1985 Proposed Settlement is rejected by the Tribal Council.

August 28, 1985

A meeting of former Puyallup Riverbed landowners is held at Fife High School to brief the landowners on the status of the negotiations, on the process, and to answer questions.

September 3-4, 1985

A two-day meeting between the non-Indian and Indian negotiating teams is held at Palisades Conference Center. Congressman Norm Dicks is the facilitator. An Agreement-in-Principle is reached.

September 10, 1985	<p>An announcement is made of the negotiated Agreement-in-Principle between the Tribal Council and the non-Indian negotiators. The Agreement is valued at \$112 million and includes \$27 million for the Blair Bridge.</p> <p>Following this announcement, between September 11, 1985 through October 1, 1985, the Indians and non-Indians refine the Agreement-in-Principle language through numerous drafting sessions.</p>
September 16, 1985	<p>Several Tacoma banks make an informal agreement to establish a pool of money to help local governments finance their portion of the land claims settlement.</p>
October 1985	<p>There is concern that without State participation in the settlement, federal action may be hindered.</p> <p>The Indians and non-Indian parties continue negotiations and drafting language finalizing the Agreement-in-Principle. Focus is on resolving issues relating to mitigation and enhancement standards, local government protection of habitat in the Puyallup River drainage, and log rafting in the Bay. Tasks are identified and assigned to joint committees and staff.</p>
October 1, 1985	<p>Tacoma City Council approves the Agreement-in-Principle.</p>
October 3, 1985	<p>Tacoma Port Commission approves the Agreement-in-Principle.</p>
October 8, 1985	<p>Puyallup City Council approves the Agreement-in-Principle.</p> <p>Pierce County Council approves the Agreement-in-Principle.</p> <p>City of Fife approves the Agreement-in-Principle.</p>
October 15, 1985	<p>Puyallup Tribal Council approves the Agreement-in-Principle dated October 18, 1985.</p>
October 24, 1985	<p>Letter to non-Indian parties from Tribal Council approving October 18, 1985 Agreement-in-Principle.</p>
November 1985	<p>Schedule development: Major joint drafting sessions in December and early January 1986, to prepare a final settlement package based on the Agreement-in-Principle; Tribal vote on January 11, followed by Congressional action in February. Delays are incurred due to miscalculations on land to be conveyed to the Tribe including acreage and utility/water hook-ups, and previously unknown easements.</p>

Hylebos Conservancy Area of 39 acres is actually 29 acres.
Port seeks additional land.

Salishan property title search is completed.

November 1, 1985

Commencement Bay Tideland Owners Committee approves the Agreement-in-Principle.

November 13, 1985

Letter to Tribal Council from the non-Indian parties transmitting their approval of the October 18, 1985 Agreement-in-Principle.

December 1985

In drafting the settlement document, issues to be resolved include log storage, land use, fisheries, land, Tribal Employment Rights Ordinance (TERO), fisheries dispute resolution, fishing sites, contracting, current riverbed, law enforcement, navigation and a voluntary jobs program.

Task groups of both Indian and non-Indian representatives are established to begin drafting the language for the various elements of the settlement document listed above.

The success of the private sector interim jobs program is viewed by the non-Indians as pivotal to securing Tribal votes.

December 16-17, 1985

Michael Cox, Assistant Solicitor of the Department of Interior meets with the non-Indians and the Tribal representatives regarding federal legislation required to implement the final settlement.

January 9, 1986

Following months of joint meetings and negotiations between the parties, the January 9, 1986 Proposed Agreement is completed and forwarded to Tribal members for approval.

The Agreement includes property on the Blair Waterfront, Blair Back-up Site with Foreign Trade Zone (FTZ) status, Fife Industrial Site (Union Pacific Railroad Company), Inner Hylebos, Hylebos marina site, Outer Hylebos, Taylor Way/East-West Road Site (FTZ), Salishan, and \$250,000 to purchase Forest Recreational Land. It also resolves jurisdictional issues and includes an \$18 million trust fund, a fisheries package, a voluntary jobs program, purchasing and contract goals, land use decision-making guidelines, a navigation agreement, a law enforcement agreement and a log storage agreement (\$140 million package).

	Drafting and negotiations actually continued through January 28, 1986 on the Settlement and various accompanying documents.
February 8 , 1986	Members of the Puyallup Tribe vote 236-158 against the proposal. Approximately 600 members are eligible to vote.
February 10, 1986.	The non-Indian Steering Committee decides to keep the settlement offer "on the table" while Tribal leaders poll Tribal members to determine the reasons for the negative vote. It is felt by some that the members of the Tribe did not have enough time to study the lengthy agreement.
February 21, 1986	Legal counsel representing the Port, defense counsel retained by the title companies and the proposed private property interveners meet to discuss coordination of legal actions in the tidelands lawsuit.
February 28, 1986	A petition is circulated by some Tribal members asking the Puyallup Tribal Council to work with "interested members of the Tribe to make changes in the proposed [January 9, 1986] negotiated settlement. These changes should answer concerns that have been expressed by the membership to the [fullest] extent possible." The petition also calls for "a referendum vote" on the new proposal.
April 2, 1986	Non-Indian Steering Committee agrees to begin discovery on litigation if Tribe does not respond to the January 9, 1986 settlement offer by April 30, 1986.
April 14, 1986	Tribal Council is presented with a referendum petition directing the Council to make changes in the proposed January 9, 1986 settlement and to submit the revised proposal to the membership for a vote.
April 26, 1986	Signatures on the petition calling for a vote on a revised settlement agreement are verified and the necessary 222 are found to be valid. Tribal Chairman Frank Wright, Jr. says a series of hearings on the settlement with Tribal members will be held. In a primary election for Tribal Council positions, incumbent Connie McCloud is defeated. The four successful candidates are Bill Sterud, Ramona Bennett, Alison Gottfriedson, and Roleen Hargrove.
June 14, 1986	Puyallup Tribal Council elections are held. Incumbent Bill Sterud and Roleen Hargrove are elected.

June 21, 1986	Frank Wright, Jr. is recalled from the Puyallup Tribal Council by a vote of 118 to 102.
July 25, 1986	Letter from Mayor Sutherland to Puyallup Tribal Chairman Bill Sterud regarding schedule for continuing negotiations and finalizing an agreement by October 1986.
July 26, 1986	A primary election is held for the seat on the Puyallup Tribal Council vacated by the recall of Frank Wright, Jr. 207 votes are cast. Wright receives 69 votes, Bertha Turnipseed has 42, and the remaining six candidates have between nine and 26. The other candidates are Frank Bean, Silas Cross, Sr., Alison Gottfriedson, Connie McCloud, and Nancy Shippentower.
August 15, 1986	John Bell, chief attorney for the Puyallup Tribe for 12 years, resigns to become Executive Director of Puget Sound Legal Assistance Foundation. Bell says he will phase out of his work with the Tribe over six months.
August 23, 1986	Bertha Turnipseed is elected to the Puyallup Tribal Council over former Tribal Chairman Frank Wright, Jr. by a vote of 161 to 132. Bill Sterud is elected Tribal Council Chairman, and Roleen Hargrove is elected Vice Chair.
September 18, 1986	"Puyallup Tribe announces the formation of a Port Negotiation Committee," made up of 25 Tribal members, charged with full responsibility for developing a land claims settlement over disputed lands in the Port of Tacoma." (Note: This paragraph is excerpted from a press release from the Puyallup Tribal Council.) In discussions with Tribal representatives it is learned by members of the non-Indian Steering Committee that the Tribal Council's preferred method of negotiations would be to deal with individual issues and entities within the community separately.
October 1, 1986	<p>Jim Waldo sends a letter to the non-Indian Negotiating Team recommending the team be disbanded and that members begin discovery and preparation for trial due to lack of Tribal communication.</p> <p>Letter from Tribal Council Chairman Sterud to Jim Waldo, et al. regarding status of Port Negotiation Committee and BIA funding.</p>
October 2, 1986	Jim Waldo sends a letter to the Tribal Council regarding his recommendation to the non-Indian team. Letter summarizes informal discussions with Tribal representatives.

October 24, 1986	Tribal Council sends a letter to the non-Indian team indicating they prefer to continue individual negotiations with various governmental entities.
November 5, 1986	Non-Indians meet to discuss litigation and negotiation alternatives.
November 26, 1986	Non-Indian strategy is developed to lift stay on current litigation on Section 34 and proceed with intervention actions; seek State legislation for re-insurance; federal legislation to limit sovereign immunity defense, indemnification policy for Indian land claims, Court of Claims procedures, etc; and negotiate a limited settlement for clearing claims on Section 34 Tidelands, riverbed, and allowing Port development and other immediate development projects to proceed. In addition, separate limited negotiations may occur on fisheries issues and jurisdictional issues such as law enforcement and navigation.
January 1987	<p>Two bills dealing with the land claims issue are drafted for submittal to the State legislature. One relates to State reinsurance of tidelands and riverbeds; the other relates to the State's affirming title to former tidelands and former riverbed deeds.</p> <p>Representatives of the Port meet with the Tribal Council and agree to open limited discussions on specific Port development projects, with the understanding that any agreement will be consistent with the Agreement-in-Principle reached in 1985.</p>
February 11, 1987	<p>Senator Daniel Inouye, Chairman of the U.S. Senate Select Committee on Indian Affairs, meets with representatives of both the Puyallup Tribe and the non-Indian Steering Committee.</p> <p>Talks between representatives of the Tribe and Port on the development of Terminal 3 continue.</p> <p>The Legislative initiative continues; State legislation passes appropriating \$4 million to be used to settle Puyallup Tribal claims against owners of former Puyallup Riverbed land.</p>
March 1987	Roleen Hargrove and Bertha Turnipseed meet with Norm Dicks and discuss the value of Port lands in terms of billions - not millions - of dollars, and Tribe's desire to co-manage the Port.

March 1987	The Port of Tacoma and the Puyallup Tribe announce that they will begin negotiations on mutual fisheries enhancement and development needs relating to Port development projects and Tribal economic development, including land for Tribal projects.
July 23, 1987	Agreement is reached between the Port and the Tribe allowing development of Terminal 3, extension of the Sea-Land pier, and extension of Pier 7 in exchange for land, cash, fisheries enhancement and other considerations.
August 1987	The U.S. District Court rules against the Suquamish Tribe in a case involving the Tribe's claim of ownership over tidelands abutting the Port Madison Indian Reservation.
September 16, 1987	Talks between representatives of the Port and Tribe to resolve the dispute surrounding filling of the Milwaukee Waterway fail to produce a solution. In a letter to the Tribe, the Port suggests returning to an attempt to reach a comprehensive agreement with all non-Indian entities involved.
September 25, 1987	A letter is sent to the Tribal Council from the non-Indian Steering Committee expressing a strong preference for a comprehensive settlement.
September 28, 1987	Judge Tanner lifts the stay order in <u>Puyallup Tribe v. Port of Tacoma and Union Pacific Railroad, et al.</u> and sets a trial date of February 22, 1988.
September 30, 1987	A motion is filed by the defendants requesting the recusal of Judge Tanner.
October 1, 1987	Chief Judge Barbara Rothstein grants a defense request to remove Judge Jack Tanner from hearing the case.
October 8, 1987	A letter is sent to the non-Indian Steering Committee from the Tribal Council agreeing to negotiate a "broad-base settlement".
October 16, 1987	Judge Tanner announces he, not Chief Judge Rothstein, will decide who will hear the case.
	Defense appeals to the Ninth Circuit for a writ of mandamus directing Judge Tanner's removal.
	A letter is sent from the non-Indian Negotiating Team to Puyallup Tribal Chairwoman Bertha Turnipseed saying any agreement must include jurisdictional issues.

October 19, 1987	Puyallup Tribal International Trade Conference. Speakers include Senator Daniel Inouye, Senator Daniel Evans, Congressman Norm Dicks, BIA Assistant Secretary Ross Swimmer, Governor Booth Gardner. Senator Inouye points out that "an agreement was reached. I would not throw it away." Inouye concludes his remarks by saying that he will return in three weeks to check on the status of negotiations.
November 20, 1987	Judge Tanner recuses himself from the case.
December 3, 1987	Puyallup Tribal Council accepts petitions for a recall of Council Chair Bertha Turnipseed and Council members Lena Landry and Roleen Hargrove.
January 11, 1988	At a Steering Committee meeting non-Indians report the Tribal negotiators do not want the Blair Bridge or jurisdiction dealt with in a Settlement. Tribal Council members are considering a package valued at \$140 million, while the membership committee's figure is much higher.
January 16, 1988	Tribal Council members Turnipseed, Landry and Hargrove are recalled.
January 23, 1988	Judge Rothstein assigns Judge John Coughenour to hear the lawsuit by the Puyallup Tribe against the Port of Tacoma and Union Pacific Railroad.
February 2, 1988	Tribal representatives and attorneys meet with representatives of the non-Indian Steering Committee. Bill Sterud, Chairman of the Tribal Council, says that the Tribe will present a proposed settlement to the group within several weeks after the March 12 Tribal elections.
February 4, 1988	Tribal Council members Henry John and Bill Sterud (the only two remaining Council members) issue a statement to the media saying that negotiations with the Port of Tacoma were mandated by a Tribal referendum in April 1986 and that these negotiations will go forward as soon as new members are elected to the Tribal Council.
February 10, 1988	Defense files motion for order of summary judgment dismissing the Puyallup Tribe's complaint with prejudice. Judge Coughenour sets January 9, 1989 as the trial date for the <u>Puyallup Tribe v. Port of Tacoma and Union Pacific Railroad</u> case. The Judge also agrees to a request by the Tribe for a three month stay to permit a final attempt to negotiate a resolution to the claims. The Judge sets June 10, 1988, for hearing on motion for summary judgment (subsequently continued).

February 27, 1988

Roleen Hargrove, Judy Conway Wright, and Nancy Shippentower are elected to fill the three vacant seats on the Tribal Council. Hargrove and Sterud's term will be up in June of 1989 and the other two newly elected Council members will face an election in June of 1988. Henry John's term expires in June, 1990.

March 1988

The City of Tacoma moves to intervene; the county and State are considering intervention. Commonwealth Title Insurance offers to represent its policy holders in the 1985 motion to intervene although other carriers do not want to get involved.

The State agrees to contribute to the settlement process and may contribute to the ultimate settlement beyond the riverbed funds appropriated earlier.

March 5, 1988

The State House Ways & Means Committee holds a hearing in Olympia on proposed legislation sponsored by Chairman Dan Grimm that would establish a formula for State participation in land claims by Indian Tribes. The legislation would authorize the State to provide up to 20% of the cost for all Indian land claims settlements within the State of Washington. U.S. Senator Daniel Inouye speaks in favor of the bill at the hearing, as do representatives of the Governor's Office, private property owners, and public officials from Pierce County.

March 9, 1988

Non-Indian Steering Committee agrees to present a final best offer directly to Tribal members, to avoid the need for the Tribal Council to make a choice.

April 6, 1988

Non-Indian Steering Committee members discuss strategy of preparing final offer with per capita option.

April 8, 1988

Tribal leaders present their proposed settlement package to the non-Indian Negotiating Team at a meeting with Senator Inouye and Congressman Dicks. The value assigned by the Tribe to the proposal is \$188 million.

The proposal includes: reserving all claims (known and unknown) which are not listed; a 20-year moratorium on Tribal taxes on non-Indian owned lands, \$45 million in per capita payment for Tribal members, including a total of \$104 million in Revenues and Funds; conversion to the Tribe of all repossessed housing within the reservation boundaries, title to portions of the former riverbed, public school properties not needed for schools, Browns Point Lighthouse and land, 50% ownership in Sea-Land terminal and Milwaukee expansion, and 50% ownership in existing leases, St. Regis and Simpson properties, portions of Dash Point Park, McNeil Island, as well as lands identified in earlier proposals; and a \$35.5 million fisheries package.

The Tribal proposal does not include resolution of jurisdictional or Blair project issues. The non-Indians estimate the value to be substantially more than \$188 million.

At the joint meeting with Congressman Dicks and Senator Inouye the parties agree to a schedule for negotiations, allowing for a Tribal membership vote on July 16, 1988. The schedule is based on the pending court dates.

April 13, 1988

The Tribal representatives meet with representatives of the non-Indian Steering Committee to delineate the Tribe's offer and discuss the timetable for further discussions.

April 16, 1988

The Tribal Council presents in detail their proposed settlement package to their membership.

April 20, 1988

Inouye and Dicks send a letter to Sutherland and Sterud setting out the schedule for negotiations to complete a package, with Tribal vote by July 16, 1988. Does not change court schedule, but does move motion hearing date.

April 25, 1988

The non-Indians hold a briefing for State legislators on the settlement status, including negotiation efforts and Tribal claims.

In April, the Governor and Executive Branch decide to participate in the negotiations to resolve State issues.

May 16, 1988

Second meeting between the negotiating teams to clarify the Tribe's offer.

Non-Indians prepare a draft agreement that contains approximately 900 acres of land valued at \$39,298,000; \$21 million for per capita payments to Tribal members; a \$2.6 million permanent trust fund for housing, elderly needs, burial and cemetery maintenance, education, supplemental health care, day care, and Tribal operations; a fisheries enhancement, protection and conflicts resolution package; a job training and placement program; an economic development and land acquisition fund of \$6,350,000; a \$2 million small business fund for Tribal members; the Blair Bridge and Waterway project; and a jurisdictional agreement.

May 26, 1988

The non-Indian Steering Committee sends the proposed settlement Agreement to the Tribal Council.

Extensive meetings and negotiations follow.

June 2, 1988

Randall Harrison's draft outline of Jurisdictional Cooperative Agreement - Tribal Civil Regulatory Authority briefing document is presented to the non-Indians.

June 6, 1988

Non-Indians respond to Tribal draft white paper on jurisdiction.

June 7, 1988

Fife City Council votes not to be party to the proposed Settlement Agreement.

June 13, 1988

The non-Indian Settlement Agreement, dated June 13, 1988, is given to the Puyallup Tribal Council, valued at approximately \$161 million. The Agreement includes 1197 acres of land valued at \$37,710,000 which includes funds to acquire forest, recreational, and cultural areas; \$24 million in per capita payments to Tribal members; \$22 million permanent trust fund; a \$15,385,000 fisheries program that includes 20 fishing stations along the Puyallup River; funds to build an elder-care center, a youth substance abuse center, and a day care center; \$2 million for small businesses; 115 jobs through the private sector jobs training and placement program; a \$10,000,000 economic development and land acquisition fund; \$5,000,000 for the Blair Project over a 20-year period; and a jurisdictional agreement.

June 22, 1988

Tribal Chair Bill Sterud informs Mayor Sutherland that the June 13 Agreement must be modified in order to achieve Tribal membership approval.

Proposed modifications include providing for per capita payments to go to members' heirs in the event of death prior to closure; allowing Tribal members to leave \$1,000 increments of their per capita payment in the fund to accrue interest; minor drafting changes to the permanent trust; revisions to the fisheries section such as deleting Puget Sound Power and Light Company, ensuring the City of Puyallup provides adequate water for the Clark's Creek Hatchery; the State supplying coho smolts and fish food for five years and assurance of no opposition to siting of Tribe's net pen facilities in any permitting process; decreasing the 50/50 cost share for mediation and arbitration in favor of Tribe; adding 1986 Agreement language on TERO; and adjustments to the jurisdictional language.

Concerns not addressed in the proposal to the Tribe's satisfaction include: jurisdiction over Tribal fishing activities in the current riverbed; taxation/fees for railroad and cable activities; increasing Puget Power's contribution; having environmental jurisdiction over non-trust lands; early implementation of the Milwaukee project; "favored shipper" status for freeze facility; Fife should be excluded from agreement; modifying language for putting lands into trust; retaining current riverbed in trust; retaining right-of-way across "Indian lands;" and the delineation of Reservation Boundaries for jurisdictional purposes (e.g. leaves out Hylebos).

June 27, 1988

The non-Indian Negotiating Team sends letters to Mayor of Fife and Tribal Council Chair Bill Sterud regarding its position: no separate agreements, no change in court schedule and conditions for delay of Tribal vote to 8/27/88.

July 5-7, 1988

Negotiating teams spend two days at Alderbrook Inn and reach accord on Puyallup Settlement Agreement.

July 14, 1988

Fife City Council votes to approve the Proposed Settlement Agreement.

July 15, 1988

The negotiating team and Congressman Dicks hold a news conference to announce the Proposed Settlement Agreement, dated August 27, 1988.

July 22, 1988

The Proposed Settlement Agreement is mailed to Tribal members.

Counsel for plaintiff, defendants, and interveners jointly request that the Court continue the date of oral arguments set for July 29 to September 16, in order that the August 27 Tribal vote will not be affected by court proceedings.

July 29, 1988	The negotiating teams agree on a consensus list of clarifications to the Settlement document.
July/August 1988	Puyallup Tribal Council announces that this will be a membership decision exclusively. The Council prepares an extensive information and education program for their members including 10 information facilitators, several mailings, a video tape, and two meetings of the general membership.
August 12, 1988	Two members of the Puyallup Tribe, Silas and Vernon Cross, file a lawsuit in U.S. District Court, challenging the right of Pierce County to tax property owned by Indians and non-Indians on Tribal territory.
August 20, 1988	Senator Inouye and Congressman Dicks meet with Puyallup Tribal members.
August 27, 1988	Members of the Puyallup Tribe of Indians vote 319-162 to approve the Settlement Agreement.
	There are approximately 1,524 Puyallup Tribal members; 1,015 voting members and 509 members under the age of 21.
September 1988	Non-Indian Steering Committee and Tribal representatives begin developing federal and State implementation legislation.
December 20, 1988	Pierce County Council approves the August 27, 1988 Puyallup Settlement Agreement.
January 3, 1989	Governor Gardner submits Executive Request legislation to adopt and fund the August 27, 1988 Puyallup Settlement Agreement.
January 10, 1989	City of Tacoma authorizes execution of the August 27, 1988 Puyallup Settlement Agreement.
February 9, 1989	H. R. 932 is introduced in the U.S. House of Representatives by Congressman Norm Dicks and S. 402 is introduced in the Senate Select Committee on Indian Affairs.
February 10, 1989	State Senate Ways and Means and the House Appropriations committees hold a joint hearing. Testimony is given by Congressional members, including Senators Gorton and Inouye and Representatives Chandler, Dicks and McDermott.

February 17, 1989	State House Appropriations Committee holds hearing on House Bill 1788, which authorizes relinquishment of the State's claims to the current riverbed and provides for the use of a Local Improvement District to fund a portion of the Settlement costs.
February 20, 1989	State House Appropriations Committee votes unanimously to approve Substitute House Bill 1788, which includes appropriation of \$21 million in two budgets (General Fund and Capital) as the State's share of the Settlement.
February 22, 1989	Delegation of State and local officials, tideland and riverbed owners, and Tribal officials and members travel to Washington, D.C. for hearings on federal legislation.
February 23, 1989	U.S. House Committee on Interior and Insular Affairs holds a hearing on Settlement Bill H.R. 932, introduced by all of our State's Representatives; Representative Jim McDermott (7th District) chairs the hearing.
February 24, 1989	U.S. Senate Select Committee on Indian Affairs holds hearing on S. 402 (identical to H.R. 932); Senators Adams and Gorton preside.
February 28, 1989	State Senate Ways and Means Committee holds a hearing on Senate Bill 5734 (identical to House Bill 1788).
March 1989	Action on federal legislation is hampered by Administration concerns over funding the Settlement strictly out of the BIA budget, extent of federal liability, per capita payments, and the precedent-setting nature of the Settlement.
March 1, 1989	State Senate Ways and Means Committee considers Senate Bill 5734 in Executive Session; amends to provide credit for prior contributions when assessing LID costs. Amendment to provide State intervention in suits by individual Tribal members is defeated. Substitute Senate Bill 5734 is voted out of Committee by unanimous vote.
April 1989	Work continues on Federal bill; definitions of "on reservation" and "off reservation"; revisions to findings section ; passing Blair Bridge project funding directly to State DOT rather than through Corps; continued discussions with Administration.
May 7, 1989	State S.H.B. 1788 passes the Senate.
May 8, 1989	State S.H.B. 1788 passes the House of Representatives.

May 10, 1989	The State General Fund and Capital budgets are passed.
May 13, 1989	Governor Booth Gardner approves and signs into law S.H.B. 1788.
June 21, 1989	President George Bush signs into law H.R. 932, the "Puyallup Tribe of Indians Settlement Act of 1989." Public Law No. 101-41.
October 1989	A major effort begins to raise \$11.4 million in private sector funds needed for closure. An information sheet including factors used in determining requested amounts of contribution is sent to affected private property owners. Over 100 private sector businesses and individuals contribute to the private sector share of the cost of negotiations and final payment to the Tribe.
October 24, 1989	Federal Budget, with appropriation of Federal share of settlement costs passed and was signed into law by President Bush.
November 1989	Several trust funds are set up to receive public and private Settlement contributions.
	A title search continues to reach potential private sector contributors.
	Tacoma Mayor Doug Sutherland, who has served as non-Indian Steering Committee Chair since 1984, can not seek reelection due to term limitation.
November 15, 1989	A Private Sector Contributors' breakfast is held at the Tacoma Sheraton.
January 17, 1990	The present bed of the Puyallup River is conveyed and quit claimed to the United States in trust for the Puyallup Tribe of Indians by Tim Hill, King County Executive, and Joe Stortini, Pierce County Executive.
February 1, 1990	The Port of Tacoma Commission approves the August 27, 1988, Puyallup Settlement Agreement.

March 24, 1990

Representatives of the Tribe, federal, State and local governments, and private entities meet to sign documents ratifying and implementing the Agreement. The Confirmation of Settlement Closing, with Supplemental Agreements is filed with the Court. Judge Coughenour signs the Order Granting Intervention, Incorporating Settlement Agreement and Providing for Dismissal of the Action, and the Judgment of Dismissal in Puvallup Tribe of Indians v. Union Pacific Railroad Company, et al. No. C84-359TC.

Parties to the Agreement sign a Commemorative Closing Document -- and the celebrations begin!

APPENDIX E

Puyallup Settlement: Key Participants

<u>Participant</u>	<u>Position at time of negotiations</u>
Adams, Brock	U.S. Senator
Agnew, Rick	Chief Minority Counsel, U.S. House Committee on Interior and Insular Affairs
Anderson, Don	Attorney, TICOR Title Company
Anderson, Karl	Treasurer, Commencement Bay Tideland Owners Committee; Concrete Technology Corps.
Anderson, Bob	Weyerhaeuser Company
Anderson, Joe	Staff, Puyallup Tribal Fisheries
Andrews, Mark	Senator, North Dakota; Chair, Senate Select Committee on Indian Affairs
Ashmore, Nick	Staff to U.S. Congressman Thomas Foley
Backstein, Robert	City Attorney, Tacoma
Bagley, Mike	Staff to U.S. Congressman Norm Dicks
Ballard, Clyde	Republican Minority Leader, Washington State House of Representatives
Barker, Bill	Attorney, Tacoma Public Utilities
Behan, George	Staff to U.S. Congressman Norm Dicks
Bell, John	Attorney, Puyallup Tribe
Bennett, Ramona	Member and Former Chair, Puyallup Tribal Council
Black, William	Superintendent, Everett Office, U.S. Bureau of Indian Affairs
Black, Keith	Chief Civil Deputy Prosecutor, Pierce County
Blum, Joe	Director, Washington State Department of Fisheries
Blumenfeld, Chuck	Special Counsel, Port of Tacoma
Bostick, Jan	Glacier Park

Bowman, Linda	Tacoma Resident
Boyd, Kay	Staff, Washington State Department of Community Development
Brandt, Werner	Staff to U.S. Congressman Thomas Foley
Breed, Joe	Vice President and General Counsel, Simpson Investment Company
Brough, Jean Marie	Washington State Representative
Brown, Eddie	Assistant Secretary, U.S. Bureau of Indian Affairs
Brown, Wendell	Member, Pierce County Council
Bubenik, Mark	Attorney, Tacoma Public Utilities
Cagle, Dan	Staff, Pierce County Executive
Canary, Bill	Local Governmental Affairs, White House
Carkner, Dick	President, Puyallup Riverbed Owners Association
Cereghino, Charles	Weyerhaeuser Company
Chandler, Rod	U.S. Congressman, Washington 8th District
Chilcote, Paul	Staff, Port of Tacoma
Claffey, Terri	Staff to U.S. Congressman Norm Dicks and Senator Slade Gorton
Clark, William	Secretary, U.S. Department of Interior
Claudon, Lynn	Staff, Port of Tacoma
Coates, Ted	Director, Tacoma Public Utilities
Combs, Loren	City Attorney, Fife
Conduff, Art	Mayor, City of Fife (Deceased)
Conte, Ken	Staff, Washington State House Appropriations Committee
Corpuz, Ray	Assistant Lead Negotiator (non-Indian), City of Tacoma and Pierce County Intergovernmental Relations
Cottingham, Kaleen	Staff to Governor Booth Gardner
Cox, Michael	U.S. Solicitor's office
Crane, Ernest F.	Washington State Representative

Cross, Silas	Member, Puyallup Tribe
Crowe, Ron	Mayor, City of Puyallup
Crowe, Les	Staff, Tacoma/Pierce County Employment and Training Consortium
Crystal, Sue	Staff, Washington State House Ways and Means Committee
delos Santos, Carlos	Puyallup Tribal Attorney
Deming, Tom	Biologist, Puyallup Tribal Fisheries
Dewhurst, Roland	Associated General Contractors
Dick, Bob	Deputy Prosecuting Attorney, Pierce County
Dicks, Norm	U.S. Congressman, Washington 6th District
Dillon, Harry	Member, Puyallup Tribe
Dillon, Herman	Member, Puyallup Tribal Council
Doan, Chuck	Deputy Director, Port of Tacoma
Dorn, Randy	Washington State Representative
Dow, David	Director of Finance, City of Tacoma
DuBey, Richard	Special Counsel, Puyallup Tribe
Ducheneaux, Frank	Majority Counsel, U.S. House Interior Committee
Earley, Robert	Commissioner, Port of Tacoma
Ebersole, Brian	Washington State Representative
Egan, Cathy	Member, Metropolitan Park Board of Pierce County
Ehlers, Wayne	Speaker, Washington State House of Representatives
Evans, Daniel J.	U.S. Senator
Fabulich, Jack	Commissioner, Port of Tacoma
Faker, Joe	Commissioner, Port of Tacoma (Deceased)
Finnegan, Bill	Puget Sound Power and Light Company
Fisher, Ruth	Washington State Representative
Flannigan, Dennis	Member, Pierce County Council

Fleskes, Carol	Staff, Solid and Hazardous Waste Division, Washington State Department of Ecology
Flint, Miles	Deputy Assistant Attorney General, U.S. Department of Justice
Foley, Thomas S.	U.S. Congressman, Washington 5th District
Frank, Bill	Chairman, Northwest Indian Fisheries Commission
Frederickson, Helen	Member, Fife City Council
Fritz, John	Assistant Secretary, Bureau of Indian Affairs
Frolich, Judy	Consultant, non-Indian Negotiators, Port of Tacoma
Gallagher, P. J. "Jim"	Washington State Representative
Gannet, Craig	Special Counsel, non-Indian Negotiating Team
Gardner, Booth	Governor, State of Washington
Garrett, Marcia	Director of Governmental Affairs, Burlington Resources
Gaspard, Marcus	Washington State Senator
Gjelde, Earl	Deputy Assistant Secretary, U.S. Department of Interior
Gorden, Chuck	Member, Pierce County Council
Gorton, Slade	Special Counsel to non-Indian Negotiating Team; U.S. Senator
Graybill, David	President, Tacoma-Pierce County Chamber of Commerce
Gregoire, Chris	Director, Washington State Department of Ecology
Griffies, Bill	Prosecutor, Pierce County
Grimm, Dan	Chair, House Ways and Means Committee/Washington State Treasurer
Hair, Dan	Tacoma Resident
Hargrove, Roleen	Member, Puyallup Tribal Council
Harrison, Randal	Attorney, Puyallup Tribe
Hayner, Jeannette	Republican Majority Leader, Washington State Senate
Hedman, Daryl	Longshoremen's Union
Helton, Jack	Vice President, Sea-Land Services, Inc.

Hodel, Don	Secretary, U.S. Department of Interior
Holt, Gary	Manager, City of Puyallup
Hupp, Clyde	Pierce County Central Labor Council
Huser, Vern	Negotiations Facilitator
Inouye, Daniel K.	U. S. Senator, Hawaii; Chair, Senate Select Committee on Indian Affairs
John, Henry	Chair, Puyallup Tribal Council
Johnson, Stan	Washington State Senator
Kenney, Chris	Staff, United States Department of Interior
Kerslake, Rod	Staff, City of Tacoma Department of Planning
Killeen, Larry	Executive Director, Port of Tacoma
King, Joe	Speaker, Washington State House of Representatives
Kittrell, Bill	Staff, Port of Tacoma
Klapstein, Annette	Attorney, Puyallup Tribe
Komen, John	Editor, Tacoma Morning News Tribune
Koon, Rod	Staff, Port of Tacoma
Kundanis, George	Staff to U.S. Congressman Thomas Foley
Ladenburg, John	Member, Tacoma City Council; Pierce County Prosecutor
Landry, Gabriel	Member, Puyallup Tribal Council
Landry, Lena	Member, Puyallup Tribal Council
Larson, Carolyn	Special Counsel, Union Pacific Railroad
Lelli, Phil	Longshoremen's Union
Lujan, Manuel	Secretary, United States Department of the Interior
Mack, Robert	City of Tacoma Office of Intergovernmental Affairs
Mackie, Edward	Deputy Attorney General, Washington State Attorney General's Office
Madsen, Ken	Washington State Senator

Maillet, John	Consultant to Puyallup Tribe; Director, Puyallup International
Marshall, Steve	Special Counsel, Puget Sound Power and Light
Mason, Jim	Attorney, Port of Tacoma
McCain, John	U.S. Senator, Arizona
McCarthy, John	Commissioner, Port of Tacoma
McCloud, Connie	Member, Puyallup Tribal Council
McCormick, Mike	Assistant Director, Washington State Department of Community Development
McDermott, Jim	Chair, Washington State Senate Ways and Means Committee; U.S. Congressman, Washington 7th District
McElliott, Ruth	Member, Tacoma City Council
McFarland, Corry	President and CEO, McFarland Cascade; President, Commencement Bay Tideland Owners Committee
McLauchlan, Andy	Staff Director, Washington State Senate Ways and Means Committee
Mentor, Joe	Staff to U.S. Senator Dan Evans
Meyer, Don	Staff, Port of Tacoma
Meyers, Ron	Washington State Representative
Miller, Drew	Attorney, Burlington Northern Railroad
Miller, Denny	Lobbyist, Port of Tacoma and non-Indian Steering Committee
Miller, Wally	Consultant, Fisheries Technical Committee
Miller, John	U.S. Congressman, Washington 1st District
Mirk, Barbara	Consultant, non-Indian Negotiating Team
Mirk, Don	City Attorney, Puyallup
Miyamoto, Joe	Biologist, Puyallup Tribal Fisheries
Mizukami, Robert	Mayor, City of Fife
Mork, Erling	Manager, City of Tacoma
Mork, Stan	Deputy Harbor Master, City of Tacoma

Morrison, Sid	U.S. Congressman, Washington 4th District
Mostoller, Sandy	Attorney, Pierce County Council
Need, Bruce	Staff to U.S. Senator Brock Adams
Neiditz, Andy	Deputy Executive, Pierce County
Nelson, Ron	Planning Staff, City of Tacoma
Newman, Della	Washington State Co-Chair, Campaign to Elect George Bush
Newsham, Laura	Staff, City of Tacoma Office of Intergovernmental Affairs
Nolan, Paul	Director, Tacoma Public Utilities
Nordhoff, Chuck	Staff to U.S. Senator Slade Gorton
O'Malley, Pat	Commissioner, Port of Tacoma
Olson, Ken	Superintendent of Water Division, Tacoma Public Utility
Olson, Warren	Attorney, Commonwealth Title Insurance Co.
Pavolka, Bob	Teamsters' Union
Peach, Sam	Mayor, City of Puyallup
Peterson, Warren	Special Counsel, Commencement Bay Tideland Owners Committee (Deceased)
Philip, Bill	President, Puget Sound Bancorp
Pruitt, Wes	Washington State Representative
Rasmussen, A. L. "Slim"	Washington State Senator
Rasmussen, Marilyn	Washington State Representative
Reid, Featherstone	Staff, Washington State Senate Ways and Means Committee
Richter, Eric	Defense Attorney, retained by TICOR Title and Chicago Title
Roberts, John	Defense Attorney, retained by TICOR Title and Chicago Title
Roberts, Paul	Staff to U.S. Congressman Norm Dicks; Consultant, Washington State Department of Community Development

Robison, Rita	Staff, Washington State Department of Community Development
Ryan, John	Assistant Attorney General, Washington State Attorney General's Office
Sacha, Leslie	Staff, Port of Tacoma
Sachse, Harry	Special Counsel, Puyallup Tribe
Salatino, Jim	Washington State Lobbyist for non-Indians
Salo, Dr. Ernest	Fisheries Consultant, University of Washington
Satiacum, Bob	Member, Puyallup Tribe (Deceased)
Schaff, William	Staff, Puyallup Tribe
Schmittten, Rollie	Director, National Marine Fisheries Service
Schoon, Dick	Washington State Representative
Schultz, Ken	Commencement Bay Tideland Owners Committee Job Developer Consultant, Tribal Jobs Program
Schuyler, Hal	Sea-Land Services, Inc.
Scorcio, Joe	Pierce County Planning Department
Scully, Tom	Director of Legislative Affairs, U.S. Office of Management and Budget
Sebring, Terry	Counsel to Governor Booth Gardner
Shera, Ned	Commissioner, Port of Tacoma
Shippentower, Nancy	Member, Puyallup Tribal Council
Simchen, Ron	Member, Puyallup Tribe
Sirianni, Stephen	Special Counsel, Chicago Title Company
Skinner, Barbara	Member, Pierce County Council
Smitch, Curt	Assistant Director, Washington State Department of Fisheries, Policy Analyst for Governor Booth Gardner; Director, Washington State Department of Wildlife
Smith, Newell	Special Counsel, Burlington Northern Railroad
Smitherman, Bill	Washington State Senator
Sparling, Bob	Staff, Tacoma Public Works Department

Speaks, Stan	Regional Director, Bureau of Indian Affairs
Spina, Sam	Staff to U.S. Senators Evans and Adams
Stenger, Thomas	Member, Tacoma City Council
Sterud, Bill	Chair, Puyallup Tribal Council
Stoner, Bill	Member, Pierce County Council
Storey, Debbie	Staff to U.S. Senator Slade Gorton
Stortini, Joe	Pierce County Executive
Sutherland, Doug	Mayor, City of Tacoma; Chair, non-Indian Steering Committee
Swift, Al	U.S. Congressman, Washington 2nd District
Tate, Randy	Washington State Representative
Terpstra, John	Director of Development - Executive Director, Port of Tacoma
Thayer, Dan	Fisheries Consultant, Puyallup Tribe; Staff, Bureau of Indian Affairs
Thompson, Dick	Manager, City of Puyallup; Director, Washington State Department of Community Development; Governor's Chief of Staff; Secretary, Department of Social Services
Thompson, Tim	Staff Director to U.S. Congressman Norm Dicks
Thompson, Fred	Director, City of Tacoma, Public Works Department
Todd, Mike	Washington State Representative
Towne, Chris Smith	Consultant, non-Indian Negotiating Team
Tupper, Steve	Chief of Staff, U.S. Congressman Rod Chandler
Turnipseed, Bertha	Chair, Puyallup Tribal Council
Udall, Morris	Chair, U.S. House Interior Committee
Unsoeld, Jolene	U.S. Congresswoman, Washington 3rd District
Van Wagenen, Dick	Staff to U.S. Congressman Jim McDermott
Veh, Paul	Member, Riverbed Owners Association
Vialle, Karen	Mayor, City of Tacoma

Vognild, Larry	Washington State Senate Democratic Leader
Vollmann, Tim	U.S. Solicitor's Office
von Reichbauer, Peter	Washington State Senator
Wagar, Vern	Staff, Pierce County Public Works Department
Waldo, Jim	Lead Negotiator, non-Indian Negotiating Team
Walk, George	Washington State Representative
Walker, Sally	Washington State Representative
Wallace, John	Pierce County Board of Realtors
Wallar, Bob	Consultant, non-Indian Negotiating Team; Port of Tacoma
Walton, Jim	Assistant City Manager, City of Tacoma
Wang, Art	Washington State Representative
Warnke, Frank J.	Washington State Senator
Watkins, John	Consultant, non-Indian Negotiating Team
Weisser, John	Attorney, Union Pacific Railroad Company
Weyerhaeuser, George	President and CEO, Weyerhaeuser Company
White, Gretchen	Chief of Staff to U.S. Congressman Sid Morrison
Wilkinson, Jane	Consultant, Fisheries Technical Team
Williams, Mike	Staff to U.S. Congressman Jim McDermott
Winsley, Shirely	Washington State Representative
Wojahn, Lorraine	Washington State Senator
Wright, Frank, Jr.	Chair, Puyallup Tribal Council
Wright Conway, Judy	Member, Puyallup Tribal Council
Wright, Reuben	Member, Puyallup Tribe
Young, Don	U.S. Representative, Alaska
Zell, Pat	Chief Counsel, U.S. Senate Select Committee on Indian Affairs

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