

**DATE:** July 13, 2017

**BRIEFING FOR SECRETARY of the INTERIOR**

**PREPARED BY:** Stanley Speaks, BIA Northwest Regional Director and Bodie Shaw, BIA Northwest Deputy Regional Director, Portland Oregon.

**PURPOSE OF BRIEFING DOCUMENT:** To provide information regarding the Klamath Tribes seeking final settlement of their water rights in the upper basin to protect fisheries.

**DISCUSSION:**

History: The Klamath Tribes begin their website:

“We are the Klamath Tribes, the Klamaths, the Modocs and the Yahooskin. We have lived here in the Klamath Basin of Oregon, from time beyond memory. Our legends and oral history tell about when the world and animals were created, when the animals and gmok’am’c – Creator – sat together and discussed the creation of man. If stability defines success, our presence here has been, and always will be, essential to the economic well-being of our homeland and those who abide here.”

The Klamath Tribes entered into a treaty with the United States in 1864.

By the 1950’s the Tribes were one of the wealthiest tribes in the United States.

In 1954 the Tribes were terminated under the Klamath Termination Act.

Tribes retained treaty rights to hunt, fish, and gather.

Water rights of the Klamath were recognized by the courts.

In 1986 Tribes regained their status as a federally recognized tribe.

Reservation:

The Tribes owns about 300 acres in reservation and trust land, all of it in Klamath County, Oregon.

Demographics:

The Tribes (in 2014) estimate the Total Resident Service Area Indian Population is 5,449, and their total enrollment is 4,722.

**BACKGROUND:**

- The Tribes have been a party to the Klamath Basin Restoration Agreement (KBRA) and Klamath Hydroelectric Settlement Agreement (KHSa). These agreements were entered into by various

parties in 2010. Tribal interests in these agreements are protection of water rights, economic development, ecological and stream restoration, and fish habitat. Another element in these agreements was to decommission and remove four dams on the Klamath River.

- Congress failed to act on the KBRA by end of 2015.
- The KHSRA was amended in April 2016, and calls on the Klamath River Renewal Corporation (KRRC) to work with FERC to decommission four dams (JC Boyle, Copco No. 1, Copco No. 2, and Iron Gate). These dams produce little energy. Retrofitting these dams for fish passages would cost more than costs for removal.

#### **Tribal Critical Needs:**

- Resources to protect tribal water rights. Tribes need to support quantification of their water rights claims in the Klamath Basin Adjudication (KBA).
- Tribes seek acquisition of lands. Lack of funds hindered purchase of forested lands.
- Funds to support Tribes' stream restoration projects.

#### **The Future:**

The Tribes' ultimate goal is to again become economically self-sufficient and secure a larger tribal land base (from original reservation). The Tribes' economic plans, once realized, would enhance tribal cultural and social health as well as reestablishing a larger tribal land base.

#### **\*\* S. 1223: Klamath Tribe Judgement Fund Repeal Act:**

In 1983 and 1996, funds were dispersed to each tribal member of the 1954 Klamath roll. The Klamath Tribe currently has 188 individual Indian Money (IIM) accounts for tribal members in two active accounts; 112 estate accounts and 76 individual accounts.

As estate account was set up for deceased tribal members. The estate accounts are still open due to lack of information, no death certificates, no birth certificates and Whereabouts Unknown. These funds will remain as IIM accounts with the Office of the Special Trustee (OST).

The 76 individual accounts were set up because mailed disbursement checks were returned resulting in tribal members Whereabouts Unknown. It is our recommendation that the remaining funds in the Klamath Tribal trust accounts be disbursed to the Klamath Tribe through OST.

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**Supplemental Tribal Updates from the Northwest Region:****Nooksack Tribe** (Puget Sound Agency, Washington):

The Nooksack Tribe currently lacks a quorum to conduct business since a council election scheduled for Spring 2016 was cancelled by the Tribal Chairman. After canceling the election, the chairman and "holdover" council took certain actions that were not recognized by the Department, including the disenrollment of approximately 300 tribal members. The Holdover Council took us to court as we and other agencies withheld funding due to there being no recognizable government. The judge has granted a 120 day stay in the suit to allow the Tribe time to conduct an election the Department will recognize.

**Swinomish Tribe** (Puget Sound Agency, Washington):

The Swinomish Tribe recently passed an amendment to its Constitution revising the "Jurisdiction and Territory" language. Many members of the community believe this will give the Tribe authority to 'annex' their properties and submit them to tribal jurisdiction and taxation. Although the revised language is similar to that in constitutions across the country and despite assurances both by the Tribe and the BIA that this does not give the Tribe the authority to assume jurisdiction over non-Indian lands, we continue to receive letters objecting to the revised language.

**Warm Springs Tribe** (Warm Springs Agency, Oregon):**Warm Springs Detention Center Replacement:**

The Warm Springs Detention Center was built in 1985; the building exists in extreme disrepair:

- Safety is the main issue;
- Antiquated security systems, that require constant attention; heating and cooling systems that aren't environmentally efficient;
- Facilities workers cannot find parts to replace various fixtures throughout the structure; roofing materials [roof leaks, especially this year with the heavy snow and ice]; airflow for heating system and air-conditioning; camera/video system; electronic Locks; backup Generator;
- Need to build new detention center to include a Juvenile Detention section;
- Problems with intercoms from cells to detention personnel, safety issue;
- Original design issue, electrical wiring, lights burn out fast and creates security issues;
- The BIA regional office continues to work with the Office of Justice Services to appropriate funding for this project.

**Warm Springs Sewer and Water System Replacement:**

The portion of the Warm Springs sewer and water system owned by the BIA on the old school campus is in extreme disrepair:

- Contains aging steel water pipes; deteriorated service valves; many service valves stuck and inoperable; aged sewer manholes made of brick; sewer lines highly infiltrated by roots; sewer lines continually collapsing; service lines to existing buildings clog frequently;
- Difficult to proceed with Tribal Economic Development when water and sewer system is antiquated;

- The BIA regional office continues to work with the Division of Facilities Maintenance and Construction for funding this project for out years.