

The Klamath Tribes Tribal Council

Testimony of Donald C. Gentry, Chairman of the Klamath Tribes Before the House Committee on Natural Resources' Subcommittee for Indigenous Peoples of the United States.

Chairwoman Fernandez, Acting Ranking Member Obernolte, Members of the Committee. Thank you for giving me the opportunity to participate in this committee hearing on behalf of the Klamath Tribes. Along with this statement I have submitted written testimony that I request be included in the record of this hearing.

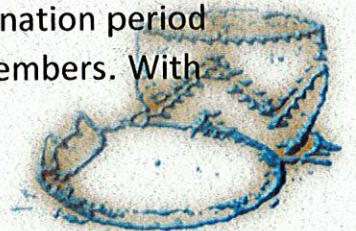
My name is Donald Gentry and I serve as the Chairman for the Klamath Tribes.

I am here today to urge repeal of the Klamath Tribes Judgement Fund Act of 1965.

The Klamath Tribes is comprised of three distinct tribal nations: the Klamath, the Modoc, and the Yahooskin Paiute people. There are currently over 5,700 enrolled Tribal members. Our aboriginal territory encompasses much of Southern Oregon and Northern California.

On October 14, 1864, the Klamath Tribes signed a treaty with the United States relinquishing our right to occupy a territory of 20 million acres of our traditional homeland, reserving for ourselves 2.5 million acres of land. By 1954, fraudulent land surveys and disastrous federal Indian policies had reduced the Klamath Indian Reservation to 1.2 million acres of which 882,000 were Tribal trust lands.

The last remnant of our homeland was stripped from us by the Termination Act of 1954, which ended our federally recognized Tribal status. The termination period was devastating for the Tribes as a whole and for individual tribal members. With



the abrupt discontinuation of services such as health and education and the unmooring from a collective group caused by termination, Klamath Tribal members faced, among other disastrous impacts, increasing health disparities that resulted in increased infant mortality and decreased life expectancy. The United States acknowledged the failure of the termination policy in the 1970's, and the Klamath Tribes was restored to federal recognition on August 27, 1986.

In my preparation for this testimony, I noted this Subcommittee's goal is to protect tribal sovereignty and tribes' authority over their lands and natural resources while empowering tribal communities with enhanced self-governance authorities. Please let me tell you how passage of the Klamath Tribe(s) Judgement Fund Repeal Act will allow the full expression of the Tribes sovereignty and self-determination.

After Congress passed the Termination Act in 1954, the Klamath Tribes still had a number of legal issues that had not been resolved. In 1958, the Executive Committee of the Klamath Tribes passed Resolution 1958-5 which "Resolved that the Secretary of the Interior be authorized and requested to establish a separate fund in the amount of \$350,000 from any available Klamath tribal funds for the purpose of providing a reserve of necessary funds for prosecution of the Klamath claims against the United States." This was in reference to Docket 100 claims pending before the federally established Indian Claims Commission.

During the post termination era up through 1982, the Executive Committee (Claims) oversaw a number of legal actions including confirming the time-immemorial rights of tribal members to hunt, fish, and gather, free of State of Oregon regulation. Also, during this time period, the Tribes secured the water rights necessary to support our treaty-acknowledged hunting, fishing and gathering rights. The Tribes were also successful in a number of Indian Claims Commission Docket 100 cases, gaining compensation for our members, from which was withheld \$533,250 to replenish the litigation fund, initially funded by the Tribes in 1958, in the event of further litigation.

The purpose of establishing and replenishing the litigation fund was to prosecute claims and accommodate distribution of any judgments secured via the Indian Claims Commission Act, or funds deposited in the US Treasury to the benefit of the Klamath Tribes pursuant to the Judgement Fund Act, 25 USC SEC 565. That

purpose is no longer required as the Klamath Tribes has been restored and is able to fulfill this purpose through tribally determined internal processes.

One key problem with the Judgement Fund Act is that it stands in opposition to the Tribes sovereignty. Its purpose was rendered moot by the Klamath Tribes Restoration Act of 1986.

Worse still, The Judgement Fund Act requires distribution of these remaining Klamath Tribal funds in a way which places an undue and extreme burden on the Tribe. It requires that we track down and distribute smaller and smaller shares to increasing numbers of heirs of deceased 1954 enrollees. (That is, those enrolled at the time of the Termination Act.) This cumbersome and time-consuming process makes it unlikely that the Tribal Elders who were alive at the time the Tribes deposited the funds will see any benefit from them. At the time the fund was established there were 2,133 enrolled Tribal members. Since that time, many of these members have passed on, and, as I said, under the terms of the Judgement Fund Act the shares were to be passed on to their heirs or legatees. This process would be expensive and after 68 years would have little impact on the growing numbers of heirs who may receive a small portion of a share generations after the Act's passage. Importantly, a significant number of these heirs are not tribal members, and may be non-Indian.

In the years since termination, the Klamath Tribes as well as the Bureau of Indian Affairs have made strenuous attempts to locate all tribal members or heirs who were entitled to funds held for the benefit of Klamath Tribal Members at the Bureau.

On July 14, 2012, at a meeting of 1954 Klamath Tribal Enrollees, those present voted overwhelmingly to pass a resolution recognizing that any monies contained within the litigation fund are owned by a constituent part of the Klamath Tribes, that is the 1954 Final Enrollees. Without the repeal of the Judgement Fund Act, the Tribes will be constrained from exercising its sovereignty and distributing the funds as per the wishes of these venerated elders.

Given that these funds rightly belong to the rapidly aging, remaining 1954 enrollees, it is imperative that the repeal of the Judgement Fund Act include language disbursing *the full balance* of any remaining or reserve funds held in the

U.S. Treasury to the Klamath Tribes as soon as practicable after passage. This will allow the Klamath Tribes to distribute these remaining funds in accordance with traditional notions of tribal sovereignty, that is on our own terms. Furthermore, and notwithstanding provisions of Public law 93-134 (The Indian Tribes' Distribution Act of October 1973), the Klamath Tribes as a sovereign government must be allowed to disperse the full amount of these funds as we deem appropriate.