

## MINUTES

Name of Tribal Organization: Tribal Business Council, Fort Berthold  
Reservation, New Town, North Dakota

Place of Meeting : Conference Room, Ft. Berthold Agency

Quorum Present : B. J. Youngbird and John Starr Absent

Interested Parties Present : Carl Whitman, Jr.

SUBJECT: Donald Gormley, Claims Attorney, Washington, D. C., Regarding Ft.  
Berthold Claims of 1891 and Under the 1910 Act.

Marie D. Wells, Tribal Bookkeeper and Business Secretary called the meeting to  
order at 1:55 p.m., on 4 August 1960.

James Hall, Sr.: The purpose of this meeting is to hear from Donald Gormley,  
one of the claims attorney from Washington, D. C. Mr. Gormley you may have the  
floor.

Don Gormley: There is nothing pressing about this meeting but since I was on  
my way back from Portland, I thought that it would be a good thing to stop and  
sort of refresh your minds on the Fort Berthold Claims and review what we talked  
about when you men were in Washington.

Your Claims under Agreement of 1891, we have decided to take this up first as  
we feel it is the easiest to get the Government to go on trial. We will go on  
trial in September, 12th of September 1960 and let us hope I do not get or take  
sick this time, like I did last time when your trial date was scheduled for, I  
took sick. I will give you a brief report on the problem regarding your claims  
under the 1910 Act.

There are about 800 claims pending and about 200 are scheduled for trial.  
McFarland, The Dept of Justice Attorney, the one that has your case is scheduled  
for 21 cases I believe. It is not very easy for him to go on trial for all of  
them at the same time. What has happened is this. They will prepare cases that  
are similar, to go on trial. The Commissioner will probably request Mr. Cooper  
to consolidate with the Chippewas along with four other cases for compensation  
for lands within the Missouri River.

Under the 1910 Act claims, what has happened is this. The Chippewa's claim  
was overlapped with the Claims of Fort Berthold.

Carl Whitman, Jr.: Will the overlapping affect the whole area.

Don Gormley: No, the overlapping will not affect the area south of the Missouri  
River but the Fort Berthold Claim under the 1910 Act is far too big. Fort  
Berthold pleaded to big. It goes way over to the east. Points out on the map.  
Northeast of Devils Lake to Stump Lake, near Cheyenne River and back jto Canada.  
We would like to get the reaction of the Tribe.

At first, we were interested in the value of the land. This overlapping will  
not delay the trial. It is too proof "individual Indian Land Title."

That portion that overlapped with the Chippewas, we will have to proof claim of title, entail the showing of facts with respect to the exclusive use of occupancy for a reasonably defineable area claimed by the Three Affiliated Tribes. What it is, is a Conflict of Claims. The Claims Commissioner has never awarded judgement where claims have overlapped.

We thought the best interest for the Three Affiliated Tribes would be to contact an anthropologist, they would know as they are able to analyze and have documentary records etc. An anthropologist studies the local of Indian people and we feel sure an anthropologist evidence will hold up in your case.

Carl Whitman, Jr.: He mentioned J. Howard and Bowers.

Don Gormley: I believe Howard is working on the Turtle Mountain case. The Mandan side has pretty well been studied. I shall check on Bower's record.

If we hire, say J. Howard, it should cost between 3,000 or 4,000 dollars for his expenses and I shall read our contract over, but I believe it states in there that we could contract our own employment. If we hired J. Howard and he finds evidence that Fort Berthold did not have exclusive occupancy of the land that is overlapped, the Commissioner will not hold title for either one of the tribes. If you have a conflict as in this case, you must have proof of evidence of exclusive occupancy of the land at the time, or long before 1850. It only stands to reason. You do not expect the United States to pay damages for lands they, the tribe, did not own.

There is a case, where the two tribes made independent studies on the claim they both claimed title too. One of the tribes disclaimed a certain line, then the other tribe did likewise. They made mutual disclosure of the claims, or compromised to a certain portion of the land. The Commissioner awarded just the line they agreed too.

Marie D. Wells: When did you discover that Fort Berthold claim overlapped with the Chippewas.

Don Gormley: Oh, shortly after we were contracted by the Three Affiliated Tribes. About 9 years ago.

Marie D. Wells: Well, why did you not hire an anthropologist 9 years ago, your contract expires June or July 1961.

Don Gormley: Yes, I know that, a case, when you take a case, it never shapes up like when you first started on it, it always shapes up different. You must have proof, anything that you used it for, show exclusive use. If another tribe shows evidence they used it, even marauding is not exclusive use. What we need is evidence of hunting, trapping. Last month in judgement of an Oregon tribe, they lost a big area as they did not have exclusive evidence of control of their claim to individual title. That is the reason we feel an anthropologist should be hired. We could have hired an anthropologist 9 years ago, but what is the use, you have 300 claims cases that are pending and only 27 Defense Attorneys and it is best that claims attorneys do not get the material beforehand as it gets cold, it is best that you prepare to go on trial 3 months before the scheduled date your case comes up.

Marie D. Wells: You say it is best to start preparing 3 months before you go on trial for a case, in that case, you may quit sending in your vouchers for payment until three months before you are ready or preparing to go on trial.

R. E. McLean: Marie, I believe you will find they are just being compensated for cost and expenses. They do not get to see any of the money set aside for them until a case is completed.

Don Gormley: That is correct. You do not have to feel bad, you are not the only Tribe awaiting for the outcome of your claims. In fact, your tribe is way better off than a lot of tribes. There is a little tribe or band of Indians east of Seattle, you probably never even heard of the name of the tribe. They do not know what the word per capita means because they haven't ever been awarded a dime and if they should see the North Dakota wheat fields, they would actually think it was heaven. I say you are better off because you have had per capita payment not too long ago.

Marie D. Wells: We would have not known the word per capita either but that was the fault of Uncle Sam, they took our good lands for the Garrison Dam.

Don Gormley: Yes, I know but you were compensated for them and I do not say you are well off like tribes with oil wells in their front yards but you have had some money, whereas, some tribes do not even have a dime.

Marie D. Wells: Well, we have been spoiled by being compensated for the good lands taken from us and we are getting down to our last dime, so you better hurry and see if you could settle our claims.

Don Gormley: This is the way we feel, no matter how you look at it, we have to go on trial someday and get the claim settled so it may as well be now. However, that portion that overlapped with the Chippewas will be delayed until we have proof of claim to individual land title. The map of Father DeSmet, at the Treaty of 1851, the line is as plain as you want to see it. He drew the line right down the center. The South side, there is no question about that, but it is the North side the question of conflict of claims comes up. The Chippewas claim was filed prior to 1949 or 1951 is when they pleaded.

I have enjoyed meeting with you men and do not wish to take up all your time as I know you are on a salary and I must be starting back as I have my boy with me.

James Hall, Sr.: Why do you not take in the Indian dance just east of here, I am sure you and your son would enjoy seeing the Indian dance.

Don Gormley: I may just do that.

Marie D. Wells: You better not, if the Indians find out you have delayed our claims, they may just scalp you.

Don Gormley: No, I shall contact the different names you have given me and try to get the anthropologist to begin research evidence as soon as possible. I just wanted to stop and review what we talked about in Washington. I enjoyed answering the different questions,