

Carbon & Culture: International Law, American* Tribes



Carl Merkle
September 29, 2025

***Pathetic Acquiescence to Eurocentrism/ The Dominant Paradigm**

“The name ‘America’ was first recorded in 1507. . . . ‘America’ derives from Americus, the Latin version of the Italian explorer Amerigo Vespucci's first name.”

- Wikipedia, <https://en.wikipedia.org/wiki/Americas>

(footnotes omitted)

Alternate Presentation Title, #1:

The Erratic Education of a
Non-Indigenous Policy Analyst

Alternate Presentation Title, #2:

A Modest Proposal



Affix Blame Here:

Salmon Recovery Policy Analyst

First Foods Policy Program

CTUIR Department of Natural Resources

Confederated Tribes of the

Umatilla Indian Reservation

(1994 – the present)

BUT, the Usual Excuses and Caveats:

The views expressed here are my own,
and not those of my employer.

Some Additional Background:

“You are the sum total of everything you’ve ever seen, heard, eaten, smelled, been told, forgot - it’s all there.

Everything influences each of us”

-- Maya Angelou

Some Additional Background, cont'd.:

“Each moment is the fruit of forty thousand years . . . , and every moment is a window on all time.”

-- Thomas Wolfe,
Look Homeward Angel

Some Additional Background, cont'd.:

“I am . . . a part of all that I have touched and that has touched me”

-- Thomas Wolfe,
Look Homeward Angel

Some Additional Background, cont'd.:

Forester

Lawyer

Artist

Reader

Student

Clashing Cultures, Conflicting Worldviews

- This symposium is called Carbon and Culture.
- Our culture—the dominant, non-indigenous culture—is a carbon culture.
- We've been living off the carcasses of extinct dinosaurs, in one form or another, on a large industrial scale, for about two centuries.
- We are paying the price.
- We will continue paying the price.
- The price will get steeper.

Recent History as Teacher

- My views here are shaped by the last three decades—“the sum total of everything.”
- Hired by CTUIR (Umatilla Tribes) not long after multiple salmon species listed under the Endangered Species Act (ESA), in the early 1990s.

- **Tribes, and the region, were in a panic.**
- Effects of salmon ESA listings would be profound—in the Northwest, everything is connected to salmon.
- Many tribes primarily focused on most immediate threat to them—knee-jerk harvest restrictions by non-Indian fish managers.

- For federal and state governments, tribal harvest restrictions were the easy path, the path of least resistance, the path of the least political turmoil, limited to their smallest, least powerful constituency—Native Americans.

- CTUIR wanted to focus on what was driving salmon to extinction—and it wasn't tribal harvest.
- Federal government refused to seriously confront the major salmon-killers: mainstem federal dams on the Columbia and Snake Rivers.

(**NOTE:** This was before river water temperatures were, more and more, getting so hot due to Climate Change—aggravated by the dams—that entire salmon runs could get virtually wiped out, as with Snake River sockeye in 2015.)

CTUIR recognized need to “think outside the box.” We developed an official, comprehensive policy with specific position statements on what needed to be done to protect and restore salmon—our *Columbia Basin Salmon Policy*, in 1995.

- Litigation continued, federal government recalcitrance persisted.
- Eventually settlement agreement worked out that provided some benefits to salmon tributary habitats, but gave the hydrosystem another ten-year breather, again dodging the “major overhaul” a federal court said was needed.

- **Meanwhile, in 2007, a sad milestone was reached.**
- The region recognized the fifty-year anniversary of the drowning of Celilo Falls behind The Dalles Dam.
- The Tribes held no celebrations.



CTUIR wrote and submitted, and the Affiliated Tribes of Northwest Indians (ATNI) adopted, a resolution memorializing that tragic death.



Affiliated Tribes of Northwest Indians

**2007 Winter Conference
Portland, Oregon**

RESOLUTION #07 - 14

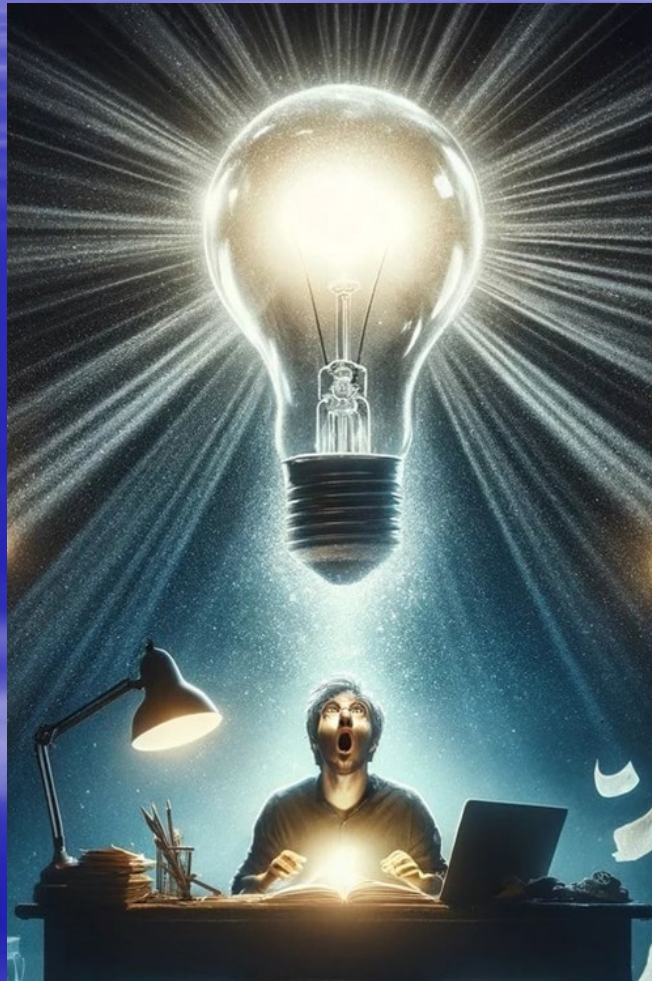
"CELILO FALLS MEMORIAL"

**The ATNI Resolution can be found
here:**

<https://atnitribes.org/wp-content/uploads/resolutions/res-07-14.pdf>

BE IT FINALLY RESOLVED, that ATNI requests that the federal government, in coordination with tribal and state governments and the Northwest Congressional delegation, commit and act to protect, recover and restore salmon and other fish and wildlife populations impacted by the same hydrosystem that stilled Celilo Falls, providing equitable treatment to those “non-power” resources such that they exist in abundant, healthy, harvestable numbers so that the United States may finally act consistently with the treaties it signed, its executive orders, and its Trust Responsibility to Indian tribes.

Then an idea occurred . . .



Too much reading?

No familiarity/experience with
International Law.

Learning Federal Indian Law, and
various environmental laws, has been
a constantly-evolving, never-ending
task.

Nevertheless . . . it spawned (ISWYDT)
the modest proposal:

THE
CELILO FALLS
WORLD
HERITAGE
SITE.

500 years of Manifest Destiny,
European “conquest” of North
America, and the obliteration of all
that stood in its path, distilled to its
very essence at a single location on
the now-placid banks of the once-
roiling Columbia River.

“Celilo Falls was the economic and spiritual center of the Indian world in the Pacific Northwest.”

Ken Kesey Meets Lewis and Clark,
[https://commonplace.online/
article/ken-kesey-meets-
lewis-and-clark/](https://commonplace.online/article/ken-kesey-meets-lewis-and-clark/)
(January 2006)



I began to write a memo . . .

I recommend that the CTUIR announce that it will seek designation of Celilo Falls and/or Celilo Village as a “World Heritage Site.” We should also consider seeking the additional designation of “World Heritage Site in Danger.” The perfect time and opportunity to do this is at the Celilo commemoration events . . .

I suggest that [the Chairman] conclude his remarks . . . with some statement to the effect that “because of Celilo’s importance—both the Falls (now drowned) and the Village itself—to Indian people for ten thousand years, its symbolism as the crossroads where Indian spirit and culture met non-Indian technological domination, and its inspiration as memory that drives us to still fish even in the shadow of the big dams that spelled its doom (etc.), the CTUIR today announces its intent to seek designation of Celilo Falls and Village as a World Heritage Site in Danger.”

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This would be a more forward-looking, proactive step in the midst of . . . remembrance. It would cast a new light on the entire fishing issue, and could potentially tie together history that many regard as “ancient” (drowning the Falls) and not subject to repetition, with the fact that the US government is continuing to take actions that will destroy what Celilo was all about (i.e., fishing) by other, less visible means (Biological Opinions, anyone?). It may be perceived as a visionary step. It may raise the international profile of this issue. It could also tie in other issues, like toxics and fish consumption (additional rationales for the “in danger” status).

Limited research at the time found no mention of the idea.

More recent research found two mentions, by a single commentator, appearing a few years later:

Celilo Falls, the U.N., World Heritage Sites and Indigenous Peoples

<https://blogoliticalsean.blogspot.com/2011/05/celilo-falls-un-world-heritage-sites.html> (May 19, 2011)

Be Inspired: Hahoe Village – UNESCO – Celilo Falls

<https://1000nations.wordpress.com/2011/08/23/be-inspired-hahoe-village-unesco-celilo-falls/> (August 23, 2011)

“... [T]here is a process to nominate new World Heritage sites, and that the time is right to begin the process to place Celilo Falls on the list of World Heritage 'inscribed' sites.”

“... Celilo, one of the oldest continuously inhabited sites in the Americas, where the same families have lived for thousands of years, profoundly in harmony with nature, iconically in harmony with nature, forever in harmony with nature, the core, the heart, the engine of one of the most important trading centers on the continent.”

“Celilo Falls and Celilo Village, the Columbia River tribes, and the salmon...truly a World Heritage natural and cultural landscape, well worth preserving into perpetuity, and under the same management as before, before Manifest Destiny and Lewis and Clark.”

I started a potential law review article, a potential strategy to achieve WHS designation for Celilo.

I was . . . a non-indigenous policy analyst on a roll.

But . . . it gained no traction; it had no legs.

It would have been a huge amount of work, with many subtleties and complexities that I did not know about or understand.

The World Heritage Convention pre-dates UNDRIP.

Efforts have been and are being made to potentially adjust or modify, and interpret and integrate, their provisions so as to better assure that indigenous rights and interests are recognized and protected in implementing the World Heritage Convention, including the designation and management of sites.

There is a “need to adopt procedures to ensure indigenous peoples’ free, prior and informed consent when sites are inscribed on the World Heritage List, the need to address the frequent lack of access by indigenous peoples to information about pending nominations and other Convention processes affecting them, and the need to take measures to ensure the protection of indigenous peoples’ livelihoods and tangible and intangible cultural heritage in World Heritage areas, among many other issues.”

World Heritage Sites and Indigenous Peoples’ Rights

<https://iwgia.org/images/documents/popular-publications/world-heritage-sites-final-eb.pdf> (November 2014)

Broader, more fundamental shortcomings with some international approaches to indigenous peoples' rights and environments have been identified and discussed, such as

“... [S]ynergies and antagonisms of World Heritage cultural governance in respect of Indigenous peoples' participation and rights. In tandem with recognition of nature-culture interlinkages, the World Heritage Committee has demonstrated a growing concern with rights-based approaches, moving Indigenous peoples' rights to a more normative position in the Convention's implementation.”

“However, the Convention follows a Statist approach and adheres to a Eurocentric conceptualisation of nature, reproduced through World Heritage cultural governance. These issues can result in power asymmetries, coloniality of knowledge and the relegation of Indigenous peoples’ worldviews and rights.”

Coloniality, Natural World Heritage and Indigenous Peoples: A Critical Analysis of World Heritage Cultural Governance

https://link.springer.com/chapter/10.1007/978-3-031-05660-4_4

(October 2022)

Conclusion

- Indigenous people and what they value have been under assault for centuries, by dominant, non-Indigenous cultures—often “Carbon Cultures.”
- The means and methods of attack change and shift over time, as do the defense mechanisms and tools to resist them.

- For water and salmon, tools have included the Clean Water Act, the Northwest Power Act, the Endangered Species Act. They have had some/limited/occasional success—but salmon are still endangered, water is still polluted.
- Particularly under drastically new and different circumstances, new thinking, new tools may be needed. Old tools, old thinking may become ineffectual.

- As non-native staff, I was familiar with using such tools as science, law, and policy (also known as politics) to protect and defend tribal rights (for example, with water quality standards and fish consumption rates).
- Now, science, law, and policy—not to mention reason and common sense—have become diminishing factors.

**We've forgotten what can happen when we
ignore science (and common sense) . . .**



Reasonable skepticism and informed questioning
are healthy; dismissing *all* expertise is insane.



*"These smug pilots have lost touch with regular passengers like us.
Who thinks I should fly the plane?"*

- A government—our federal trustee—that sneers at science, breaks the law, and adopts policies and politics that only lead to further environmental damage and destruction, is impervious to many of the known tools and approaches.
- International approaches have been minimally explored. They may be flawed and defective, with complex pros and cons, and many shades of gray, but they may be worth considering under what can only be described as a seismic shift in governance.

Vocabulary Interlude

Kakistocracy

Noun; kak·is·toc·ra·cy, kakə'stākṛəsē; plural kakistocracies

government by the worst people

Merriam-Webster Dictionary,

<https://www.merriam-webster.com/dictionary/kakistocracy>

Kakistocracy (/ˌkækiˈstɒkrəsi/ KAK-ist-OK-rə-see) is *government by the worst, least qualified, or most unscrupulous people*.

The word was coined as early as the 17th century and derives from two Greek words, *kákistos* (κάκιστος, 'worst') and *krátos* (κράτος, 'rule'), together meaning '*government by the worst people*'.

Wikipedia,

<https://en.wikipedia.org/wiki/Kakistocracy>

Our revered “Founding Fathers”* tried to counteract the risk of a single dangerous despot, but may have missed the risks of an entire political party, or half a nation, mindlessly devoted to such a despot.

"Political parties are likely to become potent engines, by which cunning, ambitious and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government"

George Washington
FAREWELL ADDRESS
SEPTEMBER 17, 1796

Conclusion, cont'd.

Treaty Rights, you may ask? I am not confident they will be given the honor and respect they deserve by an Administration and a Supreme Court that regularly wipes its nose (or worse) on the US Constitution (which merely proclaims those rights “the Supreme Law of the Land”).

Conclusion, cont'd.

The continued viability of the entire US Constitution—
along with much else—is now in doubt.



Conclusion, cont'd.

. . . And on the pedestal these words appear:
‘My name is Ozymandias, king of kings:
Look on my works, ye Mighty, and despair!’
Nothing beside remains. Round the decay
Of that colossal wreck, boundless and bare
The lone and level sands stretch far away.”

Ozymandias, Percy Bysshe Shelley (1792-1822)

Finally, a few additional random observations

- Definitions matter (WOTUS, Harm).
- Enforcement matters.
- Remedies matter.
- For the Tribes, nature and culture are one; drawing a line between them is an artificial, non-indigenous distinction that diminishes them both.

Tribal Elders taught us:
If we take care of the salmon, the salmon will take care of us.

