

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (which includes all attachments hereto) is entered into as of January 14, 1999, between the NEZ PERCE TRIBE ("Tribe") and AVISTA CORPORATION ("Avista"). Prior to January 1, 1999, Avista's corporate name was The Washington Water Power Company ("Washington Water Power" or "WWP"). In this Settlement Agreement, "The Washington Water Power Company" or "WWP" or "Washington Water Power" means Avista Corporation.

WHEREAS, the Nez Perce Tribe aboriginal homeland includes approximately 13,204,000 acres of land in territory that encompassed virtually all of what is now northcentral Idaho as well as extensive portions of what is now northeastern Oregon and southeastern Washington; and

WHEREAS, in 1855, in a treaty known as the "Stevens Treaty" the Nez Perce Tribe relinquished some of its ancestral lands but reserved certain hunting and fishing rights. Related to fishing rights, the treaty provided that the Tribe retain "the exclusive right of taking fish in all the streams where running through or bordering said reservation" and "also the right of taking fish at all usual and accustomed places in common with the citizens of the territory." None of the subsequent treaties between the United States and the Nez Perce Tribe altered or affected the Tribe's fishing and hunting rights reserved in the 1855 Treaty which are still in full force and effect; and

WHEREAS, Washington Water Power was duly organized under the laws of the Territory of Washington in March of 1889, for the purpose of constructing electrical generating, transmission and distribution facilities to deliver electrical power to customers. Washington Water Power is now duly organized under the laws of the State of Washington and is authorized to generate, transmit and sell electrical power, *inter alia*, in the States of Idaho, Montana and Washington and is authorized to do business in numerous other states in the United States; and

WHEREAS, Washington Water Power generates, transmits, distributes and sells electrical power in the western United States, particularly in eastern Washington and northern Idaho. Washington Water Power's electrical service rates and the terms and conditions of its electrical service is regulated by the States of Idaho and Washington, as well as other states, and by the Federal Energy Regulatory Commission under Part II of the Federal Power Act. Washington Water Power's rates are generally based upon the investment that Washington Water Power has made in the electrical facilities and Washington Water Power's cost of operations. Washington Water Power has more than 250,000 electrical retail customers located in its service area; and

WHEREAS, the Grangeville Dam (also known as the Harpster Dam) was constructed on the South Fork of the Clearwater River in 1903 by Grangeville Electric Power and Light Company. In 1923, the Federal Power Commission granted a license under the Federal Water Power Act of 1920, which permitted the dam to continue operation. Washington Water Power eventually acquired the dam in 1937 and thereafter operated the dam until it was demolished in 1963; and

WHEREAS, in 1926, the Federal Power commission granted a license to the Inland Power and Light Company to construct the Lewiston Dam on the Clearwater River near Lewiston. The dam was constructed in 1927 and was eventually acquired by Washington Water Power in 1937, and thereafter the Company operated the dam until it was destroyed in 1973; and

WWP		
DOCKET NO. <u>WE-991606</u>		
EXHIBIT # <u>239</u>		
ADMIT	W/D	REJECT
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

WHEREAS, from time immemorial much of the Nez Perce Tribe's economic, cultural, social and spiritual life revolved around fishing. Consequently, the precipitous decline in the anadromous fish population injured the Nez Perce Tribe economically, culturally, socially and spiritually. Economic losses included loss of income which could have been earned catching and processing the salmon. Social impacts include loss of shared community experiences and reinforcement of Nez Perce values of personal and ecological interdependency. Spiritual losses include loss of cultural identity and spiritual power the Tribe gains from the creatures inhabiting the river, including wisdom, confidence and a sense of identity; and

WHEREAS, the curtailment of fishing by the Nez Perce Tribe has also restricted their opportunity to practice a traditional lifestyle. Many tribal elders have indicated that this impact extends to the health of the Nez Perce People. They believe that traditional religious practice calls for a traditional lifestyle, including a traditional diet, and that non-Native American food their people have been forced to consume in the absence of fish is a major factor in the poor health of some tribal members; and

WHEREAS, WWP recognizes the sovereignty of the Nez Perce Tribe and will continue to acknowledge and respect the existing boundaries of the Nez Perce Reservation; and

WHEREAS, the Tribe filed a lawsuit on December 6, 1991, against WWP in the United States District Court of Idaho, captioned *Nez Perce Tribe vs. Washington Water Power Company*, Civil No. 91-0518-S-HLR; and

WHEREAS, in the lawsuit the Tribe alleged that WWP damaged its treaty-reserved fishing rights in connection with the operation and maintenance of the Lewiston Dam and the Grangeville (Harpster) Dam and in the lawsuit, the Tribe claimed monetary damages together with pre- and post-judgment interest and punitive damages; and

WHEREAS, in response to the lawsuit, WWP denied all of the Tribe's claims and raised affirmative defenses to the Tribe's allegations; and

WHEREAS, on November 21, 1994, WWP filed a motion for summary judgment for dismissal of all of the claims asserted by the Tribe; and

WHEREAS, the United States Magistrate assigned to making a recommendation to the District Court regarding the motion heard oral argument on July 27, 1995. Argument was preceded by the parties spending considerable time and expense briefing and arguing the merits of the motion. On September 22, 1995, United States Magistrate Mikel H. Williams issued a written opinion recommending to the District Court that WWP's motion for summary judgment be granted and that the Tribe's claims be dismissed as a matter of law.

WHEREAS, on March 28, 1996, United States District Court Judge B. Lynn Winmill entered an Order granting summary judgment in favor of WWP and dismissing the action brought by the Tribe; and

WHEREAS, on April 24, 1996, the Tribe filed a Notice of Appeal of the District Court's decision in the United States Court of Appeals for the Ninth Circuit, *Nez Perce Tribe vs. Washington Water Power Company*, No. 96-35519; and

WHEREAS, on October 11, 1996, the parties met with David E. Lombardi, Jr., Chief Court Mediator, United States Court of Appeals for the Ninth Circuit and at that meeting, the parties agreed to enter into a mediation process to explore settlement of the litigation; and

WHEREAS, given the parties' agreement to attempt settlement of their dispute, the Court of Appeals temporarily stayed the issuance of a briefing schedule and scheduling of oral argument; and

WHEREAS, in March 1997, the parties retained the services of Alice Shorett, of Triangle Associates, Inc., to serve as a mediator to explore settlement possibilities; and

WHEREAS, the parties agreed to a two-step mediation process; Phase I of the process was dedicated to the identification of interests of the parties, fact gathering, and the exploration of options to satisfy the interests; and Phase II focused on developing the specific components of the settlement agreement; and

WHEREAS, during the mediation process, the parties spent considerable time in meetings to explore and understand each others' interests and in identifying overlapping interests; and

WHEREAS, through the mediation process, the parties have identified the following areas in which they have common interests: education; economic development; cultural resources; natural resources; tribal government; and health and human services. The parties are hopeful that a portion of the proceeds from the Settlement Agreement will benefit one or all of these interests; and

WHEREAS, on May 8, 1998, the parties and Alice Shorett met with David E. Lombardi, Jr., Chief Court Mediator, concerning the status of settlement discussions and to discuss the litigation risks for each party; and

WHEREAS, in May 1998, Alice Shorett, with permission of the parties, retained independent experts to review the parties' research reports concerning "fish loss" issues and after completion of the analysis, the experts' opinions were provided to the parties to be considered as one factor in settlement discussions; and

WHEREAS, at the completion of the settlement discussions, the parties entered into an Agreement In Principle that was to serve as the basis for an enforceable Settlement Agreement to be thereafter executed by the parties; and

WHEREAS, the parties recognize that this Settlement Agreement is a compromise agreement to resolve disputed claims; and

WHEREAS, the parties intend that this Settlement Agreement will (a) resolve fully the present litigation between the parties; (b) provide a comprehensive settlement of tribal taxes, rights-of-way, and TERO issues; and (c) create a framework for the parties to cooperate in the future; and

WHEREAS, the parties intend that this Settlement Agreement will lay the groundwork for a long term relationship of cooperation regarding natural resource and energy issues of mutual concern; and

WHEREAS, the Tribe does not intend by entering into this Settlement Agreement to acknowledge any limitation on or waiver of its treaty-reserved fishing rights under any of its treaties with the United States. Rather, the Tribe continues to assert that those rights have continued validity as do its claims against WWP in the litigation; and

WHEREAS, WWP does not intend by entering into this Settlement Agreement to acknowledge any legal liability to the Tribe or to limit or waive the legal and factual defenses it has asserted in the litigation. Rather, WWP continues to assert that those legal and factual defenses have continued validity; and

NOW, THEREFORE, in consideration of the terms and conditions herein, the parties agree as follows:

1. CONDITIONS PRECEDENT

- A. The Settlement Agreement will be effective upon all of the following conditions being met:
1. The Tribe's governing body, possessing the power and authority to do so, approves the Settlement Agreement, and the Tribe's outside counsel provides a written opinion confirming that the Tribe's governing body is duly constituted and authorized to approve the Settlement Agreement, and that the process that body employed to approve the Settlement Agreement was fully consistent with applicable law;
 2. Washington Water Power's duly authorized governing body or its designated representatives approves the Settlement Agreement, and WWP's outside counsel provides an opinion confirming that WWP's governing body is duly constituted and authorized to approve the Settlement Agreement, and that the process that body employed to approve the Settlement Agreement was fully consistent with applicable law;
 3. Washington Water Power prepares and submits to the Tribe maps showing its existing transmission system located on and/or across tribal trust lands and tribal fee lands. The maps will be identified as Exhibit A and made a part of the Settlement Agreement;
 4. Washington Water Power prepares and submits to the Tribe maps showing its existing distribution and service system located on and/or across tribal trust lands and tribal fee lands. The maps will be identified as Exhibit B and made a part of the Settlement Agreement;
 5. Washington Water Power prepares and submits to the Tribe a map showing its existing natural gas pipelines located on and/or across tribal trust lands

and tribal fee lands. The map will be identified as Exhibit C and made a party of the Settlement Agreement;

6. The Nez Perce Tribe consents, approves and authorizes by resolution and the Secretary of the Interior (through the Bureau of Indian Affairs) approves and issues to WWP and its successors-in-interest, agents, representatives and assigns, the grant or extension of rights-of-way for WWP's existing transmission, distribution and service systems and natural gas pipelines on and/or across tribal trust lands up to and including February, 2044 on terms acceptable to the Tribe and WWP. Attached as Exhibits D, E, and F are lists of rights-of-way, that have currently been identified, that are to be granted or renewed with respect to tribal trust lands;
7. The Tribe grants or renews to WWP and its successors-in-interest, agents, representatives and assigns, rights-of-way for WWP's existing transmission, distribution and service systems and natural gas pipelines on and/or across tribal fee lands. Said rights-of-way will be up to and including February, 2044. Attached as Exhibit G is a list of rights-of-way, that have currently been identified, that are to be granted or renewed with respect to tribal fee lands;
8. The Tribe and WWP request, by stipulated motion, that the Ninth Circuit Court of Appeals remand the action entitled *Nez Perce Tribe vs. Washington Water Power Company*, No. 96-35519 (9th Cir.) to the United States District Court for the District of Idaho for the purpose of the District Court's consideration of the parties' stipulated motion to incorporate the Settlement Agreement into the District Court's judgment with the District Court retaining continuing jurisdiction to enforce the terms of the Settlement Agreement;
9. The Ninth Circuit Court of Appeals grants the parties' stipulated motion and remands the action entitled *Nez Perce Tribe vs. Washington Water Power Company*, No. 96-35519 (9th Cir.) to the United States District Court for the District of Idaho for the purpose of the District Court's consideration of the parties' stipulated motion to incorporate the Settlement Agreement into the District Court's judgment with the District Court retaining continuing jurisdiction to enforce the terms of the Settlement Agreement;
10. Upon remand to the United States District Court for the District of Idaho, the Tribe and WWP request, by stipulated motion, that the District Court incorporate the Settlement Agreement into the District Court's judgment with the District Court retaining continuing jurisdiction to enforce the terms of the Settlement Agreement and that the judgment entered be without costs to either party;
11. The United States District Court for the District of Idaho grants the parties' stipulated motion and incorporates the Settlement Agreement into the District

Court's judgment with the District Court retaining continuing jurisdiction to enforce the terms of the Settlement Agreement and that the judgment entered be without costs to either party; and

12. Upon the United States District Court for the District of Idaho incorporating the Settlement Agreement into the District Court's judgment with the District Court retaining continuing jurisdiction to enforce the terms of the Settlement Agreement, the appeal filed by the Tribe in the Ninth Circuit Court of Appeals in *Nez Perce Tribe vs. Washington Water Power Company*, No. 96-35519 (9th Cir.) be deemed dismissed with prejudice and without costs to either party.

B. The parties intend that absent any one of the foregoing approvals, opinions or actions, this Settlement Agreement will be void *ab initio*. The parties intend, however, that they each will work cooperatively and in good faith to secure completion of all of the conditions in an expeditious manner.

2. SETTLEMENT COMPONENTS

A. DURATION OF AGREEMENT

Except for claims seeking solely to enforce the terms of this Settlement Agreement, pursuant to Section I, this Settlement Agreement fully, completely and forever resolves all claims that were or could have been brought in *Nez Perce Tribe vs. Washington Water Power Company*, Civil No. 91-0518-S-HLR (D. Idaho, 1991). The duration of all of the other terms of this Settlement Agreement is for a period of 45 years from the effective date of this Agreement.

B. SCHEDULE OF PAYMENTS AND INTERDEPENDENT UNDERTAKINGS

1. WWP agrees to make payments to the Tribe pursuant to the payment schedule attached as Exhibit H. The first payment will be made within 30 days of the effective date of this Settlement Agreement.

2. The parties agree that in addition to the resolution of the legal action entitled *Nez Perce Tribe vs. Washington Water Power Co.*, No. 96-35519 (9th Cir) and *Nez Perce Tribe vs. Washington Water Power Co.*, Civil No. 91-0518-S-HLR (D. Idaho, 1991), the payments set forth in Exhibit H also represent, for the duration of the Settlement Agreement, payment in full for the granting and/or renewal of all of the rights-of-way described or identified in Section C and/or in Exhibits A through G.

3. WWP acknowledges the Tribe's authority to tax and the parties agree that in addition to the resolution of the legal action entitled *Nez Perce Tribe vs. Washington Water Power Co.*, No. 96-35519 (9th Cir) and *Nez Perce Tribe vs. Washington Water Power Co.* Civil No. 91-0518-S-HLR (D. Idaho, 1991), the payments set forth in Exhibit H also represent, for the duration of

the Settlement Agreement, payment in full of all current and future tribal taxes and fees, including but not limited to utility property taxes, on WWP's existing operations and/or existing facilities.

C. RIGHTS-OF-WAY

1. The Tribe will consent, approve and authorize by resolution the Secretary of the Interior (through the Bureau of Indian Affairs) to grant or renew to WWP and its successors-in-interest, agents, representatives and assigns, rights-of-way for WWP's existing transmission, distribution and service systems and natural gas pipelines on and/or across tribal trust lands. Said rights-of-way will be in effect up to and including February, 2044. Attached as Exhibits D, E and F are lists of rights-of-way, that have currently been identified, that are to be granted and/or renewed with respect to tribal trust lands.
2. The Tribe will grant or renew to WWP and its successors-in-interest, agents, representatives and assigns, rights-of-way for WWP's existing transmission, distribution and service systems and natural gas pipelines on and/or across tribal fee lands. Said rights-of-way will be in effect up to and including February, 2044. Attached as Exhibit G is a list of rights-of-way, that have currently been identified, that are to be granted and/or renewed with respect to tribal fee lands.
3. WWP and its successors-in-interest and assigns has perpetual easements for its facilities on and/or across tribal fee lands located outside the boundaries of the Nez Perce Reservation. The easements were obtained prior to the Tribe obtaining a fee interest in those lands. Copies of the easements are attached as Exhibit I. The easements will remain in full force and effect.
4. The rights-of-way that will be granted and/or renewed, pursuant to Section C, will include provisions allowing WWP and its successors-in-interest, agents, representatives and assigns upon advance notice to the Tribe (a) the right of ingress and egress to operate, maintain, repair, replace and reconstruct its facilities; and (b) the right to cut, trim and remove brush, branches and trees that could interfere with the safe and reliable operation of WWP's facilities.
5. The rights-of-way that will be granted and/or renewed, pursuant to Section C, will include provisions specifying that the widths of the rights-of-way will be as follows: (a) 230 KV transmission line 100 feet; (b) 115 KV transmission line (wooded area) 100 feet; (c) 115 KV transmission line (unwooded area) 60 feet; (d) Distribution line (wooded area) 40 feet; (e) Distribution line (unwooded area) 30 feet; and (f) Natural gas pipeline 30 feet.
6. Prior to the effective date of this Settlement Agreement, WWP, in consultation with the Tribe and BIA, has exercised its good faith best efforts

in identifying tribal trust lands on and/or across which it has existing facilities. (See Exhibits A through F). If after the effective date of this Settlement Agreement, additional existing facilities are identified, on and/or across tribal trust lands, the Tribe will consent, approve and authorize by resolution the Secretary of the Interior (through the Bureau of Indian Affairs) to grant or renew to WWP and its successors-in-interest, agents, representatives and assigns, rights-of-way for said existing facilities for a period up to and including February, 2044.

7. Prior to the effective date of this Settlement Agreement, WWP, in consultation with the Tribe, has exercised its good faith best efforts in identifying tribal fee lands on and/or across which it has existing facilities. (See Exhibits A, B, C and G). If after the effective date of this Settlement Agreement, additional existing facilities are identified on and/or across tribal fee lands, the Tribe will grant or renew to WWP and its successors-in-interest, agents, representatives and assigns, rights-of-way for said existing facilities for a period up to and including February, 2044.

D. RIGHTS-OF-WAY ON AFTER-ACQUIRED PROPERTY

If after the effective date of this Settlement Agreement the Tribe subsequently obtains an interest in land upon which WWP has existing facilities with no rights-of-way or with rights-of-way or permits that expire prior to February, 2044, upon WWP's request, the Tribe will grant or renew to WWP and its successors-in-interest, agents, representatives and assigns, rights-of-way for said facilities on and/or across said land for a period of time up to and including February, 2044 upon the following conditions being met: (a) That an appraiser mutually agreed to by the parties determines the value of the rights-of-way by utilizing the same methodology outlined by Western Appraisals in its December 21, 1998 letter (See Exhibit J); and (b) WWP paying to the Tribe the appraised value of the rights-of-way based upon the methodology described in Exhibit J.

E. TAXES AND RIGHTS-OF-WAY FEES

Except for the payments set forth in Exhibit H and Section D, the Tribe will not impose on WWP, during the duration of the Settlement Agreement, any other taxes or rights-of-way fees on WWP's existing operations and/or existing facilities.

F. RELEASE OF ALL CLAIMS

The Nez Perce Tribe hereby releases and forever discharges The Washington Water Power Company, its subsidiaries, affiliates, officers, directors, agents, successors, and assigns, from any and all existing or potential claims, debts, liabilities, damages, obligations, costs, actions, causes of action of every nature, character and description, known or unknown, vested or contingent, which they now own or hold or have at any time owned or held, for monetary or equitable relief premised on any Tribal claim or theory of recovery, known or unknown, arising at any time prior to the execution

of this Settlement Agreement, including, but not limited to, those that were or could have been brought in *Nez Perce Tribe vs. Washington Water Power Company*, No. 91-0518-S-HLR (D. Idaho, 1991), and *Nez Perce Tribe vs. Washington Water Power Company*, No. 96-35519 (9th Cir).

G. TRIBAL EMPLOYMENT

1. WWP agrees that the Tribal Employment Rights Ordinance is applicable to construction projects it may undertake on the Nez Perce Reservation where the total cost is in excess of \$15,000.00 and agrees to comply with all of the terms and provisions of that ordinance as it may be amended or modified from time to time. Upon verification that WWP and its contractors have complied with the terms and provisions of the TERO for any project within the boundaries of the Nez Perce Reservation, the Tribe agrees that with respect to WWP and its contractors it will waive any applicable fees under the TERO as it may be amended or modified from time to time. Attached as Exhibit K is an outline of steps WWP and its contractors must satisfy to be in compliance with TERO as it presently exists.
2. During the term of the Settlement Agreement, each year WWP will hire two tribal members (18 years or older) for summer student employment/ internships. The Management Committee (described herein) will determine a process for selecting the two individuals and on an annual basis determine the work to be performed and whether the students will be working directly for WWP and/or the Tribe.

H. MANAGEMENT COMMITTEE

This Settlement Agreement establishes a Management Committee consisting of the Chairman of NPTEC and the Chief Executive Officer of WWP (and/or their designees). It will meet not less than once annually. The Management Committee is responsible for the implementation of the Settlement Agreement, including:

1. Exploring the development of projects of mutual interest and benefit to the parties; and
2. Resolving disputes arising under the Settlement Agreement through consensus or mediation.

I. DISPUTE RESOLUTION

1. Should the parties' best efforts in resolving issues regarding the interpretation or enforcement of the terms of the Settlement Agreement fail, the dispute will be submitted to an informal, non-binding mediation process facilitated by a trained mediator. The cost of mediation would be shared equally.
2. If a good faith effort to resolve disputes through mediation fails, each party shall have the ability to employ legal process solely to enforce the terms of

this Settlement Agreement and to secure legal relief, including damages and equitable remedies, for its breach.

- (a) At the time this Settlement Agreement is signed, the duly authorized governing body of the Tribe will execute an express waiver of sovereign immunity, allowing prosecution of a legal action against the Tribe and relevant Tribal officials for breach and/or enforcement of any of the Settlement Agreement's terms. The executed waiver is attached as Exhibit L.
- (b) The parties agree that any such legal actions be prosecuted in United States District Court for the District of Idaho pursuant to the Court's continuing jurisdiction to enforce the terms of the Settlement Agreement.
- (c) The parties agree that neither party shall file any action in any Tribal Court seeking relief in any way related to this Settlement Agreement, nor shall either party be required to exhaust Tribal Judicial or administrative remedies prior or subsequent to the commencement and full adjudication of a judicial action in the United States District Court for the District of Idaho.
- (d) In any such legal action, the prevailing party shall be entitled to an award of the costs and actual attorney's fees it has incurred due to engaging outside counsel and prosecuting or defending the legal action.

J. SUCCESSORS

This Settlement Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties.

K. COSTS AND FEES

The parties shall bear their own costs and fees associated with the Litigation and each shall pay 50% of the cost of mediation through Triangle Associates, Inc.

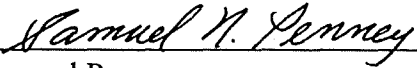
L. PARTIES AND AUTHORITIES

- 1. The Chairman of the Nez Perce Tribal Executive Committee has authority to execute this Agreement on behalf of the Nez Perce Tribe pursuant to NPTEC Resolution.
- 2. The Chairman of the Board of Directors of Avista Corporation has authority to execute this Agreement pursuant to Avista's Board of Directors' Resolution.

Executed this 14th day of January, 1999.

Nez Perce Tribal Executive Committee

By:

_____

Samuel Penney

Chairman, Nez Perce Tribal Executive
Committee

_____

Carla HighEagle

Secretary, Nez Perce Tribal Executive
Committee

Executed this 14th day of January, 1999.

Avista Corporation

By:

T. M. Matthews

T. M. Matthews

CEO and Chairman of the Board of Directors

R. D. Fukai

Rob D. Fukai

Vice President External Relations

Toni E. Pessemier

Toni E. Pessemier

Advisor to the President and

Chairman of the Board

American Indian Relations

DEFINITIONS

1. "After-Acquired Property" means real property upon which the Tribe obtains a fee or trust interest after the effective date of the Settlement Agreement.
2. "Agreement" means the Settlement Agreement.
3. "Avista Corporation" became the name of the corporation formerly known as The Washington Water Power Company on January 1, 1999. As a result, "The Washington Water Power Company" or "WWP" or "Washington Water Power" means Avista Corporation and its successors-in-interest, agents, representatives and assigns.
4. "BIA" means the Bureau of Indian Affairs.
5. "District Court" means the United States District Court for the District of Idaho.
6. "Effective Date" means the date on which all of the conditions precedent have been met and the Settlement Agreement is deemed effective and enforceable.
7. "Litigation" means the legal action entitled *Nez Perce vs. Washington Water Power Co.*, No. 96-35519 (9th Cir), and *Nez Perce Tribe vs. Washington Water Power Co.*, No. 91-0518-S-HLR (D. Idaho).
8. "Management Committee" means the committee established pursuant to Section H of the Agreement.
9. "Nez Perce Reservation" means the reservation which encompasses the boundaries established by the Treaty of June 9, 1863, 14 St. 647.
10. "NPTEC" means the Nez Perce Tribal Executive Committee.
11. "Parties" means the Nez Perce Tribe and Washington Water Power.
12. "Reservation" means the Nez Perce Reservation.
13. "Secretary of the Interior" means the United States Secretary of the Interior.
14. "Tribal Fee Lands" means land owned in fee by the Nez Perce Tribe.
15. "Tribal Trust Lands" means land held in trust by the United States for the Nez Perce Tribe.
16. "Tribal member" means a member of the Nez Perce Tribe.
17. "Tribe" means the Nez Perce Tribe.
18. "TERO" means the Nez Perce Tribe's Tribal Employment Rights Ordinance and any amendments thereto.

19. "Washington Water Power" or "WWP" or "The Washington Water Power Company" means Avista Corporation and its successors-in-interest, agents, representatives and assigns.

20. WWP's "existing operations and/or existing facilities" is defined as follows: -----
WWP has an electrical transmission system across the Reservation. It also provides electrical service and natural gas service to customers on the Reservation. As a result, WWP has various equipment and property on the Reservation including, but not limited to, the following: Poles, lines, pipelines, substations and telecommunication stations. The Nez Perce Tribe has estimated that WWP has on the Reservation 890.21 miles of electrical distribution property, 470.22 miles of electrical transmission property and 0.41 miles of gas pipelines. This Settlement Agreement covers WWP's operations and facilities described above and the normal growth and expansion of said electric and natural gas operations and facilities to customers on the Reservation. This Settlement Agreement does not cover such things as the acquisition by WWP of the operations or facilities of another utility company serving customers on the Reservation or the building of a power plant or other similar significant facility on the Reservation.

**EXHIBITS
TO
SETTLEMENT AGREEMENT
BETWEEN
NEZ PERCE TRIBE
AND
AVISTA CORPORATION**

EXHIBIT	DESCRIPTION
A	Maps of WWP Transmission System
B	Maps of WWP Distribution and Service System
C	Map of WWP Natural Gas Pipelines
D	Electric Transmission System Tribal Trust Lands
E	Electric Distribution and Service System Tribal Trust Lands
F	Gas Distribution System Tribal Trust Lands
G	Electric Distribution and Service System Tribal Fee Lands
H	Payments Schedule
I	Perpetual Easements on Tribal Fee Lands Outside of the Reservation
J	Appraisal Methodology for Rights-of-Way on After-Acquired Property
K	TERO Compliance Checklist
L	Waiver of Sovereign Immunity