


Agenda Item G-1  
February, 1980

MEMORANDUM

DATE: February 4, 1980

TO: Council Members, Scientific & Statistical Committee and  
Advisory Panel

FROM: Jim H. Branson, Executive Director 

SUBJECT: Troll Salmon FMP

ACTION REQUIRED

*Decision on the severability of amendment provisions.*

BACKGROUND

The SSC will report on the combined NPFMC/PFMC salmon meeting held in Seattle on January 23-24, 1980. The topics of (1) in-season regulation, (2) quotas and (3) allocation were the main topics discussed.

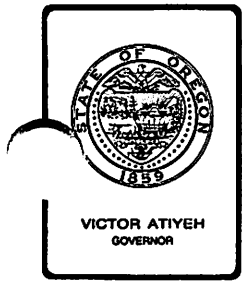
Included under this tab is a letter to Sec. Klutznick from the Washington Department of Fisheries stating their opposition to the regulatory proposals in Amendment #1 adopted by the Council at the January meeting.

A summary form of Amendment #1 is attached.

The amendment was summarized and sent to NMFS on January 15. The formal amendment language, environmental assessment, etc., is about ready to go in the mail. NMFS, Washington has indicated problems with the hand troll ban and line limits so we can expect delays in review and approval/disapproval of the package as a whole. If the Council is willing to state the various parts of the amendment are severable NMFS will probably approve (at least) the extension of the FMP and the moratorium on power troll entry in time for the season opening on April 15.

A declaration of severability, if approved by the Council, should be made by formal motion at this meeting.

Attachments



*Department of Fish and Wildlife*

OFFICE OF THE DIRECTOR

506 S.W. MILL STREET, P.O. BOX 3503, PORTLAND, OREGON 97208

February 5, 1980

Mr. Jim H. Branson  
Executive Director  
North Pacific Fishery  
Management Council  
PO Box 3136 DT  
Anchorage, AK 99510

Dear Jim:

The Oregon Department of Fish and Wildlife is concerned about the Council's proposed 1980 FMP for salmon fisheries off southeast Alaska and the factors leading to the Council's decision at its December-January meetings.

ODFW participation in the reconsideration of the salmon plan at the January session was precluded due to weather conditions. Further, data reports for the 1979 season were not made available sufficiently in advance of the December meeting for adequate evaluation.

We are deeply concerned about the inconsistencies of this Council's salmon plan with similar issues addressed by the Pacific Council in its plan for managing the 1980 salmon fisheries off the coast of California, Oregon, and Washington. Substantial measures have been taken over the past three years by the Pacific Council to achieve conservation and management goals for stocks of chinook salmon indigenous to Washington and Oregon streams. A major problem resulting from the North Pacific Council's 1979 plan was that a status quo approach did not achieve comparable results in proportion to the non-Alaskan chinook stocks taken in the southeast Alaskan salmon fisheries. Preliminary 1979 catch data obtained only recently by this Department indicate that the MSY, ABC, and OY for chinook salmon were all exceeded in the southeast Alaskan troll fishery.

The Pacific Council has undertaken increasingly restrictive measures since 1977 to bring about adequate management and escapement goals for such stocks as upriver Columbia River chinook salmon. It is recognized that many of these fish are harvested in the southeast Alaska troll fishery and it follows that the North Pacific Council must accept an appropriate share of the burden of common stock management. To date, including the 1980 proposals, this has not occurred.

The transfer issue between US and Canadian fisheries of these and other stocks is a related issue that also remains to be resolved. However, the Pacific Council has accepted the inevitable transfer of some of these chinook as necessary to realize additional numbers back into the rivers. It is hoped that timely resolution of differences between Councils on common stock management of chinook will be useful in the US-Canada negotiations.

Mr. Jim H. Branson  
February 5, 1980  
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It is also our observation that appropriate interaction between the two Councils on common stock management has not been happening. I would prefer that the two Councils maintain such autonomy as is provided for under the FCMA for cooperative plan preparation for those species found in both jurisdictions. To this end, and because of the complexity of issues involving Washington and Oregon stocks harvested in the North Pacific Council's FCZ, I would like to suggest that the Council consider adding an ODFW salmon biologist to the North Pacific's salmon team.

Dennis Austin is performing admirably as a member of both Council salmon teams. It is my understanding that he feels the addition of a colleague from Oregon similarly acquainted with the Columbia River and coastal chinook issues will spread team responsibilities more equitably in the face of increasing work loads.

Thank you for your consideration of this Department's concerns.

Sincerely,



John R. Donaldson, PhD  
Director

kbw

cc: PFMC  
PMFC  
Columbia River Inter-tribal Fish Commission



STATE OF WASHINGTON

Dixy Lee Ray  
Governor

DEPARTMENT OF FISHERIES

115 General Administration Building, Olympia, Washington 98504

Gordon Sandison, Director

Agenda G - 1

Feb. 1980

206/753-6600

January 21, 1980

The Honorable Philip M. Klutznick  
Secretary of Commerce  
Commerce Building  
14th Street between Constitution Avenue  
and E Street NW  
Washington, D.C. 20230

*Troll Salmon  
Minority Report  
from Washington  
State*

Dear Secretary Klutznick:

SUBJECT: Minority Report by the Washington Department of Fisheries on Regulations Adopted by the North Pacific Fishery Management Council for the 1980 Troll Salmon Fishery off the Coast of Southeastern Alaska

Purpose of this communication is expression of our basis for opposition to regulatory proposals recently adopted by the North Pacific Fishery Management Council for the 1980 ocean troll fishery off Southeastern Alaska. We base our opposition to these regulatory proposals on the following points:

1. Regulations adopted at the December Council meeting (and reconsidered in January) were not among those options available for review and analysis by the Council's Scientific and Statistical Committee or Salmon Management Plan Development Team. There is no meaningful evaluation of impact of these regulations upon the chinook salmon resources, particularly with respect to proper harvest levels given the anticipated status of chinook salmon runs in 1980. The Council adopted these regulations without these issues being addressed.
2. This lack of consideration for the troll fishery's impact upon chinook salmon spans stocks of both Alaska and non-Alaska origin. Specific management objectives were defined in the High Seas Salmon Plan developed by the Council in 1979. Regulations for 1980 were adopted without any performance audit of the 1979 fishery relative to these management objectives. Chinook catch statistics indicate that MSY, ABC, and OY were all exceeded in 1979 (Table 1). Further, 1979 catches occurred with a 28-inch minimum size limit restriction while the base statistics for ABC and OY reflect a 26-inch minimum.
3. It is recognized that non-Alaska chinook salmon stocks are major contributors to the Southeastern Alaska troll fishery (1979 Plan, page 39, November 3, 1978, draft). These include important Oregon and Washington coastal and Columbia River stocks. All available data indicate that naturally produced fall-run fish from the upper Columbia River (above The Dalles Dam) are the largest stock contributing to this fishery. The Pacific Fishery Management Council's 1980 proposed

*PDT developed  
all Regs FOR  
proposal to BOF and  
NPFMC -*

amendment to their 1978 Plan indicates that only Oregon coastal chinook stocks show a stable or increasing spawning escapement trend. All other chinook stocks are depressed as a result of environmental problems, weak brood years, and/or over-fishing. Columbia River stock status was provided directly to the NPFMC well in advance of the regulatory consideration meeting (see Columbia River Fisheries Council letter of November 20, 1979). Despite these concerns, regulations were adopted and sent to you without analysis of their impact upon chinook salmon resources.

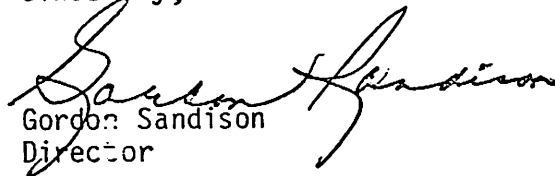
4. The NPFMC's 1979 High Seas Salmon Plan states a need to control expansion of salmon troll fishing in the Fishery Conservation Zone as one of its management objectives. The only practical methods of fulfilling this objective involve direct controls on fishing effort or catch, but such control systems have not even been proposed. Further, impact of a proposed time/area closure (10 days in July) has not been analyzed relative to its impact on the chinook harvest. The Pacific Fishery Management Council has found that indirect controls (time/area closures) produce little or no reduction in effective fishing effort. For example, the commercial troll season off the coast of Washington was 83 days in 1979 as opposed to 169 days in 1978. Fishing effort, as expressed in boat days, was nearly identical for the two years. It is certain that the Southeastern Alaska troll fishery will respond in a similar manner to any indirect attempt to control fishing rates by time/area regulations. Thus, fishery response to any time/area closures will simply result in more effort being expended before and after the restriction. Without direct, effective effort or catch control mechanisms, time/area closures of short duration will probably be meaningless.
5. The only "new" regulation promoted as having some impact on the harvest level of chinook salmon is the 10-day coastwide closure in July. This regulation states that "in-season data" will be used to modify this closure if appropriate but no specific criteria are provided. Presumably, these "in-season data" could be such things as pressure from fishermen to open the season. Since even this short closure cannot be assured, lack of consideration for the chinook salmon resource becomes even more obvious.

In summary, we believe the Southeastern Alaska ocean troll salmon regulations proposed by the NPFMC do not properly acknowledge status of 1980 chinook salmon runs or share the burden of conservation for chinook stocks important to both Alaska and Washington/Oregon regional salmon fisheries.

The Honorable Philip M. Klutznick  
January 21, 1980  
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We anticipate that additional restrictions for the Washington coastal ocean salmon fisheries will be necessary in 1980 to fulfill treaty Indian allocation requirements and respond to conservation problems for a number of stocks. We urge you to either (1) adopt more effective regulatory controls for the 1980 Southeastern Alaska troll fishery, or (2) return the plan to the NPFMC for needed consideration of chinook salmon resources. It is unreasonable to allow a major ocean harvester to ignore the burdens for conservation and allocation necessary to maintain a viable coastwide chinook resource.

Sincerely,

  
Gordon Sandison  
Director

Enclosure

GS:nb

Table 1. MSY, ABC, OY, and preliminary 1979  
Southeastern Alaska troll catch for  
chinook salmon.

MSY (East of Cape Suckling)  
296,000-316,000

ABC (East of Cape Suckling)  
286,000-320,000

OY (East of Cape Suckling)  
286,000-320,000

Preliminary 1979 chinook catch  
327,336

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
FISHERY MANAGEMENT PLAN  
FOR  
HIGH SEAS SALMON OFF THE COAST  
OF ALASKA  
EAST OF 175 DEGREES EAST LONGITUDE

PROPOSED AMENDMENT:                      PROPOSED IMPLEMENTING REGULATIONS

INTRODUCTION:

Amendment #1 is proposed as follows to the Fishery Management Plan for High Seas Salmon off the Coast of Alaska East of 175 Degrees East Longitude.

Part 1

- A. Extend the Fishery Management Plan through April 14, 1981.

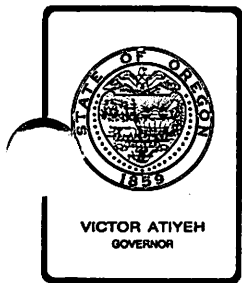
Part 2

- A. Continue the Moratorium on Power Troll Limited Entry.
- B. Prohibit hand trolling in the Fishery Conservation Zone.

Part 3

- A. Adopt an in-season management philosophy.
- B. All troll caught chinook and coho salmon must be landed with heads on.
- C. No troll vessel may have on board any species when trolling in an area closed to the taking of that species.
- D. No chinook salmon may be disfigured to obscure the legal length.
- E. No more than four lines may be used south of Cape Spencer; No more than six lines may be used north of Cape Spencer; No more than six gurdies may be aboard any licensed power troll vessel.
- F. Regulatory fishing areas # 154-157 & 189 are redefined.





*Department of Fish and Wildlife*

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John R. Donaldson, PhD  
Director

kbw

cc: PFMC  
PMFC  
Columbia River Inter-tribal Fish Commission

*Received at  
meeting.*

THE COLUMBIA RIVER INDIAN FISHERY  
PERSPECTIVE-1980

Prepared by: Columbia River Inter-Tribal Fish Commission  
January 20, 1980

## Introduction

The Columbia River drains 300,000 square miles extending into Oregon, Washington, Idaho, Montana, Nevada, Utah, and in Canada British Columbia and Alberta (Figure 1). For thousands of years, the Columbia and its tributaries were the spawning grounds and migration routes for great runs of salmon and steelhead which supported a broad and diverse Native American culture. Many tribes and bands attempted to ensure that their fisheries and fishing rights were maintained in treaties made during the 1850's. Yet for the past 125 years, these rights have been repeatedly challenged.

In recent times, the fish runs have been reduced to such low levels that stocks originating in the upper watershed of the Basin are being considered for listing under the Endangered Species Act of 1973. These are the runs traditionally harvested by the Columbia River Treaty Tribes.

The demise of the Columbia runs was initiated with the development of a large inriver, non-Indian commercial fishery in the late 1800's. Concurrently, the settlement of the basin interior brought on the development of land and water uses such as irrigation, mining, timber harvest and grazing which proved extremely destructive to the fishery resource.

A new era of fishery destruction began in 1933 with the completion of Rock Island Dam on the mainstem Columbia in middle eastern Washington. By 1968, the entire Columbia River within the United States was controlled except for the fifty-two mile Hanford Reach which is currently under study as a dam site by the Corps of Engineers. The last dam in the series, Grand Coulee, completely blocked any fish passage into Canada while the largest fish producing tributary, the Snake River in Idaho, was dammed at four sites, inundating the majority of spawning habitat within that state. The dams in the Columbia Basin have eliminated more than half of the anadromous fish habitat and have created numerous problems for fish migrating both up and downstream.

Coupled with the environmental and physical problems of the River, was the emergence of an insatiable ocean commercial and sport fishery in the early 1950's. Columbia River fish are currently overharvested throughout their migratory range which extends in the Pacific Ocean from Alaska to California.

In the midst of these problems exists a management system fraught with political complexities. Columbia River salmon and steelhead runs pass through numerous state, federal and foreign jurisdictions and various combinations of each. The goals and objectives differ widely between these management authorities.

While the Columbia River Treaty Tribes are recognized as sovereign entities, entitled to rights reserved by their treaties with other sovereigns, the tribes have only recently had any actual input into the management of the fisheries upon which they have depended for centuries.

## Treaties Made, Treaties Broken

In 1848, the United States Congress established the Oregon territory, stating that the Indians' property rights in the Territory were not to be impaired "so long as such rights shall remain unextinguished by treaty between the United States and such Indians..." (Emphasis added). Six years later, Isaac Stevens travelled throughout the territory making treaties with Indian tribes and bands along Puget Sound and the Columbia Basin offering them money for the relinquishment of "the right of taking fish, at all usual and accustomed grounds and stations... in common with all citizens of the territory". Stevens was rewarded for his efforts by his appointment as first Governor of the Washington Territory. The tribes were rewarded for their generosity by one hundred and twenty-five years of state interference with their fishing rights.

For over a century, the battle over Northwest Indian fishing rights has raged on the banks of Northwest rivers and in the state and federal courts. Now, however, because of the persistence of tribal members, a Supreme Court decision and the courageous opinions of two federal district court judges, there is hope that the tribes will be secure in the exercise of their reserved treaty rights.

In July of 1979, the U.S. Supreme Court basically approved the decision of Judge Boldt in guaranteeing tribes a share of the harvestable fish and limiting the right of the states of Washington and Oregon to regulate Indian fishing. By finally giving its confirmation that the treaty language favored the tribes over other residents and was the supreme law of the land, the highest court in the land set a precedent for tribal sovereignty which may provide a solution to the century-old crisis of Indian fishing in the Pacific Northwest.

In two major decisions, U.S. v. Washington and U.S. v. Oregon, a federal judge in Tacoma, George Boldt, and a federal judge in Portland, Robert Belloni, both decided that the treaty tribes were entitled to a specific share of each run; they were entitled to take up to 50 per cent of the harvest of runs destined to reach the tribes' usual and accustomed fishing places.

Both courts recognized the need for conservation of the fishery and their decisions were approved by the Ninth Circuit Court of Appeals. The runs of salmon in the Pacific Northwest will die out along with tribal culture if an inadequate number of fish escape the nets and hooks to spawn upriver. This fact has been and continues to be used by the states to regulate the Indian fishery out of existence.

Both Judges Boldt and Belloni ruled that only necessary conservation limitations may be imposed by the states. When Judge Boldt's decision was appealed to the Ninth Circuit, that court approved the statement that imposition of conservation regulations on treaty fishing is permissible only after the state proves it is unable to preserve a run by forbidding the catching of fish by other citizens.

## The 5-Year Plan

In an attempt to curtail seemingly endless litigation arising out of disputes over management and allocation of Columbia River fish, Judge Belloni ordered the states of Washington and Oregon and the four Columbia River Treaty Tribes to draft a comprehensive management plan aimed at solving the continuing fishery problems on the Columbia. In 1977, a plan was adopted which clearly set forth minimum desirable run size goals and formulas to be used in dividing the fish harvest. This 5-Year Plan also divided the river into fishing zones placing the non-Indians in the lower portion from Bonneville Dam to the mouth and the Indians in a terminal fishery from Bonneville Dam to McNary Dam, 130 miles upstream. The states agreed to work with the Tribes to ensure implementation of the plan.

Based on the traditional importance of fish harvest of the different runs; and with the knowledge that a considerable harvest occurs by non-Indian fishermen in the ocean prior to the fish entering the river, the allocations allow an approximate 50/50 split of the harvestable surplus of runs while ensuring a sufficient number of fish for escapement to perpetuate the species.

In the three years that the plan has been in effect, the fisheries agencies of Washington and Oregon have shown an inability to properly manage the resources. The runs of salmon and steelhead on which the Tribes traditionally depend show continuing declines. Some are at such critical levels that they are being considered for inclusion under the Endangered Species Act.

Inriver fishing seasons are established on the basis of run predictions by the states. These predictions are developed using ocean harvest data, previous years' runs, etc. From 1977-79 run size predictions have been significantly overestimated, on the average, by 27%. The effect on the Indian fishery has been the accrual of a 12,000 fish deficit due to overharvest by non-Indians in the lower river.

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## Pacific Fisheries Management Council

The number of adult salmon returning to the Columbia are further reduced by the ocean fishery. This fishery is a relatively new, and only recently regulated, industry which has proliferated to a level where the majority of west coast salmon are now caught offshore.

The industry's growth has the effect of 1) harvesting immature fish and 2) pre-empting the harvest of mature fish caught by Indian and non-Indian inriver net fisheries.

Studies are underway to quantify the contribution of Columbia River fish to ocean fisheries. However, the transient nature of fish, and the mixing of hundreds of stocks of salmon in the ocean from other coastwide streams and river systems complicate the matter. Still, the best available information indicates that Columbia River fish constitute approximately 30-40% of the total West Coast catch of salmon between Alaska and California.

The federal agency authorized to formulate ocean harvest rates is the Pacific Fisheries Management Council. This body was established by the Fishery Conservation and Management Act of 1976, better known as the 200-Mile Limit Law. The Council has the authority to determine the numbers of fish taken by ocean harvesters, and therefore, to indirectly determine the number of fish subsequently available to inriver Indian fisheries. Because of the mixed-stock

nature of ocean fish caught and the resulting overharvest of Columbia River stocks allocations to the Tribes are not being met. Despite the 1979 Supreme Court decision reaffirming the tribal share of the harvest, the Pacific Fisheries Management Council aggressively preserves a policy of high ocean harvest levels. This policy is a major factor eroding the Columbia River runs and resulting in decreased catches by inriver treaty fishermen.

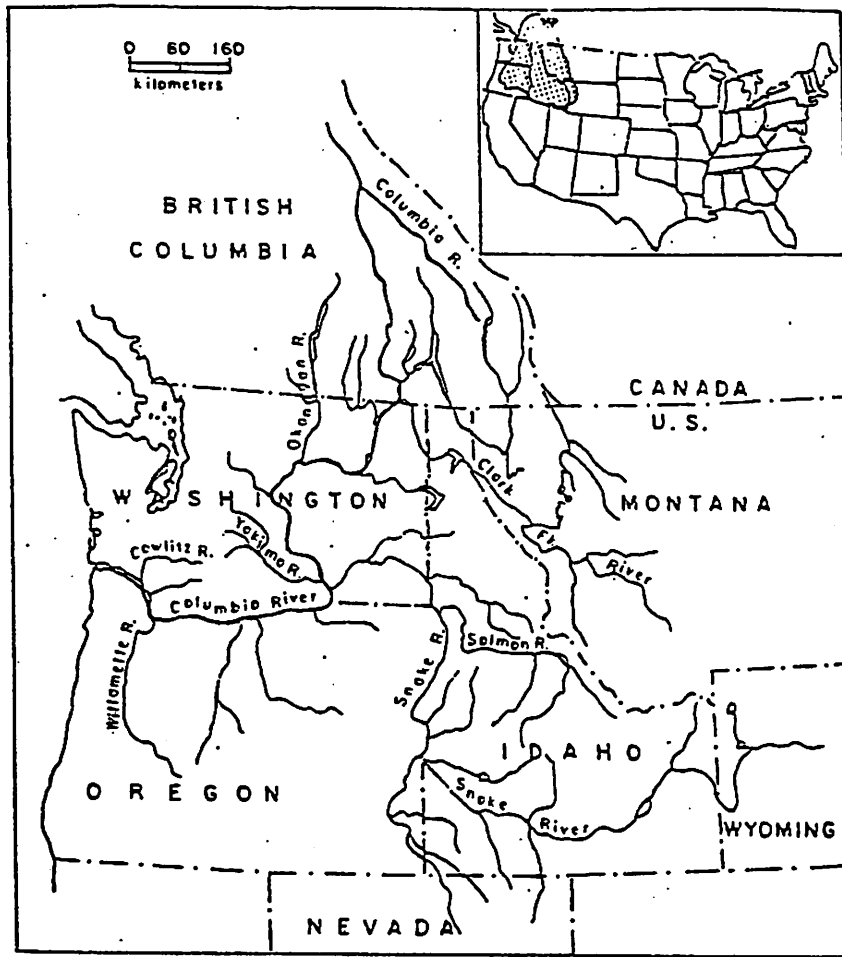
The outlook for 1980 is bad. The decline in fish runs will most assuredly continue as long as the management status quo is maintained. However, recent developments have indicated both the power and the need for competent tribal management. The Tribes recognize their obligation in this regard.

During the period in which the 5-Year Plan was formulated the four Columbia River Treaty Tribes adopted the Constitution and By-Laws of the Columbia River Inter-Tribal Fish Commission. The primary purpose of the Commission is to provide a mechanism by which the Tribes can express a coordinated voice in promoting fish enhancement and responsible fishery management.

The Commission also is directly involved in extensive programs designed to increase salmon production within the Columbia Basin, including habitat protection and restoration, fish bypass improvements at hydroelectric dams, and hatchery construction. These programs promote the welfare of the entire West Coast fishing industry which is valued in excess of 100 million dollars annually.

The Treaty Tribes through CRITFC present the following goals necessary to responsible management of the resource:

1. The establishment of a unified tribal, state, and federal co-management program on a regional basis in which the Tribes have a real decision-making voice.
2. Development of policy guidelines for the management of the fishery based on the needs of the resource, rather than upon purely socio-economic considerations.
3. Regulation of the fishery to achieve replacement of the resource lost through environmental degradation and over-exploitation.
4. Establishment of an effective inter-tribal enforcement program to exercise the power and authority implicit in tribal sovereignty.
5. Active involvement in environmental issues impacting the resource including the formation of a consortium of Columbia River Indian Tribes to address water issues of mutual concern.
6. Active political lobbying to pass proper protective environmental legislation to oppose discriminatory legislation such as H.R. 6144 which seeks to purchase Northwest tribal fishing rights to steelhead trout.
7. Recognition by the states and the U.S. Government of the legitimate management voice of the Treaty Tribes.



The Columbia River and Basin. The drainage area includes six northwestern states of the United States, and British Columbia, Canada

Figure I