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80-12-01 81-06-30

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~~Fisheries~~ -

International Pacific Salmon Fisheries -

Commission - (CDA-USA)

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# CLOSED VOLUME VOLUME COMPLET

DATED FROM  
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80-12-01

TO  
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81-06-30

~~Dec 1/80~~

~~JUNE 30/81~~

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25-5-7-2-SALMON-1

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MESSAGE

P186

DIARY/FILE/CHRON

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PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DONNER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.		35-11-4	SECURITÉ
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TO/A EXTOT/ELD SEA 003/30

SEAX WSHDC DE SEA SEA 003/30

INFO B.H. PANDO OTT/MUNTER DE OTT

REGAM PANDO VNCVR/JONES DE SEA

DISTR.

DATE	
ACC	1270363/2
FILE	25-5-7-2-SALMON-1
BY HAND	PAR PORTEUR
ATTN:	

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NUM/ILL

---PACIFIC OCEAN SALMON REGULATIONS - 1981

ATTACHED FOR YOUR INFORMATION ARE THE REVISED REGULATIONS CONCERNING PACIFIC OCEAN SALMON WHICH WERE DETERMINED AT A SPECIAL MEETING OF THE PACIFIC FISHERIES MANAGEMENT COUNCIL ON MAR26.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

SG. F.D. MARTENS/CH

NO. 000906

P276 562 003/30  
**PACIFIC FISHERY MANAGEMENT COUNCIL**

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FTS 8-423-6352

**EXECUTIVE DIRECTOR**  
Lorry M. Nakatsu

**FOR IMMEDIATE RELEASE**  
March 26, 1981

**PROPOSED 1981 OCEAN SALMON REGULATIONS CHANGED**

The Pacific Fishery Management Council met in Portland on March 26 to reconsider its proposed regulations for the 1981 ocean salmon fisheries. In light of concerns raised about the impacts of the proposed regulations on Klamath River chinook escapement, the Council revised California ocean regulations. In addition, the Council made changes in the proposed chinook season off Oregon between Cape Blanco and Cape Sebastian. The revised regulations are described below:

**TROLL FISHERY**

**CALIFORNIA (entire state)**

All salmon except coho	May 1-15
All salmon	May 16-31
All salmon	July 1-September 30
Chinook minimum size limit:	26 inches
Coho minimum size limit:	22 inches

This revised season does not include the June 1-15 all salmon fishery previously proposed by the Council.

In addition to the revised season off California, the Council adopted harvest guidelines for the area south of Point Arena and the area from Point Arena to the Oregon border, as follows:

**South of Point Arena**

265,000 chinook	- troll fishery
115,000 chinook	- recreational fishery
380,000 chinook	- total

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North of Point Arena to the Oregon/California Border

300,000 chinook - troll fishery  
15,000 chinook - recreational fishery  
315,000 chinook - total

When it is anticipated that the harvest guideline will not be reached by one fishery, the unused portion of that guideline may be reallocated to the other fishery within that area during the season. When the harvest guideline for a fishery in an area is reached, all fishing in that fishery will cease.

OREGON/CALIFORNIA BORDER TO CAPE FALCON

All salmon except coho May 1-31

\*All salmon July 1-September 8

NOTE: If there is an in-season closure on coho, then an all species except coho season will be allowed from Cape Sebastian to Cape Falcon, with whole bait or 5-inch plugs only, starting at the time of the closure through September 8.

All salmon except coho September 9-October 31

Chinook minimum size limit: 26 inches

Coho minimum size limit: 16 inches

\*Subject to modification by in-season management provisions.

The Oregon troll seasons remain the same as previously proposed; however, the area of the special chinook-only season (which occurs after any in-season closure of the coho season) was extended. The southern boundary of the fishery was moved from Cape Blanco to Cape Sebastian.

Regulations for troll, recreational, and treaty Indian fisheries off Washington and Oregon north of Cape Falcon remain the same as originally proposed.

The regulations proposed by the Council (attached) will be submitted to the Secretary of Commerce for approval and implementation.

\* \* \* END \* \* \*

## Proposed 1981 Ocean Salmon Management Measures

### TROLL

#### CALIFORNIA (entire state)

All salmon except coho May 1-15  
All Salmon May 16-31  
\*All salmon July 1-September 30  
Chinook minimum size limit: 26 inches  
Coho minimum size limit: 22 inches

#### OREGON/CALIFORNIA BORDER TO CAPE FALCON

All salmon except coho May 1-31  
\*All salmon July 1-September 8  
Note: If there is an in-season closure on coho, then an all-species except coho season will be allowed from Cape Sebastian to Cape Falcon, with whole bait or 5" plugs only, starting at the time of the closure through September 8.  
All salmon except coho September 9-October 31  
Chinook minimum size limit: 26 inches  
Coho minimum size limit: 16 inches

#### CAPE FALCON TO US/CANADA BORDER

All salmon except coho May 1-31  
\*All salmon July 15-September 1  
Chinook minimum size limit: 28 inches  
Coho minimum size limit: 16 inches

#### CAPE FALCON TO LEADBETTER POINT

Coho only September 20-October 3  
(maximum 10 boats with observers; coho gear only; out to 12 miles)

### RECREATIONAL

#### CALIFORNIA (entire state)

All salmon 2-fish bag limit February 14-November 15  
Chinook/coho minimum size limit:  
22 inches, except that one chinook or coho salmon per day may be less than 22 inches but not less than 20 inches.

#### OREGON/CALIFORNIA BORDER TO CAPE FALCON

\*All salmon 2-fish bag limit May 15-September 20  
Chinook minimum size limit: 22 inches  
Coho minimum size limit: 16 inches (entire state of Oregon)

#### OREGON/CALIFORNIA BORDER TO CAPE BLANCO

All salmon except coho 2-fish bag limit September 21-October 31

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JEH-003/30

## CAPE FALCON TO US/CANADA BORDER

\*All salmon                      2-fish bag limit                      May 23-September 7  
EXCEPT 3-fish bag limit (only 2 of which may be chinook or coho) from  
Queets River mouth north to US/Canada border (Areas 3 and 4)  
Chinook minimum size limit:                      24 inches  
Coho minimum size limit:                      20 inches (entire state of Washington)

\*Subject to modification by in-season management provisions.

### IN-SEASON MANAGEMENT

#### Oregon and Washington (OPI and WPP) Coho

1. For the 43-day period ending on August 12 in the area from Cape Falcon south and on August 26 in the area from Cape Falcon north

Separate harvest guidelines were established for the ocean troll and recreational fisheries, based on the 1971-75 harvest ratios, as follows:

#### Washington Production Projection Area (WPP), Cape Falcon to US/Canada Border

Total quota for area:                      620,000 coho  
Recreational allocation guideline: 40% or 248,000 coho  
Troll allocation guideline: 60% or 372,000 coho

#### Oregon Production Index Area (OPI) South of Cape Falcon (including California)

Total quota for area:                      772,000 coho  
Recreational allocation guideline: 29% or 224,000 coho  
Troll allocation guideline: 71% or 548,000 coho

When the separate harvest guideline is projected to be reached by either fishery, i.e., troll or recreational, that fishery would automatically close in the appropriate area, excluding California.

2. For the period after August 12 for the area from Cape Falcon south to Oregon/California border and after August 26 for the area north of Cape Falcon

In-season modifications following procedures similar to those used in 1980 may be made by the Regional Director as follows:

- a. Adjust pre-season estimates of coho abundance, as appropriate, based on in-season data;
- b. Modify troll and recreational seasons (shorten or lengthen) and harvest guidelines for either area or any portion thereof, based on adjusted abundance levels, projected catch and effort levels, and harvest ratios between commercial and recreational fisheries.

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### California Chinook

Separate harvest guidelines were established for the California ocean troll and recreational fisheries as follows:

#### For the Area South of Point Arena

Total quota for area: 380,000 chinook  
Troll fishery: 265,000 chinook  
Recreational fishery: 115,000 chinook

#### For the Area North of Point Arena to the Oregon/California Border

Total quota for area: 315,000 chinook  
Troll fishery: 300,000 chinook  
Recreational fishery: 15,000 chinook

When the separate harvest guideline in either area is projected to be reached by either fishery, i.e., troll or recreational, that fishery would automatically close in the appropriate area. If it appears that either one of the fisheries will not catch all of its harvest guideline in either area by the end of the regularly scheduled season, the unused surplus can be reallocated to the other fishery.

### TREATY INDIAN FISHERIES

#### Makah Area

All salmon May 1-October 31  
Chinook minimum size limit: 24 inches  
Coho minimum size limit: 16 inches

#### Quileute, Hoh, Quinault Tribal Areas

All salmon May 1-October 31  
Chinook minimum size limit: 28 inches  
Coho minimum size limit: 16 inches

DIARY/CERC/DIV

s.23

WJJ (Through ESI/Brice)

Legal Operations Division

Draft Memo to Cabinet: "Cda-USA Pacific  
Salmon Negotiation"

Summary of above draft Cabinet memorandum

**CONFIDENTIAL**

FLO-459

March 25, 1981

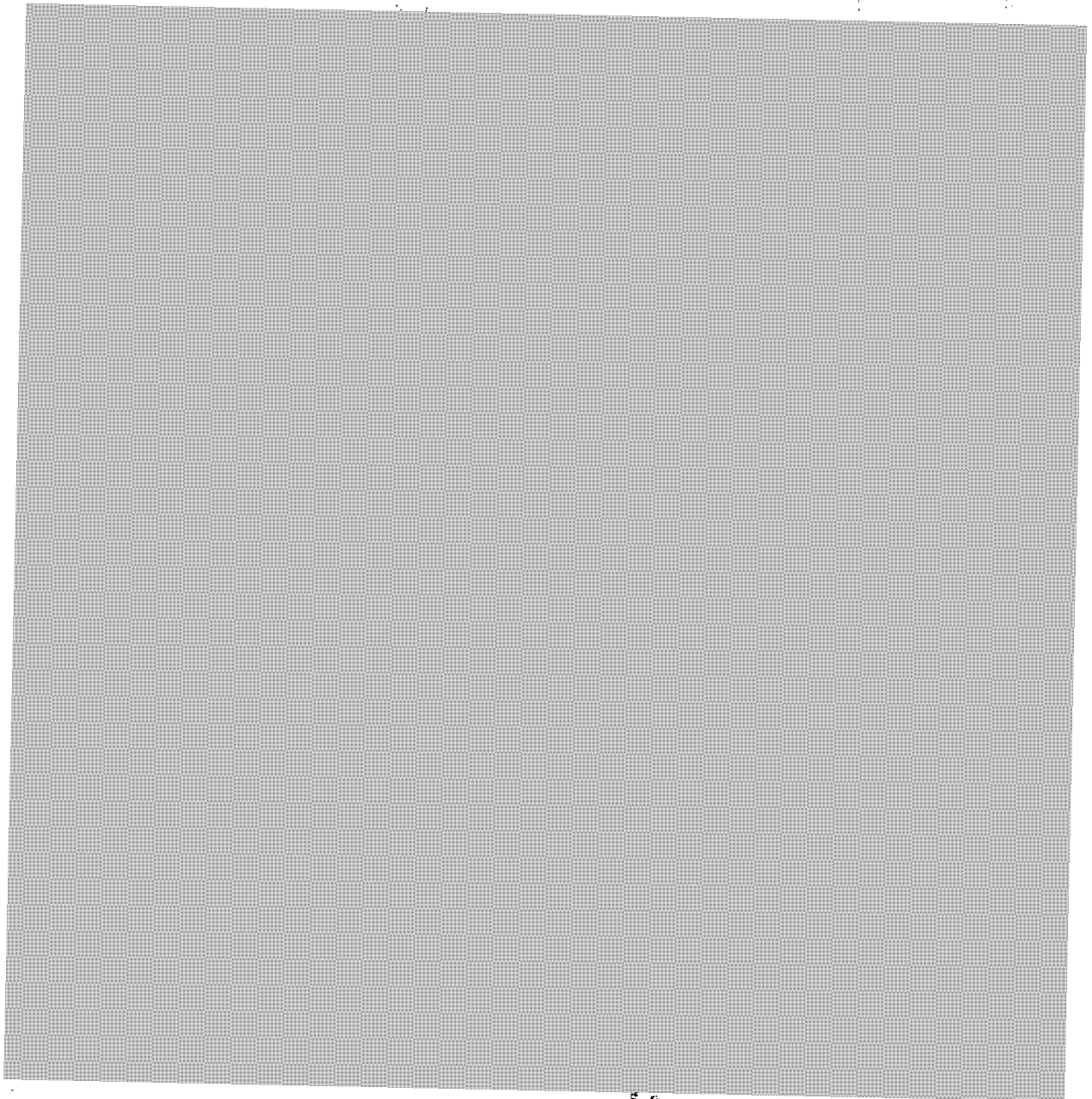
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25-5-7-2-SALMON	
BY HAND	PAR PORTEUR
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- 2 - CONFIDENTIAL



R. FADDEN

Legal Operations Division.

000913

R E S T R I C T E D

FM WSHDC UNGR1579 24MAR81

TO EXTOTT FLO

INFO TOKYO

BH FANDOOTT/HUNTER/SWAN DE OTZ

SFAX SEATL DE WDC

DISTR FLP GNG

REF SWAN/HARLICK TELECON

---INPFC:DALL PORPOISE HEARING

ADMIN OFFICIALS ARE QUITE PLEASED WITH HEARING HELD 05-06MAR IN SEATL AT WHICH GOVT SCIENTISTS PRESENTED EVIDENCE OF OPTIMUM SUSTAINABLE POPULATION(OSP)OF DALL PORPOISE.THIS HEARING,BEFORE ADMINISTRATIVE LAW JUDGE,IS PRELIMINARY STEP IN PROCESS LEADING UP TO DECISION BY NOAA ON JPNSE REQUEST TO TAKE UP TO 5500 DALL PORPOISE IN USA WATERS AS INCIDENTAL TAKE IN JPNSE SALMON GILL NET FISHERY WITHIN USA FCZ.OFFICIALS ARE REASONABLY OPTIMISTIC THAT PERMIT WILL BE GRANTED.

2.AS EXPLAINED TO US BY STATE DEPT OFFICIAL(CHRIS DAWSON),GRANTING OF PERMIT REQUEST,SUCH AS MADE BY JPNSE,REQUIRES DETERMINATION THAT POPULATION OF GIVEN MARINE MAMMAL STOCK WLD NOT/NOT BE AFFECTED BY ACTION CONTEMPLATED IN PERMIT.ONE WAY OF DOING THIS IS TO DETERMINE THAT STOCK IS AT OSP.DAWSON REPORTED THAT FOR FIRST TIME SCIENTISTS FELT CONFIDENT ENOUGH OF THEIR DATA TO MAKE THIS DETERMINATION.

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BY HAND	PAR PORTEUR
ATTN:	

127073  
25-5-7-2 - SALMON-1  
25-5-7-2 - Pacific/N

PAGE TWO UNGR1579 RESTR

3. NEXT STEP (UNTIL 24 APR) IS FOR INTERESTED PARTIES TO EXCHANGE BRIEFS ON PERMIT APPLICATION. THEN ADMIN LAW JUDGE WILL DETERMINE WHETHER PERMIT SHLD BE ISSUED. THEREAFTER NOAA ITSELF MUST DECIDE (BY 08 MAY) WHETHER TO ACCEPT JUDGES RULING OR ISSUE DIFFERENT RULING. ON BASIS OF HEARINGS, ADMIN OFFICIALS ARE REASONABLY OPTIMISTIC THAT JUDGE WILL APPROVE PERMIT, IN WHICH CASE NOAA WLD UNDOUBTEDLY APPROVE IT ALSO.

4. WE REVIEWED FOR DAWSON CDN INTEREST IN PERMIT APPLICATION PROCESS, CITING FACT THAT IF JPN WERE TO QUIT INPFC IN REACTION TO DENIAL OF PERMIT, JPNSE HIGH SEAS SALMON FISHING CLD POSE SERIOUS THREAT TO CDN SALMON (CHUM) FISHERY. IN RESPONSE TO OUR REQUEST, SHE PROMISED TO KEEP US INFORMED OF FURTHER DEVELOPMENTS IN APPLCIATION PROCESS. WILL ADVISE AS REQUIRED.

CCC/275 242113Z UNGR1579

MESSAGE

R.F.

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.			SÉCURITÉ
FM/DE	SEATL	UAGR	5231	20MAR81	RESTRICTED

TO/A EXTOTT/FLO

SEA 006/20

P15717

INFO

B.R.FANDOOT/HUNTER DE OTT

ACTION  
SUITE A DONNER

SFAX WSHDC DE SEA

SEA003/20

REJAM FANDO VNCVR/JONES

ACC 24232

DISTR.

GNC

25-5-7-2-50/mex-1

REF OURTEL UAGR5229 OF 18MAR81

SUB/SUB

PACIFIC FISHERIES MANAGEMENT COUNCIL(PFMC)MEETING MAR18-19,1981

BY HAND 25-5-5-CA-4-154

ATTN: COUNCIL(PFMC)MEETING MAR18-19,1981

PFMC MET MAR18-19 WITH THE PRIMARY PURPOSE OF DETERMINING THE 1981 OCEAN SALMON MANAGEMENT PLAN APPLICABLE TO THE PCZ OFF THE COAST OF WASHINGTON, OREGON AND CALIFORNIA. AT THE END OF A HECTIC TWO DAY PERIOD A PLAN WAS APPROVED BY THE COUNCIL. ALTHOUGH A COMPLETE ANALYSIS OF THE PLAN'S IMPACT HAS NOT YET BEEN DONE (THE PLAN DEVELOPMENT TEAM ARE CURRENTLY IN THE THROES OF THIS) THE COUNCIL WAS NOT UNANIMOUS IN ITS DECISION.

2. THE REPRESENTATIVE FROM THE NATIONAL MARINE FISHERIES SERVICE (NMFS) DID NOT SUPPORT MANY ASPECTS OF THE PLAN. THE TREATY INDIAN REPRESENTATIVE WAS MOST NEGATIVE CONCERNING THE PLAN. CONSEQUENTLY, THE VIABILITY OF THE PLAN IS SOMEWHAT IN DOUBT. THERE IS CONCERN IN SOME QUARTERS THAT THE PLAN WILL NOT/NOT BE APPROVED BY THE SECRETARY OF COMMERCE WITHOUT SUBSTANTIAL MODIFICATION. WE UNDERSTAND THAT THE COUNCIL COULD BE REQUESTED TO ADJUST THE PLAN OR ALTERNATIVELY THE SECRETARY OF COMMERCE COULD IMPOSE AN ALTERNATE OR AMMENDED PLAN. IT IS PREMATURE TO STATE WITH CERTAINTY WHAT WILL BE THE ULTIMATE OUTCOME SINCE ALL PARTIES HAVE NOT YET HAD THE OPPORTUNITY TO

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DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APProuvé

NO

F.D.MARTENS

NO

[Signature]

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COMPLETE THEIR ASSESSMENT OF THE PLAN.

3. FROM OUR PERSPECTIVE IT APPEARS THAT THE COUNCIL AND STATES MAY BE HEADED FOR MORE DIFFICULTIES WITH THE TREATY INDIANS, INCLUDING THE POSSIBILITY OF LITIGATION. IN ESSENCE THE INDIANS, AS WE UNDERSTAND IT, CONTEND THAT THEY HAVE NOT BEEN GETTING THEIR DUE SHARE OF THE SALMON RESOURCE AND THAT THE CURRENT PLAN, AS PROPOSED, WILL NOT RECTIFY THIS SITUATION. AS FAR AS WE CAN DETERMINE THIS SENTIMENT IS HELD BY THE COLUMBIA RIVER TRIBES, THE WASHINGTON COASTAL TRIBES AND THE PUGET SOUND TRIBES. FOR EXAMPLE A FIVE YEAR COMPACT WAS ENTERED INTO BETWEEN WASHINGTON STATE AND COLUMBIA RIVER TRIBES. THE COMPACT EXPIRES THIS YEAR, HOWEVER, WE UNDERSTAND THAT FOR VARIOUS REASONS THE TERMS OF THE COMPACT HAVE NOT BEEN FULFILLED AND THE TRIBES FIND THAT THEY ARE IN A DEFICIT POSITION REGARDING SALMON WITH NO POSSIBILITY OF MAKING UP THIS DEFICIT DURING THE CURRENT YEAR. WE ALSO UNDERSTAND THAT TRIBAL LEADERS ARE UNDER INCREASING PRESSURE FROM THEIR MEMBERS WHO ARE TAKING A HARDER AND MORE MILITANT APPROACH TO THE SALMON ISSUE. IF THE COUNCIL AND THE STATES CONCERNED ARE UNABLE OR UNWILLING TO ACCOMMODATE TRIBAL CONCERNS THE COURTS WOULD BE ASKED TO RESOLVE IT FOR THEM WITH FURTHER DISRUPTION AND ADVERSITY IN THE FISHERIES, ALTHOUGH IN-SEASON MANAGEMENT OF THE RESOURCE AND ALLOCATION DECISIONS REGARDING THE INSIDE FISHERY MAY HAVE SOME BENEFICIAL EFFECT. CONSEQUENTLY, IT WILL BE INTERESTING TO SEE HOW ALASKA AND THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL (NPFMC) CONSIDER THE REQUEST FROM WASHINGTON STATE FOR A REDUCTION IN THE NORTHERN SALMON FISHERY TO IMPROVE THE COLUMBIA RIVER CHINOOK RUNS. THE REQUEST FROM WDF TO CDA FOR CDN ACTION COMPLEMENTARY TO THAT OF ALASKA IS ALSO RELEVANT IN THIS CONTEXT. ALTHOUGH THE PFMC DOES NOT APPEAR TO HAVE THE WILL TO PROPERLY ADDRESS THIS ISSUE, CANADA'S APPROACH TO THE PROBLEM AND TO THE WDF REQUEST SHOULD BE WEIGHED CAREFULLY. IF ALASKA AND THE NPFMC SHOULD ADJUST THEIR SALMON FISHERY WITH THE INTENT OF PROVIDING BENEFIT TO THE COLUMBIA SYSTEM, FROM OUR PERSPECTIVE, THERE MAY BE ADVANTAGES TO CDA TO AT LEAST ADOPT A TOKEN COMPLEMENTARY POSITION. THIS WOULD LEAVE THE PFMC AND WASHINGTON AND OREGON

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AS THE QUOTE ODD MEN OUT UNQUOTE, IT WOULD DEMONSTRATE TO BOTH THE NORTHERN AND SOUTHERN US FISHERY MANAGERS THAT CDA IS SERIOUS IN CO-OPERATING WITH US FISHERY MANAGERS IN RESOLVING LEGITIMATE CONSERVATION PROBLEMS; IT MAY HELP IMPROVE THE PERCEPTION OF CDA IN ALASKA FISHERY CIRCLES ; IT WOULD NOT PROVIDE AN EASY OUT FOR US FISHERY MANAGERS WHO MIGHT LIKE TO SHIFT THE BLAME TO CANADIAN FISHERIES FOR CONTINUALLY DEPRESSED COLUMBIA RIVER STOCKS; IT COULD FURTHER CEMENT THE DEVELOPING GOOD RELATIONSHIP BETWEEN CDA AND WDF SENIOR MANAGERS; AND IT MIGHT ALSO AFFORD CDA THE OPPORTUNITY TO MORE EASILY ACHIEVE ITS FISHERY INTERESTS WITH WASHINGTON IN THE BOUNDARY AREA, ALTHOUGH WE ARE ABLE TO PRESENT THE BENEFITS WHICH MAY ACCRUE TO CDA, WE ARE NOT IN A POSITION TO ASSESS THE COST WHICH CDA AND CDN FISHERIES WOULD HAVE TO BEAR IF SOME ACCOMMODATION TO THE COLUMBIA RIVER PROBLEM IS TO BE MADE. AN ASSESSMENT OF THE NEGATIVE SIDE OF THE LEDGER WILL OBVIOUSLY BE REQUIRED BEFORE A DECISION IS TAKEN HOWEVER, SINCE THE PLAN DEVELOPED BY PFMC MIGHT SUBSEQUENTLY BE AMENDED A DECISION SHOULD NOT BE MADE IN HASTE.

4. A SUMMARY OF THE 1981 SALMON MANAGEMENT PLAN APPROVED BY THE PFMC IS ATTACHED FOR YOUR INFORMATION, ALSO ATTACHED IS A COPY OF THE PFMC PERSONNEL ROSTER.

000918

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PPMC SALMON MANAGEMENT PLAN 1981

SUMMARY

Quotas for Coho:

Oregon South of Cape Falcon: 772,000 (includes 135,000 for California)  
71% Troll 29% Recreational

Washington North of Cape Falcon: 620,000 60% Troll 40% Recreational

Chinook Escapement Goals: (Figures are approximate and subject to  
further plan impact analysis)

Upper Columbia River: 160,000 (about same as 1980)

Oregon Coast: 158,000 (lower end of goal range of 150,000 - 200,000  
proposed by Plan Development Team)

Klamath River: 50,000 (lower than Salmon Plan Development Team  
proposal)

Sacramento River: 126,000 (should meet goals for the lower River but  
not the upper River)

1981 Salmon Seasons

Washington Troll:

1 May - 31 May: All salmon except Coho fishery - Cape Falcon to  
Canada/US border.

15 July - 1 September: All salmon fishery - Cape Falcon to  
Canada/US border.

20 September - 3 October: All salmon except Chinook fishery -  
Leadbetter Point to Cape Falcon  
(out to 12 miles) - 10 boats only.

Oregon Troll:

1 May - 31 May: All salmon except Coho fishery - Cape Falcon to  
California border.

1 July - 8 September: All salmon fishery - Cape Falcon to  
California border.

9 September - 31 October: All salmon except Coho fishery - Cape Falcon  
to California border.

If there is an in-season closure on Coho, then there will be an all  
salmon except Coho season fishery starting at the time of the closure  
to September 8, Cape Blanco to Cape Falcon with bait or five inch plugs  
only.

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California Troll:

- 1 May - 31 May: All salmon except Coho fishery -  
Oregon/California border - South
- 1 June - 15 June: All salmon fishery -  
Oregon/California border - South
- 1 July - 30 September: All salmon fishery -  
Oregon/California border - South

Washington Recreational:

- 23 May - 7 September: All salmon fishery, 2 fish bag limit except 2  
plus 1 bag limit Queets River mouth north  
to US/Canada border (Areas 3 and 4), size limit  
20 inches.

Oregon Recreational:

- 15 May - 20 September: All salmon fishery, 2 fish bag limit.

California Recreational:

- 14 February - 14 November: All salmon fishery, 2 fish bag limit

California/Oregon Border North to Cape Blanco:

- 21 September - 31 October: All salmon except Coho, 2 Fish bag limit.  
(NOTE: This fishery may not have been approved, we will check and  
advise.)

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SEA 006/20

PACIFIC FISHERY MANAGEMENT COUNCIL

R O S T E R

March 11, 1981

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7/17

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PACIFIC FISHERY MANAGEMENT COUNCIL

9/17  
006/70

2.

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Designee: Art Gallagher.....503/229-5840

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Martinis, Mr. John A., House Office Bldg., Rm. 401, Olympia, WA 98507...206/252-8907

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PACIFIC FISHERY MANAGEMENT COUNCIL (continued)

10/17 3.  
006/20

Royal, Mr. John J., Fisherman & Allied Workers Union.....213/833-1391  
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Schmitt, Rolland A., Director.....206/753-6623 FTS 434-6623  
Washington Dept. of Fisheries, 115 General Admin. Bldg., Olympia, WA 98504  
Designee: Chuck Woelke.....206/753-6625 FTS 434-6625

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Brown, Dr. Gardner.....206/543-5955  
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Designee: Duane Phinney (salmon only).....206/753-6600

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ANCHOVY PLAN DEVELOPMENT TEAM

11/17 4.  
606/20

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Kameon, Mr. Herbert Sport Fisherman.....213/451-3177  
365 - 25th St., Santa Monica, CA 90402

Monti, Mr. Joseph Labor.....213/833-1391  
Fisherman & Allied Workers Union, Local 33 ILWU  
806 S. Palos Verdes St., San Pedro, CA 90731

Nizetich, Mr. Anthony Processor.....213/548-4411  
Star Kist Foods, Inc., 582 Tuna St., Terminal Island, CA 90731

Nott, Mr. William A. Charterboat Operator.....213/432-2316  
Sportfishing Assn. of California, 555 E. Ocean Blvd., Long Beach, CA 90802

Soule, Dr. Dorothy Air & Water Quality.....213/741-2053  
Allan Hancock Foundation 139, University of Southern California  
University Park, Los Angeles, CA 90007

Verna, Mr. William Bait Hauler.....213/430-9871  
D.B.A. "Foxy Wop", 7890 E. Spring St. 11-F, Long Beach, CA 90815

Yelusich, Capt. Vince Offshore Fisherman..408/372-5604 (Home) 408/373-6490 (Office)  
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12/17 5.  
006/20

### BILLFISH PLAN DEVELOPMENT TEAM

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Hepp, Mr. Fred Commercial Fisherman.....805/966-2374  
708 Island View Dr., Santa Barbara, CA 93109

Mansur, Mr. Larry Gillnetter.....  
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Martin, Mr. Ed (Chairman) Recreational Fisherman.....714/835-9343  
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Millikan, Mr. Alan, Wash. Dept. of Fisheries.....206/543-4583 FTS 392-4583  
M-1 Fisheries Center WH-10, Univ. of Washington, Seattle, WA 98195

13/17  
806/20

# GROUND FISH ADVISORY SUBPANEL

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2824 Skyline Dr., Eureka, CA 95501

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Cedergreen, Mr. Mark Charterboat Operator.....206/268-4320  
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Easley, Mr. Joe Trawler.....503/325-3384  
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Irving, Mr. Hilary Indian.....206/645-2205  
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Leipzig, Mr. Peter Trawler.....707/442-1789  
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Pavelek, Mr. Henry Sport Fisherman.....503/753-6384  
N.W. Steelheaders, 32566 Peoria Rd., Albany, OR 97321

Thomas, Mr. Jerry Processor.....707/443-1673  
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Thometz, Capt. George Sportfisherman.....213/598-2553  
4781 Candleberry Ave., Seal Beach, CA 90740

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14/17

006/72

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Fox, Mr. Rodger A. Bait Fisherman/Processor.....503/265-6871  
P.O. Box 128, South Beach, OR 97366

Glenovich, Mr. Robert Roe Fisherman.....206/733-5338  
621 - 17th Street, Bellingham, WA 98225

James, Mr. Gerald Indian.....206/758-7209  
Lummi Tribe of Indians, 3443 Ruth Rd., Bellingham, WA 98225

Orey, Mr. George Charter Vessel Operator.....503/867-6372  
Oregon Coast Charterboats, Box 52, South Beach, OR 97366

Petersen, Mr. Rudy Offshore Herring Fisherman.....206/784-5818  
N. Pac. Fishing, Inc., 6533 Seaview Ave. NW, No. 704-A, Seattle, WA 98107

White, Mr. Dave Salmon Troller.....206/267-4721  
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Wood, Mr. Paul Roe Fisherman.....707/875-3716  
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PINK SHRIMP PLAN DEVELOPMENT TEAM

15/17  
006/20

8.

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Coastal Harvest Mgt., Washington Dept. of Fisheries  
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Cutting, Mr. John Oregon Commercial Fisherman.....503/269-1751  
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Lewis, Mr. Raymond P. Processor.....206/455-1745  
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North, Mr. Bruce (Chairman) Oregon Commercial Fisherman.....503/325-7750  
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SALMON ADVISORY SUBPANEL

16/17  
006/20

Anderson, Mr. Philip Washington Charter.....206/268-2141  
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Washington Trollers Assn., P. O. Box 17331, Seattle, WA 98101

Bowers, Ms. Susan California Indian.....916/625-4127  
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Christenson, Mr. Don Oregon Charter.....503/265-7441  
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Clark, Mr. Les Columbia River Gillnetter.....206/777-8407  
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Collins, Mr. Charles S. (Vice Chairman) Ore. Inland Sport Fisherman.....503/673-5482  
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Guth, Mr. Norman Idaho Inland Sport Fisherman.....208/756-3279  
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Haas, Mr. Roger Private Aquaculture Rep......408/475-5798  
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Hubbard, Mr. Richard Cal. Inland Sport Fisherman.....415/486-3286 FTS 449-3286  
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Thomas, Mr. Roger California Charter.....408/275-8770  
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Voss, Mr. Charles Washington Inland Sport Fisherman.....206/225-8665

17/17 10.  
006120

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Huppert, Dr. Daniel D.....714/453-2820 FTS 893-6261  
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Kato, Mr. Susumu.....415/435-3149 FTS 0565  
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Fromhold, Mr. Carl Commercial Fisherman.....213/833-7629  
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Goldinger, Ms. Shirley Consumer.....213/974-1452  
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500 W. Temple Street, Los Angeles, CA 90012

Kameon, Mr. Herbert Sportsman.....213/451-2447  
365 - 25th Street, Santa Monica, CA 90402

FLO/R.B. Fadden/6-2643/jt

FILE/DIARY/CIRC/DIV

s.23

WJJ (Through ISC/Savard)

Legal Operations Division

Draft Memo to Cabinet: "Cda-USA Pacific  
Salmon Negotiation"

Summary of above draft Cabinet memorandum

CONFIDENTIAL

March 17, 1981

FLO-429

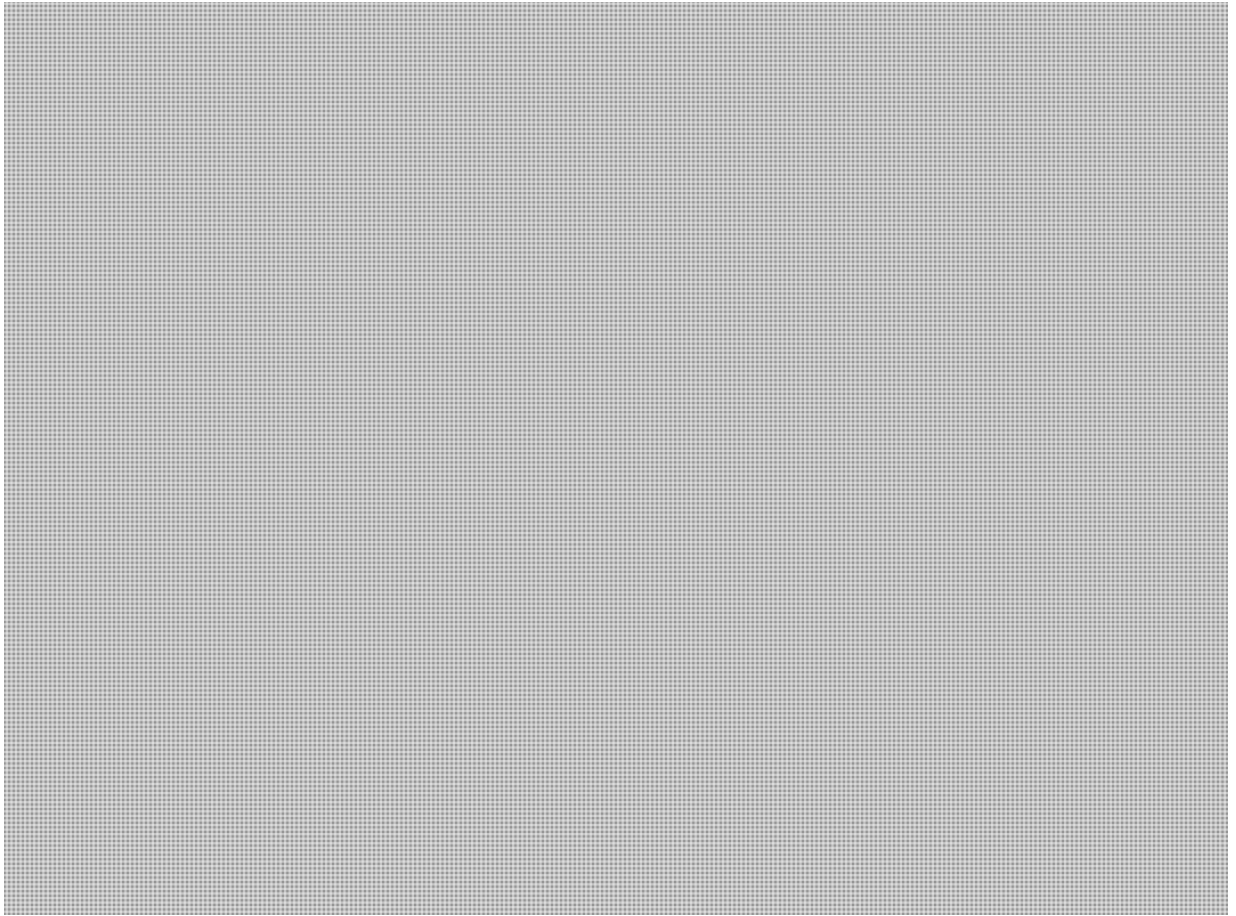
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FLP

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- 2 - CONFIDENTIAL



R. FADDEN

Legal Operations Division

RF

**ACTION**

**MESSAGE**

diary/file/chron

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N° D'ORIG.			
SEATL	UAGR	5229	18MAR81		U/C

TO/A

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SEA004/20

93/3

INFO

B.H. FANDO OTT/HUNTER DE OTT

SEAX WSHDC DE SEA

SEA002/20

B.H. FANDO VCVR/JONES DE SEA

DATE	ACC 124257	REF
FILE	25-5-7-2	DOSSIER
BY HAND	PAR PORTEUR	
ATTN:		

DISTR.

REK OL. 12 UAGR 5188 OF 06MAR81

SUB/SUBJ

---INDIAN TROLL FISHERY

ON MAR05,1981,U.S.DISTRICT COURT RULED THAT THE STATE OF WASHINGTON COULD NOT/NOT IMPOSE A TWENTY-EIGHT INCH TROLL CHINOOK MINIMUM SIZE LIMIT UPON MAKAH INDIAN TRIBAL FISHERMEN WHEN FISHING IN THEIR USUAL AND ACCUSTOMED AREAS IN WASHINGTON WATERS.DECISION ESTABLISHES PRECEDENT APPLYING TO OTHER TREATY TRIBAL FISHERMEN.ASSUMING THAT DECISION APPLIES TO THE PACIFIC FISHERY MANAGEMENT COUNCIL'S REGULATION OF THE INDIAN TROLL FISHERY IN THE FCZ THE IMPLICATIONS OF THE COURT'S ACTIONS ARE AS FOLLOWS:(A)ACHIEVEMENT OF UPPER COLUMBIA RIVER CHINOOK MANAGEMENT GOALS WILL BE MORE DIFFICULT GIVEN LIBERALIZATION OF TREATY-INDIAN CHINOOK OCEAN REGULATIONS,(B) POSSIBLE LIMITATION OF AUTHORITY TO REGULATE THE INDIAN TROLL FISHERY COULD ALSO HAVE SIGNIFICANT MANAGEMENT CONSEQUENCES IN 1981 FOR SPECIFIC CONSERVATION PROBLEMS WITH WASHINGTON COASTAL COHO STOCKS,AND(C)THE STATE OF WASHINGTON WILL HAVE TO DEVELOP NEW CHINOOK MINIMUM SIZE LIMITS FOR THE INDIAN OCEAN FISHERY CONSISTENT WITH THIS RULING.THE COUNCIL MAY ALSO HAVE TO CONSIDER THE POSSIBLE MODIFICATION OF CHINOOK SIZE LIMITS IN THE FCZ.

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/AFFIRMÉ
SE.....			SE.....
F.D. MARPENS/or			

*Feb 28 1981*

RESTRICTED

DATE March 17, 1981.	
ACC	REF
FILE 25-5-1-2-SALMON-1	DOSSIER
B. HAND	PAR PORTEUR
ATTN:	

To: Mr. Legault

ADM/Economic Relations Sub-Committee Consideration  
of Pacific Salmon Cabinet Memorandum

I attach copies of the draft memorandum, of a note from FLO to D/USSEA Jenkins, who will be chairing the meeting, and of the Sub-Committee's agenda.

2. For technical reasons I was unable to incorporate in the memorandum the changes you suggested. These and any others will be made before the memorandum is presented to Deputy Ministers.

3. ADM Vernon, who is the FandO member of the Sub-Committee will not be present. Mike Hunter and Al Wood (Pacific Region) will represent Fisheries.

4. The Committee Secretariat does not consider that the Pacific salmon item will be discussed until 11:00 a.m. at the earliest. When the item immediately preceding is called, the Secretariat will telephone me and I will advise you and Hunter.

5. Because FandO made some last-minute changes to the draft, it was not sent out until 1300 hours today. Mr. Jenkins has indicated that sufficient time may not have been given Committee members to digest the material and consequently some members may seek to postpone the discussion until next Wednesday, March 25. As the memorandum is scheduled to be discussed by DMs on March 31, this would not give us sufficient time to respond to any suggested changes. FandO hope that you will therefore support having the discussion take place tomorrow. If necessary, Hunter would provide an oral briefing. (Also, FandO is flying in two Vancouver-based officials to participate in tomorrow's discussions.)

R.B. Fadden  
FLO

*File*

REQUEST FOR FACSIMILE TRANSMISSION

DATE	
ACC	
FILE	25-5-7-2-SALMON-1
E H NO	PAR PORT UR

TO: SEATTLE

DATE: Feb. 24/81

FM: FLO

NUMBER: FLO-317

PLEASE TRANSMIT THE ATTACHED DOCUMENT(S) TO:  
Canadian Consulate General, SEATTLE

ATTENTION: Mr. D.F. Martens

NO. OF PAGES: One (1)

Pacific Salmon Negotiations

R.J. Rochon  
AUTHORIZING OFFICER

2-2002  
PHONE NUMBER

MEMORANDUM

NOTE DE SERVICE

TO  
A  
A. Campbell  
J.R. MacLeod

FROM  
DE  
M. Hunter  
International Directorate

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE
YOUR FILE / VOTRE RÉFÉRENCE
DATE February 23, 1981

SUBJECT  
OBJET  
Pacific Salmon Negotiations

During the meeting of the Pacific Regional Management Council in Coos Bay last week, we were able to obtain a copy of a letter from Mr. R. Skoog, Commissioner of Fish and Game for the State of Alaska. In his letter, of which I have not yet received a copy, I understand he expresses a concern that the proposed package of Canadian troll regulations for 1981 (as outlined at the meeting of officials in Seattle January 27-29, 1981) does not go far enough in protecting Columbia River "brights". He apparently expresses disappointment that Washington/Oregon have not lobbied harder to "improve" the Canadian package.

In view of this letter, I was concerned that the North Pacific Council, which meets February 26/27 in Anchorage, might amend its regulatory package for the Alaska offshore troll fishery. I was also concerned by reports that the State of Washington is not being forthcoming with a Point Roberts package, on which our own troll package will depend.

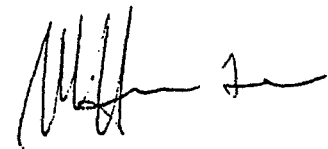
I, therefore, phoned Lee Alverson to explore these concerns, and to get an assessment from him on where things stand, both with respect to activities of the Councils as well as the activities of the States.

Lee understood my concerns very well, and said that he was in constant contact with the North Pacific Council and ADF&G. He also said that he would be speaking to Bergman (State of Washington) early this week, and expected a response very quickly.

I stressed the importance of a U.S. response at Point Roberts, given the furore of the last two weeks over the sport and commercial chinook fishing regulations.

I am, therefore, satisfied that Alverson remains on top of the situation and that we can expect some activity with respect to regulatory packages very soon.

c.c. G. Jones - via telecopier  
R. Rochon - for bag to Seattle/Martens  
M.P. Shepard



# ACTION SUITE A DONNER

## MESSAGE

diary/file/chron

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DONNER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.			SECURITE
FM/DE	SEATL	UAGR	5142	23FEB81	U/C
TO/A EXTOT/ FLO					PRESIDENCE
INFO B.H.FANDU OTT/HUNER DE OTT					
DATE					REF
ACC 123251					DOSSIER
FILE 25-5-72-Salmon					1
BY HAND					PAR PORTEUR
ATTN:					
DISTR. GNG					

REF CORTTEL UAGH5060 OF 20JAN81

SUB/SUJ

---LETTER FROM ALASKA DEPARTMENT OF FISH AND GAME (ADF&G) TO PACIFIC FISHERIES MANAGEMENT COUNCIL (PFMC)

ATTACHED IS A COPY OF A LETTER FROM ADF&G TO THE PACIFIC FISHERIES MANAGEMENT COUNCIL CONCERNING, INTER ALIA, RECENT ACTIONS TAKEN BY THE ALASKA BOARD OF FISHERIES TO PROTECT STOCKS OF ALASKAN AND COLUMBIA RIVER BRIGHT CHINOOKS. YOU WILL NOTE ON PAGE TWO OF THE LETTER THAT ALASKA IS DISAPPOINTED WITH THE PROPOSED 1981 CANADIAN TROLL RESTRICTIONS AND WITH OTHER WEST COAST STATES FOR NOT BEING FORCEFUL WITH CANADA CONCERNING THE PROTECTION OF THE BRIGHT CHINOOKS. THERE WOULD SEEM TO BE A MISUNDERSTANDING CONCERNING THE RATIONALE FOR CANADA'S PROPOSED TROLL RESTRICTIONS AND CANADA'S POSITION REGARDING ITS TROLL FISHERY AND ITS INTER-RELATIONSHIP TO VARIOUS AMERICAN FISHERIES. HOWEVER, WE UNDERSTAND THAT THESE MISCONCEPTIONS WILL BE ADDRESSED IN OTHER FORA BY CANADIAN FISHERIES PERSONNEL.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APProuvé

NO..... F.D.MARTENS/cn

SS.....

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUPPORT BUILDING  
JUNEAU, ALASKA 99801

February 11, 1981

SEA003123 P2074

Lorry M. Nakatsu  
Pacific Fishery Management Council  
526 S.W. Mill Street  
Portland, Oregon 97201

Dear Mr. Nakatsu:

The Alaska Department of Fish and Game has reviewed Amendment #3 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries Off The Coasts Of Washington, Oregon, and California. We have no comments on the amendment but would like to inform you of recent actions taken by the Alaska Board of Fisheries to protect stocks of Alaskan and Columbia River bright chinooks.

At its meeting in January, 1981 the Alaska Board of Fisheries met jointly with the North Pacific Fishery Management Council to discuss the Southeast Alaska troll fishery for 1981. In addition to information provided by the staff of the Alaska Department of Fish and Game, several local fish and game advisory committees and the general public, the Board and Council received testimony from the State of Washington on the status of Columbia River brights. In response to the proposals before it and the testimony received, the Board took the following actions:

- I. The 1981 guideline harvest level for chinook in Southeast Alaska will be 272,000 - 288,000 fish.
- II. The chinook season in outside waters will be May 15 through September 20.
- III. The chinook season in inside waters is January 1 through April 15, May 15 through September 20, and October 1 through December 31.
- IV. The outside waters of Southeast Alaska (including the Coastal Zone and Fishery Conservation Zone) are open to hand trolling.
- V. Hand troll vessels are limited to a maximum of one hand gurdy and one sport pole or four sport poles. However, if the allocation of coho needs to be adjusted between troll gear types, use of a second gurdy may be authorized by emergency order.
- VI. Treble hooks are banned.

Larry M. Nakatsu

3

February 11, 1981

SEA003/23

PHJ/4

The Board also rescinded its ban on hand trolling in the State's coastal zone and the Fishery Conservation Zone. During 1979 and 1980 the Board of Fisheries had closed these outside waters to hand trollers registered under the laws of the State of Alaska. The North Pacific Council had repeatedly endorsed the Board's position and included the ban in the Fishery Management Plan. The National Oceanic and Atmospheric Administration has consistently refused to adopt the hand troll ban in the FCZ. In response to the position of NOAA, the State of Alaska unilaterally banned the unlimited hand troll fishery from the areas of highly mixed stocks in the outside waters. In order to simplify regulation of the hand and power troll fisheries and to resolve differences between the State and NOAA, the Board has decided to permit hand and power troll vessels to fish in the same areas and to repeal all hand troll only closures.

In order to minimize the impact of the hand troll fleet on the highly mixed stock fisheries occurring in outside waters, as well as to achieve other State goals the Board chose to reduce the amount of allowable hand troll gear to one hand gurdy and one sport pole or four sport poles. The Board did allow for a two gurdy season by emergency order if it is necessary to adjust allocations between troll gear types.

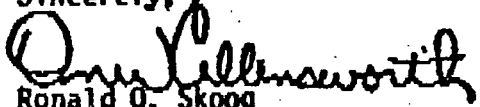
The use of treble hooks in the troll fishery was banned. This action by the Board was prompted by concern for the serious injuries to shakers caused by treble hooks.

Enclosed for you information is a summary of troll regulations policies and findings for Southeastern Alaska in 1981.

The State of Alaska is legitimately concerned for the status of West Coast chinook stocks which contribute to Alaska's fisheries, particularly stocks such as the Columbia River upriver brights. Our first responsibility is, of course, to stocks spawning in Alaska, but concern for West Coast chinook stocks has been influential in discussions and decisions which led to regulations for the 1981 troll fishery in Southeastern Alaska. Information on West Coast stocks such as that provided to the Board and North Pacific Council by the Washington Department of Fisheries was very helpful during the Board's deliberations.

The most important issues we can now pursue for the benefit of West Coast chinook stocks is to seek some limitation on harvests by the virtually unregulated Canadian troll fishery and to decrease the mortality of smolts and adults over Columbia River dams. If we could convince Canada to accept limitations on its troll fishery which are equal to those we have instituted in Alaska, the benefits to the West Coast stocks would be enormous. Likewise, even a small decrease in smolt mortalities at the dams would greatly enhance escapements and subsequent rebuilding of upriver bright stocks.

Sincerely,

  
for Ronald O. Skoog  
Commissioner  
(907) 465-4100

Enclosure

cc: Joyce Wood - NOAA, James Branson - NPFMC, Charles Fullerton - PFMC,  
Don Collinsworth - ADF&G

Lorry M. Nakatsu

2

February 1981

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The guideline harvest level (analogous to optimum yield) for the Southeast Alaska chinook fishery is set at 272,000 to 288,000. This range represents a reduction of 10% - 15% in the allowable harvest from 1980 to 1981 and a 22-28% reduction of the actual harvests in 1978 and 1979. The lower end of the guideline harvest level includes the upper end of the optimum yield proposed by the North Pacific Council. The Board's decision to establish a guideline harvest level potentially different from the Council's proposed optimum yield was predicated upon the belief that the State of Alaska is not obligated to bear the entire responsibility and burden for alleviating the present conservation and allocation problems associated with the management of Columbia River bright stocks. A 10% reduction in the guideline harvest level in conjunction with certain time and area closures will result in significant conservation of mature Alaskan chinooks as well as reduce total fishing pressure on other stocks present in Southeast Alaska including Columbia River stocks. According to material presented by the Washington Department of Fisheries, a 10% reduction in the guideline harvest level would increase the harvestable excess of upriver brights by 30% or 5,400 chinook over a four year cycle. Additional benefit to the Columbia River brights will also result from the various time closures imposed on the Alaska troll fleet.

The Alaska troll fishery is a significant harvester of the upriver brights, but the Canadian harvest is twice that of Alaska. Any restrictions placed upon the Canadian troll fishery would have more than double the benefit to the escapement of upriver brights than would a similar restriction in Alaska. Not only are Canadian harvests of upriver brights twice that of Alaska but any savings of chinook in Alaska results in a significant transfer of those fish to the Canadian fishery. Alaska had expected that Canada would enact some measures to restrict its troll fishery in order to complement the Alaska Board of Fisheries' actions to promote the conservation of Columbia River brights. We were disappointed that the proposed 1981 Canadian troll restrictions announced at the US-Canada meetings in Seattle on January 27-30 did not offer more benefit to the conservation of these stocks. We were even more disappointed that representatives for the West Coast states did not present a counter proposal to the Canadians addressing the bright problem. We would hope the other West Coast states would be at least as forceful with the Canadians in their efforts to conserve and reallocate these stocks as they have been with Alaska.

Closely related to the reduction in the Alaskan guideline harvest level is the reduction in fishing time. The reduction in the outside fishing season from the former season of April 15 - October 31 to the present season of May 15 - September 20 represents a 37% decrease in fishing time. In the inside waters of Southeastern Alaska two new closed periods from April 15 to May 14 and September 20 to October 1 were established. The closures and delayed openings in the spring are designed to increase escapement of mature Alaskan chinooks, however non-Alaskan stocks will also benefit from these closures as well as other closures during the season. According to the Washington Department of Fisheries model, about 24-30% of the Columbia River brights which are saved by these spring closures will be transferred to West Coast salmon fisheries and the Columbia River. The fall closures are intended to limit late season chinook fishing after the coho season closes on September 20 and to encourage fishermen to stop fishing before the inside winter fishery begins.

OFFICE  
OF THE  
SECRETARY OF STATE  
FOR  
EXTERNAL AFFAIRS

CABINET  
DU  
SECRÉTAIRE D'ÉTAT  
AUX  
AFFAIRES EXTÉRIEURES



TO/A: FLO

Date 16.2.81

FROM/DE: MIN

REFERENCE/RÉFÉRENCE:

SUBJECT/SUJET: Minister's decision/Décision du Ministre

Seen and noted by SSEA:

1" Why so late? I shall be away."

000943

R.J. Rochon/2-2002/dg  
Legal Operations Division

*F10 272*

DATE	ACC	REF
	119025	
	05-57-2-SALMON-1	
UNCLASSIFIED	PAR PORTEUR	
February 13 <sup>th</sup> 1981	05-57-2-SALMON-1	

*CC Ref*  
*file*  
*18/2*

MEMORANDUM FOR THE MINISTER

SUBJECT: Pacific and Atlantic Salmon Agreements

The purpose of this memorandum is to brief you on the outcome of two informal meetings which took place at the end of January concerning Pacific and Atlantic salmon.

Pacific Salmon

You will recall that Canadian and U.S. representatives produced an Agreed Summary Record in Lynnwood, Washington, in October 1980, containing their views on how most of the Canada/USA Pacific salmon issues might be resolved. Representatives met again in Vancouver, on January 8, and in Seattle on January 20-25, to clarify certain ambiguities arising from the Lynnwood Agreed Summary Record, to exchange technical data and to provide details on 1981 fishing plans (which are being implemented by each side unilaterally pursuant to certain Lynnwood Agreed Summary Record recommendations). Both sides have agreed to recommend to their respective governments that a formal negotiating session take place in Vancouver from April 27 to May 5 with a view to formulating specific recommendations to governments. If and when governments approve such recommendations, a legal drafting group would be constituted to prepare a draft Pacific Salmon Agreement for eventual signature by governments.

Prior to initiating any formal negotiations with the USA, Cabinet guidance and instructions will be sought concerning cooperation in the management of Pacific salmon and the possible terms of an international agreement designed to achieve this cooperation. Officials of this Department and of the Department of Fisheries and Oceans (in consultation with Treasury Board and the Ministry of State for Economic Development) are planning to submit the matter for Cabinet consideration in the week of April 16.

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Advantage was taken of the informal consultations last month to make clear to the U.S. side that Canada cannot accept a repeat of the East Coast scenario and thus will require U.S. assurances, prior to Canadian signature, that the Pacific salmon agreement will be ratified by the U.S. Senate. U.S. officials seem fully to understand our concerns and to be committed to ensure a "no problem" ratification, although they have not given any indication as to how or what form such guarantees might take. However, depending on developments in the coming months in relation to the East Coast agreements, an agreement on Pacific salmon may be concluded in 1981.

#### Atlantic Salmon

As explained in a memorandum to you of December 11, 1980, Canada has been involved in preliminary talks aimed at the negotiation of an International Atlantic Salmon Convention which would (i) protect Canadian Atlantic salmon stocks which are fished off Greenland during their life at sea away from their rivers of origin, and (ii) establish a mechanism for limiting the interception of salmon. A working group comprising participants from Canada, EEC, USA, Norway, Sweden and Iceland met in Ottawa from January 28 to 29 to continue work on the development of a draft convention. (Following the Working Group's earlier meeting in Brussels in November 1980, the EEC prepared a draft consolidated text for discussion at the Ottawa meeting.)

Significant progress was made at the Ottawa meeting in achieving a consensus that the proposed draft agreement provide for three separate commissions: a North American Commission (comprising Canada and the USA only), a (West) Greenland Commission, and a Northeast Atlantic Commission. It remains to be determined whether East Greenland will fall under a single Greenland Commission - the USA's and Canada's preference because Canadian and U.S. salmon migrate to East as well as West Greenland waters, but nowhere else in the Northeast Atlantic - or under the Northeast Atlantic Commission - the EEC's preference because the Community wants to avoid a large membership in a single Greenland Commission which would give certain northeast European states a say in the salmon management off West Greenland. In accordance with the Canadian objective, the terms of reference for the North American Commission restrict its scope to intercepting fisheries matters only, rather than encompassing all aspects of salmon conservation as envisaged by the USA.

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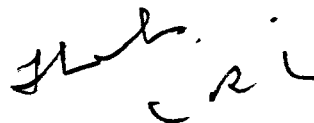
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The major outstanding issue remains the question of the West Greenland salmon quota. Canada has insisted that the quota be frozen at 1190 tonnes for a period of five years, while the EEC takes the view that this matter should be dealt with in the context of the Canada/EEC long term fisheries agreement. (As you know, the long term agreement was initialled ad referendum in November 1980 but has yet to be executed by either side.) The long term agreement limits the salmon catch level off West Greenland for the next three years. If it does not enter into force, Atlantic salmon convention proponents will have to act quickly to try to control the salmon fishery off West Greenland in 1981. In the interim, in the context of both the Atlantic salmon convention and the CDA/EEC long term agreement, Canadian officials have been discussing with their Greenland/Danish/EEC counterparts the possibility of retarding the salmon fishing season off West Greenland and enlarging the mesh size of fishing nets so that the same number of fish--but larger fish--would be caught, opening up the possibility of an increase in the tonnage quota without an increase in the number of salmon lost to Canada.

It is now expected that a small drafting group will meet in late March/early April to prepare a revised consolidated text of an International Atlantic Salmon Convention, in preparation for a further working group meeting to be held possibly in Oslo next May. You will, of course, be kept informed of developments in this regard.



A.E.G.



*File*

REQUEST FOR FACSIMILE TRANSMISSION

TO: SEATTLE, Washington

FM: FLO

NUMBER: FLO-0191

DATE: Feb. 4/81

DATE	REF
ACC	
FILE	25-5-7-2-SALMON-1
B H N	PAR PORTEUR
A. IN:	

PLEASE TRANSMIT THE ATTACHED DOCUMENT(S) TO:

Canadian Consulate General, SEATTLE

ATTENTION: Mr. D.F. Martens

NO. OF PAGES: 4

Pacific Salmon Negotiations (Govt. to Govt.)  
Seattle 20-25/1/81

*R. B. Fadden*  
R. B. Fadden

AUTHORIZING OFFICER

6-2643

PHONE NUMBER

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

s.23

FILE (through Mr. Rochon)

FROM De R.B. Fadden (FLO)

REFERENCE  
Référence

SUBJECT Sujet Pacific Salmon Negs (Govt. to Govt.),  
Seattle 20-25/1/81

SECURITY RESTRICTED  
Sécurité

DATE February 3, 1981

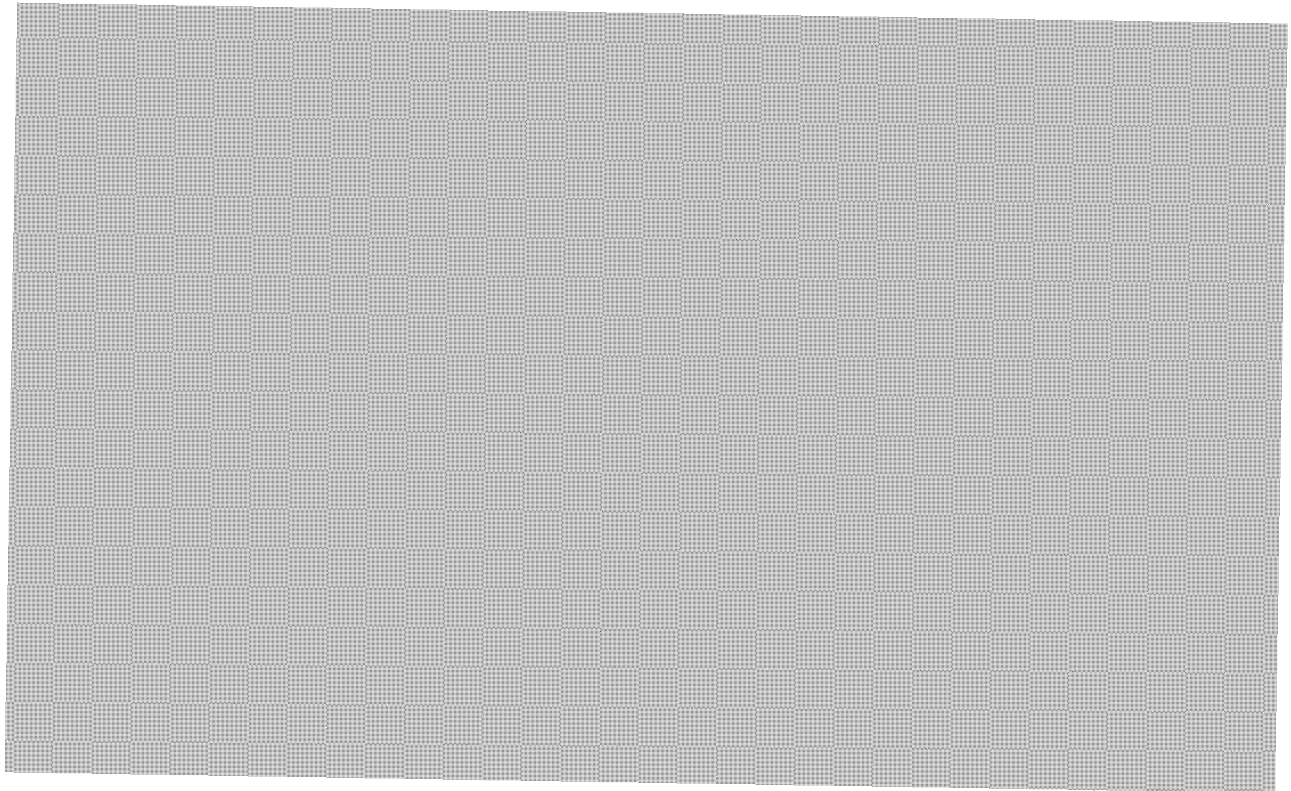
NUMBER FLO-0188  
Numéro

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OTTAWA	
MISSION	

ENCLOSURES  
Annexes

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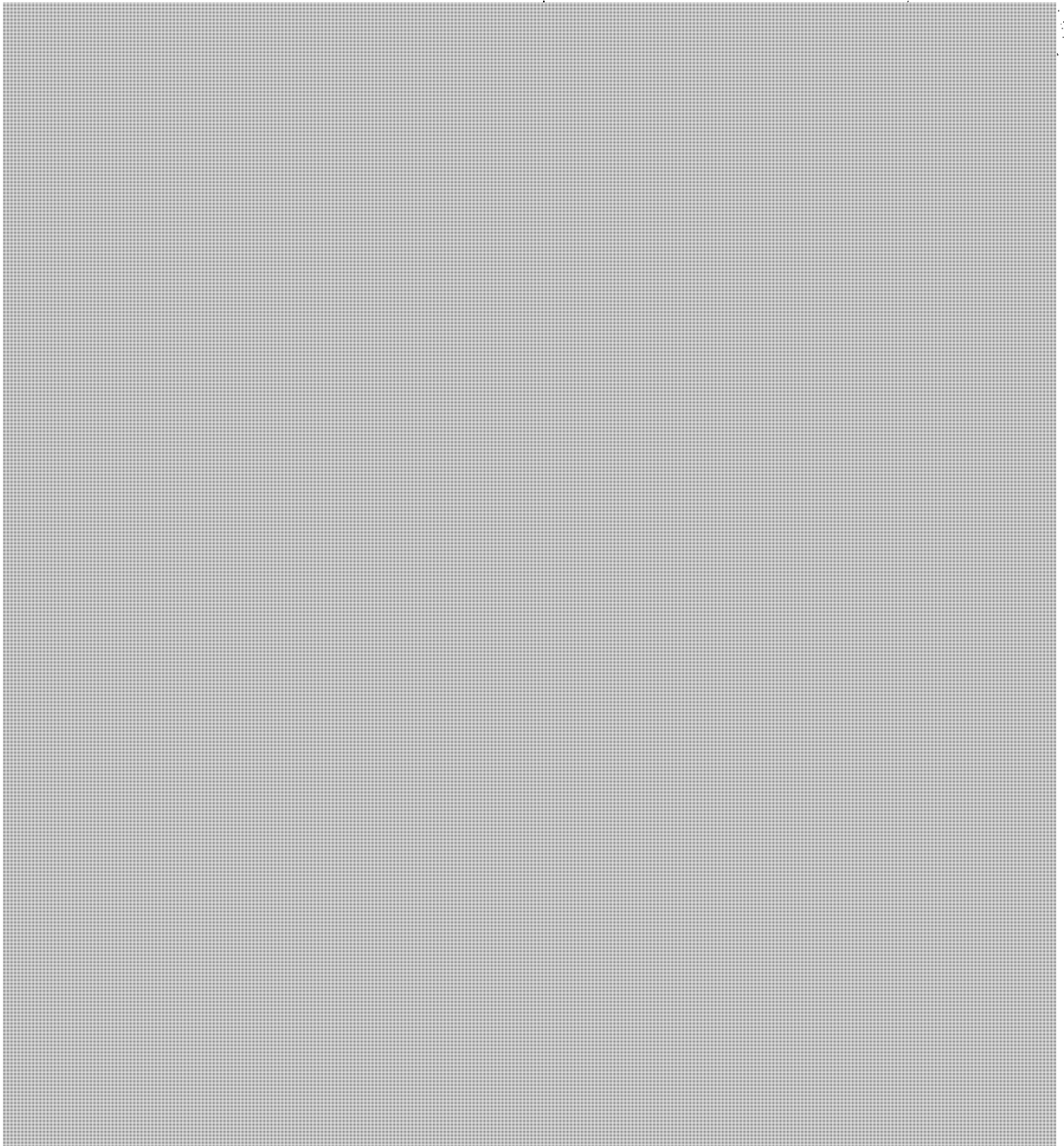
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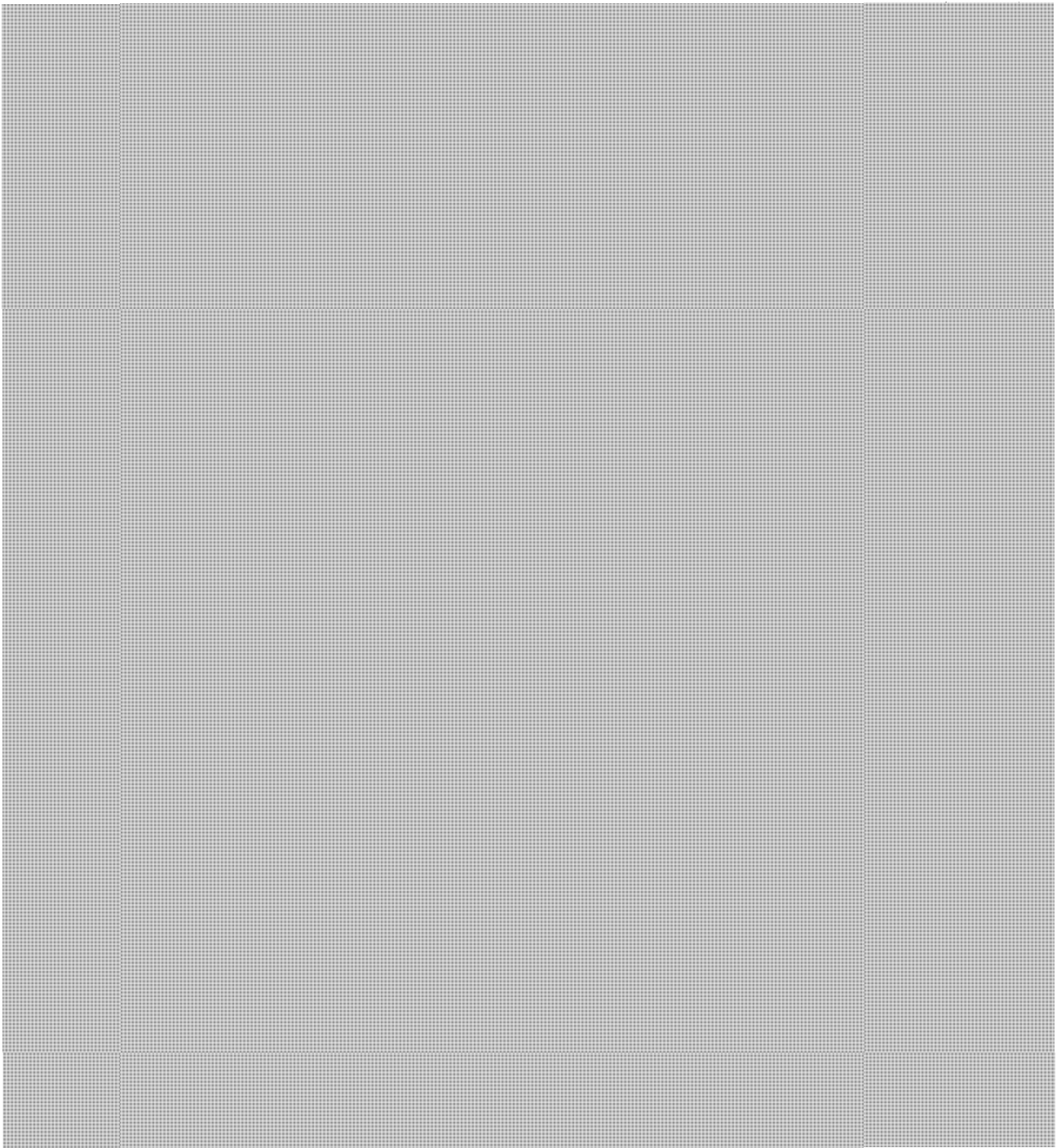
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- 4 -



  
R.B. Fadden



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

M. Hunter/Dir. 1 Directorate  
Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information  
Typist: Elaine Somenzi/5-2186

NOTE DE SERVICE

R. Fadden

TO  
A

Donald D. Tansley

FROM  
DE

G.C. Vernon  
H.D. Johnston

SECURITY - CLASSIFICATION - DE SÉCURITÉ
326498
OUR FILE / NOTRE RÉFÉRENCE
25-5-7-2-SALMON-1
YOUR FILE / VOTRE RÉFÉRENCE
DATE FEB - 3 1981

SUBJECT Canada-USA Pacific Salmon Negotiations  
OBJET

You will recall that, following the round of negotiations in Lynnwood, Washington in late October 1980, the two negotiators produced an Agreed Summary Record which contained their views on how most of the issues in the negotiations might be resolved.

Since that time, a considerable amount of technical work, consisting of analyses of the Canadian position and other background analyses, has been done. The negotiators met in Vancouver on January 8, 1981, on a personal basis, to review technical progress, and to set out an agenda and schedule for future meetings.

An important element of the Lynnwood Agreed Summary Record was that both countries should attempt in 1981 to take unilateral but reciprocal measures in the management of intercepting fisheries in order to improve the climate for negotiations, and to demonstrate to the fisheries community in all affected areas that both countries are serious in their efforts to address the basic problems.

At the Vancouver session, the negotiators agreed that fisheries managers from Canada, and the States of Washington, Oregon and Alaska should meet, with the assistance of the negotiators, to further discuss possible unilateral measures. (On the Canadian side, Pacific Region has developed, with the assistance of the PTA, a range of possible measures affecting the troll fishery which is our major intercepting fishery, and we are seeking measures of comparable value on the U.S. side in Washington/Oregon. Of particular importance would be a significant cutback of U.S. interceptions of Fraser River chinook, coho and chums at Point Roberts and the San Juan Islands. In the north, in return for cutbacks on our fisheries on the Taku and Stikine rivers, we might look for "compensation" at the Tree Point or Noyes Island net fisheries which intercept Skeena and Nass River sockeye.)

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- 2 -

We believe this process of consultation between fisheries managers is an important element in the negotiation of a comprehensive agreement, and are giving full support to it.

With respect to the comprehensive agreement itself, a further round of full negotiations has been tentatively set for April 27 - May 5, 1981 in Victoria or Vancouver.

However, as noted in your memorandum to the Minister reporting on the Lynnwood session, the Secretary of State for External Affairs is insistent that no further negotiations be undertaken without prior approval of instructions by Cabinet. We believe such Cabinet clearance is now required, and we are developing a memorandum in full consultation with External Affairs. As you know, on the basis of the negotiators' recommendations, conclusion of an agreement would entail some financial commitments on the part of the Government of Canada with respect to Canadian management of all Fraser River salmon, and with respect to research needs. We intend, therefore, to consult with MSSED and Treasury Board on these matters.

To return to the specifics of a comprehensive agreement, we would also wish to note that the U.S. negotiator has indicated his belief that a key element in the agreement is the so-called "equity" provision, under which each country would be entitled to harvest an amount of salmon commensurate with its own total production. He has indicated that his analyses, (borne out by our own) would suggest that because of the nature and location of U.S. intercepting fisheries, particularly those of Alaska, the USA would consistently "owe" fish to Canada. His view is that such a debt could only be repaid by Fraser River interceptions. He has, therefore, suggested (on a personal basis) that the Fraser River formulae contained in the Agreed Summary Record be abandoned, and that a simpler formulae be found. He has put forward the idea of a reduction in U.S. entitlements for Fraser sockeye and pinks to 33% of the annual TAC for a period of 20 years, after which the arrangement could be reviewed. We are examining this idea, taking into account enhancement plans for Fraser River stocks.

We remain optimistic that an agreement can be achieved, but it should be evident from the foregoing that some tough negotiations remain.

Original signed by  
**G. C. VERNON**

G.C. Vernon

ORIGINAL SIGNED BY  
ORIGINAL SIGNÉ PAR  
**H. D. JOHNSTON**

H.D. Johnston

000953

c.c. A. Campbell  
J.R. MacLeod  
B. Applebaum  
S. Law  
M. Hunter  
J. Swan  
J. O'Neil  
C.W. Shinnars - Vancouver  
W. Falkner - Vancouver  
D. Wilson - "  
G. Jones - "  
R. Fadden - FLO ✓  
M. Goldberg  
M.P. Shepard

blind c.c. Province of B.C.

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FLO/R.B.Fadden/6-2643/jt

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

TO FILE (through Mr. Rochon)

SECURITY RESTRICTED  
Sécurité

FROM R.B. Fadden (FLO) s.23  
De

DATE February 3, 1981

REFERENCE  
Référence

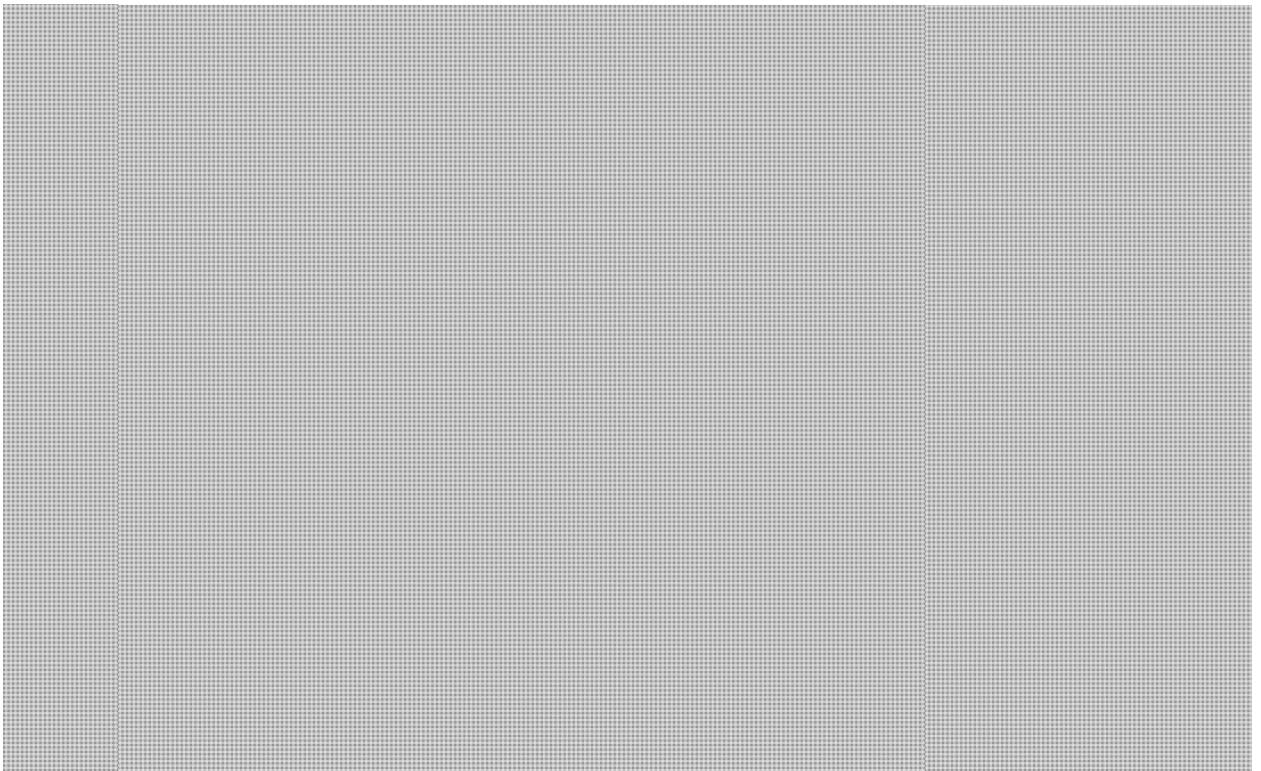
SUBJECT Pacific Salmon Negs (Govt. to Govt.),  
Sujet Seattle 20-25/1/81

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25-57-2-SALMON	
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ENCLOSURES  
Annexes

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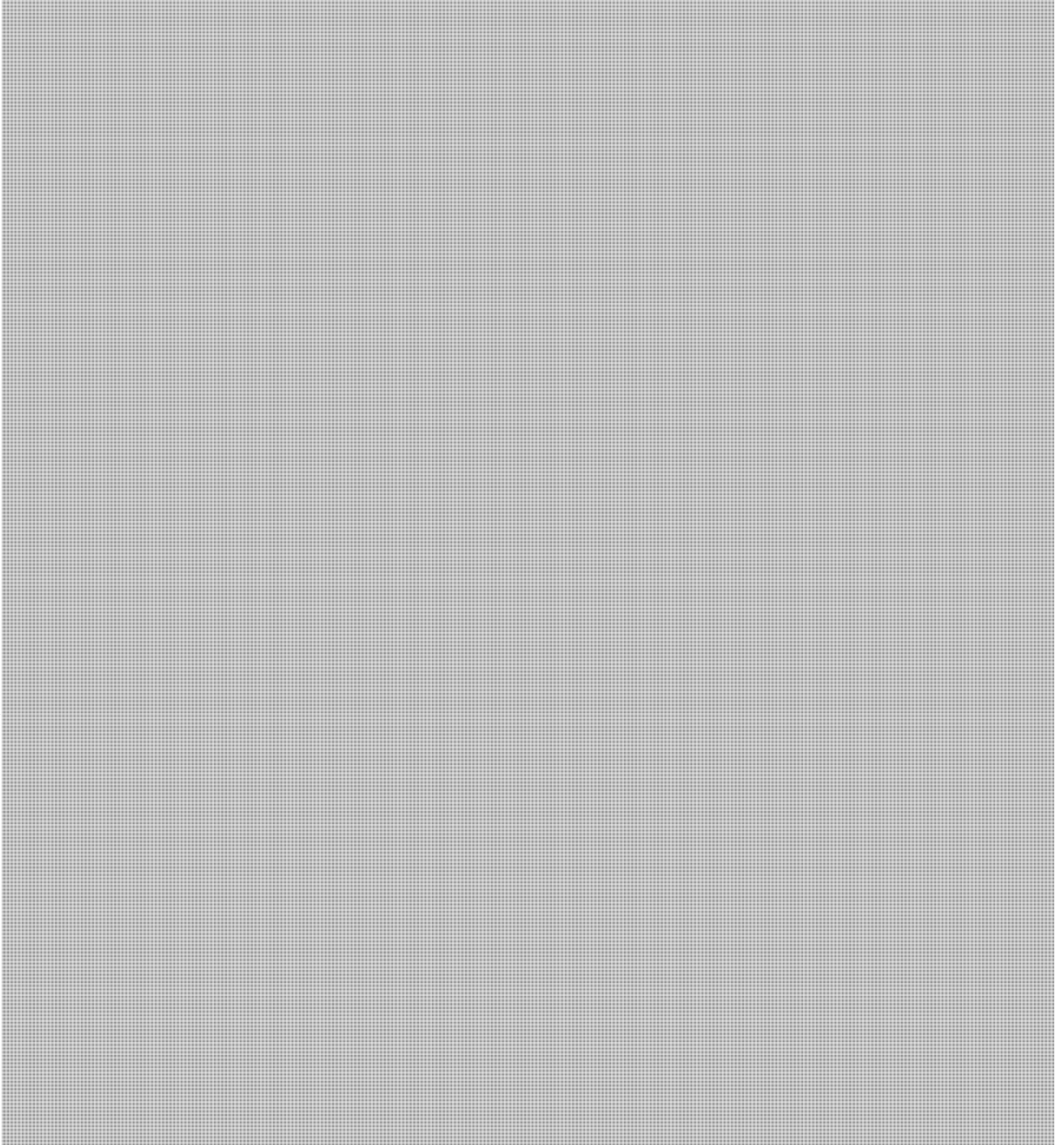
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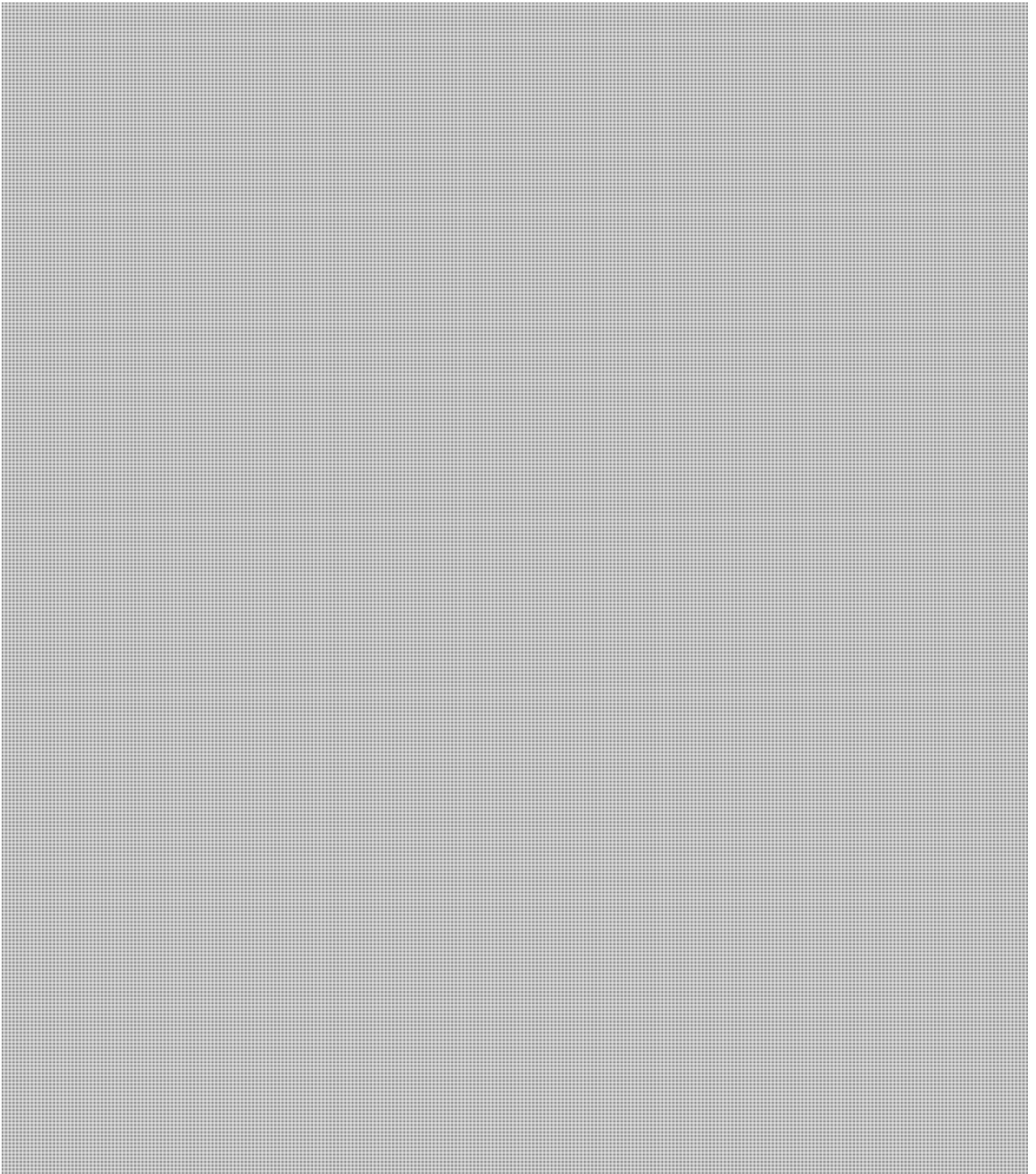
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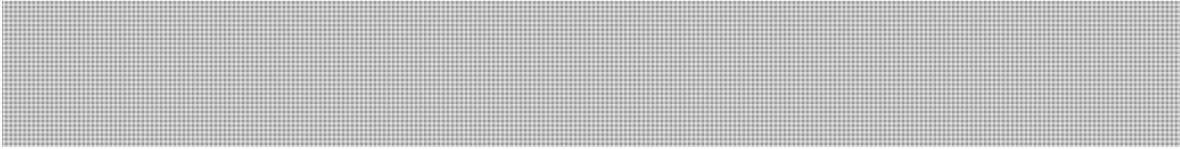
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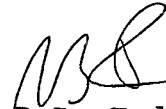


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- 4 -



  
R.B. Fadden



Economic Development  
Développement économique

## Assessment Note Note d'évaluation

Meeting/Réunion: February 3, 1981

Item/Article: SALMON VESSEL "BUY BACK"  
PROGRAM

Discussion paper:  
Document de travail:

Sponsoring Department:  
Ministère parrain:

FLD  
Secret  
6/3  
DAI  
ACC DFO  
FILE  
25-5-7-2-SALMON  
PAR POST R  
25-5-5-CDP

### Proposal

1. The Memorandum as amended on February 2 recommends that \$3.5 million funding for 1980/81 from within DFO lapsing funds be used for the purchase and disposal of licenced salmon vessels on the West Coast.

### Key Factors

2. There is a significant over-capacity in the west coast salmon fishing fleet resulting from the number of vessels and increasing effectiveness of vessels used for the exploitation of the resource. A vessel "buy back" program was initiated in the British Columbia Salmon Fishery in early 1971 in an effort to reduce the excessive fleet capacity but the program has been suspended in 1974. DFO has since maintained its legal authority for the purchase and disposal of commercial fishing vessels under its Vote 5. In the light of the poor salmon fishing season in 1980, the reinstitution of the salmon vessel "buy back" was recommended by a consulting firm last fall.

3. At that time, the Minister of Fisheries and Oceans announced that the "buy back" program would be renewed when funds could be made available. He also mandated a commission to enquire into the state of the West Coast fishing industry and make recommendations. The report of this Commission is not expected for some months.

4. The proposed "buy back" is not expected to significantly reduce the fishing overcapacity on the West Coast. Indeed when a similar \$10 million annual program was prepared last Fall in the context of the expenditures priority determination by the Economic Development Committee, it was estimated that it would reduce the size of the fleet by only 3 percent annually.

### Financial Requirements

5. The Committee earlier allocated \$47 million to cover an "omnibus" proposal for a number of programs within DFO. In its main estimates, DFO obtained approval for expenditures of \$42.7 million; the remainder was therefore recaptured by the Committee's Economic Development Policy Reserve. DFO initially proposed to fund the current proposal from lapses within main estimates items, but the Treasury Board Secretariat advises that this would not be appropriate. The full \$3.5 million would therefore constitute a draw on the Reserve for 1980-81.

- 2 -

6. As it stands, the proposed program would have no downstream financial requirements. If it were continued, costs downstream are forecast at about \$10 million per annum. The revenues accruing from the sale of vessels will go back to the CRF, and not be credited to the Economic Development Envelope.

#### Evaluation

7. There will be an evaluation of the program by DFO.

#### Communications

8. A good Communication Plan accompanying the Memorandum outlines plans for announcement by the Minister with effective follow-up activities to inform B.C. commercial fishermen, vessel owners and associations of the purpose and scope of the program. A Fishermen's Newsletter with a circulation to all vessel owners and associations will be prepared as well as a brochure for all potential users of the program.

#### Assessment

9. The proposed reinstitution of the "buy back" program for the end of fiscal year 1980-81 would be a limited contribution to resolving problems of overcapacity experienced by the commercial fishing industry on the West Coast. It would require funding from the Economic Development Reserve, although Ministers will wish to note that \$4.2 million reverted to the Reserve when DFO did not fully utilize the \$47 million earlier allocated.

10. The proposal does not call for downstream funding. Ministers should be aware, however, that if it were decided to continue the plan, following an evaluation of this year's experience, the cost could be about \$10 million per annum from the Committee's reserves.

G.A. Denis  
Director

  
Secretary

FLO/R.B. Fadden/6-2643/dg

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

s.23

TO  
A Mr. Rochon

FROM  
De R.B. Fadden

REFERENCE  
Référence

SUBJECT Pacific Salmon Negotiations: Vancouver Talks,  
Sujet January 6-8, 1981

SECURITY  
Sécurité RESTRICTED

DATE January 14, 1981

NUMBER  
Numéro FLO-0064

FILE	DOSSIER
OTTAWA	U. 5512
25-5-7-2-Salmon	
MISSION	

ENCLOSURES  
Annexes

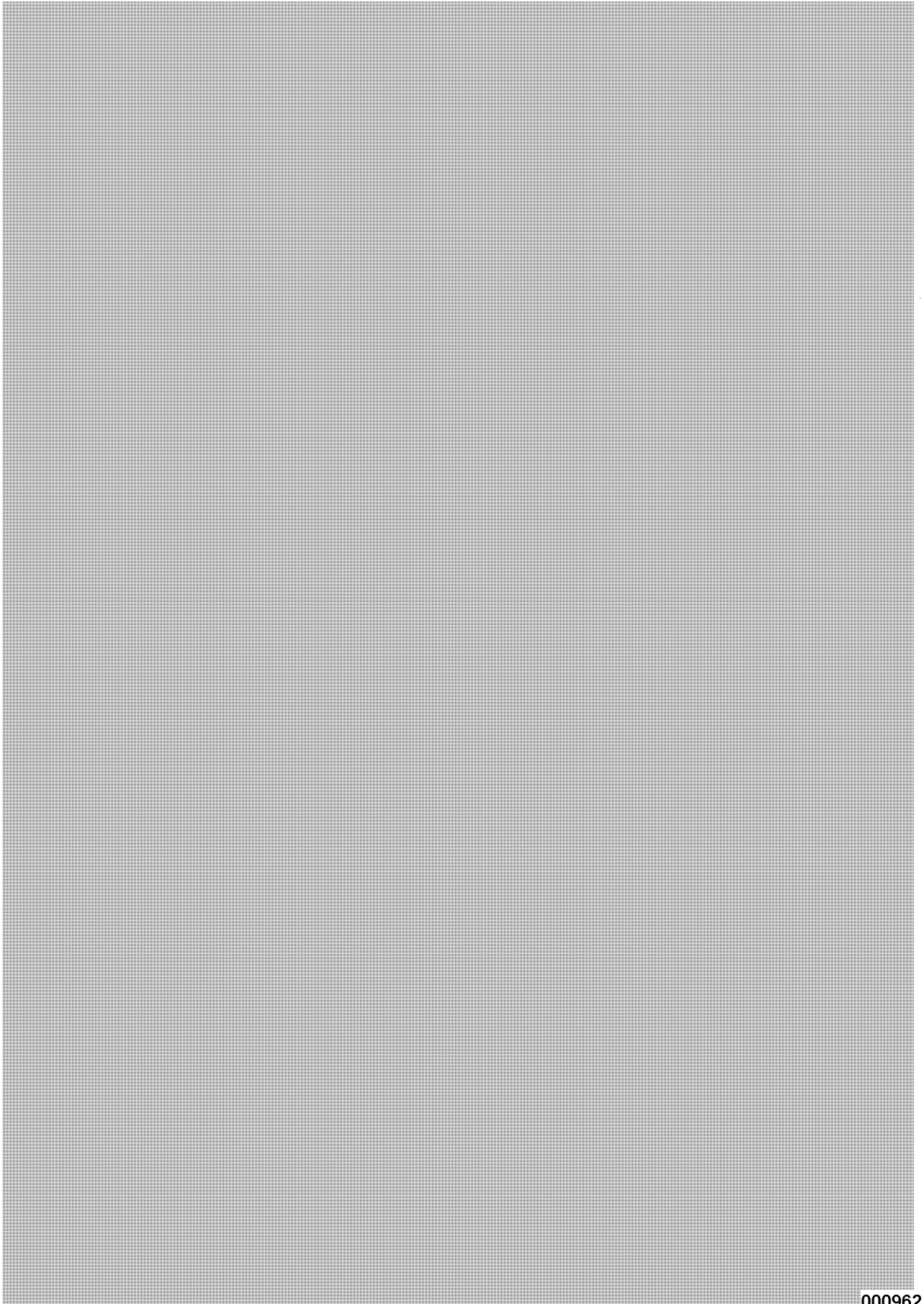
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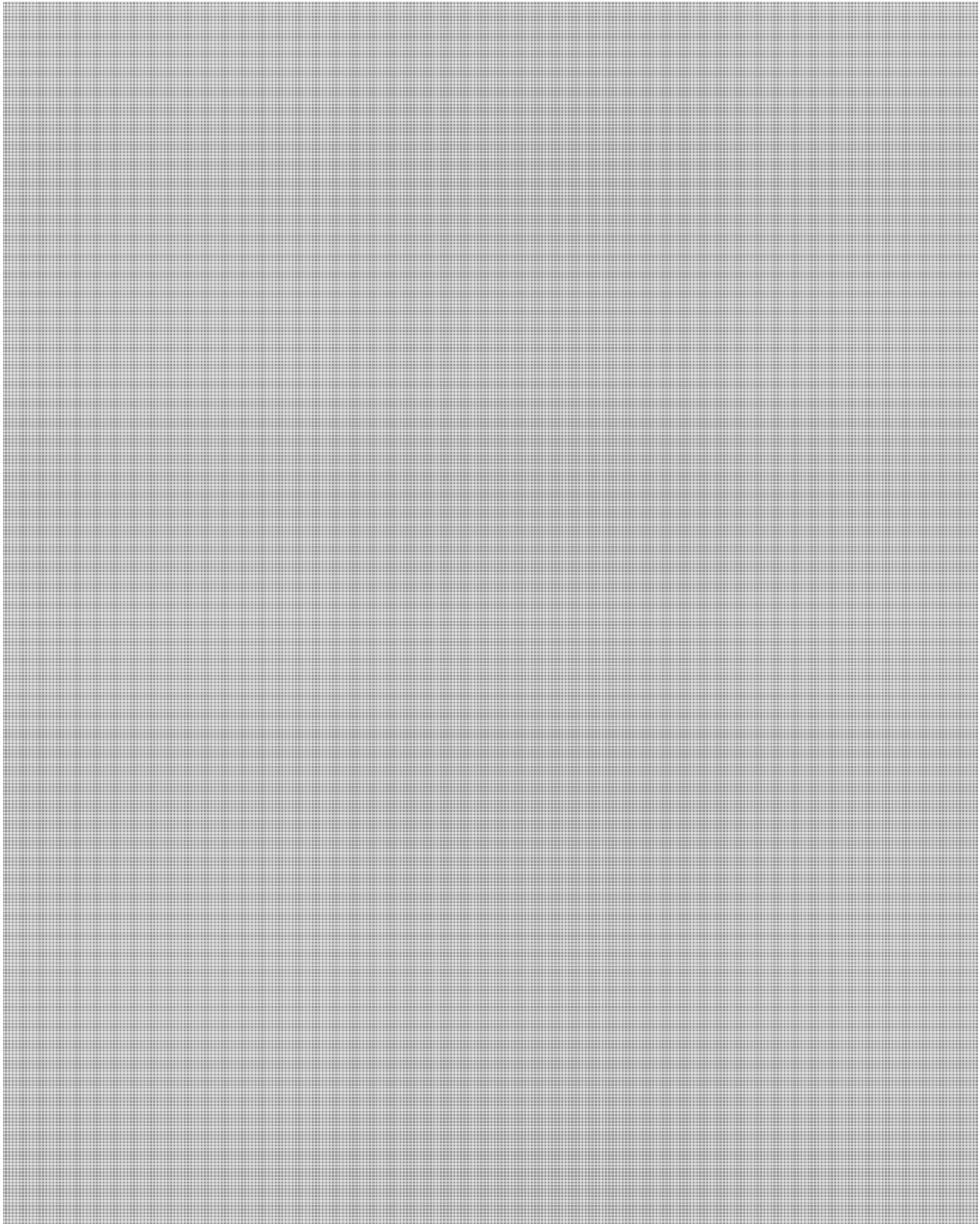


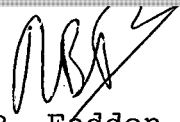
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R.B. Fadden

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NOTES ON CONSULTATIONS BETWEEN NEGOTIATORS, VANCOUVER, JANUARY 8, 1981

- 1) Tentative full negotiation meeting with delegations possibly in Victoria April 27 - May 5, 1981.
- 2) Meeting of government officials, Seattle, Washington, January 27 - 30, 1981.

Tentative List of Subjects to be discussed:

A. Agreement

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- iii) Southern B.C. - Washington/Oregon

[Discussion of run expectations, identification of conservation problems, fishing plans (taking into account Lynnwood discussions) and administrative activities].

C. Procedures and agenda for April negotiating session and processes for development of Convention thereafter.



MEMORANDUM

NOTE DE SERVICE FLO  
To: A  
From: De: BICO A-4

TO  
A

H.D. Johnston  
Assistant Deputy Minister  
Pacific and Freshwater  
Fisheries

FROM  
DE

Assistant Deputy Minister  
Economic Development and  
Marketing

SUBJECT Pacific Salmon Negotiations  
OBJET

SECURITY - CLASSIFICATION DE SÉCURITÉ  
OUR FILE / NOTRE RÉFÉRENCE  
YOUR FILE / VOTRE RÉFÉRENCE  
DATE  
DATE ACC JAN 10 1981 REF 119395  
FILE 25-5-7-2-SALMON-1  
HAND PAR PORTEUR  
IN:

Attached is a self-explanatory memorandum to the Deputy Minister reporting on recent developments on this subject. If you agree, would you please sign the memo and forward it.

The memorandum refers to the need to prepare a Cabinet Memorandum in order to obtain instructions prior to the April 27 - May 5, 1981 negotiating session now tentatively scheduled.

Your staff must be involved in the development of this memorandum, and in the interdepartmental consultations that will be required, and I would appreciate it if you could identify officers both at HQ and in the Pacific Region who will take responsibility in this endeavour. From my staff, Mr. Hunter will assume this responsibility.

There is not a great deal of time to undertake this exercise and I would, therefore, request your early attention to this matter.

Original signed by  
G.C. VERNON

G.C. Vernon

c.c. A. Campbell  
B. Applebaum  
M. Hunter  
J.R. MacLeod  
J. O'Neil  
G. Jones - Vancouver  
R. Fadden - FLO ✓

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Government of Canada  
Gouvernement du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
A

Donald D. Tansley

FROM  
DE

G.C. Vernon  
H.D. Johnston

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE/NOTRE RÉFÉRENCE
YOUR FILE/VOTRE RÉFÉRENCE
DATE FEB - 3 1981

SUBJECT Canada-USA Pacific Salmon Negotiations  
OBJET

You will recall that, following the round of negotiations in Lynnwood, Washington in late October 1980, the two negotiators produced an Agreed Summary Record which contained their views on how most of the issues in the negotiations might be resolved.

Since that time, a considerable amount of technical work, consisting of analyses of the Canadian position and other background analyses, has been done. The negotiators met in Vancouver on January 8, 1981, on a personal basis, to review technical progress, and to set out an agenda and schedule for future meetings.

An important element of the Lynnwood Agreed Summary Record was that both countries should attempt in 1981 to take unilateral but reciprocal measures in the management of intercepting fisheries in order to improve the climate for negotiations, and to demonstrate to the fisheries community in all affected areas that both countries are serious in their efforts to address the basic problems.

At the Vancouver session, the negotiators agreed that fisheries managers from Canada, and the States of Washington, Oregon and Alaska should meet, with the assistance of the negotiators, to further discuss possible unilateral measures. (On the Canadian side, Pacific Region has developed, with the assistance of the PTA, a range of possible measures affecting the troll fishery which is our major intercepting fishery, and we are seeking measures of comparable value on the U.S. side in Washington/Oregon. Of particular importance would be a significant cutback of U.S. interceptions of Fraser River chinook, coho and chums at Point Roberts and the San Juan Islands. In the north, in return for cutbacks on our fisheries on the Taku and Stikine rivers, we might look for "compensation" at the Tree Point or Noyes Island net fisheries which intercept Skeena and Nass River sockeye.)

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- 2 -

We believe this process of consultation between fisheries managers is an important element in the negotiation of a comprehensive agreement, and are giving full support to it.

With respect to the comprehensive agreement itself, a further round of full negotiations has been tentatively set for April 27 - May 5, 1981 in Victoria or Vancouver.

However, as noted in your memorandum to the Minister reporting on the Lynnwood session, the Secretary of State for External Affairs is insistent that no further negotiations be undertaken without prior approval of instructions by Cabinet. We believe such Cabinet clearance is now required, and we are developing a memorandum in full consultation with External Affairs. As you know, on the basis of the negotiators' recommendations, conclusion of an agreement would entail some financial commitments on the part of the Government of Canada with respect to Canadian management of all Fraser River salmon, and with respect to research needs. We intend, therefore, to consult with MSSED and Treasury Board on these matters.

To return to the specifics of a comprehensive agreement, we would also wish to note that the U.S. negotiator has indicated his belief that a key element in the agreement is the so-called "equity" provision, under which each country would be entitled to harvest an amount of salmon commensurate with its own total production. He has indicated that his analyses, (borne out by our own) would suggest that because of the nature and location of U.S. intercepting fisheries, particularly those of Alaska, the USA would consistently "owe" fish to Canada. His view is that such a debt could only be repaid by Fraser River interceptions. He has, therefore, suggested (on a personal basis) that the Fraser River formulae contained in the Agreed Summary Record be abandoned, and that a simpler formulae be found. He has put forward the idea of a reduction in U.S. entitlements for Fraser sockeye and pinks to 33% of the annual TAC for a period of 20 years, after which the arrangement could be reviewed. We are examining this idea, taking into account enhancement plans for Fraser River stocks.

We remain optimistic that an agreement can be achieved, but it should be evident from the foregoing that some tough negotiations remain.

Original signed by

**G. C. VERNON**

G.C. Vernon

ORIGINAL SIGNED BY

ORIGINAL SIGNÉ PAR

**H. D. JOHNSTON**

H.D. Johnston

000968

c.c. A. Campbell  
J.R. MacLeod  
B. Applebaum  
S. Law  
M. Hunter  
J. Swan  
J. O'Neil  
C.W. Shinnars - Vancouver  
W. Falkner - Vancouver  
D. Wilson - "  
G. Jones - "  
R. Fadden - FLO  
M. Goldberg  
M.P. Shepard

blind c.c. Province of B.C.

---



Government  
of Canada

Gouvernement  
du Canada

Fisheries  
and Oceans

Pêches  
et Océans

Mr. R. Fadden,  
Department of External Affairs,  
FLO, Tower A, 4th floor,  
Lester B. Pearson Building,  
Sussex Drive,  
Ottawa, Ontario.

*File*

REQUEST FOR FACSIMILE TRANSMISSION

TO: SEATTLE

FROM: FLO

REF: FLO-0064

DATE: Jan. 14/81

DATE	
ACC	REF
FILE	
<i>25-57-2-Salmon-1</i>	
B/ HAND	PAR PORTEUR
ATTN:	

PLEASE TRANSMIT THE ATTACHED DOCUMENT(S) TO:  
Canadian Consulate General, SEATTLE

RELATION: Mr. D.F. Martens

REF: Martens/Fadden telcon 12Jan81

PAGES: 1 (one)

R.B. Fadden  
SPECIALIZING OFFICER

6-2643  
PHONE NUMBER

NOTES ON CONSULTATIONS BETWEEN NEGOTIATORS, VANCOUVER, JANUARY 8, 1981

- 1) Tentative full negotiation meeting with delegations possibly in Victoria April 27 - May 5, 1981.
- 2) Meeting of government officials, Seattle, Washington, January 27 - 30, 1981.

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[Discussion of run expectations, identification of conservation problems, fishing plans (taking into account Lynnwood discussions) and administrative activities].

C. Procedures and agenda for April negotiating session and processes for development of Convention thereafter.

FLO/R.B. Fadden/6-2643/dg

*Full*

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

s.23

TO  
A Mr. Rochon

FROM R.B. Fadden  
De

REFERENCE  
Référence

SUBJECT Pacific Salmon Negotiations: Vancouver Talks,  
Sujet January 6-8, 1981

SECURITY  
Sécurité

RESTRICTED

DATE January 14, 1981

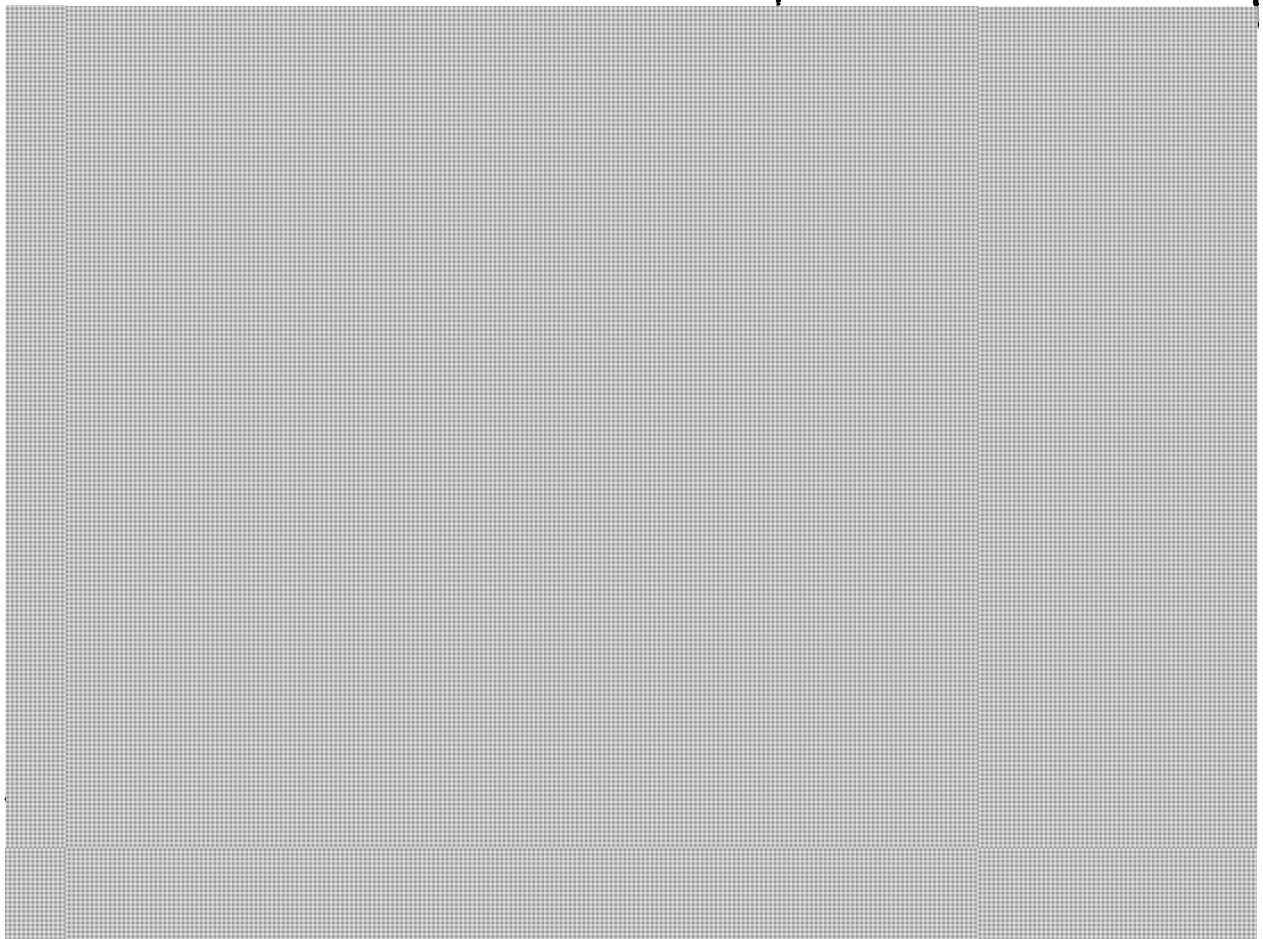
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FILE	25-5-7-2-SALMON-1	
MISSION		
HAND		PAR PORTEUR

ENCLOSURES  
Annexes

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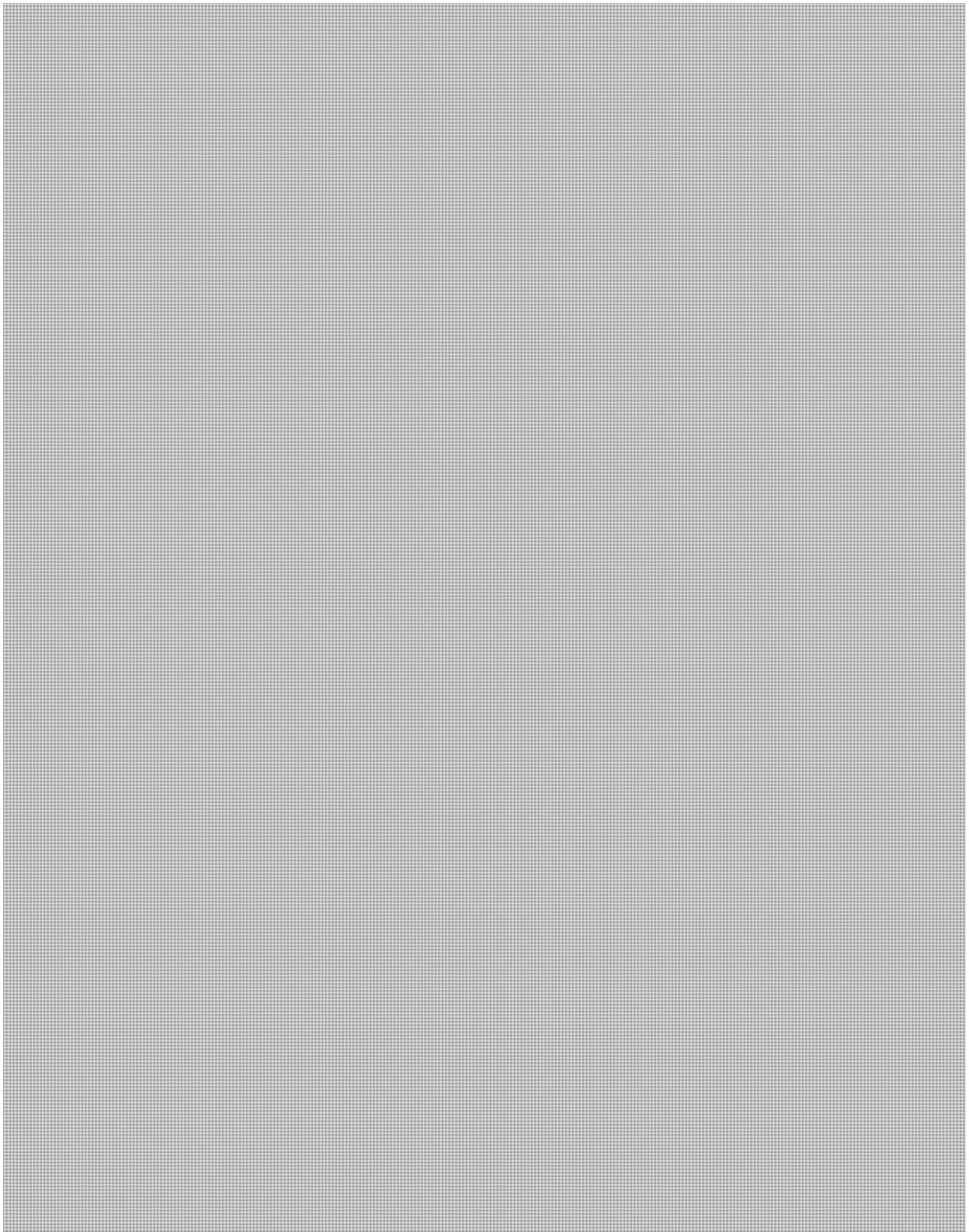
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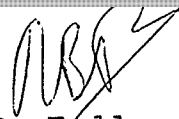
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- 3 -



  
R.B. Fadden

000975

NOTES ON CONSULTATIONS BETWEEN NEGOTIATORS, VANCOUVER, JANUARY 8, 1981

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**ACTION**  
**SUITE A DONNER**

**MESSAGE**

P 10810

file/diary/chron

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N° D'ORIG.		35-11-5 and 35-11-9	
SEATL	UAGR	50025	02JAN81		U/C

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PRIORITÉ

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FANDO OTT/HUNTER DE OTT

SFAX WHDC DE SEA

500007/02

REGAM FANDO VNCVR/JONES/SHEPARD DE CTZ

DATE

ACC

REF

FILE

BY HAND

PAR PORTEUR

ATTN:

DISTR.

GNC

**REF** OURTEL UAGR 6118 OF 15DEC80

**SUB/SUJ**

---INTERCEPTION NEGOTIATIONS-ALVERSON REPORT

ATTACHED IS A COPY OF AN ADDRESS GIVEN BY DR.ALVERSON TO THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL AT ITS DECEMBER MEETING.THE COPY ATTACHED IS AN OFFICE TRANSCRIPTION AND WE HAVE KEPT OUR EDITING TO A MINIMUM SO AS NOT TO AFFECT THE COLOUR OF THE ADDRESS NOR TO IMPOSE OUR PERCEPTION ON WHAT HE WAS SAYING.THE ADDRESS,IN ADDITION TO PROVIDING A RESUME OF THE CURRENT STATUS OF THESE NEGOTIATIONS, ALSO HIGHLIGHTS VARIOUS AREAS/ISSUES WHICH REQUIRE FURTHER ATTENTION.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APProuvé

RE

F.A.MARTENS/cn

RE

P2.0816

LEE ALVERSON'S REPORT TO THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL  
ANCHORAGE, ALASKA  
DECEMBER 10, 1980

Thank you Mr. Chairman.

I recognize that several of the people at the table are part of the U.S./Canada delegation including Mr. Meacham and Mr. Lokken and are fairly conversant with what happened in October at Lynnwood just north of Seattle. Also I am aware that apparently the issue involved in this mission is to be rather short and to the point and I will do the best job possible.

Since I last made a presentation to you, we have had a very substantive meeting with the Canadians, in terms of dealing with all the sort of outstanding and substantive issues between the two countries. In essence, at this point in time, I can say that we are in very close agreement on the institutional form of the new commission which would be constituted of an overall commission and probably three and potentially four sub-panels - the sub-panels largely dealing with the first, the southern sub-panel off the Oregon/Washington coast and dealing with parts of Puget Sound and the Columbia River - the Fraser sub-panel would deal with the historical allocation of the resource in the convention area and deal with problems on the Fraser - the northern sub-panel which would essentially deal with the issues of the boundary area between southeastern Alaska and British Columbia and that panel would probably also handle the so-called transboundary river problems which include the set of transboundary rivers in the southeastern Alaska area.

We have in addition generally agreed on a set of principles and those principles are dedicated to cooperative management of stocks of joint concern for both sides or intercepting stocks of mutual interest. It has a primary dedication to conservation and to rebuilding of the stocks which have been overexploited. It has a primary commitment to stabilize interceptions based on a 1971-74 base year period with exceptions in several areas where it has been necessary because of particular problems. I will highlight those as I go along.

There is a commitment to cooperative enhancement between the two countries in terms of reviewing with each side the cooperative enhancement

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activities that would be undertaken and to attempt to assure that where enhancement is planned that the country undertaking the enhancement would be the primary recipient of its enhancement efforts. And on the other side that it would be done in a manner which would not overly complicate the fisheries of the other side.

Those are, in general, the major principles that are binding between the two sides - or would be binding - in terms of our arrangement.

The principles, however, generate some problems particularly as we begin to implement the agreement and therefore we have tried to develop an arrangement where we would implement this on a first year basis making some exceptions, particularly to the interception scheme where we have some problem areas and essentially try to adjust it over a four year period as we work out the mechanics of how the various factors would be weighed - how we would essentially develop the information base - and to obtain a certain amount of experience over the first four year period in terms of framing the subsequent plans as they relate to various interceptions and adjustments of those interceptions.

A final sort of principle that guides us is that over the long run - and this is a long term basis - that each side, each country, will ultimately be the benefactor of its own production and its own enhancement. If there is a differential in terms of balance between the two countries then it is the obligation of the country that has the biggest slice of the pie, or is taking the largest number of the other sides' interceptions, to achieve a balance over time, and that balance to be achieved through a designed enhancement program which tries to offset the other side to provide new fish for the fellow who is on the short end of the stick.

The enhancement equation hasn't been worked out - excuse me, the equity equation hasn't been worked out - that is, ultimately we will have to decide what are we balancing? Are we balancing the numbers of fish - are we balancing value of fish - are we essentially trying to do this by small areas or an overall basis. That has to be developed during the first four year time frame so that we ultimately work toward an equation which would state what

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equity was within the long term, and then there is an obligation on the part of each side to try to stabilize and achieve the equity over time.

In regards to the area by area agreements, at the present time they are largely as follows:

I will start with the south - generally in the stocks which have their origin in the Columbia River and on the west coast of Washington/Oregon and in the Puget Sound area, Canada will agree in essence to limit their interception levels to the 1971-74 base. They have also suggested that they are willing to take measures beyond that to essentially curtail their interceptions to levels below the 71-74 base period and they are hoping to work out arrangements with the states of Oregon and Washington to take some rather severe actions to in essence rebuild those stocks of King Salmon and Silver Salmon having their origin in British Columbia that have been over-fished. In order to do that we will require not only a curtailing of the interceptions of those fish but the curtailing of interceptions of fish having their origin in the Southern Columbia area. There is in addition - and I want to make it clear - that any time there is a conservation problem, this overrides the interception limitation and both sides are committed to essentially achieve adjustments to rebuild stocks that have conservation problems.

The United States, on the other side, in the southern area, has agreed that this interception of the Canadian stocks that are inhabiting waters off the Oregon and Washington coast, will also be limited to the 71-74 base period. What does this mean in terms of fish commitments - we have already largely achieved that - or have achieved that - as a result of actions taken by the Pacific Council so that we do not anticipate that this will require any further adjustments in the U. S. fisheries in that particular area.

On the Fraser River, the equation is still in doubt - we have two formulas before the negotiating team. One would provide the United States with 35% of all of the harvest going into the Fraser River regardless of what areas they were taken - remember in the past convention it basically was based on a 50-50 split for those fish taken in convention waters. Well, the U.S. share has dropped rather dramatically over the last decade from roughly about

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-4-

40% to 27% of the overall run because a larger and larger portion of the catch has been taken outside the convention area. This would provide us 35% of the sockeye salmon regardless of what area they were caught in - so whatever harvest was established the U. S. would have a right to 35% over the first 20 year period following the implementation of the agreement. Subsequent to that time the U.S. would get what we call the base level, which is the 71-74 base period thing of 2.24 million sockeye, plus a 25% override of any of the run size if it produces a yield greater than that in terms of our share - so if the run was to double then we would get out 2.24 plus 25% of the 50% increase --- so this would by the way, average out about 34% for the next 8 years and would ----

(TAPE STOPS HERE AND THEN PICKS UP AGAIN)

----the Pink proposal on the part of the U. S. which has not been agreed upon by the two sides is basically to also provide the United States with a percentage of the run - basically 35% or 33.6% of the Pink run for the next 20 years and then a similar phase down.

The Canadian proposal in regard to Sockeye is a guarantee of the 2.24 million fish that we got in the 1971-74 period as an average for as long as the agreement was in effect. In essence the two agreements differ in this form - the U. S. proposal is one which I call a fisherman's proposal because it is optimistic and it gambles that the run is going to go up and that by going up they are going to get more by taking a flat 35%. The Canadian proposal is one the bank would like to see because it guarantees you a certain amount if you fall below that level they have to make it up - if there are 3 years in a row where you only get a million and a half fish instead of 2.24, they have to make that up plus interest in the future. So one is an insurance policy - the other an expectation policy. In my view the Canadian proposal probably is a little better from the guy that does business but I think the preference from the fisherman's part is largely along the lines of the U. S. proposal. If we look at the likely growth pattern of the run, it is our view that both proposals are going to come out very close if the Canadians are successful in carrying out their enhancement program. I guess we are betting that they are going to

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be successful if we choose our proposal.

The boundary area agreement between Canada/British Columbia and Southeastern Alaska, is an agreement where again it goes back to the 71-74 base and the Canadians have committed themselves south of the boundary area to retrench their fisheries to the 71-74 base level. This will call for a rather substantial reduction in their new troll fishery that was hitting our Pink Salmon - took somewhere according to their records around 300,000 fish this past year - and an adjustment of their net fisheries along the boundary area to retrench back to the 71-74 base level as far as interceptions. On our side of the boundary we <sup>have</sup> two areas of primary concern - the Cape Fox, where our fisheries, in a historical sense in terms of effort, have not changed substantially since the base period. So, as far as we perceive it, no major adjustments would be required in that fishery but on the other hand, it would require our net fisheries at Noyes Island to retrench to a lower level. Now we had a problem because on the U. S. side, during the base period of 71-74, there was a conservation closure so we didn't have a 4 year base and we had suggested to the Canadians that we felt some adjustment was necessary. In addition, we had a strong rebuilding of the runs through management processes in that area and our catches have been substantially above the base period so we have asked for an adjustment upwards over the base period from roughly 101,000 up to about 140,000 fish. That is our proposal at the present time and the Canadians have basically said they would accommodate that need on the part of the Alaskas. But, on the other hand, they felt that they had legitimate needs to compensate south of the boundary and they are to make proposals to us at the next session as to what sort of compensation one would assume an equivalent number of fish adjustment south of the boundary area.

On the transboundary rivers, which has been a long, difficult debate and has been fully contentious on both sides, I think we are moving towards a fairly good agreement. In essence, both sides have agreed that you have to effectively manage those two rivers, do it in joint and cooperative fashion. The management goals have to be set jointly, escapement patterns have to be set jointly on those river systems. That one side cannot enhance on a trans-

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boundary river without the approval of the other - it just generates too many problems with an enhancement unilaterally done. So they have agreed that any enhancement would be done on the basis of a bilateral agreement on enhancement.

The goal of the United States, of course in the transboundary rivers, has been to stabilize the fishing pattern in terms of historical fishing levels so that the U.S. fisheries would not be basically changed from their historical patterns. That has generated some problems because the Canadians have felt, of course, that in some of those systems that they have a basic right to some of the salmon - in some of these rivers as much as 80% of some species of salmon may be spawning in the Canadian headwaters - and that they had a right and the United States has agreed in basic principle that the Canadians have a right to a certain amount of salmon that are bound toward the Canadian area for spawning. The two sides haven't come to general concurrence on what that percentage - or what that entitlement - should be but in principle we have agreed that there is an entitlement and we are trying to work that out. We are trying to work it on the basis that whatever entitlement should go to the Canadians should not be taken out in fish that disrupts the U. S. fisheries, but should allow the U.S. to find ways of mitigating for those losses to the Canadians or to the entitlement of the Canadians on the basis of rebuilding runs elsewhere largely through enhancement projects or through the subsequent adjustment of our fisheries if we feel that through good management we can find other means of providing the fish that they are entitled to on the transboundary. They would then largely retrench their fisheries to somewhat levels prior to the 1979 level and, in essence, the U.S. then would have, we would hope, minimal disruption of its historical fisheries in the transboundary rivers.

The Canadians have brought forth the problem of the Yukon which, at that time, came somewhat of a shock to us because we haven't had a historical dialogue to a real extent on resolution of that problem. We did not have with us any members that could effectively represent the Yukon people. Although there is some concern, I have understood, on the part of some of the Alaskans of what we have committed to in the Yukon, basically we have committed that we

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P8 of 10

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recognize the Canadians feel there is a problem and it is a transboundary river. It has the same problems in terms of joint management as the others. We are willing to discuss this and try to work out a solution with the Canadians as quickly as possible but that discussion would be another set of negotiations for which we would have to bring in a new set of advisors and get consultation from Alaska on what sort of solution might be found and what is considered a reasonable solution. We have not negotiated any details on the Yukon. The Yukon has only been recognized as a problem area and we have felt the U. S. advisors from Alaska - we can't just tell the Canadians it is not a problem - they feel it is. And what we have committed to is to sit down and talk and try to find a solution.

With that, I think that covers most of the major problems, Clem, that deal with US/Canada. I would say that this agreement has a cost to it. I do not feel, and I would not recommend, that this group support an agreement that doesn't have the physical resources and the manpower to make it work. I have watched the - under the FCMA and the Marine Mammal Protection Act - so many different agreements being generated and then not following through with the facilities, the research capability, the monitoring capability, to take care of the work that an agreement like this would impose on those who would have to effectuate it. If we can't get the money that is required to support this, then I don't think it is worth going through the agreement because I think we will have an agreement that is a paper agreement without the ability to essentially resolve some of the outstanding issues between the two countries. So I am recommending to the people in the Senate that I will ultimately present this to, and to our delegations, that this be contingent on having adequate funds to essentially take care of the research and the enhancement commitments that are a part of the binding arrangement in this commitment.

I think that is about as much as I would want to say and the next session is scheduled for January, we hope to resolve some of the remaining outstanding differences that relate to what they are going to do in the boundary area off southeastern Alaska and to the two choices of a solution on the Fraser River and then to develop a comprehensive agreed record which would then, subsequently, have to go to governments for consideration.

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pg 10

-8-

Mace:

I agree with you - the struggles we are having up here and on the Pacific Council with getting data upon which to base a salmon management plan is the big bugaboo and without knowing information about those fish stocks, it is not really going to jell. The recent passage of the enhancement that is the Breaux bill - which could offer alot of bucks - it may be the last bucks we get from the standpoint of fisheries - would - you didn't consider this really when you were in the middle of your negotiations, would this, do you feel, provide some help?

Alverson:

What we did consider - we did have it in the back of our minds - and the answer is yes, as it relates to the commitments we might ultimately fulfill in Oregon and Washington. But it isn't going to resolve the problem as I see it, that we might have to fill in Alaska. Therefore, I am hoping this group, if it feels that the agreement ultimately is a satisfactory one and meets the expectations and aspirations of the Alaskans regarding resolving a longstanding dispute, would be helpful to us in going to Senator Stevens and to others who will be influential in the Senate in ultimately deciding the fate of this particular treaty and essentially acquiring the funds to support it.

Bevan:

Lee, I share your concerns on this question of having adequate information to implement the treaty if it is finally signed. I guess my first question at the moment is who is sitting down now and looking at that potential agreement and putting together the particulars of research, needs and associated dollars, so that we have a package when someone says, "Exactly what resources do we need, over how long a period of time?" - that is quite a little chore, it seems to me, and I guess I am a little concerned that maybe we haven't identified some people to do that job --

Alverson:

We have done quite a good job in the north - the Alaskan ADF&G people with NMFS have put together an overall proposal that relates to the research

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-9-

requirements over the first decade of this agreement. We do need to sit down and do a similar sort of evaluation as to research commitment in the south and then there are obviously needs to evaluate the mechanics of actually the operation of the Commission itself -- how much funds that are in the existing Fraser panel would be transferred over and what sort of statistical support, commitments -- we do have people working on that now. It has not been fully worked out.

Tillion:

Thank you, are there any further questions?

Tillion:

Thank you very much indeed.

*[Handwritten signature]*

**ACTION**  
**SUITE A DONNER**

*[Handwritten signature]*

R E S T R I C T E D

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TC EXTOTT FLO

INFO FINOTT/IER ITCOTT/OGR/FPB/PAB/EUR/WHB BONN LDN COPEN MDRID

BREEC PARIS TOKYO

BH FANDOOTT/CAMPBELL APPLEBAUM/SIMCOCK/WONG/HUNTER DE OTZ

REGAM BOSTN DE WDC FANDOVNCVR/HOURSTON/SHEPARD DE OTZ

SFAX SEATL DE WDC

DISTR FLP GNG GEB GPO ECO EIP PGN

REF CURTELS UNGR5296 30SEP 5602 15OCT(NOTAL)

---USA FISHERIES LEGISLATION:SALMON AND PROMOTION ACTS

LAST MINUTE COMPROMISES BY KEY SENATORS AND CONGRESSMEN ALLOWED

SENATE TO PASS ON 03DEC BOTH SALMON ENHANCEMENT AND AMERICAN

FISHERIES PROMOTION ACTS.WITH MINOR VARIANCES LATTER ACT IS SAME

AS BILL ANALYSED IN REFTTEL.SALMON ENHANCEMENT ACT HAS BEEN MORE

EXTENSIVELY REVISED AND IS RELATIVELY COMPATIBLE WITH ON-GOING

CDA/USA SALMON INTERCPETION NEGS.

2.AMERICAN FISHERIES PROMOTION ACT:ACT AS ANALYSED REFTTEL 5296 IS

ESSENTIALLY SAME AS ONE PASSED 03DEC.SEN STEVENS(ALASKA)BACKED OFF

HIS DEMAND THAT CAPITOL CONSTRUCTION FUND(CCF)PROVISION BE INCLUDED,

THUS PERMITTING COMPROMISE BETWEEN HOUSE AND SENATE REVISIONS OF

BILLS.RE PERMIT FEES,THE TWO EXCEPTIONS TO HIGHER FEE SCHEDULES

SET OUT IN ACT IE THAT THEY MAY NOT/NOT BE SET AT LEVEL WHICH WLD

RENDER FOREIGN FISHING IN USA ZONE UNECONOMIC,OR BE LOWER THAN

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BY HAND		PAR PORTEUR
ATTN	25-5-5-13A	

PAGE TWO UNGR6533 RESTR

1979 LEVEL FEES) HAVE BEEN DELETED. NEW FEE STRUCTURE IS QUITE HIGH AND ALTHOUGH EXACT LEVEL OF FEES WILL DEPEND TO SOME EXTENT ON HOW COST OF CARRYING OUT PROVISIONS OF FCMA WILL BE CALCULATED, USA ANTICIPATES STRONG REACTION FROM FOREIGN FISHING NATIONS TO THIS CHANGE:

3. SALMON AND STEELHEAD CONSERVATION AND ENHANCEMENT ACT OF 1980. THIS ACT IS DESIGNED TO HELP RESOLVE DIFFICULTIES CAUSED TO FISHERIES OF PACIFIC NORTHWEST BY SERIES OF COURT DECISIONS, PRINCIPAL ONE OF WHICH WAS SO-CALLED BOLDT DECISION. ACT ESTABLISHES SALMON AND STEELHEAD ADVISORY COMMISSION WHICH MUST WITHIN 15 MONTHS, PREPARE REPORT ON DEVELOPMENT OF MANAGEMENT STRUCTURE FOR NORTHWEST PACIFIC SALMON AND STEELHEAD RESOURCES. PRINCIPAL OBJECTIVES AND STANDARDS FOR STRUCTURE, WHICH COMMISSION MUST TAKE INTO ACCOUNT ARE SET OUT IN ACT. COMMISSION WILL TERMINATE UPON APPROVAL OF ITS REPORT BY SECY OF COMMERCE.

4. HOUSE OF REPS VERSION OF ACT REPORTED IN REFTEL 5602, HAD CONTAINED SERIES OF COMPLEX MANAGEMENT CTTEES WHICH SENATE WLD NOT/NOT ACCEPT. DEADLOCK WAS BROKEN WHEN REP BREAUX STAFFERS AGREED TO ADVISORY COMMISSION CONCEPT. THIS SHOULD FIT IN WELL WITH CURRENT CDA/USA PACIFIC SALMON NEGS AND IT IS HOPED THAT COMMISSION WILL BE ABLE TO TAKE INTO ACCOUNT ANY RESULTS WHICH THESE NEGS MIGHT PRODUCE.

5. ACT ALSO PROVIDES FOR CREATION OF COMPREHENSIVE ENHANCEMENT PLAN FOR PACIFIC NORTHWEST SALMON AND STEELHEAD RESOURCES (DIVIDED INTO

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PAGE THREE UNGR6533 RESTR

TWO AREAS WASHINGTON CONSERVATION AREA AND COLUMBIA RIVER  
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FOR SPECIFIC ENHANCEMENT PROJECTS IN THESE AREAS.MONEYS AUTHORIZED  
FOR SALMON ENHANCEMENT,FOR 10 YEAR PERIOD STARTING 01OCT82,ARE MAX  
DIRS 45 MILLION FOR WASHINGTON CONSERVATION AREA AND DLRS 25  
MILLION FOR COLUMBIA RIVER CONSERVATION AREA.THESE MONEYS MAY  
NCT/NOT BE USED FOR OPERATION OR MAINTENANCE OF ENHANCEMENT  
PROGRAMS OR RELATED FACILITIES AS THEY EXIST ON DATE OF SECRETARYS  
APPROVAL OF ABOVE-MENTIONED ENHANCEMENT PLAN.THUS MONEYS ARE  
ENTIRELY PROSPECTIVE IN APPLICATION.ALTHOUGH AMTS OF MONEY ARE  
LOWER THAN SENATE WLD HAVE WISHED TO SEE IN ACT,THEY SHLD REPRESENT  
SUFFICIENT AMOUNT TO GIVE FIRM SUPPORT TO SALMON ENHANCEMENT EFFORTS  
IN AREA AND TO ENSURE THAT USA SIDE CAN CONTRIBUTE TO CDA/USA  
CCOPERATIVE SALMON ENHANCEMENT EFFORTS ON PACIFIC CCAST.  
6.COPIES OF TWO ACTS AS CONTAINED IN CONGRESSIONAL RECORD BEING  
SENT BY BAG TO FIO FOR FURTHER DISTRIBUTION.

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OFFICE  
OF THE  
SECRETARY OF STATE  
FOR  
EXTERNAL AFFAIRS

CABINET  
DU  
SECRÉTAIRE D'ÉTAT  
AUX  
AFFAIRES EXTÉRIEURES

TO/A: FLP

Date 3.12.80

FROM/DE: MIN

REFERENCE/RÉFÉRENCE:

SUBJECT/SUJET: Minister's decision/Décision du Ministre

Seen by SSEA

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Kee

~~Philip~~  
no comment  
by Min  
AB

EXT 914 (9/75)

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FLP 274

CONFIDENTIAL

December 1, 1980.

ACC	108117	REF
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BY HAND		PAR PORTEUR
ATTN:		

MEMORANDUM FOR THE MINISTER

SUBJECT: West Coast Salmon

The purpose of this memorandum is to seek your agreement to proposed actions relating to West Coast salmon. (We have just learned that Mr. LeBlanc may raise this with you at your breakfast meeting December 2.)

Preparation of a Cabinet memorandum seeking authority to begin formal negotiation of a West Coast salmon interception agreement cannot be completed until early next year, when further statistical data on the fisheries has been assembled and the financial implications for Canada have been reviewed. Negotiations might then proceed next April.

In the interim, however, it would be advantageous if both Canada and the USA could unilaterally institute new conservation measures for the 1981 salmon fishing season which would reduce salmon interceptions. In addition to affording new protection to the spawning stocks, new regulatory action instituted by each government before a treaty is negotiated might allay suspicions harbored by fisheries interests on both sides of the border that an equitable salmon interception treaty is unachievable. These measures would not be negotiated with the USA, nor would the implementation of such measures lock us into any negotiations (or strategy) in advance of Cabinet consideration of the bilateral salmon issue in the context of our overall bilateral fisheries relations with the USA.

The essentially technical measures now contemplated are being raised with you because it will be necessary for technical discussions to take place between U.S. and Canadian officials to ensure that each side has a clear idea of what new unilateral conservation measures are to be undertaken.

It may also be necessary for the U.S. and Canadian salmon negotiators to hold consultations in the new year

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- 2 -

to ensure that technical fisheries data is being correctly assembled to allow the treaty negotiations, if approved by Cabinet, to proceed.

It must be recognized that the various meetings described above might be used by those interests opposed to virtually any salmon interception treaty (such as the United Fishermen and Allied Workers' Union) as evidence that the treaty negotiations are "continuing" despite the reality that these meetings would be held only to refine the statistic data necessary for proper Cabinet consideration of the Canadian position in any formal negotiations, and to exchange information on regulatory measures to be taken by each government next season before the treaty is negotiated.

We consider that the proposed meetings are important in laying the technical groundwork for any formal treaty negotiations. We would propose, however, that such meeting proceed only on the clear understanding that they are to be confined to the limited objectives outlined above, in order to avoid foreclosing decisions by Ministers regarding the formal negotiation of a West Coast salmon treaty. If you agree, you may wish to make this point to Mr. LeBlanc.

A E G

A.E.G.

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is correct  
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Ottawa, Ontario,  
CANADA K1A 0E6.

November 25, 1980.

PACIFIC SALMON

Mr. Gordon Sanderson,  
Director of Fisheries,  
Washington Department of Fisheries,  
Room 115,  
General Administration Building,  
Olympia, Washington,  
U.S.A. 98504

DATE	
ACC 151912	REF
FILE 25-5-7-2-SALMON-1	DOSSIER
BI H ND	PAR PORTEUR
ATTN:	

Dear Mr. Sanderson:

As you are aware, representatives of Canadian and United States Governments met in Seattle on September 25, 1980 to consider two issues:

1. extra fishing days taken by U.S. Treaty Indian fishermen as a result of the Boldt decision and;
2. the U.S. request for a Treaty Indian observer to attend Commission meetings.

Progress on these issues is to be reviewed by both governments in September 1981. Both Governments agreed that recommendations be made to the Commission on each issue.

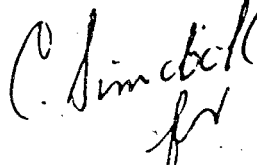
With respect to the consequences of the Boldt decision, it was agreed that both Governments recommend to the Commissioners that they review the procedures of the U.S. Treaty Indian fishery including the reporting of statistics, with a view to clearing the air. I understand that arrangements have been made for representatives from the Department of the Interior to be present at the next meeting of the Commission in order to address this issue, and encourage such communication.

.../2

I further recommend that the Commissioners consider at the 5 December meeting the U.S. request for an Indian observer to attend Commission meetings at times when the management of salmon is discussed.

I am confident that Commission action in line with the above recommendations will result in improved communications to all sectors of the industry affected by the Commission's decisions.

Yours sincerely,



A.E.H. Campbell,  
Director General,  
International Directorate.

c.c. W.R. Hourston - Vancouver  
J.R. MacLeod  
M. Hunter

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Department of External Affairs



Canada

Ministère des Affaires extérieures

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*210-1546*

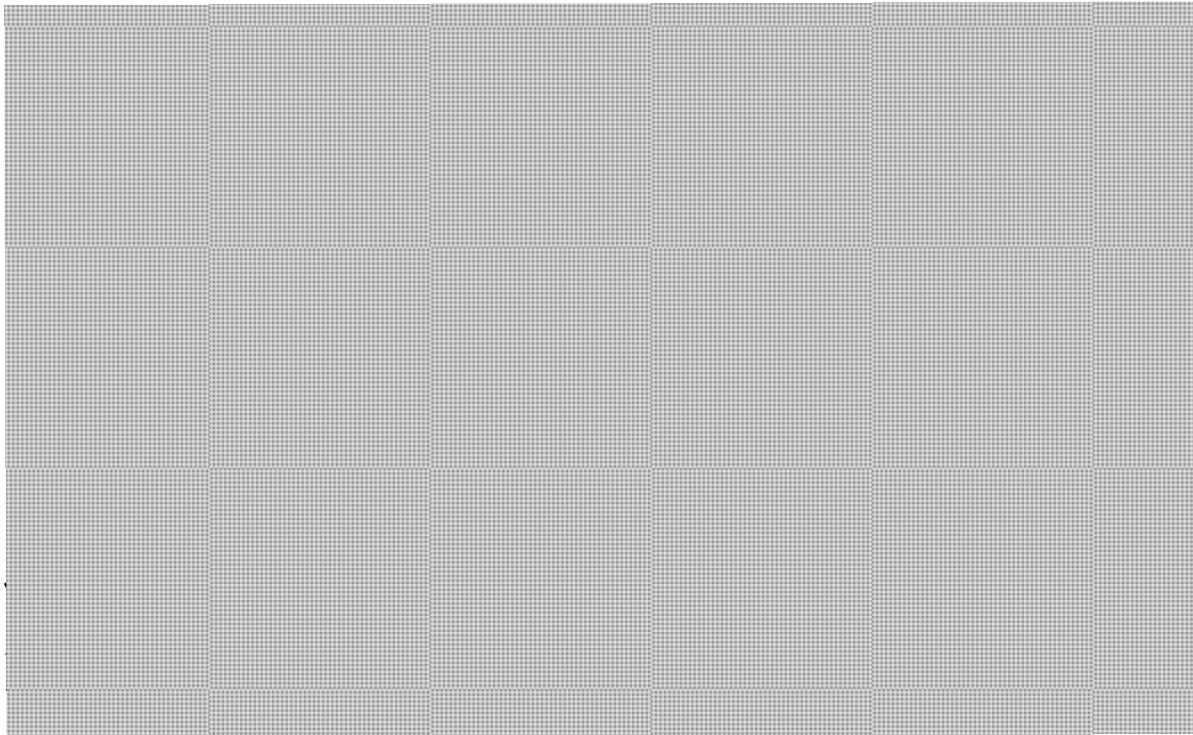
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November

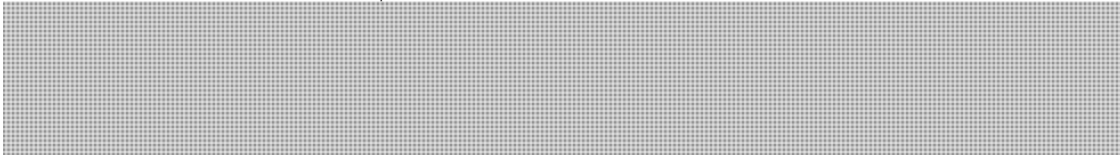
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ATTN:	PAR PORTEUR
24, 1980	
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Dear Tony,



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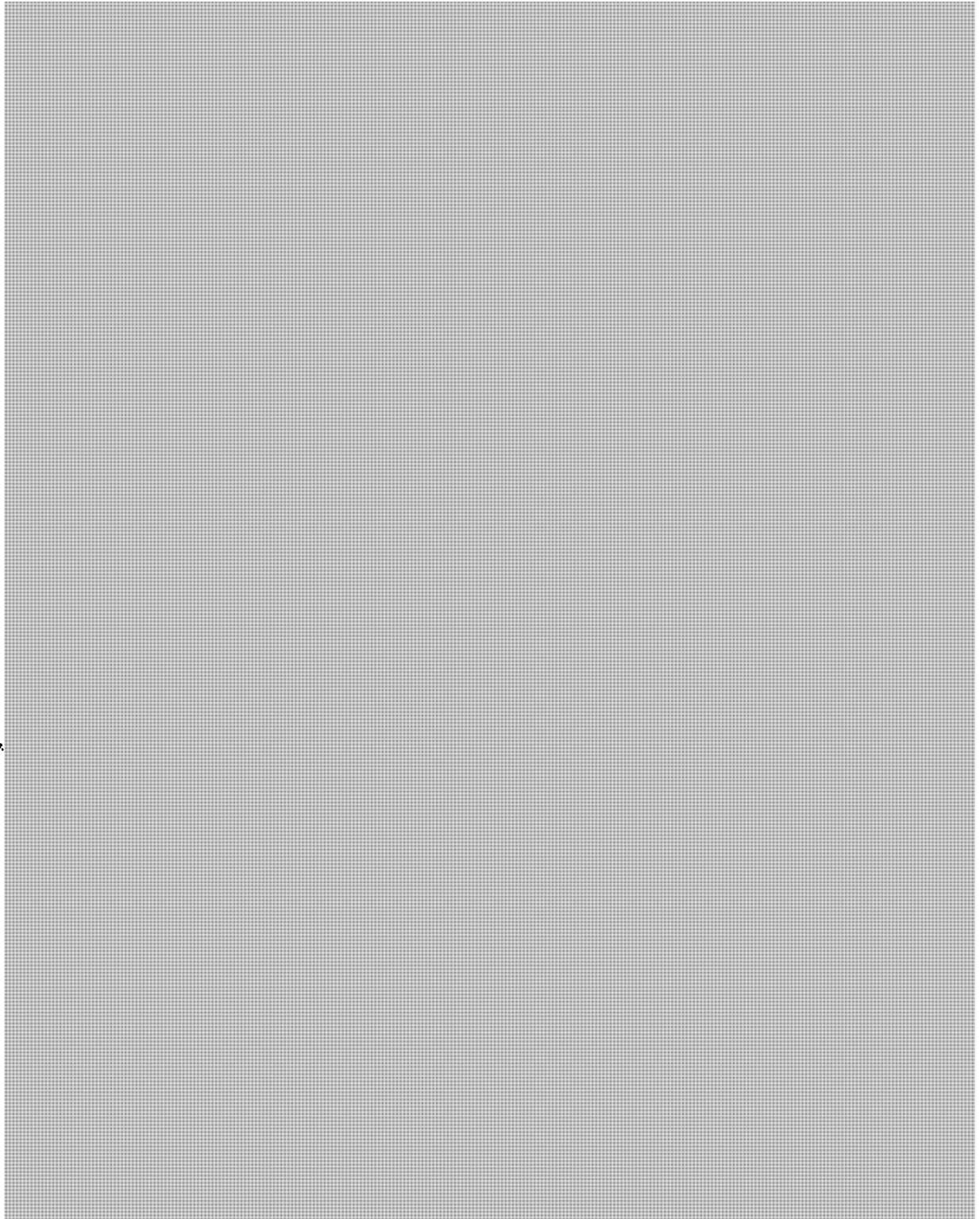
Yours sincerely,

Lorne S. Clark  
Director  
Legal Operations Division

Mr. Tony Campbell  
Director General  
International Fisheries Directorate  
Dept. of Fisheries & Oceans  
8th Floor West  
240 Sparks Street  
OTTAWA

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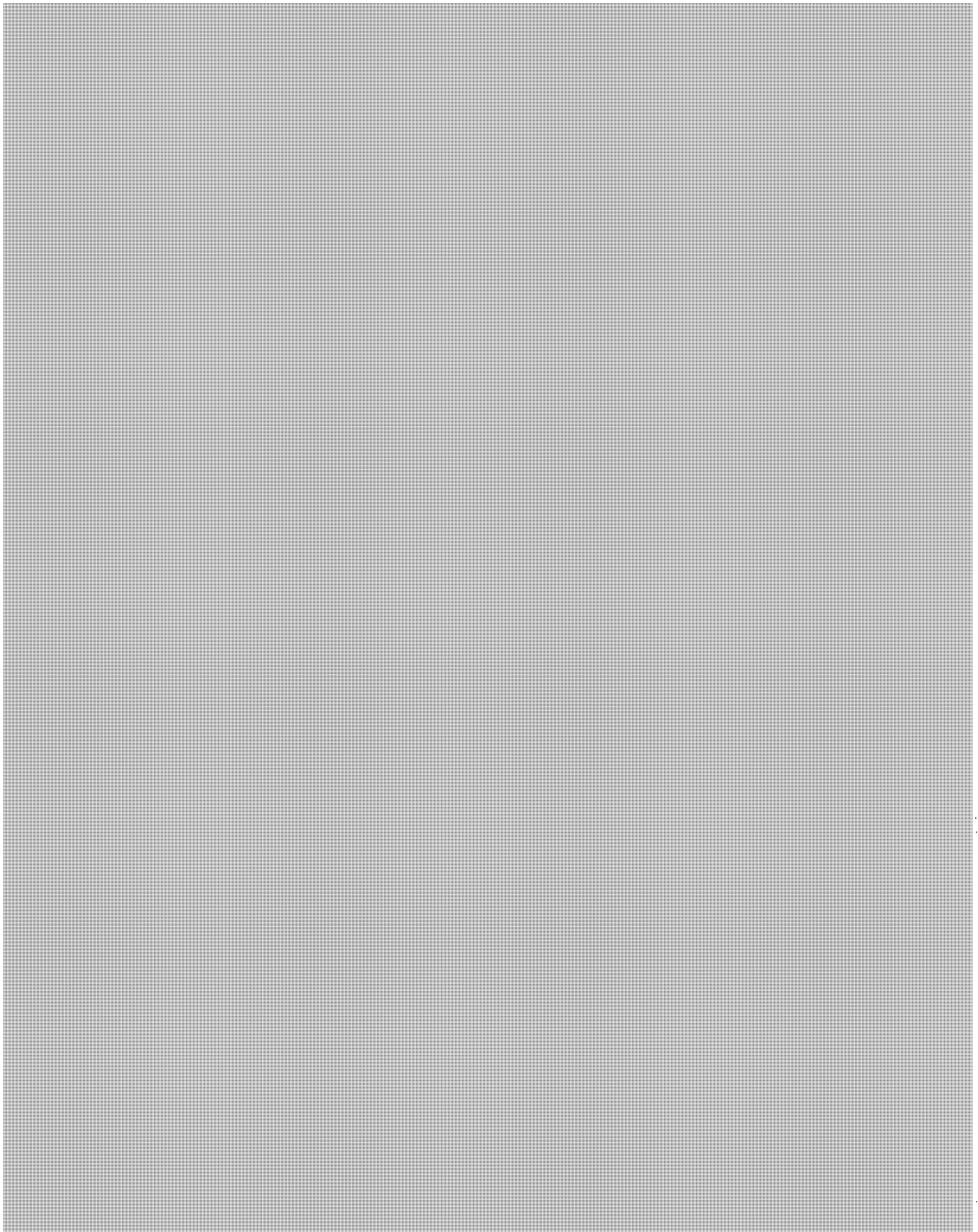
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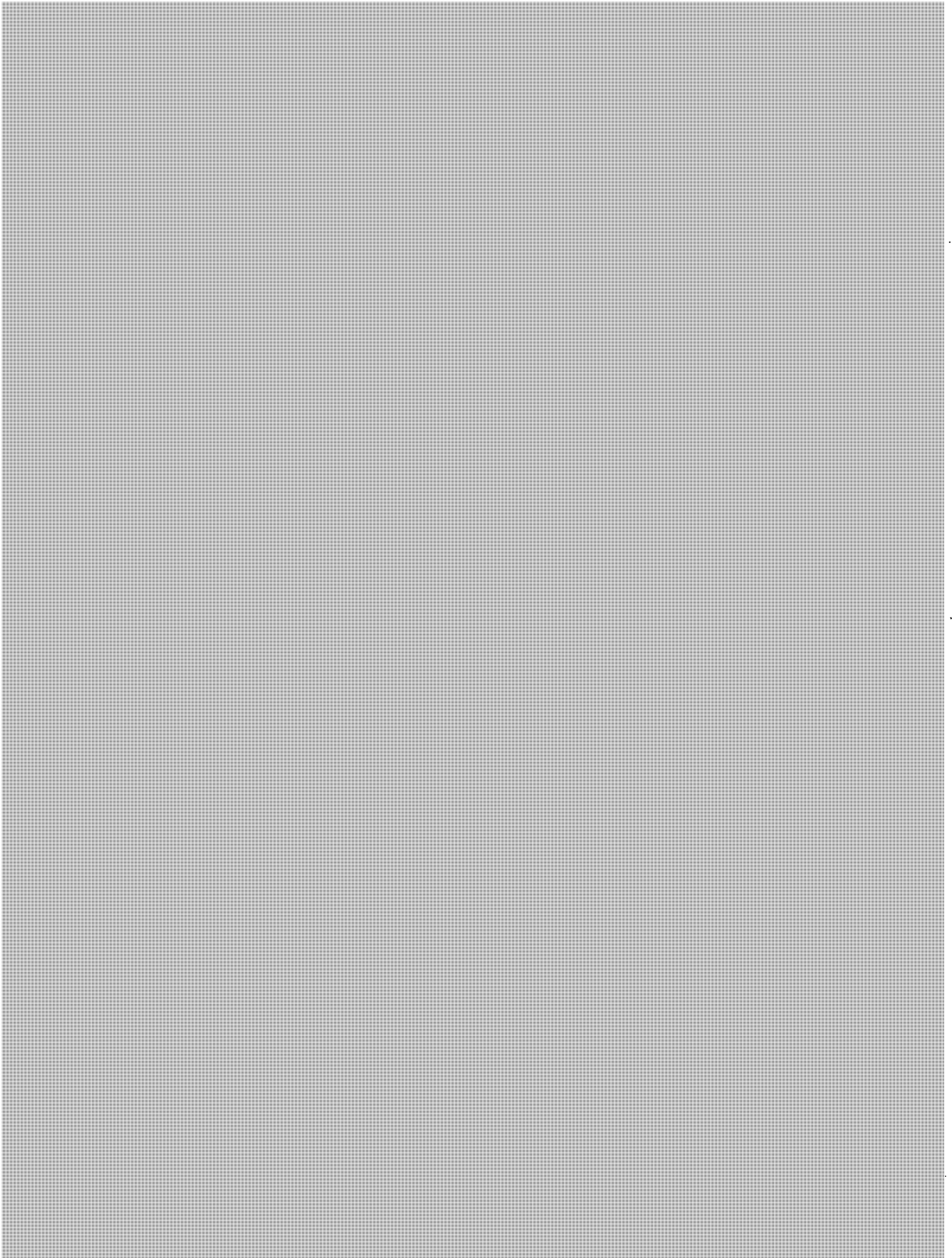
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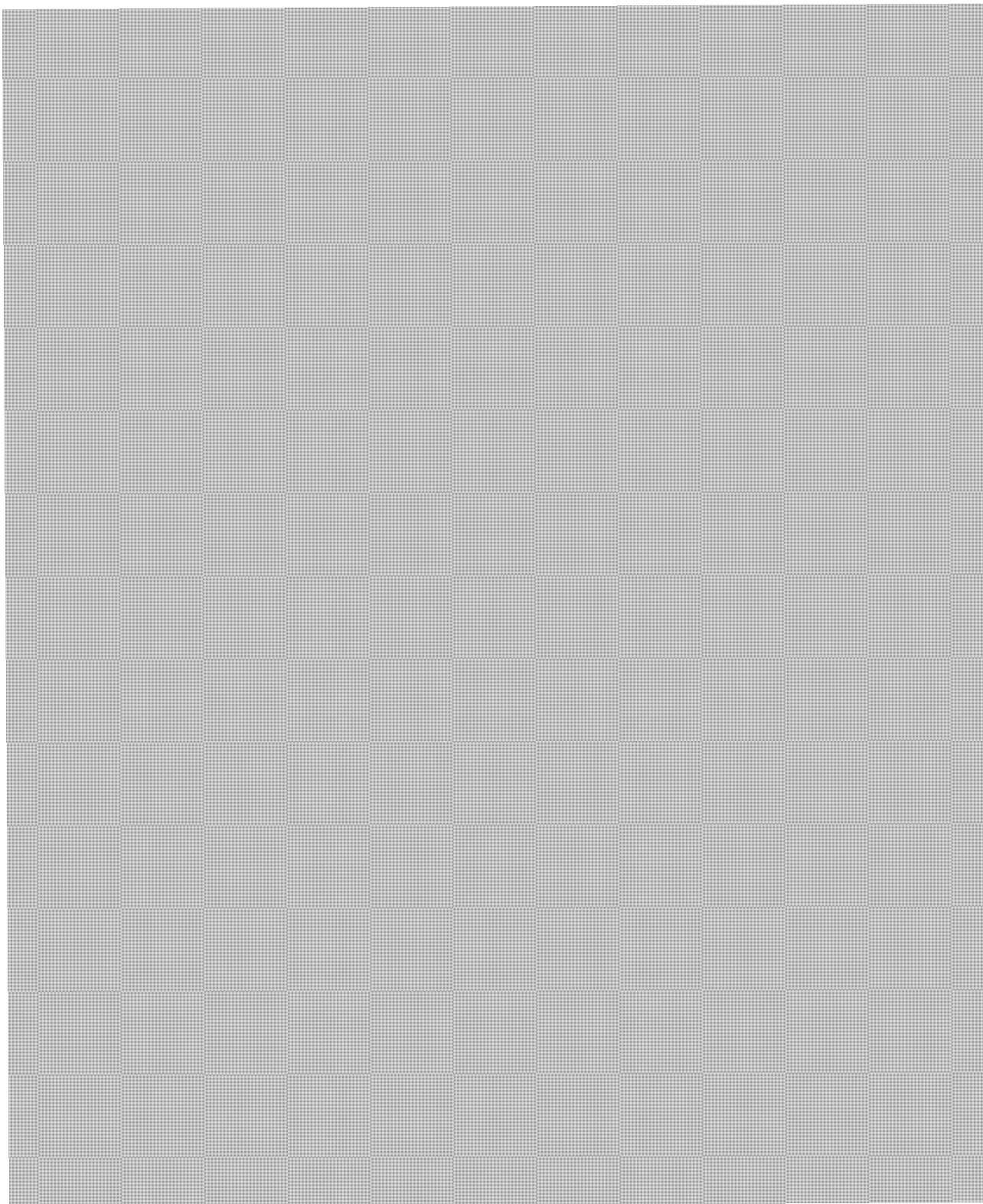
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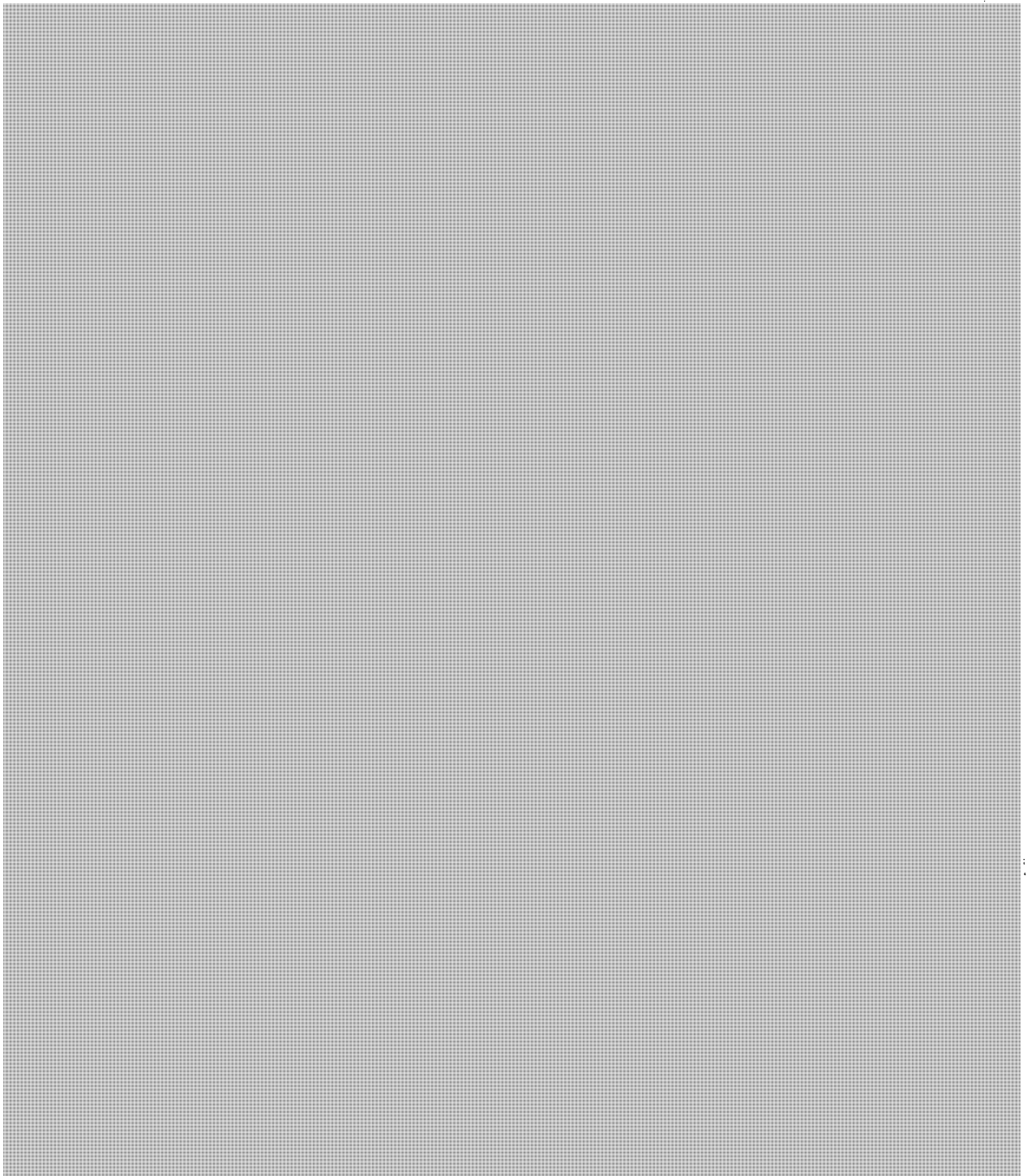
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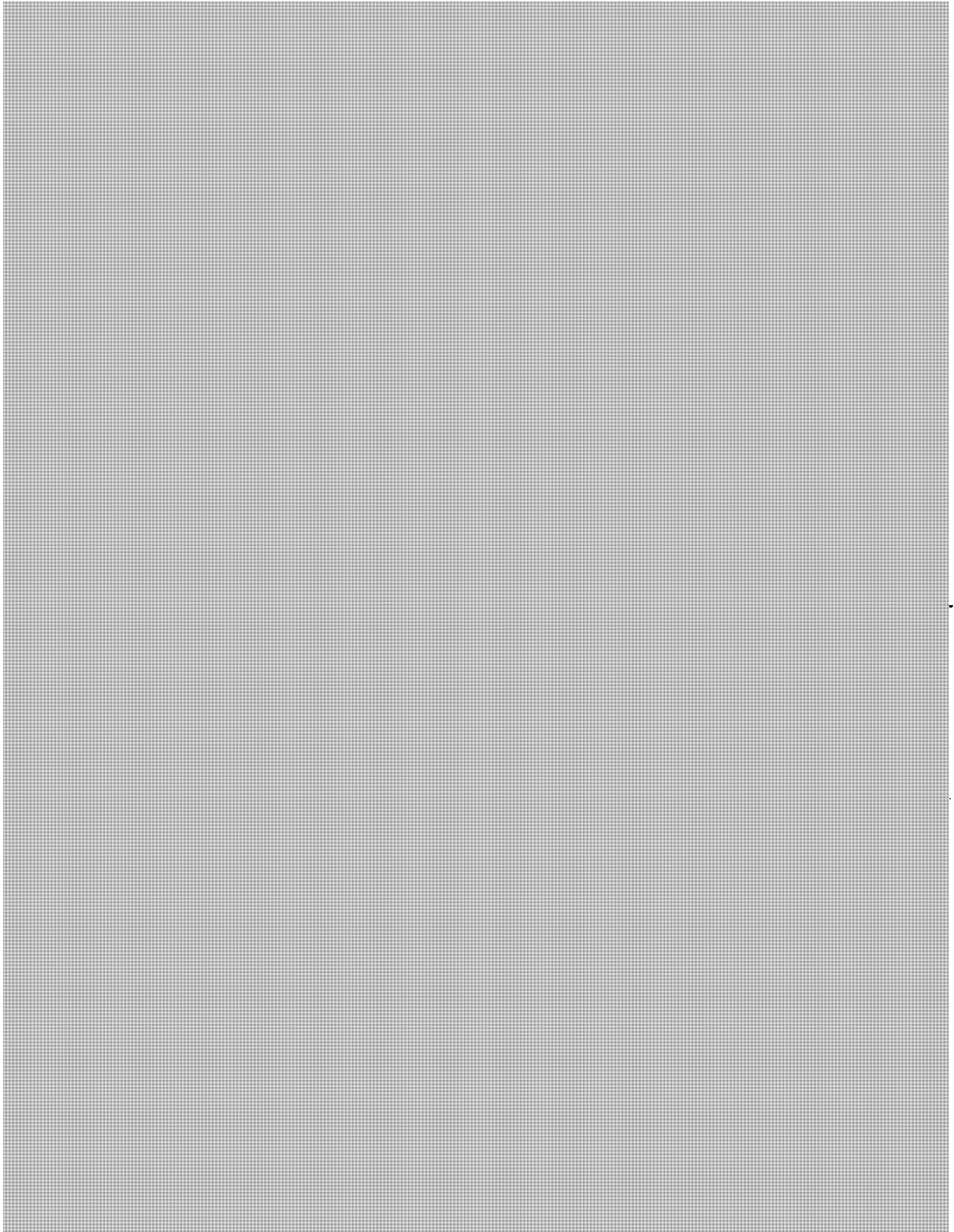
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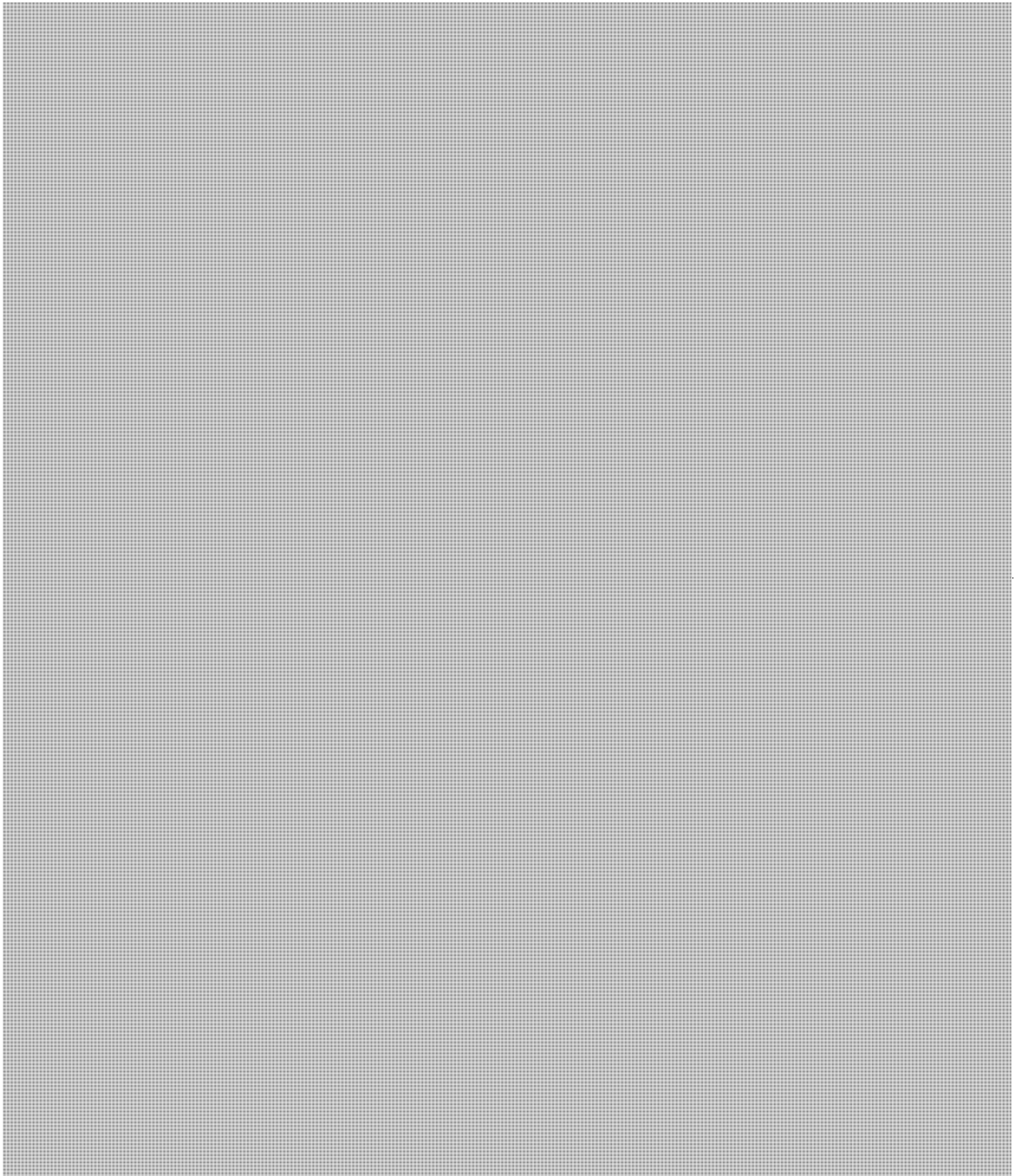
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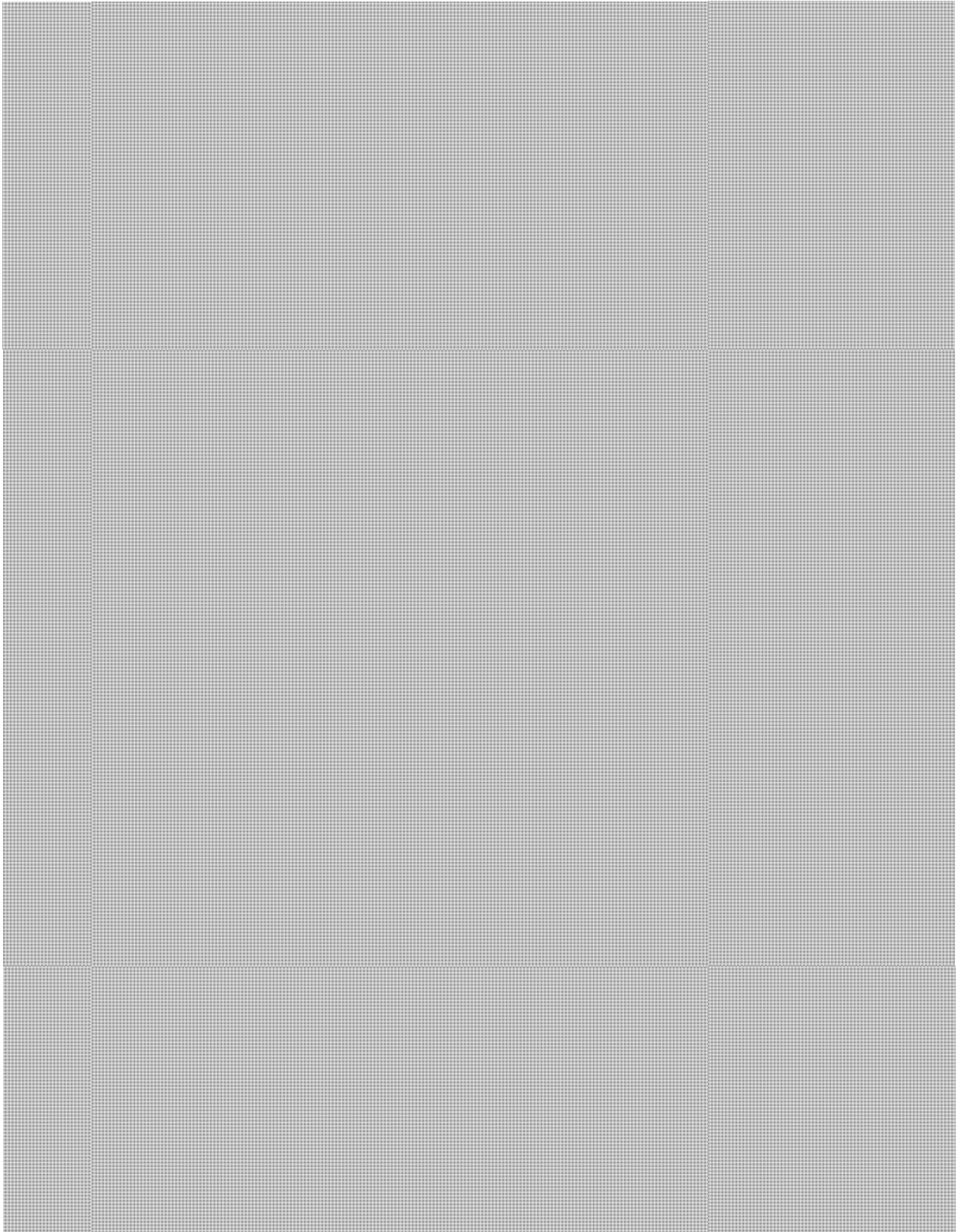
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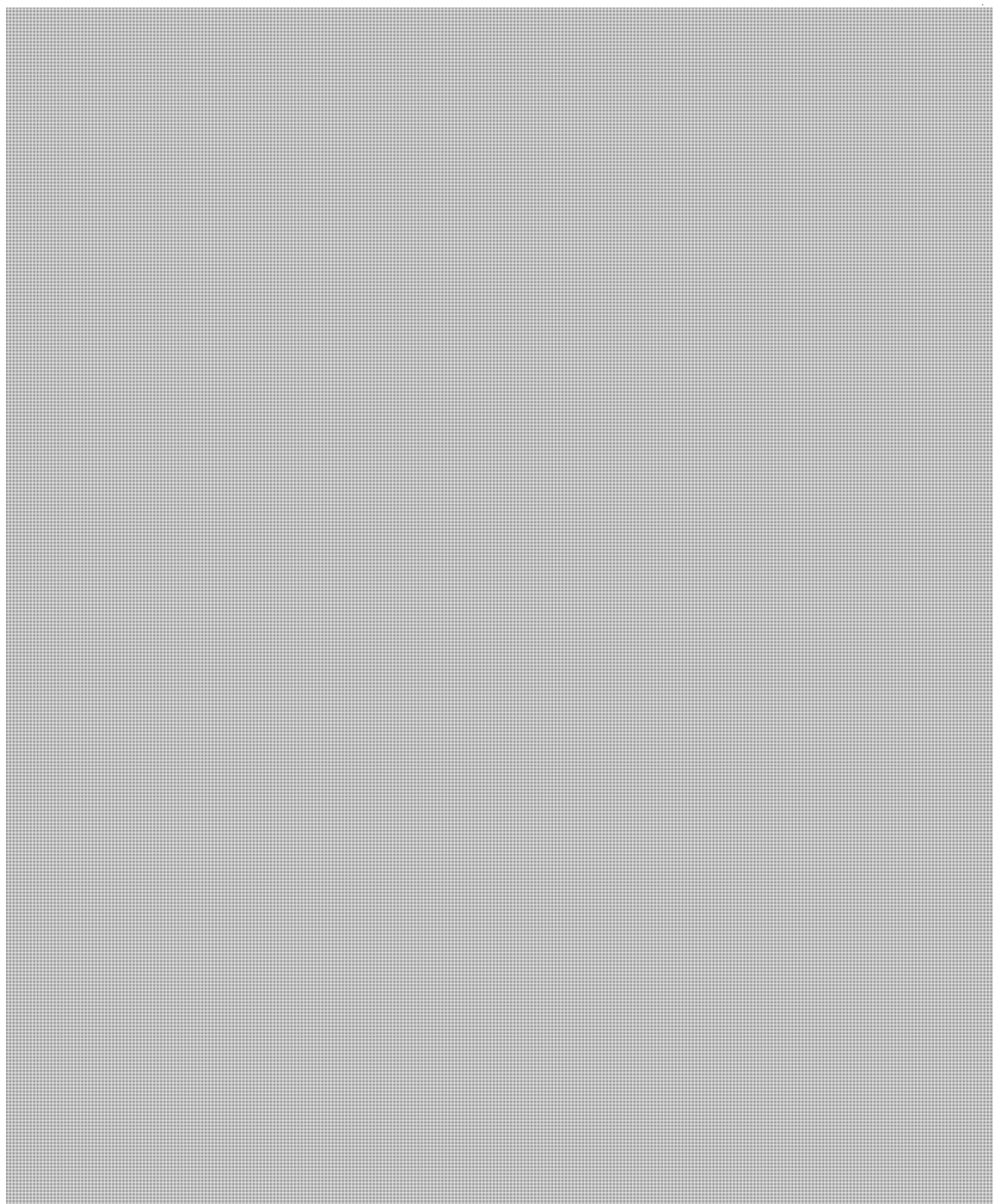


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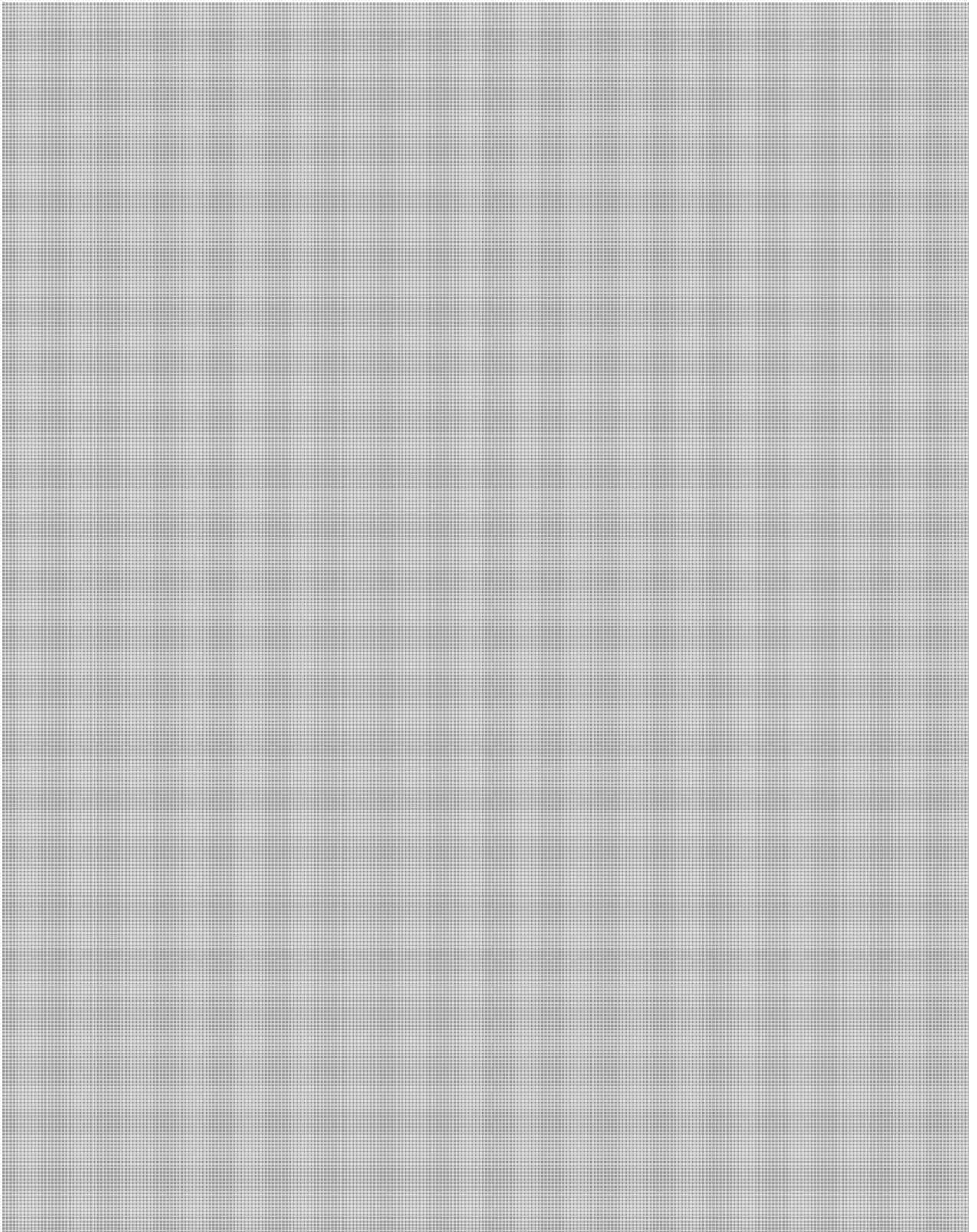
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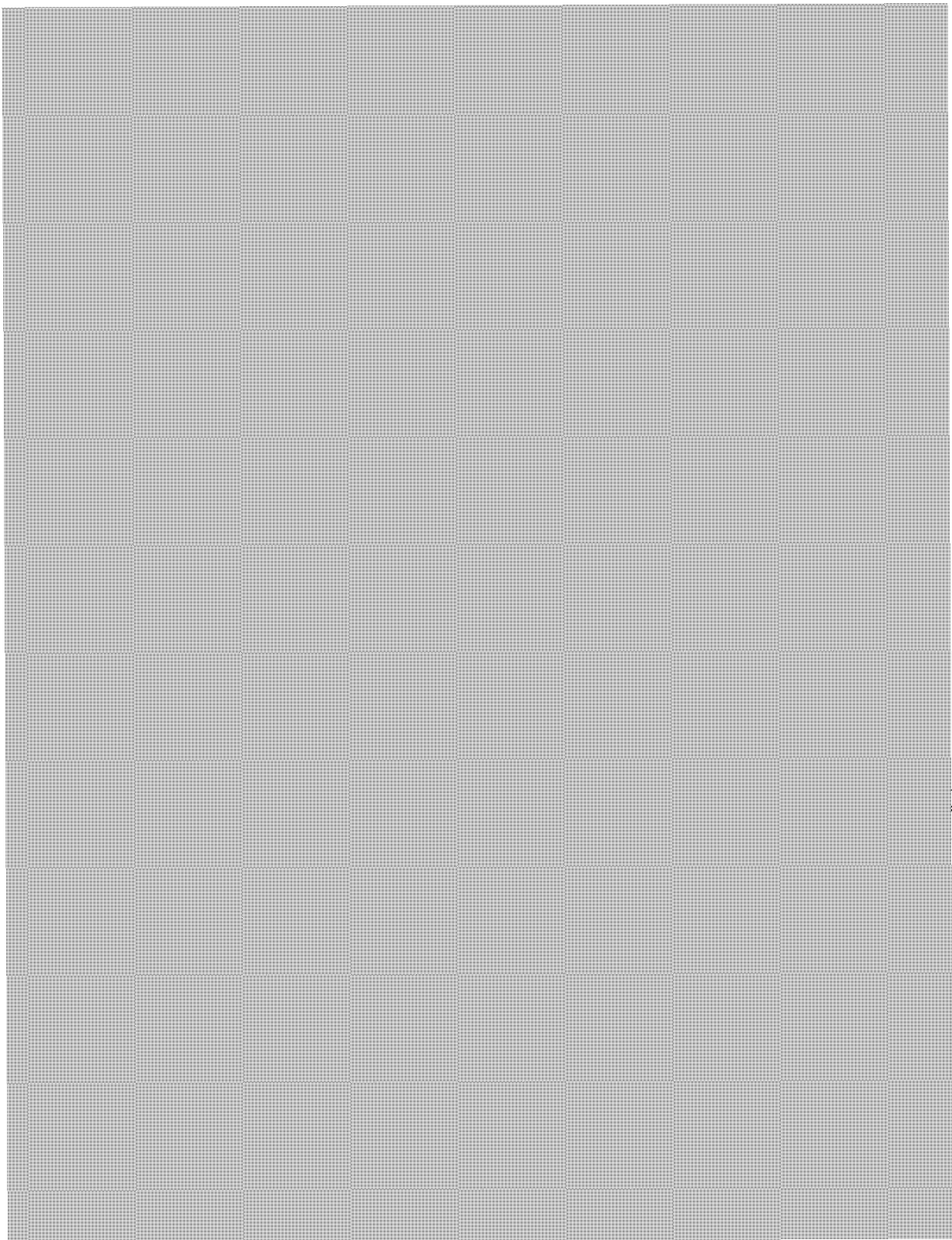
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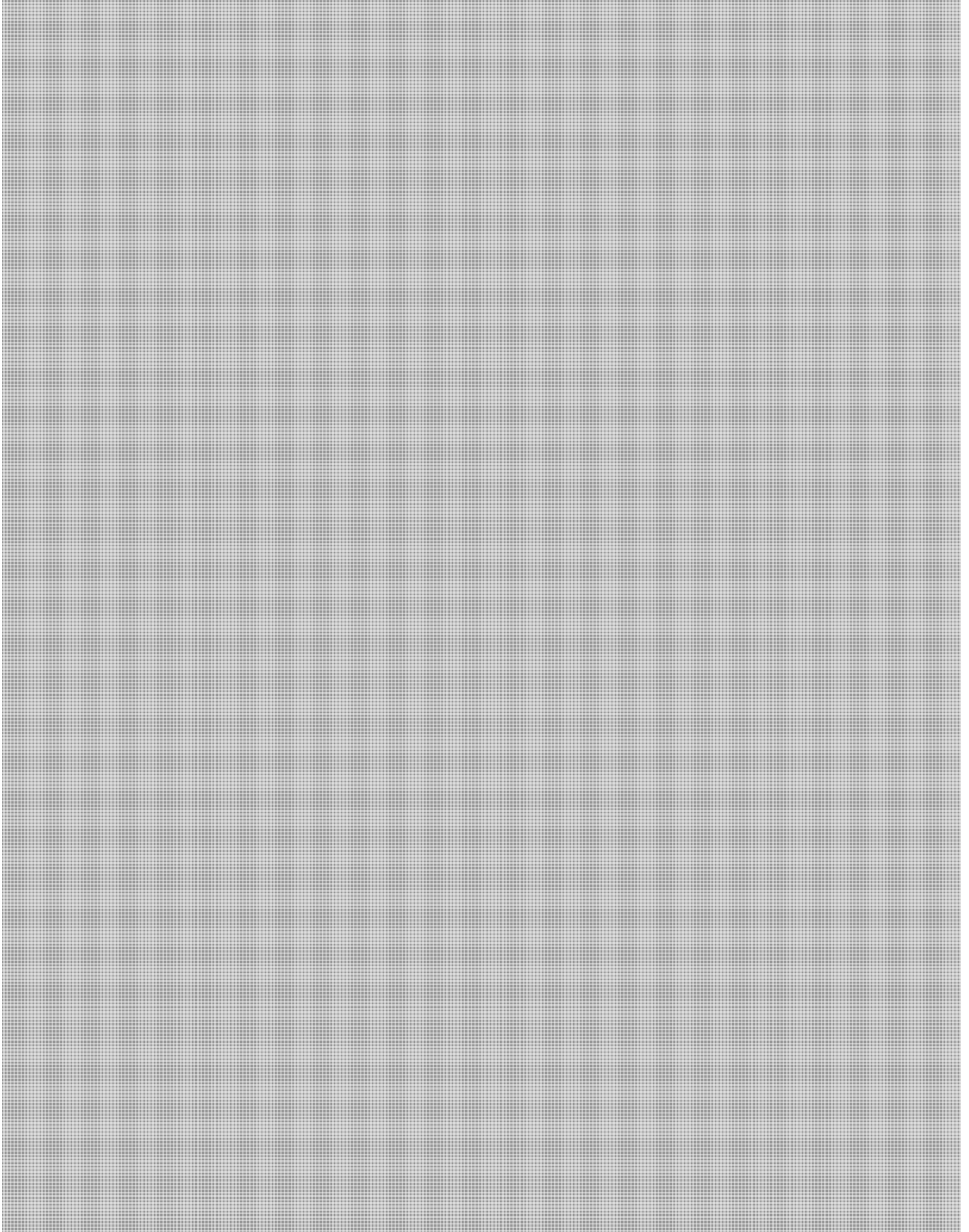
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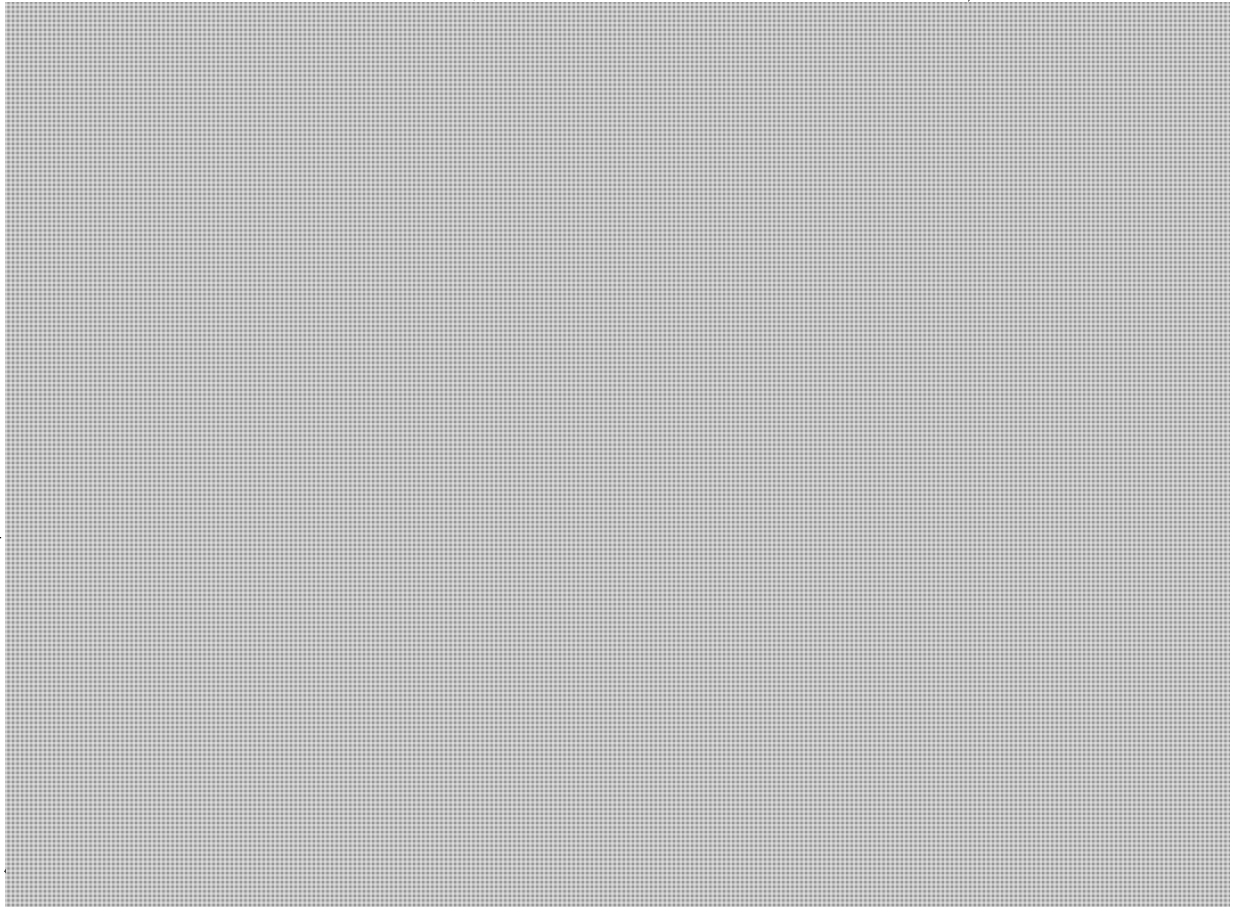
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R. I. WILLSON

MESSAGE

P1084

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PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
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B.H.FANDOTT/HUNTER DE OTT

INFO

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REGAM FANDO VNCVR/HOURSTON DE SEA

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Salmon  
interception

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PACIFIC SALMON NEGOTIATIONS

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ATTACHED IS A COPY OF AN ARTICLE FROM THE NOVEMBER FISHERMEN'S NEWS CONCERNING THE CDA/USA SALMON INTERCEPTION AGREEMENT WHICH IS BEING FORWARDED FOR YOUR FILES. THE LAST PAGE GIVES SOME INDICATION OF SOME OF THE CONCERNS OF THE LOCAL FISHING COMMUNITY.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

SG

F.D.MARTENS/cn

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# Canada — U.S. propose new salmon regime

By Craig Bartlett

Negotiators from the U.S. and Canada have agreed on a new salmon interception plan, which would scrap the International Pacific Salmon Fishery Commission (IPSF) and transfer upriver management control of Fraser River salmon stocks to the Canadian government.

The proposal, not yet approved by either government, also calls for the creation of a new bilateral commission to

regulate salmon interceptions coastwide, and would set general catch levels proportional to those during 1971-74.

Dayton L. Alverson, chief U.S. negotiator, said the proposal could be a major step toward resolving the dispute over salmon interceptions which has plagued U.S.-Canadian relations for over 20 years.

"The present management structure simply is not set up to deal with all of the interception problems that have come

THE FISHERMAN'S NEWS

NOVEMBER 1980

up between the two countries in the past few years," he said. "Rather than get into an escalating fish war with the Canadians, we decided to see in what areas we could agree."

Alverson noted that the agreement, in the form of a 24-page recommendation to both governments, was reached during a series of meetings with Canadian negotiator Michael Shepard October 20-25 in Lynnwood, Wash. Although negotiations are far from complete, the agreement provides a "general framework" for a new convention between the U.S. and Canada.

## New Interception Scheme

The agreement proscribes the creation of a new bilateral commission to regulate salmon interceptions from the Yukon to the Columbia River. "Appropriate subsidiary panels" would be set up to monitor the catch in each area, and a new "Interception Limitation Scheme" adopted to hold interceptions of salmon bound for the other country's rivers to 1971-74 levels.

The gillnet fishery for sockeye at Tree Point and the troll fishery for coho and chinook salmon in Southeast Alaska are two examples of where that scheme would be used to manage the fishery.

With respect to the Noyse Island seine fishery for sockeye, the U.S. proposed

Continued from page 1

that interceptions be based on levels during 1972-74, since 1971 was an abnormally poor year. Even with that provision, the U.S. harvest in that area would fall to between 120,000 and 140,000 fish — a level substantially less than have been caught during the last few years.

The Canadian negotiator agreed to accept the 1972-74 harvest level for Noyse Island, provided that the Canadians would receive a larger share of the salmon bound for Alaska. With that stipulation, he agreed that fisheries in Areas 3x 3y and 3z and the pink salmon troll fishery in Area 1 would be regulated in accordance with the 1971-74 levels.

The Canadians also agreed to apply the same management scheme to salmon stocks bound for spawning grounds in Washington, Idaho, Oregon and California. Alverson claims that the agreement contains additional provisions

to insure that both countries will "receive the benefits" of any enhancement projects they undertake.

"A major emphasis of this agreement would be to make sure that whoever makes a contribution to the fishery, gets whatever increased production that may result," Alverson said. "As it stands, both governments are reluctant to make any contribution in the way of enhancement, because they're afraid the other side will just increase their harvest."

## Fraser River

The problem is particularly acute on the Fraser River, where "cooperation between the two countries has been deteriorating rapidly," said Alverson. Besides turning over "upriver management and enhancement responsibilities . . . to the Government of Canada," the proposed plan would also

Continued on page 001011

## Canada-U.S.

Continued from page 2

establish a new formula for allocating Fraser River sockeye and pink salmon between the two countries.

Alverson stressed that catch allocations would be based on entire runs to the Fraser, rather than just that portion which passes through convention waters. Thus, the Canadian seine fishery in Johnstone Strait, the troll fishery off the coast of Vancouver Island and the upriver Indian fishery on the Fraser River would be counted in the Canadian portion of the catch under the new agreement, according to Alverson.

"Those fisheries have been growing every year," he said. "Although the current convention entitles U.S. fishermen to 50 percent of the salmon within convention waters, the U.S. harvest of the total run has been around 30 percent in the past five years, he continued.

The negotiators recommended that their respective governments adopt one of two options described in the

## The Fishermen's News

Option 1 states that the basic entitlement to the U.S. "shall get 35 percent of the sockeye catch or 2.24 million sockeye per annum, whichever is less." An exception would be made where application of that entitlement would give U.S. fishermen fewer sockeye than were caught in the 1971-74 base period (an average of about 2.22 million fish). In that case, the 2.24 million limit would be raised in subsequent years to make up for the shortfall, "as long as such adjustments do not result in United States fishermen taking more than 35 percent of the catch."

Option 1 further provides that U.S. fishermen should get a bonus of an additional 3 percent of whatever shortfall may occur. That, said Alverson, would give the Canadians an incentive to insure U.S. fishermen their full entitlement.

Option 2 would allow U.S. fishermen 35 percent of the sockeye catch -- regardless of run size -- for the next 20 years. After that time, there would be a gradual cutback to an entitlement of 2.24 million fish for the duration of the convention.

The agreement provides only one option for allocating pink salmon bound for the Fraser River. U.S. fishermen would be entitled to 33.6 percent of the total allowable catch "for a period to be negotiated," after which the allocation would go to 33.6

Continued on page 3

## Canada-U.S.

Continued from page 4

percent of the total catch or 2.1 million, whichever is lower.

### Transboundary Rivers

A final section of the agreement deals with salmon allocations on the "transboundary rivers," including the Taku and Stikine Rivers. (The record notes that the Yukon, Columbia, Unuk, Whiting and Alsek Rivers will be considered at a later date.)

The negotiators agreed that "upon entry into force of the agreement and with respect to the Taku and Stikine rivers systems, Canada would receive an entitlement equivalent to a fixed percentage of the total annual catch of salmon having their origin in Canadian sections of each river."

The agreement specifies that during the first four years after the convention is in force, Canada would receive a "tentative entitlement which would be less than 50 percent of the salmon from the Canadian sections of each river." Thereafter, the Canadian entitlement would be no less than "50 percent nor more than 75 percent." Those entitlements would not apply to fish produced by Canadian enhancement projects, and are subject to "more precise definition" during future negotiations.

The negotiators agreed that for 1981, Canada would limit its in-river salmon catch of each species to a level "somewhat less than the percentage taken of the total catch in 1979."

P 4084

## 8 Mixed Reactions

The agreement between the two negotiators has received mixed reactions on both sides of the border. Several fishing organizations have already stated their opposition to the agreement, including the 8,000-member United Fishermen and Allied Workers Union in British Columbia. Most U.S. association leaders contacted by *The Fishermen's News* said they will need more time to see how the various proposals will work out in actual numbers of fish.

"The plan is ambiguous in a number of areas," said Bill Sihbett, president of the Puget Sound Gillnetter's Association. "Obviously the area we are most concerned about is the Fraser River, and it's hard to tell from the agreement just how things will work out 20 years down the line."

Paul Anderson of the Seattle-based Seiner's Association said he was particularly concerned about transferring management authority of the Fraser River to the Canadian government.

"It is an established fact that whoever walks the streams and counts the fish to establish escapement levels are the people who control the fishery," he said. "At least

9

with the current 50/50 split, there's no question about who gets what." Anderson added that the proposed 2.1 million limit on Fraser River pink salmon was "pretty low," and said he would like to see the final plan of how that "phase down" would be achieved.

On the Canadian side, UFAWU secretary treasurer George Hewison called the plan "completely unacceptable," maintaining that it would "freeze the current imbalance in favor of the Americans." Hewison said the 1971-74 based period was "highly favorable to the U.S.," and proposed the years 1967-72 as an alternative.

"The agreement is based on the idea that we will be able to work out the imbalance that now exists through enhancement projects on the Fraser River," he said. "I'm quite frankly skeptical of the value of enhancement, and am afraid of what it might do to our natural stocks. We don't want to follow the example the Americans have set on some of

Continued on page 22

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Second Issue November

/Canada-U.S. \

Continued from page 8

their rivers."

Michael Shepard, the Canadian negotiator, said the UFAWU is only one voice in the B.C. fishing industry, noting that the agreement has received support from other Canadian fishermen.

"If we didn't feel we had the support of the fishermen, we wouldn't have made the agreement," he said.

Alverson, who took over as U.S. negotiator after the death of Don McKernan, said he expected some opposition to the plan, and admits that there are a lot of details to be worked out.

"But I think most people agree that some agreement is needed, and that this one is better than none at all," he said. Alverson explained that the agreement is only the first step toward a new convention, and will require the approval of both governments before any of the provisions will go into effect. The procedure in the U.S. requires that a final agreement be drawn up by the Department of State, approved by both houses of Congress, and signed by the president.

*File*

REQUEST FOR FACSIMILE TRANSMISSION

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DATE: NOV. 4/80

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By HAND	PAR PORTEUR	
ATTN:		

PLEASE TRANSMIT THE ATTACHED DOCUMENT(S) TO:  
Canadian Mission in New York

ATTENTION: Mr. J.E. Harlick

NO. OF PAGES: 27 (twenty-seven)

R.J. Rochon

2-2002

AUTHORIZING OFFICER

PHONE NUMBER

AGREED SUMMARY RECORD OF CANADA/UNITED STATES  
DISCUSSIONS ON A COMPREHENSIVE AGREEMENT ON  
THE MANAGEMENT AND DEVELOPMENT OF PACIFIC  
SALMON STOCKS OF MUTUAL CONCERN, LYNNWOOD,  
WASHINGTON, OCTOBER 20-25, 1980

Delegations of Canada and the United States of America, including advisers from the fishing industry, State and Provincial Governments, and domestic U.S. Fishery Management agencies, met in Lynnwood, Washington, October 20 - 25, 1980, to continue the development of a comprehensive agreement on cooperation in the management and development of Pacific Salmon stocks of common concern.

This document records agreements between the negotiators regarding approaches which they believe will lead to resolution of existing conservation and interception problems and which will provide the greatest opportunities for effective programs of improved management and enhancement in both countries in the future. Some of the solutions proposed are very specific whereas others are of a conceptual nature. Nevertheless in the negotiations, the negotiators considered all substantial issues that have been discussed in recent years. The negotiators recommend that on the basis of the principles and procedures agreed upon by the negotiators, the two parties proceed to elaborate these approaches and develop them into a Convention at an early date. The negotiators believe, in addition, that the principles, procedures and approaches they have agreed upon have been developed with sufficient specificity to permit fisheries authorities in both countries to operate within the spirit of a future Convention before such a Convention comes into force. The negotiators believe that such an approach can bring about immediate

Improvements in the management of fisheries on a number of depleted runs and will reduce misunderstandings between the two countries, which in 1980 were leading to the development of an atmosphere of contention and confrontation. The negotiators, therefore, further recommend that fisheries authorities in the two countries immediately embark on development of mutually satisfactory arrangement for harmonious conduct of intercepting fisheries in 1981.

#### Section 1 - General

The United States and Canadian negotiators consider that <sup>they have reached</sup> substantial agreement <sup>on the principles of a Convention and on a number of specific</sup> provisions to implement such principles. At the same time, changing economic circumstances of the fisheries and new management and development programs in both countries are causing fundamental alterations in the fisheries. This fluid situation makes it very difficult to develop all the detailed provisions of a Convention at the present time. In this light, the negotiators agreed that the most appropriate course of action would be to conclude a general framework Convention which would include a series of binding principles and a series of specific provisions related to an initial salmon interception limitation scheme, management of stocks bound for transboundary and Fraser rivers, and technical resolution procedures. A Commission (with appropriate subsidiary panels) would be formed immediately on ratification to implement the Convention during the first year in which the Convention comes into force.

Once the Convention is in place it would be necessary for the Parties to negotiate further detailed implementation provisions regarding specific

Section 1

fisheries and approaches to management, development, research and monitoring. Such specific provisions could later be incorporated into a Protocol to the Convention. The original Convention should specify a timetable for development of the specific provisions outlined above. Acting within this timetable, the Commission would be charged with developing recommendations to the Parties regarding such provisions.

Section 11 - Agreement on Principles and Coordination to Achieve Them

1. The two negotiators agreed that the basic principles of the Convention should be the following:

- "(a) The two Parties shall cooperate in the regulation of their respective fisheries to ensure that salmon stocks subject to interception are conserved in such a way as to provide optimum yields;
- (b) The two Parties shall cooperate through coordinated programs of management, research, monitoring and enhancement to increase the production of salmon and to harvest such increased production in an optimal manner;
- (c) The fisheries of the two Parties shall be adjusted as required in order to provide for conservation as outlined in (a) and to provide each country with benefits commensurate with the salmon production in its own rivers, subject to special provisions for the Fraser and trans-boundary rivers; and
- (d) In selecting options for adjusting fisheries to meet the objectives of the Convention:
  - i) both parties, <sup>should</sup> attempt to reduce interceptions where conservation matters are involved;
  - ii) in balancing fisheries to achieve equity through enhancement, high priority should be given to reducing levels of interceptions or interception rates; and
  - iii) in implementing i) and ii) above, existing fisheries should not be unduly disrupted."

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2. In order to implement the foregoing principles in a phased manner, taking into account the need for close consultation in developing detailed technical measures, the negotiators agreed that the Parties should take the following actions:

"(a) During the first four years after the coming into force of the Convention, each Party shall limit its interceptions of salmon bound for the rivers of the other country to agreed upon levels. The details are contained in Section III, IV and V of this summary record. In general, such levels shall approximate levels of interceptions that existed during 1971-74 but flexibility shall be provided in order to permit mutually agreeable adjustments aimed at improving conservation of the stocks and management of the fisheries. The scheme shall be reviewed at the end of the first year with a view to recommending to Governments arrangements which would apply in the succeeding three years.

(b) In the second four years after the coming into force of the Convention, on the basis of a determination by the Commission on the status of interceptions, and, on the basis of mutual agreement, the two Parties shall embark upon a long-term program of cooperative management and enhancement and a program of fisheries adjustment in order to achieve the objectives regarding conservation and sharing outlined in Section II, paragraphs 1a and 1c respectively. For purposes of the Convention, enhancement shall be deemed to include natural increases in stocks as well as increases resulting from specific salmon cultural programs."

### ion III - Interception Limitation Scheme

1. The two negotiators agreed that the following general scheme of interception limitations should apply when the Convention comes into force:

" Except as specified in other paragraphs of this section, interception of salmon originating in rivers other than transboundary rivers shall be considered within one of four categories:

- (a) Salmon bound for spawning grounds in British Columbia by United States fishermen operating in the vicinity of Alaska;
- (b) Salmon bound for spawning grounds in Alaska by Canadian fishermen;
- (c) Salmon bound for spawning grounds in British Columbia by United States fishermen operating in the vicinity of the coasts of Washington, Oregon and California;  
and
- (d) Salmon bound for spawning grounds in Washington, Idaho, Oregon and California by Canadian fishermen.

2. For interceptions in each of the categories outlined in the paragraph above the following scheme shall apply:

- (a)(i) Subject to the other provisions of paragraph 2, whenever the annual total harvest<sup>1/</sup> and escapement of a given species within any category equals or exceeds the average annual number of those fish in the four year period, 1971-1974,

total catch

1/ harvest: / comprises fish taken by interception and by fishermen of the country of origin.

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then interceptions of those fish in that category shall be kept to the average number of interceptions that occurred in that period, except--

- (ii) When, due to an increased contribution by the non-intercepting country's fish,
  - (A) the percentage of those fish available for interception in the intercepting fishery increases; and
  - (B) the consequences of applying the provisions of paragraph (i) to the fishery would reduce the total catch in the fishery by intercepting fishermen to a level below the 1971-74 average, notwithstanding the best efforts of those fishermen to avoid that reduction; then
  - (C) at the request of the intercepting party; and
  - (D) upon the determination of the Commission that the percent of intercepted fish had increased:

the number of interceptions permitted shall be limited to that number of fish that is the result of multiplying the proportion of fish available for interception in the fishery by the average total catch of that species in that fishery within the category during the period 1971-1974.

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- (b) Any reduction in catches (below levels that existed in 1971-74) needed for conservation shall be shared proportionally by both countries according to their percentage of interceptions in the base period. In this regard, whenever the annual total harvest and escapement of a given species in any category falls below the average annual numbers of those fish in the period 1971-1974, then the percentage that intercepted salmon form of the total allowable catch of those fish shall not exceed the average percentage of intercepted fish in catches taken during that period.
- (c) Whenever the fishing methods or patterns of either country are so altered that they have an effect upon the number and composition of fish in any category that reach the waters of the originating country, other than the effect that would have resulted from applying the interception provisions of paragraphs (a) and (b), then the Commission shall recommend to the Parties changes to the number of permitted interceptions so that the total number and composition of fish reaching those waters is equivalent to the number and composition of the fish that would have reached those waters if the alteration in fishing methods or patterns had not occurred.
- (d) Notwithstanding paragraphs (a), (b), and (c), no intercepting country shall alter its fishing methods or patterns as to substantially decrease the proportion of stocks, as defined in the Convention, that would otherwise have reached the waters of the

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originating country had the fishing methods or patterns not been so altered.

- (e) Taking into account annual fluctuations in the strength of stocks, particularly cyclic fluctuations, annual limits on interceptions within categories may be exceeded provided that the total number of interceptions of each species within each four year period does not exceed the sum of the interception limits established pursuant to paragraphs (a) and (b).
- (f) Where the total number of fish intercepted during a four year period exceeds the sum of the interception limits that applied during that four year period, the excesses, under procedures established by the Commission, shall be reduced to zero during the following four year period.
- (g) In the first year after the entry into force of the Convention, the Commission shall make recommendations to Governments, respecting provisions the Convention concerning penalties to prevent either country from accumulating or carrying excesses over specified interception limits for prolonged periods.
- (h) In the first year after the entry into force of the Convention, the Commission shall consider whether or not shortfalls below specified interception limits accumulated over four-year periods should be compensated for by upward revisions in interception limits in succeeding years. (The negotiators agreed, however, that upward adjustments, if any, should not be made in all cases where shortfalls occur).
- (i) Within any year, increases in entitlements may be taken provided the

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percentage that intercepted salmon form of the total allowable catch of the stock does not exceed the average percentage of intercepted fish in catches of that stock during the 1971-1974 period."

The negotiators agreed that during the first year the Convention is in force, the interception limitation scheme outlined in paragraph 1 should be conducted on a trial basis. During this first year both sides should evaluate the practicality of the scheme and consider the need for modifications. Each side may propose to the Commission adjustments in the scheme aimed at achieving the principles of the agreement more effectively. At the end of the first year the Commission should recommend to the Parties detailed provisions to be included in the Convention for an interception limitation scheme that would be implemented during the succeeding three years. The Commission should annually review the scheme during this three year period with a view to recommending further mutually agreed improvements.

3. The negotiators considered approaches to the general interception limitation scheme which might apply in the first year the Convention is in force in each of the categories listed in paragraph I of this section and which could serve as the guide to the two countries in regulating intercepting fisheries before the Convention comes into force.
  - (a) With respect to interceptions of salmon bound for spawning grounds in British Columbia by United States fishermen operating

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in Alaska, the United States indicated that its gillnet fishery at Tree Point which takes sockeye and its troll fishery for coho and chinook salmon in Southeast Alaska and in the Fisheries Conservation Zone (FCZ) would be managed consistent with the general interception limitation scheme outlined in paragraphs 1 and 2 above.

For other fisheries in Alaska, the United States will manage its fishing activities in accordance with the status of runs and taking into account possible presence of Canadian stocks. Where information is developed which indicates the presence of a significant number of intercepted fish, the U.S. will consider specific actions necessary to conduct these fisheries in a manner consistent with the limitation scheme.

With respect to the Noyes Island seine fishery for sockeye, the negotiators considered the proposal of the United States to limit its interceptions by adjusting the fishing effort during the period of peak abundance of Canadian stocks. This effort limitation is expected to result in an average annual Noyes Island sockeye harvest of 120,000 to 140,000 fish, which is substantially less than the harvest of sockeye in recent years but at the same time is above the average sockeye catch during 1971-1974 or during 1972-1974. In light of the foregoing, Canada indicated that it would be prepared to accept the United States proposal during the initial stages of the Convention's operation if an acceptable upward adjustment in interception limits were granted to Canada with respect to its

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fisheries intercepting salmon bound for Alaska. Such modifications would be developed by mutual agreement and a specific provision should be included in the Convention in this respect.

- (b) With respect to interception of salmon bound for spawning grounds in Alaska by Canadian fishermen, Canada indicated that with the possible exceptions such as that noted in paragraph 3(a) above, and the pink salmon troll fishery in Area 1, fisheries in Areas 3x, 3y and 3z would be regulated in accordance with the general interception limitation scheme.
- (c) With respect to interceptions of salmon bound for spawning grounds in Washington, Idaho, Oregon and California by Canadian fishermen, Canada indicated that Canadian fisheries would be managed consistent with the general interception limitation scheme outlined in paragraphs 1 and 2 above. Canada indicated that, in addition, it was considering the development of domestic measures to improve the conservation and utilization of chinook and coho stocks which could provide substantial benefits to the United States. If Canada were to undertake such actions, it would expect some compensatory actions on the part of the United States. Canada indicated its particular interest in the United States making compensatory adjustments in its fisheries on the approaches to the Fraser River. The United States indicated that if such added benefits could be quantitatively identified, it would be prepared to consider compensatory adjustments in its fisheries and enhancement programs to provide Canada with additional benefits.
- (d) With respect to interceptions of salmon bound for spawning grounds in Canada by United States fishermen from Washington, Oregon and California, the United States indicated that United States fisheries would be managed consistent with the general interception limitation scheme outlined in paragraphs 1 and 2 above, except as might be modified by mutual agreement such as those outlined in paragraph 3(c) above.

#### ion IV - Fraser River

The negotiators considered the practicalities of the transfer of specific management responsibilities on the Fraser River from the International Pacific Salmon Fisheries Commission (IPSFC) to Canada. They met with staff of the IPSFC between the June and October negotiating sessions to obtain their views.

The negotiators agreed that the Convention should include a general formula for regulation of the fisheries, on sockeye and pink salmon bound for the Fraser River. Specifically, the Convention should provide for:

- (1) transfer of upriver management and enhancement responsibilities from the IPSFC to the Government of Canada;
- (2) formulation of specific procedures for providing the United States with an allocation of portions of the allowable catches of Fraser bound sockeye along the lines of either option (a) or (b) outlined below or a mutually agreed variation of either:

"(a) The United States basic entitlement shall be 35% of the sockeye catch or 2.24 million sockeye per annum (balanced on a four year average to take into account cyclic variations), whichever is less except that:

Where application of this entitlement would provide the United States with fewer sockeye than would have been provided by application of the general interception limitation scheme, the above mentioned limit in numbers of fish (2.24 million) shall be adjusted upward in subsequent years to make up for the shortfall, as long as such adjustments do not result in United States fishermen taking more than 35% of the catch.

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In addition, for the first year and for each succeeding year a shortfall occurs, the number of fish in the shortfall (for which later upward adjustments in limits would be made) shall be increased by 3%, compounded annually.

- (b) 35% of the sockeye catch each year for 20 years.

After 20 years, return to entitlement of 2.24 million sockeye plus

- (i) during the next 8 years - 25% of the excess catch over the base period catch of 5.6 million;
- (ii) during the following 8 years - 15% of the excess catch over the base period catch of 5.6 million;
- (iii) during the following 8 years - 5% of the excess catch over the base period catch of 5.6 million; and
- (iv) thereafter the entitlement of 2.24 million only. There is no requirement for payback.

- (3) formulation of specific procedures for providing the United States with an allocation of portions of the allowable catches of Fraser bound pinks in line with the following:

33.6 percent of the total allowable catch for a period to be negotiated, and then return to the

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U.S. entitlement of 33.6 percent of the total allowable catch or 2.1 million pinks, whichever is lower;

- (4) consideration of whether or not to redefine the Convention area.

With respect to paragraphs 2 and 3, as background for selection among allocation alternatives for both sockeye and pinks, the negotiators agreed that technical specialists of the two countries should review the implications of the alternatives in relation to possible future developments in the management and enhancement of Fraser River salmon runs.

## tion V - Transboundary Rivers

1. The negotiators agreed that, because of the complex inter-relationships between the stocks and between the fisheries associated with rivers which rise in Canada and flow to the sea through the United States, special arrangements may be required for management and sharing of catches on these rivers. In general, such arrangements would include:

- i) Close coordination in the setting of escapement targets and in planning the conduct of fisheries in order to achieve those targets
- ii) Coordinated, jointly agreed enhancement programs
- iii) Agreed upon shares between the two countries of jointly established allowable catches
- iv) Mechanisms to compensate Canada for contributions of fish originating in Canadian sections of the rivers to United States fisheries.

During the Lynnwood meeting, the negotiators were unable to consider in detail the regime that would apply to all transboundary rivers and concentrated only on the Taku and Stikine Rivers and to a limited extent on the Yukon River. They agreed, however, that cooperative arrangements should be considered for all transboundary rivers (other transboundary rivers not mentioned in this record include the Columbia, Unuk, Whiting and Alsek Rivers).

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2. Stikine and Taku River stocks and fisheries

- a) Joint management. The negotiators agreed that, within the Commission, management authorities of the two countries would meet annually or more frequently as required to:
- i) Review information on the status of the stocks, the state of the fisheries and of the spawning escapements for the entire river systems,
  - ii) Jointly agree on escapement targets for each species within Canadian sections of each river,
  - iii) Consult regarding regulatory programs to achieve such escapement targets and to provide for sharing of allowable catches on a basis agreed to within the Commission (see below)

Each country would then conduct its fisheries in a manner that would achieve the escapement targets and that would provide agreed-upon shares of the catches. Close in-season coordination would be required between management authorities of the two countries to take into account deviations in the strength of the runs from pre-season expected levels because of natural fluctuations or other unpredictable factors.

- b) Upon entry into force of the agreement and with respect to the Taku and Stikine river systems, Canada <sup>would</sup> receive an entitlement equivalent to a fixed percentage of the total annual catch of salmon having their origin in Canadian sections

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of each river. In the first year after entry into force of the agreement, a tentative entitlement which would be less than 50% of the total annual catch of salmon from the Canadian sections of each river, would be established and would apply for the first four years the Convention is in force. The percent entitlement for the fifth and subsequent years would be determined by further negotiations to be held in the fourth year of the agreement following a review of the results of the scientific study referred to in paragraph (4) below but in no event would it be less than 50% nor more than 75%.

Notwithstanding the foregoing, the production of salmon of specific enhancement projects carried out by Canada, Canada should receive full benefits from such efforts. The negotiators agree, however, that the manner in which natural changes in run sizes are related to entitlements and the problem of how natural increases in stocks can be distinguished from increases associated with specific salmon enhancement projects require further discussion.

Such entitlement arrangements shall not apply to salmon produced as the result of specific enhancement projects by Canada for which Canada should receive full benefits from the portion in its part of the rivers. The negotiators agreed that a more precise definition of the relationships between such enhancement activities and

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sharing activities above should be developed before a specific provision on this matter is concluded.

The negotiators agreed that for 1981, Canada would limit its in-river salmon catch of each species to a level somewhat less than the percentage taken of the total catch in 1979.

Canada would receive the benefits referred to in paragraph b in the following ways as mutually agreed:

- (i) by the catch of salmon by Canadian fishermen in the Canadian sections of the rivers;
- (ii) by compensation provided to Canada for that portion of its entitlement established in paragraph 2b but not taken by the means set out in sub-paragraph 2b(i). Such compensation would be made through agreed adjustments favourable to Canada in interception limits specified in Section III above and by enhancement. Where compensation is to be made through enhancement, that compensation would not become due until the enhancement has come "on line" and during the first year the United States will specify to Canada the particular enhancement projects that will be undertaken, their timetables and their expected results. In addition projected adjustments in fisheries will be identified.

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- (iii) Enhancement of the stocks of the rivers/<sup>should</sup> be carried out in coordinated manner and by mutual agreement within the Commission. Each party/<sup>should</sup> carry out enhancement activities in its own waters.

3. Yukon River

The negotiators agreed that arrangements for cooperation on the Yukon could not be developed at the present time. They did agree, however, that the general principles, including cooperative management and establishment of an entitlement to Canada, that have been applied to other transboundary rivers should apply to the Yukon River. The character of the cooperative management and entitlement on the Yukon may differ from those on the other transboundary rivers.

All provisions for the Yukon River <sup>should</sup> be negotiated in a mutually agreeable time schedule.

4. Research on Transboundary Stocks

Both negotiators agree that further research is required on the salmon stocks of the transboundary rivers, and <sup>that</sup> there should be included in the Convention a commitment to plan and conduct research necessary for the implementation of the Convention. Such research should be initiated by the end of 1981 and should include, but not necessarily be limited to, data needed to determine interception rates in mixed stock fisheries and the portions of

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runs which spawn in each Party's sections of the Panhandle  
rivers.

## Section VI - Commission

1. The two negotiators reaffirmed their previous agreement that a Convention will contain provisions requiring the parties to establish a Commission to implement the agreed upon principles listed in Section II.

2. To ensure the smooth implementation of the Convention, a Commission (with appropriate subsidiary panels meeting separately or jointly) would be formed. The negotiators agreed that by the end of the first year after entry into force of the Convention, the Commission would:

- (a) present a report to the Parties summarizing the existing state of knowledge on the extent of interceptions and proposing future research required for implementation of the Convention;
- (b) recommend to Canada specific procedures for its assumption of management authority for Fraser River sockeye and pink stocks;
- (c) recommend to the Parties specific adjustments in limitation schemes for intercepting fisheries on salmon bound for spawning grounds in Southern British Columbia, Washington, Oregon, Idaho and California for the remaining three years of the initial phase of the agreement;
- (d) recommend to the Parties specific adjustments in limitation schemes for intercepting fisheries (other than those on transboundary stocks) on salmon bound for spawning grounds in Northern British Columbia and Southeast Alaska during the remaining three years of the initial phase of the Convention;

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- (e) recommend to the Parties adjustments in portions of allowable catches to be taken by Canadian fishermen in the rivers during remaining three years of the initial phase of the Convention; and
  - (f) recommend to Governments provisions to be added to the interception limitation scheme on penalties and on whether or not to compensate for shortfalls. (See Section III).
3. The negotiators agreed that by the end of the third year after the entry into force of the Convention, the Commission will recommend to the Parties a long-term program of cooperative management and enhancement and a program of fisheries adjustments in order to achieve the objectives of the Convention regarding conservation and sharing outlined in Section II, paragraphs 1a and 1c respectively.
4. At the end of the first and third years after the entry into force of the Convention, Governments would consider the above recommendations of the Commission and conduct negotiations with a view to developing Protocols to the Convention incorporating agreed-upon specific provisions concerning the subjects in the above paragraph and in sub-paragraphs (a)-(f). above.

## Section VII - Technical Dispute Resolution Mechanism

1. The two negotiators confirmed the understanding developed at the June, 1980, meeting that the Convention should include a process for dispute settlement regarding technical matters. The negotiators agreed that, in principle, an Article<sup>3</sup> should be included in the Convention which would provide, inter alia, that:

- " (a) Where numerical information is required by the Commission in making its determinations, and where such numerical information is dependent on scientific evidence and analyses. Such information and analyses shall be subject to the technical dispute settlement mechanism. Other technical matters may be referred to this mechanism as may be determined by the Commission.
- (b) Either national section or the Commission itself may refer technical matters which could not be agreed upon within the Panels or the Commission to a Technical Dispute Board established by the Commission on a pro tem basis for resolving that particular dispute.
- (c) The Board for each particular dispute would consist of three members.
- (d) Time limits would be set for the appointment of each Board by the Commission and the times, after appointment, that consideration of the dispute would commence and the time at which the Board must report a decision to the Commission.

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- (c) The technical findings of each Board shall be final and without appeal and shall be utilized by the Commission as the numerical basis for its decision."

Section VIII - Research

Research and monitoring programs will be required to effectively carry out the provisions and principles of the proposed Convention. Specifics of such programs have not yet been developed but should be agreed upon along with funding requirements prior to conclusion of the Convention. The research and monitoring programs should be coordinated through the Commission.

Session IX - Other Matters

There are a number of matters that the negotiators did not have time to consider (eg. the need for a general dispute settlement mechanism within the Commission, detailed arrangements for establishment of a Secretariat for the Commission, the duration of the Convention, etc.). Such items would have to be addressed in the elaboration of the Convention.

This document represents a record of agreements reached during negotiation. Together with other documents prepared at previous sessions, the document is intended to form the basis for the elaboration of a Pacific Salmon Convention.

SUMMARY OF MAIN POINTS  
OF THE AGREED SUMMARY RECORD

The two negotiators are confident that, on a technical basis, a fair and balanced agreement can be concluded that will:

- (a) Re Conservation: meet the objectives of both sides by requiring that if conservation requires reduction of fishing on a stock fished by both countries, both sides would have to cut back on a proportional basis;
- (b) Re Research: meet the objective of both sides for research and analysis to determine with greater accuracy the numbers of salmon of different species and stocks intercepted by fishermen of each country; such information required in part for interception limitation schemes (see item (d) below) but, more importantly, as background for management and enhancement programs;
- (c) Re Enhancement: meet the objectives of both sides by requiring coordination of enhancement programs in cases where enhanced fish from the two countries contribute to the same fishery (avoids development of fisheries on mixtures of strong enhanced stocks and weak natural runs; such fisheries inevitably result in depletion of natural runs, offsetting benefits gained from enhancement).
- (d) Re Interceptions in the Short Term: meet the objectives of both sides by putting a four year freeze on interceptions, thereby preventing uncontrolled increased harvest by one country of the other country's stocks: the four year freeze will give both countries time to plan cooperative enhancement programs and to work out mutually beneficial adjustments in fisheries without fear that one or the other country will develop an advantage;
- (e) Re Fraser River Sockeye and Pinks:
  - (i) meet the Canadian objective of transfer of management responsibility from the International Pacific Salmon Fisheries Commission to the Government of Canada, thereby permitting Canada to enhance the runs and control escapement in order to meet Canadian management and fisheries development goals;

*N.B.  
General  
article on right  
of Commission  
to make recommendations  
to governments.*

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- (ii) meet the Canadian objectives of receiving all benefits from enhancement of Fraser sockeye and pink salmon through freezing of United States catches at no more than 1971-74 levels;<sup>1</sup>
- (iii) meet the United States concern that the United States entitlement be large enough to maintain its fishery at a viable level and to receive some benefits for its past cooperation;

(f) Re Transboundary Stocks:

- (i) meet the Canadian objective of deriving benefits from contributions to United States fisheries from stocks spawning in Canadian sections of rivers which rise in Canada and flow to the sea through the United States; such benefits to include adjustments in United States fisheries to facilitate Canadian fisheries in Canadian sections of the rivers, or compensatory adjustments of fisheries along the Northern British Columbia-Southeast Alaska boundary favourable to Canada (e.g. United States cut-backs on intercepting fisheries or increases in Canadian limits of interceptions of United States bound salmon);
- (ii) meet the United States objective of preventing uncontrolled development of Canadian fisheries in Canadian sections of rivers in competition with United States fisheries downstream, at the expense of the spawning requirements;
- (iii) meet the objectives of both sides by establishing arrangements for joint setting of escapement goals and regulation of fisheries to meet such goals and to share allowable catches on an agreed basis;

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<sup>1</sup>With special short term arrangements for United States to take less than 1971-74 entitlement in early years of Convention, which would be paid back at higher levels in later years when enhancement is "on-line"; later higher levels will take into account United States sacrifices in early years.

(g) Re "Equity":

- (i) meet the Canadian objective of adjusting fisheries so that the value of salmon intercepted by each country is equally balanced in the long term; the new Commission will make a determination at the end of the third year of the agreement on the status of interceptions and develop a phased plan for cooperative enhancement and adjustment of fisheries to improve conservation and to eliminate inequities, if any are found;
- (ii) meet the United States concern that the determination of the amount of interception on each side will await at least three years of scientific study and that any required adjustments will be made in a manner which does not unduly disrupt existing fisheries (it is anticipated that any required adjustments will be made when enhancement increases abundance of runs, thereby easing problems of relocations of fisheries if such are required).

## Section 1 - General

The United States and Canadian negotiators consider that they have reached substantial agreement on the principles of a Convention and on a number of specific provisions to implement such principles. At the same time, changing economic circumstances of the fisheries and new management and development programs in both countries are causing fundamental alterations in the fisheries. This fluid situation makes it very difficult to develop all the detailed provisions of a Convention at the present time. In this light, the negotiators agreed that the most appropriate course of action would be to conclude a general framework Convention which would include a series of binding principles and a series of specific provisions related to an initial salmon interception limitation scheme, management of stocks bound for transboundary and Fraser rivers, and technical resolution procedures. A Commission (with appropriate subsidiary panels) would be formed immediately on ratification to implement the Convention during the first year in which the Convention comes into force.

Once the Convention is in place it would be necessary for the Parties to negotiate further detailed implementation provisions regarding specific fisheries and approaches to management, development, research and monitoring. Such specific provisions could later be incorporated into a Protocol to the Convention. The original Convention should specify a timetable for development on the specific provisions outlined above. Acting within this timetable, the Commission would be charged with developing recommendations to the Parties regarding such provisions.

Section 11 - Agreement on Principles and Coordination to Achieve Them

1. The two negotiators agreed that the basic principles of the Convention should be the following:

- "(a) The two Parties shall cooperate in the regulation of their respective fisheries to ensure that salmon stocks subject to interception are conserved in such a way as to provide optimum yields;
- (b) The two Parties shall cooperate through coordinated programs of management, research, monitoring and enhancement to increase the production of salmon and to harvest such increased production in an optimal manner;
- (c) The fisheries of the two Parties shall be adjusted as required in order to provide for conservation as outlined in (a) and to provide each country with benefits commensurate with the salmon production in its own rivers, subject to special provisions for the Fraser and transboundary rivers; and
- (d) In selecting options for adjusting fisheries to meet the objectives of the Convention:
  - i) both parties should attempt to reduce interceptions where conservation matters are involved;
  - ii) in balancing fisheries to achieve equity through enhancement, high priority should be given to reducing levels of interceptions or interception rates; and
  - iii) in implementing i) and ii) above, existing fisheries should not be unduly disrupted."

*Implementation*

2. In order to implement the foregoing principles in a phased manner, taking into account the need for close consultation in developing detailed technical measures, the negotiators agreed that the Parties should take the following actions:

"(a) During the first four years after the coming into force of the Convention, each Party shall limit its interceptions of salmon bound for the rivers of the other country to agreed upon levels. The details are contained in Section III, IV and V of this summary record. In general, such levels shall approximate levels of interceptions that existed during 1971-74 but flexibility shall be provided in order to permit mutually agreeable adjustments aimed at improving conservation of the stocks and management of the fisheries. The scheme shall be reviewed at the end of the first year with a view to recommending to Governments arrangements which would apply in the succeeding three years.

(b) In the second four years after the coming into force of the Convention, on the basis of a determination by the Commission on the status of interceptions, and, on the basis of mutual agreement, the two Parties shall embark upon a long-term program of cooperative management and enhancement and a program of fisheries adjustment in order to achieve the objectives regarding conservation and sharing outlined in Section II, paragraphs 1a and 1c respectively. For purposes of the Convention, enhancement shall be deemed to include natural increases in stocks as well as increases resulting from specific salmon cultural programs."

### Section III - Interception Limitation Scheme

1. The two negotiators agreed that the following general scheme of interception limitations should apply when the Convention comes into force:

" Except as specified in other paragraphs of this section, interception of salmon originating in rivers other than transboundary rivers shall be considered within one of four categories:

- (a) Salmon bound for spawning grounds in British Columbia by United States fishermen operating in the vicinity of Alaska;
- (b) Salmon bound for spawning grounds in Alaska by Canadian fishermen;
- (c) Salmon bound for spawning grounds in British Columbia by United States fishermen operating in the vicinity of the coasts of Washington, Oregon and California;  
and
- (d) Salmon bound for spawning grounds in Washington, Idaho, Oregon and California by Canadian fishermen.

2. For interceptions in each of the categories outlined in the paragraph above the following scheme shall apply:

- (a) (i) Subject to the other provisions of paragraph 2, whenever the annual total harvest  $\frac{1}{2}$  and escapement of a given species within any category equals or exceeds the average annual number of those fish in the four year period, 1971-1974, then interceptions of those fish in that category shall be

$\frac{1}{2}$  harvest: Total catch comprises fish taken by interception and by fishermen of the country of origin.

kept to the average number of interceptions that occurred in that period, except--

(ii) When, due to an increased contribution by the non-intercepting country's fish,

(A) the percentage of those fish available for interception in the intercepting fishery increases; and

(B) the consequences of applying the provisions of paragraph (i) to the fishery would reduce the total catch in the fishery by intercepting fishermen to a level below the 1971-74 average, notwithstanding the best efforts of those fishermen to avoid that reduction; then

(C) at the request of the intercepting party;  
and

(D) upon the determination of the Commission that the percent of intercepted fish had increased:

the number of interceptions permitted shall be limited to that number of fish that is the result of multiplying the proportion of fish available for interception in the fishery by the average total catch of that species in that fishery within the category during the period 1971-1974.

(b) Any reduction in catches (below levels that existed in 1971-74) needed for conservation shall be shared proportionally by both countries according to their percentage of interceptions in the base period. In this regard, whenever the annual total harvest and escapement of a given species in any category falls below the average annual numbers of those fish in the period 1971-1974,

then the percentage that intercepted salmon form of the total allowable catch of those fish shall not exceed the average percentage of intercepted fish in catches taken during that period.

- (c) Whenever the fishing methods or patterns of either country are so altered that they have an effect upon the number and composition of fish in any category that reach the waters of the originating country, other than the effect that would have resulted from applying the interception provisions of paragraphs (a) and (b), then the Commission shall recommend to the Parties changes to the number of permitted interceptions so that the total number and composition of fish reaching those waters is equivalent to the number and composition of the fish that would have reached those waters if the alteration in fishing methods or patterns had not occurred.
- (d) Notwithstanding paragraphs (a), (b), and (c), no intercepting country shall alter its fishing methods or patterns as to substantially decrease the proportion of stocks, as defined in the Convention, that would otherwise have reached the waters of the originating country had the fishing methods or patterns not been so altered.
- (e) Taking into account annual fluctuations in the strength of stocks, particularly cyclic fluctuations, annual limits on interceptions within categories may be exceeded provided that the total number of interceptions of each species within each four year period does

not exceed the sum of the interception limits established pursuant to paragraphs (a) and (b).

- (f) Where the total number of fish intercepted during a four year period exceeds the sum of the interception limits that applied during that four year period, the excesses, under procedures established by the Commission, shall be reduced to zero during the following four year period.
- (g) In the first year after the entry into force of the Convention, the Commission shall make recommendations to Governments respecting provisions in the Convention concerning penalties to prevent either country from accumulating or carrying excesses over specified interception limits for prolonged periods.
- (h) In the first year after the entry into force of the Convention, the Commission shall consider whether or not shortfalls below specified interception limits accumulated over four-year periods should be compensated for by upward revisions in interception limits in succeeding years. (The negotiators agreed, however, that upward adjustments, if any, should not be made in all cases where shortfalls occur).
- (i) Within any year, increases in entitlements may be taken provided the percentage that intercepted salmon form of the total allowable catch of the stock does not exceed the average percentage of intercepted fish in catches of that stock during the 1971-1974 period."

The negotiators agreed that during the first year the Convention is in force, the interception limitation scheme outlined in paragraph 1 should be conducted on a trial basis. During this first year both sides should evaluate the practicality of the scheme and consider the need for modifications. Each side may propose to the Commission adjustments in the scheme aimed at achieving the principles of the agreement more effectively. At the end of the first year the Commission should recommend to the Parties detailed provisions to be included in the Convention for an interception limitation scheme that would be implemented during the succeeding three years. The Commission should annually review the scheme during this three year period with a view to recommending further mutually agreed improvements.

3. The negotiators considered approaches to the general interception limitation scheme which might apply in the first year the Convention is in force in each of the categories listed in paragraph I of this section and which could serve as the guide to the two countries in regulating intercepting fisheries before the Convention comes into force.

- (a) With respect to interceptions of salmon bound for spawning grounds in British Columbia by United States fishermen operating in Alaska, the United States indicated that its gillnet fishery at Tree Point which takes sockeye and its troll fishery for coho and chinook salmon in Southeast Alaska and in the Fisheries Conservation Zone (FCZ) would be managed consistent with the general interception limitation scheme outlined in paragraphs 1 and 2 above. For other fisheries in Alaska, the United States will manage its fishing activities in accordance with the status of runs and taking into account possible presence of Canadian stocks. Where information

is developed which indicates the presence of a significant number of intercepted fish, the U.S. will consider specific actions necessary to conduct these fisheries in a manner consistent with the limitation scheme.

With respect to the Noyes Island seine fishery for sockeye, the negotiators considered the proposal of the United States to limit its interceptions by adjusting the fishing effort during the period of peak abundance of Canadian stocks. This effort limitation is expected to result in an average annual Noyes Island sockeye harvest of 120,000 to 140,000 fish, which is substantially less than the harvest of sockeye in recent years but at the same time is above the average sockeye catch during 1971-1974 or during 1972-1974. In light of the foregoing, Canada indicated that it would be prepared to accept the United States proposal during the initial stages of the Convention's operation if an acceptable upward adjustment in interception limits were granted to Canada with respect to its fisheries intercepting salmon bound for Alaska. Such modifications would be developed by mutual agreement and a specific provision should be included in the Convention in this respect.

- C-ship  
- pink
- (b) With respect to interception of salmon bound for spawning grounds in Alaska by Canadian fishermen, Canada indicated that with the possible exceptions such as <sup>those</sup> ~~that~~ noted in paragraphs 3(a) above, fisheries in Areas 3x, 3y and 3z and the pink salmon troll fishery in Area 1 would be regulated in accordance with the general interception limitation scheme.

- (c) With respect to interceptions of salmon bound for spawning grounds in Washington, Idaho, Oregon and California by Canadian fishermen, Canada indicated that Canadian fisheries would be managed consistent with the general interception limitation scheme outlined in paragraphs 1 and 2 above. Canada indicated that, in addition, it was considering the development of domestic measures to improve the conservation and utilization of chinook and coho stocks which could provide substantial benefits to the United States. If Canada were to undertake such actions, it would expect some compensatory actions on the part of the United States. Canada indicated its particular interest in the United States making compensatory adjustments in its fisheries on the approaches to the Fraser River. The United States indicated that if such added benefits could be quantitatively identified, it would be prepared to consider compensatory adjustments in its fisheries and enhancement programs to provide Canada with additional benefits.
- (d) With respect to interceptions of salmon bound for spawning grounds in Canada by United States fishermen from Washington, Oregon and California, the United States indicated that United States fisheries would be managed consistent with the general interception limitation scheme outlined in paragraphs 1 and 2 above, except as might be modified by mutual agreement such as those outlined in paragraph 3(c) above.

#### Section IV - Fraser River

The negotiators considered the practicalities of the transfer of specific management responsibilities on the Fraser River from the International Pacific Salmon Fisheries Commission (IPSFC) to Canada. They met with staff of the IPSFC between the June and October negotiating sessions to obtain their views.

The negotiators agreed that the Convention should include a general formula for regulation of the fisheries, on sockeye and pink salmon bound for the Fraser River. Specifically, the Convention should provide for:

- (1) transfer of upriver management and enhancement responsibilities from the IPSFC to the Government of Canada;
- (2) formulation of specific procedures for providing the United States with an allocation of portions of the allowable catches of Fraser bound sockeye along the lines of either option (a) or (b) outlined below or a mutually agreed variation of either:

"(a) The United States basic entitlement shall be 35% of the sockeye catch or 2.24 million sockeye per annum (balanced on a four year average to take into account cyclic variations), whichever is less except that: Where application of this entitlement would provide the United States with fewer sockeye than would have been provided by application of the general interception limitation scheme, the above mentioned limit in numbers of fish (2.24 million) shall be adjusted upward in subsequent years to make up for the shortfall, as long as such adjustments do not result in United States fishermen taking more than 35% of the catch.

In addition, for the first year and for each succeeding year a shortfall occurs, the number of fish in the shortfall (for which later upward adjustments in limits would be made) shall be increased by 3%, compounded annually.

- (b) 35% of the sockeye catch each year for 20 years.

After 20 years, return to entitlement of 2.24 million sockeye plus

- (i) during the next 8 years - 25 % of the excess catch over the base period catch of 5.6 million;
- (ii) during the following 8 years - 15% of the excess catch over the base period catch of 5.6 million;
- (iii) during the following 8 years - 5% of the excess catch over the base period catch of 5.6 million; and
- (iv) thereafter the entitlement of 2.24 million only. There is no requirement for payback.

- (3) formulation of specific procedures for providing the United States with an allocation of portions of the allowable catches of Fraser bound pinks in line with the following:

33.6 percent of the total allowable catch for a period to be negotiated, and then return to the U.S. entitlement of 33.6 percent of the total allowable catch or 2.1 million pinks, whichever is lower;

- (4) consideration of whether or not to redefine the Convention area.

With respect to paragraphs 2 and 3, as background for selection among allocation alternatives for both sockeye and pinks, the negotiators agreed that technical specialists of the two countries should review the implications of the alternatives in relation to possible future developments in the management and enhancement of Fraser River salmon runs.

## Section V - Transboundary Rivers

1. The negotiators agreed that, because of the complex inter-relationships between the stocks and between the fisheries associated with rivers which rise in Canada and flow to the sea through the United States, special arrangements may be required for management and sharing of catches on these rivers. In general, such arrangements would include:

- i) Close coordination in the setting of escapement targets and in planning the conduct of fisheries in order to achieve those targets
- ii) Coordinated, jointly agreed enhancement programs
- iii) Agreed upon shares between the two countries of jointly established allowable catches
- iv) Mechanisms to compensate Canada for contributions of fish originating in Canadian sections of the rivers to United States fisheries.

During the Lynnwood meeting, the negotiators were unable to consider in detail the regime that would apply to all transboundary rivers and concentrated only on the Taku and Stikine Rivers and to a limited extent on the Yukon River. They agreed, however, that cooperative arrangements should be considered for all transboundary rivers (other transboundary rivers not mentioned in this record include the Columbia, Unuk, Whiting and Alsek Rivers).

### 2. Stikine and Taku River stocks and fisheries

- a) Joint management. The negotiators agreed that, within the Commission, management authorities of the two countries would meet annually or more frequently as required to:
  - i) Review information on the status of the stocks, the state of the fisheries and of the spawning escapements

for the entire river systems,

- ii) Jointly agree on escapement targets for each species within Canadian sections of each river,
- iii) Consult regarding regulatory programs to achieve such escapement targets and to provide for sharing of allowable catches on a basis agreed to within the Commission (see below)

*Sub  
escapement*

Each country would then conduct its fisheries in a manner that would achieve the escapement targets and that would provide agreed-upon shares of the catches. Close in-season coordination would be required between management authorities of the two countries to take into account deviations in the strength of the runs from pre-season expected levels because of natural fluctuations or other unpredictable factors.

- b) Upon entry into force of the agreement and with respect to the Taku and Stikine river systems, Canada would receive an entitlement equivalent to a fixed percentage of the total annual catch of salmon having their origin in Canadian sections of each river. In the first year after entry into force of the agreement, a tentative entitlement which would be less than 50% of the total annual catch of salmon from the Canadian sections of each river, would be established and would apply for the first four years the Convention is in force. The percent entitlement for the fifth and subsequent years would be determined by further negotiations to be held in the fourth year of the agreement following a review of the results of the scientific study referred to in paragraph (4) below but in no event would

it be less than 50% nor more than 75%.

Notwithstanding the foregoing, the production of salmon of specific enhancement projects carried out by Canada, Canada should receive full benefits from such efforts. The negotiators agree, however, that the manner in which natural changes in run sizes are related to entitlements and the problem of how natural increases in stocks can be distinguished from increases associated with specific salmon enhancement projects require further discussion.

Such entitlement arrangements shall not apply to salmon produced as the result of specific enhancement projects by Canada for which Canada should receive full benefits from the portion in its part of the rivers. The negotiators agreed that a more precise definition of the relationships between such enhancement activities and sharing activities above should be developed before a specific provision on this matter is concluded.

The negotiators agreed that for 1981, Canada would limit its in-river salmon catch of each species to a level somewhat less than the percentage taken of the total catch in 1979.

Canada would receive the benefits referred to in paragraph b in the following ways as mutually agreed:

- (i) by the catch of salmon by Canadian fishermen in the Canadian sections of the rivers;
- (ii) by compensation provided to Canada for that portion of its entitlement established in paragraph 2b but

not taken by the means set out in sub-paragraph 2b(i). Such compensation would be made through agreed adjustments favourable to Canada in interception limits specified in Section III above and by enhancement. Where compensation is to be made through enhancement, that compensation would not become due until the enhancement has come "on line" and during the first year the United States will specify to Canada the particular enhancement projects that will be undertaken, their timetables and their expected results. In addition projected adjustments in fisheries will be identified.

- (iii) enhancement of the stocks of the rivers should be carried out in coordinated manner and by mutual agreement within the Commission. Each party should carry out enhancement activities in its own waters.

### 3. Yukon River

The negotiators agreed that arrangements for cooperation on the Yukon could not be developed at the present time. They did agree, however, that the general principles, including cooperative management and establishment of an entitlement to Canada, that have been applied to other transboundary rivers should apply to the Yukon River. The character of the cooperative management and entitlement on the Yukon may differ from those on the other transboundary rivers.

All provisions for the Yukon River should be negotiated in a mutually agreeable time schedule.

4. Research on Transboundary Stocks

Both negotiators agree that further research is required on the salmon stocks of the transboundary rivers, and that there should be included in the Convention a commitment to plan and conduct research necessary for the implementation of the Convention. Such research should be initiated by the end of 1981 and should include, but not necessarily be limited to, data needed to determine interception rates in mixed stock fisheries and the portions of runs which spawn in each Party's sections of the Panhandle rivers.

## Section VI - Commission

1. The two negotiators reaffirmed their previous agreement that a Convention will contain provisions requiring the parties to establish a Commission to implement the agreed upon principles listed in Section II.

2. To ensure the smooth implementation of the Convention, a Commission (with appropriate subsidiary panels meeting separately or jointly) would be formed. The negotiators agreed that by the end of the first year after entry into force of the Convention, the Commission would:

- (a) present a report to the Parties summarizing the existing state of knowledge on the extent of interceptions and proposing future research required for implementation of the Convention;
- (b) recommend to Canada specific procedures for its assumption of management authority for Fraser River sockeye and pink stocks;
- (c) recommend to the Parties specific adjustments in limitation schemes for intercepting fisheries on salmon bound for spawning grounds in Southern British Columbia, Washington, Oregon, Idaho and California for the remaining three years of the initial phase of the agreement.
- (d) recommend to the Parties specific adjustments in limitation schemes for intercepting fisheries (other than those on transboundary stocks) on salmon bound for spawning grounds in Northern British Columbia and Southeast Alaska during the remaining three years of the initial phase of the Convention;

- (e) recommend to the Parties adjustments in portions of allowable catches to be taken by Canadian fishermen in the rivers during remaining three years of the initial phase of the Convention;  
and
- (f) recommend to Governments provisions to be added to the interception limitation scheme on penalties and on whether or not to compensate for shortfalls. (See Section III).

3. The negotiators agreed that by the end of the third year after the entry into force of the Convention, the Commission will recommend to the Parties a long-term program of cooperative management and enhancement and a program of fisheries adjustments in order to achieve the objectives of the Convention regarding conservation and sharing outlined in Section II, paragraphs 1a and 1c respectively.

4. At the end of the first and third years after the entry into force of the Convention, Governments would consider the above recommendations of the Commission and conduct negotiations with a view to developing Protocols to the Convention incorporating agreed-upon specific provisions concerning the subjects in the above paragraph and in sub-paragraphs (a)-(f) above.

## Section VII - Technical Dispute Resolution Mechanism

1. The two negotiators confirmed the understanding developed at the June, 1980, meeting that the Convention should include a process for dispute settlement regarding technical matters. The negotiators agreed that, in principle, an Article should be included in the Convention which would provide, inter alia, that:

- " (a) Where numerical information is required by the Commission in making its determinations, and where such numerical information is dependent on scientific evidence and analyses. Such information and analyses shall be subject to the technical dispute settlement mechanism. Other technical matters may be referred to this mechanism as may be determined by the Commission.
- (b) Either national section or the Commission itself may refer technical matters which could not be agreed upon within the Panels or the Commission to a Technical Dispute Board established by the Commission on a pro tem basis for resolving that particular dispute.
- (c) The Board for each particular dispute would consist of three members.
- (d) Time limits would be set for the appointment of each Board by the Commission and the times, after appointment, that consideration of the dispute would commence and the time at which the Board must report a decision to the Commission.

- (e) The technical findings of each Board shall be final and without appeal and shall be utilized by the Commission as the numerical basis for its decision."

## Section VIII - Research

Research and monitoring programs will be required to effectively carry out the provisions and principles of the proposed Convention. Specifics of such programs have not yet been developed but should be agreed upon along with funding requirements prior to conclusion of the Convention. The research and monitoring programs should be coordinated through the Commission.

Section IX - Other Matters

There are a number of matters that the negotiators did not have time to consider (eg. the need for a general dispute settlement mechanism within the Commission, detailed arrangements for establishment of a Secretariat for the Commission, the duration of the Convention, etc.). Such items would have to be addressed in the elaboration of the Convention.

This document represents a record of agreements reached during negotiation. Together with other documents prepared at previous sessions, the document is intended to form the basis for the elaboration of a Pacific Salmon Convention.

DFO hand mt: Oct 1980

-Rip not accurate although  
trends are representative

Table 1. Canadian estimates of interceptions and balances of interceptions of all salmon in thousands.

	Annual												
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
<u>Interceptions</u>													
<i>in Alaska</i> A	730	837	649	341	869	772	1121	685	320	458	1357	1034	1458
US B <i>in Alaska</i> $\rightarrow$ trans.	268	395	295	482	378	556	430	324	119	232	414	345	433
<i>in N. &amp; C.</i> C <i>bound in Alaska</i>	171	636	107	626	122	710	145	235	65	145	359	702	132
<i>in B.C.</i> D <i>" W. On, Calif</i>	2204	2001	1552	1850	3035	1632	2489	2192	1689	2167	2634	1620	2838
<i>in Wash, Calif</i> E <i>+ B.C. fish</i>	6631	1477	3050	2053	5739	1927	5679	3454	3672	2481	4785		
Columbia	46	20	20	13	56	57	3	1	1	1	1	1	
Yukon	174	137 136	181 180	-231 234	223 234	190 195	274 288	435 450	447 461	370 386	101	591	
<u>Balances</u>													
A vs C	559 (US)	201 (US)	542 (US)	285 (C)	747 (US)	62 (US)	976 (US)	450 (US)	255 (US)	313 (US)	998 (US)	332 (US)	1326 (US)
A+B vs C	827 (US)	596 (US)	837 (US)	197 (US)	1125 (US)	618 (US)	1406 (US)	774 (US)	374 (US)	545 (US)	1412 (US)	677 (US)	1759 (US)
D vs E	4427 (US)	524 (C)	1498 (US)	203 (US)	2704 (US)	295 (US)	3190 (US)	1262 (US)	1983 (US)	314 (US)	2151 (US)		
A+E vs C+D	4986 (US)	323 (C)	2040 (US)	82 (US) c	3451 (US)	357 (US)	4166 (US)	1712 (US)	2238 (US)	627 (US)	3149 (US)		
A+B+E vs C+D	5254 (US)	72 (US)	2335 (US)	400 (US)	3829 (US)	913 (US)	4596 (US)	2036 (US)	2357 (US)	859 (US)	3563 (US)		
A+B+E+Co+Y vs C+D	5474 (US)	229 (US)	2536 (US)	644 (US)	4108 (US)	1160 (US)	4873 (US)	2472 (US)	2805 (US)	1230 (US)	3945 (US)		
		228	2535	647	4119	1165	4887	2487	2819	1246			

Table 1 (cont'd)

	Averages								
	67-70	68-71	69-72	70-73	71-74	72-75	73-76	74-77	75-78
<u>Interceptions</u>									
A	639	674	658	776	862	724	646	705	
B	360	388	428	462	422	357	276	272	
C	385	373	391	401	303	289	148	201	318
D	1902	2110	2017	2252	2337	2000	2134	2170	2028
E	3303	3080	3192	3850	4200	3683	3822	3598	
Columbia	25	27	36	32	29	16	2	1	
Yukon	181	193 196	206 211	230 233	280 272	336 340	382 376	424	
<u>Balance</u>									
A vs C	254 (US)	301 (US)	267 (US)	375 (US)	559 (US)	435 (US)	498 (US)	504 (US)	
A+B vs C	614 (US)	689 (US)	695 (US)	837 (US)	981 (US)	792 (US)	774 (US)	776 (US)	
D vs E	1401 (US)	970 (US)	1175 (US)	1598 (US)	1863 (US)	1683 (US)	1688 (US)	1428 (US)	
A+E vs D+D	1655 (US)	1271 (US)	1442 (US)	1973 (US)	2422 (US)	2118 (US)	2186 (US)	1932 (US)	
A+B+E vs C+D	2015 (US)	1659 (US)	1870 (US)	2435 (US)	2844 (US)	2475 (US)	2462 (US)	2204 (US)	
A+B+E+Co+Y vs C+D	2221 (US)	1879 (US) 1832	2112 (US) 2117	2697 (US) 2705	3153 (US) 3165	2827 (US) 2839	2846 (US) 2860	2629 (US)	

Table 2. Canadian estimates of interceptions and balances of interceptions of sockeye in thousands.

	Annual												
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
<u>Interceptions</u>													
A	283	106	110	57	101	170	201	167	40	154	289	207	271
B	79	80	105	98	118	169	145	71	54	80	170	113	176
C	24	14	9	6	8	11	8	23	7	6	22	10	16
D	1	7	9	-	13	6	10	7	10	12	30	3	8
E	2086	884	1584	1348	2758	1127	2612	2461	1560	1322	1731		
Columbia	46	20	20	13	56	57	3	1	1	1	1	1	
Yukon	-	-	-	-	-	-	-	-	-	-	-	-	
<u>Balances</u>													
A vs C	259 (US)	92 (US)	101 (US)	51 (US)	93 (US)	159 (US)	193 (US)	144 (US)	33 (US)	148 (US)	267 (US)	197 (US)	255 (US)
A+B vs C	338 (US)	172 (US)	206 (US)	149 (US)	211 (US)	328 (US)	338 (US)	215 (US)	87 (US)	228 (US)	437 (US)	310 (US)	431 (US)
D vs E	2085 (US)	877 (US)	1575 (US)	1348 (US)	2745 (US)	1121 (US)	2602 (US)	2454 (US)	1550 (US)	1310 (US)	1701 (US)		
A+E vs C+D	2344 (US)	969 (US)	1676 (US)	1399 (US)	2838 (US)	1280 (US)	2795 (US)	2598 (US)	1583 (US)	1458 (US)	1968 (US)		
A+B+E vs C+D	2423 (US)	1049 (US)	1781 (US)	1497 (US)	2956 (US)	1449 (US)	2940 (US)	2669 (US)	1637 (US)	1538 (US)	2138 (US)		
A+B+E+Co+Y vs C+D	2469 (US)	1069 (US)	1801 (US)	1510 (US)	3012 (US)	1506 (US)	2943 (US)	2670 (US)	1638 (US)	1539 (US)	2139 (US)		

Table 2 (cont'd)

	Averages								
	67-70	68-71	69-72	70-73	71-74	72-75	73-76	74-77	75-78
<u>Interceptions</u>									
A	139	94	110	132	160	144	140	162	
B	90	100	122	132	126	110	88	94	
C	13	9	8	8	12	12	11	14	11
D	4	7	7	7	9	8	10	15	14
E	1476	1644	1704	1961	2240	1940	1989	1768	
Columbia	25	27	36	32	29	16	2		
Yukon	-	-	-	-	-	-	-		
<u>Balance<sup>s</sup></u>									
A vs C	126 (US)	85 (US)	102 (US)	124 (US)	148 (US)	132 (US)	129 (US)	148 (US)	
A+B vs C	216 (US)	185 (US)	224 (US)	256 (US)	274 (US)	242 (US)	217 (US)	242 (US)	
D vs E	1472 (US)	1637 (US)	1697 (US)	1954 (US)	2231 (US)	1932 (US)	1979 (US)	1753 (US)	
A+E vs D+D	1598 (US)	1722 (US)	1799 (US)	2078 (US)	2379 (US)	2064 (US)	2108 (US)	1901 (US)	
A+B+E vs C+D	1688 (US)	1822 (US)	1921 (US)	2210 (US)	2505 (US)	2174 (US)	2196 (US)	1995 (US)	
A+B+E+Co+Y vs C+D	1713 (US)	1849 (US)	1957 (US)	2242 (US)	2534 (US)	2190 (US)	2198 (US)		

Table 3. Canadian estimates of interceptions and balances of interceptions of pink in thousands of fish.

	Annual												
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
<u>Interceptions</u>													
A	240	372	357	68	512	196	638	126	82	59	806	298	708
B	13	87	71	151	38	86	57	34	8	12	73	42	118
C	65	446	23	497	29	513	30	107	13	79	229	564	22
D	654	-	137	-	433	-	364	-	148	-	597		938
E	4102	3	1020	8	2330	-	2190	2	1271	1	2325		
Columbia	-	-	-	-	-	-	-	-	-	-	-	-	
Yukon	-	-	-	-	-	-	-	-	-	-	-	-	
<u>Balances</u>													
A vs C	175 (US)	74 (US) c	334 (US)	429 (US) c	483 (US)	317 (C)	608 (US)	19 (US)	69 (US)	20 (US) c	577 (US)	266 (c)	686 (US)
A+B vs C	188 (US)	13 (US)	405 (US)	278 (C)	521 (US)	231 (C)	665 (US)	53 (US)	77 (US)	8 (C)	650 (US)	224 (c)	804 (US)
D vs E	3448 (US)	3 (US)	883 (US)	8 (US)	1897 (US)	- x	1826 (US)	2 (US)	1123 (US)	1 (US)	1728 (US)		
A+E vs C+D	3623 (US)	71 (C)	1217 (US)	421 (C)	2380 (US)	317 (C)	2434 (US)	21 (US)	1192 (US)	19 (C)	2305 (US)		
A+B+E vs C+D	3636 (US)	16 (US)	1288 (US)	270 (US) c	2418 (US)	231 (US) c	2491 (US)	55 (US)	1200 (US)	7 (C)	2378 (US)		
A+B+E+Co+Y vs C+D	3636 (US)	16 (US)	1288 (US)	270 (C)	2418 (US)	231 (C)	2491 (US)	55 (US)	1200 (US)	7 (C)	2378 (US)		

Table 3 (cont'd)

	Averages								
	67-70	68-71	69-72	70-73	71-74	72-75	73-76	74-77	75-78
<u>Interceptions</u>									
A	259	327	283	354	368	260	226	268	
B	80	87	86	83	54	46	28	32	
C	258	249	266	267	170	166	57	107	221
D	198	142	142	199	199	128	128	186	186
E	1283	840	840	1132	1130	866	866	900	
Columbia	-	-	-	-	-	-	-	-	-
Yukon	-	-	-	-	-	-	-	-	-
<u>Balance\$</u>									
A vs C	1 (US)	78 (US)	17 (US)	87 (US)	198 (US)	94 (US)	169 (US)	161 (US)	
A+B vs C	81 (US)	165 (US)	103 (US)	170 (US)	252 (US)	140 (US)	197 (US)	193 (US)	
D vs E	1085 (US)	698 (US)	698 (US)	933 (US)	931 (US)	738 (US)	738 (US)	714 (US)	
A+E vs D+D	1086 (US)	776 (US)	715 (US)	1020 (US)	1129 (US)	832 (US)	907 (US)	875 (US)	
A+B+E vs C+D	1166 (US)	863 (US)	801 (US)	1103 (US)	1183 (US)	878 (US)	935 (US)	907 (US)	
A+B+E+Co+Y vs C+D	1166 (US)	863 (US)	801 (US)	1103 (US)	1183 (US)	878 (US)	935 (US)	907 (US)	

Table 4. Canadian estimates of interceptions and balances of interceptions of chum in thousands.

	Annual												
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
<u>Interceptions</u>													
A	13	49	7	14	18	57	30	31	6	13	25	29	31
B	24	25	15	95	87	112	94	58	2	46	50	26	51
C	29	64	16	51	20	92	58	53	9	7	76	45	21
D	8	25	18	28	8	81	104	23	20	46	9	48	4
E	13	115	48	73	26	319	248	184	86	251	55		
Columbia	-	-	-	-	-	-	-	-	-	-	-	-	
Yukon	107	82 81	133 132	189 171	162 171	139 143	230 212	383 374	411 426	323 327	349	522	
<u>Balances</u>													
A vs C	16 (C)	15 (C)	9 (C)	37 (C)	2 (C)	35 (C)	28 (C)	22 (C)	3 (C)	6 (US)	51 (C)	6 (C)	10 (US)
A+B vs C	8 (US)	10 (US)	6 (US)	58 (US)	85 (US)	77 (US)	66 (US)	36 (US)	1 (C)	52 (US)	1 (C)	20 (US)	61 (US)
D vs E	5 (US)	90 (US)	30 (US)	45 (US)	18 (US)	238 (US)	144 (US)	161 (US)	66 (US)	205 (US)	46 (US)		
A+E vs C+D	11 (C)	75 (US)	21 (US)	8 (US)	16 (US)	203 (US)	116 (US)	139 (US)	63 (US)	211 (US)	5 (C)		
A+B+E vs C+D	13 (US)	100 (US)	36 (US)	103 (US)	103 (US)	315 (US)	210 (US)	197 (US)	65 (US)	257 (US)	45 (US)		
A+B+E+Co+Y vs C+D	120 (US)	182 (US) 161	169 (US) 168	292 (US) 277	265 (US) 271	454 (US) 453	440 (US) 452	580 (US) 573	476 (US) 471	580 (US) 574	574 (US)		

Table 4 (cont'd)

	Averages								
	67-70	68-71	69-72	70-73	71-74	72-75	73-76	74-77	75-78
<u>Interceptions</u>									
A	21	22	24	28	34	31	20	19	
B	40	56	77	97	88	66	50	39	
C	40	38	45	55	56	53	32	36	34
D	20	20	34	55	54	57	48	24	31
E	62	66	116	166	194	209	192	144	
Columbia	-	-	-	-	-	-	-	-	-
Yukon	128	<del>142</del> 144	<del>156</del> 159	<del>180</del> 187	<del>228</del> 238	<del>291</del> 302	<del>337</del> 350	377	408
<u>Balance\$</u>									
A vs C	19 (C)	16 (C)	21 (C)	27 (C)	22 (C)	22 (C)	12 (C)	17 (C)	
A+B vs C	21 (US)	40 (US)	56 (US)	70 (US)	66 (US)	44 (US)	38 (US)	22 (US)	
D vs E	42 (US)	46 (US)	82 (US)	111 (US)	140 (US)	152 (US)	144 (US)	120 (US)	
A+E vs D+D	23 (US)	30 (US)	61 (US)	84 (US)	118 (US)	130 (US)	132 (US)	103 (US)	
A+B+E vs C+D	63 (US)	86 (US)	138 (US)	181 (US)	206 (US)	196 (US)	182 (US)	142 (US)	
A+B+E+Co+Y vs C+D	191 (US)	<del>228</del> 230 (US)	<del>294</del> 297 (US)	<del>361</del> 363 (US)	<del>434</del> 444 (US)	<del>487</del> 498 (US)	<del>519</del> 530 (US)	517 (US)	

Table 5. Canadian estimates of interceptions and balances of interceptions of coho in thousands.

	Annual												
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
<u>Interceptions</u>													
A	70	174	50	72	107	233	123	219	67	131	124	335	303
B	90	140	49	84	86	131	69	104	15	64	89	119	47
C	53	112	59	72	65	94	49	52	36	53	32	83	73
D	1061	1466	843	1273	1812	814	1287	1404	825	1302	1296	916	1296
E	342	386	314	507	480	345	499	648	541	714	506		
Columbia	-	-	-	-	-	-	-	-	-	-	-	-	
Yukon	-	-	-	-	-	-	-	-	-	-	-	-	
<u>Balances</u>													
A vs C	17 (US)	62 (US)	9 (C)	0 X	42 (US)	139 (US)	74 (US)	167 (US)	31 (US)	78 (US)	92 (US)	252 (US)	230 (US)
A+B vs C	107 (US)	202 (US)	40 (US)	84 (US)	128 (US)	270 (US)	143 (US)	271 (US)	46 (US)	142 (US)	181 (US)	371 (US)	277 (US)
D vs E	719 (C)	1080 (C)	529 (C)	766 (C)	1332 (C)	469 (C)	788 (C)	756 (C)	284 (C)	588 (C)	790 (C)		
A+E vs C+D	702 (C)	1018 (C)	538 (C)	766 (C)	1290 (C)	330 (C)	714 (C)	589 (C)	253 (C)	510 (C)	698 (C)		
A+B+E vs C+D	612 (C)	878 (C)	489 (C)	682 (C)	1204 (C)	199 (C)	645 (C)	485 (C)	238 (C)	446 (C)	609 (C)		
A+B+E+Co+Y vs C+D	612 (C)	878 (C)	489 (C)	682 (C)	1204 (C)	199 (C)	645 (C)	485 (C)	233 238 (C)	446 (C)	609 (C)		

Table 5 (cont'd)

	Averages								
	67-70	68-71	69-72	70-73	71-74	72-75	73-76	74-77	75-78
<u>Interceptions</u>									
A	92	101	116	134	170	160	135	135	
B	91	90	88	92	98	80	63	68	
C	74	77	72	70	65	58	48	43	51
D	1161	1348	1186	1296	1329	1082	1204	1207	1085
E	387	422	412	458	493	508	600	602	
Columbia	-	-	-	-	-	-	-	-	-
Yukon	-	-	-	-	-	-	-	-	-
<u>Balance<sup>5</sup></u>									
A vs C	18 (US)	24 (US)	44 (US)	64 (US)	105 (US)	102 (US)	87 (US)	92 (US)	
A+B vs C	109 (C) US	114 (C) US	132 (C) US	156 (C) US	203 (C) US	182 (C) US	150 (C) US	160 (C) US	
D vs E	774 (C)	926 (C)	774 (C)	838 (C)	836 (C)	574 (C)	604 (C)	605 (C)	
A+E vs D+D	756 (C)	902 (C)	730 (C)	774 (C)	731 (C)	472 (C)	517 (C)	513 (C)	
A+B+E vs C+D	665 (C)	812 (C)	642 (C)	682 (C)	633 (C)	392 (C)	454 (C)	445 (C)	
A+B+E+Co+Y vs C+D	665 (C)	812 (C)	642 (C)	682 (C)	633 (C)	392 (C)	454 (C)	445 (C)	

Table 6. Canadian estimates of interceptions and balances of interceptions of chinook in thousands.

	Annual												
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
<u>Interceptions</u>													
A	124	136	125	130	131	116	129	142	125	101	113	155	148
B	62	63	55	54	49	58	65	57	40	30	32	45	41
C	-	-	-	-	-	-	-	-	-	-	-	-	-
D	480	503	545	549	769	731	724	758	686	807	702	653	592
E	88	89	84	117	145	136	130	159	214	193	168		
Columbia	-	-	-	-	-	-	-	-	-	-	-	-	
Yukon	67	55	48	42 43	61 63	51 52	44 46	52 54	36 35	47 47	52	57	
<u>Balances</u>													
A vs C	124 (US)	136 (US)	125 (US)	130 (US)	131 (US)	116 (US)	129 (US)	142 (US)	125 (US)	101 (US)	113 (US)	155 (US)	148 (US)
A+B vs C	186 (US)	199 (US)	180 (US)	184 (US)	180 (US)	174 (US)	194 (US)	199 (US)	165 (US)	131 (US)	145 (US)	200 (US)	186 (US)
D vs E	392 (C)	414 (C)	461 (C)	432 (C)	624 (C)	595 (C)	594 (C)	599 (C)	472 (C)	614 (C)	534 (C)		
A+E vs C+D	268 (C)	278 (C)	336 (C)	302 (C)	493 (C)	479 (C)	465 (C)	457 (C)	347 (C)	513 (C)	421 (C)		
A+B+E vs C+D	206 (C)	215 (C)	281 (C)	248 (C)	444 (C)	421 (C)	400 (C)	400 (C)	307 (C)	483 (C)	389 (C)		
A+B+E+Co+Y vs C+D	139 (C)	160 (C)	233 (C)	206 (C) 205	383 (C) 381	370 (C) 369	356 (C) 357	348 (C) 346	271 (C) 272	436 (C) 434	387 (C) 387		

Table 6 (cont'd)

	Averages								
	67-70	68-71	69-72	70-73	71-74	72-75	73-76	74-77	75-78
<u>Interceptions</u>									
A	129	130	126	126	130	128	124	120	
B	58	55	54	56	57	55	48	40	
C	-	-	-	-	-	-	-	-	-
D	519	592	648	693	746	725	744	738	712
E	94	109	120	132	142	160	174	184	
Columbia	-	-	-	-	-	-	-	-	-
Yukon	53	52	50 <i>52</i>	50 <i>51</i>	52 <i>54</i>	46 <i>47</i>	45 <i>46</i>	48	48
<u>Balance<sup>s</sup></u>									
A vs C	129 (US)	130 (US)	126 (US)	126 (US)	130 (US)	128 (US)	124 (US)	120 (US)	
A+B vs C	187 (US)	185 (US)	180 (US)	182 (US)	187 (US)	183 (US)	172 (US)	160 (US)	
D vs E	425 (C)	483 (C)	528 (C)	561 (C)	604 (C)	565 (C)	570 (C)	554 (C)	
A+E vs D+D	296 (C)	353 (C)	402 (C)	435 (C)	474 (C)	437 (C)	446 (C)	434 (C)	
A+B+E vs C+D	238 (C)	298 (C)	348 (C)	379 (C)	417 (C)	382 (C)	398 (C)	394 (C)	
A+B+E+Co+Y vs C+D	185 (C)	246 (C)	298 <i>296</i> (C)	329 <i>328</i> (C)	365 <i>363</i> (C)	336 <i>335</i> (C)	353 <i>352</i> (C)	344 (C)	

1. FOR SOCKEYE  
2. FOR PINKS

CATCHES OF FRASER R SOCKEYE REGARDLESS  
OF WHERE CAUGHT

CATCHES OF SOCKEYE IN  
CONVENTION AREA

YEAR	U.S.			CANADA			Total		
	NO.	%		NO.	%				
1971	2,761,209	40.2%		4,104,422	59.8%		6,865,631	2,819,709	3,114,302
72	1,127,398	39.3%		1,743,924	60.7%		2,871,322	1,128,198	1,081,365
73	2,612,363	45.6%		3,120,916	54.4%		5,733,279	2,627,563	2,679,013
74	2,460,717	35.7%		4,438,306	64.3%		6,899,023	2,461,717	2,500,249
$\bar{X}$	2,240,421	40.2%		3,351,892	59.8%		5,592,313	2,259,296	2,343,632
Strike!									
75	1,560,066	58.5%		1,093,874	41.2%		2,653,940	1,563,866	643,193
76	1,321,815	31.7%		2,165,837	62.3%		3,507,652	1,322,015	1,376,239
77	1,729,864	37.1%		2,936,525	62.9%		4,666,439	1,788,564	1,958,047
78	1,360,365	19.5%		5,604,546	80.5%		6,964,911	1,362,446	1,317,115
$\bar{X}$	1,493,028	38.3%		2,955,208	61.7%		4,448,236	1,509,223	1,323,649
79 <sup>3</sup>	1,775,076	34.8%		3,321,124	65.2%		5,097,000	1,775,876	1,620,177
Pinks <sup>4</sup> (% US of Total CATCH from '59-'77 = 36.4% ; 1971-'77 = 33.6 %)									
1971	2,282,172	30.3%		5,238,947	69.7%		7,521,119	2,366,987	2,250,005
73	2,075,213	39.4		3,195,308	60.6%		5,270,521	2,243,997	2,313,310
7	2,178,692	34.8%		4,117,127	65.2%		6,395,820	2,205,492	2,281,662
75	1,141,084	32.7%		2,364,826	67.3%		3,511,910	1,253,360	1,232,595
77	2,232,305	37.9%		3,652,596	62.1%		5,884,901	2,168,432	2,114,566
79 <sup>5</sup>								4,076,273	4,131,355
7									

3) all strikes.

3) preliminary - subsistence catch not included

4) JMS records 5) IPSFC estimates.

Heas 21-27

Area 20

Area C

Shirone

6th

# CATCHES & Interceptions of Chum, Coho & Chinook by net fisheries at Pt. Roberts, San Juan Is., West Beach & Juan de Fuca Strait (US).

	Catch	<u>CHUM</u> Intercep	CATCH	<u>Coho</u> Intercep	CATCH	<u>CHINOOK</u> Intercep
1971	28.7	25.7	255.2	170.8	86.4	74.2
2	354.2	318.8	221.4	168.1	49.5	42.0
3	275.6	248.0	352.5	288.9	58.5	50.0
4	205.2	183.8	417.9	330.5	58.2	47.5
5	95.2	86.0	408.5	308.0	99.7	80.9
6	282.6	250.6	383.0	300.8	73.0	58.8
7	62.0	54.9	342.7	260.1	99.2	77.9
8						
9						

## CATCHES and Interceptions of Sockeye and Pink by all gear at NOYES Island (DIST. 4).

<u>Sockeye</u>	CATCH	Interceptions	<u>Pinks</u>	CATCH	Interceptions
1971	11.7	7.0		692.2	484.6
2	85.5	51.3		1678.4	150.6
3	115.7	69.4		843.5	590.4
4	119.8	71.9		1127.2	101.5
5	27.2	16.3		79.6	55.7
6	105.3	63.2		332.4	29.9
7	209.9	125.9		930.7	651.4
8	104.4	62.6		2101.7	189.2
9	317.4	190.4		974.5	682.1

## CATCHES & Interceptions of Sockeye at Cape Fox

	1971	'72	'73	'74	'75	'76	'77	'78	'79
CATCHES	116.1	134.5	159.8	113.3	25.4	118.0	192.7	160.0	89.3
Interceptions	87.1	100.9	119.8	85.0	19.0	88.5	144.5	120.0	67.0

Jobs given in the on the job should be included  
in pay - <sup>at least</sup> quantity

known - ~~about~~ job, <sup>was</sup> ~~was~~ this in US.

→ proposed present job but also proposed <sup>might</sup>  
less fish in to art. (7500000)

Credit of the fishing job (fishing is US 120)

Q Compensating job (not acceptable)

in US & on long

in the Porter - bond for  
slashes

If in handover in the 'port  
then we get full credit

3 years <sup>use</sup>

- Negry \$ for each year

US position: excludes Japan / where they suggest  
it is very much <sup>for</sup> high

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

*file*

TO  
À Mr. Legault

SECURITY  
Sécurité

CONFIDENTIAL

FROM  
De M.B. Phillips

DATE October 31, 1980.

REFERENCE  
Référence

SUBJECT  
Sujet Salmon: Meeting with the Minister

NUMBER DATE Numéro	801203
ACC	105804
FILE	DOSSIER
OTTAWA FILE	DOSSIER
MISSION B. H. NO	PAR PORTEUR
A. IN:	

ENCLOSURES  
Annexes

DISTRIBUTION

FLO

GNT

Mr. Fadden and I had a short discussion with the Minister, at his request, on October 30 concerning the last round of Pacific coast salmon talks.

2. Mr. MacGuigan expressed his concern that he and his colleague, Mr. LeBlanc, might be receiving different interpretations of what occurred at the talks. He also wished to know what had occasioned the conflicting press reports.

3. It was explained to the Minister that the production of an Agreed Summary Record was a procedure often followed at the various negotiating sessions over the years. The one signed by Dr. Shepard was not an agreement (or framework agreement) committing the government but rather a document in which the two negotiators agreed to recommend the negotiation of a treaty based on the detailed arrangements and procedures they had worked out.

4. I said that the wide areas of agreement recorded in the Summary Record did seem to provide the basis for the initiation of formal treaty negotiations. I said officials would examine the approach recommended by Shepard/Alverson with a view to seeking Cabinet approval of formal negotiations and a negotiating strategy. The Minister emphasized that he wanted any strategy to take account of the other fisheries questions in play with the USA. He said that he wanted to be satisfied, perhaps even in advance of the start of negotiations, that any bilateral treaty would be ratified. Without canvassing

...2

- 2 -

all the possible approaches he also mentioned the possibility of obtaining assurances from the U.S. Senators most directly concerned. The Minister was also told (in reply to his question about what leverage these negotiations might give us in the context of other West Coast bilateral fisheries issues) that the USA were equally anxious to get a salmon agreement. The Minister said that the tuna agreement also had to be taken into account in determining what leverage we might possess.

5. On the question of the conflicting press reports about what had been agreed, we explained that the union had long opposed the widely agreed approach to the salmon treaty and were obviously mounting a press campaign to gain wide acceptance of their view. In doing so last week it had been convenient for Hewison to characterize the Summary Record as a draft treaty in order to give the impression that full agreement was near at hand. (I expressed the opinion that it would take 18 months to finish the treaty.)



M.B. Phillips.

Government of Canada  
Gouvernement du Canada

MEMORANDUM

NOTE DE SERVICE

*J. Fadden*

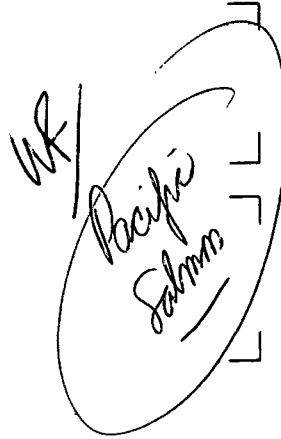
TO  
A

Minister of Fisheries  
and Oceans

FROM  
DE

Donald D. Tansley

SUBJECT Canada/USA Pacific  
OBJET Salmon Negotiations



SECURITY - CLASSIFICATION - DE SÉCURITÉ	
336499	
OUR FILE / NOTRE RÉFÉRENCE	
25-5-7-2-SALMON-1	
YOUR FILE / VOTRE RÉFÉRENCE	
DATE	
NOV - 5 1980	

Purpose

The purpose of this memorandum is to report to you the results of the negotiating session held in Lynnwood, Washington from October 20-25, 1980, to seek your approval of the basic direction in which the negotiations are proceeding, and to set out for your consideration the steps we feel are required to bring about the successful conclusion of a Convention.

Report of Progress Achieved

Attached to this memorandum is a copy of the Agreed Summary Record of the recent meeting. It is, in essence, a report to Governments on the basic elements of an agreement. On some subjects, it is more specific than on others but, in summary, it can be said that the two negotiators are confident that a fair and balanced agreement can be concluded.

The negotiators foresee that certain mutual objectives should be satisfied by an agreement that would, with respect to:

(a) Conservation:

Meet the objectives of both sides by requiring that if conservation requires reduction of fishing on a stock fished by both countries, both sides would have to cut back on a proportional basis;

(b) Research:

Meet the objective of both sides for research and analysis to determine with greater accuracy the numbers of salmon of different species and stocks intercepted by fishermen of each country; such information required in part for intercep-

.../2..

- 2 -

tion limitation schemes (see item (d) below) but, more importantly, as background for management and enhancement programs;

(c) Enhancement:

Meet the objectives of both sides by requiring coordination of enhancement programs in cases where enhanced fish from the two countries contribute to the same fishery (avoids development of fisheries on mixtures of strong enhanced stocks and weak natural runs; such fisheries inevitably result in depletion of natural runs, offsetting benefits gained from enhancement);

(d) Interceptions in the Short Term:

Meet the objectives of both sides by putting a four year freeze on interceptions, thereby preventing uncontrolled increased harvest by one country of the other country's stocks: the four year freeze will give both countries time to plan cooperative enhancement programs and to work out mutually beneficial adjustments in fisheries without fear that one or the other country will develop an advantage;

(e) Fraser River Sockeye and Pinks:

- (i) meet the Canadian objective of transfer of management responsibility from the International Pacific Salmon Fisheries Commission to the Government of Canada, thereby permitting Canada to enhance the runs and control escapements in order to meet Canadian management and fisheries development goals;
- (ii) meet the Canadian objectives of receiving all benefits from enhancement of Fraser sockeye and pink salmon through freezing of United States catches at no more than 1971-74 levels;<sup>1</sup>
- (iii) meet the United States concern that the United States entitlement be large enough to maintain its fishery at a viable level and to receive some benefits for its past cooperation;

---

<sup>1</sup>With special short term arrangements for United States to take less than 1971-74 entitlement in early years of Convention, which would be paid back at higher levels in later years when enhancement is "on-line"; later higher levels will take into account United States sacrifices in early years.

- 3 -

(f) Transboundary Stocks:

- (i) meet the Canadian objective of deriving benefits from contributions to United States fisheries from stocks spawning in Canadian sections of rivers which rise in Canada and flow to the sea through the United States; such benefits to include adjustments in United States fisheries to facilitate Canadian fisheries in Canadian sections of the rivers, or compensatory adjustments of fisheries along the Northern British Columbia-Southeast Alaska boundary favourable to Canada (e.g. United States cut-backs on intercepting fisheries, or increases in Canadian limits of interceptions of United States-bound salmon);
- (ii) meet the United States objective of preventing uncontrolled development of Canadian fisheries in Canadian sections of rivers in competition with U.S. fisheries downstream, at the expense of the spawning requirements;
- (iii) meet the objectives of both sides by establishing arrangements for joint setting of escapement goals and regulation of fisheries to meet such goals and to share allowable catches on an agreed basis;

(g) "Equity":

- (i) meet the Canadian objective of adjusting fisheries so that the value of salmon intercepted by each country is equally balanced in the long term. The new Commission will make a determination at the end of the third year of the agreement on the status of interceptions and develop a phased plan for cooperative enhancement and adjustment of fisheries to improve conservation and to eliminate inequities, if any are found;
- (ii) meet the United States concern that the determination of the amount of interception on each side will await at least three years of scientific study and that any required adjustments will be made in a manner which does not unduly disrupt existing fisheries (it is anticipated that any required adjustments will be made when enhancement increases abundance of runs, thereby easing problems of relocations of fisheries if such are required).

.../4..

- 4 -

### Next Steps

Your officials share the view of the negotiators that a new Pacific Salmon Convention can be concluded. However, there continues to be a suspicion amongst the advisory groups to both delegations that neither country would be prepared or able to live up to its commitments. (We have noted for example, remarks made by UFAWU spokesmen who are playing upon this suspicion and using it as an argument against an agreement.)

In light of this, we believe it to be essential that, in 1981, intercepting fisheries be conducted in "harmony", and that small but significant adjustments be made to key fisheries in the spirit of the progress made to date in negotiations.

In order to demonstrate the good faith of both sides, we would foresee some discussions at the technical level between Canadian and U.S. officials prior to the opening of the 1981 season with respect to coordination of intercepting fisheries in boundary areas.

For example, we could examine the possibility of making small adjustments to our troll fishery off Vancouver Island (adjustments that would have to be made in any event under the terms of the type of agreement being contemplated) in return for U.S. agreement to reduce its catch of Fraser-bound coho and chinook salmon at Point Roberts. Similar reciprocal arrangements could be devised for the northern B.C./S.E. Alaska area.

### Advisers' Opinions

The advisory group at the Lynnwood meeting comprised representatives of 12 industry groups. With the exception of the UFAWU, the advisers, including the Province of B.C., have expressed their support for the Canadian position, although some continue to have minor reservations over details.

As noted above, the UFAWU continues to attack the concept of an agreement which does not force the USA to cut back its intercepting fisheries, an attractive position which is totally unrealistic. However, we have also noted recently, comments from the Union which question the ability of Governments to implement an agreement. This suspicion is shared by other advisers, who, of course, remember the experiences of the last three to four years. A demonstration of good faith, along the lines suggested above, would do much to belay this suspicion. If we could succeed in persuading the USA to make some demonstrable cutbacks in 1981, the UFAWU would be forced to shift its ground, although it is unreasonable to expect support from that quarter.

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### Other Factors

Questions have been raised over the attitude of the U.S. Senate to a Salmon Convention, given the experience of the East Coast Treaty. We feel that Dr. Alverson, the U.S. negotiator has worked hard with his delegation, and with Congressional delegations from the States concerned. He arranged for Congressmen Breau and Bonker to address the meeting in Seattle, at which time they expressed their support for the direction in which negotiations were proceeding. Dr. Alverson has the confidence and full support of the North Pacific Regional Management Council, which is significant given the difficulties we have had with Alaska in the past.

Pending the outcome of U.S. elections, our judgement would be that the U.S. Senate would ratify a Convention along the lines now foreseen. However, you will be aware that your colleague, Dr. McGuigan, is concerned that Canada not be placed in a position of having other treaties put before the Senate without prior legislative assurances that they will not meet the same fate as the East Coast fisheries treaty. This issue would, of course, be addressed in any memorandum to Cabinet.

### Conclusions and Recommendations

In light of the foregoing, we would recommend that:

- (a) you concur in the recommendations of the negotiators contained in their Agreed Summary Record;
- (b) officials of this Department and the Department of External Affairs prepare a memorandum to Cabinet which would give authority for negotiations to be pursued, and for a Convention to be signed ad referendum;
- (c) officials enter into technical discussions with U.S. authorities to develop for the 1981 fishery reciprocal arrangements of a small but significant nature that would demonstrate the ability of both sides to cooperate in a manner foreseen in the negotiations;
- (d) a (final) round of negotiations take place in the first half of 1981, the exact date to be decided by the negotiators after they are sure that technical preparations on both sides will permit further progress.

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This memorandum was prepared in close consultation with officials of the Department of External Affairs.

Original Signed by  
DONALD D. TANSLEY

c.c. Minister's Office (3)  
D.D. Tansley (2)  
ADM's - H.D. Johnston  
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AGREED SUMMARY RECORD OF CANADA/UNITED STATES  
DISCUSSIONS ON A COMPREHENSIVE AGREEMENT ON  
THE MANAGEMENT AND DEVELOPMENT OF PACIFIC  
SALMON STOCKS OF MUTUAL CONCERN, LYNNWOOD,  
WASHINGTON, OCTOBER 20-25, 1980

Delegations of Canada and the United States of America, including advisers from the fishing industry, State and Provincial Governments, and domestic U.S. Fishery Management agencies, met in Lynnwood, Washington, October 20 - 25, 1980, to continue the development of a comprehensive agreement on cooperation in the management and development of Pacific Salmon stocks of common concern.

This document records agreements between the negotiators regarding approaches which they believe will lead to resolution of existing conservation and interception problems and which will provide the greatest opportunities for effective programs of improved management and enhancement in both countries in the future. Some of the solutions proposed are very specific whereas others are of a conceptual nature. Nevertheless in the negotiations, the negotiators considered all substantial issues that have been discussed in recent years. The negotiators recommend that on the basis of the principles and procedures agreed upon by the negotiators, the two parties proceed to elaborate these approaches and develop them into a Convention at an early date. The negotiators believe, in addition, that the principles, procedures and approaches they have agreed upon have been developed with sufficient specificity to permit fisheries authorities in both countries to operate within the spirit of a future Convention before such a Convention comes into force. The negotiators believe that such an approach can bring about immediate

improvements in the management of fisheries on a number of depleted runs and will reduce misunderstandings between the two countries, which in 1980 were leading to the development of an atmosphere of contention and confrontation. The negotiators, therefore, further recommend that fisheries authorities in the two countries immediately embark on development of mutually satisfactory arrangement for harmonious conduct of intercepting fisheries in 1981.

#### Section 1 - General

The United States and Canadian negotiators consider that <sup>they have reached</sup> substantial agreement on the principles of a Convention and on a number of specific provisions to implement such principles. At the same time, changing economic circumstances of the fisheries and new management and development programs in both countries are causing fundamental alterations in the fisheries. This fluid situation makes it very difficult to develop all the detailed provisions of a Convention at the present time. In this light, the negotiators agreed that the most appropriate course of action would be to conclude a general framework Convention which would include a series of binding principles and a series of specific provisions related to an initial salmon interception limitation scheme, management of stocks bound for transboundary and Fraser rivers, and technical resolution procedures. A Commission (with appropriate subsidiary panels) would be formed immediately on ratification to implement the Convention during the first year in which the Convention comes into force.

Once the Convention is in place it would be necessary for the Parties to negotiate further detailed implementation provisions regarding specific

Section 1

fisheries and approaches to management, development, research and monitoring. Such specific provisions could later be incorporated into a Protocol to the Convention. The original Convention should specify a timetable for development of the specific provisions outlined above. Acting within this timetable, the Commission would be charged with developing recommendations to the Parties regarding such provisions.

Section 11 - Agreement on Principles and Coordination to Achieve Them

1. The two negotiators agreed that the basic principles of the Convention should be the following:

- "(a) The two Parties shall cooperate in the regulation of their respective fisheries to ensure that salmon stocks subject to interception are conserved in such a way as to provide optimum yields;
- (b) The two Parties shall cooperate through coordinated programs of management, research, monitoring and enhancement to increase the production of salmon and to harvest such increased production in an optimal manner;
- (c) The fisheries of the two Parties shall be adjusted as required in order to provide for conservation as outlined in (a) and to provide each country with benefits commensurate with the salmon production in its own rivers, subject to special provisions for the Fraser and trans-boundary rivers; and
- (d) In selecting options for adjusting fisheries to meet the objectives of the Convention:
  - i) both parties/<sup>should</sup> attempt to reduce interceptions where conservation matters are involved;
  - ii) in balancing fisheries to achieve equity through enhancement, high priority should be given to reducing levels of interceptions or interception rates; and
  - iii) in implementing i) and ii) above, existing fisheries should not be unduly disrupted."

Section 11

2. In order to implement the foregoing principles in a phased manner, taking into account the need for close consultation in developing detailed technical measures, the negotiators agreed that the Parties should take the following actions:

"(a) During the first four years after the coming into force of the Convention, each Party shall limit its interceptions of salmon bound for the rivers of the other country to agreed upon levels. The details are contained in Section 111, IV and V of this summary record. In general, such levels shall approximate levels of interceptions that existed during 1971-74 but flexibility shall be provided in order to permit mutually agreeable adjustments aimed at improving conservation of the stocks and management of the fisheries. The scheme shall be reviewed at the end of the first year with a view to recommending to Governments arrangements which would apply in the succeeding three years.

(b) In the second four years after the coming into force of the Convention, on the basis of a determination by the Commission on the status of interceptions, and, on the basis of mutual agreement, the two Parties shall embark upon a long-term program of cooperative management and enhancement and a program of fisheries adjustment in order to achieve the objectives regarding conservation and sharing outlined in Section II, paragraphs 1a and 1c respectively. For purposes of the Convention, enhancement shall be deemed to include natural increases in stocks as well as increases resulting from specific salmon cultural programs."

### Section III - Interception Limitation Scheme

1. The two negotiators agreed that the following general scheme of interception limitations should apply when the Convention comes into force:

" Except as specified in other paragraphs of this section, interception of salmon originating in rivers other than transboundary rivers shall be considered within one of four categories:

- (a) Salmon bound for spawning grounds in British Columbia by United States fishermen operating in the vicinity of Alaska;
- (b) Salmon bound for spawning grounds in Alaska by Canadian fishermen;
- (c) Salmon bound for spawning grounds in British Columbia by United States fishermen operating in the vicinity of the coasts of Washington, Oregon and California;  
and
- (d) Salmon bound for spawning grounds in Washington, Idaho, Oregon and California by Canadian fishermen.

2. For interceptions in each of the categories outlined in the paragraph above the following scheme shall apply:

- (a)(i) Subject to the other provisions of paragraph 2, whenever the annual total harvest<sup>1/</sup> and escapement of a given species within any category equals or exceeds the average annual number of those fish in the four year period, 1971-1974,

total catch  
<sup>1/</sup> harvest: / comprises fish taken by interception and by fishermen of the country of origin . . .

Section III

then interceptions of those fish in that category shall be kept to the average number of interceptions that occurred in that period, except---

(ii) When, due to an increased contribution by the non-intercepting country's fish,

- (A) the percentage of those fish available for interception in the intercepting fishery increases; and
- (B) the consequences of applying the provisions of paragraph (i) to the fishery would reduce the total catch in the fishery by intercepting fishermen to a level below the 1971-74 average, notwithstanding the best efforts of those fishermen to avoid that reduction; then
- (C) at the request of the intercepting party; and
- (D) upon the determination of the Commission that the percent of intercepted fish had increased:

the number of interceptions permitted shall be limited to that number of fish that is the result of multiplying the proportion of fish available for interception in the fishery by the average total catch of that species in that fishery within the category during the period 1971-1974.

Section III

- (b) Any reduction in catches (below levels that existed in 1971-74) needed for conservation shall be shared proportionally by both countries according to their percentage of interceptions in the base period. In this regard, whenever the annual total harvest and escapement of a given species in any category falls below the average annual numbers of those fish in the period 1971-1974, then the percentage that intercepted salmon form of the total allowable catch of those fish shall not exceed the average percentage of intercepted fish in catches taken during that period.
- (c) Whenever the fishing methods or patterns of either country are so altered that they have an effect upon the number and composition of fish in any category that reach the waters of the originating country, other than the effect that would have resulted from applying the interception provisions of paragraphs (a) and (b), then the Commission shall recommend to the Parties changes to the number of permitted interceptions so that the total number and composition of fish reaching those waters is equivalent to the number and composition of the fish that would have reached those waters if the alteration in fishing methods or patterns had not occurred.
- (d) Notwithstanding paragraphs (a), (b), and (c), no intercepting country shall alter its fishing methods or patterns as to substantially decrease the proportion of stocks, as defined in the Convention, that would otherwise have reached the waters of the

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originating country had the fishing methods or patterns not been so altered.

- (e) Taking into account annual fluctuations in the strength of stocks, particularly cyclic fluctuations, annual limits on interceptions within categories may be exceeded provided that the total number of interceptions of each species within each four year period does not exceed the sum of the interception limits established pursuant to paragraphs (a) and (b).
- (f) Where the total number of fish intercepted during a four year period exceeds the sum of the interception limits that applied during that four year period, the excesses, under procedures established by the Commission, shall be reduced to zero during the following four year period.
- (g) In the first year after the entry into force of the Convention, the Commission shall make recommendations to Governments, respecting provisions the Convention concerning penalties to prevent either country from accumulating or carrying excesses over specified interception limits for prolonged periods.
- (h) In the first year after the entry into force of the Convention, the Commission shall consider whether or not shortfalls below specified interception limits accumulated over four-year periods should be compensated for by upward revisions in interception limits in succeeding years. (The negotiators agreed, however, that upward adjustments, if any, should not be made in all cases where shortfalls occur).
- (i) Within any year, increases in entitlements may be taken provided the

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percentage that intercepted salmon form of the total allowable catch of the stock does not exceed the average percentage of intercepted fish in catches of that stock during the 1971-1974 period."

The negotiators agreed that during the first year the Convention is in force, the interception limitation scheme outlined in paragraph 1 should be conducted on a trial basis. During this first year both sides should evaluate the practicality of the scheme and consider the need for modifications. Each side may propose to the Commission adjustments in the scheme aimed at achieving the principles of the agreement more effectively. At the end of the first year the Commission should recommend to the Parties detailed provisions to be included in the Convention for an interception limitation scheme that would be implemented during the succeeding three years. The Commission should annually review the scheme during this three year period with a view to recommending further mutually agreed improvements.

3. The negotiators considered approaches to the general interception limitation scheme which might apply in the first year the Convention is in force in each of the categories listed in paragraph I of this section and which could serve as the guide to the two countries in regulating intercepting fisheries before the Convention comes into force.
  - (a) With respect to interceptions of salmon bound for spawning grounds in British Columbia by United States fishermen operating

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in Alaska, the United States indicated that its gillnet fishery at Tree Point which takes sockeye and its troll fishery for coho and chinook salmon in Southeast Alaska and in the Fisheries Conservation Zone (FCZ) would be managed consistent with the general interception limitation scheme outlined in paragraphs 1 and 2 above.

For other fisheries in Alaska, the United States will manage its fishing activities in accordance with the status of runs and taking into account possible presence of Canadian stocks. Where information is developed which indicates the presence of a significant number of intercepted fish, the U.S. will consider specific actions necessary to conduct these fisheries in a manner consistent with the limitation scheme.

With respect to the Noyes Island seine fishery for sockeye, the negotiators considered the proposal of the United States to limit its interceptions by adjusting the fishing effort during the period of peak abundance of Canadian stocks. This effort limitation is expected to result in an average annual Noyes Island sockeye harvest of 120,000 to 140,000 fish, which is substantially less than the harvest of sockeye in recent years but at the same time is above the average sockeye catch during 1971-1974 or during 1972-1974. In light of the foregoing, Canada indicated that it would be prepared to accept the United States proposal during the initial stages of the Convention's operation if an acceptable upward adjustment in interception limits were granted to Canada with respect to its

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fisheries intercepting salmon bound for Alaska. Such modifications would be developed by mutual agreement and a specific provision should be included in the Convention in this respect.

- (b) With respect to interception of salmon bound for spawning grounds in Alaska by Canadian fishermen, Canada indicated that with the possible exceptions such as that noted in paragraph 3(a) above, and the pink salmon troll fishery in Area 1 fisheries in Areas 3x, 3y and 3z/would be regulated in accordance with the general interception limitation scheme.
- (c) With respect to interceptions of salmon bound for spawning grounds in Washington, Idaho, Oregon and California by Canadian fishermen, Canada indicated that Canadian fisheries would be managed consistent with the general interception limitation scheme outlined in paragraphs 1 and 2 above. Canada indicated that, in addition, it was considering the development of domestic measures to improve the conservation and utilization of chinook and coho stocks which could provide substantial benefits to the United States. If Canada were to undertake such actions, it would expect some compensatory actions on the part of the United States. Canada indicated its particular interest in the United States making compensatory adjustments in its fisheries on the approaches to the Fraser River. The United States indicated that if such added benefits could be quantitatively identified, it would be prepared to consider compensatory adjustments in its fisheries and enhancement programs to provide Canada with additional benefits.
- (d) With respect to interceptions of salmon bound for spawning grounds in Canada by United States fishermen from Washington, Oregon and California, the United States indicated that United States fisheries would be managed consistent with the general interception limitation scheme outlined in paragraphs 1 and 2 above, except as might be modified by mutual agreement such as those outlined in paragraph 3(c) above.

#### Section IV - Fraser River

The negotiators considered the practicalities of the transfer of specific management responsibilities on the Fraser River from the International Pacific Salmon Fisheries Commission (IPSFC) to Canada. They met with staff of the IPSFC between the June and October negotiating sessions to obtain their views.

The negotiators agreed that the Convention should include a general formula for regulation of the fisheries, on sockeye and pink salmon bound for the Fraser River. Specifically, the Convention should provide for:

- (1) transfer of upriver management and enhancement responsibilities from the IPSFC to the Government of Canada;
- (2) formulation of specific procedures for providing the United States with an allocation of portions of the allowable catches of Fraser bound sockeye along the lines of either option (a) or (b) outlined below or a mutually agreed variation of either:

"(a) The United States basic entitlement shall be 35% of the sockeye catch or 2.24 million sockeye per annum (balanced on a four year average to take into account cyclic variations), whichever is less except that:

Where application of this entitlement would provide the United States with fewer sockeye than would have been provided by application of the general interception limitation scheme, the above mentioned limit in numbers of fish (2.24 million) shall be adjusted upward in subsequent years to make up for the shortfall, as long as such adjustments do not result in United States fishermen taking more than 35% of the catch.

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In addition, for the first year and for each succeeding year a shortfall occurs, the number of fish in the shortfall (for which later upward adjustments in limits would be made) shall be increased by 3%, compounded annually.

- (b) 35% of the sockeye catch each year for 20 years.

After 20 years, return to entitlement of 2.24 million sockeye plus

(i) during the next 8 years - 25% of the excess catch over the base period catch of 5.6 million;

(ii) during the following 8 years - 15% of the excess catch over the base period catch of 5.6 million;

(iii) during the following 8 years - 5% of the excess catch over the base period catch of 5.6 million; and

(iv) thereafter the entitlement of 2.24 million only. There is no requirement for payback.

- (3) formulation of specific procedures for providing the United States with an allocation of portions of the allowable catches of Fraser bound pinks in line with the following:

33.6 percent of the total allowable catch for a period to be negotiated, and then return to the

Section IV

U.S. entitlement of 33.6 percent of the total allowable catch or 2.1 million pinks, whichever is lower;

- (4) consideration of whether or not to redefine the Convention area.

With respect to paragraphs 2 and 3, as background for selection among allocation alternatives for both sockeye and pinks, the negotiators agreed that technical specialists of the two countries should review the implications of the alternatives in relation to possible future developments in the management and enhancement of Fraser River salmon runs.

## Section V - Transboundary Rivers

1. The negotiators agreed that, because of the complex inter-relationships between the stocks and between the fisheries associated with rivers which rise in Canada and flow to the sea through the United States, special arrangements may be required for management and sharing of catches on these rivers.

In general, such arrangements would include:

- i) Close coordination in the setting of escapement targets and in planning the conduct of fisheries in order to achieve those targets
- ii) Coordinated, jointly agreed enhancement programs
- iii) Agreed upon shares between the two countries of jointly established allowable catches
- iv) Mechanisms to compensate Canada for contributions of fish originating in Canadian sections of the rivers to United States fisheries.

During the Lynnwood meeting, the negotiators were unable to consider in detail the regime that would apply to all transboundary rivers and concentrated only on the Taku and Stikine Rivers and to a limited extent on the Yukon River. They agreed, however, that cooperative arrangements should be considered for all transboundary rivers (other transboundary rivers not mentioned in this record include the Columbia, Unuk, Whiting and Alsek Rivers).

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### 2. Stikine and Taku River stocks and fisheries

a) Joint management. The negotiators agreed that, within the Commission, management authorities of the two countries would meet annually or more frequently as required to:

- i) Review information on the status of the stocks, the state of the fisheries and of the spawning escapements for the entire river systems,
- ii) Jointly agree on escapement targets for each species within Canadian sections of each river,
- iii) Consult regarding regulatory programs to achieve such escapement targets and to provide for sharing of allowable catches on a basis agreed to within the Commission (see below)

Each country would then conduct its fisheries in a manner that would achieve the escapement targets and that would provide agreed-upon shares of the catches. Close in-season coordination would be required between management authorities of the two countries to take into account deviations in the strength of the runs from pre-season expected levels because of natural fluctuations or other unpredictable factors.

- b) Upon entry into force of the agreement and with respect to the Taku and Stikine river systems, Canada <sup>would</sup> receive an entitlement equivalent to a fixed percentage of the total annual catch of salmon having their origin in Canadian sections

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of each river. In the first year after entry into force of the agreement, a tentative entitlement which would be less than 50% of the total annual catch of salmon from the Canadian sections of each river, would be established and would apply for the first four years the Convention is in force. The percent entitlement for the fifth and subsequent years would be determined by further negotiations to be held in the fourth year of the agreement following a review of the results of the scientific study referred to in paragraph (4) below but in no event would it be less than 50% nor more than 75%.

Notwithstanding the foregoing, the production of salmon of specific enhancement projects carried out by Canada, Canada should receive full benefits from such efforts. The negotiators agree, however, that the manner in which natural changes in run sizes are related to entitlements and the problem of how natural increases in stocks can be distinguished from increases associated with specific salmon enhancement projects require further discussion.

Such entitlement arrangements shall not apply to salmon produced as the result of specific enhancement projects by Canada for which Canada should receive full benefits from the portion in its part of the rivers. The negotiators agreed that a more precise definition of the relationships between such enhancement activities and

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sharing activities above should be developed before a specific provision on this matter is concluded.

The negotiators agreed that for 1981, Canada would limit its in-river salmon catch of each species to a level somewhat less than the percentage taken of the total catch in 1979.

Canada would receive the benefits referred to in paragraph b in the following ways as mutually agreed:

- (i) by the catch of salmon by Canadian fishermen in the Canadian sections of the rivers;
- (ii) by compensation provided to Canada for that portion of its entitlement established in paragraph 2b but not taken by the means set out in sub-paragraph 2b(i). Such compensation would be made through agreed adjustments favourable to Canada in interception limits specified in Section III above and by enhancement. Where compensation is to be made through enhancement, that compensation would not become due until the enhancement has come "on line" and during the first year the United States will specify to Canada the particular enhancement projects that will be undertaken, their timetables and their expected results. In addition projected adjustments in fisheries will be identified.

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- (iii) Enhancement of the stocks of the rivers/<sup>should</sup> be carried out in coordinated manner and by mutual agreement within the Commission. Each party/<sup>should</sup> carry out enhancement activities in its own waters.

3. Yukon River

The negotiators agreed that arrangements for cooperation on the Yukon could not be developed at the present time. They did agree, however, that the general principles, including cooperative management and establishment of an entitlement to Canada, that have been applied to other transboundary rivers should apply to the Yukon River. The character of the cooperative management and entitlement on the Yukon may differ from those on the other transboundary rivers.

All provisions for the Yukon River /...<sup>should</sup> be negotiated in a mutually agreeable time schedule.

4. Research on Transboundary Stocks

Both negotiators agree that further research is required on the salmon stocks of the transboundary rivers, and/<sup>that</sup> there should be included in the Convention a commitment to plan and conduct research necessary for the implementation of the Convention. Such research should be initiated by the end of 1981 and should include, but not necessarily be limited to, data needed to determine interception rates in mixed stock fisheries and the portions of

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runs which spawn in each Party's sections of the Panhandle  
rivers.

Section VI - Commission

1. The two negotiators reaffirmed their previous agreement that a Convention will contain provisions requiring the parties to establish a Commission to implement the agreed upon principles listed in Section II.

2. To ensure the smooth implementation of the Convention, a Commission (with appropriate subsidiary panels meeting separately or jointly) would be formed. The negotiators agreed that by the end of the first year after entry into force of the Convention, the Commission would:

- (a) present a report to the Parties summarizing the existing state of knowledge on the extent of interceptions and proposing future research required for implementation of the Convention;
- (b) recommend to Canada specific procedures for its assumption of management authority for Fraser River sockeye and pink stocks;
- (c) recommend to the Parties specific adjustments in limitation schemes for intercepting fisheries on salmon bound for spawning grounds in Southern British Columbia, Washington, Oregon, Idaho and California for the remaining three years of the initial phase of the agreement;
- (d) recommend to the Parties specific adjustments in limitation schemes for intercepting fisheries (other than those on transboundary stocks) on salmon bound for spawning grounds in Northern British Columbia and Southeast Alaska during the remaining three years of the initial phase of the Convention;

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- (e) recommend to the Parties adjustments in portions of allowable catches to be taken by Canadian fishermen in the rivers during remaining three years of the initial phase of the Convention;  
and
  - (f) recommend to Governments provisions to be added to the interception limitation scheme on penalties and on whether or not to compensate for shortfalls. (See Section III).
3. The negotiators agreed that by the end of the third year after the entry into force of the Convention, the Commission will recommend to the Parties a long-term program of cooperative management and enhancement and a program of fisheries adjustments in order to achieve the objectives of the Convention regarding conservation and sharing outlined in Section II, paragraphs 1a and 1c respectively.
4. At the end of the first and third years after the entry into force of the Convention, Governments would consider the above recommendations of the Commission and conduct negotiations with a view to developing Protocols to the Convention incorporating agreed-upon specific provisions concerning the subjects in the above paragraph and in sub-paragraphs (a)-(f) above.

## Section VII - Technical Dispute Resolution Mechanism

1. The two negotiators confirmed the understanding developed at the June, 1980, meeting that the Convention should include a process for dispute settlement regarding technical matters. The negotiators agreed that, in principle, an Article should be included in the Convention which would provide, inter alia, that:

- " (a) Where numerical information is required by the Commission in making its determinations, and where such numerical information is dependent on scientific evidence and analyses. Such information and analyses shall be subject to the technical dispute settlement mechanism. Other technical matters may be referred to this mechanism as may be determined by the Commission.
- (b) Either national section or the Commission itself may refer technical matters which could not be agreed upon within the Panels or the Commission to a Technical Dispute Board established by the Commission on a pro tem basis for resolving that particular dispute.
- (c) The Board for each particular dispute would consist of three members.
- (d) Time limits would be set for the appointment of each Board by the Commission and the times, after appointment, that consideration of the dispute would commence and the time at which the Board must report a decision to the Commission.

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- (e) The technical findings of each Board shall be final and without appeal and shall be utilized by the Commission as the numerical basis for its decision."

## Section VIII - Research

Research and monitoring programs will be required to effectively carry out the provisions and principles of the proposed Convention. Specifics of such programs have not yet been developed but should be agreed upon along with funding requirements prior to conclusion of the Convention. The research and monitoring programs should be coordinated through the Commission.

Section IX - Other Matters

There are a number of matters that the negotiators did not have time to consider (eg. the need for a general dispute settlement mechanism within the Commission, detailed arrangements for establishment of a Secretariat for the Commission, the duration of the Convention, etc.). Such items would have to be addressed in the elaboration of the Convention.

This document represents a record of agreements reached during negotiation. Together with other documents prepared at previous sessions, the document is intended to form the basis for the elaboration of a Pacific Salmon Convention.

OFFICE  
OF THE  
SECRETARY OF STATE  
FOR  
EXTERNAL AFFAIRS

CABINET  
DU  
SECRETAIRE D'ÉTAT  
AUX  
AFFAIRES EXTÉRIEURES

TO/A: FLO

Date 31.10.80

FROM/DE: MIN

REFERENCE/RÉFÉRENCE:

SUBJECT/SUJET: Minister's decision/Décision du Ministre

Seen by SSEA

Legal Operations Division/  
R. B. Fadden/6-2643/cw

*FLO-1396*

UNCLASSIFIED

October 29, 1980

*on hold*

DATE	1980
ACC	801203
REF	105809
FILE	25-5-7-2 SALMON-1
B HAND	PAR PORTEUR

MEMORANDUM FOR THE MINISTER

SUBJECT: Canada-USA Pacific Salmon Negotiations,  
Seattle/Victoria, October 20-27, 1980

The purpose of this memorandum is to report on the above negotiations which were pursued along the lines suggested in my memorandum of October 16, 1980 approved by you.

Substantial progress was achieved at the latest round of negotiations towards the eventual formulation of a Pacific Salmon Convention. The conclusions of the two heads of delegation were embodied in an agreed summary record which each delegation has undertaken to submit to its government, with a recommendation that the approaches therein form the basis of future negotiations. Officials from this Department and the Department of Fisheries and Oceans will be reviewing these approaches, in the light of which a memorandum to Cabinet will be prepared seeking a mandate to conclude an agreement. The tie-in of the proposed West Coast salmon agreement with other aspects of our fisheries relations with the USA will also be addressed in the Cabinet memorandum.

It should be noted that the various media reports of an agreement signed or shortly to be ratified are totally inaccurate. As I reported to you in my memorandum of October 16, 1980, the United Fishermen and Allied Worker's Union was critical of the Canadian approach. In fact they have now denounced the joint conclusions as not being in the national interest. It is felt that the Union's "media blitz" against an eventual agreement greatly contributed to the confusion concerning the results of the latest round of talks.

As a general framework, the two delegations agreed that the eventual Convention should ensure cooperation in the management of salmon stocks in such a way as to maximize yields through the establishment of enhancement programmes and through the mutual reduction of interceptions. In attaining these goals it was considered that disruptions to existing fisheries should be minimized. To implement the proposed Convention, the delegations recommend the formation of a joint Canada-USA Commission.

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- 2 -

In the first four years of the Convention's operation, salmon fishing would be conducted on the basis of arrangements outlined in the Convention itself and which would generally establish interception limits at the level existing in 1971-74 (the base period). During the second four-year period of the Convention's operation, the parties, following the formulation of Commission recommendations, would embark upon a long-term fisheries management and enhancement programme.

The delegations considered in some detail the question of abrogating the bilateral Fraser River salmon convention and the matter of providing the USA with a Fraser River entitlement. They undertook to submit two alternative proposals to their respective governments, reflecting each delegation's preferred solution.

The two delegations also considered the issue of transboundary rivers which rise in Canada and flow to the sea through the United States. While they were unable to agree on a global approach to Canadian entitlements in all transboundary river systems, it was concluded that, on the Taku and Stikine Rivers, Canadian entitlements would be between 50% and 75% (i.e. the suggested USA (lower) and Canadian (higher) proposals). Future negotiations will have to address these issues, as well as the question of native subsistence fisheries on the Unuk, Whiting and Alsek Rivers. The United States side did not have a mandate to discuss the Yukon River and there was only cursory discussion on the Columbia River.

In general terms, it was tentatively agreed that conservation would be the controlling factor in setting catch limits and that reductions resulting from conservation concerns would be shared proportionally by the two countries. A number of other issues were addressed and will be taken up in an overall review of the Pacific Salmon negotiations which will be presented to you in the proposed memorandum to Cabinet.

  
A.E.G.



**ACTION**  
**SUITE A DONNER**

**MESSAGE** **P1063**

**file** **diary/chron**

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DONNER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.		35-11-11	SECURITE
SEA/IL	UAGR	5984	29OCT80		U/C

FILE/DE

TO/A

EXTOTT/FLO **32A004/29**

INFO

B.H. FANDOTT/HUNTER DE OTT

SEAX WSHDC DE SEA **32A002/29**

DATE

ACC

FILE

BY HAND

REF

DOSSIER

PAR PORTIER

**25-5-7-2-Salmon-1**

DISTR.

FILE GNG

**SEA**

SUB/SWJ

---SALMON INTERCEPTION NEGOTIATIONS OCT19-25/80-SEATTLE

ATTACHED FOR YOUR RECORDS ARE COPIES OF ARTICLES APPEARING IN SEATTLE TIMES OF OCT 27 AND SEATTLE POST-INTELLIGENCER OF OCT 28, 1980, CONCERNING THE AGREEMENT WHICH WAS REACHED AT THE RECENT SALMON INTERCEPTION NEGOTIATION MEETINGS. WE HAVE NOT YET RECEIVED THE ANCHORAGE ALASKA PAPERS COVERING THIS PERIOD OF TIME, HOWEVER, WILL FORWARD ANY ARTICLES ON THIS SUBJECT WHICH MAY SUBSEQUENTLY APPEAR.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

SG

F.D. MARTENS/cn

SG

72063  
MONDAY, OCTOBER 27/80.

THE SEATTLE TIMES.

## Canadians, U.S. agree on tentative salmon pact

VANCOUVER, B.C. — (UPI) — Canadian and American negotiators have reached tentative agreement on a Pacific Coast salmon treaty that could result in a dramatic increase in dwindling stocks of the lucrative fish.

Jerry Spitz, president of the Fisheries Association of British Columbia, industry advisers to the Canadian negotiating team, said yesterday that negotiators would take the agreement to their respective governments for ratification.

Agreement was reached during the weekend, said Spitz.

Dr. Dayton Alverson, head of the American delegation, said the two sides would meet in Vancouver today to work out the last few details and that a formal announcement was expected later in the day.

Spitz said the tentative settlement includes agreement in three major areas.

One aim of the agreement is to limit the number of interceptions of salmon spawned in one country, but caught by fishermen in the other.

To this end, Spitz said, the two sides have agreed not to escalate interceptions over the next four years. During that time, an independent group would study the extent of interceptions by the two countries and how best to regulate fisheries so interceptions do not occur.

A Canadian negotiator, Dr. Michael Shepard, has said Canadians now take about 2 million United States fish a year; the Americans take about 5 million Canadian fish.

Second, enhancement projects designed to increase salmon stocks would be undertaken in both countries, said Spitz. Neither country has been prepared to invest heavily in producing more stocks or salmon runs when they could be intercepted by the fishermen of the other country.

The new treaty would replace the International Pacific Salmon Fisheries Convention under which Fraser River sockeye and pink salmon catches are allocated to fishermen of both countries.

P30/3

SEATTLE P-I

OCT 28 1980

## Salmon Fishing Pact Near

P-I News Services

Canadian and American negotiators met yesterday to finish work on a tentative agreement on West Coast salmon fishing that hopes to increase stocks and improve soured relations between fishermen in the two countries.

"There are a few options on certain issues that have to be gone over," Dr. Lee Alverson, head of the U.S. delegation said in Seattle. He added that "the perception on both sides is that we've come to a substantial agreement on all major issues."

Chief Canadian negotiator Dr. Michael Shepard said the broad principles of the agreement would be submitted to the Canadian and U.S. governments for ratification in a formalized treaty, a process that could take time.

But, said Shepard, negotiators were "strongly recommending that both governments conduct their 1981 fisheries in the spirit of the agreement" to prevent any further strain on relations between U.S. and Canadian fishermen.

The understanding, reached last week in Lynnwood, includes agreement

in several major areas. Details were to be ironed out yesterday in Victoria, B.C.

Under the proposal, each country would limit the number of "interceptions" — salmon spawned in one country but caught by fishermen in the other — Shepard said.

The two nations have agreed not to increase interceptions for four years while an independent group studies the extent and how best to regulate the fishery so interceptions do not occur.

The settlement also provides for the return to Canadian management of the Fraser River sockeye and pink salmon fishery. Shepard said the current administration by a joint U.S.-Canada commission has been "inconsistent."

MESSAGE

P1082 *uk*

FM/DE	PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
	Lieu	MINISTÈRE	N° D'ORIG.			SÉCURITÉ
	SEATL	UAGR	5973	24OCT80		RESTRICTED
						PRIORITY
TO/A EXTOTT - FLO <i>326500</i>						
INFO FANDU/OTT (CAMPBELL/HUNTER)						
REGAM BOSTON FANDOVANCOUVER/HOUSTON DE SEATTLE						
SFAX WSHDC <i>326500</i>						

DISTR. PCN GNG ELP

REF

SUB/SUB

*Salmon*  
SALMON INTERCEPTION NEGOTIATIONS.

NEGOTIATIONS ARE CONTINUING IN A VERY POSITIVE ATMOSPHERE ALTHOUGH A NUMBER OF DIFFERENCES REMAIN TO BE RESOLVED. A PARTICULARLY POSITIVE DEVELOPMENT WAS THE PRESENCE AT PLENARY SESSION 21 OCT OF CONGRESSMAN BREAUX (D-LOUISIANA) OF THE HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE AND CONGRESSMAN BONKER (D-WASH) MEMBER OF SAME COMMITTEE AS WELL AS FOREIGN RELATIONS COMMITTEE. LEE ALVERSON U.S. DELEGATION LEADER INTRODUCED TWO CONGRESSMEN AND ALLUDED TO MAJOR EFFORT HE WAS MAKING TO KEEP IN TOUCH WITH SENATE AND HOUSE MEMBERS WHO HAD AN INTEREST IN NEGOTIATIONS. HE HAS ALSO SOUGHT TO KEEP IN TOUCH WITH ALL CONSTITUENTS IN STATES CONCERNED E.G. OFFICIALS AS WELL AS THOSE IN INDUSTRY. BOTH CONGRESSMEN NOTED POOR STATE OF STOCKS AND SPOKE IN SUPPORT OF A BALANCED AGREEMENT THAT WOULD TAKE ACCOUNT OF TWO COUNTRIES INTERESTS AND IN PARTICULAR WOULD HAVE EFFECTIVE CONSERVATION AND ENHANCEMENT PROVISIONS. THEY NOTED HOUSE HAD PASSED AND SENATE WAS CONSIDERING FURTHER LEGISLATION (ENDORSED BY SENATOR MAGNUSSON) WHICH WOULD PROVIDE SUBSTANTIAL FUNDING FOR ENHANCEMENT. HOWEVER THEY NOTED THAT LACK OF AN INTERCEPTION AGREEMENT WOULD ADVERSELY IMPACT ON IMPLEMENTATION OF MAJOR ENHANCEMENT ACTIVITIES. CLEARLY, THESE CONGRESSMEN ARE COMMITTED TO SUPPORTING THE CONCLUSION OF AN AGREEMENT AND EXPRESSED DETERMINATION TO SUPPORT ITS PASSAGE THROUGH CONGRESS. REFERENCES WERE MADE TO THE DIFFICULTIES ENCOUNTERED BY EAST COAST AGREEMENTS.

2. SHEPPARD CANDEL LEADER RESPONDED AND WELCOMED PRESENCE OF CONGRESSMEN

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

NO.....

NO..... *J.R. Sharpe*

JOHN R. SHARPE

P282

2.

AND THEIR ENCOURAGING REMARKS. HE THEN ASKED CONGEN TO RESPOND. IN MY REMARKS I EXPRESSED THE APPRECIATION OF THE CDN DELEGATION FOR THE CONGRESS-  
MANS APPEARANCE AND THEIR EXPRESSIONS OF SUPPORT FOR AN AGREEMENT. I  
REMARKED THAT IN RETROSPECT IF SIMILAR MEETING HAD TAKEN PLACE DURING  
NEGOTIATION OF THE EAST COAST TREATIES THEY MIGHT HAVE FARED BETTER IN  
THE SENATE. I NOTED THAT PRIOR TO THE MEETING CONGRESSMAN BONKER HAD  
POINTED OUT THAT IN THE U.S., FISHING WAS VERY MUCH A REGIONAL MATTER AND  
THAT THERE WERE DISTINCT CONSTITUENCIES IN ALASKA, PNW, THE GULF AND THE  
EAST COAST WITH TUNA BEING A SEPARATE CONSTITUENCY ALTOGETHER. IN THIS  
CONTEXT I INDICATED THAT IN CANADA FISHERIES WAS A NATIONAL ISSUE AND THAT,  
FOR EXAMPLE, UNLIKE THE U.S., CANADA HAD A FEDERAL MINISTER OF FISHERIES.

UNCLASSIFIED

WITHOUT ATTACHMENT(S) / SANS ANNEXE(S)

## TRANSMITTAL AND RECEIPT NOTE - NOTE D'ENVOI ET DE RÉCEPTION

TO The Under-Secretary of State for External Affairs (FLO)  
À

NO. 294

DATE 24/10/80

QUANTITY QUANTITÉ	DESCRIPTION - DESCRIPTION	REFERENCE - RÉFÉRENCE
1	U.S. District Court decision - Phase II - Boldt	Our Telegram UAGR 5910 of October 3, 1980

DATE 801030

ACC REF

FILE 25-5-72-Sa/mpl-1

BY HAND PAR PORTEUR.

FLO

RECEIPT ACKNOWLEDGED / ACCUSER RÉCEPTION

RETURN TO / RETOURNER À

ATTN: F. D. Martens

CANADIAN CONSULATE GENERAL

PLAZA 600 BLDG.

SIXTH and STEWART

DATE

SIGNATURE

SECURITY - SÉCURITÉ

WITH ATTACHMENT(S) / AVEC ANNEXE(S)

UNCLASSIFIED


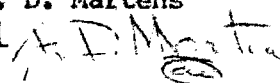
WITHOUT ATTACHMENT(S) / SANS ANNEXE(S)

## TRANSMITTAL AND RECEIPT NOTE - NOTE D'ENVOI ET DE RÉCEPTION

TO The Under-Secretary of State for External Affairs (FLO)  
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NO. 294

DATE 24/10/80

QUANTITY QUANTITÉ	DESCRIPTION - DESCRIPTION	REFERENCE - RÉFÉRENCE
1	U.S. District Court decision - Phase II - Boldt	Our Telegram UAGR 5910 of October 3, 1980
<p style="text-align: right;">801030</p> <p style="text-align: right;">25-3-72-5-1-1</p> <p style="text-align: right;">FLO</p>		
RECEIPT ACKNOWLEDGED / ACCUSER RÉCEPTION 		RETURN TO / RETOURNER À ATTN: F. D. Martens CANADIAN CONSULATE GENERAL PLAZA 600 BLDG. SIXTH and STEWART 
DATE	SIGNATURE	

FOLLOW-UP - COPIE FOURTEEN NOVEMBER 1980 98101

001129

FILED IN THE  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

SEP 26 1980

BRUCE RIFKIN, Clerk  
By \_\_\_\_\_ Deputy

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, )  
et al., )  
Plaintiffs, ) CIVIL NO. 9213 - PHASE II  
vs. ) OPINION  
STATE OF WASHINGTON, )  
et al., )  
Defendants. )

This opinion constitutes but the most recent link in  
a long chain of opinions construing the following 27 words:

"The right of taking fish, at all usual and  
accustomed grounds and stations, is further  
secured to said Indians, in common with all  
citizens of the Territory, \* \* \*."<sup>1</sup>

The quoted clause appears in six treaties negotiated between  
the United States and several Pacific Northwest Indian tribes  
in 1854 and 1855.<sup>2</sup> The Indians traded their interest in the  
land west of the Cascade Mountains and north of the Columbia  
River for the exclusive use of small land parcels (reserva-  
tions), cash payments, and various guarantees, including, of  
prime importance in 1854-1855 as well as today, the right to  
continue fishing. In each of the seven cases where the  
Supreme Court has directly addressed the scope of the fishing  
clause in these treaties, it has "placed a relatively broad

1 gloss on the Indians' fishing rights." Washington v.  
2 Washington State Commercial Passenger Fishing Vessel Ass'n,  
3 443 U.S. 658, 679 (1979).<sup>3</sup>

4 This complex case, which was commenced in 1970 by the  
5 United States on its own behalf and as trustee of seven Indian  
6 tribes,<sup>4</sup> involves three key issues: (1) whether the treaties'  
7 fishing clause entitles the Indians to a specific allocation  
8 of the salmon and steelhead trout<sup>5</sup> in the "case area";<sup>6</sup> (2)  
9 if such allocation is required, whether hatchery-bred and  
10 artificially-propagated fish are included in the allocable fish  
11 population; and (3) whether the right of taking fish incor-  
12 porates the right to have treaty fish protected from environ-  
13 mental degradation.

14 The case has been litigated in two phases. In  
15 Phase I, which focused on the allocation issue, a series of  
16 trial and appellate court decisions culminated in a 1979  
17 Supreme Court opinion which conclusively established the  
18 tribes' treaty-based right to take the lesser of 50 percent  
19 of the "harvestable" case area fish or a sufficient quantity  
20 of fish to provide them with a moderate standard of living.  
21 United States v. State of Washington, 384 F.Supp. 312 (W.D.  
22 Wash. 1974) ("Final Decision I"), aff'd 520 F.2d 676 (9th Cir.  
23 1975), cert. denied, 423 U.S. 1086 (1976); United States v.  
24 State of Washington, 459 F.Supp. 1020 (W.D. Wash. 1974-1978)  
25 ("Post-Trial Decisions"), various appeals dismissed, 573 F.2d  
26 1117 (9th Cir. 1978), 573 F.2d 1118 (9th Cir. 1978), 573 F.2d  
27 1121 (9th Cir. 1978), decisions at 459 F.Supp. 1020, 1097-  
28 1118 (W.D. Wash. 1977-1978), aff'd sub nom. Puget Sound  
29 Gillnetters Ass'n v. United States District Court for the  
30 Western District of Washington, 573 F.2d 1123 (9th Cir. 1978),  
31 aff'd in part, vacated in part, and remanded sub nom.  
32 Washington v. Washington State Commercial Passenger Fishing

1 Vessel Ass'n, 443 U.S. 658, 685-687 (1979) ("Washington -  
2 Phase I"). While retaining jurisdiction to ensure the  
3 implementation of the Phase I-decreed allocation, the Court  
4 here considers the hatchery and environmental issues which  
5 were raised in Phase I but reserved for decision in Phase II.<sup>7</sup>  
6 Currently pending are the parties' cross-motions for partial  
7 summary judgment on the hatchery issue and plaintiffs' motion  
8 for partial summary judgment on the environmental issue.  
9 Bound and informed by the numerous decisions heretofore ren-  
10 dered in this case, particularly the recent Supreme Court  
11 opinion, having found no genuine issue as to any material fact,  
12 and for the additional reasons set forth below, the Court con-  
13 cludes that plaintiffs are entitled to judgment as a matter of  
14 law on the hatchery issue and on that aspect of the environ-  
15 mental issue thus far presented for adjudication.

16 I

17 The treaties in question were negotiated between  
18 Isaac Stevens, the first Governor and first Superintendent of  
19 Indian Affairs of the Washington Territory, and tribal repre-  
20 sentatives. Few contemporaneous documents explicate the  
21 parties' intentions regarding the scope of and limitations  
22 on the tribes' fishing right. For the simple reason that fish  
23 were plentiful in 1854-1855 but have since become relatively  
24 scarce, the allocation, hatchery and environmental issues  
25 which all arise from the fact of scarcity were not addressed.<sup>8</sup>  
26 However, the extensive record developed in connection with  
27 this litigation and recounted in the many opinions issued to  
28 date provides considerable insight into the treaty negotiations.  
29 Preceding opinions have spelled out in impressive detail the  
30 parties' intentions and the surrounding circumstances, as well  
31 as relevant subsequent events; only a capsule summary is  
32 necessary here.<sup>9</sup>

1           When the treaties were negotiated, fish were the  
2           mainstay of the Indians' economy and the focal point of their  
3           culture. "All of [the otherwise-diverse tribes] shared a  
4           vital and unifying dependence on anadromous fish." Washington  
5           Phase I, supra, 443 U.S. at 664. See also id. at 665-666 and  
6           other Phase I opinions cited therein.<sup>10</sup>

7           An essential element of consideration for which the  
8           Indians bargained was the right to continue fishing as they  
9           had always done. "It is perfectly clear \* \* \* that they were  
10          invited by the white negotiators to rely and in fact did rely  
11          heavily on the good faith of the United States to protect that  
12          right." Id. at 667.<sup>11</sup>

13          In 1854-1855, Indians constituted approximately 75  
14          percent of the 10,000-person case area population and accounted  
15          for most of the fishing activity.<sup>12</sup> In 1974, Indians repre-  
16          sented approximately 10.8 percent of case area's commercial  
17          fishermen<sup>13</sup> and they netted 2.4 percent of the commercial  
18          catch.<sup>14</sup> The dramatic decline in the Indians' case-area  
19          fishing activity is attributable to such factors as the  
20          settlement of the West by predominantly non-Indians and the  
21          industrialization of fishing and related activities,<sup>15</sup> accultur-  
22          tion of Indians into non-Indian forms of employment,<sup>16</sup> belated  
23          access of Indian fishermen to the salmon runs by virtue of  
24          the location of Indians' fishing sites,<sup>17</sup> and the discrimina-  
25          tory manner in which state officials have applied fishing laws  
26          and regulations to Indian fishermen.<sup>18</sup>

27          The most salient effect of Phase I was to reverse  
28          this trend and place Indian fishermen on an equal footing with  
29          non-Indians. In February, 1974, following a month-long trial  
30          and several months of post-trial briefing and argument, Judge  
31          Boldt held that the treaty language securing to the Indians  
32          "the right of taking fish \* \* \* in common with all citizens"

1 entitles them to up to 50 percent of the harvestable fish  
2 passing through the tribes' usual and accustomed fishing  
3 grounds. Final Decision I, supra, 384 F.Supp. at 343-344.  
4 The quantity of harvestable fish subject to the 50/50 alloca-  
5 tion between Indians and non-Indians was to be computed by  
6 subtracting the following categories of fish from all those  
7 within the case area: (1) fish taken on, rather than off of,  
8 Indian reservations; (2) fish taken at off-reservation sites  
9 other than the tribes' usual and accustomed fishing grounds;  
10 (3) fish taken by the tribes for ceremonial and subsistence  
11 needs; and (4) fish not to be taken at all but to "escape"  
12 for spawning or conservation purposes. In addition, Judge  
13 Boldt called for an equitable adjustment augmenting the tribes  
14 share because non-Indians take a "substantially disproportionate"  
15 number of the fish caught offshore that would otherwise have  
16 passed through the tribes' fishing grounds. Id. at 344.  
17 Finally, Judge Boldt abstained from deciding whether hatchery-  
18 bred fish should be excluded from the allocable fish popula-  
19 tion. Id. at 344-345.<sup>19</sup> The Ninth Circuit affirmed Judge  
20 Boldt's allocation in all significant respects, modifying only  
21 the formula for computing the equitable adjustment. United  
22 States v. State of Washington, supra, 520 F.2d 676.<sup>20</sup> Initi-  
23 ally, the Supreme Court denied certiorari. 423 U.S. 1086.  
24 However, the Court later reviewed Judge Boldt's rulings when  
25 a conflict arose between the Washington state courts, which  
26 enjoined the State's Department of Fisheries ("Fisheries")  
27 from enforcing regulations designed to implement the alloca-  
28 tion decision,<sup>21</sup> and the federal courts, which had decreed  
29 and undertook directly to implement the treaty-based alloca-  
30 tion.<sup>22</sup> The Court consolidated the state and federal court  
31 proceedings, affirmed and adopted Judge Boldt's construction  
32 of the treaties, and upheld, with slight modification, his

1 allocation decision. Washington - Phase I, supra. The Court  
2 affirmed the Ninth Circuit's modification of the equitable  
3 adjustment formula; and further modified the computation of  
4 allocable fish by including: (1) fish taken on-reservation as  
5 well as those taken off-reservation; (2) fish taken off-  
6 reservation at sites other than the tribes' usual and ac-  
7 customed fishing sites; (3) fish taken by the tribes for  
8 ceremonial and subsistence needs. Id. at 687-688. The Court  
9 amplified the 50/50 allocation ruling by emphasizing that the  
10 crucial determinant of the tribes' treaty share is that  
11 quantity of fish sufficient to provide a moderate standard of  
12 living, subject to a ceiling of 50 percent of the harvestable  
13 fish.

14 "[T]he 50% figure imposes a maximum but not a  
15 minimum allocation \* \* \*. [T]he central  
16 principle here must be that Indian treaty  
17 rights to a natural resource that once was  
18 thoroughly and exclusively exploited by the  
Indians secures so much as, but no more  
than, is necessary to provide the Indians  
with a livelihood--that is to say, a moderate  
living." Id. at 686.

19 See also Final Decision I, supra, 384 F.Supp. at 401-402.

20 Finally, the Court noted that this Court had not yet reached  
21 a final decision on the hatchery issue and therefore expressed  
22 no opinion as to "whether the treaties give Indians the same  
23 right to take hatchery-bred fish as they do to take native  
24 fish." Id. at 689 n.30.

25 In August, 1976, several months after the Supreme  
26 Court denied certiorari in the first round of Phase I, the  
27 plaintiffs formally commenced Phase II by filing amended and  
28 supplemental complaints. The State responded with an answer  
29 and counterclaim. The issues were further refined through  
30 joint and separate statements of the issues to be resolved  
31 in Phase II. After considerable discovery and pretrial prepa-  
32 ration, the plaintiffs moved for partial summary judgment on

1 the issue "whether the federal treaty fishing right reserves  
2 to treaty tribes a right to have the fishery resource pro-  
3 tected from adverse environmental actions or inactions of the  
4 State of Washington."<sup>23</sup> Excluded from the scope of the plain-  
5 tiffs' motion, and not yet presented to the Court for resolu-  
6 tion, are two subsidiary environmental issues: (1) whether,  
7 if such right exists, the State has violated it; and (2) what  
8 remedies, if any, are appropriate. After extensive briefing  
9 by all parties, the Court heard oral argument on May 11, 1979.  
10 The Supreme Court's opinion in the second round of Phase I  
11 was handed down two months thereafter, and the parties sub-  
12 mitted additional briefs regarding the significance of that  
13 opinion in relation to the pending environmental issue.

14 Following a status conference in September, 1979,  
15 the parties filed cross-motions for summary judgment on the  
16 issue "whether the federal treaty fishing right includes all,  
17 some or no artificially-reared fish released into public  
18 waters."<sup>24</sup> Each party supported its motion with statements  
19 of facts and legal contentions, briefs, and affidavits<sup>25</sup> in  
20 accordance with the procedures outlined in Section 3.30 of the  
21 Manual for Complex Litigation. Oral argument took place on  
22 April 10, 1980, and, after the parties filed supplementary  
23 factual material, both the hatchery and the environmental  
24 issues were deemed submitted.

## 25 II

26 In analyzing the allocation issue in Phase I, it was  
27 possible to rely on the express language of the treaties, as  
28 well as the parties' intentions and surrounding circumstances,  
29 in construing the treaties' fishing clause. In particular,  
30 the 50/50 allocation between treaty and nontreaty fishermen  
31 was derived from the "in common with" provision in that clause.  
32 Washington - Phase I, supra, 443 U.S. at 685-686; Final

1 Decision I, supra, 384 F.Supp. at 343. However, none of the  
2 express terms in the fishing clause pertain to the hatchery or  
3 environmental issues. Canons of interpreting Indian treaties  
4 accordingly assume especial significance in ascertaining the  
5 treaties' implicit meaning with respect to those issues.

6 Indian treaties must be interpreted so as to promote  
7 their central purposes. United States v. Winans, 198 U.S.  
8 371, 381 (1905). They must be read "in light of the common  
9 notions of the day and the assumptions of those who drafted  
10 them." Oliphant v. Squamish Indian Tribe, 435 U.S. 191, 206  
11 (1978). The Supreme Court has been notably attentive to the  
12 intentions and assumptions of the Indians as they entered into  
13 the treaties.

14 "[T]he United States, as the party with the  
15 presumptively superior negotiating skills  
16 and superior knowledge of the language in  
17 which the treaty is recorded, has a responsi-  
18 bility to avoid taking advantage of the other  
19 side. '[T]he treaty must therefore be con-  
20 strued, not according to the technical mean-  
21 ing of its words to learned lawyers, but in  
22 the sense in which they would naturally be  
23 understood by the Indians.'" Washington -  
24 Phase I, supra, 443 U.S. at 675-676, quoting  
25 in part from Jones v. Meehan, 175 U.S. 1,  
26 11 (1899).

21 See also Tulee v. Washington, 315 U.S. 681, 684-685 (1942).  
22 Any ambiguities must be resolved in the Indians' favor; "the  
23 wording of treaties \* \* \* with the Indians is not to be con-  
24 strued to their prejudice." Antoine v. Washington, 420 U.S.  
25 194, 199 (1975). See also Choctaw Nation v. Oklahoma, 397  
26 U.S. 620, 631 (1970). The Supreme Court has repeatedly relied  
27 on the rule of attending to the Indians' common-sense under-  
28 standing of the treaties "in broadly interpreting these very  
29 treaties in the Indians' favor." Washington - Phase I, supra,  
30 443 U.S. at 676.

31 /  
32 /

III

A

Prior to 1973, the State had never drawn a distinction in either its legal arguments or its fisheries programs between natural and hatchery-bred fish. The State initially proposed that distinction in oral argument before the Supreme Court in a case involving discriminatory state regulation of steelhead trout fishing in the Puyallup River. In the course of striking down the state regulation as impermissible infringement upon the Puyallup Tribe's treaty-based fishing right, the Supreme Court expressly reserved ruling on whether the existence of a licence fee-funded hatchery program should affect the allocation of steelhead trout under the fishing clause. Department of Game v. Puyallup Tribe, 414 U.S. 44, 48 (1973) ("Puyallup II").<sup>26</sup> In a concurring opinion, three Justices suggested that the Indians' treaty right should not extend to hatchery fish subsidized by non-Indian sport fishermen. Id. at 49-50.

On remand, the State courts converted that suggestion into a ruling. Department of Game v. Puyallup Tribe, No. 158069 (Super. Ct. 1975), aff'd 86 Wash.2d 664, 548 P.2d 1058 (1976). Although the Puyallup litigation involved fishing by the Puyallup Tribe (but not the other 20 tribes that are parties to this litigation) for steelhead trout (but not the other five species of salmon that are the subject of this litigation) in the Puyallup River (but not the entire case area), the State moved to exclude all hatchery fish from the 50 percent treaty share to which Judge Boldt had declared all of the Indians in this case to be entitled. Judge Boldt then enjoined the State from extending the State court's holding beyond the Puyallup parties and subject matter. Post-Trial Decisions, supra, 459 F.Supp. at 1042 (following Pierce County

1 Superior Court decision) and at 1072 (following Washington  
2 Supreme Court decision). When the State court's ruling was  
3 reviewed by the Supreme Court, the case was decided on other  
4 grounds and the Court again declined to address the hatchery  
5 issue. Puyallup Tribe v. Department of Game, 433 U.S. 165,  
6 177 n.17 (1977) ("Puyallup III"). In short, none of the  
7 numerous federal opinions in the Puyallup trilogy addresses  
8 the merits of the hatchery issue; neither the governing law  
9 nor the applicable facts were discussed, much less adjudicated.  
10 See Post-Trial Decisions, Supra, 459 F.Supp. at 1079 (Memoran-  
11 dum Decision and Order Granting Preliminary Injunction re  
12 Hatchery Propagated Fish). Throughout Phase I, which was  
13 litigated concurrently with Puyallup II and III, hatchery fish  
14 have been legally indistinguishable from natural fish.

15 B

16 Although the legal status of hatchery fish did not  
17 assume significance until 1973, the State's hatchery program  
18 has been in existence since 1895.<sup>27</sup> The hatchery activities  
19 of the Fisheries and Game Departments have steadily increased  
20 since that time, particularly in the more recent years.<sup>28</sup>  
21 Currently, the State operates 19 steelhead trout and 16 salmon  
22 hatcheries in the case area.<sup>29</sup> Another 16 facilities provide  
23 limited salmon production assistance.<sup>30</sup> The State-run facili-  
24 ties are funded by federal and local, as well as State,  
25 monies.<sup>31</sup>

26 Additional hatcheries in the case area are operated  
27 by entities other than the State. Some facilities are  
28 sponsored by the United States Fish and Wildlife Service,  
29 some are sponsored by various tribal governments, and others  
30 are cooperative ventures between the State and tribes or  
31 private parties.<sup>32</sup>

32 An estimated 371,000,000 salmon and 8,755,000

1 steelhead trout were released into the State's waters from  
2 federal, State, tribal, and all other hatcheries during the  
3 1978-1979 season (i.e., July 1978-June 1979).<sup>33</sup> Hatchery fish  
4 presently account for 60 percent of the steelhead and 17 percent  
5 of the salmon in the case area.<sup>34</sup> The relative size of the  
6 hatchery population varies considerably among the different  
7 salmon species; hatchery fish constitute as much as 63 percent  
8 of the chinook in the case area and there are virtually no  
9 hatchery-propagated pink and sockeye salmon.<sup>35</sup> Because salmon  
10 return to their native streams to spawn, the placement of  
11 hatcheries has a tremendous impact on the proportion of  
12 propagated and natural fish in each geographically distinct  
13 population.

14           Once released from hatchery facilities, artificially-  
15 bred fish mature and reproduce in the same manner as natural  
16 fish. Hatchery and natural stocks of the same species often  
17 occupy the same harvest management area at the same time.<sup>36</sup>  
18 Hatchery and natural fish generally resemble each other, al-  
19 though sophisticated techniques are being developed to attempt  
20 to differentiate between them.<sup>37</sup> Whether such techniques  
21 are reasonably accurate or economically feasible is not yet  
22 established.<sup>38</sup> In its motion for summary judgment, the State  
23 seeks to exclude from the population of allocable fish the  
24 "first generation" of hatchery-produced fish. Subsequent  
25 generations, who spend their entire life cycle in the natural  
26 environment, are undisputedly included in the tribes' treaty  
27 share.<sup>39</sup>

28 C

29           The Court concludes that all hatchery fish must be  
30 included in the computation of the tribes' treaty share in  
31 order to effectuate the parties' intent and the purposes of  
32 the fishing clause. The Supreme Court's recent reaffirmation

1 of the long-standing view that the treaties were designed to  
2 guarantee the tribes an adequate supply of fish goes far  
3 toward resolving the hatchery issue.

4 "Governor Stevens and his associates  
5 were well aware of the 'sense' in which the  
6 Indians were likely to view assurances of  
7 their fishing rights. During the negotia-  
8 tions, the vital importance of the fish to  
9 the Indians was repeatedly emphasized by  
10 both sides, and the Governor's promises  
11 that the treaties would protect the source  
12 of food and commerce were crucial in obtain-  
13 ing the Indians' assent. It is absolutely  
14 clear, as Governor Stevens himself said,  
15 that neither he nor the Indians intended  
16 that the latter "should be excluded from  
17 their ancient fisheries," and it is ac-  
18 cordingly inconceivable that either party  
19 deliberately agreed to authorize future  
20 settlers to crowd the Indians out of any  
21 meaningful use of their accustomed places  
22 to fish." Washington - Phase I, supra,  
23 443 U.S. at 676 (citations omitted).

15 The only express limitation on the tribes' right of taking  
16 fish is the requirement to share the harvest "in common with"  
17 non-Indians. The only implicit limitations on that right are  
18 the tribes' moderate living needs, the State's power to impose  
19 conservation measures necessary to preserve the resource, and  
20 the physical availability of fish. Id. at 686-689; Final  
21 Decision I, supra, 384 F.Supp. at 401-402. No court has  
22 implied any additional limitations based on the species or  
23 origin of the fish, or the purpose, manner, or timing of the  
24 taking. Id.

25 It is now beyond dispute that natural fish have be-  
26 come relatively scarce, due at least in part to the commercial-  
27 ization of the fishing industry and the degradation of the  
28 fishing habitat caused primarily by non-Indian activity in  
29 the case area.<sup>40</sup> The record also establishes that the State  
30 has developed and promoted its artificial propagation program  
31 in order to replace the fish that were artificially lost.  
32 In 1977, the State described its hatchery program as follows:

1 "Salmon hatcheries \* \* \* are a means of com-  
2 bating losses of fish life caused by environ-  
3 mental changes. They are an aid to crippled  
4 streams in producing fish, occasionally a  
5 substitute for them. Because of competitive  
6 water, land, and forest exploitation, it has  
7 been necessary to develop controlled methods  
8 of sustaining or rehabilitating the stocks  
9 of fish which inhabit fresh water streams."<sup>41</sup>

6 The mitigation purpose of the State's hatchery program has  
7 been echoed throughout its history. This statement by a  
8 Fisheries spokesman in 1946 typifies the statements and pub-  
9 lications frequently issued by the State:

10 "The present purpose of the salmon hatchery  
11 is not to replace nature, nor to eliminate  
12 it, but to supplement the work of nature in  
13 places where the works of man have caused an  
14 unnatural situation which reduces the effec-  
15 tiveness of natural propagation. Hatcheries  
16 are intended to replace the production of  
17 streams destroyed by dams, diversions,  
18 pollution, or obstructions, and to build up  
19 the runs and streams that are not producing  
20 to full capacity."<sup>42</sup>

16 See also Post-Trial Decisions, supra, 459 F.Supp. at 1074,  
17 1081 (hatcheries injunction). It is equally evident that  
18 hatchery fish represent an ever-increasing proportion of the  
19 total fish population in the case area. Whereas hatchery-bred  
20 steelhead trout accounted for 10 percent of all steelhead  
21 trout in 1950, their representation rose to 20 percent in  
22 1960, 40 percent in 1970, and 60 percent in 1980.<sup>43</sup> According  
23 to the chief of the Game Department's Fisheries Management  
24 Division:

25 "Hatchery-reared winter-run steelhead make up  
26 a high percentage of the catch of steelhead  
27 in the state with some of the heavily planted  
28 rivers showing hatchery returns contributing  
29 up to 90% of the catch \* \* \*. Overall it  
appears likely that hatchery steelhead will  
continue to contribute significantly to the  
harvests, while the numbers of wild fish  
will most likely decline."<sup>44</sup>

30 The inescapable conclusion is that if hatchery fish were to  
31 be excluded from the allocation, the Indians' treaty-secured  
32 right to an adequate supply of fish<sup>45</sup>--the right for which

1 they traded millions of acres of valuable land and resources--  
2 would be placed in jeopardy. The tribes' share would steadily  
3 dwindle and the paramount purpose of the treaties would be  
4 subverted. Contrary to what the Supreme Court held to be  
5 the parties' intentions, nontreaty fishermen would ultimately  
6 "crowd the Indians out of any meaningful use of their ac-  
7 customed places to fish." Washington - Phase I, supra, 443  
8 U.S. at 676-677.

9 D

10 None of the arguments advanced by the State calls  
11 for the exclusion of hatchery fish from the treaty allocation.  
12 First, the State focuses on the intentions of the negotiators.  
13 Proceeding on the accurate assumption that neither the Indians  
14 nor the federal officials conceived of artificial propagation  
15 facilities when the treaties were drafted in 1854 and 1855,<sup>46</sup>  
16 the State argues that the Indians' concepts of property rights  
17 were such that, if they had divined the advent of hatcheries,  
18 they would not have presumed to be entitled to State-funded  
19 hatchery fish. In short, the State contends that the tribes  
20 subscribed to the doctrine that one may claim the fruits of  
21 his own labor. The record establishes that the Indians  
22 recognized exclusive property interests in land and in  
23 sedentary resources.<sup>47</sup> However, the Indians viewed migratory  
24 fish and animals differently from stationary ones. The right  
25 to take fish existed when, and only when, the fish were within  
26 or passing through a tribe's particular territory.<sup>48</sup> Indians  
27 attempted to "enhance" their fish supply by religious means,<sup>49</sup>  
28 but there is no evidence that those who participated in en-  
29 hancement activities attained any superior or exclusive  
30 interests in the fish for whose arrival they had prayed.<sup>50</sup>

31 The State attempts to bolster its interpretation  
32 of the parties' intent by referring to the shellfish proviso

1 that was tacked onto the fishing clause:

2 "The right of taking fish \* \* \* is further  
3 secured to said Indians, \* \* \* Provided,  
4 however, That they shall not take shell  
5 fish from any beds staked or cultivated  
6 by citizens."

7 The State argues that the shellfish proviso illustrates the  
8 parties' intent to deny the Indians access to resources  
9 created or enhanced by non-Indian efforts. Again the State  
10 misperceives the tribes' notions of property law. As des-  
11 cribed above, Indians considered shellfish, as sedentary  
12 creatures, to be the exclusive province of the tribe within  
13 whose territory they were located. Thus, the proviso imposed  
14 no limitation on the Indians' then-existing activities be-  
15 cause only resident tribe members were entitled to take local  
16 shellfish. Rather, the function of the proviso was to enable  
17 non-Indian settlers to establish their own, exclusive owner-  
18 ship of shellfish beds and storage areas that might have  
19 otherwise belonged to the tribes.<sup>51</sup> The shellfish proviso  
20 carved an exception into the Indians' rule that a tribe had  
21 exclusive use of sedentary resources within its territory.  
22 It did not reflect the adoption of the conceptually-distinct  
23 rule, urged here by the State but not recognized in 1854-  
24 1855 by the Indians, that one who cultivates a resource  
25 thereby gains an exclusive ownership interest in it.

26 Next, the State focuses on the fact that the tribes'  
27 fishing right is a reserved, rather than a granted, right.  
28 That is, the treaties authorized the Indians to continue to  
29 exercise their preexisting right to take fish; they did not  
30 create new or additional fishing rights for the tribes. This  
31 characterization of treaty rights has long been established  
32 beyond cavil. See, e.g., United States v. Winans, supra,  
33 196 U.S. at 381, quoted approvingly in Washington - Phase I,  
34 supra, 443 U.S. at 680. The State invokes it here to claim

1 that because hatcheries were neither in existence nor in  
2 the parties' contemplation when the treaties were signed, the  
3 Indians could not have reserved the right to take hatchery  
4 fish. This claim contravenes considerable case law and is  
5 directly refuted by Winans, the leading case on which the  
6 state relies regarding the nature of reserved rights.

7 In Winans, private parties constructed a state-  
8 licensed fish wheel on the Columbia River and thereby fore-  
9 closed the Yakima Indians from fishing at some of their usual  
10 and accustomed places. The Supreme Court held that it vio-  
11 lated the fishing clause of the Treaty with the Yakimas (one  
12 of the treaties in issue here) for the non-Indians to use  
13 "modern" devices which have the effect of preempting the  
14 tribes' fishing right.

15 "New conditions came into existence, to which  
16 those [fishing] rights had to be accommodated.  
17 Only a limitation of them, however, was neces-  
18 sary and intended, not a taking away. \* \* \*

18 \* \* \* In the actual taking of fish white  
19 men may not be confined to a spear or crude  
20 net, but it does not follow that they may  
21 construct and use a device which gives them  
22 exclusive possession of the fishing places."  
23 Winans, supra, 198 U.S. at 381-382.

24 In Phase I of this case, the Supreme Court stated that "even  
25 more significant than the language in Winans is its actual  
26 disposition. \* \* \* [I]t assured the Indians a share of the  
27 fish." Washington - Phase I, supra, 443 U.S. at 681. Clearly,  
28 the treaties reserved to the tribes more than a share of the  
29 1854 and 1855 salmon runs; they also reserved the right to  
30 share in all future runs. In light of the fact that hatchery-  
31 bred fish constitute an ever-increasing proportion of the  
32 relatively-stable total catch, hatchery fish must be included  
33 in the tribes' allocation in order to "assure the Indians a  
34 share of the fish."

35 Finally, the State contends that it has regulatory

1 and ownership interests in hatchery fish and that neither the  
2 treaties nor any subsequent enactment has preempted such  
3 interests. With respect to the State's asserted regulatory  
4 interest, it has been firmly established that the State's  
5 authority to regulate treaty fishing extends no further than  
6 the imposition of nondiscriminatory, necessary conservation  
7 measures. See Puyallup trilogy, supra; Final Decision I,  
8 supra, 384 F.Supp. at 333, 339, 342, 345-347, 401-403. The  
9 State has not claimed that it seeks to regulate the allocation  
10 of hatchery fish in order to conserve the resource. Rather,  
11 the State believes that because it provides funding for (at  
12 least part of) its hatchery program, its authority to regulate  
13 hatchery fish is not limited to conservation measures. The  
14 crux of the State's argument is that it has bought its way  
15 out of the obligation to respect the tribes' treaty rights.<sup>52</sup>  
16 Both the premise and the conclusion of this argument are  
17 fallacious. First, the State's use of the term "regulate"  
18 is inappropriate. The State does not seek to control the  
19 time, manner, location, or extent of hatchery-fish fishing;  
20 it wishes to control the allocation of hatchery fish.<sup>53</sup>  
21 Second, it is too late in the day to challenge the fact,  
22 recently reaffirmed in Phase I, that the treaty governs the  
23 allocation of fish. Under the Supremacy Clause of the Consti-  
24 tution, the State is bound by the allocation decreed pursuant  
25 to the treaty. In the absence of a claim that hatchery fish  
26 must be excluded from the allocation in order to preserve the  
27 resource, the State's police powers are not implicated in the  
28 determination whether hatchery fish are "fish" for purposes  
29 of the treaty allocation.

30 Ultimately, the State is asserting an ownership  
31 interest in hatchery fish. This argument must fail as a  
32 matter of law. As the State concedes, the Supreme Court has

1 flatly rejected the notion that a state owns fish swimming  
2 within its waters.

3 "[T]o put the claim of the State upon title  
4 is,' in Mr. Justice Holmes' words, 'to lean  
5 upon a slender reed.' A State does not stand  
6 in the same position as the owner of a pri-  
7 vate game preserve and it is pure fantasy to  
8 talk of 'owning' wild fish, birds, or animals.  
9 Neither the State nor the Federal Government,  
any more than a hopeful fisherman or hunter,  
has title to these creatures until they are  
reduced to possession by skillful capture."  
Douglas v. Seacoast Products, Inc., 431 U.S.  
265, 284 (1977) (citations omitted).

10 See also Hughes v. Oklahoma, 441 U.S. 322 (1979). The State  
11 invites this Court to limit Douglas and Hughes to natural  
12 fish and to reinstate with respect to hatchery fish the nine-  
13 teenth-century rule that a state owns its public resources.  
14 Whatever merit the State's argument might have when applied  
15 to fish confined within hatchery facilities, it has no logical  
16 application to harvestable fish that have been released from  
17 such facilities and are freely swimming alongside naturally-  
18 bred fish in the State's rivers, streams, and bays. The  
19 State acknowledges that private hatchery owners have no owner-  
20 ship interest in fish released into public waters.<sup>54</sup> Both  
21 Douglas and Hughes counsel against the recognition of any  
22 ownership interests in the State with respect to hatchery fish  
23 that have been released from the State's possession.

24 The State attempts to overcome the import of Douglas  
25 and Hughes by relying on two recent takings cases. Its  
26 reliance is misplaced. In Kaiser Aetna v. United States,  
27 444 U.S. 164 (1979), and Vaughn v. Vermilion Corp., 444 U.S.  
28 206 (1979), the Supreme Court held that when a private party  
29 builds channels on private property with private funds, the  
30 fact that such channels ultimately join with navigable water-  
31 ways does not render the private channels subject to public  
32 access as if public waterways. These cases do not suggest

1 that the investment of state funds in hatchery facilities  
2 would give rise to state ownership of hatchery-bred, but  
3 since-released, fish. First, the Court distinguished between  
4 privately-constructed projects that replace preexisting  
5 navigable waterways and those that do not involve the destruc-  
6 tion and replacement of public waterways. Whereas a private  
7 ownership interest exists in the latter situation, the Court  
8 suggested that it might well not exist in the former situa-  
9 tion. Vaughn, supra, 100 S.Ct. at 401. This case is more  
10 closely analogous to the former situation, if it is in any  
11 way analogous to the waterways cases, because hatchery fish  
12 are produced in order to replace depleted natural stocks.  
13 Second, both Kaiser and Vaughn involved the relationship  
14 between private parties and the federal government for pur-  
15 poses of the Takings Clause. This case involves the relation-  
16 ship between a state and Indian tribes and no takings issue  
17 is present. Third, there is a significant difference between  
18 requiring a private property owner to grant the public access  
19 to his property after his improvements have been connected to  
20 public property, which the Supreme Court held in Kaiser and  
21 Vaughn could not be done without providing just compensation,  
22 and entitling a state to claim ownership of hatchery fish once  
23 they are released from a hatchery facility and swimming freely  
24 in public waters.

25 The legal conclusion that the State lacks an owner-  
26 ship interest in released hatchery fish is reinforced by the  
27 factual circumstances of this case. Although the State pro-  
28 vides considerable funding for its hatchery program, it is  
29 undisputed that federal and local governments as well as pri-  
30 vate parties also contribute to the construction and operation  
31 of State-run hatcheries.<sup>55</sup> In addition, the State's hatch-  
32 eries supply only a portion of the hatchery fish population;

1 federal, tribal, private, and cooperative (State-private,  
2 State-tribal) hatcheries account for approximately 25 percent  
3 of the hatchery-bred steelhead and 22 percent of the hatchery-  
4 bred salmon in the case area.<sup>56</sup> It would be inequitable and  
5 contrary to the spirit and intent of the treaties were the  
6 State-produced hatchery fish to be exempt from the treaties'  
7 "in common with" sharing requirement while hatchery fish sup-  
8 ported by tribal and federal funds would be divided equally  
9 between the tribes and all other State citizens.

10 Moreover, the inclusion of hatchery fish in the  
11 allocation need not affect nontreaty fishermen adversely.  
12 The Supreme Court plainly stated that the measure of the  
13 tribes' treaty share is that quantity of fish sufficient to  
14 provide them with a moderate standard of living, subject to a  
15 maximum share of 50 percent of the total catch. Washington -  
16 Phase I, supra, 443 U.S. at 686-687. For every hatchery fish  
17 taken to satisfy the tribes' moderate living needs, an addi-  
18 tional natural fish is available to the nontreaty fishermen.  
19 Under the moderate needs test, inclusion of hatchery fish  
20 would alter the composition but not the size of the tribes'  
21 allocation. In conclusion, the Court holds that hatchery  
22 fish are "fish" within the meaning of the treaties' fishing  
23 clause and consequently are subject to allocation thereunder.

#### 24 IV

##### 25 A

26 From the numerous opinions rendered in Phase I, and  
27 the application of the principles enunciated therein to the  
28 hatchery issue, flows the resolution of the remaining issue  
29 in Phase II--the environmental issue. As previously noted,  
30 the only aspect of this issue presently before the Court is  
31 the legal question whether the tribes' fishing right includes  
32 the right to have treaty fish protected from environmental

1. degradation. Plaintiffs' pending motion for partial summary  
2 judgment does not reach the additional questions whether the  
3 State is violating the tribes' alleged environmental right  
4 and what relief may be warranted.<sup>57</sup> This motion was briefed  
5 and argued prior to the issuance of the Supreme Court's Phase  
6 I decision, which essentially rejected the principal assump-  
7 tions underlying the State's arguments here.

8 At the outset, the Court holds that implicitly in-  
9 corporated in the treaties' fishing clause is the right to  
10 have the fishery habitat protected from man-made despoliation.  
11 Virtually every case construing this fishing clause has  
12 recognized it to be the cornerstone of the treaties and has  
13 emphasized its overriding importance to the tribes. See  
14 Washington - Phase I, supra, 443 U.S. at 664-667, 675-681,  
15 and cases cited therein. The Indians understood, and were led  
16 by Governor Stevens to believe, that the treaties entitled  
17 them to continue fishing in perpetuity and that the settlers  
18 would not qualify, restrict, or interfere with their right  
19 to take fish. Final Decision I, supra, 384 F.Supp. at 334,  
20 355-357.

21 The most fundamental prerequisite to exercising the  
22 right to take fish is the existence of fish to be taken. In  
23 order for salmon and steelhead trout to survive, specific  
24 environmental conditions must be present. A fisheries study  
25 prepared jointly by the State and the federal government  
26 identifies at least five such conditions: "(1) access to and  
27 from the sea, (2) an adequate supply of good-quality water,  
28 (3) a sufficient amount of suitable gravel for spawning and  
29 egg incubation, (4) an ample supply of food, and (5) suffi-  
30 cient shelter."<sup>58</sup> It is undisputed that "alteration of even  
31 one of these essential, finely-balanced requirements will  
32 affect the production potential."<sup>59</sup> It is also undisputed

1 that these conditions have been altered and that human activi-  
2 ties have seriously degraded the quality of the fishery  
3 habitat.

4 "Over the years, there has been a gradual  
5 deterioration and loss of natural fish produc-  
6 tion habitat in Washington State streams. Al-  
7 though there are many individual factors  
8 contributing to this, the general trend toward  
9 reduced production habitat is more the result  
10 of a combination of activities performed by  
11 man--activities which alter and destroy one or  
12 more habitat conditions required for success-  
13 ful fish production. Generally, these factors  
14 can be categorized under the broad headings  
15 of watershed alterations, water storage dams,  
16 industrial developments, stream channel altera-  
17 tions, and residential developments.

18 \* \* \* \* \*

19 A century ago, salmon abounded in the  
20 Pacific Northwest. Almost every accessible  
21 area, even in the deep interior, nurtured  
22 crops of salmon which renewed themselves as  
23 they had for millennia. However, in the  
24 Twentieth Century the urbanization and inten-  
25 sive settlement of the area, the rapid  
26 development of water power, lumbering and  
27 irrigation and the pollution of the water-  
28 sheds reduced the quality and amount of  
29 accessible spawning grounds. These activi-  
30 ties also reduced the rearing capacity of  
31 the streams."<sup>60</sup>

32 Were this trend to continue, the right to take fish would  
eventually be reduced to the right to dip one's net into the  
water...and bring it out empty. Such result would render  
nugatory the nine-year effort in Phase I, sanctioned by this  
Court, the Ninth Circuit, and the Supreme Court, to enforce  
the treaties' reservation to the tribes of a sufficient  
quantity of fish to meet their fair needs. The Supreme Court  
all but resolved the environmental issue when it expressly  
rejected the State's contention, initially reiterated on this  
motion, that the treaty right is but an equal opportunity to  
try to catch fish. Rather, the Court held that the treaty  
assures the tribes something considerably more tangible than  
"merely the chance \* \* \* occasionally to dip their nets into

1 the territorial waters." Washington - Phase I, supra, 443 U.S.  
2 at 679.<sup>61</sup>

3 The Supreme Court similarly disposed of the State's  
4 argument that when the tribes signed the treaties, they bar-  
5 gained for both the costs and the benefits of economic develop-  
6 ment. The State suggests that the tribes entered the treaty  
7 negotiations with the understanding that the United States  
8 was encouraging non-Indian settlement of the West, that non-  
9 Indians would commercially develop the natural resources, and  
10 that the United States intended to diversify the Indian  
11 economy and acculturate the Indians into the non-Indian way  
12 of life.<sup>62</sup> To the contrary, it is well established that the  
13 treaty negotiators specifically assured the tribes that they  
14 could continue to fish notwithstanding the changes that the  
15 impending western expansion would certainly entail.

16 "These people [Governor Stevens and his ad-  
17 visers] recognized the vital importance of  
18 the fisheries to the Indians and wanted to  
19 protect them from the risk that non-Indian  
settlers might seek to monopolize their  
fisheries." Washington - Phase I, supra,  
443 U.S. at 666.

20 It has been stated repeatedly that neither party to the  
21 treaties, nor their successors in interest, may act in a  
22 manner that destroys the fishery. See, e.g., United States  
23 v. State of Washington, supra, 520 F.2d at 685; Final Decision  
24 I, supra, 384 F.Supp. at 401-402; Confederated Tribes of the  
25 Umatilla Indian Reservation v. Alexander, 440 F.Supp. 553 (D.  
26 Ore. 1977) ("Umatilla"). In Umatilla, a fishing clause  
27 substantially identical to those in question here was held to  
28 bar the construction of a dam which would have flooded some  
29 Indian fishing stations, prevented all wild fish from swimming  
30 upstream, and completely eliminated the steelhead run above  
31 the dam. Nothing short of an express congressional directive  
32 could impair the tribes' fishing right. Id. at 555.

1 Conversely, the Supreme Court ruled in Puyallup III that the  
2 State's conservation-oriented regulation must be applied to  
3 on as well as off-reservation fishing because otherwise the  
4 tribes might frustrate other citizens' exercise of their  
5 fishing right. Puyallup III, supra, 433 U.S. at 176-177.

6 The only significant difference between the holding here and  
7 prior decisions is that the general rule that neither party  
8 may impair the other's fishing right is applied to the par-  
9 ticular situation of impairment by environmental degradation  
10 rather than by physical device,<sup>63</sup> by otherwise-burdened  
11 access to the fishery,<sup>64</sup> by discriminatory regulation,<sup>65</sup> or  
12 by discriminatory application of neutral regulations.<sup>66</sup>

13 The conclusion that the treaty-secured fishing  
14 right incorporates an environmental right is consonant with  
15 the implied-reservation-of-water doctrine that is often  
16 employed in the construction of Indian treaties. In Winters  
17 v. United States, 207 U.S. 564 (1908), the seminal case in  
18 this area, the Supreme Court held that when the treaty creating  
19 the Fort Belknap Indian Reservation was signed, the parties  
20 impliedly reserved a sufficient quantity of water to irrigate  
21 the arid reservation land. Without that water, the purpose  
22 of creating the Reservation--to enable the tribe to give up  
23 its nomadic existence and sustain itself on a relatively  
24 small tract of land--would be incapable of fulfillment. Id.  
25 at 576. Thus, the construction of dams or reservoirs or the  
26 undertaking of any other activities that would prevent water  
27 from flowing to the Reservation was enjoined. See also  
28 United States v. New Mexico, 438 U.S. 696 (1978); Cappaert v.  
29 United States, 426 U.S. 128 (1976); Arizona v. California,  
30 373 U.S. 546 (1963). For present purposes, there are two  
31 notable limitations on the implied-reservation-of-water  
32 doctrine. First, water rights may be implied only "[w]here

1 water is necessary to fulfill the very purposes for which a  
2 federal reservation was created," and not where it is merely  
3 "valuable for a secondary use of the reservation." New Mexico,  
4 supra, 438 U.S. at 702. However, so long as water rights are  
5 necessary to exercise expressly-reserved rights, they arise  
6 by implication regardless of the equities that may favor  
7 competing water users. Cappaert, supra, 426 U.S. at 138-139.  
8 Second, the scope of the implied right is circumscribed by  
9 the necessity that calls for its creation. The doctrine  
10 "reserves only that amount of water necessary to fulfill the  
11 purpose of the reservation, no more." Id. at 141.

12 In this case, there can be no doubt that one of the  
13 paramount purposes of the treaties in question was to reserve  
14 to the tribes the right to continue fishing as an economic  
15 and cultural way of life. It is equally beyond doubt that  
16 the existence of an environmentally-acceptable habitat is  
17 essential to the survival of the fish, without which the  
18 expressly-reserved right to take fish would be meaningless  
19 and valueless. Thus, it is necessary to recognize an implied  
20 environmental right in order to fulfill the purposes of the  
21 fishing clause. Indeed, courts have already recognized  
22 implied water rights for the specific purpose of preserving  
23 fish. In both Cappaert, supra, and United States v. Anderson,  
24 No. 3643 (E.D. Wash., July 23, 1979), the unimpaired flow of  
25 sufficient quantities of water was held to be necessary for  
26 the protection of fish located in a national monument and an  
27 Indian reservation. Here, plaintiffs claim that the treaties  
28 impliedly reserved water of sufficient quality to sustain the  
29 salmon and steelhead trout which they have the expressly-  
30 reserved right to take. The recognition of that implied  
31 right is no less necessary here than in Cappaert or Anderson.  
32 In fact, the fishing clause is even more crucial to the

1 purposes of the treaties here in question than were the fish-  
2 related clauses in those cases.

3 The State argues at some length that it is not  
4 necessary to imply an environmental right because there cur-  
5 rently exist numerous federal and State programs designed to  
6 protect the fish habitat. There is no dispute regarding the  
7 existence, as opposed to the effectiveness, of those programs.  
8 However, the fact that there may be means of at least partially  
9 protecting the fish habitat does not negate the existence of  
10 the right.<sup>67</sup> An environmental right must be implied in order  
11 to fulfill the purposes of the fishing clause. Whether  
12 existing means of enforcing that right are adequate (as the  
13 State contends), or whether supplementary means must be  
14 adopted (as plaintiffs request), is a separate issue to be  
15 addressed at the remedial stage of this litigation.

16 B

17 The State raises the jurisprudential defense that  
18 even if the tribes' fishing right encompasses the right to  
19 environmental protection of the fish, the correlative duty  
20 associated with that right rests with the federal government  
21 and not with the State. The State invokes Hohfeldian analysis  
22 for the proposition that the nature of a "right" is best  
23 understood in relation to its jural correlative--"duty." See  
24 Hohfeld, Some Fundamental Legal Conceptions As Applied In  
25 Judicial Reasoning, 23 Yale L.J. 16, 30-34 (1913). The  
26 thrust of the late Professor Hohfeld's discussion is to  
27 refine the concept of right by distinguishing legal relations  
28 based on right from those based on privilege, power, and  
29 immunity. As enlightening as Hohfeldian analysis may be, its  
30 application to this case is elusive at best. The scope of  
31 the implied environmental right is governed by the scope of  
32 the express fishing right whose purpose it is designed to

1 fulfill. There is no question that the duty correlative to  
2 the environmental right is similarly limited in scope. The  
3 issue raised here; which in no way implicates Hohfeldian  
4 analysis, is whether the duty correlative to the tribes' en-  
5 vironmental right rests exclusively with the United States or  
6 whether it equally binds the State. Nowhere does Hohfeld  
7 suggest a direct correlation between the number of entities  
8 possessing a right and the number of entities subject to the  
9 duty not to violate that right.

10 More to the point, the Supremacy Clause imposes  
11 upon the State the duty not to violate federal rights, includ-  
12 ing those secured by federal treaties. The fact that the  
13 federal government is under a comparable duty, as a party to  
14 the treaties, not to violate the tribes' environmental right  
15 does not relieve the State of its own obligations under the  
16 Supremacy Clause. As Judge Boldt expressly held in Phase I:

17 "Admission of the State of Washington  
18 into the Union upon an equal footing with  
19 the original states had no effect upon the  
20 treaty rights of the Plaintiff tribes. Such  
21 admission imposed upon the State, equally  
22 with other states, the obligation to observe  
23 and carry out the provisions of treaties of  
24 the United States." Final Decision I,  
25 supra, 384 F.Supp. at 401.

26 C

27 The more difficult issues pertaining to the State's  
28 duty involve its nature and scope. Several guiding considera-  
29 tions emerge from the numerous cases involving disputes be-  
30 tween states and treaty tribes. First, the treaty-secured  
31 right to take fish at usual and accustomed places may not be  
32 qualified or conditioned by the State. Puyallup I, supra,  
33 391 U.S. at 398-399. See also Tulee v. Washington, supra;  
34 Winans, supra; Final Decision I, supra, 384 F.Supp. at 401.  
35 Second, the State may not subordinate the fishing right to any  
36 other objectives or purposes it may prefer.

1 "It [the state] may not force treaty Indians  
2 to yield their own protected interests in  
3 order to promote the welfare of the state's  
other citizens." United States v. State of  
Washington, supra, 520 F.2d at 686.

4 See also Final Decision I, supra, 384 F.Supp. at 401-402;  
5 Sohappy v. Smith, 302 F.Supp. 899, 908 (D. Ore. 1969). Third,  
6 the State may affirmatively regulate treaty fishing solely  
7 for the purpose of conserving the resource. Puyallup trilogy,  
8 supra; Final Decision I, supra, 384 F.Supp. at 333-334, 342,  
9 401-404; Sohappy v. Smith, supra, 302 F.Supp. at 908-912. It  
10 would virtually obliterate these narrowly-drawn limitations  
11 on the State's authority were this Court to rule, by denying  
12 plaintiffs' pending motion, that the State may now regulate  
13 treaty fishing for two purposes: to conserve the resource or  
14 to destroy it.

15 Unlike many of the preceding cases, this case does  
16 not (at this stage of this litigation) involve an attempt by  
17 the State affirmatively to regulate the fishery. Contrary to  
18 the State's apprehensions, neither does this case involve an  
19 attempt by plaintiffs to impose an affirmative duty on the  
20 State to protect the fish habitat. Rather, plaintiffs seek  
21 the recognition of a negative duty such that when the State  
22 exercises its broad regulatory powers it does not impair the  
23 environmental conditions necessary for the survival of the  
24 treaty fish. According to the United States:

25 "[T]he duty here is the duty to refrain from  
26 taking or approving actions which have a  
27 significant adverse impact on the treaty  
28 right fishery. Plaintiff is not seeking any  
29 new legislation or expenditure of resources  
30 by the State. It is merely asking that the  
State, in carrying out its regulatory  
authority over public or private actions with  
environmental impact, not authorize actions  
that will significantly damage or destroy the  
treaty guaranteed fishery." 68

31 In light of this characterization of the duty sought to be  
32 imposed, the State's claim that recognition of an environmental

1 right will require it to make additional expenditures in vio-  
2 lation of the Tenth Amendment and National League of Cities  
3 v. User, 426 U.S. 833 (1976), is ill-founded. The State need  
4 not make any additional expenditures, the treaty right from  
5 which the State's duty arises is not based on the commerce  
6 clause,<sup>69</sup> and the question of the appropriate scope of any  
7 relief to be granted is not yet in issue. Moreover, the  
8 State already purports to act as if it has voluntarily assumed  
9 the very duty which it here resists.

10 "The [Washington Fisheries] Department's  
11 habitat protection functions include evalu-  
12 ating potential effects of public or private  
13 projects or activities that may affect  
14 salmon production. Reports and recommenda-  
15 tions concerning these activities are made  
16 to the appropriate agencies. \* \* \*

17 Departmental functions that relate  
18 directly to habitat protection include  
19 setting restrictions for hydraulic permits,  
20 inspecting hydraulic projects, developing  
21 recommendations regarding water right ap-  
22 plications, and establishing fish use flows  
23 for salmon production streams. \* \* \*

24 \* \* \* \* \*

25 In concert with the Department of  
26 Fisheries, the Department of Game inspects  
27 and issues joint permits for hydraulic per-  
28 mits. \* \* \* [A]ctivities affecting stream  
29 beds are directed to be conducted at a time  
30 and in a manner that minimize adverse effects  
31 on the stream environment for fish. The two  
32 departments review all plans for major pro-  
jects affecting stream habitat and develop  
appropriate recommendations. All water right  
applications are similarly reviewed for their  
possible impact on fishery resources and com-  
mented upon where needed. Recently, annual  
logging plans of several major timber owners  
have come under detailed review and comment  
by personnel of both departments."<sup>70</sup>

Whether the State effectively carries out these activities,  
and whether they are adequate, are questions to be addressed  
at the relief stage of this litigation. For present purposes  
it is sufficient to note that the State has at least implicitly  
acknowledged that it has a duty not to impair or permit the

1 impairment of the fish habitat.

2 As the parties approach the relief stage, of criti-  
3 cal concern will be the precise scope of the State's environ-  
4 mental duty. Plaintiffs urge the Court to hold the State  
5 to a standard of "no significant deterioration," which would  
6 preclude the State from appreciably reducing the environmental  
7 quality of the fish habitat. The State responds by arguing  
8 that the cases cited by plaintiffs do not support their  
9 position.<sup>71</sup> The Court finds a more fundamental flaw in  
10 plaintiffs' proposal. The "no significant deterioration"  
11 standard was articulated by courts and expressly adopted by  
12 Congress in order to effectuate the goals of various environ-  
13 mental statutes. See Sierra Club v. Ruckelshaus, 344 F.Supp.  
14 253 (D.D.C. 1972), aff'd per curiam, 4 E.R.C. 1815 (D.C. Cir.  
15 1972), aff'd by an equally divided Court sub nom., Fri v.  
16 Sierra Club, 412 U.S. 541 (1973), 42 U.S.C. §§ 7470-7491 (1980)  
17 (re Clear Air Act, 42 U.S.C. § 7401 et seq.); United States  
18 Steel Corp. v. Train, 556 F.2d 822, 846 n.44 (7th Cir. 1977),  
19 33 U.S.C. § 1313(c)(2) (re Federal Water Pollution Control Act,  
20 33 U.S.C. § 1251 et seq.); Citizens to Preserve Overton Park  
21 v. Volpe, 401 U.S. 402 (1971), 49 U.S.C. § 1653(f) (re  
22 Department of Transportation Act, 33 U.S.C. § 1651 et seq.);  
23 43 U.S.C. § 1782(c) (re Federal Land Policy and Management  
24 Act, 43 U.S.C. § 1701 et seq.). The standard reflects Con-  
25 gress' legislative judgment, arrived at after weighing com-  
26 peting environmental and economic considerations. In each  
27 of the above-cited statutes, Congress indicated that the  
28 nondegradation standard was necessary in order to realize the  
29 statutory objectives. In contrast, here the Court rather than  
30 Congress is called upon to impose a nondegradation standard.  
31 It is well established that the scope of an impliedly-reserved  
32 right may not be broader than the minimal need which gives

1 rise to the implied right. Cappaert, supra, 426 U.S. at 141.  
2 Thus, the scope of the State's environmental duty must be  
3 ascertained by examining the treaty-secured fishing right  
4 rather than by selecting a desirable standard that has been  
5 imposed by Congress in a different context.

6 The treaties reserve to the tribes a sufficient  
7 quantity of fish to satisfy their moderate living needs, sub-  
8 ject to a ceiling of 50 percent of the harvestable run.  
9 Washington - Phase I, supra, 443 U.S. at 686-687. That is  
10 the minimal need which gives rise to an implied right to  
11 environmental protection of the fish habitat. Therefore, the  
12 correlative duty imposed upon the State (as well as the United  
13 States and third parties) is to refrain from degrading the  
14 fish habitat to an extent that would deprive the tribes of  
15 their moderate living needs.

16 The tribes' treaty allocation is currently set at  
17 50 percent of each harvestable run. Id. That the ceiling  
18 has been applied creates the presumption that the tribes'  
19 moderate living needs exceed 50 percent and are not being fully  
20 satisfied under the treaties. As the burden is upon the State  
21 to demonstrate to the Phase I court that the tribes' needs  
22 may be satisfied by a lesser allocation, the State must also  
23 bear the burden in Phase II to demonstrate that any environ-  
24 mental degradation of the fish habitat proximately caused by  
25 the State's actions (including the authorization of third  
26 parties' activities) will not impair the tribes' ability to  
27 satisfy their moderate living needs. Naturally, the plaintiffs  
28 must shoulder the initial burden of proving that the challenged  
29 action(s) will proximately cause the fish habitat to be de-  
30 graded such that the rearing or production potential of the  
31 fish will be impaired or the size or quality of the run will  
32 be diminished.

V

Accordingly, IT IS HEREBY ORDERED that the plaintiffs motion for summary judgment on the hatchery issue is GRANTED, that the defendant's cross-motion for summary judgment on the hatchery issue is DENIED, and that the plaintiffs' motion for partial summary judgment on the environmental issue is GRANTED. Plaintiffs shall prepare and lodge with the Court by October 15, 1980, an appropriate form of order approved by defendants in accordance with the findings of fact and conclusions of law set out in this opinion.

Dated: September 24, 1980.

William H. Orrick  
William H. Orrick  
United States District Judge

# FOOTNOTES

1. Article III, Treaty of Medicine Creek, 10 Stat. 1133 (1855). The balance of Article III is as follows:

"\* \* \* and of erecting temporary houses for the purpose of curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses on open and unclaimed lands: Provided, however, That they shall not take shell fish from any beds staked or cultivated by citizens."

2. Articles identical or substantially identical to Article III of the Treaty of Medicine Creek are contained in the Treaty of Point Elliott, 12 Stat. 927 (1859), the Treaty of Point No Point, 12 Stat. 933 (1859), the Treaty with the Makah (Treaty of Neah Bay), 12 Stat. 939 (1859), the Treaty with the Yakimas, 12 Stat. 951 (1859), and the Treaty with the Quinault (Treaty of Olympia), 12 Stat. 971 (1859).

The following tribes, or their predecessors in interest, were parties to the treaties and have intervened in this litigation: Muckleshoot, Nisqually, Puyallup, Squaxin Island (Treaty of Medicine Creek); Lummi, Nooksack, Sauk-Suiattle, Stillaguamish, Suguamish, Swinomish, Tulalip, Upper Skagit (Treaty of Point Elliott); Lower Elwha Band of Clallam, Port Gamble Band of Clallam, Skokomish (Treaty of Point No Point); Makah (Treaty of Neah Bay); Yakima (Treaty with the Yakimas); Hoh, Quileute, and Quinault (Treaty of Olympia). United States v. State of Washington, 384 F.Supp. 312, 349 (W.D. Wash. 1974) ("Final Decision I"), aff'd 520 F.2d 676 (9th Cir. 1975), cert. denied, 423 U.S. 1086 (1976); United States v. State of Washington, 459 F.Supp. 1020, 1039-1042 (W.D. Wash. 1974-1978) ("Post-Trial Decisions"), various appeals dismissed, 573 F.2d 1117 (9th Cir. 1978), 573 F.2d 1118 (9th Cir. 1978), 573 F.2d 1121 (9th Cir. 1978), decisions at 459 F.Supp. 1020, 1097-1118 (W.D. Wash. 1977-1978), aff'd sub nom. Puget Sound Gillnetters Ass'n v. United States District Court for the Western District of Washington, 573 F.2d 1123 (9th Cir. 1978), aff'd in part, vacated in part, and remanded sub nom. Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n, 433 U.S. 658 (1979) ("Washington - Phase I").

Although the Makah Tribe and the Yakima Nation were organized entities prior to the negotiation of the treaties, many of the "tribes" were actually loose aggregations of individuals and the federal officials deemed them to be tribes and appointed "chiefs" for the purpose of negotiating the treaties. Washington - Phase I, supra, 443 U.S. at 664 n.5.

3. The other six cases, in chronological order, are: United States v. Winans, 198 U.S. 371 (1905); Seufert Bros. Co. v. United States, 249 U.S. 194 (1918); Tulee v. Washington, 315 U.S. 681 (1942); Puyallup Tribe v. Department of Game, 391 U.S. 392 (1968) ("Puyallup I"); Department of Game v. Puyallup Tribe, 414 U.S. 44 (1973)

1 ("Puyallup II"); Puyallup Tribe v. Department of Game,  
2 433 U.S. 165 (1977) ("Puyallup III").

3 4. Initially, the United States brought suit on behalf of  
4 the Hoh, Makah, Muckleshoot, Nisqually, Puyallup,  
5 Quileute, and Skokomish tribes. Subsequently, those  
6 tribes and the following others intervened as plaintiffs  
7 on their own behalf: Duwamish, Jamestown Band of Clallam,  
8 Lower Elwha Samish, Sauk-Suiattle, Snohomish, Snoqualmie,  
9 Tulalip, Upper Skagit River, Tulalip, and Yakima.

10 The defendants are the State of Washington ("State"), the  
11 Washington Department of Fisheries ("Fisheries"), the  
12 Washington Game Department ("Game"), their respective  
13 directors, and the Washington Reef Net Owners Association.  
14 Numerous agencies and interested organizations have  
15 participated actively as amici curiae.

16 5. The fish covered by the treaties include the chinook,  
17 chum, coho, pink, and sockeye species of salmon as well  
18 as steelhead trout. Those who fish for salmon do so  
19 primarily for commercial purposes and are subject to  
20 regulation by Fisheries; steelhead trout are sought pri-  
21 marily by recreational fishermen, subject to Game's  
22 regulatory authority. The five salmon species and steel-  
23 head trout will be referred to collectively, unless other-  
24 wise noted, as "fish" or "salmon."

25 6. The geographical area that is the subject of the treaties  
26 and this litigation is "that portion of the State of  
27 Washington west of the Cascade Mountains and north of  
28 the Columbia River drainage area, \* \* \* [including] the  
29 American portion of the Puget Sound watershed, the water-  
30 sheds of the Olympic Peninsula north of the Grays Harbor  
31 watershed, and the offshore waters adjacent to those  
32 areas. Final Decision I, supra n.2, 384 F.Supp. at 328.

7. Final Decision I, supra n.2, 384 F.Supp. at 328, 344-345.

8. "Because of the great abundance of fish and the limited  
population of the area, it simply was not contemplated  
that either party would interfere with the other's fish-  
ing rights. The parties accordingly did not see the  
need and did not intend to regulate the taking of fish  
by either Indians or non-Indians, nor was future regula-  
tion foreseen." Washington - Phase I, supra n.2, 443  
U.S. at 668, citing Final Decision I, supra n.2, 384  
F.Supp. at 334, 355, 357.

9. The many facts regarding the construction of these  
treaties which were found and affirmed on appeal in  
Phase I are binding on the parties in this second phase  
of the case. Puget Sound Gilnetters, supra n.2, 573 F.2d  
at 1129; Post-Trial Decisions, supra n.2, 459 F.Supp. at  
1094 (Memorandum Decision Denying Disqualification).

10. Salmon (including steelhead trout), the fish covered by  
these treaties, are anadromous fish. They hatch in fresh  
water, spend their adult lives in the ocean, and then  
return to their native fresh-water streams to spawn and  
die. Washington - Phase I, supra n.2, 443 U.S. at 662-  
663. Steelhead trout may return to spawn more than once  
before dying.

- 1 11. The oft-quoted statement of Governor Stevens to the  
2 Indians negotiating the Treaty of Point-No-Point epitomizes this fact:  
3 "Are you not my children and also children of  
4 the Great Father? What will I not do for my  
5 children, and what will you not for yours?  
6 Would you not die for them? This paper is  
7 such as a man would give to his children and  
8 I will tell you why. This paper gives you  
9 a home. Does not a father give his children  
10 a home? \* \* \* This paper secures your fish?  
11 [sic] Does not a father give food to his  
12 children?" Washington - Phase I, supra n.2,  
13 443 U.S. at 667 n.11.
- 14 12. Id. at 664.
- 15 13. When Final Decision I was issued in 1974, there were  
16 approximately 794 Indian fishermen and 6,600 commercial  
17 fishermen in the case area. By way of contrast, there  
18 were 283,650 sport fishermen. Final Decision I, supra  
19 n.2, 384 F.Supp. at 387. See also Washington - Phase I,  
20 supra n.2, 443 U.S. at 664.
- 21 14. As of August, 1974, Indians harvested 89,402 salmon and  
22 non-Indian commercial fishermen harvested 3,628,513  
23 during the 1974 season. Post-Trial Decisions, supra n.2,  
24 459 F.Supp. at 1032 (Decision, Injunction and Order re  
25 State Court Injunctions).
- 26 15. Final Decision I, supra n.2, 384 F.Supp. at 406-407.
- 27 16. Id. at 358.
- 28 17. Id. at 389.
- 29 18. Id. at 388, 403-404. See also Washington - Phase I,  
30 supra n.2, 433 U.S. at 668-669.
- 31 19. In Final Decision I, Judge Boldt's consideration of the  
32 hatchery issue was limited to the question whether  
hatchery-bred steelhead trout should be excluded from  
the allocation. That question had been raised, but not  
answered, in Puyallup II, which concerned the application  
of the treaties' fishing clause to the State's attempts  
to regulate steelhead trout fishing. The hatchery issue  
thus entered this litigation collaterally, as a spin-off  
from Puyallup II, and was later broadened by the parties  
here to the question whether all hatchery-bred fish should  
be excluded from the allocation. See Post-Trial  
Decisions, supra n.2, 459 F.Supp. at 1072 (Memorandum  
Decision and Order Granting Preliminary Injunction re  
Hatchery Propagated Fish).
20. The Ninth Circuit held that fish taken offshore by non-  
Washington citizens should not be considered in calculat-  
ing an equitable adjustment to the tribes' share. United  
States v. State of Washington, supra n.2, 520 F.2d 676,  
689, 693 (9th Cir. 1975).
21. Washington State Commercial Passenger Fishing Vessel

1 Ass'n v. Tollefson, 89 Wash.2d 276, 571 P.2d 1373 (1977);  
2 Purse Seine Vessel Owners Ass'n v. Moos, 88 Wash.2d 799,  
3 567 P.2d 205 (1977); Puget Sound Gillnetters Ass'n v.  
4 Moos, 88 Wash.2d 677, 565 P.2d 1151 (1977). These cases  
5 stymied Fisheries' attempts to implement Judge Boldt's  
6 decision; Game had not even attempted to adopt implement-  
7 ing regulations. The various efforts by the State courts,  
8 State agencies, and interested organizations to under-  
9 mine and nullify Judge Boldt's rulings (and the Ninth  
10 Circuit's affirmance thereof) were described by the Ninth  
11 Circuit as "the most concerted official and private ef-  
12 forts to frustrate a decree of a federal court witnessed  
13 in this century," save for some desegregation cases.  
14 Puget Sound Gillnetters, supra n.2, 573 F.2d at 1126.  
15 See generally id. at 1128-1130; Washington - Phase I,  
16 supra n.2, 443 U.S. at 672-674.

22. Post-Trial Decisions, supra n.2, various appeals dismissed  
573 F.2d 1117 (9th Cir. 1978), 573 F.2d 1118 (9th Cir.  
1978), 573 F.2d 1121 (9th Cir. 1978), decisions at 459  
F.Supp. 1097-1118, aff'd sub nom. Puget Sound Gillnetters,  
573 F.2d 1123 (9th Cir. 1978).

23. Joint Statement of Issues, ¶ I.1 (June 23, 1978). See  
also ¶¶ III.1-7.

24. Id., ¶ I.4. See also ¶¶ I.5-6, III.8, and IV.1-2.

25. The State moved to strike all or portions of eight of the  
nine affidavits submitted by plaintiffs. The State ob-  
jects to Alan Stay's affidavit on the ground that it does  
not lay a proper foundation for the government report  
attached thereto. Plaintiffs filed two affidavits of  
Mr. Stay. One, dated January 21, 1980, identifies an  
attached document. The other, dated March 7, 1980,  
summarizes data he received from the Northwest Indian  
Fisheries Commission. In response to the State's motion  
to strike, the plaintiffs withdrew the latter Stay affi-  
davit and replaced it with the affidavit of Michael  
Grayum, Assistant Director for Fishery Management Service  
of the Northwest Indian Fisheries Commission. Although  
this substitution of affidavits does not address the  
State's objections to the first Stay affidavit, the Court  
independently denies the motion to strike that affidavit.  
The attached document is adequately authenticated and  
therefore admissible for purposes of the summary judgment  
motion. The State objects to plaintiffs' remaining  
affidavits (i.e., those of Howard Carlisle, Donald Chapman,  
Howard Droker, William Hershberger, Barbara Lane, Peter  
Larkin, and Phillip Mundy) on the grounds that they are  
not relevant or material (insofar as they pertain to  
historical events or environmental conditions), are not  
competent (insofar as the affiants state their own  
opinions), and are speculative (insofar as conclusions  
are not supported by facts). The Court denies the  
State's motion to strike these affidavits. The objections  
generally lack merit and, to the extent that they are  
meritorious, the affidavits need not be stricken. Specifi-  
cally, the Court overrules the State's relevance objec-  
tion. The historical and environmental information is  
relevant to determining the relationship between hatchery-  
bred fish and the wild fish that are indisputably subject

to the treaty. The State's competency objection is overruled because the relevant affiants are experts. The State's strongest argument is that plaintiffs' affidavits lack sufficient factual support. However, this does not call for the striking of the affidavits because the parties' posthearing submissions adequately supplement the factual bases underlying the material facts stated in the affidavits. Moreover, many of the objected-to statements in plaintiffs' affidavits do not pertain to facts material to the resolution of the hatchery issue. All parties agreed at oral argument that there are no genuine issues of material fact precluding resolution of the hatchery issue by way of summary judgment. Finally, the Court has relied on plaintiffs' affidavits only as and where they are cited herein.

26. In Puyallup I, supra n.3, the Supreme Court held that off-reservation treaty fishing is subject to State regulation, limited to "nondiscriminatory measures for conserving fish resources." Id. at 399. The case was remanded to the State courts, giving rise to Puyallup II, for the determination of whether the challenged regulation (a ban on set net fishing) was necessary for conservation purposes and whether it was nondiscriminatory. The State courts upheld the regulation, 80 Wash.2d 561, 497 P.2d 171 (1972), but the Supreme Court struck it down as discriminatory "because all Indian net fishing is barred and only hook-and-line fishing entirely pre-empted by non-Indians, is allowed." Puyallup II, supra n.3, 414 U.S. at 48. The case was again remanded to establish a formula for apportioning the steelhead fishery between Indians and non-Indians. The State courts held that the state could regulate tribal fishing on as well as off of the reservation, and a limitation was imposed on the number of steelhead trout that treaty fishermen could catch each year. 86 Wash.2d 664, 548 P.2d 1058 (1976). The Supreme Court held that although the tribe was immune from suit under the doctrine of sovereign immunity, the individual members of the tribe were proper parties and were subject to regulation by the state both on as well as off of their reservation. Puyallup III, supra n.3.

27. The first salmon hatchery in Washington was built in 1895 and the first steelhead trout hatchery activity commenced in 1903. Plaintiffs' fact statement 27, defendants' fact statements 23.3 and 14.1, and corresponding admissions thereof. (The fact statements and admissions are contained in the parties' Manual §3.30 briefs. Each side presented its own statement of facts and legal contentions, to which the other side responded by admission, denial, or objection.)

28. See generally defendants' fact statements 15, 20, 23, 28, 31 (including subparts) and 21.6, and corresponding admissions.

29. Defendants' fact statements 15.15 and 23.8-23.9, and corresponding admissions.

30. Defendants' fact statement 27.3 and corresponding admission. The 16 full-scale hatcheries in the case area

1 are called primary units and they "have the capacity to  
2 collect, hold and spawn adults, to incubate eggs, and to  
3 hatch and rear juvenile salmon." The other 16 facilities  
4 are satellites of each of the primary units and they have  
5 "racks, rearing and/or holding ponds." Defendants' fact  
6 statements 27.2-27.3, and corresponding admissions.

7 31. Although the record does not presently establish, beyond  
8 dispute, the precise share of the federal and local con-  
9 tributions to the State's hatchery program, the fact of  
10 such contributions is undisputed. See State's proposed  
11 stipulation of facts § III, and plaintiffs' response to  
12 Court's request for additional information at 17-23. (At  
13 the hatcheries hearing on April 10, 1980, the Court  
14 directed the parties to submit a supplementary stipula-  
15 tion of facts in response to three specific questions.  
16 Each side subsequently filed a separate response. With  
17 respect to the first and second questions, the parties  
18 are in substantial agreement. The plaintiffs have not  
19 responded to the third question because they claim to  
20 lack the requisite data. The discrepancies between the  
21 parties' submissions do not preclude summary judgment  
22 because there is no dispute regarding the relevant use  
23 of the data--to illustrate the patterns and trends  
24 characterizing the State's hatcheries program. For the  
25 purposes of the plaintiffs' motion for summary judgment,  
26 all real and apparent factual disputes are resolved  
27 herein in favor of the State.)

28 32. State's proposed stipulation, § II (as amended by letter  
29 of August 15, 1980), and plaintiffs' response, Table  
30 II-1.

31 33. Supplemental affidavit of Robert Hager, attachment 2,  
32 at 3.

33 34. State's proposed stipulation, § II (as amended by letter  
34 of August 15, 1980), and plaintiffs' response, Table  
35 II-1.

36 35. Id.

37 36. Plaintiffs' fact statements 191, 194, and corresponding  
38 admissions.

39 37. Defendants' fact statement 8 (and subparts), and corres-  
40 ponding admissions.

41 38. Id., especially defendants' fact statements 8.2, 8.3, and  
42 8.5, and corresponding admissions, denials, and explana-  
43 tory comments.

44 39. Defendants' brief of March 7, 1980, re hatchery fish  
45 summary judgment at 3.

46 40. Washington - Phase I, supra n.2, 443 U.S. at 668-669;  
47 Post-Trial Decisions, supra n.2, 459 F.Supp. at 1079-  
48 1080 (hatchery injunction); Final Decision I, supra n.2,  
49 384 F.Supp. at 334, 353 (§ 13.3). See also section V.A,  
50 infra.

51 41. Affidavit of Howard Droker at 8, quoting State publica-  
52 tion entitled "Salmon Hatcheries."

- 1 42. Droker affidavit at 5, quoting speech by Jack Hurley.  
2 See generally Droker affidavit.
- 3 43. State's proposed stipulation, § I (plaintiffs contend the  
4 accurate data from which to compute accurate percentages  
5 is not available. Plaintiffs' response at 9).
- 6 44. Affidavit of Jack Ayerst, attachment 1, at 3, 19 (empha-  
7 sis added).
- 8 45. "Indian treaty rights \* \* \* secures [sic] so much as  
9 \* \* \* is necessary to provide the Indians with a liveli-  
10 hood--that is to say, a moderate living." Washington -  
11 Phase I, supra n.2, 443 U.S. at 686.
- 12 46. Plaintiffs claim that the easterners who negotiated the  
13 treaties on behalf of the United States would have  
14 known about the decline of the Atlantic salmon fishery  
15 and the introduction of hatcheries in the East. However,  
16 the only support for this contention are some highly-  
17 speculative comments of anthropologist Barbara Lane, who  
18 in turn relied primarily on one book written by a  
19 Canadian in 1856. See Lane affidavit at 3-4. This  
20 material is insufficient to raise a genuine dispute of  
21 fact or to require reconsideration of the Supreme Court's  
22 finding that "[b]ecause of the great abundance of fish  
23 and the limited population of the area, it simply was  
24 not contemplated that either party would interfere with  
25 the other's fishing rights." Washington - Phase I,  
26 supra n.2, 443 U.S. at 668. Cf. affidavit of Anthony  
27 Netboy at 5-6.
- 28 47. Plaintiffs' fact statements 111-117, 120-121, 137-138,  
29 defendants' fact statements 10.1-10.5, 11.3, and corres-  
30 ponding admissions.
- 31 48. Lane affidavit at 7-10. In contrast to Dr. Lane's con-  
32 jectural remarks regarding the eastern negotiators',  
knowledge of hatchery facilities (e.g., they "likely  
knew" (at 4), "it is reasonable to assume" (at 7)), her  
statements regarding the Indians' customs are more  
solidly based, more squarely within her expertise, and  
more closely akin to her reports and testimony which  
Judge Boldt praised and on which he expressly relied in  
Phase I. See Final Decision I, supra n.2, 384 F.Supp.  
at 350 and passim. Although the State purports to deny  
plaintiffs' fact statements 118-119 regarding the  
Indians' property concepts applicable to migratory fish,  
the State provides no supporting facts sufficient to  
contradict the Lane affidavit or to raise a genuine dis-  
pute as to this fact.
49. Plaintiffs' fact statements 122, 124, and corresponding  
admissions.
50. Defendants' bare denial of plaintiffs' fact statement 130  
is insufficient to create a genuine dispute in light of  
plaintiffs' supporting material in the Lane affidavit at  
8-9.
51. Lane affidavit at 9.
52. See defendants' brief of March 7, 1980, re hatchery fish

summary judgment at 11-14; defendants' legal contentions III (and subparts).

53. Instead of the 50/50 basis for allocating treaty fish between tribal and nontribal fishermen, the State would allocate hatchery fish on an equal opportunity basis. The Supreme Court has consistently rejected the equal opportunity approach to allocation under the treaties. Washington - Phase I, supra n.2, 443 U.S. at 679-685, and cases cited therein.

54. Defendants' brief of March 7, 1980, re hatchery fish summary judgment at 13.

55. See supra n.31.

56. State's proposed stipulation, § II (as amended by letter of August 15, 1980), and plaintiffs' response, Table II-1.

57. Plaintiffs have suggested that the declaratory judgment sought in connection with this motion may, as a practical matter, dispose of the entire environmental issue regardless of in whose favor that judgment is entered. Plaintiffs seek only prospective relief and, in light of the State's pledge to abide by the ruling in this case, implementation of a declaratory judgment may well resolve the underlying dispute without the necessity of further court proceedings.

58. United States Fish and Wildlife Service, Washington Department of Fisheries, and Washington Department of Game, Joint Statement Regarding the Biology, Status, Management, and Harvest of the Salmon and Steelhead Resources of the Puget Sound and Olympic Peninsular Drainage Areas of Western Washington (1973) ("Joint Biology Statement") at 17.

59. Id.

60. Id. at 20, 78.

61. The Supreme Court's use of the term "harvestable" in describing the population of allocable fish did not, contrary to the State's contention, put the tribes at the mercy of any and all, natural and man-made, fluctuations in the resource. The term simply differentiates between the total fish population and those fish subject to allocation under the treaty. The remainder must escape for spawning purposes in order to perpetuate the resource. Washington - Phase I, supra n.2, 443 U.S. at 670 n.15.

62. Defendants' brief on motion for partial summary judgment (Mar. 31, 1979) at 23-48.

63. United States v. Winans, supra n.3 (re fish wheel).

64. Tulee v. Washington, supra n.3 (re fishing license fee).

65. Puyallup II, supra n.3 (re ban on all-Indian net fishing in favor of all-non-Indian hook-and-line fishing).

66. Final Decision I, supra n.2, 384 F.Supp. at 388-399, 403-404 (re discriminatory enforcement of Washington's fishing regulations).
67. Colville Federated Tribes v. Walton, 460 F.Supp. 1320 (E.D. Wash. 1978), is not to the contrary. There, Judge Neill declined to find an implied reservation of water in order to protect Lahontan trout spawning grounds on the Colville Indian Reservation. The record established that although power and reclamation dams eliminated natural spawning grounds, a federally-operated hatchery made replacement trout available to the tribe and the tribes' fishing right was not shown to be impaired. Therefore, it was not necessary to imply an environmental right in order to fulfill the purposes for which the Colville Reservation was created. Id. at 1330. Here, the record establishes beyond dispute that environmental degradation has impaired the fish habitat. Moreover, there is no showing that hatchery programs have fully mitigated the resulting diminution in the fishery. The recognition of an implied environmental right is essential to the tribes' exercise of their fishing right; the extent of such right will later be determined in light of the adequacy of existing environmental protection and artificial propagation programs.
68. Plaintiffs' response to defendants' brief on motion for summary judgment at 12 (United States' reply brief). See also plaintiff tribes' reply memorandum re: plaintiffs' motion for summary judgment at 37 n.14.
69. The Supreme Court's holding in National League of Cities v. Usery, 426 U.S. 833 (1976), has been limited to federal attempts under the commerce clause to impose affirmative monetary obligations on states. See Monell v. Department of Social Services of the City of New York, 436 U.S. 658, 690 n.54 (1978).
70. Joint Biology Statement at 75-76, 90.
71. Having denied the existence of any environmental right or any environmental duty upon the State, the State does not propose an alternative definition of the scope of plaintiffs' asserted right.

## TRANSMITTAL AND RECEIPT NOTE - NOTE D'ENVOI ET DE RÉCEPTION

TO The Under-Secretary of State for External Affairs (FLO)

À

NO. 294 DATE 24/10/80

QUANTITY QUANTITÉ	DESCRIPTION - DESCRIPTION	REFERENCE - RÉFÉRENCE
1	U.S. District Court decision - Phase II - Boldt	Our Telegram UAGR 5910 of October 3, 1980

DATE	801030	REF
ACC		
FILE	25-5-7-2-Salomon	DOSSIER
BY HAND		PAR PORTEUR
ATTN:	FLO	

RECEIPT ACKNOWLEDGED / ACCUSER RÉCEPTION

RETURN TO / RETOURNER À ATTN: F. D. Martens

CANADIAN CONSULATE GENERAL

PLAZA 600 BLDG.

SIXTH and STEWART

SEATTLE, WASHINGTON 98101

001171

# MESSAGE

P1076

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

PLACE LIEU	DEPARTMENT MINISTÈRE	ORIG. NO. N° D'ORIG.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
SEATL	UAGR	5951	19 OCT 80		RESTRICTED

TO/A	EXTOTT FLP FLO DE FADDEN DELIVER BY 0800 OTT OCT 20	PRECEDENCE
	SEA001/20	OP IMMEDIATE

INFO	
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FILE	25-5-7-2-SACATON-1
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DISTR.
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**REF**  
TELECONS LEGAULT/FADDEN/SHEPPARD OCT 19

**SUB/SUJ**  
PACIFIC SALMON NEGOTIATIONS

FOR YOUR INFO WE ATTACH COPY OF 16 SEP 80 LETTER OF SHEPPARD TO FANDOTT.  
LETTER RELATES SHEPPARD PROPOSAL FOR REACHING AGREEMENT.

2) AS AGREED WILL CALL FLP 1030 HRS OTT 20 OCT 80.

*Handwritten notes:*

- ① Para 4 Corp salmon mgt.
- members low level
- (- entrapment Commission in relation with Ministers)
- Para E - "identity"
- = what's in with Phillips
- incl make as if want to see him in court to see if he's guilty

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SIG.....FADDEN.....			SIG..... <i>[Signature]</i> .....

MESSAGE

P1076

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.			SÉCURITÉ
FM/DE	SEATL	UAGR	5951	19 OCT 80	RESTRICTED
TO/A EXTOTT FLP FLO DE FADDEN DELIVER BY 0800 OTT OCT 20 SEA001/20					PRECEDENCE
INFO					OF IMMEDIATE
DAT. 801208					
ACC 106668					
25-5-7-2-SALMON-1					
BY HAND PAR PORTEUR					
ATTN:					
DISTR.					

REF

SUB/SUB

TELECONS LEGAULT/FADDEN/SHEPPARD OCT 19

PACIFIC SALMON NEGOTIATIONS

FOR YOUR INFO WE ATTACH COPY OF 16 SEP 80 LETTER OF SHEPPARD TO FANDOTT.  
LETTER RELATES SHEPPARD PROPOSAL FOR REACHING AGREEMENT.

2) AS AGREED WILL CALL FLP 1030 HRS OTT 20 OCT 80.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APProuvé

NO.....FADDEN.....

NO.....

SEA 001120 P276

SEP 30 1980

# michael shepard and associates limited

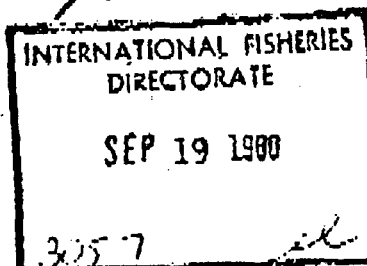
4009 White Rock Street, Victoria, B.C. Canada V8N 4M4 Tel (604) 477-0715

*Swan*  
*Please discuss*

September 16, 1980

*cc. She to*  
*Swan*  
*Applebaum*  
*+ others*

Mr. A.E.H. Campbell  
Director-General  
International Directorate  
Department of Fisheries and Oceans  
240 Sparks Street  
Ottawa, Ontario  
K1A 0E6



SEP 30 1980

Dear Mr. Campbell;

Re: Pacific Salmon Negotiations

I have not yet received a reply to my letter of June 30 responding to your letter of June 19 regarding the possibility of my company providing its services for salmon negotiations during the remainder of fiscal year 1980-81. I have, however, received a contract amendment from Supply and Services Canada, dated September 10, covering the estimated extra costs I proposed in my June 30 letter.

I would remind you that in my letter of June 30, I indicated that as a condition for my continuing to act as Special Negotiator "immediate steps be taken to appoint a senior officer of the Department's Pacific Region on an essentially full time basis" to work with me to develop the preparations for the next round of negotiations (now scheduled for October 20-24 in Seattle). The reason for my stipulating this condition was that, in my view, it would only be possible to negotiate a workable Agreement with the United States if the basic provisions of the Agreement were consistent with Departmental policy and plans and had the full support of line management. In my letter I expressed the view that an Agreement would only be acceptable in Canada if the Departmental administration had developed detailed implementation policies to a sufficient degree "to convince the B.C. fishing public that the Agreement will provide improved management of the salmon resource and substantial income benefits in the foreseeable future". It short, it was my firm view that Government officials and not myself as an external consultant should develop the basic Canadian negotiating positions and should carry out the actual negotiation of detailed provisions of an Agreement. I viewed my role as one of spokesman for the Canadian delegation, articulating general positions developed by Government officials and providing tactical advice to the delegation with respect to detailed approaches to the negotiations. Regrettably in the past I have been provided with almost no guidance and have been expected to develop not only the basic negotiating approaches but also the detailed technical argumentation. I have also borne the burden of carrying out all the negotiations. In a negotiation of such great fundamental importance as the present one, relying on an outsider (who is not familiar with day to day Departmental policy) to set the pace and make the basic negotiating decisions would seem to be a very risky procedure. It is an approach that, in my view, is likely to lead to

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mistakes and likely to result in the conclusion of an Agreement that would be poorly understood by those assigned to implement it. Furthermore without the active participation of senior Departmental officials, I see little prospect of "selling" any Agreement (involving as it must some painful compromises) to the Canadian fishing public.

Regretably steps were not taken to appoint on "an essentially full time basis" a senior Departmental official, and staff support for the negotiations from Ottawa has deteriorated due to Mr. Hunter's absence and Mr. Goodman's transfer. Exacerbating this situation, because of various commitments by officials in both the United States and Canada, the dates for the negotiations have unavoidable been advanced to late October from the mid-November date originally proposed by the Canadian side. The upshot is that the various preparatory steps outlined in my letter of June 30 (e.g. preparation of a paper in July, formulation of a detailed position in August and in-depth discussions with advising groups in September) have not taken place. As a consequence, I believe the Canadian side is not prepared to proceed with the negotiations at the October meeting along the lines envisaged following the productive June meeting in Vancouver.

Despite the foregoing pessimistic appraisal, I would like to commend the staff of the Pacific Region for the interim steps they have taken to fill the gap. As indicated in my letter of June 30, Wayne Shinnars, Director of Field Services appointed Garnet Jones to act as part-time coordinator for the Directorate's participation in the salmon negotiations. Mr. Jones and other staff members, in addition to their normal arduous duties, have been doing what they can to carry out preparatory work. Under the circumstances, their progress has been remarkable. They are carrying out a critical assessment of the implications of a Salmon Agreement in the context of an overall review of management strategies for British Columbia salmon fisheries. This is exactly the type of policy review that in my view, is necessary to provide a firm basis for the negotiations. However, the process is still in an early stage and there is no prospect that it can advance far enough to permit the necessary consultations within the fishing industry before the October 20 negotiating meeting. Indeed, it is likely that several months more work will be required.

In light of the foregoing, I believe the best approach would be for the Department to embark on a series of consultations with the Canadian fishing community in parallel with a series of negotiations with the United States. Under such circumstances, management policies for Canadian fisheries would be developed in relation to detailed provisions of an emerging international Agreement based on cooperation in conservation and development. While proposing this more deliberately paced approach, I believe we should not lose the momentum and the apparent willingness on the part of the United States to accept principles that have long been advocated by Canada. In this regard, I believe the best tack would be to negotiate a broad Agreement in principle with the United States incorporating a carefully worked out schedule of implementation wherein specific provisions of the Agreement should be developed over a period of years. The basic elements of the initial Agreement might include, inter alia:

- a) Establishment of a Commission to coordinate management and enhancement of salmon stocks subject to interception.

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b) Undertakings by both sides to regulate fisheries on intercepted stocks to ensure that:

1. such stocks are conserved in such a way as to provide maximum sustainable yields;
2. the share of the total catch on the intercepted stock taken by fishermen of the country of origin would not fall below the percentage of the catch taken by fishermen of that country during an agreed-upon base period, or;
3. the total aggregate numbers of fish intercepted by either country would not increase above the numbers of fish intercepted during an agreed-upon base period.

Such limitations would be applied on a species by species basis within broad geographic areas (e.g. Southeast Alaska, Northern British Columbia, Southern British Columbia and the combined fishing areas of Washington, Oregon and California).

c) Along the lines of Articles 4 and 5 of the partial draft convention developed during the 1978 negotiations, establishment of procedures for coordination of regulations aimed at improving conservation of stocks of the country of origin.

d) Undertakings to consult and to coordinate programs of management and enhancement in order to maximize production of salmon in both countries. Concurrent with such programs, the basic limitation scheme outlined in paragraph b would be modified so that within a prescribed time limit, each country would harvest amounts of salmon equivalent to the production from its own rivers. Such adjustments should be carried out in a manner consistent with sound conservation and in this regard, should be accomplished wherever possible by reductions in fisheries on mixed stocks.

Implementation of paragraph d might be developed in stages. For example, the Agreement might specify that within one year of coming into force of the Agreement, the Commission should recommend modifications in fisheries in the Southern British Columbia-Alaska areas aimed at improving management and providing a basis for effective enhancement. Within three years, the Commission would be required to recommend a long-term plan to fully implement the provisions of paragraph d with respect to maximizing salmon production and equitable sharing. Such a plan would take into account the need for a system for equating the values of different species of salmon.

The one-year initial phase would permit Canada to consider and propose desirable changes in Canadian fisheries, from the domestic management standpoint, requesting balancing adjustments on the part of the United States where the Canadian actions provided benefits to the United States. Such a procedure would give time for the in depth policy study now being conducted by the Pacific region and would link such domestic considerations with negotiation of adjustments in United States fisheries favourable to Canada. An example of parallel actions might be some rationalization of the Canadian troll fishery (which would incidentally increase escapement of fish to United States waters) with a compensating reduction of United States fisheries on Fraser-bound chums, cohos and chinook.

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e) The Convention would provide a mechanism for binding settlement of disputes regarding the technical basis for determinations of whether or not interceptions within specified categories had exceeded levels prescribed in the Agreement.

f) For salmon originating in Canadian sections of transboundary rivers, in making adjustments in fisheries specified in paragraph d, Canada would be compensated to the extent of a percentage of the salmon (precise level to be developed in consultation with Regional staff) contributed by such stocks to United States fisheries during the base period. Estimates of the extent of contribution of Canadian fish would be subject to technical dispute settlement. Production from Canadian sections of the rivers in excess of that occurring during the base period should be treated in the same manner as production originating in any other Canadian river and should be included in any formula for providing each country with amounts of salmon equivalent to the production from its own rivers. In the implementation procedures outline in paragraph d, within one year, the Commission would recommend an interim share of the Canadian entitlement that would be taken directly in Canadian sections of transboundary rivers. Within three years, the Commission would be required to recommend permanent arrangements regarding Canadian entitlements within the rivers.

g) Control of management of Fraser River sockeye and pinks would be transferred to Canada with the Commission carrying out regulatory function with respect to sockeye and pink fisheries in the present Fraser Convention Area under sharing arrangements specified in the Agreement.

The Commission might be given one year in which to develop recommendations to Governments on the specific terms for transfer of management authority to Canada and detailed procedures for the Commission's regulatory activity.

With respect to the United States entitlements to Fraser-bound sockeye and pinks (separately), during the first four years of the Agreement, the United States would be limited to a percentage of the allowable catch equivalent to that which prevailed during the four year period immediately preceding the coming into force of the Agreement or the number of sockeye and pinks taken by the United States during the base period (i.e. the base period established for the initial limitation scheme applied to all other intercepting fisheries in the Agreement), whichever is less. Thereafter, the maximum numbers referred to in the preceding sentence would be increased annually in regular increments over a period of 12 years to reach levels equivalent to United States catches during the base period plus a small addition as compensation for production from specified enhancement facilities which had not reached their full output by the end of the base period (estimates of quantities to be developed by Regional staff).

h) The Agreement would have an initial term of three years. By the end of the three years it would become apparent whether or not the longer term provisions of the Agreement for cooperative enhancement and equitable sharing were workable and the Commission would have gained experience (good or bad) with respect to cooperation in management and control of interceptions. Transfer of management responsibility and Canadian enhancement for Fraser sockeye and pinks would also be underway.

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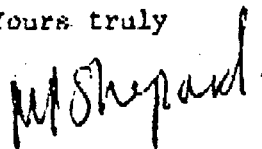
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The end of the three year period would provide a make or break point. If the approaches (or modifications thereof) contained in the Agreement appeared workable, the initial Agreement could form the base for a long term Agreement for cooperation between the two countries. If it became apparent that the Agreement (or a possible modification of it) was basically unworkable, Canada could use the three-year period to develop its policies for fisheries development on a unilateral basis.

I have discussed the foregoing approach with Carnet Jones and associated staff of the Pacific Region and believe it has their support.

I am leaving Canada today for a three week overseas mission, returning to Victoria on October 10. I may be contacted through Mr. Andrew McAllister of the Department of External Affairs (tel 996-3696). In the meantime, I request the Department to develop the basic position to be presented by Canada at the October 20 round of negotiations. I hope that the proposals I have presented in this letter will be of some assistance to the Department in developing the Canadian approach for the meeting. Under present circumstances I must insist that I be provided with formal negotiating instructions. Consideration should also be given to the question of whether I or some designated official should have authority to sign or initial documents agreed to during the negotiations. I must leave you to the problems of obtaining Ministerial and/or Cabinet approval. I also must be advised of the officers of the International Directorate, the Pacific Region and any other branches of DFO or of other Government Departments who will be responsible for representing those branch's or Departments' views during the negotiating session. I will look forward to receiving your response to these requests on my return in early October. In expectation that I will receive the necessary support and instructions, I have signed and returned the contract extension document to Supply and Services Canada in Ottawa.

Yours truly



Michael P. Shepard

**OFFICE  
OF THE  
SECRETARY OF STATE  
FOR  
EXTERNAL AFFAIRS**

**CABINET  
DU  
SECRÉTAIRE D'ÉTAT  
AUX  
AFFAIRES EXTÉRIEURES**

**TO/A: FLO**

**Date 20.10.80**

**FROM/DE: MIN**

**REFERENCE/RÉFÉRENCE:**

**SUBJECT/SUJET: Minister's decision/Décision du Ministre**

**Seen and agreed by SSEA**

R. Fadden/6-2643  
Legal Operations Division

UNCLASSIFIED

October 16, 1980

ACC	10/452	REF
FILE	25-5-7-2-SALMON-1	DATE
B HAND	PAR POSTER	
A-111		

MEMORANDUM FOR THE MINISTER

SUBJECT: Canada-USA Pacific Salmon Negotiations  
Seattle, October 20-24, 1980

The purpose of this memorandum is to seek your approval of instructions to the Canadian delegation to the above negotiations.

BACKGROUND

Negotiations began in 1971 with a view to limiting salmon catches of one national origin by vessels of the other country. This approach met with little success and in 1977 we jointly initiated the Salmonid Enhancement Program which aims to maximize all North American Salmon catches. Recent negotiations with the United States have pursued this end.

ISSUE

It is recommended that the Canadian delegation be authorized to continue negotiations towards an agreement on cooperative Pacific Salmon Management based on the following elements:

- 1) limitation of intercepting fisheries in both countries to levels existing in an agreed base period;
- 2) cooperation respecting future development of salmon resources in both countries;
- 3) future adjustments in fisheries of both countries to bring about a sharing of the salmon harvest such that each country receives catches equivalent to the production from its own rivers;

.../2

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- 2 -

- 4) provisions respecting the conservation and sharing of the salmon stocks of tranboundary rivers;
- 5) return to Canada of management responsibility for Fraser River pink and sockeye salmon presently managed on behalf of Canada and the USA by the International Pacific Salmon Fisheries Commission;
- 6) a schedule of U.S. entitlements to Fraser River pink and sockeye salmon as compensation for investment by the USA in recent IPSFC enhancement facilities, which have not yet reached full production.

The fishing industry on the West Coast are generally supportive of the above position. Only the United Fishermen and Allied Worker's Union and the Native Brotherhood of B.C. have publicly criticized the Canadian position. It is their view Canada should seek to reduce salmon interception and penalize the USA for its past interceptions. Previous negotiations to this end were unsuccessful.

It is proposed that the Canadian delegation be headed by Mr. Mike Shepard/of the Department of Fisheries and Oceans which will also be represented by Mr. A. Campbell, Ms. J. Swan and other Department of Fisheries and Oceans officials from the Pacific Region. Mr. R.B. Fadden of the Legal Operations Division will represent this Department. A similar but more detailed memorandum is being sent to the Minister of Fisheries and Oceans and is attached for your information.

While it is proposed that negotiations be continued along the lines suggested above, this would be subject to the proviso that the Canadian delegation would not be mandated to negotiate or sign any specific undertakings at this round. Following these talks a memorandum to Cabinet will be prepared outlining the overall ramifications including the financial implications of a salmon agreement and recommending a course of action for future negotiations.

Do you agree with the negotiating approach and the composition of the delegation as set out above?

A.E.G.

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Government of Canada  
Gouvernement du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
A

Minister of Fisheries  
and Oceans

FROM  
DE

Donald D. Tansley

SUBJECT Canada-USA Pacific Salmon Negotiations,  
OBJET Seattle, October 20-24, 1980

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE
YOUR FILE / VOTRE RÉFÉRENCE
DATE

Summary

The purpose of this memorandum is to review the factors bearing on the development of a comprehensive Pacific salmon agreement with the USA, and to seek your approval, and that of your colleague the Secretary of State for External Affairs, of the recommendations set out immediately below.

It is recommended that the Canadian negotiator be authorized to continue consultations with advisors and negotiations with the USA towards a comprehensive agreement on Cooperative Pacific Salmon Management based on the following elements:

- 1) limitation of intercepting fisheries in both countries to levels existing in an agreed base period;
- 2) cooperation respecting future development of salmon resources in both countries;
- 3) future adjustments in fisheries of both countries to bring about a sharing of the salmon harvest such that each country receives catches equivalent to the production from its own rivers;
- 4) provisions respecting the conservation and sharing of the salmon stocks of transboundary rivers;
- 5) return to Canada of management responsibility for Fraser River pink and sockeye salmon presently managed on behalf of Canada and the USA by the International Pacific Salmon Fisheries Commission;

- 2 -

- 6) a schedule of U.S. entitlements to Fraser River pink and sockeye salmon as compensation for investment by the USA in recent IPSFC enhancement facilities, which have not yet reached full production.

### Background

The salmon fishery is the most important fishery on the Pacific coast of Canada, exploited by a fleet of 5,308 vessels, and employing some 8,400 fishermen and 6,000 shore workers. The value of the catch to the fishermen (landed value) averaged \$140 million in the period 1976 to 1979.

Five species of Pacific salmon (sockeye, pink, chum, coho, chinook) are bred in the rivers of British Columbia, the U.S. Pacific Northwest and Alaska. Salmon of Canadian and U.S. origin freely intermingle in the ocean, so that Canadian fishermen intercept salmon of U.S. origin, and U.S. fishermen intercept salmon of Canadian origin. These interceptions pose problems for management of salmon resources in both countries, and, because the value of interceptions made by each country is not equal, raise questions of "equity". Current estimates suggest that the landed value of United States interceptions exceeds the landed value of Canadian interceptions by up to \$5 million annually.

Negotiations between the two countries on this question have been pursued since 1971, although not until late 1977 did the elements of a possible agreement begin to emerge. In the earlier part of the decade, negotiations focused almost entirely on the question of limitation or reduction of interceptions of salmon, where the objective was to limit or reduce the number of salmon of U.S. origin being caught by Canadian fishermen, and vice versa.

The Salmonid Enhancement Program, introduced in 1976 by Canada is designed to double current salmon production from Canadian rivers. This program, together with similar programs in the Federal, State and private sectors in the USA, introduced a new and compelling factor into consideration of the interception issue, since it became clear that under current arrangements, the country which invests in the enhancement of its salmon production does not have control over catches by the other country of such production. For this reason, negotiations began to focus on an agreement that would permit maximization of all North American salmon catches, with each country to receive an appropriate share of the catch thereby making the question of interception limitation less punitive and only one element of a positive solution to the broader issues.

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- 3 -

Since 1937, international cooperation in salmon management has been limited to joint management of sockeye salmon of the Fraser River system under the "Convention between Canada and the United States of America for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries of the Fraser River System". (The Convention was amended in 1957 to include pink salmon). Salmon fisheries for other species originating in the Fraser, and fisheries on all species originating elsewhere, are presently subject to the domestic management system of each country.

### Considerations

Officials have identified four alternative approaches to present domestic and international Pacific Salmon Management problems:

1. No agreement - This alternative would maintain the status quo with resulting continued declines in overall salmon production, continued loss of salmon enhancement potential, and increasing domestic fisheries management problems. This in turn could lead to the aggravation of relations between the respective management agencies of the two countries.
2. Agreement in the southern area (B.C.-Washington/Oregon) only - This alternative would involve an agreement whereby Canada might limit the interception of fish bound for the U.S. in the west coast of Vancouver Island troll fishery in return for U.S. limitation of interceptions of Fraser River bound salmon. Such an agreement would benefit U.S. fishermen in Washington, Oregon and northern California but would in no way address the considerable interceptions by Alaska fishermen of salmon bound for British Columbia and would eliminate the incentive for the United States to reduce or bring Alaskan interceptions under control because Canada's intercepting fisheries are located mainly in the south.
3. Interception Limitation Agreement - This alternative would involve both Canada and the United States limiting specified intercepting fisheries to an agreed base level. This essentially punitive action was the substance of unsuccessful negotiations during the period 1971 to 1977 and does not address the issue of cooperation in future development of salmon resources, a factor

- 4 -

which is of crucial importance in gaining support for an agreement from the State of Alaska.

4. Agreement on Cooperative Salmon Management - This alternative would involve an initial limitation of intercepting fisheries to levels existing during an agreed base period and consultation regarding means of maximizing salmon production and development of a mechanism to provide for alterations in fishing patterns in the future such that each country would receive catches equivalent to the production from its own rivers.

With respect to these approaches, it should be noted that:

- a) with the exception of the "Convention between Canada and the USA for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries of the Fraser River System" both Canada and the United States have managed their salmon resources independently. Lack of international cooperation in salmon management is, however, causing increasingly difficult problems for Canadian management programs, including the conservation of important chinook and coho stocks in southern British Columbia, and is preventing the development of Canada's Pacific Salmon resources to their full potential.
- b) Canadian withdrawal from the present Fraser River Convention remains an option for consideration by Ministers should the negotiations reach an impasse.
- c) The U.S. negotiator has advised that there is a willingness in the U.S. Congress to proceed quickly to finalizing an agreement with Canada that would limit interceptions to agreed base period levels and facilitate cooperation in future development of salmon resources.
- d) The United States has been willing to enter into an agreement that would limit salmon interceptions in the southern portion of B.C. and the State of Washington, leaving the interceptions in Alaska and northern B.C. to future resolution. The Canadian response to this proposal has been that only a coastwide agreement is acceptable or meaningful.

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- e) Recent discussions with the United States have been aimed towards developing an agreement on cooperative salmon management, the elements of which would include an initial limitation of all interceptions to levels existing during an agreed base period, consultations concerning future Salmonid enhancement in both countries and a system to provide for adjustments to fisheries in the future to bring about a sharing of the total salmon harvest such that each country receives catches equivalent to the production from its own rivers and that there is an equitable balance in the value of interceptions made by both countries (the "equity" provision).
- f) The United States is seeking, in an agreement, increased allocations of sockeye and pink salmon from the Fraser system as repayment for its financial contribution to recent enhancement facilities constructed by the International Pacific Salmon Fisheries Commission (IPSFC) on the Fraser River which have not yet achieved full production. The amount, if any, of such increased allocations remains to be negotiated.
- g) Canada is seeking arrangements for the "trans-boundary" rivers (i.e. rivers which rise in northern B.C. but enter the sea in United States territory) whereby a share (to be negotiated) of the stocks returning to the upper (Canadian) sections of the rivers would be available for capture by Canadian fishermen, thus ensuring a secure resource base for the development of fisheries in the future. In the interim, the Canadian share would be taken into account in the overall balancing of interceptions by the two countries.

#### Financial Considerations

Costs to Canada of failure to reach agreement on cooperative salmon management with the U.S. include up to \$5 million annually (landed value) resulting from an imbalance in salmon interceptions in favour of the U.S. and a loss of potential income to fishermen as a result of lost enhancement options.

At the present time, Canada provides one-half of the annual budget of the International Pacific Salmon Fisheries Commission (IPSFC), established by the Fraser Convention. Canada's contribution for the fiscal year 1980-81 is \$920,000. Anticipated costs related to an agreement with the USA for cooperative management of salmon resources include:

- 6 -

- a) Costs of Canadian management of the Fraser River (irrespective of whether this objective is obtained through agreement with the USA or by withdrawal from the Fraser River Convention, the Department of Fisheries and Oceans will require additional money and employees to provide for necessary managerial and scientific functions) include an annual operating cost of approximately \$1.8 million.
- b) Research costs of approximately \$35 million over a ten year period for continuing assessments of the extent and location of interceptions, and to provide a basis for future adjustments in fishing patterns in order to achieve an equitable balance in the value of those interceptions. Present research funding is at a level approximately one-third of that which will be required.
- c) Canada will have to pay one-half of the annual budget of a new Pacific Salmon Commission to be established under the terms of an agreement with the United States. Expected annual costs to Canada of such a Commission are presently estimated to be \$250,000.

It should be noted that the achievement of "equity" in salmon interceptions in the future would provide benefits to the fishing industry of B.C. in excess of the government expenditures outlined in paragraph 6 above.

#### Federal/Provincial Considerations

Officials of the Province of British Columbia have actively participated as advisors in negotiations with the USA since 1971, and the Province has to date been fully supportive of the Canadian negotiating objectives.

#### Other Considerations

While the Canada/USA negotiations on Pacific salmon management have been treated as an entirely separate issue with no linkages to other west coast international fisheries issues, the achievement of an agreement on salmon would have a positive effect on the overall fisheries relationship with the USA on the Pacific coast.

#### Interdepartmental Consultations

This memorandum was prepared by the Department of Fisheries and Oceans and the Department of External Affairs.

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Consultations with respect to the Financial Considerations outlined above with Treasury Board have been initiated and will be undertaken with the Minister of State for Economic Development.

#### Fishing Industry Views

Representatives of all organizations interested in fisheries matters on the Pacific coast have attended meetings with the USA on this subject since 1971. Most groups have, throughout, supported Canada's objective of reaching an agreement with the USA along the lines recommended in this memorandum. Particularly, it would be broadly supported on the Pacific coast. Among all the interested organizations only the United Fishermen and Allied Workers' Union (UFAWU) and the Native Brotherhood of B.C. have been publicly critical of the Canadian position. These organizations would seek to reduce interceptions and penalize the USA for its past interceptions, despite the fact that previous negotiations to this end were unsuccessful.

#### Conclusions

It is suggested that a comprehensive agreement with the United States involving cooperative management of Pacific Salmon resources along the lines of approach (4) and in paragraph (e) under "Considerations" above, remains the best option for the early achievement of a practical and balanced agreement. A strong and vocal reaction to this approach can be expected from the UFAWU and the native brotherhood. It is recommended that the delegation to the Seattle negotiations be directed to work towards an agreement along these lines. Do you agree?

The Canadian delegation will be headed by Mike Shepard. Mr. Campbell and Ms. Swan will represent this Department along with officials from the Pacific Region's Vancouver office. Mr. R.B. Fadden will represent External Affairs.

A similar memorandum is being sent to the Secretary of State for External Affairs.

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MEMORANDUM FOR THE MINISTER

SUBJECT: Canada-USA Pacific Salmon Negotiations,  
Seattle, October 20-24, 1980

The purpose of this memorandum is to seek your approval of instructions to the Canadian delegation to the above negotiations.

BACKGROUND

Negotiations began in 1971 with a view to limiting salmon catches of one national origin by vessels of the other country. This approach met with little success and in 1977 we jointly initiated the Salmonid Enhancement Program which aims to maximize all North American Salmon catches. Recent negotiations with the United States have pursued this end.

ISSUE

It is recommended that the Canadian delegation be authorized to continue negotiations towards an agreement on cooperative Pacific Salmon Management based on the following elements:

- 1) limitation of intercepting fisheries in both countries to levels existing in an agreed base period;
- 2) cooperation respecting future development of salmon resources in both countries;
- 3) future adjustments in fisheries of both countries to bring about a sharing of the salmon harvest such that each country receives catches equivalent to the production from its own rivers;

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- 4) provisions respecting the conservation and sharing of the salmon stocks of tranboundary rivers;
- 5) return to Canada of management responsibility for Fraser River pink and sockeye salmon presently managed on behalf of Canada and the USA by the International Pacific Salmon Fisheries Commission;
- 6) a schedule of U.S. entitlements to Fraser River pink and sockeye salmon as compensation for investment by the USA in recent IPSFC enhancement facilities, which have not yet reached full production.

The fishing industry on the West Coast are generally supportive of the above position. Only the United Fishermen and Allied Worker's Union and the Native Brotherhood of B.C. have publicly criticized the Canadian position. It is their view Canada should seek to reduce salmon interception and penalize the USA for its past interceptions. Previous negotiations to this end were unsuccessful.

It is proposed that the Canadian delegation be headed by Mr. Mike Shepard of the Department of Fisheries and Oceans which will also be represented by Mr. A. Campbell, Ms. J. Swan and other Department of Fisheries and Oceans officials from the Pacific Region. Mr. R.B. Fadden of the Legal Operations Division will represent this Department. A similar but more detailed memorandum is being sent to the Minister of Fisheries and Oceans and is attached for your information.

...

While it is proposed that negotiations be continued along the lines suggested above, this would be subject to the provision that the Canadian delegation would not be mandated to negotiate or sign any specific undertakings at this round. Following these talks a memorandum to Cabinet will be prepared outlining the overall ramifications including the financial implications of a salmon agreement and recommending a course of action for future negotiations.

Do you agree with the negotiating approach and the composition of the delegation as set out above?

A.E.G.

TO: The Minister,  
Fisheries & Oceans

FROM: Donald D. Tansley

SUBJECT: Proposed Strategy for the Canada-USA Pacific Salmon  
Negotiations, Seattle 20-24 October, 1980

The purpose of this memorandum is to recommend a  
strategy for this meeting.

Summary of Recommendations

It is recommended that the Canadian negotiator be  
authorized to continue consultations with advisors and negotiations  
with the USA towards a comprehensive agreement on Cooperative  
Pacific Salmon Management based on the following elements:

- i) limitation of intercepting fisheries in both  
countries to levels existing in an agreed base  
period;
- ii) cooperation respecting future development of  
salmon resources in both countries;
- iii) future adjustments in fisheries of both countries  
to bring about a sharing of the salmon harvest  
such that each country receives catches equivalent  
to the production from its own rivers;
- iv) provisions respecting the conservation and  
sharing of the salmon stocks of transboundary  
rivers;

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- v) return to Canada of management responsibility for Fraser River pink and sockeye salmon presently managed on behalf of Canada and the USA by the International Pacific Salmon Fisheries Commission;
- vi) a schedule of U.S. entitlements to Fraser River pink and sockeye salmon as compensation for investment by the USA in recent IPSFC enhancement facilities, which have not yet reached full production.

#### BACKGROUND

The salmon fishery is the most important fishery on the Pacific coast of Canada, exploited by a fleet of 5,308 vessels, and employing some 8,400 fishermen and 6,000 shore workers. The value of the catch to the fishermen (landed value) averaged \$140 million in the period 1976 to 1979.

Five species of Pacific salmon (Sockeye, Pink, Chum, Coho, Chinook) are bred in the rivers of British Columbia, the U.S. Pacific Northwest and Alaska. Salmon of Canadian and U.S. origin freely intermingle in the ocean, so that Canadian fishermen intercept salmon of U.S. origin, and U.S. fishermen intercept salmon of Canadian origin. These interceptions pose problems for management of salmon resources in both countries, and, because the value of interceptions made by each country is not equal, raise questions of equity. Current estimates suggest that the landed value of United States interceptions exceeds the landed value of Canadian interceptions by up to \$5 million annually. A map illustrating the areas and magnitude of these interceptions is attached as Annex A.

...

Negotiations between the two countries on this question have been pursued since 1971, although not until late 1977 did the elements of a possible agreement begin to emerge. In the earlier part of the decade, negotiations focused almost entirely on the question of limitation of interceptions of salmon, where the objective was to limit or reduce the number of salmon of U.S. origin being caught by Canadian fishermen, and vice versa.

The Salmonid Enhancement Program, introduced in 1976 by Canada is designed to double current salmon production from Canadian rivers. This program introduced a new and compelling factor into consideration of the interception issue, since it became clear that under current arrangements, the country which invests in the enhancement of its salmon production does not have control over catches by the other country of such production. For this reason, negotiations began to focus on an agreement that would permit maximization of all North American salmon catches, with each country to receive an appropriate share of the catch thereby making the question of interception limitation less punitive and one element of a positive solution to the broader issues.

Since 1937, international cooperation in salmon management has been limited to joint management of sockeye salmon of the Fraser River system under the "Convention between Canada and the United States of America for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries of the Fraser River System". (The Convention was amended in 1957 to include

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pink salmon). Salmon fisheries for other species originating in the Fraser, and fisheries on all species originating elsewhere, are presently subject to the domestic management system of each country.

#### CONSIDERATIONS

There are four alternative approaches to present domestic and international Pacific Salmon Management problems:

1. No agreement - This alternative would maintain the status quo with resulting continued declines in overall salmon production, continued loss of salmon enhancement potential, and increasing domestic fisheries management problems. This in turn could lead to the aggravation of relations between the respective management agencies of the two countries.
2. Agreement in the south only - This alternative would involve an agreement whereby Canada would limit the west coast of Vancouver Island troll interception of fish bound for the U.S. in return for U.S. limitation of interceptions of Fraser River bound salmon. Such an agreement would benefit U.S. fishermen in Washington, Oregon and northern California but would in no way address the considerable interceptions by Alaska fishermen of salmon bound for British Columbia and would eliminate the incentive for the United States to reduce or bring Alaskan

interceptions under control because Canada's intercepting fisheries are located mainly in the south.

3. Interception Limitation Agreement - This alternative would involve both Canada and the United States limiting specified intercepting fisheries to an agreed base level. This essentially punitive action was the substance of unsuccessful negotiations during the period 1971 to 1977 and does not address the issue of cooperation in future development of salmon resources, a factor which is of crucial importance in gaining support for an agreement from the State of Alaska.

4. Agreement on Cooperative Salmon Management - This alternative would involve an initial limitation of intercepting fisheries to levels existing during an agreed base period and consultation regarding means of maximizing salmon production and development of a mechanism to provide for alterations in fishing patterns in the future such that each country would receive catches equivalent to the production from its own rivers.

With respect to these approaches, it should be noted

that:

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- a) with the exception of the "Convention between Canada and the USA for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries of the Fraser River System" both Canada and the United States have managed their salmon resources independently. Lack of international cooperation in salmon management is, however, causing increasingly difficult problems for Canadian management programs, including the conservation of important chinook and coho stocks in southern British Columbia, and is preventing the development of Canada's Pacific Salmon resources to their full potential.
- b) Canadian withdrawal from the present Fraser River Convention remains an option for consideration by Ministers should the negotiations reach an impasse.
- c) The U.S. negotiator has advised that there is a willingness in the U.S. Congress to proceed quickly to finalizing an agreement with Canada that would limit interceptions to agreed base period levels and facilitate cooperation in future development of salmon resources.

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- d) The United States has been willing to enter into an agreement that would limit salmon interceptions in the southern portion of B.C. and the State of Washington, leaving the interceptions in Alaska and northern B.C. to future resolution. The Canadian response to this proposal has been that only a coastwide agreement is acceptable or meaningful.
- e) Recent discussions with the United States have been aimed towards developing an agreement on cooperative salmon management, the elements of which would include an initial limitation of all interceptions to levels existing during an agreed base period, consultations concerning future Salmonid enhancement in both countries and a system to provide for adjustments to fisheries in the future to bring about a sharing of the total salmon harvest such that each country receives catches equivalent to the production from its own rivers and that there is an equitable balance in the value of interceptions made by both countries (the "equity" provision).
- f) The United States is seeking, in an agreement, increased allocations of sockeye and pink salmon from the Fraser system as repayment for its financial contribution to recent enhancement facilities constructed by the

International Pacific Salmon Fisheries Commission (IPSFC) on the Fraser River which have not yet achieved full production. The amount, if any, of such increased allocations remains to be negotiated.

- g) Canada is seeking arrangements for the "transboundary" rivers, whereby a share (to be negotiated) of the stocks returning to the upper (Canadian ) sections of the rivers would be available for capture by Canadian fishermen, thus ensuring a secure resource base for the development of fisheries in the future.

#### FINANCIAL CONSIDERATIONS

Costs to Canada of failure to reach agreement on cooperative salmon management with the U.S. include up to \$5 million annually (landed value) resulting from an imbalance in salmon interceptions in favour of the U.S. and a loss of potential income to fishermen as a result of lost enhancement options.

At the present time, Canada provides one-half of the annual budget of the International Pacific Salmon Fisheries Commission (IPSFC), established by the Fraser Convention. Canada's contribution for the fiscal year 1980-81 is \$920,000. Anticipated costs related to an agreement with the USA for cooperative management of salmon resources include:

- a) Costs of Canadian management of the Fraser River (irrespective of whether this objective is obtained through agreement with the USA or by withdrawal from the Fraser River Convention,

the Department of Fisheries and Oceans will require additional money and employees to provide for necessary managerial and scientific functions) include an annual operating cost of approximately \$1.8 million.

- b) Research costs of approximately \$35 million over a ten year period for continuing assessments of the extent and location of interceptions, and to provide a basis for future adjustments in fishing patterns in order to achieve an equitable balance in the value of those interceptions. Present research funding is at a level approximately one-third of that which will be required.
- c) Canada will have to pay one-half of the annual budget of a new Pacific Salmon Commission to be established under the terms of an agreement with the United States. Expected annual costs to Canada of such a Commission are presently estimated to be \$250,000.

It should be noted that the achievement of "equity" in salmon interceptions in the future would provide increased benefits to the fishing industry of B.C. in excess of the government expenditures outlined in paragraph (6) above.

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## FEDERAL - PROVINCIAL CONSIDERATIONS

Officials of the Province of British Columbia have actively participated as advisors in negotiations with the USA since 1971, and the Province has to date been fully supportive of the Canadian negotiating objectives.

## OTHER CONSIDERATIONS

While the Canada/USA negotiations on Pacific salmon management have been treated as an entirely separate issue with no linkages to other west coast international fisheries issues, the achievement of an agreement on salmon would have a positive effect on the overall fisheries relationship with the USA on the Pacific coast.

## INTERDEPARTMENTAL CONSULTATIONS

This Memorandum was prepared by the Department of Fisheries and Oceans and the Department of External Affairs.

Consultations with Treasury Board have been initiated and will be undertaken with the Ministry of State for Economic Development.

## PUBLIC INFORMATION STRATEGY

Representatives of all organization<sup>y</sup> interested in fisheries matters on the Pacific coast have attended meetings with the USA on this subject since 1971. Most groups have, throughout, supported Canada's objective of reaching an agreement with the USA. A detailed technical paper on this subject has been prepared for public dissemination. Further, a public information strategy is presently in preparation for use as appropriate and with the concurrence of the Minister of Fisheries and Oceans and the Secretary of State for External Affairs.

The press on the Pacific coast, continues to show an interest in this subject. The Salmonid Enhancement Board supports the concept of an agreement with the USA along the lines recommended in this memorandum.

#### POLITICAL CONSIDERATIONS

The achievement of an agreement with the USA as recommended in this memorandum would be broadly supported on the Pacific coast. Among all the interested organizations only the United Fishermen and Allied Workers' Union (UFAWU) and the Native Brotherhood of B.C. have occasionally been publicly critical of the Canadian position. These organizations would seek to reduce interceptions and penalize the USA for its past interceptions, despite the fact that previous negotiations to this end were unsuccessful.

#### CONCLUSIONS

It is concluded that a comprehensive agreement with the United States on cooperative management of Pacific salmon resources including the elements described in the summary of recommendations and in paragraph e under considerations above, remains the best option for resolution of the present situation which involves severe conservation problems, an inequitable division of catches favouring the U.S. and lost potential earnings resulting from reduced enhancement potential.

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The Canadian delegation will be headed by Mike Shepard. Mr. Applebaum and Ms. Swan will participate on the part of this Department, and Mr. Fadden will participate on the part of External Affairs.

A similar memorandum is being sent to the Secretary fo State for External Affairs.

Do you agree with the recommendations and conclusions set out in this memo?

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---PACIFIC SALMON INTERCEPTION NEGOTIATIONS:SEATL ROUND

SYNOPSIS:REVIEWED PROSPECTS FOR UPCOMING SUBJECT NEGOTIATIONS WITH PRUDENCE FOX OF NMFS.AS REPORTED IN REFTTEL,USA SIDE,APPEARS TO BE OPTIMISTIC CONCERNING PROSPECTS FOR SUCCESSFUL CONCLUSION OF THESE NEGS.HOUSE-SENATE DEADLOCK OVER SALMON/STEELHEAD ENHANCEMENT BILL NOW ON CONGRESSIONAL CALENDAR MIGHT OFFER UNIQUE OPPORTUNITY FOR RESULT OF SUBJECT NEGS(IE INSTITUTIONAL ARRANGEMENTS AND RELATED INTERCEPTION LIMITATION MEASURES)TO BE REFLECTED IN A NEW SALMON/STEELHEAD ENHANCEMENT BILL NEXT YEAR.

2.REPORT:FOX REPORTED THAT ALL ELEMENTS OF USA SIDE APPEAR TO BE OPTIMISTIC THAT SEATL MTG WILL SEE NEGS WRAPPED UP.THIS VIEW IS APPARENTLY SHARED BY FEDERAL AND REGIONAL FISHERY OFFICIALS AS WELL AS BY INDUSTRY REPRESENTATIVES,ALTHOUGH AS USUAL ALASKAN FISHING INDUSTRY REMAINS THE MOST RELUCTANT PARTICIPANT ON USA SIDE.THIS PERHAPS STEMS FROM LONG STANDING ALASKAN CONCERN THAT INSUFFICIENT INFO STILL EXISTS CONCERNING NUMBER AND LOCATIONS OF INTERCEPTIONS

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IN NORTH, AND THAT INTERCEPTION LIMITATION MIGHT THEREFORE AFFECT THEM UNDULY HARSHLY.

3. LEADING FROM THIS POINT, ALASKANS APPEAR TO WANT INTERCEPTION LIMITATION TO BE ESTABLISHED ON BASIS OF EFFORT, NOT/NOT NUMBERS. THEY BELIEVE IT WOULD BE HARDER TO MONITOR INTERCEPTION LIMITATION BASED ON LATTER FACTOR, BECAUSE OF SUPPOSEDLY INADEQUATE DATA CONCERNING INTERCEPTIONS IN ALASKA AREA. ON OTHER HAND, SOUTHERN USA FISHING INDUSTRY (WASHINGTON, OREGON) WOULD SEEM TO PREFER LIMITATION BY NUMBERS SINCE QUALITY OF THEIR DATA IS MUCH BETTER. FOX INDICATED SHE HEARD SOMETHING TO THE EFFECT THAT TECHNICAL EXPERTS OF CDA AND USA HAVE MET RECENTLY AND AGREED TO LIMITATION SCHEME BASIS ON NUMBERS. PLEASE CONFIRM.

4. IN DISCUSSING PROSPECTS FOR WRAPPING UP NEGS, FOX STATED USA SIDE WAS WILLING TO LEAVE LARGE NUMBER OF ITEMS ASSOCIATED WITH INTERCEPTION AGREEMENT TO BE WORKED OUT BY PROPOSED SALMON COMMISSION IF BOTH SIDES CANNOT/NOT REACH SUFFICIENT DEGREE OF AGREEMENT DURING NEGS TO HAVE THEM SPELLED OUT PRECISELY IN CONVENTION.

5. FOX NOTED THAT SENATE AND HOUSE BILLS TO PROVIDE FOR CONSERVATION AND ENHANCEMENT OF SALMON AND STEELHEAD RESOURCES ON USA WEST COAST APPEAR TO BE MUTUALLY DEADLOCKED AND THAT THEY WILL ALMOST CERTAINLY DIE AT END OF CURRENT CONGRESSIONAL SESSION. SENATE STRONGLY OPPOSED CERTAIN MANAGEMENT PROVISIONS WHICH VARIOUS HOUSE

PAGE THREE UNGR5602 RESTR

REPS HAVE TACKED ONTO HOUSE VERSION OF BILL. THIS APPEARS TO EFFECTIVELY PREVENT ANY RESOLUTION OF MATTER IN NEXT MONTHS LAMEDUCK SESSION OF CONGRESS. CONGRESSMEN ADDED SERIES OF MANAGEMENT CTTEES TO BILL. THESE CTTEES, COVERING EACH WEST COAST STATE AND EVEN COLUMBIA RIVER SYSTEM, WOULD BE MANAGEMENT BODIES FOR SALMON AND STEELHEAD. AS SUCH, MEMBERS OF NATIVE GROUPS AND EXISTING FISHERY MANAGEMENT COUNCILS WLD BE REPRESENTED ON THEM. HOWEVER, NO/NO EFFORT HAD BEEN MADE IN HOUSE BILL TO SET OUT HOW COUNCILS, WHICH HAVE JURISDICTION OVER ANADROMOUS SPECIES BEYOND THREE MILES FROM COAST, WOULD WORK WITH NEW CTTEES. FURTHERMORE, UNANIMITY WOULD BE REQUIRED FOR DECISIONS BY CTTEES ON MANAGEMENT MEASURES, FURTHER COMPLICATING EFFECTIVE FUNCTIONING OF CTTEES. ALSO BOLDT II DECISION (SEATL TEL 5910 030CT REFERS) MAKES IT DIFFICULT TO IMPLEMENT SOME OF PROVISIONS OF HOUSE BILL.

6. FOX OPINED THAT WITH CURRENT ENHANCEMENT BILLS EFFECTIVELY DEADLOCKED, ANY BILLS ON SUBJECT WHICH NEW CONGRESS WOULD CONSIDER COULD TAKE INTO ACCOUNT RESULTS OF INTERCEPTION NEGS. THUS QUICK PROGRESS COULD BE MADE TO IMPLEMENT INTERCEPTION AGREEMENT WITHOUT HAVING TO RE-WRITE LEGISLATION WHICH MIGHT HAVE BEEN PASSED AND WHICH WOULD NOT/NOT HAVE TAKEN INTO ACCOUNT RESULTS OF THESE NEGS. THEREFORE, PERHAPS FOR THIS REASON ALSO, USA FEDERAL FISHERY AUTHORITIES APPEAR TO BE QUITE ANXIOUS FOR INTERCEPTION NEGS TO COME TO SPEEDY AND SUCCESSFUL CONCLUSION.

CCC/173 161613Z UNGR5602

OFFICE  
OF THE  
SECRETARY OF STATE  
FOR  
EXTERNAL AFFAIRS

CABINET  
DU  
SECRÉTAIRE D'ÉTAT  
AUX  
AFFAIRES EXTÉRIEURES

TO/A: FLO

Date 16.10.80

FROM/DE: MIN

REFERENCE/RÉFÉRENCE:

SUBJECT/SUJET: Minister's decision / *Décision du Ministre*

Seen by SSEA

*pls note that  
memo should have  
had subject line at  
top*

R. Fadden/6-2643  
Legal Operations Division

FLO 1336

UNCLASSIFIED

October 14, 1980

ACC	101455	REL
FILE	25-5-7-2-SALMON-1	DIS
BY HAND	PAR PORTEUR	
ATTN:	25-5-7-2-HALIBUT	

MEMORANDUM FOR THE MINISTER

Issue

You have agreed to sign the Instrument of Ratification for protocols amending (1) the Convention between Canada and the United States of America to amend the Convention for the Conservation, Preservation and the Extension of the Sockeye Salmon Fisheries in the Fraser River System, 1930, as amended (signed in Washington on February 24, 1977), and (2) the Convention between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, 1953, as amended (signed in Washington on March 29, 1979). The signing is scheduled for 5:30 p.m., October 15, 1980. Ambassador Curtis will be signing on behalf of the United States.

Background

The Protocol amending the Halibut Agreement extends the latter until March 31, 1981 and thereafter until one year from the date on which either Party gives notice of termination. The agreement regulates the fishing of halibut off the West Coast, and in particular will permit continued Canadian access to halibut off the coast of Alaska. In addition it provides, inter alia, that each party will, in its own fisheries zone, have full enforcement powers against the nationals and vessels of both Parties or of a third party, and will exercise enforcement powers against its own vessels in all Convention waters.

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14.10.25 (us)

15.10. - , ...N

Mr Curtis will be  
accompanied by Colman Neel,  
First Secretary  
US Embassy

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The Protocol amending the Fraser River Salmon Convention increases from six to seven the number of representatives from each country on the Advisory Committee to the International Pacific Salmon Fisheries Commission. This amendment was effected at the request of the United States in order to permit the U.S. Government to name a Treaty Indian salmon fisherman to the U.S. section of the Advisory Committee.

The advice and consent of the U.S. Senate was given to both Protocols this past summer paving the way for their ratification.

A E S  
A.E.G.

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

TO  
À Lorne Green, MIN

SECURITY  
Sécurité

UNCLASSIFIED

FROM  
De M. J. Peden, FLE, Treaty Section

DATE 15 October 1980

REFERENCE  
Référence

NUMBER  
Numéro

SUBJECT  
Sujet List of those attending Exchange of  
Instruments of Ratification - Canada/U.S.A.  
Fisheries Protocols

FILE	DOSSIER
OTTAWA	
MISSION	

ENCLOSURES  
Annexes

DISTRIBUTION

Ambassador Kenneth M. Curtis  
Mr. Dwight Mason, Counsellor, Political Affairs  
Mr. Coleman Nee  
Mr. T. A. Farrell  
Mr. K. J. Merklinger, U.S. Transboundary Relations  
Mr. Ron Wilson, United States General Relations  
Mr. R. Rochon or Mr. R. Fadden, Legal Operations  
Mr. Guy Choquette, Economic Law and Treaty Division  
Mr. Dale Chisholm, Economic and Treaty Division  
Miss M. J. Peden, Economic Law and Treaty Division

  
M. J. Peden.

## MESSAGE

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

PLACE LIEU	DEPARTMENT MINISTÈRE	ORIG. NO. N° d'orig.	DATE	FILE/COMM. NO.	SECURITY SÉCURITÉ
FM/DE	SEATL	UAGE	5938	14OCT80	RESTRICTED
TO/A EXTORT FLO <u>Sea 002/14</u>					PRIORITY
INFO			DATE	ACC	REF
RRCAM PANDO VNCVR HOURESTON/SHEPARD DE SEA				112548	
SPAX WSHDC DE SEA <u>Sea 002/14</u>			FILE	D. SSUER	
B.H. PANDOOT/HUNTER DE OIT			25-5-7-20	SALMON-1	
DISTR. FILE CMC			BY HAND	PAR PORTEUR	
			original not returned by division		

REF COURTEL UAGR 5925 OF 07OCT80

SUB/SUB

---SALMON INTERCEPTION NEGOTIATIONS-ALVERSON SPEECH

ATTACHED, AS PROMISED OUR REFTEL, IS AN OFFICE TRANSCRIPTION OF LEE ALVERSON'S ADDRESS TO THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL DURING THEIR SEPTEMBER MEETING IN SITKA, ALASKA. IN OUR VIEW, ALVERSON WAS FACTUAL AND OBJECTIVE, ALTHOUGH HE OBVIOUSLY WAS LOOKING AT THE NEGOTIATIONS FROM HIS POSITION AS CHIEF U.S. NEGOTIATOR. HIS REPORT WAS WELL RECEIVED BY THE COUNCIL AND HE APPARENTLY HAS THEIR CONFIDENCE AND SUPPORT.

2. THERE WERE THREE POINTS WHICH STOOD OUT IN ALVERSON'S ADDRESS. THE FIRST CONCERNED THE SHARING OF THE RESOURCE IN THE PANHANDLE STREAMS. ALVERSON SAID THAT CDA HAD SUGGESTED THAT 75% OF THE FISH BELONGED TO IT, WHERE AS HE THOUGHT CDN RIGHTS SHOULD NOT BE IN EXCESS OF 50% (PAGE THREE REFERS). SECONDLY, HE EXPRESSED HIS CONCERN REGARDING POSSIBLE NEED TO ALLOCATE BETWEEN THE TWO COUNTRIES, THE FISH IN THE YUKON RIVER SYSTEM. IF CDA IS TO INSIST ON A SUBSTANTIAL SHARE OF THE FISH IN THE YUKON RIVER IT WOULD, WE SUSPECT FROM THE WAY ALVERSON SPOKE, BE A MAJOR COMPLICATION. ALVERSON IS NOT CLEAR ABOUT OUR INTENTIONS IN THIS REGARD AND YOU MAY WISH TO CONSIDER

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DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APProuvé
NO. .... F.D. MARTENS			NO. .... <i>[Signature]</i>

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-2-

PROVIDING CLARIFICATION (PAGE FOUR REFERS). THIRDLY, COUNCIL MEMBER DEMERT BROUGHT TO ALVERSON'S ATTENTION QUOTE A NEW UNQUOTE POWER TROLL INTERCEPTING FISHERY OFF CAPE MUZON. ALVERSON WAS UNABLE TO PROVIDE ANY DETAIL REGARDING THIS FISHERY BUT DID AGREE TO RAISE IT WITH US AT THE NEXT MEETING. (HAROLD LOKKEN, VICE-CHAIRMAN, ALSO MADE REFERENCE TO THIS ISSUE DURING OUR RETURN TO SEATL.) WE SHOULD BE PREPARED TO PROVIDE THE DETAILS OF THIS FISHERY (PAGE EIGHT REFERS). THE COMMENTS ON PAGES NINE AND TEN CONCERNING THE SEPARATION OF NORTHERN AND SOUTHERN ISSUES ARE ALSO INTERESTING IN AS MUCH AS THERE ARE SOME WHO MIGHT FEEL MORE COMFORTABLE WITH THE SEPARATION BUT ACCORDING TO ALVERSON, CDA WOULD NOT ACCEPT SUCH AN APPROACH.

3. FOR YOUR INFORMATION ALVERSON ALSO ADDRESSED PACIFIC MARINE FISHERIES COMMISSION AT THEIR ANNUAL MEETING WHICH WAS HELD RECENTLY IN SEATL. HIS PRESENTATION WAS SIMILAR TO THAT GIVEN IN SITKA. ACCORDING TO ALVERSON HE HAS SPENT A CONSIDERABLE AMOUNT OF TIME SINCE THE LAST NEGOTIATIONS ADDRESSING ALL THE MAJOR USER GROUPS AND GROUPS WHICH HAVE A SPECIAL INTEREST IN THE SALMON FISHERY. ALTHOUGH HE DID NOT SAY HOW HE WAS RECEIVED BY THESE GROUPS, HE IS CERTAINLY MAKING A GREAT EFFORT TO ENSURE THAT HIS CONSTITUENCY IS INFORMED AND IS SUPPORTIVE OF HIS ENDEAVOURS. ALVERSON WAS FOLLOWED AT THE MEETING BY STATE REPRESENTATIVE JOHN MARTINEZ WHO COMPLIMENTED ALVERSON ON THE JOB HE WAS DOING AND FURTHER SUPPORTED ALVERSON IN HIS COMMENTS.

4. ALVERSON'S SPEECH HAS BEEN TRANSCRIBED FROM A TAPE RECORDING OF IT. WE HAVE KEPT OUR EDITING TO A MINIMUM SO AS NOT TO DISTORT HIS PRESENTATION, ALTHOUGH WE REALIZE THAT IT DOES NOT QUOTE FLOW UNQUOTE AS SMOOTHLY AS ONE MIGHT WISH.

SEA-002/14 P30812

SITKA MEETING - ALVERSON SPEECH

SEPTEMBER 24, 1980

Mr. Chairman, members of the Council. Its a pleasure to be back in front of this august body. I recently got a letter from one of my constituents in Alaska regarding U. S./Canada that pointed out that progress was awful slow in the U. S. /Canada negotiations and we didn't seem to be moving ahead very rapidly. I'd like to convince this Council that its about the same pace as putting a fisheries management plan through the NOAH system, which isn't always very fast. That's just since I've been there.

I would like to essentially pick up where we were at the time of the last session, briefly sort of go through the conclusions of the last session with you and then suggest to you the tenor or the nature of the meeting which will be held in October in Seattle beginning on the 21st of October and going through that whole week. Until the last session, which was held in Canada, we really hadn't had a substantive discussion with the Canadians since the death of the former negotiator Don McKernan. We've had one small session in which it became apparent after we had met with them for about four or five hours, that we hadn't done our homework too well and it was necessary to essentially terminate that and establish a subsequent date to meet with the Canadians.

The attitude on the part of the negotiators, in my view, on both sides since I've been with this delegation has been very positive. There has been an attempt to define problems but there have also been attempts to solve them and to find solutions. I have not had the feeling that either side was in the position of trying to put barriers in front of each other that they could not overcome. I think they were realistic problems that had been identified by our delegation and likewise by theirs.

If you recall, the general nature of the long discussions that have been going on with Canada have involved basically several factors. One of key importance is the interception problem. Each nation wishing to minimize the amount of fish having origin in its waters taken by the other nation. A certain number of claims that one side or the other is taking advantage of the other in terms of getting the best interception of fish and generating conservation problems etc. This dialogue, as you well know, has gone on now in a rather substantive manner for almost 12 years and off and on for probably 2 decades.

The issues largely involve four basic areas. Fish that have their origin in the Columbia River and the coastal Washington area, that are largely intercepted by Canadian fishermen off the west coast of Vancouver Island. Fish that have their origin in the Puget Sound area and in the Fraser area that are largely intercepted: in terms of the fish from the Puget Sound area, off the west coast of Vancouver Island; and in terms of the fish going to the Fraser through the joint

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management regime under the Commission agreement, within the area under its (the Commission's) control or outside of the area under its control. In the last probably five years there has been an escalation in the amount of interception that has gone on outside the area under the control of the Commission. There is the area to which I generally refer as the S.E. Alaska-British Columbia boundary area that has been a general problem area. Finally the transboundary area which is somewhat a unique problem of river systems that support the freshwater life of the salmon and which exist both in Canada and the U.S. and both nations share that environment and the importance of maintenance of that environment in the life history of those animals.

The compensation objective is basically a long term one that both nations should find a mechanism to essentially ensure that they achieve the products of what they produce on either side. Now it is obvious you can't start off at that point. Each side recognizes that if and when an agreement is signed that there will be some inequity with the long term goal of trying to bring about equity largely through enhancement program and enhancement activity. Both sides have agreed that those costs, if there is an equity problem, should largely be the responsibility of the federal government, over the long term to bear those costs.

The concept of the Commission is really to establish a forum to resolve the continuing arguments that are ongoing between the US and Canada in terms of interception problems, but also in terms of establishing a joint management regime for the fish, salmon, of joint concern to the two nations and of establishing a coordinated enhancement activity with the joint goal of maximizing the production from the freshwater systems in both nations in terms of trying to improve the overall production of salmon. Now obviously those are rather lofty goals that get caught up ultimately in the problems of resolving how you ultimately share and find a sharing formula for the fish in these four areas where you have the major problem areas. I'm going to go over those rather quickly and starting with the West coast of Vancouver Island because I think its at this point in time the easiest solution.

We've generally agreed on a formula for interceptions with a number of exceptions that states that both nations will try to essentially establish interception levels that are associated with the 1971/74 base period. This has some problems in certain areas that generate certain exceptions and there are too many details on those to go into them. But generally on the west coast of Vancouver Island this formula is found to be satisfactory and the fishermen in the Puget Sound area and west of Washington/Oregon/British Columbia find this a reasonable solution to their interception problems. There are obviously problems in implementation but those have to essentially be resolved largely if the forum and the convention is completed.

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The next area of importance in order of complexity is in essence, the boundary area between ourselves and British Columbia or southeast Alaska and British Columbia, where there is an interception history on both sides. How you would implement an interception agreement has some problems on our side in that during the base period we had a strike in one of our major fisheries. It generates problems and as I now understand the Canadian position they're willing to make adjustments and take this into account in the final formula so that those fishermen aren't penalized by the fact that there was a strike during a key period in which the base numbers were established. There are some other problems of minimal character in that area. I think that we're moving towards resolving some of the issues in that area and we are a lot closer than we were before.

Probably the biggest area of concern has been the rising problem of the transboundary rivers. I think all of you are aware, in which the Canadians have initiated certain fishing actions subsequent to the general agreement that both sides would try to maintain their levels of interceptions. The Canadians have generally chosen to state that fish bound for their waters, waters in their country, don't constitute interception and essentially built up their fisheries in the Taku and Stikine and some other areas that has aggravated the situation in terms of the emotions, particularly on our side in that we have had long standing traditional fisheries that have had to have been cut back to accommodate the expansion undertaken by the Canadians in those waters. In attempting to resolve this particular issue, it's been sort of the US position that what we would like to do is to recognize that the Canadians have essentially some right to salmon that are bound essentially for Canada through the transboundary rivers and which spawn in Canadian waters in terms of a demonstrable right that they should be somewhat, that that issue should be addressed in a final solution. But we have basically said that this should be done in a manner which does not disrupt our existing fishing; that would not further aggravate the situation in the manner that it has in the past; and that we were willing to recognize some obligation on our part that they had a part of that run coming. Basically they (Canada) came back and made a proposal that 75% of all salmon bound for Canadian waters should have a Canadian flag on them, because they spawned in Canadian waters and because this is the area of their husbandry, etcetera. We basically have strongly countered that there is a major husbandry problem that is associated with the downstream environment and the maintenance of the estuary; that although we agreed that they had rights to these (fish) we felt that whatever their rights were they should not be in excess of 50% of the fish bound for Canadian waters (had a Canadian flag); that they should not really take these since we should really repatriate those over a long term in terms of an enhancement program so that the existing fisheries would remain basically static in terms of their historical sharing of those systems; and that we would try to find ways through enhancement over the long term to essentially pay back if there was an equity problem in those systems. I think the biggest question mark in my mind, whether we're going to get over that hurdle, other

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than whether or not we can agree to what portion of fish should be considered having the Canadian ownership on it is in essence whether or not the Yukon situation is brought into the picture. We had not anticipated, and had had no discussions in the last two sessions with the Canadians that the Yukon would be a major part of the equation. It's quite obvious that if the Yukon is brought in, in the 50/50 sharing on those rivers, that represents a substantial out of court if we were to agree to that and where we would ever essentially develop the enhancement and the capability of repaying those in other areas is highly questionable in my mind. As the meeting broke up they did not further raise the Yukon nor have we at this point in time resolved the difference between 50 and 75% in terms of fish bound for Canadian waters.

The Fraser River situation stands that they have agreed that we should get the basic amount of fish that we took in the 71 - 74 period, whatever percent that was of either the fish that are taken in the Commission area or a percentage, an equivalent percentage, that come out in equivalent numbers of the fish (Fraser River fish) taken in all areas. It has been our basic position to change that formula that whatever share the US should get in the Fraser area should be a share of the overall run so that it takes away from the problem that if you agree to the Commission area and then fisheries are generated outside that area, suddenly your balance is essentially depreciated. I think that is pretty well recognized by the fact that in about the past 6 years I think I mentioned that the US share in the Commission area has declined from roughly 39 down to somewhere in the 20s, largely as a result of more and more fishing taking place outside the convention area. So that whatever percentage we ultimately agreed upon would be equated to the total run going into the Fraser.

In essence, those are then the key-problem areas and we have essentially moved fairly well towards an interception formula.

We are having problems in how it would be implemented, whether we would implement it on the basis of absolute numbers of fish or whether we would implement it on the numbers of effort and probably, that may differ in different areas depending on the character and history of the fisheries and the quality of the data that is available to manage in those areas. We have agreed to the necessity that in the transboundary rivers they will be jointly managed, unlike all the other areas there would actually be set up a sub-panel dealing with that. There would actually be joint management responsibilities...you would not start an enhancement project in Canada or in the United States on a transboundary system unless both sides agreed that you would not essentially start a new fishery and you would manage together in terms of escapement and you would manage together in terms of basic goals of those systems. You might see the importance of that because if the Canadians were to start a major enhancement project and then expect to get those fish back which have to go through US fisheries and then we're told to hold to our historical interception levels, it just would not work. So whatever enhancement is done on those systems, it has to

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be pretty well coordinated between the two nations. Enhancement outside of those areas becomes a national problem. That is, we have agreed to coordinate enhancement between Alaska/Canada; Washington/Canada; Oregon/Canada and demonstrate what sort of enhancement programs we have in mind, how they will impact on their fisheries and their enhancement programs, but we are not bound by any decision within the convention if they decide....they're allowed to comment, to suggest, --- and try to coerce you that you should or should not undertake that. In the end it is the state's right or the federal's right, whoever is implementing the enhancement activity, to undertake that essential work. So it does not essentially bind any ultimate decision there. We do have however, a commitment, as I said, to a long term cooperative enhancement exchange of plans, ideas, concepts and to management, finally, to ultimately develop some joint management concepts as they would relate to chinook stocks off the coast in concert with the Council's etc.

In terms of the mechanisms, you are aware that you have the Council, or excuse me the Commission, three panels and maybe a fourth; a southern panel that will deal largely with the coast of Washington and the coast of Vancouver Island area, one that will deal with the Fraser exclusively and then one which would deal with the southeastern and perhaps a fourth for the transboundary. It hasn't been decided if the fourth would necessarily be put into existence or whether it would be a component of the southeastern management sub-panel.

I think we have made rather substantial progress in several areas. One there has been a long term agreement of how we resolve problem areas. The state of Washington and state of Alaska have been concerned over the quality of certain data that has been used and the quality of certain data that the Canadians have submitted as a part of their understanding of what's going on. There is obviously going to be a continuing disagreement over time in terms of the data base. Whether we like to think science is free of nationalism, it quite obviously isn't, and the Canadians are going to enter in with a certain data base and we're going to continually be contesting it. If those have major consequences as to regards to the interception formulas and there is a continuing disagreement of a major size that the Commission cannot itself resolve, then both sides have agreed to submit the data to technical resolution by a third party: that they would be willing to sit down and name a group of scientists from United States, Canada, or elsewhere; that both sides would agree—would come in and look at the data base, examine it and say in our view this is the best answer in accordance with the data that is available regarding those numbers. That does not bind the Commission into a decision in terms of a particular issue, but does bind them to use those numbers as the valid numbers in terms of deciding on how they are going to resolve an issue. In some sense then, I can see instances when that would

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almost bind the Commission to take an action if the data base demonstrated that one side or the other was substantially out of court.

I think Clem, this is about where we are at the present time...there are a lot of, as I say, technical problems that I see...its a very, very complicated arrangement, we've been trying to simplify it...one thing we have simplified is that the great number of interactions between states, the sub-panels, the full Commission, back to the sub-panel, back to the states, etc, has been largely simplified until there is really only one basic exchange and as you'll recall the Commission does not manage, the Commission is obligated to see that the interception formula itself is met. The Commission is obligated to go through the process of meeting its joint management requirements in terms of where it has obligations to achieve allocations, in terms of interceptions. The actual achievement in setting of regulations and the manner in which that will be achieved, is up to the existing management entity. The State of Alaska continues to manage and submits its package to the Commission how it intends to manage those river systems that were involved. The Commission has an opportunity to comment, to suggest and ask for change. In the end, the state makes the final decision. That of course is fine, just as long as over the long haul you demonstrate your meeting the obligations of the balance. Its obvious that when things get substantially out of kilter, then one nation or the other has to intervene, to ensure that the obligations that are originally set out in whatever agreement we sign are met. So its not without a hammer somewhere down the line. I think that's about it Clem.

#### QUESTION AND ANSWER PERIOD

Harold Lokken: Couple of questions Lee. One I think you answered partially. I'd like to have it clarified for the benefit of the audience here. The first question you mentioned boundaries your negotiation is not going to set boundaries between the US and Canada, only the fish that might traverse whatever the boundary is ultimately determined to be?

Dr. Alverson: That is correct. The boundary issue is being negotiated outside this particular arrangement, obviously deals with much more than fish...there is oil involved and all sorts of things.

Lokken: So you will not touch that at all.

Dr. Alverson: We are not going to touch that at all. There was some confusion this summer because one of the boats was seized, an Alaska boat, that dealt with the boundary issue and there was a lot of people that felt we were the people that were involved in that, that was actually being handled by another group in the State Department and it was not an issue to be addressed in our negotiations.

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Lokken: OK, the second question, will you clarify for me the statement you made that there will be joint management of transboundary rivers...does that mean that the panel of the Commission will be able to say we should have a shorter season at the mouths of these transboundary rivers in order to provide equity or are you only talking about equity in so far as the enhancement on both the US side and Canadian side of a particular river or rivers?

Alverson: OK, all the details obviously have not been worked out on this but as I understand it in talking with the state and other people, we envision the responsibility of joint management as establishing escapement goals and basically managing the fishery to ensure the escapement goals are achieved. It will be each nation's responsibility to conduct its fishery in a manner consistent with achieving the allocation goals. Its obvious however, that the group that is setting up escapement goals is going to have to have a key role in ultimately what is surplus. That would be done jointly, but I would guess that the large role of ultimately deciding on the execution of the fishery to achieve that pretty well falls within the ADP and G (Alaska Department of Fish and Game), because they are the upstream (sic) fishery. Its only what is left that is going to get up into Canada so that the total management process, as it does now would fall largely on the state of Alaska and their obligation would be to achieve, as I understand it, the joint goal of escapement. Their obligation would obviously be also to achieve the US share of the harvest, but they are the only ones that can do that but I would presume they will have to do that in a manner that would take into account how the Canadians stated that their fishery would be executed and etc. But they would not be involved in setting the percentages, those would be set within the context of the agreement.

Lokken: Thank you.

Tillion: Charles?

Charles Meechum: If the numbers are not achieved by the various sides, is there some arrangement worked out now regarding penalties?

Alverson: Yes ...the details of the penalty clause have not been worked out Chuck, but there is an arrangement that says at the end of four years—you obviously can't start asking for penalties or adjustments in the short time frame because of the precision of our management process which both sides agree, aren't that good. At the end of four years there is a general accounting. If we have intercepted more than we should or they have intercepted more than they should have, they are supposed to make that adjustment in the subsequent four years. It is at the end then of eight years that you come into a penalty clause if there is to be a penalty clause and it is to be implemented. In other words, you balance the books at the end

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of four years and if we say the US is over 100,000 fish, then we have an obligation to try to re-adjust that in the next four year time frame. If we don't achieve that in the four year time frame supposedly there'll be a penalty clause...We have been hesitant to try to draft and go into agreement with a penalty clause. We think the penalty clause has eight years during which it can be formulated within the context of the Commission itself and that for us to sit down and try to work out all the details of a penalty clause at this time, may take us to a point where we just won't come to an agreement. I get letter after letter saying those guys are doing this to us or the Canadians saying your people did this. The real problem is we don't have a forum to resolve those problems at the present time. We sit throwing rocks at each other but there isn't a constituted forum for their resolution and I think until such time as you put it in place, essentially those things will continue and they may continue to be aggravated and I don't know who is the loser if that keeps going on. I suppose both sides are in the long run. I would hope we could get something in place. Our delegation has generally advised me that we should go slowly on developing the nature of a penalty scheme because we should think it out very carefully and decide whether in a mechanistic sense it will work and just to have it on paper and find out we can't really live up to it is liable to generate more problems than resolve so we have agreed that there should be, Chuck, a penalty arrangement but we haven't drafted that text at this point in time.

Meechum: As I understand what your saying then you can visualize the convention going into effect that says that there will be a penalty clause but this will be developed .....

Alverson: Both sides would agree to put it into a thing three years to four years, etc...by the end of the fourth year, etc.

Meechum: OK, thank you.

Voice: You mean one that burns them.

Alverson: Yes, (chuckle).

Voice: Mr. Chairman.

Tillion: Yes

Demert: One comment I would like to make. I'd like to bring to your attention as our chief negotiator what I think is a new developing interception fishery and that is the Canadian power troll fishery that took place off of Cape Mazon(?) this past summer where for probably over a month we had thirty to fifty Canadian trollers working right off of Mazon. In fact, they were in that area when we had that ten day closure imposed on our fishermen...and any given night you could tune in on VHF and listen to each one of them ask for permission to come and

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anchor in our harbors and what they in effect were doing was processing their catch for the day...now this went on for over a month.

Alverson: Joe, I have been advised of that but all I would say is that I think that is an issue that we should develop the data base for and be willing to send reports to the Canadians at our next meeting and I think that when we meet with the Alaska delegation on October 1st we should discuss that issue in detail.

Demert: Thank you

Voice: Mr. Chairman.

Tillion: Yes.

Voice: Is there any effort to build into the negotiations the issue of getting timely data, its a little take off on Chuck's question, some of the data is late in arriving...is there a way to build into the negotiations that each country will supply the other or supply the Commission with timely information?

Alverson: Well, I think it is our intent to have a formula that says the information base to whatever extent it is available has to be made available by a certain time. In addition to this, I didn't mention that our delegation has felt, and I have alerted Congress that I do not think that you should be a part or sign this agreement unless it has adequate funding both to carry out the work of the Commission including the research and collection of statistical information that is required to adequately do this. We frequently rush into these things and then find out that you do not have the substantive support to really do the job in the manner that is laid out in the agreement. I think we would be foolish to sign this agreement if we didn't have the supporting funds to really execute it in the proper fashion because I think we'll just have aggravated the situation and have argument after argument if we can't get in and do some good studies on some of these interception problems and get the data base in a timely fashion, I think we're in trouble.

Tillion: I know we're in trouble.

Voice: Lee, its been some time since I've sat in on one of these sessions, I guess when Don McKernan and Cliff Levertou(?) were arm wrestling. At that time there was some concern about or some thought about separating the two issues, the Southern portion from the Northern transboundary issues and do you feel, I get the sense from listening to you talk that you feel that this thing can proceed as one negotiation, one package and that you have a lot of confidence, or some confidence at least that the .....

Alverson:...I would personally have no hesitance in accepting the

22002/14 P12 of 12

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separation of the issues if that were realistic in terms of dealing with the Canadians. I don't think the Canadians either mentally or psychologically are in any way going to accept a solution that isn't comprehensive in character. Now I think we have and I think in the delegation—we are trying to do this with some sense—and that we generally agree within the delegations that we are not going to try to resolve the problems of the Fraser River or the interception of Columbia River salmon by using southeast Alaska or the transboundaries as a scapegoat, that we are going to try to resolve them within the general areas that I have mentioned, but with the southeastern Alaska, we will look in there and try to minimize the disruption in those areas. So we are not looking at trade-offs. I think mentally they are always there and it would be wrong to deny that somehow a comprehensive thing though isn't tied together and I think it's best it goes on as a total process but if one thinks they can break it off I don't object but I don't think it will work I just think the Canadians have made it very clear that in their minds resolution of the transboundary is tied with the total package.

Thank you.

Tillion: Are there any further questions? ...No...Thank you very much  
Lec...And I thought we had problems!

MESSAGE

0 m 6 13 1915 ACTC

PLACE LIEU	DEPARTMENT MINISTÈRE	ORIG. NO. N° D'ORIG.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
OTT	EXT AFF	FLO-1317	08 OCT 80		CONF
FM/DE	TO/A WSHDC				PRECEDENCE
				ACC 102867	REF
INFO				FILE 25-5-7-2 - Tuna	DOSSIER
LDN BREEC BONN MXICO SAN JOSE PARIS DUBLIN COPEN OSLO GVA AT				BY HAND	PAR PORTEUR
MDRID TOKYO MOSCO BOSTON SEATTLE NY LIMA BOGOTA SYDNEY				ATTN:	
BH FANDOOTT/CAMPBELL/HUNTER/SWAN DE OTZ				25-5-7-2 - SALMON	
DISTR. CNG FIP FLP ECO GEG					

REF

SUB/SUJ CAMPBELL/BUSBY TOUR D'INFORMATION OF FISHERIES ISSUES OF MUTUAL INTEREST

FOLLOWING ARE COMMENTS ON VARIOUS FISHERIES ISSUES RAISED  
(BETWEEN BUSBY & USA WIRE DEPT) ON SEPTEMBER 25.  
DURING MTG / AND CAMPBELL/DFO ON IPSTC REPORTED IN REPTEL.

- BUSBY EXPRESSED SATISFACTION WITH RECENT PROGRESS ON PACIFIC SALMON INTERCEPTION NEGS AND HOPED THAT SEATTLE ROUND IN OCT WILL BE THE QUOTE OPENING SHOT IN THE FINAL STAGES OF THE NEGS UNQUOTE.
- BUSBY PRAISED INTERIM ALBACORE AGRMT AND CDA'S QUOTE OUT-  
STANDING UNQUOTE IMPLEMENTATION PROCEDURES. USA INDUSTRY ALSO  
VERY PLEASED BY ASSISTANCE GIVEN BY CDN FISHERIES PATROL BOAT TO  
SOME SMALL TUNA VESSELS WHICH RAN INTO DIFFICULTIES DURING STORM.  
CONSEQUENTLY CLIMATE VERY GOOD FOR CONCLUSION OF TREATY WHICH HE  
URGED CDA TO ACT ON QUICKLY WITH VIEW TO SUBMITTING TO CONGRESS  
DURING QUOTE LAME DUCK SESSION UNQUOTE IN NOV SO AS TO HAVE HEAD  
START IN NEW SENATE IN 1981. CAMPBELL SAID CDA IS STUDYING USA  
DRAFT TEXT AND HOPED TO BE IN POSITION TO RESPOND ONE WAY OR  
ANOTHER POSSIBLY IN EARLY OCT. BUSBY SAW CHOICE OF PORTS AS  
.../2..

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

SIG. A. CAMPBELL/el

International  
Directorate, DFO

5-2035

SIG. A. J. RICHAN

OCT 8 1980

BEING ONLY ISSUE REQUIRING NEGOTIATION AND SAID SAN DIEGO WLD CAUSE PROBLEMS IF ON CDN LIST. PORTS ULTIMATELY AGREED UPON WILL HAVE TO PROVIDE BALANCE AMONG LOCATIONS OF MAJOR USA TUNA PROCESSORS.

CAMPBELL NOTED THAT INTERIM AGRMT HAD BEEN HEAVILY CRITICIZED IN CDA AND THERE MIGHT BE OTHER DIFFICULT NEGOTIATING ISSUES, <sup>(E.G. LICENSING PROCEDURE)</sup> IF CDA IS TO REACH TREATY ACCEPTABLE TO ALL SECTORS OF DOMESTIC OPINION. ~~THE LICENSING PROCEDURE~~. WHILE WELL AWARE OF CRITICISM OF INTERIM AGRMT, BUSBY HOPED THAT CDA CLD AVOID RAISING INSOLUBLE ISSUES.

4. CAMPBELL NOTED THAT CDA WANTS TO SEE SPEEDY CONCLUSION TO GATT REF ON TUNA EMBARGO AND ASKED THAT USA NOT/NOT DRAG FEET. BUSBY RESPONDED VEHEMENTLY SAYING USA OPPOSES QUOTE PROFOUNDLY UNQUOTE CDN REF TO GATT AND WLD FIGHT IT QUOTE <sup>TOOTH</sup> ~~FINGERNAIL~~ AND ~~THE~~ NAIL UNQUOTE.

5. CAMPBELL REPORTED ON MARCUSSEN CONVERSATION (REFTEL GEB2229 30SEP) CONCERNING ATLANTIC SALMON CONV NEGS AND SAID THAT CDN VIEWS WERE STILL BEING FORMULATED WHETHER OR NOT/NOT EEC POSITION IS ACCEPTABLE BASIS ON WHICH TO NEGOTIATE. BUSBY WAS NOT/NOT SURPRISED BY GREENLAND COMMISSION CONDITIONS. HE URGED THAT CDA ACCEPT OPEN NEGOTIATION OF THE CONDITIONS AND EXPRESSED STRONG HOPE CDA WLD NOT/NOT INSIST ON PLACING USA IN SAME STRAIGHT JACKET AS EARLIER IN YEAR WHEN WE REQUIRED USA TO AGREE TO SUPPORT OR NOT/NOT OPPOSE CERTAIN PRINCIPLES IMPORTANT TO CDA IN FIRST NEGOTIATING ROUND WITH EEC. BUSBY DENIED IT WAS USA THAT INCORRECTLY TOLD NORWEGIANS THAT CDA OPPOSED THEIR INVOLVEMENT IN NEGS. CAMPBELL ESTIMATED THAT IT WLD BE A FEW WEEKS BEFORE CDA COULD DETERMINE IF NEGOTIATION IN BRUSSELS CLD PROCEED LATE OCT OR EARLY NOV.

6. BUSBY WAS INTERESTED TO KNOW CDN REACTION TO RECENT NAFO MTG AS USA DECISION ON FULL MEMBERSHIP DEPENDED ON WHETHER OR NOT/NOT

.../3...

- 3 -

ANIZATION SERVED USEFUL PURPOSE. CAMPBELL SAID SESSION WAS UN-  
EXCEPTIONAL. EXCEPT FOR SQUID ALLOCATIONS, HARDEST DECISIONS HAD  
BEEN LEFT FOR MTG IN MARCH 1981. HOWEVER, CDA SEES ORGANIZATION  
PLAYING VITAL ROLE, THE MORE SO IF CERTAIN COUNTRIES OPT TO CHALLENGE  
THE ORGANIZATION'S CONSERVATION OBJECTIVES BEYOND 200 MILES. HE  
URGED USA TO BECOME FULL MEMBER IF FOR NO/NO OTHER REASON THAN TO  
DEMONSTRATE ITS SUPPORT FOR COOPERATIVE MULTILATERAL FISHERIES  
MANAGEMENT BEYOND 200 MILES.

7. BUSBY REPORTED ON PASSAGE OF <sup>BREAUX</sup>~~BRANT~~ BILL WHICH HE SAW PASSING  
SENATE WITHOUT AMENDMENT. USA POLICY ON FOREIGN FISHING IN ITS  
WATERS IS ALREADY BASED MORE THAN EVER BEFORE ON ECONOMIC CONSIDERA-  
TIONS, FOLLOWING EXAMPLE OF CDA, BUT THIS WILL BE FURTHER ACCENTUATED  
UNDER THE NEW LAW TO ENSURE THAT ALL USA ALLOCATIONS <sup>4/FLO 1317</sup> ARE TIED TO  
DEVELOPMENT OF USA FISHERIES. HE SUGGESTED INTERESTED CDN OFFICIALS  
VISIT WASHDC SOON FOR BRIEFING ON BILL AND FOR DETAILED REVIEW OF  
OUR RESPECTIVE EXPERIENCES IN THIS AREA.

8. BUSBY INQUIRED ABOUT LTA NEGS WITH EEC. CAMPBELL SAID THERE  
HAD BEEN SOME RECENT POSITIVE MOVEMENT BY EEC BUT OUTLOOK REMAINED  
UNCLEAR. AS NEGOTIATION IS AT CRITICAL POINT, HE ASKED THAT USA  
CONTINUE TO REFRAIN FROM PURSUING ITS OWN EEC NEGOTIATION FOR FUR-  
THER FEW MONTHS. BUSBY SAID 1981 ALLOCATIONS ARE COMING UP AND IT  
WILL NOT/NOT BE POSSIBLE FOR USA TO HOLD BACK MUCH LONGER BUT HE  
WLD DO WHAT HE COULD TO AVOID EMBARRASSING THE CDN NEGOTIATORS <sup>10N.</sup>.

9. USA POLICY RE 1981 USSR ALLOCATIONS NOT/NOT YET SETTLED BUT  
UNDER NO/NO CIRCUMSTANCE WILL SOVIETS RECEIVE FORMER LEVEL OF ALLO-  
CATIONS. OTHER COUNTRIES, E.G. FRG AND SPAIN WLD CONTINUE TO BE  
GIVEN PACIFIC ALLOCATIONS IF THEY ARE PREPARED TO ENTER JOINT VENT-  
URES WITH <sup>USA</sup>~~USSR~~ FISHING INTERESTS.

10. BUSBY GAVE DETAILED ACCOUNT OF RECENT BREAKDOWN IN TUNA NEGS

.../4..

- 4 -

WITH MEXICO. FIRST MEXICAN'S CAME UP WITH TOTALLY UNACCEPTABLE RE-  
VISED DRAFT PROPOSAL FOR MULTILATERAL AGRMT AFTER USA HAD THOUGHT  
AGRMT WAS IN SIGHT. THEN, MXICO TOOK SEVERE ACTION AGAINST <sup>USA</sup> ~~US~~.  
BOATS INTENTIONALLY PUTTING SOME OF THEM OUT OF BUSINESS BY SEIZING  
THEIR NETS. MEXICO'S BILATERAL TUNA PROPOSAL WAS ALSO UNHELPFUL.  
MOREOVER, MEXICO HAD WRITTEN TO COMMISSION QUOTE VOLUNTARILY ~~UNQUOTE~~  
<sup>UNQUOTE</sup> RESTRICTING ITSELF TO A 48,000 M.T. CATCH IN ITS WATERS, WHICH USA  
CALCULATES IS 18,000 M.T. MORE THAN IT <sup>IS ABLE TO</sup> ~~CAN~~ CATCH. FOR THESE REASONS  
AND BECAUSE MEXICAN WATERS OUT OF BOUNDS, USA HAS NOT/NOT <sup>CLOSED</sup> ~~CLEARED~~  
SEASON FOR ITS BOATS. WHILE THIS WILL BE QUOTE AN UNREGULATED YEAR  
UNQUOTE, USA WILL ONLY CATCH 165,000 M.T. AND, IN RESPONSE TO MEXICAN  
LETTER, IS WRITING COMMISSION VOLUNTEERING TO RESTRICT CATCH TO  
AVERAGE OF PAST 5 YEARS. HE EXPECTS COMMISSION STAFF (JIM JOSEPH)  
TO RECOMMEND TAC OF 165,000 AND <sup>TO PROPOSE</sup> ~~SUGGEST~~ THAT COMMISSION AGREE TO  
FIGURE BUT NOT/NOT TO ITS IMPLEMENTATION. USA WLD PROBABLY SUPPORT.

11. BUSBY EXPLAINED THAT PURPOSE IN RAISING POINT WAS BECAUSE USA  
<sup>INTERAMERICAN TROPICAL TUNA COMMISSION</sup> IS WORRIED ABOUT ~~ITSELF~~ AND WANTS ITS OCT MTG TO QUOTE DEMONSTRATE  
SOLIDARITY WITH THE COMMISSION AND TO AVOID A FINGER POINTING MATCH  
UNQUOTE AND HE WANTS CDA'S COOPERATION.

12. CAMPBELL OFFERED TO CONVEY THIS REQUEST, BUT SUGGESTED THAT  
ANY SUPPORT CDA MIGHT OFFER WLD HAVE TO BE CONSISTENT WITH SYMPATHY  
FOR MEXICANS IN FACE OF UNACCEPTABLE USA TUNA EMBARGO POLICY.

13. BUSBY NOTED THAT EMBARGO WILL HAVE MEXICO QUOTE HURTING UN-  
QUOTE BY JAN-FEB BECAUSE IT HAS NO/NO ALTERNATE MARKETING CAPACITY.  
ISSUE IS LIKELY TO COME TO A HEAD IN MARCH BECAUSE BY THEN <sup>USA</sup> ~~US~~ TUNA  
OPERATORS WILL WANT TO GO INTO MEXICAN WATERS DESPITE FACT STATE  
DEPT HAS BEEN DISCOURAGING THEM FROM DOING SO.

14. FINALLY, WITH REGARD TO UNCLOS, BUSBY SAID USA SYPMATHIZES  
<sup>FLORIDA</sup> WITH CDN STRADDLING STOCKS OBJECTIVE BUT WAS QUOTE CONCERNED THAT

.../5...

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IT BE PURSUED IN THE RIGHT FORUM UNQUOTE WHICH WAS ONE REASON FOR HIS INQUIRY RE NAFO. HE DENIED SUGGESTION THAT USA COLLUDED WITH USSR ON THIS ISSUE AT GENEVA IN AUG.

001227

## MESSAGE

AOTC 0MG 12/9/80

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.			SÉCURITÉ
FM/DE	OTT	EXT AFF	FLO-1318 08 OCT 80		CONFED PRECEDENCE
TO/A	WASHDC				
REG/AM INFO	BOSTON	SEATTLE	de OTT		
BH	FANDOOTT/CAMPBELL/APPLEBAUM/HUNTER/SWAN	DE OTZ			
DISTR.	ENG EIP FLP				

Oct 8 20 39 '80

80113  
102846  
2557-2-SALMON-1  
BY HAND  
ATTN:

REF CARGEL FLO 1133 AUG 12

SUB/SUB CDA/USA FISHERIES RELATIONS AND IPSFC PROBLEM

MTG HELD AT SEATTLE SEPT25 BETWEEN CAMPBELL/DFO AND BUSBY/  
STATE PURSUANT TO CDN REQUEST FOR OPPORTUNITY TO REVIEW IPSFC  
PROBLEMS WHICH CAME TO A HEAD IN AUG. MTG TOOK PLACE AT LAST  
MINUTE IN SEATTLE BECAUSE BUSBY CLD NOT/NOT MAKE IT TO VANCOUVER.

2. BUSBY TOOK OPPORTUNITY OF MTG TO REVIEW GAMUT OF FISHERIES  
ISSUES AND HIS COMMENTS ON OTHER ISSUES CONTAINED IN IMMEDIATELY  
FOLLOWING TEL.

3. CANDEL OUTLINED SERIOUS CONCERN THAT IPSFC MAY HAVE LOST  
CONTROL OF FRASER RIVER FISHERY AS RESULT OF BOLDT DECISION  
EXEMPTING ~~USA~~ INDIANS FROM CONVENTION. CDA HAS EXPRESSED THIS  
CONCERN ON MANY OCCASIONS OVER PAST SIX YEARS BUT ~~HAS~~ TRIED TO  
BE UNDERSTANDING OF UNDENIABLE ~~USA~~ PROBLEM IN HOPE MEANS WLD BE  
FOUND TO INCORPORATE ~~USA~~ INDIAN RIGHTS IN OPERATION OF COMMISSION  
WHILE ENSURING FRASER CONSERVATION OBJECTIVES. HOWEVER, QUOTE  
CHILCO INCIDENT UNQUOTE IN AUG WHEN IPSFC DECIDED ON ONE DAY

.../2...

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SG..... A. CAMPBELL/el	International Directorate, DFO	5-2035	SG..... R. J. RUCHAN

OCT 8 1980

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<sup>BUT</sup> OPENING ~~WAS~~ INTERIOR DEPT <sup>NEVERTHELESS</sup> ALLOWED INDIANS FOUR DAY FISHERY WITHOUT  
LEAST CONSULTATION SUGGESTED THAT SITUATION IS OUT OF CONTROL. THIS  
INCIDENT HAD LED TO PUBLIC THREATS OF RESIGNATION BY COMMISSIONER AND  
SENIOR MEMBER OF STAFF AND IT ENCOURAGED DOUBTS ABOUT FUTURE VALUE OF  
CONVENTION. CANDEL THEN ASKED FOR <sup>USA</sup> IDEAS ON HOW TO RESTORE  
CONFIDENCE AND MADE SPECIFIC SUGGESTION THAT REP OF NORTHWEST INDIAN  
COMMISSION BE MADE SALMON COMMISSIONER CONDITIONAL ON TRIBES AGREE-  
ING TO IPSFC BEING GIVEN SOLE RESPONSIBILITY FOR ENSURING THAT <sup>USA</sup>  
INDIANS RECEIVE REQUISITE OPPORTUNITY TO CATCH THEIR SHARE OF <sup>USA</sup>  
QUOTA.

4. BUSBY ACKNOWLEDGED PROBLEMS ARISING OUT OF BOLDT DECISION BUT  
ARGUED THAT <sup>EFFORTS</sup> <sup>A</sup> <sup>TO</sup> <sup>REVERSE</sup> JUDGEMENT AND TO MITIGATE ITS EFFECTS. HE POINTED TO FACT  
THAT SO FAR THERE HAVE BEEN NO/NO OVERRUNS AS RESULT OF INDIAN  
FISHERY INCLUDING CASE OF CHILCO INCIDENT. HE DID NOT/NOT AGREE  
THAT THE COMMISSION IS OUT OF CONTROL BECAUSE <sup>USA</sup> MANAGEMENT REGIME  
ENSURES THAT CONVENTION OBLIGATIONS ARE FULLY RESPECTED. SPECIFI-  
CALLY, INDIAN COMMISSION REGS MUST CONFORM WITH INTERIOR REGS. IF  
THEY FAIL TO DO SO, INDIANS LOSE EXEMPT STATUS UNDER CONVENTION AND  
ARE SUBJECT TO <sup>IPSFC</sup> <sup>COMMISSION</sup> REGS DIRECTLY. INTERIOR, IN TURN, HAS  
AGREED TO ACCEPT COMMERCE/NMFS DIRECTION ON REGS, THEREBY ENSURING  
COMPLIANCE WITH COMMISSION DECISIONS. REASON CHILCO INCIDENT OCCUR-  
RED WAS INEXPERIENCE OF NMFS COMMISSIONER WHO/HAD ONLY JUST ARRIVED  
ON JOB WHEN HE AGREED TO THE FOUR DAY OPENING FOR THE INDIANS. WE  
WERE ASSURED THAT INCIDENT WLD NOT/NOT BE REPEATED BECAUSE THEY  
AGREED IT WAS PARTLY MATTER OF LUCK THAT DECISION DID NOT/NOT LEAD  
TO OVERRUN.

5. CONSEQUENTLY, BUSBY SAW NO/NO ADVANTAGE IN APPOINTING INDIAN  
COMMISSIONER BUT SUGGESTED INSTEAD THAT CDA AGREE TO USA REQUEST TO

.../2..

001229

- 3 -

PERMIT QUALIFIED INDIAN REP, E.G. BIOLOGIST, TO ATTEND COMMISSION MTGS AS OBSERVER. THIS WLD HELP OVERCOME LACK OF CONFIDENCE AMONG INDIANS IN GOOD FAITH OF COMMISSION SCIENTISTS (WHO WERE SUBPOENED TO TESTIFY AGAINST THE INDIANS DURING THE COURT HEARINGS RELATED TO BOLDT DECISION).

6. CANDEL WELCOMED NEWS THAT NMFS HAS INDIRECT CONTROL ON INDIAN REGS, BUT REFERRING TO INSTANCES ON EAST COAST WHERE COMMERCE DEPT HAS LACKED POLITICAL COURAGE TO MAKE CERTAIN FISHERIES CONSERVATION DECISIONS, UNDERLINED HOPE THAT POLITICAL CONSIDERATIONS WLD NOT/NOT ENTER INTO INTERPRETATIONS OF COMMISSION REGS AS THIS WLD ALMOST CERTAINLY RESULT IN RENEWED CALLS IN CDA FOR ABROGATION OF CONVENTION, SOMETHING CDN GOVT WISHED VERY MUCH TO AVOID.

7. AS IMMEDIATE ACTION PLAN TO RESTORE CONFIDENCE IN COMMISSION AND TO IMPROVE CLIMATE OF COOPERATION, CANDEL PROPOSED AND USA ACCEPTED PROPOSAL THAT:

- (1) BOTH GOVTS RECOMMEND TO COMMISSIONERS THAT THEY CLEAR AIR AND REVIEW INDIAN FISHERY PROCEDURES INCLUDING STATISTICS REPORTING BY INVITING INTERIOR DEPT REPS AT EARLY OPPORTUNITY TO MAKE PRESENTATION TO COMMISSION;
- (2) GOVTS RECOMMEND THAT COMMISSION ADOPT SPECIFIC MEASURES TO IMPROVE COMMUNICATION BETWEEN IPSFC AND INDIANS INCLUDING DECISION ON USA PROPOSAL FOR INDIAN OBSERVER.
- (3) BOTH GOVTS REVIEW PROGRESS IN SEPT 1981. (TEXT FOR APPROP LET-TER FROM GOVTS TO BE CONSULTED ON ASAP).

8. IN CONCLUSION, MTG SERVED USEFUL PURPOSE. WE ARE NOW MORE CONFIDENT THAT USA HAS MEANS AND WILL TO IMPLEMENT COMMISSION DECISIONS AND USA HAS BEEN PUT ON CLEAR NOTICE THAT A REPEAT OF CHILCO INCIDENT WLD BE MOST RISKY. MOREOVER, INCIDENT HAS SERVED TO SMOKE OUT AND HOPEFULLY SOLVE SOME STRUCTURAL PROBLEMS THAT HAD CLEARLY WEAKENED COMMISSION'S ABILITY TO FUNCTION EFFECTIVELY.

ACTION  
SUITE A DONNER

MESSAGE

file/diary/chron

PLACE LIEU	DEPARTMENT MINISTÈRE	ORIG. NO. NO D'ORIG.	DATE	FILE/DONNER	SECURITY SÉCURITÉ
SEATL	UAGR	8910	03OCT80	35-11-11	U/C
FM/DE				PRECEDENCE	
TO/A EXTOTT FLO 30002/03				DATE 105376 25-5-7-2-SALMON-1	
INFO B.H. PANDOTT/HUNTER;ITCOTT EHB DE OTT				ATTN:	
REGAM FANDU VNCVR/HOURSTON DE SEA					
SFAX WSHDC DE SEA 30002/03					

DISTR. GNG GNT FCO

B55

SUBJECT ---PHASE II-BOLDT DECISION

U.S. DISTRICT COURT JUDGE WILLIAM ORRICK (SUCCESSOR TO JUDGE BOLDT) RULED SEP29/80 THAT TREATY INDIANS IN WESTERN WASH HAVE A QUOTE GUARANTEED RIGHT UNQUOTE TO PROTECT THE ENVIRONMENT SURROUNDING THE WATERS IN WHICH THEY FISH AND ALSO THAT THEY HAVE THE RIGHT TO FIFTY PERCENT OF HATCHERY BRED SALMON AND STEELHEAD HARVESTED IN THE STATE. IT HAS BEEN REPORTED THAT THESE LONG AWAITED DECISIONS WILL HAVE AN EVEN GREATER IMPACT ON THE STATE THAN BOLDT'S 1974 RULING, WHICH ENTITLED TREATY INDIANS TO HALF THE NATURAL-RUN SALMON AND STEELHEAD HARVESTED IN WESTERN WASH. ORRICK'S RULING WILL UNDOUBTEDLY SPARK LEGAL APPEALS THAT COULD TIE THE ISSUE UP IN COURTS FOR ANOTHER TWO OR THREE YEARS, WITH FINAL DECISION POSSIBLY MADE BY U.S. SUPREME COURT.

2. REACTIONS TO PHASE TWO DECISIONS WERE MIXED, HOWEVER MOST CONCERN BY STATE AND NON-INDIAN COMMERCIAL FISHERMEN CENTRED ON THE HATCHERY-BRED SHARE OF SALMON AND STEELHEAD. ALTHOUGH THIS ASPECT OF THE RULING IS THE MOST EMOTIONAL OF THE TWO, IT IS ANTICIPATED THAT THE GREATEST IMPACT WILL BE THE PORTION DEALING WITH PROTECTION OF THE ENVIRONMENT. IN EFFECT, THIS COULD GIVE TREATY INDIANS A VETO POWER OVER OFF-RESERVATION DEVELOPMENT SUCH AS ...2

DRAFTER/RÉDACTEUR	REVISION/DIRECTION	TELEPHONE	APPROVED/APProuvé
SG..... F. D. MARTENS/cm			SG..... <i>[Signature]</i>

-2-

NORTHERN TIER WEST TO EAST PIPELINE, AS WELL AS DAM AND BRIDGE CONSTRUCTION,  
HOUSING SUBDIVISIONS, LOGGING AND OTHER HUMAN ACTIVITIES AFFECTING FISH RUNS.

001232

EXT 1845/84

*[Handwritten signature]*

R E S T R I C T E D

FM BREEC YCTD2759 020CT80

TO EXTOTT GEB

INFO WSHDC COPEN

BH FANDOOT/APPLEBAUM/WALSH DE OTZ

DISTR *(FLO)*

REF OURTEL 2732 SEP30 YOURTEL 2229 SEP30

---ATLANTIC SALMON CONVENTION MTG

REFTELS CROSSED.NOTE EURCOM HAS SUGGESTED MTG IN BRU NOV6-7.WILL  
FOLLOW UP ON M/S ATTITUDES TOWARDS EURCOM PROPOSALS.TIMING OF  
INFORMAL MTG FOR LTA DISCUSSIONS SUEJ SEPARATE TEL(YCTD2755,20CT).  
CCC/014 021720Z YCTD2759

DATE	
ACC	REF
FILE	DOSSIER
25-5-7-2-SALMON-1	
BY HAND	PAR PORTEUR
ATTN:	

MESSAGE ACTC FILE DIRY CIRC DIV

PLACE LIEU	DEPARTMENT MINISTÈRE	ORIG. NO. N <sup>O</sup> D'ORIG.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
FM/DE OTT	EXT	607 FLO	28 APR 80		Unclassified
TO/A SEATTLE					PRECEDENCE
INFO FANDO/HUNTER					
DATE					
ACC REF					
FILE DOSSIER 25-5-7-2-SALMON-1					
BY HAND PAR PORTEUR					
ATTN:					
DISTR. GNG FLM					

REF REFYOURTEL UAGR 5378 03 APR  
SUB/SUJ NORTH PACIFIC COUNCIL (NPFMC)

GRATEFUL YOUR THOROUGH REPORT ON MARCH MEETING OF NPFMC.

WITH RESPECT TO PARA 17 REFTTEL, FANDO HAS ADDED CAN GEN AND BRANSON/NAKATSUTO MAILING LIST. ALSO COPY OF CURRENT CDN SALMON AND LICENCING REGULATIONS SENT TO BRANSON AS PER YOUR REQUEST.

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SIG. M. HUNTER	INTERNATIONAL DIRECTORATE	5-2186	SIG. R.J. ROCHON

MESSAGE

P1086

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
LIEU	MINISTÈRE	N <sup>O</sup> D'ORIG.		35-11-1	SECURITE
FM/DE	SEATL	UAGR	5444	17 APRIL 90	U/C

TO/A EXTOTT/FLO *See 004/17*

INFO B.H. FANDO OTT/HUNTER DE OTT

DATE	ACC	REF
FILE	70368	DOSSIER
BY HAND	25-5-7-2-SALMON-1	PAR PORTEUR
ATTN:		

DISTR. PLM CNG AFPC

REF QUNTEL UAGR 5428 OF 15 APRIL 90

SUB/SUBJ — NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

ATTACHED IS THE PRELIMINARY DRAFT AGENDA FOR THE THIRTY-SECOND PLENARY SESSION OF THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL MEETING TO BE HELD APRIL 24-25 IN ANCHORAGE, ALASKA.

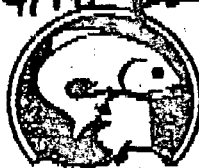
DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APProuvé
F.O. MARTENS/cn			<i>[Signature]</i>

# North Pacific Fishery Management Council

Clement V. Tillion, Chairman  
Jim H. Branson, Executive Director

Suite 32, 333 West 4th Avenue  
Post Office Mall Building

004/18 p206



Mailing Address: P.O. Box 31360T  
Anchorage, Alaska 99510

Telephone: (907) 274-4563  
FTS 271-4064

FOR THE PUBLIC

April 15, 1980

PRELIMINARY DRAFT AGENDA  
THIRTY-SECOND PLENARY SESSION  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
April 24-25, 1980  
Anchorage Westward Hilton  
Anchorage, Alaska

The Council will convene on Thursday, April 24th, 1980 at 8:30 a.m. and adjourn on Friday, April 25th, at 5:00 p.m. in the Kenai/Aleutian Room of the Anchorage Westward Hilton Hotel, 3rd and E Streets, Anchorage, Alaska. The Advisory Panel will convene Wednesday, April 23rd in the Kenai/Aleutian Room of the Anchorage Westward Hilton Hotel at 9:30 a.m. and adjourn at 5:00 p.m. The Scientific and Statistical Committee will meet on Tuesday, April 22nd, 1980 beginning at 9:00 p.m. in the Council conference room and will adjourn Wednesday, April 23rd, at 5:00 p.m. Also, a public hearing has been planned for Wednesday, April 23rd beginning at 10:00 a.m. in the Trattoria Room of the Anchorage Westward Hilton Hotel. Public comment is invited on the proposed amendments for 1981 to the Bering Sea/Aleutian Island and Gulf of Alaska Groundfish Plans. The meetings in general may be lengthened or shortened depending on the progress on the agenda. The meetings are open to the public.

## INFORMATION ON THE OPPORTUNITY FOR PUBLIC COMMENT

Preregistration (except in special or unusual cases) will be required for all public comments which pertain to a specific agenda topic. Preregistration is accomplished by informing the agenda clerk -- BY 10:00 A.M. OF THE FIRST DAY -- of the agenda item to be addressed and the time required. Preregistration and public comments may be scheduled for F. OLD BUSINESS, G. FISHERY MANAGEMENT PLANS, and H. NEW BUSINESS agenda items. There will be a general comment period (Agenda K.) scheduled for late afternoon of the second day for testimony on matters not on the current agenda. Ten (10) minutes will be allotted for each person or group.

004 P3086

- A. CALL TO ORDER
- B. APPROVAL OF AGENDA
- C. APPROVAL OF MARCH MINUTES
- D. EXECUTIVE DIRECTOR'S REPORT
- E. SPECIAL REPORTS

- E-1. Alaska Department of Fish & Game Report on Domestic Fisheries
- E-2. National Marine Fisheries Service Report on Foreign Fisheries  
Including Joint Ventures
- E-3. U.S. Coast Guard Report of Enforcement and Surveillance
- E-4. Special SSC and AP Reports on Matters not on the Agenda
- E-5. A Status Report on U.S./Canada negotiations by Dr. Lee Alverson

F. OLD BUSINESS

*(Executive Director, SSC, AP and other staff comments may be scheduled. Preregistered public comments are allowed on each item.)*

F-1. Appointment of new Advisory Panel Members

The selection of two new Advisory Panel members was deferred at the March meeting. Members of the Council's AP nominating committee (Meacham, Eaton, Tillion and Lokken) will meet to discuss appointments to the Advisory Panel.

F-2. Old Business as appropriate

G. FISHERY MANAGEMENT PLANS

- G-1. Gulf of Alaska Groundfish FMP; Review proposed 1981 amendments and consider release of reserves.

A public hearing has been scheduled for Wednesday (April 23) preceding the Council meeting on the proposed 1981 amendments. During the Council meeting, these proposed amendments can be discussed but no action is required. We expect Council action on these amendments in Kodiak at the May meeting. A release of reserves is also scheduled for May 2nd and will be considered in light of the available joint venture and domestic catch information.

- G-2. Bering Sea/Aleutian Islands Groundfish FMP; review proposed 1981 amendments, take action on a proposal to increase the cod OY for 1980 and other business as appropriate.

004 0496

A public hearing has been scheduled for Wednesday (April 23) preceding the Council meeting on the Bering Sea/Aleutian Islands Groundfish 1981 proposed amendments. At that time we will also schedule public comment on a proposal to increase the cod ABC/OY for 1980.

The schedule of events to review, approve and implement the 1981 amendments has become complicated. NMFS insists a supplemental environmental impact statement (EIS) is required on the proposed amendments. A supplemental EIS begins with the submission of a supplemental EIS to Commerce's Environmental Working Group who need 2-3 weeks to review it, file it with EPA and publish a notice of availability in the Federal Register. That triggers a mandatory 45 day public comment period; generally amendments are not approved until that comment period has expired. In order to implement the amendments by January 1, 1981, however we must act on the amendments in May before the end of the 45 day EIS comment period. Comments on the amendments should be submitted to the Council prior to the May meeting in Kodiak but comments on the SEIS will be accepted until the end of that comment period, probably in mid-June. There will actually be 2 comment periods, on one the amendments ending May 16 and the others on the SEIS, ending approximately June 15.

G-3. Herring Draft FMP - Consider comments received during the public hearings.

We plan a major presentation by the Management Plan Drafting Team on (1) the FMP and (2) significant issues. This review and update is necessary if we are to choose options at this meeting and approve the plan in May.

G-4. Troll Salmon FMP - An Update

We have no word on the status of the amendment to the Troll Salmon FMP and on whether our last action was accepted by Washington as a clear statement of our intent. It appears that the emergency regulations will be promulgated before April 15th when the old plan expires to prevent a hiatus in the fishery.

The Council's Troll Salmon Steering Committee consists of Dr. Bevan, Gordon Jensen and Dr. Skoog. A parallel committee has been established with the Pacific Council: Mr. Martinis, Mr. McDevitt and Dr. J. R. Donaldson. The first joint meeting of the Steering Committees will be April 29th in Seattle.

004 P5086

#### G-5. Tanner Crab FMP - Proposed 1981 amendments

The Alaska Board of Fisheries passed several Tanner crab proposals last month which require (mostly) minor changes in our regulations. These deal with fishing section subdistrict definitions: season dates: pot limits: tank inspection requirements: district registration systems: registration deadlines: redefinition of Tanner crab gear: and reports required of the industry. We have noticed our intent to act on these proposals at the April meeting. We have held the amendment package approved at the Dec./Jan. meeting (all minor reg. changes) to send in with this group of amendments.

#### H. NEW BUSINESS

*(Executive Director, SSC, AP and other staff comments may be scheduled. Preregistered public comments are allowed following each item.)*

##### H-1. Consideration of a Policy on the Management Plan Development Process

The Council will develop a policy for the operation of the management plan drafting teams. It will define the roles of agency and department personnel on the PDT's in drafting original plans, routine amendments and/or second generation amendments and plans.

##### H-2. An Evaluation of the Environmental Defense Fund Petition for Changes in the Guidelines for Developing the Fishery Management Plans

A Subgroup of the SSC has met in Seattle to discuss this petition. We expect their report at the Council meeting.

##### H-3. Proposed modified policy for routine approval of foreign permit applications with minor violations.

Currently permit applications, from ships with any violations must be reviewed by the Council. I am recommending that ships with minor violations (non-catch related) be included within my authority to recommend approval/disapproval on behalf of the Council.

##### H-4. Other New Business as Necessary.

004 P6086

I. REPORT, CONTRACTS, PROPOSALS

I-1. Review proposals and award contract for A Study of the Offshore Chinook and Coho Salmon Fishery off Alaska. (RFP 80-2)

Last week we mailed this Request for Proposal (RFP) to approximately 100 perspective bidders: proposals are due Monday, April 21, of the Council meeting week. The proposals will be evaluated during the Council week and a recommendation forwarded to the Finance Committee on Friday morning. If there are no unforeseen problems we could award the contract the following week.

I-2. Review proposals and award contract for the Halibut Limited Entry Study off Alaska.

We received six proposals in response to this RFP. They have been mailed to a proposal review committee which plans to meet Tuesday night, April 22nd, at 7:30 p.m. in my office. We expect their recommendation to be forwarded to the Finance Committee for a decision on Friday. Proposals were received from Tetra Tech, Dames & Moore, Environmental Services, Ltd., Earl R. Combs, Gruen & Gruen and Associates and Frank Orth and Associates. The bids ranged from \$38,780 to \$55,220.

I-3. Other Business as Necessary

J. FINANCE REPORTS

J-1. Review FY80, six month financial report and forecast for remainder of the year.

J-2. Other finance matters as necessary

K. PUBLIC COMMENTS

L. CHAIRMAN'S CLOSING REMARKS

M. ADJOURNMENT

**ACTION**  
**SUITE A DONNER**

**MESSAGE**

PLACE	DÉPARTEMENT	ORIS. NO.	DATE	FILE/DOSSIER	SECURITY
LIEU	MINISTÈRE	N° D'ORIS.		35-11-4	SECURITE
FM/DE	SEATL	UAGR	5431	16APRIL80	U/C

TO/A EXTOTT FLO

See 002/16

INFO B.R. FANDU OTT/HUNTER DE OTT

SFAX WSHDC DE SEA

See 002/16

DATE	
ACC	70298
FILE	25-5-7-2-SALMON-1
BY HAND	PAR PORTEUR
ATTN:	

DISTR. GNG FLM

**RE:**

COURTEL 5378 OF 03APRIL80

**SUB/SUJ:**

---INTER-COUNCIL SALMON MANAGEMENT PROGRAMME

FURTHER TO PARA THREE REPTTEL, PACIFIC FISHERIES MANAGEMENT COUNCIL (PFMC) HAVE APPOINTED THE FOLLOWING PERSONNEL TO WORK WITH SUB-COMMITTEE OF NPFMC ON INTER-COUNCIL SALMON MANAGEMENT PROGRAM: JACK DONALDSON, CHAIRMAN OF SUB-COMMITTEE AND DIRECTOR OF OREGON DEPT OF FISH AND WILDLIFE; JOHN MARTINEZ, LEGISLATOR STATE OF WASHINGTON AND HERMAN MCDEVITT, IDAHO ATTORNEY AND OBSERVER CDA/USA SALMON INTERCEPTION NEGOTIATIONS. UNDERSTAND FIRST MEETING (PRELIMINARY DISCUSSION) IS TENTATIVELY SCHEDULED FOR SEATTLE APR29.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVE

RG

F.D.Martens/ cn

RG

MESSAGE

PI 714

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
Lieu	MINISTÈRE	N° D'ORIG.		35-11-FISH	SECURITE
FM/DE	SEATL	UAGR	5378	03APRIL80	U/C

TO/A EXTOTT FLO

SEA 003/03

INFO SFAX WSHDC DE SEA  
B.H. FANDO OTT/HUNTER DE OTT  
FANDO VNCVR/HOURSTON DE SEA

SEA 003/03

DATE	REF
	77785
FILE	DOSSIER
25-5-7-2-SALMON-1	
BY HAND	PAR PORTEUR
ATTN:	

DISTR. GNG FLN

REF

SUB/ALL

---NORTH PACIFIC FISHERY MANAGEMENT COUNCIL (NPFMC)---MARCH MEETING

NPFMC MEETING WAS HELD IN ANCHORAGE MAR26-28,1980,AND WAS ATTENDED BY MARTENS (WHO WAS INTRODUCED).MEETING WAS ALSO ATTENDED BY FISHERY INTERESTS FROM STATES OF WASHINGTON,OREGON,AND ALASKA AND FROM KOREA AND JAPAN.MEETING FOCUSED ON INTER ALIA GULF OF ALASKA,BERING SEA/ALEUTIAN ISLANDS GROUND FISH FISHERIES MANAGEMENT PLAN(FMP);TANNER CRAB FMP AND TROLL SALMON FMP.  
2.CONCERNING SALMON,JACK SAVAGE,FISHERIES BIOLOGIST US FISH AND WILDLIFE SERVICE PORTLAND,PRESENTED STATEMENT WHICH ARGUED IN FAVOUR OF DEVELOPMENT OF AN INTEGRATED COAST WIDE MONITORING,TAG RECOVERY PROCESSING AND SCIENTIFIC ANALYSIS SYSTEM(COPY OF PROPOSAL ATTACHED).THIS PROPOSAL RECEIVED WIDE SUPPORT FROM THE COUNCIL AND FROM OTHER PARTICIPANTS.ALTHOUGH PRIMARILY DIRECTED AT COLUMBIA AND SNAKE RIVER STOCKS,IT WAS VIEWED BY THOSE PRESENT AS A POSITIVE AND NECESSARY PROGRAMME FOR THE EFFECTIVE MANAGEMENT OF ALL/ALL WEST COAST SALMON STOCKS SINCE THERE WAS VIEW THAT RUNS IN ALL AREAS ARE IN DIFFICULTY,THIS PROPOSAL ENVISAGES CN PARTICIPATION AND THERE WAS DISCUSSION CONCERNING THE APPROPRIATE MEANS OF OBTAINING SUCH PARTICIPATION.IN RESPONSE

original not returned  
by division

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DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SG..... F.D.MARTENS/GN			SG..... J.R. Sharpe

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TO A QUESTION FROM THE CHAIRMAN, MARTENS NOTED THAT ALTHOUGH THERE IS CONTINUING CONTACT BETWEEN SCIENTISTS IN THE TWO COUNTRIES, THE CONTACT BETWEEN THE TWO GOVERNMENTS IS AT THE STATE DEPARTMENT LEVEL. HAROLD LOKKEN, VICE CHAIRMAN NPFMC, SAID THAT HE WOULD ALSO RAISE THIS SUBJECT WITH CDN FISHERY OFFICIALS AT THE MAY SALMON INTERCEPTION NEGOTIATIONS.

3. AS AN INITIAL STEP TO DEVELOPING A COAST WIDE SYSTEM, COUNCIL AGREED TO APPOINT A THREE MAN SUB-COMMITTEE TO PURSUE THE GENERAL ISSUE WITH THE PACIFIC FISHERIES MANAGEMENT COUNCIL (PFMC) WHICH WILL ALSO BE REQUESTED TO APPOINT A THREE MAN SUB-COMMITTEE. THE MEMBERS OF THE NPFMC SUB-COMMITTEE ARE: CHAIRMAN DR. DON BEVIN, UNIVERSITY OF WASH; RON SKOOG, COMMISSIONER, ALASKA DEPT OF FISH AND GAME; AND GORDON JENSEN, FISHERMAN.

4. IT WAS APPARENT FROM VARIOUS COMMENTS MADE AT THE MEETING THAT THERE IS GENERAL CONCERN WITH THE CONSERVATION OF ALL US SALMON STOCKS. IN COMMENTS MADE OUTSIDE THE MEETING IT WAS ALSO RECOGNIZED THAT THE PROPOSED SALMON INTERCEPTION TREATY CONTAINS A SECTION DEALING WITH SCIENTIFIC EXCHANGES AND CO-ORDINATED RESOURCE DEVELOPMENT. BY IMPLICATION A TREATY WOULD NEGATE THE NEED FOR A SEPARATE SCIENTIFIC EXCHANGE MECHANISM. IT WAS ALSO THE OPINION OF THE COUNCIL THAT THE PROPOSED SYSTEM SHOULD BE MANAGED BY AN OUTSIDE AGENCY OR GROUP, TO MINIMIZE ANY CHARGES OF FAVOURITISM OR LACK OF CO-OPERATION ON THE PART OF ONE OR ANOTHER PARTY.

5. THE COUNCIL ALSO HAD BEFORE IT A QUOTE SOLICITATION FOR A PROPOSAL FOR A STUDY OF THE OFF SHORE CHINOOK AND COHO SALMON FISHERY UNQUOTE WHICH WAS TO BE RELEASED. THIS DOCUMENT REQUESTED PARTIES INTERESTED IN A CONTRACT WITH THE NPFMC TO STUDY THE OFF SHORE CHINOOK AND COHO FISHERY TO SUBMIT A PROPOSAL FOR SUCH A PROJECT BY NO LATER THAN APRIL 20, 1980. THIS INITIATIVE IS IN RESPONSE TO RECOGNITION OF THE TRANSBOUNDARY NATURE OF CHINOOK STOCKS, THE NATIONAL AND INTERNATIONAL POLITICAL NATURE OF SALMON AND THAT SINGLE AGENCY MANAGEMENT OF THE SALMON FISHERY OFF ALASKA IS NO LONGER POSSIBLE. THE IMPACT OF CDN FISHERIES AND MANAGEMENT RESPONSIBILITIES ON THE RESOURCE WAS ALSO RECOGNIZED AND WILL BE AN ASPECT OF THE STUDY. THE STATEMENT OF OBJECTIVES AND THE STATEMENT OF WORK TO BE PERFORMED IS ATTACHED FOR YOUR INFORMATION.

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A RECENT LETTER TO THE COUNCIL FROM THE DEPARTMENT OF COMMERCE (DOC) HIGHLIGHTED THAT DEPARTMENT'S CONCERN WITH THE CONSERVATION OF THE SALMON RESOURCE AND ALSO REITERATED ITS VIEW THAT THE SALMON FMP MUST TAKE INTO ACCOUNT THE BOLDT DECISION IN RESPECT OF THE SUBSEQUENT EFFECT WHICH THE OFF SHORE ALASKAN TROLL FISHERY HAS ON THE INDIAN/NON-INDIAN ALLOCATION. LAWYER REPRESENTING THE ALASKAN TROLL FISHING ASSOCIATION ARGUED THAT THE BOLDT DECISION SHOULD NOT APPLY TO THE ALASKAN FISHERY BUT HIS CONTENTION WAS NOT SUPPORTED BY EITHER THE COUNCIL OR OTHER PARTICIPANTS. SECOND REPRESENTATIVE OF THE TROLL FISHING ASSOCIATION ALSO ATTACKED THE DEPARTMENT OF COMMERCE FOR WHAT IS CHARACTERIZED AS THE ARBITRARY MANNER IN WHICH THE SECRETARY OF COMMERCE CHANGES THE FMP BY PICKING AND CHOOSING THOSE ELEMENTS WHICH SUIT HIS PURPOSE. THIS WAS CLAIMED TO BE NON-DEMOCRATIC. THIS CONTENTION HAD SUPPORT IN THE COUNCIL RAISING THE QUESTION OF THE ROLE AND AUTHORITY OF THE COUNCIL VIS-A-VIS THAT OF DOC. THIS ISSUE IS TO BE PURSUED FURTHER WITH DOC.

7. CONCERNING BRISTOL BAY SALMON RUN WHICH IS EXPECTED TO BE LARGE AGAIN THIS YEAR (RUNS ARE GENERALLY LARGE TWO YEARS OUT OF FIVE), COUNCIL IS CONSIDERING VARIOUS OPTIONS CONCERNING THE EXPECTED SURPLUS SUCH AS: HARVEST TO THE LIMIT OF DOMESTIC FACILITIES AND LET THE REMAINDER ESCAPE; INVITE FOREIGN VESSELS TO PARTICIPATE IN THE FISHERY AND TO INCREASE THE DOMESTIC FISHERY CAPABILITY, INCLUDING JOINT VENTURE OPTIONS. THE ADVISORY PANEL REPORT RECOMMENDED THAT THE QUESTION OF SALMON SURPLUSES SHOULD BE REFERRED TO COUNCIL AS AN ITEM FOR CONSIDERATION AND COUNCIL SHOULD CONSIDER THE BENEFITS OF DOMESTIC FISHERMEN, DEVELOPMENT OF AN FMP FOR SALMON NET FISHERIES, JOINT VENTURE ARRANGEMENTS WHEREBY SALMON CAUGHT WITHIN THE THREE MILE LIMIT COULD BE DELIVERED TO FOREIGN PROCESSORS OUTSIDE THE THREE MILE LIMIT, INVITING FOREIGN PROCESSORS TO BID ON THE OPPORTUNITY TO PROCESS IN THE PCZ. (COUNCIL AND STATE BOARD HAVE INTEREST AND RESPONSIBILITY FOR FISHERY).

8. SINCE CHUCK MEACHAM OF THE STATE OF ALASKA IS INVESTIGATING THIS PROBLEM AND A REPORT HAS JUST BEEN CIRCULATED TO STATE AGENCIES FOR COMMENT, IT WAS AGREED TO POSTPONE CONSIDERATION OF THIS ISSUE UNTIL SUCH TIME AS THE ALASKAN REPORT BE COME AVAILABLE. HOWEVER THIS ISSUE DOES RAISE THE RESPONSIBILITY OF THE COUNCIL AND ITS ANNUATION WITH STATE AGENCIES CONCERNING WITHDRAWAL PARTICIPATION THERE



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PROGRAMME ON THE GERMAN VESSEL FOR ALASKAN NATIVES AND THERE WOULD BE A FURTHER ECONOMIC BENEFIT AS THE GERMANS WOULD PURCHASE SOME OF THEIR SUPPLIES AND PROVISIONS FROM ALASKAN COMMUNITIES AND THE CREWS WOULD SPEND AT LEAST A PORTION OF THEIR SALARIES IN ALASKAN PORTS.

13. ALTHOUGH CONCERN WAS EXPRESSED BY MEMBERS OF THE COUNCIL THAT THIS SPECIFIC REQUEST MIGHT INVOLVE THE COUNCIL IN THE POLITICS OF FOREIGN ALLOCATION, THERE WAS A GENERAL VIEW THAT THE COUNCIL WOULD BE RECEPTIVE TO REQUESTS FOR FISHING PERMITS FROM COUNTRIES WHO HAD NOT TRADITIONALLY FISHED OFF ALASKA. CONCERNING SANCTIONS, POINT WAS MADE BY COUNCIL MEMBERS THAT COUNTRIES WITH POOR ENFORCEMENT RECORDS SHOULD LOSE PART OF THEIR ALLOCATIONS WHICH COULD THEN BE REALLOCATED TO QUOTE GOOD UNQUOTE COUNTRIES SUCH AS GERMANY WAS SEEN TO BE.

14. TWO OTHER GROUND FISH ITEMS OF INTEREST ARE THAT IT WAS PROPOSED THAT AN ALLOCATION SHOULD BE SET FOR THE INCIDENTAL CATCH OF PROHIBITED SPECIES SINCE WITHOUT SUCH A QUOTA THE HARVESTING OF THE TARGETED GROUND FISH IN CERTAIN AREAS BECOMES VERY DIFFICULT, IF NOT IMPOSSIBLE. THE OTHER ITEM CONCERNS THE RESERVE RELEASE MECHANISM. IT WAS AGREED THAT RELEASES SHOULD BE CONSIDERED THREE TIMES A YEAR ON A 40%-40%-20% BASIS RATHER THAN THE CURRENT FOUR TIMES PER YEAR BASIS. THIS WOULD FACILITATE THE MANAGEMENT OF THE RESERVE SINCE UNDER THE CURRENT SYSTEM, THE CURRENT RELEASE DATE FOR THE FIRST RELEASE OCCURS VERY EARLY IN THE FISHERY AND REALLY BEFORE THE HARVEST GETS FULLY UNDERWAY AND MEANINGFUL CATCH AND EFFORT DATA BECOME AVAILABLE.

15. IN THE CRAB FISHERY, THE QUESTION OF CRAB POT STORAGE IS PERHAPS OF INTEREST. AT PRESENT THERE ARE AREAS SET ASIDE IN THE BERING SEA FOR CRAB POT STORAGE HOWEVER, A PROPOSAL HAS BEEN RECEIVED WHICH WOULD PERMIT CRAB POTS TO BE STORED INDISCRIMINATELY OUTSIDE OF THESE RESERVES. THIS PROPOSAL WAS OPPOSED BY VARIOUS MEMBERS OF THE COUNCIL ON THE GROUNDS THAT IT WOULD CREATE A HAZARD TO NAVIGATION, WOULD QUOTE POLLUTE UNQUOTE THE BERING SEA ENVIRONMENT AND WOULD BE FAVOURING A PARTICULAR GROUP (CRABBERS) OVER OTHER FISHING INTERESTS (DRAGGERS, ET AL). HOWEVER, NO DECISION WAS TAKEN ON THIS ISSUE AT THE MEETING.

16. TWO JOINT SESSIONS WERE HELD WITH THE ALASKAN BOARD OF FISHERIES WHICH HAS RESPONSIBILITY FOR THE ON SHORE FISHERY. THESE SESSIONS WERE INTERESTING IN AS

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MUCH AS THEY HIGHLIGHTED THE TENSIONS EXISTING BETWEEN THE COUNCIL AND THE BOARD. ALTHOUGH THESE TWO ENTITIES MUST WORK TOGETHER AND CO-ORDINATE THEIR VARIOUS FISHERY ENDEAVOURS, THE RELATIONSHIP APPEARED STRAINED AND HAS THE PROPENSITY FOR CONFLICT. THE BOARD IS MUCH MORE PAROCHIAL IN ITS APPROACH TO FISHERY QUESTIONS AND MUCH MORE CONCERNED WITH LOCAL POLITICS IN SO FAR THAT IT IS MORE PRONE TO BECOME A FORUM FOR PUBLIC COMMENT AND DEBATE AND HAS A MORE OPEN (LESS FORMAL) AND FOLKSY APPROACH. ALTHOUGH THIS APPEARANCE MIGHT BE DUE IN PART TO THE VARIOUS PERSONALITIES INVOLVED, THERE WERE NOTICEABLY MARKED DIFFERENCES BETWEEN THE BOARD AND THE COUNCIL.

17. FOR HUNTER: IN DISCUSSIONS WITH JIM BRANSON, NPFC, HE MENTIONED HIS LACK OF CDN FISHERY POLICY DOCUMENTS AND INFORMATION. HE WOULD PARTICULARLY LIKE TO BE PLACED ON THE PANDO MAILING LISTS AT BOTH HEADQUARTERS AND THE REGION FOR PRESS RELEASES AND OTHER DOCUMENTS GENERALLY DISSEMINATED TO THE PUBLIC. OBVIOUSLY ANY SPECIAL DOCUMENTS WHICH MIGHT BE OF INTEREST TO HIM WOULD ALSO BE GREATLY APPRECIATED. CAN YOU ARRANGE TO HAVE HIS NAME PLACED ON THESE LISTS? WE SHOULD ALSO THINK THAT LORRY NAKATSU OF PACIFIC FISHERIES MANAGEMENT COUNCIL MIGHT USEFULLY BE INCLUDED ON THESE LISTS. IN ADDITION, BRANSON WOULD LIKE A COPY OF THE 1980 CDN SALMON TROLL REGULATIONS. WILL YOU PROVIDE?

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Statement of John L. Savage to the  
North Pacific Fishery Management Council  
March 26-29, Anchorage, Alaska

Mr. Chairman, Ladies and gentlemen:

I'm Jack Savage, Anadromous Fish Specialist, USFWS, Region 1, in Portland, Oregon. I am appearing before you today to express our concerns for upper Columbia River fall, spring and summer chinook salmon. As you probably know, last year was a record low for escapement of spring chinook -- only 48,600 -- passed over Bonneville Dam. The 34,200 adult summer chinook salmon run over Bonneville Dam was less than half the goal. Columbia River fall chinook spawning escapement was only 79,000 - well below the goal of 100,000. Adult fall chinook passing Ice Harbor Dam, the lowermost dam on the Snake River, was only 1,661 last year. No inside fishery has been permitted on upriver spring and summer chinook salmon since 1974, except for a minor gillnet fishery during 1977 on spring chinook. The Columbia River Agreement executed in 1976 among the Columbia River Treaty Tribes, the states of Oregon and Washington and the Federal Government call for an inside escapement of 300,000 fall chinook destined for above Bonneville Dam plus a minimum average of 250,000 upriver spring chinook salmon. Summer chinook were recognized as being too low to permit a commercial fishery on.

The upriver Columbia and Snake River chinook salmon stocks have been in a declining state because of water developments coupled with over fishing. These are the stocks that apparently migrate the farthest northward in the Pacific Ocean, thus are exposed to Washington, British Columbia and Alaskan interceptions. Efforts are being made to correct some of the environmental problems through improved flows and downstream passage facilities. Recent examples which can be cited are the 165 million dollar lower Snake River

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Fish and Wildlife Compensation Plan which is well underway; and recent agreements reached with the FERC licensed projects on the Mid-Columbia River which provide for research, flows, fish passage and hatchery facilities. Strong attempts are being made by various fishery agencies to have fish protection incorporated in the Northwest Energy Bill, I believe that we will be successful here.

Even with investments of hundreds of millions of dollars, continuation of upriver salmon runs cannot be assured without controlling ocean harvests. During the last three years the Pacific Fishery Management Council has increased restrictions on the ocean sport and commercial fishermen in an attempt to provide needed spawning escapements and meet Indian Treaty Rights. We are now at the point where complete cessation of ocean fishing off the coast of Washington would not fulfill the intent of the Columbia River Agreement. We need help from Canada and Alaska.

The Fishery Management and Conservation Act of 1976 provides exclusive fishery management authority for "all anadromous species throughout the migratory range of each such species beyond the fishery conservation zone; except that such management authority shall not extend to such species during the time they are found within any foreign nations territorial sea or fishery conservation zone (or equivalent), to the extent that such sea or zone is recognized by the United States." I believe that it was clearly the intent of Congress to manage salmon throughout their range, whenever possible.

In the case of Pacific salmon it will require cooperative management among the Pacific and North Pacific Councils as well as Canada. This is not only possible, but I believe mandatory, if we are to preserve certain stocks

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such as the upper Columbia and Snake River fall, spring and summer chinook salmon, for future generations. If we fail to achieve coordinated and integrated management I believe we will have our options severely limited through court actions by the Treaty Indian Tribes and possible listing of certain stocks under the Endangered Species Act. In fact a Status Determination for possible listing under the Endangered Species Act is well underway on several upper Columbia and Snake River salmon species and races. This determination is being jointly developed by NMFS and FWS and is expected to be released this year.

A major problem for both the North Pacific and Pacific Council in the development of their salmon management plans has been the absence of reliable current data. Extensive tagging of Columbia River salmon commenced in 1974 and 1975 with coded wire tags. However, complete recoveries are not available for any of the brood years. The most current ocean recovery data available are for 1976. Some preliminary information is available on 1977 and 1978 recoveries on certain stocks. I believe that it is imperative that tag recovery information be made available to the councils from the previous year's fishery before formulating regulations for the current year. This year Washington Department of Fisheries has modeled the contributions of upper Columbia River fall chinook based on 1975 brood year tagging with preliminary 1978 return data (three year old fish). We should have had the benefit of 1979 recoveries (four year olds) for the model. The projection indicates a substantial interception problem with 28.4% and 57.5% of the total <sup>ocean</sup> harvest occurring in the Alaska and British Columbia troll fisheries, respectively. Unfortunately, we do not have a similar analysis for upper Columbia River spring and summer chinook.

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If we had current information on when and where the more fragile stocks of salmon are being harvested it may be possible to separate them in time and area for selective management. Since data I have mentioned are expected to be a continuing requirement, I recommend that an integrated coast-wide monitoring, tag recovery, processing and analysis system be developed which includes the states of California, Oregon, Washington and Alaska as well as British Columbia. The system should incorporate standardization of mark and recovery procedures so that expansion of the data can be facilitated. Standard criteria should be adopted for all program tagging operations at the production stations. This may require modification of existing tagging practices which were designed primarily to meet specific research objectives. Cost estimates should be developed by the respective states and territories for the required monitoring, tag recovery and processing. Pacific Marine Fisheries Commission could develop cost estimates for the data processing and analysis. Once the magnitude of the cost is known, appropriate funding sources can be sought. Since such data are essential for the development of ocean salmon fishing regulations it may be appropriate for the Department of Commerce to fund these activities. I also believe that development and maintenance of the proposed fishery data system should be included in any interception agreement executed with Canada. This would help ensure funding for this important data gathering and analysis work.

In summary, we are faced with difficult problems in the protection of our anadromous fish resources. Positive steps can be taken now to ensure rational management. I think it is preferable for us to face these problems ourselves than to take the chance of some Federal Court assuming management for us. The U.S. Fish and Wildlife Service will assist the councils in this important endeavor in every way possible.

Thank you for the opportunity of commenting before you today.

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**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
SOLICITATION FOR PROPOSAL**

**FOR A STUDY OF THE OFFSHORE CHINOOK AND COHO SALMON FISHERY**

**RFP 80-2**

March <sup>24</sup>~~17~~, 1980

**Respond to:**

**North Pacific Fishery Management Council  
P. O. Box 3136 DT  
Anchorage, AK 99510**

**(907) 274-4563**

**Proposal Due: 4/20/80**

STATEMENT OF OBJECTIVES

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The central objective of this proposed study is to evaluate the available information on the management of the chinook salmon fishery off Alaska from Cape Suckling to Dixon Entrance with particular emphasis

on its conduct in the Fishery Conservation Zone (FCZ). This central objective will be addressed in the coordination of all aspects of the development of a 1981 Troll Salmon Management Plan developed through a subset of objectives as follows:

- to assess the impact of present management regime on Alaskan and non-Alaskan chinook stocks;
- to assess the known fishery data and its applicability to the troll salmon fishery off Alaska;
- to define the relationship of the troll salmon fishery on chinook stocks off Southeast Alaska with the fishery on those same stocks off British Columbia;
- to assess the impact of the chinook harvest off Alaska on non-Alaskan stocks, with particular regard to the Indian treaties on the Columbia River and other obligatory relationships that may exist that influence the fishery management strategies off Alaska;
- to develop management alternatives that will compliment the obligatory management objectives of Pacific Council, Pacific Coast states, State of Alaska and Canada;
- to recommend procedures to develop a comprehensive west coast chinook salmon troll plan that will cover the full range of chinook stocks that occur in the Alaskan fishery and the fisheries and political subdivisions in which those stocks are found; and
- to specify what additional research and data is needed to accomplish that goal.

**STATEMENT OF WORK**

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Statements of work 1 through 10 are specifically designed to be integral components of work statement 11. Work statements 1 through 10 are not separate studies in and of themselves and are listed here to define the parameters of the information needed for the 1981 Troll Salmon Plan.

1. The contractor shall determine and report the status of west coast chinook stocks.
2. The contractor shall assess and report the probable impacts of the current management regimes of Alaska, British Columbia and the Northwest states on chinook stocks.
3. The contractor shall assess and report fishery data capable of use by fishery managers.
4. The contractor shall assess and report the probable effects of the continuation of current management regimes off Alaska, British Columbia and the Pacific Coast on resident and non-resident chinook salmon.
5. The contractor shall recommend alternative management strategies for depressed, Alaska chinook salmon runs study area.
6. The contractor shall recommend alternative management strategies for chinook salmon stocks of non-Alaskan origin with emphasis on those stocks involved in 'treaty' fisheries in Oregon, Washington and California.
7. The contractor shall assess and report alternative management strategies for the troll salmon fishery off Alaska taking into account management objectives of the State of Alaska, the North Pacific Fishery Management Council, the Pacific Fishery Management Council, and Canada.
8. The contractor shall assess and report the net effect or impact of these management alternatives on existing troll and non-troll (net) salmon fisheries.

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9. The contractor shall assess and recommend a proposed course of action for the Council which addresses cooperative management with Alaska, reciprocal international agreements with Canada and joint management responsibilities with the Pacific Fishery Management Council.
10. The contractor shall assess and specify future research studies needed to fill key data gaps.
11. The contractor shall lead the efforts of the management plan drafting team to incorporate the results of work statements one through ten and assume responsibility of developing, for the NPFMC, the 1981 troll salmon package of plan (amendments) and regulations. The management plan drafting team presently consists of Messrs. Gunstrom, Davis and Cantillon from the Alaska Department of Fish and Game, Bill Heard and Bill Robinson from NMFS, Mr. Dennis Austin from Washington, Mr. Kirk Beiningen from Oregon and the ADF&G Extended Jurisdiction Staff. The contractor shall be responsible for coordinating team efforts, including arranging meetings, writing such parts of the study not written by other team members, editing the final document with appropriate review and comment by other specialists as required, and presentation of the study before the Council and its associated groups.
12. The contractor shall assess and specify an outline and information needed for a comprehensive west coast chinook salmon troll plan.

**ACTION**  
**SUITE A DONNER**

**MESSAGE**

*P 1712 JH*

PLACE	DEPARTMENT	UNIS. NO.	DATE	FILE/DOSSIER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.		35-11-FISH	SÉCURITÉ
SEATL	UAGR	5320	21MAR80		U/C

PM/DE

TO/A

EXTOTI PLO

*SEA 004/21*

INFO

B.H.FANDO OTT/MUNTER DE OTT

DATE

ACC

*70207*

REF

FILE

*35-5-7-2-Salmon-1*

BY HAND

PAR PORTEUR

ATTN:

DISTR.

FLM

REF

COURTEL UAGR 5308 OF 19MAR80

SUB/SUB

---PACIFIC FISHERIES MANAGEMENT COUNCIL-IMPACT ANALYSIS OF  
1980 SALMON REGULATIONS

ATTACHED IS A COPY OF A REPORT TO THE PPMC CONCERNING THE ANALYSIS OF  
IMPACTS OF THE ADOPTED 1980 REGULATIONS ON THE OCEAN SALMON FISHERIES OF  
CALIFORNIA, OREGON, AND WASHINGTON. THIS REPORT WAS PREPARED AT THE REQUEST OF  
THE PPMC SINCE THE ADOPTED REGULATIONS DIFFERED FROM THOSE PRESENTED TO THE  
COUNCIL BY THE SALMON MANAGEMENT PLAN DEVELOPMENT TEAM. IN REVIEWING THIS  
REPORT YOU SHOULD NOTE THAT THREE OBJECTIVES INTER ALIA WERE RECOGNIZED AND  
DISCUSSED EXTENSIVELY BY THE PPMC DURING ITS MAR 11 AND 12 MEETING. THESE  
OBJECTIVES CONCERNED THE PROVISION OF ADEQUATE ESCAPEMENT; THE DIVISION OF  
THE CATCH BETWEEN INDIAN AND NON-INDIAN FISHERIES; AND THE EFFECT WHICH THESE  
REGULATIONS WOULD HAVE ON THE TRANSFER OF FISH TO CDN FISHERIES.

2. CONCERNING THE QUESTION OF INDIAN AND NON-INDIAN DIVISION, PRACTICAL AND  
LEGAL DIFFICULTIES REMAIN TO ENSURE THAT EACH PARTY RECEIVES ITS JUST  
ALLOCATION. IN THIS CONTEXT, THERE ARE INDICATIONS THAT THERE MAY NOT BE  
AGREEMENT AMONG THE PARTIES AS TO THE DEFINITION OF THE SHARING FORMULA

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DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APProuvé

SG.....  
P.D. MARTENS/cn

SG..... *[Signature]*

-2- SEAN 4/24

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MANDATED BY THE UNITED STATES SUPREME COURT. IF THIS IS THE CASE, ESTABLISHMENT OF AN ACCEPTABLE MANAGEMENT/ENHANCEMENT PLAN WILL BE DIFFICULT WITHOUT RESOLUTION OF THE LEGAL QUESTIONS.

3. CONCERNING THE TRANSFER OF FISH TO CDN FISHERIES, THE OBJECTIVE, OF COURSE, WAS TO DEVELOP A PLAN WHICH WOULD MINIMIZE SUCH TRANSFERS. ACCORDING TO THE ATTACHED ANALYSIS THERE WILL BE AN INCREASE IN THE TRANSFER OF FISH TO CDN FISHERIES (<sup>92,000</sup>~~58,000~~ FISH). ALTHOUGH THE ADOPTED REGULATIONS DO NOT CORRESPOND TO ANY ONE OPTION PRESENTED TO THE PFMC, THE FIGURE OF 92,000 IS ONE OF THE HIGHER FIGURES OF THE NINE OPTIONS THAT WERE PRESENTED. OBVIOUSLY THE COUNCIL COULD NOT MEET ITS OTHER FISHERY GOALS WITHOUT ADOPTING A PLAN WHICH WOULD INCREASE THE TRANSFER OF A SUBSTANTIAL NUMBER OF FISH TO CDN FISHERIES.

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**ANALYSIS OF IMPACTS OF ADOPTED 1980 REGULATIONS  
ON THE  
OCEAN SALMON FISHERIES  
OF CALIFORNIA, OREGON, AND WASHINGTON**

**Report  
to the  
Pacific Fishery Management Council**

**Salmon Management Plan Development Team  
March 17, 1980**

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At Renton, Washington on March 12, 1980, the Council selected a set of regulations for the 1980 ocean salmon fisheries that it recommended for promulgation by the Secretary of Commerce. These regulations were selected primarily from a series of options (I to IX) that were the subject of public review from January 25 to March 9, 1980. As a guide the Council used a March 7, 1980 report of the Salmon Plan Development Team, entitled "Analysis of impacts of proposed 1980 regulation options on the ocean salmon fisheries..."

Inasmuch as the adopted regulations differed from the described options that had been analyzed by the Team, the Council requested the Team to prepare an analysis of the new regulations. This report presents the Team's analysis showing the impact on the 1980 fisheries, and the extent the new proposals would fulfill the goals that have been set by the states of California, Oregon and Washington and used by the Council. The analysis is shown for each state and is summarized in Table 1 for coho and Table 2 for chinook. Table 3 is duplicated here from the March 7 report of the Team to emphasize the changes that would occur in the Columbia River fall chinook stocks from the levels that existed prior to Council management (i.e., pre-1976).

For California the Council adopted an option that was different from any of those (Options I through IX) evaluated by the Team in their impact report of March 7. The option adopted for the California coast approximates the impacts presented in Option III in the Team report. The significant differences are: (1) The Point Arena line recommended for separation of Klamath and Sacramento River chinook stocks as well as Oregon and Columbia River coho was moved north to Cape Vizcaino (approximately 60 nautical miles northwest); and (2) extension of the recreational season approximately one month, from September 14 to October 13.

For Oregon the Council adopted regulations for the area north and south of Cape Falcon that are most similar to Option VI. The newly adopted season is scheduled from July 15 to September 8. The chinook-only season south of Cape Falcon was extended with the opening on September 9 and the closure on October 31. A chinook-only season was approved from June 16 to 30 for the area between Cape Falcon and Cape Blanco with terminal gear restricted to whole bait or 6-inch minimum plugs. The recreational season was made more restrictive than Option VI, for the period May 10 to September 14, north and south of Cape Falcon. The bag limit was changed to 3 fish with the provision that the bag limit be reduced to 2 fish if the recreational catch is projected to exceed 240,000 coho in the OPI by September 14.

For the ocean fishery north of Cape Falcon in Washington and Oregon the Council adopted a regulation that is only slightly different from Option VI. The troll regulations include 1 week additional fishing time from Leadbetter Point to Cape Alava and 1 week less fishing time south of Leadbetter Point to Cape Falcon and north of Cape Alava. The recreational regulation adopted is longer in season length than Option VI but with the 3 fish bag limit (2 week earlier start and 2 week later closure). In addition, the Council adopted a recreational catch criteria which would direct change from 3 to 2 fish bag limit during the season if catch projections indicated a 333,000 coho catch would be exceeded.

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## California

### Impact of Cape Vizcaino line

Klamath River chinook stock - It is extremely difficult to assess the impact of moving the chinook stock separation line from Point Arena to Cape Vizcaino. This results in the north coast port of Fort Bragg, one of the largest salmon landing ports in California, being placed in the south coastal regulation area, which has more liberal troll regulations than the north coast (the additional open period is July 1-15). The majority of the troll effort out of both Eureka and Fort Bragg is off the Cape Mendocino area, which is approximately 66 nautical miles north of Cape Vizcaino.

The only recent data available regarding the distribution of Klamath River chinook is one year class of 3-year-old coded wire tagged fish sampled in the fishery in 1979 (page 108 of 1980 Salmon Plan). Tags were sampled by port of landing and not area of catch. Fort Bragg was the major port of landing for these fish (46% of the total expanded California ocean recoveries).

Only 5% of the total California Klamath River tag recoveries were landed south of Fort Bragg. It should be noted that the coastwide distribution of the Klamath River tag recoveries showed that they contribute primarily to the fisheries from Cape Blanco, off Oregon, to the Fort Bragg area with about half of the total recoveries showing up in the Oregon fishery.

Based on the effort distribution of the Fort Bragg troll fleet, and the fact that the Cape Vizcaino line is considerably below the Cape Mendocino area, it is assumed that the inclusion of Fort Bragg into the south coast area, which has more liberal troll regulations, will have a minimal impact upon the chinook returns to the Klamath River system in 1980. The Team's impact analysis of Option III shows a return of 110,000 to 120,000 adult chinook to the Klamath River system. The returns to the system under the regulations adopted by the Council should be about the same or slightly less than those indicated by Option III (110,000 to 120,000 adult fall run chinook).

Coho - Coho escapement to the OPI area will be decreased slightly when compared to Option III. The Fort Bragg port area landed 6,000 coho during July 1-15 in 1979. Since this area will now be open (under option III, Fort Bragg was closed July 1-15), there will be a slight increase in California troll coho landings and a consequential slight decrease to escapement in the OPI. This can be estimated by reducing the 1979 Fort Bragg landings by the OPI reduction factor for 1980 ( $0.683 \times 6,000 \text{ coho} = 4,000$ ). Also, application of a 60% recapture rate will allow for a maximum reduction of 2,000 coho to the OPI index area escapement. (Hooking and natural mortalities are not deducted, nor is the percentage of the Fort Bragg landings that are taken north of Cape Vizcaino). Therefore, the coho impact analyses presented under Option III are approximately the same as for the option selected by the Council.

Sacramento River chinook - The inclusion of Fort Bragg under south coast area troll regulations (2 additional weeks of fishing time) and adding one month to the recreational season over Option III will result in a slight reduction in Sacramento River spawning escapement, when compared to Option III.

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The average recreational chinook catch for the September 15-October 15 time period is 10,000 chinook, of which about 20% (2,000 fish) are "matures" or potential spawners. Additionally, approximately 14% of the coded wire tag returns of Sacramento River chinook are from north of Point Arena. The combined effect of the more liberal recreational and troll regulations adopted by the Council when compared to Option III, would result in a decrease of approximately 5,000 (from 205,000 to 200,000) fall run chinook to the Sacramento River system.

### Oregon

Given no effort shifts or effort level changes relative to 1979, overall impacts of the adopted regulations on coho salmon will fall between Options V and VI. The anticipated 1980 coho catch for the OPI area will range between 820,000 and 850,000 fish with an estimated troll catch of 590,000 to 600,000 and an estimated recreational catch of 230,000 to 250,000. Expected allocation of the coho catch between troll and recreational users would approximate 71% and 29%, respectively. Expected escapement to the OPI would fall between 236,000 and 260,000 compared to the 280,000 goal stated in the 1980 Plan Amendment. This compares to an OPI escapement level of 93,000 in 1977 (brood year).

Expected impacts of the adopted regulations on Oregon coastal chinook salmon will be somewhat less than Options V or VI due to the selective troll fishery for chinook in June. Assuming 1979 stock abundance, the anticipated 1980 chinook catch for Oregon will approach 273,000, representing an increase of 3% over 1979. The expected breakdown of the catch between the troll and recreational fishery is 249,000 and 24,000, respectively, representing an allocation of 91% and 9%. Estimated escapement to Oregon coastal streams is 164,000 which exceeds the 1980 goal by 2%.

The addition of the selective troll fishery for Oregon coastal chinook salmon is anticipated to increase troll fishery landings by 11,000 fish assuming an efficiency of 0.80 for large plugs and whole bait. Since this special fishery will be targeting on chinook salmon and possibly may use predominantly bait, which is more efficient, the estimated catches could be greater. Assuming a selectivity factor for chinook of 0.85 for the above gear and expected catch levels, it is estimated that coho escapement to the OPI will be decreased by 1,100 fish in relation to the adopted regulations. Escapement to California coastal areas and Columbia River will decrease by about 1,200 and 1,100 fish, respectively. ODFW has asked trollers to generate volunteers to allow observers on up to 20 boats during this season for evaluation of gear selectivity.

### Washington

Washington Department of Fisheries provided analysis of the Council's regulation proposals for coho to identify those regulations which would be the least restrictive and still achieve the specified management objectives. The

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Resulting numbers were intended to be used to identify a harvest guideline or quota and not intended to reflect the most likely ocean catch and escapement from the ocean which would occur from a given set of regulation options. Such an analysis would have required each option to be analyzed with projected effort shifts and effort increases for the troll fishery and reduced effort levels for the recreational fishery.

Thus, the numbers were presented to give the Council guidance in choosing the option which would achieve the management objectives in response to the regulations adopted, assuming no change in effort.

Without a harvest guideline or quota, area/time regulations alone may not necessarily assure achievement of catch and escapement objectives. The previous analysis was made using 1974-76 average effort pattern. If potential effort shifts and effort changes are modeled, results will be different from the analysis presented to the Council.

The analyses of area/time restrictions shown in Table 1 contain two sets of figures for Washington coho harvest and escapement based on 1980 Council adopted regulations.

The figures shown in parentheses, which were developed by the Washington Department of Fisheries, are based on the assumption that troll effort in 1980 will be 1.35 times the 1974-76 effort level for the 55-day season adopted by the Council and that the recreational harvest will be limited to 333,000 coho. The factor 1.35 is computed by dividing the 1979 August effort by the 1974-76 average August effort. It is the Washington Department of Fisheries opinion that such assumptions are necessary if achievement of management objectives is to be assured by area/time restrictions alone. Also, the WDF did not intend for the previous catch analyses (based on 1974-76 average effort) to be separated from the harvest guideline (500,000 troll and 333,000 recreational coho) presented with this option. Utilization of the 1979 effort level shows an estimated ocean coho catch of 1,009,000 (677,000 troll and 332,000 recreational) with resultant coho in-river run sizes of 208,000 to the Washington Coast (minus Willapa Bay) and 1,065,000 to Puget Sound. These in-river run sizes would not meet the 1980 goals for either Puget Sound or the Washington Coast if 1979 effort levels recurred in 1980.

The figures in Table 1 for Washington catch and run sizes not in parentheses were developed using 1974-76 effort levels, without adjusting for potential increases in effort. This is the same methodology for impact analyses utilized by the team in its analyses of Options I through IX off Washington. The figures are, therefore, roughly comparable to those contained in that prior assessment. Analyses with 1974-76 effort data show an ocean harvest of 750,000 coho (470,000 troll and 280,000 recreational) with resultant in-river run sizes of 265,000 coho to the Washington Coast and 1,180,000 to Puget Sound. These in-river run sizes exceed the goal for Puget Sound (1,100,000) and fall within the range for Washington coastal coho for the weakest single stock (275,000) and single species aggregate (240,000) goals.

It is noted that in August 1978, effort was down compared to the 1974-76 base period. For example, effort in boat-days during August 1978 was only 0.72 of the base period (11,030/15,311), while for August 1979 effort was 1.35 times the base period (20,770/15,311). Obviously, if 1978 effort patterns for

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August prevail, the predicted catches and impacts would be less than those shown.

The effort in 1980 will undoubtedly be influenced by a variety of factors (e.g., weather, albacore abundance, abundance of salmon, and prices, as well as reaction to the shortened season). There is also little doubt that in-river run sizes will be impacted by changes in ocean effort.

Because of the critical significance of effort in the overall analyses, it is obvious that effort levels will have to be closely monitored in 1980 to determine impacts on ocean harvest and its effect on meeting 1980 in-river run size objectives.

The recreational fishery, on the other hand, showed the opposite reaction to Council regulations in 1979 due to a sharp decline in angler participation. This effort reduction was 31% less than the 1978 level. Many of the factors which contributed to this reduction besides the bag limit reduction are still relevant in 1980. Therefore, it is unlikely recreational effort will return to pre-1979 levels.

Impact analysis for Columbia River fall chinook can not be quantified without an acceptable means of predicting abundance for 1980. Such a reliable preseason prediction is unavailable at this time and, therefore, analysis is limited to potential change relative to the 1979 season with assumed 1979 chinook abundance and availability. Given these assumptions, it is estimated that the 1980 regulations adopted by the Council north of Cape Falcon will not cause a significant change, either plus or minus, relative to the impact upon chinook salmon escapement despite the 3 days increased troll season and 13 days increased recreational fishery compared to 1979. Significant regulatory changes in the ocean fishery for upper Columbia River fall chinook occurred in the 1977-79 seasons resulting in a 62% reduction in catch relative to the pre-1976 regulation base. (Table 4, March 7, 1980 report).

#### Social and Economic Considerations

Regulations proposed by the Council reflect several social and economic factors that impact the ocean fisheries and coastal communities. A primary concern is that both troll and recreational (personal use) fisheries continue to have the opportunity to harvest their historic share of the ocean catch.

Although 1979 represented a year of sharply increased gross revenues in the troll fishery, it is anticipated that 1980 may experience significant declines. Even with no price changes, a 1/3 reduction in troll revenues could occur in coho salmon. Reductions in harvest levels of California chinook are also anticipated. Further, there is a generally accepted expectation that 1980 salmon prices will decline in response to overhanging inventory from 1979 harvests and similarly increased harvest levels anticipated in Alaska in 1980. Combined, the anticipated decline in the harvest of troll salmon and the lower salmon prices to fishermen could produce significant reductions in troll revenue. At this time, it is not possible to anticipate reductions in troll effort that might occur in response to improved albacore fishing, adverse weather, lower salmon prices, and/or increased operating costs, particularly

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fish. Analysis of the regulatory impact indicates, however, that the trollers will continue to have the opportunity to harvest their historic share of the ocean catch.

In contrast to the troll fishery during 1979, the recreational fishery, particularly in Washington, had a significant decline in effort and revenues and was unable to maintain its historic share of the ocean catch. Available information indicates this resulted from a number of coincident adverse factors, two of which were related to adopted management regulations. One of these was the reduction, in 1979, in the sport bag limit from 3 to 2 fish. Another factor was the shortened recreational season. The economic impact on the coastal recreational communities of decreased activity in the recreational fishery was significant. In Washington state, Grays Harbor and Pacific counties, whose economies are closely tied to the recreational fisheries, have been impacted severely. These problems have been recognized by the government and they have been granted economic assistance.

The regulations proposed for 1980 reflect the Council's concern regarding the importance to the recreational fishery and to the coastal communities of (1) bag limits (in order to generate the recreational effort), and (2) season length (in order to spread the activity over a period of time that permits recreationally-oriented enterprises to be viable).

It is anticipated that the 3-fish sport bag limit (provisional) and a recreational season in Washington and Oregon running from May 10 to September 14 will provide the recreational fishery with the opportunity to harvest their historic share of the ocean catch. It also is possible that such factors as the availability and price of gasoline for automobiles may again adversely impact the level of effort in the recreational fishery. Such factors are beyond the scope of Council action and may reflect changes in the underlying economic structure of the recreational fishery.

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**Table 1** Impact of Adopted 1980 Regulations on California, Oregon and Washington coho in Terms of Estimated Harvest, Escapement and Increased Transfer to Canadian Fisheries.

Area	1979 Actual	1980 Council Adopted Regulations	1980 Goal
<b>Ocean Harvest</b>			
California			
Troll	160	80-85	--
Recreational	16	10-15	--
Total	176	90-100	--
Oregon <sup>a/</sup>			
Troll	992	590-600	--
Recreational	314	230-250	--
Total	1306	820-850	--
Washington & Oregon North of Cape Falcon			
Troll	652	470 (677)	--
Recreational	290	280 (332)	--
Total	942	750 (1009)	--
<b>Escapement from Ocean<sup>b/</sup></b>			
OPI	278	236-260	280
Washington Coast <sup>c/</sup>	NA	265 (208)	270/240/275 <sup>d/</sup>
Puget Sound	1050 <sup>e/</sup>	1180 (1065)	1100
<b>Canadian Transfers Increase<sup>f/</sup></b>			
--	--	92 (45)	--

a/ Modeled for entire OPI area. Since California and Washington totals include portions of the OPI catch, the totals for California, Oregon, and Washington are not additive.

b/ In-river size.

c/ Minus Willapa Bay.

d/ Total salmon aggregate/single species aggregate/weakest single stock, respectively.

e/ Gross estimate.

f/ Increases in the transfer of fish to the Canadian fisheries represent incremental changes from catch transfers during a 1974-76 base period.

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Table 2. Impact of Adopted 1980 Regulations on California, Oregon and Washington Chinook in Terms of Estimated Percentage Change from 1979 Harvest and Projected 1980 Escapement from the Ocean.<sup>a/</sup>

Area	1979 Actual (in thousands)	1980 Council Adopted Regulations <sup>b/</sup> (% change from 1979)	1980 Goal (in thousands)
<b>Harvest</b>			
Calif.-No. of Cape Vizcaino			
Troll	446 <sup>c/</sup>	-30	--
Sport	14	+100	--
Total	460	-28	--
Calif.-So. of Cape Vizcaino			
Troll	195 <sup>c/</sup>	-10	--
Sport	109	+15	--
Total	304	-5	--
Oregon			
Troll	245	+2	--
Sport	20	+20	--
Total	265	+3	--
Washington & Oregon No. of Cape Falcon <sup>d/</sup>			
Total	209	0	--
<b>Escapement from ocean<sup>e/</sup> (in thousands)</b>			
California			
Klamath	59	110-120	118
Sacramento	205	195-205	185
Oregon Coast	160	164	160
Columbia River	169	169	169
Allocation	63/25	54/15 <sup>f/</sup>	60:40 <sup>g/</sup>

a/ Increases in Canadian transfers of all Columbia River fall chinook are negligible.

b/ California estimates for 1980 are based on predicted 1980 stock abundance and availability. Oregon and Washington based on 1979 stock abundance.

c/ Estimates for Pt. Arena area boundary.

d/ Columbia River upper fall stocks only. Information on other chinook stocks is not available.

e/ In-river run size.

f/ Includes 13,000 deficit due Indians.

g/ Apportionment ratio of Indian:non-Indian harvest in-river by agreement. To be adjusted for 13,000 deficit due the Indians.

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Table 3. 1980 Regulation Analysis Compared to 1974-76 Effort Base and Pre-1979 Regulation Base for Upper Columbia River Fall Chinook Stocks<sup>a/</sup>

Options	P E R C E N T A G E   C H A N G E		
	Wash. Coastal Ocean Catch of Upper Col. R. Fall Chinook Stock	Adult Run Above Bonneville Dam	
		Hatchery Stock	Natural Stock
I (1979)	- 54	+ 37	+ 8
II	- 52	+ 27	+ 5
III	- 52	+ 27	+ 5
IV	- 54	+ 29	+ 5
V	- 60	+ 35	+ 6
VI	- 64	+ 38	+ 7
VII	- 66	+ 39	+ 8
VIII	-100	+ 69	+ 14
IX	+ 64	- 37	- 8
Proposed Regulation of Council (Mar. 12, 1980) <sup>b/</sup>	60	+ 33	+ 5

- a/ Season: Troll - April 15 to Oct. 31, 26 in. minimum size  
Recreational - March 1 to Oct. 31, 20 in. minimum size  
b/ Analysis contains effort increase.

**ACTION  
SUITE A DONNER**

**MESSAGE**

**P1083**

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PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.		35-11-FISH	SECURITE
SEATL	UAGR	5308	19MAR80		U/C

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EXTOTT/FLO

*See 003/19*

INFO

B.H. FANDU OTT/HUNTER DE OTT

SFAX WSHDC DE SEA

*See 002/19*

DATE	REF
ACC 67106	DOSSIER
FILE 25-5-7-2-Salmon	PAR PORTEUR
BY HAND	
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DISTR.

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**RES** OURTEL UAGR 5284 OF 12MAR80

**SUB/SUJ**

---PFMC-1980 SALMON FISHERY

ATTACHED FOR YOUR INFORMATION IS A COPY OF PFMC NEWSLETTER CONCERNING THE  
PFMC MEETING IN RENTON MAR11 AND 12 AND A COPY OF THE PROPOSED 1980  
OCEAN SALMON FISHING REGULATIONS WHICH WERE ADOPTED BY THE COUNCIL MAR12.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APProuvé

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NO.....

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## PACIFIC FISHERY MANAGEMENT COUNCIL

526 S.W. Mill Street

Portland, Oregon 97201

Phone: Commercial (503) 221-6352

FIS 8-423-6352

CHAIRMAN  
E. C. Fullerton

EXECUTIVE DIRECTOR  
Lory M. Nakatsu

FOR IMMEDIATE RELEASE  
March 14, 1980

### NEWSLETTER

The Pacific Fishery Management Council met in Renton, Washington on March 11-12, 1980. The following are highlights of that meeting:

**SALMON MANAGEMENT.** The Council adopted a 1980 amendment to the Ocean Salmon Management Plan. The amendment will be forwarded to the Secretary of Commerce for approval and implementation prior to the beginning of the major ocean salmon fishing seasons. The proposed 1980 ocean salmon regulations are described in the attachment.

The Council also denied a request from the Makah Indian tribe to reduce the minimum size limit on chinook from 28 inches to 24 inches and to allow barbed hooks. The same seasons, size limits, and hook regulations that were in effect in 1979 for the ocean Indian fisheries (Makah, Quinault, Quileute, Hoh tribes) were adopted for 1980.

**GROUND FISH MANAGEMENT.** The Council instructed the Plan Development Team to meet with the groundfish advisors and representatives of the National Marine Fisheries Service and Office of General Counsel to discuss the Team's response to concerns expressed during the recent public comment period. The Council intends to adopt management options for the groundfish fishery at its May 14-15 meeting in Portland.

The Council instructed the Team to draft a plan amendment addressing allocation problems as soon as possible. During the public review period various commenters requested that the Council set aside certain areas for particular gears. Concern was expressed that gear conflicts should be resolved. Conflicts to be addressed are hook-and-line vs gillnet, hook-and-line vs trawl, and pot vs trawl vs longline. The Council wishes to address these problems but the establishment of allocation objectives, collection of the necessary data and analysis of impacts of proposed allocation schemes will require considerable time. It is not anticipated that the allocation amendment will be ready for submission to the Secretary with the plan in May.

The Council also adopted a revised policy on the management of incidental species, which provides that each plan which manages a target species will contain management measures for that species regardless of how or in what fishery it is harvested. For example, salmon incidentally caught in the groundfish fishery will be managed according to measures contained in the salmon plan.

The Council approved a Groundfish Team request to address the northern jack mackerel stocks in a preliminary management plan which would only regulate a foreign fishery. The southern jack mackerel stocks will continue to be managed by state regulation.

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**HERRING MANAGEMENT.** The Council adopted a management approach for plan development, which provided the following operational objectives:

- 1) Support continuation of established fisheries.
- 2) Insure a continuing supply of products currently being produced and marketed.
- 3) Give priority to historical fishing rights and practices.
- 4) Accommodate legally established Indian fishing rights.
- 5) Minimize incidental harvest of juvenile and adult salmon.
- 6) Maintain adequate stocks of herring for forage for non-human resources.

A first draft of a Pacific Herring Fishery Management Plan is expected to be ready for Council review in July.

**APPOINTMENTS.** The Council instructed the staff to solicit nominations for the following advisory positions. Nominations should be sent to the Council at the address above prior to May 1, 1980.

SALMON ADVISORS (one each)

1. To represent Alaskan trollers
2. To represent Washington trollers

PINK SHRIMP ADVISORS (one each) - Current terms expire May 1, 1980

1. To represent Washington commercial fishermen
2. To represent California commercial fishermen
3. To represent northern Oregon commercial fishermen
4. To represent southern Oregon commercial fishermen
5. To represent processors
6. To represent consumers

**NEXT MEETING.** The April Council meeting has been cancelled. The next meeting of the Council is scheduled for May 14-15, 1980 in Portland.

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It is anticipated that the Oregon Department of Fish and Wildlife will allow a special chinook-only season for recreational and commercial troll fisheries on the Southern Oregon coast during Nov. 1-30 1980. Fishing will be restricted to the following areas:

1. Elk River area - from Cape Blanco south to Humbug Mountain offshore to 3 miles; and
2. Chetco River area - from Goat Island south to Oregon-California border offshore to 3 miles.

This is NOT a Council action since the fishing areas described above are under State jurisdiction. However, the Council has endorsed this proposal and Oregon's proposed action will be submitted to the Secretary of Commerce for informational purposes only.

\*\*\*\*\*

1980 Proposed Regulations  
(Adopted by Pacific Council on 3/12/80)

1979 Regulations<sup>1</sup>

\*\*\*\*\* NORTH OF CAPE YIZCAIRO, CALIFORNIA<sup>2</sup> TO OREGON/CALIFORNIA BORDER \*\*\*\*\*

Commercial Troll Fishery

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. May 1-15 chinook only.</li> <li>2. May 16-31 all species.</li> <li>3. July 16-September 30 all species.</li> <li>4. Size limits and other regulations as in 1979.</li> </ol> | <ol style="list-style-type: none"> <li>1. May 1-23 chinook only.</li> <li>2. May 24-June 15 all species.</li> <li>3. July 1-September 30 all species.</li> <li>4. 26" minimum chinook; 22" minimum coho.</li> </ol> |
|--|---|

Recreational Fishery

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. February 17-October 13 all species.</li> <li>2. 2-fish bag limit.</li> <li>3. Same size limits and other regulations as in 1979.</li> </ol> | <ol style="list-style-type: none"> <li>1. February 17-October 14 all species.</li> <li>2. 2-fish bag limit.</li> <li>3. 22" minimum, except that one chinook or coho salmon per day may be less than 22" but not less than 20".</li> </ol> |
|---|--|

\*\*\*\*\* SOUTH OF CAPE YIZCAIRO, CALIFORNIA<sup>2</sup> TO CALIFORNIA/MEXICO BORDER \*\*\*\*\*

Commercial Troll Fishery

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. May 1-15 chinook only.</li> <li>2. May 16-31 all species.</li> <li>3. July 1-September 30 all species.</li> <li>4. Same size limits and other regulations as in 1979.</li> </ol> | <ol style="list-style-type: none"> <li>1. May 1-23 chinook only.</li> <li>2. May 24-June 15 all species.</li> <li>3. July 1-September 30 all species.</li> <li>4. 26" minimum chinook; 22" minimum coho.</li> </ol> |
|--|---|

Recreational Fishery

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. February 17-October 13 all species.</li> <li>2. 2-fish bag limit.</li> <li>3. Same size limits and other regulations as in 1979.</li> </ol> | <ol style="list-style-type: none"> <li>1. February 17-October 14 all species.</li> <li>2. 2-fish bag limit.</li> <li>3. 22" minimum, except that one chinook or coho salmon per day may be less than 22" but not less than 20".</li> </ol> |
|---|--|

<sup>1</sup> 1979 regulations include both in-season adjustments by the states of Oregon and Washington and court-ordered closures.

<sup>2</sup> Cape Yizcairo has been chosen as a new dividing line by the Council. Regulations proposed differ above and below this line. Cape Yizcairo is located approximately 20 miles north of Fort Bragg at 39° 45.4'.

PROPOSED 1980 OCEAN SALMON FISHING REGULATIONS  
AS COMPARED WITH 1979 REGULATIONS

1980 Proposed Regulations  
(Adopted by Pacific Council on 3/12/80)

1979 Regulations<sup>1</sup>

\*\*\*\*\* NORTH OF CAPE FAUCON, OREGON TO WASHINGTON/CANADA BORDER \*\*\*\*\*

Commercial Troll Fishery

1. May 1-31 chinook only.
2. July 15-September 8 all species.

3. Size limits and other regulations same as in 1979.

1. May 1-31 chinook only.
2. July 1-September 8 all species. (Emergency in-season closure implemented July 25-Aug. 3; additional in-season adjustment made by Washington closed fishery September 1st.;
3. 28" minimum chinook, 16" minimum coho.

Recreational Fishery

1. May 10-September 14 all species.

2. Begin season with 3-fish bag limit. Adjust downward to 2 fish if in-season data indicate the total catch by September 14 will exceed 333,000 coho. Fishery will be monitored weekly. Projections will be made on July 15 and on August 15.

3. Size limits and other regulations same as in 1979.

1. May 12-September 16 all species. (In-season adjustment made by Washington closed fishery on Sept. 4.)
2. 2-fish bag limit.

3. 24" minimum chinook; 16" minimum coho.

\*\*\*\*\* SOUTH OF CAPE FAUCON, OREGON TO OREGON/CALIFORNIA BORDER\*\*\*\*\*  
(unless otherwise specified)

Commercial Troll Fishery

1. May 1-31 chinook only.
2. June 15-30 chinook only from Cape Falcon south to Cape Blanco. Terminal gear restricted to whole bait or 6-inch minimum plugs. Minimum hook size 6/0.
3. July 15-September 8 all species.
4. September 9-October 31 chinook only.

5. Same size limits and other regulations as in 1979.

1. May 1-31 chinook only.
2. June 1-30 closed all species.
3. July 1-September 15 all species.
4. September 16-October 31 chinook only. (In-season adjustment made by Oregon opened season on Sept. 4.)
5. 26" minimum chinook; 16" minimum coho.

Recreational Fishery

1. May 10-September 14 all species.

2. September 15-October 31 chinook only.

3. Begin season with 3-fish bag limit. Adjust downward to 2 fish if in-season data indicate the total catch by September 14 will exceed 240,000 coho in Oregon Production Index area. Fishery will be monitored weekly. Projections will be made on July 15 and on August 15.

4. Same size limits and other regulations as in 1979.

1. May 12-September 15 all species. (In-season adjustment made by Oregon closed season on Sept. 3.)

3. 2-fish bag limit.

4. 22" minimum chinook; 16" minimum coho.

Page 5

DO NOT WRITE

**ACTION**  
**FILE A DOSSIER**

**MESSAGE P1 of 2 Sea 004**

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.			SÉCURITÉ
FM/DE	SEATL	UAGR	5218	26 FEB 80	U/C
					PRECEDENCE
TO/A	EXTOTT FLO Sea 004/26				DATE
					ACC 62742
INFO	B.H. FANDO OTT/HUNTER DE OTT				FILE 25-5-7-2-SALMON-1
					PAR PORTER

**DISTR. FILM GNT**

**REK**

**SUB/SUB ---PACIFIC FISHERIES MANAGEMENT COUNCIL-1980 SALMON FISHERY**

PACIFIC FISHERIES MANAGEMENT COUNCIL(PFMC)CURRENTLY HOLDING HEARINGS IN IDAHO CALIFORNIA, OREGON AND WASHINGTON CONCERNING 1980 SALMON FISHERY. WE ATTENDED HEARING SEATL FEB22 TOGETHER WITH APPROXIMATELY 80 REPRESENTATIVES FROM COMMERCIAL, SPORTS, AND INDIAN FISHING ORGANIZATIONS. HEARINGS REVEALED THAT THERE IS LITTLE AGREEMENT ON HOW TO MANAGE SALMON FISHERY THIS SEASON. BASIC PROBLEM CENTRES ON DECLINING RESOURCES AND PARTICULARLY ON PREDICTIONS OF RECORD LOW RUNS OF CHINOOK AND COHO.

2. FOR DISCUSSION, PFMC HAVE SUGGESTED THIRTEEN PLANS FOR FISHERY RANGING FROM SOME RESTRICTION TO OUT-RIGHT BAN ON COMMERCIAL AND RECREATIONAL SALMON TROLLING OFF WASHINGTON AND NORTHERN OREGON COAST. ALTHOUGH CONFIDENCE WAS EXPRESSED THAT STATE AND FEDERAL ENHANCEMENT PLANS WOULD INCREASE THE RESOURCE THERE WAS CONCERN IN SOME GROUPS FOR AN EROSION OF A WAY OF LIFE, A LOSS OF INCOME, AND AN INCREASING ABILITY OF LARGER MORE EFFICIENT BOATS TO CATCH A GREATER SHARE OF THE RESOURCE AT THE EXPENSE OF THE SMALL BOAT OWNERS WHO MAKE UP THE BULK OF THE FLEET. ACCORDING TO REPORTS, MANY BOAT OWNERS WERE

...2

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APProuvé
no. F.D. MARTENS/CH			no. J.R. Sharpe

-2-

P 208 Z 312 004

SAVED FROM FINANCIAL DISASTER LAST YEAR BY HIGH PRICES AND GOOD WEATHER. HOWEVER, CHARTER BOAT OPERATORS LOST MONEY LAST YEAR COMPARED WITH 1978 (APPROXIMATELY \$6,000 PER BOAT).

3. DISTRIBUTION OF THE DECLINING RESOURCE BETWEEN INDIAN AND NON-INDIAN FISHERMEN HAS ALSO ADDED AN EXTRA DIMENSION TO MANAGEMENT OF HARVEST AND CONSERVATION OF RESOURCE. IT IS EXPECTED THAT PFMC WILL ADOPT FINAL RECOMMENDATIONS FOR 1980 AT MEETING MARCH 11 AND 12, WHICH WE PLAN TO ATTEND. OUR INITIAL IMPRESSION IS THAT THERE WILL BE GREAT DISSATISFACTION WITHIN CERTAIN GROUPS.

80020347



Government  
of Canada

Gouvernement  
du Canada

MEMORANDUM

NOTE DE SERVICE

TO  
À

W.R. Hourston  
Pacific Region

FROM  
DE

M. Hunter  
International Directorate

DATE Feb 27 1980		SECURITY - CLASSIFICATION - DE SÉCURITÉ	
ACC 61759		OUR FILE / NOTRE RÉFÉRENCE	
FILE 25-5-7-2-Salmon-1		REF	
BY HAND ✓		YOUR FILE / VOTRE RÉFÉRENCE	
ATTN: FLO / J. Harlick		DATE February 26, 1980	

SUBJECT  
OBJET Pacific Salmon Negotiations

Please find attached a draft paper on "cooperation in salmon development" prepared by Dr. Shepard.

Would you kindly circulate this paper to all interested Pacific Region staff for comment/amendment/clarification.

*M. Hunter*  
M. Hunter

c.c. W. Falkner (with attach.)  
D. Goodman       "       "  
M. Goldberg       "       "  
✓ J. Harlick (FLO)       "

# michael shepard and associates limited

21 1979

119-645 Fort Street,  
Victoria, B.C. V8W 1G2,  
February 16, 1980.

*M. Hunter*

Mr. M. Hunter,  
International Directorate,  
Department of Fisheries and Oceans,  
240 Sparks Street, Ottawa.

Fisheries & Oceans
Per 19628
FEB 20 1980
5005-60/06-2
DOSSIER

Dear Mike:

Enclosed please find a rough draft of the short paper on Canada/U.S. cooperation in salmon development. If generally satisfactory, I would appreciate your editing the draft and circulating it to appropriate officials within the Department for comment and amendment.

Diana has my schedule and contact points over the next 6 weeks. Will look forward to seeing you on my return.

Best regards,

*Mike*

Michael P. Shepard.

P.S. Please have Diana send me a copy of my last invoice (to the above address). Thanks!

## OUTLINE - NEED FOR INTERNATIONAL COOPERATION IN SALMON DEVELOPMENT

### OUTLINE OF PROBLEM

1. Between the United States and Canada, lack of mechanisms for cooperation and coordination in development and harvesting of salmon runs is reducing the benefits that could be extracted from the stocks.
2. The most immediate reason is that neither country is prepared to invest in development programs <sup>in which</sup> ~~wherein~~ a substantial part of the benefits accrue to fishermen of the other country. Because of this, a number of important prospects for fisheries development on both sides have been left untouched with the result that no one is benefitting.
3. Lack of mechanisms for coordination and cooperation are also placing major stumbling blocks in the way of managing a number of fisheries effectively. The essence of the problem is that salmon bound for the other country are "free" fish to the intercepting country, costing it nothing to produce them. Thus, the intercepting country has little incentive <sup>and indeed, little</sup> capability of <sup>to manage</sup> ~~effectively managing~~ fisheries on intercepted stocks. Forebearance in harvesting intercepted fish (as might be dictated by conservation needs) will not necessarily benefit fishermen of the intercepting country because the fish that are saved escape to the fisheries of the other.

4. Many of the problems arise because stocks of the two countries are fished together. Whereas restructuring of fisheries on both sides to avoid interceptions presents a theoretical solution and one that should be pursued in the long term, there are many practical problems of a biological, social and economic nature which prevent adoption of this course in the short term. In any event, it would seem impractical even in the long run, to eliminate all interceptions and the problem therefore will never go away.

why  
5. Problems of fishing mixed stocks are particularly complicated when artificially enhanced and natural runs are involved. In general, artificially increased stocks must be harvested at higher rates of exploitation than natural runs to ensure full utilization. Where enhanced stocks are fished along with natural ones, the heavier rates of exploitation required to fish the enhanced stocks will lead to declines in the natural ones. Under such circumstances, increases from enhancement may well be offset, at least in part, by losses in natural runs. Technical solutions to this problem include:

- a) Rearranging fisheries to avoid fishing developed and natural runs together, or
- b) Ensuring that all runs fished together are developed at the same time.

6. These technical solutions are difficult to achieve when the developed runs are bound for rivers of one country and the natural runs are bound for rivers of the other. If both the natural and developed runs are bound for the rivers of the same country, it is often possible to adjust fishing areas to permit capture of the fish closer to their rivers of origin where the natural and enhanced stocks would be separated. In such cases, fishermen can harvest both the natural and developed runs at appropriate and often different rates of exploitation and reap full benefits from both runs. If, on the other hand, the natural run is bound for rivers in the other country, withdrawal of fisheries from areas where the stocks are mixed will result in the natural runs escaping to the waters of the other country, providing no benefits from such natural runs to fishermen of the intercepting country. Under such circumstances, there is little incentive to rearrange fisheries to ensure technically better management. A potential example of such a case would be a situation whereby the United States greatly expanded its odd-year pink runs

contributing to the fishery at Noyes Island while Canada made no effort to increase its runs that contribute to the same fishery.

7. A somewhat analagous case would arise if one country heavily fished runs from its own streams along with enhanced runs from the second country. Under such circumstances, the natural runs might well decline as the result of over-fishing. If the enhanced runs form a large proportion of the population being fished, then efforts by the first country to conserve its own natural runs by cutting back on its fishery would allow the intercepted fish to escape only to be harvested in fisheries of the second country. In this case, the first country's fishermen would have to forego the harvest of the intercepted fish and the loss of the intercepted fish might far outweigh the gain provided by better conservation of the weaker natural runs. Thus, there would be little apparent premium for the first country to make special efforts to conserve the local natural stocks. A potential example of such a case could be found in some segments of the Canadian troll fishery off Vancouver Island.

8. As outlined above, a potential solution to the problem of fishing natural and enhanced runs together is to enhance natural runs as well. Such parallel development of runs fished together is much more difficult to achieve if the runs originate in different countries. One country would find little advantage

developing runs if the other country were the main beneficiary of its efforts. In such circumstances it would be very hard for one country to induce the other to enhance intercepted stocks in order to ensure that such stocks would be able to withstand heavier fishing along with developed runs of the <sup>intercepting</sup> country. A potential example of such a situation would be the transboundary rivers of Southeast Alaska where at some time the United States may wish to develop the runs in its section of the rivers but in order to harvest the increased production would be faced with depleting the runs in the Canadian sections unless the latter were enhanced in parallel.

9. The foregoing examples emphasize that, in a rather wide variety of circumstances, lack of control by one country of either production or of fisheries in the second country can create situations where there is little incentive (or in some cases even strong "disincentives") for active development of salmon runs or for sound conservation. In this light, without international means for cooperation and the provision of incentives, substantial parts of the salmon resource in Canadian and United States rivers will remain undeveloped or will be poorly conserved. Fishermen of neither country can benefit from such a situation.

## POSSIBLE AVENUES FOR SOLUTION

1. Prior to 1978, salmon negotiations between Canada and the United States focused on limitation of interception. As the results of promising salmon development programs on both sides became more apparent, the type of "no win" situations outlined above cropped up with increasing frequency in the discussions. It was the conclusion of the Canadian negotiators that the basic problem could only be solved if incentives were provided to induce one country or the other to take positive management or development actions which, without such inducements, would be of little benefit because of interceptions by fishermen of the other country.

10. To this end the Canadian side is now proposing that:

- a) Initially, all interceptions be limited to levels existing during an agreed base period;<sup>1</sup>
- b) the two sides consult regarding means of maximizing salmon production from their own rivers regardless of which country would benefit;
- c) taking into account such consultations, each side then *will* develop enhancement programs to achieve the objective of full production;
- d) as production comes on line, both sides adjust their fisheries to:
  - i. ensure adequate conservation;
  - ii. bring about a sharing of the harvest so that in toto, each country would receive catches equivalent to the production from its own rivers.

1. The presentation in this report is of a general nature; it is recognized that, on a mutually agreed basis, some exceptions to the proposed procedure may be permitted.

- e) to achieve such equivalency, the two sides develop an agreed system for equating the value of different species intercepted in various fisheries (taking into account that it is unlikely that the numbers of fish of each species intercepted by fishermen of each side will be equal).
- f) to bring about equivalency, adjustments in fisheries may include, inter alia
  - i. reductions in interceptions
  - ii. increases in interceptions
  - iii. providing access to fishermen of one country to waters of the other in order to take increased catches to offset interceptions by the other side

11. Before the May 1980 meeting, the Canadian side will endeavour to provide one or more detailed hypothetical examples of how the proposed system would work in practice. For the time being, the following general example is cited as an illustration:

12. Where an intercepting country develops stocks which are fished together with natural runs of the other country, stringent application of a limitation scheme might prevent the intercepting country from fully harvesting its enhanced resources. On the other hand, if there were no agreement, the intercepting country, in order to fully exploit its enhanced stocks, might have to increase its fishing pressure greatly with deleterious effects on the natural runs of the other country. One solution to this problem might be for the second country to enhance its natural runs in parallel with enhancement by the intercepting country of its own stocks. The intercepting country could then increase its fishing pressure on the mixed stocks without endangering the stocks of the second country. The

net result, however, would be an increase in interceptions by the first country. Within the framework of equivalency, the second country could be rewarded for making increased contributions to the other country in a variety of ways. Including;

- a) being allowed to increase its own interceptions in some fishery in its own waters.
- b) the first country reducing its interceptions in a fishery other than the one on the mixed stocks.

MESSAGE

1473

FM/DE

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N <sup>O</sup> D'ORIG.			
SEATT.	UACR	5178	14FEB80		UNCLAS

TO/A

EXTOTT - FIO SEA 004/14

INFO

FACOTT/HUNTER WSHDC FAOVCR/HUMPHRIES REGAM BY POST

PRECEDENCE	
DATE	
ACC	62610
REF	
FILE	25-5-7-2-Salmon-1
DOSSIER	
BY HAND	PAR PORTEUR
ATTN:	

DISTR. FILM CNT GNC

25-5-5-Cha-USA

REF

SUB/SUB

PACIFIC FISHERY MANAGEMENT COUNCIL MEETING, PORTLAND, 13FEB80.

CONGEN (IN MARTENS' ABSENCE IN VCR FOR SALMON INTERCEPTION MTG) ATTENDED PFMC SESSION WHICH CONSIDERED HERRING MANAGEMENT AND SALMON MANAGEMENT. SESSION ON HERRING ALSO ATTENDED BY HUMPHRIES, HERRING PROGRAMMES COORDINATOR. F&O VCR.

2. CHAIRMAN PUBLICLY ACKNOWLEDGED SHARPE AND HUMPHRIES PRESENCE BEGINNING OF MEETING. WE HAVE ARRANGED TO HAVE CONGEN PUT ON COUNCIL MAILING LIST FOR AGENDAS, LIST OF PUBLICATIONS, SCHEDULES OF MEETINGS, SUMMARY RECORDS AND PRESS RELEASES. WILL FORWARD SUMMARY RECORD OF THIS SESSION WHEN AVAILABLE IN ABOUT ONE MONTH. MEETINGS WERE USEFUL IN ENABLING GET FEEL FOR HOW COUNCIL OPERATES AND TO MEET PLAYERS. CDN PRESENCE WAS OBVIOUSLY WELCOMED AND WE BELIEVE SHOULD BE CONTINUED IN OBSERVER CAPACITY AND WHEN APPROPRIATE TO OFFER TECHNICAL INPUT. DOES OTT WANT ANY COUNCIL DOGS?

3. NEXT MEETING IN SEATTLE 21MAR. FOLLOWING IS SUMMARY OF DISCUSSIONS MUCH OF WHICH WILL UNDOUBTEDLY BE FAMILIAR TO F&O. MILLIKAN MADE HIS PRESENTATION TO COUNCIL ON BEHALF OF PACIFIC HERRING MANAGEMENT PLAN DEVELOPMENT TEAM. WE OBTAINED COPY WHICH IS GOING FORWARD TO HUNTER. BRIEFING INCLUDED EXTENSIVE SLIDE PRESENTATION. APPARENTLY HERRING TEAM HAD MET PREVIOUS DAY WITH SCIENTIFIC AND STATISTICAL COMMITTEE (SSC) DURING WHICH INTENSIVE DISCUSSIONS TOOK PLACE ON ALTERNATIVE MANAGEMENT GOALS FOR MANAGEMENT PLAN.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

SG

SG

JOHN R. SHARPE

SEA 004/14

27 2-4-3

2.

AS RESULT, REVISED GOALS ARE APPENDED TO PRESENT REPORT. MANARY OF HERRING ADVISORY SUB-PANEL EXPRESSED DISAPPOINTMENT AT LACK OF BIOLOGICAL DATA AND PREFERS ALTERNATIVE THREE FOR MANAGEMENT GOALS WHICH WOULD QUOTE MINIMIZE THE SOCIAL CONFLICTS AND DISRUPTIONS UNQUOTE. HE URGED COUNCIL NOT PROCEED WITH PLAN UNTIL THERE WAS MORE RESEARCH AS THERE WAS NOT SUFFICIENT DATA TO JUSTIFY A FISHING MANAGEMENT PLAN. SSC SUGGESTED COUNCIL REVIEW PLAN CAREFULLY AND DEVELOP PRIORITIES IN TERMS OF GOALS WHICH WOULD PROVIDE DEVELOPMENT TEAM WITH GUIDANCE. SSC CONSIDERED COUNCIL SHOULD MAKE SOME TENTATIVE GOAL DECISIONS SOON. COUNCIL AGREED TO DEFER ACTION TO NEXT MEETING AT WHICH TEAM WOULD PRESENT REFINED PAPER ON GOALS FOR HERRING FISHERY PLAN.

4. COUNCIL CONSIDERED CDN REQUEST (HUNTER'S LETTER) FOR BETTER PARTICIPATION AND DISCUSSIONS IN USA DELIBERATIONS. THERE WAS SOME DISCUSSION ON PROCESS OF BRINGING SUCH COOPERATION ABOUT AND IN RESPONSE TO A QUESTION ON HOW BEST TO PROCEED HUMPHRIES INDICATED IT WOULD BE APPRECIATED IF CDN OFFICIALS COULD SIT IN ON MEETINGS AS OBSERVERS AND CONTRIBUTE AT TECHNICAL LEVEL. CONTACT COULD BE AT LEVEL OF HERRING TEAM AND HUMPHRIES WOULD ACT AS CDN SPOKESMAN. HUMPHRIES AGREED THIS KIND OF COOPERATION COULD EXTEND TO OTHER SPECIES.

5. COUNCIL AGREED (A FORMAL MOTION) THAT US AND CDN SCIENTISTS SHOULD MEET AT THE WORKING TEAM LEVELS.

6. IT WAS OUR JUDGMENT AT END OF SESSION THAT COUNCIL WAS A LONG WAY FROM DEVELOPING A COMPREHENSIVE HERRING MANAGEMENT PLAN. THERE IS AT THE SAME TIME A GROWING AWARENESS OF VALUE THIS FISHERY WHICH HAS SEEN LANDINGS INCREASED FROM AROUND 2,000 TONS PER YEAR IN THE EARLY 70'S TO OVER 8,000 TONS IN 1978/79 AND A PROJECTED 12,000 TONS IN 1980.

7. SALMON MANAGEMENT. SSC PRESENTATION WITH RESPECT TO A MANAGEMENT PLAN WAS MADE ORALLY. PRINCIPLE RECOMMENDATIONS WERE THAT THE COUNCIL SHOULD (1) MAKE SPECIFIC ALLOCATIONS BETWEEN COMMERCIAL AND SPORTS FISHING (2) SHOULD USE OREGON PRODUCTION INDEX (OPI) FOR COMO IN SETTING QUOTAS.

8. SSC'S FROM PACIFIC AND NORTH PACIFIC MANAGEMENT COUNCILS ARE TO DEVELOP JOINT RECOMMENDATIONS DEALING WITH (1) NEED OF COUNCILS TO EXPLICITLY SET GOALS FOR CATCH AND ENHANCEMENT (2) ALL JURISDICTIONS SHOULD HAVE COORDINATED PLANS AND PROCEDURES FOR RESOLVING CONFLICTS (3) THERE SHOULD BE MORE RESEARCH (4) THERE SHOULD BE MORE DATA (5) THERE SHOULD BE ALTERNATIVE GOALS AND OBJECTIVES DEVELOPED.

001286

SEA 004/14

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3.

9. COUNCIL AGREED TO ESTABLISH A COORDINATING COMMITTEE TO WORK WITH THE NORTH PACIFIC COUNCIL.

10. OREGON PRODUCTION INDEX. THERE WAS A DETAILED PRESENTATION ON THE METHODOLOGY USED IN PREPARATION OF OPI WHICH SEEMED AS MUCH AS ANYTHING DESIGNED TO DEAL WITH CRITICISM AIMED AT INDEX. AT END THERE WAS GENERAL AGREEMENT THAT OPI PROVIDED BEST TOOL FOR EVALUATING CATCH POTENTIAL SINCE OVER PAST SEVERAL YEARS OPI FORECASTS EQUATED CLOSELY TO ACTUAL CATCHES.

11. WASHINGTON PRODUCTION INDEX. RECENT INVESTIGATIONS HAD APPARENTLY DEMONSTRATED THAT DATA BASE NEEDED REVISION. MUCH MORE ATTENTION WOULD HAVE TO BE PAID TO THREE DISTINCTIVE SOURCES OF COLUMBIA SALMON (1) HATCHERIES BELOW BONNEVILLE (2) HATCHERIES ABOVE BONNEVILLE (3) NATURAL SPAWNING ABOVE BONNEVILLE. THERE WAS CONSIDERABLE DISCUSSION ON CHINOOK AND HOW PACIFIC AND NORTH PACIFIC COUNCILS COULD GET A BETTER COORDINATED MANAGEMENT PLAN. IT WAS POINTED OUT THAT 7 PERCENT OF COLUMBIA'S CHINOOK WERE CAUGHT IN SOUTHEAST ALASKA AND THESE WERE MAINLY UPPER COLUMBIA NATURAL SPAWN WHICH WAS ITSELF IN DIFFICULTY. IT WAS NOTED THAT IF ALASKAN CATCH WAS REDUCED FISH WOULD STILL BE SUSCEPTIBLE TO CATCH BY CDNS. AS A COROLLARY IT WAS ALSO NOTED THAT IF PACIFIC AND NORTH PACIFIC COUNCILS COULD NOT COME TO SOME UNDERSTANDING THEY COULD HARDLY GO TO THE CDNS WHO COULD QUITE RIGHTLY SAY QUOTE DON'T COME TO US WITH YOUR PROBLEMS IF YOU HAVEN'T SETTLED THEM AMONG YOURSELVES UNQUOTE. AFTER A GOOD DEAL OF DISCUSSION COUNCIL AGREED TO SEEK TO ESTABLISH CLOSER LIAISON WITH NORTH PACIFIC COUNCIL AS A FORMAL MATTER AS DISTINCT FROM CURRENT LOOSE ARRANGEMENTS WHICH INVOLVED OVERLAPPING MEMBERSHIP WITH SOME INDIVIDUALS BEING MEMBERS OF BOTH COUNCILS.

12. PUBLIC COMMENT HEARD NUMBER OF EXPRESSIONS OF CONCERN AT ESTABLISHMENT OF QUOTAS PARTICULARLY WITH RESPECT TO SPORTS FISHERIES WHICH BECAUSE OF FUEL SHORTAGES LAST YEAR HAD SUFFERED BADLY. INDIANS WERE GROWING INCREASINGLY AGITATED AT DECLINING STOCKS IN COLUMBIA.

13. HEARINGS. COUNCIL IS TO HOLD NUMBER OF HEARINGS THROUGHOUT REGION ON PROPOSALS FOR THIS YEAR'S FISHERY. ONE OF THESE WILL BE AT 7:30 PM 22FEER IN OLYMPIC HOTEL IN SEATTLE. WE THOUGHT WE WOULD COVER THIS HEARING TO GET A FEEL FOR HOW THESE SESSIONS ARE CONDUCTED AND ATTITUDES OF VARIOUS PARTIES.

MESSAGE ACTC/FILE/DIARY/CIRC/DIV

1538 / 3

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N° D'ORIG.			
FM/DE	OTT	EXT	FEB 1 / 80		UNCLASSIFIED
					PRECEDENCE
TO/A	WSHDC				
INFO	SEATTLE				
BH FANDOOTT/HUNTER/MACLEOD/BECKETT FANDOVANCOUVER/HOURSTON					
DISTR. GNG GNT FLM					

DATE	
ACC	60900
FILE	25-5-7-2-Salmon-1
BY HAND	PAR PORTEUR
ATTN:	

## REF

SUB/SUJ

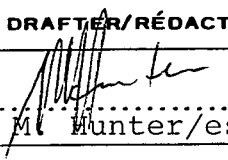
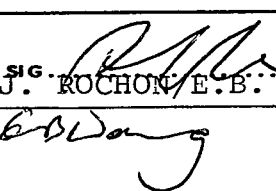
PACIFIC FISHERY MANAGEMENT COUNCIL

FANDO OFFICIALS HAVE COMPLETED REVIEW OF DRAFT FISHERY MANAGEMENT PLAN AND EIS FOR WASH, ORE, AND CAL GROUND FISH FISH-ERY. WHILE WE REALIZE REVIEW PERIOD HAS EXPIRED, GRATEFUL YOU ADDRESS LETTER TO ~~COMMERCE DEPT., ATTN:~~ SIDNEY R. GALLER, DEPUTY ASST SECY FOR ENVIRONMENTAL AFFAIRS, ROOM 3425, DEPT. OF COMMERCE, WSHDC 20230 WITH COPY TO HANK BEASLEY, NMFS. SUGGESTED TEXT OF LETTER FOLLOWS:

QUOTE DEAR MR. GALLER, CANADIAN OFFICIALS HAVE CONDUCTED A DETAILED REVIEW OF THE DRAFT PACIFIC COAST GROUND FISH PLAN, CIRCULATED UNDER COVER OF YOUR LETTER OF NOVEMBER 23, 1979. WHILE I REALIZE THE COMMENT PERIOD HAS EXPIRED, I WOULD, NEVERTHELESS, REQUEST THAT YOU GIVE DUE CONSIDERATION TO THE VIEWS EXPRESSED BELOW.

IT IS DIFFICULT TO EVALUATE THIS DOCUMENT FROM A SCIENTIFIC OR ANALYTICAL STANDPOINT BECAUSE THE BASIC INFORMATION

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SIG.  M. Hunter/es	International Directorate	5-2035 R.	SIG.  R. J. ROCHON/E.B. WANG

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UPON WHICH ANALYSES ARE BASED IS NOT INCLUDED. FOR EXAMPLE, MANY ANALYSES ARE BASED ON CATCH PER UNIT EFFORT YET THESE DATA ARE NOT PRESENTED IN THE DRAFT AND IN SOME INSTANCES ARE NOT PUBLISHED ELSEWHERE.

EXCEPT IN THE CASE OF PACIFIC WHITING, NO CONSIDERATION IS GIVEN TO THE PROBABLE TRANSBOUNDARY NATURE OF SEVERAL STOCKS, NOTABLY PACIFIC COD AND ROCKFISHES, ALTHOUGH SUCH CONDITIONS ARE BRIEFLY ACKNOWLEDGED ON PAGE 14. FURTHER, THE NEED FOR RESEARCH ON THESE STOCKS IS NOT IDENTIFIED IN SECTION 13.3. THESE RESEARCH PROJECTS SHOULD BE ADDRESSED, PERHAPS THROUGH THE INTERNATIONAL GROUND FISH COMMITTEE, SINCE UNILATERAL MANAGEMENT BY EITHER COUNTRY MAY HAVE EXTENDED IMPACTS.

WITH RESPECT TO PARTICULAR SPECIES OR GROUPS OF SPECIES, I OFFER THE FOLLOWING COMMENTS:

ROCKFISHES

LANDINGS OF PACIFIC OCEAN PERCH IN THE INPFC VANCOUVER AREA HAVE DECLINED SUBSTANTIALLY SINCE 1966. THE PLAN PRESENTS AN ESTIMATE OF MSY (2250 M.T.) DERIVED THROUGH A COHORT ANALYSIS OF HISTORICAL DATA. THIS VALUE IS SUSPECT BECAUSE: (I) THE TECHNICAL SUBCOMMITTEE OF THE INTERNATIONAL GROUND FISH COMMITTEE REACHED NO ACCORD ON THIS ANALYSIS AND ITS RESULTS; AND (II) THE 1979 <sup>434</sup> ~~U.S.~~ BIOMASS SURVEY IN THE VANCOUVER AREA (INPFC DOC. 2214) PRODUCED AN ESTIMATED SEBASTES ALUTUS BIOMASS OF 5711 M.T. THE MSY IDENTIFIED IN THIS PLAN WOULD THUS REPRESENT 39% OF THE PRESENT STANDING STOCK. THESE RELATIONSHIPS MAY HAVE AN EFFECT ON THE REBUILDING STRATEGIES OUTLINED IN TABLE 15, PAGE 92.

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THE OY VALUES WITH REGARD TO OTHER ROCKFISH SPECIES APPEAR TO BE EXCESSIVE RELATIVE TO PAST PERFORMANCE OF THE <sup>USA</sup>~~U.S.~~ FLEET. CONSIDERABLY LOWER ANNUAL YIELDS HAVE LED TO DECREASES IN CPUE FOR THE FLEET FISHING THESE SPECIES. SINCE THE PROJECTED OY'S ARE 3-4 TIMES HISTORICAL CATCH LEVELS, THEY MIGHT MERIT RECONSIDERATION.

PACIFIC HAKE (WHITING)

THIS SPECIES IS REGARDED AS HAVING A SINGLE STOCK EXHIBITING A SEASONAL NORTHWARD MIGRATION. THE DRAFT INDICATES THAT DURING THE LAST FIVE YEARS LESS THAN 10% OF THE RESOURCE OCCURS OFF CANADA, AND <sup>USA</sup>~~U.S.~~ SCIENTISTS ESTIMATE THE MSY FOR THE <sup>USA</sup>~~U.S.~~ ZONE TO BE 90% OF THE TOTAL MSY. IN INFORMAL DISCUSSIONS BETWEEN SCIENTISTS OF OUR TWO COUNTRIES, IT HAS BEEN INDICATED THAT AS MUCH AS 25% OF THIS RESOURCE MAY ENTER THE CANADIAN ZONE.

SABLEFISH

TAGGING STUDIES HAVE INDICATED THAT SOME LIMITED EXCHANGE OCCURS AMONG SABLEFISH IN THE <sup>USA</sup>~~U.S.~~ AND CANADIAN ZONES. ~~AS SUCH,~~ THERE IS SOME UNCERTAINTY AS TO THE FULL POTENTIAL OF THIS RESOURCE, AVAILABLE TO FISHERMEN OF OUR TWO COUNTRIES <sup>AND</sup> DISCUSSIONS INVOLVING AN ACTIVE INTERCHANGE OF SCIENTIFIC INFORMATION WOULD APPEAR NECESSARY TO ASSURE OPTIMUM EXPLOITATION.

PACIFIC COD

LIMITED TAGGING OF PACIFIC COD IN WASHINGTON AND BRITISH COLUMBIA INDICATES SOME INTERCHANGE BETWEEN THE TWO AREAS. THE DRAFT INDICATES THAT THE MSY CONCEPT IS NOT APPLICABLE TO SUCH WIDELY FLUCTUATING RESOURCES AND THAT THE ABC SHOULD BE SET AT RECENT CATCH LEVELS (THE HIGHEST ON RECORD). WE BELIEVE THAT SUCH

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AN APPROACH MAY HAVE SERIOUS IMPACTS ON STOCK ABUNDANCE AND WOULD SUGGEST A MORE PROXIMAL APPROACH TO MANAGEMENT INVOLVING CURRENT-YEAR FEEDBACK FROM THE FISHERY.

PETRALE AND ENGLISH SOLES

PETRALE AND ENGLISH SOLES APPEAR TO MAKE SEASONAL MIGRATION BETWEEN THE VANCOUVER AND COLUMBIA AREAS. SPECIFICALLY, TWO STOCKS OF PETRALE SOLE THAT SPAWN IN THE VANCOUVER-COLUMBIA REGION ARE KNOWN TO MIGRATE INTO THE CANADIAN ZONE DURING THE SUMMER. THE FMP SUGGESTS AN ABC OF 600 M.T. FOR PETRALE SOLE IN THE <sup>USA</sup>~~U.S.~~ PORTION OF THE VANCOUVER AREA <sup>WHEREAS</sup> OUR CATCH-EFFORT ANALYSIS INDICATES A DECLINING ABUNDANCE INDEX AND WE SUGGEST THAT THE ABC SHOULD BE CLOSER TO 300 M.T.

I TRUST THESE VIEWS WILL BE RELAYED TO APPROPRIATE OFFICIALS IN YOUR GOVERNMENT. YOURS SINCERELY, UNQUOTE.

2. COPY OF LETT SHOULD ALSO BE SENT TO PACIFIC FISHERIES MANAGEMENT COUNCIL, 526 S.W. MILL ST., PORTLAND, ORE 97201.

FEB 01 1980

R. I. WILLSON

ACTION

SEAF A DONNER

MESSAGE

FM/DE	PLACE Lieu	DEPARTMENT MINISTÈRE	ORIG. NO. N° D'ORIG.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
	SEATL	UAGR	5113	31 JAN 80	25-5-7-2-Salmon-1	U/C
TO/A EXIOTT/CNG						PRECEDENCE
INFO SFAX WSHDC DE SEA						

SEA 00-5/31

SEA 002/31

DISTR. FLO GNT

REF

SUB/SUBJ

---SALMON INTERCEPTION NEGOTIATIONS-FEB 11,13 AND 14

REQUEST AUTHORITY FOR MARTENS ATTEND INTRAGOVERNMENTAL MEETING VANCVR FEB 11 AND INTERGOVERNMENTAL MEETING VANCVR FEB 13 AND 14. BECAUSE OF RECENT CHANGES IN DELEGATIONS, DIRECTION OF NEGOTIATIONS AND IMPORTANCE THESE MEETING FOR SUBSEQUENT NEGOTIATIONS, BELIEVE IT IMPORTANT FOR MARTENS TO BE IN ATTENDANCE.

DO YOU AGREE?

2. WHILE IN AREA MARTENS MIGHT ALSO CALL ON CONTACTS VICTORIA FEB 12 AND WE REQUEST AUTHORITY FOR THIS VISIT AS WELL.

call Tim Harlick 6-4407  
done  
R. I. Willson

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SG F.D. MARTENS/ch			SG J.R. Shamp

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MESSAGE

ACTC/FILE/DIARY/CIRC/DIV

PLACE LIEU	DEPARTMENT MINISTÈRE	ORIG. NO. NO D'ORIG.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
FM/DE	OTT	EXT	FLO-121	JAN18/80	RESTRICTED

TO/A WSHDC

JAN 18 23 50 '80

INFO ITCOTT/OGR/FPB SEATTLE  
BH FANDOTT/CAMPBELL/APPLEBAUM/HUNTER

DISTR. FLM FLP EBI FLO GNG GNT EIP

REF YOURTEL UNGR0238 14 JAN

SUB/SUJ CDA/USA WEST COAST FISHERIES

GRATEFUL YOUR REPORT ON CONVERSATION WITH CONGRESSMAN BONKER. BONKER IS KNOWN TO US FROM PREVIOUS FISHERIES PROBLEMS, AND WHILE WE AGREE HE IS WELL INFORMED ON FISHERIES, SOME OF HIS COMMENTS <sup>SEEM TO</sup> BETRAY ~~A~~ MISUNDERSTANDING OF SOME BASIC ISSUES.

2. WE WERE PARTICULARLY SURPRISED AT LINK DRAWN BY BONKER BETWEEN HERRING FISHERY IN PACIFIC NORTHWEST AND FRASER RIVER SALMON CONVENTION. AT THIS TIME, THERE ARE NO CDN DEMANDS FOR ~~TERMINATION~~ ABOLITION OF THAT CONVENTION, <sup>HOWEVER</sup> AND IN PACIFIC SALMON NEGOTIATIONS, BOTH SIDES HAVE TENTATIVELY AGREED THAT NEW CONVENTION WOULD CREATE NEW <sup>ORGANIZATION</sup> ~~INSTITUTION~~ AND CATCH DIVISION <sup>FORMULA, AND</sup> ~~TO~~ REPLACE PRESENT SALMON COMMISSION.

3. HERRING ISSUE HAS BEEN CLEARLY LINKED BY CDN SIDE TO QUESTION OF <sup>USA</sup> ~~USA~~ ACCESS TO ALBACORE TUNA IN CDN WATERS. GRATEFUL <sup>HAVING SET</sup> YOUR ~~STANDING~~ BONKER STRAIGHT ON FACTS ON THAT ISSUE.

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DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SG... M. Hunter/es	International Directorate	5-2035	SG... L.S. CLARK/DIRECTOR

J.E. HARLICK/ct

FLO

2-2002

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4. WE ALSO NOTE BONKERS PREFERENCE FOR QUOTE ALL-EMBRACING NEGS  
ON WEST COAST <sup>FISHERIES</sup> ISSUES UNQUOTE, A PREFERENCE NOT IN KEEPING WITH  
STATED VIEWS OF BOTH SIDES THAT SALMON NEGS DESERVE SEPARATE TREAT-  
MENT FROM OTHER ISSUES, ALTHOUGH ATMOSPHERICS OF VARIOUS ISSUES  
ARE, OF COURSE, CLOSELY LINKED.

5. WE AGREE THAT CONTINUED CONTACT WITH BONKER USEFUL <sup>POSSIBLY</sup> WHEN SALMON  
NEGS RESUME. ANY PRESSURE THAT HE COULD PUT ON ALASKA TO SUPPORT  
SALMON AGREEMENT <sup>ELD</sup> ~~WENT~~ PROVE VERY HELPFUL.