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High Seas -
Fisheries -
International Pacific Salmon Fishereis
Commission -
(CDA-USA)

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25-5-1-2-SALMON-1

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8

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FILE
25-5-72
Salmon - 1

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<i>25-5-72-SALMON-1</i>	
<i>31</i>	<i>20</i>

---PROPOSED AMENDMENT TO PACIFIC SALMON FISHERIES CONVENTION

-USA RATIFICATION

WE ASKED BROH-KHAN OF CDN AFFAIRS IN STATE DEPT TO PROVIDE US WITH UPDATE ON STATUS OF USA RATIFICATION PROCESS FOR AMENDMENT TO ARTICLE V OF PROTOCOL TO PACIFIC SALMON FISHERIES CONVENTION. AT SAME TIME WE CONFIRMED WITH HIM THAT CDN PROCEDURES HAD BEEN COMPLETED.

2. ACCORDING TO BROH-KHAN, STATE DEPT HAD WRITTEN TO SENATOR SPARKMAN, CHAIRMAN SENATE FOREIGN RELNS CTTEE, ASKING FOR EXPEDITIOUS SENATE APPROVAL OF AMENDMENT. SENATOR APPARENTLY REPLIED THAT PRESSURE OF OTHER BUSINESS AND PARTICULARLY PANAMA CANAL ISSUE WAS SUCH THAT EARLY SENATE CONSIDERATION OF PROPOSED AMENDMENT WAS UNLIKELY. STATE HAVE NOW ASKED SENATE FOR QUOTE SPECIAL DISPENSATION UNQUOTE AND WILL INFORM US ASAP OF RESULTS.

CCC/105 301720Z 00210

Government of Canada
Gouvernement du Canada

MEMORANDUM

NOTE DE SERVICE

The Minister of Fisheries and
the Environment.

K.C. Lucas,
Senior Assistant Deputy Minister.

Pacific Salmon Interception Negotiations -
Summary of Meeting

ADVANCE COPY
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DATE

December 2, 1977

FILE

25-5-7-2-SALMON-1

DOSSIER

Representatives of the Canadian and U.S. Governments, headed by Dr. Shepard and Professor McKernan respectively, assisted by representatives of Provincial and State Governments, and affected industry groups met in Vancouver from November 27 to 30, 1977 to continue negotiations toward a new Pacific Salmon agreement.

As you are aware, the latest round of negotiations was resumed in early October in Seattle as part of the Cadieux/Cutler arrangement in which both sides expressed a renewed desire to conclude a salmon agreement.

At the Seattle meeting, the Canadian side attempted to cast this latest round in a new perspective, with the basic principle being that any agreement should encourage rather than discourage the full development of salmon resources in both countries at a time when enhancement programs are beginning to be a reality. A very positive atmosphere was created in Seattle, primarily as a result of this new approach which industry advisors in both countries seem to realize takes less of a punitive approach to interception control than ideas which have been discussed at previous rounds.

In Vancouver, the Canadian side attempted to capitalize on this positive atmosphere, and to move from a state of concepts to agreement on the development of specific mechanics for interception control, and the development of a binding set of principles to determine the future course of any agreement. This Phase 1-Phase 2 approach was developed in some detail and presented to the American side.

In our view, Phase 1 would comprise an agreement by both sides to impose an agreed interception limitation scheme on certain specified fisheries in both countries. Lists of

.../2..

- 2 -

these fisheries were exchanged and the U.S. list shows significant movement from previous positions. The USA is now prepared to put under interception limitation their important intercepting fisheries on sockeye at Noyes Island and Cape Fox. In addition, they are prepared to limit their "outside" troll fishery off Southeastern Alaska. The important intercepting fishery for pinks at Noyes Island and the "inside" troll fishery in Southeastern Alaska have not been included by the USA. The Canadian side produced a list specifying fisheries that excluded the troll fishery north of Vancouver Island. While we agree that this fishery intercepts significant numbers of U.S. bound, chinook and coho, and have submitted lists including this fishery in past sessions, its inclusion would have resulted in an imbalance in the value of catches made by the listed intercepting fisheries in each country.

Both sides agreed to further examine these lists of fisheries which would come under immediate control upon entry into force of an agreement. In addition, further lists of fisheries were exchanged in which one side or the other felt that, either interception limitation limits should be immediately applied, or on which further research was necessary to determine their appropriateness for inclusion in the limitation scheme.

The Canadian side made it abundantly clear that an agreement must contain an agreed set of binding principles that would comprise Phase 2. These principles would address questions such as:

(a) amendments to the interception limitation scheme made necessary as a result of working experience; the development of enhancement programs and so on, with the view to encouraging maximum salmon production in both countries.

(b) Cooperative and coordinated development programs, particularly with respect to the stocks originating in rivers which rise in Canada and drain to the sea through the USA (Panhandle/Yukon/Columbia). Such cooperation is essential if native stocks, particularly of the Panhandle rivers, are to survive if significant enhancement proceeds in Southeast Alaska.

(c) Equity. We feel that the final objective should be that both countries harvest salmon with a value commensurate to that of its own total production.

(d) In order to achieve (c) above it may be necessary for one country to grant access to its waters for fishermen

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of the second country in order to take fish produced by the second country. For example, if, under a cooperative development situation, Canadian developed stocks of the Panhandle streams, it may be necessary for Canada to fish at the estuaries of these rivers to harvest this production or be granted fish from other (U.S.) sources in compensation.

The U.S. reaction to the development of principles which would give effect to Phase 2 is still uncertain. There seems to be a lack of understanding of the way in which Canada sees how the concepts upon which we agree would be translated into practical fisheries management methods. The USA appears to view Phase 2 more in terms of the research work required to determine whether other specified fisheries should be subject to limitation control. However, the ideas put forward by Canada were not rejected out of hand and we feel that in further rounds we can further develop the set of principles and educate our colleagues to the south.

The meeting also concentrated a great deal of effort on other specific issues with which these negotiations are concerned. A major issue is the management of Fraser River sockeye and pink salmon. In this respect, U.S. views that a reconstituted IPSFC should have basic management responsibility for the Fraser watershed were repeated. The Canadian side pressed the view that Canada must have basic management responsibility for such stocks. This responsibility would include the establishment of overall management objectives, prediction of run sizes, establishment of escapement goals and total allowable catches. We also see the need for a continuing international regulatory agency which would develop regulations for the fisheries taking into account Canadian management objectives and the desired fishing patterns of both countries.

In an attempt to meet perceived concerns of the USA that Canada might by accident or design promote management programs for the Fraser that could be to the detriment of U.S. fisheries, we suggested that a dispute settlement procedure of the type applicable to category B stock management as proposed in the joint report of the Special Negotiators of October 15 might serve as a useful tool on the Fraser River. If the USA felt that Canadian management objectives were clearly erroneous under the terms of the Convention, the USA could make use of this dispute settlement procedure. The USA was not receptive to this particular idea and we remain confused as to the source of their concerns, since under the proposed interception limitation scheme, the existing U.S. fishery would be guaranteed an annual catch based on a recent base level unless runs drastically decline. In view of the

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discussions held on this question, we were disappointed to receive a document from the U.S. side which takes no account of the Canadian viewpoint or of the willingness which the USA showed at one point in the meeting to have Canada at least propose management objectives for the approval of the international agency. This question obviously is going to require a great deal of further work and a great deal of movement on behalf of the U.S. delegation, since this is one issue on which Canada is not prepared to alter its basic position.

In an attempt to record the discussion, the Canadian side developed a draft summary record which went into considerable detail. It was the Canadian view that such a draft could serve as a useful basis for future negotiations. The two heads of delegation agreed to consult informally on the draft and to make such changes as were mutually acceptable before the draft was presented in plenary session. Unfortunately, the head of the U.S. delegation did not consult before he discussed the draft with his own industry advisors. Lacking a complete understanding of the issues, he drew a number of inferences from the document, suggesting that Canada was including a number of basic positions with which the USA did not agree. The USA produced a number of amendments representing U.S. positions with which Canada did not agree, proposing that these be represented as agreed positions. In the end, the two sides agreed to abandon the long draft and produced a very short summary record which really did not reflect the true progress made. It is our view that if the USA had consulted informally, as had been agreed upon, the misunderstandings could have been overcome and a satisfactory record prepared for the meetings. Unfortunately, the U.S. performance in the final drafting session has left a sour taste in the mouth of Canadian advisors and no doubt the American negotiator's dealings with his own delegation have not improved their attitude towards the negotiations.

Dr. Shepard is planning to communicate to Mr. McKernan immediately his concern over the unsatisfactory concluding hours of the meeting and undertake exchanges of correspondence and consultations aimed at dispelling the misunderstandings as soon as possible in order to assure that the excellent momentum that had been developed in Seattle, and in the opening sessions of the Vancouver meeting, would be maintained.

Despite this disappointment at the last, the Canadian side was basically satisfied with the results of the meeting. In summary, some significant movement has been shown by the USA on the question of limiting certain specified fisheries and recognition has been given to the need to coordinate development

- 5 -

programs in both countries to achieve maximum production. The two sides agreed to continue intersessional work on two points. Scientists will continue an examination of the local direction of enhancement programs with specific reference to possible contributions to existing intercepting fisheries and officials will likely meet early in 1978 to try and lay the groundwork for the next full negotiation which will most likely be held in the late spring.

ORIGINAL SIGNED BY
ORIGINAL SIGNE PAR

K.C. Lucas

CC: E.A. to Minister
Deputy Minister
K.C. Lucas
Originator
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REF -RLET 429 OCT6/77

...FISHERIES: BOLDT DECISION

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FILE	25-5-7-2-SACMON-1
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FLURRY OF LEGAL ACTIVITY DURING PAST WEEK IN INDIAN FISHING RIGHTS ISSUE HAS RESULTED IN CONFLICT BETWEEN WASH STATE SUPREME COURT AND FEDERAL DISTRICT COURT. ELEVENTH HOUR LEGAL COMPROMISE NARROWLY AVOIDED ISSUANCE OF RESTRAINING ORDER FROM FEDERAL COURT TO STATE SUPREME COURT ENJOINING STATE COURT FROM INTERFERENCE IN INDIAN FISHING RIGHTS ISSUES. SUCH ACTION WOULD HAVE BEEN UNPRECEDENTED IN USA JURISPRUDENCE.

2. IMPACT OF CONTROVERSY MUST BE SEEN AS REINFORCING GROWING BODY OF OPINION WHICH IEWS USA SUPREME COURT AS FINAL ARBITER OF THREE YEAR OLD ISSUE OF INDIAN TREATY FISHING RIGHTS. USA SUPREME COURT HAS SO FAR DECLINED TO HEAR CASE; USA COURT OF APPEALS HAS ALREADY UNANIMOUSLY UPHELD 1974 BOLDT RULING.

3. IMMEDIATE CRISIS WAS RESULT OF OCT4 RULING OF WASH STATE LOWER COURT DIRECTING STATE FISHERIES DEPT TO OPEN PREVIOUSLY CLOSED AREA OF GREYS HARBOUR ON STATES WEST COAST TO NON-TREATY FISHERMEN. LOWER COURT RULING WAS BASED UPON TWO PREVIOUS STATE SUPREME COURT RULINGS WHICH HELD THAT STATE FISHERIES DEPT COULD NOT ENFORCE FISHERIES REGULATIONS WHICH DEALT WITH ALLOCATION OF FISHERIES STOCKS. UNDER PRESENT STATE LAW STATE FISHERIES DEPT MAY ONLY ENFORCE REGULATIONS WHOSE OBJECTIVE IS CONSERVATION.

4. OCT5 BOLDT ISSUED ORDER STRIKING DOWN LOWER COURT DECISION AND CLOSING AREA IN QUESTION TO NON-TREATY INDIANS. IN RESPONSE TO APPEAL BY AFFECTED NON-TREATY GILLNETT FISHERMENS ASSOC., STATE SUPREME COURT OCT6 IN EMERGENCY HEARING AND WITH ONLY ONE

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JUSTICE PRESENT ISSUED ORDER DIRECTING FISHERIES DEPT NOT/NOT TO SET REGULATIONS FOR PURPOSES OTHER THAN CONSERVATION. PRESS SOURCE INDICATES MAJORITY OF STATE HIGH COURTS NINE JUSTICES HAVE BEEN OPPOSED IN PRINCIPLE TO BOLDTS 1974 TREATY INTERPRETATION FOR SOME TIME. STATE SUPREME COURT HAD ON TWO OCCASIONS EARLIER IN 1977 DECIDED THAT STATE FISHERIES DEPT COULD NOT UNDER STATE LAW ENFORCE BOLDT DECISION. HOWEVER, PREVIOUS STATE HIGH COURT DECISIONS HAD BEEN EXPRESSIONS OF COURTS OPINION ONLY AND HAD ASSUMED FISHERIES DEPTS VOLUNTARY COMPLIANCE. STATE FISHERIES OFFICIALS SUBSEQUENTLY ON OCT7 INDICATED THEY WOULD COMPLY WITH STATE HIGH COURT ORDER.

5. PAST FEDERAL POSITION EXPRESSED BY JUDGE BOLDT HAS BEEN THAT FISHERIES DEPT DOES NOT ALLOCATE STOCKS BUT BOLDT DECISION PREFORMS THIS FUNCTION. STATE COURTS, HOWEVER, HAVE NEVER ACCEPTED THIS POSITION MAINTAINING THAT AS BOLDT DECISION IS IN CONFLICT WITH STATE LAW, STATE AGENCIES MAY NOT PARTICIPATE IN ITS ENFORCEMENT.

6. OCT8 USA ATTORNEYS ACTING FOR TREATY TRIBES REQUESTED INJUNCTION FROM BOLDT FORBIDDING STATE SUPREME COURT FROM QUOTE INTERFERING UNQUOTE WITH FEDERAL COURT RULINGS ON INDIAN FISHING RIGHTS. BOLDT SIDESTEPED THIS DIRECT CONFRONTATION WITH STATE COURT BY TAKING COMPLETE CONTROL ON OCT9 OF ALL SALMON FISHERY IN WASH STATE. PREVIOUSLY IN AUG BOLDT HAD TAKEN CONTROL OF TREATY TRIBES SHARE OF CATCH, BUT STATE HAD CONTINUED TO MANAGE NON-TREATY SHARE.

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7. STATE DIRECTOR OF FISHERIES GORDON SANDISON INDICATED OCT10 THAT, IN COMPLIANCE WITH JUDGE BOLDT, STATE FISHERIES INFORMATION SERVICE WOULD CEASE TO ANNOUNCE AREAS OPEN TO NON-TREATY FISHERMEN. ACCORDING TO WORDING OF LATEST BOLDT ORDER, SANDISON MAY SET REGULATIONS AGREEABLE TO STATE SUPREME COURT BUT IS ONLY IN CONTEMPT OF FEDERAL COURT IF SUCH REGULATIONS ARE ANNOUNCED. THEREFORE FOR IMMEDIATE FUTURE STATE FISHERIES DEPT MAY BE ABLE TO ACCOMPLISH IMPOSSIBLE AND FOLLOW POLICY SATISFYING DIRECTIVES OF BOTH STATE AND FEDERAL COURTS. SITUATION IS THUS IN LIMBO AT LEAST UNTIL ALL NINE STATE SUPREME COURT JUSTICES MEET ON DATE TO BE DETERMINED TO CONSIDER FURTHER ACTION.

8. HOPE FOR RESOLUTION OF SITUATION WAS HELD OUT BY INTERIOR ASSIST SECY FOR INDIAN AFFAIRS, FORREST GERARD, IN INTERVIEW WITH SEATTLE TIMES OCT9. GERARD INDICATED NEGOTIATED SETTLEMENT MAY BE IMMEDIATE IN QUOTE THREE OR FOUR MONTHS UNQUOTE BY PRESIDENTIAL TASK FORCE ON FISHERIES. GERARD INDICATED INDIANS MAY BE WILLING TO MAKE CONCESSIONS SUCH AS INVOLUNTARY CUTBACKS OF SALMON AND STEELHEAD TREATY ALLOCATIONS PROVIDED FEDERAL SUPPORT

INDIAN ENHANCEMENT PROGRAMMES IS ASSURED.

10. QUESTION OF WHETHER ISSUE WILL BE RESOLVED BY USA SUPREME COURT OR BY TASK FORCE WILL DEPEND TO LARGE EXTENT OF FORCE AND PACE OF EVENTS. CONTINUED LEGAL CONFLICT BETWEEN STATE COURT AND JUDGE BOLDT COULD RESULT IN ACCELERATED TRANSFER OF CASE TO USA SUPREME COURT. ON OTHER HAND, PROSPECTS OF CONTINUED AND EXPENSIVE LITIGATION COULD SPUR PARTIES TO SEEK POLITICAL SOLUTION.

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Oct. 5/77

CANADIAN DRAFT

PREAMBULAR PARAGRAPHS

ACC	FILE	25-5-7-2-SALMON-1
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The Government of the U.S.A. and the Government of Canada.

Considering the overriding interests of both parties in the conservation and rational management of salmon stocks originating in their waters, and in promoting the objective of optimum utilization of such stocks;

Recognizing that salmon originating in the rivers of each country flowing into the Pacific Ocean are intercepted in substantial numbers by fishermen of the other country, and that the management of stocks subject to such interceptions is a matter of common concern;

Recognizing that States in whose waters salmon stocks originate have the primary interest in and responsibility for such stocks;

Convinced that the interests of both countries would be best served by preventing further increases in interceptions, in order to allow each country to benefit from its own efforts to increase salmon production.

-(Recognizing.....statement regarding possible alterations in fisheries to improve conservation and to achieve an equitable balance in interceptions to be developed at the next meeting.)

- 2 -

Considering that further research is required in order to determine the extent of interceptions on both sides and to improve the basis for the management of stocks of common concern.

Have agreed as follows:

ARTICLE 1

In this treaty,

"Commission" means the Commission established by Article 12;

- delete definition of "Commissioner".

| ("Enhancement" means an increase in salmon production over that existing (during an agreed base period) which indicates a permanent change resulting from improvements in natural habitat, artificial improvements to salmon rivers, artificial propagation, (or improved management procedures) and not a seasonal fluctuation attributable to natural causes;)

"Escapement" means the number of salmon in a stock or complex of stocks which are protected from capture during any one year so that they return to their rivers of origin to spawn;

"Fishery", except where the context otherwise requires, means a fishery described in Annex 1;

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- 3 -

"Intercepting Fishery" means a fishery conducted by persons under the jurisdiction of our party which takes salmon originating in the rivers of the other party;

"Managing Entity", in relation to any fishery, means the governmental body charged by the laws of either party with management responsibility for that fishery;

("Optimum Sustainable Yield" means the maximum sustainable yield of a stock or complex of stocks as modified by any relevant economic, social or ecological factor;)

"Rate of Interception", in relation to any stock or complex of stocks, means the percentage obtained by dividing the number of fish intercepted during any one year by the total allowable catch for that year;

"Salmon" means members of the family Salmonidae (which are anadromous by nature);

"State or Origin" means the party in whose waters salmon of any particular stock originate; and

"Total Allowable Catch" means the maximum total catch permitted during any one year from a stock or complex of stocks so that escapement requirements can be met.

NOTE: possibility that not all these definitions are needed.

ARTICLE 2

This treaty applies to the stocks and fisheries listed from time to time in Annex 1.

ARTICLE 3

Each party shall take all necessary measures to ensure the conservation and rational management of the salmon stocks covered by this treaty, taking into account the objective of optimum sustainable yield, and shall support research aimed at improving the management of these stocks.

ARTICLE 4

1. Each year the managing entity of the state of origin shall, with respect to each fishery conducted on a stock originating in its rivers, submit to the Commission preliminary determinations of the following matters to serve as the basis for the regulation of that fishery during the subsequent year:

- (a) the estimated size of the run,
- (b) the escapement required to produce the optimum sustainable yield,
- (c) the total allowable catch, and
- (d) any other matter whose determination may be necessary in order to develop regulations for that fishery.

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2. The determinations referred to in paragraph 1 shall be reviewed promptly by the Commission which may, in a timely manner, make recommendations which shall be considered by the managing entity of the state of origin before such determinations are made final.

ARTICLE 5 - (Old Article 6)

1. Each year the managing entities of each party shall, after the necessary determinations referred to in Article 4 have been made final and pursuant where applicable to the provisions of Article 17 respecting the IPSEC Panel, formulate and submit to the Commission proposed regulations for the subsequent year with respect to the fisheries conducted in its waters. These proposed regulations shall be based on the factors and management objectives determined pursuant to Article 4 and shall take into account all other fisheries conducted on the same stock whether or not such fisheries are covered by this agreement, as well as the provisions of Article 6.

2. The proposed regulations referred to in paragraph 1 shall be reviewed promptly by the Commission which may, in a timely manner, recommend modifications in order to accomplish the objectives of this treaty.

3. After affording the Commission a reasonable period for review of the proposed regulations referred to in paragraph 1, each party shall promulgate regulations for the fisheries

- 6 -

conducted in its waters, taking into account any timely recommendation of the Commission, and shall enforce these regulations against persons fishing in its waters. These regulations may be modified during the fishing season where conservation objectives require such modifications as a result of variations from anticipated conditions.

ARTICLE 6 - (Article 5)

1. Each party shall, to the extent practicable and consistent with the proper management of stocks originating in its rivers, regulate the fisheries conducted in its waters to prevent increases in interceptions.

2. Limits on interception rates, total catches, and other measures respecting fisheries listed in Annex 1 B shall be applied in accordance with the provisions of Annex 2.

3. The measures referred to in paragraph 2 shall be altered from time to time, in accordance with the provisions of Annex 3, to take into account trends in the production of salmon originating in the country in whose waters the fishery is conducted. (?) (Article 10).

New Article:

(Each party shall regulate its fisheries so as to avoid (to the extent practicable) the initiation of new intercepting fisheries. Should either party desire to initiate a new intercepting fishery, the parties shall consult.)

- 7 -

(U.S. DRAFT)

ARTICLE 12

(a) The parties hereby establish the (U.S./Canada Salmon Fisheries) Commission.

(b) The Commission shall consist of up to five Commissioners appointed by the Government of the United States and up to five Commissioners appointed by the Government of Canada. Each party shall have the right, in its discretion, to appoint up to four alternate Commissioners each of whom may serve in the absence of a Commissioner appointed by that party. Each Commissioner and alternate Commissioner shall serve at the pleasure of the party which appointed that person. Each party shall be entitled to fill vacancies in its slate of Commissioners as they occur.

(c) The Chairman of the Commission shall be one of the Commissioners, alternating between the parties on an annual basis, with the First Chairman to be determined by lot.

(d) Each party shall have one vote in the Commission which may be cast by any Commissioner appointed by that party.

(e) The Commission shall establish its own internal procedures.

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- 8 -

(f) Recommendations of the Commission shall be adopted by affirmative votes of both parties. Where each party has accepted a recommendation to amend an Annex to this treaty, the Annex shall thereupon be deemed to have been amended in accordance with their recommendation.

(g) The seat of the Commission shall be _____.

(h) Meetings of the Commission shall be scheduled by the Chairman who will notify all of the Commissioners.

(i) Each party shall pay the salaries and expenses of its own Commissioners, and joint expenses incurred by the Commission shall be paid by the parties in equal shares.

(j) Each party shall, in consultation with the other party and, as appropriate, in cooperation with the other party, finance Commission-related research.

NOTE: In view of (f), Article 14 of the original draft could be deleted.

ARTICLE 13 - (Article 15)

(a) The parties hereby establish the following panels of the Commission: _____, _____, and _____, each of which shall consist of _____ Commissioners from each party.

(b) The provisions of (selected Articles dealing with institutional provisions) shall apply mutatis mutandis to the

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the Panels.

(c) The fisheries and stocks for which each Panel will be responsible shall be determined by the Commission. (Assignment of specified fisheries to the Panels may require a specific Annex).

(d) The Commission shall provide staff assistance to the Panels.

ARTICLE 14 - (Article 18)

(The parties may each establish an advisory committee for the purpose of advising the Panel and Commission members of each party. The Commission and each Panel shall establish procedures to take account of the views of the advisory committees.)

(U.S. Draft)

ARTICLE 15 - (Article 19)

The Commission may establish a technical, scientific and administrative staff to assist the Commission and its Panels in carrying out the objectives of this treaty. The duties and composition of the staff shall be stated in Annex 5.

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ARTICLE 16 - (Article 13)

Functions of the Commission

(a) The Commission shall carry out the review functions described in Articles 4 and 5.

(b) The Commission shall provide a forum for the consultations provided for in this treaty and shall assist the parties in the conduct of these consultations.

(c) Each year the Commission shall review catches in the fisheries listed in Annex 1 and shall advise the parties whether any discrepancies have occurred, in the light of the provisions of this treaty, which should be taken into account in formulating regulations for the following year, or which may require adjustments pursuant to Annex 2. The parties shall furnish to the Commission such information as the Commission may require in order to carry out its functions.

(d) The Commission shall review the fisheries listed in Annex 1 A and 1 B at least once each year and may make recommendations to the parties with respect to their inclusion or exclusion. The Commission shall also review the other Annexes from time to time and may make recommendations to the parties with respect to their amendment.

(e) The Commission and its Panels shall work closely with the managing entities in carrying out the objectives of this Treaty, and, to the extent possible, shall coordinate their activities with such bodies.

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(f) (Cross reference to IPSFC Panel Article or Annex).

ARTICLE 17 - (Articles 11, 16 and 17)

1. The parties hereby terminate the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fisheries of the Fraser River System, as amended.

2. Special functions of IPSFC to be discussed, along the lines of the report of the IPSFC Panel Working Group.

3. The managing entities of each party may allocate that party's share of the salmon stocks of common concern among persons fishing under its jurisdiction. The IPSFC shall carry out its functions in such a way as to allow either party to so allocate its share in a manner consistent with the objectives of the Treaty.

NOTE: Consider Annex 6 (U.S.) from August, 1976, meeting.

ARTICLE 18 - (Article 20)

NOTE: Arbitration: text must be examined further).

ARTICLE 19 - (Article 21)

The parties agree to enact such legislation as may be necessary to give effect to the provisions of this Treaty and to the orders and regulations adopted by the IPSFC Panel

under the authority of this Treaty within the framework of the responsibilities of their respective managing entities.

ARTICLE 20 - Not Reviewed - (Article 22)

Article or Articles dealing with problems of

- reductions of interception
- special circumstances of traditional fisheries
- alterations in fisheries to achieve equitable balances
- desirability to avoid elimination or economic disruption of fisheries

to be developed in further discussion.

ARTICLE 21 - Not Reviewed - (Article 23)

Article dealing with continued salmon fishing in areas under each other's jurisdiction

- to be discussed further.

October 5, 1977

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To: **GNT**
From: **ACRA**
OCT 24 1977
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SECURITY
Sécurité

DATE October 4/77

NUMBER 429
Numéro

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

FROM Consulate General, Seattle
De

REFERENCE Our letter #389 of September 1, 1977
Référence

SUBJECT Northwest Fisheries Situation
Sujet

FILE	DOSSIER
OTTAWA	
25-5-72 Salmon	
MISSION	35 - 11

ENCLOSURES
Annexes

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Public attention on fisheries issues remains focused upon the conflict between Indian and non-Indian fishermen stemming from the 1974 Boldt decision. Unlike last season however, confrontation between the two groups during the past few months has taken place in the courtroom and in the press rather than, as was common a year ago, on the fishing grounds.

2. The basic conflict in Federal and State law as outlined in our letter under reference continues to prevent State and Federal authorities from co-operating to enforce regulations that ensure Treaty Indian fishermen their share of the catch according to the principles of the Boldt decision. We draw your attention to a September 20 article from the Seattle Post-Intelligencer which indicates that despite an agreement reached on September 2 between Federal and State officials for a joint enforcement effort, the State has continued to instruct its officers to avoid citing offending fishermen, if possible. It is reported however that the primary motive for the State's "reluctant" co-operation was fear of false arrest proceedings and contempt of court proceedings by the State Supreme Court. State Attorney General Slade Gorton has since claimed that as Judge Boldt's order of September 1 instructing State and Federal officials to co-operate in enforcing his regulations named Federal agencies first, then those agencies have the "primary responsibility" for enforcement. In a recent development outlined in the attached September 30 article from the Seattle Times Judge Boldt ordered the State again to issue regulations to provide for an Indian fishery.

3. Non-treaty fishermen have redirected their efforts from confrontation with Treaty fishermen to legal and public relations ploys aimed at Judge Boldt himself. During a recent hearing of five non-treaty fishermen charged with contempt of court as a result of fishing in defiance of Judge Boldt's September 1 restraining order and while other fishermen outside of the courtroom protested Judge Boldt's presence on the bench, Charles Yates, lawyer for the accused, requested Boldt excuse himself from the case because of bias. This request was refused by Judge Boldt as was an additional request for trial by jury. Of late the fishermen have

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concentrated their public relations efforts to mobilize public opinion in an effort to force the impeachment of Judge Boldt. A delegation of fishermen's wives recently returned from Washington D.C. where they lobbied against the Boldt decision with Senators and government officials. A bumper sticker now seen with increased frequency in this area proclaims:

"Two nations under Boldt"
in obvious reference to the fishermen's claims that the Judge's preferential treatment, in their view, of Treaty fishermen is immoral, illegal and unconstitutional.

4. The Boldt decision and its consequences have the potential to be a contributing factor to the present controversy surrounding the problem of "discrimination vs reverse discrimination" in the complex and thorny issue of ensuring racial equality. The climate and atmosphere created by recent court decisions in California related to entrance requirements at post-secondary educational institutions, will undoubtedly contribute to broadening the fishing issue beyond the simple reallocation of fish into consideration within the sphere of majority-vs-minority rights.


Consulate General

The Bellingham Herald

September 7, 1977

U.S. fishermen go up 200,000

United States fishermen have moved some 200,000 fish ahead of Canadian fishermen in the harvest of Fraser River-bound pink salmon, which could reduce future fishing time for the Americans this season.

Americans harvested 140,000 pink salmon Monday, according to John

Roos, assistant director of the International Pacific Salmon Fisheries Commission.

In addition, Roos said, American harvests the previous two weeks were underestimated.

As of Monday, U.S. fishermen were credited with a harvest of 2,014,000 pink salmon — more than twice the predicted one million anticipated as this season's harvest.

When final Canadian catches are counted this week, it is expected they will total about 1,800,000 for the season, Roos said.

A major duty of the IPSFC is to ensure that American and Canadian fishermen share the harvest equally. The commission was scheduled to meet today and Roos said there was a possibility American fishing would be curtailed to allow Canadians to reduce their deficit.

Reported catches on the ocean off Vancouver Island and in the Strait of Juan de Fuca indicate this year's run of pinks is tailing off, Roos said.

Even so, Roos said, the IPSFC might be reluctant to turn control of IPSFC waters over to other agencies who might reopen fishing and allow additional catches of pinks by American fishermen that would accentuate the harvest difference. The IPSFC is scheduled to return control of Fraser River run harvest areas back to the State of Washington Sept. 26.

Federal agents patrolling the chinook salmon fishery in Bellingham Bay reported only one non-Indian gillnetter fished in the area opened only to Indians Tuesday night.

That person just returned from Alaska and "hadn't got the word," according to Wayne Lewis of the National Marine Fisheries Service, which is patrolling state fisheries to ensure that Indian fishermen are given a chance to catch their court-

allotted 50 per cent of the harvest.

Lewis said 14 Indian fishermen, all gillnetters, fished in Bellingham Bay Tuesday night.

Indian-only fishing is scheduled there through Thursday night this week.

September 16, 1977

5504 Soviet fish ship eyes future joint hake effort

By JIM KADERA
of The Oregonian staff

The newly equipped Soviet factory ship Sulac is off the coast of Oregon, testing for a possible joint venture with U.S. hake fishermen next year, the Coast Guard reported Thursday.

Four 150-foot Soviet vessels are catching 15 to 20 metric tons daily for processing on the Sulac, Cmdr. Robert Morhard, San Francisco, told the Pacific Fishery Management Council at its monthly meeting at the Cosmopolitan Motor Hotel in Portland.

The council earlier this year opposed a permit for the Sulac to operate within the 200-mile zone offshore under a joint venture between the Russian government and Bellingham Cold Storage Co., Bellingham, Wash.

The ship would have processed both Soviet- and U.S.-caught hake. The joint venture company is expected to reapply for a 1978 permit. Some U.S. commercial fishermen have said they may want to catch and sell hake to the operation if the price is right, while others have opposed it.

Under the joint venture, the Russians would obtain more than the hake quota for their fishing vessels. Only a small amount of hake is processed or consumed in the United States, but some U.S. processors say they want first opportunity to buy hake from American fishermen.

Some 40 Soviet vessels are off Newport and are expected to catch their 1977 quota of more than 100,000 tons of hake and 2,000 tons of mackerel by

late September, said Don Johnson of the National Marine Fisheries Service. Five Polish ships left for waters off British Columbia before completing catch of their hake quota of 2,800 tons, he noted.

Council member Joe Easley said four U.S. fishermen recently spent four days on two of the Soviet ships and observed little else but hake being netted. They saw only three salmon and a few black cod and rockfish in the catches, Easley observed.

The Coast Guard has sighted each foreign ship an average of 15 times a month, made 51 ship boardings and found only one minor technical violation, Morhard added.

The council also heard a report from member Herman McDevitt, a Boise lawyer, on the series of talks with Canadian officials over the chronic problems of U.S. and Canadian fishermen catching salmon at sea that are reared in waters of the other nation.

A new element in negotiations is a general understanding that if either nation enhances one or more salmon runs, the additional fish should be reserved for fishermen of that country, McDevitt said.

The United States still hopes to decrease the significant catch of Columbia River salmon off British Columbia, but the reservation of future enhancements could be a compromise, according to Al Lassiter, assistant director of the Washington Department of Fisheries.

The council will begin discussion of the first draft of 1978 ocean salmon regulations at 10 a.m. Friday.

September 20, 1977

Federal Agents Carry Burden Of Enforcing Boldt Decision

By FRED BRACK

Federal agents are carrying the burden of enforcing U.S. District Court Judge George Boldt's order protecting Indian - treaty - fishing rights on Puget Sound despite Boldt's order that both state and federal agents do the job.

Federal fisheries officers are unhappy with the state's position, which the chief state fisheries enforcement officer said is due to advice from assistant state attorneys general.

What's at issue is: who is going to provide the boats and officers to serve notices of Boldt's orders on non-treaty commercial salmon fishermen, and who will issue contempt citations to those who refuse to stop fishing.

Boldt ordered both state and federal agents to do the job. National

Marine Fisheries Service agents, using Coast Guard boats, have been doing it. But state fisheries officers have not.

"The state is going to have to establish their enforcement credibility with the fishing community," said Wayne Lewis, chief enforcement officer in this area for the National Marine Fisheries Service.

"They lost it last year. This was a perfect time for them to get it back.

The state was saying it couldn't get a conviction in state court for a violation. Judge Boldt said, okay, you set the regulations (protecting treaty rights) and bring violators before me and I'll convict them.

"All of us in the federal government are extremely disappointed that the state is not helping in this enforcement effort."

There is confusion over why state agents are not serving the notices and citations.

Lewis said he and other federal officials met with state officials, including Fisheries Director Gordon Sandison and chief enforcement officer Sandy Miller, on September 2, and it was agreed that there would be a joint enforcement effort and joint press release.

But the following morning, Lewis said, Miller called, saying the state could not hand out notices because of possible legal problems.

John Merkel, the U.S. attorney in Seattle, said he was not aware of any problem with the joint effort because State Atty. Gen. Slade Gorton had said the state was willing to do its share.

Gorton confirmed that yesterday, saying, "It was and is our view that (Boldt's order) should be obeyed and we have not told the fisheries department otherwise."

But Miller said he had been told by Dennis Reynolds and James Johnson, Gorton's assistants who deal with fisheries questions, that state agents should avoid handing out notices. "Our feeling is that if we're told to

do it, we're going to do it," Miller said.

Reynolds said he hadn't told Miller not to hand out notices but had advised him "if at all possible, to avoid" the practice. That advice, Reynolds said, was based on the possibilities of false arrest and contempt proceedings because of the State Supreme Court's opinion that the state cannot allocate fish between Indians and non-Indians.

Gorton said the fisheries department, in fact, had received written instructions from his office pointing out the state's obligation to obey Boldt's orders.

But Gorton said those instructions gave the federal government "primary responsibility" to enforce Boldt's order, because the order named federal agencies first.

(The order did not say anything about "primary responsibility" or indicate there was any significance in naming the federal government first.)

Gorton said further that state agents are involved in enforcing regulations on the lower Columbia River and in those areas of Puget Sound closed to both treaty and non-treaty fishermen, limiting the number of boats and agents available to enforce Boldt's order.

Lewis said the federal force was also limited.

When told that the National Marine Fisheries Service had had to bring in agents from around the country and was working long hours, Reynolds retorted, "My heart bleeds for them."

'Freebie' Ends for Non-treaty Fishing

By FRED BRACK

Assistant U.S. Atty. Donald Currie said yesterday "the day of the 'freebie' is over" for non-treaty commercial fishermen who ignore federal court orders designed to protect treaty-Indians' share of Puget Sound salmon.

"Freebie" is what federal agents say non-treaty fishermen have been calling those salmon they catch through a legal loophole.

That loophole allowed fishing until a fisherman had been served notice of the order prohibiting him from doing so. Only if he continued fishing could he be ordered into court for contempt proceedings.

The loophole, Currie said, was closed yesterday in an order issued by U.S. District Court Judge Morell Sharp. Starting last night, Currie said, any non-treaty fishermen caught fishing would be cited immediately and ordered to appear on contempt charges.

Sharp's order was issued after state and federal officials testified that the number of non-treaty commercial fishermen ignoring a previous court order increased dramatically Wednesday night.

Nearly 150 boats were seen on the water, officials said. Three fishermen were cited by federal agents and ordered to appear before U.S. District Court Judge George Boldt next week to ex-

plain why they should not be held in contempt.

They were identified by the National Marine Fisheries Service as Jay E. Gould and David W. Fraser of Port Townsend and Lawrence C. Lawson of Port Ludlow.

All three had been served notice on other nights of the court order prohibiting them from encroaching on the treaty-Indians' share, according to federal agents.

Fraser, federal agents said, was given two citations, the first around 9:30 p.m. Wednesday and the other around 2 a.m. Thursday morning.

Five other fishermen were cited last week and ordered to appear Mon-

day before Boldt for contempt proceedings.

The state fisheries department handed out notices of the federal order for the first time Wednesday night. Federal agents had been unhappy that the state, despite Boldt's order that it help serve notices and citations, was not doing so.

Sandy Miller, chief fisheries enforcement officer for the state, said he ordered two boats out Wednesday night because it was apparent that federal agents using Coast Guard boats were not stopping the fishing. Five fishermen, Miller said, were served notices by his men.

Federal court orders

directly prohibiting non-treaty fishermen from taking treaty-tribes' salmon were issued because state officials said state courts would not convict violators of state regulations protecting treaty-tribes' fish. Boldt issued a 10-day temporary restraining order August 31, just before he left on vacation. A second 10-day temporary order was issued last week by U.S. District Court Judge Walter McGovern. The second order expired yesterday, and a third one legally could not be issued.

Sharp therefore issued a preliminary injunction to keep the fishermen off the water until Boldt returns next week and can consider yet another preliminary injunction.

SEATTLE POST INTELLIGENCER
Sept. 23, 1977

THE SEATTLE TIMES

Sept. 25, 1977

Injunction Cuts Illegal Fishing Around Sound

By FRED BRACK

Non-treaty fishing on Puget Sound dropped off markedly Friday night from the previous two nights, federal authorities said yesterday. Only one fisherman was cited for fishing in violation of a federal court order and told to appear before U.S. District Court Judge George Boldt for contempt proceedings.

The chief enforcement agent for the National Marine Fisheries Service, Wayne Lewis, said federal authorities did not have an exact count of the numbers of boats on the water Friday night. But he said Coast Guard observations showed the fishing to be "minimal."

That was in distinct contrast to Wednesday and Thursday nights, when federal and state authorities estimated the number of non-treaty boats at more than 100.

Lewis attributed the change to the fishermen's knowledge that they no longer can take a "freebie." Before U.S. District Court Judge Morell Sharp issued a preliminary injunction on Thursday to protect treaty-Indians' share of Puget Sound

salmon, non-treaty fishermen were catching fish through a legal loophole.

These fish they called their "freebie." But that loophole was closed with Sharp's order, and federal authorities began issuing contempt citations on Thursday night the first time they caught a fisherman on the water.

Previously, fishermen were given notice of an earlier court order, allowed to keep the "freebie" fish they had caught and then cited for contempt only if they continued fishing or went back out on a succeeding night.

Lewis said federal authorities met Friday night with some 50 non-treaty fishermen in Bellingham to explain the legal situation that eliminated the "freebie."

The citation federal agents said they issued Friday night to George R. Bowlin of Hadlock near Port Townsend brought to 17 the number of fishermen who have been ordered to appear for contempt proceedings this week before Boldt in his Tacoma courtroom. The first of those proceedings will be tomorrow afternoon.

SEATTLE POST INTELLIGENCER

Sept. 26, 1977

Gillnetters' Wives Hailed

Ten Puget Sound gillnetters' wives, trying to get Congress to "straighten out the fishing mess," were given a big welcome when they returned home yesterday from a lobbying trip to Washington, D.C.

The delegation, members of the Puget Sound Gillnetters Association Auxiliary, were among 24 fishermen's wives from Washington, Oregon and California who made the trip to the nation's capital.

They visited senators and congressmen, spoke to a presidential assistant and presented their views to a number of other government officials.

More than 100 persons, many carrying placards condemning the Indian fishing-rights decisions of U.S. District Court Judge George Boldt, greeted the Puget Sound delegation when it arrived at Seattle-Tacoma International Airport yesterday afternoon.

Tink Mosness, spokeswoman for the delega-

tion, said the crucial issue brought before Western senators and congressmen was that of "equal rights for all fishermen."

She said Judge Boldt's ruling allocating half the runs to the Indians to the exclusion of other fishermen creates special rights for one class of citizens.

She said Sen. Warren G. Magnuson, D-Wash., promised to intercede with the special fisheries task force that President Carter has appointed to study the problem.

Fishermen Take Anger To Boldt

TACOMA — Non-Indian commercial salmon fishermen took their anger over treaty-Indians' fishing rights and their disgust with U.S. District Court Judge George Boldt directly into Boldt's courtroom here yesterday.

It was the first time Boldt and the non-treaty fishermen have faced each other since Boldt's ruling in 1974 that treaty Indians are entitled to at least half the salmon returning to Washington's waters.

The fishermen carried placards expressing their anger in front of the Post Office building, where Boldt has his court, and then packed the courtroom as five of them went on trial before Boldt on contempt charges.

Boldt's decision interpreting the Indians' treaty rights affected the livelihoods of the non-treaty fishermen, and their anger has troubled Washington's fishing and politics since, much as the anger of the treaty Indians who had been denied their rights had unsettled the state before Boldt's decision.

The occasion yesterday was the first hearing in contempt proceedings of the 17 non-treaty fishermen who are charged with violating an order by Boldt that was supposed to protect the treaty-fishermen's share of Puget

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From Page A-1

Sound salmon this year.

Five fishermen faced Boldt, with testimony to be continued today. A sixth had his case postponed until October 18. And the other 11 cases, which had been scheduled for today, were postponed until November 29.

There were no demonstrations inside the courtroom, although the fishermen's distaste for Boldt was clear from the signs they had carried outside, from the "Judge Boldt Resign" stickers many wore and from the sarcastic whispers and laughter that rippled through the courtroom as Boldt repeatedly overruled defense lawyers' objections.

Postal Service police limited the number of spectators to the courtroom's seating capacity, about 80 persons. There were fishermen and fishermen's wives and a few fishermen's children.

Most of the fishermen wore wool shirts or sweaters, the kind of clothing they work in. Judge Boldt wore his usual bow tie and black robe, and his countenance was stern.

Lawyers for the fishermen began by challenging whether their clients had been properly served with notice that their presence was required in the courtroom.

The one fishermen defending himself, David Fraser of Port Townsend, raised the same question and then told Boldt, "I'm here out of curiosity at this point."

"Well, we'll try to make it interesting for you," Boldt replied, unsmiling.

It was Fraser's case that Boldt later postponed until October 18.

The attorney for four of the fishermen, Charles Yates, asked for a trial by jury, asked for more time to prepare a defense, asked for Boldt to

await a decision by the U.S. Court of Appeals on the validity of Boldt's order prohibiting non-treaty fishermen from encroaching on the treaty fishermen's share and asked Boldt to excuse himself from hearing the contempt cases on the grounds that Boldt was not impartial.

Boldt denied each request.

The assistant U.S. attorney prosecuting the cases, Donald Currie, using National Marine Fisheries Service agents as witnesses, then presented the government's case. He testified that these five fishermen had been seen fishing north of Shilshole Bay early September 15, a time that the agents said that non-treaty fishermen were supposed to be off the water under state regulations adopted in response to an order from Boldt.

Stuart McLean and John Stolsen of Seattle, the agents testified, were on one boat, and Richard Paulson and William Dolman of Anacortes and Steven Maurice of Seattle were on another boat nearby.

The agents said they had boarded both boats and advised the fishermen that they were not supposed to be fishing and that if they did not stop they would be cited and ordered into court for contempt proceedings.

The Coast Guard cutter carrying the agents, one agent testified, then tied up at a nearby dock. A Citizens Band radio conversation between Dolman and McLean was overheard that indicated they had no intention of stopping fishing.

Using a launch from the Coast Guard cutter, the agent said, he and another agent surprised McLean and Stolsen several hours later and cited them for continuing to fish. Dolman and his two companions also continued to fish, the agents said, and they, too, were cited.

SEATTLE POST INTELLIGENCER
Sept. 27, 1977

The Seattle Times

September 27, 1977

Boldt recesses contempt trial

By JACK BROOM
Times Staff Reporter

TACOMA — United States District Judge George H. Boldt today recessed indefinitely the trial of five non-Indian commercial fishermen charged with contempt for violating court-ordered fishing regulations.

After 1½ days of testimony, Judge Boldt said he would delay the remainder of the trial until briefs are filed by the United States attorney and defense attorneys in the case.

Judge Boldt said that after he studies the briefs, he will decide what action to take.

The fishermen, Stuart McLean, John Stolsen and Steven Maurice, all of Seattle, and Richard Paulson and William Dolman of Anacortes, are required to show cause why they should not be held in contempt for violating rules allowing treaty-Indian fishermen the opportunity to catch their share of Puget Sound salmon as defined by Judge Boldt's 1974 Indian-fishing-rights decision.

In that decision, Judge Boldt ruled that treaties give Indian tribes the opportunity to catch 50 per cent of the harvestable salmon and steelhead returning to traditional off-reservation Indian fishing areas.

THE FIVE defendants were cited after their boats were boarded in Puget Sound north of Shilshole in the early-morning hours of September 15.

Anthony Savage, attorney for Stolsen, told Judge Boldt today his order closing those waters was improper because it did not comply with legal requirements for a restraining order.

He quoted laws which specify that a restraining order must be specific and explicit and not refer to earlier laws or court decisions.

He said Judge Boldt's order referred to the Washington Adminis-

trative Code, State Fisheries Department regulations and earlier rulings from Judge Boldt's own court, a file containing a total of more than 3,000 documents.

"How in the world was any fisherman supposed to know what he was supposed to be doing the night of September 15?" Savage asked.

Yesterday Judge Boldt denied the defendants' request for a trial by jury. If convicted, the five could face penalties of up to six months in jail and a \$500 fine each.

Judge Boldt today denied a defense attorney's request to have Fred Brack, a Seattle Post-Intelligencer reporter, testify regarding an interview he had with a state fisheries official.

Brack wrote a story quoting the official as saying that Judge Boldt was ready to convict any fishermen who violates his orders.

Brack's lawyer argued that requiring the reporter to testify would be an infringement of the First Amendment. Judge Boldt agreed.

THE DEFENSE was attempting to show that the interview provided evidence that Judge Boldt is biased. The judge earlier denied a defense motion to disqualify himself.

Demonstrators who paraded outside the courthouse yesterday were in evidence again today, but in lesser numbers.

One carried a sign asking: "Isn't there a treaty that says senile, biased judges should retire in grace?"

The courtroom was crowded but orderly, except for some chuckling, snickering and grumbling by non-Indian fishermen and their supporters.

The five on trial here were among 17 cited for violating fishing regulations approved by the court. Other trials have been set for October 18 and November 29 and 30.

September 28, 1977

Boldt Delays Contempt Decision on Fishermen

By FRED BRACK

TACOMA — U.S. District Court Judge George Boldt delayed his decision yesterday on whether five non-treaty commercial fishermen were guilty of contempt by fishing when Boldt had ordered them not to.

Boldt then demonstrated his determination to continue protecting treaty Indians' share of Puget Sound salmon by issuing another order prohibiting non-treaty fishermen from taking treaty fishermen's salmon.

Meanwhile, some non-treaty fishermen, federal agents said, continued to fish contrary to state regulations adopted in compliance with Boldt's orders.

And one non-treaty fisherman, Scott Harrington of Gig Harbor, predicted outside the courtroom that non-treaty fishermen will not bow to Boldt's orders.

"When you have a lousy summer," Harrington said, referring to the season for pinks and sockeye around the San Juan Islands, "and three days to fish inside (Puget Sound) and you have a family to support . . . you're damn right you're going to continue to fish. When it comes to food for your family, you have no choice."

Non-treaty fishermen faced Boldt for the first time this week in the long, bitter struggle over Indian treaty fishing rights, demonstrating with their placards outside the courtroom and demeanor inside that they despise the small, neat 74-year-old jurist with a reputation for erudition and a penchant for bow ties. They evidently did not get the judge's goat.

He ended the long day in his courtroom shortly before 6 p.m. by praising the lawyers awaiting his latest order, by noting that it had been an "arduous" session and by saying of himself, "I hope the good Lord gives me the strength to continue for many years further."

That would not please the non-treaty fishermen and their families who supported the five fishermen charged with contempt by packing the courtroom on the first day of the trial Monday and who returned in somewhat fewer numbers yesterday. They carried signs outside accusing Boldt of being "senile" and by urging his resignation or impeachment.

Boldt delayed his decision in the contempt cases so that lawyers could file written briefs. The schedule he set for those briefs ran until October 21, indicating that his decision will not be handed down for at least a month. The lawyer for four of the men, Charles Yates, urged Boldt not to reach a decision and instead let the many procedural questions surrounding the contempt cases go directly to the U.S. Court of Appeals, where Yates said the cases were headed anyway. Yates pointed out that the appeals

co
t was considering a challenge by Yates of the validity of Boldt's order directly to the fishermen, and argued that Boldt should wait until that court had decided the issue.

But Boldt said his experience showed it could not be predicted when the appeals court would act, and he declined to avoid ruling on the contempt cases.

The only one of the five accused to testify yesterday was John Stolsen of Seattle. He said that he was not a fisherman merely an unemployed bartender who had gone out with a fisherman friend the night he was given a citation by federal agents and told to appear for contempt proceedings.

Stolsen said he did not understand the order issued by Boldt to protect the Indians' treaty rights and that he had no intention of defying Boldt.

In the afternoon, after hearing arguments from federal, state and tribal attorneys, Boldt issued a preliminary injunction against non-treaty fishermen in Puget Sound and Grays Harbor, ordering them not to encroach on the treaty tribes' share of fish.

The injunction differed from the first order Boldt had directed against fishermen on August 3, by placing the principal responsibility for informing the fishermen of the order on the state.

The intent of the injunction — restraining non-treaty fishermen to permit treaty fishermen the opportunity to take their share — was the same as the first order.

Boldt said non-treaty fishermen were prohibited from fishing unless the fisheries department specifically told them over the department's toll-free "hot (telephone) line" that they could.

He said the state must serve copies of the injunction on all state-licensed fishermen by certified mail or "otherwise."

Both state and federal agents, Boldt said, are to cite for contempt fishermen who ignore the injunction.

Meanwhile, federal agents said six more non-treaty fishermen were cited and ordered to show cause why they should not be held in contempt for fishing Monday and early Tuesday.

That brought to 23 the number of fishermen served with contempt citations.

Among those cited this week were three purse seiners, the first of that gear type caught. The others have been gillnetters. The seiners, federal agents said, were seen fishing Monday off Foul Weather Bluff near the entrance to Hood Canal.

Only three seiners were fishing there, a federal agent testified in Boldt's court, although the state had told federal agents that up to 50 seiners had planned a protest "fish-in."

Federal agents identified the three as Barrett A. Monsaas and Melvin A. Rasch of Seattle and Tony L. Bozanich of Bellevue.

The gillnetters cited Monday night were identi-

fied by federal agents as James H. Prince and Kenneth S. Kennell of Port Townsend and Matt S. Ryan of Deming.

000313

Boldt continues fishing restriction

By SCOTT MAIER

A federal court yesterday ordered the state to continue restricting fishing by non-Indians in Puget Sound and Grays Harbor.

The order by United States District Judge George Boldt said Indian fishermen would be deprived of their share of the salmon harvest if fishing were not restricted.

Under Judge Boldt's 1974 Indian-fishing-rights decision, treaty Indians were given the opportunity to catch half the harvestable salmon and steelhead returning to traditional off-reservation Indian-fishing areas.

Yesterday's order extends a ruling made last month by Judge Boldt that the state must issue regulations which provide for an Indian fishery.

Judge Boldt also ordered the state to notify all state-licensed fishermen of the fishery restrictions. Under the original court order, federal agents had taken primary responsibility for serving copies of the court orders.

Both federal and state officials are to enforce the court-ordered regulations, Judge Boldt said.

IN COMPLIANCE with the order, the State Department of Fisheries closed salmon fishing in Grays Harbor to non-Indian gill-netting until Sunday.

That will provide the Quinault tribe the opportunity to catch 70 per cent of the area's harvestable chinook salmon. Judge Boldt ruled last month that treaty tribes were entitled to more than 50 per cent of the Grays Harbor catch because a portion of their share had been caught in open ocean areas by non-Indian troll fishermen.

Nontreaty fishing is allowed in some areas of Puget Sound because the non-Indian fishermen have not yet caught their share allocated by the federal court.

But seven non-Indian fishermen were cited by federal officials aboard Coast Guard cutters Monday and Tuesday for fishing in areas closed by the court-ordered regulations.

THREE purse seiners, Barret A. Monzaas, Melvin Rasch and Tony Bozanich, were seen fishing Monday off Foulweather Bluff near the entrance to Hood Canal, federal officials reported.

Bennet Nordlund was cited Monday for fishing in Grays Harbor. Three gillnetters, James Prince, Kenneth Kennell and Matt Ryan, also were cited Monday, federal officials said.

There were no federal fisheries patrols last night, a spokesman for the National Marine Fisheries Service said.

The Portland Oregonian

September 28, 1977

Boldt response ordered

TACOMA (AP) — The 9th U.S. Circuit Court of Appeals in San Francisco has ordered U.S. District Judge George Boldt to respond to a fishermen's petition that his 1974 Indian fishing rights decision be struck down.

A Puget Sound Gillnetters Association attorney told Boldt that the appeals court wants his response and has given him until next week to provide it.

The 9th Circuit Court is the one that upheld Boldt's decision unanimously in 1975. Two groups of Washington com-

mercial fishermen, the Gillnetters Association and the Purse Seine Vessel Owners Association, asked the court Sept. 13 to strike down the decision.

The fishing groups contend they were not parties to the case when it was decided by Boldt in 1974 nor when it was appealed in 1975. Now, they say, Boldt has named them specifically in orders he issued this month prohibiting nontreaty fishermen from capturing salmon he says belong to treaty Indians.

September 29, 1977

Federal Agents Hunt For Fishing Violators

Federal agents patrolled Puget Sound again last night, looking for non-treaty fishermen fishing in violation of an order by U.S. District Court Judge George Boldt.

Wayne Lewis, chief enforcement agent in this area for the National Marine Fisheries Service, said his officers would hand out copies of Boldt's latest order, a preliminary injunction issued Tuesday.

"In appropriate cases," Lewis said, his agents would serve fishermen with citations ordering them to appear, before Boldt for contempt proceedings.

Federal agents were not out Tuesday night, Lewis said. But a state fisheries department spokesman said state agents had cited six fishermen Tuesday night for fishing in violation of conservation closures. Most of Puget Sound, the spokesman said, is closed to both treaty and non-treaty fishermen to permit coho salmon to escape for spawning.

Meanwhile, Robert Cumbow, head of communications for the fisheries department, expressed concern that his telephone "hot line" system might not be able to handle all the calls from fishermen seeking information on what areas are open and closed.

Boldt's injunction prohibited

non-treaty fishermen from fishing without first learning from the "hot line" that fishing was open.

Cumbow said the judge did not consult his office before placing on the "hot line" the burden of informing fishermen.

Cumbow said the "hot line" system is capable of handling 1,500 calls a week but that there are 6,000 licensed fishermen in the state. He said he would monitor the system and probably seek to expand it if it became overloaded.

Cumbow said the fisheries department, as ordered by Boldt, yesterday sent copies of the judge's injunction to all licensed fishermen in the state by registered mail.

In another development in the complex legal battle over treaty Indians' fishing rights, the U.S. Court of Appeals turned down a request by Washington commercial fishermen for an injunction barring the federal government from giving extra fishing time to treaty tribes on the Fraser River salmon runs.

In July, U.S. District Court Judge Walter McGovern had also declined to issue the injunction. The Fraser River season is over now, but the appeals court did not immediately say if that was its reason for refusing the injunction. A written opinion is expected later.

ML

ACTION
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UNCLASSIFIED

FM SEATL UAGR1159 SEP29/77

TO EXTOTT FLO

DISTR GNT

— FISHERIES NEGOTIATIONS

HAVE HEARD SECOND HAND THAT SALMON TROLL NEGOTIATIONS TAKING
PLACE SEATL THIS WEEK. CP WIRE SERVICE CONFIRMS. IS THIS TRUE?

UUU/810 291645Z 00002

25-572-SALMON-1	
21	33

m. l.

R E S T R I C T E D

FM EXTOTT FLM0034 SEP26/77

TO CANMISEUR DELIVER BY 270900

INFO WSHDC

BH ENVOTT/VERNON DE OTT

DISTR FLO GNT

---CDA/USA FISHERIES-SALMON TROLL REGULATIONS

FOLLOWING IS TEXT OF STATEMENT WORKED OUT IN FLM WHICH SHEPARD
INTENDS TO PRESENT AT CANADA/US MEETING IN SEATTLE SEPTEMBER 28.

PLEASE PROVIDE ANY COMMENTS TO HANKEY EXTOTT SOONEST FOR
RELAY TO SHEPARD AND CLARK WHO ARE ON PACIFIC COAST:

2. THE CONVENING OF THE PRESENT MEETING STEMS FROM A SERIES
OF INTERGOVERNMENTAL DISCUSSIONS HELD OVER THE PAST THREE
MONTHS REGARDING FUTURE CANADA/US FISHERIES RELATIONS,
INCLUDING ARRANGEMENTS THAT WILL PREVAIL IN 1978. THE
PARTICULAR SUBJECT TO BE ADDRESSED TODAY IS THE REGULATIONS
THAT WILL APPLY WITH RESPECT TO THE OCEAN TROLL FISHERY IN
1978.

3. THE IMPLICATIONS OF EVENTS IN 1977 AND THE RELATION BETWEEN
THE ESTABLISHMENT OF REGULATIONS AFFECTING CANADIAN TROLL
FISHERMEN AND THE ON-GOING NEGOTIATIONS REGARDING A BROAD
AGREEMENT ON FUTURE FISHERIES RELATIONS BETWEEN THE TWO
COUNTRIES AND A SALMON INTERCEPTION AGREEMENT ARE BEING
DISCUSSED IN OTHER FORA. OTHER THAN TO OUTLINE BASIC CANADIAN

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FILE	25-5-7-2-SALMON-1
	RUSSIA

PAGE TWO ELM0034 RESTR

CONCERNS ON THESE MATTERS, WE DO NOT/NOT PROPOSE TO ENTER INTO LENGTHY DISCUSSIONS OF THEM TODAY.

4. BY MUTUAL AGREEMENT, I BELIEVE THE PURPOSE OF TODAY'S MEETING IS FOR CANADIAN OFFICIALS TO OUTLINE THEIR VIEWS ON THE NATURE OF REGULATIONS THEY FEEL WOULD BE APPROPRIATE FOR CANADIAN TROLL FISHERMEN OFF THE COAST OF THE NORTHWEST UNITED STATES IN 1978. WE WILL BE PLEASED TO PRESENT SUCH VIEWS AND WILL DO OUR BEST TO ANSWER ANY QUESTIONS THAT MAY BE REQUIRED TO CLARIFY THEM.

5. WE UNDERSTAND THAT INCLUDED IN THE US DELEGATION ARE MEMBERS OF THE PACIFIC REGIONAL COUNCIL WHO PLAY A KEY ROLE IN THE FORMULATION OF MANAGEMENT MEASURES WITHIN THE NEWLY PROCLAIMED UNITED STATES FISHERIES MANAGEMENT ZONE. WE WELCOME THEIR PRESENCE AND BELIEVE THAT IN THE FUTURE, WITHIN THE FRAMEWORK OF BILATERAL AGREEMENTS, COOPERATION AT THE REGIONAL LEVEL BETWEEN CANADIAN AND US MANAGEMENT ENTITIES WILL BE OF GREAT BENEFIT TO THE FISHERMEN OF BOTH COUNTRIES.

6. BOTH CANADA AND THE US BELIEVE THAT THE SATISFACTORY RESOLUTION OF THE ISSUES SURROUNDING THE SALMON TROLL FISHERY OFF THE US AND CANADIAN COASTS IS BEST ADDRESSED IN THE SALMON INTERCEPTION NEGOTIATIONS AND BOTH SIDES ARE COMMITTED TO ACHIEVING AN AGREEMENT ON THIS SUBJECT AS SOON AS POSSIBLE.

7. CONSISTENT WITH THIS APPROACH, CANADA BELIEVES THAT PENDING

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PAGE THREE FLM0034 RESTR

THE CONCLUSION OF SALMON INTERCEPTION AGREEMENT, NEITHER SIDE SHOULD INTRODUCE REGULATIONS AFFECTING THE SALMON FISHERMEN OF THE OTHER COUNTRY WHICH WOULD FUNDAMENTALLY ALTER THEIR FISHING OPPORTUNITIES. CANADA RECOGNIZES, OF COURSE, THAT SOME ADJUSTMENTS MAY BE NECESSARY TO MEET PARTICULARLY URGENT CONSERVATION NEEDS.

8. IT WAS WITH THIS VIEW THAT CANADA ENTERED INTO THE 1977 RECIPROCAL FISHERIES AGREEMENT WITH THE UNITED STATES, WHICH HAD AS ITS CORNERSTONE THE CONTINUANCE OF FISHERIES OF EACH PARTY IN THE ZONE OF THE OTHER IN ACCORDANCE WITH EXISTING PATTERNS.

9. IN MAY, 1977, THE UNITED STATES APPROVED REGULATIONS FOR THE TROLL FISHERIES OFF THE NORTHWEST US WHICH, AT THE TIME, CANADIAN EXPERTS ESTIMATED WOULD RESULT IN A LOSS OF APPROXIMATELY 30-40 PERCENT OF THE CATCH OF CHINOOK AND COHO SALMON BY CANADIAN FISHERMEN IN THE WATERS CONCERNED.

NO/NO OTHER FISHERY COVERED BY THE RECIPROCAL AGREEMENT, IN EITHER COUNTRY'S ZONE WAS SUBJECTED TO SUCH DISRUPTION.

THESE REGULATIONS WERE APPLIED IN SPITE OF REPEATED REPRESENTATIONS BY THE GOVERNMENT OF CANADA DURING CONSULTATIONS PROVIDED FOR UNDER TERMS OF THE AGREEMENT. FOLLOWING ADOPTION OF THE REGULATIONS THE GOVERNMENT OF CANADA ADVISED THE GOVERNMENT OF THE US THAT CANADA CONSIDERED THE US ACTION TO BE

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PAGE FOUR FLM0034 RESTR

INCONSISTENT WITH THE TERMS OF THE RECIPROCAL AGREEMENT.
CONSEQUENTLY CANADA TOOK APPROPRIATE ACTION, IN ACCORDANCE
WITH ESTABLISHED PRINCIPLES OF INTERNATIONAL LAW, TO RESTORE
THE RECIPROCAL NATURE OF THE AGREEMENT.

10. DURING THE NEGOTIATION OF THE 1977 RECIPROCAL FISHING
AGREEMENT, CANADA POINTED OUT THAT, PARTICULARLY IN SOME YEARS,
CANADIAN SALMON FORM A SUBSTANTIAL PROPORTION OF THE TROLL
CATCH OFF THE COAST OF WASHINGTON. IN LIGHT OF THE COMMON
POSITION BOTH COUNTRIES HAVE TAKEN AT THE UN LAW OF THE SEA
CONFERENCE REGARDING THE MANAGEMENT OF ANADROMOUS SPECIES,
CANADA DID NOT/NOT THINK IT UNREASONABLE TO EXPECT THAT IT
SHOULD HAVE A VOICE IN THE FORMULATION OF REGULATIONS AFFECTING
CANADIANS FISHING FOR SUCH STOCKS. CANADA CONTINUES TO HOLD
THIS VIEW WITH RESPECT TO REGULATIONS FOR THE 1978 SEASON.

11. A FURTHER COMPLICATING FACTOR IS THAT MARITIME BOUNDARIES
BETWEEN CANADA AND THE UNITED STATES REMAIN UNSETTLED. WHEREAS
BOTH SIDES HAVE PUBLISHED COORDINATES FOR THEIR 200 MILE ZONES,
BOTH HAVE INDICATED THAT SUCH LINES ARE WITHOUT PREJUDICE TO
POSITIONS THAT THEY MAY ADOPT IN THE FUTURE. IN THIS REGARD,
CANADA RESERVES ITS RIGHT TO ASSERT CLAIMS WHICH GO BEYOND
PRESENTLY PUBLISHED LINES--THIS RESERVATION OF COURSE, APPLIES
TO THE BOUNDARY IN THE JUAN DE FUCA AREA.

12. CANADA ALSO FELT THAT THE US ACTION IN RESTRICTING THE

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PAGE FIVE FLM0034 RESTR

CANADIAN TROLL FISHERY IN 1977 WAS MOST UNFORTUNATE IN THAT IT WOULD HAVE A NEGATIVE AND PREJUDICIAL EFFECT ON THE FORTH-COMING NEGOTIATION OF A SALMON INTERCEPTION AGREEMENT. WHILE RECOGNIZING THAT THE UNITED STATES ACTIONS WERE AIMED AT SOLVING PRESSING DOMESTIC PROBLEMS, CANADA FEELS THAT SUCH ACTION WAS PRECIPITATE. BY NOT/NOT TAKING CANADIAN CONCERNS INTO ACCOUNT, CANADA FEELS THAT A STUMBLING BLOCK HAS BEEN CREATED WHICH WILL IMPEDE CONCLUSION OF A SALMON INTERCEPTION AGREEMENT WHICH, IN THE LONGER RUN, WILL PROVIDE THE US WITH FAR GREATER BENEFITS THAN COULD EVER BE ACHIEVED BY LIMITED UNILATERAL ACTION SUCH AS THAT TAKEN IN 1977.

13. OF PARTICULAR CONCERN IS THE STRONG NEGATIVE REACTION WITHIN THE CANADIAN PACIFIC COAST FISHING COMMUNITY TO THE IMPOSITION OF THE STRINGENT REGULATIONS ON CANADIAN TROLL FISHERMEN IN 1977. THIS REACTION, WHICH HAS RECENTLY RECEIVED CONSIDERABLE COVERAGE IN THE CANADIAN MEDIA, GRAVELY LIMITS THE ABILITY OF CANADIAN OFFICIALS TO CREATE A POSITIVE PUBLIC ATMOSPHERE IN CANADA FOR THE SALMON INTERCEPTION TALKS, AN ATMOSPHERE THAT IS SO ESSENTIAL IF THE TWO SIDES ARE TO SPEEDILY CONCLUDE AN EQUITABLE AGREEMENT THAT WILL BE OF MUTUAL ADVANTAGE.

14. WE NEED NOT/NOT EMPHASIZE THE FACT THAT THE CANADIAN TROLL FISHERY, CONCENTRATED OFF THE WEST COAST OF VANCOUVER ISLAND (AND EXTENDING SOUTHWARD INTO WATERS OFF WASHINGTON) IS THE

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PAGE SIX FLM0034 RESTR

SINGLE MOST IMPORTANT CANADIAN FISHERY INTERCEPTING SALMON BOUND FOR U.S. RIVERS, TAKING IN THE ORDER OF 800,000 CHINOOK AND 1.5 MILLION COHO SALMON OF UNITED STATES ORIGIN ANNUALLY (USING THE AVERAGE OF CANADIAN AND UNITED STATES ESTIMATES). LIMITATION OF THIS FISHERY UNDER A SALMON INTERCEPTION AGREEMENT WILL PROVIDE U.S. FISHERMEN WITH INCREASING BENEFITS AS U.S. SALMON DEVELOPMENT PROGRAMS PROCEED. NOT/NOT ONLY WILL THE SPECIFIC LIMITATION PROVISIONS OF THE AGREEMENT BENEFIT THE U.S., BUT THE INTERCEPTION AGREEMENT WILL ALSO PROVIDE CANADA WITH A FRAMEWORK FOR IMPROVED MANAGEMENT OF THE TROLL FISHERY WHICH WOULD ENHANCE THE UTILIZATION OF THE STOCK, WITH RESULTANT BENEFITS FOR FISHERMEN OF BOTH COUNTRIES. WHEN CANADIAN TROLL FISHERMEN HAVE A BACKGROUND OF CERTAINTY REGARDING THEIR FUTURE, BASED ON A GUARANTEED ENTITLEMENT FOR TOTAL CATCH, IT WILL BE A GREAT DEAL EASIER FOR CANADIAN AUTHORITIES TO COOPERATE WITH U.S. OFFICIALS TO SOLVE PROBLEMS OF SPECIAL CONCERN TO THEM. CANADA WOULD OF COURSE SEEK A SIMILAR SYMPATHETIC RESPONSE FROM THE UNITED STATES REGARDING THE CONDUCT OF UNITED STATES INTERCEPTING FISHERIES.

15. IT IS NOT/NOT SURPRISING, THEREFORE, THAT CANADA RECOGNIZES THAT LIMITATION OF THE CANADIAN TROLL FISHERY IS A MAJOR OBJECTIVE OF THE UNITED STATES IN THE SALMON INTERCEPTION NEGOTIATIONS. THIS FACT WAS EMPHASIZED IN THE DRAFT OF THE

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PAGE SEVEN FLM0034 RESTR

1978 FISHERY MANAGEMENT PLAN SUPPLIED TO CANADA IN ADVANCE OF THIS MEETING. IN CONSIDERATION OF U.S. WILLINGNESS TO TAKE PARALLEL ACTION ON ITS INTERCEPTING FISHERIES, CANADA IS PREPARED, IN PRINCIPLE, TO PLACE THE NECESSARY LIMITS ON THE TROLL FISHERY. CANADIAN OFFICIALS WERE PLEASED WITH THE RESULTS OF PRELIMINARY TALKS AT LAKE WILDERNESS ON AUGUST 11-12. THE AGREEMENT TO CONSIDER JOINTLY THE RELATION BETWEEN SALMON DEVELOPMENT PROGRAMS AND THE INTERCEPTION LIMITATION SCHEME SHOULD VIVE THE NEGOTIATIONS MORE IMPETUS, EVEN IF SUCH ANALYSES MAY LENGTHEN THE COURSE OF THE NEGOTIATIONS SOMEWHAT.

16. THE ABILITY OF BOTH GOVERNMENTS TO ELABORATE AND SUCCESSFULLY CONCLUDE AN AGREEMENT INCORPORATING SUCH PRINCIPLES REQUIRES THE SUPPORT OF THE FISHING COMMUNITIES ON BOTH SIDES. IN THIS REGARD, IT MUST BE REMEMBERED THAT THE GROUP OF CANADIAN FISHERMEN WHO, IN THE INTEREST OF THE COMMON GOOD, WILL BE REQUIRED TO MAKE THE MOST SACRIFICES IN SUCH AN AGREEMENT ARE THE GROUP THAT WERE SEVERELY AFFECTED BY THE U.S. REGULATORY ACTION OFF WASHINGTON IN 1977--THE CANADIAN SALMON TROLLERS. THEIR UNDERSTANDABLE DISAPPOINTMENT, SHARED BY THEIR BRETHREN IN OTHER CANADIAN WEST COAST FISHERIES, HAS LED TO A LACK OF CONFIDENCE IN THE INTERNATIONAL NEGOTIATING PROCESS. THE AURA OF SUSPICION AND IRRITATION THAT HAS DEVELOPED CANNOT/NOT BUT COMPLICATE THE ALREADY COMPLEX TASK OF NEGOTIATING A SALMON INTERCEPTION

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PAGE EIGHT FLM0034 RESTR

AGREEMENT AND OF AN AGREEMENT DEALING WITH BROADER CANADA/US FISHERIES RELATIONS.

17.IT IS FOR THIS REASON THAT THE GOVERNMENT OF CANADA PLACES THE HIGHEST IMPORTANCE ON THE NATURE OF REGULATIONS THAT WILL APPLY TO CANADIAN TROLLERS IN WATERS OFF THE UNITED STATES COAST IN 1978.BECAUSE IT IS UNLIKELY THAT THE SALMON INTERCEPTION NEGOTIATIONS CAN BE CONCLUDED AND AN AGREEMENT IN FORCE BEFORE THE 1978 TROLL SEASON BEGINS,CANADA CONTINUES TO HOLD THE VIEW THAT REGULATIONS APPLYING IN 1978 SHOULD NOT/NOT SEVERELY ALTER THE PATTERN OF THE CANADIAN FISHERY FROM THAT THAT EXISTED IN 1976 AND EARLIER YEARS,EXCEPT AS MAY BE REQUIRED TO MEET URGENT CONSERVATIONS NEEDS.

18.WE ARE FEARFUL THAT THE ROOT CAUSES OF THE DIFFICULTIES THAT BESET US EARLIER IN 1977 ARE STILL PRESENT AND,UNLESS A SOLUTION CAN BE FOUND WILL CAUSE EVEN MORE PROBLEMS IN 1978. WE ARE MEETING WITH UNITED STATES OFFICIALS IN OTHER FORA TO ATTEMPT TO FIND A SOLUTION TO THEM.

19.WE DO NOT/NOT PROPOSE TO DEBATE LEGAL AND JURISDICTIONAL QUESTIONS HERE.I HAVE OUTLINED THE CANADIAN ATTITUDE,IN SOME DETAIL,HOWEVER,IN ORDER TO LEND EMPHASIS TO THE IMPORTANCE CANADA PLACES ON THE DEVELOPMENT OF REGULATIONS FOR THIS PARTICULAR FISHERY IN 1978.

20.WITH THIS AS BACKGROUND WE WOULD NOW LIKE TO OUTLINE

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PAGE NINE FLM0034 RESTR

CANADIAN PROPOSALS FOR REGULATIONS TO APPLY TO THE CANADIAN
TROLL FISHERY OFF THE NORTHWESTERN UNITED STATES IN 1978.
IN MAKING SUCH PROPOSALS, CANADA HAS ATTEMPTED TO BE SENSITIVE
TO CONSERVATION NEEDS OF THE STOCKS. (WRITTEN TECHNICAL
EXPOSITION OF CANADIAN POSITION FOLLOWS-TEXT WILL NOT/NOT
BE TRANSMITTED.)

CCC/071

EXTERNAL AFFAIRS



AFFAIRES-EXTÉRIEURES

TO File
A

FROM R. Roberts, FLM,
Do 4th fl., Tower A, Lester B. Pearson Bldg.

REFERENCE
Référence

SUBJECT
Sujet Notes of meeting, September 16 on Canada/USA
salmon negotiations and other related matters.

25-5-72-SALMON-1
SECURITY Sécurité
DATE Sept. 16, 1977

NUMBER
Numéro

FILE	DOSSIER
OTTAWA	
MISSION	

ENCLOSURES
Annexes

DISTRIBUTION

M. Shepard
R. Roberts
M. Hunter
A. Willis
G. Leger
M. Leir✓

1. Roberts to talk to Todd and McLean regarding preparation of a "bar chart" displaying Canadian and U.S. activities in each others' zones by type of fishery, month of operation, and number of vessels involved.

2. Canada/USA Salmon Negotiations - Shepard reviewed the summary record of the August 11-12 meeting at Lake Wilderness and Roberts reviewed the meeting of advisers on Tuesday, September 13. Willis and Hunter to review the USA proposed articles on treatment of fisheries of stocks originating in Canadian sections of rivers flowing through the USA. Willis, Leger and Leir to review September draft treaty and to prepare draft articles as outlined in summary record, looking towards discussing these with Colson, Thursday, September 22.

3. Shepard reviewed where we stood in the negotiations and indicated that the need for coordination in development programs added a new element to the negotiations. However, this approach would result in a deviation in interceptions either from a situation of "equity" or from present levels of interceptions. This would result in inequities resulting in a need for some kind of pay-back. These inequities would likely arise more with the Alaskan fisheries than elsewhere. Possible solutions involve either financial contributions or access by Canadian fishermen to the U.S. zone in the Panhandle area. It was agreed that such access should be sought in any event but that it could contribute to solving the pay-back problem as well. Roberts and Hunter to prepare a memo early next week and go to Vancouver to discuss with regional officials an overall approach the week after next.

4. Schedule: Wednesday, September 21 - discuss salmon negotiations with advisers when they are in Ottawa. September 22 - discuss draft articles with Colson. Week of September 26 - Hunter and Roberts to Ottawa. October 3 evening - meet with advisers in Vancouver. October 4 evening - negotiations on salmon troll regulations, Seattle with U.S. and Regional Council officials. October 4 evening - meeting with advisers

October 5-7 - salmon negotiations.

5. Roberts to remind Shepard to advise U.S. officials Thursday, September 22 that U.S. attendance at inter-governmental consultations following NAFCO meeting will not be necessary -- our Canada/U.S. bilateral problems are being dealt with separately.



R. Roberts.

GWU/T. Collins/Williams/2-9682/eo

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FLA (Leger)

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GWU

September 6/77

Report on Canada/USA Fisheries Consultations
Seattle August 11-12

FILE	DOSSIER
25-5-7-2 - SALMON-1	

The following is a report on talks held between Canadian and USA officials to discuss:

FLP

1) Atlantic salmon

FLM

GWP

WSHDC

SEATL

DFE/Shepard/
Roberts

...

2) resumption of salmon interception talks, and a report on a meeting of the International Pacific Salmon Fisheries Commission (IPSFC) which was attended by officials of both governments.

A separate report prepared by Mr. Roberts on consultations among officials from Canada, the USA and Japan on the future of the International North Pacific Fisheries Commission held in Seattle August 9-10, is attached.

A. Atlantic Salmon

At a meeting in Washington on July 28 the USA raised concerns over the phasing out of ICNAF arrangements with Denmark and the effect of Greenland fishing of salmon when the arrangements lapse. The USA suggested a trilateral approach to this question involving the USA, Canada and the EEC. Canadian officials promised to respond on the matter as quickly as possible. Accordingly, Mr. Roberts discussed the matter with Mr. Negroponte, leader of the USA delegation to the consultations on INPFC, on August 10 in Seattle. Mr. Roberts said that Canada would be making a bilateral approach to the EEC, possibly coupled with a simultaneous approach to Denmark, proposing that the Atlantic salmon question be handled for the present by maintaining ICNAF quotas. Mr. Negroponte offered no substantive reply.

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B. Resumption of Salmon Interception Talks

... The Canadian delegation was led by Dr. Shepard and the USA delegation by D.L. McKernan of the State Department. Delegation lists are attached.

Prior to the opening of the meeting Dr. Shepard and Mr. Negroponte held a private discussion on the salmon/shrimp issue, at which it was agreed that this question would be pursued by the Special Negotiators for both sides.

The purpose of the meeting was to review the past negotiations on salmon interception and the work of the technical experts, so as to prepare the way for a resumption of negotiations. At the beginning of the meeting both sides agreed that it was important to remember that the outcome of the salmon interception negotiations would have an important bearing on the broader Canada/USA maritime boundaries and fisheries negotiations. Canada suggested that since interests of both countries in salmon interception were closely tied to their respective fisheries enhancement plans, it would be very useful to exchange as much information as possible on present and future enhancement programmes.

... The meeting then turned to consider a mechanism devised by technical experts of both countries to limit salmon interception by the application of a numerical formula. A theoretical example of how this mechanism would work is attached. It was agreed that the mechanism required some refinement to ensure an equitable division of catches commensurate with the enhancement programmes of both countries in such a way as to ensure that neither country is discouraged from developing its salmon resources just because intermingling species would be involved.

Specific problems presented by the Fraser River and the Panhandle streams were raised. The USA described its special interest in Fraser River stocks, based on its past participation in enhancement programmes on this river. The USA insists that it must receive some special benefit for its past investment and proposed the creation of a joint panel to manage the stocks. Canada agreed in principle that some special consideration would have to be given to this question, and said

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and said we would attempt to draft a specific proposal to meet their concerns. Canada pointed out its special interest in stocks from the Panhandle streams. The USA referred to its draft text of September 3, 1971 (copy attached) covering this question, which Canada undertook to study and provide comments at the next meeting.

The meeting then turned to a review of the text of the draft agreement contained in Appendix 10 of the record of the meeting of May 17-21 in Vancouver. The two sides noted points on which there was basic agreement and drew up terms of reference outlining points which technical and legal experts would have to review before the next meeting. (David Colson of the Legal Adviser's Office of State Department will contact FLO directly on the legal questions to be pursued). Canada drew particular attention to the difficulties which are presented by the fisheries regulations established by the USA Pacific Regional Management Council for 1977. It was recognized that we will likely face similar difficulties for 1978, but we hope that the agreement arising out of these salmon interception negotiations will solve the problems in the future.

A summary record of the meeting was agreed upon by the leaders of the two delegations and should be available from Dr. Shepard. It was tentatively agreed that the delegations would meet October 5-7 in Seattle and November 28-30 in Vancouver.

C. International Pacific Salmon Fisheries Commission

A meeting of the International Pacific Fisheries Commission was held in Seattle August 11 attended by the Commissioners, industry advisers and USA and Canadian government officials (as observers) to review USA Government action regarding treaty Indians fishing rights. The Commission faced grave difficulties because the USA Government had passed special regulations for treaty Indians' fisheries in accordance with the Boldt decision outside the scope of the Commission's regulations; thereby impairing the Commission's ability to effectively manage the stocks. The Canadian and American industry advisers were unanimous in condemning the USA Government action, and some advisers were also critical of the

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Canadian Government for failing to take effective action. USA Government officials explained that the Administration was bound by law to take the action it did. However, they agreed that the resultant situation in which the fishery was under two separate managements was unworkable, and suggested that the system needs revision to allow the USA to allocate its share of the fishery in accordance with USA law. The Canadian Government officials explained that the allocation of resources between certain groups of USA citizens is an internal matter for the USA to settle. The important point for Canada is whether or not the Convention's objectives i.e. the effective management of the fishery by the Commission are being met. Canada has reserved its legal position in this respect, and remains willing to work to accommodate a solution.

U.S.A. Division

GWU/T. Collins/Williams/2-9682/eo

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FLA (Leger)

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GWU

September 6/77

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Seattle August 11-12

FILE	25-5-7-2-SALMON-1
DOSSIER	

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U.S.A. Division

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To/A SINT
From/B: ACRA
SEP 15 1977
UNCLASSIFIED

The Under-Secretary of State
for External Affairs (GWU)

Consulate General, Seattle

SECURITY
Sécurité

DATE Sep 1/77

NUMBER
Numéro 389

REFERENCE
Référence

SUBJECT Fisheries Situation in the Pacific Northwest
Sujet

FILE DOSSIER
OTTAWA
25-5-7-2 Salmon
MISSION 35 - 11

ENCLOSURES
Annexes

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Attached are several press clippings related to the fisheries situation in the Northwest. A crisis atmosphere continues to prevail in the fishing industry which is primarily the result of the continued efforts of the Federal Government to enforce the Boldt decision substantially decreasing the catch of non-Indian fishermen. Thus far this summer, the Boldt decision has brought the United States Government into conflict not only with non-Indian fishermen, but also with the Washington State Government and in the context of the IPSFC, the Canadian Government.

2. There are recent signs that the concerns of non-Indian fishermen related to the strict enforcement of Indian treaty rights are being heard by Federal authorities. Non-Indian fishermen feel the Boldt decision constitutes a major injustice in terms of undue economic hardship for the majority of non-Indian fishermen which far outweighs the good done to a small minority. As outlined in the attached Seattle Times article of August 26 US Government attorneys have requested Judge Boldt to allocate fewer salmon to Indian fishermen and include in Indian catch totals fish caught by Indian fishermen on reservations for ceremonial and subsistence purposes. These measures would substantially reduce the Indian salmon harvest. This request was made at the behest of the regional team of the President's Task Force on the Northwest Fisheries in response to the economic hardship which the Task Force perceived was being forced upon non-Indian fishermen as a result of the Boldt decision.

3. If this action of the regional team of the Task Force is indicative of the Task Force's approach to the whole question, it could very well mean that a compromise solution will be proposed at a future date which could in effect soften the legalistic approach which the US Government has taken to the question until now. Such a compromise will be necessary if the US Government is to avoid long complicated and expensive litigation brought not only by non-Indian fishermen but also by the Washington State Government.

4. In a related development, the Washington State Courts and Federal Courts in this area are at loggerheads over the question of the propriety of the State Fisheries Service enforcing the reallocation of catches necessary to give the Boldt decision effect. Earlier this year while the legislature was in session, it failed to pass a bill which would have given the State Department of Fisheries a mandate to enforce regulations which would affect the allocation of the fisheries catch. As State law now stands, the Fisheries Department may only enforce regulations for the purpose of conservation, not for allocation purposes.

5. State Fisheries Director Gordon Sandison has found himself caught between a "rock and a hard place" with respect to these conflicting rulings from Federal and State courts. On August 30, Judge Boldt overruled a recent decision by a State court which in line with recent decisions of the State Supreme Court, forbade the Dept. of Fisheries to close Puget Sound fishing to non-Indian fishermen. Mr. Sandison now could face contempt of court charges if he does not obey the State ruling or Federal contempt of court charges if Judge Boldt's ruling is ignored.

6. Both Federal and State authorities have indicated no willingness to compromise on the issue. State authorities have indicated that they are willing to take the matter to the US Supreme Court on the grounds that it is a basic State's rights issue aside from the implications for non-Indian fishermen. Federal officials have indicated that they will ask Judge Boldt to take fisheries enforcement with respect to his 1974 decision entirely out of State hands should Washington prove unable to provide an adequate treaty fishery.

7. The implications of the controversy go far beyond the confines of the fishing industry, even as important as that industry is to the culture and economy of the Pacific Northwest. The extent of these implications is best summed up in the closing paragraph of the attached Seattle Times editorial of August 29 which states:

"To the average citizen watching from the sidelines, the inability to reach agreements and the unyielding conflict between state and federal court jurisdictions over a prolonged period seem indicators of a dismaying breakdown in the traditional mechanisms for settling disputes".

8. A long term solution to the problem therefore rests with the President's Task Force which will probably be forced to find a compromise solution. Such a solution would undoubtedly provide increased recognition of Indian Treaty Rights while not forcing undue economic hardship upon the non-Indian fishing community constituting the vast majority of working fishermen.


Consulate General

July 1, 1977

Indians get extra day for fishing

By DICK BEARDSLEY
Herald Staff Reporter

Treaty Indian fishermen will fish for Fraser River sockeye salmon two extra days next week, not one extra day as originally scheduled by federal officials.

The Northwest Indian Fisheries Commission "hotline" is broadcasting a fishing schedule that will allow treaty Indian fishing from 7

p.m. Monday until 7 p.m. Friday next week — four days of fishing.

Nontreaty fishermen are allowed two days of fishing each week by the International Pacific Salmon Fisheries Commission, which regulates the sockeye fishery, a fishery that is governed by treaty between the United States and Canada.

The U.S. government, however, has drawn up regulations of its own exempting American Indian treaty fishermen from IPSEC regulations and granting them additional fishing time.

A Northwest Indian Fisheries Commission spokesman said next week's Indian fishing regulations do "constitute a change," but that he was not part of the negotiations which led to the new regulations for next week.

Those regulations are being drawn by federal Department of Interior officials. Those officials could not be reached today.

Initially, the federal government planned to allow Indians to fish an extra day before nontreaty fishermen began fishing each week. Last week, while meeting with federal officials, non-treaty fishermen claimed fishing is best on the first day of fishing each week and that to allow exclusive rights to Indian fishermen on that day would be damaging to non-Indian fishing fortunes.

Paul Anderson, manager of the Purse Seine Vessel Owners Association, said today the federal regulations governing treaty fishing may have been changed following last week's claims.

"But it's the same damages as far as I can see," Anderson added. "They can catch just as many fish during two days after as they can in one day before."

The federal government claims it is providing extra fishing for Indian fishermen to move toward compliance with a 1974 fishing rights decision by U.S. District Court Judge George Boldt. He ruled that treaty Indians are entitled to a chance at half the harvest on traditional off-reservation fishing grounds.

Last year, treaty Indians harvested about seven per cent of the American half of the sockeye catch. Federal officials claim this year's schedule will allow Indian fishermen about 15 per cent of the catch — far less, they note, than the 50 per cent ordered by Boldt.

Figures for this week's catch in the first week of fishing for sockeye this year — are not available beyond Wednesday.

The American catch totaled 25,000 fish Monday, according to John Roos, assistant director of the IPSEC, 50,000 on Tuesday and 29,000 Wednesday.

Wednesday's figures represent an exclusive Indian harvest, as will figures for fishing which ended at 9:30 p.m. today. Roos said it is not unreasonable to expect the Indian harvest will amount to about 30 per cent of the American share during the first week.

Anne Wexler, deputy under-secretary of Commerce, said from Washington, D.C. today, that allowing the Indians extra fishing after non-Indians fish is a concession to the non-Indians.

Biologists figures show, she said, that 58 per cent of the fish available on the third day of fishing each week as on the first day. By the fourth day, Wexler said, that figure drops to 26 per cent.

"They (non-Indian fishermen) aren't being disadvantaged," Wexler said. "It's the Indians who are getting it in the neck."

The Bellingham Herald

July 3, 1977

Sockeye fishing season off to shaky start

By DICK BEARDSLEY
Herald Staff Reporter

Anger simmered close to the boiling point as the first week of sockeye salmon fishing drew to a close Friday.

In Blaine, a non-Indian commercial fisherman reportedly threw objects at an Indian purse seine and turned a fire hose on the members of the crew. The Indians were pulling in to dock after fishing during a time only Indian fishermen were allowed to fish.

Non-Indian fishermen mulled about the docks in Bellingham, Blaine and Anacortes grumbling about the turn of events that had them sitting ashore last Wednesday and Thursday while treaty Indian fishermen fished.

Indians are scheduled for two extra days of fishing again this week - Thursday and Friday - but those regulations have been challenged in court by non-Indian fishermen. U.S. District Court Judge Walter T. McGovern is expected to rule on that challenge Tuesday.

Should he rule that federal regulations allowing the extra Indian fishing time are valid, non-Indian fishermen have threatened to ignore those regulations and fish whenever the Indians fish.

Fishing regulations are being enforced by the U.S. Coast Guard and National Marine Fisheries Service enforcement officers, and non-Indian fishermen say they have been warned penalties will be stiff for violations.

One fisherman said he had been told a first offense would result in a \$1,000 fine and up to a year in jail, with a second offense resulting in confiscation of the boat and gear and immediate arrest of all aboard.

Should McGovern rule that regulations drawn by the International Pacific Salmon Fisheries Commission (IPSFC) are valid and that Indian fishermen, too, must abide by them, the matter could be headed into U.S. District Court Judge George H. Boldt's court.

In 1974, Boldt ruled that Indian fishermen, by treaty, are entitled to a chance to harvest half the salmon, steelhead trout and herring which cross traditional off-reservation fishing grounds.

This year's regulations - drawn by the U.S. Department of Interior to allow Indians extra fishing time in the sockeye fishery governed by treaty between the United States and Canada - are an effort to abide by Boldt's ruling, federal officials say.

Forrest "Dutch" Kinley, fisheries director for the Lummi Indians, has taken steps to ensure there will be extra fishing for Indians even if McGovern rules otherwise.

Kinley has ordered regulations drawn by Point Elliott Treaty tribes to be placed on file in Boldt's court. Those regulations match word-for-word the federal regulations, Kinley said.

Lummi attorney Mason Morisset explained that Boldt's ruling allows Indian fishing to be governed by tribal regulations filed in Boldt's court, unless valid objections to those regulations are raised.

John Roos, an American who is IPSFC assistant director, said the United States is acting unilaterally without the consent of Canada in establishing its own regulations for the sockeye fishery.

The treaty between the United States and Canada was established to enhance the runs of salmon bound for the Fraser River and its tributaries to spawn - runs which had deteriorated - and to ensure that Canadian and American fishermen would share the harvest equally.

Roos said the extra Indian fishing is a threat to the enhancement effort.

The fish harvested by the Indians last Wednesday and Thursday, when only Indians fished, were destined for escapement up the Fraser to spawn, Roos said.

An accurate count of that harvest won't be available until later this

week, but Roos estimated it would be at least 40,000 fish.

The entire American harvest last week is expected to exceed 175,000 fish. The Canadian harvest, already counted, was 16,000 fish, Roos said.

The extra Indian fishing time eventually will cost nontreaty American fishermen time from the two-days-a-week they now have, Roos said. The Indian harvest is included in the American share, and American fishing at some point will have to be curtailed to allow Canadians a chance to catch up.

Nontreaty fishermen were insisting with new vigor that special considerations for Indian fishermen is unconstitutional as the Indians fished while non-Indians sat on the beach last week.

All fishermen should have the same opportunity to fish, they said. To keep non-Indians from fishing is asking them to pay for the sins of all Americans in the past against In-

dians, nontreaty fishermen contend.

Kinley disagreed.

"These are sins that have occurred in my lifetime," he said.

The problem is that there are too many fishermen, said Kinley. "We were saying that 20 years ago."

The persons "making all the fuss," Kinley said, are the part-time fishermen - "the school teachers and the Boeing workers" who use fishing as a second income.

Once they are eliminated, the conflict will "level off," Kinley predicted. He said he thought it might take "five or six years."

July 5, 1977

Fishing grounds peaceful

5504
Canadian fishermen will fish an extra day in the Fraser River this week.

The International Pacific Salmon Fisheries Commission, which regulates the international sockeye and pink salmon fishery governed by treaty between the United States and Canada, granted the added day after American fishermen took a huge lead following the first week's harvest.

American fishermen netted more than 175,000 sockeye last week, while Canadians caught 16,000. Fishermen from each nation are sup-

posed to share the harvest equally.

American fishing times were unchanged by the IPSFC.

The U.S. Coast Guard reported no incidents in American convention waters since a gillnetter was cited on suspicion of fishing illegally south of San Juan Island early Monday.

Both nontreaty and treaty Indian fishermen were awaiting a ruling by U.S. District Court Judge Walter T. McGovern, which was expected to have been filed in district court in Seattle today.

The nontreaty purse seiners and

gillnetters associations are seeking a restraining order prohibiting the U.S. Department of Interior from exempting Indian fishermen from IPSFC regulations and granting them additional fishing time.

Indian fishermen had two extra days of fishing last week and are scheduled for two extra days this week.

Nontreaty fishermen have threatened to fish during times set aside for Indian fishermen only if McGovern fails to grant the restraining order.

The Bellingham Herald

July 6, 1977

Judge upholds treaty fishing

5504
By DICK BEARDSLEY
Herald Staff Reporter

Tuesday was bittersweet for American non-treaty commercial fishermen.

While fish were being netted in near-record numbers as the early Stuart Lake run of the Fraser River sockeye salmon fishery peaked, a federal judge struck down an effort by non-treaty fishermen to eliminate extra fishing days allotted treaty Indian fishermen by the U.S. government.

U.S. District Court Judge Walter T. McGovern denied a request for a temporary injunction against federal regulations providing Indians with that extra time. The injunction had been sought by the purse seiners' and gillnetters' associations.

The Fraser River fishery is governed by treaty between the United States and Canada. The International Pacific Salmon Fisheries Commission (IPSFC), with commissioners from each country, regulates fishing each summer.

This year, the IPSFC adopted regulations that provided no extra fishing time for American treaty Indians. But the U.S. State Department exempted treaty Indians from those regulations and directed the Interior Department to write regulations that provided extra time for Indians.

McGovern disagreed with the non-treaty fishermen's contention that IPSFC regulations are the only valid regulations.

The commission, he noted in his ruling, cannot allocate fish caught in

American waters. The purpose of the treaty with Canada, he wrote, is to enhance the number of salmon returning up the Fraser River to spawn and to ensure that American and Canadian fishermen share the harvest equally.

What the Americans do with their share of the fish is not a commission concern, McGovern ruled, as long as the intent of the treaty with Canada is not violated.

McGovern, citing U.S. District Court Judge George Boldt's 1974 ruling that treaty Indians are entitled to catch up to 50 per cent of this area's harvestable salmon, said the federal regulations are a commitment by the U.S. government to "abide by its (Indian) treaty obligations."

(Continued on page 5, col. 1)

Judge upholds treaty fishing

(Continued from Page 1)

McGovern denied the injunction because non-treaty fishermen "do not have a strong likelihood of prevailing" should the matter be brought to full trial.

An attorney for the non-treaty fisherman said he was to have met with McGovern today to seek a full trial, and the fishermen were planning to protest McGovern's ruling — perhaps by fishing illegally.

Joseph Mijich, an attorney for the purse seiners, said the trial would be sought despite McGovern's ruling because the matter must be tried in U.S. District Court before it can be appealed to a higher court.

"We hope to be able to dissuade him on a second go-around," Mijich said, "But, in any case, we have to complete the case before moving on further."

Non-treaty fishermen had not returned from this week's fishing, which was to have ended for them early today.

The wives of several fishermen said they were uncertain when the fishermen would return.

One said some might remain out and fish again tomorrow, the first scheduled day of Indian-only fishing this week.

It would be a "symbolic" protest, she said, with each boat keeping only one fish but forcing the federal government to take action against them.

More than 100 non-treaty fishermen met in Blaine Sunday, she

said, to plan such a protest in case McGovern's ruling went against them.

Charles Yates, an attorney for the gillnetters, told reporters a protest would take the form of a "march" by fishermen in Seattle Thursday, perhaps on the U.S. Courthouse where McGovern's court is located.

Capt. Richard Malm of the U.S. Coast Guard said he "expects" protest fishing this week. National Marine Fisheries Service enforcement officials are aboard five Coast Guard vessels patrolling the American side of the Fraser River fishing grounds off the San Juan Islands and Point Roberts.

"But I don't expect any violence," Malm said.

Federal officials have threatened violators with a stiff fine for a first offense and arrest and seizure of catch and gear for a second offense.

Some American fishermen have said Canadian fishermen also would fish illegally to support any American protest. A Canadian official in Ottawa said any illegal fishing by Canadians would "be dealt with seriously."

American fishermen are expected to share some 3.3 million sockeye and pink salmon in this year's Fraser River fishery, more than double last year's 1.4 million-fish catch.

Federal officials have maintained the extra fishing time would provide Indians only with an estimated 15 per cent of the American share, still well below the 50 per cent Boldt ruled they are entitled to.

But non-treaty fishermen maintain special considerations for Indian fishermen discriminate against non-Indian fishermen and violate the U.S. Constitution.

Indian fishermen harvested an estimated 24 per cent of last week's American share, according to John Roos, assistant director of the IPSFC. But that estimate, he noted, includes only the fish caught by Indian fishermen on the days when only they fished. It does not include fish they harvested on days when everyone fished.

National Marine Fisheries Service officials estimate about 800 non-treaty fishermen and about 200 Indian fishermen are fishing for Fraser River salmon. 5324

The Bellingham Herald

July 6, 1977,

Federal camel has nose in state fisheries tent

Not the least important aspect of the Boldt decision is that the federal camel has its nose in the tent.

Until this summer, the Fraser River salmon fishery was managed by the International Pacific Salmon Commission through the State Fisheries Department. The commission recommended regulations to Canada and the State of Washington and they put them in effect. Except for a representative on the commission, the federal government has, up to now, had little to do with the fishery.

In the wake of the Boldt decision that treaty Indians are entitled to half the salmon caught in local waters, however, the situation changed. At first the State Fisheries Department tried to regulate fishing on this side of the line in accordance with the federal court's order. But non-treaty fishermen successfully challenged the state's right to regulate for any other purpose except conservation.

As trustee for the Indian tribes and enforcer of federal court orders, the federal government has moved into the picture. Through the Department of the Interior's National Marine Fisheries Service, the federal government will be in charge of salmon fishing this year. Bob Ayers, NMFS assistant director for fisheries management, assured local newsmen that management decisions would be made at regional headquarters in Seattle, not in Washington, D. C. This is good because management of salmon runs requires quick decision action.

And Deputy Undersecretary of Commerce Anne Wexler was emphatic that the federal government intends to get out of inshore fishery regulation as soon as possible. With the 200-mile limit law, the NMFS has all it can handle on the high seas.

We hope that is true. While state regulation has not been perfect, at least its efforts have been focused on local problems. With the federal government, regulation of the Fraser River fishery may get tangled up in policies concerning Alaska-Canadian runs, or even the rich Georges Bank fishery offshore from Maine and Canada on the East Coast. Western Washington's concerns don't weigh very heavy on the national balance.

The nose is in the tent. We may have to learn to sleep with the camel.

July 8, 1977

Fishery ruling may not be popular, but sound

5504
The federal court ruling that the U.S. government can allot extra fishing for treaty Indians in the International Fraser River sockeye salmon fishery may be unpopular with all but the Indians and federal bureaucrats.

But it was a sound judicial decision.

Non-treaty purse seiners and gillnetters sought a temporary injunction from U.S. District Court Judge Walter T. McGovern against such regulations drawn by the U.S. Department of Interior on orders from the State Department.

The Fraser River fishery, fishermen contended, is governed by treaty between the United States and Canada, with the International Pacific Salmon Fisheries Commission — made up of commissioners from both nations — delegated by that treaty as the sole regulating authority.

McGovern, however, noted that IPSFC regulations must be approved by the governments of both nations. He also noted the treaty is designed to enhance the number of fish allowed to return to the Fraser to spawn and to ensure that fishermen from both nations share the harvest equally.

As long as America upsets neither purpose, McGovern ruled, what it does with its share of the harvest is its business, not the commission's.

That seems sound judgment. America shouldn't allow a commission with citizens from another nation to dictate its course in domestic affairs.

McGovern noted that the American-drawn regulations were designed to help meet treaty obligations with Indian tribes — a domestic affair.

In 1974, McGovern noted, fellow U.S. District Court Judge George Boldt ruled those obligations meant providing treaty tribes with a chance to harvest up to half the fish in this area.

McGovern was not ruling — repeat, not ruling — on the merits of Boldt's decision. That was not the question. All he was asked to consider was who has jurisdiction over what America does with its share of the Fraser River harvest.

To decide that harvest might endanger the enhancement effort or diminish the Canadian share before that harvest has been taken would be capricious.

Noting that Boldt's ruling still stands as "the law of the circuit," McGovern ruled that the United States is bound to uphold that law.

We understand that non-treaty fishermen are frustrated because they feel Boldt's decision discriminates against them.

We would have trouble understanding, however, how they would reconcile appeasing that frustration on the basis of an unsound judgment in another court.

Even in today's entangled legal maze, two wrongs still — we think — would not make a right.

July 8, 1977

5504 Gillnet leader's boat cited

A fishing boat owned by Port Townsend resident Phillip Sutherland, president of the Puget Sound Gillnetters Association, was one of four cited Thursday for illegal fishing in waters closed to anyone except treaty Indians.

Coast Guard officials said about 15 or 20 gillnetters and purse seiners in a 'fish-in' protest were spotted in the closed waters off the San Juan Islands.

Sutherland said he planned to appeal the citation, issued under regulations promulgated by the National Marine Fisheries Service to protect the Fraser River sockeye run while giving Indians extra time to fish to meet the requirements of recent court rulings on Indian fishing rights. Commercial fishermen have staged protests and meetings with federal officials to press their demands for equal fishing with the Indians.

The illegal fishing "didn't seem to be an organized protest," said Chief Paul Scotti.

The organized protest was at the U.S. Courthouse in Seattle, where an estimated 250 persons gathered to protest the fishing restrictions.

"We feel as if Washington residents aren't aware of the issue as a moral one," said Wallace Green, a spokesman for purse seiners outside the courthouse. "They think we're just a bunch of greedy fishermen."

Meanwhile, Paul Anderson, executive manager of the Purse Seine Vessel Owners Association, said he met in Washington, D.C., with Richard Reiman of the White House Public liaison office for about half an hour.

"He didn't know much of what I was talking about, but he reviewed the demands and said he would pass them on to Stu Eizenstat," Anderson said. "He said Eizenstat would take appropriate action, whatever that means, and if Eizenstat feels it is appropriate it will be passed on to Carter."

Eizenstat is a presidential assistant for domestic affairs and policy.

Other vessels cited by National Marine Fisheries Service officers were

Friday Harbor; the Labretta, owned by Raymond Marriott of Blaine, and the Top Banana, owned by Lawrence Finley of Inchelium, the Coast Guard said.

A fifth vessel was boarded, but no citation was issued because there were no salmon aboard or in the nets, a Coast Guard spokesman said.

During the demonstration, protest leaders met behind closed doors with U.S. Atty. John C. Merkel, who heads a presidential task force on regional fishing problems.

After the 30-minute meeting, Green said, "He (Merkel) didn't make any positive comments ... he didn't say anything, but we didn't expect much."

"He can't make any decisions. They haven't been listening to fishermen, but maybe they'll take our views into consideration a little more now."

The demonstrators then walked two blocks with a police escort to the

Federal Building where leaders met briefly with Leonard Saari of the Commerce Department and an aide to Rep. Joel Pritchard, D-Wash.

"I'm not qualified to answer your questions," said Saari.

"We haven't found any government official who can," responded Green.

Rep. Jack Cunningham, R-Wash., told the protestors, "I'd like to promise you everything you want, but that's not in the cards."

Cunningham said the conflict can be resolved only in Congress.

However, Green said what commercial fishermen want most is a review by the U.S. Supreme Court of a 1974 ruling that treaties signed with Indian tribes entitle them to more than half of the harvestable fish runs. So far the high court has refused to hear appeals of the ruling, handed down by U.S. District Court Judge George Boldt in Tacoma.

"It we are unequal citizens, we want the Supreme Court to tell us. And, if Indians are super-citizens, we want the Supreme Court to tell us," said Green.

Among the specific demands the group made were:

—That President Carter see that the equal rights of all fishermen be guaranteed, "a position consistent with Presidential policy on human rights."

—That Carter direct the Northwest Fisheries Task Force to recommend immediately that Congress act to let all fishermen fish under common regulations with no special opportunity for any fishermen.

—That Carter reprimand the Departments of Interior and State for interfering with Washington state's salmon fishery.

—That the task force determine the amount of compensation due individual commercial fishermen of Puget Sound for income lost.

The Bellingham Herald

July 10, 1977

Sockeye fishing closed

through Monday

By DICK BEARDSLEY
Herald Staff Reporter

Officials could not predict Friday how long the Fraser River sockeye salmon fishery would remain closed to Canadian and American commercial net fishermen.

The International Pacific Salmon Fisheries Commission (IPSFC) closed fishing until further notice Friday to allow additional sockeye to escape upstream to spawn.

Almost 600,000 fish were harvested last week, a record for the early Stuart Lake run, according to Alexander Cooper, IPSFC director. An estimated 130,000 sockeye escaped into the Fraser River, he said. An escapement of 400,000 fish is needed to perpetuate the Stuart Lake run, Cooper said, and commissioners decided to close down fishing to

ensure some of that escapement.

The commission is scheduled to confer by telephone at 10 a.m. Monday and reconsider the closure.

American fishermen had harvested 320,000 fish by Thursday night during last week's fishing, and Canadian fishermen harvested about 260,000 fish.

Cooper said Americans are regularly ahead of Canadians early in the season. Canadian fishermen, he noted, continue to harvest the salmon once they have left American waters and entered the Fraser River in British Columbia.

American treaty Indian fishermen were scheduled to begin fishing today and non-treaty American fishermen tomorrow.

Treaty fishermen are being given additional fishing time this season.

The IPSFC, which was established as the regulating agency for the fishery by a treaty between the United States and Canada, passed regulations granting Indian fishermen in this country no special considerations.

But the U.S. government exempted Indians from the IPSFC regulations and established regulations for Indians that provide the additional fishing.

The special regulations were provided, federal officials have said, to help comply with the Boldt fishing rights decision.

In 1974, U.S. District Court Judge George H. Boldt ruled Indians in this area, by treaty,

(Continued on page 7, col. 5)

Fishing halt ordered

(Continued from page one)

are entitled to half the salmon from harvestable runs that cross traditional off-reservation fishing grounds.

Indian fishermen do not have the numbers or sophisticated gear to catch half that harvest without extra fishing time, government officials maintain.

Non-treaty fishermen protest that special consideration for Indians discriminates against them. Nine non-treaty fishermen have been cited for fishing illegally since the sockeye harvest began, including Phil Sutherland, president of the Puget Sound Gillnetters Association.

The non-treaty fishermen lost in an attempt to get a temporary injunction against the federal regulations and have since appealed to President Carter for relief.

Federal officials coordinating the Indian fishing regulations said Indian fishermen would honor the IPSFC closure of fishing until further notice.

The commission also will meet

next Friday in Bellingham. Commission advisers - six each from Canada and the United States - have been asked to attend. The conflict between IPSFC and U.S. regulations will be discussed, according to an IPSFC official. 5504

The Seattle Post-Intelligencer

July 12, 1977

No Fishing in the Fraser

The Fraser River salmon harvest, closed during a normal fishing day yesterday, was to remain closed today while the International Pacific Salmon Fisheries Commission considers escapement figures.

The commission decided to continue the closure in a telephone conference yesterday, said a spokesman for the National Marine Fisheries Service.

The U.S.-Canada commission decided to close treaty waters — basically the area in Puget Sound around the San Juan Islands and north across the International Boundary — because it believes 400,000 fish must make it into spawning grounds for adequate reproduction of the run.

July 14, 1977

Sockeye run peak starts to build in area waters

The first major run of this summer's international sockeye salmon fishery has begun to ebb. But, already, another run — expected to be the biggest of all — is beginning to build.

Commercial fishermen are back out on the fishing grounds off Point Roberts and the San Juan Islands netting the last of the "early Stuart" run, sockeye bound for the Fraser River and spawning grounds in Stuart Lake west of Prince George, B.C.

The early Stuart run may exceed the 1.5 million fish predicted by biologists, according to John Roos, assistant director of the International Pacific Salmon Fisheries Commission (IPSFC) which regulates the sockeye and pink salmon fisheries.

Fishing was closed until today to allow more fish to escape after just 135,000 fish of 400,000 needed had made it through commercial fishing grounds to the river.

By the time fishing reopened in Canada at 4 p.m. Wednesday the number had climbed to an estimated 305,000, according to Roos, below the 340,000 that had been hoped for.

Roos said more time might be needed after fishing this week closes at 7 p.m. Friday in convention waters to ensure that the remainder of the escapement is attained.

The early Stuart run should be concluded by early next week, Roos said.

Already, though, ocean trollers are beginning to report the presence of "Horsefly" and "late Stuart" sockeye among their catches.

These runs should reach local fishing grounds by the last week in July and peak about Aug. 1, according to Roos. This year, they are expected to number 3 million fish.

About 750,000 of those fish must be allowed to escape past commercial fishing nets into the Fraser River north of Mission, B.C. to ensure enough will reach spawning grounds in Horsefly Lake southeast of Quesnel, B.C., and in Stuart Lake.

American fishermen had harvested 573,000 sockeye and Canadian fishermen 357,000 sockeye when fishing reopened Wednesday.

IPSFC officials estimated American treaty Indians harvested about 101,000 sockeye in four extra days of fishing granted them by the U.S. government during the first two weeks of sockeye fishing.

The U.S. government has exempted treaty Indians from IPSFC regulations this summer in an effort to give them a chance to catch 50 per cent of the American harvest.

In 1974, U.S. District Court Judge George H. Boldt ruled treaties with

the U.S. gave fishermen from Indian tribes in this area a right to that chance.

Boldt's decision also gave tribes the authority to regulate their own fisheries. Some of the tribes have authorized seven-day-a-week fisheries in waters not regulated by the IPSFC.

Among them is the Lummi Tribe, which has been fishing in Bellingham Bay.

The harvest there has amounted to 10,485 fish, according to Fred Olney of the U.S. Fish and Wildlife Service, who is coordinating Indian fishing times for the U.S. government this year.

This year's sockeye fishery is expected to be one of the most productive in years, with a harvest of more than 3.4 million sockeye and pink salmon expected for fishermen from both the United States and Canada.

And a record output of fry from incubation and spawning channels in British Columbia this spring promises an even bigger harvest when those fry return as mature fish in 1980, according to Alexander Cooper, IPSFC director.

Cooper reports spawning channels at Weaver Creek, Gates Creek and in the Nadina River yielded three times as many fry this spring as the yield four years ago that produced this summer's fishery.

July 17, 1977

Commission orders Straits fishing ban

5504
North Olympic Peninsula salmon fishermen will have local waters closed to them again next week as a result of diminishing salmon runs.

The International Pacific Salmon Fisheries Commission has decided to close commercial fishing grounds through the Strait of Juan de Fuca and the Georgia Strait, The Associated Press said.

The decision was made Friday because the Stuart Lake sockeye salmon run is smaller than expected.

When the fishery does reopen, Canadians will probably be given a preference over Americans, in part because of the Indian harvest of 105,000 sockeye, said Al Cooper, commission director.

"The commission felt it was necessary to make some significant adjustment of fishing time," he said. "When they do reopen the areas, it will be for Canadians first.

"Part of the problem has been the 105,000 sockeye caught by Indians

fishing outside the commission regulation."

The commission, a U.S.-Canada body which administers a fishing treaty, has thought about 340,000 fish had gone up the Fraser River this week to spawning ground near Stuart Lake. But new counts indicate escapement is substantially smaller, said Cooper.

In addition, the U.S. catch of 706,000 fish is about 269,000 sockeye greater than the Canadian harvest, he said.

Eight American Indian tribes have been given four days of extra fishing in order to satisfy the requirements of federal court rulings which say tribes are entitled to half the off-reservation catch.

So far, U.S. fishermen have had five days to fish under commission regulations. Indians have had a total of nine days and Canadians 4½ days, said Cooper.

The Indian tribes have also enacted their own closure in line with the commission's closure.

The Bellingham Herald

July 17, 1977

All U.S. and Canadian fishing is suspended

All U.S. and Canadian fishing in international waters has been suspended this week because of low escapements and a catch division strongly favoring the United States.

That lopsided catch division has been aggravated by treaty Indian catches allowed outside of commission regulations, according to John Roos, assistant director of the International Pacific Salmon Fisheries Commission.

If the 105,000 sockeye salmon the treaty tribes have caught to date were added to escapement figures, instead of the American catch total, "everybody would go fishing," he said Friday.

According to Roos, catch estimates through Friday indicated a U.S. catch of 706,000 sockeye, while Canadians have netted only 435,000 fish.

By international treaty, the commission is charged with an equal division of the season's catch between fishermen of the two countries.

That management program has been complicated this year by the U.S. federal government's ruling that treaty Indians would receive extra fishing days.

The 105,000 sockeye the Indians have caught nearly equals the 100,000 fish needed to make this week's escapement goal, Roos said.

"We think now we have slightly less than 300,000 escapement," he said. "We want 400,000."

"If we had that 100,000 added to the escapement, everybody would go fishing."

The IPSFC will hold a telephone conference late Monday morning to consider fishing hours for the week. Last week, non-treaty commercial purse seiners and gillnetters fished only on Thursday. Reef netters fished Friday.

July 19, 1977

New dispute brewing Will there be a Boldt decision

By WARREN KING

You've probably heard plenty about the Boldt decision affirming Indian fishing rights for salmon and steelhead. But what about clams?

They're out there, too. And there's a slowly gathering storm about how many can be dug by Indians, and where.

Some clam-diggers even are afraid that certain treaty Indians would be able to dig large numbers of clams on private beaches while the property owners would be limited by law to lesser hauls.

"If Judge Boldt decides to deal with clams, it's going to be a different ball game because of private tidelands," said Cedric Lindsay, assistant director for shellfish for the State Department of Fisheries. "I think that will be the most difficult part to resolve."

The landmark 1974 decision by United States District Judge George H. Boldt gave treaty Indian tribes the opportunity to catch half the harvestable salmon and steelhead returning to their traditional off-reservation fishing

grounds.

But the decision said little about shellfish — only that tribes wanting to harvest more than the state limits should file proposed harvest regulations with the court.

So far, only the Tulalip Tribes and the Lummi Tribe have filed proposed regulations and none have been accepted by the court,

Lindsay said.

But about 25 Indians have been charged in separate cases with digging more than the state limit of 7 pounds or 40 clams a day in Kitsap and Jefferson Counties. (Oysters and other shellfish have not created much of a problem because they're not as popular, Lindsay says.)



— Staff cartoon by Alan Pratt

on clams?

About five of the Indians charged have been acquitted by invoking treaty rights, according to Paul Marjkut, an assistant Kitsap County prosecutor who has become somewhat of an expert on clams-and-the-law because he is assigned so many cases.

"We just don't know what Judge Boldt will do once these (tribal regulations) are presented," Marjkut said.

There are several questions to be resolved:

— What is the definition of a tribe's "usual and accustomed" grounds, the standard used for setting regulations for Indian salmon fishing? Could a tribe's "usual and accustomed" clam-digging grounds include private beaches?

— What should be the clam-digging limit in each area in order to preserve the beds?

— What should be the clam-digging seasons?

Those unanswered questions already have had an effect in some of the efforts to prosecute Indians for taking more than the state limit of clams.

For instance, one reason for the

acquittal of Merle George, an Indian charged with having taken more than his limit of clams a year ago in Kitsap County, was that the state could not prove the limit of 7 pounds or 40 clams was necessary to preserve the clam beds in the specific area where George was digging.

In a Vashon Island case, Thomas Anthony Castellane, a Puyallup Indian, is charged with having 40 pounds of clams. His case has been continued until next month because his attorneys want to ask Judge Boldt for a general determination of "usual and accustomed" Indian clam-digging grounds.

Resolution of these questions may have to wait a while, however. Much of the concern in the Boldt case now is focused on the so-called Phase II of the litigation, which will deal with heavier questions, such as the environmental impact of non-Indian activities on the state's fishing resources.

The trial of Phase II is tentatively scheduled for January.

Until sometime after that, the clam issue may be simmering on the back burner.

The Seattle Post-Intelligencer

July 19, 1977

City Light Saves Salmon

Biologists say nearly half the chum salmon run on the Skagit River may have been saved because Seattle City Light has released more water than legally required from Ross Dam, keeping wet the eggs and young fish. Bob Gerke, state Department of Fisheries biologist, estimates the benefit to the commercial salmon industry may be \$1.8 million when the fish return as adults. City Light is required to release 1,000 cubic feet of water per second or let the Skagit flow naturally. The utility released a minimum of 2,300 cubic feet per second starting February 1 and is currently discharging 1,700, a flow planned into August to protect both salmon and steelhead.

The SeattlePost-Intelligencer

July 19, 1977

U.S. salmon waters to remain closed

United States convention waters will remain closed this week to commercial fishing of sockeye and pink salmon, the International Pacific Salmon Fisheries Commission decided yesterday.

The commission said the closure was required to adjust the imbalance of salmon catches between the United States and Canada, and to assure adequate spawning escapement.

Under an international agreement between the United States and Canada, the two countries share equally the rich Fraser River salmon run. United States fishermen have caught 270,000 more salmon than the Canadian fleet, according to John Roos, assistant director of the fisheries commission.

Roos said that the latest count shows that only 300,000 salmon are on their way to the spawning grounds and the final count likely will fall short of the commission's goal of 400,000. He said it was disappointing that the run has tailed off but that it was not a crisis situation.

The commission will meet again Friday to consider updated escapement and catch figures for fishing during the week of July 24 to July 30. It is

unlikely there will be more closures after this week, Roos said.

Canadian convention waters will be open to commercial fishermen tomorrow through Friday morning.

United States convention waters include Washington State areas 4B, 5, 6C, 6, 7, and 7A.

The Northwest Indian Fisheries Commission said yesterday that the eight tribes given extra time on the Fraser River run also will suspend fishing this week.

Commercial Indian fishermen have caught about 137,000 salmon this season, about a third of the American catch, according to Debbi Shawver, a spokesman for the Indian commission.

A recent United States District Court ruling upheld the federal government's right to grant additional fishing time to Indians under the Boldt decision, which says they are entitled to half the harvestable salmon returning to traditional off-reservation fishing grounds.

Fishermen may obtain details about the closure from the National Marine Fisheries Service hotline.

July 20, 1977

Break Hinted In Fish War'

By STEVE WEINER
Associated Press

Government and fishing industry officials will announce an agreement today which may help calm Washington State's "Fish War."

Sources said late yesterday that representatives of several fishermen's groups would declare a halt to their policy of confrontations designed to overturn the Boldt Indian fishing rights decision.

Instead, the sources said, the fisheries groups would declare their willingness to seek a negotiated settlement to their problems through the President's Task Force on Northwest Fisheries — a body named by President Carter to examine the region's fishing woes and recommend solutions.

The fishermen, after weeks of behind-the-scenes negotiations, apparently will put aside plans for confrontations this year, a move one source called "an incredible milestone."

Last year was marked by confrontation after confrontation on the water as fishermen competed for salmon amongst themselves and with Indians, who said they were being granted special privileges in violation of the Constitution.

One fisherman was shot by a state officer during one confrontation.

A similar confrontation has been brewing this year, this time spurred by federal regulations which grant eight northern tribes extra time to fish for Fraser River salmon.

U.S. Atty. John Merkel called a morning press conference at which parties to the fisheries dispute planned to make their announcement, the sources said.

Among those attending will be government officials, representatives of gillnetters, purse seiners and others involved in the matter.

"The fishing industry has been working on a policy of confrontation. They had been planning to fish any time Indians fished," one source said.

"But now they are making a significant change in the way they conduct themselves this summer to provide a proper chance for a long-term solution to be reached."

Non-Indian commercial fishermen have reacted in anger, frustration and sometimes violence ever since the 1974 decision of U.S. District Judge George Boldt on Indian fishing rights.

The Seattle Times

July 21, 1977

Court action on salmon rules seen

A federal official said yesterday the government will take state fisheries officials to court over the failure of new salmon-fishing regulations to protect Indian fishing rights.

"By adopting these regulations, they are taking the stance that they will not provide any options for treaty Indians," said Jim Waldo, assistant United States attorney in charge of the treaty fishing rights cases in Western Washington.

"It will involve going to court in one way or another."

Regulations adopted by the State Department of Fisheries last week do not distinguish between treaty Indian fishermen and non-Indian commercial fishermen. This conflicts with the federal government's insistence that treaty Indians be given extra fishing time in the chinook, coho and chum-salmon seasons through November 26.

State fisheries officials adopted the regulations after a recent decision by the State Supreme Court which said the state does not have authority to allocate fish between groups of fishermen.

The state ruling was in conflict with the 1974 decision of United States District Judge George H. Boldt, which said treaty tribes were entitled to the opportunity to catch half the salmon and steel-

head returning to traditional off-reservation Indian-fishing areas.

The government contends treaty Indians should receive extra fishing time if they are to have a chance to harvest their share of the fish under terms of the Boldt decision.

Non-Indian fishermen have been delighted with the new state regulations because they did not give the Indians extra time.

July 21, 1977

Law and Order Pledge Made by State Fishing Groups

By FRED BRACK

The principal non-Indian commercial fishing associations in Washington pledged yesterday to obey the law this summer and not to confront Indians or law enforcement officers in the continuing dispute over treaty-Indian fishing rights.

The announcement did not radically alter the situation on Washington waters because there have been no confrontations this season and the associations' leaders have been counseling their

members not to break the law.

But the public pledge was an attempt to ease tension and to relieve the anxiety of authorities and Indians, who have been hearing rumors for weeks that non-Indian fishermen would vent their anger through confrontations.

The associations said their pledge did not mean they had dropped their opposition to the federal courts' interpretation of the Indians' tribal rights. And they specifically reserved the right to

mount demonstrations, including symbolic disobedience of the law.

But they said confrontations that could lead to violence with Indian fishermen or with law enforcement officers were unacceptable.

The pledge was taken at a press conference in the presence of representatives of the federal task force working to solve the Northwest's salmon fishing problems.

The task force representatives emitted an almost audible sigh of relief. As Lee Alverson of the National Marine Fisheries Service said, "the task force would blow up if there were a major season of confrontation."

Those taking the pledge were the Washington Trollers Association, the Purse Seine Vessel Owners Association, the Washington State Commercial Passenger Fishing Vessels Association, the Grays Harbor Gillnetters Association and the Puget Sound Gillnetters Association.

The U.S. attorney in Seattle, John Merkel, who chairs the regional workhorse part of the cabinet-level task force appointed by President Carter, said the pledge "took a great deal of courage and leadership" and represented "a major first step" toward finding solutions to the problems facing the salmon industry in the Northwest.

Those problems include lack of fish as well as the dispute over treaty fishing rights, and the task force probably can get federal dollars to increase fish runs if a peaceful settlement of the treaty-right conflict appears possible.

On the Indian side, Jim Heckman, executive director of the Northwest Indian Fisheries Commission, was cautious. "Apparently," he said "these people have finally decided to be law-abiding. I hope this is a gesture toward better relations. If it's true, it should open some doors."

Underscoring the non-Indian associations' determination to continue their legal battle, attorneys for the seiners and gillnetters said yesterday they had decided to appeal a federal judge's refusal to stop the federal government from allotting extra fishing time to treaty tribes fishing the Fraser River runs.

The Seattle Times

July 21, 1977

State's fishing rules defy Boldt decision, say Indians

By WARREN KING
Times Staff Reporter

BELLINGHAM — A representative of 19 Indian tribes charged here today that state salmon-fishing regulations this year "are in obvious defiance" of the Boldt federal court Indian-fishing rights decision.

"The Northwest Indian Fisheries Commission feels that the (state) Department of Fisheries has acted irresponsibly in proposing to the non-Indian fishermen an excessive fishing season which suggests a total negation of the Boldt decision," said James L. Heckman, the commission's executive director.

Speaking at a state hearing on this year's proposed regulations on the chinook, coho and salmon fisheries in Puget Sound, Heckman said the regulations would allow non-Indian fishermen far more than their share of 50 per cent of the harvestable salmon as established by the Boldt decision.

Indian fishermen would not get their 50 per cent share, he said.

Most of the audience of about 100 persons in the Mount Baker theater were non-Indian fishermen. They applauded Heckman when he said Indians would not get their share.

Frank Haw, deputy director of the State De-

partment of Fisheries, said outside the hearing that the regulations were simply an attempt to comply with a recent State Supreme Court decision that held the state could regulate salmon only for conservation reasons and could not allocate among user groups, despite the Boldt decision.

He said he fully expects a reaction from Judge Boldt's court.

"It's like a big tennis game with the ball now in their (Judge Boldt's) court," Haw said. "It's obvious they're going to return it, maybe with a smash."

Phil Sutherland, president of the Puget Sound Gillnetters Association, told the state officials: "We will enjoy your company on the same side in court. State statute-founded proposals make sense to us."

Heckman was supported in his remarks by representatives of the Lummi and Tulalip Tribes.

Heckman said the Indian Fisheries Commission is "encouraged" by a pledge signed by non-Indian commercial fishermen to avoid confrontation and promote a settlement of the fisheries controversy. The pledge was revealed in Seattle yesterday.

But he also said outside the meeting: "We seem to be back to ground zero in negotiation with the state. Attempts at a good-faith effort to solve our problems have disappeared."

The Seattle Times

July 23, 1977

Commission opens some salmon waters

The International Pacific Salmon Fisheries Commission has opened American convention waters to commercial fishing for sockeye and pink salmon for limited periods next week.

The new times are generally for an area from Neah Bay east to Puget Sound and north to Canada, with pockets of exceptions, the Associated Press reported.

The Seattle Times

July 23, 1977

Salmon-fishing rules
'will be attacked'

State regulations for the Puget Sound salmon fishery will be attacked in federal court because they do not recognize the Boldt Indian fishing decision, a Department of Fisheries spokesman predicts.

The regulations treating all fishermen alike were adopted yesterday to cover the chinook, coho and chum season from tomorrow through November 26 from Whidbey Island to Olympia, the Associated Press reported.

The regulations close three areas along Hood Canal.

July 24, 1977

Limited fishing to be allowed

Limited Canadian and U.S. fishing will be allowed this week in international salmon convention waters.

U.S. waters will open Monday, for one day only.

According to John Roos, assistant director of the International Pacific Salmon Fisheries Commission, purse seine fishing will begin at 5 a.m. Monday, followed by reefnet and gillnet fishing starting at 7 p.m.

Canadian convention waters will be open one day in the Strait of Juan de Fuca and two days in the Fraser River, beginning simultaneously Monday, Roos said.

The openings were announced after an IPSFC meeting in Bellingham Friday. Because of low escapement and a catch heavily weighted on the American side, the fisheries were closed this past week.

The commission, which regulates the fishery according to international treaty, will appraise the situation again Monday afternoon, Roos said. Test fishing was scheduled this weekend.

The early Stuart run's escapement, after Canadian Indian catches are subtracted, has totaled about 225,000 fish instead of the 300,000 salmon desired, Roos reported. The gross escapement totaled about 340,000 fish, short of the 400,000 goal.

The Horsefly and late Stuart runs are now entering the straits in volume and will be the object of this week's fishery, he said.

Before adjourning Friday, Roos reports, the IPSFC passed an emergency order stipulating that when convention waters are closed to fishing under commission regulations,

"the catching or taking of sockeye and pink salmon is prohibited."

The order is not specifically directed toward the Indian fishery open under U.S. Interior Department jurisdiction, Roos said, adding that he doesn't know "how the Indians fit into this."

It was intended to fill a loophole in the management regulations which allowed fishermen to go after other salmon species in closed convention waters.

Such fishermen could use large-mesh nets as proof they were not seeking the sockeye or pink salmon, but incidental catches could be sizable, and even if thrown back could create casualties.

Under the current regulation, large mesh and good intentions would not be an acceptable defense.

The Seattle Times

July 25, 1977

Fish rules anger B.C.

VANCOUVER, B.C. — (AP) — A Canadian fishing union says the government must stand up to the United States if Canadian fishermen are to get a fair share of Fraser River salmon.

The United Fishermen and Allied Worker's Union officials say Canadian fishermen are being robbed of salmon stocks because of the government's "supine position" in its acquiescence to United States Indian fisheries regulations.

The union says the United States regulations usurp the authority of the International Pacific Salmon Fisheries Commission, which governs the Fraser River salmon catch.

"We are dealing with an extremely explosive situation, as salmon fishermen on both sides of the border contemplate fishing in defiance of all regulations," the

union president, Jack Nichol, said in a telegram Friday to Fisheries Minister Romeo LeBlanc.

The union demanded the government move to prevent further "imbalance and inequities in favor of the U.S. in the catch of Fraser River sockeye, pinks and chinook salmon."

Nichol said the Bureau of Indian Affairs is "superimposing its own regulations upon those of the Salmon Commission and is allowing Indian fishermen a seven-day-a-week fishery using 7½-inch mesh nets reportedly made of the outlawed monofilament.

"Moreover, a portion of the fishery is being conducted immediately below the international border, off Point Roberts, in view of Canadian salmon fishermen who have had to plead for fishing time and who are faced with a 300,000-fish deficit in the division of sockeye and pinks."

While chinook salmon are not covered by the treaty, Nichol said the nets used would catch sockeye and some pinks.

To date, Canadians have taken about 515,000 fish to the Americans' 735,000.

July 26, 1977

Fishermen's Pledge Will Ease Tensions

When they come to port and talk over coffee or beer, the state's non-Indian commercial fishermen smoulder still with frustration and anger over what they think has been dealt them so far in the long, continuing dispute over treaty-Indian fishing rights.

Only the naive or the very brave or suicidal in those haunts in Ballard, Anacortes, Bellingham, Westport and elsewhere will defend U.S. District Court Judge George Boldt's 1974 decision giving treaty Indians the opportunity to catch half of incoming salmon.

Or defend the state and federal management efforts that have flowed from that decision.

So it took no small amount of courage last week for the leaders of the state's five main non-Indian commercial fishing groups to announce at a press conference that their organizations will obey the fishing regulations this summer and will not confront Indians or law enforcement officers, as happened last summer.

The pledge was made to ease tensions, deflate rumors of possible violence and, most of all, to give a federal task force appointed by President Carter time for finding a solution to the problems of the salmon industry in the Northwest.



It must be noted that the pledge came at the start of a fishing season in which there have been no major confrontations and during which the associations' leaders have been telling their highly individualistic members to keep the law and see what happens.

The promise does not mean that the associations will drop their legal efforts to overturn interpretations of Indian fishing rights by federal courts, nor halt peaceful, symbolic demonstrations against the laws as they now stand.

But the promise to avoid emotion-kindling confrontations does provide a better negotiating climate than existed for the federal task force trying to find a fair settlement to the fishing dispute and, as importantly, trying to find ways to provide more salmon for all user groups.

Taking the pledge were the Washington Trollers Association, the Purse Seine Vessel Owners Association, the Washington State Commercial Passenger Fishing Vessels Association, the Grays Harbor Gillnetters Association and the Puget Sound Gillnetters Association.

They have evidenced faith—for awhile at least—in the presidential task force's efforts to untangle a problem not of conflicting rights and wrongs, but of conflicting rights involving one of the state's largest industries and a significant part of its population.

The fishing associations are also showing that they hope to help lead the state out of the tangle and bring peace and more fish to our waters. Rather than react to events, they have decided to seek a share of control over decisions that will help or hurt the futures of their members.

The Portland Oregonian

July 28, 1977

Canadian fish pact inked

WASHINGTON (AP) — President Carter announced Wednesday he has signed an interim fishing agreement with Canada and named a special representative to conduct longer-term negotiations.

The agreement that was ratified permits fishermen of each country to fish in the 200-mile fisheries zone of the other until Dec. 31, 1978.

The Seattle Times

July 29, 1977

Boldt asked to end state's say in allocation of fish

The federal government and treaty Indian tribes yesterday asked United States District Judge George H. Boldt to strip the state of any control over the tribes' share of salmon and steelhead runs.

United States Attorney John Merkel said he was not seeking "a federal takeover," but said "it's very obvious that the state can no longer carry out" management of the tribes' share of the fisheries.

Last week, the State Fisheries Department issued regulations for the commercial salmon-fishing season in Puget Sound. The new

maritime

Glen Carter, editor

regulations treated treaty and nontreaty fishermen alike, making no consideration for the Indian treaty rights established by Judge Boldt's 1974 decision.

Merkel said the plan would take the state out of the business of regulating the treaty tribes' catch except for closures because of conservation.

The State Supreme Court has ruled twice this year that the state cannot allocate fish between treaty and nontreaty fishermen.

Judge Boldt's 1974 ruling said treaty tribes were entitled to the opportunity to catch half the harvestable salmon and steelhead returning to traditional off-reservation Indian-fishing areas.

Gordon Sandison, state fisheries director, said "This was kind of expected. We have our state Supreme Court decisions to go by and they are contrary to the 'feds.'"

Sandison said it was important that the state retain control to shut down fishing if certain runs fall below projections, even though such closures may work against Indian fishermen at times.

Judge Boldt has set a hearing for August 8.

Phil Sutherland, president of the Puget Sound Gillnetters Associa-

tion, said the government's action will seriously jeopardize his industry.

"If this goes through, there's gonna be one helluva an industry sitting on the beach," Sutherland said. He said the federal government also has to realize the investments commercial fishermen have made.

Sutherland said he would still like the United States Supreme Court to hear the fishing rights case. Meanwhile, he said the gillnetters would be consulting with their attorneys to consider possible legal action in response to the latest federal move.

maritime

Glen Carter, editor

Fishermen fear oil armada

By WARD SIMS
Associated Press

CORDOVA, Alaska — The coming parade of oil tankers that will carry Alaska crude oil through Prince William Sound is causing deep concern in this city of fishermen.

Starting with the sailing of the 883-foot Arco Juneau this week, oil pumped through the trans-Alaska pipeline from Alaska's North Slope will be shipped to refineries on the West Coast from a marine terminal at Valdez, 50 miles northwest of here.

Those huge tankers will ply Prince William Sound waters, which last year yielded fisheries products valued at about \$15 million at the wholesale level — salmon, crabs, clams, herring and other seafoods.

In the salmon season, an influx of fishermen and cannery and transport workers swells the city's population from 2,500 to more than 4,000. More than 450 gillnet boats and about 400 seiners operate from Cordova's harbor. Four canneries handle the catch.

Prince William Sound is a 100-mile-long body of water south of Valdez, sheltered from the Gulf of Alaska and the Pacific Ocean by a chain of islands. Cordova is near the southeastern corner, Valdez near the northeastern corner. Thus, tankers steaming south to the Pacific from Valdez will pass through the Sound past Cordova.

"I wish there was another way to get the oil out, I really do, but we do need the oil, to keep our boats operating, to keep ourselves in business," said Don Shaw, the 30-year-old owner and operator of the 27-foot gillnetter Chippy.

"I just hope they're careful; I just hope they don't have a spill, because if they do, they're going to have a real mess."

Part of Shaw's apprehension stems from damage inflicted on salmon-spawning streams by the Alaska earthquake of March 27, 1964.

The quake raised the earth as much as 50 feet in some areas of the Sound. Intertidal spawning areas of some streams were left high and dry. Others were filled with silt and salmon eggs smothered.

"There are some areas now that are just starting to come back after the earthquake," Shaw said.

Shaw has been fishing for 11 years and figures he has about \$45,000 tied up in his boat and equipment.

The owner-skipper of the 34-foot salmon purse seiner Thetis, Connie Taylor, 35, said she fears frequent minor spills more than a major spill.

"For one thing, if you have a major spill, hopefully, it's going to be somewhat localized," said Miss Taylor, who values her equipment at \$100,000, including the Thetis and a small gillnet boat.

"I think that what we're going to have is a lot of little bitty spills that are going to go unreported, that are covered up, that are reported smaller than they are, and are not cleaned up at all.

"We are going to have 20 to 30 years of continuous pollution of the Sound. I think that's a real danger."

Miss Taylor criticized a plant built in Valdez to remove oil from ballast water discharged by tankers before they load with crude.

"They are going to have between 5 and 10 barrels per day of the oil spill in Valdez Harbor," she said. "That's what they consider an acceptable spill . . . That's one of the things I find most shocking, to talk about a spill like that as acceptable."

Lester Platt, 42, the owner of the 46-foot seiner John Jason, said: "Even with small spills, it isn't going to go away. It is just going to stay there and keep getting worse and worse."

Platt, who fishes for crab when he isn't fishing for salmon, said an oil spill will affect crabs because some oil sinks to the bottom.

He also fears the wakes he expects the huge tankers to generate.

"A lot of the time, when we're seining, we are drifting right close to the beach. If one of those tankers throws up a big swell, it would lift your boat up and start pounding it on the bottom," he said.

The Bellingham Herald

August 4, 1977

Fishermen heading for Alaska

By DICK BEARDSLEY
Herald Staff Reporter

More than 100 purse seiners have left Puget Sound, where fewer salmon than expected are showing up, to fish in southeastern Alaska, where there are more fish than processors can handle.

The Fraser River sockeye harvest

in Puget Sound is down 700,000 fish from what was predicted, according to John Roos, assistant director of the International Pacific Salmon Fisheries Commission (IPSFC).

An entire run of the Fraser fishery - the late Stuart Lake run - failed to materialize, Roos said.

Meanwhile, purse seiners in Alaska are being limited to catches of 5,000 pink salmon each fishing day because canneries aren't prepared to handle any more of a harvest than that, according to fishery and cannery officials in Alaska.

More than six million pink salmon have been harvested since fishing for them began in southeastern Alaska July 3.

The migration of Puget Sound vessels north to take part in that bonanza has cut in half the number of purse seines fishing for Fraser River sockeye.

About 2.6 million sockeye have been harvested since fishing began here June 26 - 1.4 million by United States fishermen and 1.2 million by Canadian fishermen.

Treaty Indians have harvested about 250,000 of the 1.4 million sockeye caught by Americans, according to Fred Olney of the U.S. Department of Interior, which is regulating the sockeye fishery for treaty Indians this summer.

Sockeye fishing in U.S. waters has been closed since Sunday. The IPSFC is scheduled to meet Friday to consider when fishing might be reopened.

Even though the international fishery is closed, some commercial fishing still is taking place.

Lummi Indian fishery officials say a tribal regulated fishery outside waters controlled by the IPSFC is underway. The Washington Fisheries Department also is regulating a king salmon fishery in Bellingham, Samish and Skagit bays and on the Nooksack and Skagit rivers.

Sockeye fishing has been restricted in U.S. waters this summer for two reasons, according to Roos.

First, the Canadian harvest has been lagging the American harvest all season and efforts are being made to equalize the harvests for each nation.

Roos also said preliminary estimates indicate too few salmon are escaping upstream to spawning grounds to enhance future runs, blaming this shortage on the Interior Department regulations which

are giving U.S. treaty Indian fishermen additional fishing time. Fish caught by the Indians during those extra days of fishing are fish that would have escaped to spawning grounds, Roos contends.

Paul Anderson, manager of the Purse Seine Vessel Owners Association, expressed concern Wednesday that the separate U.S. regulations for treaty fishermen is eroding the effectiveness of the IPSFC.

He said the purse seiners are considering another attempt to receive an injunction against those regulations. In June, U.S. District Court Judge Walter McGovern denied such a request, saying it should be of no concern to the IPSFC what the U.S. does with its sockeye harvest, as long as the IPSFC is not impaired in its efforts to enhance future runs and ensure an equal catch by U.S. and Canadian fishermen.

The Indian harvest, Anderson indicated, is impairing future enhancement by leaving too few fish to escape to spawning grounds.

August 12, 1977

Case of the Spoiled Salmon

By FRED BRACK

Nearly a month after the state Department of Fisheries announced it was taking "legal action" against Lummi Indian Seafood Co. for, it said, "wantonly" wasting 19,300 pounds of salmon the department still has not supplied the Whatcom County prosecutor enough evidence to support a prosecution.

The prosecutor, David McEachran, said yesterday he had asked the department "continually" for more information and had not received it.

"There are so many loose ends that we aren't even close" to deciding whether to prosecute, McEachran said.

The chief of the fisheries patrol, Sandy Miller, insisted "our officers

are attempting to get those tie-ins (evidence)" McEachran had requested.

McEachran added the only information supplied him by fisheries investigators was two statements from employees of a Seattle rendering plant acknowledging the plant had received the spoiled salmon on July 1. He said he doesn't know who delivered the salmon, where they came from or why they spoiled.

All of that, he said, is necessary for him to decide whether to bring criminal charges under the state's foodfish wastage law.

Some sources within the fisheries department have been skeptical from the beginning about whether the law was broken and about

the department's reaction to the spoilage.

These sources attribute the department's public statement July 15 about "legal action" to zealous "heroes" within the department who are attempting to butter up non-Indian commercial fishermen.

Historically, critics in and out of the department say, the department's scientific management obligations have been skewed by an anti-Indian, pro-commercial fishermen bias.

When that bias was muted by Donald Moos and Frank Haw during their tenures as fisheries director and replaced by

an attitude of trying to improve fishing for Indians and non-Indians alike, Moos and Haw were scorned by some non-Indian fishermen.

The current director, Gordon Sandison, had barely taken office when the fisheries patrol brought to his attention the spoiled salmon. Although he made the statement about "legal action," Sandison acknowledged under questioning that the department had not sought to learn why the fish spoiled.

The Lummi said the fish spoiled when the plant's ice supplier was unable to keep up with demand. An assistant state attorney general,

Dennis Reynolds, said the law's reference to "wantonly" meant that fish had to be wasted "intentionally or willfully" to constitute a violation.

The Lummi pointed out it was their plant that suffered the \$35,000 loss and it was "ridiculous" to charge that plant had intentionally taken such a loss.

"It sounded as if the case was complete. And it wasn't at all."

The Seattle Times

August 12, 1977

Fisheries Dept. complies with Boldt, stops non-Indian fishing

By MARSHALL WILSON
Times Staff Reporter

OLYMPIA — Commercial chinook salmon fishermen can haul in their nets. There will be no fishing in Elliott Bay, Carr Inlet or Budd Inlet next week.

Gordon Sandison, state fisheries director, said today the Department of Fisheries will comply with an order issued Wednesday by United States District Judge George Boldt canceling state fishing regulations and reducing fishing time for non-Indian commercial fishermen to harvest chinook salmon in Puget Sound.

"Implementation of Judge Boldt's order cancels open fishing periods already scheduled for next week in Elliott Bay, Carr Inlet and Budd Inlet," Sandison said. "Fisheries set for Bellingham and Samish Bays and for parts of Hood Canal will take place as scheduled."

Sandison said Judge Boldt's order removes from state jurisdiction the portion of harvestable salmon allocated to treaty Indian tribes under the "50-50" catch-sharing formula established in the judge's Indian-fishing-rights decision of February, 1974.

"In considering our intent to comply with Judge Boldt's order," Sandison said, "we have serious questions about the extent to which we may do so, in light of recent State Supreme Court decisions."

The State Supreme Court recently ruled that

the Department of Fisheries may pass and enforce regulations only for conservation and may not make distinction between treaty and non-treaty fishermen for purposes of allocating the harvest.

Sandison said he expects his compliance with Judge Boldt's order to be challenged in state courts by non-Indian commercial-fishing interests.

"If our compliance is found to be legally improper," Sandison said, "we will return to the previously scheduled regulatory pattern for non-treaty commercial net salmon fishing in Puget Sound."

The State Supreme Court is now in recess and is not scheduled to return the bench until September 12.

Sandison also said he would seek removal or modification of Judge Boldt's latest fishery-management constraints in a hearing set in Judge Boldt's court August 25.

"The basic aim of the department is to resolve our current legal problems before the arrival of large runs of Puget Sound coho and chum salmon in September and October," Sandison said.

Asked if the state has manpower to enforce the restrictions on non-Indian commercial fishing made necessary by Judge Boldt's order, Sandison said: "It's going to be a strain, but I think we can enforce it, at least for the chinook season."

The fisheries director noted that he is caught in the middle of a federal-state dispute and said he has "felt uncomfortable ever since I walked in this office because of this tug-of-war."

August 13, 1977

State Agrees to Comply With Boldt Order on Fishing

P-I Staff, AP, UPI

The director of the State Department of Fisheries, Gordon Sandison, said yesterday he will comply with orders by U.S. District Court Judge George Boldt and cancel this season's commercial salmon fishing regulations for Puget Sound, reducing fishing for nontreaty Indian fishermen.

On Wednesday, Boldt ordered the regulations canceled because they would have permitted nontreaty fishermen to catch part of Indian tribes, treaty-protected share of the salmon.

Boldt said he would decide how many fish tribes were entitled to fish in various fishing areas and supervise their fishing and that the state would no longer have any say about those fish because it was "unable or unwilling" to respect the tribes' treaty rights.

The state, Boldt said, can continue to manage the nontreaty share of the salmon by establishing fishing times for different types of gear. But, he said, those regulations must be sufficiently stringent to prevent nontreaty fishermen from catching treaty tribes' fish.

The immediate effect of Sandison's decision is

that nontreaty fishermen planning to pursue chinook in Elliott Bay, Carr Inlet and Budd Inlet next week under the now-defunct state regulations will not be permitted to string out their nets.

Boldt banned nontreaty fishing for chinook, the only species now present in Puget Sound in commercial quantities, in all areas other than Bellingham Bay, Samish Bay, Hood Canal and Skagit Bay.

The fisheries department yesterday closed chinook fishing in Skagit Bay to treaty and nontreaty fishermen alike for conservation reasons, as permitted by Boldt. But fishing by both groups will continue in the other three areas until each has taken its share as specified by Boldt.

Sandison made his announcement yesterday after long hours discussing alternatives with his attorneys in the intricate legal dance that has gone on since Boldt identified the tribes' treaty rights more than three years ago.

The fisheries director had expected Boldt's reaction to the regulations announced by the department last month because they did not distinguish between treaty and nontreaty fishermen, a distinction the State Supreme Court says the director cannot make despite Boldt's ruling.

Sandison yesterday repeated his dismay about being caught in a "tug-of-war" between state and federal courts. But he said he expects his trouble to continue, predicting that he will be taken into state court by non-Indian commercial fishermen for his compliance with the federal court.

Despite his decision to comply, Sandison said he had "serious questions" about the extent to which he, as a state official, can honor Boldt's orders, given the state court's position.

"The basic aim of the department," Sandison said, "is to resolve our current legal problems before the arrival of the large runs of Puget Sound coho and chum salmon in September and October."

"At that time, the chances of a multi-million-dollar fishing management mistake will be high and firmly believe that the necessary decisions and regulations must be made by experienced professional fishery resource managers."

Gillnetters challenge fishing pact

OLYMPIA — (UPI) — Columbia River gillnetters filed suit in Thurston County Superior Court yesterday seeking to overturn an agreement signed by Gov. Dixy Lee Ray granting Indians a majority of the harvestable Chinook salmon returning to the river in the fall.

A hearing on the request probably will be held August 22. Timing is important, as the main run of early-fall Chinooks is expected in the Columbia River next week, Charles Yates of Seattle, attorney for the fishermen, said.

Yates contended in his written complaint that the governor did not have legal authority to sign an agreement last February granting Indian fishermen much of the salmon run.

The agreement, which also was signed by Oregon officials, was later made part of a United States District Court order issued by Judge Robert Belloni.

Yates said his suit, if successful,

would affect only Washington fishermen, who comprise a large portion of the 800 to 1,000 gillnetters who traditionally have fished the Columbia.

His case hinges on Washington law dealing with allocation of salmon.

"The state, the governor and the Fisheries Department are authorized by legislation to adopt regulations pertaining to commercial fishing for salmon for conservation purposes only," Yates said in his complaint. "Therefore, the regulations which have been adopted by the Department of Fisheries, intended to effect an allocation, is beyond the scope of the authority of the (department).

"The governor has no authority to enter into an agreement modifying, expanding or limiting the authority of the Department of Fisheries to act," Yates said in his complaint.

The regulations adopted by the department followed guidelines

set forth in the agreement signed by the governor. The agreement called for escapement of 100,000 salmon, with the remaining fish to be split, 60-40, with Indians receiving the larger share.

In the past state courts have struck down several Fisheries Department regulations that have attempted to allocate salmon to satisfy federal-court rulings that In-

dians whose ancestors signed federal treaties are entitled to more than half the returning salmon and steelhead trout.

Federal courts have taken a position that federal treaties control the situation and United States District judges have been much more generous than state judges in granting Indian fishing rights.

Studies may triple Canadian salmon run

VICTORIA, B.C. — (AP) — A Canadian government program to restore British Columbia salmon stocks may triple the number of salmon in ten years, a Victoria scientist says.

"Judging by what has been accomplished already, I don't think that tripling the number of salmon in 10 years is an unreasonable expectation," said Robert O'Brien, a chemist at the University of Victoria.

O'Brien has received a \$7,000 grant to investigate the oxygen needs of salmon eggs. His first experiment has tripled the number of salmon produced in one area.

His project is part of a \$300 million program to restore the salmon to the bountiful levels of the early 19th century.

"What we're trying to do by studying the oxygen respiration rates

of salmon eggs is to enable the fisheries people to utilize the spawning grounds as efficiently as possible," said O'Brien.

A key factor in salmon production is spawning beds, which can be man-made by causing rivers to meander over gravel beds to create ideal spawning conditions.

"We know roughly now how much oxygen the eggs need but this project will give precise data which will enable us to refine our decisions," he said.

If too many spawning salmon are allowed into a stream, many eggs will suffocate from lack of oxygen. Low oxygen supplies also can result in underdeveloped fingerlings, which cannot swim properly and are snapped up by trout and other predators. On the other hand, an overabundance of oxygen can result in fish-bubble disease.

The Seattle Post-Intelligencer

August 16, 1977

Columbia Gillnetters Sue State

Columbia River gillnetters went to court yesterday hoping to overturn a two-state agreement granting Indians most of the harvestable Chinook salmon returning to the river soon.

A hearing on the matter is scheduled Friday in Thurston County Superior Court in Olympia where the action was brought.

Seattle attorney

Charles Yates said time is of the essence because the main run of early fall Chinooks is expected in the Columbia next week.

Yates said his case, if successful, would affect only Washington fishermen who make up a large portion of the 800 to 1,000 gillnetters who traditionally fish the Columbia.

The Columbia River Fishermen's Protective

Union claims that an agreement signed by Gov. Dixy Lee Ray allowing non-Indians to take only 40 per cent or 60,000 fish is unconstitutional.

The agreement was worked out by attorneys for the states of Washington and Oregon and treaty Indians. It was subsequently made part of a U.S. District Court order issued by Judge Robert Belloni of Port-

land.

The agreement allows for escapement of 100,000 salmon with the remaining fish to be split 60-40 and Indians receiving the larger share.

The fishermen claim the governor had no authority to supersede State Fishery Department authority on conservation and allocation of fish.

August 17, 1977

U.S. Attorney Asked to Quit Fish Panel

By FRED BRACK

Non-Indian purse seiners and gillnetters associations asked U.S. Atty. John Merkel of Seattle yesterday to resign from the regional task force trying to solve fisheries problems in Washington.

The two associations said Merkel was guilty of a "conflict of interest" because last week he sought and obtained an injunction against state fishing regulations that ignored Indian treaty rights.

The associations said Merkel should be an "impartial negotiator" as a member of the task force.

Merkel said he would not resign, arguing, "their objection can be made all down the line about anyone from the Justice Department who is on the task force."

The associations' statement was further evidence that nontreaty fishermen are unwilling to live with Indian treaty rights as determined by the federal courts, Paul Anderson, executive manager of the purse seiners, confirmed in an interview.

Officials who attempt to uphold those rights provoke nontreaty fishermen's ire.

Merkel, as the top federal lawyer in this area, and the Washington tribes with treaty fishing rights obtained an injunction from U.S. District Court Judge George Boldt against the state's commercial salmon regulations because those regulations treated treaty and nontreaty fishermen alike.

Treaty fishermen, greatly outnumbered, would not have been able to catch their share under the regulations.

Boldt, who had determined the treaty tribes' share in 1974, said he would divide the fish himself and would manage the Indians' share, leaving this state to allocate the nontreaty share between purse seiners and gillnetters.

"We can't negotiate and arbitrate on this matter and ignore the law," Merkel said of his task force role. "The Boldt decision happens to be the law."

Merkel is chairman of the three-member regional task force, the working level of the cabinet-level task force appointed last winter by President Carter to try to ease tensions in Washington's waters and to propose ways to increase the catch for Indians and non-Indians.

The Seattle Times

August 18, 1977

Merkel won't quit as head of federal fisheries task force

United States Attorney John Merkel says he will not resign from the regional field team of the President's Task Force on Northwest Fisheries, despite charges by two non-Indian commercial fishing groups that he is guilty of a "conflict of interest."

The Purse Seine Vessel Owners Association and Puget Sound Gillnetters sent a telegram Tuesday to President Carter which said that Merkel should step down from his post as chairman of the regional fisheries task force.

The fishing groups said that legal actions Merkel has taken as United States attorney in behalf of treaty tribes interfere with his role as an impartial mediator on the fisheries task force.

"I think their objections apply to anybody on the task force, since it is made up of (employees) of the federal government," Merkel said. "It is unfortunate that the commercial fishermen can't understand that the Justice Department wears two hats in the matter."

The fishing groups said they were particularly disturbed by Merkel's recent action in obtaining an injunction against state fisheries regulations which did not allocate salmon for treaty tribes. Commercial fishermen say the injunction usurps the authority of

the state to manage its own fishery.

"Merkel's decision to seek an injunction in behalf of the tribes... not only is a repudiation of his pledge to negotiate but also has rekindled the atmosphere of confrontation and tension which he said he sought to avoid," said the telegram sent by the fishing groups.

"In pursuit of protection of Indian treaty rights, he (Merkel) has broken his own 'treaty' with non-tribal fishermen," the telegram read.

Merkel said the federal government has "the responsibility to uphold the Boldt decision during negotiations." In 1974, United States District Judge George Boldt ruled that Indian treaties give certain tribes the opportunity to catch up to 50 per cent of the harvestable salmon and steelhead returning to traditional, off-reservation tribal fishing grounds.

The regional field team of the President's task force was established by the administration to resolve conflicts stemming from the Boldt decision on Indian fishing rights and to propose ways to increase the catch for Indian and non-Indian fishermen.

The task force now is working to establish a data base of Washington fisheries resources that both Indian and non-Indian groups will find acceptable.

The Seattle Times

August 20, 1977

By SCOTT MAIER
Times Staff Reporter

OLYMPIA — Thurston County Superior Court Judge Gerry Alexander yesterday granted a request by the state to disqualify himself from a commercial-salmon-fishery hearing, but accused the department of engaging in "judge-shopping."

"I don't think the court is prejudiced and I don't think you think it is," Judge Alexander told Assistant Attorney General Jim Johnson. Johnson is representing the state and the Department of Fisheries in a lawsuit challenging state regulations which grant to treaty Indian fishermen the majority of the Columbia River salmon catch.

Judge Alexander said that the state's action is unprecedented. After the hearing, he told a reporter that the state was saying it does not trust its own courts.

The judge said that the state's action left him no alternative but to step down because his judgments would be held questionable regardless of how he ruled.

"If this is going to become a (regular) practice, it will severely hamper the court to carry out its functions," the judge said. "It is a day that personally saddens me. I can only conclude that the department is judge-shopping. . . . I think it is to be abhorred."

A spokesman said that Gov. Dixy Lee Ray personally approved the request that Judge Alexander disqualify himself.

An affidavit from Gordon Sandison, Fisheries director, contended that the state could not receive "a fair and impartial trial" before Judge Alexander because he had ruled against the state in several similar cases.

In two major decisions in 1974 and 1975, Judge Alexander struck down state regulations which allocated salmon to Indian tribes covered by federal treaties. The State Supreme Court upheld his rulings in two separate decisions issued this summer.

The Department of Fisheries denied that it was engaging in "judge-shopping."

"This certainly is not a reflection on Judge Alexander, whom I consider to be an excellent jurist," Sandison said in a statement to a

Seattle radio station. "The department has lost succeeding cases in front of Judge Alexander and we thought, to clear the air, it would be better if someone else would hear this case."

He assigned the case to Judge Frank Baker who will hear arguments for a motion to nullify an agreement between Oregon and Washington allocating 60 per cent of the harvestable Chinook salmon

run on the Columbia River to treaty Indians.

Columbia River gillnetters contend that the governor did not have the authority to accept the agreement which was signed last February. If the agreement is struck down, it may sharply curtail the state's ability to make a negotiated agreement over the allocation of fish to Indians by federal treaties.

Judge drops out of fishery case

The Seattle Times

August 20, 1977

Salmon-fishing schedules set

Associated Press

The National Marine Fisheries Service reports that the International Pacific Salmon Fisheries Commission opened United States Convention Waters to commercial fishing for sockeye and pink salmon in accord with the previously published fishing schedule for next week.

Fishing times for each type of gear in state areas 4B, 5, 6C, 7 and 7A, and that part of area 6 lying northerly and westerly of a line between Dungeness Light and Smith Island Light, will be as follows:

Purseiners — Monday and Tuesday, from 5 a.m. to 9 p.m. daily.

Gillnets — 6 p.m. Monday to 9 a.m. Tuesday, and 6 p.m. Tuesday to 9 a.m. Wednesday.

Reef nets — Monday from 7 p.m. to 9 p.m., Tuesday from 5 a.m. to 9 p.m. and Wednesday from 5 a.m. to 7 p.m.

The Western Washington Agency of the Bureau of Indian Affairs has announced changes in treaty Indian fishing for sockeye and

pink salmon in United States Convention Waters in response to the I.P.S.F.C. information.

Treaty Indian tribes issued emergency regulations opening fishing in state areas 4B, 5, 6C, 7 and 7A, and that portion of area 6 lying northerly and westerly of a line projecting from Dungeness Light to Smith Island Light. Fishing will be open at 10:30 a.m. tomorrow and at 9 a.m. Wednesday.

Fishing will reopen in area 4B only at 6 p.m. Wednesday, and close at 9 a.m. Thursday.

Area 6A and that portion of area 6 southerly and easterly of a line projected from Dungeness Light to Smith Island Light will remain closed for sockeye and pink salmon until September 10.

However, 6A and that portion of area 6 southerly and easterly of a line projected from Dungeness Light to Smith Island Light will remain open for nets having a mesh of not less than 8 inches stretch measure.

Further information may be obtained by dialing a toll-free number, 1-800-562-2870.

August 26, 1977

Sandison May Open Sound To Nontreaty Fishermen

By FRED BRACK

State Fisheries Director Gordon Sandison announced yesterday he will open Puget Sound to nontreaty chinook salmon fishermen Sunday night. Such an action, if it takes place, would be in compliance with a state court order but in defiance of a federal court order.

Sandison's legal dilemma might be solved for him today, however.

Federal attorneys said they would ask U.S. District Court Judge George Boldt this morning to order Thurston County Superior Court Judge Frank Baker not to interfere with Boldt's previous order to Sandison to close most of the Sound to nontreaty chinook fishing.

If Boldt does order Baker to stay out of the Indian treaty-fishing case, the clash between state courts and federal courts over the issue would be directly joined, judge-to-judge, rather than indirectly through Sandison.

Sandison has been under Boldt's order for two weeks to prevent nontreaty fishing for chinook except in three areas of Puget Sound so that treaty fishermen can catch their share.

Sandison came under Baker's order Wednesday to open the fishing to all fishermen, treaty and a nontreaty alike, under regulations Boldt had struck down. Sandison says, as a state official, he must obey the state courts, and the regulations Sandison must use according to Baker permit fishing beginning Sunday night.

Boldt was informed in his Tacoma courtroom yesterday of Baker's order. Assistant State Atty. Gen. James Johnson, representing Sandison, asked Boldt to let the fisheries department off the hook, saying the state courts will not permit Sandison to shut down non-treaty fishermen when treaty fishermen are allowed to fish.

Boldt did not react, evidently waiting for federal attorneys to propose a method of dealing with Baker's order.

The last time Boldt ordered a state judge not to interfere with the fishing-rights case, the judge ignored Boldt, saying the order was technically defective.

Meanwhile, the matter before Boldt yesterday was allocation of coho and chum salmon in Puget Sound this year between treaty and non-treaty fishermen.

With the State Supreme Court saying the fisheries department cannot distinguish between Indians and non-Indians by allocating fish between them, Boldt two weeks ago said he would decide how many fish each group was entitled to and would himself set fishing times for treaty fishermen,

leaving the state to set fishing times for nontreaty fishermen on their share.

That was supposed to keep the state in the fish-management business without running afoul of the State Supreme Court's no-allocation rule because Boldt would be doing the allocating and not the state.

But Baker would not accept that.

Nevertheless, Boldt heard proposed for allocation yesterday, and those produced a split between the federal government and the treaty tribes, which are on the same side of the legal case.

The federal government, acting on the advice of the task force established by President Carter to deal with Washington's fisheries problems, proposed a split somewhat less than the tribes' full treaty entitlement. The tribes objected.

For chum, the federal government said, make the split 50-50, but with no additional "ceremonial and subsistence" and on-reservation catches.

For coho, the federal government said, make the split 55-45, with the tribes getting the smaller share and again not providing them with "ceremonial and subsistence" and on-reservation catches.

The full entitlement, under Boldt's interpretation of the treaties in 1974, would be 50-50 for each species in off-reservation waters plus smaller "ceremonial and subsistence" and on-reservation catches.

An attorney for the tribes reacted impatiently, saying that after four years it was time to implement Boldt's ruling fully.

John Merkel, U.S. attorney in Seattle and re-



SANDISON: Obeying the court

gional chairman of the fisheries task force, said the split had been proposed because of the "severe financial hardship" nontreaty fishermen would suffer if the tribes got their full treaty share this year, complicating the task force's attempt to mediate between the two groups.

Boldt is expected to decide the allocation within the next few days.

Two weeks ago, he allocated chinook because that was the only species currently in Puget Sound. That allocation, for Bellingham and Skagit Bays and Hood Canal, gave the tribes their full treaty entitlement.

Boldt ordered Sandison to close other areas of Puget Sound to nontreaty fishermen because their share of chinook, except for the three areas, were taken before the fish reached the Sound.

August 26, 1977

Surprise move

Federal government asks cutback on Indian fishing

By SCOTT MAIER
Times Staff Reporter

TACOMA — In a surprise move, the federal government yesterday asked United States District Judge George Boldt to allocate fewer salmon to Indian fishermen this year.

Under Judge Boldt's 1974 Indian-fishing-rights decision, treaty tribes were given the opportunity to catch 50 per cent of the harvestable salmon.

But Fred Dysart, an Interior Department attorney, told the court yesterday that limiting the Indian salmon harvest on Puget Sound would provide relief to non-

Indian commercial fishermen who face economic hardship under the Boldt decision.

The request brought sharp protests from attorneys for the tribes. One of them, Mason Morisset, told the judge that the tribes already have waited more than three years to be able to catch the 50 per cent allocated to them under the Boldt decision.

"I do not see why the Boldt decision cannot be implemented," he said.

The government's proposal was at the request of the regional team of the President's Task Force on Northwest Fisheries. It would allow Puget Sound tribes to

catch only 45 per cent of the harvestable coho salmon and 50 per cent of the harvestable chum salmon.

However, those figures also would include fish caught by Indians on reservations or for ceremonial and subsistence purposes. Under the Boldt decision, such catches are not to be counted as part of the tribes' 50 per cent share, so the government's request could mean a substantial reduction of the potential Indian salmon harvest.

The presidential task force asked the tribes last month to limit this year's catch voluntarily as a goodwill gesture to non-Indian

fishermen, but the tribes reportedly were cool to the idea.

"The request we have made to the court has only come after soul-searching," the task force said in a telegram to the tribes.

"We are acutely aware . . . of the rights of the tribes to insist upon being provided their full treaty rights," the telegram said. "We however believe that the complete fulfillment in 1977 of these rights might be detrimental to the needs of all the parties concerned."

Indian fishermen in South Puget Sound would be especially hard hit by the reduced allotment since those tribes have the capability to

catch their full allotment, according to United States Attorney John Merkel, chairman of the task force's regional team.

But Merkel said a reduced Indian fishery this year could be crucial toward establishing a long-term settlement of the fishery dispute.

"It shocked the Indian people to see the United States government, which is supposed to be a trustee for the tribes, act this way," said Billy Frank, a Nisqually Indian and chairman of the Northwest Indian Fisheries Commission. "It looks like they are trying to abrogate the treaty."

The Times' opinion and comment:

Dismaying conflicts over fishing issues

TAKING stock of the latest flurry of contradictory court rulings on fishing rights, a Puget Sound gillnetter said the other day that the dispute reminded him of a furious game of table tennis.

Caught in the middle is State Fisheries Director Gordon Sandison, who seems bound to get hit no matter which "court" the ball is coming from.

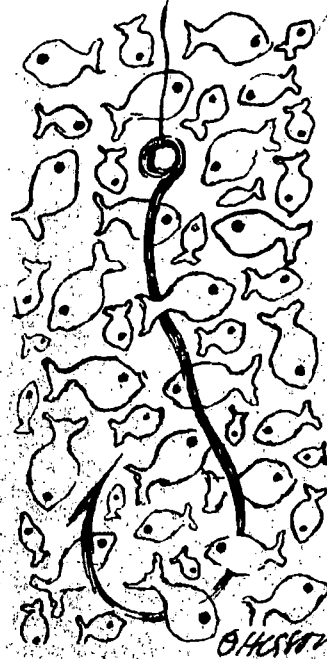
Unfortunately, even tragically, a lot more than Ping-Pong is at stake in a situation with enormous implications for the future of the regional economy and its fisheries resources.

The past week's flurry of rulings, injunctions, restraining orders, and threats of contempt citations involving federal and state judges seemed to be moving the dispute well past an argument over interpretations of Indian treaty rights into a classic confrontation over state vs. federal rights that will need ultimate resolution in the nation's highest court.

One possible casualty in the bewildering and complex series of court actions was a joint agreement reached earlier this year among Washington's Governor Ray, Oregon Gov. Robert Straub and four Indian tribes governing the division of Columbia River fish catches.

The accord was hailed at the time as an example of what might be achieved through negotiation of differences over Indian fishing rights on Puget Sound. And it was cited frequently by members of a presidential task force seeking an equitable settlement of disputes arising from United States District Judge George Boldt's initial decision in 1974.

Partly because the Legislature failed to provide the State Fisheries Department powers to allocate catches among various classes of fishermen, Sandison risks contempt citations if he imposes restraints on non-Indian fishermen like those



mandated by the federal court.

If Sandison complies with a state-court order, he could be in hot water with Judge Boldt. Sandison's predecessor, Donald Moos, found himself in similar predicaments earlier. The latest developments only dramatize the absence of progress in a situation that has dragged on for more than two years.

Government attorneys indicate they may ask the federal court to take management of the Washington fishery completely out of the state's hands.

Meantime, hopes that the presidential task force can make significant headway toward negotiating settlements between Indian and non-Indian fishing interests were dimmed considerably by the latest developments, including its proposal to divide catches on a basis somewhat less than the tribes' treaty entitlements.

To the average citizen watching from the sidelines, the inability to reach agreements and the unyielding conflict between state and federal-court jurisdictions over a prolonged period seem indicators of a dismaying breakdown in the traditional mechanisms for settling disputes.

The Seattle Times

August 26, 1977

Boldt asked to strike down state court's order on fishing

By SCOTT MAIER
Times Staff Reporter

TACOMA — Federal attorneys today asked United States District Judge George H. Boldt to strike down a state-court order which prevented the State Department of Fisheries from issuing regulations to provide an Indian salmon fishery in Puget Sound.

They also threatened to seek contempt-of-court action against State Fisheries Director Gordon Sandison if he does not obey the federal court.

The move escalated a continuing battle between federal and state courts that may be headed for a showdown in the United States Supreme Court.

THURSTON COUNTY Superior Court Judge Frank Baker ruled Tuesday that the Department of Fisheries could not issue regulations that closed Puget Sound to non-Indian salmon fishermen while treaty Indian tribes would be allowed to fish.

Judge Baker's ruling was in line with recent decisions of the State Supreme Court that state law forbids allocation of harvest to different classes of fishermen.

After Judge Baker's ruling, Sandison issued regulations today that would open four areas of the Sound to non-Indian commercial chinook-salmon fishing beginning Sunday.

Sandison's action put him in violation of an earlier federal-court ruling in which Judge Boldt took control of management of the Indian share of the state's salmon runs. After that ruling August 10, Sandison closed the Sound to non-Indian fishing.

The dispute stems from Judge Boldt's 1974 decision that treaty Indian tribes are entitled to the opportunity to catch half the harvestable salmon and steelhead returning to traditional off-reservation Indian-fishing areas.

Jim Johnson, assistant state attorney general, said that if Judge Boldt grants the government's request and issues an injunction against Judge Baker's ruling, it will be impossible for the state to enforce closures of non-Indian fishing because of the state-court rulings that allocation of fish to different user groups is illegal.

If the injunction is issued, Johnson said he would have to consult with Sandison to determine whether the state would comply.

they will not ask that Sandison be held in contempt of court for violating Judge Boldt's August 10 ruling. But, they said, if Sandison refuses to obey any further federal-court orders, the government will "have no choice but to ask for contempt of court."

Compliance with an order from the federal court could place Sandison in jeopardy of a contempt citation for failing to obey the state courts.

Government attorneys also indicated they will ask Judge Boldt Tuesday to take management of the fishery completely out of the hands of the state.

One told Judge Boldt that "a federal court-ordered allocation was necessary only because the State Supreme Court had frustrated the effectiveness of this court's prior orders by deciding that the director of the Department of Fisheries could not allocate fishing opportunity between treaty and non-treaty fishermen."

Johnson said that "unquestionably, this matter will be heard in the United States Supreme Court."

REPRESENTATIVES OF non-Indian commercial-fishing groups have called for an appeal of the dispute to the Supreme Court in hopes of gaining a ruling that would circumvent the 1974 Boldt decision. Government attorneys, however, say such an appeal probably would take several years and may settle only the question of jurisdiction over the fishery by state and federal agencies.

Phil Sutherland, representing the Puget Sound Gillnetters Association, yesterday likened the dispute to a Ping-Pong game. But he said that it's better for the controversy be fought out in the courts than on the water.

State 'Powerless' to

By FRED BRACK

Non-treaty commercial fishermen continued yesterday to catch part of the treaty-Indians' share of chinook salmon in Bellingham and Samish bays, with the state saying it was powerless to stop them.

An attorney for several of the treaty tribes, Mason Morisset of Seattle, told U.S. District Court Judge George Boldt in Tacoma that the situation was "unbelievable and not acceptable."

Morisset said there was "substantial evidence to show that this, if not a conspiracy, is at least collusion on the part of the state."

Assistant State Atty. Gen. James Johnson said Morisset's charge was "unfounded." And Boldt said the evidence cited by Morisset was "hearsay" but that the treaty tribes' attorneys could "pursue the matter."

What raised Morisset's ire was a report by the

state that up to 200 non-treaty gillnetters had been seen fishing in the bays Sunday night. Although state fisheries officers did not fly over the bays Monday night, they said they were certain the non-treaty gillnetters were continuing to fish.

The Lummi Tribe's fisheries officer, Forrest Kinley, described the treaty fishermen's frustration. "Only about 14 or 15 of our tougher guys went out," Kinley said. "If you're outnumbered 20 to 1 there's no way you can get your fish. One white guy will set (his net) on one side of you and another white guy will set on the other side."

State fisheries director Gordon Sandison, in response to an order from Boldt, had issued regulations closing the bays to non-treaty fishermen, who have taken their share under Boldt's formula designed to protect Indians' treaty rights.

But the non-treaty fishermen were not given citations by fisheries officers. The fishermen ev-

SEATTLE TIMES AUG. 31, 1977

Stop Illegal Fishing

idently believed they would not be prosecuted or convicted because the State Supreme Court has said when Indian fishermen are permitted to fish then non-Indian fishermen must be, also.

Part of their optimism was borne out yesterday when Whatcom County Pros. Atty. David McEachran announced he would not bring charges against anybody fishing while treaty fishermen fished.

The attorney general could prosecute 60 days after a county prosecutor refused, but Atty. Gen. Slade Gorton said he had not decided to do so, and Johnson repeatedly has told Boldt that no state court would convict a non-treaty fisherman.

Non-treaty fishermen, Johnson told Boldt, are afraid to come into Boldt's court, "but they are not afraid to fish or to go to the state court."

Johnson, as he had before, asked Boldt to directly order the non-treaty fishermen to stay off the

water rather than order Sandison to keep them off.

Such an order would be backed by Boldt's contempt-of-court power. But federal attorneys say it would be cumbersome to administer.

One person who escaped contempt proceedings yesterday was Sandison. Boldt last week ordered Sandison to appear in his court yesterday to explain why he should not be held in contempt for opening Puget Sound to non-treaty fishermen in compliance with a state court order but in defiance of Boldt's order.

After Sandison reversed his stand Friday, Boldt informed him he no longer had to appear, and Sandison did not.

Sandison's current stance of obeying Boldt by issuing regulations closing the non-treaty fishery puts him in the position of risking a contempt hearing for defying the contrary state court order.

AUGUST 31, 1977

P-I Aug. 31, 1977

Boldt overrules state court

By SCOTT MAIER
Times Staff Reporter

TACOMA — United States District Judge George H. Boldt has overruled a state court in the continuing battle over fishing rights in Washington State waters.

On Tuesday, Thurston County Superior Court Judge Frank Baker ruled that the Department of Fisheries could not close Puget Sound to non-Indian fishermen while treaty Indian tribes are allowed to fish. The department was following Judge Boldt's August 10 order.

Judge Boldt yesterday overruled the Thurston court.

He also ordered State Fisheries Director Gordon Sandison to explain why he should not be held in contempt for not obeying Judge Boldt's August 10 order. That order would limit non-treaty fishing so Indian fishermen would have the opportunity to catch half the Puget Sound salmon harvest, as guaranteed by treaties.

After learning of Boldt's decision, Sandison issued an order last night saying that fishing areas would remain closed to all but Indian treaty fishermen, the United Press International reported.

Sandison now faces the risk of contempt for failing to obey a state order that forbids him from

differentiating between Indian and non-Indian fishing groups. (Had he obeyed the state order he risked being held in contempt of federal court.)

Assistant Attorney General James Johnson, who is representing the Department of Fisheries, said that if the state follows Judge Boldt's order, it will be impossible to enforce closures of non-Indian fishing when treaty Indians are permitted to fish.

Federal and tribal attorneys said they will ask Judge Boldt to take management of both Indian and non-Indian fishing completely

out of the hands of the state if the Department of Fisheries is unable to provide an adequate treaty fishery.

The dispute stems from Judge Boldt's 1974 decision that treaty Indian tribes are entitled to the opportunity to catch half the harvestable salmon and steelhead returning to traditional off-reservation Indian fishing areas.

Judge Boldt also has ruled that the Indian fleet is too small and poorly equipped to be competitive and ordered the state to ensure that the treaty tribes have the opportunity to catch their share.



Arts, entertainment
Automotive
Business, finance
Classified ads
Comics
Crossword puzzle
Dear Abby
Deaths, funerals
Discovering
Dorothy Neighbors
Garden

B 2 to 4
C 1 to 4
D 6
C 4 to 20
B 6
C 11
B 4
C 20
B 1
B 4
D 7

John Hinterberger
Junior Times
Horoscope
Maritime
Middle Years
Real estate
Religion
Sports
TV, radio
The page
View
Vital statistics

A 9
B 8
C 9
A 6
A 9
D 7
A 6, 7
D 1 to 5
B 5
A 8
B 4
C 20

Social Security Game winning numbers are on A 6.

For a listing of The Times' most frequently called telephone numbers, see A 9.



MEMORANDUM NOTE DE SERVICE

DATE August 13, 1976

FROM:
DE:

M. Hunter

TO:
À:

Dr. M.P. Shepard

Mr. L.H. Legault

SUBJECT:
SUJET:1976 VERSION OF THE BOLDT DECISION

Handwritten notes:
- ~~ADP to see~~
- ~~return to GL~~
- 5
- 2
- 2-5-7-2-SALMON-1
- see flagged to King

Our file	Notre référence
DOSSIER	
FILE	2-5-7-2-SALMON-1
Your file	Votre référence

This memorandum represents an attempt to summarize the events of the past two weeks following Boldt's re-entry into the Salmon Commission scene.

Attached are a "diary of events" and two memoranda from Hourston on the subject. The essence to be extracted from these documents is that, at time of writing, domestic law in the United States, as represented by Boldt's August 5 ruling, requires that treaty Indian fishermen operating in U.S. Convention waters, be permitted an uninterrupted three day week, during the week of August 8-14. This is in conflict with IPSFC regulations for the week, which provided for a period of closure to all gear from 2130 August 7 - 0500 August 8.

Handwritten notes:
- down from 5-day week in earlier Boldt decision
- is a few hours difference

In the previous week, Boldt had provided for an Indian fishery on August 5 and 6 during an IPSFC closed period.

It has been impossible to determine the practical effect of this Indian fishery, because of difficulties in surveillance. The effect will become more clear as landing records are compiled.

The legality of changes made to the regulations by the Commission was raised by Clark-Bourne in a telephone conversation with Hunter on August 12. The opinion of External Affairs is that the Commission acted within the terms of Articles IV and VI of the Convention in relinquishing control over part of U.S. Convention waters and in amending paragraph 5 of the regulations without reference to the Governments for approval.

Handwritten note:
- under "emergency" for (B56 Protocol)

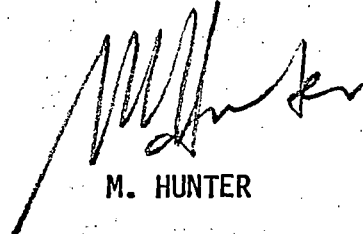
The United States is considering its next moves and its approach to Boldt at his final hearing on August 18. The U.S. Government, supported by Commissioner Johnson, is prepared to request Boldt to make his three day fishing week order permanent. U.S. authorities feel such a move would be the least of all evils. From a salmon management/catch division viewpoint this is unacceptable. Moreover,

- 2 -

the proposed request by the U.S. Government contravenes its undertaking contained in its February 19, 1976 Aide-Mémoire.

In an effort to force the U.S. Government to fulfill its "gentleman's agreement" and even the terms of the treaty, a draft note has been prepared for your consideration. It should be remembered that any such document may be presented by the U.S. Government in Boldt's Court.

if we agree only!



M. HUNTER

Attach.

cc: C.R. Levelton
W.R. Hourston
G.A. Léger
R.F. Roberts
IPSFC Briefing Book
M.S. Sponagle

BOLDT DECISION - DIARY OF EVENTS

February 19

U.S. aide-memoire proposes amendment to IPSFC regulations to include qualifying phrase "to the extent permissible under the laws of the parties".

March 1

Canadian aide-memoire accepts U.S. proposal.

June 3

U.S. Federal Register publishes IPSFC regulations for 1976 in U.S. Convention waters, including paragraph 5 which reads:

"Insofar as the foregoing regulations prescribe the type of gear to be used during times open to fishing for sockeye and pink salmon, such regulations shall be implemented to the extent permissible under the laws of the parties".

July 31

Judge Boldt rules that Treaty Indians may fish five days per week in U.S. Convention waters. His decision based on the argument that since fishing by troll gear in "outside waters" of U.S. Convention areas essentially unregulated, Indians could fish with any gear in Convention Area.

August 2

U.S. Commissioner Johnson held Press Conference.

August 3

IPSFC meeting took action in response to Boldt's five day ruling. The Commission relinquished control of U.S. Convention waters west of Bonilla-Tatoosh and inserted a phrase into para. 5 of the regulations, which now read:

"Insofar as the foregoing regulations prescribe the type of gear to be used during times open to fishing for sockeye and pink salmon in those parts of Convention Waters open to net fishing east of the Bonilla-Tatoosh line, such regulations shall be implemented to the extent permissible under the laws of the parties."

August 5

Boldt revised his July 31 order to provide for, inter alia, an uninterrupted three day fishing week for Treaty Indian fishermen.

August 10

IPSFC despatched telegram of protest to Dr. Kissinger.

August 12

Clark-Bourne advised Hunter that U.S. considering requesting a stipulation from the Court that the August 5 order be made permanent for the remainder of 1976.

Aug 17 : Can Diplo Note submitted to State Dept, requesting compliance with Feb arrangements & treaty provisions 000388

- 2 -

August 18

Boldt to hold "final" hearing.

August 13, 1976

February 19, 1976

Aide' memoire

dipl. info

Draft

The Department of State refers the Embassy of Canada to the Convention between the United States and Canada for the protection, preservation and extension of the sockeye salmon fishery of the Fraser River system signed in Washington on May 26, 1930, as amended by the Pink Salmon Protocol amending the Convention signed in Ottawa on December 28, 1956, and to the regulations promulgated annually by the International Pacific Salmon Fisheries Commission (IPSFC). Reference is further made to the Embassy of Canada's Aide' memoire dated February 6, 1976 in which the Embassy of Canada responded to the Informal United States proposals relating to the IPSFC regulations for 1976 conveyed to them through the United States Embassy in Ottawa, January 24, 1976.

The United States regrets that the Canadian authorities are unwilling to accept Item B of its proposals of January 24, 1976. United States authorities consider that the limited and experimental accommodation of fishing for salmon other than sockeye salmon proposed for Subarea 2 would not have impaired the functions of the IPSFC with respect to sockeye salmon.

The United States appreciates Canada's acceptance in principle of Item A of its informal proposal and hereby ~~informally~~ formally proposes to qualify the recommended IPSFC gear regulations for 1976 by language including the phrase "to the extent permissible under the laws of the parties." It is the understanding of the United States that this formulation would not permit either party to allow the taking of sockeye and pink salmon during periods when regulations promulgated by the

Commission prohibit taking of sockeye and pink salmon with any type of gear.

The United States will promptly take the necessary domestic steps in order to advise the Commission and the Canadian authorities well in advance of the fishing season of the precise and limited extent to which 1976 IPSFC gear regulations may not under domestic law be implemented in the Convention waters of the United States. Thereafter the United States will take all steps necessary to prevent or defend against any challenge to such precise and limited non-applications of Commission gear regulations including the filing of a petition for a ruling from the United States District Court or the taking of such other action as is most likely to resolve the matter in a manner both timely and consistent with the understanding between the Canadian authorities and the United States.

As requested the United States undertakes to assure the Canadian authorities that for its part the 1976 IPSFC regulations will be adequately enforced and that complete catch data on sockeye and pink salmon caught under the new arrangements will be made available to the IPSFC.

The United States wishes to express its appreciation to the Canadian authorities for their cooperation in helping to resolve some aspects of this complex matter and to reiterate the concern it shares with Canada for the continued successful management of the stocks covered by the Convention.

Department of State
Washington

ATTACHMENT 3

The Embassy of Canada refers the Department of State to the Convention between Canada and the United States for the Protection, Preservation and Extension of the sockeye salmon fisheries of the Fraser River system, signed in Washington on May 26, 1930, as amended by the Pink Salmon Protocol, signed in Ottawa on December 28, 1956, and to the regulations promulgated annually by the International Pacific Salmon Fisheries Commission (IPSFC). Reference is also made to the Canadian Embassy's Aide Memoire of February 6, 1976 on this subject, as well as the Department of State's Aide Memoire dated February 19, 1976 which set forth a formal United States proposal with respect to IPSFC regulations for 1976.

The Canadian authorities are prepared to accept for the 1976 season a qualification of the recommended IPSFC gear regulations by the phrase "to the extent permissible under the laws of the parties", it being understood and agreed that this formulation would not permit either party to allow the taking of sockeye and pink salmon during periods when regulations promulgated by the Commission prohibit the taking of sockeye and pink salmon with any type of gear.

The Canadian authorities note with satisfaction that the United States will promptly take the necessary domestic steps in order to advise the Commission and the Canadian authorities well in advance of the fishing season of the precise and limited extent to which 1976 IPSFC regulations may not, under domestic law, be implemented in U.S. Convention waters, and further, that the United States will take any steps necessary to prevent or defend against any challenge to such precise and limited non-application of Commission gear regulations. The Canadian authorities are also gratified to note the United States' assurance that for its part the 1976 IPSFC regulations will be adequately enforced and that complete catch data on sockeye and pink salmon caught under the new arrangements will be made available to the Commission.

The Canadian authorities are pleased that this complex matter has been resolved to the mutual satisfaction of both parties for the 1976 fishing season. At the same time they hope that work will progress on achieving a long-term solution to the difficulties that have arisen in the United States with regard to the working of the IPSFC. In the Canadian view only such a long-term solution can assure the continued successful management of the salmon stocks covered by the Convention.

Sent to CanEmb Wash DC

March 1 1976.

February 27, 1976.

MEMORANDUM NOTE DE SERVICE

DATE August 4, 1976

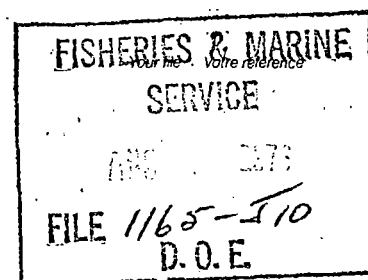
Our file Notre référence

1165-36-J10

FROM: Mr. W. R. Hourston,
DE: Director, Intergovernmental Affairs

TO: Mr. Michael Hunter,
A: International Directorate

SUBJECT: IPSFC Meeting - Bellingham - August 3, 1976
SUJET:



95802

Further to our telephone conversations of August 3 and 4, 1976, I am attaching a copy of Judge Boldt's Order of July 31, 1976. The basis of this Order is the fact that West of the Bonilla-Tatoosh line U.S. trolling is carried on seven days a week. This fishery is basically for chinooks and coho and in the case of the U.S. fishery very few sockeye or pink salmon are taken incidentally. I think in the last few years the total catch of either species would not exceed 200. Both Federal and State lawyers attended the hearing and made representation against the Order. These will be heard on Tuesday, August 10, 1976.

The Commission discussed this matter in some depth at the meeting in Bellingham on August 3. Needless to say the Canadian Commissioners were quite upset about this new development since we had felt that the inclusion of the special phrase in the U.S. regulations would have eliminated any further Indian problems for the current year. The Commission staff were also upset since the imposition of a five day fishery by 200 Indian gillnets and six or seven Indian purse seines could have a significant effect on the management of the sockeye runs.

Mr. Johnson was also concerned about this. He advised that the Executive branch of Government were upset and were currently exploring ways and means of handling the situation. Because of his concern Mr. Johnson had called a press conference on August 2nd. A copy of the statement he made is also attached.

The Commission discussed ways and means of handling the situation and finally took the following action:

1. The following motion was proposed by Commissioner Moos:

"In recognition of the small incidental catch of sockeye and pink salmon in the ocean troll fishery in U.S. Convention Waters West of the Bonilla-Tatoosh line the INPFC control in this area be relinquished effective immediately."

This motion was seconded by Mr. Haig-Brown and passed.

- 2 -

Mr. Mike Hunter

August 4, 1976

2. As provided for under the Convention the following amendment was made to paragraph 5 of the Regulations applicable in U.S. Convention Waters. Paragraph 5 reads as follows:

"5. Insofar as the foregoing regulations prescribe the type of gear to be used during times open to fishing for sockeye and pink salmon, such regulations shall be implemented to the extent permissible under the laws of the Parties."

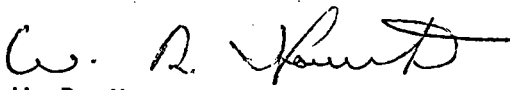
The following insertion was made following the words, "sockeye and pink salmon":

"In those parts of Convention Waters open to net fishing East of the Bonilla-Tatoosh line."

This action was passed by the Commission. In effect therefore the Commission decontrolled the U.S. Convention Waters where the troll fishery operates and amended paragraph 5 so that it would only apply to net fishing.

The Department will be kept advised.

Encl.


W. R. Hourston

STATEMENT OF D. R. JOHNSON

AUGUST 2, 1976 - 11:15 a.m.

I am calling this conference because I felt that as Chairman of the Commission I should comment about Saturday's restraining order providing for a 5-day Indian fishery for sockeye in Convention waters issued by Judge Boldt.

First I have been reminded that the Indian catch in the Convention Area last year was in the order of 5 percent. The recent court order may result in a significant increase in Indian fishing. This can have serious consequences for the management of the resource. How serious this is remains to be seen. The Commission staff - most of which is on a holiday today - will have to help the Commission determine if there are any problems with respect to obtaining the needed escapement to the spawning grounds and division of catch between the two countries.

Second a 5-day fishery by Indians will obviously change the normal relationship which is intended to permit a part of the run to reach the Fraser River without being fished. I don't know how serious this is. It can affect conservation and division.

Third it reduces the flexibility of the Commission in dealing with management problems, many of which are difficult to foresee. I would expect this to be upsetting to Canada and of course the Fraser River is a Canadian River.

The Commission will have a routine meeting tomorrow that will undoubtedly include this matter, as well.

So is the Convention!

Now let me point out where I am as Regional Director of NMFS/NOAA.

First, the court's decision is law. We are attempting to work with Canada to find means to accommodate our Indian fishery allocation. This process simply takes time, and of course, we did, through negotiation with the Canadians, give the Indian fishery some extra time this year.

Second, we are opposed to the temporary order that has just been issued permitting the Indians to fish five days per week for sockeye in the Convention Area. I have suggested to our headquarters in Washington and requested our legal advisors to look into seeking a stay of the Judge's order. (Our concern is international implications.)

Meantime I do ask for the cooperation of the fishermen; our enforcement people in cooperation with the Coast Guard and the state will enforce the law. I understand that violators of the Commission's regulations as interpreted by Judge Boldt will be taken to Federal Court.

-----End-----

Environment Canada Environnement Canada

MEMORANDUM NOTE DE SERVICE

Aug 11/76
Sent via Teletype
DATE August 11, 1976

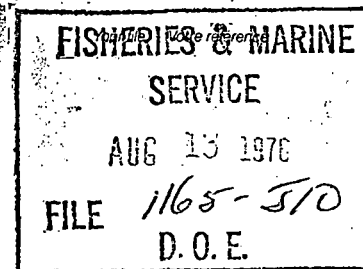
Our file Notre référence

1165-36-J10

FROM: Mr. W. R. Hourston
DE:

TO: Mr. Michael Hunter,
A: International Directorate

SUBJECT: Judge Boldt Activities - IPSFC.
SUJET:



Further to my memorandum of August 4, 1976, and telephone discussions of today's date the following is an update on the Judge Boldt situation.

The action that the Commission took at its August 3, 1976, meeting was brought to the attention of Judge Boldt by Federal attorneys. As a result he issued a further Order dated August 5, 1976, which modified his July 31, 1976, Order. A copy of the Aug. 5 Order is enclosed.

Basically, what this Order did is to provide for three days fishing when essentially the U.S. fishery under Commission regulation is on two days. He did this however by providing for continuous fishing from when the week opened on Sunday evening to gillnets to when it closed at 3:00 P.M. on Wednesday to reef nets. A copy of the diagrammatic representation of U.S. fishing hours is attached.

As discussed with you by telephone the U.S. fishery by gillnets and purse seines alternates on a weekly basis. In other words, on one week the gillnets open first and the following week the purse seines open first. In addition the U.S. have a reef net fishery. Up until 1972 the reef nets--because it is fixed gear--used to start first every week and their starting time was noon. In other words, if the gillnets opened Sunday evening the reef nets opened Sunday noon. In 1973, because of a large catch by the reef nets in one fishery, the other gears complained and from 1973 to 1975 the reef nets alternated from a noon on Sunday on one week to a noon on Monday the following week. This was not too good from the reef net point of view since their fishery is basically a tidal one and their best fishery occurs during the flood tide, so in the current year the reef nets got an agreement from the gillnets and purse seines to allow them to fish on the basis shown in the chart. It will be noted that in one week the gillnets will open at 10:30 on Sunday and will fish till 9:30 which is the closing time for purse seines. The following day they will fish a regular purse seine day and then on the day after they will pick up the other portion of the day that they missed on their opening day. It will be noted from the table therefore that in all weeks there is a gap during which there is no fishing. What Judge Boldt has done in his Order therefore is to allow the Indians to fish from the time the first gear opens to the time when the last gear closes. Because of the gap in the reef net fishing there are periods in every week when it is closed to all gear and yet Judge Boldt is allowing the Indians to fish during this closed period. This is a

- 2 -

Mr. Michael Hunter

August 11, 1976

violation of the Commission regulations and is also a violation of the understanding that Canada had of the intent of paragraph 5 that we agreed to in the 1976 regulations.

So that you might have a full understanding of what happened last week at its meeting of July 30, 1976, because of division problems the Commission delayed the opening of U.S. Convention waters for 24 hours for week of August provided for a one day only fishery. In other words, on the table showing and fishing times August 1, this means that the gillnets would not commence fishing until 7:00 P.M. on Monday, August 2. Also, at its meeting on August 3 the Commission approved an additional 24 hours fishing in U.S. Convention waters, making two days for the week. What this did therefore was to allow the reef net fishery to terminate at 3:00 P.M. on Thursday, August 5 rather than Wednesday, August 4, as it would have done.

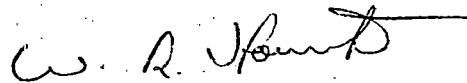
You will note however that in Judge Boldt's August 5 Order, Item III on Page Three, he provided for the Indians to fish from the time when reef nets would close at 3:00 P.M. on August 5 through until 9:30 A.M. Friday, August 6. Here again this was a violation of the Commission regulations in that the Indians would be fishing during a closed period.

At the Commission meeting on Tuesday, August 10, the attached telegram was sent to Dr. Kissinger with a copy to Mr. LeBlanc and Mr. R. Schoning.

In the current week the U.S. opening was advanced by 24 hours and they were also given an extra 24 hours fishing. Accordingly the reef nets would have fished from 10:30 A.M. to 9:30 P.M. on Saturday and the whole area would be closed from 9:30 P.M. Saturday to 5:00 A.M. Sunday when the purse seines and reef nets opened. The Commission had planned to monitor the closed period to see if Indian boats were fishing but weather prevented this. They did however receive reports that at least three Indians were fishing during that period.

The Department will be kept advised.

Attachments


W. R. Hourston

FISHING HOURS UNITED STATES COAST GUARD VESSELS

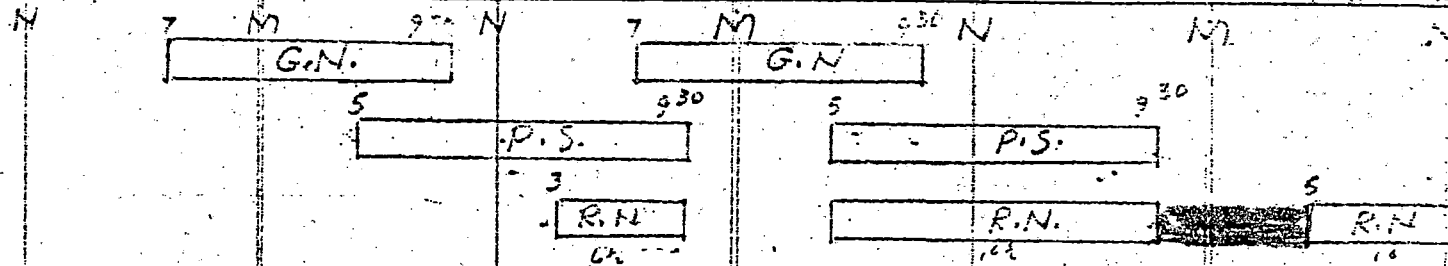
SUNDAY

MONDAY

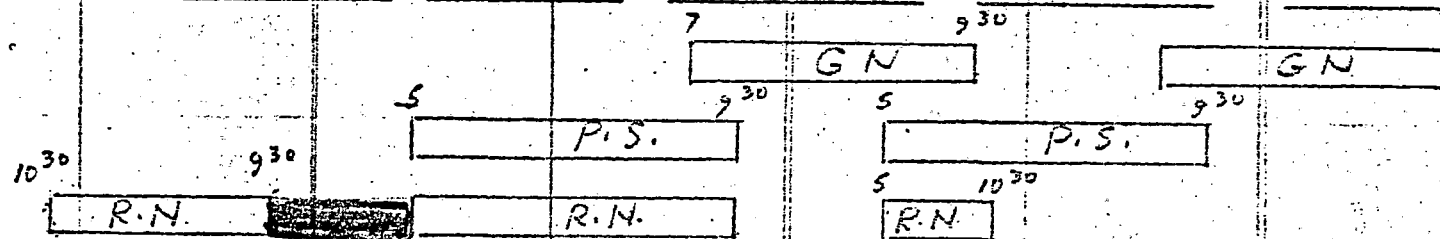
TUESDAY

WEDNESDAY

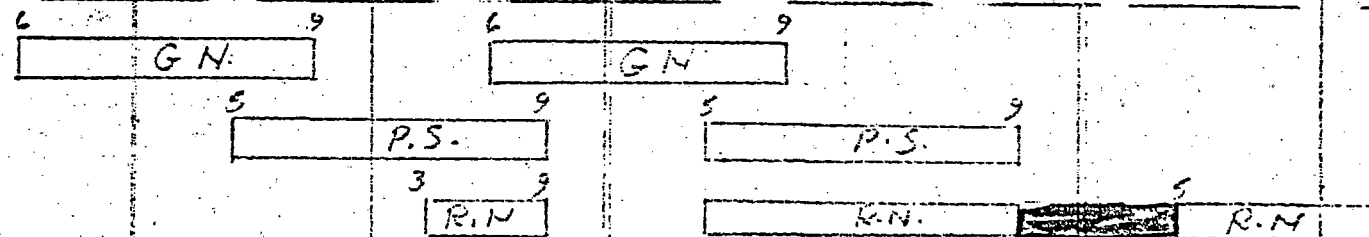
July 18
Aug 1



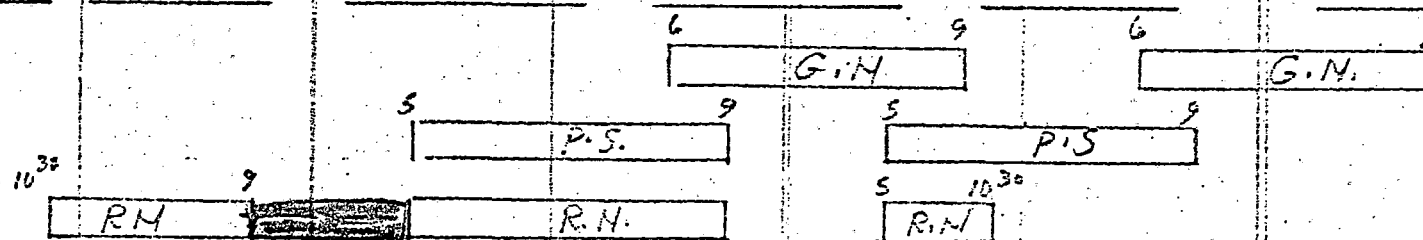
July 25
Aug 8



Aug 15
Aug 29



Aug 22
Sept 5



Not passed

Voted - Tues. - passed

TELEGRAM: DR. KISSINGER
MR. R. SCHONING, DIRECTOR, NMFS

COMMISSION CONSIDERS JUDGE BOLDT INJUNCTION PERMITTING THREE DAYS
PER WEEK FISHING BY INDIANS IS NOT IN ACCORD WITH THE UNDERSTANDING
REACHED BETWEEN CANADA AND THE UNITED STATES AS IMPLEMENTED BY THE
EXCEPTION IN THE COMMISSION REGULATIONS AND BY THE UNITED STATES GOVERNMENT
I
IN NOTICE PUBLISHED IN THE FEDERAL REGISTER JUNE 3, 1976. COMMISSION
URGES UNITED STATES GOVERNMENT TAKE APPROPRIATE ACTION CONSISTENT
WITH UNDERTAKING GIVEN IN AIDE MEMOIRE TO THE CANADIAN GOVERNMENT.

*I have serious
reservations about
the appropriateness
of this sort of
communication and
the references to our
privileged communications
with State Dept.*

SIGNATURE
R. LeBlanc
MINISTER OF STATE FOR FISHERIES
MINISTRE D'ÉTAT (PÊCHES)

CNCPTTEL OTT TG+

MARSI OTT

CNTGA192

EAZH904 77/74 3 EX FR REPORT DELIVERY CRT NEW WESTMINSTER BC 8-10 15B

HONOURABLE ROMEO LEBLANC MINISTER OF STATE, FISHERIES

HOUSE OF COMMONS OTTAWA ONT (PHONE AND REPORT DELIVERY)

BT

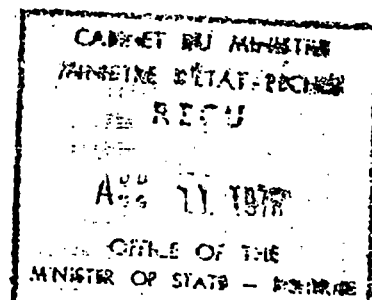
COMMISSION CONSIDERS JUDGE BOLDT INJUNCTION PERMITTING THREE DAYS PER WEEK FISHING BY INDIANS IS NOT IN ACCORD WITH THE UNDERSTANDING REACHED BETWEEN CANADA AND THE UNITED STATES AS IMPLEMENTED BY THE EXCEPTION IN THE COMMISSION REGULATIONS AND BY THE UNITED STATES GOVERNMENT IN NOTICE PUBLISHED IN THE FEDERAL REGISTER JUNE 3 1976. COMMISSION URGES UNITED STATES GOVERNMENT TAKE APPROPRIATE ACTION CONSISTENT WITH UNDERTAKING GIVEN IN AIDE MEMOIRE TO THE CANADIAN GOVERNMENT

DONALD R JOHNSON CHAIRMAN INTERNATIONAL PACIFIC SALMON FISHERIES COMMISSION.

CNCPTTEL OTT TG+

MARSI OTT

0+



DRAFT NOTE

The Embassy of Canada presents its compliments to the Department of State and has the honour to refer to the Convention between Canada and the United States of America for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended, and to the exchange of Aide-Mémoires between the two Governments which took place ~~in~~^{on} February¹⁹ and March¹, 1976 on the regulation of fisheries in Convention waters ^{for the 1976 season.}

The Government of Canada was made aware of a temporary restraining order dated July 31, 1976, issued by the U.S. Federal District Court in the State of Washington, through its Commissioners to the International Pacific Salmon Fisheries Commission. In the same ^{manner} ~~way~~, Canadian authorities were advised of an amendment to that court order dated August 5, 1976, which, inter alia, permitted certain Treaty Indian tribes in the United States to fish for three days per week in U.S. Convention waters, without interruption.

The Government of Canada is gravely concerned that the intent of its agreement with the Government of the United States in the insertion of a qualifying phrase in the 1976 regulations of the International Pacific Salmon Fisheries Commission is being seriously undermined by domestic legal rulings in the United States.

Canadian authorities consider that the action taken by the IPSFC on August 3rd, 1976 to relinquish control over U.S. Convention Waters west of the Bonilla Point-Tatoosh line was legal, under the terms of Articles IV & VI of the Convention, and that the relinquishment of control could have no bearing on the applicability of Commission regulations in U.S. Convention waters east of the Bonilla Point-Tatoosh line.

Canadian authorities have repeated on many occasions that they are seriously concerned that the management program of the IPSFC might be adversely affected by the domestic problems being encountered in the United States. This concern is restated, reinforced by the conviction that arbitrary decisions as to fishing times for certain parts of the U.S. fleet, without reference to Commission management objectives, are dangerous to the health of the resource and are contrary to the letter and spirit of the Convention.

The Government of Canada has applied a great deal of expert effort to help the Government of the United States resolve its problem. It is regrettable that the current situation can only lead to the conclusion that such efforts, made in good faith, have proven fruitless.

The Government of Canada reminds the Government of the United States of its understanding that the formulation of the Commission regulations agreed to by Canada would not permit either party to allow the taking of sockeye and pink salmon during periods when regulations promulgated by the Commission prohibit taking of sockeye and pink salmon with any type of gear, and of the United States' undertaking to take all steps necessary to prevent or defend against any challenge to such precise and limited non-applications of Commission gear regulations including the filing of a petition for a ruling from the U.S. District Court or the taking of such other action as is most likely to resolve the matter in a manner both timely and consistent with the understanding between the Canadian authorities and the United States.

Notwithstanding the rulings of the U.S. District Court following such representations by the Government of the United States, the Government of Canada reminds the Government of the United States of the provisions of Article X of the Convention which requires the parties to "enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and the orders

an regulations adopted by the Commission under the authority thereof", and of Article 27 of the Vienna Law of Treaties Convention ~~[which is indicative of existing international law on treaty making and interpretation]~~ which states that "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

*the rule of
international law
codified in*

In this light, the Government of Canada urges to the Government of the United States to make every effort to fulfill its obligations in as speedy and effective a manner as possible.

The Embassy avails itself etc.

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

TO
A

FILE

FROM
De

FPR

REFERENCE
RéférenceSUBJECT
SujetRe-Negotiation of the Fraser River
ConventionSECURITY
Sécurité

UNCLASSIFIED

DATE

August 11, 1977

NUMBER
Numéro

FILE	DOSSIER
OTTAWA	57-11-1-1
MISSION	31

ENCLOSURES
Annexes

DISTRIBUTION

cc 255-72-SALMON-1

Georges Leger provided me with the following information to be used on a responsive basis only;

2. On August 11 and 12, in Seattle, immediately following the preliminary meeting of INPFC, Canadian and U.S. officials held a preliminary meeting to discuss the re-negotiation of the Fraser River Convention, governing Pacific salmon fisheries between the two countries. This includes the re-negotiation of the International Pacific Salmon Fisheries Commission (IPSFC).

3. Leger expects a short communiqué will be issued on the West Coast and is prepared to give us more information (to be gleaned from a memorandum to the Minister) on the results of the meeting.

Press Office

MEMORANDUM

NOTE DE SERVICE

25-5-5-CD/USA	

August 3, 1977

TO: The Minister of Fisheries and the Environment

FROM: K.C. Lucas

Fraser River Salmon Fishery

Over the past week you have been the recipient of a number of telegrams regarding the Canadian stand on the present management problems on the Fraser River. Those sending telegrams protesting a perceived Canadian inaction in this matter are all UFAWU locals representing fishermen on the Fraser River. In view of the rather strong protests, which I understand are also being received in the Prime Minister's Office, I should like to review the situation as it now exists:

1. Legal Situation

Following a series of diplomatic exchanges between Canada and the USA and meetings of officials earlier this year, Canada concluded that it could not accept U.S. management proposals for U.S. Convention Waters in 1977. In our view, these proposals, which were designed to provide for additional treaty Indian fishing time in U.S. Convention Waters, were not acceptable, either from a practical point of view or from a standpoint of principle. Moreover, our independent Commissioner was not prepared to accept the U.S. scheme, which would have resulted in there being no IPSFC regulations for 1977.

After failing to procure Canadian approval, the USA announced that it would interpret the Convention in such a way as to permit it to approve the regulatory recommendations of the IPSFC only insofar as they applied to fishermen other than certain treaty Indians. At the same time, separate regulations for Indians were promulgated by the U.S. Department of the Interior. Canada's reaction to this unilateral action was:

- (a) to reserve its position on the appropriateness of selective approval of IPSFC regulations with respect to certain U.S. fishermen, and

- 2 -

- (b) to inform the USA that Canada would monitor the conduct of the fishery on Fraser sockeye and pinks closely to ensure that the ability of IPSFC to provide for adequate escapement and equal catch division was not affected.

For its part, the U.S. Government gave us an assurance that its Indian fishery would be managed in a manner consistent with the terms and objectives of the Convention.

Treaty law experts at External Affairs are of the view that the actions taken by the USA may be inconsistent with the spirit of the Convention, but are not expressly forbidden by the Convention's language. We have not, therefore, felt it possible to present the USA with any strong legal argument concerning its actions. In any event, the U.S. interpretation of the treaty meets their domestic needs, and no amount of legal argumentation will move the U.S. authorities from their present position. We have concluded that the grounds for presenting the "strong protest" to the USA called for by Canadian fishermen is shaky at best, and would not affect the practical issues at stake.

2. Effects of U.S. Actions

The protests received so far have concentrated much on the fact that an imbalance in catch division between Canadian and U.S. fishermen exists, with Canadians suffering a deficit. While this is a statement of fact, the context of the fact has been ignored. It is normal for U.S. fishermen to be ahead in division at this stage of the season. The division gap has been closing over the past week, and a further catch-up is expected after this week's fishery. The IPSFC staff and our own Commissioners feel that the division situation is under control.

Some problems in achieving adequate escapement of the first sockeye run of this year to Stuart Lake have been blamed in some quarters on the U.S. Indian fishery. It appears that escapement from the Early Stuart run will be below the planned amount but it is simply not possible to say that the shortfall is due to U.S. Indian fishing.

It is our view that the USA's assurance that the Indian fishery would be managed in a manner consistent with the Convention is being given serious weight. The IPSFC staff have accepted that there must be a good communication with the managers of the Indian fishery and these channels of communication appear to be functioning well.

- 3 -

In summary, there is, to date, no evidence that latent dangers in the 1977 management scheme on Fraser sockeye and pink salmon have yet come to pass.

3. Other Associated Issues

a) Canadian Subsistence Fishery:

The subsistence fishery conducted by Canadian Indians upstream from the Fraser River commercial fishery is beginning to take substantial numbers of fish. These catches have never been included in catch division statistics since the earliest days of the Commission. To date in 1977, this fishery has taken 77,000 sockeye compared with approximately 35,000 in the 1973 cycle year. The USA is aware of this rather dramatic increase and we will be under pressure to begin including these fish in catch division considerations in future. The size of this fishery makes it difficult for us to level accusations that the U.S. Indian fishery is the cause of the escapement shortfall for early Stuart sockeye.

b) Interest Group Conflict:

The point is made in the telegram from the Fraser River Fishermen's Committee that "Fraser River has borne the cost of conservation in the past" and the organization demands exclusive fishing time to correct the overall catch division picture. The IPSFC, throughout its history, has had to face the problem of gear conflict and user group conflict in both countries. By and large, it has been successful in this endeavour. However, there can be no guarantee that the catch of Fraser River boats will always be a particular proportion of, for example, Juan de Fuca boats, since the IPSFC has to carry out its management mandate before it can consider perceived domestic allocation needs. The IPSFC remains aware of this problem over which the Government of Canada has little control.

4. Proposed Meeting with Fishermen

The UFAWU has urged that you meet with Canadian fishermen and that Canada take a strong stand against the USA's actions. At the present time, there would not seem to be anything to gain from a meeting with fishermen or from strong

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- 4 -

protests to the USA, although the judgment on the first issue is essentially a political one. However, our Commissioners have been under strong pressure to convene a meeting of IPSFC with its advisory group and with Ottawa and Washington officials. Our Commissioners have agreed to this proposal, and a meeting has been set for August 11 in Seattle. Our approach to this meeting will simply be to listen to the Commission staff and the advisors on the practical aspects of Commission management under the new circumstances.

I trust that this memorandum will assist in putting the issue in focus. Should you consider a meeting in Vancouver desirable, we will be pleased to go into more detail with you. In the meantime, attached are the proposed replies to the telegrams received to date.

SIGNED BY K. C. LUCAS
SIGNÉ PAR

K.C. Lucas

CC:	E.A. to Minister	W.R. Hourston
	Deputy Minister	R. Roberts
	SADM - FMS	M. Hunter
	Originator	P. Murray
	Int'l Direc. (3)	G. Léger ←
	Central Registry	IPSFC B.B.
	C.R. Levelton	

MESSAGE

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N° D'ORIG.		25-5-6 CDA/USA	
OTT	EXTAFF	FLO 1268	2/8/77	31	RESTRICTED

TO/A WASHDC

INFO ENVOTT/FMS/VERNON/ROBERTS

DISTR. FLP GWU

REF

SUB/SUJ

YOURTELS UNGR 2938 AND 2925 JUL 29

CDA/USA CONSULTATIONS: SEATL MTG AUG 9-12

AS RESULT OF BILATERAL TALKS HELD IN WASHDC JUL 28 REPORTED YOURTEL UNGR 2938, IT WAS DECIDED THAT TRILATERAL INPFC MTG WOULD PROVIDE USEFUL OPPORTUNITY FOR BOTH SIDES TO PURSUE THEIR DISCUSSION OF ^{BILATERAL} MATTERS WHICH NEED FURTHER REVIEW EG SALMON/SHRIMP ISSUE (FOLLOWING TECHNICAL MTGS IN WEEK OF AUG 1), ATLANTIC SALMON, AND PARTICULARLY RESUMPTION OF BILATERAL SALMON INTERCEPTION NEGOTIATIONS. MTG OF INPFC WILL THEREFORE BE FOLLOWED BY TWO-DAY MTG OF OFFICIALS TO DISCUSS SCOPE AND TIMING OF FULL-SCALE NEGOTIATIONS EXPECTED TO RESUME IN SEPT. IN LIGHT OF THIS DEVELOPMENT RELATING TO BILATERAL ISSUES UNDER DISCUSSION IN SEATL, AND IN VIEW OUR OWN INABILITY TO STAFF MTG FROM EXTOTT, GRATEFUL YOU RECONSIDER POSSIBILITY OF HAVING EMB REP ATTEND SEATL MTGS TO ENSURE APPROPRIATE CONTINUITY, AND TO PROVIDE HEAD OF CANDEL WITH ADVICE HE WILL REQUIRE AS

...2

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
G. LEGER	FLO	2-2002	for DIRECTOR

FLO-1268

- 2 -

RESTRICTED

TO WIDER IMPLICATIONS OF SALMON ISSUES FOR OVERALL
RELATIONSHIP, INCLUDING BOUNDARY AND LONG-TERM FISHERIES
MATTERS.

ACTION
SUITE A DONNER

WASHINGTON
R E S T R I C T E D

FM WSHDC UNGR2890 JUL27/77

TO EXTOTT/FLO

INFO LOSNY/ BEESLEY/ LEGAULT

BH ENVOTT/ VERNON/ HUNTER/ WILLIS DE OTT

DISTR MIN PDM FLP GWP GWU FLA

REF OURTEL UNGR2365 JUN 7

---CDA/USA WEST COAST SALMON PROBLEMS

IN RESPONSE TO OUR NOTE 254 OF JUN 6, STATE DEPARTMENT TODAY

DELIVERED FOLLOWING NOTE:

THE DEPARTMENT OF STATE REFERS THE EMBASSY OF CANADA TO THE 1977
RECIPROCAL FISHERIES AGREEMENT BETWEEN THE GOVERNMENT OF THE
UNITED STATES AND THE GOVERNMENT OF CANADA, TO THE EMBASSYS NOTE
NO 254 OF JUN 6, AND TO THE DISCUSSIONS BETWEEN OFFICIALS OF THE
TWO COUNTRIES WHICH RESULTED IN THE UNDERSTANDINGS REACHED JUN22.

THE VIEWS OF THE GOVERNMENT OF THE UNITED STATES ON THE ISSUES
RAISED IN THE EMBASSYS NOTE NO 254 WERE MADE KNOWN TO THE CANADIAN
GOVERNMENT DURING THOSE DISCUSSIONS AND WILL NOT/NOT BE REITERATED
HERE. THE DEPARTMENT IS SATISFIED THAT THE UNDERSTANDINGS REACHED
ON JUN22 WILL SERVE AS A BASIS FOR INSURING THAT THE RECIPROCAL
NATURE OF THE 1977 RECIPROCAL FISHERIES AGREEMENT IS MAINTAINED. THE
DEPARTMENT RESERVES THE RIGHT TO RESPOND IN DETAIL TO THE EMBASSYS
NOTE AT A LATER TIME. DEPARTMENT OF STATE WASHINGTON, JUL27/77.

CCC/099 271730Z 00250

25-5-5-CDA/US-1	
31	25-5-5-7-2-SALMON-1

CC-25-5-7-2-SALMON-1

INFORMATION
OTTAWA
in ACR
S. HAMELIN
AUG 3 1977
DISTRIBUTION
"par OTTAWA"
effectuée par ACR

EXTERNAL AFFAIRS



3
File

To: A
From: De: ACRA
AUG 4 1977
Att'n:

AFFAIRES EXTERIEURES

Under-Secretary of State
for External Affairs (GWU)
Consulate General, Seattle

TO
A
FROM
De
REFERENCE
Référence
SUBJECT
Sujet

FOR
ATTACHMENT
SEE
CONCERNING
ANNEXES

SECURITY
Sécurité
UNCLASSIFIED
DATE
July 25, 1977
NUMBER
Numéro
317
FILE
DOSSIER
OTTAWA
25-5-7-2-SALMON-1
MISSION
35 - 11

Fisheries in the Northwest - Press Coverage

ENCLOSURES
Annexes

DISTRIBUTION
BY OTT
(FLO)
(WSHDC)
(DFE/VERNON)

... Attached are newspaper articles relating to the fisheries situation that has developed in the Pacific Northwest during the past two and one half months.

2. The application of the controversial 1974 decision by Judge Boldt to allow certain treaty Indian tribes to harvest half of the returning steelhead and salmon in traditional off-reservation fishing grounds has continued to be the primary focus of regional press coverage of fisheries issues. The fishing industry in the Northwest has been described as severely overcrowded to begin with; therefore, the effect of the Boldt decision which cuts down on the size of the catch for non-Indian fishermen, who constitute the majority of fishermen, has served to bring to a head what was before a chronic unhealthy situation for the industry.

3. In late May and early June, controversy was generated by the insistence of the USA that the International Pacific Salmon Fisheries Commission (IPSFC) draft the seasonal 1977 regulations governing the Canada - USA catch on the Fraser Salmon Run to reflect the 50/50 apportionment between Indian and non-Indian fishermen which is the basis of the Boldt decision. This would be reflected in increased fishing time for treaty Indian fishermen. The local press characterized the impetus for regulatory consideration of the Boldt decision as coming from the State Department.

4. Editorial comment in the Bellingham Herald on May 26 was generally sympathetic to the stand of the two Canadian Commissioners as described in other articles from the same publication. The Canadian Commissioners were described as being unhappy with what they regarded as undue interference by the State Department in the already difficult job of managing the Fraser River Salmon Runs. The State Department maintained that because the USA Supreme Court had previously refused to hear the Boldt case, the decision of Judge Boldt had the force of the law of the land.

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AUG 4 1977	
U. S. A. DIVISION	
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5. On Wednesday, June 1, the IPSFC passed regulations which were based solely on the requirements of the fishery and fishermen as a whole, without special considerations for any group of fishermen. The affected Indian tribes reacted by declaring that they would fish by "their own regulations" and which meant fishing extra nights in order to gain a larger share of the catch that they felt they were entitled to under the Boldt decision.
6. In response to the IPSFC, on June 20, Interior Secretary Andrus issued regulations unilaterally concerning the Fraser Salmon Run which allowed Indian fishermen an increased share of the catch. The regulations closely matched those proposed by the affected Indian tribes when the IPSFC published its regulations on June 1. The IPSFC regulations as stated in paragraph 5 did not take into account the Indians' desire for increased fishing time in line with the Boldt decision. The State of Washington Fisheries Department was not pleased with the Federal Government's unilateral action, though the acting Fisheries Director for Washington State Frank Haws was quoted as saying "... under the existing situation, I don't think there was much alternative". The Federal regulations were inconsistent with State law which states that the State Dept. of Fisheries has no power to regulate fishing except for conservation purposes and that equal protection concepts under the law require that fishing regulations apply equally to Indian and non-Indian commercial fishermen.
7. A suit by commercial salmon trolling fishermen to obtain an injunction against the closure to commercial fishermen of fishing waters off Washington and Oregon by the Federal Government was turned down by Federal Court Judges in Honolulu and San Francisco as reported in our telegram #0654 of June 15 and San Francisco's telegram #0963 of June 16, 1977. In response, troller fishermen on June 18 staged a "fish-in" off the coast of Oregon at Tillamook Head during which 23 fishing vessels were cited for fishing in defiance of the season closure initiated by the Pacific Fisheries Management Council and confirmed by Secretary Kreps.
8. The demonstration at Tillamook Head was followed on June 21 by a similar demonstration against the season closure at Ilwaco Harbour located near the Washington/Oregon border in Washington. Some 50 commercial fishing trollers, angered at the confiscation of hundreds of pounds of salmon by State Fisheries enforcement officers blocked the harbour and prevented chartered sports fishing vessels from leaving for some hours. The seizure of the fish was the result of suspicion of State enforcement officers that the fish were caught in the closed zone between Tillamook Head and the Canadian border and the inability of a commercial fish buyer to provide documentary proof to the contrary. The fishermen agreed to disperse when the county prosecutor requested State officials not to require proof that a particular catch was taken outside the closed area. A subsequent meeting between the trollers and State

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-3-

enforcement officials, as reported in the Seattle Times of June 23, established that a statement from the Coast Guard would suffice to prove that a catch was taken out of the closed area.

9. On July 23, the US Supreme Court further muddled the already murky waters of the fishing industry in the Northwest by ruling that one of the tribes affected by the Boldt decision, the Puyallup, did not have the exclusive right to catch steelhead passing through their reservation in the Puyallup River. The high court declined to rule on the point that the Puyallups did not have the right to catch State Hatchery raised steelhead but should confine themselves to harvesting wild steelhead in the proportions as outlined in the Boldt decision.

10. Reaction to the ruling was mixed, with the wording of the decision being described as vague and ambiguous. Both sides reportedly came away with the feeling that the ruling only laid the groundwork for more litigation. The State and sports fishermen were concerned that hatchery reared steelhead, who are raised with funds supplied by sports fishermen through licenses will be depleted by reservation fishing on the terms of the Boldt decision. They are hoping to confine Indian fishing therefore to wild steelhead.

11. The impact of the Boldt decision and the implementation of the ruling have been handled by both Federal and State officials with a notable lack of sensitivity. To be fair, the fishing industry in the Northwest had a good many chronic problems before Judge Boldt in 1974 decided on a 50/50 split between Indian and non-Indian fishermen with respect to salmon and steelhead. However, the heavy handed way in which the decision has been administered by both Federal and State officials has exacerbated tensions and perhaps led to what in retrospect could be considered unnecessary violence and tension.

12. A Presidential Task Force was authorized in April to look into the fisheries situation in the Northwest as a whole and recommend long-term measures to strengthen the fishery for the benefit of all fishermen. The Task Force has been active in seeking to discover the problems of fishermen; however, their full report remains to be delivered in the future and their immediate impact on the situation is limited. The whole situation therefore remains confused and is best summed up in the attached Seattle Times editorial of June 24 which describes the situation thus:

"In the complex and often emotion-charged arena of commercial and sports fishing, it has been an unusually active and even bewildering week..."

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-4-

"....These various developments obviously touched on different issues, different stocks of fish, and different jurisdictions."

Running through them, however, were the common threads of confusion, discord and uncertainty over fisheries issues."

13. Non-Indian fishermen have continued to protest and demand what they maintain to be equal treatment under the law with their Indian counterparts. Their most recent expression of discontent was a simultaneous protest in Seattle and Washington D.C. on July 7 as described in the attached Post-Intelligencer article of July 8. The situation was not aided by a July 15 report that Washington State was considering prosecuting the Ummi Indian tribe for alleged wastage of some 20,000 pounds of salmon. The tribe is alleged to have been forced to destroy this amount of fish because of the lack of storage facilities sufficient to cope with their increased catches of Fraser salmon.

14. In sum, the situation promises to remain difficult for months to come. The solutions, as has been stated by President Carter's Task Force, must be long-term, dealing with the industry as a whole outside of the issue of Indian vs. non-Indian fishermen. During the controversy in late May and early June over the IPSFC's regulation of the Fraser River Salmon Run, it was noted that the Canadian Commissioners' reluctance to include consideration of the Boldt decision in the proposed regulations stemmed from fear that Canada's West Coast Indians would demand similar rights. An appreciation of the rights of Canadian Indians in this respect could prove most useful for this post in the future.


Consulate General

THE SEATTLE TIMES
Apr 26/77

House OK's fish pact with Canada

WASHINGTON — (AP) — The House yesterday approved an interim fisheries agreement between the United States and Canada while negotiations continue on a comprehensive pact.

In 1973, the nations signed a reciprocal agreement allowing fishing in coastal waters to a limit of 12 miles, but both nations have since extended their exclusive fishery zones to 200 miles. The interim pact would allow fishing as usual while negotiations continue — at least until December 31.

Portland, Oregon
Oregonian
(Cir. D. 227,641)

APR 26 1977

Allen's P. C. B. Est. 1888

Salmon protection doubted House OKs fish pact with Canada

By BILL KELLER
of The Oregonian staff

5504

WASHINGTON — The House Monday approved a temporary fishing agreement with Canada, despite the claims of some congressmen that it does not do enough to protect Northwest salmon.

A vote on the document had been delayed for a week until a dozen Canadian salmon boats agreed to leave the coast of Washington and not re-enter U.S. waters until May 1, when the American salmon fishing season begins.

Unlike other agreements signed since passage of the U.S. 200-mile fishing limit, the U.S.-Canadian agreement allows each country's fishermen to fish in the waters of the other according to "existing patterns," without the permits and licenses required of other countries.

Oregon Rep. Les AuCoin opposed the agreement in protest over the State Department's failure to negotiate a Canadian salmon fishing season consistent with America's. Pointing to a proposal to limit U.S. salmon fishing during June, AuCoin said unless Canadians adopt a similar embargo 30 to 50 per cent of the young Northwest salmon will cross into Canada and be caught there.

"It is useless to regulate fishing off America's coast if actions taken by the government of Canada only serve to negate these benefits to the advantage of Canada," AuCoin said.

Washington Rep. Don Bonker, like AuCoin a member of the House Merchant Marine and Fisheries Committee, also agreed the document negates efforts to conserve U.S. fish stocks by allowing young salmon to be intercept-

ed in Canada before they return to spawn.

The State Department has agreed to raise the issue when it begins negotiating a permanent treaty with Canada later this year.

House approval of the temporary agreement was originally scheduled for last week, but Merchant Marine Chairman Robert Leggett, D-Calif., withdrew the treaty at the last minute when he got word Canadian fishermen were headed for the coast of Washington.

State and Commerce Department officials said the fishermen had been mistakenly told they could begin taking salmon April 15, the same date as last year, under the agreement allowing existing patterns of fishing. The fishing boats withdrew after they were informed Canadians must obey U.S. seasons while in U.S. waters.

The Port Angeles Daily News--May 4, 1977

Troller time is extended

5504

North Olympic Peninsula salmon trollers received help Tuesday from the Pacific Fishery Management Council. The council voted to allow commercial trollers to fish for two weeks in June in the Pacific Ocean north of Tillamook Head, Ore.

Regulations previously adopted by the council banned trollers from the described Washington and Oregon waters for all of June. It changed its mind at a meeting in Portland Tuesday following an appeal from U.S. Commerce Secretary Juanita Kreps.

Last week, State Rep. John Martinis, D-Everett, a member of the 13-member management council, said he would move for the additional two weeks in June which would extend the season which had been set for May 1 through 31 and July 1 through Sept. 15.

At that time, Robert Nevaril of Port Angeles, president of the Northwest Trollers Association, called the proposal "a step in the right direction."

Earlier emergency regulations issued by secretary Kreps restricted trolling north of Tillamook Head during June. The measures were an attempt to reduce the catch by 23 per cent from the estimated 353,000 fish caught there in 1974.

In addition to increasing the commercial trolling season, the council also made provisions for the ocean fishing rights of the Makah Indians.

Net fishing by the Makahs will be limited to the number of salmon that return to the Columbia River, according to testimony from Pacific Northwest fisheries experts.

While allowing the added two weeks in June for commercial trollers, the council rejected a suggestion supported by commercial interests that the bag limit for salmon sports fishermen be reduced from three to two fish in the 3-to-200-mile offshore zone.

An increase in the minimum size for salmon caught by commercial fishermen from 26 to 28 inches was adopted by the council, however.

Having passed the council, the recommendation to allow commercial ocean trolling from June 1 to June 14 will be passed on to the Commerce Department.

Mrs. Kreps' representative at the meeting, David Wallace, said it will take the department at least two weeks to make a final decision on the matter. It may take longer, he said, if the Canadian government demands consultation time.

The Bellingham Herald

May 8, 1977

Fishermen angry with allocation

By DICK BEARDSLEY
Herald Staff Reporter

Angry non-Indian commercial fishermen returned to Bellingham docks Friday, well short of an added 172 tons of roe herring they had been allotted and minus four hours of fishing time they thought they had coming.

The off-reservation harvest Friday is not expected to exceed 50 tons, State Department of Fisheries officials said. Totals should be available Monday.

Initially, the state had intended to open Friday's fishing from 8 a.m. until noon. If 172 tons hadn't been harvested, fishing would be extended from 2 p.m. until 6 p.m.

Why, non-Indian fishermen wanted to know as they docked, hadn't they been allowed the four hours of fishing Friday afternoon?

Apparently, it was part of a compromise by U.S. District Court Judge George H. Boldt.

After Indian fishermen harvested 1,091 tons of herring and non-Indians 541 tons when the off-reservation roe herring season opened initially, non-Indian fishermen clamored for a chance to equalize the harvest, even though this season's quota had been harvested.

The state allotted more off-reservation fishing to the non-Indian fleet and then sought a restraining order from Boldt against the Indian

fleet. Forrest "Dutch" Kinley, director of fisheries for the Lummi Indians, said fishermen from that tribe would fish if non-Indians were allowed to fish.

Boldt issued the restraining order by telephone from Oklahoma just as Friday's fishing began. But he also ordered the state to close fishing at noon.

It was Boldt who, in 1974, ruled treaty Indians in western Washington are entitled to a chance to catch half the harvest of salmon, steelhead trout and herring on traditional tribal fishing grounds.

This year's herring fishery is one of the few instances when non-Indian fishermen came up short. They, too, state officials argued, are entitled to a chance at half the harvest.

Boldt issued the restraining order against the Indian fleet.

One Indian purse seiner, according to Bruce Gruett, fisheries assistant director for field services, was cited for fishing off the Lummi Reservation Friday. No other cita-

(Continued on page 4, col. 1)

Fishermen angered

(Continued from page 1)

tions had been issued as of late Friday.

But Boldt also limited added fishing time to noon after an attorney for the Lummis had sought to keep fishing closed completely.

"He granted our request in part," said Mason Morisset, the Lummis' attorney, "and he granted their (state officials') request in part."

In past years, when the Indian fleet was behind in the harvest and asked for a chance to make up the difference, the state has decided it is better to "err on the side of conservation," Morisset said.

"It was Kinley's feeling, and I concur, that if this is the situation then it should be applied this year to non-Indians," said Morisset.

Kinley also maintained, according to Morisset, that the state had established the herring quota for this season. Any added harvest should be divided equally under the Boldt decision.

Morisset also argued that the state changed methods of measuring the amount of herring on the fishing grounds to come up with the added harvest allotted non-Indians Friday.

"We were suspicious," Morisset said, "that after the Indians out-

A non-Indian purse seiner off Birch Point Friday morning.

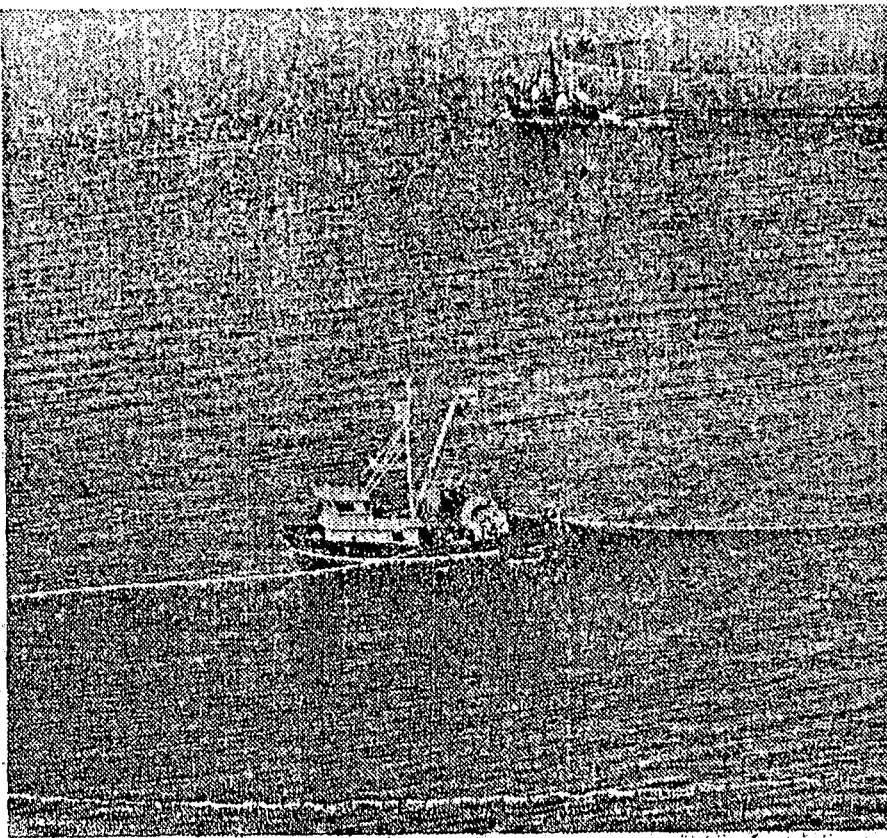
fished the non-Indians — pure and simply that's what happened — the state changed its course in midstream in an attempt to find some extra fish for the non-Indians."

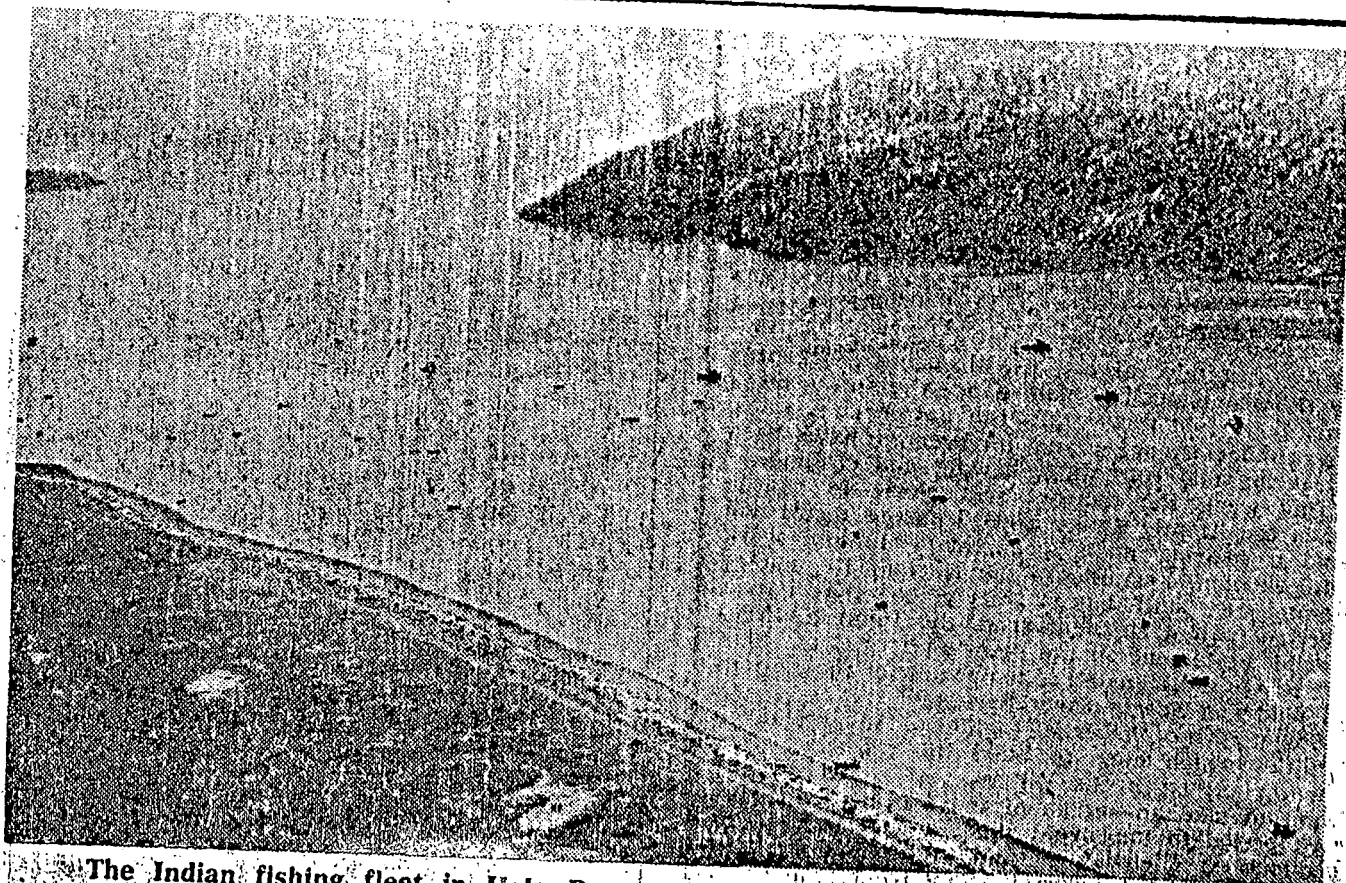
Attorneys for the state say they expect to go before Boldt this week and ask him to let the state manage the fisheries. Morisset said Indians

expect to seek court action enjoining the state from attempting to usurp the full authority over fisheries Indians feel Boldt has.

Angry non-Indian fishermen expressed frustration at being caught in the middle.

"The federal task force (appointed by President Carter) has asked for solutions," said Wally Green, a





The Indian fishing fleet in Hale Passage with Lummi Island in the right background and Lummi Reservation to

the left. (Herald photos by Dick Beardsley)

non-Indian purse seiner, "and we've recommended that the federal government should be paying for all this.

"If the guy selling shoes uptown had to try and earn a living this way, you'd sure hear a lot of

squawking.

"What does Judge Boldt know about the herring fishery? The state said we wouldn't damage the fishery by catching these fish. So why weren't we allowed to fish (Friday) afternoon?"

"They might as well let all those people in Olympia go, and let Judge Boldt run the fishery. He's been doing it for four years now anyway.

"If other people had to try and earn a living this way, you'd hear a lot of noise, a lot of noise."

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The Oregonian—May 21, 1977

Trollers get added ocean salmon time

Commerce Secretary Juanita Kreps Friday approved revised 1977 Northwest ocean salmon fishing rules, including a two-week extension for commercial trollers north of Tillamook Head.

The revisions were recommended earlier this month by the Pacific Fishery Management Council in Portland. The secretary had asked that changes be considered after commercial trollers and the Makah Indians of Washington opposed the council's initial recommendations.

The revisions, effective at midnight May 24, permit trolling from June 1 to 15, two weeks more than set previously. And minimum size of commercially-caught chinook salmon north of the head was increased from 26 to 28 inches to conserve stocks.

The coastal Makah Tribe was given an all-species troll season from May 1 to Oct. 1, extending seaward from the reservation about 50 miles to the proposed U.S.-Canada fishery boundary.

There were no revisions of recreational fishing regulations.

The Bellingham Herald

May 24, 1977

IPSFC delays fish meeting

5504

By DICK BEARDSLEY
Herald Staff Reporter

American officials have postponed the international salmon commission meeting scheduled for today. The delay has angered both Canadian officials and local non-treaty fishermen.

The International Pacific Salmon Fisheries Commission (IPSC) was to have met in Vancouver, B.C., to consider regulations for the Fraser River sockeye salmon fishery governed by treaty between the United States and Canada.

That meeting has been set back until next week, according to IPSC Chairman Don Johnson. A federal task force appointed by President

Carter to seek solutions to the fishing controversy in western Washington asked for more time to consider the situation before the IPSC meets, Johnson said.

The U.S. attorney for western Washington, J. Ronald Sim, head of the regional task force which is reporting to the federal task force, said he would be unable to comment on the request until after the task force had met today.

Johnson said: "I surmise they (the task force) want to see if there's further possibility to accommodate something for the Indians."

"If they want their task force, that's their business down there," said Dick Simmonds, a Canadian member of the IPSC. "We're con-

cerned with getting regulations (for the Fraser River fishery)."

Several local non-treaty fishermen said they are disappointed that the IPSC session has been delayed. They said they are disillusioned with the task force, which was appointed by President Carter in April. Congressman Lloyd Meeds has been labeled the driving force behind the task force notion by other members of Washington's congressional delegation.

"We had high hopes for the task force," said Ben Cain, a local non-treaty commercial gillnetter. "But I think it's totally for the other (treaty Indian) side. Their main interest seems to be to force the Boldt decision upon us. Their task seems to be to muscle allocation through the legislature and do in the international commission."

Attempts to pass regulations for this season's Fraser River fishery have been thrown into a turmoil by what Canadian members of the IPSC say is an attempt by the U.S. State Department to implement the Boldt decision - which they label an American domestic problem - through the international commission.

The IPSC met in Bellingham in March but failed to adopt regulations after more than 100 non-treaty fishermen protested against

(Continued on page 5, col. 1)

IPSFC delays fishing meeting

(Continued from page 1)

State Department-proposed regulations which would have given treaty Indian fishermen four or five days of fishing during the Fraser River fishery while limiting non-treaty fishermen to two days.

In 1974, U.S. District Court Judge George Boldt ruled that treaty Indians in western Washington should have a chance to catch half the annual harvest of salmon, steelhead trout and herring on their accustomed fishing grounds.

Controversy has since raged on commercial fishing grounds, and it has come to a head with this year's attempt to involve the Fraser River fishery — by far the most lucrative for local nontreaty fishermen and the fishery in which treaty fishermen have been least successful.

The regulations proposed by the State Department have brought threats from non-treaty fishermen that they will fish illegally if those regulations are adopted by the IPSFC.

Those threats were reiterated Monday night.

"If those regulations are passed," said a non-treaty reefnetter, "we're going fishing whenever the Indians go fishing. What have we got to lose?"

Non-treaty fishermen insist that the Boldt decision violates their

rights as American citizens, that they are being singled out to pay for past sins against Indians committed by the American government.

The U.S. Supreme Court has refused to hear the Boldt decision and State Department officials say that makes the Boldt decision the law of the land.

But the fishermen counter with a 1949 opinion by Supreme Court Justice Felix Frankfurter, that such a refusal in no way implies a Supreme Court attitude toward the merits of a lower court ruling.

Canadian fisheries officials in Ottawa were hesitant to comment on the Fraser River situation. "It's really touchy," said one.

But Simmonds — who has vowed he will not support any attempt by the Americans to involve the Boldt dispute in the treaty-governed Fraser River fishery — remains outspoken in his opposition. He and W. R. "Rod" Hourston, the other Canadian commissioner presently on the IPSFC, spent two days in Ottawa last week.

"When we left Ottawa," Simmonds said, "we had been told the diplomats would contact (the U.S. State Department) and say, 'No more bull.'"

"We want some regulations, and the feeling was that the Canadian government has reached the end of the line. We're tired of this government intervention."

Johnson said he expects the IPSFC meeting will be rescheduled for next Wednesday in Vancouver. He would not say what proposed regulations will be considered. "I'm in poor shape to say what the final regulations will be," he said. "It will depend on what proposals are presented by the commissioners."

Simmonds has said he will reintroduce last year's regulations which, in effect, allowed three days of fishing a week for American treaty Indian fishermen and two days for non-treaty fishermen. Those regulations had initially been proposed for this season until the U.S. State Department-proposed regulations were introduced.

5504

Sockeye furor unabated

The Bellingham Herald

May 25, 1977

By DICK BEARDSLEY
Herald Staff Reporter

The furor continues unabated over this season's Fraser River sockeye salmon fishery, which is governed by treaty between the United States and Canada.

American non-treaty commercial fishermen have threatened to renew their demand that Don Johnson be replaced as an American commissioner on the International Pacific Salmon Fisheries Commission (IPSFC), which is established in the treaty to regulate the fishery.

And an American administrator of

the IPSFC has joined Canadian commissioners in decrying what they say is unwarranted U.S. State Department interference in IPSFC affairs.

Heat on Johnson, commission chairman, was restoked after he postponed until next Wednesday an IPSFC meeting scheduled for yesterday.

Commercial fishermen claim Johnson violated commission protocol by unilaterally calling off Tuesday's meeting. Johnson's resignation had been requested after the last two IPSFC sessions, according to Wally Green, a local purse seiner

who is one of six American advisers to the IPSFC. And those calls were renewed Tuesday after word spread as to how the meeting scheduled for that day had been canceled.

Johnson himself indicated he might have overstepped commission protocol. "I think so, yes," he replied, when asked if he understood that a commission meeting should be postponed only with a consensus of a majority of the commissioners.

Johnson said he contacted all but one of the five commissioners currently serving. But when asked if he had given them a say in the matter, he replied: "I don't know, that I phrased it in that fashion. But I said it had been requested of us and suggested that we meet a week later."

The request for the delay came from a federal task force assigned by President Carter to seek solutions to the controversy embroiling salmon fishing in western Washington. That request was sent in a letter to the State Department, which then asked Johnson to delay the meeting.

In early 1974, U.S. District Court Judge George Boldt ruled that treaty Indians are entitled to the chance to catch half the harvest of salmon, steelhead trout and herring from their accustomed fishing grounds in western Washington.

The IPSFC was to have considered regulations governing the Fraser River fishery Tuesday. The task force asked for the delay, saying it wanted to look into the matter further before regulations are adopted.

The State Department has proposed regulations which would, in effect, allow non-treaty American fishermen two days a week fishing during the Fraser River fishery and treaty American fishermen four or five days. It is this interference that has brought criticism from Canadian commissioners and now from John Roos, an American who is assistant director of the IPSFC.

"It's just chaos, at the moment, with bureaucrats interfering with the business of this commission," Roos said. "To have this industry sitting by with millions of dollars in gear and not have regulations by this date is deplorable."

Dick Simmonds, a Canadian commissioner who has been outspokenly against the U.S. State Department-proposed regulations from the outset, has said he will move for the adoption of regulations initially proposed, which would not give treaty American fishermen as long to fish each week.

"The Canadian government's stand is firm," Simmonds said. "We will not entertain any other motions." The Canadians, Simmonds has said, view the Boldt decision as an American domestic problem and do not feel the international fishery is where Americans should be seeking to implement it.

U.S. Attorney J. Ronald Sim, head of a regional team of investigators advising the federal task force, disagreed. "In a broad sense, when you're talking about salmon you're talking about the problem," he said. "Any group that deals with managing the resource is involved."

He also denied allegations by commercial fishermen that the task force is not expected to seek solutions to the problems which have developed because of the Boldt decision, only to implement the decision. "I just don't think that's true," Sim said. "We have talked about that aspect with commercial fishermen. That's a mistrust which has existed since the very beginning."

Non-treaty fishermen have opposed Johnson because they say he is more interested in doing the bidding of Washington bureaucrats than the business the commission was set up to accomplish.

Three IPSFC commissioners - Simmonds, W. R. "Rod" Hourston, a Canadian, and William Saletic, an American, said they disliked the way Johnson handled the postponing of Tuesday's meeting. The third American commissioner, Donald Moos, could not be reached. A third Canadian commissioner - to replace one who died last fall - is expected to be appointed soon.

The meeting next Wednesday is expected to be in Vancouver, B.C. An exact time and place had not been determined late 1000426

The Bellingham Herald

May 26, 1977

Pressure on Canadian commissioners unfair

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The pressure which the U.S. State Department is bringing on the International Pacific Salmon Fisheries Commission to get that organization to enforce the Boldt decision seems more likely to create problems than solve them.

The commission is bound by treaty to maintain and enhance the Fraser River salmon runs and to divide the catch equally between the two nations. It already has a fantastically difficult act to perform, juggling the fisheries of two nations, the various types of gear and the biological demands of the fishery.

Faced with a reluctance by one of the two Canadian commissioners to establish regulations allowing extra days for Indian fishing on the U.S. side of the line, the State Department has succeeded in getting any decision on the 1977 season regulation postponed. The commission was to have met Tuesday; now the meeting has been put off until next week.

The Canadians are quite right in not wanting to get embroiled in our fights. The problems of the Boldt decision were created by American governments and should be solved by Americans.

The Bellingham Herald

May 29, 1977

Fraser sockeye rulings expected Wednesday

By DICK BEARDSLEY
Herald Staff Reporter

At least two sets of regulations for the internationally controlled Fraser River sockeye salmon fishery will be considered Wednesday at the Hyatt House near the Vancouver, B.C., international airport.

The International Pacific Salmon Fisheries Commission will attempt to resolve a dispute between American and Canadian commissioners which has kept regulations from being adopted for the fishing, scheduled to open June 26. The commission meeting is set for 11 a.m. at Hyatt House, 3500 Cessna Drive.

American Commission Chairman Don Johnson, under prodding by the U.S. State Department, is proposing regulations that would allow American non-treaty fishermen two days of fishing a week and treaty Indian fishermen four or five days a week.

Canadian commissioners are opposed to that proposal, saying an international commission is not the place to attempt to enforce American domestic situations such as the Boldt decision.

In early 1974, U.S. District Court Judge George Boldt ruled that treaty Indians in western Washington are entitled to a chance to catch half the salmon, steelhead trout and herring harvested on their accustomed fishing grounds.

The Canadians on Wednesday are expected to propose that regulations initially drawn up for this year's fishing — which grant less fishing time to treaty Indian fishermen — be adopted instead.

Whatever regulations are adopted, two commissioners from each nation will have to approve.

Canadian Commissioner Dick Simmonds has said his side has been ordered by the Canadian government to stand firm against the American proposal.

At least one American commissioner, William Saletic, has said he, too, is opposed to the American proposal.

The international fishery — this year it is expected to yield a harvest of 2.3 million sockeye and 1 million pink salmon to fishermen from each nation — is governed by treaty between the United States and Canada.

Three commissioners from each nation meet to adopt regulations each year. At present, only two Canadian commissioners are serving; the third post was left vacant by a death last November. Appointment of a third Canadian is imminent, but sources in both Vancouver and Ottawa indicated Friday that the appointment will not come before Wednesday's meeting.

Since two commissioners from each nation must approve regu-

lations, that leaves either Canadian commissioner with veto power.

Simmonds has insisted he will not change his stance against the American proposal even if the attitude of the Canadian government shifts.

The commission had been scheduled to meet last week but the meeting was canceled by Johnson, again under prodding from the U.S. State Department. A State Department spokesman said postponement was asked for by a federal task force

which was appointed by President Carter to seek solutions to the fishing controversy brought on by the Boldt decision.

Treaty Indian fishermen traditionally have fished with little success in the international fishery. In 1976, they harvested little more than 50,000 of the 1½ million fish taken.

The American proposal would allow Indian fishermen more chance to harvest fish. American non-treaty fishermen say such a proposal discriminates against them and violates their rights.

Canadians say the dispute should not be settled in a fishery governed by international treaty. If they stand pat, it would seem the Americans will have to back off if regulations

The Bellingham Herald

June 1, 1977

U.S. government expected to thwart salmon decision

5504
By DICK BEARDSLEY
Herald Staff Reporter

VANCOUVER, B.C. — Non-treaty fishermen may get the regulations they want here today, only to find the U.S. State Department has decided to move the battleground into the courts.

Sources close to the International Pacific Salmon Fisheries Commission predict the commission meeting today will adopt regulations for the Fraser River sockeye fishery which do not favor treaty Indian fishermen.

Such regulations first were proposed last December. But the State Department introduced a second proposal that would have increased the amount of fishing time for American treaty fishermen. After strong protests by non-treaty fishermen and opposition from Canadian commissioners, the American proposal failed to gain enough sup-

port. Regulations for the Fraser River fishery — scheduled to open June 26 — have been in limbo since.

A commission meeting to consider regulations had been scheduled last week. The State Department succeeded in having it canceled, sources say, after it was determined that support had been mustered for the regulations proposed in December.

Today, those regulations are expected to be adopted by the IPSFC. But, sources say, the State Department will ask a federal court to exempt treaty fishermen in this country from those regulations. State Department sources could not be reached for comment.

The Fraser River fishery is governed by treaty between the United States and Canada, a treaty which established the IPSFC as the regulatory agency. But the government of each nation must approve the regulations adopted by the IPSFC.

In going to court, sources say, the State Department will argue that it can regulate its half of the harvest as it wishes as long as the Canadian harvest is not affected.

The gamble would be whether the Canadians would stand by while the Americans attempted to obtain — through a federal court — what they have been unable to accomplish through international regulation: more fishing time for treaty fishermen on this side of the border.

Canadians have opposed regulations which would do this, saying the move is an attempt to implement the Boldt decision — an American domestic problem. International regulations, they say, should not be used to enforce domestic policies.

In going to court, Americans would be maintaining that the issue had been returned to a domestic scale.

"That's a legal question," said one source when asked if he thought the Canadians would allow such a move unopposed. One Canadian indicated his government might not. "If the regulations go through," he said, "one more battle is on the horizon."

In 1974, U.S. District Court Judge George Boldt ruled that treaty Indians are entitled to the chance to catch half the harvest of salmon, steelhead trout and herring taken on accustomed tribal fishing grounds in western Washington.

Because the U.S. Supreme Court declined to hear the case, State Department officials argue, the Boldt decision is law of the land and they must uphold it.

Non-treaty fishermen say the Boldt decision is not law of the land, countering with a 1949 opinion by

Justice Felix Frankfurter which, they claim, holds that the Supreme Court does not rule on the merits of a case by refusing to hear it.

The Boldt decision will not be law, non-treaty fishermen maintain, until it is argued before the nation's highest court.

To limit non-treaty fishing while allowing treaty fishing, non-treaty fishermen maintain, is discriminatory.

By adopting regulations and seeking to alter them through the courts, one source said, the State Department might curb the threat of illegal fishing threatened by non-treaty fishermen. They have threatened to fish illegally if the regulations proposed by the State Department are adopted.

What the State Department might succeed in doing, the source said, is move the battle off the fishing grounds and into a courtroom.

Treaty fishermen have fared poorly in the Fraser River fishery. Last year, they harvested some 55,000 fish while non-treaty American fishermen caught more than 1.5 million.

This year, the American share of the harvest is expected to be 2.3 million sockeye and another 1 million pink salmon.

There is some feeling that non-treaty fishermen may not react as strongly to efforts to get Indian fishermen more fish because the harvest will be so much greater.

But non-treaty fishermen say they are battling for a principle, that they will oppose all efforts to limit their fishing while increasing treaty fishing times.

The IPSFC was expected to have met into the afternoon today at Hyatt House near the Vancouver International Airport.

The Bellingham Herald

June 2, 1977

Non-Indian victory may be short lived

By DICK BEARDSLEY
Herald Staff Reporter

VANCOUVER, B.C. — Non-treaty fishermen got the Fraser River sockeye salmon regulations they wanted Wednesday, but a U.S. State Department representative says the fishermen may live to regret those regulations.

The International Pacific Salmon Fisheries Commission defeated proposed regulations which would have allowed American treaty Indian fishermen extended fishing. Instead, the IPSFC adopted regulations which grant no special considerations to any group of fishermen.

The U.S. State Department had proposed the regulations which were defeated. Non-treaty fishermen ang-

rily protested those regulations were nothing more than an attempt to enforce the Boldt fishing rights decision. In early 1974, U.S. District Court Judge George Boldt ruled that treaty Indians are entitled to a chance at half the harvest of salmon, steelhead trout and herring taken annually from their accustomed fishing grounds in western Washington.

But non-treaty fishermen argue that the Fraser River fishery is governed by international treaty between Canada and the United States and that domestic policy should not be enforced through international agreements.

The IPSFC finally concurred after much pressure from Canadian commissioners, some American

commissioners and both American and Canadian advisers to the commission representing the commercial fishing industry.

The IPSFC regulations adopted during a 3½-hour session behind closed doors Wednesday now must be approved by the federal governments of the United States and Canada.

State Department representative Kay Clarkbourne refused to speculate today on how the State Department might react to the regulations adopted, but she did say treaty Indians might challenge them.

She said there is a great deal of emotion involved, and that a "great deal of misinformation" was spread about what the State Department proposed regulations would have done.

The American proposed regulations would have allowed a "hand work only" she said. "They did not mean allocation."

The extended Indian Fishing times would have increased the Indian share of the American's half of the Fraser River harvest from last year's 6 per cent to estimates which ranged from 8 per cent to 15 per cent this year, she said.

"I would assume that, from what tribal lawyers have said, they will take (the adopted) regulations to court," Clarkbourne said. "We tried to point out (to non-treaty fishermen) that this could be a lot worse than what we had worked out for them, but they didn't want to listen."

John Finkbonner, a Lummi Indian who represents the Point Elliott Treaty tribes on the Northwest Indian Fisheries Commission, indicated court action might be pending. When asked if the Lummis might go to court and challenge the IPSFC regulations adopted, Finkbonner said: "I imagine we will be. We're going to take a look-see and find out what other people are doing."

Canadian Commissioner Dick Simmonds led the fight against the American proposal, saying the commission was not the place for American domestic problems.

Commissioners from both Canada and the United States also said the U.S. State Department was interfering in the business of the IPSFC by proposing regulations.

"The commission has done its job," said Canadian Commissioner W.R. "Rod" Hourston after Wednesday's session. "The ball is back in their (the federal governments') court."

As to what might happen now, commission Chairman Don Johnson said: "Who can predict?"

Simmonds, however, said the battle might not be over, even though regulations have been adopted. "I'm not convinced the State Department will let this rest," he said.

No one could say what might happen if either government fails to accept the regulations adopted. "That would be unprecedented," Johnson said.

The IPSFC was established about 40 years ago when Canada and the United States signed a treaty governing the Fraser River salmon harvest in an attempt to keep fishermen from either nation from overfishing.

The catch is divided equally between fishermen from each nation. This year, each will harvest an expected 2.3 million sockeye and 1 million pink salmon.

Non-treaty fishermen are battling attempts to give treaty fishermen extra fishing time, calling such efforts discriminatory. 5504

35-11

Portland, Oregon
Oregon Journal
(Cir. D. 108,513)

JUN 9 1977

Allen's P. C. B. Est. 1888

Fish test U.S.-Canadian relations

5008 By DIANE CARMAN
Journal Staff Writer

The current dispute over fisheries jurisdictions of the United States and Canada is testing the "maturity of the relationship" between the two countries, the Canadian ambassador to the U.S. said in Portland Wednesday.

Jack Hamilton Warren, who has been Canadian ambassador for two years, told the World Affairs Council of Oregon that the fisheries question is one of many issues "that has made our differences (as nations) become more evident."

Warren explained that the extensions of the offshore fishing boundaries to 200 miles has created a conflict between the two nations concerning the international boundaries seaward.

"In our view . . . a long-term reciprocal fishery agreement . . . (and) an agreement to limit Pacific salmon interceptions and to provide mechanisms for management cooperation" is needed between the two nations,

he said.

Both countries have agreed, he continued, to call for third-party mediation if the fisheries dispute is not resolved soon.

Warren also explained the reason for Canada's restrictions on new foreign investment and expenditures of Canadian advertising dollars outside the national market.

"Canada reviewed its national goals and moved to get a better handle on its own destiny," he explained. "This national evolution surprised most Americans . . . sometimes (they were) hurt to discover that Canada was growing up and that we and they did not always agree."

The ambassador called for the two nations to unite in "bringing price stability to the international grain market."

"The world's two greatest wheat exporters . . . have a vital interest in maintaining price stability, particularly as we look forward to another bumper crop this year," he said.

"We hope that multilateral trade negotia-

tions will help open trading opportunities in industrialized countries where producers are less efficient than our own . . . also to negotiate rules to deal with the European Community's subsidization of their wheat exports."

Warren, who is retiring from his position as ambassador, concluded that "if any two countries can work out sensible solutions (to these problems), they are the United States and Canada."

The Seattle Post-Intelligencer

June 9, 1977

Solons to Fight for Salmon

Members of the Northwest congressional delegation are expected to testify today at budget appropriation hearings in favor of Puget Sound salmon enhancement programs. "We have reason to believe that about \$15 million is going to be recommended for immediate distribution," Art Martin, legislative aide to Rep. Don Bonker, D-Wash. said.

The federal government is waiting for recommendations from a cabinet level task force appointed by President Carter to study Northwest fisheries problems. In testimony to be read into the congressional record, Bonker pointed out the dwindling number of salmon and the necessity of enhancement programs.



BONKER

A Flashy Way to Go to Town

FINE ART IS WHERE you find it, and P-I photographer Grant Haller found this example of artistic enterprise resting between voyages on a used car lot called the

Public Vehicle Mart near Highway 101, between Lynnwood and Everett. The auto was a 1964 Corvair. Haller couldn't find out who

The State Can't Enforce Boldt Ruling, Court Says

By FRED BRACK

The State Supreme Court ruled 5 to 3 yesterday that the State Department of Fisheries cannot enforce the Indian fishing rights decision handed down by U.S. District Court Judge George Boldt more than three years ago.

The ruling did not nullify Boldt's decision, which remains in effect. But it clearly placed the burden of enforcement, if there is to be any, on the federal government.

The court said the fisheries department had no authority to allocate salmon between non-Indians and Indians because state law says the department can regulate fishing only for conservation purposes, assuring that fish runs are not killed off by overfishing.

Furthermore, said Justice Hugh J. Rosellini, writing for the majority, "since Indians are citizens of the United States and of this state — and not citizens of a foreign power —

they are subject to the constitutions of these governments.

"Thus they can neither be denied equal protection of the laws nor granted special privileges."

That reasoning flew directly in the face of Boldt's decision — and other federal court rulings — that certain rights are secured to Indians, not because of their race, but because of treaties their tribes signed with the U.S. government.

It was because of treaties that Boldt declared in 1974 that certain Western Washington tribes were entitled to the opportunity to catch half the harvestable salmon in their traditional off-reservation waters. They reserved that portion for themselves. Boldt ruled, signing over the other half to non-Indian settlers.

State Sen. Gordon Sandison, designated by Gov. Dixy Lee Ray to take over the fisheries department, is caught between the state and federal

Back Page, Column 2

Out for the Recount...

LITTLETON, W. Va. — (AP) — They held an election here, and nobody came.

Mayor David Roberts, the five members of the council and the town recorder all grew tired of the burdens of office in this town of 333 souls. All let the March 30 filing deadline go by without filing for re-election.

But nobody else wanted to run, either.

They came up with a solution — make it a write-in contest.

But when the victors were announced, nobody wanted to serve.

In Tuesday's write-in balloting, 41 votes were cast. Twenty persons got votes for town council, four for mayor and six for recorder.

Eventually, Roberts was persuaded to keep the \$15-a-month job of mayor, for which he had gotten the most votes.

His wife Carol agreed to serve another term as town recorder, which pays even more than mayor — \$20-a-month.

Two top vote-getters for council, who earn nothing, couldn't be persuaded to accept the will of the people at all, and Mrs. Roberts herself turned down a council seat when she was persuaded to take the recorder's job.

She says the problem stems from the town's efforts to find more water. There's just too much paperwork associated with efforts to drill three new town wells. As an example, she says, the recorder finds herself working two to three days a week just to keep up.

"We thought possibly by not filing, some people would file," she said. Now she knows better.

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"Thank God we got the scroungers out," said Rabbi Singer. "They are all intact." The rabbi said that besides taking two sets of silver bells, two wine cups and the goblet, someone broke into a cabinet and apparently drank

a combination of wine and

"We'll survive," Rabbi Singer said philosophically. "We are a very old people. We have a lot of experience in survival."

Document disclosed under the Access to Information Act
Document divulgué en vertu de la Loi sur l'accès à l'information

Skytrain

From Page A-1

quirement of other low-fare plans now available.

The cheapest roundtrip fare now available is a tour group rate of about \$380 which requires purchase 60 days in advance and a minimum 10-day stay time. A regular roundtrip New York-London ticket with no advance purchase and a 14-to-21 day stay time costs \$631.

The British government already has given permission to Laker to operate the service.

The CAB said the service could not become effective until 60 days after Laker files its tariff with the board to allow U.S. airlines to file for competitive plans.

In its recommendation to Carter, the board noted that travelers must now pick between expensive regular service or discount fare with restrictions on such things as how long a trip say can last.

HHH Institute

NEW YORK — (AP)

— The creation of the Hubert H. Humphrey Institute in Washington was announced yesterday at a dinner of the Reform Jewish Appeal.

The State Can't Enforce Boldt Ruling, Court Says

From Page A-1

courts. He said he would appeal the State Supreme Court's ruling to the U.S. Supreme Court.

Mason Morisset, attorney for several treaty tribes, said the tribes might ask the federal courts to enjoin the state courts from preventing the fisheries department's cooperation with the Boldt decision.

And the Northwest Indian Fisheries Commission said it would ask the federal government to take over management of Washington's salmon fishery.

The federal government was being put on the enforcement spot even before the State Supreme Court ruling.

The state fisheries department has had trouble enforcing regulations drawn in compliance with Boldt's decision because county prosecutors and state courts have held that such regulations violate state law.

And the State Legislature has refused to grant the department specific authority to allocate fish between Indians and non-Indians. Frank Haw, acting fisheries director, said that, given the Legislature's position, the department was not planning to promulgate allocation regulations this summer.

Predictions of the effect of yesterday's ruling on Puget Sound's troubled waters conflicted.

Charles Yates, attorney for the gillnetters who, with purse seiners,

sought the ruling, said it "would contribute substantially to a more peaceful situation on Puget Sound."

Bill Frank, chairman of the Northwest Indian Fisheries Commission, said it would "fan the flames of chaos."

Yates liked the decision. "We think it clearly outlines the boundaries under which the state can operate," he said.

Morisset was "disappointed that the State Supreme Court once again did not follow the general rules that apply to Indian treaty law."

The court said it expected the fisheries director to "voluntarily abide" by the decision, and Sandison said he would.

"It appears to me that the judiciary had better get together on this and decide who has what power," Sandison said.

To the three-man minority in yesterday's ruling, that question is settled. Dissenting in part with the majority, Justices Charles Horowitz, Charles Stafford and Robert Utter said a federal court order such as Boldt's must be obeyed.

But the majority, Justices Rosellini, Charles Wright, Orris Hamilton, Robert Brachtenback and Pro Tem Ralph Armstrong, said, "The U.S. Supreme Court has stated that a federal court will not compel governmental officers to do any act which they are not authorized to do by the laws of the state from which they derive their power."

15c in Western Washington; Canada 25c; Elsewhere as posted

FRIDAY, JUNE 10, 1977

NORTHWEST... SINCE 1863

Intelligence

FINAL

The Seattle Times

June 10, 1977

Slow fish run may be picking up

WAWAWAI, Whitman County — (AP) — This year's migratory fish run is more like a slow stroll, but biologists said today large numbers of salmon and steelhead fingerlings may be on their way downstream at last.

"There are some indications they might arrive soon," said Jim Smith, a National Marine Fisheries biologist at Lower Granite Dam on the Snake River, about 15

miles southwest of Pullman.

"The (Idaho) sampling stations at Riggins and Whitebird reported a peak passage on the 28th and 29th (of May)," said Smith. "So we're looking for them on about the 10th, 11th and 12th (of June.)"

Some fish experts are concerned that the tardy smolts may die in the drought-depleted water of the Upper Snake system.

Crews are waiting at Lower

Granite and Little Goose dams to collect the fish and transport them in barges and planes down the Snake and Columbia Rivers to the sea. The ride allows the young fish to avoid deadly turbines and nitrogen-saturated water at dams.

So far, 80,000 chinook salmon have been flown to the Pacific in eight trips. Three barges have taken loads of fingerlings of both species downstream, Smith said.

The Seattle Times

June 12, 1977

Fish may fare better than crops in summer

May's rains, which were 40 per cent above normal, may improve the gloomy predictions of water shortages that have been hovering over the Pacific Northwest, Vail Schermerhorn, National Weather Service hydrologist, said.

But there doesn't seem to have been enough rain to alter the prediction of an all-time record low flow in the Columbia River.

The monthly report on water and drought conditions from the Army Corps of Engineers provided a mixture of good and bad news.

River flows should be "satisfactory" for fish, the corps said. But the forecast for irrigation supplies remains a "severe shortage."

The need to conserve energy also remains strong. Because of the drought, output from the region's hydroelectric dams will be severely affected.

Utilities in February asked consumers to voluntarily curtail electricity use by 10 per cent. Conservation efforts have yet to reach that point, although the regional conservation effort was up to 7½ per cent for May.

Cliff Watkins of the Bonneville Power Administration said improved conservation is minimizing the chance that mandatory curtailment of electricity will be imposed on the area's residents.

"If we return to normal weather conditions, we could easily have a water surplus by late spring or early next summer," he said.

But Watkins' outlook was more optimistic than most.

Operation Fish Flow, involving transportation of juvenile salmon and steelhead around eight dams along the Snake and Columbia Rivers over the past month, was reported as being "relatively successful to date," said John Hodges of the National Marine Fisheries Service.

Fish are being hauled downstream in trucks, barges and airplanes to avoid mortalities that would result from turbines or nitrogen supersaturation if they were allowed to pass through or over the dams.

The Seattle Times

June 14, 1977

Private sale

Indian fishermen could get 'buy-back' boats

By DEAN KATZ
Times Olympia Bureau

OLYMPIA — The state Fisheries Department made a private deal with a California entrepreneur last month for him to buy 51 surplus fishing boats in order to avoid having to sell the boats to commercial Indian fishermen.

But yesterday, Joe Zedrick, the Santa Rosa-based boat salesman who purchased the vessels, said there is a possibility he might sell the boats to Indian fishermen anyway.

Acting Fisheries Director Frank Haw said he approved the privately negotiated sale because certain legislators threatened to dump the department's fishing boat "buy-back" program if any of the vessels were sold to Indians.

According to Doug Bell, manager of the buy-back program, only Zedrick had a chance to negotiate a purchase of the boats.

"It never even occurred to me that anyone else would be interested in putting up that kind of money," said Bell.

Zedrick, backed financially by California Group Services of Oakland, purchased the boats for \$496,000, according to state officials. That was about \$254,000 less than what the state paid to acquire the vessels and gear from retiring commercial salmon fish-

ermen.

Zedrick said he paid more than \$496,000, but he refused to say how much more.

The buy-back program was initiated in 1975 by the Legislature in order to thin the state's overcrowded commercial salmon-fishing fleet. In adopting the program, the Legislature specifically prohibited the resale of boats for use as commercial fishing vessels in Washington waters.

But treaty Indians appealed to United States District Judge George Boldt, who ruled last December that they were exempt from the prohibition, and could purchase "buy-back" boats for commercial purposes.

With a \$3.5 million federal grant in hand, the department last year purchased 156 fishing boats under the buy-back program for \$2,346,071. The boats were resold at three public auctions for \$1,175,461.

Haw said the department decided to go the negotiated-bid route instead of to public auction in the

most recent sale because "there were threats from the Legislature that they would repeal the program" if Indian fishermen were allowed to buy any of the boats.

Representative John Martinis, Everett Democrat and chairman of the House Natural Resources Committee, confirmed that repeal of the buy-back program was, indeed, a possibility.

"There was no doubt in anyone's mind that if the boats had been sold to Indians during the legislative session, a repeal of the buy-back program would have flown through here. I wouldn't have been able to stop it, even if I had wanted to," said Martinis.

Martinis applauded the department's decision to sell the boats to an out-of-state company, thus avoiding a situation in which Indians might have an opportunity to buy the boats.

But Zedrick said he wasn't exactly sure what he would do with his newly purchased vessels.

The Seattle Times

June 14, 1977

Supreme Court could end state's fish war

By JOHN WHITE

Associated Press Writer

OLYMPIA — (AP) — Washington's fish war that erupted in 1974 could come to an end this summer if the United States Supreme Court decides to step between the main antagonists — United States District Court Judge George Boldt and the state judiciary.

At issue are differing interpretations of the Medicine Creek treaty and other treaties between the state's Indian tribes and the federal government.

State officials indicated they will appeal a state Supreme Court opinion handed down Thursday so that the Supreme Court might rule once and for all on who has the final say — the state or federal government.

Boldt, in a landmark decision handed down in 1974, held that the treaties gave Indians the opportunity to catch 50 per cent of the harvestable salmon and steelhead runs in off-reservation waters.

But the State Supreme Court in two separate decisions has interpreted the fishing-rights provisions of the treaties to mean only that Indians have the right "to fish in common" with non-Indians.

That issue has never been directly addressed in the United States Supreme Court.

However, it is alluded to in the Puyallup III case involving the right of Indians to 50 per cent of hatchery-bred steelhead that was argued before the high court in April and many observers believe the court may rule on that aspect.

If it does, it might mean the end of the war.

But if the court declines to rule on that aspect, the dispute between the federal and state judiciary and between Indian and non-

Indian commercial fishermen would continue.

While the case is one of the most complex in Washington's history, the basic issue is simple.

Does the state have the right to allocate the fish resource between different user groups — Indians and non-Indians.

State law says the Department of Fisheries has no power to regulate fishing except for conservation purposes and that equal-protection concepts require that fishing regulations apply equally to Indian and non-Indian commercial fishermen.

Boldt and federal officials contend Indian treaty rights transcend state law.

The state court ruled last Thursday that the federal courts "cannot compel governmental officers to do any act which they are not authorized to do by the laws of the state and from which they derive their power."

And the court went even further and said even if the state did enact a law that would authorize allocation of fish it probably would be unconstitutional.

"Since Indians are citizens of the United States and of this state — and not citizens of a foreign power — they are subject to the constitutions of these governments," the court said.

"Thus, they can neither be denied equal protection of the laws nor granted special privileges and immunities."

What happens if the United States Supreme Court doesn't decide the issue?

Attorneys for the state have indicated they will appeal the Thursday decision that was handed down in a suit filed by the Puget Sound Gillnetters Association.

June 15, 1977

Indians Adamant on Fishing the Strait

By FRED BRACK

Washington Indian tribes with treaty fishing rights to the huge runs of salmon returning to Canada's Fraser River said yesterday they will fish those runs this summer under their own regulations, unless the federal government protects their rights.

The tribes said they would fish one night extra a week in most areas and two nights extra in the outer Strait of Juan de Fuca.

That could cause international problems because the Fraser River runs are shared equally by United States and Canadian fishermen through a compact between the two countries.

At the least, the tribes have put the federal government on the spot re-

garding enforcement of their fishing rights as decided by U.S. District Court Judge George Boldt more than three years ago.

Boldt said treaty tribes are entitled to half the harvestable salmon returning to their traditional off-reservation fishing grounds. The Fraser runs cross the traditional grounds of seven treaty tribes.

But in the past the seven tribes have come nowhere near their 50 per cent share of the Fraser runs, which this year will include both sockeye and pinks (humpies).

Last year, according to the Northwest Indian Fisheries Commission, treaty Indian fishermen took about seven per cent of the U.S.'s half of

the Fraser runs, even though regulations permitted treaty fishermen to fish on some days that non-Indian fishermen could not.

This year, regulations recommended by the International Pacific Salmon Fisheries Commission, comprised of Canadian and U.S. representatives, provide no allowance for treaty Indians.

U.S. representatives reportedly had sought such allowance and been rebuffed by the Canadians, who are said to fear pressure for special rights from Canadian tribes.

The seven Washington tribes said the regulations they will fish under this summer, beginning June 26 and running through September, are nearly identical to those the U.S. representatives proposed.

The tribes' regulations will provide three nights fishing a week in most areas and four in the outer Strait while non-treaty fishermen are held to two nights.

Jim Heckman, executive director of the Indians' fishing commission, said that would not constitute a bonanza

for the tribes because of lack of fishing gear.

"If we hit 10 per cent (of the U.S.'s share) this year, we'll be damn lucky," Heckman said.

Heckman said the tribes' extra fishing will not affect the Canadian share and will come from the U.S. share.

The U.S. has yet to adopt regulations for the Fraser runs and could choose, for the first time, to ignore the international commission's recommendations and adopt the tribes'.

In any event, enforcement apparently will be solely in the hands of the federal government. In the past, the State of Washington has also adopted the commission's recommended regulations, and state fisheries officers have helped the National Marine Fisheries Service enforce them.

But this year, given last week's opinion by the State Supreme Court that the fisheries department cannot regulate fishing to help enforce the Boldt decision, the state is likely to keep its enforcement officers out of the area.

The Seattle Times

June 16, 1977

Canadians limit salmon fishing season

Canadian fisheries officials have announced that United States-based salmon trollers will not be allowed to fish in Canadian waters until June 30, according to Frank Haw, acting fisheries director for Washington.

Haw said that any American troll fleets found fishing those waters will be subject to Canadian penalties.

Haw also said Canadians will not be allowed to fish salmon commercially off the Washington and Oregon coast north of Tillamook Head until July 1.

The Seattle Times

June 16, 1977

Tribes set own rules for fishing in commission waters

OLYMPIA — (AP) — Tribes fishing in International Pacific Salmon Fisheries Commission waters say they will follow their own regulations this year unless the federal government steps in to protect their rights.

Bill Frank, chairman of the Northwest Indian Fisheries Commission, said the seven tribes involved adopted regulations Monday. He said the Indian rules are almost identical to those proposed by the United States in negotiations with Canada, but not adopted by the international commission.

Under the 1974 ruling by District Judge George Boldt, the tribes are entitled to half the American share in the United States-Canada Fraser River fishery.

But international commission regulations this year do not allow additional fishing time for Indians, although Indians took 7 per cent of the American share last year, the commission said.

The Indians said their regulations will give treaty Indians one extra night of fishing in all con-

maritime

vention waters except the Strait of Juan de Fuca, where two extra nights are allowed.

Frank said the tribal action will not affect the goals or the treaty between the United States and Canada, which is to divide the Fraser River harvest equally between the two countries while protecting returning salmon runs.

The Indian commission said it is seeking endorsement of its regulations from the Bureau of Indian Affairs and the secretary of the interior.

The tribes say they are asking the federal government to regulate non-Indian fishing in light of last week's State Supreme Court ruling which prohibits the State Department of Fisheries from allocating the harvest.

The Seattle Times

June 17, 1977

It's hard to get into the fishing business

BELLINGHAM — (AP) — Skyrocketing equipment costs and the Boldt Indian fishing-rights decision have made diversification the key to survival in the state's commercial-fishing industry, say industry spokesmen.

The fisherman seeking to enter the commercial market may have to approach a number of sources to get money for increasingly expensive boats.

Those already combing the seas may have to forsake dwindling salmon stocks and fish for dogfish, anchovies or hake.

"A guy has to be awfully optimistic to come in fresh now and make payments on a \$60,000 boat," said Bob Suggs, marine-education coordinator for the local Sea Grant office. Sea Grant is an extension service of the University of Washington, offering educational information to fishermen.

New steel purse seiners cost about \$300,000 while wooden seiners sold for about \$60,000 some 20 years back, Suggs said. Gillnet boats have doubled in price — from about \$30,000 to about \$60,000 — in the past five years.

"The boat is only part of the investment," said Suggs. "Good nets run \$15,000 to \$20,000. Fuel costs have skyrocketed."

Pete Granger, marine field agent for the Sea Grant office, says it is becoming increasingly difficult to get a loan to enter the business, but government financing is used sometimes to cushion the growing reluctance of banks to lend money to inexperienced fishermen with little collateral.

The National Marine Fisheries Service will allow a fisherman to put away his earnings, tax-free, and accumulate enough money to build or rebuild a vessel. The service's obligation-guarantee program ensures the bank that if the fisherman cannot repay his loan, the federal government will.

However, both banks and the fisheries service refuse to finance boats for conditional fisheries, those where the number of boats already overtax the fish supply. Conditional fisheries include local salmon, Alaska salmon and king crab.

Despite alternative financing,

maritime

Granger said most fishermen still go to a bank.

In the wake of the 1974 fishing-rights decision in which United States District Judge George Boldt said Indians are entitled to half the harvestable salmon and steelhead runs in Western Washington, more commercial fishermen are interested in leaving the business than entering it.

The Seattle Post-Intelligencer

June 18, 1977

Weather Postpones Coast 'Fish-in'

A "fish-in" by commercial trolling boats, to protest a ban on salmon fishing along the Pacific Northwest coast, was postponed 24 hours yesterday because of bad weather.

Robert Hudson, business agent for the All Coast Fishermen's Marketing Association in Coos Bay, Ore., said fog and heavy seas off Tilla-

mook Head, where the fishing protest was to be staged, caused the postponement.

"It's poor fishing weather," he said.

The protest was scheduled to start at noon today, weather permitting.

Hudson said that up to 250 boats from California, Oregon and Washington were scheduled to

drop lines into waters closed to commercial trolling for two weeks.

The closure was made by the Pacific Fisheries Management Council to protect Columbia River bound chinook salmon. A federal court has given treaty Indians the right to harvest half of these salmon.

"We expect many arrests," said Hudson. "I

have already arranged bail money and lawyers for the fishermen."

In Seattle, a spokesman for the Coast Guard said several vessels had been added to normal patrols in the protest areas, "but nothing really out of the ordinary."

June 19, 1977

23 fishing boats cited in coastal protest

Twenty-three commercial fishing boats were cited yesterday north of Tillamook Head in Oregon during an apparent protest against the closure of coastal waters to commercial salmon fishing. Eight were identified as Washington vessels.

Officials of the National Marine Fisheries Service said the fishermen violated new regulations creating a two-week fishing ban to bolster the diminishing salmon population.

The ban, which will remain in effect until July 1, applies to coastal waters from Tillamook Head north to the Canadian border.

Each vessel was boarded without incident by Coast Guard and Fisheries Service personnel, and all reportedly left the closed area after receiving the citations.

However, the Grays Harbor Coast Guard Station received a radio call from an unknown vessel which said shots had been exchanged. It was not known if the call was related to the apparent protest of the regulations.

Each fisherman cited in the incident faces a maximum civil penalty of \$25,000.

Wayne Lewis of the Fisheries Service's enforcement division said trollers' groups had announced that "a massive fish-in" was planned to protest the closure.

Washington and Oregon fishermen reportedly were contributing to a common fund to pay for the defense of those arrested.

Five Coast Guard vessels arrived on the scene Friday and by yesterday morning had set up a patrol line more than 10 miles out into the ocean.

The citations occurred over a period of several hours through the afternoon and, by 5:30 p.m., an observation flight reported that most of the fishing vessels in the area had returned to port.

"If the trollers were attempting to make their point, they have," Lewis said. "So far, cool heads have prevailed and we certainly hope it stays that way."

Trollers had also attempted to fight the fishing ban through the courts, but their latest appeal was denied Friday in San Francisco by the United States Ninth Circuit Court of Appeals.

The first vessel boarded was the ~~Seeker~~ of Port Angeles. Lewis said the Seeker, as were the others, was informed of the violation and given the opportunity to leave the area, but refused.

He said the Seeker's operator, Ronald Fairchild of Forks, was cited after fisheries personnel observed two salmon being brought aboard.

Other vessels boarded, and their operators, were the Darlen, Rodney Hooper of Port Angeles; the Vandal, Paul Thurston of Olympia; the R.V. Winkle, Stephen Pleen of Suquamish, Kitsap County; the Antigone, Gary Teitgi, Seattle; the Midway of Aberdeen; the Karen Sue of Port Angeles, and the Grace Ann of Tacoma. Operators of the Midway, the Karen Sue and the Grace Ann were not identified.

June 19, 1977

Fish Protest: 23 Boats Cited

P-I Staff, UPI, AP

An estimated 200 fishing boats "charged" on cue yesterday into an area closed to commercial fishing off the Oregon coast.

Armed federal agents aboard five Coast Guard cutters cited at least 23 boats, including several from Washington state, for illegal commercial fishing.

The fishermen were protesting a ban on commercial salmon trolling from Oregon's Tillamook Head north to the Canadian border. The two-week closure, which began midnight June 15 and runs through midnight June 30, was ordered to allow enough salmon to escape to comply with a federal court ruling.

The ruling said treaty Indians are entitled to half the salmon and steelhead runs in the Columbia River. The closure was deemed necessary to maintain the runs while insuring the Indians their share of the fish.

The word "charge!" followed by a gunshot, was monitored on a citizen's band channel by authorities aboard the cutter Yacona as the protesting fishermen surged into the closed areas.

A Coast Guard spokesman in Seattle, however, was unable to verify whether a shot had been fired.

National Marine Fisheries Service agents reported they counted about 200 boats as they crossed north past Tillamook Head and into the closed area.

No arrests or violence was reported, however, as the once-postponed fish-in was carried out by commercial fishing boats. Lawyers in Astoria, Ore., broadcast legal advice over ship-to-shore radio as a handful of boats were boarded by U.S. Coast Guardsmen and cited by officials of the Marine Fisheries Service.

By late yesterday afternoon, said Coast Guard spokesman Lou Parris, "It looks as if everybody has pretty much packed up and gone home."

Norman Green, 48, of Astoria, a commercial fisherman for 18 years, said he thought the fish-in was a success.

"We brought our problem before the people," he said. "We can't get any help from the bureaucrats, so we are going to the people."

THURSDAY JUNE 19, 1977

Sunday, 19, 1977

The Seattle Times B 3

maritime

GLEN CARTER, editor

Indians will get extra fishing time

Washington Indian tribes with treaty rights will be given additional time this year to fish the runs of salmon returning to Canada's Fraser River, under new federal regulations to be issued tomorrow by Cecil Andrus, secretary of the Department of Interior.

The department action comes several days after the Indian treaty tribes announced that they would fish the Fraser River salmon run under their own regulations unless the federal government stepped in to protect their treaty rights.

The tribes said that the federal rules were needed because regulations established by the International Pacific Salmon Fisheries Commission did not allow for additional time for Indians as it has in previous years.

The United States had sought such allowance, but had been rebuffed by Canada, according to Spec Waldrip, acting director of the regional office of the Bureau of Indian Affairs.

UNDER THE compact between the two countries, the Fraser River runs are shared equally by American and Canadian fishermen. Waldrip said the new regulations providing extra fishing time to Indian tribes will not conflict with the international treaty obligations. The Indian catch would come out of the United States allotment and will not affect the Canadian catch, he said.

Waldrip said the new regulations came after "nearly hourly communications with the tribes, fisheries department, and the Department of Interior."

The new regulations came just in time for this year's salmon fishing season. "The decision should have been made earlier — it came right down to the wire," Waldrip said.

Details of the regulations will not be released until tomorrow. Government officials here said that the new rules will probably be similar to the regulations proposed by the Northwest Indian Fisheries Commission, an organization representing the seven Washington treaty tribes.

THE INDIAN commission sought one extra night fishing in most waters and two extra a week in the outer Strait of Juan de Fuca. They said these rules are almost identical to those proposed by the United States in negotiations with Canada, but not adopted by the international commission.

Under the 1974 ruling by United States District Judge George Boldt, the tribes are entitled to one half of the American share in the United States-Canada Fraser River fishery.

The Indian fishing commission said that Indians took only 7 per cent of the American catch last year.

Frank Haw, acting fisheries director for Washington State, said that the federal regulations were expected, but he was not very happy with them.

"I'm not particularly pleased to see federal intervention. But under the existing situation, I don't think there was much alternative," he said.

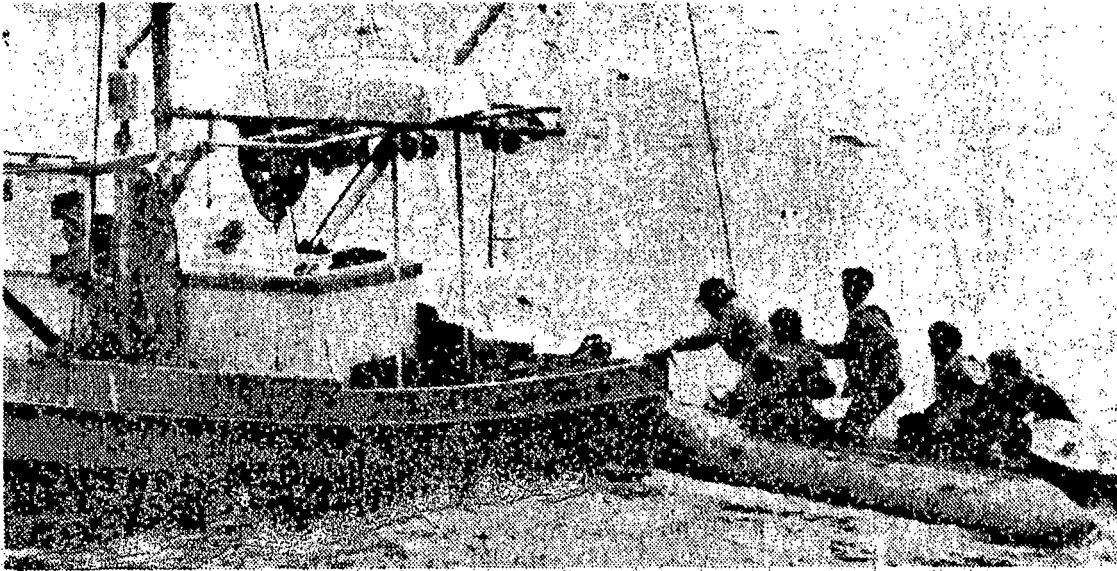
THE STATE Fisheries Department is put "in a rather difficult position," because the federal regulations are inconsistent with state law, Haw said. "I suppose you could see some Supreme Court action," he added. "Or you might have some sort of negotiated agreement — but I'm not sure that could happen now."

State law says the Department of Fisheries has no power to regulate fishing except for conservation purposes and that equal-protection concepts require that fishing regulations apply equally to Indian and non-Indian commercial fishermen.

Haw said that the state will not be involved in the enforcement of this year's Fraser River salmon catch.

The Seattle Times

June 20, 1977



Coastguardsmen and agents of the National Marine Fisheries Service prepared to go aboard the fishing boat Antigone about 2 miles north of Tillamook Head off the Oregon Coast. The area is closed to commercial fishing until July 1, but fishermen were protesting the closure. — AP wirephoto.

Protesting salmon fishermen say they proved their point

ASTORIA, Ore. — (AP) — Unhappy fishermen say their illegal fish-in this weekend focused public attention on their frustration at the government's temporary ban on salmon fishing off much of the Northwest coast.

"We proved our point," said Robert Hudson of the All-Coast Fishermen's Marketing Association in Coos Bay. "I'm just glad there was no violence. Those fishermen are volatile folks."

An estimated 175 to 200 commercial fishing boats spread along a 3-mile front defied the prohibition and, on the radioed signal, "Charge," crossed into the restricted zone at Tillamook Head at 12:30 p.m. Saturday.

Five gun-bearing Coast Guard cutters and buoy tenders were waiting for the publicized protest. A spokesman said armed guardsmen boarded 23 of the boats, which came from fishing ports in Oregon, Washington and Northern California.

At least 15, and possibly 23, cita-

maritime

tions were issued for "violation of fishing in closed zone," the spokesman said. The exact number varied "depending on who you talk to," he said.

The charge, which is to be heard in federal court, carries a maximum penalty of \$25,000 in fines and seizure of the offending boat. A spokesman for the fishermen said the cases will be fought with money from legal funds established by area fishing associations.

No violent incidents were reported and no arrests were made, as each side complimented the other for "maintaining their cool."

By yesterday, the restricted area was free of illegal fishermen, the Coast Guard said.

"All of the trollers are fishing where they're supposed to be fishing — south of Tillamook Head," said Capt. George Cricenti of the Astoria Coast Guard station.

The demonstration protested a ban on salmon fishing from Tillamook Head on the Oregon coast north to the Canadian border. The area was closed by the Pacific Fisheries Management Council from last Thursday to June 30.

The council said the action was needed to protect the annual salmon run and to guarantee Northwest Indians get their share of the catch, as required by a recent federal court ruling.

The fishermen contend the closure will cost them up to 18 per cent of their catch.

Originally their protest had been scheduled for Friday, but trollers delayed action because of bad weather and in hopes that the Ninth Circuit Court of Appeals in San Francisco would reopen the season. The court took the trollers' appeal under advisement.

Court denies appeal of fishing closure

SAN FRANCISCO — (AP) — The 9th Circuit Court of Appeals this morning announded it had denied an emergency request to set aside a federal order closing Washington and Oregon coastal waters to commercial salmon fishing during the two weeks ending June 30.

The court's brief order was signed late Friday after two hours of argument.

Lawyers representing 3,500 fishing trollers — members of the West Coast Trollers Association — had sought the injunction against a fish-management plan approved by Secretary of Commerce Juanita Kreps. Officials said the plan would protect the annual salmon run and preserve and restore the species."

Salmon fishing was closed to trollers three to 200 miles offshore from the Canadian border to 60 miles south of the Oregon border.

The fishermen said the closure is discriminatory because it permits sport fishing. They also said the environmental-impact statement on the plan was deficient because it did not provide alternatives and failed to deal with economic or sociological factors.

The Justice Department contended the fishermen had not shown irreparable damage would occur and had failed to satisfy the requirements for an injunction.

Another federal court order had ruled treaty Indians are entitled to half the salmon and steelhead runs in the Columbia River, and Washington and Oregon officials had said closure of offshore commercial fishing for 15 days was needed to maintain runs and protect the Indians' share.

Seattle Times
June 21, 1977

Salmon-fishing protest

Ilwaco harbor blocked, reopened

By Times staff reporters
and wire services

ILWACO, Pacific County — A blockade of the Ilwaco Harbor and charter fishing boats by about 50 commercial trollers broke up shortly before noon today after enforcement officials agreed to try and get concessions for the irate trollers.

The commercial fishermen were protesting federal orders that closed a large area of Pacific Northwest coast to commercial salmon fishing.

For more than five hours, Coast Guard boats and helicopters stood by as the trollers blocked about 150 charter-fishing boats from leaving the harbor near the Washington-Oregon border in South-

western Washington. The federal ly ordered closure still allow charter fishing.

No violence was reported during the incident this morning.

A COAST GUARD spokesman said the fishermen agreed to disperse after the county prosecutor agreed to ask state enforcement officials not to require proof that the fishermen's catch was from out of the closed area.

"We've been trying to fish legally miles and miles from home . . ." Dale Beasley, one of the protesting trollers, said. "We're doing this (protest) because no one will listen to us otherwise."

Today's demonstration followed a confrontation last night between trollers and fisheries-enforcement

officers who confiscated hundreds of pounds of salmon from a commercial fish buyer.

The buyer, Jessie Marchand, did not have documents to prove the fish were caught out of the closed area.

Ms. Marchand said the trollers flattened the tires of a trailer that the fisheries officers were going to use to haul the fish away. There were no fights, but "it got pretty hairy," she said.

The closure is in effect June 16 to 30 from Tillamook Head, Ore., north to the Canadian border. It is intended to protect salmon returning to the Columbia River where Indian fishermen and gillnetters have a legal share.

Just last weekend, 23 commer-

cial salmon fishermen were cited in a "fish-in" involving 175 to 200 fishermen to protest the closure.

TODAY'S BLOCKADE started about 5 a.m. Only two charter boats reportedly were able to get

out of the harbor.

"I'd like to see them all lose their licenses," said an infuriated Gail Schenk, part owner of Columbia Bar Charters, as she refunded about \$2,200 in charter fees for the day. "They have no business doing something like this."

But the trollers contend the closure will cost them up to 18 per cent of their season's catch. "We're just out trying to make a living," Beasley said.

Blockade Rocks Boat as Fish Row Grows

AP, UPI, P-I Staff

ILWACO — The fishing controversy flared into confrontation here again yesterday when some 50 commercial trollers blockaded the narrow harbor to prevent sport-fishing charter boats from putting to sea.

The wildcat blockade, mounted to protest the closing of the Pacific Northwest coast to commercial salmon fishing, began in the early morning and broke up before noon, after troller representatives met with state and federal officials.

The trollers were protesting the federal decision to close coastal waters from Tillamook Head to the Canadian border from June 16-30, while allowing sport-fishing charters to continue.

The 9th U.S. Court of Appeals in San Francisco Friday denied the fishermen's request to set aside the closure order, which the Commerce Department issued to protect the salmon run and "preserve and restore the species."

Up to 200 trollers participated in a "fish-in" over the weekend to protest the closure. Trouble began Monday when state fisheries enforcement officers confiscated fish being sold at Jessie's Fish Dock here and issued citations.

Bruce Gruett, a state Fisheries Department

official in Olympia, said, "Our activities set people off. They slashed some tires and interfered with officers."

He said 12 citations were issued for landing fish without notarized documentation that they had been caught in an open area — off California or Alaska.

Adm. Chester A. Richmond Jr., commander of the 13th Coast Guard District, said Coast Guard vessels and a helicopter were on the scene yesterday but did not attempt to interfere with the blockading boats.

He said the blockade was a violation of federal law, subject to fines ranging from \$500 to \$2,500.

Pacific County Pros. Atty. Guy Glenn said the fishermen, whose blockade was not authorized by the West Coast Trollers Association, removed their boats after he agreed to confer with Commerce Department officials and suspend the state regulation on documented fish deliveries.

But he said, "We will not ignore further violations of the law and any attempted blockade will be dealt with summarily."

Possible charges against the fishermen will be announced within the week, Glenn said, "but right now I'm more concerned with keeping the

Port of Ilwaco open."

There are some 150 charter boats operating out of Ilwaco, and the charter boatmen, who said they lost \$35,000 yesterday in refunds to customers, were not happy.

"This is the only port in the United States where someone can put their boats in front of it and no one can make a move," said Warren Osborn, an Ilwaco charter operator.

"Someone is going to have to settle it and get it straightened out because it's gone just about as far as it can go."

Mildred Malchow, of the trollers association auxiliary, said, "We are enforcing the 200-mile bill. We are practicing conservation. We object to discrimination between users."

"The truth is, we're starving to death. (Commercial fishermen) use less than 2 per cent of the run. There are 1,000 charter boats fishing heavily and the Soviets are out there with permits."

The Coast Guard had said earlier that the ocean was choppy and not ideal for fishing. "We probably did them a favor by keeping them in port," said Mrs. Malchow.

Harvey Hutchings, National Marine Fisheries Service official in Seattle, said the Pacific Fisheries Management Council had decided against further restrictions on recreational fishing because the charter boats previously had been subjected to limitations by state and federal closures.

June 22, 1977

U.S. Throws Net Around State to Uphold Boldt Law

By FRED BRACK

The federal government served notice yesterday it is prepared to enforce the Indian fishing rights decision by U.S. District Court Judge George Boldt if the State of Washington is not.

Evidence of the federal government's determination came in the form of regulations published by the U.S. Department of the Interior. They permit Washington treaty tribes an extra day of fishing on the huge runs of salmon returning to Canada's Fraser River.

The eight tribes, whose traditional fishing waters are crossed by the Fraser runs, had announced last week they would fish under their own regulations if the federal government did not move to protect their treaty rights as determined by Judge Boldt.

The tribal regulations and those announced by the Department of Interior are identical. They give treaty fishermen three days of fishing per week, beginning next Monday, while non-treaty fishermen, Indians and non-Indians alike, are limited to two

days.

And in the outer Strait of Juan de Fuca, treaty fishermen will have four days.

The federal action was not unexpected. The Washington Supreme Court said two weeks ago the state fisheries department does not have authority under state law to enforce the Boldt decision. And the State Legislature has refused to grant the fisheries department such authority.

Thus, the federal government, which had helped Washington tribes sue for their treaty fishing rights, had to take enforcement action or allow the Boldt decision to become meaningless.

"I understand (the federal action) was necessary and inevitable," said Frank Haw, acting state fisheries director. "It was my hope that the state would have the proper authority to manage the resource."

"I hope this is temporary and that the federal task force studying Washington fishing problems) will solve this thing."

The Fraser River runs of sockeye and pinks (humpies) are divided equally between Canada and the U.S. The com-

mission advising the two governments on the Fraser runs had refused to recommend regulations permitting Washington treaty tribes extra fishing time.

The U.S. reacted by outflanking the commission, adopting the commission's recommendations for non-treaty fishermen but then adopting separate regulations for the treaty tribes.

People close to the situation say the Canadian commissioners were afraid of pressure from British Columbia Indians for special fishing rights if the commission recognized U.S. Indian rights.

But the U.S. action, these people say, is unlikely to cause problems because the Canadians, while not officially recognizing Canadian tribal rights, permitted Canadian Indians to take huge catches last year without even counting those fish when calculating Canada's 50 per cent share of the Fraser runs.

The U.S. says the fish caught by Washington tribes will come out of the U.S. share and will not affect the Canadians.

Washington treaty tribes, Judge Boldt said, are entitled to 50 per cent of the harvestable salmon returning to their traditional off-reservation fishing grounds.

The Northwest Indian Fisheries Commission says treaty fishermen caught only about 7 per cent of the U.S. share of the Fraser runs last year, even though they were permitted several extra days.

Estimates are that

they will get 10 to 15 per cent under the regulations this year, still far below their 50 per cent entitlement.

The tribes, with few boats available to fish the Fraser runs and with little incentive to buy more until they are assured of sufficient return to pay for them, want even more fishing time so they can catch their share.

The Oregonian

June 22, 1977

Commercial trollers protest, block Ilwaco charter boats

By JOHN GUERNSEY
of The Oregonian staff

ILWACO, Wash. — About 140 sports fishing charter boats were prevented from going to sea Tuesday when some 40 commercial trolling boats blocked the only outlet from the Ilwaco boat harbor.

The trollers lifted the eight-hour blockade about noon, after meetings with the the Coast Guard, port officials, and the Pacific County district attorney and sheriff.

The port blockade was an outgrowth of a federal ruling which late last week banned commercial trolling for salmon for a two-week period from the Seaside area to the Canadian border.

Fishermen said the trollers resent the fact that the charter boat operators can continue fishing in the closed waters during the two-week period. The trollers also are irked because they cannot sell their catches in Ilwaco, unless they have a notarized certificate indicating the fish were caught off the Oregon Coast and not the Washington coast, fishermen said.

Coast Guard officials said there was no violence during the blockade, and that operators of the picketing trollers were not cited.

The trolling boats, which had formed a chain across the narrow opening into the harbor, dispersed after a meeting with Pacific County Dist. Atty. Guy Glenn, Ilwaco Harbormaster Bob Petersen, and other Coast Guard and Pacific County officials.

Glenn informed the fishermen that if they did not disperse he would have to have them cited for blocking the harbor entrances. Petersen said Glenn assured the trollers that if they dispersed, he would try to get a relaxation of the Washington Fisheries Department regulation that the fishermen must have the location of their catches certified before they can sell them to Ilwaco fish buyers.

A Coast Guard official added that the trollers were promised a meeting with the undersecretary of the U.S. Department of Interior. A date for the

meeting has not been set.

During a Monday night hassle at Ilwaco, several of the trollers refused to let state enforcement officials confiscate their fish after the catches had been brought into Ilwaco without certification from an Oregon port stating the fish were caught in legal waters.

Darrel Potter, manager of the Bumble Bee Seafoods dock at Ilwaco, said the trollers are protesting because they want to get someone's attention and have their grievances heard.

He said the port blockade was opened "... because if they have to get pinched they want to be arrested for catching fish, instead of for committing some kind of a civil violation. In case of emergencies, the Coast Guard has to be able to get in and out of the harbor," Potter added.

Chuck McNell, one of the operators of Andy's Salmon Charters, said that being locked in port until about noon Tuesday cost the charter boat fishermen about \$30,000. He said there was a complete refund to the several hundred fishermen who had come to Ilwaco for fishing.

Don Hamilton, president of the Pacific Charter Association, said the trolling fishermen are frustrated because they cannot fish, "and are trying to take out their frustrations on the whole world."

In San Francisco, commercial fishermen lost a significant legal battle when the 9th U.S. Circuit Court of Appeals denied an emergency request to set aside the closure of the waters north of Tillamook Head. The court's order was signed Friday, but was not disclosed until Tuesday.

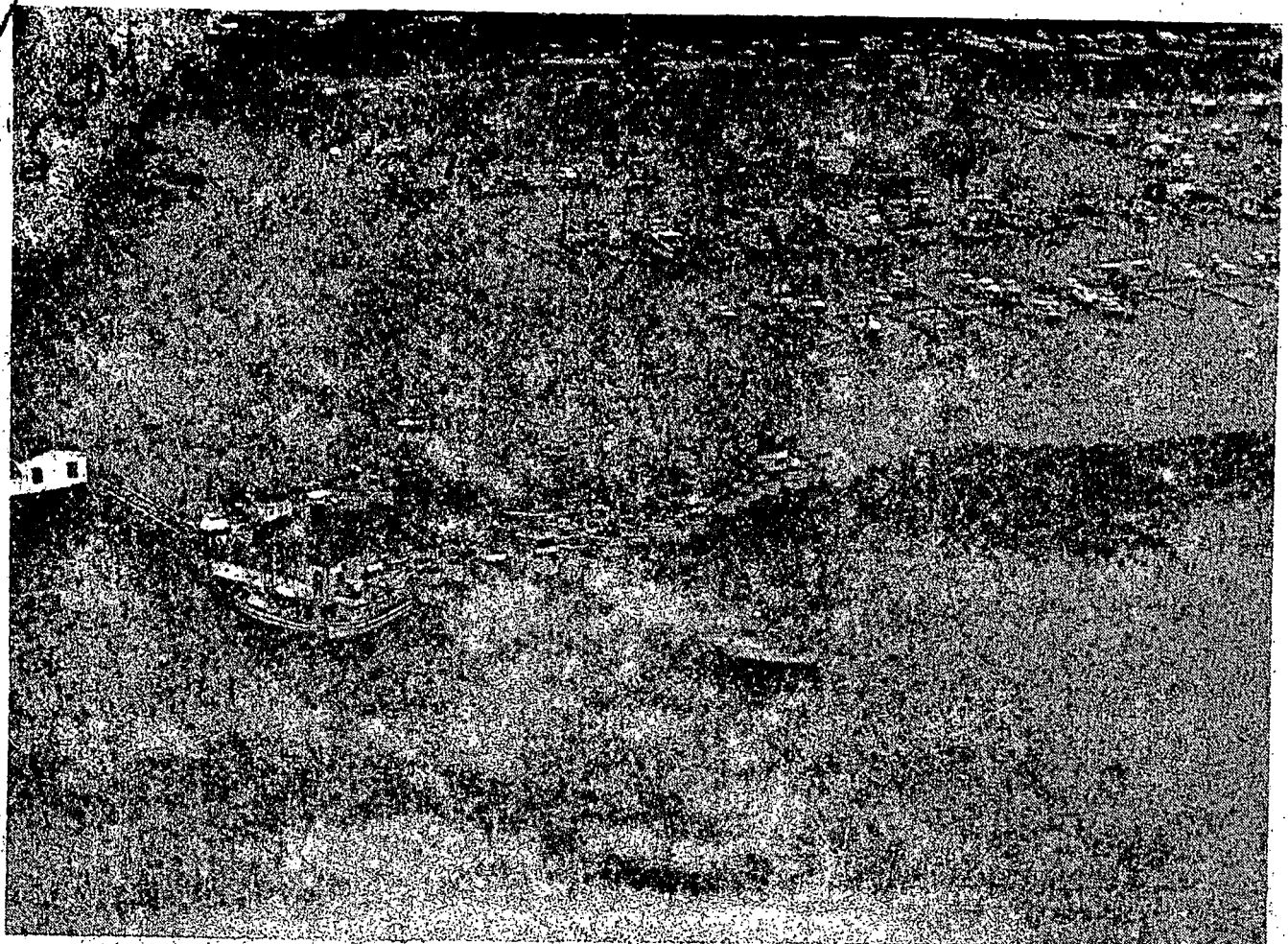
Attorneys for owners of 3,500 fishing trollers — members of the West Coast Trollers Association — argued that the closure discriminated in favor of the sport fishermen and against the commercial trollers.

Meeting in the Astoria Thunderbird Motel Tuesday night, the Washington Trollers Association board of directors considered hiring a public relations consultant to bolster the image of commercial fishermen.

"It was felt that a public relations firm should be retained under the direction of our lawyer to provide constant contact with the troll fleet," association President Walt Receconi said.

He said recent developments were the major items on the board's agenda.

But "as far as the association is concerned, there are no plans for any action Wednesday," Receconi said. "If any individuals plan to take any action, we don't know about it."



HARBOR BLOCKED — Charter sports fishing boats of Ilwaco, Wash., were unable to take fishermen to sea Tuesday when commercial salmon trollers blocked opening to harbor. The boat picket line was removed about noon. Coast Guard boat (in foreground) stood by in case of violence. Trollers are protesting two-week ban on commercial fishing in waters north of Tillamook Head near Seaside. Water is open to charter boats.

Photo by U.S. COAST GUARD

High court rules in Puyallup fishing case

Seattle Times
June 23, 1977

Times Washington Bureau
and Times staff

In a confusing ruling, the United States Supreme Court today said the Puyallup Indians do not have an exclusive right to catch the steelhead passing through their reservation in the Puyallup River.

But the high court did not rule on the hotly debated question of whether steelhead raised in state hatcheries should be exempted from the Indian share of the catch.

The decision was on an appeal of a ruling by Pierce County Superior Court Judge W. L. Brown, Jr., later affirmed by the State Su-

preme Court. Judge Brown had ruled that the Puyallups had no right to net steelhead that were propagated in state hatcheries, but were entitled to 45 per cent of the harvestable run of wild steelhead returning to the Puyallup.

He also had ordered the tribe to provide the State Game Department and his court figures on the number of steelhead caught each week by those Indians fishing under the Treaty of Medicine Creek.

United States District Judge George H. Boldt ruled in 1974 that treaty Indians were entitled to the opportunity to catch half the harvestable salmon and steelhead returning to traditional off-reservation Indian fishing areas. But Judge Boldt did not distinguish between native fish and those reared in hatcheries.

Today's Supreme Court ruling noted that "the courts below" had ruled that the Puyallups had no right to the hatchery-reared fish. But, the opinion said, "the issue

was not presented in the (Puyallup Indians') petition" for appeal. It noted that the state's attorney "did attempt to raise the issue in his untimely cross-petition . . . and by brief arguing affirmance. Because the question had no bearing on our decision of the questions presented by petitioner, we decline to decide it."

The state and sport-fishing groups had sought a ruling that the Indians were not entitled to hatchery-reared fish, paid for mostly by sportsmen.

However, today's opinion, written by Justice John Paul Stevens, said the high court rejected the Puyallup tribe's claim to "an exclusive right to take steelhead while passing through their reservation."

But the opinion rejected Judge Brown's order that the tribe provide catch data to the state court and the Game Department, saying the state court may not invade the tribe's sovereignty.

However, Justice Stevens added: "It may be that its (the tribe's) members' interests are best served by voluntarily providing such information . . . in order to minimize the risk of erroneous enforcement effort."

The opinion said the treaty Indian fishermen are free to fish up to the imposed limit "without any restriction as to time, place or method of fishing." It remanded the case to the State Supreme Court "for further proceedings not inconsistent with this ruling."

The ruling was on a 7-2 vote of the United States Supreme Court. Dissenters were Justices William Brennan and Thurgood Marshall.

First reports on the decision indicated the Supreme Court had ruled that the Puyallup Indians were not entitled to hatchery-reared fish. But further study of the opinion disclosed a footnote in which the court said it was declining to rule on that issue.

Seattle Times
June 23, 1977

Reaction to fish ruling mixed

There was restrained reaction today to the United States Supreme Court's complex and somewhat confusing ruling on Puyallup Indian fishing rights.

"There's nothing really settled," said Gloria Bean, a coordinator of the Puyallup Tribal Fisheries Division.

"The statements (in the decision) are too ambiguous. We expect a whole series of cases to evolve from it. It leaves things wide open."

Representative Lloyd Meeds, Everett Democrat, examined the opinion in Washington, D.C., and said:

"It doesn't appear to affect the Boldt decision at all."

Meeds also said there was nothing in the decision concerning the important question of hatchery-reared fish. But he did note the opinion said the Indians could be regulated by the state, on or off the reservation, for conservation purposes.

The high court said the Puyallups do not have an exclusive right to catch steelhead passing through their reservation in the Puyallup River.

Jim Heckman, a biologist for the Northwest Indian Fisheries Commission, said the ruling is bad one for Indians in that it allows reservation regulation by the state.

And Jim Johnson, assistant attorney general for the State Game and Fisheries Departments who has worked on the case, said the decision obviously leaves intact the present fishery situation on the Puyallup.

He also said it now will be easier for the state to control on-reservation fishing by Indians. Before, he said, it had to be done by court order.

Trollers, prosecutor disagree on gains

ILWACO, Pacific County — (UPI) — Pacific County Prosecutor Guy Glenn said today he believes commercial trollers gained something in their meeting yesterday with state fisheries officials but a representative of the fishermen said they gained nothing.

Glenn said word was expected late today whether the National Marine Fisheries Service would approve a change in landing certification for trollers selling their salmon in Washington ports during a two-week closure of the area north of Tillamook Head on the Northern Oregon Coast.

State officials said the meeting resulted in a proposal that fishermen be permitted to obtain certification from the Coast Guard that their fish were caught in an open zone. Under present rules, the fishermen must go into an Oregon port and obtain a notarized statement they were in open waters.

Glenn said, "There was a good discussion. There was some animosity but it was very productive. There will be an effort made to solve the problem."

Dale Beasley, a member of the Washington Trollers Association, said, however, "The meeting accomplished nothing. We're going to have to figure out something else to do."

He said there would be a meeting tomorrow in Olympia between fishermen and representatives of the Department of Commerce.

Glenn said yesterday's meeting did not touch on the basic issue of fishermen objections to the June 15 to 30 closure. The closure and landing rules led to a six-hour blockade of the Ilwaco boat basin Tuesday.

Canada, U.S. reach agreement on fishing

OTTAWA — (AP) — Canada and the United States have reached an understanding on West Coast fisheries problems, fisheries officials said yesterday.

The understanding means Canada has temporarily suspended a cabinet order closing the shrimp fishery off Vancouver Island to both Canadian and American fishermen.

In return, the United States recognizes that its regulations on salmon fishing off its West Coast "have caused a loss of income to Canadian salmon fishermen."

The Canadian government had decided to close the shrimp fishery early to reciprocate for the United States salmon rules which meant a 30 per cent to 40 per cent reduction in the catch of the British Columbia fishermen.

Canada said the American move violated the terms of an interim fisheries agreement between the two countries made to see them through the transition to the 200-mile limits of both countries.

Officials of both countries will begin consultations on ways to make sure actions do not upset fishing patterns which are to be left intact under the terms of the reciprocal agreement.

Although that agreement has yet to be ratified by the United States Senate, the two countries also have agreed to consider it to be in force.

The Bellingham Herald

June 24, 1977

Federal authorities prepared to enforce fishing regulations

By LINDA SCHILD
Herald Staff Reporter

The federal government doesn't relish its role this summer enforcing Washington fishing rules, but the rules will be enforced, reports Anne Wexler, undersecretary of commerce.

The National Marine Fisheries Service (NMFS), aided by the Coast Guard, U.S. Fish and Wildlife Service and, if necessary, by U.S. marshals, will keep peace and correct fishing hours on the Fraser River runs, she has announced.

Wexler, a member of the federal task force studying Washington's fishing situation, was in Bellingham to meet fishermen and the local media Thursday.

Before coming here, she and Harvey Hutchings of the NMFS announced in Seattle that the nation's top law enforcement official is warning Washington fishermen not to violate regulations this season.

U.S. Atty. Gen. Griffin Bell will issue a warning to Indian and non-Indian fishermen today, they said.

"Fish-ins" or other disruptions this summer will not gain anything for the state's commercial fishing industry, Wexler said.

"They've got the attention of everybody at this point," she said.

From the President on down, the federal government is well aware of the tension between Indian and non-Indian fishermen in the state, according to Wexler. Violence this summer will only hurt the credibility of those involved, she suggests.

Federal enforcement is replacing state enforcement on the Fraser runs because of a recent state Supreme Court decision that says state agencies don't have the authority to allocate fish between treaty Indians and non-Indians.

A 1974 federal court ruling by Judge George Boldt holds that Indians must be given an opportunity to catch at least half the harvestable salmon and steelhead in the state.

Last year, however, Indians covered by the court ruling caught less than 7 per cent of the U.S. portion of the Fraser sockeye run.

Until this spring, when the U.S. Interior Department announced fishing hours for the tribes, the Fraser run has been administered solely by the International Pacific Salmon Fisheries Commission, working under the auspices of a U.S.-Canadian treaty.

The NMFS will enforce IPSFC rules, Wexler and Bob Ayers, NMFS assistant director for fisheries management, said Thursday.

The agency will also enforce the extra day of Indian fishing the Interior Department has announced, they reported. Indian and non-Indian hours will be adjusted to follow IPSFC management decisions during the season. "They'll be treated equally," Ayers said.

His agency will keep the state's fishermen abreast of any shifts in regulations, he said.

Under the Sockeye Act of 1947, the NMFS is cited as the regulatory agency for the Fraser season, Ayers said. The agency hasn't been active in the past because the State Fisheries Department handled the job through state regulations.

Ayers said he can't predict whether the federal government will be involved in regulating this year's state salmon runs.

"We don't anticipate doing this in the long run" for Fraser stock, Wexler said. "We're not in the business of management or enforcement — this is an interruption to us."

The "interruption" was necessary

(Continued From Page One)

because a peaceful summer is "rather crucial" she said, to the success of the task force now studying the situation.

The Fraser run this year is expected to be much larger than last year's because it includes both pink salmon and sockeye. Nevertheless, Wexler said, treaty tribes aren't expected to catch more than 15 per cent, at most.

"It seemed to us, throwing (the season) back to the court would not be as advantageous for non-Indians as a third day of fishing for the Indians," she said.

According to Wexler and Ayers, the NMFS's regulatory authority supercedes that of individual Indian tribes. The tribes, given authority to manage their own fisheries under Judge George Boldt's ruling, have adopted rules identical to the Interior Department's, they said.

But if a tribe does change its rules in mid-season, they report, the federal government's decision will remain in force.

Jim Waldo, U.S. attorney for Western Washington, said it is "very unlikely" Boldt would do anything to upset the situation.

(Continued on page 3, col. 1)

Bell pledges fishing enforcement

By WARREN KING

The United States attorney general entered the Puget Sound salmon-fishing controversy today by urging calm, but promising enforcement of federal regulations during the present sockeye season.

"I am hopeful and confident that all citizens will obey the law and adhere faithfully to this year's regulatory scheme so that the fishing season will be peaceful," Griffin Bell said in a statement released this morning.

"If violations occur, however, the United States will meet its obligations and will take whatever enforcement measures are necessary to ensure compliance."

Bell's statement comes before the Monday season opening on the huge sockeye salmon run returning to the Fraser River in British Columbia. New federal regulations give treaty-Indian fishermen extra time to fish.

Another high-ranking federal official, Anne Wexler, deputy under-secretary of commerce, has been in the Puget Sound area since Wednesday conveying a message similar to Bell's to representatives of Indian and non-Indian fishing groups.

The government's concern stems from the sporadic instances of violence during the three years since federal Judge George H. Boldt ruled that treaty tribes in Washington are entitled to catch half the harvestable salmon returning to their traditional off-reservation fishing grounds.

Enforcement of the new federal regulations for the Fraser River run will be carried out by the Coast Guard and the National Marine Fisheries Service.

In most instances, National Marine Fisheries Service enforcement officers will ride Coast Guard boats and helicopters in pa-

trolling the fishing grounds. However, a spokesman for the service would not say how large a force is available.

"It's a touchy and emotional situation," said Dr. Gene Kruse, deputy regional director of the National Marine Fisheries Service, "and I'd just as soon not go into details . . . I don't want people to resent the enforcement effort."

But resentment for the new regulations is apparent.

"They're certainly not fair," said Phil Sutherland, president of

the Puget Sound Gillnetters Association.

"The President of the United States and his wife are traveling all over the world holding our country up as the epitome of a nation that has equal rights for all its citizens. But here we have the attorney general telling us the only answer to the issue is the subjugation of rights of certain citizens. It's a serious situation."

Sutherland said he hopes there's no trouble on the waters. Fishermen would "certainly come out

second best" in facing the enforcement powers of the federal government, he said.

Jim Heckman, executive director of the Northwest Indian Fisheries Commission, said he is encouraged by Bell's statement and the new regulations.

"There should be much more opportunity for the tribes to harvest their share," he said. "And there is the assurance that there will be safety on the fishing grounds not just for Indians, but for all fishermen."

The Bellingham Herald

June 26, 1977

Instinct takes Fraser salmon on some 'incredible' journeys

By DICK BEARDSLEY
Herald Staff Reporter

Lost in the political wrangling over who is going to catch the Fraser River-bound salmon is the saga of the fish themselves.

The incredible lengths to which Pacific salmon go to reach spawning grounds is well documented, but the Fraser River run is a classic chapter.

Dubbed Fraser River salmon because all leave the ocean and head inland up the Fraser River, most actually spawn in tributaries of the Fraser, some almost 1,000 miles from where the Fraser empties into the Strait of Georgia near Vancouver, B.C.

The international fishery for Fraser River salmon is scheduled to begin today and extend through much of September. Canadian and U.S. fishermen each are expected to harvest about 2.3 million sockeye salmon and 1 million pink salmon.

About 20 per cent of the fish are allowed to escape upstream to spawn. Those that make it will have avoided more than the maze of nets set by fishermen from two nations. Artificial spawning channels are necessary in some areas, to overcome man-made obstacles such as dams and natural disasters. The 1913 rockslide at Hell Gate Canyon about 35 miles north of Hope, B.C., all but choked off the Fraser River migration for a time.

The journeys are made by following an instinct, which leads the fish through an unending series of streams and lakes until each returns to where it was spawned.

Fraser River salmon actually are several "races" of fish, according to John Roos, assistant director of the International Pacific Salmon Fisheries Commission, which establishes regulations for the international fishery each summer.

Each race is dubbed by the area in which it spawns, and the commission is able to predict when each

race will begin its journey home.

Fishermen who set nets today will be fishing for sockeye salmon bound for the Stuart River, 700 miles from the mouth of the Fraser northwest of Prince George.

This early Stuart run will be one of the biggest in this year's international fishery, according to Roos. It is figured that some 1.4 million fish will gather off the Fraser's mouth before moving upstream. The population of salmon in Puget Sound will peak about July 5, Roos said.

Following the early Stuart run comes a lull, when 100,000 sockeye bound for the Bowron and Nadina rivers and Gates Creek will move into the Fraser's system in mid-July.

The Bowron River empties into the Fraser east of Prince George. To reach the Nadina River, salmon must battle their way up the Fraser to Prince George and then several hundred miles west to the far side of Francois Lake. Gates Creek empties into Anderson Lake not far from Lillooet, B.C.

This run is followed by another "small" run, when another 500,000 sockeye gather for the journey to the Chilko River — more than 100 miles west of Williams Lake — and the Seymour River, which spills out of the mountains and into Shuswap Lake about 200 miles northeast of Kamloops, B.C.

The biggest of all the Fraser River runs peaks in Puget Sound about Aug. 1 — about 3 million fish, half bound for the Horsefly River and the other half bound for the Tachie and Middle rivers.

The Horsefly run, Roos said, had an estimated 4 million sockeye escapement in 1969. The largest escapement since the Hell Gate slide was one of 1.6 million in 1973. This year's run also is expected to reach that proportion.

These fish must make their way up the Fraser to Quesnel and then southeast along the Quesnel River to the Horsefly, about 100 miles east of Williams Lake.

To reach the Tachie River, the sockeye must venture along the entire length of the Stuart River, northeast of Prince George, and through Stuart Lake. The Middle River fish must continue along the Tachie and up the length of Trembleur and Tochoba lakes, 1,000 miles from the mouth of the Fraser.

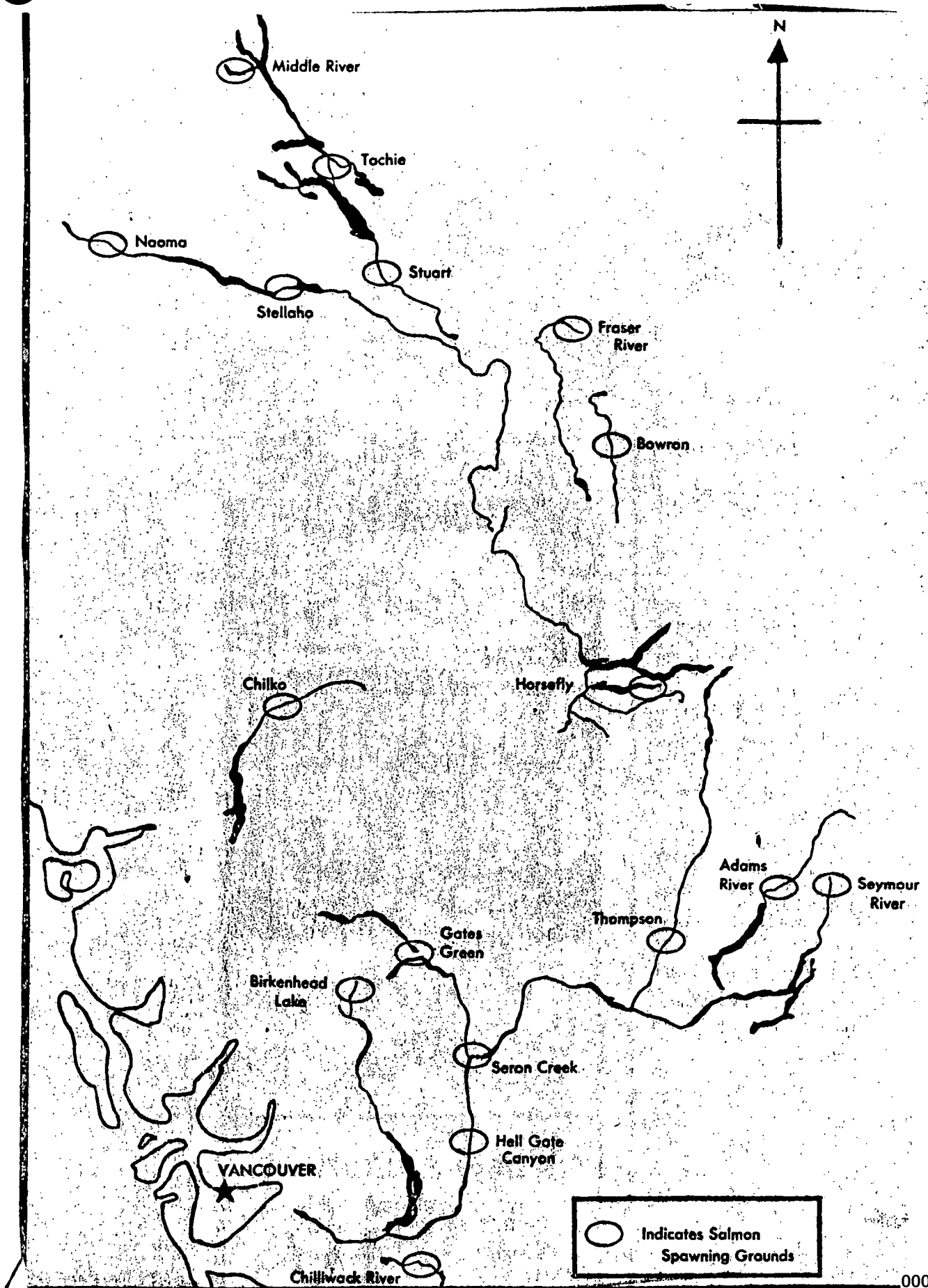
The sockeye runs wind down in mid- and late August, with runs of about 500,000 to the Stellako (west of Prince George) and Birkenhead (west of Lillooet) rivers, about 350,000 into Weaver Creek, and about 100,000 into the Adams (northwest of Kamloops) and Harrison (near Harrison Hot Springs) rivers.

Pink salmon — they are expected to number some 4 million this year — begin migrating in September when the sockeye runs end, Roos said.

The first major run will peak during the first week in September. These fish are bound for the Thompson River (east of Kamloops), Seton Creek (near Lillooet), and in the Fraser itself, between Hope and Chilliwack just north of the U.S. border.

The last of the international runs peaks just before the IPSPC relinquishes control of the fishing grounds in late September. These fish, Roos said, spawn in the Harrison, Chilliwack and Vedder rivers, not far from Cultus Lake near the U.S. border east of Sumas.

The more than 3 million fish expected to be harvested this season represent one of the biggest harvests in recent years.



The Bellingham Herald

June 26, 1977

Cooperation of all can bring good fishing season

The special task force of federal officials assigned to deal with treaty-based fisheries problems would prefer to concentrate on long-term solutions, including economic factors making it possible for all fishermen to earn a good living.

But members realize that polarization and physical confrontation this summer would make a difficult task almost impossible. Thus they are spending much of their current time and thought on making this a cool, rather than a hot, summer on the fishing grounds.

The task force is making a strong and sincere effort to gain the confidence of all elements of the industry, and it seems to be having an effect. Despite conflicting viewpoints, responsible leaders of the various groups reportedly are talking with each other.

Fortunately, this is a big year for pink salmon in the important Fraser River fishery. That, along with the sockeye run, should make it profitable for all fishermen. The Indian share could rise substantially without seriously cutting into the nontreaty catch. Federal action, including allowing an extra day for treaty fishermen beyond the two-days-a-week schedule announced by the International Pacific Salmon Commission, is expected to bring the Indian harvest up to between 8 and 15 per cent of the total in waters governed by the international convention.

And any fishermen inclined to violate the ground rules should know that the National Marine Fisheries Service, which has enforcement responsibility, does have both the will and the capability to make the regulations stick. Penalties for gross violations — loss of boat, license and gear — are severe. Any hotheads who take matters into their own hands are likely to find themselves out of the fishing business permanently.

The concerns of the various segments of the industry are being evaluated; their voices are being heard. If all parties co-operate as they should and let the process of seeking satisfactory solutions go forward, this can be a peaceful and profitable summer on Puget Sound.

June 26, 1977

Fishing Industry Has To Diversify

BELLINGHAM — (AP) — Skyrocketing equipment costs and the Boldt Indian fishing rights decision have made diversification the key to survival in Washington State's commercial fishing industry, say industry spokesmen.

The fisherman seeking to enter the commercial market may have to approach a number of sources to get money for increasingly expensive boats.

Those already combing the seas may have to forsake dwindling salmon stocks and fish for dogfish, anchovies or hake.

"A guy has to be awfully optimistic to come in fresh now and make payments on a \$60,000 boat," said Bob Suggs, marine education coordinator for the local Sea Grant office. Sea Grant is an extension service of the University of Washington, offering educational information to fishermen.

New steel purse seiners cost about \$300,000 while wooden seiners sold for about \$60,000 some 20 years back, Suggs said. Gillnet boats have doubled in price — from about \$30,000 to about \$60,000 — in the past five years.

"The boat is only part of the investment," said Suggs. "Good nets run \$15,000 to \$20,000. Fuel costs have skyrocketed."

Pete Granger, marine field agent for the Sea Grant office, says it is becoming increasingly difficult to get a loan to enter the business, but government financing is used sometimes to cushion the growing reluctance of banks to lend money to inexperienced fishermen with little collateral.

The National Marine Fisheries Service will allow a fisherman to put away his earnings, tax-free, and accumulate enough money to build or rebuild a vessel. The service's obligation guarantee program ensures the bank that if the fisherman cannot repay his loan, the federal government will.

However, both banks and the NMFS refuse to finance boats for conditional fisheries, those where the number of boats already overtax the fish supply. Conditional fisheries include local salmon, Alaska salmon and king crab.

Despite alternative financing, Granger said most fishermen still go to a bank.

"If a fisherman can't convince the banks he's a good risk, it's hard to convince the government."

In the wake of the 1974 fishing rights decision in which U.S. District Court Judge George Boldt said Indians are entitled to more than half the harvestable salmon and steelhead runs in Western Washington, more commercial fishermen are interested in leaving the business than entering it.

A state government buy-back program has purchased the boats of a number of fishermen who want to turn to something else.

Granger says many past salmon fishermen now have to branch out into alternate fisheries, such as dogfish, and move into more distant waters for anchovies and bonito.

In the future, he said, diversification may include dragging for hake for sale to Russia.

The Seattle Times

June 27, 1977

Coast Guard steps up salmon-season patrols

By the Associated Press

Although no violence is anticipated, Coast Guard officials say they have beefed up forces for patrolling during the sockeye and pink salmon fishing season, which began today.

Fishermen interfering with the enforcement of salmon-fishing regulations is "what we are most concerned about," Capt. Alfred P. Manning, chief of operations for the 13th Coast Guard District, said today in a press conference.

He said no problems were anticipated today or tomorrow when all boats are allowed to fish in Northern Washington waters. But tension could build by Wednesday, when only treaty Indians will be allowed to fish, Manning said.

An estimated 375 purse seiners and 1,500 gillnetters are licensed for the fishery, which provides the bulk of salmon income in inland waters.

Last fall Washington's "fish war" moved out of the courts and onto the water with incidents that resulted in the shooting of a commercial gillnetter by a state Fisheries Department officer.

The dispute stems from United States District Court Judge George Boldt's decision giving treaty Indians the right to catch at least half of each harvestable salmon run.

This year enforcement will be carried out by the National Marine Fisheries Service, the United States Attorney's office and the Coast Guard, Manning said. A recent State Supreme Court decision prohibits state officials from enforcing the regulations set under the Boldt decision. Manning said no state officials will be on Coast Guard vessels in an enforcement capacity.

Last October William Carlson, 24, Gig Harbor, was shot by state fisheries patrolman Howard Oliver during a gillnetters' protest in upper Hood Canal. The Kitsap County prosecutor said Oliver was employing a lawful use of force.

Manning said the Coast Guard will provide cutters and helicopters to bring enforcement personnel to fishing areas. The 213-foot Yakona, two relief crews for 41-foot boats and a helicopter from Astoria are being brought in, he said, in addition to normal patrol craft.

June 29, 1977

6 Boats Fined In Boldt 'Fish-in'

Associated Press, UPI

Civil penalties ranging from \$1,700 to \$2,500 each have been levied against 6 fishing boats involved in trolling in a closed fishery area north of Tillamook Head on the Oregon coast, a Coast Guard spokesman said yesterday.

The fishing demonstration was organized to protest a two-week ban on salmon fishing in the closure area. The area was closed by the Pacific Fisheries Management Council from June 16 to June 30 to protect the annual salmon run and to guarantee Northwest Indians would get their share of the catch under requirements of the Boldt decision.

In 1974, U.S. District Court Judge George Boldt ruled that treaty Indians are entitled to the opportunity to catch at least half of the harvestable salmon and steelhead.

The spokesman in Seattle said the fines, imposed by the Department of Commerce, are administrative penalties and can be appealed in court.

A reaction by trollers was not immediately available.

Armed Coast Guardmen aboard five cutters and buoy tenders boarded 23 of an estimated 175 to 200 commercial fishing boats that crossed into the restricted water on June 18 and 19. The citations were for "violation of fishing in a closed zone."

Dr. Harvey Hutchings, chief regional enforcement officer for the National Marine Fisheries Service, said the cases of other vessels cited for violations were being processed and additional fines are likely.

The fines, which were levied by the federal secretary of Commerce, varied because some boats were assessed for having illegal fishing gear aboard as well as for illegal fishing.

No violence occurred during the fish-in, and one Coast Guard spokesman speculated the incident was staged carefully to set up a court test case.

Lawyers in Astoria, Ore, broadcast legal advice over ship-to-shore radios as the boats were boarded by armed Coast Guardmen.

June 30, 1977

By FRED BRACK

Two commercial fishermen's associations asked a federal judge in Seattle yesterday to prevent the federal government from allotting extra fishing time to eight Washington tribes with treaty rights to Fraser River salmon.

Judge Walter McGovern said he would rule on the request for a preliminary injunction Tuesday.

The Puget Sound Gillnetters Association and the Purse Seine Vessel Owners Association argued the federal government acted illegally last week in adopting separate regulations for non-treaty fishermen and those from the eight tribes.

Non-members of those tribes, Indians and non-Indians alike, were allotted two days' fishing per week. Fishermen from the eight tribes whose traditional waters are crossed by the Fraser runs were allotted three days.

The season for harvesting the rich runs of salmon returning to British Columbia's Fraser River began Monday and runs into early October. Yesterday was the first day only treaty-Indians were permitted to fish.

Despite intimations of trouble, federal authorities said no non-treaty fishermen were spotted violating the law through yesterday afternoon. "Very few" treaty fishermen were on the water, authorities said.

Spokesmen for the gillnetters and purse seiners said their members had been advised to honor the law and to await Judge McGovern's ruling.

McGovern is in a curious position. The federal regulations under attack were issued in response to Judge George Boldt's decision more than three years ago that certain Western Washington Indian tribes are entitled by treaty to the opportunity to catch half the salmon returning to their traditional off-reservation waters.

Because treaty-fishermen on the Fraser runs are overwhelmed in numbers of non-treaty fishermen, the government figured the only way treaty fishermen could get anything like a fair chance at their share was to grant them extra fishing time.

Even with the extra day per week treaty fishermen will catch only an estimated 8 to 15 per cent of the fish available to U.S. fishermen, far less than their 50 per cent entitlement under the Boldt decision.



JUDGE MCGOVERN

In the middle

Fishermen In Court Over Salmon Run

While McGovern sits in Seattle and Boldt in Tacoma, they are fellow judges in the Western District of Washington. A decision by McGovern against the federal government would frustrate Boldt's orders.

The court session yesterday drew a flock of lawyers. One was James Johnson, an assistant state attorney general who has fought the Boldt decision on behalf of the state's game and fisheries departments and condemned it outside court as "morally reprehensible." Other public officials worry that such talk will encourage outlaws and lead to violence.

Yesterday, during a recess shortly after McGovern and a federal attorney had discussed the fact that five federal agencies cooperated in devising the Fraser regulatory plan, Johnson turned to a group of non-treaty fishermen and said, "think of it, five agencies got together and screwed you."

The Fraser runs have been a tricky problem for the federal government as it attempts to comply with the Boldt decision. The runs are managed by the International Pacific Salmon Commission, a joint body established by the U.S. and Canada. The commission is charged with seeing that each country's fishermen get half the harvestable fish.

Since Boldt's ruling in 1974, the commission has balked at recommending regulations to the U.S. that would recognize the treaty rights. How the U.S. divided its share was a domestic problem, it said.

June 30, 1977

This year, the two governments struck a deal providing for extra fishing time for the Washington tribes. The commission did not honor the deal, reportedly because one Canadian commissioner refused to go along. His vote was decisive since any commission action requires approval of two commissioners from each country and the Canadians have one of their three commission seats vacant.

The U.S. State Department then told the Canadian government that the U.S. was going to adopt the commission's recommended two-day fishery only for non-treaty fishermen and adopt three-day regulations for treaty fishermen. The Canadian government has not protested this action, according to U.S. attorneys in court yesterday.

But, the commission, supposedly under the control of the two governments, did protest. It issued a press release Monday and adopting by "emergency order" the two-day fishery "for all citizens" that the U.S. had previously rejected.

The purse seiners and gillnetters contended this emergency order did not require approval of the U.S. government and was the only proper regulation governing the Fraser runs.

They asked McGovern to issue a preliminary injunction against the federal government, prohibiting the government from enforcing any regulations other than those issued by the commission.

The federal government argued the "emergency order" was not issued in a valid emergency but was simply a subterfuge to get around the government's authority to adopt regulations.

Two of the U.S. commissioners voted for the emergency order, despite it being against their government's policy.

One of them is William Saletic, former manager of the purse seine association that is fighting the federal government in this case and currently vice president of Peter Pan Seafoods Inc. of Seattle. Saletic said the federal government was attempting to establish two regulatory bolies for the Fraser runs. Only one is needed, he said, and it should be the commission.

Charles Yates, attorney for the gillnetters, argued the U.S. government was attempting "to trash" the commission's regulatory system.

Kathryn Oberly, from the Justice Department in Washington, D.C., said the treaty-fishermen's catch would come from the U.S. share and would not affect the Canadian share or prevent the commission from managing the fishery.

The commission, she said, was responsible to the two governments. But, she said, the commissioners "sort of set themselves up as a third government."

Mason Morisset, who spoke as attorney for the treaty tribes, which are not parties to the case, said that for 10 years the tribes have been trying to secure their rights to the Fraser runs. The federal government, he said, had said repeatedly it couldn't push the issue with Canada

because of delicate negotiations on other issues.

This year, he said, "our feeling is that the U.S. government, in good faith, has tried to work this out."

McGovern gave no indication how he would rule. But he did ask at one point how the federal government, charged with treaty obligations to the eight tribes fishing the Fraser runs, could ignore those obligations by "hiding behind the skirts of the commission."

The Seattle Times

July 6, 1977

Extra day for Indian fishing is upheld

By SCOTT MAIER

A federal judge in Seattle declined yesterday to strike down new federal regulations which reserve extra fishing time for eight Indian tribes covered by treaties.

In a four-page opinion, United States District Judge Walter McGovern rejected the contention of two commercial fishermen's associations that the government had acted illegally in allotting the Indian commercial fishermen an extra day at the beginning of each week to fish the Fraser River salmon run.

Judge McGovern said his decision was based on United States District Judge George H. Boldt's ruling, which gave treaty Indians the opportunity to catch up to fifty per cent of this area's harvestable fish in off-reservation waters.

(Last month the United States Supreme Court upheld a lower-court ruling that Puyallup Indians were entitled to only 45 per cent of the non-hatchery fish on the Puyallup River run.)

"It appears that the government of the United States in granting additional fishing opportunities here to the treaty Indians is endeavoring to abide by its treaty obligations," Judge McGovern said.

Lawyers for the Puget Sound Gillnetters Association and the Purse Seine Vessel Owners Association had argued that the federal rules conflict with those established by the International Pacific Salmon Commission, a joint body established by the United States and Canada. The commission rules do not give additional time to the treaty Indian tribes.

The purse seiners and gillnetters contended that a two-day fishery "for all citizens" adopted by the commission is the only proper regulation governing the Fraser River runs.

Government attorneys arguing against the injunction said that the State Department exempted the Indian tribes.

They said that because Indians are fewer in number and own less sophisticated equipment than non-Indians do, the only way to ensure treaty rights is to provide more fishing time.

The government lawyers argued that Indian fishermen would lose between \$650,000 and \$1.5 million if the Department of Interior regulations are struck down.

Charles Yates, lawyer for the Gillnetters' Association, told the court last week that under the fed-

maritime

Glen Carter, editor

eral regulations, non-Indian fishermen will lose \$3,000 a vessel this season.

Under an agreement between the United States and Canada, the Fraser River run is shared equally by fishermen of the two countries.

Two United States members of the salmon commission said last week that the integrity of the commission and the international agreement are at stake.

Government lawyers who sought to uphold the federal regulations said that the fish caught by Indians — about 8 to 15 per cent of the American catch — will come out of the United States allotment and will not affect the Canadian catch.

The fishing season for the Fraser River run continues through early October.

Joseph Mijich, an attorney for the purse-seine association, said he is considering appealing Judge McGovern's decision.

"I don't think a United States judge can interfere. It is a political question for the State Department and the Canadian authorities to decide," he said.

Fishing groups have called for a demonstration tomorrow at the Federal Courthouse.

P. F. 100-100000015

July 1, 1977

Fishermen Lose Court Plea Over Fraser River Salmon

By FRED BRACK

A federal judge in Seattle declined yesterday to stop the federal government from allotting extra fishing time to eight Washington Indian tribes with treaty fishing rights to Fraser River salmon.

The decision against two commercial fishermen's associations does not end the legal battle, attorneys for the associations said.

And a spokesman for one of the groups, the Purse Seine Vessel Owners Association, said non-treaty seiners were trying to avoid violence, but were considering unspecified "alternatives" to demonstrate their unhappiness.

Charles Yates, attorney for the Puget Sound Gillnetters Association, said the gillnetters "are very frustrated but under control."

The two associations had contended the federal government acted illegally by ignoring a U.S.-Canadian commission's recommendations and adopting separate regulations for non-treaty fishermen

and fishermen from the eight treaty tribes fishing the Fraser runs.

Only the commission, established to conserve the Fraser runs and to divide the harvestable fish between the two countries, had the authority to decide regulations, the associations argued last week in seeking a preliminary injunction against the federal government.

The commission, they noted, had refused to honor an agreement struck between the two countries by proposing regulations respecting the Washington tribes' treaty rights.

But U.S. District Court Judge Walter McGovern declined yesterday to grant the injunction. He said it was the U.S. government's business how the U.S. share of the Fraser runs was divided and not the commission's, which has Canadian as well as U.S. members.

Despite that opinion, McGovern technically did not rule on the merits of the associations' case against the regulations. He simply refused to grant an injunction, which would have stopped

the tribes' extra fishing until there was a decision whether the associations' arguments against the separate regulations were correct.

But the grounds on which he denied the injunction, McGovern said, were that the associations "do not have a strong likelihood" of winning even when they present all their evidence.

Attorneys for the association said they would test that judgment by seeking an early hearing before McGovern on the merits of their case. And they said they were considering appealing McGovern's refusal to grant the injunction to the U.S. Court of Appeals.

Meanwhile, the American harvest of the rich salmon runs returning to British Columbia's Fraser River through the Strait of Juan de Fuca and northern Puget Sound entered its second week yesterday.

Non-treaty fishermen are restricted to two days per week. Fishermen from the eight tribes generally are permitted three days, with the addi-

tional day scheduled each week before fishing opens for everybody.

However, when all fishermen begin on the same day, as was the case last week because of the season's opening and this week because of the holiday, treaty fishermen are permitted two extra days after non-treaty fishermen leave the water.

The extra fishing time is an attempt to increase the treaty tribes' share of the U.S. catch.

Treaty fishermen are expected to catch 10 to 15 per cent of the U.S. share this year, up from 6 to 7 per cent last year but still far short of the 50 per cent U.S. District Court Judge George Boldt said they were entitled to in their traditional off-reservation waters.

Judge McGovern said his decision was based on Judge Boldt's ruling. The federal government had argued that the extra fishing time for treaty Indians was allotted in order to at least partially fulfill Boldt's order.

The eight tribes whose traditional off-reservation waters are crossed by the Fraser runs say they would like to be permitted to fish five, six or even seven days so that they might be able to raise their share of the catch to somewhere near their entitlement.

But the tribes say they believe the U.S. government is acting in good faith this year and they will abide by the regulations.

The problem in restricting treaty fishermen to the same time as non-treaty fishermen is that treaty fishermen are overwhelmed in numbers by non-treaty fishermen.

The National Marine Fisheries Service estimated yesterday that there are some 725 non-treaty gillnetters and 245 non-treaty purse seiners working the Fraser runs, compared with 100 treaty gillnetters and six or seven treaty seiners.

With this year's runs including pinks (humpies) as well as sockeyes, the U.S. share of Fraser salmon will be an estimated 3.4 million fish, more than double last year's 1.4 million share, which was sockeyes alone.

Federal authorities are hoping that the prospect of being deprived of the rich harvest will deter outlaws.

July 7, 1977

A July 22 Fishing Hearing Set Here

By JOE FRISINO

A public hearing will be held July 22 to obtain comments on possible joint U.S. and foreign fishing transactions within the the 200-mile fishery conservation zone, the National Marine Fisheries Service announced yesterday.

The hearing, one of three, deals with applications for foreign vessels to process and transport to foreign countries fish caught by U.S. fishermen. Hearings will be held earlier this month in San Francisco and Portland.

U.S. processors also have indicated they are interested in purchasing fish caught by foreign boats in the 200-mile zone.

The hearings are being held by the fisheries service and the Pacific Fishery Management Council. The one here will be held at the Northwest and Alaska Fisheries Center Auditorium, 2725 Montlake Boulevard E., Seattle, beginning at 9 a.m.

● The NOAA research vessel Miller Freeman

will leave next Tuesday for a 70-day survey of rockfish and Pacific Hake stocks along the coast of this state and California. Joining will be the Polish Research vessel Profesor Siedlecki, which been in Seattle polishing up her gear for the trip.

● Preston Taylor, former editor of the Marine Digest, now is associated with Marine Recruiters as assistant manager of the office which helps outfits like Crowley Maritime or MARCO to find the right man for an unfilled job.

● Capt. Caesar A. Clement, who began his sea career 50 years ago as a deckboy on Hawaii-bound ships, has retired from Matson Navigation Co., with whom he sailed continuously for the past 35 years. He lives in San Francisco.

● Contracts have been awarded three schools for studies of marine organisms which might be affected by pollution resulting from petroleum transportation and refining activities in Puget Sound.

Awards by NOAA went to University of Washington College of Fisheries Research Institute, \$54,600; the Huxley College of Environmental Studies at Western Washington State, \$43,086, and the Department of Microbiology at the University of Alberta, Edmonton, \$49,992.

● A Russian-tagged halibut, which grew 5 inches, gained 16 pounds and swam 1,000 miles in two years was caught by the Seattle halibut schooner Polaris south of the Alaska Peninsula, the International Pacific Halibut Commission announced yesterday.

When Capt. Jacob Bassi's crew caught the 71-pound fish and found the tag, the commission was notified when the boat reached Kodiak. Records showed the tagging took place July 5, 1975, during joint U.S.-Russia experiments.

That fish took a long swim, but one caught in 1936 was a real long-distance champ. It was tagged in the Aleutians and brought in off California six years and 2,300 miles later.

July 8, 1977

Three non-Indian fishermen cited

By WARREN KING

Three non-Indian salmon fishermen were arrested by National Marine Fisheries agents yesterday and charged with illegal fishing after they took their boats out to protest extra fishing days granted Indian fishermen.

An Indian fisherman, from a tribe not covered by court decisions, also was cited yesterday.

A Coast Guard spokesman and one of the arrested fishermen said there was no violence and that the fishermen were "very cooperative" as the fisheries agents aboard Coast Guard boats issued citations.

Among those arrested was Phil Sutherland, president of the Puget Sound Gillnetters Association, who was fishing in his 38-foot boat, the "Suds," off the southern tip of Lopez Island, in the San Juans.

"I went (fishing) fully expecting such a thing to happen," Sutherland

said yesterday afternoon.

"I had no other purpose than to demonstrate that a citizen who has been fishing for 29 years can go out and fish in common with others and have the might of the United States Coast Guard come and tell him that's a no-no."

Also charged with illegal fishing were Raymond E. Marriott, owner of the "Lebretta" out of Blaine, arrested near Blaine Harbor; and Phillip Martin, owner of the "Pilgrim," out of Friday Harbor, arrested off the southern tip of Lopez Island.

Lawrence Finley of Inchelium, Ferry County, was boarded and cited off Partridge Point on the west side of Whidbey Island. The Coast Guard said Finley, an Indian, is not a member of a tribe permitted to engage in the extra fishing.

Sutherland said the fishermen must appear in federal court in

Seattle July 20. The maximum penalty for the offense is a \$1,000 fine, a year in jail, or both.

About 10 non-Indian fishermen took their boats out for the "fish-in" yesterday, Sutherland and a Coast Guard spokesman said.

The fishermen were protesting new federal regulations granting eight Indian fishing tribes extra time each week to fish for sockeye salmon returning to the Fraser River in British Columbia.

This week, United States District Judge Walter McGovern turned down a request from non-Indian fishing associations for an injunction to block the regulations.

The new rules stem from the three-year-old decision by federal Judge George Boldt that said Indian fishermen are entitled to the opportunity to catch half the harvestable salmon and steelhead returning to traditional off-reservation fishing grounds.

Yesterday's fish-in coincided with picketing by more than 200 fishermen and their families on the steps of the federal courthouse here.

Representatives of the gillnetters, purse seiners and reef-net fishing associations also delivered a statement yesterday to the White House and to John Merkel, United States attorney for West-

ern Washington and regional chairman of a presidential task force seeking solutions to the Indian fishing-rights controversy.

Paul Anderson, executive manager of the Purse Seine Vessel Owners Association in Washington, said from Washington, D.C., that he had met with a presidential aide for about a half-hour yesterday.

Anderson said the aide promised to deliver the statement requesting equal fishing rights to Stuart Eisenstat, assistant to the President for domestic affairs and domestic policy.

The Seattle Times

June 24, 1977

The Times' opinion and comment:

Underscoring the need for fisheries accord

IN THE complex and often emotion-charged arena of commercial and sports fishing, it has been an unusually active — and even bewildering — week.

— A "fish-in" and, later, a blockade of Ilwaco harbor in Pacific County was a measure of the anger over federal closure of a large area of the Pacific Northwest offshore salmon fishery to commercial trollers, but not to sports-charter boats.

There was no violence, but there were arrests and — as one participant put it — "things got pretty hairy."

— Federal regulations published this week prescribe additional fishing time for Indians during the Fraser River sock-eye- and pink-salmon season opening Monday.

The regulations reflect one element of United States District Judge George Boldt's 1974 fishing-rights decision. In the case of Fraser River runs, treaty tribes are entitled to the opportunity to catch up to half the fish that United States fishermen share with Canadians.

— The 1977 Legislature adjourned without giving the State Fisheries Department powers to allocate catches, thus perpetuating the limitations on the state's abilities to manage the fisheries resource according to dictates of the Boldt decision.

But the Legislature did set up higher license fees to provide larger sums for enhancement of fish runs, often proclaimed as a key element of long-term solutions to fisheries problems.

— A United States Supreme Court ruling yesterday on Puyallup River steelhead passing through the Puyallup Indian reservation seemed to reinforce lower-court decisions that Indians do not have sole rights to catch steelhead within the reservation.

Left hanging, though, was the furiously debated question of whether treaty rights apply to steelhead reared in state hatcheries.

These various developments obviously touched on different issues, different stocks of fish, and different jurisdictions.

Running through them, however, were the common threads of confusion, discord and uncertainty over fisheries issues.

In such circumstances, the potential for violence like that which marred last year's commercial-fishing season remains an ever-present danger, and underscores the need for redoubled efforts to negotiate equitable settlement of differences.

That is the mission of the recently organized presidential task force, which is appealing for abandonment of confrontation in favor of cooperation while the search for accords moves forward.

One member of the federal panel, Anne Wexler, deputy undersecretary of commerce, has struck the proper note in her series of meetings this week with various fishing groups.

The gist of her message: Let all parties keep their "cool," lest the opportunity for a permanent settlement be lost.

July 8, 1977

The Boldt Decision

Fishermen Protest In Seattle and DC

By FRED BRACK AND STEVE JOHNSTON

Non-Indian commercial fishermen carried their anger over Indian-treaty fishing rights into the streets of Seattle and the White House yesterday and onto the waters of Puget Sound.

Some 350 to 450 people, fishermen and their wives and children, rallied at the federal courthouse in Seattle, confronting federal officials there and at the new Federal Building.

In Washington, D.C., a representative of three Washington fishermen's associations carried a plea to the White House, asking President Carter to treat Indian and non-Indian fishermen alike.

In northern Puget Sound, three non-Indian fishermen set their nets on a day reserved for Indians alone, seeking and getting citations as a symbolic protest.

The demonstration in Seattle was peaceful, but there were strong emotions. The height of that emotion was expressed by Wayne Cornett and Del Cole, who shouted again and again into a salad of broadcasters' microphones, "They have denied our right to make a living, but they can't take away our right to die like a man."

The source of the non-Indian fishermen's anger is the decision reached more than three years ago by federal Judge George Boldt that certain Washington Indian tribes are entitled by treaty to the opportunity to catch

half the salmon and steelhead returning to their traditional off-reservation waters.

Their anger focuses on the federal government this year because the State of Washington was barred by the State Supreme Court from enforcing the Boldt decision, leaving fisheries regulation to the federal government.

The immediate issue is the salmon runs returning through the Strait of Juan de Fuca and northern Puget Sound to British Columbia's Fraser River.

The federal government, attempting to increase the treaty-fishermen's share of Fraser salmon to 10 to 15 per cent this year, is permitting extra time each week to the Indians.

The non-Indian fishermen had asked a federal judge to stop that, but the judge on Tuesday refused.

Several protesters met with U.S. Atty. John Merkel. "We enlightened him," gillnetter Randy Hansen said. "He didn't enlighten us."

The protesters then walked behind a police escort to the new Federal Building, where a group met with Leonard Saari, regional representative of the secretary of commerce, and aides to First District Rep. Joel Pritchard.

"Basically, we're talking about our civil rights," Wallace Green, president of the Purse Seine Vessel Owners Association, told Saari.

"We all want to solve these problems," Saari said. "We want to solve the larger problem of the decline in the number of salmon."

Lack of fish wasn't the problem, the fishermen responded, discrimination was.

Saari said he would transmit the fishermen's message to the secretary of commerce.

Outside, Seventh District Rep. Jack Cunningham, who had called for Boldt's resignation during his recent election campaign and had advocated abrogation of the Indian treaties after he was elected, took a bullhorn amid applause.

"I applaud enthusiastically the way you're protesting your right to work, your right to make a livelihood," Cunningham said. Congress should act, he said. But he did not mention abrogation of the treaties, and he said, "I'd like to promise you everything you want, but that's not in the cards."

In Washington, D.C., Paul Anderson, representing the seiners, gillnetters and reefnetters, met Richard Reiman, a White House aide.

Anderson presented a resolution calling on President Carter to "insist upon the application of equal rights for all fishermen."

Reiman promised to give the resolution to Carter's assistant for domestic affairs, Stuart Elzenstat, who "would take whatever action is appropriate," Anderson said, adding, "whatever that means."

In Puget Sound, the three gillnetters cited while fishing on an Indian-only day included Phil Sutherland, president of the gillnetters association.

Sutherland said he "wanted to put the message out as wide and broad as I could that a guy who is in his 29th year of fishing could get arrested in this time for fishing in common with other citizens citizens."

While Parents Picket . . .

CHRIS IVANOVICH, 9, (left) of Seattle, and Lars Pedersen, 6, of Everett, amuse themselves sliding down a railing at the federal courthouse yesterday while their fishermen parents seriously raise their picket signs. They claim the Boldt decision on treaty Indian fishing rights has denied non-Indian fishermen the "right to make a living."
— P-I Photo by Howard Staples



The Seattle Times

July 8, 1977

Panel meets on fish run

An international fishing commission is meeting in Bellingham today to decide whether to stop fishing on a record sockeye salmon run to the Fraser River in British Columbia.

Yesterday, non-Indian fishermen held demonstrations here to protest new federal regulations that grant extra fishing time to Indians working the Fraser River run.

A spokesman for the International Pacific Salmon Fisheries Commission said today that more than 500,000 salmon have been caught by Indian and non-Indian fishermen since the season opened June 27.

About 950 non-Indian gillnet and purse-seine boats and 106 Indian boats are working the run, according to John Roos, assistant director of the commission. The sockeye are averaging about 6 pounds each and selling for \$1.10 a pound, he said.

Roos said the commission is worried that not enough fish are escaping to spawn.

"The problem is that the United States government has allowed Indian fishermen to fish during periods of closure," he said. "This is of considerable concern to the commission and has a very major effect on the way the stock is managed."

The Seattle Times

July 9, 1977

Fraser River salmon run temporarily closed

By WARREN KING

An international fishing commission has closed temporarily commercial fishing in the record run of sockeye salmon to the Fraser River.

The fishing was closed because it is feared not enough of the fish are escaping to spawn, according to John Roos, assistant director of the International Pacific Salmon Fisheries Commission. The commission decided on the closure in a special meeting yesterday in Bellingham.

Roos said 400,000 must escape to spawn, but only about 130,000 have made it past the nets so far.

Commission officials will meet again Monday to decide when to open next week's fishing, Roos said.

The Northwest Indian Fisheries Commission also said late yesterday that the eight tribes given extra time on the Fraser River run also will temporarily suspend fishing. "We'd like it noted that Indians also will close for conservation reasons," said Debbie Shaw-

ver, commission spokesman.

The lucrative Fraser River run through the Strait of Juan de Fuca and Northern Puget Sound is the largest in history this year. Since the opening of the season June 27, 530,000 sockeye have been caught by United States fishermen and 350,000 by Canadians, Roos said. This particular part of the run swims up the Fraser River to Stuart Lake to spawn, he said.

Thursday, non-Indian fishermen held demonstrations here protesting new federal regulations that grant extra fishing time for Indian fishermen each week.

The regulations stem from the three-year-old ruling by District Judge George Boldt that said treaty Indians are entitled to the opportunity to catch half the harvestable salmon returning to their traditional off-reservation fishing grounds.

Roos said the Fraser River sockeye have been averaging about 6 pounds and selling for \$1.10 a pound. About 950 non-Indian boats and 100 Indian boats have been fishing the run, he said.

The Seattle Times

July 9, 1977

**Size limit on
salmon ordered**

An emergency order reducing the minimum size of chinook salmon that can be landed by commercial fishermen from ocean waters was signed yesterday by Gordon Sandison, state fisheries director.

The order sets the minimum length at 26 instead of 28 inches, provided the fish were caught south of Tillamook Head.

The 28-inch minimum still applies for fish caught north of Tillamook Head.

The Seattle Times

July 10, 1977

Early salmon catches double last year's

Alaska's salmon season is opening with catches in some areas double those of last year and prices to fishermen up 20 to 25 per cent a pound over 1976.

But Carl Rosier, director of the Division of Commercial Fisheries, said the boom may not last through the season. He said the strong early showing could be resulting from earlier-than-usual runs.

"Right now we're keeping our original catch forecast of 38 to 40 million fish, but if the trend continues, the figure would be 45 million," Rosier said.

The Alaska salmon take last year totaled 44 million fish, the highest catch in five years, but below the 1965-1970 levels of about 68 million, the Associated Press said.

Rosier said fishermen were collecting 60 cents to \$1 a pound for red salmon this year, up 20 to 22 per cent. For kings, the price was \$1.10 a pound to more than \$2, an

maritime

increase of 25 per cent.

Through the week, the red-salmon catch totaled 4.3 million fish, up from 2.6 million at the same time last year.

The king-salmon fishery also is reporting gains with a total catch of 463,000, up from 200,000 over the same period in 1976.

With the pink run just beginning, fishermen have reported a total catch of about 1 million fish, about double the total from last year at the same time.

Rosier said it's still too early to assess future coho and chum runs, but it appears that at least chums are making a "fairly strong" return in the Yukon-Kuskokwim areas.

The Seattle Times

July 12, 1977

maritime

GLEN CARTER, editor

Fraser River sockeye closure to continue

The sockeye salmon run on the Fraser River will continue to be closed to commercial fishing, the International Pacific Salmon Commission decided yesterday in a special meeting in Bellingham.

The closure is likely to last several more days, John Roos, assistant director of the commission.

He said the fishing was closed because it is feared that not enough fish are escaping to spawn. So far 250,000 salmon have made it past fishing nets, 150,000 short of the commission's escapement goal.

The Northwest Indian Fisheries Commission said the eight Indian tribes given extra time on the Fraser River also will suspend fishing temporarily.

The commission will evaluate the closure at another meeting to be held today.

The lucrative Fraser River run through the Strait of Juan de Fuca and Northern Puget Sound is the largest in history this year.

The Seattle Post-Intelligencer

July 13, 1977

Commercial Salmon Fishing On Fraser Runs to Resume

By FRED BRACK

Commercial salmon fishing on the Fraser River runs will be reopened tomorrow, the International Pacific Fisheries Commission announced yesterday.

Two days of fishing will be permitted for Americans, treaty Indians and non-Indians alike.

Fishing was closed the first part of this week to permit sufficient numbers of spawners to escape. Treaty-Indian fishermen had been getting extra time each week, but the U.S. Department of Interior said they would be held to the same time as

non-Indians this week because of the conservation situation.

The treaty tribes are pressing for a Saturday fishery in outer areas of the Strait of Juan de Fuca, and a Department of Interior spokesman said those negotiations would continue.

The tribes say they are suspicious that the international commission, which opposes the extra time for treaty Indians, may try to manipulate conservation closures throughout the summer as a means of circumventing the U.S. government's attempts to assure the tribes at least part of their treaty rights.

Tribe May Face Court

Action Over Spoiled Salmon

By FRED BRACK

The State Department of Fisheries announced yesterday it will seek criminal prosecution of Lummi Indian Seafood Inc. for allegedly "wasting" 19,300 pounds of salmon.

The salmon, everyone agrees, were delivered to Seattle Rendering Works on Monday, spoiled and unfit for human consumption.

An attorney for the Lummi tribe, which owns and operates the fish processing plant near Bellingham, said the salmon spoiled because the company the plant depended on was unable to

supply sufficient ice on Sunday.

No matter what the facts of the case are, it is likely to heighten tension this salmon season, marked so far by anger from non-Indian commercial fishermen over extra fishing time allotted to treaty-Indian tribes.

The director of the Department of Fisheries, Gordon Sandison, said in a prepared statement that the incident "further complicates an already extremely sensitive situation involving an international fishery as well as the continuing controversy over treaty-Indian fishing rights."

"Salmon are one of Washington's most prized resources for all citizens and it is deplorable that such wastage should have been allowed to have occurred."

The attorney for the Lummi, Alvin Ziontz, said the spoiled fish represented a loss to Lummi Seafood of an estimated \$35,000. "To talk about a criminal prosecution is ridiculous," Ziontz said. "This is trying to make political hay out of someone's misfortune."

Sandison's statement said the fisheries department had not yet verified the wastage with the

Lummi "due to the sensitivity of the investigation" conducted by the department.

Asked later why he had decided to seek prosecution without finding out what happened, Sandison said, "It may be that they have a rational explanation." But, he added, spoilage of nearly 20,000 pounds is serious enough to bring to the attention of the Whatcom County prosecutor, and, "somebody was negligent, either intentionally or not."

The assistant state attorney general handling the case, Dennis Reynolds, said, however, that what the law prohibits is "wantonly" wasting food fish, and Reynolds said that means "intentional or willful."

Prosecutions under the wastage law are rare, Reynolds said. He could only recall one other recent instance, and that was against a Puyallup Indian.

Violations are misdemeanors, punishable by a fine of up to \$1,000 and a sentence of one year or both. The decision on whether to prosecute will be up to Whatcom County Pros. Atty. David McElachran, who could not be reached for comment.

The president of Seattle Rendering, Wes Benefiel, said his plant works with "eight or 10" fish processors and that "they all lose fish at one time or another, that's just part of the business."

He was supported in this by Jay Lind, president of Sebastian-Stuart Fish Co. of Seattle, who said spoilage can occur through many circumstances, particularly when a plant gets swamped with many more fish than it had expected.

All processors try to avoid spoilage, Lind said, because "you're paying horrible prices and you don't want problems."

Lind said he knew the Lummi operation and it is a "good organization."

Sandison said the Lummi operation "is very good."

Since June 1, Benefiel estimated, his plant had processed into poultry food "at least 40,000 to 50,000 pounds" of spoiled whole fish, including salmon and other species and not counting the Lummi delivery.

"If the department is proceeding against the Lummi on the grounds of spoiled fish, then I don't think they have a case because then they'd have to prosecute the whole fish processing industry," Benefiel said. "They must have some other grounds."

"It is not my intention to pick on Indians," Sandison said. "I don't care who it is, from now on we're going to seek prosecution in fish spoilage cases."

Lummi Seafood received one cent per pound for the spoiled salmon, after having paid fishermen between \$1.30 and \$1.50 per pound. The fish were sockeye from the Frazer River runs on which fishermen from eight Washington tribes, including the Lummi, are getting extra fishing time from the federal government this year, in accordance with their treaty rights.

The state did not accuse the Indian fishermen of "wasting" the fish, just the processing plant. Ziontz, the Lummi attorney, said the Lummi plant was hit with the largest one-day load of fish in its history last Friday when 40,000 pounds of sockeye were delivered between 4 p.m. and midnight. The plant was working around the clock with two crews on 12-hour shifts, Ziontz said, and was capable of processing all the fish.

But when the plant ran out of ice on Sunday morning, Ziontz said, Bellingham Cold Storage was unable to deliver all that was needed.

Spoilage started, Ziontz said, and once it starts "it goes like wildfire." When the plant received more ice at 8 p.m. Sunday night, he said, it was too late for the 19,300 pounds of salmon.

The Lummi plant, Ziontz said, consequently has decided to buy its own ice machines to prevent a repeat of the loss.

The assistant manager of Bellingham Cold Storage, Ray Clark, agreed that the ice company could not fill an order from the Lummi, but he could not recall the day.

The fisheries department said it was continuing to investigate allegations that another rendering plant, A&M By-Products Inc. of Bellingham, had received 8,000 to 10,000 pounds of spoiled salmon, also.

The owner of A&M, Charles Helms, said on July 6 and 7 his plant had received two loads of fish viscera from the Lummi plant and that whole spoiled salmon were mixed in.

That was not unusual, Helms said, because some fish spoil in all processing operations. Helms said the whole fish were not weighed separately from the viscera, but he disputed the fisheries department's estimates.

There were 16,000 pounds of scrap and whole fish in all, Helms said, and "an educated guess" would be that less than one-third of the total was whole fish, or 5,000 to 6,000 pounds at most.

Ziontz said those loads contained "a fairly normal" amount of whole fish, "at the most 1,000 pounds."

July 12, 1977

Termination of tribes not justified under law

5509
By RUSSEL L. BARSH

I OFTEN hear the argument that "Indians should obey the same laws as everyone else." Whose laws? Citizens of Oregon obey the same laws when they are in Oregon, but when they visit Washington they must obey Washington law along with citizens of Washington. When in Oregon, a citizen of Washington is as much subject to Oregon law as any Oregonian. At home, he is governed by his own law.

We all enjoy an equal right of local self-government. This is what makes our American federal system of govern-

Barsh is assistant professor of business, government and society at the University of Washington. A lawyer, he has represented Indian tribes in legal matters and specializes in Indian tribes' economic affairs.

ment unique. Limits on the scope of our uniform national laws leave regional and local communities free to make laws of their own choosing suited to their own special interests and resources. The greatest danger to our liberty is such an increase in the volume of national legislation that our diversity as a people can no longer find expression in local institutions.

Indian tribes are a part of that diversity. Like the states, they have enjoyed 200 years of local self-government under the Constitution. If you are tempted to ask Oregon tribes, "Why don't you just obey the same laws we do?" imagine yourself in their situation. Washington Gov. Dixie Lee Ray complains to Congress that "those awful people in Portland won't obey our wholesome Washington laws and insist on making up their own, as a result of which all sorts of things are going on down there we don't like, and besides, a lot of our citizens are going down there to avoid our retail sales taxes."

Congress respectfully passes a law that does away with the whole state of Oregon and makes it part of Washington. I expect Oregonians would be pretty upset. Nevertheless, that is exactly what happened to most of the Indian

tribes in Oregon in 1954 — congressional "termination" of their political existence without their consent.

To be sure, the Constitution is quite clear that no "State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned." It does not say "States or Tribes." It does not say "States, counties or cities" either. Does this mean that Congress can order the consolidation of Washington and Clackamas counties? Or dissolve the Portland city charter?

We describe the United States as a government of "limited and enumerated powers." In other words, Congress only can do what the Constitution authorizes. Congress does have constitutional power "to regulate Commerce with foreign Nations, and among the several states and with the Indian Tribes." This is the Constitution's only reference to tribes. Is it reasonable to characterize "termination" of a tribal government as an exercise of commercial regulation? If it is, then Congress can dissolve the Portland city charter on the pretext that it, too, is simply a commercial regulation.

If the Constitution does not give Congress such power, where else could it come from? Certainly not from the treaties made with tribes. Even the treaties ending Indian wars lack any mention of it. Advocating the existence of a federal power to "terminate" tribes amounts to a rejection of the Constitution, of the principle of limited and enumerated powers, and of federalism.

We are supposed to be a government legitimized by "the consent of the governed." Exactly where and how did tribes consent to relinquish their political rights? Who, then, is "un-American" — tribal citizens seeking political survival or state citizens seeking to absorb tribes, without their consent, into the states?

The tribal position is actually a very conservative one politically. Unfortunately, its potential appeal to non-Indians has been marred in recent months

by dramatic events such as the Passamaquoddy suit for much of the State of Maine and the Puyallup claim to part of Tacoma. These actions seem inconsistent with a movement prefaced on all citizens' right to local self-government. They appear to be an attack on the states.

In actuality they are a counterattack. Congress and state governments refuse to consider tribal self-government seriously. Our laws actually make it much easier for a tribe to win substantial reparations for past injuries, by litigation, than to secure their existing reservations against future disenfranchisement. Hence, the more steadfastly we frustrate tribal political aims, the more vigorously tribes will react by pursuing economic remedies in the courts.

"Wouldn't it have been better," a friend recently asked me, "if we had never set up reservations in the first place?" After all, he reasoned, coercive dispersal of Indians a century ago may have proved extremely costly in lives and treasure in the short run, but by now the Indian people would have melted away into the American mainstream.

It seems to me this is false. Events throughout the world — in the Near East, Indonesia, Canada and Great Britain — teach us that coercive assimilation of formerly independent societies only intensifies the spirit of separatism. The short-run costs are high, it is true, but the long-run costs also are devastating.

We did not choose a "federal" system of government for ourselves in 1789 for purely philosophical reasons. The framers of our Constitution understood full well that any attempt by the more powerful states to subdue and absorb the weaker would bear perpetual conflict and disunity.

As the British learned of Ireland in the First World War, suppressed states cannot be relied on in times of crisis. The sociopolitical wounds of our Civil War and Reconstruction, which involved only a temporary loss of the

Southeastern states' political rights are not yet fully healed.

Immigrants who, of their own free will, choose to join a nation, assimilate readily. Unwilling subjects of a nation's power, however much they may secretly wish to share in its wealth and culture, will never entirely accept its legitimacy. A self-consciously pluralistic nation is stronger than one that tries too hard to integrate and standardize its people.

Oregon thought it had solved its "Indian problem" 20 years ago through termination. Now, instead of a reservation problem, it has an urban problem. Termination created an Indian counter-culture. It will make increasing demands on state services and resources but shows every sign of decreasing political or cultural identification with Oregonians.

And termination tends to be irreversible. Although the Menominee tribe of Wisconsin has been congressionally "restored" successfully, in most cases it would prove extremely difficult, and costly to undo the dispersal of a tribe's land, people, and resources and make it a functioning political system once again.

Tribal self-government is good policy. Let each tribe choose for itself when, if ever, it is prepared to throw its lot in with the state. Give tribal governments every opportunity to develop the resources to make and pay its own way in the federal. Where still possible, restore terminated tribes if that is their desire. Eliminate federal regulations that keep tribes weak, poor and leave them no alternative but to demand resources and services from the states. Negotiate creative, constructive arrangement with tribes to share responsibility and costs, instead of litigating endlessly over jurisdiction and power.

If we do these things, we may find ourselves better able to invest our efforts in the real problems of our region such as energy and the environment instead of squandering them on political quarrels.

To / A *AO*
From / De: ACRA
JUL 22 1977
Attn:

cc. DFE/Roberts
G.L.
+ file
255-7-2 SAL mod-1
3/7

FLO
file
JRS

July 15/77

The Department of State refers to the Aide-Memoire of June 30, 1977 of the Embassy of Canada, to the Convention between the United States and Canada for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended, and to the exchange of diplomatic correspondence over recent months concerning the Convention.

The Embassy's Aide-Memoire of June 30 expressed concern that fishing patterns in U.S. Convention waters during the initial period of International Pacific Salmon Fisheries Commission control might create difficulties in the Commission's achievement of the escapement and equal division goals of the Convention.

The Commission's perception of difficulties, to which the Embassy referred in its Aide-Memoire, arose during the time when the Early Stuart run was found to have peaked earlier and with larger numbers of sockeye than expected. In response to the record catches which resulted, the Commission, in its customary manner, made adjustments to the fishery to assure proper escapement and equal division. In response to the Commission's adjustment, the U.S. Indian fishery was promptly closed until a determination could be made by the Commission that the escapement and division objectives of the Convention would be fully met.

This action by United States authorities was taken to give full effect to the assurances of the United States in its Aide-Memoire of June 20 that the United States Indian fishery would be regulated in a manner fully consistent with the objectives of the Convention. The United States Government is of the view that the regulatory provisions applicable to U.S. treaty Indians have not contributed adversely to the Commission's achievement of these objectives.

Moreover, it should also be noted that the U.S. fishing patterns anticipated in the U.S. proposal previously accepted by Canada have occurred very much as predicted, with U.S. treaty Indians catching a greater percentage of the U.S. share than they have in previous years.

United States authorities have been exchanging on a current basis with the International Pacific Salmon Fisheries Commission data on fisheries in United States Convention waters for the season beginning June 26, 1977, in order to assure that the conservation and allocation objectives of the Convention will be fully achieved.

The United States authorities consider a timely and continuing exchange of information between the Commission staff and U.S. fisheries officials essential in helping to avoid any misperception or misinformation concerning the factual situation, and we will continue to offer every assistance to assure such a process is maintained. In addition, the Commission's willingness to exchange information will assist the United States in making needed adjustments to the Indian fishery in the most timely and effective manner.

The United States authorities will continue to cooperate to the fullest extent with the Commission and its staff to ensure that the Commission can effectively carry out the objectives of the Convention. It is hoped that Canadian authorities will continue to assist in this effort.

Department of State

Washington, July 15, 1977

ACTION
SUITE A DONNER

C O N F I D E N T I A L

FM WSHDC UNGR2746 JUL 5/77

TO EXTOTT/FLO

25-5-7-2-SALMON-1	
31	33

INFO BH ENVOTT/FMS/ROBERTS DE OTT

DISTR GWU GWP FLP

WASHINGTON

REF YOURTEL FLO1131 JUN30

---IPSFC-US REGULATIONS

ROUSE OF CDN OFFICE STATE DEPT CALLED US IN JUL 5 TO HAND OVER AIDE MEMOIRE IN RESPONSE TO OURS OF JUN30 CONCERNING IPSFC. IN DOING SO ROUSE MADE POINT THAT ALTHOUGH COMMUNICATIONS BETWEEN IPSFC AND USA GOVT HAD NOT/NOT ALWAYS BEEN AS GOOD AS THEY SHOULD BE GOVT WAS TRYING ITS BEST TO BE COOPERATIVE WITH COMMISSION AND WOULD WELCOME ANY ASSISTANCE WE MIGHT GIVE IN IMPROVING SITUATION.

AS WELL OFFICIALS HERE HAD NOTICED ON OCCASION PROBLEMS OF QUOTE MIS-INFO UNQUOTE ON FISHING SITUATION AND HOPED WE WOULD BE AS HELPFUL AS POSSIBLE IN ENSURING FACTS ON FISHERIES SITUATION WERE AVAILABLE TO ALL PARTIES IN ORDER TO AVOID UNNECESSARY DIFFICULTIES.

2. IN PERSONAL ASIDE ROUSE INDICATED THAT SOURCE OF SOME OF PROBLEMS LAY IN IPSFC RESENTMENT OF ROLE USA GOVT WAS PLAYING IN REGULATING USA INDIAN FISHERY.

3. TEXT OF AIDE MEMOIRE FOLLOWS. TEXT BEGINS: THE DEPT OF STATE REFERS TO THE AIDE-MEMOIRE OF JUN30/77 OF THE EMB OF CDA, TO THE CONVENTION BETWEEN THE USA AND CDA FOR THE PROTECTION, PRESERVATION, AND EXTENSION OF THE SOCKEYE SALMON FISHERY OF THE FRASER RIVER

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PAGE TWO UNGR2746 CONF

SYSTEM, AS AMENDED, AND TO THE EXCHANGE OF DIPLO CORRESPONDENCE OVER RECENT MONTHS CONCERNING THE CONVENTION.

THE EMBS AIDE-MEMOIRE OF JUN30 EXPRESSED CONCERN THAT FISHING PATTERNS IN US CONVENTION WATERS DURING THE INITIAL PERIOD OF INTERNATIONAL PACIFIC SALMON FISHERIES COMMISSION CONTROL MIGHT CREATE DIFFICULTIES IN THE COMMISSIONS ACHIEVEMENT OF THE ESCAPEMENT AND EQUAL DIVISION GOALS OF THE CONVENTION.

THE COMMISSIONS PERCEPTION OF DIFFICULTIES, TO WHICH THE EMB REFERRED

IN ITS AIDE MEMOIRE, AROSE DURING THE TIME WHEN THE EARLY STUART RUN WAS FOUND TO HAVE PEAKED EARLIER AND WITH LARGER NUMBERS OF SOCKEYE THAN EXPECTED. IN RESPONSE TO THE RECORD CATCHES WHICH RESULTED, THE COMMISSION, IN ITS CUSTOMARY MANNER, MADE ADJUSTMENTS TO THE FISHERY TO ASSURE PROPER ESCAPEMENT AND EQUAL DIVISION. IN RESPONSE TO THE COMMISSIONS ADJUSTMENT, THE US INDIAN FISHERY WAS PROMPTLY CLOSED UNTIL A DETERMINATION COULD BE MADE BY THE COMMISSION THAT THE ESCAPEMENT AND DIVISION OBJECTIVES OF THE CONVENTION WOULD BE FULLY MET.

THIS ACTION BY THE USA AUTHORITIES WAS TAKEN TO GIVE FULL EFFECT TO THE ASSURANCES OF THE USA IN ITS AIDE-MEMOIRE OF JUN20 THAT THE USA INDIAN FISHERY WOULD BE REGULATED IN A MANNER FULLY CONSISTENT WITH THE OBJECTIVES OF THE CONVENTION. THE USA GOVT IS OF THE VIEW THAT THE REGULATORY PROVISIONS APPLICABLE TO US TREATY INDIANS HAVE NOT/NOT CONTRIBUTED ADVERSELY TO THE COMMISSIONS ACHIEVEMENT OF THESE OBJECTIVES.

...3

PAGETHREE UNGR2746 CONF

MOREOVER, IT SHOULD ALSO BE NOTED THAT THE US FISHING PATTERNS ANTICIPATED IN THE US PROPOSAL PREVIOUSLY ACCEPTED BY CDA HAVE OCCURRED VERY MUCH AS PREDICTED, WITH US TREATY INDIANS CATCHING A GREATER PERCENTAGE OF THE US SHARE THAN THEY HAVE IN PREVIOUS YEARS.

US AUTHORITIES HAVE BEEN EXCHANGING ON A CURRENT BASIS WITH THE INTERNATIONAL PACIFIC SALMON FISHERIES COMMISSION DATA ON FISHERIES IN US CONVENTION WATERS FOR THE SEASON BEGINNING JUN26/77, IN ORDER TO ASSURE THAT THE CONSERVATION AND ALLOCATION OBJECTIVES OF THE CONVENTION WILL BE FULLY ACHIEVED.

THE USA AUTHORITIES CONSIDER A TIMELY AND CONTINUING EXCHANGE OF INFO BETWEEN THE COMMISSION STAFF AND US FISHERIES OFFICIALS ESSENTIAL IN HELPING TO AVOID ANY MISPERCEPTION OR MISINFORMATION CONCERNING THE FACTUAL SITUATION, AND WE WILL CONTINUE TO OFFER EVERY ASSISTANCE TO ASSURE SUCH A PROCESS IS MAINTAINED. IN ADDITION, THE COMMISSIONS WILLINGNESS TO EXCHANGE INFO WILL ASSIST THE US IN MAKING NEEDED ADJUSTMENTS TO THE INDIAN FISHERY IN THE MOST TIMELY AND EFFECTIVE MANNER.

THE USA AUTHORITIES WILL CONTINUE TO COOPERATE TO THE FULLEST EXTENT WITH THE COMMISSION AND ITS STAFF TO ENSURE THAT THE COMMISSION CAN EFFECTIVELY CARRY OUT THE OBJECTIVES OF THE CONVENTION.

IT IS HOPED THAT CDN AUTHORITIES WILL CONTINUE TO ASSIST IN THIS EFFORT. TEXT ENDS.

CCC/001 152218Z 00730

000491

MESSAGE

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N° D'ORIG.		25-5-72-SALMON-1	
FM/DE	OTT	EXTAFF	FLO 1131	30/6/77	31
					RESTRICTED
TO/A WASHDC					PRECEDENCE
DELIVER BY 301630					
INFO ENV/OTT/FMS/ROBERTS					
DISTR. GWU GWP FLP					

REF YOUR TEL UNGR 2422 OF JUN 22
SUB/SUJ IPFFC - U.S. REGULATIONS

APPRECIATE YOU PASS TEXT OF AID-MEMOIRE PROVIDED IN
FOLLOWING PARAS TO STATE DEPARTMENT.

2. THE EMB OF CDA REFERS THE DEPT OF STATE TO THE
CONVENTION BETWEEN CDA AND THE USA FOR THE PREVENTION,
PRESERVATION AND EXTENSION OF THE SOCKEYE SALMON FISHERIES
IN THE FRASER RIVER SYSTEM, AS AMENDED, THE DEPT'S AIDE-
MEMOIRE OF MAY 26, THE EMB'S AIDE-MEMOIRE OF MAY 31, THE
DEPT. AIDE-MEMOIRE OF JUNE 20, AND THE PRESENT SITUATION
REGARDING THE SALMON FISHERY IN U.S. CONVENTION WATERS.

3. THE CDA AUTHORITIES NOTE THAT THE U.S. AUTHORITIES
HAVE APPROVED THE 1977 REGULATIONS OF THE COMMISSION ONLY WITH
RESPECT TO FISHERMEN OTHER THAN MEMBERS OF CERTAIN INDIAN
TRIBES. AS STATES IN THE EMB'S AIDE-MEMOIRE OF MAY 31, THE
CDA AUTHORITIES HAVE RESERVED THEIR POSITION AS TO THE

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DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SIG..... G. LEGER/mw	FLO	2-2002	SIG..... DIRECTOR

FLO-1131

- 2 -

RESTRICTED

APPROPRIATENESS OF THIS PROCEDURE UNDER THE TERMS OF THE CONVENTION, WHILE STATING THAT THE INDIAN FISHERY *MUST BE* CONDUCTED AND REGULATED IN A MANNER CONSISTENT WITH THE OBJECTIVES OF THE CONVENTION AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES THEREUNDER. IN ITS AIDE-MEMOIRE OF JUNE 20, THE UNITED STATES ASSURED THE GOVERNMENT OF CDA THAT THE INDIAN FISHERY WILL BE REGULATED IN A MANNER FULLY CONSISTENT WITH THE OBJECTIVES OF THE CONVENTION.

4. THE CDA AUTHORITIES ARE CONCERNED THAT FISHING PATTERNS IN THE U.S. CONVENTION WATERS DURING THE WEEK OF JUNE 27 TO JULY 3 INCLUDING INDIAN FISHING FROM JUNE 29 TO JULY 1 MIGHT CREATE DIFFICULTIES WITH RESPECT TO ACHIEVEMENT OF ESCAPEMENT AND CHANGE DIVISION GOALS. AS DISCUSSED BETWEEN OFFICIALS OF THE TWO GOVERNMENTS DETAILS OF THE IMPLICATIONS OF FISHING PATTERNS IN US CONVENTION AREA ARE BEING REQUESTED FROM THE COMMISSION. CDA AUTHORITIES WILL PROVIDE FURTHER VIEWS FOLLOWING ANALYSIS OF THE COMMISSION'S FINDINGS.

5. OF GREATEST CONCERN TO THE CDA AUTHORITIES IS THE UNTENABLE SITUATION ARISING OUT OF THE MOST UNSATISFACTORY RELATIONSHIP WHICH IS DEVELOPING BETWEEN THE COMMISSION AND THE TWO GOVERNMENTS AS REFLECTED IN THE COMM'S EMERGENCY ORDER AND PRESS STATEMENT OF JUNE 27. THIS ~~UNSATISFACTORY~~ RELATIONSHIP APPEARS TO HAVE BEEN BROUGHT ABOUT AS A RESULT OF THE SITUATION REGARDING INDIAN FISHING AND IS THREATENING THE EFFECTIVENESS

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FLO-1131

- 3 -

RESTRICTED

AND PERHAPS EVEN THE VERY EXISTENCE OF THE SYSTEM ESTABLISHED UNDER THE CONVENTION. THE GOVERNMENT OF CDA URGES THE UNITED STATES AUTHORITIES TO RECONSIDER THEIR APPROACH TO THIS MATTER AND TO TAKE ALL NECESSARY STEPS TO ENSURE THAT THEIR ACTIONS ARE FULLY CONSISTENT WITH THE OBJECTIVES AND TERMS OF THE CONVENTION AND ALSO TO ENSURE THE MAINTENANCE OF A PROPER RELATIONSHIP BETWEEN THE COMMISSION AND THE TWO GOVERNMENTS WHICH IS REQUIRED FOR THE CONTINUED EFFECTIVENESS OF THE SYSTEM ^{BASED ON} ~~PASSED UNDER~~ THE CONVENTION.

- 2 -

SOLUTION WILL BE EXPLORED. (SUGGEST THEREFORE THAT THIS SENTENCE IN EFFECT REPLACE ALL OF PARA 6 OF REFTTEL EXCEPT FIRST SENTENCE). WE REALIZE OF COURSE THAT THIS, IN EFFECT, IS AN INVITATION TO THE USA TO ADVANCE AGAIN ESCAPEMENT PROBLEM WHICH WE SHALL HAVE TO DEAL WITH IN CONSULTATIONS.

MESSAGE

FM/DE	LACE LIEU	DEPARTMENT MINISTÈRE	ORIG. NO. N° D'ORIG.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
	OTTAWA	EXTERNAL	GWP-030	JUNE 23/77	25-5-7-2-salmon	CONFID
TO/A	OECDPARIS/ MIN MIN/BOANEY					PRECEDENCE FLASH
	WASHDC, LOSNY/BEESLEY/LEGAULT					FLASH
INFO	DFE/OTT/SHEPHERD/ROBERTS/HUNTER					

DISTR.

MIN UNDER SEC PBT GWP FLP FLO FLA FPR

REF

SUB/SUJ

MINISTER'S MTG WITH SEC VANCE

PRESUME MIN WILL WISH TO RAISE INTERIM FISHERIES
AGREEMENT AT MTG WITH SEC VANCE JUNE24.

2. YOU SHOULD HAVE FOLLOWING RELEVANT TELS: GWU488 JUNE21;
490 JUNE22; 491 JUNE 22; 492 JUNE22; AND 494 JUNE22.

3. DURING OUR DISCUSSIONS OF THE ~~NOTE~~ UNDERSTANDINGS
~~UNQUOTE~~ AMB ENDERS HAD BEEN CAREFUL TO RESERVE USA POSITION
TO ELABORATE ON THEM. HOWEVER, AFTER AGREEMENT HAD BEEN
REACHED ON THE UNDERSTANDINGS HE INDICATED THAT USA DID
NOT/NOT PROPOSE TO PUT GLOSS ON THEM. AS A RESULT, IN ORDER
TO REDUCE RISK OF FURTHER PUBLIC DEBATE ON CDN/USA POSITIONS
DFE HAVE RESTRICTED THEMSELVES TO BACKGROUND BRIEFING OF
PRESS ON RESPONSIVE BASIS. DFE HAVE ALSO BEEN CAREFUL
TO KEEP WEST COAST FISHERMEN FULLY INFORMED. SO FAR
PUBLIC ATTENTION TO THIS ISSUE HAS BEEN MINIMAL.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

SG.....

J.S.Nutt/MDB

SG.....

J.S.Nutt

23.6.17(us)

- 2 -

4. WE HAVE ALSO BEEN INFORMED BY STATE THAT THEY WILL TRY
TO HAVE THE INTERIM FISHERIES AGREEMENT ^{CONSIDERED} ~~REINSTATED~~ ON SENATE
FOREIGN RELATIONS COMMITTEE ~~AGENDA~~ ^{EXACT} THIS WEEK. ~~IN EVENT THAT~~
~~AND AS MINIMUM THAT AGREEMENT IS AT TOP OF JUNE 28 AGENDA~~
~~AGREEMENT IS STILL HUNG UP IN SENATE~~ WHEN MINISTER SEES
SEC VANCE ON FRIDAY SUGGEST THAT ^{HE} MINISTER URGE ~~FURTHER~~ ^{FULLEST}
ADMIN SUPPORT FOR EARLY APPROVAL ^{OF AGREEMENT} AS FURTHER ^{POSITIVE} ~~CORRECTIVE~~ STEP.
MINISTER MAY WISH TO INDICATE TO VANCE THAT OUR AGREEMENT TO
SUSPEND IMPLEMENTATION OF ORDER IN COUNCIL CLOSING USA SHRIMP
FISHERY WAS RELATED TO FACILITATING SENATE APPROVAL OF
INTERIM FISHING AGREEMENT AS WELL AS TO FACILITATING RESOLUTION
OF SALMON PROBLEM.

5. MINISTER MAY ALSO WISH TO INDICATE THAT CDN GOVT REGRETTED
NEED TO PASS ORDER IN COUNCIL CLOSING USA SALMON AND SHRIMP
FISHERY, BUT REGIONAL PRESSURES AND OUR VIEW OF RECIPROCAL
NATURE OF THE AGREEMENT WERE SUCH THAT THIS COULD NOT/NOT BE
AVOIDED GIVEN SUBSTANTIAL LOSS OF FISHING OPPORTUNITY SUFFERED
BY CDN FISHERMEN OFF WEST COAST AS A RESULT OF USA SALMON
REGULATIONS.

6.. WE ARE HOWEVER, ^{PLEASED,} AS WE ARE INFORMED USA IS, ~~PLEASED~~ THAT
IMMEDIATE SOLUTION HAS BEEN FOUND. WE HOPE THAT IN THE
CONSULTATIONS WHICH ARE TO TAKE PLACE TO DETERMINE SUCH
CORRECTIVE ACTION AS MAY BE REQUIRED TO ENSURE THAT THE
RECIPROCAL NATURE OF THE INTERIM FISHERIES AGREEMENT IS
MAINTAINED USA MAY FIND IT POSSIBLE TO PROVIDE SOME INCREASED
ACCESS FOR CDN FISHERMEN TO THE SALMON FISHERY OFF THE USA
COAST THIS YEAR, ^{THIS} ~~WHICH~~ WOULD BE SOME OFFSET TO THE SUBSTANTIAL
LOSS WE HAVE SUFFERED AS A RESULT OF ^{USA'S} ~~THEIR~~ CURRENT REGULATIONS

- 3 -

AND ~~WHICH~~ WOULD ENABLE US TO GIVE FAVOURABLE CONSIDERATION TO REINSTATING ALL OR PART OF THE USA SHRIMP FISHERY FOR THIS YEAR.

7. SO-CALLED ESCAPEMENT IS NOT HELPFUL FROM OUR POINT OF VIEW AS SOLUTION TO CURRENT DIFFERENCES. INDEED WE DO NOT CONSIDER IT TO BE RELEVANT TO IMMEDIATE ISSUE. RATHER WE CONSIDER SUBJECT MORE PROPERLY BELONGS TO SALMON INTERCEPTION NEGOTIATIONS WHICH WE AGREE SHOULD RESUME ASAP. WE DO NOT ARGUE THAT USA MAY NOT RAISE ESCAPEMENT IN FORTHCOMING CONSULTATIONS FLOWING FROM UNDERSTANDINGS, BUT GIVEN OUR VIEW THAT ITS PROPER PLACE IS IN SALMON INTERCEPTION NEGOTIATIONS, SOON TO BEGIN, MUCH MORE PROFITABLE COURSE WOULD BE TO CONCENTRATE ON POSSIBLE USA FLEXIBILITY IN ^{CANADIAN PARTICIPATION IN} SALMON FISHING [^] OFF USA WEST COAST.
~~THIS DATE~~

8. MIN MAY ALSO WISH TO EXPRESS SATISFACTION THAT OFFICIALS WERE ABLE TO WORK OUT SCENARIO FOR MARITIME BOUNDARY, FISHERIES AND RELATED NEGOTIATIONS AND TO SAY ^{HE} [^] HOPES SOON TO HAVE AGREEMENT OF HIS COLLEAGUES ON SCENARIO FOR NEGOTIATIONS AND POSSIBLY ALSO ON APPOINTMENT OF SENIOR NEGOTIATOR.

MESSAGE

FM/DE	PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
	LIEU	MINISTÈRE	N° D'ORIG.			SECURITÉ
	OTTAWA	EXTERNAL	GWU-490	JUNE 22/77	25-5-7:2- 10	CONFID
TO/A WASHDC						PRECEDENCE
						FLASH
INFO OECDPARIS(MIN/BURNEY) LOSNY/BEESLEY/LEGAULT						FLASH
						FLASH
BH: ENVOTT/SHEPHERD/HUNTER/VERNON/WILLIS						EX- JUN 22 14 55 77
DISTR. MIN PDM PDT GWP FLP FLO FLA FRR						
<p>REF OURTEL GWU488 JUNE21</p> <p>SUB/SUJ CANADA-US WEST COAST SALMON PROBLEMS</p> <p>LAST EVENING AMB ENDERS CALLED TO SAY THAT HE HAD RECEIVED CLEARANCE THAT UNDERSTANDINGS (TEXT OF WHICH WAS CONTAINED IN REFTEL) WERE AGREEABLE. HE HAD ALSO BEEN ASKED TO SAY THAT THE ^{WAS QUOTE} USA ^{UNQUOTE} WERE VERY GRATIFIED THAT WE HAD BEEN ABLE TO REACH A COOPERATIVE SOLUTION TO THE IMMEDIATE QUESTION AND THAT THE UNITED STATES AUTHORITIES LOOK FORWARD TO COOPERATION WITH CDA ON LARGER SCALE NÈGS ON MARITIME BOUNDARIES AND FISHERIES AND ON A SALMON INTERCEPTION AGREEMENT.</p> <p>2. IT WAS AGREED THAT THE UNDERSTANDINGS WOULD BE MADE PUBLIC AT NOON TODAY, JUNE 22. TEXT OF RELEASE AND PRESS GUIDANCE WILL FOLLOW.</p>						
DRAFTER/RÉDACTEUR		DIVISION/DIRECTION		TELEPHONE		APPROVED/APPROUVE
SG..... J.S. Nutt/EDB		2-7175				SG..... J.S. Nutt

MESSAGE

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
LIEU	MINISTÈRE	N° D'ORIG.			SÉCURITÉ
OTT	EXTERNAL	GWU-491	JUNE 22	25-5-7-2-Salmon	UNCLASS
					PRECEDENCE
TO/A	WASHDC ATLANTA BOSTON BUFFALO CHICAGO CLEVELAND				JUN 22
TO:	DALLAS DETROIT LOSANGELES MINNEAPOLIS NORLEANS				EXTERNAL
INFO:	CONGENNY PHILAD SFRANCISCO SANJUAN SEATTLE				CONFIDENTIAL
	WASHDC SEATTLE				FLASH
	OECDPARIS(MIN/BURNEY) LOSNY/BEESLEY/LEGAULT				0 177
	ENVOTT/SHEPHERD/HUNTER/VERNON/WILLIS				

DISTR.	MIN PDM PDT GWP FLP FLO FLA FPR
REF	OURTEL GWU-492 JUNE 22 OURTELS GWU488 JUNE 21 GWU490 JUNE 22
SUB/SUJ	CANADA-USA WEST COAST SALMON PROBLEMS
<p>FOLLOWING IS SUGGESTED PRESS GUIDANCE IN THE EVENT YOU ARE ASKED QUESTIONS REGARDING THE UNDERSTANDINGS AGREED ON BETWEEN CDA AND THE USA ON THE IMPLEMENTATION OF THE 1977 FISHERIES AGREEMENT WHICH IS PROVISIONALLY IN FORCE:</p> <p>(1) ORDER IN COUNCIL PC1977 1695 OF JUNE 16, 1977 - CLOSED TO USA FISHERMEN:</p> <p>(A) THE SHRIMP FISHERY OFF THE CANADIAN PACIFIC COAST</p> <p>(B) THE SALMON FISHERY OFF THE CANADIAN PACIFIC COAST DURING ANY PERIOD WHEN COMMERCIAL FISHING FOR SALMON IS NOT PERMITTED BY THE USA OFF ITS COAST</p> <p>(2) THIS ACTION WAS TAKEN TO OFFSET THE ACKNOWLEDGED LOSS OF FISHING OPPORTUNITY TO CDN SALMON FISHERMEN OFF THE PACIFIC COAST AS A RESULT OF USA SALMON REGULATIONS</p> <p>(3) CONSULTATIONS HAVE BEEN TAKING PLACE OVER THE LAST SEVERAL DAYS WITH THE USA CONCERNING IMPLEMENTATION OF THE</p>	

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SG.....J.S.Nutt/EDB	GWP	2-7175	SG.....J.S. Nutt

- 2 -

INTERIM FISHERIES AGREEMENT, WHICH IS PROVISIONALLY IN FORCE.
(4) UNDERSTANDINGS HAVE NOW BEEN REACHED AS A RESULT OF WHICH
DISCUSSIONS WILL TAKE PLACE TO DETERMINE SUCH CORRECTIVE
ACTION AS MAY BE REQUIRED TO INSURE THAT THE RECIPROCAL
NATURE OF THE 1977 FISHERIES AGREEMENT IS MAINTAINED.

(NOTE: THIS POINT SHOULD ONLY BE MADE ORALLY SINCE IT IS A
VARIATION OF THE TEXT OF THE ACTUAL UNDERSTANDING BUT WE THINK
MORE CLEARLY STATED AND WITHOUT A DIFFERENCE)

(5) MEANWHILE PENDING CLOSURE ^{TOWARDS THE END OF JUNE,} OF THE CDN PACIFIC COAST SHRIMP
FISHERY TO BOTH CDN AND USA FISHERMEN FOR CONSERVATION AND
MANAGEMENT PURPOSES CDA IS NOT IMPLEMENTING THE ORDER-IN-COUNCIL
OF JUNE 16 INsofar AS IT RELATES TO THE SHRIMP FISHERY.

000502

MESSAGE

ACTC FILE CIRC DIV DEARY

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N° D'ORIG.			
OTT	EXT	GWU-494	JUNE 22/77	25-5-7-0-Salmon 10	UNCLASSIFIED
FM/DE					PRECEDENCE
TO/A WSHDC					
INFO LOSNY/BEESLEY/LEGAULT BH: ENVOTT/SHEPHERD/HUNTER/VERNON/WILLIS					
OECD PARIS/MIN/BURNEY DELIVER BY 23 ¹⁸³⁰ 1800					
SEATTLE					
DISTR. MIN UNDER SECRETARY PDT GWP FLP FLO FLA FPR					
REF OURTEL GWU 488 OF JUNE 21, 1977					
SUB/SUJ CANADA-US WEST COAST SALMON PROBLEMS					
<p>BELOW IS QUESTION AND ANSWER IN <u>Hole</u> June 21:</p> <p>HUGH A. ALEXANDER (COMOX ALBERNI)</p> <p>MR. SPEAKER, MY QUESTION IS FOR THE MINISTER OF FISHERIES AND THE ENVIRONMENT. I UNDERSTAND THAT ON FRIDAY, JUNE 17, OR ON MONDAY, JUNE 20, THE GOVT OF CDA BY ORDER IN COUNCIL CLOSED THE WEST COAST SHRIMP GROUNDS TO AMERICAN FISHERMEN, IN RETALIATION FOR THE UNILATERAL CLOSURE OF AMERICAN WATERS TO CDN TRAWLERS. HAS THE MINISTER ENTERED INTO DISCUSSIONS WITH THE COMMERCE DEPARTMENT OF THE US GOVT REGARDING THE CUTTING OFF OF CDN FISHERMEN IN AMERICAN WATERS, AND DOES THE MINISTER KNOW WHEN THE US SENATE WILL CONSIDER THE CDA-US AGREEMENT COVERING FISHING ON THE EAST AND WEST COASTS?</p> <p>ANSWER: MR. SPEAKER, THE ORDER TO CLOSE THE SHRIMP FISHERY APPLIES TO BOTH CDN AND AMERICAN FISHERMEN. IN THE CASE OF CDNS, IT WAS MADE IN CONFORMITY WITH THE REPRESENTATION THEY MADE US. THEY PREFER TO FISH LATER IN THE SEASON. WE WILL NOW HAVE SOME TIME TO SORT OUT THE DIFFICULTIES WE HAVE ENCOUNTERED WITH THE US IN RELATION TO THEIR INTERPRETATION OF THE</p>					
DRAFTER/RÉDACTEUR		DIVISION/DIRECTION		TELEPHONE	APPROVED/APPROUVÉ
SG. J.S. NUTT/GWP		GWU		2-7175	J.S. NUTT

- 2 -

INTERIM AGREEMENT, AN INTERPRETATION WITH WHICH WE DO NOT/NOT AGREE. THE
FOLLOWING TWO MONTHS WILL GIVE US TIME TO SORT OUT THE PROBLEM. I AM AFRAID
I DO NOT/NOT REMEMBER THE THIRD POINT THE HON MEMBER RAISED.

MESSAGE

FM/DE	PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY
	LIEU	MINISTÈRE	N° D'ORIG.			SÉCURITÉ
	OTTAWA	EXTERNAL	GWU-492	JUNE 22/77	1255-7-2 Salmon 10	UNCLASS
TO/A WASHDC SEATTLE						PRECEDENCE
						FLASH <i>W</i>
INFO ATLANTA BOSTON BUFFALO CHICAGO CLEVEL DALLAS DETROIT LOSANGELES MINNEAPOLIS NORLEANS CONGENNY PHILAD SFRANCISCO SANJUAN OECDPARIS (MIN/BURNEY) LOSNY/BEESLEY/LEGAULT						
ENVOTT/SHEPHERD/HUNTER/VERNON/WILLIS						

DISTR. MIN PDM PDT GWP FLP FLO FLA FPR

REF

OURTEL GWU-491 JUNE 22

SUB/SUJ

CANADA-WEST COAST SALMON PROBLEMS

FOLLOWING IS TEXT OF RELEASE BEING MADE
SIMULTANEOUSLY HERE AND IN WASHINGTON:
TEXT BEGINS (COMCENTRE PLEASE COPY ATTACHED) TEXT ENDS.

JUN 22 17 01 '77

EXT
CENTRE
ATTACHES

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVE

SIG..... J.S.Nutt/EDB

GWP

2-7175

SIG..... J.S.Nutt



DEPARTMENT OF EXTERNAL AFFAIRS
MINISTÈRE DES AFFAIRES EXTÉRIEURES

Communiqué

No: 53
No.:

DIFFUSION: FOR IMMEDIATE RELEASE
RELEASE: JUNE 22, 1977

CANADA-U.S. UNDERSTANDINGS ON THE 1977 INTERIM FISHERIES AGREEMENT

The Department of External Affairs announced today the following understandings between Canada and the United States regarding the implementation of the 1977 Interim Fisheries Agreement which is provisionally in force:

The United States recognizes that United States salmon regulations implemented during the 1977 salmon season have caused a loss of fishing opportunity to Canadian salmon fishermen off the United States coast, although there is a difference of views as to the overall effect of these regulations on the salmon fisheries.

The two countries agree that action must be taken to ensure that the reciprocal nature of their 1977 Fisheries Agreement is maintained and will co-operate to determine such corrective action as may be required.

Canada has agreed for the time being to suspend the implementation of the relevant portions of regulations enacted by Order-in-Council PC1977-1695 of June 16, 1977 closing the USA shrimp fishery off the Pacific Coast of Canada. Accordingly, that fishery may go forward until near the end of June, when Canada intends to close the shrimp fishery to both Canadian and U.S. fishermen for conservation and management purposes for approximately two months.

 **Canadian Embassy**
Ambassade du Canada

Information

Public Affairs Division
Direction des affaires publiques
1771 N Street, NW
Washington, DC 20036
(202) 785-1400

→ file

EMBARGO

June 22, 1977
12:00 p.m.

JUNE 22, 1977

25-5-7-2-Salmon	
10	—

CANADA/UNITED STATES INTERIM FISHERIES AGREEMENT

The Department of External Affairs announced today the following understandings between Canada and the United States regarding the implementation of the 1977 Interim Fisheries Agreement which is provisionally enforced.

"The United States recognizes that United States salmon regulations implemented during the 1977 salmon season have caused a loss of fishing opportunity to Canadian salmon fishermen off the United States coast, although there is a difference of views as to the overall effect of these regulations on the salmon fisheries.

The two countries agree that action must be taken to insure that the reciprocal nature of their 1977 fisheries agreement is maintained and will co-operate to determine such corrective action as may be required.

Canada has agreed for the time being to suspend the implementation of the relevant portions of regulations enacted by Order-in-Council PC1977-1695 of June 16, closing the United States' shrimp fishery off the Pacific Coast of Canada. Accordingly, that fishery may go forward until near the end of June, when Canada intends to close the shrimp fishery to both Canadian and United States' fishermen for conservation and management purposes for approximately two months."

JUN 29 1977	
U. S. A. DIVISION	
1	
BW	PC
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39-77	5
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8	8

20-06-77

M 610

AIDE-MEMOIRE

ACC	REF	DATE
FILE		
DOSSIER		
25-5-7-2-SALMON-1		

The Department of State refers the Embassy of Canada to the United States Aide-Memoire of May 26, 1977, concerning the Convention between the United States and Canada for the Protection, Preservation, and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended. In the May 26 Aide-Memoire, the United States advised that, under certain circumstances, it would be obliged to consider exercising its authority under Article VI of the Convention, as amended, to approve the 1977 regulations of the Commission only with respect to fishermen other than members of certain Indian tribes possessing rights under treaties with the United States.

The United States has now decided to take this limited action, as indicated in the attached letter to Mr. Donald R. Johnson, Chairman of the International Pacific Salmon Fisheries Commission. In accordance with the Canadian request contained in its Aide-Memoire of May 31, 1977, the United States wishes to assure the Government of Canada that the United States Indian fishery will be regulated in a manner fully consistent with the objectives of the Convention.

- 2 -

To this end, the United States Department of the Interior is promulgating regulations designed to regulate the Indian fishery in accordance with the United States proposals which were the subject of exchanges of notes of January 12, 1977, March 15, 1977, and March 21, 1977, between the two Governments. Copies of these regulations will be forwarded to the Commission.

The cooperation of the Commission is being sought to assure the exchange of information required to fully meet the conservation and allocation objectives of the Convention. United States authorities intend to enforce strictly the Commission and domestic United States regulations.

United States authorities wish to express their appreciation of Canadian understanding and cooperation in this sensitive and complex matter, and to again affirm the United States wish to cooperate with the Government of Canada in seeking to reach a long-term solution to the entire range of salmon fisheries issues in the context of a comprehensive Pacific salmon agreement.

Enclosure:

Letter to Mr. Johnson

Department of State,

Washington, June 20, 1977



TRANSMITTAL NOTE AND RECEIPT NOTE D'ENVOI ET REÇU

GOVERNMENT OF CANADA — GOUVERNEMENT DU CANADA

TO
À

EXTERNAL AFFAIRS (GWU)

CC-FLO (Leger)

Return to TC-u

SECURITY CLASSIFICATION
CLASSIFICATION DE SÉCURITÉ

WITH ENCLOSURE(S) — AVEC ANNEXE(S)

UNCLASSIFIED

WITHOUT ENCLOSURE(S) — SANS ANNEXE(S)

FILE OR SERIAL NO. — N° DE DOSSIER OU DE SÉRIE

QUANTITY QUANTITÉ	REFERENCE/COPY NO. N° DE RÉFÉRENCE	DESCRIPTION
<p>Copy of Aide Memoire from Department of State re Extension of the Sockeye Salmon Fisheries in the Fraser River System</p> <div data-bbox="321 720 678 1007" data-label="Form"><p>To/A: <u>Guay</u> From/De: ACRA JUL 4 1977 By: _____</p></div> <div data-bbox="876 677 1526 985" data-label="Text"><p>25-5-72-Salmon-1 10</p></div>		
SENT BY — TRANSMIS PAR J. T. BOEHM Signature: <u>J. T. Boehm</u> Date: <u>22.6.77</u>		RECEIVED BY — REÇU PAR Signature: _____ Date: _____

CANADIAN EMBASSY
1746 Massachusetts Ave., N.W.
Washington, D. C. 20036

☐ PLEASE SIGN AND
RETURN TO ORIGINATOR
PRIÈRE DE SIGNER ET DE RETOURNER
AU SIGNATAIRE

☒ RECEIPT NOT REQUIRED
REÇU NON REQUIS

ORIGINATOR'S ADDRESS — ADRESSE DU SIGNATAIRE

MESSAGE

PLACE LIEU	DEPARTMENT MINISTÈRE	ORIG. NO. NO D'ORIG.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
OTTAWA	EXTERNAL	GWU-479	JUNE 20	25-5-7-2- <i>Salmon</i> 10	<i>Salmon</i> CONFID
FM/DE TO/A WASHDC				PRECEDENCE	
				FLASH <i>Av</i>	
INFO LOSNY/BEESELEY/LEGAULT EDB /SHEPHERD/HUNTER/VERNON/WILLIS				FLASH <i>Jh</i>	
DISTR. MIN/BURNEY/PDM PDT GWP FLP FLO FLA					

REF

SUB/SUJ

CANADA-US WEST COAST SALMON PROBLEMS

THE FOLLOWING IS TEXT OF A BOUT DE PAPIER
LEFT WITH THE UNDER-SECRETARY BY AMB ENDERS SUNDAY NOON:
QUOTE (COMCENTRE PLEASE COPY ATTACHED TEXT) UNQUOTE

JUN 20 14 02 '77

EXTERNAL AFFAIRS

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SG..... GWP/J.S.Nutt/EDB		2-7175	<i>J.S.Nutt</i> J.S.Nutt

1. The United States recognizes that United States salmon regulations implemented during the 1977 season have caused a loss of fishing opportunity to Canadian salmon fishers in United States waters. The two countries agree that action must now be taken to insure that balance is maintained as intended under the terms of the 1977 Reciprocal Fisheries Agreement.
2. The United States believes that Canada is entitled to invoke Article V, Paragraph 2 of the 1977 Reciprocal Fisheries Agreement during the periods of United States closures.
3. The two countries will cooperate to determine such additional corrective action as may be required to maintain balance under the Reciprocal Fisheries Agreement. This determination will be made by assessing the 1977 run and comparing it to the 1976 run. It will include:
 - a determination of the actual fish caught by all U.S. and Canadian nationals during the 1977 run, and the area where caught;

-- a determination of the economic cost of relocating fisheries to recoup fishing opportunities lost as a result of U.S. action;

-- a determination of escapement levels into both U.S. and Canadian rivers.

It is recognized by both countries that additional fish available to Canadian inshore fisheries as a result of increased escapement levels caused by U.S. regulations will be considered as an offsetting factor, though not fully equivalent to fish which would have been taken in offshore fisheries.

4. Imbalances to the detriment of Canada calculated according to Point 3 will be compensated fully in a manner to be agreed by the two countries, through adjustment in the 1978 salmon fishery or in other 1978 fisheries in U.S. or Canadian West Coast waters.

5. The above procedure is entirely ad hoc, designed to deal with a unique situation. Both countries agree that it has no effect of precedent.

6. In public, the two countries will say that the United States agrees that action is required to insure that balance is maintained under the 1977 Reciprocal Fisheries Agreement. The United States asked, and Canada agreed, to suspend the Order-in-Council closing the U.S. shrimp fishery so that the two countries could take cooperative action to this end.

**ACTION
SUITE A DONNER**

UNCLASSIFIED

FM SFRAN WVCS0969 JUN 7/77

TO EXTOTT GWU DELIVER BY 200900

INFO WSHDC SEATL

REF POST TEL WVCS0963 JUN 16

--- SALMON TROLLERS

1. COURT DENIED APPLICATION FOR INJUNCTION GROUNDS PLAINTIFFS
DID NOT/NOT ADEQUATELY DEMONSTRATE IRREPARABLE HARM.

2. PLAINTIFFS USED SOME ARGUMENTS AS PUT FORTH IN HONOLULU.

UUU/815 170100Z 00030

Dr. Sharpe
San: Knaples
5/9/77
ca
TW
JUN 20 1977
25-7-2-Salmon-/
10 67

JUN 17 1977

TEW

San Francisco Mr. Sharpe.

<i>25-5-7-2 Salmon-Trou</i>	
<i>10</i>	<i>9</i>

File

**ACTION
SUITE A DONNER**

UNCLASSIFIED

FM SFRAN WVCS0963 JUN16/77

TO EXTOTT GWU DELIVER BY 170900

INFO DOMCAN WASH DOMCAN SEATL

REF SEATL TEL UAGR0656 JUN 16

-- SALMON TROLLERS INJUNCTION

1. HEARING GRANTED FOR JUNE17 AT 1400 HOURS.

on merits/substance

2. COURT ADVISED THAT ALTHOUGH GOV. OF CANADA NOT/NOT PARTY
IT MAY IF DESIRABLE PRESENT BRIEF TO JUDGE MORRISON PRIOR TO
HEARING. CONSULATE ADVISED PROBABLY NO/NO BRIEF WOULD BE
PRESENTED.

3. REP WILL ATTEND HEARING AND REPORT ASAP.

UUU/815 162400Z 00060

intended to observe

JUN 17 1977

~~Mr Sharpe~~

I believe this is a repeat of a
message received earlier in the week from
Scoble. Tel 17/6/77

**ACTION
SUITE A DONNER**

UNCLASSIFIED

FM SEATL UAAG0634

TO EXTOTT GWU

INFO WSHDC

REF OUR TEL 612 JUN 8/77

---USA SALMON TROLLERS INJUNCTION HEARING

HEARING ON INJUNCTION BY USA SALMON TROLLERS SEEKING TO PREVENT
IMPLEMENTATION OF SEASON CLOSURE JUN 15-30 AND 28 INCH SIZE
LIMIT WILL TAKE PLACE IN HONOLULU TODAY. HEARING EXPECTED
TO BE FINISHED THIS DAY BUT MAY RUN INTO JUN 14.

2. ATTORNEY FOR TROLLERS REGARDS CHANCE OF OBTAINING INJECTION
AS QUOTE IFFY UNQUOTE. HE POINTED OUT THAT IF INJECTION
REFUSED, THERE IS NO APPEAL. IF INJUNCTION GRANTED HOWEVER,
DEFENDANT MAY APPEAL.

UUU/810 131930Z 00080

25-5-72 Salmon-1

10	22
----	----

? June 9/77

Seattle

MESSAGE

FM/DE	PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER		SECURITY SÉCURITÉ
	LIEU	MINISTÈRE	N° D'ORIG.		25-5-7-2-SALMON-1		
	OTT	EXTAFF	FLO 984	30/5/77	31		RESTRICTED
PRECEDENCE							
TO/A WASHDC							
INFO DEF ^{ENV} OTT/FMS/LEGAULT/HUNTER							DELIVER BY: 310900 311400

DISTR. GWU GWP FLP

REF

YOUR TELS UNGR 2071 MAY 27 AND 2067 MAY 26

SUB/SUJ:

IPSFC: USA AIDE MEMOIRE OF MAY 26

FOLLOWING PARA CONTAINS TEXT OF CDN RESPONSE TO
AIDE MEMOIRE, WHICH SHOULD BE DELIVERED TO STATE DEPT
AS SOON AS POSSIBLE AND AT ANY RATE PRIOR TO COMMISSION
MTG WHICH IS NOW SCHEDULED TO BE HELD JUN1.

2. QUOTE

COMCENTRE PLEASE COPY ATTACHED

UNQUOTE

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SIG. <i>G. Leger</i> G. LEGER/mw	FLO	2-6692	SIG. <i>E. Wang</i> DIRECTOR

DRAFT AIDE-MEMOIRE

The Embassy of Canada refers the Department of State to the Convention between Canada and the USA for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended, and to the Department's Aide-Mémoire of May 26, 1977 and the views expressed by U.S. officials upon its presentation.

The Canadian authorities wish to stress again that they consider the problems being encountered in the USA in fulfilling treaty obligations to certain Indian tribes to be matters of domestic concern, in which the Government of Canada ought not to be involved and which, moreover, cannot affect the rights and responsibilities of the parties under the Convention. It is understood that this view is shared by the USA authorities.

The Canadian authorities have examined the USA's proposal for a joint interpretation of the Convention that would exclude the concerned Northwest Indian tribes from its coverage. They believe that this proposed approach is not appropriate to the domestic nature of the problem in question, even putting aside other considerations, such as conservation of the stocks, that might arise if such action were to be contemplated.

.../2

10-43

- 2 -

The U.S. authorities have stated that their final alternative course of action is for the USA not to approve the regulations of the Commission with respect to U.S. treaty Indian tribes. The Canadian authorities have serious doubts as to the appropriateness of such selective disapproval or approval of regulatory proposals under the terms of the Convention, and would reserve their position in this matter; in any event, the Government of Canada would wish to ensure that the Indian fishery was conducted and regulated in a manner consistent with the objectives of the Convention and the rights and obligations of the parties thereunder.

The Canadian authorities wish to reiterate again their desire to help facilitate the resolution of this matter in the same spirit of mutual understanding and cooperation which has marked the fisheries relations of the two countries within the framework of the IPSFC. Like the USA, Canada considers that an appropriate long-term solution should be found and would be prepared to seek one in renewed negotiations towards a comprehensive Pacific salmon agreement.

May 30, 1977



AMBASSADE DU CANADA

6WU (S.S.)
For info only
not for pointing finger

Te/A *[Signature]*
From/De *A.A.A.*
MAY 26 1977
314

Jim
↓
CONFIDENTIAL

055-7-25 Salmon!
1746 Massachusetts Ave N.W.
Washington, D.C. 20036
May 18, 1977

Dear Jim,

Re: West Coast Salmon Fishery

... You will recall the excitement in mid-April over the West Coast salmon fishery question. In the absence of others during that period I was the main player as far as the Embassy was concerned. Once most of the excitement was over Ambassador Warren asked me to record on paper as best I could what had happened. The result was a memorandum dated May 2, a copy of which is attached for your information.

Frankly, I have been somewhat reluctant to send a copy of this memorandum to Ottawa, particularly because of paragraph 10. I would not wish the memorandum to be used as a basis for pointing the finger at somebody or other regarding the information gap between Ottawa and the Embassy on April 15. In sending it to you, therefore, I hope - as does the Ambassador - that it may serve as an illustration of the difficulties of coordination. Whether you require an illustration of that is something else.

All the best.

Yours sincerely,

[Signature]
V.G. Turner,
Minister

Mr. J.S. Nutt,
Director General,
Western Hemisphere Affairs, (GWP)
Ottawa.

May 2, 1977

CONFIDENTIAL

Handwritten notes:
4/26
McMahon
to see
file
JMS

MEMORANDUM TO THE AMBASSADOR

West Coast Salmon Fishery: A Close Call?

In this Memorandum I should like to review recent Embassy involvement in the West Coast salmon fishery question as it developed immediately after Mr. Leblanc's visit to Washington on April 14. He had come here on short notice in effect to do two things:

- (a) ascertain if a proposed USA management plan affecting, inter alia, Canadian Salmon troll fishing off the Washington coast was going to come into effect on April 15; and
- (b) urge Secretary Kreps to consider certain Canadian proposals as set forth to her in his letter of March 29 - for modification of the plan.

2. Mr. Leblanc left the meeting with the clear understanding, which I shared, that, in the absence of an approved management plan, fishing could proceed as usual. As for the proposed modifications to the plan, Mr. Leblanc obtained no commitment but went away in the hope that they would be considered and that possibly some change in the plan might be made. Against this background the Canadian authorities informed the Canadian troll fleet, apparently on April 14, that it could fish off the Washington coast, beyond 12 miles, from April 15, 1977 until further notice. While I was not aware that this action had been taken until the following Monday, April 18, I would have seen nothing wrong with it if I had known in the light of the nature of the discussions involving Mr. Leblanc, Secretary Kreps and a large number of USA and Canadian officials on April 14.

3. On Friday, April 15 I got in touch with John Rouse on a personal basis to give him my assessment of the reactions of Messrs. Leblanc and Legault as conveyed to me by them on their way to the airport after the meeting on April 14. In brief, I said that Mr. Leblanc for his part, as he had made clear to me, was especially concerned about the political implications of the USA going ahead with a management plan which would not take Canadian concerns into account, and was convinced that this would certainly affect adversely and even jeopardize the successful conclusion of a long-term fisheries agreement. As for Mr. Legault, he had left Washington, I opined, preoccupied with the viability of the Reciprocal (interim) Fisheries Agreement, especially the question of maintenance of basic fishing patterns - a provision which seemed to be disregarded by the Americans when it conflicted in any way with the application of domestic law and/or regulations.

- 2 -

CONFIDENTIAL

4. Rouse listened to what I had to say and showed some understanding of Canadian disappointment, but pointed out that the USA side was disappointed too. According to him, USA officials present at the April 14 meeting had hoped that the Canadian representatives would make use of the opportunity to explain in very specific and concrete terms the expected impact of the Canadian proposals set forth in Mr. Leblanc's letter of March 29. This, however, had not occurred. In response I noted, as I understood it, that there had already been a number of direct exchanges on the technical aspects before the April 14 meeting had been arranged and that during that meeting USA officials had made a point of saying that that was not the time or the place to get into a lot of detail; in other words they had discouraged specifics. Furthermore, I remarked, the absence of specific argumentation relating to the Canadian proposals did not alter the fact that the Canadian fishermen on the West Coast faced the prospect as a result of the USA management plan of a 30% reduction in their catch; nobody had contested this statement. During this conversation on April 15 I had no idea that a crisis was brewing on the West Coast and I take it that Rouse did not either, since he said nothing of the sort to me.

5. On Monday, April 18 about mid-morning I called Mr. Legault direct in order to tell him about my conversation the previous Friday with Rouse. He took note of it, but was of the view that no point would be served by trying to argue in detailed terms at that stage in support of the Canadian proposals. And he confirmed in any case my assumption that the Americans should be very well aware of the anticipated impact of the Canadian proposals from direct conversations between Canadian and USA officials on the technical aspects. It was during this conversation with Legault that I learned for the first time that the Canadian troll fleet had been authorized to fish off the Washington coast and that this had led to a reaction on the part of American fishermen who in turn had protested strongly causing the State Department (but not Rouse) and the Department of Commerce to make urgent representations on Friday, April 15 to DFE for the withdrawal of the Canadian fleet. Later Monday morning Rouse got in touch with me and also mentioned that there were difficulties indicating, as I recall, that he was endeavouring to find out more about them. He expressed his concern about the effect on the Reciprocal Fisheries Agreement of trouble on the West Coast.

6. At 4:00 p.m. on Monday, April 18 Rouse called me again to say, obviously speaking on instructions, that there was a "very serious problem on the West Coast" and that the USA "was very seriously concerned". He said that it was the USA view that for the Canadian fishermen to pursue their activities in the USA zone beyond the 12 mile limit in the present situation was not consistent "with the spirit of the Agreement". He added that there could be a serious domestic legal problem for the USA if there were further delay in the passage of legislation approving the Agreement in Congress;

.../000523

- 3 -

CONFIDENTIAL

the application of mutual forbearance could be upset. He therefore asked me to find out as soon as I could what action exactly the Canadian authorities had taken over the weekend to get the Canadian salmon fishermen out of the USA zone and, if nothing further was being done, what our best explanation of our position was. I expressed appreciation of the seriousness of the situation which, as I understood it, could affect Congressional approval of the Reciprocal Fisheries Agreement; I noted that Mr. Leblanc, for his part, had stressed the adverse effects on that Agreement of the proposed USA management plan. I also pointed out that Mr. Leblanc in my view had had every reason to conclude from his April 14 meeting that, in the absence of regulations, the Canadian fishermen were free to go out until further notice. Rouse replied that, speaking personally, he had to acknowledge that USA officials at the April 14 meeting had made a serious mistake in not making a request to Canada to desist from fishing in the zone in question until the regulations were sorted out but suggested they were unlikely to admit that publicly. He then urged me again to find out what the Canadian authorities had done over the weekend and provide the best explanation possible of our current position. This I agreed to do as I reported about an hour later to you. At this point you decided to speak to the Under Secretary, who in turn spoke to Alan Beesley, who later that evening spoke to me at home about the situation.

7. I cannot, of course, rehearse here everything that was said and done during the April 18-19 period. Suffice it to say that I was able, before the end of the day on April 18, to tell Rouse that on April 16 the Canadian authorities had sent the following message to all members of the Canadian fleet:

"Although the United States Federal regulations have not been adopted, the United States has requested that Canadian trollers refrain from fishing in the United States zone prior to May 1. The United States considers that the presence of the Canadian troll fleet in the United States zone at this time could jeopardize the acceptance of the reciprocal fishing agreement".

I went on to tell him that no message had been sent since the 16th but that informal communications were being maintained with the fleet. It was the view of the Canadian authorities that, in the absence of regulations, the fleet could not be ordered to return. At the same time, I added, DFE was fully aware of the seriousness of the situation and would do everything possible to bring them back. Rouse described all this as very helpful but said that it would be particularly useful to know before noon the following day whether the fleet had withdrawn or at least what its intentions were. This was a request which I was able to pursue with Beesley during my conversation with him Monday evening.

8. On Tuesday, April 19 at 10:45 a.m. I received a message from External Affairs (FLO) to the following effect:

"It is our understanding that the Canadian troll fleet is leaving the U.S. zone. There are, however, some difficulties in communication and it is uncertain when all the vessels will have left the zone."

When the message arrived I was in the Executive Committee meeting and delayed slightly in passing it on but did get the message to Rouse by 11:30 a.m. Rouse in turn was able to pass on this reassuring news to Congressman Leggett who had been supposed to bring to the floor of the House of Representatives that afternoon the bill approving the Reciprocal Fisheries Agreement. Leggett personally was reassured (I gathered) but decided, given the atmosphere resulting from the tension on the West Coast, to postpone for one week bringing the Bill to the floor of the House. He assured the State Department, however, that he personally remained behind the Bill and was confident he could get through the House.

9. In retrospect it seems clear that by Tuesday evening, April 19 the worst was over, although daily contact was maintained between Rouse and myself throughout the remainder of that week. On April 25 the Bill approving the Reciprocal Fisheries Agreement was passed by voice vote in the House and will now be considered in the responsible Senate committees. It is clear from the Congressional Record that Canadian action in persuading the salmon troll fleet to withdraw and indeed remain out of the USA zone beyond 12 miles was a crucial element in enabling the supporters of the Bill approving the Agreement to get it passed by the House.

10. Looking back on the whole affair I find disturbing, as I know you do, the fact that this Embassy had no knowledge of trouble on the West Coast before about noon April 18 when things became particularly tense. This is regrettable, given that the crisis, such as it was, clearly began developing on April 15 and continued over the weekend. We might well have found ourselves on April 15, 16 or 17, reading about an incident on the West Coast, if some American salmon fishermen had decided "to take action" themselves against the Canadian fishermen. That fortunately, however, did not occur and the Embassy was able - when engaged - to help in the process of conveying messages of a kind which reduced the tension and, as we have seen, enabled the Congressional process affecting the Reciprocal Agreement to be pursued, albeit with a delay of a week.

V.G.T.

GWU/T. Collins-Williams/2-0905/eo

(file) div diary circ

Canadian Consulate General, Seattle

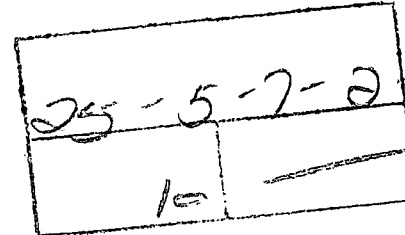
CONFIDENTIAL

Under-Secretary of State for External Affairs (GWU)

May 10, 1977

GWU-392

West Coast Salmon Fishery



10

We attach for your information copies of the following correspondence dealing with West Coast Salmon Fisheries problems which have arisen recently between Canada and the USA.

FLO/wo/a

1. FLO tel 642 of March 29 - Letter from Minister for Fisheries and the Environment LeBlanc to Secretary of Commerce Kreps
2. FLO tel 688 of April 7 - Letter from SSEA to Secretary of State Vance
3. Memorandum for the Minister of April 19
4. WSHDC tel 1529 of April 21 - Letter from David Wallace, Associate Administrator for Marine Resources, Department of Commerce to L.H. Legault, Department of Fisheries and Environment
5. Memorandum for the Minister of April 21
6. FLO tel 783 of April 22 - Note to State Department
7. Memorandum for the Minister of April 26
8. Letter of April 27 from Secretary of State Vance to SSEA
9. Letter of May 2 from L.H. Legault to David Wallace.
10. FLO tel 844 of May 5 - Letter from LeBlanc to J. Kreps.

J. R. Sharr

Under-Secretary of State
for External Affairs.

MESSAGE

Document disclosed under the Access to Information Act
Document divulgué en vertu de la Loi sur l'accès à l'information

FM/DE	PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
	LIEU	MINISTÈRE	N° D'ORIG.			
	OTT	EXTAFF	FLO 839	5/5/77	25-57-2-SALMON-1 31	UNCLASS
TO/A WASHDC						PRECEDENCE
INFO ENVOTT/FMS/HUNTER						MAY 5 22:32 1977 EXTERNAL AFFAIRS
DISTR. GWC						

REF

SUB/SUJ

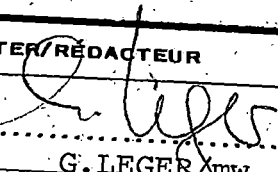
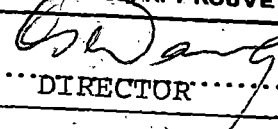
PACIFIC SALMON CONVENTION RECOMMENDATIONS

~~THE~~ AIDE-MEMOIRE CONTAINED IN ~~THE~~ FOLLOWING
PARAS REFERS TO DISCUSSIONS WITH IPSFC ON REGULATORY
RECOMMENDATIONS PUT FORWARD BY USA FOR 1977, AND SHOULD
^{ASAP}
BE TRANSMITTED TO STATE DEPARTMENT FOR THEIR CONSIDERATION.

QUOTE

COMCENTRE PLEASE COPY ATTACHED

UNQUOTE

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
 G. LEGER/mw	FLO	2-6692	 DIRECTOR

AIDE-MEMOIRE

The Embassy of Canada refers the Department of State to the Convention between Canada and the United States for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended; to the Embassy's Aide-Mémoire of March 15, 1977; to the Department's reply of March 21, 1977; and to the meeting of IPSFC on March 25, 1977.

The Canadian authorities indicated in the Aide-Mémoire of March 15 that they were prepared to accept certain modifications to the Commission's tentative regulatory recommendations for U.S. Convention Waters in 1977. This acceptance by the Canadian authorities was based on explanations of the proposed modifications provided by the U.S. authorities, and on the advice of the IPSFC staff that such modifications would not adversely affect the ability of the Commission to ensure adequate escapement and an equal division of the catch in the Convention Waters. The explanations provided by the U.S. authorities conveyed to Canadian officials a clear impression that the modifications sought by the USA to the IPSFC tentative regulatory recommendations had been widely discussed with the U.S. fishing industry and had received a broad measure of support amongst the various affected interest groups.

The Canadian authorities, therefore, viewed with concern the reaction to the proposed modifications to the IPSFC tentative recommendations in the Commission's Advisory Group at the IPSFC meeting on March 25 in Bellingham, Washington. The Advisory Group, representing a large majority of the resource-users, expressed unanimous opposition to the USA's proposals, making clear that these proposals had not received the support which the Canadian authorities had understood them to have received. In view of this opposition, the U.S. Commissioners did not submit the proposal as a whole for consideration by the Commission.


In the circumstances the Canadian authorities are concerned that their acceptance of the modifications to the tentative regulatory recommendations of the IPSFC, as proposed by the USA, may have been based on a ~~serious~~ misunderstanding of a situation which, in their view, could have serious adverse consequences for the ability of the Commission to manage the fishery in accordance with the terms of the Convention. Unless this concern can be satisfactorily resolved, the Canadian authorities would have to

.../2

- 2 -

interest review their position concerning the proposed modifications of the Commission's tentative regulatory recommendations for U.S. Convention Waters in 1977. The Canadian authorities are mindful of the consultations being pursued amongst the affected fisheries community in the USA with a view to developing an understanding which could result in a broad measure of support for the U.S. regulatory proposals, and it is hoped that the Canadian concerns can be met in this way.

also The Canadian authorities would remind the U.S. authorities that time is becoming an increasingly critical factor both in the promulgation of IPSFC regulations for 1977 and in the development of individual fishermen's fishing plans during the forthcoming season. In view of this fact, they would urge the U.S. authorities to consider any possible alternative proposals that would allow the Commission to carry out its functions in a prompt, orderly and effective manner, consistent with the terms of the Convention.



EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

From / De: ACRA
APR 27 1977
Att'n:

TO
A Under Secretary of State for External
Affairs, Ottawa (FLO)

FROM
De The Canadian Embassy, Washington, D.C.

REFERENCE
Référence Our telegram UNGR-1529 of April 21

SUBJECT
Sujet Salmon Fisheries: Letter to Mr. L.H. Legault
from Mr. David H. Wallace of the Department
of Commerce

SECURITY
Sécurité Unclassified

DATE April 22, 1977

NUMBER
Numéro 616

FILE	DOSSIER
OTTAWA 25-5-72-SALMON-1	
MISSION 31	27

ENCLOSURES
Annexes

1

DISTRIBUTION

Attached is the original of the letter addressed to
Mr. L.H. Legault from Mr. David H. Wallace of the Department
of Commerce. (Cf our telegram under reference).

[Signature]
The Embassy.



TRANSMITTAL NOTE AND RECEIPT NOTE D'ENVOI ET REÇU

GOVERNMENT OF CANADA — GOUVERNEMENT DU CANADA

TO
À

The Department of External Affairs
OTTAWA (FLO-Mr. Phillips)

SECURITY CLASSIFICATION
CLASSIFICATION DE SÉCURITÉ

WITH ENCLOSURE(S) — AVEC ANNEXE(S)

UNCLASSIFIED

WITHOUT ENCLOSURE(S) — SANS ANNEXE(S)

FILE OR SERIAL NO. — N° DE DOSSIER OU DE SÉRIE

QUANTITY QUANTITÉ	REFERENCE/COPY NO. N° DE RÉFÉRENCE	DESCRIPTION
1		<p>Copy of covering letter to Secretary of State Vance together with letter from S.S.E.A.</p> <p>Original of signed letter should be forwarded to Embassy (Clark) when available.</p> <div style="text-align: center;"> <p><i>95-25-5-5-CAAL USA</i></p> <div style="border: 1px solid black; padding: 5px; display: inline-block;"> <p><i>25-5-7-2-SALMON-1</i></p> <p><i>31</i></p> </div> </div> <div style="float: right; border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>To/A <i>FLO</i></p> <p>From/De: <i>ACRA</i></p> <p>APR 14 1977</p> <p>Att'n: <i>PHILLIPS</i></p> </div>
SENT BY — TRANSMIS PAR		RECEIVED BY — REÇU PAR
<p><i>L.S. Clark</i></p> <p>Signature</p>		<p><i>11.4.77</i></p> <p>Date</p>
		<p>Signature</p> <p>Date</p>

L.S. Clark
Counsellor
Canadian Embassy
WASHINGTON, D.C.

PLEASE SIGN AND
RETURN TO ORIGINATOR
PRIÈRE DE SIGNER ET DE RETOURNER
AU SIGNATAIRE

RECEIPT NOT REQUIRED
REÇU NON REQUIS

ORIGINATOR'S ADDRESS — ADRESSE DU SIGNATAIRE

1746 Massachusetts Ave N.W.
Washington, D.C. 20036
April 7, 1977

Dear Mr. Secretary,

In the absence from Washington of Ambassador Warren, I am forwarding to you herewith the text of a letter from the Secretary of State for External Affairs, the Honourable Donald C. Jamieson, contained in a telegram to the Embassy from Ottawa, dated April 7. The message relates to a letter of March 29 from the Minister of Fisheries and the Environment of Canada, the Honourable Romeo LeBlanc, concerning the treatment of Canadian salmon trolling off the United States Pacific coast.

The original of Mr. Jamieson's letter will be sent to you immediately it is received in the Embassy.

Yours sincerely,

V.G. Turner
V.G. Turner,
Minister

The Honourable Cyrus Vance,
Secretary of State,
Washington, D.C.

April 7, 1977

Letter from the Secretary of State
for External Affairs
to Secretary of State Vance

"Dear Mr. Secretary,

I am writing to you in connection with a recent letter sent to the Honourable Juanita Kreps by my colleague, Romeo LeBlanc, the Minister of Fisheries and the Environment, concerning Canadian salmon trolling off the United States Pacific coast.

As you know, after my initial discussion with you on this matter at the time of the recent visit of Prime Minister Trudeau to Washington, D.C., President Carter and the Prime Minister reached an understanding relating to the treatment of Canadian salmon trolling off the United States Pacific coast within the context of the Interim Reciprocal Fisheries Agreement then under negotiation. One of the matters envisaged was possible consultations between Cabinet-level officers of our two countries prior to the final approval and application of domestic regulatory measures for the salmon fisheries involved.

In his letter, Mr. LeBlanc requests, and initiates, the Cabinet-level consultations envisaged and our concerns relating to this problem are set out in detail in that letter. I want to let you know that I share fully Mr. LeBlanc's concern about the problems foreseen regarding the regulatory recommendations put forward by the Pacific Regional Fishery Management Council and I hope that you would find it possible to support our efforts to resolve these difficulties as quickly as possible.

Yours sincerely,

Don Jamieson"



TRANSMITTAL NOTE AND RECEIPT NOTE D'ENVOI ET REÇU

GOVERNMENT OF CANADA - GOUVERNEMENT DU CANADA

TO
À

The Under Secretary of State for
External Affairs, OTTAWA (FLO)

Document disclosed under the Access to Information Act
Document divulgué en vertu de la Loi sur l'accès à l'information

SECURITY CLASSIFICATION
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WITH ENCLOSURE(S) - AVEC ANNEXE(S)

UNCLASSIFIED

WITHOUT ENCLOSURE(S) - SANS ANNEXE(S)

FILE OR SERIAL NO. - N° DE DOSSIER OU DE SÉRIE

QUANTITY QUANTITÉ	REFERENCE/COPY NO. N° DE RÉFÉRENCE	DESCRIPTION
		<p>Congressional Record - Senate</p> <p>Subject: Removal of Injunction of Secrecy - Executive G. 95th Congress, First Session</p> <p><i>file 25-5-5-cda/USA</i></p> <p><i>25-5-7-2 SALMON-1</i></p> <p><i>31</i></p> <p>To/A <i>FLO</i> From/De: ACRA APR 7 1977 Att'n:</p>
SENT BY - TRANSMIS PAR <i>Heidi McCann</i> Signature		RECEIVED BY - REÇU PAR Signature
Date 6 April 1977		Date

Mr. L.S. Clark,
Counsellor,
Canadian Embassy,
WASHINGTON, D.C.

☐ PLEASE SIGN AND
RETURN TO ORIGINATOR
PRIÈRE DE SIGNER ET DE RETOURNER
AU SIGNATAIRE.

☒ RECEIPT NOT REQUIRED
REÇU NON REQUIS

ORIGINATOR'S ADDRESS - ADRESSE DU SIGNATAIRE

DEPARTMENT OF EXTERNAL AFFAIRS

Subject Removal of Injunction of Secrecy-

Executive G. 95th Congress, First Session

Date 31 March 1977 **Publication** Congressional Record - Senate

REMOVAL OF INJUNCTION OF SE- CRECY—EXECUTIVE G, 95TH CON- GRESS, FIRST SESSION

Mr. ROBERT C. BYRD. Mr. President, I, as in executive session, ask unanimous consent that the injunction of secrecy be removed from the protocol with Canada to amend the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended (Executive G, 95th Congress, first session), transmitted to the Senate today by the President of the United States, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol between the Government of the United States of America and the Government of Canada to Amend the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as Amended, signed at Washington on February 24, 1977. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Protocol.

The present Protocol increases the size of the Advisory Committee to the International Pacific Salmon Fisheries Commission from six members from each country to seven members from each country. The additional positions will enable the United States to provide for a native Indian adviser while continuing to have representatives on the Committee from all the presently represented parties.

An Indian adviser is particularly necessary at this time in light of recent court decisions dealing with Indian fish-

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ing rights. I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

JIMMY CARTER.

THE WHITE HOUSE, March 31, 1977.

File diary div circ

Division:

FLO

Drafter:

M.B. Phillips

Telephone:

6-6316

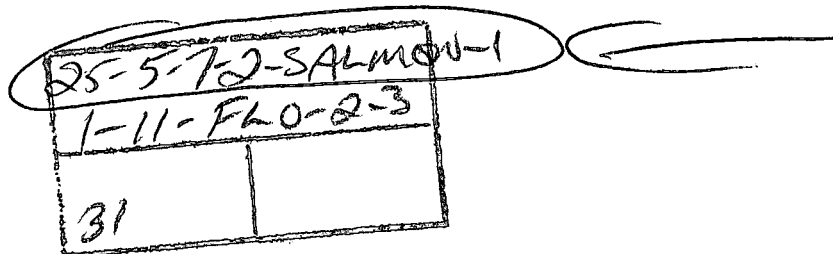
Date:

April 5, 1977

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ANTICIPATED QUESTION

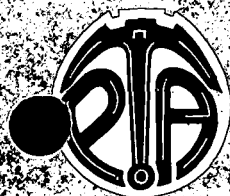
HOUSE OF COMMONS

SUBJECT: Canada/USA Pacific Salmon

QUESTION: Mr. Munroe asked you on April 4: I understand that the Minister's Department delivered an aide-memoire to the Americans, indicating the Canadian Government's support for certain unilaterally devised fishing regulations to be implemented by the Pacific Salmon Fisheries. Would the Minister be prepared to table that particular aide-memoire?

POSSIBLE FURTHER ANSWER: I have checked into the matter. There has been a series of diplomatic exchanges concerning the Fraser River salmon convention and specifically the Salmon Commission's regulatory recommendations for U.S. Convention Waters for 1977. Our most recent aide-memoire was dated Mar. 15. The Minister of Fisheries may wish to comment on the details of the problem. I would want to consult the USA before tabling any diplomatic exchanges between our two countries.

(**Note:** Fisheries officials inform us that this problem may be the subject of still further exchanges and the tabling of any documents now would not tell the whole story).



PACIFIC TROLLERS' ASSOCIATION

NEWSLETTER

ISSN 0380-6359

VOL. NO. 3 NO. 15

March 15, 1977.

CANADA/U.S.A. RECIPROCAL FISHERIES AGREEMENT.

Following a series of consultations in recent months, a reciprocal fisheries agreement between Canada and U.S.A. has been concluded pending the completion of certain internal procedures. The reciprocal agreement is in the form of an interim agreement, expiring at the end of 1977.

Both countries agree to permit fishing within their respective zone by nationals and vessels of the other country in accordance with the provisions of the agreement. The agreement aims at the continuation of fishing by both countries "in accordance with existing patterns, with no expansion of effort nor initiation of new fisheries." On the Pacific Coast, the agreement does not cover fishing of clam, scallop, crab or herring.

There will be a catch ceiling for fishermen of both countries in each other's zone on the Pacific Coast for rockfish, including Pacific Ocean perch and black cod. Furthermore, fishing for shrimp by U.S. fishermen on the Canadian west coast will be limited to the Tofino grounds off the West Coast of Vancouver Island beyond 12 nautical miles and subject to a ceiling of 750 metric tons.

On the Pacific Coast, fishing for salmon by nationals and vessels of either party in the zone of the other is limited to trolling beyond 12 nautical miles of the coast and to trolling between 3 and 12 nautical miles in the area west of a line joining Bonilla Point and Tatoosh Island, north of a line projected due west from Carroll Island (Latitude 48 degrees 00.3 minutes North, longitude 124 degrees 43.3 minutes west) and south of a line projected from Bonilla Point to latitude 48 degrees 29.7 minutes north, longitude 125 degrees 00.7 minutes west. Each country retains the right to limit such fishing for salmon in its zone by nationals and vessels of the other to the same time periods as its nationals and vessels are permitted such fishing for salmon in the zone of the other.

The agreement provides for consultations to coordinate the regulatory measures to be applied to salmon fisheries. The two countries "recognize that each shall manage fisheries within its jurisdiction within the terms of its domestic laws." However, the agreement specifically spells out that in the application of domestic laws, both countries shall be guided by the following principles:

- a. preserving existing patterns of their reciprocal fisheries and
- b. in the case of reciprocal salmon fisheries, the interest of the state of origin in the salmon spawned in its rivers.

Regulations affecting the size limits, seasons, areas, gears and by-catch of existing fisheries established by the management entities of either party and pertaining to the taking or possession of fish in its zone shall apply equally to the nationals and vessels of both parties in the zone. In Canadian fishing zones within 12 nautical miles in which Canadian domestic regulation at present prohibits trawl fishing by vessels exceeding 65 feet in length, the regulation will also apply to U.S. vessels.

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The agreement provides for consultations on regulations respecting reciprocal salmon fisheries at the technical and official levels during the preparation of such regulations and prior to their final approval and application, at the Secretarial or Ministerial level upon request of either party.

Both countries agree to waive permits and licensing for nationals and vessels of the other in their respective zones, provided the vessel is clearly marked to indicate its name, nationality and home port.

Access to customs ports for nationals and vessels of the other country for the purpose of purchasing bait, supplies, outfits, fuel and repairs will be subject to general requirements regarding advance notice of port entry, availability of facilities and the needs of domestic fishermen and the vessels.

For West Coast trollers, this agreement will enable our fishing operation off Washington coast to continue for another season, and will allow time so that a longer term agreement can be reached. Halibut fishing off the Alaskan coast will also be able to continue under the terms set by the IPhC. We do not yet know what regulations will be promulgated by the Pacific Regional Council following the next public meeting on the 17th March. We will, of course, urge the government to stand very firm on the provisions of the agreement in relation to the maintenance of existing pattern in salmon fishing.

FUEL REBATE

We have received fuel rebates from Imperial Oil and Chevron on fuel purchased by members in 1976. Rebates from Esso amounted to 4.5 cents a gallon on diesel, gasoline and heating oil. Chevron gave a rebate of 3.5 cents a gallon on diesel, 2.5 cents a gallon on gasoline and 1 cent on stove oil, if the fuel was purchased after 1st June, 1976. Some members turned in receipts for fuel purchased from Chevron before 1st June 1976 and adjustments to their totals will have to be made.

Since the system on fuel rebate by both companies differ, we would like to explain again the systems to help members in case they are undecided as to the merits of either system.

Imperial Oil gives a rebate on diesel, gasoline and stove oil purchased from any Esso agents other than Kyuquot and Esperanza. The rate of rebate is based on an upward sliding scale; in other words, the larger the total quantity purchased by P.T.A. members as a whole, the higher would be the unit rebate rate. (As an example, members could have obtained 5 cents a gallon rebate in 1976 if the total quantity has not been split among companies.) To qualify for the Esso rebate, you have to be a P.T.A. member and when purchasing your fuel from Esso stations, just show the operator your membership card, ensure that he enters on your receipt as P.T.A. purchase. The company will total all such purchases at year end and remit the rebate to the P.T.A. office. For members who like to claim the Esso rebate, just send in copies of your receipts and we will calculate and send the rebate to you. Those members who like to leave the rebate to P.T.A. do not send in their receipts and P.T.A. will keep the rebate for our operating expense. Under the Esso system, this is possible and the amount of work required to obtain the rebate is not too great.

continued.....

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The Chevron system is different. Apart from the differences in the scale of rebate for various types of fuel, the company does not calculate the rebate. P.T.A. office has to collect all the receipts from members and send them to the company to claim the rebate. Therefore, if members do not send in their receipts, P.T.A. will lose out as we do not get any rebate for such purchases. For 1977, members have to send in the original of the Chevron "counter sales slips" (a copy will not be accepted). Furthermore, purchases by means of Chevron credit card will not qualify for rebates, so please cooperate in not sending such receipts to the office, (otherwise the P.T.A. will have a big hassle with members over what is qualified and what is not.)

It is not P.T.A. policy to advise members where to buy their fuel. But we feel that members should know that when both companies adopt an upward sliding scale, it hurts everyone if our total is spread between the companies. For 1976, the total rebates received from Imperial Oil was about 10 times the size of the rebate from Chevron. Revenue from fuel rebate used to be the second largest revenue item for P.T.A., and certainly helped to keep up our useful services to members.

Once the calculation is done (and it may take some time as Chevron will not give a rebate to the fuel purchased by members before 1st June 1976, requiring the office to do some more adjustment in calculation) we will mail the cheque out to you.

MINISTER OF FISHERY MET P.T.A. REPRESENTATIVES.

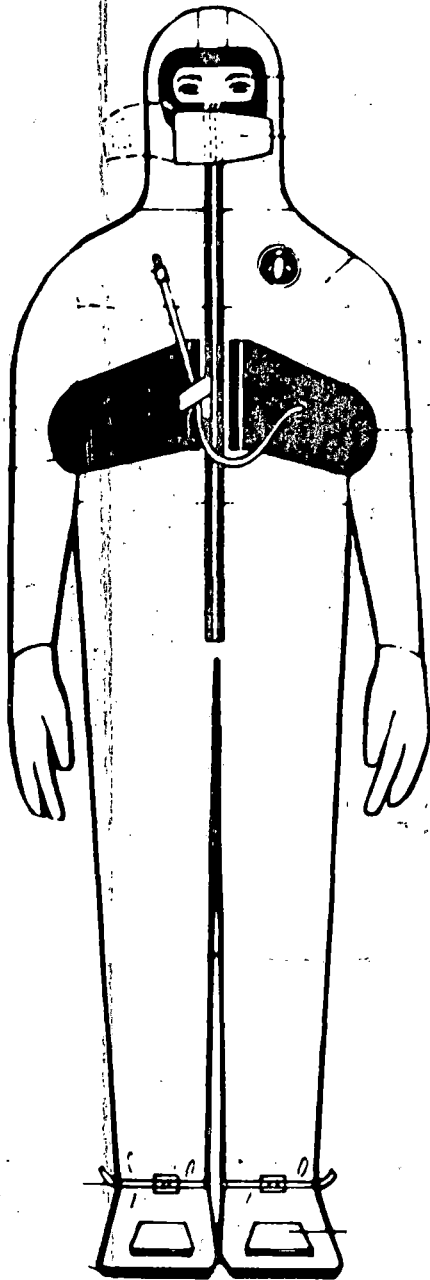
The Honourable Romeo LeBlanc, Minister of Fishery, met with P.T.A. representatives in Victoria on 17th February, 1977. We discussed with the Minister the future of fishery relationship with U.S.A., and raised with him our concern over problems caused by combination boats and the proposed inside/outside troll restriction. We also reiterated our support for effective enforcement of fishery regulations to conserve fish and stiffer penalty to discourage blatant disregard of fishery protection regulations. We discussed salmon enhancement and repeated our request that early efforts should be concentrated in stream clearance and enhancement in the central and northern areas and enhancement of coho and chinook. We also discussed problems concerning A licensing and gear type differentiation, the reported abuse of herring roe licensing and native licensing privileges. We urged the Minister to exercise the power under the Fishery Protection Act to prevent any damage to salmon and fish habitat from the proposed McGregor diversion and the Kitimat/Edmonton pipeline.

The Minister took careful note of all our concern and advised us that the Regional Office will address itself to the various fishing, licensing and fishery protection problems. He confirmed his intention to strictly enforce fishery protection regulations and that he would have to be completely satisfied that the proposed McGregor diversion would not adversely affect salmon fishery before he would allow it. The Minister referred to the planned public enquiry on the Kitimat/Edmonton pipeline and asked that people concerned with fishery habitat to present their point of view at the enquiry.

- 4 -

IMPERIAL SURVIVAL SUIT - REDDEN NET CO. LTD.

WILL GIVE P.T.A. MEMBERS BULK PURCHASE -REBATE.



Members have shown interest in the Imperial Survival Suit and the P.T.A. office has contacted Redden Net Co. Ltd. to try and work out a purchase rebate for P.T.A. members. The company has agreed in principle that if more than 25 suits is purchased within the next six months, the purchasers will be given a rebate. In order to obtain the rebate, members can go to the retail outlets of Redden Net in either Vancouver (1645 West 3rd. Ave.) Steveston (370, Moncton Street) or Nanaimo (1370, Stewart) and purchase the suit, identifying yourselves as P.T.A. members. Then, send in a copy of your receipt (we will return it to you after making a photo copy.) Provided the total number of suits purchased in the next six months exceed 25 suits, we will obtain the rebate from the company and will be in a position to send it back to the members who purchased the suite.

INVOICES FOR MEMBERSHIP DUES HAVE BEEN SENT TO ALL MEMBERS.
IN CASE YOU HAVE NOT RECEIVED ONE, PLEASE REMIT YOUR DUES
PRIOR TO MAY 31st.

MALASPINA GOES TO SEADECKHANDS COURSE SALTY REALITY

Taken from Daily Colonist, Feb. 16/77 issue.

Nanaimo. The silvery salmon was still trying to wriggle free as it was pulled over the back of the boat. With the speed honed by years of experience, the 12-pound spring was quickly killed with a blow of the gaff, the hook neatly removed and the fish deposited in the checking box. It might have been a routine scene on any commercial troller during the lucrative summer season, except this was February and the deckhand had a 12-person audience intently taking in every move. In this case the deckhand was master fisherman Norm Warwick and the spectators all participants in the first ever troller deckhands' course at Malaspina College. And after three days classroom instruction this was the real thing-getting out on the ocean and coming to grips with the physical realities of a way of life that is so completely different from the routine of urban society. True, the farthest out on the ocean the two fishing boats went was just outside Nanaimo Harbour - a far cry from the rolling, pounding West Coast coast where the prime fishing is located. But as "Edna F" skipper Roy McNeil explained, the course is designed simply to teach the basics. Becoming an expert takes time and experience.

All the instructors on the course were members of the Pacific Trollers Association and fishermen with many years experience. In the classroom it was Al Brown who gave the 25 continuing education students instruction in the type of gear used, basic seamanship such as knot tying, splicing ropes, skipper-deckhand relationship, navigation and first aid. And it was quite a mixed bunch that turned out early Thursday morning for the practical side. There were the youngsters looking for a career in fishing; there was the long-time sports fisherman who had just bought a commercial vessel for the first time; there was the real estate salesman who had grown tired of the pressures and had invested in a new commercial boat. And inevitably these days, there was a woman, Maria Mason from Gabriola Island. The Edna F is a 41-foot standard eight-gurdy troller, which means she can drop eight lines with two lures or more on each line. The lines were dropped in Departure Bay and the first spring was on board before open water was reached. From then on a steady stream of fish were coming in, mainly in the three to five pound range and each student got a turn at setting up the lines, bringing them in to the boat in sequence and boarding and killing salmon under the eye of Norm Warwick and Lorne McKinnell. Then came the cleaning of the fish and the students were taught how to do the job quickly and efficiently without losing fingers in the process. By the time the Edna F returned to dock some five hours later, 40 salmon were in the checker box and a dozen or so more had been thrown back. As Warwick told the students, every boat operates differently depending on the personal preference of the skipper, and a course like this can help teach the basics.

continued.....

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Deckhand course at Malaspina College, Nanaimo, B.C.

"Gurdeys are often set up differently on each vessel, and even cleaning the fish is done differently. But this is an excellent course for preparing a deckhand so he doesn't go out cold, he said. Of course, there are some things you can only learn out on the ocean, like whether you can handle sea sickness. It's something you can either take or you can't said McNeil. "I took one guy out to the west coast who wanted to become a fisherman. He decided straight away it wasn't for him and it was a calm day at the time!"

"Fishing is a different way of life. You either like it or you don't. You are out at sea for 10 or 12 days at a time during the season, sometimes in rough weather. And it's hard, heavy work, when the fish are coming in," he said. "But I love the peace and freedom." It was that peace and freedom that made real estate salesman Peter kloosterboer decide to give it a try. He has been a deckhand before, but decided this year to quit his job and invest a lot of money in a commercial troller. "I got tired of the 9-5 routine and the pressures of working in an office. I love being out on the ocean and this way I will be able to control my own life." The possibility of making \$1,000 a day over a four or five month period is also an attraction, and McNeil said most of the people taking the course would get jobs this summer. "They had a similar course in Victoria and they found that almost all the students got jobs on boats. There is always a turnover. Personalities play a major role when people are in a confined space for weeks at a time." In case anyone is wondering, the fishermen didn't get to keep the day's catch. It was all promised to various charity groups beforehand.

CERTIFICATE FOR VESSEL MASTER OR MATE

Another reminder that after 1st September, 1977, those sitting for the M.O.T. Vessel Master or Mate examination will have to take a written examination. Up to the end of August, you can still get your certificate by taking a one-day oral examination.

SEMINAR ON MCGREGOR DIVERSION 15TH JANUARY, 1977

AT THE INN OF THE NORTH, PRINCE GEORGE, B.C.

The meeting was called to order by the Chairman, Mr. Graham Farstad President of the McGregor Action Group at 10:00 a.m. The response was very good some 40 people attending who represented seventeen groups or agencies. After a short welcoming and introductory speech by the chairman each participant announced his name and affiliation in turn. There after a representative of each group stated the status of the group and expressed their views on the subject at hand. Several of those present were concerned with the proposed damming of the Peace River Site "C" - as well as the McGregor Diversion scheme.

The McGregor action group outlined the proposal with the help of illustration by a slide presentation. They recapitulated past efforts such as the presentation of a brief to cabinet (B.C. Government) and a brief to the hearings of the Salmonid Enhancement Programme. They showed their slides of the McGregor and Herrick Creek indicating the extent of proposed flooding. This would entail 46,000 acres on the McGregor and 10,000 acres on the Parsnip drainage. The streams of the McGregor system are estimated to have a carrying capacity for 15,000 chinook spawners. The Parsnip River Group expressed their concern over the changes that would occur in the Parsnip valley due to the increased flows from the McGregor. These losses were in the form of losses of timber, traplines and wildlife resources-and the subsequent ripple effect upon the native way of life from both a sociological and economic point of view. Slides were shown of the present condition on Lake Williston with its' vast tangles of floating trees and tangle of dead trees and drift along the shores. The town council of the town of MacKenzie have registered their opposition to the plan by unanimous vote until all other alternative sources of power have been thoroughly investigated. The Peace Valley Environmental Group's presentation was accompanied by slides showing the extent and nature of the land that would be flooded if a dam were constructed at Site "C" near Fort St. John. At the present time 3 dams are proposed for the Peace in B.C. below the WAC Bennet dam. The first at site 1 is presently under construction near Hudson Hope-and will produce minimal environmental damage. The second at site "C" will be downstream near Fort St. John and the third Site "E" is located at the B.C./Alberta border. A dam at Site "C" would produce an estimated 900 M.W. of power. It would also flood 10,000 acres of prime agricultural land, including 4,000 acres of prime vegetable producing land. Recreational and wildlife values would be much reduced, the main highway from Ft. St. John to Hudson Hope would be cut in 4 places. One hundred and twenty five farms would be lost. According to the Peace Valley Environmental group the local town councils and Regional District are opposed to the dam as are other groups in the region.

The three above mentioned groups brought the meeting up to date upon the combined impact of dam construction on the McGregor and Peace Rivers. The various delegates from other organizations expressed their views upon the projects and added little to the basic data. Northwood Pulp and Paper Co. had three members at the meeting and were very frank in their presentation of their views and data. They

McGregor Diversion.....2

have been operating in the McGregor valley since 1960 and at that time asked the Government for some guidance in the matter of coordinating logging practice's with the long term objectives of the B.C. Hydro plans for the dam. Such coordination would have been of mutual advantage in reducing logging costs and subsequent debris in the reservoir area. They got very little guidance from government bureaux and have therefore continued with own logging programmes. If the dam is instituted within the next four years they could not clear the reservoir within that time scale. Northwood is now requesting B.C. Hydro to supply data as it evolves from day to day and are reciprocating in kind.

Northwood estimate that the 46000 acres to be flooded contain 1,000,000 cubic feet of wood of which 1/3 is not sawlogs. The McGregor supplies 20% of Northwoods annual cut. If Northwood were to concentrate on logging the basin as quickly as possible it would entail an extension of facilities costing \$9,000,000. The dam would create a reservoir that would block off easy access to much of their timber up Herrick Creek and complicate their logging activity. Northwoods foresters estimate the annual increment of their tree farm as 37 cu feet/acre, while the prime bottom land of the McGregor is estimated to produce 60 cu feet/acre. They are carrying out a cost benefit analysis study of the whole situation relative to the proposed dam. The Northwood Pulp representatives did not make any statement in direct opposition to the dam. I felt that they felt that they were in no position to make such a statement of company policy; they left no doubt that they were concerned over the added costs and disruption of operations that the dam would produce.

A discussion followed those situation reports and members of the various groups expressed the reasons for interest or concern of their particular groups. The representative of the B.C. Association of Indian Chiefs stated that he was fact finding and said he will recommend that the McGregor Action Group be fully supported. Similar sentiments were echoed by the Sierra Club, Robson Valley Environmental Group, Spruce City Wildlife Association, B.C. Naturalists Federation, S.P.E.C. (B.C.), B.C. Trappers, Guides and Outfitters, MacKenzie Fish & Game Club, and the U.F.A.W. Union. The U.F.A.W.U. representative stated that the McGregor was high on their priority list of environmental matters. They had already passed a resolution opposing the McGregor Diversion and forwarded it to the Federation of Labour. They will have an article in the union paper prior to the 12th February 1977 convention and include the McGregor on their agenda. Mr. Ottway of the B.C. Wildlife Federation assured full support of that organization. He pointed out that the development of the McGregor and on the Peace were interdependent, and that the construction of either dam would provide further justification of the other. If the Peace River Site "C" dam were constructed first then the argument for McGregor would be that the extra flows would be needed to maximize the power production. If the McGregor were built first then the Peace Site "C" would be justified on the grounds that the extra flows should be used to maximize the investment in McGregor.

McGregor Diversion.....3

A resolution was proposed and seconded that the meeting should go on record opposing the building of the McGregor and Peace Site "C" dams. It was passed with one abstention, Northwood Pulp. The reason for abstention was company policy. A rather involved discussion took place regarding ways and means to make objections effective. B.C. Hydro came in for a good deal of criticism, some of it justified, but the salient point came out that it's the Legislature of B.C. that is primarily responsible for the policy of a crown corporation and therefore responsible for its actions. B.C. Hydro operates under an Act, enabling legislation that gives it too much power over both decision making and policy. The legislature must exercise more control over B.C. Hydro in short the prime responsibility for the actions of B.C. Hydro rests with the members of the Provincial Legislature. They are the people that one must convince of the merits & demerits of B.C. Hydros' actions and intentions. The meeting discussed ways in which people could express their displeasure over the damming of rivers. It was agreed that a personal letter writing campaign can be very effective in bringing to M.L.A.'s notice the problems at hand. Each group should encourage its members to write letters to M.P.'s M.L.A.'s and the Premier of B.C. It was also agreed that resolutions from conventions should also be sent to those in government. Groups should submit submissions to any hearing that may be held in conjunction with these projects such as water license hearings etc.

The meeting was very well organized and run. Mr. Graham Farstad is to be congratulated for the manner in which he handled the meeting. I would like to suggest that:

1. A resolution be included in the agenda of the P.T.A.'s Annual Meeting opposing the present program for damming the McGregor River, and any subsequent dams in the Fraser River system.

11. Since the McGregor Action Group are fighting for a cause that is advantageous to the members of the P.T.A., the P.T.A. should send them a monetary contribution to assist them.

Signed:

Patrick W. Martin.

20/1/77.

DECKHAND: Mr. John Scott, Willing to work very hard, he can also
cook, enjoys the ocean, age 24, 5'11"
160 lbs. ...Phone - 525-5292,
Messages - 524-0529

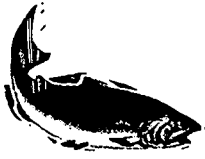
Mr. R. Butler.....732-5318. Passed deckhand course.

Mr. Alfred James Rogers, Age 22 yr. Weight 170 lb.
Height 5'7'', health good.

Telephone: 384-2171

message can be left at 383-0221 during business hours.

000545



ENHANCEMENT

PRODUCTION TARGETS

The SEP Task Force has introduced the results of a year and a half of planning by Federal and Provincial biologists and engineers: a 15 year program of enhancement projects and stream work that could add 25 million salmonids to the annual catch.

Of the 25 million total, production target for pink salmon is 5.6 million. That figure was reduced from a technically feasible target of about 15 million pinks, for a variety of reasons. Based only on the state of biological knowledge and technology, the proposed target for all species could have been 42 million, rather than 25 million. Other factors must be taken into account, however, and in the case of pink salmon a rough benefit/cost assessment suggested that aiming for production at the higher level would not represent the best investment of SEP funds and resources. The cut was also based on the continuing deterioration of habitat; the high cost of working in the Central Coast region (which has a high potential for pink production); uncertainty about developing odd-year pink stocks; stock intermingling problems (which might put in jeopardy other fish sharing the waters in which enhanced pinks were being harvested); and the need to identify factors currently depressing pink production in Masset Inlet, potentially and historically a very high producer.

In contrast to the conservative approach to enhancement of pinks, the target of 7 million additional chum salmon exceeds current production by 2 million to 3 million fish. The Task Force point out that there are fewer stock intermingling problems with the fall chum fisheries, and the chums are also amenable to relatively simple, low cost enhancement techniques.

Chinook and coho objectives are characterized as "very ambitious". Plans call for an increase of 2 million chinook and 4 million coho in the catch, with primary attention being given to them early in the program because of serious stock maintenance problems. Simple, relatively cheap egg incubation techniques can be used to increase their numbers, with the fry being released into the natural environment for rearing. Opportunities to promote colonization by the two species are attractive also. It might be achieved by stream improvement or fishways, or by dispersing fry to suitable habitat from central hatcheries. Small stream restoration and improvement will also contribute very significantly to the enhancement of coho and chinook stocks. The proposed production target for sockeye is an increase of 5.3 million; possibly more and sooner if the experimental lake fertilization technique proves out. If it does, fertilization of low nutrient deep lakes on the west coast of Vancouver Island and in the Central-North Coast regions will probably bring about the first increase in sockeye production. Major enhancement for the species has not been scheduled for the first three years of the program, pending settlement of a Canada-U.S.A. agreement on salmon interceptions. Enhancement plans for Nass, Skeena, and Fraser sockeye stocks, all subject to heavy interception by American fishermen, will be readied in the meantime so that development can be undertaken quickly when agreement is reached.

continued.....

ENHANCEMENT, continued....

The need to solve serious stock intermingling problems involving sockeye, chinook, and steelhead also argues against an immediate push to enhance sockeye stocks greatly, and so does lack of information on International Pacific Salmon Commission plans for enhancement of both sockeye and pinks.

Steelhead production has been given a "modest" target initially, mainly because information is lacking to support a more ambitious program. Avoidance of stock intermingling problems with steelhead was one of the constraints applied in the assessment of potential salmon enhancement projects. Twenty-nine major capital projects, judged to be technically practical, comprise the Technical Force's "shopping list" for the first two years of the Salmonid Enhancement Program. They include incubation boxes, spawning channels, rearing channels, hatcheries, fishways, a water storage project, rearing ponds, and side channel developments. Over the life of the fifteen year Program new information and new techniques are likely to expand the choice of projects more rapidly than funds become available for their implementation.

Spokesman for the SEP Steering Committee and the Task Force are careful to point out that projects listed to date, and current production targets, do not constitute a fixed plan. The projects named for the first two years represent the best technical choices from biological and engineering points of view, but which of them will be carried through will depend upon the outcome of the social and economic analyses now going on. Advice from user groups and other sources will also enter into the decision. The Task Force's report to user groups reiterated that, "The dynamic, flexible character of the program is important to bear in mind... The program will be reshaped annually as new information is produced as technical skills improve and new skills are developed, as advisory mechanisms begin to function effectively, and as government's perception of the public interest shifts and changes." Readers are reminded that the entire program is still contingent upon government making funds available for it to get under way.

P.T.A. CONVENTION, 1977



The P.T.A. Convention held in February 1977 in Victoria was attended by some seventy-five members. Despite the fact that a good number of members were prevented from attending because of one reason or another, the Convention was quite a success. Special thanks are due to Ian Horne and his Convention Committee. (Did we hear any one suggesting to hold the next Convention in Hawaii, or will it be Banff?) In the event that we have any savings from the Convention, the Committee has proposed to use the savings to host a lunch for all P.T.A. members attending the Annual General Meeting in 1978.

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DEPARTMENT OF FISHERIES NOTICE

Canada and the United States signed a Reciprocal Fisheries Agreement on February 24, 1977. The Agreement basically provides for the continuation of fisheries by fishermen of one country off the coast of the other. Such fisheries shall continue in accordance with existing patterns, with no expansion of effort nor initiation of new fisheries. The TWO countries have not reached agreement on the location of boundaries. However, they have agreed to the following enforcement procedures in the "areas of overlapping claims":

- (a) as between the fishermen of Canada and the United States, enforcement shall be conducted by the flag state;
- (b) neither country shall authorize fishing by vessels of third parties in these areas;
- (c) either party may enforce against third parties in these areas.

Each country has also agreed to waive for nationals and vessels of the other country the licencing and permit requirements applicable to foreign fishermen in their domestic fishery laws providing each vessel shall be clearly and conspicuously marked to indicate its name, nationality and home port. Fishermen intending to fish off the coast of the United States should ensure that the vessel name and home port are clearly painted and that the nationality is clear either by flying the Canadian flag or by some other means.

The Fishries Service will include this notice with all licences issued. However, it would be appreciated if all organizations would bring this information to the attention of their members.

W.R. Hourston
Director, Intergovernmental Affairs.

EXTENSION OF FISHERIES JURISDICTION

BACKGROUND NOTES

Regulations

New regulations under the Coastal Fisheries Protection Act and the Fisheries Act have been passed. The Coastal Fisheries Protection Regulations cover the basic control aspects of foreign fishing, such as licensing, reporting procedures, vessel identification requirements, etc. The Foreign Fishing Vessel Regulations, made under the Fisheries Act, contain the operation restrictions on foreign fishing such as quotas, mesh size limitations, and closed areas; these regulations provide the basis for resource management with respect to foreign fishing.

In addition to the above regulations, the government has also passed transitional regulations making certain exemptions for French and United States vessels from the licensing provisions of the Coastal Fisheries Protection Regulations. Under these regulations French vessels are exempt from Canadian licensing requirements in ICNAF Division 3Ps, in the region of St. Pierre and Miquelon. This is in accordance with arrangements worked out with French authorities following the announcement of the extension of jurisdiction by the two countries, to avoid difficulties in enforcement of fisheries regulations pending a boundary settlement. This action is intended to be without prejudice to any negotiations respecting the limits of maritime jurisdiction in this area.

In the case of United States vessels, the licensing exemption will apply to the area south of 63°N and seaward of three miles, in view of the provisions of the present Canada-U.S.A. Reciprocal Fishing Privileges Agreement. (This Agreement applies only to fishing in the 3-12 mile band off the coasts of both countries, and expires April 24, 1977.) Negotiations towards a new bilateral fisheries agreement taking into account the extension of fisheries jurisdiction to 200 miles by both countries are scheduled to resume January 17.

Fishing Plans

As an administrative procedure, the licences referred to in the Coastal Fisheries Regulations are being issued only in accordance with a fishing plan prepared by foreign authorities and approved by the Fisheries and Marine Service. The basic policy is to authorize only as much fishing effort in the licences as may be necessary to catch given allocations. After submission of fishing plans, consultations took place between Canadian officials and those of the country concerned to review the plan submitted, to determine any adjustments that were necessary to make the plan consistent with Canadian policy.

Flash

A comprehensive computer data management system, called FLASH, has been developed to handle information contained in licences, acquired through surveillance and inspection activities, and from weekly catch and position reports submitted by foreign vessels. Computer terminals in St. John's, Halifax, and Vancouver are linked to a central computer in Ottawa. The information in the central computer is updated daily in the Regions, and the Regional offices can enquire of the system the status of any vessel, the current fishing activity in any area, or the level of catch within any quota.

Extension of fisheries jurisdiction, background notes.....

The system also produces briefing reports for surveillance air crews and inspectors.

Licensing

Under the new Canadian regulations, each foreign fishing vessel and each ship engaged in servicing foreign fishing fleets is required to have a license to operate in the new zone of extended jurisdiction in 1977, except as provided by the exempting regulations.

All countries concerned have submitted application forms which include a description of each vessel for which a license is sought, its port of registry, the name of its owner and master, its crew complement, its registration number, radio frequencies used and highly detailed information on equipment aboard. The license sets out in detail the particular activities which the foreign vessel is authorized to conduct in Canadian fisheries waters and the time, place and means by which those activities may be carried out. It also includes stipulations respecting the directed fisheries which the vessel may conduct, quotas for directed fisheries and by-catches, a description of the kind of equipment or fishing gear which may be used, and requirements for reporting of the vessel's position and catches on a weekly basis by radio and for written records which must be maintained and submitted periodically to Canadian authorities. The license book, which is in some respects like a passport, contains forms which will permit amendment to the provisions of the license, notations as to violations or any other condition observed by an enforcement officer, and other related matters. These licenses are now being issued by officers of the Fisheries and Marine Service in St. John's, Halifax and Vancouver, where agents of the foreign countries concerned will arrange their distribution to their respective fishing fleets.

Allocations

For the Atlantic coast, Canada has undertaken as a transitional measure for 1977 only, to give effect to those regulations agreed within ICNAF with Canadian concurrence. Total allowable catches (TACs) for individual stocks, and the allocations of the TACs between countries, were agreed in ICNAF with Canadian concurrence, at the Annual Meeting of ICNAF in June, and at a Special Meeting in December. These allocations reflect Canadian harvesting capacity, with the surplus being allocated to other countries.

For the Pacific coast, TACs and allocations have not been discussed within any multilateral forum. In this case, Canada determined the TACs, and the allocations of the surplus to other countries, following bilateral consultations, and on the basis of Canadian scientific assessments.

The Pacific Coast allocations are as follows:

	<u>Rockfish</u> metric tons	<u>Blackcod</u> metric tons	<u>Hake</u> metric tons
Japan	3,000	3,000	5,000
Poland			7,500
Republic of Korea		250	
U.S.S.R.			7,500

Extension of fisheries jurisdiction, background notes.....

ICNAF

The Special ICNAF Meeting in Spain in December adopted, by a large majority, amendments to the ICNAF Convention proposed by Canada. These amendments have the effect of recognizing that Canada has the right to manage the fisheries within the Canadian 200 mile zone to be established as of January 1, 1977. The Commission will no longer have any management functions within this zone, although it will be able to provide any scientific advice Canada might wish to request. As to fisheries beyond the 200 mile zone, the Commission will retain its former management functions, in which Canada will continue to plan an active part. The amendments adopted by the Commission are subject to approval by member governments. The meeting also approved a Canadian-sponsored resolution which recommends that action be taken as soon as possible in 1977 to develop a new framework for multilateral fisheries cooperation in the northwest Atlantic fisheries in line with the new jurisdictional realities. It is expected that an international conference will soon be called for this purpose. Canada intends to be in the forefront of these developments.

In view of the positive results attained at the June and December ICNAF meetings, Canada has revoked its notice of withdrawal from the Commission and will remain a member of the Commission in 1977

SURVEILLANCE AND ENFORCEMENT

In March 1976, Cabinet approved a five-year plan for fisheries surveillance and enforcement involving not only vessels of Fisheries and Marine Service, but aircraft and ships of the Department of National Defence and ships of the Department of Transport. Under the provisions of the Cabinet directive operating expenditures were increased by \$4 million to a total of \$12 million for offshore patrols in the fiscal year 1976-77. The additional \$4 million was found through internal offset of existing funds within the Department of Fisheries and the Environment and has been allocated for payments to other departments as follows:

1. Increased air coverage \$1.17 million
2. Destroyer coverage \$2.16 million
3. Ice Breakers \$0.64 million

The additional operating funds will be used for:

1. Increasing Tracker aircraft patrols from 2000 hours to 4000 hours per year.
2. Doubling of offshore ship time to 1500 days Atlantic.
500 days Pacific.
3. Air surveillance once weekly of sensitive fishing areas.
4. Boarding vessels offshore-all foreign vessels at least four times Annually.
- Canadian fishing vessels at least twice yearly.

The deployment of vessels is:

<u>Department</u>	<u>Atlantic</u>	<u>Pacific</u>
DFE	8	3
DND	12 destroyers	4 destroyers
DOT	2-3 ice breakers	2 weather ships

Extension of fisheries jurisdiction, background notes.....

Stock Assessment and Research

Fisheries stock assessment research is a vital component of our management activities. In order to manage the fish stocks within our 200 mile zone a substantial increase in our research capability is required. In order to strengthen our knowledge of resource biology and distribution and to develop a sophisticated capability for prediction of fish stock abundance we will be increasing our survey capability and broadening our fisheries research activities. Beginning in 1977 we will be adding 102 man years to our marine fisheries research staff and spending an estimated additional six million dollars on fisheries research. This represents a doubling of our resource assessment activities in the offshore area. A large proportion of this increase will be used for expansion of our direct-survey capability at sea. We will be arranging longterm charters of a large (in excess of 200 feet) ice-strengthened offshore trawler capable of conducting research off Newfoundland-Labrador during the winter, and a medium-sized trawler capable of bottom and midwater trawling.

(One condition of licensing will be that each country permitted to fish must provide the kind of timely information on catch and fishing effort and the biological sampling information on the sizes and ages of fish caught which our scientists require in order to assess the status of the fish stocks. We will be placing scientific observers on foreign vessels to monitor their commercial sampling activities and to obtain more detailed information on by-catches and discards.

LETTERS TO THE EDITOR.

March 4, 1977.

Canadian National Institute for the Blind,
1609 Blanshard Street,
Victoria, B.C.

Mr. Larry Teague,
1165 Cloake Hill Road,
R.R. #3,
Sidney, B.C.

Dear Larry,

I am writing to you on behalf of our tenants at the Villas, and the four of us at the CNIB Office, who were happy recipients of twenty-seven salmon. We were very surprised and pleased to have the fish which you donated to us last week. We were more than surprised to receive another contribution yesterday. Please accept our warm thanks and appreciate for your very generous donation.

Many thanks again from all of us.

Yours sincerely,

(Miss) Isabel Beveridge,
District Administrator.

VICTORIA - Troller Deckhand Course

Thirty-three people attended the two courses offered at Camosun College this winter. The following are those who passed and have yet to find employment.

*Christopher Dodd	592/1631
*Dale Woodburn	478/9163
*Robert Cummins	652/2708
*Bruce Riddington	384/9832
Allan Clifford	652/3748
Joel Whyte	384/7823
Walter Diedricksen	656/1887
Lance Sage	478/7507
Albert Land	595/2949
*Ralph Brown	384/9821
Gary Westby	384/3993
James Beesley	478/5321
Peter Hoffman	652/2375
Gordon Strating	388/6851
Dave Garrington	479/5659
Keith Halsey	477/7087
*Peter Harwood	382/9609
*Donald Irving	658/5005
*Robert Johnson	743/2690
Stephen McConnell	598/4302
John Pelletier	383/8857
*Wayne Saffran	388/9303
*Kathy Shaw	383/8596
*Thomas Ward	478/4844

Those names marked with an asterisk are available for spring clean-up and the April 15th opening. We caught a total of 139 fish, and these were delivered to the "Silver Threads", "Salvation Army", and the "Canadian National Institute for the Blind"

I was glad to get together with Laurie Swenson during his course in Vancouver. We discussed, compared and traded teaching methods and lesson plans. I think the students from both courses have benefited from our talks. We both hope you will consider hiring one of the students from one of the three courses offered in Victoria, Vancouver and Nanaimo, if you are in the market for a qualified green deckhand. Please do not hesitate to call me for further information concerning any of the students.

Good fishing.

Lawrence Teague....Nootka Lady

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The following students have successfully completed the Douglas College
Troller Deckhand Training Program, Fall & Winter, 1976-77.

NOTE: Own boat - OB

1.	Roy Ainley	3620 Victoria Dr. R.R. #1 Coquitlam	942/8989
2.	Willie Chong	11540 Seafields Cres., Richmond	274/0885
3.	John Cochrane	6866 Sussex Cres., N. Delta	596/2038
4.	Karl Gagnon	3393 Wellington Ave., Vancouver	435/3244
5.	James Hehn	3921 Carrigan Ct.201, Burnaby	939/6843
6.	Al Hobson	13103-68th Ave. Surrey	594/8041
7.	Neville Howard	#1006-1033 Haro St., Vancouver	669/1618
8.	Paul James	6705 Seaview Road, Delta	943/7392
9.	William Kent	4849 - 12th Ave. Delta, B.C.	943/8071
10.	Robert Larson	9232 Hardy Road, Delta	581/5178
11.	Roger Snodderley	4941-59A St., Delta	946/4681
12.	Melvin Weisbaum	3368 Church St., Vancouver	438-9775
13.	Ted Wheeler	8935-112A. St., Delta	596/7044
14.	John Williams	6017 Gilpin St., Burnaby	434/4318
15.	Graham Wilson	555 Shaw Ave., Coquitlam	931/6893
16.	Rick Bailey	P.O. Box 266, Pitt Meadows	465/9387
17.	Clifton Bailey	P.O. Box 266, Pitt Meadows	465/9387 OB
18.	Ken Florence	P.O. Box 266, Pitt Meadows	
19.	Donnie Florence	P.O. Box 266, Pitt Meadows	465/9483 OB
20.	Edward Pierre	P.O. Box 266, Pitt Meadows	465/4853 OB
21.	Pentti Lehtinen	#465-48 Elder Ave., Sardis	792/3987 OB
22.	Victor Lehtinen	#456-48 Elder Ave., Sardis	792/3987 OB
23.	Robert Gericke	9564-192 St., Surrey, B.C.	576/8076
24.	Bert Williams	1203 No. 2 Road, Richmond, B.C.	277/3428
25.	Mr. Hagerup	618 Colborne St., New Westminster	522/5898
26.	Michelle Whipple	286 Airport Rd., Richmond, B.C.	278/2940
27.	John Whipple	286 Airport Road, Richmond, B.C.	278/2940
28.	Robert Stevenson	7605 - 120th St., Delta	596/0853
29.	Gerald Dalum	11185-272 Ave., Whonnock	462/7351 OB
30.	John Sorjonen	2304 Prince Albert, Vancouver	874/5104
31.	Louis Oscar Joseph	c/o P.O. Box 266, Pitt Meadows	OB
32.	Jim Boan	5715 Caddell Dr., Delta	594/4909
33.	Robert Bridge	1449B Seabrook Cres., Richmond	274/1769
34.	Robert Cleverley	1830 Greer Ave., Vancouver	731/3929

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Douglas College trollers deckhand course graduates

35.	Howard Cobby	749 East 14th St., North Vancouver	985/3943
36.	Alan Deagle	6306-130th St., Surrey, B.C.	596/5942
37.	Trevor Done	11506-88th Ave., Delta	596/2671
38.	David Dyck	1000 Taylor St., Vancouver	682/0084
39.	Greg Hachkevich	3757 Sommerset, Port Coquitlam	941/8980
40.	Bruce Hardy	General Delivery, Bradner	856/7386
41.	George Harvey	13909-115th Ave., Surrey	581/2620
42.	Guy LaFrance	1000 Taylor, Vancouver	298/3245
43.	Hynn Wo Lee	#313-22 Elkhorn Dr., Willowdale, Ont.	223/7985 OB
44.	John Meek	2355 Whyte Ave., Port Coquitlam	521-0711
45.	Gregory Morris	742 Bassett Place, Richmond	277-2309
46.	J.G. Sanderson	#8 Creekhous, Granville Island, B.C.	688-4671 OB
47.	Dalton Schrank	936 London Place, New Westminster	521-7353
48.	Gary te Hennepe	#5 South Dyke Rd., New Westminster	526-1965
49.	Lyall Weiss	10975 Shelley Place, Delta	596-1696
50.	Ron Watson	#3-570-18th St. W. Vancouver	926-7089
51.	Clarence Woods	6186 Lanark St., Vancouver	278-2686
52.	Wanda Bader	15460-80th Ave., Surrey	594-2390 ⁸⁹ OB
53.	Michael Day	8651 Armstrong Ave., Burnaby	435-1000
54.	Brett A. Enemark	7234 Ladner Trunk Rd., Delta	946-7413
55.	David Esplen	2271 Duthie Ave., Burnaby	298-8977
56.	Fred Gamwell	311-6695 McKay Ave., Burnaby	437-3060
57.	Gene Logan	5889 Arlington St., Vancouver	435-2463 OB
58.	Luella Marshall	321 Pembina St., New Westminster	524-0604 OB
59.	Dave Olsen	1300 King Albert #218, Coquitlam	931-2998
60.	Garry Parish	#331-10557-105th St. Surrey	581-3772
61.	John Reed	5090 1st Ave., Vancouver	993-4558
62.	Mike Rozankoski	1166 Rossland St., Vancouver	255-5541
63.	Scott Sayer	12503-23rd Ave., Ocean Park	536-2582
64.	David Schmidt	9766 Ladner Trunk Rd. Delta	594-3381
65.	Chris Simpson	812 Robinson St. Coquitlam	939-1594
66.	Alexander Wallace	4575 - 200 A. St. Langley	521-4844
67.	M. Wareing	9304 Stuart Cres. Surrey	588-9170
68.	William Wilson	9308 Stuart Cres., Surrey	581-0543

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March 1, 1977.

The Salvation Army
Matson Lodge,
847 Dunsmuir Road,
Victoria, B.C.

Mr. Larry Teague,
1165 Cloake Road,
Victoria, B.C.

Dear Mr. Teague,

We would like to thank you for the recent
donation of lovely salmon.

We assure you this was a welcome treat for
our residents who expressed their delight in being
served freshly caught salmon.

Thank you.

Yours sincerely,

L.E. Armistead,
(Captain)

Senior Citizens Activity Centre,
Silver Threads service,
Saanich Branch,
286 Hampton Road,
Victoria, B.C.
March 2, 1977.

Pacific Trollers Association,
202-8060 Granville Ave.,
Richmond, B.C.

Dear Sirs:

The donation of fish from Pacific Trollers Association is very much
appreciated by the members and staff of Saanich Silver Threads. As well as a
special treat to have salmon for dinner, it does help with the budget.

Yours very truly,

M. Sommers,
Counsellor-Director,
Silver Threads Service,
Saanich Branch.

continued.....

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Sidney, February 14, 1977.

TO THE MANAGER AND DIRECTORS OF THE P.T.A.

This is to let you know that I have*decided
to resign from my director and membership in the P.T.A..

I have sold my boat and my private affairs seems
to take most of my time.

But I would like to take out an associate membership
to keep in touch and get your newsletter.

My best wishes to the P.T.A. and all its members in
the struggle for survival in these trying times for the trollers.

I am much concerned about the future of the
trolling industry,

Respectively,

T. Eilertsen

Mr. Dick Williams,
2771 Shoreline Drive,
Victoria, B.C.

Dear Dick,

My congratulations and best wishes on your election
as president of the P.T.A. I am sure the association will benefit
greatly from your renewed leadership. It is not without regret
that I tender my resignation from the P.T.A. But as you know
the Suncrest has been sold and we are taking over the
Overlander Lodge at Hinton, Alberta.

I cannot fully express how much I came to like and
admire the members of the P.T.A. It is no coincidence that he who
re made the world 2000 years ago figured he only needed 12 men
as long as the first four were fishermen. And despite what
the Bible says I know they would have been trollers,if gurdies
had been invented.

The P.T.A. is just about the last organization of
free men in Canada. May it grow and prosper, holding firm to
the principles which give it its strength. I hope you will
extend my thanks to your membership for including me in their
ranks for the past eight years. Good luck, good fishing and
God Bless You All.

Stock Day.

FOR SALE: 6.M DIESEL.....3-71
COMPLETELY REBUILT WITH HEAT EXCHANGER. PHONE: No. 4771773.

DECKHANDS FOR HIRE:

Mature married man with limited experience required a position as deckhand for the coming season. Telephone:.....658-8265.

Gary Gaunt, seven years experience with various fishermen, deckhanded for his father for three years. Can be contacted by telephone:....384/8924

Peter Fograshcher, student, wants work, willing to work hard, likes to be out on the water, telephone: 277-8134.

Neil Curry, student, wants work, telephone:277/4139

S. Leonard, Rona-Raw Leonard, and M. Budzinski, want work as Deckhands.
Can be contacted by telephoning:.....438/7835.

Ian Dailey, one years experience, can cook. Phone: 521-3681

Ian McMeiken, wants work as deckhand,telephone: 2775205

John Robb, some xperience...4963 Pat Bay Highway, Victoria, B.C.

W. Quarry, telephone ---294/4275, call before 9:30 a.m. or 434-5722. local 345.
Available first or second week of April.

S. Crawley.....phone: 987/0254.

P. Unruh, some experience.....874/9201

D. Harvey.....some experience.....530/7837.

David Esplen....2271 Duthie Ave. Burnaby, B.C. telephone: 298/8977
Passed Douglas College Course, available anytime.

Looking for employment at the beginning of June. Have taken troller deckhand course at Camosum College and have had two years experience. If interested please phone Clay Denton at 592/2637.

RETURN REQUESTED
P.O. BOX 94336,
RICHMOND, B.C.



Mr. Paul A. LaPointe, Dept.
Director, Legal Operations Div.,
Dept. of External Affairs,
Ottawa, Ont. KIA 0G2

FIRST CLASS MAIL

MESSAGE

FM/DE	PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
	LIEU	MINISTÈRE	N° D'ORIG.		25-5-7-2-SALMON-1	
	OTT	EXTAFF	0557	14/3/77	4	UNCLASS
						PRECEDENCE
TO/A	WASHDC <i>Deliver by 150900</i>					
INFO	ENVOTT/FMS/LEGAULT/HUNTER					
DISTR. GWU						

REF

OURTEL FLO419 FEB 23

SUB/SUJ

CDA/USA SALMON PROBLEMS: FURTHER CDN AIDE MEMOIRE

APPRECIATE YOU ~~WILL~~ TRANSMIT TO APPROPRIATE
BEFORE 151600
USA AUTHORITIES TEXT OF AIDE MEMOIRE CONTAINED IN
FOLLOWING PARAS, WHICH IS FURTHER TO PREVIOUS CDN AIDE
MEMOIRE ON THIS MATTER PROVIDED REFTEL.

.. 2. QUOTE (COMCENTRE PLS COPY ATTACHED) UNQUOTE.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED APPROUVÉ

SIG

G. LEGER/mw

FLO

2-6692

SIG

E.B. WANG

~~March 8, 1977~~

~~M. Allard~~

~~SECRET AIDE-MEMOIRE~~

TEXT
BEGINS

22 The Embassy of Canada refers ~~the~~ Department of State to ~~the~~ Convention between Canada and ~~the~~ United States for ~~the~~ Protection, Preservation and Extension of ~~the~~ Sockeye Salmon Fisheries in ~~the~~ Fraser River System, as amended; to ~~the~~ Department's Aide-Memoire of January 14, 1977; to ~~the~~ Embassy's Aide-Memoire of February 24, 1977; and to ~~the~~ meeting of officials of ~~the~~ two governments in Vancouver, B.C. on March 2 and 3, 1977.

In the light of ~~the~~ explanations provided by ~~the~~ U.S. authorities and advice received from ~~the~~ IPSFC staff, ~~the~~ Canadian authorities are prepared to accept certain modifications to ~~the~~ Commission's tentative regulatory recommendations for U.S. Convention Waters for 1977. In particular, they are prepared to accept ~~the~~ proposed modifications to fishing time for certain gear types in U.S. Convention Waters and ~~the~~ proposed special gillnet fishing period in regulatory Area 4B in outer Juan de Fuca Strait, in view of ~~the~~ Commission staff's advice that these measures would not adversely affect ~~the~~ ability of ~~the~~ Commission to ensure adequate escapement and an equal division of ~~the~~ catch in Convention waters. ~~The~~ Canadian authorities, however, would be grateful for confirmation of ~~the~~ type and extent of ~~the~~ further restrictions which ~~the~~ United States would place on ~~the~~ special gillnet fishery in regulatory Area 4B.

quote unquote
With respect to ~~the~~ extent permissible ~~the~~ provision set out as in the paper submitted by ~~the~~ U.S. authorities at ~~the~~ intergovernmental meeting under reference, ~~the~~ Canadian authorities would propose certain drafting changes which should have ~~the~~ same practical effect desired by ~~the~~ USA

.../2

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while meeting certain reservations of principle on ~~the~~ part of ~~the~~ Canadian authorities. ~~The~~ amended text would read as follows:

quote *1. That ~~the~~ final regulations adopted by ~~the~~ IPSFC, which prescribe ~~the~~ type of gear to be used during times open to fishing for sockeye and pink salmon, be implemented in a manner consistent with ~~the~~ laws of ~~the~~ parties and with the object of ~~the~~ Convention and their obligations ~~there-~~ under. This provision is incorporated to permit ~~the~~ U.S. to honor, within ~~the~~ IPSFC Convention, its treaty obligations with certain Pacific Northwest Indian Tribes as interpreted by ~~the~~ United States District Court for ~~the~~ Western District of Washington in ~~the~~ case of U.S. vs. ~~the~~ State of Washington. ~~The~~ law of U.S. vs. Washington is the only domestic law affecting ~~the~~ applicability of ~~the~~ Commission's gear regulations. This provision applies to this unique situation. *unquote*

~~The~~ *F*ollowing regulation would be incorporated into IPSFC regulations after ~~the~~ provisions which specify ~~the~~ times allowed and type of gear to be used in U.S. Convention Waters.

Quote "Insofar, as ~~the~~ foregoing regulations expressly prescribe ~~the~~ type of gear to be used during times open to fishing for sockeye and pink salmon in those parts of ~~the~~ Convention waters open to net fishing east of ~~the~~ Bonilla Point-Tatoosh Line, such regulations shall be implemented by ~~the~~ United

.../3

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States in a manner consistent with its laws and with ~~the~~
object of the Convention.

It is understood that ~~the~~ above provision does not limit ~~the~~
paramount authority of ~~the~~ Commission to adopt emergency regulations
necessary to achieve appropriate escapement and proper division of ~~the~~
catch between ~~the~~ parties as required by ~~the~~ Convention. *unquote*

If ~~the~~ U.S. authorities can agree to ~~the~~ amendment of their proposal
along ~~the~~ above lines, ~~the~~ Canadian authorities would suggest that ~~the~~
proposal as a whole be submitted to ~~the~~ Commission at an early date for
incorporation into ~~the~~ IPSFC regulatory proposals for 1977. >>

*TEXT
ENDS*