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File No. Dossier 25-5-7-2-SALMON-1 C 0132  
Volume 6 From - De 76-03-01 To - À 77-02-28  
1975 ⇒

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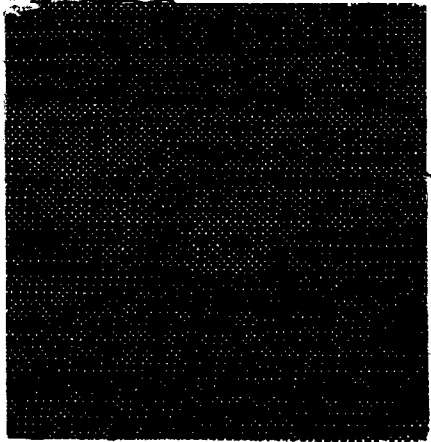
Boundaries - Water - High Seas - Fisheries -  
International Pacific Salmon Fisheries Commission  
(CDA-USA)

bjm

DEPARTMENT  
OF  
EXTERNAL AFFAIRS

MINISTÈRE  
DES  
AFFAIRES EXTÉRIEURES





2007



CHARGE-OUT DATE – DATE D'ENVOI

AUG 13 1976

# CLOSED VOLUME VOLUME COMPLET

DATED FROM  
À COMPTER DU

76-03-01

TO  
JUSQU' AU

7702-28

AFFIX TO TOP OF FILE – À METTRE SUR LE DOSSIER

DO NOT ADD ANY MORE PAPERS – NE PAS AJOUTER DE DOCUMENTS

FOR SUBSEQUENT CORRESPONDENCE SEE – POUR CORRESPONDANCE ULTÉRIEURE VOIR

FILE NO. – DOSSIER N°

25-5-7-2-SAMON-1

VOLUME

7



## CHARGE-OUT DATE – DATE D'ENVOI

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Ext-01/FLA

# PRESS

## DEPARTMENT OF STATE

February 25, 1977

No. 82

*Mrs. R. J. B.*

*file*  
*TOP*

25-5-7-2-SALMON-1



### AMENDMENT OF US/CANADA SALMON AGREEMENT

Representatives of the Governments of the United States and Canada signed today, in Washington, a Protocol amending the US/Canada Fraser River Salmon Convention of 1930. Mr. Russell McKinney, Minister in the Canadian Embassy in Washington, signed for Canada and Ambassador Frederick Irving signed for the United States.

The Convention, which established a Commission to regulate the salmon fishery of the Fraser River system, also provided for an Advisory Committee to the Commission consisting of representatives from the various branches of the salmon industry. The Protocol signed today increases the number of members from each country on that committee from six to seven.

*Edm. copy of Protocol  
dated February 24th.  
Have called to attention  
of Lorne Clark discrepancy  
concerning date of signature.  
R.B.*

Robert A. Monks OES/OFA/FA (202) 632-2379

RECEIVED - REÇU

MAR 7 1977

DE  
D. O. J. COUSIN  
MINISTRE DES AFFAIRES ÉTRANGÈRES

For further information contact:

000503



# MESSAGE

PLACE LIEU	DEPARTMENT MINISTÈRE	ORIG. NO. N° D'ORIG.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
OTT	EXT	FLA-90	FEB 24/77	25-5-7-2.SALmon-1 4 —	UNCLAS
FM/DE					PRECEDENCE
TO/A WSHDC ATTN JR MCKINNEY					FLASH
LORNE CLARK					
INFO					

## DISTR.

REF FLA-18 JAN 14/77

SUB/SUJ PROTOCOL TO AMEND CONVENTION CONCERNING SOCKEYE SALMON  
FISHERIES IN THE FRASER RIVER SYSTEM ETC - FULL POWERS  
AUTHORIZING SIGNATURE

THIS WILL CONFIRM THAT INSTRUMENT FULL POWERS FORWARDED  
UNDER COVER REFLTR AUTHORIZES JAMES RUSSEL MCKINNEY TO SIGN  
SUBJECT PROTOCOL ON BEHALF OF GOVT OF CDA IN ABSENCE FROM  
WSHDC OF AMB EVEN THOUGH AMB IS PRESENT IN USA AND MR MCKINNEY  
THEREFORE SIGNS AS MINISTER RATHER THAN AS CHARGE D'AFFAIRES AI.

2. YOU MAY PROVIDE COPY OF THIS TEL TO OFFICIALS DEPT OF  
STATE AT SAME TIME FULL POWERS DEPOSITED.

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SIG. J.K. Bruce/sjk	FLA	6-3863	SIG. J.S. Stanford



# MESSAGE

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N <sup>O</sup> D'ORIG.	1977	25-5-7-2-SALMON-1	
FM/DE	OTT	EXT. AFF.	FLO-419	FEB. 23	UNCLAS.

PRECEDENCE

TO/A WASHDC

INFO ENVOTT/FMS/HUNTER

DISTR. GWU

REF

BOEHM/LEGER TELCON JAN19/77

SUB/SUJ

CDA/USA SALMON PROBLEMS: REPLY TO USA AIDE MEMOIRE

GRATEFUL YOU IMMEDIATELY TRANSMIT TO APPROPRIATE AUTHORITIES TEXT OF  
AIDE MEMOIRE IN FOLLOWING PARAS, IN REPLY TO USA NOTE OF JAN14/77.

2. TEXT BEGINS: QUOTE (COMCENTER PLS COPY ATTACHED AS MARKED)

UNQUOTE TEXT ENDS.

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

SIG.....  
G. LEGER/cl

FLO

2-6692

SIG.....  
ERIK B. WANG



~~AIDE-MEMOIRE~~

~~NOTE~~

11 The Embassy of Canada refers Department of State to Convention between Canada and United States for Protection, Preservation and Extension of Sockeye Salmon Fisheries in Fraser River System, signed in Washington on May 26, 1930, as amended by Pink Salmon Protocol, signed in Ottawa on December 28, 1956; to tentative recommendations of International Pacific Salmon Fisheries Commission for Regulatory Control of Sockeye and Pink Salmon Fishing in Convention Waters in 1977; to Department's Aide-memoire of January 14, 1977; and to meeting of IPSFC on February 4, 1977, at which officials from both Governments were present.

Canadian authorities have reviewed proposals of United States Government for regulations to be implemented by IPSFC for 1977 fishing season. They understand that U.S. proposal contains three elements. The first of these elements is a proposal that IPSFC regulations pertaining to fishing times and type of gear to be used be qualified by "extent permissible" provision. second element refers to a special fishery in a part of U.S. Convention Waters. third element is a modification of fishing times contained in tentative recommendations of IPSFC for various gear types in U.S. Convention Waters.

With respect to first element of US proposal, Canadian authorities note that "extent permissible" provision proposed for inclusion in IPSFC regulations is identical to that agreed to by Canada for 1976 fishing season, as amended by IPSFC Emergency Order on August 3rd 1976. While Canadian authorities noted in an Aide-memoire of March 1, 1976 that they were prepared to accept this qualification of recommended IPSFC gear regulations for 1976 fishing season, they are not convinced that, based on experience gained in 1976 fishing season, this approach can provide a long-term solution to difficulties that have arisen in United States.

With regard to second element of U.S. proposal for a special fishing period in regulatory Area 4B of US Convention Waters, Canadian authorities are gratified to note that US authorities find it possible, where necessary, to partially restrict such a special fishery in accordance with its domestic law. They find this a useful approach in principle, and note similarity of this approach to that discussed at meetings between Canada and US officials in Seattle and Vancouver in January and February 1975.

At these meetings, a formula was developed which, if applied, would have had effect of reallocating that portion of salmon available to U.S. among its citizens by means of U.S. domestic regulation, supplementary to IPSFC regulations. That formula was based, in view of Canadian authorities, on a principle not dissimilar from that



-2-

advanced by the U.S. in respect of the proposed special Area 4B fishery.

While Canadian authorities find the approach to the Area 4B proposal useful in principle, they are concerned that the specific measures proposed could cause a significant impact on the pattern of Canadian fisheries. Nevertheless, Canadian authorities are mindful of past practice within IPSFC whereby a desire of one of the Parties to adjust its fishing patterns was taken into account in the Commission's deliberations and accommodated, where possible, in the Commission's regulatory program, and are prepared to consult further on this matter.

With respect to the third element of the U.S. proposal, Canadian authorities are concerned, based on the advice of IPSFC staff and the comments of the Commission's advisory group as offered at the IPSFC meeting under reference, that the proposed modifications could adversely affect the day-to-day fisheries management carried out by the IPSFC during the fishing season.

Canadian authorities again wish to affirm their willingness to assist in the resolution of problems which have arisen in the U.S. regarding Treaty Indian fishing. In this spirit of cooperation, they would welcome an early meeting between officials of the two countries, with appropriate technical advisers present, in order that a mutually satisfactory regulatory scheme for 1977 can be developed within the limited time available.

*„urgent“*

M. Hunter  
February 21, 1977

c.c. R. Hourston  
BB - IPSFC  
G. Léger - orig.  
R. Roberts





# TRANSMITTAL NOTE AND RECEIPT NOTE D'ENVOI ET REÇU

GOVERNMENT OF CANADA - GOUVERNEMENT DU CANADA

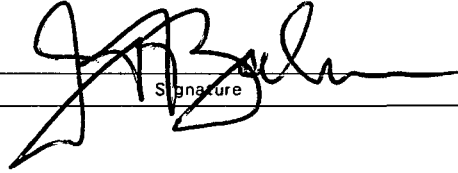
TO  
À

The Department of 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  
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		Copy of State Department Aide Memoire re Sockeye Salmon Fishery of the Fraser River System, as per Boehm/Leger telecon January 19/77.  <div data-bbox="493 719 891 1056" data-label="Text"><p>To/A <u>FLO</u> From/De: <u>ACRA</u> <u>JAN 25 1977</u> Att'n:</p></div> <div data-bbox="1127 743 1516 884" data-label="Text"><p>25-5-7-2. SALmon-1 4</p></div> <div data-bbox="786 319 1500 570" data-label="Text"><p>cc. DFE Hunter Jan. 14/77 done</p></div>
SENT BY - TRANSMIS PAR   Signature _____ Date _____		RECEIVED BY - REÇU PAR  Signature _____ Date _____

J.T. Boehm  
Counsellor  
Canadian Embassy  
WASHINGTON

☐ 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



**TRANSMITTAL NOTE AND RECEIPT  
NOTE D'ENVOI ET REÇU**

GOVERNMENT OF CANADA - GOUVERNEMENT DU CANADA

**UNCLASSIFIED**

WITHOUT ENCLOSURE(S) - SANS ANNEXE(S)

**The Department of External Affairs  
OTTAWA (FLO)**

FILE OR SERIAL NO. - N° DE DOSSIER OU DE SÉRIE

QUANTITY QUANTITÉ	REFERENCE/COPY NO. N° DE RÉFÉRENCE	DESCRIPTION
1		Copy of State Department Aide Memoire re Sockeye Salmon Fishery of the Fraser River System, as per Boehm/Leger telecon January 19/77.
<p>SENT BY - TRANSMIS PAR</p> <p><i>J. Boehm</i> _____ Signature Date</p> <p>RECEIVED BY - REÇU PAR</p> <p>_____ Signature Date</p>		

**J.T. Boehm  
Counsellor  
Canadian Embassy  
WASHINGTON**

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RETURN TO ORIGINATOR  
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AU SIGNATAIRE

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REÇU NON REQUIS

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c.c. FLO  
+ file  
JTB

#### AIDE-MEMOIRE

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 by the International Pacific Salmon Fisheries Commission (IPSFC). Reference is further made to the Embassy of Canada's Aide-Memoire dated November 19, 1976 in which the Embassy of Canada responded to the informal United States proposals relating to the IPSFC regulations for 1977 conveyed to them in Ottawa on October 1, 1976. Reference is further made to the Tentative Recommendations suggested by the International Pacific Salmon Fisheries Commission for Regulatory Control of Sockeye and Pink Salmon Fishing in Convention Waters for 1977.

The Department of State regrets that Canadian authorities, as indicated in the



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Embassy of Canada's Aide-Memoire of November 19, 1976, cannot accede to the United States request for the 1977 International Pacific Salmon Fisheries Commission regulations to include a five-day fishing week for Treaty Indian fishermen in United States convention waters. In view of the expressed willingness of the Canadian authorities to assist in the resolution of problems which have arisen in the United States regarding Treaty Indian fishing, the Department of State requests the Canadian authorities to consider the following proposals with regard to the regulations to be implemented by the International Pacific Salmon Fisheries Commission for the 1977 fishing season:

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 to the extent permissible under the laws of the parties. The "extent permissible" provision is incorporated to permit the United States to afford its citizens who possess treaty fishing rights an increased opportunity to fish vis-a-vis non-treaty citizens, but within the framework of IPSFC regulations. The "extent permissible" provision will be implemented only insofar as it permits the United States to allocate that



- 3 -

portion of the salmon available to the United States among its citizens. This application of the provision gives effect to the law of the United States as set forth in U.S. v. Washington.

The United States therefore proposes that the following regulation be incorporated into the IPSFC regulations after the provisions which specify the times allowed and the type of gear to be used for fishing in United States Convention waters:

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 States to the extent permissible under its laws.

2. That regulations adopted by the IPSFC for U.S. Convention waters in Area 4B provide in addition to those gillnet times proposed in the Tentative Recommendations, a gillnet fishing period commencing on Wednesday at 7:00 p.m. and terminating on Thursday at 9:30 a.m. of each week from the beginning of the fishing season through August 13, and



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commencing on Wednesday at 6:00 p.m. and terminating on Thursday at 9:00 a.m. of each week from August 14 through the end of the fishing season, except as further restricted by the United States.

The United States wishes to shift, on an experimental basis, a portion of its allotted catch to the outer Strait of Juan de Fuca. To accomplish this end, extra time is sought for the gillnet fishery in the far western portion of the Strait. The United States may find it necessary to partially restrict this special fishery in accordance with its domestic law.

3. That regulations adopted by the IPSFC include provisions for fishing in United States Convention waters as is proposed below. The proposal is framed as a modification to the IPSFC's Tentative Recommendations for United States Convention waters. Only the provisions which modify the Tentative Recommendations constitute the proposal of the United States. The remainder of the Tentative Recommendations simply form the basis for the proposal. The modified Tentative Recommendations for United States Convention waters are set out in their entirety below with the proposed modifications being noted by asterisk. All times mentioned are Pacific Daylight Saving Time.



- 5 -

\*Areas 5 and 6C

- June 26 to September 17 - Fishing regulations for purse seines and gill-nets the same as for Areas 6, 6A, 7 and 7A.
- Closed to commercial trolling except from Monday through Friday of each week on those days when the purse seine fishery is permitted to operate.
- September 18 - Relinquish control.

\*Area 4B

- \*June 26 to August 13 \* - Fishing regulations for purse seines and gillnets same as for Areas 6, 6A, 7 and 7A, except that, in addition, gillnets are open 7:00 p.m. to 9:30 a.m. Wednesday afternoon to Thursday morning except as further restricted by the



- 6 -

United States in  
accordance with  
its domestic law.

\*August 14 to September 17\*-Fishing regulations  
for purse seines  
and gillnets the  
same as for Areas  
6, 6A, 7 and 7A,  
except that, in  
addition, gillnets  
are open 6:00 p.m.  
to 9:00 a.m. on  
Wednesday afternoon  
to Thursday morning  
except as further  
restricted by the  
United States in  
accordance with its  
domestic law.

\*June 26 to September 17 \*- Closed to commer-  
cial trolling ex-  
cept from Monday  
through Friday of  
each week on those  
days when the purse  
seine fishery is  
permitted to  
operate.



- 7 -

\*September 18

\* - Relinquish control.

Areas 6, 6A, 7 and 7A:

June 26 to July 2  
July 10 to July 16  
July 24 to July 30  
August 7 to August 13

- Gillnets open daily  
7:00 p.m. to 9:30 a.m.  
Monday afternoon to  
Wednesday morning.

\* - Reef nets open 10:30 a.m.  
to 5:00 a.m. Sunday  
morning to Monday  
morning, 7:00 p.m.  
to 9:30 p.m. Monday,  
and 5:00 a.m. to  
9:30 p.m. Tuesday.

July 3 to July 9  
July 17 to July 23  
July 31 to August 6

- Gillnets open daily  
7:00 p.m. to 9:30 a.m.  
Sunday afternoon to  
Tuesday morning.

\* - Reef nets open  
10:30 a.m. to 9:30 p.m.  
Sunday, 10:30 a.m. to  
9:30 p.m. Monday,  
5:00 a.m. to 10:30 a.m.  
Tuesday, and 7:00 p.m.  
to 9:30 a.m. Tuesday  
afternoon to Wednesday  
morning.

June 26 to August 13

- Purse seines open  
daily 5:00 a.m. to  
9:30 p.m. Monday and  
Tuesday of each week.



- 8 -

- August 14 to August 20 - Gillnets open daily  
August 28 to September 3 6:00 p.m. to 9:00 a.m.  
September 11 to Sunday afternoon to  
September 17 Tuesday morning.
- \* - Reef nets open 10:30 a.m.  
to 9:00 p.m. Sunday,  
10:30 a.m. to 9:00 p.m.  
Monday, 5:00 a.m. to  
10:30 a.m. Tuesday,  
and 6:00 p.m. to  
9:00 a.m. Tuesday  
afternoon to Wednesday  
morning.
- August 21 to August 27 - Gillnets open daily  
September 4 to 6:00 p.m. to 9:00 a.m.  
September 10 Monday afternoon to  
September 18 to Wednesday morning.  
September 24
- \* - Reef nets open 10:30 a.m.  
to 5:00 a.m. Sunday  
morning to Monday  
morning, 7:00 p.m.  
to 9:00 p.m. Monday,  
and 5:00 a.m. to  
9:00 p.m. Tuesday.
- August 14 to  
September 24 - Purse seines open  
daily 5:00 a.m. to  
9:00 p.m. Monday and  
Tuesday of each week.



- 9 -

August 14 to  
September 10

- Closed to all net fishing in State Fishing Area 6A and that portion of Area 6 lying southerly and easterly of a line projected from Dungeness Light to Smith Island Light except with nets having a mesh of not less than 8 inches extension measure under regulation by the Washington State Director of Fisheries at the times when fishing by each gear is permitted in Area 7.

August 28 to  
September 3  
September 25 to  
October 8

- Waters lying westerly and northerly of a straight line projected from Iwersen's Dock on Point Roberts to Georgina Light at Active Pass will be closed to all net fishing.



- 10 -

September 4 to  
September 24

- Waters lying westerly of a line projected true south from the most easterly point of the Point Roberts Peninsula locally known as Lily Point, to the intersection with the International Boundary will be closed to all net fishing.

September 25

- Relinquish control of those waters lying easterly and southerly of the Iwersen's Dock line.

October 9

- Relinquish control.

4. These United States proposals contemplate a fishing week which permits two fishing days per week for gillnets and purse seines. Should the Commission regulations allow for more or less gear days per week, the proposal is modified accordingly.

Should the Commission deem it necessary to expand the number of fishing days in a week by emergency order, such expansion shall be at the times and in the order of gear specified in the last regularly scheduled fishing period of that week.

Department of State,

Washington,

January 14, 1977

  
000519



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Circ. dairy  
Diary

Canadian Embassy, WASHINGTON, D.C.

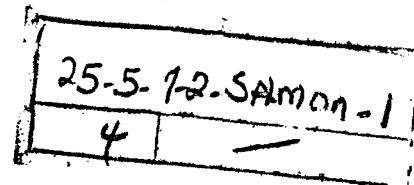
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Under-Secretary of State for External  
Affairs, OTTAWA

January 14, 1977

FLA-18

Protocol to amend the Convention for the  
Protection, Preservation and Extension of  
the Sockeye Salmon Fisheries in the Fraser  
River System, as amended



--- Attached is a formal Instrument of Full Powers authorizing the Ambassador, or in his absence, James Russel McKinney, as Chargé d'Affaires ad interim, to sign on behalf of the Government of Canada a Protocol between the Government of Canada and the Government of the United States of America to amend the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed on May 26, 1930, as amended.

2. This document should be handed to the appropriate authorities at the time of signature of the Protocol. Please inform the Department by telegram when signature has taken place and forward for the retention in the Treaty Archives the Canadian authentic copy together with any related documents.

J. S. STANFORD

Under-Secretary of State  
for External Affairs



FILE DIARY DIV. CIRC.

The Canadian Embassy,  
WASHINGTON

UNCLASSIFIED

The Under-Secretary of State for External Affairs/FLO  
OTTAWA

January 13, 1977  
FLO-162

Protocol to the Sockeye Salmon Fisheries Convention

25-5-7-2-SALMON-1

- ... Please find enclosed in English and French the approved form of the Protocol to amend the Sockeye Salmon Fisheries Convention for transmittal to the State Department in reply to the United States Note dated October 21, 1976. We would be grateful if you would pass
- ... the Protocol, together with the attached draft diplomatic Note, to State. The State Department will be responsible for the final preparation of the documents for signature.
2. Privy Council authorization to sign was obtained in
- ... P.C. 1976-3169. Attached for your information is a copy of the Order.
3. We are in the process of obtaining the certification of full powers from the Minister for the Ambassador, or in his absence, the Chargé d'Affaires, to sign the Protocol. You will be informed as soon as authorization is received.

DFE/Hunter

ORIGINAL SIGNED BY  
E. B. WANG

TCK  
Under-Secretary of State  
for External Affairs



FILE ) DIARY DIV. CIRC.

FLO/M. LEIR/6-3753/fp

The Embassy of Canada presents its compliments to the Department of State and has the honour to refer to the Note of the Secretary of State of October 21, 1976 containing the proposal that Canada and the United States enter into a Protocol to amend Article V of the Protocol to the Pacific Salmon Fisheries Convention to increase the size of the Advisory Committee established under the Convention from six to seven persons from each country.

The Embassy is pleased to inform the Department of State that the Canadian authorities are prepared to accept ... this proposal. Attached is a text of the proposed Protocol in the French language. As it is envisaged that the instrument will be signed in Washington, D.C., the Embassy would appreciate it if the Department of State would prepare the documents in their final form in French and English for signature.

The Embassy of Canada avails itself of the opportunity to renew to the Department of State the assurances of its highest consideration.

January 13, 1977



ajm  
File [signature]  
January 11, 1977

MEMORANDUM FOR THE ACTING MINISTER

25-5-7-2-SALmon-1  
4

Subject: Protocol to amend the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended

--- The purpose of this memorandum is to request that you sign the attached Instrument of Full Powers authorizing Jack Hamilton Warren, Ambassador to the United States of America, or, in his absence, James Russel McKinney, Chargé d'Affaires ad interim, to sign on behalf of the Government of Canada, a Protocol to amend the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed on May 26, 1930, as amended.

Background

2. Following interdepartmental agreement on this step and a Submission to Council of December 9, 1976, bearing the concurrence of the Minister of Fisheries and Environment, Order in Council No. P.C. 1976-3169 dated 23 December 1976, was issued authorizing the Secretary of State for External Affairs to execute and issue an Instrument of Full Powers with respect to this Protocol.

Recommendation

3. I recommend that you sign the attached Instrument of Full Powers.

[Signature]  
M.D. Copithorne  
Director General  
Bureau of Legal Affairs



COPY / COPIE

EXTERNAL AFFAIRS

AFFAIRES EXTÉRIEURES



TO  
A The Under-Secretary of State  
for External Affairs (GWU), Ottawa

FROM  
De Consulate General, Seattle

REFERENCE  
Référence Our Letter 419 of November 23, 1976

SUBJECT  
Sujet News Coverage of the Effect of Boldt  
Decision on Washington Fishing Industry

SECURITY  
Sécurité

UNCLASSIFIED

DATE

December 28, 1976

NUMBER  
Numéro

005

FILE	DOSSIER
OTTAWA	
25-5-7-2-SALMON-1	
MISSION	
4	35-11

ENCLOSURES  
Annexes

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(with attach)

FLO

Attached are assorted clippings concerning press comment about the 1974 decision by Judge George Boldt, of the U.S. District Court, on Indian Fishing Rights. The decision gave Treaty Indians the right to one half of the harvestable salmon and steelhead returning to traditional off-reservation waters. It had the effect of limiting catches for non-Indian fishermen who operated gill net operations for salmon in competition with Indian fishermen.

2. The decision had the effect of compounding an already worsening situation within the Washington State fishing industry with respect to the number of fishermen in the industry. In recent years a substantial number of operators have entered the fishing industry, attracted in part by relatively high fish prices, the part-time nature of the operation and what an observer has described as the "romance of the sea". The total number of fish caught have not expanded in proportion thus causing catches for individual fishermen to decline. The Boldt decision came at a time, therefore, when the industry was already experiencing problems and provided an emotional flash point for the natural frustration of men who are attracted to a way of life but find it increasingly difficult to pursue it.

3. With recent calls for congressional action to deal with the case, the issue has broadened into a desire on the part of some for a review of the whole situation with regard to Indian treaty rights. A poll on November 26 (enclosed) by the Seattle Times, disclosed that over one-half of the respondents thought the Boldt decision unfair to non-Indians and almost three-quarters favoured Congressional action as a solution to the dilemma. As we mentioned in our referenced letter, the implications of the Boldt decision are deeper than just the status of Indian versus non-Indian fishermen in the Puget Sound area. The decision could conceivably give Indians veto power over any development in Puget Sound.

.....2

000524



4. Interpretations of treaties such as the Boldt decision seem to many in this area to be excessive and outside the original intent of the drafters of treaty to ensure Indian rights. Concern is becoming more evident about the general issue of Indian vs. majority rights as the Boldt issue focuses attention on the effects on the community as a whole of liberal interpretations of treaty rights.

5. Congressman Lloyd Meeds (Dem-Work) has introduced a bill in Congress which would authorize the creation of an eleven-member federal commission to study the fisheries problem and produce a report at the end of one year. In the November general election incumbent Meeds barely overcame a challenge by Republican opponent John Nance Garner who ran on a platform of opposition to the 50/50 interpretation of Judge Boldt.

6. Both President Ford and Vice-President-Elect Mondale promised on campaign tours through Washington State that if elected the Federal Government would look into the question. Mondale stated in an October 22 press conference that the Federal Government must begin a comprehensive study to provide solutions to the "controversial" Boldt decision. (See Seattle Times article of October 22, 1976 and Bellingham Herald article of October 21, 1976 attached). It remains to be seen in the post-election accounting of election promises, how high a priority the Carter Administration accords this issue.

  
Consulate General



Subject  
Sujet

Date October 6, 1976 Publication The Seattle Times

Hunter O/R

## Meeds' legislation would create fishing-study group

MOUNT VERNON — (AP) — Representative Lloyd Meeds has introduced legislation that would establish a federal commission to study Washington State's fishing problem.

The congressman said the 1974 landmark decision of United States District Judge George Boldt has cost taxpayers \$10.8 million in federal allocations "and we are just tipping the iceberg."

Boldt ruled that treaty Indians are entitled to the opportunity to catch one half of the harvestable salmon and steelhead returning to traditional off-reservation waters.

"I now feel that legislation is necessary," Meeds said at a recent press conference here.

Meeds said the decision has hurt commercial and sports fishing and is causing economic hardship.



Subject  
Sujet

Date

October 7, 1976

Publication

The News Tribune

## Angry gillnetters confront officers

By ROBERT H. MOTTRAM  
TNT Staff Writer

Confrontations were reported in many areas of Puget Sound during the night between state Fisheries Department patrol officers and angry non-Indian gillnetters who contend the department is breaking the law by trying to prevent their fishing.

One of the largest took place after midnight near the entrance to Hood Canal. A department patrol boat, 40 feet long, had taken a gillnetter under tow after the gillnetter rammed the patrol boat when it approached. Other gillnetters surrounded the patrol boat, and the officers on board called on the Coast Guard for help.

The 82-foot-long cutter Point Bennett, homeported at Port Townsend, met the patrol boat off Foulweather Bluff, at the northern tip of the Kitsap Peninsula, and began to escort it into Port Gamble. Twenty-five to 30 gillnetters circled the government vessels during the trip, the Coast Guard said.

"THEY CIRCLED our boat at a very high rate of speed," a fisheries spokesman said, "almost swamping our patrol boat. There was water coming over the sides."

One of the gillnetters also rammed the cutter, the fisheries spokesman said.

The Coast Guard acknowledged it had been "bumped."

"There were gillnetters crossing the bow and generally throwing up large wakes," the Coast Guard said. "But there was no damage. It's a steel-hulled ship."

Elsewhere on the Sound, a 19-foot fisheries patrol boat was rammed and sustained a broken windshield and other damage, the department said. Four other patrol boats reported structural damage as well, it said, but details were not known immediately.

THE SKIPPER of the gillnetter Cascadia, Martin McCallum, out of Port

Townsend, described the Foulweather Bluff confrontation in a ship-to-shore telephone conversation with newsmen. He said the protest was a spontaneous one and began when several gillnetters in the area reported what he termed "harassment" by the state fisheries patrol.

Allan Barry, executive director of the Puget Sound Gillnetters Association, told The News Tribune the Fisheries Department was not sincere in its allegation that gillnetters were threatening the well-being of this year's relatively small coho salmon run.

"If what the director says is true, all they have to do is sign an order saying the fishery is closed to all citizens," said Barry. "But they have not done that, because they have left the terminal areas open to Indians."

"My fishermen are very conservation-minded," he said, "and if this resource is in any danger at all, all the department has to do is write that order and we will obey it."

Barry said the gillnetters do not wish to threaten the well-being of the fish run because it would be "economic suicide."

"BUT I HOPE you understand, my people can't simply sit on the dock and watch the Indians deliver fish while they can't pay for their boats or put milk in their babies' bellies," he said. "If there is a conservation problem here, all they have to do is close it, and we will obey."

Barry said his organization was not encouraging any of its members to defy the Fisheries Department. It is a matter of individual conscience, he said.

Meanwhile, Carr Inlet near Tacoma was described by a fisheries spokesman as "peaceful" during the night. Two non-Indians were arrested in the inlet for fishing in an area set aside for Indians, the spokesman said, and four Indians were arrested in waters around Seattle and Tacoma for fishing in areas closed to all persons.

Related story, Page One.



Subject .....

Sujet .....

Date .....

October 7, 1976

Publication .....

The Seattle Times

# Gilnetters may face Coast Guard action

By DON HANNULA

The possibility of Coast Guard charges of reckless operation against skippers of gillnet boats loomed today in the wake of a confrontation between non-Indian gillnetters and Fisheries Department enforcement personnel.

And State Fisheries Director Don Moos said he has instructed department lawyers to prepare an action against the leaders of the Puget Sound Gillnetters Association, seeking damages for depleting the fish run and an injunction to keep gillnet leaders from encouraging further fishing violations.

Meanwhile, the gillnetters were meeting in Port Townsend to decide their next action after this morning's fracas ended with two gillnetters in jail and several boats damaged.

**THE WATERBORNE** melee off Foulweather Bluff at the mouth of Hood Canal was the worst such incident this year, a Fisheries Department spokesman said. A similar clash occurred last year in Bellingham Bay.

Last night's fishing by the non-Indian gillnetters was in protest of closure of most of Puget Sound to commercial fishing for coho salmon. After record catches of coho in the ocean, only a small run reached Puget Sound. The Fisheries Department ordered a conservation closure to fishing by both Indians and non-Indians in most of the Sound.

The Puget Sound Gillnetters Association has been most critical of the closures.

Many of its members were involved in today's Hood Canal square-off. There were estimates that at least 30 gillnetters were involved with up to 100 in the area — not all of them confronting the fisheries patrol.

When a 40-foot fisheries patrol

maritime

GLEN CARTER, editor

boat boarded the gillnetter Lady Luck, 45 coho were confiscated and a citation was issued. Fisheries officials said they took the boat in tow after meeting resistance. A film crew from a Seattle television station was aboard the fisheries boat.

At that point, several other gillnet boats began to circle the fisheries craft and the Lady Luck, throwing up wakes and blocking movement of the two vessels toward shore.

Six fisheries patrol boats with about 20 enforcement officers aboard were involved in the fracas, which stretched over three to four hours.

Two of the six boats were rammed by gillnetters, a fisheries spokesman said, "and they will have to be put in the shop for minor repairs." The 82-foot Coast Guard cutter Point Bennett was called in from Port Townsend to assist and also was rammed. A Coast Guard spokesman said "there was only some scratched paint."

So many boats crowded into such a small area that they were banging together. Some gillnet boats received minor damage when they collided with fisheries boats and with one another.

**A CONTINGENT** of Kitsap County sheriff's deputies was on shore to help fisheries officers when the Lucky Lady and another gillnet boat taken into custody arrived.

Some gillnetters complained that law-enforcement officers overreacted.

Though the Hood Canal area was closed to fishing by Indians and non-Indians, the non-Indian gillnet-

ters have fought with the state since the Boldt decision of February 12, 1974.

United States District Judge George H. Boldt ruled then that treaty Indians are entitled to the opportunity to catch half the harvestable salmon and steelhead returning to traditional off-reservation Indian-fishing grounds.

Each fall season, there have been protests against non-Indian, commercial-fishing cutbacks ordered to carry out the Boldt decision.

Moos, pointing out the present closure is for conservation, said he was disturbed by gillnetter leaders "who don't keep the effort off this obviously depleted run."

He said the department intends to file action against the gillnetters in King County Superior Court. He added that his department will be monitoring fish buyers, as they are liable for charges if they buy any illegally caught fish.

Only two fishing areas have been open to non-Indian gillnetters — in the San Juan Islands where mostly Canadian-bound coho pass. They were open Monday, Tuesday and yesterday this week.

But gillnetters have complained they can't make a living being confined to a "postage-stamp" area while not being allowed to fish their usual grounds.

**OF THE 18** citations written in Puget Sound and the Strait of Juan de Fuca last night and this morning, seven to non-Indians in Ining, three were to non-Indians in the Strait, two to non-Indians in Admiralty Inlet and two to non-Indians in Carr Inlet. Four Indian fishermen were cited in Central Puget Sound.

Arthur Martin, Fisheries Department information chief, said there has been so much illegal fishing in Puget Sound that enforcement help is being sought from the State Game Department.



Subject  
Sujet

Date

October 7, 1976

Publication

The Seattle Times

## Meeds' opponent wants legislation to overrule Boldt fishing decision

Congress must reverse the controversial Boldt decision to stop "honest fishermen (from) being arrested for what they've done for generations," John Nance Garner, 2nd District Republican congressional candidate, said today.

Garner, in a dockside press conference in Everett, accused his Democratic opponent, Representative Lloyd Meeds, of "playing politics with the livelihood of Washington's commercial fishermen."

Congress has the power to pass laws nullifying the Indian fishing-rights decision by United States District Judge George Boldt, Garner said, but Meeds hasn't even made an attempt to persuade Congress to do so.

**LAST WEEK**, Meeds introduced legislation which would establish a federal commission to study the state's fisheries problems in the wake of the Boldt decision. But Garner charged that the study would be "an incredible waste of time and money."

"We need action now," Garner asserted. "Not a year from now."

Garner criticized a provision in the bill which would allow for "buy-out or trade-off" of Indian rights to the steelhead run. "We have no

need to buy out or trade off rights to which the Indians may not be entitled in the first place," he said.

Rather than divide the salmon catch 50-50 between Indians and fishermen, Garner said the run should be free for anyone to catch.

Last night, Garner and Meeds tangled at an Edmonds church.

Garner said Meeds doesn't even live in the 2nd District any longer but is possessed with "Potomac Fever."

**MEEDS REPLIED** that Garner should stick to issues.

Garner slashed away at Meeds as one of Congress' "big spenders" — chiding Meeds for voting 12 times to increase the budget or raise the debt ceiling.

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Meeds responded that he wants a balanced budget and that was why he voted against the revenue-sharing program. He said he also voted against the \$17 billion antiballistic-missile system which he characterized as "a heap of junk — but it's in the Ford budget."



Subject  
Sujet

Date October 7, 1976 Publication News Tribune

## Legal action taken

# Angry gillnetters ram 7 patrol boats

By ROBERT H. MOTTRAM  
TNT Staff Writer

Angry non-Indian gillnetters rammed six Fisheries Department patrol boats on Puget Sound during the night and rammed a Coast Guard cutter that had come to the aid of one of the patrol boats.

No one was hurt, but structural damage was inflicted on at least five of the patrol boats, and a Fisheries Department spokesman described the situation as "getting very, very tense."

At least two gillnetters were jailed on charges of obstructing justice.

There was no violence in the Tacoma area, however.

The rammings marked a major escalation in the confrontation between the Fisheries Department and gillnetters over regulations allocating all commercial coho salmon fishing on Puget Sound to treaty Indians.

Meanwhile, the head of the Puget Sound Gillnetters Association said his organization remained firm in its position that the Fisheries Department was acting illegally in attempting to enforce the allocation. All it has to do is close the fishery to all citizens, Indian and non-Indian, he said, and the non-Indian fishing will stop immediately.

Most sections of the Sound were closed to commercial coho fishing when the large numbers of fish expected to enter it this month began to

spawn. A few terminal areas were kept open for commercial fishing by treaty Indians, however, in a move aimed at compliance with a 1974 ruling by U.S. District Judge George Boldt who ordered that treaty Indians be given an opportunity to take more than half the harvestable salmon and steelhead.

Implementation of that allocation has been difficult, however, with state courts ruling that the Fisheries Department is empowered by law to manage only for the purpose of conserving the resource, not for allocating it.

Meanwhile, the state is taking legal action against the gillnetters, and Allan Barry of the Puget Sound Gillnetters Association has clarified the organization's position on conservation of this year's small coho salmon run. Details, Page C-11.

One of the major confrontations during the night occurred near the entrance to Hood Canal, where fisheries officers in a 40-foot patrol boat approached a gillnet vessel to cite its skipper and confiscate his fish.

He rammed the patrol boat, a fisheries spokesman reported. The officers arrested the man on the spot, put his boat in tow and headed for port. But other gillnetters surrounded the pair, and the officers called on the Coast Guard for help.



# Area waters calm after heavy protest fishing

By DON HANNULA

Calm returned to the Puget Sound commercial-fishing scene last night after two nights of heavy protest fishing by non-Indian gillnetters.

Only one non-Indian gillnetter was cited for illegal fishing — in the Strait of Juan de Fuca near Port Townsend.

Arthur Martin, State Fisheries Department information chief, said an aerial patrol showed a return to normalcy.

Eighteen citations for illegal fishing — 14 to non-Indians and 4 to Indians — had been issued Wednesday night and early yesterday morning throughout Puget Sound and the Strait of Juan de Fuca.

AND AT THE mouth of Hood Canal near Foulweather Bluff, about 30 non-Indian gillnet boats squared off against six fisheries-patrol boats trying to halt their protest fishing in closed waters. Two fisheries-patrol boats were rammed and a Coast Guard cutter was struck. Damage was minor.

Gillnetters said the cutter struck them.

Gillnetters have been angered over a State Fisheries Department

maritime

total closure to non-Indian commercial net fishing this fall throughout Puget Sound with the exception of a small area in the San Juan Islands, where there has been a 3-day-a-week fishery on Canadian-bound coho salmon.

Open marine waters have been closed to Indians and non-Indians as a conservation measure to protect a weak run of coho — heavily depleted by record ocean-trill catches.

HOWEVER, treaty-Indian tribes have been allowed to fish, in accordance with provisions of the 1974 Indian-fishing-rights ruling of United States District Judge George R. Boldt, in rivers and terminal areas (river mouths).

Loren Bergh, Seattle gillnetter who is trying to carry to the United States Supreme Court a suit he lost in the Ninth Circuit Court charging

discrimination against non-Indians by Judge Boldt, was among those cited for illegal fishing Wednesday night.

"The Fisheries Department is calling it a conservation closure, but it is strictly for allocation (to Indians) when the terminal areas and rivers are full of nets," he said.

Phil Sutherland, president of the Puget Sound Gillnetters Association, was involved in the protest fishing at the mouth of Hood Canal. He said his participation was as an individual fisherman, not as an association official.

HE EXPLAINED the protest fishing by saying gillnetters had to do something to demonstrate their livelihood is at stake. Sutherland said:

"The Puget Sound net industry has not fished one day on this run. These boys have got their backs to the wall. They either go fishing or lose their boats."

Sutherland said \$750 required to bail two gillnetters out of the Kitsap County jail yesterday morning was raised by gillnetters going back out and catching more fish after the confrontation with fisheries-patrol officers at the mouth of Hood Canal.

Fisheries officials said they would monitor fish buyers and possibly bring charges if it is shown any bought illegally caught salmon.

Attorneys for the Fisheries Department were expected to file in Thurston County Court today legal actions asking damages from the Puget Sound Gillnetters Association for depleting the coho run and enjoining association leaders from further protest fishing.

THEY HAD planned to file the suit in King County Superior Court because the association is headquartered in Seattle but were instructed Thurston County was the proper jurisdiction.

Allan Barry, executive director of the association, said: "The association has never encouraged demonstrations. It's a little ridiculous to try to hold us responsible for 1,800 fishermen. How can we be held accountable for what people do on their own?"



The Times' opinion and comment:

## Confusion, injustice in dividing the salmon

**T**ENSIONS which have been mounting in the Puget Sound salmon fishery erupted into violence yesterday off Foulweather Bluff.

In what appeared to be a pre-meditated defiance of regulations, white gillnetters cast their gear virtually under the eyes of state fisheries patrol vessels.

When the state's vessels — aided by a Coast Guard patrol craft — responded, the confrontation turned into a boat-bumping battle.

Fortunately, physical damage was minimal. A few arrests were made, a matter to be handled by the courts.

The non-Indian gillnetters, however, at least seem to have achieved their objective of focusing public attention on what they call discrimination.

While the lawbreaking must be condemned, the white gillnetters' case merits defining. They are being called upon to bear discriminatory burdens stemming from the Boldt decision.

The reason Indians are permitted to fish when non-Indians are subject to closures is that, under the Boldt decision, Indians are entitled to compensatory fishing times so as to garner their share of the salmon runs as defined by the federal court.

In substance, those compensatory rights stem from non-

compliance to treaties negotiated with Indian tribes more than a century ago.

Hence, non-Indian gillnetters understandably ask: What is the justice of singling out our livelihoods to pay the due bills which should be debited to society generally?

No one yet has found a satisfactory answer to that and related questions which have arisen since the Boldt decision decreed rightly that treaty Indians are entitled to compensatory treatment to historic injustices.

The battle of Foulweather Bluff (a place named by Capt. George Vancouver in 1792) was not of the state's or Coast Guard's choosing.

The state must preserve, if it can, the remaining salmon runs — and to see that they are rebuilt, if possible. So it had no alternative than declaring the present closure to white gillnetters.

Many who understand the complexities and contradictions of the situation despair that the search for a fair-to-all solution is hopelessly entangled in the courts and the federal and state governments, where no one has sole responsibility.

Yet that search must be pursued — and perhaps yesterday's boat bumping off Foulweather Bluff will serve a useful purpose by dramatizing the contradictions and injustices.



Subject  
Sujet

Date

October 8, 1976

Publication

Seattle Times

## "Meeds' opponent wants legislation to overrule Boldt fishing decision

Congress must reverse the controversial Boldt decision to stop "honest fishermen (from) being arrested for what they've done for generations," John Nance Garner, 2nd District Republican congressional candidate, said yesterday.

Garner, in a dockside press conference in Everett, accused his Democratic opponent, Representative Lloyd Meeds, of "playing politics with the livelihood of Washington's commercial fishermen."

Congress has the power to pass laws nullifying the Indian fishing-rights decision by United States District Judge George Boldt, Garner said, but Meeds hasn't even made an attempt to persuade Congress to do so.

LAST WEEK, Meeds introduced legislation which would establish a federal commission to study the state's fisheries problems in the

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wake of the Boldt decision. But Garner charged that the study would be "an incredible waste of time and money."

"We need action now," Garner asserted. "Not a year from now."

Garner criticized a provision in the bill which would allow for "buy-out or trade-off" of Indian rights to the steelhead run. "We have no need to buy out or trade off rights to which the Indians may not be entitled in the first place," he said.

Rather than divide the salmon catch 50-50 between Indians and fishermen, Garner said the run should be free for anyone to catch.

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MEEDS REPLIED that Garner should stick to issues.

Garner slashed away at Meeds as one of Congress' "big spenders" — chiding Meeds for voting 12 times to increase the budget or raise the debt ceiling.

Meeds responded that he wants a balanced budget and that was why

he voted against the revenue-sharing program. He said he also voted against the \$17 billion antiballistic-missile system which he characterized as "a heap of junk — but it's in the Ford budget."



Subject  
Sujet

Date October 9, 1976

Publication The Seattle Times

## Fisheries lawyer asks Boldt to drop from case

By DON HANNULA

United States District Judge George H. Boldt has been asked by the state to disqualify himself from hearing "Phase II" of the Indian fishing-rights case.

Judge Boldt heard the first phase of the case formally known as United States vs. Washington and is scheduled to hear the second phase, scheduled for trial in early January.

His February 12, 1974, decision in the first phase touched off echoing controversy. He ruled that, in accordance with treaties signed with the United States, certain Indian tribes should have the opportunity to catch half the harvest tables salmon and steelhead returning to traditional off-reservation fishing grounds.

Phase II is referred to as the environmental phase because it seeks to assign responsibility for environmental degradation that has harmed the fish runs.

THE REQUEST for Judge Boldt to disqualify himself from Phase II was sent by James Johnson, assistant attorney general for the State Fisheries Department, to Judge Boldt in Boston.

Judge Boldt, due back later this month from Boston where he is hearing cases, took no action on the

request other than to ask attorneys for all parties to comment on the request if they wished.

State Fisheries Director Don Moos said he did not seek the request. Edward Mackie, deputy attorney general, took responsibility for it.

Johnson, in his letter to Judge Boldt, gave three reasons for the request.

First, Johnson said, it would be difficult for one judge to take on the new case and handle the time-consuming, continuing jurisdiction matters in the first phase. Phase I began in 1970. Phase II is expected to take as much time.

Judge Boldt will be 73 in December. He is on senior status, which is, in effect, supposed to be semi-retirement.

SECONDLY, Johnson noted "some difficulty in obtaining public

acceptibility of the Phase I decision." He added:

"It is my belief that public acceptibility of Phase II, whether favorable or unfavorable to the State of Washington, would be enhanced if the case were to be tried by a judge other than yourself."

Thirdly, Johnson said the attorney general's office was concerned about tours Judge Boldt has made of reservations to see how their hatchery programs are working. Johnson wrote to Judge Boldt:

"Those visits . . . must have resulted in some exchange with the court. Some may be favorable or unfavorable to the state or other parties." Johnson wrote that since state attorneys did not go along on the tours, they would be unable to know if the court "acquired personal knowledge of disputed evidentiary facts concerning the proceedings."



# Rockefeller doesn't foresee quick solution to fish issue

By RICK COCKER  
Herald Staff Reporter

SEATTLE - Vice President Nelson Rockefeller said today there will be no quick congressional solution to Judge George Boldt's fishing decisions.

His remark, made at a morning press conference at the Olympic Hotel, may hurt congressional candidate John Nance Garner, whom Rockefeller was expected to endorse at an Everett rally this afternoon.

"Having been around Washington a while, I know things don't move that fast," Rockefeller said of congressional action. "I would say it's going to take some time to unravel."

The vice president was answering a question about whether the Ford administration has a plan to solve the problem which has plagued non-Indian fishermen in western Washington.

"I don't know if there is a plan," Rockefeller said. "But it sounds like an issue to the state of Washington, which would have to be solved by local officials."

Garner, who is trying to unseat Democrat Lloyd Meeds in the 2nd District, has claimed that if elected he will go back to Washington and alert Congress to the problem and get a solution.

Meeds, on the other hand, has said

there are no quick solutions and has proposed a special commission to examine the problem and make recommendations to Congress.

Rockefeller was in Seattle to campaign on behalf of Republicans John Spellman and Joel Pritchard. Spellman is running for governor, Pritchard for Congress from the Seattle-area 1st District.

The vice president apparently had not been briefed on what has developed into what appears as the biggest issue in the race for the 2nd District seat in Congress.

"Politicians don't like to say they don't know," Rockefeller said. "But I don't know."

He dodged a question about a federal court decision striking down Washington state's supertanker law.

The appeals court process should be used before "running" to Congress for action, he said.

On John Dean's recent statement alleging that President Ford was involved in the Watergate cover-up, the vice president said: "If he (Dean) wasn't trying to sell a book I'd be a lot more concerned about it initially."

With characteristic wit, Rockefeller managed to draw Carter's interview in Playboy into the answer, by comparing the magazine's full-page ads in the New York Times promoting the interview with Carter to Dean's statements implicating Ford in Watergate.

Rockefeller was scheduled to leave from Boeing Field to return to his home state, New York, tonight.



Subject  
Sujet

Date October 15, 1976 Publication Seattle Times

## Stafford orders full fishing rule hearing

OLYMPIA (AP) — Citing a federal-state court confrontation, state Supreme Court Chief Justice Charles F. Stafford today ordered a full court hearing early next month on whether the state Department of Fisheries can enforce U.S. Dist. Court Judge George Boldt's Indian fishing decision.

Stafford dismissed oral argument scheduled today before a five-judge department on a case in which the Puget Sound Gillnetters Association challenged successfully the right of Fisheries Director Donald Moos to change seasons to implement Boldt's decision giving half the commercial salmon catch to Indian fishermen.

Instead, he made a brief statement, setting a full court hearing on the issue for Nov. 9.

The court, Stafford said, "understands the importance of the issues in this case and has determined they should be disposed of on the merits only."

"It is clear from the briefs we have reached the point where the issue is no longer one of the power of the director to act, but the question now becomes which order takes pre-

cedence — the state court's order or the federal order.

"It presents to this court for the first time the direct conflict between state and federal powers to the extent that the federal-state relationship is involved headon," he said.

Fisheries is appealing a judgment of Thurston County Superior Court Judge Gerry L. Alexander which holds that Moos's power under state law is to limit fishing for conservation only, not to implement the Indian fishing decision. He has rejected arguments that the conservation role is involved in accommodating the Boldt decision.

In the meantime, Moos has been ordered by federal courts, including Boldt's, to act to implement the decision.



Subject .....  
Sujet .....

October 16, 1976

The News Tribune

Date ..... Publication .....

# State high court delays arguments in fish dispute

By ROBERT H. MOTTRAM  
TNT Staff Writer

OLYMPIA—The State Supreme Court postponed a possible head-on collision with the federal court system over fishing rights yesterday when it ordered a delay in presentation of oral arguments on the issue of the state's power to allocate salmon to Indians.

The arguments had been scheduled for yesterday, before a five-judge panel. But Chief Justice Charles F. Stafford set a full court hearing on the issue for Nov. 9.

One of the questions the high court will be asked to determine is whether the State Fisheries Department has the authority to implement the controversial George Boldt Indian fishing rights decision of February 1974. U.S. District Judge Boldt ruled that year that treaty Indians are entitled to an opportunity to take more than half the harvestable salmon and steelhead, and that the state must see to it they get that opportunity.

**HOWEVER, STATE LAW EMPOWERS** THE Fisheries Department to manage Washington's salmon only for purposes of conservation, not for purposes of allocating fish among user groups.

That was the ruling of Thurston County Superior Court Judge Gerry L. Alexander, in a suit brought by the Puget Sound Gillnetters Association to

prevent the department from implementing Boldt's orders. It is the department's appeal of that ruling that is scheduled for hearing next month.

The State Supreme Court "understands the importance of the issues in this case," said Stafford, "and has determined they should be disposed of on the merits only."

"It is clear from the briefs we have reached the point where the issue is no longer one of the power of the director to act, but the question now becomes which order takes precedence—the state court's order or the federal order."

"It presents to this court for the first time the direct conflict between state and federal powers to the extent that the federal-state relationship is involved head-on," he said.

**THE QUESTION** before the Supreme Court actually is a double-barreled one, allowing several potential resolutions.

On one level is the allocation question—whether the department's authority includes managing the fishery to allocate between groups.

On the other level is a question of whether treaty entitlement extends to hatchery fish, or whether treaty Indians are entitled to a special share only of the fish that reproduce in the wild.

One potential resolution would be for the high court to rule that the department may implement the Boldt decision in its entirety, including hatchery fish in its allocations.

Another would be for the court to rule that the department may allocate fish for treaty purposes, but that hatchery fish are not among those which may be allocated.

**ANOTHER POTENTIAL** resolution would be for the court to rule that the department may not implement the Boldt decision at all.

Should the state court's decision be incompatible with the Boldt decision, it is unlikely a major confrontation would arise between the courts immediately, some observers say, because the non-Indian commercial salmon fishing season is scheduled to close on Nov. 14 anyway.

And some lawyers on both sides of the case agree that, no matter what the decision is, it is likely to be appealed to the U.S. Supreme Court, either by the gillnetters or by the state.

The Boldt case itself was carried on appeal as far as the 9th U.S. Circuit Court of Appeals in San Francisco, but the U.S. Supreme Court refused to hear it—a decision deplored by many participants on both sides of the question who believed that a ruling by that body might help resolve once and for all what has become continuing controversy in Western Washington.

"But this could be the case the U.S. Supreme Court hears," one attorney said of the gillnetters' suit, "instead of the Boldt case."



## // Gillnetters Win Round in Boldt Fight

AP, P-I Staff

OLYMPIA — State Supreme Court Chief Justice Charles F. Stafford yesterday ordered a "full court hearing" on whether the State Fisheries Department can enforce U.S. District Court Judge George Boldt's Indian fishing decision.

Stafford dismissed oral argument scheduled yesterday before a five-judge panel in a case in which the Puget Sound

Gillnetters Association challenged successfully the right of Fisheries Director Donald Moos to change seasons to implement Boldt's decision giving half the commercial salmon catch to Indian fishermen.

Instead he made a brief statement, setting a full nine-judge hearing for November 9.

He said he ordered the new hearing because of "the importance of the case" and because the court wants the case

to be disposed of "on the merits only."

"It is clear from the briefs that we have reached a point where the issue is no longer one of the power of a director to act, but the question now becomes which order takes precedence — the state court's order or the federal court's order," he said.

The State Fisheries Department is appealing a judgement of Thurston County Superior Court

Judge Gerry L. Alexander which holds that Moos's power under state law is to limit fishing for conservation only, not to implement the Indian fishing decision. Judge Alexander rejected state arguments that the conservation role is involved in accommodating the Boldt decision.

However, Moos has been ordered by federal courts, including Judge Boldt's court, to implement the decision, and

he has been doing so.

Charles Yates, attorney for the gillnetters, also asked the court to rule on whether the Boldt decision is correct, and if it is correct, are the Indians entitled to an allotment of hatchery-produced fish?

The high court is expected to also take up these issues in the November hearing.

Yates described the order setting a full-court hearing as a "victory" for the gillnetters.



Subject  
Sujet

Date

Oct 17/76

Publication

Tacoma News Tribune

# How hot is the Indian fishing issue?

By ROBERT H. MOTTRAM  
TNT Staff Writer

Two ideas emerge with some consistency when Western Washington's incumbent congressmen and their political challengers discuss Washington's Indian fishing rights dispute.

One is that steelhead trout should be "decommercialized"—removed from the list of fish that may be bought and sold, and reserved entirely for sports fishing.

The other is that Congress itself should interpret the mid-19th Century treaties that U.S. District Judge George Boldt has used as a basis for his controversial fishing-rights decision of February 1974. One of the treaty guarantees is that participating tribes would be able to fish "in common with" the citizens of Washington at their usual and accustomed places, and Boldt interpreted this as meaning they have a right to an allotment of 50 per cent of the harvestable salmon and steelhead at those places.

However, there is a wide range of opinion among congressional hopefuls about the importance of the fishing issue to their campaigns—some considering it their major campaign issue, others not.

SOME OF THAT contrast can be seen in the 6th Congressional District of Pierce and Kitsap Counties, where Democrat Norm Dicks and Republican Robert Reynolds are in a race for the seat being surrendered by Rep. Floyd Hicks.

"I don't think fishing is much of a question among average voters," said Tim Strege, campaign manager for Dicks. "We didn't find that many voters who actually are concerned about it."

"A lot of people had followed it in the press, and had a lot of knowledge of the issue. But it wasn't an issue of high intensity, in which they would vote for or against a candidate because of that single issue."

That does not mean that Dicks does not have a position on it, however.

"In Norm's last major statement on fishing, he said that Judge Boldt should step aside from the case," recounted Strege, "and either a three-judge federal panel or another federal judge should hear the next round of cases, which will involve the hatchery fish."

Dicks also contends that enforcement of fishery regulations should be consolidated in one or two agencies. Strege said, that a federal fisheries enhancement program be undertaken, and steelhead be decommercialized.

BUYING OUT the treaty rights of Indians would be impractical, he said, with at least one estimate of the cost pegged at \$1 billion.

Reynolds takes a nearly opposite position, however.

"It's a problem that's got to be solved," he contends. "I don't think the solutions some people offer, more fish hatcheries or pumping more salmon out, are really going to answer the question. There's so much antipathy between fishermen, Indians and the Fishery Department we have the makings of a pretty good civil war if we don't do something about it."

The thing Reynolds would like to see done is the purchase of treaty fishing rights from the Indians.

"Estimates run from \$100 million to \$1 billion," he said. "My own estimate is \$200 million to \$250 million, and I don't know who would pay that."

"Exactly how it would be done I don't know. It might be a subcommittee of Congress itself would reach a value. It might be Congress would invest a court with power to determine it after a hearing."

Is fishing a major issue in the campaign?

"CERTAINLY IT'S significant," Reynolds said. "All this talk about getting rid of Judge Boldt isn't going to change anything."

The executive branch of government can't change anything, because a treaty is law and the executive branch is governed by law. The states can't change anything. The only body that can abrogate a treaty is Congress. I'm running for Congress, so of course it's an issue.

Reynolds says that "if the full story is brought to Congress' attention, I can't imagine congressmen refusing to do something about it."

The fishing rights controversy is acknowledged as a major issue in the 3rd Congressional District, which stretches from the Strait of Juan de Fuca around the Washington coast past Westport and up the Columbia River.

"I believe the Boldt decision has the highest priority, now that it has been fully litigated," said incumbent Democrat Don Bonker. "The Congress has a definite responsibility, and should act expeditiously to remedy the situation."

BONKER SAID he takes exception to some parts of the Boldt ruling.

"The 'in common' being 50 per cent, and the fact that the decision applied to hatchery-produced fish is, I think, open to legal challenge," he said. "I want to make it clear I don't agree with or accept the decision. But it's now fact, and now we have to look at a legislative remedy."

Bonker said there are several alternatives, including legislation to nullify the treaties and a proposal to buy them out.

"But the delegation has been, I think, responsible in not pursuing alternatives that are just not realistic," he said. "It would be easy for any of us to introduce legislation to nullify treaties, and parade around the state as having a solution. But I think that would be deceptive, because our assessment is that Congress would not go along with it."

Buying out the treaties would cost an estimated \$21 million a year, in perpetuity, he said.

"THE MONEY would be better invested in enhancing salmon," said Bonker, "and having enough for everybody."

The possibility of Congress clarifying the meaning of the treaty phrase "in common with" is an alternative "that definitely should be explored," he said.

Bonker's challenger is Charles Elhart, a former professor of history and editor of a daily newspaper editorial page, who thought the fishing rights dispute enough of an issue to author a brochure and a tabloid newspaper insert about it.

"If I am elected to the new Congress," promised Elhart, "on the opening day I'll introduce legislation to do the following things:

—"Make it illegal to commercialize steelhead trout;

—"Make treaty Indians fully subject to the state regulatory authority in the case of fish and game; and

—"Provide a mechanism of recall or removal of federal District Court judges by a vote of the people in the district over which the judge presides."



Elhart rates the fishing dispute as "the No. 1 issue in the minds of the people of this state. And it's a problem that's going to fester and get worse unless Congress takes remedial action."

**A PROPOSAL** by 2nd District Congressman Lloyd Meeds, for creation of an 11-member federal commission to study the fisheries problem for a year, is an attempt "to paper over the problem with another study," said Elhart.

"We don't need another study," he said. "The problem is obvious. There's nothing in that treaty that says anything about 50 per cent. Congress needs to study that, and make clear in no uncertain terms that this was never the intent."

Up in the 2nd District, Meeds has come under fire from his own opponent for his federal study-

commission proposal. Republican challenger John Nance Garner contends a commission would do nothing to solve the dispute, according to a campaign spokeswoman. The answer lies in approaching the entire Congress, he believes.

**"MR. GARNER SAYS** he will bring the matter

before Congress because Congress has the authority to clarify what was meant by the words 'in common,'" the spokeswoman said. "Judge Boldt has interpreted them to mean shared 50-50. Mr. Garner believes this to mean the runs are to be shared by everyone. That is what he believes the treaty means, and that is

what he plans to bring to Congress' attention."

Garner wants "to go back to square one, and interpret the treaty the way it should be interpreted," she said. "Why should we talk about paying back the Indians for rights they may not actually have?"

Garner's campaign staff rates fisheries as "a

fairly important issue. It's the one we've hit strongest so far."

It is not the only issue, however. Garner has given much of his attention to the fact that Meeds, an incumbent for 12 years, no longer owns a home in his own district and gets many of his political contributions from outside the area.

"But that hasn't seemed to create the furor that the fishing issue has," the spokeswoman admitted.

**MEEDS' PROPOSAL** for a federal commission apparently found favor among Washington's incumbent congressmen, for the measure was cosponsored by all seven.

Meeds also said he plans to ask members of the House Interior Committee to "put on their hardhats and flak jackets, and come out here in January. They'll learn fast how high feelings are running."

But there are other matters to be addressed, as well, in the 2nd District campaign.

"Fishing rights is a serious issue, and a number of our residents are involved in fisheries—both commercial and sport," said Ron Geigle, Meeds' press secretary. "We believe we've addressed it in a worthwhile and productive manner, and we think a lot of the people up here are beginning to recognize it."



**N**O LONGER able to stand aloof from the controversy ignited by the Boldt decision on Indians' fishing rights, the state's congressional delegation has come up with an all-too-familiar expedient: Set up a commission to make recommendations.

As outlined by Representative Lloyd Meeds, Congress will be asked to establish an 11-member commission named by the governors of Washington and Oregon and appropriate federal agencies which would have a year to make its findings.

This seems to contemplate putting the whole matter on the slow burner for much too long a time — without any assurances that Congress would act on the recommendations.

The time frame and uncertainties, it strikes us, would be less than satisfactory to Indians not yet taking their quotas of salmon as prescribed by the Boldt decision, nor to commercial fishermen who perceive their livelihoods as being immediately jeopardized.

Moreover, the long drawn out process would relieve the Legislature of having to take what steps it can to ease the emergency which can be attributed to the quandary of too many fishermen and too few salmon.

It is the federal government, however, which has the primary responsibilities. The court decision came from the federal bench. It evolved from a treaty made by the federal government more than a century ago with Indian tribes.

Presently, the state — or more specifically, its Department of Fisheries — is caught in the middle with its responsibilities to conserve the salmon runs under state laws which in many ways do not square with federal court edicts.

On a couple of points we can agree with members of the congressional delegation.

One is their contention that it is unrealistic to expect Congress to repeal or amend the treaties upon which the Boldt decision was based. The decision was morally correct and the nation's good faith is at issue.

On a second point, the delega-

tion doubtless is right in holding that it is irrational to expect Congress to tender offers to buy out the Indians' rights, as was the case with Alaska natives when the government acted to get at Arctic oil.

Congress obviously is wary of setting a precedent of buying Indian fishing rights and thereby inviting claims clear across the country.

Still, there are avenues more immediately open to the federal government — one being to move more forcefully to extinguish non-Indian fishing rights through the so-called boat-buying program which already is making a dent in the too-many-fishermen factor.

That program, however, appears to be impeded by the understandable reluctance of many commercial fishermen to accept a bare boat price for their vessel in return for their retirement from their livelihoods — which might be likened to asking a dentist to retire for the price of his office equipment.

If any reminder is needed, though, the highest urgency attaches itself to the necessity of propagating and protecting the dwindling salmon runs, a delegation of authority which must remain principally with the state with adequate fiscal assistance from the federal government.

Indeed, the expenditure level would be immense. Yet it must be assessed as a profitable investment as well as a means by which the federal government can fulfill its obligations accruing from the Boldt decision.

Those kinds of steps, it seems to us, are of the variety where the Congress is going to have to bite the bullet sooner or later to restore order and suitable productivity to the Puget Sound salmon fishery.

The congressional delegation's proposal for a commission study must be considered only as further procrastination in biting the bullet.

The delegation takes much pride in its influence in the halls of Congress. This is a time to see if that influence is responsive to the urgency for the federal government to bite the bullet molded by the Boldt decision.



Subject  
Matter

Date October 17, 1976

Publication Bellingham Herald

# Meeds' proposed fishing study leaves both sides dissatisfied

By LINDA SCHILD  
Herald Staff Reporter

Neither local gillnetters nor the Lummi Indian tribe are happy with Congressman Lloyd Meeds' recent proposal to study Northwest Indian off-reservation fishing rights.

The gillnetters consider Meeds' proposal a political ploy. The Lummis disagree with its substance. Ostensibly, the very voters Meeds intended to impress aren't.

Meeds announced two weeks ago that he has decided the Boldt Indian fishing rights decision, which assures treaty tribes the opportunity to catch half the state's fish resources, is "unworkable."

As a result, Meeds said, he has introduced a resolution in Congress calling for an 11-man commission to study the situation. Such a commission could clear the way for future legislation, Meeds' contemporaries in Congress have reported.

But Meeds is criticized by local fishermen, who are convinced he

still favors the Boldt decision. Meeds' switch to an anti-Boldt stance came shortly after a primary in which he met unusually strong competition, they note.

Meeds is also under fire by Republican challenger John Nance Garner, who charges that the incumbent ignored commercial fishermen until election-year expediency forced them to his attention.

At a local gillnetters meeting last week, fishermen said they doubt that Meeds' change of heart is sincere.

"The commission will 'study the situation' and do nothing about it," one said.

Meeds made his disdain for commercial fishermen clear at a confrontation with them earlier this fall at the Bellingham Towers, another gillnetter said, adding: "You could see the contempt in his eyes."

The gillnetters point out that only one of the 11 commissioners Meeds'

plan calls for would be a commercial fisherman. The odds on such a commission, they feel, are stacked against them.

Only two of the commissioners would be Indians, points out Vernon Lane, Lummi tribal chairman. Comparing them to the nine other commissioners, he, too, feels the cards are stacked.

Other representatives on the proposed commission would be one salmon sports fisherman, one steelhead sports fisherman, one academician, two representatives of the Department of the Interior, one from the Department of Commerce, one from Washington state and one from Oregon.

The Lummis consider the government representatives indirect

spokesmen for non-Indian interests.

"Each user-manager group should have equal representation," a tribal announcement on the issue says. "The federal officials should not be allowed votes on the commission."

"The Washington delegation," the tribe asserts, "is bowing to the illegal and deliberately inflammatory lawbreaking by commercial fishermen. No man is able to depend on the law when the elected representatives are influenced by this type of unlawful activity."

The Lummis feel they can work with Meeds, the tribal statement says, but that in the fisheries case Meeds is "bowing to political pressure being exerted . . . by non-Indian fishermen."



Subject  
Sujet

October 17, 1976

The Seattle Times

Date Publication

### The Times' opinion and comment:

## Unsatisfactory answer in fishing controversy

NO LONGER able to stand aloof from the controversy ignited by the Boldt decision on Indians' fishing rights, the state's congressional delegation has come up with an all-too-familiar expedient: Set up a commission to make recommendations.

As outlined by Representative Lloyd Meeds, Congress will be asked to establish an 11-member commission named by the governors of Washington and Oregon and appropriate federal agencies which would have a year to make its findings.

This seems to contemplate putting the whole matter on the slow burner for much too long a time — without any assurances that Congress would act on the recommendations.

The time frame and uncertainties, it strikes us, would be less than satisfactory to Indians not yet taking their quotas of salmon as prescribed by the Boldt decision, nor to commercial fishermen who perceive their livelihoods as being immediately jeopardized.

Moreover, the long drawn out process would relieve the Legislature of having to take what steps it can to ease the emergency which can be attributed to the quandary of too many fishermen and too few salmon.

It is the federal government, however, which has the primary responsibilities. The court decision came from the federal bench. It evolved from a treaty made by the federal government more than a century ago with Indian tribes.

Presently, the state — or more specifically, its Department of Fisheries — is caught in the middle with its responsibilities to conserve the salmon runs under state laws which in many ways do not square with federal court edicts.

On a couple of points we can agree with members of the congressional delegation.

One is their contention that it is unrealistic to expect Congress to repeal or amend the treaties upon which the Boldt decision was based. The decision was morally correct and the nation's good faith is at issue.

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Congress obviously is wary of setting a precedent of buying Indian fishing rights and thereby inviting claims clear across the country.

Still, there are avenues more immediately open to the federal government — one being to move more forcefully to extinguish non-Indian fishing rights through the so-called boat-buying program which already is making a dent in the too-many-fishermen factor.

That program, however, appears to be impeded by the understandable reluctance of many commercial fishermen to accept a bare boat price for their vessel in return for their retirement from their livelihoods — which might be likened to asking a dentist to retire for the price of his office equipment.

If any reminder is needed, though, the highest urgency attaches itself to the necessity of propagating and protecting the dwindling salmon runs, a delegation of authority which must remain principally with the state with adequate fiscal assistance from the federal government.

Indeed, the expenditure level would be immense. Yet it must be assessed as a profitable investment as well as a means by which the federal government can fulfill its obligations accruing from the Boldt decision.

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DEPARTMENT OF EXTERNAL AFFAIRS  
MINISTÈRE DES AFFAIRES EXTÉRIEURES

35-11

Subject  
Subject

Date October 18, 1976 Publication

Tacoma News Tribune

# Disqualify self on Phase II, Boldt asked<sup>35-11</sup>

By ROBERT H. MOTTRAM  
TNT Staff Writer

U.S. District Judge George Boldt should disqualify himself from hearing so-called "Phase II" of the Indian treaty rights dispute, an assistant attorney general has urged, because public acceptance of his ruling is likely to be poor.

The request for disqualification was made by Asst. Atty. Gen. James M. Johnson in a letter to Boldt in Boston, where the judge has been presiding over cases on a substitute basis.

Johnson has been the chief trial lawyer for the state in the first phase of the treaty rights dispute, which resulted in Boldt's controversial interpretation of mid-19th Century treaties as allocating participating tribes more than half the steelhead and salmon.

IN THE SECOND phase of the case, expected to be heard this winter, the tribes are seeking authority to participate in control of most Western Washington rivers and streams. This would give them a virtual veto over future

industrial, commercial, residential and other uses of the streams on which their treaty-protected fishery depends.

Johnson pointed out, in his letter to Boldt, that "there has been some difficulty in obtaining public acceptability of the Phase I decision. Indeed, as the court well knows, there are elements of the public that have not accepted the decision in the same spirit as the public agencies charged with its enforcement.

"It is my belief," Johnson wrote, "that the public acceptability of the result of Phase II would be enhanced were the case to be tried by a judge other than yourself."

Johnson said the attorney general's office also believed it would be difficult for Boldt to continue to exercise jurisdiction over developments related to

Phase I while undertaking the responsibility of presiding over a complicated Phase II.

AND HE SAID the attorney general's office was concerned about tours Boldt has been making to Washington dams, hatcheries and industrial sites in anticipation of hearing Phase II. Those visits have resulted in the court acquiring "personal knowledge of disputed evidentiary facts concerning the proceeding," Johnson said.

"Accordingly, I ask that you disqualify yourself from the trial of Phase II," he said.

Boldt distributed copies of Johnson's letter to the other lawyers in the case, and invited their comments to the court about Johnson's request.



# Boldt decision

## 'It cries out for study,' says Mondale

By JOHN ARTHUR WILSON  
Times Staff Reporter

EVERETT — The federal government must begin a comprehensive study to provide solutions to the controversial Boldt decision, the Democratic vice-presidential candidate, Walter F. Mondale, said here today.

In a press conference on the steps of Senator Henry M. Jackson's home, Mondale endorsed a resolution submitted by Representative Lloyd Meeds, 2nd District Democrat.

Meeds has proposed a one-year study by federal and state authorities on solutions to a 1974 decision

by United States District Judge George Boldt.

The decision, which reserves 50 per cent of salmon and steelhead runs for treaty Indians, has become a hot campaign issue in Meeds' drive for re-election.

HIS REPUBLICAN opponent, John Nance Garner, has called for federal legislation to reverse the Boldt decision or otherwise nullify its impact on commercial and sports fishermen.

Last Thursday, Vice President Nelson Rockefeller, in the area to campaign for Garner, told the Seattle press that he knew nothing about the Boldt decision and felt it was "a local problem."

Mondale, briefed by local Carter campaign workers, said the Boldt decision was similar to other "treaty-rights" problems. He said the Boldt decision is "an issue of great complexity . . . and cries out for a responsible federal study."

On another local issue, the federal-court decision which overturned the state law prohibiting supertankers on Puget Sound, Mondale said he would not comment directly but urged a "quick national review."

Mondale said the decision is being run through appellate courts but said it was not an issue "to be trifled with."

He said the nation has to realize it has an energy crisis and has to deal responsibly with getting oil

from the trans-Alaska pipeline into the United States.

QUESTIONED about a comment made by Eugene McCarthy, Independent presidential candidate, describing Jimmy Carter as a "pet redneck of liberal Democrats," Mondale appeared perturbed and answered: "Well, Governor Carter is a responsible man."

Mondale swung hard at the Republican opposition last night when he arrived at Boeing Field and stayed on the attack today in Everett. He left at midmorning for Butte from the Seattle-Tacoma Airport. The departure point was changed from Paine Field because of fog.



Oct 21/76

35-11  
**Mondale says  
Carter would  
study Boldt** 20-2-11

EVERETT (AP) — Democratic vice presidential nominee Walter Mondale said today that a Jimmy Carter administration would begin a study of the effects of the controversial Boldt Indian fisheries decision.

In a brief press conference on the steps of Sen. Henry Jackson's home here, Mondale said the Boldt decision was only one of many federal court actions on Indian treaties involving fishing, timber and water rights.

He said relations with Indians are extremely complex and "cry out for responsible action by the federal government."

Mondale's familiarity with the problem was in contrast to Vice President Nelson Rockefeller's admission last week that he hadn't even heard of the Boldt decision, a 1974 granting treaty Indians half of harvestable runs of salmon and steelhead.

Rockefeller was in the state campaigning for John Nance Garner — the Republican challenger to Rep. Lloyd Meeds — who has seized on the decision as the main issue in his District 2 campaign.



October 21, 1976

## Tear gas fired

# Gillnetters, state clash again

By DON HANNULA

Another full-scale confrontation between State Fisheries patrol boats and protesting gillnetters occurred last night and early this morning off Foulweather Bluff at the head of Hood Canal.

The clash was more heated than a similar incident in the same area October 7, when two patrol boats were rammed by gillnetters and a Coast Guard vessel was struck.

Last night, at least one tear-gas canister was launched at gillnetters from fisheries-patrol boats and one gillnet boat caught fire.

The square-off broke out when six fisheries-patrol boats tried to halt illegal fishing by a non-Indian gillnet boat, part of a fleet of 35 to 50 boats. Fisheries patrolmen only saw one net in the water when the incident began.

An 82-foot Coast Guard cutter, the Point Doran, was called in from Everett to assist as was a Coast Guard helicopter from Port Angeles. The helicopter used a special "night sun" searchlight to illuminate the area.

When a fisheries-patrol boat tried to issue a citation to one of the gill-

netters, other gillnetters began efforts to block the patrol boat. As they did during the October 7 confrontation, the gillnetters made high-speed passes, sending boat-wake waves against the patrol boats.

A Coast Guard spokesman said there were no reports of boats being swamped.

The war at sea lasted from about 10:30 p.m. until 12:30 a.m. About 40 enforcement officers, including 17 from the State Game Department, were aboard the six fisheries-patrol boats.

The Coast Guard spokesman said

there was a report of one flare being fired from a boat.

A commercial fisherman at the scene said at least two tear-gas canisters were fired from fisheries-patrol boats and that one touched off a fire on the Brendan B II, owned by David Fraser. Fraser was one of two gillnetters arrested October 7 and charged with obstructing officers.

Fisheries officials said only one tear-gas canister was shot at a gillnetter and they questioned whether it started the fire.

The coast guard went to assist the gillnetter but the fire was

out when it arrived. Damage was estimated at about \$500.

Gillnetters have been angered by a commercial-fishing closure of Puget Sound during the coho salmon season, except for a small area in the San Juan Islands, and only one day of chum-salmon fishing.

The area off Foulweather Bluff is closed to Indians and non-Indians for conservation, but gillnetters have called it a false-conservation closure because Indians are allowed to fish in river and terminal (river mouth) areas. That is in compliance with the 1974 federal-court decision of Judge George H. Boldt.

Bruce Gruett, assistant director of field services for the Fisheries Department, acknowledged that a fisheries boat fired a tear-gas canister at a gillnetter. He said it was fired after a gillnet fisherman threw an object that struck a patrol officer, who was not hurt.

Gruett said there was a fire aboard one gillnet boat but he assumed it started from overheating from high-speed passes, not from the tear-gas canister.

No arrests were made last night but Gruett said charges may be filed today against number of gillnetters.



Seattle Times

# Boldt decision

## 'It cries out for study,' says Mondale

By JOHN ARTHUR WILSON  
Times Staff Reporter

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*Polygonian*  
*October 22/76*

## FBI's probe of 'Fish War' hit

By DAVID AMMONS

SEATTLE (AP) — The FBI cannot accomplish any more than the state in the "Fish War," a continuing battle with gillnetters fishing illegally in Puget Sound, Gov. Dan Evans said Thursday.

Northwest Indians announced earlier that the Department of Justice ordered the FBI to begin an immediate investigation of the long-simmering conflict over scarce salmon stocks. The U.S. attorney's office said information gained would be used for prosecutions under civil rights laws.

"The FBI can't do any more than we can unless they have bigger boats or more cannons or some other darn thing that we don't have, and they certainly, in my view, are not going to be involved in that kind of enforcement," Evans said.

Deputy U.S. Atty. James Waldo also said the FBI would not be a peacekeeping force on the sound.

Evans said the state will seek criminal charges in superior court against those who harassed Indians or Fisheries Department patrol officers. He added it would be up to county prosecutors to pursue the matter under state law.

The president of the Puget Sound Gillnetters Association said Thursday he is "dumbfounded and mystified" to

learn the FBI was entering the conflict.

Phil Sutherland said his association resents "federal intervention in what is a state issue."

He added: "I'm mystified that the FBI should suddenly become a maritime agency with knowledge about fisheries management."

The federal presense will make little difference in the tense situation, he said.

But Lummi tribal leader Forrest Kinley told newsmen, "If we don't get the kind of protection we need, I guess we'll see riots. We don't want that. No fish is worth anyone's life."

The exchange followed an early morning confrontation pitting up to 40 fishing boats against tear-gas throwing officers on state patrol vessels. Fishermen said some boats were set afire by tear gas cannisters lobbed by state agents.

There were no injuries. State agents made one arrest and were studying assault charges against three fishermen.

The clash was part of a continuing confrontation between angry commercial fishermen and state and federal patrolmen. The state has closed the Puget Sound fishery, citing conservation reasons, but has permitted Indians to fish in limited areas.

The Indian leaders said they have documented numerous incidents of whites shooting at Indians and vandalizing Indian fishing boats.

That anger is misplaced, they said. Heavy ocean fishing is largely to blame for the small coho salmon run in the sound, they added. The offshore trollers landed 1.3 million coho.

Indians have caught no more than 12 percent of the state, despite a federal court guarantee of a chance to catch fully half the harvestable runs, they said.

Al Zlotz, attorney for the Northwest Indian Fisheries Commission, called the non-Indians "rednecks" and added:

"Anytime you change the status quo where economic rights are affected, those affected are interested neither in law nor logic."

The Indians spoke of "ugly racial overtones."

But Sutherland said the fishermen "can't feel morally that we're committing any illegal act" by fishing despite the state closure, Sutherland said. The legal status of the fishery is "totally uncertain," he contended.

A Department of Fisheries spokesman said the agency has made more than 40 arrests in the last three weeks, and that "we feel we're doing an adequate enough job." The FBI will not be able to force any greater compliance by the whites, he said.

The whole fish issue is to be considered Nov. 9 by the state Supreme Court, he noted.

Waldo said the FBI will investigate to see whether there is a provable case against the whites.



Subject  
Sujet

Date

October 22, 1976

Publication

Seattle Times

## F.B.I. role in fish dispute is protection, official

By DON HANNULA

The Federal Bureau of Investigation's entry into the Puget Sound fishing dispute will be to protect the rights of Indian fishermen, not to police the waters, an assistant United States attorney said today.

"The F.B.I. will not be a peace-keeping force on Puget Sound," said Ron Sim, chief assistant to Stan Pitkin, United States attorney for Western Washington.

He said the F.B.I. role will be to gather information for possible use in prosecutions for violation of Indian rights.

Gov. Dan Evans had said yesterday the state will seek criminal charges in Superior Court against those who have harassed Indians or Fisheries Department enforcement officers.

"The F.B.I. can't do any more than we can unless they have bigger boats or more cannons or some other darn thing that we don't have and they certainly, in my view, are not going to be involved in that kind of enforcement," the governor said.

Phil Sutherland, president of the Puget Sound Gillnetters Association, said he was "dumbfounded and mystified" to learn the F.B.I.

was entering the conflict. He said his association resents "federal intervention into what is a state issue."

THE DISPUTE stems from a 1974 ruling by United States District Court Judge George H. Boldt that treaty Indians are entitled to the opportunity to catch half the harvestable salmon and steelhead returning to traditional off-reservation fishing grounds.

The ruling, coupled with record non-Indian commercial-trolling catches in the ocean this year, resulted in a conservation closure of non-Indian fishing for coho salmon in almost all of Puget Sound. Only one day of commercial non-Indian net fishing — yesterday for chin salmon — has been allowed this fall in Puget Sound below the San Juan Islands.

Fishermen have reacted angrily and illegal fishing has been rampant, with a virtual war between non-Indian gillnetters and state enforcement officers.

WEDNESDAY NIGHT, between 35 and 50 non-Indian gillnet boats and six State Fisheries Patrol boats engaged in a confrontation. A tear gas canister was hurled by fisheries

officers at one gillnet boat, which caught fire.

Fisheries officials said charges are being prepared against violators. However, no charges had been filed in Kitsap County Superior Court by noon today, according to Dan Clem, Kitsap County's chief criminal deputy. He said his office was working on charges.

The F.B.I. entry into the conflict followed in the wake of complaints by Indian leaders that their fishermen have been threatened and intimidated while exercising treaty fishing rights.



Subject  
Sujet

Date

October 7/76

Publication

Seattle P.F.

## Fishing War: FBI Steps In

Charging commercial fishermen have become so violent toward Indians that bloodshed may be near, tribal spokesmen announced yesterday that the FBI has been ordered to protect Indian rights in Puget Sound's "fishing war."

The spokesmen said that Indians have caught only 12 per cent of Washington's salmon harvest this year, and caught only 5 to 8 per cent in previous years, but they are being made "scapegoats" for the failure of salmon runs in Puget Sound.

The tribal spokesmen said a Lummi Indian research boat was fired on 13 times, repeated attempts have been made by commercial fishing vessels to ram and sink Indian skiffs, Indian net fishermen on river banks have been cursed and insulted by the public, and even football teams from Indian high schools have received racial insults from the stands.

"Thank God nobody has been killed so far," said Helen Keeline of the Joint Elliott Treaty Indians. "But I'm afraid somebody is going to get killed before this is over."

A spokesman for U.S. Attorney an Pitkin's office confirmed yesterday

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## The Fishing War

From Page A-1

day that the FBI will enter the controversy.

"The Seattle FBI office has been ordered to investigate specific complaints regarding attempts to prevent Indians from exercising their fishing rights," said Ron Sim, an assistant to Pitkin.

Sim said that under federal law attempting to deprive Indians of their rights is a felony.

The tribal officers issued a call for an end to the "lawless conduct of commercial fishermen who have been defying state closure orders and threatening violence to Indian and state enforcement officers."

According to the Indian spokesmen, "rabblers" among the fishermen have brought about a "near total breakdown in fisheries management on Puget Sound." They said this would have an unfavorable impact on Puget Sound salmon stocks "which will last for years."

As the Indian tribes made their announcement, there was another incident of violence on Puget Sound in the "fishing war."

Between 30 and 40 gillnet fishermen encircled six state Fisheries Department patrol boats in two incidents Wednesday.

A Coast Guard cutter and a helicopter were called out twice during the night, once to escort the state patrol boats from the mouth of Hood Canal, and a second time to escort them south from the Mutiny Bay area of Whidbey Island.

The gillnet boats were making high speed "passes" at the state boats, threatening to ram them, according to Bruce Gruett, assistant director of field services for the department.

"It was a hairy situation," he said. "There were some wild men out there."

He estimated that between 40 and 50 gillnet boats were fishing illegally near the mouth of Hood Canal.

Gillnet fishermen said a tear gas canister fired by a state patrol boat landed in one vessel, set fire to the rain gear and caused about \$800 dam-

age.

According to Gruett, a state boat fired the canister after a gillnetter made a very close pass at a patrol boat and the fisherman allegedly threw something at an officer.

The "fishing war" got its start after a landmark decision by U.S. District Judge George Boldt two years ago which ruled that treaty Indians have the right to take half of Washington's harvestable salmon.

This year, state Fisheries Department Director Donald Moos ordered Puget Sound closed to non-Indians for "fall fishing" as a conservation measure.

Many gillnetters, who charge that the closure isn't a conservation measure when Indians are allowed to fish, and plagued by financial problems in a poor fishing year, have been defying the state closure order.

In their announcement yesterday, the Indian tribal officials said the reason for the poor run of cohos on Puget Sound at present is the fact that the coho run was largely caught by non-Indian trollers off the coast during the summer.

The Indians said the trollers caught a record 1.3 million cohos this year off the coast. The Indians will end the Puget Sound coho season with a total off-reservation catch of 144,000 cohos, while non-Indian fishermen took 350,000 in Puget Sound, the tribal leaders said.

One Indian spokesman, Bernard Gobin of the Tulalip Tribe, said feelings are running so high among gillnetters that "our people are seriously concerned for their safety."

He said Indians in the Anacortes area are sleeping aboard their boats to prevent vandalism, some of which has occurred.

Indians and their children all over Puget Sound have experienced verbal abuse, according to the tribal leaders. All fear for their lives because many of the commercial fishermen are carrying guns on their vessels, the tribal leaders said.

"No fish is worth a person's life," said Forrest L. Kinley of the Lummi



Subject  
Sujet

Date

October 22, 1976

Publication

Spokesman Review

## FBI to probe fishing dispute

PORT GAMBLE, Wash. (AP) — The president of the Puget Sound Gillnetters Association said Thursday he is "dumbfounded and mystified" to learn that the FBI will be called into the area's "Fish War."

Following a waterborne riot earlier in the day, frightened Northwest Indians announced that the Department of Justice has ordered the FBI agents to begin an immediate investigation of the long-simmering conflict over scarce salmon stocks.

The U.S. attorney's office said the information gleaned could be used for prosecutions under civil rights laws. The FBI will not be a peacekeeping force on the sound, however, said Deputy U.S. Atty. James Waldo.

Gillnetters President Phil Sutherland said his association resents "federal intervention in what is a state issue."

He added: "I'm mystified that the FBI should suddenly become a maritime agency with knowledge about fisheries management."

The federal presence will make little difference in the tense situation, he said.

But Lummi tribal leader Forrest Kinley told newsmen: "If we don't get the kind of protection we need, I guess we'll see riots. We don't want that. No fish is worth anyone's life."

The exchange followed an early morning confrontation pitting up to 40 fishing boats against tear-gas throwing state patrol vessels. Fishermen said some boats were set afire by tear gas canisters lobbed by state agents.

There were no injuries. State agents made one arrest and were studying assault charges against three white fishermen.

The clash was part of a continuing confrontation between angry non-Indian commercial fishermen and state and federal patrolmen. The state has closed the Puget Sound fishery, citing conservation reasons, but has permitted Indians to fish in limited areas.

The Indian leaders said they have documented numerous incidents of non-Indians shooting at Indians and vandalizing Indian fishing boats.

That anger is misplaced, they said. A heavy ocean fishery is largely to blame for the small coho salmon run in the sound, they said. The offshore trillers landed 1.3 million coho.

Indians have caught no more than 12 per cent of the non-Indian take, despite a federal court guarantee of a chance to catch fully one-half of the harvestable runs, they said.

Al Zientz, attorney for the Northwest Indian Fisheries Commission, called the non-Indians "rednecks," and added: "Anytime you change the status quo where economic rights are affected, those affected are interested neither in law or logic."



Subject  
Sujet

Date

Oct 22/76

Publication

Bellingham Herald

## Federal officers join 'fish war'

SEATTLE (AP) - The state is preparing felony charges and the federal government dispatched the FBI in the wake of an escalation of Washington's "Fish War," the latest battle in which was a waterborne riot with burning boats and tear gas.

"If we don't get the kind of protection we need, I guess we'll see riots. We don't want that. No fish is worth anyone's life," Lummi Indian leader Forest Finley said of the federal action.

But Puget Sound Gillnetters Association president Phil Sutherland said his group resents "federal intervention in what is a state issue."

Whether it's a state or federal problem may be the key to the solution. "The basic problem we've got is one of ultimately determining which law it is that governs - whether federal or state law and how the two interrelate. I think when we do that we'll have more consistent response from state and federal courts," Gov. Dan Evans told a news conference Thursday.

The dispute stems from a two-year-old ruling by U.S. District Judge George Boldt, who said treaties dating back to the late 1800's gave Indian tribes the right to catch at least half of each harvestable salmon run, increasing Indian catches and decreasing those of already hard-pressed non-Indian commercial fishermen.

Evans said the state plans to get tough with lawbreakers on the sound. He said the state is in the process of making felony charges against those involved in endangering the lives of patrol officers.

"Several fisheries patrol officers were almost drowned a few weeks ago as a direct result of a deliberate attempt by the gillnetters to harass fisheries patrol officers, running at the boats, ramming the boats, shooting off rifles . . . to harass the officials."

A Coast Guard cutter and helicopter were called in early Thursday to help outmanned fisheries officers in six patrol boats. "They were mak-

ing high-speed passes at our boats, trying to get us to collide with each other," said Bruce Gruett of the state Department of Fisheries.

No injuries were reported and the department filed no charges immediately.

The governor refers to the seagoing lawbreakers as "an outlaw percentage of gillnetters" and adds with compassion the majority of gillnetters are frustrated and "deserve to be frustrated because many of them are losing their livelihood."

Although the state says it has closed certain fishing grounds to preserve dwindling salmon stocks, non-Indian fishermen say they think the closure was to make sure Indians get their quota.

There have been arrests for illegal fishing and minor violence has flared before.

In the latest incident, Gruett said officers were attempting to arrest a fisherman for illegal fishing at the mouth of Hood Canal, west of Seattle. The boat was among 40 to 50 in the area closed to fishing. Officials said as a patrol boat closed in other boats surrounded it. Fishing boats made high speed passes and when one officer was hit by a flying object he responded by firing tear gas.

Tear gas was used several times and fisherman David Frazer of Port Townsend said his craft was set afire. He said it was put out before much damage occurred. At least one other fire was reported.

The governor doesn't seem to think the FBI is needed. "The FBI can't do any more than we can unless they have bigger boats or more cannons or some other darn thing that we don't have and they certainly in my view are not going to be involved in that kind of enforcement."

Deputy U.S. Atty. James Waldo confirmed the FBI wouldn't be a peacekeeping force but would use information gleaned for prosecution of civil violations against Indians.



Oct 22/76

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"Thank God nobody has been killed so far," said Helen Keeline of the Point Elliott Treaty Indians. "But I'm afraid somebody is going to get killed before this is over."

A spokesman for U.S. Attorney Stan Pitkin's office confirmed yesterday

that the FBI will enter the controversy.

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"No fish is worth a person's life," said Forrest L. Kinley of the Lummi Tribe.



## Following shooting of fisherman

# Gillnetters urged to 'keep cool'

By VERN SHOMSHAK

TNT Staff Writer

Officers of the Puget Sound Gillnetters Association are appealing to their members to "keep things cool" in the wake of the shooting of a gillnet fisherman by a state Fisheries Department officer yesterday.

Wounded in the head by shotgun pellets was William Carlson, 24, of Gig Harbor and Bellingham. He was listed in "stable but serious" condition in Harborview Medical center, Seattle, after undergoing surgery.

The shooting occurred last night near Foulweather Bluff at the entrance to Hood Canal as fisheries officers were ticketing a gillnetter fishing in closed waters.

Fisheries officials and the gillnetters

association gave different versions of the shooting.

A fisheries spokesman said Carlson, 24, was headed at high speed toward a 35-foot patrol boat with his 50-foot boat, the Alaskan Revenge.

The shots — two blasts from a shotgun — were fired "when it was evident" that the Revenge was going to ram the patrol boat, the spokesman said.

A gillnetters spokesman, however, said other fishermen at the scene indicated Carlson had his engines in reverse when the shooting occurred. Carlson was approaching the patrol boat to "see what was going on," that spokesman said.

Meanwhile, angry gillnetters were gathering at Shilshole Bay in Seattle

today to plan what action they might take in light of the increasing violence in Washington's fish war.

At issue, according to the gillnetters, is whether the state is acting properly in closing fishing areas and changing seasons in order to comply with a federal court decision guaranteeing Indians a chance to catch more than half the harvestable salmon.

The gillnetters association has been working for more than two years to get the question before the state Supreme Court, and such a hearing is scheduled for Nov. 9, the spokesman said.

Meanwhile, a fisheries attorney said charges are being prepared against Carlson, the wounded fisherman.

Carlson has a Bellingham address but has been living on his boat in Gig

Harbor, where he was raised, sources said.

Carlson is the first fisherman to be shot in the salmon war, although there have been other earlier reports of attempts to ram fisheries patrol boats.

Meanwhile, the FBI has announced plans to investigate the dispute, to determine if there has been a "conspiracy" to deny Indians their federally guaranteed rights.

The gillnetters spokesman said the non-Indian fishermen welcome that move as a means of dispelling some innuendo that has been circulating.

But the real issue, the spokesman said, is why the fisheries department "is not obeying state laws — is allocating salmon contrary to state statutes."

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# Angry fishermen protest at Ford visit

By DON HANNULA  
and MARSHALL WILSON

About 30 gillnet and purse-seine boats massed off Pier 57 during President Ford's arrival here today to protest last night's shooting of a commercial fisherman by a fisheries-enforcement officer.

Coast Guard boats held back the fishermen as the President arrived by Boeing hydrofoil at 12:25 p.m. and the fishermen made no effort to interfere.

**ANOTHER GROUP** of fishermen paraded on shore. Earlier, about

150 gillnetters and their wives had met in an angry session at Shilshole Bay and called on Gov. Dan Evans to convene a special session of the Legislature to investigate the State Fisheries Department.

William Carlson, 24, skipper of the gillnetter *Alaskan Revenge*, was shot by a state fisheries patrol officer in a confrontation near the north end of Hood Canal. Carlson suffered pellet wounds in the head from a shotgun.

The gillnetters greeted President Ford with signs protesting the shooting. One read "Disarm fish cops now."

Another sign was even harsher. It read:

"Wanted — Evans, Moos, Haw, Gruett and Sgt. Miller — for Murder."

The reference was to Gov. Dan Evans, Fisheries Director Don Moos, deputy director Frank Haw, enforcement chief Bruce Gruett, and Sandy Miller, Gruett's chief aide. The sign was somewhat exaggerated. Carlson was not killed. He is in serious condition in Harborview Medical Center.

**THE PROTESTING** gillnetters also carried signs critical of the

Boldt decision, which increased the share of salmon for treaty Indians. One sign read: "Help us, Mr. Ford — Return Civil Rights for Fishermen."

Last night's shooting was the latest incident in a series of confrontations between the gillnetters and fisheries patrolmen. The gillnetters have defied a state fishing closure in inner Puget Sound.

While the commercial fishermen were demonstrating, Indians and their supporters were staging another protest nearby — one calling for the return of the Cascadia Juvenile Diagnostic Center in Tacoma to the Puyallup Tribe. It formerly was an Indian hospital.

Meanwhile, before leaving for Seattle to meet the President, Evans held a hurried meeting with Moos. The governor said he had no plans to take immediate action until the shooting incident can be fully reviewed. He planned to meet with

Moos again later today after President Ford's departure.

One gillnetter had accused Evans of ordering fisheries patrolmen to carry shotguns in addition to their usual aldirms. Moos said that was not true and added that the order did not come from him, either. He said he assumed it came from Gruett.

**THE FISHERIES** director announced a four-man special board of inquiry to investigate the shooting. Named to the board were Roland Hatchel, chief of the fisheries patrol; John LaPlant, a patrol officer; Wallace Kramer, chief of enforcement for the State Game Department, and Harvey Hallum, assistant chief of the State Patrol.

Howard Oliver, the officer who fired the shots at Carlson, was assigned to administrative duties pending outcome of the inquiry.

Officers said it appeared Carlson's boat was attempting to ram

a patrol craft before Oliver fired. Another gillnetter on the scene disputed that.

Moos said Oliver was "a mature officer, ... one who does not panic."

The fisheries director said the major problem now is how to handle the fisheries situation for the rest of the year. Inner Puget Sound has been closed to non-Indian commercial fishermen through the fall in compliance with the 1974 decision of United States District Judge George Boldt which gave Indians the opportunity to catch half the salmon returning to traditional off-reservation fishing grounds.

Indians have been allowed to fish in "terminal areas" off the mouths of rivers. The non-Indian gillnetters say the Fisheries Department has no authority to allocate the catch to Indians and can impose a closure only for reasons of conservation.



# Wounded gillnetter in serious condition

By PAUL HENDERSON

A 24-year-old commercial fisherman was in serious condition today after being shot in the head by a fisheries patrol officer in a confrontation between patrol officers and gillnetters near the northern end of Hood Canal last night.

William Carlson, skipper of the Alaskan Revenge, was taken to Harborview Medical Center by a Coast Guard helicopter after being shot about 7:30 p.m. Fisheries officers said he was shot as he tried to ram a patrol boat carrying seven armed men.

**THE SHOOTING** occurred off Foulweather Bluff, site of a number of confrontations between fisheries officers and non-Indian gillnetters who are protesting fishing closures.

Gillnetters on the scene disputed contentions by the State Fisheries Department that Carlson was attempting to ram the patrol boat and accused the fisheries patrolmen of an unwarranted shooting. One said Carlson's boat had slowed and put its engines in reverse before the shooting.

Bruce Gruett, assistant director of fisheries, called the shooting justifiable.

Gruett said Carlson's boat was "bearing down" on a 35-foot patrol boat and officers aboard were facing an imminent collision that would have "sliced the patrol boat in two."

Howard Oliver, a veteran fisheries patrolman, fired two shots, Gruett said. The pellets shattered the pilot-house window on the Alaskan Revenge and struck Carlson, who was at the wheel.

Gruett said "evasive action" by the patrol-boat skipper, plus a reverse throttle on the gillnetter prevented a collision. Gruett theorized Carlson involuntarily threw the Alaskan Revenge into reverse after being shot.

**THE SHOTS** were fired with the two boats fewer than 20 feet apart, Gruett said.

Gruett said the incident occurred after fisheries patrolmen had boarded another gillnetter, identified as the Sandy Gal, to issue a citation for illegal fishing. Between 35 and 40 gillnet boats were reported in the area when fisheries-patrol boats converged on the scene.

The Sandy Gal was the first boat boarded by patrolmen, Gruett said, and the skipper was cooperating with officials when the Alaskan Revenge came in full bore from the starboard side.

A loaded rifle was found beside Carlson in the pilot house of the Alaskan Revenge, Gruett said. Another rifle was found on a bunk of the fishing vessel, he said.

The gillnetters have been angered by a commercial-fishing closure of inner Puget Sound. The area off Foulweather Bluff is closed to both Indian and non-Indian fishermen, but gillnetters have called it a bogus conservation measure because Indians are allowed to fish in "terminal areas" off the mouths of rivers under terms of the 1974 Indian-fishing rights decision by United States District Judge George H. Boldt.

**GRUETT TODAY** called the gillnetters "lawless renegades who are using the the Indian (versus) non-Indian fishing issue as an excuse to break the law."

"We've been fishing in violation as a protest to what we consider to be an illegal allocation of fish to Indians," said Jim Polley, a gillnetter. "If I don't fish, I lose my boat."

Debbie Ewing, who was aboard the Alaskan Revenge with Carlson and escaped injury, refused to answer any questions. But she did give a handwritten statement, which said, in part:

"Now is the time for people to

stand behind the commercial fishermen. Give them back their faith in the judicial system . . . Impeach Judge Boldt! Don't let bad law linger."

The gillnetters' protest fishing has resulted in a series of confrontations in which several boats have been rammed. Last week on Hood Canal, fisheries patrolmen fired tear gas and one gillnetter caught

fire, causing about \$500 damage.

Last night's shooting escalated the violence.

Asked if the same sort of measures would be used in future instances, Gruett said: "Under the exact same situation? Yes!"

"To me it was unreal," one gillnetter said of the incident. "Who would have thought that someone would be shot over a fish?"



# Fishermen claim patrol at fault

By LINDA SCHILD  
Herald Staff Reporter

State Department of Fisheries patrol boats are precipitating violence in lower Puget Sound, reports one gillnetter who has witnessed the confrontations between officers and gillnetters in recent weeks.

Fishermen have never pulled guns on a patrol boat, or actually attempted to ram one, said Jay Gould, Port Townsend gillnetter and a trustee of the Puget Sound Gillnetters Association.

Yet the fisheries patrol has gone so far as to tell its patrolmen that a fishing boat approaching a patrol vessel is to be considered a "deadly weapon," Gould said. "They have said they would shoot to kill."

Gould said he was told of patrol instructions to that effect "a couple of days" before William Carlson, 24, was hit in the forehead with a fisheries patrol shotgun blast Sunday night on Hood Canal.

Official fisheries department reports claim gunshots were heard before

a patrolman fired two shots toward Carlson's approaching boat.

"There have been allegations made that simply aren't true," said Phil Sutherland, Port Townsend gillnetter who is president of the gillnetters association.

"They were not fired upon before they opened up on young Carlson," he said. "I have heard five eye witnesses tell our attorney they totally refute there was any gunfire beforehand."

Patrolmen are scared, Gould said, "but they're scared because of their own propaganda. The more paranoid the patrol feels, the more they feel we're going to respond the same way."

"There haven't been any direct threats by fishermen with guns that I know of. There have been insults exchanged."

Gillnetters have been fishing in Hood Canal against fisheries department orders for several weeks, claiming their actions are legal while the department's closures are not.

The department is authorized to close a fishery only for conservation purposes, the fishermen point out. This fall, however, department spokesmen have openly labeled some of their closures "allocation" measures.

Fish are "allocated" to Indian and non-Indian fishermen to create the 50-50 split of resources called for in U.S. District Court Judge George Boldt's fishing rights decision of 1974.

"In this last incident there were only three gillnetters within rifle range," Gould said of the Sunday shooting. "The fleet was fishing and spread out. There were maybe 30 boats."

Gould said he was observing from about a half-mile away when the patrol approached a gillnetter to ticket him. Carlson approached to see what was happening, and had begun to back his boat away when he was shot, according to Gould.

Gould bases his information on reports by a woman on Carlson's boat. His citizen band radio was jammed at the time — by the patrol boat — he believes. Gould said he doesn't know whether the jamming was intentional or accidental.

Gould, too, was "very cautiously approaching the scene" when he met "hysterical yells of 'back off! back off!'" he said. "There were a lot of obscenities from the fisheries people, and I certainly did back off. I was almost the second casualty of the night."

He and Sutherland have been cautioning fishermen to approach patrol boats carefully for fear of a violent reaction, Gould said.

Fishermen began the practice of grouping together when one of their number is ticketed because the patrol now makes arrests using two or more boats, Sutherland explained.

The resulting traffic jam led to the first reported incident of gillnetters "ramming" patrolmen the night of Oct. 5, he said. Some of the younger fishermen buzzed the patrol, Sutherland acknowledged, but he said none tried to ram the official boats.

"Most of the damage that I would accord the fisheries patrol vessel occurred due to their own inept boat handling," Sutherland said.

The patrol tried to tie its 19-foot vessel to a 42-foot patrol boat, incurring damage in the process, he said.

Fishermen first approached these confrontations with the attitude they would approach a football game, according to Gould.



# Gillnetters fishing again; wounded man still 'serious'

SEATTLE (AP) — Commercial gillnetters, who felt their protest to a President over the shooting of a fellow fisherman by a state agent went unacknowledged Monday, have resumed fishing despite continued closure of the fishery.

The wounded fisherman, William Carlson, 24, remained in serious condition at Seattle's Harborview Medical Center. He is undergoing treatment for shotgun wounds of his forehead.

Carlson was shot by a state Department of Fisheries agent Sunday night in Hood Canal near the northern tip of the Kitsap peninsula, state officials have said.

Angry fishermen steamed to Seattle Sunday night and staged a horn-bonking, whistle-blowing protest over the fishing rights dispute during President Ford's Seattle visit Monday. Several dozen fishing boats greeted Ford when he arrived via a hydrofoil to make a speech at a waterfront park.

There were no incidents.

Ford made no public acknowledgment of the demonstration during his speech. However, he told reporters as he arrived at the park that he had been told of the fishing rights dispute by Gov. Dan Evans.

"The problem has broad ramifications," he said. "We've got to keep our cool . . . fishing can be expanded. It has a great potential. The state must work with the federal government and the Indians."

He said alternatives to the current violence include a commission to study the problem and a program for increasing the fish runs.

Gov. Evans said later, "The Pres-

ident recognizes that is a problem that requires some federal involvement."

Evans said he is studying a request that he call a special session of the legislature to deal with the issue, and that criminal charges were being prepared for fishermen linked with the confrontation off Foulweather Bluff.

Asst. Atty. Gen. James Johnson said he will recommend filing criminal charges against Carlson "and all others who have either fished illegally or interfered with fisheries patrolmen."

The U. S. Justice Department has ordered the FBI to investigate the non-Indian fishing and the violence.

Donald Moos, director of fisheries, announced the appointment of a four-man inquiry panel to probe the shooting. The panel is to include one officer from the Washington State Patrol.

The gillnetters contend their fishing in the face of a state closure is not illegal. The state Supreme Court is to consider the whole fishing problem next month.

The state cited conservation reasons for the closure of the salmon fishery. But because the state agency is allowing Indians to fish in certain areas of Puget Sound, non-Indians contend allocation to Indians rather than conservation is the real reason for the closure.

The dispute has its roots in U. S. District Court Judge George Boldt's 1974 ruling that a treaty signed in 1855 guarantees Indians the opportunity to catch at least half the state's harvestable salmon and steelhead.



# No fisheries patrol last night, despite defiance by gillnetters

By MARSHALL WILSON  
and LYLE BURT

The State Department of Fisheries apparently had no patrols on Puget Sound last night, even though 30 gillnet boats were reported fishing off Foulweather Bluff in defiance of a state closure.

William Carlson, 24, a gillnet fisherman, was shot and wounded Sunday night by a fisheries patrol officer in the latest in a series of confrontations at the north end of Hood Canal.

But Bruce Gruett, assistant director of fisheries for field operations, said today there was no activity to report last night. "I'm not sure we had any people out last night, which probably explains why we don't have anything to report," he said.

"We're short-handed. We have other things to do than put people on patrol in Puget Sound."

**HOWEVER**, the Times learned that 12 additional men were hired by the department about the first of September and placed on patrol duty. The new patrolmen are scheduled to attend the State Patrol Academy next month.

The department also has used enforcement personnel borrowed from the State Game Department.

The Times also learned that Sandy Miller, assistant to Gruett, was taken out of the field Friday and reassigned to office duty after expressing concern that someone could be hurt in the confrontations between enforcement officers and gillnetters.

Donald Moos, state director of fisheries, was not immediately available for comment.

Gruett termed the shooting of

Carlson "tragic," adding: "I hope to God he makes it."

However, Gruett said, "We must not lose sight of the fact he was breaking the law."

The gillnetters have fished in defiance of a closure by the State Fisheries department to comply with terms of United States District Judge George H. Boldt's Indian-fishing-rights decision.

But even if Puget Sound were open to non-Indian fishermen, Carlson still would not have been able to fish legally, Gruett said.

"He (Carlson) is not a licensed Puget Sound gillnet fisherman. He doesn't have a 1976 license."

**GRUETT SAID** that although Carlson was not caught "in the act of fishing" Sunday, he definitely had been fishing for salmon.

"His gillnets were aboard. There were 'gillnet-marked' salmon aboard. He had been fishing."

Gruett added that Carlson had three prior arrests for illegal fishing, the latest about a week ago when he was charged with attempting to sell illegally caught fish in Tacoma. That case is pending.

In late December, Carlson pleaded guilty to a charge of illegal fishing with gillnets in Puget Sound and was fined \$246 plus court costs, Gruett said. In January, 1975, he forfeited \$50 bail on a charge of selling salmon without a proper license.

The Fisheries Department has said that 1,500 gillnetters are licensed to fish and that on any given night, no more than 100 boats have fished illegally.

Gruett has termed the illegal fishermen "renegades."

Gov. Dan Evans said in Olympia he was fully aware of the plight of fishermen who have investments in their boats and equipment but cannot fish. The governor said a solution to the controversy could be enhancement of the chum salmon run to provide sufficient fish for commercial and sports fishermen as well as for Indian fishermen.

(The gillnetters, however, mainly are concerned with the coho salmon run, and chum salmon are not considered a sports fish.)

"I think the best hope is for patience while we work to expand the fisheries," Evans said. He said Canada and the United States are on the verge of an agreement that would call for future enhancement of salmon runs to the country responsible for the enhancement.

**THE GOVERNOR** also said he discussed the situation with President Ford during the President's visit to Seattle yesterday. He said the President called it a national problem.

Evans said Mr. Ford believes there is some possibility of obtaining federal aid for fisheries enhancement, but the President did not specifically commit himself to aid.

"I feel it is unlikely that Congress is going to change its position or repeal Indian treaties," Evans said, adding that the courts are not likely to change their position on Indian fishing either.

"But I think we can build our fisheries and provide more fish for all," he added.



# Angry Gillnetters Fishing Again

SEATTLE (AP) — Commercial gillnetters, who felt their protest to a president about the shooting of a fellow fisherman by a state agent went unacknowledged Monday, have resumed fishing despite continued closure of the fishery.

The wounded fisherman, William Carlson, 24, remained in serious condition at Seattle's Harborview Medical Center. He is undergoing treatment for shotgun wounds of his forehead.

Carlson was shot by a fisheries department agent Sunday night in Hood Canal near the northern tip of the

Kitsap Peninsula, state officials have said.

Angry fishermen steamed to Seattle Sunday night and staged a horn-honking, whistleblowing protest over the fishing rights dispute during President Ford's Seattle visit Monday. Several dozen fishing boats greeted Ford when he arrived via a hydrofoil to make a speech at a waterfront park.

There were no incidents.

Ford made no public acknowledgment of the demonstration during his speech. However, he told reporters as he arrived at the park that he had been told of the fishing rights dispute by Gov. Dan Evans.

"The problem has broad ramifications," he said. "We've got to keep our cool... fishing can be expanded. It has a great potential. The state must work with the federal government and the Indians."

He said alternatives to the current violence include a commission to study the problem and a program for increasing the fish runs.

Gov. Evans said later, "The President recognizes that is a problem that requires some federal involvement."

Evans said he is studying a request that he call a special session of the legislature to deal with the issue, and that criminal charges were being prepared for fishermen linked with the confrontation off Foulweather Bluff.

Asst. Atty. Gen. James Johnson said he will recommend filing criminal charges against Carlson "and all others who have either fished illegally or interfered with fisheries patrolmen."

The U. S. Justice Department has ordered the FBI to investigate the non-Indian fishing and the violence.

Donald Moos, director of fisheries, announced the appointment of a four-man

inquiry panel to probe the shooting. The panel is to include one officer from the Washington State Patrol.

The gillnetters contend their fishing in the face of a state closure isn't illegal. The state Supreme Court is to consider the whole fishing problem next month.

The state cited conservation reasons for the closure of the salmon fishery. But because the state agency is allowing Indians to fish in certain areas of Puget Sound, non-Indians contend allocation to Indians rather than conservation is the real reason for the closure.

The dispute has its roots in U. S. District Court Judge George Boldt's 1974 ruling that treaties signed in the 1850s guarantee Indians the opportunity to catch at least half the state's harvestable salmon and steelhead.



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## Candidates react angrily to shooting

Candidates for state and federal office were quick to react yesterday to the shooting of a gillnet fisherman on Hood Canal by fisheries enforcement officers Sunday night.

"I would have done a lot before this even happened (if I had been governor)," John Spellman, Republican candidate for the state's highest office, told United Press International. "I would have gotten the fishermen and the (State) Department of Fisheries together for negotiations.

"It remains absolutely essential that government get the two parties

together, especially where each side thinks the other is lying. An intolerable situation exists. I wouldn't have allowed it to go on even a few days."

State Attorney General Slade Gorton, a Republican candidate for re-election, criticized the Boldt Indian-fishing rights decision which has prompted the violent confrontations between non-Indian commercial fishermen and state fisheries patrolmen.

"A large number of people feel the court ruling is so totally unfair

that they are morally justified in disobeying it," Gorton said.

"I have sympathy for the Department of Fisheries, which disagrees with the Boldt decision but must enforce it. The only possible solution is a hearing before the United States Supreme Court."

The Boldt decision gave treaty Indian tribes the opportunity to catch 50 per cent of the salmon returning to traditional off-reservation Indian fishing grounds.

Under orders to carry out the decision, the Fisheries Department has attempted to allocate the catch

between Indians and non-Indians and closed inner Puget Sound to non-Indian commercial fishing. Gillnetters have fished in defiance of the closure, setting off the confrontations between state enforcement officers and the fishermen.

The United States Supreme Court has refused to review the decision.

Chuck Elhart, Republican candidate for Congress in the 3rd District, called the shooting "senseless and tragic" and called for an "immediate and public investigation by the proper authorities.



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DEPARTMENT OF EXTERNAL AFFAIRS  
MINISTÈRE DES AFFAIRES EXTÉRIEURES

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# Meeds, a Democrat, delighted with Ford backing

By JOHN ARTHUR WILSON  
Representative Lloyd Meeds said yesterday he was "delighted" President Ford endorsed his proposal for a comprehensive study of the Boldt decision on salmon and steelhead runs.

While in Seattle on a whirlwind campaign stop Monday, the President said state and federal governments and local Indians must work together on a commission to provide possible solutions. Mr. Ford said one possible solution was increasing the fish runs.

"That's what the bill I introduced into Congress sometime ago would do," said Meeds, 2nd District Democrat in a heated contest thanks to the controversial federal-court decision.

Meeds' Republican opponent,

John Nance Garner, has called for Congress to overturn the Boldt decision and pass other legislation nullifying the impact of the decision, which gave treaty Indians the right to catch half the harvestable salmon returning to traditional off-reservation waters.

Meeds' proposal would require a complete study of the fishing problems in Washington and Oregon and

require specific solutions be proposed to Congress.

Last week, Senator Walter Mondale, Democratic vice-presidential candidate, backed Meeds' bill.

"We now have both presidential tickets on record supporting my approach to this very difficult problem," Meeds said.

Meeds also blasted Garner for failing to produce his federal in-

come-tax returns before their debate last night. Meeds challenged Garner to make his tax records public at 9 a.m. yesterday in the Snohomish County clerk's office.

Barbara Browne, a spokesman for Garner, said the returns were not placed in the clerk's office because they were not ready. She said the Garner campaign received no formal letter from Meeds, merely

a press release.

Meeds said if Garner wants to discuss the congressman's finances "then let's see the status of his holdings and his tax returns."



O.C.T. 27/76

## Gillnetters ask Evans to bar officers' guns

OLYMPIA (AP) — Gov. Dan Evans was asked by the Puget Sound Gillnetters Association to instruct state Fisheries Department enforcement officers to leave their weapons at home while on patrol.

In a telegram to the governor, the association said that if such an order is issued gillnetters will "remove every shark rifle or other firearms" from their vessels.

Association President Phil Sutherland pointed out in the telegram that the Coast Guard "already has indicated it will no longer display weaponry in its safety afloat functions."

A spokesman in Evans' office said the governor had not yet seen the telegram and would not comment until he had read the text.

The telegram was promoted by an outbreak of violence last Sunday night when a gillnet fisherman was shot during a confrontation near the Hood Canal area of Puget Sound.



# Moos cites breakdown between law and people in fishing dispute

By MARSHALL WILSON

State Fisheries Director Donald Moos all but conceded today that only federal forces will be able to control illegal fishing on Puget Sound.

"There has been a complete breakdown between the law and the people over fishing," Moos said.

He compared it to the breakdown between students and the law over Vietnam, which he felt the students won.

Referring to illegal fishing by gillnetters which resulted in the shooting of a fisherman Sunday night by a state enforcement agent, Moos said: "They (the gillnetters) will only be stopped by their peers.

"I could not hire enough men or get enough equipment to enforce laws on a citizenry that doesn't believe in them — and yet (in my position) I'm required to do just that," Moos said.

**THE FISHERIES** Department is under federal-court order to carry out terms of the 1974 Indian-fishing-rights decision of United States District Judge George H. Boldt. The decision requires that treaty Indian tribes have an opportunity to catch 50 per cent of the harvestable salmon and steelhead.

The department closed inner Puget Sound to non-Indian gillnetters during the fall run of coho, traditionally the time many of the gillnetters make most of their annual income. Indians have been allowed to fish in "terminal areas" around river mouths.

Moos said he expects a certain element of the commercial fishermen, which he has termed "renegades," will continue to fish in defiance of state and federal rules.

But Moos thinks the illegal fishing eventually will be stopped, perhaps by direct federal injunctions on individual fishermen.

**HE COMPARED** the present situation to the civil-rights conflict in the South a generation ago.

"Those people in Alabama and Georgia 'just knew' no one could ever integrate their schools. But the federal government did it," he said.

He said that if the federal government is to be the one to put an end to illegal fishing, "they will just ask for more and more equipment and more and more men" until they can enforce the laws.

Expressing sympathy for non-Indian commercial fishermen, many with mortgages on their boats and no way to fish to make a living,

Moos said he knows the angry fishermen are watching Tacoma where a group of Indians have taken over the state's Cascadia Juvenile Diagnostic and Detention center.

"They wonder if people who took the law into their own hands down there can win," he said.

Moos is optimistic there can be a solution by increasing the total salmon catch for both Indians and non-Indians.

"Too many licenses (1,500 for gillnetters) were issued by the state" during a time of declining fish runs, Moos said.

**A REDUCTION** in the number of licenses could be accomplished by not issuing licenses to "newcomers" to the industry and withdrawing licenses held by boat owners who are not fishing, he said.

Moos said Canadian fishermen are intercepting more than half the Washington-spawned fish and new treaties must be worked out between the two countries so that "the country which does the enhancement will get the benefit" from producing new hatcheries.

"I can see some light at the end of the tunnel, but that doesn't help the man with a \$70,000 mortgage on his boat," Moos said.



## Gillnetters plan Olympia protest 'confrontation'

Commercial gillnet fishermen plan to march on Olympia tomorrow "to confront (Gov.) Dan Evans and (Fisheries Director) Don Moos."

Signs announcing the demonstration were posted at Fishermen's Terminal this morning where gillnet boats were returning after a legal night of fishing.

A caravan will start from Bellingham, picking up fishermen and their families along the way. Those leaving from Seattle will leave at 8:15 a.m. from the west parking lot at Northgate. The fishermen plan a rendezvous in Olympia at 11 a.m.

**THE FISHERMEN** have been angered over closure of inner Puget Sound waters during the coho-salmon run to carry out terms of the 1974 Boldt Indian-fishing-rights decision. Their anger reached flash point when a gillnetter was shot Sunday night by a state fisheries-

patrol officer.

The wounded gillnetter, William Carlson, 24, remained in serious condition today.

"I don't know what happened last night," said Allan Barry, executive director of the Puget Sound Gillnetters Association. "The radio was pretty quiet all night long."

The night of legal fishing was for chum salmon.

"The coho run has already gone by," Barry said. "We had one night of fishing last week for chum. I don't know if they (state fisheries) will give us another night or not."

**MEANWHILE**, it was learned that attorneys for treaty Indian tribes recognized by the Boldt decision have filed a motion in federal court asking that 140,000 fish be taken away from the allotment of non-Indian fishermen because of illegal fishing.

The motion seeks an injunction

prohibiting the state from opening fishing to non-Indians until certain conditions spelled out in an earlier order by Judge Boldt are met.

Judge Boldt said earlier he would subtract 20,000 fish from the non-Indian commercial allocation for "each day of substantial and reasonably verifiable non-treaty fishing in violation of . . . closures."

The Department of Fisheries contends there have been "no days of substantial illegal fishing" since a minority of gillnetters have defied the state closure.

**THE BOLDT** decision requires that treaty Indians have an opportunity to catch 50 per cent of the harvestable runs of salmon and steelhead. The closure of inner Puget Sound to non-Indian gillnetters has been in line with that decision.

Judge Boldt was expected to return to Tacoma today after a month-long stay in Boston.



# Ray blames Evans in fishing dispute

By DON HANNULA  
Times Staff Reporter

RICHLAND — Dr. Dixy Lee Ray yesterday blamed Gov. Dan Evans for neglect in letting the Puget Sound fisheries situation reach a point "where the state is shooting at its fishermen."

"Where has he been all the time?" the Democratic candidate for governor asked.

She said the governor should have been meeting with sports, Indian and commercial fishermen to develop understanding and allay mistrust.

Republican John Spellman, Evans' choice as his successor, said he thought the governor should take immediate steps to bring all parties together in an attempt to restore confidence in state handling of the fisheries problem.

"It's not too late," Spellman said. "But it's getting very late. It's like 11:35.

"I'm very concerned about the violence. If I were governor, I would have tried to remove the root causes of this violence months ago by getting the parties together in my office to hammer it out and find out

who thinks they're being lied to and get the facts out."

THE TWO gubernatorial candidates were asked by The Times to comment on the situation here yesterday after their fourth and final televised debate.

The already heated fisheries controversy boiled over Sunday night when William Carlson, 24-year-old gillnetter, was wounded by a fisheries patrolman on upper Hood Canal.

State Fisheries Director Don Moos said a fisheries patrol boat with seven aboard was in danger of being rammed by a Carlson's boat when an officer fired a shotgun at Carlson, hitting him in the head.

A common lament of protesting non-Indian gillnetters is that the Fisheries Department, under Moos, has lost credibility.

Dissatisfaction also has been expressed by Indian leaders.

"We can't believe a thing they (the Fisheries Department) say," Phil Sutherland, president of the Puget Sound Gillnetters Association, complained at the height of the protest period.

Dr. Ray has flatly stated she will replace Moos if elected. She once

joked: "We shouldn't have a Moos in charge of fish."

She has said the department needs a fresh start.

Moos, one-time wheat farmer and former state agriculture director, acknowledged at the time of his appointment by Evans that he had a lot to learn about fishing. He described himself then as an "eggs-and-butter man."

COMMERCIAL fishermen have complained that the department is being run by Frank Haw, Moos' chief assistant. They contend that Haw's background has been in sports fishing and that he's shown little concern for commercial fishing.

Spellman was accused during the primary campaign by Harley Hoppe, Republican hopeful, of promising to keep Moos if elected. Spellman denied that accusation at the time and repeated yesterday that he has made no appointment promises to anyone.



OCT. 27/76

## Gillnetters will disarm if state does

Puget Sound gillnetters today offered to disarm themselves if state fisheries patrol officers will do likewise.

In a telegram to Gov. Dan Evans, Phil Sutherland, president of the Gillnetters Association, said the gillnet fishermen "hereby pledge themselves to remove every shark rifle or other firearm from each of their boats, if you will order the misdemeanor-enforcement personnel of the state fisheries patrol to disarm . . .

"Enforcement of potential misdemeanor charges neither justifies nor requires deadly force gunfire by anyone in any circumstance.

"We await your public response and assurances against this outrageous use of armed force against Washington residents."

The last was in reference to the shooting of a gillnet fisherman by a fisheries officer at the north end of Hood Canal Sunday night, the latest in a series of violent clashes that have come to be known as the "Fish War."

In Olympia, State Fisheries Director Donald Moos said the department's policy is that "firearms are to be used only in self-defense or to protect another person."

However, Moos said Evans "may have another answer."



# Gillnetters Plan Protest in Olympia Today

By JOHN O'RYAN

The president of the Puget Sound Gillnetters Association asked yesterday that state fisheries patrolmen discard their guns, and wives of the fishermen began organizing a protest cavalcade to Olympia today in the latest developments in Puget Sound's "fishing war."

In a telegram to Gov. Dan Evans, Phil Sutherland, association president, asked him to instruct fisheries officers to leave their guns at home while on patrol.

Sutherland said that if such an order is issued, gillnetters will "remove every shark rifle or other firearms" from their vessels.

"Enforcement of potential misdemeanor charges neither justify nor require deadly force or gunfire by anyone in any circumstances," the telegram stated.

"We await your public response and assurances against this outrageous use of armed force against Washington resi-

dents," the association president stated.

Sutherland was referring to the shooting of William Carlson, 24, by a fisheries patrol officer during a confrontation between state officers and gillnetters at Foulweather Bluff Sunday night.

Carlson was not a member of the gillnetters association, which enrolls about half of the boats licensed to fish with gillnets on Puget Sound. However, the association was supporting him, and had assigned its lawyer, Charles Yates of Seattle, to give him legal counsel.

Commenting on the telegram at a press conference yesterday, Gov. Evans said it was "ironic" that the gillnetters had offered to lay down their arms after they have been involved in "assaultive" conduct on the waters of Puget Sound.

Evans said a handful of fishermen fishing in violation of regulations were decimating the salmon runs and destroying their livelihood

"for years to come."

Out at Fishermen's Terminal in Ballard, gillnet fishermen estimated that about 200 of the 1,100 boats licensed to use gillnets on Puget Sound were involved in the current "illegal fishing" dispute.

Wives were painting signs at the gillnet association office yesterday in preparation for their cavalcade to Olympia, scheduled today.

The motorcade wasn't for women only, they emphasized, but for all fishermen. They are to meet at 8:15 a.m. at Northgate, on the west side of the parking lot,

and converge on the Capitol steps in Olympia at 11 a.m.

Among the signs they were painting were some that read, "Wanted for attempted murder, Gov. Dan Evans, Donald Moos."

"We have never been violent people," said Beverly Nygaard, wife of Jakob H. Nygaard, who operates a 34-footer. "It's no problem to run over a smaller boat if he (Carlson) really wanted to do it."

She said another motorcade will leave Bel-lingham at about 6 a.m. today, picking up additional fishermen and

supporters along the way, and joining forces with those from Seattle.

Al Berry, executive director of the gillnetters association, estimated there will be 300 cars in the motorcade when it reaches Olympia.

The fishermen planned to confront both Gov. Evans and Moos today, but Evans will be in Alaska, campaigning for President Ford.

"This is proof of how little importance he puts on the altercation and shooting of fishermen," said Barry.

A spokesman for the governor's office said Evans made the com-

mitment to the Ford Committee several weeks ago and felt obliged to keep it. He said Evans would return to Olympia late tonight.

Oct 28/79



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## Spread of 'fish war' feared

PORTLAND — (AP) — Oregon Fisheries Director Jack Donaldson said yesterday the Puget Sound "fish war" could spread to the Columbia River if cooperation between Indian and non-Indian fishermen doesn't improve.

Donaldson said he's trying to revise an agreement between the Bonneville Power Administration and four treaty Indian tribes to use B.P.A. funds to improve salmon runs in the Columbia.

"The agreement was truly bilateral and established unnecessary divisions and precedents that the

states cannot accept," he told the annual convention of the Northwest Waterways Association.

He said a new proposed agreement prepared through the Pacific Northwest Regional Commission recognizes all parties involved in the issue.

"Hopefully the spirit of cooperation will prevail and we can come to agreement," he said. "The alternative is the threat that hangs over us from the north on Puget Sound.

"Property is being damaged, people are being shot, anarchy is at hand. This could be the fate of the Columbia River. It takes all of us to prevent it."



Subject .....

Sujet .....

Date *Oct 29/76*

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—P-I OPINION—

## Rational Solutions Needed to

### Halt Fish War

With three ugly incidents in the last month, the fish war on Puget Sound has heated up to a highly emotional pitch. Rational solutions must be found.

The renegade commercial fishermen who have placed their nets in the waters of Puget Sound are doing so illegally. They are damaging fish runs and are a discredit to the many law-abiding gillnetters. The State Fisheries Department has a responsibility to cite those who flagrantly disregard the law.

The wonder is that people had not been killed or seriously injured before Sunday night's shooting of a gillnetter by a state fisheries officer.

Washington's fishing contretemps has many aspects to consider. For years, the commercially valuable salmon and the recreationally-valuable steelhead stocks have been dwindling.

Hydroelectric dams placed on the major rivers and their tributaries have contributed to the demise of the fish. Water pollution, now being addressed, nevertheless, has played a part in the disappearance of salmon and steelhead. Foreign vessels plying coastal waters, too, figure in the problem.

Furthermore, the state's commercial fishing fleet has been overcapitalized. About twice as many fish our waters as can earn an adequate living.

Added to these realities is the Boldt decision. In 1974, U.S. District Court Judge George Boldt ruled that certain treaty Indians have the right to catch 50 per cent of the salmon and steelhead in Washington waters.

State officials appealed that decision and last January the U.S. Supreme Court let it stand.

Commercial fishermen have reacted to the Boldt decision as if it were the sole reason for the diminishing fishing resource. However, in reality, Indians have taken only about 12 per cent of the fish.

Obviously, the problem predates granting Indians a right to catch fish.

Over the years, numbers of legislative solutions have been pro-

posed, but fishermen have resisted them. They fought moves to limit numbers of fishermen through licensing. Only the state's too-little-and-too-late effort at buying back some commercial gear has been even minimally helpful.

The time has come for real solutions. In the short term, tempers must be cooled. We would expect the incumbent governor to lead the way to temporary answers.

In the long run, more fish must be made available to all fishermen, Indian and non-Indian. It is one thing to be angry with 50 per cent of 3,000 fish in a stream. It is another to be able to catch 50 per cent of 300,000.

What's necessary is leadership —

by the congressional delegation, by the new governor, by members of the industry and by the Indian tribes — to construct a cooperative federal-state program to increase numbers of fish.

Such a program will take lots of money, planning, good will and rigorous effort to protect and manage the runs.

We hope the issue finally has been brought to national attention. Both President Gerald Ford and Senator Walter Mondale, during visits here, acknowledged the federal government has a responsibility for finding solutions. We hope their promises were given in good faith and that one or the other will see that federal action is taken.



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## Gillnetters continue illegal fishing over weekend

Illegal fishing by commercial gillnetters continued in the Hood Canal area over the weekend, but State Department of Fisheries enforcement was limited to aerial observations to document illegal activities.

Arthur Martin, a department spokesman, said several boats were observed fishing illegally over the weekend, primarily in the Foul-weather Bluff area.

William Carlson, 24, a gillnet fisherman who was shot October 24 by a fisheries patrol officer while fishing in that area, today remained in serious but stable condition at the Public Health Service Hospital.

IN AN UNPUBLICIZED Friday meeting with gillnet representatives, Donald Moos, state director of fisheries, attempted to explain to commercial fishermen the department's goals.

Moos, Sam Wright, a state biologist, and Jim Johnson, assistant attorney general, met with Phil Sutherland, president of the Puget Sound Gillnetters Association, Dick O'Dell and Jack Lowman.

"We were just trying to clear some of the air and help the fishermen understand a little better the state's position," Martin said. "They did voice some support for us."

Martin said the state needs to reclaim 36,000 returning chum salmon in order to obtain the 100 million eggs necessary for propagation.

"For every female chum salmon that escapes the fishermen's nets in the Hood Canal (chum salmon are very seldom caught on sports gear), we will get back 40 more fish in the next three or four years," Martin said.

THE COMMERCIAL fishermen at the Friday meeting called for a closure of Hood Canal to all fishermen, including Indians.

"It is closed to both Indians and non-Indians," Martin said. "We have had Indian arrests out there as well as non-Indian arrests."

Martin said Moos was briefing Gov. Dan Evans on the meeting.



## Boldt ruling stands

# Court won't take look at fish case

By **BILL RIPPLE**  
TNT Staff Writer

The U.S. Supreme Court today refused to consider a commercial fisherman's challenge to federal Judge George H. Boldt's controversial Indian fishing rights decision.

The high court declined to review a 9th U.S. Circuit Court of Appeals decision which dismissed a challenge brought by Loren Bergh, a Seattle fisherman. Bergh's lawsuit had contended that Boldt's ruling unconstitutionally discriminates against non-Indians.

Indian fishermen were jubilant following the high court's action today, but non-Indian fishermen vowed to continue court challenges.

**BOLDT'S 1974 RULING** established that treaties signed in the 1850s guaranteed Indians an opportunity to catch more than half of the harvestable salmon and steelhead in Puget Sound. The state unsuccessfully challenged that ruling and is taking another challenge through the appeals process.

Bergh appealed as a private citizen.

James Johnson, assistant attorney general representing the Department of Fisheries, said today's decision has no effect because the dismissal was made on procedural grounds, thus the issues were not addressed by the court. "Nothing has been resolved," he said.

Although several challenges are pending at the state and federal court levels, the main issues center on whether the director of fisheries has the right to allocate fish to treaty Indians and whether the Indians have a right to a share of state-produced hatchery fish.

**MEANWHILE, WILLIAM L. Smith**, head of the Northwest Indian Fisheries Commission, declared:

"We are pleased the courts are continuing to uphold the Boldt decision."

"The whole posture of the people of the state is 'We'll appeal it,'" Smith said. "Now they are beginning to realize they have gone the whole route."

The court challenges are "like strutting and fretting carried on before it finally sinks in on people that Boldt is the law of the land," he added.



Subject

Sujet

Date

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# Indian fishing rights survive challenge

WASHINGTON (AP) — The Supreme Court Monday refused to consider a Seattle commercial fisherman's challenge to a federal court order granting special fishing rights to Indians covered by a series of 19th century treaties.

The justices voted not to review a decision of the 9th U.S. Circuit Court of Appeals dismissing the challenge by Loren Bergh on procedural grounds. Bergh appealed as a private individual.

Bergh filed suit against U.S. District Judge George Boldt of Tacoma, Wash., and others to prevent the judge from ordering the state to adopt regulations favoring Indian fishermen or the en-

forcing of such regulations.

Boldt ruled in 1974 that the state could not apply its fishing regulations to members of the Indian tribes covered by the federal treaties except as necessary for conservation.

Bergh contended the regulations drafted in response to this decision would give Indian fishermen greater rights than non-Indian fishermen. He said this was unconstitutional discrimination.

The circuit court held that Bergh's proper course was to intervene in a legal challenge to Judge Boldt's order requiring the issuance of specific regula-

tions. That challenge is pending before the circuit judges.

In the state of Washington, non-Indian commercial fishermen were unhappy and vowed to continue court challenges. Gov. Dan Evans said the state will continue to treat Boldt's decision as the law of the land.

"We're pleased that the courts are continuing to uphold the Boldt decision," said William L. Smith, head of the Northwest Indian Fisheries Commission and chairman of the Skokomish Tribal Council.

"The people of this state should say, 'We have a decision: how can we imple-

ment it?'"

The court challenges are "like the strutting and fretting carried on before it finally sinks in on people that Boldt is the law of the land," he said.

"The whole posture of the people of the state is 'We'll appeal it,'" Smith added. "Now they are beginning to realize they have gone the whole route. That is why we are seeing a lot of illegal fishing by non-Indians. I hope that dies down in a hurry without loss of life and limb to anybody."

Paul Anderson, head of Puget Sound Vessel Owners Association, called it "unfortunate that the court wouldn't

hear the matter."

He added, "This was an action taken by one person, on a personal rights basis, that his personal rights were violated by this treaty and decision."

Anderson said most of the industry is banking on appeals through the state courts.

"If the state Supreme Court rules in our favor, it will set up a direct conflict between the state courts and Judge Boldt's court," he said. "Any time there is a conflict like that, it goes directly to the U.S. Supreme Court. That's how we're trying to get it there."

The main issues in the state case are

whether the director of fisheries has the right to allocate fish to treaty Indians and whether the Indians have a right to a share of state-produced hatchery fish.

Gerald Simmons, manager of the West Coast Trollers Association, said, "I think you can say that most people against the Boldt decision are very disappointed."

He added: "I'm sure this will eventually be before the Supreme Court, maybe in some other form. I know there are other avenues that are still open for challenge and they are being examined by agencies as well as individuals."



# Coast Guard help sought to stop illegal fishing

OLYMPIA (AP) — On the eve of a meeting between Puget Sound gillnetters and state fisheries officials, Gov. Dan Evans has asked the U.S. Coast Guard to help stop illegal fishing.

In calling for assistance Tuesday, Evans said the Coast Guard's larger vessels would allow fisheries patrol officers to fulfill their obligation to stop illegal fishing without fear of having their boats rammed or capsized.

Puget Sound gillnetters are to meet with state Department of Fisheries officials today to ask that they be allowed to fish the chum salmon runs between Kingston and the Sekiu River.

"We see the closing of this area as a terrific waste of usable fish," said P.G. Sutherland of Port Townsend, president of the Puget Sound Gillnetters Association.

The governor said 110 gillnet boats were observed fishing Monday night in areas of Puget Sound, where escapement of salmon stocks is of critical importance to a massive chum salmon enhancement program now being implemented by the fisheries department.

"The greatest irony of all," Evans said, "is that much of Pu-

get Sound was opened for a lawful fishery last (Monday) night, and yet these gillnetters continue to fish unlawfully on the very stocks on which their economic future depends.

"They are fishing at Foulweather Bluff, the very mouth of Hood Canal, an area closed for conservation and protection of adult chum stocks.

"So in a sense, this illegal fishery is drawing checks against its future on an account that is already very nearly bankrupt."

Sutherland said state fisheries Director Donald Moos agreed to the meeting in Olympia to discuss the fishermen's claim the area could be opened to fishing without seriously damaging the chum stocks.

"The summer chum records were so exceptional that they were off the graph," Sutherland said, "and the fall runs are anticipated by fishermen to duplicate this pattern."

He said fishermen do not disagree with efforts to enhance the salmon runs, but are unhappy because the closure gives chum an unobstructed channel to the Seattle and Tacoma harbor areas, where ship traffic and other congestion make gillnet fishing impossible.

William Graham Stewart  
October 3/76

File: 35-11



News Tribune  
November 4/76

File: 35-11

## Fish issue made race close

Washington's Indian fishing controversy may be part of the reason for the near-deadlocked 2nd District congressional race, those closest to it report.

A full count of absentee ballots there, and possibly a recount of all ballots cast, will be necessary before a winner can be certified in the race between Democratic incumbent Lloyd Meeds and Republican challenger John Nance Garner.

Spokesmen for both sides agree that U.S. District Judge George Boldt's controversial Indian fishing rights decision of 1974 helped fuel the fires that led to the cliff-hanging outcome.

Boldt's decision, and the problems it has caused for non-Indian fishermen, had been a ma-

jor campaign issue in the 2nd District, which borders the northern portion of Puget Sound. Garner had pledged to persuade Congress to provide its own interpretation of the mid-19th Century treaty language that led to Boldt's allocation of special fishing rights to Indians.

Meeds, on the other

hand, had sponsored a bill to create an 11-member federal commission to study the fisheries problem for a year and recommend solutions.

The 2nd District contest was far from a one-issue race, but a Garner campaign spokesman acknowledged yesterday that fishing was "probably the thing that helped

us turn the corner."

Leonard Saari, administrative assistant to Meeds, agreed the Boldt decision had been a major issue.

"They exploited it," he said. "They exploited the emotionalism."

"Meeds handled it straightforwardly and honestly, and his honesty hurt him."



News Service  
November 5/76

# Gillnetters to keep nets dry

35-11

**ROBERT H. MOTTRAM**  
NT Staff Writer

The Puget Sound Gillnetters Association, in a surprise turnabout in position, has pledged to try to convince its members to stop fishing in defiance of state regulations.

The unexpected announcement was made yesterday by Phil Sutherland, association president, at a meeting in

Olympia with the governor, state fisheries officials, trollers, purse seiners, Indians and sportsmen.

"You can expect a complete cessation of this demonstration," he said, in regard to the massive gillnet fishing effort of recent weeks. "We can in no way rationally take the fish that are intended for fish enhancement."

## LARGE NUMBERS OF

non-Indian gillnet fishermen have been fishing in defiance of closures imposed by the department, contending the closures are illegal because exceptions have been made for treaty Indians.

That disagreement has led to a series of night confrontations on the sound between gillnetters and state fisheries patrol officers, culminating in the ramming of patrol boats by gillnetters and the shooting of a fisherman by officers.

Sutherland's announcement was one of a series of developments in a week which saw fisheries officers begin patrolling the sound from U.S. Coast Guard cutters, and which saw the State Supreme Court agree to reconsider its dismissal of a case involving regulations designed to implement special fish allocations for treaty Indians. That case, brought by the Commercial Passenger Fishing Vessel Association, is in addition to a similar one by the Puget Sound Gillnetters Association on which the high court is to hear arguments Tuesday.

**SUTHERLAND MADE** his surprise statement at a meeting arranged by Gov. Dan Evans in an effort to find solutions to the fishing crisis precipitated by the controversial U.S. District Court decision of 1974. That court held that Puget Sound-

area treaty tribes are entitled to an opportunity to harvest more than half the steelhead and salmon, and that the state must regulate fishing in such a way as to provide them that opportunity.

Sutherland said yesterday, however, that the state now has convinced him it was justified in trying to halt much of the non-Indian commercial fishing on Puget Sound — in order to obtain enough chum salmon eggs to carry out a program of artificial propagation aimed at expanding the size of future runs many times over.

Chum, one of five species of salmon found in Washington, rarely strike at lures or bait, so are harvested nearly exclusively by commercial fishermen. The Fisheries Department announced several days ago it would try to obtain 100 million chum eggs from returning fish this fall for a propagation program aimed at adding 1 million adult chums to the commercial fishery four years from now.

**SUTHERLAND SAID** he has met with some of the members of his organization in an attempt to convince them to stop fishing in violation of the closures, but he could not promise total compliance.

"My association is made up of independent people," he said. "I can't

demand it. Each one will have to decide that there is some future in this game despite all the trials and tribulations."

Meanwhile, a Fisheries Department spokesman reported this morning that patrols between Seattle and the Port Angeles area revealed no fishing in defiance of regulations there last night.



# Moos Aboard As Fisheries Patrol Cites Gillnetters

UPI, Associated Press

OLYMPIA — State Fisheries Director Don Moos and department patrol officers swept through portions of Puget Sound aboard two Coast Guard vessels and handed out 10 citations for illegal gillnet fishing Wednesday night and early yesterday.

A department spokesman said there were no reports of resistance or violence.

In a surprise move in Olympia yesterday, Puget Sound Gillnetters leader Phil Sutherland promised an end to demonstrations by non-Indian gillnetters.

At a meeting called by Gov. Dan Evans to resolve the so-called Fish War, Sutherland couldn't promise total compliance by the "independent" gillnetters, but said, "We can in no way rationally take the fish that are intended for fish enhancement."

An emergency order closing Grays Harbor to commercial salmon fishing for all but treaty Indian fishermen was signed yesterday by Moos.

He said the closure was necessary because non-Indian fishermen now have harvested more than their 50 per cent share of the Grays Harbor salmon runs.

The fisheries patrol acted after an aerial survey of the sound indicated 113 gillnet boats were on the water during the night, including 21 vessels near the mouth of Hood Canal, which was the scene last month of a shooting incident in which a commercial fisherman was seriously wounded by a patrol officer.

All of Puget Sound south of the San Juan Islands is closed to commercial fishing to protect the chum run to needed to replenish salmon stocks.

Meanwhile, the State Supreme Court yesterday agreed to reconsider its dismissal of a case involving state regulations designed to implement the Indian fishing decision of U.S. District Judge George Boldt.

The legal action came in a 5 to 4 vote in which the court ordered a rehearing of a suit brought by the Commercial Fishing Vessel Association challenging state Fisheries Department restrictions designed to allocate salmon to Indian fishermen.

Boldt ruled more than two years ago that treaties signed in the 1850s entitle Indians the opportunity to catch half of the harvestable salmon and steelhead.



New Tribune  
November 5/76

File: 35-11

## Top state court eyes Boldt ruling

Special to TNT

OLYMPIA—The State Supreme Court will begin deliberations Tuesday on whether the State Fisheries Department has the authority to implement the controversial George Boldt Indian fishing rights decision of 1974.

Arguments in the case, once scheduled for hearing before a five-judge panel, were rescheduled for a full court hearing Tuesday.

U.S. District Judge George Boldt ruled in 1974 that treaty Indians are entitled to an opportunity to take more than half the harvestable salmon and steelhead, and that the state must see to it they get that opportunity.

However, Thurston County Superior Court

Judge Gerry L. Alexander ruled later that state law empowers the Fisheries Department to manage Washington's salmon only for purposes of conservation, not allocation.

That decision was rendered in a suit brought by the Puget Sound Gillnetters Association to prevent the department from implementing Boldt's orders, and it is the department's appeal of that decision that is to be heard Tuesday.

A related issue before the court in the case Tuesday will be whether the treaty entitlement extends to hatchery-produced fish, or whether treaty Indians are entitled to a special share only of the fish that were produced in the wild.



## Treaties fixed their sovereignty

# Why Indians have right to fish

By MORRIS THOMPSON  
Commissioner of Indian Affairs

WASHINGTON — One of the most controversial issues in the Northwest the past two years has been Indian fishing rights on the Columbia River and in Puget Sound and Northwestern Washington.

From statements I have read in the press and conversations I have had with people in the Northwest, it has become apparent to me that a majority of them do not understand the unique relationship Indian tribes have with the federal government and the reasons for that relationship.

Because the Belloni and Boldt decisions are the law of the land and must be implemented, I think it is very important that all people affected by them understand the treaty-making process with Indian tribes and what responsibilities the federal government has in insuring that the rights under these treaties are upheld.

I mentioned the "unique relationship" Indian tribes have with the federal government. What is that "unique relationship" and how did it come about?

IT IS BASED on the treaties the United States signed with the tribes as sovereign nations, and as co-equal governments.

That is an important point to remember, because the relationship of the federal government to the Indian tribes is a political one, and not a racial one.

I don't mean political in any partisan sense of the word, but a relationship of one political entity to another.

The relationship is not based on the fact that the Indian tribes now are a minority in our society, or that they are ethnically different from the dominant society, or that they are poor, or that they are red.

And the relationship is not with indi-

vidual Indians, but with tribes as governments.

THE FEDERAL GOVERNMENT stopped making treaties with Indian tribes in 1871, and no treaties have been signed since that date.

When our founding fathers met to draft the Constitution 200 years ago, they recognized the need for the federal government to deal with Indian tribes and to perform necessary functions on behalf of Indians.

This was set down in the commerce clause of the Constitution which said the Congress was given the specific charge "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes."

And to seal the arrangement whereby the central government was made capable of performing these functions on behalf of the Indians, the framers provided that the Constitution, and all treaties (including treaties with Indian tribes) "shall be the supreme law of the land, anything in the Constitution or laws of any state to the contrary notwithstanding."

That is why the relationship of Indian tribes to the federal government is unique.

LET ME GIVE YOU some background on the Boldt decision, and while the particulars may be a bit different from the Belloni decision, the treaty rights involved are the same.

Gov. Stevens was sent to Washington Territory to secure the land for settlement. He was told to make treaties with the tribes he found there and try to get them to move to reservations.

He was successful. The treaties were made, and the Indian tribes moved to reservations, and the land was available for the incoming rush of settlers.

Now, remember the Constitution said a treaty is "the supreme law

of the land, anything in the Constitution or laws of any state to the contrary notwithstanding."

Those treaties signed by the Indian tribes and Gov. Stevens on behalf of the United States government are still in effect today.

When the tribes signed these treaties, they reserved their right to fish in their "usual and accustomed places," and that meant to them both on and off the reservations.

THERE IS ANOTHER POINT to consider here, also. When Indian tribes signed treaties with the United States in most cases they relinquished title to lands wanted by the federal government and which the Indians formerly occupied.

But it was not a question of the tribes "getting" something from the federal government. They "gave up" something, and what they did not specifically give up, they reserved.

And they reserved their right, and that is an important word, to fish in their usual and accustomed places, both on and off the reservations.

The United States agreed to that.

INDIAN TRIBES, therefore, are not just another "user group" when it comes to fishing if they have retained that right in the treaty they signed as a co-equal government with the United States.

The United States has a treaty with Canada concerning the salmon which come into the Fraser River of British Columbia. The catch is divided between the countries according to the treaty.

No one argues the validity of that treaty or the right of Canada, or the United States, to catch the fish.

And that is exactly the situation which exists between the Indian tribes on the Columbia River and Western Washington and the federal government.

Those treaty rights were upheld in two federal district courts and the Ninth Circuit Court of Appeals.

THE HON. JAMES M. BURNS wrote the following words when he was sitting on the Ninth Circuit Court to hear the Boldt appeal:

"I concur, but I want to add a brief comment from the viewpoint of a district judge. As was suggested at oral argument, any decision by us to affirm also involves ratification of the role of the district judge as a 'perpetual fishmaster.' Although I recognize that district judges cannot escape their constitutional responsibilities, and continuing duties imposed upon them, I deplore situations that make it necessary for us to become enduring managers of the fisheries, forests, and highways, to say nothing of school districts, police departments, and so on.

"The record in this case, and the history set forth in the Puyallup and Antoine cases, among others, make it crystal clear that it has been the recalcitrance of Washington State officials (and their vocal non-Indian commercial and sports fishing allies) which produced the denial of Indian rights requiring intervention by the district court. This responsibility should neither escape notice nor be forgotten."

Let's remember that the relationship of Indian tribes to the United States is a political one. The Constitution gave the federal government and the Congress the power to deal with the Indian tribes and to sign treaties with them.

An Indian does not have a right to fish because of any racial differences. He has a right to fish because his tribe has a valid treaty with the United States giving him that right.

Subject  
Sujet

Date

11/16

Publication

John A. Mikulak

DEPARTMENT OF EXTERNAL AFFAIRS  
MINISTÈRE DES AFFAIRES EXTÉRIEURES

35-11



Date November 7/76

Publication Bellingham Herald

# Fishing problem moves into state high court

OLYMPIA (AP) - The next skirmish in Washington's Fish War will unfold Tuesday - this time in the ornate state Supreme Court chambers rather than in the chill darkness of Puget Sound.

The Puget Sound Gillnetters Association is asking the high court to rule that the state Department of Fisheries has no authority to set aside portions of the fish runs for exclusive catch by Indians.

Attorneys for Northwest tribes contend that if the court rules that way, Indian fishing rights will be "trampled into nonexistence by nontreaty fishermen, whose open hostility has led to violence, and which is open and notorious violence."

The backdrop for the crucial court hearing is a so-called Fish War - the conflict between non-Indian net fishermen and the state, with Indians standing anxiously on the sidelines.

There have been arrests and violence, including the shooting of a fisherman, as the non-Indians fished this fall in defiance of the state's closure of the fishery. The state cited conservation as the reason for the closures, but the non-Indians said the state was merely covering up its attempts to guarantee Indians good fishing.

The gillnetters halted their demonstration on Thursday, however, cooling tensions on the water.

U.S. District Judge George Boldt ruled in early 1974 that Indians have treaty rights to an opportunity to catch one-half of the state's off-reservation fish runs, plus all they need for ceremonial and subsistence purposes.

The U.S. government, which favors the Indian point of view, calls Tuesday's court action "yet another installment in the longstanding controversy." Boldt's ruling has been upheld by higher courts and the treaties involved clearly supersede any state law, federal attorneys said.

The attorneys for the gillnetters told the court in briefs that the state department has the power to issue regulations to conserve fish runs, but not to enforce the Boldt decision.

They ask that the court order the fisheries director to "issue regulations which apply equally and in a nondiscriminatory fashion to both treaty and nontreaty fishermen." The court needs to provide federal courts with a "binding and definitive interpretation" of the department's powers.

The attorneys added: "The federal courts, in the face of uncertainty

as to state authority, have required continuous and radical action on the part of the department."

They had a blast for the Boldt decision itself: "The entire thrust of the decision is based simply on an illogical conclusion. The clear error is the attempt to say equal opportunity means equal fish."

The gillnetters also ask that hatchery-produced fish be excluded from the total to be shared by Indians.

The state says the agency is bound by the Boldt decision and adds: "The state and all its agencies must

comply with the form of implementation chosen by the federal courts even where affirmative action is required. The state's remedy is to appeal the federal decisions and orders."

State attorneys conceded that the state's authority to manage fish runs has been clipped by the courts, "resulting in some allocation of catches between Indian and non-Indian user groups."

The U.S. government told the court, "It is clear that state courts must enforce federal law for federally created rights even where it is

against the public policy of the state."

Attorneys for the Indians called

the suit "a blatant attempt to use the state court as a weapon against the decision of the federal court."



Subject

Sujet

Date

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Publication

News Tribune

# State court urged to fight Boldt ruling

By ROBERT H. MOTTRAM

TNT Staff Writer

OLYMPIA—Judge George Boldt's Indian fishing rights decision is not the "law of the land," despite Boldt's claims to the contrary, a fishermen's attorney told the Washington Supreme Court yesterday.

Therefore, the state's high court should not balk at handing down a conflicting fishing decision, he said, and allowing the U.S. Supreme Court to settle the issue once and for all.

That was the argument of Charles Yates, lawyer for the Puget Sound Gillnetters Association, in a case that Chief Justice Charles Stafford warned could put his court in a potential Brown-versus-Board-of-Education position.

Stafford's reference was to a racial discrimination lawsuit which has resulted in federal court orders directed to local government entities in other parts of the country.

**THE ARGUMENTS** before Stafford's court, heard by all nine justices, involved a suit on appeal from the Superior Court of Gerry L. Alexander in Thurston County. Alexander had ruled that state law allows the Washington Fisheries Department to manage Washington's salmon only for purposes of conservation, not for allocation between groups of users.

He had, in effect, prohibited the department from implementing Boldt's U.S. District Court decision that treaty Indians, who comprise a small fraction of the state's commercial fishing fleet, must be guaranteed an opportunity to

take more than half the harvestable fish.

Much of the argument yesterday turned on the question of whose law takes precedence—state or federal—and whether the state Supreme Court had any right even to be considering the issue.

**THE GILLNETTERS** Association, which contends that all fishermen should be treated alike, regardless of race, said there were three questions before the court:

- Whether the department has authority under state law to manage fish for other than conservation reasons;
- Whether the Medicine Creek Treaty of 1854 is the proper basis for discriminating between classes of commercial fishermen; and
- Whether, on the basis of that treat-

ty, Indians are entitled to a special share of hatchery-produced fish as well as wild ones.

The gillnetters contend that the treaty guarantees Indians an opportunity to fish equally with other citizens, not a right to an equal number of fish.

**IT WAS NOT** known immediately when a decision would be rendered.

Ultimately, Yates said, only the U.S. Supreme Court can provide a treaty interpretation that would have the status of "law of the land." Meanwhile, the federal government's position that a federal court order takes precedence over a state law is incorrect, he said.

Mason Morisset, a lawyer representing several treaty tribes, urged the state court not to decide the issues raised by Yates. He is asking the state court to reinterpret the treaty. Moris-

set contended, and there is not an extensive enough record before the court for a proper decision because some tribes whose rights would be affected by a decision are signatories to treaties other than Medicine Creek.

Asst. Atty. Gen. James Johnson, representing the Fisheries Department, the appellant, disagreed with that contention, however.

**"I AM URGING** the court to decide that the agency does have the authority to manage the fish," he said. "And that means to allocate between user groups . . . in recognition of whatever treaty right this court finds."

The State Supreme Court already has found, in a related case which is on appeal to the U.S. Supreme Court, that treaty Indians have no special right to a guaranteed share of the fish, pointed out Justice Robert T. Hunter, "only a

right to fish on an equal basis with others.

"The language of the treaty is simple and plain," he said. "They have the right to fish in common with all the citizens of the territory. How can you have anything simpler than that?"

Edmund B. Clark, representing the U.S. Justice Department, said his agency stood firmly on the side of Boldt's interpretation.

"Remember, Indians are citizens plus," he told the court, "and the 'plus' is the treaty. We believe they're a little more equal than everybody else."

However, Clark said he would recommend to his agency that it attempt to get the U.S. Supreme Court to review the entire fishing rights issue.

"From what I read in the papers, this case is causing hard feelings and everything else," he said.



Document divulgué en vertu de la Loi sur l'accès à l'information  
Document disclosed under the Access to Information Act

# State court urged to fight Boldt ruling

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take more than half the harvestable fish.

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- Whether the department has authority under state law to manage fish for other than conservation reasons;
- Whether the Medicine Creek Treaty of 1854 is the proper basis for discriminating between classes of commercial fishermen; and
- Whether, on the basis of that treaty,

Indians are entitled to a "special share of hatchery-produced fish as well as wild ones."

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However, Clark said he would recommend to his agency that it attempt to get the U.S. Supreme Court to review the entire fishing rights issue.

"From what I read in the papers, this case is causing hard feelings and everything else," he said.



# U.S. threatens fish war action

By BILL MERTENA

35-11

OLYMPIA (AP) — The Washington Supreme Court was warned Tuesday that the federal courts may end up making the administrative decisions in Washington state's Indian fishing dispute.

"If this court holds that the state Fisheries Department has the power to do what Judge Boldt says they should, I won't have to get involved in an argument over federal supremacy," said federal Justice Department lawyer Edmund Clark. He was speaking on a case involving a decision by U.S. District Judge George Boldt.

Boldt ruled in 1974 that Indians are entitled under treaties to fully one-half of the harvestable fish. The Justice Department intervened in the case.

Chief Justice Charles Stafford asked Clark whether, if the court ruled in opposition to the Boldt decision and was upheld by the U.S. Supreme Court, the state might not find itself burdened with a series of cases similar to school desegregation cases. In those cases, he noted, federal courts gave specific administrative orders to states and subdivisions.

"That possibility can be there," Clark said.

He also said he will "strongly recommend" that the Justice Department make strong efforts to get the U.S. Supreme Court to review the whole issue on cases it is now considering.

Charles Yates, attorney for the state gillnetters association, told the court the Boldt decision is not the final word on interpreting the Indian treaties. He asked the court to decide whether the treaties "can be used as a means of discriminating among classes of fishermen."

Yates also asked the court to rule on the Fisheries Department's power of regulation for reasons other than conservation.

A representative for the state agency contended that under state law it has the power to act on the Boldt decision.

Yates claimed the main Medicine Creek treaty does not give Indians any right to hatchery fish.

Mason Morris, representing Indian tribes, urged the court, however, not to rule on any of those issues, but to leave them to federal courts or to other cases in which more facts are available.

At least four other treaties also are involved, but are not being considered in the present case, he said.

Assistant Atty. Gen. James Johnson, representing the Fisheries Department, contended there are plenty upon which the court may base a decision. He said there is little difference among the treaties in question.

Some Indians have now caught their 50 per cent share of chum salmon runs and are claiming, like non-Indian fishermen, that the department can limit fishing only for conservation, he said.

"I say this so the court can see what an incredibly complex management situation the department faces," he said.

"This court has held in a previous case — which is on its way to the U.S. Supreme Court for the third time — directly opposite to Judge Boldt," said Justice Robert Hunter. "We said that the Indians should get the same treatment under the treaty. I don't see how we could be much plainer than that."

Johnson replied he did not understand the previous decision that way. The court held, he said, that "a kind of allocation program is allowed. At least this has not been clear to other courts," he said.

"The commercial fishermen of this state are hurting," said Douglas Fryer, who represented gillnetters. "Only the state is enforcing the regulations that are hurting them. This court should not defer to the federal court for the basic reason that it is wrong. The court should hold that the treaties give an equal right to fish, not guarantee an equal catch."



Seattle Times  
November 11/76

## 'Cooperation'

# Quinaults willing to cut back

## fishing

Compiled from news services

The Quinault Indian Tribe is willing to cut back its own fishing and recommend limited gillnet fishing for non-Indian fishermen, a tribal official said yesterday.

Tribal Chairman Joe DeLaCruz said the tribe is willing to meet with the Grays Harbor Gillnetters Association at any time "to consider a cooperative program to improve the Grays Harbor fishing situation."

Donald Moos, state fisheries director, closed Grays Harbor to non-Indian fishermen last week. Under terms of the Boldt Indian-fishing-rights decision, Quinault tribal members still are allowed to fish.

DeLaCRUZ said the Indians offered November 3 to share their fishing season with non-Indians. The gillnetters' association reportedly rejected the offer.

But Dick Clark, association president, yesterday said his members are "not opposed to cooperation with the Quinault Nation. The only way to settle any disagreement is to talk about it." He indicated the association would study the Indian proposal.

Moos suggested the gillnetters and Indians try to reach some kind of compromise.

Meanwhile, Jack Donaldson, Oregon fisheries director, said a new Columbia River-fisheries agreement between state and federal agencies and treaty tribes may be announced next week.

The agreement would be a revision in a memorandum of understanding signed last month at Warm Springs by Don Hodel, Bonneville power administrator, and representatives of the Yakima, Umatilla, Nez Perce and Warm Springs Tribes.

OFFICIALS of Oregon, Washington and Idaho have opposed the agreement for failing to include references to authority of the states to manage Columbia River salmon and steelhead runs. The states tabled out-of-court negotiations for agreement on catch allocations that



November 11/76

## Moos wants state to manage salmon

SEATTLE (AP) — State Fisheries Director Don Moos says his department should be the lone agency to manage the state's salmon runs.

In a panel discussion at the University of Washington yesterday, Moos described the Department of Fisheries as "the most sophisticated in the world when it comes to managing salmon." He said Congress should recognize the fisheries department as the single management agency.

However, Bill Smith, another panel member representing the Northwest Indian Fishing Commission, said Indians do not support the "single manager" approach.

"We're not a user group," he said. "We're co-managers."

JIM WALDO, an assistant U.S. attorney on the panel, said the state has no more right to manage salmon fishing than provided by 19th century treaties.

"The Indians gave up (in

treaties) land worth billions of dollars for a right we didn't think was worth anything," Waldo said. "They contracted for and got a right, and now they want us to honor it."

Moos criticized the present management program because federal courts, Indians, and numerous other agencies are involved in policy-making and enforcement.

"IF YOU HAVE too many managers, you have no manager," he said, adding that without congressional action, the fisheries department would not have authority over Indian fishing.

The right of the fisheries department to allocate salmon to Indian and non-Indian fishermen now is being challenged in a suit by the Gillnetters Association before the state Supreme Court. The suit challenges the 1974 decision by U.S. District Judge George Boldt which gave treaty Indians the right to half of the annual salmon harvest.



Subject .....  
Sujet .....

Date ..... November 16, 1976 ..... Publication The Oregonian .....

## Washington fish police anxious for winter rest

By JIM KADERA  
of The Oregonian staff

The approach of winter is more of a "breath of spring" for Sgt. Larry Johnson and the men who enforce Washington state fishing laws.

This fall they have risked their lives more than usual in attempting to nab illegal salmon gillnetters in Puget Sound. And as 1976 salmon runs end, they should be able to return to more normal lives.

"There has been a lot of frustration up here the last two years, and it's never been worse than this fall," Johnson said aboard the Coast Guard cutter Point Glass in the sound last weekend. Johnson was in charge of a five-man team of Department of Fisheries enforcement officers patrolling for fishing violations.

Before the Coast Guard began providing transportation at the request of Gov. Dan Evans early

this month, the officers were harassed by a few dozen gillnetters fishing primarily on chum salmon entering the Hood Canal.

Although many of the more than 1,000 persons licensed to fish commercially have obeyed the rules, some rebelled this fall at a total season closure while Indians had other fishing opportuni-

### UPS strike continues

HARTFORD Conn. (AP) — The status of a two-month-old strike against United Parcel Service (UPS) in 15 Eastern states remained uncertain Monday with no confirmation that a tentative agreement was reached late last week.

The Teamsters Union strike has swamped the U.S. Postal Service.



LARRY JOHNSON

ties.

Johnson was aboard a state boat in October when another officer seriously wounded a gillnetter who was trying to sink it. After the shotgun blast, the fishing craft veered away and a collision was avoided, Johnson said.

The sergeant also told of another night when a gillnetter drove the bow of his boat over the transom of a state boat. As the boat filled with water, Johnson said he reached for his shotgun and the fisherman backed off without further trouble.

"We've had riot situations out here with fishermen shouting 'Ram 'em, sink 'em.' When things get like that, anything can happen but we do our best to prevent it," he said.

While no officer has

been injured, there has been harm to the fishery resource and even to the family lives of the officers.

"We like our work but we also like our families. My wife says something has to change," Johnson noted.

With only 26 officers in the department statewide, to enforce sports and commercial fishing regulations, some have been working 16 hours or longer a day because of the problems in the sound.

The officers had confidence that outgoing fisheries director Don Moos would urge the next state legislature to increase the ranks. With Dixy Lee Ray becoming governor and appointing a new director, they don't know what will happen, Johnson said.

"If we had the manpower, a lot of the enforcement could be done by controlling the dealers (who buy the salmon)," he continued. "Somewhere there is an Indian season open at any time of the year. That provides more opportunities for non-Indians to sell what they take illegally."

The officers used to have time to patrol

spawning areas in streams. "But we can't now, and the fish are taking a killing there, too," he said.

The violence has been more than he expected when he joined the department eight years ago.

"We've had wrestling matches like any law enforcement agency has, but we never before had 50 boats at once trying to ram us," he said.



Subject  
Sujet

Date

Nov 25/76

Publication

News Tribune

# Gillnetters could face night fishing ban

By ROBERT H.  
MOTTRAM  
TNT Staff Writer

Gillnetters who defied state conservation closures this fall are reaping some ill will from other fishermen, marine industry sources report, which apparently has resulted in revived interest in a proposal to prohibit gillnetters from fishing at night.

Washington gillnetters currently operate only at night, and gillnet spokesmen indicate that a prohibition on that could be more damaging than the court-prompted fishing limitations which led to their acts of defiance.

Merle Adlum of Seattle, president of the Inland Boatmen's Union of the Pacific and a Port of Seattle commissioner, said the proposal for a law banning nighttime gillnetting originated within the fishing industry itself.

"IT SEEMED to be, collectively at least, what one group of seine fishermen and gillnet fishermen could reach agreement on," he said.

Adlum said he did not believe the proposal originated in any other facet of the marine industry,

despite the fact that gillnet fishermen have created some nighttime navigational problems for other seamen.

Representatives of groups that are interested in a ban had come to see him, Adlum said, and they suggested such a bill be drafted.

However, he said he had not spoken with any legislators about the proposal.

Paul Anderson, executive manager of the Puget Seine Vessel Owners Association, acknowledged he had met with Adlum to discuss the subject, but maintained that "nobody is pushing it."

"There's been some talk about it for the past couple of years," he said.

Anderson said members of his organization were angered by the illicit fishing of gillnetters, which reached major proportions on parts of Puget Sound this fall.

"WHEN THE STATE has it closed for conservation or enhancement reasons, closed to Indians and non-Indians both, there should be no one out there," Anderson said.

"It's really upsetting us," he said. "In fact, we're getting damned sick of it."

Rep. John Martinis (D-Everett), chairman of the House Natural Resources Committee, acknowledged there had been "some conversation" about a nighttime ban aimed at making gillnetters easier to control.

"I'm very upset with illegal fishing up around Foulweather Bluff, where the fishery was shut down for conservation purposes," he said. "I want to find out how many days the legitimate guys lost because of these illegal guys. I've had guys come to me from the gillnet area and the purse seine area and ask me if there's something that can be done."

However, Martinis said

the proposal was "just casual conversation at this time. I'm not even considering (introduction of a bill) at this time."

"I'M LOOKING into the situation and how we're going to be able to control it," he said.

Some gillnetters say that daytime fishing would not work, however, because salmon cannot be caught that way in Puget Sound when there is light.

"It has to do with the salinity of the water, apparently," said Phil Sutherland, president of the Puget Sound Gillnetters Association. "Point Roberts, Skagit, in some of those areas the fish are somewhat blinded. You can catch a certain amount, although not efficiently."

"But in this crystal-clear water (farther south), you can't do it."

Anderson, the purse seine leader, points out that daytime gillnetting is common in Alaska, where certain waters are set aside for gillnetters, and others for purse seiners. The only reason it is done at night in Washington, he main-

tains, is that the total fishing area here is so small it is divided by time rather than by distance, with purse seiners fishing during the day.

Dick Wade, president of the Seattle chapter of the gillnetters group, disagrees.

"It would be impossible for us to live with, with the type of gear we use now," he said, "because

the fish won't hit the gear in the daylight."

Wade agreed that daytime gillnetting works to the north.

"I do it in the Gulf of Alaska, and I do it in Cook Inlet," he said. "But down here it doesn't work. I don't know why."

"Unless some changes were made on gear," he said, "it would, in effect, put us out of business."



Subject

Sujet

Date

Nov 25/86

Publication

News Tribune

# Boldt won't bow out of Indian-rights case

By ROBERT H. MOTTRAM

TNT Staff Writer

U.S. District Judge George Boldt has rejected the argument that he should disqualify himself, and has decided to preside over the so-called "Phase II" of the Indian treaty rights dispute.

The request for Boldt's disqualification had been made by Asst. Atty. Gen. James M. Johnson in September, on grounds that—among other things—public acceptance of Boldt's Phase II ruling is likely to be poor.

However, in a letter to Johnson and other lawyers involved in the case, Boldt said public acceptance is something that is neither essential nor necessarily desirable for a judge to consider.

**JOHNSON HAS BEEN** the chief trial lawyer for the state in the first phase of the treaty rights dispute, which resulted in Boldt's controversial interpretation of mid-19th Century treaties as allocating participating tribes more than half the steelhead and salmon in perpetuity.

In the second phase of the case, expected to be heard next year, the tribes are seeking authority to participate in control over most Western Washington rivers and streams. This would give them a virtual veto over future industrial, commercial, residential and other uses of the streams on which their treaty-protected fishery depends.

Johnson had made his disqualification request in a letter to Boldt, pointing out that "there has been some difficulty in obtaining public acceptability of the Phase I decision."

He continued:

"It is my belief that the public acceptability of the result of Phase II would be enhanced were the case

to be tried by a judge other than yourself."

**BOLDT DISTRIBUTED** copies of Johnson's letter to other lawyers in the case, and invited their comments about the request.

saying to those lawyers Nov. 12, he had received responses from "most, if not, all" of them, and that "all counsels who have responded disagree with each of the three grounds upon which Mr. Johnson requests me to recuse from conducting the trial of Phase II."

For a judge to "recuse" is for him to disqualify himself from hearing a case. "Public acceptance of either a state

or federal court decision is not an essential or even necessarily desirable factor that a conscientious judge should ever consider in reaching his judicial determination," Boldt wrote.

"If it were otherwise," he said, "judicial service in some instances might become a popularity contest rather than a conscientious search for justice under applicable law."

Johnson also had said the attorney general's office believed it would be difficult for Boldt to exercise jurisdiction over developments related to Phase I while undertaking the responsibility of presiding over Phase II.

however, on grounds that his docket has been reduced substantially over the past year, by trial and by settlement of cases.

Johnson's third point had been that tours the judge was making to Washington dams, hatcheries and industrial sites in anticipation of hearing Phase II had resulted in his acquiring "personal knowledge or disputed evidentiary facts concerning the proceeding."

However, Boldt replied that nothing had occurred that "would be a basis either in fact or law for me to recuse."



James Jones  
Nov 26/76

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## Times poll

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# Congress should solve fish dilemma

Residents of Western Washington by a wide margin want Congress to solve problems arising from the Boldt Indian-fishing-rights decision.

There is, however, less agreement on exactly what action Congress should take.

Those are results of a poll taken for The Times by the GMA Research Corp. of Bellevue. The poll consisted of telephone interviews with about 460 Western Washington residents over 18, chosen randomly on a basis of population density. The interviewing was between November 11 and 18.

They were asked:

"Do you believe that Congress should act to solve problems resulting from the Boldt Indian-fishing-rights decision?"

Yes: 74.3 per cent.

No: 25.7 per cent.

THOSE WHO favored congressional action then were asked which of a number of alternatives they favored. The result:

1. "A federal commission to study the situation and recommend solutions to Congress:" 37.1 per cent.

2. "Renegotiation of the Indian treaties:" 26.0 per cent.

3. "Maximum possible enhancement of the size of salmon and steelhead runs:" 14.4 per cent.

4. "Purchase of fishing rights from treaty Indian tribes:" 10.2 per cent.

5. Don't know, none of the above or other: 12.3 per cent.

Representative Lloyd Meeds, Everett Democrat, has introduced legislation that would es-

tablish a federal commission such as that mentioned in the first alternative. However, Meeds barely survived a strong challenge from Republican John Nance Garner, who attacked the incumbent for his stand on the fisheries issue.

THE TIMES POLL also asked respondents what they thought of the Boldt decision, itself. Those interviewed were asked:

"As a result of past treaties, a federal court has granted certain Indian tribes the right to catch half the harvestable steelhead and salmon runs. Which one of the following statements best describes your feeling about this decision?"

1. "The decision is unfair to non-Indian sport and commercial fishermen, giving Indians more than their rightful share:" 51.6 per cent.

2. "Considering past treaties, the decision is a fair solution for all parties:" 22.2 per cent.

3. "The decision is unfair to Indians, giving non-Indian sport and commercial fishermen more than their rightful share:" 8.5 per cent.

4. Don't know, none of above, other: 17.7 per cent.

The results were not much different from a poll taken last March, when the same question was asked. At that time, 49.1 per cent of the respondents thought the Boldt decision unfair to non-Indians, 26.0 per cent thought it fair to both sides and 9.2 per cent thought it unfair to Indians.

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Spokesman Revere  
Nov 26/76

## New judge idea vetoed by Boldt

TACOMA, Wash. (AP) — U.S. District Judge George Boldt, saying public reaction is something a judge should not necessarily take into consideration before issuing a decision, has turned down a request to disqualify himself from hearing the next phase of the Indian treaty rights dispute.

Boldt made the statement in response to a letter by Assistant Atty. Gen. James M. Johnson, who said, among other things, that public acceptance of Boldt's ruling on Phase 2 of the treaty rights case is likely to be poor.

Johnson has been the chief trial lawyer for the state in the first phase of the treaty rights dispute, which resulted in Boldt's decision to allocate more than half the steelhead and salmon in the state to tribes that took part in a 19th century treaty.

The second phase involves control over most Western Washington rivers and streams and a favorable ruling would the Indians a major voice in decisions involving industrial, commercial and other development involving use of the streams.

Johnson said in the letter that there has been a problem with public acceptance of Boldt's fishing decision and "It is my belief that the public acceptability of the result of Phase 2 would be enhanced were the case to be tried by a judge other than yourself."

Before reaching a decision on whether to disqualify himself, Boldt distributed copies of Johnson's letter to other attorneys in the case and invited their comments.

In a letter to those lawyers this month, Boldt said all of those responding disagreed with Johnson.

Further, Boldt wrote, "Public acceptance of either a state or federal court decision is not an essential or even necessarily desirable factor that a conscientious judge should ever consider in reaching his judicial determination."

"If it were otherwise," he wrote, "judicial service in some instances might become a popularity contest rather than a conscientious search for justice under applicable law."



Subject  
Sujet

Date

Nov 26/76

Publication

Seattle Times

## Times poll

# Most think Boldt ruling unfair to non-Indians

Majorities or large pluralities of every age, sex and income group believe the Boldt Indian-fishing rights decision is unfair to non-Indians, a Times poll found.

The 1974 federal court decision gave treaty Indian tribes the opportunity to catch half the harvestable salmon and steelhead runs returning to traditional off-reservation Indian fishing grounds.

The decision has led to a series of violent confrontations on Puget

Sound and was a hot issue in at least three congressional districts during the election campaign this fall.

The Times poll, carried out by the GMA Research Corp. of Bellevue, consisted of telephone interviews with about 460 Western Washington residents over 18, chosen randomly on a basis of population density. The interviews were from November 11 to November 18.

The first question and the response:

As a result of past treaties, a federal court has granted certain Indian tribes the right to catch half the harvestable steelhead and salmon runs. Which one of the following statements best describes your feeling about this decision?

Considering past treaties, the decision is a fair solution for all parties .....	22.2%
The decision is unfair to Indians, giving the non-Indian sport and commercial fishermen more than their rightful share ...	8.5%
The decision is unfair to non-Indian sport and commercial fishermen, giving Indians more than their rightful share .....	51.6%
Don't know, none of above, other .....	17.7%
	100.0%

Cross-tabulation of demographic data produced the following response breakdown: (All percentages—add down)

	Male	Female	18-24	25-34	35-44	45-54	55+
Fair solution	21.9%	22.1%	15.6%	31.0%	24.1%	23.3%	15.7%
Unfair to Indians	8.8%	8.4%	14.3%	6.0%	12.0%	10.0%	4.7%
Unfair to non-Indians	54.4%	48.7%	53.2%	44.0%	47.0%	50.0%	62.0%
DK/None of above, other	14.9%	20.8%	16.9%	19.0%	16.9%	16.7%	17.6%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

	Under \$10,000	\$10,000-\$20,000	Over \$20,000
Fair solution .....	16.1%	28.7%	24.7%
Unfair to Indians .....	11.7%	7.4%	5.4%
Unfair to non-Indians ....	51.1%	47.9%	54.8%
DK/None of above, other	21.1%	16.0%	15.1%
	100.0%	100.0%	100.0%

The same question was asked during a Times poll last March. The overall results were not significantly different from the poll taken this month, but there were some differences in various population categories:

-- Many more elderly persons now think the Boldt decision is unfair to non-Indians than did last spring. More persons under 24 also think so.

-- By contrast, persons aged 35

to 44 had a change of heart in the other direction. Last March, 64.5 per cent said they thought the decision was unfair to non-Indians; this month only 47.9 per cent said so.

-- Only 30.2 per cent of those persons earning less than \$10,000 a year said last March they thought the decision was unfair to non-Indians; now 51.1 per cent of them do.

Respondents in the November poll also were asked another question about the Boldt decision. It was:



Do you believe that Congress should act to solve problems resulting from the Boldt Indian-fishing-rights decision?

Yes ..... 74.3%  
No ..... 25.7%

100.0%

Those respondents who stated they believed Congress should act to solve problems resulting from the Boldt Indian fishing rights decision were then asked the following question:

Which one of the following alternatives do you favor?

A federal commission to study the situation  
and recommend solutions to Congress ..... 37.1%  
A renegotiation of the Indian treaties ..... 26.0%  
The maximum possible enhancement of the  
size of salmon and steelhead runs ..... 14.4%  
The purchase of fishing rights from treaty Indian tribes ..... 10.2%  
Don't know, none of above, other ..... 12.3%

100.0%

Cross-tabulation of demographic data produced the following response breakdown: (All percentages—add down)

	Male	Female	18-24	25-34	35-44	45-54	55+
Federal commission	30.6%	41.8%	37.0%	36.7%	34.4%	35.6%	41.4%
Renegotiation	29.4%	23.5%	29.6%	22.8%	32.8%	37.8%	16.2%
Enhance runs	15.6%	13.5%	13.0%	19.0%	13.1%	6.7%	14.9%
Purchase rights	13.1%	7.6%	14.8%	13.9%	6.6%	4.4%	10.3%
DK, none of above, other	11.3%	13.6%	5.6%	7.6%	13.1%	15.5%	17.2%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
			Under \$10,000	\$10,000-\$20,000	\$20,000-Over		
Federal commission			39.5%	37.4%	35.3%		
Renegotiation			23.8%	28.1%	29.4%		
Enhance runs			13.9%	14.4%	11.8%		
Purchase rights			5.0%	12.9%	13.2%		
DK, none of above, other			17.8%	7.2%	10.3%		
			100.0%	100.0%	100.0%		

Representative Lloyd Meeds, Everett Democrat, has introduced a bill that would establish a federal commission, as suggested in the most popular alternative. The measure is supported by all the other members of the state's congressional delegation.

If passed into law, it would create

an 11-member commission to study problems resulting from the Boldt decision and recommend solutions to Congress. Congressmen have indicated they would like to see a proposal that would compensate Indians for ending their commercial netting of steelhead runs and a program to enhance salmon runs.

(Copyright, 1976, GMA Research Corp.)





# Moos: Salmon have more than one major enemy

Moos

Bennett



By ROBERT H. MOTTRAM  
TNT Staff Writer

Western Washington treaty Indians should not be viewed as a threat to the welfare of an otherwise secure population of migratory fish, State Fisheries Director Don Moos said last night.

Salmon have many enemies, Moos told a fisheries panel at the Fircrest United Methodist Church, and, because of them, the state Fisheries Department is hard-pressed to keep the resource from being extinguished.

Participating with Moos on the panel were Archie Graham, president of the Washington State Sportsmen's Council, Inc.; Ramona Bennett, chairwoman of the Puyallup Tribal Council; and Milo Moore, former Fisheries Department director.

MURRAY MORGAN, TEACHER OF Northwest history at Tacoma Community College, was panel chairman for the discussion, aimed at exploring the conflicts arising from increasing competition for a diminishing supply of fish.

Washington's salmon and steelhead fisheries have been a subject of public

controversy since 1974, when U.S. District Judge George Boldt of Tacoma ruled that treaty Indians are entitled to an opportunity to harvest more than half of them each year.

But Washingtonians should not overlook the Canadians, said Moos, who take more than 70 per cent of all salmon returning to spawn in the state.

NOR SHOULD THEY disregard the Army Corps of Engineers, he said, which took the Columbia River, one of the greatest salmon production systems in the history of the world, "and made it virtually a sterile area" through construction of dams; the timber industry, which has "devastated" significant stretches of spawning grounds; or the Fisheries Department itself, which permitted nearly unlimited sales of commercial fishing licenses for years, "until after awhile we were rationing poverty."

Graham zeroed in sharply on the Boldt decision, however, contending there "should be no special, hereditary rights for special groups of citizens."

"Boldt violated the U.S. Constitution and the language of the treaties them-

selves when he ruled that Indians are entitled to more than half the food fish in Northwest waters," he said.

A majority of sportsmen consider it a bad decision, Graham said, which "flies in the face of the U.S. Constitution."

MOORE SAID HE DISAGREED with contention that the Boldt decision is the law of the land. The judge violated principles of constitutional law in rendering his decision, Moore said, "and I think he ought to have his head examined."

Miss Bennett maintained it was no accident that the Western Washington treaties reserved special fishing rights to the Indians, however, for it is part of a common thread which runs through many Indian treaties, she said. Indians throughout the continent reserved to themselves special rights to fish, to hunt, to gather nuts or wild rice.

"Indians were concerned with the survival of their communities," she said. "That's what they tried to achieve in the treaties."

"They reserved not only land, but a way of being self-supporting."

WHEN AMERICANS BEGAN coming into this area in the 19th Century, they told the Indians they needed land for those who would follow, but the immigrants would be farmers, Bennett said.

The Indians agreed to give up land, while reserving their special rights, she said, because they saw potential conflict between them and a few agricultural people.

Perhaps the American negotiators "really met in good faith," she said. "Maybe they really believed what we were saying. Maybe they thought the people coming after just needed a little land for farming. They couldn't have known it would be a Statue of Liberty, a masses of people fleeing persecution from the European countries."

"THEY COULDN'T HAVE known there would be third- and fourth-generation fishermen coming from Yugoslavia and the Scandinavian countries."

"They couldn't have known it would be a Boeing airplane company and an Interstate 5."

Tacoma News Tribune  
Nov 29/76

35-11



Nov 30/76

35-11  
20-6-Evans

# Evans wants stiffer fishing penalties

OLYMPIA (AP) — An angry Gov. Dan Evans today said he will ask the legislature to stiffen the penalty for illegal net fishing and will urge purchase of at least one huge fisheries patrol vessel.

The governor said he is considering other steps as well, including a drastic proposal to end night fisheries — a move which could effectively wipe out the gillnet industry — and a plan to strip fisheries licenses from repeated violators.

He was cool, however, to a suggestion by Fisheries Director Don Moos that the State Patrol assume the job

of enforcing fisheries regulations.

Evans said non-Indian commercial fishermen have illegally taken over \$1 million worth of fish in Puget Sound this fall as part of the "Fish War" between the fishermen and state fisheries patrolmen.

"This was no protest fishery or to put food on the table," Evans said. "It was for money."

Currently, there a \$250 maximum fine, he noted.

"The penalty doesn't match the potential" because net fishermen can illegally catch much more than

\$250 worth of fish in an evening, the governor said.

"We need much, much more severe penalties," Evans said. "Repeated violations should result in loss of licenses."

He said he has not prepared his final proposals to the legislature.

Those proposals also will include a recommendation that the state purchase at least one 60-foot patrol boat and that the state Department of Fisheries be given "clear management authority," he said.

The vessel and possibly others are needed to meet new responsibilities for offshore patrolling under the new 200-mile limit law, Evans said.

The governor said he disagrees with the results of a recent newspaper poll which shows Washington residents looking to Congress for an answer to the state's fisheries dilemma.

Evans said State Patrol troopers are not trained for marine law enforcement. Stiffer penalties for violations probably is better than relying on patrolling, he said, adding that the state couldn't afford to hire the number of patrolmen it would require if gillnetters decide to flaunt the law.

On other topics Evans said:

— Gov.-elect Dixy Lee Ray's transition apparently is going smoothly. He said he has met with her several times and will continue doing so. Their respective staffs are meeting almost daily, he said.

— He has no desire to be national, state or King County Republican chairman and will be "delighted to get out of politics come Jan. 12."

— He still has no word on whether he will be calling for tax increases in January.



35-11

Seattle Times  
December 2/76

# Fish hearing centers on Indians

By LYLE BURT

Times Olympia Bureau

OLYMPIA — The Senate Rules Committee, meeting here yesterday to seek solutions to the Puget Sound fishing controversy, heard a suggestion that Indians who continually violate state fishing regulations should forfeit their rights to state benefits, such as public assistance.

State Senator August Mardesich, Everett Democrat and a commercial purse-seine fisherman, made the suggestion.

But Deputy Attorney General Philip H. Austin said such an approach could encounter legal difficulties at both state and federal levels.

"I would be dubious as to whether this could be done under both (federal and state constitutions)," Austin said. Both documents guarantee equal protection of the laws to all people, he noted.

After considerable discussion, the Rules Committee voted to direct the Senate Natural Resources Committee to study the problem and report

its findings and recommendations to the Legislature when it convenes January 10.

THE RULES Committee meeting was called by Lt. Gov. John Cherberg, chairman, to search for solutions to the controversy that emerged when some non-Indian commercial gillnetters fished in violation of state closures in central Puget Sound.

Cherberg promised the inquiry after a demonstration by angry gillnetters following a series of violent confrontations between fishermen and fisheries patrol officers that culminated in the shooting of a gillnetter by a patrolman.

Mardesich said he did not believe that enhancement of salmon runs to provide more fish, as the State Fisheries Department has proposed, would provide an answer.

"If we increase the runs 100 per cent, the Indians still will want 50 per cent of the 100 per cent," he said. He was referring to the 1974 federal court decision handed down by Judge George Boldt which gives Indians the opportunity to catch 50

per cent of all harvestable salmon and steelhead returning to traditional off-reservation Indian fishing grounds.

Mardesich, Senator Sam Guess, Spokane Republican, and others recommended working with Congress to solve problems resulting from the Boldt decision by renegotiating the Medicine Creek Treaty, compensating Indians for fishing rights or finding some other solution.

But they conceded this could take years.

Senator Harry Lewis, outgoing Olympia Republican, proposed legislation along the lines of Mardesich's suggestion to be followed by an immediate court test of its legality.

"That would be a way to get action more quickly than any other way I see," Lewis said.

"This would show legislative intent more sharply than any memorial to Congress," he added.

Guess called the Boldt decision a "real travesty."

AFTER THE MEETING, Senator

Lowell Peterson, Skagit County Democrat and chairman of the Natural Resources Committee, said it looked as if his group "will be continuing along the lines of what we have been doing."

"But I don't see any light at the end of the tunnel," he said.

Peterson said he has called a committee meeting December 10 and has invited Judge Boldt to appear and testify.

Fisheries Director Donald Moos, who has been under fire from both Indian and non-Indian fishermen, received some praise from the senators.

Guess said Moos can do nothing but carry out the law, including the law as established by the Boldt decision.

Senator Don Talley, Kelso Democrat, described Moos as "a very capable man." But he noted Moos lacks a background in the fishing industry.

The Legislature should consider imposing a requirement that the fisheries director be familiar with the industry and its problems.



Seattle Times  
December 3, 1976

# Congress: only hope in Indian disputes

Congressional action is the only solution to problems posed by Indian fishing, hunting, water and land rights, an assistant state attorney general said last night at a Seattle Center meeting.

"Don't take 'No' for an answer," James Johnson, an assistant attorney general who has represented the state in Indian-fishing-rights cases, said at the meeting sponsored by the Interstate Congress for Equal Rights and Responsibilities. More than 400 attended.

"The answer will be forthcoming here as it was in Alaska," Johnson said, urging that the entire issue of special Indian treaty rights be taken to Congress for settlement as were the Alaska natives claims.

Archie Graham, president of the State Sportsmen's Council, said one solution is a resolution introduced by Representative John Dingelle of Michigan, which would allow states to apply conservation regulations equally to all hunters and fishermen.

**COMMERCIAL** and sports fishermen have objected to the 1974 decision by United States District Judge George H. Boldt allowing treaty Indian tribes the opportunity to catch half the harvestable salmon and steelhead runs return-

ing to traditional off-reservation Indian fishing grounds.

Cliff Millenbach, chief of fisheries management for the State Game Department, said the decision has nearly total exploited the state's steelhead.

"Certainly we cannot exploit this fishery any more," Millenbach said.

Frank Haw, assistant director of fisheries, cautioned that not all fisheries problems — such as polluted streams — are caused by the Boldt decision.

Representatives of non-Indians who own land on the Quinault and Lummi Indian Reservations outlined problems they are experiencing.

They said both tribes generally have declared their own regulations supersede county permit systems, including those for zoning, construction, water and sewer operations.

June Filbert, board member of the Lummi Property Owners Association, said "the tribe thinks it has complete control of all land within the reservation."

Mrs. Filbert said the property had been turned back by individual Indians after the 1887 Allotment Act, then was sold by the Bureau of Indian Affairs. She said non-Indians did not purchase the land on

speculation but to build residences.

"We who live on reservations cannot stand to be governed by an entity (the tribe) in which we have no voice or vote," Mrs. Filbert said.

Betty Morris of the Quinault Property Owners said incidents of physical and psychological tribal harassment have been documented, including stopping citizens at gunpoint on state highways.

**MRS. MORRIS** said one man was penalized by the tribe for cutting wood on his land with a state permit and another was forced to tear down his retirement home because of impossible tribal restrictions imposed when the building was almost completed.

Howard Gray, member of the board of directors of the Interstate Congress for Equal Rights and Responsibilities and organizer of the meeting, pledged that the issue would be taken to Congress for resolution.

"I see the pendulum swinging in our direction," Gray said.





PRIVY COUNCIL • CONSEIL PRIVÉ

25-5-7-2-SALMON-1

19.

P.C. 1976-3169  
23 December, 1976

*File*

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL,  
on the recommendation of the Secretary of State for  
External Affairs with the concurrence of the Minister  
of Fisheries and the Environment, is pleased hereby  
to authorize the Secretary of State for External  
Affairs:

- (a) to execute and issue an Instrument of Full Powers authorizing Jack Hamilton Warren, Canadian Ambassador to the United States or in his absence, J.K. McKinney, chargé d'affaires, to sign, on behalf of the Government of Canada, a Protocol between Canada and the United States to amend the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed on May 26, 1930, as amended; and
- (b) to take the action necessary to bring the Protocol into force for Canada.

REGISTERED IN AUTH. INDEX & REFERRED FOR ACTION TO: <i>FLA</i>
COPIES REFERRED FOR INFO TO: <i>ECL ECP</i>

CERTIFIED TO BE A TRUE COPY - COPIE CERTIFIÉE CONFORME

*P. H. Atfield*

Received from T.B. *11-1-77*



FLA/J.K. Bruce:6-3863/sjk

Fire  
Div. diary  
Circ. diary  
Diary

- 1) Privy Council Office
- 2) Sockeye Salmon

25-5-7-2-SALmon-1	
4	27

Ottawa, K1A 0G2  
December 20, 1976

Dear Mrs. Farley,

This will confirm a telephone conversation between you and Mrs. Bruce of this Division in which a request was made that the words "or in his absence, J.R. McKinney as Chargé d'Affaires", should be inserted after the words "Jack Hamilton Warren, Canadian Ambassador to the United States" in operative paragraph (a) of a Submission to Council dated December 15, 1976, concerning signature of a Protocol between Canada and the United States to amend the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended.

Yours sincerely,

J. S. STANFORD

J.S. Stanford  
Director  
Legal Advisory Division

Mrs. Marie Farley,  
Office of the Privy Council,  
Varett Building, Room 1531,  
130 Albert Street,  
OTTAWA.



Environment Canada Environnement Canada

MEMORANDUM NOTE DE SERVICE

To/A **FHO**  
From/De: **ACRA**  
Dec 31 1976  
**M. Léger**  
Att'n:

DATE December 16, 1976.

FROM: M. Hunter  
DE:

TO: C. R. Levelton  
A:

SUBJECT: CANADA/US SALMON NEGOTIATIONS  
SUJET:

*Handwritten:* ~~ACRA~~  
~~WSP~~  
to sel

*Handwritten:* + file 25-5-7-2-Salmon-1  
9

Your file Votre référence

I am becoming increasingly concerned at the length of time that has passed since we last met with U.S. Government officials, and with our industry advisers on this subject. While there is nothing we can do about this hiatus in the light of other commitments, I think that we must begin to consider the schedule we might wish to follow to permit us to make some progress.

You will recall that the last meeting with McKernan took place in Vancouver at the end of August, at which time we ran into some difficulties with draft Articles covering the proposed Fraser River panel and the treatment of Panhandle stocks. The Ad Hoc Committee was also given new terms of reference at that time.

I think that the Ad Hoc Committee made as much progress as possible at its meeting in Victoria in September. That meeting ended with an obvious division in U.S. ranks to which McKernan alluded during a conversation you held with him in Seattle at the time of the interim IPHC meeting. I understand that a small group of advisers met with Pacific Region people to discuss the report of the Ad Hoc Committee in late September, but you have not yet had an opportunity to discuss the report with the full advisory group. Because of the nature of the report, in which a new type of interception limitation scheme was developed, I think it is important that a meeting with the advisory group be held in the not too distant future.

As far as the development of the draft Treaty is concerned, we undertook to provide to the U.S. in advance of our next meeting, a Canadian draft of the Fraser River panel Article, and a fleshed out Panhandle Article. The first item has been approached by Léger and Applebaum; the second has not received attention. Both items require discussion at an in-house meeting of officials, which should also discuss the Ad Hoc Committee's report.

.../2



- 2 -

It is my view, therefore, that before we meet again with the U.S., we must rebuild our own house, so to speak. The progress of the overall bilateral talks, while a factor to be considered, must not impede progress in salmon discussions. This viewpoint was expounded in an earlier memorandum, to which no negative responses were forthcoming.

Your views on the timing of in-house and advisory group meetings would be appreciated so that Hourston and I can begin to make appropriate arrangements.

  
M. Hunter

cc: D. Roberts  
M. P. Shepard  
L. Legault  
W. R. Hourston  
J. S. McDonald (Nanaimo)  
G. Léger- FLO



VU PAR LE MINISTRE  
SEEN BY THE MINISTER

*Approved Dec. 15*

UNCLASSIFIED

December 9, 1976

MEMORANDUM FOR THE MINISTER

SUBJECT: Submission to Council concerning the Protocol  
to amend the Convention for the Protection,  
Preservation and Extension of the Sockeye Salmon  
Fisheries in the Fraser River System, as amended

.. The purpose of this memorandum is to request that you approve and sign the attached Submission to the Governor General in Council seeking authority for J.H. Warren, Ambassador of Canada to the United States, to sign, on behalf of the Government of Canada, a Protocol to amend the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended. The Submission also seeks authority for Canada to ratify the Protocol.

Background

2. The principal effect of this Protocol is to increase the representation from each country on the Advisory Committee, created by Article V of the Convention, from six to seven members. The reason for this expansion is a desire on the part of the United States to name a Treaty Indian salmon fisherman to the United States section of the Advisory Committee. United States officials raised this matter at the bilateral fisheries consultations held in Washington in July and it was indicated in an Aide-Mémoire dated August 10, 1976, that Canada would respond favourably to such a proposal. The Minister of the Environment has indicated his concurrence on the Submission to Council.

Recommendation

3. I recommend that you sign the attached Submission to Council.

*H.B.R.*  
H.B.R.





Department of External Affairs

Ministère des Affaires extérieures

Canada

TO: HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL

The undersigned has the honour to report

THAT Canada and the United States are parties to the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed at Washington on May 26, 1930, and to the Protocol signed at Ottawa on December 28, 1956, amending the aforesaid Convention;

THAT the Government of the United States has proposed that a Protocol be concluded to increase the representation from each country on the Advisory Committee, created by Article V of the Convention, from six to seven members;

THAT the competent Canadian authorities have agreed that it would be in the Canadian interest to accept such an amendment, to be effected by means of a Protocol, and have indicated in an Aide-Mémoire dated August 10, 1976, that Canada would respond favourably to such a proposal;

THAT it is expedient that the Government of Canada sign and ratify the Protocol to the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended.

The undersigned, therefore, (with the concurrence of the Minister of Fisheries and the Environment) has the honour to recommend that the Secretary of State for External Affairs be authorized:

.../2

OTTAWA, *Alma* November 15, 1976



- 2 -

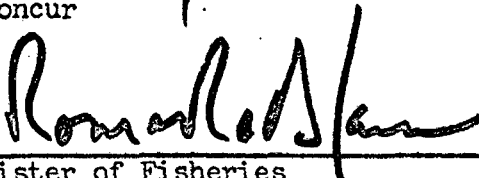
- (a) to execute and issue an Instrument of Full Powers authorizing Jack Hamilton Warren, Canadian Ambassador to the United States, to sign, on *or in his absence, J. R. McKinney as chargé d'affaires* behalf of the Government of Canada, a Protocol between Canada and the United States to amend the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed on May 26, 1930, as amended; and
- (b) to take the action necessary to bring the Protocol into force for Canada.

Respectfully submitted,

ORIGINAL SIGNED BY  
ORIGINAL SIGNÉ PAR  
Don C. Jamieson

Secretary of State  
for External Affairs

I concur



Minister of Fisheries  
and the Environment



The Secretary of State presents his compliments to His Excellency the Ambassador of Canada and has the honor to propose that the United States and Canada enter into a protocol to amend Article V of the Protocol to the Pacific Salmon Fisheries Convention to increase the size of the Advisory Committee established under the Convention from six to seven persons from each country. The purpose of this proposal is to enable the United States to name a treaty Indian salmon fisherman to the U.S. section of the Advisory Committee.

During the bilateral fisheries consultations with Canadian officials in Washington on July 21 and 22 the possibility of an increase in the size of the Advisory Committee was raised by United States officials. Canadian authorities indicated in an Aide-Mémoire dated August 10 that they would be prepared to respond favorably to such a proposal.

The proposed draft protocol is enclosed.

Department of State,

Washington,

October 21, 1976



PROTOCOL

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

The Government of the United States of America and the Government of Canada, parties to the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System signed at Washington on May 26, 1930, and to the Protocol signed at Ottawa, December 28, 1956, amending the aforesaid Convention,

Have agreed as follows:

ARTICLE I

Paragraph 3 of the understandings stipulated in the Protocol of Exchange of Ratifications signed at Washington on July 28, 1937, and amended by the Protocol signed at Ottawa on December 28, 1956, Amending the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed at Washington on May 26, 1930, shall be further amended to read as follows:

"That the Commission shall set up an Advisory Committee composed of seven persons from each country who shall be representatives of the various branches of the industry, including, but not limited to, purse seine, gill net, troll, sport fishing and processing, which Advisory Committee shall be invited to all non-executive meetings



- 2 -

of the Commission and shall be given full opportunity to examine and to be heard on all proposed orders, regulations, or recommendations."

ARTICLE II

The present Protocol shall be subject to ratification and the exchange of the instruments of ratification shall take place in \_\_\_\_\_ as soon as possible. This Protocol shall come into force on the day of the exchange of the instruments of ratification.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed this Protocol.

DONE in duplicate at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 1976.



## PROTOCOLE

### PROTOCOLE ENTRE LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE ET LE GOUVERNEMENT DU CANADA EN VUE DE MODIFIER LA CONVENTION MODIFIEE POUR LA PROTECTION, LA CONSERVATION ET L'EXTENSION DES PECHERIES DU SAUMON SOCKEYE DANS LE FLEUVE FRASER ET SES TRIBUTAIRES

Le Gouvernement des Etats-Unis d'Amérique et le Gouvernement du Canada, parties à la Convention pour la protection, la conservation et l'extension des pêcheries du saumon sockeye dans le fleuve Fraser et ses tributaires signée à Washington le 26 mai 1930 et au Protocole modifiant la Convention susmentionnée signé à Ottawa le 28 décembre 1956,

Sont convenus de ce qui suit:

#### ARTICLE I

Le paragraphe 3 de l'engagement stipulé dans le Protocole d'échange des ratifications signé à Washington le 28 juillet 1937, paragraphe qui a été modifié par le Protocole, signé à Ottawa le 28 décembre 1956, modifiant la Convention pour la protection, la conservation et l'extension des pêcheries du saumon sockeye dans le fleuve Fraser et ses tributaires, signé à Washington le 26 mai 1930, est de nouveau modifié de manière à se lire comme il suit:

"La Commission doit établir un comité consultatif composé de sept personnes de chaque pays, représentant les divers secteurs de l'industrie, y compris, la pêche à la senne à poche, la pêche au filet, la pêche à la cuiller, la pêche sportive et le traitement du poisson, mais sans y être limités. Ce comité consultatif doit être invité à toutes les réunions de la Commission sans caractère exécutif, et on doit lui fournir l'occasion voulue d'examiner tous les projets d'ordonnances, de règlements ou de recommandations envisagés, et de se faire entendre à leur égard".



- 2 -

ARTICLE II

Le présent Protocole doit être ratifié, et l'échange des instruments de ratification doit avoir lieu à \_\_\_\_\_ aussitôt que possible. Il entrera en vigueur le jour de l'échange des instruments de ratification.

EN FOI DE QUOI les soussignés, dûment autorisés par leur gouvernement respectif, ont signé le présent Protocole.

FAIT en double exemplaire à \_\_\_\_\_, ce \_\_\_\_\_ jour de \_\_\_\_\_ 1976.



ACTION  
SUITE A DONNER

WASHINGTON

~~C O N F I D E N T I A L~~

FM WSHDC UNGR3 626 NOV22/76

TO EXTOTT FLO

INFO BH ENVOTT/FMS/LEGAULT DE OTT

DISTR GWU

REF YOURTEL FLO1547 NOV17 AND WANG/HAMBLETON TELECON

---FISHERIES:SALMON

AS REQUESTED IN REFTTEL, WE PASSED AIDE MEMOIRE ON SALMON FISHERIES  
TO CARL CLEMENT, CDN OFFICE, STATE, THIS MORNING. AS AGREED IN FINAL  
TEXT OF PARA3 QUOTE REGRET UNQUOTE SUBSTITUTED FOR QUOTE HAVE  
CONCLUDED UNQUOTE AND WORD QUOTE CLEARLY UNQUOTE DROPPED.

CCC/001 222001Z 00090

25-5-72-SALMON-1

4



FLO/M. Leir-6-3753/rs

file, div. circ. diary

Environment Canada

OTTAWA  
KIA OG2

25-5-7-2-SALmon-1	
4	AC

November 19, 1976

Dear Len,

Re: Pacific Salmon Fisheries Convention:  
Protocol on Size of Committee

As indicated in my letter of November 10, 1976,  
we have prepared the Submission for the Governor General  
.. in Council on the above matter which is enclosed.

We would be grateful if you would ask your  
Minister to concur in the Submission. For your information,  
we also include a French translation of the Protocol.

Yours sincerely,

ORIGINAL SIGNED BY  
E. B. WANG

Erik B. Wang  
Director  
Legal Operations Division

Mr. L.H.J. Legault,  
Director General  
International Fisheries & Marine Directorate  
Fisheries and Marine Service  
ENVIRONMENT CANADA  
EMR Tower 11th floor  
580 Booth Street  
OTTAWA, Ontario



FLO/M. Leir/6-3753/fp

cc: MIN  
PDM  
PDL  
● RL SEC  
RCO

file, div., circ., diary

ACS  
FPR  
FAI  
PAG

TO: HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL

The undersigned has the honour to report

THAT Canada and the United States are parties to the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed at Washington on May 26, 1930, and to the Protocol signed at Ottawa on December 28, 1956, amending the aforesaid Convention;

THAT the Government of the United States has proposed that a Protocol be concluded to increase the representation from each country on the Advisory Committee, created by Article V of the Convention, from six to seven members;

THAT the competent Canadian authorities have agreed that it would be in the Canadian interest to accept such an amendment, to be effected by means of a Protocol, and have indicated in an Aide-Mémoire dated August 10, 1976, that Canada would respond favourably to such a proposal;

THAT it is expedient that the Government of Canada sign and ratify the Protocol to the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended.

The undersigned, therefore, (with the concurrence of the Minister of Fisheries and the Environment) has the honour to recommend that the Secretary of State for External Affairs be authorized:

.../2

OTTAWA, November , 1976



- 2 -

- (a) to execute and issue an Instrument of Full Powers authorizing Jack Hamilton Warren, Canadian Ambassador to the United States, to sign, on behalf of the Government of Canada, a Protocol between Canada and the United States to amend the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed on May 26, 1930, as amended; and
- (b) to take the action necessary to bring the Protocol into force for Canada.

Respectfully submitted,

Secretary of State  
for External Affairs

I concur

---

Minister of Fisheries  
and the Environment



*heger to see  
8 file VBP*

**ACTION  
SUITE A DONNER**

**C O N F I D E N T I A L** (C)

FM TOKYO UIGR5721 NOV19/76

TO EXTOTT FLO IMMED

INFO WSHDC

BH ENVOTT/HUNTER DE OTT

REGAM PACIFIC BIOLOGICAL STATION ENVCD, NANAIMO DE OTT

DISTR GPO

---JPN/USA/CDA BERING SEA SALMON DISCUSSIONS-NOV18/19

TRILAT DISCUSSION OF JPNSE MOTHERSHIP FISHERY ON WESTERN ALASKA  
AND YUKON RIVER SALMON IN THE BERING SEA WAS HELD IN TOKYO NOV18-19.

2. ASAO (DEP DIRGEN, AMERICAN AFFAIRS BUR, MFA) AND MATSUURA (DIR,  
OCEANIC FISHERY AGENCY) WERE SPOKESMEN FOR JPN WITH NAKATSU (STATE  
DEPT) ACTING AS SPOKESMAN FOR USA AND MCDONALD (ENVCD) FOR CDA.

3. NATL POSITIONS WERE OUTLINED IN OPENING STATEMENTS. MCDONALD  
EXPRESSED CDAS CONCERNS REGARDING CONSERVATION AND SUPPLY TO CDNS  
OF SALMON BED IN CDAS YUKON RIVER DRAINAGE AND NOTED THAT WHILE  
MEASURES TAKEN BY JPN IN 1976, WERE WELCOMED, FURTHER MEASURES WERE  
REQUIRED IN 1977. NAKATSU EXPRESSED USA APPRECIATION FOR 1976  
MEASURES AND STRESSED THE NEED FOR MORE STRINGENT RESTRICTIONS ON  
JPNSE FISHERY IN 1977. MATSUURA EXPRESSED VIEW THAT AVAILABLE  
SCIENTIFIC EVIDENCE DID NOT/NOT WARRANT CONCLUSION THAT CHINOOK  
SALMON IN THE BERING SEA EST OF 175 DEGREES WEST WERE OF NORTH  
AMERICAN ORIGIN NOR/NOR WAS THERE EVIDENCE TO SHOW THAT JPNSE  
FISHERY HAS AN ADVERSE EFFECT ON NORTHAMERICAN SALMON RESOURCES.

...2



PAGE TWO UIGR5721 CONF

HE CONCLUDED HOWEVER, BY SAYING THAT BECAUSE USA AND CDN SUBSISTENCE FISHERIES WERE DEPENDANT UPON WESTERN ALASKA AND YUKON RIVER CHINOOK, AND TO MAINTAIN FRIENDLY RELATIONS, JPN WAS PREPARED TO UNDERTAKE THE SAME RESTRICTIVE MEASURES ON THE MOTHERSHIP FISHERY IN 1977, AS SHE UNDERTOOK IN 1976.

4. A REVIEW OF JPNSE FISHING EFFORT IN 1976 FOLLOWED. EFFORT 175 DEGREES WEST TO 180 DEGREES WAS 46 FLEET DAYS. EFFORT 175 DEGREES EAST TO 180 DEGREES WAS 36 FLEET DAYS. EFFORT IN BOTH AREAS DID NOT/NOT EXCEED LIMITS AGREED TO BY JPN.

5. FOLLOWING PROPOSALS AND COUNTERPROPOSALS BY USA AND JPN REGARDING 1977 FISHING EFFORT, BY AREA AND SEASON, JPN AGREED TO FURTHER RESTRICT EFFORT IN 1977, IN THE AREA OF THE BERING SEA 175 DEGREES WEST TO 180 DEGREES, NORTH OF 55 DEGREES NORTH, FROM JUN26 TO THE SEASONS END, AND TO ACCEPT LIMITS BETWEEN 175 DEGREES EAST AND 180 DEGREES. TEXT IS AS FOLLOWS: QUOTE THE JPNSE MOTHERSHIP SALMON FISHING INDUSTRY WILL TAKE THE FOLLOWING MEASURES ON A VOLUNTARY BASIS IN 1977:

THE INDUSTRY, IN RECOGNITION OF THE CONSERVATION PROBLEM OF WESTERN ALASKA (INCLUDING YUKON RIVER) CHINOOK SALMON, WILL MAKE ITS BEST EFFORTS TO KEEP THE FISHING EFFORT (FLEET-DAYS) IN THE EASTERN BERING SEA DURING THE 1977 SEASON TO NOT/NOT MORE THAN THE AVERAGE LEVEL IN THE RECENT YEARS.

NOTES: (1) THE EASTERN BERING SEA IS UNDERSTOOD TO MEAN THE AREA BETWEEN 180 DEGREES AND 175 DEGREES WEST AND NORTH OF 55 DEGREES

...3



PAGE THREE UIGR5721 CONF D

NORTH.

(2) THE AVERAGE LEVEL IN THE RECENT YEARS IS UNDERSTOOD TO MEAN THE AVERAGE OF THE PAST TEN YEARS (1966-1975) FOR THE PERIOD FROM JUN26 INCLUSIVE TO THE END OF THE FISHING SEASON, WHICH IS 47 FLEET-DAYS.

(3) IN THE EVENT THAT HYDROGRAPHIC AND OTHER FISHING CONDITIONS ARE ABNORMALLY UNFAVOURABLE IN THE OTHER AREAS, THE ABOVE TARGET FIGURE MAY BE EXCEEDED. HOWEVER, IT WILL NOT/NOT BE PERMITTED TO EXCEED 56 FLEET-DAYS UNDER ANY CIRCUMSTANCES.

(4) IT IS NOT/NOT THE INTENT OF THE INDUSTRY TO ATTEMPT TO COMPENSATE FOR THE LOSS OF FISH WHICH MIGHT BE INCURRED IN THE AREA (180 DEGREES TO 175 DEGREES WEST) BY SUBSTANTIALLY INCREASING FISHING ACTIVITIES IN THE AREA BETWEEN 180 DEGREES AND 175 DEGREES EAST, NORTH OF 55 DEGREES NORTH.

NOTE: QUOTE SUBSTANTIAL INCREASE UNQUOTE IS UNDERSTOOD TO MEAN MORE THAN 20 PERCENT INCREASE OVER THE AVERAGE OF 36 FLEET DAYS OF THE PAST TEN YEARS (1966-1975), NAMELY, 7 FLEET-DAYS. UNQUOTE.

6. ABOVE MEASURES REPRESENT AN APPROX 11 PERCENT REDUCTION IN LIMITS AGREED TO IN 1976 BY JPN IN AREA 180 DEGREES TO 175 DEGREES WEST, AND PROVIDE FOR THE FIRST TIME A CLEARLY SPECIFIED LIMIT BETWEEN 175 DEGREES EAST AND 180 DEGREES.

7. IT WAS AGREED BY THE NATL SECTIONS THAT JPN WANTED TO INFORM GOVTS OF CDA AND USA OF 1977 VOLUNTARY MEASURES UNDERTAKEN BY JPN IN THE SAME MANNER, AND BY THE SAME ROUTE, AS FOR 1976.

...3



PAGE FOUR UIGR5721 CONF D

8. IN CLOSING, ASAO STRESSED CONFIDENTIALITY OF THE DISCUSSIONS  
AND MEASURES UNDERTAKEN BY JPN.

CCC/049 190935Z 00780



# MESSAGE

FM/DE	PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
	LIEU	MINISTÈRE	N° D'ORIG.		25-5-7-2-Salmon-1	
	OTTAWA	EXTERNAL	FLO-1545	NOV.17/76	4	CONFID
TO/A WASHDC						PRECEDENCE
INFO ENVOTT/FMS/LEGAULT						Nov 17 23:41 '76 CENTRE EXTERNAL AFFAIRS
DISTR. GWU						

## REF

SUB/SUJ

FISHERIES: SALMON

PLEASE PASS FOLLOWING AIDE MEMOIRE TO APPROPRIATE STATE DEPARTMENT OFFICIALS: QUOTE: EMBASSY OF CDA REFERS ~~TO~~ THE DEPARTMENT OF STATE TO CONVENTION FOR PROTECTION, PRESERVATION AND EXTENSION OF SOCKEYE SALMON FISHERIES OF FRASER RIVER SYSTEM, AS AMENDED, AND TO MEETING OF OFFICIALS OF CANADIAN AND UNITED STATES GOVERNMENTS HELD IN OTTAWA ON OCTOBER 1, 1976.

2. AT MEETING UNDER REFERENCE, UNITED STATES OFFICIALS ENQUIRED WHETHER CANADA COULD CONSIDER INSTRUCTING ITS COMMISSIONERS TO INTERNATIONAL PACIFIC SALMON FISHERIES COMMISSION TO APPROVE, IN COMMISSION'S REGULATIONS FOR 1977, A FIVE-DAY FISHING WEEK FOR INDIAN FISHERMEN IN UNITED STATES CONVENTION WATERS.

3. CANADIAN AUTHORITIES HAVE REVIEWED UNITED STATES REQUEST, AND HAVE CONCLUDED THAT IT IS NOT/NOT POSSIBLE TO ACCEDE TO IT. IN OPINION OF CANADIAN AUTHORITIES ADOPTION OF SUCH A REGULATION WOULD BE CLEARLY INCONSISTENT WITH PROVISIONS AND OBJECTIVES OF .../2

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SIG..... M. B. PHILLIPS	FLO	6-6316	SIG..... E. B. WANG



FLO-1545

...../2

CONVENTION AND ULTRA VIRES COMMISSION.

4. CANADIAN AUTHORITIES REMAIN WILLING TO ASSIST IN THE RESOLUTION  
OF PROBLEMS WHICH HAVE ARISEN IN USA REGARDING INDIAN FISHING,  
PROVIDED THAT SUCH RESOLUTION CAN BE IN ACCORDANCE WITH TERMS OF  
CONVENTION AND FUNCTIONS AND POWERS ASSIGNED TO COMMISSION. UNQUOTE



FLO/M. Leir-6-3753/rs

Environment Canada

file, div. circ. diary

s.23

OTTAWA  
K1A 0G2

November 10, 1976

Dear Len,

25-5-7-2-SALMON - 1

4

16

Re:

Yours sincerely,  
ORIGINAL SIGNED BY  
E. B. WANG

Erik B. Wang  
Director  
Legal Operations Division

Mr. L.H.J. Legault,  
Director General  
International Fisheries & Marine Directorate  
Fisheries and Marine Service  
Environment Canada  
EMR TOWER 11th Floor  
580 Booth Street  
OTTAWA

cc: DINA

000620



Washington  
**ACTION**

**SUITE A DONNER**

R E S T R I C T E D

FM WSHDC UNGR3346 OCT28/76

TO EXTOTT FLO

INFO TOKYO

BH ENVOTT/LEGAULT/PHILIPS DE OTT 25-5-7-2-SALMON-1

DISTR GWU FLA FLP

REF YOURTEL FLO1073 AUG9

—PACIFIC SALMON FISHERIES CONVENTION:PROTOCOL ON SIZE OF  
ADVISORY COMMITTEE

SET OUT BELOW IS TEXT OF NOTE FROM SECRETARY OF STATE, DATED OCT21,  
TOGETHER WITH DRAFT TEXT OF PROTOCOL RECEIVED IN EMBASSY OCT28.

TEXT BEGINS:

THE SECRETARY OF STATE PRESENTS HIS COMPLIMENTS TO HIS EXCELLENCY  
THE AMBASSADOR OF CANADA AND HAS THE HONOR TO PROPOSE THAT THE  
UNITED STATES AND CANADA ENTER INTO A PROTOCOL TO AMEND ARTICLE V  
OF THE PROTOCOL TO THE PACIFIC SALMON FISHERIES CONVENTION TO  
INCREASE THE SIZE OF THE ADVISORY COMMITTEE ESTABLISHED UNDER  
THE CONVENTION FROM SIX TO SEVEN PERSON FROM EACH COUNTRY. THE  
PURPOSE OF THIS PROPOSAL IS TO ENABLE THE UNITED STATES TO NAME A  
TREATY INDIAN SALMON FISHERMAN TO THE US SECTION OF THE ADVISORY  
COMMITTEE.

DURING THE BILATERAL FISHERIES CONSULTATIONS WITH CANADIAN OFFICIALS  
IN WASHINGTON ON JUL21 AND 22 THE POSSIBILITY OF AN INCREASE IN THE  
SIZE OF THE ADVISORY COMMITTEE WAS RAISED BY UNITED STATES OFFICIALS.

CANADIAN AUTHORITIES INDICATED IN AN AIDE-MEMOIRE DATED AUGUST10  
THAT THEY WOULD BE PREPARED TO RESPOND FAVORABLY TO SUCH A PROPOSAL.

THE PROPOSED DRAFT PROTOCOL IS ENCLOSED.

DEPARTMENT OF STATE, WASHINGTON, OCTOBER 21, 1976.



PAGE TWO UNGR3346 RESTR

DRAFT PROTOCOL

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

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT  
OF CANADA, PARTIES TO THE CONVENTION FOR THE PROTECTION,  
PRESERVATION AND EXTENSION OF THE SOCKEYE SALMON FISHERIES IN THE  
FRASER RIVER SYSTEM SIGNED AT WASHINGTON ON MAY 26, 1930 AND TO THE  
PROTOCOL SIGNED AT OTTAWA, DECEMBER 28, 1956, AMENDING THE AFORESAID  
CONVENTION,

HAVE AGREED AS FOLLOWS:

ARTICLE I

PARAGRAPH 3 OF THE UNDERSTANDING STIPULATED IN THE PROTOCOL OF  
EXCHANGE OF RATIFICATIONS SIGNED AT WASHINGTON ON JULY 28, 1937,  
AND AMENDED BY THE PROTOCOL SIGNED AT OTTAWA ON DECEMBER 28, 1956,  
AMENDING THE CONVENTION FOR THE PROTECTION, PRESERVATION AND  
EXTENSION OF THE SOCKEYE SALMON FISHERIES IN THE FRASER RIVER SYSTEM,  
SIGNED AT WASHINGTON ON MAY 26, 1930, SHALL BE FURTHER AMENDED  
TO READ AS FOLLOWS:

QUOTE THAT THE COMMISSION SHALL SET UP AN ADVISORY COMMITTEE  
COMPOSED OF SEVEN PERSONS FROM EACH COUNTRY WHO SHALL BE REPRESENT-  
ATIVES OF THE VARIOUS BRANCHES OF THE INDUSTRY, INCLUDING, BUT NOT/NOT  
LIMITED TO, PURSE SEINE, GILL NET, TROLL, SPORT FISHING AND PROCESSING,  
WHICH ADVISORY COMMITTEE SHALL BE INVITED TO ALL NON-EXECUTIVE

...3



PAGE THREE UNGR3346 RESTR

MEETINGS OF THE COMMISSION AND SHALL BE GIVEN FULL OPPORTUNITY TO EXAMINE AND TO BE HEARD ON ALL PROPOSED ORDERS, REGULATIONS, OR RECOMMENDATIONS. UNQUOTE.

ARTICLE II

THE PRESENT PROTOCOL SHALL BE SUBJECT TO RATIFICATION AND THE EXCHANGE OF THE INSTRUMENTS OF RATIFICATION SHALL TAKE PLACE IN ---AS SOON AS POSSIBLE. THIS PROTOCOL SHALL COME INTO FORCE ON THE DAY OF THE EXCHANGE OF THE INSTRUMENTS OF RATIFICATION.

IN WITNESS WHEREOF THE THE UNDERSIGNED, DULY AUTHORIZED BY THEIR RESPECTIVE GOVERNMENTS, HAVE SIGNED THIS PROTOCOL.

DONE IN DUPLICATE AT---THIS---DAY OF---1976. TEXT ENDS.

2. ROUTINE ACKNOWLEDGEMENT OF NOTE SENT.

CCC/099 282218Z 00700



CANADA-U.S. PACIFIC SALMON NEGOTIATIONS

Vancouver, B.C. May 17-21, 1976

AGREED RECORD

As a basis for further consideration and without commitment, the two sides have agreed to record the following draft treaty positions, developed on the basis of the draft treaty tabled by the U.S. delegation in a plenary meeting May 19 (copy attached), and drawing upon the record of the discussions at Seattle, February 18-20, 1976, as well as on the discussions held in the course of this round of negotiations:

PREAMBULAR PARAGRAPHS

The Government of the U.S.A. and the Government of Canada,

Considering the overriding interests of both parties in 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 waters of one Party are intercepted in substantial numbers by fishermen of the other Party, and that management of stocks subject to such interceptions is of common concern,

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

Recognizing that the interests of both Parties would be best served by preventing further increases in interceptions, in order to allow each Party 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 next meeting.]

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

Have agreed as follows:

#### ARTICLE I

The following are definitions for the purpose of this Treaty:

"Intercepting Fishery" means a fishery conducted by persons under the jurisdiction of one Party on salmon bound for their waters or origin in (the territory of) the other Party.

"New intercepting fishery": [this may be treated in a separate Article.]

(Note: "Enhancement" dealt with in Article \_\_.)

"Escapement" means those salmon allowed to proceed to their spawning grounds.

"Optimum Sustainable Yield" means the level of a stock which can produce the maximum sustainable yield as modified by any relevant economic, social or ecological factor.

"Total Allowable Catch" means the level of catch allowed during any one year for any particular stock or complex of stocks, taking into account escapement requirements, and the desirability



of achieving optimum sustainable yields.

"Specified Fishery" means a fishery as specified in Annex I.

"Rate of Interception" means the percentage determined by dividing the number of intercepted fish in a specified fishery by the number of the total allowable catch of stocks or complexes of stocks subject to interception in the specified fishery.

(Note: definitions of "catch limit" and "bonanza run" to await further work in the Ad Hoc Technical Committee).

"State of Origin" means the Party in whose waters salmon stocks originate.

(Note: "river of joint concern": this definition will need further study. See Article VIII).

"Commission" means the (U.S./Canada Salmon Fisheries) Commission.

"Commissioner" means a Commissioner of the (U.S./Canada Salmon Fisheries) Commission or any of its panels.

"Managing Entity" means the governmental body charged with the responsibility, under the laws of each Party, of promulgating regulations. [Definition is added to clarify a term used frequently in the draft treaty.]

"Salmon" means members of the family Salmonidae which are anadromous by nature.



## ARTICLE II

The provisions of this Treaty shall apply to all Pacific Salmon stocks of common concern to the two Parties and to all salmon fisheries of common concern located in the Northeast Pacific Ocean and adjacent seas. The salmon fisheries and stocks of common concern shall be those involving significant intercepting fisheries. The fisheries to be initially included within this Treaty shall be those specified in Annex I.

## ARTICLE III

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 including the support of research on such stocks aimed at improving salmon management capabilities.

## ARTICLE IV

Each year, each Party, through its managing entities, in consultation with the other Party within the framework of the Commission, shall determine, and report to the Commission for its review, estimated size of the run, escapement requirements to produce the optimum sustainable yield, total allowable catch, and other data required for the establishment of regulations for each specified fishery on salmon bound for their rivers of origin in (the territory of) that Party.



- 5 -

## ARTICLE V

The two Parties shall undertake to regulate specified fisheries under their jurisdiction to prevent, to the extent practicable and consistent with the proper management of its own stocks, increases in interceptions. With respect to those fisheries listed in Annex IB limits on interception rates and total catches and other measures shall be applied as specified in Annex 2.

## ARTICLE VI

1. On the basis of the management objectives determined pursuant to Article IV, each Party, through its managing entities, in consultation with the other Party within the framework of the Commission, and, pursuant to (provisions of treaty regarding IPSFC Panel), shall formulate, and report in a timely manner to the Commission for its review, regulations for each specified fishery, taking into account all fisheries for a given stock. The Commission may, in a timely manner, recommend to the Parties modifications to such regulations where appropriate to accomplish the provisions of this Treaty.
2. Each Party, through its managing entities, shall then promulgate appropriate regulations, taking into account any timely recommendation of the Commission, and shall enforce such regulations against persons fishing under its jurisdiction. During the season, each Party, through its managing entities, may modify its regulations in response to variations from anticipated conditions.



(Note: the initiation of new intercepting fisheries may be treated in a separate Article).

(Note: U.S. Draft Article 6 is deleted as it is covered in Article 17, supplemented as required by specific provisions in Annex II.

#### ARTICLE VII

(Note: U.S. Draft Article 7, Alaskan and Northern B.C. fisheries is to be further considered)

#### ARTICLE VIII

(Note: U.S. Draft Article 8, "rivers of joint concern", to be further discussed).

#### ARTICLE IX

(Note: U.S. Draft Article 9, on bonanza runs, to await further work in the Ad-Hoc Technical Committee).

#### ARTICLE X

Catch limits and other measures pursuant to Article V shall be adjusted to take into account trends in production of salmon from waters of the Party under whose jurisdiction the specified fishery is conducted. Account of such production shall be taken in accordance with the provisions specified in Annex III.

#### ARTICLE XI

Each Party through its managing entities may allocate that Party's share of the salmon stocks of common concern among persons fishing under its jurisdiction by domestic regulation. The IPSFC Panel shall make accommodations to allow either Party to allocate its share where consistent with the objectives of the Treaty.



ARTICLE XII

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 Commissioner shall serve at the pleasure of the Party by which such person was appointed. Each Party shall fill vacancies in its representation on the Commission as they occur. Each Party shall have the right, in its discretion, to appoint up to four alternate Commissioners.

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 may make decisions or recommendations.

f) Decisions of the Commission shall be effective only pursuant to affirmative votes in the Commission by each Party. All decisions of the Commission shall be made subject to the express approval of the Governments of the two Parties. Each Party's approval shall be notified to the Commission.

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.

#### ARTICLE XIII

##### The functions of the Commission

- a) The Commission shall provide a forum and shall assist the Parties in the consultations provided for in Articles IV and VI and in (IPSFC Annex or Article).
- b) The Commission shall review annually catches in fisheries specified in Annex I and advise the parties, in the light of the provisions of the Treaty, of any discrepancies which have occurred and which should be taken into account in formulating regulations in the following years, or which might require adjustments pursuant to Annex 2.
- c) The Commission shall review annually the fisheries covered by the Treaty with regard to their inclusion or exclusion from Annex 1A or 1B and make recommendations to the Parties as appropriate.



-9-

- d) The Commission shall review as appropriate the need for modification of any Annex and make recommendations to the Parties as appropriate.
- 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.
- f) (Cross reference to IPSFC Panel Article or Annex).

#### ARTICLE XIV

Upon recommendation of the Commission, the Parties may, by agreement, amend or modify any of the Annexes of this Treaty.

#### ARTICLE XV

- a) The parties hereby establish the following panels of the Commission: \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, each of which shall consist of \_\_\_\_\_ Commissioners from each Party.
- b) (The Article(s) dealing with institutional provisions) shall apply to the Panels mutatis mutandis.
- c) The fisheries and stocks, from among those specified in Annex 1, for which each Panel will be responsible, shall be determined by the Commission.  
(Note: Assignment of specified fisheries to the Panels may require a specific Annex).



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

ARTICLE XVI

(Note: Special functions of IPSFC to be discussed, along the lines of the report of the IPSFC Panel Working Group).

ARTICLE XVII

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

(Note: the wording of this Article and its placement in the Treaty will be discussed further).

ARTICLE XVIII

(Note: Advisory committees will be examined further).

ARTICLE XIX

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.

ARTICLE XX

(Note: Arbitration: text must be examined further).

ARTICLE XXI

The Parties agree to enact such legislation as may be necessary to give effect to the provisions of this Treaty, recognizing the responsibilities



of their managing entities, and to the orders and regulations adopted by the IPSFC Panel under the authority of this Treaty.

ARTICLE XXII

Article or Articles to be developed in further discussion, dealing with problems of:

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

ARTICLE XXIII

(Article dealing with continued salmon fishing in areas under each other's jurisdiction,  
to be discussed further)

This Treaty shall be ratified and the instruments of ratification shall be exchanged at \_\_\_\_\_.

This Treaty shall enter into force on the date of the exchange of the instruments of ratification. It shall remain in force for \_\_\_\_\_ years and shall continue in force thereafter until modified or terminated as hereinafter provided.



Environment Canada

Environnement Canada

MEMORANDUM

NOTE DE SERVICE

DATE October 4, 1976

FROM:  
DE:

M. Hunter

TO:  
A:

M. P. Shepard

SUBJECT:  
SUJET:

CANADA - U.S. SALMON NEGOTIATIONS

*Handwritten notes:*  
MSP to see  
cc. G.L. [unclear]  
+ file  
25-5-7-2-Salmon-1  
4 55 16

Our file Notre référence

Your file Votre référence

The question of the relationship between salmon negotiations and the proposed comprehensive fisheries agreement with the U.S. has been raised on a number of occasions, most recently at our September 30 - October 1 intergovernmental meeting. The view has been expressed that, since the two negotiations are closely linked, we should "go-slow" on salmon because of the difficulties in negotiating the broader accord. The purpose of this memorandum is to examine that hypothesis.

For the past 12 months, we have been proceeding on the salmon question, convinced of the merits of an agreement from the economic, conservation and nationalistic (i.e. political) standpoints. We have argued within Canada that we are prepared to freeze the present inequality in the value of salmon interceptions to permit better conservation of certain stocks, to enable the development of a coastwide enhancement program, and to permit Canada to control the production of the Fraser.

Because of the complexity of the issue from a technical standpoint, both sides have agreed to discuss salmon separately from other issues of mutual concern, while recognising that two items in particular of the salmon agenda, (reciprocal fishing privileges and enforcement - including licencing) must be dealt with in the broader framework of Canada - U.S. relations. The logic of this approach was and is valid, and should be unaffected by the difficulties in the broader agreement.

If there were to be no bilateral agreement with the U.S.A., there would be no fishing off the U.S.A. by Canadians, and no licencing requirements. This would be a position which

.../2



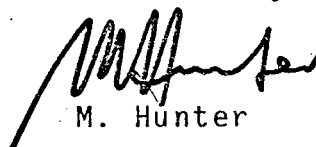
- 2 -

our industry has already seen as being inevitable, if not by exclusion from the U.S. zone then by purposely-designed regulatory measures for ocean troll fishing off the Washington coast. There is, then, no practical reason for a cessation in salmon negotiations.

From a political standpoint, the head of the U.S. salmon delegation, supported by the States of Washington and Oregon, is almost desperate to reach agreement (although apparently unwilling to yield on a single issue). At the same time, the Alaskans are isolated in their opposition to an agreement which they perceive, probably correctly, as being of no value to Alaska. On the bilateral front, Alaska is in a similar position of opposition to an agreement which would provide for Canadian fishing off the Alaskan coast. However, on the salmon front, the Alaskans are under great pressure because of the asymptotic movement of views between Canada and the other U.S. interests. There is a danger that a go-slow in salmon could offend these Canadian "allies" in the U.S. camp and result in a hardening of Alaskan views on both issues, thereby making agreements more difficult to achieve.

From a practical negotiation viewpoint, a hiatus in negotiations means that memories lapse, positions have to be re-reviewed, technical work has to be reexamined. This is not to say that perfection has now been achieved and no further internal work is necessary, but simply to say that a hiatus leads to a breakdown in communications. A more satisfactory approach would seem to be to continue consultations, albeit at a slower pace than that envisioned by the head of the U.S. delegation, and to develop an agreement that could be signed once a breakthrough has been made on the broader treaty.

For these reasons, it would seem desirable to proceed with discussions on salmon problems of mutual concern, on the clear understanding that the signature of an agreement must await mutually satisfactory arrangements on other bilateral fisheries issues. I would recommend that a further inter-governmental meeting be held during the week of November 15 (formerly scheduled for a full negotiation session) and that the jurisdictional questions be studiously avoided.

  
M. Hunter

c.c. L. H. Legault  
C. R. Levelton  
R. Roberts  
✓ G. Léger

J. McDonald  
W. R. Hourston  
I. Todd

conclusion:  
go-slow, yes!  
freeze, no!



FIO/G.A. Léger/2-6692/cc

File, diary, Circ., Div.

Environment Canada  
①

25-5-7-2-SALmon-1  
4/6

Ottawa, Ontario  
K1A 0G2

September 17, 1976

Dear Mike,

...

You will find attached a re-draft of the Article on the IPSFC Panel originally prepared by Steve Powell of the U.S. delegation. As you recall, I had undertaken to re-draft it on the basis of the comments made at the Vancouver meeting. You will notice that I have left blank the provision relating to the geographical scope of the Panel, and I would appreciate it if you would provide draft language for this purpose. I am also uncertain about the exact role to be played by the Panel's director and staff, although I have modified the reference to the budget to remove the autonomy of the Panel's responsibility in this field.

Please give this your earliest attention, as I have indicated to Kay Clark-Bourne that this text would be prepared prior to the end of September; in fact the best opportunity to transmit this re-draft to her would be at the bilateral talks to be held in Ottawa September 30 and October 1.

Prior to the next bilateral meeting of officials, it would be advisable to organize a drafting session to prepare language on those points where agreement could not be reached at the first round of negotiations. In particular, a new formulation will be needed to deal with "bonanza runs" and industrial strife.

Yours truly,

G. A. Léger  
G.A. Léger, Léger  
Legal Operations Division

Mr. M. Hunter  
International Fisheries and  
Marine Directorate  
Environment Canada  
EMR Tower  
580 Booth Street  
Ottawa K1A 0H3



EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

SECURITY  
Sécurité

Unclassified

COPY / COPIE

September 16, 1976

NUMBER  
Numéro

307

FILE	DOSSIER
OTTAWA	
25-5-7-2-SALMON-1	
MISSION	80-14

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

Consulate General, Seattle

Our Telex UATDO942, dated Sept 8/76

Seizure of Canadian Fishing Vessel

ENCLOSURES  
Annexes

1

DISTRIBUTION

BY POST

FLO  
CSO  
WSHDC

Another Canadian fishing boat was seized in American waters on September 7, 1976. This was a one-man boat, Retirement. The owner is Carl Stout and he had one crew member. Mr. Stout was fishing in United States waters off Point Roberts, Washington. He had thirty salmon aboard and some in his net when he was seized by the Coast Guard.

2. The case was turned over to a federal magistrate in Bellingham and he released Mr. Stout, but he will have to appear for a hearing in Seattle.

3. Newspaper clippings are attached.

*[Signature]*  
Consulate General



B 10 The Seattle Times

Wednesday, September 8, 1976

# maritime

GLEN CARTER, editor

## Canadian fishing boat seized in U.S. waters

A one-man Canadian fishing boat today was seized and escorted to Bellingham for fishing in United States territorial water, the Coast Guard said.

The case was turned over to a federal magistrate in Bellingham.

The Coast Guard cutter Point Richmond, with National Marine Fisheries Service personnel aboard, seized the 36-foot boat about five miles west of Point Roberts in the Strait of Georgia.

Spokesmen said the vessel was a mile inside with 30 salmon on deck and another six in its net.

The Point Richmond, based at

Anacortes, was on sockeye-salmon patrol when it seized the Canadian boat.

Two Canadians similarly charged were fined \$3,925 August 20 in United States District Court in Seattle.

*Seattle P.I. Sept. 8/76*  
**RETIREMENT** on the wrong side of the border turned yesterday for Carl Stout of Nanaimo, B.C. U.S. patrolmen caught Stout about 3 a.m. gillnetting in his boat Retirement off Point Roberts, a mile inside U.S. waters. Stout had 30 salmon aboard, six in his net. In Bellingham U.S. Magistrate Richard Nella freed the drifter on personal recognizance to come down to Seattle later this month and stand trial.

Stout is no older, incidentally. Patrolmen say he's too young for Retirement.



Washington  
**ACTION**

UNCLASSIFIED

FM WSHDC UNGR2825 SEP15/76

TO EXTOTT/FLO

INFO LOSNY/CLARK/APPELBAUM ENVOTT/SHEPARD

DISTR FLP GWU

REF YOURTEL UNGR1154 APR16

—WASHINGTON STATE SALMON EMERGENCY REGS

FOLLOWING IS TEXT AIDE MEMOIRE OF SEP14 RECD TODAY FROM STATE  
DEPT. TEXT BEGINS

THE DEPT OF STATE REFERS TO THE AGREEMENT ON RECIPROCAL FISHING  
PRIVILEGES IN CERTAIN AREAS OFF COASTS OF USA AND CDA, TO ITS  
NOTE OF APR15/76, ITS AIDE MEMOIRE OF APR16, AS WELL AS EMB OF CDAS  
AIDE MEMOIRE OF JUN1.

AS INDICATED IN THE DEPTS NOTE OF APR15/76, THE STATE OF WSH  
ADOPTED CERTAIN EMERGENCY FISHING REGS. ON JUN4/76, HOWEVER, DEPT OF  
FISHERIES OF STATE OF WSH WAS ENJOINED, PURSUANT TO STATE COURT  
PROCEEDINGS, FROM ENFORCING THOSE REGS. THIS INJUNCTION IS NOW  
IN EFFECT AND, AS A RESULT, THE STATE OF WSH IS AT PRESENT NOT/NOT  
ENFORCING THESE EMERGENCY REGS. IT IS ANTICIPATED THAT TROLL FISHING  
SUBJ TO REGULATION BY THE STATE OF WSH WILL BE PERMITTED TO  
CONTINUE THROUGH OCT31/76. THE DEPT OF STATE WILL KEEP THE EMB OF  
CDA APPRISED OF ANY FURTHER DEVELOPMENTS.

TEXT ENDS.

UUU/099 151859Z 00230

hager done ef auto JKD  
cc. 66  
+ file  
2.

25-5-7-2. SALMON	
4	16

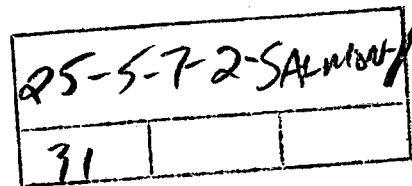




# Communiqué

No 91  
No

SEPTEMBER 3, 1976  
LE 3 SEPTEMBRE, 1976



## JOINT COMMUNIQUÉ COMMUNIQUÉ CONJOINT

CANADA/U.S.A. FISHERIES NEGOTIATIONS  
SEPTEMBER 1 - 3, 1976

NÉGOCIATIONS CANADA/ÉTATS-UNIS SUR LA PÊCHE  
LE 1ER AU 3 SEPTEMBRE 1976

DEPARTMENT OF EXTERNAL AFFAIRS  
MINISTÈRE DES AFFAIRES EXTÉRIEURES



Representatives of Canada and the United States today concluded the first round of formal negotiations looking toward a comprehensive fishing agreement between the two countries which will provide the basis for their fisheries relations from 1977 forward.

The Canadian delegation was led by Mr. L.H. Legault, Director General, International Directorate, Fisheries and Marine Service, Department of the Environment. The United States delegation was led by Ambassador Rozanne L. Ridgway, Deputy Assistant Secretary for Oceans and Fisheries Affairs, Department of State.

The two sides put forward proposals as the possible conceptual basis for an agreement and reviewed these approaches and concepts in detail. They agreed that the ongoing negotiation of new bilateral arrangements for Pacific salmon would proceed separately with the objective of concluding two separate agreements which together would establish the basis for the full range of Canada/United States fishery relations.

The two sides agreed provisionally to hold a second round of negotiations from October 18-22.

Des représentants du gouvernement du Canada et du gouvernement des Etats-Unis ont conclu aujourd'hui leur première session de négociations formelles visant à l'élaboration d'un accord général en matière de pêcheries entre les deux pays, devant constituer le fondement de leurs relations en matière de pêcheries à partir de 1977.

La délégation canadienne était dirigée par M. L.H. Legault, Directeur général, Direction Internationale, Service des pêches et de la mer du Ministère de l'Environnement. L'ambassadeur Rozanne L. Ridgway, Sous-Secrétaire adjoint aux Affaires des pêches et de la mer du Département d'Etat, présidait la délégation américaine.

Les deux parties ont mis de l'avant des propositions ayant trait aux concepts possibles pouvant servir de fondement à un accord, et ont examiné en détail ces diverses concepts et approches. Ils se sont entendus sur le principe que les négociations en cours concernant l'élaboration de nouveaux arrangements bilatéraux sur le saumon du Pacifique se dérouleraient séparément, ayant à l'esprit comme objectif de conclure deux accords séparés qui, ensemble, constitueront le fondement des relations générales en matière de pêcheries entre le Canada et les Etats-Unis.

Les deux parties ont également convenu provisoirement de tenir une deuxième session de négociations du 18 au 22 octobre prochain.



1) DOCKAGE SALMON

24-8-76

Date

ACTION REQUEST/FICHE DE SERVICE  
FROM/DE: OFFICE OF SSEA/CABINET DU SEAE

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

5411  
Ref. No.

To/A

GW4

dated/Lettre en date du

11-8-76 (copy)

From/De

Philip G. Sutherland, Pres.  
Puget Sound Gillnetters Assoc.  
Seattle, Wash.

Information to/Renseignements à

Referred by/Référer par

Subject/Sujet

sockeye salmon fishing

ACTION REQUIRED/ACTION REQUISE

☐ Reply for minister's signature  
Réponse pour la signature du ministre

☐ Reply by division  
Réponse de la division

☐ Reply for the signature of  
Réponse pour la signature de

☒ Note and file  
Noter et mettre au dossier

25-5-7-2-SALMON-1

4 20

FOR DIVISIONAL USE/POUR L'UTILISATION DE LA DIVISION

Date received in division/Date reçue à la division

Aug. 25/76

Action officer/Officier responsable

Whittleton / George Mc Hankey

Disposition and date/Disposition et date





# puget sound gillnetters association

FISHERMENS TERMINAL, C-3 BUILDING, ROOM 103  
SEATTLE, WASHINGTON 98119  
(206) 284-8520

August 11th, 1976

The President  
The White House  
Washington D. C. 20500

Dear Mr. President:

As a representative of the Boldt, Belloni shaken Washington State Salmon Industry, I am taking this means to communicate to you my deep concern for the citizens rights and welfare of my fellow fishermen and their families.

Monday, last week, our Federal Attorney General's office phoned me with a two-fold message concerning the latest judiciary antics of the Honorable Octogenarian Judge George H. Boldt; namely a granting of five (5) nights fishing to the Indians, contrasting our scheduled one night at that time. First the caller attempting to placate our outrage by informing me that his office did not agree with the Judge's last ruling as regards United States/Canada Treaty governed Sockeye Salmon and that attempts were being made to reverse it; then secondly a subtle warning that any non regulation demonstration fishing action on our part would be dealt with by the full legal authority of the National Marine Fisheries Service enforcement division.

These messages were acknowledged in the spirit in which they were delivered, but bitterness is not easily suppressed. The legal officials of our nation on oath sworn to uphold its Constitution guaranteeing equal rights to all citizens now find themselves enforcing inequities in our lives as fishermen, one segment of our United States society, the Northwest Indian (in extreme degrees of lineage) is now enjoying, and taking full advantage of both legal and illegal fishing privileges that we do not have. Judge Boldt's ridiculous interpretation of the 1854 Medicine Creek Treaty, in which he ascertains that the Northwest Indian comprising less than two percent (2%) of our states population is guaranteed fifty percent (50%) of the resource, is an affront to our United States Constitution and must be stricken.

Our Industry's respect for the long standing fair, determined and expert administration of the International Pacific Salmon Fisheries commission has been well demonstrated by our combined fleets continued adherence to their regulations, and co-operation with United States/Canada catch divisions; now we are logically to stand by while special privileged United States Citizens usurp our rights.

The intense desire that the Nineteen-Seventy Six (1976) one nation Northwest Fishermen Citizens have to be governed fair and equitably is not in the least different from that of our great indivisible nations Seventeen-Seventy Six (1776) founders.

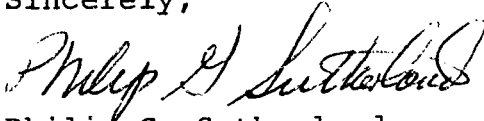


Page 2

The President

Judge Boldt's United States government enforced interference with this principle is inexcusable. With full knowledge of our potential impact on our respected fellow fishermen from Canada and possible creation of an International Incident, I predict that unrestrained illegal fishing is imenant and that BiCentennial (ceremonial) demonstration and home pack (subsistence) fishing days and nights are in the offing. For as long as senility reigns supreme the American Way is a broken dream. This must not be!

Sincerely,



Philip G. Sutherland  
President  
Puget Sound Gillnetters Association

PGS/lrl

cc: The Honorable Henry Kissinger, Secretary of State  
The Honorable Prime Minister Pierre Elliott Trudeau  
The Honorable Allan J. MacEachen, Secretary of State for External Affairs ✓

The Honorable Prime Minister Bennett of British Columbia  
The Honorable Edward H. Levi, Attorney General of the United States  
The Honorable Jimmy Carter  
The Honorable Ronald Reagan  
The Honorable Senator Henry M. Jackson  
The Honorable Senator Warren G. Magnuson

International Pacific Salmon Fisheries Commissioners:

The Honorable W. R. Hourston  
The Honorable Richard Nelson  
The Honorable Roderick Haig-Brown  
The Honorable Donald R. Johnson  
The Honorable William G. Soletic  
The Honorable Donald W. Moos  
The Honorable A. C. Cooper, Director  
The Honorable J. F. Roos, Assistant Director

The Honorable Stan Pitkin, Attorney General Western Washington  
The Honorable Daniel Evans, Governor, State of Washington  
The Honorable John Cherberg, Lieutenant Governor, State of Washington  
The Honorable Senator Lowell Peterson, State of Washington  
The Honorable Senator Don Talley, State of Washington  
The Honorable Senator Gordon Walgren, State of Washington  
The Honorable Senator Robert Bailey, State of Washington  
The Honorable Representative John Martinis, State of Washington  
The Honorable Paul Harvey  
The Honorable Jack Anderson

000645





ORCA

5411

REGISTRAR





# TRANSMITTAL NOTE AND RECEIPT NOTE D'ENVOI ET REÇU

GOVERNMENT OF CANADA - GOUVERNEMENT DU CANADA

Under-Secretary of State for  
External Affairs,  
OTTAWA  
ATTN: FLO

TO  
À

SECURITY CLASSIFICATION  
CLASSIFICATION DE SÉCURITÉ

WITH ENCLOSURE(S) - AVEC ANNEXE(S)

RESTRICTED

WITHOUT ENCLOSURE(S) - SANS ANNEXE(S)

FILE OR SERIAL NO. - N° DE DOSSIER OU DE SÉRIE

QUANTITY QUANTITÉ	REFERENCE/COPY NO. N° DE RÉFÉRENCE	To/A From/De: ACRA	DESCRIPTION
	 August 19, 1976	 Att'n:	
Ref: Your telegram FLO 1105 of August 16			
Attached is a copy of our Note No. 379 of August 17 to the Department of State, together with a memorandum to file, dated August 18, on the International Pacific Salmon Fisheries Commission.			
SENT BY - TRANSMIS PAR		RECEIVED BY - REÇU PAR	
Signature _____ Date _____		Signature _____ Date _____	

L.S. CLARK  
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



CC: FLO

Mr. L. Legault,  
Environment Canada

No. 379

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 for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, as amended, and to the Department of State's Aide-Memoire of February 17, 1976 and the Embassy's reply of February 27, 1976, dealing with the regulation of fisheries in convention waters for the 1976 season.

The Government of Canada has been made aware, through its Commissioners to the International Pacific Salmon Fisheries Commission, of a temporary restraining order dated July 31, 1976, issued by the U.S. Federal District Court in the State of Washington and affecting the implementation by the United States of the IPSFC regulations for 1976. In the same manner, the Canadian authorities have learned of an amendment to that court order, dated August 5, 1976, which, inter alia, permitted certain treaty Indian fishermen in the United States to fish for three days per week without interruption in U.S. convention waters.

.../2



- 2 -

The Government of Canada is concerned that these recent decisions of the U.S. District Court are not consistent with the understanding reached between Canada and the United States, as reflected in the Diplomatic communications referred to above, whereby the agreed qualification to the 1976 IPSFC gear regulations would not permit either party to allow the taking of sockeye and pink salmon during periods when regulations promulgated by the Commission prevent the taking of sockeye and pink salmon with any type of gear. The Court rulings appear to the Canadian authorities to permit Indian fishing at times when IPSFC regulations close U.S. convention waters to all types of gear.

The Canadian authorities, in discussing possible approaches to the question of Pacific Salmon fisheries by certain treaty Indian fishermen in the United States, have repeatedly stated their view that the management objectives of the IPSFC, namely adequate escapement and equal catch division, must not in any way be prejudiced by that question.

In restating this view, the Government of Canada notes with concern that it has not yet been possible to ascertain what practical effect the U.S. Federal District Court rulings may have on the management program of the IPSFC under the terms of the Convention. The Canadian authorities would request the cooperation



- 3 -

of the United States authorities in ensuring that the necessary information is made available promptly and adequate enforcement measures are taken in United States convention waters to meet IPSFC management objectives and avoid their frustration.

The Canadian authorities will be reviewing in detail the effects of U.S. Federal District Court rulings on the management program of the IPSFC, and may wish in the light of developments to raise this subject once more with the Government of the United States.

The Embassy of Canada avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

A.P. SHERWOOD

Washington, D.C.  
August 17, 1976



EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

MEMORANDUM

TO  
À File

FROM  
De S.C.H. Nutting

REFERENCE  
Référence EXTOTT Telegram FLO1105 August 16

SUBJECT  
Sujet Pacific Salmon Commission

SECURITY  
Sécurité RESTRICTED

DATE August 18, 1976

NUMBER  
Numéro

FILE	DOSSIER
OTTAWA	
MISSION	

ENCLOSURES  
Annexes

DISTRIBUTION

Mr.L.Clark

FLO OTT ✓

We delivered by hand the Note referred to in the reftel early Wednesday morning, August 18, to Miss Kay Clark-Bourne at the State Department. She enquired in what form the Note should be presented to the Court. I telephoned Leger in FLO who said that it might simply be cabled by the State Department to the Court, deleting the introductory paragraph and the last complementary closing paragraph. Leger did not wish to refer to the previous communications and wondered about the appropriateness of delivering a Canadian Note as such to the Court.

2. The State Department will now be sending to the Court the substance of a message from the Canadian Embassy. It will be introduced by the phrase "we have received from the Canadian Embassy the following message".

3. I telephoned Miss Clark-Bourne and conveyed that information to her. She agreed that she would present the information in that form.

N.  
S.C.H.N.



# MESSAGE

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N° D'ORIG.			
FM/DE	OTT	EXT	FLO-1105	AUG16	25-5-7-2-SALMON-1 4
					RESTRICT
					PRECEDENCE
TO/A	WASHINGTON DELIVER BY 17 1500hrs				
INFO	ENVIRONOTT/LEGAULT/HUNTER				
					AUG 17 17 00 76
DISTR.	GWU				
<div><div>REF</div><div>SUB/SUJ</div><div>PACIFIC SALMON COMMISSION</div><div>DIPLO NOTE</div><div>GRATEFUL YOU TRANSMIT TEXT OF <del>AIDE MEMOIRE</del> IN FOLLOWING PARAS TO APPROPRIATE AUTHORITIES IN STATE DEPT <del>BY THE</del> <sup>BEFORE</sup> END OF WORKING DAY AUG17, AS IT IS ESSENTIAL THAT US FEDERAL AUTHORITIES BE IN POSSESSION OF THIS TEXT FOR HEARING IN US FEDERAL DISTRICT COURT IN STATE OF WASHINGTON AUG.18</div><div>2. TEXT BEGINS. QUOTE</div><div>COMCENTRE PLEASE COPY ATTACHED TEXT</div><div>TEXT ENDS, UNQUOTE</div></div>					
DRAFTER/RÉDACTEUR		DIVISION/DIRECTION		TELEPHONE	APPROVED/APPROUVÉ
SIG.....G.A. Leger		FLO		2-6692	SIG.....



~~DRAFT~~  
Draft Note

QUOTE: 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 Department of State's Aide-Memoire of February 19, 1976, and the Embassy's reply of March 1, 1976, dealing with the regulation of fisheries in Convention Waters for the 1976 season.

The Government of Canada has been made aware, through its Commissioners to the International Pacific Salmon Fisheries Commission, of a temporary restraining order dated July 31, 1976, issued by the U.S. Federal District Court in the State of Washington and affecting the implementation by the USA of the IPSFC regulations for 1976. In the same manner, the Canadian authorities have learned of an amendment to that Court order, dated August 5, 1976, which, inter alia, permitted certain treaty Indian fishermen in the United States to fish for three days per week without interruption in U.S. Convention Waters.

The Government of Canada is ~~concerned~~ concerned that these recent decisions of the U.S. District Court are not consistent with the understanding reached between Canada and the USA, as reflected in the diplomatic communications referred to above, whereby the agreed qualification to the 1976 IPSFC gear regulations would not permit either party to allow the taking of sockeye and pink salmon during periods when regulations promulgated by the Commission prevent the taking of sockeye and pink salmon with any type of gear. The Court rulings appear to the Canadian authorities to permit Indian fishing at times when IPSFC regulations close U.S. Convention Waters to all types of gear.



- 2 -

The Canadian authorities, in discussing possible approaches to the question of Pacific salmon fisheries by certain treaty Indian fishermen in the United States, have repeatedly stated their view that the management objectives of the IPSFC, namely adequate escapement and equal catch division, must not be in any way prejudiced by that question.

In restating this view, the Government of Canada notes with concern that it has not yet been possible to ascertain what practical effect the U.S. Federal District Court rulings may have on the management program of the IPSFC under the terms of the Convention. The Canadian authorities would request the cooperation of the United States authorities in ensuring that the necessary information is made available promptly and adequate enforcement measures are taken in U.S. Convention waters to meet IPSFC management objectives and avoid their frustration.

The Canadian authorities will be reviewing in detail the ~~practical~~ effects of U.S. Federal District Court rulings on the management program of the IPSFC. ~~If such effects are deemed by the Canadian authorities to be making more difficult the exercise of the mandate of the Commission, the Government of Canada will~~ <sup>and may</sup> wish to raise this <sup>in the light of developments</sup> subject once more with the Government of the United States.

The Embassy avails itself etc....

UnQUOTE





# TRANSMITTAL NOTE AND RECEIPT NOTE D'ENVOI ET REÇU

GOVERNMENT OF CANADA - GOUVERNEMENT DU CANADA

TO  
À

Under-Secretary of State for External  
Affairs, OTTAWA  
ATTN: FLO

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

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>August 10, 1976</p> <p>Attached is a copy of our Aide-Memoire to the Department of State re Pacific Salmon Fisheries Convention.</p> <p><i>file 25-5-7-2-SALmon-1</i> <i>4</i> <i>2</i></p>		
SENT BY - TRANSMIS PAR		RECEIVED BY - REÇU PAR
_____ Signature		_____ Signature
_____ Date		_____ Date

L.S. CLARK  
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



A I D E - M E M O I R E

During the bilateral fisheries discussion with United States officials in Washington on July 21 and 22, the U.S. side informally proposed for consideration by the Canadian authorities an amendment to Article V of the Protocol to the Pacific Salmon Fisheries Convention whereby the Advisory Committee established under the Convention would be composed of seven rather than six persons from each country. It was explained that the purpose of this proposal was to allow the United States to name a native Indian representative to the U.S. section of the Advisory Committee, but that the sole amendment to the Protocol would be a substitution of number "seven" for the present number "six".

The Canadian authorities would have preferred in principle to avoid making any amendments to the Convention at the present time and in the present circumstances. They appreciate, however, the concerns

.... /2



- 2 -

of the United States in this matter. Accordingly they would be prepared to respond favourably to a formal U.S. proposal concerning the amendment referred to above and to cooperate in every way in bringing about its prompt entry into force.

Washington, D.C.

August 10, 1976



*done*  
EC - *DOT/Hunter*  
+ fill  
25-5-7-2-Salmon-1  
-2

**COPY / COPIE**

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

Unclassified

Consulate General, Seattle.

August 9/76.

Our telex #0795 Aug. 4/76 and telex #0813 Aug. 9/76.

269

Salmon Fishing

25-5-7-2-SALmon-1  
4 35-11

2

Attached, for your information, are the two press clippings

referred to in the above-noted telexes.

BY POST  
EXTOTT/FLO ✓

*R. C. Anderson*  
Consul General

/b



Seattle Post-Intelligencer - Friday, August 6/76.

## Boldt Averts Fishing Flap

TACOMA — (AP) — A confrontation between the state Fisheries Department and the commercial Indian fishermen was averted yesterday when U.S. District Court Judge George Boldt modified an order the department had said it would ignore.

The order originally gave treaty Indians five days a week to fish for sockeye salmon in waters covered by the International Pacific Salmon Fisheries Commission.

Those waters include the Strait of Juan de Fuca, the San Juan Islands and northern Puget Sound.

The Fisheries Department said Boldt's initial ruling, issued last Saturday, was in direct conflict with commission regulations, and that they would begin arresting Indian fishermen yesterday afternoon.

Shortly before the deadline, Boldt ruled the Indians can now fish one day longer than each segment of the non-Indian fishery, which amounts to three days a week, rather than five.

Assistant Fisheries Director Frank Haw said the Boldt compromise was satisfactory to the department.

Bill Smith, executive director of the Northwest Indian Fisheries Commis-

sion, said Indian fishermen "were disappointed there had to be a compromise but we are pleased that the judge (Boldt) obviously agreed with our position that Indians should be allowed more time than that allowed by the International Pacific Salmon Fisheries Commission."

Smith said the original commission ruling "was manipulated" to give Indians little more time than non-Indian fishermen to fish for sockeye.

The Indians had contended, and Boldt agreed, that they needed the extra time to catch 50 per cent of the harvestable salmon run as permitted under Boldt's fishing rights decision of Feb. 12, 1974.



Friday, August 6, 1976

The Seattle Times A 9

# Boldt's salmon order eases tension

United States District Judge George H. Boldt yesterday modified an order giving treaty Indian fishermen more time to fish for Fraser River sockeye salmon, thereby easing an impending confrontation with the International Pacific Salmon Fisheries Commission.

After hearing arguments over the telephone, Judge Boldt ruled that fishermen from the Makah and Lummi Indian Tribes will be allowed to fish continuously with any type of gear during the three days each week when fishing is open in waters administered by the international commission.

HE ALSO signed an order restraining the State Department of Fisheries from taking any enforcement action against treaty Indian fishermen.

The judge's order modified an

earlier ruling which said Indian fishermen should be allowed to fish five days a week. Under regulations set by the international commission, only two days of fishing were allowed. However, Judge Boldt ruled that the smaller Indian fishing fleet would not have a fair opportunity to harvest its share of the catch unless the Indians were given more time to fish than non-Indian commercial fishermen.

In response, the international commission amended its regulations to prohibit Indians from fishing during the same times as non-Indian fishermen were allowed. At the same time, it increased the number of fishing days from two a week to three.

THE INDIANS said they would follow Judge Boldt's order and fish five days a week despite the com-

mission's actions. The Fisheries Department, which has responsibility for enforcing the commission's regulations, said it would arrest Indian fishermen who violated the commission rules.

However, Judge Boldt's amended ruling yesterday will restrict the Indians to three days a week, in conformance with the commission regulations. Terms of the order allowing Indians to fish continuously during open periods and with any type of gear still will allow them some advantage to make up for the smaller size of their fishing fleet.

Frank Haw, assistant director of the Fisheries Department, said the compromise order was satisfactory to the department.

Bill Smith, executive director of the Northwest Indian Fisheries Commission, said Indian fishermen "were disappointed there had to be

a compromise, but we are pleased that the judge obviously agreed with our position that Indians should be allowed more time than that allowed by the International Pacific Salmon Fisheries Commission."

THE COMMISSION is made up of United States and Canadian representatives charged with managing the runs of pink and sockeye salmon returning to the Fraser River. The Fraser River runs are shared by fishermen of both countries.

In 1974, Judge Boldt ruled that treaty Indian tribes have the opportunity to catch 50 per cent of the harvestable runs of salmon and steelhead returning to traditional off-reservation Indian fishing areas. Under that ruling, Indians are entitled to half the American share of the Fraser River run.



# MESSAGE

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ		
	LIEU	MINISTÈRE	N° D'ORIG.	25.5-7-2-SALmon-1			
FM/DE	WXX OTT	EXTERNAL	FLO-1073	AUG9/76	4	—	RESTRICT
TO/A WASHDC							PRECEDENCE
INFO ENVOTT/LEGAULT							
DISTR. GWU FLA FLP							

REF

SUB/SUJ

PROPOSED AMENDMENT TO PACIFIC SALMON FISHERIES CONVENTION

GRATEFUL YOU IMMEDIATELY TRANSMIT TO APPROPRIATE  
USA AUTHORITIES TEXT OF AIDE MEMOIRE IN FOLLOWING  
PARAS.

2. TEXT BEGINS QUOTE

CONCENTRE PLEASE COPY ATTACHED TEXT

TEXT ENDS UNQUOTE

AUG 9 20 33 76

EXTERNAL AFFAIRS

DRAFTER/RÉDACTEUR

DIVISION/DIRECTION

TELEPHONE

APPROVED/APPROUVÉ

SG..... G.A. Leger ps

FLO

2-6692

SIG..... G.I. Warren



DRAFT AIDE MEMOIRE TO U.S. STATE DEPARTMENT

TEXT  
BEGINS →

During bilateral fisheries discussions with U.S. officials in Washington on July 21-22, the U.S. side informally proposed for consideration by the Canadian authorities an amendment to Article V of the Protocol to the Pacific Salmon Fisheries Convention whereby the Advisory Committee established under the Convention would be composed of seven rather than six persons from each country. It was explained that the purpose of this proposal was to allow the USA to name an ~~an~~ NATIVE Indian representative to the U.S. section of the Advisory Committee, but that the sole amendment to the Protocol would be the substitution of the number "seven" for the present number "six".

The Canadian authorities in principle would have preferred to avoid making any amendments to the Convention at the present time and in the present circumstances. They appreciate, however, the concerns of the USA in this matter. Accordingly they would be prepared to respond favourably to a formal U.S. proposal concerning the amendment referred to above and to cooperate in every way in bringing about its prompt entry into force.

TEXT ENDS

~~July 30, 1976.~~



# MESSAGE

PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
LIEU	MINISTÈRE	N° D'ORIG.			
FM/DE	WAS OTT	EXTERNAL	FLO-1073	AUG9/76	RESTRICT

TO/A	WASHDC	PRECEDENCE
INFO	ENVOTT/LEGAULT	AUG 9 20 6 3 8 '76 T-100 CONCENTRE EXTERNAL AFFAIRS

DISTR.	CWU FIA FID
REF	
SUB/SUJ	PROPOSED AMENDMENT TO PACIFIC SALMON FISHERIES CONVENTION
GRATEFUL YOU IMMEDIATELY TRANSMIT TO APPROPRIATE USA AUTHORITIES TEXT OF AIDE MEMOIRE IN FOLLOWING PARAS. 2. TEXT BEGINS QUOTE  CONCENTRE PLEASE COPY ATTACHED TEXT  TEXT ENDS UNQUOTE	

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SIG..... G.A. Leger/ps Original signed by..... A signé l'original G. LEGER	FLO	2-6692	SIG..... G.I. Warren ORIGINAL SIGNED BY..... G. I. Warren



file div diary circ

GéA. Léger/ps/2-6692

Washington

25-5-7-2-SALMON-1	
4	15

OTTAWA

June 4, 1976

Dear Lorne,

I would be grateful for your assistance in transmitting the attached letter to Ms. Jean Bailly in the Legal Office, State Department. I have also attached, for your information, a copy of the letter and its attachment. The next meeting of governmental officials (federal and local) is planned to be held in Seattle July 27-29. A further official round of negotiations is not expected to be scheduled until the fall, as most advisers (fishermen) are at sea in the summer. Any comments or views you may have to offer would be most appreciated.

Yours sincerely,

G. A. Léger  
Georges Léger  
Legal Operations Division

Mr. Lorne Clark,  
Canadian Embassy,  
Washington, D.C.



FLO/G.A. Leger/2-6692

Distr: FLP FLA GWU/Hankey  
Washington Seattle

OTTAWA

June 4, 1976

Dear Jean,

You will find attached, the Agreed Record of the Vancouver round of salmon negotiations. The slight changes effected are of an editorial nature only, as agreed at the final plenary in Vancouver. I had intended to send this to you earlier, but had hoped that you would be in Ottawa this week for unrelated business, and this would have provided an opportunity to discuss the follow-up action required.

In our telephone conversation earlier this week, you mentioned that the final record of the Vancouver talks would be prepared by Alan Ryan; I assume, therefore, that the attached text, to which will be annexed the U.S. draft treaty provisions, will be included as an integral part of Alan's summary, which would then be submitted to us as the official record of the May 17 round of negotiations.

Yours sincerely,

Georges Légar  
Legal Operations Division

Ms. Jean Bailly,  
Office of the Legal Advisor,  
State Department,  
Washington, D.C.

cc: Dept. of Environment/Hunter



File  
Diary  
Div  
Circ

FLO/G.A. Léger/ps

United Fishermen and Allied Workers' Union

(1)

25-5-7-2-SALmon-1 20
Ottawa KIA 0G2

May 4, 1976

Dear Ms. Gavin,

The Secretary of State for External Affairs has asked me to thank you for, and to reply to, your letter of March 30, 1976, enclosing a resolution of the Women's Auxiliary of the U.F.A.W.U. on the question of the Canada/USA talks on Pacific salmon.

The views expressed in the Resolution have been brought to the attention of the Minister. As you know, these bilateral talks, seeking to bring about a revised salmon agreement, including reductions and reciprocity in interceptions of salmon, have gone on for a number of years. It now appears that both sides may be prepared, for a variety of reasons, to arrive at a mutually acceptable agreement revising the present Fraser River Salmon Convention.

Formal negotiations will begin on May 17 in Vancouver. As in the past, Canadian negotiators will first seek the views of industry and union representatives, and I can assure you that the concerns expressed in your Auxiliary's resolution will have been taken into account in the preparation of the Canadian position.

Yours sincerely,  
B. WANG

E.B. Wang  
Director  
Legal Operations Division

Ms. Nina Gavin,  
Assistant Secretary, Women's Auxiliaries,  
United Fishermen and Allied Workers' Union,  
The Fishermen's Hall,  
138 East Cordova Street,  
Vancouver 4, B.C.



File  
Diary  
Div  
Circ

FLO/G.A. Leger/2-6692/ps

Environment Canada

25-5-7-2-SALmon-1	
4	20

Ottawa  
KIA OG2

April 21, 1976

Dear Mr. Hunter,

After a careful examination of the points raised in the exchange of correspondence you copied to us under cover of your undated letter (ref.no. 1165-36/J10) relating to the insertion of the words "to the extent permissible under the laws of the Parties" in the 1976 IPSFC regulations, we have the following remarks to offer for your consideration.

In our view, there is nothing illegal in the insertion of these words in the Commission's regulations for the 1976 fishing season. It must be borne in mind that the Fraser River Convention has been embodied in Canadian legislation (the Pacific Salmon Fisheries Act), and it is under section 4 of this Act that Canadian regulations can be made to give effect to the regulations proposed by the Commission. As in all cases, the regulations relating to the implementation of the Convention must be consistent with existing Canadian legislation.

Although we are confident that a perusal of the text of the Convention does not provide any argument against the insertion of the words proposed, two considerations do spring to mind in this respect:

- (a) as the words are to be inserted in the IPSFC regulations, and do not constitute an amendment of the Convention itself, they do not affect the obligation of both parties under Article X of the Convention, "to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention";
- (b) Article 27 of the Vienna Law of Treaties Convention, which is indicative of existing international law on treaty making and interpretation, states that "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

.... /2

Mr. M. Hunter,  
Pacific Programs Officer,  
International Directorate,  
Environment Canada,  
Ottawa.



- 2 -

that: Guided by the above considerations, we have come to the conclusion

- (a) the insertion of the words "to the extent permissible under the laws of the parties" does not, in itself, constitute an illegality, either as regards the Convention, or Canadian legislation;
- (b) these words would appear to state clearly what could well have been understood tacitly: the regulations, if they are to have legal effect in Canada, must conform to Canadian legislation;
- (c) insertion of these words cannot allow either party to the Convention to avoid fulfilling its obligations under the Convention; nor does it allow a party to pass legislation to avoid such obligations;
- (d) the effect of these words will be to subject the regulations to the application of national laws which have a bearing on the substance of the regulations, provided these laws do not frustrate the objectives and provisions of the Convention.

Yours sincerely,

ORIGINAL SIGNED BY  
E. B. WANG

G.A. Léger  
Legal Operations Division



**ACTION**

UNCLASSIFIED

FM WSHDC UNGR1154 APR16/76

TO EXTOTT FLO

INFO LOSNY/LEGAULT/APPELBAUM ENVOTT/SHEPARD

DISTR FLP

REF OURTEL UNGR1151 APR15

---WASH STATE SALMON EMERGENCY REGS

SET OUT BELOW IS TEXT AIDE MEMOIRE OF APR16 RECEIVED

FROM STATE DEPT:TEXT BEGINS

THE DEPT OF STATE REFERS TO THE AGREEMENT ON RECIPROCAL FISHING PRIVILEGES IN CERTAIN AREAS OFF THE COASTS OF THE USA AND CDA, THE DEPT OF STATES DIPLO NOTE OF APR15, AND THE MTG OF CDN AND USA FISHERIES OFFICIALS HELD IN VNCVR ON APR15.

THE GOVT OF CDA WAS NOTIFIED THROUGH THE DEPT OF STATES DIPLO NOTE OF APR15, THAT THE STATE OF WASHINGTON DEPT OF FISHERIES HAD ADOPTED EMERGENCY FISHING REGS EFFECTIVE APR12, THE DATE OF ADOPTION. OWING TO THE SERIOUS STATE OF THE SALMON RESOURCES OF THE STATE OF WASHINGTON AND THE IMMEDIATE NEED TO TAKE STEPS TO PROTECT AND CONSERVE THESE RESOURCES, THE GOVT OF USA RESPECTFULLY REQUESTS THE GOVT OF CDA TO WAIVE THE 60-DAY NOTICE PROVISION CONTAINED IN PARA4 OF THE RECIPROCAL AGREEMENT AS IT PERTAINS TO THESE REGS. THE GOVT OF USA FURTHER REQUESTS THAT THE GOVT OF CDA

...2



PAGE TWO UNGR1154 UNCLAS

ADVISE CDN TROLLERS TO REFRAIN FROM FISHING IN THE USA 3-12  
MILE CONTIGUOUS ZONE SOUTH OF A LINE DUE WEST FROM TATOOSH  
ISLAND AND NORTH OF A LINE DUE WEST FROM CARROLL ISLAND.

THE GOVT OF USA WOULD BE GRATEFUL TO RECEIVE AN ANSWER FROM  
THE CDN GOVT AT AN EARLY DATE.TEXT ENDS

END/025 171905Z 00320

NNNN



NOTES OF MEETING WITH PTA MEMBERS,  
FRIDAY, APRIL 9, 1976  
OTTAWA  
ON  
CANADA-USA SALMON NEGOTIATIONS

To/A FLG  
From/De: ACRA  
APR 15 1976  
Att'n: M. Leger

PRESENT:

P.T.A.

R. Williams  
W. Duncan  
J. Garcia

F. & M.S.

C.R. Leavelton  
M.P. Shepard  
R.F.A. Roberts  
J. McDonald  
M. Hunter

25-5-7-2-SALMON  
4 97

The P.T.A. members pointed out that the views they were to express were personal ones, and did not necessarily reflect the position of the Association.

Shepard provided an outline of the history of the negotiations and a general description of the interception limitation proposal, with its 2-phase approach.

In the discussion of this proposal, a number of points were clarified on both sides, as to the nature of the proposal and the trollers reaction to it. These points may be summarized as follows:

1. The trollers do not need help in catching any catch quota that might be established. It was agreed that Category D intercepting fisheries (Areas 21-27+C troll and Area 20 net) should be considered as a whole. The allocation of a quota between these fisheries should be a domestic responsibility. Since net fishermen would be the major beneficiaries in a limitation and enhancement situation, the trollers would like to see the allocation balance tipped in their favour. It was noted that an examination of such flexibility was required in the north.
2. The trollers are concerned as to how they would survive the 10 year period between an initial reduction in interceptions and the availability of fish from enhancement projects.
3. The trollers had not realized that catch quotas would be based on 4 year or cyclical averages, but that the rate limit would apply annually. It was thought that, while shortfalls in quotas should not be made up in succeeding periods, that shortfalls in rates could be made up. Consideration was given to 6 or 8 year averaging - the benefits of this have to be weighed against the lower quotas that would result from using 6 or 8 year base periods (67-74).



- 2 -

4. The trollers are particularly concerned about reducing interceptions and want to see enhancement benefits before reduction.
5. Proposals for changes to the Licence Control Program to protect bona fide trollers from increasing competition, and to alternate management problems caused by combination vessels were discussed.
6. Government officials indicated their intention to protect Canadian troll fishery off Washington, at least as long as this effort is needed to maintain catch levels. It was noted that the closure of this area for Canadians would mean a loss of access to Canadian fish. The problem of reporting area of catch in the boundary area was noted, with the conclusion that Area C catches are underestimated (some reported as Area 21 or 23).
7. The trollers approved of the idea of using the arguments of Canadian interest in Panhandle, Columbia and Yukon rivers to counter U.S. claims to the Fraser. They want a strong stand taken on this issue.
8. The rate of the funding of the new Fraser Management body under the new agreement should be not less than 80:20 in Canada's favour.

Both sides agreed the meeting was extremely valuable in gaining an understanding of each other's thinking.

M. Hunter



*Mr. Leger*

# ACTION

UNCLASSIFIED

*Washington*

FM WSHDC UNGR1151 APR15/76

TO EXTOTT FLO

*(1)* 25-5-7-2-SALMON-1

*File*

INFO LOSNY/LEGAULT/APPELBAUM ENVOTT/SHEPARD

DISTR FLP

REF CLARK/LEGER TELECON APR15

---WASH STATE SALMON EMERGENCY REGS

NOTE FROM SECTY OF STATE RECEIVED APR15 PROVIDING OFFICIAL  
NOTIFICATION(UNDER PARA4 OF RECIPROCAL FISHING AGREEMENT)  
OF WASH STATE ACTION PROHIBITING:(A)RECREATIONAL SALMON FISHING  
IN CERTAIN WATERS APR12-30/76;(B)CHINOOK FISHING APR15-30/76:  
AND(C)COMMERCIAL SALMON FISHING WITH TROLL GEAR,WITH  
SPECIFIC EXCEPTIONS.

2.COPY OF NOTE SENT TO FLO AND LOSNY.GRATEFUL FOR INSTRUCTIONS  
AS TO REPLY TO SECTY OF STATE.

END/277 160001Z 00100





Environment  
Canada

Environnement  
Canada

Fisheries and  
Marine

Pêches et sciences  
de la mer

To/A  
From/De: ACRA

APR 9 1976

Ottawa, Ontario  
K1A 0H3.

File # M Léger

Your file Votre référence

Our file Notre référence 1165-36/J10

Mr. G.A. Léger,  
Dept. of External Affairs,  
Legal Operations Division,  
4th Floor, Tower A,  
Lester B. Pearson Bldg.,  
Sussex Drive,  
Ottawa, Ontario.  
K1A 0G2.

Dear Mr. Léger:

File

25-5-7-2-SALmon-1	
4	58

You will recall the agreement reached between Canada and the U.S.A. on the question of exceptions to the 1976 IPSFC regulations, which provided for the insertion of the words "to the extent permissible under the laws of the Parties".

I am enclosing a letter from W.R. Hourston, Director of Fisheries, Pacific Region and its attachments which reveal that the legality of the actions taken and the words used are being queried.

I would, therefore, seek the advice of the relevant people in your Department on the legality of the IPSFC regulations for 1976, particularly those points raised in the letter from Mr. McIntosh to Mr. Cooper. This matter is urgent and I would appreciate an early reply.

Yours sincerely,

Mike Hunter

M. Hunter,  
Pacific Programs Officer,  
International Directorate.

Encl.

Ottawa K1A 0H3



Environment  
Canada

Environnement  
Canada

Fisheries and  
Marine

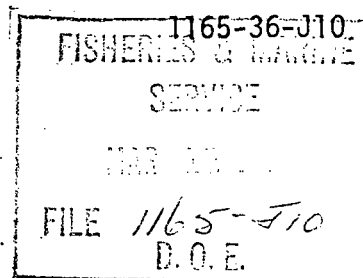
Pêches et  
sciences de la mer

March 8, 1976

Your file    Votre référence

Our file    Notre référence

Dr. M. P. Shepard,  
Director,  
International Fisheries Policy,  
International Directorate,  
Department of the Environment,  
Fisheries and Marine Service,  
OTTAWA, Ontario. K1A 0H3



Dear Dr. Shepard:

Further to my telephone call of March 5, 1976, re the Salmon Commission meeting in Bellingham on March 4, I am enclosing copies of the following documents:

1. Letter from Mr. A. Cooper to Mr. G.B. McIntosh dated February 25, 1976.
2. Mr. McIntosh's reply of March 1, 1976.
3. The proposed amendment that Mr. Johnson passed out before we put the matter to vote.
4. Letter from Purse Seine Vessel Owners Association dated March 1, 1976.
5. Letter from Puget Sound Gillnetters Association dated March 3, 1976.

As I advised you, our discussion at the Commission meeting was a fairly traumatic one. However, when the vote on the proposed amendment was called it was supported by two Canadian and two American Commissioners. The final vote on the amended regulations was supported by three American and two Canadian.

As we agreed you should have our legal people look into the questions raised in Mr. McIntosh's letter. A Press Release is being prepared and it will include the reference to the modifications made under "Exceptions". A copy of this will be forwarded as soon as it is received from the Salmon Commission.

Yours truly,

A handwritten signature in dark ink, appearing to read "W. R. Hourston".

W. R. Hourston, 1090 rue West Pender  
Director of Fisheries Vancouver 1, (C.B.)  
Pacific Region

cc - R. Roberts  
1090 West Pender Street  
Vancouver 1, B.C.



February 25, 1976

Mr. G. B. McIntosh  
Lawson, Lundell, Lawson & McIntosh  
13th Floor, United Kingdom Building  
409 Granville Street, Vancouver, B.C.  
V6C 1T9

Dear Mr. McIntosh:

As you may know, a decision has been made by Judge Boldt in the United States District Court in Tacoma, Washington, concerning allocation of salmon catches to Treaty Indian tribes in waters under jurisdiction of the State of Washington. The decision acknowledged that the Treaty Indian tribes must obey the regulations of this Commission. The implementation of the Boldt decision is considered to be a United States domestic matter. The Commission has concluded that it is not a proper concern of the Commission. However, the United States wishes to provide fishing privileges for Treaty Indians within the Sockeye Salmon Fisheries Convention Waters in the United States in addition to the fishing provided for the "all citizen" fishery under the Commission regulations. Discussions to this end have been held between the governments of Canada and the United States, and at a meeting earlier this month an understanding was reached, as described in the attached copy of Aide Memoire prepared by the United States Department of State. I do not have the response of the Canadian Government referred to in this document, but presumably they are accurately presented in the document. The phrase in quotations in the first paragraph of page 2 raises the following questions of law on which I seek your opinions for the guidance of the Commission.

1. Can the Commission qualify its regulations by adding the words "to the extent permissible under the laws of the parties"?
2. Except through amendment or addition to the existing Convention, can the governments of either country require that the Commission add the words "to the extent permissible under the laws of the parties" to its regulations?
3. Can the United States Government, under authority of the words "to the extent permissible under the laws of the parties" added to the Commission's regulations, make or require alterations to the Commission's regulations on the basis of "domestic decisions" on the Indian fishery in United States Convention Waters?



2.

For your information there are enclosed a copy of two pertinent pages of the Boldt decision and also a copy of the United States brief in opposition to appeal to the Supreme Court of the United States, in which I would refer to pages 19 and following.

I would be pleased to meet with you to discuss this matter or supply additional information you may feel necessary. I would stress the matter is urgent as the Commission will be meeting on March 4 to consider action it will take with respect to the 1976 regulations.

Yours very truly,

INTERNATIONAL PACIFIC SALMON  
FISHERIES COMMISSION

A. C. Cooper  
Director

Encls.



*Lawson, Lundell, Lawson & McIntosh*  
*Barristers and Solicitors*

JAMES H. LAWSON, Q.C. (1958)

DAVID A. LAWSON (1975)

G. BUCHAN MCINTOSH  
JOHN M. TENNANT  
DAVID J. SMITH  
L. M. CANDIDO  
R. H. VOGEL  
LORNE D. PETERSON  
ALASTAIR G. MILLER  
GEOFFREY BIRD  
RICHARD S. CAMPBELL  
PAUL D. BRADLEY

HUGH P. LEGG, Q.C.  
R. J. L. WORTHINGTON  
ROBERT J. MAIR  
JOHN O. E. LUNDELL  
CHARLES H. MCKEE  
JOHN G. TRUEMAN  
F. BRIAN KOO  
WILLIAM M. EVERETT  
ROBERT M. MEWBURN  
A. W. RYAN

L. JOHN CREERY  
DAVID G. SWEET  
L. B. SHEPPARD  
DAVID E. GILLANDERS  
WM. F. DICKSON  
BRIAN J. WALLACE  
DAVID L. RICE  
D. H. MITCHELL  
PETER C. BALLEM

THIRTEENTH FLOOR  
UNITED KINGDOM BUILDING  
409 GRANVILLE STREET  
VANCOUVER, CANADA  
V6C 1T9

TELEPHONE 685-3456  
AREA CODE 604  
CABLE ADDRESS "LAWDELL"  
TELEX 04-507809

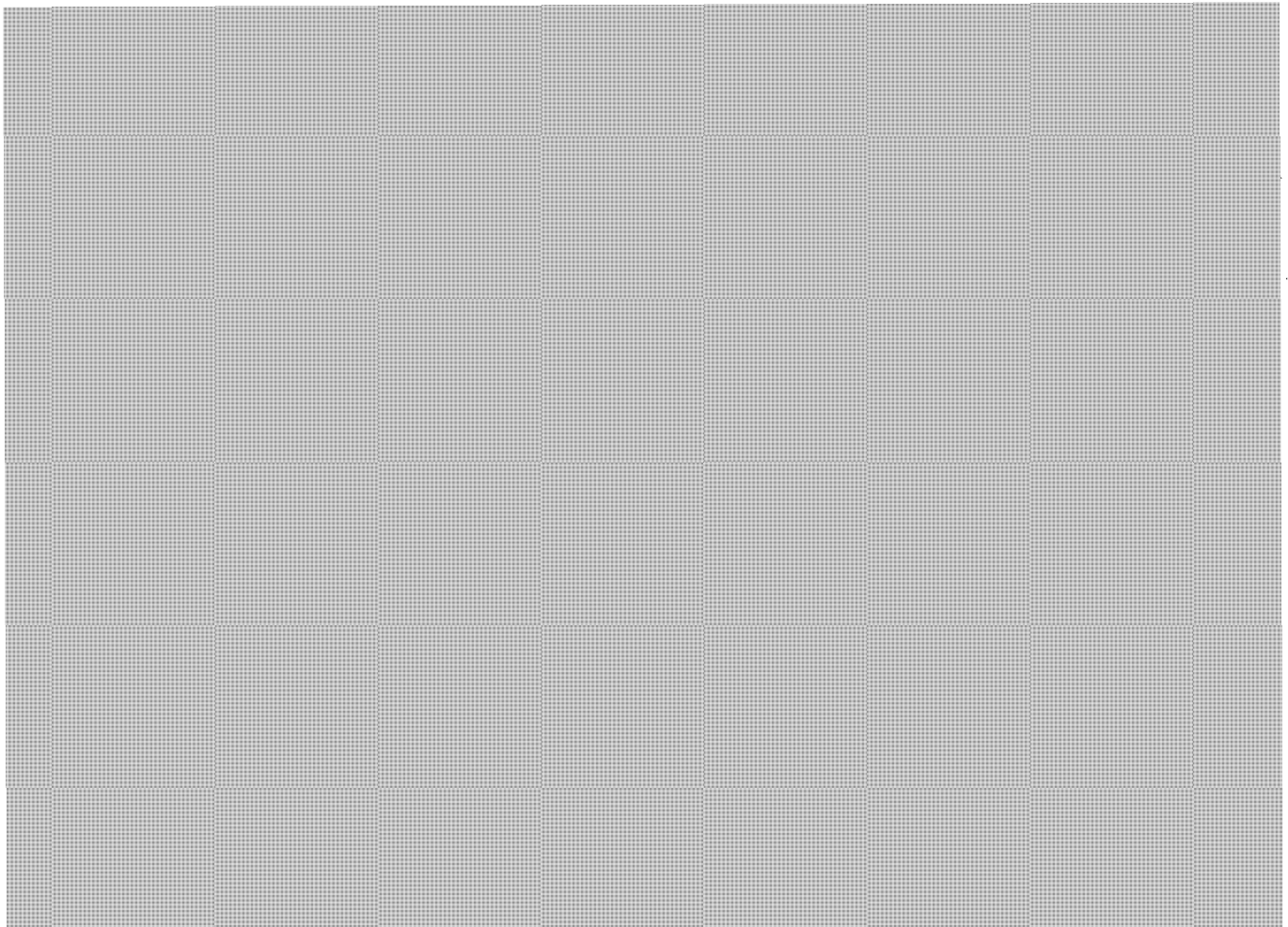
ASSOCIATE COUNSEL: OSCAR F. LUNDELL, O.C.

March 1, 1976

s.23

A.C. Cooper, Esq.  
Director  
International Pacific Salmon Fisheries Commission  
P.O. Box 30  
NEW WESTMINSTER, B.C., V3L 4X9

Dear Mr. Cooper:

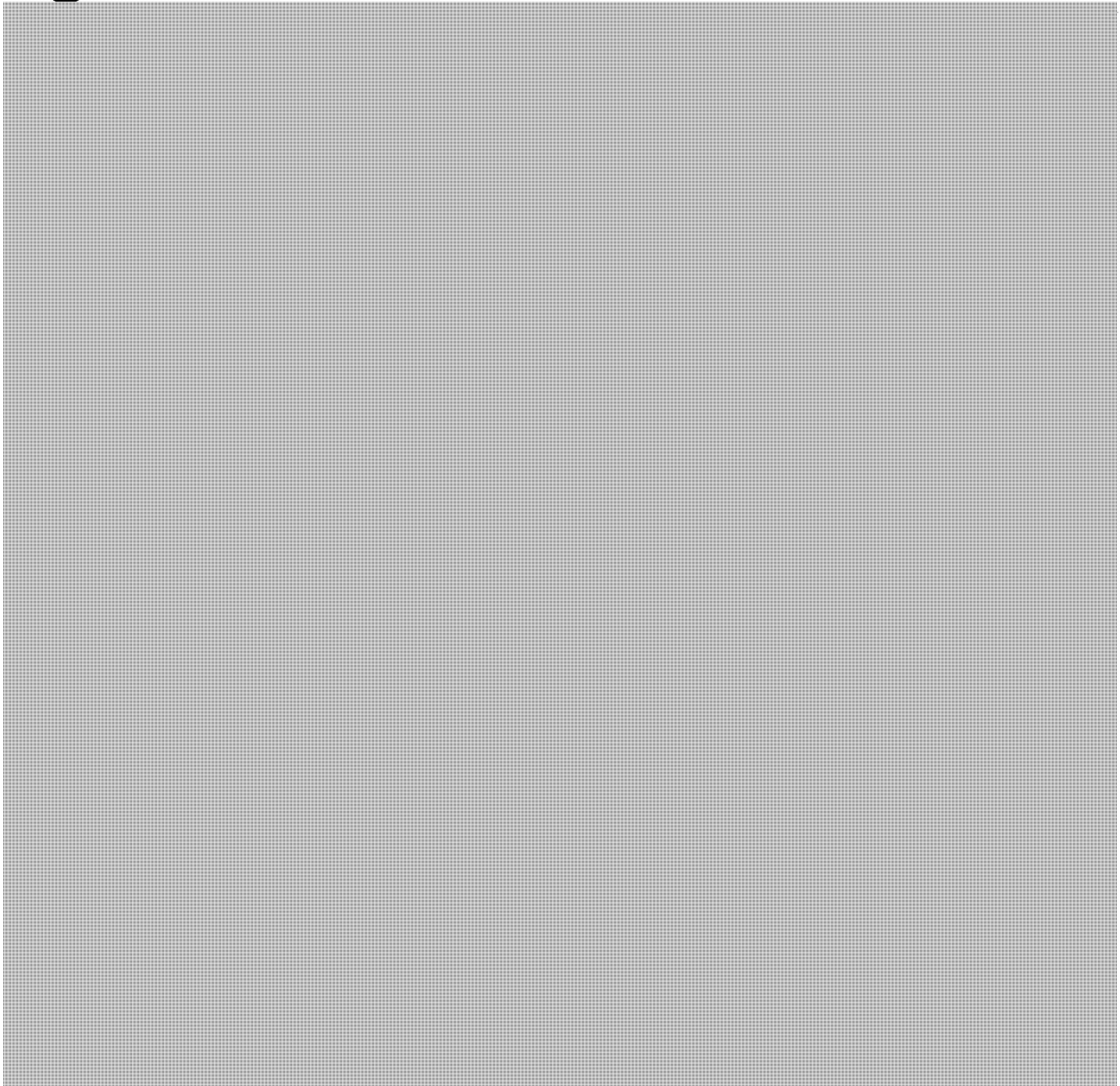




s.23

LAWSON, LUNDELL, LAWSON & McINTOSH

-2-



Yours sincerely,

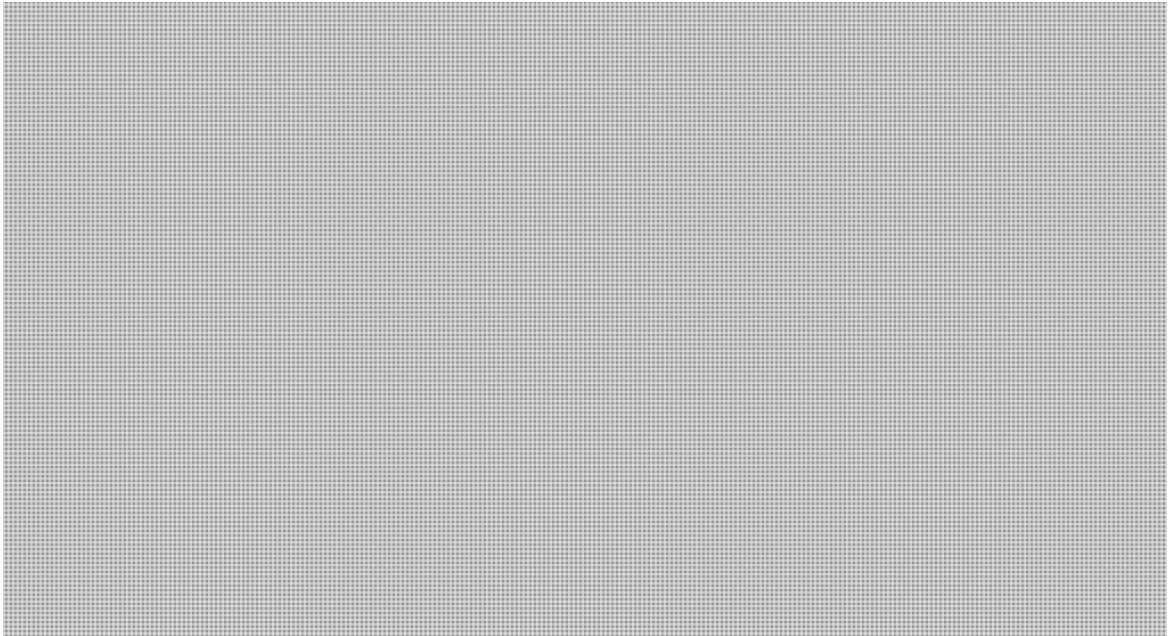
A handwritten signature in dark ink, appearing to read "G.B. McIntosh", written over a horizontal line.

G.B. McIntosh

GBM:vc



s.23





# PURSE SEINE VESSEL OWNERS ASSOCIATION

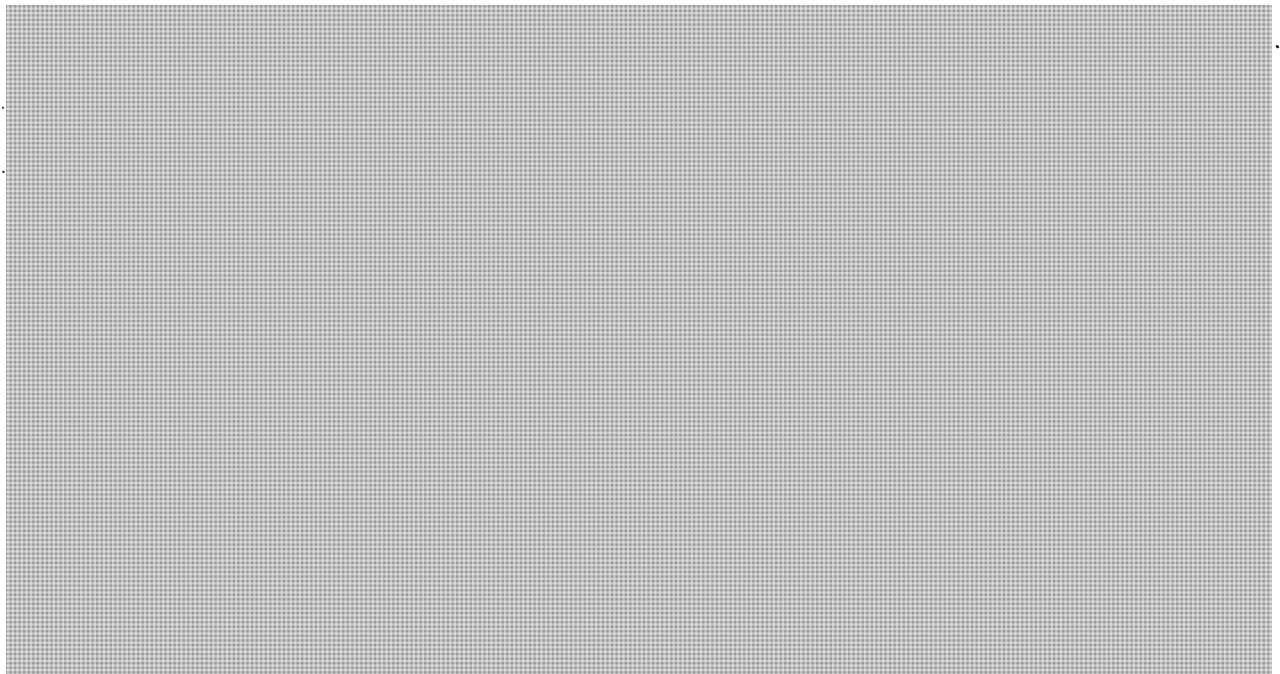
P.O. BOX 70231 / 1111 N.W. 45TH ST. / SEATTLE, WASH. 98107 / TELEPHONE SU. 3-7733

March 1, 1976

s.23

Mr. Donald R. Johnson, Chairman  
Mr. W. R. Hourston, Vice-Chairman  
Mr. Roderick Haig-Brown, Commissioner  
Mr. Donald Moos, Commissioner  
Mr. Richard Nelson, Commissioner  
Mr. William G. Saletic, Commissioner  
International Pacific Salmon  
Fisheries Commission

Gentlemen:



Very truly yours,

PAUL L. ANDERSON  
Executive Manager  
PLA:maj

cc: Mr. Al Cooper ✓  
Mr. John Roos  
Mr. R. Christensen  
Mr. E. Engman

Mr. Don Franett  
Mr. Nick Mladinich  
Mr. G. Schuler  
Mr. G. Simmons

000681



LAW OFFICES OF  
JOSEPH T. MIJICH

JOSEPH T. MIJICH  
JOHN R. MARTIN, JR.

XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
SEATTLE WASHINGTON

(206) 624-2822  
624-6993

2844 Bank of California Center  
Seattle, Washington 98164

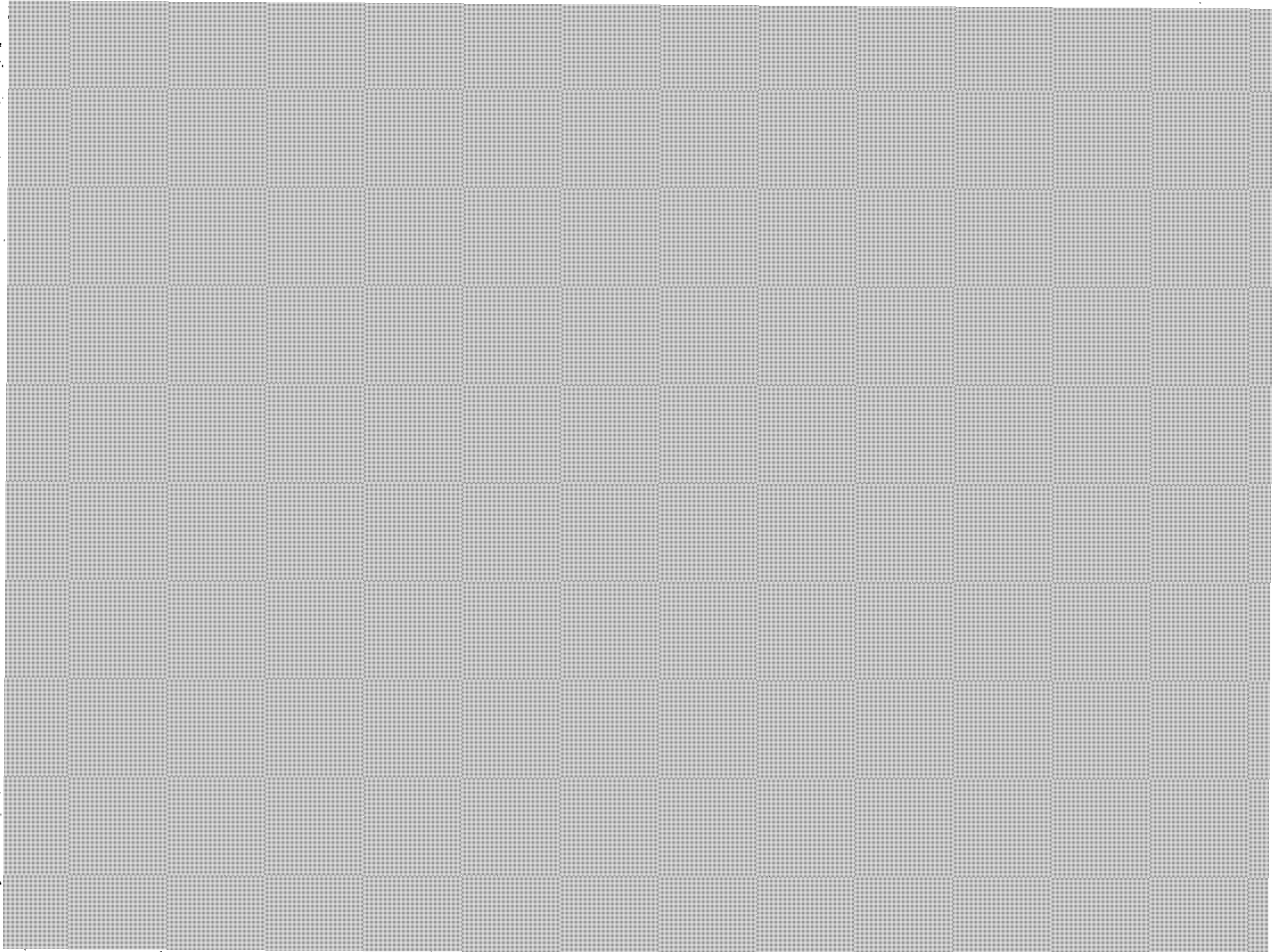
s.23

March 3, 1976

Mr. Donald R. Johnson, Chairman  
Mr. William G. Saletic, Commissioner  
Mr. Donald W. Moos, Commissioner  
U. S. Commissioners  
International Pacific Salmon Fisheries Commission  
1700 Westlake Avenue North  
Seattle, Washington 98101

Re: State Department's Proposed Changes  
to 1976 Gear Regulations

Gentlemen:



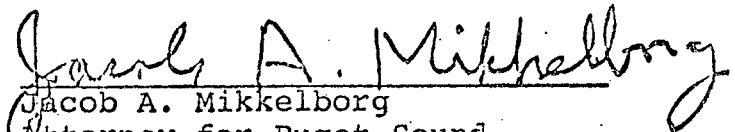


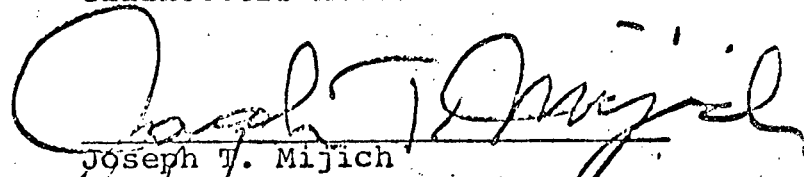
s.23

March 3, 1976  
Page Two



Very truly yours,

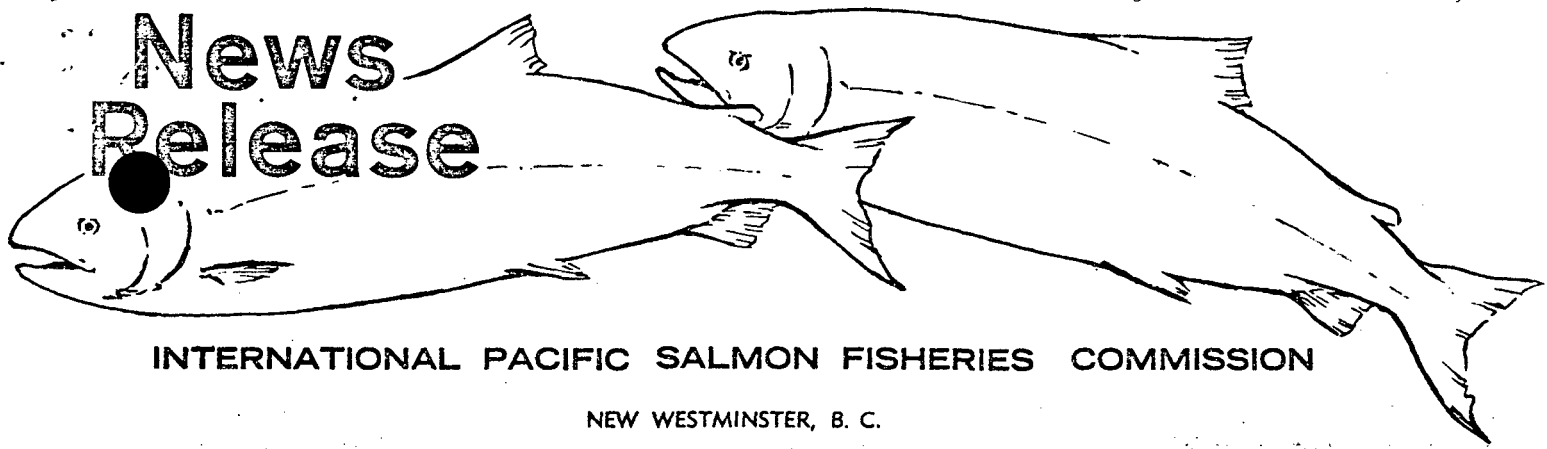
  
Jacob A. Mikkellborg  
Attorney for Puget Sound  
Gillnetters Association

  
Joseph T. Mijich  
Attorney for Purse Seine  
Vessel Owners Association

JTM:maf

000683





No. 1

March 5, 1976

The tentative regulatory recommendations for control of the sockeye salmon fishery in Convention Waters in 1976 were reviewed at a meeting of the Commission with its Advisory Committee held on January 30, 1976 in Bellingham. The only regulatory changes arising from that meeting concerned fishing in United States Convention Waters. One change provides for starting times for reef nets at 3:00 p.m. Monday, July 19 and successive alternate weeks instead of the previously proposed 10:30 a.m. start. There would be corresponding changes in the closing times for these weekly fishing periods. The United States Advisory Committee members concurred with this change. The other change was clarification of the wording of the closure to troll fishing west of the Angeles Point-William Head line.

The Commission delayed finalizing the regulations pending conclusion of the discussions between the Governments of Canada and the United States scheduled in February, 1976 to consider proposals of the United States Government with respect to the 1974 Federal Court Decision. At its meeting on March 4, the Commission considered the understandings reached in exchange of notes by the governments, and as a result, the Commission added a statement to the Exceptions section which states that "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".

In finalizing its regulatory recommendations for the 1976 season, the Commission emphasizes that, as in past years, adjustments in fishing times may be necessary during the season, having regard for possible variation in the expected number of fishing boats, to meet individual racial escapement requirements, to reach division in the catch by each country, and to allow adequate harvest of each major run. Notice of each regulatory change made during the fishing season will be given as far in advance as possible. The dates for relinquishing control in the various Convention Waters fishing areas will be subject to review as the fishing season progresses, and control will be relinquished at the earliest possible time consistent with management requirements for the two stocks. Attention is directed to the established gear restrictions and area closures referenced in the Exceptions and Understandings attached to the regulations.

000684



2.

## CONVENTION WATERS REGULATORY RECOMMENDATIONS

1 9 7 6

### CANADIAN CONVENTION WATERS

#### Area 20:

June 27 to July 24

- Closed to all net fishing.

July 25 to August 21

- Gill nets open daily 6:30 p.m. to 6:30 a.m. Sunday afternoon to Tuesday morning of each week.
- Purse seines open daily 6:30 a.m. to 6:30 p.m. Monday and Tuesday of each week.
- Closed to commercial trolling except at those times when the net fishery is permitted to operate.

August 22

- Relinquish control.

#### Areas 17, 18 and District No. 1:

June 27 to July 17

- Closed to net fishing except by gill nets having a mesh of not less than 8 1/2 inches extension measure at such times and places as authorized by the Canada Department of the Environment, Fisheries Service.

July 18 to July 31

- Open to net fishing 8:00 a.m. Monday to 8:00 a.m. Wednesday of each week.

August 1 to October 9

- Open to net fishing 8:00 a.m. Monday to 8:00 a.m. Tuesday of each week.

October 1

- Relinquish control of Areas 17 and 18.

October 10

- Relinquish control.

August 15 to September 30

- Commercial trolling shall be prohibited in those Convention Waters lying easterly and inside of a straight line projected from Gower Point at the westerly entrance to Howe Sound to Thrasher Rock Light, thence in a straight line to Salamanca Point on the southerly end of Galiano Island, thence in a straight line to East Point on Saturna Island, thence in a straight line toward Point Roberts Light to the intersection with the International Boundary, thence following the International Boundary to its intersection with the mainland, except at the times and locations that net fishing may be permitted within that area.

ALL TIMES HEREINBEFORE MENTIONED SHALL BE PACIFIC DAYLIGHT SAVING TIME.

000685



UNITED STATES CONVENTION WATERS

West of Angeles Point - William Head line and East of Bonilla-Tatoosh line:

- June 27 to July 17 - Closed to all net fishing.
- July 18 to August 21
  - Fishing regulations for each type of gear the same as for the waters easterly of Angeles Point.
  - Closed to commercial trolling except from Monday through Friday of each week on those days when the purse seine fishery is permitted to operate.
- August 22 - Relinquish control.

East of Angeles Point - William Head line:

- June 27 to July 17 - Closed to all net fishing.
- July 18 to July 24
  - Gill nets open daily 7:00 p.m. to 9:30 a.m.
- August 1 to August 7
  - Sunday afternoon to Tuesday morning.
  - Reef nets open 3:00 p.m. to 9:30 p.m. Monday, 5:00 a.m. to 9:30 p.m. Tuesday, and 5:00 a.m. to 3:00 p.m. Wednesday.
- July 25 to July 31
  - Gill nets open daily 7:00 p.m. to 9:30 a.m.
- August 8 to August 14
  - Monday afternoon to Wednesday morning.
  - Reef nets open 10:30 a.m. to 9:30 p.m. Sunday, 5:00 a.m. to 9:30 p.m. Monday, and 5:00 a.m. to 10:30 a.m. Tuesday.
- July 18 to August 14
  - Purse seines open daily 5:00 a.m. to 9:30 p.m.
- Monday and Tuesday of each week.
- August 15 to August 21
  - Gill nets open daily 6:00 p.m. to 9:00 a.m.
- August 29 to September 4
  - Sunday afternoon to Tuesday morning.
  - Reef nets open 3:00 p.m. to 9:00 p.m. Monday, 5:00 a.m. to 9:00 p.m. Tuesday, and 5:00 a.m. to 3:00 p.m. Wednesday.
- August 22 to August 28
  - Gill nets open daily 6:00 p.m. to 9:00 a.m.
- September 5 to September 11
  - Monday afternoon to Wednesday morning.
  - Reef nets open 10:30 a.m. to 9:00 p.m. Sunday, 5:00 a.m. to 9:00 p.m. Monday, and 5:00 a.m. to 10:30 a.m. Tuesday.
- August 15 to September 11
  - Purse seines open daily 5:00 a.m. to 9:00 p.m.
- Monday and Tuesday of each week.
- September 5 to September 18
  - Waters lying westerly and northerly of a straight line projected from Iwersen's Dock on Point Roberts to Georgina Light at Active Pass will be closed to all net fishing.
- September 12
  - Relinquish control of those waters lying easterly and southerly of the Iwersen's Dock line.
- September 19
  - Relinquish control.

ALL TIMES HEREINBEFORE MENTIONED SHALL BE PACIFIC DAYLIGHT SAVING TIME.

000686



4.

OPTIONS:

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 above recommended regulations shall not apply to certain United States Convention Waters as follows:

1. State Fishing Area No. 7 including all Convention Waters known as Bellingham Bay lying inside of a line extending from Point Frances through the Post Point Bell Buoy to the mainland.
2. That portion of State Fishing Area No. 3 lying easterly and inside of a line projected from Carter Point on Lummi Island to the most northerly tip of Vendovi Island, thence to Clark Point on Guemes Island including the waters of Samish Bay.
3. State Fishing Area No. 4.
4. Preserves previously established by the Director of Fisheries of the State of Washington for the protection and preservation of other species of food fish.

UNDERSTANDINGS:

Fishermen are reminded of the following regulations for Convention Waters contained in explicit regulations defined in the British Columbia Fishery Regulations:

1. No person may fish for or catch salmon with a purse seine in the waters of Area No. 17 of Canadian Convention Waters as defined in Schedule A of the British Columbia Fishery Regulations lying east and north of Galiano and Valdez Islands before September 1 on even numbered years.
2. No person may fish for or catch salmon with a purse seine in the waters of District No. 1 in Canadian Convention Waters.

Unless otherwise specified, these regulations will apply during the entire 1976 season and will not be referenced during the season when emergency amendments are made.



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 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.



February 19, 1976

<sup>memoire</sup>  
Aide' memoire

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



- 2 -

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



*M. G. G. -*  
*W. P.*

*Seattle*  
**ACTION**

UNCLASSIFIED

FM SEATL UAF0403 APR8/76

TO EXTOTT FLO

INFO WSHDC

DISTR GWU

SALMON FISHING

*(1)*  
25-5-7-2-SALmon-1  
4 20

*cc. done*  
*DVE/Hunter*  
*GL*  
*4 file*

STATE SUPREME COURT TODAY RULED HATCHERY-PRODUCED STEELHEAD SHUD NOT BE INCL IN PUYALLUP INDIANS SHARE OF HARVEST OF PUYALLUP RIVER. RULING CUD SET PRECEDENT MAKING DISTINCTION BETWEEN HATCHERY-PRODUCED NATURAL STOCK SALMON STEELHEAD IN ALL WASH. STATE RIVERS. THIS CUD GREATLY REDUCE INDIAN PERCENTAGE OF TOTAL HARVEST. AS U KNOW, BOLDT DECISION OF FEB12/74 ENTITLED TREATY INDIAN TRIBES TO 50 PER CENT OF HARVESTABLE SALMON STEELHEAD RETURNING TO TRADITIONAL OFF-RESERVATION FISHING GROUNDS. BOLDT DECISION, HOWEVER, HAD RESERVED QUESTION OF HATCHERY-VS-NATURAL STOCK SALMON. IN PUYALLUP RIVER, STEELHEAD ESTIMATED TO BE 50 PER CENT ARTIFICALLY PRODUCED WHICH MEANS THAT TODAYS DECISION WUD LEAVE INDIANS WITH RIGHT TO ONLY ONE-QUARTER RATHER THAN ONE-HALF OF TOTAL CATCH.

END/777 082350Z 00150



# WOMEN'S AUXILIARY

— TO —

## UNITED FISHERMEN AND ALLIED WORKERS' UNION

Telephone  
Mutual 4-3254



Headquarters: The Fishermen's Hall, 138 East Cordova Street  
VANCOUVER 4, B.C.

*File*

March 30, 1976.

The Hon. Allan J. MacEachen, (1)  
Secretary of State for  
External Affairs,  
Parliament Buildings,  
OTTAWA, ONTARIO.

25-5-7-2-SALmon-1
4 20

Dear Mr. MacEachen:

The enclosed resolution "International Pacific Salmon Commission" was unanimously endorsed at the 26th Annual Convention of Women's Auxiliaries to the United Fishermen and Allied Workers' Union.

We request that you seriously consider this very important resolution and take the necessary steps for its implementation.

Yours truly,

*Nina Gavin*

Assistant Secretary,  
Women's Auxiliaries.

cc to:  
The Hon. Romeo LeBlanc,  
Minister of State (Fisheries)

Encl.



O/SSEA

APR 6 1976

2145

REGISTRAR



INTERNATIONAL  
PACIFIC SALMON COMMISSION.

WHEREAS: Negotiations are still unresolved in the matter of a new International Salmon Treaty, and

WHEREAS: In the past treaties with the United States, the cost - catch scheme has been decidedly inequitable for Canadian fishermen, and

WHEREAS: The Canadian Governments' negotiating committee has failed to present the demands of the citizens whom they represent,

THEREFORE BE IT RESOLVED: That we demand the Canadian Government stop the sell out of this great resource and revert back to the principles of 1971.





# TRANSMITTAL NOTE AND RECEIPT NOTE D'ENVOI ET REÇU

GOVERNMENT OF CANADA — GOUVERNEMENT DU CANADA

Under-Secretary of State for  
External Affairs, OTTAWA  
ATTN: FLO

TO  
À

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

SECURITY CLASSIFICATION  
CLASSIFICATION DE SÉCURITÉ

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QUANTITY QUANTITÉ	REFERENCE/COPY NO. N° DE RÉFÉRENCE	DESCRIPTION
	<div style="border: 1px solid black; padding: 5px; display: inline-block;"><p>To/A: FLO From/De: ACRA MAR 5 1976 Attn:</p></div>	
	March 2, 1976	
	Ref: Your telegram FLO 350 of March 1, 1976	
	Subj: Salmon Fisheries	
	Attached is a copy of our Aide-Memoire to the State Department.	<div style="border: 1px solid black; padding: 5px; display: inline-block;"><p>25-5-7-2-Salmon-1 4 13</p></div>
SENT BY — TRANSMIS PAR		RECEIVED BY — REÇU PAR
Signature _____ Date _____		Signature _____ Date _____

L.S. CLARK  
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



Canadian Embassy



Embassy in Charge

A I D E - M E M O I R E

The Embassy of Canada refers the Department of State to the Convention between Canada and the U.S.A. for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries of the Fraser River System, signed in Washington, D.C. 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 on this subject, as well as the Department of State's Aide-Memoire dated February 19, 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 to 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.



- 2 -

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.

Washington, D.C.  
February 27, 1976

000697



# MESSAGE

FM/DE	PLACE	DEPARTMENT	ORIG. NO.	DATE	FILE/DOSSIER	SECURITY SÉCURITÉ
	LIEU	MINISTÈRE	N° D'ORIG.		25-57-2-SALMON-1	
	OTT	EXT	FLO-350	MAR1/76	4	RESTRICT
						PRECEDENCE
TO/A	WASHINGTON					
INFO	DOE/LEGAULT					

DISTR. GWU

REF YOURTEL UNGR490 FEB19  
SUB/SUJ SALMON FISHERIES: CDN REPLY  
~~ISFO TEXT~~

APPRECIATE YOU TRANSMIT ASAP TO STATE DEPT TEXT CONTAINED IN  
FOLLOWING PARA, WHICH CONSTITUTES CDN REPLY TO USAIDE MEMOIRE DATED  
FEB19 AND CONTAINED IN REFTEL.

2. (COMCENTRE:PLEASE COPY ATTACHED)

DRAFTER/RÉDACTEUR	DIVISION/DIRECTION	TELEPHONE	APPROVED/APPROUVÉ
SG.....G.A. Léger/ps.....	FLO	2-6692	SIG..... <i>[Signature]</i> .....



AIDE MEMOIRE

1 **QUOTE**

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February 27, 1976.

**UNQUOTE**



FLA/J. O. Parry/6-7194/at

File  
Diary  
Div Diary  
Circ Diary

FLO (Mr. Léger) s.23

RESTRICTED

October 31, 1975

FLA

Your memo of October 30 to Mr. Phillips

Renegotiation of the Canada - United States  
Fraser River Salmon Convention, as amended

25-5-7-2-SALmon - 1	
4	—

FLO/Phillips

.../2

000700



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- 2 -

RESTRICTED



J. S. STANFORD

J. S. Stanford  
Director  
Legal Advisory Division

000701



FLO/G.A.LEGER/2-6692/gf

file diary circ div

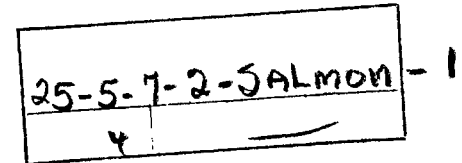
Mr. Phillips

RESTRICTED

October 30, 1975

G. Léger

Re-negotiation of the Canada/USA Fraser River Salmon  
Convention



1

FLP  
FLA  
MR. WANG  
GWU

Attached is a copy of a first draft of proposed articles prepared in conjunction with fisheries officials, for consideration by the Canadian side prior to the resumption of negotiations with the USA. This draft will be discussed with west coast regional officials of Environment Canada, and eventually the industry and union advisers will meet with the Minister of State for Fisheries to hammer out the final details of the Canadian position. When ministerial approval is obtained, the draft articles will be tabled at the next (and hopefully final) round of official negotiations, probably early in the New Year.

2. Addressees are invited to provide their comments on the draft articles, which at this stage are to be considered as a basis for internal discussions only, and have not been prepared in the appropriate treaty language which will characterize the final version.

G. A. Léger

G. Léger





Environment  
Canada

Environnement  
Canada

Fisheries and  
Marine

Pêches et sciences  
de la mer

25-5-7-2-SALMON file  
4 27

October 1, 1975.

Mr. Erik B. Wang,  
Director,  
Legal Operations Division,  
Department of External Affairs,  
Lester B. Pearson Building,  
Ottawa, Ontario,  
K1A 0G2.

Your file    Votre référence    25-5-7-  
SALMON-1  
Our file    Notre référence    1165-36/J10

Dear Mr. Wang:

Thank you for your recent letter and its  
attachments concerning U.S. action with respect to  
Salmon Commission regulations.

A copy of the letter to the Chairman of  
the Commission has been forwarded to our Minister's  
office, as requested.

Yours sincerely,

M.P. Shepard,  
Director,  
International Fisheries Policy.

RECEIVED

OCT 3 1975

In Legal Operations Division  
Department of External Affairs

Ottawa K1A 0H3



EXTERNAL AFFAIRS

AFFAIRES EXTÉRIEURES

TO  
À M. B. Phillips

FROM  
De G. A. Léger

REFERENCE  
Référence

SUBJECT  
Sujet CANADA/USA TALKS ON SALMON PROBLEMS OF MUTUAL CONCERN

SECURITY  
Sécurité

CONFIDENTIAL

DATE September 30, 1975

NUMBER  
Numéro

FILE	DOSSIER
OTTAWA	25-5-5-CDA/USA
	25-5-7-2-SALMON-1
MISSION	

ENCLOSURES  
Annexes

DISTRIBUTION

FLP

GWU

FLO/WANG

FLO/WARREN

FLO/NADEAU

WASHDC

SEATTLE

DOE/LEGAULT

The bilateral negotiations on Pacific salmon, which have been held over the past several years, had bogged down since the February 1974 session. Two basic problems are involved: how to balance the interceptions of salmon originating in one country and caught by fishermen of the other; and how to ensure that each state will reap the benefits of its investments in salmon enhancement. Two complicating factors have contributed to the impasse:

— the Fraser River Salmon Convention provides for a 50-50 share of salmon for fishermen of each country, in keeping with the Convention's objective of joint enhancement of the Fraser. Canada (especially British Columbia) no longer wishes to submit to joint development of what is viewed as an essentially Canadian river, and intends to proceed to enhance the river's potential independently. Under the existing Convention, the benefits of independent investment must be shared equally by both parties; but the abrogation of the Convention, which might satisfy certain domestic pressures, would lead to uncontrolled and intensified fishing by both sides in waters under their respective jurisdictions, and the fish would be the ultimate losers of this war;

— the search for an equitable balance of interceptions is frustrated by a difference in views over valuation. Without going into the technical details, it is obvious that canneries and sports fishermen do not have the same idea of the value of a Chinook salmon. Also, the salmon which is on the high seas heading for its spawning grounds has real value for the troller, but potential value only for the net fishermen awaiting its arrival at the mouth of the river: how do these values compare?

2. Increasingly, in the last few weeks, there have been signs that the USA side, which had proven in the past to be the more intransigent, was now willing to consider a new basis for possible settlement of this long-standing irritant in the fishing relations of the two countries. The Boldt decision, in the State of Washington, in which Judge Boldt held that the Indians of that State had treaty rights to a substantial share of the U.S. salmon catch, may have contributed to the improved mood in that the U.S.A. authorities need increased flexibility to deal with this issue. In any event, at

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CONFIDENTIAL

- 2 -

informal discussions that were held in Seattle on August 26 between the heads of both delegations to the salmon talks (C. Levelton, Canada; D. McKernan, U.S.A.), Mr. McKernan suggested that "consideration be given to the possibility of a new agreement which would reflect the views of both countries and encompass the present Fraser River Convention area, as well as the "northern" and "southern" fisheries and the troll fishery". On the basis of these discussions, the U.S. side was prepared to draft a document that would provide the basis for negotiation, and both sides would meet again informally to discuss this draft, in Vancouver, September 24-25.

3. The September 24-25 meeting was held at the inter-governmental level, i.e. without the presence of industry and provincial state representatives. The U.S.A. delegation was headed by D. McKernan, and composed as follows:

from Commerce/NMFS: Mssrs. Blondin, Henry, Johnson, Rietze  
and MacKenzie;

from STATE: A. Burt(Oceans and Marine) and Terry  
Leitzel(Legal).

The Canadian side, headed by Cliff Levelton, Director-General of Operations, DOE, included, from DOE: Mssrs. MacDonald, Geen, Hourston, Hunter and Roberts; I attended for the Department.

... 4. The draft "document" promised by the U.S.A. officials was quite disappointing and only a skeletal outline of their proposal. Following the discussions, it was re-worded by the Canadian side, and is attached to this report as a "Synopsis of the informal U.S. proposal (as understood by Canadian officials)". It was presented to the U.S. representatives in this form, and therefore constitutes the only document under consideration, although both sides agree that the text has no official status. Much work remains to be done to translate these vague formulations into draft treaty language, but it appeared to the Canadian officials participating in the talks that the basis for agreement may be in sight: both sides were willing to consider provisions that would allow for a temporary freeze in interception rates, and an agreed time-frame for the elaboration of an equitable sharing formula, subject to binding arbitration. The new agreement would also provide that all benefits from independent enhancement in the future will accrue to the investing country. A new Commission will be established more or less along the lines of the ICNAF panel system, with a much wider geographic and species scope than the existing Commission.

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CONFIDENTIAL

- 3 -

5. ° A drafting committee was established at the meeting, whose task it will be to prepare a text that will serve as the basis for full-scale negotiations leading to a new agreement. It was agreed that the drafting responsibilities should be left to legal officers of the Departments of State and External Affairs. Leitzel and I were asked to chair informal meetings that would include fisheries experts from both sides, and would be held in conjunction with the November 3-7 sessions of the International Commission for North Pacific Fisheries, in Vancouver. Prior to this drafting exercise, the Canadian side will meet with its advisers from industry, trade unions and the provincial government, to discuss the U.S. proposals and the Canadian position for the negotiations. This one-day meeting will be held in Vancouver on Friday, October 31. The work of the drafting committee will be examined and discussed informally by both sides at an inter-governmental meeting which is scheduled to be held in Seattle, November 18-19. The formal negotiations, with advisers present on both delegations, have been tentatively set for January 6-10, 1976, with delegation meetings on January 5.

6. The rather intensive schedule outlined in the above paragraph is an indication of the urgency which both sides attach to the settlement of this important issue. I believe there is an opportunity for Canadian officials to seize upon this new sense of urgency to seek to bring about a new agreement which will meet the concerns of our salmon fishermen, and provide a fair basis for continued reciprocal salmon fishing off the West Coast in the event of extended jurisdictions (although some adjustments may be necessary at that time).



G. Léger



## SYNOPSIS OF INFORMAL U.S. PROPOSAL

(As understood by Canadian Officials)

A new Convention would be concluded, which would replace the existing IPSF Convention, and which would cover the following:

### 1. GENERAL PRINCIPLES

The agreement would:

- a) provide improved mechanisms to ensure better management and conservation of stocks of salmon;
- b) provide both countries with an opportunity to exercise its right to allocate salmon among its fishermen in keeping with domestic needs, as long as this does not interfere with the rights of the other party of the Convention;
- c) provide the incentive for each country to invest greater national effort into rehabilitating and enhancing its salmon stocks.

### 2. SUBSTANTIVE PROVISIONS

- a) A new Commission will be established to implement the provisions of the Convention.
- b) The Commission will determine, within an agreed time frame (e.g. 3 - 5 years) from the coming into force of the Convention, a procedure for determining whether interceptions are equitably balanced. Should this not be accomplished, both sides will agree to submit the question to binding dispute settlement. In any case, following the determination of the "equity" procedure both sides will be obligated to regulate their fisheries to achieve an equitable balance.
- c) In the meantime, both countries will regulate their fisheries so as current interception rates, based on the most recent cycles, are not exceeded, and may even be reduced.
- d) All benefits from new enhancement will accrue to the investing country.
- e) The scope of the Convention will cover a broad geographical area, with specific fisheries, listed in an Annex, subject to "joint management" by a Commission. The Convention area proposed would extend from Cape Yakataga, Alaska, to Tillamook Head, Oregon. Only the most important intercepting fisheries would be included in the Annex initially. Provision would be made for additions to or subtractions from the list of fisheries in the Annex.



f) How the Commission would work

The Commission would have Panels concerned with intercepting fisheries within specific geographical areas. The scenario proposed for the operation of the Panels and the Commission is as follows:

Pre-Season:

Panels examine management proposals prepared by national agencies, and prepare recommendations for the formulation of regulations by each agency, consistent with conservation requirements and the terms of the Convention. The proposed national regulations will be re-submitted to the Panels for consideration and submission to the Commission. The Commission will then adopt recommendations by consensus, each side having one vote. The recommendations will be submitted to the appropriate government for its approval and implementation.

During the Season

In the event of an emergency situation developing for which the adopted regulations will prove inadequate for management purposes, the Commission/Panel would be empowered, under the terms of the Convention, to take appropriate regulatory action in the same manner as the present IPSFC.

Post Season

The Panels will review the results of the past season's regulatory program in the context of the provisions of the Convention, and will recommend appropriate adjustments which must be taken into account in following seasons.

Organization

The composition, organizational structure, staff functions, and research responsibilities, would in general follow that outline prepared by the Admin. Committee in its report of October 25, 1973 (attached). Funding arrangements in both countries will be an important factor in the final determination of these elements.

g) Other Issues

- i "Bonanza" runs, their definition and treatment.
- ii Provisions related to extension of jurisdiction and reciprocal fishing arrangements.
- iii Establishment of a general dispute settlement procedure.



MIN  
PDM  
PARL. SEC.  
FAI  
PAG  
FPR  
FILE  
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DIV  
DIARY

- Salmon -

25-5-7-2-SALMON -1	
12	/

In the context of ongoing negotiations at the Law of the Sea Conference, Canada has been working towards getting into the future Convention a special regime relating to anadromous species i.e. fish, such as salmon, coming to life in a coastal state's fresh waters, then spending the greater part of their adult life migrating in the high seas and finally, returning to the fresh waters of the state of origin to spawn and ultimately die. The problem arising out of the present legal situation is that these stocks may, in accordance with the traditional freedom of fishing in the high seas, be harvested on the basis of unsound management principles and in a way likely to jeopardize the investments made by the state of origin towards keeping the spawning waters in a state such as to attract the return of the stocks.

The position Canada has adopted is that salmon should be caught in accordance with the exclusive management powers of the state of origin and that there should be a ban of high seas fishing of anadromous species. The conditions in which Canada is operating at the Conference on this issue are extremely difficult as there are only a very small number of states in whose waters originate (United Kingdom, The USA, Ireland, Norway) and it will take a considerable persuasion effort to get the Conference to adopt a satisfactory resolution of an issue concerning so few. The problem has been further compounded by the fact that many of the States participating at the Conference and favouring the 200 - mile



- 2 -

economic zone approach are not prepared to envisage the coastal state as exercising any rights beyond the 200 - mile limit. This strict interpretation of the 200 - mile economic zone would deprive states of origin such as Canada of any management rights over salmon stocks as they follow their migratory course in the high seas beyond the economic zone.

In order to make other states aware of its special and quasi - unique salmon problem, Canada, at the Conference's first session in 1974, in Caracas, set afoot a major publicity campaign involving the viewing of films, the wide distribution of portfolios and pamphlets, all demonstrating the particularities of the anadromous species. Further, the Canadian delegation tabled a working paper - an official document of the Conference - outlining their special biological characteristics and pointing towards the need for a specific management system for salmon. Finally, at the initiative of the government, a number of representatives from key-developing states at the Conference were invited to visit, in the fall of 1974, Canada's salmon hatcheries off the West Coast, in the hope that their respective countries would soften their position with respect to the coastal state exercising certain rights beyond the outer limit of the 200-mile economic zone.

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- 4 -

rights over salmon spawned in its rivers.

4 In addition the draft article would allow the state of origin to set the total allowable catch for its salmon stocks. Still another provision would prohibit fishing for salmon beyond the 200-mile limit, with allowance made for some accommodation of existing high seas fisheries. However, no new entries into high seas salmon fisheries would be permitted - thus securing crucial protection for Canada's Pacific salmon stock.

On the Atlantic coast, where our stocks migrate into what will become the 700 mile economic zone off Greenland our position would also be greatly protected. Under the provisions of the draft article Denmark would have the obligation to cooperate with Canada in the conservation and management of Canadian-bred salmon. This obligation to cooperate taken together with the other provision of the draft article, represents a significant step.

Of course, it is too soon to say whether the draft salmon article in the Single Negotiating Text will be retained as in the final Convention. It has not been easy to go as far as we have gone, but we trust our greatest difficulties are behind us.



- 3 -

In the meantime, our delegates have held discussions both with other states of origin and states having traditionally harvested such stocks, so that a text satisfactory to all, but in particular to the states of origin he agreed upon.

Canada's efforts in Caracas, and between both sessions of the Law of the Sea Conference, started paying off in Geneva. The discussions in the group of the states produced a text which hopefully is agreeable - and hopefully will remain so - to all members of that group. When the issue of salmon arose in one of the Conference's negotiating body - that article on salmon was accepted without any strong opposition being voiced.

The salmon article later appeared in the Single Negotiating Text which emerged from the Geneva session. The Single Text, it must be emphasized, is not a compromise document, nor a negotiated one; rather it is a negotiating text prepared by the Chairman of each of the main committee's on the basis of both formal and informal consultations. The purpose of this text is to assist the conference in pursuing its further negotiations. It is only a tool and not an end result. It is even questionable whether it can be considered as containing the outline of the future law of the Sea Treaty.

Turning back now to the specific article on salmon, it states in clear and unequivocal fashion that the state of origin of anadromous species has a primary interest and a primary responsibility in respect of such stocks. In other words, virtually primary

. . . /4