

AN INDIAN PERSPECTIVE OF ANADROMOUS FISHERIES MANAGEMENT

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Abstract.

Problems in salmon and steelhead management related to Indian fishing rights in Washington State may be grouped into three categories: legal and political, logistic and procedural, and technical. A comprehensive solution to the present controversy must address itself to the major problems in each of these three areas. Substantial progress toward solving the legal and political problems must occur before logistic and technical problems can be addressed, however.

The decision in U.S. v Washington covers 20 recognized and 5 unrecognized Indian tribes located on the Olympic Peninsula, throughout the Puget Sound basin, and in portions of the Columbia River watershed. The Quinault Indian Nation (Figure 1) is one of the larger tribes involved in U.S. v. Washington (hereafter referred to as the "Boldt" decision) both in the size of its reservation and population and in the extent of its fishery. The perspective on anadromous fisheries management presented here represents the views of the Quinault Nation and is generally shared by many of the other case area tribes, although I do not purport to represent them.

INTRODUCTION

The Commercial salmon fishery in Washington State was faced with serious problems prior to the Boldt decision and subsequent expansion of the Indian fisheries. The principle problems included reductions in the size of native salmon stocks due to environmental degradation and overharvest (Henry 1977), and a substantial increase in the number of fishermen of all types from 1965 through 1976 (Table 1). In addition the large Canadian catch of Washington origin salmon and minimal regulation of United States ocean fisheries forced the terminal area (gill net) fishermen to bear most of the burden of in-season management adjustment.

As the Indian fisheries expanded after the Boldt decision, these existing problems were worsened. Inside fisheries were forced to bear an even greater burden of in-season regulation adjustments to allow the court-ordered allocation. The number of new management entities increased dramatically and coordination and communication between management groups became a problem.

Anadromous fish management problems since 1974 are of three general types: 1) Legal and political, 2) Logistic or procedural, and 3) technical. A long-term solution to the present conflict must deal with the major problems in each of these areas. In some ways the legal and political problems in the Indian fishing rights controversy are similar to the civil rights disputes of the 1960's and other cases where federal and state law have come into conflict. Since 1974 the Department of Fisheries has promulgated

TABLE 1. SALMON GILL NET AND TROLL LICENSES AND SPORT FISHING PUNCH CARDS ISSUED BY THE STATE OF WASHINGTON, 1965-1975.

YEAR	GILL NET	TROLL	PUNCH CARDS
1965	1332	1300	366,800
1966	1240	1392	372,900
1967	1457	1635	436,000
1968	1321	2274	428,900
1969	1466	2808	444,750
1970	1598	2459	488,925
1971	2221	4222	511,200
1972	1729	3518	505,325
1973	1863	2660	532,675
1974	2805	3260	531,761
1975	2361	3141	546,236
1965-67 AVERAGE	1343	1442	391,900
1972-74 AVERAGE	2132	3146	533,254
% CHANGE	+59	+118	+36

SOURCE: WASHINGTON STATE DEPARTMENT OF FISHERIES
1975 FISHERIES STATISTICAL REPORT.
WASHINGTON STATE DEPARTMENT OF FISHERIES,
SPORT CATCH REPORT (ANNUAL).

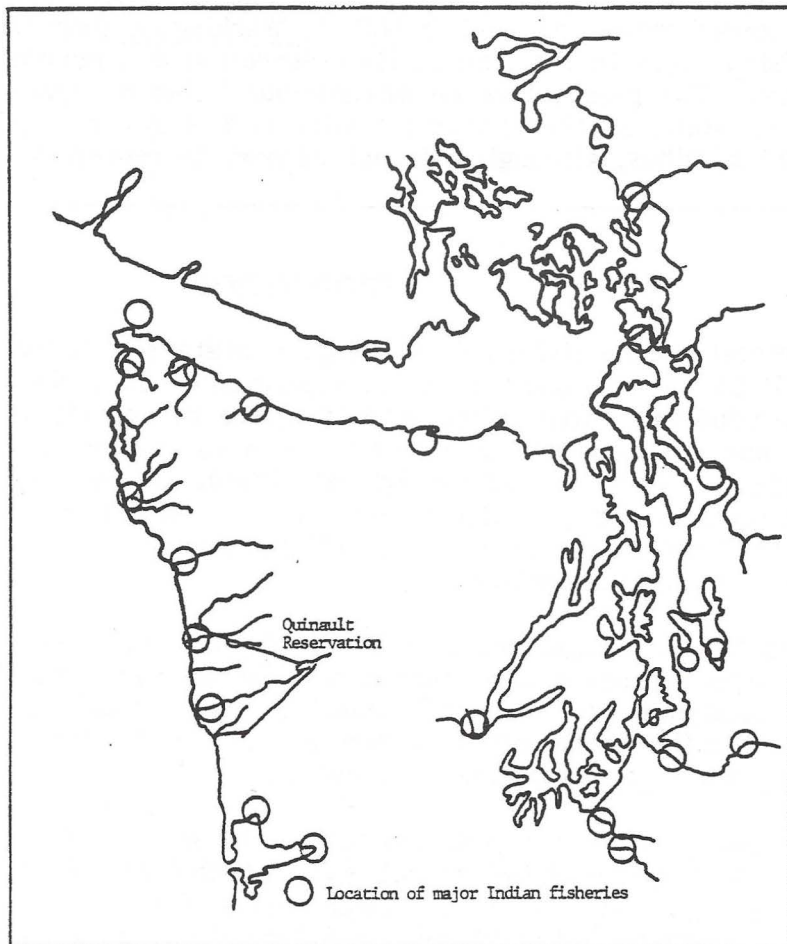


Figure 1. Principal Puget Sound and Coastal Indian Net Fisheries.

regulations designed to meet requirements of the Boldt decision but enforcement of these regulations has been thwarted by the state courts and the state legislature which refused to change a law prohibiting the Department of Fisheries from allocating catch among fishermen. The Ninth U.S. Circuit Court of Appeals in its review of the Boldt decision laid much of the blame for this controversy on 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 intransigence was the reason Indian tribes were forced to court action to assure their treaty protected fishing rights in the first place and is a major reason for the intensity of the continuing conflict.

Continuing court challenges to the Boldt decision are interpreted by the Indians as further evidence of the unwillingness of the state and non-Indian fishermen to recognize Indian fishing rights. There can be no compromising or diminution of Indian fishing rights defined by the Boldt decision until state agencies and non-Indian fishermen recognize these rights. If the basic legality of Indian fishing is not disputed, then there is much more room for Indians and non-Indians to discuss how these rights will be exercised.

This continued legal wrangling has resulted in a totally unworkable management situation during the fish runs. A typical sequence of events was for the Department of Fisheries to adopt regulations for the non-Indian fishery which would achieve the allocation ordered by the District Court. Non-Indian fishermen would then challenge the regulations in the state court system and get them overturned. The District Court would then enjoin the state courts from ruling on regulations affecting the Indian share of the run. Large amounts of time and energy were spent by both sides preparing for and arguing their cases at each step of this process. Meanwhile, massive illegal fishing by non-Indians occurred in some instances since they knew their chance of apprehension was small and court fines, if caught and convicted, were negligible. Legitimate Indian river fisheries have been closed because the prior illegal non-Indian catch has left no harvestable surplus of some runs.

The tribes want two things of a legal/political nature. First, they want recognition of their fishing rights, as defined in U.S. v. Washington, by all parties including non-Indian fishermen and an end to legal maneuvering and political posturing to circumvent the Boldt decision. Second, they want to actively participate in formulating fishery plans for all salmon fisheries—not necessarily a veto power but equal status with other groups involved. Over one hundred years of disputes with the state and non-Indians has convinced the tribes that no one else will fairly represent their interests in maintaining and managing the salmon and steelhead runs on which their economic well being depends.

Presently the tribes have a very inferior position, relative to other fishing interests, when management plans are being formulated. The Pacific Fishery Management Council regulates the salmon fishery between 3 and 200 miles and its decisions determine to a large extent how many fish return to terminal areas where Indian fisheries are located. There are no Indian representatives on this council, although state management agencies, the federal government, and non-Indian sport and commercial fishermen all have voting members representing them. Neither do Indian tribes have technical representatives on the Scientific and Statistical Committee, although well qualified people are available. In fact, the only formal Indian representation to the Pacific Council is three members on an advisory panel which reviews and comments upon proposed management plans.

All other matters in the Indian fishing rights controversy are subject to negotiation and compromise once the existence of those rights and full participation in management decisions are accepted by all parties. The actual Indian share of the fish runs is negotiable in most cases. Trades of salmon for steelhead have been seriously discussed by most tribes. Off-reservation fishing areas and times could be adjusted to minimize conflict.

Many tribal leaders see two possible outcomes to the present situation. Either the tribes will gain some measure of control over their economically important fishery resources, or the white culture will once again ignore past promises when they become awkward to live with. The former course permits cooperation and conciliation, the latter perpetuates conflict and bitterness.

The second major problem area involves logistic and procedural problems resulting from a multitude of management agencies regulating various fisheries on the same run of salmon. Canada, the states of Alaska, Washington, Oregon, California, and Idaho (separately and/or jointly through the Pacific Marine Fisheries Commission and the Pacific Fisheries Management Council) and more than twenty Indian tribes make decisions affecting the abundance of salmon stocks of mutual interest. However, there is no formal method of coordinating the activities of these agencies to avoid conflict, duplication and misunderstanding. As a result, attempted solutions to a problem sometimes do not deal with all parts of the problem or do not have the support of all groups, thus resulting in further frustration, controversy, and distrust.

A necessary early step toward resolving these problems is the creation of a truly comprehensive management plan for the salmon and steelhead resources. Present plans usually deal with only one or a few fisheries and their impact on other fisheries is of secondary importance. For instance a plan filed with the District Court covering sharing principles for fisheries in a terminal area has little meaning when the ocean fisheries take a variable and somewhat uncontrolled portion of the harvest prior to the terminal area. Terms agreeable to all parties assuming an average catch may be unsatisfactory if the run is far below average.

The situation with the coho salmon run to Washington coastal rivers in 1977 illustrates the type of problems which can occur. (The following is abstracted from Washington Department of Fisheries, 1977).

Preliminary data from both the ocean sport and troll fishery indicate higher than normal fishing rates on relatively poor coho runs from the Columbia River and Washington coastal streams. The peak of ocean sport coho catches occurred earlier than during the 1971-75 base period (Figure 2) and indicates a greater fishing rate than usual on a lower than usual run.

Both the commercial troll effort and catch pattern indicate higher than normal fishing rates on coho in spite of a significantly reduced fishing season and more restrictive gear regulations. The 1977 effort pattern was averaged from May 1 through mid-June, but increased dramatically from July 1 through mid-August (Figure 3). "This level of escalation for trolling activity was unexpected, and effectively cancelled out many potential gains to 'inside' areas which were initially achieved by new early season restrictions (Washington Department of Fisheries, 1977)".

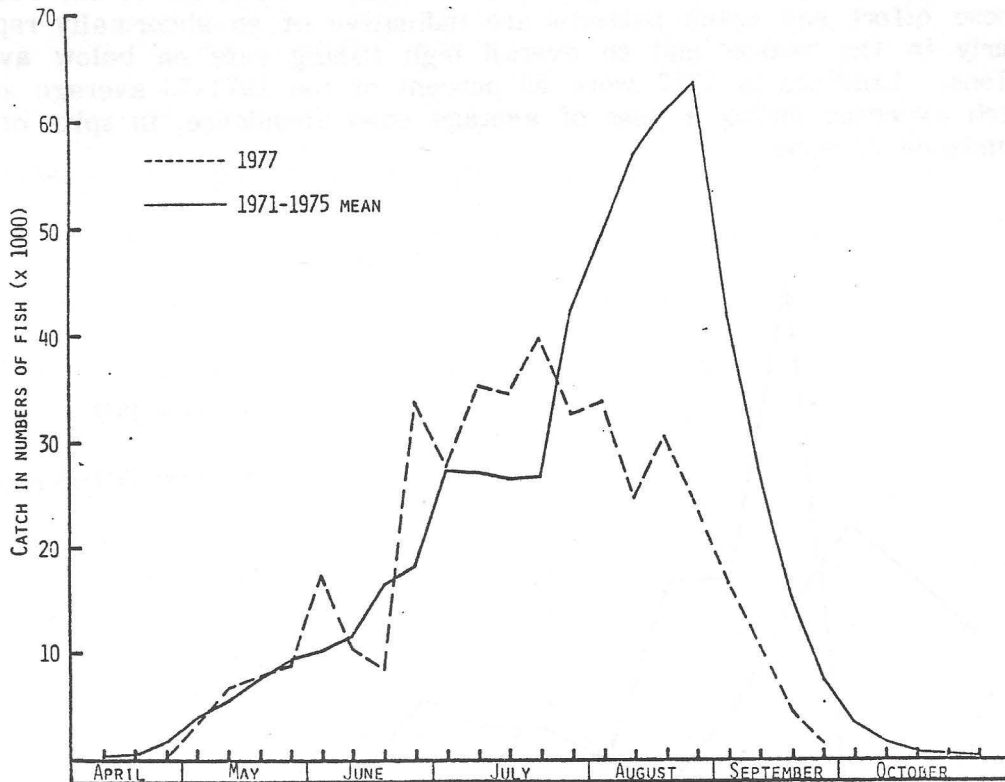


FIGURE 2. WASHINGTON COASTAL SPORT COHO SALMON CATCH, 1977 AND 1971-75 MEAN.

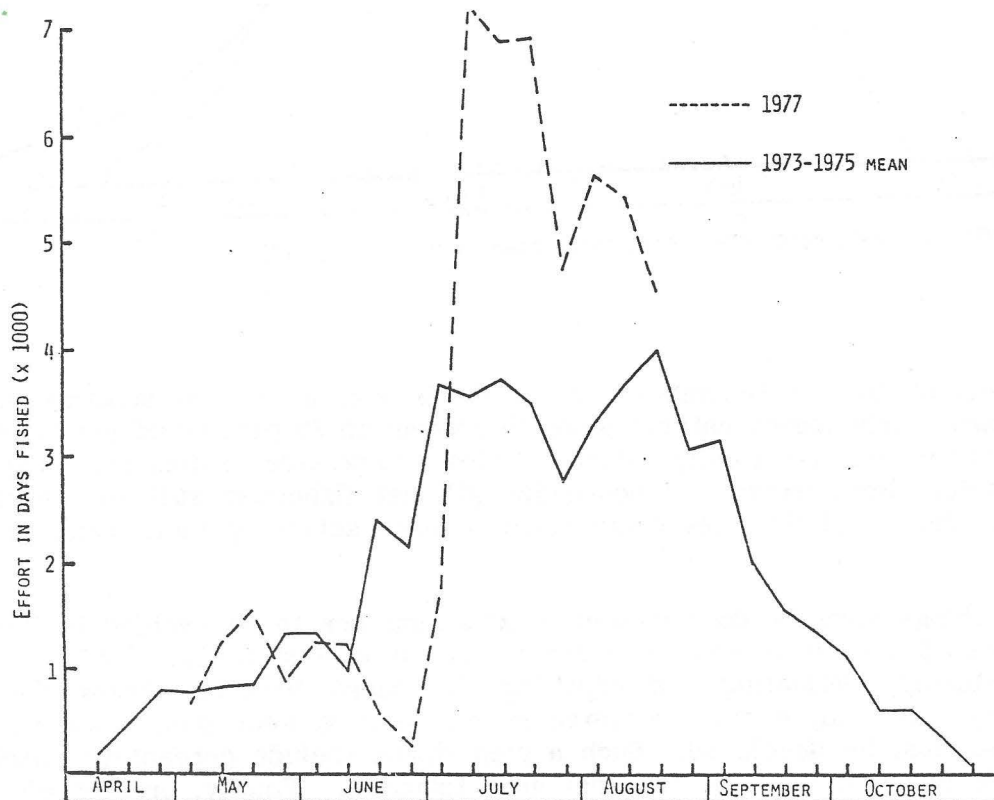


FIGURE 3. WASHINGTON COMMERCIAL TROLL SALMON FISHING EFFORT, 1977 AND 1973-75 MEAN.

Weekly coho catches were above average for several weeks after July 1 but were followed by generally below average catches for the remainder of the season (Figure 4). These effort and catch patterns are indicative of an abnormally rapid removal rate early in the season and an overall high fishing rate on below average coho populations. Landings in 1977 were 80 percent of the 1971-75 average and close to the catch expected during a year of average coho abundance, in spite of an overall low abundance of coho.

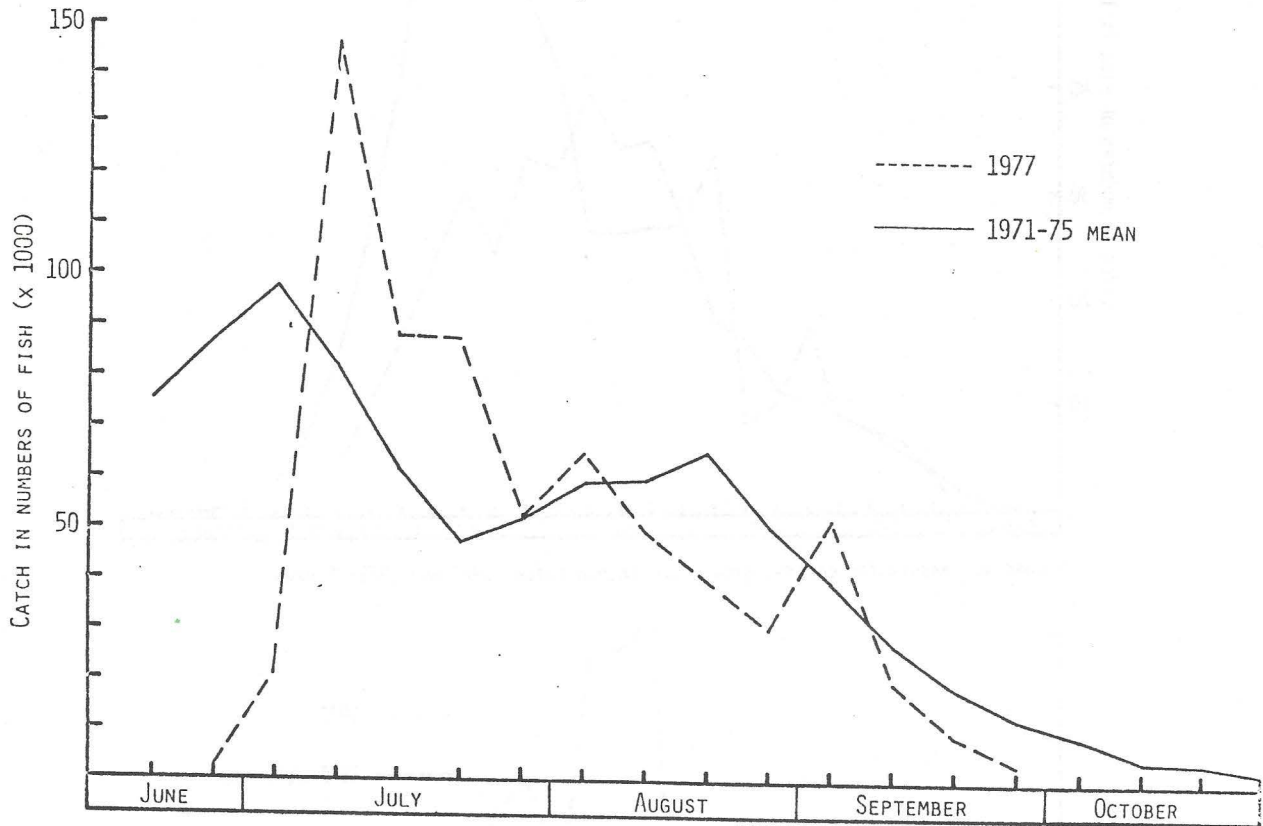


FIGURE 4. WASHINGTON COMMERCIAL TROLL COHO SALMON CATCH, 1977 AND 1971-75 MEAN.

Coho returns to the Columbia River and Washington coastal streams in 1977 were disastrous. Early season catches were 10 percent to 20 percent of normal and terminal area fisheries were drastically reduced or closed to provide as much spawning escapement as possible. Both Indian and non-Indian gill net fishermen suffered severe economic hardship and tribal fisheries came nowhere near achieving their share of the overall catch.

Several things must be done if similar situations are to be avoided in the future and the salmon fishery is to achieve a greater measure of stability. First, better methods of monitoring, evaluating and adjusting the ocean fisheries during the season are necessary. Second, a comprehensive salmon management plan, including all salmon fisheries, must be developed. Such a plan should include percentage catch allocation goals for ocean as well as terminal area fisheries. Finally, present efforts to limit Canadian interceptions of United States salmon should be vigorously continued.

Several technical problems face fishery managers in operating any rational management scheme, and these constitute the third major problem area in the Washington fishing rights controversy. A lack of basic data hampers the application of more sophisticated data analysis and management methods. Because of normal heavy stream runoff and manpower limitations during the fall we have only a vague idea of escapements and total run sizes during the coastal fall fisheries. Smolt abundance and/or production is available for only a few species in a few rivers. We have only a general idea of how the exploitation rates of various fisheries change with environmental conditions, changes in run size, and fluctuations in fishing effort. This lack of data has resulted at times in disputes about the effect of various fishing regulations or the impact a fishery has on a particular run of salmon.

Another largely technical problem has been timely and complete dissemination of available data. Many past conflicts have resulted from parties interpreting different sets of data. Once a common data base is agreed upon, interpretation of the data is rarely a problem. The tribes are now acquiring computer equipment which will give them access to the state catch reporting system and speed information exchange.

Finally, better coordination and cooperation between biologists is necessary to most efficiently improve overall salmon management in the Boldt case area. The biologists should be allowed to work on longer term technical problems rather than be called upon to provide lawyers with arguments for short-term political battles, as has happened too frequently in the past. Working groups of biologists from all agencies have been successful in dealing with specific technical problems in the past and this procedure should be expanded in the future. The benefits to the resource to be gained from biologists cooperating to improve management methodology and increase our knowledge of salmon productivity far outweigh any short-term disadvantages of a legal or political nature.

LITERATURE CITED

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