

**TESTIMONY OF
THE COLUMBIA RIVER TREATY TRIBES
BEFORE PACIFIC FISHERIES MANAGEMENT COUNCIL
MARCH 8, 2010
Sacramento, CA**

Good day Mr. Chairman and members of the Council. My name is Rapheal Bill. I am a member of the Fish and Wildlife Committee of the Umatilla Tribe. I am here with Herb Jackson of the Nez Perce Tribe and Bruce Jim of the Warm Springs Tribes to provide Testimony on behalf of the four Columbia River treaty tribes: the Yakama, Warm Springs, Umatilla and Nez Perce tribes. I will provide the first section of the testimony. Bruce Jim will provide the second section.

Salmon are of critical cultural importance to the tribes. Our relationship with the fish goes back to time immemorial. Our tribes depend on salmon to meet our ceremonial and subsistence as well as our economic needs. Our ceremonial and subsistence needs take precedent over other needs. Our rights to these fish are protected by treaties with the United States.

The tribes continue to be upset by the proposal to implement mark selective recreational fisheries in Ocean Areas 1 through 4 in June. We felt the ocean mark selective fishery proposals were not appropriate in 2009 and continue to believe that they are in-appropriate.

The *U.S. v. Oregon* parties will manage 2010 in-river fisheries according to the 2008-2017 *U.S. v. Oregon* management agreement. This agreement states, "If mark selective fisheries are implemented that impact upriver fall Chinook, the non-treaty ocean and in-river fisheries may not harvest more than 50% of the harvestable surplus of upriver fall Chinook, consistent with the applicable federal allocation caselaw." The tribes have had a bad experience with the way the states have implemented mark selective in-river spring Chinook fisheries in ways that have allowed the non-treaty harvest to exceed the allowed tribal harvest in many years. It took several years to resolve catch balance issues for spring Chinook, and we are still waiting to see if they are fully resolved in 2010. The tribes believe that the implementation of mark selective fisheries impacting fall Chinook stocks will cause similar problems for tribal fisheries. We are very concerned that if these fisheries are implemented this year, that they will expand in future years and soon the non-treaty fishery catches could exceed 50% of the harvestable surplus. This will adversely affect tribal fisheries and make it difficult to meet spawning needs.

The tribes have a number of concerns with the proposed implementation of mark selective fisheries. These concerns are the same list of concerns that we raised last year at this time. We do not feel these concerns have been adequately addressed.

First, release mortality rates for ocean fisheries are high. With a 14% release mortality rate plus a 5% drop off mortality rate, 19% of all unmarked fish will die if handled in ocean recreational fisheries. Scientific literature suggests that the actual release mortality rates vary with gear, fishing technique and how well particular fishermen handle their catch. The tribes believe the actual rates could range to over 50%. If the Council is underestimating the true release mortality rates in these

fisheries, the actual number of unmarked wild fish that are killed in these fisheries may be much higher than the pre-season planning models suggest. The tribes believe that the Council should, to be precautionary, model ocean recreational fisheries using higher release mortality rates. The STT has recommended release mortality rates based on a review of existing studies on other fisheries. The tribes maintain that there should be research in the area of the intended mark selective fishery to determine the true release mortality rates before new mark selective fisheries are implemented.

Second, with the wide mix of stocks that are encountered in ocean fisheries, and highly variable environmental conditions, the tribes are skeptical that the mark rate can be predicted pre-season. We are concerned that unless the mark rate is very high, mark selective fisheries will have to sort through large numbers of unmarked fish and will kill large numbers of wild fish in order to retain just a few marked fish. Some fish will be handled multiple times, increasing mortality even more. We understand that there is no way to model multiple encounters using FRAM. We regard this as a serious shortcoming that renders the FRAM inappropriate for modeling mark selective fisheries.

We believe there may be significant additional release mortality with each successive encounter. Until research can be done to determine the level of mortality associated with multiple encounters, and the analytical tools can incorporate those impacts, the Council should not recommend mark selective fisheries. Another issue related to release mortality rates is the methods by which the states estimate how many unclipped fish are handled and released. We appreciate that WDFW has shared the 2009 Ocean Sampling Plan with us and we anticipate receiving the 2010 plan soon. We need to see this plan to see if it sufficient. The tribes support direct monitoring of fisheries to determine encounter rates. The tribes do not believe that simply asking anglers how many fish they release is a reliable way of determining encounters with unclipped fish.

Third, the tribes understand that the ocean FRAM can calculate fishery impacts on marked and unmarked components of various stocks but the tribes do not understand how the FRAM can calculate impacts to the unmarked portion of the Columbia River Upriver Bright (URB) stock. The *U.S. v. Oregon* Technical Advisory Committee does not do a forecast for the unmarked URBs. We also do not understand the precise method by which mark rates for Chinook will be estimated pre-season. The tribes will not be able to accept the results of ocean fishery modeling until these and other questions can be answered to our satisfaction. We are also concerned about the potential of bias in mortality estimates that was raised by the Model Evaluation Workgroup. We think that mark selective fisheries should be delayed until this bias can be addressed.

Fourth, Party boat rules should be eliminated. The tribes believe that recreational fishermen should catch their own fish and quit fishing when they have captured their daily limit of fish. Party boat rules allow boats to continue fishing longer and handle large numbers of unmarked fish, especially when mark rates are low. We believe these rules result in underestimates of release mortality when estimates of release mortality rates from studies of individual fishers are invalidly applied.

Fifth, it is imperative to the tribes that the STT and the states of Oregon and Washington provide estimates of impacts to Spring Creek hatchery tules to ensure that mark selective fisheries do not harvest so many of these mass marked fish that the tribes are asked to take actions to restrict tribal catch so the hatchery escapement goal can be met. With the substantial uncertainty about how well a record jack return will predict this year's run, we see this as a serious risk. We believe that the states should provide written assurances that if their fisheries result in the overharvest of this stock and require the tribes to take actions to meet broodstock goals, the states will reduce their in-river fisheries as a result of ocean take and reduce their fisheries in future years as a payback.

Sixth, because of the requirements that the tribes have access to 50% of the harvestable surplus of

fall Chinook destined to return to the tribal fishing areas, the tribes will need to know the actual impacts of ocean fisheries on our fish before the in-river fall Chinook fisheries and Buoy 10 fishery in August and again at the conclusion of the ocean fisheries in September. It is critical that this information be provided so the Buoy 10 and in-river fisheries can be adjusted if the actual ocean fisheries have caught more of our stocks than was planned pre-season, and so the tribal fishery will still have the opportunity to harvest its share of the fish. This will require adequately sampling ocean fisheries, reading Coded Wire Tags in season, and making accurate assessments of the actual stock specific impacts. We understand the STT does not currently do any in-season management that can provide this information, nor does it do post season assessments of how many Columbia River fish are actually killed in ocean fisheries. This as a serious short-coming that needs to be fixed. If this information is not provided in a timely manner, the tribes may need to take action within *U.S. v. Oregon* to ensure that the in-river non-treaty fisheries do not begin until we know if the combination of the actual ocean fisheries along with planned in-river fisheries will adversely affect the tribes opportunity to harvest 50% of the harvestable surplus. We also want to make sure there are no adverse effects on tributary fisheries.

Seventh, international agreements such as the Pacific Salmon Treaty use Coded Wire Tag information to evaluate the impacts of ocean fisheries on natural stocks, but they have to assume there are the same impacts on marked and unmarked fish. The technical groups have recommended against having such fisheries for Chinook, and that if there are such fisheries, there must be Double Index Tag groups so the difference in impacts can be estimated. Even then, it is not possible to assess impacts on a fishery specific basis. Thus, these fisheries will erode the ability to measure if PST obligations are being met. We should avoid situations where we cannot evaluate or quantify the impacts of these fisheries on the unmarked or natural components of these stock groups until we develop the necessary tools. We need to ensure that the reporting of impacts in existing and future mark selective fisheries are detailed enough to meet the needs of both the PSC and *U.S. v Oregon* processes and that processes agreed to in the PSC process are being followed.

The tribes remind the Council that it is also necessary that 50 percent of the upriver coho must be passed to the treaty fishing area upstream of Bonneville Dam. We believe there is a need to improve forecasting for upriver coho so harvest impacts can be better assessed on this stock. We are not satisfied with the current method of forecasting upriver coho using the overall OPI forecast. The tribes believe that we should do a comprehensive multi-year assessment of the affects that coho selective fisheries have had both on wild stocks and on terminal fishery opportunity.

Some groups such as the National Marine Fisheries Service and the Washington Department of Fish and Wildlife continue to push for expanding mark selective fisheries when clearly they have shown no benefit to natural origin fish. We are disappointed that the federal government seems content with an overly simplistic implementation of mark selective fisheries while neglecting to assess the true impacts of those fisheries on ESA listed fish or fulfilling its trust responsibility to the tribes by protecting tribal fisheries. The federal government should be concerned that the impacts of mark selective fisheries on ESA listed stocks like lower Columbia River tules may rapidly increase with the possible implementation of mark selective fisheries in Canada, the Strait of Juan de Fuca, the Washington Coast and at Buoy 10. The Council's Model Evaluation Workgroup has previously stated that mark selective fisheries are more problematic as they increase. Yet as of right now, we have not heard any concerns expressed by the federal government on how to address this increase.

Requirements to mass mark hatchery fish are responsible for many of these problems. The federal government is requiring that most federally funded hatchery programs mass mark 100% of their

hatchery releases. Most state hatchery programs are also mass marking 100% of their fish. Most hatchery coho have been mass marked since the mid- 90's. The only coho populations with increased run sizes are the mid and upper Columbia populations which are heavily supplemented with unmarked hatchery fish. Upriver coho populations have been increasing. Tribal recovery efforts are producing good returns of large sized fish that are sought after by other fishermen. We are concerned about the effects of mark selective fisheries on our coho. Most other coho populations are either static or declining. Steelhead have been mass marked since the 1980's which did nothing to prevent declines and ESA listings. The Lower Columbia Coho ESU was listed as threatened after the large scale implementation of mark selective coho fisheries did nothing to rebuild it. Clearly mass marking coho and steelhead and implementing mark selective coho and steelhead fisheries has done nothing for the wild populations.

Since nearly all federally funded hatchery Chinook are mass marked, there is ever increasing pressure to implement Chinook selective fisheries. The Pacific Salmon Commission has previously reported the many problems that Chinook selective fisheries cause for the coast wide Coded Wire Tag Program. The tribes' experience with spring Chinook selective fisheries has shown that mark selective fisheries have caused problems with the allocation of in-river catches. And mark selective spring Chinook fisheries have shown absolutely no benefit to natural stocks. Yet every year there is more and more pressure to increase mark selective fisheries. The tribes believe that mark selective fisheries are absolutely the wrong way to work towards recovering salmon stocks and providing healthy fisheries for everyone. Mark selective fisheries have never been implemented in a way to produce conservation benefits. They are only implemented to provide more and more fishing opportunity.

The tribes strongly recommend that the Council not approve any options for mark selective Chinook fisheries impacting Columbia River fall Chinook.

This concludes my statement. Thank You.