

**TESTIMONY OF
THE COLUMBIA RIVER TREATY TRIBES
BEFORE PACIFIC FISHERIES MANAGEMENT COUNCIL
April 6, 2009
Milbrae, California**

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 to provide Testimony on behalf of the four Columbia River treaty tribes: the Yakama, Warm Springs, Umatilla and Nez Perce tribes.

The Columbia River tribes understand that the states are trying to reach agreements to model fisheries without a mark selective requirement for Chinook. The tribes appreciate the states for seeking a way to structure their fisheries without mark selective fisheries in Ocean Areas 1 and 2 as well as Buoy 10. By not considering mark selective fisheries further this year, it provides the states and tribes more time to develop better processes for discussing and evaluating mark selective fisheries that the states might propose in the future.

There has been some progress on the technical level in the last couple weeks. The *U.S. v. Oregon* Technical Advisory Committee has reviewed some of the model inputs such as mark rates for the Columbia River fall Chinook stocks above Bonneville. Although tribal staff are more comfortable with the mark rates used as model inputs, the calculations of these mark rates still depend on some assumptions regarding the proportion of wild fall Chinook in the Columbia which need further technical review. The methods of estimating marked and unmarked fall Chinook for modeling inputs and the assumptions used in the model must be refined which we expect will involve developing more detailed run reconstructions among other things. This will require additional staff time. Given current budget constraints and workload issues the tribes do not see the expanded workload of dealing with new selective fisheries as a beneficial use of limited resources for either state or tribal staff.

The *U.S. v. Oregon* Technical Advisory Committee has also discussed release mortality rates for Chinook in the Buoy 10 fishery. TAC has reached an interim consensus to model the Buoy 10 fishery with a 21% release mortality rate as is done for coho. This decision is for an interim basis until TAC can further review available studies for fishing in estuaries. There is no consensus on using this number in the long term. TAC is initiating a review of release mortality rates for the Buoy 10 and other in-river fisheries and the tribes support this process. There are many factors that contribute to the release mortality rate and the tribes maintain that the only way to have any certainty about release mortality rates is do research in the area under consideration for mark selective fisheries. The states should do this needed research prior to implementing new mark selective fisheries. The tribes believe that assumed release mortality rates should be set conservatively on the high side. The risk from guessing too low on release mortality means that more wild fish will die than are accounted for. The fish should not bear this risk.

However there is still much work to do. The tribes still have serious concerns about the Chinook FRAM model's lack of ability to address the potential of multiple encounters within any time step. We believe that multiple encounters may result in much higher mortality to wild fish than the models currently suggest. There also needs to be actual research done with the objective of determining appropriate release mortality rates. This research should be done in the actual areas and at times where mark selective fisheries will be considered.

Most importantly though, we need to develop tools to do real time assessment and reporting of the actual impacts of ocean mark selective fisheries. Mark selective fisheries impacting fall Chinook must not occur until this can be done. If this can not be done, there is no way to ensure that non-treaty fisheries will not kill more than 50% of the harvestable surplus. Without the ability to monitor and report the actual impacts of ocean fisheries on upriver fall Chinook, the states and federal government can not meet the requirements of the *U.S. v. Oregon* Management Agreement that, "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."

Any mark selective fishery proposal for ocean fisheries must comply with *Yakama v. Baldrige* and other ocean accounting case law. We believe that without appropriate tools to assess actual impacts in season, the current mark selective ocean Chinook fishery proposals do not meet this requirement.

This concludes our statement.

Thank you.