

**TESTIMONY OF THE COLUMBIA RIVER TREATY TRIBES
BEFORE PACIFIC FISHERIES MANAGEMENT COUNCIL**

MARCH 6, 2011

Vancouver, WA

Good day Mr. Chairman and members of the Council. My name is Chris Williams. I am a member of the fish and wildlife committee of the Umatilla Tribe. I am here with Wilbur Slockish Jr, of the Yakama Nation, Emerson Squiemphen of the Warm Springs Tribes, and Herb Jackson of the Nez Perce Tribe to provide testimony on behalf of the four Columbia River treaty tribes: the Yakama, Warm Springs, Umatilla and Nez Perce tribes.

In 1855, the United States entered into treaties with our tribes and nations. The tribes' ceded millions of acres of our homelands to the U.S. and the U.S. pledged to honor our ancestral rights, including the right to fish at all of our usual places. Unfortunately, a long history of hydroelectric development, habitat destruction and over-fishing by non-Indians brought the salmon resource to the edge of extinction with many salmon and steelhead populations in the Columbia River basin listed under the Endangered Species Act (ESA).

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 maintain our opposition to mark selective recreational fisheries in Ocean Areas 1 through 4. We felt the ocean mark selective fishery proposals were not appropriate in 2010 and continue to believe that they are in-appropriate. Mark selective fisheries not only can have direct adverse effects on tribal fisheries, but they adversely affect tribal efforts to appropriately use hatchery fish in our rebuilding efforts.

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 don't want to see similar problems occur for our fall Chinook fisheries. 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 about the future expansion of mark selective fisheries. We are concerned that 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 previously raised a number of concerns with the proposed implementation of mark selective fisheries. We continue to stress that they are problems that need to be addressed.

First, release mortality rates for ocean fisheries are high and we believe uncertain. 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 accurately 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. Last year in the Chinook mark selective fishery in Area 2 about 30% of the fish handled were unclipped. Some unmarked fish may 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 2010 Ocean Selective Fishery Sampling Report. This report is helpful for us to understand the impacts of last year's mark selective fisheries. We hope to continue discussions with the states on the monitoring and evaluation of both selective and non-selective fisheries. We have not seen a similar report from Oregon. A similar type of report is needed for Oregon ocean fisheries. 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. We understand that it is impractical to directly observe much of the Area 3 and 4 fishery because of its low intensity, but we think this is just one more reason why selective fisheries are impractical and unneeded in these areas.

Third, 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

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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. Double index tag groups should be included for Upper Columbia River summer Chinook prior to the implementation of mark selective fisheries impacting this stock.

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 still 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 as mark selective fisheries grow in intensity. 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.

We understand that for this year, WDFW will not be seeking an expansion of the ocean mark selective fisheries that were set last year and we appreciate this. But the tribes still strongly recommend that the Council not approve any options for mark selective Chinook fisheries impacting Columbia River fall Chinook.

This concludes our statement. Thank You.