

**TESTIMONY OF THE COLUMBIA RIVER TREATY TRIBES
BEFORE PACIFIC FISHERIES MANAGEMENT COUNCIL
MARCH 4, 2012
Sacramento, CA**

Good day Mr. Chairman and members of the Council. My name is Bruce Jim. I am a member of the fish and wildlife committee of the Warm Spring Tribes. I am here with Chris Williams, Herb Jackson, and Wilbur Slockish, Jr. 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 and accustomed places.

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 guaranteed by treaties with the United States. Treaties are the highest form of commitment the United States can make between sovereigns. We expect the treaties to be fully upheld.

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 the past two years 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 2012 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 may cause similar problems for tribal fisheries. We are very concerned about the future expansion of mark selective fisheries. We are concerned that soon the combined ocean and in-river non-treaty fisheries could end up catching more upriver fall Chinook than the tribes are able to harvest.

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 be significantly higher than currently estimated. 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 model ocean recreational fisheries using higher release mortality rates in order to be precautionary. 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. If mark rate are over estimated, impacts on unmarked fish will be greater than expected. Some unmarked fish may be handled multiple times, increasing mortality even more. 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. If the states were to add additional mark selective fisheries such as at Buoy 10 or in the lower Columbia River, without agreed to release mortality rates or a way to properly model fishery impacts it would further aggravate these problems.

Another issue related to release mortality rates is the methods by which the states estimate how many unclipped fish are handled and released. 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 and we think this is just one more reason why selective fisheries are impractical and unneeded in these areas. We appreciate that WDFW has shared Ocean Selective Fishery Sampling Reports. We have not seen a similar report from Oregon. A similar type of report is needed for Oregon ocean fisheries. We hope to continue discussions with the states on the monitoring and evaluation of both selective and non-selective fisheries.

We understand WDFW is working on a report specifically analyzing the mark selective fisheries including evaluations of expected and actual mark rates seen in these fisheries. We hope this report will also provide information on coho mark selective fisheries that have occurred for years. We would like to see this report as soon as it is complete.

We also have not seen a post season analysis of the actual harvest of Upper Columbia summer Chinook and upriver fall Chinook stocks in ocean fisheries. Tribal staff have communicated this need to the Salmon Technical Team. The STT has indicated they can do post season FRAM runs to

estimate actual impacts. We remind the Council that, while we understand workload constraints for the STT, we expect this analysis to be done. We need to know total actual impacts on Columbia River upriver stocks so we can assess compliance with the *U.S. v. Oregon* Management Agreement. We need to know the proportion of the ocean impacts on these stocks that occurs in mark selective fisheries so we can properly judge how the mark selective fisheries are impacting our fish. We need to track all harvest impacts on wild stocks, so we can be assured the combination of ocean and inriver fisheries fits with our recovery objectives. We are using both clipped and un-clipped hatchery fish to provide for in-river harvest and to support our recovery programs. We need to know the actual harvest impacts on these fish which we work so hard to produce. Marking fish with adipose fin clips was originally intended to simply identify fish with Coded Wire Tags – a tool to monitor harvest impacts. It has evolved in to a mark that many supporters of mark selective fisheries seem to think gives them ownership of the fish.

Third, we have previously reminded the Council of the need for Double Index Tag groups among all hatchery groups impacted by mark selective ocean fisheries. Without double index tag groups for stocks such as Upper Columbia Summer Chinook, we can not properly evaluate impacts on unmarked natural origin fish. In this case, PFMC area mark selective fisheries will erode the ability to measure if international obligations are being met under the Pacific Salmon Treaty. We should avoid situations where we cannot evaluate or quantify the impacts of these fisheries on the 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.

Again we point out that mark selective fisheries have shown no benefit to natural origin fish. We are disappointed that the so many in the state and federal governments seem content with mark selective fisheries instead of taking the real actions that are needed to restore fish habitat and fix passage problems and address predators so we can actually recover natural origin populations and have reasonable full retention fisheries for everyone.

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, as we have stated for the past two years, 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.