

CITY OF PORTLAND
INTER-OFFICE CORRESPONDENCE
(NOT FOR MAILING)

March 14, 1972

From Jim Sitzman
To Commissioner Neil Goldschmidt
Addressed to Public Safety
Subject Portland American Indian Center and United Indian Council

This is in response to your correspondence of February 22nd concerning the above named subject. In reply to your request I have read the past minutes of the PMSC committee and board relative to this matter and have spoken with Mr. Phillip Sanchez and John Spence. In addition I have read the study report on Portland area Indians prepared by the Regional OEO; correspondence from both PAIC and UIC to the Mayor; a statement prepared by Lewis Alexander at the request of Howard Traver and Mr. Traver's report to the Mayor on the controversy. Conversations were also held with Mr. John Rice, temporary chairman of the Community Service Committee (PMSC); Mr. John Fisher, PAIC; Mr. Steve Schneider, board member of Native American Rehabilitation Association; and Mr. Lewis Alexander. On the basis of this inquiry the following considerations are presented.

- A. A series of events concerning these funds which dates back to August, 1971 have produced a local decision that should be allowed to stand on its merit. No further purpose will likely follow from attempting to bring the Indian factions together around this issue at this time. This opinion was supported by comments from both Mr. Sanchez and Mr. Spence. Mr. Sanchez indicated that PAIC would prefer to leave this matter as is and work as a loyal opposition as the program develops. Mr. Spence pointed out that PAIC was the one organization that had dropped from the United Indian Council; that the UIC has left the matter of PAIC membership open; that UIC followed the legal process in gaining approval of its proposal; UIC is an incorporated organization; and PAIC's proposal was weak in so far as it covered several projects already conducted by UIC: therefore the decision to fund UIC should stand. It seems clear to everyone however that the failure of the Region to approve the UIC program would bring about new demands on the local community.

- B. Considering the larger question of trying "to bring these factions together", these observations are presented.

Differences between various groups within the Indian community is normal and to be expected. There are differences in the white community, the black community or any other similar group one wishes to consider. While striving to minimize conflict is always desirable, it does not seem appropriate that the white community should expect or demand unanimity within the Indian community as a condition for their receipt of financial or other support. This is to say that room must be allowed for freedom of self-determination within the Indian community without threatening support and assistance from the larger community.

The problems of urban Indians are not confined to the urban geography. The urban Indian is still working out his relationship to the reservation. That dimension of his reality as it affects his personal life style, his relationship to other Indians in the urban area and his relationship to the reservation must be accounted for in any attempt to address the problems of urban Indians.

The most obvious point of agreement among the people interviewed and read is that Indians living in Portland face many urgent needs. It seems clear that to meet this urgent need much more than an effort to unify Indian factions is required.

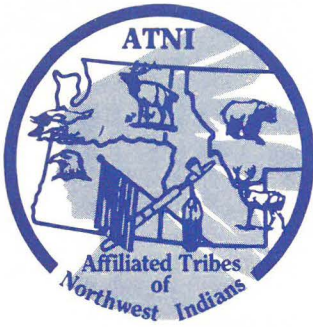
We would recommend that consideration be given to creation of a broad-based support (resource) community whose objective is to work at meeting the needs of urban Indians. Such a community could not only identify and secure needed resources but also provide a context in which factions of the Indian community could work out their individual and collective objectives. Emphasis would be placed on accomplishments benefitting the Indian community rather than upon achieving some form of political unity between groups representing different opinions, styles and kinds of militancy.

Concerning the creation of a support community, consideration might be given to the involvement of various church constituencies (who have in

the last year contributed \$25,000 to various Indian projects in Portland), to the MHRC, PMSC, and the local business and professional community. It should be understood of course that the entire Indian community should be equal members in such an organization.

Conversation with your staff and consideration by our Commission will be necessary before we can determine what, if any, role MHRC can play.

JS.gj



Affiliated Tribes of Northwest Indians

May 25, 1988

Gregory L. Gudger
Executive Director
Metropolitan Human Relations Commission
1120 SW Fifth Avenue, #520
Portland, OR 97204-1989

RECEIVED
HUMAN RELATIONS COMMS.

Dear Mr. Gudger:

The Affiliated Tribes of Northwest Indians request your presence at a special luncheon presentation by Professor Charles Wilkinson of the University of Colorado School of Law. Professor Wilkinson's speech, 'We Promise You a Permanent Home: Tribal Sovereignty and the Future of Native Peoples,' will be given on Thursday, June 2 at 12:00PM at the Monarch Motor Hotel near Clackamas Town Center.

Treaties and tribal sovereignty continue to be subjects that are confusing to many people. We hope, that by your attendance at this special luncheon, you will become better acquainted with the legal and historic background needed to understand Indian issues.

Charles Wilkinson is a nationally acclaimed writer, scholar, and activist. He is the editor of the "bible" of Indian law, Felix Cohen's Handbook of Federal Indian Law; and is the author of the recent book American Indians, Time, and the Law. He has also written numerous law reviews and other books and articles. He is a former Professor of Law at the University of Oregon School of Law. He teaches natural resource and Indian law.

Professor Wilkinson's presentation will take place during Affiliated Tribes' Mid-Year Conference, June 1-3, at the Monarch Motor Hotel. The theme of this year's conference is "Tribal Governments - Focus on Survival." You are also invited to attend the conference and a June 1 luncheon about treaty beer efforts and other anti-Indian activities in the Pacific Northwest.

We look forward to seeing you,

Ramona Soto Rank

Ramona Soto Rank
Director
Affiliated Tribes of Northwest Indians

RSVP 228-4185



Affiliated Tribes of Northwest Indians

June 13, 1988

Gregory L. Gudger
Executive Director
Metropolitan Human Relations Commission
1120 SW Fifth Avenue, #520
Portland, OR 97204-1989

RECEIVED

JUN 15 1988

HUMAN RELATIONS COMMS.

Dear Mr. Gudger:

At our meeting of June 1 - 3, the Affiliated Tribes of Northwest Indians (ATNI) celebrated the progress made by Pacific Northwest Indian tribes during the last twenty years in moving from confrontation to co-management of Northwest fisheries.

Such progress would not have been possible without the help of the churches, foundations and other non-profit organizations that recognized the obligations of the United States to Indian tribes and supported our tribal efforts through monetary support, speakers' bureaus and other educational programs.

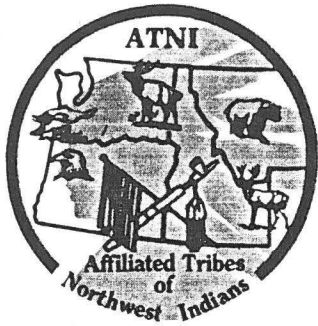
The Affiliated Tribes of Northwest Indians wishes to maintain and strengthen these important relationships. However, we understand that a few organizations are proceeding in their attempts to assist without a clear understanding of the importance of tribal sovereignty and tribal governments in the protection of tribal fishing rights. The representatives of ATNI member tribes therefore passed the enclosed resolution to inform you of our concerns and request your assistance in assuring that tribal fishing rights protection efforts are coordinated with the duly-elected tribal officials that are responsible for tribal rights protection.

I have also enclosed a brochure that documents our achievements in implementing tribal fishing rights, particularly since 1968.

Thank you for considering this information. I hope you will take it to heart and if you have questions, please do not hesitate to call.

Sincerely,

Joe DeLaCruz
President



Affiliated Tribes of Northwest Indians

1988 MID-YEAR CONFERENCE
PORTLAND, OREGON

RESOLUTION #88-25

WHEREAS, the Affiliated Tribes of Northwest Indians are representatives and advocates for national, regional, and Tribal concerns; and

WHEREAS, the Affiliated Tribes of Northwest Indians is a Regional Organization comprised of American Indians in the states of Oregon, Washington, Idaho, Montana, Nevada, and Alaska; and

WHEREAS, the health, safety, welfare, education, culture, economic and employment opportunity, and preservation of natural resources are primary goals and objectives of Affiliated Tribes of Northwest Indians; and

WHEREAS, certain member tribes of the Affiliated Tribes of the Northwest Indians reserved rights to fish through treaties and executive agreements or because said rights remain unextinguished by treaty or executive agreements;

WHEREAS, the right to take fish is central to the religion, culture and economies of said tribes, and said member tribes have devoted substantial resources to the protection of these tribal rights, and

WHEREAS, said member tribes have made substantial progress in achieving self-regulation of tribal members and co-management with other state and federal governments having concurrent jurisdiction over fish runs subject to said rights; and

WHEREAS, certain non-profit foundations, church groups and organizations have been established or have adopted strategies for the purpose of conducting activities allegedly in support of said rights; and

WHEREAS, such activities may undermine tribal policies and impede progress in the implementation of tribal sovereignty regarding tribal fishing rights; and

WHEREAS, the protection of tribal rights rests upon having strong tribal governments; and

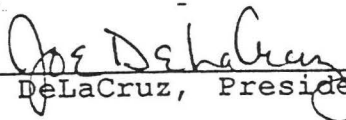
WHEREAS, any effort to undermine the foundation of the government will result in the diminishing of tribal rights;

NOW THEREFORE BE IT RESOLVED, that Affiliated Tribes of Northwest Indians calls upon all non-profit foundations, church groups, and other similar organizations that have been established or have adopted strategies for the purpose of conducting activities allegedly in support of tribal fishing rights:

- 1) To consult and coordinate with duly-elected tribal governments potentially affected by proposed activities before undertaking any such activities;
- 2) To recognize the sovereignty of duly-elected tribal governments in the regulation and management of tribal fishing rights; and
- 3) To respect the policies of co-management and self-regulation adopted by the tribal governments potentially affected by proposed activities.

CERTIFICATION

The foregoing resolution was adopted at the 1988 mid-year conference meeting of the Affiliated Tribes of Northwest Indians, at the Monarch Hotel in Portland, Oregon on June 1-3, 1988 with a quorum present.



Joe DeLaCruz, President



Georgia C. George, Recording Secretary

FROM CONFRONTATION TO CO-MANAGEMENT: TREATY FISHING IN THE PACIFIC NORTHWEST

The last twenty years of the treaty fishing controversy in the Pacific Northwest can be characterized as a path from confrontation to co-management. The period between 1850 and 1942 set the stage for this development. Treaties with the Washington coast, Puget Sound, and Columbia River tribes were signed in 1855 and 1856. The provisions of these treaties were nearly identical: the tribes ceded most of their lands—but reserved exclusive rights to fish within their reservations and rights to fish at "all usual and accustomed fishing places...in common with citizens." While the Indians kept their fishing rights in these treaties, the right to take fish had been diminished by 1855 because non-Indian settlements were already being established, and non-Indian settlement meant not only sharing the fish runs but also logging, mining, and damming that destroyed the fish. The admission of Oregon, Washington, and then Idaho to the Union created state governments that authorized non-Indian fisheries, which intercepted fish bound for treaty fishing areas.

The competition by the settlers with Indian fishermen was the basis for the first major fishing rights case to reach the Supreme Court: *U.S. v. Winans* in 1905. This U.S. Supreme Court decision held that treaty Indians have the right to cross non-Indian lands to fish at their usual and accustomed fishing places. The court also said that treaties are to be interpreted the way the Indians had understood them. In 1915, however, the Western Washington Indian Agent was moved to appeal to the Washington legislature to show compassion when regulating the Indian fisheries.

Another event with special importance for the lower Columbia River tribes took place in 1918, when Congress created the Columbia River Compact at the request of Oregon and Washington so that the two states could jointly regulate commercial fishing on the mainstem of the Columbia River.

In 1938, Congress passed the Bonneville Project Act to market power from the Bonneville Dam and other federal mainstem dam. These dams would eventually inundate such important Indian fishing places as Celilo Falls and Kettle Falls and block salmon migration to approximately 2800 miles of habitat. In the same year, Congress passed the Mitchell Act, which promised that the fish lost because of Columbia River dams would be replaced by hatchery fish. (In 1948, however, state and federal fish agencies began implementing the act by putting almost all of the hatcheries below Bonneville Dam, where only non-Indians fished, instead of in the tribes' upriver fishing areas where the salmon and steelhead were destroyed.) Another important judicial decision setting the stage for recent events was *Tulee v. Washington* (1942). The U.S. Supreme Court decided that because a treaty takes precedence over state law, Indians with tribal treaty rights can't be required to buy state licenses to exercise their treaty fishing rights. This was also the first case to rule that state regulation of treaty fisheries could take place for purposes of conservation.

The first attempt to actually abrogate the treaty fishing right took place in 1964, when a U.S. Senate committee considered resolutions to transfer regulation of off-reservation Indian fishing to the states.

These are only a few of the events that led to the "fish wars" of the late '60s and the '70s, as well as the procedures instituted during the 80's that recognize treaty fishing rights and the rights of the Pacific Northwest tribes to manage their own affairs.



Northwest tribes are very involved in the comprehensive research, including tagging programs to learn salmon migration routes (above), being done to help implement the U.S.-Canada Pacific Salmon Treaty.

Prepared for the
AFFILIATED TRIBES OF NORTHWEST INDIANS
by the
COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION
and the
QUINULT MANAGEMENT CENTER

From 1966 to 1970, violent confrontations and fish-ins occurred on the Columbia River, the Puyallup River, and Puget Sound.

From 1974 to 1977, Washington State Attorney General Slade Gorton and non-Indian user groups resisted enforcement of *U.S. v. Washington*. Violent confrontations occurred in Puget Sound and on the Washington coast.

In 1974, the Puget Sound and Washington coastal tribes in *U.S. v. Washington* formed the Northwest Indian Fisheries Commission (NWIFC). The tribes and non-Indian groups also formed the National Coalition to Support Indian Treaties.

In 1975, the U.S. Army Corps of Engineers completed the last of four lower Snake River dams, compounding downstream passage problems and causing further declines in fish runs. The total number of dams on the mainstem Columbia and Snake rivers rose to 19.

In August 1977, the four tribes in *U.S. v. Oregon* established the Columbia River Inter-Tribal Fish Commission (CRITFC) as their fisheries technical service.

In 1984, Washington voters narrowly approved Initiative 456, which would diminish treaty fishing rights. It has never been implemented, however, because of its unconstitutionality.

In 1968, fourteen members of the Yakima Indian Nation filed suit against Oregon's regulation of off-reservation Indian fishing (*Sohappy v. Smith*). The United States and the Yakima, Warm Springs, Umatilla, and Nez Perce tribes also sued (*U.S. v. Oregon*). The federal court combined the two cases.

Between 1968 and 1978, three cases, *Puyallup Tribe v. Department of Game of Washington* (The Puyallup Trilogy), brought before the U.S. Supreme Court successfully contested the imposition of certain discriminatory fishing regulations upon Puget Sound tribes with regard to commercial steelhead fishing.

In 1969, in *U.S. v. Oregon* (Belloni decision), Judge Belloni held that the tribes were entitled to a "fair share" of the fish runs and the state is limited in its power to regulate treaty Indian fisheries (the state may only regulate when "reasonable and necessary for conservation"). Further, state conservation regulations were not to discriminate against the Indians and must be the least restrictive means.

In 1973, in *Confederated Tribes of the Umatilla Indian Reservation v. Alexander*, the Umatillas sued and enjoined a hydroelectric dam that would have flooded off-reservation tribal fishing sites along Catherine Creek, a tributary of the Grande Ronde River.

In 1974, after a three-year trial, Judge Boldt mandated in *U.S. v. Washington* (Boldt decision) that the treaty Indian fishery and the non-treaty fishery are each entitled to 50 percent of the harvestable number of fish destined for tribal usual and accustomed fishing grounds and stations and reaffirmed tribal management powers. In upholding the decision the Ninth Circuit Court of Appeals condemned the state of Washington and its Attorney General for blocking enforcement of Judge Boldt's decree. (Judge Boldt borrowed heavily from Judge Belloni's *U.S. v. Oregon* decision; later in 1975, Belloni applied the *U.S. v. Washington* 50/50 principle to Columbia River fisheries).

In 1974, in *Settler v. Lameer*, the federal court ruled that the treaty fishing right is a tribal right, not an individual right, and that the tribes reserved the authority to regulate tribal fishing on and off the reservations.

In 1977, Fishery Advisory Board dispute resolutions under *U.S. v. Washington* began. There were 100 dispute resolutions in 1977. By 1987, dispute resolutions had decreased to zero.

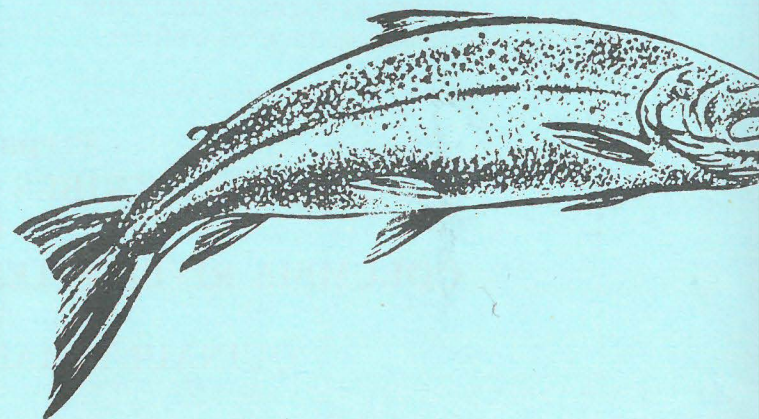
In 1979, the Columbia River, Puget Sound, and Washington coastal tribes sued the Secretary of Commerce over ocean fishing regulations because a large percentage of treaty fish were being caught in ocean waters managed by the U.S. Department of Commerce. The tribes continued to sue Secretaries of Commerce in 1980, 1981, and 1982 (*Confederated Tribes, et al. v. Kreps; Yakima et al. v. Klutznik; Hoh v. Baldrige; and Yakima, et al. v. Baldrige*).

In 1979, in a 6-3 decision, the U.S. Supreme Court upheld *U.S. v. Washington* (Boldt decision).

In 1980, the Federal District Court issued the *U.S. v. Washington (Phase II)* decision that affirmed a right to protection of habitat used by fish subject to treaty catch. Along with other similar cases, this case convinced industry leaders of the need to negotiate with Indian tribes.

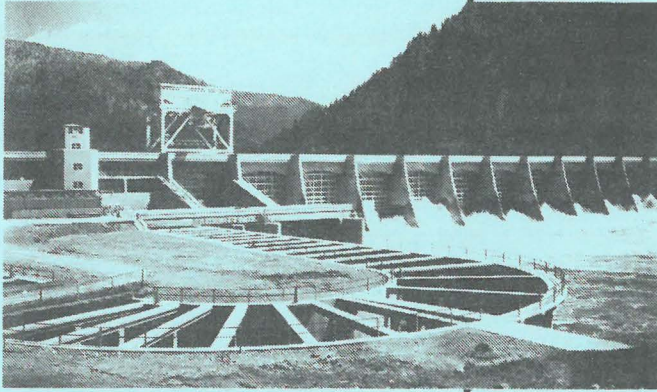
In 1983, a Request for Determination under *U.S. v. Washington* regarding the extent of non-Indian allocation resulted in a settlement order, brought Alaska to the negotiating table, and paved the way for agreement in U.S.-Canada salmon interception discussions.

In 1983, the federal court ordered the *U.S. v. Oregon* parties (the four tribes, Oregon, and Washington) to negotiate a new management plan for the Columbia River.



LEGISLATION

CO-MANAGEMENT



Bonneville Dam (left) and the other dams remain the biggest harvesters of salmon on the Columbia River.

In 1976, Congress passed the Fisheries Conservation and Management Act, whereby the federal government asserted fishery jurisdiction to 200 miles and delegated implementation to the Secretary of Commerce.

In 1977, Washington Congressman Jack Cunningham introduced legislation to abrogate all Indian treaties.


In 1977, President Jimmy Carter established a Presidential Task Force to examine the fishing rights controversy and make recommendations.

In considering amendments to the Lacey Act in 1979, the U.S. Solicitors Office recommended inclusion of Indian tribes in order to grant jurisdiction over non-Indians committing fish and wildlife offenses on Indian reservations. The action was a response to the Supreme Court's Oliphant decision, which limited such jurisdiction.

In 1980, Congress passed the Northwest Power Act, which—for the first time—mandated that Columbia River power production and fisheries be managed as co-equals. It called for a Fish and Wildlife Program to make up for fish losses caused by the hydroelectric system and gave special recognition to tribal governments' fishery recommendations.

Also in 1980, Congress passed the Salmon and Steelhead Conservation and Enhancement Act, which recognized the co-management responsibilities of Washington coastal, Puget Sound, and Columbia River tribal governments. A House committee deleted sections included by Senator Magnuson that would have required Indian tribes to trade their right to take steelhead in return for additional salmon allocations.

In 1981, Senator Slade Gorton and Congressman Don Bonker (both of Washington) introduced legislation to prohibit the commercial taking of steelhead by Indians.



In 1985, Congress ratified the Pacific Salmon Treaty.

In February 1977, the federal court, under its jurisdiction in *U.S. v. Oregon*, ordered a five-year plan that set up an in-river harvest sharing formula between non-Indian and Indian fisheries. (The five-year plan was a failure, because it did not include specific controls on ocean harvest or specific measures to replace fish runs destroyed by the dams.)



In 1982, the Northwest Power Planning Council—the body charged with implementing the Power Act—adopted a Fish and Wildlife Program that drew heavily on recommendations made by the tribes and their CRITFC.

In 1984, in response to the Phase II decision, the Northwest Renewable Resources Center was formed by the state of Washington, Washington tribes, and the timber industry. The result was the 1986 Timber/Fish/Wildlife process for Washington's forest lands.

In 1985, watershed planning began in Washington state as a cooperative effort between the state and tribal governments to establish production plans and management objectives.

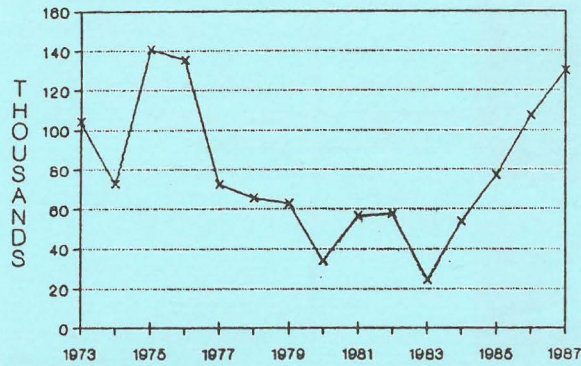
In 1985, President Reagan and Canadian Prime Minister Mulroney signed the U.S.-Canada Pacific Salmon Interception Treaty, which—among other measures—reduced Canadian and Alaskan harvest of Columbia River salmon and reserved a seat at the table for Indian tribes along with other fishery managers.

In 1988, the states of Oregon and Washington, federal fishery agencies, and the Yakima, Umatilla, Warm Springs, and Nez Perce tribes agreed to a detailed harvest and fish production process under the authority of *U.S. v. Oregon*.

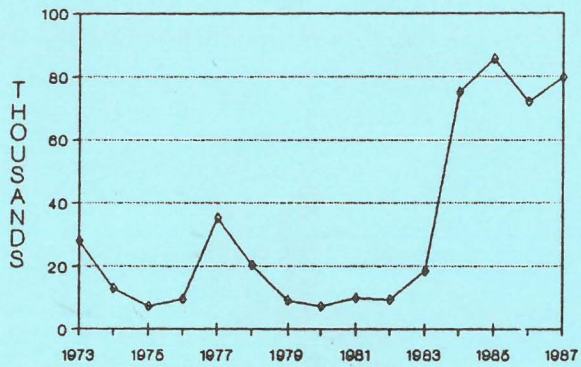
TREATY INDIAN HARVESTS 1973-1987

COLUMBIA RIVER (U.S. v. OREGON)

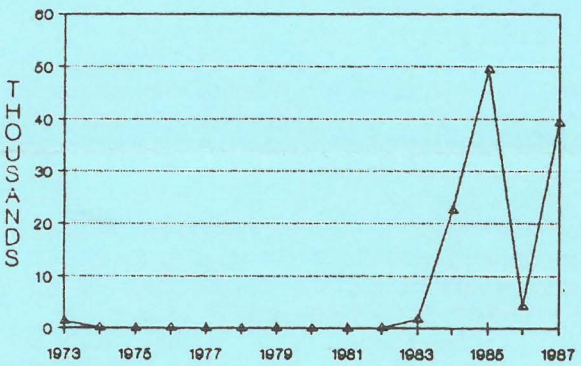
CHINOOK



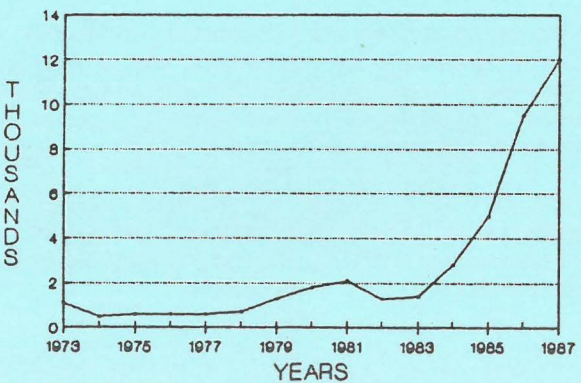
STEELHEAD



SOCKEYE

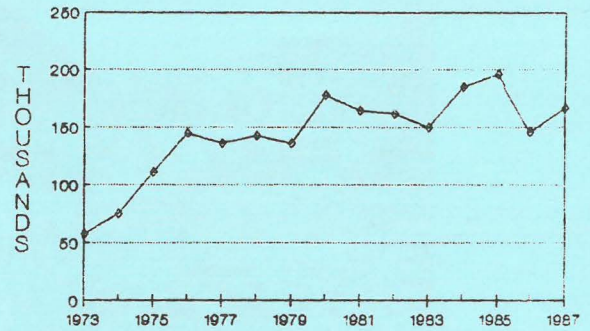


STURGEON

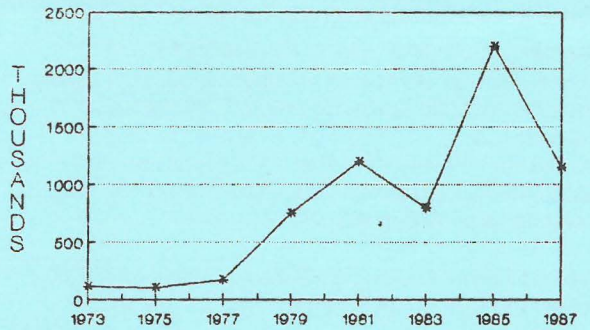


WESTERN WASHINGTON (U.S. v. WASHINGTON)

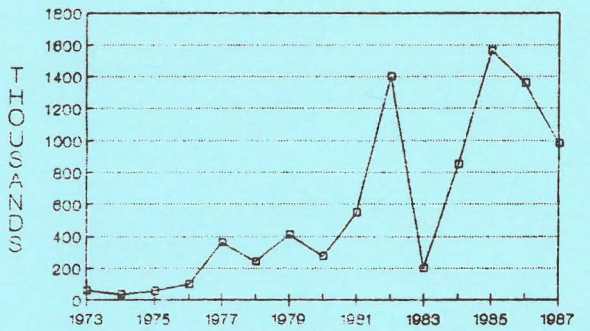
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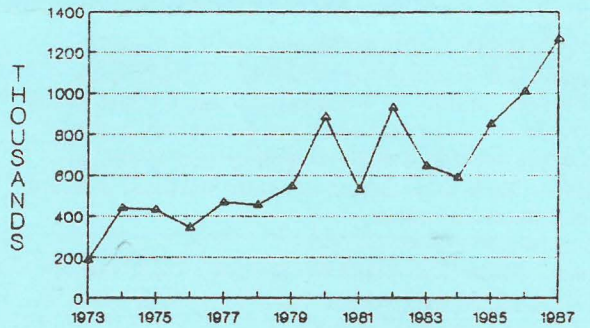
PINK



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